KITTITAS COUNTY
DEPARTMENT OF PUBLIC WORKS

AGENDA STAFF REPORT

AGENDA DATE:	March 5, 2013
ACTION REQUESTED:	Approve Chair signature for Bridge Work Master Agreement with Washington State Department of Transportation (WSDOT).

BACKGROUND:	The Department of Public Works received a Bridge Work Master Agreement from WSDOT February 22, 2013. The previous WSDOT Master Agreement expired. The Master Agreement would be established per RCW 47.28.140, and would remain in effect for six (6) years. Each specific project would require a separate Task Order. WSDOT has the ability to repair bridges as damage becomes evident. This master agreement will benefit the County by reducing the time needed to advertise and award contracts. Public Works Director and County Engineer are requesting the Board authorize Chair to sign the Master Agreement. Public Works Director and County Engineer are also requesting the Board authorize the Public Works Director's and County Engineer's signature authority to sign task orders below $50,000.
INTERACTION:	Public Works
RECOMMENDATION:	Approve and sign the resolution and master agreement
HANDLING:	Please return four signed master agreements to Public Works.
ATTACHMENTS:	Resolution Bridge Work Master Agreement
LEAD STAFF:	Mike Zabransky, Engineer Technician II Kittitas County Public Works

BOARD OF COUNTY COMMISSIONERS
COUNTY OF KITTITAS
STATE OF WASHINGTON

RESOLUTION NO. _____

AUTHORIZE CHAIR SIGNATURE FOR THE BRIDGE WORK MASTER AGREEMENT WITH WASHINGTON STATE DEPARTMENT OF TRANSPORTATION AND FOR THE PUBLIC WORKS DIRECTOR AND COUNTY ENGINEER SIGNATURE AUTHORITY

WHEREAS: The County periodically requires bridge repair services to maintain bridge sufficiency; and

WHEREAS: The Department of Public Works received a Bridge Work Master Agreement Proposal for repairs from Washington State Department of Transportation (WSDOT); and

WHEREAS: WSDOT will provide a task order for describing the task and cost for such work prior to agreement to proceed with a given project; and

WHEREAS: Public Works Director and County Engineer signature authority to $50,000 per task order will aid the departments maintaining infrastructure and facilities to more responsively serve the public.

NOW, THEREFORE BE IT RESOLVED that the Board of County Commissioners, in the best interest of the public, does hereby authorize the Chair to sign the Master Agreement.

BE IT FURTHER RESOLVED that the Board of County Commissioners authorizes the Public Works Director and the County Engineer signature authority for task orders totaling less than $50,000 per project.

DATED this _____day of _____, 2013, at Ellensburg, Washington.

BOARD OF COUNTY COMMISSIONERS
KITTITAS COUNTY, WASHINGTON

_____
Obie O'Brien, Chair

_____
Paul Jewell, Vice-Chair

_____
Gary Berndt, Commissioner

ATTEST:

_____
Clerk of the Board

Bridge Work Master Agreement	Local Agency and Address Name: Kittitas County Public Works Address: 411 N Ruby Street, Suite 1 Ellensburg, WA 98926
Agreement Number	Attachments: Task Assignment & Estimate

This Bridge Work Master Agreement (Master Agreement) is made and entered into by and between the Washington State Department of Transportation, hereinafter "WSDOT," and the above named county or city, hereinafter "LOCAL AGENCY," collectively referred to as "Parties" or individually as "Party."

WHEREAS, periodically, the LOCAL AGENCY requires certain work performed on bridges under its jurisdiction and responsibility, but it does not have the necessary expertise, personnel, equipment, and time to perform the work, and

WHEREAS, WSDOT has the necessary expertise, personnel, equipment, and time and agrees to perform the LOCAL AGENCY's bridge work, and

WHEREAS, WSDOT and the LOCAL AGENCY desire to have the periodic work performed under a Master Agreement, using individual Task Assignments to better identify the work,

NOW, THEREFORE, pursuant to RCW 47.28.140, the above recitals that are incorporated herein as if fully set forth below, and in consideration of the terms, conditions, and provisions contained herein, or Exhibits as attached hereto and by this reference made a part of this Master Agreement,
IT IS HEREBY AGREED AS FOLLOWS:

1. GENERAL AND SCOPE OF WORK

1.1 This Master Agreement identifies the terms and conditions under which WSDOT shall perform bridge inspection and maintenance work for the LOCAL AGENCY on bridges owned by or under its jurisdiction and responsibility, using executed Task Assignments as the means for detailing the scope of work and estimated dollar amount for accomplishing the desired work. A sample "Task Assignment and Estimate" form is attached hereto as Exhibit A.

1.2 WSDOT shall only be responsible for performing the work requested by the LOCAL AGENCY after determining that WSDOT has the necessary labor, equipment, and materials currently available to complete the task within the time frame required by the LOCAL AGENCY and only after both Parties fully execute the Task Assignment.

1.3 Should WSDOT decline to perform the task for any reason, the LOCAL AGENCY agrees that WSDOT shall not be subject to any liability, whatsoever, including any alleged third-party claims, for (a) any non-action on WSDOT's part, (b) action or non-action by the LOCAL AGENCY or (c) any action taken by any other contractor the LOCAL AGENCY may hire to perform the work that WSDOT has declined to perform.

1.4 WSDOT, acting as an independent contractor for the LOCAL AGENCY, or in conjunction with the LOCAL AGENCY when specified in the Task Assignment, shall perform bridge inspection and/or bridge maintenance work for the LOCAL AGENCY. WSDOT shall perform the bridge work as described in each individual Task Assignment only after it is fully executed by both Parties.

