

July 7, 2008

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

MINUTES

BOARD OF BENTON COUNTY COMMISSIONERS

Regular Board Meeting
June 23, 2008, 9:00 am.
Commissioners' Conference Room
Benton County Courthouse, Prosser, WA

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

Benton County Employees Present: Deputy Administrator Loretta Smith Kelty; Adam Fyall, Community Development Coordinator; Finance Manager Linda Ivey; Facilities Manager Roy Rogers; Personnel Manager Melina Wenner; Carrie Huie-Pascua and Robin Callow, Human Services; Public Works Director Ross Dunfee, Safety/Training Coordinator Bryan Perry; DPA Ryan Brown; Sue Schuetze, Public Works; Deputy Auditor Brenda Chilton; Pat Powell, Auditor's Office; Treasurer Duane Davidson; Steve Becken, Public Works; Erhiza Rivera, Treasurer's Office; District Court Judge Bob Ingvalson; and District Court Administrator Jacki Lahtinen.

Approval of Minutes

The Minutes of June 16, 2008 were approved.

Review Agenda

Commissioner Benitz requested that item "i" (Engineer's Report for Piert Road) be pulled from the consent agenda.

Consent Agenda

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

Auditor

- a. Surplus of Personal Property
- b. Letter to State Auditor

Clerk

- c. Grant Agreement w/WA State, Division of Archives & Records Management

Facilities

- d. Amendment to Service Agreement w/Oxarc, Inc. for Fire Extinguisher Services

e. Amendment to Service Agreement w/MRP Services for Plumbing Services
Juvenile

f. Agreement w/WSU for Evaluation of Family Treatment Drug Court

g. Line Item Transfer, Fund No. 0115-101, Dept. 174

Planning

h. Travel Expense Reimbursements

Road/Engineer

j. Pavement Marking – 2008

k. Plat Roads for Country Meadow Heights, CE 1892 CRP

l. Franchise Approval for Wyckoff Farms, Inc.

Sheriff

m. Purchase of Motorola Radios

Item “i” (Engineer’s Report for Piert Road)

MOTION: Commissioner Bowman moved to approve consent agenda item “i”. Chairman Oliver seconded.

Discussion

Commissioner Benitz requested the new report from JUB Engineers and the letter from Columbia Energy committing to pay the County \$50,000 at \$5,000.00 per month be reviewed before setting the public hearing. Additionally, he requested the hearing be held in Finley.

Ross Dunfee said he could make a change to hold the public hearing in the evening at the Finley Grange. Additionally, Mr. Dunfee said that Columbia Energy had indicated the money would be paid before the end of the year. Commissioner Bowman said he agreed with Commissioner Benitz’ concerns, but still wanted to hold the public hearing.

Mr. Dunfee said he would bring a new resolution specifying the hearing be held in Finley.

Upon vote, the motion carried with Commissioner Benitz opposing.

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

Public Hearing – City of Benton City Franchise

Sue Schuetze said they received a request from the City of Benton City to continue their franchise and based upon current franchise requirements, recommended approval.

As there was no one present to testify, public testimony was closed.

MOTION: Commissioner Benitz moved to approve the franchise filed by the City of Benton City for placing domestic water and sewer distribution within County road right of way, with the listed conditions. Commissioner Bowman seconded and upon vote, the motion carried.

Homeless Housing Quarterly Report

Robin Callow and Carrie Huie-Pascua summarized the work completed by CAC and said they had requested projected expenses to the end of the year due to overspending during the first quarter.

Judith Gidley and Cricket Cordova updated the Board on the following issues:

- 1st Quarter Stats
- 2008 Point-In-Time Count by County and Review of Findings
- 2007 Annual Report – Homeless Housing and Assistance Act
- HOME BASE Satellite Agencies Services flow chart
- Homeless Housing Grant Assistance (HGAP) Website Posting

Commissioner Bowman specifically requested quarterly or semi-annual comparisons for trend lines so he had something to compare the reports to.

Chairman Oliver requested they build a reference to inmate population counts to see what was happening from year to year based on increases and those in transitional housing and HGAP. He also requested Ms. Callow to get involved in the 10-year plan and identify the types of housing in this community that currently did not exist, with a wall chart in terms of mental health, veterans, etc. He said he also wanted to see the pots of money that Benton & Franklin Counties had available to make that happen in the next 10 years.

Commissioner Bowman said it was important to separate contract inmates from Benton County inmates. Commissioner Benitz stated the contract was granted funded and needed to remain a grant-based organization.

Other Business

Rattlesnake Mountain

Commissioner Benitz presented a draft letter created by Hanford Communities and other users outlining the issues of those impacted on Rattlesnake Mountain. He said the objective was to obtain permanent egress for leaseholders. He requested the Board provide comments to Mr. Sparks and he would take them back to the committee.

Commissioner Bowman said the six bullets were right on target. Chairman Oliver said he would support it because of its multi-use benefits. Additionally, he said the observatory had very unique features that should be considered.

Board of Commissioners Travel Policy

Chairman Oliver provided information on money spent by individual commissioners from the travel budget and asked the Board if it wanted to develop a policy for Commissioners.

Commissioner Bowman said if committee assignments continue to require travel, he would continue to do so. He indicated he did not see a reason to separate amounts and allocate to each commissioner.

Commissioner Benitz said he agreed it tied back to committee assignments and did not believe the policy should be changed. He said if it was clearly in the best interest of the County, then it should remain the same.

Other Business

South Benton County - Mosquito District

Commissioner Benitz said he received a letter from Mr. Montgomery at the West Umatilla Vector Control requesting the need for mosquito control in South Benton County. Commissioner Benitz outlined some options, including landowner petition to annex into the mosquito control district, possible U.S. Fish & Wildlife and/or Corps of Engineers involvement, or the Board moving forward to a ballot without a petition. He said he would pen a letter for the Chairman to sign, with Board concurrence. The Board agreed.

Contract w/Propertyroom.com – Auction of Unclaimed Property

Marsha Hart, Sheriff's Office via videoconference presented a resolution and agreement between Benton County and Propertyroom.com to sell equipment and unclaimed property at public auctions. She indicated it was a more efficient way to dispose of surplus or seized property, at no cost to the County and with reduced staff hours. She said the form was approved by the PA's office.

Pat Powell said he participated in the conference call with Ms. Hart and it appeared the County could get a larger audience of people bidding on the property and it seemed to be a reasonable and more efficient approach.

Ryan Brown stated the Board needed to confirm the contract was consistent with the current personal property management policy. The Board agreed to postpone the matter for further clarification.

Public Meeting – SUB 07-03 – Preliminary Plat of Rivers Edge Estates

Mike Shuttleworth presented the preliminary plat application submitted by Rivers Edge Estates and said the Board was holding a closed record meeting and was not allowed to accept new testimony. He said the Planning Commission completed its open record hearing and recommended denial based on agricultural impacts (pesticide spraying) and transportation issues.

Mr. Shuttleworth said the Planning Department recommended the Board either approve with conditions or find and conclude there was not sufficient evidence and remand the issue back to the Planning Commission.

DPA Ryan Brown said this was a quasi-judicial matter, not legislative, to determine if adequate provisions had been made for public health, safety and welfare, and not subject to the provisions of the open public meeting act, RCW 42.30.140. He recommended the Board hold a closed-door session to receive legal advice.

The Board went into a closed-door session at 10:14 a.m. for approximately 10 minutes with DPA Ryan Brown to receive legal advice. Also present were David Sparks, Cami McKenzie, Mike Shuttleworth and Loretta Smith Kelty. The Board came out at 10:28 a.m. Mr. Brown said that no decisions were made.

John Ziobro, attorney for applicant, said he was calling into question some of the findings. He said the traffic and agricultural spray issues merit some consideration, but requested the original recommendation be followed. He said that pesticide spray needs to be a proven impact and did not meet the trigger for denial of the application. Further, the State of Washington regulated pesticide sprays and did not comment on this application, therefore, was not a basis for denial. Additionally, the traffic issue was identified, but the County Engineer did not have any comments on the matter. Mr. Ziobro said there was always the chance that neighboring landowners would have displeasure and fear with new subdivisions, but it was not a basis for denial and the evidence in the record supported approval.

Joseph Romney, Prosser, asked for clarification on the size of the lots and whether they could include a road and/or be smaller than 2 ½ acres. Mr. Shuttleworth said the 2½ acres was for total density so it could include the road and could also be smaller.

There was no one else present to testify.

Commissioner Benitz requested the matter be remanded back to the Planning Commission to clarify adequacy of public roads for emergency service, public transit, and the public health issue relating to agricultural impacts.

Commissioner Bowman agreed and also requested a Commissioner be assigned to work with staff on the issue. Commissioner Benitz recommended the Chairman and Chairman Oliver agreed.

MOTION: Commissioner Benitz moved to remand the issue back to the Planning Commission to take additional testimony on adequacy of roads, adequacy of transit system, and public health and safety relative to agricultural impacts. Commissioner Bowman seconded and upon vote, the motion carried.

The Board scheduled the remand order to be presented for approval on July 7, 2008 at 10:10 a.m.

Other Business

Meeting Cancellation

The June 30 meeting was cancelled by majority of the Board.

Public Meeting – SUB 07-10 – Kathryn Heights

Mike Shuttleworth said the Planning Commission completed its open record hearing for the preliminary plat application of Kathryn Heights and voted to recommend approval with conditions. Additionally, Mr. Shuttleworth entered into the record a letter from MacKay & Sposito, Staff Exhibit “B”, disputing the requirement for construction of a sidewalk with curbs and gutters.

Chairman Oliver asked Mr. Kowatsch of MacKay & Sposito, why it was opposed to this requirement.

Peter Kowatsch said they understood the curb and gutter was a requirement for the well, but installing a curb and gutter in this subdivision would not do anything to assist with the water runoff. He said it was never clearly stated that it was a requirement, however, they were not opposed to putting one in.

Mr. Shuttleworth said they asked the Planning Commission if the curb and gutter was going to be required and they indicated it was.

Public testimony was closed.

MOTION: Commissioner Benitz moved to approve the preliminary plat SUB 07-10 and adopt the findings of fact and conclusions. Commissioner Bowman seconded and upon vote, the motion carried.

Public Hearing – Supplemental Appropriations

Linda Ivey presented the supplemental appropriation to 2008 Current Expense fund in the amount of \$4,295,717,

Chairman Oliver asked if allocation to funds could be changed. Mr. Sparks said as long as the amount did not change, the allocation could be changed.

Testimony

Bert Lake, Park Board Chairman, provided a letter outlining the concerns of the Park Board. He said he was speaking for the majority of the Board and it objected to any reduction in the Park Development fund. Additionally, he said on a personal note, the Park Board had been very appreciative of the cooperation from the Board of Commissioners.

Vickie Clark via/videoconference, said she was as a partner in parks, attended the meetings regularly, and supported the Park Board’s position to continue with their comprehensive plan and vision of the future. She said that Donna Raines was in attendance earlier but had to go back to work, and wanted her opposition to reduction in the Park Development fund noted.

As there was no one else present to testify, public testimony was closed.

Commissioner Bowman expressed gratitude to the Park Board for their work. However, he said it was appropriate to approve the supplemental appropriation as presented. He did indicate the Board could approve additional funding in the future, if needed and if available.

Commissioner Benitz said he understood the Park Board's position, however, the County had two big projects that needed funding. He said they would continue to be a partner for the parks.

MOTION: Commissioner Benitz moved to approve the resolution for the supplemental appropriation as presented. Commissioner Bowman seconded.

Discussion

Chairman Oliver said he was opposed to the supplement as presented. He said the Park Board had approved the Comp. Plan planning process, and it was now ready for review and approval by the Planning Commission. He indicated the public had been involved in the process and very supportive. He said this decision left a gap in funding, these were good economic times, and the Board needed to respect that because it was hard to catch up in the economic downswing.

Upon vote, the motion carried with Chairman Oliver opposing.

Continued Franchise Discussion

Commissioner Benitz said he was agreeable to changing the franchise term from five years to 10 years with a \$250.00 application fee.

Commissioner Bowman said the recommendation by Public Works was to change the application fee to \$500.00 at \$50/year for administration.

Health District – 2008 Budget Revisions

Commissioner Benitz provided information on 2008 budget revisions for the Health District. He said that all aspects of the budget were reviewed and the Health District had not increased fees for over ten years. He requested the Board move forward with a public hearing on a supplement in the amount of \$281,593.00.

Commissioner Bowman asked if this was a one-time hit or if it was perpetual. Mr. Sparks said the Board would be looking at a \$600,000 increase in 2009. Commissioner Benitz said the funding committee would come back with a recommendation on providing those services based on revenue & expenditures.

Chairman Oliver requested they complete a comparative analysis of salaries between the Health District and Benton County before looking at increased fees. He said he was willing to go along with the recommendation for now, but would rather see options developed.

MOTION: Commissioner Benitz moved to go to public hearing for the supplemental appropriation to the Health District. Commissioner Bowman seconded and upon vote, the motion carried.

Closure of Richland UGA Appeal

DPA Ryan Brown said the appellant had indicated he was willing to enter into a stipulation to not file another appeal. He asked the Board if it was willing to waive the statutory costs in the approximate amount of \$300.00. The Board concurred.

Transitional Housing Operating Rents

Judith Gidley presented the approval for the Chairman to sign Form "E", Consistency with Local Ten-Year Plan for transitional housing operating rents.

MOTION: Commissioner Benitz moved to approve the Chairman to sign the Form "E". Commissioner Bowman seconded and upon vote, the motion carried.

Court Commissioners Discussion

Judge Bob Ingvalson said the philosophy had always been that judges should be elected and the movement had been to remove court commissioners. Additionally, he said a statute was recently approved to limit the authority of court commissioners and now in order to get the work done, they need judges. He indicated the additional cost to the County would be \$28,000 per year for two judges. He requested the Board approve a letter to the Legislature stating the County agreed with the request for two additional judges. He said approval of the judges did not obligate the County to fund them.

MOTION: Commissioner Bowman moved to support sending a letter asking the State Legislature for two new elected judges, to be signed by the Chairman. Commissioner Benitz seconded and upon vote, the motion carried.

Other Business

BCES (Benton County Emergency Services)

Commissioner Benitz said the City of Richland had proposed a new agreement to provide administrative services for BCES. He indicated he was concerned about the terms and proposed structure of the agency and making sure all entities had a say in the executive decisions.

The Board discussed reviewing the issue of BCES becoming a stand alone agency, along the same lines as the Health District.

The Board agreed to have Mr. Sparks review the matter and bring back a recommendation to the Board with very clear and defined objectives.

Chairman Oliver asked Mr. Sparks to also review the CCRC agency and whether it was appropriate to look at a stand-alone BCES that could incorporate other community agencies.

WSAC

Commissioner Bowman provided a summary packet from the WSAC board meeting last week for the Board's review.

Fairgrounds – KHS Class Reunion Event

Commissioner Oliver indicated the All Class Reunion was a success and the County needed to continue to work to keep the folks happy.

Other Business

Executive Session

The Board went into executive session at 11:55 a.m. for approx. 10 minutes with DPA Ryan Brown to discuss potential litigation. Also present were David Sparks, Cami McKenzie, Loretta Smith Kelty, Bryan Perry, Melina Wenner, and Roy Rogers. The Board came out of executive session at 11:58 a.m. Mr. Brown announced that discussion was held, but no action was taken.

Vouchers

Check Date: 06/16/2008
Taxes #: 10108063-10108064
Total all funds: \$35,125.07

Check Date: 06/16/2008
Warrant #: 218665-218905
Total all funds: \$105,962.32

Check Date: 06/20/2008
Warrant #: 900460-900689
Total all funds: \$2,183,711.78

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

Resolutions

08-620	Surplus of Personal Property
08-621	Grant Agreement w/WA State, Division of Archives & Records Management
08-622	Amendment to Service Agreement w/Oxarc, Inc. for Fire Extinguisher Services
08-623	Amendment to Service Agreement w/MRP Services for Plumbing Services
08-624	Agreement w/WSU for Evaluation of Family Treatment Drug Court
08-625	Line Item Transfer, Fund No. 0115-101, Dept. 174

- 08-626 Pavement Marking – 2008
- 08-627 Plat Roads for Country Meadow Heights, CE 1892 CRP
- 08-628 Franchise Approval for Wyckoff Farms, Inc.
- 08-629 Purchase of Motorola Radios
- 08-630 Preliminary Plat Approval – SUB 07-10
- 08-631 Engineer’s Report for Piert Road
- 08-632 Supplemental Appropriation to 2008 Current Expense, \$4,295,717

There being no further business before the Board, the meeting adjourned at approximately 12:00 p.m.

Clerk of the Board

Chairman

JUN 27 2008

BENTON COUNTY
COMMISSIONERS

From: Susie Christopher
To: Marilu Flores
Date: 6/27/2008 12:21:07 PM
Subject: Canvassing Board Appointment

Marilu-

Attached please find the letter which you need to print on your letterhead, have Claude sign and return to me. Please make no changes to this letter.

Thanks and have a great weekend.

Susie

PS: I am sending up to your office, under separate cover the letter stating the certification day, which Claude will have to then appoint Max as the representative as he and Leo are both on the ballot.

Susie Christopher
Elections/Recording Administrator
Benton County Auditor
PO Box 470
Prosser WA 99350
(509)786-5618 or (509)736-3085
e-mail: Susie_Christopher@co.benton.wa.us

Claude - 7-7-08

Other business:

- * appoint yourself to Canvassing Board.
- * because you + Leo are on ballot, Max will need to be appointed as the representative. Please get an okay to send out a letter to Auditor's office authorizing max to serve.

Thank you
Marilu

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

**Board of County Commissioners
BENTON COUNTY**

David Sparks
County Administrator

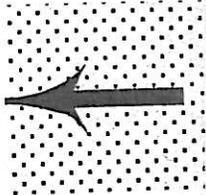
Loretta Smith Kelty
Deputy County Administrator

CANVASSING BOARD APPOINTMENT

I, Claude Oliver, Chair of the Benton County Commissioners, hereby designate myself to serve on the Benton County Canvassing Board for the Primary Election to be held on August 19, 2008. I will serve for the timeframe of July 30, 2008 through September 3, 2008.

DATED this _____ day of July, 2008.

CLAUDE OLIVER
Chair, Board of County Commissioners



JUN 27 2008

BENTON COUNTY
COMMISSIONERS

From: Susie Christopher
To: Marilu Flores
Date: 6/27/2008 12:21:07 PM
Subject: Canvassing Board Appoinment

Marilu-

Attached please find the letter which you need to print on your letterhead, have Claude sign and return to me. Please make no changes to this letter.

Thanks and have a great weekend.

Susie

PS: I am sending up to your office, under separate cover the letter stating the certification day, which Claude will have to then appoint Max as the representative as he and Leo are both on the ballot.

Susie Christopher
Elections/Recording Administrator
Benton County Auditor
PO Box 470
Prosser WA 99350
(509)786-5618 or (509)736-3085
e-mail: Susie_Christopher@co.benton.wa.us



BENTON COUNTY
BOBBIE GAGNER, AUDITOR

RECEIVED

JUN 27 2008

BENTON COUNTY
COMMISSIONERS

Brenda Chilton, Chief Deputy Auditor
Van H Pettey, Chief Accountant
Susie Christopher, Election/Recording Administrator

TO: Claude Oliver, Chairperson
FROM: Susie Christopher, Election Administrator
DATE: June 26, 2008
RE: Certification of Primary Election

Max	_____
Leo	_____
Claude	✓
David	cc ✓
Loretta	cc ✓
Other	_____

7-7-08 agenda

Please be advised that we need to convene a canvassing board on Wednesday, September 3rd at 9:00 AM, in the Benton County Auditor's office in Prosser, to review all canvassing board items and certify the August 19th, Primary Election.

If you cannot attend, please have one of the other Commissioners present in your place and I will need a letter from you authorizing them to act on your behalf.

If you have any questions, please contact me at extension 5639. Thank you for all your consideration in this matter.

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

**Board of County Commissioners
BENTON COUNTY**

David Sparks
County Administrator

Loretta Smith Kelty
Deputy County Administrator

July 7, 2008

Benton County Auditor
Attn: Susie Christopher, Election Administrator
620 Market St.
Prosser, WA 99350

Re: Certification of Primary Election

Susie:

I am in receipt of your June 26, 2008, memo regarding certification of the primary election. Because both Commissioner Bowman and myself are on the ballot, the Board agreed to have Commissioner Max Benitz, Jr., appointed to serve on the canvassing board on Wednesday, September 3, 2008 at 9:00 am to review all canvassing board items and certify the August 19th primary election.

Let me know if you need anything further.

Sincerely,

BOARD OF COUNTY COMMISSIONERS

Claude Oliver, Chairman

cc Commissioners
David Sparks
Loretta Smith Kelty

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY POLICY RE: THE BENTON COUNTY BUSINESS TRAVEL AND EXPENSE POLICY; RESCINDING RESOLUTION NO. 08-002

WHEREAS, pursuant to RCW 2.36.150 and RCW 43.03.060, the mileage allowance paid for jury duty is prescribed by the Director of Financial Management; and

WHEREAS, the State of Washington, Office of Financial Management, and the Internal Revenue Service have adopted a new rate of \$.585 per mile;

NOW, THEREFORE,

BE IT RESOLVED that effective July 1, 2008, the reimbursement rate for mileage shall be increased to \$.585 per mile for all Benton County employees, jurors, expert witnesses, and other travelers authorized to travel by the County; and

BE IT FURTHER RESOLVED that the Board of Benton County Commissioners hereby approves the attached Business Travel and Expense Policy, as amended, and that Resolution No. 08-002 is hereby rescinded.

Dated this day of, 2008.

Chairman of the Board

Chairman Pro-Tem

Member

Constituting the Board of County
Commissioners of Benton County,
Washington

Attest:
Clerk of the Board

BUSINESS TRAVEL AND EXPENSE POLICY

I. PURPOSE

This guideline provides policies and procedures for authorizing business travel and for reporting reimbursable business expenses.

II. POLICY

It is the policy of Benton County that business travel and expenses be restricted to those activities that are necessary and clearly in the best interest of the County. All employees need to remain sensitive to potential negative public perceptions regarding business expenses incurred by government employees and to use prudence and good judgment when traveling at County expense. As such, Benton County is establishing a per diem only reimbursement method for meals incurred to conduct County business (except for the two provisions provided in section II, subsection A, paragraph 4).

Reimbursement for other travel expenses outside Benton County and for business expenses within the immediate area are limited to actual, necessary, and reasonable expenses in accordance with RCW 42.24. Established reimbursement rates for business travel are listed in Attachment 1. Meals are established at a per diem rate only (except for the two provisions provided in section II, subsection A, paragraph 4).

Business expenses are categorized as follows:

- A. Allowable Expenses. Unless specific exceptions are granted by the approving authority, the following cost limitations apply:
 1. Transportation. Travel is to be by the most direct route and by the most economical mode available in the form of transportation approved by the responsible elected official or department director/manager. If more expensive transportation is used, reimbursement is limited to costs that would have been incurred had the most economical means been used.
 2. Mileage. Travelers using privately owned automobiles on County business will be reimbursed for actual miles driven at the established rate (see Attachment 1).
 3. Lodging. Lodging should be at the lowest available government, corporate, or conference rate. Travelers may stay at the conference center hotel even if less expensive lodging is located nearby. Otherwise, travelers are to make use of the most economical, suitable accommodations available. County employees are not required to stay in lodgings of a quality inferior to those rated at one star in the appropriate Mobile Travel Guide (available at the Richland Public Library).

4. Meals

- a. Benton County. Meal reimbursements will be allowed within Benton County only upon written authorization from the department's Elected Official and will be reimbursed at the established federal per diem rates (See Attachment 1). Departments reporting to the County Commissioners will require authorization from two Commissioners. Elected Officials are responsible for authorizing their own meal reimbursements.
- b. Outside Benton County. Meal reimbursements outside Benton County will be allowed at the established federal per diem rates (see Attachment 1) or under one of the two exceptions listed below. Meals included in registration fees or included with lodging are not reimbursable.

EXCEPTION #1 (Receipt Supported Business Meals for Elected Officials and Department Directors/Managers-\$50.00 Maximum): Elected Officials and Department Directors/Managers may be reimbursed for receipt-supported business meals (receipt must be itemized and issued by the vendor) necessary to transact County business up to a maximum of \$50.00 total per day or individual per meal amounts based thereon pursuant to the receipt supported meal rates in Attachment 2. Because of IRS regulations, if a sufficiently detailed receipt is not submitted, the traveler will only be reimbursed at the applicable standard per diem meal rate set forth in Attachment 1 for the entire day or for partial day meal(s).

EXCEPTION #2 (Conference or Meeting Meals): At some conferences or meetings, the breakfast, lunch, or dinner functions may require an extra charge for the meal (not included in the registration). Since this is out of the employee's control, the employee may be reimbursed for such expense, as long as a detailed receipt is submitted. The remaining meals shall be reimbursed at the applicable standard per diem meal rate set forth in Attachment 1 for partial day meal(s), and not eligible for the full per diem.

5. Tips. Tips up to 15 percent (rounded up to the nearest \$1.00) are reimbursable for meals that fall into the two exceptions, not based on per diem. (Tip expenses for meals are included in the established per diem rates). Tips for other services are limited to 15 percent or \$5.00, whichever is less.
6. Miscellaneous Expenses. Necessary miscellaneous business expenses, such as taxi and bus fares, ferries, tolls, parking fees, and educational materials are reimbursable. Detailed receipts are required for miscellaneous business expenses exceeding \$5.00.

B. Non-Allowable Expenses

Expenses of a personal nature that do not benefit the County and which might have been incurred even if the traveler was not on official business are not reimbursable. Examples include, but are not limited to dependent expenses, entertainment, traffic fines, loss or damage to personal property, purchase of personal articles, personal telephone calls, in-room movies, laundry service, valet service, and alcoholic beverages.

EXCEPTION: Employees are allowed reimbursement for one personal call of approximately 10 minutes for each night spent out of town, provided they must use the most economic method available.

If additional costs resulting from combining personal and business travel are prepaid by the County (for example: increased airfare due to indirect routings or extra stops), those additional costs shall be paid to the County by the traveler upon return of trip.

III. RESPONSIBILITY

- A. Employees. Employees traveling on County business are responsible for making themselves aware of and following these procedures.
- B. Elected Officials and Department Directors/Managers. Elected officials and department directors/managers are responsible for verifying the trip is necessary and clearly in the best interest of the County, that budgeted funds are available, and ensuring that these procedures are complied with.

The employee's elected official or department director/manager must approve all business travel expenses.

IV. PROCEDURE

- A. Travel Documents. Travelers need to keep in mind that they are responsible for the accuracy of information reported on County travel documents.
- B. Conferences, Classes, and Seminars. Registration for a conference, class, seminar, etc. must be approved by the department director/manager or elected official.
- C. Advance Travel. The Advance Travel form must be received by the department director/manager or elected official at least three working days before leaving if the trip involves travel advance, transportation tickets, or registration fees. Travel advances may be provided when anticipated out-of-pocket expenses are expected to exceed \$100.00 per person. At the discretion of the elected official or department director/manager, a County credit card may be provided.

Advance travel checks may be picked up from the Treasurer within one working day of departure unless alternate arrangements are made due to unusual circumstances. The traveler, or an authorized representative, must pick these up.

D. Travel Modes.

1. Commercial Air Travel. Reservations for commercial air transportation may be made through each department. Travelers are not required to fly on aircraft not able to carry at least twenty passengers.
2. County Vehicles. If available, a County vehicle should be considered for business travel outside Benton County if the most appropriate mode of travel is by automobile.
3. Personal Vehicles. Travelers using personal vehicles must have a valid driving license and State of Washington required insurance coverage. The County retains liability insurance, but it only covers claims against the County, not against the traveler.
4. Rental Vehicles. Vehicle rentals should be considered as an alternative to personal vehicles if the cost is more beneficial to the County.

E. Additional Requirements.

1. Advance Travel. Advance Travel will not be provided for travel that will be reimbursed by an outside entity.
2. Multiple Travelers. If traveling by automobile and if practicable, all travelers to the same event shall travel together in the same vehicle. Those choosing not to share a ride when practicable may be required to cover their own transportation costs.
3. Consideration of Value. All promotional air fare, tickets, discount coupons, or negotiable items of value received as a result of travel on County business may not be used by the traveler for personal purposes.

F. Reporting.

1. Expense Vouchers. Expense vouchers shall be approved by the department director/manager or elected official and then forwarded to the Auditor, with receipts attached. In lieu of an actual receipt, a signed affidavit stating the nature of the purchase, items purchased, and the reason for no receipt will be accepted.

ATTACHMENT 1 – Page 1

Benton County - Travel and Expense Policy

ESTABLISHED REIMBURSEMENT RATES

This attachment to the Business Travel and Expense Policy shall be reissued by the Commissioners as reimbursement rates change.

Mileage Reimbursement

The reimbursement rate for use of a personal vehicle for business purposes shall be \$0.585 cents per mile, which is subject to change annually.

Meal Expenses

Employees shall be reimbursed for the cost of meals consumed while conducting official County business at the IRS Maximum Federal Per Diem Rates, as published in the federal register by the General Services Administration (GSA) GSA Federal Per Diem Rates are in effect until updated by the Benton County Commissioners. GSA Federal Per Diem Rates are available on the web at <http://www.gsa.gov/Portal/gsa/ep/home.do?tabId=0>.

MAXIMUM FEDERAL PER DIEM RATES
Frequently Traveled Cities

<u>CITY</u>	<u>MEALS</u>	<u>CITY</u>	<u>MEALS</u>
Seattle & King County	\$64.00	Portland	\$49.00
Spokane	\$49.00	San Francisco	\$64.00
Olympia/Tumwater	\$49.00	Salt Lake City	\$54.00
Tacoma	\$59.00	Las Vegas	\$64.00
Tri-Cities	\$39.00	Reno	\$49.00
Vancouver	\$49.00	Los Angeles	\$64.00
Yakima	\$39.00	San Diego	\$64.00
Wenatchee	\$39.00	Denver	\$49.00
Lynnwood	\$54.00	Chicago	\$64.00
Ocean Shores	\$44.00	Nashville	\$54.00
Bellingham	\$39.00	Charlotte	\$49.00
Moses Lake	\$39.00	Washington D.C.	\$64.00

IRS Publication 1542 provides a detailed listing of most cities in the Maximum Per Diem Rates. Cities and Counties not listed in the publication are reimbursed (per IRS) at \$39.00 per diem.

ATTACHMENT 1 – Page 2

MEALS FOR PARTIAL DAY TRAVEL STATUS

Breakfast *25%	10.00	11.00	12.00	14.00	15.00	16.00
Lunch *30%	12.00	13.00	15.00	16.00	18.00	19.00
Dinner *45%	<u>17.00</u>	<u>20.00</u>	<u>22.00</u>	<u>24.00</u>	<u>26.00</u>	<u>29.00</u>
Total Daily 100%	39.00	44.00	49.00	54.00	59.00	64.00

*Rounded to the nearest dollar

*These rates include 15% tips rounded to the nearest dollar

ATTACHMENT 2

ELECTED OFFICIALS AND DEPARTMENT DIRECTORS/MANAGERS
ITEMIZED RECEIPT SUPPORTED MEAL RATES

Breakfast	\$12.00
Lunch	\$15.00
Dinner	<u>\$23.00</u>
Total	<u>\$50.00</u>
Tip	*15% (maximum)

In order to comply with IRS guidelines governing reimbursable meal expenses, if a sufficiently detailed receipt is not submitted, the traveler will be reimbursed at the Attachment 1 standard appropriate daily per diem meal rate for the date of the missing receipt. **NO EXCEPTIONS.**

RECEIPT SUPPORTED REIMBURSEMENT: Receipt supported reimbursement for a full day's meals shall not exceed a total of \$50.00 per day, plus 15 percent for tips. Because of the possibility of negative public perceptions of government travel, it is expected that the receipt supported, maximum daily amount will be used infrequently and in situations where it is necessary and beneficial to the County.

b

RESOLUTION

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

**IN THE MATTER OF THE NOTICE OF COMPLETION FOR COMPLETE WINDOW
CLEANING AT THE BENTON COUNTY JUSTICE CENTER**

WHEREAS, Benton County entered into a contract on December 3, 2007 with Mint Condition, Inc. dba/Advance Window Care, Pasco, WA – Contractors License MINTCC1952OW to provide complete window cleaning at the Benton County Justice Center per Resolution 07-833; and

WHEREAS, the Facilities Manager determined the project reached completion as of week ending June 20, 2008; **NOW, THEREFORE**,

BE IT RESOLVED by the Board of Benton County Commissioners, Benton County, Washington, that the Board accepts the window cleaning performed at the Benton County Justice Center complete.

Dated this _____ day of _____, 2008

Chairman of the Board

Member

Member

Attest: _____
Clerk of the Board

C

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AWARDING BERNARDO WILL ARCHITECTS PC TO PROVIDE ARCHITECTURAL AND ENGINEERING SERVICES FOR THE BENTON COUNTY ADMINISTRATIVE BUILDING LOCATED AT THE JUSTICE CENTER CAMPUS, KENNEWICK, WA

WHEREAS, Benton County solicited qualifications for an A&E Firm to provide architectural and engineering services for a new Benton County Administrative Building located on the Justice Center Campus, Kennewick, WA; and

WHEREAS, eight firms responded, Roen Associates, Spokane, WA; DLR Group, Seattle, WA; Arculus, LLC, Kennewick, WA; Archibald Little Dillman Architects, Richland, WA; Tetra Tech, Richland, WA; Bernardo Wills Architects PC, Spokane, WA; CWH Architects, Kennewick, WA; Alsc Architects, Kennewick, WA; and

WHEREAS, the Facilities Manager and County Administrator reviewed the qualification packets and recommends the selection of Bernardo Wills Architects PC, Spokane, WA as the most competent and qualified firm to provide architectural services for the a new Benton County Administrative Building, Kennewick, WA; **NOW, THEREFORE**

BE IT RESOLVED by the Board of Benton County Commissioners, Benton County, Washington, the Board hereby concurs with the recommendation and authorizes the Facilities Manager to negotiate a contract with Bernardo Wills Architects, PC to be placed on the consent agenda for the Chairman of the Board signature.

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

<u>AGENDA ITEM</u>	<u>TYPE OF ACTION NEEDED</u>	
Meeting Date: <u>07/07/08</u> Subject: <u>WSU Extension Office</u> Prepared by: <u>dgg</u> Reviewed by: <u>lsk</u>	Execute Contract Pass Resolution X Pass Ordinance Pass Motion Board Direction	Consent Agenda X Public Hearing 1st Discussion 2nd Discussion Workshop

BACKGROUND INFORMATION

Attached for Board review is the Lease Agreement with the WSU Extension Office. The Lease Agreement has been reviewed and approved as to form by the Prosecuting Attorney's office.

The Lease Agreement allows the WSU Extension Office to use the 4-H Arena for a 4-H Horse Council Fundraiser.

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 WSU Extension Office.

RECOMMENDATION

Move the Lease Agreement with the WSU Extension Office 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 WSU EXTENSION OFFICE**

WHEREAS, the WSU Extension Office will provide the Benton County Fairgrounds \$75 for use of the 4-H Arena for a 4-H Horse Council Fundraiser; 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 Deputy County Administrator recommends the Lease Agreement with the WSU Extension Office be approved; **NOW THEREFORE**,

BE IT RESOLVED by the Board of Benton County Commissioners, Benton County, Washington, that the Lease Agreement with the WSU Extension Office shall be granted; and

BE IT FURTHER RESOLVED that the Board authorizes the Chairman of the Board to sign the Lease Agreement with the WSU Extension Office.

Dated this _____ day of _____ 2008.

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: **April 14, 2008**

LEASE AGREEMENT NUMBER: **063.08**

EVENT DATE(S): **July 31, 2008**

NUMBER OF DAYS: **1**

BUILDING(S) / AREA: **4-H Arena**

LESSEE: **WSU Extension Office, a Department of the State of Washington**

MAILING ADDRESS: **5600 W Canal Drive, Kennewick, WA 99336**

CONTACT: **Jean Smith, Event Coordinator**

CELLULAR PHONE: **551-3848**

TIME OF THE EVENT: **8:00 am – 6:00 pm**

TYPE OF EVENT: **4-H Horse Council Fundraiser**

ESTIMATED ATTENDANCE: **200**

SELLING TICKETS: YES NO **X**

THIS LEASE (AGREEMENT) is entered into effective upon the signature of both parties, between WSU Extension Office, a department of the State of Washington (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. 4-H HORSE COUNCIL FUNDRAISER IN THE 4-H ARENA ON JULY 31, 2008 FROM 8:00 AM UNTIL 6:00 PM WITH AN ESTIMATED ATTENDANCE OF 200 PEOPLE, hereafter referred to as the EVENT.

2. FACILITIES LEASED FOR THE EVENT

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

3. PAYMENTS

- a. In consideration for the license to hold the EVENT, LESSEE agrees to pay LESSOR the FEE of \$ 75.00 (less damage/cleaning deposit if previously paid) for use of the Facilities as detailed in Exhibit A, no later than July 16, 2008. If the fee is not made by said date, this Agreement will be null and void unless otherwise agreed to in writing by LESSOR. Upon such termination, LESSEE shall be obligated to pay a cancellation fee as specified in the Benton County Fairgrounds Policies and Procedures, Paragraph #9.

4. CAMPING OVERNIGHT

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

5. CANCELLATION OF EVENT

- a. The parties recognize that cancellations made less than 60 days prior to the first event

date will potentially cause the BCF to lose lease or rental revenue. The parties further recognize that for a number of reasons outside of the control of the parties, the actual amount of the loss is often difficult to quantify. Therefore, the parties agree to the following schedule of liquidated damages which shall become due and owing if Lessee cancels less than 60 days prior to the first day of the event:

1. If the Cancellation is made less than 60 days prior to the first event date, then Lessee shall pay 25% of the Lease fee as liquidated damages;
2. If the cancellation is made less then 30 days prior to the first event date, then Lessee shall pay 50% of the fee as liquidated damages.

b. The liquidated damages specified in this section may be deducted from cleaning or any other deposits retained by the BCF, and if any further amount is still due after such deduction, the Lessee may recover such amount due in the same manner as if it were seeking to recover any other sum due under this agreement, and may utilize any lawful means to do so.

