

RESOLUTION

2016 461

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY ROADS RE: TO APPROVE A REIMBURSABLE AGREEMENT FOR STATE MATERIALS LAB ENGINEERING AND/OR TESTING SERVICES (AGREEMENT NUMBER JM1158) BETWEEN WASHINGTON STATE DEPARTMENT OF TRANSPORTATION AND BENTON COUNTY

WHEREAS, at times it is necessary to utilize the expertise of the Washington State Department of Transportation to perform testing and fabrication inspection on various County road projects; and

WHEREAS, to utilize the State's resources a Reimbursable Agreement for State Materials Lab Engineering and/or Testing Services (Agreement Number JM1158) needs to be approved outlining the general responsibilities of the County and State; NOW, THEREFORE,


BE IT RESOLVED that the Reimbursable Agreement for State Materials Lab Engineering and/or Testing Services (Agreement Number JM1158) between the Washington State Department of Transportation and Benton County be and hereby is approved, and the Chairman of the Board is authorized to sign said Reimbursable Agreement on behalf of Benton County; and

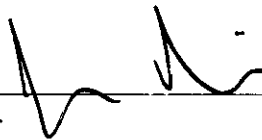
BE IT FURTHER RESOLVED said Agreement shall terminate ten (10) years from the date of execution by both parties unless terminated by either party upon 30 days written notice; and

BE IT FURTHER RESOLVED payment for services will be rendered under this Agreement and associated Task Assignments.

Dated this 7th day of June, 2016.


Chairman of the Board.


Chairman Pro-Tem.


Member.

Attest: 
Clerk of the Board

Constituting the Board of County Commissioners of Benton County, Washington.

Benton County

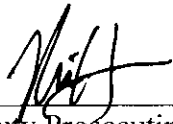
Road Department

Post Office Box 1001 – 620 Market Street
Prosser, Washington 99350

Prosser (509) 786-5611 ~ Tri-Cities (509) 736-3084 ~ Fax: (509) 786-5627

APPROVED AS TO FORM:

Reimbursable Agreement for State Materials Lab Engineering and/or Testing Services
(Agreement Number JM1158) between Washington State Department of Transportation and
Benton County has been reviewed and approved as to form:



Deputy Prosecuting Attorney

5/26/16

Date



**Reimbursable Agreement for State
Materials Lab Engineering and/or
Testing Services**

Reimbursable Agreement for State Materials Lab Engineering and/or Testing Services	Entity Name Benton County Public Works		Agreement Number JM1158
	Entity Billing Address P.O. Box 1001, Prosser, WA 99350		
	Contact Name Bryan Thorp		Contact Phone 509-786-5611
			Contact Email bryan.thorp@co.benton.wa.us
	Federal Tax ID# SW 00003220 0	Agreement Title Testing and Fabrication Testing	
Description of Work Perform testing and fabrication inspection upon request.			

This AGREEMENT is made and entered into by and between the Washington State Department of Transportation, hereinafter "WSDOT," and the above named entity, hereinafter the "ENTITY."

Whereas, the WSDOT Materials Lab performs engineering and/or testing services related to proposals by other entities, either to ensure that materials proposed by those entities for use within WSDOT highway right of way comply with applicable WSDOT standards, or to determine whether existing state highway infrastructure can withstand impacts from proposed actions by other entities within WSDOT highway right of way, and,

Whereas, WSDOT also provides engineering and/or testing services upon request by local governmental agencies related to local agency roadway infrastructure at the local agency's cost, and

Whereas, the ENTITY has requested WSDOT to perform certain materials engineering and/or testing services as described above in the Description of Work (hereinafter "Work"), and

Whereas, WSDOT has the necessary personnel and equipment available and is willing to perform the Work, subject to the terms and conditions herein.

NOW, THEREFORE, pursuant to RCW 47.01.260 and/or Chapter 39.34 RCW, the above recitals that are incorporated herein as if set forth below, and in consideration of the terms, conditions, provisions, and Exhibit A which is attached hereto and by this reference made a part of this Agreement,

IT IS HEREBY AGREED AS FOLLOWS:

1. SCOPE OF WORK

1.1 The term "Work," as used herein, includes any and all work by WSDOT in its performance of the engineering and/or testing services specified in the "Description of Work," above. Subject to the terms and conditions herein, WSDOT agrees to perform the Work using WSDOT labor, equipment, and materials.

2. TERM

2.1 Check one of the following as applicable to this Agreement:

- The term of this Agreement shall begin upon the date of execution by both Parties and shall remain in effect until WSDOT has completed the Work detailed in Exhibit A; OR should the ENTITY terminate this Agreement pursuant to Section 5, this Agreement shall terminate when the ENTITY has made full payment for all WSDOT-incurred costs up to the date of termination.

This selection may only be used if the ENTITY is a public agency

- The term of this Agreement shall begin upon the date of execution by both Parties and shall remain in effect for ten (10) years, subject to renewal by the Parties. This Agreement may be terminated pursuant to Section 4. In the event of termination, this Agreement shall terminate when the ENTITY has made full payment for all WSDOT-incurred costs up to the date of termination.

