

**INTERLOCAL COOPERATION AGREEMENT FOR
SHARING PUBLIC WORKS EQUIPMENT AND PERSONNEL
BETWEEN THE CITY OF PROSSER AND BENTON COUNTY**

THIS AGREEMENT is made and entered into this 16th day of October, 2009, by and between the City of Prosser, whose address is 601 7th Street, Prosser, Washington 99350 (hereinafter "the City of Prosser" or "City"), and Benton County, whose address is P.O. Box 1001, Prosser, Washington, 99350 (hereinafter "Benton County" or "County"), pursuant to the authority granted by Chapter 39.34 RCW, INTERLOCAL COOPERATION ACT.

WITNESSETH:

WHEREAS, Benton County is desirous of occasionally sharing Public Works equipment and even less occasionally Public Works personnel with the City of Prosser to provide Public Works services, general maintenance and related services; and

WHEREAS, the City of Prosser is desirous of occasionally sharing Public Works equipment and even less occasionally Public Works personnel with Benton County to provide Public Works services, general maintenance and related services; and

WHEREAS the Interlocal Cooperation Act, as amended and codified in Chapter 39.34 RCW, authorizes and empowers the County and the City to enter into this Agreement so that the two entities may share Public Works equipment and personnel, as provided for in this Agreement.

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

1. Scope of Services – Benton County

- A. Benton County agrees to occasionally lend or borrow Public Works equipment to or from the City of Prosser for efficiency and effectiveness of operations.

- B. The equipment that Benton County is willing to lend is listed on Exhibit "D", which is attached to this agreement. The fees for lending this equipment and/or utilizing Benton County employees are listed on Exhibit "D".
- C. It must be clearly understood by all parties concerned that the Benton County equipment must be available for County projects whenever needed. Therefore, the equipment listed on Exhibit "D" will only be available whenever not in use, or scheduled to be used for a County project, and, then, it will only be made available at the sole discretion of the County Public Works contact person.

2. Scope of Services – City of Prosser

- A. The City of Prosser agrees to occasionally lend or borrow Public Works equipment to or from Benton County for efficiency and effectiveness of operations.
- B. The equipment that the City of Prosser is willing to lend is listed on Exhibit "C", which is attached to this agreement. The fees for lending this equipment and/or utilizing the City of Prosser employees are listed on Exhibit "C".
- C. It must be clearly understood by all parties concerned that the City of Prosser equipment must be available for City projects whenever needed. Therefore, the equipment listed on Exhibit "C" will only be available whenever not in use, or scheduled to be used for a City project, and, then, it will only be made at the sole discretion of the City Public Works contact person.

3. Compensation

- A. The City of Prosser will pay the Public Works Equipment and Personnel Rental services at an hourly rate for time and type of equipment provided based upon fee schedules, which are attached and shown on Exhibit "D". The County will provide an itemized bill to the City on a monthly basis. The City agrees to promptly process the County's voucher for payment and to pay all bills within thirty (30) days of submission by the County.
- B. Benton County will pay the Public Works Equipment and Personnel Rental services at an hourly rate for time and type of equipment provided based upon fee schedules, which are attached and shown on Exhibit "C". The City will provide an itemized bill to the County on a monthly basis. The County agrees to promptly process the City's voucher for payment and to pay all bills within thirty (30) days of submission by the City.

4. **Representation, Warranties, and Indemnities:**

- A. 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).
- B. 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).
- C. The County shall defend, protect, and hold harmless the City from and against all claims, suits, and/or actions arising from negligent or intentional acts or omissions of the County's employees and agents while performing under this Agreement. In case of joint negligence, any damages allowed shall be levied in proportion to the percentage of negligence attributed to each party.
- D. The City shall defend, protect, and hold harmless the County from and against all claims, suits, and/or actions arising from negligent or intentional acts or omissions of the City's employees and agents while performing under this Agreement. In case of joint negligence, any damages allowed shall be levied in proportion to the percentage of negligence attributed to each party.

5. **Duration of Agreement.** The term of this Agreement shall commence upon the execution by both parties and shall expire on or before December 31, 2010. Exhibit "C" and/or Exhibit "D" will be updated annually. Upon receipt of the new Exhibit "C" and/or Exhibit "D", this agreement will be updated and a new termination date determined.

6. **Termination of Agreement.** Either party may terminate this Agreement, by providing written notice to the designated contacts for each party identified in Section 13 of this Agreement. This written notice must be served on the other party within thirty days (30) of the date of termination.

7. **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.

8. **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.

9. **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.

