February 25, 2008

THE BOARD OF BENTON COUNTY COMMISSIONERS AGENDA PACKET

MINUTES

BOARD OF BENTON COUNTY COMMISSIONERS

Regular Board Meeting
February 11, 2008, 9:00 a.m.
Commissioners' Conference Room
Benton County Courthouse, Prosser, WA

Present: Chairman Claude Oliver
Commissioner Max Benitz, Jr.
Commissioner Leo Bowman
County Administrator David Sparks
Clerk of the Board Cami McKenzie

County Employees Present: Deputy Administrator Loretta Smith Kelty; Adam Fyall, Sustainable Development; Finance Manager Linda Ivey; Facilities Manager Roy Rogers; Personnel Manager Melina Wenner; Planning Director Terry Marden; Rafael Gonzales, Office of Public Defense; Central Services Manager Randy Reid; Public Works Director Ross Dunfee; Mike Shuttleworth, Planning Department; Erhiza Rivera, Treasurer's Office; Clerk Josie Delvin; Deputy Clerk Jackie Hill; Auditor Bobbie Gagner; Deputy Auditor Brenda Chilton; GIS Manager Mary Phillips; DPA Kathleen Fitzgerald; DPA Ryan Brown; Lisa Small, Commissioners' Office; Pat Powell, Auditor's Office; Treasurer Duane Davidson; and Steve Becken, Public Works.

Approval of Minutes

The Minutes of February 4, 2008 were approved as corrected.

Consent Agenda

Items "j", "k", "l", "m", "n", "p", "q", "r", and "t" (Office of Public Defense Agreements) were pulled from the consent agenda. Commissioner Benitz discussed item "ee" (Agreement for food services with the Sheriff's Office) and requested that staff ask the Sheriff to work with the PA's office to clearly identify the inconsistencies in the agreement.

MOTION: Commissioner Benitz moved to approve the consent agenda items "a" through "gg", as amended. Commissioner Bowman seconded and upon vote, the Board approved the following:

Central Services

a. Contract w/MediaJoe Inc for Fiber Cable Service

Commissioners

b. Line Item Transfer, Fund No. 0305-101, Dept. 000

Coroner

c. Line Item Transfer, Fund No. 0000-101, Dept. 109

Facilities

d. Contract w/Varsity Contractors for Janitorial Services

e. Contract w/Intermountain Materials Testing for Testing & Sampling Services

f. Approval of Payment to Meeske Excavation for Emergency Work @ Prosser Courthouse

Fairgrounds

g. Lease Agreement w/Pasco Chamber of Commerce

Human Services

h. Travel Expense Reimbursement

Juvenile

i. Contract w/Benton & Franklin Counties Community Public Health & Safety Networks

Office of Public Defense

o. Professional Services Agreement w/P Mcburney for Civil Contempt Representation

s. Professional Services Agreement w/N Rodriguez for Adult Drug Court Representation

Parks

u. Contract w/Quality Backhoe Services for Excavation Services at Horn Rapids Park

Personnel

v. Line Item Transfer, Fund No. 0000-101, Dept. 127

Road/Engineer

w. Vacation & Abandonment of Road Right of Way of E. 45th Ave & S. Oak St.

x. Solid Waste Management Acceptance of Coordinated Prevention Grant Offer 2008/2009

y. E.R. & R. Purchase of Production Model Class 6 Truck Chassis

z. E.R. & R. Purchase of Tire Changer

aa. Rejection of Bids for Griffin Road and Johnson Road Intersection

Sheriff

bb. Salary Request Statements

cc. Authorization to Purchase Jail Operating Supplies

dd. Contract Extension w/Olympic Security

ee. Contract Extension w/Consolidated Food Management

ff. Equine Boarding Contract – Lazy Spur

Treasurer

gg. Authorization to Obtain Professional Services for Arbitrage Calculation & Compliance

Preliminary Plat of Country Meadow Heights

Mike Shuttleworth presented the preliminary plat for Country Meadow Heights for approval. He said the Planning Commission discussed the access issue for adjacent properties and looked closely at the slopes based on recommendations from engineers. However, the cost and ability to get a county road across would be cost prohibitive to the developer.

Mike Simmons, Richland, said he wrote a letter (already in the record) requesting a 60-foot access easement to his land that adjoined the plat. He said he wanted to run it along the KID ditch and it would be at his expense, not the County's expense, and did not see any reason why it could not be granted.

Mr. Shuttleworth said the County did not grant easements in plats, but he could talk to the property owner about granting an easement.

Commissioner Bowman said the plat was a worthy project, however expressed his concern about access. Commissioner Benitz said he wanted to move forward on the merits of the plat application. Chairman Oliver said he wanted to withhold support and attempt to find a resolution to the access issue.

MOTION: Commissioner Benitz moved to adopt the Planning Commission's findings and conclusions as their own and approve the preliminary plat of Country Meadow Heights, SUB 07-02, with conditions. Commissioner Bowman seconded and upon vote, the motion carried with Chairman Oliver opposing.

County Facilities Report

David Sparks, Loretta Smith Kelty, and Roy Rogers presented the report on the County's space needs. The report was based on research of space needs for the entire county and included the following information:

Option 1 - Recommendation

*	New Administration Building in Kennewick - 40,000 square feet Underground Parking Garage – 20,000 square feet	$11,343,750
*	Courthouse Remodel in Prosser	$ 3,832,485
		$15,176,235

Financing

20 Years – Average Annual Payments:	$1,278,470
25 Years – Average Annual Payments:	$1,043,187

Option 2 – If County Seat Moves to Kennewick

*	New Administration Building in Kennewick – 80,000 square feet Underground Parking Garage – 40,000 square feet	$30,937,500

This amount includes construction only, and not the cost of moving the county, and/or any other costs associated with the requirement to move county services within 90 days.

Financing

20 Years – Average Annual Payments:	$2,407,635
25 Years - Average Annual Payments:	$2,156,133

Commissioner Bowman said the report included the information he requested, except for the storage space needs. Mr. Sparks indicated the storage space needs report would be ready on March 10.

Commissioner Benitz said he believed it was wise to consolidate services at the Justice Center Campus and move out of the annex. He also said he wanted the Road Department to stay in Prosser and he agreed with the Courthouse remodel. He recommended the Board move forward with an architectural design for construction and remodel for services at both ends of the County.

Chairman Oliver said he believed it was beneficial to look at moving the annex. Additionally, he discussed an option of moving the WSU extension to the Fairgrounds and said that Marianne Ophardt had been unable to obtain grants based on space restrictions.

Mr. Sparks confirmed the Engineer's office was not included in relocating to the Justice Center since that department remained dependent on the location of the Planning Department and Auditors' recording office. Additionally, he stated the upgrade for the Courthouse included life and safety upgrades, and the space needs demands for District Court.

Mr. Rogers discussed building and land restrictions that might restrict the height of a new administrative building (80,000 square feet) based upon FAA regulations and the proximity of the airport (Vista Field) to the Justice Center.

Mr. Sparks discussed the current money available in the capital projects fund and said he would be comfortable to cash flow the project, without debt, since it would take approximately three to four years to remodel the Courthouse and construct the new Administrative Building (Option 1).

Chairman Oliver wanted to know if a person could drive to the Justice Center for all services, or if they would have to go to Prosser, if Option 1 were approved. Mr. Sparks said they would look at providing a kiosk for GIS, having a planner available in Kennewick a couple days per week, and would need to look at engineering services.

Commissioner Benitz requested the Board adopt a policy that would not allow any additional funding for capital projects until these two projects were completed.

Commissioner Bowman said he believed this was a decision to be made by the citizens of Benton County and he wanted to wait until the citizens have made up their mind.

Chairman Oliver said he was not in favor of stopping growth for the rest of the county because of these two projects and there were other revenues not identified in this report (i.e. Co-op extension and regional economic development funds).

The Board agreed to hold a special board meeting at 9:00 a.m. on March 12, 2008 at the Justice Center.

Property Proposal – Clodfelter Road Pit

Lisa Small presented a proposal from Frankie Cruz, Jr. to purchase the property known as the Clodfelter Pit in the amount of $20,000. The Board discussed with Ross Dunfee and Ryan Brown liabilities associated with owning property that might be contaminated. If it was determined the property was contaminated, selling it would not relieve the County of liability.

MOTION: Commissioner Bowman moved to approve selling the property known as the Clodfelter Road Pit in the amount of $20,000 and authorize the property manager to prepare a quite claim deed and excise tax affidavit for signature. Commissioner Benitz seconded and upon vote, the motion carried.

Property Proposal - Chemical Road Pit

Lisa Small presented a proposal from Cameron Shoemaker to purchase the property in the amount of $15,000. She indicated that CID was attempting to relinquish water rights on this property and the County had maintained those water rights. However, the County does owe 2007 assessments in the approximate amount of $500.

MOTION: Commissioner Bowman moved to approve selling the property known as the Chemical Road Pit in the amount of $15,000 and authorize the property manager to prepare a quite claim deed and excise tax affidavit for signature. Commissioner Benitz seconded and upon vote, the motion carried.

Executive Session

The Board went into executive session at 10:18 a.m. with DPA Kathleen Fitzgerald for approximately 15 minutes to discuss potential litigation regarding Columbia Irrigation District's proposed action to relinquish, reclaim, and reassign water rights from County owned or tax title property. Also present were Ryan Brown, Steve Becken, Ross Dunfee, Duane Davidson, Loretta Smith Kelty, Lisa Small, David Sparks, and Cami McKenzie. The Board came out of executive session at 10:37 a.m. Ms. Fitzgerald announced that no decisions were made, but direction was given.

Personnel Office Reorganization

Melina Wenner proposed the reorganization in the Personnel Office to include the new Safety and Training Coordinator, reinstate the Personnel Secretary, and a title change for the Office Manager to Benefits Specialist.

Chairman Oliver requested the new Safety & Training Coordinator position have some authority over the personnel staff to assist Ms. Wenner in the management of her department. Ms. Wenner said she could look at that once the position was established, but wanted to proceed as outlined.

MOTION: Commissioner Bowman moved to approve the reorganization of the Personnel Office, as outlined. Commissioner Benitz seconded and upon vote, the motion carried.

Other Business

Prosser Memorial Hospital

Mr. Sparks said the Prosser Memorial Hospital was asking for a small contribution to develop a taxing district and asked for consensus to put a response letter together for signature. The Board agreed.

Fair Association

Mr. Sparks said he received a letter from the Fair Association requesting the County allow installation of new bleachers in the zoo crew area, at a cost to the Fair Association in the amount of $34,263. Additionally, they were requesting the County credit their rent in the approximate amount of $17,000. The Board agreed and instructed Mr. Sparks to proceed with an agreement.

Legislative Reports

Commissioner Bowman provided information on the following legislative issues: Senate Bill 5599 (Adams County's request for a portion of the Hanford generating tax); legislation that helps counties; a hot list of bills affecting counties; important dates for this legislative session and staff assignments; Senate Bill 6927 (clarifying the language about departments keeping an office at the County Seat), allowing Benton County to continue to provide services that are needed at the location and level they are needed.

Fire District – "No Man's Land"

Ken Williams presented maps that were established outlining "no man's land" for fire districts. He said the maps would be provided to ranchers and landowners to assist them in petitioning with neighbors for a new fire district.

Claim for Damages

CC 08-03: Received February 4, 2008 from Kimberly Kennedy for damage received to her car
CC 08-04: Received February 5, 2008 from Victor Gamez for damage received to his car
CC 08-05: Received February 5, 2008 from Jud Anglemyer for personal damage

Vouchers

Check Date: 02/05/2008
Taxes # 10108021-10108022
Warrant # 889943-889985
Total all funds: $1,776,481.40

Check Date: 02/05/2008
Warrant # 216655-216833
Direct Deposit # 35654-36192
Total all funds: $1,960,566.68

Check Date: 02/08/2008
Warrant #: 890087-890378
Total all funds: $7,457,352.81

Total amounts approved by fund can be reviewed in the Benton County Auditor's Office.

Resolutions

08-202	Contract w/MediaJoe Inc for Fiber Cable Service
08-203	Line Item Transfer, Fund No. 0305-101, Dept. 000
08-204	Line Item Transfer, Fund No. 0000-101, Dept. 109
08-205	Contract w/Varsity Contractors for Janitorial Services
08-206	Contract w/Intermountain Materials Testing for Testing & Sampling Services
08-207	Approval of Payment to Meeske Excavation for Emergency Work @ Prosser Courthouse
08-208	Lease Agreement w/Pasco Chamber of Commerce
08-209	Contract w/Benton & Franklin Counties Community Public Health & Safety Networks
08-210 thru 08-309 (skipped due to error with numbering machine)	
08-310	Professional Services Agreement w/P Mcburney for Civil Contempt Representation
08-311	Professional Services Agreement w/N Rodriguez for Adult Drug Court Representation
08-312	Contract w/Quality Backhoe Services for Excavation Services at Horn Rapids Park
08-313	Line Item Transfer, Fund No. 0000-101, Dept. 127
08-314	Vacation & Abandonment of Road Right of Way of E. 45th Ave & S. Oak St.
08-315	Solid Waste Management Acceptance of Coordinated Prevention Grant Offer 2008/2009
08-316	E.R. & R. Purchase of Production Model Class 6 Truck Chassis
08-317	E.R. & R. Purchase of Tire Changer
08-318	Rejection of Bids for Griffin Road and Johnson Road Intersection
08-319	Authorization to Purchase Jail Operating Supplies
08-320	Contract Extension w/Olympic Security
08-321	Contract Extension w/Consolidated Food Management
08-322	Equine Boarding Contract – Lazy Spur
08-323	Authorization to Obtain Professional Services for Arbitrage Calculation & Compliance
08-324	Approval of Preliminary Plat Application, SUB 07-02 – Country Meadow Heights

The meeting adjourned at approximately 11:00 a.m.

Clerk of the Board

Chairman

AGENDA ITEM	TYPE OF ACTION NEEDED	
Meeting Date: 2-24-2008 Subject: _____ Prepared by: Linda Ivey Reviewed by: Loretta	Execute Contract Pass Resolution Pass Ordinance Pass Motion Board Direction	Consent Agenda X Public Hearing 1st Discussion 2nd Discussion Workshop

a

SUMMARY BACKGROUND INFORMATION

Resolution 05-797 includes a process for new or substantially changed position classification/grade requests to be processed for determination by the Board.

In Resolution 08-203, the Board approved $10,800 of appropriated Capital Outlay funds be used for premium pay for the Construction Manager.

The associated benefits were not appropriated.

Request the funds in line item Capital Outlay Buildings from the Capital Projects Fund 0305-101 be transferred to Social Security and Retirement line items as described in Exhibit A.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF APPROVING A LINE ITEM TRANSFER IN THE CAPITAL PROJECTS FUND 0305101, FROM CAPITAL OUTLAY BUILDINGS TO BENEFIT LINE ITEMS FOR CONSTRUCTION MANAGER.

WHEREAS, the Board of Benton County Commissioners approved Resolution 05-797, Personnel Policies and Procedures for Non-Bargaining Employees; and,

WHEREAS, that Resolution includes a process for new position and/or substantially changed position (re)classification/grade requests to be processed for a determination by the Board of Benton County Commissioners; and,

WHEREAS, the County Administrator is requesting to transfer appropriated funds from Capital Outlay Buildings to Social Security and Retirement line items associated with the Construction Manager premium pay in Resolution 08-203; **NOW THEREFORE**,

BE IT RESOLVED, that the Board of Benton County Commissioners do hereby approve that funds shall be transferred as outlined in Exhibit A, attached hereto.

Dated this ..... day of ....., 20 ....

Chairman of the Board

Chairman Pro Tem

Member

Constituting the Board of County Commissioners of Benton County, Washington

Attest: .....
Clerk of the Board

cc: Auditor, Facilities

LJI

BENTON COUNTY LINE ITEM TRANSFER

Dept Name:

Dept Nbr:

Fund Name: Capital Projects

Fund Nbr: 0305101

TRANSFER FROM: Dept 000

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
594.110	6412	Capital Outlay Buildings	$1,869
TOTAL			$1,869

TRANSFER TO: Dept 000

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
594.110	2102	Social Security	$1,205
594.110	2104	Retirement	$664
TOTAL			$1,869

Explanation:

Transfer to appropriate funds for Social Security and Retirement benefits for Construction Manager premium pay associated with Resolution 08-203.

Prepared by: Linda Ivey

Date: 15-Feb-2008

Approved ☐

Denied ☐

Date: _____

_____
Chairman

_____
Member

_____
Member

Leo Bowman
District 1
Max Benitz, Jr.
District 2
Claude Oliver
District 3

Board of County Commissioners
BENTON COUNTY

David Sparks
County Administrator

Loretta Smith Kelty
Deputy County Administrator

b

February 25, 2008

Ben Franklin Transit
1000 Columbia Park Trail
Richland, WA 99352-4851

Re: Letter of Support

To Whom It May Concern:

The Board of Benton County Commissioners is in full support of your efforts to secure $5 million in federal funding from the Washington State Congressional Delegation for the Ben Franklin Transit Base Facility Expansion and Modernization Project.

For the last ten years, Ben Franklin Transit has had the need to expand and modernize its base facility at Columbia Park Trail. The original base facility was designed for 180 employees, 60 transit and 21 Dial-A-Ride vehicles. Currently, BFT has almost 300 employees, 67 transit vehicles, 98 D-A-R vehicles and 267 VanPools. A rapid increase in ridership since 2001 has also added additional strain on the base facility.

Previous federal dollars have been used to complete some of the phases of the facility expansion and modernization. These include the expansion of transit vehicle parking, modernization and retrofit of the fueling system, and construction of a new vehicle Washington facility. BFT is also using federal and BFT funds to purchase new maintenance equipment.

There are three major parts to the project that remain. These are the expansion of the maintenance building, the construction of a new administration building, and the remodeling of the existing office building to house transit and Dial-A-Ride operations. The current estimated cost for completion of these elements is $6-7 million. BFT has the local match available.

With ridership nearing 5 million trips and growing, the new facility must be completed soon to enable BFT to provide high quality transportation services to the Tri-Cities and the Mid-Columbia as the area continues to grow.

For the above reasons, the Board is writing to express our support of your request to the Washington State Congressional Delegation of $5 million for this critical project.

Sincerely,

BOARD OF COUNTY COMMISSIONERS

Claude Oliver, Chairman

cc: Commissioners
David Sparks, County Administrator
Loretta Smith Kelty, Deputy County Administrator

P.O. Box 190, Prosser, WA 99350-0190; Phone (509) 786-5600 or (509) 736-3080, Fax (509) 786-5625
commissioners@co.benton.wa.us

FILE

RECEIVED
FEB 19 2008
BENTON COUNTY
COMMISSIONERS

Max ✓
Leo ✓
Claude ✓
David ✓
Loretta ✓
Other

Transit
BEN FRANKLIN TRANSIT

1000 Columbia Park Trail Richland, WA 99352.4851
509.735.4131 509.735.1800 fax www.bft.org

February 14, 2008

To: All Local Jurisdictions; Mayors, City Managers/Administrators, County Administrators, BFCOG, Ports, & Community Organizations

Ben Franklin Transit is in the process of requesting funding assistance from our congressional delegation for a very important project. The funding is for the completion of a project that has already been started, the expansion and modernization of our base facility. Several phases of that project including vehicle storage, fuel system retrofit, and a new vehicle washing facility have been completed. However, the most important parts still need to be completed. These are the expansion of our maintenance building, the construction of a new administration building and the remodeling of an operations building.

A draft of a suggested letter of support is included for your review. It is requested that the expression of support be returned to BFT. We will combine all of the letters in a packet to be presented to all of the members of our Congressional delegation. The funding for these projects comes from a discretionary appropriation from the "Bus and Bus Related" section of the SAFETEA-LU. Only public transit systems are eligible for this funding and it does not compete with requests from other local jurisdictions for other federally funded transportation projects.

Please return the letter of support as soon as you are able. The deadline for requests is February 29, 2008. Thank you so much for your support.

Timothy J. Fredrickson
General Manager

Cc: BFT Board Members, Department Managers

C

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF SELLING COUNTY FEE SIMPLE PROPERTY PARCEL NO. 1-1680-100-0009-000 TO CAMERON & LISA SHOEMAKER; RESCINDING RESOLUTION 07-084

WHEREAS, per resolution 05-133 dated March 14, 2005 the Board of Benton County Commissioners declared said parcel 1-1680-100-0009-000 surplus; and

WHEREAS, per resolution 07-084 the Board of Benton County Commissioners agreed to sell said parcel to Columbia Irrigation District in the amount of $36,000; and

WHEREAS, Columbia Irrigation District then decided to back out of the purchase prior to executing the Quit Claim Deed; and

WHEREAS, Benton County received a proposal from Cameron & Lisa Shoemaker dated January 30, 2008 to purchase said parcel in the amount of $15,000; and

WHEREAS, the Board of Benton County Commissioners has determined that it is in the best interest of the county to dispose of said property through private negotiations consistent with the Benton County Personal and Real Property Management Policies and Procedures, Resolution 07-752; and

WHEREAS, the parcel is offered for sale "where is" and "as is" without any representation of warranty, express or implied. It is the buyer's responsibility to determine to their satisfaction, before the sale, any liens, easements, conditions, leases, rental agreements, convenants or other encumbrances to which the property will be subject in the hands of the buyer; **NOW, THEREFORE**

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington, hereby agrees to sell Benton County fee simple property parcel 1-1680-100-0009-000 to Cameron & Lisa Shoemaker in the amount of $15,000 and sign the attached Quit Claim Deed and Tax Affidavit.

BE IT FURTHER RESOLVED, resolution 07-084 is hereby rescinded.

Dated this ..... day of ....., 20 ....

_____
Chairman of the Board

_____
Chairman Pro-Tem

_____
Member

Constituting the Board of County Commissioners of Benton County, Washington

Attest: .....
Clerk of the Board

Orig: Cameron & Lisa Shoemaker
cc: Assessor, Auditor, Treasurer, Property File

AFTER RECORDING RETURN TO:
Benton County Commissioners
P.O. Box 190
Prosser WA 99350

Document Title: Quit Claim Deed
Reference Number of Related Document(s)
Grantor: **Benton County**
Grantees: **Cameron and Lisa Shoemaker**

Legal Description Abbreviated: Sec 16, T8 N, R30 E

Assessor's Tax Parcel Number: **1-1680-100-0009-000**

QUIT CLAIM DEED

The Grantor, COUNTY OF BENTON, a political subdivision in the State of Washington, for and in consideration of **fifteen thousand dollars ($15,000.00)** conveys and quit claims to **Cameron and Lisa Shoemaker** all right, title, and interest in and to the following described real estate situated in the county of Benton, State of Washington:

That portion of the Northeast ¼ of the Northwest ¼ of Section 16, Township 8 North, Range 30 East, W.M. defined as follows: That portion of the S.P. and S. Railway Company right of way, as same existed March 30, 1960, in the Northeast ¼ of the Northwest ¼, lying Northeasterly of the line lying 40 feet Southwesterly of the following described county road centerline: Commencing at the Northwest corner of the Northeast ¼ of the Northwest ¼ of said Section 16, thence South 89° 40' East along the North line of said subdivision a distance of 247.57 feet to a point on curve and the True Point of Beginning (the tangent to the curve at this point bears South 49° 55' East); thence Southeasterly on the arc of a 2 degree curve to the right a distance of 355.25 feet through an angle of 07° 06'; thence South 42° 49' East, 924.97 feet; thence on the arc of a 2 degree curve to the right a distance of 640.83 feet through an angle of 12° 49'.

EXCEPT existing road right of way

Containing 3.07 acres, more or less.

and

The North ½ of the Southwest ¼ of the Northeast ¼ of said Section 16, lying Northeasterly of the S.P. and S. Railway Company right of way.

EXCEPT railroad right of way and existing road right of way.

Containing 14.85 acres, more or less.

Dated this _____ day of _____, 2008

_____ (Chairman)

_____ Cameron Shoemaker

_____ (Member)

_____ Lisa Shoemaker

_____ (Member)

STATE OF WASHINGTON)
) ss.
County of Benton)

I hereby certify that I know or have satisfactory evidence that the Benton County Commissioners signed this instrument and acknowledged it to be a free and voluntary act for the uses and purposes mentioned in this instrument.
Dated this _____ day of _____, 2008.

_____
Notary Public in and for the State of Washington,
residing at _____.
My appointment expires _____.

STATE OF WASHINGTON)
) ss.
County of Benton)

On this _____ day of _____, 2008, before me, the undersigned, a Notary Public in and for the State of Washington duly commissioned and sworn, personally appeared _____ and _____ the party that executed the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said party.

Witness my hand and official seal hereto affixed the day and year first above written.

_____
Notary Public in and for the State of _____,
residing at _____.
My commission expires _____.

DEPARTMENT OF REVENUE
WASHINGTON STATE

REAL ESTATE EXCISE TAX AFFIDAVIT

CHAPTER 82.45 RCW – CHAPTER 458-61 WAC

PLEASE TYPE OR PRINT

This form is your receipt when stamped by cashier.

THIS AFFIDAVIT WILL NOT BE ACCEPTED UNLESS ALL AREAS ON ALL PAGES ARE FULLY COMPLETED

(See back page for instructions)

☐ Check box if partial sale of property

If multiple owners, list percentage of ownership next to name.

SELLER GRANTOR

1 Name: Benton County

Mailing Address: PO Box 190

City/State/Zip: Prosser, WA 99350

Phone No. (including area code): 509-786-5600

BUYER GRANTEE

2 Name: Cameron Shoemaker
Lisa Shoemaker

Mailing Address:

City/State/Zip:

Phone No. (including area code): 509-

3 Send all property tax correspondence to: ☑ Same as Buyer/Grantee

Name:

Mailing Address:

City/State/Zip:

Phone No. (with area code):

List all real and personal property tax parcel account numbers – check box if personal property	List assessed value(s)
1-1680-100-0009-002 ☐	
☐	
☐	
☐	

4 Street address of property: Undetermined

This property is located in ☑ unincorporated Benton County **OR** within ☐ city of

☐ Check box if any of the listed parcels are being segregated from a larger parcel.

Legal description of property (if more space is needed, you may attach a separate sheet to each page of the affidavit)

See attached Quit Claim Deed

5 Enter Abstract Use Categories: 1, 14

(Please see list on the back page of this form)

If exempt from property tax per chapter 84.36 RCW (nonprofit organization), include:

Seller's Exempt Reg. No.: 91600 1296

6

	YES	NO
property designated as forest land per chapter 84.33 RCW?	☐	☑
property classified as current use (open space, farm and agricultural, or timber) land per chapter 84.34?	☐	☑
Is this property receiving special valuation as historical property per chapter 84.26 RCW?	☐	☑

If any answers are yes, complete as instructed below.

(1) NOTICE OF CONTINUANCE (FOREST LAND OR CURRENT USE)

NEW OWNER(S): To continue the current designation as forest land or classification as current use (open space, farm and agriculture, or timber) land, **you must sign on (3) below**. The county assessor must then determine if the land transferred continues to qualify and will indicate by signing below. If the land no longer qualifies or you do not wish to continue the designation or classification, it will be removed and the compensating or additional taxes will be due and payable by the seller or transferor at the time of sale. (RCW 84.33.140 or RCW 84.34.108). Prior to signing (3) below, you may contact your local county assessor for more information.

This land ☐ does ☐ does not qualify for continuance.

DEPUTY ASSESSOR _____ DATE _____

(2) NOTICE OF COMPLIANCE (HISTORIC PROPERTY)

NEW OWNER(S): To continue special valuation as historic property, **sign (3) below**. If the new owner(s) do not wish to continue, all additional tax calculated pursuant to chapter 84.26 RCW, shall be due and payable by the seller or transferor at the time of sale.

(3) OWNER(S) SIGNATURE

_____ _____

7 List all personal property (tangible and intangible) included in selling price.

If claiming an exemption, list WAC number and reason for exemption:

WAC No. (Section/Subsection): 458-61A-205

Reason for exemption: Govt. Transfer

Type of Document: Quit Claim Deed

Date of Document:

Gross Selling Price	$ 15,000.00
*Personal Property (deduct)	$
Exemption Claimed (deduct)	$
Taxable Selling Price	$
Excise Tax: State	$
Local	$
*Delinquent Interest: State	$
Local	$
*Delinquent Penalty	$
Total Due	$

$10.00

A MINIMUM FEE OF ~~$2.00~~ IS DUE AS A PROCESSING FEE AND TAX.

*SEE INSTRUCTIONS

8 **I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.**

Signature of Grantor or Grantor's Agent:

Name (print): Claude L. Oliver, Chairman

Date & city of signing: 2/25/08 Prosser

Signature of Grantee or Grantee's Agent:

Name (print): Cameron Shoemaker
Lisa Shoemaker

Date & city of signing:

ry: Perjury is a class C felony which is punishable by imprisonment in the state correctional institution for a maximum term of not more than five years, or by a fine in an amount fixed by the court of not more than five thousand dollars ($5,000.00), or by both imprisonment and fine (RCW 9A.20.020 (1C)).

REV 84 0001a (12-20-04) (PD 12-20-04) THIS SPACE - TREASURER'S USE ONLY COUNTY TREASURER

d.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF SELLING COUNTY FEE SIMPLE PROPERTY PARCEL NO. 1-1488-100-0006-000 TO FRANKIE CRUZ JR.

WHEREAS, per resolution 06-310 dated June 5, 2006 the Board of Benton County Commissioners declared parcel 1-1488-100-0006-000 surplus; and

WHEREAS, Benton County received a proposal from Mr. Frankie Cruz Jr. dated January 17, 2008 to purchase said parcel in the amount of $20,000; and

WHEREAS, the Board of Benton County Commissioners has determined that it is in the best interest of the county to dispose of said property through private negotiations consistent with the Benton County Personal and Real Property Management Policies and Procedures, Resolution 07-752; and

WHEREAS, the parcel is offered for sale "where is" and "as is" without any representation of warranty, express or implied. It is the buyer's responsibility to determine to their satisfaction, before the sale, any liens, easements, conditions, leases, rental agreements, convenants or other encumbrances to which the property will be subject in the hands of the buyer; **NOW, THEREFORE**

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington, hereby agrees to sell Benton County fee simple property parcel 1-1488-100-0006-000 to Frankie Cruz Jr. in the amount of $20,000 and sign the attached Quit Claim Deed and Tax Affidavit.

Dated this ..... day of ....., 20 ....

Chairman of the Board

Chairman Pro-Tem

Member

Constituting the Board of County Commissioners of Benton County, Washington

Attest: .....
Clerk of the Board

Orig: Frankie Cruz Jr.
cc: Assessor, Auditor, Treasurer, Property File

AFTER RECORDING RETURN TO:
Benton County Commissioners
P.O. Box 190
Prosser WA 99350

Document Title: Quit Claim Deed
Reference Number of Related Document(s)
Grantor: **Benton County**
Grantees: **Frankie Cruz Jr.**

Legal Description (abbreviated): S 1/2 SW NE EXC PTN LYG N WLY OF SELY LN OF CNL
Additional Legal Description is below:

Assessor's Tax Parcel Number: 1-1488-100-0006-000

QUIT CLAIM DEED

The Grantor, COUNTY OF BENTON, a political subdivision in the State of Washington, for and in consideration of **twenty thousand dollars ($20,000.00)** conveys and quit claims to Frankie Cruz Jr. all right, title, and interest in and to the following described real estate situated in the county of Benton, State of Washington:

S 1/2 SW NE EXC PTN LYG N WLY OF SELY LN OF CNL

Dated this _____ day of _____, 2008.

_____ (Chairman)

_____ (Member)

_____ (Member)

_____ Frankie Cruz Jr.

STATE OF WASHINGTON)
) ss.
County of Benton)

I hereby certify that I know or have satisfactory evidence that the Benton County Commissioners signed this instrument and acknowledged it to be a free and voluntary act for the uses and purposes mentioned in this instrument.

Dated this _____ day of _____, 2008.

Notary Public in and for the State of Washington, residing at _____.
My appointment expires _____.

STATE OF WASHINGTON)
) ss.
County of Benton)

On this _____ day of _____, 2008, before me, the undersigned, a Notary Public in and for the State of _____ duly commissioned and sworn, personally appeared Frankie Cruz Jr., the party that executed the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said party.

Witness my hand and official seal hereto affixed the day and year first above written.

_____, Notary Public in and for the State of _____, residing at _____. My commission expires _____.

DEPARTMENT OF REVENUE
WASHINGTON STATE

REAL ESTATE EXCISE TAX AFFIDAVIT

CHAPTER 82.45 RCW – CHAPTER 458-61 WAC

PLEASE TYPE OR PRINT

This form is your receipt when stamped by cashier.

THIS AFFIDAVIT WILL NOT BE ACCEPTED UNLESS ALL AREAS ON ALL PAGES ARE FULLY COMPLETED

(See back page for instructions)

☐ Check box if partial sale of property

If multiple owners, list percentage of ownership next to name.

1 SELLER GRANTOR

Name: Benton County

Mailing Address: PO Box 190

City/State/Zip: Prosser, WA 99350

Phone No. (including area code): (509) 786-5600

2 BUYER GRANTEE

Name: Frankie Cruz, Jr.

Mailing Address:

City/State/Zip:

Phone No. (including area code): (323)

3 Send all property tax correspondence to: ☑ Same as Buyer/Grantee

Name

Mailing Address

City/State/Zip

Phone No. (with area code)

List all real and personal property tax parcel account numbers – check box if personal property	List assessed value(s)
1-1488-100-0006-000 ☐	
☐	
☐	
☐	

4 Street address of property: Undetermined

This property is located in ☑ unincorporated Benton County **OR** within ☐ city of

☐ Check box if any of the listed parcels are being segregated from a larger parcel.

Legal description of property (if more space is needed, you may attach a separate sheet to each page of the affidavit)

See Attached Quit Claim Deed

5 Enter Abstract Use Categories: 14

(Please see list on the back page of this form)

If exempt from property tax per chapter 84.36 RCW (nonprofit organization), include:

Seller's Exempt Reg. No.: 91600 1296

6

	YES	NO
Is this property designated as forest land per chapter 84.33 RCW?	☐	☑
Is this property classified as current use (open space, farm and agricultural, or timber) land per chapter 84.34?	☐	☑
Is this property receiving special valuation as historical property per chapter 84.26 RCW?	☐	☑

If any answers are yes, complete as instructed below.

(1) NOTICE OF CONTINUANCE (FOREST LAND OR CURRENT USE)

NEW OWNER(S): To continue the current designation as forest land or classification as current use (open space, farm and agriculture, or timber) land, **you must sign on (3) below**. The county assessor must then determine if the land transferred continues to qualify and will indicate by signing below. If the land no longer qualifies or you do not wish to continue the designation or classification, it will be removed and the compensating or additional taxes will be due and payable by the seller or transferor at the time of sale. (RCW 84.33.140 or RCW 84.34.108). Prior to signing (3) below, you may contact your local county assessor for more information.

This land ☐ does ☐ does not qualify for continuance.

DEPUTY ASSESSOR _____ DATE _____

(2) NOTICE OF COMPLIANCE (HISTORIC PROPERTY)

NEW OWNER(S): To continue special valuation as historic property, **sign (3) below**. If the new owner(s) do not wish to continue, all additional tax calculated pursuant to chapter 84.26 RCW, shall be due and payable by the seller or transferor at the time of sale.

(3) OWNER(S) SIGNATURE

_____ _____

7 List all personal property (tangible and intangible) included in selling price.

If claiming an exemption, list WAC number and reason for exemption:

WAC No. (Section/Subsection): 458-61A-205

Reason for exemption: Govt. Transfer

Type of Document: Quit Claim Deed

Date of Document: 2/25/08

Gross Selling Price	$ 20,000.00
*Personal Property (deduct)	$
Exemption Claimed (deduct)	$
Taxable Selling Price	$
Excise Tax: State	$
Local	$
*Delinquent Interest: State	$
Local	$
*Delinquent Penalty	$
Total Due	$

10.00

A MINIMUM FEE OF ~~$2.00~~ IS DUE AS A PROCESSING FEE AND TAX.

*SEE INSTRUCTIONS

8 **I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.**

Signature of **Grantor or Grantor's Agent**

Name (print): Claude L. Oliver, Chairman

Date & city of signing: 2/25/08 Prosser

Signature of **Grantee or Grantee's Agent**

Name (print)

Date & city of signing:

ry: Perjury is a class C felony which is punishable by imprisonment in the state correctional institution for a maximum term of not more than five years, or by e in an amount fixed by the court of not more than five thousand dollars ($5,000.00), or by both imprisonment and fine (RCW 9A.20.020 (1C)).

REV 84 0001a (12-20-04) (PD 12-20-04) THIS SPACE - TREASURER'S USE ONLY COUNTY TREASURER

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF THE AWARD AND SERVICE AGREEMENT FOR THE INSTALLATION OF A MONITORING SYSTEM IN THE BENTON COUNTY CORONER'S OFFICE

WHEREAS, per resolution 08-131, any public works services or materials involving less than $10,000, advertisement and competitive bidding may be dispensed, and such contracts may be entered into after direct negotiation and authorization from the Board of Commissioners; and

WHEREAS, the Facilities Manager received a quote from Sound Solutions Northwest, Inc. in the amount of $2,713.79 including WSST for the complete installation of a silver plus monitoring system in the Benton County Coroner's Office; **NOW THEREFORE,**

BE IT RESOLVED by the Board of Benton County Commissioners, Benton County, Washington, the Board recommendations and hereby awards the service agreement to Sounds Solutions Northwest, Inc. for the installation of a monitoring system located at the Benton County Coroner's Office for an amount not to exceed $3,213.79 including WSST.

BE IT FURTHER RESOLVED the Board hereby authorizes the Chairman of the Board to sign the service agreement attached hereto; and

Dated this _____ day of _____, 2008

_____
Chairman of the Board

_____
Member

_____
Member

Attest: _____
Clerk of the Board

Original: File – Lisa Small
cc: Facilities; Auditor; R. Ozuna; Sound Solutions, Inc.

Small

CONSTRUCTION AGREEMENT
TERMS AND CONDITIONS

THIS CONTRACT is made and entered into by and **between BENTON COUNTY**, a political subdivision of the State of Washington, with its principal offices at 620 Market Street, Prosser, WA 99350 (hereinafter "COUNTY"), and **SOUND SOLUTIONS NORTHWEST, INC.**, with it principal mailing address at 3030 W. Clearwater Ave, Suite 205, Kennewick, Washington 99336 (hereinafter "CONTRACTOR").

In consideration of the mutual benefits and covenants contained herein, the parties agree as follows:

1. CONTRACT DOCUMENTS

This Contract consists of this agreement and the following exhibits, which are incorporated herein by this reference

A. Exhibit A – Proposal/Scope of Work
B. Exhibit B – Washington State Prevailing Wage Rates for Public Works Contracts

2. DURATION OF CONTRACT

This contract shall commence upon signature of both parties and shall be complete upon approval of acceptance by the Board of Benton County Commissioners via resolution.

3. SERVICES PROVIDED

CONTRACTOR shall, utilizing its bona fide employees, provide and install a "silver plus" monitoring system in the Benton County Coroner's Office as further described in, and in accordance with, contractors proposal dated 1/14/08 attached hereto and referenced as Exhibit A.

4. CONTRACT REPRESENTATIVES

The parties' representatives are as follows:

a. For CONTRACTOR: Brad Nelson
Sound Solutions Northwest Inc.
3030 W Clearwater Ave., Suite 205
Kennewick, Washington 99336
(509) 783-8272

b. For COUNTY: Dan Waggoner
Benton County Facilities
7122 West Okanogan Place, Bldg A
Kennewick, Washington 99336
(509) 783-3118

Original: File - Lisa Small
cc: Auditor, Prosecutor (R. Ozuna), Facilities, Sound Solutions NW

A party may change its representative by providing prompt written notice to the other party.

5. COMPENSATION

The CONTRACTOR shall be paid in accordance with the proposal provided in Exhibit A attached hereto. The total amount payable by the COUNTY to the CONTRACTOR under this agreement is two thousand seven hundred thirteen dollars seventy-nine cents ($2,713.79) including W.S.S.T. Total amount payable, including acceptable overages, incidentals and other unanticipated costs shall not exceed three thousand two hundred thirteen dollars and zero cents, ($3,213.79) including W.S.S.T. **Prior to any compensation being paid, CONTRACTOR shall submit a Statement of Intent to Pay Prevailing Wages in a form approved and certified by the Washington State Department of Labor and Industries directly to COUNTY's contract representative.** At the completion of the work contemplated herein, CONTRACTOR shall submit an affidavit of wages paid in compliance with prevailing wage requirements, pre-certified by the Department of Labor and Industries, directly to COUNTY's contract representative. Such affidavit shall be in a form approved by the Washington State Department of Labor and Industries. No final payment and no release of retainage will be made until such affidavit is provided.

6. INVOICING

The CONTRACTOR may submit invoices to the COUNTY not more than once per month during the progress of the work for partial payment of the work completed to date of invoice, less amounts paid on previous invoices. Each invoice shall cover all work performed for the COUNTY during the billing period. At such time as the first invoice is submitted, or any time thereto, CONTRACTOR, as well as all sub-contractors and sub-sub-contractors which are employed by the CONTRACTOR for the work contemplated by this agreement, shall submit a Statement of Intent to Pay Prevailing Wages in the form and manner required by RCW 39.12.040 to COUNTY'S representative. The CONTRACTOR shall not be paid for services rendered under this Contract until a Statement of Intent to Pay Prevailing Wages has been executed and submitted as required above by all required parties and the services have been performed to the COUNTY's satisfaction. The COUNTY shall authorize payment when the work billed is accepted by the COUNTY; and will remit payment for the accepted work within thirty (30) days after receiving the invoice.

7. DEFECTS

In the event of any errors or omissions by the CONTRACTOR in the

performance of any work required under this Contract or where work is substandard, the CONTRACTOR shall make any and all necessary corrections without additional compensation. Compensation may be withheld until CONTRACTOR makes such corrections. All work done by the CONTRACTOR shall be in a workmanlike manner and shall meet or exceed applicable standards generally accepted in the construction industry. The Contractor shall be responsible for the accuracy of the work, even if the work is accepted by the COUNTY.

8. AMENDMENT AND CHANGES IN WORK

No amendment, modification or renewal of this contract shall be effective, unless set forth in a written Amendment signed by both parties.

9. HOLD HARMLESS AND INDEMNIFICATION

a. The CONTRACTOR shall hold harmless, indemnify and defend the COUNTY, its officers, officials, employees and agents, from and against any and all claims, actions, suits, liability, loss, expenses, damages, and judgments of any nature whatsoever, including reasonable costs and attorneys' fees in defense thereof, for injury, sickness, disability or death to persons, damage to property or business, or any other source of liability whatsoever, caused by or arising out of the CONTRACTOR'S acts, errors or omissions in the performance of this Contract. PROVIDED, that the CONTRACTOR'S obligation hereunder shall not extend to injury, sickness, death or damage caused by or arising out of the sole negligence of the COUNTY, its officers, officials, employees or agents.

FURTHER PROVIDED that if liability is caused by or results from the concurrent negligence of a) CONTRACTOR or CONTRACTOR'S agents or employees, and b) COUNTY or COUNTY'S agents or employees, then the indemnification contemplated in this section shall only apply to the extent of CONTRACTOR'S negligence.

b. The CONTRACTOR'S obligations hereunder shall include, but are not limited to, investigating, adjusting and defending all claims alleging loss from action, error or omission, or breach of any common law, statutory or other delegated duty by the CONTRACTOR, its employees, agents or subcontractors.

c. In any and all claims against the COUNTY, its officers, officials, employees and agents by any employee of the CONTRACTOR, subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under this Section shall not be limited in any way by any

limitation on the amount of type of damages, compensation, or benefits payable by or for the CONTRACTOR or subcontractor under Workers Compensation acts, disability benefit acts, or other employee benefit acts, it being clearly agreed and understood by the parties hereto that the CONTRACTOR expressly waives any immunity the CONTRACTOR might have had under such laws. By executing this Contract, the CONTRACTOR acknowledges that the foregoing waiver has been mutually negotiated by the parties and that the provisions of this Section shall be incorporated as relevant, into any contract the CONTRACTOR makes with any subcontractor or agent performing work hereunder.

10. INSURANCE

The CONTRACTOR shall obtain and maintain continuously, the following insurance:

a. Workers Compensation: CONTRACTOR shall comply with all Washington State Workers Compensation laws. Except as prohibited by law, CONTRACTOR waives all rights of subrogation against the COUNTY for recovery of damages to the extent they are covered by workers compensation, employers liability, commercial liability or commercial umbrella liability insurance. CONTRACTOR shall procure and maintain employer's liability insurance with limits of no less than one million dollars ($1,000,000) per person or occurrence, which shall cover liability to employees due to injury or illness.

b. Commercial General Liability Insurance: CONTRACTOR shall maintain commercial general liability coverage for bodily injury, sickness, personal injury and property damage, subject to limits of not less than one million dollars ($1,000,000) per occurrence. The general aggregate limit shall apply separately to this Contract and be no less than two million dollars ($2,000,000) per project. The policy shall not contain exclusions or limitations applicable to any activities undertaken, or materials used by CONTRACTOR in fulfilling this agreement. CONTRACTOR shall cause COUNTY to be added as an additional insured and the policy shall state that it cannot be canceled except with 30 days written notice to COUNTY. This policy shall be primary to any of COUNTY'S other sources of insurance including self-insurance through a risk pool. CONTRACTOR shall provide certificate of such insurance, including the endorsements specified in this paragraph, to County's representative prior to start of work.

c. Automobile Liability: The CONTRACTOR shall maintain business automobile liability insurance with a limit of not less than one million dollars ($1,000,000) per accident, using a

combined single limit for bodily injury and property damages. Such coverage shall cover liability arising out of "Any Auto". CONTRACTOR waives all rights against the COUNTY for the recovery of damages to the extent they are covered by business auto liability.

d. Other Insurance Provisions:

1) The CONTRACTOR'S liability insurance provisions shall be primary with respect to any insurance or self-insurance programs covering the COUNTY, its elected and appointed officers, officials, employees and agents.

2) The COUNTY, its officers, officials, employees and agents shall be named as additional insured on all required insurance policies, except for any required automobile liability policy.

3) The CONTRACTORS'S liability insurance policies shall contain no special limitations on the scope of protection afforded to the COUNTY as an additional insured, and specifically shall not exclude coverage for any indemnification as set out in section 9 above.

4) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the COUNTY, its officers, officials, employees or agents.

5) The CONTRACTOR'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

6) All subcontractors shall comply with the same insurance requirements as are required of the CONTRACTOR as set forth in Section 10(a) through 10(e). Additionally, the insurance policies required of subcontractors shall list the COUNTY (and all of its elected officials, employees and agents) as well as the CONTRACTOR as additional insureds, and the subcontractors shall provide certificates listing these endorsements to the COUNTY and the CONTRACTOR prior to the commencement of any work by the subcontractor.

7) The insurance limits mandated for any insurance coverage required by this Contract are not intended to be indication of exposure nor are they limitations on indemnification.

8) The CONTRACTOR 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. Any insurance coverage required of CONTRACTOR

may not be written as a "claims made" policy.

9) Verification of Coverage and Acceptability of Insurers: All insurance required under this CONTRACT shall be issued by companies admitted to do business within the State of Washington and have a rating of A-, Class VII or better in the most recently published edition of Best's Reports. Any exception to this requirement must be reviewed and approved in writing in advance of commencement of work by the Benton County Prosecutor's Office. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policy must comply with Chapter 48.15 RCW and 284-15 WAC.

10) The CONTRACTOR shall furnish the COUNTY with properly executed and unaltered accord form certificate of insurance of a signed policy endorsement which shall clearly evidence all required insurance within ten (10) days after the effective date of this contract. The certificates will, at a minimum, list limits of liability and coverage. The certificates will provide that the underlying insurance contract will not be canceled or allowed to expire, except on thirty (30) days prior written notice to the COUNTY. Any certificate or endorsement limiting or negating the insurer's obligation to notify the COUNTY of cancellation or changes shall be altered so as not to negate the intent of this provision. The endorsement pages of the policy showing the COUNTY as an additional insured shall also be furnished to the COUNTY within ten (10) days after effective date of this agreement.

11) Certificates of insurance shall name "Benton County" as additional insured. The address of the certificate holder shall be shown as the current address of the COUNTY'S Contract Representative.

12) The CONTRACTOR shall request the Washington State Department of Labor and Industries, Workers Compensation Representative, to send written verification to Benton County that CONTRACTOR is currently paying workers compensation.

13) All written notices and notice of cancellation or change of required insurance coverage shall be mailed to the COUNTY at the following address:

    Lisa Small, Contract Administration
    Benton County Commissioners
    Post Office Box 190
    Prosser, Washington 99350

14) The CONTRACTOR or its broker shall provide a copy of any and all insurance policies specified in this Contract

upon request of the Benton County Risk Manager.

If CONTRACTOR is self-insured for worker's compensation coverage, evidence of its status, as a self-insured entity shall be provided to COUNTY. If requested by COUNTY, contractor must describe its financial condition and the self-insured funding mechanism.

11. **PERFORMANCE BOND**

The CONTRACTOR shall furnish Benton County with a Performance Bond and Labor and Materials Payment Bond with sufficient sureties acceptable to Benton County, in an amount equal to 100% of the contract sum as security for the performance by the contractor of this Agreement and payment of all the persons performing labor and supplying materials pursuant to this agreement. PROVIDED that CONTRACTOR may elect, in lieu of the bond, to allow COUNTY to retain 50% of the contract amount for a period of thirty days after date of final acceptance, or until receipt of all necessary releases from the Department of Revenue and the Department of Labor and Industries and settlement of any liens filed under chapter 60.28, RCW, whichever is later. Either proof of the performance bond, or written notification of the CONTRACTOR'S desire to elect the alternative to the bond described above, must be received by COUNTY within ten (10) days following the execution of this agreement.

12. **TERMINATION**

a. The COUNTY may terminate this Contract, in whole or in part whenever the COUNTY determines, in its sole discretion, that such termination is in the best interests of the COUNTY. The COUNTY may terminate this Contract upon giving ten (10) days written notice by certified mail to the CONTRACTOR. In that event, the COUNTY shall pay the CONTRACTOR for actual costs incurred by the CONTRACTOR in performing the Contract up to the date of such notice. Payment shall be made in accordance with Article 6, Invoicing. Nothing in this section shall limit the rights of the COUNTY pursuant to this agreement or by law.

b. The CONTRACTOR may terminate this Contract in whole or in part whenever the CONTRACTOR determines, in its sole discretion, that such termination is in the best interests of the CONTRACTOR. The CONTRACTOR may terminate this Contract upon giving thirty (30) days written notice by certified mail to the COUNTY. In that event, the COUNTY shall pay the CONTRACTOR for all costs incurred by the CONTRACTOR in performing the Contract up to the date of such notice. Payment shall be made in accordance with Article 6, Invoicing. Nothing in this section shall limit

the rights of the COUNTY pursuant to this agreement or by law.

c. In the event of termination as contemplated above, CONTRACTOR and all of its sub-contractors or sub-sub-contractors shall remove all of their tools and equipment by the close of business on the effective date as set out above. PROVIDED that, no tools or equipment purchased specifically for this project, and paid for, or billed to the COUNTY, and no portion of any partially or fully completed structure or curtilage may be damaged, defaced, disassembled or destroyed in the process of removing tools or equipment belonging to CONTRACTOR.

13. COMPLIANCE WITH LAWS AND PREVAILING WAGE

The CONTRACTOR shall comply with all applicable federal, state and local laws, rules and regulations in performing this Contract, including, but not limited to, prevailing wage laws. Specifically, at a minimum, the prevailing wages set out in Exhibit B shall be paid to all employees, agents, sub-contractors or sub-sub-contractors who do any work for CONTRACTOR on this project. CONTRACTOR shall ensure that all sub-contractors or sub-sub-contractors sign an agreement to pay these same wages, and that such a signed agreement is submitted to COUNTY prior to sub-contractor commencing any work on the project. This schedule is duplicated from the Washington State Department of Labor & Industries website, is provided for informational purposes only and COUNTY takes no responsibility for any inaccuracies or ambiguities contained therein. If CONTRACTOR believes the schedules contains any such ambiguities or inaccuracies then CONTRACTOR is responsible for contact the Department of Labor and Industries directly to resolve them. Perceived inaccuracies or ambiguities in the schedule shall not relieve CONTRACTOR from its obligation pursuant to this contract and relevant law to pay prevailing wages.

14. NONDISCRIMINATION

The CONTRACTOR, its assignees, delegates, or subcontractors shall not discriminate against any person in the performance of any of its obligations hereunder on the basis of race, color, creed, religion, national origin, age, sex, marital status, veteran status, or the presence of any disability.

15. DISPUTES

Disputes over the CONTRACTOR's performance will be promptly addressed in writing by the aggrieved party in order that such matters may be settled or other appropriate action promptly taken. Any dispute relating to the quality or acceptability of

performance and/or compensation due the CONTRACTOR shall be decided by the COUNTY'S Contract Representative or designee. All rulings, orders, instructions and decisions of the COUNTY'S Contract Representative shall be final and conclusive, subject to CONTRACTOR'S right to seek judicial relief. Venue for any such judicial proceeding shall be in Benton County, Washington.

16. ASSIGNMENT, DELEGATION AND SUBCONTRACTING

The CONTRACTOR may not assign or delegate its duties as general contractor for the work covered by this agreement without written consent from COUNTY. However, CONTRACTOR is permitted to, using all reasonable care and due diligence, select appropriately skilled sub-contractors and sub-sub-contractors to assist it in completing the work covered by this agreement. If CONTRACTOR chooses to use the services or sub-contractors or sub-sub-contractors, then prior to such sub-contractors or sub-sub-contractors commencing any work, CONTRACTOR shall provide COUNTY with the names of such sub-contractor or sub-sub-contractors. COUNTY, in its sole discretion, may reasonably object to the use of any given sub-contractor or sub-sub-contractor and, if notice is given in writing to CONTRACTOR of such objection within ten (10) days of receipt of CONTRACTOR's intent to utilize the sub-contractor or sub-sub-contractor's services, then CONTRACTOR shall promptly replace the sub-contractor or sub-sub-contractor with another appropriately skilled sub-contractor or sub-sub-contractor.

17. ENTIRE AGREEMENT

The parties agree that this Contract is the complete expression of their agreement. Any oral or written representations or understandings not incorporated in this Contract are specifically excluded.

18. NOTICES

Any notices shall be effective if personally served upon the other party or if mailed by registered or certified mail, return receipt requested, to the addresses set out in Article 4 above. Notice may also be given by facsimile with the original to follow by regular mail. Notice shall be deemed to be effective three days following the date of mailing or immediately if personally served. For service by facsimile, service shall be effective at the beginning of the next working day.

