

May 18, 2009

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

Draft

MINUTES

BOARD OF BENTON COUNTY COMMISSIONERS

Regular Board Meeting
May 11, 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; Steve Becken, Public Works; Marianne Ophardt, WSU; Planning Manager Mike Shuttleworth; Deputy Human Services Manager Ed Thornbrugh; Central Services Manager Randy Reid; Safety/Training Coordinator Bryan Perry; and DPA Ryan Brown.

Approval of Minutes

The Minutes of May 4, 2009 were approved as presented.

Review Agenda

Consent Agenda Item "1" was pulled for further clarification.

Consent Agenda

MOTION: Commissioner Bowman moved to approve the consent agenda items "a" through "s", pulling "1" (Line Item Transfer, Personnel Office). Commissioner Beaver seconded and upon vote, the Board approved the following:

Assessor

- a. Personal Services Contract w/Automatic Funds Transfer Services

Central Services

- b. Benton County Remote Access Policy
- c. Authorization to Purchase Software Upgrades from Jo Bee Company

Commissioners

- d. Red Mountain Interchange Economic Impacts Analysis
- e. Amendment No. 1 to the Benton County Emergency Services Interlocal Agreement

Facilities

- f. Blanket Service Agreement w/Quality Backhoe Services, Inc.
- g. Personal Services Contract w/Industrial Equipment Solutions

Fairgrounds

- h. Standard Service Contract w/Cut Above, Incorporated

Human Services

- i. County Government Certification Form C w/BF Community Action Committee
- j. County Government Certification Form H w/BF Community Action Committee
- k. County Government Certification Form I w/BF Community Action Committee

Personnel

- m. Guest Speaker Contract w/C Poulsen

Road/Engineer

- n. Interlocal Agreement w/Franklin County for Engineering Services
- o. Interlocal Cooperative Purchasing Agreement w/City of Prosser
- p. Approval of Task Assignment for Hanks Road
- q. Contract w/A & B Asphalt, Inc. for Horse Heaven Vista Improvements
- r. Rescinding Resolution 97-252 Establishing Vehicle Usage for Emergency Callouts/Standby

Sheriff

- s. Payment Authorization to Cook's Direct for Purchase of Four Gator Trays

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

Presentation of WSU Educator for Animal Sciences

Marianne Ophardt said that Jean Smith was out sick and would not be present for the meeting. Additionally, Ms. Ophardt updated the Board on budget reductions announced by the State in the amount of 20.1% (\$3.41 million) for Extension offices. She stated there would not be a reduction of occupied positions in Benton & Franklin Counties, however, Benton County would be affected by a reduction in postage that had been paid by the State and would be asking for that increase in the budget cycle.

Other Business

Letter – Districting Plan

Chairman Benitz said he signed and sent out a letter to the District Court Districting Committee to schedule a meeting on May 12. However, he said he did not have prior authority from the Board to send the letter as Chairman of the Board.

MOTION: Commissioner Beaver moved to authorize the letter signed by the Chairman to the District Court Districting Committee. Commissioner Bowman seconded and upon vote, the motion carried.

Final Plat – Country Meadow Heights Subdivision – SUB 07-02

Mike Shuttleworth said that all conditions of approval had been satisfied and the final plat was ready for signature.

MOTION: Commissioner Bowman moved to approve the Final Plat of Country Meadow Heights, SUB 0-7-02. Commissioner Beaver seconded and upon vote, the motion carried.

The Board briefly recessed, reconvening at 9:20 a.m.

Space Request – Prosecuting Attorney’s Office

Margaret Ault and DPA Scott Johnson requested the Board approve the initial plans to convert the vacated District Court Probation offices into office space for the Prosecutor’s Office. Additionally, the request included converting the old Prosecutor’s Office District Court area into a second conference room.

Mr. Rogers said the Facilities employees would complete the work and the cost was estimated at \$30,000 in construction and \$15,000 in FF&E.

Chairman Benitz said there was money in the capital fund to pay for the project.

MOTION: Commissioner Beaver moved to authorize the Facilities Department to proceed with plans for converting the District Court Probation Department into office space for the Prosecutor’s Office and converting the old Prosecutor’s space into a second conference room. Commissioner Bowman seconded and upon vote, the motion carried.

Executive Session – Potential Litigation

The Board went into executive session at 9:28 a.m. for approximately 10 minutes with Melina Wenner to discuss potential litigation on a county claim. Also present were David Sparks, Ryan Brown, Bryan Perry, Steve Becken, Melina Wenner, Loretta Smith Kelty and Cami McKenzie. The Board came out of executive session at 9:33 a.m. Ryan Brown stated that no action was taken in executive session.

The Board briefly recessed, reconvening at 9:40 a.m.

Health District Discussion

Commissioner Beaver requested the Board move forward with a plan to clarify the issues with the Health District budget and formulate a game plan to fix the problems.

Chairman Benitz said he had worked with Mr. Sparks and Ms. Ivey and put together some areas that could be addressed. Ms. Ivey then reviewed the draft plan that outlined the issues and discussed the following:

1. Benton County's financial contribution to the Health District
2. Per capita contribution by Benton County for 2008
3. Ideas to assist the Health District in 2009 with their financial difficulties:
 - a. Use economies of scale to provide administrative services by utilizing available resources at Benton & Franklin Counties;
 - b. Exercise tighter financial controls, review fund structure, and how services are provided.
4. How administrative staff reductions would affect the Health District budget.
5. Review state budget and its effect on the Health District.

Mr. Sparks said he wanted to look at reducing without cutting services to the public and this would be a great way to streamline administration before looking at the big services.

MOTION: Commissioner Bowman moved to approve the recommendation to give the County Administrator authority to complete a performance analysis and evaluate the efficiencies within the Health Department at a more in-depth level, with the intent to provide the Board an analysis with financial and operational recommendations. Commissioner Beaver seconded and upon vote, the motion carried.

Claim for Damages

CC 09-13: Received on May 7, 2009 from Mike D. Shaffer

Vouchers

Check Date: 05/05/2009
 Warrant #: 223346-223514
 Direct Deposit #: 44387-44950
 Total all funds: \$2,044,105.95

Check Date: 05/05/2009
 Taxes #: 10109051-10109053
 Warrant #: 924194-924236
 Total all funds: \$1,888,176.31

Check Date: 05/08/2009
 Warrant #: 924306-924591
 Total all funds: \$7,986.90

Check Date: 05/08/2009
 Warrant #: 924592-924804
 Total all funds: \$2,561,888.83

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

Resolutions

- 09-292 Personal Services Contract w/Automatic Funds Transfer Services
- 09-293 Benton County Remote Access Policy
- 09-294 Authorization to Purchase Software Upgrades from Jo Bee Company
- 09-295 Red Mountain Interchange Economic Impacts Analysis
- 09-296 Amendment No. 1 to the Benton County Emergency Services Interlocal Agreement
- 09-297 Blanket Service Agreement w/Quality Backhoe Services, Inc.
- 09-298 Personal Services Contract w/Industrial Equipment Solutions
- 09-299 Standard Service Contract w/Cut Above, Incorporated
- 09-300 County Government Certification Form C w/BF Community Action Committee
- 09-301 County Government Certification Form H w/BF Community Action Committee
- 09-302 County Government Certification Form I w/BF Community Action Committee
- 09-303 Guest Speaker Contract w/C Poulsen
- 09-304 Interlocal Agreement w/Franklin County for Engineering Services
- 09-305 Interlocal Cooperative Purchasing Agreement w/City of Prosser
- 09-306 Approval of Task Assignment for Hanks Road
- 09-307 Contract w/A & B Asphalt, Inc. for Horse Heaven Vista Improvements
- 09-308 Rescinding Resolution 97-252 Establishing Vehicle Usage for Emergency Callouts/Standby
- 09-309 Payment Authorization to Cook's Direct for Purchase of Four Gator Trays
- 09-310 Approval of Final Plat of Country Meadow Heights – SUB 07-02

There being no further business before the Board, the meeting adjourned at approximately 10:15 a.m.

Clerk of the Board

Chairman

a.

<u>AGENDA ITEM</u>		<u>TYPE OF ACTION NEEDED</u>	
Meeting Date:	May 18, 2009	Execute Contract	Consent Agenda <u> X </u>
Subject:	Lease/Purchase Agreement on State Contract	Pass Resolution <u> X </u>	Public Hearing
Prepared by:	Shari Ginther	Pass Ordinance	1st Discussion
Reviewed by:	Jonathan Young	Pass Motion	2nd Discussion
		Other <u>Sign Lease/Purchase Agreement</u>	Other <u> </u>

BACKGROUND INFORMATION

The Benton County Building Department's 60-month lease on the Canon IR 5020 Copier expired in February 2009. The Benton County Building Department found that the Ricoh Aficio MP 6000 Copier from IKON best suits the needs of the Building Department in Kennewick. Standard on this copier are 4 paper sources, auto document feeder, and auto duplexing. Added to the base price of \$131.40 is a SR970 finisher at \$18.90 per month and 2/3 hole punch at \$9.26 a month. The prices and contract conditions governing this copy machine lease are covered under State Contract #03706 (Addendum A) and Ricoh's Promotional Pricing effective through 5/31/09 (Addendum B to the Lease/Purchase Agreement); the 2/3 hole punch unit is covered under State Contract #03706 and the Detailed Promotional Pricing Sheet (Addendum C). Attached hereto for the Board's review is the Lease/Purchase Agreement, which needs to be signed by the Board of County Commissioners, the Current State Contract #03706 (Addendum A), Ricoh's Promotional Pricing effective through 5/31/09 (Addendum B), and a Detailed Promotional Pricing Sheet (Addendum C). Jonathan Young from the Prosecuting Attorney's Office prepared the Lease/Purchase Agreement attached hereto and has reviewed State Contract #03706 (Addendum A), Ricoh's Promotional Pricing effective through 5/31/09 (Addendum B) and the Detailed Promotional Pricing Sheet (Addendum C).

SUMMARY

The Benton County Building Department signed a lease agreement with IKON on February 23, 2004. The Board of County Commissioners will need to sign the Lease/Purchase Agreement attached hereto and the resolution authorizing a 60 month lease with IKON Office Solutions.

RECOMMENDATION

It is the recommendation of the Benton County Building Department that the Board of County Commissioners sign the Lease/Purchase Agreement attached hereto and the attached resolution.

FISCAL IMPACT

The new lease for the Ricoh Aficio MP6000 Copier from IKON will go from \$232.00 per month to \$159.56 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 IKON for the leasing of a copier for 60 months to the Benton County Building Department in Kennewick, WA.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF LEASING A RICOH AFICIO MP6000 COPIER FROM IKON FOR THE BENTON COUNTY BUILDING DEPARTMENT'S OFFICE IN KENNEWICK, WASHINGTON

WHEREAS, the Benton County Building Department would like to enter into a 60 month lease option with IKON for the leasing of a Ricoh Aficio MP6000 Copier in 2009, as the current lease has expired; and

WHEREAS, the Board of County Commissioners will need to approve and sign the Lease/Purchase Agreement attached hereto. Attached to the Lease/Purchase Agreement is a copy of the State Contract #03706 (Addendum A) that outlines Special Terms and Conditions of the Contract, a copy of Ricoh's Promotional Pricing effective through 5/31/09 (Addendum B) and a Detailed Promotional Pricing Sheet (Addendum C), together, these Addenda outline the fees to be charged to the Benton County Building Department for the lease of the copier; and

WHEREAS, the monthly maintenance and lease agreement amount will be \$159.56 including all supplies, except paper, at \$0.005 per copy; and

WHEREAS, it is the recommendation of the Benton County Building Department that the Board of County Commissioners sign the Lease/Purchase Agreement attached hereto; and

WHEREAS, IKON is a vendor under the State Contract #03706 (Addendum A); **NOW THEREFORE**

BE IT RESOLVED that the Board of Benton County Commissioners is authorized to sign the Lease/Purchase Agreement attached hereto; and

BE IT FURTHER RESOLVED, the Washington State Contract No. 03706 (Addendum 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

b.

<u>AGENDA ITEM</u>	<u>TYPE OF ACTION NEEDED</u>	
Meeting Date: <u>May 18, 2009</u> Subject: <u>Trial Court Improvement fund</u>	Execute Contract Pass Resolution <u>XX</u> Pass Ordinance Pass Motion Other	Consent Agenda <u>XX</u> Public Hearing 1st Discussion 2nd Discussion Other
Prepared by: <u>J. Delvin</u> Reviewed by:		

BACKGROUND INFORMATION

Pass resolution-allowing expenditure of funds from the Trial Court Improvement fund. Attached is a letter dated March 16, 2009 from the TCI committee that identifies expenditures with amounts to be determined. For two of those items (Assessors Office Improvement for Clerks Staff and Shelving for Superior Court Law Library) the total amount will be \$28,300.00. We are asking that the attached resolution be passed to allow these expenditures from the Trial Court Improvement Fund.

SUMMARY

RECOMMENDATION

1st

2nd

FISCAL IMPACT

MOTION

RESOLUTION NO. _____

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AUTHORIZING PURCHASES AS IDENTIFIED IN A LETTER DATED MARCH 16, 2009 FROM THE TRIAL COURT IMPROVEMENT FUND COMMITTEE FOR EXPENDITURES TOTALING \$28,300.00, UTILIZING FUNDS FROM THE BENTON COUNTY TRIAL COURT IMPROVEMENT FUND

WHEREAS, the Benton County Board of Commissioners received a letter from the Trial Court Improvement Committee requesting authorization for expenditures totaling \$28,300.00; and

WHEREAS, Benton County Superior court and the County Clerk desire to purchase equipment for their respective offices as identified on the attached letter; and

WHEREAS, the Board of Benton County Commissioners constitutes the legislative authority of Benton County and deems this to be in the best interest of the County;

NOW THEREFORE, BE IT RESOLVED that the Board of Benton County Commissioners hereby approves the purchases as identified on the attached letter from the Trial Court Improvement Fund Committee for expenditures totaling \$28,300.00, utilizing funds from the Trial Court Improvement Fund, 0156-101; and,

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:

IN THE MATTER OF AWARDING BID FOR CONTRACT FOR OFFICIAL COUNTY NEWSPAPER FOR THE YEAR JULY 1, 2009 THROUGH JUNE 30, 2010

WHEREAS, on April 6, 2009 bids were received and opened by the Board of Benton County Commissioners for the contract for official county newspaper commencing July 1, 2009 and ending June 30, 2010; and

WHEREAS, one bid was received as follows:

Tri City Herald, Kennewick, WA

Column-inch rate, first insertion:

including on-line:

\$17.21 (Mon – Fri), \$17.66 (Sat. & Sun)

Column-inch rate, additional:

\$15.47 (Mon. – Fri), \$15.81 (Sat. & Sun)

NOW, THEREFORE,

BE IT RESOLVED the Board of Benton County Commissioners hereby awards the contract for official county newspaper for July 1, 2009 through June 30, 2010, to the Tri-City Herald, Kennewick, WA, in accordance with the provisions of RCW 36.72, for the bid amount identified above and authorizes the Chairman to sign the attached contract.

Dated this day of, 2009.

Chairman of the Board

Chairman Pro Tem

Member

Constituting the Board of County Commissioners of Benton County, Washington

Attest:
Clerk of the Board

**CONTRACT FOR
OFFICIAL COUNTY NEWSPAPER**

This Agreement is made by and between Benton County, a political subdivision of the State of Washington ("County"), and the Tri-City Herald ("Herald").

WITNESSETH:

WHEREAS, pursuant to the provisions of RCW 36.72.075, the County advertised for bid proposals from interested qualified legal newspapers to serve as the official county newspaper for the term of one year; and

WHEREAS, the Herald is a legal newspaper published in Kennewick, Benton County, Washington, by McClathy Newspapers, and did submit a bid proposal; and

WHEREAS, the Herald was the only responsive bidder;

NOW, THEREFORE, in consideration of the terms and conditions set forth below, the parties agree as follows:

1. The Herald shall serve as the official newspaper of Benton County for the term of one year, beginning on July 1, 2009, and ending on June 30, 2010.
2. All county officers shall cause all legal notices and delinquent tax lists to be advertised in the Herald.
3. The Herald shall set all legal notices submitted in single column 6-point solid type unless otherwise indicated.
4. The County shall pay the Herald \$17.21 per column inch for the first insertion and \$15.47 per column inch for subsequent insertions for the days Monday through Friday and shall pay \$17.66 per column inch for the first insertion and \$15.81 per column inch for subsequent

PERFORMANCE BOND

TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA
Hartford, Connecticut 06183

Premium: **\$100.00**
Bond No. **104340564**

KNOW ALL MEN BY THESE PRESENTS:

That **TRI-CITY HERALD P.O. BOX 2608 TRI-CITIES, WASHINGTON 99302-2608**

(Here insert full name and address or legal title of Contractor)

as Principal, hereinafter called Contractor, and, **TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA**

175 LENNON LANE, STE. 200 WALNUT CREEK, CA 94598 of Hartford, Connecticut, a corporation duly organized under the laws of the State of Connecticut, as Surety, hereinafter called Surety, are held firmly bound unto the

BENTON COUNTY, WASHINGTON

P.O. BOX 190 PROSSER, WA 99350-0190

(Here insert full name and address or legal title of Owner)

as Obligee, hereafter called Owner, in the amount of **FIVE HUNDRED AND NO/100—Dollars (\$500.00)**, for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents. WHEREAS, Contractor has entered into a contract with Owner for:

CONTRACT FOR THE OFFICIAL COUNTY NEWSPAPER OF BENTON COUNTY, WASHINGTON FOR THE TERM OF ONE YEAR BEGINNING ON JULY 1, 2009 AND ENDING ON JUNE 30, 2010

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Contractor shall promptly and faithfully perform said Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

The Surety hereby waives notice of any alteration or extension of time made by the Owner.

Whenever Contractor shall be, and declared by Owner to be in default under the Contract, the Owner having performed Owner's obligations thereunder, the Surety may promptly remedy the default, or shall promptly

1) Complete the Contract in accordance with its terms and conditions, or

2) Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible bidder, or, if the Owner elects, upon determination by the Owner and the Surety jointly of the lowest responsible bidder, arrange for

Signed and sealed this **21ST** day of **APRIL, 2009**.

(Witness)

TRI-CITY HERALD

By: Paku Stok (Principal) (Seal)
Classified Advertising Mgr. (Title)

TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA

By: Sandi Pullen
Sandi Pullen, Attorney-In-Fact

(Witness)

Printed in cooperation with the American Institute of Architects (AIA) by Travelers Casualty and Surety Company of America. The language in this document conforms exactly to the language used in AIA Document A311, February 1970 edition.

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of Sacramento

On 4-21-09 before me, Patricia Ross, Notary Public
(Here insert name and title of the officer)

personally appeared Sandi Pullen

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

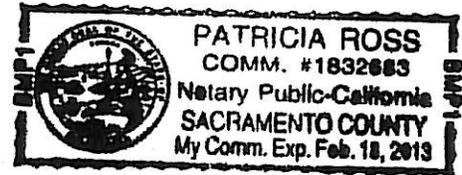
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Patricia Ross

Signature of Notary Public

(Notary Seal)



ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date _____

(Additional information)

CAPACITY CLAIMED BY THE SIGNER

- Individual (s)
- Corporate Officer

(Title)

- Partner(s)
- Attorney-in-Fact
- Trustee(s)
- Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he/she/they~~, is /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document



POWER OF ATTORNEY

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
Seaboard Surety Company
St. Paul Fire and Marine Insurance Company

St. Paul Guardian Insurance Company
St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company

Attorney-In Fact No. 220444

Certificate No. 002732334

KNOW ALL MEN BY THESE PRESENTS: That Seaboard Surety Company is a corporation duly organized under the laws of the State of New York, that St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company and St. Paul Mercury Insurance Company are corporations duly organized under the laws of the State of Minnesota, that Farmington Casualty Company, Travelers Casualty and Surety Company, and Travelers Casualty and Surety Company of America are corporations duly organized under the laws of the State of Connecticut, that United States Fidelity and Guaranty Company is a corporation duly organized under the laws of the State of Maryland, that Fidelity and Guaranty Insurance Company is a corporation duly organized under the laws of the State of Iowa, and that Fidelity and Guaranty Insurance Underwriters, Inc. is a corporation duly organized under the laws of the State of Wisconsin (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint

Carol Dunn, Paul F. Bystrowski, Randall L. Jorgensen, Joseph H. Weber, Mary E. A. McLaughlin, John E. Murphy, and Sandi Pullen

of the City of Sacramento, State of California, their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 8th of December, 2008

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
Seaboard Surety Company
St. Paul Fire and Marine Insurance Company

St. Paul Guardian Insurance Company
St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company



State of Connecticut
City of Hartford ss.

By: [Signature]
George W. Thompson, Senior Vice President

On this the 8th day of December, 2008, before me personally appeared George W. Thompson, who acknowledged himself to be the Senior Vice President of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., Seaboard Surety Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

In Witness Whereof, I hereunto set my hand and official seal.
Commission expires the 30th day of June, 2011.



[Signature]
Marie C. Tetreault, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., Seaboard Surety Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any power of attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such power of attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, Kori M. Johanson, the undersigned, Assistant Secretary, of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., Seaboard Surety Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 21st day of April, 2009.

Kori M. Johanson
Kori M. Johanson, Assistant Secretary



To verify the authenticity of this Power of Attorney, call 1-800-421-3880 or contact us at www.travelersbond.com. Please refer to the Attorney-In-Fact number, the above-named individuals and the details of the bond to which the power is attached.

d

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF AWARDING THE PERSONAL SERVICE CONTRACT TO GARY CHAMBERLIN & ASSOCIATION FOR APPRAISAL SERVICES FOR THE HEALTH DISTRICT BUILDING LOCATED ON CANAL DRIVE, KENNEWICK, WA.

WHEREAS, per resolution 04-534, "...that for all contracts for non-public works services the county need not advertise or follow a formal competitive bidding procedure, but shall instead evaluate and utilize the procedures it deems best under the individual circumstances in order to obtain services of the highest quality at the lowest cost"; and

WHEREAS, the County Administrator proposed the Board sign a contract with Chamberlin & Association in the amount of \$4,000.00 to complete an appraisal on the Health District Building on Canal Drive on March 16, 2009; and

WHEREAS, the Benton County Commissioners agreed with the need to have an appraisal performed on said building to establish the fair market value; **NOW THEREFORE**

BE IT RESOLVED, by the Board of Benton County Commissioners, Benton County, Washington, the Board concurs with the County Administrator's recommendation and hereby awards the personal service contract to Chamberlin & Association for a contract amount not to exceed \$4,000; and

BE IT FURTHER RESOLVED the Board hereby authorizes the Chairman of the Board to sign the attached contract.

Dated this _____ day of _____, 2009.

Chairman of the Board

Member

Member

Constituting the Board of Commissioners
of Benton County, Washington.

Attest.....
Clerk of the Board

Orig: Sheriff's Office
cc: Auditor, R. Ozuna, Jacqueline Moore

Prepared by: K. Mercer

**PROFESSIONAL SERVICES CONTRACT
TERMS AND CONDITIONS**

COPY

THIS CONTRACT is made and entered into by and between BENTON COUNTY, a political subdivision, with its principal offices at 620 Market Street, Prosser, WA 99350 (hereinafter "COUNTY"), and CHAMBERLIN & ASSOCIATION, a Washington professional corporation with its principal offices at 3413 Eastlake Drive, West Richland, WA 99353 (hereinafter "CONTRACTOR").

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

1. CONTRACT DOCUMENTS

This Contract includes the following additional document.

- a. Exhibit "A" - Proposal for Professional Services and the Attachments thereto

2. DURATION OF CONTRACT

The term of this Contract shall begin immediately upon execution by both parties, and shall expire 90 days from execution.

3. SERVICES PROVIDED

The COUNTY requires and the CONTRACTOR agrees to perform the following services:

Inspection of the property noting interior/exterior building condition, office and space configuration, plant systems, and other pertinent details influencing actual and effective age and all other services further described in Exhibit A attached hereto.

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:

Orig: File: Lisa Small
cc: Auditor; R. Ozuna; Chamberlin & Assoc.

- a. For CONTRACTOR: **Gary Chamberlin, Owner**
3413 Eastlake Drive
West Richland, WA 99353
Phone: (509) 628-9817
Fax: (509) 628-0440
- b. For COUNTY: **Loretta Smith Kelty, Deputy Co. Admin.**
PO Box 190
Prosser, WA 99350
Phone: 509-786-5600
Fax: 509-786-5625

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

5. COMPENSATION

For the services performed all in accordance with Exhibit A attached hereto, the CONTRACTOR shall be paid as follows:

- a. The maximum total amount payable by the COUNTY to the CONTRACTOR under this Contract shall not exceed \$4,000 unless agreed to by amendment by both parties.

6. INVOICING

- a. 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.
- b. In the event the CONTRACTOR has failed to substantially perform any obligation specified and such failure has not been cured within then (10) days following notice from the COUNTY, the COUNTY may, in its sole discretion and upon written notice to the CONTRACTOR, withhold without penalty any and all amounts due and payable to the CONTRACTOR, until such failure to perform is cured or otherwise adjudicated.

"Substantial" for the purposes of this Contract means fulfilling the terms of a work order with variances only for technical or minor omissions or defects.

- c. Unless otherwise provided, the CONTRACTOR will not be paid for any work performed prior to the effective date of this Contract or after its termination.

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 done by the CONTRACTOR, and all reports submitted in conjunction thereof shall be certified by the CONTRACTOR and checked for errors and omissions. The Contractor shall be responsible for the accuracy of the work and submitted reports, even if the work is accepted by the COUNTY.
- b. No amendment, modification or renewal shall be made to this Contract, unless set forth in a written Contract Amendment signed by both parties. Work under a Contract Amendment shall not proceed until the Contract Amendment is duly executed by 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, or any other tort liability whatsoever including infliction of emotional distress caused by or arising out of the CONTRACTOR'S acts, errors or omissions in the performance of this Contract. PROVIDED, that the CONTRACTOR'S obligation hereunder shall not extend to injury, sickness, death or damage caused by or arising out of the sole negligence of the COUNTY, its

officers, officials, employees or agents.

- b. In any and all claims against the COUNTY, its officers, officials, employees and agents by any employee of the CONTRACTOR, subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under this Section shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the CONTRACTOR or subcontractor under Workers Compensation acts, disability benefit acts, or other employee benefit acts, it being clearly agreed and understood by the parties hereto that the CONTRACTOR expressly waives any immunity the CONTRACTOR might have had under such laws. By executing this Contract, the CONTRACTOR acknowledges that the foregoing waiver has been mutually negotiated by the parties and that the provisions of this Section shall be incorporated, as relevant, into any contract the CONTRACTOR makes with any subcontractor or agent performing work hereunder.
- c. The CONTRACTOR'S obligations hereunder shall include, but are not limited to, investigating, adjusting and defending all claims alleging loss from action, error or omission, or breach of any common law, statutory or other delegated duty by the CONTRACTOR, the CONTRACTOR'S employees, agents or subcontractors.

9. INSURANCE

- a. **Professional Legal Liability:** The CONTRACTOR shall maintain Professional Liability or Errors and Omissions coverage appropriate to the CONTRACTOR'S profession which shall be written subject to limits of not less than one million dollars (\$1,000,000) per occurrence, with a general aggregate of no less than two million dollars (\$2,000,000).

The coverage shall apply to liability for a professional error, act or omission arising out of the scope of the CONTRACTOR'S services defined in this Contract. Coverage shall not exclude bodily injury or property damage. Coverage shall not exclude hazards

related to the work rendered as part of the Contract or within the scope of the CONTRACTOR'S services as defined by this Contract including testing, monitoring, measuring operations, or laboratory analysis where such services are rendered as part of the Contract. CONTRACTOR is required to buy professional liability insurance for a period of 36 months after completion of this Contract, which can be satisfied by the continuous purchase of the above referenced insurance or an extended reporting period policy.

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

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

CONTRACTOR shall further procure Employer's Liability Stop-gap insurance providing coverage for no less than

one million dollars (\$1,000,000) for bodily injury or disease suffered by its employees.

- c. **Commercial General Liability and Employers Liability Insurance:** CONTRACTOR shall maintain commercial general liability coverage for bodily injury, personal injury and property damage, subject to limits of not less than one million dollars (\$1,000,000) per occurrence. The general aggregate limit shall apply separately to this Contract and be no less than two million dollars (\$2,000,000).

The CONTRACTOR shall procure 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 CONTRACTOR 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.

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 added as additional insureds with respect to performance of services 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.
- (4) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the COUNTY, its officers, officials,

employees or agents.

- (5) The CONTRACTOR'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- (6) The CONTRACTOR shall include all subcontractors, if any, as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.
- (7) The insurance limits mandated for any insurance coverage required by this Contract are not intended to be an indication of exposure nor are they limitations on indemnification.
- (8) The CONTRACTOR shall maintain all required policies in force from the time services commence until services are completed. Certificates, policies, and endorsements expiring before completion of services shall be promptly replaced. The commercial general liability policy required by this agreement shall afford coverage for all losses sustained within the coverage period regardless of when the claim or lawsuit is filed i.e. the policy may not be a "claims made" policy.

e. Verification of Coverage and Acceptability of Insurers: All insurance required under this CONTRACT shall be issued by companies admitted to do business within the State of Washington and have a 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 CONTRACTOR shall furnish the COUNTY with properly executed and unaltered accord form certificates of insurance or a signed policy

endorsement which shall clearly evidence all required insurance within ten (10) days after the effective date of this Contract. The certificates will, at a minimum, list limits of liability and coverage. The certificates will provide that the underlying insurance contract will not be canceled or allowed to expire, except on thirty (30) days prior written notice to the COUNTY. Any certificate or endorsement limiting or negating the insurer's obligation to notify the COUNTY of cancellation or changes shall be altered so as not to negate the intent of this provision.

- (2) The CONTRACTOR shall furnish the COUNTY with evidence that the additional insured provision required above has been met. Acceptable forms of evidence are the endorsement pages of the policy showing the COUNTY as an additional insured.
- (3) Certificates of insurance shall show the certificate holder as "Benton County". The address of the certificate holder shall be shown as the current address of the COUNTY'S Contract Representative.
- (4) The CONTRACTOR shall request the Washington State Department of Labor and Industries, Workers Compensation Representative, to send written verification to Benton County that CONTRACTOR is currently paying workers compensation.
- (5) All written notices under this Section 9 and notice of cancellation or change of required insurance coverage's shall be mailed to the COUNTY at the following address:

Benton County
c/o Loretta Smith Kelty
PO Box 190
Prosser, WA 99350
Phone: 509-786-5600
Fax: 509-786-5625

- (6) The CONTRACTOR or its broker shall provide a copy

of any and all insurance policies specified in this Contract upon request of the Benton County Contracts Administrator listed above.

- (7) 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. TERMINATION

- a. The COUNTY may terminate this Contract in whole or in part whenever the COUNTY determines, in its sole discretion, that such termination is in the best interests of the COUNTY. The COUNTY may terminate this Contract upon giving ten (10) days written notice by certified mail to the CONTRACTOR. In that event, the COUNTY shall pay the CONTRACTOR for all cost incurred by the CONTRACTOR in performing the Contract up to the date of such notice. Payment shall be made in accordance with the Compensation Section of this Contract.
- b. 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 ten (10) 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 5, Compensation.
- c. In the event that funding for this project is withdrawn, reduced or limited in any way after the effective date of this Contract, the COUNTY may summarily terminate this Contract notwithstanding any other termination provision in this Contract. Termination under this paragraph shall be effective upon the date specified in the written notice of termination sent by COUNTY to the CONTRACTOR. After the effective date, no charges incurred under this

Contract shall be allowed.

- d. If the CONTRACTOR breaches any of its obligations hereunder, and fails to cure the breach within ten (10) days of written notice to do so by the COUNTY, the COUNTY may terminate this Contract, in which case the COUNTY shall pay the CONTRACTOR only for the costs of services accepted by the COUNTY, in accordance with the Compensation Section of this Contract. Upon such termination, the COUNTY, at its discretion, may obtain performance of the work elsewhere, and the CONTRACTOR shall bear all costs and expenses incurred by the COUNTY in completing the work and all damage sustained by the COUNTY by reason of the CONTRACTOR'S breach.

11. ASSIGNMENT, DELEGATION AND SUBCONTRACTING

- a. The CONTRACTOR shall perform the terms of the Contract using only its bona fide employees or agents, and the obligations and duties of the CONTRACTOR under this Contract shall not be assigned, delegated, or subcontracted to any other person or firm without the prior express written consent of the COUNTY.
- b. The CONTRACTOR warrants that it has not paid nor has it agreed to pay any company, person, partnership, or firm, other than a bona fide employee working exclusively for CONTRACTOR, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award or making of this Contract.

12. NON-WAIVER OF RIGHTS

The parties agree that the excuse or forgiveness of performance, or waiver of any provision(s) of this Contract does not constitute a waiver of such provision(s) or future performance, or prejudice the right of the waiving party to enforce any of the provisions of this Contract at a later time.

13. INDEPENDENT CONTRACTOR

- a. The CONTRACTOR'S services shall be furnished by the CONTRACTOR as an independent contractor and not as an agent, employee or servant of the COUNTY. The

CONTRACTOR specifically has the right to direct and control CONTRACTOR'S own activities in providing the agreed services in accordance with the specifications set out in this Contract.

- b. The CONTRACTOR acknowledges that the entire compensation for this Contract is set forth in Section [Five] of this Contract, and the CONTRACTOR is not entitled to any COUNTY benefits, including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental, or other insurance benefits, fringe benefits, or any other rights or privileges afforded to COUNTY employees.
- c. The CONTRACTOR shall have and maintain complete responsibility and control over all of its subcontractors, employees, agents, and representatives. No subcontractor, employee, agent, or representative of the CONTRACTOR shall be or deem to be or act or purport to act as an employee, agent, or representative of the COUNTY.
- d. CONTRACTOR shall pay for all taxes, fees, licenses, or payments required by federal, state or local law, which are now or may be enacted during the term of this Contract.
- e. The CONTRACTOR agrees to immediately remove any of its employees or agents from their assignment to perform services under this Contract upon receipt of a written request to do so from the COUNTY'S contract representative or designee.

14. COMPLIANCE WITH LAWS

The CONTRACTOR shall comply with all applicable federal, state and local laws, rules and regulations in performing this Contract.

15. INSPECTION OF BOOKS AND RECORDS

The COUNTY may, at reasonable times, inspect the books and records of the CONTRACTOR relating to the performance of this Contract. The CONTRACTOR shall keep all records required by

this Contract or created in the performance of this contract for six (6) years after termination of this Contract for audit purposes.

16. 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.

a.

17. DISPUTES

Differences between the CONTRACTOR and the COUNTY, arising under and by virtue of this Contract, shall be brought to the attention of the COUNTY at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Any dispute relating to the quality or acceptability of performance and/or compensation due the CONTRACTOR shall be decided by the COUNTY'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.

18. CONFIDENTIALITY

The CONTRACTOR, its employees, subcontractors, and their employees shall maintain the confidentiality of all information provided by the COUNTY or acquired by the COUNTY in performance of this Contract, except upon the prior written consent of the COUNTY or an order entered by a court of competent jurisdiction. The CONTRACTOR shall promptly give the COUNTY written notice of any judicial proceeding seeking disclosure of such information.

19. CHOICE OF LAW, JURISDICTION AND VENUE

- a. This Contract has been and shall be construed as having been made and delivered within the State of Washington, and it is agreed by each party hereto that this contract shall be governed by the laws of the State of Washington, both as to its interpretation and

Orig: File: Lisa Small

cc: Auditor; R. Ozuna; Chamberlin & Assoc.

12/15

performance.

- b. Any action at law, suit in equity, judicial proceeding arising out of this Contract shall be instituted and maintained only in any of the courts of competent jurisdiction in Benton County, Washington.

