

March 2, 2009

**THE BOARD OF
BENTON COUNTY
COMMISSIONERS
AGENDA PACKET**

Draft

MINUTES

BOARD OF BENTON COUNTY COMMISSIONERS

Regular Board Meeting
February 23, 2009, 9:00 am.
Commissioners' Conference Room
Benton County Courthouse, Prosser, WA

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

Benton County Employees Present During All or a Portion of the Meeting: Deputy Administrator Loretta Smith Kelty; Adam Fyall, Community Development Coordinator; Finance Manager Linda Ivey; Personnel Manager Melina Wenner; Facilities Manager Roy Rogers; Bryan Perry, Safety/Training Coordinator; Planning Manager Mike Shuttleworth and Susan Walker, Planning, Public Works Director Ross Dunfee; DPA Ryan Brown; Treasurer Duane Davidson; Clerk Josie Delvin; Steve Becken, Norm Childress, Sue Schuetz, and Larry Moser, Road Department; Erhiza Rivera, Deputy Treasurer.

Approval of Minutes

The Minutes of February 9, 2009 and February 10, 2009 were approved.

Review Agenda

Commissioner Benitz requested consent agenda items "c", "d" and "e" (Letters of Support for Ben Franklin Transit) be pulled.

Consent Agenda

MOTION: Commissioner Bowman moved to approve the consent agenda items "a" through "dd", pulling "c", "d", and "e". Commissioner Beaver seconded and upon vote, the Board approved the following:

Commissioners

- a. 2010 Alternate Dates for Budget Hearings; Rescinding Resolution 09-080
- b. Appointment of G Janicek to the Columbia Irrigation District

Coroner

- f. Contract Amendment with Dr. Daniel Selove

Facilities

- g. Blanket Service Agreement w/Sound Solutions Northwest, Inc.

- h. Contract Amendment with Schindler Elevator Corporation
- i. Contract Amendment with Varsity Contractors, Inc.

Fairgrounds

- j. Lease Agreement w/Benton-Franklin Mounted Sheriff's Posse – Sheriff's Weekly
- k. Lease Agreement w/Benton-Franklin Mounted Sheriff's Posse – Play Days
- l. Lease Agreement w/Columbia Basin Pigeon Club

Juvenile

- m. Line Item Transfer, Funds No. 0115-101, Dept. 173
- n. Agreement w/WSU for Evaluation of the Models for Change DMC Data Analysis
- o. Agreement w/Center for Children's Law & Policy, the Children and Youth Justice
- p. Fee for Services Contract w/City of Kennewick for Graffiti Abatement Program

Office of Public Defense

- q. District Court Service Agreement w/R Hui
- r. Felony Superior Court Service Agreement w/R Thompson
- s. Felony District Court Service Agreement w/R Swinburnson
- t. Felony District Court Service Agreement w/C Harkins
- u. Termination of Professional Svcs Agreement w/R Johnston; Rescinding Resolution 07-879

Road/Engineer

- v. ER&R Purchase of Refined Petroleum Products – Bulk Diesel Fuel for 2009
- w. ER&R Purchase Metal Traffic Signs
- x. ER&R Purchase New Pickup Mounted Tool Tray Designed to Securely Store Survey Equip.
- y. Card Lock Service for Gasoline and Diesel Fuel
- z. County Roads Improvement District (C.R.I.D.) #15-Cottonwood Drive, Property Segregation

Sheriff

- aa. Purchase of Ammunition from San Diego Police Equipment Co.
- bb. Purchase of POD Tables/Chairs from Norix Group Inc.
- cc. Federal Equitable Sharing Agreement and Certification Report – 2008

Solid Waste

- dd. Acceptance of the Benton County Coordinated Prevention Grant Offer

Consent Agenda Items "c", "d", and "e" (Letters of Support for Ben Franklin Transit)

Commissioner Benitz requested more information and clarification of the expenses and how much money was being requested.

Commissioner Bowman said that Transit had always asked the federal government for this money and the County would just be supporting their request. He said financial information was available and he would be happy to provide it, however, timing was very important and he requested the Board authorize the letters. Additionally, he stated this letter was just a reaffirmation of the letter sent one year ago.

Commissioner Benitz said he wanted the costs to be identified before signing the letter. Commissioner Beaver asked if the information could be provided to Commissioner Benitz before the next meeting and Commissioner Bowman said it would.

The Board briefly recessed, reconvening at 9:05 a.m.

Continued Public Hearing – Comprehensive Plan Amendments

Chairman Benitz opened the public hearing and stated that public testimony had previously been closed.

Mike Shuttleworth stated that the previous hearing on CPA 07-02 did not receive a majority vote, so there was not a decision on the matter.

CPA 07-02

MOTION: Commissioner Bowman moved to approve CPA 07-02, a proposal by John Sullins to change the land use designation from Rural Lands Five to Rural Lands One. Commissioner Beaver seconded.

Discussion

Mr. Shuttleworth said one of the recommendations was to change the boundary to exclude the federally owned property.

Both Commissioners Beaver and Bowman said they did not have any reason to oppose that change.

Commissioner Bowman said he believed the intent of the legislation for urban growth boundaries was being met, along with the community desire, and this process was started long before the legislative changes to urban growth boundaries.

Upon vote, the motion carried with Commissioner Benitz opposing.

The Board set the time and date to approve the resolution for 9:05 a.m. on March 2, 2009.

CPA 08-01

MOTION: Commissioner Bowman moved to approve the resolution authorizing the amendment to the Benton County Comprehensive Plan, File CPA 08-01. Commissioner Beaver seconded and upon vote, the motion carried.

CPA 08-02

MOTION: Commissioner Bowman moved to approve the resolution authorizing the amendment to the Benton County Comprehensive Plan, Urban Growth Area, File CPA 08-02. Commissioner Beaver seconded and upon vote, the motion carried.

CPA 08-04

MOTION: Commissioner Bowman moved to approve the resolution authorizing the amendment to the Benton County Comprehensive Plan, File CPA 08-04. Commissioner Beaver seconded and upon vote, the motion carried.

CPA 08-05

MOTION: Commissioner Bowman moved to approve the resolution authorizing the amendment to the Benton County Comprehensive Plan, File CPA 08-05. Commissioner Beaver seconded and upon vote, the motion carried.

The Board briefly recessed, reconvening at 9:35 a.m.

Annex Space Needs

David Sparks presented a cost estimate to remodel the vacated space at the Annex in the amount of \$39,000. He said it would include moving the Treasurer's office at the Annex to vacated space and moving the Clerk's Juvenile staff to the vacated Treasurer's space.

Ms. Delvin and Mr. Davidson discussed the efficiencies that would occur in moving the offices, as well as the additional security for the Treasurer's office by removing the cash handling away from the public.

Chairman Benitz asked if the issues in the L & I report would be addressed and Mr. Sparks said they would. The Board agreed to move forward with the Annex remodel.

Other Business

Olympia Trip

Commissioner Bowman briefly reported on his trip and said that 70+ people from various groups went to Olympia last week representing the Tri-Cities and its issues. He said he attended the legislative steering committee meeting, including a proposal for Health Boards to be comprised of citizens that were not elected. He stated that WSAC opposed that type of legislation. Additional issues that were discussed were the economy, water, environmental, and legislation by Adams County to receive the impact fees from Energy Northwest.

Commissioner Beaver said the County was on the “offense” by trying to make sure the projects lined up with available money. Additionally, he was interested in continuing to take a defensive role by being involved with issues introduced that could affect Benton County.

Red Mountain Study

Commissioner Bowman said that one of the things still missing from the Red Mountain study was a study of economic impacts if the interchange were constructed. He said there was an opportunity for agencies (West Richland, Benton City, and Benton REA) to pool funds to complete an initial study, with a cost of up to \$10,000 and he recommended the County participate in that interlocal agreement.

Commissioner Beaver said he agreed the County should have some economic analysis on the Red Mountain interchange since it was lobbying for resources.

The Board agreed that Commissioner Bowman could bring back some information for the Board to review.

Finley Truck Signs Update

Norm Childress provided a map and pictures of the new informational signs that were installed to help keep trucks on the Interie and off other area roads. He said they had also requested permission from the State to install signs on Hwy 397 and were waiting to hear back from them.

The Board requested Mr. Childress to communicate with the residents about the news signs and ask for any feedback on their effectiveness. Mr. Childress said he would send an email to those residents who had communicated with him.

The Board briefly recessed, reconvening at 10:00 a.m.

WSU – Benton County Extension – Proposed Budget Cuts

Marianne Ophardt discussed the proposed budget cuts from WSU and the magnitude of these cuts and their impacts. She said they were trying to impress upon the president that Extension would lose a lot more than funding by losing grants and other funding. She indicated they were contacting volunteers, 4H groups, commodity groups, and others to inform them to get involved. Ms. Ophardt stated they felt a proportionate 12-18% cut would be manageable, however, a 49% or 75% would not be manageable to keep extensions open.

Chairman Benitz recommended the Board send a letter to legislators, the governor, and the research center to express the magnitude of the proposed cuts. The Board agreed.

CRID #20 – Financing Options

David Sparks and Duane Davidson presented financing options based on information received from two different financial services companies.

1. Traditional CRID bond financed for 15 years or less (fund a 10% guaranty fund).
2. CRID Bond, secured 90% by a “Contingent Liability Fund” in the event of payment default by property owners.
3. Private Placement to sophisticated investors.
4. County issues Limited Tax Obligation Bonds (LTGO).
5. County issues the CRID debt in the form an “interfund loan”.

Commissioner Bowman said he felt it was appropriate to find a way to allow this to go forward and that maybe there were other options (possible agreement with school district to partner on the liability). Mr. Sparks said the school would pay its portion and the County would pay its portion, but basically it would be financing one property owner.

Commissioner Bowman said he felt that option #2 would be viable and that it was definitely an economic stimulus to the County.

Commissioner Beaver said he believed it was an economic stimulus, but it was too much money for the County to extend for the rate of return.

Chairman Benitz said he was not in favor of any of the options and that the landowner may have to step up to the plate to finance the project. Commissioner Beaver said he concurred and was not in favor of the five options.

Mr. Dunfee said he would work with the principal property owner to see if there was additional financing. If there were not any other options, he would send a resolution to the Board to cancel the CRID.

Consent Agenda Items “c”, “d” and “e”.

Commissioner Bowman provided additional information relevant to the letters of support for Ben Franklin Transit. Chairman Benitz said he wanted the numbers to be included in the request. The issue was scheduled on the following week’s agenda.

Unscheduled Visitors

James Willard and Patricia O’Brien discussed safety issues on roads in the County. Mr. Willard stated the new stop signs and stop-ahead signs installed have helped, but there were still many bad intersections. He requested the Commissioners continue to put pressure on the Road Department to put up more signs and improve the intersections and the Board consider additional deputy staffing for the county roads in that area because one was not enough. Additionally, he encouraged the Board to continue working on the Hanks Road re-build project.

Ms. O'Brien also requested the Board consider putting in "turtles" near the center lines at the crest of the hills between Crosby and Holler.

Chairman Benitz said the Board would keep them informed as they start to move forward with the one-year road program.

Vouchers

Check Date: 2/13/2009
Warrant #: 917439-917736
Total all funds: \$1,187,651.73

Check Date: 2/17/2009
Taxes #: 10109024-10109025
Total all funds: \$35,616.25

Check Date: 2/17/2009
Warrant #: 222251-222492
Total all funds: \$110,164.72

Check Date: 2/20/2009
Warrant # 918352-918615
Total all funds: \$1,996,896.22

Check Date: 2/20/2009
Warrant #: 917822-918351
Total all funds: \$13,064.10

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

Resolutions

- 09-115 Appointment of G. Janicek to the Columbia Irrigation District
- 09-116 2010 Alternate Dates for Budget Hearings; Rescinding Resolution 09-080
- 09-117 Contract Amendment with Dr. Daniel Selove
- 09-118 Blanket Service Agreement w/Sound Solutions Northwest, Inc.
- 09-119 Contract Amendment with Schindler Elevator Corporation
- 09-120 Contract Amendment with Varsity Contractors, Inc.
- 09-121 Lease Agreement w/Benton-Franklin Mounted Sheriff's Posse – Sheriff's Weekly
- 09-122 Lease Agreement w/Benton-Franklin Mounted Sheriff's Posse – Play Days
- 09-123 Lease Agreement w/Columbia Basin Pigeon Club
- 09-124 Line Item Transfer, Funds No. 0115-101, Dept. 173
- 09-125 Agreement w/WSU for Evaluation of the Models for Change DMC Data Analysis
- 09-126 Agreement w/Center for Children's Law & Policy, the Children and Youth Justice
- 09-127 Fee for Services Contract w/City of Kennewick for Graffiti Abatement Program

- 09-128 District Court Service Agreement w/R Hui
- 09-129 Felony Superior Court Service Agreement w/R Thompson
- 09-130 Felony District Court Service Agreement w/R Swinburnson
- 09-131 Felony District Court Service Agreement w/C Harkins
- 09-132 Termination of Professional Svcs Agreement w/R Johnston; Rescinding Resolution 07-879
- 09-133 EER&R Purchase of Refined Petroleum Products – Bulk Diesel Fuel for 2009
- 09-134 ER&R Purchase Metal Traffic Signs
- 09-135 ER&R Purchase New Pickup Mounted Tool Tray Designed to Securely Store Survey Equip.
- 09-136 Card Lock Service for Gasoline and Diesel Fuel
- 09-137 County Roads Improvement District (C.R.I.D.) #15-Cottonwood Drive, Property Segregation
- 09-138 Purchase of Ammunition from San Diego Police Equipment Co.
- 09-139 Purchase of POD Tables/Chairs from Norix Group Inc.
- 09-140 Federal Equitable Sharing Agreement and Certification Report – 2008
- 09-141 Acceptance of the Benton County Coordinated Prevention Grant Offer
- 09-142 Approval of CPA 08-01 Comprehensive Plan Amendment
- 09-143 Approval of CPA 08-02 Comprehensive Plan Amendment
- 09-144 Approval of CPA 08-04 Comprehensive Plan Amendment
- 09-145 Approval of CPA 08-05 Comprehensive Plan Amendment

There being no further business before the Board, the meeting adjourned at approximately 10:30 a.m.

Clerk of the Board

Chairman

<u>AGENDA ITEM</u>	<u>ACTION NEEDED</u>	<u>DISCUSSION TYPE</u>
Meeting Date: 02 Mar 2009 Subject: WSU Extension Memo Date: 25 Feb 2009 Prepared By: AJF Reviewed By: LSK	Execute Contract Pass Resolution Pass Ordinance Pass Motion Other	Consent Agenda X Public Hearing 1st Discussion 2nd Discussion Other

SUMMARY & BACKGROUND

At the February 23rd Board meeting, Commissioners received a presentation from WSU Extension regarding the deep budget cuts being considered for Extension within the WSU system. The local Extension agent asked for a show of support from the County in the hopes of moderating those cuts. Staff has prepared the attached letter per that request.

Leo Bowman
District 1
Max Benitz, Jr.
District 2
James Beaver
District 3

Board of County Commissioners
BENTON COUNTY

David Sparks
County Administrator

Loretta Smith Kelty
Deputy County Administrator

02 March 2009

Elson Floyd, President
Washington State University
Post Office Box 641048
Pullman, Washington 98164

Re: WSU Extension

Dear President Floyd,

The nation currently finds itself in a difficult economic climate, and these difficulties make their way down to the state and local level, affecting all levels of government and the many institutions and programs we support. As such, Benton County appreciates the situation you face today with reductions and restructuring at Washington State University.

However, we are particularly concerned about the *degree* of cuts we have seen proposed for the University's Extension program. We understand and expect that efficiencies and savings have to be found throughout the University's system, but we feel the disproportionate cuts suggested for Extension may undermine the viability of Extension altogether.

In Benton County, and throughout the agrarian areas of Eastern Washington, Extension is tightly woven into the fabric of agriculture, education, and community. Benton County's prominence in and reliance on agriculture is well-documented. According to the Census of Agriculture, among all counties, Benton County ranks 3rd in Washington and 43rd in the nation in market value of agricultural products. Professional farmers and horticultural hobbyists alike depend on the research, expertise, and resources provided by Extension at the two County offices and at the Irrigated Agriculture Research and Extension Center near Prosser.

We have seen that WSU will make budget cuts on the order of 12-18% for fiscal year 2010, but that these will translate into cuts of 49-75% for Extension. Why the extreme disproportionality? Cuts of that magnitude could mean the end of Extension as we have come to know it, and this would truly be a shame given the decades and the dollars that have been invested to build this highly integrated and effective statewide network. Indeed, with its "deep roots" in agriculture and proud history as the land grant university of this state, WSU's legacy would sustain a heavy blow if Extension were crippled beyond the point of recognition, or eliminated altogether.

As stated earlier, Extension is important in all of our agricultural communities, and particular here in the state's agricultural epicenter. When you look at the four statewide Extension districts, the Southeast District is the only where all of the counties (11) have maintained or increased their financial support for Extension from FY '08 to FY '09. We realize that our support is crucial to helping Extension leverage \$3 externally for every \$1 invested internally from public funds; and in Benton County specifically, Extension generates a 254% return on investment. Nonetheless, Extension operates right on the margin, and WSU directly accounts for 25-30% of its funding. A 12-18% reduction in state funds is probably manageable, but a 75% reduction in that funding could be a disaster for Extension.

Again, we appreciate the difficulty of your situation. We do hope that you will appreciate Extension's role in connecting the University directly with communities in all corners of the state, and that you will be able to identify strategies that will allow you to keep Extension's budget cuts more in line with the general numbers prescribed by Olympia. Thank you for the opportunity to comment.

Sincerely,

BOARD OF COUNTY COMMISSIONERS

Max Benitz, Jr., Chairman

cc: Warwick Bayly, Provost, WSU
John Gardner, Vice President for Extension, WSU
Marianne Ophardt, Director, WSU Extension – Benton County

ajf

RESOLUTION

b

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF AWARDING AND CONTRACTING WITH SIERRA ELECTRIC, INC. FOR RELOCATION OF A FLAGPOLE AND THE EXTERIOR LIGHTING LOCATED AT THE BENTON COUNTY COURTHOUSE, PROSSER, WA

WHEREAS, the Board of Benton County Commissioners agreed to remove an existing flagpole located at the Benton County Justice Center, Kennewick, WA and relocate it at the Benton County Courthouse, Prosser, WA and install exterior lighting around the flagpole, sidewalk and stairs; and

WHEREAS, the Facilities Manager solicited proposals from three contractors listed on the Benton County Small Works Roster and they are as follows:

- Sierra Electric, Inc., Pasco, WA - \$11,380.00 excluding WSST
- Allan Electric, Inc., Kennewick, WA - \$11,580.00 excluding WSST
- Fowler General Construction, Inc., Richland, WA - \$12,310.00 excluding WSST

WHEREAS, the Facilities Manager reviewed the proposals and recommends awarding the contract to Sierra Electric, Inc., Pasco, WA – Contractors License No. SIERREI021CZ for a contract amount not to exceed \$11,380.00 excluding WSST as the lowest responsive bid; **NOW, THEREFORE**

BE IT RESOLVED by the Board of Benton County Commissioners, Benton County, Washington, the Board concurs with the recommendation and hereby awards Sierra Electric, Inc. the contract to relocate the flagpole and install exterior lighting located at the Benton County Courthouse, Prosser, WA; and

BE IT FURTHER RESOLVED the Board hereby authorizes the Chairman to sign the service agreement attached hereto.

Dated this _____ day of _____, 2009

_____ Chairman of the Board

_____ Member

_____ Member

Attest: _____ Clerk of the Board

**PERSONAL SERVICES CONTRACT
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 **SIERRA ELECTRIC INC**, a corporation authorized to do business in the State of Washington with its principal offices at 4120 Swallow Ave, Pasco WA 99301 (hereinafter "CONTRACTOR").

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

1. CONTRACT DOCUMENTS

This Contract consists of the following documents

- a. Exhibit A - Contractor's Proposal dated December 3, 2008
- b. Exhibit B - Washington State Prevailing Wage Rates for Public Works Contracts

2. DURATION OF CONTRACT

The Contractor shall commence work upon execution of this contract by both parties and work shall be completed within 90 days of the last signature date.

3. SERVICES PROVIDED

The CONTRACTOR shall perform the following services:

- a. The CONTRACTOR agrees to provide all necessary equipment, materials and supplies to furnish and install the lighting fixtures to illuminate the front exterior of the Benton County Courthouse; furnish and install two (2) each bollards on either side of the stairway on the North side of the walkway; and remove the existing flagpole from the Benton County Justice Center, reinstall it at the Courthouse in Prosser and light the flagpole, all in accordance with Exhibit A attached hereto. In the event that requested work encompasses work that is legally required to be completed by another type of contractor, CONTRACTOR shall inform COUNTY of that fact and shall coordinate with COUNTY to complete the work in conjunction with such other contractor. In the event that requested work requires, under State or local law, the issuance of a building permit, CONTRACTOR shall be

responsible for procuring such building permit and arranging for inspection and certification of the work. CONTRACTOR may bill COUNTY for the full cost of the permit and any labor time for any of its employees involved in the permitting process, but may not charge any additional processing or other fees that it does not actually incur.

- b. The CONTRACTOR agrees to provide its own labor and materials. Unless otherwise provided in this Contract, no material, labor, or facilities will be furnished by the COUNTY.

4. **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:

Mitch Murphy, President
PO Box 2345
Pasco, WA 99302
Phone 509-542-8682
Fax 509-542-8684

- b. For COUNTY:

Loretta Smith Kelty, Deputy County Administrator
PO Box 190
Prosser, WA 99350
Phone 509-222-3710
Fax 509-736-2708

5. **COMPENSATION**

The CONTRACTOR shall be paid for said services 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 not to exceed eleven thousand three hundred eighty dollars and zero cents (\$11,380.00) excluding W.S.S.T. CONTRACTOR shall monitor its cumulative total accounts receivables to ensure that it will not do work in excess of the total approved payable amount, and that total billings will not exceed the total approved payable amount. CONTRACTOR shall inform COUNTY promptly in writing when the cumulative accounts receivables attributable to COUNTY pursuant to the electrical repair services portion of this contract reaches 80% of the total approved payable amount so

that approval and budgeting for additional payable amounts may be obtained if appropriate. Any dollar amount above the maximum payable amount 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 all work contemplated by this agreement or at the end of the contract term, whichever comes first, 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 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. 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 for the accepted work within thirty (30) days after receiving the invoice.

7. AMENDMENTS AND CHANGES IN WORK

- a. 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. All work submitted by the CONTRACTOR shall be certified by the CONTRACTOR and checked for errors and omissions. The CONTRACTOR shall be responsible for the accuracy of the work, even if the work is accepted by the COUNTY.
- b. No amendment or modification 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 the

COUNTY.

8. 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 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 including but not limited to Title 51 of the Revised Code of Washington. 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. CONTRACTORS obligations under this Section 8 shall survive termination and expiration of this Contract.
- 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.

9. 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 further procure and maintain employer's liability that provides coverage up to one million dollars (\$1,000,000) covering employee injuries or disease. CONTRACTOR shall also procure employer's liability providing coverage up to \$1 million for injuries or disease to its employees.
- 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 insured, 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". 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:

Benton County
PO Box 190
Prosser, WA 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.

10. 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 in order for the CONTRACTOR to be considered for "as needed" projects.

11. 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.

12. COMPLIANCE WITH LAWS AND PREVAILING WAGES

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.

13. 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.

14. 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.

15. 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.

16. 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.

17. 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.

18. 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.

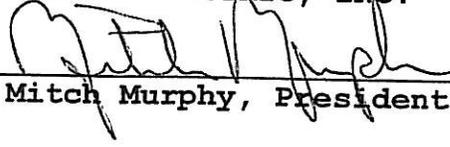
IN WITNESS WHEREOF, the parties have caused this Contract to be signed by their duly constituted legal representatives and is effective on the last date signed.

The parties specifically certify that the provisions contained within paragraph 8(b) are mutually negotiated.

BENTON COUNTY

SIERRA ELECTRIC, INC.

Benton County Commissioner



Mitch Murphy, President

Dated: _____

Dated: 2-23-09

Approved as to Form:



Deputy Prosecuting Attorney

Exhibit A



December 3, 2008

Benton County Facilities
7122 W. Okanagan Pl.
Kennewick, WA 99336

Attention: Roy Rogers
Re: Prosser Court House Exterior Lighting

Dear Roy:

As per our discussion, I am providing you with a quote for the work at the above listed location. For your convenience, I have broken it down into 3 different areas. The first is to furnish and install the lighting fixtures to illuminate the front exterior of the building. Item number two is to provide and install 2-each bollards on either side of the stairway on the North side of the walkway. The last item is to remove the existing flagpole from Kennewick, reinstall it in Prosser and light the flagpole. I would be happy to meet with you and show you which lights we are proposing and their locations. If you have any questions or need additional information please contact our office at your convenience.

Item #1	Wall Lighting	1LS	@	\$ 4,430.00
Item #2	Walkway Lighting	1LS	@	\$ 2,600.00
Item #3	Flagpole & Lighting	1LS	@	\$ 4,350.00

Sincerely,

Mitch Murphy
President

Cc: file

SIERRA ELECTRIC, INC.

4720 SWALLOW AVE. • P.O. BOX 2345 • PASCO, WA 99302 • PHONE (509) 542-8682 • FAX (509) 542-8684 • WA Lic. # SIERRE1021CZ

Allan Electric, Inc

918 W. Canal Drive #A
 Kennewick, WA 99336

PROPOSAL

DATE	ESTIMATE #
1/13/2009	4695

NAME / ADDRESS
BENTON CO. FACILITIES 7122 W. OKANONGAN BOX H KENNEWICK, WA 99336 ATTN: ROY ROGERS

Project
COURT HOUSE EXTERIOR LIGHTING

Item	Description	Total
MAT. & LA...	THIS PROPOSAL IS FOR ELECTRICAL WORK AT THE PROSSER COURT HOUSE BID INCLUDES: ALL LABOR AND MATERIALS NECESSARY TO PERFORM ELECTRICAL WORK AS INDICATED BELOW: FURNISH AND INSTALL LIGHTING FIXTURES TO ILLUMINATE THE FRONT EXTERIOR 1 LUMP SUM	4,465.00T
MAT. & LA...	FURNISH AND INSTALL (2) BALLARD STYLE FIXTURE AT THE STAIRWAY ON THE NORTH SIDE OF THE WALKWAY 1 LUMP SUM	2,690.00T
MAT. & LA...	AS INDICATED REMOVE EXISTING FLAG POLE FROM KENNEWICK AND RE-INSTALL IN PROSSER AND PROVIDE FLAG ILLUMINATION 1 LUMP SUM	4,425.00T

ACCEPTANCE OF PROPOSAL
 This proposal is approved and accepted. There are no oral agreements. The written terms, specifications, provisions, prices and plans (if any) are the entire agreement. Changes shall be made by written change order only.