19. SEVERABILITY

a. If a court of competent jurisdiction holds any part, term or provision of this Contract to be illegal, or invalid in whole or in part, the validity of the remaining provisions shall not be affected, and the parties' rights and obligations shall be

construed and enforced as if the Contract did not contain the particular provision held to be invalid.

b. If it should appear that any provision of this Contract is in conflict with any statutory provision of the State of Washington, said provision which may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform to such statutory provision.

IN WITNESS WHEREOF, the parties have caused this Contract to be signed by their duly constituted legal representatives and is effective on the last date signed.

The parties specifically certify that the provisions contained within paragraph 9(c) are mutually negotiated.

BENTON COUNTY	**SOUND SOLUTIONS NORTHWEST INC.**
Claude Oliver, Chairman **Benton County Commissioner**	**Brad Nelson**
Dated: _____	Dated: _____

Approved as to Form:

_____
Deputy Prosecuting Attorney

Original: File - Lisa Small
cc: Auditor, Prosecutor (R. Ozuna), Facilities, Sound Solutions NW

Sound Solutions Northwest Inc.

3030 W. Clearwater Ave.
Suite 205
Kennewick, WA 99336

Quotation

Phone #	Fax #
509.783.8272	509.783.8350

Date	Quotation #
1/14/2008	3347

Customer
Benton County Facilities Att: Dan Waggoner 7122 W. Okanagon Pl. Kennewick, WA 99336

Reqested By:	Quote Valid through:	Rep	Terms	FOB	Estimated Delivery Date
Dan Wagoner	**2/13/2008**	BN	Net 30 Days	Factory	10 Business Days ARO

Description	Qty	Your Price	Total
Silver Plus Coroners Office Monitoring System This system consists of 1 Audio Technica shotgun microphone to be mounted from the wall or ceiling directly across from the end of the autopsy table. Cabling will be installed to route the signal into the viewing room. A Galaxy Audio powered speaker will be installed in the viewing room and a wall mount bracket will be used to affix the speaker to the wall. Volume and tone controls will be on the front of the speaker. A Shure gooseneck push-to-talk microphone will be installed in the viewing room, with a second Galaxy Audio powered speaker to be mounted in the autopsy room. Microphone jack plates will be installed at both the autopsy and viewing rooms for equipment servicability and or security. Technical services to install, test, terminate, adjust, and train are included to provide a complete and operational system. Benton County will be responsible for providing 110 VAC electrical recepticles at the powered speaker locations.	1	2,505.81	2,505.81T

Shipping charges will be prepaid and added to the invoice.

Subtotal	$2,505.81
Sales Tax	$207.98
Total	$2,713.79

Approval Signature: _____ Approval Date: _____

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF THE AWARD AND SERVICE AGREEMENT FOR PLUMBING SERVICES WITH MRP SERVICES FOR BENTON COUNTY FACILITIES

WHEREAS, per resolution 08-131, any public works services or materials involving less than $10,000, advertisement and competitive bidding may be dispensed, and such contracts may be entered into after direct negotiation and authorization from the Board of Commissioners; and

WHEREAS, the Facilities Manager recommends a service agreement with MRP Services, Portland, OR to be put in place for "as needed" and "emergency" plumbing needs throughout Benton County facilities; and

WHEREAS, the prices for services is in accordance to the agreement and MRP Services price quote attached hereto with a not to exceed amount of $8,000; **NOW THEREFORE,**

BE IT RESOLVED by the Board of Benton County Commissioners, Benton County, Washington, the Board concurs with the Facilities Manager's recommendation and hereby awards MRP Services for plumbing services throughout Benton County facilities; and

BE IT FURTHER RESOLVED the Board hereby authorizes the Chairman of the Board to sign the service agreement attached hereto; and

BE IT FURTHER RESOLVED the term of the attached contract expires on October 31, 2008 with an option to extend the contract term for four (4) additional one (1) year periods. Price rates are subject to change for each calendar year. Price adjustments and extensions of this contract will only be approved with an amendment to attached contract.

Dated this _____ day of _____, 2008

_____
Chairman of the Board

_____
Member

_____
Member

Attest: _____
Clerk of the Board

Original: File – Lisa Small
cc: Facilities; Auditor; R. Ozuna; MRP Services

Small

4. CONTRACT REPRESENTATIVES

The parties' representatives are as follows:

a. For CONTRACTOR: Charles Wuerpel, General Manager
MRP Services
PO Box 33585
Portland, OR 97292
(503) 519-1678 Phone
(503) 241-6565 Fax

b. For COUNTY: Ms. Loretta Smith Kelty, Contract Manager
Benton County Commissioners
PO Box 190
Prosser, WA 99350
(509) 786-5600 Phone
(509) 786-5625 Fax

A party may change its representative by providing prompt written notice to the other party.

5. COMPENSATION

The CONTRACTOR shall be paid in accordance with the price rates provided in Exhibit "A" attached hereto. The total amount payable by the COUNTY to the CONTRACTOR under this agreement is an amount not to exceed eight thousand dollars and zero cents ($8,000.00) not including W.S.S.T. Any dollar amount above the amount not to exceed will only be approved with an amendment to this contract. Prior to any compensation being paid, CONTRACTOR shall submit a Statement of Intent to Pay Prevailing Wages in a form approved and certified by the Washington State Department of Labor and Industries directly to COUNTY's contract representative. At the completion of the work contemplated herein, CONTRACTOR shall submit an affidavit of wages paid in compliance with prevailing wage requirements, pre-certified by the Department of Labor and Industries, directly to COUNTY's contract representative. Such affidavit shall be in a form approved by the Washington State Department of Labor and Industries. No final payment and no release of retainage or performance bond will be made until such affidavit is provided.

6. INVOICING

The CONTRACTOR may submit invoices to the COUNTY for services that have been performed. The CONTRACTOR shall not be paid for services rendered under this Contract until they have been performed to the COUNTY's satisfaction. The COUNTY shall authorize payment when the work billed is accepted by the COUNTY;

and will remit payment, less any retainage or other legally withheld funds, for the accepted work within thirty (30) days after receiving the invoice.

7. DEFECTS

In the event of any errors or omissions by the CONTRACTOR in the performance of any work required under this Contract, the CONTRACTOR shall make any and all necessary corrections without additional compensation. Compensation may be withheld until CONTRACTOR makes such corrections. All work submitted by the CONTRACTOR shall be held to applicable standards set forth in the industry. The Contractor shall be responsible for the accuracy of the work, even if the work is accepted by the COUNTY.

8. AMENDMENT AND CHANGES IN WORK

No amendment, modification or renewal of this contract shall be effective, unless set forth in a written Amendment signed by both parties.

9. HOLD HARMLESS AND INDEMNIFICATION

a. The CONTRACTOR shall hold harmless, indemnify and defend the COUNTY, its officers, officials, employees and agents, from and against any and all claims, actions, suits, liability, loss, expenses, damages, and judgments of any nature whatsoever, including reasonable costs and attorneys' fees in defense thereof, for injury, sickness, disability or death to persons, damage to property or business, or any other source of liability whatsoever, caused by or arising out of the CONTRACTOR'S acts, errors or omissions in the performance of this Contract. In the event that any loss described above in this paragraph results from the concurrent liability of CONTRACTOR and COUNTY, CONTRACTOR shall only be responsible for indemnifying COUNTY for that portion of the loss attributable to the actions or omissions of CONTRACTOR, its officers, employees or agents.

b. The CONTRACTOR'S obligations hereunder shall include, but are not limited to, investigating, adjusting and defending all claims alleging loss from action, error or omission, or breach of any common law, statutory or other delegated duty by the CONTRACTOR, its employees, agents or subcontractors.

c. In any and all claims against the COUNTY, its officers, officials, employees and agents by any employee of the CONTRACTOR, subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under

this Section shall not be limited in any way by any limitation on the amount of type of damages, compensation, or benefits payable by or for the CONTRACTOR or subcontractor under Workers Compensation acts, disability benefit acts, or other employee benefit acts, it being clearly agreed and understood by the parties hereto that the CONTRACTOR expressly waives any immunity the CONTRACTOR might have had under such laws. By executing this Contract, the CONTRACTOR acknowledges that the foregoing waiver has been mutually negotiated by the parties and that the provisions of this Section shall be incorporated as relevant, into any contract the CONTRACTOR makes with any subcontractor or agent performing work hereunder.

10. INSURANCE

The CONTRACTOR shall obtain and maintain continuously, the following insurance:

a. Workers Compensation: CONTRACTOR shall comply with all Washington State Workers Compensation laws. Except as prohibited by law, CONTRACTOR waives all rights of subrogation against the COUNTY for recovery of damages to the extent they are covered by workers compensation, employers liability, commercial liability or commercial umbrella liability insurance.

b. Commercial General Liability Insurance: CONTRACTOR shall maintain commercial general liability coverage for bodily injury, sickness, personal injury and property damage, subject to limits of not less than one million dollars ($1,000,000) per occurrence. The general aggregate limit shall apply separately to this Contract (per project) and be no less than two million dollars ($2,000,000). The policy shall not contain exclusions or limitations applicable to any activities undertaken, or materials used by CONTRACTOR in fulfilling this agreement. CONTRACTOR shall cause COUNTY to be added as an additional insured and the policy shall state that it cannot be canceled except with 30 days written notice to COUNTY. This policy shall be primary to any of COUNTY'S other sources of insurance including self-insurance through a risk pool. CONTRACTOR shall provide certificate of such insurance, including the endorsements specified in this paragraph, to County's representative prior to start of work.

c. Automobile Liability: The CONTRACTOR shall maintain business automobile liability insurance with a limit of not less than one million dollars ($1,000,000) per accident, using a combined single limit for bodily injury and property damages. Such coverage shall cover liability arising out of "Any Auto". CONTRACTOR waives all rights against the COUNTY for the recovery of damages to the extent they are covered by

business auto liability. CONTRACTOR shall cause the carrier for its automobile liability policy to execute a waiver of subrogation in favor of COUNTY.

d. Other Insurance Provisions:

1) The CONTRACTOR'S liability insurance provisions shall be primary with respect to any insurance or self-insurance programs covering the COUNTY, its elected and appointed officers, officials, employees and agents.

2) The COUNTY, its officers, officials, employees and agents shall be named as additional insured on all required insurance policies, except for any required automobile liability policy.

3) The CONTRACTORS'S liability insurance policies shall contain no special limitations on the scope of protection afforded to the COUNTY as an additional insured, and specifically shall not exclude coverage for any indemnification as set out in section 9 above.

4) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the COUNTY, its officers, officials, employees or agents.

5) The CONTRACTOR'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

6) All subcontractors shall comply with the same insurance requirements as are required of the CONTRACTOR as set forth in Section 10(a) through 10(e). Additionally, the insurance policies required of subcontractors shall list the COUNTY (and all of its elected officials, employees and agents) as well as the CONTRACTOR as additional insureds, and the subcontractors shall provide certificates listing these endorsements to the COUNTY and the CONTRACTOR prior to the commencement of any work by the subcontractor.

7) The insurance limits mandated for any insurance coverage required by this Contract are not intended to be indication of exposure nor are they limitations on indemnification.

8) The CONTRACTOR 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. Any insurance coverage required of CONTRACTOR may not be written as a "claims made" policy.

9) Verification of Coverage and Acceptability of Insurers: All insurance required under this CONTRACT shall be issued by companies admitted to do business within the State of Washington and have a rating of A-, Class VII or better in the most recently published edition of Best's Reports. Any exception to this requirement must be reviewed and approved in writing in advance of commencement of work by the Benton County Prosecutor's Office. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policy must comply with Chapter 48.15 RCW and 284-15 WAC.

10) The CONTRACTOR shall furnish the COUNTY with properly executed and unaltered accord form certificate of insurance of a signed policy endorsement which shall clearly evidence all required insurance within ten (10) days after the effective date of this contract. The certificates will, at a minimum, list limits of liability and coverage. The certificates will provide that the underlying insurance contract will not be canceled or allowed to expire, except on thirty (30) days prior written notice to the COUNTY. Any certificate or endorsement limiting or negating the insurer's obligation to notify the COUNTY of cancellation or changes shall be altered so as not to negate the intent of this provision. Acceptable forms of evidence are the endorsement pages of the policy showing the COUNTY as an additional insured.

11) Certificates of insurance shall show the certificate holder as "Benton County" and include "C/O" the COUNTY'S Contract Representative. The address of the certificate holder shall be shown as the current address of the COUNTY'S Contract Representative.

12) The CONTRACTOR shall request the Washington State Department of Labor and Industries, Workers Compensation Representative, to send written verification to Benton County that CONTRACTOR is currently paying workers compensation.

13) All written notices and notice of cancellation or change of required insurance coverage shall be mailed to the COUNTY at the following address:

Loretta Smith Kelty, Contract Manager
Benton County Commissioners
PO Box 190
Prosser, WA 99350

Orig.: File - Lisa Small
cc: Facilities; Auditor: R. Ozuna; MPR Services

14) The CONTRACTOR or its broker shall provide a copy of any and all insurance policies specified in this Contract upon request of the Benton County Risk Manager.

If CONTRACTOR is self-insured for worker's compensation coverage, evidence of its status, as a self-insured entity shall be provided to COUNTY. If requested by COUNTY, contractor must describe its financial condition and the self-insured funding mechanism.

11. PERFORMANCE BOND

The CONTRACTOR shall furnish Benton County with a Performance Bond and Labor and Materials Payment Bond with sufficient sureties acceptable to Benton County, in an amount equal to 100% of the contract sum as security for the performance by the contractor of this Agreement and payment of all the persons performing labor and supplying materials pursuant to this agreement. PROVIDED that CONTRACTOR may elect, in lieu of the bond, to allow COUNTY to retain 50% of the contract amount for a period of thirty days after date of final acceptance, or until receipt of all necessary releases from the Department of Revenue and the Department of Labor and Industries and settlement of any liens filed under chapter 60.28, RCW, whichever is later. Either proof of the performance bond, or written notification of the CONTRACTOR'S desire to elect the alternative to the bond described above, must be received by COUNTY within ten (10) days following the execution of this agreement.

12. TERMINATION

a. The COUNTY may terminate this Contract in whole or in part whenever the COUNTY determines, in its sole discretion, that such termination is in the best interests of the COUNTY. The COUNTY may terminate this Contract upon giving ten (10) days written notice by certified mail to the CONTRACTOR. In that event, the COUNTY shall pay the CONTRACTOR for actual costs incurred by the CONTRACTOR in performing the Contract up to the date of such notice. Payment shall be made in accordance with Article 6, Invoicing. Nothing in this section shall limit the rights of the COUNTY pursuant to this agreement or by law.

b. The CONTRACTOR may terminate this Contract in whole or in part whenever the CONTRACTOR determines, in its sole discretion, that such termination is in the best interests of the CONTRACTOR. The CONTRACTOR may terminate this Contract upon giving thirty (30) days written notice by

certified mail to the COUNTY. In that event, the COUNTY shall pay the CONTRACTOR for all costs incurred by the CONTRACTOR in performing the Contract up to the date of such notice. Payment shall be made in accordance with Article 6, Invoicing. Nothing in this section shall limit the rights of the COUNTY pursuant to this agreement or by law.

13. COMPLIANCE WITH LAWS

The CONTRACTOR shall comply with all applicable federal, state and local laws, rules and regulations in performing this Contract, including, but not limited to, prevailing wage laws. A current copy of the schedule of prevailing wages for Benton County is attached as Exhibit B. If CONTRACTOR procures any employees subject to prevailing wage regulations but not classified as electronic technicians to do any work related to this contract, CONTRACTOR shall be responsible for determining the appropriate prevailing wages for such employees and shall pay them according to said wages.

14. NONDISCRIMINATION

The CONTRACTOR, its assignees, delegates, or subcontractors shall not discriminate against any person in the performance of any of its obligations hereunder on the basis of race, color, creed, religion, national origin, age, sex, marital status, veteran status, or the presence of any disability.

15. DISPUTES

Disputes over the CONTRACTOR's performance will be promptly addressed in writing by the aggrieved party in order that such matters may be settled or other appropriate action promptly taken. Any dispute relating to the quality or acceptability of performance and/or compensation due the CONTRACTOR shall be decided by the COUNTY'S Contract Representative or designee. All rulings, orders, instructions and decisions of the COUNTY'S Contract Representative shall be final and conclusive, subject to CONTRACTOR'S right to seek judicial relief. Venue for any such judicial proceeding shall be in Benton County, Washington.

16. ASSIGNMENT, DELEGATION AND SUBCONTRACTING

The CONTRACTOR shall perform the services under this Contract using only its bona fide employees or agents, and the obligations and duties of the CONTRACTOR under this Contract shall not be assigned, delegated, or subcontracted to any other person or firm without the prior written consent of the COUNTY.

17. ENTIRE AGREEMENT

The parties agree that this Contract is the complete expression of their agreement. Any oral or written representations or understandings not incorporated in this Contract are specifically excluded.

18. NOTICES

Any notices shall be effective if personally served upon the other party or if mailed by registered or certified mail, return receipt requested, to the addresses set out in Article 4 above. Notice may also be given by facsimile with the original to follow by regular mail. Notice shall be deemed to be effective three days following the date of mailing or immediately if personally served. For service by facsimile, service shall be effective at the beginning of the next working day.

19. SEVERABILITY

a. If a court of competent jurisdiction holds any part, term or provision of this Contract to be illegal, or invalid in whole or in part, the validity of the remaining provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as if the Contract did not contain the particular provision held to be invalid.

b. If it should appear that any provision of this Contract is in conflict with any statutory provision of the State of Washington, said provision which may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform to such statutory provision.

-This portion intentionally left blank -

IN WITNESS WHEREOF, the parties have caused this Contract to be signed by their duly constituted legal representatives and is effective on the last date signed.

The parties specifically certify that the provisions contained within paragraph 9(c) are mutually negotiated.

BENTON COUNTY

Leo Bowman, Chairman

Benton County Commissioner

Dated: _____

MRP SERVICES

Dated: 12-4-07

Approved as to Form:

Deputy Prosecuting Attorney

Orig.: File - Lisa Small

cc: Facilities; Auditor: R. Ozuna; MPR Services

Exhibit A

MRP SERVICES

DRAIN CLEANING • PLUMBING • PUMPING • OILY WATER • INDUSTRIAL CLEANING • ENVIRONMENTAL

2008 PRICE LIST

Drain Cleaning

Technician(Cabling)

Regular	$74.95
After Hours	$89.90

Hydro-Jetting

Hourly Rate	$95.00+Tech
Pipe Sizes	1¼ to 72"

Video Inspection

Hourly Rate	$95.00+Tech
Pipe Sizes	1¼ to 72"

Rod Machine

3/8" x 1500FT for Cutting Roots and Scale $95.00+Tech

MRP Drain Maintainer

1 Gallon	$44.95
5 Gallon	$144.95
15 Gallon	$380.00
30 Gallon	$605.00

Preventative Maintenance Applicators Available

For Drains, Septic Systems and Grease Traps

Concentrated
No Caustics
Professional
Cost Effective
Environmentally Safe
Helps Prevent Clogs

Root X

2 pounds $74.95

Plumbing

Plumber

Regular	$89.95
After Hours	$119.90
Boiler	$99.90
After Hours	$139.90

Leak Detection

Hourly Rate $95.00+Tech

Trenchless Pipe Lining

Pipe Bursting

Bid Prices Only

Electronic Line Locate

Hourly Rate $95.00+Tech

Backflow Valve Testing

½ to 2" *

$60.00 for the first two devices
$25.00 for each additional

3" to 6" *

$60.00 for the first two devices
$30.00 for each additional

8" to 10" *

$75.00 for each device
*excludes confined space entry

Winterization

$165.00 for a standard one bath home
$40.00 for each additional fixture

Vacuum Truck Services

Wet/Dry Vac Truck

$150.00 per hour Port to Port including operator
$185.00 per hour Port to Port including operator

Sewage Pumping

$375.00 first hour up to 1000 Gallons. $.275 per gallon and $145.00 per hour each additional

Overtime/Weekends

$475.00 first hour up to 1000 Gallons. $.275 per gallon and $180.00 per hour each additional

Grease Traps

1000 gallon minimum subject to location

Exterior	$.195/gallon
Interior	$89.90

All invoices have a $20.00 truck charge

P.O. BOX 33585 PORTLAND, OR 97292 • PHONE 800 200-0457 FAX 503 241-6565
OR CCB#106824 • WA METRORP044KW

AGENDA ITEM		TYPE OF ACTION NEEDED		
Meeting Date:	2/25/08	Execute Contract		Consent Agenda X
Subject:	Judge Pro Tem Positions	Pass Resolution	X	Public Hearing
Prepared by:	M. Wenner	Pass Ordinance		1st Discussion
		Pass Motion		2nd Discussion
		Other		Other

9

BACKGROUND INFORMATION

On November 26, 2007, the State Office of Court Administration received an opinion from the Social Security Administration regarding employment status for Pro Tem Judges, Pro Tem Commissioners and Arbitrators. Mr. Tim Beard, Employer Services Liaison Officer for the Social Security Administration states, *"After reviewing the appropriate Washington statutes, it is clear that superior court pro tempore judges and arbitrators have essentially the same status of superior court judges...Further, superior court pro tempore judge and arbitrator positions meet all of the public officer criteria established by Washington Attorney General opinions and state court rulings...***Superior court pro tempore judges and arbitrators are employees for purposes of Section 218 and Social Security and Medicare taxes. IRS has informally advised us that these same positions also meet the IRC 3401 test as employees for Federal income tax."**

On December 21, 2007, the courts received clarification of the above opinion from the Administrative Office of Courts (AOC). Based on this opinion and guidance provided by AOC, beginning February 1, 2008, Benton & Franklin Counties will begin paying pro tem judges, pro tem commissioners and arbitrators through the Benton County payroll as part-time employees.

SUMMARY

See above.

RECOMMENDATION

Approve resolution.

FISCAL IMPACT

Will transfer from Pro Tem into Salaries and Benefits. No impact at this time.

JOINT RESOLUTION

BENTON COUNTY RESOLUTION NO. _____

FRANKLIN COUNTY RESOLUTION NO. _____

BEFORE THE BOARDS OF THE COMMISSIONERS OF BENTON AND FRANKLIN COUNTIES, WASHINGTON.

IN THE MATTER OF ESTABLISHING A BI-COUNTY, NONBARGAINING EMPLOYMENT CLASSIFICATION FOR JUDGE PRO-TEMPORE IN THE BENTON FRANKLIN JUVENILE COURT

WHEREAS, the County Commissioners of Benton and Franklin Counties, the duly constituted legislative authority having budgetary responsibilities for the Benton and Franklin Counties Juvenile Court, have received a request and recommendation from the Benton Franklin Juvenile Court Administrator's Office for a bi-county, nonbargaining employment classification for Judge Pro-Tempore; and

WHEREAS, the Board of Benton County Commissioners approved Resolution 05-797, Personnel Policies and Procedures for Non-Bargaining Employees; and

WHEREAS, that Resolution includes a process for new position and/or substantially changed position (re)classification/grade requests to be processed for a determination by the Board; and

WHEREAS, pay rates for Judge Pro-Tempore in Benton Franklin Juvenile Court are set by State law in accordance with RCW 2.08.180, **NOW THEREFORE,**

BE IT RESOLVED that the Boards of County Commissioners hereby approve creation of a bi-county, nonbargaining employment classification for Judge Pro-Tempore in Benton Franklin Juvenile Court at the pay rates established by State law; and

BE IT FURTHER RESOLVED, that the Boards of Commissioners retain the right to modify or repeal this determination at their discretion and without prior notification; and

BE IT FUTHER RESOLVED, that this Resolution is not intended nor shall be interpreted as limiting or compromising the Counties' "at will" employer status or the "at will" status of the employees in this classification.

Dated at _____, Washington, this _____ day of

_____, 2008.

BENTON COUNTY BOARD OF COMMISSIONERS

_____
Claude Oliver, Chairperson

_____
Max Benitz, Member

ATTEST:

_____
Leo Bowman, Member

_____
Clerk of the Board

FRANKLKIN COUNTY BOARD OF COMMISSIONERS

_____
Robert Koch, Chairperson

_____
Neva Corkrum, Member

Attest:

_____
Richard Miller, Member

_____
Clerk of the Board

THIS IS THE ONLY CONTRACT USED THIS

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF A PROFESSIONAL SERVICES AGREEMENT WITH PEYMAN YOUNESI, ATTORNEY AT LAW, FOR LEGAL REPRESENTATION OF INDIGENT INDIVIDUALS CHARGED WITH MISDEMEANORS IN BENTON COUNTY DISTRICT COURT, RESCINDING PREVIOUS PERSONAL SERVICE AGREEMENT.

WHEREAS, the Board of County Commissioners previously entered into a Personal Service Agreement with Peyman Younesi for legal representation of indigent individuals charged with misdemeanors in District Court, Resolution 07-760; and

WHEREAS, the Board of County Commissioners and Peyman Younesi both desire to terminate that Personal Service Agreement and enter into a new agreement effective February 01, 2008;

NOW, THEREFORE,

BE IT RESOLVED, that the Board of Benton County Commissioners hereby approves the attached Professional Service Agreement for Legal Representation of Indigent Individuals Charged With Misdemeanors in District Court with Peyman Younesi for the period February 01, 2008 through December 31, 2010;

BE IT FURTHER RESOLVED, that the Personal Service Agreement, Resolution 07-760 between Benton County and Peyman Younesi, previously entered into be and hereby is terminated effective January 31, 2008.

Dated this ..... day of ....., 2008

_____
Chairman of the Board

_____
Chairman Pro-Tem

_____
Member

Attest: .....
Clerk of the Board

Constituting the Board of County Commissioners of Benton County, Washington

Original: File
cc: Peyman Younesi; Jacki Lahtinen: Rosie Sparks; Rosemary Ozua

J.Paxton

PROFESSIONAL SERVICES AGREEMENT TO PROVIDE LEGAL REPRESENTATION TO INDIGENT PERSONS IN BENTON COUNTY DISTRICT COURT

THIS AGREEMENT is entered into by and between **Peyman Younesi,** attorney at law, Washington State Bar Association #36226, (Attorney) dba Peyman Younesi, Esq., PLLC, and **BENTON COUNTY,** a State of Washington political subdivision (the County), for and on behalf of the Benton County District Court.

THIS AGREEMENT IS ENTERED INTO BASED UPON THE FOLLOWING FACTS AND CIRCUMSTANCES:

A. The County has the legal responsibility to provide legal defense services to indigent persons charged with misdemeanor criminal offenses alleged to have been committed within the County's jurisdictional boundaries.

B. Attorney is engaged in the private practice of law, has direct experience in litigating cases involving persons charged with criminal offenses, and desires to contract with the County to provide legal services to indigent persons subject to misdemeanor criminal charges in the Benton County District Court.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein, the County and Attorney hereby agree as follows:

1. **AGREEMENT TERM.** This Agreement shall be deemed effective for all purposes as of **February 1, 2008,** and shall continue thereafter through and including the **31st day of December 2010,** unless earlier terminated pursuant to the applicable terms and provisions of this Agreement.

2. **ATTORNEY'S OFFICE LOCATION.**

a. Attorney presently and regularly maintains an office adequate and appropriate for the practice of law at 1030 North Center Parkway, Kennewick, WA, 99336. Attorney's current local office telephone and fax numbers are (509) 396-0241 and (509) 396-0241, respectively; and Attorney's current office/work e-mail address is PY411@yahoo.com.

b. Throughout the entire term of this Agreement, Attorney shall continue to maintain such an office, such telephone and fax numbers, and such e-mail address; provided that, however, Attorney may relocate Attorney's office to another location within the Greater Tri-Cities, Washington, and/or Attorney may change Attorney's telephone/fax number to another Greater Tri-Cities local telephone/fax number, and/or

Attorney may change Attorney's e-mail address, provided that Attorney must provide immediate written notice of such change(s) to the Benton-Franklin Indigent Defense Coordinator (IDC), the Benton County Prosecuting Attorney, and the Benton County District Court Administrator (District Court Administrator).

c. The County prefers that Attorney locate and maintain Attorney's office in a commercial/professional building. However, regardless of the location Attorney decides to maintain his/her office, the office must be capable of accommodating confidential face-to-face meetings between Attorney and persons whom Attorney is appointed to represent under this Agreement, must be capable of regularly receiving mail, and must have adequate telephone service to facilitate and ensure prompt response to contact with or from represented persons.

3. **ATTORNEY'S QUALIFICATIONS.** Attorney acknowledges and agrees that the County has an obligation to provide competent and effective legal counsel to indigent persons subject to proceedings in the Benton County District Court. Attorney shall perform all services hereunder in strict accordance with the usual skills and professional ethical standards exercised by attorneys engaged in the defense of persons accused of misdemeanor crimes in the state of Washington and generally exercised by members of the Washington State Bar Association (WSBA). Without limitation in that regard, Attorney acknowledges and agrees that Attorney has a fundamental duty and responsibility to effectively promote and protect the best interests and rights of all persons whom Attorney is appointed to represent under this Agreement.

a. As of the date of this Agreement, Attorney represents and warrants that Attorney is unconditionally licensed to practice law within the state of Washington; has had at least one (1) year of direct trial experience in criminal defense or criminal prosecution matters; has not been subject to a termination proceeding involving a previous personal service agreement for indigent defense services; has not been censured, admonished, or otherwise formally disciplined for past conduct or behavior that would negatively reflect on Attorney's duty and ability to effectively and competently render legal services hereunder; has not been suspended or disbarred from the practice of law in any state or jurisdiction at any time in the past; and does not have any bar association complaints filed and pending against him/her.

(i) This Agreement may be subject to review and, if applicable and/or necessary, further action pursuant to paragraph 17 below in the event that Attorney's license to practice law in Washington is revoked or otherwise limited or restricted; in the event that a court of competent jurisdiction formally determines and expressly finds that Attorney has rendered ineffective assistance of counsel to any person; in the event that Attorney is censored, admonished, or otherwise formally disciplined for conduct or behavior that negatively reflects on Attorney's duty and ability to effectively and competently render legal services

hereunder; or in the event that Attorney is suspended or disbarred from the practice of law in any other state or jurisdiction.

(ii) Attorney shall notify the County within three (3) business days if any event specified in paragraph 3.a.(i) above occurs or if any bar association complaint is filed against Attorney.

b. To comply with the provisions of RCW 72.05.440, WAC 388-700-0010, and RCW 13.40.570, Attorney acknowledges and agrees that the County may conduct criminal history background check(s) on Attorney. Attorney acknowledges and agrees that this Agreement shall be deemed immediately and automatically terminated upon the County receiving a non-complying or otherwise unsatisfactory criminal history background check report.

c. Attorney represents, warrants, and certifies that Attorney has read and fully understands the requirements of RCW 13.40.570 (sexual misconduct by state employees, contractors) and all sex offense crimes included in RCW Chapter 9A.44. Attorney shall comply with any and all applicable legal and/or administrative requirements relating to the documentation/reporting of sexual misconduct.

d. During each calendar year of the term of this Agreement, beginning in calendar year 2008, Attorney shall be required to obtain at least seven (7) hours of WSBA-qualified Continuing Legal Education (CLE) credits in courses directly relating to Attorney's public defense practice under this Agreement. Attorney shall provide the Indigent Defense Coordinator with written proof and confirmation that such CLE credits have been obtained no later than by December 31st of each calendar year. Additionally, during each calendar year during the term of this Agreement, in addition to participating in any specialized training-related activity specified in RCW 10.101.060(1)(a)(iii) or otherwise specifically required by other applicable law or court rule, Attorney shall attend at least one (1) public defense services-related training seminar sponsored and/or approved by the Washington Office of Public Defense (OPD), and any CLE credit earned by Attorney by attending such training seminar(s) may be applied towards the above-mentioned minimum seven (7) hours. The County may provide Attorney's name and address to the OPD for purposes of the OPD notifying Attorney of any such upcoming training seminars. Attorney shall provide the IDC with written proof and confirmation that such required training seminar has been attended by Attorney no later than by December 31st of each calendar year.

e. Attorney represents and warrants that, throughout the entire term of this Agreement, Attorney's private law practice caseload; Attorney's schedule; and Attorney's office resources, equipment, and support staff will allow Attorney to competently undertake and effectively perform all services required under this Agreement. Attorney represents and warrants that Attorney's private law practice and

schedule will not interfere with Attorney's ability to timely and efficiently perform such services including, without limitation, Attorney's ability to prepare for and attend regularly scheduled trials and dockets or Attorney's ability to schedule and conduct face-to-face meetings with the persons Attorney is appointed to represent under this Agreement for purposes of discussing, preparing, and pursuing the most viable defense(s) and/or resolution available and keeping such persons reasonably apprised as to the status of their case.

f. Pursuant to RCW 10.101.050, no later than by the 15th day of each month during the term of this Agreement, Attorney shall provide the IDC with a written report showing the total number and specific types of private practice cases (which for purposes of this Agreement shall include pro bono cases, retained-fee cases, and any cases handled by Attorney under any other professional/personal services agreement) in which Attorney provided legal services during the preceding month and the total number and specific types of appointed cases under this Agreement in which Attorney provided legal services during the preceding month. Additionally, in the event that the public defense attorney caseload activity reporting requirements under RCW 10.101.050 are later amended/modified, Attorney shall correspondingly comply with any such amended/modified reporting requirements without added compensation upon written notice from the County to do so.

4. **OTHER INDIGENT DEFENSE AGREEMENTS.** On or about the date of this Agreement, the County contemplates entering into separate and independent professional services agreements with other licensed attorneys to primarily provide criminal defense services to persons accused of misdemeanor crimes in Benton County District Court. Attorney agrees to fully cooperate and coordinate with said other attorneys, the Benton County District Court, the District Court Administrator and the IDC to establish a process to effectuate the efficient and equitable distribution of case appointments between Attorney and said other attorneys (collectively the Benton County District Court Criminal Defense Panel). The District Court Administrator and/or the IDC shall have the inherent discretion and authority to monitor and control (and reasonably modify/change) such process.

5. **CASE APPOINTMENTS.** During the term of this Agreement, Attorney agrees to and shall accept appointments to represent indigent persons (regardless of their race, color, national origin, age, sex, marital status, sexual orientation, handicap/disability, personal background, creed, or political or religious affiliation) on any matter in the Benton County District Court in which publicly provided counsel is furnished or required by law. More specifically, Attorney shall accept court appointments to represent indigent persons on any of the following types of matters:

- Any misdemeanor matter filed or otherwise pending under the applicable Washington criminal statutes and/or under any other applicable Washington law in the Benton County District Court.

- Any post-disposition probation violation, revocation, modification, and/or contempt-of-court proceeding relating to any underlying criminal case.

- Any material witness matter relating to a case or matter filed in Benton County District Court.

- Any case or matter returned to the Benton County District Court from any higher court.

- Any other type of Benton County District Court case or matter in which another Benton County District Court Criminal Defense Panel member and/or any other attorney who is under a professional services agreement to provide legal representation in Benton County District Court is unable to handle due to a conflict of interest.

- Any case or matter transferred from the Juvenile Court through declination or other court proceedings.

- Any civil contempt of court proceeding, not including non-contempt matters such as non-criminal custody or paternity matters.

6. **CONTINUED REPRESENTATION.**

a. Attorney has a duty to timely and fully complete all cases appointed to Attorney under this Agreement. In that regard, Attorney shall continue to provide representation for those persons whom Attorney was appointed to represent and whose case was not concluded prior to the effective date of termination of this Agreement for up to ninety (90) days following the effective date of termination. Attorney's obligation to continue post-termination representation shall not in any way entitle Attorney to receive any additional compensation beyond the compensation amount(s) specified in this Agreement.

(i) By way of example, in the event that Attorney is required by this paragraph to continue representing a person charged with a crime after the termination date of this Agreement, Attorney shall not be entitled to receive any compensation as a result of such continued, post-termination representation.

(ii) By way of further example, in the event that Attorney is required by this paragraph to continue representing a person charged with a crime or matter after the termination date of this Agreement, the only compensation that Attorney would be entitled to receive as a result of such continued, post-termination representation is court-authorized cost reimbursements specified in paragraph 13.b below.

b. Notwithstanding anything in this paragraph 6 or elsewhere in this Agreement to the contrary, Attorney's post-termination duty and obligation to continue representing persons whom Attorney was appointed to represent in Benton County District Court for up to ninety (90) days shall be limited to a sixty (60) day period following the termination date for the following types of matters:

(i) Any civil-based matter;

(ii) Any matter involving a represented person for whom a warrant has been issued; and

(iii) Any case where personal service is not effected within thirty (30) days of the date of the notice of termination.

c. Attorney will be appointed to no new cases under this Agreement during the thirty (30) day period prior to its termination date specified in paragraph 1 above if Attorney provides written notice to the County at least sixty (60) days prior to such termination date of Attorney's desire and intent to not pursue contracting with the County again to provide indigent defense services in Benton County District Court after such termination date. Attorney may belatedly provide such written notice at any time within said sixty (60) day time period, but the appointment of new cases to Attorney will not stop until thirty (30) days after the date such notice is received by the County.

7. NUMBER OF APPOINTMENTS. During each calendar year of the term of this Agreement, Attorney agrees to and shall accept appointments hereunder to represent persons in the Benton County District Court up to a maximum of **three hundred and eighty (380) total case equivalents per calendar year** (proratable for any partial calendar year), for calendar year 2008 with downward adjustments in 2009 and 2010 as indicated below. The date on which a case or matter is filed (rather than its final date of disposition) shall be used to determine the calendar year in which a case equivalent is to be counted.

8. CASE EQUIVALENTS.

a. For purposes of calculating Attorney's above-referenced "case equivalents" under this Agreement, the following provisions shall apply:

- A misdemeanor appointment shall be counted as one (1) case equivalent.
- A probation violation appointment shall be counted as one-half (1/2) case equivalent.

- An appointment on a mental or substance-abuse commitment, generally to be appointed only when necessary for conflict reasons, shall count as one (1) case equivalent.

- An appointment to represent a person in a material witness matter in a case pending in Benton County District Court shall count as one half (1/2) of a case equivalent.

- An appointment to a case or matter returned to Benton County District Court from a higher court shall be counted as determined by the IDC following consultation.

- If Attorney is appointed to a case and withdraws prior to the omnibus hearing for any reason, including the substitution of retained counsel or a conflict of interest, that appointment shall not count as any case equivalent; provided that the IDC shall retain discretion to award a case equivalent value (or fractional portion thereof) if deemed appropriate following consultation.

- Case equivalent value assigned is based on cases, not charges, and is determined by the classification of the most serious offense charged.

- Any civil contempt of court proceeding shall count as one-half (1/2) of a case equivalent.

b. An appointment to any matter in which Attorney was previously appointed shall not be further counted as any type of case equivalent if such matter was not fully concluded and subsequently arises again before the Benton County District Court and Attorney continues representing the same person in such matter within a 12-month period (e.g., if Attorney was appointed to represent a person on a criminal charge who fails to appear for trial but is back before the court within 12 months, Attorney's continued representation of such person following his later arrest shall be deemed as being a prior and ongoing representation and shall not count as any type of further or additional case equivalent). Provided that, however, if Attorney was appointed to represent a person who is duly tried, convicted, and sentenced, Attorney's subsequent representation of such person during subsequent proceedings for alleged violations of sentence conditions shall be deemed as being an independent and unrelated matter.

c. Except as may be otherwise specifically and expressly provided in this Agreement, an appointment to any matter involving multiple charges arising out of a single incident or series of substantially related incidents shall be considered as being one (1) case equivalent. Similarly, except as may be otherwise expressly provided in this Agreement, an appointment to any matter involving multiple charges brought/filed

under a single cause number and/or which are properly joined for purposes of trial shall be considered as being one (1) case equivalent. Provided, however, the IDC may in his discretion adjust the case equivalent total earned under this paragraph upon written request from, and after review and consultation with, Attorney.

d. Throughout the term of this Agreement, the IDC shall keep and maintain records consistent with the provisions of this Agreement in a format adequate to accurately track and monitor the number of Attorney's appointments and total case equivalents hereunder. The IDC shall provide copies of such records to the County and Attorney on a monthly basis. Attorney shall have the burden of proof in the event that Attorney ever disagrees with any such records, and Attorney must notify the IDC in writing within ten (10) business days of records receipt if Attorney disagrees with, and desires to dispute, any such records, otherwise such records shall be conclusively presumed as being accurate.

9. **CLIENT ELIGIBILITY.** The Benton County District Court (or its designee), consistent with applicable laws, rules and standards, shall determine the eligibility of any particular person for representation by Attorney under this Agreement. Attorney is under no obligation to determine a person's eligibility or continuing eligibility to receive publicly provided representation. However, if Attorney is appointed to represent a person and subsequently discovers that such person may not be eligible to receive publicly-provided representation under applicable laws, rules and standards, Attorney, if able to do so within the bounds of applicable ethical rules and professional standards, shall promptly notify the Benton County District Court of such possibility for purposes of the District Court (or its designee) taking action at its discretion to re-determine whether such person is/remains eligible to receive publicly-provided representation. If the Benton County District Court (or its designee) then determines that such person is not eligible for publicly provided representation, the appointment of Attorney to represent such person shall be rescinded and such person shall be required to retain his/her own legal counsel. Attorney shall not thereafter represent such person in such matter on a retained-fee basis unless such person applies for and receives the Benton County District Court's permission allowing such representation. Nothing contained herein shall prevent Attorney from representing a person on a retained-fee basis in an action in which Attorney has not been appointed by the Benton County District Court to represent such person, or from representing a person on a retained-fee basis whom Attorney has been appointed by the Benton County District Court to represent provided that the matter(s) involving the retained representation are wholly independent and unrelated to the matter for which Attorney was appointed.

10. **CONFLICTS.** Notwithstanding any other terms or provisions contained in this Agreement to the contrary, Attorney shall not be required to accept, and Attorney shall decline to accept, an appointment under this Agreement if the particular appointment would create a true and bona fide conflict of interest for Attorney or would otherwise cause or constitute an actual violation of any generally recognized ethical or professional standards common and

applicable to attorneys in the state of Washington. Furthermore, in the event a true and bona fide conflict of interest arises subsequent to Attorney receiving an appointment under this Agreement (or in the event Attorney's continued involvement in a pending case would cause or constitute an actual violation of any such ethical or professional standards), Attorney shall immediately make the Benton County District Court aware of such development for purposes of the District Court taking immediate action to appoint another attorney to assume and undertake legal representation in such case.

11. **SCOPE OF REPRESENTATION; FILE RETENTION.** Attorney agrees to and shall represent all persons whom Attorney is appointed to represent hereunder with the same skill and commitment as Attorney exercises and expends when representing persons on a private and/or retained-fee basis. Without limitation in that regard, such representation shall include the investigation of the underlying facts, the research of all relevant law, interviewing of potential witnesses, retention and use of investigators and/or experts when warranted and necessary, appropriate communication with the client, review of potential plea alternatives, review of potential collateral consequences associated with a plea/conviction (e.g., potential immigration or civil commitment consequences), and the preparation for and appearance on behalf of the client in all stages of District Court proceedings including, without limitation, arraignments, pre-trial hearings, motions, trials, sentencing/disposition proceedings, contempt proceedings, appeals (limited to the preparation and filing of any and all pleadings necessary and appropriate to perfect any appeal or statutory writ to a higher court, including the appointment of publicly-provided counsel, if and when applicable), and post-conviction reviews.

a. Without limiting Attorney's duty to initially meet with an indigent person to discuss his/her case as soon as reasonably possible following Attorney's appointment to the case, when Attorney is appointed to an "in custody" case (i.e., a case in which the person is confined/incarcerated), Attorney shall use best efforts to meet face-to-face within three (3) business days of Attorney receiving the appointment (unless the circumstances of a particular case reasonably require that Attorney make earlier initial contact with the person), otherwise, as soon thereafter as is reasonably feasible.

b. Additionally, throughout Attorney's representation of any person under this Agreement, Attorney shall maintain appropriate contact/communications with the person so as to keep him/her fully apprised as to the status of his/her case; and Attorney shall use best efforts to apprise the person of any new development in his/her case within three (3) business days of Attorney learning of such development (unless the circumstances of a particular case reasonably require that Attorney make earlier contact with the person), otherwise, as soon thereafter as is reasonably feasible. Without limiting any of the foregoing provisions of this paragraph, with regard to any court hearing involving a represented person, Attorney shall contact (preferably in person or at least via telephone) such person to discuss his/her case and the purpose of the hearing no later than one (1) business day prior to the hearing date.

c. Attorney shall compile and maintain appropriate case records for each person whom Attorney is appointed to represent hereunder. Attorney shall retain such case records in their entirety (or a complete and legible copy thereof, to include electronic file storage) for a period of no less than seven (7) years from the date on which the case or matter is fully and finally concluded or for any other time period specified under applicable court rule or statute, whichever date/event occurs last.

d. Upon Attorney pleading guilty or being convicted of any of the following-described offenses, Attorney shall notify the IDC of such plea/conviction within seven (7) calendar days thereafter, and Attorney's failure to timely report within such timeframe shall constitute misconduct under RCW Title 50 and result in the immediate and automatic termination of this Agreement:

(i) Any felony sex offense as defined in RCW 9.94A.030 and RCW 9A.44.130;

(ii) Any crime specified in RCW Chapter 9A.44 when the victim was a juvenile in the custody of, or under the jurisdiction of, the Juvenile Rehabilitation Administration, Washington Department of Social and Health Services; and/or

(iii) Any violent offense as defined in RCW 9.94A.030.

12. MONTHLY COMPENSATION.

a. As compensation for Attorney's performance and rendering of independent professional legal services hereunder during February of 2008, Attorney's monthly compensation hereunder shall be **$5891.67 per month** (proratable for any partial month), payable on the last business day of the month.

b. During the balance of calendar year 2008, Attorney's monthly compensation hereunder shall be **$4591.67 per month** (proratable for any partial month), payable on the last business day of the month for handling **380 total case equivalents** during the calendar year.

c. During calendar year 2009, Attorney's monthly compensation hereunder shall be **$4830.00 per month** (proratable for any partial month), payable on the last business day of the month for handling **360 total case equivalents** during the calendar year.

d. During calendar year 2010, Attorney's monthly compensation hereunder shall be **$5071.67 per month**, (proratable for any partial month), payable on the last

business day of the month for handling **340 total case equivalents** during the calendar year.

e. In addition to the stated monthly compensation, commencing in calendar year 2008, Attorney shall receive $200 per day for each full day of trial and $100 for each partial day of trial, not to include pre-trial motions or time waiting for disposition. A full day of trial is defined as actual in-session trial proceedings going beyond four (4) total hours for that trial day. Commencing in calendar year 2010, Attorney shall receive $300 per day for each full day of trial and $150 for each partial day of trial.

f. The above-stated payments to Attorney will immediately cease upon the termination of this Agreement on, or for any reason prior to, the termination date specified in paragraph 1 above. For example, if this Agreement is terminated effective October 31, 2008, the above referenced monthly payments to Attorney would also terminate as of such date, and Attorney would not be entitled to receive any further monthly payments from the County; provided that, Attorney would be entitled to receive any then-accrued and unpaid amounts for services rendered hereunder prior to such termination date. By way of further example, if this Agreement is terminated effective November 15, 2008, the above-stated monthly payments to Attorney would also terminate as of such date, and Attorney would not be entitled to receive any further monthly payments from the County; provided that, Attorney would be entitled to receive on a prorata basis any then-accrued and unpaid amounts for services rendered hereunder prior to such termination date (i.e., 50% of the above-stated monthly payment amount. Attorney acknowledges and agrees that the above-stated compensation to Attorney shall constitute Attorney's full and exclusive compensation hereunder for all cases handled by Attorney under this Agreement up to the above-stated annual maximum total case equivalents.

13. **COSTS AND EXPENSES.**

a. Attorney acknowledges and agrees that Attorney shall not be entitled to claim or receive any reimbursement/payment from the County for any law practice-related overhead costs or expenses incurred by Attorney during the course of rendering legal services under this Agreement (including, without limitation, costs and expenses associated with Attorney's office, office staff, office equipment/facilities, and/or other office or law practice-related resources).

b. The County recognizes, however, that in certain circumstances the need may arise for Attorney to incur certain types of out-of-pocket expenses directly related to an indigent person's case such as private investigator fees, psychological or psychiatric evaluations, interpreter fees, scientific test fees, expert witness fees, and costs of out-of-area travel, meals and lodging.

(i) Attorney shall be entitled to receive reimbursement for the actual cost of such out-of-pocket expenditures provided that, however, Attorney shall not incur any such expense nor shall Attorney be entitled to be reimbursed for any such expense unless such expense has been pre-approved pursuant to ex-parte motion and court order (or other court-designated process) that expressly determines and finds that such expense is necessary and reasonable in accordance with applicable court rules, procedures, and standards. Such court order shall state and provide a specific dollar amount for the requested and authorized expenditure; provided that, in the event it is not reasonably possible to state and provide a specific dollar amount for a particular requested expenditure, such order may nevertheless provide authorization for the expenditure but shall establish and set forth a maximum dollar expenditure amount. In regard to any reimbursement to Attorney for any court-approved expenditures and costs pertaining to case-related travel, meals, and lodging, any reimbursement to Attorney for such expenditures and costs shall not exceed the amounts that the County would be obligated to pay and reimburse to employees of the Benton County District Court under then-existing employee travel-related policies and rules.

(ii) In addition to any other prerequisites imposed by court rules, procedures, or standards, as a precondition to Attorney being reimbursed for an expenditure under this paragraph, Attorney shall be required to submit a vendor warrant payment voucher to the County that identifies the specific expenditure(s) for which reimbursement is sought (exercising appropriate discretion to protect client confidentiality given that such vouchers are matters of public record unless sealed by the court at Attorney's request) and that has attached thereto a copy of the court order(s) that specifically pre-approved and authorized such expenditure(s) (unless sealed by the court at Attorney's request) together with attached copies of all written payment receipts relating to such incurred expenditure(s) (unless sealed by the court at Attorney's request). Attorney's administrative time expended to prepare, submit, and process vouchers shall not be billable to the County. All payment vouchers and requests for reimbursement under this paragraph shall be subject to the court's review and final approval for payment. Attorney shall submit such payment vouchers to the District Court Administrator within sixty (60) days of Attorney incurring the expense(s) for which reimbursement is sought, and the County shall have the right to deny payment of any voucher that is not timely submitted within said requisite sixty (60) day period.

14. INDEMNIFICATIONS AND HOLD HARMLESS. Attorney agrees to and shall fully indemnify the County and its elected/appointed representatives, officers, employees, and agents; and to hold the County and its elected/appointed representatives, officers, employees, and agents fully harmless; from and for any and all losses, damages, costs, charges,

claims, demands, suits, or actions of whatsoever nature directly or indirectly arising out of or by reason of Attorney's (or any person, employee, agent, contractor, or entity acting for or on behalf of Attorney or at Attorney's request or direction) acts, defaults, errors and/or omissions of whatsoever nature in the performance of legal services to any person under this Agreement. In the event any suit or legal proceeding is brought against the County or any of its elected/appointed representatives, officers, employees or agents at any time on account of or by reason of any such acts, defaults, errors and/or omissions, Attorney hereby covenants and agrees to assume the defense thereof (through counsel acceptable to the County) and to defend the same at Attorney's sole cost and expense and to pay any and all costs, charges, attorneys' fees, and other expenses as well as any and all judgments or awards that may be incurred by or entered against the County or any of its elected/appointed representatives, officers, employees or agents in such suits or other legal proceedings. Without limiting the intended broad scope and application of the indemnification and hold harmless provisions of this paragraph, for purposes of this paragraph, Attorney waives, with respect to the County only, any immunity that would otherwise be available to Attorney under the Industrial Insurance Act provisions of Title 51 RCW or any other similar workers/employee disability or benefit law. The indemnification and hold harmless provisions of this paragraph shall survive the termination or expiration of this Agreement.

15. **INSURANCE.**

a. Attorney shall obtain and maintain, at Attorney's sole cost and expense, a policy of professional liability insurance in an amount of not less than $1,000,000.00 per claim nor less than $1,000,000.00 in the aggregate during the policy term and with a maximum deductible of not more than $10,000.00.

(i) Said policy shall include coverage as an additional insured for any other person(s) or attorney(s) acting for or on behalf of Attorney in the performance of this Agreement; shall provide professional liability insurance coverage for any acts, errors and/or omissions by Attorney (and/or such additional insureds) during the course of performing legal services under this Agreement; shall require that the insurance company provide the County with no less than thirty (30) days prior written notice in the event the policy is cancelled or materially altered; shall comply with all applicable state of Washington insurance requirements; and shall be issued by an insurance company rated A- or better by A.M. Best authorized to conduct business and issue insurance in the state of Washington.

(ii) Attorney shall continuously maintain the professional liability insurance coverage required by this paragraph 15.a throughout the entire term of this Agreement, throughout any other longer time period during which Attorney is obligated to continue performing services and duties hereunder, and

for a period of no less than thirty-six (36) consecutive months after Attorney has fully completed all services and duties required hereunder.

b. Attorney shall also obtain and maintain, at Attorney's sole cost and expense, a policy of Commercial General Liability insurance (including Endorsement Form CG2011 and Contractual Liability coverage) in the amount of not less than $1,000,000.00 per occurrence nor less than $2,000,000.00 in the aggregate during the policy term. Additionally, if Attorney is an employer, Attorney shall obtain and maintain, at Attorney's sole cost and expense, a policy of Statutory Workers Compensation and Employers Liability/Stop Gap insurance in the amount of not less than $1,000,000.00.

(i) The policy of Commercial General Liability insurance shall be written on an occurrence basis; shall name the County, the Benton County District Court, and its elected/appointed representatives, officers, employees and agents as additional insureds; shall be primary coverage for both defense and indemnity and non-contributory with any insurance coverage maintained by the County; and shall provide for waiver of subrogation rights as to the County.

(ii) The insurance policies required by this paragraph 15.b shall require that the insurance company provide the County with no less than thirty (30) days prior written notice in the event the policy is cancelled or materially altered; shall comply with all applicable state of Washington insurance requirements; and shall be issued by an insurance company rated A- or better by A.M. Best authorized to conduct business and issue insurance in the state of Washington.

(iii) Attorney shall continuously maintain the insurance coverage required by this paragraph 15.b throughout the entire term of this Agreement and throughout any other longer time period during which Attorney is obligated to continue performing services and duties hereunder. Provided that, however, Attorney may elect to delay and forego obtaining the Commercial General Liability insurance coverage required by this paragraph 15.b until January 1, 2009, at which time such coverage or such other coverage as may be agreed must be obtained and thereafter maintained throughout the entire remaining term of this Agreement and throughout any longer time period during which attorney is obligated to continue performing services and duties hereunder.

c. Contemporaneously with Attorney's execution of this Agreement, Attorney shall provide the County and its then-designated Risk Manager(s) with copies or certificates of the insurance policies and coverage (including any endorsements) required under this paragraph 15, and Attorney shall annually provide the Risk Manager(s) with the same type of documented proof and confirmation that such

insurance policies and coverage continue to exist no later than thirty (30) days after the policies' annual renewal date(s).