6. CONCESSIONAIRES

a. LESSEE 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 \$ 0 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 provide, and maintain in force through the duration of this Agreement **general liability insurance with a limit in the sum of not less than one million dollars (\$1,000,000) per occurrence for bodily injury or death of any one**

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

- b. All insurance 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.
- c. All insurance policies required by this section shall be primary to any insurance policies or policies of self-insurance carried by LESSOR;
- d. The limits required by this section are not intended to an indication of liability nor are they to be considered limits on amount of indemnification;
- e. LESSEE SHALL PROVIDE, NO LATER THAN THIRY (30) DAYS PRIOR TO ANY EVENT COVERED BY THIS AGREEMENT, PROOF OF ALL FORMS OF INSURANCE REQUIRED IN THIS SECTION. THIS PROOF SHALL CONSIST OF A CERTIFICATE OF INSURANCE NAMING "BENTON COUNTY FAIRGROUNDS" AS CERTIFICATE HOLDER, AS WELL AS COPIES OF ALL KEY PROVISIONS, EXCLUSIONS, AND ENDORSEMENTS FROM THE POLICY INCLUDING THE REQUIRED ADDITIONAL INSURED LANGUAGE.

10. PERMITS

- a. All necessary city and/or state permits and/or licenses must be obtained and presented to LESSOR prior to the first day of the EVENT, or the first day of set up if applicable.

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. No alcoholic beverages shall 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.

15. 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.

16. 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.

17. FAIRGROUNDS CONTACT

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

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

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

18. POLICIES AND PROCEDURES

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

I, Jean Smith, Event Coordinator (name and job title/position) have read and fully understand this Agreement. I hereby certify that I have the authority to bind WSU Extension Office 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: WSU Extension Office

BY: _____
Chairman of the Board

BY: Jean Smith

Date: 6/27/08

Date: _____

Name: Jean Smith
Title: Extension Educator

Approved as to form:

BY: _____
Civil Deputy Prosecutor

NAME: WSU Extension Office

EVENT DATE: July 31, 2008

SUMMARY OF FEE(S)

Damage/Cleaning Deposit	\$ <u>0</u>
Building(s)/Area Fees	\$ <u>75.00</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: \$ 75.00

<u>AGENDA ITEM</u>	<u>TYPE OF ACTION NEEDED</u>	
Meeting Date: <u>07/07/08</u> Subject: <u>Events West, LLC</u> Prepared by: <u>dgg</u> Reviewed by: <u>Isk</u>	Execute Contract Pass Resolution X Pass Ordinance Pass Motion Board Direction	Consent Agenda X Public Hearing 1st Discussion 2nd Discussion Workshop

e

BACKGROUND INFORMATION

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

The Lease Agreement allows Events West, LLC to use the Fairgrounds to hold an annual three-day Christmas Memories Show. The Lease Agreement is for five years.

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 Events West, LLC.

RECOMMENDATION

Move the Lease Agreement with Events West, LLC be approved.

RESOLUTION

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

**IN THE MATTER OF APPROVING THE LEASE AGREEMENT BETWEEN THE
BENTON COUNTY FAIRGROUNDS AND THE EVENTS WEST, LLC**

WHEREAS, Events West, LLC will provide the Benton County Fairgrounds \$5,500 plus camping fees in 2008, and the remaining four years to be increased by the lesser of 80% of the CPI Index, or 3%, on a five year contract, to hold an annual Christmas Memories Show.

WHEREAS, the dates on the Lease Agreement are November 21-23, 2008; November 20-22, 2009; November 19-12, 2010; November 18-20, 2011; and November 16-18, 2011; and

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

WHEREAS, the Deputy County Administrator recommends the Lease Agreement with Events West, LLC be approved; **NOW THEREFORE**,

BE IT RESOLVED by the Board of Benton County Commissioners, Benton County, Washington, that the Lease Agreement with Events West, LLC shall be granted; and

BE IT FURTHER RESOLVED that the Board authorizes the Chairman of the Board to sign the Lease Agreement with Events West, LLC.

Dated this _____ day of _____ 2008.

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: **January 15, 2008**

LEASE AGREEMENT NUMBER: **039.08**

EVENT DATE(S): **November 21-23, 2008
November 20-22, 2009
November 19-21, 2010
November 18-20, 2011
November 16-18, 2012**

BUILDING(S) / AREA: **Buildings 1, 2 and 3; Area between Buildings 1 and 2,
Main Gate Ticket Booths**

LESSEE: **Events West, LLC**

MAILING ADDRESS: **1539 Ridge View Court, Richland, WA 99352**

CONTACT: **John D. Myers, Manager**

HOME PHONE: **627-1854** CELLULAR PHONE: **539-0890**

TIME OF THE EVENT: **Friday, 10:00 am – 9:00 pm; Saturday, 10:00 am – 7:00 pm;
Sunday, 11:00 am – 5:00 pm**

TYPE OF EVENT: **Christmas Memories Show**

ESTIMATED ATTENDANCE: **10,000 over the course of the event**

SELLING TICKETS: YES NO

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

THIS LEASE (AGREEMENT) is entered into, effective upon the signature of both parties, between **Events West, LLC, a Washington Limited Liability company** organized under the laws of the State of Washington, with its principal place of business at 1539 Ridge View Court, Richland, WA (LESSEE) and **BENTON COUNTY**, a municipal corporation authorized under the laws of the State of Washington, operating the Benton County Fairground (LESSOR) for the purpose of leasing certain real property, located at the Benton County Fairgrounds, in order to hold an annual event every year until, and ending in, the year 2012, on the following dates:

November 21-23, 2008
November 20-21, 2009
November 19-21, 2010
November 18-20, 2011
November 16-18, 2012

1. EVENT

- a. CHRISTMAS MEMORIES SHOW IN BUILDINGS 1, 2, 3, THE AREA BETWEEN BUILDINGS 1 AND 2 AND THE MAIN GATE TICKET BOOTHS ON FRIDAY FROM 10:00 AM UNTIL 9:00 PM; SATURDAY FROM 10:00 AM UNTIL 7:00 PM; AND SUNDAY FROM 11:00 AM UNTIL 5:00 PM WITH AN ESTIMATED ATTENDANCE OF 10,000 PEOPLE OVER THE COURSE OF THE EVENT, 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 as follows:

November 17-20, 2008
November 16-19, 2009
November 15-18, 2010
November 14-17, 2011
November 12-15, 2012

- b. LESSEE WARRANTS THAT SAID FACILITIES WILL BE USED ONLY FOR LAWFUL PURPOSES NECESSARY TO SUPPORT THE EVENT.

3. PAYMENTS

In Consideration for the leased facilities to hold the EVENT, LESSEE agrees to the following.

- a. Pay LESSOR the FEE of \$5,000.00 (less damage/cleaning deposit if previously paid) for the year 2008 for use of the Facilities as detailed in Paragraph 2. Payment shall be made no later than November 1, 2008.

- b. For the 2009 rental year, the annual lease payment shall be the 2008 lease payment increased by the lesser of: i) eighty percent (80%) of the percentage change in Seattle-Tacoma-Bremerton CPI-W Index published by the Bureau of Labor and Statistics for the twelve month period ending June 2008; or ii) three percent (3.0%), for use of the Facilities as detailed in Paragraph 2. Payment shall be made no later than November 1, 2009.
- c. For the 2010 rental year, the annual lease payment shall be the 2009 lease payment increased by the lesser of: I) eighty percent (80%) of the percentage change in the Seattle-Tacoma-Bremerton CPI-W Index published by the Bureau of Labor and Statistics for the twelve month period ending June 2009; or ii) three percent (3.0%). for use of the Facilities as detailed in Paragraph 2. Payment shall be made no later than November 1, 2010.
- d. For the 2011 rental year, the annual lease payment shall be the 2010 lease payment increased by the lesser of: I) eighty percent (80%) of the percentage change in the Seattle-Tacoma-Bremerton CPI-W Index published by the Bureau of Labor and Statistics for the twelve month period ending June 2010; or ii) three percent (3.0%). for use of the Facilities as detailed in Paragraph 2. Payment shall be made no later than November 1, 2011.
- e. For the 2012 rental year, the annual lease payment shall be the 2011 lease payment increased by the lesser of: I) eighty percent (80%) of the percentage change in the Seattle-Tacoma-Bremerton CPI-W Index published by the Bureau of Labor and Statistics for the twelve month period ending June 2011; or ii) three percent (3.0%). for use of the Facilities as detailed in Paragraph 2. Payment shall be made no later than November 1, 2012.

4. **CAMPING OVERNIGHT**

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

business days after the EVENT. If payment is not received by such date, the entire otherwise refundable balance of the LESSEE'S damage/cleaning deposit will be forfeited. IF THE REFUNDABLE PORTION OF THE DAMAGE/CLEANING DEPOSIT IS LESS THAN THE AMOUNT OF CAMPING FEES DUE, LESSEE REMAINS LIABLE FOR THE BALANCE OF THE CAMPING FEES. (Further details may be included in Exhibit A.)

5. CANCELLATION OF EVENT

- a. The parties recognize that cancellations made less than 60 days prior to the first event date will potentially cause the BCF to lose lease or rental revenue. The parties further recognize that for a number of reasons outside of the control of the parties, the actual amount of the loss is often difficult to quantify. Therefore, the parties agree to the following schedule of liquidated damages which shall become due and owing if Lessee cancels less than 60 days prior to the first day of the event:
 1. If the Cancellation is made less than 60 days prior to the first event date, then Lessee shall pay 25% of the Lease fee as liquidated damages;
 2. If the cancellation is made less 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 and LESSOR agree that LESSEE may arrange for food and/or beverage service CONCESSIONAIRE(S) at the EVENT. LESSOR is entitled to 0 of the revenues generated by such CONCESSIONAIRE(S).
- b. LESSEE may arrange for food and/or beverage service CONCESSIONAIRE(S) at the EVENT on the following conditions:
 1. Any concessionaires shall be fully licensed under all applicable state and local laws to serve whatever food or beverage they intend to sell;
 2. Any concessionaires who serve food or drink other than alcoholic beverages must procure commercial general liability insurance, appropriate for the food service industry, which does not exclude any of the hazards common to vendors in the food service industry. Such policy must specifically insure against claims resulting from bodily injury, illness or death due to foodborne pathogens. The policy must have a minimum liability limit of \$1 million per person or incident with a general aggregate of \$2 million. Policies shall name Lessee, as well as Lessor, its officers, directors, its elected officials, agents and employees, as additional insureds.

3. LESSEE shall ensure that all concessionaires have insurance policies as required herein, and must provide copies of certificates of insurance and the necessary endorsement pages to prove compliance with additional insured requirements, for said policies to LESSOR prior to the first date during which such concessionaires plan on doing business at the event. In the event that LESSEE fails to provide a certificate of insurance as required by this paragraph for any concessionaire planning to do business at the event, then that concessionaire shall be barred from doing business anywhere on fairgrounds property.
- c. Permitting unlicensed vendors or vendors who are not insured as required in this article to do business on the fairgrounds property during any event or events shall constitute a breach of this agreement.

7. NOVELTIES/SOUVENIRS

- a. LESSEE agrees to pay 0 of all novelty, souvenir and merchandise gross revenues (minus sales tax) to the LESSOR for the duration of the EVENT.
- b. LESSEE may sell novelty, souvenir and similar merchandise at the EVENT and may contract with vendors for this purpose, and may contract with such other vendors as it finds necessary to conduct the Event provided that any vendors doing business at the site of the Event must comply with the following requirements:
 1. All vendors must be licensed to conduct business as vendors selling whatever merchandise they plan on selling, or providing such equipment/services as they plan on providing pursuant to all state and local laws.
- c. Permitting unlicensed vendors or vendors who are not insured as required in this article to do business on the fairgrounds property during any event or events shall constitute a breach of this agreement.

8. DAMAGE / CLEANING DEPOSIT

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

County assume any liability whatsoever for any loss or injury to the LESSEE or LESSEE'S property while on Benton County Fairgrounds' property.

9. **INSURANCE**

- a. LESSEE agrees to purchase, and maintain in force through the duration of this Agreement **commercial general liability insurance with a limit in the sum of not less than one million dollars (\$1,000,000) per occurrence for bodily injury or death of any one person and property damage and two million dollars (\$2,000,000) in the aggregate for bodily injury to, or death of, any number of persons and property damage.** Said policy may not exclude any activities expected to be, or actually, undertaken during the EVENT or setup/takedown. Said policy shall name Benton County Fairgrounds, Benton County, its officers, directors, its elected officials, agents and employees as additional insured and shall include a provision prohibiting cancellation of said policy except after thirty (30) days prior written notice to LESSOR. A CERTIFICATE OF LIABILITY INSURANCE COVERAGE AS REQUIRED BY THIS SECTION SHALL BE DELIVERED TO THE LESSOR NO LATER THAN THIRTY (30) DAYS PRIOR TO THE FIRST DATE OF THE EVENT.
- b. LESSEE shall ensure that all vendors and contractors for the EVENT are either covered by their own insurance policies, covered by a policy purchased through LESSOR specifically for this EVENT, or added as an additional insured on LESSEE'S policy in the following amounts:
 1. If the vendor or contractor will be serving food or food items, or beverages other than alcoholic beverages of any type, then the policy must be a **commercial general liability policy which does not exclude claims for food poisoning, and must have limits of one million dollars (\$1,000,000) per incident, and two million dollars (\$2,000,000) general aggregate.**
- c. *Policies sufficient to meet these requirements are available for purchase directly through LESSOR for this EVENT only, if any such vendors are not otherwise covered by appropriate insurance.*
- d. LESSEE is responsible for enforcing the above stated insurance requirements and requiring written proof from the vendors and contractors. No later than ten (10) business days prior to the EVENT, LESSEE shall provide to LESSOR proof, in the form of unaltered ACORD insurance certificates, of insurance as required above. In the case of liquor liability and food poisoning coverage, the proof must also include applicable endorsements and/or copies of the exclusions pages to evidence that such coverage is afforded.
- e. All insurance 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.

- f. All insurance policies required by this section shall include move-in and move-out days, as well as the event days.
- g. All insurance policies required by this section shall be primary to any insurance policies or policies of self-insurance carried by LESSOR;
- h. The limits required by this section are not intended to an indication of liability nor are they to be considered limits on amount of indemnification;

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.

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. No alcoholic beverages shall 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.

16. ATTENDANCE

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

17. FAIRGROUNDS CONTACT

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

18. POLICIES AND PROCEDURES

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

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

LESSEE: Events West, LLC

LESSOR: BENTON COUNTY

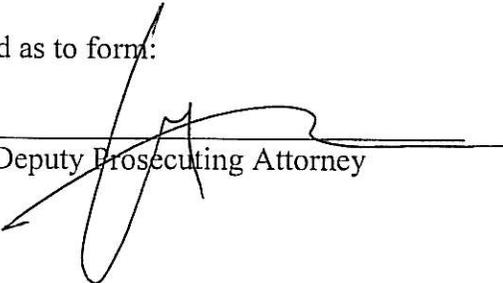
BY: 
Date: 6/10/08

BY: _____
Chairman of the Board

Name: JOHN D. MYERS
Title: MANAGER, EVENTS WEST, LLC

Date: _____

Approved as to form:

BY: 
Sr. Deputy Prosecuting Attorney

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

DAMAGE/CLEANING DEPOSIT

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

DEPOSIT TOTAL: \$ 500.00

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

Building # 1, 2, 3; and Area between Buildings 1 and 2
This includes 3 Event Days and 4 Move-In Days

BUILDING(S)/AREA TOTAL: \$ 5,000.00

EQUIPMENT RENTAL FEES

No Equipment needed.

EQUIPMENT RENTAL TOTAL: \$ 0

LESSOR FURNISHED INSURANCE FEES

Lessee will provide.

INSURANCE TOTAL: \$ 0

SECURITY FEES

Lessee will provide.

SECURITY TOTAL: \$ 0

REFUSE DISPOSAL FEES

Bin Size	Number	Cost	Total
4 Yard Bin	4	Included	0

REFUSE TOTAL: \$ 0

OTHER FEES

Camping Fees: \$ 10.00 per day/camper with hookups

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

NAME: Events West, LLC – Christmas Memories Show

EVENT DATE(s): November 21-23, 2008
 November 20-22, 2009
 November 19-21, 2010
 November 18-20, 2011
 November 16-18, 2012

SUMMARY OF FEE(S) for November 21-23, 2008

Damage/Cleaning Deposit	\$ <u>500.00</u>
Building(s)/Area Fees	\$ <u>5,000.00</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>Plus Camping Fees</u>

TOTAL FEE: \$ 5,500.00
Plus Camping Fees

<u>AGENDA ITEM</u>	<u>TYPE OF ACTION NEEDED</u>	
Meeting Date: <u>07/07/08</u> Subject: <u>Benton-Franklin Mounted Sheriff's Posse</u> Prepared by: <u>dgg</u> Reviewed by: <u>Isk</u>	Execute Contract Pass Resolution X Pass Ordinance Pass Motion Board Direction	Consent Agenda X Public Hearing 1st Discussion 2nd Discussion Workshop 

BACKGROUND INFORMATION

Attached for Board review is the Amendment to the Lease Agreement with the Benton-Franklin Mounted Sheriff's Posse. The Amendment to the Lease Agreement has been reviewed and approved as to form by the Prosecuting Attorney's office.

The Lease Agreement allows the Benton-Franklin Mounted Sheriff's Posse to hold their play days in the 4-H Arena on September 13, 20, 27 and October 4, 2008.

The Amendment to the Lease Agreement is for a revision of the food vendor insurance requirements.

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 Amendment to the Lease Agreement with the Benton-Franklin Mounted Sheriff's Posse.

RECOMMENDATION

Move the Amendment to the Lease Agreement with the Benton-Franklin Mounted Sheriff's Posse be approved.

RESOLUTION

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

**IN THE MATTER OF AN AMENDMENT TO THE LEASE AGREEMENT BETWEEN
THE BENTON COUNTY FAIRGROUNDS AND THE BENTON-FRANKLIN
MOUNTED SHERIFF'S POSSE**

WHEREAS, the Benton-Franklin Mounted Sheriff's Posse will be holding their play days in the 4-H Arena on September 13, 20, 27 and October 4, 2008; 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 Amendment to the Lease Agreement with the Benton-Franklin Mounted Sheriff's Posse is for food vendor insurance requirements; and

WHEREAS, the Deputy County Administrator recommends the Amendment to the Lease Agreement with the Benton-Franklin Mounted Sheriff's Posse be approved; **NOW THEREFORE**,

BE IT RESOLVED by the Board of Benton County Commissioners, Benton County, Washington, that the Amendment to the Lease Agreement with the Benton-Franklin Mounted Sheriff's Posse shall be granted; and

BE IT FURTHER RESOLVED that the Board authorizes the Chairman of the Board to sign the Amendment to the Lease Agreement with the Benton-Franklin Mounted Sheriff's Posse.

Dated this _____ day of _____ 2008.

Chairman of the Board

Member

Member

Attest: _____
Clerk of the Board

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

**AMENDMENT TO THE
LEASE AGREEMENT WITH THE
BENTON-FRANKLIN MOUNTED SHERIFF'S POSSE**

This Amendment to the Lease Agreement with the Benton-Franklin Mounted Sheriff's Posse dated January 7, 2008 is entered into effect April 14, 2008 by and between Benton County, ("LESSOR") and the Benton-Franklin Mounted Sheriff's Posse ("LESSEE").

The Lease Agreement is with the LESSEE, for horse riding play days in the 4-H Arena on September 13, 20, 27 and October 4, 2008.

WITNESSETH:

WHEREAS, LESSOR has modified its policies relating to liability insurance requirements and wishes to modify the existing lease to comply with such changes;

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

The following provisions of the original agreement are changed as described:

9. INSURANCE (replaces current paragraph)

- c. 1. If the vendor will be serving food or food items, or beverages other than alcoholic beverages of any type, then the policy must be a commercial general liability policy which does not exclude claims for food poisoning, and must have limits of one million dollars (\$1,000,000) per incident, and two million dollars (\$2,000,000) general aggregate.

With the exception of the above, all remaining terms and conditions in the underlying agreement shall remain the same. Any conflicts between the underlying agreement and this amendment should be resolved in favor of this amendment.

IN WITNESS WHEREOF, the parties have caused this Amendment to be signed as follows:

LESSOR: BENTON COUNTY

**LESSEE: Benton-Franklin Mounted
Sheriff's Posse**

BY: _____
Chairman of the Board

BY: BF MSP
Date: 6/16/08

Date: _____

Name: Phil Clause
Title: Captain

Approved as to form:

BY: _____
Civil Deputy Prosecutor

9

BENTON AND FRANKLIN COUNTIES ACTION SUMMARY COVER SHEET

AGENDA ITEM	TYPE OF ACTION NEEDED	
Agreement #BEN/FR-MHBG-07/08-01 with Greater Columbia Behavioral Health Prepared By: Carol Carey	<input checked="" type="checkbox"/> Execute Amendment <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

BACKGROUND INFORMATION

It is the purpose of this Amendment is to amend the contract's Special Terms and Conditions, Section 8, MHBG Service Table, by changing funding amounts for Criteria and Goals, as described in the attached table. The Mental Health Block Grant (MHBG) allocates funds for prepaid inpatient health plan mental health services in Benton and Franklin Counties for enrollees for whom services are medically necessary and clinically appropriate.

SUMMARY

Award: \$104,566 total

Period: April 1, 2008 through September 30, 2008

Funding Source: Greater Columbia Behavioral Health

RECOMMENDATION

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

FISCAL IMPACT

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

MOTION

To approve signing Agreement #BEN/FR-MHBG-07/08-01 with Greater Columbia Behavioral Health to implement the federal Mental Health Block Grant funding, and to authorize the Chair to sign on behalf of the Board.

JOINT RESOLUTION

Benton County No. _____

Franklin County No. 2008 253

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

**IN THE MATTER OF AMENDING THE SPECIAL TERMS AND CONDITIONS,
SECTION 8, SERVICE TABLE IN THE MENTAL HEALTH BLOCK GRANT (MHBG),
NUMBER BENFR-MHBG-07/08-01, BETWEEN BENTON AND FRANKLIN
COUNTIES AND THE GREATER COLUMBIA BEHAVIORAL HEALTH**

WHEREAS, the Department of Human Services allocates funding for community mental health services in Benton and Franklin Counties for enrollees for whom services are medically necessary and clinically appropriate; and,

WHEREAS, this amendment changes funding amounts for Criteria and Goals in the Special Terms and Conditions as detailed in the enclosed agreement amendment, **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 Chairmen are hereby authorized to sign the agreement on behalf of the Boards of Benton and Franklin County Commissioners.

Dated this day of, 2008

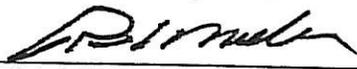
Dated this 23 day of June, 2008

Max E. Benitz, Jr., Chair



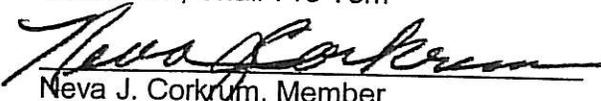
Robert E. Koch, Chair

Leo Bowman, Chair Pro Tem



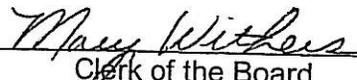
Rick Miller, Chair Pro Tem

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



Neva J. Corkrum, 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 Co. Comm.

Carey



**GREATER COLUMBIA
BEHAVIORAL HEALTH
AND
BENTON AND FRANKLIN
COUNTIES**

GCBH Agreement Number
BENFR-MHBG-07/08-01

New Agreement
 Amendment No. ____

**MENTAL HEALTH BLOCK
GRANT AGREEMENT**

This Agreement is made and entered into by, and between Greater Columbia Behavioral Health, hereinafter referred to as "GCBH" and the Member Government identified below, hereinafter referred to as the "Contractor".

RSN/PHP NAME Greater Columbia Behavioral Health		
RSN/PHP ADDRESS 101 N. Edison Street Kennewick, WA 99336		RSN/PHP CONTACT NAME Mary Todd
RSN/PHP CONTACT TELEPHONE (509) 735-8681/1-800-795-9296	RSN/PHP CONTACT FAX (509) 783-4165	RSN/PHP CONTACT E-MAIL maryt@gcbh.org

CONTRACTOR NAME Benton and Franklin Counties	
CONTRACTOR CONTACT NAME Carrie Huie-Pascua	CONTRACTOR CONTACT ADDRESS Benton and Franklin Counties Department of Human Services 7207 W Deschutes Ave Kennewick, WA 99336

CONTRACTOR CONTACT TELEPHONE (509) 783-5282	CONTRACTOR CONTACT FAX (509) 783-5981	CONTRACTOR CONTACT E-MAIL carriep@bfdhs.org
--	--	--

IS THE CONTRACTOR A SUBRECIPIENT FOR PURPOSES OF THIS AGREEMENT? Yes	CFDA NUMBERS (Federal Block Grant) 93.958
---	--

START DATE	END DATE	FUNDING	MAXIMUM CONTRACT AMOUNT
April 01, 2008	September 30, 2008	Mental Health Block Grant: 10/01/07 - 09/30/08	104,566

ATTACHMENTS: When the box(s) below are marked with a check (✓) or an X, the following exhibits are attached to and incorporated into this Agreement by reference:

Exhibit(s):

By their signatures on the attached signature page, the parties agree to the terms and conditions of this Agreement and all documents attached or incorporated by reference.

This Contract between Greater Columbia Behavioral Health (GCBH) and the Contractor is hereby amended as follows:

1. Amend the Contract's Special Terms and Conditions, Section 8. MHBG Service Table, by changing the funding amounts for Criteria and Goals, as detailed below:

Mental Health Block Grant Plan Reference			Mental Health Block Grant Planned Services/ Activities	
Criterion	Goal	Funding Amount	Activity Description (Please provide measurable goals that may be easily monitored/tracked)	Deliverable/ Outcome (For example: # of consumers to be served, # of svc hours to be provided, # of staff to be trained, etc.)
BENTON AND FRANKLIN COUNTIES				
1	7	\$30,000 Less \$19,628 = New subtotal of \$10,372	Peer Counselors: Employ 3 Certified Peer Counselors for provision of peer counseling services. Certified Peer Counselors would work part time (up to 20 hours per week) at \$9.53/hour with non-Medicaid clients.	Estimated total number of consumers served by Peer Counselors per month: <u>10</u> Estimated total number of service hours provided by Peer Counselors per month: <u>60</u>
Cost Reasoning/Justification for the activity above: Hourly rate is calculated to be \$9.50, which is considered w/in market range. Remainder of funds will be used for training costs.				
3	9	\$59,566 Less \$15,253 = New subtotal of \$44,313	Family Support: Employ two Parent Partners to provide family support to parents of children under 18 who have been enrolled in the SWIFT program and/or Three Rivers Wraparound.	Estimated total number of consumers/families served per month: <u>10</u>
Cost Reasoning/Justification for the activity above: Hourly rate is calculated to be \$13.00, which is considered w/in market range. Remainder of funds will be used for training costs.				
1	7	\$10,000 Less \$9,154 = New subtotal of \$846	Financial Skills/Discharge Planner: Employ one consumer to work with individuals who are enrolled in Lourdes' protective payee program and assist them in developing a budget and other financial skills with the goal of independent money management. Additionally, this person will assist with daily discharge planning, liaison, and discharge coordination for all Non-Medicaid hospitalized consumers at Lourdes Inpatient Community Hospital who are active in	Estimated total number of consumers served per month: <u>5</u>

			outpatient services with Lourdes.	
Cost Reasoning/Justification for the activity above: Hourly rate is calculated to be \$9.50, which is considered w/in market range.				
1	1	\$5,000 Plus \$44,035 = New subtotal of \$49,035	Stabilization: Provide gap medication, crisis housing and other crisis stabilization services to non-Medicaid clients who are at risk of hospitalization until they are able to receive services by a network Psychiatrist, Case Manager or other appropriate service provider.	Estimated total number of consumers served per month: <u>10</u>
Cost Reasoning/Justification for the activity above: Costs are based on actual pharmacy and crisis housing invoices and associated stabilization services.				
Total for Benton and Franklin Counties: \$104,566				

All other terms and conditions of this Contract remain in full force and effect.

IN WITNESS WHEREOF, the parties below have executed this Agreement:

GREATER COLUMBIA BEHAVIORAL HEALTH



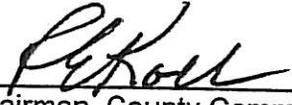
Vice-Chair, GCBH Board of Directors

CONTRACTOR

Benton County

Franklin County

Chairman, County Commissioner



Chairman, County Commissioner

Attest: _____
Clerk of the Board

Attest: May Withers 6-23-2008
Clerk of the Board

Approved as to Content:



GCBH Director

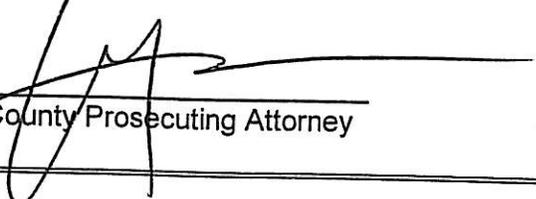


Benton - Franklin Department of Human Services

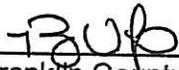
Approved as to Form:



GCBH Legal Counsel



Benton County Prosecuting Attorney



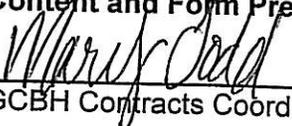
Franklin County Prosecuting Attorney

Fiscal Review:



GCBH Chief Financial Officer

Content and Form Prepared By:



GCBH Contracts Coordinator



JOINT RESOLUTION

Benton County Resolution No. _____

Franklin County Resolution No. _____

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

IN THE MATTER OF A MEMBERSHIP AGREEMENT WITH "ESSENTIAL LEARNING" CUSTOMIZED STAFF TRAINING

WHEREAS, the Department of Human Services would like to receive customized training from Essential Learning in the form of Database Hosting, Tracking and Reporting, Essential Learning Course Library, Uploading of Member-Created Classes, Course Building, and Help Desk Support for all staff at the Crisis Response Unit, Substance Abuse Assessment Center and Administrative Office; and

WHEREAS, such training is needed for staff to adequately and appropriately perform their duties; and

WHEREAS, there is sufficient funding in the Department of Human Services budget to support such training, **NOW THEREFORE**

BE IT RESOLVED that the Benton and Franklin County Commissioners hereby approve the attached Essential Learning Membership Agreement effective August 1, 2008 in the amount of \$5,992 for the first year and in the amount of \$3,492 annually thereafter until terminated.

Dated this day of , 2008.

Dated this day of , 2008.

Claude Oliver, Jr., Chair

Robert E. Koch, Chair

Max Benitz, Jr., Chair Pro Tem

Rick Miller, Chair Pro Tem

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

Neva Corkrum, 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, File

Ransom

ESSENTIAL LEARNING MEMBERSHIP AGREEMENT

THIS MEMBERSHIP AGREEMENT ("Agreement") is entered into on the 1st day of August, 2008 ("Effective Date"), by Essential Learning, LLC, located at 10755 -F Scripps Poway Pkwy., #587, San Diego, CA 92131 ("EL"), and Benton Franklin Human Services having the address listed with the signature below ("Member").

1. Definitions.

1.1 "Content" means information contained in courses, tests, assessments and other information provided to Registered Users through the Training Center for their training and development and competency assessment.

1.2 "Open Library" means online courses provided by EL at no charge for use by Member in the Training Center. EL also provides a selection of courses from outside course vendors ("Premium Library") that are available to Member for an additional fee and are not included as part of the Open Library.

1.3 "Premium Library" means online courses that are available to Member for a per student fee. Premium Library Content is not included in the Membership Fee.

1.4 "Reports" mean reports issued to Member through the Training Center to assist Member in tracking and managing the training and development of its staff.

1.5 "Registered User" means an employee or contractor of Member who is registered to use the Training Center.

1.6 "Training Center" means EL's Online Learning System consisting of student and administrative functionality, and associated software, Reports, Content, guides and documentation.

1.7 "Services" mean the Content for staff training and development and data reporting services in Reports provided through the Training Center.

2. Services. EL shall provide Member with Services online through the Training Center consisting of Content and Reports as described in Exhibit A.

3. Member Responsibilities.

3.1 Registration. Member shall promptly provide EL with the names, job titles and training profiles of all Registered Users in a specified electronic format to complete the initial EL registration process. Periodic additions of Registered Users may be done manually or in the specified electronic format bulk upload process. Only Member's current employees and contractors are eligible to be Registered Users.

3.2 Liaison. Member shall designate to EL a primary contact who shall function as a liaison to EL ("Liaison") and who shall be trained by EL so that the Liaison shall be able to train and support Registered Users on the use of the Training Center. The Liaison shall interface with EL on all issues related to the Services.

3.3 Problems or Defects. Member shall immediately notify EL of any problems or defects in the Services and EL shall use good faith efforts to correct any such problems or defects.

3.4 Improper Use. Member shall immediately notify EL of any unauthorized use of a Registered User account for the Services, or any breach of security. Member is responsible for (a) maintaining the confidentiality and security of the Registered User accounts, and any passwords, and (b) all activities that occur under a Registered User account and password

3.5 Payment. Member shall pay EL in accordance with Exhibit B attached hereto.

3.6 Cooperation. Members shall cooperate with EL to facilitate the provision of Services by EL.

4. Member's Use of Services.

4.1 EL Grant of License to Member. Subject to the terms and conditions of this Agreement, EL grants to Member a limited, nontransferable, nonexclusive license to access and utilize the Services provided by EL through the Training Center.

4.2 Restrictions. Member, and Registered Users, shall not (i) use the Services to process the data of third parties without EL'S prior written consent; or (ii) use the Services in any way inconsistent with, or outside the scope of, its design as set forth in any specification or training guides provided by EL.

4.3 License Limitations. Member shall select and be responsible for the Content provided to Registered Users. Member will own or obtain all proprietary rights necessary, including copyrights, patents, and trade secrets, in and to any Content it uploads for use in the Training Center or provides to EL for purposes of building Member courses. EL has no responsibility for any medical treatment decisions or other matters of patient care by Member or any of its' Registered Users, employees or agents based upon use of Content. The Services should not be considered by Member or Registered Users as medical advice or opinions, as a medical diagnosis, or as a suggested course of treatment by EL. Member acknowledges and agrees that EL is not engaged in the practice of medicine through Content. EL further disclaims responsibility for any business or patient care decisions made from the use of the Services provided hereunder.

4.4 DISCLAIMER. The Services are provided "as is" and without warranties of any kind either express or implied, including without limitation the warranties of merchantability, fitness for a particular purpose, title and noninfringement. EL is not responsible for the accuracy, reliability or timeliness of, or for Member's and/or Registered Users reliance on Content, Reports, opinions, advice or information appearing in the Services. EL does not endorse, operate, control or assume responsibility for any product, brand, method, treatment, information or service of any third party, in any way.

5. Ownership.

5.1 Title. Member agrees that, except as set forth in 4.3 relating to Member Related Classes, EL owns and/or licenses all copyright, trade secret, patent, trademark and other proprietary rights in and to the Services, including all modifications thereto.

5.2 Restrictions. Member agrees that Member and Registered Users shall not, directly or indirectly, (i) sell, lease, assign, sublicense or otherwise transfer, (ii) duplicate, reproduce or copy, (iii) disclose, divulge or otherwise make available to any third party, (iv) use except as authorized by this Agreement, or (v) decompile, disassemble or otherwise analyze or reverse engineer any software and/or database design underlying the functionality of the Training Center. Member shall not reproduce or copy any documentation, Content, text, data, graphics, images, audio or video clips, interfaces or other materials or works of authorship in or on the Services except for Content provided by Member and any patient education materials.

5.3 Links. The Services may include links to third party Internet sites or resources. Because EL has no control over such sites and resources, Member acknowledges and agrees that EL is not responsible for the availability of such external sites or resources, and does not endorse and is not responsible or liable for any content, advertising, products or other materials on or available from such sites or resources. Member further acknowledges and agrees that EL shall not be responsible or liable, directly or indirectly, from any damage or loss caused or alleged to be caused by or in connection with use of or reliance on any such content, goods or services available on or through any such third party site or resource.

5.4 Legal Notices. Member, and Registered Users shall not delete any author attributions, legal notices or proprietary designations or labels provided through the Training Center.

6. Limitation of Liability. EL shall have no liability to Member or Registered Users, whatsoever for any damage, expense or loss of any kind, under any theory of liability or indemnity, arising out of or in connection with this Agreement, the Training Center, Services or any decision made or action or non-action taken by Member or any Registered User in reliance upon this Agreement, the Services, service interruptions, delays or errors, unavailability or inaccuracy of any Content, Reports or other information.

In no event shall EL be liable to Member or Registered Users for any consequential, indirect, exemplary, special or incidental damages, arising from or relating to this Agreement, even if EL or any agent of EL has been advised of the possibility of such damages.

7. Term and Termination.

7.1 Term. The term of this Agreement and the license granted hereunder shall remain in effect for a period of one (1) year from the Effective Date, unless terminated by either party pursuant to Section 7.1 or 7.2. Thereafter, the Agreement shall automatically renew for additional one (1) year terms, unless terminated by either party by providing the other party with at least sixty (60) days written notice prior to the expiration of the then current term.

7.2 Good Faith Termination Without Cause. Notwithstanding anything herein to the contrary, either party may in good faith terminate this Agreement at any time without cause upon at least ninety (90) days prior written notice to the other party.

7.3 Termination for Cause. In the event of a material default of any obligation under this Agreement which remains uncured by a party thirty (30) days after receipt of written or electronic notice of such default, the non-defaulting party may terminate this Agreement, provided however, EL shall have the right to terminate this Agreement without prior notice to Member in the event of non-payment of fees by Member pursuant to Exhibit B.

