

August 3, 2009

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

Draft

MINUTES

BOARD OF BENTON COUNTY COMMISSIONERS

Regular Board Meeting
July 20, 2009, 9:00 a.m.
Commissioners' Conference Room
Benton County Courthouse, Prosser, WA

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

Benton County Employees Present During All or a Portion of the Meeting: Deputy Administrator Loretta Smith Kilty; Adam Fyall, Community Development Coordinator; Finance Manager Linda Ivey; Personnel Manager Melina Wenner; Facilities Manager Roy Rogers; Steve Becken, Public Works; Juvenile Administrator Sharon Paradis; Superior Court Judge Carrie Runge; Planning Manager Mike Shuttleworth; DPA Sarah Perry.

Approval of Minutes

The Minutes of July 13, 2009 were approved.

Other Business

Budget Award

Linda Ivey presented the Distinguished Budget Award given to Benton County for the fourth consecutive year.

Consent Agenda

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

Commissioners

a. Professional Service Agreement w/N Rodriguez for Legal Representation

Fairgrounds

b. Temporary Pedestrian Bridge Agreement w/BF Fair Association

Human Services

c. Line Item Transfer, Fund No. 0108-101, Dept. 560

d. Grant Renewal, #WA0072C0T010801, w/Dept. of Housing & Urban Development

e. Professional Services Agreement, #PSA-CI-2009/11, w/Columbia Industries

Juvenile

- f. Program Agreement, #0963-67944, w/DSHS, Juvenile Rehabilitation Administration
- g. Program Agreement, #0963-67978, w/DSHS, Juvenile Rehabilitation Administration

Parks

- h. Procurement of Disc Golf Targets from Disc Golf Association

Sheriff

- i. Authorization to Purchase Polygraph System from Lafayette Instrument Co. Inc.
- j. Authorization to Purchase Breath Alcohol Testing Instruments from Intoximeters Inc.
- k. Interlocal Signature Authorization w/Richland & Kennewick for JAG Recovery Grant

Well Spoken Interpreting Contract

Sharon Paradis requested the Board terminate the Personal Services contract with Well Spoken Interpreting.

MOTION: Commissioner Bowman moved to approve the Termination of Personal Services Agreement Between Juvenile Justice Center and Well Spoken Interpreting. Commissioner Beaver seconded and upon vote, the motion carried.

Other Business

Rattlesnake Mountain

Commissioner Bowman said the issue of public access on Rattlesnake Mountain came up at the recent Tri-City Regional Chamber of Commerce meeting. Chairman Benitz stated the Department of Energy was working with Energy Northwest and PNNL to continue access to the top of the mountain for emergency services and PNNL had contracted to do maintenance on the road. However, he recommended Commissioner Bowman call Congressman Hastings regarding the public access issue.

The Board briefly recessed, reconvening at 9:15 a.m.

Juvenile Drug Court – Funding

Sharon Paradis said that Franklin County was willing to supplement the drug court program, based upon receipt of a grant from HAPO Credit Union. She asked if Benton County was still in favor of the supplement and whether it would consider maintaining capacity at 12 youth through the end of the year with the proviso that any new participants would acknowledge the program could end as of January 1.

Commissioner Bowman said he would concur with the supplement, but was hesitant about allowing more participants if they could not complete the program.

Commissioner Beaver said he also agreed to the supplement and funding through the end of the year to keep as many people in the program as long as possible.

Chairman Benitz said he agreed with completing the current participants and said the money could be used from cash carry forward, not in the form of a supplement.

Ms. Paradis discussed the importance of keeping the cash carry forward to be eligible for matching grant funds.

Commissioner Bowman said he would also agree to funding through the end of the year at full capacity.

Executive Session – Pending Litigation

The Board went into executive session at 9:30 a.m. with DPA Sarah Perry for approximately 15 minutes to discuss pending litigation. Also present were David Sparks, Cami McKenzie, Mike Shuttleworth, Melina Wenner, and Loretta Smith Kelty. The Board came out at 9:45 a.m. Ms. Perry requested an additional 10 minutes. The Board came out at 9:52 a.m. and Ms. Perry stated the Board took no action.

Executive Session – Potential Litigation

The Board went into executive session with Sarah Perry at 9:53 a.m. for approximately 15 minutes to discuss potential litigation. Also present were David Sparks, Cami McKenzie, Melina Wenner, and Loretta Smith Kelty. The Board came out at 10:06 a.m. and Ms. Perry announced that no decisions were made.

Vouchers

Check Date: 07/15/2009
Warrant #: 224373-224615
Total all funds: \$113,773.45

Check Date: 07/15/2009
Taxes #: 10109074-10109075
Total all funds: \$36,782.83

Check Date: 07/17/2009
Warrant #: 928863-9290957
Taxes #: 10107093
Total all funds: \$708,844.75

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

Resolutions

09-477 Temporary Pedestrian Bridge Agreement w/BF Fair Association
09-478 Professional Service Agreement w/N Rodriguez for Legal Representation
09-479 Line Item Transfer, Fund No. 0108-101, Dept. 560

- 09-480 Grant Renewal, #WA0072C0T010801, w/Dept. of Housing & Urban Development
- 09-481 Professional Services Agreement, #PSA-CI-2009/11, w/Columbia Industries
- 09-482 Program Agreement, #0963-67944, w/DSHS, Juvenile Rehabilitation Administration
- 09-483 Program Agreement, #0963-67978, w/DSHS, Juvenile Rehabilitation Administration
- 09-484 Procurement of Disc Golf Targets from Disc Golf Association
- 09-485 Authorization to Purchase Polygraph System from Lafayette Instrument Co. Inc.
- 09-486 Authorization to Purchase Breath Alcohol Testing Instruments from Intoximeters Inc.
- 09-487 Interlocal Signature Authorization w/Richland & Kennewick for JAG Recovery Grant
- 09-488 Termination of Personal Services Agreement Between Juvenile Justice Center and Well Spoken Interpreting

There being no further business before the Board, the meeting adjourned at approximately 10:07 a.m.

Clerk of the Board

Chairman

9

AGENDA/WORKSHOP ITEM		TYPE OF ACTION NEEDED	
Meeting Date:	3-August-2009	Execute Contract	_____
Subject:	Upgraded storage are network and backup systems	Pass Resolution	<u> X </u>
Prepared By:	J. Randall Reid	Pass Ordinance	_____
Reviewed By:	Loretta Smith-Kelty	Pass Motion	_____
		Other	_____
		Consent Agenda	<u> X </u>
		Public Hearing	_____
		1 st Discussion	_____
		2 nd Discussion	_____
		Other	_____

BACKGROUND INFORMATION

In 2004, two EMC Clarion storage area networks (SAN) were added to the Benton County infrastructure in order to accommodate the data storage demands of county computer users and applications. These SAN's each had a capacity of 3.2 TB. At the same time, two high capacity ADIC Scalar tape libraries were also added to the infrastructure in order to backup data on the SAN's. We have known for some time that the SAN's were running out of space. The recent loss of a 70 GB data volume that required over a week to restore from backup tapes brought to our attention the fact that we have exceeded the practical capacity of the tape backup system as well. Both of these systems qualify for replacement this year using the Computer Replacement Fund. After investigating options from both Dell EMC and Dell EqualLogic, the choice for the replacement is a pair of EqualLogic PS5000E SAN's with 16 TB of storage capacity and software to support future data storage needs, as well as, disk-to-disk backups of data. The plan is to provide disaster recovery by nightly updating a replica of each SAN at the opposite end of the county.

SUMMARY

The attached resolution authorizes purchase of higher capacity storage area network systems in order to provide future disk storage capacity for county data and applications and to provide a more effective means of disaster recovery.

RECOMMENDATION

1ST Pass resolution

2nd

FISCAL IMPACT

None. Funding available through the Computer Replacement Fund.

MOTION

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF UPGRADING THE COUNTY STORAGE AREA NETWORK AND BACKUP SYSTEMS.

WHEREAS, Benton County computer users are rapidly reaching the capacity limits of the storage area network purchased in 2004; and

WHEREAS, recent data recovery events have demonstrated the shortcomings of continuing to rely on the tape backup system purchased in 2004; and

WHEREAS, the storage and backup equipment purchased in 2004 qualifies for replacement in 2009 with funding from the Computer Replacement Fund; and

WHEREAS, quotes for two Dell EqualLogic PS5000E replacement systems were solicited from eleven vendors of which three responded as follows:

Extend Networks, Inc.	600 108 th Ave NE, Suite 536 Bellevue WA 98004	\$90,128
Preston Data Systems	1375 NW Mall St, Suite 8 Issaquah WA 98027	\$102,862
Unisoft Networks	15821 NE 8 th St, W200 Bellevue WA 98008	\$104,060

of which Extend Networks, Inc. was the lowest quote; NOW THEREFORE,

BE IT RESOLVED, by the Board of Benton County Commissioners, that Central Services be authorized to purchase two Dell EqualLogic PS5000E systems from Extend Networks, Inc., for the amount of \$90,128 plus tax; and

BE IT FURTHER RESOLVED, that the total purchases with this award are not to exceed \$94,600 plus tax.