Signature

WE CAN NOW E-MAIL YOUR PROPOSALS!! JUST E-MAIL US AND LET US KNOW

Subtotal	\$11,580.00
Sales Tax (8.3%)	\$961.14
Total	\$12,541.14

Phone #	Fax #	E-mail
(509) 582-6770	(509) 585-8582	allanelectric@verizon.net

Mr. Roy Rogers
Benton Country
7122 W. Okanogan Pl, Bldg A
Kennewick WA, 99336

Dec. 10, 2008

RE: Prosser Court House Exterior Lighting

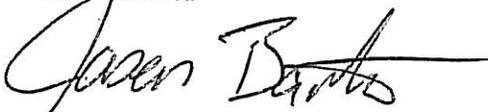
Dear Mr. Rogers,

As per our discussion, I am providing pricing as follows for work at the Prosser Court House.

Wall Lighting - \$4,810.00
Walkway Lighting - \$2,900.00
Flagpole & Lighting - \$4,600.00

Should you have any questions or require any further information regarding this information do not hesitate to call me at (509) 943-2643.

Jasen Banta



Construction Manager
Fowler General Construction

<u>AGENDA ITEM</u>	<u>TYPE OF ACTION NEEDED</u>	
Meeting Date: 3/2/09 Subject: Tri-Cities Woodcarvers Association	Execute Contract Pass Resolution X Pass Ordinance Pass Motion Board Direction	Consent Agenda X Public Hearing 1st Discussion 2nd Discussion Workshop
Prepared by: <u>dgg</u> Reviewed by: <u>lsk</u>		

BACKGROUND INFORMATION

Attached for Board review is the Lease Agreement with the Tri-Cities Woodcarvers Association. The Lease Agreement has been reviewed and approved as to form by the Prosecuting Attorney's office.

The Lease Agreement allows the Tri-Cities Woodcarvers Association to hold their annual wood carving in Building 5 at the Fairgrounds on June 4-7, 2009.

Compensation potentially represents a greater than 50% discount of the normal rental rate for the facilities being leased.

The Deputy County Administrator recommends approval of the Lease Agreement with the Tri-Cities Woodcarvers Association.

RECOMMENDATION

Move the Lease Agreement with the Tri-Cities Woodcarvers Association be approved.

RESOLUTION

**BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY,
WASHINGTON**

**IN THE MATTER OF APPROVING THE LEASE AGREEMENT BETWEEN THE
BENTON COUNTY FAIRGROUNDS AND THE TRI-CITIES WOODCARVERS
ASSOCIATION**

WHEREAS, the Tri-Cities Woodcarvers Association will provide the Benton County Fairgrounds \$816.00 to hold wood carving in Building 5 at the Fairgrounds on June 4 - 7, 2009; and

WHEREAS, compensation potentially represents a greater than 50% discount of the normal rental rate for the facilities being leased, and per Resolution 07-870, the agreement must be approved by the Board of Benton County Commissioners; and

WHEREAS, the Benton County Deputy Administrator recommends the Tri-Cities Woodcarving Association Lease Agreement be approved; **NOW THEREFORE**,

BE IT RESOLVED by the Board of Benton County Commissioners, Benton County, Washington, that the Lease Agreement with the Tri-Cities Woodcarving Association shall be granted; and

BE IT FURTHER RESOLVED that the Board authorizes the Chairman of the Board to sign the Lease Agreement with the Tri-Cities Woodcarving Association.

Dated this _____ day of _____ 2009.

Chairman of the Board

Member

Member

Attest: _____
Clerk of the Board

Constituting the Board of County
Commissioners of Benton County,
Washington

BENTON COUNTY FAIRGROUNDS

1500 South Oak Street, Bldg #20

Kennewick, WA 99337

(509) 586-9211

LEASE AGREEMENT

TODAY'S DATE: **December 1, 2008**

LEASE AGREEMENT NUMBER: **014.09**

EVENT DATE(S): **June 4-7, 2009**

NUMBER OF DAYS: **4**

BUILDING(S) / AREA: **Building 5**

LESSEE: **Tri-Cities Woodcarvers Association, a Washington Non-Profit Corporation**

MAILING ADDRESS: **PO Box 6962, Kennewick, WA 99336**

CONTACT: **Ron Lunde, President**

HOME PHONE: **586-4175 Kim Rust** CELLULAR PHONE: **378-9179**

TIME OF THE EVENT: **8:00 am – 8:00 pm each day**

TYPE OF EVENT: **Wood Carving**

ESTIMATED ATTENDANCE: **200**

SELLING TICKETS: YES NO

THIS LEASE (AGREEMENT) is entered into effective upon the signature of both parties, between Tri-Cities Woodcarvers Association, a Washington Non-Profit Corporation (LESSEE) and BENTON COUNTY, a municipal corporation authorized under the laws of the State of Washington, operating the Benton County Fairgrounds (LESSOR).

1. **EVENT**

- a. WOODCARVING IN BUILDING 5 ON JUNE 4 - 7, 2009 FROM 8:00 AM UNTIL 8:00 PM EACH DAY WITH AN ESTIMATED ATTENDANCE OF 200 PEOPLE, hereafter referred to as the EVENT.

2. **FACILITIES LEASED FOR THE EVENT**

- a. LESSEE agrees to lease the buildings and grounds, equipment and services specified in Exhibit A (Attached) (collectively the Facilities) to hold EVENT on the date(s) specified on the cover hereto. In addition to said date(s), LESSEE desires and further agrees to lease said Facilities for move-in and/or move-out purposes on n/a. LESSEE WARRANTS THAT SAID FACILITIES WILL BE USED ONLY FOR LAWFUL PURPOSES NECESSARY TO SUPPORT THE EVENT.

3. **PAYMENTS**

- a. In consideration for the license to hold the EVENT, LESSEE agrees to pay LESSOR the FEE of \$ 816.00 (less damage/cleaning deposit if previously paid) for use of the Facilities as detailed in Exhibit A, no later than May 21, 2009. If the fee is not made by said date, this Agreement will be null and void unless otherwise agreed to in writing by LESSOR. Upon such termination, LESSEE shall be obligated to pay a cancellation fee as specified in the Benton County Fairgrounds Policies and Procedures, Paragraph #9.

4. **CAMPING OVERNIGHT**

- a. LESSOR does not make any warranties as to suitability of campgrounds for LESSEE'S purposes or compatibility of campground infrastructure to any equipment anticipated to be used by LESSEE or participants in LESSEE'S EVENT. LESSEE is responsible for ensuring that the campgrounds, as they exist, are suitable for LESSEE'S purposes and that campground infrastructure meets the needs of LESSEE and/or participants in LESSEE'S EVENT. LESSEE may request a walk-through of the campground facilities and LESSOR shall take all reasonable steps to accommodate such a request. PROVIDED that all such walk-throughs shall be during regular business hours only, and may be by appointment only.
- b. A \$10.00 fee per day per tent/camper applies to units hooked up to water and electricity. A \$6.00 per day per tent/camper applies to units that do not hook up to water and electricity. LESSEE is responsible for collecting all camping fees. Camping fees must be turned into the Fairgrounds Administrative Office no later than two (2) business days after the EVENT. If payment is not received by such date, the entire otherwise refundable balance of the LESSEE'S damage/cleaning deposit will be forfeited. IF THE REFUNDABLE PORTION OF THE DAMAGE/CLEANING DEPOSIT IS LESS THAN THE AMOUNT OF CAMPING FEES DUE, LESSEE

REMAINS LIABLE FOR THE BALANCE OF THE CAMPING FEES. (Further details may be included in Exhibit A.)

5. CANCELLATION OF EVENT

- a. The parties recognize that cancellations made less than 60 days prior to the first event date will potentially cause the BCF to lose lease or rental revenue. The parties further recognize that for a number of reasons outside of the control of the parties, the actual amount of the loss is often difficult to quantify. Therefore, the parties agree to the following schedule of liquidated damages which shall become due and owing if Lessee cancels less than 60 days prior to the first day of the event:
 1. If the Cancellation is made less than 60 days prior to the first event date, then Lessee shall pay 25% of the Lease fee as liquidated damages;
 2. If the cancellation is made less then 30 days prior to the first event date, then Lessee shall pay 50% of the fee as liquidated damages.
- b. The liquidated damages specified in this section may be deducted from cleaning or any other deposits retained by the BCF, and if any further amount is still due after such deduction, the Lessee may recover such amount due in the same manner as if it were seeking to recover any other sum due under this agreement, and may utilize any lawful means to do so.

6. CONCESSIONAIRES

- a. LESSEE certifies that no food or beverage concessions will be available at the EVENT and understand that it shall not provide such concession services without the prior written permission of LESSOR.

7. NOVELTIES/SOUVENIRS

- a. LESSEE warrants that there will be no novelties, souvenirs or similar merchandise sold at the EVENT.

8. DAMAGE / CLEANING DEPOSIT

- a. LESSEE must pay a damage/cleaning deposit of \$ 250.00 at the time LESSEE executes this Agreement. THIS AGREEMENT IS NOT EFFECTIVE UNTIL EXECUTED BY LESSOR AND THE DAMAGE/CLEANING DEPOSIT IS RECEIVED. Damages to the Fairgrounds' resulting from the EVENT activities will be charged to the LESSEE at replacement cost plus labor; the cost of labor not exceeding the average cost for such labor in the Tri-Cities area. Charges for repairs will be subtracted from the damage/cleaning deposit, as may any other fees specified as subject to forfeiture of the damage/cleaning deposit elsewhere in this Agreement. The remaining balance, if any, of the damage/cleaning deposit, if any, will be returned to the LESSEE in approximately ten (10) business days after the EVENT date. If the damage/cleaning deposit is less than the amount of damage, LESSEE remains liable for the balance. Neither the Benton County Fairgrounds nor Benton County assume any liability whatsoever for any loss or injury to the LESSEE or LESSEE'S property while on Benton County Fairgrounds' property.

9. **INSURANCE**

- a. LESSEE agrees to purchase, and maintain in force through the duration of this Agreement **commercial general liability insurance with a limit in the sum of not less than one million dollars (\$1,000,000) per occurrence for bodily injury or death of any one person and property damage and two million dollars (\$2,000,000) in the aggregate for bodily injury to, or death of, any number of persons and property damage.** Said policy may not exclude any activities expected to be, or actually, undertaken during the **EVENT or setup/takedown.** Said policy shall name Benton County Fairgrounds, Benton County, its officers, directors, its elected officials, agents and employees as additional insured and shall include a provision prohibiting cancellation of said policy except after thirty (30) days prior written notice to LESSOR. A **CERTIFICATE OF LIABILITY INSURANCE COVERAGE AS REQUIRED BY THIS SECTION SHALL BE DELIVERED TO THE LESSOR NO LATER THAN THIRTY (30) DAYS PRIOR TO THE FIRST DATE OF THE EVENT.**
- b. **All insurance policies required by this section shall include move-in and move-out days, as well as the event days and shall indicate these dates on the insurance certificate.**
- c. All insurance policies required by this section shall cover losses which occur during the covered period, regardless of when the claim is filed, i.e. cannot be "claims made" policies.
- d. All insurance policies required by this section shall be primary to any insurance policies or policies of self-insurance carried by LESSOR;
- e. The limits required by this section are not intended to be an indication of liability nor are they to be considered limits on amount of indemnification;
- f. LESSEE SHALL PROVIDE, NO LATER THAN THIRY (30) DAYS PRIOR TO ANY EVENT COVERED BY THIS AGREEMENT, PROOF OF ALL FORMS OF INSURANCE REQUIRED IN THIS SECTION. THIS PROOF SHALL CONSIST OF A CERTIFICATE OF INSURANCE NAMING "BENTON COUNTY FAIRGROUNDS" AS CERTIFICATE HOLDER, AS WELL AS COPIES OF ALL KEY PROVISIONS, EXCLUSIONS, AND ENDORSEMENTS FROM THE POLICY INCLUDING THE REQUIRED ADDITIONAL INSURED LANGUAGE.

10. **PERMITS**

- a. All necessary city and/or state permits and/or licenses must be obtained and presented to LESSOR prior to the first day of the **EVENT**, or the first day of set up if applicable.
- b. LESSEE shall comply with all Federal, State and local laws, ordinances, rules and regulations. LESSEE acknowledges that all buildings, premises or structures located in or upon the leased premises are considered "public buildings" for purposes of

RCW Chapter 70.160 that prohibits smoking in and around public places. LESSEE shall ensure that the security personnel retained pursuant to section 11 of this agreement are specifically instructed to enforce the provisions of RCW Chapter 70.160.

11. SECURITY

- a. LESSEE takes full responsibility for the safety and well being of participants while they are participating in the EVENT. LESSEE is responsible for inspecting the building and premises and ensuring that they are sufficient to provide for the safety and security of event participants. LESSOR will make all reasonable attempts to honor requests for a walk through of premises and buildings to be leased provided that such walk through will be by appointment only, during regular business hours.
- b. LESSEE shall designate a primary and secondary contact person for purposes of the EVENT. These contact persons shall be persons who have authority, during the EVENT, to direct how the EVENT is being operated, including the operations of any vendors (such as music DJs, food concessionaires, etc). **Within ten (10) days following execution of this contract, LESSEE shall furnish LESSOR with these contact persons on a form provided by LESSOR including cellular telephone numbers which will allow these persons to be contacted AT ALL TIMES DURING THE OPERATION OF THE EVENT and copies of their photo ID.** Depending on the size of the event, LESSEE may designate more contact persons at LESSEE'S discretion, but shall do so in writing. If event security or law enforcement officers responding to any incident at the event are unable to contact any designated contact for a period of 15 minutes or longer, then LESSOR shall have the option to terminate the EVENT and LESSEE'S license to use the facility pursuant to this Agreement. If the EVENT is terminated for these reasons, LESSEE forfeits all right to recover any payments paid to date.

12. SERVING ALCOHOL

- a. Alcoholic beverages shall not be served at this EVENT.
- b. The LESSEE agrees to abide by and enforce within the EVENT the County Policies regarding the presence of alcohol or the use of alcoholic beverages on County leased property.
- c. LESSOR'S POLICY IS THAT NO LIQUOR BE CONSUMED BY ANY INDIVIDUAL UNDER TWENTY-ONE (21) YEARS OF AGE. VIOLATION OF THE POLICY SHALL CONSTITUTE A SUBSTANTIAL AND SIGNIFICANT BREACH OF THE AGREEMENT AND IF LESSOR LEARNS OF SUCH VIOLATION, LESSOR SHALL HAVE THE AUTHORITY TO IMMEDIATELY TERMINATE THE EVENT.

13. NOISE CONTROL

- a. Noise is considered a nuisance if it exceeds 55 decibels between the hours of 6:00 am and 8:00 pm and 45 decibels between the hours of 8:00 PM and 6:00 AM

(Kennewick Municipal Code Title 9 Health Sanitation). Decibel reading will be taken at the intersection of 10th Street and Oak Street.

- b. If a reasonable complaint is received alleging excessive noise, the Lessee will be given a warning to reduce the noise level. The volume and bass must be reduced to an acceptable level and remain there. A second complaint will result in the event being continuously monitored by a BCF representative at Lessee's cost in the amount of \$100.00 per hour, which may be deducted from the damage/cleaning deposit. A third complaint will result in the event being shut down and all parties asked to leave with Lessee forfeiting all lease payments, damage/cleaning deposit and license to use the facility. A complaint which results in a citation being issued or arrest being made pursuant to Kennewick code 9.48.010 and 9.48.020, or any other applicable state or local law, shall also result in the event being shut down and all parties required to leave with Lessee forfeiting all lease payments, damage/cleaning deposit and license to use the facility.

14. TERMINATION OR AMENDMENT

- a. Unless otherwise specified herein, the LESSOR reserves the right to terminate or amend this agreement at any time by giving the LESSEE thirty (30) days written notice. Notice will be assumed to be received on the day (except Sundays) following the date when it is addressed to Lessee's address and mailed by first class and certified mail.

15. INDEMNIFICATION AND HOLD HARMLESS

- a. LESSEE agrees to defend, indemnify and hold harmless LESSOR and its elected and appointed officials employees, agents, licensees and representatives, from and against any and all suits, claims, actions, losses, costs, penalties, damages, attorneys' fees and all other costs of defense of whatever kind or nature arising out of injuries to or death of any and all persons (including subcontractors, agents, licensees or representatives, and any of their employees) or damage to or destruction of any property (including, without limitation, LESSEE or LESSOR'S property or any other activity or omission which results in civil liability of any sort or type) in any manner caused by, resulting from incident to, connected with or arising out of LESSEE'S use of the facilities or performance under this agreement, unless such injury, death or damage is caused by the sole negligence of LESSOR. In the event of litigation between the parties to enforce the rights under this paragraph, LESSOR shall be entitled to attorney's fee and all other costs incurred in establishing its rights. LESSEE'S obligations pursuant to this article include investigating, adjusting and defending any cause of action or claim falling within the parameters as set out in this article.
- b. In any and all claims against the LESSOR, its officers, officials, employees and agents by any employee of the LESSEE, 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 LESSEE 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 LESSEE expressly waives any immunity the LESSEE might have had under such laws. By executing this Contract, the LESSEE 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 LESSEE makes with any subcontractor or agent performing work hereunder. These indemnification obligations shall specifically include indemnification for any fines, fees, penalties or costs incurred by LESSEE during the course of the event for violations of any law, ordinance or regulation including, but not limited to, Washington's law on Smoking in Public Places, RCW Chapter 70.160. In the event of litigation between the parties to enforce the rights under this paragraph, LESSOR shall be entitled to attorney's fee and all other costs incurred in establishing its rights. LESSEE'S obligations pursuant to this article include investigating, adjusting and defending any cause of action or claim falling within the parameters as set out in this article.

16. FAIRGROUNDS CONTACT

a. The following person(s) is the contact representative of the Benton County Fairgrounds:

Jeff, Farrin, Jim and/or Denise 543-0060

b. This person(s) may be contacted for the following reasons:

1. To access locked locations of the Fairgrounds for functions essential to the EVENT;
2. In the event of malfunction of services or equipment essential to the EVENT.

c. This person(s) SHALL be contacted (any one of them) if any of the following occurs:

1. The police department is summoned to the scene for any criminal investigation which takes place on the premises of the Fairgrounds;
2. The fire department or an ambulance is summoned to the scene for an incident involving injury or illness to a person on the premises of the Fairgrounds;
3. LESSEE is unable to ensure that all persons have left the premises of the Fairgrounds at the termination of the EVENT;
4. There is a situation such as a fire, explosion or structural failure, which results in substantial damage to LESSORS' property and/or injury to persons.

17. POLICIES AND PROCEDURES

In signing this Lease Agreement, the LESSEE signifies that said LESSEE has been provided a copy of the Policies and Procedures governing the use of the Benton County Fairgrounds and has had an opportunity to review those policies and procedures. The parties agree that the provisions contained within the Policies and Procedures manual are hereby incorporated into this Agreement and any violation of such provisions shall constitute a breach of this Lease Agreement.

ROCKY JOHNSON R.F.J.

I, ~~Ron Lunde, President~~ (name and job title/position) have read and fully understand this Agreement. I hereby certify that I have the authority to bind Tri-Cities Woodcarvers Association to the terms and conditions set forth herein. In the event I do not have the authority, I acknowledge and agree that I shall be personally liable for any payments due under this Agreement and for any breach that occurs under the Agreement. I agree to abide by the conditions set forth in this Lease Agreement and assume the responsibility for enforcing these policies.

LESSOR: BENTON COUNTY

LESSEE: Tri-Cities Woodcarvers Association

BY: _____
Chairman of the Board

BY: Rocky F Johnson

Date: 02-04-09

Date: _____

Name: Rocky F. Johnson

Title: President

Approved as to form:

BY: Kathleen S. Helms
Civil Deputy Prosecutor

EXHIBIT A
FEES APPLICABLE TO LESSEE'S LICENSE TO USE THE FACILITIES

DAMAGE/CLEANING DEPOSIT

Refundable in approximately ten (10) business days after the EVENT, only if the building and/or rented area is completely clean, all garbage in dumpster(s), and tables and chairs re-stacked.

DEPOSIT TOTAL: \$ 250.00

BUILDING(S) AND/OR AREA(S) FEES

Building # 5 X 4 Days = \$ 566.00

BUILDING(S)/AREA TOTAL: \$ 566.00

EQUIPMENT RENTAL FEES

Included in Building Rate: Tables # 20 Picnic Tables # 30

EQUIPMENT RENTAL TOTAL: \$ 0

LESSOR FURNISHED INSURANCE FEES

Lessee will provide.

INSURANCE TOTAL: \$ 0

SECURITY FEES

Lessee will provide.

SECURITY TOTAL: \$ 0

REFUSE DISPOSAL FEES

Bin Size	Number	Cost	Total
4 Yard Bin	1	Included	0

REFUSE TOTAL: \$ 0

CAMPING FEES

\$ 10.00 per day/camper with hookups

\$ 6.00 per day/camper without hookups

Camping fees need to be collected by the Lessee and paid to BCF within 2 business days.

NAME: Tri-Cities Woodcarvers Association

EVENT DATE: June 4 - 7, 2009

SUMMARY OF FEE(S)

Damage/Cleaning Deposit	\$ <u>250.00</u>
Building(s)/Area Fees	\$ <u>566.00</u>
Equipment Fees	\$ <u>0</u>
Insurance Fees	\$ <u>0</u>
Security Fees	\$ <u>0</u>
Refuse Disposal Fees	\$ <u>0</u>
Other Fees	\$ <u>Camping Fees</u>

TOTAL FEE: \$ 816.00
Plus Camping Fees

RESOLUTION

d

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF APPROVING PAYMENT TO M. CAMPBELL & COMPANY, INC. FOR EMERGENCY REPAIR OF A BROKEN HEAT PUMP LOCATED IN BUILDING #15 AT THE BENTON COUNTY FAIRGROUNDS

WHEREAS, the Benton County Fairgrounds was alerted to a broken heat pump in Building #15 by the Benton-Franklin Fair Association staff, causing a need for immediate attention as this heat pump is the only means of heat for the building; declaring the matter an emergency in nature; and

WHEREAS, Benton County Fairgrounds employees were not able to repair the heat pump necessitating the Maintenance Supervisor to immediately hire a contractor to repair the heat pump; and

WHEREAS, M. Campbell & Company was contacted to repair the heat pump and they provided the county with a proposal for said service in the amount of \$1,020.19 including WSST; NOW, THEREFORE,

BE IT HEREBY RESOLVED that the Board of Benton County Commissioners hereby declares the repair of the heat pump located in Building #15 at the Benton County Fairgrounds an emergency and approves the payment to M. Campbell & Company in the amount of \$1,020.19 including Washington State Sales Tax. All acceptable overages, incidentals and other unanticipated costs shall not exceed \$1,100.00 excluding WSST.

Dated this _____ day of _____ 2009.

Chairman of the Board

Member

Member

Attest: _____
Clerk of the Board

Constituting the Board of County
Commissioners of Benton County,
Washington

Campbell & Company

INVOICE #: A604277

M. Campbell & Company, Inc.
 2828 W. Irving Street
 Pasco, WA 99301
Phone: (509) 545-9848
 Fax: (509) 545-1692
 Prosser: (509) 786-6848
 Sunnyside: (509) 839-8828
 Yakima: (509) 452-9848
 LIC # MCAMPPI963RA

DATE: 10/21/09

CUSTOMER NAME (Financially Responsible Party) Benton County Fair Grounds Office		CALLER NAME		JOB CONTACT NAME	
JOB ADDRESS 1500 S. Oak		CITY Kennecook		STATE WA	ZIP 99336
BILLING ADDRESS (if Different)		PH1	PH2		
E-MAIL ADDRESS				SERVICE PARTNER MEMBER? <input type="checkbox"/> Yes <input type="checkbox"/> No	

ORIGINAL REASON FOR THE CALL: Running colder than normal

SUMMARY: Found condenser fan motor bearings had failed. Thermostat had no emergency heat option. Replaced condenser fan motor & thermostat. Test ran equipment - working well. Suggest maintenance program.

WORK AUTHORIZATION: I, the undersigned, am owner/authorized representative/tenant of the premises at which the work above is being done. I hereby authorize you to perform the above recommendation, and to use such labor and materials as you deem advisable. Unless prior-authorization for billing, payment for all work done is due upon completion (C.O.D.). A \$10.00 BILLING CHARGE is due thereafter. An office billing charge and/or finance charge of 1.75% per month (21% per annum) will be added after 10 days past due. I agree to pay reasonable attorney's fees, court costs and collection fees in the event of legal action. I have read this contract, including the terms and conditions on the reverse side hereof and agree to be bound by all the terms contained herein. All old parts will be removed from premises and discarded, unless otherwise specified herein.

For your peace of mind, should the repair amount exceed 25% of your system's replacement value, our technician is required to inform you of options for both repairing and replacing the equipment.

I HEREBY AUTHORIZE YOU TO PROCEED WITH THE ABOVE WORK AT THE UPFRONT FEE OF \$ _____ Signature: _____ Print Name: _____

Qty	Task#	Description	Rate
		Service Call Diagnostic Fee	89.00
		Service Partner Membership	
		Replace 925 RPM condenser motor & capacitor	529.00
1		Programmable 1000 thermostat installed	324.00

Pre-Approved Financing Terms: Please pay from this invoice - Work performed C.O.D.

PAYMENT 1 Cash Check Check #: _____
 MC Visa Disc Auth #: _____
 Card #: _____ Exp:

PAYMENT 2 Cash Check Check #: _____
 MC Visa Disc Auth #: _____

WANT TO PAY LESS?

My Service Technician presented me with a Service Partner Program and explained the benefits

I want to save money and become a Service Partner Initial ONE

OR

At this time I decline the offer

DISCOUNT	
SUBTOTAL	942.00
TAX	78.19
TOTAL COST	1020.19

SERVICE PARTNER SAVINGS
 \$ _____

ACCEPTANCE OF WORK PERFORMED: I acknowledge satisfactory completion of the above described work and that the premises has been left in satisfactory condition. I understand that if my check does not clear, I am liable for the check and any charges from the bank. I agree to pay 1.75% per month for past due contracts (minimum charge \$15). In the event that collection efforts are initiated against me, I shall pay for all associated fees at the posted rates as well as all cost of collection fees and reasonable attorney fees. I agree that the amount set forth in the space marked "TOTAL COST" is the total flat price I have agreed to.

SIGNATURE: _____
 I decline to have the recommended work performed at this time. SIGNATURE: _____

SERVICE TECHNICIAN ACKNOWLEDGEMENT
 Prior to the customer entering into the contract, I have discussed the nature of the service and cost and I have given a copy of the contract to the customer. All work I have done has been in compliance with company standards in a workmanship manner, to building codes when applicable.

SIGNATURE: _____ DATE: _____

CUSTOMER SERVICE IS OUR #1 FOCUS
 If you are not completely satisfied for any reason, please call and ask to speak with the General Manager. Your feedback is very important to us.

THANK YOU FOR CHOOSING US FOR YOUR SERVICE NEEDS!

<u>AGENDA ITEM</u>	<u>TYPE OF ACTION NEEDED</u>	
Meeting Date: 02/23/09 Subject: 12-Bar Productions, LLC	Execute Contract Pass Resolution X Pass Ordinance Pass Motion Board Direction	Consent Agenda X Public Hearing 1st Discussion 2nd Discussion Workshop
Prepared by: <u>dgg</u> Reviewed by: <u>lsk</u>		

BACKGROUND INFORMATION

Attached for Board review is the Lease Agreement with the 12-Bar Productions, LLC. The Lease Agreement has been reviewed and approved as to form by the Prosecuting Attorney's office.