8. Proprietary Information. Member acknowledges that the Services and the Training Center contain valuable trade secrets and confidential and proprietary information owned or licensed by EL.

8.1 Confidential/Proprietary Information.

"Proprietary Information" shall mean Content (except for Content provided by Member), Reports, constituent parts of the Training Center, including but not limited to the Student Module, the Supervisor Module, training guides and related documentation; technical and non-technical information identified by EL as confidential or proprietary, whether in oral, written, graphic or electronic form, and provided to Member or Registered Users, including, but not limited to, media, works of authorship, software source documents, training guides, design details and specifications; customer lists, business and contractual relationships, business forecasts, sales and merchandising, marketing plans, information EL provides regarding third parties, and any third party proprietary information rightfully held and disclosed by EL unless the herein described Proprietary Information is within the meaning of a "public record" per Chapter 42.56 RCW where upon it shall not be deemed Proprietary Information, nor a Trade Secret.

8.1.1 Member agrees that at all times, and notwithstanding any termination or expiration of this Agreement, it will hold in strict confidence and not disclose to any third party Proprietary Information of EL as described in Section 8.1, except as approved in writing in advance by EL.

8.1.2 Any reproduction of any Proprietary Information shall remain the property of EL and shall contain an appropriate notice of confidentiality. Member shall not make, have made, use or sell for any purpose any product or other item using, incorporating or derived from any Proprietary Information of EL.

8.1.3 All Proprietary Information (including all copies thereof) shall remain the property of EL. Upon termination or expiration of this Agreement, or upon written request of EL, Member shall promptly

destroy or return to EL all documents and other tangible materials representing EL'S Proprietary Information and all copies thereof, and Member shall certify such destruction or return in a writing signed by one of its officers.

8.2 Trade Secrets. "Trade Secrets" include, but are not limited to, the Training Center, the development status of the Services, the functionality of the Services, the appearance, content and flow of interfaces and screens, the method and pattern of Registered User interaction with the Services, Content (except for Content provided by member) and Reports.

8.3 No Disclosure to Third Parties. Without in any way limiting Section 5.2 ("Restrictions"), Member specifically acknowledges and agrees that it shall not permit any third party to have access to the Services or to any Trade Secrets or permit access to any Registered User, employee, representative or agent that Member has reason to believe develops, markets or licenses computer programs with functionality similar to the functionality of the Services.

9. Indemnification.

Member agrees to indemnify, defend and hold EL harmless against any losses, claims, damages, liabilities, penalties, actions, proceedings or judgments (collectively "losses"), for losses arising out of or related to Member's breach of this Agreement including attorney's fees and court costs.

General Provisions:

9.1. Assignability. This Agreement and all rights and obligations thereunder shall not be assignable by Member except with the prior written consent of EL. This Agreement shall be binding upon each party's successors and assigns.

9.2 Entire Agreement; Amendment. This Agreement with its exhibits is the complete and exclusive agreement of the parties and supersedes all other communications, oral or written, between the parties relating to the Agreement's subject matter. Any change to this Agreement shall not be valid unless it is in writing and signed by authorized representatives of both parties.

9.3 Waiver. Neither the failure nor any delay to exercise a right, remedy or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of a right, remedy or privilege preclude any further exercise of the same.

9.4 Severability. A determination that any provision of this Agreement is invalid, illegal or unenforceable shall not affect the enforceability of any other provision.

9.5 Notices. EL may deliver notice to Member under this Agreement by means of electronic mail to the e-mail address provided to EL in registration or by a general notice on the EL website. In any other process, all notices and other communications required under this Agreement shall be in writing and shall be deemed to have been received when personally delivered or when deposited in the United States mail, sent registered mail by first class, postage prepaid, addressed as set forth at the end of this Agreement.

9.6 Independent Parties. Nothing contained in this Agreement shall be construed as creating a joint venture, partnership, agent or employment relationship between EL and Member.

9.7 Venue. This contract shall be regarded as having been entered into in the State of Washington and pursuant to Washington State law. Should any litigation arise from this contract, the parties specifically agree that the only proper venue is in the Superior Court in and for the County of Benton, Washington.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above.

EL:
ESSENTIAL LEARNING, LLC
10755 F SCRIPPS POWAY PKWY., #587
SAN DIEGO, CA 92131

Signature

Name

Title

MEMBER:
Benton Franklin County Human Services
7207 W. Deschutes Ave
Kennewick, WA 99336

Chair, Benton Co. Commissioners Date

Chair, Franklin Co. Commissioners Date

ATTEST BY:

Clerk of the Board Date

Clerk of the Board Date

APPROVED AS TO FORM:

Benton Co. Prosecuting Attorney's Office

BOB

Franklin County Prosecuting Attorney's Office

Carric Anne-Pavona

Benton Franklin Department of Human Services

Member Data

Liaison for Implementation: ___ Ian Velasquez _____

Position of Liaison _____ IT Coordinator _____

Phone for Liaison Contact: ___ 509.737.3982 _____

E-mail for Liaison Contact: ___ ian@bfdhs.org _____

Executive Contact: _____ Ed Thornbrugh _____

Position of Executive Contact: ___ Deputy Director _____

Phone for Executive Contact: ___ 509.737.3911 _____

E-Mail for Executive Contact: ___ ed@bfdhs.org _____

Company website URL _____

Billing Contact: _____ Diana Ransom _____

Billing Phone Number: ___ 509.737.3901 _____

E-mail Address for Invoice: ___ diana@bfdhs.org _____

Preferred Organization Name for Log-in*:
_____ bfdhs _____

Preferred organization password for Log-in:
_____ benfranklin _____

*** Please note: Organization Name is used to set-up Member site. It cannot be changed once site is launched.**

Contact for Employee Data: ___ Ed Thornbrugh _____

Phone for Employee Data Contact: ___ 509.737.3911 _____

E-mail for Employee Data Contact: ___ ed@bfdhs.org _____

EXHIBIT A Services Description

Database Hosting - Essential Learning hosts Member's customized training site and database.

Tracking and Reporting - Comprehensive Management reports allow for automated tracking and documentation of online, classroom-based and off-site training; documentation and improvement of training effectiveness; quick review and collection of learner feedback. Report viewing can be limited to selected Departments and Locations.

Essential Learning Course Library - Member may select any courses from Essential Learning's current Open Library. EL will customize courses to meet specific organizational requirements at no additional charge. Customizations to be done at no charge are limited to the addition of reference materials and sections to the existing course. If the customization request for a selected course requires any editing of material within the course or substantial reformatting of the course then the customization for the selected course will be counted as one of Member's Course Building slots or charged at the rate of \$125 per hour. Many courses provide nationally accredited continuing education units. Accredited courses that are substantially altered by Member customization may no longer be eligible for accreditation or updating under Essential Learning. A new course is added to the Library each month and becomes immediately available to Member.

Uploading of Member-Created Classes - Member may create and upload an unlimited amount of courses in a variety of standard formats: Word, PDF, Power Point, Excel, HTML, etc. Most authoring tools are compatible with the Essential Learning system and can be loaded into the system for use by Member. EL will convert an unlimited number of Power Point courses created by Member into HTML format at no additional charge. If the Power Point provided by Member requires substantial reformatting then the conversion will be counted as one of Member's Course Building Slots. Member may add assessments and surveys to go along with your courses using Essential Learning's system tools. Policies and other reference materials or web links may be added to enhance courses.

Course Building - Essential Learning will develop up to three (3) two (2) credit hour interactive courses, for a total of six (6) hours of coursework, from customer- provided content at no additional charge during the initial one year term of the contract (Course Building Slots). Member will supply edited, final version content in an acceptable electronic version for each course to be built including content for interactive features (i.e. pop-up quizzes, case studies, etc.), test questions and course objectives. Course Building Slots not utilized by Member in the initial one year term of the contract year will not be carried over into subsequent years. Member may contract with Essential Learning for course building services at the then current rate. Please request a pricing list for course development services from Essential Learning's Customer Support Department.

Help Desk Support – Essential Learning Customer Support is available both by email and at a toll-free telephone number from Monday through Friday from 8:00 a.m. to 8:00 p.m. eastern time. The support email inbox is also checked on an emergency basis on weekends and holidays. All customers at Essential Learning enjoy unlimited customer support at no additional charge. Essential Learning will be closed on eight major holidays: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving (Thursday and Friday), Christmas Eve and Christmas Day. EL support will respond to support requests on these Holidays on the next business day. Customer issues and bug reports are tracked through our help desk. After our support team receives a report one of our technicians works with the customer to determine the exact nature of the problem. Often reported issues involve no technical work but can be resolved through training

or explanation.

For legitimate defects the technician will attempt to diagnose and reproduce the problem and either resolve the issue or escalate the issue to level two support by creating a trouble ticket. Level two support allows Essential Learning managers to review the problem and either resolve it and inform the customer, or escalate to level three support.

Level three support normally requires changes to source code, so after the defect has been isolated and fixed, a patch is released to Quality Assurance for review and regression testing. If the patch fails it is sent back to level three support for further analysis and the cycle begins anew. After the patch passes QA testing it is scheduled for release to production, and the customer is notified after the fix becomes available.

Although customers have the ability to open their own trouble tickets directly, at no point is the customer required to do so. A call or email to customer support begins the issue tracking, and it ends with either a call or email back to the learner, supervisor, or administrator who raised the issue. EL customer support staff will communicate the status and anticipated closure of trouble tickets on a regular basis. EL will proactively notify MEMBER of known system bugs that are in process for resolution that might impact end users.

Scheduled changes are tracked internally through source code, build manifests, functional specifications and design specifications. These changes result in either patches of components or major builds. Customers are notified well in advance of changes to our production environment, and training is made available for new features and enhancements.

In addition to live support, Essential Learning provides an instructional video for the Learner Profiles and written Quick guides that offer clear, step by step instruction for each function module in the system.

Essential Learning Customer Relations Management department also offers free monthly webinar training on varying topics including, but not limited to: creating courses, tests and surveys in Essential Learning; creating competencies; scheduling classroom classes; understanding the management reports; and entering outside training events into Essential Learning. Members are notified of the additional webinars each month via email. Registration for each webinar is limited to 1,000 individuals and each individual must have an internet connection and a telephone line.

Member's designated Liaison will be responsible for first line support to Member's Registered Users. Essential Learning Customer Support is available both by email and at a toll-free telephone number from Monday through Friday from 8:00 a.m. to 8:00 p.m. Eastern time. The support email inbox is also checked on an emergency basis on weekends and holidays.

EXHIBIT B

PAYMENT

Upon execution of the Agreement, Member shall pay to EL:
(Please select one and initial)

PAYMENT OPTIONS - All Inclusive Plan

Term:	Quarterly	Annual 3% Discount
One (1) year	\$900	\$3,492
Check a payment option and initial ()	(8.57 employee/per month) Total Payment due at signing: One-time implementation fee and 1 st payment \$3,400 <input type="checkbox"/>	(8.31 employee/per month) Total Payment due at signing: One-time implementation fee and annual payment \$5,992 <input checked="" type="checkbox"/>

Quarterly Payments: On the first day of the quarter following the Effective Date and the first day of each succeeding quarter thereafter during the term of the Agreement, Member shall pay a quarterly license fee to EL.

Annual Payments: On the annual date following the Effective Date and the first day of each succeeding year thereafter during the term of the Agreement, Member shall pay an annual license fee to EL.

The license fee was calculated based upon Member's estimate of 35 Registered Users. The license fee remains the same throughout the term of the contract unless there is a significant shift (5% or greater) up or down in the number of employees in the contracting organization. If a significant shift occurs, Member will be invoiced for additional employees at the then current License Fee.

There is a one time set-up fee of \$2,500 calculated in the Total Payment Due at signing indicated in the box above.

Please send two signed copies with the total payment due at signing (see above) to: Essential Learning, 10755-F Scripps-Poway Pkwy., #587, San Diego, CA 92131. We will return an executed agreement for your files.

AGENDA ITEM: Consent	<u>TYPE OF ACTION NEEDED</u>	CONSENT AGENDA <u>XX</u>
MEETING DATE: B/C 07-07-08 F/C 06-30-08	Executive Contract XX	PUBLIC HEARING
SUBJECT: Independent Clinic Facilitator - Ernie Chapin	Pass Ordinance XX	1 st DISCUSSION
Prepared By: Kathryn M. Phillips	Pass Motion	2 nd DISCUSSION
Reviewed By: Sharon Paradis	Other	OTHER

BACKGROUND INFORMATION

Ernie Chapin is a well-known community leader and educator in the Tri-Cities area. He has worked with At Risk Youth and conducted numerous behavioral modification clinics, workshops and classes for various school districts and most recently for the Benton-Franklin Counties Juvenile Justice Center. Mr. Chapin will conduct workshops, clinics and/or classes for the Diversion, Drug Court and Truancy programs for the period of July 1, 2008 through June 30, 2009.

SUMMARY

Mr. Chapin will conduct classes, clinics and/or workshops for the Diversion, Truancy and Juvenile Drug Court programs.

RECOMMENDATION

We recommend that the Board of Commissioners of Benton County sign the Personal Services Contract between the Benton-Franklin Counties Juvenile Justice Center and Ernie Chapin.

FISCAL IMPACT

The compensation rate is included fee for service monies from the State of Washington BECCA fund.

MOTION

I move that the Board of Commissioners sign the Personal Service Contract between the Benton-Franklin Counties Juvenile Justice Center and Ernie Chapin for the period beginning July 1, 2008 and terminating on June 30, 2009.

JOINT RESOLUTION

BENTON COUNTY RESOLUTION NO. _____

FRANKLIN COUNTY RESOLUTION NO. _____

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

IN THE MATTER OF THE REQUEST FOR SIGNATURE FROM THE CHAIRMAN OF THE BOARDS OF BENTON AND FRANKLIN COUNTY COMMISSIONERS ON THE PERSONAL SERVICES CONTRACT BETWEEN THE JUVENILE JUSTICE CENTER AND ERNIE CHAPIN, and

WHEREAS, Sharon A. Paradis, Administrator of the Juvenile Court, believes it is in the best interest of the Juvenile Justice Center that the Personal Services Contract between Ernie Chapin and Benton-Franklin Counties Juvenile Justice Center be approved as presented for a term commencing July 1, 2008 and terminating on June 30, 2009, **NOW, THEREFORE**

BE IT RESOLVED, that the Chairman of the Board of Benton County Commissioners and the Chairman of the Board of Franklin County Commissioners be and they hereby are authorized to sign, on behalf of their respective county, the Personal Services Contract.

DATED this 7th day of July 2008.

DATED this 30th day of June 2008.

BENTON COUNTY BOARD OF COMMISSIONERS

FRANKLIN COUNTY BOARD OF COMMISSIONERS

Chairman of the Board

Chairman of the Board

Member

Chairman 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

JUDGES

Hon. Dennis D. Yule
Hon. Craig J. Matheson
Hon. Vic L. VanderSchoor
Hon. Robert G. Swisher
Hon. Carrie Runge
Hon. Cameron Mitchell

BENTON-FRANKLIN COUNTIES JUVENILE JUSTICE CENTER



SHARON PARADIS, Administrator
Juvenile Court Services

SUPERIOR COURT OF THE STATE OF WASHINGTON

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

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

PERSONAL SERVICES CONTRACT BETWEEN BENTON-FRANKLIN COUNTIES JUVENILE JUSTICE CENTER AND ERNIE CHAPIN

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 and Franklin County, a political subdivision, with its principal offices at 1016 North Fourth Avenue, Pasco, WA 99301, by and for the Benton-Franklin Counties Juvenile Justice Center (BFJJC), a bi-county agency located at 5606 W. Canal Place STE 106, Kennewick, WA 99336-1388 (hereinafter collectively referred to as "Counties"), and Ernie Chapin, with his principal office at 175 Paradise Drive Burbank, Washington, 99323 (hereinafter referred to as "Contractor").

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

1. DURATION OF CONTRACT

The term of this Contract shall be July 1, 2008 through June 30, 2009. The Contractor shall complete all work by the time(s) specified herein, or, if no such time is otherwise specified, no later than the expiration date.

2. SERVICES PROVIDED

A. The Contractor will provide the following:

1. Classes, Clinics and/or Workshops for youth in the Diversion, Truancy, and/or Juvenile Drug Court programs.
2. Training to BFJJC staff and volunteers regarding working with At-Risk youth.

B. Additional requirements include but are not limited to:

1. Youth served under this Contract shall be under the jurisdiction of the Benton-Franklin Counties Juvenile Justice Center during the intervention. To assist in supervision of the youth, the Contractor shall share pertinent

information with the Counties and shall safeguard electronic and hard copy client information.

2. The Contractor shall meet monthly with the Counties' Intervention Prevention Service Manager or designee for program review.
- C. The Contractor agrees to provide its own labor and materials. Unless otherwise provided in this Contract, the Counties will furnish no material, labor, or facilities.
- D. The Contractor shall perform the work specified in this Contract according to standard industry practice.
- E. The Contractor shall complete its work in a timely manner and in accordance with the schedule agreed by the parties.
- F. The Contractor shall confer with the Counties from time to time during the progress of the work. The Contractor shall prepare and present written status reports and other information that may be pertinent and necessary, or as may be requested by the Counties.

3. CONTRACT REPRESENTATIVES

Each party to this Contract shall have a contract representative. Each party may change its representative upon providing written notice to the other party. The parties' representatives are as follows:

- A. For Contractor: **Ernie Chapin**
175 Paradise Drive
Burbank, WA 99323
Phone: (509) 547-2068
E-mail: echapin@charter.net
- B. For Counties: **Sharon Paradis, Administrator**
Benton-Franklin Juvenile Justice Center
5606 W. Canal Place, Suite 106
Kennewick, WA 99336
Phone: (509) 736-2724
E-mail: sharon.paradis@co.benton.wa.us

4. COMPENSATION

For the services performed hereunder, the Contractor shall be paid as follows:

- A. At the rate of \$50.00 per hour for each class, clinic and/or workshop, not to exceed three (3) hours in duration for each class, clinic or workshop.
- B. The total amount payable by the Counties to the Contractor under this Contract shall not exceed Eight Thousand Dollars (\$8,000.00).

- C. No payment shall be made for any work performed by the Contractor, except for work identified and set forth in this Contract.
- D. The Contractor will submit invoices to the Counties not more than once per month. Invoices shall cover the time Contractor performed work for the Counties during the billing period. The Counties shall pay the Contractor for services rendered in the month following the actual delivery of work and will remit payment within thirty (30) days from the date of receipt of Contractor's invoice.
- E. The Contractor shall not be paid for services rendered under this Contract unless and until they have been performed to the satisfaction of the Counties.
- F. In the event the Contractor has failed to perform any substantial obligation to be performed by the Contractor under this Contract and such failure has not been cured within ten (10) days following notice from the Counties, the Counties may, in its sole discretion, upon written notice to the Contractor, withhold any and all monies due and payable to the Contractor, without penalty, until such failure to perform is cured or otherwise adjudicated. "Substantial" for the purposes of this Contract means faithfully fulfilling the terms of this Contract with variances only for technical or minor omissions or defects.
- G. Unless otherwise provided in this Contract or any exhibits or attachments hereto, the Contractor will not be paid for any billings or invoices presented for services rendered prior to the execution of this Contract or after its termination.

5. 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 Counties.
- 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 Counties.

6. HOLD HARMLESS AND INDEMNIFICATION

- A. The Contractor shall hold harmless, indemnify and defend the Counties, 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 Counties, its officers, officials, employees or agents.

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

7. INSURANCE

- A. **Professional Legal Liability:** The Contractor, if he, she or it is a licensed professional, shall maintain Professional Legal Liability or Professional Errors and Omissions coverage appropriate to the Contractor's profession and shall be written subject to limits of not less than one million dollars (\$1,000,000) per occurrence, loss or person. If the policy contains a general aggregate or policy-limit it shall be at least two times the incident, loss or person limit.

The coverage shall apply to liability for a professional error, act or omission arising out of the scope of the Contractor's services defined in this Contract. Coverage shall not exclude bodily injury or property damage. Coverage shall not exclude hazards related to the work rendered as part of the Contract or within the scope of the Contractor's services as defined by this Contract including testing, monitoring, measuring operations, or laboratory analysis where such services are rendered as part of the Contract. Contractor is required to buy professional liability insurance for a period of 36 months after completion of this Contract, which can be satisfied by the continuous purchase of the above referenced insurance or an extended reporting period policy.

- B. **Workers Compensation:** Contractor acknowledges and represents that Contractor currently does not have any employees and, therefore, does not maintain workers compensation insurance. To the extent Contractor hires any employees, however, 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 Counties for recovery of damages to the extent they are covered by workers compensation, employer's 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 Counties incur fines or are required by law to provide benefits to or obtain coverage for such employees, Contractor shall indemnify the Counties. 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 Counties by Contractor pursuant to the indemnity agreement may be deducted from any payments owed by Counties to Contractor for performance of this Contract.

- 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 will provide commercial general liability coverage that 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.

Contractor acknowledges and represents that Contractor currently does not have any employees and, therefore, does not maintain employers liability insurance. To the extent Contractor hires any employees, however, Contractor shall obtain and maintain employers liability insurance with limits of not less than one million dollars (\$1,000,000) each incident for bodily injury by accident or one million dollars (\$1,000,000) each employee for bodily injury by disease.

D. **Other Insurance Provisions:**

1. The Contractor's liability insurance provisions shall be primary with respect to any insurance or self-insurance programs covering the Counties, its elected and appointed officers, officials, employees and agents.
2. The Counties, 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 professional and automobile liability policy.

3. The Contractor's liability insurance policies shall contain no special limitations on the scope of protection afforded to the Counties as an additional insured.
4. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Counties, its officers, officials, employees or agents.
5. The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
6. The Contractor shall include all subcontractors as 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 Contractor shall maintain all required policies in force from the time services commence until services are completed. Certificates, policies, and endorsements expiring before completion of services shall be promptly replaced. If the Contractor's liability coverage is written as a "claims made" policy, then the Contractor must evidence the purchase of an extended reporting period or "tail" coverage for a three-year period after completion of the services required under this Contract.

E. **Verification of Coverage and Acceptability of Insurers:** All insurance required under this Contract shall be issued by companies admitted to do business within the State of Washington and have a current A.M. Best Rating of not less than A:VII. Any exception to this requirement must be reviewed and approved by both of the Benton and Franklin Counties Prosecutors' Offices. 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 Counties 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. For professional liability insurance, the Contractor agrees that the insurance contract will not be canceled or allowed to expire except on twenty-eight (28) days prior written notice to the Counties by the Contractor. For other insurance, Contractor shall not cancel or allow the insurance contract to expire

except on forty-five (45) days prior written notice to the Counties. Contractor shall also instruct the insurer to give the Counties forty-five (45) days advanced notice of any cancellation by the insurer. The certificate or endorsement shall not limit or negate the insurer's obligation as required by law to notify the Counties as an additional insured of cancellation.

2. The Contractor shall furnish the Counties 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 Counties as an additional insured.
3. Certificates of insurance shall show the certificate holder as "Benton and Franklin Counties" and include "c/o" the Counties' Contract Representatives. The address of the certificate holder shall be shown as the current address of the Counties' Contract Representative.
4. Contractor acknowledges and represents that Contractor currently does not have any employees and, therefore, does not maintain workers compensation insurance. To the extent Contractor hires any employees, however, the Contractor shall request the Washington State Department of Labor and Industries, Workers Compensation Representative, to send written verification to the Counties that Contractor is currently paying workers compensation.
5. All written notices under this Section 7 and notice of cancellation or change of required insurance coverages shall be mailed to the Counties at the following address:

**Juvenile Court Administrator
Benton Franklin Juvenile Justice Center
5606 W Canal PL STE 106
Kennewick WA 99336**
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 or Franklin County's Risk Manager.
7. If Contractor is self-insured for worker's compensation coverage, evidence of its status as a self-insured entity shall be provided to Counties. If requested by the Counties, the Contractor must describe its financial condition and the self-insured funding mechanism.

8. TERMINATION

- A. Either party in its sole discretion may terminate this Contract by giving sixty (60) days written notice by certified mail to the other party. Either party may terminate this Contract for cause by giving ten (10) days written notice by certified mail to the other party. In the event this Contract is terminated prior to the end of the contract term, the Counties shall pay the Contractor for all costs incurred by the

except on forty-five (45) days prior written notice to the Counties. Contractor shall also instruct the insurer to give the Counties forty-five (45) days advanced notice of any cancellation by the insurer. The certificate or endorsement shall not limit or negate the insurer's obligation as required by law to notify the Counties as an additional insured of cancellation.

2. The Contractor shall furnish the Counties 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 Counties as an additional insured.
3. Certificates of insurance shall show the certificate holder as "Benton and Franklin Counties" and include "c/o" the Counties' Contract Representatives. The address of the certificate holder shall be shown as the current address of the Counties' Contract Representative.
4. Contractor acknowledges and represents that Contractor currently does not have any employees and, therefore, does not maintain workers compensation insurance. To the extent Contractor hires any employees, however, the Contractor shall request the Washington State Department of Labor and Industries, Workers Compensation Representative, to send written verification to the Counties that Contractor is currently paying workers compensation.
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- B. The Contractor acknowledges that the entire compensation for this Contract is set forth in Section Four of this Contract, and the Contractor is not entitled to any Counties 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 Counties 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 Counties.
- 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 Counties' contract representative or designee.

12. COMPLIANCE WITH LAWS

The Contractor shall comply with all applicable federal, state and local laws, rules and regulations in performing this Contract, as well as all pertinent JRA Administration Policy Bulletins.

13. OTHER PROVISIONS

The Contractor shall comply with the following other provisions for all services provided under this Contract.

- A. Background Check/Criminal History
 - 1. In accordance with chapters 388-700 WAC, 72.05 RCW, and 43.20A RCW the Contractor shall be required to conduct background check/criminal history clearance for all employees, subcontractors, and/or volunteers who may or will have regular access to any client/juvenile.
 - 2. In addition, the Contractor may also be required to conduct background check/criminal history clearance for employees, subcontractors, and/or volunteers, who may or will have limited access to any client/juvenile.
- B. Sexual Misconduct
 - 1. The Contractor shall ensure all employees, subcontractors, and/or volunteers are knowledgeable about the requirements of RCW 13.40.570 and of the new crimes included in RCW 9A.44, Sex Offenses. The Contractor shall sign the JRA Contractor Requirements for Responding to Situation of Sexual Misconduct Form, and shall submit to JRA with signed

contract.

2. The Contractor shall ensure that written notification must occur within seven (7) days of a conviction or plea of guilty to any offenses as defined in RCW 9.94A.030 and RCW 9A.44.130, any crime specified in Chapter 9A.44 RCW when the victim is a juvenile and any violent offense as defined in RCW 9.94A.030. Such notification will be directed to the Office of the Juvenile Court Administrator, Benton-Franklin Counties Juvenile Justice Center, 5606 W Canal PL STE 106, Kennewick WA 99336-1388.

14. INSPECTION OF BOOKS AND RECORDS

The Counties may, at reasonable times, inspect the books and records of the Contractor relating to the performance of this Contract. The Contractor shall keep all records required by this Contract for six (6) years after termination of this Contract for audit purposes. The Contractor shall also keep all fiscal and clinical books, records, documents, and other material relevant to this Contract in accordance with WAC 388-805-320 and the WAC Implementation Guide.

15. 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 age, sex, marital status, sexual orientation, race, creed, religion, color, national origin, honorably discharged veteran or military status, disability, or any other protected status.

16. OWNERSHIP OF MATERIALS/WORKS PRODUCED

- A. All reports, all forms of electronic media, and data and documents produced in the performance of the work under this Contract shall be "works for hire" as defined by the U.S. Copyright Act of 1976 and shall be owned by the Counties. Ownership includes the right to copyright, patent, register, and the ability to transfer these rights. The Counties agrees that if it uses any materials prepared by the Contractor for purposes other than those intended by this Contract, it does so at its sole risk and it agrees to hold the Contractor harmless therefrom to the extent such use is not agreed to in writing by the Contractor.
- B. An electronic copy of all word processing documents shall be submitted to the Counties upon request or at the end of the job using the word processing program and version specified by the Counties.

17. PATENT/COPYRIGHT INFRINGEMENT

The Contractor shall hold harmless, indemnify and defend the Counties, its officers, officials, employees and agents, from and against any claimed action, cause or demand brought against the Counties, where such action is based on the claim that information supplied by the Contractor or subcontractor infringes any patent or copyright. The Contractor shall be notified promptly in writing by the Counties of any notice of such

claim. The use of FFT forms and reports that are required as part of the FFT model are excluded from this indemnification and hold harmless provision.

18. DISPUTES

Differences between the Contractor and the Counties, arising under and by virtue of this Contract, shall be brought to the attention of the Counties 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 Counties' Contract Representative or designee. All rulings, orders, instructions and decisions of the Counties' Contract Representative shall be final and conclusive, subject to Contractor's right to seek judicial relief.

19. CONFIDENTIALITY

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

20. CHOICE OF LAW, JURISDICTION AND VENUE

- A. This Contract has been and shall be construed as having been made and delivered within the State of Washington, and it is agreed by each party hereto that this Contract shall be governed by the laws of the State of Washington, both as to its interpretation and performance.
- B. Any action at law, suit in equity, or judicial proceeding arising out of this Contract shall be instituted and maintained only in any of the courts of competent jurisdiction in Benton or Franklin Counties, Washington.

21. SUCCESSORS AND ASSIGNS

The Counties, 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.

22. 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.

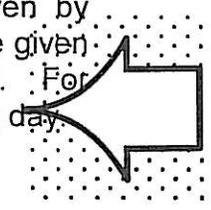
- B. If it should appear that any provision of this Contract is in conflict with any statutory provision of the State of Washington, said provision which may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform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

23. ENTIRE AGREEMENT

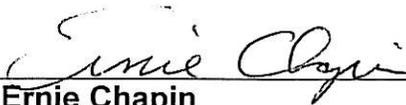
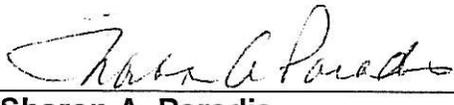
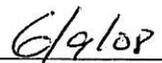
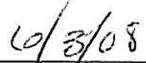
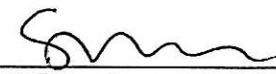
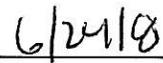
The parties agree that this Contract is the complete expression of its terms and conditions. Any oral or written representations or understandings not incorporated in this Contract are specifically excluded.

24. 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.



The parties have caused this Contract to be signed as follows:

Contractor	Benton Franklin Counties Juvenile Justice Center
 Ernie Chapin	 Sharon A. Paradis
 Date	 Date
BENTON COUNTY APPROVAL	FRANKLIN COUNTY APPROVAL
Approved as to Form:  Sarah Perry, Deputy Prosecuting Attorney  Date	Approved as to Form: <u>Agreed Review Performed by Benton County</u> Ryan Verhulp, Civil Deputy Prosecuting Attorney
By: _____ Name: <u>Claude L. Oliver</u> Title: <u>Chairman, Board of Commissioners</u> Date: _____	By: _____ Name: <u>Robert E. Koch</u> Title: <u>Chairman, Board of Commissioners</u> Date: _____
Attest: Clerk of the Board: _____	Attest: Clerk of the Board: _____

AGENDA ITEM: Consent	<u>TYPE OF ACTION NEEDED</u>	CONSENT AGENDA <u>xx</u>
MEETING DATE: B/C 07-07-08 F/C 06-30-08	Executive Contract XX	PUBLIC HEARING
SUBJECT: Frederico DeVoe, dba, Well Spoken Interpreting Contract Amendment	Pass Ordinance XX	1 st DISCUSSION
Prepared By: Kathryn M. Phillips	Pass Motion	2 nd DISCUSSION
Reviewed By: Sharon Paradis	Other	OTHER

BACKGROUND INFORMATION

The State of Washington Administrative Office of the Courts (AOC) is providing funds to the Benton-Franklin Counties Juvenile Justice Center (BFJJC) to improve the quality and availability of court interpreter services for Limited English Proficient (LEP), deaf and hard of hearing persons in accordance with RCW 2.242 and 2.43. Frederico DeVoe, dba, Well Spoken Interpreting, is a court certified Spanish and Russian Interpreter for Medical, Social and Court matters in the State of Washington and State of Oregon. Mr. DeVoe has been providing interpretive services to the Benton-Franklin Counties Juvenile Justice Center on an occasional basis.

SUMMARY

Effective May 1, 2008, the rate of compensation will increase to \$50.00 per hour, subject to continued funding for interpreters by AOC. If that funding is withdrawn, reduced, or eliminated in any way, the hourly rate will revert back to the original rate as stated in the current contract.

RECOMMENDATION

We recommend that the Board of Commissioners of Benton County sign the Contract Amendment between the Benton-Franklin Counties Juvenile Justice Center and Frederico DeVoe, dba, Well Spoken Interpreting.

FISCAL IMPACT

The compensation rate is included in Benton-Franklin Counties Juvenile Justice Center 2008 Budget.

MOTION

I move that the Board of Commissioners sign the Contract Amendment between the Benton-Franklin Counties Juvenile Justice Center and Frederico DeVoe, dba, Well Spoken Interpreting.

JOINT RESOLUTION

BENTON COUNTY RESOLUTION NO. _____

FRANKLIN COUNTY RESOLUTION NO. _____

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

IN THE MATTER OF THE REQUEST FOR SIGNATURE FROM THE BOARDS OF BENTON AND FRANKLIN COUNTY COMMISSIONERS ON THE AMENDED CONTRACT BETWEEN THE JUVENILE JUSTICE CENTER AND FREDERICO DE VOE, DBA, WELL SPOKEN INTERPRETING, THUS AMENDING BENTON COUNTY RESOLUTION 07 217 AND FRANKLIN COUNTY RESOLUTION 2007 155, and

WHEREAS, Sharon Paradis, Administrator of the Juvenile Court, believes it is in the best interest of the Juvenile Justice Center that the amended contract between the Juvenile Court and Frederico De Voe, dba, Well Spoken Interpreting be approved as presented; and

WHEREAS, approval then necessitates amending Benton County Resolution 07 217 and Franklin County Resolution 2007 155, **NOW, THEREFORE,**

BE IT RESOLVED, that the Chairman of the Board of Benton County Commissioners and the Chairman of the Board of Franklin County Commissioners be and they hereby are authorized to sign, on behalf of their respective county, the Amended Contract.

DATED this 7th day of July 2008.
BENTON COUNTY BOARD OF COMMISSIONERS

DATED this 30th day of June 2008.
FRANKLIN COUNTY BOARD OF COMMISSIONERS

Chairman of the Board

Chairman of the Board

Member

Chairman 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

JUDGES

Hon. Dennis D. Yule
Hon. Craig J. Matheson
Hon. Vic L. VanderSchoor
Hon. Robert G. Swisher
Hon. Carrie Runge
Hon. Cameron Mitchell

BENTON-FRANKLIN COUNTIES JUVENILE JUSTICE CENTER



SHARON PARADIS, Administrator
Juvenile Court Services

SUPERIOR COURT OF THE STATE OF WASHINGTON

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

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

CONTRACT AMENDMENT

This Contract Amendment is made and entered into by and between Benton County, a political subdivision, with its principal offices at 620 Market Street, Prosser, WA 99350 and Franklin County, a political subdivision, with its principal offices at 1016 North Fourth Avenue, Pasco, WA 99301, by and for the Benton-Franklin Counties Juvenile Justice Center, a bi-county agency located at 5606 W. Canal Place STE 106, Kennewick, WA 99336 (hereinafter collectively referred to as "Counties"), and Frederico DeVoe, dba, Well Spoken Interpreting, with its principal office at 2805 West Ella Street, Pasco, Washington, 99301 ("Contractor").

In consideration of the mutual benefits and covenants contained herein and in the parties' Contract numbered as Benton County Resolution No. 07 217 and executed on April 2, 2007, and Franklin County Resolution No. 2007 155 and executed on April 9, 2007 ("Contract"), the parties agree as follows:

1. The parties agree to amend Section 4.A. of the Contract to read as follows:

At the rate of \$30.00 per hour for each hour of interpreting services provided for an individual and/or family during court proceedings or for Diversion, Becca, Community Supervision, Detention and Parent Pay matters at the Benton-Franklin Counties Juvenile Justice Center or other community-based locations as scheduled by Benton-Franklin Counties Juvenile Justice Center staff.

Effective May 1, 2008, the rate will increase to \$50.00 per hour, subject to continued funding for interpreters by the Administrative Office of the Courts. If that funding is withdrawn, reduced, or limited in any way, the hourly rate will be \$30.00 per hour.

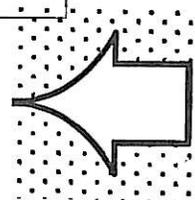
2. The parties agree that if funding for interpreters provided to the Counties by the Administrative Office of the Courts is withdrawn, reduced, or limited in any way, the Counties may summarily terminate this Contract Amendment notwithstanding any other termination provision in the Contract.

3. Except as expressly provided in this Contract Amendment, all other terms and conditions of the original Contract and any subsequent written contract amendments thereto remain in full force and effect.