20. SUCCESSORS AND ASSIGNS

The COUNTY, to the extent permitted by law, and the CONTRACTOR each bind themselves, their partners, successors, executors, administrators, and assigns to the other party to this Contract and to the partners, successors, administrators, and assigns of such other party in respect to all covenants to this Contract.

21. 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.

22. ENTIRE AGREEMENT

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

23. NOTICES

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

24. SURVIVABILITY

All Contract terms, which by their context are clearly intended to survive the termination and/or expiration of this Contract, shall so survive.

25. 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 Section [15] of this agreement may be of evidentiary value, the COUNTY may issue written notice to CONTRACTOR of such circumstances and direct the CONTRACTOR to "hold" 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 the six (6) year purge schedule as set out above in Section [15].

26. 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.

The parties to this Contract have executed this Contract to take effect as of the date written below.

BENTON COUNTY COMMISSIONERS

GARY CHAMBERLIN & ASSOCIATES, INC

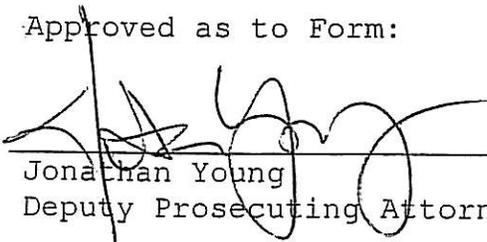
Max E. Benitz, Jr., Chairman

Gary Chamberlin, Owner

Dated: _____

Dated: _____

Approved as to Form:



Jonathan Young
Deputy Prosecuting Attorney

PROPOSAL FOR PROFESSIONAL APPRAISAL SERVICES

Date: March 9, 2009

Subject: 800 W. Canal, former Benton-Franklin County Health Office, Kennewick, WA

Client: Benton County

Property Owner: Benton County

The following is a Proposal for an Agreement between BENTON COUNTY, a political subdivision, with its principal offices at 620 Market Street, Prosser, WA 99350 (hereinafter "CLIENT") and Chamberlin & Associates, Inc. (hereinafter "APPRAISER" and/or "the appraiser") for Professional Appraisal Services for an approximate 10,000 square foot office building formerly occupied by the Benton-Franklin County Health Department and located at 800 W. Canal, Kennewick, WA (hereinafter "the building" and/or "the property"). The Health Department vacated the building several years ago, and the building is currently vacant. Discussion with Mr. Roy Rogers of Benton County indicates the building and its mechanical systems have been maintained and there are no required repairs to make the building occupiable to another user. The appraised value would, therefore, be estimated "As Is" for continued office use or an alternative use, whichever may be discerned from a highest and best use analysis.

Our appraisal assumes fee simple ownership without encumbrance.

The CLIENT understands that neither the employment to make this valuation nor the compensation to be received is contingent upon the findings or value rendered. The analyses, opinions, and conclusions developed in the appraisal report shall be prepared in conformity with the Uniform Standards of Professional Appraisal Practice (USPAP) as adopted by the Appraisal Standards Board of the Appraisal Foundation, and with the requirements of the Code of Professional Ethics and the Standards of Professional Practice of the Appraisal Institute.

I. PURPOSE AND USE OF APPRAISAL

II. The purpose of this appraisal is for estimating the property's "As Is" market value. The appraisal shall be used for CLIENT'S purpose of determining their eventual use or disposition of the asset. SCOPE OF APPRAISAL

Inspection of the property noting interior/exterior building condition, office and space configuration, plant systems, and other pertinent details influencing actual and effective age.

Neighborhood characteristics and trends will be analyzed.

Due to the age of the building a Cost Approach will not be utilized. Elimination of this valuation method is common for buildings of 10 years and older due to the subjectivity required in estimating functional, economic, and physical obsolescence.

After developing an opinion of highest and best use, previous sales and listing activity reflecting similar buildings, as to size, age, location and other pertinent factors will be conducted. From our sales search, more comparable sales will be developed and adjusted to the property for a value estimate. Selected sales will be physically inspected and photographed. Each sale will be verified as to conditions of sale, seller/buyer motivations if any, special financing and other factors. Sale verification will be made with either or both, seller and buyer. If it is not possible to verify with buyer or seller, then the sales agent involved with the negotiations of purchase will be interviewed.

An Income Approach will also be developed. This method will incorporate a rental study of similar type

buildings that would be competitive with the property should it be leased to another department or non-governmental user. Anticipated operating expenses will be developed and analyzed to derive an estimate of net operating income.

The most appropriate and applicable method of income capitalization will be applied and tested to derive a market value estimate based on the ability of the property to produce an income.

III. SERVICES PROVIDED

APPRAISER agrees to furnish to CLIENT three (3) copies of the report within 40 days of acceptance of proposal. Said completion date is only an estimate, and does not take into consideration lack of necessary specific data required to complete the report, acts of God, or delays beyond the control of APPRAISER.

IV. SERVICES NOT PROVIDED

The fees set forth in this Proposal apply to the appraisal services rendered by APPRAISER as set forth in this Proposal. Unless otherwise specified herein, APPRAISER'S services for which the fees in this Proposal apply shall not include meetings with persons other than Client or Client's agents or professional advisors; APPRAISER'S deposition(s) or testimony before judicial, arbitration or administrative tribunals; or any preparation associated with such depositions or testimony. Any additional services performed by Appraiser not set forth in the Proposal will be performed on terms and conditions set forth in an amendment to this Proposal, or in a separate agreement.

V. COMPENSATION

APPRAISER agrees to perform the services described herein for a total fee of \$4,000.00. Payment is due upon delivery.

VI. RETAINER

N/A

VII. ATTACHMENTS

- Appraiser's Assumptions and Limiting Conditions
- Appraiser's Certification

APPROVED AND ACCEPTED BY:

Chamberlin & Associates, Inc.



Gary Chamberlin, MAI
President

Date: March 9, 2009

Appraiser cannot agree to provide a value opinion that is contingent on a predetermined amount. Appraiser cannot guarantee the outcome of the assignment in advance. Appraiser cannot insure that the opinion of value developed as a result of this Assignment will serve to facilitate any specific objective by Client or others or advance any particular cause. Appraiser's opinion of value will be developed competently and with independence, impartiality and objectivity.

Client(s) _____

Accepted this date: _____

ASSUMPTIONS AND LIMITING CONDITIONS

Unless otherwise stated, this appraisal report is made expressly subject to, and limited by the following conditions and stipulations:

1. This appraisal report is prepared for the sole and exclusive use of the client. It is not to be relied upon by any third parties for any purpose, whatsoever.
2. Legal descriptions furnished the appraisers are correct. No responsibility is assumed for legal descriptions or for matters including legal or title considerations.
3. Any sketches in this report are included to assist the reader in visualizing the property. The appraiser has not made a survey of the property, and assumes no responsibility for the legal description provided.
4. Title to the property is good and marketable, insurable, free and clear of liens; and, unless otherwise mentioned in this report, is appraised as if owned in fee simple title without encumbrances.
5. Unless otherwise stated, the market value estimate rendered herein applies to real estate and real property only. It does not include any additional value created by personal property, trade fixtures, or the "going concern value" of the business.
6. The appraiser is not responsible for the accuracy of opinions or information furnished by others contained within this report, nor is he responsible for the reliability of government data utilized herein. The appraisers has made a reasonable attempt to consider all available governmental regulations and restrictions, but assumes no responsibility for future conditions which are not readily available or were public knowledge at the time the appraisal was made.
7. The appraiser assumes neither liability nor responsibility for the affect of events that might concern the value of the subject property subsequent to the date of appraisal.
8. Disclosure of the contents of this appraisal report is governed by the By-Laws & Regulations of the Appraisal Institute. Neither all nor any part of the contents of this report (especially any conclusions as to value, the identity of the appraiser or the firm with which he is connected, or any reference to the Appraisal Institute or to the MAI designation) shall be disseminated to the public through advertising media, public relations media, news media, sales media or any other public means of communication without the prior written consent and approval of the undersigned. No part of this report or any of the conclusions may be included in any offering statement, memorandum, prospectus or registration without the prior written consent of the appraiser.
9. Compensation for appraisal services is dependent only upon delivery of this report, and is not contingent upon the value of the estimate, the reporting of a predetermined value or direction in value that favors the cause of the client, the occurrence of a subsequent event, or the attainment of a stipulated result.

ASSUMPTIONS AND LIMITING CONDITIONS
(Continued)

10. Testimony or attendance in court is not required by reason of this appraisal unless arrangements are previously made. Any court testimony will be at an additional charge.
11. Reasonable inspection has been made and assumption is made that there are no hidden or unapparent conditions of the subject property, subsoil, or structures that would render it more or less valuable. I assume no responsibility for such conditions, or for arranging the studies that might be required to discover such factors. Unless otherwise stated, the appraiser did not observe the existence of hazardous material, which may or may not be present on the property. The appraiser has no knowledge of the existence of such materials nor is he qualified to detect such substances. The presence of hazardous materials may affect the value of the property. Therefore, the value estimate is predicated on the absence of such hazardous materials. If the potential for such materials exists, the client is urged to retain an expert in this field.
12. Unless specifically stated in the body of this report, the analyses, opinions, and conclusions were developed, and this report prepared in accordance with the standards and reporting requirements of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, FIRREA.
13. Responsible ownership and competent management are assumed.
14. Information furnished by the property owner, agent, or management is correct and complete.
15. The right to correct arithmetic errors inadvertently committed is reserved.
16. Market value as expressed herein assumes all cash or its equivalent being paid to the seller.
17. This appraisal report sets forth all the limiting conditions (imposed by the terms of my assignment) affecting the analyses, opinions, and conclusions contained in this report.
18. I am familiar with the appraisal of this type of property and familiar with the locale in which the subject is located. I believe I have sufficient education and experience to appraise the subject property. Consequently, I found no need to take special measures to conform to the "Competency Provision" of the USPAP.

The appraiser reserves the right to amend and add any other limiting conditions specific to the subject property, based upon the physical inspection, investigation, and preparation of the appraisal report.



Gary Chamberlin, MAI
State Certified General Appraiser
WA State Certification No. 1100401

CERTIFICATION

I certify that, to the best of my knowledge and belief:

• The statements of fact contained in this report are true and correct.

• The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial and unbiased professional analyses, opinions, and conclusions.

• I have no present or prospective interest in the property that is the subject of this report, and I have no personal interest or bias with respect to the parties involved; any specified interest or bias has not affected the impartiality of my opinions and conclusions.

• My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.

• My analyses, opinions, and conclusions were developed, and this report has been prepared in conformity with the Uniform Standards of Professional Appraisal Practice, as well as the requirements of the Code of Professional Ethics and the Standards of Professional Practice of the Appraisal Institute.

• The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.

• I have made a personal inspection of the property that is the subject of this report.

• No one provided significant professional assistance to the person signing this report.

• Please see the Appraiser's Qualifications included in the Addenda for specific information regarding the appraiser's background and experience. Gary Chamberlin has previously appraised this property type and is capable of competently completing this assignment.

As of date of this report, I, Gary Chamberlin, have completed the requirements under the continuing education program of the Appraisal Institute.

Signature: _____



Gary Chamberlin, MAI

WA State Certification No. 1400401



RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WA

IN THE MATTER OF AWARDING AND CONTRACTING WITH PERFECTION GLASS, INC. FOR THE INSTALLATION OF THREE (3) SUNSCREENS WITH SUPPORT BARS LOCATED AT THE BENTON COUNTY COURTHOUSE

WHEREAS, per Resolution 08-131 dated January 14, 2008 that in letting of any contract for public works services or materials involving less than ten thousand dollars (\$10,000), advertisement and competitive bidding may be dispensed with, and such contracts may be entered into after direct negotiation; and

WHEREAS, Benton County Facilities Manager received a proposal from Perfection Glass, Inc., Contractors License No. – PERFEI*241Q2 in the amount of \$1,966.73, including WSST for the complete installation of three (3) sunscreens with support bars located at the Benton County Courthouse; and

WHEREAS, the Facilities Manager reviewed the proposal and recommends the award to Perfection Glass, Inc; **NOW, THEREFORE**

BE IT RESOLVED, by the Board of Benton County Commissioners, that Benton County Commissioners hereby concurs with the recommendation and awards the sunscreens and support bars installation to Perfection Glass, Inc for a contract amount of \$1,966.73, including WSST; and

BE IT FURTHER RESOLVED, that the Board authorizes the Chairman of the Board to sign the attached service agreement.

Dated this _____ day of _____, 2009

Chairman of the Board

Member

Member

Attest: _____
Clerk of the board

Constituting the Board of County
Commissioners of Benton County, Washington

**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 PERFECTION GLASS, INC a corporation authorized to do business in the State of Washington with its principal offices at 15 N Auburn, 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 16836 dated 1/29/09
- b. Exhibit B - Specifications
- c. Exhibit C - 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 installation of three (3) sunscreens with angle support bars located at the Benton County Courthouse, Prosser, WA all in accordance with Exhibits A and B attached hereto.

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:
Russ Linhoff, Owner
Perfection Glass, Inc.
15 N Auburn
Kennewick, WA 99336
Phone 509-586-1177
Fax 509-586-0624
- 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 and B attached hereto. The total amount payable by the COUNTY to the CONTRACTOR under this Contract is not to exceed one thousand nine hundred sixty-six dollars and seventy-three cents (\$1,966.73) 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 "hold" 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.

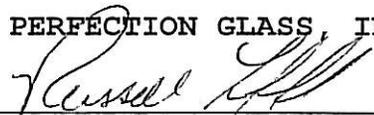
IN WITNESS WHEREOF, the parties have caused this Contract to be signed by their duly constituted legal representatives and is effective on the last date signed.

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

BENTON COUNTY

PERFECTION GLASS, INC.

Max E. Benitz, Chairman

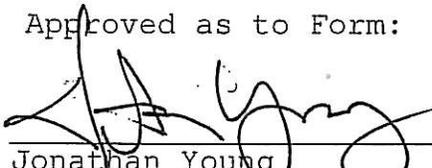


Russ Linhoff, Owner

Dated: _____

Dated: 5/5/09

Approved as to Form:



Jonathan Young
Deputy Prosecuting Attorney



15 N. AUBURN
KENNEWICK, WA 99336
CORPORATE

State Conf. License: PERFEI*241Q2

(509) 586-1177
1-800-291-1361
FAX (509-586-0624

www.perfectionglass.com

SALESMAN: SHAYLA

PROPOSAL: 016836

SALESMAN: Russ Linhoff

SALES:

DATE: 01/29/09

BENTON COUNTY FACILITIES

STEVE 539-9515

CLIENT: BEN18
BENTON COUNTY FACILITIES
7122 W OKANOGAN PLACE
KENNEWICK, WA 99336

PROJECT: 673501
BENTON COUNTY FACILITIES
COURTHOUSE
620 MARKET STREET
PROSSER, WA

Perfection Glass agrees to provide the following materials and services as described below:

DESCRIPTION	QUANTITY	PRICE	AMOUNT
FURNISH & INSTALL			
BRZ/BLACK SUNTEX 90 SUNSCREENS W/ ANGLE SUPPORT BARS 47-1/2" X 90-1/2"	1	0.000/	
	3	605.333/	1,816.00
FURNISH & INSTALL TOTAL:			\$1,816.00
SUBTOTAL BASE BID:			\$1,816.00
SALES TAX:			\$150.73
TOTAL BID:			\$1,966.73

Signed: _____

Dated: _____

*Thank you for using Perfection Glass
Proposal is good for 30 days - a 50% deposit and a signed proposal are required to process order*

SunTex® 80 & SunTex 90

RECEIVED

MAR 19 2009

BENJON COUNTY COMMISSIONERS

Specifications

EXHIBIT B

■ SunTex exterior shading fabric is made of strong vinyl-coated polyester. Developed originally for use in outdoor furniture, SunTex is mildew and fade resistant and needs only an occasional cleaning with mild soap and water. Ideal for use as a shading fabric on windows, doors and porches, SunTex is also pet resistant.

SunTex 80

Blocks up to 80% of the sun's heat

- Standard Colors: Brown, Black, Grey and Stucco.
- Standard Widths: 36", 48", 60", 72" and 96"
(91.4cm, 121.9cm, 152.4cm, 182.9cm and 243.8cm)
- Standard Roll Length: 100 Linear Feet (30.48M)
- Mesh Weight: 13.5 (oz./yd²)
- Yarn Diameter (in.): .025 Warp, .025 Fill
- Fabric Thickness (in.): .040
- Openness Factor: Approximately 25%
- UV Blockage: Approximately 75%
- Breaking Strength (lb.): 400 Warp, 380 Fill
- Stiffness (Mg.): 500 Warp, 300 Fill
- Stretch (%): 1.1 Warp, 3.8 Fill

Solar Heat Control Properties of Phifer SunTex 80
Fabrics Installed Externally, Thirty-Degree Profile Angle

Color	*Solar Optical Properties			Shading Coefficient w/					
	TS	RS	AS	Single			Insulating		
	1/8CL	1/4CL	1/4HA	1/2CL	1CL	1HA			
Brown	22	5	73	0.31	0.31	0.29	0.26	0.26	0.23
Black	24	4	72	0.33	0.33	0.28	0.28	0.27	0.24
Grey	25	24	50	0.33	0.32	0.28	0.28	0.27	0.24
Stucco	35	34	31	0.40	0.39	0.36	0.42	0.37	0.31

Solar Heat Control Properties of Phifer SunTex 80
Fabrics Installed Externally, Seventy-Five-Degree Profile Angle

Color	*Solar Optical Properties			Shading Coefficient w/					
	TS	RS	AS	Single			Insulating		
	1/8CL	1/4CL	1/4HA	1/2CL	1CL	1HA			
Brown	16	16	78	0.13	0.13	0.13	0.09	0.09	0.09
Black	7	15	78	0.14	0.14	0.14	0.09	0.09	0.09
Grey	11	51	38	0.12	0.12	0.12	0.07	0.07	0.07
Stucco	21	43	36	0.18	0.18	0.19	0.15	0.13	0.14

SunTex 90

Blocks up to 90% of the sun's heat

- Standard Colors: Brown, Black, Grey and Stucco.
- Standard Widths: 36", 48", 60", 72" and 96"
(91.4cm, 121.9cm, 152.4cm, 182.9cm and 243.8cm)
- Standard Roll Length: 100 Linear Feet (30.48M)
- Mesh Weight: 17.2 (oz./yd²)
- Yarn Diameter (in.): .025 Warp, .025 Fill
- Fabric Thickness (in.): .039
- Openness Factor: Approximately 10%
- UV Blockage: Approximately 90%
- Breaking Strength (lb.): 480 Warp, 340 Fill
- Stiffness (Mg.): 400 Warp, 310 Fill
- Stretch (%): 4.0 Warp, 0.1 Fill

Solar Heat Control Properties of Phifer SunTex 90
Fabrics Installed Externally, Thirty-Degree Profile Angle

Color	*Solar Optical Properties			Shading Coefficient w/					
	TS	RS	AS	Single			Insulating		
	1/8CL	1/4CL	1/4HA	1/2CL	1CL	1HA			
Brown	11	16	84	0.21	0.21	0.20	0.17	0.16	0.15
Black	11	4	85	0.21	0.21	0.20	0.17	0.17	0.15
Grey	11	28	69	0.19	0.18	0.15	0.15	0.15	0.13
Stucco	17	46	37	0.22	0.22	0.20	0.19	0.18	0.16

Solar Heat Control Properties of Phifer SunTex 90
Fabrics Installed Externally, Seventy-Five-Degree Profile Angle

Color	*Solar Optical Properties			Shading Coefficient w/					
	TS	RS	AS	Single			Insulating		
	1/8CL	1/4CL	1/4HA	1/2CL	1CL	1HA			
Brown	2	13	84	0.11	0.11	0.11	0.08	0.08	0.08
Black	2	13	85	0.11	0.11	0.11	0.08	0.08	0.08
Grey	4	34	62	0.10	0.10	0.10	0.07	0.07	0.07
Stucco	12	62	26	0.11	0.11	0.11	0.07	0.07	0.07

* Performance evaluations conducted by Matrix, Inc., Mesa, Arizona.
 TS = Solar Transmittance
 RS = Solar Reflectance
 AS = Solar Absorptance
 1/8 CL = 1/8" Clear Glass
 1/4 CL = 1/4" Clear Glass
 1/4 HA = 1/4" Heat Absorbing Glass

The solar optical properties are used to calculate the shading coefficient. The shading coefficient represents the percentage of solar heat gain that is transmitted to the interior through the glass and shading system. Darker colors provide maximum glare reduction and visibility.

For complete technical information, test results, performance specifications and larger samples, contact our Sun Control Marketing Department.



PHIFER WIRE PRODUCTS, INC.

Presidential "E Star" Award For Export Excellence
 Founded 1952 By REESE PHIFER

P. O. BOX 1700 • TUSCALOOSA, ALABAMA 35403-1700 U.S.A.
 PHONE: 205/345-2120 • TOLL FREE 1/800-633-5955
 FAX: 205/759-4450 • www.phifer.com

<u>AGENDA ITEM</u>	<u>TYPE OF ACTION NEEDED</u>	
Meeting Date: 5/18/09 Subject: Boy Scouts of America Prepared by: jcm/cmb Reviewed by: Isk	Execute Contract Pass Resolution X Pass Ordinance Pass Motion Board Direction	Consent Agenda X Public Hearing 1st Discussion 2nd Discussion Workshop

f

BACKGROUND INFORMATION

Attached for Board review is the Lease Agreement with the Blue Mountain Council, Boy Scouts of America. The Lease Agreement has been reviewed and approved as to form by the Prosecuting Attorney's Office.

The Lease Agreement allows the Blue Mountain Council, Boy Scouts of America to hold their annual Cub Scout Camp at the Fairgrounds on June 16 – 19, 2009.

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

The Deputy County Administrator recommends approval of the Lease Agreement with the Blue Mountain Council, Boy Scouts of America.

RECOMMENDATION

Move the Lease Agreement with the Blue Mountain Council, Boy Scouts of America be approved.

RESOLUTION

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

**IN THE MATTER OF APPROVING THE LEASE AGREEMENT BETWEEN THE
BENTON COUNTY FAIRGROUNDS AND THE BLUE MOUNTAIN COUNCIL, BOY
SCOUTS OF AMERICA**

WHEREAS, the Blue Mountain Council, Boy Scouts of America will provide the Benton County Fairgrounds \$3,425.00 to hold a Cub Scout Camp at the Fairgrounds on June 16-19 2009; and

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

WHEREAS, the Benton County Deputy Administrator recommends the Blue Mountain Council, Boy Scouts of America Lease Agreement be approved; **NOW THEREFORE**,

BE IT RESOLVED by the Board of Benton County Commissioners, Benton County, Washington, that the Lease Agreement with the Blue Mountain Council, Boy Scouts of America shall be granted; and

BE IT FURTHER RESOLVED that the Board authorizes the Chairman of the Board to sign the Lease Agreement with the attached hereto.

Dated this _____ day of _____ 2009.

Chairman of the Board

Member

Member

Attest: _____
Clerk of the Board

Constituting the Board of County
Commissioners of Benton County,
Washington

BENTON COUNTY FAIRGROUNDS

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

LEASE AGREEMENT

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

LEASE AGREEMENT NUMBER: **015.09**

EVENT DATE(S): **June 16 – 19, 2009**

NUMBER OF DAYS: **4**

BUILDING(S) / AREA: **Grounds – Including Buildings 2, 5, 6, 12 Central, North
and South Lawns, Bill Beck Memorial**

LESSEE: **Blue Mountain Council, Boy Scouts of America,
a Washington Non-Profit Corporation**

MAILING ADDRESS: **8478 W Gage Blvd., Kennewick, WA 99337**

CONTACT: **Andrea Watson, District Executive**

WORK PHONE: **735-7306** CELLULAR PHONE: **531-4068**

TIME OF THE EVENT: **1:30 – 8:30 pm each day**

TYPE OF EVENT: **Cub Scout Day Camp**

ESTIMATED ATTENDANCE: **450**

SELLING TICKETS: YES NO X

THIS LEASE (AGREEMENT) is entered into effective upon the signature of both parties, between Blue Mountain Council, Boy Scouts of America, a Washington Non-Profit Corporation (LESSEE) and BENTON COUNTY, a municipal corporation authorized under the laws of the State of Washington, operating the Benton County Fairgrounds (LESSOR).

1. EVENT

- a. CUB SCOUT DAY CAMP ON THE GROUNDS INCLUDING BUILDINGS 2, 5, 6, 12 CENTRAL, NORTH AND SOUTH LAWN AREAS AND BILL BECK MEMORIAL GAZEBO ON JUNE 16 – 19, 2009 WITH AN ESTIMATED ATTENDANCE OF 450 PEOPLE, hereafter referred to as the EVENT.

2. FACILITIES LEASED FOR THE EVENT

- a. LESSEE agrees to lease the buildings and grounds, equipment and services specified in Exhibit A (Attached) (collectively the Facilities) to hold EVENT on the date(s) specified on the cover hereto. In addition to said date(s), LESSEE desires and further agrees to lease said Facilities for move-in and/or move-out purposes on June 15, 2009 and June 19, 2009. LESSEE WARRANTS THAT SAID FACILITIES WILL BE USED ONLY FOR LAWFUL PURPOSES NECESSARY TO SUPPORT THE EVENT.

3. PAYMENTS

- a. In consideration for the license to hold the EVENT, LESSEE agrees to pay LESSOR the FEE of \$ 3,425.00 (less damage/cleaning deposit if previously paid) for use of the Facilities as detailed in Exhibit A, no later than June 2, 2009. If the fee is not made by said date, this Agreement will be null and void unless otherwise agreed to in writing by LESSOR. Upon such termination, LESSEE shall be obligated to pay a cancellation fee as specified in the Benton County Fairgrounds Policies and Procedures, Paragraph #9.

4. CAMPING OVERNIGHT

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

5. CANCELLATION OF EVENT

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

6. CONCESSIONAIRES

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

7. NOVELTIES/SOUVENIRS

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

8. DAMAGE / CLEANING DEPOSIT

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

9. **INSURANCE**

- a. LESSEE agrees to purchase, and maintain in force through the duration of this Agreement **commercial general liability insurance with a limit in the sum of not less than two million dollars (\$2,000,000) per occurrence for bodily injury or death of any one person and property damage and three million dollars (\$3,000,000) in the aggregate for bodily injury to, or death of, any number of persons and property damage.** Said policy may not exclude any activities expected to be, or actually, undertaken during the EVENT or setup/takedown. Said policy shall name Benton County Fairgrounds, Benton County, its officers, directors, its elected officials, agents and employees as additional insured and shall include a provision prohibiting cancellation of said policy except after thirty (30) days prior written notice to LESSOR. A CERTIFICATE OF LIABILITY INSURANCE COVERAGE AS REQUIRED BY THIS SECTION SHALL BE DELIVERED TO THE LESSOR NO LATER THAN THIRTY (30) DAYS PRIOR TO THE FIRST DATE OF THE EVENT.
- b. **All insurance policies required by this section shall include move-in and move-out days, as well as the event days and shall indicate these dates on the insurance certificate.**
- c. All insurance policies required by this section shall cover losses which occur during the covered period, regardless of when the claim is filed, i.e. cannot be "claims made" policies.
- d. All insurance policies required by this section shall be primary to any insurance policies or policies of self-insurance carried by LESSOR;
- e. The limits required by this section are not intended to be an indication of liability nor are they to be considered limits on amount of indemnification;
- f. LESSEE SHALL PROVIDE, NO LATER THAN THIRTY (30) DAYS PRIOR TO ANY EVENT COVERED BY THIS AGREEMENT, PROOF OF ALL FORMS OF INSURANCE REQUIRED IN THIS SECTION. THIS PROOF SHALL CONSIST OF A CERTIFICATE OF INSURANCE NAMING "BENTON COUNTY FAIRGROUNDS" AS CERTIFICATE HOLDER, AS WELL AS COPIES OF ALL KEY PROVISIONS, EXCLUSIONS, AND ENDORSEMENTS FROM THE POLICY INCLUDING THE REQUIRED ADDITIONAL INSURED LANGUAGE.

10. **PERMITS**

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

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

11. SECURITY

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

12. SERVING ALCOHOL

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

13. NOISE CONTROL

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

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

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

14. TERMINATION OR AMENDMENT

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

15. INDEMNIFICATION AND HOLD HARMLESS

- a. LESSEE agrees to defend, indemnify and hold harmless LESSOR and its elected and appointed officials employees, agents, licensees and representatives, from and against any and all suits, claims, actions, losses, costs, penalties, damages, attorneys' fees and all other costs of defense of whatever kind or nature arising out of injuries to or death of any and all persons (including subcontractors, agents, licensees or representatives, and any of their employees) or damage to or destruction of any property (including, without limitation, LESSEE or LESSOR'S property or any other activity or omission which results in civil liability of any sort or type) in any manner caused by, resulting from incident to, connected with or arising out of LESSEE'S use of the facilities or performance under this agreement, unless such injury, death or damage is caused by the sole negligence of LESSOR. In the event of litigation between the parties to enforce the rights under this paragraph, LESSOR shall be entitled to attorney's fee and all other costs incurred in establishing its rights. LESSEE'S obligations pursuant to this article include investigating, adjusting and defending any cause of action or claim falling within the parameters as set out in this article.
- b. In any and all claims against the LESSOR, its officers, officials, employees and agents by any employee of the LESSEE, subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under this Section shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the LESSEE or subcontractor under Workers Compensation acts, disability

benefit acts, or other employee benefit acts, it being clearly agreed and understood by the parties hereto that the LESSEE expressly waives any immunity the LESSEE might have had under such laws. By executing this Contract, the LESSEE acknowledges that the foregoing waiver has been mutually negotiated by the parties and that the provisions of this Section shall be incorporated, as relevant, into any contract the LESSEE makes with any subcontractor or agent performing work hereunder. These indemnification obligations shall specifically include indemnification for any fines, fees, penalties or costs incurred by LESSEE during the course of the event for violations of any law, ordinance or regulation including, but not limited to, Washington's law on Smoking in Public Places, RCW Chapter 70.160. In the event of litigation between the parties to enforce the rights under this paragraph, LESSOR shall be entitled to attorney's fee and all other costs incurred in establishing its rights. LESSEE'S obligations pursuant to this article include investigating, adjusting and defending any cause of action or claim falling within the parameters as set out in this article.

16. FAIRGROUNDS CONTACT

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

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

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

17. POLICIES AND PROCEDURES

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

I, Andrea Watson, District Executive (name and job title/position) have read and fully understand this Agreement. I hereby certify that I have the authority to bind Blue Mountain Council, Boy Scouts of America to the terms and conditions set forth herein. In the event I do not have the authority, I acknowledge and agree that I shall be personally liable for any payments due under this Agreement and for any breach that occurs under the Agreement. I agree to abide by the conditions set forth in this Lease Agreement and assume the responsibility for enforcing these policies.

LESSOR: BENTON COUNTY

**LESSEE: Blue Mountain Council,
Boy Scouts of America**

BY: _____
Chairman of the Board

BY: Andrea Watson

Date: 3/24/09

Date: _____

Name: Andrea Watson

Title: District Director

Approved as to form:
BY: [Signature]
Civil Deputy Prosecutor

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

DAMAGE/CLEANING DEPOSIT

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

DEPOSIT TOTAL: \$ 250.00

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

Grounds – Including Buildings 2, 5, 6, 12 Central, North
and South Lawns, Bill Beck Memorial X 4 Days = \$ 3,175.00

Includes: Move-In Day 6/15/09 and Move-Out Day 6/20/09

BUILDING(S)/AREA TOTAL: \$ 3,175.00

EQUIPMENT RENTAL FEES

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

EQUIPMENT RENTAL TOTAL: \$ 0

LESSOR FURNISHED INSURANCE FEES

Lessee will provide.

INSURANCE TOTAL: \$ 0

SECURITY FEES

Lessee will provide.

SECURITY TOTAL: \$ 0

REFUSE DISPOSAL FEES

Bin Size	Number	Cost	Total
4 Yard Bin	4	Included	0

REFUSE TOTAL: \$ 0

NAME: Blue Mountain Council, Boy Scouts of America

EVENT DATE: June 16 – 19, 2009

SUMMARY OF FEE(S)

Damage/Cleaning Deposit	\$ <u>250.00</u>
Building(s)/Area Fees	\$ <u>3,175.00</u>
Equipment Fees	\$ <u>0</u>
Insurance Fees	\$ <u>0</u>
Security Fees	\$ <u>0</u>
Refuse Disposal Fees	\$ <u>0</u>
Other Fees	\$ <u>0</u>

TOTAL FEE: \$ 3,425.00

BENTON AND FRANKLIN COUNTIES ACTION SUMMARY COVER SHEET

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

BACKGROUND INFORMATION

The Department of Human Services is amending Agreement #07/09-SA-NECC to replace section 45, CONSIDERATION and Section 63, SUB-ACUTE DETOXIFICATION SERVICES to provide low income services, Detox services and DOC referred services.

SUMMARY

Award: The consideration is fee-for-service
Period: March 1, 2009 through June 30, 2009
Funding Source: Division of Alcohol and Substance

RECOMMENDATION

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

FISCAL IMPACT

Funding for the services described in this amendment is provided by the Division of Alcohol and Substance Abuse. **There is no impact on the current expense budget.** All revenues and expenditures are from the Fund 0108-101 Human Services Budget.

MOTION

To approve signing Amendment #07/09-SA-NECC-1 with Nueva Esperanza Counseling Center and to authorize the Chair of each County to sign on behalf of the Board.

RESOLUTION

Franklin County Resolution Number _____

Benton County Resolution Number _____

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

IN THE MATTER OF EXECUTION OF AN AMENDMENT TO AGREEMENT #07/09-SA-NECC BETWEEN NUEVA ESPERANZA COUNSELING CENTER AND BENTON AND FRANKLIN COUNTIES' DEPARTMENT OF HUMAN SERVICES,

WHEREAS, the Department of Human Services is amending Agreement #07/09-SA-NECC to replace section 45, CONSIDERATION and Section 63, SUB-ACUTE DETOXIFICATION SERVICES to provide low income services, Detox services and DOC referred services; and

WHEREAS, the consideration is fee-for-service; and

WHEREAS, the Agreement shall be effective for the period March 1, 2009 through June 30, 2009, 2009; NOW THEREFORE,

BE IT RESOLVED that the Boards of Benton and Franklin County Commissioners hereby accept the proposed amendment; and

BE IT FURTHER RESOLVED that the Chairman is hereby authorized to sign the amendment on behalf of the Boards of Benton and Franklin County Commissioners.

Dated thisday of, 2009.

Dated thisday of, 2009.

Chair, Benton County Commissioners

Chair, Franklin County Commissioners

Chair Pro Tem

Chair Pro Tem

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

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

Attest:
Clerk of the Board

Attest:
Clerk of the Board

cc: Human Services, Franklin County, Benton County

Carey

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

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

BACKGROUND INFORMATION

The Department of Human Services would like to amend the Agreement with Lourdes Counseling Center to revise the Consideration and Payment Provisions and the Statement of Work sections of the Agreement. Lourdes Counseling Center has discontinued operation of the Transitional Living Mobile Homes as of May 1, 2008. Lourdes Cullum House will serve as an 8 bed facility for up to 90 days for individuals who are enrolled in the public mental health system.

SUMMARY

Award: The consideration for these services is deleted from the payment section.

Period: Agreement period is October 1, 2007 through September 30, 2009.

Funding Source: Mental Health Division

RECOMMENDATION

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

FISCAL IMPACT

Funding for the services described in this Amendment is provided by the Mental Health Division of Washington State. **There is no impact on the current expense budget.** All revenues and expenditures are from the Fund 0108-101 Human Services Budget.

