

**April 20, 2009**

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

Draft

MINUTES

BOARD OF BENTON COUNTY COMMISSIONERS

Regular Board Meeting  
April 13, 2009, 9:00 a.m.  
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; Treasurer Duane Davidson; Clerk Josie Delvin; Eric Hsu, Office of Public Defense; Planning Manager Mike Shuttleworth; Auditor Bobbie Gagner; Steve Becken and Norm Childress, Public Works; DPA Kathleen Galioto; District Court Judge Bob Ingvalson; Marianne Ophardt, WSU; Sheriff Larry Taylor; Keith Mercer, Sheriff's Office; Central Services Manager Randy Reid; and PA Andy Miller.

Approval of Minutes

The Minutes of April 6, 2009 were approved as corrected.

Consent Agenda

**MOTION:** Commissioner Bowman moved to approve the consent agenda items "a" through "n". Commissioner Beaver seconded and upon vote, the Board approved the following:

Auditor

- a. Retail Lease Agreement w/Fred Meyer Stores, Inc.

Commissioner

- b. Letter to Gary Schaefer re: 506 PRSE Private Bridge Crossing KID Canal
- c. Letter to Stacy McCorkle re: 506 PRSE Private Bridge Crossing KID Canal
- d. Letter to Ray Morfeld re: 506 PRSE Private Bridge Crossing KID Canal
- e. Letter to Ken Hohenberg re: Tri-Citizen of the Year Award

District Court

- f. Line Item Transfer – Fund Number 0131-101, Dept. 000

Facilities

- g. Contract w/Craftsman Cabinets & Floor Coverings

Human Services

- h. Travel Expense Reimbursements

Road/Engineer

- i. Contract for Hess Road Bridge Guardrail
- j. Contract for Bituminous Surface Treatment 2009

Sheriff

- k. Purchase of Public Safety Communication Equipment
- l. Purchase of Digital Video Camera System from ICOP Digital, Inc.
- m. Purchase of Sector Electronic Ticketing Machines
- n. Service Contract w/Northwest Marine and Sport LLC

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

**Proposed Truck Traffic Ordinance for Finley Road**

DPA Kathleen Galieto said she reviewed the law regarding enacting an ordinance on South Finley Road and that based upon the statutes, the County did not have legal authority to enact an ordinance. She said if the types of traffic or weather were damaging the road, the Board had authority to enact an ordinance or impose weight limits. However, the claims of safety issues did not meet the criteria.

Norm Childress said that South Finley Road was considered a truck route and for freight mobility purposes would be available for funding. He advised it would be wise to leave it with that designation. He said the truck route signs have been installed and hopefully would work with voluntary compliance.

Public Comment

David Darnell, South Finley Road, said he has witnessed these trucks every day and something had to be done before somebody got hurt. He said it was a chip-seal road and the taxpayers paid to have the new Intertie built and he wanted the Board to make the truckers use that road.

Commissioner Bowman said he was disappointed because they built the road for the purpose of thru-traffic, but at this point, hopefully there would be voluntary compliance.

Commissioner Beaver said if this was not the tool, then he would try to find an alternative approach because the Board was there to make sure the community was safe and he would keep working on it.

Chairman Benitz said he appreciated the signage and encouraged the Road Department to continue to work with the business people. However, he said if there was another approach, he would also like to pursue it.

### Office of Public Defense – Reorganization

Eric Hsu presented a proposal to change the structure of the Office of Public Defense by converting three District Court contracts to full-time staff attorneys. He proposed hiring two attorneys by May or June 2009 and one attorney by the end of the year. Mr. Hsu also outlined the benefits, including manageable and predictable costs, no conflict with private practice, and flexibility with the ability to handle special cases.

District Court Judge Bob Ingvalson said it was a good proposal, District Court was in support of it, and they would be more than happy to provide space needed.

**MOTION:** Commissioner Bowman moved to approve the proposal, including any costs associated with remodeling. Commissioner Beaver seconded.

### Discussion

In response to questions asked by Chairman Benitz, Mr. Hsu made the following comments:

Mr. Hsu said the State OPD was in favor of the proposal and that it would address the “walk-in” issue; Mr. Hsu was in the process of setting up a NACO sponsored pilot program “DMED” to provide better screening for indigent defense clients; Mr. Hsu was working with the Auditor and Central Services to track outstanding obligations and manage the budget in real time; an RFP would be sent out to the entire state within about a week for quality investigators; and training should not impact the budget because there were current in-house attorneys that were willing to train the junior attorneys, at no impact to the budget.

Upon vote, the motion carried unanimously.

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

### Greater Columbia Behavioral Health (GCBH) –Amendment to Agreement

Chairman Benitz said the GCBH had been working under separate interlocal agreements and he presented a new interlocal agreement that put commissioners on the board, along with alternates, and removed the providers from the board.

Commissioner Bowman said he concurred with the mission of the new agreement but was concerned about the political impacts and adopting it without the approval of Franklin County’s attorney.

Commissioner Beaver said he agreed the RSN should not have providers making decisions that affected providers because it was a conflict and he was prepared to move forward.

Chairman Benitz said he appreciated Commissioner Bowman's concerns, but the agreement would not be effective unless all 11 counties signed it. He added that the agreement went out to all counties and everyone had an opportunity to provide input. He said the counties that had issues with the new contract expressed concern over governance.

The Board agreed to send a letter to the counties giving them an additional opportunity to respond before Benton County adopted the agreement.

### **WSU Benton County Extension— Food Sense Introductory Letter & Agreement**

Marianne Ophardt presented the agreement that allowed Benton County to use its staff time in exchange for a match on the grant.

**MOTION:** Commissioner Bowman moved to approve the WSU Introductory Letter and Agreement Regarding Food Stamp Nutrition Education. Commissioner Beaver seconded and upon vote, the motion carried.

The Board briefly recessed, reconvening at 10:05 a.m.

### **Federal Grant Representation**

Commissioner Bowman presented the contract with "Gordon Thomas Honeywell Governmental Affairs" on the Red Mountain federal government legislature and requested the Board approve the contract. He said there were a few clerical errors that needed to be changed.

**MOTION:** Commissioner Bowman moved to approve the contract, with the clerical changes. Commissioner Beaver seconded.

### **Discussion**

Commissioner Beaver said they had received information from Mr. Brown and wanted to know how to deal with it.

DPA Ryan Brown said the Board should be aware that home rule counties and cities could do whatever they wanted as long as it was not inconsistent with state law. He said that non-home rule counties could only do what they were expressly authorized to do or an implication from one of those expressed authorizations.

Commissioner Bowman added that WSAC reported to him there were 12 counties that hired lobbyists, none of which were home-rule counties. Commissioner Beaver said he was in favor of the contract and if there was not a definition that said the county couldn't sign it, he wanted to sign it and wait for someone to say it was wrong.

Chairman Benitz said he had some real concerns about bringing on a lobbyist knowing that Benton County was not a home-rule county and whether or not this was the right firm. He said this contract was specifically for Red Mountain and there were a multitude of projects he wanted

to get accomplished. He mentioned there was currently an economic study being done and maybe the County could join in with the cities' agreement.

Commissioner Bowman said this particular issue was very time sensitive. However, this could be a pilot project and the County could do some RFP's for future projects.

**MOTION:** Commissioner Beaver moved to table the motion for one week until April 20. Chairman Benitz seconded.

### Discussion

Chairman Benitz said he wanted to see what the cost would be with other partners. Commissioner Bowman said that delaying the decision would cost the County. Upon vote, the motion carried with Commissioner Bowman opposing.

### Work Release Facility

Sheriff Taylor requested the Board move forward on determining the feasibility of a 100-bed Work Release Facility to be located over the existing salle port at the jail by approving funding for the cost of an architect to provide one-line drawings. He said the drawings would determine actual costs and feasibility of the engineering.

Sheriff Taylor said he had talked with Eric Hsu and Andy Miller and they had stated their support and ability to fill the facility. Additionally, the local police departments supported the idea. Sheriff Taylor said he recognized this might not be the number one priority for construction, but he was requesting it go to a one-line drawing so they would know the hard costs for construction.

Roy Rogers presented a schematic drawing, outlining 4,000 square feet, with four different dorms. He discussed his concern about whether the building could take the weight load on current structure and his desire to get a professional engineer to determine if the project was feasible.

Andy Miller said they do order work release but there was a three-month wait, sometimes up to six months and as a prosecutor he didn't like to wait. He stated the victims of these crimes also liked work release better because the defendants were able to work and pay restitution. He said he was in favor of the idea and believed it would save money and preserve the third floor for contracting beds and the work release program was well monitored. He added that he was not stating whether it should go before or behind the other construction projects and it was not a contest for priority.

Eric Hsu said he had discussed at length about defendants paying as they go and work release would allow them to pay for their families, pay for the costs of representation, and was an ideal way to deal with compliance issues.

**MOTION:** Commissioner Beaver move to go forward with the one-line drawing to see about the feasibility and cost of the work release facility. Commissioner Bowman seconded.

**Discussion**

Commissioner Beaver asked how many "no-shows" were in the program and whether he would be able to pay for the program. Sheriff Taylor said he had never had a walk-away from work release once they were actually signed up for the program, he had worked with Loretta and Keith on the financials and with 90% occupancy, it would pay for itself. Sheriff Taylor said he had 60% occupancy last year, but there was a problem internally and it had been addressed and changed.

Commissioner Bowman said there was a lot of difference between 60% and 90%. Andy Miller said he believed the 60% was an anomaly because there had always been a long waiting list. Sheriff Taylor said he could guarantee the program would be successful.

Chairman Benitz said he appreciated the presentation, concurred with moving forward, and wanted to see the project put in the Capital Facilities Plan. Commissioner Bowman asked if it was necessary to complete a one-line drawing, but perhaps just an engineering report and phase the project for a shortcut. Mr. Rogers said the Board was better off under the control of an architect because they would hire the engineer.

Mr. Sparks said it made sense to talk about this issue at the same time it talked about the capital facility plan and space needs analysis. Commissioner Bowman said he agreed and wanted to talk about them all at once.

Upon vote, the motion carried with Commissioner Bowman opposing the decision being made prior to the other projects being considered.

The Board briefly recessed, reconvening at 11:02 a.m.

**Capital Facility Plan – Space Needs Analysis**

Chairman Benitz requested the Board pursue one-line drawings on all three projects: Courthouse remodel, Justice Center Administrative Building, and Work Release Facility.

Commissioner Beaver said he was in favor of moving forward with plans and strategies so they could get the numbers and see where to start.

Commissioner Bowman said that based on the new county seat legislation (to be signed by July) a reassessment of the Courthouse remodel was in order.

Mr. Sparks reminded the Board there was only \$9 million to complete all the projects and there had not been any limits set on the building concepts. Additionally, he said the work release facility and administrative building would not necessarily compete because there was specific money available to build jails.

Commissioner Bowman stated the records storage issue should also be addressed at the same time. Chairman Benitz requested that Mr. Sparks stay with the same concepts that were identified in the report on February 5, 2008 and put together the agreements with the architect.

The Board agreed.

### Other Business

#### Community Roundtable

Commissioner Bowman said he attended a meeting that reported the Tri-Cities had a new organization called "Young Professionals" that strived to create a community that attracted and retained young professionals.

#### Claim for Damages

CC 09-08: Received on April 7, 2009 from James B. Hambleton  
CC 09-09: Received on April 8, 2009 from Natalie Chacon  
CC 09-10: Received on April 9, 2009 from Glenn Charles Schultz

#### Vouchers

Check Date: 04/03/2009  
Taxes #: 10109041-10109043  
Warrant #: 921802-921842  
Total all funds: \$1,850,013.44

Check Date: 04/03/2009  
Warrant #: 222925-223090  
Direct Deposit #: 43792-44354  
Total all funds: \$1,997,771.34

Check Date: 04/10/2009  
Warrant #: 921893-922106  
Total all funds: \$307,527.57

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

#### Resolutions

09-243 Retail Lease Agreement w/Fred Meyer Stores, Inc.  
09-244 Line Item Transfer – Fund Number 0131-101, Dept. 000  
09-245 Contract w/Craftsman Cabinets & Floor Coverings  
09-246 Contract for Hess Road Bridge Guardrail  
09-247 Contract for Bituminous Surface Treatment 2009  
09-248 Purchase of Public Safety Communication Equipment

- 09-249 Purchase of Digital Video Camera System from ICOP Digital, Inc.
- 09-250 Purchase of Sector Electronic Ticketing Machines
- 09-251 Service Contract w/Northwest Marine and Sport LLC
- 09-252 Authorizing the Chairman to Sign the WSU Introductory Letter and Agreement with Regarding Food Stamp Nutrition Education

There being no further business before the Board, the meeting adjourned at approximately 11:30 a.m.