The Lease Agreement allows the 12-Bar Productions, LLC to hold the annual Untapped Blues Festival at the Fairgrounds on May 9, 2009.

Compensation potentially represents a greater than 50% discount of the normal rental rate for the facilities being leased.

The Deputy County Administrator recommends approval of the Lease Agreement with the 12-Bar Productions, LLC.

RECOMMENDATION

Move the Lease Agreement with the 12-Bar Productions, LLC be approved.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF APPROVING THE LEASE AGREEMENT BETWEEN THE BENTON COUNTY FAIRGROUNDS AND THE 12-BAR PRODUCTIONS, LLC

WHEREAS, the 12-Bar Productions, LLC will provide the Benton County Fairgrounds \$3,315.00 to hold the annual Untapped Blues Festival at the Fairgrounds on May 9, 2009; and

WHEREAS, compensation potentially represents a greater than 50% discount of the normal rental rate for the facilities being leased, and per Resolution 07-870, the agreement must be approved by the Board of Benton County Commissioners; and

WHEREAS, the Benton County Deputy Administrator recommends the 12-Bar Productions, LLC Lease Agreement be approved; **NOW THEREFORE**,

BE IT RESOLVED by the Board of Benton County Commissioners, Benton County, Washington, that the Lease Agreement with the 12-Bar Productions, LLC shall be granted; and

BE IT FURTHER RESOLVED that the Board authorizes the Chairman of the Board to sign the Lease Agreement with the 12-Bar Productions, LLC.

Dated this _____ day of _____ 2009.

Chairman of the Board

Member

Member

Attest: _____
Clerk of the Board

Constituting the Board of County
Commissioners of Benton County,
Washington

BENTON COUNTY FAIRGROUNDS

1500 South Oak Street, Bldg #20

Kennewick, WA 99337

(509) 586-9211

LEASE AGREEMENT

TODAY'S DATE: **December 1, 2008**

LEASE AGREEMENT NUMBER: **011.09**

EVENT DATE(S): **May 9, 2009**

NUMBER OF DAYS: **1**

BUILDING(S) / AREA: **Grounds – Including Building 1, 2, 3, Commercial Pavilion,
and Oak Street Area**

LESSEE: **12-Bar Productions, LLC, a Washington Limited Liability Corporation**

MAILING ADDRESS: **2455 George Washington Way, R-200, Richland, WA 99354**

CONTACT: **Dave Nichols, Owner**

HOME PHONE: **737-7661**

TIME OF THE EVENT: **12:00 pm until 11:00 pm**

TYPE OF EVENT: **Blues Festival**

ESTIMATED ATTENDANCE: **2,000**

SELLING TICKETS: YES NO

IF YES, TICKET OUTLET(S): **At the Door**

THIS LEASE (AGREEMENT) is entered into effective upon the signature of both parties, between 12-Bar Productions, LLC, a Washington Limited Liability Corporation (LESSEE) and BENTON COUNTY, a municipal corporation authorized under the laws of the State of Washington, operating the Benton County Fairgrounds (LESSOR).

1. EVENT

- a. BLUES FESTIVAL ON THE GROUNDS INCLUDING BUILDINGS 1, 2, 3, COMMERCIAL PAVILION AND THE OAK STREET AREA ON MAY 9, 2009 FROM 12:00 PM UNTIL 11:00 PM WITH AN ESTIMATED ATTENDANCE OF 2,000 PEOPLE, hereafter referred to as the EVENT.

2. FACILITIES LEASED FOR THE EVENT

- a. LESSEE agrees to lease the buildings and grounds, equipment and services specified in Exhibit A (Attached) (collectively the Facilities) to hold EVENT on the date(s) specified on the cover hereto. In addition to said date(s), LESSEE desires and further agrees to lease said Facilities for move-in and/or move-out purposes on May 7 - 8, and May 10, 2009. LESSEE WARRANTS THAT SAID FACILITIES WILL BE USED ONLY FOR LAWFUL PURPOSES NECESSARY TO SUPPORT THE EVENT.

3. PAYMENTS

- a. In consideration for the license to hold the EVENT, LESSEE agrees to pay LESSOR the FEE of \$ 3,315.00 plus insurance fees (less damage/cleaning deposit if previously paid) for use of the Facilities as detailed in Exhibit A, no later than April 22, 2009. If the fee is not made by said date, this Agreement will be null and void unless otherwise agreed to in writing by LESSOR. Upon such termination, LESSEE shall be obligated to pay a cancellation fee as specified in the Benton County Fairgrounds Policies and Procedures, Paragraph #9.

4. CAMPING OVERNIGHT

- a. LESSOR does not make any warranties as to suitability of campgrounds for LESSEE'S purposes or compatibility of campground infrastructure to any equipment anticipated to be used by LESSEE or participants in LESSEE'S EVENT. LESSEE is responsible for ensuring that the campgrounds, as they exist, are suitable for LESSEE'S purposes and that campground infrastructure meets the needs of LESSEE and/or participants in LESSEE'S EVENT. LESSEE may request a walk-through of the campground facilities and LESSOR shall take all reasonable steps to accommodate such a request. PROVIDED that all such walk-throughs shall be during regular business hours only, and may be by appointment only.
- b. Camping on the Fairgrounds property is not permitted unless requested by LESSEE in advance when booking the EVENT. Fees, terms and conditions applicable to camping will be furnished on request and attached to a resultant lease when applicable.

5. CANCELLATION OF EVENT

- a. The parties recognize that cancellations made less than 60 days prior to the first event date will potentially cause the BCF to lose lease or rental revenue. The parties further recognize that for a number of reasons outside of the control of the parties, the actual amount of the loss is often difficult to quantify. Therefore, the parties agree to the following schedule of liquidated damages which shall become due and owing if Lessee cancels less than 60 days prior to the first day of the event:
 - 1. If the Cancellation is made less than 60 days prior to the first event date, then Lessee shall pay 25% of the Lease fee as liquidated damages;
 - 2. If the cancellation is made less then 30 days prior to the first event date, then Lessee shall pay 50% of the fee as liquidated damages.
- b. The liquidated damages specified in this section may be deducted from cleaning or any other deposits retained by the BCF, and if any further amount is still due after such deduction, the Lessee may recover such amount due in the same manner as if it were seeking to recover any other sum due under this agreement, and may utilize any lawful means to do so.

6. CONCESSIONAIRES

- a. LESSEE and LESSOR agree that LESSEE may arrange for food and/or beverage service CONCESSIONAIRE(S) at the EVENT. LESSOR is entitled to 0 of the revenues generated by such CONCESSIONAIRE(S).
- b. LESSEE may arrange for food and/or beverage service CONCESSIONAIRE(S) at the EVENT on the following conditions:
 - 1. Any concessionaires shall be fully licensed under all applicable state and local laws to serve whatever food or beverage they intend to sell;
 - 2. Any concessionaires who serve food or drink other than alcoholic beverages must procure commercial general liability insurance, appropriate for the food service industry, which does not exclude any of the hazards common to vendors in the food service industry. Such policy must specifically insure against claims resulting from bodily injury, illness or death due to foodborne pathogens. The policy must have a minimum liability limit of \$1 million per person or incident with a general aggregate of \$2 million. Policies shall name Lessee, as well as Lessor, its officers, directors, its elected officials, agents and employees, as additional insureds.
 - 3. Any concessionaires who serve alcoholic beverages must, in addition to the other insurance and licensing requirements required by this article, procure an endorsement to their commercial general liability insurance policy which affords liquor liability coverage in an amount no less than \$1 million per person or incident with a general aggregate of \$2 million. Policies shall name Lessee, as well as Lessor, its officers, directors, its elected officials, agents and employees, as additional insureds.
 - 4. LESSEE shall ensure that all concessionaires have insurance policies as required

herein, and must provide copies of certificates of insurance and the necessary endorsement pages to prove compliance with additional insured requirements, for said policies to LESSOR prior to the first date during which such concessionaires plan on doing business at the event. In the event that LESSEE fails to provide a certificate of insurance as required by this paragraph for any concessionaire planning to do business at the event, then that concessionaire shall be barred from doing business anywhere on fairgrounds property.

- c. Permitting unlicensed vendors or vendors who are not insured as required in this article to do business on the fairgrounds property during any event or events shall constitute a breach of this agreement.

7. NOVELTIES/SOUVENIRS

- a. LESSEE agrees to pay 0 of all novelty, souvenir and merchandise gross revenues (minus sales tax) to the LESSOR for the duration of the EVENT.
- b. LESSEE may sell novelty, souvenir and similar merchandise at the EVENT and may contract with vendors for this purpose, and may contract with such other vendors as it finds necessary to conduct the Event provided that any vendors doing business at the site of the Event must comply with the following requirements:
 - 1. All vendors must be licensed to conduct business as vendors selling whatever merchandise they plan on selling, or providing such equipment/services as they plan on providing pursuant to all state and local laws;
- c. Permitting unlicensed vendors as required in this article to do business on the fairgrounds property during any event or events shall constitute a breach of this agreement.

8. DAMAGE / CLEANING DEPOSIT

- a. LESSEE must pay a damage/cleaning deposit of \$ 500.00 at the time LESSEE executes this Agreement. THIS AGREEMENT IS NOT EFFECTIVE UNTIL EXECUTED BY LESSOR AND THE DAMAGE/CLEANING DEPOSIT IS RECEIVED. Damages to the Fairgrounds' resulting from the EVENT activities will be charged to the LESSEE at replacement cost plus labor; the cost of labor not exceeding the average cost for such labor in the Tri-Cities area. Charges for repairs will be subtracted from the damage/cleaning deposit, as may any other fees specified as subject to forfeiture of the damage/cleaning deposit elsewhere in this Agreement. The remaining balance, if any, of the damage/cleaning deposit, if any, will be returned to the LESSEE in approximately ten (10) business days after the EVENT date. If the damage/cleaning deposit is less than the amount of damage, LESSEE remains liable for the balance. Neither the Benton County Fairgrounds nor Benton County assume any liability whatsoever for any loss or injury to the LESSEE or LESSEE'S property while on Benton County Fairgrounds' property.

9. INSURANCE

- a. LESSEE agrees to pay LESSOR the amount specified in Exhibit A in return for LESSOR purchasing on behalf of LESSEE, an insurance policy meeting the criteria required by LESSOR for the EVENT from a third party insurance carrier. **The**

commercial general liability insurance will have a limit in the sum of not less than one million dollars (\$2,000,000) per occurrence for bodily injury or death of any one person and property damage and two million dollars (\$3,000,000) in the aggregate for bodily injury to or death of any number of persons and property damage. Furthermore, such insurance must have an endorsement covering liquor liability with a minimum coverage of \$1,000,000 per incident and \$2,000,000 in the aggregate LESSEE understands that Benton County Fairgrounds, Benton County, its officers, directors, its elected officials, agents and employees, will be added as additional insureds on the policy. The certificate of insurance will be provided to LESSEE immediately upon signing of this Agreement. By agreeing to have LESSOR purchase an insurance policy on its behalf, LESSEE waives any and all causes of action against LESSOR, Benton County, its elected officials, employees and agents, under any legal theory whatsoever, for injuries, losses or damages resulting from LESSOR'S choice of insurance carrier or policy, including any losses which may occur as a result of the financial instability or insolvency of the insurance carrier. LESSEE specifically understands that the insurance carrier Diversified Insurance is not admitted to Washington State and LESSEE agrees to the terms, conditions and risks associated with the insurance carrier's status as such.

- b. A form documenting claims filing procedures will be supplied to LESSEE along with the certificate of insurance. LESSEE shall follow all claims filings procedures immediately, and shall notify LESSOR immediately, when it receives any information that reasonably leads it to believe that they will be subject to a lawsuit, or will otherwise need to file a claim against the insurance policy.
- c. LESSEE shall ensure that all vendors and contractors for the EVENT are either covered by their own insurance policies, covered by a policy purchased through LESSOR specifically for this EVENT, or added' as an additional insured on LESSEE'S policy in the following amounts:
 1. If the vendor or contractor will be serving or supplying alcoholic beverages, or will be involved in the determination of whether or not to serve someone, including verification of age, and verification of level of intoxication of patrons, then the policy must be a **commercial general liability policy with limits of one million dollars (\$1,000,000) per incident and a two million dollar (\$2,000,000) general aggregate, and further must have a liquor liability endorsement with limits of one million dollars (\$1,000,000) per incident, and two million dollars (\$2,000,000) general aggregate.**
 2. If the vendor or contractor will be serving food or food items, or beverages other than alcoholic beverages of any type, then the policy must be a **commercial general liability policy which does not exclude claims for food poisoning, and must have limits of one million dollars (\$1,000,000) per incident, and two million dollars (\$2,000,000) general aggregate.**

- d. *Policies sufficient to meet these requirements may be available for purchase directly through LESSOR for this EVENT only, if any such vendors are not otherwise covered by appropriate insurance.*
- e. LESSEE is responsible for enforcing the above stated insurance requirements and requiring written proof from the vendors and contractors. No later than ten (10) business days prior to the EVENT, LESSEE shall provide to LESSOR proof, in the form of unaltered ACORD insurance certificates, of insurance as required above. In the case of liquor liability and food poisoning coverage, the proof must also include applicable endorsements and/or copies of the exclusions pages to evidence that such coverage is afforded.
- f. **All insurance policies required by this section shall include move-in and move-out days, as well as the event days and shall indicate these dates on the insurance certificate.**
- g. All insurance policies required by this section shall cover losses which occur during the covered period, regardless of when the claim is filed, i.e. cannot be "claims made" policies.
- h. All insurance policies required by this section shall be primary to any insurance policies or policies of self-insurance carried by LESSOR;
- i. The limits required by this section are not intended to an indication of liability nor are they to be considered limits on amount of indemnification;

10. PERMITS/LAWS

- a. All necessary city and/or state permits and/or licenses must be obtained and presented to LESSOR prior to the first day of the EVENT, or the first day of set up if applicable.
- b. LESSEE shall comply with all Federal, State and local laws, ordinances, rules and regulations. LESSEE acknowledges that all buildings, premises or structures located in or upon the leased premises are considered "public buildings" for purposes of RCW Chapter 70.160 that prohibits smoking in and around public places. LESSEE shall ensure that the security personnel retained pursuant to section 11 of this agreement are specifically instructed to enforce the provisions of RCW Chapter 70.160.

11. SECURITY

- a. LESSEE takes full responsibility for the safety and well being of participants while they are participating in the EVENT. LESSEE is responsible for inspecting the building and premises and ensuring that they are sufficient to provide for the safety and security of event participants. LESSOR will make all reasonable attempts to honor requests for a walk through of premises and buildings to be leased provided that such walk through will be by appointment only, during regular business hours.

- b. LESSEE shall designate a primary and secondary contact person for purposes of the EVENT. These contact persons shall be persons who have authority, during the EVENT, to direct how the EVENT is being operated, including the operations of any vendors (such as music DJs, food concessionaires, etc). **Within ten (10) days following execution of this contract, LESSEE shall furnish LESSOR with these contact persons on a form provided by LESSOR including cellular telephone numbers which will allow these persons to be contacted AT ALL TIMES DURING THE OPERATION OF THE EVENT and copies of their photo ID.** Depending on the size of the event, LESSEE may designate more contact persons at LESSEE'S discretion, but shall do so in writing. If event security or law enforcement officers responding to any incident at the event are unable to contact any designated contact for a period of 15 minutes or longer, then LESSOR shall have the option to terminate the EVENT and LESSEE'S license to use the facility pursuant to this Agreement. If the EVENT is terminated for these reasons, LESSEE forfeits all right to recover any payments paid to date.
- c. LESSEE is responsible for hiring security personnel of sufficient skill, and sufficient number to ensure the safety and security of the EVENT and its participants. LESSEE is responsible for choosing the security company and contracting with them for services. PROVIDED that the following minimum standards for security services shall be observed:
1. The security services contracted for shall be from a licensed and bonded security company authorized to do business in the State of Washington.
 2. The minimum staffing level shall be one security guard for every 100 participants, with a minimum of two security guards hired for the EVENT.
 3. LESSEE is responsible for ensuring the security services meet the minimum staffing levels above even if actual number of participants exceeds the anticipated number of participants.
- d. LESSEE shall provide written proof of compliance with the minimum-security requirements for the EVENT to LESSOR no less than fifteen (15) days prior to the date of the EVENT, or the first day thereof. Proof must be in the form of a signed contract as well as full contact information of the security company for verification purposes. If proof is not so supplied, then the EVENT will be deemed to be cancelled, LESSEE'S license to use the facilities on the EVENT date(s) will be nullified, and the provisions of the cancellation policy will be utilized.
- e. In addition to the security services provisions above, since alcoholic beverages will be consumed at the EVENT, LESSOR may contract with appropriate law enforcement agencies to provide uniformed police officers at the EVENT at LESSEE'S expense. The number of officers necessary will be determined solely by LESSOR in consultation with the appropriate law enforcement agencies. If LESSOR elects to contract with law enforcement agencies as provided herein, then LESSOR shall inform LESSEE in writing of this election, including the total cost of the police

officers' services. LESSEE shall pay these total costs prior to the first day of the EVENT and will not be provided access to the premises if such is not paid.

- f. If, at any time, circumstances of the EVENT cause LESSOR or the law enforcement agencies contracted to determine, in their sole discretion, that additional police officers should be hired for the EVENT to ensure the safety of the EVENT, then LESSOR may hire additional police officers for the EVENT. Under such circumstances, LESSEE will be responsible for the additional costs incurred by LESSOR and such additional costs may be deducted by the cleaning or other such deposit.
- g. The police officers hired for this EVENT shall have primary security responsibilities for the EVENT and will also enforce all state and local laws. At all times when the EVENT is active, LESSEE'S designated contact person(s) shall be available for contact by the police officers. Upon demand by the police officers or any one of them, LESSEE or LESSEE'S designated contact shall provide proof of compliance with all permit or license requirements including liquor serving permits. Failure to provide such upon demand, or failure of the designated contact person(s) to be available for contact shall be a breach of this Agreement.
- h. Police officers hired by LESSOR for this EVENT shall have the authority to shut down the EVENT and exclude persons from LESSOR'S property for any of the reasons set out in this Agreement or otherwise provided for by law.

12. SERVING ALCOHOL

- a. LESSEE is required to obtain a Special Occasion liquor license from the State of Washington, and post said license, prior to commencement of EVENT.
- b. The LESSEE agrees to abide by and enforce within the EVENT the County Policies regarding the presence of alcohol or the use of alcoholic beverages on County leased property.
- c. LESSOR'S POLICY IS THAT NO LIQUOR BE CONSUMED BY ANY INDIVIDUAL UNDER TWENTY-ONE (21) YEARS OF AGE. VIOLATION OF THE POLICY SHALL CONSTITUTE A SUBSTANTIAL AND SIGNIFICANT BREACH OF THE AGREEMENT AND IF LESSOR LEARNS OF SUCH VIOLATION, LESSOR SHALL HAVE THE AUTHORITY TO IMMEDIATELY TERMINATE THE EVENT.

13. NOISE CONTROL

- a. Noise is considered a nuisance if it exceeds 55 decibels between the hours of 6:00 am and 8:00 pm and 45 decibels between the hours of 8:00 PM and 6:00 AM (Kennewick Municipal Code Title 9 Health Sanitation). Decibel reading will be taken at the intersection of 10th Street and Oak Street.

- b. If a reasonable complaint is received alleging excessive noise, the Lessee will be given a warning to reduce the noise level. The volume and bass must be reduced to an acceptable level and remain there. A second complaint will result in the event being continuously monitored by a BCF representative at Lessee's cost in the amount of \$100.00 per hour, which may be deducted from the damage/cleaning deposit. A third complaint will result in the event being shut down and all parties asked to leave with Lessee forfeiting all lease payments, damage/cleaning deposit and license to use the facility. A complaint which results in a citation being issued or arrest being made pursuant to Kennewick code 9.48.010 and 9.48.020, or any other applicable state or local law, shall also result in the event being shut down and all parties required to leave with Lessee forfeiting all lease payments, damage/cleaning deposit and license to use the facility.

14. TERMINATION OR AMENDMENT

- a. Unless otherwise specified herein, the LESSOR reserves the right to terminate or amend this agreement at any time by giving the LESSEE thirty (30) days written notice. Notice will be assumed to be received on the day (except Sundays) following the date when it is addressed to Lessee's address and mailed by first class and certified mail.

15. INDEMNIFICATION AND HOLD HARMLESS

- a. LESSEE agrees to defend, indemnify and hold harmless LESSOR and its elected and appointed officials employees, agents, licensees and representatives, from and against any and all suits, claims, actions, losses, costs, penalties, damages, attorneys' fees and all other costs of defense of whatever kind or nature arising out of injuries to or death of any and all persons (including subcontractors, agents, licensees or representatives, and any of their employees) or damage to or destruction of any property (including, without limitation, LESSEE or LESSOR'S property or any other activity or omission which results in civil liability of any sort or type) in any manner caused by, resulting from incident to, connected with or arising out of LESSEE'S use of the facilities or performance under this agreement, unless such injury, death or damage is caused by the sole negligence of LESSOR. These indemnification obligations shall specifically include indemnification for any fines, fees, penalties or costs incurred by LESSEE during the course of the event for violations of any law, ordinance or regulation including, but not limited to, Washington's law on Smoking in Public Places, RCW Chapter 70.160. In the event of litigation between the parties to enforce the rights under this paragraph, LESSOR shall be entitled to attorney's fee and all other costs incurred in establishing its rights. LESSEE'S obligations pursuant to this article include investigating, adjusting and defending any cause of action or claim falling within the parameters as set out in this article.
- b. In any and all claims against the LESSOR, its officers, officials, employees and agents by any employee of the LESSEE, 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 LESSEE 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 LESSEE expressly waives any immunity the LESSEE might have had under such laws. By executing this Contract, the LESSEE 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 LESSEE makes with any subcontractor or agent performing work hereunder.

16. ATTENDANCE

- a. In any literature provided to attendees and any tickets sold, LESSEE shall prominently state, in writing, a warning that unruly persons, persons who are suspected of engaging in criminal activity, visibly intoxicated persons, and persons who, by dress in "gang colors", use of hand signals, or use of language, clearly exhibit their affiliation with a criminal gang, are not welcome at the EVENT and may be removed from the premises at any time. If it is not possible to include this admonition in EVENT literature or tickets, or if no EVENT literature or tickets will be produced or utilized, then LESSEE shall post signs stating this, at all entrances open to participants, in 24 point type or larger, in black, on a white background, at a location which is conspicuous and reasonably calculated to be seen by all persons entering.
- b. LESSEE shall inform security personnel immediately if they are made aware of people who fit the criteria of people who should be removed from the EVENT, and under any circumstances shall not interfere with the efforts of security personnel to remove such persons.

17. FAIRGROUNDS CONTACT

- a. The following person(s) is the contact representative of the Benton County Fairgrounds:
Jeff, Farrin, Jim and/or Denise 543-0060
- b. This person(s) may be contacted for the following reasons:
 - 1. To access locked locations of the Fairgrounds for functions essential to the EVENT;
 - 2. In the event of malfunction of services or equipment essential to the EVENT.
- c. This person(s) SHALL be contacted (any one of them) if any of the following occurs:
 - 1. The police department is summoned to the scene for any criminal investigation which takes place on the premises of the Fairgrounds;
 - 2. The fire department or an ambulance is summoned to the scene for an incident involving injury or illness to a person on the premises of the Fairgrounds;
 - 3. LESSEE is unable to ensure that all persons have left the premises of the Fairgrounds at the termination of the EVENT;
 - 4. There is a situation such as a fire, explosion or structural failure, which results in substantial damage to LESSORS' property and/or injury to persons.

18. POLICIES AND PROCEDURES

In signing this Lease Agreement, the LESSEE signifies that said LESSEE has been provided a copy of the Policies and Procedures governing the use of the Benton County Fairgrounds and has had an opportunity to review those policies and procedures. The parties agree that the provisions contained within the Policies and Procedures manual are hereby incorporated into this Agreement and any violation of such provisions shall constitute a breach of this Lease Agreement.

I, Dave Nichols, Owner (name and job title/position) have read and fully understand this Agreement. I hereby certify that I have the authority to bind 12-Bar Productions, LLC to the terms and conditions set forth herein. In the event I do not have the authority, I acknowledge and agree that I shall be personally liable for any payments due under this Agreement and for any breach that occurs under the Agreement. I agree to abide by the conditions set forth in this Lease Agreement and assume the responsibility for enforcing these policies.

LESSOR: BENTON COUNTY

LESSEE: 12-Bar Productions, LLC

BY: _____
Chairman of the Board

BY: David L. Nichols

Date: 2/6/2009

Date: _____

Name: David L. Nichols

Title: Manager/owner

Approved as to form:

BY: _____
Civil Deputy Prosecutor

**EXHIBIT A
FEES APPLICABLE TO LESSEE'S LICENSE TO USE THE FACILITIES**

DAMAGE/CLEANING DEPOSIT

Refundable in approximately ten (10) business days after the EVENT, only if the building and/or rented area is completely clean, all garbage in dumpster(s), and tables and chairs re-stacked.

DEPOSIT TOTAL: \$ 500.00

BUILDING(S) AND/OR AREA(S) FEES

Grounds – Including Building 1, 2, 3, Commercial Pavilion,
and Oak Street Area X 1 Days = \$ 2,575.00

Includes: Move-In Days 5/7-8/09 and Move-Out Day 5/10/09

BUILDING(S)/AREA TOTAL: \$ 2,575.00

EQUIPMENT RENTAL FEES

Included in Building Rate: Chairs, Tables, Picnic Tables and Bleachers –
All Available Inventory

EQUIPMENT RENTAL TOTAL: \$ 0

LESSOR FURNISHED INSURANCE FEES

Insurance fees are yet to be determined.

INSURANCE TOTAL: \$ Plus Insurance Fees

SECURITY FEES

Lessee will provide.

SECURITY TOTAL: \$ 0

REFUSE DISPOSAL FEES

Bin Size	Number	Cost	Total
4 Yard Bin	4	Included	240.00

REFUSE TOTAL: \$ 240.00

NAME: 12-Bar Productions, LLC

EVENT DATE: May 9, 2009

SUMMARY OF FEE(S)

Damage/Cleaning Deposit	\$ <u>500.00</u>
Building(s)/Area Fees	\$ <u>2,575.00</u>
Equipment Fees	\$ <u>0</u>
Insurance Fees	\$ <u>Plus Insurance Fees</u>
Security Fees	\$ <u>0</u>
Refuse Disposal Fees	\$ <u>240.00</u>
Other Fees	\$ <u>0</u>

TOTAL FEE: \$ 3,315.00
Plus Insurance Fees

<u>AGENDA ITEM</u>	<u>TYPE OF ACTION NEEDED</u>	
Meeting Date: 02/23/09 Subject: Ye Olde Car Club of the Tri-Cities Prepared by: <u>dgg</u> Reviewed by: <u>Isk</u>	Execute Contract Pass Resolution X Pass Ordinance Pass Motion Board Direction	Consent Agenda X Public Hearing 1st Discussion 2nd Discussion Workshop

BACKGROUND INFORMATION

Attached for Board review is the Lease Agreement with the Ye Olde Car Club of the Tri-Cities. The Lease Agreement has been reviewed and approved as to form by the Prosecuting Attorney's office.

