

Contract Coversheet (Non-Federal)
Request Board Approval

Please submit this form with your unsigned contract to Denise Watson at least **3** weeks before the scheduled School Board meeting. Upon attorney review and approval (if necessary), Les will submit the contract to the Superintendent's office, where it will be included on the agenda for School Board approval.

All contracts require school board approval.

The only authorized signatures on a contract are Brian Flones, Jon DeJong, Les Vandervort, or the School Board.

Date	New or Renewal or Revision	Agency	Purpose	Amount	Contract Start Date & End Date	Staff Person Responsible for Contract	Approved by Les?	PO Required?	Attorney Review Required?
04/18/18	New	City of Wenatchee	Interlocal Agreement for Foothills Middle School Crossing Improvements with the City of Wenatchee Project #1715	\$37,608.26 plus WSST	Upon Approval to Fall 2018	<u>Gregg Herkenrath</u>			This is decided at the district office.
				Budget Code		I have read this contract and recommend it for board approval. <u>GH</u> Initial <u>4-18-18</u> Date			

Agency Contact Information (who & where contract needs to be mailed to for signing):

Agency Name City of Wenatchee
 Attention: Charlotte Mitchell, Project Engineer
 Street address or PO Box 1350 McKittrick Street
 City, State, Zip Code Wenatchee, WA 98801
 Email Address cmitchell@wenatcheewa.gov
 Phone Number (509) 888-3221

Contract Details (Give a brief description of the contract):

If this is a revision, what has changed?

This Interlocal Agreement would allow the City of Wenatchee to develop plans and specifications for roadway and sidewalk improvement work. WSD Work would include curb, gutter, irrigation repairs, and sidewalk improvements. Also included is removal and replacement of the asphalt in the two road approaches to Foothills Middle School. **This has been reviewed by the WSD attorney, Danielle Marchant and is approved for submission to the Board.**

Be sure to follow state bid requirements as outlined in RCW 28A.335.190

Reviewed by Attorney _____
 Signature

Requires Edits? _____

INTERLOCAL AGREEMENT BETWEEN CITY OF WENATCHEE AND WENATCHEE SCHOOL DISTRICT NO. 246

THIS INTERLOCAL AGREEMENT (“Agreement”) is hereby entered into by and between City of Wenatchee, Washington (the “City”), and Wenatchee School District No. 246 of Wenatchee, Washington (the “WSD”), sometimes collectively referred to as the “Parties”. This Agreement is made pursuant to the Interlocal Cooperation Act, Chapter 39.34 RCW.

WHEREAS, the City is engaged in Middle School Crossing Improvements, involving improvements to Maple Street in Wenatchee, Chelan County, Washington (the “Project”); and,

WHEREAS, the City staff and the WSD staff will work cooperatively through the design phase of the Project for the mutual benefit of the Parties; and

WHEREAS, as a result of the cooperative planning between the Parties, the City will develop plans and specifications for roadway and sidewalk improvement work (the “WSD Work”) for inclusion in the Contract Bid Documents. WSD Work will be specifically referred to as Group 3 Work in the Contract Bid Documents. The Project is scheduled to be advertised for bid around April 26, 2018; and

WHEREAS, as set forth in this Agreement, the City and the WSD desire to continue their cooperative efforts through bidding, construction of the WSD Work and the Project by the City Contractor (“Contractor”), and for such work as may be performed by the Parties’ respective forces in addition to each Party’s work under the awarded Project Contract (“Contract”); and

WHEREAS, the Project is funded with a combination of federal, state, and local funding, the Washington State Department of Transportation (“WSDOT”), Federal Highway Administration (“FHWA”) and other federal and state agencies have oversight responsibility and authority and the parties will be required to cooperate with oversight.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, and the foregoing representations, which are incorporated by this reference into the Agreement, the City and the WSD agree as follows:

- 1. Purpose.** The purpose of this Agreement is to coordinate WSD Work concurrent with Project construction improvements, by inclusion of the WSD Work as Group 3 Work in the Contract Bid Documents, and to set forth duties and responsibilities of each Party for the WSD Work done in conjunction with the Project.

- 2. Scope of Work.** WSD Work for the Project is set forth in Exhibit A. WSD Work includes curb, gutter, irrigation repairs, and sidewalk improvements by the

Contractor. Also included is removal and replacement of the asphalt in the two road approaches to Foothills Middle School.