MOTION

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

JOINT RESOLUTION

BENTON COUNTY RESOLUTION NO. _____

FRANKLIN COUNTY RESOLUTION NO. _____

**BEFORE THE BOARDS OF THE COMMISSIONERS OF BENTON AND FRANKLIN COUNTIES,
WASHINGTON:**

**IN THE MATTER OF AMENDMENT #1 OF AGREEMENT 07/09-RES-LCC
BETWEEN THE BENTON AND FRANKLIN COUNTIES DEPARTMENT OF
HUMAN SERVICES AND LOURDES COUNSELING CENTER FOR THE
DISCONTINUATION OF THE TRANSITIONAL LIVING MOBILE HOMES AND
COMPENSATION FOR 24 HOUR STAFFING OF CRISIS STABILIZATION BEDS,
and**

WHEREAS, Lourdes Counseling Center discontinued operation of the transitional living mobile homes on May 1, 2008, and

WHEREAS, The monthly rate for 24 hour staffing of the crisis stabilization beds located in the Cullum House is increased to \$23,441 per month, and

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

Dated this day of 2009.

Dated this day of2009.

Benton County Board of Commissioners

Franklin County Board of Commissioners

Chair, Benton County Commissioners

Chair, Franklin County Commissioners

Member

Member

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

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

Attest:

Attest:

Clerk of the Board

Clerk of the Board

Originals: Franklin County
Human Services
Benton County

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BENTON COUNTY
ACTION SUMMARY COVER SHEET

AGENDA ITEM	TYPE OF ACTION NEEDED	
Amendment to correct consideration amount and to attach correct Technical Submission and Logic Model (2163)	<input checked="" type="checkbox"/> Execute Amendment <input checked="" type="checkbox"/> Pass Resolution <input type="checkbox"/> Pass Ordinance <input type="checkbox"/> Pass Motion	<input checked="" type="checkbox"/> Consent Agenda <input type="checkbox"/> Public Hearing <input type="checkbox"/> 1 st Discussion <input type="checkbox"/> 2 nd discussion
Prepared By: Carol Carey	<input type="checkbox"/> Other	<input type="checkbox"/> Other

BACKGROUND INFORMATION

The Department of Human Services would like to correct the consideration amount to \$94,281.00 from \$94,287.00 for the #2009-HH2163/CAC contract with Benton Franklin Community Action Committee for services and assistance for homeless individuals in Benton County. The incorrect Technical Submission and Logic Model was attached in the original packet. The replacement is attached to the Amendment.

FISCAL IMPACT

The maximum consideration for the agreement shall be \$94,281.00.00.

EFFECTIVE DATES

This amendment shall be effective for the period April 1, 2009 through December 31, 2009

RECOMMENDATION

- Sign the resolution for the Department of Human Services to continue the contract with Benton Franklin Community Action Committee to provide services and assistance to homeless individuals in Benton County.

MOTION

To approve signing the Resolution for the contract between the Department of Human Services and Benton Franklin Community Action Committee.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF EXECUTION OF AN AMENDMENT TO CORRECT CONSIDERATION AMOUNT AND ATTACH CORRECT TECHNICAL SUBMISSION AND LOGIC MODEL FOR CONTRACT #2009-HH2163/CAC BETWEEN THE DEPARTMENT OF HUMAN SERVICES AND COMMUNITY ACTION COMMITTEE

WHEREAS, the consideration was incorrect on the original contract and the incorrect Technical Submission and Logic Model was attached; and

WHEREAS, the correct consideration will be from \$94,287.00 to \$94,281.00; and

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

BE IT RESOLVED that the Board of Benton County Commissioners hereby accept the corrections in the amendment; and

BE IT FURTHER RESOLVED that the Chairman is hereby authorized to sign the amendment 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

Carey

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

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AGENDA ITEM		TYPE OF ACTION NEEDED				
Meeting Date:		Execute Contract	<input type="checkbox"/>	Consent Agenda	<input checked="" type="checkbox"/>	
Subject:	Joint Resolution for Appointment of	Pass Resolution	<input checked="" type="checkbox"/>	Public Hearing	<input type="checkbox"/>	
	Edward Thornbrugh as CDMHP	Pass Ordinance	<input type="checkbox"/>	1 st Discussion	<input type="checkbox"/>	
Prepared by:	Carol Carey	Pass Motion	<input type="checkbox"/>	2 nd Discussion	<input type="checkbox"/>	
Reviewed by:		Other	<input type="checkbox"/>	Other	<input type="checkbox"/>	

BACKGROUND INFORMATION

County Designated Mental Health Professionals (CDMHPs) are appointed by counties to perform the duties defined in WAC 388-865-0245. The Department of Human Services would like Edward Thornbrugh appointed as a CDHMP. He is employed at the Benton and Franklin Counties Department of Human Services and currently working at the Crisis Response Unit and meets the educational and/or experience requirements specified in the WAC.

SUMMARY

Appoint Edward Thornbrugh as a CDMHP. An updated CDMHP list is attached to the Resolution.

RECOMMENDATION

Sign the Joint Resolution to appoint Edward Thornbrugh as a CDMHP.

FISCAL IMPACT

There is no fiscal impact.

MOTION

To approve signing the Joint Resolution to appoint Edward Thornbrugh as a County Designated Mental Health Professional while employed at the Crisis Response Unit.

JOINT RESOLUTION

BENTON COUNTY RESOLUTION NO. _____

FRANKLIN COUNTY RESOLUTION NO. _____

BEFORE THE BOARDS OF THE COMMISSIONERS OF BENTON COUNTY, WASHINGTON AND FRANKLIN COUNTY, WASHINGTON;

IN THE MATTER OF APPOINTING COUNTY-DESIGNATED MENTAL HEALTH PROFESSIONALS

WHEREAS, it is the Counties' responsibility to appoint County-Designated Mental Health Professionals (CDMHPs) as defined in WAC 388-865-0245 to perform the duties specified in Chapters 71.05, 71.34 and 70.96A RCW; and

WHEREAS, individuals employed by Benton Franklin Counties' Department of Human Services' Crisis Response Unit perform the CDMHP duties for Benton County and Franklin County; and

WHEREAS, the Crisis Response Unit wishes to appoint Edward Thornbrugh as a CDMHP since she now meets the educational and/or experience requirements as specified in WAC 388-865-0245; and

WHEREAS, the list of appointed County Designated Mental Health Professionals, attached hereto as Exhibit A, is updated to include Edward Thornbrugh and delete Nowita Peters who no longer works for the Crisis Response Unit; **NOW THEREFORE**,

BE IT RESOLVED, that Nowita Peters is terminated as a County Designated Mental Health Professionals and Edward Thornbrugh be appointed as a County Designated Mental Health Professional; and

BE IT FURTHER RESOLVED that appointments of County Designated Mental Health Professionals shall be limited to the period during which they are assigned to perform the functions of a CDMHP and are employed by the Crisis Response Unit of Benton and Franklin Counties.

Dated this day of, 2009

Dated this day of, 2009.

Chair

Chair

Chair Pro Tem

Chair Pro Tem

Member

Constituting the Board of County Commissioners,
Benton County, Washington

Member

Constituting the Board of County Commissioners,
Franklin County, Washington

Attest:

Attest:

Clerk of the Board

Clerk of the Board

Originals (3): Benton County, Franklin County, Human Services
Copies (1): Edward Thornbrugh

EXHIBIT A

COUNTY-DESIGNATED MENTAL HEALTH PROFESSIONALS

Dated: May 11, 2009

<u>NAME</u>	<u>DATE APPOINTED</u>
Patrick C. R. Brunk.....	January, 1992
James C. Laws	January, 1992
James Tutwiler.....	April, 1994
Randi Hankins.....	July, 1996
Kyle Sullivan	February, 1998
Kathleen Laws	September, 2000
Cristina Maldonado	February, 2004
Gordon Cable.....	June, 2004
Hector DeLeon.....	February, 2006
Tony Larsen.....	January, 2007
Karin Cagle	July, 2008
Edward Thornbrugh	May, 2009

JOINT RESOLUTION

BENTON COUNTY RESOLUTION NO. _____

FRANKLIN COUNTY RESOLUTION NO. 2009 179

K

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

RE: PROFESSIONAL SERVICES AGREEMENT BETWEEN JAMES F. BELL AND BENTON COUNTY AND FRANKLIN COUNTY TO PROVIDE LEGAL REPRESENTATION TO INDIGENT PERSONS SUBJECT TO INVOLUNTARY COMMITMENT PROCEEDINGS IN BENTON AND FRANKLIN COUNTIES SUPERIOR COURT, CONTRACT #BFSC0909JFB001, EFFECTIVE MAY 1, 2009 THROUGH DECEMBER 31, 2009

WHEREAS, the Counties are required to provide legal representation for individuals involuntarily committed for treatment of mental illness or chemical/alcohol dependency and who are financially unable to obtain legal counsel; and

WHEREAS, the Counties are also required to provide legal representation for individuals in the custody of the Washington State Department of Social and Health Services by virtue of criminal insanity when such individuals file a request for conditional release and a court hearing results from such a request; and

WHEREAS, Attorney James Bell has direct experience in handling and litigating cases involving persons subject to involuntary commitment proceedings and desires to contract with the Counties; and

WHEREAS, the Benton-Franklin Office of Public Defense (OPD) Coordinator recommends contracting with Attorney James Bell to provide legal defense services to indigent persons subject to involuntary commitment proceedings in Superior Court; and

WHEREAS, pursuant to R.C.W. 36.01.010 and R.C.W. 36.32.120 the legislative authority of each county is authorized to enter into contracts on behalf of the county and have the care of county property and management of county funds and business; and

WHEREAS, the Boards of Benton and Franklin County Commissioners constitutes the legislative authority of their respective County and desire to enter into this agreement as being in the best interest of Franklin and Benton County;

NOW, THEREFORE, BE IT RESOLVED the Boards of Benton and Franklin County Commissioners hereby approve the attached Professional Services Agreement between James F. Bell and Benton County and Franklin County, to provide legal representation to indigent persons subject to involuntary commitment proceedings in Benton and Franklin Counties Superior Court, Contract #BFSC0909JFB001, effective May 1, 2009 through December 31, 2009.

BENTON COUNTY RESOLUTION NO. _____

FRANKLIN COUNTY RESOLUTION NO. 2009 179

Page 2

Contract #BFSC0909JFB001

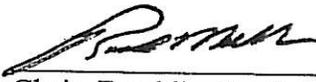
Dated this day of 2009.

Dated this 13th day of May 2009.

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

**Franklin County Board of Commissioners
Franklin County, Washington**

Chair, Benton Co. Commissioners



Chair, Franklin Co. Commissioners

Chair Pro Tem



Chair Pro Tem

Member

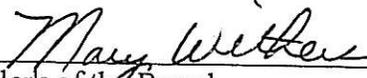


Member

Attest:

Attest:

Clerk of the Board



Clerk of the Board

Originals: Franklin County
James Bell

cc: Benton County
OPD

**PROFESSIONAL SERVICES AGREEMENT TO PROVIDE
LEGAL REPRESENTATION TO INDIGENT PERSONS
SUBJECT TO INVOLUNTARY COMMITMENT
PROCEEDINGS IN BENTON AND FRANKLIN COUNTIES
CONTRACT #BFSC0909JFB001**

THIS AGREEMENT shall be deemed made and effective as of the 1st day May, 2009, and is entered into by and between **JAMES F. BELL**, attorney at law, Washington State Bar Association #22258 ("Attorney"); and **BENTON COUNTY** and **FRANKLIN COUNTY**, state of Washington political subdivisions (jointly the "Counties") and **BENTON-FRANKLIN HUMAN SERVICES**, a bi-county agency of Benton and Franklin Counties ("BFHS").

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

- A. The Counties, as part of their respective duties to the public, are required to provide legal representation for individuals involuntarily committed for treatment of mental illness (RCW 71.05.150 et seq.) or chemical/alcohol dependency (RCW 70.96A.140 et seq.), and who are financially unable to obtain legal counsel.
- B. The Counties, as part of their respective duties to the public, are also required to provide legal representation for individuals in the custody of the Washington State Department of Social and Health Services ("DSHS") by virtue of criminal insanity (RCW 10.77) when such individuals file a request for conditional release and a court hearing results from such a request.
- C. The determination of indigence and appointment of legal counsel to represent indigent individuals subject to involuntary commitment is made by the Benton and Franklin County Superior Court ("Superior Court").
- D. BFHS is responsible for providing mental health care services within the Counties, which includes services related to treatment for mental illness and chemical/alcohol dependency.
- E. Attorney is engaged in the private practice of law, has direct experience in handling and litigating cases involving persons subject to involuntary commitment proceedings, and desires to contract with

the Counties and BFHS to provide legal services to indigent persons subject to involuntary commitment proceedings in Superior Court.

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

1. **AGREEMENT TERM.** This Agreement shall be deemed effective for all purposes as of the 1st day of May, 2009 and shall continue thereafter through and including the 31st day of December, 2009, unless earlier terminated pursuant to the applicable terms and provisions of this Agreement

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

a. Attorney presently and regularly maintains an office for the practice of law at 410 N Neal St, Suite A, Kennewick, WA, 99336. Attorney's current local office telephone and fax numbers are (509) 628-4734 and (509) 628-4701, respectively; and Attorney's current office/work e-mail address is jbell@jimbelllaw.com.

b. Throughout the entire term of this Agreement, Attorney shall continue to maintain such office, such telephone and fax numbers, and such e-mail address; provided that, however, Attorney may relocate Attorney's office to another location within the Tri-Cities, Washington, and/or Attorney may change Attorney's telephone/fax number to another Tri-Cities local telephone/fax number, and/or Attorney may change Attorney's e-mail address, provided that Attorney must provide immediate written notice of such change(s) to the Counties, BFHS, the Benton County Prosecuting Attorney, the Franklin County Prosecuting Attorney, the Benton County Superior Court Clerk, the Franklin County Superior Court Clerk, and the Benton-Franklin Superior Court Administrator.

3. **ATTORNEY'S QUALIFICATIONS.** Attorney acknowledges and agrees that the Counties have an obligation to provide competent legal counsel to indigent persons subject to involuntary commitment proceedings in Superior Court based on alleged mental illness or chemical/alcohol dependency. Attorney shall perform all services hereunder in strict accordance with the usual skills and professional ethical standards exercised by attorneys practicing law in the Counties and generally exercised by members of the Washington State Bar Association ("WSBA"). Without limitation in that regard, Attorney acknowledges and agrees that Attorney has a fundamental duty and responsibility to effectively promote and protect the best interests and rights of all persons whom Attorney is appointed to represent under this Agreement.

a. As of the date of this Agreement, Attorney represents and warrants that Attorney is unconditionally licensed to practice law in the state

of Washington; has had at least one (1) year of direct litigation experience in representing persons subject to involuntary commitment proceedings based on alleged mental illness and/or chemical/alcohol dependency; has not been found by a court of competent jurisdiction to have rendered ineffective assistance of counsel; has not been censured, admonished, or otherwise formally disciplined for past conduct or behavior that would negatively reflect on Attorney's duty and ability to effectively and competently render legal services hereunder; and has not been suspended or disbarred from the practice of law in any state or jurisdiction at any time in the past.

(i) This Agreement shall be subject to termination pursuant to paragraph 14 below in the event that Attorney's license to practice law in Washington is revoked or otherwise limited or restricted; in the event that a court of competent jurisdiction formally determines and expressly finds that Attorney has rendered ineffective assistance of counsel to any person; in the event that Attorney is censured, admonished, or otherwise formally disciplined for conduct or behavior that negatively reflects on Attorney's duty and ability to effectively and competently render legal services hereunder; or in the event that Attorney is suspended or disbarred from the practice of law in any other state or jurisdiction.

(ii) Attorney shall notify the Counties within one (1) business day if any event specified in paragraph 3.a.(i) occurs.

b. During each calendar year during the term of this Agreement, Attorney shall be required to obtain at least seven (7) hours of WSBA-qualified Continuing Legal Education ("CLE") credits in courses directly relating to the specialized type of legal services contemplated and to be performed hereunder. Attorney shall provide the Counties' respective Administrators ("Administrators") with written proof and confirmation that such CLE credits have been obtained no later than by December 31st of each calendar year. Additionally, during each calendar year during the term of this Agreement, in addition to participating in any specialized training-related activity specified in RCW Chapter 10.101, Attorney shall attend at least one (1) public defense services-related training seminar sponsored and/or approved by the Washington Office of Public Defense ("WOPD"), and the Counties may provide Attorney's name and address to the WOPD for purposes of the WOPD notifying Attorney of any such upcoming training seminars. Attorney shall provide the Administrators with written proof and confirmation that such required training seminar has been attended by Attorney no later than by December 31st of each calendar year.

c. Attorney represents and warrants that, throughout the entire term of this Agreement, Attorney's private law practice caseload and schedule; Attorney's personal schedule; and Attorney's office resources,

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

d. No later than by the 10th day of each month during the term of this Agreement, Attorney shall provide the Administrators with a written report showing the total number and types of private practice cases (which for purposes of this Agreement shall include pro bono cases, retained-fee cases, and any cases handled by Attorney under any other personal services agreement) in which Attorney provided legal services during the preceding month and the total number of appointed cases under this Agreement in which Attorney provided legal services during the preceding month, and the percentage of time spent by Attorney during the preceding month providing legal services in private practice cases versus and in relation to time spent by Attorney during the preceding month providing legal services in appointed cases under this Agreement.

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

- a. Adult indigent persons subject to involuntary commitment proceedings based on alleged mental illness (RCW 71.05.50 et seq., as now existing or as may be amended/recodified) or for chemical/alcohol dependency (RCW 70.96A.140 et seq., as now existing or as may be amended/recodified).
- b. Adult indigent persons in the custody of the Washington State Department of Social and Health Services ("DSHS") pursuant to the provisions of Chapter 10.77, RCW, who are seeking review of their case for purposes of conditional release pursuant to RCW 10.77.150.

5. **CONTINUED REPRESENTATION.**

a. In the event that a change of venue is granted to a person for whom Attorney has been appointed to represent under this Agreement, Attorney shall continue to represent such person in the court where venue is transferred without Attorney receiving any additional compensation beyond the compensation amount(s) specified in this Agreement.

b. Additionally, Attorney has a duty to timely and fully complete all cases appointed to Attorney under this Agreement. In that regard, Attorney shall continue to provide representation for those persons whom Attorney was appointed to represent and whose case was not concluded during the term of this Agreement, and Attorney's obligation to fully complete all cases encompassed by this Agreement following its termination date shall not in any way entitle Attorney to receive any additional compensation beyond the compensation amount(s) specified in this Agreement.

6. **CLIENT ELIGIBILITY.** The Superior Court, consistent with applicable laws, rules and standards, shall determine the eligibility of any particular person for representation by Attorney under this Agreement. If Attorney is appointed to represent a person and subsequently discovers that such person may not be eligible to receive such publicly-provided representation under the standards established by the Superior Court, Attorney, if able to do so within the bounds of applicable ethical rules and professional standards, shall promptly notify the Superior Court of such possibility for purposes of the court taking action at its discretion to re-determine whether such person is/remains eligible to receive publicly-provided representation. If the court then determines that such person is not eligible for publicly-provided representation, the appointment of Attorney to represent such person shall be rescinded and such person shall be required to retain his/her own legal counsel. Attorney shall not thereafter represent such person in such matter on a retained-fee basis unless such person applies for and receives the court's permission allowing such representation. Nothing contained herein shall prevent Attorney from representing a person on a retained-fee basis in an involuntary commitment proceeding in which Attorney has not been appointed by the Superior Court to represent such person, or from representing a person on a retained-fee basis whom Attorney has been appointed by the Superior Court to represent provided that the matter(s) involving the retained representation are wholly independent and unrelated to the matter for which Attorney was appointed.

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

interest arises subsequent to Attorney receiving an appointment under this Agreement (or in the event Attorney's continued involvement in a pending case would cause or constitute an actual violation of any such ethical or professional standards), Attorney shall immediately make the Superior Court aware of such development for purposes of the court taking action to appoint another attorney to assume and undertake legal representation in such case.

8. **SCOPE OF REPRESENTATION; FILE RETENTION.** Attorney agrees to and shall represent all persons whom Attorney is appointed to represent hereunder with the same skill and commitment as Attorney exercises and expends when representing persons on a private and/or retained-fee basis. Without limitation in that regard, such representation shall include the investigation of the underlying facts, the research of relevant law, appropriate communication with the client, review of potential case resolution alternatives, and the preparation for and appearance on behalf of the client in all stages of Superior Court proceedings including, without limitation, hearings, motions, trials, appeals (including the preparation and filing of any and all pleadings necessary and appropriate to perfect an appeal to a higher court, including the appointment of publicly-provided counsel, if and when applicable), representation of an appellant until appointment of replacement appellate counsel is made, and any post-case resolution reviews. Without limiting the foregoing, if a person whom Attorney is appointed to represent hereunder requests a jury to determine whether he/she should be subject to involuntary commitment proceedings, Attorney shall prepare for and attend at said trial.

a. Without limiting Attorney's duty to initially meet with an indigent person to discuss his/her case as soon as reasonably possible following Attorney's appointment to the case, if Attorney is appointed to an "in custody" case (i.e., a case in which the person is confined/detained), Attorney shall arrange to meet face-to-face with the person as soon as possible but no later than within three (3) business days of Attorney receiving the appointment (unless applicable law or the circumstances of a particular case reasonably require that Attorney make sooner initial contact with the person). Additionally, throughout Attorney's representation of any person under this Agreement, Attorney shall maintain appropriate contact/communications with the person so as to keep him/her fully apprised as to the status of his/her case; and Attorney shall apprise the person of any new development in his/her case within three (3) business days of Attorney learning of such development (unless applicable law or the circumstances of a particular case reasonably require that Attorney make sooner contact with the person). Without limiting any of the foregoing, with regard to any post-appointment court hearing involving an "in custody" person, Attorney shall contact (either in person or via telephone) such person to discuss his/her case and the purpose of the hearing no later than one (1) business day prior to the hearing date.

b. Attorney shall open, compile and maintain an appropriate case file for each person whom Attorney is appointed to represent hereunder. Attorney shall retain such file in its entirety (or a complete and legible copy thereof) for a period of no less than seven (7) years from the date on which the case or matter is fully and finally concluded.

9. **COMPENSATION.**

a. As compensation for Attorney's performance and rendering of independent professional legal services hereunder, BFHS shall pay Attorney, as professional service attorney fees and not as employment salary/wages, the sum of \$3,173.31. monthly.

c. The above-stated payments to Attorney will immediately cease in the event that this Agreement is terminated for any reason prior to the termination date specified in paragraph 1 above. For example, if this Agreement is terminated effective August 31, 2007, the above-stated monthly compensation to Attorney would also terminate as of such date, and Attorney would not be entitled to receive any further monthly payments; provided that, Attorney would be entitled to receive any then-accrued and unpaid amounts for services rendered hereunder prior to such termination date.

d. Attorney acknowledges and agrees that the above-stated compensation to Attorney is reasonable and equitable, and that such compensation shall constitute Attorney's full and exclusive compensation hereunder for all cases handled by Attorney during the term of this Agreement.

e. Attorney shall also be entitled to the following additional compensation for each day spent in actual jury trial on a matter encompassed by this agreement:

\$400 for each full day of trial
\$200 for each half day of trial

For purposes of this subsection only, "actual trial" shall be defined as only that time actually spent in court and includes jury selection, and pre-trial motions only if argued on the morning of trial. "Actual trial" shall not include time spent preparing for trials, on recess from trials, or time spent waiting for a jury verdict, and also does not include those instances where a plea deal is reached prior to the seating of the jury. "Full days" shall be defined as in-court trial time in excess of 4 hours in any single 24 hour day. "Half day" shall be defined as 4 hours or less of in-court trial time in any single 24 hour day. No additional compensation shall be provided for any bench trials, even if such trials are held in a courtroom instead of at Lourdes Counseling Center.

Claims for additional compensation by virtue of being in trial shall be filed within 60 days of the time of trial in the manner prescribed by the Benton & Franklin Counties Office of Public Defense. In the event of a dispute between Attorney's record keeping and that of the Court, in terms of calculating actual time in trial, that of the Court shall control unless good cause is found at the sole discretion of the Indigent Defense Coordinator to utilize Attorney's record keeping instead.

f. Attorney shall also be compensated for each appointment to represent adult indigent persons in the custody of the Washington State Department of Social and Health Services ("DSHS") pursuant to the provisions of Chapter 10.77, RCW, who are seeking review of their case for purposes of conditional release pursuant to RCW 10.77.150 in the additional sum of \$150 per appointment. Claims for additional compensation by virtue of being appointed to such cases shall be filed within 60 days of the time of the appointment in the manner prescribed by the Benton & Franklin Counties Office of Public Defense.

10. **COSTS AND EXPENSES.** Attorney acknowledges and agrees that Attorney shall not be entitled to claim or receive any reimbursement/payment from the Counties or BFHS for any law practice-related overhead costs or expenses incurred by Attorney during the course of rendering legal services under this Agreement (including, without limitation, costs and expenses associated with Attorney's office, office staff, and/or office facilities). However, the Counties and BFHS recognize that in certain circumstances the need may arise for Attorney to incur certain types of out-of-pocket expenses directly related to an indigent person's case such as private investigator fees, psychological or psychiatric evaluations, interpreter fees, scientific test fees, expert witness fees, and costs of out-of-area travel, meals and lodging.

a. Attorney shall be entitled to receive reimbursement from BFHS for the actual cost of such expenditures provided that, however, Attorney shall not incur any such expense nor shall Attorney be entitled to be reimbursed for any such expense unless such expense has been pre-approved pursuant to Superior Court order that expressly determines and finds that such expense is necessary and reasonable in accordance with applicable court rule(s). Such court order shall state and provide a specific dollar amount for the requested and authorized expenditure; provided that, in the event it is not reasonably possible to state and provide a specific dollar amount for a particular requested expenditure, such order may nevertheless provide authorization for the expenditure but shall establish and set forth a maximum dollar expenditure amount. In regard to any reimbursement to Attorney for any court-approved expenditures and costs pertaining to travel, meals, and lodging, any reimbursement to Attorney for such expenditures and costs shall not exceed the amounts that BFHS would be obligated to pay

and reimburse to its employees under then-existing employee travel-related policies and rules.

b. In addition to any other prerequisites imposed by court rule(s), as a precondition to Attorney being reimbursed for an expenditure under this paragraph, Attorney shall be required to submit a vendor warrant payment voucher to BFHS that descriptively identifies the specific expenditure(s) for which reimbursement is sought and that has attached thereto a copy of the court order(s) that specifically pre-approved and authorized such expenditure(s) together with attached copies of all written payment receipts relating to such incurred expenditure(s). All payment vouchers and requests for reimbursement under this paragraph shall be subject to the court's review and final approval for payment. Attorney shall submit such payment vouchers to BFHS within sixty (60) days of Attorney incurring the expense(s) for which reimbursement is sought, and BFHS shall have the right to deny payment of any voucher that is not timely submitted within said requisite sixty (60) day period.

11. **INDEMNIFICATION AND HOLD HARMLESS.** Attorney agrees to and shall fully indemnify the Counties and BFHS and hold the Counties and BFHS, their representatives, officers, employees, and agents fully harmless for any and all losses, damages, costs, charges, claims, demands, suits, or actions of whatsoever nature directly or indirectly arising out of or by reason of Attorney's (or any person, agent, contractor, or entity acting for or on behalf of Attorney or at Attorney's request or direction) acts, defaults, errors and/or omissions of whatsoever nature in the performance of legal services to any person under this Agreement. In the event any suit or legal proceeding is brought against the Counties or BFHS or any of their representatives, officers, employees or agents at any time on account of or by reason of any such acts, defaults, errors and/or omissions, Attorney hereby covenants and agrees to assume the defense thereof and to defend the same at Attorney's sole cost and expense and to pay any and all costs, charges, attorneys' fees, and other expenses as well as any and all judgments or awards that may be incurred by or entered against the Counties or BFHS or any of their representatives, officers, employees or agents in such suits or other legal proceedings. The indemnification and hold harmless provisions of this paragraph shall survive the termination of this Agreement.

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

a. Said policy shall include coverage as an additional insured for any other person(s) or attorney(s) acting for or on behalf of Attorney in the performance of this Agreement; shall provide professional liability insurance coverage for any acts, errors and/or omissions by Attorney (and/or such

additional insureds) during the course of performing legal services under this Agreement; shall require that the insurance company provide the Counties and BFHS with no less than thirty (30) days prior written notice in the event the policy is cancelled or materially altered; shall comply with all applicable state of Washington insurance requirements; and shall be issued by a reputable insurance company authorized to conduct business and issue insurance in the state of Washington.

b. Attorney shall maintain the professional liability insurance coverage required by this paragraph throughout the entire term of this Agreement, throughout any other longer time period during which Attorney is obligated to continue performing services and duties hereunder, and for a period of no less than three (3) years after Attorney has fully completed all services and duties required hereunder.

c. Contemporaneously with Attorney's execution of this Agreement, Attorney shall provide the Counties and BFHS and their respective designated Risk Managers with written proof and confirmation that such insurance policy and coverage has been obtained and Attorney shall provide the Risk Managers with annual written proof and confirmation that such insurance policy and coverage continues to exist no later than by January 15th of each year.

13. **COMPLAINTS; PERFORMANCE MONITORING.** In the event the Counties receive an oral/written communication from a person represented by Attorney under this Agreement that in substance asserts a complaint over the quality or timeliness of the legal services rendered to such person by Attorney, the county employee/representative receiving such communication shall request and obtain a written, signed, and dated statement from the person that specifically describes and details the relevant facts and circumstances underlying and alleged in the complaint, copies of which shall promptly be provided to the Counties.

a. Upon receiving such complaint, the Counties, without limitation to any other action the Counties may deem necessary/appropriate to pursue under this Agreement, shall forward a copy of the complaint to Attorney and request and obtain Attorney's written response thereto (which Attorney shall prepare and provide within five (5) business days). The Counties shall then forward copies of the complaint and Attorney's response to the Superior Court's then-Presiding Judge for his/her review and action the court may deem necessary with Attorney and/or the represented person to address and resolve the complaint.

b. Additionally, during the term of this Agreement, the Counties reserve and shall have the right and discretion to periodically ask the Superior Court to provide the Counties with a written evaluation/assessment of the quality of Attorney's performance of legal services and related duties

and obligations under this Agreement. The Counties may (but shall not be obligated to) provide Attorney with notice and/or copy of such request and evaluation/assessment.

14. **TERMINATION.**

a. In addition to any other automatic termination provisions set forth in this Agreement, this Agreement shall automatically terminate in the event that Attorney is suspended/disbarred from the practice of law in Washington, effective without notice as of the date of suspension/disbarment. In such event, Attorney shall be liable for any additional costs or expenses incurred by the Counties and/or BFHS relating to the appointment of substitute legal counsel for any person(s) whom Attorney was appointed to represent hereunder in addition to any other damages sustained by the Counties and/or BFHS arising out of Attorney's conduct and breach.

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

b. In addition to the above-referenced automatic termination provisions, the Counties may elect to terminate this Agreement in the event Attorney fails for whatever reason to comply with any material provision of this Agreement by giving Attorney ten (10) days advance written notice of termination, which notice shall specify the reason(s) for the termination. The Counties' right to terminate this Agreement in such regard shall be in addition to any other rights and remedies available to the Counties.

c. In addition to the foregoing provisions regarding termination, either party may elect to terminate this Agreement with or without cause or reason by providing the other party with ninety (90) days advance written notice of such election.

d. In any event, consistent with the provisions of paragraph 9.c. above and regardless of the manner in which this Agreement is terminated, Attorney acknowledges and agrees that Attorney shall not be entitled to

receive any further compensation from the Counties or BFHS in the event this Agreement is terminated; provided that, however, Attorney shall be entitled to be paid for all services duly performed by Attorney under this Agreement up to the date of termination. Additionally, as required by paragraph 5 above, the termination of this Agreement, regardless of the manner of termination, shall not relieve Attorney from the obligation and duty to continue representing all persons whom Attorney was appointed to represent prior to the termination unless Attorney is expressly barred or prohibited from doing so by court order and/or the suspension/disbarment of Attorney from the practice of law in Washington.

15. **INDEPENDENT CONTRACTOR.** Attorney fully understands, acknowledges, and agrees that Attorney shall not be an agent, representative, or employee of the Counties or BFHS for any type of purpose or situation whatsoever (including, without limitation, for purposes of any type of wage, hours/overtime, workers/industrial insurance compensation, unemployment, fair labor, and/or employee benefit/leave laws, rules, and/or regulations) and that Attorney, as of the date of this Agreement and throughout its entire term, is and will always be acting and operating as a fully independent contractor. In that regard, Attorney shall have sole and absolute discretion in Attorney's professional legal judgment to determine the manner and means of providing the legal representation services required under this Agreement; and the Counties and BFHS shall have no authority or duty to directly control or supervise the performance of Attorney's duties or services hereunder, which control and supervisory capacity is fully and ultimately vested within the inherent power and discretion of the Superior Court.

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

a) It is understood by the parties that attorney Alan Tindell, WSBA #21828, will be regularly substituting for Attorney pursuant to an established schedule.

b) In the event that Attorney needs the services of a substitute attorney other than Mr. Tindell for reasons of conflict or unavailability, Attorney may substitute the services of another attorney provided that Attorney has obtained the advance written consent of the Indigent Defense Coordinator ("IDC"), the substitute attorneys meets all qualifications required by this Agreement and agrees to abide by all provisions therein, and the substitute attorney agrees at all times to act under the direction of Attorney.

c) In the event Attorney needs or desires to take up to a maximum of four (4) consecutive weeks leave of absence from the practice of law during the term of this Agreement, Attorney may seek and obtain the assistance of another reputable and

qualified attorney to make temporary, substitute appearances for Attorney during such absence on an as-needed basis provided that Attorney and such other attorney jointly prepare, sign and file a written certification with the court (with a copy to be provided to the Counties and BFHS) in all such matters and hearings that expressly certifies that such other attorney has reviewed this Agreement and fully meets all criteria, qualifications, and requirements under this Agreement to render legal services to indigent persons and provided further that such temporary substitution is expressly authorized on the court record by the court and the particular person(s) being represented by Attorney who is/are affected by such substitution of legal counsel. Provided further that:

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

Attorney shall be strictly responsible to ensure that such other attorney fully complies with all terms and conditions of this Agreement during such temporary absence period (including, without limitation, the requirement to maintain the insurance coverage specified in paragraph 12 above), and Attorney shall be strictly liable for any and all damages or losses sustained as a result of such other attorney's non-compliance with the terms and conditions of this Agreement.

17. **VACANCY AND REPLACEMENT.** In the event this Agreement is terminated by either party prior to the termination date specified in paragraph 1 above, the Counties may initiate, implement and pursue any actions or process they deem appropriate/necessary to seek, select, and contract with another qualified attorney to replace and succeed Attorney in representing indigent persons subject to involuntary commitment proceedings in Superior Court.

18. **JUDICIAL SERVICE.** Attorney shall not serve in any judicial capacity (including judge pro tem or court commissioner) in or for any court located within the Counties on any matter. Further, Attorney shall not serve in any judicial capacity (including judge pro tem or court commissioner) in any case in which the Counties and/or BFHS are a party or in any case in which the state of Washington is a party and is being represented by the Benton County Prosecuting Attorney's Office/Franklin County Prosecuting Attorney's Office (or by an appointed special deputy prosecutor thereof).