\_\_\_\_\_  
Clerk of the Board

\_\_\_\_\_  
Chairman

# RESOLUTION

**COPY**

*A*

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

**IN THE MATTER OF AUTHORIZING THE CHAIRMAN OF THE BOARD TO SIGN THE TWO (2) MAINTENANCE AGREEMENTS WITH COMSTOR INFORMATION MANAGEMENT, INC.,**

WHEREAS, the Benton County Auditor and Comstor Information Management, Inc. have an ongoing maintenance agreement for the two (2) Minolta reader printers (serial numbers 3610920 and 365683) owned by the Auditor agreement whereby Comstor Information Services provides maintenance and repair services, as outlined in the Maintenance Agreements; and

WHEREAS, the current maintenance agreements expire on 04/30/09 and new agreements need to be executed,

BE IT RESOLVED that Max E. Benitz, Jr., Chairman of the Board of Benton County Commissioners, is hereby authorized to sign the two (2) MAINTENANCE AGREEMENTS for the Minolta Reader Printers, Serial Numbers 3610920 and 365683 for the period of 05/01/09 through 04/30/10.

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**



**COPY**

**Information Management, Inc.**

## **Maintenance Terms and Conditions**

Customer BENTON COUNTY AUDITOR  
Service Address PO BOX 470  
City PROSSER  
State/Zip WASHINGTON 99350

Equipment: MINOLTA R/P 605 UNIT #1  
Start Date: 05/01/09

Serial Number: 3610920  
End Date: 04/30/10

### **BASIS OF MAINTENANCE**

This is a non-mandatory source that may be used by agencies for maintenance of equipment purchased or leased through COMSTOR. This is a mandatory requirement for all equipment acquired under Lease-To-Ownership Plans. A written purchase order shall be the only basis for maintenance agreements under this contract.

### **BILLINGS**

Agencies may issue purchase orders for the full fiscal year. Invoices will be issued monthly, quarterly, or yearly.

### **MAINTENANCE COVERAGE FOR MICROGRAPHICS EQUIPMENT**

The prices contained herein are for full service maintenance, and include the cost of labor and parts. Included with this Maintenance Agreement is **TWO** preventive maintenance inspection. A complete inspection consists of the work required to clean, inspect, and adjust the equipment to factory specifications. Parts not included under this agreement are lamps, glass parts, screen, drum, and supplies such as paper, toner, or items otherwise referred to as consumable supplies. Labor, travel, and parts will not be covered for repairs due to accidents, abuse, nonstandard electrical conditions, Acts of God, or malfunctions due to use of unauthorized supplies.

Repairs may not be made on the listed equipment by non-COMSTOR, Inc. personnel without consent of COMSTOR, Inc. Charge per copy and copy allowances will not apply to this contract.

### **HOURS OF SERVICE**

Service is available from 8:00 a.m. through 5:00 p.m., Monday through Friday, excluding holidays. Service at other times (nights and weekends or holidays) is available on a time and material basis.

### **EQUIPMENT LOCATION**

For prompt servicing of equipment, ordering offices shall indicate on the purchase order all information to assist COMSTOR in readily locating equipment, and immediately advise Comstor of any equipment relocation.

### **SECURITY**

Security clearances for COMSTOR personnel will be provided when required to meet obligations under this contract.

### **SERVICE RESPONSE**

COMSTOR shall always be responsive to the customer's repair service needs, and shall perform all repair services that are ordered by the customer during the contract term.

**EQUIPMENT AND PARTS**

Maintenance service provided hereunder includes such items of equipment as may be necessary to repair the product or accessories being serviced. Only new or remanufactured standard parts shall be used in effecting repairs. Maintenance rates quoted herein include replacement of parts on an exchange basis.

**MOVEMENT OF EQUIPMENT**

In the event that covered equipment is moved to another location within the service areas, the customer has the right to continue maintenance at the new location. In the event that covered equipment is moved to another location outside the service areas, the maintenance order shall be terminated without further obligation being incurred by either COMSTOR or the customer.

The customer shall give at least (30) days written notice of equipment movement unless the move is required due to an emergency. Shipment to the new location shall be at the customer's expense. When shipment is under the control of Comstor, the risk of loss/damage, and the cost of any repairs, shall be borne by COMSTOR. When shipment is under the control of the customer, the risk of loss/damage, and the cost of any repairs, shall be borne by the customer.

**MULTIPLE UNIT DISCOUNT**

Multiple unit discounts apply to only new equipment purchases, and not pre-existing equipment currently under a maintenance contract. The multiple unit discount is based on the total number of equipment on hand.

- 1 - 2 UNITS     0%
- 3 - 5 UNITS     5%
- 5 - 10 UNITS   10%

**MAINTENANCE AGREEMENT ZONES**

ZONE 1	0 to 30 miles	No Charge
ZONE 2	31 to 100 miles	\$140.00
ZONE 3	101 to 200 miles	\$280.00

Purchase Price	Inspections	Usage	Multiple Unit Discount	Amount	
	2			<u>\$2,854.52</u>	
		Zone Surcharge			
			TOTAL	\$2,854.52	plus applicable tax

Accepted by: \_\_\_\_\_

Customer

Title

\_\_\_\_\_

COMSTOR

Title

\_\_\_\_\_

Chair, Board of County Commissioners

Date



4c COPY

**Information Management, Inc.**  
**Maintenance Terms and Conditions**

Customer BENTON COUNTY AUDITOR  
Service Address PO BOX 470  
City PROSSER  
State/Zip WASHINGTON 99350

Equipment: MINOLTA R/P 605 UNIT #2  
Start Date: 05/01/09

Serial Number: 365683  
End Date: 04/30/10

**BASIS OF MAINTENANCE**

This is a non-mandatory source that may be used by agencies for maintenance of equipment purchased or leased through COMSTOR. This is a mandatory requirement for all equipment acquired under Lease-To-Ownership Plans. A written purchase order shall be the only basis for maintenance agreements under this contract.

**BILLINGS**

Agencies may issue purchase orders for the full fiscal year. Invoices will be issued monthly, quarterly, or yearly.

**MAINTENANCE COVERAGE FOR MICROGRAPHICS EQUIPMENT**

The prices contained herein are for full service maintenance, and include the cost of labor and parts. Included with this Maintenance Agreement is **TWO** preventive maintenance inspection. A complete inspection consists of the work required to clean, inspect, and adjust the equipment to factory specifications. Parts not included under this agreement are lamps, glass parts, screen, drum, and supplies such as paper, toner, or items otherwise referred to as consumable supplies. Labor, travel, and parts will not be covered for repairs due to accidents, abuse, nonstandard electrical conditions, Acts of God, or malfunctions due to use of unauthorized supplies.

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- 1 - 2 UNITS     0%
- 3 - 5 UNITS     5%
- 5 - 10 UNITS   10%

**MAINTENANCE AGREEMENT ZONES**

ZONE 1	0 to 30 miles	No Charge
ZONE 2	31 to 100 miles	\$140.00
ZONE 3	101 to 200 miles	\$280.00

Purchase Price	Inspections	Usage	Multiple Unit Discount	Amount	
	2			<u>\$2,517.80</u>	
		Zone Surcharge			
			TOTAL	\$2,517.80	plus applicable tax

Accepted by: \_\_\_\_\_

Customer

Title

\_\_\_\_\_

COMSTOR

Title

\_\_\_\_\_

Chair, Board of County Commissioners

Date

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 Kely  
Deputy County Administrator

**CANVASSING BOARD APPOINTMENT**

I, Max Benitz, Chair of the Benton County Commissioners, hereby designate myself to serve on the Benton County Canvassing Board for the Special Election to be held on May 19, 2009. I will serve for the timeframe of April 29, 2009 through June 3, 2009.

DATED this \_\_\_\_\_ day of April 2009.

\_\_\_\_\_  
MAX BENITZ, JR.  
Chair, Board of County Commissioners

C

# RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

**IN THE MATTER OF RESCINDING RESOLUTION 09-056 AND ESTABLISHING PROCEDURES AND GUIDELINES FOR REQUESTING, EVALUATING, AND APPROVING COUNTY AND BI-COUNTY NON-BARGAINING POSITIONS, AND LIMITING RECLASSIFICATIONS**

**WHEREAS**, the Board of Benton County Commissioners recognizes the current economic state facing Benton County, Washington State, and the nation; and

**WHEREAS**, it is the responsibility of the Board of Benton County Commissioners to approve any new positions and changes to existing positions, including classification descriptions and grades; and

**WHEREAS**, the Board of Benton County Commissioners desires to have the County Administrator evaluate and, if the County Administrator deems appropriate, approve requests brought before the Board for new county and/or bi-county non-bargaining positions, and in limited cases, position reclassifications. Guidelines for the County Administrator's evaluation and approval may include, but are not limited to, the following:

1. Whether the new position is supported in its entirety through federal/state grants and whether filling the position is critical to fulfilling grant or contract requirements;
2. Whether the new position is funded through a new revenue source or is supported through a fee-based process; and/or
3. Whether the elected official or department manager has identified ongoing cost reduction resulting from a new position and/or reclassification (e.g., through re-organization); **NOW THEREFORE**

**BE IT RESOLVED**, the Board of County Commissioners rescinds Resolution 09-056; and

**BE IT FURTHER RESOLVED**, the Board of Benton County Commissioners hereby authorizes the County Administrator to evaluate and, if the County Administrator deems appropriate, approve requests brought before the Board for new county and/or bi-county non-bargaining positions, and in limited cases, position reclassifications, based on individual circumstances presented in writing and in accordance with the guidelines set above; and

**BE IT FURTHER RESOLVED**, that the Board of Benton County Commissioners hereby otherwise halts approval of position reclassifications until further notice.

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

\_\_\_\_\_  
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

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IN THE MATTER OF A SERVICE AGREEMENT FOR TREE TRIMMING AND TREE THINNING SERVICES WITH DAVEY'S TREE LOCATED AT THE BENTON COUNTY COURTHOUSE

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

**WHEREAS**, the Facilities Manager solicited and received a quote from Davey's Tree, Kennewick, WA – Contractors License No. DAVEYT\*066JD in the amount of \$1,245.45 including W.S.S.T. for tree trimming and tree thinning services located at the Benton County Courthouse, Prosser, WA; and

**WHEREAS**, the Facilities Manager reviewed the quote and recommends said services to be awarded to Davey's Tree, Kennewick, WA; **NOW, THEREFORE**

**BE IT RESOLVED** by the Board of Benton County Commissioners, Benton County, Washington, the Board hereby agrees with the recommendation and awards Davey's Tree the services agreement in for said services in the amount of \$1,245.45 including Washington State Sales Tax; 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 DAVEY'S TREE a corporation authorized to do business in the State of Washington with its principal offices at 1602 S. Vancouver, Kennewick, WA 99336 (hereinafter "CONTRACTOR").

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

1. CONTRACT DOCUMENTS

This Contract consists of the following documents

- a. Exhibit A - Contractor's Proposal dated 3/20/09
- 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 30 days of the commencement date.

3. SERVICES PROVIDED

The CONTRACTOR shall perform the following services:

- a. The CONTRACTOR agrees to provide all necessary equipment, materials and supplies for the services of tree thinning of one (1) tree and the removal of broken limbs and dead branches of two (2) trees located at the Benton County Courthouse in Prosser, WA and in accordance with the proposal attached hereto as Exhibit A. Services also include the removal of cut limbs and brush from the site.