The Lease Agreement allows the Ye Olde Car Club of the Tri-Cities to hold their annual Swap Meet and Antique Car Show the Fairgrounds on May 2, 2009.

Compensation potentially represents a greater than 50% discount of the normal rental rate for the facilities being leased.

The Deputy County Administrator recommends approval of the Lease Agreement with the Ye Olde Car Club of the Tri-Cities.

RECOMMENDATION

Move the Lease Agreement with the Ye Olde Car Club of the Tri-Cities be approved.

RESOLUTION

**BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY,
WASHINGTON**

**IN THE MATTER OF APPROVING THE LEASE AGREEMENT BETWEEN THE
BENTON COUNTY FAIRGROUNDS AND THE YE OLDE CAR CLUB OF THE TRI-
CITIES**

WHEREAS, the Ye Olde Car Club of the Tri-Cities will provide the Benton County Fairgrounds \$1,280.00 to hold a annual swap meet and antique car show at the Fairgrounds on May 2, 2009; and

WHEREAS, compensation potentially represents a greater then 50% discount of the normal rental rate for the facilities being leased, and per Resolution 07-870, the agreement must be approved by the Board of Benton County Commissioners; and

WHEREAS, the Benton County Deputy Administrator recommends the Ye Olde Car Club of the Tri-Cities Lease Agreement be approved; **NOW THEREFORE**,

BE IT RESOLVED by the Board of Benton County Commissioners, Benton County, Washington, that the Lease Agreement with the Ye Olde Car Club of the Tri-Cities shall be granted; and

BE IT FURTHER RESOLVED that the Board authorizes the Chairman of the Board to sign the Lease Agreement with the Ye Olde Car Club of the Tri-Cities.

Dated this _____ day of _____ 2009.

Chairman of the Board

Member

Member

Attest: _____
Clerk of the Board

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

BENTON COUNTY FAIRGROUNDS

1500 South Oak Street, Bldg #20
Kennewick, WA 99337
(509) 586-9211

LEASE AGREEMENT

TODAY'S DATE: **December 1, 2008**

LEASE AGREEMENT NUMBER: **010.09**

EVENT DATE(S): **May 2, 2009**

NUMBER OF DAYS: **1**

BUILDING(S) / AREA: **Building 2, Commercial Pavilion, Carnival Area,
Oak Street Area**

LESSEE: **Ye Old Car Club of the Tri-Cities, a Washington Non-Profit Corporation**

MAILING ADDRESS: **PO Box 4566, West Richland, WA 99353**

CONTACT: **Millard Edwards, Treasurer**

HOME PHONE: **967-9361 Ed Edwards**

TIME OF THE EVENT: **8:00 am – 5:00 pm**

TYPE OF EVENT: **Swap Meet and Antique Car Show**

ESTIMATED ATTENDANCE: **500**

SELLING TICKETS: YES NO **X**

THIS LEASE (AGREEMENT) is entered into effective upon the signature of both parties, between Ye Olde Car Club of the Tri-Cities, a Washington Non-Profit Corporation (LESSEE) and BENTON COUNTY, a municipal corporation authorized under the laws of the State of Washington, operating the Benton County Fairgrounds (LESSOR).

1. EVENT

- a. SWAP MEET AND ANTIQUE CAR SHOW IN BUILDING 2, COMMERCIAL PAVILION, OAK STREET AREA AND CARNIVAL AREA ON MAY 2, 2009 FROM 8:00 AM UNTIL 5:00 PM WITH AN ESTIMATED ATTENDANCE OF 500 PEOPLE, hereafter referred to as the EVENT.

2. FACILITIES LEASED FOR THE EVENT

- a. LESSEE agrees to lease the buildings and grounds, equipment and services specified in Exhibit A (Attached) (collectively the Facilities) to hold EVENT on the date(s) specified on the cover hereto. In addition to said date(s), LESSEE desires and further agrees to lease said Facilities for move-in and/or move-out purposes on April 30, and May 1, 2009. LESSEE WARRANTS THAT SAID FACILITIES WILL BE USED ONLY FOR LAWFUL PURPOSES NECESSARY TO SUPPORT THE EVENT.

3. PAYMENTS

- a. In consideration for the license to hold the EVENT, LESSEE agrees to pay LESSOR the FEE of \$ 1,280.00 (less damage/cleaning deposit if previously paid) for use of the Facilities as detailed in Exhibit A, no later than April 15, 2009. If the fee is not made by said date, this Agreement will be null and void unless otherwise agreed to in writing by LESSOR. Upon such termination, LESSEE shall be obligated to pay a cancellation fee as specified in the Benton County Fairgrounds Policies and Procedures, Paragraph #9.

4. CAMPING OVERNIGHT

- a. LESSOR does not make any warranties as to suitability of campgrounds for LESSEE'S purposes or compatibility of campground infrastructure to any equipment anticipated to be used by LESSEE or participants in LESSEE'S EVENT. LESSEE is responsible for ensuring that the campgrounds, as they exist, are suitable for LESSEE'S purposes and that campground infrastructure meets the needs of LESSEE and/or participants in LESSEE'S EVENT. LESSEE may request a walk-through of the campground facilities and LESSOR shall take all reasonable steps to accommodate such a request. PROVIDED that all such walk-throughs shall be during regular business hours only, and may be by appointment only.
- b. A \$10.00 fee per day per tent/camper applies to units hooked up to water and electricity. A \$6.00 per day per tent/camper applies to units that do not hook up to water and electricity. LESSEE is responsible for collecting all camping fees. Camping fees must be turned into the Fairgrounds Administrative Office no later than two (2) business days after the EVENT. If payment is not received by such date, the entire otherwise refundable balance of the LESSEE'S damage/cleaning deposit will

be forfeited. IF THE REFUNDABLE PORTION OF THE DAMAGE/CLEANING DEPOSIT IS LESS THAN THE AMOUNT OF CAMPING FEES DUE, LESSEE REMAINS LIABLE FOR THE BALANCE OF THE CAMPING FEES. (Further details may be included in Exhibit A.)

5. CANCELLATION OF EVENT

- a. The parties recognize that cancellations made less than 60 days prior to the first event date will potentially cause the BCF to lose lease or rental revenue. The parties further recognize that for a number of reasons outside of the control of the parties, the actual amount of the loss is often difficult to quantify. Therefore, the parties agree to the following schedule of liquidated damages which shall become due and owing if Lessee cancels less than 60 days prior to the first day of the event:
 1. If the Cancellation is made less than 60 days prior to the first event date, then Lessee shall pay 25% of the Lease fee as liquidated damages;
 2. If the cancellation is made less then 30 days prior to the first event date, then Lessee shall pay 50% of the fee as liquidated damages.
- b. The liquidated damages specified in this section may be deducted from cleaning or any other deposits retained by the BCF, and if any further amount is still due after such deduction, the Lessee may recover such amount due in the same manner as if it were seeking to recover any other sum due under this agreement, and may utilize any lawful means to do so.

6. CONCESSIONAIRES

- a. LESSEE and LESSOR agree that LESSEE may arrange for food and/or beverage service CONCESSIONAIRE(S) at the EVENT. LESSOR is entitled to 0 of the revenues generated by such CONCESSIONAIRE(S).
- b. LESSEE may arrange for food and/or beverage service CONCESSIONAIRE(S) at the EVENT on the following conditions:
 1. Any concessionaires shall be fully licensed under all applicable state and local laws to serve whatever food or beverage they intend to sell;
 2. Any concessionaires who serve food or drink other than alcoholic beverages must procure commercial general liability insurance, appropriate for the food service industry, which does not exclude any of the hazards common to vendors in the food service industry. Such policy must specifically insure against claims resulting from bodily injury, illness or death due to foodborne pathogens. The policy must have a minimum liability limit of \$1 million per person or incident with a general aggregate of \$2 million. Policies shall name Lessee, as well as Lessor, its officers, directors, its elected officials, agents and employees, as additional insureds.
 3. LESSEE shall ensure that all concessionaires have insurance policies as required herein, and must provide copies of certificates of insurance and the necessary endorsement pages to prove compliance with additional insured requirements, for said policies to LESSOR prior to the first date during which such concessionaires

plan on doing business at the event. In the event that LESSEE fails to provide a certificate of insurance as required by this paragraph for any concessionaire planning to do business at the event, then that concessionaire shall be barred from doing business anywhere on fairgrounds property.

- c. Permitting unlicensed vendors or vendors who are not insured as required in this article to do business on the fairgrounds property during any event or events shall constitute a breach of this agreement.

7. NOVELTIES/SOUVENIRS

- a. LESSEE agrees to pay 0 of all novelty, souvenir and merchandise gross revenues (minus sales tax) to the LESSOR for the duration of the EVENT.
- b. LESSEE may sell novelty, souvenir and similar merchandise at the EVENT and may contract with vendors for this purpose, and may contract with such other vendors as it finds necessary to conduct the Event provided that any vendors doing business at the site of the Event must comply with the following requirements:
 - 1. All vendors must be licensed to conduct business as vendors selling whatever merchandise they plan on selling, or providing such equipment/services as they plan on providing pursuant to all state and local laws;
- c. Permitting unlicensed vendors as required in this article to do business on the fairgrounds property during any event or events shall constitute a breach of this agreement.

8. DAMAGE / CLEANING DEPOSIT

- a. LESSEE must pay a damage/cleaning deposit of \$ 250.00 at the time LESSEE executes this Agreement. **THIS AGREEMENT IS NOT EFFECTIVE UNTIL EXECUTED BY LESSOR AND THE DAMAGE/CLEANING DEPOSIT IS RECEIVED.** Damages to the Fairgrounds' resulting from the EVENT activities will be charged to the LESSEE at replacement cost plus labor; the cost of labor not exceeding the average cost for such labor in the Tri-Cities area. Charges for repairs will be subtracted from the damage/cleaning deposit, as may any other fees specified as subject to forfeiture of the damage/cleaning deposit elsewhere in this Agreement. The remaining balance, if any, of the damage/cleaning deposit, if any, will be returned to the LESSEE in approximately ten (10) business days after the EVENT date. If the damage/cleaning deposit is less than the amount of damage, LESSEE remains liable for the balance. Neither the Benton County Fairgrounds nor Benton County assume any liability whatsoever for any loss or injury to the LESSEE or LESSEE'S property while on Benton County Fairgrounds' property.

9. INSURANCE

- a. LESSEE agrees to purchase, and maintain in force through the duration of this Agreement **commercial general liability insurance with a limit in the sum of not less than one million dollars (\$1,000,000) per occurrence for bodily injury or death of any one person and property damage and two million dollars**

(\$2,000,000) in the aggregate for bodily injury to, or death of, any number of persons and property damage. Said policy may not exclude any activities expected to be, or actually, undertaken during the EVENT or setup/takedown. Said policy shall name Benton County Fairgrounds, Benton County, its officers, directors, its elected officials, agents and employees as additional insured and shall include a provision prohibiting cancellation of said policy except after thirty (30) days prior written notice to LESSOR. A CERTIFICATE OF LIABILITY INSURANCE COVERAGE AS REQUIRED BY THIS SECTION SHALL BE DELIVERED TO THE LESSOR NO LATER THAN THIRTY (30) DAYS PRIOR TO THE FIRST DATE OF THE EVENT.

- b. LESSEE shall ensure that all vendors and contractors for the EVENT are either covered by their own insurance policies, covered by a policy purchased through LESSOR specifically for this EVENT, or added as an additional insured on LESSEE'S policy in the following amounts:
 1. If the vendor or contractor will be serving food or food items, or beverages other than alcoholic beverages of any type, then the policy must be a **commercial general liability policy which does not exclude claims for food poisoning, and must have limits of one million dollars (\$1,000,000) per incident, and two million dollars (\$2,000,000) general aggregate.**
- c. *Policies sufficient to meet these requirements may be available for purchase directly through LESSOR for this EVENT only, if any such vendors are not otherwise covered by appropriate insurance.*
- d. LESSEE is responsible for enforcing the above stated insurance requirements and requiring written proof from the vendors and contractors. No later than ten (10) business days prior to the EVENT, LESSEE shall provide to LESSOR proof, in the form of unaltered ACORD insurance certificates, of insurance as required above. In the case of liquor liability and food poisoning coverage, the proof must also include applicable endorsements and/or copies of the exclusions pages to evidence that such coverage is afforded.
- e. **All insurance policies required by this section shall include move-in and move-out days, as well as the event days and shall indicate these dates on the insurance certificate.**
- f. All insurance policies required by this section shall cover losses which occur during the covered period, regardless of when the claim is filed, i.e. cannot be "claims made" policies.
- g. All insurance policies required by this section shall be primary to any insurance policies or policies of self-insurance carried by LESSOR;
- h. The limits required by this section are not intended to an indication of liability nor are they to be considered limits on amount of indemnification;

- i. LESSEE SHALL PROVIDE, NO LATER THAN THIRY (30) DAYS PRIOR TO ANY EVENT COVERED BY THIS AGREEMENT, PROOF OF ALL FORMS OF INSURANCE REQUIRED IN THIS SECTION. THIS PROOF SHALL CONSIST OF A CERTIFICATE OF INSURANCE NAMING "BENTON COUNTY FAIRGROUNDS" AS CERTIFICATE HOLDER, AS WELL AS COPIES OF ALL KEY PROVISIONS, EXCLUSIONS, AND ENDORSEMENTS FROM THE POLICY INCLUDING THE REQUIRED ADDITIONAL INSURED LANGUAGE.

10. PERMITS

- a. All necessary city and/or state permits and/or licenses must be obtained and presented to LESSOR prior to the first day of the EVENT, or the first day of set up if applicable.
- b. LESSEE shall comply with all Federal, State and local laws, ordinances, rules and regulations. LESSEE acknowledges that all buildings, premises or structures located in or upon the leased premises are considered "public buildings" for purposes of RCW Chapter 70.160 that prohibits smoking in and around public places. LESSEE shall ensure that the security personnel retained pursuant to section 11 of this agreement are specifically instructed to enforce the provisions of RCW Chapter 70.160.

11. SECURITY

- a. LESSEE takes full responsibility for the safety and well being of participants while they are participating in the EVENT. LESSEE is responsible for inspecting the building and premises and ensuring that they are sufficient to provide for the safety and security of event participants. LESSOR will make all reasonable attempts to honor requests for a walk through of premises and buildings to be leased provided that such walk through will be by appointment only, during regular business hours.
- b. LESSEE shall designate a primary and secondary contact person for purposes of the EVENT. These contact persons shall be persons who have authority, during the EVENT, to direct how the EVENT is being operated, including the operations of any vendors (such as music DJs, food concessionaires, etc). **Within ten (10) days following execution of this contract, LESSEE shall furnish LESSOR with these contact persons on a form provided by LESSOR including cellular telephone numbers which will allow these persons to be contacted AT ALL TIMES DURING THE OPERATION OF THE EVENT and copies of their photo ID.** Depending on the size of the event, LESSEE may designate more contact persons at LESSEE'S discretion, but shall do so in writing. If event security or law enforcement officers responding to any incident at the event are unable to contact any designated contact for a period of 15 minutes or longer, then LESSOR shall have the option to terminate the EVENT and LESSEE'S license to use the facility pursuant to this Agreement. If the EVENT is terminated for these reasons, LESSEE forfeits all right to recover any payments paid to date.

12. SERVING ALCOHOL

- a. Alcoholic beverages shall not be served at this EVENT.
- b. The LESSEE agrees to abide by and enforce within the EVENT the County Policies regarding the presence of alcohol or the use of alcoholic beverages on County leased property.
- c. LESSOR'S POLICY IS THAT NO LIQUOR BE CONSUMED BY ANY INDIVIDUAL UNDER TWENTY-ONE (21) YEARS OF AGE. VIOLATION OF THE POLICY SHALL CONSTITUTE A SUBSTANTIAL AND SIGNIFICANT BREACH OF THE AGREEMENT AND IF LESSOR LEARNS OF SUCH VIOLATION, LESSOR SHALL HAVE THE AUTHORITY TO IMMEDIATELY TERMINATE THE EVENT.

13. NOISE CONTROL

- a. Noise is considered a nuisance if it exceeds 55 decibels between the hours of 6:00 am and 8:00 pm and 45 decibels between the hours of 8:00 PM and 6:00 AM (Kennewick Municipal Code Title 9 Health Sanitation). Decibel reading will be taken at the intersection of 10th Street and Oak Street.
- b. If a reasonable complaint is received alleging excessive noise, the Lessee will be given a warning to reduce the noise level. The volume and bass must be reduced to an acceptable level and remain there. A second complaint will result in the event being continuously monitored by a BCF representative at Lessee's cost in the amount of \$100.00 per hour, which may be deducted from the damage/cleaning deposit. A third complaint will result in the event being shut down and all parties asked to leave with Lessee forfeiting all lease payments, damage/cleaning deposit and license to use the facility. A complaint which results in a citation being issued or arrest being made pursuant to Kennewick code 9.48.010 and 9.48.020, or any other applicable state or local law, shall also result in the event being shut down and all parties required to leave with Lessee forfeiting all lease payments, damage/cleaning deposit and license to use the facility.

14. TERMINATION OR AMENDMENT

- a. Unless otherwise specified herein, the LESSOR reserves the right to terminate or amend this agreement at any time by giving the LESSEE thirty (30) days written notice. Notice will be assumed to be received on the day (except Sundays) following the date when it is addressed to Lessee's address and mailed by first class and certified mail.

15. INDEMNIFICATION AND HOLD HARMLESS

- a. LESSEE agrees to defend, indemnify and hold harmless LESSOR and its elected and appointed officials employees, agents, licensees and representatives, from and against any and all suits, claims, actions, losses, costs, penalties, damages, attorneys' fees and all other costs of defense of whatever kind or nature arising out of injuries to or death

of any and all persons (including subcontractors, agents, licensees or representatives, and any of their employees) or damage to or destruction of any property (including, without limitation, LESSEE or LESSOR'S property or any other activity or omission which results in civil liability of any sort or type) in any manner caused by, resulting from incident to, connected with or arising out of LESSEE'S use of the facilities or performance under this agreement, unless such injury, death or damage is caused by the sole negligence of LESSOR. In the event of litigation between the parties to enforce the rights under this paragraph, LESSOR shall be entitled to attorney's fee and all other costs incurred in establishing its rights. LESSEE'S obligations pursuant to this article include investigating, adjusting and defending any cause of action or claim falling within the parameters as set out in this article.

- b. In any and all claims against the LESSOR, its officers, officials, employees and agents by any employee of the LESSEE, 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 LESSEE 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 LESSEE expressly waives any immunity the LESSEE might have had under such laws. By executing this Contract, the LESSEE 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 LESSEE makes with any subcontractor or agent performing work hereunder. These indemnification obligations shall specifically include indemnification for any fines, fees, penalties or costs incurred by LESSEE during the course of the event for violations of any law, ordinance or regulation including, but not limited to, Washington's law on Smoking in Public Places, RCW Chapter 70.160. In the event of litigation between the parties to enforce the rights under this paragraph, LESSOR shall be entitled to attorney's fee and all other costs incurred in establishing its rights. LESSEE'S obligations pursuant to this article include investigating, adjusting and defending any cause of action or claim falling within the parameters as set out in this article.

16. FAIRGROUNDS CONTACT

- a. The following person(s) is the contact representative of the Benton County Fairgrounds:
- Jeff, Farrin, Jim and/or Denise 543-0060
- b. This person(s) may be contacted for the following reasons:
1. To access locked locations of the Fairgrounds for functions essential to the EVENT;
 2. In the event of malfunction of services or equipment essential to the EVENT.
- c. This person(s) SHALL be contacted (any one of them) if any of the following occurs:
1. The police department is summoned to the scene for any criminal investigation which takes place on the premises of the Fairgrounds;

2. The fire department or an ambulance is summoned to the scene for an incident involving injury or illness to a person on the premises of the Fairgrounds;
3. LESSEE is unable to ensure that all persons have left the premises of the Fairgrounds at the termination of the EVENT;
4. There is a situation such as a fire, explosion or structural failure, which results in substantial damage to LESSORS' property and/or injury to persons.

17. POLICIES AND PROCEDURES

In signing this Lease Agreement, the LESSEE signifies that said LESSEE has been provided a copy of the Policies and Procedures governing the use of the Benton County Fairgrounds and has had an opportunity to review those policies and procedures. The parties agree that the provisions contained within the Policies and Procedures manual are hereby incorporated into this Agreement and any violation of such provisions shall constitute a breach of this Lease Agreement.

I, Millard Edwards, Treasurer (name and job title/position) have read and fully understand this Agreement. I hereby certify that I have the authority to bind Ye Olde Car Club of the Tri-Cities to the terms and conditions set forth herein. In the event I do not have the authority, I acknowledge and agree that I shall be personally liable for any payments due under this Agreement and for any breach that occurs under the Agreement. I agree to abide by the conditions set forth in this Lease Agreement and assume the responsibility for enforcing these policies.

LESSOR: BENTON COUNTY

**LESSEE: Ye Olde Car Club
of the Tri-Cities**

BY: _____
Chairman of the Board

BY: Millard R Edwards

Date: Feb 17, 2009

Date: _____

Name: Millard R. EDWARDS

Title: TREASURER

Approved as to form:

BY: _____
Civil Deputy Prosecutor

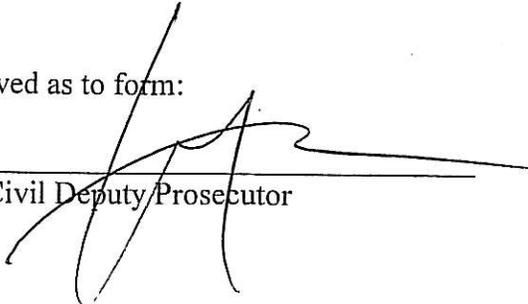


EXHIBIT A
FEEs APPLICABLE TO LESSEE'S LICENSE TO USE THE FACILITIES

DAMAGE/CLEANING DEPOSIT

Refundable in approximately ten (10) business days after the EVENT, only if the building and/or rented area is completely clean, all garbage in dumpster(s), and tables and chairs re-stacked.

DEPOSIT TOTAL: \$ 250.00

BUILDING(S) AND/OR AREA(S) FEES

Building 2, Commercial Pavilion, Oak Street Area and Carnival Area
 \$ 1,030.00 X 1 Days = \$ 1,030.00

Includes: Move-In Days 4/30 – 5/1/09

BUILDING(S)/AREA TOTAL: \$ 1,030.00

EQUIPMENT RENTAL FEES

No equipment needed.

EQUIPMENT RENTAL TOTAL: \$ 0

LESSOR FURNISHED INSURANCE FEES

Lessee will provide.

INSURANCE TOTAL: \$ 0

SECURITY FEES

Lessee will provide.

SECURITY TOTAL: \$ 0

REFUSE DISPOSAL FEES

Bin Size	Number	Cost	Total
4 Yard Bin	1	Included	0

REFUSE TOTAL: \$ 0

CAMPING FEES

\$ 10.00 per day/camper with hookups
 \$ 6.00 per day/camper without hookups

Camping fees need to be collected by the Lessee and paid to BCF within 2 business days.

NAME: Ye Olde Car Club of the Tri-Cities

EVENT DATE: May 2, 2009

SUMMARY OF FEE(S)

Damage/Cleaning Deposit	\$ <u>250.00</u>
Building(s)/Area Fees	\$ <u>1,030.00</u>
Equipment Fees	\$ <u>0</u>
Insurance Fees	\$ <u>0</u>
Security Fees	\$ <u>0</u>
Refuse Disposal Fees	\$ <u>0</u>
Other Fees	\$ <u>Camping Fees</u>

TOTAL FEE: \$ 1,280.00
Plus Camping Fees

**BENTON AND FRANKLIN COUNTIES
ACTION SUMMARY COVER SHEET**

COPY

AGENDA ITEM	TYPE OF ACTION NEEDED	
Amendment #1 to #07/09-CMH-LCC with Lourdes Counseling Center	<input checked="" type="checkbox"/> Execute Contract	<input checked="" type="checkbox"/> Consent Agenda
	<input checked="" type="checkbox"/> Pass Resolution	<input type="checkbox"/> Public Hearing
Prepared By: Carol Carey	<input type="checkbox"/> Pass Ordinance	<input type="checkbox"/> 1 st Discussion
	<input type="checkbox"/> Pass Motion	<input type="checkbox"/> 2 nd discussion
	<input type="checkbox"/> Other	<input type="checkbox"/> Other

BACKGROUND INFORMATION

The Department of Human Services would like amend the Agreement with Lourdes Counseling Center to add provisions to include a Peer Counselor and a Rapid Enrollment Clinic.

SUMMARY

Award: The consideration is calculated per the Reimbursement schedule on page 3 of the amendment.

Period: October 1, 2007 through September 30, 2009.

Funding Source: Greater Columbia Behavioral Health

RECOMMENDATION

- Sign the resolution to accept the proposed amendment.
- Approve the proposed amendment by signing all the copies where indicated.

FISCAL IMPACT

Funding for the services described in this Amendment is provided by the Greater Columbia Behavioral Health contract. **There is no impact on the current expense budget.** All revenues and expenditures are from the Fund 0108-101 Human Services Budget.

MOTION

To approve signing Amendment #1 to #07/09-CMH-LCC Agreement and authorize the Chair to sign on behalf of the Board.

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 AMENDMENT #1 OF AGREEMENT 07/09-CMH-LCC
BETWEEN THE BENTON AND FRANKLIN COUNTIES DEPARTMENT OF
HUMAN SERVICES AND LOURDES COUNSELING CENTER FOR THE
ADDITION OF A PEER COUNSELOR AND TO PROVIDE RAPID ENROLLMENT
FOR CLIENTS and**

WHEREAS, Lourdes Counseling Center would be adding one Peer Counselor to their staff and they would provide a Rapid Enrollment Clinic for mentally ill clients,

NOW, THEREFORE, BE IT RESOLVED, that the Chairs of the Boards of Benton and Franklin County Commissioners be hereby authorized to sign, on behalf of their respective county, Agreement Amendment #07/09-CMH-LCC-1.

Dated this day of 2009.

Dated this day of2009.

