

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

**INTERLOCAL COOPERATION AGREEMENT
BRIDGE INSPECTION**

THIS AGREEMENT is made and entered into this 15 day of April, 2014, by and between the City of Prosser whose address is 601 7th Street, Prosser, WA 99350 (hereinafter "the City") and Benton County whose address is P.O. Box 1001, Prosser, WA 99350 (hereinafter "Benton County").

WHEREAS, Benton County, as a part of the bridge inspection program with the State of Washington, was required to provide free bridge inspection for cities under 5,000 in population; and

WHEREAS, the City, having passed the population threshold of 5,000 is no longer eligible for free bridge inspection by Benton County and not having personnel trained to undertake bridge inspection as required by the Federal Highway Administration ("FHWA") desires to utilize Benton County personnel to inspect the three City bridges; and

WHEREAS, the parties hereto agree that Benton County should continue to inspect the City's bridges pursuant to the Washington Interlocal Cooperation Act, RCW 39.34, and RCW 35.21.730 - .740.

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

1. **Responsibilities of Benton County:** Benton County Agrees to provide bridge inspection services under the following terms and conditions.
 - A. **Bridges Covered by Agreement.** Benton County agrees to provides inspection services for the three City bridges identified as follows:
 1. Structure ID# 08591900 – Wine Country Road Bridge East
 2. Structure ID# 08737500 – Wine Country Road Bridge West
 3. Structure ID# _____ - Grande Road Bridge
(This bridge currently has no structure number and has not been entered into the Washington State Bridge Inventory System yet.

Assignment from Washington Bureau of Reclamation to the City of Prosser filed on 10/30/2006).

- B. County Oversight.** Benton County Project Manager will oversee Lead Inspector and Assistant Inspector in all aspects of bridge inspection and file maintenance.
- C. Field Inspections.** Complete visual field inspections on all three bridges will be conducted every 24 months.

 - 1. Benton County will complete inspection reports and data entry; and
 - 2. Benton County will comply with all requirements of the Washington State Department of Transportation (“WSDOT”) Local Programs Bridge Preservation Office.
- D. Under Bridge Inspections.** Complete Under Bridge Inspection Truck (“UBIT”) every 72 months utilizing the WSDOT two-man crew.

 - 1. Benton County will complete inspection reports and data entry; and
 - 2. Benton County will comply with all requirements of the Washington State Department of Transportation (“WSDOT”) Local Programs Bridge Preservation Office.
- E. Underwater Inspections.** Benton County will help coordinate underwater inspections every 72 months with WSDOT. *Note:* WSDOT usually hires a private consultant to complete these inspections.

 - 1. Private consultant will complete all inspection reports and send information/reports to Benton County; and
 - 2. Benton County will review the reports and complete the data entry submission to WSDOT Local Programs Bridge Preservation Office.
- F. Soundings.** Benton County will ensure that soundings are completed on the upstream and downstream sides on both Wine Country Road bridges every 72 months coordinating this inspection with the underwater inspection which is to be performed under subsection 1. D. above.
- G. Digital Photos.** Benton County will take digital photos whenever deemed necessary.
- H. Damage/Repair Reports.** Benton County will prepare damage and/or repair reports if necessary and provide copies of the same to the City.

- I. **Inspection Reports.** Benton County will route a copy of all inspection reports to the City along with any damage or repair reports prepared under subsection 1. H. above.
2. **Responsibilities of the City of Prosser:** The City shall have the following duties and responsibilities under this Agreement:
 - A. **Right of Entry.** The City hereby grants and conveys to the County and WSDOT the right of entry upon all land which the City has interest, within or adjacent to the bridges (as described under subsection 1.A.) for the purpose of accomplishing the work described as part of this Agreement.
 - B. **Review all Reports.** The City shall review all inspection, damage, and/or repair reports and provide any comment, inquiry, or request for further action in writing within thirty (30) days of receiving said report to Benton County.
 - C. **Maintenance/Repair.** Complete or retain approved consultant, private contractor or WSDOT Bridge Preservation Office to perform maintenance and repair of all City bridges, if necessary. *Note:* The Bridge Office maintains files on consultants qualified to provide bridge inspection services.
 - D. **Furnish City Personnel to Assist in Inspections.** During UBIT inspections conducted every 72 months, and as needed for inspections, the City will furnish flag persons to direct traffic flow.
 - E. **Maintain Current Contact Information.** The City shall keep information current on level of contact in case of emergency closure.
 - F. **Memorandum of Understanding.** The City shall enter into a Memorandum of Understanding with WSDOT Local Programs Bridge Preservation Office for High Cost Bridge Inspections.
 - G. **Reimburse County for Costs.** The City shall reimburse all Benton County costs for personnel, equipment, etc., for inspection of the bridges, preparation and submittal of reports, and maintenance of the bridge files.
3. **Representation, Warranties, and Indemnities**
 - A. The City represents and warrants to Benton County that it has the authority to enter into this Interlocal Agreement pursuant to RCW 39.34.030(2).
 - 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).

