

Agenda Summary Report (ASR)

Franklin County Board of Commissioners

DATE SUBMITTED: 05-05-2020	PREPARED BY: Robert Mendez, Associate Engineer
Meeting Date Requested: 05-12-2020	PRESENTED BY: Craig Erdman, PE, County Engineer
ITEM: (Select One) <input checked="" type="checkbox"/> Consent Agenda <input type="checkbox"/> Brought Before the Board Time needed:	
SUBJECT: Interlocal Agreement with the City of Kahlotus	
FISCAL IMPACT: The City or County will expend funds for labor, equipment, and materials that will be reimbursed by the other party with an additional 13% markup for administrative costs.	
BACKGROUND: The County and the City of Kahlotus wish to have the ability to share goods and services for the benefit of all County/City residents. Specifically the City of Kahlotus wishes to have assistance with their chip-seal program this year which the County can provide. The City of Kahlotus was able to obtain a Transportation improvement Board (TIB) grant to fund its chip seal work. Research by the City of Kahlotus indicates that the County can provide the chip seal work at a more competitive price than outside contractors due to the quantity of work in question. This will allow the City of Kahlotus to make the best use of the available funding. The County has assisted other local agencies in the past with chip seal work. Performing this work on behalf of the City of Kahlotus is expected to take 1-2 days. This will not result in a significant impact to the other maintenance requirements of the County Road Department. All work will be defined in specific task orders that will be approved by the County administrator.	
RECOMMENDATION: Staff recommends the Franklin County Board of Commissioners approve the Interlocal Agreement with the City of Kahlotus. SUGGESTED MOTION: I hereby move to approve the resolution to enter into an Interlocal Agreement with the City of Kahlotus, Washington.	
COORDINATION: Reviewed by Keith Johnson, County Administrator, Matt Mahoney, Public Works Director, and Craig Erdman, PE, County Engineer. The agreement has been reviewed by the appropriate legal department at the County and the City of Kahlotus and is approved as to form.	
ATTACHMENTS: The documents included in this package are as follows: <ol style="list-style-type: none">1. Interlocal Agreement between Franklin County and the City of Kahlotus.(x2)2. Resolution Approving Interlocal Agreement between Franklin County and the City of Kahlotus.	
HANDLING / ROUTING: (Once document is fully executed it will be imported into Document Manager. Please list <u>name(s)</u> of parties that will need a pdf) One of the original Interlocal Agreements shall be retained by the board for their records, the other original Interlocal Agreement shall be remitted to the Public Works Department to forward to the City of Kahlotus for their records. A copy of the original resolution can be submitted to the Public Works Department.	

I certify the above information is accurate and complete.

Matt Mahoney, Public Works Director

FRANKLIN COUNTY RESOLUTION _____

**BEFORE THE BOARD OF COMMISSIONERS
FRANKLIN COUNTY, WASHINGTON**

RE: INTERLOCAL COOPERATIVE AGREEMENT BETWEEN FRANKLIN COUNTY AND THE CITY OF KAHLOTUS 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 City of Kahlotus 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 City of Kahlotus for General Equipment and/or Services through the Department of Public Works.

Dated this 12th day of May.

**BOARD OF COUNTY COMMISSIONERS
FRANKLIN COUNTY, WASHINGTON**

Chair

Chair Pro Tem

Member

Attest: _____
Clerk of the Board

**INTERLOCAL COOPERATIVE AGREEMENT
BETWEEN FRANKLIN COUNTY AND THE CITY OF KAHLOTUS
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 City of Kahlotus, (Hereinafter "the City") with its principal offices located at P.O. Box 100, Kahlotus, WA 99335, by and for the City of Kahlotus 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 City 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 City'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 City 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 1st 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 City 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 City a certificate statement of the costs and within thirty (30) days thereafter the City shall pay to the County the amount of said statement.

The County hereby agrees to reimburse the City for the costs of the work performed by the City, 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 City shall submit to the County a certificate statement of the costs and within thirty (30) days thereafter the County shall pay to the City 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 City shall be to the Mayor and City of Kahlotus Clerk/Treasurer PO Box 100, Kahlotus, Washington, 99335
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 City, 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 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 City, 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.

The City 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 City, 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 City'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 1 day of May, 2020.

APPROVED:

BOARD OF COUNTY COMMISSIONERS,
FRANKLIN COUNTY, WASHINGTON

Chair

Chair Pro Tem

Member

ATTEST:

By: _____
Clerk of the Board

APPROVED AS TO FORM:

By:  _____
Prosecuting Attorney

APPROVED:

CITY COUNCIL,
CITY OF KAHLOTUS, WASHINGTON

By:  _____
Mayor

ATTEST:

By:  _____
City Clerk

APPROVED AS TO FORM:

By: _____
City Attorney