Benton County Board of Commissioners

Franklin County Board of Commissioners

Chair, Benton County Commissioners

Chair, Franklin County Commissioners

Member

Member

Member

Constituting the Board of County Commissioners,
Benton County, Washington

Member

Constituting the Board of County Commissioners,
Franklin County, Washington

Attest:

Attest:

Clerk of the Board

Clerk of the Board

Originals: Franklin County
Human Services
Benton County

Carey

**BENTON AND FRANKLIN COUNTIES
ACTION SUMMARY COVER SHEET**

COPY 

AGENDA ITEM	TYPE OF ACTION NEEDED	
Agreement #08/09-FBG-LCS with Lutheran Community Services	<input checked="" type="checkbox"/> Execute Agreement	<input checked="" type="checkbox"/> Consent Agenda
	<input checked="" type="checkbox"/> Pass Resolution	<input type="checkbox"/> Public Hearing
	<input type="checkbox"/> Pass Ordinance	<input type="checkbox"/> 1 st Discussion
	<input type="checkbox"/> Pass Motion	<input type="checkbox"/> 2 nd discussion
Prepared By: Carol Carey	<input type="checkbox"/> Other	<input type="checkbox"/> Other

BACKGROUND INFORMATION

It is the purpose of this Agreement is to provide services to promote recovery for adults who are seriously mentally ill (SMI) and resiliency for children who are seriously emotionally disturbed (SED), in accordance with the federal Mental Health Block Grant (MHBG) requirements

SUMMARY

Award: \$39,010.00

Period: October 1, 2008 through September 30, 2009

Funding Source: Greater Columbia Behavioral Health

RECOMMENDATION

- Sign the resolution to accept the proposed agreement.
- Approve the proposed agreement by signing all the copies where indicated.

FISCAL IMPACT

There is no impact on the current expense budget. All revenues and expenditures are from the Fund 0108-101 Human Services Budget.

MOTION

To approve signing Agreement #08/09-FBG-LCS with Lutheran Community Services NW to implement the federal Mental Health Block Grant funding, and to authorize the Chair to sign on behalf of the Board.

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 THE REQUEST FOR SIGNATURE FROM THE BOARDS OF
BENTON AND FRANKLIN COUNTY COMMISSIONERS FOR AN AGREEMENT
BETWEEN THE BENTON AND FRANKLIN COUNTIES DEPARTMENT OF
HUMAN SERVICES AND LUTHERAN COMMUNITY SERVICES NW FOR
MENTAL HEALTH BLOCK GRANT FUNDING TO PROVIDE SERVICES TO
PROMOTE RECOVERY FOR SERIOUSLY MENTALLY ILL ADULTS AND
RESIDENCY FOR SERIOUSLY EMOTIONALLY DISTURBED CHILDREN, and

WHEREAS, Carrie Huie-Pascua, Director of Human Services, believes it is in the best interest of Human Services and the service needs of these mentally ill persons, that the proposed Contract Agreement #08/09-FBG-LCS be approved as presented for a term commencing October 1, 2008 and terminating September 30, 2009, **NOW, THEREFORE, BE IT RESOLVED**, that the Chairs of the Boards of Benton and Franklin County Commissioners be hereby authorized to sign, on behalf of their respective county, Agreement #08/09-FBG-LCS.

Dated this day of 2009.

Dated this day of2009.

Benton County Board of Commissioners

Franklin County Board of Commissioners

Chair, Benton Co. Commissioners

Chair, Franklin Co. Commissioners

Chair Pro Tem

Chair Pro Tem

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

Member
Constituting the Board of County Commissioners,
Franklin County, Washington

Attest:

Attest:

Clerk of the Board

Clerk of the Board

Originals: Benton County Commissioners
Franklin County Commissioners
Human Services

Carey

RESOLUTION

**BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY,
WASHINGTON:**

IN THE MATTER OF COUNTY FRANCHISES RE: GRANTING A FRANCHISE TO ROZA HEIGHTS WATER ASSOCIATION, TO CONTINUE A NON EXCLUSIVE FRANCHISE FOR WATER LINES FACILITY, LOCATED IN BENTON COUNTY;

WHEREAS, a public hearing was held January 21, 2009 to consider the request of Roza Heights Water Association. who has applied to continue a non exclusive existing franchise for a water line facility in unincorporated Benton County, 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 ten year (10) period, expiring February 228, 2019;
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, Roza Heights Water Association 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 2nd day of March, 2009

Chairman

Chairman Pro-Tem

Member

Attest: _____
Clerk of the Board

Constituting the Board of County
Commissioners of Benton County,
Washington

RBD:LSS

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY ROADS, RE: HORSE HEAVEN VISTA IMPROVEMENTS
- CE 1849 REIMB

WHEREAS, it is the intention of the Board of County Commissioners to improve Horse Heaven Vista; NOW, THEREFORE,

BE IT RESOLVED that the County Engineer is authorized to schedule and advertise a bid date for Horse Heaven Vista Improvements - CE 1849 REIMB; and

BE IT FURTHER RESOLVED that the Plans for this project, heretofore approved by the County Engineer, be and hereby are approved, and the Chairman is authorized to sign Sheet 1 of said Plans on behalf of Benton County.

Dated this 2nd day of March 2009.

Chairman

Chairman Pro-Tem

Member

Attest: _____
Clerk of the Board

Constituting the Board of County
Commissioners of Benton County,
Washington

RBD:lss

<u>AGENDA ITEM</u>		<u>TYPE OF ACTION</u>	
Meeting Date :	March 2, 2009	Execute Contract :	
Subject :	Interlocal Ag.	Pass Resolution :	X
Prepared by :	SWB	Pass Ordinance :	
Reviewed by :		Pass Motion :	
		Other :	X
		Consent Agenda :	X
		Public Hearing :	
		1st Discussion :	
		2nd Discussion :	
		Other :	

BACKGROUND INFORMATION

Beginning in 2004, we have had the Olympia Street reconstruction shown on the six year program from W. 45th Avenue to the Intertie with County being the sole agency doing the reconstruction. Since that time, the City of Kennewick has annexed a portion of Olympia Street and has secured funding to reconstruct the street from 27th Avenue to the South City Limits line. They have requested that we reconstruct our portion of the street in conjunction with their project. The construction would probably begin in the Winter of 2009 or Spring of 2010.

SUMMARY

We are proposing to reconstruct Olympia Street with the City of Kennewick being the lead agency overseeing the project. To do this, we are submitting an Interlocal Agreement that has been reviewed by both agencies for your approval.

RECOMMENDATION

We would recommend approval of the Interlocal Agreement and the eventual reconstruction of Olympia Street.

FISCAL IMPACT

Estimated cost of the County portion is approximately \$310,000.00. We have STP/U funding in the amount of \$192,000.00 that can be used for this project leaving a balance of \$118,000.00 to come from County funds.

MOTION

Move to approve as a part of the consent agenda

Exhibit "C"

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AN AGREEMENT BETWEEN THE CITY OF KENNEWICK AND BENTON COUNTY TO RECONSTRUCT OLYMPIA STREET FROM THE SOUTH CITY LIMITS TO CR 397

WHEREAS, the City of Kennewick be will be reconstructing Olympia Street from the South City Limits to West 27th Avenue, and

WHEREAS, the Benton County desiring to have Olympia Street from the South City Limits to CR 397 reconstructed, has requested that the City of Kennewick undertake the reconstruction as a part of the City of Kennewick's contract to reconstruct Olympia Street from the South City Limits to West 27th Avenue, and

WHEREAS, an Interlocal Agreement defining the responsibilities of the County and the City has been prepared and has been Approved as to Form by the Prosecuting Attorney's Office, and

WHEREAS, the Director of Public Works has recommended approval of said Interlocal Agreement, NOW, THEREFORE,

BE IT RESOLVED that the Interlocal Agreement by and between the City of Kennewick and Benton County for the reconstruction of Olympia Street from the South City Limits to CR 397 is hereby approved and the Chairman is authorized to sign said agreement.

Dated this _____ day _____ 20_____.

Chairman

Chairman Pro-Tem

Member

Attest: _____
Clerk of the Board

Constituting the Board of County
Commissioners of Benton County,
Washington

RBD:SWB

Return to: City of Kennewick
P.O. Box 6108
Kennewick, WA 99336

INTERLOCAL COOPERATION AGREEMENT
Olympia Street

THIS AGREEMENT is made and entered into this ___ day of _____, 20____, by and between the City of Kennewick, whose address is P.O. Box 6108, Kennewick, Washington 99336 (hereinafter "the City") and Benton County, whose address is P.O. Box 1001, Prosser, Washington, 99350 (hereinafter "the County").

WHEREAS, in the interest of public safety and motor vehicle traffic safety, the County desires to have the City reconstruct Olympia Street from the South City Limits to CR 397 as defined in **Exhibit "A"**, in conjunction with the City's Olympia Street project; and

WHEREAS, the parties hereto agree that the City should act as the Contract Administrator pursuant to the Washington Interlocal Cooperation Act, RCW 39.34, and RCW 35.21.730 - .740 and in furtherance thereof, the City will execute the contract for the convenience and benefit of the County.

NOW, THEREFORE, in consideration of the mutual agreements and covenants herein contained, the parties agree as follows:

1. **Contract Administration.** The City of Kennewick agrees to administer and oversee reconstruction of Olympia Street as defined in **Exhibit "A"**, attached hereto and by this reference incorporated herein. The City contract administration responsibilities will include the following:
 - A. The preparation of plans, specifications, estimates, and bid solicitation documents. Plans, specifications, and estimates shall be submitted to Benton County for review prior to soliciting bids.
 - B. The selection of a contractor in accordance with all federal, state, and local laws and bidding requirements.
 - C. The award and execution of the construction contract and administration oversight of contract implementation, as part of their Olympia Street project.

- D. The submission to the County of a certified statement setting forth all of the City's labor, engineering services, equipment, supplies and expenses involved in project design and contract administration.
- E. Certify all payrolls to ensure that the amounts are appropriate for the local area and in compliance with all federal, state, and local laws.
- F. Ensure that the contractor complies with all provisions of the construction contract and that all work is performed in accordance with Washington State Department of Transportation and Federal Highway Administration rules, regulations, and standards.

2. Responsibilities of Benton County: The County shall have the following duties and responsibilities under this Agreement:

- A. Approve all specifications, plans, estimates, bid documents, and contract provisions.
- B. Pay directly to the City all amounts set forth in certified statements of the City's labor, engineering services, equipment, supplies, and expenses involved in project design and contract administration allocated to the specific project described herein within thirty (30) days of receipt of a certified statement of these documents.

3. Representation, Warranties, and Indemnities:

- A. The County represents and warrants to the City that it has authority to enter into this Interlocal Agreement pursuant to RCW 39.34.030(2). The County agrees to assume and accept the City's contract obligations arising out of the County's portion of the Olympia Street contract to be executed between the City and the contractor, notwithstanding the fact that the City will actually sign said contract for the convenience and benefit of the County. The County shall not at any time allow the City to become responsible for actual payment of any amounts due to the contractor under their portion of the – Olympia Street: South City Limits to CR 397 contract regardless of whether any dispute may arise with said contractor.
- B. The City represents and warrants to the County that it has the authority to enter into this Interlocal Agreement pursuant to RCW 39.34.030(2). The City shall not at any time allow the County to become responsible for actual payment of any amounts due to the contractor under their portion of the Olympia Street contract regardless of whether any dispute may arise with said contractor.
- C. Each party shall defend, protect, and hold harmless the other party from and against all claims, suits, and/or actions arising from negligent or intentional acts or omissions of that party's employees and agents while performing this Agreement. In case of joint negligence, any damages allowed shall be levied in proportion to the percentage of negligence attributed to each party. In addition, the City shall indemnify the County for any damages recovered from the performance bond of the contractor.

4. **Duration of Agreement.** The term of this Agreement shall commence upon the execution by both parties and shall expire on or before December 31, 2011.
5. **Termination of Agreement.** This Agreement may be terminated by either party, by providing written notice to the designated contacts for each party identified in Section 12 of this Agreement. This written notice must be served on the other party within sixty days (60) of the date of termination.
6. **Partial Invalidity.** Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law. Any provisions of this Agreement, which shall prove to be invalid, void, or illegal, shall in no way affect, impair, or invalidate any other provisions herein, and such other provisions shall remain in full force and effect.
7. **No Third-Party Rights.** Except as expressly provided herein, nothing in this Agreement shall be construed to permit anyone other than the parties hereto and their successors and assigns to rely upon the covenants and agreements herein not to give any such third party a cause of action (as a third-party beneficiary or otherwise) on account of nonperformance hereunder.
8. **Assignability.** The rights, duties, and other obligations of either party to this Agreement may not be assigned to any third party without the prior written consent of the other party, which consent shall not be unreasonably withheld.
9. **Entire Agreement.** This Agreement, including **Exhibits "A", "B" and "C"** and any amendments thereto mutually agreed to by the parties, constitutes the entire Agreement between the parties hereto and no other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or bind any of the parties. Either party may request changes to the Agreement. Proposed changes that are mutually agreed upon shall be incorporated by written amendment hereto.
10. **Dispute Resolution.** It is the parties' intent to resolve any disputes relating to the interpretation or application of this Agreement informally through discussions at the staff level. In the event disputes cannot be resolved informally at the staff level, then the parties agree to first submit the dispute to non-binding mediation/dispute resolution before resorting to litigation.
11. **Litigation.** In the event that any suit or action is instituted by either party to enforce compliance with or interpret any of the terms, covenants, or conditions of this Agreement, the prevailing party shall be entitled to collect, in addition to necessary court costs, such sums as the court may adjudge as reasonable attorney fees. The venue for any action to enforce or interpret this Agreement shall lie in the Superior Court for Benton County, Washington.
12. **Notices.** All notices and demands shall be in writing and sent to the parties hereto at their address as follows:

To Benton County:

Benton County Public Works
P.O. Box 1001
Prosser, WA 99350-0954

To City of Kennewick:

City of Kennewick
Municipal Services
P.O. Box 6108
Kennewick, WA 99336

13. Filing of Agreement. A copy of this Agreement shall be filed with the City Clerk of the City of Kennewick and with the Benton County Auditor.

14. Evidence of Authority. Upon execution of this Agreement, the City shall provide Benton County and Benton County shall provide the City with a certified copy of the resolution, ordinance, or other authority given to execute this Agreement pursuant to RCW 39.34.030(2), and said document will be attached hereto and incorporated herein as **Exhibit "B"** (City) and **Exhibit "C"** (County).

IN WITNESS WHEREOF said parties have caused this Agreement to be signed by the duly authorized officials on the day and year first written above.

CITY OF KENNEWICK,
WASHINGTON

BENTON COUNTY,
WASHINGTON

By: _____
Mayor

By: _____
Chairman, Board of County
Commissioners

Attest:

Attest:

City Clerk

Clerk of the Board

Date: _____

Date: _____

Approved as to form:

Approved as to form:

Attorney, City of Kennewick

Benton County Prosecuting Attorney

Date: _____

"
Date: _____

Exhibit "A"

Olympia Street
South City Limits to CR 397

Project length: Reconstruction - 1,500 feet
 Widening - 1,000 feet
Total County Portion - 2,500 feet

Preliminary Engineering
Obtaining Right of Way
Construction Engineering and Inspection

Contract Bid Items:

1. Street Section – 44 foot width
2. Excavation
3. Embankment In Place
4. Concrete Curb and Gutter (both sides)
5. Concrete Sidewalk (both sides)
6. Storm Drainage
7. Roadside Seeding
8. Approaches
9. Traffic Control
10. Striping and Signing
11. Clearing and Grubbing
12. Service Conduits
13. Traffic Control Labor
14. Other items as deemed necessary and agreed to by Benton County prior to installation

Exhibit "B"

Exhibit "C"

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AN AGREEMENT BETWEEN THE CITY OF BENTON CITY AND BENTON COUNTY TO SEAL COAT ROADS

WHEREAS, Benton County will be will be seal coating County roads in the Benton City area as a part of the Bituminous Surface Treatment 2009 program, and

WHEREAS, the City of Benton City desiring to have certain streets within the City limits seal coated, has requested that Benton County undertake the seal coating of those certain streets as a part of Benton County's contract to seal coat, and

WHEREAS, an Interlocal Agreement defining the responsibilities of the County and the City has been prepared and has been Approved as to Form by the Prosecuting Attorney's Office and has been approved by the City of Benton City, and

WHEREAS, the Director of Public Works has recommended approval of said Interlocal Agreement, NOW, THEREFORE,

BE IT RESOLVED that the Interlocal Agreement by and between the City of Benton City and Benton County for the Bituminous Surface Treatment 2009 is hereby approved and the Chairman is authorized to sign said agreement.

Dated this _____ day _____ 2009.

Chairman

Chairman Pro-Tem

Member

Attest: _____
Clerk of the Board

Constituting the Board of County
Commissioners of Benton County,
Washington

RBD:SWB

Return to: Benton County Engineer
P.O. Box 1001
Prosser, WA 99350

**INTERLOCAL COOPERATION AGREEMENT
BITUMINOUS SURFACE TREATMENT 2009**

THIS AGREEMENT is made and entered into this ___ day of _____, 2009, by and between the City of Benton City whose address is P.O. Box 70, Benton City, Washington 99320 (hereinafter "the City") and Benton County, whose address is P.O. Box 1001, Prosser, Washington, 99350 (hereinafter "Benton County").

WHEREAS, in the interest of public safety and motor vehicle traffic safety, the City desires to have Benton County seal coat certain city streets as defined in **Exhibit "A"**, in conjunction with Benton County's 2009 Bituminous Surface Treatment Program; and

WHEREAS, the parties hereto agree that Benton County should act as the Contract Administrator pursuant to the Washington Interlocal Cooperation Act, RCW 39.34, and RCW 35.21.730 - .740 and in furtherance thereof, Benton County will execute the contract for the convenience and benefit of the City.

NOW, THEREFORE, in consideration of the mutual agreements and covenants herein contained, the parties agree as follows:

1. **Contract Administration.** Benton County agrees to administer and oversee implementation of the bituminous surface treatment of certain city streets as defined in **Exhibit "A"**, attached hereto and by this reference incorporated herein. Benton County contract administration responsibilities will include the following:
 - A. The preparation of plans, specifications, estimates, and bid solicitation documents.
 - B. The selection of a contract in accordance with all federal, state, and local laws and bidding requirements.
 - C. The execution of the Bituminous Surface Treatment 2009 contract and administration oversight of contract implementation.

- D. The submission to the City of a certified statement setting forth all of Benton County's labor, engineering services, equipment, supplies and expenses involved in project design and contract administration.
- E. Certify all payrolls to ensure that the amounts are appropriate for the local area and in compliance with all federal, state, and local laws.
- F. Ensure that the contractor complies with all provisions of the seal coat contract and that all work is performed in accordance with Washington State Department of Transportation and Federal Highway Administration rules, regulations, and standards.

2. Responsibilities of the City of Benton City: The City shall have the following duties and responsibilities under this Agreement:

- A. Approve all specifications, plans, estimates, bid documents, and contract provisions.
- B. Pay directly to Benton County all amounts set forth in certified statements of Benton County's labor, engineering services, equipment, supplies, and expenses involved in project design and contract administration allocated to the specific project described herein within thirty (30) days of receipt of a certified statement of these documents.
- C. City maintenance forces shall have all streets listed in **Exhibit "A"** crack sealed, patched, and power broomed prior to the bituminous surface treatment options. This work shall be completed by May 1, 2009.
- D. City maintenance forces shall locate and cover all City monuments, manholes, water/sewer valves, and irrigation valves during the bituminous surface treatment operations for the roads listed in **Exhibit "A"**.

3. Representation, Warranties, and Indemnities:

- A. The City represents and warrants to Benton County that it has authority to enter into this Interlocal Agreement pursuant to RCW 39.34.030(2). The City agrees to assume and accept Benton County's contract obligations arising out of the City's portion of the Bituminous Surface Treatment 2009 contract to be executed between Benton County and the contractor, notwithstanding the fact that Benton County will actually sign said contract for the convenience and benefit of the City. The City shall not at any time allow Benton County to become responsible for actual payment of any amounts due to the contractor under their portion of the Bituminous Surface Treatment 2009 contract regardless of whether any dispute may arise with said contractor.
- B. Benton County represents and warrants to the City that it has the authority to enter into this Interlocal Agreement pursuant to RCW 39.34.030(2). Benton County shall not at any time allow the City to become responsible for actual payment of any

amounts due to the contractor under their portion of the Bituminous Surface Treatment 2009 contract regardless of whether any dispute may arise with said contractor.

- C. Each party shall defend, protect, and hold harmless the other party from and against all claims, suits, and/or actions arising from negligent or intentional acts or omissions of that party's employees and agents while performing this Agreement. In case of joint negligence, any damages allowed shall be levied in proportion to the percentage of negligence attributed to each party. In addition, Benton County shall indemnify the City for any damages recovered from the performance bond of the contractor.
4. **Duration of Agreement.** The term of this Agreement shall commence upon the execution by both parties and shall expire on or before December 31, 2009.
 5. **Termination of Agreement.** This Agreement may be terminated by either party, by providing written notice to the designated contacts for each party identified in Section 12 of this Agreement. This written notice must be served on the other party within sixty days (60) of the date of termination.
 6. **Partial Invalidity.** Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law. Any provisions of this Agreement, which shall prove to be invalid, void, or illegal, shall in no way affect, impair, or invalidate any other provisions herein, and such other provisions shall remain in full force and effect.
 7. **No Third-Party Rights.** Except as expressly provided herein, nothing in this Agreement shall be construed to permit anyone other than the parties hereto and their successors and assigns to rely upon the covenants and agreements herein not to give any such third party a cause of action (as a third-party beneficiary or otherwise) on account of nonperformance hereunder.
 8. **Assignability.** The rights, duties, and other obligations of either party to this Agreement may not be assigned to any third party without the prior written consent of the other party, which consent shall not be unreasonably withheld.
 9. **Interlocal Cooperation Act.** No special budget or funds are anticipated, nor shall be created. It is not intended that a separate legal entity be established to conduct this cooperative undertaking, nor is the acquisition, holding, or disposing of real or personal property other than as specifically provided within the terms of this Agreement anticipated. The Benton County Public Works Director shall be designated as the Administrator of this Interlocal Agreement.

10. Entire Agreement. This Agreement, including **Exhibit "A"** and any amendments thereto mutually agreed to by the parties, constitutes the entire Agreement between the parties hereto and no other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or bind any of the parties. Either party may request changes to the Agreement. Proposed changes that are mutually agreed upon shall be incorporated by written amendment hereto

11. Dispute Resolution. It is the parties' intent to resolve any disputes relating to the interpretation or application of this Agreement informally through discussions at the staff level. In the event disputes cannot be resolved informally at the staff level, then the parties agree to first submit the dispute to non-binding mediation/dispute resolution before resorting to litigation.

12. Litigation. In the event that any suit or action is instituted by either party to enforce compliance with or interpret any of the terms, covenants, or conditions of this Agreement, the prevailing party shall be entitled to collect, in addition to necessary court costs, such sums as the court may adjudge as reasonable attorney fees. The venue for any action to enforce or interpret this Agreement shall lie in the Superior Court for Benton County, Washington.

13. Notices. All notices and demands shall be in writing and sent to the parties hereto at their address as follows:

To Benton County: Benton County Public Works
P.O. Box 1001
Prosser, WA 99350-0954

To City of Benton City: City of Benton City
P.O. Box 70
Benton City, WA 99320

14. Filing of Agreement. A copy of this Agreement shall be filed with the City Clerk of the City of Benton City, who may place it on the City's website, and with the Benton County Auditor.

15. Evidence of Authority. Upon execution of this Agreement, the City shall provide Benton County and Benton County shall provide the City with a certified copy of the resolution, ordinance, or other authority given to execute this Agreement pursuant to RCW 39.34.030(2), and said document will be attached hereto and incorporated herein as **Exhibit "B"** (City) and **Exhibit "C"** (County).

IN WITNESS WHEREOF said parties have caused this Agreement to be signed by the duly authorized officials on the day and year first written above.

CITY OF BENTON CITY,
WASHINGTON

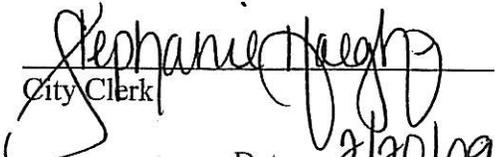
BENTON COUNTY,
WASHINGTON

By: 
Mayor

By: _____
Chairman, Board of County
Commissioners

Attest:

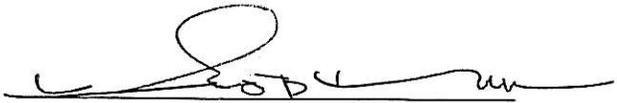
Attest:


City Clerk
Date: 2/20/09

Clerk of the Board
Date: _____

Approved as to form:

Approved as to form:


Attorney, City of Benton City
Date: 2/17/09

Benton County Prosecuting Attorney
Date: _____

Exhibit "A"

2009 Chip Seal List

Road	Limits	Length (in feet)	Width (in feet)	Square Yards
Dale Avenue	350 feet West of 9th Street to 13th Street	1,000	21	2,333
Dale Avenue	9th Street West 350 feet	350	27	1,050
Della Avenue	13th Street to 7th Street	2,100	20	4,667
Edith Avenue	10th Street to 9th Street	300	30	1,000
Ellen Avenue	7th Street to 9th Street	750	24	2,000
Ellen Avenue	9th Street to 13th Street	1,350	29	4,350
Fay Avenue	9th Street West 500 feet	500	24	1,333
8th Street	Della Avenue to Horne Drive	1,150	20	2,556
8th Street	Dale Avenue to Della Avenue	500	40	2,222
10th Street	Dale Avenue to Fay Avenue	1,500	20	3,333
11th Street	Dale Avenue to Della Avenue	325	20	722
12th Street	Della Avenue to Ellen Avenue	1,025	20	2,278

Exhibit "B"

RESOLUTION NO. 2009-03

A RESOLUTION APPROVING THE INTERLOCAL COOPERATION AGREEMENT BITUMINOUS SURFACE TREATMENT 2009 WITH BENTON COUNTY; AND AUTHORIZING THE MAYOR TO SIGN THE INTERLOCAL COOPERATION AGREEMENT

WHEREAS, Benton County has initiated a contract to seal coat certain county roads, and, as made available to the City of Benton City, an opportunity to participate by the addition of seal coating certain City streets; and

WHEREAS, it has been determined by the City Council that participation in this Interlocal Cooperation Agreement provides a mutual benefit to the City and the County; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF BENTON CITY, WASHINGTON, hereby resolves as follows:

That the City of Benton City enter into that Interlocal Cooperation Agreement Bituminous Surface Treatment 2009 between the City of Benton City and the Benton County, a copy of which is attached hereto and incorporated herein by this reference as Exhibit A; and the Mayor of the City of Benton City is authorized and directed to sign said Interlocal Cooperation Agreement.

ADOPTED this 17 day of February, 2009, by the City Council of the City of Benton City, Washington, and signed in authentication of its passage this 17 day of February, 2009.

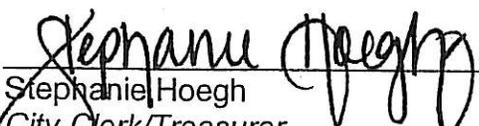
Resolution 2009-03 filed and recorded in the office of the City Clerk of the City of Benton City, Washington, this 17 day of February, 2009.