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:  
Dave Boyd, Owner  
Davey's Tree  
PO Box 7161  
Kennewick, WA 99336  
Phone 509-582-5026
  
- b. For COUNTY:  
Loretta Smith Kelty, Deputy County Administrator  
Benton County  
PO Box 190  
Prosser, WA 99350  
Phone 509-786-5600  
Fax 509-786-5625

5. COMPENSATION

The CONTRACTOR shall be paid for said services in accordance with the proposal provided in Exhibits A attached hereto. The total amount payable by the COUNTY to the CONTRACTOR under this Contract is not to exceed one thousand two hundred forty-five dollars and forty-five cents (\$1,245.45) including Washington State Sales Tax. 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. 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 CONTRACTOR'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:  
  
Loretta Smith Kelty, Deputy County Administrator  
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 schedule 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.

19. PUBLIC RECORDS ACT

CONTRACTOR hereby acknowledges that the COUNTY is a governmental entity and as such is subject to the requirements of the Public Records Act, RCW 42.56 et seq. Accordingly, CONTRACTOR understands that to the extent a proper request is made, the COUNTY may be required by virtue of that Act to disclose any records

actually in its possession or deemed by judicial determination to be in its possession, which may include records provided to the COUNTY by CONTRACTOR that CONTRACTOR might regard as confidential or proprietary. To the extent that CONTRACTOR provides any records to the COUNTY that it regards as confidential or proprietary, it agrees to conspicuously mark the records as such. CONTRACTOR also hereby waives any and all claims or causes of action for any injury it may suffer by virtue of COUNTY'S release of records covered under the Public Records Act. COUNTY agrees to take all reasonable steps to notify CONTRACTOR in a timely fashion of any request made under the Public Records Act which will require disclosure of any records marked by CONTRACTOR as confidential or proprietary, so that CONTRACTOR may seek a judicial order of protection if necessary.

20. LITIGATION HOLD NOTICE

In the event the COUNTY learns of circumstances leading to an increased likelihood of litigation regarding any matter where the records kept by CONTRACTOR pursuant to this Contract may be of evidentiary value, the COUNTY may issue written notice to CONTRACTOR of such circumstances and direct the CONTRACTOR to Ahold≅ such records. In the event that CONTRACTOR receives such written notice, CONTRACTOR shall abide by all directions therein whether or not such written notice is received at a time when a Contract between CONTRACTOR and the COUNTY is in force. Such directions will include, but will not be limited to, instructions to suspend any regularly scheduled records purge.

21. SURVIVABILITY

All Contract terms, which by their context are clearly intended to survive the termination and/or expiration of this Contract, shall so survive. These terms include, but are not limited to, indemnification provisions; insurance provisions; performance bond requirements; compliance with prevailing wage laws; non-discrimination; litigation hold notice; and Public Records Act.

- This portion was intentionally left blank -

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

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

BENTON COUNTY

DAVEY'S TREE

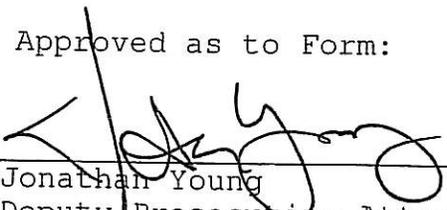
\_\_\_\_\_  
Max E. Benitz, Chairman

  
\_\_\_\_\_  
Dave Boyd, Owner

Dated: \_\_\_\_\_

Dated: 04/14/09

Approved as to Form:

  
\_\_\_\_\_  
Jonathan Young  
Deputy Prosecuting Attorney



Mar. 23. 2009 10:54AM  
FROM DAVEY'S TREE

FAX NO. :5095825026

No. 2278 P. 1  
Mar. 20 2009 11:55AM P1

**DAVEY'S TREE**  
P.O. BOX 7161  
KENNEWICK, WA, 99336

*Exhibit A*

### Estimate

Date	Estimate #
3/20/2009	10736

Name / Address
PROSSER COURTHOUSE ATTN: Steve

			Project
Description	Qty	Cost	Total
TREE THINNING	1	650.00	650.00T
REMOVED BROKEN LIMBS & REMOVED DEAD	2	250.00	500.00T
Thank you for your business.			
<b>Subtotal</b>			\$1,150.00
<b>Sales Tax (8.3%)</b>			\$95.45
<b>Total</b>			\$1,245.45

e

**BENTON COUNTY  
ACTION SUMMARY COVER SHEET**

AGENDA ITEM	TYPE OF ACTION NEEDED	
Agreement for Homeless Housing and Assistance Program to meet Ten-Year Homeless Housing Plan	<input checked="" type="checkbox"/> Execute Contract	<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 <sup>st</sup> Discussion
	<input type="checkbox"/> Pass Motion	<input type="checkbox"/> 2 <sup>nd</sup> discussion
Prepared By: Carol Carey	<input type="checkbox"/> Other	<input type="checkbox"/> Other

**BACKGROUND INFORMATION**

Benton County has established goals within its Ten-Year Homeless Housing Plan to reduce homelessness. To help meet these goals, this Agreement establishes a program to be conducted by the Benton Franklin Community Action Committee (CAC) to provide direct service vouchers and supportive services to individuals meeting the program's eligibility and documentation requirements.

**RECOMMENDATION**

- Sign the resolution to approve implementation of the Homeless Housing and Assistance Program with Benton Franklin Community Action Committee.
- Sign the Agreement with Benton Franklin Community Action Committee.

**MOTION**

To approve signing the Resolution to execute the Agreement with Benton Franklin Community Action Committee to provide the Homeless Housing and Assistance Program.

# RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

**IN THE MATTER OF EXECUTION OF AN AGREEMENT FOR THE PROVISION OF A HOMELESS HOUSING AND ASSISTANCE PROGRAM BETWEEN THE BENTON FRANKLIN COMMUNITY ACTION COMMITTEE AND BENTON COUNTY, AGREEMENT #2009-HH2163/CAC**

**WHEREAS**, Benton County has established goals in its Ten-Year Homeless Housing Plan to reduce homelessness; and

**WHEREAS**, the Benton Franklin Community Action Committee would assist Benton County to meet its goals by providing services and support through the Homeless Housing and Assistance Program; and

**WHEREAS**, the Department of Human Services, a department jointly operated by the Counties of Benton and Franklin, Washington, will administer and monitor the contract with Benton Franklin Community Action Committee; and

**WHEREAS**, the maximum obligation under the Agreement shall not exceed \$94,287.00; and

**WHEREAS**, the agreement is effective April 1, 2009 through December 31, 2009, **NOW THEREFORE**,

**BE IT RESOLVED** that the Board of Benton County Commissioners hereby accept the proposed agreement; and

**BE IT FURTHER RESOLVED** that the Chairman is hereby authorized to sign Agreement #2009-HH2163/CAC on behalf of the Board of Benton County Commissioners.

Dated this ..... day of ....., 2009.

\_\_\_\_\_  
Chair, Benton County Commissioners

\_\_\_\_\_  
Chair Pro Tem

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

Attest: .....  
Clerk of the Board

cc: Human Services

Ransom

AGENDA ITEM: Consent	<b>TYPE OF ACTION NEEDED</b> Executive Contract <u>XX</u> Pass Resolution <u>XX</u> Pass Ordinance Pass Motion Other	CONSENT AGENDA <u>XX</u> PUBLIC HEARING 1ST DISCUSSION 2ND DISCUSSION OTHER
MEETING DATE: B/C 4-20-09 F/C 4-13-09		
SUBJECT: Resolution Auth. Signature On Truancy Contempt Prevention Project Grant Application 2009 2010		
Prepared By: Sharon Paradis		
Reviewed By: Sharon Paradis		

#### BACKGROUND INFORMATION

In 2008 Benton-Franklin Counties Juvenile Justice Center was awarded Federal Title II Formula Grants Program for Deinstitutionalization of Status Offenders. This application is for continuation of that grant for the second year in the amount of \$67,000.00 from the Office of Juvenile Justice (OJJ). These funds are dedicated for the Truancy Contempt Prevention Program (TCPP) under the Office of Juvenile Justice for the term effective July 1, 2009, through June 30, 2010.

#### SUMMARY

During the second year, the grant will target truant youth that are at risk of further penetrating the juvenile justice system and secure detention. The TCPP seeks to decrease the number of youth that are admitted to secure detention for contempt of a Truancy court order. Specifically, the TCPP will provide intensive case management combined with interventions to detention to reduce the number of truancy contempt youth. Based on performance and availability of funds, this grant may be awarded for the same amount for up to one additional funding cycle.

#### RECOMMENDATION

I recommend that the Boards of Commissioners of Benton and Franklin Counties sign the Federal Grant Application for the Benton-Franklin Counties Truancy Contempt Prevention Project as written.

#### FISCAL IMPACT

This is a Grant Award is \$67,000.00.

#### MOTION

I move that the Chairman of the Board of Benton County Commissioners and the Chairman of the Board of Franklin County Commissioners be hereby authorized to sign the Federal Grant Application for the Benton-Franklin Counties Truancy Contempt Prevention Project.

7

JOINT RESOLUTION

BENTON COUNTY RESOLUTION NO. \_\_\_\_\_

FRANKLIN COUNTY RESOLUTION NO. 2009 143

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 ON THE FEDERAL GRANT APPLICATION FOR THE BENTON-FRANKLIN COUNTIES TRUANCY CONTEMPT PROJECT, and

WHEREAS, Sharon Paradis, Administrator of the Juvenile Court, believes it is in the best interest of the Juvenile Justice Center that the Federal Grant Application for second year funding for the Benton-Franklin Truancy Contempt Prevention Project, be approved as presented for a term commencing July 1, 2009, and terminating on June 30, 2010, NOW, THEREFORE,

BE IT RESOLVED, that the Chairman of the Board of Benton County Commissioners, and the Chairman of the Board of the Board of Franklin County Commissioners be hereby are authorized to sign, on behalf of their respective county, the Federal Grant Application for the Benton-Franklin Counties Truancy Contempt Prevention Project.

DATED this 20th day of April 2009  
BENTON COUNTY BOARD OF COMMISSIONERS

DATED this 13th day of April 2009  
FRANKLIN COUNTY BOARD OF COMMISSIONERS



\_\_\_\_\_  
Chairman of the Board

\_\_\_\_\_  
Chairman of the Board

**R.E. Koch - Absent**

\_\_\_\_\_  
Member

\_\_\_\_\_  
Chairman Pro Tem

\_\_\_\_\_  
Member



\_\_\_\_\_  
Member

Constituting the Board of  
County Commissioners,  
Benton County, Washington

Constituting the Board of  
County Commissioners,  
Franklin County, Washington

Attest:

Attest:

\_\_\_\_\_  
Clerk of the Board

  
Clerk of the Board

<u>AGENDA ITEM</u>		<u>TYPE OF ACTION NEEDED</u>		
Meeting Date:	April 20, 2009	Execute Contract	_____	Consent Agenda _____
Subject:	Purchase Agreement on State Contract	Pass Resolution	_____ <b>X</b> _____	Public Hearing _____
Prepared by:	Margaret Ault	Pass Ordinance	_____	1st Discussion _____
Reviewed by:	Jonathan Young	Pass Motion	_____	2nd Discussion _____
		Other	Sign Purchase Agreement.	Other _____

### BACKGROUND INFORMATION

The Benton County Prosecutor's Office's 60-month lease on the Xerox Document Centre 420 Copier expired in January 2009. The Benton County Prosecutor's Office looked at three copiers and found that the WorkCentre 5645 copier from Xerox best suits the needs of the Prosecutor's Office in Prosser. Standard on this copier are 3 paper sources, auto document feeder, auto duplexing, and an electronic sorting or Finisher/Sorter. Added to the base price of \$104.87 is an envelope insert kit for \$4.62 a month. This copier machine is covered under State Contract #03706 (Exhibit A to Attachment 1) with regards to pricing and conditions. Attached for the Board's review is the Purchase Agreement (Attachment 1), which needs to be signed by the Board of County Commissioners and the Current State Contract #03706 (Exhibit A). Jonathan Young from the Prosecuting Attorney's Office wrote the Purchase Agreement (Attachment 1) and has reviewed State Contract #03706 (Exhibit A).