16. **COMPLAINTS; PERFORMANCE MONITORING.** In the event that an employee/representative of the County or the Benton County District Court or the IDC receives an oral/written communication from a person represented by Attorney under this Agreement that in substance asserts an unresolved complaint about the legal services rendered to such person by Attorney, the employee/representative receiving such communication shall promptly request and obtain a written, dated, and signed statement from the complainant describing and detailing the relevant facts and circumstances underlying and alleged in the complaint, copies of which shall promptly be provided to the County, the Benton County Court Administrator and the IDC.

a. Upon receiving such complaint, the IDC, without limitation to any other action the County may deem necessary/appropriate to pursue under this Agreement, shall immediately forward a copy of the complaint to Attorney and request and obtain Attorney's written, dated, and signed response thereto (which Attorney shall prepare and provide to the County and the IDC within five (5) business days, who then shall provide the represented person with a copy of the response within five (5) business days thereafter). The IDC shall review the complaint and Attorney's response and take any action deemed necessary with Attorney and/or the represented person to address and resolve the complaint, and the disposition of the complaint shall be communicated to the represented person as soon as reasonably possible. The IDC then may follow-up with the Benton County District Court within five (5) business days thereafter to confirm or advise that the complaint has been, or is in the process of being, addressed and disposed of. This stated procedure does not interfere with or otherwise impair the Benton County District Court's ability and/or duty to monitor the performance of attorneys appearing before the court.

b. Additionally, during the term of this Agreement, in order to help ensure that indigent persons are consistently provided effective legal representation, and without limitation to any other means or methods of performance monitoring/evaluation the County may deem necessary/appropriate, Attorney acknowledges that the County and/or the IDC have the right to periodically ask, without limitation, the Benton County District Court and/or the District Court Administrator and/or other attorneys and/or persons previously represented by Attorney to provide the County with an evaluation/assessment of the quality and effectiveness of Attorney's performance of legal services and related duties and obligations under this Agreement, provided that such inquiry shall not be made of any person represented, absent a complaint from such person, during the course of representation.

17. **TERMINATION.**

a. In addition to any other automatic termination provisions set forth in this Agreement, this Agreement shall automatically terminate in the event that Attorney is suspended/disbarred from the practice of law in Washington, effective without notice as of the date of suspension/disbarment. In such event, Attorney shall be liable up to $5,000.00 for any additional costs or expenses incurred by the County and/or the Benton County District Court relating to the appointment of substitute legal counsel for any person(s) whom Attorney was appointed to represent hereunder.

Further, in the event that the Benton County District Court enters an order that prohibits or disqualifies Attorney from receiving any further appointments hereunder for any reason whatsoever, this Agreement shall automatically terminate without further notice as of the date such order is entered by the court. In the event that the court enters such an order because of unethical/unprofessional conduct by Attorney and/or because of Attorney's breach of this Agreement and the court determines at that time that the circumstances justify or require a substitution of appointed counsel for any person(s) whom Attorney was appointed to represent hereunder, Attorney shall be liable up to $5,000.00 for any additional costs or expenses incurred by the County relating to such substitute appointment(s).

b. In addition to the above-referenced automatic termination provisions, the County may elect to terminate this Agreement in the event Attorney fails for whatever reason to comply with any provision of this Agreement after giving Attorney ten (10) business days advance written notice to cure, which notice shall specify the reason(s) for the notice, the act(s) necessary to cure Attorney's failure(s), and the consequence (i.e., termination without further notice) if the failure(s) is/are not cured within the ten (10) day period. The County's right to terminate this Agreement in such regard shall be in addition to any other rights and remedies available to the County.

c. In addition to the foregoing provisions regarding termination, either party may elect to terminate this Agreement with or without cause or reason by providing the other party with ninety (90) days advance written notice of such election. Without limiting/waiving other provisions of this Agreement relating to Attorney's obligation and duty to accept and complete cases appointed to Attorney, Attorney shall not be appointed any new cases during the last thirty (30) calendar days of said ninety (90) day notice period.

d. In any event, consistent with the provisions of paragraph 12.f. above and regardless of the manner in which this Agreement is terminated, Attorney acknowledges and agrees that Attorney shall not be entitled to receive any further compensation from the County in the event this Agreement is terminated; provided that, however, Attorney shall be entitled to be paid for all services duly performed by Attorney under this Agreement up to the date of termination. Additionally, as required by paragraph 6 above, the termination of this Agreement, regardless of the manner of

termination, shall not relieve Attorney from the obligation and duty to continue representing all persons whom Attorney was appointed to represent prior to the termination unless Attorney is expressly barred or prohibited from doing so by court order and/or the suspension/disbarment of Attorney from the practice of law in Washington.

e. If the County decides in its discretion to provide indigent defense representation in Benton County District Court through a County agency (such as an Office of Public Defense or similar entity) that would eliminate the need for continuing this Agreement with Attorney, the County will notify Attorney of the County's intentions in that regard as soon as reasonably practicable so that Attorney and the County can mutually coordinate and pursue an appropriate transition. Upon receipt of such notice from the County, Attorney may apply to the County for available staff-attorney employment positions in such agency in accordance with the County's then-existing hiring and employment practices and policies; though Attorney understands and acknowledges that the hiring of Attorney to fill any such positions would not be automatic or in any way guaranteed.

18. **INDEPENDENT CONTRACTOR.** Attorney fully understands, acknowledges, and agrees that Attorney shall not be an agent, representative, or employee of the County or the Benton County District Court for any type of purpose or situation whatsoever (including, without limitation, for purposes of any type of wage, hours/overtime, workers/industrial insurance compensation, unemployment, fair labor, and/or employee benefit/leave laws, disability act coverage or rules, and/or regulations) and that Attorney, as of the date of this Agreement and throughout its entire term, is and will always be acting and operating as a fully independent contractor. In that regard, strictly subject to Attorney's duties, responsibilities and obligations imposed under this Agreement, Attorney shall have sole and absolute discretion using Attorney's best professional legal judgment to determine the manner and means of providing the legal representation services required under this Agreement; and neither the County, the County's IDC, nor the Benton County District Court shall have any authority or duty to directly control the actual performance of Attorney's professional services hereunder.

19. **NON-ASSIGNMENT AND TEMPORARY SUBSTITUTIONS.** Except as otherwise expressly provided in paragraphs 19a. and 19b. below, Attorney shall not allow or arrange for any other person to perform any of the services required by this Agreement, nor shall Attorney assign, subcontract out, or otherwise delegate any of Attorney's rights, responsibilities, or obligations under this Agreement.

a. Attorney and any of the other Benton County District Court Criminal Defense Panel members may mutually agree to make temporary, substitute appearances for each other on routine docket matters and routine court hearings on an as-needed basis as approved by the court and by the person being represented (if that person has previously discussed the case with his/her appointed attorney). Any compensation or

consideration (if any) to be paid or given by Attorney to the other Benton County District Court Criminal Defense Panel members for such substitution(s) shall be a matter of direct negotiation and agreement between Attorney and said other panel members, and said other members shall not be entitled to receive any additional compensation from the County for such substitution(s).

b. In the event Attorney needs or desires to take up to a maximum of four (4) consecutive weeks (or such longer requested period of time as may be expressly pre-approved in writing by the IDC on a case-by-case basis, in his/her sole and absolute discretion) leave of absence from the practice of law and/or the requirements of representation under this Agreement during the term of this Agreement and is unable to obtain the assistance of the other Benton County District Court Criminal Defense Panel members during such temporary absence, Attorney may seek and obtain the assistance of another Washington-licensed attorney to make temporary, substitute appearances for Attorney during such absence on routine docket matters and routine court hearings on an as-needed basis provided that Attorney and such other attorney jointly prepare, sign and file a written certification with the court (with a copy to be provided to the District Court Administrator and the IDC) in all such matters and hearings that expressly certifies that such other attorney has reviewed this Agreement and fully meets all criteria, qualifications, and requirements under this Agreement to render legal services to indigent persons and provided further that such temporary substitution is expressly authorized on the court record by the court and the particular person(s) being represented by Attorney who is/are affected by such substitution of legal counsel.

(i) Any compensation or consideration (if any) to be paid or given by Attorney to such other attorney for such substitution(s) shall be a matter of direct negotiation and agreement between Attorney and such other attorney, and such other attorney shall not be entitled to receive any compensation from the County for such substitution(s).

(ii) Unless called to active military duty, Attorney shall be responsible to ensure that such other attorney fully complies with all terms and conditions of this Agreement during such temporary absence period (including, without limitation, the requirement to maintain the insurance coverage specified in paragraph 15 above), and Attorney shall be liable for any damages or losses sustained as a result of such other attorney's non-compliance with the terms and conditions of this Agreement.

c. In the event Attorney is called up for active military duty or for direct civilian support of active military operations, Attorney shall provide the County and the IDC with written notice of such event within five (5) business days of Attorney being called up so that the IDC and Attorney can coordinate and arrange for an appropriate

substitute attorney to handle Attorney's duties under this Agreement while Attorney is on military leave and any reasonable back-to-civilian-life transition time requested by Attorney upon return. Attorney shall receive no compensation under this Agreement while on leave or during any such transition time.

20. **VACANCY AND REPLACEMENT.** In the event this Agreement is terminated by either party prior to the termination date specified in paragraph 1 above, the County may initiate, implement and pursue any actions or process deemed appropriate/necessary to seek, select, and contract with another qualified attorney to replace and succeed Attorney in representing indigent persons in Benton County District Court.

21. **OTHER APPOINTMENTS.** Attorney shall not enter into any contract/arrangement to perform prosecution services in any court or jurisdiction. Subject to, and without limiting/waiving, Attorney's duties and obligations under this Agreement, Attorney may enter into a part-time contract/arrangement to receive public defense appointments in another court or jurisdiction, provided that, and on the indispensable condition that, Attorney's duties and obligations under said part-time contract/arrangement will not conflict with or interfere with Attorney's ability to timely and effectively perform Attorney's duties and obligations under this Agreement.

22. **TEMPORARY JUDICIAL SERVICE.** Subject to, and without limiting/waiving, Attorney's duties and obligations under this Agreement, Attorney may temporarily serve as a judge pro tem in any court other than Benton County District Court, provided that, and on the indispensable condition that, it would not conflict with or interfere with Attorney's ability to timely and effectively perform Attorney's duties and obligations under this Agreement. Any potential exceptions to the foregoing limitations on Attorney serving as a judge pro tem would be strictly on a case-by-case basis and would be strictly subject to Attorney obtaining the IDC's prior express approval and authorization, which decision shall be decided on a case-by-case basis in the IDC's sole and absolute discretion. Any judicial services rendered by Attorney under this paragraph shall fully comply with all applicable Rules of Professional Conduct and Judicial Canons.

23. **ENTIRE AGREEMENT.** This Agreement constitutes the entire integrated agreement and understanding of the undersigned parties. No amendment, modification or other type of change to this Agreement shall be valid or enforceable unless reduced to writing and signed by the parties.

24. **CAPTIONS; TIME COMPUTATION.**

a. The captions and headings herein are for convenience only and shall not be relied upon or used to interpret or construe this Agreement or any portion thereof.

b. Unless otherwise expressly specified herein, any period of time specified in this Agreement shall expire at 5:00 p.m. (PTZ) of the last calendar day of the specified period of time, unless the last day is Saturday, Sunday, or a legal holiday, as prescribed in RCW 1.16.050, in which event the specified period of time shall expire at 5:00 p.m. (PTZ) of the next business day. Unless otherwise expressly specified herein as being business days only, any period of time specified in this Agreement shall mean and be calculated to include calendar days.

25. **GOVERNING LAW.** This Agreement shall be exclusively construed under and interpreted consistent with the laws of the state of Washington.

26. **BINDING EFFECT.** Strictly subject to the above restrictions against assignment, subcontracting, or delegation, this Agreement shall be binding upon Attorney's heirs, legal/personal representatives, successors, and assigns.

27. **SEVERABILITY.** In the event that any one or more provisions contained in this Agreement shall, for whatever reason, be held by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such invalid, illegal or unenforceable provision(s) shall not affect any other provision hereof, and this Agreement shall nevertheless be construed and enforced as if such invalid, illegal or unenforceable provision(s) were not contained herein.

28. **NON-WAIVER.** A party's express or implied consent to or waiver of any breach or default by the other party in the performance of such other party's obligations hereunder shall not be deemed or construed to be a consent to or waiver of any other breach or default in the performance by such other party of the same obligations or any other obligation(s) of such other party hereunder.

29. **DISPUTE RESOLUTION.**

a. In the event any type of dispute arises between the parties involving the performance or interpretation of this Agreement, and assuming that the parties are unable to resolve such dispute within a reasonable time after it arises, the parties agree that the dispute shall be submitted to mediation through the assistance of an experienced mediator chosen by mutual agreement between the parties. The County shall pay one-half of the mediator's fees and expenses, and Attorney shall pay the other one-half of such fees and expenses.

b. In the event that mediation proves unsuccessful in resolving the dispute, the parties shall submit the dispute for resolution via binding arbitration pursuant to RCW Chapter 7.04A. A single arbitrator shall be selected by agreement of the parties or, in the absence of agreement, each party shall select one (1) arbitrator and those two (2) so selected arbitrators shall mutually select a third arbitrator. The County shall pay one-half of the fees and expenses of the arbitrator(s), and Attorney shall pay the other

one-half of such fees and expenses. The provisions of RCW Chapter 7.04A and applicable Mandatory Arbitration Rules as adopted and implemented in Superior Court shall be binding as to procedure, except as to the right of appeal, which shall not be applicable. Within ten (10) business days of notice of arbitration, the arbitrator(s) shall be selected and designated and the hearing shall be held within thirty (30) business days thereafter. The arbitrator(s) shall render a written decision and award within ten (10) business days of such hearing. Without limitation, the arbitrator(s) may award damages, specific performance, and/or injunctive relief, and may register a judgment in Superior Court, including judgment by default. The most prevailing party shall be entitled to recover such party's reasonable attorneys' fees, costs and expenses from the other party as a part of the arbitration decision and award. In the event of suit or action to enforce an arbitration award, venue shall lie exclusively in Superior Court, and the most prevailing party in such suit or action shall be entitled to recover such party's reasonable attorneys' fees, costs and expenses from the other party.

30. **NOTICES.**

a. Any notices required or permitted to be given by Attorney to the County under this Agreement shall be in writing and shall be personally delivered to the County's Board of Commissioners or mailed to the County's Board of Commissioners via certified U.S. mail, postage prepaid, at the Board's following address:

Benton County Board of Commissioners
620 Market St.
Prosser, WA 99350

With a mandatory complete copy of any such notices to also be provided to:

Jacki Lahtinen
Benton County District Court Administrator
7122 West Okanogan Place, Building A
Kennewick, WA 99336

Rafael A. Gonzales
Indigent Defense Coordinator
Benton-Franklin Office of Public Defense
7122 W. Okanogan Place, Bldg. A
Kennewick, WA 99336

b. Any notices required or permitted to be given by the County to Attorney under this Agreement shall be in writing and shall be personally delivered to Attorney or mailed to Attorney via certified U.S. mail, postage prepaid, at Attorney's office address specified and set forth in paragraph 2a. above.

c. Any notices under this Agreement shall be deemed to have been duly given, made and received when personally delivered against receipt or when duly deposited in the U.S. mail in compliance with the provisions of this paragraph. A party may change the address(es) to which notices or copies thereof are to be sent by giving notice of such change of address in conformity with the provisions of this paragraph for the giving of notice.

d. For purposes of clarity, whenever the terms of this Agreement require Attorney to provide "the County" with certain information or notice, such information or notice shall be provided to the County's Board of Commissioners or the Board's designee unless this Agreement expressly mandates that such information or notice also be provided to some other person/entity.

31. **LEGAL COMPLIANCE.** Attorney agrees to and shall strictly follow and comply with any and all federal, state, local, and administrative laws, rules, and regulations applicable to Attorney's pursuit and performance of activities under this Agreement. Without limitation in that regard, Attorney shall timely and fully pay all applicable taxes, fees, licenses, and other payments required by law; and Attorney shall fully comply with any and all anti-discrimination laws and policies including, without limitation, the County's policy that no person will be subjected to discrimination by the County or their contractors based on race, color, national origin, age, sex, marital status, sexual orientation, handicap/disability, personal background, creed, or political or religious affiliation.

32. **INDIGENT DEFENSE COORDINATOR.** Attorney acknowledges that the County has employed an IDC to coordinate, monitor, and evaluate the performances and compliance of independent contractor attorneys (like Attorney) under public indigent defense agreements with the County. Attorney further acknowledges that the County has the right and discretion to direct the IDC to assume and fulfill various roles and functions under this Agreement. Though the IDC will not have or attempt to exercise direct control over the manner and means in which Attorney provides legal services under this Agreement, Attorney agrees to reasonably cooperate and promptly comply with reasonable requests from the IDC to allow for the effective monitoring and evaluation of Attorney's performance under and in compliance with this Agreement.

(SIGNATURES APPEAR ON FOLLOWING PAGE)

IN WITNESS WHEREOF, the parties hereto have entered into and executed this Agreement on the date set forth below.

Date: _____

BENTON COUNTY

_____

Chairman

_____

Commissioner

_____

Commissioner

Date: 2/20/08

ATTORNEY

36226

Perman Younesi WSBA#

Approved as to Content:

Rafael A. Gonzales
Indigent Defense Coordinator

Approved as to Form:

_____

Timothy G. Klashke
Attorney at Law

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF A PROFESSIONAL SERVICES AGREEMENT WITH DANIEL KATHREN, ATTORNEY AT LAW, FOR LEGAL REPRESENTATION OF INDIGENT INDIVIDUALS CHARGED WITH MISDEMEANORS IN BENTON COUNTY DISTRICT COURT, RESCINDING PREVIOUS PERSONAL SERVICE AGREEMENT.

WHEREAS, the Board of County Commissioners previously entered into a Personal Service Agreement with Daniel Kathren for legal representation of indigent individuals charged with misdemeanors in District Court, Resolution 05-090; and

WHEREAS, the Board of County Commissioners and Daniel Kathren both desire to terminate that Personal Service Agreement and enter into a new agreement effective February 01, 2008;

NOW, THEREFORE,

BE IT RESOLVED, that the Board of Benton County Commissioners hereby approves the attached Professional Service Agreement for Legal Representation of Indigent Individuals Charged With Misdemeanors in District Court with Daniel Kathren for the period February 01, 2008 through December 31, 2010,

BE IT FURTHER RESOLVED, that the Personal Service Agreement, Resolution 05-090 between Benton County and Daniel Kathren, previously entered into be and hereby is terminated effective January 31, 2008.

Dated this ..... day of ....., 2008

Chairman of the Board

Chairman Pro-Tem

Member

Attest: .....
Clerk of the Board

Constituting the Board of County Commissioners of Benton County, Washington

Original: File
cc: Daniel Kathren; Jacki Lahtinen: Rosie Sparks; Rosemary Ozua

J.Paxton

PROFESSIONAL SERVICES AGREEMENT TO PROVIDE LEGAL REPRESENTATION TO INDIGENT PERSONS IN BENTON COUNTY DISTRICT COURT

THIS AGREEMENT is entered into by and between **Daniel Kathren,** attorney at law, Washington State Bar Association #26133, (Attorney) and **BENTON COUNTY,** a State of Washington political subdivision (the County), for and on behalf of the Benton County District Court.

THIS AGREEMENT IS ENTERED INTO BASED UPON THE FOLLOWING FACTS AND CIRCUMSTANCES:

A. The County has the legal responsibility to provide legal defense services to indigent persons charged with misdemeanor criminal offenses alleged to have been committed within the County's jurisdictional boundaries.

B. Attorney is engaged in the private practice of law, has direct experience in litigating cases involving persons charged with criminal offenses, and desires to contract with the County to provide legal services to indigent persons subject to misdemeanor criminal charges in the Benton County District Court.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein, the County and Attorney hereby agree as follows:

1. **AGREEMENT TERM.** This Agreement shall be deemed effective for all purposes as of **February 1, 2008,** and shall continue thereafter through and including the **31st day of December 2010,** unless earlier terminated pursuant to the applicable terms and provisions of this Agreement.

2. **ATTORNEY'S OFFICE LOCATION.**

a. Attorney presently and regularly maintains an office adequate and appropriate for the practice of law at 1776 Fowler, Suite 6, Richland, WA, 99352. Attorney's current local office telephone and fax numbers are (509) 783-3376 and (509) 783-3206 respectively; and Attorney's current office/work e-mail address is WAATTORNEY@aol.com.

b. Throughout the entire term of this Agreement, Attorney shall continue to maintain such an office, such telephone and fax numbers, and such e-mail address; provided that, however, Attorney may relocate Attorney's office to another location within the Greater Tri-Cities, Washington, and/or Attorney may change Attorney's telephone/fax number to another Greater Tri-

Cities local telephone/fax number, and/or Attorney may change Attorney's e-mail address, provided that Attorney must provide immediate written notice of such change(s) to the Benton-Franklin Indigent Defense Coordinator (IDC), the Benton County Prosecuting Attorney, and the Benton County District Court Administrator (District Court Administrator).

c. The County prefers that Attorney locate and maintain Attorney's office in a commercial/professional building. However, regardless of the location Attorney decides to maintain his/her office, the office must be capable of accommodating confidential face-to-face meetings between Attorney and persons whom Attorney is appointed to represent under this Agreement, must be capable of regularly receiving mail, and must have adequate telephone service to facilitate and ensure prompt response to contact with or from represented persons.

3. **ATTORNEY'S QUALIFICATIONS.** Attorney acknowledges and agrees that the County has an obligation to provide competent and effective legal counsel to indigent persons subject to proceedings in the Benton County District Court. Attorney shall perform all services hereunder in strict accordance with the usual skills and professional ethical standards exercised by attorneys engaged in the defense of persons accused of misdemeanor crimes in the state of Washington and generally exercised by members of the Washington State Bar Association (WSBA). Without limitation in that regard, Attorney acknowledges and agrees that Attorney has a fundamental duty and responsibility to effectively promote and protect the best interests and rights of all persons whom Attorney is appointed to represent under this Agreement.

a. As of the date of this Agreement, Attorney represents and warrants that Attorney is unconditionally licensed to practice law within the state of Washington; has had at least one (1) year of direct trial experience in criminal defense or criminal prosecution matters; has not been subject to a termination proceeding involving a previous personal service agreement for indigent defense services; has not been censured, admonished, or otherwise formally disciplined for past conduct or behavior that would negatively reflect on Attorney's duty and ability to effectively and competently render legal services hereunder; has not been suspended or disbarred from the practice of law in any state or jurisdiction at any time in the past; and does not have any bar association complaints filed and pending against him/her.

(i) This Agreement may be subject to review and, if applicable and/or necessary, further action pursuant to paragraph 17 below in the event that Attorney's license to practice law in Washington is revoked or otherwise limited or restricted; in the event that a court of competent jurisdiction formally determines and expressly finds that Attorney has rendered ineffective assistance of counsel to any person; in the event that Attorney is censored, admonished, or otherwise formally disciplined for conduct or behavior that negatively reflects on

Attorney's duty and ability to effectively and competently render legal services hereunder; or in the event that Attorney is suspended or disbarred from the practice of law in any other state or jurisdiction.

(ii) Attorney shall notify the County within three (3) business days if any event specified in paragraph 3.a.(i) above occurs or if any bar association complaint is filed against Attorney.

b. To comply with the provisions of RCW 72.05.440, WAC 388-700-0010, and RCW 13.40.570, Attorney acknowledges and agrees that the County may conduct criminal history background check(s) on Attorney. Attorney acknowledges and agrees that this Agreement shall be deemed immediately and automatically terminated upon the County receiving a non-complying or otherwise unsatisfactory criminal history background check report.

c. Attorney represents, warrants, and certifies that Attorney has read and fully understands the requirements of RCW 13.40.570 (sexual misconduct by state employees, contractors) and all sex offense crimes included in RCW Chapter 9A.44. Attorney shall comply with any and all applicable legal and/or administrative requirements relating to the documentation/reporting of sexual misconduct.

d. During each calendar year of the term of this Agreement, beginning in calendar year 2008, Attorney shall be required to obtain at least seven (7) hours of WSBA-qualified Continuing Legal Education (CLE) credits in courses directly relating to Attorney's public defense practice under this Agreement. Attorney shall provide the Indigent Defense Coordinator with written proof and confirmation that such CLE credits have been obtained no later than by December 31st of each calendar year. Additionally, during each calendar year during the term of this Agreement, in addition to participating in any specialized training-related activity specified in RCW 10.101.060(1)(a)(iii) or otherwise specifically required by other applicable law or court rule, Attorney shall attend at least one (1) public defense services-related training seminar sponsored and/or approved by the Washington Office of Public Defense (OPD), and any CLE credit earned by Attorney by attending such training seminar(s) may be applied towards the above-mentioned minimum seven (7) hours. The County may provide Attorney's name and address to the OPD for purposes of the OPD notifying Attorney of any such upcoming training seminars. Attorney shall provide the IDC with written proof and confirmation that such required training seminar has been attended by Attorney no later than by December 31st of each calendar year.

e. Attorney represents and warrants that, throughout the entire term of this Agreement, Attorney's private law practice caseload; Attorney's schedule; and Attorney's office resources, equipment, and support staff; will allow Attorney to competently undertake and effectively perform all services required under this

Agreement. Attorney represents and warrants that Attorney's private law practice and schedule will not interfere with Attorney's ability to timely and efficiently perform such services including, without limitation, Attorney's ability to prepare for and attend regularly scheduled trials and dockets or Attorney's ability to schedule and conduct face-to-face meetings with the persons Attorney is appointed to represent under this Agreement for purposes of discussing, preparing, and pursuing the most viable defense(s) and/or resolution available and keeping such persons reasonably apprised as to the status of their case.

f. Pursuant to RCW 10.101.050, no later than by the 15th day of each month during the term of this Agreement, Attorney shall provide the IDC with a written report showing the total number and specific types of private practice cases (which for purposes of this Agreement shall include pro bono cases, retained-fee cases, and any cases handled by Attorney under any other professional/personal services agreement) in which Attorney provided legal services during the preceding month and the total number and specific types of appointed cases under this Agreement in which Attorney provided legal services during the preceding month. Additionally, in the event that the public defense attorney caseload activity reporting requirements under RCW 10.101.050 are later amended/modified, Attorney shall correspondingly comply with any such amended/modified reporting requirements without added compensation upon written notice from the County to do so.

4. **OTHER INDIGENT DEFENSE AGREEMENTS.** On or about the date of this Agreement, the County contemplates entering into separate and independent professional services agreements with other licensed attorneys to primarily provide criminal defense services to persons accused of misdemeanor crimes in Benton County District Court. Attorney agrees to fully cooperate and coordinate with said other attorneys, the Benton County District Court, the District Court Administrator and the IDC to establish a process to effectuate the efficient and equitable distribution of case appointments between Attorney and said other attorneys (collectively the Benton County District Court Criminal Defense Panel). The District Court Administrator and/or the IDC shall have the inherent discretion and authority to monitor and control (and reasonably modify/change) such process.

5. **CASE APPOINTMENTS.** During the term of this Agreement, Attorney agrees to and shall accept appointments to represent indigent persons (regardless of their race, color, national origin, age, sex, marital status, sexual orientation, handicap/disability, personal background, creed, or political or religious affiliation) on any matter in the Benton County District Court in which publicly provided counsel is furnished or required by law. More specifically, Attorney shall accept court appointments to represent indigent persons on any of the following types of matters:

- Any misdemeanor matter filed or otherwise pending under the applicable Washington criminal statutes and/or under any other applicable Washington law in the Benton County District Court.

- Any post-disposition probation violation, revocation, modification, and/or contempt-of-court proceeding relating to any underlying criminal case.

- Any material witness matter relating to a case or matter filed in Benton County District Court.

- Any case or matter returned to the Benton County District Court from any higher court.

- Any other type of Benton County District Court case or matter in which another Benton County District Court Criminal Defense Panel member and/or any other attorney who is under a professional services agreement to provide legal representation in Benton County District Court is unable to handle due to a conflict of interest.

- Any case or matter transferred from the Juvenile Court through declination or other court proceedings.

- Any civil contempt of court proceeding, not including non-contempt matters such as non-criminal custody or paternity matters.

6. **CONTINUED REPRESENTATION.**

a. Attorney has a duty to timely and fully complete all cases appointed to Attorney under this Agreement. In that regard, Attorney shall continue to provide representation for those persons whom Attorney was appointed to represent and whose case was not concluded prior to the effective date of termination of this Agreement for up to ninety (90) days following the effective date of termination. Attorney's obligation to continue post-termination representation shall not in any way entitle Attorney to receive any additional compensation beyond the compensation amount(s) specified in this Agreement.

(i) By way of example, in the event that Attorney is required by this paragraph to continue representing a person charged with a crime after the termination date of this Agreement, Attorney shall not be entitled to receive any compensation as a result of such continued, post-termination representation.

(ii) By way of further example, in the event that Attorney is required by this paragraph to continue representing a person charged with a crime or matter after the termination date of this Agreement, the only compensation that

Attorney would be entitled to receive as a result of such continued, post-termination representation is court-authorized cost reimbursements specified in paragraph 13.b below.

b. Notwithstanding anything in this paragraph 6 or elsewhere in this Agreement to the contrary, Attorney's post-termination duty and obligation to continue representing persons whom Attorney was appointed to represent in Benton County District Court for up to ninety (90) days shall be limited to a sixty (60) day period following the termination date for the following types of matters:

(i) Any civil-based matter;

(ii) Any matter involving a represented person for whom a warrant has been issued; and

(iii) Any case where personal service is not effected within thirty (30) days of the date of the notice of termination.

c. Attorney will be appointed to no new cases under this Agreement during the thirty (30) day period prior to its termination date specified in paragraph 1 above if Attorney provides written notice to the County at least sixty (60) days prior to such termination date of Attorney's desire and intent to not pursue contracting with the County again to provide indigent defense services in Benton County District Court after such termination date. Attorney may belatedly provide such written notice at any time within said sixty (60) day time period, but the appointment of new cases to Attorney will not stop until thirty (30) days after the date such notice is received by the County.

7. **NUMBER OF APPOINTMENTS.** During each calendar year of the term of this Agreement, Attorney agrees to and shall accept appointments hereunder to represent persons in the Benton County District Court up to a maximum of **three hundred and eighty (380) total case equivalents per calendar year,** (proratable for any partial calendar year), for calendar year 2008 with downward adjustments in 2009 and 2010 as indicated below. The date on which a case or matter is filed (rather than its final date of disposition) shall be used to determine the calendar year in which a case equivalent is to be counted.

8. **CASE EQUIVALENTS.**

a. For purposes of calculating Attorney's above-referenced "case equivalents" under this Agreement, the following provisions shall apply:

- A misdemeanor appointment shall be counted as one (1) case equivalent.

- A probation violation appointment shall be counted as one-half (1/2) case equivalent.

- An appointment on a mental or substance-abuse commitment, generally to be appointed only when necessary for conflict reasons, shall count as one (1) case equivalent.

- An appointment to represent a person in a material witness matter in a case pending in Benton County District Court shall count as one half (1/2) of a case equivalent.

- An appointment to a case or matter returned to Benton County District Court from a higher court shall be counted as determined by the IDC following consultation.

- If Attorney is appointed to a case and withdraws prior to the omnibus hearing for any reason, including the substitution of retained counsel or a conflict of interest, that appointment shall not count as any case equivalent; provided that the IDC shall retain discretion to award a case equivalent value (or fractional portion thereof) if deemed appropriate following consultation.

- Case equivalent value assigned is based on cases, not charges, and is determined by the classification of the most serious offense charged.

- Any civil contempt of court proceeding shall count as one-half (1/2) of a case equivalent.

b. An appointment to any matter in which Attorney was previously appointed shall not be further counted as any type of case equivalent if such matter was not fully concluded and subsequently arises again before the Benton County District Court and Attorney continues representing the same person in such matter within a 12-month period (e.g., if Attorney was appointed to represent a person on a criminal charge who fails to appear for trial but is back before the court within 12 months, Attorney's continued representation of such person following his later arrest shall be deemed as being a prior and ongoing representation and shall not count as any type of further or additional case equivalent). Provided that, however, if Attorney was appointed to represent a person who is duly tried, convicted, and sentenced, Attorney's subsequent representation of such person during subsequent proceedings for alleged

violations of sentence conditions shall be deemed as being an independent and unrelated matter.

c. Except as may be otherwise specifically and expressly provided in this Agreement, an appointment to any matter involving multiple charges arising out of a single incident or series of substantially related incidents shall be considered as being one (1) case equivalent. Similarly, except as may be otherwise expressly provided in this Agreement, an appointment to any matter involving multiple charges brought/filed under a single cause number and/or which are properly joined for purposes of trial shall be considered as being one (1) case equivalent. Provided, however, the IDC may in his discretion adjust the case equivalent total earned under this paragraph upon written request from, and after review and consultation with, Attorney.

d. Throughout the term of this Agreement, the IDC shall keep and maintain records consistent with the provisions of this Agreement in a format adequate to accurately track and monitor the number of Attorney's appointments and total case equivalents hereunder. The IDC shall provide copies of such records to the County and Attorney on a monthly basis. Attorney shall have the burden of proof in the event that Attorney ever disagrees with any such records, and Attorney must notify the IDC in writing within ten (10) business days of records receipt if Attorney disagrees with, and desires to dispute, any such records, otherwise such records shall be conclusively presumed as being accurate.

9. **CLIENT ELIGIBILITY.** The Benton County District Court (or its designee), consistent with applicable laws, rules and standards, shall determine the eligibility of any particular person for representation by Attorney under this Agreement. Attorney is under no obligation to determine a person's eligibility or continuing eligibility to receive publicly provided representation. However, if Attorney is appointed to represent a person and subsequently discovers that such person may not be eligible to receive publicly-provided representation under applicable laws, rules and standards, Attorney, if able to do so within the bounds of applicable ethical rules and professional standards, shall promptly notify the Benton County District Court of such possibility for purposes of the District Court (or its designee) taking action at its discretion to re-determine whether such person is/remains eligible to receive publicly-provided representation. If the Benton County District Court (or its designee) then determines that such person is not eligible for publicly provided representation, the appointment of Attorney to represent such person shall be rescinded and such person shall be required to retain his/her own legal counsel. Attorney shall not thereafter represent such person in such matter on a retained-fee basis unless such person applies for and receives the Benton County District Court's permission allowing such representation. Nothing contained herein shall prevent Attorney from representing a person on a retained-fee basis in an action in which Attorney has not been appointed by the Benton County District Court to represent such person, or from representing a person on a retained-fee basis whom Attorney has been appointed by the Benton County District Court to represent provided that the matter(s)

involving the retained representation are wholly independent and unrelated to the matter for which Attorney was appointed.

10. **CONFLICTS.** Notwithstanding any other terms or provisions contained in this Agreement to the contrary, Attorney shall not be required to accept, and Attorney shall decline to accept, an appointment under this Agreement if the particular appointment would create a true and bona fide conflict of interest for Attorney or would otherwise cause or constitute an actual violation of any generally recognized ethical or professional standards common and applicable to attorneys in the state of Washington. Furthermore, in the event a true and bona fide conflict of interest arises subsequent to Attorney receiving an appointment under this Agreement (or in the event Attorney's continued involvement in a pending case would cause or constitute an actual violation of any such ethical or professional standards), Attorney shall immediately make the Benton County District Court aware of such development for purposes of the District Court taking immediate action to appoint another attorney to assume and undertake legal representation in such case.

11. **SCOPE OF REPRESENTATION; FILE RETENTION.** Attorney agrees to and shall represent all persons whom Attorney is appointed to represent hereunder with the same skill and commitment as Attorney exercises and expends when representing persons on a private and/or retained-fee basis. Without limitation in that regard, such representation shall include the investigation of the underlying facts, the research of all relevant law, interviewing of potential witnesses, retention and use of investigators and/or experts when warranted and necessary, appropriate communication with the client, review of potential plea alternatives, review of potential collateral consequences associated with a plea/conviction (e.g., potential immigration or civil commitment consequences), and the preparation for and appearance on behalf of the client in all stages of District Court proceedings including, without limitation, arraignments, pre-trial hearings, motions, trials, sentencing/disposition proceedings, contempt proceedings, appeals (limited to the preparation and filing of any and all pleadings necessary and appropriate to perfect any appeal or statutory writ to a higher court, including the appointment of publicly-provided counsel, if and when applicable), and post-conviction reviews.

a. Without limiting Attorney's duty to initially meet with an indigent person to discuss his/her case as soon as reasonably possible following Attorney's appointment to the case, when Attorney is appointed to an "in custody" case (i.e., a case in which the person is confined/incarcerated), Attorney shall use best efforts to meet face-to-face within three (3) business days of Attorney receiving the appointment (unless the circumstances of a particular case reasonably require that Attorney make earlier initial contact with the person), otherwise, as soon thereafter as is reasonably feasible.

b. Additionally, throughout Attorney's representation of any person under this Agreement, Attorney shall maintain appropriate contact/communications with the person so as to keep him/her fully apprised as to the status of his/her case; and Attorney

shall use best efforts to apprise the person of any new development in his/her case within three (3) business days of Attorney learning of such development (unless the circumstances of a particular case reasonably require that Attorney make earlier contact with the person), otherwise, as soon thereafter as is reasonably feasible. Without limiting any of the foregoing provisions of this paragraph, with regard to any court hearing involving a represented person, Attorney shall contact (preferably in person or at least via telephone) such person to discuss his/her case and the purpose of the hearing no later than one (1) business day prior to the hearing date.

c. Attorney shall compile and maintain appropriate case records for each person whom Attorney is appointed to represent hereunder. Attorney shall retain such case records in their entirety (or a complete and legible copy thereof, to include electronic file storage) for a period of no less than seven (7) years from the date on which the case or matter is fully and finally concluded or for any other time period specified under applicable court rule or statute, whichever date/event occurs last.

d. Upon Attorney pleading guilty or being convicted of any of the following-described offenses, Attorney shall notify the IDC of such plea/conviction within seven (7) calendar days thereafter, and Attorney's failure to timely report within such timeframe shall constitute misconduct under RCW Title 50 and result in the immediate and automatic termination of this Agreement:

(i) Any felony sex offense as defined in RCW 9.94A.030 and RCW 9A.44.130;

(ii) Any crime specified in RCW Chapter 9A.44 when the victim was a juvenile in the custody of, or under the jurisdiction of, the Juvenile Rehabilitation Administration, Washington Department of Social and Health Services; and/or

(iii) Any violent offense as defined in RCW 9.94A.030.

12. **MONTHLY COMPENSATION.**

a. During the balance of calendar year 2008, Attorney's monthly compensation hereunder shall be **$4591.67 per month** (proratable for any partial month), payable on the last business day of the month for handling **380 total case equivalents** during the calendar year.

b. During calendar year 2009, Attorney's monthly compensation hereunder shall be **$4830.00 per month** (proratable for any partial month), payable on the last

business day of the month for handling **360 total case equivalents** during the calendar year.

c. During calendar year 2010, Attorney's monthly compensation hereunder shall be **$5071.67 per month**, (proratable for any partial month), payable on the last business day of the month for handling **340 total case equivalents** during the calendar year.

d. In addition to the stated monthly compensation, commencing in calendar year 2008, Attorney shall receive $200 per day for each full day of trial and $100 for each partial day of trial, not to include pre-trial motions or time waiting for disposition. A full day of trial is defined as actual in-session trial proceedings going beyond four (4) total hours for that trial day. Commencing in calendar year 2010, Attorney shall receive $300 per day for each full day of trial and $150 for each partial day of trial.

e. The above-stated payments to Attorney will immediately cease upon the termination of this Agreement on, or for any reason prior to, the termination date specified in paragraph 1 above. For example, if this Agreement is terminated effective October 31, 2008, the above referenced monthly payments to Attorney would also terminate as of such date, and Attorney would not be entitled to receive any further monthly payments from the County; provided that, Attorney would be entitled to receive any then-accrued and unpaid amounts for services rendered hereunder prior to such termination date. By way of further example, if this Agreement is terminated effective November 15, 2008, the above-stated monthly payments to Attorney would also terminate as of such date, and Attorney would not be entitled to receive any further monthly payments from the County; provided that, Attorney would be entitled to receive on a prorata basis any then-accrued and unpaid amounts for services rendered hereunder prior to such termination date (i.e., 50% of the above-stated monthly payment amount. Attorney acknowledges and agrees that the above-stated compensation to Attorney shall constitute Attorney's full and exclusive compensation hereunder for all cases handled by Attorney under this Agreement up to the above-stated annual maximum total case equivalents.

13. **COSTS AND EXPENSES.**

a. Attorney acknowledges and agrees that Attorney shall not be entitled to claim or receive any reimbursement/payment from the County for any law practice-related overhead costs or expenses incurred by Attorney during the course of rendering legal services under this Agreement (including, without limitation, costs and expenses associated with Attorney's office, office staff, office equipment/facilities, and/or other office or law practice-related resources).

b. The County recognizes, however, that in certain circumstances the need may arise for Attorney to incur certain types of out-of-pocket expenses directly related to an indigent person's case such as private investigator fees, psychological or psychiatric evaluations, interpreter fees, scientific test fees, expert witness fees, and costs of out-of-area travel, meals and lodging.

(i) Attorney shall be entitled to receive reimbursement for the actual cost of such out-of-pocket expenditures provided that, however, Attorney shall not incur any such expense nor shall Attorney be entitled to be reimbursed for any such expense unless such expense has been pre-approved pursuant to ex-parte motion and court order (or other court-designated process) that expressly determines and finds that such expense is necessary and reasonable in accordance with applicable court rules, procedures, and standards. Such court order shall state and provide a specific dollar amount for the requested and authorized expenditure; provided that, in the event it is not reasonably possible to state and provide a specific dollar amount for a particular requested expenditure, such order may nevertheless provide authorization for the expenditure but shall establish and set forth a maximum dollar expenditure amount. In regard to any reimbursement to Attorney for any court-approved expenditures and costs pertaining to case-related travel, meals, and lodging, any reimbursement to Attorney for such expenditures and costs shall not exceed the amounts that the County would be obligated to pay and reimburse to employees of the Benton County District Court under then-existing employee travel-related policies and rules.

(ii) In addition to any other prerequisites imposed by court rules, procedures, or standards, as a precondition to Attorney being reimbursed for an expenditure under this paragraph, Attorney shall be required to submit a vendor warrant payment voucher to the County that identifies the specific expenditure(s) for which reimbursement is sought (exercising appropriate discretion to protect client confidentiality given that such vouchers are matters of public record unless sealed by the court at Attorney's request) and that has attached thereto a copy of the court order(s) that specifically pre-approved and authorized such expenditure(s) (unless sealed by the court at Attorney's request) together with attached copies of all written payment receipts relating to such incurred expenditure(s) (unless sealed by the court at Attorney's request). Attorney's administrative time expended to prepare, submit, and process vouchers shall not be billable to the County. All payment vouchers and requests for reimbursement under this paragraph shall be subject to the court's review and final approval for payment. Attorney shall submit such payment vouchers to the District Court Administrator within sixty (60) days of Attorney incurring the expense(s) for which reimbursement is sought, and the County shall have the

right to deny payment of any voucher that is not timely submitted within said requisite sixty (60) day period.

14. **INDEMNIFICATIONS AND HOLD HARMLESS.** Attorney agrees to and shall fully indemnify the County and its elected/appointed representatives, officers, employees, and agents; and to hold the County and its elected/appointed representatives, officers, employees, and agents fully harmless; from and for any and all losses, damages, costs, charges, claims, demands, suits, or actions of whatsoever nature directly or indirectly arising out of or by reason of Attorney's (or any person, employee, agent, contractor, or entity acting for or on behalf of Attorney or at Attorney's request or direction) acts, defaults, errors and/or omissions of whatsoever nature in the performance of legal services to any person under this Agreement. In the event any suit or legal proceeding is brought against the County or any of its elected/appointed representatives, officers, employees or agents at any time on account of or by reason of any such acts, defaults, errors and/or omissions, Attorney hereby covenants and agrees to assume the defense thereof (through counsel acceptable to the County) and to defend the same at Attorney's sole cost and expense and to pay any and all costs, charges, attorneys' fees, and other expenses as well as any and all judgments or awards that may be incurred by or entered against the County or any of its elected/appointed representatives, officers, employees or agents in such suits or other legal proceedings. Without limiting the intended broad scope and application of the indemnification and hold harmless provisions of this paragraph, for purposes of this paragraph, Attorney waives, with respect to the County only, any immunity that would otherwise be available to Attorney under the Industrial Insurance Act provisions of Title 51 RCW or any other similar workers/employee disability or benefit law. The indemnification and hold harmless provisions of this paragraph shall survive the termination or expiration of this Agreement.

15. **INSURANCE.**

a. Attorney shall obtain and maintain, at Attorney's sole cost and expense, a policy of professional liability insurance in an amount of not less than $1,000,000.00 per claim nor less than $1,000,000.00 in the aggregate during the policy term and with a maximum deductible of not more than $10,000.00.

(i) Said policy shall include coverage as an additional insured for any other person(s) or attorney(s) acting for or on behalf of Attorney in the performance of this Agreement; shall provide professional liability insurance coverage for any acts, errors and/or omissions by Attorney (and/or such additional insureds) during the course of performing legal services under this Agreement; shall require that the insurance company provide the County with no less than thirty (30) days prior written notice in the event the policy is cancelled or materially altered; shall comply with all applicable state of Washington insurance requirements; and shall be issued by an insurance

company rated A- or better by A.M. Best authorized to conduct business and issue insurance in the state of Washington.

(ii) Attorney shall continuously maintain the professional liability insurance coverage required by this paragraph 15.a throughout the entire term of this Agreement, throughout any other longer time period during which Attorney is obligated to continue performing services and duties hereunder, and for a period of no less than thirty-six (36) consecutive months after Attorney has fully completed all services and duties required hereunder.

b. Attorney shall also obtain and maintain, at Attorney's sole cost and expense, a policy of Commercial General Liability insurance (including Endorsement Form CG2011 and Contractual Liability coverage) in the amount of not less than $1,000,000.00 per occurrence nor less than $2,000,000.00 in the aggregate during the policy term. Additionally, if Attorney is an employer, Attorney shall obtain and maintain, at Attorney's sole cost and expense, a policy of Statutory Workers Compensation and Employers Liability/Stop Gap insurance in the amount of not less than $1,000,000.00.

(i) The policy of Commercial General Liability insurance shall be written on an occurrence basis; shall name the County, the Benton County District Court, and its elected/appointed representatives, officers, employees and agents as additional insureds; shall be primary coverage for both defense and indemnity and non-contributory with any insurance coverage maintained by the County; and shall provide for waiver of subrogation rights as to the County.

(ii) The insurance policies required by this paragraph 15.b shall require that the insurance company provide the County with no less than thirty (30) days prior written notice in the event the policy is cancelled or materially altered; shall comply with all applicable state of Washington insurance requirements; and shall be issued by an insurance company rated A- or better by A.M. Best authorized to conduct business and issue insurance in the state of Washington.

(iii) Attorney shall continuously maintain the insurance coverage required by this paragraph 15.b throughout the entire term of this Agreement and throughout any other longer time period during which Attorney is obligated to continue performing services and duties hereunder. Provided that, however, Attorney may elect to delay and forego obtaining the Commercial General Liability insurance coverage required by this paragraph 15.b until January 1, 2009, at which time such coverage or such other coverage as may be agreed must be obtained and thereafter maintained throughout the entire remaining term of

this Agreement and throughout any longer time period during which attorney is obligated to continue performing services and duties hereunder.

c. Contemporaneously with Attorney's execution of this Agreement, Attorney shall provide the County and its then-designated Risk Manager(s) with copies or certificates of the insurance policies and coverage (including any endorsements) required under this paragraph 15, and Attorney shall annually provide the Risk Manager(s) with the same type of documented proof and confirmation that such insurance policies and coverage continue to exist no later than thirty (30) days after the policies' annual renewal date(s).

16. **COMPLAINTS; PERFORMANCE MONITORING.** In the event that an employee/representative of the County or the Benton County District Court or the IDC receives an oral/written communication from a person represented by Attorney under this Agreement that in substance asserts an unresolved complaint about the legal services rendered to such person by Attorney, the employee/representative receiving such communication shall promptly request and obtain a written, dated, and signed statement from the complainant describing and detailing the relevant facts and circumstances underlying and alleged in the complaint, copies of which shall promptly be provided to the County, the Benton County Court Administrator and the IDC.

a. Upon receiving such complaint, the IDC, without limitation to any other action the County may deem necessary/appropriate to pursue under this Agreement, shall immediately forward a copy of the complaint to Attorney and request and obtain Attorney's written, dated, and signed response thereto (which Attorney shall prepare and provide to the County and the IDC within five (5) business days, who then shall provide the represented person with a copy of the response within five (5) business days thereafter). The IDC shall review the complaint and Attorney's response and take any action deemed necessary with Attorney and/or the represented person to address and resolve the complaint, and the disposition of the complaint shall be communicated to the represented person as soon as reasonably possible. The IDC then may follow-up with the Benton County District Court within five (5) business days thereafter to confirm or advise that the complaint has been, or is in the process of being, addressed and disposed of. This stated procedure does not interfere with or otherwise impair the Benton County District Court's ability and/or duty to monitor the performance of attorneys appearing before the court.

b. Additionally, during the term of this Agreement, in order to help ensure that indigent persons are consistently provided effective legal representation, and without limitation to any other means or methods of performance monitoring/evaluation the County may deem necessary/appropriate, Attorney acknowledges that the County and/or the IDC have the right to periodically ask, without limitation, the Benton County District Court and/or the District Court

Administrator and/or other attorneys and/or persons previously represented by Attorney to provide the County with an evaluation/assessment of the quality and effectiveness of Attorney's performance of legal services and related duties and obligations under this Agreement, provided that such inquiry shall not be made of any person represented, absent a complaint from such person, during the course of representation.

17. **TERMINATION.**

a. In addition to any other automatic termination provisions set forth in this Agreement, this Agreement shall automatically terminate in the event that Attorney is suspended/disbarred from the practice of law in Washington, effective without notice as of the date of suspension/disbarment. In such event, Attorney shall be liable up to $5,000.00 for any additional costs or expenses incurred by the County and/or the Benton County District Court relating to the appointment of substitute legal counsel for any person(s) whom Attorney was appointed to represent hereunder.

Further, in the event that the Benton County District Court enters an order that prohibits or disqualifies Attorney from receiving any further appointments hereunder for any reason whatsoever, this Agreement shall automatically terminate without further notice as of the date such order is entered by the court. In the event that the court enters such an order because of unethical/unprofessional conduct by Attorney and/or because of Attorney's breach of this Agreement and the court determines at that time that the circumstances justify or require a substitution of appointed counsel for any person(s) whom Attorney was appointed to represent hereunder, Attorney shall be liable up to $5,000.00 for any additional costs or expenses incurred by the County relating to such substitute appointment(s).

b. In addition to the above-referenced automatic termination provisions, the County may elect to terminate this Agreement in the event Attorney fails for whatever reason to comply with any provision of this Agreement after giving Attorney ten (10) business days advance written notice to cure, which notice shall specify the reason(s) for the notice, the act(s) necessary to cure Attorney's failure(s), and the consequence (i.e., termination without further notice) if the failure(s) is/are not cured within the ten (10) day period. The County's right to terminate this Agreement in such regard shall be in addition to any other rights and remedies available to the County.

c. In addition to the foregoing provisions regarding termination, either party may elect to terminate this Agreement with or without cause or reason by providing the other party with ninety (90) days advance written notice of such election. Without limiting/waiving other provisions of this Agreement relating to Attorney's obligation and duty to accept and complete cases appointed to Attorney, Attorney shall

not be appointed any new cases during the last thirty (30) calendar days of said ninety (90) day notice period.

d. In any event, consistent with the provisions of paragraph 12.f. above and regardless of the manner in which this Agreement is terminated, Attorney acknowledges and agrees that Attorney shall not be entitled to receive any further compensation from the County in the event this Agreement is terminated; provided that, however, Attorney shall be entitled to be paid for all services duly performed by Attorney under this Agreement up to the date of termination. Additionally, as required by paragraph 6 above, the termination of this Agreement, regardless of the manner of termination, shall not relieve Attorney from the obligation and duty to continue representing all persons whom Attorney was appointed to represent prior to the termination unless Attorney is expressly barred or prohibited from doing so by court order and/or the suspension/disbarment of Attorney from the practice of law in Washington.

e. If the County decides in its discretion to provide indigent defense representation in Benton County District Court through a County agency (such as an Office of Public Defense or similar entity) that would eliminate the need for continuing this Agreement with Attorney, the County will notify Attorney of the County's intentions in that regard as soon as reasonably practicable so that Attorney and the County can mutually coordinate and pursue an appropriate transition. Upon receipt of such notice from the County, Attorney may apply to the County for available staff-attorney employment positions in such agency in accordance with the County's then-existing hiring and employment practices and policies; though Attorney understands and acknowledges that the hiring of Attorney to fill any such positions would not be automatic or in any way guaranteed.

18. **INDEPENDENT CONTRACTOR.** Attorney fully understands, acknowledges, and agrees that Attorney shall not be an agent, representative, or employee of the County or the Benton County District Court for any type of purpose or situation whatsoever (including, without limitation, for purposes of any type of wage, hours/overtime, workers/industrial insurance compensation, unemployment, fair labor, and/or employee benefit/leave laws, disability act coverage or rules, and/or regulations) and that Attorney, as of the date of this Agreement and throughout its entire term, is and will always be acting and operating as a fully independent contractor. In that regard, strictly subject to Attorney's duties, responsibilities and obligations imposed under this Agreement, Attorney shall have sole and absolute discretion using Attorney's best professional legal judgment to determine the manner and means of providing the legal representation services required under this Agreement; and neither the County, the County's IDC, nor the Benton County District Court shall have any authority or duty to directly control the actual performance of Attorney's professional services hereunder.

19. NON-ASSIGNMENT AND TEMPORARY SUBSTITUTIONS. Except as otherwise expressly provided in paragraphs 19a. and 19b. below, Attorney shall not allow or arrange for any other person to perform any of the services required by this Agreement, nor shall Attorney assign, subcontract out, or otherwise delegate any of Attorney's rights, responsibilities, or obligations under this Agreement.

a. Attorney and any of the other Benton County District Court Criminal Defense Panel members may mutually agree to make temporary, substitute appearances for each other on routine docket matters and routine court hearings on an as-needed basis as approved by the court and by the person being represented (if that person has previously discussed the case with his/her appointed attorney). Any compensation or consideration (if any) to be paid or given by Attorney to the other Benton County District Court Criminal Defense Panel members for such substitution(s) shall be a matter of direct negotiation and agreement between Attorney and said other panel members, and said other members shall not be entitled to receive any additional compensation from the County for such substitution(s).

b. In the event Attorney needs or desires to take up to a maximum of four (4) consecutive weeks (or such longer requested period of time as may be expressly pre-approved in writing by the IDC on a case-by-case basis, in his/her sole and absolute discretion) leave of absence from the practice of law and/or the requirements of representation under this Agreement during the term of this Agreement and is unable to obtain the assistance of the other Benton County District Court Criminal Defense Panel members during such temporary absence, Attorney may seek and obtain the assistance of another Washington-licensed attorney to make temporary, substitute appearances for Attorney during such absence on routine docket matters and routine court hearings on an as-needed basis provided that Attorney and such other attorney jointly prepare, sign and file a written certification with the court (with a copy to be provided to the District Court Administrator and the IDC) in all such matters and hearings that expressly certifies that such other attorney has reviewed this Agreement and fully meets all criteria, qualifications, and requirements under this Agreement to render legal services to indigent persons and provided further that such temporary substitution is expressly authorized on the court record by the court and the particular person(s) being represented by Attorney who is/are affected by such substitution of legal counsel.