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

REID

b

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY FUNDS RE: TRANSFER OF FUNDS WITHIN
CAPITAL PROJECTS FUND NUMBER 0305-101

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

Dated this _____ day of _____, 2009

Chairman of the Board

Member

Member

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

Attest: _____
Clerk of the Board

cc: Commissioners; Auditor; File

IVEY

BENTON COUNTY LINE ITEM TRANSFER

Dept Name: Capital Projects Dept Nbr: 000

Fund Name: Capital Projects Fund Nbr: 0305-101

TRANSFER FROM: Dept 000 TRANSFER TO: Dept 000

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT	BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
594.110	6412	Capital Outlay Buildings	\$500,000	594.200	4103	Professional Services	\$500,000
TOTAL			\$500,000	TOTAL			\$500,000

Explanation:

Transfer to appropriate funds from Capital Outlay Buildings to Professional Services for the removal and installation of carpet at the Benton County Courthouse and the Benton County Planning Annex as authorized by Resolution 09-245 in the amount of \$10,004. The additional transfer of appropriated funds is to limit the amount of resources utilized and to facilitate the payment of potential future vouchers that do not qualify to be coded to a capital line item.

Prepared by: Linda Ivey Date: 20-Jul-2009

Approved Denied Date: _____

Chairman

Member

Member

RESOLUTION

C

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF COUNTY FUNDS RE: TRANSFER OF FUNDS WITHIN THE
CURRENT EXPENSE BUDGET DEPARTMENT 115 NON DEPARTMENTAL.

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

Dated this _____ day of _____, 2009

Chairman of the Board

Member

Member

Attest: _____
Clerk of the Board

;

BENTON COUNTY LINE ITEM TRANSFER

Dept Name: Non-Departmental

Dept Name: Non-Departmental

Fund Name: Current Expense 0000-101

Fund Name: Current Expense 0000-101

TRANSFER FROM: Dept 115 Non-Departmental

TRANSFER FR

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT	BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
519.900	4933	Property Management	\$800	531.700	9169	County Road	\$3,000
519.900	4101	Legal Services	\$2,200				
TOTAL			\$3,000	TOTAL			\$3,000

Explanation:

Transfer appropriated funds from Legal Services and Property Management to County Road for; 1) Services provided on DID 4A for \$883. In 2007 the cash balance of DID 4A was moved to Current Expense Fund, hence the voucher is being paid by a Current Expense Fund. 2) Mowing services provided by County Road.

Prepared by: Linda Ivey

Date: 28-Jul-2009

Approved

Denied

Date: _____

Chairman

Member

Member

RESOLUTION

d

**BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:
IN THE MATTER OF ALTERNATE DATES FOR BUDGET HEARINGS, 2010
BENTON COUNTY BUDGETS; RESCINDING RESOLUTION 09-267**

WHEREAS, RCW 36.40.071 allows the county commissioners to set alternate dates for budget hearings; and

WHEREAS, the budget year has been corrected; **NOW THEREFORE**,

BE IT RESOLVED that the following dates are hereby adopted for the 2010 budget preparation:

- August 7 Auditor's Office budget call letter to departments for estimates of revenues and expenditures, goals, objectives, milestones, and performance activity measures;
- August 28 Departments return final estimates of revenues and expenditures, goals, objectives, milestones, and performance activity measures to the Auditor's Office;
- October 2 Auditor's Office submits the preliminary budget to Board of Commissioners;
- October 13 Budget workshop;
- October 27-30 Budget workshops;
- November 8 First publication of notice of county budget hearings for final budgets;
- November 15 Second publication of notice of county budget hearings for final budgets;
- November 23 Public hearing and adoption of final budgets.

BE IT FURTHER RESOLVED that Resolution 09-267 is hereby rescinded.

Dated this day of, 20

Chairman of the Board

Chairman Pro-Tem

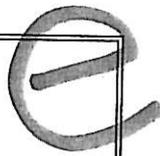
Member

Constituting the Board of County
Commissioners of Benton County,
Washington

Attest:
Clerk of the Board

cc: All Depts.

Ivey



<u>AGENDA ITEM</u>	<u>TYPE OF ACTION NEEDED</u>	
Meeting Date: <u>8/3/2009</u>	Execute Contract	Consent Agenda X
Subject: <u>DID 11 & DID 6</u>	Pass Resolution	Public Hearing
Prepared by: <u>Linda Ivey</u>	Pass Ordinance	1st Discussion
Reviewed by: <u>Loretta Smith</u>	Pass Motion	2nd Discussion
<u>Kelty</u>	Board Direction	Workshop

SUMMARY BACKGROUND INFORMATION

DID 11 and DID 6 are no longer active funds and were dissolved in 2007.

The Washington State Auditor has requested that a Washington State Annual Financial report for the fiscal year ended December 31, 2008 be submitted for DID 6 and 11. Enclosed is a copy of a prior report sent by the Public Works Department to the Washington State Auditor in 2008 for DID 6 and a copy of a Washington State Annual Financial DID 11 report and DID 6 report for the fiscal year ended December 31, 2008.

Please authorize the Chairman of the Board to sign the 2008 Annual Audit Assessment Schedules for DID 11 and DID 6.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF THE ANNUAL AUDIT ASSESSMENT SCHEDULES FOR DID 6 AND DID 11;

WHEREAS, Fund 6906-101 DID 6 and Fund 6911-101 DID 11 were dissolved in 2007; and

WHEREAS, the Washington State Auditor requires the Annual Audit Assessment Schedule for the Year Ended December 31, 2008 be signed by the Chairman of the Board; and

BE IT RESOLVED by the Board of County Commissioners, that the Chairman of the Board is authorized to sign the Annual Audit Assessment Schedules for the Year Ended December 31, 2008 for Fund 6906-101 DID 6 and Fund 6911-101 DID 11.

Dated this _____ day of _____, 2009

Chairman of the Board

Member

Member

Attest: _____
Clerk of the Board

RESOLUTION

f

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

**IN THE MATTER OF AUTHORIZING PURCHASES FROM AMERICAN AIR FILTER
(AAF INTERNATIONAL) FOR AIR FILTERS FOR HVAC UNDER WASHINGTON
STATE CONTRACT # 09903**

WHEREAS, Washington State Contract No. 09903 allows the purchase of air filters for HVAC from American Air Filter (AAF International); and

WHEREAS, Benton County Facilities desires to purchase HVAC air filters for the Benton County Jail and Facilities under Washington State Contract #09903; **NOW, THEREFORE,**

BE IT RESOLVED by the Board of Benton County Commissioners, Benton County, Washington, hereby approves the purchase of HVAC air filters from American Air Filter (AAF International) under Washington State Contract # 09903 through December 31, 2010 (the date of expiration of the State Contract).

Dated this _____ day of _____, 2009.

Chairman of the Board

Member

Member

Attest: _____
Clerk of the Board

State of Washington
Current Contract Information

Revised Date: August 22, 2008

Effective Date: January 1, 2009

Contract number:	09903	Commodity code:	4120-V10
Contract title:	AIR FILTERS for HVAC		
Purpose:	Price Increase and Replace Discontinued Air Filters		
Term:	24 months	Through:	01/13/2010
Original Award Date	01/14/04	Maximum Term:	Not to exceed 6 years
For use by:	All State Agencies, Political Subdivisions of Washington (WSPC) and Oregon State (DASCP/ORCPP), Qualified Non-profit Corporations, Materials Management Center, Participating Institutions of Higher Education (College and Universities, Community and Technical Colleges).		
Contract type:	This contract is designated as "Mandatory Use" per the contract definitions for order requirements \$150.00 and larger. Requirements less than \$150.00 are designated as Convenience.		
Scope of Contract:	This document establishes contract coverage for the ready supply of a comprehensive line of approved HVAC Air Filters and service activities related to the use of air filters.		

Contractor:	AAF International PO Box 35690 Louisville, KY 40223-6169	Contact:	Gary Welch
		Phone:	(206) 595-8327
		Fax:	(888) 223-6500
		Email:	national@aafintl.com
		Website:	www.aafintl.com
		Fed ID #:	41-040-4230

Related product #11305 WSCA Industrial Supplies and Equipment.

Contracts:

Ordering information: Reference Page 8. **Minimum Order:** None
Ordering procedures: When placing orders, please state if filter size is nominal or exact.

FOB/Freight:

- Orders against this contract with a value of \$100.00 or higher are to be FOB: Destination; Freight; prepaid and included in the cost of product.
- Orders less than \$100.00 are to be FOB: Destination; Freight: prepaid with cost of freight added as a separate item to the invoice.