### SUMMARY

The Benton County Prosecutor's Office signed a lease agreement with Xerox on January 2004. The Board of County Commissioners will need to sign the Purchase Agreement (Attachment 1) and the resolution authorizing the Prosecutor or his signee to sign a 60 month lease with Xerox.

### RECOMMENDATION

It is the recommendation of the Benton County Prosecutor's Office that the Board of County Commissioners sign the Purchase Agreement (Attachment 1) and the attached resolution.

### FISCAL IMPACT

The new lease for the WorkCentre 5645 Copier from Xerox will go from \$90.97 per month to \$109.49 which will be allocated from our present budget.

### MOTION

The Board of County Commissioners will need to make a motion to enter into a Contract with Xerox for the leasing of a copier for 60 months to the Benton County Prosecutor's Office in Prosser, WA.

# RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF LEASING A WORKCENTRE 5645 COPIER FROM XEROX FOR THE BENTON COUNTY PROSECUTING ATTORNEY'S OFFICE IN PROSSER, WASHINGTON

WHEREAS, the Benton County Prosecutor's Office would like to enter into a 60 month lease option with Xerox for the leasing of a WorkCentre 5645 Copier in 2009, as the current lease has expired; and

WHEREAS, the Board of County Commissioners will need to approve and sign the Purchase Order (Attachment 1). Attached to the Purchase Agreement (Attachment 1) is a copy of the State Contract #03706 (Exhibit A) that outlines Special Terms and Conditions of the State Contract with Xerox Model WorkCentre 5645 Copier and the fees to be charged to the Benton County Prosecutor's Office for the lease of the copier; and

WHEREAS, the monthly maintenance and lease agreement amount will be \$109.49 including all supplies, except paper; and

WHEREAS, it is the recommendation of the Benton County Prosecutor's Office that the Board of County Commissioners sign the Purchase Agreement (Attachment 1); and

WHEREAS, Xerox is a vendor under the State Contract #03706 (Exhibit A); NOW THEREFORE

BE IT RESOLVED that the Board of Benton County Commissioners is authorized to sign the Purchase Agreement (Attachment 1); and

BE IT FURTHER RESOLVED, the Washington State Contract No. 03706 (Exhibit A) expires April 1, 2011.

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

Original:  
c: PA, Auditor's Purchasing File

<u>AGENDA ITEM</u>	<u>TYPE OF ACTION NEEDED</u>		
Meeting Date: Monday, April 20, 2009 Subject: Dunfee Separation Agreement and Release Prepared by: Sarah Perry Reviewed by:	Execute Contract _____ Pass Resolution <u>  X  </u> Pass Ordinance _____ Pass Motion _____ Other Sign Settlement Agreement _____		Consent Agenda <u>  X  </u> Public Hearing _____ 1st Discussion _____ 2nd Discussion _____ Other _____

**BACKGROUND INFORMATION**

Before the Board for approval and signature is a Resolution and Separation Agreement and Release with Ross Dunfee. Mr. Dunfee's employment relationship with the County ended on March 30, 2009. Mr. Dunfee's Employment Agreement (Resolution No. 07-057) provides for severance pay, provided that Mr. Dunfee signs a waiver and release of liability. Mr. Dunfee has done so by signing the attached Separation Agreement and Release.

**SUMMARY**

Approve and sign the Resolution and Separation Agreement and Release.

**MOTION**

Move to approve and sign the Resolution and Separation Agreement and Release between the County and Ross Dunfee.

# RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF THE SEPARATION AGREEMENT AND RELEASE BETWEEN  
BENTON COUNTY AND ROSS DUNFEE

WHEREAS, Mr. Dunfee's employment relationship with the County ended  
on March 30, 2009; and

WHEREAS, Mr. Dunfee's Employment Agreement (Resolution No. 07-057)  
provides for severance pay, provided that Mr. Dunfee signs a waiver  
and release of liability; and

WHEREAS, Mr. Dunfee has signed the attached Separation Agreement  
and Release; and

WHEREAS, Benton County Board of Commissioners has reviewed the  
terms of the Separation Agreement and Release, NOW THEREFORE,

BE IT RESOLVED, that the Benton County Board of Commissioners  
approves the Separation Agreement and Release and is authorized to  
sign the same.

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

Original:  
c:

RESOLUTION NO. \_\_\_\_\_

County Engineer Project No. 1903 CRP

Arterial

Access

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON  
IN THE MATTER OF COUNTY ROADS, RE: HESS ROAD BRIDGES GUARDRAIL UPGRADES

IT IS HEREBY RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, to improve the Hess Road Bridges by upgrading the existing guardrail at M.P. 1.454 and M.P. 0.914 as per the contract awarded to Dirt & Aggregate Interchange, Inc., Fairview, OR on March 30, 2009 by Resolution 09-215.

Length of Project: \_\_\_ miles; Width of Roadbed: \_\_\_\_\_ ft.; Surface: \_\_\_ ft.; Pavement: \_\_\_ ft.

Type and depth of surfacing:

Bridge  Irrigation Crossings : Length \_\_\_\_\_ ft.; Width \_\_\_\_\_ ft.

Estimated date of beginning: May 1, 2009; Estimated date of completion: Dec. 31, 2009

BE IT FURTHER RESOLVED, That for the foregoing proper county road purpose there is hereby appropriated sums in the following detail:

	<u>County Road Fund</u>			<u>Total</u>
Prel. Engr.	\$51,245.00			\$51,245.00
Right-of-Way				
Mat. from Stkple				
Day Labor				
Contract	\$111,555.00			111,555.00
Const. Engr.	11,600.00			11,600.00
Contingencies	5,600.00			5,600.00
Total	\$180,000.00	\$0.00	\$0.00	\$180,000.00

The county road purpose herein described is HEREBY DECLARED to be a public necessity and the County Road Engineer is HEREBY ORDERED AND AUTHORIZED to report and proceed thereon as by law provided.

BE IT FURTHER RESOLVED that this purpose be performed by contract in accordance with the State of Washington Standard Specifications for Road, Bridge, and Municipal Construction, as adopted by this Board.

ADOPTED this 20th day of April, 2009.

(SEAL)

Attest:

\_\_\_\_\_  
Clerk of the Board

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Chairman Pro-Tem

\_\_\_\_\_  
Member  
Constituting the Board of County Commissioners  
of Benton County, Washington.

RESOLUTION NO. \_\_\_\_\_

County Engineer Project No. 1908 PRES

Arterial  Access

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON  
IN THE MATTER OF COUNTY ROADS, RE: BITUMINOUS SURFACE TREATMENT 2009

IT IS HEREBY RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, That it is their intention to improve County roads by application of Bituminous Surface Treatment according to the contract awarded March 30, 2009 to Granite Northwest, Inc., Yakima, Washington.

Length of Project: \_\_\_\_\_ miles; Width of Roadbed: varies ft.; Surface: varies ft.; Pavement: varies ft.  
Type and depth of surfacing: Bituminous Surface Treatment  
Bridge  Irrigation Crossings  Length \_\_\_\_\_ ft.; Width \_\_\_\_\_ ft.  
Estimated date of beginning: May 4, 2009; Estimated date of completion: August 31, 2009

BE IT FURTHER RESOLVED, That for the foregoing proper county road purpose there is hereby appropriated sums in the following detail:

	<u>County Road Fund</u>	City of Benton City & <u>City of Kennewick</u>	City of Richland & <u>City of West Richland</u>	<u>Total</u>
Road Preserv.				\$0.00
Mat. from Stkple	120,000.00			\$120,000.00
Day Labor				\$0.00
Contract	1,554,766.00	100,670.00	222,813.90	\$1,878,249.90
Const. Engr.	41,234.00	2,500.00	5,000.00	\$48,734.00
Contingencies	49,000.00	2,500.00	5,186.10	\$56,686.10
Total	1,765,000.00	105,670.00	233,000.00	\$2,103,670.00

The county road purpose herein described is HEREBY DECLARED to be a public necessity and the County Road Engineer is HEREBY ORDERED AND AUTHORIZED to report and proceed thereon as by law provided.

BE IT FURTHER RESOLVED that this purpose be performed by contract in accordance with the State of Washington Standard Specifications for Road, Bridge, and Municipal Construction, as adopted by this Board.

ADOPTED this 20th day of April, 2009.

\_\_\_\_\_  
Chairman

(SEAL)

\_\_\_\_\_  
Chairman Pro-Tem

Attest:

\_\_\_\_\_  
Member  
Constituting the Board of County Commissioners  
of Benton County, Washington.

\_\_\_\_\_  
Clerk of the Board

# Benton County

## Department of Public Works

Post Office Box 1001 - Courthouse  
Prosser, Washington 99350-0954

April 15, 2009

BOARD OF COUNTY COMMISSIONERS  
Benton County Courthouse  
Prosser, WA 99350

RE: Application for Franchise  
Applicant: City of Kennewick

Commissioners:

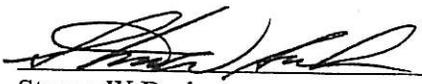
The City of Kennewick has filed a petition for a nonexclusive franchise to continue water and sewer distribution system within Benton County road right of way county wide.

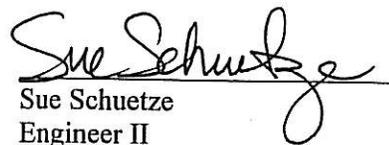
This office has reviewed the request and based upon our current franchise requirements recommends approval of the request subject to the following conditions:

1. The term of the franchise continue for a ten (10) year period.
2. The Grantee is to carry liability insurance with Benton County named as an insured with a minimum limit of \$500,000.00. A copy of the proof of insurance is to be provided to Benton County.
3. Placement of facilities within the right of way shall meet all requirements of Benton County as to location and repair of roads and right of way.
4. Should Benton County require utility relocation work because of road reconstruction or maintenance, said work shall be at the Grantee's expense.
5. The franchise is nonexclusive.
6. The Grantee sign the Order and Agreement for Nonexclusive Franchise, which will be prepared based upon the requirements set forth at the public hearing.

If you have any questions, please contact this office.

Sincerely,

  
\_\_\_\_\_  
Steven W Becken.  
Acting County Engineer

  
\_\_\_\_\_  
Sue Schuetze  
Engineer II

# Benton County

## Department of Public Works

Post Office Box 1001 - Courthouse  
Prosser, Washington 99350-0954

April 15, 2009

BOARD OF COUNTY COMMISSIONERS  
Benton County Courthouse  
Prosser, WA 99350

RE: Application for Franchise  
Applicant: Bonneville Power Administration

Commissioners:

The United States of America, Acting by and through the United States Department of Energy, Bonneville Power Administration has filed a petition for a nonexclusive franchise to continue transmission distribution system facility within Benton County road right of way county wide.

This office has reviewed the request and based upon our current franchise requirements recommends approval of the request subject to the following conditions:

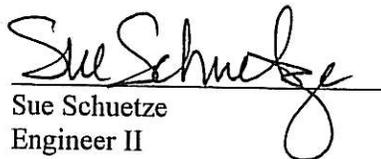
1. The term of the franchise continue for a ten (10) year period.
2. The Grantee is to carry liability insurance with Benton County named as an insured with a minimum limit of \$500,000.00. A copy of the proof of insurance is to be provided to Benton County.
3. Placement of facilities within the right of way shall meet all requirements of Benton County as to location and repair of roads and right of way.
4. Should Benton County require utility relocation work because of road reconstruction or maintenance, said work shall be at the Grantee's expense.
5. The franchise is nonexclusive.
6. The Grantee sign the Order and Agreement for Nonexclusive Franchise, which will be prepared based upon the requirements set forth at the public hearing.

If you have any questions, please contact this office.