(i) Any compensation or consideration (if any) to be paid or given by Attorney to such other attorney for such substitution(s) shall be a matter of direct negotiation and agreement between Attorney and such other attorney, and such other attorney shall not be entitled to receive any compensation from the County for such substitution(s).

(ii) Unless called to active military duty, Attorney shall be responsible to ensure that such other attorney fully complies with all terms and conditions of this Agreement during such temporary absence period (including, without limitation, the requirement to maintain the insurance coverage specified in paragraph 15 above), and Attorney shall be liable for any damages or losses sustained as a result of such other attorney's non-compliance with the terms and conditions of this Agreement.

c. In the event Attorney is called up for active military duty or for direct civilian support of active military operations, Attorney shall provide the County and the IDC with written notice of such event within five (5) business days of Attorney being called up so that the IDC and Attorney can coordinate and arrange for an appropriate substitute attorney to handle Attorney's duties under this Agreement while Attorney is on military leave and any reasonable back-to-civilian-life transition time requested by Attorney upon return. Attorney shall receive no compensation under this Agreement while on leave or during any such transition time.

20. **VACANCY AND REPLACEMENT.** In the event this Agreement is terminated by either party prior to the termination date specified in paragraph 1 above, the County may initiate, implement and pursue any actions or process deemed appropriate/necessary to seek, select, and contract with another qualified attorney to replace and succeed Attorney in representing indigent persons in Benton County District Court.

21. **OTHER APPOINTMENTS.** Attorney shall not enter into any contract/arrangement to perform prosecution services in any court or jurisdiction. Subject to, and without limiting/waiving, Attorney's duties and obligations under this Agreement, Attorney may enter into a part-time contract/arrangement to receive public defense appointments in another court or jurisdiction, provided that, and on the indispensable condition that, Attorney's duties and obligations under said part-time contract/arrangement will not conflict with or interfere with Attorney's ability to timely and effectively perform Attorney's duties and obligations under this Agreement.

22. **TEMPORARY JUDICIAL SERVICE.** Subject to, and without limiting/waiving, Attorney's duties and obligations under this Agreement, Attorney may temporarily serve as a judge pro tem in any court other than Benton County District Court, provided that, and on the indispensable condition that, it would not conflict with or interfere with Attorney's ability to timely and effectively perform Attorney's duties and obligations under this Agreement. Any potential exceptions to the foregoing limitations on Attorney serving as a judge pro tem would be strictly on a case-by-case basis and would be strictly subject to Attorney obtaining the IDC's prior express approval and authorization, which decision shall be decided on a case-by-case basis in the IDC's sole and absolute discretion. Any judicial services rendered by Attorney under this paragraph shall fully comply with all applicable Rules of Professional Conduct and Judicial Canons.

23. **ENTIRE AGREEMENT.** This Agreement constitutes the entire integrated agreement and understanding of the undersigned parties. No amendment, modification or other type of change to this Agreement shall be valid or enforceable unless reduced to writing and signed by the parties.

24. **CAPTIONS; TIME COMPUTATION.**

a. The captions and headings herein are for convenience only and shall not be relied upon or used to interpret or construe this Agreement or any portion thereof.

b. Unless otherwise expressly specified herein, any period of time specified in this Agreement shall expire at 5:00 p.m. (PTZ) of the last calendar day of the specified period of time, unless the last day is Saturday, Sunday, or a legal holiday, as prescribed in RCW 1.16.050, in which event the specified period of time shall expire at 5:00 p.m. (PTZ) of the next business day. Unless otherwise expressly specified herein as being business days only, any period of time specified in this Agreement shall mean and be calculated to include calendar days.

25. **GOVERNING LAW.** This Agreement shall be exclusively construed under and interpreted consistent with the laws of the state of Washington.

26. **BINDING EFFECT.** Strictly subject to the above restrictions against assignment, subcontracting, or delegation, this Agreement shall be binding upon Attorney's heirs, legal/personal representatives, successors, and assigns.

27. **SEVERABILITY.** In the event that any one or more provisions contained in this Agreement shall, for whatever reason, be held by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such invalid, illegal or unenforceable provision(s) shall not affect any other provision hereof, and this Agreement shall nevertheless be construed and enforced as if such invalid, illegal or unenforceable provision(s) were not contained herein.

28. **NON-WAIVER.** A party's express or implied consent to or waiver of any breach or default by the other party in the performance of such other party's obligations hereunder shall not be deemed or construed to be a consent to or waiver of any other breach or default in the performance by such other party of the same obligations or any other obligation(s) of such other party hereunder.

29. **DISPUTE RESOLUTION.**

a. In the event any type of dispute arises between the parties involving the performance or interpretation of this Agreement, and assuming that the parties are unable to resolve such dispute within a reasonable time after it arises, the parties agree

that the dispute shall be submitted to mediation through the assistance of an experienced mediator chosen by mutual agreement between the parties. The County shall pay one-half of the mediator's fees and expenses, and Attorney shall pay the other one-half of such fees and expenses.

b. In the event that mediation proves unsuccessful in resolving the dispute, the parties shall submit the dispute for resolution via binding arbitration pursuant to RCW Chapter 7.04A. A single arbitrator shall be selected by agreement of the parties or, in the absence of agreement, each party shall select one (1) arbitrator and those two (2) so selected arbitrators shall mutually select a third arbitrator. The County shall pay one-half of the fees and expenses of the arbitrator(s), and Attorney shall pay the other one-half of such fees and expenses. The provisions of RCW Chapter 7.04A and applicable Mandatory Arbitration Rules as adopted and implemented in Superior Court shall be binding as to procedure, except as to the right of appeal, which shall not be applicable. Within ten (10) business days of notice of arbitration, the arbitrator(s) shall be selected and designated and the hearing shall be held within thirty (30) business days thereafter. The arbitrator(s) shall render a written decision and award within ten (10) business days of such hearing. Without limitation, the arbitrator(s) may award damages, specific performance, and/or injunctive relief, and may register a judgment in Superior Court, including judgment by default. The most prevailing party shall be entitled to recover such party's reasonable attorneys' fees, costs and expenses from the other party as a part of the arbitration decision and award. In the event of suit or action to enforce an arbitration award, venue shall lie exclusively in Superior Court, and the most prevailing party in such suit or action shall be entitled to recover such party's reasonable attorneys' fees, costs and expenses from the other party.

30. **NOTICES.**

a. Any notices required or permitted to be given by Attorney to the County under this Agreement shall be in writing and shall be personally delivered to the County's Board of Commissioners or mailed to the County's Board of Commissioners via certified U.S. mail, postage prepaid, at the Board's following address:

Benton County Board of Commissioners
620 Market St.
Prosser, WA 99350

With a mandatory complete copy of any such notices to also be provided to:

Jacki Lahtinen
Benton County District Court Administrator
7122 West Okanogan Place, Building A
Kennewick, WA 99336

Rafael A. Gonzales
Indigent Defense Coordinator
Benton-Franklin Office of Public Defense
7122 W. Okanogan Place, Bldg. A
Kennewick, WA 99336

b. Any notices required or permitted to be given by the County to Attorney under this Agreement shall be in writing and shall be personally delivered to Attorney or mailed to Attorney via certified U.S. mail, postage prepaid, at Attorney's office address specified and set forth in paragraph 2a. above.

c. Any notices under this Agreement shall be deemed to have been duly given, made and received when personally delivered against receipt or when duly deposited in the U.S. mail in compliance with the provisions of this paragraph. A party may change the address(es) to which notices or copies thereof are to be sent by giving notice of such change of address in conformity with the provisions of this paragraph for the giving of notice.

d. For purposes of clarity, whenever the terms of this Agreement require Attorney to provide "the County" with certain information or notice, such information or notice shall be provided to the County's Board of Commissioners or the Board's designee unless this Agreement expressly mandates that such information or notice also be provided to some other person/entity.

31. **LEGAL COMPLIANCE.** Attorney agrees to and shall strictly follow and comply with any and all federal, state, local, and administrative laws, rules, and regulations applicable to Attorney's pursuit and performance of activities under this Agreement. Without limitation in that regard, Attorney shall timely and fully pay all applicable taxes, fees, licenses, and other payments required by law; and Attorney shall fully comply with any and all anti-discrimination laws and policies including, without limitation, the County's policy that no person will be subjected to discrimination by the County or their contractors based on race, color, national origin, age, sex, marital status, sexual orientation, handicap/disability, personal background, creed, or political or religious affiliation.

32. **INDIGENT DEFENSE COORDINATOR.** Attorney acknowledges that the County has employed an IDC to coordinate, monitor, and evaluate the performances and compliance of independent contractor attorneys (like Attorney) under public indigent defense agreements with the County. Attorney further acknowledges that the County has the right and discretion to direct the IDC to assume and fulfill various roles and functions under this Agreement. Though the IDC will not have or attempt to exercise direct control over the manner and means in which Attorney provides legal services under this Agreement, Attorney

agrees to reasonably cooperate and promptly comply with reasonable requests from the IDC to allow for the effective monitoring and evaluation of Attorney's performance under and in compliance with this Agreement.

(SIGNATURES APPEAR ON FOLLOWING PAGE)

IN WITNESS WHEREOF, the parties hereto have entered into and executed this Agreement on the date set forth below.

Date: _____

BENTON COUNTY

_____
Chairman

_____
Commissioner

_____
Commissioner

Date: 2.20.08

ATTORNEY

_____

Approved as to Content:

_____
Rafael A. Gonzales
Indigent Defense Coordinator

Approved as to Form:

_____
Timothy G. Klashke
Attorney at Law

The content of this contract is the same as Dan Lathus contract

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF A PROFESSIONAL SERVICES AGREEMENT WITH MARY S. POLAND, ATTORNEY AT LAW, FOR LEGAL REPRESENTATION OF INDIGENT INDIVIDUALS CHARGED WITH MISDEMEANORS IN BENTON COUNTY DISTRICT COURT, RESCINDING PREVIOUS PERSONAL SERVICE AGREEMENT.

WHEREAS, the Board of County Commissioners previously entered into a Personal Service Agreement with Mary S. Poland for legal representation of indigent individuals charged with misdemeanors in District Court, Resolution 05-041; and

WHEREAS, the Board of County Commissioners and Mary S. Poland both desire to terminate that Personal Service Agreement and enter into a new agreement effective February 01, 2008;

NOW, THEREFORE,

BE IT RESOLVED, that the Board of Benton County Commissioners hereby approves the attached Professional Service Agreement for Legal Representation of Indigent Individuals Charged With Misdemeanors in District Court with Mary S. Poland for the period February 01, 2008 through December 31, 2010;

BE IT FURTHER RESOLVED, that the Personal Service Agreement, Resolution 05-041 between Benton County and Mary S. Poland, previously entered into be and hereby is terminated effective January 31, 2008.

Dated this ..... day of ....., 2008

_____
Chairman of the Board

_____
Chairman Pro-Tem

_____
Member

Attest: .....
Clerk of the Board

Constituting the Board of County Commissioners of Benton County, Washington

Original: File
cc: Mary Poland; Jacki Lahtinen: Rosie Sparks; Rosemary Ozua

J.Paxton

PROFESSIONAL SERVICES AGREEMENT TO PROVIDE LEGAL REPRESENTATION TO INDIGENT PERSONS IN BENTON COUNTY DISTRICT COURT

THIS AGREEMENT is entered into by and between Mary S. Poland, attorney at law, Washington State Bar Association #33599 (Attorney), dba Hickman & Poland, PLLC, and **BENTON COUNTY,** a State of Washington political subdivision (the County), for and on behalf of the Benton County District Court.

THIS AGREEMENT IS ENTERED INTO BASED UPON THE FOLLOWING FACTS AND CIRCUMSTANCES:

A. The County has the legal responsibility to provide legal defense services to indigent persons charged with misdemeanor criminal offenses alleged to have been committed within the County's jurisdictional boundaries.

B. Attorney is engaged in the private practice of law, has direct experience in litigating cases involving persons charged with criminal offenses, and desires to contract with the County to provide legal services to indigent persons subject to misdemeanor criminal charges in the Benton County District Court.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein, the County and Attorney hereby agree as follows:

1. **AGREEMENT TERM.** This Agreement shall be deemed effective for all purposes as of **February 1, 2008,** and shall continue thereafter through and including the **31st day of December 2010,** unless earlier terminated pursuant to the applicable terms and provisions of this Agreement.

2. **ATTORNEY'S OFFICE LOCATION.**

a. Attorney presently and regularly maintains an office adequate and appropriate for the practice of law at 324 W. Kennewick Avenue, Kennewick, WA, 99336. Attorney's current local office telephone and fax numbers are (509) 582-3291 and (509) 582-6484, respectively; and Attorney's current office/work e-mail address is MarySPoland@yahoo.com

b. Throughout the entire term of this Agreement, Attorney shall continue to maintain such an office, such telephone and fax numbers, and such e-mail address; provided that, however, Attorney may relocate Attorney's office to another location within the Greater Tri-Cities, Washington, and/or Attorney may change Attorney's telephone/fax number to another Greater Tri-Cities local telephone/fax number, and/or

IN WITNESS WHEREOF, the parties hereto have entered into and executed this Agreement on the date set forth below.

Date: _____

BENTON COUNTY

_____
Chairman

_____
Commissioner

_____
Commissioner

Date: Feb. 19, 2008

ATTORNEY

#33599

Approved as to Content:

Rafael A. Gonzales
Indigent Defense Coordinator

Approved as to Form:

_____
Timothy G. Klashke
Attorney at Law

The content of this contract is the same as DAN LATHEN contract

RESOLUTION

K

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF A PROFESSIONAL SERVICES AGREEMENT WITH DAWN HICKMAN, ATTORNEY AT LAW, FOR LEGAL REPRESENTATION OF INDIGENT INDIVIDUALS CHARGED WITH MISDEMEANORS IN BENTON COUNTY DISTRICT COURT, RESCINDING PREVIOUS PERSONAL SERVICE AGREEMENT.

WHEREAS, the Board of County Commissioners previously entered into a Personal Service Agreement with Dawn Hickman for legal representation of indigent individuals charged with misdemeanors in District Court, Resolution 05-053; and

WHEREAS, the Board of County Commissioners and Dawn Hickman both desire to terminate that Personal Service Agreement and enter into a new agreement effective February 01, 2008;

NOW, THEREFORE,

BE IT RESOLVED, that the Board of Benton County Commissioners hereby approves the attached Professional Service Agreement for Legal Representation of Indigent Individuals Charged With Misdemeanors in District Court with Dawn Hickman for the period February 01, 2008 through December 31, 2010;

BE IT FURTHER RESOLVED, that the Personal Service Agreement, Resolution 05-053 between Benton County and Dawn Hickman, previously entered into be and hereby is terminated effective January 31, 2008.

Dated this ..... day of ....., 2008

Chairman of the Board

Chairman Pro-Tem

Member

Attest: .....
Clerk of the Board

Constituting the Board of County Commissioners of Benton County, Washington

Original: File
cc: Dawn Hickman; Jacki Lahtinen: Rosie Sparks; Rosemary Ozua

J.Paxton

PROFESSIONAL SERVICES AGREEMENT TO PROVIDE LEGAL REPRESENTATION TO INDIGENT PERSONS IN BENTON COUNTY DISTRICT COURT

THIS AGREEMENT is entered into by and between Dawn Hickman, attorney at law, Washington State Bar Association #32597 (Attorney), dba Hickman & Poland, PLLC, and **BENTON COUNTY,** a State of Washington political subdivision (the County), for and on behalf of the Benton County District Court.

THIS AGREEMENT IS ENTERED INTO BASED UPON THE FOLLOWING FACTS AND CIRCUMSTANCES:

A. The County has the legal responsibility to provide legal defense services to indigent persons charged with misdemeanor criminal offenses alleged to have been committed within the County's jurisdictional boundaries.

B. Attorney is engaged in the private practice of law, has direct experience in litigating cases involving persons charged with criminal offenses, and desires to contract with the County to provide legal services to indigent persons subject to misdemeanor criminal charges in the Benton County District Court.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein, the County and Attorney hereby agree as follows:

1. **AGREEMENT TERM.** This Agreement shall be deemed effective for all purposes as of **February 1, 2008**, and shall continue thereafter through and including the **31st day of December 2010**, unless earlier terminated pursuant to the applicable terms and provisions of this Agreement.

2. **ATTORNEY'S OFFICE LOCATION.**

a. Attorney presently and regularly maintains an office adequate and appropriate for the practice of law at 324 W. Kennewick Avenue, Kennewick, WA, 99336. Attorney's current local office telephone and fax numbers are (509) 582-3291 and (509) 582-6484, respectively; and Attorney's current office/work e-mail address is Dhickman302@yahoo.com.

b. Throughout the entire term of this Agreement, Attorney shall continue to maintain such an office, such telephone and fax numbers, and such e-mail address; provided that, however, Attorney may relocate Attorney's office to another location within the Greater Tri-Cities, Washington, and/or Attorney may change Attorney's telephone/fax number to another Greater Tri-Cities local telephone/fax number, and/or

IN WITNESS WHEREOF, the parties hereto have entered into and executed this Agreement on the date set forth below.

Date: _____

BENTON COUNTY

_____
Chairman

_____
Commissioner

_____
Commissioner

Date: _____

ATTORNEY

Dawn Hickman WSBA# 32597

Approved as to Content:

Rafael A. Gonzales
Indigent Defense Coordinator

Approved as to Form:

_____
Timothy G. Klashke
Attorney at Law

This contract is the same as Dan Kahrs's.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF A PROFESSIONAL SERVICES AGREEMENT WITH DEAN CHUANG, ATTORNEY AT LAW, FOR LEGAL REPRESENTATION OF INDIGENT INDIVIDUALS CHARGED WITH MISDEMEANORS IN BENTON COUNTY DISTRICT COURT, RESCINDING PREVIOUS PERSONAL SERVICE AGREEMENT.

WHEREAS, the Board of County Commissioners previously entered into a Personal Service Agreement with Dean Chuang for legal representation of indigent individuals charged with misdemeanors in District Court, Resolution 07-567; and

WHEREAS, the Board of County Commissioners and Dean Chuang both desire to terminate that Personal Service Agreement and enter into a new agreement effective February 01, 2008;

NOW, THEREFORE,

BE IT RESOLVED, that the Board of Benton County Commissioners hereby approves the attached Professional Service Agreement for Legal Representation of Indigent Individuals Charged With Misdemeanors in District Court with Dean Chuang for the period February 01, 2008 through December 31, 2010;

BE IT FURTHER RESOLVED, that the Personal Service Agreement, Resolution 07-567 between Benton County and Dean Chuang, previously entered into be and hereby is terminated effective January 31, 2008.

Dated this ..... day of ....., 2008

Chairman of the Board

Chairman Pro-Tem

Member

Constituting the Board of County Commissioners of Benton County, Washington

Attest: .....
Clerk of the Board

Original: File
cc: Dean Chuang; Jacki Lahtinen: Rosie Sparks; Rosemary Ozua

J.Paxton

PROFESSIONAL SERVICES AGREEMENT TO PROVIDE LEGAL REPRESENTATION TO INDIGENT PERSONS IN BENTON COUNTY DISTRICT COURT

THIS AGREEMENT is entered into by and between **Dean Chuang,** attorney at law, Washington State Bar Association #38095 (Attorney), dba Ajax Law Firm and **BENTON COUNTY,** a State of Washington political subdivision (the County), for and on behalf of the Benton County District Court.

THIS AGREEMENT IS ENTERED INTO BASED UPON THE FOLLOWING FACTS AND CIRCUMSTANCES:

A. The County has the legal responsibility to provide legal defense services to indigent persons charged with misdemeanor criminal offenses alleged to have been committed within the County's jurisdictional boundaries.

B. Attorney is engaged in the private practice of law, has direct experience in litigating cases involving persons charged with criminal offenses, and desires to contract with the County to provide legal services to indigent persons subject to misdemeanor criminal charges in the Benton County District Court.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein, the County and Attorney hereby agree as follows:

1. **AGREEMENT TERM.** This Agreement shall be deemed effective for all purposes as of **February 1, 2008,** and shall continue thereafter through and including the **31st day of December 2010,** unless earlier terminated pursuant to the applicable terms and provisions of this Agreement.

2. **ATTORNEY'S OFFICE LOCATION.**

a. Attorney presently and regularly maintains an office adequate and appropriate for the practice of law at 8390 West Gage Blvd. Suite 111, Kennewick WA, 99336. Attorney's current local office telephone and fax numbers are (509) 783-3330 and (509) 783-3334, respectively; and Attorney's current office/work e-mail address is dean@ajaxlawfirm.org

b. Throughout the entire term of this Agreement, Attorney shall continue to maintain such an office, such telephone and fax numbers, and such e-mail address; provided that, however, Attorney may relocate Attorney's office to another location within the Greater Tri-Cities, Washington, and/or Attorney may change Attorney's telephone/fax number to another Greater Tri-Cities local telephone/fax number, and/or

IN WITNESS WHEREOF, the parties hereto have entered into and executed this Agreement on the date set forth below.

Date: _____

BENTON COUNTY

_____

Chairman

_____

Commissioner

_____

Commissioner

Date: Feb 20, 2008

ATTORNEY

Approved as to Content:

Rafael A. Gonzales
Indigent Defense Coordinator

Approved as to Form:

_____

Timothy G. Klashke
Attorney at Law

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF A PROFESSIONAL SERVICE AGREEMENT WITH DAWN HICKMAN, ATTORNEY AT LAW FOR LEGAL REPRESENTATION OF INDIGENT INDIVIDUALS CHARGED WITH MISDEMEANORS IN BENTON COUNTY DISTRICT COURT

WHEREAS, the Board of County Commissioners and Dawn Hickman, Attorney at Law, both desire to enter into an agreement effective on January 01, 2008 for legal representation of indigent individuals charged with misdemeanors in District Court;

NOW, THEREFORE,

BE IT RESOLVED that the Board of Benton County Commissioners hereby approves the attached Professional Service Agreement for Legal Representation Of Indigent Individuals Charged With Misdemeanors In District Court with Dawn Hickman, Attorney at Law for the period January 01, 2008 through December 31, 2010.

Dated this ..... day of ....., 2008.

Chairman of the Board

Chairman Pro-Tem

Member

Constituting the Board of County Commissioners of Benton County, Washington

Attest: .....
Clerk of the Board

Original: File
Cc: Rosie Sparks; Dawn Hickman; Jacki Lahtinen; Rosemary Ozuna

JPaxton

PROFESSIONAL SERVICES AGREEMENT TO PROVIDE LEGAL REPRESENTATION TO INDIGENT PERSONS IN BENTON COUNTY DISTRICT COURT

THIS AGREEMENT is entered into by and between Dawn Hickman, attorney at law, Washington State Bar Association #32597 (Attorney), dba Hickman & Poland, PLLC, and **BENTON COUNTY,** a State of Washington political subdivision (the County), for and on behalf of the Benton County District Court.

THIS AGREEMENT IS ENTERED INTO BASED UPON THE FOLLOWING FACTS AND CIRCUMSTANCES:

A. The County has the legal responsibility to provide legal defense services to indigent persons charged with misdemeanor criminal offenses alleged to have been committed within the County's jurisdictional boundaries.

B. Attorney is engaged in the private practice of law, has direct experience in litigating cases involving persons charged with criminal offenses, and desires to contract with the County to provide legal services to indigent persons subject to misdemeanor criminal charges in the Benton County District Court.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein, the County and Attorney hereby agree as follows:

1. **AGREEMENT TERM.** This Agreement shall be deemed effective for all purposes as of **January 1, 2008,** and shall continue thereafter through and including the **31st day of December 2010,** unless earlier terminated pursuant to the applicable terms and provisions of this Agreement.

2. **ATTORNEY'S OFFICE LOCATION.**

a. Attorney presently and regularly maintains an office adequate and appropriate for the practice of law at 324 W. Kennewick Avenue, Kennewick, WA, 99336. Attorney's current local office telephone and fax numbers are (509) 582-3291 and (509) 582-6484, respectively; and Attorney's current office/work e-mail address is Dhickman302@yahoo.com.

b. Throughout the entire term of this Agreement, Attorney shall continue to maintain such an office, such telephone and fax numbers, and such e-mail address; provided that, however, Attorney may relocate Attorney's office to another location within the Greater Tri-Cities, Washington, and/or Attorney may change Attorney's telephone/fax number to another Greater Tri-Cities local telephone/fax number, and/or

Attorney may change Attorney's e-mail address, provided that Attorney must provide immediate written notice of such change(s) to the Benton-Franklin Indigent Defense Coordinator (IDC), the Benton County Prosecuting Attorney, and the Benton County District Court Administrator (District Court Administrator).

c. The County prefers that Attorney locate and maintain Attorney's office in a commercial/professional building. However, regardless of the location Attorney decides to maintain his/her office, the office must be capable of accommodating confidential face-to-face meetings between Attorney and persons whom Attorney is appointed to represent under this Agreement, must be capable of regularly receiving mail, and must have adequate telephone service to facilitate and ensure prompt response to contact with or from represented persons.

3. **ATTORNEY'S QUALIFICATIONS.** Attorney acknowledges and agrees that the County has an obligation to provide competent and effective legal counsel to indigent persons subject to proceedings in the Benton County District Court. Attorney shall perform all services hereunder in strict accordance with the usual skills and professional ethical standards exercised by attorneys engaged in the defense of persons accused of misdemeanor crimes in the state of Washington and generally exercised by members of the Washington State Bar Association (WSBA). Without limitation in that regard, Attorney acknowledges and agrees that Attorney has a fundamental duty and responsibility to effectively promote and protect the best interests and rights of all persons whom Attorney is appointed to represent under this Agreement.

a. As of the date of this Agreement, Attorney represents and warrants that Attorney is unconditionally licensed to practice law within the state of Washington; has had at least one (1) year of direct trial experience in criminal defense or criminal prosecution matters; has not been subject to a termination proceeding involving a previous personal service agreement for indigent defense services; has not been censured, admonished, or otherwise formally disciplined for past conduct or behavior that would negatively reflect on Attorney's duty and ability to effectively and competently render legal services hereunder; has not been suspended or disbarred from the practice of law in any state or jurisdiction at any time in the past; and does not have any bar association complaints filed and pending against him/her.

(i) This Agreement may be subject to review and, if applicable and/or necessary, further action pursuant to paragraph 17 below in the event that Attorney's license to practice law in Washington is revoked or otherwise limited or restricted; in the event that a court of competent jurisdiction formally determines and expressly finds that Attorney has rendered ineffective assistance of counsel to any person; in the event that Attorney is censored, admonished, or otherwise formally disciplined for conduct or behavior that negatively reflects on Attorney's duty and ability to effectively and competently render legal services

hereunder; or in the event that Attorney is suspended or disbarred from the practice of law in any other state or jurisdiction.

(ii) Attorney shall notify the County within three (3) business days if any event specified in paragraph 3.a.(i) above occurs or if any bar association complaint is filed against Attorney.

b. To comply with the provisions of RCW 72.05.440, WAC 388-700-0010, and RCW 13.40.570, Attorney acknowledges and agrees that the County may conduct criminal history background check(s) on Attorney. Attorney acknowledges and agrees that this Agreement shall be deemed immediately and automatically terminated upon the County receiving a non-complying or otherwise unsatisfactory criminal history background check report.

c. Attorney represents, warrants, and certifies that Attorney has read and fully understands the requirements of RCW 13.40.570 (sexual misconduct by state employees, contractors) and all sex offense crimes included in RCW Chapter 9A.44. Attorney shall comply with any and all applicable legal and/or administrative requirements relating to the documentation/reporting of sexual misconduct.

d. During each calendar year of the term of this Agreement, beginning in calendar year 2008, Attorney shall be required to obtain at least seven (7) hours of WSBA-qualified Continuing Legal Education (CLE) credits in courses directly relating to Attorney's public defense practice under this Agreement. Attorney shall provide the Indigent Defense Coordinator with written proof and confirmation that such CLE credits have been obtained no later than by December 31st of each calendar year. Additionally, during each calendar year during the term of this Agreement, in addition to participating in any specialized training-related activity specified in RCW 10.101.060(1)(a)(iii) or otherwise specifically required by other applicable law or court rule, Attorney shall attend at least one (1) public defense services-related training seminar sponsored and/or approved by the Washington Office of Public Defense (OPD), and any CLE credit earned by Attorney by attending such training seminar(s) may be applied towards the above-mentioned minimum seven (7) hours. The County may provide Attorney's name and address to the OPD for purposes of the OPD notifying Attorney of any such upcoming training seminars. Attorney shall provide the IDC with written proof and confirmation that such required training seminar has been attended by Attorney no later than by December 31st of each calendar year.

e. Attorney represents and warrants that, throughout the entire term of this Agreement, Attorney's private law practice caseload; Attorney's schedule; and Attorney's office resources, equipment, and support staff will allow Attorney to competently undertake and effectively perform all services required under this Agreement. Attorney represents and warrants that Attorney's private law practice and

schedule will not interfere with Attorney's ability to timely and efficiently perform such services including, without limitation, Attorney's ability to prepare for and attend regularly scheduled trials and dockets or Attorney's ability to schedule and conduct face-to-face meetings with the persons Attorney is appointed to represent under this Agreement for purposes of discussing, preparing, and pursuing the most viable defense(s) and/or resolution available and keeping such persons reasonably apprised as to the status of their case.

f. Pursuant to RCW 10.101.050, no later than by the 15th day of each month during the term of this Agreement, Attorney shall provide the IDC with a written report showing the total number and specific types of private practice cases (which for purposes of this Agreement shall include pro bono cases, retained-fee cases, and any cases handled by Attorney under any other professional/personal services agreement) in which Attorney provided legal services during the preceding month and the total number and specific types of appointed cases under this Agreement in which Attorney provided legal services during the preceding month. Additionally, in the event that the public defense attorney caseload activity reporting requirements under RCW 10.101.050 are later amended/modified, Attorney shall correspondingly comply with any such amended/modified reporting requirements without added compensation upon written notice from the County to do so.

4. **OTHER INDIGENT DEFENSE AGREEMENTS.** On or about the date of this Agreement, the County contemplates entering into separate and independent professional services agreements with other licensed attorneys to primarily provide criminal defense services to persons accused of misdemeanor crimes in Benton County District Court. Attorney agrees to fully cooperate and coordinate with said other attorneys, the Benton County District Court, the District Court Administrator and the IDC to establish a process to effectuate the efficient and equitable distribution of case appointments between Attorney and said other attorneys (collectively the Benton County District Court Criminal Defense Panel). The District Court Administrator and/or the IDC shall have the inherent discretion and authority to monitor and control (and reasonably modify/change) such process.

5. **CASE APPOINTMENTS**. During the term of this Agreement, Attorney agrees to and shall accept appointments to represent indigent persons (regardless of their race, color, national origin, age, sex, marital status, sexual orientation, handicap/disability, personal background, creed, or political or religious affiliation) on any matter in the Benton County District Court in which publicly provided counsel is furnished or required by law. More specifically, Attorney shall accept court appointments to represent indigent persons on any of the following types of matters:

- Any misdemeanor matter filed or otherwise pending under the applicable Washington criminal statutes and/or under any other applicable Washington law in the Benton County District Court.

- Any post-disposition probation violation, revocation, modification, and/or contempt-of-court proceeding relating to any underlying criminal case.

- Any material witness matter relating to a case or matter filed in Benton County District Court.

- Any case or matter returned to the Benton County District Court from any higher court.

- Any other type of Benton County District Court case or matter in which another Benton County District Court Criminal Defense Panel member and/or any other attorney who is under a professional services agreement to provide legal representation in Benton County District Court is unable to handle due to a conflict of interest.

- Any case or matter transferred from the Juvenile Court through declination or other court proceedings.

- Any civil contempt of court proceeding, not including non-contempt matters such as non-criminal custody or paternity matters.

6. **CONTINUED REPRESENTATION.**

a. Attorney has a duty to timely and fully complete all cases appointed to Attorney under this Agreement. In that regard, Attorney shall continue to provide representation for those persons whom Attorney was appointed to represent and whose case was not concluded prior to the effective date of termination of this Agreement for up to ninety (90) days following the effective date of termination. Attorney's obligation to continue post-termination representation shall not in any way entitle Attorney to receive any additional compensation beyond the compensation amount(s) specified in this Agreement.

(i) By way of example, in the event that Attorney is required by this paragraph to continue representing a person charged with a crime after the termination date of this Agreement, Attorney shall not be entitled to receive any compensation as a result of such continued, post-termination representation.

(ii) By way of further example, in the event that Attorney is required by this paragraph to continue representing a person charged with a crime or matter after the termination date of this Agreement, the only compensation that Attorney would be entitled to receive as a result of such continued, post-termination representation is court-authorized cost reimbursements specified in paragraph 13.b below.

b. Notwithstanding anything in this paragraph 6 or elsewhere in this Agreement to the contrary, Attorney's post-termination duty and obligation to continue representing persons whom Attorney was appointed to represent in Benton County District Court for up to ninety (90) days shall be limited to a sixty (60) day period following the termination date for the following types of matters:

(i) Any civil-based matter;

(ii) Any matter involving a represented person for whom a warrant has been issued; and

(iii) Any case where personal service is not effected within thirty (30) days of the date of the notice of termination.

c. Attorney will be appointed to no new cases under this Agreement during the thirty (30) day period prior to its termination date specified in paragraph 1 above if Attorney provides written notice to the County at least sixty (60) days prior to such termination date of Attorney's desire and intent to not pursue contracting with the County again to provide indigent defense services in Benton County District Court after such termination date. Attorney may belatedly provide such written notice at any time within said sixty (60) day time period, but the appointment of new cases to Attorney will not stop until thirty (30) days after the date such notice is received by the County.

7. **NUMBER OF APPOINTMENTS.** During each calendar year of the term of this Agreement, Attorney agrees to and shall accept appointments hereunder to represent persons in the Benton County District Court up to a maximum of **three hundred and eighty (380) total case equivalents per calendar year,** (proratable for any partial calendar year), for calendar year 2008 with downward adjustments in 2009 and 2010 as indicated below. The date on which a case or matter is filed (rather than its final date of disposition) shall be used to determine the calendar year in which a case equivalent is to be counted.

8. **CASE EQUIVALENTS.**

a. For purposes of calculating Attorney's above-referenced "case equivalents" under this Agreement, the following provisions shall apply:

- A misdemeanor appointment shall be counted as one (1) case equivalent.

- A probation violation appointment shall be counted as one-half (1/2) case equivalent.

- An appointment on a mental or substance-abuse commitment, generally to be appointed only when necessary for conflict reasons, shall count as one (1) case equivalent.

- An appointment to represent a person in a material witness matter in a case pending in Benton County District Court shall count as one half (1/2) of a case equivalent.

- An appointment to a case or matter returned to Benton County District Court from a higher court shall be counted as determined by the IDC following consultation.

- If Attorney is appointed to a case and withdraws prior to the omnibus hearing for any reason, including the substitution of retained counsel or a conflict of interest, that appointment shall not count as any case equivalent; provided that the IDC shall retain discretion to award a case equivalent value (or fractional portion thereof) if deemed appropriate following consultation.

- Case equivalent value assigned is based on cases, not charges, and is determined by the classification of the most serious offense charged.

- Any civil contempt of court proceeding shall count as one-half (1/2) of a case equivalent.

b. An appointment to any matter in which Attorney was previously appointed shall not be further counted as any type of case equivalent if such matter was not fully concluded and subsequently arises again before the Benton County District Court and Attorney continues representing the same person in such matter within a 12-month period (e.g., if Attorney was appointed to represent a person on a criminal charge who fails to appear for trial but is back before the court within 12 months, Attorney's continued representation of such person following his later arrest shall be deemed as being a prior and ongoing representation and shall not count as any type of further or additional case equivalent). Provided that, however, if Attorney was appointed to represent a person who is duly tried, convicted, and sentenced, Attorney's subsequent representation of such person during subsequent proceedings for alleged violations of sentence conditions shall be deemed as being an independent and unrelated matter.

c. Except as may be otherwise specifically and expressly provided in this Agreement, an appointment to any matter involving multiple charges arising out of a single incident or series of substantially related incidents shall be considered as being one (1) case equivalent. Similarly, except as may be otherwise expressly provided in this Agreement, an appointment to any matter involving multiple charges brought/filed

under a single cause number and/or which are properly joined for purposes of trial shall be considered as being one (1) case equivalent. Provided, however, the IDC may in his discretion adjust the case equivalent total earned under this paragraph upon written request from, and after review and consultation with, Attorney.

d. Throughout the term of this Agreement, the IDC shall keep and maintain records consistent with the provisions of this Agreement in a format adequate to accurately track and monitor the number of Attorney's appointments and total case equivalents hereunder. The IDC shall provide copies of such records to the County and Attorney on a monthly basis. Attorney shall have the burden of proof in the event that Attorney ever disagrees with any such records, and Attorney must notify the IDC in writing within ten (10) business days of records receipt if Attorney disagrees with, and desires to dispute, any such records, otherwise such records shall be conclusively presumed as being accurate.

9. **CLIENT ELIGIBILITY.** The Benton County District Court (or its designee), consistent with applicable laws, rules and standards, shall determine the eligibility of any particular person for representation by Attorney under this Agreement. Attorney is under no obligation to determine a person's eligibility or continuing eligibility to receive publicly provided representation. However, if Attorney is appointed to represent a person and subsequently discovers that such person may not be eligible to receive publicly-provided representation under applicable laws, rules and standards, Attorney, if able to do so within the bounds of applicable ethical rules and professional standards, shall promptly notify the Benton County District Court of such possibility for purposes of the District Court (or its designee) taking action at its discretion to re-determine whether such person is/remains eligible to receive publicly-provided representation. If the Benton County District Court (or its designee) then determines that such person is not eligible for publicly provided representation, the appointment of Attorney to represent such person shall be rescinded and such person shall be required to retain his/her own legal counsel. Attorney shall not thereafter represent such person in such matter on a retained-fee basis unless such person applies for and receives the Benton County District Court's permission allowing such representation. Nothing contained herein shall prevent Attorney from representing a person on a retained-fee basis in an action in which Attorney has not been appointed by the Benton County District Court to represent such person, or from representing a person on a retained-fee basis whom Attorney has been appointed by the Benton County District Court to represent provided that the matter(s) involving the retained representation are wholly independent and unrelated to the matter for which Attorney was appointed.

10. **CONFLICTS.** Notwithstanding any other terms or provisions contained in this Agreement to the contrary, Attorney shall not be required to accept, and Attorney shall decline to accept, an appointment under this Agreement if the particular appointment would create a true and bona fide conflict of interest for Attorney or would otherwise cause or constitute an actual violation of any generally recognized ethical or professional standards common and

applicable to attorneys in the state of Washington. Furthermore, in the event a true and bona fide conflict of interest arises subsequent to Attorney receiving an appointment under this Agreement (or in the event Attorney's continued involvement in a pending case would cause or constitute an actual violation of any such ethical or professional standards), Attorney shall immediately make the Benton County District Court aware of such development for purposes of the District Court taking immediate action to appoint another attorney to assume and undertake legal representation in such case.

11. **SCOPE OF REPRESENTATION; FILE RETENTION.** Attorney agrees to and shall represent all persons whom Attorney is appointed to represent hereunder with the same skill and commitment as Attorney exercises and expends when representing persons on a private and/or retained-fee basis. Without limitation in that regard, such representation shall include the investigation of the underlying facts, the research of all relevant law, interviewing of potential witnesses, retention and use of investigators and/or experts when warranted and necessary, appropriate communication with the client, review of potential plea alternatives, review of potential collateral consequences associated with a plea/conviction (e.g., potential immigration or civil commitment consequences), and the preparation for and appearance on behalf of the client in all stages of District Court proceedings including, without limitation, arraignments, pre-trial hearings, motions, trials, sentencing/disposition proceedings, contempt proceedings, appeals (limited to the preparation and filing of any and all pleadings necessary and appropriate to perfect any appeal or statutory writ to a higher court, including the appointment of publicly-provided counsel, if and when applicable), and post-conviction reviews.

a. Without limiting Attorney's duty to initially meet with an indigent person to discuss his/her case as soon as reasonably possible following Attorney's appointment to the case, when Attorney is appointed to an "in custody" case (i.e., a case in which the person is confined/incarcerated), Attorney shall use best efforts to meet face-to-face within three (3) business days of Attorney receiving the appointment (unless the circumstances of a particular case reasonably require that Attorney make earlier initial contact with the person), otherwise, as soon thereafter as is reasonably feasible.

b. Additionally, throughout Attorney's representation of any person under this Agreement, Attorney shall maintain appropriate contact/communications with the person so as to keep him/her fully apprised as to the status of his/her case; and Attorney shall use best efforts to apprise the person of any new development in his/her case within three (3) business days of Attorney learning of such development (unless the circumstances of a particular case reasonably require that Attorney make earlier contact with the person), otherwise, as soon thereafter as is reasonably feasible. Without limiting any of the foregoing provisions of this paragraph, with regard to any court hearing involving a represented person, Attorney shall contact (preferably in person or at least via telephone) such person to discuss his/her case and the purpose of the hearing no later than one (1) business day prior to the hearing date.

c. Attorney shall compile and maintain appropriate case records for each person whom Attorney is appointed to represent hereunder. Attorney shall retain such case records in their entirety (or a complete and legible copy thereof, to include electronic file storage) for a period of no less than seven (7) years from the date on which the case or matter is fully and finally concluded or for any other time period specified under applicable court rule or statute, whichever date/event occurs last.

d. Upon Attorney pleading guilty or being convicted of any of the following-described offenses, Attorney shall notify the IDC of such plea/conviction within seven (7) calendar days thereafter, and Attorney's failure to timely report within such timeframe shall constitute misconduct under RCW Title 50 and result in the immediate and automatic termination of this Agreement:

(i) Any felony sex offense as defined in RCW 9.94A.030 and RCW 9A.44.130;

(ii) Any crime specified in RCW Chapter 9A.44 when the victim was a juvenile in the custody of, or under the jurisdiction of, the Juvenile Rehabilitation Administration, Washington Department of Social and Health Services; and/or

(iii) Any violent offense as defined in RCW 9.94A.030.

12. **MONTHLY COMPENSATION.**

a. As compensation for Attorney's performance and rendering of independent professional legal services hereunder during February of 2008, Attorney's monthly compensation hereunder shall be **$9183.34 per month** (proratable for any partial month), payable on the last business day of the month.

b. During the balance of calendar year 2008, Attorney's monthly compensation hereunder shall be **$4591.67 per month** (proratable for any partial month), payable on the last business day of the month for handling **380 total case equivalents** during the calendar year.

c. During calendar year 2009, Attorney's monthly compensation hereunder shall be **$4830.00 per month** (proratable for any partial month), payable on the last business day of the month for handling **360 total case equivalents** during the calendar year.

d. During calendar year 2010, Attorney's monthly compensation hereunder shall be **$5071.67 per month**, (proratable for any partial month), payable on the last

business day of the month for handling **340 total case equivalents** during the calendar year.

e. In addition to the stated monthly compensation, commencing in calendar year 2008, Attorney shall receive $200 per day for each full day of trial and $100 for each partial day of trial, not to include pre-trial motions or time waiting for disposition. A full day of trial is defined as actual in-session trial proceedings going beyond four (4) total hours for that trial day. Commencing in calendar year 2010, Attorney shall receive $300 per day for each full day of trial and $150 for each partial day of trial.

f. The above-stated payments to Attorney will immediately cease upon the termination of this Agreement on, or for any reason prior to, the termination date specified in paragraph 1 above. For example, if this Agreement is terminated effective October 31, 2008, the above referenced monthly payments to Attorney would also terminate as of such date, and Attorney would not be entitled to receive any further monthly payments from the County; provided that, Attorney would be entitled to receive any then-accrued and unpaid amounts for services rendered hereunder prior to such termination date. By way of further example, if this Agreement is terminated effective November 15, 2008, the above-stated monthly payments to Attorney would also terminate as of such date, and Attorney would not be entitled to receive any further monthly payments from the County; provided that, Attorney would be entitled to receive on a prorata basis any then-accrued and unpaid amounts for services rendered hereunder prior to such termination date (i.e., 50% of the above-stated monthly payment amount. Attorney acknowledges and agrees that the above-stated compensation to Attorney shall constitute Attorney's full and exclusive compensation hereunder for all cases handled by Attorney under this Agreement up to the above-stated annual maximum total case equivalents.

13. **COSTS AND EXPENSES.**

a. Attorney acknowledges and agrees that Attorney shall not be entitled to claim or receive any reimbursement/payment from the County for any law practice-related overhead costs or expenses incurred by Attorney during the course of rendering legal services under this Agreement (including, without limitation, costs and expenses associated with Attorney's office, office staff, office equipment/facilities, and/or other office or law practice-related resources).

b. The County recognizes, however, that in certain circumstances the need may arise for Attorney to incur certain types of out-of-pocket expenses directly related to an indigent person's case such as private investigator fees, psychological or psychiatric evaluations, interpreter fees, scientific test fees, expert witness fees, and costs of out-of-area travel, meals and lodging.

(i) Attorney shall be entitled to receive reimbursement for the actual cost of such out-of-pocket expenditures provided that, however, Attorney shall not incur any such expense nor shall Attorney be entitled to be reimbursed for any such expense unless such expense has been pre-approved pursuant to ex-parte motion and court order (or other court-designated process) that expressly determines and finds that such expense is necessary and reasonable in accordance with applicable court rules, procedures, and standards. Such court order shall state and provide a specific dollar amount for the requested and authorized expenditure; provided that, in the event it is not reasonably possible to state and provide a specific dollar amount for a particular requested expenditure, such order may nevertheless provide authorization for the expenditure but shall establish and set forth a maximum dollar expenditure amount. In regard to any reimbursement to Attorney for any court-approved expenditures and costs pertaining to case-related travel, meals, and lodging, any reimbursement to Attorney for such expenditures and costs shall not exceed the amounts that the County would be obligated to pay and reimburse to employees of the Benton County District Court under then-existing employee travel-related policies and rules.

(ii) In addition to any other prerequisites imposed by court rules, procedures, or standards, as a precondition to Attorney being reimbursed for an expenditure under this paragraph, Attorney shall be required to submit a vendor warrant payment voucher to the County that identifies the specific expenditure(s) for which reimbursement is sought (exercising appropriate discretion to protect client confidentiality given that such vouchers are matters of public record unless sealed by the court at Attorney's request) and that has attached thereto a copy of the court order(s) that specifically pre-approved and authorized such expenditure(s) (unless sealed by the court at Attorney's request) together with attached copies of all written payment receipts relating to such incurred expenditure(s) (unless sealed by the court at Attorney's request). Attorney's administrative time expended to prepare, submit, and process vouchers shall not be billable to the County. All payment vouchers and requests for reimbursement under this paragraph shall be subject to the court's review and final approval for payment. Attorney shall submit such payment vouchers to the District Court Administrator within sixty (60) days of Attorney incurring the expense(s) for which reimbursement is sought, and the County shall have the right to deny payment of any voucher that is not timely submitted within said requisite sixty (60) day period.

14. INDEMNIFICATIONS AND HOLD HARMLESS. Attorney agrees to and shall fully indemnify the County and its elected/appointed representatives, officers, employees, and agents; and to hold the County and its elected/appointed representatives, officers, employees, and agents fully harmless; from and for any and all losses, damages, costs, charges,

claims, demands, suits, or actions of whatsoever nature directly or indirectly arising out of or by reason of Attorney's (or any person, employee, agent, contractor, or entity acting for or on behalf of Attorney or at Attorney's request or direction) acts, defaults, errors and/or omissions of whatsoever nature in the performance of legal services to any person under this Agreement. In the event any suit or legal proceeding is brought against the County or any of its elected/appointed representatives, officers, employees or agents at any time on account of or by reason of any such acts, defaults, errors and/or omissions, Attorney hereby covenants and agrees to assume the defense thereof (through counsel acceptable to the County) and to defend the same at Attorney's sole cost and expense and to pay any and all costs, charges, attorneys' fees, and other expenses as well as any and all judgments or awards that may be incurred by or entered against the County or any of its elected/appointed representatives, officers, employees or agents in such suits or other legal proceedings. Without limiting the intended broad scope and application of the indemnification and hold harmless provisions of this paragraph, for purposes of this paragraph, Attorney waives, with respect to the County only, any immunity that would otherwise be available to Attorney under the Industrial Insurance Act provisions of Title 51 RCW or any other similar workers/employee disability or benefit law. The indemnification and hold harmless provisions of this paragraph shall survive the termination or expiration of this Agreement.

15. **INSURANCE.**

a. Attorney shall obtain and maintain, at Attorney's sole cost and expense, a policy of professional liability insurance in an amount of not less than $1,000,000.00 per claim nor less than $1,000,000.00 in the aggregate during the policy term and with a maximum deductible of not more than $10,000.00.

(i) Said policy shall include coverage as an additional insured for any other person(s) or attorney(s) acting for or on behalf of Attorney in the performance of this Agreement; shall provide professional liability insurance coverage for any acts, errors and/or omissions by Attorney (and/or such additional insureds) during the course of performing legal services under this Agreement; shall require that the insurance company provide the County with no less than thirty (30) days prior written notice in the event the policy is cancelled or materially altered; shall comply with all applicable state of Washington insurance requirements; and shall be issued by an insurance company rated A- or better by A.M. Best authorized to conduct business and issue insurance in the state of Washington.

(ii) Attorney shall continuously maintain the professional liability insurance coverage required by this paragraph 15.a throughout the entire term of this Agreement, throughout any other longer time period during which Attorney is obligated to continue performing services and duties hereunder, and

for a period of no less than thirty-six (36) consecutive months after Attorney has fully completed all services and duties required hereunder.

b. Attorney shall also obtain and maintain, at Attorney's sole cost and expense, a policy of Commercial General Liability insurance (including Endorsement Form CG2011 and Contractual Liability coverage) in the amount of not less than $1,000,000.00 per occurrence nor less than $2,000,000.00 in the aggregate during the policy term. Additionally, if Attorney is an employer, Attorney shall obtain and maintain, at Attorney's sole cost and expense, a policy of Statutory Workers Compensation and Employers Liability/Stop Gap insurance in the amount of not less than $1,000,000.00.

(i) The policy of Commercial General Liability insurance shall be written on an occurrence basis; shall name the County, the Benton County District Court, and its elected/appointed representatives, officers, employees and agents as additional insureds; shall be primary coverage for both defense and indemnity and non-contributory with any insurance coverage maintained by the County; and shall provide for waiver of subrogation rights as to the County.

(ii) The insurance policies required by this paragraph 15.b shall require that the insurance company provide the County with no less than thirty (30) days prior written notice in the event the policy is cancelled or materially altered; shall comply with all applicable state of Washington insurance requirements; and shall be issued by an insurance company rated A- or better by A.M. Best authorized to conduct business and issue insurance in the state of Washington.

(iii) Attorney shall continuously maintain the insurance coverage required by this paragraph 15.b throughout the entire term of this Agreement and throughout any other longer time period during which Attorney is obligated to continue performing services and duties hereunder. Provided that, however, Attorney may elect to delay and forego obtaining the Commercial General Liability insurance coverage required by this paragraph 15.b until January 1, 2009, at which time such coverage or such other coverage as may be agreed must be obtained and thereafter maintained throughout the entire remaining term of this Agreement and throughout any longer time period during which attorney is obligated to continue performing services and duties hereunder.

c. Contemporaneously with Attorney's execution of this Agreement, Attorney shall provide the County and its then-designated Risk Manager(s) with copies or certificates of the insurance policies and coverage (including any endorsements) required under this paragraph 15, and Attorney shall annually provide the Risk Manager(s) with the same type of documented proof and confirmation that such

insurance policies and coverage continue to exist no later than thirty (30) days after the policies' annual renewal date(s).

16. **COMPLAINTS; PERFORMANCE MONITORING.** In the event that an employee/representative of the County or the Benton County District Court or the IDC receives an oral/written communication from a person represented by Attorney under this Agreement that in substance asserts an unresolved complaint about the legal services rendered to such person by Attorney, the employee/representative receiving such communication shall promptly request and obtain a written, dated, and signed statement from the complainant describing and detailing the relevant facts and circumstances underlying and alleged in the complaint, copies of which shall promptly be provided to the County, the Benton County Court Administrator and the IDC.

a. Upon receiving such complaint, the IDC, without limitation to any other action the County may deem necessary/appropriate to pursue under this Agreement, shall immediately forward a copy of the complaint to Attorney and request and obtain Attorney's written, dated, and signed response thereto (which Attorney shall prepare and provide to the County and the IDC within five (5) business days, who then shall provide the represented person with a copy of the response within five (5) business days thereafter). The IDC shall review the complaint and Attorney's response and take any action deemed necessary with Attorney and/or the represented person to address and resolve the complaint, and the disposition of the complaint shall be communicated to the represented person as soon as reasonably possible. The IDC then may follow-up with the Benton County District Court within five (5) business days thereafter to confirm or advise that the complaint has been, or is in the process of being, addressed and disposed of. This stated procedure does not interfere with or otherwise impair the Benton County District Court's ability and/or duty to monitor the performance of attorneys appearing before the court.

b. Additionally, during the term of this Agreement, in order to help ensure that indigent persons are consistently provided effective legal representation, and without limitation to any other means or methods of performance monitoring/evaluation the County may deem necessary/appropriate, Attorney acknowledges that the County and/or the IDC have the right to periodically ask, without limitation, the Benton County District Court and/or the District Court Administrator and/or other attorneys and/or persons previously represented by Attorney to provide the County with an evaluation/assessment of the quality and effectiveness of Attorney's performance of legal services and related duties and obligations under this Agreement, provided that such inquiry shall not be made of any person represented, absent a complaint from such person, during the course of representation.

17. **TERMINATION.**

a. In addition to any other automatic termination provisions set forth in this Agreement, this Agreement shall automatically terminate in the event that Attorney is suspended/disbarred from the practice of law in Washington, effective without notice as of the date of suspension/disbarment. In such event, Attorney shall be liable up to $5,000.00 for any additional costs or expenses incurred by the County and/or the Benton County District Court relating to the appointment of substitute legal counsel for any person(s) whom Attorney was appointed to represent hereunder.