This page contains key contract features. Find detailed information on succeeding pages. For more information on this contract, or if you have any questions, please contact your local agency Purchasing Office, or you may contact our office at the numbers listed below.

State Procurement Officer:	Diane Donahoo	Procurement Assistant	Christine Schoepfer
Phone Number:	(360) 902-7443	Phone Number:	(360) 902-7193
Fax Number:	(360) 586-2426	Fax Number	(360) 586-2426
Email:	ddonaho@ga.wa.gov	Email:	CSchoep@GA.WA.GOV

Washington State Department of General Administration
Office of State Procurement, PO Box 41017, Olympia, WA 98504-1017

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9

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF APPROVING PAYMENT TO APOLLO SHEET METAL, INC. FOR EMERGENCY REPLACEMENT OF THE HEAT PUMP SYSTEM LOCATED AT THE BENTON COUNTY PLANNING ANNEX, PROSSER, WA

WHEREAS, Benton County Facilities submitted a request for proposals (RFP) to the qualified contractors listed on the Benton County Small Works Roster for the replacement of the heat pump located at the Benton County Planning Annex, Prosser, WA; and

WHEREAS, the Facilities Manager received the following quotes from Apollo Sheet Metal, Inc. Kennewick, WA – Contractors License APOLLSM187MK in the amount of \$6,569 excluding WSST; Bruce Heating & Air Conditioning, Inc., Kennewick, WA – Contractor’s License BRUCEHA976B8 in the amount of \$6,775.00 excluding WSST; and Campbell & Company, Pasco, WA – Contractor’s License MCAMPC1963RA did not respond; and

WHEREAS, the heat pump went out prior to awarding this project; declaring this project an emergency due to the current temperatures reaching over 100 degrees; and

WHEREAS, the Facilities Manager reviewed the proposals and moved forward with the lowest bidder for the purchase and installation of the new heat pump from Apollo Sheet Metal, Inc.; and

WHEREAS, Benton County has a blanket contract in place as per Resolution 08-926 with Apollo Sheet Metal, Inc. for “as needed” projects, which this award will be applied to;
NOW, THEREFORE

BE IT RESOLVED, by the Board of Benton County Commissioners, Benton County, Washington, the Board hereby declares the replacement of the heat pump system located at the Benton County Planning Annex, Prosser WA an emergency and authorizes the payment for the purchase and installation to Apollo Sheet Metal, Inc. in the amount of \$6,569.00 excluding WSST.

Dated this day of, 20....

Chairman of the Board

Chairman Pro-Tem

Member

Constituting the Board of County
Commissioners of Benton County,
Washington

Attest:
Clerk of the Board

Orig: File – Lisa Small
cc: Auditor; R. Ozuna, Facilities



1119 W. Columbia Drive ■ P.O. Box 7287 ■ Kennewick WA 99336 ■ Phone 509-586-1104
 Fax 509-582-8516 ■ Email info@apollosm.com ■ Web www.apollosm.com

Heating &
Air Conditioning

June 19, 2010

Benton County Commissioners
7122 W. Okanogan Pl.
Kennewick, WA 99336
0

H/P Replacement Proposal

Proposal 1 - Good

Consisting of the following parts and specifications:

<i>Fan Coil</i>	<i>FY4ANF036</i>	<i>FAN COIL 3-TON BASE PURON</i>
<i>Ht Strips</i>	<i>KFCEH3101C15</i>	<i>15KW ELECTRIC HEATER WITH CIRCUIT BREAK</i>
<i>A/C</i>	<i>N/A</i>	<i>NOT APPLICABLE</i>
<i>GAS FUR</i>	<i>N/A</i>	<i>NOT APPLICABLE</i>
<i>H/P</i>	<i>25HBB336A003</i>	<i>13 SEER HEAT PUMP BASE PURON</i>

Warranty: System comes with a 5 year parts, 5 year compressor, an 1 year labor warranty.

BASE PRICE: \$6,569

Customer Initials _____

Proposal 2 - Better

Consisting of the following parts and specifications:

<i>Fan Coil</i>	<i>N/A</i>	<i>NOT APPLICABLE</i>
<i>Ht Strips</i>	<i>N/A</i>	<i>NOT APPLICABLE</i>
<i>A/C</i>	<i>N/A</i>	<i>NOT APPLICABLE</i>
<i>GAS FUR</i>	<i>N/A</i>	<i>NOT APPLICABLE</i>
<i>H/P</i>	<i>N/A</i>	<i>NOT APPLICABLE</i>

Warranty: System comes with a 10 year parts, 10 year compressor, an 1 year labor warranty.

BASE PRICE: \$0

Customer Initials _____

Proposal 3 - Best

Consisting of the following parts and specifications:

<i>Fan Coil</i>	<i>N/A</i>	<i>NOT APPLICABLE</i>
<i>Ht Strips</i>	<i>N/A</i>	<i>NOT APPLICABLE</i>
<i>A/C</i>	<i>N/A</i>	<i>NOT APPLICABLE</i>
<i>GAS FUR</i>	<i>N/A</i>	<i>NOT APPLICABLE</i>
<i>H/P</i>	<i>N/A</i>	<i>NOT APPLICABLE</i>

Warranty: System comes with a 10 year parts, 10 year compressor, an 1 year labor warranty.

BASE PRICE: \$0

Customer Initials _____



1119 W. Columbia Drive ■ P.O. Box 7287 ■ Kennewick WA 99336 ■ Phone 509 -586-1104
Fax 509 -582-8516 ■ Email info@apollosm.com ■ Web www.apollosm.com

Heating &
Air Conditioning

Scope of work:

1. Sheet metal transition/ plenums, as designed by Apollo Sheet Metal, with proper airflow and balance.
2. Coordination of all labor and materials necessary to complete the above work will be performed in a professional and timely manner at customer's preferred schedule, coordinating with Apollo Sheet Metal, Inc.
3. Complete condensation drain system to include unit primary and emergency (secondary) drains (if necessary), condensate pump (if necessary)
4. Low voltage permit for HVAC system
5. Standard 1" filter located @ each return air opening or at furnace to ensure ideal indoor air quality, a clean duct system and indoor coil (unless upgrading to higher efficient air filtration system)
6. Refrigeration piping for your system, with refrigeration piping insulated where required.
7. Three inch heat pump risers to elevate heat pump for snow and defrost drainage purposes (if installing Heat Pump).
8. Base price includes new system thermostat
Installation and programming of outdoor thermostat for heat pump systems for electric heat lockout. Lock electric heat out down to 30 degrees (Energy Savings) (subject to upgraded thermostat).
10. Complete start-up and commissioning of HVAC systems.
11. Customer walkthrough and orientation for new system upon completion.

Added Value: (Included in base price)

Carrier's 100% satisfaction guarantee or you money back (Applies only to Complete Carrier Systems).
NATE Certified technicians (Technicians held to a higher standard)
24/7 Emergency service



1119 W. Columbia Drive ■ P.O. Box 7287 ■ Kennewick WA 99336 ■ Phone 509-586-1104
Fax 509-582-8516 ■ Email info@apollosm.com ■ Web www.apollosm.com

Heating &
Air Conditioning

****Option to add:**

Add \$850 to base price to upgrade to Aprilaire 5000 electronic whole house air purification system
INT _____

Add \$450 to base price to upgrade to Aprilaire 4200 13 Merv filtration system
INT _____

Add \$600 to base price to upgrade to Carrier fan powered humidifier (subject to available plumbing and electrical)
INT _____

Add \$400 to base price to add Carrier Ultraviolet light to return air duct (kills airborne mold, bacteria etc)
INT _____

Add \$626 to base price for 10 year parts, and 10 year labor warranty (applies to base systems only)
INT _____

EXCLUSIONS: High Voltage Wiring/Components, and Washington State Sales Tax.

Respectfully Submitted,

Jason Lynch
Your Home Comfort Specialist
509-727-5346

ACCEPTED BY Stephen M. Frankowski DATE 7-27-09

Acceptance signature on this proposal constitutes a valid contract between the customer and Apollo Sheet Metal, Inc.
This proposal may be void after 30 days

HERMISTON
80385 N. HIGHWAY 395
HERMISTON, OR 97838
PH: (541) 567-6813
(541) 564-7644



TRI-CITIES
5115 W. BRINKLEY RD., STE. C
KENNEWICK, WA 99338
PH: (509) 734-0669
FX: (509) 783-8903

PROPOSAL

July 14, 2009

Attn: Steve

Re: remove and replacement of a HP system per discussion

Bruce Heating & Air Conditioning are pleased to submit this estimate for the heating and air conditioning at the Annex bldg in Prosser. This estimate to include the following:

- Installation of one 13 seer 3ton Puron Carrier Heat pump
- Installation of one 13 seer 3ton Puron Carrier Air Handler
- Installation of one 15 KW backup electric heat strip
- Installation of 4 new heat pump risers
- Installation of all sheet metal transitions
- Installation of refrigerant piping
- Installation of one new programmable thermostat
- Installation of a new condensation drain
- 1 inch filter as specified
- All labor and materials
- Start-up and commisioning
- Customer walk through
- All necessary permits
- This system is covered with a 5 year parts warranty for this equipment

Total Base Bid: \$ 6,775.00
(state sales tax not included)

I appreciate the opportunity to work with you on this project and if there are any further questions please call.