Lloyd R. Carnahan
Mayor

Attest:

Approved as to Form:



Stephanie Hoegh
City Clerk/Treasurer



Leland B. Kerr
City Attorney

RESOLUTION

m

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY ROADS RE: PROPOSED VACATION OF RIGHT OF WAY FOR THE ORIGINAL ALIGNMENT OF RIEK ROAD;

WHEREAS, THE I-82 Intertie project created a new alignment for the intersections of Riek Road and Finley Road;

WHEREAS, the asphalt was removed during the construction to a strip of right of way no longer being used as a county road due to the realignment;

WHEREAS; the strip of land is no longer needed for road purposes;

WHEREAS, part of the right of way negotiations for the I-82 Intertie stated that Benton County would instigate the vacation process for the unused section of Riek Road, said strip of right of way being the south 20 feet of Section 26 Township 8 North, Range 30 East, W.M. and the north 20 feet of Section 35, Township 8 North, Range 30 East, W.M.; lying west of Finley Road and East of I-82 Intertie (now designated CR397); NOW, THEREFORE,

BE IT RESOLVED that a Public Hearing be held at 9:05 a.m., Monday, March 30, 2009 in the Meeting Room of the Board of County Commissioners, Benton County Courthouse, Prosser, Washington, to consider the proposed vacation plan for adoption.

Dated this 2nd day of March, 2009.

Chairman of the Board.

Chairman Pro-Tem.

Member.

Attest: _____
Clerk of the Board

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



RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF APPOINTMENTS TO THE SOLID WASTE ADVISORY COMMITTEE

WHEREAS, there exists a need to establish a Benton County Solid Waste Advisory Committee (SWAC) per Washington RCW 70.95.040; and,

WHEREAS, the Benton County SWAC was established June 27, 2005; and,

WHEREAS, those listed, have indicated their interest and willingness to serve on the Committee for a 3-year term; and,

WHEREAS, the Board of Benton County Commissioners has received a recommendation from the Office of Public Works, Solid Waste Management to appoint, those listed, for a 3-year term of office; **NOW, THEREFORE**,

BE IT RESOLVED that the Board of Benton County Commissioners hereby appoint those listed, to the Benton County Solid Waste Advisory Committee for a 3-year term, said term to expire December 31, 2011.

Solid Waste Advisory Committee Members

Jim Beaver	Benton County Commissioner	PO Box 190, Prosser, WA 99350	786-5625
Lloyd Carnahan	City of Benton City, Mayor	PO Box 70, Benton City, WA 99320	588-3430
Bruce Beauchene	City of Kennewick,	98705 E. Clover, Kenn, WA 99336	783-4472
Jason Rainer	City of Prosser, Councilman	1023 Margaret St., Prosser, WA 99350	786-1562
Pete Rogalsky	City of Richland, Pub. Works Dir.	840 Northgate Dr., Richland, 99352	942-7558
Ken Dobbins	City of W. Richland, Council	5307 Blue Heron, W. Richland, 99353	967-5351
Darrick Dietrich	Basin Disposal, Inc.	PO Box 3850, Pasco, WA 99302	544-7715
Jeff Wheatley	Waste Management	PO Box 6088, Kennewick, WA 99336	308-6218
Mike Jewett	Sanitary Disposal, Inc.	PO Box 316, Hermiston, OR 97838	(541) 567-2680
Khris Olson	Public Citizen	4608 Kendell Dr., W. Richland 99353	967-7403
Patrick Puntney	Clayton-Ward Recycling	199 E. Albany, Kennewick WA 99336	582-8277

Dated this 2nd day of March, 2009.

Chairman of the Board

Chairman Pro-Tem

Member

Attest:
Clerk of the Board

Constituting the Board of County
Commissioners of Benton County,
Washington



RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY ROADS RE: SURFACE TRANSPORTATION PROGRAM FUNDS FOR THE CONSTRUCTION OF WEBBER CANYON ROAD - DENNIS ROAD TO KIONA CE 1620 CRP

WHEREAS, Local Agency Agreement (LAG) No. LA 4196 was approved and executed by the Board on August 18, 1999 to have Webber Canyon Road reconstructed from Dennis Road to Kiona; and

WHEREAS, Benton County is to receive additional Surface Transportation Program (STP) funding in the amount of \$390,000; and

WHEREAS, Local Agency Agreement Supplement Three to the LAG was approved by the Board on January 26, 2008; and

WHEREAS, Washington State Department of Transportation (WSDOT) did not execute said Supplement, and has requested the Supplement be revised to change the amount obligated for construction to \$450,867, which matches the Transportation Program approved by WSDOT in 2008; NOW THEREFORE,

BE IT RESOLVED that Supplement Three, as revised, to LAG LA 4196 be and hereby is approved and the Chairman is hereby authorized to execute said Supplement on behalf of Benton County.

Dated this 2nd day of March, 2009.

Chairman.

Chairman Pro-Tem.

Member.

Attest: _____
Clerk of the Board

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

RBD:BLT:hlm



Agency BENTON COUNTY		Supplement Number THREE
Federal Aid Project Number STPR - A031- (001)	Agreement Number LA 4196	CFDA No. 20.205 (Catalog of Federal Domestic Assistance)

The Local Agency desires to supplement the agreement entered into and executed on AUGUST 18, 1999

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:

Project Description

Name WEBBER CANYON ROAD CE 1620 CRP Length 3.35

Termini DENNIS ROAD TO KIONA CITY LIMITS

Description of Work No Change

Reason for Supplement

SUPPLEMENT WILL ENABLE BENTON COUNTY TO OBLIGATE ADDITIONAL FEDERAL DOLLARS TO CONSTRUCTION.

Does this change require additional Right of Way or Easements? Yes No

Type of Work		Estimate of Funding				
		(1) Previous Agreement/Suppl.	(2) Supplement	(3) Estimated Total Project Funds	(4) Estimated Agency Funds	(5) Estimated Federal Funds
Federal Aid Participation Ratio for PE	a. Agency	294,240.00		294,240.00	39,722.00	254,518.00
	b. Other					
	c. Other					
	d. State	3,000.00		3,000.00	405.00	2,595.00
	e. Total PE Cost Estimate (a+b+c+d)	297,240.00		297,240.00	40,127.00	257,113.00
Right of Way Federal Aid Participation Ratio for RW	f. Agency					
	g. Other					
	h. Other					
	i. State					
	j. Total RW Cost Estimate (f+g+h+i)					
Construction Federal Aid Participation Ratio for CN	k. Contract	1,217,533.00	450,867.00	1,668,400.00	225,234.00	1,443,166.00
	l. Other Non participating	4,125,361.00	-450,867.00	3,674,494.00	3,674,494.00	0.00
	m. Other					
	n. Other					
	o. Agency	100,000.00		100,000.00	100,000.00	0.00
	p. State	5,000.00		5,000.00	675.00	4,325.00
	q. Total CN Cost Estimate (k+l+m+n+o+p)	5,447,894.00		5,447,894.00	4,000,403.00	1,447,491.00
r. Total Project Cost Estimate (e+l+q)	5,745,134.00		5,745,134.00	4,040,530.00	1,704,604.00	

The Local Agency further stipulates that pursuant to said Title 23, regulations and policies and procedures, and as a condition to payment of the Federal funds obligated, it accepts and will comply with the applicable provisions.

Agency Official

Washington State Department of Transportation

By _____

Title _____

Director of Highways and Local Programs

Date Executed _____

P

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF AUTHORIZING THE CHAIRMAN OF THE BOARD TO SIGN THE AGREEMENT BETWEEN BENTON COUNTY AND COLUMBIA IRRIGATION DISTRICT FOR THE PURPOSE OF HAVING BENTON COUNTY PROVIDE WORK CREW(S) TO COLUMBIA IRRIGATION DISTRICT

WHEREAS, the Benton County Correctional Facility routinely provides alternative programs for some eligible inmates as provided by law; and

WHEREAS, the continued offering of alternative programs to full incarceration for certain non-violent offenders helps them in development of a work ethic and self discipline; and

WHEREAS, the sentencing of offenders to work crew is an effective punishment; and

WHEREAS, RCW 9.94A.725 provides for a work crew sentence for persons convicted of crimes; and

WHEREAS, individuals on the work crew can provide a benefit to the public at minimal cost; and

WHEREAS, the implementation of a work crew concept in Benton County has proven to be in the best interest of the taxpayers of Benton County; and

WHEREAS, the Jail Captain has reviewed the agreement for completeness and recommends contracting with Columbia Irrigation District for the purpose of having Benton County provide work crew(s) to Columbia Irrigation District through December 31, 2009; **NOW THEREFORE,**

BE IT RESOLVED, the Benton County Commissioners hereby approve the attached Agreement for the purpose of having Benton County provide work crew(s) to Columbia Irrigation District through December 31, 2009 and authorized the Chairman of the Board to sign the attached Agreement between Benton County and Columbia Irrigation District.

Dated this _____ day of _____, 2009.

Chairman of the Board

Member

Member

Constituting the Board of Commissioners
of Benton County, Washington.

Attest.....
Clerk of the Board

AGENDA ITEM =====	TYPE OF ACTION NEEDED =====	
Meeting Date: March 2, 2009 Subject: CID Agreement Prepared By: Keith Mercer Reviewed By: Loretta, Al Thompson	Execute Contract <u>xxx</u> Pass Resolution <u>xxx</u> Pass Ordinance Pass Motion Other	Consent Agenda <u> </u> X Public Hearing 1st Discussion 2nd Discussion Other

SUMMARY & BACKGROUND INFORMATION

Columbia Irrigation District (CID) has inquired about utilizing Benton County's work crew services. Benton County and CID have negotiated an Agreement, which will run through 12-31-2009, at a rate of \$400.00 per day. CID estimated using the work crew for 16 days.

FISCAL IMPACT

This contract will bring in an estimated \$6,400.00 in 2009

MOTION

**AGREEMENT BETWEEN BENTON COUNTY AND
COLUMBIA IRRIGATION DISTRICT
FOR THE PROVISION OF WORK CREWS**

THIS AGREEMENT is entered into by and between Benton County (hereinafter "County") and Columbia Irrigation District (hereinafter "CID") for the purpose of having Benton County provide work crew(s) to the CID for monetary compensation.

WHEREAS, the Benton County Correctional Facility routinely provides alternative programs for some eligible inmates as provided by law; and

WHEREAS, the continued offering of alternative programs to full incarceration for certain non-violent offenders helps them in development of a work ethic and self discipline; and

WHEREAS, the sentencing of offenders to work crew is an effective punishment; and

WHEREAS, RCW 9.94A.725 provides for a work crew sentence for persons convicted of crimes; and

WHEREAS, individuals on the work crew can provide a benefit to the public at minimal cost; and

WHEREAS, the implementation of a work crew concept in Benton County has proven to be in the best interest of the taxpayers of Benton County;

NOW, THEREFORE:

The parties mutually agree as follows:

1. **Purpose of Agreement:**

The purpose of this agreement is to provide an alternative to incarceration for appropriate for non-violent offenders to reduce the demand for jail facilities and provide useful public services at minimal cost.

2. **Responsibilities of Benton County:**

- a. Benton County, through the Sheriff's Office Bureau of Corrections, will provide transportation and supervision for all work crews unless otherwise agreed by the CID and the County.
- b. Inmates must meet requirements established by the County to be eligible for work crews. One requirement is that the sentencing judge or court commissioner, sentence

the inmate to work crew for all or a portion of his/her sentence.

- c. Any and all necessary documentation or paperwork regarding the work crew shall be provided by the County.
- d. The County shall provide any safety equipment such as hard hats and safety glasses as needed unless otherwise agreed by the parties.

3. **Responsibilities of the CID:**

CID shall have the following responsibilities under this agreement:

- a. Accept and utilize work crew(s) for civic improvement tasks for the benefit of the community. All tasks performed shall be unskilled labor and shall not be done on private property unless owned or operated by a nonprofit entity, except that, for emergency purposes only, work crews may perform snow removal. CID shall further ensure that the assigned civic improvement tasks have minimal negative impact on existing private industries or the labor force in Benton County, not affect employment opportunities for people with developmental disabilities contracted through sheltered workshops as defined in RCW 82.04.385, and otherwise comply with the requirements set forth in RCW 9.94A.725.
- b. Provide the necessary tools, equipment except safety equipment identified in 2(c) above, and, on occasion, supervision and training of the work crew(s).

4. **Cost Agreement:**

The work crew program costs shall be billed to CID on a monthly basis. The rate will be \$ 400.00 per day of work crew usage. This includes \$ 100.00 per day for cost of L&I coverage for the work crew participants to be paid by the County. The costs shall be reviewed annually and mutually agreed upon, in writing by all parties. The County shall bill the CID for the work crew program no later than the 20th of the proceeding month. Thereafter, the CID shall have thirty (30) days to remit payment to the County.

5. **Administration:**

The Benton County Sheriff's Office Bureau of Corrections shall administer this agreement.

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:

For the County

Benton County Sheriff's Office
ATTN: Captain Al Thompson
7122 Okanogan Pl Bldg. A
Kennewick, WA 99336
PHONE: (509) 735-6555
FAX: (509) 736-3895

For CID

Columbia Irrigation District
Attn: David St. John
10 E. Kennewick Ave.
Kennewick, WA 99336
PHONE: (509) 586-6118

Except as otherwise specified, any and all notices contemplated by this agreement or by relevant law, are effective as soon as such written notice is placed, postage pre-paid in a US Mail receptacle for pickup, *and* sent by facsimile.

If a dispute or complaint arises, pursuant to RCW 9.94A.725 as to the required minimum negative impact on existing private industries or labor force in Benton County of the assigned civic improvement tasks of any work crew utilized pursuant to this agreement, then the County may direct CID in writing, to immediately cease assigning work crews to the particular task.

If the County reasonably believes that any given task to which a work crew is assigned does not comport with the requirements set out in RCW 9.94A.725, then the County may direct CID in writing, to immediately cease assigning work crews to the particular task.

If CID receives written notification to immediately cease assigning work crews to a particular task as set forth in this section, then immediately upon receipt of such notification, it shall cease assigning work crews to that particular task. Thereupon, it is the responsibility of CID to assign alternate tasks to work crews, which meet the requirements of this agreement and RCW 9.94A.725.

Under no circumstances shall written notice from the County to cease assigning work crews to a particular task pursuant to the provisions in this section relieve either party of the duty to provide 30 days written notice of intent to termination this agreement. PROVIDED that if, following written notice as set out in this section, if CID does not immediately cease assigning work crews to the task referred to, then County may, at its option, terminate this agreement immediately.

6. **Duration:**

The term of this Agreement shall begin when executed by both parties and shall expire on December 31, 2009.

7. **Termination:**

At the election of either party this agreement may be terminated with or without cause upon the giving of thirty (30) days' written notice to the other party, with the time period calculated exclusive of the date of mailing and faxing the written notice. CID agrees to pay for all work crew days provided up to and including the date of termination.

8. **Indemnification/Hold Harmless:**

- a. CID 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 (including expenses of arbitration), 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 CID's acts, errors or omissions in the performance of this Agreement, including any claim by any interested party pursuant to provisions of RCW 9.94A.725 regarding the requirements that assigned civic improvement tasks have a minimum negative impact on existing private industries or labor force in Benton County. PROVIDED, that the CID'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. Should both parties be held by a court of law to be at fault, each party shall share in any and all damages, liability, loss and judgments proportionate to their respective percentage or share of fault.
- b. In any and all claims against the COUNTY, its officers, officials, employees and agents by any employee of the CID, 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 CID 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 CID expressly waives any immunity the CID might have had under such laws. BY EXECUTING THIS AGREEMENT, THE CID 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 CID MAKES WITH ANY SUBCONTRACTOR OR AGENT PERFORMING WORK HEREUNDER.

- c. The CID'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 CID, the CID's employees, agents or subcontractors.

9. **Modifications:**

Any modification to this agreement shall be by mutual agreement, in writing and signed by each of the parties.

10. **Severability:**

- a. If a court of competent jurisdiction holds any part, term or provision of this Agreement 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 Agreement did not contain the particular provision held to be invalid.
- b. If it should appear that any provision of this Agreement 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.

11. **Entire Agreement:**

The parties agree that this Agreement is the complete expression of its terms and conditions. Any oral or written representations or understandings not incorporated in this Agreement are specifically excluded.

12. **Non-Waiver of Rights:**

The parties agree that the excuse or forgiveness of performance, or waiver of any provision(s) of this agreement 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 agreement at a later time.

13. **Choice of Law, Jurisdiction and Venue:**

- a. This Agreement 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

Agreement 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 Agreement shall be instituted and maintained only in any of the courts of competent jurisdiction in Benton County, Washington.

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

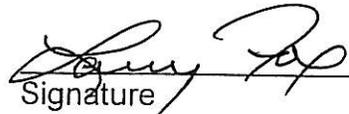
Dated: _____

Dated: 2/24/09

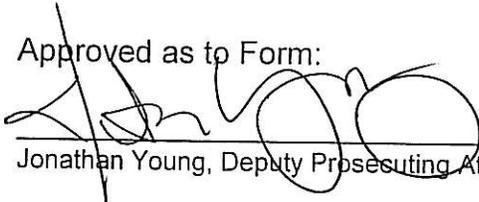
BENTON COUNTY BOARD OF COMMISSIONERS

Columbia Irrigation District

Max Benitz Jr., Chairman


Signature

Approved as to Form:


Jonathan Young, Deputy Prosecuting Attorney

LARRY FOX SEC./MGR.
Print Name/Title

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF PURCHASING FOUR (4) KUSTOM RAPTOR RP-1 RADAR DEVICES

WHEREAS, the Benton County Sheriff's Office sought and received a WASPC Traffic Safety Grant for four (4) radars w/dual antennas not to exceed \$5,600; and

WHEREAS, resolution 08-131 and 08-132 authorizes the purchase of materials, equipment and supplies valued between \$5,000 and \$25,000 without advertisement and formal sealed bidding if the county secures written quotes from different vendors on the vendor list; and

WHEREAS, the Benton County Sheriff's Office has received a written statement certifying that Kustom Signals, Inc. of Lenexa, KS is a sole source manufacture and supplier of the KUSTOM Raptor RP-1 radar; and

WHEREAS, the Patrol Administrative Sergeant has received and reviewed a quote from KUSTOM Signals Inc. in the amount of \$5,556 excluding tax, **NOW, THEREFORE**

BE IT RESOLVED, by the Board of Benton County Commissioners, Benton County Washington, hereby authorizes the purchase of four (4) Kustom Raptor RP-1 radar devices from KUSTOM Signals, Inc, Lenexa, KS not to exceed the amount of \$6,500.

Dated this _____ day of _____, 2009.

Chairman of the Board

Member

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

Attest: _____
Clerk of the Board



A PUBLIC SAFETY EQUIPMENT COMPANY

February 25, 2009

Benton Co SO
7122 W. Okanogan Pl.
Kennewick, WA 99336

Dear Sgt. Dan McCary:

Thank you for your interest in our **Raptor RP-1** two-piece directional moving/stationary radar. For your records, we would like to provide the following statement: Kustom Signals, by signature below, certifies that it is the "*sole source*" manufacturer and supplier of the Raptor RP-1 radar.

The Raptor RP-1 is the latest innovation in directional/stationary moving radar from Kustom Signals. The Raptor RP-1 introduces several new features and technology with the smallest moving radar offering on the market.

- The Raptor RP-1 features a new LCD display and counting unit that is only 16 cubic inches and a new 13.5 cubic inch K-band antenna that measures only 3" square. The system can be mounted in a variety of locations saving precious dash and windshield space. **Both the display and the antenna are waterproof.**
- The Raptor RP-1 is the first two-piece moving radar with a LCD full graphical display. This allows the radar to display full text messages including, "Fork Test," "Antenna Error," "Fast Tracking," and "Fastest Locked" rather than three letter abbreviations that are common with current moving radar systems.
- The Raptor RP-1 introduces a new patent pending feature to assist the officer with target tracking history. **DuraTrak™** target signal tracking graphic displays a moving bar that indicates to the user the signal strength duration of a target vehicle. This feature is not showing the user instantaneous signal strength. Rather, the DuraTrak graphic displays the accumulated signal to noise ratio of the current fastest and strongest targets.
- The Raptor RP-1 includes Kustom's patented **TruTrak™** feature to interface with the vehicle's speed sensor (VSS). The speed sensor's input steer the Digital Signal Processor (DSP) to search for the Doppler patrol signal. This technique virtually eliminates patrol shadowing and patrol combining.
- The Raptor RP-1 can be operated with or without speedometer input. If the **TruTrak™** speedometer input is not connected, the unit will use its patented Smart Patrol Search (SPS) software to reduce patrol shadowing and patrol combining when coming out of Hold mode.
- The Raptor RP-1 has the ability to interface with Kustom Signal's In-Car Video systems to help establish "probable cause."
- The Raptor RP-1 display includes manual control or automatic backlight adjustment to ambient light levels with four settings to choose from. The display also features complete enforcement control from the front panel in case the remote is damaged or lost.

I hope this information is helpful. If you need anything further, please do not hesitate to give me a call at 1-800/4KUSTOM (458-7866). You can reach me from 7:00am to 4:00pm, Central Time.

Sincerely,

Emily Middleton
Account Manager

9325 Pflumm
Lenexa, KS 66215-3347
www.kustomsignals.com

TEL: 800-458-7866
913-492-1400
FAX: 913-492-1703





Quotation

KUSTOM SIGNALS, INC.

A SUBSIDIARY OF PUBLIC SAFETY EQUIPMENT, INC
9325 Pflumm, Lenexa KS 66215-3347
Tel 913-214-1400 Fax 913-492-1703
jkustomsignals.com www.kustomsignals.com

Date 02/25/2009

To... DAN MCCARY
BENTON CO SHERIFF'S OFFICE

7122 W OKANOGAN PL
KENNEWICK WA 99336

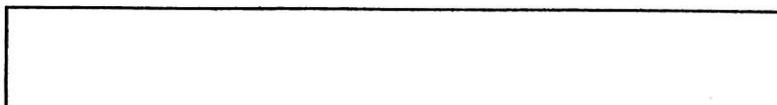
Quote # 410950693747W74
Terms Net 30
This Quote Expires on 04/24/2009
Phone 509-735-6555
Fax 509-783-5852

<u>Qty</u>	<u>Product Description</u>	<u>UnitPrice</u>	<u>SubTotal</u>
4	RAPTOR RP-1, DUAL K-BAND ANTENNA, DIRECTIONAL MODE	\$1,360.00	\$5,440.00
4	SHIPPING & HANDLING COSTS	\$29.00	\$116.00

Total \$5,556.00

Signature

* Applicable Sales Tax Not Included. Seller may charge Buyer a 25% restocking fee.
*** Order subject to agreement between Kustom Signals and customer on configuration and terms ***
*** Payment Terms: Net 30 from date of Invoice ***



KUSTOM SIGNALS, INC.
TERMS AND CONDITIONS

1. **APPLICABILITY.** Unless otherwise specified in a written bid, quote or contract, the following terms and conditions shall apply.

2. **PRICES AND TAXES.** Prices will be Kustom Signals, Inc.'s ("Seller") prices in effect on the date a purchase order is accepted by Seller, and Seller may change its prices at any time, in its sole discretion. All prices will be F.O.B. Chanute, Kansas, and net of any duties, sales, use or similar taxes, fees or assessments, and do not include shipping, packaging or any insurance costs, all of which are Buyer's responsibility.

3. **PAYMENT.** Unless otherwise provided on the face of the invoice, payment is due net 30 days of invoice in US dollars. Partial payments are not permitted unless authorized in writing. Partial payments will be treated as non-payment. Each invoice is independent from shipping sequence and disputes relating to other invoices. Failure to pay an invoice within 30 days will be considered a default.

4. **DELIVERY AND PERFORMANCE.** Delivery dates are approximate. Seller disclaims all liability for late or partial delivery. Seller may deliver in such lots and at such times as is convenient for Seller.

5. **LOSS IN TRANSIT.** Risk of loss will pass to Buyer upon delivery of the goods to the carrier. In case of breakage or loss in transit, Buyer will have notation of same made on expense bill before paying freight. Seller may reject claims for shortages not made within 15 days of Buyer's receipt of the goods.

6. **TERMINATION, RESTOCKING CHARGES.** Buyer may terminate this purchase order for its convenience, in whole or in part, by written, faxed or telegraphic notice at any time. If Buyer terminates this purchase order for convenience, Buyer will be liable to Seller for Seller's reasonable costs incurred in the performance of this purchase order that Seller cannot mitigate. Unless otherwise agreed upon in advance in writing by Seller, Seller may charge Buyer a 25% restocking fee, if: (a) the Buyer returns any non-defective goods covered by this purchase order, or (b) prior to shipment, but after the goods are produced by Seller, Buyer cancels the order for the subject goods.

7. **WARRANTY.** Seller's warranty is provided separately.

8. **LIMITATION OF LIABILITY.** SELLER IS NOT LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, OR INCIDENTAL DAMAGES, OR ANY LOST PROFITS OR LOST SAVINGS, EVEN IF A SELLER REPRESENTATIVE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS, DAMAGES, CLAIMS OR COSTS, NOR IS SELLER LIABLE FOR ANY CLAIM BY ANY THIRD PARTY. SELLER'S AGGREGATE LIABILITY UNDER OR IN

CONNECTION WITH THIS PURCHASE ORDER IS LIMITED TO THE AMOUNT PAID FOR THE GOODS.

9. **INDEMNIFICATION.** Buyer will indemnify, defend and hold Seller harmless from all losses, damages, liabilities and costs, including attorneys' fees, incurred or sustained by Seller as a result of any third party claim made against Seller, including a claim by a customer of Buyer, arising from its negligent, reckless, willful, or intentional actions in marketing and reselling the goods.

10. **EXPORT RULES.** Buyer will not ship, transfer or export the goods into any country or use the goods in any manner prohibited by the United States Export Administration Act or any other export laws, restrictions or regulations (collectively the "Export Laws"). In addition, if the goods are identified as export controlled items under the Export Laws, Buyer represents and warrants that Buyer is not a citizen, or otherwise located within, an embargoed nation (including, without limitation Iran, Iraq, Syria, Sudan, Libya, Cuba, and North Korea) and that Buyer is not otherwise prohibited under the Export Laws from receiving the goods.