Sincerely,



Steven W Becken.  
Acting County Engineer



Sue Schuetze  
Engineer II

David Sparkes  
9:15

AGENDA ITEM	TYPE OF ACTION NEEDED		Consent Agenda
MTG. DATE: April 20, 2009	Execute Contract		Public Hearing
SUBJECT: Preliminary Plat of Sunset Estates -SUB 07-06	Pass Resolution	X	Public Meeting X
MEMO DATE: April 13, 2009	Pass Ordinance		1st Discussion
Prepared By: Clark A. Posey	Pass Motion	X	2nd Discussion
Reviewed By: Michael Shuttleworth	Other		Other

**BACKGROUND INFORMATION**

On March 10, 2009, the Benton County Planning Commission conducted a public hearing on the proposed preliminary plat of Sunset Estates – SUB 07-06. This subdivision consists of 44.18 acres to be divided into 17 single-family lots with an average lot size of 2.53 acres. After closing the Open Record Hearing and discussing the proposed plat, the Planning Commission made a recommendation to approve the preliminary plat of Sunset Estates as presented with conditions. The Planning Commission’s record and recommendation for SUB 07-06 is being submitted for your review and decision. A public meeting with the Board has been set for April 20, 2009 at 9:15 a.m. to review the record and recommendation of the Planning Commission.

The Board of County Commissioners must make a final decision on the preliminary plat application based on the Planning Commission’s Open Record Hearing. The Board may not hold its own Open Record Hearing if the Planning Commission held an Open Record Hearing. The Board cannot consider any testimony other than that testimony that was presented to the Planning Commission at their Open Record Hearings. The only information the Board can consider is the clarification of statements made at the Open Record Hearing with reference to testimony and information submitted to the Planning Commission in their record prepared for this preliminary plat application. Attached for the Board’s review is a copy of the tapes and all information presented at the Planning Commission Open Record Hearing. Also attached is the signed Recommendation, Findings and Conclusion of the Planning Commission Open Record Hearing.

**SUMMARY**

The Benton County Planning Commission has completed the open record hearing for the preliminary plat application of Sunset Estates – SUB 07-06. The Board needs to consider the preliminary plat and recommendation of the Planning Commission at the public meeting on April 20, 2009.

**RECOMMENDATION**

After closing the Open Record Hearing and discussing the issue, the Planning Commission voted to recommend approval of the preliminary plat as presented with conditions. After reviewing the information presented at the public meeting, the Planning staff recommends that the Board adopt the Planning Commission’s Recommendation, Findings and Conclusions (**See attached**) and approve the proposed preliminary plat.

**FISCAL IMPACT** - None

**MOTION**

If the Board agrees with the Planning Commission and Planning Department, the Board can adopt the Planning Commission recommendation, Findings and Conclusions as their own and approve the preliminary plat of Sunset Estates – SUB 07-06 with the conditions as recommended by the Planning Commission.

If however, the Board disagrees with the Planning Commission and Planning Department’s recommendation then the Board will have to complete your own Findings and either approve the plat with additional conditions or deny the plat. If based on the Planning Commission’s record, you wish to complete your own findings of fact, the Planning Department could draft the Boards findings and conclusions for the Board’s approval.

File No. SUB 07-06  
 Date 4-13-09  
 Staff Exhibit No. A  
 Pro. Exhibit No. \_\_\_\_\_  
 Opp. Exhibit No. \_\_\_\_\_  
 Received by [Signature]

9:25 AM

EXECUTIVE SESSION  
1<sup>ST</sup> QUARTER LITIGATION  
UPDATE – R BROWN

9:35

**INTERLOCAL AGREEMENT FOR THE REFORMATION OF GREATER COLUMBIA  
BEHAVIORAL HEALTH REGIONAL SUPPORT NETWORK**

This Agreement is made and entered into by and among the several counties organized and existing as political subdivisions under the Constitution and laws of the State of Washington which are signatory to this Agreement and shall replace all prior Agreements concerning Greater Columbia Behavioral Health ("GCBH") and/or Greater Columbia Regional Support Network which are hereby terminated and revoked. The purpose of this Agreement is to change the manner in which GCBH is governed.

**RECITALS**

WHEREAS, The State of Washington legislature has adopted RCW 71.24 as amended from time to time, instituting mental health reform and authorizing regional support networks, hereinafter called RSNs; and

WHEREAS, The State of Washington has adopted RCW 71.24.025 and 71.24.300 thereby making tribal authorities eligible to participate in the administration and management of regional support networks; and

WHEREAS, counties benefit from RCW 39.34 which permits local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities; and

WHEREAS, each member county desires to join together for the purpose of planning, authorizing, and coordinating mental health services; and

WHEREAS, it appears economically feasible and practical to do so;

NOW, THEREFORE, for and in consideration of the mutual benefits, covenants, and agreements contained herein, the member counties agree as follows:

**ARTICLE 1**

**PURPOSE**

This Agreement is entered into for continuing and expanding GCBH, which shall be organized under RCW 71.24-Community Mental Health Services Act, and RCW 39.34-Interlocal Cooperation Act, to provide programs of comprehensive mental health services and economy of resources for all member counties.

**ARTICLE 2**

**PARTIES TO AGREEMENT**

The counties that are party to this agreement are as follows: Asotin, Benton, Columbia, Franklin, Garfield, Kittitas, Klickitat, Skamania, Walla Walla, Whitman and Yakima. Each member county that is a party to this Agreement certifies that it intends to participate with all other member counties to this Agreement on its effective date and with such other parties as may later be added to and become signatories to this Agreement. Each party also agrees that the cancellation or withdrawal of a party shall not affect this Agreement nor any other rights or duties under this Agreement.

### ARTICLE 3

#### EFFECTIVE DATE AND DURATION OF AGREEMENT

This Agreement shall become effective when signed by all member counties and posted on the GCBH website and shall continue until terminated by a majority of the member counties.

### ARTICLE 4

#### MEMBERSHIP COMPOSITION

Membership, pursuant to RCW 71.24 as amended from time to time, shall be limited to the several counties of and in the State of Washington. GCBH through its Bylaws shall provide for the reasonable admission of new member counties. In accordance with RCW 71.24.300 the member counties shall include tribal authorities in the administration and management of GCBH if requested by the tribal authority. As signatories to the Agreement the counties shall be known as the "member counties". The tribal authority appointed to GCBH, if any, shall be known as the "member tribal authority". A new member county may join GCBH after approval of majority vote of the Governing Board and shall become an active participant member of GCBH commencing on the date specified by the Governing Board.

### ARTICLE 5

#### NATURE OF THE REGION

GCBH shall be a Regional Support Network (RSN) as defined by RCW 71.24 as amended and shall act through a Governing Board of Directors ("Governing Board") of the RSN performing all the functions and duties normally expected of a Board of Directors. The Governing Board of Directors of the RSN shall be responsible for implementation of all requirements of RCW 71.24 as amended from time to time. In addition, an Operational Board ("Operational Board") shall be formed and have all authority to act on behalf of the RSN that is given to it by the Governing Board.

### ARTICLE 6

#### ORGANIZATION

##### I. GOVERNING BOARD

A. GOVERNING BOARD OF DIRECTORS. GCBH shall be governed by a Governing Board which shall be composed of one Director from each member county. Each member county may also appoint an Alternate Director to act on behalf of the county in the event the Director is not available. Directors and Alternate Directors, except for the Tribal Director and the Tribal Alternate Director, described below, shall be County Commissioners appointed by the Boards of County Commissioners respectively of member counties.

Each county shall appoint a Director and one Alternate Director in the manner set forth above. Alternate Directors shall have the same authority to attend, participate in, and vote at any meeting of the Governing

Board or a Committee as that member county's Director when such Director is absent from the meeting. Each Director shall have one vote.

B. OFFICERS. The Governing Board shall elect officers to govern GCBH as provided by its Bylaws. Each officer must be a Director and may not be an Alternate Director. An Alternate Director may not act in place of an Officer in the capacity of the Officer.

C. MEETINGS. The Governing Board shall provide for regular quarterly meetings and shall be subject to the Open Public Meetings Act, Chapter 42.30 RCW. A quorum of the Governing Board shall be defined as a majority of the Directors (or Alternate Director if the Director is not present) from the member counties.

D. AUTHORITY OF GOVERNING BOARD. The Governing Board shall have the authority and power to adopt Bylaws which shall be consistent with this Agreement and shall be binding on all members. The Governing Board also shall have the authority to establish necessary committees to assist the Governing Board in the performance of its duties. The Governing Board shall establish all policies for GCBH, and shall approve all budgets for expenditures. The Governing Board may delegate any and all powers it has to the Operational Board as it sees fit.

## II. OPERATIONAL BOARD

A. OPERATIONAL BOARD. An Operational Board shall be established by the Governing Board. This Operational Board shall consist of one (1) member from each member county. Each Operational Board member shall be appointed by the member county in a manner approved by each member county's Board of County Commissioners. The Operational Board member may appoint a substitute member for any meeting by giving written notice to the GCBH Regional Office.

B. OFFICERS. The Operational Board shall elect officers as provided by the GCBH Bylaws.

C. MEETINGS. The Operational Board shall meet regularly on a monthly basis and shall be subject to the Open Public Meetings Act, Chapter 42.30 RCW. A quorum of the Operational Board shall be a majority of the members then appointed to the Operational Board.

D. AUTHORITY OF OPERATIONAL BOARD. The Operational Board shall have all authority granted to it by the Governing Board and Bylaws. The Operational Board shall have the authority to advise the Governing Board on policy and budget. The Operational Board shall have the authority to approve previously budgeted expenditures. The Operational Board shall have the authority to advise the GCBH Director regarding all operational practices, procedures, policies and expenditures. The Operational Board shall not have the authority to adopt governing policy or budgets, but may advise the Governing Board concerning these matters.

## ARTICLE 7

### INSURANCE AND INDEMNIFICATION:

A. The member counties of GCBH shall obtain and maintain throughout the term of this Agreement, general liability and malpractice insurance coverage in the amount per occurrence and in the aggregate in

accordance with the applicable laws of their respective county for any acts or omissions related to the performance of services under this Interlocal Agreement but not less than \$5 million dollars. The member counties shall assure the coverage applies to claims after termination of this Agreement that relate to services provided under this Interlocal Agreement in accordance with the applicable laws of their respective county. The member counties shall be solely responsible for any deductible amounts required under such policies, however, said costs are normal business expenses to be paid out of available GCBH funds provided to the member county. Evidence of such insurance shall be promptly provided to GCBH upon its written request. The member county shall not permit such policy(ies) to lapse without first providing GCBH at least thirty (30) calendar days written notice of its intention to allow the policy(ies) to lapse.

B. The member counties shall indemnify and hold harmless each and every other member county of GCBH, including each member county's officers, directors, employees, agents and representatives, from all claims, including reasonable attorney's fees, which arise out of that member county's actions or obligations under this Agreement.

C. GCBH shall obtain and maintain throughout the term of this Agreement, general liability and malpractice insurance coverage in the amount per occurrence and in the aggregate in accordance with the applicable Bylaws of GCBH and consistent with the laws of the member county for any acts or omissions related to the performance of services. GCBH shall name each member county as an additional insured and this coverage shall be the primary coverage in order to shield the governmental interests of the member county. GCBH shall assure the coverage applies to claims after termination of the Agreement that relate to services provided under this Interlocal Agreement and any other agreements of GCBH in accordance with the applicable laws of the member county. GCBH shall be solely responsible for any deductible amounts required under such policies; however, said costs are normal business expenses to be paid out of available GCBH funds without any offset to the funds provided to the member county(ies). Evidence of such insurance shall be promptly provided to the member county(ies) upon its written request. GCBH shall not permit such policy(ies) to lapse without first providing the member county at least thirty (30) calendar days written notice of its intention to allow the policy(ies) to lapse.

D. GCBH shall indemnify and hold harmless each and every other member county of GCBH, including but not limited to, each member county's officers, director, employees, agents, and representatives, from any and all claims, including reasonable attorneys' fees, which arise out of GCBH's actions or obligations under this Agreement.

E. The member counties have no obligation to indemnify and hold harmless GCBH, including but not limited to, each officer, director, employee, agent and representative; except for member county's own omissions or neglect.

F. The member counties agree that in all agency delegation and other subsidiary agreements under which GCBH functions are to be performed or GCBH funds allocated, the agent, delegee or other contractor shall be obligated to indemnify and hold GCBH and its members harmless for all negligent or wrongful acts by such agent, delegate, or contractor relating to such agreement, and for reasonable attorney's fees incurred in actions based on such acts and actions of indemnification. If such agent, delegate or contractor is an Indian tribe, the agreement shall also contain an express and absolute waiver of immunity from suit so that such indemnification may be effective. Any such agency, delegation or other subsidiary agreement which does not contain the terms required in this paragraph shall be unenforceable against the GCBH.