The parties have caused this Contract Amendment to be signed as follows:

Well Spoken Interpreting	Benton Franklin Counties Juvenile Justice Center
	
Frederico DeVoe	Sharon A. Paradis
<p style="text-align: right;">6/11/08 Date</p>	<p style="text-align: right;">5/18/08 Date</p>
<p style="text-align: center;">BENTON COUNTY APPROVAL</p> <p>Approved as to Form:</p>  <p style="text-align: right;">6/24/08 Date</p> <p>Sarah Perry, Deputy Prosecuting Attorney Date</p> <p>By: _____ Name: <u>Claude Oliver</u> Title: <u>Chairman, Board of Commissioners</u> Date: _____</p> <p>Attest: _____</p> <p>Clerk of the Board: _____</p>	<p style="text-align: center;">FRANKLIN COUNTY APPROVAL</p> <p>Approved as to Form:</p> <p><u>Agreed Review Performed by Benton County</u> Ryan Verhulp, Civil Deputy Prosecuting Attorney Date</p> <p>By: _____ Name: <u>Robert Koch</u> Title: <u>Chairman, Board of Commissioners</u> Date: _____</p> <p>Attest: _____</p> <p>Clerk of the Board: _____</p>

Frederico DeVoe



K

AGENDA ITEM: Consent	TYPE OF ACTION	
MEETING DATE: B/C 07-07-08 F/C 06-30-08	NEEDED	
SUBJECT: County Program Agreement Amendment with DSHS/CA Agreement 0763-17677-01 for BFJJC to provide ART training to DSHS/CA staff.	Executive Contract <u>xx</u> Pass Resolution <u>xx</u> Pass Ordinance Pass Motion Other	CONSENT AGENDA <u>xx</u> PUBLIC HEARING <u> </u> 1ST DISCUSSION <u> </u> 2ND DISCUSSION OTHER
Prepared By: Kathryn M. Phillips		
Reviewed By: Sharon Paradis		

BACKGROUND INFORMATION

The Department of Social and Health Services, Division of Children and Family Services (DSHS/DCFS), established the need to train their staff with the evidence based Aggression Replacement Training (ART) model. ART is a multi-modal intervention design intended to alter the behavior of chronically aggressive youth. The Benton-Franklin Counties Juvenile Justice Center (BFJJC) has an ART Master Trainer on staff that is qualified and eligible to provide training to staff. DSHS/DCFS requested that BFJJC ART Master provide training to their staff last fiscal year. The training sessions were well received by the DSHS/DCFS staff that DSHS/DCFS desires to extend the agreement for the period beginning July 1, 2008, and ending on June 30, 2009.

SUMMARY

DSHS/DCFS will pay according to the conditions set in Consideration section of the program's Special Terms and Conditions in the County Program Agreement Amendment.

RECOMMENDATION

I recommend that the Boards of County Commissioners authorize their Chairs to sign the Program Agreement Amendment # 0763-17677-01.

FISCAL IMPACT

This is a state contract by which we are reimbursed for services.

MOTION

I move that the Chair of the Board of Benton County Commissioners, and the Chair of the Board of Franklin County Commissioners be hereby authorized to sign, on behalf of their respective county, the Program Agreement Amendment for services between the Juvenile Justice Center and the Department of Social and Health Services, Division of Children and Family Services, for the term of July 1, 2008, through June 30, 2009.

JOINT RESOLUTION

BENTON COUNTY RESOLUTION NO. _____

FRANKLIN COUNTY RESOLUTION NO. _____

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

IN THE MATTER OF THE REQUEST FOR SIGNATURE FROM THE CHAIRMAN OF THE BOARDS OF BENTON AND FRANKLIN COUNTY COMMISSIONERS ON THE COUNTY PROGRAM AGREEMENT AMENDMENT BETWEEN THE JUVENILE JUSTICE CENTER AND WASHINGTON STATE DEPARTMENT OF SOCIAL & HEALTH SERVICES, DIVISION OF CHILDREN AND FAMILY SERVICES, THUS AMENDING BENTON COUNTY RESOLUTION 07 470 AND FRANKLIN COUNTY RESOLUTION 2007 313, and

WHEREAS, Sharon A. Paradis, Administrator of the Juvenile Court, believes it is in the best interest of the Juvenile Justice Center that the County Program Agreement Amendment # 0763-17677-01 between Washington State Department Of Social & Health Services, division of Children and Family Services, and Benton-Franklin Counties Juvenile Justice Center be approved as presented f, **NOW, THEREFORE**

BE IT RESOLVED, that the Chairman of the Board of Benton County Commissioners and the Chairman of the Board of Franklin County Commissioners be and they hereby are authorized to sign, on behalf of their respective county, the County Program Agreement Amendment.

DATED this 7th day of July 2008.
BENTON COUNTY BOARD OF COMMISSIONERS

DATED this 30th day of June 2008.
FRANKLIN COUNTY BOARD OF COMMISSIONERS

Chairman of the Board

Chairman of the Board

Member

Chairman Pro Tem

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

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

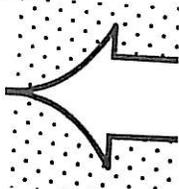
ATTEST:

ATTEST:

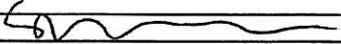
Clerk of the Board

Clerk of the Board

COUNTY PROGRAM AGREEMENT AMENDMENT		DSHS Agreement Number 0763-17677
Aggression Replacement Training Staff Training		Amendment No. 0763-17677-01
This Program Agreement Amendment is by and between the State of Washington Department of Social and Health Services (DSHS) and the County identified below.		Administration or Division Agreement Number 1605- County Agreement Number
DSHS ADMINISTRATION Childrens Administration	DSHS DIVISION	DSHS INDEX NUMBER 1122
CCS CONTRACT CODE 1122		
DSHS CONTACT NAME AND TITLE Paul Mantz-Powers		DSHS CONTACT ADDRESS 206 W Poplar Walla Walla, WA 99362-
DSHS CONTACT TELEPHONE (509) 524-4930 Ext:	DSHS CONTACT FAX (509) 527-4655	DSHS CONTACT E-MAIL ppa300@dshs.wa.gov
COUNTY NAME Benton County Benton - Franklin Juvenile Justice Center	COUNTY ADDRESS 5605 W Canal Place, Suite 106 Kennewick, WA 99336	
COUNTY FEDERAL EMPLOYER IDENTIFICATION NUMBER 916001296	COUNTY CONTACT NAME Sharon Paradis	
COUNTY CONTACT TELEPHONE (509) 736-2722 Ext:	COUNTY CONTACT FAX (509) 222-2311	COUNTY CONTACT E-MAIL sharon.paradis@co.benton.wa.us
IS THE COUNTY A SUBRECIPIENT FOR PURPOSES OF THIS PROGRAM AGREEMENT? No		CFDA NUMBERS
AMENDMENT START DATE 7/1/2008	PROGRAM AGREEMENT END DATE 6/30/2009	
PRIOR MAXIMUM PROGRAM AGREEMENT AMOUNT \$2,200.00	AMOUNT OF INCREASE OR DECREASE \$2,200.00	TOTAL MAXIMUM PROGRAM AGREEMENT AMOUNT \$4,400.00
REASON FOR AMENDMENT; CHANGE OR CORRECT PERIOD OF PERFORMANCE AND MAX CONTRACT AMOUNT		
EXHIBITS. When the box below is marked with a check (4) or an X, the following Exhibits are attached and are incorporated into this Program Agreement Amendment by reference: <input type="checkbox"/> Exhibits (specify):		
This Program Agreement Amendment, including all Exhibits and other documents incorporated by reference, contains all of the terms and conditions agreed upon by the parties as changes to the original Program Agreement. No other understandings or representations, oral or otherwise, regarding the subject matter of this Program Agreement Amendment shall be deemed to exist or bind the parties. All other terms and conditions of the original Program Agreement remain in full force and effect. The parties signing below warrant that they have read and understand this Program Agreement Amendment, and have authority to enter into this Program Agreement Amendment.		
COUNTY SIGNATURE(S) 	PRINTED NAME(S) AND TITLE(S) Sharon Paradis, Juvenile Court Administrator	DATE(S) SIGNED 6/20/08
	Claude Oliver, Benton County Commissioner	
	Robert E. Koch, Franklin County Commissioner	
DSHS SIGNATURE	PRINTED NAME AND TITLE Cecelia Callison, HQ Contract Manager	DATE SIGNED



APPROVED AS TO FORM:



Agreed review performed by Benton County

Benton County Civil Prosecutor, Sarah Perry

Franklin County Civil Prosecutor, Ryan Verhulp

6/25/18

This Program Agreement between the County and the State of Washington Department of Social and Health Services (DSHS) is hereby amended as follows:

1. **Purpose.** The purpose of the Amendment is to extend the period of performance and to increase the maximum consideration.

The Special Terms and Conditions are amended as follows:

2. **Period of Performance.** The period of performance under this contract is revised by an additional 12 months, to extend the period of performance from July 1, 2008 to June 30, 2009.

3. **Section 5. Consideration:**

- a. **Subsection a. is amended as follows:**

Maximum Contract Amount. The maximum amount of total compensation payable to the Contractor for satisfactory performance of the work under this Contract is increased by \$2,200.00 for a new total Maximum Program Agreement Amount as stated on page 1 of this Amendment.

- b. **Subsection b. is amended as follows:**

Compensation by Fiscal Year. The maximum amount payable under the Contract per state fiscal year is allotted as follows:

- For FY 2009, from July 01, 2008 to June 30, 2009, a maximum amount of up to \$2,200.00.

Allotted funds not expended during the period ending June 30, 2009 shall not be carried forward into the following fiscal year.

- c. **Subsection c. is amended as follows:**

(1) Art Master Trainer – up to 39 hours at agreed upon rate between DSHS and Benton County Juvenile Justice Center, not to exceed \$2,000.00. Training hours will be used for continued review, monitoring, assessment evaluation and feedback.

(2) Potential travel cost for the ART Master Trainer not to exceed \$200.00.

All other terms and conditions of this Program Agreement remain in full force and effect.

AGENDA ITEM: Consent	TYPE OF ACTION NEEDED	CONSENT AGENDA <u>xx</u> PUBLIC HEARING 1ST DISCUSSION 2ND DISCUSSION OTHER
MEETING DATE: B/C 07-07-08 F/C 06-30-08		
SUBJECT: Contract Amendment for Reinvesting in Youth Project 763-26165-01	Executive Contract <u>xx</u>	
Prepared By: Kathryn M. Phillips	Pass Resolution <u>xx</u>	
Reviewed By: Sharon Paradis	Pass Ordinance	
	Pass Motion	
	Other	

BACKGROUND INFORMATION

On August 17, 2007, the Department of Social & Health Services (DSHS) awarded the Benton-Franklin Counties Juvenile Justice Center a grant to continue Reinvesting in Youth (RIY) project. The purpose of RIY to provide funding to for expansion of three evidence-based practices (Functional Family Therapy, Multi-systemic Therapy, and Aggression Replacement Training). The Contract amendment 0763-26165-01 is for the period of July 21, 2008 through June 30, 2009.

SUMMARY

Benton-Franklin Counties Juvenile Justice Center has been a pilot site for the Reinvesting in Youth Project since August of 2005. The contract amendment will allow a carry forward of the balance of funds to be applied to the current contract.

RECOMMENDATION

We recommend that the Board of Commissioners of Benton County and Franklin County sign the Contract Amendment # 0763-26165-01 Reinvesting in Youth with DSHS and Benton-Franklin Juvenile Justice Center.

FISCAL IMPACT

There will be no fiscal impact to county funds.

MOTION

I move that the Chairman of the Board of Benton County Commissioners, and the Chairman of the Board Franklin County Commissioners be hereby authorized to sign the contract amendment 0763-0763-26165-01 Reinvesting in Youth with the DSHS.

JOINT RESOLUTION

BENTON COUNTY RESOLUTION NO. _____

FRANKLIN COUNTY RESOLUTION NO. _____

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

IN THE MATTER OF THE REQUEST FOR SIGNATURE FROM THE CHAIRMAN OF THE BOARDS OF BENTON AND FRANKLIN COUNTY COMMISSIONERS ON THE CONTRACT AMENDMENT # 0763-26165-01 BETWEEN THE JUVENILE JUSTICE CENTER AND DEPARTMENT OF SOCIAL & HEALTH SERVICES, THUS AMENDING BENTON COUNTY RESOLUTION 07 629 AND FRANKLIN COUNTY RESOLUTION 2007 459, and

WHEREAS, Sharon A. Paradis, Administrator of the Juvenile Court, believes it is in the best interest of the Juvenile Justice Center that Contract Amendment Reinvesting in Youth # 0763-26165-01 between Washington State Department of Social & Health Services, and Benton-Franklin Counties Juvenile Justice Center be approved as presented, NOW, THEREFORE

BE IT RESOLVED, that the Chairman of the Board of Benton County Commissioners and the Chairman of the Board of Franklin County Commissioners be and they hereby are authorized to sign, on behalf of their respective county, the contract amendment.

DATED this 7th day of July 2008.

DATED this 30th day of June 2008.

BENTON COUNTY BOARD OF COMMISSIONERS

FRANKLIN COUNTY BOARD OF COMMISSIONERS

Chairman of the Board

Chairman of the Board

Member

Chairman 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



CONTRACT AMENDMENT Reinvestment In Youth

DSHS CONTRACT NUMBER:
0763-26165

Amendment No. 0763-26165-01

This Contract Amendment is between the State of Washington Department of Social and Health Services (DSHS) and the Contractor identified below.

Program Contract Number
CORIY
Contractor Contract Number

CONTRACTOR NAME Benton County		CONTRACTOR doing business as (DBA)	
CONTRACTOR ADDRESS 5605 W Canal Place, Suite 106 Kennewick, WA 99336		WASHINGTON UNIFORM BUSINESS IDENTIFIER (UBI) 035-000-971	DSHS INDEX NUMBER 1122
CONTRACTOR CONTACT Sharon Paradis	CONTRACTOR TELEPHONE (509) 736-2722 Ext:	CONTRACTOR FAX (509) 222-2311	CONTRACTOR E-MAIL ADDRESS sharon.paradis@co.benton.wa.us
DSHS ADMINISTRATION Juvenile Rehabilitation		DSHS DIVISION Division of Treatment and Intergovernmental Prog	DSHS CONTRACT CODE 5000CC-63
DSHS CONTACT NAME AND TITLE Cory Redman Program Administrator		DSHS CONTACT ADDRESS 14th and Jefferson P.O. Box 45720 Olympia, WA 98504-	
DSHS CONTACT TELEPHONE (360) 902-8079 Ext:	DSHS CONTACT FAX (360) 902-8108	DSHS CONTACT E-MAIL ADDRESS redmaca@dshs.wa.gov	
IS THE CONTRACTOR A SUBRECIPIENT FOR PURPOSES OF THIS CONTRACT? No		CFDA NUMBERS	
AMENDMENT START DATE 7/21/2008	CONTRACT END DATE 6/30/2009		
PRIOR MAXIMUM CONTRACT AMOUNT \$94,966.00	AMOUNT OF INCREASE OR DECREASE \$8,518.05	TOTAL MAXIMUM CONTRACT AMOUNT \$103,484.05	
REASON FOR AMENDMENT; CHANGE OR CORRECT MAXIMUM CONTRACT AMOUNT			
ATTACHMENTS. When the box below is marked with an X, the following Exhibits are attached and are incorporated into this Contract Amendment by reference: <input type="checkbox"/> Additional Exhibits (specify):			
This Contract Amendment, including all Exhibits and other documents incorporated by reference, contains all of the terms and conditions agreed upon by the parties as changes to the original Contract. No other understandings or representations, oral or otherwise, regarding the subject matter of this Contract Amendment shall be deemed to exist or bind the parties. All other terms and conditions of the original Contract remain in full force and effect. The parties signing below warrant that they have read and understand this Contract Amendment, and have authority to enter into this Contract Amendment.			
CONTRACTOR SIGNATURE <i>See Page 2</i>	PRINTED NAME AND TITLE		DATE SIGNED
DSHS SIGNATURE	PRINTED NAME AND TITLE Del Hontanosas Grants & Contracts Manager		DATE SIGNED

This Contract between the State of Washington Department of Social and Health Services (DSHS) and the Contractor is hereby amended as follows:

- 1) Effective May 1, 2008, for FY 2008 increase the maximum consideration by \$8,518.05 for a new maximum consideration of \$49,362.05.
- 2) The total new maximum consideration for this contract shall be \$103,484.05.

All other terms and conditions of this Contract remain in full force and effect.

NAMES AND TITLES OF AUTHORIZED OFFICER (PERSON WITH LEGAL AUTHORITY: COUNTY COMMISSIONERS' CHAIRMAN OF THE BOARD, MAYOR, CITY/TOWN MANAGER, AGENCY DIRECTOR)

BENTON-FRANKLIN COUNTIES JUVENILE JUSTICE CENTER



Sharon A. Paradis, Juvenile Court Administrator

BENTON COUNTY APPROVAL

Approved as to Form:

Sarah Perry 6/24/09
Sarah Perry, Deputy Prosecuting Attorney Date

By: _____
Name: Claude L. Oliver
Title: Chairman, Board of Commissioners
Date: _____
Attest:

Clerk of the Board: _____

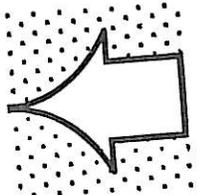
FRANKLIN COUNTY APPROVAL

Approved as to Form:

Ryan Verhulp
Agreed Review Performed by Benton County
Ryan Verhulp, Civil Deputy Prosecuting Attorney Date

By: _____
Name: Robert E. Koch
Title: Chairman, Board of Commissioners
Date: _____
Attest:

Clerk of the Board: _____



m

AGENDA ITEM MTG. DATE: July 7, 2008 SUBJECT: Planning Commission Appointments Prepared By: Donna Hutchinson Reviewed By: Michael Shuttleworth	TYPE OF ACTION NEEDED Execute Contract Pass Resolution X Pass Ordinance Pass Motion X Other	Consent Agenda X Public Hearing 1st Discussion 2nd Discussion Other
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BACKGROUND INFORMATION

Ms. Faye Nelson, member of the Benton County Planning Commission from Commissioner District #2 and Mr. Coughlin, member of the Benton County Planning Commission from Commission District #1 have indicated that they wish to continue serving on the Planning Commission. Attached please find resolutions reappointing each of them to another 4-year term on the Planning Commission.

SUMMARY

Ms. Nelson and Mr. Coughlin have both indicated that they wish to be reappointed to the Planning Commission for another 4-year term.

RECOMMENDATION

It is the Planning Department's recommendation that the Board of County Commissioners sign the resolutions reappointing Ms. Nelson and Mr. Coughlin to another 4-year term on the Planning Commission.

FISCAL IMPACT

None

MOTION

A motion will need to be made to have the Chairman of the Board reappoint Ms. Nelson and Mr. Coughlin to another 4-year term on the Planning Commission.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF COUNTY PLANNING RE: REAPPOINTMENT OF LLOYD COUGHLIN TO THE BENTON COUNTY PLANNING COMMISSION.

WHEREAS, Benton County Ordinance No. 86 (as amended by Ordinance No. 181), adopted pursuant to RCW 36.70, provides for a seven-member County Planning Commission; and,

WHEREAS, RCW 36.70.080 provides for appointment of Planning Commission members by the Chairman of the Board of County Commissioners, upon approval of a majority of the Board, from nominations by individual board members, said appointment to result in equal representation among the Commissioner Districts; and,

WHEREAS the term of Lloyd Coughlin in the First Commissioner District expires July 1, 2008, and

WHEREAS the First District Commissioner has nominated Lloyd Coughlin for reappointment, Mr. Coughlin has stated his desire to continue serving, and the other members of the Board concur with the nomination,

NOW, THEREFORE, BE IT RESOLVED that the Chairman of the Board of Benton County Commissioners reappoints Lloyd Coughlin, to the Benton County Planning Commission, with his term expiring July 1, 2012.

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

MES/djh

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF COUNTY PLANNING RE: REAPPOINTMENT OF V. FAYE NELSON TO THE BENTON COUNTY PLANNING COMMISSION.

WHEREAS, Benton County Ordinance No. 86 (as amended by Ordinance No. 181), adopted pursuant to RCW 36.70, provides for a seven-member County Planning Commission; and,

WHEREAS, RCW 36.70.080 provides for appointment of Planning Commission members by the Chairman of the Board of County Commissioners, upon approval of a majority of the Board, from nominations by individual board members, said appointment to result in equal representation among the Commissioner Districts; and,

WHEREAS the term of Faye Nelson in the Second Commissioner District expires July 1, 2008, and

WHEREAS the Second District Commissioner has nominated Faye Nelson for reappointment, Ms. Nelson has stated her desire to continue serving, and the other members of the Board concur with the nomination,

NOW, THEREFORE, BE IT RESOLVED that the Chairman of the Board of Benton County Commissioners reappoints V. Faye Nelson, to the Benton County Planning Commission, with his term expiring July 1, 2012.

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

MES/djh

RESOLUTION

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BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF DRAINAGE IMPROVEMENT DISTRICTS RE: DRAINAGE IMPROVEMENT DISTRICT NOS. 6, 9, 10 AND 11 SUB A; EXAMINATION OF FINANCIAL ACTIVITIES BY THE STATE AUDITOR'S OFFICE

WHEREAS, the State Auditor has requested preliminary financial information regarding the County's Drainage Improvement Districts in preparation for an audit of activities in 2003; and

WHEREAS, an Examination of Financial Activities for the County's Drainage Improvement Districts has been completed; NOW, THEREFORE,

BE IT RESOLVED that the Chairman be authorized to sign the Examination of Financial Activities on behalf of each Drainage Improvement District.

Dated this 7th day of July, 2008.

Chairman

Chairman Pro-Tem

Member

Attest: _____
Clerk of the Board

Constituting the Board of County
Commissioners of Benton County,
Washington

RBD:LJM:slc

D

RESOLUTION

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

IN THE MATTER OF COUNTY FRANCHISES RE: GRANTING A NON-EXCLUSIVE
FRANCHISE WITHIN BENTON COUNTY;

WHEREAS, prior to 1998, non-exclusive franchises were granted with terms up to fifty (50)
years, and

WHEREAS, in 1998, the Board of County Commissioners having determined that future Boards
should have the opportunity to review and approve or deny all franchises, set the maximum term
for all non-exclusive franchises receiving first time approval or renewal at five (5) years and the
cost of the franchise was \$100.00, and

WHEREAS, by Resolution #07-222, dated April 2, 2007, the fee for a new or renewal franchise
was increased to \$250.00, and

WHEREAS, following discussions on the term and cost of a franchise, it was determined that a
ten (10) year term at a cost of \$500.00 would be more appropriate than the five (5) year term and
would be more beneficial to utilities applying for new franchises or franchise renewal, NOW
THEREFORE;

BE IT RESOLVED that the duration of a new franchise or renewal of an existing franchise shall
be a ten (10) year period and that the cost of a franchise shall be \$500.00.

Dated this 7th day of July 2008.

Chairman

Chairman Pro-Tem

Member

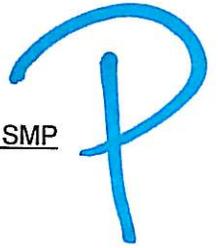
Constituting the Board of County
Commissioners of Benton County,
Washington

Attest: _____
Clerk of the Board

RBD:LSS

RESOLUTION NO. _____

County Engineer Project No. 1909 SMP
Arterial Access



BEFORE THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON
IN THE MATTER OF COUNTY ROADS, RE: PAVEMENT MARKING 2008

IT IS HEREBY RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, that the County Engineer is hereby authorized to proceed according to the terms of the contract awarded, Monday, June 9, 2008, to STRIPE-RITE, INC., Sumner, Washington 98390.

Length of Project: 375± miles; Width of Roadbed: ___ ft.; Surface: ___ ft.; Pavement: ___ ft.
Type and depth of surfacing: _____
Bridge ___ Irrigation Crossing: Length ___ ft.; Width ___ ft.
Estimated date of beginning: August 1, 2008; Estimated date of completion: September 30, 2008

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

	<u>County Road Fund</u>			<u>Total</u>
Prel. Engr.	5,000.00			5,000.00
Right-of-Way				0.00
Mat. from Stkple				0.00
Day Labor				0.00
Contract	189,996.00			189,996.00
Const. Engr.	9,504.00			9,504.00
Contingencies	4,500.00			4,500.00
Total	209,000.00	0.00	0.00	209,000.00

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

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

ADOPTED this 7th day of July, 2008.

Chairman

(SEAL)

Chairman Pro-Tem

Attest:

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

Clerk of the Board

RBD:LJM:dlh

RESOLUTION

g.

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

IN THE MATTER OF COUNTY ROADS, RE: SUMMIT VIEW, PHASE 6, CE 1906 CRP

WHEREAS, plans and specifications for the above referenced project, having been signed by the County Engineer, are hereby presented for approval to the Board of County Commissioners;
NOW, THEREFORE

BE IT RESOLVED that the plans be and hereby are approved and that the Chairman is authorized to sign Sheet One of Eight for Summit View, Phase 6, CE 1906 CRP

Dated this 7th day of July 2008.

Chairman

Chairman Pro-Tem

Member

Attest: _____
Clerk of the Board

Constituting the Board of County
Commissioners of Benton County,
Washington

RBD:SWB

RESOLUTION



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

IN THE MATTER OF COUNTY ROADS, RE: CONSULTANT AGREEMENT FOR APPRAISAL SERVICES

WHEREAS, Benton County desires to employ a firm to appraise property for County roads, County wide, and

WHEREAS, a Request for Qualifications for appraisal services was issued and five firms responded, and

WHEREAS, after reviewing said qualifications, the Department of Public Works has selected Associated Appraisers of Walla Walla, Washington to appraise property for Benton County for one year with an annual renewal option for a total of five years, and

WHEREAS, said agreement has been reviewed and approved as to form by the Prosecuting Attorney's Office and is recommended for approval by the Department of Public Works, NOW, THEREFORE

BE IT RESOLVED that the agreement submitted by Associated Appraisers to provide appraisal services for the purposes of acquiring road right of way be approved and the Chairman of the Board of County Commissioners is hereby authorized to sign said contract on behalf of Benton County

Dated this 7th day of July 2008.

Chairman

Chairman Pro-Tem

Member

Attest: _____
Clerk of the Board

Constituting the Board of County
Commissioners of Benton County,
Washington

RBD:SWB

CONSULTANT AGREEMENT FOR APPRAISAL SERVICES

THIS AGREEMENT, made and entered into on this 30th day of June, 2008, by and between BENTON COUNTY, WASHINGTON, hereinafter called the "COUNTY" and consulting firm of ASSOCIATED APPRAISERS of Walla Walla LLC whose address is 2 West Main, Walla Walla, WA 99362, hereinafter called the "CONSULTANT".

WHEREAS, BENTON COUNTY does not have sufficient employees to accomplish Appraisals on proposed contracts and BENTON COUNTY deems it advisable and is desirous of engaging the professional services and assistance of a qualified firm to provide the necessary appraisal services, and

WHEREAS, the CONSULTANT has indicated that their firm desires to do the work set forth in the Agreement upon the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performances contained herein below, the parties agree as follows:

I PROJECT IDENTIFICATION

The CONSULTANT will appraise various properties on behalf of the COUNTY. This Agreement shall be valid for a one year period ending one year from the above date with an option for annual renewal each year ending five years from the above date.

II SCOPE OF WORK

The CONSULTANT shall appraise on behalf of the COUNTY, using procedures specified by the COUNTY, in accordance with the Washington State Department of Transportation *Right of Way Manual*, which by this reference is made a part of this Agreement and are in conformity with the Uniform Standards of Professional Appraisal Practice (USPAP).

The service rendered by the CONSULTANT shall be as follows:

A. APPRAISAL

The CONSULTANT shall furnish appraisals on all parcels requested or required by the COUNTY, to the COUNTY. The COUNTY shall provide for appraisal review. The appraisals will conform to the form shown in *LOCAL AGENCY GUIDELINES MANUAL*, WASHINGTON STATE DEPARTMENT OF TRANSPORTATION, which by reference is made a part of this Agreement and is in conformity with USPAP.

III
OBLIGATIONS OF CONSULTANT

- A. CONSULTANT shall assure that no less than two personal contacts are made with each interested party (owner) in order to acquire valid title to needed property rights as shown on the project map or as instructed by the COUNTY.
- B. CONSULTANT shall assure that a complete, legible diary is kept for each parcel of property to be appraised. The diary is to include, but is not limited to: each contact or attempted contact of reputed landowner; date of site visit; names of all parties present at site visits.
- C. CONSULTANT shall work such days and hours necessary to meet with property owners that may not be available during regularly working hours.
- D. CONSULTANT shall correct any work performed by him or his employees on the project that is found to be in error and deliver corrected work to the COUNTY at his own expense. Corrected work shall be delivered to the COUNTY within 14 days from the date of the request to correct the work. Should it be determined that corrected work can not be completed within 14 days, the CONSULTANT, may request up to 30 days to complete the corrective work.
- E. CONSULTANT shall remove any employee from assignment to this project immediately upon request of the COUNTY.
- F. CONSULTANT agrees to make available for inspection and audit all records of this Agreement to the COUNTY, state and federal governments at any time during the term of this Agreement and upon completion of this agreement all original files and records become the sole property of the COUNTY and shall be delivered to the COUNTY.
- G. CONSULTANT shall be available for consultation with the COUNTY, state and federal representatives after completion of this Agreement should the need arise. Said consultation shall be contracted for by separate agreement if it involves litigation.

IV
OBLIGATIONS OF THE COUNTY

- A. COUNTY shall furnish appropriate policy directives, instructions in writing, acquisition schedule, title reports, project maps, requested engineering data and legal descriptions.
- B. COUNTY shall furnish final decisions in writing on questions not covered by the above material.
- C. COUNTY shall review and accept or reject any work performed by the CONSULTANT on the project in twenty (20) days or less from the date of receipt by the COUNTY.

V
COMPENSATION

- A. CONSULTANT shall be paid on a monthly basis for work satisfactorily completed based upon the following specified rates and such rates will be applicable throughout the life of the Agreement.

<u>Appraiser</u>	Consultants price per appraisal and/or project will based on an hourly rate of \$125.00 per hour for designated appraisers and \$100.00 per hour for undesignated appraisers.
<u>Meals and Lodging</u>	Actual expense not to exceed allowable expenses per Benton County's <i>Business Travel and Expense Policy</i> .
<u>Travel</u> <u>Mileage</u>	As authorized by Benton County, in writing Internal Revenue Service (IRS) mileage rates as approved by the Board of Benton County Commissioners.
<u>Miscellaneous</u>	Actual expenses, such as parking, ferry charges, etc.

- B. CONSULTANT shall provide a written progress or verbal report on engaged projects on a monthly basis.
- C. The total reimbursement of compensation and expenses for services under provisions of this Agreement is to be determined for each project and approved by the COUNTY prior to work being undertaken.

VI
TIME OF BEGINNING AND COMPLETION

- A. CONSULTANT shall not begin work under the terms of this Agreement until authorized in writing by the COUNTY. The time required, in calendar days, for completion of all work under this Agreement shall be determined for each project.

Established completion time shall not be extended because of unwarranted delays attributable to the CONSULTANT, but may be extended by the COUNTY or because of unavoidable delays caused by an act of God or governmental actions or other conditions beyond the control of the CONSULTANT.

- B. Upon completion of this agreement all documents and records become the sole property of the COUNTY and shall be delivered to the COUNTY

VII
AMENDMENTS AND REVISIONS

The COUNTY may make changes within the scope of this Agreement by giving notice to the CONSULTANT and subsequently confirming such changes in writing. If such changes affect the cost of or the time required for performance of this Agreement, an appropriate adjustment shall be made. No change by the CONSULTANT shall be recognized without written approval by the COUNTY. Nothing in this article shall excuse the CONSULTANT from proceeding with performance of the Agreement as changed hereunder. All changes shall be submitted as an amendment to the basic Agreement and

approved by the COUNTY before the work is undertaken in order to become eligible for federal participation.

VIII ASSIGNMENT OF AGREEMENT

CONSULTANT shall not assign this Agreement in whole or in part, nor shall CONSULTANT subcontract any of the work to be performed herein without the prior written consent of the COUNTY.

IX TERMINATION OF CONTRACT

- A. The COUNTY may terminate this contract by notifying CONSULTANT thirty (30) days in advance of termination in writing by Certified Mail of its intentions at any time and for any reason whatsoever. In the event of such termination, the COUNTY shall be obligated to reimburse CONSULTANT for services performed and expenses incurred to date of termination at the rates set forth under Article V herein, less prior interim payments, if any. Upon payment of such sums, the COUNTY shall be discharged from liability to the CONSULTANT hereunder and this Agreement shall be considered terminated unless extended in writing by mutual agreement between the parties hereto.
- B. Upon termination of contract under paragraph A above, all documents, records and file materials shall be turned over to of the COUNTY by the CONSULTANT.
- C. All services to be rendered under this contract shall be subject to director and approved by the COUNTY.

X EMPLOYMENT

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this Agreement and that they have not paid or agreed to pay any company or person other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warranty, the COUNTY shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Any and all employees of the CONSULTANT, while engaged in the performance of any work or services required by the CONSULTANT under this Agreement, shall be considered employees of the CONSULTANT only and not the COUNTY and any and all claims that may or might arise under the Workman's Compensation Act on behalf of said employees, while so engaged and any and all claims made by a third party as a consequence of any negligent act or omission on the part of the CONSULTANT'S employees, while so engaged on any work or services provided to be rendered herein, shall be the sole obligation and responsibility of the CONSULTANT.

The CONSULTANT shall not engage, on a full or part-time basis, or other basis, during the period of the Agreement, any professional or technical personnel who are, or have been at any time during the period of this Agreement, in the employ of the Federal Highway Administration (FHWA), state, or COUNTY, except regularly retired employees, without written consent of the public employer of the person.

If during the time period of this Agreement, the CONSULTANT finds it necessary to increase his professional, technical or clerical staff as a result of this work, he will actively solicit minorities through his advertisement and interview process.

During the performance of this contract, the CONSULTANT, for itself, its assigns and successors in interest, agrees as follows:

- A. **COMPLIANCE WITH LAWS AND REGULATIONS:** The CONSULTANT shall comply with the Regulations relative to nondiscrimination in Federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract. The CONSULTANT shall comply with the State Law Against Discrimination, Chapter 49.60 RCW and any regulations adopted thereto.
- B. **NONDISCRIMINATION:** The CONSULTANT, with regard to the work performed by it during the contract, shall not discriminate on the grounds of age, sex, marital status, race, creed, color, national origin, or the presence of any sensory, mental, or physical handicap unless based upon a bona fide occupational qualification, in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination of prohibited by Chapter 49.60 RCW or by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- C. **SOLICITATIONS FOR SUBCONTRACTORS, INCLUDING PROCUREMENT OF MATERIALS AND EQUIPMENT:** In all solicitations either by competitive bidding or negotiation made by the CONSULTANT for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the CONSULTANT of the CONSULTANT'S obligations under this contract and the Regulations relative to nondiscrimination on the above grounds.
- D. **INFORMATION AND REPORTS:** The CONSULTANT shall provide all information and reports required by the Regulations; or directives issued pursuant thereto, and shall permit access to its books, records, accounts or other sources of information, and its facilities as may be determined by Benton County, the State Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, directives or laws. Where any information required of a consultant is in the exclusive possession of another who fails or refused to furnish this information, the CONSULTANT shall so certify to Benton County, the State Department of Transportation, or the Federal Highway Administration as appropriate, efforts it has made to obtain the information.
- E. **SANCTIONS FOR NONCOMPLIANCE:** In the event of the CONSULTANT'S noncompliance with the nondiscrimination provisions of this contract, Benton County shall impose such contract sanctions as it the State Department of Transportation or the Federal Highway Administration may determine to be appropriate, including but not limited to:
 - (1) withholding of payments to the contract until the CONSULTANT complies, and/or
 - (2) cancellation, termination or suspension of the contract, in whole or in part.

INCORPORATION OF PROVISIONS: The CONSULTANT shall include the provisions of paragraphs a through e in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any subcontract or procurement as Benton County, the State Department of

Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that, in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the CONSULTANT may request Benton County to enter into such litigation to protect the interests of the COUNTY, the State Department of Transportation to enter into such litigation to protect the interests of the State; and, in addition, the CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.

XI HOLD HARMLESS AND INDEMNIFICATION

- A. The CONSULTANT 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 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 acts, errors, or omissions 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 CONSULTANT, subconsultant, 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 CONSULTANT or subconsultant 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 any immunity the CONSULTANT might have had under such laws, including but not limited to Title 51 of the Revised Code of Washington. **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 subconsultant or agent performing work hereunder. CONSULTANT'S obligations under this Section 11 shall survive termination and expiration of this Contract.**
- 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 subconsultants.

XII INSURANCE

- A. **Professional Legal Liability:** Prior to the start of work under this Contract, the CONSULTANT, if he, she or it is a licensed professional, shall maintain Professional Legal Liability or Professional Errors and Omissions coverage appropriate to the CONSULTANT'S profession and shall be written subject to limits of not less than five hundred thousand (\$500,000) per occurrence, loss or person, \$500,000 aggregate.

The coverage shall apply to liability for a professional error, act or omission arising out of the scope of the CONSULTANT'S services defined in this Contract. Coverage shall not exclude bodily injury or property damage. The policy shall state that coverage is claims made, and state the retroactive date. CONSULTANT is also required to buy claims made 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. CONSULTANT shall annually provide COUNTY with proof of all such insurance.

- B. **Workers Compensation:** CONSULTANT shall comply with all State of Washington workers compensation statutes and regulations. Prior to the start of work under this Contract, workers compensation coverage shall be provided for all employees of CONSULTANT and employees of any subconsultant or sub-subconsultant. 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, subconsultant, or sub-subconsultant 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 subconsultant 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.

- C. **Commercial General Liability and Employers Liability Insurance:** Prior to the start of work under this Contract, CONSULTANT shall maintain commercial general liability coverage (policy form CG0001 or equivalent) for wrongful death, 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 general commercial liability policy will contain an endorsement naming the COUNTY as an additional insured (CG2010) and an endorsement that specifically states that CONSULTANT'S general liability policy shall be primary, and not contributory, with any other insurance maintained by the COUNTY.

The CONSULTANT will provide commercial general liability coverage that does not exclude any activity to be performed in fulfillment of this Contract and does not exclude liability pursuant to the indemnification requirement under Section [11]. 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.

If CONSULTANT has any employees, CONSULTANT also shall maintain employers liability insurance with limits of not less than one million dollars (\$1,000,000) each incident for bodily injury by accident or one million dollars (\$1,000,000) each employee for bodily injury by disease.

