

Return to: Benton County Engineer  
P.O. Box 1001  
Prosser, WA 99350

**INTERLOCAL COOPERATION AGREEMENT  
BITUMINOUS SURFACE TREATMENT 2015**

THIS AGREEMENT is made and entered into this 3 day of Feb, 2015, by and between the City of Prosser whose address is 601 7<sup>th</sup> Street; Prosser, Washington, 99350 (hereinafter "the City") and Benton County, whose address is P.O. Box 1001, Prosser, Washington, 99350 (hereinafter "Benton County").

WHEREAS, in the interest of public safety and motor vehicle traffic safety, the City desires to have Benton County seal coat certain city streets as defined in **Exhibit "A"**, in conjunction with Benton County's 2015 Bituminous Surface Treatment Program; and

WHEREAS, the parties hereto agree that Benton County should act as the Contract Administrator pursuant to the Washington Interlocal Cooperation Act, RCW 39.34, and RCW 35.21.730 through RCW 35.21.740 and in furtherance thereof, Benton County will execute the contract for the convenience and benefit of the City.

NOW, THEREFORE, in consideration of the mutual agreements and covenants herein contained, the parties agree as follows:

1. **Contract Administration.** Benton County agrees to administer and oversee implementation of the bituminous surface treatment of certain city streets as defined in **Exhibit "A"**, attached hereto and by this reference incorporated herein. Benton County contract administration responsibilities will include the following:
  - A. The preparation of plans, specifications, estimates, and bid solicitation documents.
  - B. The selection of a contract in accordance with all federal, state, and local laws and bidding requirements.
  - C. The execution of the Bituminous Surface Treatment 2015 contract and administration oversight of contract implementation.

- D. The submission to the City of a certified statement setting forth all of Benton County's labor, engineering services, equipment, supplies and expenses involved in project design and contract administration.
  - E. Certify all payrolls to ensure that the amounts are appropriate for the local area and in compliance with all federal, state and local laws.
  - F. Ensure that the contractor complies with all provisions of the seal coat contract and that all work is performed in accordance with Washington State Department of Transportation and Federal Highway Administration rules, regulations, and standards.
2. **Responsibilities of the City of Prosser:** The City shall have the following duties and responsibilities under this Agreement:
- A. Approve all specifications, plans, estimates, bid documents, and contract provisions.
  - B. Pay directly to Benton County all amounts set forth in certified statements of Benton County's labor, engineering services, equipment, supplies, and expenses involved in project design and contract administration allocated to the specific project described herein within thirty (30) days of receipt of a certified statement of these documents.
  - C. City maintenance forces shall have all streets listed in **Exhibit "A"** crack sealed, patched, and power broomed prior to the bituminous surface treatment options. This work shall be completed by May 1, 2015.
  - D. City maintenance forces shall locate and cover all City monuments, manholes, water/sewer valves, and irrigation valves during the bituminous surface treatment operations for the roads listed in **Exhibit "A"**.
3. **Representation, Warranties, and Indemnities:**
- A. The City represents and warrants to Benton County that it has authority to enter into this Interlocal Agreement pursuant to RCW 39.34.030(2). The City agrees to assume and accept Benton County's contract obligations arising out of the City's portion of the Bituminous Surface Treatment 2015 contract to be executed between Benton County and the contractor, notwithstanding the fact that Benton County will actually sign said contract for the convenience and benefit of the City. The City shall not at any time allow Benton County to become responsible for actual payment of any amounts due to the contractor under the City's portion of the Bituminous Surface Treatment 2015 contract regardless of whether any dispute may arise with said contractor.
  - B. Benton County represents and warrants to the City that it has the authority to enter into this Interlocal Agreement pursuant to RCW 39.34.030(2). Benton County shall not at any time allow the City to become responsible for actual payment of any amounts due to the contractor under Benton County's portion of the Bituminous

Surface Treatment 2015 contract regardless of whether any dispute may arise with said contractor.