G. Each Director and Alternate Director of the Governing Board and member of the Operational Board shall be a covered insured by GCBH for any and all official acts performed by such individual.

## ARTICLE 8

### ADMINISTRATIVE ENTITY

The Governing Board shall have a Business Office which shall be given general administrative responsibility for the GCBH activities including acting as the fiscal agent for GCBH.

## ARTICLE 9

### BUDGET AND RECORDS

A. BUDGET. The Governing Board shall establish and maintain biennial budgets for the operation of GCBH, with advice from the Operational Board.

B. AUDIT REPORT. GCBH, on behalf of the Governing Board, shall establish and maintain such funds and accounts as may be required by good accounting practices and the State Budget Accounting Reporting System ("BARS"). Financial records of GCBH shall be open to inspection at all reasonable times at the request of the Governing Board Director(s). GCBH shall be subject to audit by the Washington State Auditor. A complete written report of the financial activities of GCBH, including an annual audit of the accounts and records of GCBH, shall be provided to each Governing Board Director. Said audit of GCBH shall be performed by the Washington State Auditor's Office as required by law. Costs of said audit shall be a normal expense of GCBH.

The member counties shall provide necessary financial data to GCBH in order to allow GCBH to meet compliance requirements for all funds.

## ARTICLE 10

### CANCELLATION AND WITHDRAWAL

A. CANCELLATION. A member county's participation in this Agreement and in GCBH may be involuntarily cancelled for cause at any time by an affirmative vote of three quarters (3/4) of the entire Governing Board. Cause for cancellation shall include, but not be limited to:

1. failure to participate in a majority of meetings of the Governing Board,
2. failure to meet applicable regional goals and standards in a good faith effort, as set forth by the State of Washington and the GCBH Governing Board,
3. failure to notify the Governing Board of known incidents, claims, and lawsuits which may have an adverse impact on GCBH,
4. failure to comply with the applicable terms and conditions of the GCBH contract with the Division of Mental Health or other contract, or, as otherwise defined in the Bylaws of GCBH. The effective date of cancellation shall be six (6) months after the date of Governing Board action unless a different period is otherwise determined by the Governing Board. Until the effective date, the cancelled member county shall still benefit from the services of GCBH.

B. WITHDRAWAL. No member county may voluntarily withdraw from GCBH until the member county has given GCBH a three (3) month written notice of its intent to withdraw or as otherwise provided in other sections of this Agreement.

C. EFFECT OF CANCELLATION AND WITHDRAWAL. The cancellation or withdrawal of one or more member counties shall not terminate this Agreement for the other remaining parties. Member counties are entitled to payment for services rendered up to and before the effective date of their withdrawal or cancellation. Member counties are entitled to the return of their pro rata share of all personal and/or real property in accordance with applicable Federal and State law. The member county is entitled to receive reasonable compensation for the personal or real property retained by GCBH.

D. INITIAL CONTRACT APPROVAL/EXCEPTION. Notwithstanding any other provision of this Interlocal Agreement, each member county reserves the right to approve the initial contract between the State of Washington and GCBH. Any member county not approving the initial or renewal contract shall be permitted to terminate its obligation under this Agreement, withdraw from GCBH, and be free and clear from any liability occurring after termination under this Agreement, except for that terminating member county's proportionate share of any obligations incurred prior to termination. A member county shall only terminate under this section by giving written notice to its intent to terminate within 30 days after receipt by that member county of a copy of the State of Washington GCBH contract. Termination shall be effective within five (5) calendar days after the Business Office receives the written notice of intent to terminate.

## ARTICLE 11

### TERMINATION OF GCBH

This Agreement may be terminated at any time by the written consent of the Boards of County Commissioners of a majority of the member counties. Upon termination, this Agreement and GCBH shall continue for the purpose of disposing of all claims, distribution of assets, and all other functions necessary to wind up the affairs of GCBH.

## ARTICLE 12

### PROPERTY OF THE REGION

A. PROPERTY. GCBH shall acquire, hold and dispose of real and personal property subject to the same restrictions as any of the member counties as provided for in the Bylaws. The method of acquiring, holding, and disposal shall be defined in the Bylaws.

B. CONTINGENT LIABILITIES. Upon termination, the Governing Board shall wind up and dissolve the business affairs of GCBH. The assets, reserves, property, and bonds or insurance policies shall first be applied to the claims against GCBH. The Governing Board shall then determine, and member counties shall pay, each member county's fair share of any additional amounts necessary for final disposition of all claims and if applicable divide all assets in the manner set forth in the bylaws.

'''

## **ARTICLE 13**

### **LEGAL NOTICES**

Legal Notices to each member county shall be sent prepaid by certified mail to its Director of the respective member county at such addresses as may be given in writing to GCBH.

## **ARTICLE 14**

### **AMENDMENTS**

This Agreement may be amended at any time by the written approval of the Boards of Commissioners of all member counties except as provided in Article 3, Duration of Agreement.

## **ARTICLE 15**

### **PROHIBITION AGAINST ASSIGNMENT**

No member county may assign any right, claim, or interest it may have under this Agreement. No creditor, assignee, or third-party beneficiary of any member county shall have any right, claim, or title to any part, share, interest, fund, or asset of GCBH.

## **ARTICLE 16**

### **ENFORCEMENT AND VENUE**

This Agreement and others subsidiary hereto, including agency and delegation agreements with GCBH, shall be interpreted according to the laws of Washington State. Exclusive jurisdiction over cases arising under it shall be in Washington State courts. Venue shall be determined by the GCBH Governing Board prior to commencement of any such action.

## **ARTICLE 17**

### **DEFAULT**

If any member county fails to perform any term or condition of this Agreement and such failure continues for a period of sixty (60) days after GCBH has given the member county written notice of such failure, the member county shall be in default thereunder. Upon default, GCBH may immediately cancel the member county's membership effective immediately without further notice, or exercise any remedies herein provided or otherwise provided by law. The rights and remedies of GCBH are cumulative in nature and pursuit of any particular remedy shall not be deemed an election of remedies or a waiver of any other remedies available thereunder or otherwise available by law.

This article may be invoked if any member county fails to perform any applicable term or condition of this Agreement as established by applicable law, and GCBH having provided technical assistance to correct the problem within the sixty (60) day period.

## **ARTICLE 18**

### **NO WAIVERS**

No waiver or forbearance of a breach of any covenant, term, or condition of this Agreement shall be construed to be a waiver or forbearance of any other or subsequent breach of the same or of any other covenant, term, or condition, and the acceptance of any performance thereunder, or the payment of any sum of money after the same has become due or at a time when any other default exists thereunder, shall not constitute a waiver of the right to demand payment of all other sums owing or a waiver of any other default then or thereafter existing.

## **ARTICLE 19**

### **SEVERABILITY**

If any term or provision of this Agreement shall to any extent be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each term and provision in the Agreement shall be valid and be enforceable to the fullest extent permitted by law

## **ARTICLE 20**

### **TIME**

Time is of the essence in the Agreement and each and every provision hereof.

## **ARTICLE 21**

### **HEADINGS**

The Article and Section headings in this Agreement are inserted for convenience only and are not intended to be used in the interpretation of the contents of the Articles and Sections they introduce.

## **ARTICLE 22**

### **GOVERNING LAW**

This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

## **ARTICLE 23**

### **COUNTERPART COPIES**

This Agreement may be signed in counterpart or duplicate copies, and any signed counterpart or duplicate copy shall be equivalent to a signed original for all purposes.

**ARTICLE 24**

**AGREEMENT COMPLETE**

The foregoing constitutes the full and complete Agreement of the parties. All oral understandings and agreements are set forth in writing herein.

IN WITNESS WHEREOF, the member counties have executed this Agreement by authorized officials thereof on the dates indicated.

**INTERLOCAL AGREEMENT FOR THE REFORMATION OF GREATER COLUMBIA  
BEHAVIORAL HEALTH REGIONAL SUPPORT NETWORK**

The member counties to this Agreement do hereby agree by their signature to approve this Agreement which replaces all prior agreements concerning Greater Columbia Behavioral Health. This agreement is signed on this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

ASOTIN COUNTY, WASHINGTON

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

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

Attest:

\_\_\_\_\_  
Clerk of the Board

Approved as to form:

\_\_\_\_\_  
Prosecuting Attorney

10

**INTERLOCAL AGREEMENT FOR THE REFORMATION OF GREATER COLUMBIA  
BEHAVIORAL HEALTH REGIONAL SUPPORT NETWORK**

The member counties to this Agreement do hereby agree by their signature to approve this Agreement which replaces all prior agreements concerning Greater Columbia Behavioral Health. This agreement is signed on this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

BENTON COUNTY, WASHINGTON

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Member

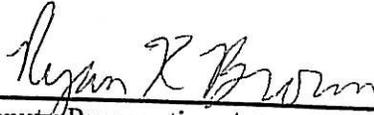
\_\_\_\_\_  
Member

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

Attest:

\_\_\_\_\_  
Clerk of the Board

Approved as to form:

  
\_\_\_\_\_  
Deputy Prosecuting Attorney

**INTERLOCAL AGREEMENT FOR THE REFORMATION OF GREATER COLUMBIA  
BEHAVIORAL HEALTH REGIONAL SUPPORT NETWORK**

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COLUMBIA COUNTY, WASHINGTON

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

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

Attest:

\_\_\_\_\_  
Clerk of the Board

Approved as to form:

\_\_\_\_\_  
Prosecuting Attorney

**INTERLOCAL AGREEMENT FOR THE REFORMATION OF GREATER COLUMBIA  
BEHAVIORAL HEALTH REGIONAL SUPPORT NETWORK**

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FRANKLIN COUNTY, WASHINGTON

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

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

Attest:

\_\_\_\_\_  
Clerk of the Board

Approved as to form:

\_\_\_\_\_  
Deputy Prosecuting Attorney

**INTERLOCAL AGREEMENT FOR THE REFORMATION OF GREATER COLUMBIA  
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GARFIELD COUNTY, WASHINGTON

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

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

Attest:

\_\_\_\_\_  
Clerk of the Board

Approved as to form:

\_\_\_\_\_  
Deputy Prosecuting Attorney

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KITTITAS COUNTY, WASHINGTON

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

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

Attest:

\_\_\_\_\_  
Clerk of the Board

Approved as to form:

\_\_\_\_\_  
Deputy Prosecuting Attorney

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KLICKITAT COUNTY, WASHINGTON

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

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

Attest:

\_\_\_\_\_  
Clerk of the Board

Approved as to form:

\_\_\_\_\_  
Deputy Prosecuting Attorney

**INTERLOCAL AGREEMENT FOR THE REFORMATION OF GREATER COLUMBIA  
BEHAVIORAL HEALTH REGIONAL SUPPORT NETWORK**

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SKAMANIA COUNTY, WASHINGTON

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

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

Attest:

\_\_\_\_\_  
Clerk of the Board

Approved as to form:

\_\_\_\_\_  
Deputy Prosecuting Attorney

**INTERLOCAL AGREEMENT FOR THE REFORMATION OF GREATER COLUMBIA  
BEHAVIORAL HEALTH REGIONAL SUPPORT NETWORK**

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WALLA WALLA COUNTY, WASHINGTON

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

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

Attest:

\_\_\_\_\_  
Clerk of the Board

Approved as to form:

\_\_\_\_\_  
Deputy Prosecuting Attorney

**INTERLOCAL AGREEMENT FOR THE REFORMATION OF GREATER COLUMBIA  
BEHAVIORAL HEALTH REGIONAL SUPPORT NETWORK**

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WHITMAN COUNTY, WASHINGTON

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

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

Attest:

\_\_\_\_\_  
Clerk of the Board

Approved as to form:

\_\_\_\_\_  
Deputy Prosecuting Attorney

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BEHAVIORAL HEALTH REGIONAL SUPPORT NETWORK**

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YAKIMA COUNTY, WASHINGTON

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

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

Attest:

\_\_\_\_\_  
Clerk of the Board

Approved as to form:

\_\_\_\_\_  
Deputy Prosecuting Attorney

9:40

*AGENDA SUMMARY SHEET*

MEETING DATE: *April 20, 2009*

AGENDA ITEM: *Claim CC09-03*

SUBJECT:

*Consent Agenda*       *Public Hearing*       *Discussion*

*1st Discussion*       *2nd Discussion*       *Other*

BACKGROUND INFORMATION:

*Request an executive session to discuss claim CC09-03.*

SUMMARY:

*See above.*

<u>AGENDA ITEM</u>	<u>ACTION NEEDED</u>	<u>DISCUSSION TYPE</u>
Meeting Date: 20 April 2009 Subject: Red Mtn lobbyist Memo Date: 14 April 2009 Prepared By: AJF Reviewed By: LSK	Execute Contract X Pass Resolution Pass Ordinance Pass Motion Other	Consent Agenda Public Hearing 1st Discussion 2nd Discussion Other X

**SUMMARY & BACKGROUND**

Staff has prepared a contract for services using the County's standard service form, and materials provided in the proposal submitted to Commissioners by Gordon Thomas Honeywell – Government Affairs (Honeywell). The services to be provided consist of lobbying activities primarily at the federal level for projects in the Red Mountain area – namely the proposed I-82 interchange. At its April 13th meeting, Commissioners tabled the discussion on this subject for one week, and directed staff to prepare a contract with Honeywell for further consideration at the April 20th meeting.