3. City Obligations. The City shall:

- 3.1. Provide plans, specifications, and an engineering estimate of costs for the WSD Work.
- 3.2. Administer the bidding and contract award, consistent with bid laws applicable to the Project (this includes WSD Work), including:
 - a.) Preparing the Contract Bid Documents to include the WSD Work as provided in Exhibit A;
 - b.) Advertising for Project bids and administering the Project bidding process, answering and documenting responses to prospective bidders questions relating to WSD Work prior to bid award and provide the WSD with copies of the documentation;
 - c.) Requiring the Contractor to name the WSD as an additional insured under its insurance obligations in the Contract;
 - d.) Allow for WSD inspection of bid proposals after bid opening; and
 - e.) Awarding of the Contract.
- 3.3. Administer the Contract subject to the provisions of this Agreement for WSD Work, including:
 - a.) Contract administration for the complete Contract, including WSD Work;
 - b.) Communication and coordination with the Contractor to schedule all Work, including WSD Work, and to be the lead agency for inspection and for coordinating resolution of questions and issues arising during the performance of the Contract;
 - c.) Disbursement of payments to the Project Contractor relating to WSD Work, subject to the WSD's written approval in advance;
 - d.) Administration of change orders relating to WSD Work subject to the WSD's written approval in advance; and
 - e.) Allowing for WSD inspection of the WSD Work performed by the Contractor.
- 3.4. Provide construction engineering, including survey control (except as set forth in paragraph 4.1 below).
- 3.5 Determine Final Project completion. Final completion shall not be determined until the WSD has provided written acceptance to the City of WSD Work performed by the Contractor under the terms of the Contract.
- 3.6 Determine final acceptance of the Project.

3.7 Assign to the WSD any claims or defenses it has related to the WSD Work and the WSD's obligations set forth in Sections 4.7 below.

4. WSD Obligations. The WSD shall:

- 4.1. Provide review and written approval to the City for any change orders for WSD Work before implementation.
- 4.2. Reimburse the City for actual City administration and Preliminary Engineering (Design) costs for WSD Work and Construction Engineering (Inspection), as shown in Exhibit B.
- 4.3. Reimburse the City for Costs of WSD Work.
- 4.4. Provide the City with written acceptance of WSD Work, performed by the Contractor, at and as a prerequisite to Final Project completion.
- 4.5. Cooperate with oversight, audits and public record requests related to the Project.
- 4.6. Pursue and prosecute at its sole cost and discretion any actions against the Contractor for breach of contract related to WSD Work.
- 4.7. Grant City a temporary construction permit allowing its' contractor to work on WSD property to construct the work. Unless modified by separate agreement, this ILA shall suffice as such temporary construction permit.

5. Filing and Effective Date. This Agreement shall become effective upon the date of filing of the executed Agreement with the Chelan County Auditor or upon posting to the City's web site. The City shall file this Agreement with the Chelan County Auditor or post it to its web site promptly after the Agreement is executed.

6. Duration and Termination. Subject to the provisions of section 6.1 below, this Agreement shall terminate upon the following: (1) the City receives final payment from WSD for all work performed by the City on behalf of the WSD as set forth in this Agreement, and (2) upon the final completion of the Project; provided, however, this Agreement may be terminated prior to the award of the Contract by written mutual agreement signed by authorized personnel of each party, by City rejection of all bids, or by the WSD directing the City in writing to reject all bids for the Group 3 WSD Work. Additionally, WSDOT and FHWA must approve incorporation of the WSD Work into the Project. This Agreement terminates if WSDOT and FHWA do not approve incorporation of the WSD Work into the project. The City shall promptly notify the WSD in writing in the event that this Agreement is terminated due to WSDOT and FHWA failure to timely grant the required approval.

6.1 The WSD's obligations for the following matters shall survive the termination of this Agreement:

a. The WSD's obligation to cooperate with audits of the Project as set forth in section 4.5 above; and

b. The WSD's obligation to pursue and prosecute at its sole cost and discretion any actions against the Contractor for breach of contract related to WSD Work as set forth in Section 4.6 above.