- C. The City shall hold harmless, indemnify and defend Benton County, its officers, officials, employees and agents, from and against any and all claims, actions, suits, liability, loss, expenses, damages, and judgments of any nature whatsoever, including reasonable costs and attorneys' fees in defense thereof, for injury, sickness, disability or death to persons or damage to property or business, arising in connection with this Agreement, or caused or occasioned in whole or in part by reason of the presence of Benton County or its subcontractors or their property upon or in the proximity of the property of the City. PROVIDED, that the City's obligation hereunder shall not extend to injury, sickness, death or damage caused by or arising out of the sole negligence of Benton County, its officers, officials, employees or agents. In the event of the concurrent negligence of the City, its subcontractors, employees or agents, and Benton County, its employees or agents, this indemnification obligation of the City shall be valid and enforceable only to the extent of the negligence of the City, its subcontractors, employees and agents.
- D. In any and all claims against Benton County, its officers, officials, employees and agents by any employee of the City, subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under this Section shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the City or subcontractor under Workers Compensation acts, disability benefit acts, or other employee benefit acts, it being clearly agreed and understood by the parties hereto that the City expressly waives any immunity the City might have had under such laws, including but not limited to Title 51 of the Revised Code of Washington. **By executing this Agreement, the City acknowledges that the foregoing waiver has been mutually negotiated by the parties and that the provisions of this Section shall be incorporated, as relevant, into any contract the City makes with any subcontractor or agent performing work hereunder. The City's obligations under this Section [3] shall survive termination and expiration of this Agreement.**
- E. The City's obligations hereunder shall include, but are not limited to, investigating, adjusting and defending all claims alleging loss from action, error or omission, or breach of any common law, statutory or other delegated duty by the City, the Cities employees, agents or subcontractors. The foregoing indemnification obligations of the City are a material inducement to Benton County to enter into this Agreement, and have been mutually negotiated by the parties.

4. **Duration of Agreement.** The term of this Agreement shall commence upon the execution by both parties and shall expire on December 31, 2019.

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 thirty (30) days 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 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. Proposed changes that are mutually agreed upon shall 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:

To Benton County: Benton County Public Works
P.O. Box 1001
Prosser, WA 99350-0954

To City of Prosser: City of Prosser
601 7th Street
Prosser, WA 99350

13. **Filing of Agreement.** A copy of this Agreement shall be filed with the City Clerk of the City of Prosser and with the Benton County Auditor.
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 "A"** (City) and **Exhibit "B"** (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

BENTON COUNTY,
WASHINGTON

By: 
Mayor

By: 
Chairman, Board of County
Commissioners

Attest:

City Clerk

Attest:

Clerk of the Board

Date: 3/26/2014

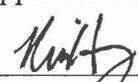
Date: 4-15-14

Approved as to form:


Attorney, City of Prosser

Date: 3/26/2014

Approved as to form:


Benton County Prosecuting Attorney

Date: 4/3/14

**CITY OF PROSSER, WASHINGTON
RESOLUTION NO. 14-1448**

Exhibit "A"

**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 BRIDGE INSPECTION
PROGRAM.**

WHEREAS, the City of Prosser has a need to inspect its three bridges as required by the Federal Highway Administration (FHWA); and

WHEREAS, the City of Prosser does not have the equipment, resources, or personnel trained to undertake bridge inspection as required by the FHWA; and

WHEREAS, as part of the bridge inspection program with the State of Washington, Benton County was required to provide free bridge inspections for cities under 5,000 in population; and

WHEREAS, the City, having passed the population threshold of 5,000 is no longer eligible for free bridge inspection by Benton County; and

WHEREAS, the parties hereto agree that Benton County should continue to inspect the City's bridges pursuant to the Washington Interlocal Cooperation Act, RCW 39.34, and RCW 35.21.730 - .740; 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

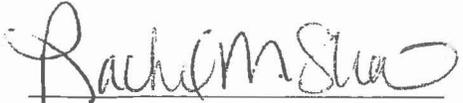
NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Prosser that the Interlocal Agreement by and between the City of Prosser and Benton County for Bridge Inspection is hereby approved and the Mayor is authorized to sign said agreement.

ADOPTED by the City Council of the City of Prosser and **APPROVED** by the Mayor of the City of Prosser this 25th day of March, 2014.




MAYOR PAUL WARDEN

ATTEST:


RACHEL SHAW, CITY CLERK

APPROVED AS TO FORM:


HOWARD SAXTON, CITY ATTORNEY

RESOLUTION

2014 330

Exhibit "B"

**BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY,
WASHINGTON:**

IN THE MATTER OF COUNTY ROADS, RE: CITY OF PROSSER, INTERLOCAL COOPERATION AGREEMENT, BRIDGE INSPECTION

WHEREAS, as a part of the bridge inspection program with the State of Washington, Benton County was required to provide free bridge inspections for cities under 5,000 in population, and

WHEREAS, the City of Prosser, having passed the population threshold of 5,000 is no longer eligible for free bridge inspection by Benton County and not having personnel trained to undertake bridge inspection as required by the Federal Highway Administration ("FHWA") desires to utilize Benton County personnel to inspect the three City of Prosser bridges; and

WHEREAS, the parties hereto agree that Benton County should continue to inspect the City's bridges pursuant to the Washington Interlocal Cooperation Act, RCW 39.34, and RCW 35.21.730 - .740; and

WHEREAS, the City of Prosser shall reimburse all Benton County costs for personnel, equipment, etc., for inspection of the bridges, preparation and submittal of reports, and maintenance of the bridge files, NOW, THEREFORE,

BE IT RESOLVED that the Interlocal Cooperation Agreement, Bridge Inspection, expiring December 31, 2019, with the City of Prosser be approved and the Chairman of the Board of Benton County Commissioners is authorized to sign said agreement.

Dated this 15th day of April 2014.



Chairman



Chairman Pro Tem



Member

Attest: 
Clerk of the Board

Constituting the Board of County
Commissioners of Benton County,
Washington