Further, in the event that the Benton County District Court enters an order that prohibits or disqualifies Attorney from receiving any further appointments hereunder for any reason whatsoever, this Agreement shall automatically terminate without further notice as of the date such order is entered by the court. In the event that the court enters such an order because of unethical/unprofessional conduct by Attorney and/or because of Attorney's breach of this Agreement and the court determines at that time that the circumstances justify or require a substitution of appointed counsel for any person(s) whom Attorney was appointed to represent hereunder, Attorney shall be liable up to $5,000.00 for any additional costs or expenses incurred by the County relating to such substitute appointment(s).

b. In addition to the above-referenced automatic termination provisions, the County may elect to terminate this Agreement in the event Attorney fails for whatever reason to comply with any provision of this Agreement after giving Attorney ten (10) business days advance written notice to cure, which notice shall specify the reason(s) for the notice, the act(s) necessary to cure Attorney's failure(s), and the consequence (i.e., termination without further notice) if the failure(s) is/are not cured within the ten (10) day period. The County's right to terminate this Agreement in such regard shall be in addition to any other rights and remedies available to the County.

c. In addition to the foregoing provisions regarding termination, either party may elect to terminate this Agreement with or without cause or reason by providing the other party with ninety (90) days advance written notice of such election. Without limiting/waiving other provisions of this Agreement relating to Attorney's obligation and duty to accept and complete cases appointed to Attorney, Attorney shall not be appointed any new cases during the last thirty (30) calendar days of said ninety (90) day notice period.

d. In any event, consistent with the provisions of paragraph 12.f. above and regardless of the manner in which this Agreement is terminated, Attorney acknowledges and agrees that Attorney shall not be entitled to receive any further compensation from the County in the event this Agreement is terminated; provided that, however, Attorney shall be entitled to be paid for all services duly performed by Attorney under this Agreement up to the date of termination. Additionally, as required by paragraph 6 above, the termination of this Agreement, regardless of the manner of

termination, shall not relieve Attorney from the obligation and duty to continue representing all persons whom Attorney was appointed to represent prior to the termination unless Attorney is expressly barred or prohibited from doing so by court order and/or the suspension/disbarment of Attorney from the practice of law in Washington.

e. If the County decides in its discretion to provide indigent defense representation in Benton County District Court through a County agency (such as an Office of Public Defense or similar entity) that would eliminate the need for continuing this Agreement with Attorney, the County will notify Attorney of the County's intentions in that regard as soon as reasonably practicable so that Attorney and the County can mutually coordinate and pursue an appropriate transition. Upon receipt of such notice from the County, Attorney may apply to the County for available staff-attorney employment positions in such agency in accordance with the County's then-existing hiring and employment practices and policies; though Attorney understands and acknowledges that the hiring of Attorney to fill any such positions would not be automatic or in any way guaranteed.

18. **INDEPENDENT CONTRACTOR.** Attorney fully understands, acknowledges, and agrees that Attorney shall not be an agent, representative, or employee of the County or the Benton County District Court for any type of purpose or situation whatsoever (including, without limitation, for purposes of any type of wage, hours/overtime, workers/industrial insurance compensation, unemployment, fair labor, and/or employee benefit/leave laws, disability act coverage or rules, and/or regulations) and that Attorney, as of the date of this Agreement and throughout its entire term, is and will always be acting and operating as a fully independent contractor. In that regard, strictly subject to Attorney's duties, responsibilities and obligations imposed under this Agreement, Attorney shall have sole and absolute discretion using Attorney's best professional legal judgment to determine the manner and means of providing the legal representation services required under this Agreement; and neither the County, the County's IDC, nor the Benton County District Court shall have any authority or duty to directly control the actual performance of Attorney's professional services hereunder.

19. **NON-ASSIGNMENT AND TEMPORARY SUBSTITUTIONS.** Except as otherwise expressly provided in paragraphs 19a. and 19b. below, Attorney shall not allow or arrange for any other person to perform any of the services required by this Agreement, nor shall Attorney assign, subcontract out, or otherwise delegate any of Attorney's rights, responsibilities, or obligations under this Agreement.

a. Attorney and any of the other Benton County District Court Criminal Defense Panel members may mutually agree to make temporary, substitute appearances for each other on routine docket matters and routine court hearings on an as-needed basis as approved by the court and by the person being represented (if that person has previously discussed the case with his/her appointed attorney). Any compensation or

consideration (if any) to be paid or given by Attorney to the other Benton County District Court Criminal Defense Panel members for such substitution(s) shall be a matter of direct negotiation and agreement between Attorney and said other panel members, and said other members shall not be entitled to receive any additional compensation from the County for such substitution(s).

b. In the event Attorney needs or desires to take up to a maximum of four (4) consecutive weeks (or such longer requested period of time as may be expressly pre-approved in writing by the IDC on a case-by-case basis, in his/her sole and absolute discretion) leave of absence from the practice of law and/or the requirements of representation under this Agreement during the term of this Agreement and is unable to obtain the assistance of the other Benton County District Court Criminal Defense Panel members during such temporary absence, Attorney may seek and obtain the assistance of another Washington-licensed attorney to make temporary, substitute appearances for Attorney during such absence on routine docket matters and routine court hearings on an as-needed basis provided that Attorney and such other attorney jointly prepare, sign and file a written certification with the court (with a copy to be provided to the District Court Administrator and the IDC) in all such matters and hearings that expressly certifies that such other attorney has reviewed this Agreement and fully meets all criteria, qualifications, and requirements under this Agreement to render legal services to indigent persons and provided further that such temporary substitution is expressly authorized on the court record by the court and the particular person(s) being represented by Attorney who is/are affected by such substitution of legal counsel.

(i) Any compensation or consideration (if any) to be paid or given by Attorney to such other attorney for such substitution(s) shall be a matter of direct negotiation and agreement between Attorney and such other attorney, and such other attorney shall not be entitled to receive any compensation from the County for such substitution(s).

(ii) Unless called to active military duty, Attorney shall be responsible to ensure that such other attorney fully complies with all terms and conditions of this Agreement during such temporary absence period (including, without limitation, the requirement to maintain the insurance coverage specified in paragraph 15 above), and Attorney shall be liable for any damages or losses sustained as a result of such other attorney's non-compliance with the terms and conditions of this Agreement.

c. In the event Attorney is called up for active military duty or for direct civilian support of active military operations, Attorney shall provide the County and the IDC with written notice of such event within five (5) business days of Attorney being called up so that the IDC and Attorney can coordinate and arrange for an appropriate

substitute attorney to handle Attorney's duties under this Agreement while Attorney is on military leave and any reasonable back-to-civilian-life transition time requested by Attorney upon return. Attorney shall receive no compensation under this Agreement while on leave or during any such transition time.

20. **VACANCY AND REPLACEMENT.** In the event this Agreement is terminated by either party prior to the termination date specified in paragraph 1 above, the County may initiate, implement and pursue any actions or process deemed appropriate/necessary to seek, select, and contract with another qualified attorney to replace and succeed Attorney in representing indigent persons in Benton County District Court.

21. **OTHER APPOINTMENTS.** Attorney shall not enter into any contract/arrangement to perform prosecution services in any court or jurisdiction. Subject to, and without limiting/waiving, Attorney's duties and obligations under this Agreement, Attorney may enter into a part-time contract/arrangement to receive public defense appointments in another court or jurisdiction, provided that, and on the indispensable condition that, Attorney's duties and obligations under said part-time contract/arrangement will not conflict with or interfere with Attorney's ability to timely and effectively perform Attorney's duties and obligations under this Agreement.

22. **TEMPORARY JUDICIAL SERVICE.** Subject to, and without limiting/waiving, Attorney's duties and obligations under this Agreement, Attorney may temporarily serve as a judge pro tem in any court other than Benton County District Court, provided that, and on the indispensable condition that, it would not conflict with or interfere with Attorney's ability to timely and effectively perform Attorney's duties and obligations under this Agreement. Any potential exceptions to the foregoing limitations on Attorney serving as a judge pro tem would be strictly on a case-by-case basis and would be strictly subject to Attorney obtaining the IDC's prior express approval and authorization, which decision shall be decided on a case-by-case basis in the IDC's sole and absolute discretion. Any judicial services rendered by Attorney under this paragraph shall fully comply with all applicable Rules of Professional Conduct and Judicial Canons.

23. **ENTIRE AGREEMENT.** This Agreement constitutes the entire integrated agreement and understanding of the undersigned parties. No amendment, modification or other type of change to this Agreement shall be valid or enforceable unless reduced to writing and signed by the parties.

24. **CAPTIONS; TIME COMPUTATION.**

a. The captions and headings herein are for convenience only and shall not be relied upon or used to interpret or construe this Agreement or any portion thereof.

b. Unless otherwise expressly specified herein, any period of time specified in this Agreement shall expire at 5:00 p.m. (PTZ) of the last calendar day of the specified

period of time, unless the last day is Saturday, Sunday, or a legal holiday, as prescribed in RCW 1.16.050, in which event the specified period of time shall expire at 5:00 p.m. (PTZ) of the next business day. Unless otherwise expressly specified herein as being business days only, any period of time specified in this Agreement shall mean and be calculated to include calendar days.

25. **GOVERNING LAW.** This Agreement shall be exclusively construed under and interpreted consistent with the laws of the state of Washington.

26. **BINDING EFFECT.** Strictly subject to the above restrictions against assignment, subcontracting, or delegation, this Agreement shall be binding upon Attorney's heirs, legal/personal representatives, successors, and assigns.

27. **SEVERABILITY.** In the event that any one or more provisions contained in this Agreement shall, for whatever reason, be held by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such invalid, illegal or unenforceable provision(s) shall not affect any other provision hereof, and this Agreement shall nevertheless be construed and enforced as if such invalid, illegal or unenforceable provision(s) were not contained herein.

28. **NON-WAIVER.** A party's express or implied consent to or waiver of any breach or default by the other party in the performance of such other party's obligations hereunder shall not be deemed or construed to be a consent to or waiver of any other breach or default in the performance by such other party of the same obligations or any other obligation(s) of such other party hereunder.

29. **DISPUTE RESOLUTION.**

a. In the event any type of dispute arises between the parties involving the performance or interpretation of this Agreement, and assuming that the parties are unable to resolve such dispute within a reasonable time after it arises, the parties agree that the dispute shall be submitted to mediation through the assistance of an experienced mediator chosen by mutual agreement between the parties. The County shall pay one-half of the mediator's fees and expenses, and Attorney shall pay the other one-half of such fees and expenses.

b. In the event that mediation proves unsuccessful in resolving the dispute, the parties shall submit the dispute for resolution via binding arbitration pursuant to RCW Chapter 7.04A. A single arbitrator shall be selected by agreement of the parties or, in the absence of agreement, each party shall select one (1) arbitrator and those two (2) so selected arbitrators shall mutually select a third arbitrator. The County shall pay one-half of the fees and expenses of the arbitrator(s), and Attorney shall pay the other one-half of such fees and expenses. The provisions of RCW Chapter 7.04A and applicable Mandatory Arbitration Rules as adopted and implemented in Superior Court

shall be binding as to procedure, except as to the right of appeal, which shall not be applicable. Within ten (10) business days of notice of arbitration, the arbitrator(s) shall be selected and designated and the hearing shall be held within thirty (30) business days thereafter. The arbitrator(s) shall render a written decision and award within ten (10) business days of such hearing. Without limitation, the arbitrator(s) may award damages, specific performance, and/or injunctive relief, and may register a judgment in Superior Court, including judgment by default. The most prevailing party shall be entitled to recover such party's reasonable attorneys' fees, costs and expenses from the other party as a part of the arbitration decision and award. In the event of suit or action to enforce an arbitration award, venue shall lie exclusively in Superior Court, and the most prevailing party in such suit or action shall be entitled to recover such party's reasonable attorneys' fees, costs and expenses from the other party.

30. **NOTICES.**

a. Any notices required or permitted to be given by Attorney to the County under this Agreement shall be in writing and shall be personally delivered to the County's Board of Commissioners or mailed to the County's Board of Commissioners via certified U.S. mail, postage prepaid, at the Board's following address:

Benton County Board of Commissioners
620 Market St.
Prosser, WA 99350

With a mandatory complete copy of any such notices to also be provided to:

Jacki Lahtinen
Benton County District Court Administrator
7122 West Okanogan Place, Building A
Kennewick, WA 99336

Rafael A. Gonzales
Indigent Defense Coordinator
Benton-Franklin Office of Public Defense
7122 W. Okanogan Place, Bldg. A
Kennewick, WA 99336

b. Any notices required or permitted to be given by the County to Attorney under this Agreement shall be in writing and shall be personally delivered to Attorney or mailed to Attorney via certified U.S. mail, postage prepaid, at Attorney's office address specified and set forth in paragraph 2a. above.

c. Any notices under this Agreement shall be deemed to have been duly given, made and received when personally delivered against receipt or when duly

deposited in the U.S. mail in compliance with the provisions of this paragraph. A party may change the address(es) to which notices or copies thereof are to be sent by giving notice of such change of address in conformity with the provisions of this paragraph for the giving of notice.

d. For purposes of clarity, whenever the terms of this Agreement require Attorney to provide "the County" with certain information or notice, such information or notice shall be provided to the County's Board of Commissioners or the Board's designee unless this Agreement expressly mandates that such information or notice also be provided to some other person/entity.

31. **LEGAL COMPLIANCE.** Attorney agrees to and shall strictly follow and comply with any and all federal, state, local, and administrative laws, rules, and regulations applicable to Attorney's pursuit and performance of activities under this Agreement. Without limitation in that regard, Attorney shall timely and fully pay all applicable taxes, fees, licenses, and other payments required by law; and Attorney shall fully comply with any and all anti-discrimination laws and policies including, without limitation, the County's policy that no person will be subjected to discrimination by the County or their contractors based on race, color, national origin, age, sex, marital status, sexual orientation, handicap/disability, personal background, creed, or political or religious affiliation.

32. **INDIGENT DEFENSE COORDINATOR.** Attorney acknowledges that the County has employed an IDC to coordinate, monitor, and evaluate the performances and compliance of independent contractor attorneys (like Attorney) under public indigent defense agreements with the County. Attorney further acknowledges that the County has the right and discretion to direct the IDC to assume and fulfill various roles and functions under this Agreement. Though the IDC will not have or attempt to exercise direct control over the manner and means in which Attorney provides legal services under this Agreement, Attorney agrees to reasonably cooperate and promptly comply with reasonable requests from the IDC to allow for the effective monitoring and evaluation of Attorney's performance under and in compliance with this Agreement.

(SIGNATURES APPEAR ON FOLLOWING PAGE)

IN WITNESS WHEREOF, the parties hereto have entered into and executed this Agreement on the date set forth below.

Date: _____

BENTON COUNTY

_____

Chairman

_____

Commissioner

_____

Commissioner

Date: _____

ATTORNEY

Dawn E. Hickman

Dawn Hickman WSBA# 32597

Approved as to Content:

Rafael A. Gonzales
Indigent Defense Coordinator

Approved as to Form:

_____

Timothy G. Klashke
Attorney at Law

The content of this contract is the same as Dawn Hickman's contract

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF A PROFESSIONAL SERVICE AGREEMENT WITH MARY S. POLAND, ATTORNEY AT LAW FOR LEGAL REPRESENTATION OF INDIGENT INDIVIDUALS CHARGED WITH MISDEMEANORS IN BENTON COUNTY DISTRICT COURT

WHEREAS, the Board of County Commissioners and Mary S. Poland, Attorney at Law, both desire to enter into an agreement effective on January 01, 2008 for legal representation of indigent individuals charged with misdemeanors in District Court;

NOW, THEREFORE,

BE IT RESOLVED that the Board of Benton County Commissioners hereby approves the attached Professional Service Agreement for Legal Representation Of Indigent Individuals Charged With Misdemeanors In District Court with Mary S. Poland, Attorney at Law for the period January 01, 2008 through December 31, 2010.

Dated this ..... day of ....., 2008.

_____
Chairman of the Board

_____
Chairman Pro-Tem

_____
Member

Constituting the Board of County Commissioners of Benton County, Washington

Attest: .....
Clerk of the Board

Original: File
Cc: Rosie Sparks; Mary Poland; Jacki Lahtinen; Rosemary Ozuna

JPaxton

PROFESSIONAL SERVICES AGREEMENT TO PROVIDE LEGAL REPRESENTATION TO INDIGENT PERSONS IN BENTON COUNTY DISTRICT COURT

THIS AGREEMENT is entered into by and between Mary S. Poland, attorney at law, Washington State Bar Association #33599 (Attorney), dba Hickman & Poland, PLLC, and **BENTON COUNTY**, a State of Washington political subdivision (the County), for and on behalf of the Benton County District Court.

THIS AGREEMENT IS ENTERED INTO BASED UPON THE FOLLOWING FACTS AND CIRCUMSTANCES:

A. The County has the legal responsibility to provide legal defense services to indigent persons charged with misdemeanor criminal offenses alleged to have been committed within the County's jurisdictional boundaries.

B. Attorney is engaged in the private practice of law, has direct experience in litigating cases involving persons charged with criminal offenses, and desires to contract with the County to provide legal services to indigent persons subject to misdemeanor criminal charges in the Benton County District Court.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein, the County and Attorney hereby agree as follows:

1. **AGREEMENT TERM.** This Agreement shall be deemed effective for all purposes as of **January 1, 2008**, and shall continue thereafter through and including the **31st day of December 2010**, unless earlier terminated pursuant to the applicable terms and provisions of this Agreement.

2. **ATTORNEY'S OFFICE LOCATION.**

a. Attorney presently and regularly maintains an office adequate and appropriate for the practice of law at 324 W. Kennewick Avenue, Kennewick, WA, 99336. Attorney's current local office telephone and fax numbers are (509) 582-3291 and (509) 582-6484, respectively; and Attorney's current office/work e-mail address is MarySPoland@yahoo.com.

b. Throughout the entire term of this Agreement, Attorney shall continue to maintain such an office, such telephone and fax numbers, and such e-mail address; provided that, however, Attorney may relocate Attorney's office to another location within the Greater Tri-Cities, Washington, and/or Attorney may change Attorney's telephone/fax number to another Greater Tri-Cities local telephone/fax number, and/or

IN WITNESS WHEREOF, the parties hereto have entered into and executed this Agreement on the date set forth below.

Date: _____

BENTON COUNTY

_____

Chairman

_____

Commissioner

_____

Commissioner

Date: Feb. 19, 2008

ATTORNEY

#33599

Mary Poland WSBA#

Approved as to Content:

Rafael A. Gonzalez
Indigent Defense Coordinator

Approved as to Form:

_____

Timothy G. Klashke
Attorney at Law

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF A PROFESSIONAL SERVICE AGREEMENT WITH GLORIA OCHOA LAWRENCE, ATTORNEY AT LAW FOR LEGAL REPRESENTATION OF INDIGENT INDIVIDUALS CHARGED WITH MISDEMEANORS IN BENTON COUNTY DISTRICT COURT

WHEREAS, the Board of County Commissioners and Gloria Ochoa Lawrence, Attorney at Law, both desire to enter into an agreement effective on January 01, 2008 for legal representation of indigent individuals charged with misdemeanors in District Court;

NOW, THEREFORE,

BE IT RESOLVED that the Board of Benton County Commissioners hereby approves the attached Professional Service Agreement for Legal Representation Of Indigent Individuals Charged With Misdemeanors In District Court with Gloria Ochoa Lawrence, Attorney at Law for the period January 01, 2008 through March 31,2008

Dated this ..... day of ....., 2008.

Chairman of the Board

Chairman Pro-Tem

Member

Constituting the Board of County Commissioners of Benton County, Washington

Attest: .....
Clerk of the Board

Original: File
Cc: Rosie Sparks; Gloria Ochoa Lawrence; Jacki Lahtinen; Rosemary Ozuna

JPaxton

PROFESSIONAL SERVICES AGREEMENT TO PROVIDE LEGAL REPRESENTATION TO INDIGENT PERSONS IN BENTON COUNTY DISTRICT COURT

THIS AGREEMENT is entered into by and between **Gloria Ochoa Lawrence**, attorney at law, Washington State Bar Association #31087 (Attorney), dba Ochoa Lawrence Law Group, and **BENTON COUNTY**, a State of Washington political subdivision (the County), for and on behalf of the Benton County District Court.

THIS AGREEMENT IS ENTERED INTO BASED UPON THE FOLLOWING FACTS AND CIRCUMSTANCES:

A. The County has the legal responsibility to provide legal defense services to indigent persons charged with misdemeanor criminal offenses alleged to have been committed within the County's jurisdictional boundaries.

B. Attorney is engaged in the private practice of law, has direct experience in litigating cases involving persons charged with criminal offenses, and desires to contract with the County to provide legal services to indigent persons subject to misdemeanor criminal charges in the Benton County District Court.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein, the County and Attorney hereby agree as follows:

1. **AGREEMENT TERM.** This Agreement shall be deemed effective for all purposes as of **January 1, 2008**, and shall continue thereafter through and including the **31st Day of March, 2008**, unless earlier terminated or extended pursuant to the applicable terms and provisions of this Agreement, including but not limited to assumption of a full-time or part-time contract.

2. **ATTORNEY'S OFFICE LOCATION.**

a. Attorney presently and regularly maintains an office adequate and appropriate for the practice of law at 7401 W. Grandridge Boulevard, Suite 102, Kennewick, WA. Attorney's current local office telephone and fax numbers are (509) 734-1345 and (509) 734-4612, respectively; and Attorney's current office/work e-mail address is Gloria.Lawrence@Ochoalawrencelaw.com.

b. Throughout the entire term of this Agreement, Attorney shall continue to maintain such an office, such telephone and fax numbers, and such e-mail address; provided that, however, Attorney may relocate Attorney's office to another location within the Greater Tri-Cities, Washington, and/or Attorney may change Attorney's

telephone/fax number to another Greater Tri-Cities local telephone/fax number, and/or Attorney may change Attorney's e-mail address, provided that Attorney must provide immediate written notice of such change(s) to the Benton-Franklin Indigent Defense Coordinator (IDC), the Benton County Prosecuting Attorney, and the Benton County District Court Administrator (District Court Administrator).

c. The County prefers that Attorney locate and maintain Attorney's office in a commercial/professional building. However, regardless of the location Attorney decides to maintain his/her office, the office must be capable of accommodating confidential face-to-face meetings between Attorney and persons whom Attorney is appointed to represent under this Agreement, must be capable of regularly receiving mail, and must have adequate telephone service to facilitate and ensure prompt response to contact with or from represented persons.

3. **ATTORNEY'S QUALIFICATIONS.** Attorney acknowledges and agrees that the County has an obligation to provide competent and effective legal counsel to indigent persons subject to proceedings in the Benton County District Court. Attorney shall perform all services hereunder in strict accordance with the usual skills and professional ethical standards exercised by attorneys engaged in the defense of persons accused of misdemeanor crimes in the state of Washington and generally exercised by members of the Washington State Bar Association (WSBA). Without limitation in that regard, Attorney acknowledges and agrees that Attorney has a fundamental duty and responsibility to effectively promote and protect the best interests and rights of all persons whom Attorney is appointed to represent under this Agreement.

a. As of the date of this Agreement, Attorney represents and warrants that Attorney is unconditionally licensed to practice law within the state of Washington; has had at least one (1) year of direct trial experience in criminal defense or criminal prosecution matters; has not been subject to a termination proceeding involving a previous personal service agreement for indigent defense services; has not been censured, admonished, or otherwise formally disciplined for past conduct or behavior that would negatively reflect on Attorney's duty and ability to effectively and competently render legal services hereunder; has not been suspended or disbarred from the practice of law in any state or jurisdiction at any time in the past; and does not have any bar association complaints filed and pending against him/her.

(i) This Agreement may be subject to review and, if applicable and/or necessary, further action pursuant to paragraph 17 below in the event that Attorney's license to practice law in Washington is revoked or otherwise limited or restricted; in the event that a court of competent jurisdiction formally determines and expressly finds that Attorney has rendered ineffective assistance of counsel to any person; in the event that Attorney is censored, admonished, or otherwise formally disciplined for conduct or behavior that negatively reflects on

Attorney's duty and ability to effectively and competently render legal services hereunder; or in the event that Attorney is suspended or disbarred from the practice of law in any other state or jurisdiction.

(ii) Attorney shall notify the County within three (3) business days if any event specified in paragraph 3.a.(i) above occurs or if any bar association complaint is filed against Attorney.

b. To comply with the provisions of RCW 72.05.440, WAC 388-700-0010, and RCW 13.40.570, Attorney acknowledges and agrees that the County may conduct criminal history background check(s) on Attorney. Attorney acknowledges and agrees that this Agreement shall be deemed immediately and automatically terminated upon the County receiving a non-complying or otherwise unsatisfactory criminal history background check report.

c. Attorney represents, warrants, and certifies that Attorney has read and fully understands the requirements of RCW 13.40.570 (sexual misconduct by state employees, contractors) and all sex offense crimes included in RCW Chapter 9A.44. Attorney shall comply with any and all applicable legal and/or administrative requirements relating to the documentation/reporting of sexual misconduct.

d. During each calendar year of the term of this Agreement, beginning in calendar year 2008, Attorney shall be required to obtain at least seven (7) hours of WSBA-qualified Continuing Legal Education (CLE) credits in courses directly relating to Attorney's public defense practice under this Agreement. Attorney shall provide the Indigent Defense Coordinator with written proof and confirmation that such CLE credits have been obtained no later than by December 31st of each calendar year. Additionally, during each calendar year during the term of this Agreement, in addition to participating in any specialized training-related activity specified in RCW 10.101.060(1)(a)(iii) or otherwise specifically required by other applicable law or court rule, Attorney shall attend at least one (1) public defense services-related training seminar sponsored and/or approved by the Washington Office of Public Defense (OPD), and any CLE credit earned by Attorney by attending such training seminar(s) may be applied towards the above-mentioned minimum seven (7) hours. The County may provide Attorney's name and address to the OPD for purposes of the OPD notifying Attorney of any such upcoming training seminars. Attorney shall provide the IDC with written proof and confirmation that such required training seminar has been attended by Attorney no later than by December 31st of each calendar year.

e. Attorney represents and warrants that, throughout the entire term of this Agreement, Attorney's private law practice caseload; Attorney's schedule; and Attorney's office resources, equipment, and support staff will allow Attorney to competently undertake and effectively perform all services required under this

Agreement. Attorney represents and warrants that Attorney's private law practice and schedule will not interfere with Attorney's ability to timely and efficiently perform such services including, without limitation, Attorney's ability to prepare for and attend regularly scheduled trials and dockets or Attorney's ability to schedule and conduct face-to-face meetings with the persons Attorney is appointed to represent under this Agreement for purposes of discussing, preparing, and pursuing the most viable defense(s) and/or resolution available and keeping such persons reasonably apprised as to the status of their case.

f. Pursuant to RCW 10.101.050, no later than by the 15th day of each month during the term of this Agreement, Attorney shall provide the IDC with a written report showing the total number and specific types of private practice cases (which for purposes of this Agreement shall include pro bono cases, retained-fee cases, and any cases handled by Attorney under any other professional/personal services agreement) in which Attorney provided legal services during the preceding month and the total number and specific types of appointed cases under this Agreement in which Attorney provided legal services during the preceding month. Additionally, in the event that the public defense attorney caseload activity reporting requirements under RCW 10.101.050 are later amended/modified, Attorney shall correspondingly comply with any such amended/modified reporting requirements without added compensation upon written notice from the County to do so.

4. **OTHER INDIGENT DEFENSE AGREEMENTS.** On or about the date of this Agreement, the County contemplates entering into separate and independent professional services agreements with other licensed attorneys to primarily provide criminal defense services to persons accused of misdemeanor crimes in Benton County District Court. Attorney agrees to fully cooperate and coordinate with said other attorneys, the Benton County District Court, the District Court Administrator and the IDC to establish a process to effectuate the efficient and equitable distribution of case appointments between Attorney and said other attorneys (collectively the Benton County District Court Criminal Defense Panel). The District Court Administrator and/or the IDC shall have the inherent discretion and authority to monitor and control (and reasonably modify/change) such process.

5. **CASE APPOINTMENTS.** During the term of this Agreement, Attorney agrees to and shall accept appointments to represent indigent persons (regardless of their race, color, national origin, age, sex, marital status, sexual orientation, handicap/disability, personal background, creed, or political or religious affiliation) on any matter in the Benton County District Court in which publicly provided counsel is furnished or required by law. More specifically, Attorney shall accept court appointments to represent indigent persons on any of the following types of matters:

- Any misdemeanor matter filed or otherwise pending under the applicable Washington criminal statutes and/or under any other applicable Washington law in the Benton County District Court.

- Any post-disposition probation violation, revocation, modification, and/or contempt-of-court proceeding relating to any underlying criminal case.

- Any material witness matter relating to a case or matter filed in Benton County District Court.

- Any case or matter returned to the Benton County District Court from any higher court.

- Any other type of Benton County District Court case or matter in which another Benton County District Court Criminal Defense Panel member and/or any other attorney who is under a professional services agreement to provide legal representation in Benton County District Court is unable to handle due to a conflict of interest.

- Any case or matter transferred from the Juvenile Court through declination or other court proceedings.

- Any civil contempt of court proceeding, not including non-contempt matters such as non-criminal custody or paternity matters.

6. **CONTINUED REPRESENTATION.**

a. Attorney has a duty to timely and fully complete all cases appointed to Attorney under this Agreement. In that regard, Attorney shall continue to provide representation for those persons whom Attorney was appointed to represent and whose case was not concluded prior to the effective date of termination of this Agreement for up to ninety (90) days following the effective date of termination. Attorney's obligation to continue post-termination representation shall not in any way entitle Attorney to receive any additional compensation beyond the compensation amount(s) specified in this Agreement.

(i) By way of example, in the event that Attorney is required by this paragraph to continue representing a person charged with a crime after the termination date of this Agreement, Attorney shall not be entitled to receive any compensation as a result of such continued, post-termination representation.

(ii) By way of further example, in the event that Attorney is required by this paragraph to continue representing a person charged with a crime or matter after the termination date of this Agreement, the only compensation that

Attorney would be entitled to receive as a result of such continued, post-termination representation is court-authorized cost reimbursements specified in paragraph 13.b below.

b. Notwithstanding anything in this paragraph 6 or elsewhere in this Agreement to the contrary, Attorney's post-termination duty and obligation to continue representing persons whom Attorney was appointed to represent in Benton County District Court for up to ninety (90) days shall be limited to a sixty (60) day period following the termination date for the following types of matters:

(i) Any civil-based matter;

(ii) Any matter involving a represented person for whom a warrant has been issued; and

(iii) Any case where personal service is not effected within thirty (30) days of the date of the notice of termination.

c. Attorney will be appointed to no new cases under this Agreement during the thirty (30) day period prior to its termination date specified in paragraph 1 above if Attorney provides written notice to the County at least sixty (60) days prior to such termination date of Attorney's desire and intent to not pursue contracting with the County again to provide indigent defense services in Benton County District Court after such termination date. Attorney may belatedly provide such written notice at any time within said sixty (60) day time period, but the appointment of new cases to Attorney will not stop until thirty (30) days after the date such notice is received by the County.

7. **NUMBER OF APPOINTMENTS.** During each calendar year of the term of this Agreement, Attorney agrees to and shall accept appointments hereunder to represent persons in the Benton County District Court up to a maximum of **three hundred and eighty (380) total case equivalents per calendar year** (proratable for any partial calendar year). The date on which a case or matter is filed (rather than its final date of disposition) shall be used to determine the calendar year in which a case equivalent is to be counted.

8. **CASE EQUIVALENTS.**

a. For purposes of calculating Attorney's above-referenced "case equivalents" under this Agreement, the following provisions shall apply:

- A misdemeanor appointment shall be counted as one (1) case equivalent.

- A probation violation appointment shall be counted as one-half (1/2) case equivalent.

- An appointment on a mental or substance-abuse commitment, generally to be appointed only when necessary for conflict reasons, shall count as one (1) case equivalent.

- An appointment to represent a person in a material witness matter in a case pending in Benton County District Court shall count as one half (1/2) of a case equivalent.

- An appointment to a case or matter returned to Benton County District Court from a higher court shall be counted as determined by the IDC following consultation.

- If Attorney is appointed to a case and withdraws prior to the omnibus hearing for any reason, including the substitution of retained counsel or a conflict of interest, that appointment shall not count as any case equivalent; provided that the IDC shall retain discretion to award a case equivalent value (or fractional portion thereof) if deemed appropriate following consultation.

- Case equivalent value assigned is based on cases, not charges, and is determined by the classification of the most serious offense charged.

- Any civil contempt of court proceeding shall count as one-half (1/2) of a case equivalent.

b. An appointment to any matter in which Attorney was previously appointed shall not be further counted as any type of case equivalent if such matter was not fully concluded and subsequently arises again before the Benton County District Court and Attorney continues representing the same person in such matter within a 12-month period (e.g., if Attorney was appointed to represent a person on a criminal charge who fails to appear for trial but is back before the court within 12 months, Attorney's continued representation of such person following his later arrest shall be deemed as being a prior and ongoing representation and shall not count as any type of further or additional case equivalent). Provided that, however, if Attorney was appointed to represent a person who is duly tried, convicted, and sentenced, Attorney's subsequent representation of such person during subsequent proceedings for alleged violations of sentence conditions shall be deemed as being an independent and unrelated matter.

c. Except as may be otherwise specifically and expressly provided in this Agreement, an appointment to any matter involving multiple charges arising out of a

single incident or series of substantially related incidents shall be considered as being one (1) case equivalent. Similarly, except as may be otherwise expressly provided in this Agreement, an appointment to any matter involving multiple charges brought/filed under a single cause number and/or which are properly joined for purposes of trial shall be considered as being one (1) case equivalent. Provided, however, the IDC may in his discretion adjust the case equivalent total earned under this paragraph upon written request from, and after review and consultation with, Attorney.

d. Throughout the term of this Agreement, the IDC shall keep and maintain records consistent with the provisions of this Agreement in a format adequate to accurately track and monitor the number of Attorney's appointments and total case equivalents hereunder. The IDC shall provide copies of such records to the County and Attorney on a monthly basis. Attorney shall have the burden of proof in the event that Attorney ever disagrees with any such records, and Attorney must notify the IDC in writing within ten (10) business days of records receipt if Attorney disagrees with, and desires to dispute, any such records, otherwise such records shall be conclusively presumed as being accurate.

9. **CLIENT ELIGIBILITY.** The Benton County District Court (or its designee), consistent with applicable laws, rules and standards, shall determine the eligibility of any particular person for representation by Attorney under this Agreement. Attorney is under no obligation to determine a person's eligibility or continuing eligibility to receive publicly provided representation. However, if Attorney is appointed to represent a person and subsequently discovers that such person may not be eligible to receive publicly-provided representation under applicable laws, rules and standards, Attorney, if able to do so within the bounds of applicable ethical rules and professional standards, shall promptly notify the Benton County District Court of such possibility for purposes of the District Court (or its designee) taking action at its discretion to re-determine whether such person is/remains eligible to receive publicly-provided representation. If the Benton County District Court (or its designee) then determines that such person is not eligible for publicly provided representation, the appointment of Attorney to represent such person shall be rescinded and such person shall be required to retain his/her own legal counsel. Attorney shall not thereafter represent such person in such matter on a retained-fee basis unless such person applies for and receives the Benton County District Court's permission allowing such representation. Nothing contained herein shall prevent Attorney from representing a person on a retained-fee basis in an action in which Attorney has not been appointed by the Benton County District Court to represent such person, or from representing a person on a retained-fee basis whom Attorney has been appointed by the Benton County District Court to represent provided that the matter(s) involving the retained representation are wholly independent and unrelated to the matter for which Attorney was appointed.

10. **CONFLICTS.** Notwithstanding any other terms or provisions contained in this Agreement to the contrary, Attorney shall not be required to accept, and Attorney shall decline

to accept, an appointment under this Agreement if the particular appointment would create a true and bona fide conflict of interest for Attorney or would otherwise cause or constitute an actual violation of any generally recognized ethical or professional standards common and applicable to attorneys in the state of Washington. Furthermore, in the event a true and bona fide conflict of interest arises subsequent to Attorney receiving an appointment under this Agreement (or in the event Attorney's continued involvement in a pending case would cause or constitute an actual violation of any such ethical or professional standards), Attorney shall immediately make the Benton County District Court aware of such development for purposes of the District Court taking immediate action to appoint another attorney to assume and undertake legal representation in such case.

11. **SCOPE OF REPRESENTATION; FILE RETENTION.** Attorney agrees to and shall represent all persons whom Attorney is appointed to represent hereunder with the same skill and commitment as Attorney exercises and expends when representing persons on a private and/or retained-fee basis. Without limitation in that regard, such representation shall include the investigation of the underlying facts, the research of all relevant law, interviewing of potential witnesses, retention and use of investigators and/or experts when warranted and necessary, appropriate communication with the client, review of potential plea alternatives, review of potential collateral consequences associated with a plea/conviction (e.g., potential immigration or civil commitment consequences), and the preparation for and appearance on behalf of the client in all stages of District Court proceedings including, without limitation, arraignments, pre-trial hearings, motions, trials, sentencing/disposition proceedings, contempt proceedings, appeals (limited to the preparation and filing of any and all pleadings necessary and appropriate to perfect any appeal or statutory writ to a higher court, including the appointment of publicly-provided counsel, if and when applicable), and post-conviction reviews.

a. Without limiting Attorney's duty to initially meet with an indigent person to discuss his/her case as soon as reasonably possible following Attorney's appointment to the case, when Attorney is appointed to an "in custody" case (i.e., a case in which the person is confined/incarcerated), Attorney shall use best efforts to meet face-to-face within three (3) business days of Attorney receiving the appointment (unless the circumstances of a particular case reasonably require that Attorney make earlier initial contact with the person), otherwise, as soon thereafter as is reasonably feasible.

b. Additionally, throughout Attorney's representation of any person under this Agreement, Attorney shall maintain appropriate contact/communications with the person so as to keep him/her fully apprised as to the status of his/her case; and Attorney shall use best efforts to apprise the person of any new development in his/her case within three (3) business days of Attorney learning of such development (unless the circumstances of a particular case reasonably require that Attorney make earlier contact with the person), otherwise, as soon thereafter as is reasonably feasible. Without limiting any of the foregoing provisions of this paragraph, with regard to any court

hearing involving a represented person, Attorney shall contact (preferably in person or at least via telephone) such person to discuss his/her case and the purpose of the hearing no later than one (1) business day prior to the hearing date.

c. Attorney shall compile and maintain appropriate case records for each person whom Attorney is appointed to represent hereunder. Attorney shall retain such case records in their entirety (or a complete and legible copy thereof, to include electronic file storage) for a period of no less than seven (7) years from the date on which the case or matter is fully and finally concluded or for any other time period specified under applicable court rule or statute, whichever date/event occurs last.

d. Upon Attorney pleading guilty or being convicted of any of the following-described offenses, Attorney shall notify the IDC of such plea/conviction within seven (7) calendar days thereafter, and Attorney's failure to timely report within such timeframe shall constitute misconduct under RCW Title 50 and result in the immediate and automatic termination of this Agreement:

(i) Any felony sex offense as defined in RCW 9.94A.030 and RCW 9A.44.130;

(ii) Any crime specified in RCW Chapter 9A.44 when the victim was a juvenile in the custody of, or under the jurisdiction of, the Juvenile Rehabilitation Administration, Washington Department of Social and Health Services; and/or

(iii) Any violent offense as defined in RCW 9.94A.030.

12. **MONTHLY COMPENSATION.**

a. As compensation for Attorney's performance and rendering of independent professional legal services hereunder during February of 2008, Attorney's monthly compensation hereunder shall be **$9183.34 per month** (proratable for any partial month), payable on the last business day of the month.

b. During the balance of calendar year 2008 and/or the applicable contract period, Attorney's monthly compensation hereunder shall be **$4591.67 per month** (proratable for any partial month), payable on the last business day of the month for handling **380 total case equivalents** during the calendar year.

c. In addition to the stated monthly compensation, commencing in calendar year 2008, Attorney shall receive $200 per day for each full day of trial and $100 for each partial day of trial, not to include pre-trial motions or time waiting for disposition. A

full day of trial is defined as actual in-session trial proceedings going beyond four (4) total hours for that trial day. Commencing in calendar year 2010, Attorney shall receive $300 per day for each full day of trial and $150 for each partial day of trial.

d. The above-stated payments to Attorney will immediately cease upon the termination of this Agreement on, or for any reason prior to, the termination date specified in paragraph 1 above. For example, if this Agreement is terminated effective October 31, 2008, the above referenced monthly payments to Attorney would also terminate as of such date, and Attorney would not be entitled to receive any further monthly payments from the County; provided that, Attorney would be entitled to receive any then-accrued and unpaid amounts for services rendered hereunder prior to such termination date. By way of further example, if this Agreement is terminated effective November 15, 2008, the above-stated monthly payments to Attorney would also terminate as of such date, and Attorney would not be entitled to receive any further monthly payments from the County; provided that, Attorney would be entitled to receive on a prorata basis any then-accrued and unpaid amounts for services rendered hereunder prior to such termination date (i.e., 50% of the above-stated monthly payment amount. Attorney acknowledges and agrees that the above-stated compensation to Attorney shall constitute Attorney's full and exclusive compensation hereunder for all cases handled by Attorney under this Agreement up to the above-stated annual maximum total case equivalents.

13. **COSTS AND EXPENSES.**

a. Attorney acknowledges and agrees that Attorney shall not be entitled to claim or receive any reimbursement/payment from the County for any law practice-related overhead costs or expenses incurred by Attorney during the course of rendering legal services under this Agreement (including, without limitation, costs and expenses associated with Attorney's office, office staff, office equipment/facilities, and/or other office or law practice-related resources).

b. The County recognizes, however, that in certain circumstances the need may arise for Attorney to incur certain types of out-of-pocket expenses directly related to an indigent person's case such as private investigator fees, psychological or psychiatric evaluations, interpreter fees, scientific test fees, expert witness fees, and costs of out-of-area travel, meals and lodging.

(i) Attorney shall be entitled to receive reimbursement for the actual cost of such out-of-pocket expenditures provided that, however, Attorney shall not incur any such expense nor shall Attorney be entitled to be reimbursed for any such expense unless such expense has been pre-approved pursuant to ex-parte motion and court order (or other court-designated process) that expressly determines and finds that such expense is necessary and reasonable in

accordance with applicable court rules, procedures, and standards. Such court order shall state and provide a specific dollar amount for the requested and authorized expenditure; provided that, in the event it is not reasonably possible to state and provide a specific dollar amount for a particular requested expenditure, such order may nevertheless provide authorization for the expenditure but shall establish and set forth a maximum dollar expenditure amount. In regard to any reimbursement to Attorney for any court-approved expenditures and costs pertaining to case-related travel, meals, and lodging, any reimbursement to Attorney for such expenditures and costs shall not exceed the amounts that the County would be obligated to pay and reimburse to employees of the Benton County District Court under then-existing employee travel-related policies and rules.

(ii) In addition to any other prerequisites imposed by court rules, procedures, or standards, as a precondition to Attorney being reimbursed for an expenditure under this paragraph, Attorney shall be required to submit a vendor warrant payment voucher to the County that identifies the specific expenditure(s) for which reimbursement is sought (exercising appropriate discretion to protect client confidentiality given that such vouchers are matters of public record unless sealed by the court at Attorney's request) and that has attached thereto a copy of the court order(s) that specifically pre-approved and authorized such expenditure(s) (unless sealed by the court at Attorney's request) together with attached copies of all written payment receipts relating to such incurred expenditure(s) (unless sealed by the court at Attorney's request). Attorney's administrative time expended to prepare, submit, and process vouchers shall not be billable to the County. All payment vouchers and requests for reimbursement under this paragraph shall be subject to the court's review and final approval for payment. Attorney shall submit such payment vouchers to the District Court Administrator within sixty (60) days of Attorney incurring the expense(s) for which reimbursement is sought, and the County shall have the right to deny payment of any voucher that is not timely submitted within said requisite sixty (60) day period.

14. **INDEMNIFICATIONS AND HOLD HARMLESS.** Attorney agrees to and shall fully indemnify the County and its elected/appointed representatives, officers, employees, and agents; and to hold the County and its elected/appointed representatives, officers, employees, and agents fully harmless; from and for any and all losses, damages, costs, charges, claims, demands, suits, or actions of whatsoever nature directly or indirectly arising out of or by reason of Attorney's (or any person, employee, agent, contractor, or entity acting for or on behalf of Attorney or at Attorney's request or direction) acts, defaults, errors and/or omissions of whatsoever nature in the performance of legal services to any person under this Agreement. In the event any suit or legal proceeding is brought against the County or any of its elected/appointed representatives, officers, employees or agents at any time on account of or by

reason of any such acts, defaults, errors and/or omissions, Attorney hereby covenants and agrees to assume the defense thereof (through counsel acceptable to the County) and to defend the same at Attorney's sole cost and expense and to pay any and all costs, charges, attorneys' fees, and other expenses as well as any and all judgments or awards that may be incurred by or entered against the County or any of its elected/appointed representatives, officers, employees or agents in such suits or other legal proceedings. Without limiting the intended broad scope and application of the indemnification and hold harmless provisions of this paragraph, for purposes of this paragraph, Attorney waives, with respect to the County only, any immunity that would otherwise be available to Attorney under the Industrial Insurance Act provisions of Title 51 RCW or any other similar workers/employee disability or benefit law. The indemnification and hold harmless provisions of this paragraph shall survive the termination or expiration of this Agreement.

15. **INSURANCE.**

a. Attorney shall obtain and maintain, at Attorney's sole cost and expense, a policy of professional liability insurance in an amount of not less than $1,000,000.00 per claim nor less than $1,000,000.00 in the aggregate during the policy term and with a maximum deductible of not more than $10,000.00.

(i) Said policy shall include coverage as an additional insured for any other person(s) or attorney(s) acting for or on behalf of Attorney in the performance of this Agreement; shall provide professional liability insurance coverage for any acts, errors and/or omissions by Attorney (and/or such additional insureds) during the course of performing legal services under this Agreement; shall require that the insurance company provide the County with no less than thirty (30) days prior written notice in the event the policy is cancelled or materially altered; shall comply with all applicable state of Washington insurance requirements; and shall be issued by an insurance company rated A- or better by A.M. Best authorized to conduct business and issue insurance in the state of Washington.

(ii) Attorney shall continuously maintain the professional liability insurance coverage required by this paragraph 15.a throughout the entire term of this Agreement, throughout any other longer time period during which Attorney is obligated to continue performing services and duties hereunder, and for a period of no less than thirty-six (36) consecutive months after Attorney has fully completed all services and duties required hereunder.

b. Attorney shall also obtain and maintain, at Attorney's sole cost and expense, a policy of Commercial General Liability insurance (including Endorsement Form CG2011 and Contractual Liability coverage) in the amount of not less than $1,000,000.00 per occurrence nor less than $2,000,000.00 in the aggregate during the

policy term. Additionally, if Attorney is an employer, Attorney shall obtain and maintain, at Attorney's sole cost and expense, a policy of Statutory Workers Compensation and Employers Liability/Stop Gap insurance in the amount of not less than $1,000,000.00.

(i) The policy of Commercial General Liability insurance shall be written on an occurrence basis; shall name the County, the Benton County District Court, and its elected/appointed representatives, officers, employees and agents as additional insureds; shall be primary coverage for both defense and indemnity and non-contributory with any insurance coverage maintained by the County; and shall provide for waiver of subrogation rights as to the County.

(ii) The insurance policies required by this paragraph 15.b shall require that the insurance company provide the County with no less than thirty (30) days prior written notice in the event the policy is cancelled or materially altered; shall comply with all applicable state of Washington insurance requirements; and shall be issued by an insurance company rated A- or better by A.M. Best authorized to conduct business and issue insurance in the state of Washington.

(iii) Attorney shall continuously maintain the insurance coverage required by this paragraph 15.b throughout the entire term of this Agreement and throughout any other longer time period during which Attorney is obligated to continue performing services and duties hereunder. Provided that, however, Attorney may elect to delay and forego obtaining the Commercial General Liability insurance coverage required by this paragraph 15.b until January 1, 2009, at which time such coverage or such other coverage as may be agreed must be obtained and thereafter maintained throughout the entire remaining term of this Agreement and throughout any longer time period during which attorney is obligated to continue performing services and duties hereunder.

c. Contemporaneously with Attorney's execution of this Agreement, Attorney shall provide the County and its then-designated Risk Manager(s) with copies or certificates of the insurance policies and coverage (including any endorsements) required under this paragraph 15, and Attorney shall annually provide the Risk Manager(s) with the same type of documented proof and confirmation that such insurance policies and coverage continue to exist no later than thirty (30) days after the policies' annual renewal date(s).

16. **COMPLAINTS; PERFORMANCE MONITORING.** In the event that an employee/representative of the County or the Benton County District Court or the IDC receives an oral/written communication from a person represented by Attorney under this Agreement that in substance asserts an unresolved complaint about the legal services rendered to such

person by Attorney, the employee/representative receiving such communication shall promptly request and obtain a written, dated, and signed statement from the complainant describing and detailing the relevant facts and circumstances underlying and alleged in the complaint, copies of which shall promptly be provided to the County, the Benton County Court Administrator and the IDC.

a. Upon receiving such complaint, the IDC, without limitation to any other action the County may deem necessary/appropriate to pursue under this Agreement, shall immediately forward a copy of the complaint to Attorney and request and obtain Attorney's written, dated, and signed response thereto (which Attorney shall prepare and provide to the County and the IDC within five (5) business days, who then shall provide the represented person with a copy of the response within five (5) business days thereafter). The IDC shall review the complaint and Attorney's response and take any action deemed necessary with Attorney and/or the represented person to address and resolve the complaint, and the disposition of the complaint shall be communicated to the represented person as soon as reasonably possible. The IDC then may follow-up with the Benton County District Court within five (5) business days thereafter to confirm or advise that the complaint has been, or is in the process of being, addressed and disposed of. This stated procedure does not interfere with or otherwise impair the Benton County District Court's ability and/or duty to monitor the performance of attorneys appearing before the court.

b. Additionally, during the term of this Agreement, in order to help ensure that indigent persons are consistently provided effective legal representation, and without limitation to any other means or methods of performance monitoring/evaluation the County may deem necessary/appropriate, Attorney acknowledges that the County and/or the IDC have the right to periodically ask, without limitation, the Benton County District Court and/or the District Court Administrator and/or other attorneys and/or persons previously represented by Attorney to provide the County with an evaluation/assessment of the quality and effectiveness of Attorney's performance of legal services and related duties and obligations under this Agreement, provided that such inquiry shall not be made of any person represented, absent a complaint from such person, during the course of representation.

17. **TERMINATION.**

a. In addition to any other automatic termination provisions set forth in this Agreement, this Agreement shall automatically terminate in the event that Attorney is suspended/disbarred from the practice of law in Washington, effective without notice as of the date of suspension/disbarment. In such event, Attorney shall be liable up to $5,000.00 for any additional costs or expenses incurred by the County and/or the Benton

County District Court relating to the appointment of substitute legal counsel for any person(s) whom Attorney was appointed to represent hereunder.

Further, in the event that the Benton County District Court enters an order that prohibits or disqualifies Attorney from receiving any further appointments hereunder for any reason whatsoever, this Agreement shall automatically terminate without further notice as of the date such order is entered by the court. In the event that the court enters such an order because of unethical/unprofessional conduct by Attorney and/or because of Attorney's breach of this Agreement and the court determines at that time that the circumstances justify or require a substitution of appointed counsel for any person(s) whom Attorney was appointed to represent hereunder, Attorney shall be liable up to $5,000.00 for any additional costs or expenses incurred by the County relating to such substitute appointment(s).

b. In addition to the above-referenced automatic termination provisions, the County may elect to terminate this Agreement in the event Attorney fails for whatever reason to comply with any provision of this Agreement after giving Attorney ten (10) business days advance written notice to cure, which notice shall specify the reason(s) for the notice, the act(s) necessary to cure Attorney's failure(s), and the consequence (i.e., termination without further notice) if the failure(s) is/are not cured within the ten (10) day period. The County's right to terminate this Agreement in such regard shall be in addition to any other rights and remedies available to the County.

c. In addition to the foregoing provisions regarding termination, either party may elect to terminate this Agreement with or without cause or reason by providing the other party with ninety (90) days advance written notice of such election. Without limiting/waiving other provisions of this Agreement relating to Attorney's obligation and duty to accept and complete cases appointed to Attorney, Attorney shall not be appointed any new cases during the last thirty (30) calendar days of said ninety (90) day notice period.

d. In any event, consistent with the provisions of paragraph 12.f. above and regardless of the manner in which this Agreement is terminated, Attorney acknowledges and agrees that Attorney shall not be entitled to receive any further compensation from the County in the event this Agreement is terminated; provided that, however, Attorney shall be entitled to be paid for all services duly performed by Attorney under this Agreement up to the date of termination. Additionally, as required by paragraph 6 above, the termination of this Agreement, regardless of the manner of termination, shall not relieve Attorney from the obligation and duty to continue representing all persons whom Attorney was appointed to represent prior to the termination unless Attorney is expressly barred or prohibited from doing so by court order and/or the suspension/disbarment of Attorney from the practice of law in Washington.

e. If the County decides in its discretion to provide indigent defense representation in Benton County District Court through a County agency (such as an Office of Public Defense or similar entity) that would eliminate the need for continuing this Agreement with Attorney, the County will notify Attorney of the County's intentions in that regard as soon as reasonably practicable so that Attorney and the County can mutually coordinate and pursue an appropriate transition. Upon receipt of such notice from the County, Attorney may apply to the County for available staff-attorney employment positions in such agency in accordance with the County's then-existing hiring and employment practices and policies; though Attorney understands and acknowledges that the hiring of Attorney to fill any such positions would not be automatic or in any way guaranteed.

18. **INDEPENDENT CONTRACTOR.** Attorney fully understands, acknowledges, and agrees that Attorney shall not be an agent, representative, or employee of the County or the Benton County District Court for any type of purpose or situation whatsoever (including, without limitation, for purposes of any type of wage, hours/overtime, workers/industrial insurance compensation, unemployment, fair labor, and/or employee benefit/leave laws, disability act coverage or rules, and/or regulations) and that Attorney, as of the date of this Agreement and throughout its entire term, is and will always be acting and operating as a fully independent contractor. In that regard, strictly subject to Attorney's duties, responsibilities and obligations imposed under this Agreement, Attorney shall have sole and absolute discretion using Attorney's best professional legal judgment to determine the manner and means of providing the legal representation services required under this Agreement; and neither the County, the County's IDC, nor the Benton County District Court shall have any authority or duty to directly control the actual performance of Attorney's professional services hereunder.