7. Property and Equipment. It is not anticipated by the Parties that property or equipment will be purchased in furtherance of this Agreement. That notwithstanding, upon termination of this Agreement, all property and equipment purchased by the City in furtherance of this Agreement shall remain property of the City and all property and equipment purchased by the WSD in furtherance of this Agreement shall remain property of the WSD. All property and equipment shall be returned to the owner within a reasonable time after termination of this Agreement.

8. Costs. Each Party shall be responsible for its respective costs of work under the Contract.

8.1. The Costs of WSD Work shall be the actual cost to complete Group 3 Work, and shall be adjusted for changes to WSD Work, if any, as set forth under Section 1-04.4 of the Standard Specifications 2018, adopted below.

8.2. The WSD shall reimburse the City in the amount of seven percent (7%) of the completed Costs of WSD Work for City administration of construction of WSD Work.

8.3. The Costs of preliminary engineering shall be the actual cost to the City to design WSD's Group 3 work. This amount is estimated as shown in Exhibit B.

9. Payment. Upon receipt of periodic invoices from the City, the WSD shall make corresponding periodic progress payments to the City. Each progress payment and the final payment are due within thirty (30) days from the date the related invoice is mailed by the City to the WSD. The WSD shall timely contact the City regarding any concerns arising from related invoices, and upon such notice to the City, the City shall promptly respond, investigate, and resolve any such concerns so as to avoid delay in payment from the WSD to the City.

10. Records. The Parties shall be responsible for record keeping, record retention, and access to records as follows:

10.1. The City shall keep and maintain accurate and complete cost records pertaining to the Project as administered under the Contract and this Agreement ("City Records"). The WSD shall have full access and the right to examine City Records during the term of this Agreement and until expiration of the applicable record retention period.

10.2. All records, books, documents and other materials owned, used, retained, maintained, prepared, or issued by the WSD in the implementation of this Agreement (“WSD Records”) shall be the property of the WSD, which shall have the responsibility of the retention and release of those materials. The City shall have full access and the right to examine WSD Records during the term of this Agreement and until expiration of the applicable record retention period. Federal and state agencies with funding, oversight, auditing or investigative need or right to examine WSD Records shall likewise have full access and the right to examine WSD Records during the term of this Agreement and until expiration of the applicable record retention period.

11. Mutual Indemnity. To the fullest extent allowed by law:

11.1. The WSD shall indemnify, defend and hold harmless the City, its officers, agents and employees, from and against any and all claims, losses or liability, or any portion thereof, arising from injury or death to persons or damage to property occasioned by any negligent act, omission or failure of the WSD, its officers, agents, and employees, in connection with the WSD Work, or arising out of the WSD’s non-observance or non-performance of any law, ordinance, or regulation applicable to the WSD Work.

11.2. The indemnification obligation of the WSD shall not be limited in any way by the application of any workmen’s compensation acts, disability benefit acts or other employee benefit acts and the WSD expressly waives the protection afforded by such laws. The foregoing waiver and indemnification obligations have been mutually negotiated.

11.3. The City shall indemnify, defend and hold harmless the WSD, its officers, agents, employees, contractors, and subcontractors from and against any and all claims, losses or liability, or any portion thereof, arising from injury or death to persons or damage to property occasioned by any negligent act, omission or failure of the City, its officers, agents, and employees, in connection with the Project, or arising out of the City’s non-observance or non-performance of any law, ordinance, or regulation applicable to the Project.

11.4. The indemnification obligation of the City shall not be limited in any way by the application of any workmen’s compensation acts, disability benefit acts or other employee benefit acts and the City expressly waives the protection afforded by such laws. The foregoing waiver and indemnification obligations have been mutually negotiated.

12. Amendment. The City and the WSD may mutually amend this Agreement. Such amendment(s) shall not be binding unless made in writing and signed by personnel authorized to the bind the City and the WSD.