Sincerely,

Mark Jordan
Bruce HVAC Inc.
(509) 734-0669 office
(509) 727 2028 cell



CB LICENSE #: 153376

Material is guaranteed to be as specified. Any alteration or deviation from above specifications involving extra costs will be executed by the owner and the salesperson or job foreman prior to additional work commencement. This work will be either an extra cost—payable upon completion of work—or as a credit to the overall price of the job. Payment is to be made upon completion of work, or if agreed to in writing, by progress payments. Financing by a third party will be approved prior to the work beginning. All workers are fully covered by Workmen's Compensation Insurance, Homeowner to carry normal and customary insurance.

Authorized Bruce, Inc. Signature: [Signature] Note: This proposal may be withdrawn by us if not accepted within 30 days.
ACCEPTANCE OF PROPOSAL The above prices, specifications and conditions are satisfactory and are hereby accepted. Bruce, Inc. is authorized to do the work as specified. Payment will be made as outlined above.
Signature _____ Signature _____ Date of Acceptance _____

100/1000

05/13/2015 06:45 FAX

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RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AUTHORIZING THE CHAIRMAN OF THE BOARD TO SIGN THE CONTRACT BETWEEN BENTON COUNTY AND FOWLER GENERAL CONSTRUCTION, INC. FOR THE CONSTRUCTION OF THE TREASURER'S OFFICE REMODEL LOCATED AT THE BENTON COUNTY ANNEX BUILDING, KENNEWICK, WA

WHEREAS, per Resolution 09-470 dated July 13, 2009, the Board of Benton County Commissioners awarded the construction of the Treasurer's Office Remodel located at the Benton County Annex Building, Kennewick, WA to Fowler General Construction, Inc, Richland, WA - Contractors License No. FOWLEGC9610W in the amount of \$29,960.00 including WSST, and authorized personnel to prepare a contract for execution; **NOW, THEREFORE**

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington hereby authorizes the Chairman to sign the agreement between Benton County and Fowler General Construction, Inc for the construction of the Treasurer's Office Remodel for a contract amount not to exceed \$29,960.00 including WSST attached hereto.

Dated this day of, 20....

Chairman of the Board

Chairman Pro-Tem

Member

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

Attest:
Clerk of the Board

STANDARD SERVICE CONTRACT
TERMS AND CONDITIONS

THIS CONTRACT is made and entered into by and between BENTON COUNTY, a political subdivision of the State of Washington, with its principal offices at 620 Market Street, Prosser, WA 99350 (hereinafter "COUNTY"), and FOWLER GENERAL CONSTRUCTION, INC. with its principal address at 2161 Henderson Loop, Richland, WA 99354 (hereinafter "CONTRACTOR").

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

1. CONTRACT DOCUMENTS

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

- A. Exhibit A - Bid Proposal dated July 2, 2009
- B. Exhibit B - 2009 Prevailing Wage Rates

2. DURATION OF CONTRACT

The term of this Contract shall begin when executed by both parties, and shall be complete upon approval via resolution executed by the Board of Commissioners.

3. SERVICES PROVIDED

The COUNTY requires and the CONTRACTOR agrees to perform all demolition and construction for the Benton County Treasurer's Office remodel, located in the Kennewick Annex, 5600 W. Canal Place, Suite A, Kennewick, WA in accordance with the COUNTY'S Request for Proposal and the CONTRACTORS proposal dated July 2, 2009 attached hereto as Exhibit A.

4. CONTRACT REPRESENTATIVES

The parties' representatives are as follows:

- a. For CONTRACTOR: Jasen Banta, Project Manager
Fowler General Construction, Inc.
2161 Henderson Loop
Richland, WA 99354
(509) 943-2643
(509) 943-8875

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

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

5. COMPENSATION

The CONTRACTOR shall be paid in accordance with the proposal provided in Exhibit A. The maximum total amount payable by the COUNTY to the CONTRACTOR under this Contract shall not exceed twenty nine thousand nine hundred sixty dollars and zero cents (\$29,960.00) including Washington State Sales Tax. Prior to any compensation being paid, CONTRACTOR shall submit a Statement of Intent to Pay Prevailing Wages in a form approved and certified by the Washington State Department of Labor and Industries directly to COUNTY's contract representative. At the completion of all work contemplated by this Contract or at the end of the contract term, whichever comes first, the work contemplated herein, CONTRACTOR shall submit an affidavit of wages paid in compliance with prevailing wage requirements, pre-certified by the Department of Labor and Industries, directly to COUNTY's contract representative. Such affidavit shall be in a form approved by the Washington State Department of Labor and Industries. No final payment will be made until such affidavit is provided.

6. INVOICING

The CONTRACTOR may submit invoices to the COUNTY not more than once per month during the progress of the work for partial payment of the work completed to date of invoice, less amounts paid on previous invoices. Each invoice shall cover all work performed for the COUNTY during the billing period. The CONTRACTOR shall not be paid for services rendered under this Contract until they have been performed to the COUNTY's satisfaction. The COUNTY shall authorize payment when the work billed is accepted by the COUNTY; and will remit payment for the accepted work within thirty (30) days after receiving the invoice.

7. DEFECTS

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

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cc: Auditor: R. Ozuna; Fowler General Construction

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

8. AMENDMENT AND CHANGES IN WORK

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

9. HOLD HARMLESS AND INDEMNIFICATION

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

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

- b. The CONTRACTOR'S obligations hereunder shall include, but are not limited to, investigating, adjusting and defending all claims alleging loss from action, error or omission, or breach of any common law, statutory or other delegated duty by the CONTRACTOR, its employees, agents or subcontractors.
- c. In any and all claims against the COUNTY, its officers, officials, employees and agents by any employee of the CONTRACTOR, subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under this Section shall not be limited in any way by any limitation on the amount of type of damages, compensation,

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

10. INSURANCE

The CONTRACTOR shall obtain and maintain continuously, and annually provide evidence thereof within 10 days of the signing of this contract and thereafter, by the 1st day of January of each contract year:

- a. Workers Compensation: CONTRACTOR shall comply with all Washington State Workers Compensation laws. Except as prohibited by law, CONTRACTOR waives all rights of subrogation against the COUNTY for recovery of damages to the extent they are covered by workers compensation, employers liability, commercial liability or commercial umbrella liability insurance.
- b. Commercial General Liability Insurance: CONTRACTOR shall maintain commercial general liability coverage for bodily injury, sickness, personal injury and property damage, subject to limits of not less than one million dollars (\$1,000,000) per occurrence. The general aggregate limit shall apply separately to this Contract and be no less than two million dollars (\$2,000,000). The policy shall not contain exclusions or limitations applicable to any activities undertaken, or materials used by CONTRACTOR in fulfilling this Contract. CONTRACTOR shall cause COUNTY to be added as an additional insured and the policy shall state that it cannot be canceled except with 30 days written notice to COUNTY. This policy shall be primary to any of COUNTY'S other sources of insurance including self-insurance through a risk pool. CONTRACTOR shall provide certificate of such insurance, including the endorsements specified in this paragraph, to County's representative prior to start of work.
- c. Automobile Liability: The CONTRACTOR shall maintain business automobile liability insurance with a limit of not less than one million dollars (\$1,000,000) per accident, using a combined single limit for bodily injury and property damages. Such coverage shall cover liability arising out of "Any Auto". CONTRACTOR waives all rights against the COUNTY for

the recovery of damages to the extent they are covered by business auto liability.

d. Other Insurance Provisions:

- 1) The CONTRACTOR'S liability insurance provisions shall be primary with respect to any insurance or self-insurance programs covering the COUNTY, its elected and appointed officers, officials, employees and agents.
- 2) The COUNTY, its officers, officials, employees and agents shall be added as additional insured on all required insurance policies, except for any required automobile liability policy.
- 3) The CONTRACTORS'S liability insurance policies shall contain no special limitations on the scope of protection afforded to the COUNTY as an additional insured.
- 4) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the COUNTY, its officers, officials, employees or agents.
- 5) The CONTRACTOR'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- 6) All subcontractors shall comply with the same insurance requirements as are required of the CONTRACTOR as set forth in Section 10(a) through 10(e). Additionally, the insurance policies required of subcontractors shall list the COUNTY (and all of its elected officials, employees and agents) as well as the CONTRACTOR as additional insureds, and the subcontractors shall provide certificates listing these endorsements to the COUNTY and the CONTRACTOR prior to the commencement of any work by the subcontractor.
- 7) The insurance limits mandated for any insurance coverage required by this Contract are not intended to be indication of exposure nor are they limitations on indemnification.
- 8) The CONTRACTOR shall maintain all required policies in force from the time services commence until services are completed. Certificates, policies, and endorsements expiring before completion of services shall be promptly replaced. Any insurance coverage required of CONTRACTOR may not be written as a "claims made" policy.
- 9) Verification of Coverage and Acceptability of Insurers:
All insurance required under this CONTRACT shall be issued by companies admitted to do business within the State of Washington and have a rating of A-, Class VII or

better in the most recently published edition of Best's Reports. Any exception to this requirement must be reviewed and approved in writing in advance of commencement of work by the Benton County Prosecutor's Office. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policy must comply with Chapter 48.15 RCW and 284-15 WAC.

