

## MASTER INTERLOCAL AGREEMENT

This Agreement is entered into in duplicate originals this 22 day of September, 2008 between the CITY OF TENINO, a municipal corporation (hereinafter "CITY"), and THURSTON COUNTY, a municipal corporation (hereinafter "County"), pursuant to RCW 39.34.080.

WHEREAS, the parties hereto are charged with the responsibility of constructing and maintaining their streets, roads, and highways and maintaining staff, equipment, and materials to perform the necessary work, and it is to the mutual advantage of Thurston County and the City to cooperate in order to make the most efficient use of their powers to provide services and facilities needed by the citizens residing within their respective jurisdictions; and

WHEREAS, the parties may from time to time need additional manpower, equipment, or materials or have manpower, equipment, and materials available in certain locations which could be used by the other party to this Agreement.

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 roadway maintenance activities. This will be done with the understanding that the work of the owner of the requested resources takes first priority.

### II

#### DURATION

2.0 This Agreement shall become effective on the date written above and shall remain in effect for five (5) years unless terminated sooner as provided for herein. At the end of the five-year term, this Agreement may be renewed under those terms and conditions mutually agreed to by the parties herein. Prior to commencement, this Agreement shall be filed in accordance with RCW 39.34.040.

### III

#### REQUEST FOR SERVICES

3.0 Each request for service shall be submitted by the Road Operations Manager or higher on behalf of each entity. 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 which has been requested to supply the service shall indicate their acceptance or rejection of the request, have it signed by their authorized official, and return one (1) copy to the requesting party. The authorized official for Thurston County is the Director of the Roads and Transportation Services Department. In cases of emergency, the request and approval may be done verbally but must be documented in writing within forty-eight (48) hours 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. 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 (1) per month. 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 fifty thousand dollars (\$50,000) per calendar year.

**V  
RECORDS RETENTION AND AUDIT**

- 5.0 During the progress of the work and for a period not less than six (6) 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 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 6-year retention period.

**VI  
CARE AND MAINTENANCE OF EQUIPMENT**

- 6.0 The parties agree that any time a request is made for the use of equipment, the requesting party shall be responsible for the proper care, maintenance, and security of the equipment until the equipment is returned to the owner. Any damage other than normal wear and tear will be the responsibility of the party in possession of the equipment at the time the equipment is damaged.

**VII  
RIGHT OF ENTRY**

- 7.0 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.

**VIII  
RELATIONSHIP OF THE PARTIES**

- 8.0 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.

**IX  
HOLD HARMLESS AND INDEMNIFICATION**

- 9.0 The County shall hold harmless, indemnify and defend the City, 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 the County's negligence in the performance of this Agreement.
- 9.1 The City agrees to be responsible for the claims management, resolution, and payment of claims arising out of the County's work 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.
- 9.2 The City shall hold harmless, indemnify and defend the County, its officers, officials, employees and agents, solely for third party claims relating to bodily injury, sickness, or death or real or personal property damage or destruction and loss of use thereof, including costs and attorneys fees in defense thereof, caused or arising out of the City's actions or inactions in the performance of its obligations under this Agreement.
- 9.3 The County's obligations hereunder shall not extend to bodily injury or death caused by or arising out of the sole negligence of the City, its officers, officials, employees or agents.
- 9.4 In the event of the concurrent negligence of the parties, the County's obligations hereunder shall apply only to the percentage of fault attributable to the County, its officers, officials, employees or agents.

**X  
INSURANCE**

- 10.0 The City 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.
- 10.1 The City shall maintain workers' compensation insurance as required by Title 51 RCW, and shall provide evidence of Coverage to the Thurston County Risk Management Division.
- 10.2 The City 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 County.

**XI  
TERMINATION**

- 11.0 Either party may terminate this Agreement upon thirty (30) 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. The hold harmless and indemnification provision shall survive the termination of this Agreement and completion of the request for services.

**XII  
LEGAL RELATIONS**

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

**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.

The County's representative shall be Traffic Engineering & Operations Manager (9605 Tilley Rd SW Olympia WA 98512, 360-786-5495).

The City representative shall be the Public Works Director, Dave Dafoe (PO Box 4019, Tenino WA 98589, (360) 239-9287)

**XIV  
CHANGES, MODIFICATIONS, AND AMENDMENTS**

14.0 This Agreement may be changed, modified, amended or waived only by written agreement executed by the parties hereto.

**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.

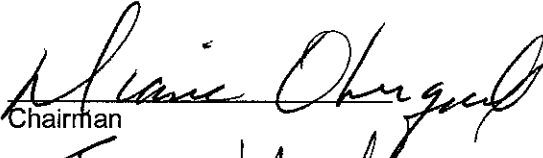
**XVII  
SEVERABILITY**

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.

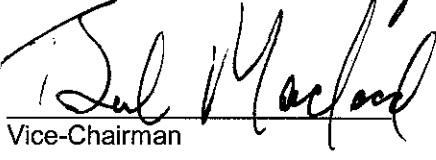
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

Board of County Commissioners  
Olympia, Washington

City of Tenino, Washington

  
Chairman

  
Authorized Representative Signature

  
Vice-Chairman

Kenneth A. Jones  
Printed Name

  
Commissioner

Mayor  
Title

ATTEST:

ATTEST:

  
Clerk of the Board

  
City Clerk-Treasurer

Approved as to form:

Approved as to form:

EDWARD G. HOLM  
PROSECUTING ATTORNEY

By:   
Deputy Prosecuting Attorney

By: \_\_\_\_\_