19. **NON-ASSIGNMENT AND TEMPORARY SUBSTITUTIONS.** Except as otherwise expressly provided in paragraphs 19a. and 19b. below, Attorney shall not allow or arrange for any other person to perform any of the services required by this Agreement, nor shall Attorney assign, subcontract out, or otherwise delegate any of Attorney's rights, responsibilities, or obligations under this Agreement.

a. Attorney and any of the other Benton County District Court Criminal Defense Panel members may mutually agree to make temporary, substitute appearances for each other on routine docket matters and routine court hearings on an as-needed basis as approved by the court and by the person being represented (if that person has previously discussed the case with his/her appointed attorney). Any compensation or consideration (if any) to be paid or given by Attorney to the other Benton County District Court Criminal Defense Panel members for such substitution(s) shall be a matter of direct negotiation and agreement between Attorney and said other panel members, and said other members shall not be entitled to receive any additional compensation from the County for such substitution(s).

b. In the event Attorney needs or desires to take up to a maximum of four (4) consecutive weeks (or such longer requested period of time as may be expressly pre-approved in writing by the IDC on a case-by-case basis, in his/her sole and absolute discretion) leave of absence from the practice of law and/or the requirements of representation under this Agreement during the term of this Agreement and is unable to obtain the assistance of the other Benton County District Court Criminal Defense Panel members during such temporary absence, Attorney may seek and obtain the assistance of another Washington-licensed attorney to make temporary, substitute appearances for Attorney during such absence on routine docket matters and routine court hearings on an as-needed basis provided that Attorney and such other attorney jointly prepare, sign and file a written certification with the court (with a copy to be provided to the District Court Administrator and the IDC) in all such matters and hearings that expressly certifies that such other attorney has reviewed this Agreement and fully meets all criteria, qualifications, and requirements under this Agreement to render legal services to indigent persons and provided further that such temporary substitution is expressly authorized on the court record by the court and the particular person(s) being represented by Attorney who is/are affected by such substitution of legal counsel.

(i) Any compensation or consideration (if any) to be paid or given by Attorney to such other attorney for such substitution(s) shall be a matter of direct negotiation and agreement between Attorney and such other attorney, and such other attorney shall not be entitled to receive any compensation from the County for such substitution(s).

(ii) Unless called to active military duty, Attorney shall be responsible to ensure that such other attorney fully complies with all terms and conditions of this Agreement during such temporary absence period (including, without limitation, the requirement to maintain the insurance coverage specified in paragraph 15 above), and Attorney shall be liable for any damages or losses sustained as a result of such other attorney's non-compliance with the terms and conditions of this Agreement.

c. In the event Attorney is called up for active military duty or for direct civilian support of active military operations, Attorney shall provide the County and the IDC with written notice of such event within five (5) business days of Attorney being called up so that the IDC and Attorney can coordinate and arrange for an appropriate substitute attorney to handle Attorney's duties under this Agreement while Attorney is on military leave and any reasonable back-to-civilian-life transition time requested by Attorney upon return. Attorney shall receive no compensation under this Agreement while on leave or during any such transition time.

20. **VACANCY AND REPLACEMENT.** In the event this Agreement is terminated by either party prior to the termination date specified in paragraph 1 above, the County may initiate, implement and pursue any actions or process deemed appropriate/necessary to seek, select, and contract with another qualified attorney to replace and succeed Attorney in representing indigent persons in Benton County District Court.

21. **OTHER APPOINTMENTS.** Attorney shall not enter into any contract/arrangement to perform prosecution services in any court or jurisdiction. Subject to, and without limiting/waiving, Attorney's duties and obligations under this Agreement, Attorney may enter into a part-time contract/arrangement to receive public defense appointments in another court or jurisdiction, provided that, and on the indispensable condition that, Attorney's duties and obligations under said part-time contract/arrangement will not conflict with or interfere with Attorney's ability to timely and effectively perform Attorney's duties and obligations under this Agreement.

22. **TEMPORARY JUDICIAL SERVICE.** Subject to, and without limiting/waiving, Attorney's duties and obligations under this Agreement, Attorney may temporarily serve as a judge pro tem in any court other than Benton County District Court, provided that, and on the indispensable condition that, it would not conflict with or interfere with Attorney's ability to timely and effectively perform Attorney's duties and obligations under this Agreement. Any potential exceptions to the foregoing limitations on Attorney serving as a judge pro tem would be strictly on a case-by-case basis and would be strictly subject to Attorney obtaining the IDC's prior express approval and authorization, which decision shall be decided on a case-by-case basis in the IDC's sole and absolute discretion. Any judicial services rendered by Attorney under this paragraph shall fully comply with all applicable Rules of Professional Conduct and Judicial Canons.

23. **ENTIRE AGREEMENT.** This Agreement constitutes the entire integrated agreement and understanding of the undersigned parties. No amendment, modification or other type of change to this Agreement shall be valid or enforceable unless reduced to writing and signed by the parties.

24. **CAPTIONS; TIME COMPUTATION.**

a. The captions and headings herein are for convenience only and shall not be relied upon or used to interpret or construe this Agreement or any portion thereof.

b. Unless otherwise expressly specified herein, any period of time specified in this Agreement shall expire at 5:00 p.m. (PTZ) of the last calendar day of the specified period of time, unless the last day is Saturday, Sunday, or a legal holiday, as prescribed in RCW 1.16.050, in which event the specified period of time shall expire at 5:00 p.m. (PTZ) of the next business day. Unless otherwise expressly specified herein as being business days

only, any period of time specified in this Agreement shall mean and be calculated to include calendar days.

25. **GOVERNING LAW.** This Agreement shall be exclusively construed under and interpreted consistent with the laws of the state of Washington.

26. **BINDING EFFECT.** Strictly subject to the above restrictions against assignment, subcontracting, or delegation, this Agreement shall be binding upon Attorney's heirs, legal/personal representatives, successors, and assigns.

27. **SEVERABILITY.** In the event that any one or more provisions contained in this Agreement shall, for whatever reason, be held by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such invalid, illegal or unenforceable provision(s) shall not affect any other provision hereof, and this Agreement shall nevertheless be construed and enforced as if such invalid, illegal or unenforceable provision(s) were not contained herein.

28. **NON-WAIVER.** A party's express or implied consent to or waiver of any breach or default by the other party in the performance of such other party's obligations hereunder shall not be deemed or construed to be a consent to or waiver of any other breach or default in the performance by such other party of the same obligations or any other obligation(s) of such other party hereunder.

29. **DISPUTE RESOLUTION.**

a. In the event any type of dispute arises between the parties involving the performance or interpretation of this Agreement, and assuming that the parties are unable to resolve such dispute within a reasonable time after it arises, the parties agree that the dispute shall be submitted to mediation through the assistance of an experienced mediator chosen by mutual agreement between the parties. The County shall pay one-half of the mediator's fees and expenses, and Attorney shall pay the other one-half of such fees and expenses.

b. In the event that mediation proves unsuccessful in resolving the dispute, the parties shall submit the dispute for resolution via binding arbitration pursuant to RCW Chapter 7.04A. A single arbitrator shall be selected by agreement of the parties or, in the absence of agreement, each party shall select one (1) arbitrator and those two (2) so selected arbitrators shall mutually select a third arbitrator. The County shall pay one-half of the fees and expenses of the arbitrator(s), and Attorney shall pay the other one-half of such fees and expenses. The provisions of RCW Chapter 7.04A and applicable Mandatory Arbitration Rules as adopted and implemented in Superior Court shall be binding as to procedure, except as to the right of appeal, which shall not be applicable. Within ten (10) business days of notice of arbitration, the arbitrator(s) shall be selected and designated and the hearing shall be held within thirty (30) business

days thereafter. The arbitrator(s) shall render a written decision and award within ten (10) business days of such hearing. Without limitation, the arbitrator(s) may award damages, specific performance, and/or injunctive relief, and may register a judgment in Superior Court, including judgment by default. The most prevailing party shall be entitled to recover such party's reasonable attorneys' fees, costs and expenses from the other party as a part of the arbitration decision and award. In the event of suit or action to enforce an arbitration award, venue shall lie exclusively in Superior Court, and the most prevailing party in such suit or action shall be entitled to recover such party's reasonable attorneys' fees, costs and expenses from the other party.

30. **NOTICES.**

a. Any notices required or permitted to be given by Attorney to the County under this Agreement shall be in writing and shall be personally delivered to the County's Board of Commissioners or mailed to the County's Board of Commissioners via certified U.S. mail, postage prepaid, at the Board's following address:

Benton County Board of Commissioners
620 Market St.
Prosser, WA 99350

With a mandatory complete copy of any such notices to also be provided to:

Jacki Lahtinen
Benton County District Court Administrator
7122 West Okanogan Place, Building A
Kennewick, WA 99336

Rafael A. Gonzales
Indigent Defense Coordinator
Benton-Franklin Office of Public Defense
7122 W. Okanogan Place, Bldg. A
Kennewick, WA 99336

b. Any notices required or permitted to be given by the County to Attorney under this Agreement shall be in writing and shall be personally delivered to Attorney or mailed to Attorney via certified U.S. mail, postage prepaid, at Attorney's office address specified and set forth in paragraph 2a. above.

c. Any notices under this Agreement shall be deemed to have been duly given, made and received when personally delivered against receipt or when duly deposited in the U.S. mail in compliance with the provisions of this paragraph. A party

may change the address(es) to which notices or copies thereof are to be sent by giving notice of such change of address in conformity with the provisions of this paragraph for the giving of notice.

d. For purposes of clarity, whenever the terms of this Agreement require Attorney to provide "the County" with certain information or notice, such information or notice shall be provided to the County's Board of Commissioners or the Board's designee unless this Agreement expressly mandates that such information or notice also be provided to some other person/entity.

31. **LEGAL COMPLIANCE.** Attorney agrees to and shall strictly follow and comply with any and all federal, state, local, and administrative laws, rules, and regulations applicable to Attorney's pursuit and performance of activities under this Agreement. Without limitation in that regard, Attorney shall timely and fully pay all applicable taxes, fees, licenses, and other payments required by law; and Attorney shall fully comply with any and all anti-discrimination laws and policies including, without limitation, the County's policy that no person will be subjected to discrimination by the County or their contractors based on race, color, national origin, age, sex, marital status, sexual orientation, handicap/disability, personal background, creed, or political or religious affiliation.

32. **INDIGENT DEFENSE COORDINATOR.** Attorney acknowledges that the County has employed an IDC to coordinate, monitor, and evaluate the performances and compliance of independent contractor attorneys (like Attorney) under public indigent defense agreements with the County. Attorney further acknowledges that the County has the right and discretion to direct the IDC to assume and fulfill various roles and functions under this Agreement. Though the IDC will not have or attempt to exercise direct control over the manner and means in which Attorney provides legal services under this Agreement, Attorney agrees to reasonably cooperate and promptly comply with reasonable requests from the IDC to allow for the effective monitoring and evaluation of Attorney's performance under and in compliance with this Agreement.

(SIGNATURES APPEAR ON FOLLOWING PAGE)

IN WITNESS WHEREOF, the parties hereto have entered into and executed this Agreement on the date set forth below.

Date: _____

BENTON COUNTY

_____
Chairman

_____
Commissioner

_____
Commissioner

Date: _____

ATTORNEY

Gloria Ochoa Lawrence WSBA# 31087

Approved as to Content:

Rafael A. Gonzales
Indigent Defense Coordinator

Approved as to Form:

_____
Timothy G. Klashke
Attorney at Law

JOINT RESOLUTION

BENTON COUNTY RESOLUTION NO. _____

FRANKLIN COUNTY RESOLUTION NO. _____

BEFORE THE BOARDS OF COMMISSIONERS OF BENTON AND FRANKLIN COUNTIES, WASHINGTON

IN THE MATTER OF CREATING A STANDARDIZED PROCESS FOR APPOINTMENT AND COMPENSATION OF EXPERT WITNESSES, INVESTIGATORS, AND OTHER PROVIDERS OF PROFESSIONAL SERVICES TO ASSIST INDIGENT CRIMINAL DEFENDANTS IN BENTON AND FRANKLIN COUNTY SUPERIOR COURTS

WHEREAS the Board of Benton County Commissioners and the Board of Franklin County Commissioners both have found it to be in the best interest of the Counties to initiate a Bi-County Office of Public Defense and an Indigent Defense Coordinator through joint resolution (Benton County Resolution 07-689 and Franklin County Resolution No. 2007-523) to more closely monitor the delivery of indigent defense services in the courts of both counties; and

WHEREAS it is clear that the Counties, through the Court System, are obligated to provide expert witness, investigative and other professional services to assist indigent persons charged with criminal offenses in Benton and Franklin County Superior Court; and

WHEREAS the Benton-Franklin County Superior Court Bench and the Benton-Franklin County Superior Court Administrator have fully and carefully considered the delivery of professional services and believe it appropriate that the appointment of expert witnesses, investigators and other providers of professional services be completed through the aforementioned Bi-County Office of Public Defense; and

WHEREAS the Benton-Franklin County Superior Court Bench and the Benton-Franklin County Superior Court Administrator have fully and carefully considered the management and monitoring of compensation for the delivery of professional services and believe it appropriate that the compensation of expert witnesses, investigators and other providers of professional services be completed through the aforementioned Bi-County Office of Public Defense; **NOW THEREFORE,**

BE IT RESOLVED that the Benton-Franklin Office of Public Defense, through the Indigent Defense Coordinator, be and hereby is authorized to appoint expert witnesses, investigators and other providers of professional services to assist

indigent persons charged with criminal offenses in Benton and Franklin County Superior Court upon request from counsel, and such authority is effective as of January 1, 2008; and

BE IT FURTHER RESOLVED that the Benton-Franklin Office of Public Defense, through the Indigent Defense Coordinator, be and hereby is authorized to compensate such expert witnesses, investigators and other providers of professional services previously appointed to assist indigent persons charged with criminal offenses in Benton and Franklin County Superior Court, and such authority is effective as of January 1, 2008; and

BE IT FURTHER RESOLVED that compensation is limited to $1,000.00 per provider, per case, without specific prior approval from the Benton-Franklin Superior Court Bench. Further, that payment for services billed at an hourly rate shall be made upon receipt of a billing detailing services provided and actual costs expended for reimbursement purposes either monthly or at the completion of the case; and

BE IT FURTHER RESOLVED that compensation over $1,000.00 up to $2,000.00 per provider, per case, requires prior written approval of the Deputy County Administrator on the original and supplemental requests and/or invoice(s); and

BE IT FUTHER RESOLVED that compensation for any professional services over $2,000.00 requires a contract with the professional service provider to be approved by the Board of Commissioners.

BE IT FURTHER RESOLVED that compensation be managed through the existing voucher system in the appropriate county; and that the Benton-Franklin Office of Public Defense be and hereby is authorized to create an appropriate administrative and monitoring system for completion of the aforementioned tasks.

Dated this _____ day of _____, 2008.

BENTON COUNTY BOARD OF COMMISSIONERS

_____
Claude Oliver, Chairman

_____
Max Benitz, Member

ATTEST:

_____
Leo Bowman, Member

_____
Clerk of the Board

FRANKLKIN COUNTY BOARD OF COMMISSIONERS

_____
Robert Koch, Chairman

_____
Neva Corkrum, Member

Attest:

_____
Richard Miller, Member

_____
Clerk of the Board

AGENDA ITEM		TYPE OF ACTION NEEDED	
Meeting Date:	**2-25-2008**	**Execute Contract**	**Consent Agenda X**
Subject:		**Pass Resolution**	**Public Hearing**
Prepared by:	**Judy Paxton OPD**	**Pass Ordinance**	**1st Discussion**
		Pass Motion	**2nd Discussion**
Reviewed by:	**Loretta**	**Board Direction**	**Workshop**

9.

SUMMARY BACKGROUND INFORMATION

Retainage of $1,291.76 is available for release to Color Tile for installation of carpet in the Office of Public Defense office remodel.

The retainage for the project has slipped from the 2007 budget to the 2008 budget.

Request appropriated funds are transferred to the Capital line item 512.814.6401.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF COUNTY FUNDS RE: TRANSFER OF FUNDS WITHIN THE CURRENT EXPENSE BUDGET DEPARTMENT 136 OFFICE OF PUBLIC DEFENSE.

BE IT RESOLVED, by the Board of Benton County Commissioners that funds shall be transferred as outline in Exhibit "A", attached hereto.

Dated this _____ day of _____, 2008

_____
Chairman of the Board

_____
Member

_____
Member

Attest: _____
Clerk of the Board

cc: Auditor, OPD, Line Item File, Linda Ivey

EXHIBIT "A"

BENTON COUNTY LINE ITEM TRANSFER

Dept Name: Office of Public Defense

Fund Name: Current Expense 0000101.136

TRANSFER FR

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
512.814	4301	Travel	$1,292
TOTAL			$1,292

Dept Name: Office of Public Defense

Fund Name: Current Expense 0000101.136

TRANSFER TO

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
512.814	6401	Capital Outlay	$1,292
TOTAL			$1,292

Explanation:

Transfer appropriated funds from Travel to Capital. Retainage available for release to Color Tile for installation of Carpet in the Office of Public Defense. The final payment to Color Tile slipped from 2007 to 2008.

Prepared by: Judy Paxton

Date: 11-Feb-2008

Approved ☐

Denied ☐

Date: _____

_____
Chairman

_____
Member

_____
Member

AGENDA ITEM		TYPE OF ACTION NEEDED			
Meeting Date:	February 25, 2008	Execute Contract		Consent Agenda	X
Subject:	Service Agreement	Pass Resolution	X	Public Hearing	
Prepared by:	M. Wenner	Pass Ordinance		1st Discussion	
		Pass Motion		2nd Discussion	
		Other		Other	

BACKGROUND INFORMATION

Benton County entered into an agreement with J & J Security to provide on law enforcement officer commissioned to have arrest authority to perform security services and maintain a safe work environment for courthouse staff and the general public that attend or are in the vicinity of the Benton County Superior Court domestic docket at the Prosser Courthouse. The agreement was effective June 11, 2007 through December 31, 2007. Therefore, we need to enter into another agreement effective January 1, 2008 through December 31, 2008.

SUMMARY

See above.

RECOMMENDATION

Approve resolution.

FISCAL IMPACT

Currently budgeted for in the Insurance Management budget.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AUTHORIZING THE CHAIRMAN OF THE BOARD OF BENTON COUNTY COMMISSIONERS TO SIGN THE PERSONAL SERVICES CONTRACT FOR SECURITY SERVCIES FOR BENTON COUNTY SUPERIOR COURT PROSSER WA COURTHOUSE

BE IT RESOLVED that effective date of this agreement shall be from January 1, 2008 through December 31, 2008; and

BE IT FURTHER RESOLVED that the Chairman of the Board of Benton County Commissioners is hereby authorized to sign the personal services contract for security services for Benton County Superior Court at the Benton County Courthouse in Prosser, WA.

Dated this ..... day of ..... , 20 .....

_____
Chairman of the Board

_____
Member

_____
Member

Constituting the Board of County Commissioners of Benton County, Washington

Attest: .....
Clerk of the Board

PERFECT PRINTING

PERSONAL SERVICES CONTRACT
FOR SECURITY SERVICES
FOR BENTON COUNTY SUPERIOR COURT
PROSSER WA COURTHOUSE

THIS CONTRACT is made and entered into by and between Benton County, a political subdivision, with its principal offices at 620 Market Street, Prosser, WA 99350, ("County") and J & J Security and Transport, Inc., a Washington Corporation ("Contractor"), with its principal offices at PO Box 4459, West Richland, WA 99353-4459.

In consideration of the mutual benefits and covenants contained herein, the parties agree as follows:

1. DURATION OF CONTRACT

The effective date of this Contract shall be the date the Contract is fully executed, and it shall expire on December 31, 2008.

2. SERVICES TO BE PROVIDED

The Contractor shall perform service(s) as follows:

The Contractor shall provide one law enforcement officer commissioned to have arrest authority at the Prosser Courthouse to perform security services and maintain a safe work environment for courthouse staff and the general public that attend or are in the vicinity of the Benton County Superior Court domestic docket every Thursday at the Prosser Courthouse at 620 Market Street, Prosser, WA from 8 a.m. until completion of the docket each Thursday as determined by the presiding judge. Benton County Superior Court Prosser Clerk's Office will notify by phone the contract representative either in person or by leaving a message at (509) 308-3601 twenty-four (24) hours in advance if there is no Superior Court domestic docket. If the required notice is not given, the County agrees to pay the Contractor for one hour of service.

The Contractor agrees to provide its own labor and materials. Unless otherwise provided for in this Contract, no material, labor, equipment or facilities will be furnished by the County.

The Contractor shall perform the work requested by the County and specified in the Contract according to standard law enforcement policy and practice.

The Contractor shall confer with the County from time to time during the progress of the work. The Contractor shall prepare and present status reports and other information that may be pertinent and necessary, or as may be requested by the County.

3. CONTRACT REPRESENTATIVES

Each party to this Contract shall have a contract representative. Each party may change its representative upon providing written notice to the other party. The parties' representatives are as follows:

A. For Contractor:

Alison Moore, President
J & J Security & Transport, Inc.
PO Box 4459
West Richland WA 99353-4459

B. For County:

Melina Wenner,
Benton County Risk Manager
7122 W. Okanogan Ave.
Kennewick WA 99336

4. COMPENSATION

For the services performed hereunder, the Contractor shall be paid as follows:

A. The rate of **$26.85 per hour** will be charged for security services performed at the Prosser Courthouse.

B. No payment shall be made for travel time or any other work performed by the Contractor, except for work identified and set forth in this Contract.

C. The Contractor shall submit invoices to the County every 30 days for payment of the work performed during the prior 30-day period. For services rendered from January 1, 2008, and prior to the execution of this Contract, Contractor shall submit an invoice promptly upon execution of this Contract. The County will remit payment within fifteen (15) days from the date of receipt of the invoice.

D. The Contractor shall not be paid for services rendered under this Contract unless and until they have been performed to the satisfaction of the County.

E. Unless otherwise provided for in this Contract or any exhibits or attachments hereto, the Contractor will not be paid for any billings or invoices presented for services rendered after the termination of this Contract.

5. AMENDMENTS AND CHANGES IN WORK

No amendment, modification or renewal shall be made to this Contract, unless set forth in a written Contract Amendment signed by both parties. Work under a Contract Amendment shall not proceed until the Contract Amendment is duly executed by both parties.

6. HOLD HARMLESS AND INDEMNIFICATION

A. The Contractor shall hold harmless, indemnify and defend the County, their officers, officials, employees and agents, from and against any and all claims, actions, suits,

liability, loss, expenses, damages, and judgments of any nature whatsoever, including reasonable costs and attorneys' fees in defense thereof, for injury, sickness, disability or death to persons or damage to property or business, caused by or arising out of the Contractor's acts, errors or omissions in the performance of this Contract. Provided, that the Contractor's obligation hereunder shall not extend to injury, sickness, death or damage caused by or arising out of the sole negligence of the County, its officers, officials, employees or agents.

B. In any and all claims against the County, its officers, officials, employees and agents by any employee of the Contractor, subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under this section shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Contractor or subcontractor under Workers Compensation acts, disability benefit acts, or other employee benefit acts, it being clearly agreed and understood by the parties hereto that the Contractor expressly waives any immunity the Contractor might have had under such laws. **By executing this Contract, the Contractor acknowledges that the foregoing waiver has been mutually negotiated by the parties and that the provisions of this section shall be incorporated, as relevant, into any contract the Contractor makes with any subcontractor or agent performing work hereunder.**

C. The Contractor's obligations hereunder shall include, but are not limited to, investigating, adjusting and defending all claims alleging loss from action, error or omission, or breach of any common law, statutory or other delegated duty by the Contractor, the Contractor's employees, agents or subcontractors.

7. INSURANCE

A. **Professional Legal Liability**: The Contractor shall maintain Professional Legal Liability or Professional Errors and Omissions coverage appropriate to the Contractor's profession which shall be written subject to limits of not less than one million dollars ($1,000,000) per occurrence, loss or person. If the policy contains a general aggregate or policy limit it shall be at least two times the incident, loss or person limit.

The coverage shall apply to liability for a professional error, act or omission arising out of the scope of the Contractor's services defined in this Contract. Coverage shall not exclude bodily injury or property damage. Coverage shall not exclude hazards related to the work rendered as part of the Contract or within the scope of the Contractor's services as defined by this Contract including testing, monitoring, measuring operations, or laboratory analysis where such services are rendered as part of the Contract. The Contractor is required to buy professional liability insurance for a period of 36 months after completion of this Contract, which can be satisfied by the continuous purchase of the above referenced insurance or an extended reporting period policy.

B. **Workers Compensation:** Contractor shall comply with all State of Washington workers compensation statutes and regulations. Workers compensation coverage

shall be provided for all employees of Contractor and employees of any subcontractor or sub-subcontractor. Coverage shall include bodily injury (including death) by accident or disease, which arises out of or in connection with the performance of this Contract. Except as prohibited by law, Contractor waives all rights of subrogation against the County for recovery of damages to the extent they are covered by workers compensation, employers' liability, commercial liability or commercial umbrella liability insurance.

If Contractor, subcontractor, or sub-subcontractor fails to comply with all State of Washington workers compensation statutes and regulations and County incurs fines or is required by law to provide benefits to or obtain coverage for such employees, Contractor shall indemnify the County. Indemnity shall include all fines, payment of benefits to Contractor or subcontractor employees, or their heirs or legal representatives, and the cost of effecting coverage on behalf of such employees. Any amount owed to County by Contractor pursuant to the indemnity agreement may be deducted from any payments owed by County to Contractor for performance of this Contract.

C. **Commercial General Liability and Employers Liability Insurance:** The Contractor shall maintain commercial general liability coverage for bodily injury, personal injury and property damage, subject to limits of not less than one million dollars ($1,000,000) per occurrence. The general aggregate limit shall apply separately to this Contract and be no less than two million dollars ($2,000,000).

The Contractor will provide commercial general liability coverage, which does not exclude any activity to be preformed in fulfillment of this Contract. Specialized forms specific to the industry of the Contractor will be deemed equivalent; provided, coverage will be not more restrictive than would be provided under a standard commercial general liability policy and will include contractual liability coverage.

Contractor also shall maintain employers liability insurance with limits of not less than one million dollars ($1,000,000) each incident for bodily injury by accident or one million dollars ($1,000,000) each employee for bodily injury by disease.

D. **Other Insurance Provisions**:

(1) The Contractor's liability insurance provisions shall be primary with respect to any insurance or self-insurance programs covering the County, its elected and appointed officers, officials, employees and agents.

(2) The County, its officers, officials, employees and agents shall be named as additional insured with respect to performance of services on all required insurance policies, except for any required professional services and automobile liability policies.

(3) The Contractor's liability insurance policies shall contain no special limitations on the scope of protection afforded to the County as an additional insured.

(4) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County, its officers, officials, employees or agents.

(5) The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

(6) The Contractor shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.

(7) The insurance limits mandated for any insurance coverage required by this Contract are not intended to be an indication of exposure nor are they limitations on indemnification.

(8) The Contractor 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. If the Contractor's liability coverage is written as a claims made policy, then the Contractor must evidence the purchase of an extended reporting period or "tail" coverage for a three-year period after completion of the services required under this Contract.

E. **Verification of Coverage and Acceptability of Insurers**: All insurance required under this Contract shall be issued by companies admitted to do business within the State of Washington and have a current A.M. Best Rating of not less than A:VII. Any exception to this requirement must be reviewed and approved by the Benton County Prosecutors' Office. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policy must comply with Chapter 48.15 RCW and 284-15 WAC.

(1) The Contractor shall furnish the County with properly executed and unaltered accord form certificates of insurance or a signed policy endorsement which shall clearly evidence all required insurance within ten (10) days after the effective date of this Contract. The certificates will, at a minimum, list limits of liability and coverage. The certificates will provide that the underlying insurance contract will not be canceled or allowed to expire, except on thirty (30) days prior written notice to the County. Any certificate or endorsement limiting or negating the insurer's obligation to notify the County of cancellation or changes shall be altered so as not to negate the intent of this provision.

(2) The Contractor shall furnish the County with evidence that the additional insured provision required above have been met. Acceptable forms of evidence are the endorsement pages of the policy showing the County as an additional insured.

(3) Certificates of insurance shall show the certificate holder as "Benton County"

and include "c/o" the County Contract Representative. The address of the certificate holder shall be shown as the current address of the County Contract Representative.

(4) The Contractor shall request the Washington State Department of Labor and Industries, Workers Compensation Representative, to send written verification to Benton County that Contractor is currently paying workers compensation.

(5) All written notices under this Section 7 and notice of cancellation or change of required insurance coverage shall be mailed to the County at the following addresses:

Benton County Risk Manager
Benton County
7122 W. Okanogan Ave.
Kennewick WA 99336-1388

(6) The Contractor or its broker shall provide a copy of any and all insurance policies specified in this Contract upon request of the Benton County's Risk Manager.

(7) If Contractor is self-insured for worker's compensation coverage, evidence of its status, as a self-insured entity shall be provided to Benton County. If requested by County, Contractor must describe its financial condition and the self-insured funding mechanism.

8. TERMINATION

A. The County may terminate this Contract in whole or in part whenever the County determines, in its sole discretion, that such termination is in the best interests of the County. The County may terminate this Contract upon giving ten (10) days written notice by certified mail to the Contractor. In that event, the County shall pay the Contractor for all cost incurred by the Contractor in performing the Contract up to the date of such notice. Payment shall be made in accordance with the Compensation Section of this Contract.

B. In the event that funding for this project is withdrawn, reduced or limited in any way after the effective date of this Contract, the County may summarily terminate this Contract notwithstanding any other termination provision in this Contract. Termination under this paragraph shall be effective upon the date specified in the written notice of termination sent by County to the Contractor. After the effective date, no charges incurred under this Contract shall be allowed.

C. If the Contractor breaches any of its obligations hereunder, and fails to cure the breach within ten (10) days of written notice to do so by the County, the County may terminate this Contract, in which case the County shall pay the Contractor only for the costs of services accepted by The County, in accordance with the Compensation Section of this Contract. Upon such termination, the County, at its

discretion, may obtain performance of the work elsewhere, and the Contractor shall bear all costs and expenses incurred by the County in completing the work and all damage sustained by the County by reason of the Contractor's breach.

9. ASSIGNMENT, DELEGATION AND SUBCONTRACTING

A. The Contractor shall perform the terms of the Contract using only its bona fide employees or agents, and the obligations and duties of the Contractor under this Contract shall not be assigned, delegated, or subcontracted to any other person or firm without the prior express written consent of the County.

B. The Contractor warrants that it has not paid nor has it agreed to pay any company, person, partnership, or firm, other than a bona fide employee working exclusively for Contractor, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award or making of this Contract.

10. NON-WAIVER OF RIGHTS

The parties agree that the excuse or forgiveness of performance, or waiver of any provision(s) of this Contract does not constitute a waiver of such provision(s) or future performance, or prejudice the right of the waiving party to enforce any of the provisions of this Contract at a later time.

11. INDEPENDENT CONTRACTOR

A. The Contractor's services shall be furnished by the Contractor as an independent Contractor and not as an agent, employee or servant of the County. The Contractor specifically has the right to direct and control Contractor's own activities in providing the agreed services in accordance with the specifications set out in this Contract.

B. The Contractor acknowledges that the entire compensation for this Contract is set forth in Section Four of this Contract, and the Contractor is not entitled to any County benefits, including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental, or other insurance benefits, fringe benefits, or any other rights or privileges afforded to County employees.

C. The Contractor shall have and maintain complete responsibility and control over all of its subcontractors, employees, agents, and representatives. No subcontractor, employee, agent, or representative of the Contractor shall be or deem to be or act or purport to act as an employee, agent, or representative of the County.

D. The Contractor shall pay for all taxes, fees, licenses, or payments required by federal, state or local law, which are now or may be enacted during the term of this Contract.

E. The Contractor agrees to immediately remove any of its employees or agents from their assignment to perform services under this Contract upon receipt of a written request to do so from the County' contract representative or designee.

12. COMPLIANCE WITH LAWS

The Contractor shall comply with all applicable federal, state and local laws, rules and regulations in performing this Contract.

13. INSPECTION OF BOOKS AND RECORDS

The County may, at reasonable times, inspect the books and records of the Contractor relating to the performance of this Contract. The Contractor shall keep all records required by this Contract for six (6) years after termination of this Contract for audit purposes.

14. NONDISCRIMINATION

The Contractor, its assignees, delegates, or subcontractors shall not discriminate against any person in the performance of any of its obligations hereunder on the basis of race, color, creed, religion, national origin, age, sex, marital status, veteran status, disability, or based on any other protected status.

15. DISPUTES

Differences between the Contractor and the County, arising under and by virtue of this Contract, shall be brought to the attention of the County at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Any dispute relating to the quality or acceptability of performance and/or compensation due the Contractor shall be decided by the County Contract Representative or designee. All rulings, orders, instructions and decisions of the County' Contract Representative shall be final and conclusive, subject to Contractor's right to seek judicial relief.

16. CONFIDENTIALITY

The Contractor, its employees, subcontractors, and their employees shall maintain the confidentiality of all information provided by the County or acquired by the County in performance of this Contract, except upon the prior written consent of the County or an order entered by a court of competent jurisdiction. The Contractor shall promptly give the County written notice of any judicial proceeding seeking disclosure of such information.

17. CHOICE OF LAW, JURISDICTION AND VENUE

A. This Contract 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 contract shall be governed by the laws of the State of Washington, both as to its interpretation and performance.

B. Any action at law, suit in equity, judicial proceeding arising out of this Contract shall be instituted and maintained only in any of the courts of competent jurisdiction in Benton County, Washington.

18. SUCCESSORS AND ASSIGNS

The County, to the extent permitted by law, and the Contractor each bind themselves, their partners, successors, executors, administrators, and assigns to the other party to this Contract and to the partners, successors, administrators, and assigns of such other party in respect to all covenants to this Contract.

19. SEVERABILITY

A. If a court of competent jurisdiction holds any part, term or provision of this Contract to be illegal, or invalid in whole or in part, the validity of the remaining provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as if the Contract did not contain the particular provision held to be invalid.

B. If it should appear that any provision of this Contract is in conflict with any statutory provision of the State of Washington, said provision which may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform to such statutory provision.

20. ENTIRE AGREEMENT

The parties agree that this Contract is the complete expression of its terms and conditions. Any oral or written representations or understandings not incorporated in this Contract are specifically excluded.

21. NOTICES

Any notices shall be effective if personally served upon the other party or if mailed by registered or certified mail, return receipt requested, to the addresses set out in the Contract Representatives Section of this Contract. Notice may also be given by facsimile with the original to follow by regular mail. Notice shall be deemed to be given three days following the date of mailing or immediately, if personally served. For service by facsimile, service shall be effective at the beginning of the next working day.

22. PAST SERVICES

The parties acknowledge and agree that Contractor has performed the services described in Section 2 above from January 1, 2008 and prior to the execution of this Contract without a written agreement in place. The parties further agree that the compensation for those services shall be as set forth in Section 4. A. above and will be billed and paid pursuant to Section 4. C. above.

The parties have caused this Agreement to be signed as follows:

J & J Security & Transport, Inc.		Benton County Superior Court	
Alison Moore	**Date**	**Melina Wenner**	**Date**

BENTON COUNTY APPROVAL

Approved as to Form:

Ryan Brown, Chief Civil Deputy Prosecuting Attorney

By: _____

Name: Claude Oliver

Title: Chairman, Board of Commissioners

Date: _____

Attest:

Clerk of the Board: _____

AGENDA ITEM		TYPE OF ACTION NEEDED	
Meeting Date:	**February 25, 2008**	**Execute Contract**	**Consent Agenda X**
Subject:	**Benefit Recruitment Specialist**	**Pass Resolution X**	**Public Hearing**
Prepared by:	**Melina Wenner**	**Pass Ordinance**	**1st Discussion**
		Pass Motion	**2nd Discussion**
		Other	**Other**

S

BACKGROUND INFORMATION

The Personnel/Risk Manager received direction from the Board of Benton County Commissioners to proceed with Personnel Resources Department reorganization. The reorganization included changing the title of Office Manager in the Personnel Resources Department to a Benefit/Recruitment Specialist. The Personnel/Risk Manager has prepared a resolution establishing a salary grade for a Benefit/Recruitment Specialist in the Personnel Resources Department at a temporary grade of an 11 on the non-bargaining salary schedule. This is the same grade as the Office Manager position. Please see attached Resolution and Job Description.

SUMMARY

Same as above

RECOMMENDATION

Pass resolution.

FISCAL IMPACT

None

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF ESTABLISHING A SALARY GRADE FOR THE BENEFIT/RECRUITMENT SPECIALIST POSITION IN THE PERSONNEL RESOURCES DEPARTMENT

WHEREAS, the Board of Benton County Commissioners approved Resolution 05-797, Personnel Policies and Procedures for Non-Bargaining Employees; and

WHEREAS, that Resolution includes a process for "new" position and/or substantially changed position (re)classification/grade requests to be processed for a determination by the Board of Benton County Commissioners; and

WHEREAS, the Board of Benton County Commissioners has suspended the Non-Bargaining Position Evaluation Committee; **NOW THEREFORE,**

BE IT RESOLVED that the Board of Benton County Commissioners hereby establishes a temporary grade of 11 on the Benton County non-bargaining salary schedule to the temporary personnel clerical support position; and

BE IT FURTHER RESOLVED, that the position of Benefit/Recruitment Specialist immediately be sent to the Non-Bargaining Position Evaluation Committee for classification once the committee is re-established; and

BE IT FURTHER RESOLVED, that the Board of Benton County Commissioners retains the right to modify or repeal this determination at their discretion and without prior notification; and

BE IT FUTHER RESOLVED, that this Resolution is not intended nor shall be interpreted as limiting or compromising the County's "at will" employer status.

NOW THEREFORE, BE IT RESOLVED that the County Commissioners of Benton County do hereby approve the creation of the Benefit/Recruitment Specialist position, established at a Grade 11 on the Benton County non-bargaining salary scale.

Dated this ..... day of ..... , 19 .....

_____
Chairman of the Board.

_____
Member.

_____
Member.

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

Attest: .....
Clerk of the Board

PERFECT PRINTING, PROSSER

TITLE: Benefit/Recruitment Specialist

DEPARTMENT: Personnel Resources

REPORTS TO: Personnel/Risk Manager

SUPERVISES:

SUMMARY:

Perform a variety of routine, complex and technical administrative duties to administer the County's benefits program including medical, dental, vision, life insurance, EAP, and perform a variety of duties relative to assigned area of responsibility. Perform recruitment processing activities and all other duties and responsibilities as assigned.

EXAMPLES OF JOB DUTIES:

Determine benefits eligibility according to bargaining unit agreements, state and federal laws: conduct benefit orientation for new employees to explain benefit plans, enrollment options, coverage, filing of claims, etc.

Assist in annual open enrollment and review enrollment forms and other documents for accuracy and forward to payroll.

Assist employees with information for proper problem resolution, organize and coordinate annual benefit fairs.

Maintain inventories of numerous benefit brochures and forms.

Review and analyze changes and proposed changes in law that impact benefit programs.

Represent the County at various meeting, seminars, conferences related to benefits.

Provide job postings and job classification descriptions in newspaper advertisements, job line and webpage and collects applications forwarding applications to Elected Officials and Department Directors.

Assist in setting up interview appointments and testing of applicants.

Prepare and assist in sending regret letters and maintaining and closing job-posting files.

Respond to salary survey requests from outside agencies.

Assist Personnel Manager in gathering and compilation of compensation data.

Identify and define the need for new, revised, or updated information to be posted on the Personnel Resources web page (intranet and internet) and job line. Assist in the layout and design.

Maintain county phone directory.

Prepare invoices and vouchers for transmittal to the Auditor's Office; receive and post receipts; perform reconciliation of non-complex accounts.

Assist in the preparation of the annual budget.

Perform all other duties and responsibilities as assigned.

WORKING CONDITIONS:

Work is performed in an office environment.

KNOWLEDGE, SKILLS, AND ABILITIES:

Knowledge of pertinent rules, regulations and policies of the County's Health Care Providers pertaining to employee coverage.

Knowledge of Federal, State and local laws, codes and regulations.

Knowledge of the benefit program administration including enrollment, eligibility and claims processing.

Working knowledge of the techniques and practices for balancing and reconciling claims, payments, and deductions for benefits.

Knowledge of office procedures

Skill in operating computers, printers, peripheral equipment, and using modern software, including word processing, database management, and spread sheets.

Skill in operating office machines such as copier, fax, calculator, computer and postage machinery.

Ability to perform a wide range of technical duties involved in the coordination and implementation of health and welfare programs.

Ability to interpret and explain rules, regulations and policies pertaining to employee benefit coverage.

Ability to understand and accurately interpret and apply technical information, laws, rules, regulations and other guidelines pertaining to benefits administration.

Ability to interact with Benefits Administrators/Brokers.

Ability to effectively resolve benefit problems issues and concerns.

Ability and skill to compile information and prepare reports.

Ability to maintain confidentiality of privileged information obtained in the course of work.

Ability to communicate clearly and concisely, both orally and in writing.

Ability to understand and follow oral and written directions.

EDUCATION AND EXPERIENCE:

Any combination of experience and training that would likely provide the required knowledge and abilities.

Four years of increasingly responsible benefits administrations and accounting experience.

Equivalent of two years' coursework from an accredited college or university with a major course work in human resources, accounting or related field.

LICENSES, CERTIFICATES, & OTHER REQUIREMENTS:

Valid Washington State driver's license required.

AGENDA ITEM		TYPE OF ACTION NEEDED	
Meeting Date:	**February 25, 2008**	**Execute Contract**	**Consent Agenda X**
Subject:	**Line item transfer**	**Pass Resolution X**	**Public Hearing**
Prepared by:	**Melina Wenner**	**Pass Ordinance**	**1st Discussion**
		Pass Motion	**2nd Discussion**
		Other	**Other**

BACKGROUND INFORMATION

The Personnel/Risk Manager received direction from the Board of Benton County Commissioners to proceed with a Personnel Resources Department reorganization. The proposed changes include hiring a Personnel Secretary position. Therefore, the Personnel/Risk Manager requests $25,000 of appropriated Office Assistant II funds be transferred for a new Personnel Secretary position. Please see attached Exhibit A.

SUMMARY

Same as above

RECOMMENDATION

Pass resolution.

FISCAL IMPACT

None

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY FUNDS RE: TRANSFER OF FUNDS WITHIN THE WORKERS' COMPENSATION BUDGET IN THE AMOUNT OF $25,000.

BE IT RESOLVED by the Board of Benton County Commissioners, that $25,000.00 shall be transferred as more clearly defined in Exhibit A attached hereto.

Dated this ..... day of ..... , 20 .....

_____
Chairman of the Board

_____
Member

_____
Member

Attest: .....
Clerk of the Board

Constituting the Board of County Commissioners of Benton County, Washington

PERFECT PRINTING

BENTON COUNTY
LINE ITEM TRANSFERS

EXHI[illegible]A
Resolution No.

DEPARTMENT: PERSONNEL DEPARTMENT NO. 127

FUND NAME: Work Comp FUND NO. 0503-101

TRANSFER FROM: TRANSFER TO:

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT	BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
517.670	1133	Office Ast. II	25000.00	517.670	1130 (New)	Personnel Secretary (New)	25000.00

EXPLANATION:

Please transfer funds for a Personnel Secertary position.

Prepared by: Melina Wenner Date February 8, 2008

Approved ☐

Denied ☐ Date

AGENDA ITEM	TYPE OF ACTION NEEDED	
Meeting Date: 2/25/08 **Subject:** UEBT Agreement **Prepared by:** M. Wenner	**Execute Contract** **Pass Resolution** X **Pass Ordinance** **Pass Motion** **Other**	**Consent Agenda** X **Public Hearing** **1st Discussion** **2nd Discussion** **Other**

BACKGROUND INFORMATION

See resolution.

SUMMARY

Please sign resolution.

RECOMMENDATION

Please sign the resolution and original Acceptance of Trust Agreement for UEBT.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AUTHORIZING THE CHAIRMAN OF THE BOARD TO SIGN THE UNITIED EMPLOYEES BENEFIT TRUST (UEBT) ACCEPTANCE OF TRUST AGREEMENT FOR THE BENTON COUNTY DEPUTY SHERIFF'S GUILD (BCDSG); RESCINDING RESOLUTION 08-017

WHEREAS, the Board of Benton County Commissioners approved Resolution 08-017, and

WHEREAS, Resolution 08-017 referred to the Benton County Sheriffs Guild; and

WHEREAS, the correct title is the Benton County Deputy Sheriff's Guild (BCDSG); and

WHEREAS, the effective date of the UEBT Trust Agreement is January 1, 2007; and

BE IT RESOLVED that the Chairman of the Board of Benton County Commissioners is hereby authorized to sign the agreement, NOW THEREFORE,

BE IT HEREBY RESOLVED that Resolution 08-017 is hereby rescinded.

Dated this ..... day of ..... , 19 .....

_____
Chairman of the Board.

_____
Member.

_____
Member.

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

Attest: .....
Clerk of the Board

PERFECT PRINTING, PROSSER

ACCEPTANCE OF TRUST AGREEMENT
(REPRESENTED GROUP)

THE UNDERSIGNED acknowledges receipt of the Trust Agreement of the United Employees Benefit Trust (formerly the United Teamsters Welfare Trust), entitled "United Teamsters Welfare Trust Agreement and Declaration of Trust" (hereinafter referred to as the Trust Agreement) and the Certificate of Benefits of the Trust. The undersigned Employer or Union, by execution of this Acceptance Agreement, consents to and accepts the terms, conditions and provisions of the Trust Agreement and Certificate of Benefits, in each case as currently constituted or hereafter amended. This acceptance shall be considered effective and operative upon written acceptance by the Administrator of the United Employees Benefit Trust endorsed hereon. Accordingly, the undersigned Employer or Union agrees that the Trustees named in the Trust Agreement and Declaration of Trust are and shall be his or its representative, and said Employer or Union consents to be bound by the acts of said Trustees, successor trustees, and alternate trustees, pursuant to the provisions of said Trust Agreement.

The undersigned Employer agrees, during the life of this Agreement, to remit 100% of the premium set by the Trustees for each and every medical or related benefit plan identified in each and every collective bargaining agreement between the undersigned Employer and the Union providing for contributions to the Trust.

The Employer further agrees to remit premiums for 100% of the employees in the bargaining units established by each and every collective bargaining agreement providing for contributions to the Trust, except that no premium need be paid for an employee who has opted for Employer sponsored coverage through an HMO as authorized by state law.

This Acceptance of Trust Agreement shall terminate and become inoperative as to any and all action taken by the Trustees thereafter from and after the date when said Employer or Union has no collective bargaining agreement to which he or it is a party providing for payments into the United Employees Benefit Trust, provided that this Acceptance of Trust Agreement shall remain in effect during successive collective bargaining agreements, notwithstanding any hiatus between said agreements.

The undersigned as signatory hereto, and on behalf of its employees and/or members agrees that acceptance by the Trust of this Agreement does not confer any equitable or legal interest in present or future corpus or income of the Trust; and further, the undersigned as signatory hereto, and on behalf of its employees and/or members waives any equitable or legal claim which it may have to any Trust funds of whatever description, including but not limited to, present or future reserves or an increase in reserves, if and when said signatory discontinues further contributions to the Trust (in the case of a signatory employer); or (in the case of a signatory union) a signatory employer ceases to make contributions on behalf of employees represented by said union.

The undersigned Employer agrees to continue to contribute to the Trust for the employees covered by its current Collective Bargaining Agreement for the term of the Agreement; provided that the Employer's obligations pursuant to this sentence shall cease on the termination date of the current or successor collective bargaining agreement; or three years from the effective date of said collective bargaining agreement, whichever occurs earlier.

The parties hereto agree that damages caused the Trust by any breach of the Employer's obligations set forth in the preceding paragraph would be difficult to calculate. Accordingly the undersigned Employer agrees to pay liquidated damages in the event of breach in the amount of 10% of the total monthly contributions the Trust would have received but for the breach, plus the Trust's reasonable attorney fees and costs incurred in any lawsuit to enforce the obligations set forth in this and the preceding paragraph. The Trustees in their sole discretion shall decide whether or not to enforce the preceding paragraph.

Benton County
Employer

PO Box 470
Prosser WA 99350

_____
(Signature)

_____
Name and Title

_____
Date

Benton County Deputy Sheriffs Guild
Union

8220 Gage Blvd #712
Kennewick WA 99336

_____
(Signature)

_____
Name and Title

_____
Date

Number of Employees: 50

Effective Date: January 1, 2007

Acceptance of the United Employees Benefit Trust by the above named Employer or Union is hereby acknowledged and approved.

THE TRUSTEES OF UNITED EMPLOYEES BENEFIT TRUST

Date:_____ By:_____
Administrator

R E S O L U T I O N

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY ROADS RE: SUPPLEMENT NO. 3 TO AGREEMENT WITH HDR ENGINEERING INC FOR HANKS ROAD, CROSBY RD TO ALLER RD - C.E. 1494 CRP

WHEREAS, on February 27, 2006, an Agreement with HDR Engineering, Inc., for engineering services for Hanks Road, Crosby Rd. to Aller Rd. was approved; and

WHEREAS, a Supplement to said Agreement has been prepared to re-authorize revision of right of way plan and provide property appraisal services in the Scope of Work; NOW, THEREFORE;

BE IT RESOLVED that the Supplemental Agreement No. 3 to the Agreement with HDR Engineering, Inc. be and hereby is approved, and the Chairman is authorized to sign said Supplement.

Dated this 25th day of February, 2008.

_____
Chairman of the Board.

_____
Chairman Pro-Tem.

_____
Member.

Attest: _____
Clerk of the Board

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

RBD:BLT:dlh

Washington State Department of Transportation

Supplemental Agreement Number 3	Organization and Address HDR Engineering, Inc. 2805 St. Andrews Loop, Suite A Pasco, WA 99301 Phone: (509) 546-2040	
Original Agreement Number N/A		
Project Number N/A	Execution Date	Completion Date 12/31/2008
Project Title Hanks Road	New Maximum Amount Payable **$ 297,647.50**	
Description of Work Hanks Road- Crosby to Aller Revise Right of Way Plan and legal description, and provide property appraisals as described in Exhibit "A" , Supplement No. 3 attached.		

The Local Agency of Benton County, Washington
desires to supplement the agreement entered into with HDR Engineering, Inc.
and executed on 2/27/2006 and identified as Agreement No. N/A
All provisions in the basic agreement remain in effect except as expressly modified by this supplement.

The changes to the agreement are described as follows:

I

Section 1, SCOPE OF WORK, is hereby changed to read:

The consultant shall provide the additional services described in Exhibit "A" , Supplement No. 3, Scope of Work attached.

II

Section IV, TIME FOR BEGINNING AND COMPLETION, is amended to change the number of calendar days for completion of the work to read: Completion to be extended to December 31, 2008

III

Section V, PAYMENT, shall be amended as follows:

Method of payment to remain unchanged. Fee for each task to be adjusted. See Exhibit "B" For Supplement No. 3, Table of Revised Fees attached for adjustments. Maximum Amount Payable to increase by $72,767.50

as set forth in the attached Exhibit A, and by this reference made a part of this supplement.

If you concur with this supplement and agree to the changes as stated above, please sign in the appropriate spaces below and return to this office for final action.

By: Roy Cross, HDR Engineering, Inc.

Consultant Signature

By: _____

Approving Authority Signature

Date

DOT Form 140-063 EF
Revised 9/2005

Approved as to form: Kathleen B. Haggard 2/14/08
Deputy Prosecuting Attorney Date

EXHIBIT "A"
SUPPLEMENT NO. 3
SCOPE OF WORK

HANKS ROAD
RIGHT OF WAY REVISIONS AND APPRAISAL SERVICES

HDR will provide additional right of way acquisition assistance to the County for the planned improvement of Hanks Road from Crosby Road to Aller Road. The extent of additional assistance will be as described below.

Assumptions

In order to develop the Scope of Work and fee for this additional assistance certain assumptions have been made. The assumptions are as follows:

- The County will prepare, if needed, the Right of Way Project Funding Estimate.
- The County will pay of all escrow fees, applicable closing costs, and purchase amounts directly to an Escrow agent or directly to the owner as determined by the County.
- The County will approve the fair offer amount and all administrative adjustments. To facilitate the negotiation process the County may authorize a maximum amount for an administrative offer the HDR negotiator can present without receiving County approval.
- The County will provide County Attorney approved acquisition documents.
- The cost for updating the Title Reports prior to acquisitions to be paid directly by the County.
- The right of way to be appraised and acquired consists of less than twenty (20) separate parcels, owned or controlled by less than twelve (12) owners or partnerships.
- Property owners or representatives reside within a 50 mile radius of the project.

Revision of the Right of Way Plans and Legal Descriptions

HDR will revise the previously submitted right of way plans and corresponding legal descriptions for property to be acquired as instructed by the County in a letter dated 11/22/07. The revisions to be made include updating the plans to reflect current owners of record. The revisions also entail changing the right of way areas and legal descriptions to include all existing roadway areas lying within the limits of the proposed right of way which do not currently have deeds or easements of record. These areas are currently shown on the County Road Plat Maps as "Maintained By County Use" and the County wishes to acquire clear title to these rights of way by use areas.

Deliverables:

- Revised/updated set of Right of Way Plans.
- Revised legal description for each parcel to be acquired

Provide Appraisal Services

The additional right of way for proposed Hanks Road improvement project will include acquiring properties currently used as orchards and vineyards. These properties contain trellises, irrigation systems, and fences, and the producing crops beyond the limits of acquisition may be subject to increased frost damage as a result of vertical grade improvements (increases in road embankment height) to the roadway. HDR will subcontract with Associated Appraisers of Walla Walla, WA. to provide the basic appraisals for the land and related improvements, and Spencer Appraisal Service, Inc. of Richland, WA. to provide the cost to cure costs for the existing agricultural

related facilities and to evaluate potential crop damage that may result from changes to the height of the roadway embankments. The appraisal work performed by Spencer Appraisal Service will be provided to Associated Appraisers to arrive at an overall opinion of value and damages.

HDR will coordinate the activities of the appraisal team identified above. The coordination and review activities will include the following:

- Provide title reports received from the County to the appraisers for all properties to be acquired.
- Provide copies of the County approved Right of Way Plans and legal descriptions of acquisition areas to the appraisers for all parcels.
- Perform cursory review of the completed appraisals for adequacy and background information during negotiations. Appraisals considered incomplete will be returned to the appropriate appraiser for completion. The cursory review is not a formal appraisal review meeting the requirements of the WSDOT Right of Way Manual.

The activities outlined above are in addition to or supplement the negotiation assistance contained in the approved Supplement No. 2.

Deliverables:

- Property appraisals for up to twenty (20) parcels to be acquired which include the valuation of land, improvements, cost to cure items, and potential crop damages.

FEE FOR SERVICES

The fee for providing services discussed above shall be Cost-Plus not to exceed $72,767.50 without County approval based an invoices submitted by HDR for the cost of HDR's direct labor times an agreed mark-up of 2.89, HDR's direct expenses chargeable to the project including a technology charge of $3.70 per employee hour charged to the project, and all subconsultant costs with an agreed mark-up of 5%.