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

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

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

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

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

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

25. **DISPUTE RESOLUTION.**

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

b. In the event that mediation proves unsuccessful in resolving the dispute, the parties shall submit the dispute for resolution via binding arbitration in the Tri-Cities, Washington. A single arbitrator shall be selected by agreement of the parties or, in the absence of agreement, the Counties and BFHS shall jointly select one (1) arbitrator and Attorney shall select one (1) arbitrator, and those two (2) so selected arbitrators shall mutually select a third arbitrator. BFHS shall be responsible for the payment of one-half of the fees and expenses of the arbitrator(s) and Attorney shall be responsible for the payment of the other one-half of such fees and expenses. The provisions of RCW Chapter 7.04A and applicable Mandatory Arbitration Rules as adopted and implemented in Benton-Franklin Superior Court shall be binding as to procedure, except as to the right of appeal, which shall not be

applicable. Within ten (10) days of notice of arbitration, the arbitrator(s) shall be selected and designated and the hearing shall be held within thirty (30) days thereafter. The arbitrator(s) shall render a written decision and award within ten (10) days of such hearing. Without limitation, the arbitrator(s) may award damages, specific performance, and/or injunctive relief, and may register a judgment in Superior Court, including judgment by default. The most prevailing party shall be entitled to recover such party's reasonable attorneys' fees, costs and expenses from the other party as a part of the arbitration decision and award. In the event of suit or action to enforce an arbitration award, venue shall lie exclusively in Superior Court, and the most prevailing party/ies in such suit or action shall be entitled to recover their reasonable attorneys' fees, costs and expenses from the other party/ies.

26. **NOTICES.**

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

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

Franklin County Board of Commissioners
1016 N. Fourth Ave.
Pasco, WA 99301

Benton-Franklin Human Services Director
7207 W. Deschutes Avenue
Kennewick, WA 99336

Benton-Franklin Counties Indigent Defense Coordinator
7122 W Okanogan Pl, Bldg A
Kennewick, WA 99336

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

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

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

d. For purposes of clarity, whenever the terms of this Agreement require Attorney to provide the Counties with certain information or notice, such information or notice shall be provided to the Counties' respective Board of Commissioners unless this Agreement expressly mandates that such information or notice also be provided to some other person/entity. Additionally, whenever the terms of this Agreement require Attorney to provide BFHS with certain information or notice, such information or notice shall be simultaneously provided to BFHS's Director and the Counties' respective Board of Commissioners unless this Agreement expressly mandates that such information or notice also be provided to some other person/entity.

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

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

**Signatures Appear on
Following Page**

BOARD OF BENTON COUNTY COMMISSIONERS

Max Benitz, Chairman

Leo Bowman, Member

Jim Beaver, Member

Dated this _____ day of May, 2009.

Approved as to form

BOARD OF FRANKLIN COUNTY COMMISSIONERS

Rick Miller, Chairman

Robert Koch, Member

Brad Peck, Member

Dated this 13 day of May, 2009.

JBUB
Approved as to form

James F. Bell
James F. Bell
Attorney at Law
Dated this 8 day of May, 2009.

1.

RESOLUTION

BENTON COUNTY RESOLUTION NO. _____
BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

**IN THE MATTER OF APPROVING PAYMENT TO INDIGENT DEFENSE ATTORNEY
SHELLEY AJAX FOR PROFESSIONAL SERVICES RENDERED**

WHEREAS, the Benton County Office of Public Defense is statutorily obligated to provide indigent defense services to indigent defendants in Benton County District Court and has a regularly contracted panel of private attorneys to provide such services;

WHEREAS, in the last few months of 2008, caseload numbers were too high for the regularly contracted panel of private attorneys to handle

WHEREAS, at the request of the then existing Indigent Defense Coordinator, Rafael Gonzales, attorney Shelley Ajax agreed to represent certain defendants whose compliance cases pending on the Kennewick docket of Benton County District Court constituted a portion of the overload

WHEREAS, Shelley Ajax should be entitled to compensation for those cases assigned to her, which total 7.5 case credits;

NOW THEREFORE,

BE IT RESOLVED, that payment be made to compensate attorney Shelley Ajax for professional services rendered in providing indigent defense representation on 7.5 case equivalents at the rate of \$145 per case equivalent, for a total payment of \$1,087.00.

Dated this day of, 20....

Chairman of the Board

Chairman Pro-Tem

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

Attest:
Clerk of the Board

m

<u>AGENDA ITEM</u>	<u>ACTION NEEDED</u>	<u>DISCUSSION TYPE</u>
Meeting Date: 18 May 2009	Execute Contract	Consent Agenda
Subject: Disc Golf Targets	Pass Resolution X	Public Hearing
Memo Date: 13 May 2009	Pass Ordinance	1st Discussion X
Prepared By: AJF	Pass Motion	2nd Discussion
Reviewed By: LSK	Other	Other

SUMMARY & BACKGROUND

Parks is ready to purchase the chief component of the disc golf course that we are constructing at Two Rivers Park – the “targets” or “baskets” that players throw the discs into. We plan to dedicate the course on July 14th.

This manufacturer – Disc Golf Association – has the two main things we are looking for in a target: a sign on top that notes the “hole” number, and construction that allows the whole basket to be removed from the sleeve that is anchored permanently into the ground (Deluxe model). The targets will ship from Central California.

FISCAL IMPACT

The price quoted, including freight, is \$8,432.51. This will be paid from the Park Development Fund.

#

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF PARKS DEPARTMENT EQUIPMENT PROCUREMENT
TWO RIVERS PARK DISC GOLF COURSE

WHEREAS, a "disc golf course" is being constructed at Benton County's Two Rivers Park as a recreational capital project supported by the Benton County Park Board and listed in the 2009-2014 Capital Facility Plan; and,

WHEREAS, fixtures, variously known as "targets", "baskets", and "pole holes" are needed for the disc golf course; and there is a very limited number of manufacturers of these fixtures; and only one vendor manufactures a model style best suited for Two Rivers Park; and,

WHEREAS, "Disc Golf Association" of Aromas, California is a manufacturer and retailer of disc golf "targets" that are suited to the needs of Two Rivers Park, and no other vendor was found to have a comparable target style; and Disc Golf Association is a member of Benton County's "vendors list";
NOW THEREFORE,

BE IT RESOLVED, that the Board of County Commissioners hereby authorizes staff to procure disc golf "targets" for use at Two Rivers Park from Disc Golf Association in an amount not to exceed \$9,000.00 including all taxes and freight. Funding for the purchase of the targets shall be from the Park Development Fund.

Dated this _____ day of _____, 2009.

Chairman of the Board

Member

Member

Constituting the Board of County
Commissioners of Benton County
Washington.

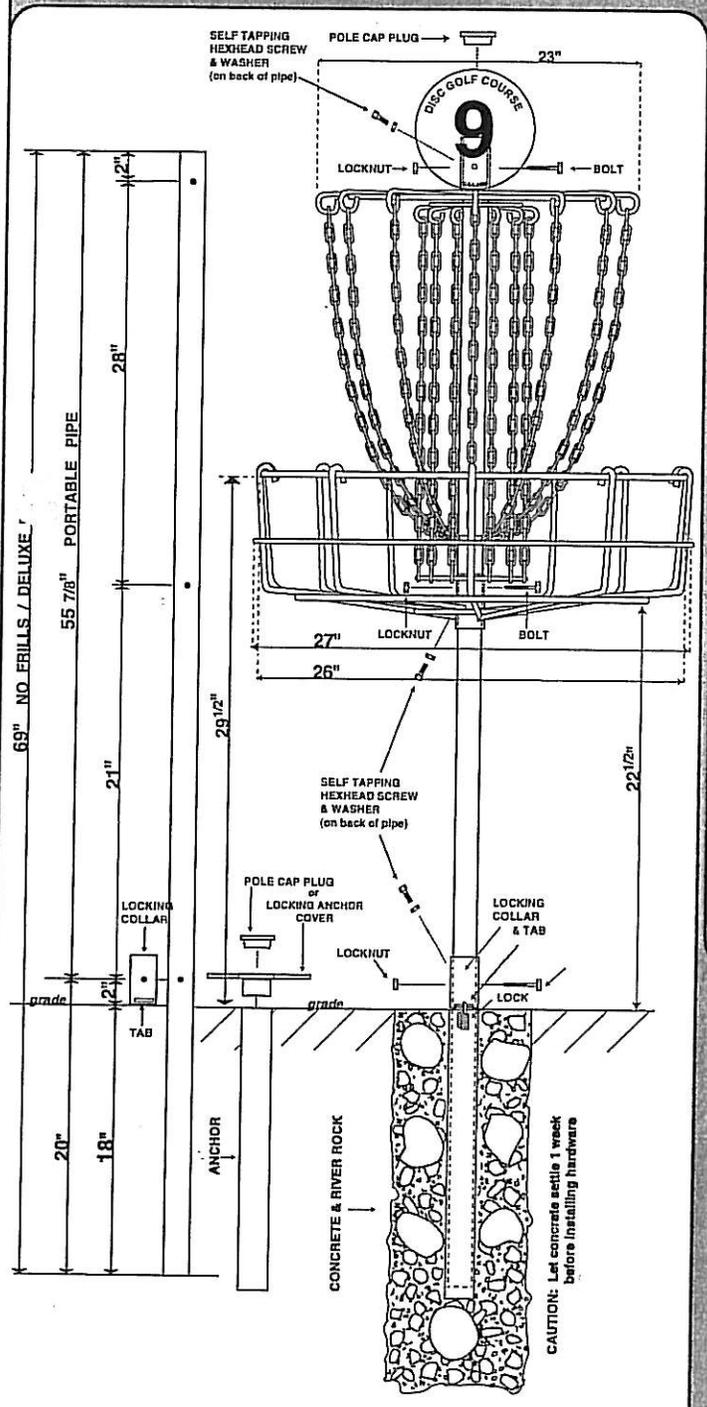
Attest.....
Clerk of the Board

orig:: BOCC
cc: Parks, Auditor, Benton County Park Board

Prepared by: A.J. Fyall

Mach III Disc Pole Hole™

24 Welded
& hot-dipped
galvanized
chains.



Deluxe Mach III™

Most easily identified by the prominent number plate, the Mach III™ Disc Pole Hole™ is considered the Cadillac® of disc catching equipment for the sport of Disc Golf.

Constructed with 24 chains, the Mach III™ is by far the top disc catching device available in the industry and is the most widely used catching device found on PDGA approved courses.

The Mach III™ is designed with our patented inner chain design that flares out slightly with the bottom horizontal connecting ring. This design creates a larger catching area than other Disc Pole Hole™ chain designs.

If you are planning a course for professional tournament play, or if you just want the best, the Mach III™ is the top choice of touring professionals.

Hot-dipped galvanized from head to toe and guaranteed for 20 years against failure caused by rust and corrosion.

Patented
Inner chains
& horizontal
linking ring.

Standard
Number
plate

PRICES	
NO FRILLS	\$384
DELUXE	\$420
PORTABLE	\$420

7.

<u>AGENDA ITEM</u>	<u>ACTION NEEDED</u>	<u>DISCUSSION TYPE</u>
Meeting Date: 18 May 2009 Subject: Badger Master Plan Memo Date: 13 May 2009 Prepared By: AJF Reviewed By: LSK	Execute Contract X Pass Resolution X Pass Ordinance Pass Motion Other	Consent Agenda X Public Hearing 1st Discussion 2nd Discussion Other

SUMMARY & BACKGROUND

For Board consideration is the contract for creating the Management and Master Plan for Badger Mountain Centennial Preserve. We went to bid in January, followed-up with interviews by the Park Board, then completed contracting. The recommended consultant is Studio Cascade of Spokane, whom the Park Board chose unanimously. The contract has been approved to form by the Prosecutor. The original has been sent to Spokane for signature and should be in my hands Monday in Prosser. I have also attached the original resolution authorizing bidding of the contract.

FISCAL IMPACT

The negotiated cost is not to exceed \$24,000. This will be funded from the Park Development Fund.

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RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF CREATING A MASTER PLAN FOR THE BADGER MOUNTAIN CENTENNIAL PRESERVE

WHEREAS, the *Parks Comprehensive Plan*, adopted in 2008, calls for the development of master plans for each of the County's parks over time; and,

WHEREAS, the Badger Mountain Centennial Preserve has become the County's most popular park in terms of daily usage; and,

WHEREAS, there are several issues that remain unresolved that the master plan would address, such as trail siting and development, wildfire policy, and access locations and amenities; and,

WHEREAS, a contract for services was publicly bid per Resolution 08 1032, and two candidate consultants were interviewed by the Benton County Park Board, who then recommended the firm of Studio Cascade of Spokane, Washington be retained for this work; **NOW THEREFORE**,

BE IT RESOLVED, by the Board of County Commissioners that the Chairman is authorized to sign a Standard Service Agreement between Benton County and Studio Cascade for creation of the *Badger Mountain Centennial Preserve Management and Master Plan*. The public master planning process will result in a plan for use and development of the park, and will be funded out of the Park Development Fund, in an amount not to exceed \$25,000.00.

Dated this _____ day of _____, 2009.

Chairman of the Board

Member

Member

Constituting the Board of Commissioners
of Benton County, Washington.

Attest.....
Clerk of the Board

orig: BOCC file
cc: Auditor, Prosecutor (Ozuna), Parks, Park Board, Friends of Badger Mountain

Prepared by: A.J. Fyal

RESOLUTION 081032

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF CREATING A MASTER PLAN FOR THE BADGER MOUNTAIN CENTENNIAL PRESERVE

WHEREAS, the *Parks Comprehensive Plan*, adopted in 2008, calls for the development of master plans for each of the County's parks over time; and,

WHEREAS, the Badger Mountain Centennial Preserve has become the County's most popular park in terms of daily usage; and,

WHEREAS, there are several issues that remain unresolved that the master plan would address, such as trail siting and development, wildfire policy, and access locations and amenities; and,

WHEREAS, the Benton County Park Board, after receiving input from the public, the user groups, and volunteers, has said that creation of a "Badger Mountain Centennial Preserve Master Plan" is a top priority for parks; **NOW THEREFORE,**

BE IT RESOLVED, by the Board of County Commissioners that staff should work with the Benton County Park Board to commence a professionally facilitated master planning process for the Badger Mountain Centennial Preserve. The public master planning process will result in a plan for use and development of the park, and will be paid-for entirely out of the Park Development Fund, in an amount not to exceed \$25,000.00. A qualified consultant will be recommended to the Board of County Commissioners for hire after going through a standard procurement process.

Dated this 15 day of Dec, 2008.

Albert

Chairman of the Board

Ma E Benitez

Member

Sam Beeman

Member

Constituting the Board of Commissioners
of Benton County, Washington.

Attest.....

Carmel
Clerk of the Board

orig: BOCC file
cc: Auditor, Prosecutor (Ozuna), Parks, Park Board, Friends of Badger Mountain

Prepared by: A.J. Fyal

**BENTON COUNTY
BADGER MOUNTAIN CENTENNIAL PRESERVE
MANAGEMENT AND MASTER PLAN**

**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 STUDIO CASCADE, INC, a Washington Corporation, with its principal offices at 114 West Pacific Avenue, Suite 200, Spokane, Washington 99201 (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. Professional Services and Expenses Schedule

2. DURATION OF CONTRACT

The term of this Contract shall begin when executed by both parties, and shall expire on November 30, 2009.

3. SERVICES PROVIDED

The CONSULTANT agrees to perform the services described in **Exhibit A**, by November 30, 2009.

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: William Grimes, AICP
Studio Cascade, Inc.
117 West Pacific Avenue, Suite 200
Spokane, Washington 99201
509-835-3770 – bgrimes@studiocascade.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 on an hourly basis for work performed by its employees under this Contract in accordance with the rates established in **Exhibit B**; provided the maximum total amount payable by the COUNTY to the CONSULTANT under this agreement for the services required hereunder shall not exceed \$24,000.00.

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 on a monthly basis. The COUNTY will have 30 days to reply with payment. The invoice shall contain a detailed description of the work performed. The CONSULTANT will be paid only for work expressly authorized in this Contract and approved in writing 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 work performed by the CONSULTANT up to the date of such notice. Payment shall be made in accordance with Section 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 Contract as of the date of such notice, less any costs incurred by the COUNTY in excess of \$24,000 necessary to complete the work scope reflected in **Exhibit A**. Any requested payment to CONSULTANT shall be made in accordance with Section 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. As such, the County consents to the use of Gavin Associates as a subcontractor for landscape architectural services.

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 Section 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 BENTON COUNTY
COMMISSIONERS**

Max E. Benitz, Jr., Chairman

Date

Attest

Clerk to the Board

Date

Approved as to Form

Deputy Prosecuting Attorney
**STUDIO CASCADE,
INCORPORATED**

By: William Gfimes, its Principal

Date

Exhibit A

Work Scope

Badger Mountain Centennial Preserve Management and Master Plan

Estimated Project Schedule

Project Phase	J	J	A	S	O	N
Baseline	█	█				
Vision		█	█	█		
Design Concept		█	█	█		
Policy framework			█	█	█	
Draft Plan				█	█	█

Outcome – The Consultant will work with Benton County staff, Park Board, volunteers, and the public to create the “Badger Mountain Centennial Preserve Management and Master Plan” (hereinafter “plan”). The Badger Mountain Centennial Preserve is a County park created in 2005 and is referred-to hereinafter as the “Preserve”. The County’s intent is to use this publicly-vetted plan to guide future decisions regarding development, amenities, and use of the Preserve.

Consultant’s work under this agreement shall be as follows:

Baseline - Work with County staff and other groups to ensure that all relevant background information regarding existing uses and conditions of the Preserve is documented. Interview and meet with individuals designated by the County to serve as an advisory committee to gain a comprehensive understanding of current conditions influencing the public use of the Preserve. Identify and assess issues impacting the preserve, ensuring that the master plan has the proper purpose and direction. The baseline will provide existing conditions and context for creating the plan.

Additionally, the Consultant shall:

- Gather and review all necessary documents
- Acquire and develop base map file catalog in GIS file format
- Study land, property, park use, and environmental constraints, incorporating findings into all related plan policies
- Conduct initial on-site assessment of use, conditions, and future development concepts; including photos, base inventory, sketches, and map notations related to plan elements
- Contact staff and designated advisory committee members for briefings and management and master plan process

Vision confirmation - Draft a vision statement for the Preserve based on direction from the advisory committee, county staff, public input and understanding of existing plans and community sentiment. The vision and supporting text will express an understanding of what the Preserve could look like and its condition over a 20-year horizon.

Design concept development - Develop a schematic design concept that will be confirmed as part of an all-day workshop with the advisory committee. The design will consider issues, policy direction, baseline conditions and vision. Ask the advisory committee and other stakeholders to review and evaluate the schematic concept and finalize the concept as a preferred plan design.

Policy recommendations – Develop a set of policy recommendations to capture the intent of the vision and the input received from the public. These recommendations, which will provide the “bones and muscles” of the plan, will serve as a companion to the plan design. Areas of concern to be included in the recommendations will include: allowable and prohibited uses; special event procedures and policies; "good neighbor" policies; interpretation and signage policy and style; trail design and specifications; habitat and landscape restoration and improvements; cultural preservation; fire management and response policy; and policies to address requests for future improvements and development.

Draft plan - The plan will be the culmination of design and policy development. The plan will incorporate a management component based on the policy recommendations and a design component that focuses on the preferred design concept. It will also state expectations for the future development, providing illustrations as necessary to communicate the plan's direction. The plan components will work together to fulfill the vision and assist in developing a park that meets the community expectations far into the future -- setting the course even beyond the 20 year vision. The plan will also include a pragmatic implementation guide, identifying specific implementation tasks, approximate cost estimates and preferred timeline.

Deliverables:

- Preliminary advisory committee meeting with research/narrative assignments to individual members
- Preliminary open house/workshop for public scoping, input, and issue identification
- A one-day workshop with the advisory committee, confirming a preferred design for the plan and which primarily focuses on policy including management issues and public concerns
- Complete the fire management policy component by June 14, 2009 Park Board meeting, and the trail plan component by the August 14, 2009 Park Board meeting
- A plan document that is attractive and well-designed, utilizing text, graphics, photographs, charts and maps conveying findings and policy recommendations (12 copies for County and one for each advisory committee member, plus PDF and Word versions)
- Conduct a public meeting with the Park Board to present final draft plan.

Anticipated Schedule:

- By June 12 – Initial Advisory Committee (AC) meeting:
- By June 30 – Public meeting (potentially at Bethel Church or White Bluffs Elementary)
- By July 14 – Advisory Committee workshop
- July 14 – Park Board review and approval of fire response policy (Studio Cascade does not need to attend)
- By July 31 – Advisory Committee final recommendations for plan and work product (submit to Studio Cascade)
- August 11 – Park Board draft plan roll-out with a 30-day comment period
- By October 31 – Advisory Committee makes final revisions based on public comments
- November 10 – Park Board approval of Badger Mountain Centennial Preserve Management and Master Plan

Exhibit B

Fee Schedule

Position	Hourly Rate
Principal (Grimes)	\$125
Senior Planner (Bates/Hastings)	\$95
Associate (Schreiber)	\$85
Assistant (Koch)	\$65
Administrator (Flatt)	\$55
 MTLA	 \$110

<u>AGENDA ITEM</u>	<u>TYPE OF ACTION NEEDED</u>	
Meeting Date: May 18, 2009 Subject: <u>Line Item</u> <u>Transfer</u> Prepared by: <u>Melina Wenner</u>	Execute Contract Pass Resolution <u> X </u> Pass Ordinance Pass Motion Other	Consent Agenda <u> X </u> Public Hearing 1st Discussion 2nd Discussion Other

BACKGROUND INFORMATION

Please see attached Exhibit A.

SUMMARY

Same as above

RECOMMENDATION

Pass resolution.

FISCAL IMPACT

None

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY FUNDS RE: TRANSFER OF FUNDS WITHIN
INSURANCE MANAGEMENT FUND NUMBER 0504101, DEPARTMENT NUMBER
127.

BE IT RESOLVED, by the Board of Benton County Commissioners, that 2008
funds shall be transferred as outlined in Exhibit "A", attached hereto.

Dated this _____ day of _____, _____

Chairman of the Board

Member

Member

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

Attest: _____
Clerk of the Board

BENTON COUNTY LINE ITEM TRANSFER

Dept Name: Personnel

Dept Nbr: 127

Fund Name: Insurance Management

Fund Nbr: 0504101

TRANSFER FROM:

TRANSFER TO:

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT	BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
514.720	4131	Security	\$8,000	594.720	6401	Capital Outlay	\$8,000
TOTAL				TOTAL			
\$8,000				\$8,000			

Explanation: In keeping with Benton County's policy, the purchase shall be paid out of capital outlay due to the total project is over \$5,000. The security equipment at the front doors in the Kennewick Justice Center are failing therefore the purchase of a new walkthrough metal detector for \$2,000 and screening equipment (computer and x-ray machine) for \$5,000 are needed.

Prepared by: Melina Wenner

Date: 04-May-2009

Approved

Denied

Date: _____

Chairman

Member

Member

<u>AGENDA ITEM</u>	<u>TYPE OF ACTION NEEDED</u>		<u>P</u>
Meeting Date: 5/18/09	Execute Contract	_____	Consent Agenda <u>X</u>
Subject: Line-Item Transfer	Pass Resolution	<u>X</u>	Public Hearing _____
Prepared by: Margaret Ault	Pass Ordinance	_____	1st Discussion _____
Reviewed by: A. Miller	Pass Motion	_____	2nd Discussion _____
	Other	_____	Other _____

BACKGROUND INFORMATION

Resolution 09-074 approved a supplemental appropriation in the amount of \$74,054. Part of the appropriation was for a temporary benefitted part-time support staff position in the amount of \$5853. In the request for a supplemental appropriation, the line-item for this position was incorrect. Resolution 09-074 is attached.

SUMMARY

These funds need to be transferred from our temporary help line-item to line-item 515.200.1564.

RECOMMENDATION

Approve line-item transfer.

SCAL IMPACT

No impact

MOTION

To approve signing the Resolution to transfer funds.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY FUNDS RE: TRANSFER OF FUND WITHIN THE PROSECUTORS OFFICE CURRENT EXPENSE BUDGET, FUND NUMBER 0000-101.

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

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:
cc: Commissioners; Auditor, PA

BENTON COUNTY
LINE ITEM TRANSFERS

EXHIBIT A

Resolution No. _____

DEPARTMENT: Prosecuting Attorney

DEPARTMENT NO. _____

117

FUND NAME: Current Expense

FUND NO. _____

0000-101

TRANSFER FROM:

TRANSFER TO:

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT	BASE SUB (6 digit)	LINE ITEM	LINE ITEM NAME	AMOUNT
515200	1175	Temporary Help	\$5853	515200	1564	LS II - PT	\$5853

EXPLANATION: This line-item transfer is to correct the temporary benefitted part-time support staff position pursuant to the West Richland grant. (Resolution 09-074)

Prepared by: Margaret Ault

Date

May 7, 2009

Approved

Denied

Date

Chairman

Chairman Pro Tem

Member

RESOLUTION 09 074

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY BUDGETS RE: SUPPLEMENTAL APPROPRIATION TO THE 2009 CURRENT EXPENSE FUND NO. 0000-101, PROSECUTOR'S OFFICE, DEPT. 117, BUDGET IN THE AMOUNT OF \$74,054

WHEREAS, the Prosecutor's Office has requested a supplemental appropriation to the Current Expense Fund No. 0000-101, Dept. 117, in the amount of \$74,054 for professional services for a deputy prosecuting attorney, temporary staff and associated benefits and supplies in association with the City of W. Richland's request to Benton County to prosecute misdemeanors in District Court.

WHEREAS, a public hearing was held on Monday, January 26, 2009, at 10:50 AM at which time the public was given an opportunity to speak in favor or in opposition to the proposed supplement; and,

WHEREAS, the Board finds said supplement to be in the best interest of the citizens of Benton County; **NOW THEREFORE,**

BE IT RESOLVED, by the Board of Benton County Commissioners that a supplemental appropriation to the 2009 Current Expense Fund No. 0000-101, Prosecutor's Office, Dept. 117, in the amount of \$74,054 be approved per the attached request.

Dated this 26 day of Jan, 2009



Chairman of the Board

LEO M. BOWMAN ABSENT

Chairman Pro-Tem



Member

Attest: 
Clerk of the Board

Constituting the Board of County
Commissioners of Benton County,
Washington

cc: Auditor; Prosecutor's Office, Ivey; Supplement file

flor

Commissioners' Date Stamp:

TRANSMITTAL
REQUEST FOR SUPPLEMENTAL APPROPRIATION

Fund Name: Current Expense Fund Number: 0000-101
 Dept Name: Prosecutor's Office Dept Number: 117

Request Summary

Expenditure BARS Number	Item Name	Supplement Amount	Revised Budget
515.200.1563	DPA (at 15B)	49,872	49,872
515.200.2102	Social Security	3,815	116,662
515.200.2103	Medical	9,120	268,786
515.200.2104	Retirement	4,144	125,205
515.200.1175	Temporary Help	5,853	26,615
515.100.3101	Supplies	1,250	18,250
Total Supplement		\$74,054	

Revenue

Fund Number	Item Name	Amount
338.15.0003	Legal Services to City of West Richland	46,502
288.00.000	Fund Balance	27,552
Total Revenue		\$74,054

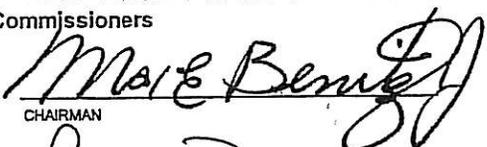
Basis for Supplement:

The City of West Richland has asked our office to prosecute City of West Richland misdemeanors and gross misdemeanors in District Court. As you know, we have a statutory obligation to prosecute their Juvenile cases as well as their Felony cases but adult misdemeanor prosecution is their responsibility. That is why they would contract with us for the prosecution. I have met with the City of West Richland and we have agreed as to costs to our office which would be paid by the City of West Richland. We are asking for an increase in our temporary help budget for a support staff position in the amount that would be reimbursed by the contract. This will not cost the County any money as it would be reimbursed by the West Richland Contract. We are asking for an increase in supplies which would be fully reimbursed by the City of West Richland. We are asking for an extra Deputy Prosecutor position. Most of the cost would be covered by the West Richland Contract which pays for prosecution services as well as reimbursement for my time and our Office Administrator's time. The extra cost would be justified to the Board on the basis that we need extra help in the prosecution of mental health commitment proceedings, civil side an for an additional full-time prosecutor. We could use part of this prosecutor position to help with workload pressures without adding a full-time position.

Review Comments

Commissioners: _____

Auditor's Office: _____

Commissioners

 CHAIRMAN

 COMMISSIONER

 COMMISSIONER

Approved for Hearing
 Denied

<u>AGENDA ITEM</u>		<u>TYPE OF ACTION NEEDED</u>			
Meeting Date:	<u>1/12/08</u>	Execute Contract	_____	Consent Agenda	_____
Subject:	<u>Supplemental Budget</u>	Pass Resolution	_____	Public Hearing	_____
Prepared by:	<u>M. Ault</u>	Pass Ordinance	_____	1st Discussion	_____
Reviewed by:	<u>Andy Miller</u>	Pass Motion	_____	2nd Discussion	_____
		Other	<u>X</u>	Other	<u>X</u>

BACKGROUND INFORMATION

The City of West Richland has asked our office to prosecute City of West Richland misdemeanors and gross misdemeanors in District Court. As you know, we have a statutory obligation to prosecute their Juvenile cases as well as their Felony cases but adult misdemeanor prosecution is their responsibility. That is why they would contract with us for the prosecution. I have met with the City of West Richland and we have agreed as to costs to our office which would be paid by the City of West Richland. We are asking for an increase in our temporary help budget for a support staff position in the amount that would be reimbursed by the contract. This will not cost the County any money as it would be reimbursed by the West Richland Contract. We are asking for an increase in supplies which would be fully reimbursed by the City of West Richland. We are asking for an extra Deputy Prosecutor position. Most of the cost would be covered by the West Richland Contract which pays for prosecution services as well as reimbursement for my time and our Office Administrator's time. The extra cost would be justified to the Board on the basis that we need extra help in the prosecution of mental health commitment proceedings, civil side and criminal side but the budget does not allow for an additional full-time prosecutor. We could use part of this prosecutor position to help with workload pressures without adding a full-time position.

UMMARY

- (1) We are asking for a part-time support staff position. This part-time position would not costs the County any money as it would come from existing temporary help which would be reimbursed by the West Richland Contract.
- (2) We are asking for an increase in supplies which will be completely reimbursed by the City of West Richland.
- (3) We are asking for an extra Deputy Prosecutor position. Most of the cost will be paid by the West Richland Contract. The part not reimbursed will be used to meet existing workload issues.

RECOMMENDATION

Schedule a public hearing to consider a supplement to our 2009 budget in the amount of \$74,054.

FISCAL IMPACT

\$27,552 - This is the amount Benton County would have to pay to have a half-time prosecutor to cover workload issues on mental health hearings, civil cases, and appeal overflow.

MOTION

ove to schedule a public hearing for as soon as possible after appropriate notice is given.

*4 copies of Agenda on top - punched
1 original - not punched*

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY ROADS RE: C.E. 1722 CRP, WEBBER CANYON ROAD RAILROAD UNDERCROSSING; LOCAL AGENCY AGREEMENT NO. LA 5278

WHEREAS, the project CE 1722 CRP Webber Canyon Road Railroad Undercrossing has been designed and right of way certified, and

WHEREAS; notification that Surface Transportation Program funding for Construction is now available in the amount of \$2,689,325.00;

WHEREAS, the Local Program Engineer has requested Benton County prepare Supplement 2 to the Local Agency Agreement to obligate the funds for construction and also to revise the Project Prospectus to correspond; and NOW, THEREFORE,

BE IT RESOLVED, that Supplement 2 and the Revised Project Prospectus for Webber Canyon Road Railroad Undercrossing for the Local Agency Agreement No. LA 5278, be and hereby are approved, and the Chairman is authorized to sign both on behalf of Benton County.

Dated this 18th day of May, 2009.

Chairman.

Chairman Pro-Tem.

Attest: _____
Clerk of the Board

Member.

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

RBD:BLT:lss



Agency BENTON COUNTY		Supplement Number 2
Federal Aid Project Number STPR-A031(002)	Agreement Number LA - 5278	CFDA No. 20.205 (Catalog of Federal Domestic Assistance)

The Local Agency desires to supplement the agreement entered into and executed on MARCH 15, 2002

All provisions in the basic agreement remain in effect except as expressly modified by this supplement.

The changes to the agreement are described as follows:

Project Description

Name WEBBER CANYON ROAD - PHASE 2 CE 1722 CRP Length 0.30 miles

Termini 2nd Street Northerly to I-82 Interchange (SR-225)

Description of Work No Change

Vehicular/Pedestrian undercrossing will eliminate poor alignment. Widening of road bed and installation of traffic barriers will increase safety. Realignment of Webber Canyon Road to create a new Railroad underpass and eliminate an at-grade crossing.

Reason for Supplement

Obligate construction funding

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

Type of Work	Estimate of Funding				
	(1) Previous Agreement/Suppl.	(2) Supplement	(3) Estimated Total Project Funds	(4) Estimated Agency Funds	(5) Estimated Federal Funds
PE					
<u>86.5</u> % a. Agency	14,017.00		14,017.00	1,892.00	12,125.00
b. Other Consultant	270,000.00		270,000.00	36,450.00	233,550.00
c. Other					
Federal Aid Participation Ratio for PE	d. State 5,000.00		5,000.00	675.00	4,325.00
e. Total PE Cost Estimate (a+b+c+d)	289,017.00		289,017.00	39,017.00	250,000.00
Right of Way					
f. Agency					
g. Other					
h. Other					
i. State					
j. Total RW Cost Estimate (f+g+h+i)					
Construction					
k. Contract		2,684,325.00	2,684,325.00		2,684,325.00
l. Other					
m. Other					
n. Other					
o. Agency					
100 % Federal Aid Participation Ratio for CN	p. State 5,000.00		5,000.00		5,000.00
q. Total CN Cost Estimate (k+l+m+n+o+p)		2,689,325.00	2,689,325.00		2,689,325.00
r. Total Project Cost Estimate (e+j+q)	289,017.00	2,689,325.00	2,978,342.00	39,017.00	2,939,325.00

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

Agency Official

Washington State Department of Transportation

By _____

By _____

Title Chairman, Board of County Commissioners

Director of Highways and Local Programs

May 11, 2009

Date Executed _____



Revised

	Prefix	Route	()		Date	05/18/2009
Federal Aid Project Number	STPR - ARRA	A031	002			
Local Agency Project Number	CE 1722 CRP	(WSDOT Use Only)		Federal Employer Tax ID Number	91-6001296	

Agency BENTON COUNTY			Federal Program Title <input checked="" type="checkbox"/> 20.205 <input type="checkbox"/> Other			
Project Title WEBBER CANYON ROAD PHASE 2			Start Latitude N _____		Start Longitude W _____	
			End Latitude N _____		End Longitude W _____	
Project Termini From SOUTH BOUNDARY OF THE PLAT OF KIONA			To SR-224/I-82 INTERCHANGE			
From:	To:	Length of Project	Award Type			
6.140	6.440	0.3	<input checked="" type="checkbox"/> Local <input type="checkbox"/> Local Forces <input type="checkbox"/> State <input type="checkbox"/> Railroad			
Federal Agency <input checked="" type="checkbox"/> FHWA <input type="checkbox"/> Others		City Number	County Number	County Name		WSDOT Region
			03	BENTON		South Central Region
Congressional District		Legislative Districts		Urban Area Number		TMA / MPO / RTPO
4		15				BFCG

Phase	Total Estimated Cost (Nearest Hundred Dollar)	Local Agency Funding (Nearest Hundred Dollar)	Federal Funds (Nearest Hundred Dollar)	Phase Start Date	
				Month	Year
P.E.	\$289,017	\$39,017	\$250,000	January	2002
R/W					
Const.	\$2,689,325		\$2,689,325	June	2009
Total	\$2,978,342	\$39,017	\$2,939,325		

Description of Existing Facility (Existing Design and Present Condition)

Roadway Width 3-25-3	Number of Lanes 2
-------------------------	----------------------

The existing centerline crosses the railroad at a 90° angle and signals and gates stop vehicular and pedestrian traffic when train traffic exists. The roadway width shown above is an average. In several locations there are no measurable shoulders.