- D. **Automobile Liability:** [This section required if services involve the use of vehicles by CONSULTANT or the transportation of COUNTY employees or third parties]. 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 CONSULTANT'S liability insurance policies shall contain no special limitations on the scope of protection afforded to the COUNTY as an additional insured.
- (3) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the COUNTY, its officers, officials, employees or agents.
- (4) 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.
- (5) The CONSULTANT shall include all subconsultants as insureds under its policies or shall furnish separate certificates and endorsements for each sub CONSULTANT. All coverage for subconsultants shall be subject to all of the requirements stated herein.
- (6) 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.
- (7) 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. All liability insurance required under this Contract, except for professional liability under Section [8(a)], shall be written on an Occurrence Policy form. Professional liability insurance on a Claims Made form shall have a retroactive date prior to or coincident with the effective date of 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 in writing by the Benton County Risk Manager. If an insurer is not admitted to do business within Washington State, 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 and, if requested, a signed policy endorsement(s) which shall clearly evidence all required insurance prior to commencing work under this Contract. The certificates will, at a minimum, list limits of liability and coverage. For any professional liability insurance, the CONSULTANT agrees that the insurance contract will not be canceled or allowed to expire except on twenty-eight (28) days prior written notice to the COUNTY by the CONSULTANT. For other insurance policies, CONSULTANT shall not cancel or allow the insurance contract to expire except on forty-five (45) days prior written notice to the COUNTY. CONSULTANT shall also instruct the insurer to give the COUNTY forty-five (45) days advanced written notice of any cancellation by the insurer. The certificate or endorsement shall not limit or negate

the insurer's obligation as required by law to notify the COUNTY as an additional insured of cancellation.

- (2) The CONSULTANT 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" 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) If the CONSULTANT or any subconsultant or sub-subconsultant has any employees, 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 [12] and notice of cancellation or change of required insurance coverages shall be mailed to the COUNTY at the following address:

Ross B. Dunfee, P.E.
County Engineer/Public Works Director
Benton County Public Works
P.O. Box 1001
Prosser, WA 99350

- (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.

XIII WAGES AND HOURS LAW COMPLIANCE

CONSULTANT shall comply with all applicable provisions of the Fair Labor Standards Act and any other legislation affecting its employees and the rules and regulations issued thereunder insofar as applicable to its employees and shall at all times save the COUNTY free, clean and harmless from all actions, claims and expenses arising out of said Act and rules and regulations that are or may be promulgated in connection herewith.

XIV SOCIAL SECURITY AND OTHER TAXES

CONSULTANT assumes full responsibility for the payment of all payroll taxes, use sales, income or other forms to taxes, fees, licenses, excises or payments required by any city, county, federal or state legislation which are now or may be during the term of the Agreement be enacted as to all persons employed by the CONSULTANT and as to all duties, activities and requirements by the CONSULTANT

in performance of the work on this project and under this contract and shall assume exclusive liability therefore, and meet all requirements thereunder pursuant to any rules or regulations.

XV
DAMAGE CLAIMS

CONSULTANT shall indemnify and hold harmless the COUNTY from and against all claims for any and all damage, including but not limited to claims for damage to property or claims of misrepresentation in negotiations due to negligence of the CONSULTANT or its employees including court costs and attorney's fees, if any.

XVI
CONTENT AND UNDERSTANDING

This Agreement contains the complete and integrated understanding and agreement between the parties and supersedes any understanding, agreement, or negotiations whether oral or written not set forth herein or in written amendments hereto duly executed by both parties.

XVII
ATTORNEY'S FEES

If the COUNTY brings any action of suit relating to the enforcement of this Agreement or asking for any relief against CONSULTANT, declaratory or otherwise, arising out of this Agreement or if CONSULTANT brings any action or suit against the COUNTY, declaratory or otherwise, arising out of this Agreement, then the prevailing party in any of these events shall be paid its reasonable attorney's fees and costs and expenses expended or incurred in connection with any such suit or action.

XVIII
INDEPENDENT CONTRACTOR

The CONSULTANT shall at all times be an independent contractor and not an employee of the COUNTY, and shall not be entitled to compensation or benefits of any kind except as specifically provided for herein.

XIX
NOTICE

Any notice given by either party to the other hereunder shall be served, if delivered in person, to the office of the representative authorized and designated in writing to act for the respective party or if deposited in the mail, property stamped with the required postage and addressed to the office of such representative as indicated in this Agreement. Either party hereto shall have the right of change any representative or address it may have given to the other party by giving such other party due notice in writing of such.

XX
CONFLICT OF INTEREST

The CONSULTANT will notify the COUNTY upon any and all conflicts of interest or perceived conflicts of interest that may arise from this contract.

XXI
GOVERNING LAW

This Agreement and the rights and obligations of the parties hereunder shall be governed by the laws and rules of the State of Washington.

XXII
AUTHORIZED REPRESENTATIVE

In performing the services defined herein, the CONSULTANT shall report to:

COUNTY's representative:	Steven W. Becken
Telephone Number:	509-786-5611 or 509-736-3084
CONSULTANT's representative:	Michael Fredrickson
Telephone Number:	509-522-2272

XXII
APPROVAL OF AGREEMENT

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

FOR ASSOCIATED APPRAISERS OF
WALLA WALLA LLC:

Michael J. Judd

Title: *Managing Member*

Date: *6/30/08*

FOR BENTON COUNTY, WASHINGTON:

Chairman, Board of County Commissioners

Date: _____

ATTEST:

Clerk of the Board

Date: _____

APPROVED AS TO FORM:

Deputy Prosecuting Attorney

Date: _____

S

RESOLUTION

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

IN THE MATTER OF COUNTY ROADS, RE: CONSENT TO USE AGREEMENT

WHEREAS, landowners adjacent Badger Canyon Road, having experienced numerous mail thefts, have requested permission to install cluster lock box mail boxes along the road, and

WHEREAS, in the interest of public safety, Public Works has offered to allow the landowners to place the cluster lock boxes off the road right of way onto Northeast corner, an unused portion, of the Badger Pit, and

WHEREAS, because the access road to the proposed cluster lock boxes will cross a Kennewick Irrigation District maintenance road, approval of the crossing is required by the United States Bureau of Reclamation, and

WHEREAS, the Bureau of Reclamation has prepared an amendment to Master Crossing Agreement Number Ir-824, dated December 1, 1942 and renewed in 1992 in the form of an Agreement and Consent to Use with the Bureau of Reclamation, Yakima Field Office, which has been reviewed and approved by the Prosecuting Attorney's Office and is recommended for approval by the Department of Public Works,
NOW, THEREFORE

BE IT RESOLVED, that the Consent to Use agreement be approved and the Chairman of the Board be authorized to sign said agreement on behalf of Benton County.

Dated this 7th day of July 2008.

Chairman

Chairman Pro-Tem

Member

Attest: _____
Clerk of the Board

Constituting the Board of County
Commissioners of Benton County,
Washington

RBD:SWB

Return To:
United States Bureau of Reclamation
Attn: Carron Helberg
1917 Marsh Road
Yakima, WA 98901

Contract No. 8-07-13-L1067
Ptn of NW1/4, NW¼, S. 7, T. 8N, R. 28 EWM
Benton County, Washington

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
Yakima Project, Washington

CONSENT TO USE

THIS CONSENT TO USE, (CONSENT) made this ____ day of _____, 2008, pursuant to the Reclamation Act of Congress June 17, 1902 (32 Stat. 388; 43 U.S.C. § 391), Section 10 of the Reclamation Project Act of 1939 (43 U.S.C. 387), and acts amendatory thereof, or supplementary thereto, all of which acts are commonly known and referred to as the Federal Reclamation Laws, between the **United States of America**, represented by the official executing this Consent, hereinafter referred to as Reclamation or the United States, and **Benton County Public Works**, a public entity organized and existing under the laws of the State of Washington, hereinafter referred to as Consentee.

WITNESSETH, THAT:

2. WHEREAS, in connection with the Yakima Project, hereinafter referred to as the Project, the United States, through the Department of the Interior, Bureau of Reclamation, has, pursuant to Federal Reclamation Laws, acquired certain land rights in Benton County, Washington, and has constructed and owns certain irrigation distribution facilities hereinafter referred to as project facility; and,

3. WHEREAS, the Kennewick Irrigation District (District) is under a repayment contract with the United States and said project facility, known as Kennewick Main Canal road, is operated and maintained by the District; and,

4. WHEREAS, the Consentee wishes to obtain a right to use a portion of said easement to cross over said project facility to use as a turnaround area to access mailboxes, located on the Consentee's land adjacent to said project facility, as described in Exhibit A, by this reference are made a part hereof;

NOW, THEREFORE, in consideration of the mutual covenants and stipulations hereinafter stated, the parties hereto do mutually agree as follows:

5. All consideration for this Consent is waived due to the Consentee being the underlying fee owner of the Reclamation easement. The United States hereby consents, subject to the terms and conditions of this Consent, to cross over the Reclamation easement to access mailboxes located on the Consentee's personal property. The turnaround area is located in a portion of the Northwest Quarter of the Northwest Quarter NW1/4, NW1/4 of Section seven (7), Township eight (8) North, Range Twenty-eight (28) East of the Willamette Meridian, Benton County, Washington, as shown on Exhibit A.

6. This Consent is granted subject to all rights previously acquired by third parties.

7. This use, in accordance with provisions of this Consent will not interfere with project purposes.

8. TERM

The term of this Consent is set in perpetuity, and the rights and privileges granted in this Consent will inure to the benefit of, and be binding upon, the heirs, successors, and assigns of the parties thereto.

9. SEVERABILITY

Each provision of this Consent shall be interpreted in such a manner as to be valid under applicable law, but if any provision of this Consent shall be deemed or determined by competent authority to be invalid or prohibited hereunder, such provision shall be ineffective and void only to the extent of such invalidity or prohibition, but shall not be deemed ineffective or invalid as to the remainder of such provision or any other remaining provisions, or of this Consent, as a whole.

10. SPECIAL STIPULATIONS

Consentee agrees that the access to the turnaround area shall be conducted as follows:

(a) The CONSENTTEE will have access to the Kennewick Canal Operation and Maintenance (O&M) road for a turnaround area for locking mailboxes that are appurtenant to the Consentee's land. The O&M road shall not be blocked for any reason.

The Consentee shall not dig, blade, or cause any disturbance of the soil. No borrow material will be allowed to be taken from United States land or right-of-way.

(b) All construction within the Federal easement shall be performed in accordance with Federal, State, and local codes and subject to inspection by the District or conducted by the District.

(c) This Agreement allows the Consentee to apply gravel in the turn around area, but the Consentee will maintain the access in a manner that will not interfere with the use of the O&M road by the United States or the District. Any work not conducted by the District shall require twenty-four (24)-hour written notification to the District of the date and location of the proposed work.

(d) No blasting or use of explosives of any kind will be allowed on Reclamation land or right-of-way on this project.

11. HAZARDOUS MATERIALS

(a) The Consentee may not allow contamination or pollution of Federal lands, waters, or facilities and for which the Consentee has the responsibility for O&M by its employees or agents and shall take reasonable precautions to prevent such contamination or pollution by third parties. Substances causing contamination or pollution shall include, but are not limited to, hazardous materials, thermal pollution, refuse, garbage, sewage effluent, industrial waste, petroleum products, mine tailings, mineral salts, misused pesticides, pesticide containers, or any other pollutants.

(b) The Consentee shall comply with all applicable Federal, State, and local laws and regulations, and Reclamation policies and directives and standards, existing, or hereafter enacted or promulgated, concerning any hazardous material that will be used, produced, transported stored, or disposed of, on, or in, Federal lands, waters, or facilities.

(c) "Hazardous material" means any substance, pollutant, or contaminant listed as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9601, et seq., and the regulations promulgated pursuant to that Act.

(d) Upon discovery of any event which may, or does, result in contamination or pollution of Federal lands, waters, or facilities, the Consentee shall initiate any necessary emergency measures to protect health, safety, and the environment and shall report such discovery with full details of the actions taken to Reclamation. Reporting may be within a reasonable time period. A reasonable time period for reporting means within twenty-four (24) hours of the time of discovery if it is an emergency, or by the first working day if it is a non-emergency. An emergency is any situation that requires immediate action to

reduce or avoid endangering public health and safety or the environment.

(e) Violation of any of the provisions of this Article, as determined by Reclamation, may constitute grounds for termination of this Consent. Such violations require immediate corrective action by the Consentee and shall make the Consentee liable for the cost of full and complete remediation and/or restoration of any Federal resources or facilities that are adversely affected as a result of the violation.

(f) The Consentee agrees to include the provisions contained in paragraphs (a) through (e) of this Article in any subcontract or third-party contract it may enter into pursuant to this Consent.

(g) Reclamation agrees to provide information necessary for the Consentee using reasonable diligence, to comply with the provisions of this Article.

12. DISCOVERY OF CULTURAL RESOURCES

The Consentee shall immediately provide an oral notification to Reclamation of the discovery of any and all antiquities or other objects of archaeological, cultural, historic, or scientific interest on Federal lands. The Consentee shall follow up with a written report of their finding(s) to Reclamation within forty-eight (48) hours. Objects under consideration include, but are not limited to, historic or prehistoric ruins, human remains, funerary objects, and artifacts discovered as a result of activities under this Consent. The Consentee shall immediately cease the activity in the area of the discovery, make a reasonable effort to protect such discovery, and wait for written approval from Reclamation before resuming the activity. Protective and mitigative measures specified by Reclamation shall be the responsibility of the Consentee.

13. PROTECTION OF UNITED STATES INTERESTS

The Consentee shall construct, operate, and maintain its structures in a good workmanlike manner and shall insure compliance with all laws, regulations, and orders of the United States, and any other public authority affecting such works. The failure of Consentee after due notice to abide by any of the terms and conditions of any applicable laws, rules, or regulations shall cause this Consent to be subject to immediate termination at the option of Reclamation.

14. HOLD HARMLESS

The Consentee hereby agrees to indemnify and hold harmless the United States, its employees, agents, and assigns from any loss or damage and from any liability on account of personal injury, property damage, or claims for personal injury or death arising out of the Consentee's activities under this Consent.

15. LAND USE STIPULATION

There is reserved from the rights herein granted, the prior rights of the United States, to construct, operate, and maintain public works, now or hereafter, authorized by the Congress without liability for severance or other damage to the Consentee's work; provided, however, that if such reserved rights are not identified in at least general terms in this Consent, and exercised for works authorized by the Congress within ten (10) years following the date of this Consent, they will not be exercised unless the Consentee, or Consentee's successor in interest is notified of the need, and grants an extension or waiver. If no extension or waiver is granted, the United States will compensate, or institute mitigation measures for any resultant damages to works placed on said lands pursuant to the right herein granted. Compensation shall be in the amount of the cost of reconstruction of Consentee's works to accommodate the exercise of the United States facilities, or may provide other adequate mitigation measures for any damage to the Consentee's property or right. The decision to compensate or mitigate is that of the Regional Director.

16. ILLEGAL USE

Any activity deemed to be illegal on Federal lands will be cause for immediate termination of this Consent.

17. UNRESTRICTED ACCESS

There is reserved to the United States, the right of its officers, agents, employees, licensees, and permittees, at all times and places, freely to have ingress to, passage over, and egress from, all of said Federal easement for the purposes of exercising, enforcing, and protecting the rights reserved herein.

18. TERMINATION

This Consent shall terminate at the option of Reclamation, if Consentee fails to comply with any of the terms and conditions hereof, upon mutual agreement of all parties, upon six (6) months nonuse of this improvement by Consentee, or if Reclamation determines that there is an overriding public or project need for the land for an incompatible use.

The provisions of this Consent shall apply to, and bind, the successors and assigns of the parties hereto, but no assignment or transfer of this Consent or any part or interest therein shall be valid until approved by Reclamation.

19. NOTICES

(a) All notices required or desired to be given under this Consent shall be in writing and may be delivered by personal delivery or by deposit in the United States Mail, postage

prepaid, as certified mail, return receipt requested, and addressed as follows:

Dawn Wiedmeier
Deputy Area Manager
Bureau of Reclamation
1917 Marsh Road
Yakima, Washington 98901
(509) 575-5848, extension 213

OR

Doug Grover
Kennewick Irrigation District
P.O. Box
Kennewick, Washington 99336
(509) 586-9111

OR

Steven Becken
Asst Director/Asst Engineer
Benton County Public Works
P.O. Box 1001
Prosser, Washington 99350-0954
(509) 786-5611

(b) Any notice delivered by personal delivery shall be deemed received by the addressee upon actual delivery. Any notice delivered by certified mail shall be deemed received by the addressee on the third business day after deposit. The addresses to which notices are to be delivered may be changed by giving notice of such change in accordance with this paragraph. This paragraph shall apply where notice is required under this Consent, and no specific requirements are set forth. Where this Consent provides for a specific notice in a different manner, the more specific requirements shall prevail.

20. REMOVAL OF STRUCTURES

(a) If the construction, or O&M of any or all of such structures and facilities of the United States across, over, under, or upon said Federal easement should be made more expensive by reason of the existence of improvements or works of Consentee thereon, such additional expense is to be estimated by the Secretary of the Interior, whose estimate is to be final and binding upon the parties hereto. Within thirty (30) days after

demand is made upon Consentee for payment of any such sums, Consentee will make payment to the United States or any of its successors or assigns. As an alternative to payment, Consentee, at its sole cost and expense and within the time limits established by the United States, may remove or adapt facilities constructed and operated by it on said easement to accommodate the aforementioned structures and facilities of the United States. Consentee shall bear any costs incurred by the United States occasioned by the failure of Consentee to remove or adapt its facilities within the time limits specified.

(b) Upon revocation of this Consent, the Consentee shall remove all structures, equipment, or other improvements made by it from the premises at no cost to the United States. Upon failure to remove any such improvements within sixty (60) days of expiration, termination, or revocation, any remaining improvements shall, at the option of the United States, be removed or become the property of the United States. The Consentee shall pay all the expenses of the United States, or its assigns, related to removal of such improvements.

(c) The District and the United States, its officers, agents, employees, and its assigns shall not be held liable for any damage to Consentee's improvements or works by reason of the exercise of the rights here reserved; nor shall anything contained in this paragraph be construed in any manner limiting other reservations in favor of the United States contained in this Consent.

21. OFFICIALS NOT TO BENEFIT

No member of, or Delegate to, Congress or resident Commissioner shall be admitted to any share or part of this Consent, or to any benefit that may arise herefrom. This restriction shall not be construed to extend to this Consent if made with a corporation or company for its general benefit.

This CONSENT has been considered and is hereby approved by the **KENNEWICK IRRIGATION DISTRICT** by letter dated June 24, 2008.

IN WITNESS WHEREOF, the parties hereto have executed this Consent the day and year first above written.

THE UNITED STATES OF AMERICA

By:

Deputy Area Manager

CONSENTEE:

FOR BENTON COUNTY

By:

Chairman of the Board of County Commissioners
Of Benton County, Washington

Date: _____

Approved as to Form:

Deputy Prosecuting Attorney

Date: _____

STATE OF Washington)
) ss
COUNTY OF Benton)

On this _____ day of _____, 2 008, personally appeared before me **Benton County**, a public entity organized and existing under the laws of the State of Washington, proved to me on the basis of satisfactory evidence to be the persons whose names are subscribed to the within instrument, and acknowledged their execution of said instrument to be their free and voluntary act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

(SEAL)

Notary Public in and for the
State of _____
Residing at _____
My commission expires _____

STATE OF Washington)
) ss
County of Yakima)

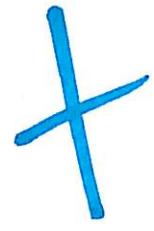
On this ____ day of _____, 2008, personally appeared before me _____, to me known to be the official of the **UNITED STATES OF AMERICA** that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of said **UNITED STATES** for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

(SEAL)

Notary Public in and for the
State of _____
Residing at _____
My commission expires _____

RESOLUTION



BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY ROADS, RE: WEBBER CANYON ROAD - CE 1620 CRP

WHEREAS, it is the intention of the Board of County Commissioners to improve Webber Canyon Road; NOW, THEREFORE,

BE IT RESOLVED that the County Engineer is authorized to schedule and advertise a bid date for Webber Canyon Road - CE 1620 CRP; and

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

Dated this 7th day of July 2008.

Chairman

Chairman Pro-Tem

Member

Attest: _____
Clerk of the Board

Constituting the Board of County
Commissioners of Benton County,
Washington

RBD:BLT:dlh

<u>AGENDA ITEM</u>	<u>TYPE OF ACTION NEEDED</u>	
Meeting Date: July 7, 2008 Subject: Interlocal Agreement Prepared By: J. Thompson Reviewed By:	Execute Contract <u>xxx</u> Pass Resolution <u>xxx</u> Pass Ordinance Pass Motion Other	Consent Agenda <u>X</u> Public Hearing 1st Discussion 2nd Discussion Other

u

BACKGROUND INFORMATION

The United States Bureau of Justice Assistance has offered in 2008 a Justice Assistance Grant (JAG) to the Kennewick Police Department and the Benton County Sheriff's Office. The total amount of the grant is \$12,223.00. Due to the manner in which the grant is awarded, each agency will receive one-half, or \$6,111.50.

In order to comply with the grant process and be eligible for the grant, both governments: The City of Kennewick and the County of Benton must agree to, in writing, a manner by which to divide the money. The Kennewick Police Department has created an Interlocal Agreement between the two governments. Kennewick has already signed the agreement and it is now put before the Benton County Commissioners for their approval. The same process was completed in 2005, 2006 and 2007 for the grant monies awarded at those times.

The \$6,111.50 will be used by the Sheriff's Office to purchase the remaining vehicle-docking stations. Vehicle docking stations allow the laptops to be securely fastened into the patrol vehicle without causing damage to the touch screens, provide a power/charging platform for the laptop battery, and provide several additional connections/ports so that we can utilize additional technological equipment. We have found from past experience that several of the standard vehicle laptop mounts contribute to failures of the laptop themselves. The vehicle docking stations eliminate the possibility of these failures. Further explanation is available in the grant's project narrative and budget narrative, which are attached for your review.

SUMMARY

An interlocal agreement between the City of Kennewick and Benton County is necessary for each to be eligible for \$6,111.50 from a Federal Justice Assistance Grant.

RECOMMENDATION

Approve resolution and sign interlocal agreement.

FISCAL IMPACT

-0- A supplement to the Sheriff's Budget will be requested at a later date to correspond with the award.

MOTION

Justice Assistance Grant Project Narrative

Captain Steven Keane
Benton County Sheriff's Office
7122 W. Okanogan Bldg. A
Kennewick, WA 99336
(509) 735-6555 x/3266
steven.keane@co.benton.wa.us

The Sheriff's Office would like to undertake the project of enhancing our capabilities in:

- 1) **The ability to more effectively utilize our Mobile Data Terminal laptop computers and participate in the SECTOR program.**

Our law enforcement bureau has been utilizing MDT laptop computers for several years now and have recently converted our older, outdated Panasonic and Dell laptops to state of the art General Dynamics/Itronix laptops. We have been able to purchase all of the required laptop computers and several vehicle docking stations but would like to use grant funds to help purchase additional vehicle docking stations for these laptops, as we do not currently have enough to outfit all of our patrol vehicles.

Vehicle docking stations allow the laptops to be securely fastened into the patrol vehicle without causing damage to the touch screens, provide a power/charging platform for the laptop battery, and provide several additional connections/ports so that we can utilize additional technological equipment. We have found from past experience that several of the standard vehicle laptop mounts contribute to failures of the laptop themselves. The vehicle docking stations eliminate the possibility of these failures.

We are presently preparing to join the SECTOR program for Statewide Electronic Collision & Ticket Online Records. This program will allow all of our patrol personnel to complete electronic tickets and collision reports, print out copies in their patrol vehicles to serve on the violator, and eliminate the multiple paper copies of citations, infractions and collision reports. Another great benefit of this program is it will greatly increase the accuracy of these reports by separating infractions and citations automatically, providing up to date bail schedule information regarding offenses and penalties, and utilizing drop down menus for most data.

The SECTOR program will require that we purchase small thermal printers and bar code scanners for each of our patrol vehicles. By utilizing the vehicle docking stations mentioned above, we will be able to have secure attachment points for the printers and scanners, along with dedicated ports in the docking stations for powering this equipment. This will allow the patrol personnel to still be able to quickly undock their laptops and utilize them within a crime scene without having to remove several items of equipment.

The proposed purchases are outlined in the budget narrative.

2008 Justice Assistance Grant (JAG)
BUDGET NARRATIVE
Money Available \$12,223.00

Total Benton County Approved JAG Money	\$12,223.00
Kennewick Police Department Split Portion	\$6,111.50
Benton County Sheriff's Office Funding	\$6,111.50

1. Laptop Computer Docking Stations for Vehicles

(16) Laptop Computer Docking Stations	\$339.15	\$5,426.40
Part Number 50-0177-004R		

Sub Total	\$5,426.40
Shipping	\$144.00
Sales Tax @ 8.3%	\$450.39
Total	\$6,020.79

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AUTHORIZING THE BOARD OF COMMISSIONERS TO SIGN AN INTERLOCAL AGREEMENT WITH THE CITY OF KENNEWICK REGARDING THE PROPOSED DIVISION OF FEDERAL JUSTICE ASSISTANCE GRANT MONEY.

WHEREAS, The Benton County Sheriff's Office is applying with the Kennewick Police Department for a Federal Justice assistance Grant in the amount of \$12,223.00, and

WHEREAS, the grant will provide \$6,111.50 to the Sheriff's Office for equipment and technology upgrades, and

WHEREAS, the application for said grant requires a written and signed interlocal agreement between the two agencies outlining the proposed division of the money to each jurisdiction,

NOW BE IT RESOLVED, that the Board of Benton County Commissioners sign the proposed Interlocal Agreement between Benton County and the City of Kennewick.

Dated this 7 day of July, 2008.

Chairman of the Board

Member

Member

Constituting the Board of County Commissioners
of Benton County, Washington

Attest: _____
Clerk of the Board

J.Thompson

CC: Original- BCSO, Auditor Office, City of Kennewick

**THE STATE OF WASHINGTON
COUNTY OF BENTON**

KNOW ALL BY THESE PRESENT

**INTERLOCAL AGREEMENT
BETWEEN THE CITY OF KENNEWICK, WA AND COUNTY OF BENTON, WA**

2008 BYRNE JUSTICE ASSISTANCE GRANT (JAG) PROGRAM AWARD

This agreement is made and entered into this 1st of July, 2008, by and between The County of Benton, acting by and through its governing body, the Benton County Commissioners (hereinafter referred to as COUNTY) and the City of Kennewick, acting by and through its governing body, the Kennewick City Council (hereinafter referred to as CITY), both of Benton County, State of Washington, witnesseth:

WHEREAS, this agreement is made under the authority of RCW 39.34 and,

WHEREAS, each governing body, in performing governmental functions or in paying for the performance of governmental functions hereunder, shall make that performance or those payments from current revenues legally available to that party; and,

WHEREAS, each governing body find that the performance of this agreement is in the best interests of both parties, that the undertaking will benefit the public, and that the division of costs fairly compensates the performing party for the services or functions under this agreement; and,

WHEREAS, the JAG grant combines two previous grant awards, the Local Law Enforcement Block Grant (LLEBG) and the Byrne Memorial Funding; and,

WHEREAS, the total award of the award to the CITY and COUNTY is \$12,223, which will be split evenly between the Kennewick Police Department and the Benton County Sheriff's Office, as they are certified as disparate,

therefore requiring one application and award to be shared between both jurisdictions; and,

WHEREAS, the CITY and COUNTY believe it to be in their best interests to reallocate the JAG funds.

NOW THEREFORE, the COUNTY and CITY agree as follows:

Section 1.

CITY agrees to pay COUNTY a total of \$6,111.50 of JAG funds.

Section 2.

COUNTY agrees to use \$6,111.50 for upgraded hardware for their mobile data computers.

Section 3.

CITY agrees to use \$6,111.50 for a Graffiti Camera system.

Section 4.

COUNTY agrees to submit timely quarterly reports to the CITY, the grantee/fiscal agency, upon an agreed timeline, to meet the requirements of reporting to the JAG program.

Section 5.

Nothing in the performance of this agreement shall impose any liability for claims against COUNTY.

Section 6.

Nothing in the performance of this agreement shall impose any liability against the CITY.

Section 7.

Each party to this agreement shall be responsible for its own actions in providing services under this agreement and shall not be liable for any civil liability that may arise from the furnishing of the services by the other party.

Section 8.

The parties to this agreement do not intend for any third party to obtain any right by virtue of this agreement.

Section 9.

By entering into this agreement, the parties do not intend to create any obligations express or implied other than those set out herein; further, this agreement shall not create any rights in any party not a signatory hereto.

City of Kennewick, Washington

County of Benton, Washington

JAMES R. BEAVER, Mayor

Chairman of Benton County
Commission

ATTEST:

APPROVED AS TO FORM:

VALERIE J. LOFFLER, City Clerk

Deputy Prosecuting Attorney

APPROVED AS TO FORM:
Contract Authorization

LISA BEATON, City Attorney

*By law, the District Attorney's Office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our view of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval and should seek review and approval by their own respective attorney(s).

AGENDA ITEM =====	TYPE OF ACTION NEEDED =====	
Meeting Date: July 7, 2008 Subject: Cons. Food Mgt extension agreement Prepared By: Keith Mercer Reviewed By:	Execute Contract <u>xxx</u> Pass Resolution Pass Ordinance Pass Motion Other	Consent Agenda <u> </u> X Public Hearing 1st Discussion 2nd Discussion Other



SUMMARY & BACKGROUND INFORMATION

The contract with Consolidated Food Management expired on June 30, 2008. The contract needs to be extended in order to pay for the food provided to the inmates. I believe we are in the process of putting together a Request for Proposal for inmate food services. This process will take a little time and we would like to extend the current agreement with Consolidated Food Management.

FISCAL IMPACT

Refer to Exhibit A of the Extension Agreement for the rate sheet

MOTION

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF PROVIDING FOOD SERVICES TO INMATES OF THE BENTON COUNTY JAIL

WHEREAS, proposals for the provision of food services to inmates of the Benton County Jail, located within the premises of the Benton County Justice Center, 7122 W. Okanogan Place, Kennewick, Washington, were solicited from interested providers in 2001; and

WHEREAS, an agreement was entered into on December 17, 2001 between Benton County and Consolidated Food Management Inc., for provision of food services to inmates of the jail for calendar year 2002 (see Resolution 01 698); and

WHEREAS, Benton County has been satisfied with the food service provided by Consolidated Food Management Inc; and

WHEREAS, the parties' 2001 agreement provides for annual extensions of the agreement, which have been made for 2003, 2004, 2005, 2006, 2007 and 2008 (through June 30, 2008); and

WHEREAS, the parties wish to extend the agreement through September 30, 2008; **NOW THEREFORE,**

BE IT HEREBY RESOLVED, that the Chairman of the Board of County Commissioners is authorized to sign, on behalf of the Board, the Extension Agreement attached hereto between Benton County and Consolidated Food Management Inc., for the provision for food services to the jail through September 30, 2008 under the terms enumerated in the Extension Agreement.

Dated this _____ day of _____, 2008.

Chairman of the Board

Member

Member

Constituting the Board of Commissioners
of Benton County, Washington.

Attest.....
Clerk of the Board

Orig Sheriff, Con. Food Mgt
cc: Auditor, R. Ozuna

Prepared by: Keith Mercer

EXTENSION AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of _____, 2008 by and between **BENTON COUNTY, WASHINGTON**, a political subdivision of the State of Washington, hereinafter called "COUNTY" and **CONSOLIDATED FOOD MANAGEMENT, INC.** a Washington Corporation, hereinafter called "CONTRACTOR".

WHEREAS, the parties entered into an agreement with a term commencing January 1, 2002, and concluding on December 31, 2002, whereby the CONTRACTOR would provide food services, as more fully defined in the contract documents, to inmates of the Benton County Corrections Facility (hereinafter "Facility") located within the premises of the Benton County Justice Center, 7122 W. Okanogan Place, Bldg. B, Kennewick, Washington, and

WHEREAS, the Special Provisions section, paragraph 2.1 of that agreement provides that upon the mutual written consent of the parties, the agreement may be renewed for periods of one year, and

WHEREAS, the parties' 2001 agreement provides for annual extensions of the agreement, which have been made for 2003, 2004, 2005, 2006, 2007 and 2008 (through June 30, 2008); and

WHEREAS, the parties wish to renew the agreement for another period commencing July 1, 2008 and expiring September 30, 2008, and to modify the agreement.

NOW THEREFORE, in consideration of the payments, provisions and agreements set forth in the parties' 2002 agreement, the parties agree as follows:

1. This Extension Agreement, and the parties' existing agreement and all contract documents incorporated therein constitute the integrated agreement between parties.
2. The CONTRACTOR shall provide food services, as more fully defined in the parties' existing agreement, to inmates of the Facility commencing July 1, 2008, and concluding on September 30, 2008.
3. The costs per meal will be as set forth on Attachment A.
4. It is further agreed by the parties that, except as provided hereinabove, terms of the aforementioned agreement and all related contract documents shall remain unchanged and be in full force and effect.
5. This Extension Agreement shall be effective July 1, 2008 through September 30, 2008.

IN WITNESS WHEREOF the Chairman of the Board of Benton County Commissioners has executed this Extension Agreement on behalf of the County, and the Contractor has executed this Contract Amendment, on the day and year first above written.

BENTON COUNTY

Consolidated Food Management Inc.

Claude Oliver, Chairman

Signature

Date: _____

Ken Chow

Approved as to Content:

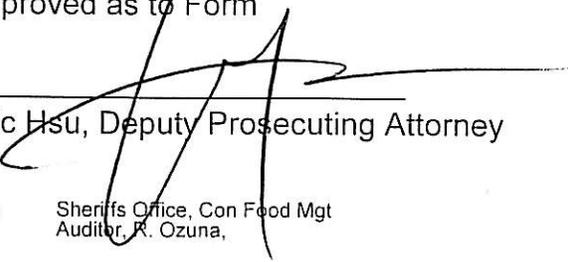
Print Title



Name Cathy Daniel
Title Lt.

Date: _____

Approved as to Form



Eric Hsu, Deputy Prosecuting Attorney

Orig Sheriffs Office, Con Food Mgt
cc: Auditor, R. Ozuna,

Prepared by: Keith Mercer



Benton County Corrections

Budget cost per meal for year of 2008 Current Operation Menu

1-Jun-07

Inmates	Daily Meals	Cost/Meal 2007	Cost/Meal 2008	Cost/Year 2008	Projection Cost/Meal 2009 <small>3% CPI increase</small>
650	1951 - 2000	\$0.957	0.987		\$1.016
667	2001 - 2050	\$0.946	0.976		\$1.005
684	2051 - 2100	\$0.936	0.965		\$0.994
700	2101 - 2150	\$0.926	0.955		\$0.984
717	2151 - 2200	\$0.917	0.945		\$0.974
734	2201 - 2250	\$0.908	0.936		\$0.964
750	2251 - 2300	\$0.900	0.927	\$761,895.987	\$0.955
767	2301 - 2350	\$0.891	0.919		\$0.946
784	2351 - 2400	\$0.884	0.911		\$0.938
800	2401 - 2450	\$0.876	0.903		\$0.930
817	2451 - 2500	\$0.869	0.896		\$0.923
834	2501 - 2550	\$0.865	0.891		\$0.918
850	2551 - 2600	\$0.860	0.886		\$0.913
867	2601 - 2650	\$0.854	0.880		\$0.906
884	2651 - 2700	\$0.848	0.873		\$0.899
900	2701 - 2750	\$0.842	0.867		\$0.893

* Due to the high price on energy, cost per meal will increase approximately \$0.027 per meal, comparing with 2007. Currently we are serving an average of 734-750 inmates per day.

9:05

AGENDA ITEM MTG. DATE: July 7, 2008 SUBJECT: Draft Ordinance - Procedure for Amending Comprehensive Plan. MEMO DATE: June 30, 2008 Prepared By: Michael Shuttleworth	TYPE OF ACTION NEEDED Execute Contract Pass Resolution Pass Ordinance Pass Motion Other	Consent Agenda Closed Record Hearing Public Meeting 1st Discussion X 2nd Discussion Other - Workshop
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BACKGROUND INFORMATION

On April 15, 2008, the Benton County Planning Commission conducted an open record hearing on the proposed ordinance relating to growth management, setting procedures and standards for amendments to the Comprehensive Plan, adding a new chapter to Title 16 of the Benton County Code. After closing the Open Record Hearing and discussing the proposed ordinance, the Planning Commission made a recommendation to approve the proposed ordinance. The Planning Commission's record and recommendation for the proposed ordinance is being submitted for your review. The Board must set a public hearing date to review the record and recommendation of the Planning Commission and make a decision on the proposed ordinance.

SUMMARY

The following is a summary of the proposed ordinance:

- Section 1: Is the purpose of the Ordinance.
- Section 2: Provides definitions for "Comprehensive Plan" and "Urban Growth Area".
- Section 3: Provide who would be eligible to request an amendment to the Benton County Comprehensive Plan.
- Section 4: Provides that the Benton County Planning Department will place a legal notice in the official County newspaper announcing that comprehensive plan amendments must be submitted by December 1.
- Section 5: Provides that applications for comprehensive plan amendments will be accepted only between October 1 and December 1 of each year. That requests to amend urban growth area boundaries will be accepted only every five years.
- Section 6: This section provides a list of items that must be submitted to the Planning Department before an application for amending the comprehensive plan or urban growth area will be considered a complete application.
- Section 7: This section provides what will be done if the application submitted is determined to be an incomplete application.
- Section 8: This section provides how a comprehensive plan amendment will be reviewed.
- Section 9: This section provides that if any provision of the ordinance is declared unconstitutional the rest of the ordinance will not be affected.
- Section 10: Is the effective date of the ordinance.