HANKS ROAD – ALLER TO CROSBY
EXHIBIT "B" FOR SUPPLEMENT NO. 3
TABLE OF REVISED FEES

TASK	Type of Fee	Total Current Fee (w/Approved Supplements)	Fee Adjustment (Supplement No. 3)	Revised Total Fee
BASIC PROJECT				
Task No. 1.0 - Design Services (HDR)	Lump Sum	$114,850.00	-0-	$114,85.00
Task No. 2.0 - Right of Way Plan(s)	Lump Sum	$13,190.00	$1,690.00	$14,880.00
Task No. 3.0 - Adjacent Property Owner Contact & Public Involvement (HDR)	Cost Plus (Not to Exceed)	$7,280.00	-0-	$7,280.00
Task No. 4.0 - Supplemental Design Support 4.1 - Survey & Legal Descriptions (Permit Surveying) 4.2 – Geotechnical Investigations (Shannon & Wilson)	Cost Plus (Not to Exceed)	 $35,000.00 -0-	 $1,050.00 -0-	 $36,050.00 -0-
Task No. 5.0 - Environmental Review and Permitting	Cost Plus (Not to Exceed)	$17,460.00	-0-	$17,460.00
TOTAL ESTIMATED BASIC FEE		**$187,780.00**	**$2,740.00**	**$190,520.00**
ADDITIONAL SERVICES				
Task No. 6.0 - Right of Way Acquisition (HDR) 6.1 - Subconsultant Fee for Appraisals w/5% Associated Appraisers Spencer Appraisal Service, Inc.	Cost Plus(Not to Exceed)	$37,100.00 -0- -0-	$3,090.00 $41,737.50 $25,200.00	$40,190.00 $41,737.50 $25,200.00
TOTAL ADDITIONAL SERVICES		**$37,100.00**	**$70,027.50**	**$107,127.50**
MAXIMUM AMOUNT PAYABLE W/ADDITIONAL SERVICES		**$224,880.00**	**$72,767.50**	**$297,647.50**
OPTIONAL SERVICES				
Task No. 7.0 - Construction Management Services	Cost Plus(Not to Exceed)	-0-	-0-	-0-

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY ROADS, RE: E. R. & R. PURCHASE METAL TRAFFIC SIGNS

WHEREAS, it is the intention of the Board of County Commissioners to purchase metal traffic signs for the E. R. & R. Fund; NOW, THEREFORE,

BE IT RESOLVED that the County Engineer is authorized to schedule and advertise a Request for Bids for E. R. & R. Purchase Metal Traffic Signs.

Dated this 25th day of February 2008.

_____
Chairman

_____
Chairman Pro-Tem

_____
Member

Attest:_____
Clerk of the Board

Constituting the Board of County Commissioners of Benton County, Washington

RBD:NWC:dlh

Comm

X

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY FRANCHISES RE: GRANTING A FRANCHISE TO ROY E. CLIFFORD, TO ESTABLISH A NON EXCLUSIVE FRANCHISE FOR AN ELECTRICAL AND IRRIGATION FACILITY LOCATED IN BENTON COUNTY;

WHEREAS, a public hearing was held February 4, 2008 to consider the request of Roy E. Clifford, who has applied for a franchise to establish an electrical and irrigation facility, in a portion of unincorporated Benton County located within Benton County right of way on King Tull Road in Section 24 and Section 25, T. 9 N., R. 24 E. W.M., and

WHEREAS, after hearing the testimony regarding the request for a franchise, the Board finds as follows:

1. The term of the franchise shall be a five year (5) period, expiring March 31, 2015;

2. The Grantee is to carry liability insurance with Benton County named as an insured with a minimum limit of $500,000.00. A copy of the proof of insurance is to be provided to Benton County;

3. Placement of facilities within the right of way shall meet all requirements of Benton County as to location and repair of roads and right of, way, including noxious weed control;

4. Should Benton County require utility relocation work because of road construction or maintenance, said work shall be at the Grantee's expense;

5. The franchise is nonexclusive;

6. The Grantee is to sign the Order and Agreement for Nonexclusive Franchise;

WHEREAS, Roy E. Clifford, has agreed to the terms and has signed the Order and Agreement for Nonexclusive Franchise, said Order having been approved as to form by the Prosecuting Attorney's Office, NOW, THEREFORE

BE IT RESOLVED that the franchise be approved and that the Board indicates its approval by its signatures on the Order and Agreement for Nonexclusive Franchise.

Dated this 25th day of February, 2008.

_____
Chairman

_____
Chairman Pro-Tem

_____
Member

Attest:_____
Clerk of the Board

Constituting the Board of County Commissioners of Benton County, Washington

RBD:LSS

Return to:
Benton County Public Works
P.O. Box 1001
Prosser, WA 99350

BEFORE THE BOARD OF COUNTY COMMISSIONERS

BENTON COUNTY, STATE OF WASHINGTON

IN THE MATTER OF THE APPLICATION OF ROY E. CLIFFORD FOR A NONEXCLUSIVE FRANCHISE TO LOCATE, CONSTRUCT, MAINTAIN, OPERATE, USE, AND IF NECESSARY, REMOVE ELECTRICAL AND IRRIGATION FACILITIES WITHIN THE COUNTY OF BENTON, STATE OF WASHINGTON, UPON, OVER, UNDER, ALONG, AND ACROSS CERTAIN COUNTY ROADS AND PUBLIC HIGHWAYS, OR PARTS THEREOF, NOT WITHIN THE LIMITS OF ANY INCORPORATED CITY OR TOWN.	No._____ ORDER AND AGREEMENT FOR NONEXCLUSIVE FRANCHISE

FINDINGS

NOW, on this _____ day of _____, 2008 the petition and application of Roy E. Clifford, for the authority and nonexclusive franchise, for a term of five (5) years, to install, locate, construct, maintain, operate, use, and, if necessary, remove electrical and irrigation facilities under, upon, over, along and across the County roads, highways, streets, alleys, and

bridges described in said application by reference to the sections, townships, and ranges in which said roads, highways, streets, alleys, and bridges are physically located within the County of Benton, State of Washington, and not within the corporate limits of any incorporated city or town therein, coming on to be heard before this, the Board of County Commissioners of and from said Benton County, Washington, and this Board having heretofore fixed this time and place for the hearing of said petition, and it appearing that the County Engineer has given notice of the time and place of said hearing by posting in three locations written or printed notices of the time and place of this hearing in accordance with the laws of the State of Washington, and by publishing a like notice two (2) times in the Tri-City Herald, a daily newspaper of general circulation published in Benton County, Washington, and it appearing that the notices so posted and published stated the name of the applicant and a description by reference to sections, townships and ranges in which the County roads, highways, streets, alleys, and bridges to be included in the franchise for which application is made are physically located, and also state the time and place fixed for said hearing, and after hearing all persons interested in the matter of said petition, and at which hearing the qualifications of the Grantee were heard, the Board deeming it for the public interest to grant the franchise and authority so applied for.

ORDER

IT IS HEREBY ORDERED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

There is hereby granted to Roy E. Clifford, hereafter called the Grantee, subject to all provisions, conditions, covenants and requirements of this order and agreement, the right, privilege and nonexclusive franchise, to install, locate, construct, maintain, operate, use, and, if necessary, remove an electrical and irrigation facility, and all necessary appurtenances thereto, hereinafter called the distribution system, under, upon, over, along, or across those portions of any and all County roads, highways, streets, alleys, bridges, rights-of-way, and other County property which lie within those legal subdivisions within the County of Benton, State of Washington, set forth and described in "Exhibit A" attached hereto and by this reference made a part hereof, excluding, however, from such subdivisions any portion thereof which is within the corporate limits of any incorporated city or town, but including all portions of said subdivisions which are within any unincorporated town or community. Benton County Resolution No. 72-

220, regarding Policy on Accommodation of Utilities on County Road Rights-of-Way, shall apply in all respects to this franchise and the distribution system.

AGREEMENT

I. APPROVAL BY COUNTY ENGINEER

All locations, construction, installation, maintenance, relocation or removal of the distribution system or any portion thereof within Benton County road rights-of-way or other County property outside the corporate limits of any incorporated town shall be subject to the approval and pass inspection of the County Engineer.

II. PERMIT REQUIRED – MAP AND SPECIFICATIONS TO BE FILED
APPROVAL BY COUNTY ENGINEER – PERFORMANCE BOND

Prior to commencement of any work on or construction of any portion of the distribution system, Grantee shall file with the County Engineer its application for permit to do such work or construction together with plans and specifications in form and number as approved by the County Engineer showing the position, depth, or height, and location of all lines and facilities sought to be constructed, laid, installed or erected at that time, showing their relative position to existing County roads, rights-of-way, or other County property, upon plans drawn to scale indicating exact distance hereinafter collectively referred to as the "map of definite location". Grantee is hereby authorized to extend its facilities throughout the area authorized hereunder.

The distribution system shall be constructed in exact conformity with said map of definite location, except in instances in which deviation may be allowed by the prior written consent of the County Engineer pursuant to application by Grantee. The plans and specifications shall specify, as applicable, the class and type of materials and equipment to be used, manner of excavation, construction, installation, backfill, erection of temporary structures, erection of permanent structures, traffic control, traffic turnouts, and road obstructions, and manner and means by which they affect County roads, rights-of-way or property will be restored to a condition as good as that which existed prior to such work or construction. No such work or construction shall be commenced until the Grantee has first secured a written permit from the County Engineer, which shall include approval by the County Engineer endorsed on one set of plans and specifications to be returned to the Grantee. All such work or construction shall require the inspection and approval of the County Engineer. The Grantee shall pay all

reasonable costs and expenses incurred in the examination, inspection, and approval of such work or construction by the County Engineer as herein provided.

The County Engineer may require a performance bond in a sum sufficient to guarantee to Benton County that any County roads or rights-of-way, including the surfaces thereof, affected by any work or construction by the Grantee, shall be restored to a condition as good as that which existed prior to such work or construction, the amount of said bond to be fixed by the County Engineer. The County Engineer, upon notice to the Grantee, may at any time order any and all work that he considers necessary to restore to a safe condition any portion of the County road or right-of-way the condition of which has been rendered dangerous to the safety of persons or property by reason of any work, construction, of facilities of Grantee, and Grantee, upon demand, shall pay to the County all costs of such work, done by order of the County Engineer.

III. COUNTY ROADS TO BE RESTORED

In any work which requires breaking of surface of the County roads or rights-of-way subject to this Franchise for the purpose of locating, constructing, installing, relocating, removing, maintaining and/or repairing the distribution system, and/or making connections between the same to structures and buildings of consumers or making connections to other facilities of the Grantee now in existence or hereafter constructed, the Grantee shall be governed by and strictly conform to the instructions set forth in the permit issued by the County Engineer for such work; and the Grantee, at its own expense and with all reasonable speed, shall complete the work for which the road or right-of-way surface has been broken and repair and restore the affected County road or right-of-way and the surface thereof to a condition as good as that which existing before the work was commenced. Noxious weed control will be required.

Except in cases of emergency as hereinafter provided, no breaking of surface of any county road or right-of-way shall be done until Grantee has first obtained a permit therefor issued by the County Engineer as specified in Section II of this Agreement.

PROVIDED, however, that in cases of emergency which occur out of office hours when immediate work may be necessary for the protection or safety of persons or property, the emergency shall be immediately reported to the Benton County Sheriff and the necessary work may be immediately undertaken upon the express condition that an application for a permit for

such work, as hereinabove provided, shall be submitted to the County Engineer on or before noon of the business day next following the commencement of the emergency work.

IV. INTERFERENCE WITH EXISTING FACILITIES

No location, construction, installation, maintenance, repair, removal or relocation of the distribution system or any portion thereof, performed along or under any county road or right-of-way or other county property shall in any way interfere with the grading or improvement of such county road or right-of-way or with the construction and maintenance of any existing utility, public or private, drain, drainage ditch or structure, or irrigation ditch or structure, located along or under such county roads, right-of-way or property. In the event that it is necessary to relocate any such county road or right-of-way or alter the grade of any such county road or right-of-way, requiring relocation of any utilities, including rights-of-way, preferences as to positioning of such utilities, shall be given in the order of the original location and installation of such utilities, the utility first having been located and installed being given first preference as to positioning and relocation.

V. MINIMUM INTERFERENCE WITH PUBLIC TRAVEL – GRANTEE LIABLE FOR DAMAGE

All work done under this Franchise shall be done in a thorough and workmanlike manner. All construction, installation, maintenance, repair, relocation, or removal of the distribution system, or any portion thereof, shall be conducted in a manner that will interfere as little as possible with public use of and travel upon county roads and rights-of-way shall include all due and necessary measures and precautions to prevent danger to persons or property. Specifically, where such construction, installation, maintenance, repair, relocation or removal involves open trenches, ditches, or tunnels which are left open at night, the Grantee shall place sufficient warning lights and barricades about such trenches, ditches or tunnels to give adequate warning of such work. The Grantee shall assume sole liability for any injury to persons or property, which occurs by reason of any trenches, ditches, or tunnels dug or maintained by the Grantee.

VI. ALL COUNTY ROAD RIGHTS RESERVED

Benton County expressly reserves any and all rights which it now has or may hereafter acquire with respect to County roads, rights-of-ways, or other County property, and this Franchise shall not be construed to in any way limit or restrict any authority, power, rights, or privileges which Benton County now has or may hereafter acquire to control and regulate the use of County roads, rights-of-way, and other County property covered by this Franchise.

VII. COUNTY MAY CHANGE AND IMPROVE ROADS WITHOUT LIABILITY

If Benton County shall at any time improve or change any County road or right-of-way subject to this Franchise by grading, regrading, surfacing, or paving the same, or by changing, altering, repairing, or relocating the grade thereof or by construction of drainage facilities, the Grantee shall, upon written notice from the County Engineer, at Grantee's sole expense, with all reasonable speed, change the location or readjust the elevation of the distribution system and other facilities so that the same shall not interfere with such county work and so such lines and facilities shall conform to such new grades as may be established. Benton County shall in no respect be held liable for any damages, costs, or expenses to said Grantee that may occur by reason of any of the County's improvements, changes or work above enumerated, except insofar as such damages, costs or expenses shall be caused by negligence of the County's employees or agents.

All work performed by the Grantee under this section shall be under the direction, approval, and shall pass the inspection of the County Engineer. The Grantee shall pay all reasonable costs of and expenses incurred in the examination, inspection, and approval of such work.

VIII. REFERENCE MONUMENTS AND MARKERS

Before any work is performed under this Franchise, which may affect any existing monuments or markers of any nature relating to subdivisions, plats, roads, and all other surveys, the Grantee shall reference all such monuments and markers. The reference points shall be so located that they will not be disturbed during the Grantee's operation under this Franchise. The method of referencing these monuments or other points to be referenced shall be approved by the County Engineer. The replacement of all such monuments or markers disturbed during

construction shall be made as expeditiously as conditions permit, and as directed by the County Engineer. The cost of monuments or other markers lost, destroyed or disturbed, and the expense of replacement by approved monuments shall be borne by the Grantee.

IX. VACATION OF COUNTY ROADS – ALTERNATE ROUTE

If at any time Benton County shall vacate any County road, right-of-way or other County property which is subject to rights granted by this Franchise, and said vacation shall be for the purpose of acquiring the fee or other property interest in said road or right-of-way for the use of Benton County, in either its proprietary or governmental capacity, then the Board of County Commissioners for Benton County may, after granting an alternate route with the consultation of Grantee, by giving thirty (30) days written notice to the Grantee, terminate this Franchise with reference to such County road, right-of-way, or other County property so vacated and said Benton County shall in no respect be liable for any damages, costs, or expenses to the Grantee that may occur by reason of such termination.

X. GRANTEE TO INDEMNIFY COUNTY – LIABILITY INSURANCE

The Grantee covenants, agrees and promises that it shall fully indemnify Benton County from any and all liability, loss, injury, damage, costs, charges or expenses of any nature whatever, occurring to any person, association, corporation or property of any kind by reason of any acts, actions, omissions, defaults, or neglect of the Grantee in the construction, operation, or maintenance of the distribution system.

The Grantee further covenants, agrees and promises that, in the event that any claim, suit, or cause of action shall be brought against Benton County by reason of any act, action, omission, defaults, or neglect of the Grantee in the construction, operation, or maintenance of the distribution system, it shall, at its own cost and expense, defend any such claim, suit, or cause of action, and shall pay any and all costs, charges, attorneys' fees, and other expenses therein, and any and all judgments that may be incurred by or obtained against Benton County in any such claim, suit, or cause of action.

The Grantee further covenants, agrees and promises that, in order to secure to the County full and complete performance of the covenants and conditions of this Section "X", it shall, at its own cost and expense, obtain and maintain in effect continually during the term of this

Franchise, liability insurance in a company or companies to be approved by the County, such insurance to name the Grantee and Benton County as the insured and to have minimum limits of not less than $500,000.00. Written evidence of such insurance in effect shall be furnished to the County Engineer no later than the date that any work or construction under the terms of this Franchise commences. Such additional written evidence of such insurance shall be furnished to the County Engineer from time to time as the County Engineer shall require; in any event, such additional written evidence shall be provided to the County Engineer at least annually during the term of this Franchise. The Grantee's compliance with the provisions of this paragraph relating to liability insurance shall in no way alter, affect, modify or limit any of the other covenants, conditions, and provisions of this paragraph. Acceptance or approval by the County of any work performed by the Grantee shall not constitute a waiver by the County of any of the provisions of this Section "X", and shall not excuse the Grantee from any of the covenants, provisions, or requirements set forth herein.

XI. FRANCHISE NOT EXCLUSIVE

This Franchise shall not be deemed to be an exclusive Franchise. It shall in no manner prohibit Benton County from granting other Franchises of a like nature or Franchises for public or private utilities under, along, across, over, and upon any of the County roads, rights-of-way, or other property subject to this Franchise and shall in no way restrict, prevent, or prohibit Benton County from constructing, altering, maintaining, or using any of said roads or rights-of-way, drainage structures or facilities, irrigation structures or facilities, or any other County property or affect its jurisdiction over them or any part of them with full power to make all necessary construction, alterations, changes, relocations, repairs, or maintenance, which the County may deem necessary.

XII. PROVISIONS HEREOF BIND SUCCESSOR

All provisions, conditions, covenants, and requirements herein contained shall be binding upon any and all successors and assigns of the Grantee, and all privileges, as well as all obligations and liabilities of the Grantee, shall inure to its successors and assigns equally as if they were specifically mentioned herein wherever the Grantee is mentioned, provided, however,

that neither this Franchise nor any rights, privileges, or obligations granted in this order and agreement shall be assigned without the prior written approval of the County Engineer, unless such assignments is to a wholly-owned subsidiary of the Grantee or to a parent company owning more than 50% of the Grantee, and unless Benton County is provided with prior written notice of such assignment giving the name and address of the subsidiary or parent company assignee.

XIII. REVOCATION FOR NON-COMPLIANCE

In the event that the Grantee substantially violates or fails to comply with any of the material provisions of this Franchise, the Grantee shall forfeit all rights conferred hereunder and this Franchise shall be revocable by the Board of Benton County Commissioners at their discretion, provided, however, the Board of County Commissioners shall provide the Grantee with written notice of its intention to revoke the Franchise, specifying the nature of such violation, failure, or neglect, and giving the Grantee thirty (30) days in which to cure such violation, failure, or neglect. The Grantee shall be entitled to a hearing, within such thirty-day period, before the Board of County Commissioners.

In the event such hearing is held, the Grantee shall be given prior written notice of the time and place for such hearing. Subject to applicable federal and state law, in the event the Franchising Authority, after such hearing, determines that Grantee is in default of any provision of the Franchise, the Board of County Commissioners may:

a. Foreclose on all or any part of any security provided under this Franchise, if any, including, without limitation, any bonds or other surety; provided, however, the foreclosure shall only be in such a manner and in such amount as the Franchising Authority reasonably determines is necessary to remedy the default;

b. Commence an action at law for monetary damage or seek other equitable relief;

c. In the case of substantial default of a material provision of the Franchise, declare the Franchise Agreement to be revoked; or

d. Seek specific performance of any provision, which reasonably leads itself to such remedy, as an alternative to damages.

XIV. CONFORMITY WITH STATE AND COUNTY

Benton County expressly reserves the right at any time, upon ninety (90) days written notice to the Grantee, to change, amend, modify, or amplify any of the provisions or conditions herein enumerated to conform to any state statute, rule or regulation, or county ordinance, rule or regulation, relating to the regulation of highways or the public welfare, health, safety, as may hereafter be enacted, adopted or promulgated, and the County further expressly reserves the right to terminate this Franchise at any time, in accordance with the procedures stated in Section "XIII" above, in the event that the Grantee's distribution system is not operated or maintained in accordance with such statute, ordinance, rule, or regulation.

XV. FEDERAL REGULATION

Any lawful modification required by amendment of Section 76.31 ("Franchise Standards") of the Rules and Regulations of the Federal Communications Commission shall be incorporated into this Franchise as of the date such modifications become obligatory under FCC regulations, or in the event no obligatory date is established, within one (1) year of adoption or at the time of Franchise renewal, whichever occurs first.

XVI. ACTS OF GOD

The Grantee shall not be held in default or non-compliance with the provisions of the Franchise, nor suffer any enforcement or penalty relating thereto, where such non-compliance or alleged defaults are caused by strikes, acts of God, power outages, or other events reasonably beyond its ability to control.

XVII. SEVERABILITY

If any section, sentence, paragraph, term, or provision hereof is determined to be illegal, invalid, or unconstitutional, by any court of competent jurisdiction or by any state or federal regulatory authority having jurisdiction thereof, such determination shall have no effect on the validity of any other Section, sentence, paragraph, term, or provision hereof, all of which will remain in full force and effect for the term of the Franchise or any renewal or renewals thereof.

XVIII. COMPLAINT PROCEDURES

The Grantee agrees to maintain a local business office which subscribers may telephone during regular business hours without incurring added message or toll charges so that service shall be promptly available. The Grantee's toll free number is (509) 786 3161. The emergency toll free number is (509) 786-3161. The Grantee agrees to notify each subscriber, at the time of initial subscription to the Grantee's service, of the procedures for reporting and resolving such complaints.

XIX. ACCEPTANCE BY GRANTEE

Written acceptance by the Grantee of the Franchise granted herein and all provisions, conditions, covenants, and requirements contained in this order and agreement shall be indicated by endorsement by the Grantee where indicated hereinbelow, and a copy of this order and agreement so endorsed by the Grantee shall be filed with the Clerk of the Board of County Commissioners of Benton County within thirty (30) days from the date of acceptance by the Board. Such filing of the endorsed order and agreement within the period above specified shall be a condition precedent to this Franchise taking effect, and unless this order and agreement is accepted and filed within such time, it shall be null and void.

XX. TERM

This nonexclusive Franchise agreement shall be in full force and effect upon execution and shall expire March 31, 2013.

XXI. GRANTEE'S ADDRESS

The name and address of the Grantee is: ROY E CLIFFORD 124910 W. KINGTELL RD, PROSSER, WA 99350. Any notification required to be given to the Grantee may be given to the address above stated, provided that the Grantee may from time to time notify Benton County in writing of address to which notifications are to be sent.

FOR GRANTEE:

ROY E. CLIFFORD
Print or Type Name

Sign Name

Date FEB. 8, 08

APPROVED AS TO FORM:

Benton County Prosecuting Attorney

Date 02/12/08

FOR BENTON COUNTY, WASHINGTON.

Chairman

Chairman Pro-Tem

Member

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

ATTEST:

Clerk of the Board

Date

EXHIBIT A

King Tull Road located in Section 24, and Section 25, T. 9 N., R. 24 E., all in Benton County, Washington.

AGENDA ITEM	TYPE OF ACTION NEEDED	
eeting Date: 02-25-08 ubject: Federal Annual Certification Report Prepared By: J.Thompson Reviewed By:	Execute Contract Pass Resolution X Pass Ordinance Pass Motion Other	Consent Agenda X Public Hearing 1st Discussion 2nd Discussion Other

BACKGROUND INFORMATION

The Benton County Sheriff's Office participates in the Federal Equitable Sharing Agreement with the federal government for the use of federally forfeited cash, property, proceeds, and any interest earned thereon, which are equitably-shared with participating law enforcement agencies. Pursuant to this agreement the Benton County Sheriff's Office is required to submit yearly the Federal Annual Certification Report.

SUMMARY

The yearly Federal Annual Certification Report must be signed by the Benton County Sheriff and the Benton County Commissioner.

ECOMMENDATION

Request the Chairman of the Board of Commissioners sign the attached Federal Annual Certification Report.

FISCAL IMPACT

-0-

MOTION

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AUTHORIZING THE CHAIRMAN OF THE BOARD TO SIGN THE 2007 FEDERAL ANNUAL CERTIFICATION REPORT.

WHEREAS, the Benton County Sheriff's Office participates in the Federal Equitable Sharing Agreement with the federal government for the use of federally forfeited cash, property, proceeds, and any interest earned thereon, which are equitably-shared with participating law enforcement agencies. Pursuant to this agreement the Benton County Sheriff's Office is required to submit yearly the Federal Annual Certification Report.

WHEREAS, the yearly Federal Annual Certification Report must be signed by the Benton County Sheriff and the Benton County Commissioner, **NOW THEREFORE,**

BE IT RESOLVED, by the Board of Benton County Commissioners that the Chairman of the Board of Benton County Commissioners is authorized to sign, on behalf of the Board, the 2007 Federal Annual Certification Report.

Dated this 25 day of February, 2008.

_____
Chairman of the Board

_____
Member

_____
Member
Constituting the Board of County Commissioners
of Benton County, Washington

Attest: _____
J.Thompson

CC: BCSO, Prosecutor (Rosemary),

2

BENTON COUNTY AGENDA ITEM

AGENDA ITEM:		**Type of Action**			
MEETING DATE:	02/25/08	Execute Contract		CONSENT AGENDA	X
SUBJECT:	Line Item Transfer	Pass Resolution	X	PUBLIC HEARING	
		Pass Ordinance		1ST DISCUSSION	
		Pass Motion		2ND DISCUSSION	
Prepared By:	Pat Austin	Other		OTHER	
Reviewed By:	D. Sparks	Approve for Hearing			

BACKGROUND INFORMATION

The Superior Court requests a line item transfer from the Judge Pro Tem line item No. 0000101.123.00000.512.210.4111 in the amount of $20,000 to newly created line item No. 0000101.123.00000.512.210.1922 Judge Pro Tem part-time; and a line item transfer from Arbitration Services line item No. 0000101.123.00000.512.219.4169 in the amount of $16,000 to newly created line item No. 0000101.123.00000.512.210.1923 Arbitrators part-time.

The court has been notified by IRS and SSA that judges pro tem and arbitrators are to be paid as employees and not as a contract service. The court is requesting to transfer funds for these services from "other services & charges and limited use funds" to "salaries" to comply with IRS and SSA requirements.

SUMMARY

Line item transfers:

AMOUNT: $20,000
FROM: 0000101.123.00000.512.210.4111 (Pro Tem Judges)
TO: 0000101.123.00000.512.210.1922 (Judges Pro Tem part-time)

AMOUNT: $16,000
FROM: 0000101.123.00000.512.219.4169 (Arbitration services)
TO: 0000101.123.00000.512.210.1923 (Arbitrators part-time)

RECOMMENDATION

Recommend approval.

FISCAL IMPACT

No impact at this time.

MOTION

I move to approve Resolution No. _____ authorizing line item transfers in the amount of $36,000.00 as outlined on Attachment A of the resolution.

RESOLUTION NO. _____

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY FUNDS RE: TRANSFER OF FUNDS WITHIN THE SUPERIOR COURT BUDGET.

BE IT RESOLVED by the Board of Benton County Commissioners that $36,000 shall be transferred as more clearly defined in Exhibit A attached hereto.

Dated this ____ day of _____, 2008.

_____
Chairman of the Board

_____
Member

_____
Member

Attest: _____
Clerk of the Board

Cc: Auditor; file; Superior Court Administration

EXHIBIT "A"

BENTON COUNTY LINE ITEM TRANSFER

Dept Name: Superior Court Dept Nbr: 123

Fund Name: Current Expense Fund Nbr: 0000101

TRANSFER FROM: Superior Court Other Services/Charges & Limite TRANSFER TO: Superior Court Salaries & Benefits

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT	BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
512.210	4111	Judge Pro Tem	$20,000	512.210	1922	Judge Pro Tem (part-time)	$20,000
512.219	4169	Arbitration Services	$16,000	512.210	1923	Arbitrators (part-time)	16,000
TOTAL			$36,000	TOTAL			$36,000

Explanation: IRS & SSA require that individuals who perfom work as a judge pro tem and/or arbitrator must be paid as employees, not independent contractors.

Prepared by: Patricia Austin, Superior Court Administrator Date: 25-Feb-2008

Approved ☐ Denied ☐ Date: _____

_____
Chairman

_____
Member

_____
Member

AGENDA ITEM		TYPE OF ACTION NEEDED			
Meeting Date:	2/25/08	Execute Contract		Consent Agenda	X
Subject:	Judge Pro Tem & Arbitrator Positions	Pass Resolution	X	Public Hearing	
		Pass Ordinance		1st Discussion	
		Pass Motion		2nd Discussion	
Prepared by:	M. Wenner	Other		Other	

BACKGROUND INFORMATION

On November 26, 2007, the State Office of Court Administration received an opinion from the Social Security Administration regarding employment status for Pro Tem Judges, Pro Tem Commissioners and Arbitrators. Mr. Tim Beard, Employer Services Liaison Officer for the Social Security Administration states, *"After reviewing the appropriate Washington statutes, it is clear that superior court pro tempore judges and arbitrators have essentially the same status of superior court judges...Further, superior court pro tempore judge and arbitrator positions meet all of the public officer criteria established by Washington Attorney General opinions and state court rulings...***Superior court pro tempore judges and arbitrators are employees for purposes of Section 218 and Social Security and Medicare taxes. IRS has informally advised us that these same positions also meet the IRC 3401 test as employees for Federal income tax."**

On December 21, 2007, the courts received clarification of the above opinion from the Administrative Office of Courts (AOC). Based on this opinion and guidance provided by AOC, beginning February 1, 2008, Benton & Franklin Counties will begin paying pro tem judges, pro tem commissioners and arbitrators through the Benton County payroll as part-time employees.

SUMMARY

See above.

RECOMMENDATION

Approve resolution.

FISCAL IMPACT

Will transfer from Pro Tem and Arbitrator Services into Salaries and Benefits. No impact at this time.

JOINT RESOLUTION

BENTON COUNTY RESOLUTION NO. _____

FRANKLIN COUNTY RESOLUTION NO. _____

BEFORE THE BOARDS OF THE COMMISSIONERS OF BENTON AND FRANKLIN COUNTIES, WASHINGTON.

IN THE MATTER OF ESTABLISHING A BI-COUNTY, NONBARGAINING EMPLOYMENT CLASSIFICATION FOR JUDGE PRO-TEMPORE IN THE BENTON AND FRANKLIN COUNTIES SUPERIOR COURT

WHEREAS, the County Commissioners of Benton and Franklin Counties, the duly constituted legislative authority having budgetary responsibilities for the Benton and Franklin Counties Superior Court, have received a request and recommendation from the Benton and Franklin Counties Superior Court Administrator's Office for a bi-county, nonbargaining employment classification for Judge Pro-Tempore; and

WHEREAS, the Board of Benton County Commissioners approved Resolution 05-797, Personnel Policies and Procedures for Non-Bargaining Employees; and

WHEREAS, that Resolution includes a process for new position and/or substantially changed position (re)classification/grade requests to be processed for a determination by the Board; and

WHEREAS, pay rates for Judge Pro-Tempore in Benton and Franklin Counties Superior Court are set by State law in accordance with RCW 2.08.180, **NOW THEREFORE,**

BE IT RESOLVED that the Boards of County Commissioners hereby approve creation of a bi-county, nonbargaining employment classification for Judge Pro-Tempore in Benton and Franklin Counties Superior Court at the pay rates established by State law; and

BE IT FURTHER RESOLVED, that the Boards of Commissioners retain the right to modify or repeal this determination at their discretion and without prior notification; and

BE IT FUTHER RESOLVED, that this Resolution is not intended nor shall be interpreted as limiting or compromising the Counties' "at will" employer status or the "at will" status of the employees in this classification.

Dated at _____, Washington, this _____ day of

_____, 2008.

BENTON COUNTY BOARD OF COMMISSIONERS

_____
Claude Oliver, Chairperson

_____
Max Benitz, Member

ATTEST:

_____
Leo Bowman, Member

_____
Clerk of the Board

FRANKLKIN COUNTY BOARD OF COMMISSIONERS

_____
Robert Koch, Chairperson

_____
Neva Corkrum, Member

Attest:

_____
Richard Miller, Member

_____
Clerk of the Board

bb

JOINT RESOLUTION

BENTON COUNTY RESOLUTION NO. _____

FRANKLIN COUNTY RESOLUTION NO. _____

BEFORE THE BOARDS OF THE COMMISSIONERS OF BENTON AND FRANKLIN COUNTIES, WASHINGTON.

IN THE MATTER OF ESTABLISHING A BI-COUNTY, NONBARGAINING EMPLOYMENT CLASSIFICATION FOR AN ARBITRATOR IN THE BENTON AND FRANKLIN COUNTIES SUPERIOR COURT

WHEREAS, the County Commissioners of Benton and Franklin Counties, the duly constituted legislative authority having budgetary responsibilities for the Benton and Franklin Counties Superior Court, have received a request and recommendation from the Benton and Franklin Counties Superior Court Administrator's Office for a bi-county, nonbargaining employment classification for Arbitrator; and

WHEREAS, the Board of Benton County Commissioners approved Resolution 05-797, Personnel Policies and Procedures for Non-Bargaining Employees; and

WHEREAS, that Resolution includes a process for new position and/or substantially changed position (re)classification/grade requests to be processed for a determination by the Board; and

WHEREAS, pay rates for Arbitrators in Superior Court are set by State law in accordance with RCW 2.08.180 and RCW 7.06.040, **NOW THEREFORE,**

BE IT RESOLVED that the Boards of County Commissioners hereby approve creation of a bi-county, nonbargaining employment classification for Arbitrators in Benton and Franklin Counties Superior Court at the pay rates established by State law; and

BE IT FURTHER RESOLVED, that the Boards of Commissioners retain the right to modify or repeal this determination at their discretion and without prior notification; and

BE IT FUTHER RESOLVED, that this Resolution is not intended nor shall be interpreted as limiting or compromising the Counties' "at will" employer status or the "at will" status of the employees in this classification.

Dated at _____, Washington, this _____ day of

_____, 2008.

BENTON COUNTY BOARD OF COMMISSIONERS

_____
Claude Oliver, Chairperson

_____
Max Benitz, Member

ATTEST:

_____
Leo Bowman, Member

_____
Clerk of the Board

FRANKLKIN COUNTY BOARD OF COMMISSIONERS

_____
Robert Koch, Chairperson

_____
Neva Corkrum, Member

Attest:

_____
Richard-Miller, Member

_____
Clerk of the Board

Ross B. Dunfee, P.E.
Public Works Director / County Engineer
Steven W. Becken.
Asst. Director/Asst. County Engineer

Comm

Area Code 509
Prosser 786-5611
Tri-Cities 736-3084
Ext. 5664
Fax 786-5627

9.05

Benton County

Department of Public Works

Post Office Box 1001 - Courthouse
Prosser, Washington 99350-0954

February 20, 2008

BOARD OF COUNTY COMMISSIONERS
Benton County Courthouse
Prosser, WA 99350

RE: Application for Franchise: Applicant B.C. Water Company, LLC

Commissioners:

B.C. Water Company, LLC has filed a petition to continue a nonexclusive franchise to place water lines within County road right of way in the Cottonwood vicinity n Benton County.

This office has reviewed the request and based upon our current franchise requirements recommends approval of the request subject to the following conditions:

1. The term of the franchise be for a five (5) year period.
2. The Grantee is to carry liability insurance with Benton County named as an insured with a minimum limit of $500,000.00. A copy of the proof of insurance is to be provided to Benton County.
3. Placement of facilities within the right of way shall meet all requirements of Benton County as to location and repair of roads and right of way.
4. Should Benton County require utility relocation work because of road reconstruction or maintenance, said work shall be at the Grantee's expense.
5. The franchise is nonexclusive.
6. The Grantee sign the Order and Agreement for Nonexclusive Franchise, which will be prepared based upon the requirements set forth at the public hearing.

If you have any questions, please contact this office.

Sincerely,

Ross B. Dunfee, P.E.
County Engineer/Director of Public Works

Sue Schuetze
Engineer II

AGENDA ITEM	TYPE OF ACTION NEEDED	
MTG. DATE: February 25, 2008 SUBJECT: Appeal of Admin. Decision - SHPA 08-01 – Mabel Crouch MEMO DATE: February 13, 2008 Prepared By: Michael Shuttleworth Reviewed By: Terry A. Marden	Execute Contract Pass Resolution X Pass Ordinance Pass Motion X Other	Consent Agenda Public Hearing X 1st Discussion 2nd Discussion Other

9.10

BACKGROUND INFORMATION

On January 23, 2008, our office received a written appeal letter from Mabel Crouch to the Board of County Commissioners regarding the Short Plat Administrator's requirement to provide a 40-foot access easement for her short plat approval. On June 4, 2007 Mabel Crouch submitted to the Planning Department a short plat application SHP 07-40 to subdivide 30.59 acres into 4 lots. On November 27, 2007, Mabel Crouch was sent a letter from this office indicating that the Short Plat would be approved provided 15 conditions were satisfied. Item No. 6 stated that seeing the access easement would be serving more than 4 lots it must have a width of at least 40 feet. Attached for the Board's review is a copy of Mabel Crouch's appeal letter. The Short Plat map submitted with the application showed the width of the access easement as 30 feet with a 10 foot utility easement and a 10 foot irrigation easement located along the North edge of the 30 foot access easement. The 30 foot Access Easement currently serves 4 single family dwellings and a large building that was used as a nursing home (total of five lots). The proposed short plat will add three additional lots to the access easement.

SUMMARY

Mabel Crouch is requesting that the Board grant his appeal to the Short Plat Administrator's decision that a 40-foot access easement be provided to serve this plat prior to the recording of the short plat. Attached is a copy of the ortho photo map with the parcels identified on the map, a parcel map showing those lots that are being served by the current access easement and a copy of the proposed short plat by Mabel Crouch. The Planning Department is recommending that the Board of County Commissioners find the existing access width of 30 feet to be adequate to serve the proposed short plat. The Board following the public hearing may affirm or reverse the Short Plat Administrator's decision or remand the application back to the Short Plat Administrator with instructions to approve the same upon compliance with the conditions imposed by the Board, if any.

RECOMMENDATION

The Planning Department recommends that the Board approve the applicant's request to serve the proposed short plat with the existing 30 foot access easement and remand the application back to the Short Plat Administrator with instruction that Short Plat Application 07-40 be approved with all the condition except condition #6 be modified so that the short plat can be served by a 30 access easement.

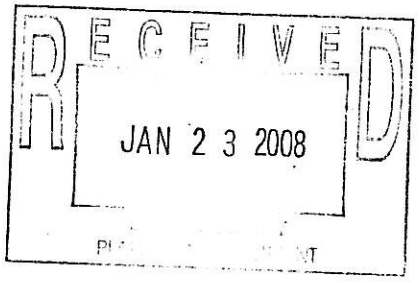
FISCAL IMPACT

None

MOTION

The Planning Department recommends the following motion: The Board of County Commissioners approve Mabel Crouch's request to serve her short plat as shown in Application File SHP 07-40 with the existing 30 foot access easement and remand the application to the Short Plat Administrator with instructions to approve the same upon compliance with the other conditions as outlined in the letter dated November 27, 2007.

January 22,2008



SHPA 08-01

Benton County Planning
1002 Dudley Avenue
Prosser, WA 99350

Re: Mabel Crouch Short plat # SHP 07-40
APPEAL FOR WIDENING OF ACCESS

To whom it may concern,

Please accept this letter as a request for an appeal regarding the above short plat on the widening of the existing access from 30 feet to 40 feet, line number 6 of Pre-approval letter. The reasoning for the appeal is the existing access with utility easement is 40 feet making it to a 40 feet with 10 feet for utility would require an entire movement of the existing power poles. Creating a major financial expense and hardship to me. The neighbors do not show a desire to widen that easement. There are only two homeowners and a corporation that are effected. The corporation owns a previously used Nursing home which is currently vacant. Please reconsider the widening of the access into my property.

Sincerely submitted

Mabel Crouch
Mabel Crouch

Benton County Planning/Building Department

Terry A. Marden, Director

PLANNING
Planning Annex
P.O. Box 910, 1002 Dudley Avenue
Prosser WA 99350
Prosser Office: (509) 786-5612
From Tri-Cities: (509) 736-3086
Fax: (509) 786-5629

BUILDING
Kennewick Annex
5600 W. Canal Drive, Suite C 105A
Kennewick WA 99336
Tri-Cities Office: (509) 736-3600
From Prosser: (509) 786-5622
Fax: (509) 736-2732

November 27, 2007

Mabel Crouch & Dan Churchill

FILE COPY

RE: Proposed Short Plat SHP 07-40

This office has reviewed the above referenced short plat, and has found that it generally complies with Benton County Codes Titles 9 & 11 and the intent of the Benton County Comprehensive Plan. Short Plat 07-40 has conditionally been approved and will be recorded by the Planning Department provided you and your surveyor satisfy the following requirements within one (1) year of the date of this letter.

Please note: Those requirements listed below that require changes to the Mylar (the final drawing of the short plat) are to be completed by your surveyor.

1. All signatures on the short plat must be signed in **permanent, reproducible black ink** on the original Mylar. Ball point pen or felt tip pen is not acceptable. All signatures listed in the owner's certificate must be notarized. **(Notary stamps can only use black ink, no other colors will be recorded per WAC 332-130-050).** Notary stamps cannot obscure any wording.

   Prior to recording the short plat, the Benton County Planning Department will obtain the signatures of the Treasurer, Short Plat Administrator, and Auditor.

2. All taxes through the end of 2007 must be paid, including any previous year's unpaid taxes. Once paid, the taxes for 2007 will be considered paid in full until February 14, 2008, then the entire year's taxes for the year 2008 must be paid in full prior to recording of the short plat.

   Note: Due to Benton County Code, if the short plat is recorded between January 1, 2007 and February 14, 2008, only the taxes and assessments for 2007 will be collected. Prior to the Assessor's Office completing the segregation of the short plat, the taxes and assessments for the entire year of 2008 must be paid in full, if the short plat is recorded in 2008.

3. A recording fee of $106.00 plus $1.00 for each additional page of Mylar, payable to the Benton County Auditor is required. The fee is to be submitted after the Benton County Short Plat Administrator has signed the final copy of your short plat.

4. An updated title report must be submitted with the final short plat Mylar. The title report cannot be more than two (2) months old at the time of recording the short plat. Please be sure that the updated title report contains the vested parties of the short plat.

5. Please show the short plat at a 1"=100' scale.

6. Due to the total number of lots that 53 PR NW serves, the easements that consist of this private road must be at least 40 feet in width, not including any utility or irrigation easements.

7. Please affix the appropriate AF number to the easements recorded via short plat 1522, AF 85-14455 or short plat 1523, AF 85-14456.

8. Please show that the accessory structures in lot 3 are at least 10 feet back from the property line.

9. Comments have not been received from Benton REA. However, the utility easements shown meet the minimum requirements of Benton County.

10. Please add the following notes to the short plat:

> "Limited soils testing of the lots in this short plat revealed areas of Extremely Gravely (Type 1A) soils. Any sewage disposal system to be permitted on these lots may be required to meet Treatment Standard B. The Benton-Franklin District Health Department should be contacted for further information."
>
> "Benton County is not responsible for the construction and/or maintenance of private road easements."

11. Please remove note 11.

12. Please add one of the following notes to the short plat:

> "The private road easement located entirely within this short plat is intended to serve lots 1 through 4 only."
> OR
> "The private road easement located entirely within this short plat may be extended to serve lots outside of this short plat."

13. Please create a signature and notary block for NAEDA Financial Ltd. L.P.

14. Please correct the address on the short plat for Mabel Crouch to 53 PR NW.

15. The surveyor must sign and date the short plat. Please be sure to include the handwritten date of the expiration of the licensed surveyor.

Any person aggrieved by the decision of the Short Plat Administrator to approve or disapprove a proposed short plat may appeal the decision to the Board of County Commissioners within fourteen (14) days following the issuance of the Planning Director's decision was mailed to file a written appeal with the Planning Director. The appeal must be submitted to the Benton County Planning Department, 1002 Dudley Avenue, Prosser, WA 99350. A non-refundable fee of $100.00 must accompany the written appeal. In addition to the $100.00 fee, the applicant must also pay the cost of legal advertising. The Board, following an open record hearing thereon, may affirm or reverse the Administrator's decision, or may remand the application to the administrator with instruction to approve the same upon compliance with conditions imposed by the board.

No changes other than those noted above are to be made on the face of the short plat Mylar. The Mylar drawing of the short plat should be revised by your surveyor and submitted back to this office as soon as possible for recording. Please note: The Benton County Planning Department will not record this proposed short plat until all requirements listed above have been completed, and until any and all necessary evidence needed to show that the requirements have been complied with has been presented to the Planning Department by the applicant. It is not the responsibility of the Benton County Planning Department to complete the items necessary to record the short plat for the applicant.

If you have any questions, please do not hesitate to contact this office.

Sincerely,
TERRY A. MARDEN, DIRECTOR
PLANNING AND BUILDING DEPARTMENT

R.J. LOTT
Associate Planner

CC: Centaur Land Surveying

Benton County Planning/Building Department

Terry A. Marden, Director

ANNING
Annex
P.O. Box 910, 1002 Dudley Avenue
Prosser WA 99350
Prosser Office: (509) 786-5612
From Tri-Cities: (509) 736-3086
Fax: (509) 786-5629

BUILDING
Kennewick Annex
5600 W. Canal Drive, Suite C 105A
Kennewick WA 99336
Tri-Cities Office: (509) 735-3500
From Prosser: (509) 786-5622
Fax: (509) 736-2732

January 2, 2008

Mabel Crouch

RE: Proposed Short Plat SHP 07-40

Ms. Crouch,

This letter is to clear up any confusion regarding your proposed short plat of parcel 1-3194-100-0007-001. Item number 6 on your November 27, 2007, letter, of a 40-foot private road easement to the west property line of the short plat is still required. This easement cannot contain any irrigation or utility easements. As discussed with the Planning Director, there is still the opportunity to appeal any requirement as outlined in the November 27, 2007 letter.

Additionally, the portion of the private road easement lying within parcel 1-3194-100-0007-001 may be a minimum of 30 feet in width not including any utility or irrigation easements. This portion of the private road easement must be offset at least 15 feet from the property line so that building setbacks do not encroach onto the neighboring parcel.

If you have any questions or comments, please do not hesitate to contact our office.

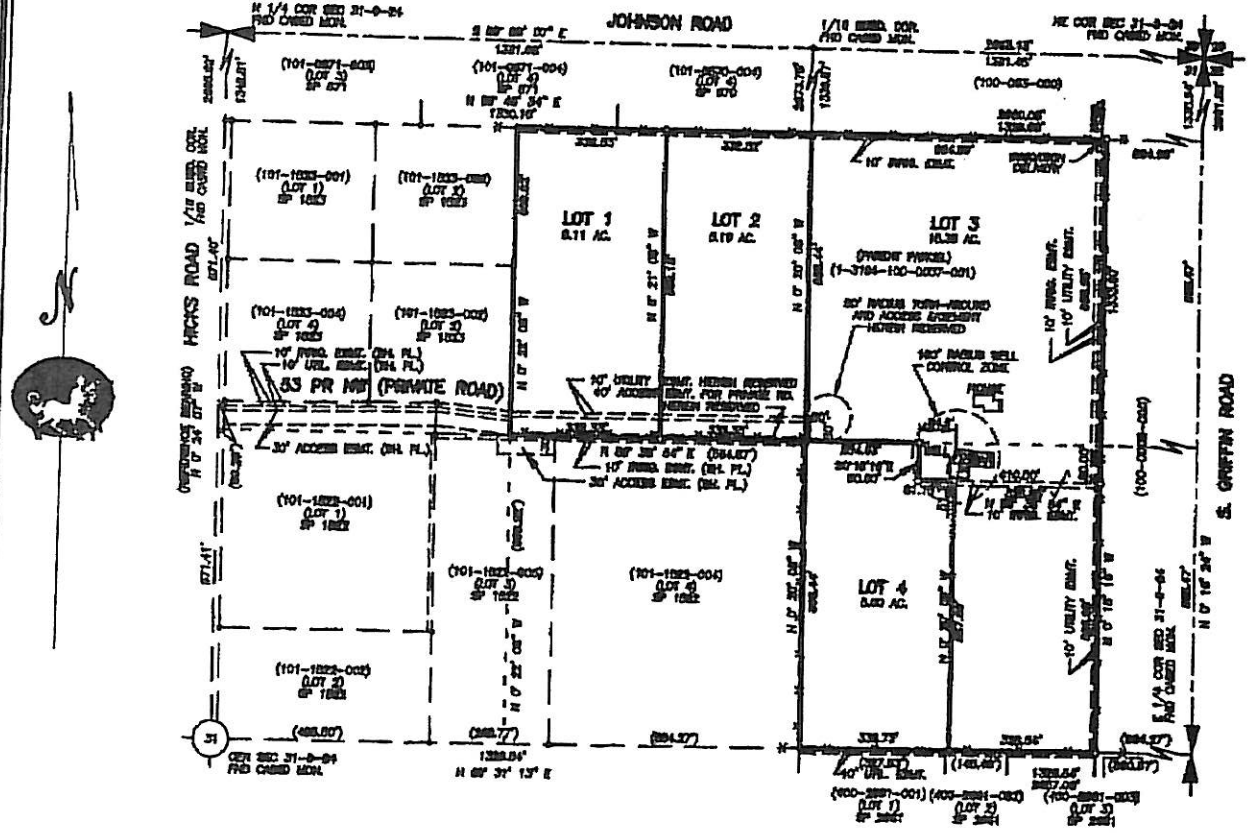
Sincerely,
TERRY A. MARDEN, DIRECTOR
PLANNING AND BUILDING DEPARTMENT

R.J. LOTT
Associate Planner

CC: Centaur Land Surveying

SHORT PLAT NO. _____

PORTION S 1/2, NE 1/4 SECTION 31, T.10 N.,R.24 E.W.M.



SURVEYOR'S CERTIFICATE

I, JOHN W. JOHNSON, A REGISTERED LAND SURVEYOR HEREBY CERTIFY THAT THE SHORT PLAT AS SHOWN HEREON IS BASED UPON AN ACTUAL FIELD SURVEY OF THE LAND DESCRIBED AND THAT ALL ANGLES, DISTANCES AND COORDS ARE CORRECTLY SHOWN AND THAT THE LOT CORNERS HAVE BEEN SET/FOUND ON THE GROUND AS SHOWN HEREON.

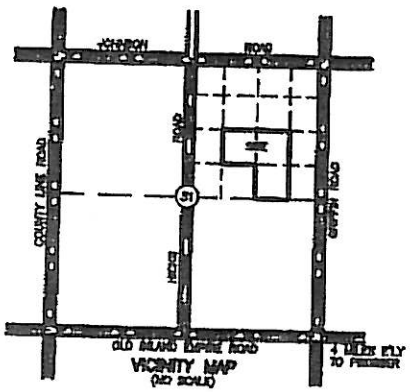
JOHN W. JOHNSON — CERTIFICATE NO. 17670
PROFESSIONAL LAND SURVEYOR

AUDITOR'S CERTIFICATE

FILED FOR RECORD THIS ___ DAY OF _____, 20__,
AT _____ M. IN BOOK ____ OF SHORT PLATS, PAGE ____
RECORDS OF BENTON COUNTY, WASHINGTON AT THE REQUEST OF _____

BENTON COUNTY AUDITOR — FEE NUMBER

BY _____ DEPUTY AUDITOR



VICINITY MAP
(NO SCALE)

SCALE BAR (1"= 200')
0 200 400 600 800

SHORT PLAT MAP (CROUCH)
PARENT PARCEL NO. 1-2194-100-0007-001

5-27-07

SHORT PLAT MAP
FOR
MABEL L CROUCH
172502 - 53RD PR NW
GRANDVIEW, WASHINGTON 98930

CENTAUR LAND SURVEYING
703 WEST CHERRY COURT
KELSO, WASHINGTON 98626
PHONE (360) 577-8000
FACSIMILE (360) 636-1068
centaur@centaurland.com

JOB NO. 27036
DRAWN: JWJ
DATE: 5-27-07

31

T9N, R24E,WM

SHT 1 OF 2 SHT

FEB-05-2008 11:19 AM CENTAUR.LAND.SURVEYING 509 698 4560 P.03

SHORT PLAT NO. _____

PORTION S 1/2 NE 1/4 SECTION 31, T.9N., R.24E.W.M.
BENTON COUNTY, WASHINGTON

LEGAL DESCRIPTION

THE WEST HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER,
AND
THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 31, TOWNSHIP 9 NORTH, RANGE 24 EAST, W.M., BENTON COUNTY, WASHINGTON;
SUBJECT TO AND TOGETHER WITH ALL EASEMENTS, RIGHTS OF WAY, RESERVATIONS AND DEDICATIONS OF RECORD;

OWNER'S CERTIFICATE

I, MABEL L. CROUCH, AS THE WIDOW OF LLOYD V. CROUCH, SEE HIS COMMUNITY INTEREST, HEREBY CERTIFY THAT I AM THE OWNER OF THE TRACT OF LAND DESCRIBED HEREON AND THAT I HAVE CAUSED THE SAME TO BE SURVEYED AND SHORT PLATTED INTO LOTS AS SHOWN AND THE EASEMENTS ON THE SHORT PLAT ARE GRANTED FOR THE USES SHOWN HEREON.

_____
MABEL L. CROUCH

ACKNOWLEDGEMENT

STATE OF WASHINGTON

COUNTY OF _____

I CERTIFY THAT I KNOW OR HAVE SATISFACTORY EVIDENCE THAT MABEL L. CROUCH SIGNED THIS INSTRUMENT AND ACKNOWLEDGED IT TO BE HER FREE AND VOLUNTARY ACT FOR THE USES AND PURPOSES MENTIONED IN THE INSTRUMENT.