Description of Proposed Work

Description of Proposed Work (Attach additional sheet(s) if necessary)

The construction of a vehicular /pedestrian undercrossing will eliminate the poor horizontal and vertical alignment. The widening of the road bed and installation of traffic barriers where needed will increase safety for the traveling public. Daily trains also transport toxic chemicals. Eliminating the at-grade crossing will reduce opportunity of possible conflicts involving vehicles or pedestrians with the train traffic. The project is located at the existing I-82 Kiona Benton City interchange. The railroad forces will construct the entire project. The new cross section will consist of two 12' lanes with 5' paved shoulders, curb and gutter with a 5' concrete sidewalk on one side and a 5' gravel walkway on the other side.

Local Agency Contact Person Bryan L. Thorp	Title Project Engineer	Phone 509-786-5611
Mailing Address P.O. Box 1001	City Prosser	State WA
		Zip Code 99350

Project Prospectus Approval

By _____ Title Interim Benton County Engineer Date _____

Approving Authority _____

Agency BENTON COUNTY	Project Title WEBBER CANYON ROAD PHASE 2	Date 05/18/2009
-------------------------	---	--------------------

Type of Proposed Work

Project Type (Check all that Apply)	Roadway Width	Number of Lanes
<input checked="" type="checkbox"/> New Construction <input type="checkbox"/> Path / Trail <input type="checkbox"/> 3-R <input checked="" type="checkbox"/> Reconstruction <input type="checkbox"/> Pedestrian / Facilities <input type="checkbox"/> 2-R <input checked="" type="checkbox"/> Railroad <input type="checkbox"/> Parking <input type="checkbox"/> Other <input checked="" type="checkbox"/> Bridge	34	2

Geometric Design Data

Description	Through Route	Crossroad
Federal Functional Classification	<input type="checkbox"/> Urban	<input type="checkbox"/> Urban
	<input checked="" type="checkbox"/> Rural	<input checked="" type="checkbox"/> Rural
	<input type="checkbox"/> Principal Arterial <input type="checkbox"/> Minor Arterial <input type="checkbox"/> Collector <input checked="" type="checkbox"/> Major Collector <input type="checkbox"/> Minor Collector <input type="checkbox"/> Access Street/Road	<input type="checkbox"/> Principal Arterial <input type="checkbox"/> Minor Arterial <input type="checkbox"/> Collector <input type="checkbox"/> Major Collector <input type="checkbox"/> Minor Collector <input type="checkbox"/> Access Street/Road
Terrain	<input checked="" type="checkbox"/> Flat <input type="checkbox"/> Roll <input type="checkbox"/> Mountain	<input checked="" type="checkbox"/> Flat <input type="checkbox"/> Roll <input type="checkbox"/> Mountain
Posted Speed	25	25
Design Speed	35	35
Existing ADT	1252	1252
Design Year ADT	3000	3000
Design Year	2029	2029
Design Hourly Volume (DHV)		

Performance of Work

Preliminary Engineering Will Be Performed By Benton County Public Works	Others 10 %	Agency 90 %
Construction Will Be Performed By	Contract 100 %	Agency %

Environmental Classification

Final Preliminary
 Class I - Environmental Impact Statement (EIS)
 Project Involves NEPA/SEPA Section 404 Interagency Agreement
 Class III - Environmental Assessment (EA)
 Project Involves NEPA/SEPA Section 404 Interagency Agreement
 Class II - Categorically Excluded (CE)
 Projects Requiring Documentation (Documented CE)

Environmental Considerations

This project has been reviewed by the Benton County Planning Department for critical areas. They find that it is not within any sensitive area. They also made a declaration of Non-Significance.

Agency BENTON COUNTY	Project Title WEBBER CANYON ROAD PHASE 2	Date 05/18/2009
-------------------------	---	--------------------

Right of Way

<input type="checkbox"/> No Right of Way Required * All construction required by the contract can be accomplished within the existing right of way.	<input checked="" type="checkbox"/> Right of Way Required <input checked="" type="checkbox"/> No Relocation	<input type="checkbox"/> Relocation Required
--	--	--

Description of Utility Relocation or Adjustments and Existing Major Structures Involved in the Project
 Only one small shed will either be relocated or removed. Also short lengths of telephone and power will also need to be relocated.

FAA Involvement
 Is any airport located within 3.2 kilometers (2 miles) of the proposed project? Yes No

Remarks

This project has been reviewed by the legislative body of the administration agency or agencies, or it's designee, and is not inconsistent with the agency's comprehensive plan for community development.

Agency Benton County

Date _____

By _____
 Mayor/Chairperson

RESOLUTION NO. _____
 Road Program Item #24 09-14 Six Year Road Program

County Engineer Project No. 1849 REIMB

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON
 IN THE MATTER OF COUNTY ROADS, RE: HORSE HEAVEN VISTA IMPROVEMENTS

IT IS HEREBY RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, that the County Engineer is hereby authorized to proceed with the improvement of the Horse Heaven Vista according to the contract awarded to A & B Asphalt, Inc., Benton City, Washington, on April 27, 2009.

Length of Project: ± miles; Width of Roadbed: ___ ft.; Surface: ___ ft.; Pavement: ___ ft.
 Type and depth of surfacing: Commercial HMA Class 1/2 inch PG 64-28
 Bridge ___ Irrigation Crossing: Length ___ ft.; Width ___ ft.
 Estimated date of beginning: May 15, 2009; Estimated date of completion: July 31, 2009.

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

		<u>Federal Enhancement Funds</u>		<u>Total</u>
Prel. Engr.	_____	_____	_____	<u>0.00</u>
Right-of-Way	_____	_____	_____	<u>0.00</u>
Mat. from Stkple	_____	_____	_____	<u>0.00</u>
Utility Installation	_____	60,700.00	_____	<u>60,700.00</u>
Contract	_____	254,487.15	_____	<u>254,487.15</u>
Const. Engr.	_____	25,448.85	_____	<u>25,448.85</u>
Contingencies	_____	12,764.00	_____	<u>12,764.00</u>
Total	<u>0.00</u>	<u>353,400.00</u>	<u>0.00</u>	<u>353,400.00</u>

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

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

ADOPTED this 18th day of May, 2009.

(SEAL)

Attest:

 Clerk of the Board

 Chairman

 Chairman Pro-Tem

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

SWB:LJM:dlh

S.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF COUNTY POLICY, RE: SURPLUS OF PERSONAL PROPERTY IN ACCORDANCE WITH RESOLUTION 07-752

WHEREAS, the Benton County Auditor is the Personal Property Manager and maintains an updated inventory listing of county personal property; and

WHEREAS, the Personal Property Manager and the Public Works Manager for the Equipment Rental & Revolving fund have determined that 349 traffic signs (see attached Exhibit) are outdated and no longer meet the required specifications for traffic signs and have value as scrap only; and

WHEREAS, the County Sign Department can use the outdated signs to make county road name signs; and

WHEREAS, the 349 traffic signs listed have a scrap value of less than \$500.00; and

WHEREAS, it is the recommendation of the Personal Property Manager that this property should be declared surplus; and

WHEREAS, the Board finds it to be in the best interest of the citizens of Benton County to surplus obsolete personal property; NOW, THEREFORE,

BE IT RESOLVED, that, based on the recommendation of the Personal Property Manager, the 349 traffic signs are hereby surplus; and

BE IT FURHTER RESOLVED, that the 349 traffic signs be used by the County Sign Department to make county road name signs.

Dated this 18th day of May, 2009.

Chairman of the Board

Member

Member

Constituting the Board of County
Commissioners of Benton County,
Washington

Attest: _____
Clerk of the Board

Prepared by L. Moser

Run Date: 05/13/2009 03:08:31pm
Fiscal Year: 2009
Selection Criteria: See Cover Page
Period Ending Date: 01/31/2009

Benton County
Department of Public Works
Cost Accounting Management System
Road Materials Inventory Listing

Page 1
By: AMC

	<u>Qty on Hand</u>
1005 ITEM: R2-1 SPEED LIMIT 24 X 30	10.00
* 1005 Subtotal	<u>10.00</u>
1024 ITEM: R5-1 DO NOT ENTER 30 X 30	6.00
* 1024 Subtotal	<u>6.00</u>
1026 ITEM: R5-3 NO MOTOR VEHICLES 24 X 24	2.00
* 1026 Subtotal	<u>2.00</u>
1027 ITEM: R5-2 NO TRUCKS SYMBOL 30 X 30	7.00
* 1027 Subtotal	<u>7.00</u>
1029 ITEM: R5-2P NO TRUCKS PLAQUE 24 X 18	9.00
* 1029 Subtotal	<u>9.00</u>
1030 ITEM: R8-3A NO PARKING SYMBOL 24 X 24	3.00
* 1030 Subtotal	<u>3.00</u>
1032 ITEM: WEIGHT RESTRICTIONS IN FORCE 18 X 2	30.00
* 1032 Subtotal	<u>30.00</u>
1037 ITEM: RANGE AREA	10.00
* 1037 Subtotal	<u>10.00</u>
1038 ITEM: LEAVING RANGE AREA	13.00
* 1038 Subtotal	<u>13.00</u>
1047 ITEM: S4-4 WHEN FLASHING 24 X 12	6.00
* 1047 Subtotal	<u>6.00</u>

Run Date: 05/13/2009 03:08:31pm
Fiscal Year: 2009
Selection Criteria: See Cover Page
Period Ending Date: 01/31/2009

Benton County
Department of Public Works
Cost Accounting Management System
Road Materials Inventory Listing

	<u>Qty on Hand</u>
1100 ITEM: W1-1R TURN 30 X 30	16.00
* 1100 Subtotal	<u>16.00</u>
1101 ITEM: W1-1L TURN 30 X 30	11.00
* 1101 Subtotal	<u>11.00</u>
1102 ITEM: W1-2R CURVE 30 X 30	3.00
* 1102 Subtotal	<u>3.00</u>
1103 ITEM: W1-2L CURVE 30 X 30	2.00
* 1103 Subtotal	<u>2.00</u>
1104 ITEM: W1-3R REVERSE TURN 30 X 30	26.00
* 1104 Subtotal	<u>26.00</u>
1105 ITEM: W1-3L REVERSE TURN 30 X 30	30.00
* 1105 Subtotal	<u>30.00</u>
1108 ITEM: W1-5R WINDING ROAD 30 X 30	15.00
* 1108 Subtotal	<u>15.00</u>
1109 ITEM: W1-5L WINDING RD 30 X 30	7.00
* 1109 Subtotal	<u>7.00</u>
1112 ITEM: W2-1 CROSS RD 30 X 30	2.00
* 1112 Subtotal	<u>2.00</u>
1114 ITEM: W2-3R SIDE ROAD 45	16.00
* 1114 Subtotal	<u>16.00</u>

Run Date: 05/13/2009 03:08:31pm
Fiscal Year: 2009
Selection Criteria: See Cover Page
Period Ending Date: 01/31/2009

Benton County
Department of Public Works
Cost Accounting Management System
Road Materials Inventory Listing

	<u>Qty on Hand</u>
1115 ITEM: W2-3L SIDE RD 45	11.00
* 1115 Subtotal	<u>11.00</u>
1117 ITEM: W2-5 Y INTERSECTION 30 X 30	2.00
* 1117 Subtotal	<u>2.00</u>
1123 ITEM: W7-1A HILL SYMBOL 30 X 30	3.00
* 1123 Subtotal	<u>3.00</u>
1126 ITEM: W8-1 BUMP 30 X 30	7.00
* 1126 Subtotal	<u>7.00</u>
1127 ITEM: W8-2 DIP 30 X 30	6.00
* 1127 Subtotal	<u>6.00</u>
1131 ITEM: W11-8 FIRE STATION 30 X 30	4.00
* 1131 Subtotal	<u>4.00</u>
1134 ITEM: W11-1 BICYCLE XING 30 X 30	1.00
* 1134 Subtotal	<u>1.00</u>
1148 ITEM: NO THROUGH TRUCK TRAFFIC 18 X 24	3.00
* 1148 Subtotal	<u>3.00</u>
1159 ITEM: S4-3 SCHOOL 24 X 8	6.00
* 1159 Subtotal	<u>6.00</u>
1160 ITEM: S4-2 WHEN CHILDREN PRESENT	6.00
* 1160 Subtotal	<u>6.00</u>



RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF THE PURCHASE OF VEHICLES FOR THE BENTON COUNTY SHERIFF'S OFFICE, WORK CREW REPLACEMENT FUND 0151-101 AND CURRENT EXPENSE FUND 0000-101, DEPARTMENT 121; RESCINDING RESOLUTION 09-035

WHEREAS, Resolution 09-035 authorized the purchase of vehicles for the Benton County Sheriff's Office off the Washington State Contract No.'s 04608, 04907, and 05308; and

WHEREAS, one of the vehicles was a Chevrolet Express Van (Van); and

WHEREAS, the Van's initial price of \$26,640.64 excluded the cruise control option; and

WHEREAS, the dealer informed the Jail Captain that the Van wasn't available without the cruise control option; and

WHEREAS, the new purchase price for the vehicles, inclusive of WSST, are:

- Two (2) Chevrolet Tahoe PPVs per State Contract No. 04907 for a total of \$62,115.12
- One (1) Dodge Charger per State Contract No. 04907 for a total of \$23,979.78
- Nine (9) Ford Crown Victorias per State Contract No. 04608 for a total of \$234,426.96
- One (1) Chevrolet Express Van per State Contract No. 05308 for a total of \$27,058.66

WHEREAS, the Board of Benton County Commissioners approved the 2009 Benton County Sheriff's Office Budgets which includes the purchase of these vehicles; **NOW, THEREFORE**,

BE IT RESOLVED by the Board of Benton County Commissioners, Benton County, Washington, the Board hereby authorizes the Benton County Sheriff's Department to purchase Two (2) Chevrolet Tahoe PPVs, One (1) Dodge Charger, Nine (9) Ford Crown Victorias and One (1) Chevrolet Express Van in the amount of \$347,580.52 inclusive of WSST under State Contracts No. 04608, 04907 and 05308; and

BE IF FURTHER RESOLVED that Resolution 09-035 is hereby rescinded.

Dated this _____ day of _____, 2009.

Chairman of the Board

Member

Member

Constituting the Board of Commissioners
of Benton County, Washington.

Attest.....
Clerk of the Board

Orig: Sheriff's Office
cc: Auditor, Purchase file

Prepared by: K Mercer

<u>AGENDA ITEM</u>	<u>ACTION NEEDED</u>	<u>DISCUSSION TYPE</u>
Meeting Date: 18 May 2009 Subject: Red Mtn Update Memo Date: 13 May 2009 Prepared By: AJF Reviewed By: LSK	Execute Contract X Pass Resolution X Pass Ordinance Pass Motion Other	Consent Agenda X Public Hearing 1st Discussion 2nd Discussion Other

u

SUMMARY & BACKGROUND

This is a follow-up and update to the AVA Master Site Plan we completed in December 2007. Please see attached workscope for more detail. In short, the consultant (JT Atkins, the same that did the original plan) will update the maps from the plan; will hold a meeting with the landowners to get feedback on what's going on on the mountain; and will provide a narrative update to Chapter 7 "Next Steps" so that we can see what kind of progress is being made toward implementing the plan and identify steps we might take to move certain things "off center".

The Prosecutor has approved the contract to form. The original has been sent to the consultant and is in transit at the time of this memo but should be available on the 18th for signature.

FISCAL IMPACT

\$5,000 from the Sustainable Development Fund.

###

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF CREATING AN UPDATE TO THE
RED MOUNTAIN AMERICAN VITICULTURAL AREA MASTER SITE PLAN

WHEREAS, the *Red Mountain American Viticultural Area Master Site Plan*, completed in 2007, has information such as maps that are in need of updating and actions that need a progress report; and,

WHEREAS, the firm of J.T. Atkins & Company of Bend, Oregon, which completed the original Plan, has provided a scope of work that includes a meeting with land owners, updating maps and other data from the original Plan, and evaluating progress made on the "Next Steps" cited in the original Plan; **NOW THEREFORE**,

BE IT RESOLVED, by the Board of County Commissioners that the Chairman is authorized to sign a Standard Service Agreement between Benton County and J.T. Atkins & Company for creation of an update to the *Red Mountain American Viticultural Area Master Site Plan* as described in the scope of work. The County's expenditure on this project shall not exceed \$5,000.00.

Dated this _____ day of _____, 2009.

Chairman of the Board

Member

Member

Constituting the Board of Commissioners
of Benton County, Washington.

Attest.....
Clerk of the Board

orig: BOCC file
cc: Auditor, Prosecutor (Ozuna), Sustainable Development, JT Atkins & Company

Prepared by: A.J. Fyal

RED MOUNTAIN AMERICAN VITICULTURAL AREA MASTER SITE PLAN AND MAP UPDATES

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 J.T. ATKINS & COMPANY, PC, with its principal offices at 147 Southwest Shevlin Hixon Drive, Suite 201, Bend, Oregon 97702 (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 and Cost Schedule
- B. Washington-Oregon Reciprocal Agreement

2. DURATION OF CONTRACT

The term of this Contract shall begin when executed by both parties, and shall expire on July 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: J. Thomas Atkins
J.T. Atkins & Company PC
147 Southwest Shevlin Hixon Drive, Suite 201
Bend, Oregon 97702
541-617-2822 – jtatkins@jtatkins.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 rates established in **Exhibit A**, up to a maximum total amount payable by the COUNTY to the CONSULTANT under this agreement of \$5,000.

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

The CONSULTANT and the COUNTY mutually agree to be fully responsible for their own negligent acts and those of their respective officers and employees, to the fullest extent required by law, and agrees to indemnify the other party for any resulting damage, liability or cost arising to the other party as a result of their own negligent acts, errors or omissions in the performance of services under this Agreement. In the case of negligence of both parties to this Agreement, any resulting damages, liabilities and costs shall be levied on a comparative basis of fault.

In connection with any claims against the COUNTY, its officers or employees by any employee of the CONSULTANT, CONSULTANT expressly waives any immunity the CONSULTANT might otherwise have had from suit by the COUNTY against the CONSULTANT to enforce the indemnification obligation under this Agreement, and CONSULTANT acknowledges that the foregoing waiver has been mutually negotiated by the parties.

10. INSURANCE

- a. Workers' Compensation: CONSULTANT hereby warrants that it meets the definition of an employer under both Washington's and Oregon's workers' compensation laws. CONSULTANT shall comply with the terms of the Washington-Oregon Reciprocal Agreement, a true and accurate copy of which is attached as **Exhibit B**, with respect to the

provision by CONSULTANT of workers' compensation benefits for employees of CONSULTANT temporarily working in Washington under this Agreement, in that CONSULTANT has secured in Oregon, and will continue to secure in Oregon during the term of this Agreement, the payment of workers' compensation benefits for CONSULTANT'S employees under Oregon workers' compensation law. 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 fails to comply with the terms of the Washington-Oregon Reciprocal Agreement and the COUNTY incurs fines for said failure, pursuant to this section the amount of any such fines may be deducted from any payments owed by the COUNTY to CONSULTANT under this Agreement.

- b. Commercial General 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). CONSULTANT shall provide certificate of such insurance to COUNTY'S representative prior to start of work, with COUNTY as Certificate Holder.
- c. 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.

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, less any costs incurred by the COUNTY in excess of \$250,000 necessary to complete the Master Site Plan. 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
BENTON COUNTY COMMISSIONERS**

J.T. ATKINS & COMPANY, PC

Max E. Benitz, Jr, Chairman

J. Thomas Atkins, President

date

date

Attest

Clerk to the Board

date

Approved as to Form

Deputy Prosecuting Attorney

Red Mountain AVA Map Updates

May 1, 2009

Scope of Work

Task 1 – Next Steps Update

Review “Next Steps” (Chapter Seven) in the Red Mountain AVA Master Site Plan (December 2007) and provide an update to that chapter. A status report will be given for each of the next steps elements regarding implementation progress and what can be done to move the next steps forward. The findings of this task will be presented in a memorandum.

Task 2 – Ownership Map and Master Site Plan Map Update

The Ownership and Master Site Plan maps presented in the December 2007 Master Site Plan will be updated using aerial photography and ownership information provided by the Client. Information gained from the Task 3 Workshop will also be used to update the maps. This task includes delivery of one color (24x36 inch) map and PDF digital files of the same information to the client.

Task 3 – Workshop

Facilitate a workshop with Alliance members and other interested property owners to review the information developed in Tasks 1 & 2. The workshop will be coordinated with the Red Mountain AVA Alliance, which is the successor organization to the Red Mountain Estates Association that was a partner in developing the Red Mountain AVA Master Site Plan. The workshop will allow vintners, property owners and the public the opportunity to weigh-in on Master Site Plan implementation and provide feedback on current conditions on Red Mountain. The findings of the workshop will be summarized and included in the Task 1 memorandum.

J. T. ATKINS  COMPANY PC

147 SW Shevlin Hixon Drive, Suite 201
 Bend, Oregon 97702
 Red Mountain AVA Map Updates
 March 20, 2009

Project Tasks	Hours	Dollars
Acquisition & formatting of Benton County aerial photography and other site information	8.00	440.00
Workshop with Alliance members including workshop preparation	5.00	681.00
Site visit to map land cover changes	-	-
Meeting summary	6.00	821.00
Ownership map update	-	-
Master site plan map graphic revisions	2.00	280.00
Project management	14.00	877.00
Task subtotal	47.00	4,188.00
Reimbursable Expenses		768.35
Project Totals	47	4,956.35

Assumptions

The proposal is for 1 site visit and 1 update of the master site plan and ownership map graphics.

We will use aerial photography provided by Benton County to assist in the updating. We would provide you with a digital and one color (24x36 inch) hard copy for the ownership and master site plan maps.

Any professional services scope or reimbursable expenses in addition to that presented in this proposal will be negotiated at the time of need.

The above scope and fee is a Time and Materials - Not to Exceed Proposal
 This proposal will remain valid for 90 days from the proposal date.

Schedule

On call service to be approved by client.

WASHINGTON -- OREGON RECIPROCAL AGREEMENT

The State of Washington, acting by and through the Washington State Department of Labor and Industries and the State of Oregon, acting by and through its Department of Consumer and Business Services, desiring to resolve jurisdictional issues that arise when workers from one state temporarily work in another, enter into the following agreement (the "Agreement"):

Who Is Affected By This Agreement

This Agreement affects the rights of workers and their employers when the contract of employment arises in Washington and the worker is temporarily working in Oregon, or when the contract of employment arises in Oregon and the worker is temporarily working in Washington. To be covered by this Agreement, an employer must be considered an employer under both Washington's and Oregon's workers' compensation laws, and workers must be considered workers under both Washington's and Oregon's workers' compensation laws.

Basic Rule

When a contract of employment arises in Washington and the worker is temporarily working in Oregon or when the contract of employment arises in Oregon and the worker is temporarily working in Washington:

Employers shall be required to secure the payment of workers' compensation benefits under the workers' compensation law of the state the contract of employment arose in, and pay premiums or be self-insured in that state for the work performed while in the other state; and

- Workers' compensation benefits for injuries and occupational diseases arising out of the temporary employment in the other state shall be payable under the workers' compensation law of the state the contract of employment arose in, and that state's law provides the exclusive remedy available to the injured worker.
- In determining whether a worker is temporarily working in another state, Washington and Oregon agree to consider:
 1. The extent to which the worker's work within the state is of a temporary duration;
 2. The intent of the employer in regard to the worker's employment status;
 3. The understanding of the worker in regard to the employment status with the employer;
 4. The permanent location of the employer and its permanent facilities;
 5. The extent to which the employer's contract in the state is of a temporary duration, established by a beginning date and expected ending date of the employer's contract;
 6. The circumstances and directives surrounding the worker's work assignment;
 7. The state laws and regulations to which the employer is otherwise subject;
 8. The residence of the worker; and
 9. Other information relevant to the determination.

- Washington and Oregon both agree to notify the other state in writing of any changes to their law that may affect this Agreement within 30 days of that law change.

Exclusion From The Basic Rule

This Agreement does not apply to any Washington worker of an Oregon employer while working in the State of Washington nor to any Oregon worker of a Washington employer while working in the State of Oregon. It is understood that an employer from either Oregon or Washington may have a contract in the other state where they may have both Oregon and Washington workers which may require obtaining coverage in both states for that same contract.

This Agreement does not apply to employees of an employer working for stevedoring or steamship companies.

This Agreement does not supersede separate agreements made regarding workers employed in the construction or maintenance of interstate structures such as dams, bridges, trestles, etc. between Oregon and Washington.

Certificates Of Coverage

Upon request, each state will issue certificates of extraterritorial coverage to the other when appropriate. The issuing state may cancel these certificates at any time.

Merger

This Agreement replaces and supersedes the previous agreement on the same subject matter entered into between Washington and Oregon in effect since October 5, 1997.

Effective Date

This Agreement shall take effect immediately upon completion of all of the following requirements; (1) execution by both parties; (2) public notification in compliance with Oregon law, and; (3) adoption as a rule in compliance with Washington law. This Agreement will remain in effect unless terminated, modified, amended or replaced in writing between the parties.

Termination

Either party may terminate the Agreement, without cause, by giving written notice to the other party at least 30 days in advance of such termination.

Notice

Any communication between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile or mailing the same, postage prepaid, to the addresses or numbers set forth below on the signature pages or as subsequently modified in writing by the party to be noticed.

Signed this 24th day of January, 2002 at Olympia, Washington

DEPARTMENT OF LABOR AND INDUSTRIES

OF THE STATE OF WASHINGTON
(WASHINGTON)

by: Gary Moore
Gary Moore, Director
Department of Labor and Industries
P. O. Box 44140
Olympia, WA 98501-4140

Approved as to form this 15th day of January, 2002 at Olympia, Washington

by: James S. Johnson
James S. Johnson, Asst. Attorney General

Signed this 21st day of January, 2002 at Salem, Oregon

DEPARTMENT OF CONSUMER AND BUSINESS SERVICES

WORKERS' COMPENSATION DIVISION

OF THE STATE OF OREGON
(OREGON)

by: John Shilts
John Shilts, Administrator
Workers' Compensation Division
350 Winter Street NE, room 27
Salem, OR 97301-3879

Approved as to form this 14th day of January, 2002 at Salem, Oregon

by: Christian Boenisch
Christian Boenisch, Asst. Attorney General



RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF COUNTY FUNDS, RE: CORRECTION OF A FUND NUMBER

WHEREAS, the Board of County Commissioners established a new fund for the Treasurer by Resolution 09-222, and

WHEREAS, the fund number established for "Treasurer's Investment Pool" was incorrectly stated as 0113-101, a fund number previously used, and

WHEREAS, the County Auditor's and County Treasurer's staff have determined 0109-101 should be the fund number established for the "Treasurer's Investment Pool" fund;
NOW THEREFORE

BE IT RESOLVED, the Board of County Commissioners hereby establishes 0109-101 as the fund number for the Treasurer's Investment Pool fund.

Dated this _____ day of _____, 20__.

Chairman of the Board

Member

Member

Constituting the Board of County
Commissioners of Benton County,
Washington

Attest: _____
Clerk of the Board

Prepared by D. Davidson, Treasurer

W

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY FUNDS RE: TRANSFER OF FUNDS WITHIN
CURRENT EXPENSE FUND NUMBER 0000-101, DEPARTMENT NUMBER 124.

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

Dated this _____ day of _____, _____

Chairman of the Board

Member

Member

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

Attest: _____
Clerk of the Board

BENTON COUNTY LINE ITEM TRANSFER - EXHIBIT "A"

Dept Name: Treasurer

Dept Nbr: 124

Fund Name: Current Expense

Fund Nbr: 0000-101

TRANSFER FROM:

TRANSFER TO:

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT	BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
514.220	1505	Accounting Asst. III	\$10,000	514.220	4103	Professional Services	\$1,000
				514.220	4123	Arbitrage Fees	\$200
				514.220	4133	Bond Admin. Fees	\$300
				514.220	4401	Legal Advertising	\$200
				514.220	4802	Vehicle Maintenance	\$300
				514.229	4102	Contract Services	\$8,000
TOTAL			\$10,000	TOTAL			\$10,000

Explanation:

80% of funds to cover fees charged by Tom Carlson (Vehicle Use Tax Collections) and Garda armored car services. 20% of funds to cover minor cost overages incurred within line items 514.220.40.

Prepared by: Duane A. Davidson


Benton County Treasurer

Date:

5/12/09



JOINT RESOLUTION

BENTON COUNTY RESOLUTION NO. _____

FRANKLIN COUNTY RESOLUTION NO. _____

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

RE: IN THE MATTER OF APPOINTING PABLO VILLARREAL TO THE BENTON-FRANKLIN WORKFORCE DEVELOPMENT COUNCIL

WHEREAS, Position B-7 which represents Vocational Rehabilitation on the Benton-Franklin Workforce Development Council is vacant; and

WHEREAS, Pablo Villarreal, Vocational Rehab Supervisor, 500 N. Morain, Ste 2104, Kennewick, WA 99336, has expressed his interest and willingness to be appointed as a member on the Workforce Development Council, Position B-7, Vocational Rehabilitation;

NOW, THEREFORE, BE IT RESOLVED that Pablo Villarreal is hereby appointed, as of July 1, 2009, to fill Position B-7 representing Vocational Rehabilitation, with said term expiring June 30, 2012.

Dated this ____ day of May 2009.

Dated this ____ day of May 2009.

Benton County Board of Commissioners

Franklin County Board of Commissioners

Max E. Benitz, Chair

Rick Miller, Chair

Leo M. Bowman, Chair Pro Tem

Robert E. Koch, Chair Pro Tem

James Beaver, Member

Brad Peck, Member

Attest:

Attest:

Clerk of the Board

Clerk of the Board

Originals: Benton County
Franklin County
WDC

cc: Pablo Villarreal

**BENTON-FRANKLIN
WORKFORCE DEVELOPMENT COUNCIL**

"Workforce Development Leaders"

**APPLICATION FOR MEMBERSHIP
COMMUNITY-BASED ORGANIZATION REPRESENTATIVE**

The Workforce Investment Act of 1998 stipulates that there shall be a local board composed of members of the private sector, organized labor, educational agencies, rehabilitation agencies, community-based organizations, economic development agencies, the public employment service, and public assistance agency.

The term community-based organization is defined in Section 4(5) of the Act as: "private nonprofit organizations which are representative of communities or significant segments of communities and which provide job training services".

Expected Commitment:

- **Attend scheduled board meetings.**
- **Attend scheduled sub-committee meetings.**
- **Participate in board activities**

Thank you for your interest in the Benton-Franklin Workforce Development Council. The following information will assist Local Elected Officials in assuring that all pertinent information is considered and criteria dictated by law is adhered to.

Please return this completed application and your signature (page 2) of the "Conflict of Interest" document to:

**Benton-Franklin Workforce Development Council
815 North Kellogg Street, Suite 'C'
Kennewick, WA 99336**

Attn: Sylvia Duran

Name: Pablo Villarreal
 Address: 500 N. Morain, Ste 2104
Kennewick, WA 99336
 Phone: 509-374-2160
 E-Mail: villapa@dshs.wa.gov
 Your Job Title: Supervisor

Background

What education or skills could you contribute to our board? Please check all that apply.

Accounting Management Public Relations
 Investment Marketing Education
 Personnel Fund Raising Policy Development

Other organizations or volunteer affiliations that have given you experience that would add value to your capacity as a WDC member.

Counselor/Supervisor Div. of Vocational Rehab 2003-2009
 Name Type of Organization Date

Leadership Yakima Participant. Yakima Chamber of Commerce 2007
 Name Type of Organization Date

 Name Type of Organization Date

 Name Type of Organization Date

Availability

Can you regularly attend board meetings? Yes No Conflicts
 Preferences on meeting times: Day Evening

How many hours per month, in addition to board meetings, could you serve this organization? 8

How did you hear about our organization or who referred you? FORMER Board member representing DVR, Eileen Fielding

Please describe your reasons for wanting to serve on the Workforce Development Council: To promote inclusion of people with Disabilities in Workforce Development issues.

Nomination

Nominated for appointment by the following organization/agency:

Organization/Agency _____

Signature (from authorized Representative) _____

Title _____

Date _____

Nominating Organization Information

Is your organization currently registered with the Secretary of State as a non-profit corporation?

What communities or segments of the community does your organization represent?

What types of services does your organization currently provide directly related to job training and employment?

Local Address of the Organization

Street: _____

City/State/Zip: _____


Applicant Signature

4/29/09
Date

Workforce Investment Act Title I-B

Washington State Policies

SECTION C: General Administration

Grantees, subrecipients, and contractors funded under the Workforce Investment Act (WIA), whether in whole or in part, must abide by the Workforce Investment Act of 1998, the WIA Regulations, all applicable Office of Management and Budget (OMB) circulars, state requirements in laws and rules (Revised Code of Washington Administrative Code) Office of Financial Management (OFM) policies and the Washington State WIA policies.

EFFECTIVE DATE: November 19, 2001 - REVISION 1
WIA POLICY NUMBER: 3420
SUBJECT: Conflict of Interest

BACKGROUND

A Conflict of Interest Policy is required in order to ensure that individuals or representatives of organizations entrusted with public funds will not personally or professionally benefit from the award or expenditure of such funds.

POLICY

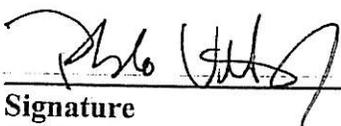
Each Workforce Development Council (WDC) shall have a conflict of interest policy, which at a minimum meets the requirements shown below:

1. Each recipient and subrecipient shall maintain a written code of standards or conduct governing the performance of persons engaged in the award and administration of WIA contracts and subgrants.
2. Each recipient and subrecipient shall ensure that no individual in a decision-making capacity shall engage in any activity, including participation in the selection, award, or administration of a subgrant or contract supported by WIA funds, if a conflict of interest (real, implied, or apparent) would be involved.
3. A member of the Workforce Development Council (WDC) shall not cast a vote, nor participate in any decision-making capacity, on the provision of services by such member (or any organization which that member directly represents), nor on any matter which would provide any direct financial benefit to the member or to the member's organization.
4. A conflict of interest under paragraph 2 and 3 would arise when:
 - An individual; i.e., employee, officer, or agent,
 - Any member of the individual's immediate family (partners, spouse, children, or siblings),
 - The individual's partner, or
 - An organization which employs, or is about to employ an individual (individual has received a job offer from the organization) who has financial or other interest, either through ownership or employment, and participates in the selection or award of funding for that organization or firm.

5. The officers, employees, or agents of the agencies and members of the WDCs making the awards will neither solicit nor accept gratuities, favors, or anything of monetary value from awardees, potential awardees, or other parties to agreements.
6. Neither membership on the WDC nor the receipt of WIA funds to provide training or other services shall be construed, by itself, to violate provisions of the Act or Regulations.
7. The recipient or subrecipient code of conduct shall contain penalties, sanctions, or other disciplinary actions in accordance with state and local law for violations of the provisions against conflict of interest.

DEFINITIONS

"Conflict of Interest" refers to the conflict between the public obligation and the private interests of the persons or entities identified under Paragraph 4.

 Signature	<u>4/29/05</u> Date
--	------------------------

REFERENCES

- Public Law 105-220 Section 111 (f)
- Public Law 105-200 Section 117 (g)
- 20 CFR 667.200 (a)(1) and (4)
- 29 CFR 95.42
- 29 CFR 97.36

SUPERSEDES

None. This communication is new.

WEBSITE

<http://www.wa.gov/esd/policies>

DIRECT INQUIRIES TO

Bob Isom
Employment Security Department
Employment and Training Division, WIA Title I-B
P.O. Box 9046, MS 6000
Olympia, WA 98507-9046
Email: bisom@esd.wa.gov
Telephone: (360) 438-4779
Fax: (360) 438-3174

Benton County

Department of Public Works

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

To: Board of County Commissioners

From: Steven W. Becken, Public Works Manager *SWB*

RE: Piert Road

Date: May 12, 2009

The Board has approved two alignments for Piert Road over the past few years.