11. **MISCELLANEOUS.** This purchase order, together with any other written agreement between Buyer and Seller, if any, (i) is the exclusive statement of the parties with respect to the subject matter and supersedes any prior or contemporaneous communications; (ii) may not be amended except in writing executed by the parties; and (iii) will be interpreted and enforced in accordance with the laws of the State of Kansas, without giving effect to principles of conflicts of law. This purchase order is: (1) solely for the benefit of the parties, and no provision of this purchase order will be deemed to confer upon any other person any remedy, claim, liability, reimbursement, cause of action or other right. Each party consents to the exclusive personal jurisdiction of the state and federal courts located in the State of Kansas for purposes of any suit, action or other proceeding arising out of this Agreement, waives any argument that venue in any such forum is not convenient and agrees that the venue of any litigation initiated by either of them in connection with this Agreement will be in either the District Court of Johnson County, Kansas, or the United States District Court, District of Kansas. If any provision of this purchase order is unenforceable, the remaining provisions will remain in effect. No waiver (whether by course of dealing or otherwise) is effective unless it is made in writing and signed by the party to be charged with such waiver. Unless otherwise specified in writing, notices must be given in writing by registered or certified mail, return receipt requested, addressed to:

Kustom Signals, Inc.
Attn: Sales Dept.
9325 Pflumm
Lenexa, KS 66215

WASHINGTON ASSOCIATION OF SHERIFFS & POLICE CHIEFS

3060 Willamette Drive NE Lacey, WA 98516 ~ Phone: (360) 486-2380 ~ Fax: (360) 486-2381 ~ Website: www.waspc.org

Serving the Law Enforcement Community and the Citizens of Washington

February 9, 2009

Sheriff Larry Taylor
Benton County SO
7122 W Okanogan Pl Bldg
Kennewick WA 99336



Dear Sheriff Taylor:

Thank you for applying for a WASPC Traffic Safety Grant. We are pleased to inform you that your agency has been approved to receive the following:

- ✓ \$5600
- ✓ 4 Radars w/dual antennas

The Federal Identification number for this grant is **CFDA# 20.600**. Invoices must be submitted to WASPC no later than May 1, 2009. Any invoices not received by the deadline will not be reimbursed and the award money will be forfeited. **Please note: WASPC is responsible for the amount of your grant award only. Any expense in excess of the grant award must be paid by your agency.**

A report is required for each Equipment, Mini & Multi-jurisdictional grant received by your department. The 2008-2009 Traffic Grant reports are due by October 15, 2009. **Failure to report will result in denial of 2009 – 2010 grant funds.** For your convenience, the report form is enclosed with this letter. Your agency is responsible for subscribing to the following commitments:

- Support statewide/national traffic safety initiatives, projects, and programs
- Report grant results to WASPC in a timely manner
- Subscribe and commit to aggressive traffic enforcement

Thank you for your dedication to traffic safety in the State of Washington. If you have any questions please contact Heidi Hughes at (360) 486-2380. If you would like more information regarding state or federal traffic safety grant funding, please contact the Washington Traffic Safety Commission at (360) 753-6197.

Sincerely,

Don Pierce
Executive Director, WASPC

President COLLEEN WILSON <i>Chief - Port of Seattle</i>	President Elect JOHN DIDION <i>Sheriff - Pacific County</i>	Vice President SCOTT SMITH <i>Chief - Tulalip</i>	Past President RICHARD LATHIM <i>Sheriff - Franklin County</i>	Treasurer BRUCE BJORK <i>Chief - WA Fish & Wildlife</i>
ED HOLMES <i>Chief - Mercer Island</i>	TOM SCHLICKER <i>Chief - Swinomish</i>	MIKE KLINE <i>Marshal - U.S. Marshals, ED-WA</i>	JOHN BATISTE <i>Chief - WA State Patrol</i>	SAMUEL GRANATO <i>Chief - Yakima</i>
MIKE HUMPHREYS <i>Sheriff - Walla Walla County</i>	MIKE HARUM <i>Sheriff - Chelan County</i>	SUE RAHR <i>Sheriff - King County</i>	LAURA LAUGHLIN <i>SAC - FBI, Seattle</i>	DONALD PIERCE <i>Executive Director</i>

9:05

AGENDA ITEM MTG. DATE: March 2, 2009 SUBJECT: 2008 Comp Plan Amendments MEMO DATE: February 25, 2009 Prepared By: Susan M. Walker Reviewed By: Michael Shuttleworth	TYPE OF ACTION NEEDED Execute Contract Pass Resolution X Pass Ordinance Pass Motion X Other	Consent Agenda Public Hearing X 1st Discussion 2nd Discussion Other
--	--	--

BACKGROUND INFORMATION

Washington State planning law requires continuing review and evaluation of comprehensive plans pursuant to RCW 36.70A.130(1) with revisions and amendments to the Comprehensive Plan considered by the county no more frequently than once every year (RCW 36.70A.130(2)(a)). The 2008 amendment process also included the five-year review of the cities Urban Growth Areas (UGA's). The Board of County Commissioners held a workshop to review the Planning Commission findings and information regarding these amendments on October 20, 2008. Board of County Commissioners held hearings on the proposals on November 10th, 2008, January 26, and February 23, 2009. The hearing held on February 23, 2009, to address the proposals was continued to March 2, 2009, for further action by the Board. This hearing will be held in the Commissioners Hearing room at 9:05 a.m. in Prosser.

SUMMARY

Planning personnel has prepared a resolution approving proposal CPA 07-02 by John Sullins to change the land use designation from Rural Lands Five (5) to Rural Lands One (1) on approximately 1,120 acres southwest of the I-82 Interchange and Badger Road.

RECOMMENDATION

On February 23, 2009 the Board of County Commissioners voted by majority to approve CPA 07-02 and directed staff to work with the Chairman of the Board of County Commissioners to prepare a resolution for the Board of County Commissioners signatures that would approve Comprehensive Plan Amendment application CPA 07-02.

MOTION

To approve and sign the attached resolution (Exhibit E) that approves Comprehensive Plan Amendment application CPA 07-02.

FISCAL IMPACT

No fiscal impacts have been identified regarding these planning proposals.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON
IN THE MATTER OF COUNTY PLANNING RE: AMENDMENT TO THE BENTON COUNTY
COMPREHENSIVE PLAN. FILE NO. CPA 07-02, APPLICANT: JOHN SULLINS, COUNTY RESIDENT.

WHEREAS, on June 22, 1998, the Benton County Board of Commissioners adopted the Benton County Comprehensive Plan; and,

WHEREAS, Washington State Planning law requires continuing review and evaluation of the Comprehensive Plan pursuant to RCW 36.70A.130(2)(a); and,

WHEREAS, an application by John Sullins requesting a change in the Comprehensive Plan land use designation on maps in Chapter Four from Rural Lands 2.5 (currently Rural Lands 5, per Board of Commissioners Resolution 07-767, dated 10/22/07) to Rural Lands One, on approximately 1,120 acres, southwest of the I-82 & Badger Road Interchange was received on December 1, 2007; and,

WHEREAS, the Benton County Planning Commission did conduct a public hearing on July 15, 2008, and continued the hearing to August 19, 2008, and to September 16, 2008, at 7:00 p.m., in the Planning Annex, 1002 Dudley Avenue, Prosser, WA 99350, to review the proposed Comprehensive Plan amendment (CPA 07-02) a request to change the Comprehensive Plan land use designation on maps in Chapter Four from Rural Lands 2.5 (currently Rural Lands 5, per Board of Commissioners Resolution 07-767, dated 10/22/07) to Rural Lands One, on approximately 1,120 acres, southwest of the I-82 & Badger Road Interchange.

WHEREAS, the Planning Commission Findings of Fact were completed and signed by the Chairman on October 9, 2008; and,

WHEREAS, the Planning Commission record and memo were forwarded to the Board of County Commissioner's on November 3, 2008, and the legal notification of an open record hearing was published in the Tri-City Herald on October 30, 2008, and all interested parties requesting notice were notified of the hearing on October 28, 2008, and,

WHEREAS, the Board of County Commissioners did conduct their own public hearing on November 10, 2008, January 26, 2009, and February 23, 2009, in the Commissioner's Meeting Room, Third Floor, Courthouse, Prosser WA 99350; and,

WHEREAS, upon review of the application and environmental checklist, the Planning Department determined additional information was needed on traffic and ground water impacts of the proposal. Additional information on traffic impacts were submitted on February 7, 2008, and additional information on ground water impacts was submitted on May 5, 2008. Based on the additional information, the existing environmental information and the requirements of RCW 43.21C (SEPA) a determination of non-significance was issued on June 3, 2008; and,

WHEREAS, the Board finds that proper legal notification, public hearing and review have been made; and,

WHEREAS, the Board finds that the density of one dwelling per acre as proposed would be compatible with the adjacent properties; and,

WHEREAS, the Board finds that certain physical attributes will help preserve the natural landscape, such as steep slopes and canyon walls to the South, railroad right-of-way, and a small stream which runs to the East of the proposed area. This is consistent with the goal to encourage natural landscape and natural vegetation; and,

WHEREAS, the Board finds that the proposed land use patterns will promote a rural lifestyle in that there will be no curbs, sidewalks, or streetlights within the area requested by the application. The proposed land use patterns will be comparable to the existing Cottonwood Springs development and will be of sufficient size and spacing to allow detached shops and/or large gardens without the necessity of maintaining excess acreage. There are few, if any, self-contained traditional rural farms in the immediate area. Most residential homeowners in the area are required to travel outside the area for employment; and,

WHEREAS, the Board finds that the visual landscapes are essentially unaffected by this application. The hilltops and surrounding area contains single-family dwellings on various lot sizes. This particular rural area is characterized by residential living, rather than traditional rural living where small farms and dedicated pastures for livestock might normally be expected; and,

WHEREAS, the Board finds that there is no evidence that fish and wildlife will be affected by this application, given the current level of residential build-out and proximity to other residential living, there have been only moderate impacts to wildlife. However, residents of nearby subdivisions regularly observe blue heron, quail coveys, pheasants, rabbits, coyotes and snakes in the area; and,

WHEREAS, the Board finds that no additional public services are required to serve the area within this application. There is no evidence in the record that suggests an increase for Benton County Sheriff's services or any other urban governmental services will be required; and,

WHEREAS, the Board finds that a one unit per acre density as proposed would preserve the open space or the natural landscape and would be rural in character; and,

WHEREAS, the Board finds that the densities requested in this application's proposed location would be consistent with rural character as described by RCW 36.70A.030(15); and,

WHEREAS, the Board finds that rural development can consist of a variety of residential uses and densities consistent with rural character and lifestyles, including clustered residential development, at levels that are consistent with the preservation of rural character and the Rural Element.

WHEREAS, the Board finds that the proposal is consistent with the Benton County Comprehensive Plan goal to provide a variety of dwelling unit types and densities within the County with maximum choice of living environments, and considering the needs of the public at

all economic levels. Another policy of the Benton County Comprehensive Plan is that the rural housing stock includes a variety of dwelling unit types and densities; and,

WHEREAS, the Board finds that a one-acre density is not allowed in urban areas where 3 to 5 dwelling units per acre is viewed as a minimum density and where it has been found that counties clearly have the right to create one-acre density as long as the rural element is preserved; and,

WHEREAS, the Board finds that the primary purposes of the rural lands are: to accommodate demands of non-farm and hobby farmers for rural living; to provide buffers between urban and agricultural uses; and to conserve lands potentially suitable for future inclusion into urban growth area and those in close proximity to urban growth areas; and,

WHEREAS, the Board finds that a portion of the application CPA 07-02, that is located north and west of the KID canal has limited access and steep slopes so that a density of one dwelling unit would be difficult to obtain; and,

WHEREAS, after consideration of the above mentioned request and after reviewing the Planning Commission record, staff files and all written and oral comments submitted at the public hearings; NOW THEREFORE,

BE IT RESOLVED that the Board of County Commissioners hereby approves CPA 07-02, a request to change the land use designation from Rural Lands Five (5) to Rural Lands One (1) and shown in Exhibit G, and direct staff to make changes to Chapter Four in Table 4.1 and related descriptive text to reflect the acreage revisions from RL-5 to RL-1. Also to include additional text that references the 1,120 acres of Rural Lands one-acre in the Badger Canyon area on page 4-24. This is in addition to the map changes on Maps 4.0 & 4.5 as shown in Exhibit G.

Dated this _____ day of _____.

Chairman of the Board

Member

Member
Constituting the Board of County
Commissioners of Benton County
Washington

Attest _____
Clerk of the Board

Michael Shuttleworth
cc: Prosecuting Attorney's Office



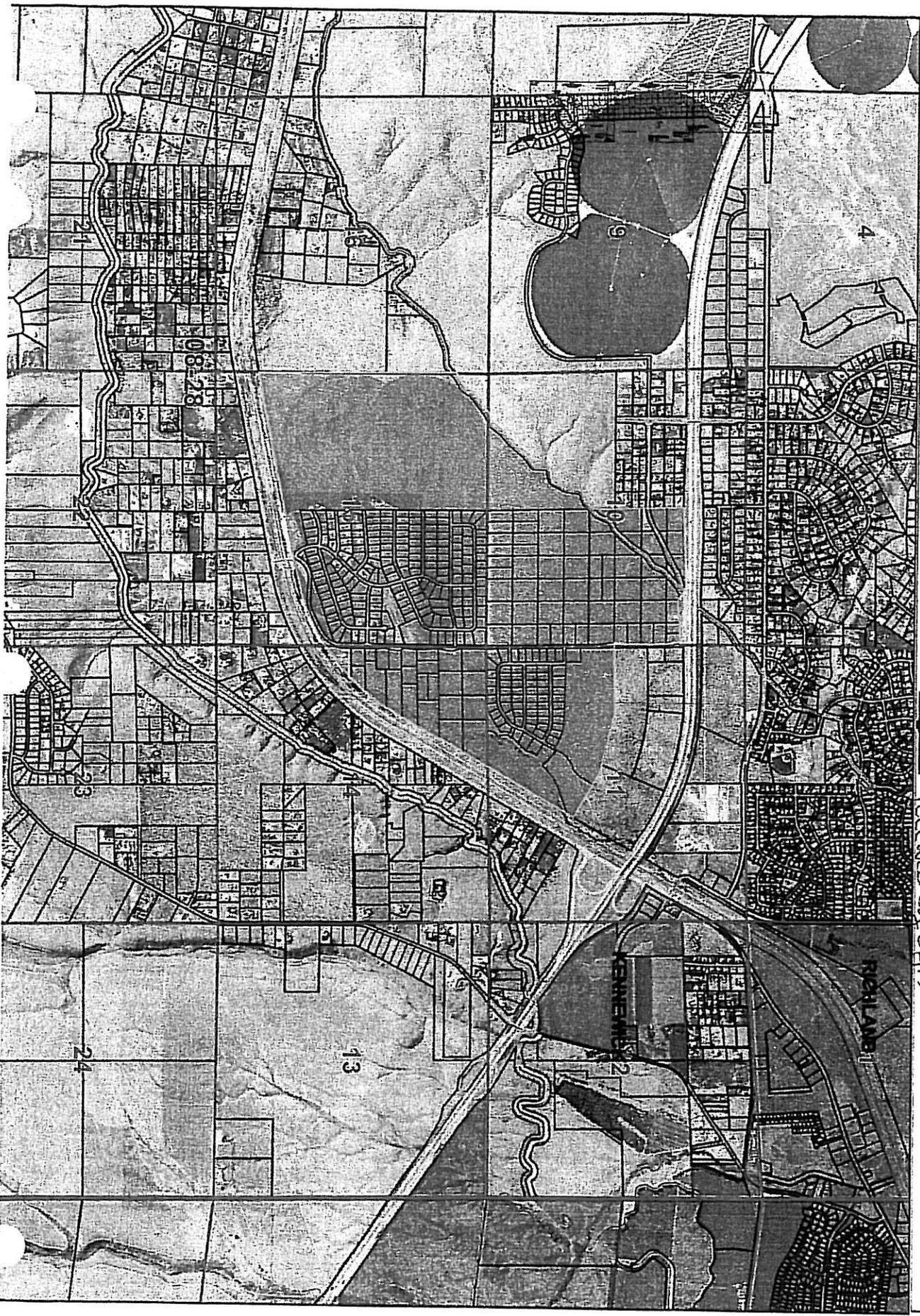
BENTON COUNTY
PLANNING
DEPARTMENT

COMPREHENSIVE PLAN AMENDMENT
CPA 07-02
PLANNING COMMISSION RECOMMENDED AREA
FOR RURAL LANDS 2.5

MAP PRINTED
10/31/08
EXHIBIT **G**

received by dph

Benton County does not warrant, guarantee, or accept any liability for accuracy, precision or completeness of any information shown hereon for any whatsoever made hereon. Any use made of this information is solely at the risk of the user. Benton County makes no warranty, expressed or implied, and any oral or written statement by any employee of Benton County or agents thereof to the contrary is void and of no effect. This information shown herein is a preliminary product of the Benton County Geographic Information System, and is prepared for presentation purposes only.



Leo Bowman
District 1
Max Benitz, Jr.
District 2
James Beaver
District 3

**Board of County Commissioners
BENTON COUNTY**

David Sparks
County Administrator
9.15
Loretta Smith Kelty
Deputy County Administrator

February 23, 2009

Senator Patty Murray
173 Russell Senate Office Bldg.
Washington, D.C. 20510

Re: Ben Franklin Transit

Dear Senator Murray:

It is our understanding that Ben Franklin Transit is in the process of requesting funding assistance from our congressional delegation for two very important projects.

The first project is for the completion of the expansion and modernization of their 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 a maintenance building, the construction of a new administration building, and the remodeling of an operations building.

The second project is for the replacement of 25 transit coaches that are 21 years old. These vehicles exceed their federal guideline lifespan by 75% and they do not meet the Americans with Disabilities Act requirements for transit coaches. Ben Franklin Transit hopes to acquire new coaches that are heavy duty, lightweight, low floor, ADA accessible, with hybrid renewable fueled engines.

The Board of Benton County Commissioners expresses its support for these projects and acknowledges the tremendous community benefit these projects will have on the citizens of Tri-Cities and the Mid-Columbia.

Sincerely,

Max Benitz, Jr.
Chairman

Leo Bowman
Chairman Pro Tem

Jim Beaver
Member

Leo Bowman
District 1
Max Benitz, Jr.
District 2
James Beaver
District 3

Board of County Commissioners
BENTON COUNTY

David Sparks
County Administrator

Loretta Smith Kelty
Deputy County Administrator

February 23, 2009

Congressman Doc Hastings
1214 Longworth House Office Bldg.
Washington, D.C. 20515

Re: Ben Franklin Transit

Dear Congressman Hastings:

It is our understanding that Ben Franklin Transit is in the process of requesting funding assistance from our congressional delegation for two very important projects.

The first project is for the completion of the expansion and modernization of their 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 a maintenance building, the construction of a new administration building, and the remodeling of an operations building.

The second project is for the replacement of 25 transit coaches that are 21 years old. These vehicles exceed their federal guideline lifespan by 75% and they do not meet the Americans with Disabilities Act requirements for transit coaches. Ben Franklin Transit hopes to acquire new coaches that are heavy duty, lightweight, low floor, ADA accessible, with hybrid renewable fueled engines.

The Board of Benton County Commissioners expresses its support for these projects and acknowledges the tremendous community benefit these projects will have on the citizens of Tri-Cities and the Mid-Columbia.

Sincerely,

Max Benitz, Jr.
Chairman

Leo Bowman
Chairman Pro Tem

Jim Beaver
Member

Leo Bowman
District 1
Max Benitz, Jr.
District 2
James Beaver
District 3

Board of County Commissioners
BENTON COUNTY

David Sparks
County Administrator

Loretta Smith Kelty
Deputy County Administrator

February 23, 2009

Senator Maria Cantwell
717 Hart Senate Office Bldg.
Washington, D.C. 20510

Re: Ben Franklin Transit

Dear Senator Cantwell:

It is our understanding that Ben Franklin Transit is in the process of requesting funding assistance from our congressional delegation for two very important projects.

The first project is for the completion of the expansion and modernization of their 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 a maintenance building, the construction of a new administration building, and the remodeling of an operations building.

The second project is for the replacement of 25 transit coaches that are 21 years old. These vehicles exceed their federal guideline lifespan by 75% and they do not meet the Americans with Disabilities Act requirements for transit coaches. Ben Franklin Transit hopes to acquire new coaches that are heavy duty, lightweight, low floor, ADA accessible, with hybrid renewable fueled engines.

The Board of Benton County Commissioners expresses its support for these projects and acknowledges the tremendous community benefit these projects will have on the citizens of Tri-Cities and the Mid-Columbia.

Sincerely,

Max Benitz, Jr.
Chairman

Leo Bowman
Chairman Pro Tem

Jim Beaver
Member



February 13, 2009

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

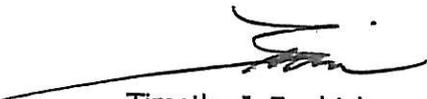
Ben Franklin Transit is in the process of requesting funding assistance from our congressional delegation for two very important projects.

The first project is for the completion of 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.

The second project is for the replacement of twenty-five, twenty-one year old model transit coaches. These vehicles exceed their Federal guideline lifespan by 75% and they do not meet the Americans with Disabilities Act requirements for transit coaches. The new coaches BFT hopes to acquire would be heavy duty, lightweight, low floor, ADA accessible, with hybrid renewable fueled engines.

It is requested that the letter of support be returned to me. The letters will be combined and presented to the members of our Congressional delegation. The funding for these projects would come from a discretionary appropriation from the Federal Transit Administration or the transit portion of the "National Recovery and Stimulus" funding. Only public transit systems are eligible for this funding and would not compete with requests from any 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 27, 2009. A suggested draft is attached. Thank you for your support.



Timothy J. Fredrickson
General Manager

Cc: BFT Board Members, Department Managers

BENTON COUNTY
SALARY REQUEST STATEMENT

9:40

REASON FOR REQUEST Temp. out of class assignment POSITION Counselor III

Kristin Overvold

NAME OF AFFECTED EMPLOYEE/CANDIDATE

EFFECTIVE DATE January 1, 2009

OFFICE/DEPARTMENT Juvenile

SALARY FROM 15D TO 15E

ELECTED OFFICIAL/DEPARTMENT DIRECTOR
DATE

APPROVED _____
DENIED _____
CHAIRMAN _____
MEMBER _____
MEMBER _____
DATE _____

BACKGROUND INFORMATION (Attach documentation; organizational chart, application, contract language, budgetary approval, appraisal, Resolution, etc.)

See Attached

BASIS:

See Attached

FISCAL IMPACT AND REVIEW

FIRST YEAR IMPACT: Salary increase of \$150/mo. for Jan. to June 09 for a total of \$900 funded by grant funds.

AGGREGATE IMPACT: Temporary out of class assignment to end December 2009.

Attach the Employment Opportunity, if applicable, and Classification Description document(s). State how this individual meets or exceeds the criteria listed in these documents.

List names of other employees who hold the same classification. Include grade, step, and salary.

White--Personnel BCPERS 0014/95	Yellow--Payroll	Pink--Commissioners	Goldenrod--Department
------------------------------------	-----------------	---------------------	-----------------------

JUDGES

Hon. Craig J. Matheson
Hon. Vic L. VanderSchoor
Hon. Robert G. Swisher
Hon. Carrie Runge
Hon. Cameron Mitchell
Hon. Bruce Spanner

BENTON-FRANKLIN COUNTIES JUVENILE JUSTICE CENTER



SHARON PARADIS, Administrator
Juvenile Court Services

SUPERIOR COURT OF THE STATE OF WASHINGTON

5606 W CANAL PLACE, SUITE 106 • KENNEWICK, WASHINGTON 99336-1388
PHONE (509) 783-2151 • FAX (509) 736-2728

LONNA K. MALONE
JOSEPH R. SCHNEIDER
JERRI G. POTTS
Court Commissioners

Benton County Salary Request Statement Attachment

Name of Affected Employee: Kristin Overvold

I. Background:

This is a temporary out of class assignment funded with grant dollars (50% Catherine T. MacArthur Foundation funding and 50% CJS funding) which are due to expire in approximately December 2009. This temporary assignment fills a Counselor III position that was opened due to an internal promotion and approved in the 2008 and 2009 budgets.

II. Basis:

The Counselor III position is responsible for all of the project facilitation with respect to the Models for Change project as well as carrying a reduced community supervision caseload with respect to CJS grant funding. By temporarily assigning Ms. Overvold, a Counselor II, to the open Project Facilitator Counselor III position, we address the temporary nature of the current revenue source and replace the critical Counselor II position with staff who is both well trained and familiar with community supervision caseloads.

When this temporary out of class assignment was made in writing, Ms. Overvold was informed that she would be placed at the next higher step that resulted in pay increase in accordance with the contract language and notified that her pay anniversary date of January 1 would not change during this assignment. This decision was based on language in the current bargaining unit contract, Article 26.7 (Out of Class Pay) which refers to Article 26.6 (Demotion). It was later determined that this was a clerical error in the contract. The "out of class pay" section should have referred to Article 26.4 (Promotion) which states "The promoted employee will be assigned a new anniversary date consistent with the date of promotion. In the event the promoted employee's pay increase is less than 2%, the current anniversary date remains unchanged." When Ms. Overvold was placed in the next higher step that resulted in a pay increase she realized a 2.84% pay increase and should have been assigned a new anniversary date in accordance with Article 26.4 (Promotion).

I am requesting approval for Ms. Overvold to retain her original anniversary date of January 1 rather than new anniversary date consistent with the date of promotion.

This request is based on the fact that Ms. Overvold was initially told she would be retain her original pay anniversary date due to an error in the current contract.

9:50 am

HEALTH DISTRICT BOARD FINANCE
COMMITTEE APPOINTMENT

Commissioner Benitz

9:55 am

CANAL AVE HEALTH DISTRICT BUILDING
DISCUSSION

Commissioner Benitz

Discussion: 10:05 a.m.

<u>AGENDA ITEM</u>		<u>TYPE OF ACTION</u>	
Meeting Date :	Mar. 2, 2009	Execute Contract :	Consent Agenda :
Subject :	Roza Int. Safety	Pass Resolution :	Public Hearing :
Prepared by :	NWC	Pass Ordinance :	1st Discussion :
Reviewed by :	RBD	Pass Motion :	2 nd Discussion :
		Other :	Other : Proj. Update

BACKGROUND INFORMATION

Feb. 23, 2009 citizens met with the BOCC to discuss safety at rural intersections in the Roza area just north Prosser in Benton County.

SUMMARY

Benton County Public Works staff developed a strategy to promote traffic safety in the Roza area. The plan was reviewed by the BOCC in late 2008.

Staff would like to provide a brief update as to our progress regarding this safety project.

RECOMMENDATION

None – For information only.

FISCAL IMPACT

None now.

MOTION

N/A

10:15 am

EXECUTIVE SESSION
Claim for Damages

Kathleen Galioto

10:30

<u>AGENDA ITEM</u>	<u>ACTION NEEDED</u>	<u>DISCUSSION TYPE</u>
Meeting Date: 02 Mar 2009 Subject: Badger Mountain Memo Date: 25 Feb 2009 Prepared By: AJF Reviewed By: LSK	Execute Contract Pass Resolution X Pass Ordinance Pass Motion Other	Consent Agenda Public Hearing 1st Discussion 2nd Discussion X Other

SUMMARY

For Board consideration is the proposal from the Friends of Badger Mountain (FOBM), requesting that Benton County accept up to three additional parcels of property as a donation from FOBM when and if the organization is able to acquire the properties from their current owners. Staff has learned that FOBM has been in detailed discussions with at least one of the owners and is prepared to make that owner an offer pending the decision of Benton County. FOBM's vision is that these three parcels be fully-integrated into the existing Badger Mountain Centennial Preserve.

The Park Board supports this proposal.

If Commissioners accept the proposal, staff has prepared a resolution that reflects the provisions of the original Badger Mountain proposal (Resolution 05-279), and that would lay the foundation for accepting the donated properties into the existing Preserve.

BACKGROUND & NEW INFORMATION

At the original workshop on this subject – August 18, 2008 – the Board requested some additional information on five aspects of this project:

What is the vision for the new parcels?

All three parcels are on the south slope and face of the mountain. Two purposes for the purchase have been articulated: 1) keeping the face natural and visually intact; and 2) providing a location for the "Baseline Trail", planned for the future and described below.

Would there be access to the new parcels?