- 10) The CONTRACTOR shall furnish the COUNTY with properly executed and unaltered accord form certificate of insurance of a signed policy endorsement which shall clearly evidence all required insurance within then (10) days after the effective date of this contract. The certificates will, at a minimum, list limits of liability and coverage. The certificates will provide that the underlying insurance contract will not be canceled or allowed to expire, except on thirty (30) days prior written notice to the COUNTY. Any certificate or endorsement limiting or negating the insurer's obligation to notify the COUNTY of cancellation or changes shall be altered so as not to negate the intent of this provision. Acceptable forms of evidence are the endorsement pages of the policy showing the COUNTY as an additional insured.
- 11) Certificates of insurance shall show the certificate holder as "Benton County". The address of the certificate holder shall be shown as the current address of the COUNTY'S Contract Representative.
- 12) The CONTRACTOR shall request the Washington State Department of Labor and Industries, Workers Compensation Representative, to send written verification to Benton County that CONTRACTOR is currently paying workers compensation.
- 13) All written notices and notice of cancellation or change of required insurance coverage shall be mailed to the COUNTY at the following address:

Loretta Smith Kelty, Deputy County Administrator
Benton County
PO Box 190
Prosser, WA 99350

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

If CONTRACTOR is self-insured for worker's compensation

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

11. PERFORMANCE BOND

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

12. TERMINATION

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

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cc: Auditor: R. Ozuna; Fowler General Construction

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

13. COMPLIANCE WITH LAWS

The CONTRACTOR shall comply with all applicable federal, state and local laws, rules and regulations in performing this Contract, including, but not limited to, prevailing wage laws.

14. NONDISCRIMINATION

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

15. DISPUTES

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

16. ASSIGNMENT, DELEGATION AND SUBCONTRACTING

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

17. ENTIRE AGREEMENT

The parties agree that this Contract is the complete expression of their agreement. Any oral or written representations or

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understandings not incorporated in this Contract are specifically excluded.

18. NOTICES

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

19. SEVERABILITY

- a. If a court of competent jurisdiction holds any part, term or provision of this Contract to be illegal, or invalid in whole or in part, the validity of the remaining provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as if the Contract did not contain the particular provision held to be invalid.
- b. If it should appear that any provision of this Contract is in conflict with any statutory provision of the State of Washington, said provision which may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform to such statutory provision.

20. LITIGATION HOLD NOTICE

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

21. PUBLIC RECORDS ACT

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

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CONTRACTOR in a timely fashion of any request made under the Public Records Act which will require disclosure of any records marked by CONTRACTOR as confidential or proprietary, so that CONTRACTOR may seek a judicial order of protection if necessary.

22. SURVIVABILITY

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

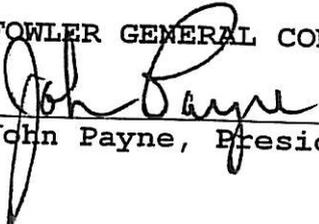
IN WITNESS WHEREOF, the parties have caused this Contract to be signed by their duly constituted legal representatives and is effective on the last date signed.

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

BENTON COUNTY

FOWLER GENERAL CONSTRUCTION

Max Benitz Jr., Chairman
Benton County Commissioner



John Payne, President

Dated: _____

Dated: 7/29/09

Approved as to Form:



Deputy Prosecuting Attorney



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

July 2, 2009

RE: Remodel of ^{Treasurer's} Assessor's Office *JBR*

Dear Mr. Rogers,

Fowler General Construction proposes to perform the work identified in the RFP for the Remodel of ^{Treasurer's} Assessor's Office. *JBR*

The lump sum price for this work including Washington State Sales Tax is \$29,960.

The scope of work is to include:

- Demolition of casework, partition walls and carpet
- Relocation of electrical and computer network wiring
- Misc. Framing
- Drywall patch
- Painting
- Ceiling tile replacement and grid patch
- Flooring Demo
- Furnish and install new carpet (Shaw style Neyland II 26 oz. - Color Manhattan Sky)
- Furnish and install Mannington VCT 12x12
- Furnish and install (1) - Sargent 6500 Line Lockset
- Purchase building permit

Should you have any questions or require any further information regarding this information do not hesitate to call me at (509) 430-7311.

Jasen Banta

Project Manager
Fowler General Construction

AGENDA ITEM: Consent	TYPE OF ACTION NEEDED Executive Contract <u>xx</u> Pass Resolution <u>xx</u> Pass Ordinance Pass Motion Other	CONSENT AGENDA <u>xx</u> PUBLIC HEARING 1ST DISCUSSION 2ND DISCUSSION OTHER
MEETING DATE: B/C 08-03-09 F/C 08-10-09		
SUBJECT: Truancy Contract for Richland School District for 2009 2010 School Year		
Prepared By: Donna A. Lee		
Reviewed By: Sharon Paradis		

BACKGROUND INFORMATION

The State has contracted with both the Benton and Franklin County Boards of Commissioners for several years for the costs/services associated with processing At-Risk Youth (ARY); Children in Need of Services (CHINS), and Truancy Petitions. With the start of the new school (September 1, 2009 through June 30, 2010), the Richland School District wishes to renew their contract with the Juvenile Court so that we may continue to provide services associated with Truancy matters for the term of September 1, 2009, through July 31, 2010.

SUMMARY

Richland has contracted with us to develop, recruit and train a truancy board; implement and follow-up on truancy board recommendations; assist families in obtaining outreach services; provide Family Support counseling; perform drug/alcohol assessment and treatment referrals; assist in the processing of all truancy court referrals; monitor courtroom truancy petitions; and follow-up truancy petition requirements.

RECOMMENDATION

We recommend that the Boards of County Commissioners authorize their Chairs to sign the Fee for Service Contract with the Richland School District.

FISCAL IMPACT

This is a state-funded grant whereby we are reimbursed for services provided. There is no fiscal impact to the counties.

MOTION

I move that the Chairman of the Board of Benton County Commissioners and the Chairman of the Board of Franklin County Commissioners be hereby authorized to sign, on behalf of their respective county, the Fee for Service Contract with the Richland School District.

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 FEE FOR SERVICE CONTRACT BETWEEN THE BENTON-FRANKLIN JUVENILE JUSTICE CENTER AND RICHLAND SCHOOL DISTRICT, and

WHEREAS, Sharon A. Paradis, Administrator of the Juvenile Court, believes it is in the best interest of the Juvenile Justice Center that the Fee for Service Contract between Richland School District, in the amount of \$16,230.00 and Benton-Franklin Juvenile Justice Center be approved as presented for a term commencing September 1, 2009 and terminating on July 31, 2010, **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 Fee For Service Contract.

DATED this 3rd day of August 2009.

DATED this 10th day of August 2009.

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



HARON 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

FEE FOR SERVICES CONTRACT TERMS AND CONDITIONS

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, a bi-county agency located at 5606 W. Canal Place STE 106, Kennewick, WA 99336 (hereinafter collectively referred to as "Counties"), and Richland School District, with its principal offices at 615 Snow AVE, Richland, WA, 99352, (hereinafter referred to as "District").

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 from September 1, 2009, through July 31, 2010, unless terminated prior to that time as provided herein.

2. SERVICES PROVIDED

The Counties shall perform the following services:

- A. Develop, recruit and train a truancy board; implement and follow-up on truancy board recommendations; assist families in obtaining outreach services (in-home when necessary); provide Family Support counseling; perform drug/alcohol assessment and treatment referrals; assist in processing all truancy court referrals; monitor courtroom truancy petitions; and follow-up on truancy petition requirements.
- B. The Counties agree to provide its own labor and materials. Unless otherwise provided in this Contract, no material, labor, or facilities will be furnished by the District.
- C. The Counties shall perform the work specified in this Contract according to standard industry practice and shall perform the work in coordination with the Truancy Court Liaison.

- D. The Counties shall complete its work in a timely manner and in accordance with the schedule agreed by the parties.
- E. The Counties shall confer with the District from time to time during the progress of the work. The Counties shall prepare and present status reports and other information that may be pertinent and necessary, or as may be requested by the District.

