

**2022
MASTER INTERLOCAL AGREEMENT
BETWEEN THURSTON COUNTY & MASON COUNTY
FOR TRANSPORTATION SERVICES**

This Agreement is entered into in duplicate originals this 2nd day of August, 2022 between MASON COUNTY, a municipal corporation, and THURSTON COUNTY, a municipal corporation, collectively referred to as "parties" and individually as "party" pursuant to RCW 39.34.080.

WHEREAS, it is to the mutual advantage of Thurston County and Mason County to cooperate as described herein in order to make the most efficient use of their resources to provide services and facilities needed by the citizens residing within their respective jurisdictions; and

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;

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 traffic services and roadway maintenance and repair activities. This will be done with the understanding that the work of the owner of the requested resources takes priority.

**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 X, Termination. Prior to commencement, this Agreement shall be filed or posted in accordance with RCW 39.34.040.

**III
REQUEST FOR SERVICES**

- 3.0 Each request for service pursuant to this Agreement shall be submitted by the Public Works Director or designee on behalf of each entity and shall specifically reference its authority pursuant to this Agreement. 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. Services, materials, equipment rentals or other resource sharing outside of the example activities listed in Exhibit A are allowable pursuant to this Agreement. 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 from whom the service has been requested shall indicate their acceptance or rejection of the request, have it signed by their authorized official, and return one copy to the requesting party. The authorized official for Thurston County is the Director of the Public Works Department or written designee. The authorized official for Mason County is the Deputy Director/County Engineer or written designee. If either party has provided for a designee, that party shall provide notice to the other so that each party has notice of who is authorized to make and approve requests under this Agreement. In cases of emergency, the request and approval may be done verbally but must be documented in writing within two working days of the verbal request. Each accepted request for service shall be incorporated into and become a part of this Agreement.

IV PAYMENT

- 4.0 The parties to this Agreement agree that the party receiving services under this Agreement shall reimburse the party providing the services for their actual direct and related indirect costs as set out in the request of services document. 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 per month. Neither party shall pay the other for any work in advance of performance. It is agreed that any such partial payment will not constitute agreement as to the appropriateness of any item.
- 4.1 The maximum amount payable for work to be performed under this Agreement is three-hundred thousand dollars (**\$300,000**) per calendar year unless otherwise amended in accordance with section XIV, Changes, Modifications, and Amendments.

V RECORDS RETENTION AND AUDIT

- 5.0 During the progress of the work and for a period not less than six years 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 six-year retention period. Each party will promptly notify the other of any such litigation hold on records.

VI RIGHT OF ENTRY

- 6.0 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.

VII RELATIONSHIP OF THE PARTIES

- 7.0 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.

VIII HOLD HARMLESS AND INDEMNIFICATION

- 8.0 Thurston County shall hold harmless, indemnify and defend Mason County, its officers, officials, employees and agents, solely for third party claims relating to bodily injury or death, including costs and attorneys' fees in defense thereof, caused by or arising out of Thurston County's negligence in the performance of this Agreement.
- 8.1 It is agreed between the parties that the party receiving the work shall be responsible for claims management, resolution, and payment of claims resulting in real or personal property damage or destruction. "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.
- 8.2 Mason County shall hold harmless, indemnify and defend Thurston County, its officers, officials, employees and agents, solely for third party claims relating to bodily injury, or death, including costs and attorney's fees in defense thereof, caused by or arising out of Mason County's negligence in performance of this Agreement.
- 8.3 Thurston County's obligations and Mason County's obligations hereunder shall not extend to bodily injury or death caused by or arising out of the sole negligence of either party, its officers, officials, employees or agents.
- 8.4 In the event of the concurrent negligence of the parties, Thurston County's and Mason County's obligations hereunder shall apply only to the extent of each party's negligence, and the negligence of its officers, officials, employees or agents.
- 8.5 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.

IX INSURANCE

- 9.0 Both 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. 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.
- 9.1 Both 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.
- 9.2 Both 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.

X TERMINATION

- 10.0 Either party may terminate this Agreement upon ninety (90) calendar days prior written notice to the other party. 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.

XI LEGAL RELATIONS

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

XII FORCE MAJEURE

- 12.0 Neither party will be liable to the other or 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.

XIII ADMINISTRATION

- 13.0 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.

Thurston County's representative shall be the County Engineer (9605 Tilley Rd SW, Olympia, WA 98512, 360-867-2300).

Mason County's representative shall be the Deputy Director/County Engineer (100 W Public Works Drive, Shelton, WA 98584, 360-427-9670 x452).

XIV CHANGES, MODIFICATIONS, AND AMENDMENTS

- 14.0 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.

XV GOVERNING LAW AND VENUE

- 15.0 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.

**XVI
WAIVER**

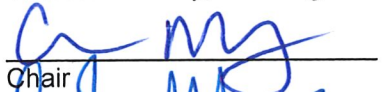
- 16.0 A failure by either party to exercise its rights under this Agreement shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in a writing signed by an authorized representative of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

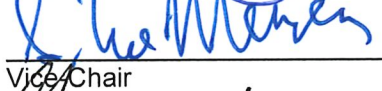
**XVII
SEVERABILITY**

- 17.0 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.

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


Chair


Vice Chair


Commissioner

ATTEST:


Clerk of the Board

Approved as to form:

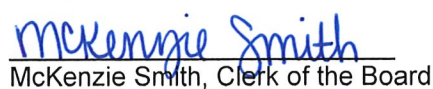
JON TUNHEIM
PROSECUTING ATTORNEY

By: 
Deputy Prosecuting Attorney

Board of County Commissioners
Mason County, Washington


Kevin Shutty, Chair

ATTEST:


McKenzie Smith, Clerk of the Board

Approved as to form:

TIM WHITEHEAD
CHIEF DEPUTY PROSECUTING ATTORNEY


By: 
Chief Deputy Prosecuting Attorney

EXHIBIT A Authorized Activities

Traffic Services: The following are examples of traffic services that may be provided by either party.

- Sign Maintenance: Replacing signs, removal of signs, and installation of new signs, posts and bases.
- Crosswalks: Refurbishing with preformed or liquid plastic or removal.
- Stop Bars: Refurbishing with preformed or liquid plastic or removal.
- Arrows/Legends: Remarking worn arrows with preformed or liquid plastic or removal.
- Striping: Painting linear road stripes on pavement, such as centerlines and edge lines.
- Traffic counts, data collection and other technical traffic services.
- Roadway pavement ratings and data collection.
- Technical and Maintenance Training.

Roadway Maintenance: The following are examples of roadway maintenance services that may be provided by either party. It is the responsibility of the requesting party to define the limits of the area of work where the Roadway Maintenance is to take place.

- Traveled Roadway Surface: Patching, crack pouring, pre-level work, pavement replacement, pavement preservation, chip seals, overlays, grading.
- 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.
- Pedestrian Facilities: Sidewalk/walkway repair.
- Roadside: Slope/shoulder mowing, tree removal, slide removal, noxious weed control, tree trimming, and washout repair.

Resource Sharing:

- Usage of temporary bridge