3. PAYMENT

3.1 Check one of the following as applicable to this Agreement:

For Public Agency ENTITIES

- A cost estimate for the Work is detailed in Exhibit A. WSDOT will invoice the ENTITY monthly for the actual direct and related indirect costs incurred by WSDOT in the performance of the Work completed during the previous month. The cost estimates in Exhibit A are based on established WSDOT Materials Lab cost recovery rates. These rates are periodically recalculated and are subject to change without notice. Current rate schedules are published at: <http://www.wsdot.wa.gov/business/materialslab/>.

The Parties agree that any estimated costs for the Work may be exceeded by up to twenty five percent (25%) before an amendment to this Agreement is required. Once the costs reach the estimate in Exhibit A plus the 25% overrun allowance, WSDOT shall stop all Work until an amendment has been executed increasing the maximum dollar amount payable under this Agreement, or a decision is reached to terminate this Agreement.

- The Term of this Agreement is ten (10) years, during which time WSDOT agrees to perform Work on an as-needed basis when requested by the ENTITY. During the Term of this Agreement, WSDOT will invoice the public agency ENTITY for the actual direct and related indirect costs incurred by WSDOT in the performance of the Work according to the WSDOT Materials Lab cost recovery rates and WSDOT indirect cost recovery rate in effect when the Work is performed. The current WSDOT Materials Lab cost recovery rate schedule is detailed in Exhibit A; however, these rates are periodically recalculated and subject to change without notice. Current rate schedules are published at: <http://www.wsdot.wa.gov/business/materialslab/>.

For Private ENTITIES

- A cost estimate for the Work is detailed in Exhibit A. Upon execution of this Agreement by both Parties, the ENTITY shall provide advance payment to WSDOT for the full estimated amount in Exhibit A. WSDOT will not begin the Work until receipt of said payment from the ENTITY. The cost estimates in Exhibit A are based on established WSDOT Materials Lab cost recovery rates. These rates are periodically recalculated and are subject to change without notice. Current rate schedules are published at: <http://www.wsdot.wa.gov/business/materialslab/>.

WSDOT will monitor its expenditures for the Work and will provide an updated cost estimate to the ENTITY in the event that WSDOT believes that the cost of the Work will exceed the costs detailed in Exhibit A. In such an event, the ENTITY shall pay WSDOT additional costs for the Work as detailed in the updated cost estimate in order for the Work to proceed after WSDOT has expended the ENTITY's initial advance payment. The Parties acknowledge that WSDOT cannot perform any Work after it has expended the ENTITY's initial advance payment until such time that the ENTITY has provided additional payment as described in this section.

In the event that the actual cost of the Work is less than the estimated amount in Exhibit A, WSDOT will refund the difference between the ENTITY's advance payment described above and the actual cost of the Work within thirty (30) calendar days following completion of the Work.

3.2 The ENTITY agrees to reimburse the WSDOT for the actual direct and related indirect costs for the Work within thirty (30) calendar days of receipt of a WSDOT invoice. The ENTITY agrees further that if payment is not made to the WSDOT as herein agreed, WSDOT may charge late fees, interest or refer the debt to a collection agency, all in accordance with Washington State Law.

4. TERMINATION

4.1 Either Party may terminate this Agreement upon thirty (30) calendar days written notice to the other Party. If this Agreement is terminated by either Party prior to completion of the Work specified herein, the ENTITY agrees to and shall reimburse WSDOT for all actual direct and related indirect expenses and costs incurred up to the date of termination associated with the Work.

5. MODIFICATIONS

5.1 This Agreement may be amended by the mutual agreement of the Parties. Such amendments or modification shall not be binding unless they are in writing and signed by persons authorized to bind each Party.

6. RECORDS

6.1 All records for performance of the Work, including labor, material and equipment records in support of all WSDOT costs shall be maintained by WSDOT for a period of six (6) years from the date of termination of this Agreement. The ENTITY shall have full access to and right to examine said records during normal business hours and as often as it deems necessary, and should the ENTITY require copies of any records, it agrees to pay the costs thereof. The Parties agree that the work performed herein is subject to audit by either or both Parties and/or their designated representatives and/or state and federal government.

7. DISPUTES AND VENUE

7.1 In the event that a dispute arises under this Agreement, it shall be resolved as follows: The WSDOT's appropriate administrator or designee and the ENTITY's head or designee shall review the applicable facts, contract terms, statutes and rules affecting the dispute to in good faith resolve the matter.

7.2 In the event that either Party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this Agreement, the Parties hereto agree that any such action or proceedings shall be brought in a court of competent jurisdiction situated in Thurston County, Washington. Each Party further agrees that it shall be solely responsible for the payment of its attorney fees and costs.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Party's date last signed below.

STATE OF WASHINGTON
DEPARTMENT OF TRANSPORTATION

By: STEVE STRAUSS

Title: BUSINESS MANAGER

Date: 6/9/16

ENTITY - Benton County

By: 

Title: Chairman, Board of Commissioners

Date: 6/17/2016