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 District: **Dr. Jean Lane**
Superintendent
Richland School District
615 Snow AVE
Richland WA 99352
Phone: (509) 967-6000
Fax: (509) 942-2401
E-mail: Jean.Lane@rsd.edu

B. For Counties: **Sharon Paradis**
Juvenile Court Administrator
5606 W Canal PL STE 106
Kennewick WA 99336
Phone: (509) 736-2724
Fax: (509) 222-2311
E-mail: sharon.paradis@co.benton.wa.us

4. COMPENSATION

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

- A. The District will pay Counties Sixteen Thousand Two Hundred and Thirty Dollars (\$16,230.00), to be paid in equal quarterly installments of Four Thousand Fifty-Seven Dollars and Fifty Cents (\$4,057.50), for the entire contract period, to be processed with the District's first payment cycle after receiving an invoice from Counties.
- B. The maximum total amount payable by the District to the Counties under this Contract shall not exceed Sixteen Thousand Two Hundred and Thirty Dollars (\$16,230.00).
- C. No payment shall be made for any work performed by the Counties, except for work identified and set forth in this Contract.

- D. The Counties will submit invoices to the District once per quarter during the progress of the work. Invoices shall cover the time Counties performed work for the District during the billing period. The District shall pay the Counties for services rendered in the quarter following the actual delivery of work and will remit payment within thirty (30) days from the date of receipt of the invoice.

5. AMENDMENTS AND CHANGES IN WORK

No amendment, modification or renewal shall be made to this Contract, unless set forth in a written Contract Amendment signed by both parties. Work under a Contract Amendment shall not proceed until the Contract Amendment is duly executed by the Administrator of Benton-Franklin Juvenile Justice Center and both Benton and Franklin Counties Boards of County Commissioner's Chairperson and shall not be binding until so approved.

6. HOLD HARMLESS AND INDEMNIFICATION

The District 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 District's acts, errors or omissions in the performance of this Contract. PROVIDED, that the District'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.

7. TERMINATION

- A. The Counties may terminate this Contract in whole or in part whenever the Counties determine, in its sole discretion, that such termination is in the best interests of the Counties. The Counties may terminate this Contract upon giving thirty (30) days written notice by certified mail to the District.
- B. If either party breaches any of its obligations hereunder, including but not limited to timely payment of compensation to the Counties in accordance with Section 4 of this Contract, and fails to cure the breach within ten (10) days of written notice to do so, the other party may immediately terminate this Contract by providing written notice by certified mail to the breaching party.
- C. In the event this Contract is terminated prior to the end of the contract term, the District shall pay Counties on a pro-rated basis for all services performed up to the termination date.

8. ASSIGNMENT, DELEGATION AND SUBCONTRACTING

- A. The Counties shall perform the terms of the Contract using only its bona fide employees or agents, and the obligations and duties of the Counties under this

Contract shall not be assigned, delegated, or subcontracted to any other person or firm without the prior express written consent of the District.

- B. The Counties warrants that it has not paid nor has it agreed to pay any company, person, partnership, or firm, other than a bona fide employee working exclusively for Counties, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award or making of this Contract.

9. NON-WAIVER OF RIGHTS

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

10. COMPLIANCE WITH LAWS

The parties agree that all activity pursuant to this Contract will be in accordance with all applicable federal, state and local laws, rules and regulations. All services provided by the Counties shall not be considered the practice of law, nor will the Counties provide any legal advice or representation.

11. OWNERSHIP OF MATERIALS/WORKS PRODUCED

All reports, all forms of electronic media, and data and documents produced in the performance of the work under this Contract shall be owned by the Counties. Ownership includes the right to copyright, patent, register, and the ability to transfer these rights. The District agrees that if it uses any materials prepared by the Counties for purposes other than those intended by this Contract, it does so at its sole risk and it agrees to hold the Counties harmless there from to the extent such use is not agreed to in writing by the Counties.

12. DISPUTES

Differences between the District 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 Counties 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 District's right to seek judicial relief.

13. CONFIDENTIALITY

The District, 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 District shall promptly give

the Counties written notice of any judicial proceeding seeking disclosure of such information.

14. 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 and Franklin Counties, Washington.

15. SUCCESSORS AND ASSIGNS

The Counties, to the extent permitted by law, and the District 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.

16. NONDISCRIMINATION

The parties, their 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.

17. 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.

18. 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.

19. 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:

RICHLAND SCHOOL DISTRICT	BENTON FRANKLIN COUNTIES JUVENILE JUSTICE CENTER
Dr. Jean Lane Superintendent	Sharon A. Paradis Administrator
Date <u>7/21/09</u>	Date <u>7/14/09</u>
BENTON COUNTY APPROVAL	FRANKLIN COUNTY APPROVAL
Approved as to Form: <u>[Signature]</u> <u>7/16/09</u>	Approved as to Form: <u>Agreed Review Performed by Benton County</u>
Sarah Perry, Deputy Prosecuting Attorney Date	Ryan Verhulp, Civil Deputy Prosecuting Attorney Date
By: _____	By: _____
Name: <u>Max E. Benitz, Jr.</u>	Name: <u>Rick Miller</u>
Title: <u>Chairman, Board of Commissioners</u>	Title: <u>Chairman, Board of Commissioners</u>
Date: _____	Date: _____
Attest: _____	Attest: _____
Clerk of the Board: _____	Clerk of the Board: _____

AGENDA ITEM: Consent	TYPE OF ACTION NEEDED Executive Contract <u> xx </u> Pass Resolution <u> xx </u> Pass Ordinance Pass Motion Other	CONSENT AGENDA <u> xx </u> PUBLIC HEARING 1ST DISCUSSION 2ND DISCUSSION OTHER
MEETING DATE: B/C 08-03-09 F/C 08-10-09		
SUBJECT: Signature on Contract Amendment with ARAMARK Correctional Services		
Prepared By: Donna A. Lee		
Reviewed By: Sharon Paradis		

BACKGROUND INFORMATION

The Benton-Franklin Counties Juvenile Justice Center a current contract with ARAMARK Correctional Services for detention food services. Under Section 2 (Duration of Contract) of the current contract, a request for proposal for Detention Food Services has been let which will not close until June, a new contract with the selected vendor cannot be in place before the end of August. The current ARAMARK contract amendment, which expires July 31, 2009, needs to be extended until August 31, 2009 to accommodate the gap. This amendment is to extend the term of the original contract to August 31, 2009.

SUMMARY

ARAMARK continues to provide for food services to the Benton-Franklin Counties Juvenile Justice Center, Detention Unit and agrees to this extension.

RECOMMENDATION

We recommend that the Boards of County Commissioners approve the Food Services Contract Amendment between the Benton-Franklin Counties Juvenile Justice Center and ARAMARK Correctional Services, as written.

FISCAL IMPACT

The food service rates are included in Juvenile's 2008 approved budget and 2009 proposed budget.

MOTION

I move that the Chairman of the Board of Benton County Commissioners and the Chairman of the Board of Franklin County Commissioners be hereby are authorized to sign, on behalf of their respective county, the Food Services Contract Amendment between ARAMARK Correctional Services and the Benton-Franklin Counties Juvenile Justice Center.

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 FOOD SERVICES CONTRACT AMENDMENT BETWEEN THE JUVENILE JUSTICE CENTER AND ARAMARK CORRECTIONAL SERVICES, and

WHEREAS, Sharon A. Paradis, Administrator of the Juvenile Court, believes it is in the best interest of the Juvenile Justice Center that the Food Service Contract Amendment, extending the existing contract to August 31, 2009, between ARAMARK Correctional Services and Benton-Franklin Counties Juvenile Justice Center be approved as presented for a term commencing July 31, 2009 and terminating on August 31, 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 3rd day of August 2009
BENTON COUNTY BOARD OF COMMISSIONERS

DATED this 10th day of August 2009
FRANKLIN COUNTY BOARD OF COMMISSIONERS

Chairman of the Board

Chairman of the Board

Member

Chairman Pro Tem

Member

Member

Attest:

Constituting the Board of
County Commissioners,
Benton County, Washington

Attest:

Constituting the Board of
County Commissioners,
Franklin County, Washington

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



HARON 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

FOOD SERVICE CONTRACT AMENDMENT

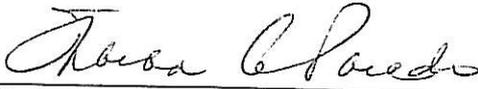
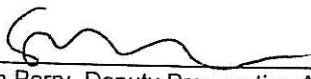
This Contract Amendment is made and entered into by and between Benton County, a political subdivision, with its principal offices at 620 Market Street, Prosser, WA 99350 and Franklin County, a political subdivision, with its principal offices at 1016 North Fourth Avenue, Pasco, WA 99301, by and for 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 ARAMARK Correctional Services, LLC., with its principal offices located at the ARAMARK Tower, 1101 Market Street, Philadelphia, PA 19107 (hereinafter referred to as "Contractor").