13. Public Records Act. Public records of either party to this agreement which contain confidential information may be subject to state public records act and other public records laws, as now exist or as may be hereafter amended. If inspection and/or copying of public records containing confidential information is requested, the party to this agreement receiving such request agrees to notify the other party's Public Records Officer of the request at least ten (10) business days prior to the records being made available for inspection or copying by the requestor. The other party to this agreement may promptly seek a protective order in the appropriate court. The party to which a public records act request is made will reasonably cooperate with the other party to this agreement in its protective order action, but is under no obligation to obtain or seek any court protection. The Parties Public Records Officers are:

13.1. The City

City Clerk
PO Box 519
129 South Chelan Avenue
Wenatchee, WA 98801
tel. (509)888-6204
fax (509)888-3636
cityclerk@wenatcheewa.gov

13.2. The WSD

Public Records Officer
Wenatchee School District No. 246
235 Sunset Avenue
Wenatchee, WA 98801
tel. 509-663-8161 ext. 33223
akers.l@wenatcheeschools.org

14. Relationship of Parties. The Parties intend that an independent contractor relationship will be created by this Agreement. Neither party, their officers, employees, agents, contractors or subcontractors shall be considered an agent or employee of the other for any purpose and neither party is entitled to any of the benefits that the other provides for its respective employees.

15. Contact Information. The following shall be the contact person for each party:

15.1. The WSD

Brian Flonas, Superintendent
Wenatchee School District No. 246
235 Sunset Ave.

PO Box 1767
Wenatchee, WA 98801
tel. 509-663-6181
fax 509-663-3082
flonesb@wenatcheeschools.org

15.2. The City

Charlotte Mitchell, Project Engineer
City of Wenatchee
1350 McKittrick Street
Wenatchee, WA 98801
tel. 509-888-33221
fax 509-888-3201
cmitchell@wenatcheewa.gov

15.3. Each party shall arrange for an alternate contact person in the circumstance that the aforementioned contact person is unavailable.

16. Governing Law; Venue. This Agreement is governed by the laws of the State of Washington, both as to interpretation and performance. Any action at law, suit in equity or other judicial proceeding for enforcement of this Agreement shall be instituted only in the Superior Court of Chelan County, State of Washington.

17. Disputes. In the event that a dispute arises under this Agreement and prior to initiation of any legal action, authorized representatives of each party shall meet and negotiate in good faith to attempt to resolve the dispute.

18. Attorney Fees; Costs. If it is necessary for either party to utilize the services of an attorney to enforce any of the terms of this agreement, each party shall be responsible for its own attorneys' fees and costs.

19. Mutual Negotiation and Construction. This Agreement and each of the terms and provisions hereof are deemed to have been explicitly negotiated between, and mutually drafted by, the Parties, and the language in all parts of this Agreement shall, in all cases, be construed according to its fair meaning and not strictly for or against either Party.

20. Severability. In the event that any provision of this Agreement shall be determined to be unenforceable or otherwise invalid for any reason, such provision shall be enforced and validated to the extent permitted by law. All other provisions of this Agreement are severable, and the unenforceability or invalidity of any single provision hereof shall not affect the remaining provisions.

21. Standard Specifications. The 2018 edition of the Washington State Department of Transportation's *Standard Specifications for Road, Bridge, and Municipal Construction*, as amended on the effective date of this Agreement, ("Standard

Specifications: 2018”) is adopted by this reference and incorporated in this Agreement, except, the express provisions of this Agreement, the Contract Bid Documents, and the Contract shall govern over any conflicting corresponding provision in the Standard Specifications: 2018.

22. Entire Agreement. The preamble and the Exhibit A and the Exhibit B attached to this Agreement are incorporated into this Agreement. This instrument embodies the whole agreement of the Parties. There are no promises, terms, conditions, or obligations between the Parties with regard to the subject matter of this Agreement other than those contained in this Agreement. This Agreement supersedes all previous communications, representations or agreements, either oral or written between the parties about the subject matter of the Agreement.

Dated this ____ day of _____ 2018.

APPROVED BY

City of Wenatchee

Frank Kuntz, Mayor

ATTEST:

Tammy Stanger, City Clerk

Dated: _____

DATED this ____ day of _____ 2018.