**FISCAL IMPACT**

As prepared, the contract runs through the end of the calendar year – eight months. The consultant will charge \$5,000 per month for their services, plus up to \$500 per month for additional expenses (Exhibit B). Therefore, the maximum fiscal impact to the County would be \$5,500 for any given month and \$44,000 for the eight-month term of the contract.

**LEGAL REVIEW**

Commissioners are in receipt of a legal opinion on this subject as provided by the Prosecutor. The Prosecutor has not approved this contract for form.

###

# RED MOUNTAIN REGIONAL INFRASTRUCTURE AND COMMUNITY IMPROVEMENTS

## STANDARD SERVICE AGREEMENT TERMS AND CONDITIONS

This Contract is made and entered into by and between BENTON COUNTY, a political subdivision of the State of Washington, with its principal offices at 620 Market Street, Prosser, Washington 99350 (hereinafter "COUNTY"), and GORDON THOMAS HONEYWELL GOVERNMENTAL AFFAIRS, with its principal offices at 203 Maryland Avenue Northeast, Washington, District of Columbia 20002 (hereinafter "CONSULTANT"). In consideration of the mutual benefits and covenants contained herein, the parties agree as follows:

### 1. CONTRACT DOCUMENTS

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

- A. Scope of Services
- B. Associated Fees

### 2. DURATION OF CONTRACT

The term of this Contract shall begin on May 1, 2009, and shall expire on December 31, 2009.

### 3. SERVICES PROVIDED

The COUNTY requires and the CONSULTANT agrees to perform the services described in Exhibit A, which shall be compliant with industry standards.

### 4. CONTRACT REPRESENTATIVES

The parties' representatives are as follows; a party may change its representative by providing prompt written notice to the other party:

- a. For CONSULTANT: Dale Learn  
Gordon Thomas Honeywell Governmental Affairs  
203 Maryland Avenue Northeast  
Washington, DC 20002  
202-544-2681 – dlearn@gth-gov.com
- b. For COUNTY: Adam J. Fyall, Community Development Coordinator  
County Commissioners – Office of Sustainable Development  
7122 West Okanogan Place, Building A  
Kennewick, Washington 99336  
509-736-3053 – adam.fyall@co.benton.wa.us

**5. COMPENSATION**

The CONSULTANT shall be paid in accordance with the fees established in **Exhibit B**. Fees include a "standard fee of \$5,000 per month, plus billable expenses up to but not to exceed a total of ten percent (10%) of the standard fee. The maximum compensation CONSULTANT could receive for any month would therefore be \$5,500; and the maximum compensation CONSULTANT could receive for the entire eight (8) month contract would therefore be \$44,000.

**6. INVOICING**

Until the COUNTY has paid the maximum amount payable hereunder, or the work is completed, whichever comes first, the CONSULTANT shall invoice the COUNTY at the end of each calendar month. The COUNTY will have 30 days to reply with payment. The invoice shall contain a detailed description of the work performed. The CONSULTANT will not be paid for any work not expressly authorized in writing by this agreement and approved by the contract representative.

**7. DEFECTS**

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

**8. AMENDMENT AND CHANGES IN WORK**

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

**9. INDEMNIFICATION**

- a. The CONSULTANT shall hold harmless, indemnify, and defend the COUNTY, its officers, officials, and 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 CONSULTANT'S acts, errors, or omissions in the performance of this Contract. Provided, that the CONSULTANT'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, or agents by any employee of the CONSULTANT, subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under this Section shall not be limited in any way by any limitation on the amount of type of damages, compensation, or benefits payable by or for the CONSULTANT 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 CONSULTANT expressly waives immunity the CONSULTANT might have had under such laws. By executing this Contract, the CONSULTANT 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 CONSULTANT makes with any subcontractor or agent performing work hereunder.

- c. The CONSULTANT'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 CONSULTANT, the CONSULTANT 'S employees, agents or subcontractors.

## 10. INSURANCE

- a. **Workers Compensation:** CONSULTANT shall comply with all State of Washington workers compensation statutes and regulations. Workers compensation coverage shall be provided for all employees of CONSULTANT and employees of any subcontractor or sub-subcontractor. Coverage shall include bodily injury (including death) by accident or disease, which arises out of or in connection with the performance of this Contract. Except as prohibited by law, CONSULTANT waives all rights of subrogation against the COUNTY for recovery of damages to the extent they are covered by workers compensation, employers liability, commercial liability or commercial umbrella liability insurance.

If CONSULTANT, subcontractor, or sub-subcontractor fails to comply with all State of Washington workers compensation statutes and regulations and COUNTY incurs fines or is required by law to provide benefits to or obtain coverage for such employees, CONSULTANT shall indemnify the COUNTY. Indemnity shall include all fines, payment of benefits to CONSULTANT or subcontractor employees, or their heirs or legal representatives, and the cost of effecting coverage on behalf of such employees. Any amount owed to County by CONSULTANT pursuant to the indemnity agreement may be deducted from any payments owed by COUNTY to CONSULTANT for performance of this Contract.

Certain work or services under this Contract may require insurance coverage for long shore or harbor workers other than seaman as provided in the Long Shore and Harbor Workers Compensation Act [33 U.S.C.A. Section 901 et seq.]. Failure to obtain coverage in the amount required by law may result in civil and criminal liabilities. CONSULTANT is fully responsible for ascertaining if such insurance is required and shall maintain insurance in compliance with that Act. CONSULTANT is responsible for all civil and criminal liability that may arise from the failure to maintain such coverage.

Certain work or services under this Contract may require insurance coverage for seamen injured during employment resulting from the negligence of the owner, master or fellow crew members as provided in 46 U.S.C.A. Section 688. Failure to obtain coverage in the amount required by law may result in civil and criminal liabilities. CONSULTANT is fully responsible for ascertaining if such insurance is required and shall maintain insurance in compliance with that Act. CONSULTANT is responsible for all civil and criminal liability that may arise from the failure to maintain coverage.

- c. **Commercial General Liability and Employers Liability Insurance:** CONSULTANT shall maintain commercial general liability coverage for bodily injury, personal injury and property damage, subject to limits of not less than five-hundred thousand dollars (\$500,000) per occurrence. The general aggregate limit shall apply separately to this Contract and be no less than one million dollars (\$1,000,000).

The CONSULTANT will provide commercial general liability coverage which does not exclude any activity to be performed in fulfillment of this Contract. Specialized forms specific to the industry of the CONSULTANT will be deemed equivalent; provided, coverage will be no more restrictive than would be provided under a standard commercial general liability policy and will include contractual liability coverage.

CONTRACTOR also shall maintain employers liability insurance with limits of not less than five-hundred thousand dollars (\$500,000) each incident for bodily injury by accident or one million dollars (\$1,000,000) each employee for bodily injury by disease.

- d. **Automobile Liability:** The CONSULTANT 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". CONSULTANT waives all rights against the COUNTY for the recovery of damages to the extent they are covered by business auto liability.

e. **Other Insurance Provisions:**

- (1) The CONSULTANT'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 insureds with respect to performance of services on all required insurance policies, except for any required automobile liability policy.
- (3) The CONSULTANT'S liability insurance policies shall contain no special limitations on the scope of protection afforded to the COUNTY as an additional insured.
- (4) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the COUNTY, its officers, officials, employees or agents.
- (5) The CONSULTANT'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- (6) The CONSULTANT shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.
- (7) The insurance limits mandated for any insurance coverage required by this Contract are not intended to be an indication of exposure nor are they limitations on indemnification.

- (8) The CONSULTANT shall maintain all required policies in force from the time services commence until services are completed. Certificates, policies, and endorsements expiring before completion of services shall be promptly replaced. If the CONSULTANT'S liability coverage is written as a claims made policy, then the CONSULTANT must evidence the purchase of an extended reporting period or "tail" coverage for a three-year period after completion of the services required under this Contract.
- f. **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 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.
- (1) The CONSULTANT shall furnish the COUNTY with properly executed and unaltered Acord form certificates of insurance or a signed policy endorsement which shall clearly evidence all required insurance within ten (10) days after the effective date of this Contract. The certificates will, at a minimum, list limits of liability and coverage. The certificates will provide that the underlying insurance contract will not be canceled or allowed to expire, except on thirty (30) days prior written notice to the COUNTY. Any certificate or endorsement limiting or negating the insurer's obligation to notify the COUNTY of cancellation or changes shall be altered so as not to negate the intent of this provision.
- (2) The CONSULTANT shall furnish the COUNTY with evidence that the additional insured provision required above has been met. Acceptable evidence is the endorsement pages of the policy showing the COUNTY as an additional insured.
- (3) Certificates of insurance shall show the certificate holder as "Benton County" and include "c/o" the COUNTY'S Contract Representative. The address of the certificate holder shall be shown as the current address of the COUNTY'S Contract Representative.
- (4) The CONSULTANT shall request the Washington State Department of Labor and Industries, Workers Compensation Representative, to send written verification to Benton County that CONSULTANT is currently paying workers compensation.
- (5) All written notices under this Section 10 and notice of cancellation or change of required insurance coverages shall be mailed to the COUNTY at the following address:
- Risk Manager  
Benton County Justice Center  
7122 West Okanogan Place  
Kennewick, Washington 99336
- (6) The CONSULTANT 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.

- (7) If CONSULTANT 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, CONSULTANT must describe its financial condition and the self-insured funding mechanism.

**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 CONSULTANT. In that event, the COUNTY shall pay the CONSULTANT for all costs incurred by the CONSULTANT in performing the Contract up to the date of such notice. Payment shall be made in accordance with Article 5, Compensation.
- b. The CONSULTANT may terminate this Contract for cause upon giving thirty (30) days written notice by certified mail to the COUNTY. In that event, the COUNTY shall pay the CONSULTANT for all work performed by the CONSULTANT under this Agreement as of the date of such notice. Payment shall be made in accordance with Article 5, Compensation.

**12. COMPLIANCE WITH LAWS**

The CONSULTANT 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.

**13. NONDISCRIMINATION**

The CONSULTANT, 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**

Differences over the CONSULTANT'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 CONSULTANT 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 CONSULTANT'S right to seek judicial relief. Venue for any such judicial proceeding shall be in Benton County, Washington.

**15. ASSIGNMENT, DELEGATION, AND SUBCONTRACTING**

The CONSULTANT shall perform the services under this Contract using only its bona fide employees or agents, and the obligations and duties of the CONSULTANT 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.