The only specific access that has been contemplated is by conceptual "Baseline Trail", which is shown on the attached map. This trail is envisioned as a relatively flat trail along the base of the mountain to compliment the other more vertical trails. When combined with the Skyline Trail that travels the east and west ridgelines, a hiker, biker, or horse rider could complete a loop of more than six miles. The face is too steep for any other uses and none use have been suggested.

What costs would be associated with the new parcels?

Since no additional facilities or uses other than the Baseline Trail have been contemplated, there are no additional costs expected. Like with the previous trails, the Baseline Trail would be planned, built, and maintained by volunteers (FOBM).

Was expansion explored in the Comprehensive Parks Plan process?

Yes, but the CPP focused on existing parklands. The public did voice a desire for acquisition of more parklands in general into the future, and specifically on Badger Mountain; however, the Park Board did not want the CPP to be construed as a vehicle to go and "buy a bunch of land", so this is generally muted in the Plan. With that said, page 26 of the CPP calls for "another hiking trail to make a loop" [on Badger Mountain]; and page 28 calls for "a park master plan and trail plan with consideration of expansion through collaborations and partnering".

How does the desired "master plan" fit into this?

One of the strongest recommendations of the CPP is to do "master plans" for each park. Staff has taken this recommendation and placed master plans for each park into the draft 2009-2014 Capital Facilities Plan, and the Park Board gave most of these high priority. An RFP was let for the Badger Mountain "Management and Master Plan" in January, and the Park Board is expected to make a consultant recommendation to Commissioners during its March meeting. One of the chief components of the master plan will be the "trail plan" which would be affected by whether or not the County is willing to accept these parcels as donations.

ATTACHMENTS

- Draft of new possible resolution for Commissioner consideration
- Original Badger Mountain Centennial Preserve resolution (05-279)
- Park Board resolution endorsing the proposal (February 2007)
- Packet, with cover letter, received from FOBM in June 2008 (with map modified by staff)

#

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF BADGER MOUNTAIN CENTENNIAL PRESERVE –
ACCEPTANCE OF ADDITIONAL DONATED PROPERTIES

WHEREAS, Benton County created the "Badger Mountain Centennial Preserve" (Preserve) in 2005 (Resolution 05 273) to provide for passive recreation, habitat preservation, aesthetic values, and a "bank" for mitigation of future shrub-steppe habitat disturbance; and,

WHEREAS, the Preserve was designated as a Benton County park, to be managed with and by the budgets and personnel of the Facilities and Parks Department; and,

WHEREAS, Benton County has been approached by the "Friends of Badger Mountain" organization and asked to accept the donation of three additional properties that are adjacent to the existing Preserve that Friends of Badger Mountain will procure entirely at their expense; and,

WHEREAS, the terms of said donation of properties are that the three donated parcels will be combined into and managed as a part of the existing Badger Mountain Centennial Preserve, and that Benton County will incur no additional expenses related to the acquisition or transfer of these properties; **NOW THEREFORE**,

BE IT RESOLVED, by the Board of Benton County Commissioners that the donation of three parcels of property totaling approximately 73 acres in combined area, on the south face of Badger Mountain and adjacent to the existing Badger Mountain Centennial Preserve, is approved; and,

BE IT FURTHER RESOLVED, that when received by Benton County, the three new parcels will be combined into the Badger Mountain Centennial Preserve and administered by the Benton County Facilities and Parks Department in their "natural condition" as part of the Preserve. The additional acreage will be "banked" by Benton County for use as possible mitigation for future shrub-steppe disturbance, bringing the total banked acreage of the Preserve to 647 acres.

Dated this _____ day of _____, 2008.

Chairman of the Board

Member

Member

Constituting the Board of Commissioners
of Benton County, Washington.

Attest.....
Clerk of the Board

original: file
cc: Auditor, Parks, Prosecutor (Ozuna)

Prepared by: A.J. Fyall

RESOLUTION 05 279

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON IN THE MATTER OF CREATION OF "BADGER MOUNTAIN CENTENNIAL PRESERVE"

WHEREAS, the landscape of Benton County is defined as much by its ridges and buttes as any other physical feature; and,

WHEREAS, citizens and the community have long used these ridges for passive recreation, appreciation of the natural environment, solitude, and as a visual beacon; and,

WHEREAS, the success and subsequent economic and population growth of the Tri-City area is having a consequence of expanding residential growth that is putting pressure on the landscape, manifested by encroachment of residential development onto ridges and buttes such as Badger Mountain; and,

WHEREAS, Badger Mountain, as the most prominent ridge in the metro area, is a popular exercise area for hikers, an important refuge for shrub-steppe flora and upland birds, and the best vantage point in the Tri-Cities to see the extent and impacts of the "ice age floods" on a landscape scale; drew the attention of concerned citizens who mounted a campaign to purchase a portion of the mountain for permanent preservation as public property; to preserve recreational, ecological, and aesthetic values of the mountain; and,

WHEREAS, this effort to preserve Badger Mountain has been praised and endorsed throughout the Tri-City community by business and economic development interests, the tourism industry, local governments, recreation groups, and the media; and,

WHEREAS, the community organization known as "Friends of Badger Mountain" developed a plan for purchase of 574 acres of property held by Badger, Incorporated. Said acreage encompasses most of the slopes and ridgelines of Badger Mountain and is comprised of all of the property described in the following eight tax parcel numbers:

- 1-2998-201-1930-001
- 1-2998-201-1930-002
- 1-2998-201-1930-003
- 1-2998-201-1930-004
- 1-2998-100-0002-001
- 1-2998-100-0001-000
- 1-2898-200-0002-002
- 1-2898-400-0000-000; and,

WHEREAS, Friends of Badger Mountain coordinated with The Trust for Public Land to develop funding of said purchase and subsequent transfer of then-acquired properties to Benton County to be held permanently in the public trust. The Trust for Public Land purchased an option on the 574 acres from Badger, Incorporated to secure the properties for later execution of the sale as described in this resolution. Said funding scheme included state and local governments, as well as private fundraising conducted by Friends of Badger Mountain; and,

WHEREAS, all needed monies for said purchase from Badger, Incorporated have been raised and authorized as of the time of this resolution, including:

- \$485,000.00 from the Energy Facility Site Evaluation Council,
- \$100,000.00 from the City of Richland,
- \$75,000.00 from the Friends of Badger Mountain,
- \$25,000.00 from Benton County, via the Park Development Fund,

for a total of \$685,000.00 total purchase price for the subject properties; and,

Orig: Fels

cc: Adam Fjall, Auditor, R. Oguma

WHEREAS, all necessary conditions have been met so that the buyer, Benton County, may acquire the subject properties, including:

- an approved independent "Member Appraisal Institute" appraisal of the subject properties; as well as a review of the appraisal;
- an approved "Phase One" environmental site assessment of the subject properties;
- an approved "grant agreement" with the Energy Facility Site Evaluation Council, whereby the Energy Facility Site Evaluation Council will contribute \$485,000.00 toward the purchase price of the subject properties;
- an approved "purchase and sale agreement" with The Trust for Public Land that establishes the terms and mechanisms for the actual transfer of fee title for the subject properties; and,

WHEREAS, the Benton County Park Board has endorsed this project from the beginning and has demonstrated its enthusiasm in receiving the 574 acres of Badger Mountain properties into the Benton County Parks System, and in allocating \$25,000.00 from the Park Development Fund for said purchase; NOW THEREFORE,

BE IT RESOLVED, by the Board of Benton County Commissioners that the purchase and retention of the 574 acres of real property known commonly as "Badger Mountain" by Benton County is approved and authorized per terms of the "purchase and sale agreement", attached hereto, which the Chair is authorized to execute; and,

BE IT FURTHER RESOLVED, Benton County accepts the grant from the Energy Facility Site Evaluation Council in the amount of \$485,000.00, which will be placed into the escrow account; and that the Chair is authorized to sign such "grant agreement" to accept the grant; and

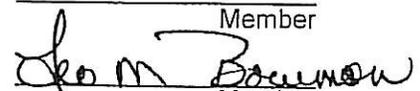
BE IT FURTHER RESOLVED, that Benton County's share (\$25,000.00) of the purchase price for said properties shall be paid into an escrow account administered by Chicago Title Company per the terms of the "purchase and sale agreement", and shall be paid from the Park Development Fund #0110-102;

BE IT FURTHER RESOLVED, that when received by Benton County, the said properties will be administered by the Benton County Facilities and Parks Department in its "natural condition" as to adhere to the intent of the community preservation effort, with no imposition of user fees and with only the most minor and modest improvements made to the properties. These 574 acres will be "banked" by Benton County as use for possible mitigation for future shrub-steppe disturbance. To recognize Benton County's centennial that is occurring in 2005, to honor the preservation intent of the acquisition, and to help avoid confusion with the nearby City of Richland facility know as "Badger Mountain Park"; the subject property will be known formally as "Badger Mountain Centennial Preserve".

Dated this 1st day of June, 2005.



Chairman of the Board
MAX E. BENITZ, JR. - OPPOSED

Member

Member

Constituting the Board of County
Commissioners of Benton County
Washington.

Attest.....
Clerk of the Board

BENTON COUNTY PARK BOARD
RESOLUTION

**IN THE MATTER OF BADGER MOUNTAIN CENTENNIAL PRESERVE,
DONATION OF ADDITIONAL PROPERTIES**

WHEREAS, Badger Mountain is a valuable recreational resource used by cyclists, equestrians, hikers, and naturalists as a way to experience the outdoors in the very heart of the rapidly urbanizing Tri-Cities metropolitan area; and,

WHEREAS, the creation of the Preserve was almost entirely through the donation of non-County monies used to purchase the original 574 acres of property for "natural park purposes; and,

WHEREAS, the community-recognized volunteer steward of Badger Mountain Centennial Preserve – the "Friends of Badger Mountain" (Friends) has continued to raise monies for the use of acquiring additional adjacent properties to the Preserve; and,

WHEREAS, the Park Board recognizes the value both recreationally and aesthetically of enlarging the Preserve from its existing 574 acres; and recognizes that Friends has been an excellent community partner in establishing the Preserve as one of the premiere recreational destinations in the Tri-Cities area; and,

WHEREAS, the Friends have approached Benton County in February of 2007 with the offer to purchase and donate to the County up to three additional properties on the south face of Badger Mountain to fill-in a "gap" in the park's boundary and make the entire south side of the Preserve more recreationally-accessible; and,

WHEREAS, the Benton County Park Board concurs that such a donation is in the best interest of the Preserve and of the entire County Parks program, and recognizes that Benton County will not be requested nor required to contribute any of its own funds to the acquisition of these additional properties; **NOW THEREFORE**,

BE IT RESOLVED, that the Benton County Park Board affirms its support of the Friends of Badger Mountain's efforts to acquire up to approximately 75 acres of privately-held property on the south face of Badger Mountain, with the expectation that said properties will be donated to Benton County for accretion to the existing Badger Mountain Centennial Preserve. Such donation will be contingent upon Friends' ability to complete the purchase with its own funds, and complete any environmental assessments, title logistics, or other due diligence at its own expense.

Dated this THIRTEENTH day of FEBRUARY 2007.


Chair
Representing the Park Board of
Benton County, Washington.

Attest.....
Clerk of the Board

cc: Parks, file
Commissioners

Fyall

Advisory Council

Frank Armijo
Bob Ferguson
Bill Lampson
Mike Lawrence
Sandy Matheson
Kris Watkins



Friends of
BADGER MOUNTAIN

For Today...For Our Future

RECEIVED

JUN 12 2008

BENTON COUNTY
COMMISSIONERS

Max	<input checked="" type="checkbox"/>
Léo	<input checked="" type="checkbox"/>
Claude	<input checked="" type="checkbox"/>
David	<input checked="" type="checkbox"/>
Loretta	<input checked="" type="checkbox"/>
Other	<i>A. Fyall</i>

Dear Commissioners:

The Friends of Badger Mountain are pleased to announce, with the approval of our Board of Directors, that we have opened discussions with Mr. Tyler Wagner on the possibility of purchasing 25 acres Mr. Wagner owns adjacent to the Badger Mountain Centennial Preserve. Mr. Wagner's property is one of a trio of nearly identical parcels at this location.

FOBM's long-term plan is to eventually purchase all three 25-acre parcels adjacent to the south side of the Preserve that the previous owner of Preserve property, Sheldon Shore, sold off a few years prior to the sale of the remaining larger parcels to Benton County. Mr. Wagner's property is the middle parcel of this three-parcel set and directly borders both of the other parcels (see attached Preserve and Adjacent Lands map).

Acquisition of these properties will expand the Preserve along its natural mountain boundary and further help Benton County and the surrounding communities preserve our scenic ridgelines. It will also afford us the opportunity to expand our trail system, which has become very popular with Benton County and Tri-City residents (see attached SkyLine Trail Hiker Count for April and May).

FOBM's immediate plan is to negotiate a final purchase price with Mr. Wagner in the form of a sales agreement by the end of June 2008. We expect the purchase price range will be \$1000 - \$1200 per acre, which is comparable to the price per acre Benton County paid Mr. Shore for the current Preserve property. FOBM currently has these funds available from the many generous donations we have received from the public over the past few years. For the other two adjacent properties, FOBM is currently conducting a fund-raising campaign to raise money for the purchase of these properties. Depending on the success of this fund-raiser, we plan to approach the other two owners within the next six months.

Prior to purchase, FOBM will conduct a "Phase I Environmental Site Assessment", an appraisal, and a title search; all in accordance with Benton County property procurement standards, and all at FOBM's expense.

Once we purchase this property, we would like to donate it to the Benton County Centennial Preserve under the same provisions the County established when it bought the original property from Mr. Shore: to be held in perpetuity as a non-motorized access for the recreational use of the public.

FOBM will continue improvement projects on the Preserve, such as those we have done over the past several years to build and maintain trails, improve public access, and protect habitat (see attached Project Summary).

FOBM is pleased that the Benton County Parks Board resolved to support the acquisition of these three parcels in February of 2007 (see attached Resolution). We now need full concurrence from the County that it will accept these three properties as new additions to Badger Mountain Centennial Preserve if purchased and donated by Friends of Badger Mountain.

We respectfully request your acceptance of our offer.

Regards,

A handwritten signature in cursive script, appearing to read "Sharon Grant".

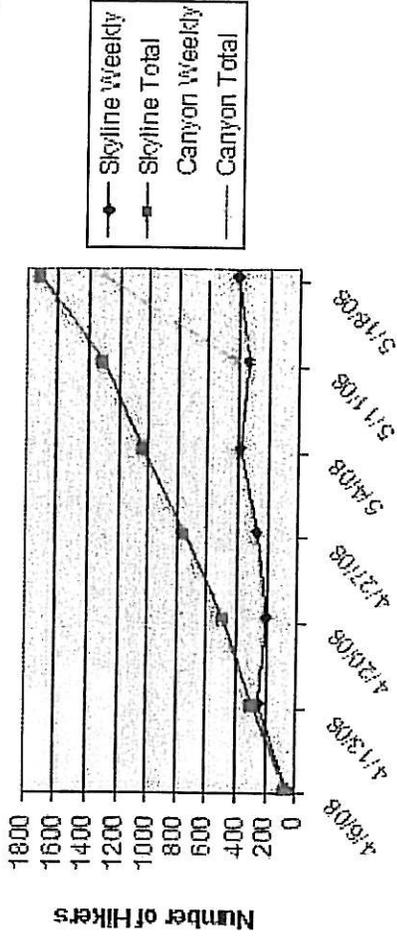
Sharon Grant
President
Friends of Badger Mountains

Badger Mountain Preserve

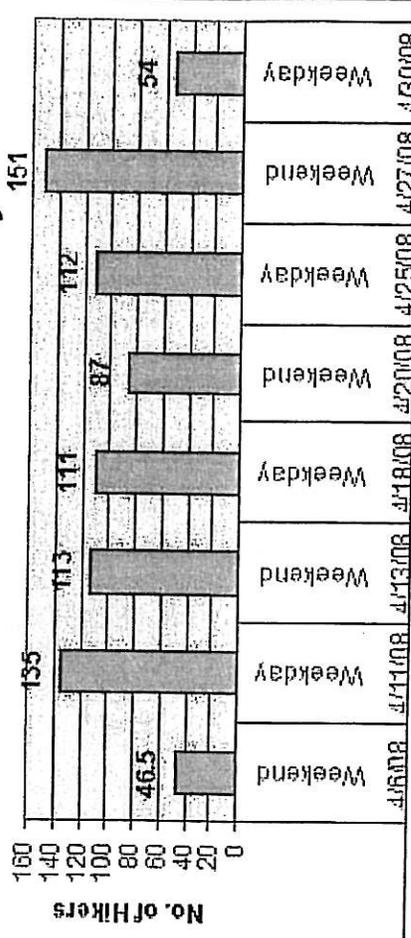
Skyline Trail: 1707 Hikers
Counted (4/5/08 to 5/18/08)

Canyon Trail: 1297 Hikers
Counted (5/10/08 to 5/18/08)

Skyline & Canyon Trail: Weekly Gr... Totals

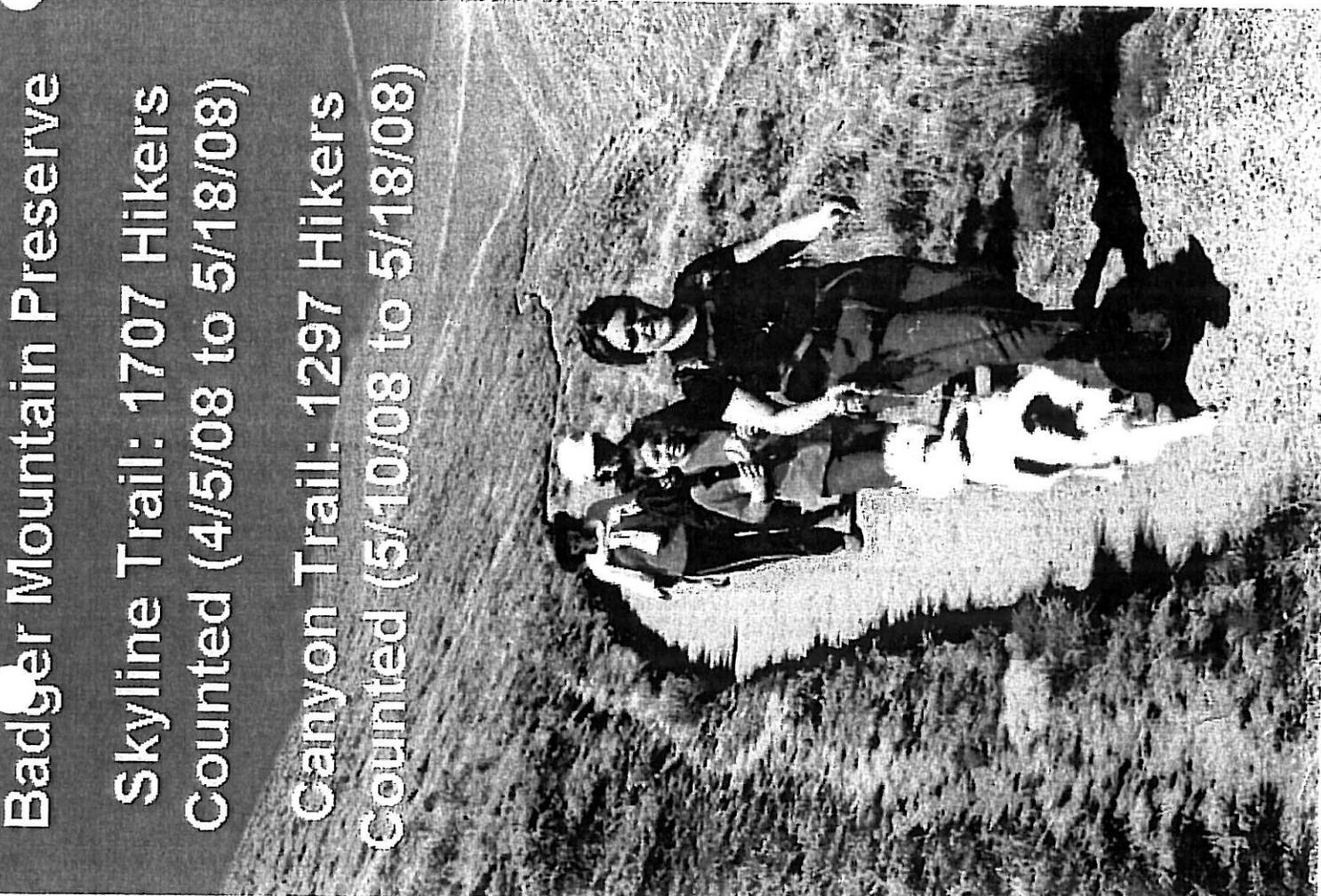
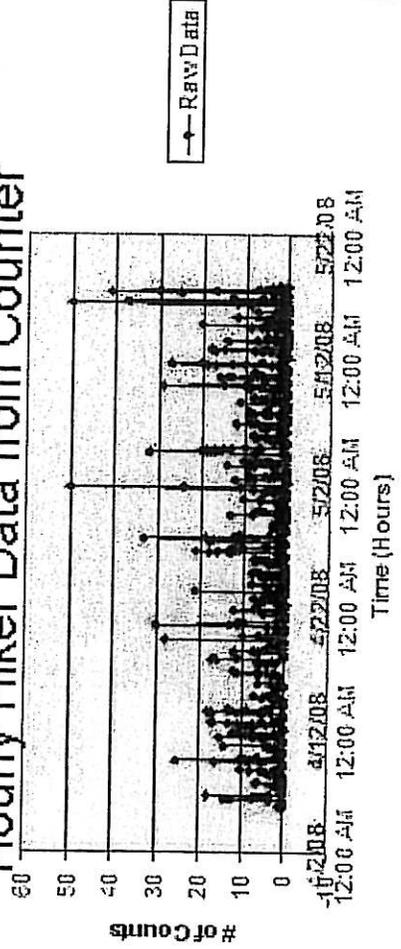


Skyline Trail = Hiker Weekly Totals



Skyline Trail

Hourly Hiker Data from Counter



Friends of Badger Mountain, Trail Work Accomplishment

- Canyon Trail, Design, Construction and Maintenance
- Skyline Trail, Design, Construction and Maintenance
- June '07: 35 Rock Steps in switchback at the beginning of the Canyon Trail completed
- Nov. '07: Gravel Hauler named the Badger Buggy (REI \$5000 Donation & FOBM \$2500)
- Spring '08: 1000 volunteer hours, 40 tons of rock to shore up the upper Canyon Trail edge (two Juvenile Justice crew work parties help with this work); gravel placed on both trails where needed

Not as much new gravel was needed this year which says that we are getting the trails in good long term shape – Jim Langdon, Spring 2008

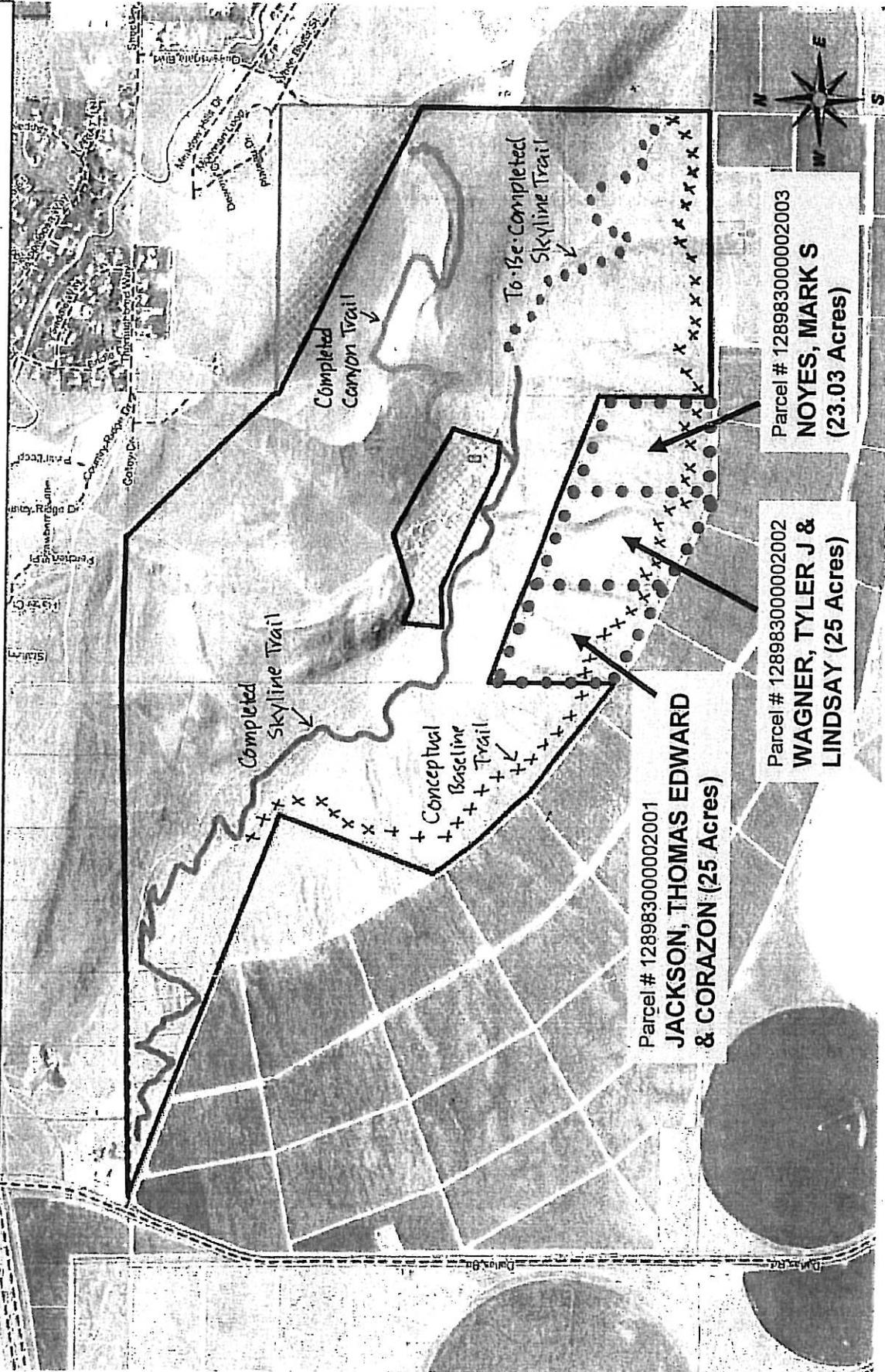


Legend

-  Budget/ Mountain Boundary
-  Parish
-  Road
-  Intersecting
-  City of Richland's Wakecliffe Park

Cktrtopbiolo flows in April 2004

This map was created using data from the Benton County GIS Department. It is not intended to be used for any purpose other than the one for which it was created. The user assumes all responsibility for any errors or omissions. Benton County GIS Department does not warrant the accuracy or completeness of the data. Benton County GIS Department is not responsible for any damages or losses resulting from the use of this map.



Parcel # 128983000002001
**JACKSON, THOMAS EDWARD
& CORAZON (25 Acres)**

Parcel # 128983000002002
**WAGNER, TYLER J &
LINDSAY (25 Acres)**

Parcel # 128983000002003
**NOYES, MARK S
(23.03 Acres)**