The first alignment selected followed the existing alignment of Piert Road to Lechelt Road then continued Northerly to a point on the South side of the Corp of Engineer's drainage ditch. At this point the road turned to the west, followed the ditch to the west side of the railroad tracks, turned North and ran along the west side of the tracks to Bowles Road. This alignment is shown as Alternate 7.

Columbia Energy appeared before the Board and stated that they were in negotiations with Agrium to purchase property to construct an ethanol plant and supporting unit train. Our proposed road would run through the middle of the proposed unit train. Because the unit train cannot be broken, the proposed ethanol plant could not be constructed in this location. They requested that the alignment be shifted to the west approximately one-quarter mile. This alignment followed the existing Peirt Road to Lechelt Road, turned to the west and ran one-quarter mile. At this point the road ran northerly to Bowles Road. After crossing the Corp ditch, the road ran along the East side of the tracks to Bowles Road. This alignment is shown as Alternate 6.

One of the requirements that Columbia Energy had to agree to was to share in the cost of the redesign. They agreed to pay \$50,000 towards the new alignment and have been making monthly \$5,000 payments. They are current and have paid a total of \$30,000.

Agrium, the majority property owner that we need to obtain right of way from, is objecting to the road being located on the East side of the tracks. They are objecting to the loss of truck parking and the location of the road in relation to their buildings and storage tanks.

Columbia ColStor has a truck parking lot located at the back of their building. This parking lot would be better served if the alignment were to be shifted back to the west side of the railroad tracks.

Both Agrium and Columbia ColStor are requesting that the road alignment be relocated back to the west side of the tracks. To do this will require that the original alignment, Alternate 7, be used. We cannot meet railroad-crossing requirements using Alternate 6 without severely impacting the Port of Kennewick property.

I met with Josh Reagan, KFO Plant Manager for Agrium, regarding their request and to determine where they were with the sale of the property. Mr. Reagan stated that there had been no sale of the property and they were no longer actively negotiating with Columbia Energy. A copy of his letter is attached.

I then called Columbia Energy and was informed that funding was not currently available, so the project was on hold. They said that although they were still interested in obtaining the property, Agrium was no longer talking to them regarding the sale of the property.

I also spoke with the Port of Kennewick regarding Agrium's request. They said they would support either alignment.

We are looking for direction from the Board on which alignment to use: 1) The current alignment, Alternate 6, knowing that Agrium may become an unwilling partner in the project; or, 2) The formerly approved alignment, Alternate 7, knowing that Columbia Energy will oppose the Alternate 7 alignment and that based upon the agreement, copy attached, we may face legal action from Columbia Energy to enforce the agreement.

To further complicate this, we are approximately \$1,500,000 short of being able to construct this road. We have applied for HPP funds for this project; however, this was our third ranked project. If HPP funding is available to Benton County, in all probability it will go to either our first or second ranked project. Although I could be surprised, I do not expect to see HPP funding for Piert Road.

I received a telephone call from John Dorffeld, Transportation Improvement Board, regarding the construction status of this road. On July 1, 2009, we enter Stage 1 of a delayed project status because construction has not started within 4½ years of receiving funding approval. The executive director of TIB will require a letter from us detailing how we plan to get the project back onto schedule.

On July 1, 2010, if the road isn't under construction, we enter Stage 2. At this time we will be required to explain why the project continues to be delayed and must provide a commitment date acceptable to TIB.

If the date agreed upon in Stage 2 is missed, we must appear before the TIB board at their next regularly scheduled meeting to plead our case for further delay. That meeting will result in an absolute date for resolution being given. If that date is not met, the project may be suspended or we may be asked to withdraw the project and reapply for future funding at a later date.

The TIB funding for this project is \$1,667,000.



Agrium US Inc
Kennewick Fertilizer Operations
227515 E Bowles Road
Kennewick WA 99337
USA

Josh I. Regan
Plant Manager
509-586-5430

April 27, 2009

Benton County Public Works
Attn: Steve Becken, Acting County Engineer
620 Market Street
Prosser WA 99350

Mr. Steve Becken:

This letter is to serve as formal communication from Agrium U.S. Incorporated to whom it may concern at Benton County regarding the relationship between Agrium and Columbia Energy. This letter will specifically speak to an agreement on the sale of Agrium property to Columbia Energy.

At the time of this writing, Agrium US Inc is not participating in any legal agreement or involved in any communications with Columbia Energy in regard to the sale of Agrium property. Furthermore, Agrium US Inc is not obligated to any terms in the future relating to past agreements with Columbia Energy.

If you require more information, please do not hesitate to contact me at 509-586-5430. Agrium US Inc looks forward to working with the Benton County on matters relating to our business.

Regards,

A handwritten signature in black ink, appearing to be "JR", with a long horizontal flourish extending to the right.

Josh I. Regan
KFO Plant Manager
Office: 509-586-5430
Cell: 509-531-7094
Fax: 509-586-5440

JIR/blm

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

COPY

**CONTRIBUTION AGREEMENT FOR PIERT ROAD, CE 1619 CRP
BETWEEN BENTON COUNTY
AND
COLUMBIA ENERGY & ENVIRONMENTAL SERVICES, INC.**

THIS AGREEMENT, made and entered into on this 1st day of October, 2008, by and between BENTON COUNTY, WASHINGTON, hereinafter called "BENTON COUNTY" and COLUMBIA ENERGY & ENVIRONMENTAL SERVICES, INC., whose address is 1806 Terminal Drive, Richland, Washington 99352, hereinafter called the "COLUMBIA ENERGY".

RECITALS

- A. COLUMBIA ENERGY has proposed construction of an ethanol plant to be served by a unit train on property owned by Agrium U.S., Inc; and
- B. COLUMBIA ENERGY'S proposed ethanol plant will be located at 231610 East Game Farm Road, Kennewick, Washington; and
- C. Benton County Public Works, having no knowledge of the proposed ethanol plant or unit train, designed the Piert Road extension between Bowles Road and Lechelt Road to run northerly, bisecting the proposed ethanol plant and unit train, effectively rendering the proposed plant useless; and
- D. COLUMBIA ENERGY has requested that a final decision on the location of the Piert Road extension be reconsidered; and
- E. BENTON COUNTY, having already paid for a design of the road, expressed a reluctance to reconsider without a confirmation of remuneration by COLUMBIA ENERGY of a portion of the cost to redesign the road in order to accommodate COLUMBIA ENERGY'S proposed ethanol plant; and
- F. COLUMBIA ENERGY offered to contribute fifty-thousand dollars (\$50,000.00) for costs associated with redesigning the road, payable in monthly installments of five-thousand dollars (\$5,000.00) for BENTON COUNTY'S redesign of the road subject to the selected alignment not bisecting the proposed ethanol plant and unit train;

G. Monday, September 15, 2008, the BENTON COUNTY COMMISSIONERS selected Alternate 6 as shown in the Engineer's Report prepared by J-U-B Engineers, Inc., dated June 2008, as the preferred route for Piert Road;

H. COLUMBIA ENERGY agrees to make ten (10) monthly payments of five thousand dollars (\$5,000.00) due and payable on the first of each month with the first installment to begin the month immediately following the date this AGREEMENT is executed by all parties.

AGREEMENT

NOW, THEREFORE, in consideration of the following terms and conditions, BENTON COUNTY and COLUMBIA ENERGY agree as follows:

1. COLUMBIA ENERGY agrees to contribute \$50,000.00 toward the Piert Road project; that COLUMBIA ENERGY agrees to make ten (10) monthly payments of \$5,000.00 due and payable on or before the first of each month beginning the month immediately following the date of this AGREEMENT until payment in full.
2. The Board of County Commissioners agrees on behalf of BENTON COUNTY to accept the contribution of \$50,000.00 and agrees to the terms stated above.
3. COLUMBIA ENERGY is directed to make all checks payable to the Benton County Treasurer and deliver the checks to Benton County Public Works; P.O. Box 1001; Prosser, Washington 99350.
4. BENTON COUNTY and COLUMBIA ENERGY acknowledge and represent that the terms of this AGREEMENT have been jointly negotiated and that each party enters into this AGREEMENT voluntarily. Further, each party acknowledge, represent, and agree that they have read this AGREEMENT, fully understand the terms thereof, and have been fully advised by their independent legal counsel or have had the opportunity to be so advised in connection with the terms in this AGREEMENT.
5. This AGREEMENT constitutes the entire agreement between the parties and is binding upon the heirs, executors, administrators, successors, or assigns of each of the parties hereto.
6. COLUMBIA ENERGY shall not assign the whole or any part of this AGREEMENT without the prior written consent of BENTON COUNTY.
7. This AGREEMENT shall be governed and interpreted in accordance with the laws of the State of Washington. Venue for any action to enforce the terms of this AGREEMENT shall be in Benton County Superior Court. In the event that either party resorts to litigation to enforce any terms of this AGREEMENT, the substantially prevailing party in any such litigation shall be entitled to an award of reasonable attorney fees and expert witness fees, together with actual court costs expended in such litigation.
8. BENTON COUNTY and COLUMBIA ENERGY each represent and warrant to the other that it has the respective power and authority, and is duly authorized, to execute and deliver this AGREEMENT and that the persons signing on its behalf are duly authorized to do so.
9. This AGREEMENT may not be amended or modified except in writing, signed by the parties to be bound thereby, or signed by their respective attorneys as authorized.

10. This AGREEMENT represents the entire agreement of the parties with respect to the subject matter hereof. There are no other agreements, oral or written, except as expressly set forth herein.

APPROVAL OF AGREEMENT

This Agreement shall become effective upon execution by the parties hereto:

FOR COLUMBIA ENERGY
& ENVIRONMENTAL SERVICES, INC.:



Title: President

Date: 10/1/08

Title: _____

Date: _____

FOR BENTON COUNTY, WASHINGTON:



Chairman, Board of County Commissioners

Date: 10-13-08

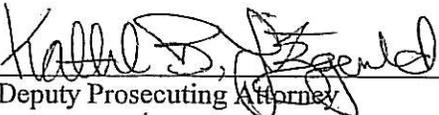
ATTEST:



Clerk of the Board

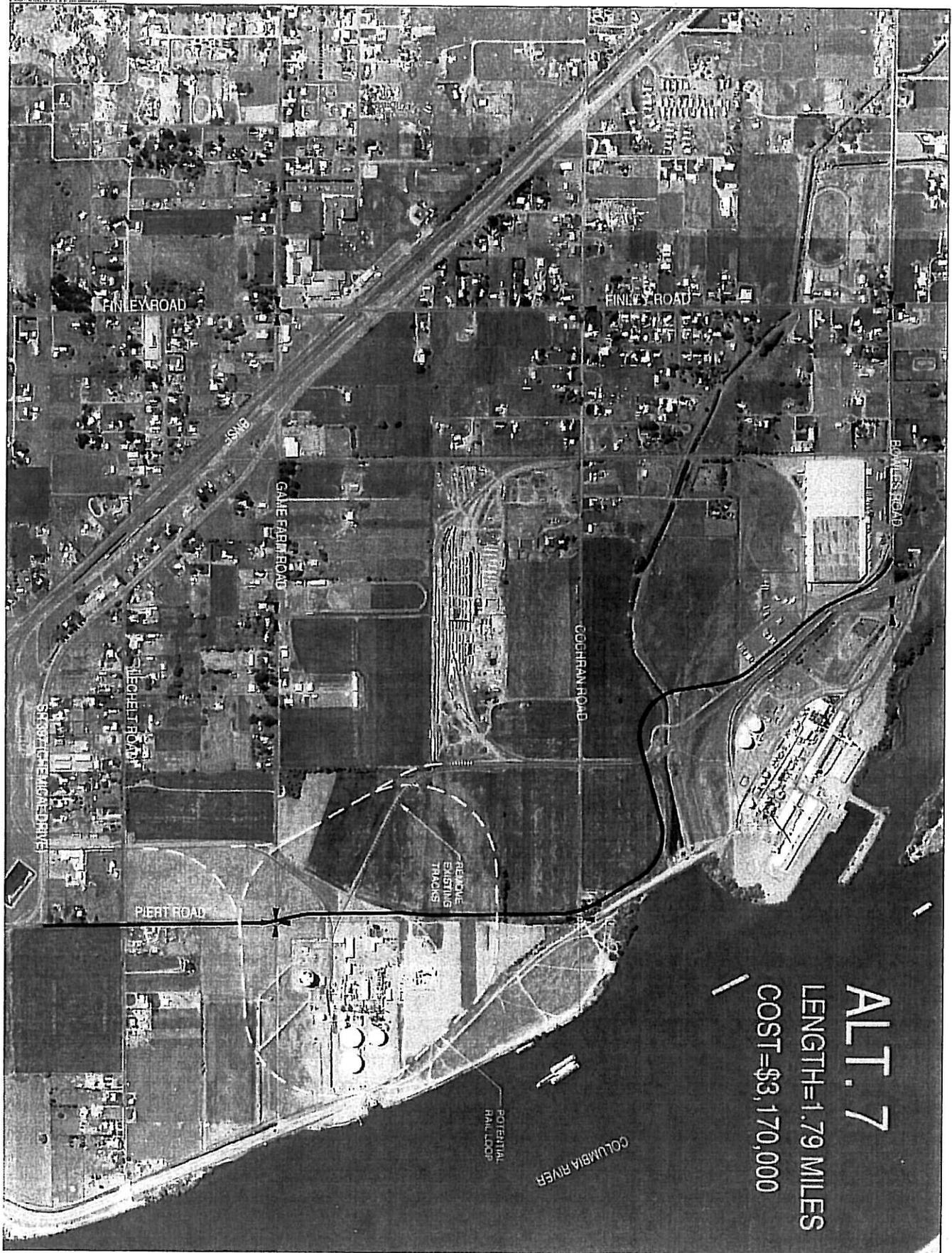
Date: 10-13-08

APPROVED AS TO FORM:



Deputy Prosecuting Attorney

Date: 10/01/08



ALT. 7
LENGTH=1.79 MILES
COST=\$3,170,000



9:25

Max Benitz - Revised Districting Plan and Interlocal

From: Ryan Brown
To: Max Benitz
Date: 5/14/2009 3:08 PM
Subject: Revised Districting Plan and Interlocal
CC: David Sparks; Duane Davidson; Loretta SmithKely
Attachments: District Court City Contract.pdf; District Court Districting Plan 2009.doc

Max,

Attached is a final revised plan and interlocal agreement that reflects changes based on input from Loretta, Duane, yourself and David. Call if any questions. It would be helpful if you can get these versions in the member notebooks so we're all looking at the same documents on Monday. Thanks.

Ryan

Ryan K. Brown

Chief Deputy Pros. Attorney, Civil
Benton Co. Pros. Attorney's Office
Phone: (509) 735-3591
Fax: (509) 222-3705

This email, any and all attachments hereto, and all information contained and conveyed herein may contain and be deemed confidential attorney client privileged and/or work product information. If you have received this email in error, please delete and destroy all electronic, hard copy and any other form immediately. It is illegal to intentionally intercept, endeavor to intercept or procure any other person to intercept or endeavor to intercept, any wire, oral or electronic communication.

INTERLOCAL AGREEMENT BETWEEN BENTON COUNTY
AND THE CITY OF _____
FOR DISTRICT COURT SERVICES

THIS AGREEMENT is made this ____ day of _____, 2009, by and between the CITY OF _____, a municipal corporation, hereinafter called "City" and BENTON COUNTY, a political subdivision of the State of Washington, hereinafter called "County".

WHEREAS, the County has an established District Court System; and

WHEREAS, the City did petition the Benton County Commissioners for the establishment of a municipal department for the City within the Benton County District Court, under the provisions of RCW 3.46.040; and

WHEREAS, a municipal department of the Benton County District Court for the City was established by the Benton County Commissioners pursuant to the adoption of the Benton County District Court Districting Plan on _____ [June 7, 1973 for Kennewick, Richland and W. Richland and April 3, 1995 for Prosser], under Chapters 3.38 and 3.46, Revised Code of Washington; and

WHEREAS, under the District Court Districting Plan, as amended on April 3, 1995 and as currently in effect, it was determined that one or more Judges of the Benton County District Court would serve as part-time Judge in the municipal department of the City of _____, and that the City would pay its pro rata share of the Judges' salaries and benefits, the salaries and benefits of the District court personnel, and all other costs of operating District Court based on the City's share of usage of District Court;

WHEREAS, the purpose of this Interlocal Agreement is to memorialize

the terms of the relationship between the City and the County with respect to its municipal department that has been in existence since _____ [insert appropriate year for each city, either 1973 or 1995]; NOW THEREFORE,

BE IT AGREED by and between the parties as follows:

(1) The City has operated a municipal department with Benton County District Court since before July 1, 2008, and continues to operate such under the terms of RCW 3.46 as if Chapter 227, Laws of 2008, was not adopted.

(2) The County shall furnish to the City the services of the District Court Judge or Judges designated by the City pursuant to RCW 3.46.060 to hold Court at the [Benton County Justice Center will be inserted in agreements for Kennewick, Richland and W. Richland/Benton County Courthouse in Prosser will be inserted in agreement for Prosser] as a municipal department of the Benton County District Court, as set forth hereinafter.

(3) The parties have determined and do hereby agree that the City shall pay to the County, as the City's pro rata share of the total costs of and overhead for operation of the District Court, including the salaries and benefits of the District Court Judges, an amount equal to the ratio of the total number of violations charged in the City's municipal department, whether infractions or criminal violations, to the total number of: (a) violations charged by all jurisdictions in the District Court, plus (b) felony complaints filed in District Court, plus (c) small claims cases filed, plus (d) civil cases filed, plus (e) petitions for anti-harassment orders. Such total costs shall include,

but are not limited to, the salaries and benefits of the District Court Judges, salaries and benefits of the District Court personnel and all other costs of and overhead for the operation of the District Court, excluding expenditures from the Benton County Probation Assessment Fund, which is separately funded by the payment of probation assessments by criminal defendants as ordered by District Court in municipal department and other criminal cases.

(4) The ratio described above in section 3 shall, for 2009, be based upon the time period of August 1, 2007, through July 31, 2008. For the billings for each subsequent calendar year, the ratio will be based on the figures for the twelve month time period consisting of the preceding August through July.

(5) The County will invoice the City monthly for the City's pro rata share of the expenses incurred by District Court in the preceding month. All sums due to the County from the City shall be paid within thirty (30) days of mailing of such invoice, via regular mail or electronic mail.

(6) All money received by the District Court and the City pursuant to an order entered in the City's municipal department shall be distributed in accordance with RCW 3.46.120, a copy of which is attached as Exhibit A, except that the County may retain all money received as payments of assessments for probation costs ordered in the City's municipal department cases. The City shall not be entitled to any revenue received by District Court other than revenues received pursuant to court order entered in the City's municipal department.

(7) All real and personal property used in the operation of

District Court has been and shall continue to be acquired by the County, owned by the County and may be disposed of in the discretion of the County.

(8) This Interlocal Agreement is effective upon execution and filing with the Benton County Auditor and shall continue in effect until terminated by the City or the County in accordance with RCW 3.46.150, attached as Exhibit B.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands the day and year hereinabove mentioned.

Date: _____

CITY OF _____

City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

Date: _____

BOARD OF COUNTY COMMISSIONER
OF BENTON COUNTY

Chairman

Commissioner

Commissioner

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

Attest:

Clerk of the Board

FORM APPROVED:

Prosecuting Attorney

judicial positions may be filled only by election under the following circumstances:

(1) Each full-time equivalent judicial position shall be filled by election. This requirement applies regardless of how many judges are employed to fill the position. For purposes of this section, a full-time equivalent position is thirty-five or more hours per week of compensated time.

(2) In any city with one or more full-time equivalent judicial positions, an additional judicial position or positions that is or are in combination more than one-half of a full-time equivalent position shall be filled by election. [1993 c 317 § 3.]

Severability—Effective date—1993 c 317: See notes following RCW 3.50.810.

3.46.067 Judges—Residency requirement. A judge of a municipal department of a district court need not be a resident of the city in which the department is created, but must be a resident of the county in which the city is located. [1993 c 317 § 5.]

Severability—Effective date—1993 c 317: See notes following RCW 3.50.810.

3.46.070 Election. In each district court district where an election is held for the position of municipal judge, the county auditor, prior to the date for filing declarations for the office of district judge, shall designate the proper number of municipal judge positions, commencing with number one, and if there is more than one municipal judge in any municipal department, one or more positions may, at the request of the legislative body of the city, be further designated as municipal traffic judge positions. Only voters of the city shall vote for municipal judges. [1984 c 258 § 76; 1961 c 299 § 41.]

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

3.46.080 Term and removal. A municipal judge shall serve in such capacity for his or her term as district judge and may be removed from so serving in the same manner and for the same reasons as he or she may be removed from the office of district judge. [1984 c 258 § 77; 1961 c 299 § 42.]

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

3.46.090 Salary—City cost. The salary of a full time municipal judge shall be paid wholly by the city. The salary of a district judge serving a municipal department part time shall be paid jointly by the county and the city in the same proportion as the time of the judge has been allocated to each. Salaries of court commissioners serving the municipal department shall be paid by the city. [1984 c 258 § 78; 1969 ex.s. c 66 § 5; 1961 c 299 § 43.]

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

3.46.100 Vacancy. A vacancy in a position of full time municipal judge shall be filled for the unexpired term by appointment in such manner as the city may determine. In districts having more than one judge, a vacancy in a position of part time municipal judge shall be filled for the unexpired

[Title 3 RCW—page 10]

term by appointment in such manner as the city shall determine from the judges of the district, including any judge appointed by the county commissioners to fill an unexpired term. [1984 c 258 § 79; 1961 c 299 § 44.]

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

3.46.110 Night sessions. A city may authorize its municipal department to hold night sessions. [1961 c 299 § 45.]

3.46.120 Revenue—Disposition—Interest. (1) All money received by the clerk of a municipal department including penalties, fines, bail forfeitures, fees and costs shall be paid by the clerk to the city treasurer.

(2) Except as provided in RCW 10.99.080, the city treasurer shall remit monthly thirty-two percent of the noninterest money received under this section, other than for parking infractions, and certain costs to the state treasurer. "Certain costs" as used in this subsection, means those costs awarded to prevailing parties in civil actions under RCW 4.84.010 or 36.18.040, or those costs awarded against convicted defendants in criminal actions under RCW 10.01.160, 10.46.190, or 36.18.040, or other similar statutes if such costs are specifically designated as costs by the court and are awarded for the specific reimbursement of costs incurred by the state, county, city, or town in the prosecution of the case, including the fees of defense counsel. Money remitted under this subsection to the state treasurer shall be deposited as provided in RCW 43.08.250.

(3) The balance of the noninterest money received under this section shall be retained by the city and deposited as provided by law.

(4) Penalties, fines, bail forfeitures, fees, and costs may accrue interest at the rate of twelve percent per annum, upon assignment to a collection agency. Interest may accrue only while the case is in collection status.

(5) Interest retained by the court on penalties, fines, bail forfeitures, fees, and costs shall be split twenty-five percent to the state treasurer for deposit in the public safety and education account as provided in RCW 43.08.250, twenty-five percent to the state treasurer for deposit in the judicial information system account as provided in RCW 2.68.020, twenty-five percent to the city general fund, and twenty-five percent to the city general fund to fund local courts. [2004 c 15 § 7; 1995 c 291 § 2; 1988 c 169 § 1; 1985 c 389 § 3; 1984 c 258 § 303; 1975 1st ex.s. c 241 § 4; 1961 c 299 § 46.]

Intent—2004 c 15: See note following RCW 10.99.080.

Effective date—1985 c 389: See note following RCW 27.24.070.

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

Legislative intent—1984 c 258 §§ 302-340: "It is the intent of the legislature to assure accountability, uniformity, economy, and efficiency in the collection and distribution by superior, district, and municipal courts of fees, fines, forfeitures, and penalties assessed and collected for violations of state statutes, and county, city, and town ordinances." [1984 c 258 § 301]

3.46.130 Facilities. All courtrooms, offices, facilities and supplies for the operation of a municipal department shall be furnished by the city. [1961 c 299 § 47.]

3.46.140 Personnel. All such personnel shall be deemed employees of the city, shall be compensated wholly by the city, and shall be appointed under and subject to any applicable civil service laws and regulations. [1961 c 299 § 48.]

3.46.145 Court commissioners. The provisions of chapter 3.42 RCW shall apply to this chapter 3.46 RCW. [1969 ex.s. c 66 § 6.]

3.46.150 Termination of municipal department—Transfer agreement—Notice. (1) Any city, having established a municipal department as provided in this chapter may, by written notice to the county legislative authority not less than one year prior to February 1st of the year in which all district court judges are subject to election, require the termination of the municipal department created pursuant to this chapter. A city may terminate a municipal department only at the end of a four-year judicial term. However, the city may not give the written notice required by this section unless the city has reached an agreement with the county under chapter 39.34 RCW under which the county is to be paid a reasonable amount for costs associated with prosecution, adjudication, and sentencing in criminal cases filed in district court as a result of the termination. The agreement shall provide for periodic review and renewal of the terms of the agreement. If the municipality and the county are unable to agree on the terms for renewal of the agreement, they shall be deemed to have entered into an agreement to submit the issue to arbitration under chapter 7.04A RCW. Pending conclusion of the arbitration proceeding, the terms of the agreement shall remain in effect. The municipality and the county have the same rights and are subject to the same duties as other parties who have agreed to submit to arbitration under chapter 7.04A RCW.

(2) A county that wishes to terminate a municipal department of the district court must provide written notice to the city legislative authority at least one year prior to the date of the intended termination. [2005 c 433 § 33; 2001 c 68 § 2; 1984 c 258 § 210; 1961 c 299 § 49.]

Application—Captions not law—Savings—Effective date—2005 c 433: See RCW 7.04A.290 through 7.04A.310 and 7.04A.900.

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

3.46.160 City trial court improvement account—Contributions to account by city—Use of funds. Any city operating a municipal department under this chapter for which the state contributes to district or municipal court judges' salaries under RCW 2.56.030 shall create a city trial court improvement account. An amount equal to one hundred percent of the state's contribution received by the city for the payment of the city's proportionate share of the district or municipal court judges' salaries shall be deposited into the account. Money in the account shall be used to fund improvements to the municipal department's staffing, programs, facilities, or services, as appropriated by the city legislative authority. [2005 c 457 § 2.]

Intent—2005 c 457: See note following RCW 43.08.250.

(2006 Ed.)

Chapter 3.50 RCW

MUNICIPAL COURTS—ALTERNATE PROVISION
(Formerly: Municipal departments—Alternate provision)

Sections	
3.50.003	Definition.
3.50.005	Legislative finding—Alternative court structure for cities and towns of four hundred thousand or less.
3.50.007	Cities and towns of four hundred thousand or less to operate municipal court under this chapter or chapter 3.46 RCW—Municipal judges in office on July 1, 1984—Terms.
3.50.010	Municipal court authorized in cities of four hundred thousand or less.
3.50.020	Jurisdiction.
3.50.030	Violations bureau for traffic cases—Disposition of moneys collected.
3.50.040	Municipal judges—Appointed—Terms, qualifications—District judge as part-time municipal judge.
3.50.050	Municipal judge may be elective position—Qualifications, term.
3.50.055	Judicial positions—Filling—Circumstances permitted.
3.50.057	Judges—Residency requirement.
3.50.060	Termination of municipal court—Requirements—Establishment of court.
3.50.070	Additional judges—Appointment, election.
3.50.075	Court commissioners—Appointment—Qualification—Part-time appointed judge.
3.50.080	Salaries of judges—Payment of court operating costs from city funds—Judges and employees as city employees.
3.50.090	Judges pro tem.
3.50.093	Municipal judge—Vacancy—Appointment.
3.50.095	Municipal judge—Removal from office.
3.50.097	Judge's oath—Bonds.
3.50.100	Revenue—Disposition—Interest.
3.50.110	Sessions.
3.50.115	Municipal court seal.
3.50.125	Transfer within municipal court.
3.50.135	Request for jury trial in civil cases—Exception—Fee—Juror compensation—Jury trials in criminal cases.
3.50.300	Execution of sentence—Jail in lieu of fine and costs, computation.
3.50.320	Suspension or deferral of sentence—Change of plea—Dismissal.
3.50.330	Suspension or deferral of sentence—Continuing jurisdiction of court.
3.50.340	Revocation of deferred or suspended sentence—Limitations—Termination of probation.
3.50.355	Offender supervision by another state.
3.50.425	Issuance of criminal process.
3.50.430	Criminal prosecution in city's name for violation of ordinances.
3.50.440	Penalty if no other punishment prescribed.
3.50.450	Pleadings, practice and procedure not provided for governed by district court law.
3.50.480	City or town trial court improvement account—Contributions to account by city or town—Use of funds.
3.50.800	Repeal of municipal criminal code—Agreement covering costs of handling resulting criminal cases—Arbitration—Renewal.
3.50.805	Termination of municipal court—Agreement covering costs of handling resulting criminal cases—Arbitration—Repeal of municipal criminal code—Agreement—Arbitration—Repeal of a municipal crime equivalent to offense in RCW 46.63.020—Agreement—Arbitration.
3.50.810	Termination of municipal court—Notice.

Rules of court: See *Rules for Appraisal of Decisions of Courts of Limited Jurisdiction (RALJ)*.

3.50.003 Definition. "Mayor," as used in this chapter, means the chief administrative officer of the city. [1984 c 258 § 125.]

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

Application—1984 c 258 §§ 101-139: See note following RCW 3.50.005.

3.50.005 Legislative finding—Alternative court structure for cities and towns of four hundred thousand

BENTON COUNTY DISTRICT COURT
DISTRICTING PLAN

1. The boundaries of the District Court shall conform to and be coextensive with the boundaries of Benton County as a whole.
2. Five (5) full-time Judges shall serve in the district.
3. Five courtrooms located within the Benton County Justice Center shall be provided, as well as an additional courtroom in Prosser. All court records, including those for all municipal departments, shall be maintained in the office of the District Court Administrator in the Benton County Justice Center and in the District Court office, Prosser Courthouse.
4. Judges shall sit in Prosser and in the Benton County Justice Center.
5. There shall be four municipal departments in addition to Benton County within the District Court to be designated as follows:
 - a. The Municipal Department of the City of Richland;
 - b. The Municipal Department of the City of Kennewick;
 - c. The Municipal Department of the City of West Richland;
 - d. The Municipal Department of the City of Prosser.
6. The District Court shall be known by the name of the Benton County District Court.
7.
 - a. Each city for which a municipal department is established within the District Court shall pay a percentage of the total combined salaries and benefits of the Judges, the salaries and benefits of the District Court personnel, and all other costs and overhead for operation of the District Court. That percentage shall be determined by interlocal agreements between each city and Benton County. Each city shall be entitled to receive a percentage of the total Judges' time equal to that percentage determined by such interlocal agreements.
 - b. The percentage referenced above shall be adjusted upward or downward for each calendar year based upon the records of District Court as maintained by the District Court Administrator for the preceding twelve-month period consisting of August through July
 - c. The appropriate costs and overhead for operation of the District Court will be recommended to the county legislative authority by a committee composed of the Chairman of the Board of Benton County Commissioners, the Presiding Judge of the District Court, The Administrator of the District Court, and the designee from each city for which a municipal department is established.
8. This Districting Plan for the Benton County District Court shall take effect when it is adopted by resolution by the Benton County Board of Commissioners, and shall supercede any prior districting plans.

DATED this _____ day of June, 2009.

BOARD OF BENTON COUNTY COMMISSIONERS

By _____
Max Bentitz, Jr., Chairman

Attest: _____
Clerk of the Board

Approved as to form:
Andy Miller
Prosecuting Attorney

By _____
Deputy Prosecuting Attorney

9:25

DRAFT

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 - a. Each city for which a municipal department is established within the District Court shall pay a percentage of the total combined salaries of the Judges and the costs and overhead for operation of the District Court. That percentage shall be determined by interlocal agreements between each city and Benton County. Each city shall be entitled to receive a percentage of the total Judges' time equal to that percentage determined by such interlocal agreements.
 - b. The percentage referenced above shall be adjusted upward or downward for each calendar year based upon the records of District Court as maintained by the District Court Administrator for the preceding twelve-month period consisting of August through July
 - c. The appropriate costs and overhead for operation of the District Court will be recommended to the county legislative authority by a committee composed of the Chairman of the Board of Benton County Commissioners, the Presiding Judge of the District Court, The Administrator of the District Court, and the designee from each city for which a municipal department is established.
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DATED this ____ day of June, 2009.

BOARD OF BENTON COUNTY COMMISSIONERS

By _____
Max Bentitz, Jr., Chairman

Attest: _____
Clerk of the Board

Approved as to form:
Andy Miller
Prosecuting Attorney

By _____
Deputy Prosecuting Attorney

DRAFT

INTERLOCAL AGREEMENT BETWEEN BENTON COUNTY
AND THE CITY OF _____
FOR DISTRICT COURT SERVICES

THIS AGREEMENT is made this _____ day of _____, 2009, by and between the CITY OF _____, a municipal corporation, hereinafter called City and BENTON COUNTY, a political subdivision of the State of Washington, hereinafter called County.

WHEREAS, the County has an established District Court System; and

WHEREAS, the City did petition the Benton County Commissioners for the establishment of a municipal department for the City _____ within the Benton County District Court, under the provisions of RCW 3.46.040; and

WHEREAS, a municipal department of the Benton County District Court for the City was established by the Benton County Commissioners pursuant to the adoption of the Benton County District Court Districting Plan on _____ [June 7, 1973 for Kennewick, Richland and W. Richland and April 3, 1995 for Prosser], under Chapters 3.38 and 3.46, Revised Code of Washington; and

WHEREAS, under the District Court Districting Plan, as amended on April 3, 1995 and as currently in effect, it was determined that one or more Judges of the Benton County District Court would serve as part-time Judge in the municipal department of the City of _____, and that the City would pay its pro rata share of the Judges' salaries and the costs of operating District Court based on the City's share of usage of District Court;

WHEREAS, the purpose of this Interlocal Agreement is to

memorialize the terms of the relationship between the City and the County with respect to its municipal department that has been in existence since ____ [insert appropriate year for each city, either 1973 or 1995]; NOW THEREFORE,

BE IT AGREED by and between the parties as follows:

(1) The City has operated a municipal department with Benton County District Court since before July 1, 2008, and continues to operate such under the terms of RCW 3.46 as if Chapter 227, Laws of 2008, was not adopted.

(2) The County shall furnish to the City the services of the District Court Judge or Judges designated by the City pursuant to RCW 3.46.060 to hold Court at the [Benton County Justice Center will be inserted in agreements for Kennewick, Richland and W. Richland/Benton County Courthouse in Prosser will be inserted in agreement for Prosser] as a municipal department of the Benton County District Court, as set forth hereinafter.

(3) The parties have determined and do hereby agree that the City shall pay to the County, as the City's pro rata share of the salaries of the District Court Judges and of the total costs of the District Court, an amount equal to the ratio of the total number of violations charged in the City's municipal department, whether infractions or criminal violations, to the total number of (a) violations charged by all jurisdictions in the District Court, plus (b) felony complaints filed in District Court, plus (c) small claims

cases filed, plus (d) civil cases filed, plus (e) petitions for anti-harassment orders. Such total costs shall include, but are not limited to, the salaries of the District Court Judges as set by statute, salaries of the District Court personnel and costs of and overhead for the operation of the Benton County District Court, excluding expenditures from the Benton County Probation Assessment Fund.

(4) The ratio described above in section 3 shall, for 2009, be based upon the time period of August 1, 2007, through July 31, 2008. For the billings for each subsequent calendar year, the ratio will be based on the figures for the twelve month time period consisting of the preceding August through July.