RECOMMENDATION

After closing the Open Record Hearing and discussing the issue, the Planning Commission voted to recommend approval of the proposed ordinance. After reviewing the information presented at the workshop, the Planning staff recommends that the Board direct staff to set a public hearing date for the Board to review the record and recommendation of the Planning Commission and make a decision on the proposed ordinance.

FISCAL IMPACT

none.

MOTION

That the Board direct staff to set a public hearing date for the Board to review the record and recommendation of the Planning Commission and make a decision on the proposed ordinance.

BENTON COUNTY PLANNING COMMISSION
Reasons for Action, Findings of Fact and Analysis
of Factors Considered Controlling

I. INTRODUCTION

In the Matter of: County Planning,

Pursuant to Chapter 36.70 RCW, the Benton County Planning Commission has held a public hearing on April 15, 2008, for the purpose of hearing testimony for and against and considering adoption of an ordinance amendment relating to growth management, setting procedures and standards for amendments to the Comprehensive Plan, adding a new chapter to Title 16 of the Benton County Code.

The members of the Planning Commission and their attendance for the aforementioned hearing are as follows: Eugene Johnson, Jon Lindeman, James Wetzel, Faye Nelson, James Willard, Lloyd Coughlin and Martin Sheeran.

All persons desiring to speak for or against, or in relation to the proposed ordinance(s) and amendment(s) were given full and complete opportunity to be heard.

The Planning Commission is now satisfied that this matter has been sufficiently considered.

Therefore, the Benton County Planning Commission hereby makes and enters the following:

II. FINDINGS OF FACT

- A. Legal notification was given on April 3, 2008. The public hearing was conducted on April 15, 2008.
- B. The proposed ordinance(s) and amendment(s) are found to be in conformance with the intent of the Benton County Comprehensive Plan. Yes
- C. Written and oral testimony have indicated the following concerning the proposed ordinance(s) and amendment(s): Neither approval or disapproval but concern regarding the need for more frequent review of Amendments.
- D. The record and testimony **does** establish the need for the proposed ordinance(s) and amendment(s) for the following reasons: The amendments will create a section in the Benton County Code that would set up how and

when the Benton County Comprehensive Plan could be amended.

- E. S.E.P.A. - The Planning Commission has determined that the requirements of the State Environmental Policy Act have been satisfied because SEPA review is not required for ordinance amendments of this type.
- F. The Planning Commission members agreed with the staff recommendation to retain the current every five (5) year review to allow the utilization of the twenty-year population projections prepared on the same five-year cycle by the State Office of Financial Management (OFM). The use of OFM population projections are required by RCW 36.70A.110(2) and is consistent with the Benton County County-Wide Planning Policies specifically Policy #4 to ensure that urban growth areas are appropriately sized and are sufficient to meet the land use requirements for each city.
- G. The record indicates the approval of the proposed ordinance(s) and amendment(s) would be in the public interest. Yes - It will set forth the timing and procedures for requesting and processing amendments to the Benton County Comprehensive Plan.

III. STAFF REPORT

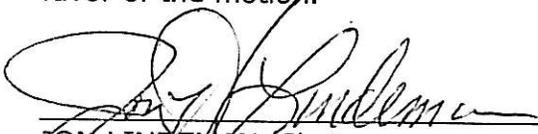
A majority of the Planning Commission members find that all the facts set forth in the Planning staff memo dated April 9, 2008, **are accurate.**

IV. ANALYSIS OF FACTORS CONSIDERED CONTROLLING

The Benton County Planning Commission considers all Findings of Fact heretofore entered to be controlling. Yes

V. MOTION

It was moved by Eugene Johnson and seconded by Faye Nelson that the chairman, in conjunction with the Secretary of the Planning Commission, prepare and adopt written findings and conclusions reflecting the commission's recommendation for **approval** of the proposed ordinance amendment relating to; growth management, setting procedures and standards for amendments to the Comprehensive Plan, adding a new chapter to Title 16 of the Benton County Code with the word change from will to shall in Section 8(b & c) that articulate and are consistent with the findings, conclusions and recommendation made by the Planning Commission tonight. The motion passed with all those in attendance voting in favor of the motion.



JON LINDEMAN, Chairman
Benton County Planning Commission

DATE

ORDINANCE NO. _____

AN ORDINANCE relating to growth management, setting procedures and standards for amendments to the Comprehensive Plan, adding a new chapter to Title 16 of the Benton County Code.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

SECTION 1. PURPOSE. The purpose of this ordinance is to set forth the timing and procedures for requesting and processing amendments to the Benton County Comprehensive Plan.

SECTION 2. DEFINITIONS. For the purposes of this ordinance, the following words and phrases shall have the indicated meanings unless the context clearly indicates otherwise:

(a) "Comprehensive Plan" means the comprehensive land use plan of Benton County adopted on June 22, 1998, and as amended by the Board of County Commissioners.

(b) "Urban Growth Area" or "UGA" means the areas designated by the County pursuant to RCW 36.70A.110.

SECTION 3. COMPREHENSIVE PLAN--AMENDMENTS--PERSONS ELIGIBLE TO REQUEST AMENDMENTS--APPLICATIONS. (a) An application to amend the County's Comprehensive Plan to revise the boundaries of an Urban Growth Area may only be submitted by the city whose Urban Growth Area is the subject of the application and must be signed by a representative of that city authorized in writing by that city's council to submit the application.

(b) Applications to amend any other portion of the County's Comprehensive Plan can be submitted at the direction of the Benton County Planning Commission, Benton County Board of Commissioners, the Benton County Planning Director, any owner of property in unincorporated Benton County seeking an amendment that only affects that person's property, any resident of unincorporated Benton County supported by signatures of ten (10) residents of unincorporated Benton County, or any general or special purpose local governmental entity operating in Benton County pursuant to an adopted resolution of its legislative body or board of directors.

SECTION 4. COMPREHENSIVE PLAN--AMENDMENTS--PUBLIC NOTICE OF DEADLINE FOR SUBMITTAL OF COMPLETE APPLICATIONS. (a) Prior to October 1st of each year, the Planning Department shall place legal notices in the official county newspaper announcing the December 1st deadline for submitting complete applications for amendments to the Comprehensive Plan.

(b) The notice shall indicate whether applications to amend Urban Growth Area boundaries will be accepted during the upcoming application period.

SECTION 5. COMPREHENSIVE PLAN--AMENDMENTS--APPLICATION PERIOD. (a) Subject to the exceptions found in RCW 36.70A.130(2)(a) and 36.70A.130(2)(b), applications to amend the

Comprehensive Plan shall only be accepted between October 1st and December 1st of any year, and all applications will be considered concurrently by the Board of County Commissioners in the calendar year that follows the year in which the application is submitted.

(b) Applications to amend Urban Growth Area boundaries shall only be accepted every five (5) years to be acted upon by the Board of County Commissioners every fifth year counting from the year 1998 (i.e., 2003, 2008, 2013, etc.).

(c) Notwithstanding the designated application period set forth above under Section 5(a), the Board of County Commissioners may, after appropriate public participation, adopt amendments or revisions to the Comprehensive Plan whenever an emergency exists or to resolve an appeal of the Comprehensive Plan filed with a growth management hearings board or a court. For purposes of this subsection, an emergency exists when the Board of County Commissioners determines that there exists an imminent threat to life, property, public health or safety, air or water resources.

SECTION 6. COMPREHENSIVE PLAN--AMENDMENTS--DOCUMENTATION REQUIRED FOR A COMPLETE APPLICATION. (a) Within fourteen (14) days after receiving an application for amendment to the Comprehensive Plan, the County Planning Department shall review the application and place in the mail or personally deliver a written determination addressed to the applicant stating that the application is complete or that the application is incomplete and identifying what is necessary to make the application complete.

(b) All applications for amendment to the Comprehensive Plan must provide all information requested on the application form and include the following documentation:

- (1) a completed environmental checklist in accordance with the State Environmental Policy Act (SEPA);
- (2) an application fee as set by resolution of the Board of County Commissioners;
- (3) a textual and graphic description of the requested Comprehensive Plan amendment which shall identify the specific portions of the Plan proposed for amendment;
- (4) an explanation of why the amendment is being proposed; and
- (5) the signature of the person or persons eligible to make the application as set forth in Section 3 above.

(c) All applications for an amendment to an Urban Growth Area must also include the following:

- (1) a copy of the city's State Environmental Policy Act (SEPA) determination and Environmental Impact Statement (EIS), if required by the SEPA determination;
- (2) a map(s) and an aerial photograph(s) depicting the specific land area(s) proposed for inclusion within the UGA

boundary, the relationship of such area(s) to the existing UGA, the current corporate boundaries and the general location and acreage of planned open spaces and greenbelts that will remain as open space within the area(s) proposed for inclusion within a UGA, as per RCW 36.70A.110(2);

(3) a map and aerial photograph(s) showing the total acreage involved in the proposed UGA addition, the proposed pattern and acreages of urban land uses and densities for the area proposed for inclusion, with any residential areas requiring a minimum average density of six (6) dwelling units per acre;

(4) a spreadsheet, in the form provided by the County, completed to contain the information necessary to demonstrate and allow confirmation that the proposal is consistent with Benton County County-wide Planning Policies, including but not limited to policies 3, 4, and 5;

(5) a copy of the city council resolution or ordinance authorizing submittal of the application to the County and approving the capital facilities plan referenced below with a finding that the capital facilities plan complies with RCW 36.70A.070(3); and

(6) a capital facilities plan for the area proposed to be added to the UGA that has been approved by resolution of the city council that contains the following:

- (i) An inventory of the existing public facilities, as that term is defined by RCW 36.70A.030, that are within the current UGA (inclusive of incorporated areas) and the area proposed to be added to the UGA, showing the locations and capacities of the public facilities;
- (ii) A forecast of the needs for the next twenty (20) years of such public facilities at identified levels of service that are needed within the current UGA (inclusive of incorporated areas) and the proposed area to be added to the UGA;
- (iii) The necessary locations and capacities of expanded or new public facilities within the current UGA (inclusive of incorporated areas) and the proposed area to be added to the UGA;
- (iv) For the proposed area to be added to the UGA at least a six-year plan to finance such public facilities within projected funding capacities that clearly identifies sources of public money for such purposes; and
- (v) Identification of revisions to the city's land use element if probable funding falls short of meeting existing needs and to ensure that the city's land use element and capital facilities plan element (and financing plan therein) are coordinated and consistent.

SECTION 7. COMPREHENSIVE PLAN--AMENDMENTS--INCOMPLETE APPLICATIONS. (a) If an application to amend the Comprehensive Plan is determined to be incomplete under Section 6 above and is not made complete by December 1st, it will be rejected and returned to the applicant.

(b) If an application to amend an Urban Growth Area is determined to be incomplete under Section 6 above and is returned to the applicant, unless such application is made complete and submitted by that December 1st, it may not be resubmitted until the next five-year cycle for UGA amendments.

(c) Applications for other Comprehensive Plan amendments that are rejected for filing due to being incomplete, may be resubmitted by December 1st or may be submitted during the next application period during which applications of that nature are accepted. If such an application is deemed complete but is denied, it cannot be resubmitted until the third calendar year following the date of denial.

SECTION 8. COMPREHENSIVE PLAN--AMENDMENTS--PROCEDURAL STEPS FOR REVIEW OF PROPOSED AMENDMENTS. (a) The Planning Department will initiate review of complete applications by listing them in a posted legal notice along with the State Environmental Policy Act (SEPA) review dates. Analysis of each application for consistency with the Washington State Growth Management Act and the Comprehensive Plan, including the adopted County-wide Planning Policies, will be conducted and summarized in a staff report. The Planning Department shall also make a recommendation to the Planning Commission for approval or denial of each application.

(b) The Planning Commission will conduct at least one open record public hearing on the applications and forward a recommendation for approval or denial of each application to the Board.

(c) The Board of County Commissioners will conduct at least one open record public hearing on the applications prior to approving, approving with modifications and/or conditions, or denying the applications.

SECTION 9. SEVERABILITY. If any provision of this ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 10. EFFECTIVE DATE. This ordinance shall take effect and be in full force upon its passage and adoption.

ADOPTED AND PASSED this _____ day of _____, 2008.

Chairman of the Board.

Ordinance No. _____
Continued
Page 5

Chairman Pro-Tem.

Approved as to Form:

Ryan Brown
Deputy Prosecuting Attorney

Member.

Constituting the Board of
County Commissioners of
Benton County, Washington

Attest: _____
Clerk of the Board

Benton County Planning Department

Planning Annex, P.O. Box 910, 1002 Dudley Avenue, Prosser WA 99350, Phone: (509) 786-5612 or (509) 736-3086, Fax (509) 786-5629

DATE: April 9, 2008
TO: BENTON COUNTY PLANNING COMMISSION
FROM: BENTON COUNTY PLANNING DEPARTMENT
RE: PROPOSED ADDITION TO BCC TITLE 16.

File No. Ord. Amd BCC 16
Date 4-9-08
Exhibit No. 1
Received by djn

BACKGROUND:

Contained in the Benton County Comprehensive Plan is a general process for updating and amending the comprehensive plan. Attached to this memo is a draft ordinance that would create a section in the Benton County Code that would set up how and when the Benton County Comprehensive Plan could be amended. The Planning Commission will discuss this at a public hearing. Please review the attached information.

OVERVIEW:

- Section 1: Is the purpose of the Ordinance.
- Section 2: Provides definitions for "Comprehensive Plan" and "Urban Growth Area".
- Section 3: Provide who would be eligible to request an amendment to the Benton County Comprehensive Plan.
- Section 4: Provides that the Benton County Planning Department will place a legal notice in the official County newspaper announcing that comprehensive plan amendments must be submitted by December 1.
- Section 5: Provides that applications for comprehensive plan amendments will be accepted only between October 1 and December 1 of each year. That requests to amend urban growth area boundaries will be accepted only every five years.
- Section 6: This section provides a list of items that must be submitted to the Planning Department before an application for amending the comprehensive plan or urban growth area will be considered a complete application.
- Section 7: This section provides what will be done if the application submitted is determined to be an incomplete application.
- Section 8: This section provides how a comprehensive plan amendment will be reviewed.
- Section 9: This section provides that if any provision of the ordinance is declared unconstitutional the rest of the ordinance will not be affected.
- Section 10: Is the effective date of the ordinance.

PLANNING DEPARTMENT RECOMMENDATION:

The Benton County Planning Department recommends that the planning commissions review the proposed ordinances, conduct the public hearing and make recommendations to the Board of County Commissioners to approve the draft ordinance.

Exhibits.

- Exhibit 1: Staff memo dated April 9, 2008
- Exhibit 2: Staff memo dated March 11, 2008 for Planning Commission workshop that includes:
 - Attachment 1 - Draft ordinances recommended adding to BCC Title 16
 - Attachment 2 - Pages 1-9 to 1-11 of the Benton County Comprehensive Plan.
 - Attachment 3 - Item 1-2 Chapter One Appendix on pages Appendix 3 to Appendix 5 of the Benton County Comprehensive Plan.
- Exhibit 3: Notice of Public Hearing published on April 3, 2008.

Benton County Planning/Building Department

Terry A. Marden, Director

PLANNING
Planning Annex
P.O. Box 910, 1002 Dudley Avenue
Pr WA 99350
Pl Office: (509) 786-5612
From n-Cities: (509) 736-3086
Fax: (509) 786-5629

BUILDING
Kennewick Annex
5600 W. Canal Drive, Suite C 105A
Kennewick WA 99336
Tri-Cities Office: (509) 735-3500
From Prosser: (509) 786-5622
Fax: (509) 736-2732

BENTON COUNTY PLANNING COMMISSION PROPOSAL TO ADD TO BCC TITLE 16

DATE: March 11, 2008
TO: BENTON COUNTY PLANNING COMMISSION
FROM: BENTON COUNTY PLANNING DEPARTMENT
RE: PROPOSED ADDITION TO BCC TITLE 16.

File No. Ord Amd BCC 16
Date 4-9-08
Exhibit No. 2
Received by djh

BACKGROUND:

Contained in the Benton County Comprehensive Plan is a general process for updating and amending the comprehensive plan. Attached to this memo is a draft ordinance that would create a section in the Benton County Code that would set up how and when the Benton County Comprehensive Plan could be amended. The Planning Commission will discuss this at a workshop and then a public hearing will be scheduled. Please review the attached information.

ATTACHMENTS.

- Attachment 1: Draft ordinances recommended adding to BCC Title 16
- Attachment 2: Pages 1-9 to 1-11 of the Benton County Comprehensive Plan.
- Attachment 3: Item 1-2 of Chapter One Appendix on pages Appendix 3 to Appendix 5 of the Benton County Comprehensive Plan.

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ORDINANCE NO. _____

AN ORDINANCE relating to growth management, setting procedures and standards for amendments to the Comprehensive Plan, adding a new chapter to Title 16 of the Benton County Code.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

SECTION 1. PURPOSE. The purpose of this ordinance is to set forth the timing and procedures for requesting and processing amendments to the Benton County Comprehensive Plan.

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(b) Applications to amend any other portion of the County's Comprehensive Plan can be submitted at the direction of the Benton County Planning Commission, Benton County Board of Commissioners, the Benton County Planning Director, any owner of property in unincorporated Benton County seeking an amendment that only affects that person's property, any resident of unincorporated Benton County supported by signatures of ten (10) residents of unincorporated Benton County, or any general or special purpose local governmental entity operating in Benton County pursuant to an adopted resolution of its legislative body or board of directors.

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(c) Notwithstanding the designated application period set forth above under Section 5(a), the Board of County Commissioners may, after appropriate public participation, adopt amendments or revisions to the Comprehensive Plan whenever an emergency exists or to resolve an appeal of the Comprehensive Plan filed with a growth management hearings board or a court. For purposes of this subsection, an emergency exists when the Board of County Commissioners determines that there exists an imminent threat to life, property, public health or safety, air or water resources.

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- (2) an application fee as set by resolution of the Board of County Commissioners;
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- (4) an explanation of why the amendment is being proposed; and
- (5) the signature of the person or persons eligible to make the application as set forth in Section 3 above.

(c) All applications for an amendment to an Urban Growth Area must also include the following:

- (1) a copy of the city's State Environmental Policy Act (SEPA) determination and Environmental Impact Statement (EIS), if required by the SEPA determination;
- (2) a map(s) and an aerial photograph(s) depicting the specific land area(s) proposed for inclusion within the UGA

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boundary, the relationship of such area(s) to the existing UGA, the current corporate boundaries and the general location and acreage of planned open spaces and greenbelts that will remain as open space within the area(s) proposed for inclusion within a UGA, as per RCW 36.70A.110(2);

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(5) a copy of the city council resolution or ordinance authorizing submittal of the application to the County and approving the capital facilities plan referenced below with a finding that the capital facilities plan complies with RCW 36.70A.070(3); and

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- (ii) A forecast of the needs for the next twenty (20) years of such public facilities at identified levels of service that are needed within the current UGA (inclusive of incorporated areas) and the proposed area to be added to the UGA;
- (iii) The necessary locations and capacities of expanded or new public facilities within the current UGA (inclusive of incorporated areas) and the proposed area to be added to the UGA;
- (iv) For the proposed area to be added to the UGA at least a six-year plan to finance such public facilities within projected funding capacities that clearly identifies sources of public money for such purposes; and
- (v) Identification of revisions to the city's land use element if probable funding falls short of meeting existing needs and to ensure that the city's land use element and capital facilities plan element (and financing plan therein) are coordinated and consistent.

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(b) The Planning Commission will conduct at least one open record public hearing on the applications and forward a recommendation for approval or denial of each application to the Board.

(c) The Board of County Commissioners will conduct at least one open record public hearing on the applications prior to approving, approving with modifications and/or conditions, or denying the applications.

SECTION 9. SEVERABILITY. If any provision of this ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 10. EFFECTIVE DATE. This ordinance shall take effect and be in full force upon its passage and adoption.

ADOPTED AND PASSED this _____ day of _____, 2008.

Chairman of the Board.

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Ordinance No. _____
Continued
Page 5

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Chairman Pro-Tem.

Member.

Approved as to Form:

Constituting the Board of
County Commissioners of
Benton County, Washington

Deputy Prosecuting Attorney

Attest: _____
Clerk of the Board

DRAFT

- the exclusion of lands previously designated Agriculture from the designation because of urban encroachments and parcelization which has occurred within the past 10 years;
- an increase in the number of acres designated industrial;
- a greater emphasis on recreational trails, paths and other amenities.
- a detailed Economic Element integrated with an Economic Development Improvement Program (EDIP) which is not a part of the Comprehensive Plan.
- a Park and Recreation Element.

AMENDMENTS TO THIS COMPREHENSIVE PLAN

Comprehensive Plans are not written in stone for all time. They are a living document designed to be at once rigid enough to hold a chosen course over an extended period of new growth and development, yet flexible enough to accommodate a wide spectrum of both anticipated and unforeseen market conditions. A fundamentally good plan can do this for a relatively short period of time (5-10 years), during which monitoring and data gathering and analysis for the purposes of "fine tuning" and improving the plan by amendment should be an ongoing program. At the end of this period (it is recommended every 5-7 years) a major reassessment of the plan should occur.

Frequency of Amendments

RCW 36.70A.130 requires that:

(1) "Each comprehensive land use plan and development regulations shall be subject to continuing review and evaluation by the county or city that adopted them. Not later than September 1, 2002, and at least every five years thereafter, a county or city shall take action to review and, if needed, revise its comprehensive land use plan and development regulations to ensure that the plan and regulations are complying with the requirements of this chapter. The review and evaluation required by this subsection may be combined with the review required by subsection (3) of this section. Any amendment or revision to a comprehensive land use plan shall conform to this chapter, and any change to development regulations shall be consistent with and implement the comprehensive plan.

(2)(a) Each county and city shall establish and broadly disseminate to the public a public participation program identifying procedures whereby proposed amendments or revisions of the comprehensive plan are considered by the governing body of the county or city no more frequently than once every year except that amendments may be considered more frequently under the following circumstances:

(i) The initial adoption of a subarea plan;

(ii) The adoption or amendment of a shoreline master program under the

procedures set forth in chapter 90.58 RCW; and,

(iii) The amendment of the capital facilities element of a comprehensive plan that occurs concurrently with the adoption or amendment of a county or city budget.

(b) Except as otherwise provided in (a) of this subsection, all proposals shall be considered by the governing body concurrently so the cumulative effect of the various proposals can be ascertained. However, after appropriate public participation a county or city may adopt amendments or revisions to its comprehensive plan that conform with this chapter whenever an emergency exists or to resolve an appeal of a comprehensive plan filed with a growth management hearings board or with the court.

(3) Each county that designates urban growth areas under RCW 36.70A.110 shall review, at least every ten years, its designated urban growth area or areas, and the densities permitted within both the incorporated and unincorporated portions of each urban growth area. In conjunction with this review by the county, each city located within an urban growth area shall review the densities permitted within its boundaries, and the extent to which the urban growth occurring within the county has located within each city and the unincorporated portions of the urban growth areas. The county comprehensive plan designating urban growth areas, and the densities permitted in the urban growth areas by the comprehensive plans of the county and each city located within

the urban growth areas, shall be revised to accommodate the urban growth projected to occur in the county for the succeeding twenty-year period. The review required by this subsection may be combined with the review and evaluation required by RCW 36.70A.215." [1997 c 429§ 10; 1995 c 347§ 106; 1990 1st ex.s. c 17 §13.]"

Procedures For Accomplishing Plan Amendments

In July of each calendar year proposed amendments to the Benton County Plan shall be brought to the Benton County Planning Commission for hearing and recommendation to the Board of Commissioners. In order for this to occur, proposals must be submitted to the Benton County Planning Department no later than December 1st of each year, so that the proposals can be packaged, analyzed for effect, and scheduled for hearings, etc.

Detailed procedures for amending the Benton County Comprehensive Plan are contained in Appendix 1, item 1-2.

HISTORY OF COMPREHENSIVE PLANNING IN BENTON COUNTY

1985 Comprehensive Plan

In 1985 the Benton County Board of Commissioners, after a several years long planning process adopted the 1985 Comprehensive Plan. Implementing Ordinances for the Plan were drafted through a public participation process, however the ordinances were never adopted due

the changing economic and staffing circumstances in the early and middle 1980s. (See Appendix 1, item 1-3 for chronology of the 1985 Comprehensive Planning process as well the process engaged in under GMA to amend, or update the 1985 Comprehensive Plan).

The advice of the Benton County Prosecuting Attorney's office to the Planning Director in the mid-1980's was that without adopted implementing ordinances the land use map and policies of the 1985 Comprehensive Plan could not be used as a standard for land use decisions. The Planning Director was advised to continue using the county's zoning district map and related zoning districts (ordinances) which predated the 1985 Comprehensive Plan. Actions taken by the Board of Commissioners to implement GMA will amend or replace these controls per current state planning law.

Continuity Between the 1985 Plan and the GMA Plan

Though some of this Plan's amendments to the 1985 Comprehensive Plan in response to GMA are significant, they do not substantively alter the most important and fundamental elements of the 1985 Plan, i.e., the land use designations of its Land Use Map, and its Plan Policies. In addressing the requirements of GMA, county planning staff took the position that the policies and land use designations

of the 1985 Plan were fundamentally sound and should be changed only where necessary to meet the requirements of GMA, or for update or improving clarity relative to changed circumstances.

Accordingly, for these fundamentals (the Land Use map and policies) there is direct continuity between the 1985 Plan and this Plan. The maintenance of this continuity was further assured by having many of the public members who participated in the 1985 planning process also participate as Rural Planning Committee members in the preparation of this Plan.

ATTACHMENT 3

GMA Requirement

Pre-GMA Req.

1985 Plan & Ordinance

1997 GMA Plan

Protect Critical Resources (Aquifer Recharge Areas, Frequently Flooded Areas, Fish and Wildlife Conservation Areas, Geologically Hazardous Areas)			
All jurisdictions whether planning under GMA or not must designate and protect by ordinance "Critical Resources" by 1993.	No requirement to protect these resources.	Excellent mapping and designation of such resources; no regulations for biological and aquifer resources, some regulations in BC Code re: flood and geologic hazard areas.	1997 Plan uses maps and data from the 1985 Plan augmented by areal photos and new data to designate "functions and values" of critical resources identified in this plan and protected by ordinance adopted in 1994.
Availability of Transportation System Capacity For New Development			
That jurisdictions identify and maintain a Level of Service (LOS) for transportation system components e.g., roads, transit, etc. A requirement that LOS stay "concurrent" with new transportation demands from new development (i.e., that deficits in LOS not be allowed.	No requirement for LOSs or "concurrency"	No designated LOS, no system for maintaining concurrency.	LOS of C designated for "major county collectors"; LOS to be monitored and maintained within the Six Year Road Program.
State Compliance			
State agency projects and actions must comply with Local Comprehensive Plans	No requirement for State Agency compliance.	No recognition of need for state compliance	State agencies must comply with the 1997 Comp. Plan once it is certified by the State

ITEM 1-2

AMENDMENT PROCEDURES FOR COMPREHENSIVE PLAN

Procedures to be among those included in an Ordinance enabling Amendments to the Comprehensive Plan.

PLAN AMENDMENT CYCLE

Frequency of Amendments

The conclusion of an amendment cycle shall occur annually unless no amendments are proposed; amendments denied can be resubmitted no sooner than in the third year from the date of denial. Amendments to Final Urban Growth Areas will be cycled only once every 5 years. Amendments do not

constitute emergencies (i.e., an immediate threat to life or property for which action must be taken to alleviate the threat).

Amendments As Legislative Actions

Proposed amendments must be those proposals which fall clearly under "legislative" rather than "quasi-judicial" actions directly or indirectly. Quasi-judicial actions are for development proposals and are governed under the new and specific requirements of HB 1724 (regulatory reform bill). Legislative actions are not project related.

Linking To Budget

The conclusion of a Plan Amendment Cycle should be concurrent with the development of the county's annual budget, and capital facilities deliberations, so that the adoption of Plan amendments precedes budget adoption by no less than 30 days. The Amendment cycle should end with Board of Commissioners action by September 1 of each year, which means the Board must receive the amendment package for review by July.

Timing Of The Cycle

Once amendments in a cycle are "initiated" by the Planning Director (i.e., SEPA notice issued in preparation of preparing a staff report) the noticing requirements, SEPA review, planning analysis and public hearings procedures for Plan Amendments may take from 6 to 9 months to complete. Accordingly, Amendments must be "initiated" by January 1, which means they must be submitted for "docketing" a minimum of 30 days before that (December 1).

Steps of the Cycle

Docketing of Suggested Amendments

- Planning Dept. keeps list of amendment suggestions/requests with names and addresses of sponsors.
- Amendments can be proposed "in-house" by the Planning Commission, Economic Development Coordinator, Board of Commissioners, and Planning Director, or any owner of property in unincorporated Benton County for his/her property, or any resident of unincorporated Benton County supported by 10 signatures of unincorporated Benton county residents, or any general or special purpose government or district.
- In September of each year, the Planning Dept. places legal notice in local print media of the approaching deadline for the submittal of amendment requests.
- In January of each year, the Planning Director initiates review by noticing the proposal and SEPA review.
- For each proposed amendment the Planning Department integrates SEPA/EIS and Staff Report with Recommendation to the Planning Commission.
- Planning Commission conducts at least one public hearing and forwards a Recommendation to the Board of County Commissioners.
- Board of County Commissioners conducts at least one hearing to consider and act upon the Planning Commission recommendation.
- Implementation

Applications For Amendments

Applications must be submitted in writing and include the following:

- 1) a fee (as set by the Board of Commissioners)

- 2) Responses to the following:
 - a. Description of the requested Plan Amendment;
 - b. An explanation of why the amendment is being proposed including specific areas needing changes;
 - c. If appropriate, the proposed amendment should include amendatory language; and
 - d. An explanation of how the criteria in 3 (below) are met by the proposal;

- 3) Criteria against which the proposed amendment must be evaluated and found to be in substantial compliance for approval:
 - a. An amendment is necessary to resolve inconsistencies within the County Comprehensive Plan, or with other city plans or ordinances with which the county has no objection;
 - b. Conditions have so changed since the adoption of the county plan or ordinances that the existing adopted provision is inappropriate;
 - c. The proposed amendment is consistent with the overall intent of the goals, map, and Rural Element of the county plan;
 - d. The proposed amendment is consistent with Chapter 36.70A RCW, the County-wide Planning Policies, and Plan policies;
 - e. For an amendment to the Comprehensive Plan Map, the proposed designation is adjacent to property having a similar and compatible designation, or the subject property is of sufficient size, or other conditions are present, to locate development or otherwise mitigate potential incompatibilities to insignificant levels;
 - f. Environmental impacts have been disclosed and measures imposed to either avoid or mitigate said impacts;
 - g. Potential ramifications of the proposed amendment to other Comprehensive Plan Elements and supporting documents have been considered and addressed;
 - h. As appropriate, where an amendment of the Comprehensive Plan is approved by the Board of Commissioners, and a subsequent rezone or amendment to development regulations is required, the planning commission may consider them and make recommendations to the Board for consideration concurrent with the final approval of the comprehensive plan amendment.

ITEM 1-3

CHRONOLOGY OF PLANNING AND PUBLIC PARTICIPATION PROCESS IN BENTON COUNTY PRE-PLAN

- 1935 - Washington's first planning enabling statute, "The Planning Commission Act", passed.
- 1938 - Benton County Planning Commission established.
- 1946 - First Benton County Zoning Ordinance adopted.
- 1959.- Planning Enabling Act passed by State Legislature.
- 1961 - Benton Regional Planning Commission established.
- 1965 - Comprehensive Plans for the Urbanizing Areas of Benton County, Washington prepared by the Benton Regional Planning Commission.
- 1966 - Benton-Franklin Governmental Conference established.

Benton County Planning/Building Department

PLANNING
Planning Annex
P.O. Box 910, 1002 Dudley Avenue
Prosser WA 99350
Phone: (509) 786-5612
From: (509) 736-3086
Fax: (509) 786-5829

FILE No. Ord Amd BCC14
Date 4/9/08
Exhibit No. 3
Received by djh
BUILDING
Kennewick Annex
5600 W. Canal Drive, Suite C 105A
Kennewick WA 99336
Tri-Cities Office: (509) 735-3500
Prosser: (509) 786-5622
Fax: (509) 736-2732

NOTICE OF PUBLIC HEARINGS

NOTICE IS GIVEN that the following actions will be considered by the Benton County Planning Commission at public hearings on April 15, 2008, beginning at 7:00 p.m. in the Public Hearing Room, 1002 Dudley Avenue, Prosser WA 99350. All concerned persons may appear and present any support for or objections to the applications or provide written testimony to the Planning Commission in care of the Planning Department by 5 P.M. on April 14, 2007.

Preliminary Plat Request- SUB 07-03 for the preliminary plat of Rivers Edge Estates consisting of 20 lots on 50 acres by: Wes Hodges, 12301 S. 1538 PR SW, Prosser WA 99350. The site is located at the intersection of S. Lower County Line Road and North River Road on the South side of North River Road in the Northwest Quarter of Section 7, Township 8 North, Range 24 East, W.M.

An Ordinance Amendment relating to growth management, setting procedures and standards for amendments to the Comprehensive Plan, adds a new chapter to Title 16 of the Benton County Code. See the attached Summary for a Section-by-Section description of the proposed ordinance amendment. The purpose of this ordinance is to set forth the timing and procedure for requesting and processing amendments to the Benton County Code.

All testimony for or against the above actions will be taken at this time. Based on the testimony presented at the public hearing, the planning commission may or may not, in their recommendation to the Board of County Commissioners; approve, disapprove or modify the preliminary plat, or make changes to the proposed ordinance amendment. All concerned persons may appear and present any support or objections to the proposed amendments. Further information regarding these matters and copies of the proposed ordinance amendment are available from the office of the Benton County Planning Department, Post Office Box 910, Prosser, WA 99350. Telephone: Prosser - (509) 786-5612; Tri-Cities - (509) 736-3086. Copies of the full text will be mailed upon request, at no cost to the public.

NOTICE IS FURTHER GIVEN that said the preliminary plat has been reviewed under the requirements of the State Environmental Policy Act, as amended, along with the Environmental Checklist and other information. A Determination has been made as to the environmental impacts of the proposal and a Determination of Non-Significance has been issued. Accordingly, an Environmental Impact Statement is not required. This determination was made on February 20, 2008. Any comments regarding the determination and the environmental impacts of the proposal can be made at the hearing before the Planning Commission at the time and place indicated above, or be made in writing to the Planning Department by 5 p.m. on April 14, 2008.

Benton County welcomes full participation in public meetings by all citizens. No qualified individual with a disability shall be excluded or denied the benefit of participating in such meetings. If you wish to use auxiliary aids or require assistance to comment at this public meeting, please contact the Benton County Planning Dept. at the above stated phone numbers and/or address at least ten days prior to the date of the meeting to make arrangements for special needs.

DATED this 28th day of March 2008.

JON LINDEMAN, Chairman
BENTON COUNTY PLANNING COMMISSION

MICHAEL SHUTTLEWORTH, Senior Planner 
PLANNING/BUILDING DEPARTMENT

PUBLISH: April 3, 2008

ORDINANCE NO. _____

An ordinance relating to growth management, setting procedures and standards for amendments to the Comprehensive Plan, adding a new chapter to Title 16 of the Benton County Code.

SECTION 1 PURPOSE The purpose of this ordinance is to set forth the timing and procedure for requesting and processing amendments to the Benton County Code.

SECTION 2 DEFINITIONS Add definitions for Comprehensive Plan and Urban Growth Area.

SECTION 3 COMPREHENSIVE PLAN-AMENDMENTS-PERSONS ELIGIBLE TO REQUEST AMENDMENTS-APPLICATIONS. Sets forth criteria for submitting amendments to the Comprehensive Plan for Urban Growth Areas and other portions of the County's Comprehensive Plan.

SECTION 4 COMPREHENSIVE PLAN-AMENDMENTS-PUBLIC NOTICE OF DEADLINE FOR SUBMITTAL OF COMPLETE APPLICATION. Sets forth criteria for public notice of upcoming deadlines for application submittals.

SECTION 5 COMPREHENSIVE PLAN-AMENDMENTS-APPLICATION PERIOD. Sets forth criteria for when application submittals shall occur.

SECTION 6 COMPREHENSIVE PLAN-AMENDMENTS-DOCUMENTATION REQUIRED FOR A COMPLETE APPLICATION. Sets for criteria for submittal of an application for Comprehensive Plan Amendments. Establishing requirements for a complete submittal.

SECTION 7 COMPREHENSIVE PLAN-AMENDMENTS-INCOMPLETE APPLICATIONS. Sets for criteria for incomplete applications, requiring a complete submittal by December 1st.

SECTION 8 COMPREHENSIVE PLAN-AMENDMENTS-PROCEDURAL STEPS FOR REIEW OF PROPOSED AMENDMENTS. Sets forth criteria for review of proposed amendments. Establishing SEPA review, a Planning Commission Open Record Hearing and a Board of County Commissioners Open Record Hearing.

SECTION 9 SEVERABILITY If any provision of this ordiancne is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 10 EFFECTIVE DATE This ordinance shall take effect and be in full force upon its passage and adoption.

9:20

Executive Session
Potential Litigation

R. Brown

9:50

<u>AGENDA ITEM</u>	<u>ACTION NEEDED</u>	<u>DISCUSSION TYPE</u>
Meeting Date: 07 Jul 2008 Subject: Park Board visit Memo Date: 01 Jul 2008 Prepared By: AJF Reviewed By:	Execute Contract Pass Resolution Pass Ordinance Pass Motion Other	Consent Agenda Public Hearing 1st Discussion 2nd Discussion Other
		X

SUMMARY

The Park Board Chair, Bert Lake, will give an update on projects, programs, and issues from the perspective of the Park Board. It has been a while since Commissioners have had an opportunity for such a visit, and staff would like to get this back to a twice-a-year schedule.