In consideration of the mutual benefits and covenants contained herein and in the parties' contract, numbered as Benton County Resolution No. 06 477 and executed on August 28, 2006, and Franklin County Resolution No. 2006 428 and executed on August 30, 2006 (the "Contract"), and as extended by Contract Amendment to July 31, 2009, numbered as Benton County Resolution No. 09 360 and executed on June 8, 2009 and Franklin County Resolution No. 2009 235 and executed on June 15, 2009, the parties agree to amend Section 2 of the Contract ("Duration of Contract") as follows:

1. The parties agree to extend the Contract for an additional one-month period, from July 31, 2009, to **August 31, 2009**.

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

This Amendment shall be effective upon execution by the parties.

ARAMARK Correctional Services, LLC. ARAMARK Tower 1101 Market Street Philadelphia, PA 19107	Benton Franklin Counties Juvenile Justice Center 5606 W Canal PL STE 106 Kennewick WA 99336-1388
 7-27-09	 7/10/09
David Kimmel, Vice President, Finance Date	Sharon A. Paradis Date
<p align="center">BENTON COUNTY APPROVAL</p> <p>Approved as to Form:</p>  Sarah Perry, Deputy Prosecuting Attorney Date	<p 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>Max E. Benitz, Jr</u> Title: <u>Chairman, Board of Commissioners</u></p> <p>Date: _____</p> <p>Attest:</p> <p>Clerk of the Board: _____</p>
By: _____ Name: _____ Title: _____	By: _____ Name: <u>Rick Miller</u> Title: <u>Chairman, Board of Commissioners</u>

K

AGENDA ITEM: Consent		TYPE OF ACTION NEEDED	CONSENT AGENDA <u>xx</u> PUBLIC HEARING 1ST DISCUSSION 2ND DISCUSSION OTHER
MEETING DATE: F/C 07-20-09 B/C 08-03-09			
SUBJECT: Professional Services Agreement for Criminal Defense Panel Attorney - Jeff Staples		Executive Contract <u>xx</u>	
		Pass Resolution <u>xx</u>	
		Pass Ordinance	
		Pass Motion	
		Other	
Prepared By:	Donna A. Lee		
Reviewed By:	Sharon Paradis		

BACKGROUND INFORMATION

Attached for Board review and approval is the Professional Service Agreement between the Benton-Franklin Counties Juvenile Justice Center (BFJJC) and Defense Panel Attorney, Jeff Staples. Mr. Staples has been a Deputy Prosecutor with the Clark County Prosecutor's Office in their District Court Unit. This negotiated Professional Service Agreement meets the current Office of Public Defense standards and is for the term of August 1, 2009 through December 31, 2012.

SUMMARY

There are four (4) originals of the Professional Service Agreements for Legal Representation of Indigent Individuals in Benton and Franklin Counties Superior Court Juvenile Division that need to be signed by both the Benton and Franklin County Boards of Commissioners.

RECOMMENDATION

We recommend that the Board of Commissioners of Benton County approve and sign the Professional Service Agreement for Legal Representation of indigent individuals in Benton and Franklin Counties Superior Court, Juvenile Division, as written.

FISCAL IMPACT

Compensation for the panel attorney is set forth in the approved Juvenile Court's 2009 budget.

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, on behalf of their respective county, the Professional Services Agreement with Mr. Staples.

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 PROFESSIONAL SERVICE AGREEMENT FOR LEGAL REPRESENTATION OF INDIGENT INDIVIDUALS IN BENTON AND FRANKLIN COUNTIES SUPERIOR COURT, JUVENILE DIVISION, BETWEEN THE JUVENILE JUSTICE CENTER AND JEFF STAPLES, and,

WHEREAS, Sharon Paradis, Administrator of the Juvenile Court, believes it is in the best interest of the Juvenile Justice Center that the Professional Service agreement between the Juvenile Court and the criminal defense panel attorney, to-wit: Daniel Stovern, be approved as presented; and

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 Professional Service Agreement between the Juvenile Court and the defense panel attorney, to-wit: Daniel Stovern.

**DATED this 3rd day of August 2009
BENTON COUNTY BOARD OF
COMMISSIONERS**

**DATED this 20th day of July 2009
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

Attest:

Member

Constituting the Board of
County Commissioners,
Franklin County, Washington

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



HARON PARADIS, Administrator
Juvenile Court Services

SUPERIOR COURT OF THE STATE OF WASHINGTON

5606 W CANAL PLACE, SUITE 106 • KENNEWICK, WASHINGTON 99336-1388
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LONNA K. MALONE
JOSEPH R. SCHNEIDER
JERRI G. POTTS
Court Commissioners

PROFESSIONAL SERVICES AGREEMENT TO PROVIDE LEGAL REPRESENTATION TO INDIGENT PERSONS IN BENTON-FRANKLIN COUNTIES JUVENILE COURT DIVISION CONTRACT #BFSC0912JS001J

THIS AGREEMENT is entered into by and between **Jeff Staples**, attorney at law, Washington State Bar Association #40738 ("Attorney"); and **BENTON COUNTY** and **FRANKLIN COUNTY**, state of Washington political subdivisions (jointly the "Counties"), for and on behalf of the Benton-Franklin Counties Juvenile Justice Center, a bi-county agency ("Juvenile Justice Center").

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

- A. The Counties have the legal responsibility to provide legal defense services to indigent persons charged with criminal offenses alleged to have been committed within the Counties' respective jurisdictional boundaries.
- B. Attorney desires to contract with the Counties to provide legal services to indigent persons subject to various legal proceedings in the Juvenile Division of the Counties' respective Superior Courts (the "Juvenile Court Division" or "Juvenile Court").

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

1. **AGREEMENT TERM.** This Agreement shall be deemed effective for all purposes as of the **1st day of August, 2009**, and shall continue thereafter through and including the **31st day of December, 2012**, unless earlier terminated pursuant to the applicable terms and provisions of this Agreement.

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

a. Attorney presently and regularly maintains an office adequate and appropriate for the practice of law at **WA, 99336**. Attorney's current local office telephone is **360-601-2567**; and Attorney's current office/work e-mail address is **staples1321@comcast.net**.

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

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

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

a. As of the date of this Agreement, Attorney represents and warrants that Attorney is unconditionally licensed to practice law within the state of Washington; has at least one (1) year of trial experience in misdemeanor and gross misdemeanor criminal cases; has a working knowledge of felony cases; has not been found by a court of competent jurisdiction to have rendered ineffective assistance of counsel to a criminal defendant; has not been censured, admonished, or otherwise formally disciplined for past conduct or behavior that would negatively reflect on Attorney's duty and ability to effectively and competently render legal services hereunder; has not been suspended or disbarred from the practice of law in any state or jurisdiction at any time in the past; and does not have any bar association complaints/grievances filed and pending against him/her.

(i) This Agreement shall be subject to termination pursuant to paragraph 19 below in the event that Attorney's license to practice law in Washington is revoked or otherwise limited or restricted; in the event that a court of competent jurisdiction formally determines and expressly finds that Attorney has rendered ineffective assistance of counsel to any person; in the event that Attorney is censured, admonished, or otherwise formally disciplined for conduct or behavior that negatively reflects on Attorney's duty and ability to effectively and competently render legal services hereunder; or in the event that Attorney is suspended or disbarred from the practice of law in any other state or jurisdiction.

(ii) Attorney shall notify the Counties within one (1) business day if any event specified in paragraph 3.a.(i) above occurs or if any bar association complaint/grievance is filed against Attorney.

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

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

d. During calendar year 2009, Attorney shall be required to obtain at least four (4) hours of WSBA-qualified Continuing Legal Education ("CLE") credits in courses directly relating to Attorney's public defense practice under this Agreement. Attorney shall provide the JJC Administrator with written proof and confirmation that such CLE credits have been obtained no later than by December 31, 2009. For each remaining calendar year of this agreement, Attorney shall obtain at least seven (7) hours of WSBA-qualified Continuing Legal Education ("CLE") credits in courses directly relating to Attorney's public defense practice under this Agreement. Additionally, during the term of this Agreement, in addition to participating in any specialized training-related activity specified in RCW 10.101.060(1)(a)(iii) or otherwise specifically required by other applicable law or court rule, Attorney shall attend at least one (1) public defense services-related training seminar sponsored and/or approved by the Washington Office of Public Defense ("OPD"), and any CLE credit earned by Attorney by attending such training seminar(s) may be applied towards the above-mentioned minimum seven (7) hours. The Counties may provide Attorney's name and address to the OPD for purposes of the OPD notifying Attorney of any such upcoming training seminars. Attorney shall provide the JJC Administrator with written proof and confirmation that such required training seminar has been attended by Attorney no later than by December 31, 2009, and thereafter, for each calendar year during which this agreement is in effect, by the 31st day of December for such year.