(5) The County will invoice the City monthly for the City's pro rata share of the expenses incurred by District Court in the preceding month. All sums due to the County from the City shall be paid within thirty (30) days of mailing of such invoice.

(6) All money received by the District Court and the City pursuant to an order entered in the City's municipal department shall be distributed in accordance with RCW 3.46.120, a copy of which is attached as Exhibit A, except that the County may retain all money received as payments of assessments for probation costs ordered in the City's municipal department cases. The City shall not be entitled to any revenue received by District Court other than revenues received pursuant to court order entered in the City's municipal department.

(7) All real and personal property used in the operation of District Court has been and shall continue to be acquired by the

County, owned by the County and may be disposed of in the discretion of the County.

(8) This Interlocal Agreement is effective upon execution and filing with the Benton County Auditor and shall continue in effect until terminated by the City or the County in accordance with RCW 3.46.150, attached as Exhibit B.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands the day and year hereinabove mentioned.

CITY OF _____

BOARD OF COUNTY COMMISSIONER
OF BENTON COUNTY

City Manager

Chairman

ATTEST:

City Clerk

Commissioner

APPROVED AS TO FORM:

Commissioner

Constituting the Board of County
Commissioners of Benton County,

City Attorney

Washington.

Attest:

Clerk of the Board

FORM APPROVED:

Prosecuting Attorney

GCBH
Preliminary Budget Narrative
Fiscal Year 2010-2011

Overview

The following narrative has been provided to assist in development of the GCBH Fiscal Year 2010/2011 bi-annual budget. The preliminary expenditure budget is in most cases, presented using a baseline format (no increase from prior period). Those line-items which reflect either an increase or a material (decrease) from the baseline have been included below.

Budget Calendar

Tuesday	May 12, 2009	GCBH Funding Committee (Review Prelim. Budget)
Monday	May 18, 2009	GCBH Executive Committee Review
Sunday	May 24, 2009	Public Notice: Advertise Budget Hearing
Tuesday	May 26, 2009	Regional Advisory Committee Review
Sunday	May 31, 2009	Public Notice: Advertise Budget Hearing
Thursday	June 4, 2009	Public Hearing: GCBH Board of Directors Meeting

GCBH FY10-11 Revenue Estimate

To date, no official revenue estimates have been issued by the Mental Health Division (MHD) for the upcoming FY10/11 budget cycle. During the April RSN Administrators meeting, MHD staff announced that final Medicaid rates for FY10 would not be available until July, 2009.

By statute, GCBH must still have an approved budget on or before June 30, 2009.

State-Only (Non-Medicaid) Revenue is based on actual FY09 Non-Medicaid (\$12.7 mil.) This amount is then reduced by (11%) of the states \$12 mil. Non-Medicaid budget reduction. $(\$12.7 - \$1.3) = \$11.4$ Million

PIHP (Medicaid) Revenue is based on actual FY09 Medicaid (\$39.8 mil.) This amount is then reduced by the GCBH portion (14%) of the states \$12 mil. Medicaid Rate Reduction. $(\$39.8 - \$1.7) = \$38,100$ Million

GCBH FY10-11 Expenditure Budget

SALARIES:

The SALARIES section of the GCBH budget reflects a full two year cycle of expenditures using the current board approved salary scale. In addition, a yearly 3% COLA has also been included in each salary line item of the budget. During 2009, the board deferred making a decision a COLA for RSN staff until after adoption of the state budget.

In the event a COLA is approved by the board, a 3% retroactive to January 2009 has also been included.

Adoption of the budget does not automatically imply a 3% COLA will be given to GCBH staff.

BENEFITS:

Fiscal Year 2008-2009 benefits have been calculated using Salary information provided above.

SUPPLIES:

OTHER ADMINISTRATION:

MEMBER GOVERNMENT DISTRIBUTIONS:

Amounts paid to GCBH service providers will be based on a Board approved Funding policy.

These amounts will be determined at the County level with approval of the FY10-11 Funding Formula.

SPECIAL PROJECTS:

GCBH MIS EXPENDITURES:

MIS Department (Detailed Budget has been attached)

CAPITAL:

None

GCBH

Fiscal Year 2010/11 (Funding Formula #1A)
 Straight Formula Approach (No Hold Harmless)
 Revenue Estimate (24 Mos.)

Preliminary Budget FY10/11

State-Only Revenue:

	FY10	Preliminary FY10	Preliminary FY11	TOTAL
Estimated Non-Medicaid Revenue	\$ 11,400,000	11,400,000	11,400,000	22,800,000
Local Inpatient Hospitalization \$180,000/mo.	(2,160,000)	(2,160,000)	(2,160,000)	(4,320,000)
MPC (\$15,000 per Month)	(204,000)	(204,000)	(204,000)	(408,000)
Residential (CWCMH \$964 per mo.)	(11,568)	(11,568)	(11,568)	(23,136)
MICA (CWCMH \$20,470)	(245,640)	(245,640)	(245,640)	(491,280)
GCBH Office (25% of Remaining Budget)	(683,967)	(683,967)	(683,966)	(1,367,933)
Total State-Only Available for Distribution (Yearly)	\$ 8,094,825	\$ 8,094,825	\$ 8,094,826	16,189,651
Total State-Only Available for Distribution (Monthly)	\$ 674,569 <small>(See Page 2)</small>			

PIHP (Medicaid):

Estimated PIHP Revenue	38,100,000	\$ 38,100,000	38,100,000	76,200,000
Local Inpatient Hospitalization \$240,000 per Mo.	(2,880,000)	(2,880,000)	(2,880,000)	(5,760,000)
Residential (CWCMH \$14,581 per mo.)	(174,972)	(174,972)	(174,972)	(349,944)
MICA (CWCMH \$2,530 per mo.)	(30,360)	(30,360)	(30,360)	(60,720)
GCBH Office (75% of Remaining Budget)	(2,051,990)	(2,051,990)	(2,051,990)	\$ (4,103,980)
Total PIHP Available for Distribution	\$ 32,962,678	\$ 32,962,678	\$ 32,962,678	65,925,356
Total PIHP Available for Distribution (Monthly)	\$ 2,746,890 <small>(See Page 3)</small>			

GCBH

Fiscal Year 2010/11 (Funding Formula #1A)
Straight Formula Approach (No Hold Harmless)
State-Only Funding (General Population Allocation)

Preliminary Budget FY10/11

	General Population	(12 Months) State-Only Funding	Base Monthly State-Only Funding	Monthly S-O Inpatient Withhold	Estimated S-O Inpatient Usage	Monthly State-Only Funding
		\$ 8,094,825	\$ 674,569	\$ 180,000	\$ (180,000)	\$ 674,569
Asotin	3.23%	261,463	21,789	5,814	(2,266)	25,337
Benton Franklin	34.44%	2,787,858	232,321	61,992	(123,057)	171,256
Columbia	0.64%	51,807	4,317	1,152	(3,403)	2,066
Garfield	0.37%	29,951	2,498	666	(558)	2,504
Kittitas	5.73%	463,833	38,653	10,314	(4,622)	44,345
Klickitat	3.03%	245,273	20,439	5,454	(2,929)	22,964
Skamania	1.62%	131,136	10,928	2,916	(5,003)	8,841
Walla Walla	8.87%	718,011	59,834	15,966	(19,235)	56,565
Whitman	6.56%	531,021	44,252	11,808	(2,081)	53,979
Yakima	35.51%	2,874,472	239,539	63,918	(16,746)	286,711
	100.00%	\$ 8,094,825	\$ 674,569	\$ 180,000	\$ (180,000)	\$ 674,569

State-Only Available for Distribution

- Asotin
- ✓ Benton Franklin
- ✓ Columbia
- Garfield
- Kittitas
- ✓ Klickitat
- Skamania
- Walla Walla
- Whitman
- Yakima

See Estimated Inpatient (Attachment-A)

State-Only Allocation (Page 2)

GCBH

Fiscal Year 2010/11 (Funding Formula #1A)

Straight Formula Approach (No Hold Harmless)

PIHP Funding Allocation (Medicaid Population Allocation)



	FY07 Medicaid Population (%)	12 Month PIHP Funding	Base Monthly PIHP Funding	PIHP Monthly inpatient Revenue	Estimated PIHP Inpatient Usage	Monthly PIHP Funding
Total PIHP Available for Distribution		\$ 32,962,678	\$ 2,746,890	\$ 210,000	\$ (240,000)	\$ 2,746,890
Asotin	3.11%	1,025,139	85,428	7,464	(17,754)	75,138
Benton Franklin	31.06%	10,238,208	853,184	74,544	(61,899)	865,829
Columbia	0.24%	79,110	6,593	576	(875)	6,294
Garfield	0.07%	23,074	1,923	168	(684)	1,407
Kittitas	2.94%	969,103	80,759	7,056	(10,276)	77,539
Klickitat	2.77%	913,066	76,089	6,648	(5,422)	77,315
Skamania	0.98%	323,034	26,920	2,352	(1,406)	27,866
Walla Walla	7.20%	2,373,313	197,776	17,280	(15,726)	199,330
Whitman	2.68%	883,400	73,617	6,432	(7,071)	72,978
Yakima	48.95%	16,135,231	1,344,603	117,480	(118,887)	1,343,196
	100.00%	\$ 32,962,678	2,746,890	240,000	(240,000)	\$ 2,746,890

See FY09 Estimated Inpatient
(Attachment-A)

Medicaid (PIHP) Allocation
(Page 3)

GCBH

Fiscal Year 2010/11 (Funding Formula #1A)
 Straight Formula Approach (No Hold Harmless)

Preliminary Budget FY10/11

Preliminary Estimate		
Fiscal Year 2010		
Total Monthly PHP	Total Monthly State-Only	Total Combined Funding
\$ 75,138	\$ 25,337	\$ 100,475
865,829	171,256	1,037,085
6,294	2,066	8,360
1,407	2,504	3,911
77,539	44,345	121,883
77,315	22,964	100,279
27,866	8,841	36,707
199,330	56,565	255,895
72,978	53,979	126,956
1,343,196	286,711	1,629,907
\$ 2,746,890	\$ 674,569	\$ 3,421,459

Asotin
 Benton Franklin
 Columbia
 Garfield
 Kittitas
 Klickitat
 Skamania
 Walla Walla
 Whitman
 Yakima

Fiscal Year 2009		
Total Monthly PPHP	Total Monthly State-Only	Total Combined Funding
\$ 79,720	\$ 26,784	\$ 106,504
783,868	185,691	969,559
27,627	2,353	29,980
16,844	2,670	19,514
79,189	46,913	126,102
84,448	24,322	108,770
44,613	9,567	54,180
210,410	60,541	270,951
77,006	56,920	133,926
1,351,840	145,846	1,497,686
\$ 2,755,565	\$ 561,607	\$ 3,317,172

Fiscal Year 2008		
Total Monthly PPHP	Total Monthly State-Only	Total Combined Funding
\$ 89,163	\$ 26,663	\$ 115,826
730,092	188,315	918,407
26,046	5,206	31,252
17,774	3,012	20,786
80,452	48,267	128,719
85,602	25,545	111,147
39,923	13,678	53,601
201,221	72,172	273,393
79,458	56,316	135,774
1,319,973	305,319	1,625,292
\$ 2,669,704	\$ 744,493	\$ 3,414,197

Asotin	-5%	-5.2%
Benton Franklin	11%	7.4%
Columbia	-82%	-69.2%
Garfield	-87%	-75.1%
Kittitas	-2%	-3.3%
Klickitat	-8%	-7.6%
Skamania	-42%	-32.6%
Walla Walla	-6%	-5.5%
Whitman	-5%	-5.1%
Yakima	-1%	8.1%
		3.1%

-11%
7%
6%
-5%
-2%
-1%
12%
5%
-3%
2%
0%
-1%
-55%
-11%
-3%
-5%
-30%
-16%
1%
-52%
-8.0%
5.6%
-4.1%
-6.1%
-2.0%
-2.1%
1.1%
-0.9%
-1.4%
-7.9%
-2.8%

-5%
20%
15%
-5%
-4%
5%
-3%
7%
-12%
28%
160%
-5%
-22%
150%
123%
201%
270%
92%
139%
4%
10.8%
14.0%
6.8%
3.9%
22.4%
23.2%
19.8%
21.3%
19.7%
22.7%
19.3%

FY10/11 Funding Comparison (Formula #1A)
 (Page-4)

GCBH

FY10 (Preliminary) Estimated Inpatient Hospital Costs

By County (State-Only and PIHP)

(Attachment - A)

State-Only	As of 5-08	FY08 Estimated	FF FY09 Yearly Est. Usage	FF FY09 Monthly Est. Usage	FY07 POPULATION	Est. FY09 Yearly Total	Population Allocation
Asotin	\$ 27,030	\$ 29,487	1.37%	2,462	3.23%	\$ 69,768	\$ 5,814
Benton/Franklin	1,417,804	1,546,695	71.73%	129,118	34.44%	743,904	61,992
Columbia	28,935	31,565	1.46%	2,635	0.64%	13,824	1,152
Garfield	7,850	8,563	0.40%	715	0.37%	7,992	666
Kititas	46,781	51,033	2.37%	4,260	5.73%	123,768	10,314
Klickitat	28,266	30,835	1.43%	2,574	3.03%	65,448	5,454
Skamania	59,667	65,091	3.02%	5,434	1.62%	34,992	2,916
Walla Walla	192,692	192,691	8.94%	16,086	8.87%	191,592	15,966
Whitman	10,139	11,060	0.51%	923	6.56%	141,696	11,808
Yakima	173,422	189,187	8.77%	15,793	35.51%	767,016	63,918
	\$ 1,992,586	\$ 2,156,207		\$ 180,000		\$ 2,160,000	\$ 180,000

PIHP-Medicaid	As of 5-08	FY08 Estimated	FF FY10 Yearly Est. Usage	FF FY10 Monthly Est. Usage	FY07 Medicaid POPULATION	Est. FY10 Yearly Total	Population Monthly
Asotin	207,290	\$ 226,135	7.40%	17,754	3.11%	\$ 89,568	\$ 7,464
Benton/Franklin	722,731	788,434	25.79%	61,899	31.06%	894,528	74,544
Columbia	10,212	11,140	0.36%	875	0.24%	6,912	576
Garfield	7,990	8,716	0.29%	684	0.07%	2,016	168
Kititas	119,978	130,885	4.28%	10,276	2.94%	84,672	7,056
Klickitat	63,311	69,067	2.26%	5,422	2.77%	79,776	6,648
Skamania	16,411	17,903	0.59%	1,406	0.98%	28,224	2,352
Walla Walla	183,622	200,315	6.55%	15,726	7.20%	207,360	17,280
Whitman	82,558	90,063	2.95%	7,071	2.68%	77,184	6,432
Yakima	1,388,135	1,514,329	49.54%	118,888	48.95%	1,409,760	117,480
	\$ 2,802,238	\$ 3,056,987		\$ 240,000		\$ 2,880,000	\$ 240,000

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Inpatient Hospitalization Summary
FY 08 - 09 To Date Actual

	FY 08 YE Balance	FY 08 Distribution	Carry-Over	FY 09 Balance (as of April 09)	Total Over/Under as of Apr 09
State-Only					
Asotin	(3,786)	3,786	0	9,084	9,084
Benton/Franklin	(685,708)	685,708	0	(174,115)	(174,115)
Columbia	34,481		34,481	(38,486)	(4,005)
Garfield	4,322		4,322	(6,457)	(2,135)
Kittitas	17,804		17,804	(15,153)	2,651
Klickitat	15,207		15,207	(1,490)	13,717
Skamania	49,119		49,119	(32,219)	16,900
Walla Walla	144,790		144,790	(121,302)	23,488
Whitman	(37,789)	37,789	0	(23,363)	(23,363)
Yakima	(31,522)	31,522	0	(18,417)	(18,417)
Total State-Only	(493,082)	758,805	265,723	(421,918)	(156,195)



	FY 08 YE Balance	FY 08 Distribution	Carry-Over	FY 09 Balance (as of April 09)	Total Over/Under as of Apr 09
PIHP					
Asotin	64,406		64,406	(44,972)	19,434
Benton/Franklin	(468,524)	468,524	0	272,466	272,466
Columbia	(3,324)	3,324	0	(40)	(40)
Garfield	3,790		3,790	(5,470)	(1,680)
Kittitas	15,230		15,230	(2,701)	12,529
Klickitat	(35,281)	35,281	0	(17,617)	(17,617)
Skamania	(18,185)	18,185	0	(11,001)	(11,001)
Walla Walla	(176,126)	176,126	0	77,807	77,807
Whitman	(21,945)	21,945	0	8,171	8,171
Yakima	(206,009)	206,009	0	378,390	378,390
Total PIHP	(845,968)	929,394	83,426	655,033	738,459

Total Combined (1,339,050) 1,688,199 349,149 233,115 \$ 582,264

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Inpatient Hospitalization - State Only

Fiscal Year 2008 Budget Report

EASTERN

Asotin	85,224
Columbia	16,920
Garfield	9,756
Walla Walla	234,024
Whitman	173,100

\$ 519,024

CENTRAL

Benton
Franklin

\$ 909,216

WESTERN

Kittitas	151,344
Klickitat	79,980
Skamania	42,780
Yakima	937,656

\$ 1,211,760

Total

\$ 2,640,000

		Actual Inpatient Usage	Over (Under) Est. usage
<u>EASTERN</u>			
Asotin	(30,816)	27,030	(3,786)
Columbia	(6,120)	40,601	34,481
Garfield	(3,528)	7,850	4,322
Walla Walla	(84,636)	229,426	144,790
Whitman	(62,604)	24,815	(37,789)
	\$ (187,704)	\$ 329,722	\$ 142,018
<u>CENTRAL</u>			
Benton		1,074,604	
Franklin		393,136	
	\$ (2,153,448)	\$ 1,467,740	\$ (685,708)
<u>WESTERN</u>			
Kittitas	(37,320)	55,124	17,804
Klickitat	(19,728)	34,935	15,207
Skamania	(10,548)	59,667	49,119
Yakima	(231,252)	199,730	(31,522)
	\$ (298,848)	\$ 349,456	\$ 50,608
Total	\$ (2,640,000)	\$ 2,146,918	\$ (493,082)

GCBH

Inpatient Hospitalization -PIHP (Medicaid) Fiscal Year 2008 Budget Report

EASTERN

Asotin	128,604
Columbia	10,140
Garfield	3,144
Walla Walla	286,824
Whitman	104,052
	\$ 532,764

CENTRAL

Benton/Franklin	\$ 1,183,260
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WESTERN

Kittitas	118,992
Klickitat	112,044
Skamania	39,312
Yakima	1,913,628
	\$ 2,183,976

Total	\$ 3,900,000
--------------	---------------------

		Actual Inpatient Usage	Over (Under) Est. usage
<u>EASTERN</u>			
Asotin	(171,912)	236,318	64,406
Columbia	(13,536)	10,212	(3,324)
Garfield	(4,200)	7,990	3,790
Walla Walla	(383,412)	207,286	(176,126)
Whitman	(139,080)	117,135	(21,945)
	\$ (712,140)	\$ 578,941	\$ (133,199)
<u>CENTRAL</u>			
Benton		648,900	
Franklin		148,515	
	\$ (1,265,940)	\$ 797,416	\$ (468,524)
<u>WESTERN</u>			
Kittitas	(104,748)	119,978	15,230
Klickitat	(98,592)	63,311	(35,281)
Skamania	(34,596)	16,411	(18,185)
Yakima	(1,683,984)	1,477,975	(206,009)
	\$ (1,921,920)	\$ 1,677,674	\$ (244,246)
Total	\$ (3,900,000)	\$ 3,054,031	\$ (845,969)

GCBH

Inpatient Hospitalization - State Only

Fiscal Year 2009 Budget Report

EASTERN

Asotin	58,140
Columbia	11,520
Garfield	6,660
Walla Walla	159,660
Whitman	118,080
	\$ 354,060

CENTRAL

Benton/Franklin	\$ 619,920
-----------------	-------------------

WESTERN

Kittitas	103,140
Klickitat	54,540
Skamania	29,160
Yakima	639,180
	\$ 826,020

Total	\$ 1,800,000
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		Actual Inpatient Usage	Over (Under) Est. usage
<u>EASTERN</u>			
Asotin	(22,660)	31,744	9,084
Columbia	(34,040)	(4,446)	(38,486)
Garfield	(6,580)	123	(6,457)
Walla Walla	(192,350)	71,048	(121,302)
Whitman	(20,810)	(2,553)	(23,363)
	\$ (276,440)	\$ 95,916	\$ (180,524)
<u>CENTRAL</u>			
Benton/Franklin	\$ (1,230,570)	\$ 1,056,455	\$ (174,115)
<u>WESTERN</u>			
Kittitas	(46,220)	31,067	(15,153)
Klickitat	(29,290)	27,800	(1,490)
Skamania	(50,030)	17,811	(32,219)
Yakima	(167,460)	149,043	(18,417)
	\$ (293,000)	\$ 225,721	\$ (67,279)
Total	\$ (1,800,010)	\$ 1,378,092	\$ (421,918)

GCBH

Inpatient Hospitalization -PIHP (Medicaid)

Fiscal Year 2009 Budget Report

EASTERN

Asotin	65,310
Columbia	5,040
Garfield	1,470
Walla Walla	151,200
Whitman	56,280
	\$ 279,300

CENTRAL

Benton/Franklin	\$ 652,260
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WESTERN

Kittitas	61,740
Klickitat	58,170
Skamania	20,580
Yakima	1,027,950
	\$ 1,168,440

Total	\$ 2,100,000
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		Actual Inpatient Usage	Over (Under) Est. usage
<u>EASTERN</u>			
Asotin	(162,500)	117,528	(44,972)
Columbia	(7,020)	6,980	(40)
Garfield	(5,490)	20	(5,470)
Walla Walla	(142,530)	220,337	77,807
Whitman	(80,540)	88,711	8,171
	\$ (398,080)	\$ 433,576	\$ 35,496
<u>CENTRAL</u>			
Benton/Franklin	\$ (548,320)	\$ 820,786	\$ 272,466
<u>WESTERN</u>			
Kittitas	(82,500)	79,799	(2,701)
Klickitat	(43,530)	25,913	(17,617)
Skamania	(11,280)	279	(11,001)
Yakima	(1,016,280)	1,394,670	378,390
	\$ (1,153,590)	\$ 1,500,661	\$ 347,071
Total	\$ (2,099,990)	\$ 2,755,023	\$ 655,033

9:35

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF COUNTY FUNDS, RE: COUNTY DEBT POLICY

WHEREAS, in accordance with RCW 36.48.070, the County Finance Committee shall adopt a Debt Policy; and

WHEREAS, the Debt Policy shall be reviewed and updated at least every four years; and

WHEREAS, the County Finance Committee shall make a recommendation to the Board of Commissioners on all requests for action on financing as recommended by the County Treasurer, and

WHEREAS, the aforementioned Debt Policy contains many procedures that require cooperation of various county departments; and

WHEREAS, the County Finance Committee recommends the adoption of the aforementioned Debt Policy by the Board of County Commissioners to ensure compliance with various county departments that report to the County Commissioners;
NOW THEREFORE

BE IT RESOLVED, the Board of County Commissioners hereby approves the Debt Policy (attached) and directs county departments to comply with the procedures contained therein.

Dated this _____ day of _____, 20__.

Chairman of the Board

Member

Member

Approved to as form:

Deputy Prosecuting Attorney

Constituting the Board of County
Commissioners of Benton County,
Washington

Attest: _____
Clerk of the Board

Prepared by D. Davidson, Treasurer

Cc: Auditor, Treasurer, Commissioners, Public Works

BENTON COUNTY



DEBT POLICY

Adopted May 11, 2009

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Section I. Introduction

Purpose and Overview

The citizens of Benton County, hereafter referred to as the "County", expect and deserve local government to be diligent stewards of the public's finances. In addition, the state legislature has mandated by state statute (RCW 36.48.070) the County Finance Committee with the responsibility of developing a debt policy.

The debt policy documents the roles, responsibilities, and expectations of the multiple parties involved with managing the public debt. Adherence to this policy is essential to protect the financial position and credit ratings of the public's institutions.

This policy shall be reviewed and updated, if needed, at least every four years and is open for inspection by means of either the department's web site or as a hard copy to the public in the county auditor's, county treasurer's, and county commissioners' offices.

Section II. Legal Governing Principles

In the issuance and management of debt, the County shall comply with the state constitution and with all other legal requirements imposed by federal, state, and local rules and regulations, as applicable. The following section highlights the legal framework of the debt issuance and roles and responsibilities in debt issuance.

Governing Law

Federal Rules and Regulations - The County shall issue and manage debt in accordance with the limitations and constraints imposed by federal rules and regulations, including Internal Revenue Code of 1986, as amended; the Treasury Department regulations thereunder; the Securities Act of 1933; and the Securities Exchange Act of 1934.

State Statutes - The County may contract indebtedness as provided for by Chapter 36.67.010 RCW and other applicable statutes. Indebtedness is subject to the limitations on indebtedness provided for in RCW 39.36.020(2) and Article VIII of the Washington State Constitution. Bonds evidencing such indebtedness shall be issued and sold in accordance with Chapters 39.46, 39.48, 39.50, and 39.53 RCW, as applicable. The County also may issue bonds and other obligations that are not "debt", including revenue bonds and special assessment bonds under the various statutes authorizing the issuance of such obligations.

Local Rules and Regulations - The County shall issue and manage debt in accordance with the limitations and constraints imposed by local ordinances and resolutions.

Purpose, Type, and Use of Debt

The County may issue debt for any purpose authorized by state law. Long-term debt is used solely for financing the cost of design, acquisition and/or construction of capital projects defined in the capital projects plan, adopted by the Board of County Commissioners, or to refund outstanding long-term debt. State statutes dictate what types of financing are available to the County depending on the type of project being financed. Bond Counsel shall be consulted during

the course of any issuance of debt and consulted regarding the specific question of the debt types available to the County for financing the project under consideration.

● **Limited Tax General Obligation (LTGO) Debt**

LTGO debt is payable from regular tax levies and revenues, and includes all types of obligations whether lease-purchase, financing contract, loans, bond or other payment obligations that are not limited to payment from a special enterprise fund. Rental leases are not considered debt, but financing leases are. LTGO debt is subject to statutory limitation of one and one half percent of the County's assessed value.

LTGO debt will be used for general county purposes when a specified repayment source has been identified through new revenue sources, expenditure reductions, increased revenue base, or in the event of an emergency.

● **Unlimited Tax General Obligation (UTGO) Debt**

UTGO debt is payable from excess tax levies and is subject to voter approval. Any proposition for UTGO debt must be approved by sixty percent of the voters casting a vote at a qualifying election. Total UTGO debt (including limited and unlimited tax) is subject to a statutory limitation of two and one-half percent of the County's assessed value.

Unlimited tax debt will be used for county capital purposes when the project has broad approval by the County's residents, or the use of an excess tax levy is necessary for debt service payments.

● **Revenue Obligations**

Revenue obligations are used to finance construction or improvements to facilities of enterprise systems operated by the County in accordance with a system and plan of improvements. The enterprise systems must be an established system legally authorized for operation by the County.

There are no legal limits to the amount of revenue bonds the County can issue, but there are practical limits to the County's ability to repay obligations.

The County will not incur revenue obligations without first ensuring the ability of an enterprise system to consistently meet any pledges and covenants customarily required by investors in such obligations during the term of the obligation.

● **Assessment-backed Obligations**

Assessment-backed obligations are used to finance projects that will provide special benefit to properties in a localized area. The benefited properties are charged a special assessment based upon a formula developed to fairly reflect the benefit received by each property owner in the assessment district. There are detailed statutes for the formation of assessment districts and assessing property, which contain specific timeframes for notice and conducting public hearings.

The County may form County Road Improvement Districts (CRIDs), Local Improvement Districts (LIDs), or Utility Local Improvement Districts (ULIDs) upon petition of benefiting

property owner(s), unless the County Commissioners determine to establish the districts by resolution.

The County Treasurer and the County Administrator will develop specific policies and procedures relating to financing assessment districts for recommendation to the Board of County Commissioners as mentioned in Section VI: Other Policies, subsection Improvement Districts.

- **Lease Purchase or Other Financing Contracts**

Lease purchase or financing contracts are payment obligations that represent principal and interest components for which the County receives the property after all payments are made. These represent general obligations of the County unless they have been structured as revenue obligations.

- **Local Option Capital Asset Lending (LOCAL) Program**

The LOCAL Program is available by the State Treasurer's Office. It is an expanded version of the state agency lease/purchase program that allows pooling funding needs into larger offerings of securities. This program allows local government agencies the ability to finance equipment needs and limited real estate projects through the State Treasurer's Office, subject to existing debt limitation and financial consideration. Equipment is defined as personal property with the general rule that the property is not permanently affixed to land or a building. Refer to Section VI: Other Policies, subsection Local Option Capital Asset Lending (LOCAL) Program for additional information.

- **Short-Term Obligations**

Short-term obligations will be used for the purpose of cash flow financing or to provide interim financing in conjunction with the development of a long-term financing plan. In no case will notes or other obligations be entered into for the purpose of funding deficits without prior development and review of a longer-term deficit-financing plan by the Finance Committee upon recommendation of the County Treasurer.

The use of short-term financing shall be evaluated by the County and compared with the cost of internal financing or interfund loans. All interfund loan resolutions will be reviewed by the County Treasurer to ensure that the appropriate reimbursable language is included, the correct fund numbers are used, and to develop the appropriate debt repayment schedule.

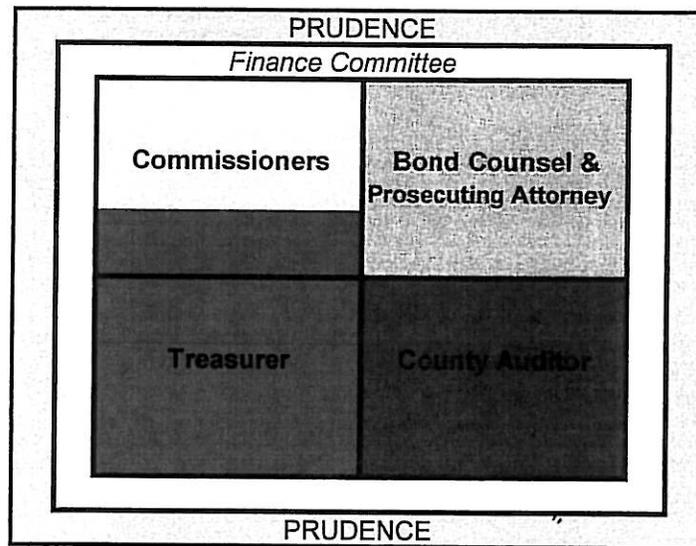
Limitation on Debt Issuance

Legal Debt Limits – For general obligation debt, constitutionally and statutorily, the County is limited to an indebtedness amount not exceeding a) 1 ½% of the value of the taxable property, without the assent of 3/5 of the voters voting at an election held for that purpose and b) 2 ½ % of the value of the taxable property, with the assent of 3/5 of the voters voting at an election held for that purpose (RCW 39.36.020). Debt limit compliance will be determined by the County's chosen Bond Counsel before any issuance of debt. Bond Counsel shall provide a calculation reflecting the County's compliance to the debt limitation and confer with the County Treasurer prior to debt issuance. The County Treasurer is responsible for supplying debt schedules (Schedules 9 & 10) for the County's Financial Report. General obligations include:

- ✓ General obligation bonds (voted and non-voted), including bond anticipation notes which are to be paid off with the proceeds of the bonds.
- ✓ Warrants and registered warrants issued against the general (current expense) or other tax supported funds.
- ✓ Other obligations of the general or other tax supported funds, except for loan agreements (statutory limit only) with agencies of the state of Washington or the U.S.A. dated on or after April 3, 1987. (RCW 39.36.060 and 39.69.020).

Roles and Responsibilities

The Model serves as a quick reference key to the associated responsibilities of the multiple parties involved with the management of public debt. Each party is responsible for applying and promoting prudent fiscal practices in conjunction with all duties bestowed upon them.



Note: Color-Specific Quadrants Correspond to Applicable Bullets Listed Below

Board of Benton County Commissioners - The Board of Benton County Commissioners shall:

- Approve indebtedness;
- Approve appointment of independent financial advisor and bond counsel;
- Approve budgets sufficient to provide for the timely payment of principal and interest on all debt;
- Provide for the issuance of debt at the lowest possible cost and risk;
- Provide for the issuance of debt at appropriate intervals and in reasonable amounts as required to fund approved capital expenditures;
- Approve the manner of sale of debt after advisement from the County Administrator/and or County Treasurer;

In consultation with the County's Prosecuting Attorney, financial advisor, and bond counsel, shall determine the most appropriate instrument for a proposed bond sale; and

Monitor opportunities to refund debt and recommend such refunding as appropriate.

Board of Benton County Commissioners/County Treasurer - The Board of Benton County and County Treasurer shall:

- Provide for and participate in the preparation and review of offering documents; and
- Provide for the distribution of pertinent information to rating agencies.

County Treasurer – The County Treasurer shall:

- Comply with all Internal Revenue Service (IRS) and Securities and Exchange Commission (SEC) rules and regulations governing the issuance of debt;
- Provide for the timely payment of principal and interest on all debt; work in conjunction with the county commissioners office and other departments for adequate cash flow to make bond payments; ensure that the fiscal agent receives funds for payment of debt service on or before the payment date;
- Distribute to appropriate repositories information regarding financial condition and affairs at such times and in the form required by law, regulation and general practice, including continuing disclosure undertakings made pursuant to SEC Rule 15c2-12;
- Maintain a current database with all outstanding debt; maintain debt service schedules; and provide the amounts needed for budgetary purposes to the commissioners' office during the budget call;
- Prepare for the county auditor's office consideration of debt Schedules 9 & 10, Schedule of Long-Term Debt & Schedule of Debt Limitation, for reporting purposes;
- Make bond payments for all debt, county or district, and advise the district if there are not adequate funds to make bond payments; and
- Provide any necessary information required and requested by Bond Counsel; review and comment on draft versions of the County's "official statement"; be provided with a copy of the closing documents and amortization schedules.

County Auditor – The County Auditor shall:

- Provide for the issuance of the County's Comprehensive Annual Financial Report (CAFR); and
- Submit the County's annual report to the State Auditor.

County Approved Bond Counsel/Prosecuting Attorney – The County’s chosen Bond Counsel shall:

- ❖ Determine the available debt capacity prior to debt issuance;
- ❖ Determine what legal types of financing are available;
- ❖ Develop the arbitrage certificate prior to each debt issuance that is intended to be tax-exempt.

Finance Committee – The Finance Committee shall:

- Approve the Debt Policy (RCW 36.48.070);
- Select the Underwriter to contract for the County’s bonds.

Ethical Standards Governing Conduct

The members of the County Finance Committee will adhere to standards of conduct set forth by local decree and state statute including:

- ✓ Public Disclosure Act (RCW 42.17)
- ✓ Ethics in Public Service Act (RCW 42.52)
- ✓ The Finance Committee will file a T1 report to the Public Disclosure Commission by April 15th every year pursuant to RCW 42.17.245.
- ✓ The Finance Committee will file a F1 report to the Public Disclosure Commission by April 15th every year pursuant to RCW 42.17.240.

Section III. Professional Services

If it is determined to be in the best interest of the County, in the issuance of debt, the following professionals and other service providers may be used. The selection of financial and legal professionals to assist the County in order to carry out financing programs will be through contracts approved by the Board of County Commissioners.

Bond Counsel

All debt issued by the County shall include a written opinion by legal counsel affirming the County is authorized to issue the debt, and that all state constitutional and statutory requirements necessary for issuance have been met. The legal opinion and other documents relating to the issuance of debt will be prepared by nationally recognized private legal counsel with extensive experience in public finance and tax issues. Bond counsel will be appointed by the Prosecuting Attorney to serve as special prosecutor to the County. Bond counsel under contract with the County may not serve as underwriter’s counsel on the same bond sale.