- C. Each party shall defend, protect, and hold harmless the other party from and against all claims, suits, and/or actions arising from negligent or intentional acts or omissions of that party's employees and agents while performing this Agreement. In case of joint negligence, any damages allowed shall be levied in proportion to the percentage of negligence attributed to each party. In addition, Benton County shall indemnify the City for any damages recovered from the performance bond of the contractor.
4. **Duration of Agreement.** The term of this Agreement shall commence upon the execution by both parties and shall expire on or before December 31, 2015.
5. **Termination of Agreement.** This Agreement may be terminated by either party, by providing written notice to the designated contacts for each party identified in Section 12 of this Agreement. This written notice must be served on the other party within sixty days (60) of the date of termination.
6. **Partial Invalidity.** Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law. Any provisions of this Agreement which shall prove to be invalid, void, or illegal shall in no way affect, impair, or invalidate any other provisions herein, and such other provisions shall remain in full force and effect.
7. **No Third-Party Rights.** Except as expressly provided herein, nothing in this Agreement shall be construed to permit anyone other than the parties hereto and their successors and assigns to rely upon the covenants and agreements herein not to give any such third party a cause of action (as a third-party beneficiary or otherwise) on account of nonperformance hereunder.
8. **Assignability.** The rights, duties, and other obligations of either party to this Agreement may not be assigned to any third party without the prior written consent of the other party, which consent shall not be unreasonably withheld.
9. **Entire Agreement.** This Agreement, including **Exhibit "A"** and any amendments thereto mutually agreed to by the parties, constitutes the entire Agreement between the parties hereto and no other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or bind any of the parties. Either party may request changes to the Agreement. This Agreement cannot be orally modified, and any proposed changes that are mutually agreed upon must be incorporated by written amendment hereto.
10. **Dispute Resolution.** It is the parties' intent to resolve any disputes relating to the interpretation or application of this Agreement informally through discussions at the staff level. In the event disputes cannot be resolved informally at the staff level, then the

parties agree to first submit the dispute to non-binding mediation/dispute resolution before resorting to litigation.

**11. Litigation.** In the event that any suit or action is instituted by either party to enforce compliance with or interpret any of the terms, covenants, or conditions of this Agreement, the prevailing party shall be entitled to collect, in addition to necessary court costs, such sums as the court may adjudge as reasonable attorney fees. The venue for any action to enforce or interpret this Agreement shall lie in the Superior Court for Benton County, Washington.

**12. Notices.** All notices and demands shall be in writing and sent to the parties hereto at their address as follows:

<u>To Benton County:</u>	Benton County Public Works P.O. Box 1001 Prosser, WA 99350-0954
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<u>To City of Prosser:</u>	City of Prosser 601 7 <sup>th</sup> Street Prosser, WA 99350
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**13. Filing of Agreement.** Executed copies of this agreement shall be filed as required by RCW 39.34.040 prior to this agreement becoming effective.

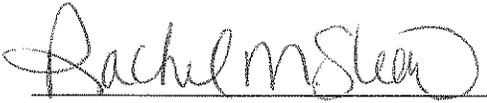
**14. Evidence of Authority.** Upon execution of this Agreement, the City shall provide Benton County and Benton County shall provide the City with a certified copy of the resolution, ordinance, or other authority given to execute this Agreement pursuant to RCW 39.34.030(2), and said document will be attached hereto and incorporated herein as **Exhibit "B"** (City) and **Exhibit "C"** (County).

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 PROSSER,  
WASHINGTON

By:   
Mayor

Attest:

  
City Clerk

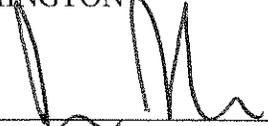
Date: 1/14/2015

Approved as to form:

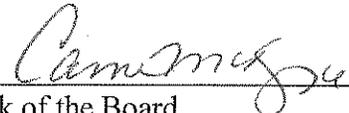
  
Attorney, City of Prosser

Date: 1/14/2015

BENTON COUNTY,  
WASHINGTON

By:   
Chairman, Board of County  
Commissioners

Attest:

  
Clerk of the Board

Date: 2-3-15

Approved as to form:

  
Benton County Prosecuting Attorney

Date: 12/18/2014

**Exhibit "A"**

BITUMINOUS SURFACE TREATMENT SEAL COAT 3/8" - #10 - 2015							
CITY OF PROSSER STREETS							
Asphalt application rate of 0.35 gal/sq yd							
Street Name	From	To	Length (Mi)	Width (Ft)	(Sq Yd)	CRS-2P (Ton)	Pickup Broom
DUDLEY AVE	GUERNSEY	SIXTH	0.04	35	903	1.32	X
DUDLEY AVE	SIXTH	SEVENTH	0.09	35	1,848	2.70	X
DUDLEY AVE	SEVENTH	EIGHTH	0.09	48	2,506	3.65	X
DUDLEY AVE	EIGHTH	END PAVEMENT	0.08	38	1,694	2.47	X
PROSSER AVE	FIFTH	SIXTH	0.08	19	836	1.22	X
YAKIMA AVE	GUERNSEY	SIXTH	0.16	28	2,645	3.86	X
SPOKANE ST	FOURTH	SIXTH	0.18	35	3,593	5.24	X
BUDD AVE	PARKER CT	SIXTH	0.10	28	1,643	2.40	X
PARKER CT	CAMPBELL DR	FIFTH	0.13	18	1,404	2.05	X
FOURTH ST	GUERNSEY	SPOKANE	0.06	19	647	0.94	X
FIFTH ST	JAMES	BUDD	0.03	25	367	0.53	X
FIFTH ST	BUDD	PROSSER AVE	0.21	36	4,520	6.59	X
SIXTH ST	BUDD	SPOKANE	0.08	41	1,924	2.81	X
SIXTH ST	SPOKANE AVE	SPOKANE AVE, N	0.03	38	669	0.98	X
SIXTH ST	SPOKANE AVE, N	PROSSER AVE	0.11	45	2,904	4.24	X
SIXTH ST	PROSSER AVE	DUDLEY	0.07	68	2,793	4.07	X
PLAYFIELD	SIXTH	SUNSET	0.09	27	1,426	2.08	X
SEVENTH	MEMORIAL	PROSSER AVE	0.12	37	2,605	3.80	X
SEVENTH	PROSSER AVE	DUDLEY	0.10	50	2,933	4.28	X
		<b>Totals</b>	<b>1.84</b>		<b>37,859</b>	<b>55.21</b>	

