A-2016-43

Return Document to:	Douglas County Transportation and Land Services
Document Title:	Interlocal Cooperative Agreement Re: Equipment Lease
Related documents:	N/A
Grantor:	Douglas County, Washington
Grantee:	Pend Oreille County, Washington
Legal Description: N/A	
Parcel Number(s): N/A	

INTERLOCAL COOPERATIVE AGREEMENT BETWEEN DOUGLAS COUNTY AND PEND OREILLE COUNTY RE: RENTAL OF EQUIPMENT

This Agreement is made and entered into on this day by and between Douglas County, Washington, a political subdivision of the State of Washington (the Lessor), and Pend Oreille County, Washington, a political subdivision of the State of Washington (the Lessee).

WHEREAS, Pend Oreille County desires to rent equipment from Douglas County to be used for Pend Oreille County's July 2016 chip seal operations; and

NOW, THEREFORE, in consideration of the premises and the terms and conditions set forth below the parties hereby agree as follows:

ARTICLE I
PURPOSE

1.01 **Purpose.** The purpose of this Agreement is to set forth the terms and conditions under which Douglas County will rent equipment to Pend Oreille County on a reimbursable basis.

ARTICLE II
EQUIPMENT TO BE FURNISHED

2.01 **Equipment Furnished.** Douglas County hereby agrees to rent the following to Pend Oreille County from July 13, 2016, through August 1, 2016:

One (1) – 1997 Mack Distributor, TLS 246, at a rental rate of $54.56 per hour for equipment only.

One (1) – 1995 Sakai Pneumatic Roller, TLS 562, at a rental rate of $50.00 per hour for equipment only.

Rent shall be determined by the actual hours of use after leaving Douglas County's facility in Waterville, Washington. Actual hours of use include operation for transport to Pend Oreille County. Rental rates do not include fuel. Fuel tanks shall be full when the equipment leaves Douglas County's facility and shall be full when returned to Douglas County's facility.

2.02 **Pend Oreille County Obligations.** Lessee Oreille County agrees as follows

A. Lessee shall be reimburse Douglas County for actual hours of use, including transportation use, of the equipment. Lessee shall pick up at, and return the equipment to, Douglas County's facility at Waterville, Washington.

B. Lessee shall be responsible for the proper care, maintenance and security of the equipment until the equipment is returned to Douglas County.

C. Lessee shall only permit a properly trained and supervised Pend Oreille County employee to operate the equipment.

D. Lessee shall return the equipment on or before the August 1, 2016.

E. Lessee shall be responsible for all physical and mechanical damages and losses to the equipment during use, storage and transportation.

F. Lessee shall insure the equipment against loss or damage, and for public liability.

2.03 **Douglas County Obligations.** Douglas County represents that the equipment shall be in good working condition when leaving Douglas County's facility and fuel tanks shall be full.

ARTICLE III
PAYMENT TO DOUGLAS COUNTY

3.01 **Equipment.** Pend Oreille County shall pay equipment rent to Douglas County based upon the actual hours of use by Pend Oreille County, including operation for transport from and to Douglas County, at the rental rates set forth above.

3.02 **Administrative Services Fee.** In addition to equipment rental rates and labor reimbursement, Pend Oreille County shall pay Douglas County an amount equal to ten percent (10%) of such charges as reimbursement of direct and indirect administrative, accounting and clerical services.

3.03 **Payment to County.** Douglas County shall invoice Pend Oreille County for equipment rental, labor reimbursement and the administrative services fee. Pend Oreille County shall pay the amount due to Douglas County within thirty (30) days after invoice date.

ARTICLE IV
INSURANCE

4.01 **Insurance.** The parties are members of the Washington Counties Risk Pool. In the event any claim or legal action arises from the performance of this Agreement, the parties agree that the coverage afforded to Pend Oreille County shall be primary and the deductible of Pend Oreille County shall be the sole deductible and applied consistent with Article V.

ARTICLE V
INDEMNITY

5.01 The Lessee, Pend Oreille County, shall indemnify, defend and hold the Lessor, Douglas County, its departments, elected and appointed officials, employees, and agents, harmless from and against any and all claims, damages, losses and expenses, including Douglas County's attorney's fees, for any bodily injury, sickness, disease, or death, or any damage to or destruction of property, including the loss of use resulting therefrom, which are alleged or proven to be caused in whole or in part by a negligent act or omission of Pend Oreille County, its officials, employees and agents. This indemnification obligation of the Lessee shall not apply in the limited circumstance where the claim, damage, loss and expense is caused by the sole negligence of Douglas County.

ARTICLE VI
DISPUTES

6.01 **Time.** Time is of the essence of this Agreement.

6.02 **Contract Representative.** The County Engineer of each party is hereby designated as the party's representative. All notices regarding the performance or interpretation of this Agreement shall be served on such persons.

6.03 **Conflict**. In the event of conflict among the terms and conditions of this Agreement and federal, state or local law, the inconsistency shall be resolved by giving precedence of interpretation in the following order:

1. Applicable federal case law, statutes and regulations; then
2. Applicable Washington case law, statutes and regulations; then
3. The terms and conditions of this Agreement.

6.04 **Waiver Limited.** A waiver of any term or condition of this Agreement must be in writing and signed by the party. Any express or implied waiver of a term or condition of this Agreement shall apply only to the specific act, occurrence or omission and shall not constitute a waiver as to any other term or condition or future act, occurrence or omission.

6.05 **Attorney's Fees**. If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, each party shall pay its own attorney's fees and other costs incurred in that action, arbitration or proceeding.

6.06 **Governing Law and Venue**. This Agreement shall be governed exclusively by the laws of the State of Washington. Douglas County shall be the sole proper venue for any and all suits brought to enforce or interpret the provisions of this Agreement.

ARTICLE VII
GENERAL PROVISIONS

7.01 **Assignment.** The Lessee may not assign its rights or delegate its duties under this Agreement, whether by assignment, further, subcontract or other means without first obtaining the written consent of the Lessor. Any such attempted assignment or delegation shall be void and shall constitute a material breach of this Agreement.

7.02 **Entire Agreement**. This Agreement constitutes the entire agreement between the Lessor and Lessee. There are no understandings or agreements between the parties other than those set forth in this Agreement. No other statement, representation or promise has been made to induce either party to enter into this Agreement.

7.03 **Modification.** This Agreement may not be amended, supplemented or otherwise modified unless expressly set forth in a written agreement signed by the parties.

7.04 **Invalid Provisions**. The invalidity or unenforceability of any particular term or provision of this Agreement shall not affect the validity or enforceability of any other term or provision and this Agreement shall be construed in all respects as if such invalid or unenforceable term or provision was omitted.

Dated: July 5, 2016

PEND OREILLE COUNTY, WASHINGTON
BOARD OF COUNTY COMMISSIONERS

Mike Manus
Chair

Karl Roy
Vice Chair

Absent
Member

ATTEST:

Rhonda Carey
Clerk of the Board

APPROVED:

County Engineer

APPROVED AS TO FORM:

Prosecuting Attorney

Dated:_____

DOUGLAS COUNTY, WASHINGTON
BOARD OF COUNTY COMMISSIONERS

Chair

Vice Chair

Member

ATTEST:

Clerk of the Board

APPROVED:

County Engineer

APPROVED AS TO FORM:

_____

Prosecuting Attorney