_____ DATE _____
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON

MY APPOINTMENT EXPIRES _____

NOTES

1) BASIS OF BEARINGS SHOWN BY THIS SURVEY ARE ASSUMED RELATIVE TO THE WEST LINE OF THE NORTHEAST QUARTER OF SECTION 31 BEING N 0° 34' 00" W AS SHOWN BY PRIOR SHORT PLATS 670 AND 671 AND FIELD VERIFIED.
2) DISTANCES AND BEARINGS IN PARENTHESES () ARE FROM MAPS AND/OR DEEDS OF RECORDS. ALL OTHERS ARE BY ACTUAL FIELD MEASURE.
3) ● DENOTES IRON MONUMENT FOUND.
4) ○ DENOTES 1/2" REBAR/CAP "CENTAUR 17870" SET.
5) PRIOR TO THE ISSUANCE OF A BUILDING OR FACTORY ASSEMBLED STRUCTURE (FAS) PERMIT FOR EACH LOT BY THE COUNTY, THE APPLICANT FOR A BUILDING OR FAS PERMIT MUST COMPLY WITH RCW 90.44.055 REGARDING PUBLIC GROUND WATER. THE APPLICANT FOR A BUILDING OR FAS PERMIT MUST DEMONSTRATE THAT POTABLE WATER IS LEGALLY AVAILABLE BY PRESENTING (A) EVIDENCE OF A VALID WATER RIGHT PERMIT FROM THE WASHINGTON STATE DEPARTMENT OF ECOLOGY FOR THE PROPOSED WELLS FOR EACH LOT, (B) A WATER WELL REPORT FILED AND RECEIVED BY THE WASHINGTON STATE DEPARTMENT OF ECOLOGY FOR AN EXEMPTED WELL THAT COMPLIES WITH THE 5000 GALLON PER DAY EXEMPTION DESCRIBED IN RCW 90.44.050, OR (C) A WRITTEN APPROVAL OF THE WASHINGTON STATE BOARD OF HEALTH THAT A GROUP A OR GROUP B PUBLIC WATER SUPPLY SYSTEM HAS BEEN INSTALLED AND IS AVAILABLE FOR PROVIDING POTABLE WATER TO THE LOT.
6) ADDRESS NUMBERS POSTED IN BRACKETS ARE SUBJECT TO CHANGE UNTIL THE EXACT LOCATION OF ACCESS ONTO THE SHORT PLAT IS DETERMINED.
7) THE UTILITY EASEMENTS SHOWN HEREON ARE HEREBY GRANTED FOR THE USE, ACCESS AND MAINTENANCE BY THE SHORT PLATTED PROPERTY'S CURRENT UTILITY PROVIDER. SAID UTILITY EASEMENTS ARE FOR THE USE, ACCESS, AND MAINTENANCE OF ELECTRIC POWER, TELEPHONE, CABLE AND OTHER DEFINED UTILITIES, TO AND THROUGH SAID TRACT.
8) SECTION CORNER MONUMENTS WERE VERIFIED DURING MARCH, APRIL, 2007.
9) NO BUILDING OR FAS OCCUPANCY PERMIT SHALL BE ISSUED UNTIL THE ACCESS EASEMENT HAS BEEN IMPROVED FROM THE COUNTY, CITY OR STATE ROAD TO THE LOT FOR WHICH THE PERMIT IS REQUESTED, TO THE STANDARD PROVIDED IN BCC 3.16.
10) ALL STRUCTURES MUST BE AT LEAST 30 FEET BACK FROM ALL PRIVATE ROAD EASEMENTS.
11) IT IS EXPRESSLY DECLARED AND UNDERSTOOD THAT BENTON COUNTY HAS NO DUTY, OBLIGATION OR RESPONSIBILITY FOR THE CONSTRUCTION, UPKEEP, MAINTENANCE OR REPAIR OF STORM DRAINAGE FACILITIES OR DRAINAGE EASEMENTS LOCATED OUTSIDE OF THE COUNTY ROAD RIGHT OF WAY.

APPROVALS

THE ANNEXED SHORT PLAT IS HEREBY APPROVED BY AND FOR THE COUNTY OF BENTON, STATE OF WASHINGTON

_____ DATE _____
BENTON COUNTY SHORT PLAT ADMINISTRATOR

I HEREBY CERTIFY THAT THE TAXES ON THE LAND DESCRIBED HEREON HAVE BEEN PAID TO AND INCLUDING THE YEAR 200__. PARCEL NO. 1-3194-100-0007-001.

_____ DATE _____
BENTON COUNTY TREASURER

SURVEYOR'S CERTIFICATE

I, JOHN W. JOHNSTON, A REGISTERED LAND SURVEYOR, HEREBY CERTIFY THAT THE SHORT PLAT AS SHOWN HEREON IS BASED UPON AN ACTUAL FIELD SURVEY OF THE LAND DESCRIBED AND THAT ALL ANGLES, DISTANCES AND COURSES ARE CORRECTLY SHOWN AND THAT THE LOT CORNERS HAVE BEEN STAKED ON THE GROUND AS SHOWN HEREON.

JOHN W. JOHNSTON CERTIFICATE NO. 17870
PROFESSIONAL LAND SURVEYOR

IRRIGATION DISTRICT STATEMENT

THE PROPERTY DESCRIBED HEREON IS LOCATED WHOLLY OR IN PART WITHIN THE BOUNDARY OF THE SUNNYSIDE VALLEY IRRIGATION DISTRICT. I HEREBY CERTIFY THAT THE IRRIGATION EASEMENTS AND RIGHTS OF WAY SHOWN BY THIS SHORT PLAT ARE ADEQUATE TO BRING ALL LOTS LOCATED WITHIN THIS SHORT PLAT WHICH ARE OTHERWISE ENTITLED TO IRRIGATION WATER UNDER THE OPERATING RULES AND REGULATIONS OF THE DISTRICT. I ALSO CERTIFY THAT THE IRRIGATION EASEMENTS AND RIGHTS OF WAY ARE ADEQUATE TO TRANSMIT IRRIGATION WATER THROUGH THIS SHORT PLAT TO OTHER ADJACENT LAND ENTITLED TO IRRIGATION WATER UNDER THE OPERATING RULES AND REGULATIONS OF THE DISTRICT. LOTS _____ ARE, IN WHOLE OR IN PART, NOT ENTITLED TO IRRIGATION WATER UNDER THE OPERATING RULES AND REGULATIONS OF THE DISTRICT. I FURTHER CERTIFY THAT:

___ 1) THE SHORT PLAT CONTAINS COMPLETED IRRIGATION DISTRIBUTION FACILITIES IN ACCORDANCE WITH THE DISTRICT'S STANDARDS.

___ 2) PROVISIONS ACCEPTABLE TO THE DISTRICT HAVE BEEN MADE FOR COMPLETED IRRIGATION DISTRIBUTION FACILITIES.

___ 3) THE EXISTING SHARED IRRIGATION DISTRIBUTION FACILITY IS ADEQUATE TO MEET THIS REQUIREMENT.

___ 4) LOTS _____ ARE NOT CLASSIFIED AS "IRRIGABLE LAND" BY THIS DISTRICT AND/OR ARE NOT ENTITLED TO IRRIGATION WATER UNDER THE OPERATING RULES AND REGULATIONS OF THIS DISTRICT.

_____ _____
SUNNYSIDE VALLEY IRRIGATION DISTRICT DATE

I HEREBY CERTIFY THAT ALL CHARGEABLE PERPETUAL AND SPECIAL ASSESSMENTS COLLECTABLE BY THIS OFFICE THAT ARE DUE AND OWING ON THE PROPERTY DESCRIBED HEREON ON DATE OF THIS CERTIFICATE HAVE BEEN PAID.

_____ _____
SUNNYSIDE VALLEY IRRIGATION DISTRICT DATE

AUDITOR'S CERTIFICATE

FILED FOR RECORD THIS ___ DAY OF _____, 200__,
AT ___ M. IN BOOK ___ OF SHORT PLATS, PAGE _____, RECORDS OF BENTON COUNTY, WASHINGTON AT THE REQUEST OF _____

_____ _____
BENTON COUNTY AUDITOR FEE NUMBER

BY _____
DEPUTY AUDITOR

SHORT PLAT MAP (CROUCH)
PARENT PARCEL NO. 1-3194-100-0007-001

5-27-07

SHORT PLAT MAP
FOR
MABEL L. CROUCH
172502 - 53RD PR NW
GRANDVIEW, WASHINGTON 98930

CENTAUR LAND SURVEYING
703 VIEW CREST COURT
KELSO, WASHINGTON 98626
PHONE (360) 577-8868
FACSIMILE (360) 577-8869

JOB NO. 27036
DRAWN: JWJ
DATE: 5-27-07

31

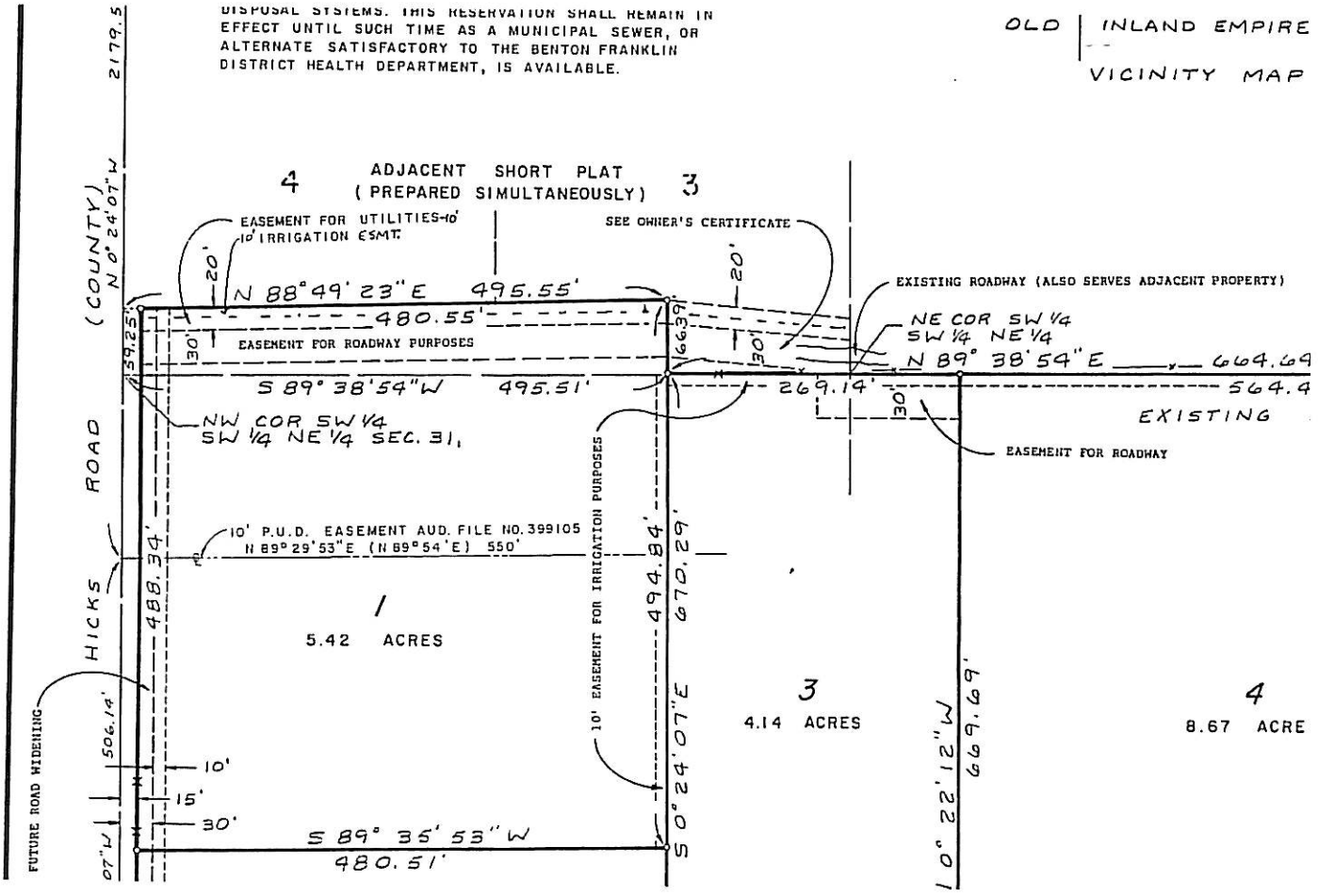
T9N, R24E,WM

SHT 2 OF 2 SHT

DISPOSAL SYSTEMS. THIS RESERVATION SHALL REMAIN IN EFFECT UNTIL SUCH TIME AS A MUNICIPAL SEWER, OR ALTERNATE SATISFACTORY TO THE BENTON FRANKLIN DISTRICT HEALTH DEPARTMENT, IS AVAILABLE.

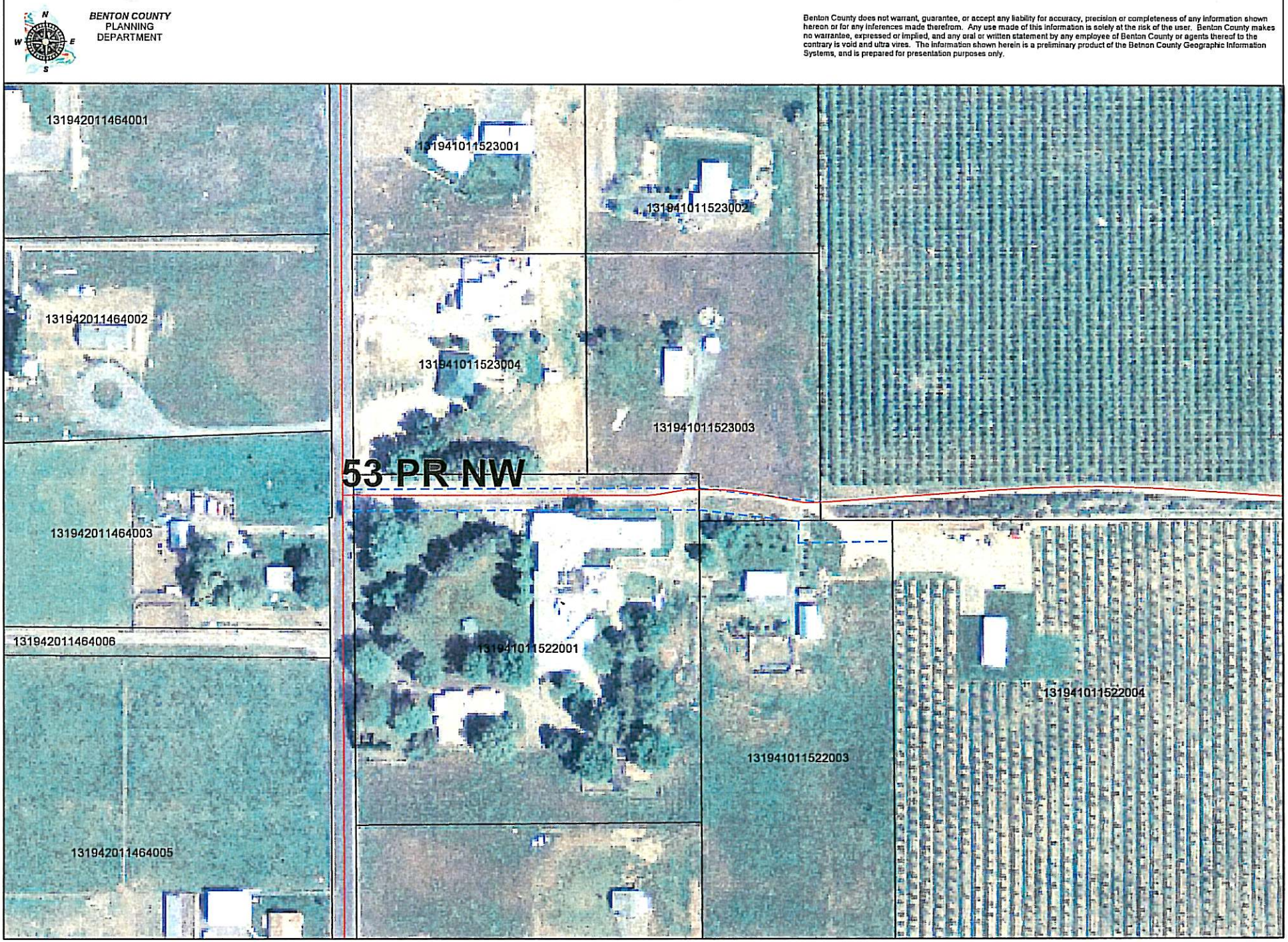
OLD | INLAND EMPIRE

VICINITY MAP



BENTON COUNTY
PLANNING
DEPARTMENT

Benton County does not warrant, guarantee, or accept any liability for accuracy, precision or completeness of any information shown hereon or for any inferences made therefrom. Any use made of this information is solely at the risk of the user. Benton County makes no warrantee, expressed or implied, and any oral or written statement by any employee of Benton County or agents thereof to the contrary is void and ultra vires. The information shown herein is a preliminary product of the Betnon County Geographic Information Systems, and is prepared for presentation purposes only.



9:20

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF DECLARING BENTON COUNTY FEE SIMPLE PROPERTY SURPLUS AND AUTHORIZING THE SALE OF FEE PROPERTY BY, SEALED BIDS, PRIVATE NEGOTIATION, AND/OR OTHER METHODS CONSISTENT WITH THE BENTON COUNTY PERSONAL AND REAL PROPERTY MANAGEMENT POLICIES AND PROCEDURES, RESOLUTION 07-752

WHEREAS, February 4, 2008 the Board of Benton County Commissioners agreed to advertise a public hearing on February 25, 2008 at 9:20 a.m. to declare parcel 1-1880-400-0013-002. surplus and then proceed with sale of said property; and

WHEREAS, at the public hearing the Board of Benton County Commissioners considered any evidence for or objection against the surplus of said property; and

WHEREAS, the Board of Benton County Commissioners has hereby identified said property not needed for retention and not useable by any county agency; and

WHEREAS, the parcel is offered for sale "where is" and "as is" without any representation or warranty, express or implied. It is the buyer's responsibility to determine to their satisfaction, before the sale, any liens, easements, conditions, leases, rental agreements, covenants or other encumbrances to which the property will be subject in the hands of the buyer; **NOW THEREFORE,**

BE IT RESOLVED Board of Benton County Commissioners hereby determines parcel 1-1880-400-0013-002 surplus and authorizes property management personnel to negotiate, through sealed bids, private negotiation, and/or other methods consistent with the Benton County personal and real property management policies and procedures, Resolution 07-752.

Dated this ..... day of ....., 20 ....

_____
Chairman of the Board

_____
Chairman Pro-Tem

_____
Member

Constituting the Board of County Commissioners of Benton County, Washington

Attest: .....
Clerk of the Board

cc: Assessor, Treasurer, Auditor, Public Works, (Real Property) File

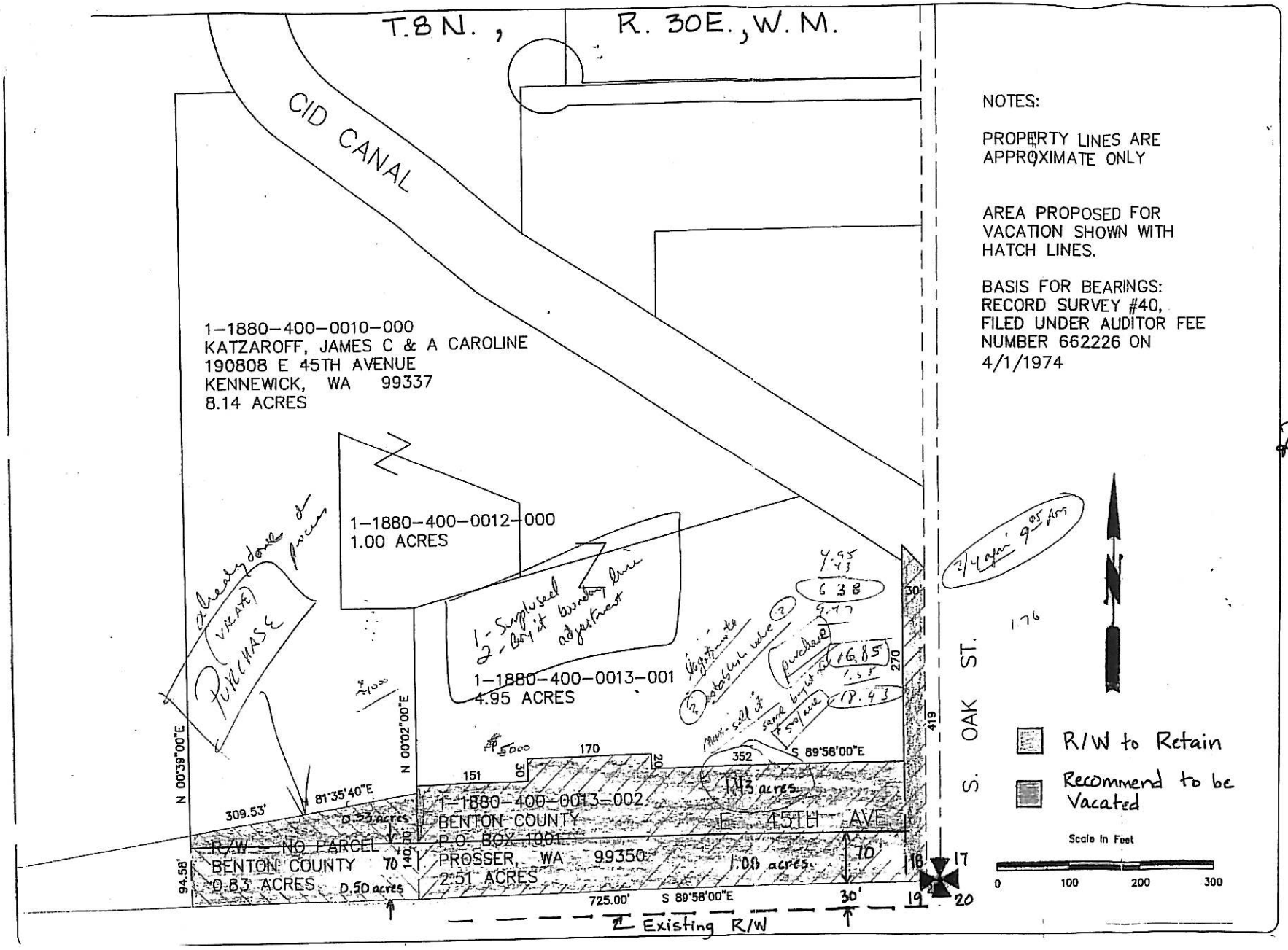
Parcel 1-1880-400-0013-002

This is for all existing property lying 70 feet north of the south section line. This also excludes the east 30 feet of this parcel. See attached map.

See map colored in red.

ITEM 6:

a. Assessed Value:	$5,000.00	Benton County Residential Appraiser, Brad Elliot
b. Current Assessment:	$15,952.19/acre	Total = 2.51 acres The south 70' = 1.08 acres to keep The north portion = 1.43 acres to sell $40,040 ÷ 2.51 = $15,952.19
c. Area to sell:	1.43 acres	
d. Date Acquired:	Feb 8, 1950	Initial purchase was for 7.89 acres 4.95 acres sold in 1999 - 2.51 acres kept for R/W - 7.46 (Discrepancy in acreage due to different survey equipment 1950 vs 2008- current equipment has a higher accuracy)
e. Price paid by County:	$510.60	
f. Easements of Record:	Deed 258706	South 30' by Deed in 1950 (East 20' by Establishment)
g. Improvements	None	
h. Liens or interests of Record:	None	
i. Zoning and land use status:		Suburban Zoned; 1 dwelling/5 acres 1/18/07 phone information from BC Planning R.J. Lott
j. Any other pertinent data:	None	



NOTES:

PROPERTY LINES ARE APPROXIMATE ONLY

AREA PROPOSED FOR VACATION SHOWN WITH HATCH LINES.

BASIS FOR BEARINGS: RECORD SURVEY #40, FILED UNDER AUDITOR FEE NUMBER 662226 ON 4/1/1974

KENNEWICK
BENTON CITY
RICHLAND
PROSSER

PROPOSED R/W VACATION OF E 45TH AVENUE IN SECTION 18-8-30

CE 1902 CRP

ROSS B. DUNNEE
STATE OF WASHINGTON
34071
REGISTERED
PROFESSIONAL ENGINEER

EXPIRES 11/11/08
BENTON COUNTY ENGINEER
DATE: 10/2/07

CALL TWO WORKING DAYS BEFORE YOU DIG! 1-800-424-5555

ALL UNDERGROUND UTILITIES AND STRUCTURES ARE NOT SHOWN. THE LOCATION OF THOSE SHOWN ARE APPROXIMATE. THE CONTRACTOR IS RESPONSIBLE TO FIELD VERIFY BOTH THE UNDERGROUND AND ABOVE GROUND EXISTING CONDITIONS. NOTIFY ENGINEER FOR RESOLUTION CONFLICTS.

DRAWN BY:	L.S.S.
DATE:	OCTOBER 2, 2007
SCALE:	AS SHOWN
REVISION:	1-added acreages 12-17-07 L.S.S.

PLAN VIEW

SHEET 1 OF 1

V-176

9:25

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY BUDGETS RE: SUPPLEMENTAL APPROPRIATION TO THE 2008 CURRENT EXPENSE FUND NO. 0000-101, NON-DEPARTMENTAL 115, BUDGET IN THE AMOUNT OF $399,040

WHEREAS, the Commissioners' Office has requested a supplemental appropriation to the Current Expense Fund No. 0000-101, Non-Departmental 115, budget in the amount of $399,040; and said supplement is for a transfer out data entry error to the 171 Juvenile Operations and 172 Juvenile Facilities budgets approved after adoption of 2008 budget; and,

WHEREAS, a public hearing was held on Monday, February 25, 2008, at 9:25 AM at which time the public was given an opportunity to speak in favor or in opposition to the proposed supplement; and,

WHEREAS, the Board finds said supplement to be in the best interest of the citizens of Benton County; **NOW THEREFORE,**

BE IT RESOLVED, by the Board of Benton County Commissioners that a supplemental appropriation to the 2008 Current Expense Fund No. 0000-101, Non-Departmental 115, budget in the amount of $399,040 be approved per the attached request.

Dated this ..... day of ....., 2008

Chairman of the Board

Chairman Pro-Tem

Member

Constituting the Board of County Commissioners of Benton County, Washington

Attest: .....
Clerk of the Board

cc: Auditor; Juvenile; Ivey; Supplement file

Flores

Commissioners' Date Stamp:

TRANSMITTAL

REQUEST FOR SUPPLEMENTAL APPROPRIATION

Fund Name:	**Current Expense**	Fund Number:	**0000101**
Dept Name:	**Non Departmental**	Dept Number:	**115**

Request Summary

Expenditure

BARS Number	Item Name	Supplement Amount	Revised Budget
597.100.9910	Juvenile Center	399,040	3,770,647
	Total Supplement	$399,040	

Revenue

Fund Number	Item Name	Amount
	Beginning Fund Balance	399,040
	Total Revenue	$399,040

Basis for Supplement:
Non-Departmental Juvenile Transfer out: data entry error of $360,000 on Tranfer Out, and Benton County portion of enhancements to the 171 Juvenile Operations and the 172 Juvenile Facilities budgets after adoption of the 2008 budget of $39,040.

Review Comments

Commissioners: _____

Auditor's Office: _____

Commissioners

Claude L Oliver
CHAIRMAN

☑ Approved for Hearing

MAX E. BENITZ, JR. OPPOSED
COMMISSIONER

☐ Denied

Leo M Bowman
COMMISSIONER

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY BUDGETS RE: SUPPLEMENTAL APPROPRIATION TO THE 2008 JUVENILE CENTER FUND NO. 0115-101, DEPARTMENT 171, BUDGET IN THE AMOUNT OF $43,976.

WHEREAS, The Juvenile Center has requested a supplemental appropriation to the Juvenile Center Expense Fund No. 0115-101, Dept. 171, in the amount of $43,976; and said supplement will cover enhancements approved after adoption of the 2008 budget; and,

WHEREAS, a public hearing was held on Monday, February 25, 2008, at 9:25 AM at which time the public was given an opportunity to speak in favor or in opposition to the proposed supplement; and,

WHEREAS, the Board finds said supplement to be in the best interest of the citizens of Benton County; **NOW THEREFORE,**

BE IT RESOLVED, by the Board of Benton County Commissioners that a supplemental appropriation to the 2008 Juvenile Center Expense Fund No. 0115-101 Department 171, in the amount of $43,976 be approved per the attached request.

Dated this ..... day of ....., 2008

Chairman of the Board

Chairman Pro-Tem

Member

Constituting the Board of County Commissioners of Benton County, Washington

Attest: .....
Clerk of the Board

cc: Auditor; Juvenile, Supplement file

Commissioners' Date Stamp:

TRANSMITTAL

REQUEST FOR SUPPLEMENTAL APPROPRIATION

Fund Name:	**Juvenile**	Fund Number:	**0115-101**
Dept Name:	**Operations**	Dept Number:	**171**

Request Summary

Expenditure

BARS Number	Item Name	Supplement Amount	Revised Budget
527.100.4103	Professional Services	$5,000	$383,061
527.100.4131	Security	$10,976	$166,792
527.100.4701	Utilities	$20,000	$120,000
527.109.4140	Interpreter Costs	$8,000	$9,000
	Total Supplement	**$43,976**	

Revenue

Fund No.	Item Name		Amount
0115-101	Operating Transfer In- Current Expense	397.10.0001	$31,660
0115-101	Juvenile Services- Franklin County	338.27.0003	$12,316
	Total Revenue		**$43,976**

Basis for Supplement (Attach Documentation as Appropriate):

* The Juvenile Department 171 Operations enhancements approved after adoption of the 2008 budget.

Commissioners
Benton County

Approved for Hearing ☑ Denied ☐

CHAIRMAN

MAX E. BENITZ, JR. - OPPOSED
COMMISSIONER

Leo M Bowman
COMMISSIONER

Commissioners
Franklin County

Approved for Hearing ☐ Denied ☐

CHAIRMAN

COMMISSIONER

COMMISSIONER

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY BUDGETS RE: SUPPLEMENTAL APPROPRIATION TO THE 2008 JUVENILE CENTER FUND NO. 0115-101, DEPARTMENT 173, BUDGET IN THE AMOUNT OF $88,505.

WHEREAS, The Juvenile Center has requested a supplemental appropriation to the Juvenile Center Expense Fund No. 0115-101, Dept. 173, in the amount of $88,505; and said supplement will cover enhancements approved after adoption of the 2008 budget; and,

WHEREAS, a public hearing was held on Monday, February 25, 2008, at 9:25 AM at which time the public was given an opportunity to speak in favor or in opposition to the proposed supplement; and,

WHEREAS, the Board finds said supplement to be in the best interest of the citizens of Benton County; **NOW THEREFORE,**

BE IT RESOLVED, by the Board of Benton County Commissioners that a supplemental appropriation to the 2008 Juvenile Center Expense Fund No. 0115-101 Department 173, in the amount of $88,505 be approved per the attached request.

Dated this ..... day of ....., 2008

Chairman of the Board

Chairman Pro-Tem

Member

Attest: .....
Clerk of the Board

Constituting the Board of County Commissioners of Benton County, Washington

cc: Auditor; Juvenile, Supplement file

Commissioners' Date Stamp:

TRANSMITTAL

REQUEST FOR SUPPLEMENTAL APPROPRIATION

Fund Name:	**Juvenile**	Fund Number:	**0115-101**
Dept Name:	**Contract-Fee for Service**	Dept Number:	**173**

Request Summary

Expenditure

BARS Number	Item Name	Supplement Amount	Revised Budget
527.400.1905	Temporary Help	$10,708	$64,641
527.400.1935	Holiday	$2,114	$6,564
527.400.2102	Social Security	$980	$56,988
527.400.3501	Small Item equipment	$6,000	$6,000
527.400.4103	Professional Services	$28,445	$144,142
527.400.9908	Accumulated Leave	$258	$10,753
594.270.6401	Capital Outlay	$40,000	$40,000
	Total Supplement	**$88,505**	

Revenue

Fund No.	Item Name	Amount
0115-101	Beginning Fund Balance	$88,505
	Total Revenue	**$88,505**

Basis for Supplement (Attach Documentation as Appropriate):

* The Juvenile Department 173 Operations enhancements approved after adoption of the 2008 budget.

Commissioners
Benton County

Approved for Hearing ☑ Denied ☐

CHAIRMAN

MAX E. BENITZ, JR. - OPPOSED
COMMISSIONER

MISSIONER

Commissioners
Franklin County

Approved for Hearing ☐ Denied ☐

CHAIRMAN

COMMISSIONER

COMMISSIONER

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY BUDGETS RE: SUPPLEMENTAL APPROPRIATION TO THE 2008 JUVENILE CENTER FUND NO. 0115-101, DEPARTMENT 172, BUDGET IN THE AMOUNT OF $10,250.

WHEREAS, The Juvenile Center has requested a supplemental appropriation to the Juvenile Center Expense Fund No. 0115-101, Dept. 172, in the amount of $10,250; and said supplement will cover enhancements approved after adoption of the 2008 budget; and,

WHEREAS, a public hearing was held on Monday, February 25, 2008, at 9:25 AM at which time the public was given an opportunity to speak in favor or in opposition to the proposed supplement; and,

WHEREAS, the Board finds said supplement to be in the best interest of the citizens of Benton County; **NOW THEREFORE,**

BE IT RESOLVED, by the Board of Benton County Commissioners that a supplemental appropriation to the 2008 Juvenile Center Expense Fund No. 0115-101 Department 172, in the amount of $10,250 be approved per the attached request.

Dated this ..... day of ....., 2008

Chairman of the Board

Chairman Pro-Tem

Member

Constituting the Board of County Commissioners of Benton County, Washington

Attest: .....
Clerk of the Board

cc: Auditor; Juvenile, Supplement file

Commissioners' Date Stamp:

TRANSMITTAL

REQUEST FOR SUPPLEMENTAL APPROPRIATION

Fund Name:	**Juvenile**	Fund Number:	**0115-101**
Dept Name:	**Facilities**	Dept Number:	**172**

Request Summary

Expenditure

BARS Number	Item Name	Supplement Amount	Revised Budget
527.800.3108	Janitorial Supplies	$6,962	$23,442
527.800.4805	Service Maintenance Agreements	$3,288	$85,127
	Total Supplement	**$10,250**	

evenue

Fund No.	Item Name		Amount
0115-101	Operating Transfer In- Current Expense	397.10.0001	$7,380
0115-101	Juvenile Services- Franklin County	338.27.0003	$2,870
	Total Revenue		**$10,250**

Basis for Supplement (Attach Documentation as Appropriate):

* The Juvenile Department 172 Operations enhancements approved after adoption of the 2008 budget.

Commissioners
Benton County

Approved for Hearing ☑ Denied ☐

CHAIRMAN

MAX E. BENITZ, JR. - OPPOSED
COMMISSIONER

COMMISSIONER

Commissioners
Franklin County

Approved for Hearing ☐ Denied ☐

CHAIRMAN

COMMISSIONER

COMMISSIONER

9:30 AM

LEGISLATIVE UPDATE

Commissioner Bowman

9:45

Executive Session

Potential Litigation

CC 08-02

M Wenner

10:00

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF THE SELL OF COUNTY FEE SIMPLE PROPERTY PARCEL NO. 1-1880-400-0013-002 TO JAMES C & A CAROLINE KATZAROFF

WHEREAS, during a continued public hearing held on February 4, 2008, the Board of Benton County Commissioners agreed to advertise a public hearing to be held on February 25, 2008 at 9:20 a.m. to declare parcel 1-1880-400-0013-002 surplus; and

WHEREAS per resolution 08-314 dated February 11, 2008 the Board of Benton County Commissioners, Benton County, Washington approved the vacation and abandonment of a portion of county road right of way of East 45th Avenue, located in Section 18, Township 8 North, Range 30 East, W.M. requested by James Katzaroff; and

WHEREAS, at the public hearing held February 25, 2008 at 9:20 a.m. the Board of County Commissioners considered any evidence for or objection against the surplus of parcel 1-1880-400-0013-002; and

WHEREAS, the Board of Benton County Commissioners has hereby identified said property not needed for retention and not useable by any county agency; and

WHEREAS, the Board of Commissioners has determined that it is in the best interest of the County to dispose of said property through private negotiations consistent with the Benton County Personal and Real Property Management Policies and Procedures, per Resolution 07-752; and

WHEREAS, the parcel is offered for sale "where is" and "as is" without any representation or warranty, express or implied. It is the buyer's responsibility to determine to their satisfaction, before the sale, an liens, easements, conditions, leases, rental agreements, covenants or other encumbrances to which the property will be subject in the hands of the buyer; **NOW THEREFORE,**

BE IT RESOLVED, by the Board of Benton County Commissioners, Benton County, Washington, the Board hereby agrees to sell Benton County fee simple property parcel 1-1880-400-0013-002 to James C & A Caroline Katzaroff in the amount of $5,000 by signing the attached Quit Claim Deed and Tax Affidavit attached hereto.

Dated this ..... day of ..... , 20 ....

_____
Chairman of the Board

_____
Chairman Pro-Tem

_____
Member

Constituting the Board of County Commissioners of Benton County, Washington

Attest: .....
Clerk of the Board

Orig.: James C & A Caroline Katzaroff
cc: Auditors; Assessor; Treasurer; Property File

AFTER RECORDING RETURN TO:
Benton County Commissioners
P.O. Box 190
Prosser WA 99350

Document Title: Quit Claim Deed
Reference Number of Related Document(s)
Grantor: **Benton County**
Grantees: **James C & A Caroline Katzaroff**

Legal Description Abbreviated: Section 18, Township 8 North, Range 30 East, W.M.

Assessor's Tax Parcel Number: **1-1880-400-0013-002**

QUIT CLAIM DEED

The Grantor, COUNTY OF BENTON, a political subdivision in the State of Washington, for and in consideration of **five thousand dollars ($5,000.00)** conveys and quit claims to all right, title, and interest in and to the following described real estate situated in the county of Benton, State of Washington:

A parcel of land in the Southeast ¼ of the Southeast ¼ of Section 18, Township 8 North, Range 30 East, W.M., more particularly described as follows:

Beginning at the Southeast corner of said Section 18, said point being the True Point of Beginning, thence South 89° 53' West along the South line of said Section 18 a distance of 725 feet; thence North 00° 07' West, 150.00 feet; thence North 89° 53' East, 155.00 feet; thence North 00° 07' West, 30.00 feet; thence North 89° 53' East, 170.00 feet; thence South 00° 07' East, 20.00 feet; thence North 89° 53' East, 351.53 feet; thence North 00° 26' East, 291.46 feet to a point on the right of way line of the Columbia Irrigation District canal; thence South 42° 33' 30" East along said South line, 73.33 feet to a point on the East line of said Section 18; thence South 00° 26' West along said East line 397.35 feet to the point of beginning.

Except the South 70.00 feet and the East 50.00 feet thereof.

Said strip of land containing 1.43 acres more or less.

Dated this _____ day of _____, 2008.

_____ (Chairman)

_____ James C Katzaroff

_____ (Member)

_____ A Caroline Katzaroff

_____ (Member)

STATE OF WASHINGTON)
) ss.
County of Benton)

I hereby certify that I know or have satisfactory evidence that the Benton County Commissioners signed this instrument and acknowledged it to be a free and voluntary act for the uses and purposes mentioned in this instrument.
Dated this _____ day of _____, 2008.

_____
Notary Public in and for the State of Washington,
residing at _____.
My appointment expires _____.

STATE OF WASHINGTON)
) ss.
County of Benton)

On this _____ day of _____, 2008, before me, the undersigned, a Notary Public in and for the State of Washington duly commissioned and sworn, personally appeared _____ and _____the party that executed the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said party.

Witness my hand and official seal hereto affixed the day and year first above written.

_____
Notary Public in and for the State of _____,
residing at _____.
My commission expires _____.

DEPARTMENT OF REVENUE
WASHINGTON STATE

REAL ESTATE EXCISE TAX AFFIDAVIT

CHAPTER 82.45 RCW – CHAPTER 458-61 WAC

PLEASE TYPE OR PRINT

This form is your receipt when stamped by cashier.

THIS AFFIDAVIT WILL NOT BE ACCEPTED UNLESS ALL AREAS ON ALL PAGES ARE FULLY COMPLETED

(See back page for instructions)

☑ Check box if partial sale of property

If multiple owners, list percentage of ownership next to name.

1 SELLER GRANTOR

Name: Benton County

Mailing Address: PO Box 190

City/State/Zip: Prosser, WA 99350

Phone No. (including area code): 509-786-5600

2 BUYER GRANTEE

Name: James C. Katzaroff
A. Caroline Katzaroff

Mailing Address:

City/State/Zip:

Phone No. (including area code):

3 Send all property tax correspondence to: ☑ Same as Buyer/Grantee

Name:

Mailing Address:

City/State/Zip:

Phone No. (with area code):

List all real and personal property tax parcel account numbers – check box if personal property	List assessed value(s)
1-1880-400-0013-002 ☐	5,000.00
☐	
☐	
☐	

4 Street address of property: E. 45th Ave, Kennewick, WA

This property is located in ☐ unincorporated Benton County OR within ☐ city of

☐ Check box if any of the listed parcels are being segregated from a larger parcel.

Legal description of property (if more space is needed, you may attach a separate sheet to each page of the affidavit)

See attached Quit Claim Deed

5 Enter Abstract Use Categories: 14

(Please see list on the back page of this form)

If exempt from property tax per chapter 84.36 RCW (nonprofit organization), include:

Seller's Exempt Reg. No.: 91600129 6

	YES	NO
property designated as forest land per chapter 84.33 RCW?	☐	☑
property classified as current use (open space, farm and agricultural, or timber) land per chapter 84.34?	☐	☑
Is this property receiving special valuation as historical property per chapter 84.26 RCW?	☐	☑

If any answers are yes, complete as instructed below.

(1) NOTICE OF CONTINUANCE (FOREST LAND OR CURRENT USE)

NEW OWNER(S): To continue the current designation as forest land or classification as current use (open space, farm and agriculture, or timber) land, **you must sign on (3) below**. The county assessor must then determine if the land transferred continues to qualify and will indicate by signing below. If the land no longer qualifies or you do not wish to continue the designation or classification, it will be removed and the compensating or additional taxes will be due and payable by the seller or transferor at the time of sale. (RCW 84.33.140 or RCW 84.34.108). Prior to signing (3) below, you may contact your local county assessor for more information.

This land ☐ does ☐ does not qualify for continuance.

DEPUTY ASSESSOR _____ DATE _____

(2) NOTICE OF COMPLIANCE (HISTORIC PROPERTY)

NEW OWNER(S): To continue special valuation as historic property, **sign (3) below**. If the new owner(s) do not wish to continue, all additional tax calculated pursuant to chapter 84.26 RCW, shall be due and payable by the seller or transferor at the time of sale.

(3) OWNER(S) SIGNATURE

_____ _____

7 List all personal property (tangible and intangible) included in selling price.

If claiming an exemption, list WAC number and reason for exemption:

WAC No. (Section/Subsection): 458-61A-205

Reason for exemption: Govt. Transfer

Type of Document: Quit Claim Deed

Date of Document: 2/25/08

Gross Selling Price	$ 5,000.00
*Personal Property (deduct)	$
Exemption Claimed (deduct)	$
Taxable Selling Price	$
Excise Tax: State	$
Local	$
*Delinquent Interest: State	$
Local	$
*Delinquent Penalty	$
Total Due	$

~~$2.00~~ 10.00 **A MINIMUM FEE OF IS DUE AS A PROCESSING FEE AND TAX.**

*SEE INSTRUCTIONS

8 **I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.**

Signature of **Grantor or Grantor's Agent**

Name (print): Claude L. Oliver, Chairman

Date & city of signing: 2/25/08 Prosser, WA.

Signature of **Grantee or Grantee's Agent**

Name (print):

Date & city of signing:

Perjury: Perjury is a class C felony which is punishable by imprisonment in the state correctional institution for a maximum term of not more than five years, or by fine in an amount fixed by the court of not more than five thousand dollars ($5,000.00), or by both imprisonment and fine (RCW 9A.20.020 (1C)).

REV 84 0001a (12-20-04) (PD 12-20-04)

THIS SPACE - TREASURER'S USE ONLY

COUNTY TREASURER

10:30 AM

BID OPENING

Larry Moser

10:45 AM

Justice Center Cafeteria
Discussion

Loretta Smith Kelty

AGENDA ITEM		TYPE OF ACTION NEEDED		
Meeting Date:	February 25, 2008 11:00 AM	Execute Contract		Consent Agenda
Subject:	Off site records storage proposal	Pass Resolution		Public Hearing
		Pass Ordinance		1st Discussion
		Pass Motion		2nd Discussion XX
		Other	XX	Other
Prepared by:	J. Delvin			
Reviewed by:				

11:00

BACKGROUND INFORMATION

This is a proposal for current records storage needs and projected out 10 years. I was asked to bring this back to the Board of County Commissioners with a projection of future needs.

SUMMARY

ECOMMENDATION

1st

2nd

FISCAL IMPACT

MOTION

Records Management Services, Inc.

February 4, 2008

Josie Delvin, Benton County Clerk
Benton County Justice Center
7122 West Okanogan Place, Building A
Kennewick, WA 99336

Dear Mrs. Delvin:

Thank you for the opportunity to present the information you requested regarding offsite records storage. As stated in earlier correspondence, the actual expenses may be less or more, depending on the logistics of access to elevators, ingress/egress to and from the buildings, the actual number of boxes required to complete the project, and the actual number of files indexed.

The estimate of the initial intake for supplies and services (boxes, packing files, identifying contents, transporting, data entry, bar-coding containers, indexing and bar-coding files, and placement in our facility is $274,474.00. This estimate encompasses the five areas you administer in the Justice Center (including the files in your office area through 2002), the Prosser office, storage room, and the outbuilding. The storage for these records is $2,720.00 per month.

The ten-year projection for storage expense, based on full years, including 2008, at a 10% records volume and expense increase follows. It provides the information requested, although the numbers will change accordingly depending on the date the records actually arrive at RMS' facility.

YEAR	BOXES	ANNUAL EXPENSE	CUMULATIVE EXPENSE
2008	5440	$32,640	$32,640
2009	5984	$35,904	$68,544
2010	6582	$39,494	$108,038
2011	7241	$43,444	$151,482
2012	7965	$47,788	$199,270
2013	8761	$52,567	$251,837
2014	9637	$57,824	$309,661
2015	10601	$63,606	$373,267
2016	11661	$69,967	$443,234
2017	12827	$76,963	$520,197

Since it has been some time since I spoke with the Elected Officials, I am enclosing the letter to you on December 8, 2007 to provide them with additional information about our company, and the benefits derived by utilizing a local service provider, along with a copy of our Agreement for Maintenance of Confidential Information required for all employees.

Please let me know if you would like further information. It is a pleasure to work with you and I look forward to providing excellent service to you and other Benton County Departments soon.

Best regards,

Leona M. Tucker

Leona M. Tucker
President

Records Management Services, Inc.

December 8, 2007

Josie Delvin, Benton County Clerk
Benton County Justice Center
7122 West Okanogan Place, Building A
Kennewick, WA 99336

Dear Mrs. Delvin:

The following items underscore a few of the benefits of storing your records with a locally owned and operated professional records management firm.

- Storing your business records with a professional firm that is compliant the following Federal Acts: HIPAA, FACTA, Sarbanes-Oxley, and Gramm-Leach-Bliley is just good business. Records Management Services, Inc. provides management and storage services in a monitored secure, fire protected, climate-controlled environment for the safety and security of your vital documents. Security of records stored with RMS is paramount; our Agreement for Maintenance of Confidential Information by our Employees is attached.

- RMS, Inc. utilizes state of the art professional records management software and barcode tracking to maintain a complete inventory control of all records stored in our facility; including any records that have been retrieved and remain at your site.

- By storing your records offsite you don't have to worry about payroll, taxes, or benefits for dedicated Staff for retrieval or returns of files. Eliminate the exposure of your Staff to the strain of handling records cartons, thereby reducing injuries, productive time-loss, and Labor and Industries Claims; RMS' Staff is trained to handle the materials properly, and is available 24/7. Benton County doesn't have to make capital expenditures for a building, records management specific software, Staff training, racking, fire suppression, security and accompanying equipment required to operate a records storage facility. It is already available at RMS.

- We assist you in improving Staff productivity and morale by reducing distractions from their primary responsibilities to search for documents. All your Staff has to do is refer to the Inventory Report we provide; send a fax; we retrieve the records and deliver them to your place of business. When the material is ready for return to our facility, your Staff sends a fax; we pick up the material and return it to the specified location in our facility.

- You have complete control of the Staff that has access to your department's records by utilizing RMS' Authorization Form. Upon request, we will provide a report that includes who submitted the request for service; what material was requested; the date of the retrieval request; the return date, or, if the material remains at your site.

- We maintain the retention schedules you provide; then submit the destruction list to you for approval, and follow the process through to witnessing the destruction of the materials you have authorized for destruction. Having performed services for other public agencies we are familiar with the Washington Administrative Code and can assist you in developing retention schedules for the multitude of documents involved with daily activities at the County level.

- You reclaim the space in your facility currently used for records storage; and convert that to productive office space.

RMS, Inc. is able to customize services for each individual client we serve. By taking advantage of our professional services, technology, and records specific storage facility, it will lead to substantial savings and protection for all of Benton County's vital records.

Thank you for taking the time to review the enclosed information. It will be a pleasure to meet with you and your associates. If you have any questions or comments, please do not hesitate to be in contact.

Best regards,

Leona M. Tucker

Leona M. Tucker
President

Records Management Services, Inc.

AGREEMENT FOR MAINTENANCE OF CONFIDENTIAL INFORMATION

This Agreement shall be completed by all employees having access to any facility owned or operated by Records Management Services, Inc. heretofore known as "Company" and _____(Employee name) hereafter known as "Employee". This agreement shall establish the rules of conduct regarding the use, disclosure, and treatment of materials entrusted to the care of Company by its customers, hereafter known as "Client".

1. Purpose – This agreement shall govern the conduct of employees regarding the care, handling, use, or disclosure of confidential client materials housed at any facility owned or operated by Company or Client materials, which may be encountered in the course of delivering or receiving material from Client at any facility owned or operated in whole or in part by Client.
2. Client/Employee Names – Employee shall not disclose to any third party the business name of any Client of the Company, nor shall the Employee disclose the name of any other employee of the Company.
3. Restriction of Disclosure – Employee shall not disclose to any third party any information whatsoever regarding the business or financial activities of any Client of the Company.
4. Inducement – Employee shall not make use of, or induce others to make use of, any information whatsoever regarding the business or financial activities of any Client of the Company.
5. Compliance – Employee shall comply with all rules and regulations communicated to Employee by the Company regarding its operations and all contractual provisions governing the relationship between the Company and any Client; which shall include Company responsibilities under 45 C.F.R. Part 160 and Part 164 (the "Privacy Regulation") under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA").
6. Acknowledgement – By signing below, employee acknowledges receipt of a copy of this Agreement and understands that compliance with said Agreement is a condition of employment with the Company.
7. Breach of Agreement – By signing below, employee acknowledges that breach of this agreement shall constitute shall constitute a breach of the employment covenant with the Company.
8. Penalties for Breach – In the event of a breach of this Agreement, Employee shall agree to pay the Company a sum of $10,000, which sum shall not be construed as a penalty. Employee recognizes that a breach of this Agreement shall force the Company to incur potential damages from Client which would not be precisely ascertainable, and that this provision for liquidated damages is a bona fide provision for such damages and not a penalty.
9. Injunction - In the event of a breach of these provisions or in the event such a breach is threatened, the Company may elect to seek an injunction restraining Employee, and, if the Company prevails, Employee shall pay all costs and reasonable attorney's fees incurred by the Company, as well as liquidated damages.

IN WITNESS WHEREOF, the parties hereto hereby set their hands and signatures this _____ day of _____, 200____.

Employee Signature _____ Date _____

Employee Name (Print) _____

Company Rep. Signature _____ Date _____

Company Rep. Name (Print) _____

P. O. BOX 7321 Kennewick WA 99336 509-542-1555

CITY OF PASCO
ADMINISTRATIVE AND COMMUNITY SERVICES DEPARTMENT
P.O. BOX 293, 525 NORTH THIRD AVENUE, PASCO, WASHINGTON 99301

FILE 11:20

RECEIVED
FEB 05 2008
BENTON COUNTY
COMMISSIONERS

Max ✓
Leo ✓
Claude ✓
David ✓
Loretta ✓
Other A Fyall

DIVISIONS

ADMINISTRATIVE SERVICES
(509) 544-3096
FAX 543-5727

CITY CLERK
(509) 545-3402
FAX 543-5727

FACILITIES SERVICES
(509) 543-5757
FAX 543-5758

FINANCE SERVICES
(509) 545-3401
FAX 544-3082

INFORMATION SERVICES
(509) 545-3419
FAX 543-5758

RECREATION SERVICES
(509) 545-3456
FAX 545-3455

February 4, 2008

Benton County Commissioners
PO Box 190
Prosser WA 99350

Franklin County Commissioners
1016 N. 4TH
Pasco WA 99301

Dear Commissioners:

The Tri-Cities Animal Control Authority (ACA) was formed in 1998 by the cities of Kennewick, Richland and Pasco, as the vehicle to coordinate and contract for animal patrol and sheltering services within the three cities. The ACA has allowed the cities to closely align ordinances on animal control and has allowed the sharing of a common contractor and shelter to meet the animal control needs of the greater urban community in the most efficient manner possible.

The three cities share equally in the cost of the contract for animal patrol and sheltering services. The City of Pasco, owner of the shelter, leases the facility to the ACA. Pasco also functions as the "operating jurisdiction" of the ACA, handling the administration of the contract and coordinating ACA meetings and agendas.

In November, Commissioner Claude Oliver met with ACA representatives to discuss animal control and shelter issues with the group. He reported that Benton County had spent considerable effort in analyzing animal control needs within the County. There was discussion as to the possibilities of the ACA cities and the counties working in concert on animal control issues.

While the cities would be open to consideration of either or both counties becoming partners in the ACA, it would be premised on the commitment of the county(ies) to substantially conform to the critical elements of the urban service partnership established by the ACA. Those include:

1. **Similar jurisdiction size and population.** As each of the three cities is similar in area and in population, the decision to share operating costs equally has not been difficult. Because animal control and sheltering costs are largely a function of both area and population, additional prospective partners would have to be evaluated on the basis of cost to serve such area.

2. **Similar animal control and sheltering needs.** The needs of the ACA cities are similar because our animal control ordinances are similar. While there are some minor local variants, the relative uniformity of our ordinances and fee structures supports having a single contractor and a unified program administration. We would expect additional partners to share the same needs in this regard.

3. **Commitment to the concept.** Members of the ACA are committed to making the authority work for the long term. We have invested in the programs, equipment and contractor with the long term in mind. This year, the ACA will begin the process of evaluating what its future shelter facility needs might be. This process will necessarily require analysis of long term growth potential of our service area. ACA partners believe that our success requires that each participant shoulder a fair portion of the investment necessary for the long term.

If you believe you would be interested in discussing animal control and sheltering services in a fashion consistent with ACA's elements of operation, please feel free to contact me (543-5757 or strebels@pasco-wa.gov) for a time to meet with the authority representatives.

Sincerely,

Stan Strebel
Administrative and Community Services Director