EXHIBIT "B"

CITY OF PROSSER, WASHINGTON  
RESOLUTION NO. 15-1472

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PROSSER APPROVING INTERLOCAL COOPERATION AGREEMENT BETWEEN THE CITY OF PROSSER AND BENTON COUNTY REGARDING THE BITUMINOUS SURFACE TREATMENT 2015.

WHEREAS, the City of Prosser has a need to preserve its streets through a street maintenance program that includes bituminous surface treatment, and

WHEREAS, the City of Prosser does not have the equipment, resources, materials or available staffing to adequately perform a bituminous surface treatment to seal coat its streets, and

WHEREAS, the City has selected certain streets within the City limits to be seal coated, and

WHEREAS, the City has a bituminous surface treatment seal coat maintenance plan for street preservation, and

WHEREAS, the City of Prosser desiring to have certain streets within the City limits seal coated, has requested that Benton County undertake the seal coating of those streets as part of Benton County's contract to seal coat, and

WHEREAS, an Interlocal Agreement defining the responsibilities of the County and the City has been prepared and Approved as to Form by the Prosecuting Attorney's Office and Approved as to Form by the City of Prosser Attorney, and

WHEREAS, the Public Works Director has recommended approval of said Interlocal Agreement, and

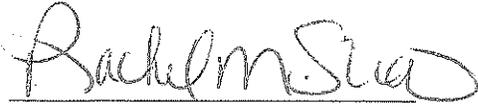
NOW THEREFORE, BE IT RESOLVED, that the Interlocal Agreement by and between the City of Prosser and Benton County for the Bituminous Surface Treatment 2015 is hereby approved and the Mayor is authorized to sign said agreement.

ADOPTED by the City Council of the City of Prosser and APPROVED by the Mayor of the City of Prosser this 13<sup>th</sup>, day of January, 2015.



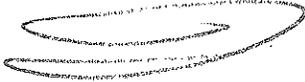
  
MAYOR PAUL WARDEN

ATTEST:

A handwritten signature in cursive script that reads "Rachel M. Shaw".

RACHEL SHAW, CITY CLERK

APPROVED AS TO FORM

A handwritten signature in cursive script that reads "Howard Saxton".

HOWARD SAXTON, CITY ATTORNEY

Exhibit "C"

RESOLUTION

2015 130

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AN AGREEMENT BETWEEN THE CITY OF PROSSER AND BENTON COUNTY TO SEAL COAT ROADS

WHEREAS, Benton County will be seal coating County roads as a part of the Bituminous Surface Treatment 2015 program, and

WHEREAS, the City of Prosser desiring to have certain streets within the City limits seal coated, has requested that Benton County undertake the seal coating of those certain streets as a part of Benton County's contract to seal coat, and

WHEREAS, an Interlocal Agreement, expiring December 31, 2015, defining the responsibilities of the County and the City has been prepared and has been Approved as to Form by the Prosecuting Attorney's Office and has been approved by the City of Prosser, and

WHEREAS, the Public Works Director/County Engineer has recommended approval of said Interlocal Agreement, NOW, THEREFORE,

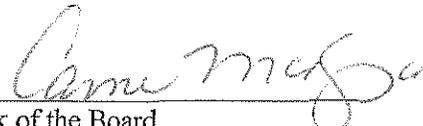
BE IT RESOLVED that the Interlocal Agreement by and between the City of Prosser and Benton County for the Bituminous Surface Treatment 2015 is hereby approved and the Chairman is authorized to sign said agreement.

Dated this 3 day February 2015.

  
\_\_\_\_\_  
Chairman

  
\_\_\_\_\_  
Chairman Pro-Tem

  
\_\_\_\_\_  
Member

Attest:   
Clerk of the Board

Constituting the Board of County  
Commissioners of Benton County,  
Washington

Orig.: Public Works

S. Christen