APPROVED BY

WENATCHEE SCHOOL DISTRICT NO. 246

Brian Fones, Superintendent

EXHIBIT A

Project Boundaries

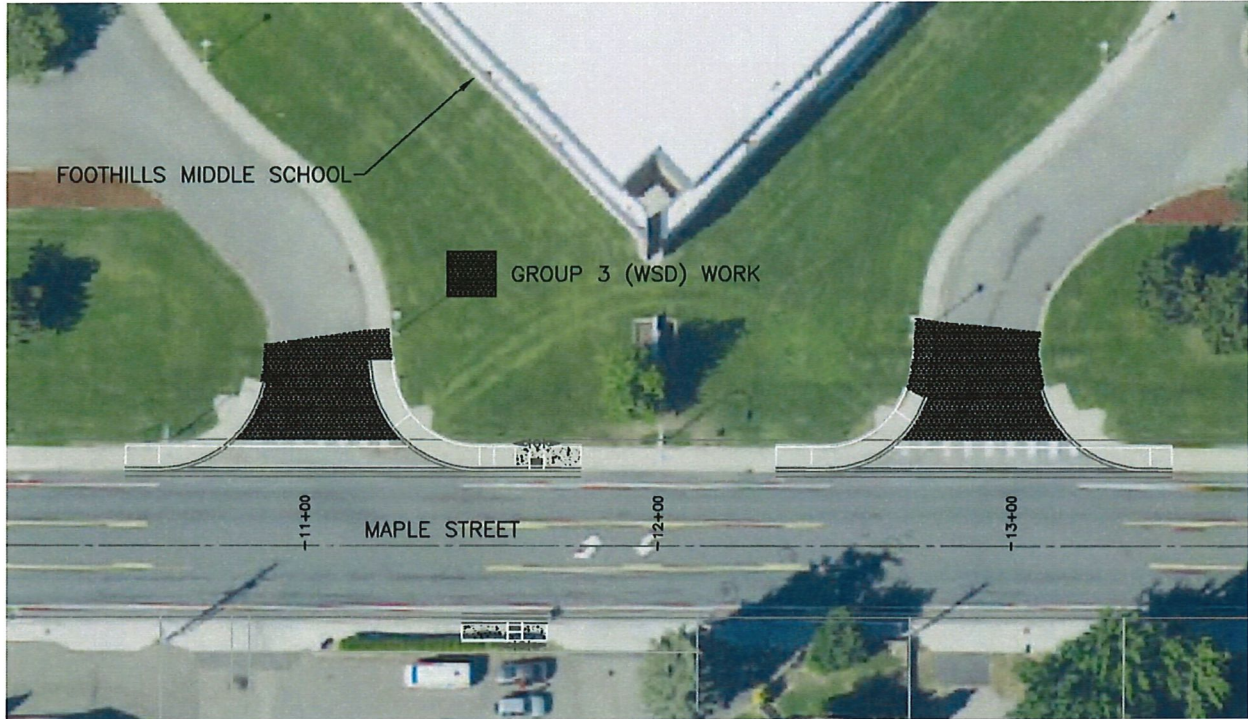


EXHIBIT B

Estimated Cost

**PROJECT: 1715 Middle School Crossing Improvements
Wenatchee School District work**

ITEM NO.	ITEM	UNITS	UNIT PRICE	WSD Work	GROUP 3 TOTAL COST
PREPARATION					
1	MOBILIZATION	L.S.	7.5%	\$ 2,124.69	\$ 2,124.69
GRADING					
2	ROADWAY EXCAVATION INCL. HAUL	C.Y.	\$ 50.00	113	\$ 5,672.22
SURFACING					
3	CRUSHED SURFACING BASE COURSE	TON	\$ 45.00	122	\$ 5,504.71
4	CRUSHED SURFACING TOP COURSE	TON	\$ 50.00	48	\$ 2,416.99
HOT MIX ASPHALT					
5	COMMERCIAL HMA	TON	\$ 150.00	50	\$ 7,457.44
TRAFFIC					
6	CEMENT CONC. TRAFFIC CURB AND GUTTER	L.F.	\$ 20.00	93	\$ 1,852.00
OTHER ITEMS					
7	ROADWAY SURVEYING	L.S.	\$ 10,000.00	0.10	\$ 1,000.00
8	CEMENT CONC. SIDEWALK	S.Y.	\$ 55.00	16	\$ 888.56
12	FORCE ACCOUNT LANDSCAPE REPAIR	EST.	\$ 1.00	500	\$ 500.00
13	FORCE ACCOUNT IRRIGATION REPAIR	EST.	\$ 1.00	1500	\$ 1,500.00
14	MINOR CHANGE	CALC	\$ 1.00	5000	\$ 1,500.00
CONSTRUCTION SUB TOTAL					\$ 30,416.60
				CE 7%	\$ 2,129.16
				TESTING	\$ 500.00
				PE 15%	\$ 4,562.49
TOTAL					\$ 37,608.26