2. INVOICING AND PAYMENT

2.1 The LOCAL AGENCY agrees to reimburse WSDOT for all direct costs, including labor, equipment, and material, and all indirect costs, including WSDOT current overhead cost recovery rate required to perform the bridge work as defined in each individual Task Assignment. WSDOT shall invoice the LOCAL AGENCY by providing a detailed invoice for the bridge work performed under each Task Assignment. The LOCAL AGENCY agrees to make payment within thirty (30) calendar days of the date of WSDOT's invoice.

2.2 The Parties agree that the rates to be charged for bridge work performed by WSDOT shall be the current WSDOT rates being charged for labor, equipment, and overhead at the time the bridge work is performed. Materials shall be charged at WSDOT's cost. WSDOT's current overhead rate will be added to all invoices for all executed Task Assignments. This rate is adjusted annually and approved by FHWA.

2.3 The LOCAL AGENCY agrees that if payment of WSDOT invoices are not made to WSDOT within thirty (30) calendar days as provided above, WSDOT may charge interest at the rate of one percent (1%) per month in accordance with RCW 39.76.010.

3. AMENDMENT

3.1 The Parties may mutually agree to amend this Master Agreement. Such amendments shall not be binding unless they are made in writing and signed by personnel authorized to bind each Party to this Master Agreement prior to beginning any Task Assignment work that will be modified by the amendment.

4. TERM AND TERMINATION

4.1 This Master Agreement shall become effective upon the date executed by both Parties and shall remain in effect for six (6) years, at which time this Master Agreement

shall automatically terminate, unless extended by written amendment according to the conditions in Section 3.1.

4.2 Either Party may terminate this Master Agreement upon Thirty (30) calendar days prior written notice to the other Party. If this Master Agreement is so terminated, the Parties shall be liable only for the Task Assignment performance rendered or costs incurred in accordance with the terms of this Master Agreement or Task Assignment prior to the effective date of termination, including all non-cancellable obligations. Should the Master Agreement be terminated, such action shall also terminate all existing Task Assignments.

4.3 The term of each Task Assignment shall be stated in each executed Task Assignment. No Task Assignment may begin prior to execution of this Master Agreement or terminate after the termination date of this Master Agreement.

5. INDEMNIFICATION AND HOLD HARMLESS

5.1 WSDOT shall indemnify and hold the LOCAL AGENCY and its officers, agents and employees harmless from, and shall process and defend at its own expense, all claims, demands, suits at law or equity, penalties, losses, or costs (hereinafter "claims") arising in whole or in part from WSDOT's negligent acts or omissions when performing the bridge work as provided under this Master Agreement and all executed Task Assignments to the extent permitted by law and subject to the limitations provided below.

5.2 WSDOT's duty to indemnify the LOCAL AGENCY shall not apply to claims based upon the conduct of the LOCAL AGENCY and its officers, agents and employees. If the claims are caused by or result from the concurrent negligence of (a) the LOCAL AGENCY, or its officers, agents and employees, and (b) WSDOT, or its officers, agents and employees, or involves those actions covered by RCW 4.24.115, WSDOT's duty to indemnify and defend shall apply only to the extent of the negligence of WSDOT or its officers, agents and employees.

5.3 This indemnification shall survive termination of this Master Agreement.

6. DISPUTE RESOLUTION

6.1 In the event that a dispute arises under this Master Agreement or any executed Task Assignment, it shall be resolved as follows: WSDOT and the LOCAL AGENCY shall each appoint a member to a disputes board. These two members shall select a third board member who is not employed by or in any other way affiliated with either Party. The three-member board shall conduct a dispute resolution hearing that shall be informal and unrecorded. An attempt at such dispute resolution in compliance with aforesaid process shall be a prerequisite to the filing of any litigation concerning the dispute. Each

Party shall be responsible for its own costs and fees and agree to equally share in the cost of the third disputes board member.

7. VENUE AND ATTORNEYS FEES

7.1 In the event that either Party deems it necessary to institute legal action or proceedings to enforce any right of obligation under this Master Agreement or executed Task Assignment, the Parties agree that any action or proceeding shall be brought in a court of competent jurisdiction situated in Thurston County, Washington. Further, the Parties agree that each shall be solely responsible for payment of its own attorneys' fees, witness fees, and costs.

8. RIGHT OF ENTRY

8.1 The LOCAL AGENCY hereby grants to WSDOT and its employees a right of entry upon all land in which the LOCAL AGENCY has interest, within or adjacent to the right of way of the highway, street, and/or bridge for the purpose of accomplishing the work described in each executed Task Assignment. Such right of entry shall commence upon execution of a specific Task Assignment and shall continue until termination of that same Task Assignment.

9. AUDITS AND RECORDS

9.1 All records which support of all costs incurred under all executed Task Assignments shall be maintained by WSDOT for a period of six (6) years. The LOCAL AGENCY shall have full access to and right to examine said records, during normal business hours and as often as it deems necessary. Should the LOCAL AGENCY 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 of Washington and/or the federal government.

10. SEVERABILITY

10.1 If any terms or provisions of this Master Agreement are determined to be invalid, such invalid term or provision shall not affect or impair the remainder of the Master Agreement, but such remainder shall remain in full force and effect to the same extent as though the invalid term or provisions were not contained in the Master Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Master Agreement as of the day and year signed last by the Parties below.

STATE OF WASHINGTON
DEPARTMENT OF TRANSPORTATION

Signature **Date**

Printed Name
Assist. Regional Administrator for Maint.

Title

(LOCAL AGENCY)

Signature **Date**

Print Name
Board of County Commissioners, Kittitas

Title