Financial Advisor

If determined by the County Finance Committee that it is in the best interest of the County to retain a financial advisor, the Finance Committee will select, with the Board of County Commissioners having the final approval, a financial advisor consistent with the County’s general

authority to contract. The financial advisor shall have comprehensive municipal debt experience, including debt structuring and pricing of municipal securities. The financial advisor shall not serve as underwriter for the County's bonds without first submitting written resignation as financial advisor, which clearly sets forth the firm's role relating to the bonds being issued. The financial advisor shall monitor the County's outstanding obligations, and identify refunding opportunities.

Underwriter

For negotiated sales, an underwriter will be selected by the County Finance Committee, consistent with the County's general authority to contract, taking into account the type of issue, experience offered and other relevant criteria. The selection of underwriter may be for an individual bond issue, series of financings or a specified time period, as determined by the Finance Committee. The underwriter shall have sufficient capitalization and experience to serve as underwriter for the County's bonds.

Fiscal Agent

The County Treasurer shall use the State Fiscal Agent appointed by the State Treasurer for the County and its junior taxing districts for which the County Treasurer serves as treasurer. The County Treasurer may also serve as registrar for very small issues or those privately placed with investors at their sole discretion. Without prior written approval of the County Treasurer, the County or special purpose districts cannot obligate the County Treasurer to serve as registrar as provided in RCW 39.46.030.

Other Service Providers

Professional services such as verification agent, escrow agent, or arbitrage rebate analyst may be appointed by the County Treasurer, and are considered incidental to the treasurer's role in the issuance of debt.

Section IV. Transaction-Specific Policies

Method of Sale

The County Treasurer shall determine the method of sale best suited for each issue of debt. When necessary to minimize the costs and risks of borrowing, the County will provide for the sale of debt by negotiating the terms and conditions of sale, including prices, interest rate, underwriting fees and other compensation. For any competitive sale of debt, the County will award the issue to the person or firm offering to buy the bonds at a price and interest rate that provides the lowest True Interest Cost.

Structure of Debt

Term of Financing - In no case will the term of any financing exceed the life of the asset being financed. In setting the term of debt, the County will attempt to balance the overall cost of financing with the annual payment burden. It is the goal of the County to establish a term of finance that ensures that the residents benefiting from the project are the ones who are paying over the life of the debt. The term will be structured consistent with a fair allocation of costs to current and future beneficiaries.

Refunding Obligations

The County Treasurer and/or County Administrator's office will monitor the County's outstanding debt and recommend issues for refunding as market opportunities arise. Debt shall be refinanced only for the purpose of achieving debt service savings, unless required to achieve specific debt management goals of the County. The County will not refinance debt for the purpose of deferring scheduled debt service, unless unique circumstances are present. The County is aware that refinancing for the purpose of deferring debt service may have an impact on its credit rating.

The County may purchase its bonds in the open market for the purpose of retiring the obligations, when cost effective. If an opportunity to refinance debt presents itself and timeliness is an important consideration, the County Treasurer, with the direction of the County Administrator, can seize the opportunity to refinance debt without going through the formal process of Board approval.

Net income from out-of-county contracts for the Benton County Jail is being deposited in the debt service fund (0299-101). Per the Benton County Budget Policies and Procedures, Resolution 09-102, these monies may be used to pay bonds off early.

Monies received from unanticipated revenue sources or opportunities may be used to accelerate debt repayment at the discretion of the Board of Benton County Commissioners. These monies shall be one-time and/or windfall revenue expectations that are not anticipated as steady revenue source for Benton County.

Section V. Communication & Compliance Policies

Reporting – State Auditor's Office

The Treasurer's office is responsible for preparing for the County Auditor's office consideration, the following debt related schedules for reporting purposes:

- (1) Schedule 9 Schedule of Long-Term Debt; and
- (2) Schedule 10 Schedule of Debt Limitation

Reporting-Arbitrage Compliance

It will be the policy of the County to minimize the cost of arbitrage rebate and yield restriction while strictly complying with the applicable laws. Because of the complexity of arbitrage laws, the County will contract for services to be done by a qualified firm, mainly for the purpose of performing the necessary calculations. The County Treasurer will budget for necessary funds to pay for these services and act as the liaison between the firm and the County.

Reporting-Municipal Securities Information Repositories

The County Treasurer will provide updated financial information and operating data and timely notice of specified material events to each nationally recognized municipal securities information repository, pursuant to its continuing disclosure undertakings with respect to SEC Rule 15c2-12.

Investment of Proceeds

The County shall comply with all applicable federal, state, and contractual restrictions regarding the investment of bond proceeds, including the County's Investment Policy. This includes compliance with restrictions on the types of investment securities allowed, restrictions on the allowable yield of some invested funds as well as restrictions on the time period over which some bond proceeds may be invested.

Arbitrage Liability Management

Prior to any debt issuance, the County Treasurer shall be provided with a schedule that shows the expected timing and amount of expenditures to be made from the project fund. The County Treasurer will provide this schedule to Bond Counsel for use in developing an Arbitrage Certificate.

The County Treasurer will keep records of investment of bond proceeds and bond funds sufficient to develop calculations required for compliance with arbitrage and other tax law requirements. The County Treasurer may retain the services of a qualified professional firm to provide computations relating to potential rebate liability of the County.

The County Treasurer is not responsible for arbitrage and other tax law requirements for junior taxing or benefit assessment districts for which the County Treasurer serves as ex officio treasurer. No such district is authorized to obligate the County Treasurer in any way, relating to these requirements.

Disclosure Practices

Primary Market Disclosure - The County Treasurer will serve as the focal point for information requests relating to official statements to be used in the initial offering of the County's bonds or notes. The County Treasurer will request from relevant departments and offices, information required for disclosure to investors and rating agencies. Each department or office bears responsibility for the information provided for use in the County's official statements. The County Commissioners will be provided with a copy of the official statement for each issue of debt, and the Chair of the Board will sign a statement attesting to the accuracy and completeness of the information therein.

Secondary Market Disclosure - The County Treasurer shall review any proposed undertaking to provide secondary market disclosure, and advise the County Commissioners of any suggested changes in information or deadlines contained therein. The County Treasurer will provide secondary market disclosure annually if the County has contracted to provide any.

Bond Users Clearinghouse

The County shall ensure that the Bond Users Clearinghouse receives municipal bond information for all debt sold as provided by chapters 39.44.200 through 39.44.240 RCW and Chapter 365-130 WAC.

Legal Covenants

The County shall comply with all covenants and conditions contained in governing law and any legal documents entered into at the time of a bond offering.

Section VI. Other Policies

Accounting for Bond Proceeds

Each bond resolution will provide for establishment of funds and accounts, which will be designated in advance by the County Treasurer. Investment will be made only in accordance with the County's investment policy and procedures established by the County Treasurer.

Improvement Districts

The Treasurer's office is responsible for monitoring the County Road Improvement District's (CRID) *Guarantee Fund*, pursuant to RCW 36.88.220. The County Treasurer shall advise the Board of County Commissioners when the need to transfer funds may be necessary to establish and maintain a balance therein equal to at least five percent of the outstanding debt obligation. Such transfer should occur at least annually, or upon the issuance of new debt.

The Treasurer's office will monitor debt service funds and call CRID bonds when appropriate.

Financing of CRIDs require coordination between the County Administrator (representing both the Commissioners and Public Works) and the County Treasurer. Several Financing options are available for consideration:

- (1) Traditional CRID bond financed for 15 years, or less, with a 10% Guarantee Fund;
- (2) CRID bonds which are secured by a county funded "Contingent Liability Fund";
- (3) Private placement bonds with sophisticated investors (for higher default risk situations);
- (4) County issued limited tax obligation bonds; and
- (5) County issued CRID debt in the form of an interfund loan or registered warrants.

The County Administrator and County Treasurer (after consultation with the Bond Attorney) will make a recommendation to the Board of County Commissioners of financing options for the Board's consideration.

Local Option Capital Asset Lending (LOCAL) Program

The Local Program is available by the State Treasurer's office. It is an expanded version of the state agency lease/purchase program that allows pooling funding needs into larger offering of securities. This program allows local government agencies the ability to finance equipment needs through the State Treasurer's office, subject to existing debt limitations and financial consideration. Equipment is defined as personal property with the general rule that the property is not permanently affixed to land or a building.

The County Commissioners will provide the County Treasurer with each proposed resolution authorizing the acquisition of equipment and a financing contract prior to its consideration at a public meeting. The County Treasurer shall be provided with detail regarding the equipment, cost and financing term for any proposed contract. The County Treasurer will provide the State Treasurer with a notice of intent and application form and with a credit form for approval.

Debt and Capital Planning

The County develops a capital improvement plan that lists the capital projects and needs of the County for a multi-year period, generally six years, consistent with the period of the County's road plan. The plan includes a description of each project or need identified, projected cost and timing of capital expenditures over a multi-year period, and preliminary sources of funds identified for repayment. The plan is commonly updated with priorities reviewed annually. Based upon the projects and/or priorities identified by the Board of Commissioners, the County Treasurer shall engage the Finance Committee to identify and develop a plan of finance and calendar of debt issuance. The County Treasurer shall make a recommendation to the Board of Commissioners for the financing needs identified.

Credit Objectives

Credit Ratings – The County's credit ratings are reflected in the CAFR on an annual basis. Current ratings can be obtained by the Treasurer's office.

In determining the County's credit rating for long term bonds, the County expects that the rating agency will consider:

- (1) The County's management, including qualifications and longevity of commissioners and other elected officials;
- (2) The financial condition of the County, including the amount of debt outstanding, payback period, direct and overlapping debt burdens, and debt management; and
- (3) Economic conditions in the County.

The County will seek to maintain the highest possible credit ratings for all categories of debt, without compromising delivery of basic County services and achievement of the County's policy objectives. It shall be the County's goal to maintain a long-term bond rating in the "A" category.

Consistent with maintenance of an "A" rating, the County shall maintain an undesignated balance in its general fund (or any related reserve fund that may be created for this purpose) reflected in the County's budget policy.

Additional polices intended to support the maintenance of the County's current ratings are contained throughout this debt policy and include:

- (1) Length of debt and payback goals;
- (2) Purpose, type and use of debt; and
- (3) Capital planning.

Credit Enhancement - For all bond issues, the County will evaluate whether it can achieve a debt service savings by obtaining municipal bond. Credit enhancement will only be used when the projected present value benefit is greater than the cost of insurance. The projected present value benefit will be determined by comparing the expected interest cost for the financing both with and without insurance, when discounted by the expected interest rate on the bonds. The County may purchase more than one bond rating for insured debt.

For negotiated sales of bonds, the County will pay the bond insurance premium from bond proceeds when a benefit is demonstrated following analysis.

For competitive sales of bonds, the County will make insurance available at the option and expense of bidders. Bidders may choose to purchase additional bond ratings at their own expense.

Restrictions on Private Business Use and Private Loans

The County Treasurer shall adopt procedures to inform the principal operating officials of those departments, including utility departments, of the County for which land, buildings, facilities and equipment are financed with proceeds of tax-exempt bonds about the restrictions on private business use that apply to that property after the bonds have been issued, and of the restriction on the use of proceeds of tax-exempt bonds to make or finance any loan to any person other than a state or local government unit.

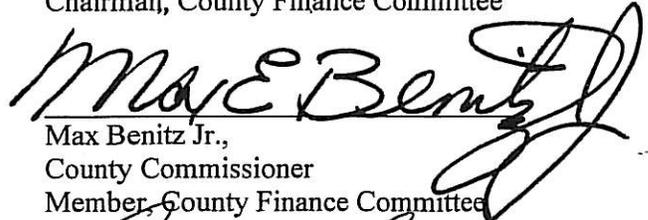
Records to be Maintained for Tax-Exempt Bonds

Written records (which may be in electronic form) will be maintained with respect to each County bond issue for as long as those bonds remain outstanding, plus three years, unless otherwise permitted by future IRS regulations or other guidance. For this purpose, the bonds include refunding bonds that refund the original bonds and thereby refinance the property that was financed by the original bonds.

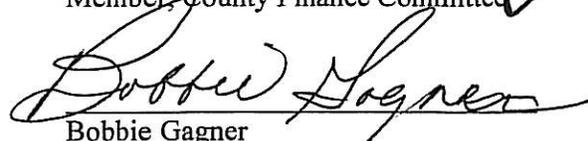
Approved and adopted this 11th day of May 2009, by the Benton County Finance Committee.



Duane A. Davidson, CPA
County Treasurer
Chairman, County Finance Committee



Max Benitz Jr.,
County Commissioner
Member, County Finance Committee



Bobbie Gagner
County Auditor
Secretary, County Finance Committee

Approved as to form:



Kathleen Galioto
Deputy Prosecuting Attorney

Glossary of Terms

Arbitrage – The gain which may be obtained by borrowing funds at a lower (often tax exempt) rate and investing the proceeds at higher (often taxable) rates.

Arbitrage Certificate – A document executed by the issuer of tax exempt municipal securities at the time of initial issuance certifying as to various matters relating to arbitrage rules under federal income tax laws.

Backloading – Deferring or postponing all or greater part of a financial obligation until the end of a contract, budget, etc.

Bond Counsel - An attorney (or firm of attorneys) retained by the issuer to give legal opinion concerning the validity of the securities. The bond counsel's opinion usually addresses the subject of tax exemption. Bond counsel may prepare, or review and advise the issuer regarding authorizing resolutions or ordinances, trust indentures, official statements, validation proceedings and litigation.

Debt – Obligations payable from taxes.

Finance Committee – The County Treasurer, Chair of the County Legislative Authority, and County Auditor authorized to approve the County investment and debt policies and responsible for making appropriate rules and regulations for carrying out the provisions of RCW 36.48.010 through 36.48.070.

Financial Advisor – A consultant who advises an issuer on matters pertinent to a debt issue, such as structure, sizing, timing, marketing, pricing, terms, and bond ratings.

Fiscal Agent – Those banks or trust companies appointed by the state for the payment of bonds and any coupons issued as designated in RCW 43.80.110 and 43.80.120.

General Obligation Bond – type of municipal bond that is secured by a state or local government's pledge to use legally available resources, including tax revenues, to repay bond holders.

Limited Tax General Obligation (LTGO) Bond – A type of General Obligation debt issue, which requires a local government to levy a property tax sufficient to meet its debt service obligations but only up to a statutory limit. Generally, local governments already levy a property tax and can choose to use a portion of the property tax it already levies, use some other revenue stream, or increase its property tax by an amount equal to its debt service payments.

Local Option Capital Asset Lending (LOCAL) Program Debt – A lease/purchase program contracted with the office of the State Treasurer. This program allows local government agencies the ability to finance equipment needs through the State Treasurer's office, subject to existing debt limitations and financial consideration.

Qualifying Election – An election that has the number of voters equal to 40 percent of the number of voters who voted in the last general election.

Refunding - When an entity that has issued callable bonds calls those debt securities from the debt holders with the express purpose of reissuing new debt at a lower interest rate. In essence, the issue of new, lower-interest debt allows the company to prematurely refund the older, higher-interest debt.

Revenue Bond – A bond which is payable from a specific source of revenue and to which the full faith credit of an issuer with taxing power is not pledged. Revenue bonds are payable from identified sources of revenue, and do not permit the bondholders to compel a jurisdiction to pay debt service from any other source. Pledged revenues often are derived from the operation of an enterprise. Generally, no voter approval is required prior to issuance of such obligations.

Short Term Debt - Warrants, notes, capital leases, or other evidences of indebtedness, except bonds authorized by RCW 39.50.030.

Special Assessment Bond – Debt issue that finances a special public improvement that specially benefits property in a localized area and is repaid by special assessments charged to the benefited property.

True Interest Cost – An expression of the average interest cost in present value terms. The true interest cost is a more accurate measurement of the bond issue's effective interest cost and should be used to ascertain the best bid in a competitive sale.

Underwriter – The firm that purchases a securities offering from a governmental issuer.

Unlimited Tax General Obligation (UTGO) Bond – A type of general obligation debt issue for which the local government is required to levy a property tax at whatever level is necessary (theoretically up to 100%) to recover a shortfall from taxpayer delinquencies. Often an unlimited-tax pledge must follow a voter authorization in which local residents agree to raise property taxes by an amount equal to debt service requirements over the life of the bonds. This feature provides the political advantage of voter affirmation of the use of the bonds and allows the local government to raise its property tax directly or find room in its budget to pay for debt service.

9:40

<u>AGENDA ITEM</u>	<u>TYPE OF ACTION NEEDED</u>	
Meeting Date: 5/18/09 Subject: Pension Bond Prepared by: <u>M. Wenner</u>	Execute Contract Pass Resolution <u> X </u> Pass Ordinance Pass Motion Other	Consent Agenda Public Hearing 1st Discussion <u> X </u> 2nd Discussion Other

BACKGROUND INFORMATION

See attached Order and Notice from the Department of Labor and Industries, which establishes a pension obligation for Gary Brenner who sustained an industrial injury while employed by Benton County. The Benton County Personnel/Risk Manager and the Deputy County Administrator have reviewed the options for funding the pension and have determined that obtaining a Self-Insurer's Pension bond would be in the best interest of Benton County at this time. Therefore, in order to obtain the pension bond, the General Contract of Indemnity must be signed

RECOMMENDATION

Having been reviewed by Melina Wenner, Personnel/Risk Manager, and Loretta Smith Kelty, Deputy County Administrator, we recommend the General Contract for Indemnity be signed in order to obtain the Pension Bond in compliance with the Department of Labor and Industries Order and Notice.

WO

DEPT. OF LABOR & INDUSTRIES
PENSION BENEFITS SECTION
PO BOX 44281
OLYMPIA WA 98504-4281

BENTON COUNTY RD DEPT
CCSI LP
PO BOX 560
RICHLAND, WA 99352

CLAIM ID: T976062 / 50873
MAILING DATE: 03/27/09
INJURY DATE: 12/13/99
SERVICE LOC: N/A
UBI NO: 035000971
ACCOUNT ID: 700,316-00
CLASS: 1501

GARY G BRENNER
1048 HEMLOCK ST
PROSSER, WA 99350-1048

RECEIVED
MAR 31 2009
CCSI, L.P.

ORDER AND NOTICE

WHEREAS Gary G. Brenner sustained an industrial injury on 12-13-99, while in the employ of Benton County, a self-insurer, and

WHEREAS the Department has made a determination that Gary G. Brenner is permanently and totally disabled and shall be placed on the pension rolls effective 03-16-09, and shall receive monthly benefits in the amount of \$1,201.78, (Accident Fund and Supplemental Pension Fund).

PURSUANT TO RCW 51.44.070 (1), the self-insured employer is required to submit to the Department of Labor and Industries the sum of \$111,797.00, the reserve required to pay the pension, or

PURSUANT TO RCW 51.44.070 (2), the self-insured employer is required to pay the cash deposit equal to three times the monthly pension benefit totaling \$2,649.42, and file the required bond in an amount to be determined by the Department of Labor and Industries. Under this election, further obligations for this pension shall be made quarterly to the Department of Labor and Industries.

Pending option of reserve obligation, the Department will commence payments immediately.

THE ABOVE AMOUNTS REQUIRED TO BE PAID BY THE EMPLOYER ARE EXCLUSIVE OF BENEFITS PAYABLE FROM THE SUPPLEMENTAL PENSION FUND.

Suzanne PeBovaranche for
Rita Norton
Pension Benefits Specialist
(360) 902-5119

Lrw

THIS ORDER WILL BECOME FINAL 60 DAYS AFTER YOU RECEIVE IT UNLESS YOU FILE WRITTEN REQUEST FOR RECONSIDERATION OR AN APPEAL WITHIN THAT TIME. YOUR REQUEST FOR APPEAL SHOULD INCLUDE THE REASONS YOU BELIEVE THIS DECISION IS WRONG. REQUESTS FOR RECONSIDERATION MUST BE SENT TO DEPARTMENT OF LABOR AND INDUSTRIES, AT THE ABOVE ADDRESS. APPEALS MUST BE SENT TO THE BOARD OF INDUSTRIAL INSURANCE APPEALS, 2430 CHANDLER COURT SW, PO BOX 42401, OLYMPIA WA 98504-2401. IF YOU REQUEST RECONSIDERATION, WE WILL REVIEW YOUR CLAIM AND SEND YOU A NEW ORDER. IF YOU STILL DISAGREE, YOU MAY THEN APPEAL TO THE BOARD

Self-Insurance Employer File Adjudicator

12/1/09

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AUTHORIZING THE CHAIRMAN OF THE BOARD OF BENTON COUNTY COMMISSIONERS AND THE BENTON COUNTY PERSONNEL/RISK MANAGER TO SIGN THE GENERAL CONTRACT OF INDEMNITY FOR A SELF-INSURER'S PENSION BOND REQUIRED BY THE WASHINGTON STATE DEPARTMENT OF LABOR AND INDUSTRIES.

BE IT RESOLVED that the Chairman of the Board of Benton County Commissioners and the Benton County Personnel/Risk Manager are hereby authorized to sign the attached General Contract of Indemnity.

Dated this day of, 20

Chairman of the Board

Chairman Pro-Tem

Member

Constituting the Board of County
Commissioners of Benton County,
Washington

Attest:
Clerk of the Board

cc: Personnel, Auditor

**General Contract
Of Indemnity
(Form BP)**

**TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA
Hartford, Connecticut 06183**

We, the undersigned, hereinafter referred to, individually and/or collectively, as "Indemnitors," hereby request, have requested and/or will request TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, ST. PAUL FIRE AND MARINE INSURANCE COMPANY, any of their present or future direct or indirect parent companies, any of the respective present or future direct or indirect affiliates or subsidiaries of such companies and parent companies, and/or any of the aforementioned entities' successors or assigns, hereinafter referred to, individually and/or collectively, as "Company," to execute or procure bonds, undertakings, guarantees, and/or contractual obligations, including renewals and extensions thereof, whether before or after the date of this Agreement, and bonds and undertakings for which Company has obligations as a result of an asset purchase, acquisition, merger or like transaction, hereinafter referred to, individually and/or collectively, as "Bond(s)." As an inducement therefore we make the following representations of fact, promises and agreements:

REPRESENTATIONS OF FACT:

1. In the transaction of business one, some or all of the Indemnitors are required, or may desire to give such Bond(s).
2. Indemnitors have a substantial, material and beneficial interest (a) in the obtaining of Bond(s) by any of the Indemnitors and (b) in the transaction(s) for which any other Indemnitor has applied or will apply to Company for Bond(s) pursuant to this General Contract of Indemnity, hereinafter referred to as "Agreement." It is understood that the purpose of this Agreement is to induce Company to furnish Bond(s); however, Company is under no obligation to furnish Bond(s) to Indemnitors.
3. Indemnitors have the full power and authority to execute, deliver and perform this Agreement and to carry out the obligations stated herein. Indemnitors further acknowledge and agree that (a) the execution, delivery and performance of this Agreement by such Indemnitors, (b) the compliance with the terms and provisions hereof, and (c) the carrying out of the obligations contemplated herein, do not, and will not, conflict with and will not result in a breach or violation of any terms, conditions or provisions of the charter documents or bylaws of such Indemnitors, or any law, governmental rule or regulation, or any applicable order, writ, injunction, judgment or decree of any court or governmental authority against Indemnitors, or any other agreement binding upon Indemnitors, or constitute a default thereunder.

PROMISES AND AGREEMENTS: In consideration of the furnishing of any such Bond, the forbearance of cancellation of any existing Bond(s) by Company, the assumption of obligations by Company of any Bond, and for other valuable consideration, Indemnitors hereby jointly and severally promise and agree as follows:

- To pay all premiums for each Bond, as they fall due, until Company has been provided with competent legal evidence that the Bond has been duly discharged.
2. To indemnify and exonerate Company from and against any and all loss, cost and expense of whatever kind which it may incur or sustain as a result of or in connection with the furnishing of Bond(s), the assumption of obligations by Company of Bond(s), and/or the enforcement of this Agreement, including unpaid premiums, interest, court costs and counsel fees, and any expense incurred or sustained by reason of making any investigation, hereinafter referred to as "Loss." To this end Indemnitors promise:
 - (a) To promptly reimburse Company for all sums paid on account of such Loss and it is agreed that (1) originals or photocopies of claim drafts, or of payment records, kept in the ordinary course of business, including computer printouts, verified by affidavit, shall be prima facie evidence of the fact and amount of such Loss, and (2) Company shall be entitled to reimbursement for any and all disbursements made by it, under the belief that it was liable, or that such disbursement was necessary or expedient.
 - (b) To deposit with Company, on demand, the amount of any reserve against such Loss which Company is required, or deems it prudent to establish whether on account of an actual liability or one which is, or may be, asserted against it and whether or not any payment for such Loss has been made.
3. This Agreement shall apply to any and all Bond(s) furnished as follows:
 - (a) If Company executes the Bond(s), procures the execution of Bond(s) by other sureties, executes Bond(s) with co-sureties and/or obtains reinsurance;
 - (b) For or on behalf of any or all of the following:
 - (1) One, some or all of the Indemnitors;
 - (2) Any joint venture or other form of common enterprise in which Indemnitors were members at the time the Bond(s) were furnished;
 - (3) Any present or future affiliate and/or subsidiary of Indemnitors;
 - (4) Any third party at the request of Indemnitors, their subsidiaries and/or affiliates.
 - (a) The validity and effect of this Agreement shall not be impaired by, and Company shall incur no liability on account of, and Indemnitors need not be notified of:
 - (1) Company's failure or refusal to furnish Bond(s), including final Bond(s) where Company has furnished a bid Bond;

- (2) Company's consent or failure to consent to changes in the terms and provisions of any Bond, or the obligation or performance secured by any Bond;
 - (3) The taking, failing to take, or release of security, collateral, assignment, indemnity agreements and the like, as to any Bond;
 - (4) The release by Company, on terms satisfactory to it, of any Indemnitors; or
 - (5) Information which may come to the attention of Company which affects or might affect its rights and liabilities or those of any of the Indemnitors.
- (b) The validity and effect of this Agreement shall not be impaired by and Company shall incur no liability on account of the cancellation or termination of any Bond(s).
5. (a) Indemnitors shall, within thirty (30) days of receipt of Company's written demand ("Discharge Demand"), procure the full and complete discharge of the Company from any and all Bond(s) by providing competent written evidence of discharge satisfactory to Company, in its sole discretion. If Indemnitors fail to provide the aforementioned discharge Indemnitors shall, within an additional seven (7) days, provide Company with an irrevocable letter of credit in form, content and by a bank acceptable to Company. The letter of credit shall be in an amount equal to the total of all undischarged liability under said Bond(s), which liability shall be determined at the time of the Company's Discharge Demand. Collateral or letters of credit previously provided to Company may be utilized to establish compliance with this provision. If the undischarged liability subsequently increases, then it is the Indemnitors' responsibility to ensure continued compliance with this provision at all times.
- (b) Indemnitors waive, to the fullest extent permitted by law, each and every right that they may have to contest this requirement. Indemnitors stipulate and agree that Company will not have an adequate remedy at law should Indemnitors fail to post said letter of credit and further agree as a result that Company is entitled to specific performance of this provision. Company's failure to act to enforce its right to specific performance shall not be construed as a waiver of that right, which right may be enforced at any time at the Company's sole discretion.
- (c) Indemnitors further agree that this requirement for a letter of credit shall not limit or be deemed a waiver of the Company's other rights, which it may exercise in its sole discretion, under this Agreement or otherwise to cancel Bond(s), to demand collateral or letters of credit, or to take any other actions Company deems necessary and/or prudent, in its sole discretion, to mitigate actual or potential Loss under any and all Bond(s) written in accordance with this Agreement. The exercise of such additional rights shall not be contingent upon the Company's enforcement of this provision.
6. Any letter of credit to be provided to Company shall be sent via overnight delivery to the following address: St. Paul Travelers Bond, Attention: Bond Finance - Collateral Processing, One Tower Square, Hartford, Connecticut 06183.
- Indemnitors shall have no rights of indemnity, contribution or right to seek collection of any other outstanding obligation against any other Indemnitors or their property until the obligations of the Indemnitors to Company under this Agreement have been satisfied in full.
8. Company shall have the right, in its sole discretion, (a) to deem this Agreement breached should any Indemnitor become involved in any agreement or proceeding of liquidation, receivership, bankruptcy, insolvency or creditor assignment, whether voluntarily or involuntarily, or should any Indemnitor, if an individual, die, or be convicted of a felony, become a fugitive from justice, or for any reason disappear and cannot immediately be found by Company by use of usual methods, and (b) to adjust, settle, compromise or defend any claim, demand, suit or judgment upon any Bond(s).
9. If Company has or obtains collateral or letters of credit, Company shall not have any obligation to release collateral or letters of credit or turn over the proceeds thereof until it shall have received a written release in form and substance satisfactory to Company with respect to each and every Bond. Any collateral or letters of credit provided to Company by any Indemnitor or any third party, or the proceeds thereof, may be applied to any Loss.
10. Indemnitors also understand and agree that their obligations remain in full force and effect for any Bond(s) issued pursuant to this Agreement, notwithstanding that the entity on whose behalf Bond(s) were issued has been sold, dissolved or whose ownership has been otherwise altered in any way.
11. This Agreement shall remain in full force and effect until terminated. Indemnitors may only terminate participation in this Agreement by providing written notice to Company of Indemnitors' intent to terminate. Such notice shall be addressed to St. Paul Travelers Bond, Attention: Senior Vice President Commercial Surety, One Tower Square, Hartford, Connecticut 06183. Such notice of termination shall become effective thirty (30) days after Company's receipt of the same. The obligations and liability of Indemnitors giving such notice shall thereafter be limited to Bond(s) furnished before the effective date of the notice, which liability shall include any Bond(s) which were originally issued prior to the effective date of notice and renewed or otherwise extended subsequent to the notice or effective date of termination.
12. Whereas, the obligee or beneficiary under certain Bond(s) may make a demand for payment ("Demand") against the Bond(s). When such Demand is made, Company must pay the amount of the Demand, not to exceed the penal sum of the Bond(s), as well as all necessary fees, within the time period required by the Demand. Under such Bond(s), Company, with the knowledge and consent of the Indemnitors, has expressly waived all defenses to making such payment. If the Indemnitors receive notice from Company that a Demand has been made against the Bond(s) by the obligee or beneficiary, Indemnitors will, at least three (3) business days before payment of such Demand is due the obligee, pay Company the full amount of the Demand, which amount shall not exceed the penal sum of the Bond, as well as all necessary fees. Such payment will be made by wire transfer or otherwise in immediately available funds to the bank account specified in the notice provided to the Indemnitors by Company. The Indemnitors waive, to the fullest extent permitted by applicable law, each and every right which they may have to contest such

payment. Failure to make payment to Company as herein provided shall cause the Indemnitors to be additionally liable for any and all costs and expenses, including attorney's fees, incurred by Company in enforcing this Agreement, together with interest on unpaid amounts due Company. Interest shall accrue, commencing the date Company pays the amount of the Demand, at 130% of the prime rate of interest in effect on December 31 of the previous calendar year as published in the Wall Street Journal. Indemnitors stipulate and agree that the Company will suffer immediate irreparable harm and will have no adequate remedy at law should Indemnitors fail to perform this obligation, and therefore Company shall be entitled to specific performance of this obligation.

13. Indemnitors hereby expressly authorize Company to access credit records and to make such pertinent inquiries as may be necessary from third party sources for underwriting purposes, claim purposes and/or debt collection. To the extent required by law, Company will, upon request, provide notice whether or not a consumer report has been requested by Company, and if so, the name and address of the consumer reporting agency furnishing the report.
 14. In the event of a claim or notice of a potential claim, Company shall have the right, at all times, to free access to the books, records, and accounts of the Indemnitors for the purpose of examining the same.
 15. Company may furnish copies of any and all statements, agreements, financial statements and any information which it now has or may hereafter obtain concerning Indemnitors, to other persons or companies for the purpose of procuring co-suretyship or reinsurance.
 16. A duplicate or facsimile copy or electronic reproduction of the original document shall have the same force and effect as the original.
 17. This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which together shall constitute one instrument. Each counterpart may consist of a number of copies hereof, each signed by less than all, but together signed by all, of the parties hereto.
 18. If any provision or portion of this Agreement shall be unenforceable, this Agreement shall not be void, but shall be construed and enforced with the same effect as though such provision or portion were omitted.
 19. This Agreement is in addition to and not in lieu of any other agreements and obligations undertaken in favor of Company, whether now existing or entered into hereafter.
 20. The rights and remedies afforded to Company by the terms of this Agreement can only be impaired by a written rider to this Agreement signed by an authorized employee of the Company.
 21. Company's failure to act to enforce any or all of its rights under this Agreement shall not be construed as a waiver of these rights.
 22. The date of this Agreement shall be the earliest date any Indemnitor executes this Agreement.
23. Special Provisions: n/a

WE HAVE READ THIS CONTRACT OF INDEMNITY CAREFULLY. THERE ARE NO SEPARATE AGREEMENTS OR UNDERSTANDINGS WHICH IN ANY WAY LESSEN OUR OBLIGATIONS AS ABOVE SET FORTH. IN TESTIMONY HEREOF, WE THE INDEMNITORS HAVE SET OUR HANDS AND FIXED OUR SEALS AS SET FORTH BELOW.

If Indemnitor an Individual, sign below:

Instructions: Signatures of individual Indemnitors must be witnessed. Indemnitors must include their Social Security Number. All signatures must be dated with names printed or typed on the line provided.

(Witness Signature) (Date)

Print or Type Name:

(Indemnitor Signature) (Date)

Print or Type Name:

SS#:

If Indemnitor a Corporation, Limited Liability Company or Partnership, sign below:

Instructions: If the entity is: 1) a corporation the secretary and an authorized officer should sign on behalf of the corporation, 2) a limited liability company the manager(s) or member(s) should sign on behalf of the LLC, or 3) a partnership the partner(s) should sign on behalf of the partnership. Two signatures are required for all entities and all signatures must be notarized and dated. Please provide the entity's federal tax identification number on the line provided.

Each of the undersigned hereby affirms to Company as follows: I am a duly authorized official of the business entity Indemnitor on whose behalf I am executing this Agreement. In such capacity I am familiar with all of the documents which set forth and establish the rights which govern the affairs, power and authority of such business entity including, to the extent applicable, the certificate or articles of incorporation, bylaws, corporate resolutions and/or partnership, operating or limited liability agreements of such business entity. Having reviewed all such applicable documents and instruments and such other facts as deemed appropriate, I hereby affirm that such entity has the power and authority to enter into this Agreement and that the individuals executing this Agreement on behalf of such entity are duly authorized to do so.

BENTON COUNTY, WASHINGTON

(Indemnitor Name)

(First Signature)

(Seal)

(Federal Tax ID)

(Print or Type Name and Title)

(Date)

(Second Signature)

(Seal)

(Print or Type Name and Title)

(Date)

ACKNOWLEDGEMENT

STATE OF _____ County of _____

On this _____ day of _____, _____, before me personally appeared _____, known or proven to me to be the _____ of the Entity, and they acknowledged said instrument to be the free and voluntary act and deed of said Entity, for the uses and purposes therein mentioned and on oath stated that the seal affixed is the seal of said Entity and that it was affixed and that they executed said instrument by authority of the Entity. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my OFFICIAL SEAL the day and year first above written.

Notary Public residing at _____
(Commission expires _____)

ACKNOWLEDGEMENT

STATE OF _____ County of _____

On this _____ day of _____, _____, before me personally appeared _____, known or proven to me to be the _____ of the Entity, and they acknowledged said instrument to be the free and voluntary act and deed of said Entity, for the uses and purposes therein mentioned and on oath stated that the seal affixed is the seal of said Entity and that it was affixed and that they executed said instrument by authority of the Entity. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my OFFICIAL SEAL the day and year first above written.

Notary Public residing at _____
(Commission expires _____)