Mr. Lake will touch-on a number of items, including but not limited to:

- His goals for the Board during his two-year Chairmanship, including more Board involvement;
- The "Partners in Parks" program;
- Major accomplishments for the past year, such as the Comprehensive Parks Plan;
- Major current projects, such as the first phase of Two Rivers Park boat launch improvements;
- Major upcoming projects, such as individual parks master plans;
- Other various project, program, and policy issues.

We will plan to meet again in January.

#

10:10

AGENDA ITEM	TYPE OF ACTION	
MTG. DATE: July 7, 2008	NEEDED	Consent Agenda
SUBJECT: Preliminary Plat of Rivers Edge Estates- SUB 07-03	Execute Contract	Closed Record
MEMO DATE: July 1, 2008	Pass Resolution X	Hearing X
Prepared By: Michael Shuttleworth	Pass Ordinance	Public Meeting
	Pass Motion X	1st Discussion
	Other	2nd Discussion
		Other

BACKGROUND INFORMATION

On June 23, 2008, the Board of County Commissioners conducted a closed record hearing on the proposed preliminary plat of Rivers Edge Estates – SUB 07-03. This subdivision consists of 50 acres to be divided into 20 single-family lots. After considering the record provided by the Planning Commission, the Board directed staff to work with Commissioner Oliver to prepare a remand order that would send the preliminary plat application back to the Planning Commission to receive additional evidence and reconsider its recommendation after considering such evidence.

Attached to this memo is a remand order that was prepared as directed by the Board of County Commissioners. The Board of Commissioners continued its closed record hearing to July 7, 2008, at 10:10 a.m. at the Commissioners' Meeting Room, Third Floor, Courthouse, Prosser, WA 99350, to consider the form of the written remand order.

SUMMARY

The Benton County Planning Commission has completed the open record hearing for the preliminary plat application of Rivers Edge Estates – SUB 07-03, with a recommendation that it be denied. The Board of County Commissioners considered the preliminary plat and recommendation of the Planning Commission at a public meeting on June 23, 2008. The Board directed staff to work with Commissioner Oliver to prepare a remand order that would send the preliminary plat application back to the Planning Commission to receive additional evidence and reconsider its recommendation after considering such evidence.

RECOMMENDATION

The Planning Department recommends that the Board of County Commissioners approve the attached remand order and return the Preliminary Plat of Rivers Edge Estates – SUB 07-03 to the Planning Commission to consider evidence on the following:

1. What public health and safety risks, if any, would be created by the application of pesticides to the adjacent cherry orchard if this proposal is approved, can those risks be mitigated by a required set back or other condition of approval, and if what is the minimum setback or other mitigation conditions necessary.
2. What public health and safety risks, if any, would be created if this proposal is approved as designed, with access to the subdivision being via North River Road.
3. Does this proposal require transit stops and, if so, has adequate provision been made for such stops.

MOTION

The Board adopts the remand order for the preliminary plat of Rivers Edge Estates – SUB 07-03, and remands the preliminary plat back to the Planning Commission to receive and consider evidence as directed in the remand order.

DECISION OF THE
BOARD OF COUNTY COMMISSIONERS

RE: Preliminary Plat of approximately
50.90 acres into 20 lots in the Northwest
Quarter of Section 7, Township 8 North,
Range 24 East, W.M.

File No. SUB 07-03

REMAND ORDER

SUB 07-03: A proposal by Wes Hodges to subdivide approximately 50.90 acres into 20 single-family residential lots with an average lot size of 2.27 acres is hereby remanded to the Benton County Planning Commission to obtain additional evidence and make a recommendation based on the record to date, the additional evidence obtained and the legal conclusions set forth below. This remand order is based on the follow findings and conclusions made pursuant to RCW 58.17.110.

LEGAL DESCRIPTION

The site is located at the intersection of S. Lower County Line Road and North River Road on the South side of North River Road in the Northwest Quarter of Section 7, Township 8 North, Range 24 East, W.M.

RESOLUTION

WHEREAS, an open record pre-decision hearing was held by the Planning Commission on April 15, 2008 at the Planning Annex, 1002 Dudley Ave., Prosser, WA 99350; and,

WHEREAS, the Benton County Board of Commissioners received and reviewed the record developed by the Planning Commission and held a closed record hearing on Monday, June 23, 2008, at the Commissioners' Meeting Room, Third Floor, Courthouse, Prosser, WA 99350; and,

WHEREAS, the following members were present: Claude Oliver, Leo Bowman, and Max Benitz, Jr.; and,

WHEREAS, the Board of County Commissioners heard oral argument from Mr. John ZiobrO, who was representing the applicant Wes Hodges; and,

WHEREAS, no argument was made in opposition to the proposal, but Mr. Romney inquired as to whether the proposal satisfied the residential density requirements under Benton County Code; and,

WHEREAS, the following members were present: Claude Oliver, Leo Bowman and Max Benitz, Jr.; and,

WHEREAS, as reflected in the Findings and Conclusions set forth below, the Board determined that insufficient evidence has been presented to allow it to make the determinations necessary under RCW 58.17.110; and,

WHEREAS, the Board of Commissioners continued its closed record hearing to July 7, 2008, to 10:10 am at the Commissioners' Meeting Room, Third Floor, Courthouse, Prosser, WA 99350, to consider

the form of the written remand order; and,

THEREFORE, BE IT RESOLVED that the Board of County Commissioners hereby adopts the following Findings and Conclusions and remands this proposal to the Planning Commissioner to receive additional evidence and reconsider its recommendation after considering such evidence and the conclusions set forth herein.

FINDINGS AND CONCLUSIONS

1. The site of the proposed preliminary plat is adjacent to a cherry orchard as well as several vineyards.
2. No evidence was presented to the Planning Commission regarding the impacts, if any, to the health of future residents of this proposed subdivision of any spray drift from the adjacent cherry orchard. Evidence was submitted regarding the necessary distance of future residences from the adjacent vineyards to assure public health and safety issues related to possible spray drift.
3. Insufficient evidence was presented for the Planning Commission to conclude that noise, dust, smoke and smells from adjacent agricultural activities would impact on the health and safety of the future residents of the proposed subdivision if such residences are set back 50 feet or more from the property line of adjacent agricultural uses.
4. The evidence submitted to the Planning Commission about the adequacy of access to this subdivision from North River Road was minimal and consisted solely of speculation from opponents to the subdivision. The applicant provided no evidence that addressed whether access to the proposal via North River Road made appropriate provision for public health and safety.
5. No evidence was submitted to the Planning Commission regarding whether the proposal made adequate provision for transit stops.
6. The land subject to this proposal is zoned Unclassified, and residential use is an allowed use in that zone. Consequently, the fact that the proposal make take the subject land out of agricultural use or may result in perceived or perhaps actual inconveniences for owners or operators of adjacent parcels in agricultural use is not a valid basis to deny the proposal, so long as the proposal can be conditioned to protect against demonstrated public health and safety risks created by approval of the proposal.
7. The subject parcel was identified in the County's Comprehensive Plan as Rural Lands (RL) 2.5 at the time of the application. The Rural Lands designation indicates residential is the principal intended use of lands so designated, although hobby farms and isolated commercial farms may exist in such areas and abut residential uses.
8. The set back requirements imposed by Yakima County Code applicable to land adjacent to this proposal are not binding on the applicant and cannot be used as the basis for denial or approval of the proposal. Any set back required in addition to those required for all structures in the Unclassified Zone under BCC 11.48.030 through 11.48.050 must be based on evidence of a public health and safety risk created by the approval of this proposal.
9. Neighborhood or community displeasure or unsubstantiated fears of a health and safety risk

are not valid reasons to deny a subdivision application.

ORDER

Based on the above Findings and Conclusions, IT IS HEREBY ORDERED that this matter is remanded back to the Planning Commission to consider evidence on the following:

1. What public health and safety risks, if any, would be created by the application of pesticides to the adjacent cherry orchard if this proposal is approved, can those risks be mitigated by a required set back or other condition of approval, and if so, what is the minimum setback or other mitigation conditions necessary.
2. What public health and safety risks, if any, would be created if this proposal is approved as designed, with access to the subdivision being via North River Road.
3. Does this proposal require transit stops and, if so, has adequate provision been made for such stops.

BE IT FURTHER ORDERED, that based on the legal conclusions set forth above, the additional evidence received pursuant to this remand and the record established to date, the Planning Commission shall submit such recommendation to this Board as it deems appropriate.

BE IT FURTHER RESOLVED, that all persons providing testimony to the Planning Commission at or prior to the prior Planning Commission hearing shall be notified of this decision.

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

Ross B. Dunfee, P.E.
Public Works Director / County Engineer
Steven W. Becken
Asst. Director/Asst. County Engineer

Benton County

Department of Public Works

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

Area Code 509
Prosser 786-5611
Tri-Cities 736-3084
Ext. 5664
Fax 786-5627

10:25

June 25, 2008

BOARD OF COUNTY COMMISSIONERS
Benton County Courthouse
Prosser, WA 99350

RE: Application for Franchise/Public Hearing
Applicant: KENNEWICK IRRIGATION DISTRICT

Commissioners:

Kennewick Irrigation District has filed a petition to obtain a nonexclusive franchise for placing an irrigation water distribution system within County road right of way in unincorporated areas of Benton County.

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

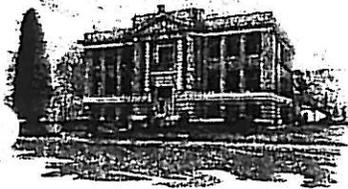
1. This office recommends that the term of the franchise be for a five (5) year period.
2. The Grantee is to carry liability insurance with Benton County named as an insured with a minimum limit of \$500,000.00. A copy of the proof of insurance is to be provided to Benton County. Proof of insurance must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

If you have any questions, please contact this office.

Sincerely,


Ross B. Dunfee, P.E.
County Engineer/Director of Public Works

Sue Schuetze
Engineer II



**Board of County Commissioners
BENTON COUNTY**

P.O. Box 190 • Prosser, WA 99350-0190
Phone (509) 786-5600 or (509) 736-3080
Fax (509) 786-5625

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

NOTICE OF CONTINUATION

PUBLIC HEARING

Kennewick Irrigation District Franchise

The public hearing scheduled for June 30, 2008 at 9:05 a.m. on the application by Kennewick Irrigation District for franchise has been continued to the following date, time, and place:

DATE: July 7, 2008
TIME: 10:25 a.m.
PLACE: Commissioners' Conference Room
Benton County Courthouse
Prosser, WA

Ross B. Dunfee, P.E.
Public Works Director / County Engineer
Steven W. Becken
Asst. Director/Asst. County Engineer

Benton County

Department of Public Works

10:30
Area Code 509
Prosser 786-5611
Tri-Cities 736-3084
Ext. 5664
Fax 786-5627

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

July 3, 2008

BOARD OF COUNTY COMMISSIONERS
Benton County Courthouse
Prosser, WA 99350

RE: Application for Franchise/Public Hearing
Applicant: C & M ORCHARDS

Commissioners:

Due to incorrect advertising the Public Hearing held on June 2, 2008 for a franchise requested by C & M Orchards was invalid and was re-advertised. C & M Orchards has filed a petition to obtain a nonexclusive franchise for placing an irrigation and domestic water lines distribution system within County road right of way in unincorporated areas of Benton County.

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

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

If you have any questions, please contact this office.

Sincerely,



Ross B. Dunfee, P.E.
County Engineer/Director of Public Works

Sue Schuetze
Engineer II



**Board of County Commissioners
BENTON COUNTY**

P.O. Box 190 • Prosser, WA 99350-0190
Phone (509) 786-5600 or (509) 736-3080
Fax (509) 786-5625

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

NOTICE OF CONTINUATION

PUBLIC HEARING C & M Orchards Franchise

The public hearing scheduled for June 30, 2008 at 9:10 a.m. on the application by C & M Orchards for franchise has been continued to the following date, time, and place:

DATE: July 7, 2008
TIME: 10:30 a.m.
PLACE: Commissioners' Conference Room
Benton County Courthouse
Prosser, WA

10:35

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY BUDGETS RE: SUPPLEMENTAL APPROPRIATION TO THE 2008 CURRENT EXPENSE FUND NO. 0000-101, NON-DEPARTMENTAL 115, BUDGET IN THE AMOUNT OF \$281,593

WHEREAS, the Commissioners' Office has requested a supplemental appropriation to the Current Expense Fund No. 0000-101, Non-Departmental 115, budget in the amount of \$281,593; and said supplement is for an increased assessment amount for Benton County for the Benton-Franklin Health Department; and,

WHEREAS, a public hearing was held on Monday, July 7, 2008, at 10:35 AM at which time the public was given an opportunity to speak in favor or in opposition to the proposed supplement; and,

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

BE IT RESOLVED, by the Board of Benton County Commissioners that a supplemental appropriation to the 2008 Current Expense Fund No. 0000-101, Non-Departmental 115, budget in the amount of \$281,593 be approved per the attached request.

Dated this day of, 2008

Chairman of the Board

Chairman Pro-Tem

Member

Constituting the Board of County
Commissioners of Benton County,
Washington

Attest:
Clerk of the Board

10:40

Executive Session

2nd Quarter Litigation
Report

R. Brown

10:50 AM

STP Funds from Port of Benton

L Moser

10.50

<u>AGENDA ITEM</u>	<u>TYPE OF ACTION NEEDED</u>	
Meeting Date: <u>July 7, 2008</u>	Execute Agreement	Consent Agenda <u>XX</u>
Subject: <u>STP(R) Funding</u>	Pass Resolution <u>XX</u>	Public Hearing _____
<u>Exchange</u>	Pass Ordinance _____	1st Discussion _____
Prepared by: <u>LJM</u>	Pass Motion _____	2nd Discussion _____
Reviewed by: <u>SWB</u>	Other _____	Other _____

BACKGROUND INFORMATION

In August 2005 the Board of Benton County Commissioners approved the exchange of STP funds from the Port of Benton at \$0.85 on the dollar for each STP dollar.

The Port of Benton again has available \$92,484 in STP funds and has offered these funds to Benton County at an exchange rate of \$0.85 in County Road funds for every dollar of STP funds for a total of \$78,611. These STP funds would be applied to the Webber Canyon Road project currently being prepared for bid advertisement cost.

SUMMARY

The Port of Benton has \$92,484 in STP funds available to Benton County at the exchange rate of \$0.85 in County Road funds for every STP dollar for a total of \$78,611.

RECOMMENDATION

It is the recommendation of the Benton County Engineer that the Road fund exchange \$78,611 for these STP funds for a \$13,873 savings and apply these funds to the Webber Canyon Project.

FISCAL IMPACT

Funds are available for this purchase. A line item transfer would need to be made to fund the budget line item used for this purchase.

MOTION

Approve the resolution authorizing the purchase of the STP funds in the amount of \$92,484 from the Port of Benton by the County Road Fund in the amount of \$78,611 for a savings of \$13,873.

10:55

AGENDA ITEM	TYPE OF ACTION NEEDED	
MTG. DATE: July 7, 2008		Consent Agenda
SUBJECT: Final Plat of Summit View Ph. 5 Subdivision SUB 08-01		Public Meeting X
MEMO DATE: June 30, 2008		1st Discussion
Prepared By: Michael Shuttleworth	Execute Contract	2nd Discussion
	Pass Resolution X	Other
	Pass Ordinance	
	Pass Motion X	
	Other	

BACKGROUND INFORMATION

On August 8, 1990, the Benton County Board of County Commissioners approved the preliminary plat of Summit View, to create 360 lots from 517-acres. The preliminary plat was approved subject to 21 conditions. Those conditions have been completed for the Final Plat of Summit View Phase 5 and the final plat is being submitted to the Board for their approval and signature.

SUMMARY

All the conditions of approval have been satisfied and all signatures have been obtained. The Final Plat of Summit View Phase 5 is ready for signature by the Chairman of the Board of County Commissioners.

RECOMMENDATION

It is the recommendation of the Benton County Planning Department that the Final Plat of Summit View Phase 5 – SUB 08-01 be approved and the Board sign the attached resolution authorizing the chairman to sign the final plat

FISCAL IMPACT

Maintenance of new county roads.

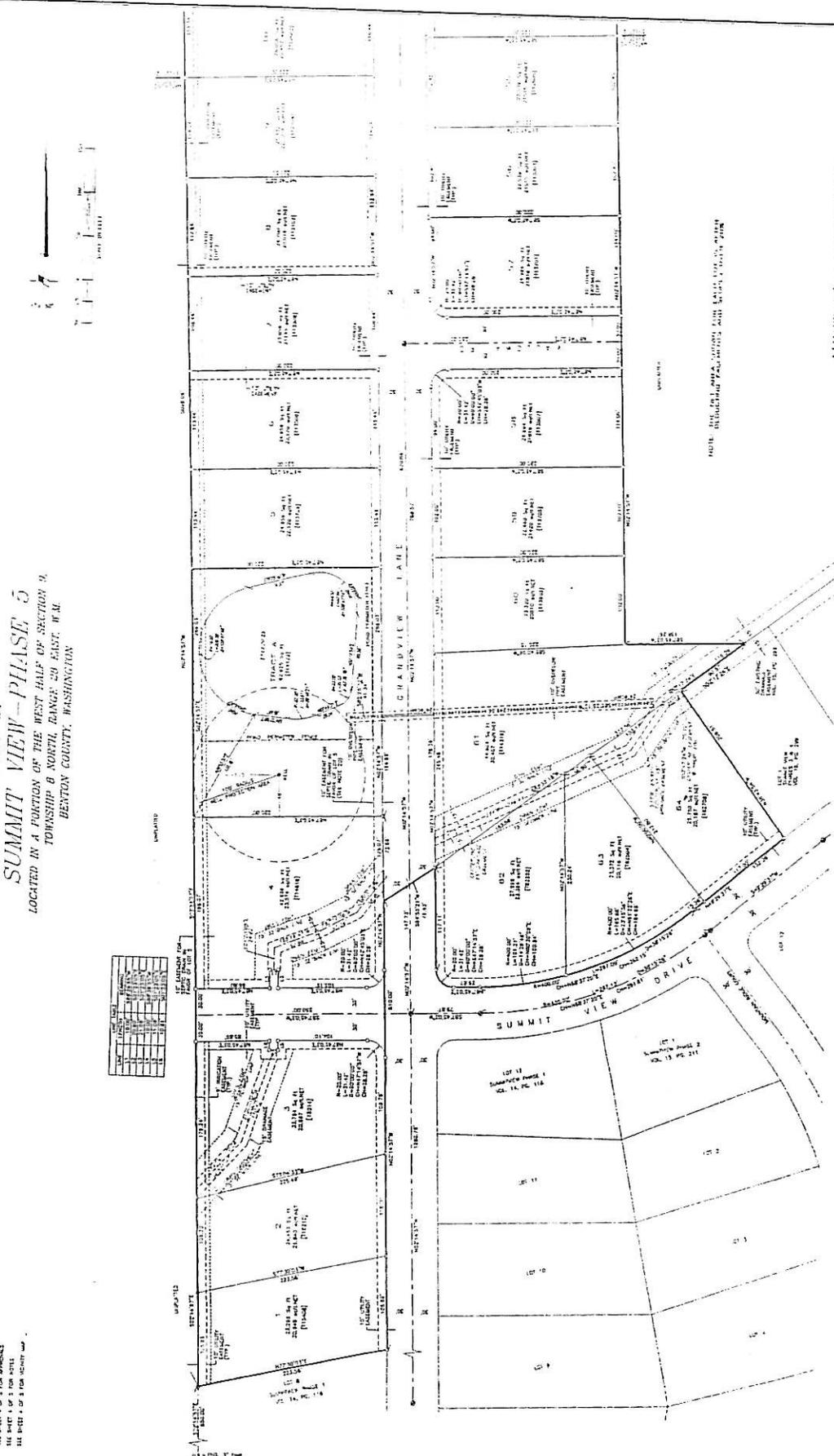
MOTION

The Board of County Commissioners should make a motion to approve the Final Plat of Summit View Phase 5, SUB 08-01 and the Chairman so indicate by signing the final plat.

**PLAT OF
SUMMIT VIEW - PHASE 5**
LOCATED IN A PORTION OF THE WEST HALF OF SECTION 9,
TOWNSHIP 8 NORTH, RANGE 29 EAST, W.M.
DENTON COUNTY, WASHINGTON

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SURVEYOR'S CERTIFICATE
I, *John A. Beck*, Surveyor, do hereby certify that the above described land is the true and correct location of the same as shown on the plat hereof, and that the same has been surveyed and located in accordance with the laws of the State of Washington, and that the same is the true and correct location of the same as shown on the plat hereof, and that the same has been surveyed and located in accordance with the laws of the State of Washington.



AUDITOR'S CERTIFICATE

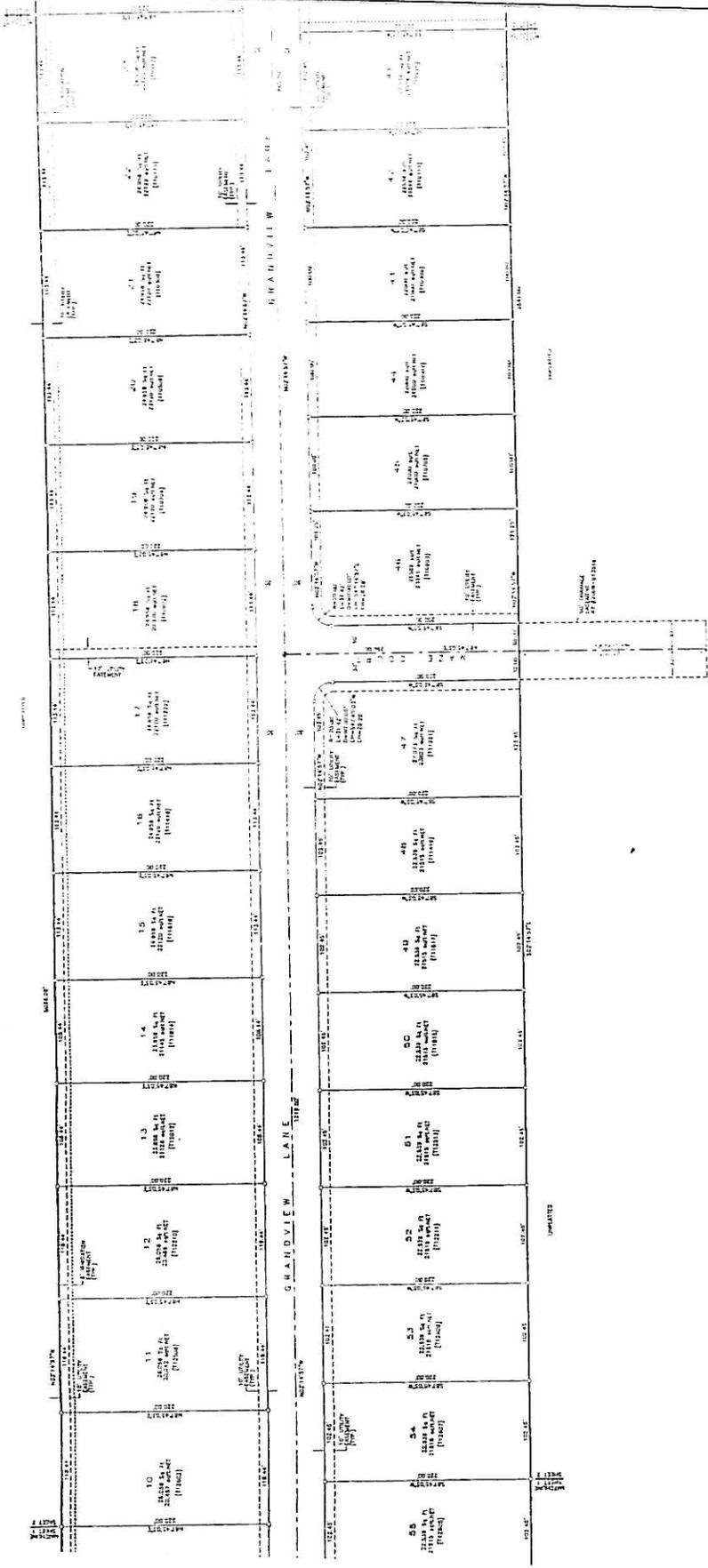
I, *John A. Beck*, Auditor, do hereby certify that the above described land is the true and correct location of the same as shown on the plat hereof, and that the same has been surveyed and located in accordance with the laws of the State of Washington, and that the same is the true and correct location of the same as shown on the plat hereof, and that the same has been surveyed and located in accordance with the laws of the State of Washington.



SHEET 1 OF 6

PLAT OF
SUMMIT VIEW - PHASE 5
 LOCATED IN A PORTION OF THE WEST HALF OF SECTION 9,
 TOWNSHIP 10 NORTH, RANGE 30 EAST, W.M.
 HENRY COUNTY, WASHINGTON

SEE SHEET 4 OF 5 FOR RANGE CORNERS
 SEE SHEET 5 OF 5 FOR SECTION CORNER
 SEE SHEET 6 OF 5 FOR SECTION CORNER
 SEE SHEET 7 OF 5 FOR SECTION CORNER



NOTE: ALL DISTANCES ARE MEASURED AND RECORDED IN FEET.



SURVEYOR'S CERTIFICATE
 I, *[Signature]*, Surveyor General of Washington State, do hereby certify that the above described land is the property of the State of Washington and is subject to the provisions of the Public Lands Act of 1906, as amended, and that the same is being surveyed and located in accordance with the provisions of said Act.

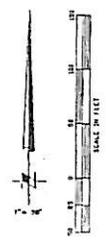
AUDITOR'S CERTIFICATE

I, *[Signature]*, Auditor of Henry County, Washington, do hereby certify that the above described land is the property of the State of Washington and is subject to the provisions of the Public Lands Act of 1906, as amended, and that the same is being surveyed and located in accordance with the provisions of said Act.

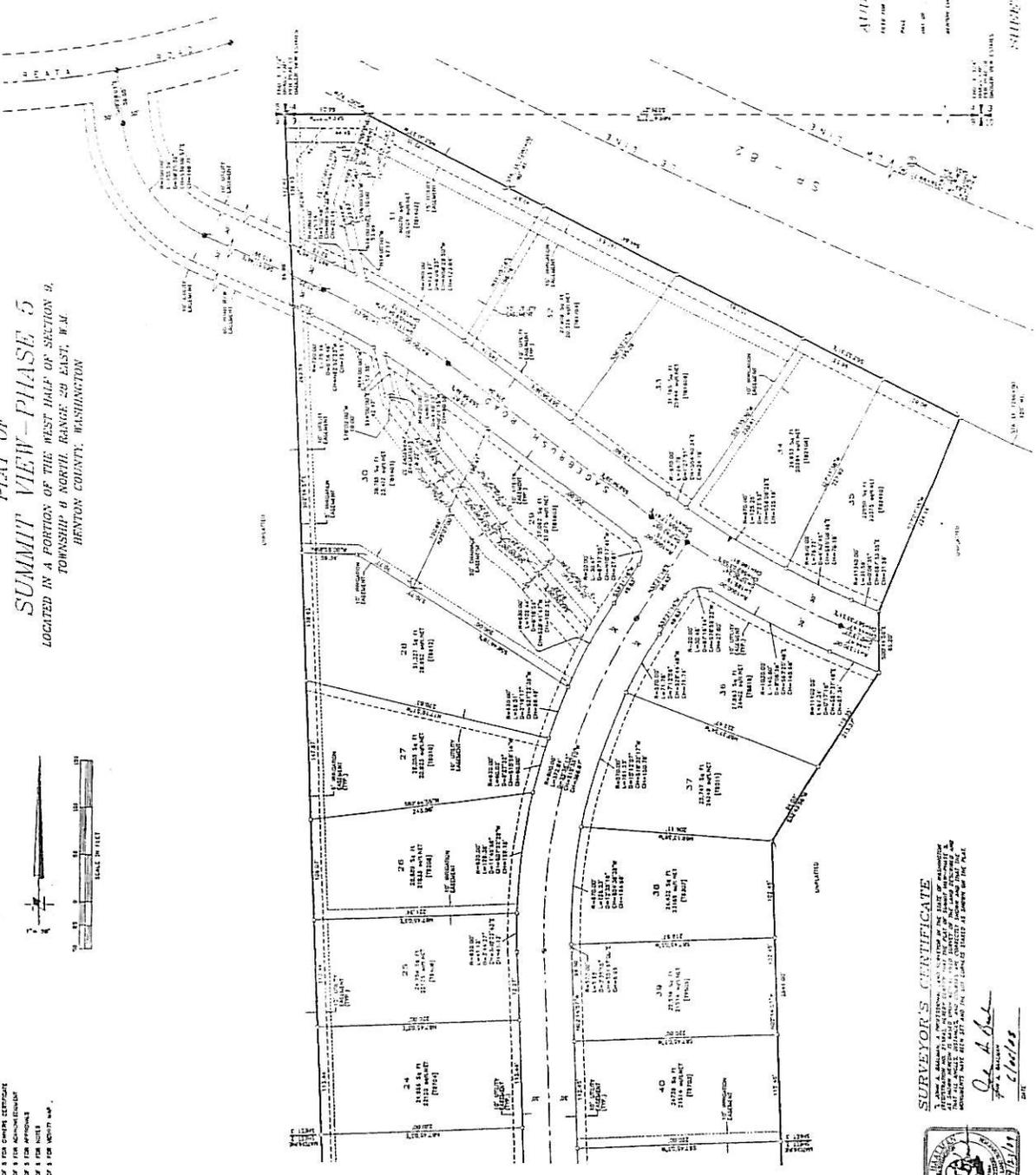


SHEET 12 OF 15

PLAT OF
SUMMIT VIEW—PHASE 5
 LOCATED IN A PORTION OF THE WEST HALF OF SECTION 9,
 TOWNSHIP 8 NORTH, RANGE 29 EAST, B.M.
 HENTON COUNTY, WASHINGTON



SEE SHEETS 4 OF 8 FOR OTHER CERTIFICATE
 SEE SHEETS 4 OF 8 FOR ADDITIONAL
 SEE SHEETS 4 OF 8 FOR ADDITIONAL
 SEE SHEETS 4 OF 8 FOR ADDITIONAL



THIS PLAT WAS PREPARED BY THE SURVEYOR AND IS SUBJECT TO THE PROVISIONS OF THE SURVEY ACT OF 1909.

AUDITOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE PLAT OF THE WEST HALF OF SECTION 9, TOWNSHIP 8 NORTH, RANGE 29 EAST, B.M., HENTON COUNTY, WASHINGTON, AS SHOWN ON SHEET 4 OF 8, IS CORRECT AND ACCURATE.



SHEET 4 OF 8

SURVEYOR'S CERTIFICATE

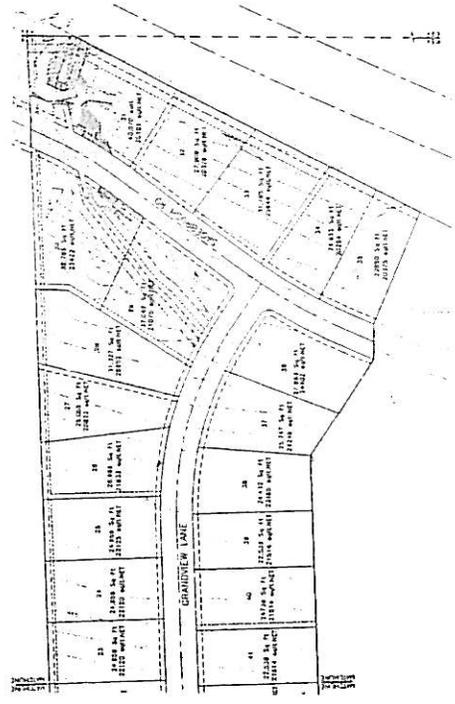
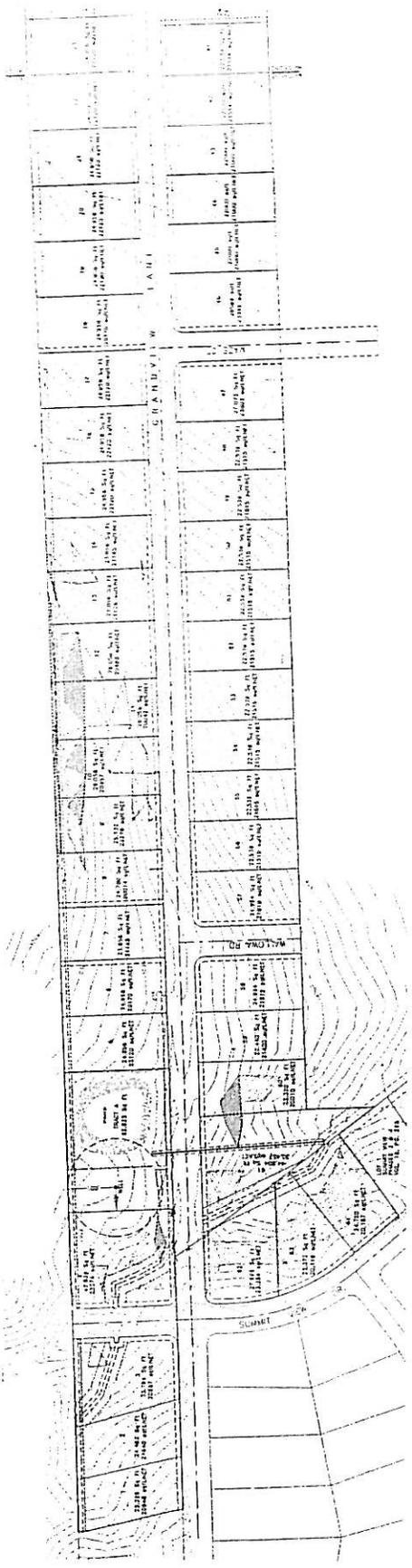
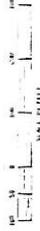
I HEREBY CERTIFY THAT THE PLAT OF THE WEST HALF OF SECTION 9, TOWNSHIP 8 NORTH, RANGE 29 EAST, B.M., HENTON COUNTY, WASHINGTON, AS SHOWN ON SHEET 4 OF 8, IS CORRECT AND ACCURATE.

John A. Smith
 SURVEYOR



SEE PAGE 4 OF 8 FOR SURVEY INFORMATION
 SEE PAGE 4 OF 8 FOR ADJACENT PLATS
 SEE PAGE 4 OF 8 FOR NOTES
 SEE PAGE 4 OF 8 FOR NOTES

**PLAT OF
 SUMMIT VIEW - PHASE 5**
 LOCATED IN A PORTION OF THE WEST HALF OF SECTION 9,
 TOWNSHIP 8 NORTH, RANGE 28 EAST, 7E M.
 DENTON COUNTY, WASHINGTON



AUDITOR'S CERTIFICATE
 I HEREBY CERTIFY THAT THE ABOVE IS A TRUE AND CORRECT COPY OF THE ORIGINAL RECORD AS KEPT IN THE OFFICE OF THE COUNTY CLERK, DENTON COUNTY, WASHINGTON, THIS 15th DAY OF MARCH, 2015.
 COUNTY CLERK

SURVEYOR'S CERTIFICATE
 I, JAMES A. BROWN, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF WASHINGTON, DO HEREBY CERTIFY THAT THE ABOVE IS A TRUE AND CORRECT COPY OF THE ORIGINAL RECORD AS KEPT IN THE OFFICE OF THE COUNTY CLERK, DENTON COUNTY, WASHINGTON, THIS 15th DAY OF MARCH, 2015.
 JAMES A. BROWN
 SURVEYOR



SHEET 5 OF 8

11:00

<u>AGENDA ITEM</u>	<u>ACTION NEEDED</u>	<u>DISCUSSION TYPE</u>
Meeting Date: 07 Jul 2008 Subject: Park Board visit Memo Date: 01 Jul 2008 Prepared By: AJF Reviewed By:	Execute Contract Pass Resolution Pass Ordinance Pass Motion Other	Consent Agenda Public Hearing 1st Discussion 2nd Discussion Other X

SUMMARY

Adam will lead a brief update and discussion regarding to separate but not entirely unrelated items pertaining to Rattlesnake Mountain. There have been a number of meetings and developments on both of these matters of late.

1. Proposed designation of the "Laliik" National Historic Place
2. Disposition of the summit access road and associated facilities at the summit

#



901 North Colorado
Kennewick, WA 99336
www.TRIDEC.org

Phone: 509.735.1000
Fax: 509.735.6609
1-800-TRI-CITY

FILE

June 26, 2008

The Honorable Doc Hastings
United States House of Representatives
1214 Longworth House Office Building
Washington, D.C. 20515

Max	✓
Let	✓
Claude	✓
David	✓
Loretta	✓
Other	A. Fyall

RECEIVED

JUN 30 2008

BENTON COUNTY
COMMISSIONERS

Dear Congressman Hastings:

On March 14, 2008, The U.S. Department of Energy's Richland Operations Office notified twelve community organizations regarding its intent to phase out existing real estate agreements, remove privately owned structures, and restore the land on Rattlesnake Mt. summit to a condition consistent with the surrounding natural setting.

The stated reason for taking this action is the cost of maintaining the road and access to the top of the mountain, and the fact that these costs must come directly from DOE Environmental Management "clean up dollars."

Such action has both short and long term consequences. Of immediate concern is the impact on the emergency communications systems and to the twelve organizations with permits, licenses or easements on the top of Rattlesnake Mt. including: Alliance for the Advancement of Science Through Astronomy; Benton County Public Utility District; Columbia Communications, Inc.; Crown Castle International; Day Wireless Systems, Inc.; Energy Northwest; Franklin County Public Utility District; the Pacific Northwest National Laboratory; Tri-Cities Amateur Radio Club; U.S. Coast Guard, U.S. Dept. of Justice, and Washington State Emergency Management Division.

Rattlesnake Mt. is the highest mountain directly east of the Cascades, at 3568 feet above sea level. Currently eight radio towers reach another 165 plus ft. and provide, emergency communications systems (Homeland Security) that easily cover the Hanford Site as well as most of six Washington Counties and the Umatilla Army Depot in Oregon.