10. **Interlocal Cooperation Act.** No special budget or funds are anticipated, nor shall be created. It is not intended that a separate legal entity be established to conduct this cooperative undertaking, nor is the acquisition, holding, or disposing of real or personal property other than as specifically provided within the terms of this Agreement anticipated. The Benton County Public Works Manager and the City of Prosser Public Works Director shall be designated as joint administrators of this Interlocal Agreement.
11. **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.
12. **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.
13. **Insurance.** Each party shall maintain in effect insurance with limits in the amount each entity currently has in place.
14. **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.
15. **Notices.** All notices and demands shall be in writing and sent to the parties hereto at their address as follows:

To Benton County:

Steve Becken
 Benton County Public Works Manager
 P.O. Box 1001
 Prosser, WA 99350

To City of Prosser:

L.J. Dacorsi
 Public Works director
 City of Prosser
 601 7th Street
 Prosser, WA 99350

16. **Filing of Agreement.** A copy of this Agreement shall be filed in accordance with RCW 39.34.040.

17. **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: Paul Wauder
Mayor

By: Mari E. Bernitz
Chairman, Board of County
Commissioners

Attest:

Attest:

Sherry Biggs
City Clerk
Date: 10-16-09

Ann M. ...
Clerk of the Board
Date: 9-28-09

Approved as to form:

Approved as to form:

[Signature]

Attorney, City of Prosser
Date: 10-22-09

Kathleen B. Halvick

Benton County Prosecuting Attorney
Date: 09/23/09

EXHIBIT A

CITY OF PROSSER, WASHINGTON RESOLUTION NO. 09-1298

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PROSSER APPROVING AN INTERLOCAL COOPERATION AGREEMENT FOR SHARING PUBLIC WORKS EQUIPMENT AND PERSONNEL BETWEEN THE CITY OF PROSSER AND BENTON COUNTY

BE IT RESOLVED, by the City Council of the City of Prosser that it is the desire of the City Council that:

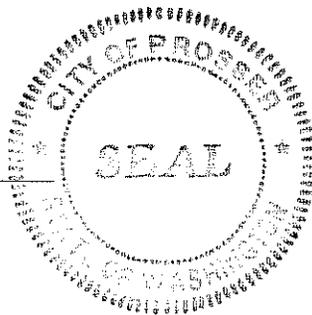
1. The Interlocal Cooperation Agreement for Sharing Public Works Equipment and Personnel, City of Prosser – Benton County, a copy of which is attached hereto and incorporated herein as if fully set forth is hereby approved and the Mayor or his designee is authorized to execute the agreement in multiple originals.
2. Once fully executed the City Clerk shall list the agreement on the City's website as outlined in RCW 39.34.040.

ADOPTED by the City Council of the City of Prosser and **APPROVED** by the Mayor of the City of Prosser this 13th day of October, 2009.


MAYOR PAUL WARDEN

ATTEST:


CITY CLERK



Approved as to form:

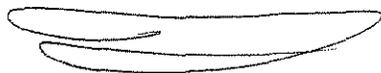

CITY ATTORNEY

Exhibit "B"

RESOLUTION 09 648

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AN AGREEMENT BETWEEN THE CITY OF PROSSER AND BENTON COUNTY TO SHARE PUBLIC WORKS EQUIPMENT AND PERSONNEL

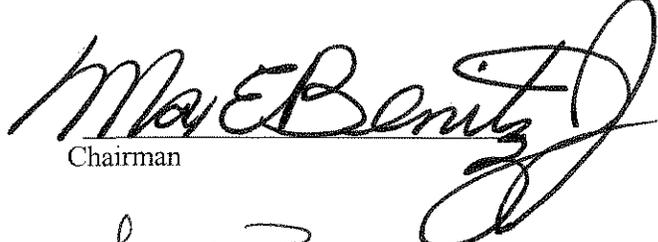
WHEREAS, the City of Prosser and Benton County desire to enter into an agreement to share personnel and equipment on an as needed and when available basis, and

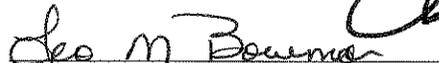
WHEREAS, an Interlocal Agreement defining the responsibilities of the County and the City has been prepared and has been Approved as to Form by the Prosecuting Attorney's Office and has been approved by the City of Prosser, and

WHEREAS, the Public Works Manager 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 to share Public Works equipment and personnel is hereby approved and the Chairman is authorized to sign said agreement.

Dated this 28th day September 2009.