**BOARD OF COUNTY COMMISSIONERS**

**GORDON THOMAS HONEYWELL  
GOVERNMENTAL AFFAIRS**

\_\_\_\_\_  
Max E. Benitz, Jr, Chairman

\_\_\_\_\_  
Dale Learn, Vice President

\_\_\_\_\_  
date

**Attest**

\_\_\_\_\_  
date

\_\_\_\_\_  
Clerk to the Board

\_\_\_\_\_  
date

**Approved as to Form**

\_\_\_\_\_  
Deputy Prosecuting Attorney



## EXHIBIT A

### Scope of Services

*Strategic Planning & Program Development* - GTH-GA will use its strategic planning skills and program development experience to assist the Red Mountain partners in furthering their respected and successful governmental affairs program. GTH-GA will help coordinate and implement all strategic planning activities. Activities will include, but will not be limited to, the following:

- 2009 Agenda - Coordinate an objective planning meeting to finalize the 2009 agenda immediately. GTH-GA recognizes the importance of securing funding from the American Recovery and Reinvestment Act (ARRA) and the reauthorization of the surface transportation bill and will commit to making these the highest of priorities. GTH-GA will use its knowledge of the federal and state processes to identify funding opportunities for Red Mountain projects.
- Stimulus Request(s) - With help from GTH-GA employees, the ARRA request(s) for the Red Mountain project(s) will be submitted to the appropriate offices, once criteria from WSDOT is developed. GTH-GA will work with the Red Mountain partners to strategically determine which request(s) are the most needed, practical and have the greatest chance of success. GTH-GA will help the Red Mountain partners complete all of the activities necessary to develop the request(s).
- Reauthorization Request - The reauthorization of the surface transportation bill (currently SAFETEA-LU) is scheduled to be considered early this spring. In past years, Members of Congress were able to include projects important to their states/districts in the legislation; so-called "high priority" projects. We anticipate that this practice will continue. In 2004, the Red Mountain project received an allocation under SAFETEA-LU (FY 2005-2009). With help from GTH-GA employees, an additional reauthorization request for the Red Mountain project will be submitted to the appropriate offices. GTH-GA will work with the Red Mountain partners to strategically determine which request is the most needed, practical and have the greatest chance of success. GTH-GA will help the Red Mountain partners complete all of the activities necessary to develop the request.
- Lobbying Activities - GTH-GA will accomplish all lobbying activities necessary to the achieve the funding objectives of the Red Mountain partners. The lobbying effort will include development of all support materials necessary for successful communication with the congressional delegation and will assist in development of said materials for WSDOT. GTH-GA will also monitor U.S. House. U.S. Senate, and WSDOT activities relevant to the request(s), and report on any progress. Furthermore, GTH-GA will directly lobby relevant staff and Members of Congress at the appropriate times for inclusion of these requests in their respective bills and/or awards.

*Develop Local Support* - The Red Mountain partners have a done a good job of gaining the support, both public and private, for their projects. GTH-GA will use its relationships throughout the State of Washington business and civic community to improve on the Red Mountain partners' already active support for their requests. As the partners know, if a strong local coalition is involved in the lobbying campaign, the chances of securing funding are significantly increased. Activities will include, but will not be limited to, the following:

- Local Coalition Building - GTH-GA recognizes the important role that local interest groups can play in lobbying the congressional delegation and WSDOT to support the Red Mountain's federal agenda. GTH-GA will work with the partners to further develop a strong local coalition campaign.
- Management of Coalition Lobbying Activity - As mentioned, Red Mountain already has an established local and regional coalition. GTH-GA will help manage its federal lobbying activities, such as writing letters to congressional delegation members and coordinating congressional delegation meeting opportunities.
- Develop State Legislature Support - GTH-GA has been very successful in obtaining federal funding by building partnerships between the State Legislative budget writers and the congressional delegation. As the partners know, Congressional and State Legislative leaders are more inclined to fund projects when they know the funding responsibilities will be shared. GTH-GA will use its strong relationships with State Legislative budget writers to further encourage their participation in the Red Mountain requests.

*Public Officials and Staff Participation* - GTH-GA recognizes that the involvement of the various public officials, both from Benton County and participating cities, and staff in the federal governmental affairs program will significantly increase its success. Consequently, GTH-GA will actively seek their participation. GTH-GA will ensure that these officials and staff are actively involved in the lobbying process. GTH-GA may call on the these officials and staff for direct lobbying activities when it would be helpful.

For example, GTH-GA may periodically request these officials and staff to make personal telephone calls to congressional delegation members and staff. Activities will include, but will not be limited to, the following:

- Regular meetings - GTH-GA will schedule regular meetings to brief and educate these public officials and staff.
- Washington, DC Visits - GTH-GA will consult with the Red Mountain partners to arrange appropriate visits to Washington, DC by the elected officials and/or staff to lobby for the requests.
- District meetings - Throughout the year, GTH-GA will coordinate local opportunities for these officials to meet with congressional delegation members in the District to promote their agenda.

*Policy Lobbying* - Securing funding will likely be the Red Mountain partners' primary federal lobbying objective. However, GTH-GA will complete some policy lobbying when needed. GTH-GA's policy lobbying activities will include, but will not be limited to, the following:

- Issues Unique to the Red Mountain Project - Issues may periodically arise in Congress and within federal agencies that are unique to Red Mountain. At the partners' request, GTH-GA will lobby for or against legislation and agency regulations/decisions that are significant and unique to Red Mountain.
- Support Function on Issues Not Unique to Red Mountain - On policy issues that are significant, but not unique to Red Mountain, GTH-GA will work to ensure that Red Mountain's interests are recognized as a voice in the debate. Activities will include drafting letters to be mailed to Congress, informing the delegation of Red Mountain partners' position(s), and coordinating with national interest groups. GTH-GA anticipates that many such issues will arise during the discussions related to the reauthorization of the surface transportation bill.

*Daily Searches* - GTH-GA will conduct daily searches of federal legislation, the Congressional Record and federal agency reports to identify policy and funding opportunities relevant to Red Mountain partners' goals and objectives. GTH-GA will also position itself with congressional personnel and local government interest groups to ensure it is obtaining all relevant information.

*Tracking* - GTH-GA will track all legislation, budgets and other federal issues important to the Red Mountain projects.

*Updates & Reports* - GTH-GA will provide the Red Mountain partners with periodic updates and reports on issues and lobbying activities. These updates and reports will identify issues, provide updated legislation and budget tracking lists, review lobbying activities, and assess how the federal governmental affairs program is meeting its objectives. Such updates may include suggestions on how to best further the federal objectives of Red Mountain in 2009-2010.

# # #

## EXHIBIT B

### Associated Fees

CONSULTANT shall be compensated \$5,000 per month for the period of May 2009 - December 2009 for services provided to the COUNTY in Exhibit A. Expenses are broken into two categories: 1) out-of-pocket expenses, including charges for transportation, meals, printing of a project prospectus, and other expenditures associated with your account; and 2) overhead charges covering expenses such as telephone, faxing, and duplicating. Charges in both categories will be billed separately from the monthly invoice. These expenses will not exceed 10-percent of the standard fee charged in any month of the contract, or over the total duration of the contract.

# # #

Steven W. Becken  
Acting County Engineer

# Benton County

## Department of Public Works

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10:05

To: Board of County Commissioners

From: Steven W. Becken, Acting County Engineer

RE: Prioritization of High Priority Projects

Date: April 15, 2009

We have been working on High Priority Project submittals for three projects, Piert Road, Travis Road and the Red Mountain Interchange. These submittals must be in Congressman Doc Hastings office by April 27 to receive consideration for funding. We do not have the forms that his office is requiring and they will not be available until either late this week or sometime next week. We do not know if the Chairman of the Board will be required to sign the applications or if this can be delegated to someone else.

The applications allow us to ask for up to 80% of the funding needed for the project. Tara Robertson of Congressman Hastings office stated that they are not looking to fund the full 80% but would expect the agency requesting funding to also fund a part of the 80%. Also according to Ms. Robertson, the projects must be completed within a 6 year time frame. She did not know what would happen if the project was not completed within that time frame.

We will need to submit a letter support for each project from a local government official. These will be written and submitted to the Chairman for signature. The letter must accompany the submittal. If we request less than the full 80%, the submittal letter must identify where the funding is coming from to total the 80%.

On the following pages are brief descriptions of each project. For Piert Road, we would be asking for less than the 80% and we can identify the funding sources as required. For Travis Road and the Red Mountain Interchange, we would need the funding sources identified if we ask for less than the full 80%.

We are asking that the Board prioritize the three roads, identify funding sources for Travis Road and the Red Mountain Interchange if we are to ask for less than the full 80% and authorize the Chairman to sign the support letters and applications.

## **Piert Road**

Piert Road is the final leg of the CR-397 (Intertie) project. This will be the main truck route into such companies as Columbia ColStor, Agrium and future companies building in this area. This road will remove the majority of the truck traffic off local access roads.

Two alignments have been selected over the years as preferred routes. The first route ran North from Lechelt Road to the Corp of Engineer's Drainage Ditch, turned West crossed a set of railroad tracks, turned North and ran along the West side of the CID canal to Bowles Road. This has been identified as Route 1A. Approximately 40% of the design work had been completed.

Columbia Energy has proposed an ethanol plant in the same location as Design 1A. If 1A were to be constructed, the ethanol plant could not be built. A second route, 2A was selected. This route ran East along Lechelt Road approximately ¼ mile, turned North and ran generally to Bowles Road. After crossing the Corp ditch, the alignment runs along the East side of the CID ditch. Because Agrium believes that they are being adversely impacted by the road in this location, they are protesting the current alignment. A meeting is to be held this week with Agrium to try to solve the alignment problem.

If Agrium absolutely refuses to work with us on the currently selected 2A alignment, we may end up in court to obtain the right of way. Should we revert back to the 1A alignment, there is also the possibility that Columbia Ethanol could take us to court to sue for the expense of the ethanol plant engineering work done to date because 1A would eliminate the possibility of construction of an ethanol plant in that location.

The length of the proposed road is approximately 1.5 miles. This will be new construction. We have identified a need for \$4,009,000 to construct the road. Through County funding, contributions and TIB we have secured \$2,509,000 of the funding leaving a shortfall of \$1,500,000.

The funding being applied for is for a maximum amount of 80% of the project. We have been told that the chances of obtaining federal funding are greater if we are applying for less than 80%. The maximum we could apply for on this project is \$3,207,200. We would be applying for \$1,500,000 or 37.42% and contributing 42.58%, well within the 80% guideline criteria.

These numbers do not include any court costs.

## **Travis Road**

Travis Road is 3.2 miles in length between Sellards Road and Hensen Road. It is a major truck route that connects I-82 with SR-14. This project would tie in with the Webber Canyon Road project. There are currently two phases of Webber Canyon under construction with a third phase waiting for State approval. This road is an old BST County road that will be constructed to an all weather status. Due to the truck traffic, the road has been heavily patched and the surface is currently failing. Plans have been prepared for the road and right of way has been obtained. Vertical and horizontal alignments have been changed to provide a wider, safer road. This project is bid ready.

To date, we have spent approximately \$100,000 on design and obtaining right of way. Our six year program projects \$1,500,000 needed for construction. This is shown as coming from County funds. To meet the 80% criteria, we could apply for a maximum amount of \$1,280,000. Other than County funds, no funding source has been identified.

The Board will need to determine the amount to be applied for. This is an 80-20 match funding. If we apply for less than 80%, funding sources must be identified to total 80%.

### **Red Mountain Interchange**

This is a new interchange proposed to be located on I-82. A connection road would be constructed tying I-82 to SR-224. The interchange would be used to access the Red Mountain area, which has been proposed to be a major tourist destination area. West Richland recently received approval to include land in this area within their urban growth area. They are planning commercial development in around the interchange in conjunction with the proposed Red Mountain development.

Preliminary work has been done at the State and local level in selecting a location, however, no design work has been done to date. A consultant agreement will be brought to the Board within the next two weeks to have JUB conduct and environmental study of the area to be submitted to the State. We currently have a conditional access break on I-82 to allow this study. FHWA will not make a decision to grant a permanent access break until they have reviewed the environmental study.

The Red Mountain American Agriculture Area Transportation Plan states that \$24,000,000 is needed for the construction of the interchange with another \$2,500,000 needed to connect the interchange to SR-224. This yields a total of \$26,500,000 for construction of the interchange and the connecting road. To meet the 80% criteria, we could ask for a maximum of \$21,200,000.

The Board will need to determine the amount to be applied for. This is an 80-20 match funding. If we apply for less than 80%, funding sources must be identified to total 80%.