These essential emergency systems are in place for use under conditions of natural disaster, nuclear terrorism, bio-terrorism or accidents including the release of gas from military weapons or radioactive releases from Hanford. This equipment is operated by Washington State Emergency Management, Benton County Emergency Management, and numerous law enforcement agencies including Hanford Patrol and is critical to the safety and protection of Benton and Franklin Counties and the surrounding area.

It has been determined that removing these communications towers would require replacing them with multiple towers on several nearby mountains to achieve anything close to the same communications area coverage.

The summit, because of its height, consistent clear skies, and remote location from nearby ambient light, also is a perfect natural location for the existing telescope, and is home to Washington State's largest telescope. Because Rattlesnake Mt. is the highest mountain immediately east of the Cascades, it is also an excellent vantage point for viewing the entire Hanford Site, the Hanford Reach National Monument, several major mountains in the Cascades, and the Columbia River as it winds through the Tri-Cities and turns west into the Gorge.

The longer term consequence of DOE's decision may also have a negative impact on our community's mutual desire to establish some form of public access to the top of Rattlesnake Mountain. Whether by roadway or some other means, we believe opening the Summit to public access should be a long term priority for the community.

The undersigned requests your immediate assistance in finding a solution which would allow the existing communications equipment and observatory to remain on the Mountain. Benton County has expressed a willingness to have the Road Easement transferred from DOE to the County to relieve DOE of the cost of road maintenance and ensure permanent egress for all lease holders. This would require some Federal action to transfer the easement from the Department of Energy to the County.

We also ask that you support the Tri-City Community in developing a plan to allow public access to this part of our National Monument.

Thank you.

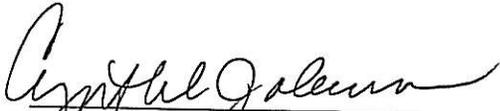
Sincerely,
Carl Adrian, President

Cc: Senator Patty Murray
Senator Maria Cantwell
Congresswoman Kathy McMorris Rodgers
Governor Christine Gregoire

Attachments: Rattlesnake Mountain Community Position Paper

ADDITIONAL SIGNATURES

Letter to Congressman Doc Hastings
Re: Rattlesnake Mountain



City of Richland

City of West Richland



City of Kennewick

City of Pasco



Benton County
Board of Commissioners



Franklin County
Board of Commissioners

Benton Public Utility District



Hanford Communities
Governing Board Chairman



ATTACHMENT A:

**Rattlesnake Mountain Top
Current users and impacted parties**

Situation:

On March 14, 2008, The U.S. Department of Energy's Richland Operations Office notified twelve community organizations regarding its intent to phase out existing real estate agreements, remove privately owned structures, and restore the land on Rattlesnake Mt. summit to a condition consistent with the surrounding natural setting.

The Primary reason for taking this action is the cost of maintaining the road and access to the top of the mountain, and the fact that these costs must come directly from the Department of Energy's Environmental Management "clean up dollars"

Background:

From War Department acquisition maps from 1943, the Rattlesnake Mt. area encompassed 2 parcels taken by the War Department – Area LL near the southern end of Rattlesnake (closest to Richland) and Area KK further north and west along the spine of the mountain (toward Vernita but not that far north). In both Areas, there was a mix of pre-Site ownership, including substantial ownership by the Northern Pacific Railway Co., some private owners, some State of Washington, some Benton County, and two land investment companies. (1943 maps will be attached to this paper)

The access to the top of Rattlesnake Mt. is currently restricted by a locked gate across the access road which starts at Highway 225 NE-of Benton City, and a locked cable at the base of the mountain access road. This access road is termed a "primitive road" which is one-lane in several places, is in need of repair if used by vehicles other than 4-wheel-drive, and has grades of nearly 18% in some areas.

Rattlesnake Mt., the highest mountain directly east of the Cascades, at 3568 feet above sea level, with eight radio towers that reach another 165 plus ft., is perfectly suited to emergency communications systems (Homeland Security) that easily cover all of the Hanford Site as well as most of six Counties (Benton, Franklin, Grant, Yakima, Walla Walla and Kittitas), and into Oregon for the Umatilla Army Depot where military chemical weapons are stored and destroyed.

The essential emergency systems for use under conditions of natural disaster, nuclear terrorism, bio-terrorism or accidents including the release of gas from military weapons at the Umatilla Army Depot, or radioactive releases from Hanford all depend upon the communications equipment located on top of Rattlesnake Mt. This equipment is operated by Washington State Emergency Management, Benton County Emergency Management, and law enforcement agencies including Hanford Patrol.

These systems are of critical importance to the safety and protection of Benton and Franklin Counties and a large area surrounding these counties.

This site, because of its height, consistent clear skies, and remote location from nearby ambient light, is also a perfect natural location for the largest astronomical telescope in the State of Washington State used for research and science education since 1971.

The twelve entities currently having permits, licenses or easements on the top of Rattlesnake Mt. include: U.S. Coast Guard, U.S. Dept. of Justice, Washington state Emergency Management Division, Energy Northwest, Franklin County Public Utility District, Benton County Public Utility District, Day Wireless Systems, Inc., Crown Castle International, Columbia Communications, Inc., Tri-Cities Amateur Radio Club, Alliance for the Advancement of Science Through Astronomy, and Battelle.

Several of the above entities have had permits, leases, and easements granted by DOE or its predecessors for more than 45 years, and some of these leases run for another 34 years, while others run out in the very near future.

Current Services provided from Rattlesnake Mt.:

➤ Emergency services/Homeland Security

- **Washington State Emergency Management** provides the microwave backbone for Benton County public safety through 800MHz and VHF Simulcast Radio systems for Benton County first responders. In addition they provide a 300 Watt National weather service (NWS) transmitter. They also have a UHF link from this site to Dayton Washington for another 300Watt transmitter. This is important because it delivers the Emergency Alert system to a large part of the region and all of Benton, Franklin, and Walla Walla Counties. The Benton PUD also utilizes the states backbone to carry their **Supervisory Control and Data Acquisition** (SCADA data). This is important because this is how they keep track of their power sub stations and telemetry reporting.
- **Benton County Emergency Services** (BCES) operates a 12 Channel 800MHz Simulcast Trunked Radio system with a 13th Digital channel for secure operations..
 - All Benton County Law enforcement agencies, including Hanford Patrol use the 800MHz Simulcast system for primary and secondary emergency communications.
 - Regional interoperability for local, state and federal first responders is operated and maintained by Benton

- County Emergency Services, SECOMM 911 Dispatch center.
- Other state and federal agencies operate 800MHz radios and share the 800MHz system for the Chemical Stockpile Emergency Preparedness Program (CSEPP) at the Umatilla Army Depot. Supporting Agencies include:
 - Washington State Patrol
 - Washington State Department of Fish & Wildlife
 - Washington State Department of Transportation
 - Franklin County Emergency Services
 - Hanford Patrol
 - Hanford Fire
 - Funding through CSEPP and Benton County Local Jurisdictions totaling \$11 Million has been secured for the upgrade of the existing analog 800 MHz system to a Project 25 Digital 800MHz System, scheduled for completion in 2009.
 - The timeline to complete this project is critical with site location designation being of the highest priority at the time of final design stage scheduled for completion by August 2008. Site identification is extremely critical to the overall system design and successful operation for the next 15-20 years.
 - **National Weather Service** -- PNNL's Hanford Meteorological Group has communications and weather equipment (meteorological station #20) located on the mountain. These services are vital to several Hanford Site functions, including providing real-time weather information critical for routine and emergency forecasting. Historically, Rattlesnake Mountain has been used to support of aerosol and atmospheric sampling research, and homeland security research activities. While the Laboratory currently is not utilizing Rattlesnake Mountain for these research activities, upcoming research programs will use it in the future if it's available.
 - **U.S. Coast Guard** – The USCG has a single piece of equipment in the DOE 623A building. The Coast Guard had an agreement with DOE originally and now has one with Washington State Emergency Management for communications on the Columbia River. They are in the process of changing out their whole system and will be moving completely off the mountain in late July or early August.

- **City of Richland** maintains the VHF radio system for Benton County Emergency Services for the entire 911 system on Rattlesnake Mt. which is now the primary radio system for the Benton County Fire Agencies.
- **Benton PUD (BPUD)** has been the electric utility provider on Rattlesnake Mt. for the past 45 years.
 - BPUD owns and operates electric and communication facilities on Rattlesnake.
 - BPUD is a participant in Benton County's 800 MHz trunked simulcast radio system.
 - BPUD has a system control 900 MHz radio system, which provides for power scheduling and real time system control and data acquisition. *(These radios are located in the DOE building).*
 - BPUD owns a communication facility with a DOE lease executed in 1992 for a 50 year period. This facility also houses Franklin County's public communications systems. This lease does not require renewal until 2042.
- **Day Wireless** has several public safety radio systems from Franklin County in their facility. They also have one or two community repeaters that can be used by local farmers who can't afford individual communications systems.
- **Crown Castle** – has eleven tenants on its tower. These include wireless communications providers such as Cingular, to U.S. Customs and U.S. Drug Enforcement Administration.

➤ **Indirect customers for communications towers on Rattlesnake Mt.**

- Benton County Facilities
- Benton County Emergency Services
- Tribal Fisheries
- Franklin County Emergency Management
- Benton PUD Prosser
- Prosser Hospital
- Prosser Police Department
- Washington State Patrol
- Washington State Department of Natural Resources
- Washington State Department of Transportation
- Oregon State Police
- Oregon Chemical Stockpile Emergency Preparedness Program (CSEPP IT) (Absolutely critical for immediate emergency communications if there ever is a leak of any of the weapons at the Umatilla Army Depot)

- NOAA Pendleton (National Weather Service would be directly affected)
- **Estimated cost or impact of removing and/or relocating communications equipment at the top of Rattlesnake Mt.:**
 - **Washington State Emergency Management** estimates it would cost approx. \$2 million to develop a new site from the ground up, and another \$1 million to move existing equipment. However to achieve the same communications area coverage as Rattlesnake Mt. provides would require at least two alternate sites, and perhaps three. So the real costs for removal/replacement are estimated to cost \$5-10 million in today's dollars.
 - **Crown Castle** estimates above a million dollars IF they could find another location and landlord willing to lease ground to move to that would provide any where near the area coverage.
 - The Hanford Site's ability to provide **meteorological services** such as real-time weather information and critical forecasts during an emergency or adverse weather situation would be reduced. There is meteorological and radio relay equipment on top of the mountain that is used during emergency response activities on the Hanford Site, and is called upon during extreme weather conditions, such as snow, freezing rain and wind storms. The relay equipment likely could be relocated, although multiple sites might be required to compensate for the loss of altitude. However, there is no location that could adequately replace the meteorological measurements on the mountain. Measurements on other, lower peaks would not provide the early indication of atmospheric changes aloft that the current site does, and there are no alternative measurement technologies that can provide the same accuracy and frequency of observations from that height.

➤ **Observatory:**

The first observatory instrumentation was placed on the top of the existing Army building on the top of Rattlesnake Mt. in 1965. The University of Washington began conducting astronomy research that year.

Dr. Richmond Hoch (PNL Scientist in 1965-1975) received funding and equipment from the U.S. AEC (predecessor organization to DOE) in 1967, and built the Observatory. (see Attachment A).

By 1971 the 31 inch optical telescope and a 10 meter diameter dish were in place conducting sponsored research with some 18 to 20 individual scientists and technicians. (The dish has been removed).

The Rattlesnake Mt. telescope is the largest telescope in the State of Washington, and is computer operated through its new owners, the Alliance for the Advancement of Science through Astronomy (AASTA).

➤ **Objectives:**

- Gain access rights to leased facilities on the top of Rattlesnake Mt.
- Transfer Road Easement from DOE to Washington State or Benton County (permanent egress for lease holders)
- Eliminate cost to DOE EM for maintaining access to the top of Rattlesnake Mt. Determine alternate funding for maintenance of road access. (County, State).
- Retain communications systems (emergency, law enforcement and National Weather Service systems in particular) currently existing on the top of Rattlesnake Mt. – Homeland Security
- Retain the Observatory on the top of Rattlesnake Mt.
- Find some avenue for controlled public access to the top of Rattlesnake Mt. as part of the National Monument without damage to the ecosystem. (What good is a national monument if no one can go there?)
 - In Oct. 1995, then Secretary of Energy Hazel O'Leary indicated that one of the points important to her decision on the future use of the Arid Lands Ecology (ALE) Reserve of which Rattlesnake Mt is a key part, was the ability to increase public access to the ALE lands without harm to its unique ecosystem.

ATTACHMENT B:



Emergency Management
Fax: (509) 628-2621

BENTON COUNTY RECEIVED
EMERGENCY SERVICES 04 08 2008

651 Truman Avenue
Richland, Washington 99352
(509) 628-2600

BENTON COUNTY
COMMISSIONERS



Southeast Communications Center
Fax: (509) 628-2622

Leo	<input checked="" type="checkbox"/>
Claude	<input checked="" type="checkbox"/>
David	<input type="checkbox"/>
Loretta	<input type="checkbox"/>
Other	<input type="checkbox"/>

April 8, 2008

Major General Timothy J. Lowenberg
Bldg 1, Camp Murray
Tacoma, WA
98327-5000

Dear Major General Lowenberg,

On March 14, 2008, Benton County Emergency Services received a letter from the Department of Energy, Richland Operations Office, which stated that DOE does not plan to renew an existing communications site lease with Washington Emergency Management on Rattlesnake Mountain. The existing lease expires in June of 2010. This site contains critical communications equipment used for dispatching nine public safety agencies in response to emergency calls.

Implementation of the DOE decision could have catastrophic effects on emergency communications in Benton County. Alternative sites would provide significantly less coverage than is available on Rattlesnake Ridge and may not be available in time. The Benton County Emergency Services Executive Board is responsible for Benton County Emergency Management and SECOMM E911 public safety dispatch center. The Board understands the consequences of this change and is looking for support from affected organizations and jurisdictions in opposing this decision. U.S. Representative Doc Hastings is also aware of the situation and is working to find a solution to this problem.

The Board is requesting your help in resolving this issue as it also affects the Washington State EMD microwave system. Without your help and that of other state departments we could very easily lose a critical part of our emergency response system. Your support would be greatly appreciated. If you have any questions please contact Commissioner Max Benitz, Chairman of the BCES Executive Board at 509-736-3080.

Sincerely,


Max Benitz Jr., Chairman
Benton County Emergency Services

cc: BCES Executive Board Members
Congressman Doc Hastings
Hans Kwast, BCES Director

BCES ... Excellence in Public Safety Support Services

RESOLUTION 08 453

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF PUBLIC ACCESS TO RATTLESNAKE MOUNTAIN

WHEREAS, much of the Hanford Reach National Monument - including all of the Fitzner-Eberhardt Arid Lands Ecology Reserve and the summit area of Rattlesnake Mountain contained therein - are already closed to most public access; and,

WHEREAS, the federal owner of the National Monument - the United States Department of Energy (DOE) - has stated in its communication of March 14, 2008 that the few public entities that do have access to the summit area of Rattlesnake Mountain for certain purposes, will not have their existing permits, licenses, or easements renewed by the DOE; and,

WHEREAS, the ridge line and summit of Rattlesnake Mountain has long been established as a limited-use area of public benefit, where the impacts from human use are minimal and the rewards from being able to appreciate the spectacular view and uncommon environment are high; and,

WHEREAS, it is the position of Benton County that it is in the community's interest for certain areas of Rattlesnake Mountain - including the ridge line and summit areas - to remain open for public uses, consistent and balanced with other management considerations of the National Monument; and,

WHEREAS, more importantly, the Rattlesnake Mountain summit is the location for transponder infrastructure critical to the communications of Benton County Emergency Services and Washington State Emergency Services. The Rattlesnake Mountain site affords a location that is both secure for the equipment and that provides for the most effective signal transmission for first-responders; and,

WHEREAS, Benton County has been unwavering in its insistence that public use of public resources be determined by the public and not by unilateral agency fiat. This position has been consistent specific to Rattlesnake Mountain and the Hanford Reach National Monument at least as far back as the Interim Action Plan of April 1999, and throughout the still un-concluded Hanford Reach National Monument management planning process; NOW THEREFORE,

BE IT RESOLVED, that the Board of County Commissioners requests that no further action restricting public access to the National Monument or impairing public safety by stranding emergency services infrastructure be taken by the DOE or other agencies unless and until thorough and appropriate forms of public input on how the National Monument is accessible, restricted, or closed to public enjoyment is received and weighed; and until there is Congressional action on said input.

Dated this 7 day of April, 2008.

Attest: [Signature] Clerk to the Board

[Signature] Chairman of the Board

[Signature] Member

[Signature] Member

Commissioners of Benton County, Washington.

Post-It Fax Note 7871 form with fields for To, From, Date, Phone #, Fax #.

ATTACHMENT D:



RECEIVED

APR 18 2008

BENTON COUNTY COMMISSIONERS

Max	<input checked="" type="checkbox"/>
Leo	<input checked="" type="checkbox"/>
Claude	<input checked="" type="checkbox"/>
David	<input checked="" type="checkbox"/>
Loretta	<input checked="" type="checkbox"/>
Other	<i>Alvin</i>

April 18, 2008

Chairman Claude Oliver
Commissioner Max Benitz, Jr.
Commissioner Leo Bowman

Dear Benton County Commissioners,

This letter is in response to your request for information on the effect to Benton PUD of the Department of Energy's proposed new policy regarding access to Rattlesnake Mountain.

As with Benton County, the District also has many concerns with DOE's action and the impact it will have.

We currently are the electric utility provider for the entire Rattlesnake site and as such have many duties, requirements and customer expectations to fulfill. We exist there by agreement and easements and have provided service to the users on Rattlesnake for over 45 years. As long as Benton PUD provides electric service, it appears that there is no termination provision to our power line facilities easement.

During this time period we have:

1. Constructed new facilities when requested, for DOE, its lessees and/or contractors
2. Operated and maintained our existing power system
3. Obtained monthly reads of our billing meters

We additionally have a communication facility with a lease that was executed in 1992 for 50 years. It is our understanding that DOE's intent is to not allow this lease to be renewed, and their communication with us did not include dates of any of the entities' leases or confirm that ours is effective through 2042.

The District owns or is involved with additional critical communication infrastructure on Rattlesnake that provides radio coverage which is connected with various emergency services, specifically the 800 MHz radio system we share with Benton County and other agencies including the State of Washington.

Our electric system control master radios are also located in these communication facilities on Rattlesnake and these radios provide for electric system power scheduling along with real-time system control and data acquisition.

Attachment E: Observatory

Why Rattlesnake Mt. Observatory is important!

Dr. Richmond Hoch, first Director, Rattlesnake Observatory

Early in the last century every college or university of any consequence had an observatory. With the proliferation of outdoor lighting and expansion of urban areas stray light has ruined the "seeing" conditions for most observatories. (It is said that now many city kids have never seen the Milky Way.) The old observatories have become antiques and curiosities. The National Science Foundation, with help from other agencies and non-government foundations funded construction of major remote observatories to be shared by astronomers. Examples are Cerro Tololo in the Andes and Mauna Kea in Hawaii. Competition for observing time at these observatories is great. Those lucky enough to get observing time do not get much. The observatories and the access roads that have to be built are hugely expensive. Travel to the remote sites is by air and it is expensive and the logistics of bringing equipment to attach to the telescope is challenging. There are fewer astronomers now than there were even 30 years ago because there is not enough time at the few sites to go around and there is not enough funding to support more because it has become so expensive to observe. It has also become next to impossible to do the very long term searches for particular kinds of objects that are important because there is just not enough telescope time available.

Observatories are not located on mountain tops merely for the panoramic view. A key characteristic is that the site be above the local weather. Rattlesnake is typically above the low lying clouds that blanket the basin in the winter. So you get clear nights winter and summer both. You also need low stray light and being bordered by ALE and Hanford on one side stopped urban sprawl completely and the other side is miles of dry wheat land. The University of Washington determined that the Rattlesnake Mt. site was excellent. You need access and there was and is a road.

Until recent years observatories needed a kitchen, dormitory, shop and office space plus utilities. Now with computer control and telemetry the observatory can be run from miles away and a technician only needed to go to the observatory to set up instrumentation or for maintenance.

The telescope on Rattlesnake is not only the largest in the state, it is computer controlled (I designed it that way 38 years ago!) and AASTA and Battelle have just put \$200K into automating the Rattlesnake Mt. observatory for remote operation (or for it to perform routine search programs autonomously). I believe Alan Rither, PNNL Legal, had the Observatory appraised a year or so back and got a figure of \$1,000,000.

Rattlesnake Mt. observatory is a rare and valuable site that is unusually accessible without many hours or days of travel. It is not like you can just set the telescope up anywhere. It is a terrific teaching tool and tool for serious professional work.

Attachment F: E-Mail from Michael Durst, Columbia Basin College

From: bruce michael durst [mailto:brucemichael.durst@gmail.com]

Sent: Sunday, March 30, 2008 10:21 PM

To:

Subject: Rattlesnake Mt. Observatory Removal

Dear Sir:

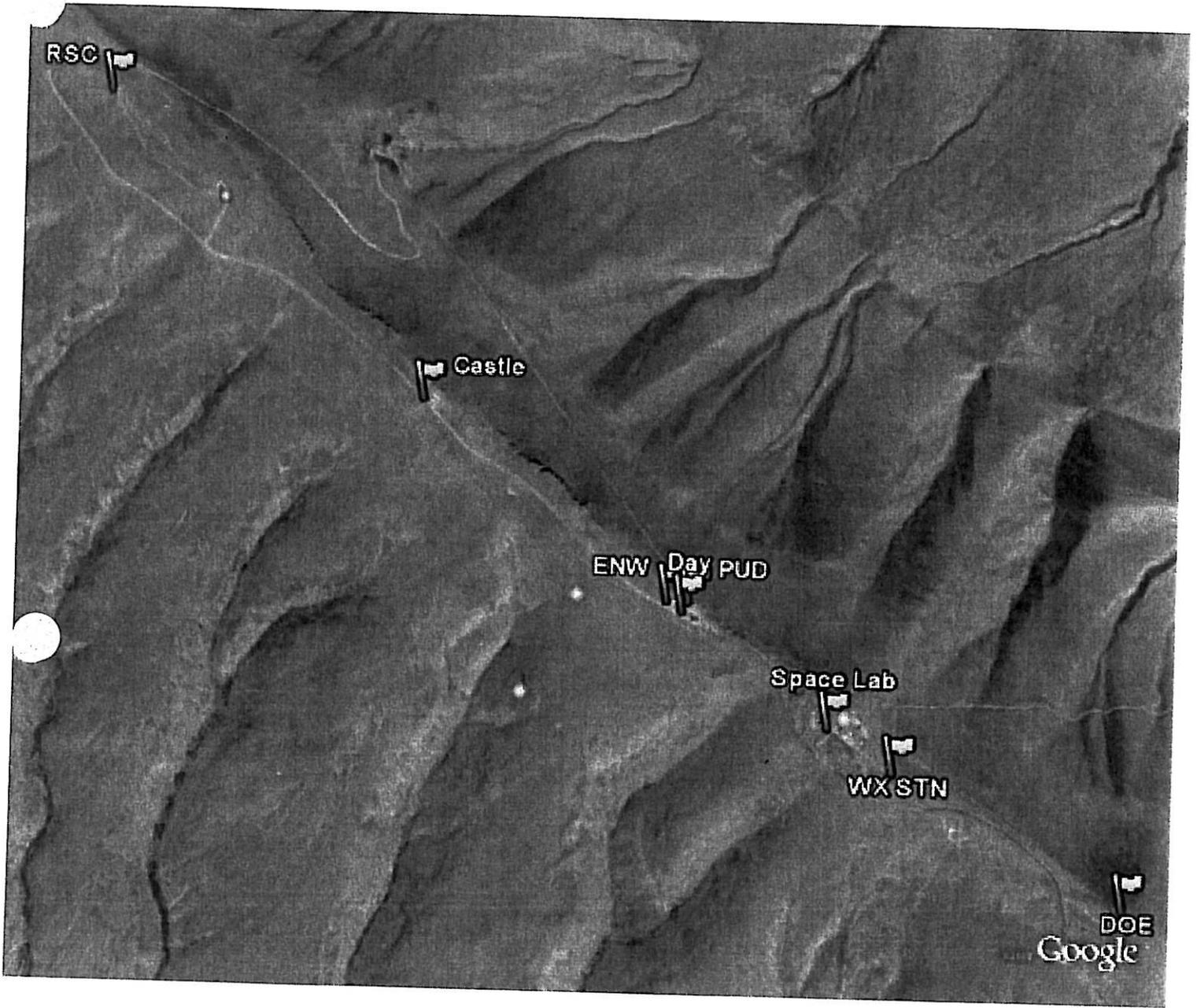
I am one concerned citizen that would like to voice my objection to the DOE plan to remove the Rattlesnake Mt. Observatory (RMO) from its current location. I have lived in the Tri-Cities for more than twenty years. I first moved to the Tri-Cities in 1974, when Battelle built the RMO facility. It was a magical time in my life. Battelle was and is a remarkable company - I have had the chance to hold moon rocks in my hand. The observatory's first Director - Dick Hoch - built the largest telescope in the state and placed it in a location with the very best observing conditions for doing astronomical research. It still is the largest telescope in the state with the best observing location for doing real astronomical research.

Now, I am the director of the CBC Robert and Elisabeth Moore Observatory in Pasco and I am proud to be affiliated with the new owners of the RMO telescope - the Alliance for the Advancement of Science through Astronomy (AASTA). Like AASTA, we are committed to improving the quality of science education in our state and region. We too have a large telescope and observatory on campus to meet the needs of our students. But, there is one thing that we don't have that the Rattlesnake Mt. telescope does have - and that is a pristine, low light-level site with dark skies - the kind of sky so clear and dark that it seems you, "could see forever". If the RMO telescope is removed from the mt., we will lose this site and this telescope for performing true educational astronomy. The irony of this situation is that it will be at a time when we need it the most. We want - we need this observatory to be actively used in our courses at CBC and in other public schools and colleges within the region. The interest and need of local schools are there. At CBC alone, we average more than one hundred students and general public per week that come to the Pasco campus to visit our observatory. Most of these are young children. The integration of the RMO telescope as a permanent teaching tool into our curriculum will only add to this interest, and will lead to improving our students' performance on the state WASL tests.

I for one cast my vote to preserve the Rattlesnake Mt. Observatory in its current site on the Mt. Instead of removing it, we should be doing everything we can to improve student access to this facility.

Mike Durst
Director, Moore Observatory
Columbia Basin College
Pasco, Wa.

Attachment G: Location of towers on Rattlesnake Mountain



11:10

Executive Session
Potential Litigation

M. Wenner

<u>AGENDA ITEM</u>	<u>TYPE OF ACTION NEEDED</u>	
Meeting Date: July 7, 2008 Subject: Actuarial Srvs. 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

11:20

BACKGROUND INFORMATION

For the last 13 years PriceWaterHouseCoopers has provided Benton County with actuarial reports for Benton County's workers' compensation and self-insurance liability programs to insure adequate funding for potential claims. These studies are used for audit purposes as well.

SUMMARY

See above

RECOMMENDATION

Having been reviewed by Melina Wenner, Personnel Manager, and Eric Hsu, Civil DPA, we recommend the agreement be signed.

FISCAL IMPACT

\$4,250

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WA

IN THE MATTER OF THE AWARD AND CONTRACT WITH PRICEWATERHOUSECOOPERS LLP FOR ACTUARIAL SERVICES FOR THE BENTON COUNTY WORKERS COMPENSATION AND SELF-INSURED LIABILITY PROGRAMS

WHEREAS, resolution 04-534 allows non-public works services the county need not advertise or follow a formal competitive bidding procedure; and

WHEREAS, the Personnel/Risk Manager received a proposal for the actuarial services for the Benton County Workers Compensation and Self-Insured Liability Programs from PricewaterhouseCoopers LLP in the amount of \$24,250 including WSST; and

WHEREAS, the Personnel/Risk Manager reviewed the proposal and recommends award of said services to PricewaterhouseCoopers LLP; **NOW, THEREFORE**

BE IT RESOLVED, by the Board of Benton County Commissioners, Benton County Washington, the Board hereby agrees with the recommendation and PricewaterhouseCoopers LLP the contract for actuarial services for a contract amount of \$24,250 including WSST with an amount not to exceed \$25,000.00 including WSST for any acceptable overages, incidentals and other unanticipated costs for the actuarial services.

BE IT FURTHER RESOLVED, the Board of Benton County Commissioners hereby authorizes the Chairman of the Board to sign the contract attached hereto for said services.

Dated this _____ day of _____, 2008

Chairman of the Board

Member

Attest: _____
Clerk of the board

Member

Constituting the Board of County
Commissioners of Benton County,

AGREEMENT FOR PROFESSIONAL SERVICES

Agreement made between PricewaterhouseCoopers LLP of 1420 Fifth Avenue, Suite 1900. Seattle, Washington 98101-4043, hereafter referred to as *Contractor*, and BENTON COUNTY, State of Washington, hereafter referred to as *County*.

The parties to this Agreement, in consideration of the mutual covenants and stipulations set out, agree as follows:

Section 1. Responsibilities of Contractor.

Contractor will provide an actuarial review of the County's self-insurance program for workers' compensation, the scope of this study to be as follows:

1. Estimate Outstanding Liability. Estimate the total outstanding claim obligations, as of the December 31, 2007 reserve date, for all self-insured claims incurred on or before that date. Estimates will be made net of the County's self-insured retentions.
2. Project Future Costs. Estimate self-insured losses to be incurred during accident years 2008 through 2010 based on estimated worker hours provided by the County.
3. Provide a Confidence Level Analysis. Provide loss estimates at a variety of confidence levels in addition to the expected amounts.
4. Cost Allocation. Design a self-insurance cost allocation system based on actuarial principles for 2008 through 2010 program costs. In allocating self-insurance costs, Contractor will consider ultimate loss estimates in #2 above, Department of Labor & Industries class rate relativities, and expense estimates provided by the County.
5. Cash flow analysis. Provide estimates of future payments for calendar years 2008 through 2012.
6. Actuarial Report. Provide a written report, which thoroughly documents methodologies and findings.
7. Presentation. Contractor will meet with the appropriate County personnel to present report and discuss observations and findings.

Contractor will provide an actuarial study of the County's liability program as follows:

1. Estimate Outstanding Liability. Estimate the total outstanding claim obligations, as of the December 31, 2007 reserve date, for all self-insured

claims incurred on or before that date. Estimates will be made net of the County's self-insured retention.

2. Project Future Costs. Estimate self-insured losses to be incurred during accident years 2008 through 2010 based on estimated worker hours provided by County.
3. Provide a Confidence Level Analysis. Provide loss estimates at a variety of confidence levels in addition to the expected amounts.
4. Cash Flow Analysis. Provide estimates of future payments for fiscal payment years 2008 through 2012.
5. Actuarial Report. Provide a written report, which thoroughly documents methodologies and findings.
6. Presentation. Contractor will meet with the appropriate County personnel to present report and discuss observations and findings.

Section 2. Data Requirements.

This study will be based on data provided by County and obtained from external sources as required. Information which the County will provide for workers' compensation claims is as follows:

1. Claims run prepared by the County's claims administrator as of December 31, 2007, sorted by accident year, department and claimant. This run and the accompanying summary should include accident years 1994 to present. The following information for each claim should be provided:
 - Claim Number
 - Claimant Name
 - Brief Description
 - Date of Loss
 - Status of Claim (Open or Closed)
 - Total Paid
 - Total Incurred
2. 2006 and 2007 Annual Report of Self-Insured Business prepared for the Department of Labor and Industries.
3. Quarterly Reports of Self-Insured Business prepared for the Department of Labor and Industries for each quarter ending June 30, 2006 through March 8, 2008.
4. Actual exposures (worker hours) for 2006 and 2007 and estimated exposures for accident years 2008, 2009, and 2010, as well as actual

operating expenses from workers' compensation program in order to estimate losses and expenses per exposure by job class for 2007 through 2008.

- Salaries
- Supplies
- Interfund services
- Benefits

Benefits include industrial insurance, social security, personal retirement and medical insurance. These amounts can be found in the County's annual report.

5. Description of the County's self-insured retentions and excess insurance limits for 2006 and 2007, and estimates of such expenses for 2008 through 2010.
6. Actual 2006 and 2007 self-insurance program expenses attributable to workers' compensation and estimates of such expenses for 2008 through 2010. From the December 2007 County Treasurers Cash Report, Contractor will need the WC Operating Fund balance and the Self-Insurance Fund balance (for the liability report.)
7. Additional information about the County's self-insurance program that Contractor believes County may need to consider for analysis.

Information which the county will provide for liability claims is as follows:

1. Description of County's self-insured retentions and excess insurance limits for 2006 and 2007 and estimates of such for 2008 through 2010.
2. Actual 2006 and 2007 self-insurance program expenses attributable to liability and estimates of such expenses for 2008 thorough 2010.
3. Actual exposures for 2006 and 2007 (# of County vehicles and worker hours) and estimates of such for accident years 2008 through 2010.
4. Additional information about the County's self-insurance program that Contractor believes County may need to consider for its analysis.

Contractor will obtain County's historical loss experience from the WCRP database as of December 31, 2006 and December 31, 2007.

Section 3. Disavowal of Extraneous Representations:

Contractor has read and understands the whole of this Agreement and states that no representation, promise, or agreement not expressed in this Agreement has been made to induce the Contractor to enter into it.

Section 4. Severability Clause.

It is understood and agreed by the parties that if any part, term, or provision of this Agreement is held by the courts to be illegal or in conflict with any law of the state where made, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

Section 5. Venue and Choice of Law Clause.

Any action at law, suit in equity, or other judicial proceeding for the enforcement of this Agreement, or any provision thereof, shall be instituted only in the courts of the State of Washington, County of Benton. It is mutually understood and agreed that this Agreement shall be governed by the laws of the State of Washington, both as to interpretation and performance.

Section 6. Independent Contractor.

Contractor and its employees shall be considered an independent contractor, and not an employee of County and as such shall have no authority to bind the County and/or employees of the County. Within the performance of these duties they shall work under the direction of the County's Risk Manager.

Section 7. Binding Effect.

The covenants and conditions contained in this Agreement shall apply to and bind the parties, heirs, legal representatives and assigns of the parties.

Section 8. Non-discrimination Clause.

Contractor agrees not to discriminate against any employee or applicant for employment to be used in the performance of the obligations of Contractor under this Agreement, on the basis of race, color, religion, national origin, ancestry, sex or age. Violation of this provision, at the option of the County, may be treated as a breach of this Agreement.

Section 9. Cost.

Total fees under this Agreement shall not exceed \$24,250. Charges will be based upon hourly rates, depending on staff level. The fee includes expenses associated with computer usage, telephone, reproduction, postage and travel.

Contractor shall submit a statement describing the service rendered with a breakdown of work completed as authorized under this Agreement.

Section 10. Duration.

Contractor agrees to complete this study and to provide the preliminary report within one month of receiving the requested data from the County. The Contractor will provide a draft report by August 6, 2008.

Section 11. Assignment.

Contractor shall not assign its rights and duties under this Agreement without the prior written consent of the County.

Section 12. Integration Clause.

This instrument embodies the whole agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein; and this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, between the parties.

Section 13. Insurance.

Prior to commencing work, Contractor shall procure and maintain at Contractor's own cost and expense for the duration of the Agreement the following insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work or services hereunder by the Contractor, his agents, representatives, employees or subcontractors.

A. Minimum Limits of Insurance

1. Commercial General Liability: One million dollars (\$1,000,000) combined single limit per occurrence for bodily injury and property damage. And two million dollars (\$2,000,000) aggregate. Coverage shall be on an "occurrence" basis.
2. Comprehensive Automobile Liability Insurance: One million dollars (\$1,000,000) combined single limit per accident for bodily injury or property damage.
3. Professional Liability (Errors and Omissions) Insurance: With a limit of not less than one million dollars (\$1,000,000).

4. Worker's Compensation and Employer's Liability:
Workers' Compensation coverage as required by the
State of Washington.

B. Evidence of Insurance

Evidence of the Contractor's insurance shall be presented to the County prior to the execution of this Agreement.

C. Notice of Cancellation

In the event of non-renewal, cancellation, or material change in coverage, thirty (30) days written notice will be furnished to the County prior to the date of cancellation, non-renewal or change.

Section 14. Written Modifications as Necessary.

There may be no modification of this Agreement, except in writing, executed with the same formalities as this instrument.

Section 15. Default.

Should Contractor default in the performance of any of the terms and conditions of this Agreement, the County, and its option, may immediately terminate this Agreement.

Section 16. Americans With Disabilities Act (ADA).

Contractor agrees to comply with all provisions of the Americans with Disabilities Act and all regulations interpreting or enforcing such act.

Section 17. Effective Date.

This Agreement shall not be effective until first signed by the Board of County Commissioners or the County Administrator of the County of Benton.

Section 18. Termination.

This Agreement may be terminated by either party for convenience upon thirty (30) days written notice.

Upon such termination, the County will be entitled to reports showing the status of all matters upon which Contractor is advising the County as of the effective date of the termination, and all such reports shall be the sole property of the County.

Section 19. Ownership of Work Product.

Upon completion of the work performed under this agreement, the County will be entitled to reports of all matters upon which Contractor is advising the county, and such reports shall become the sole property of the County.

Section 20. Notices.

Notices concerning this agreement shall be sent to the following parties:

Kevin Wick, Director
PricewaterhouseCoopers LLP
1420 5th Ave. #1900
Seattle, WA 98101-4043
Tel.: (206) 398-3000

Melina Wenner, Personnel/Risk Manager
Benton County
7122 West Okanogan Place, Bldg. A
Kennewick, WA 99336

PRICEWATERHOUSECOOPERS

BENTON COUNTY, WASHINGTON

Kevin Wick, Director

Claude Oliver, Chairman,
Benton County Board of Commissioners

Date _____

Date _____

Approved as to Form:

Deputy Prosecuting Attorney

Date _____