Chairman


Chairman Pro-Tem


Member

Attest: 
Clerk of the Board

Constituting the Board of County
Commissioners of Benton County,
Washington

SWB

Exhibit "C"
City of Prosser Equipment and Operator 2009 Hourly Rates

City Operators Required

Equipment Number	Equipment	Hourly Rental Rate	5% Administrative Surcharge	Total Hourly Charge
132	Ford F800 VAC-CON	143.24	\$7.16	\$150.40

No City Operators Required

136	John Deere 310 Backhoe	\$31.17	\$1.56	\$32.73
149	Champion 710-A Motor Grader	\$87.37	\$4.37	\$91.74
150	John Deere 310 Backhoe	\$31.17	\$1.56	\$32.73

Note: Ford F800 VAC-CON requires two operators.

Operator regular hourly rates shall not exceed \$50.00. Rates will be determined based upon employee's regular hourly salary plus 55% benefits.

Exhibit "D"
Benton County Equipment and Operator 2009 Rental Schedule

Equipment and Operators out of the Prosser Shop
County Operator Required

Equipment Number	Equipment	Hourly Rental Rate	5% Administrative Surcharge	Total Hourly Charge
335	Case Rubber Tire Excavator	\$87.10	\$4.36	\$91.46
362	International Truck Tractor	\$38.22	\$1.91	\$40.13
399	Case Backhoe	\$43.23	\$2.16	\$45.39
410	Champion Blade	\$97.62	\$4.88	\$102.50
418	Equipment Trailer Low Boy	\$23.70	\$1.19	\$24.89
419	Belly Dump 20 CY	\$73.70	\$3.69	\$77.39
432	8000 Gal. Water Tank (Trailer)	\$49.39	\$2.47	\$51.86
473	10/12 CY Dump Truck	\$77.45	\$3.87	\$81.32
474	10/12 CY Dump Truck	\$71.32	\$3.57	\$74.89
475	10/12 CY Dump Truck	\$69.97	\$3.50	\$73.47
484	John Deere Loader	\$67.48	\$3.37	\$70.85
500	Cat Blade	\$105.74	\$5.29	\$111.03

No County Operator Required

253	Small Equipment Trailer	\$4.98	\$0.25	\$5.23
351	Bo Mag Patch Roller	\$11.60	\$0.58	\$12.18
490	Trash Pump	\$35.69	\$1.78	\$37.47

Equipment and Operators out of the Kennewick Shop
County Operator Required

172	Tack Truck	\$98.74	\$4.94	\$103.68
375	Mack Water Truck	\$54.36	\$2.72	\$57.08
449	Champion Blade	\$83.21	\$4.16	\$87.37
450	Cat Loader	\$32.81	\$1.64	\$34.45
453	Small Roller	\$7.90	\$0.40	\$8.30
460	Case Backhoe	\$41.98	\$2.10	\$44.08
468	Sterling Water Truck	\$99.44	\$4.97	\$104.41
470	10/12 CY Dump Truck	\$74.25	\$3.71	\$77.96
471	10/12 CY Dump Truck	\$87.66	\$4.38	\$92.04
472	10/12 CY Dump Truck	\$70.70	\$3.54	\$74.24
485	Cat Blade	\$90.47	\$4.52	\$94.99
492	Cat Blade	\$102.40	\$5.12	\$107.52
504	Superior Broom (Side Cast)	\$80.41	\$4.02	\$84.43
506	Bandit Wood Chipper	\$69.58	\$3.48	\$73.06

Operator regular hourly rates shall not exceed \$50.00. Rates will be determined based upon employee's regular hourly salary plus 55% benefits.

Steven W. Becken
Public Works Manager
Malcolm Bowie, P.E.
Benton County Engineer

Area Code 509
Prosser 786-5611
Tri-Cities 736-3084
Ext. 5664
Fax 786-5627

Benton County

Department of Public Works

Post Office Box 1001 - Courthouse
Prosser, Washington 99350-0954

September 29, 2009

Ms. Sherry Biggs, City Clerk
City of Prosser
601 7th Street
Prosser, WA 99350

RE: Equipment Sharing Interlocal Agreement

Dear Ms. Biggs:

Enclosed are four copies of the above referenced interlocal agreement. Please have all four copies signed and return three to this office. After all parties have signed the interlocal, in accordance with RCW 39.34.040 we will place our copy on the County website and would request the City do the same on their website.

Please replace page 6 with either the resolution giving the Mayor the authority to sign the document or a copy of the consent agenda with a certification by you that the council approved consent agenda and the date of the approval.

If you have any questions, please contact this office.

Sincerely,



Steven W. Becken
Public Works Manager