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

f. Pursuant to RCW 10.101.050, no later than the close of business on the 15th day of each month during the term of this Agreement, Attorney shall provide the JJC Administrator with a written report showing the total number and specific types of private practice cases (which for purposes of this Agreement shall include pro bono cases, retained-fee cases, and any cases handled by Attorney under any other professional/personal services agreement) in which Attorney provided legal services during the preceding month, the total number and specific types of appointed cases under this Agreement in which Attorney provided legal services during the preceding month, and the reasonably approximate percentage of time spent by Attorney during the preceding month providing legal services in private practice cases versus and in relation to time spent by Attorney during the preceding month providing legal services in appointed cases under this Agreement. Additionally, in the event that the public defense attorney caseload activity reporting requirements under RCW 10.101.050 are later amended/modified, Attorney shall correspondingly comply with any such amended/modified reporting requirements upon written notice from the Counties to do so. Notwithstanding any other provisions of this Agreement regarding the payment of compensation to Attorney, if Attorney fails to comply with reporting requirements under this paragraph, Attorney acknowledges and agrees that the JJC Administrator shall have the absolute discretion and authority to stop and withhold the processing and submittal of payment voucher requests for Attorney's compensation under this Agreement until such time as Attorney fully complies with reporting requirements.

4. **OTHER INDIGENT DEFENSE AGREEMENTS.**

a. The Counties have entered into separate and independent professional services agreements with other licensed attorneys to primarily provide criminal defense services to persons in the Juvenile Court Division. Attorney agrees to fully cooperate and coordinate with said other attorneys, the Juvenile Court, and the JJC Administrator to establish a process to effectuate the efficient and equitable distribution of case appointments between Attorney and said other attorneys (collectively the "Juvenile Court Criminal Defense Panel"). The JJC Administrator shall have the inherent discretion and authority to monitor and control (and potentially modify/change) such process.

b. Additionally, the Counties have entered into separate and independent professional services agreements with other licensed attorneys to primarily provide legal representation to indigent persons subject to civil proceedings in the Juvenile Court Division (collectively the "Juvenile Court Civil Defense Panel").

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

- Any felony, gross misdemeanor, or misdemeanor matter filed or otherwise pending under RCW Title 13 (and/or under any other applicable Washington law) in the Juvenile Court Division.

- Any post-disposition probation violation, revocation, modification, and/or contempt-of-court proceeding relating to any underlying criminal case.
- Any diversion referral consultation and/or diversion revocation proceeding.
- Any material witness or truancy matter (limited to only those truancy matters scheduled on first-appearance dockets).
- Any case or matter returned to the Juvenile Court Division from any higher court.
- Any other type of Juvenile Court Division case or matter (regardless of whether criminal-based or civil-based) in which another Juvenile Court Criminal Defense Panel member and/or a Juvenile Court Civil Defense Panel member and/or any other attorney who is under a professional services agreement to provide legal representation in Juvenile Court is unable to handle due to a conflict of interest.

At Attorney's request, Attorney may be appointed to any of the following matters:

- Juvenile truancy Court dockets
- Truancy Board representation

6. **CONTINUED REPRESENTATION.**

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

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

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

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

- (i) Any civil-based matter,
- (ii) Any deferred disposition matter,
- (iii) Any matter involving a juvenile terminated from Drug Court,
- (iv) Any matter involving a juvenile for whom a warrant has been issued;
- (v) Special Sex Offender Disposition Alternative Revocation hearings;
- (vi) Chemical Dependency Disposition Alternative Revocation Hearings; and/or
- (vii) Any case where personal service is not effected within thirty (30) days of the date of the notice of termination.

7. **NUMBER OF APPOINTMENTS.** During the term of this Agreement, Attorney agrees to and shall accept appointments hereunder to represent persons in the Juvenile Court Division up to a maximum of **two hundred twenty-five (225) total case equivalents per calendar year** (proratable for any partial calendar year). The prorated number of total case equivalents for the period August 1, 2009 through December 31, 2009, is ninety-three and three-quarters (93.75). The date on which a case or matter is filed (rather than its final date of disposition) shall be used to determine the calendar year in which a case equivalent is to be counted. Truancy docket and Truancy Board representation, being separately compensated, shall not count toward this maximum caseload.

8. **CASE EQUIVALENTS.**

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

- A felony appointment shall be counted as one (1) case equivalent.
- A misdemeanor appointment shall be counted as one-half (½) of a case equivalent.
- An appointment to a dependency case shall count as five (5) case equivalents per year.
- An appointment on a mental or alcohol commitment shall count as one-third (1/3) of a case equivalent.
- An appointment on a Child In Need of Services (CHINS), Alternative Residential Placement (ARP), or a Youth at Risk Petition (YARP) shall count as two-thirds (2/3) of a case equivalent.
- An appointment on a declination hearing shall count as one (1) case equivalent (in addition to the applicable case equivalent for the underlying offense if the case is disposed of in Juvenile Court; i.e., jurisdiction retained by Juvenile Court).

- An appointment to a termination case shall count as five (5) case equivalents per year.
- Assignment to miscellaneous rotating "attorney of the week" matters including, without limitation, contempts, probation violations, diversion counsels, material witness matters, and truancies, shall count as one-third (1/3) of a case equivalent per matter.
- If Attorney is appointed to a case and withdraws prior to the omnibus hearing for any reason, including the substitution of retained counsel or a conflict of interest, that appointment shall not count as any case equivalent; provided that the court shall retain discretion to award a case equivalent value (or fractional portion thereof) if deemed appropriate.
- Case equivalent value assigned is based on cases, not charges, and is determined by the classification of the most serious offense charged.

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

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

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

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

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

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

appointment of publicly-provided counsel, if and when applicable), and post-conviction reviews.

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

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

c. Attorney shall compile and maintain appropriate case records for each person whom Attorney is appointed to represent hereunder (except for miscellaneous attorney-of-the-week matters, including, but not limited to probation violations, contempts, and review hearings). Attorney shall retain such case records in their entirety (or a complete and legible copy thereof) for a period of no less than seven (7) years from the date on which the case or matter is fully and finally concluded, until the represented person reaches the age of twenty-one (21) years, or until an incarcerated represented person is released from incarceration, whichever date/event occurs last.

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

- (i) Any felony sex offense as defined in RCW 9.94A.030 and RCW 9A.44.130;
- (ii) Any crime specified in RCW Chapter 9A.44 when the victim was a juvenile in the custody of, or under the jurisdiction of, the Juvenile Rehabilitation Administration, Washington Department of Social and Health Services; and/or
- (iii) Any violent offense as defined in RCW 9.94A.030.

e. For representation during Truancy Court dockets and Truancy Boards, Attorney shall be provided additional compensation as follows:

- (i) A flat fee of \$450 per Truancy Court docket;
- (ii) A flat fee of \$200 per Truancy Board

12. **COMPENSATION.**

a. As compensation for Attorney's performance and rendering of independent professional legal services hereunder, the Counties shall pay Attorney, as professional service attorney fees and not as employment salary/wages, the sum of **\$5,278.82 per month** (proratable for any partial month), payable on the last business day of the month.

b. Attorney acknowledges and agrees that the above-stated compensation to Attorney (exclusive of the below-described additional compensation Attorney would be entitled to receive for homicide cases) shall constitute Attorney's full and exclusive compensation hereunder for all cases handled by Attorney under this Agreement up to the above-stated annual maximum total of 225 case equivalents.

c. The rate of compensation herein shall be modified by an amendment to this Agreement according to the terms of paragraph 35.

13. **HOMICIDE CASE COMPENSATION.** Homicide cases are appointed to the Juvenile Court Criminal Defense Panel members on a rotational basis. Attorney shall receive additional compensation for appointments to homicide cases in any degree at the rate of **\$65.00 per hour** up to a maximum aggregate amount of \$5,000.00 per case (or such greater maximum aggregated amount as may be specifically approved and ordered by the court in a particular case as being reasonable and necessary due to its extraordinary facts, nature, and complexity).

a. Payment of any such additional compensation is based on time expended on the case by Attorney only. Time expended by other persons (including, without limitation, Attorney's support staff, law partners, or associate attorneys) on such cases at Attorney's request or direction shall be part of Attorney's office overhead and shall not be billable to the Counties.

b. As a precondition to Attorney being paid the above-mentioned additional compensation for a homicide case, Attorney shall be required to submit a vendor warrant payment voucher to the JJC Administrator that descriptively sets forth and details the total number of hours (documented and stated in one-tenth (1/10th) hour intervals) expended by Attorney on such case and that further describes and details the particular actions taken by Attorney on such case that correspond to such expended and billed hours (exercising appropriate discretion to protect client confidentiality given that such vouchers are matters of public record unless sealed by the court at Attorney's request). Attorney's administrative time expended to prepare, submit, and process vouchers shall not be billable to the Counties. All payment vouchers and requests for additional compensation under this paragraph shall be subject to the court's review and final approval for payment. Attorney shall submit such payment vouchers within sixty (60) days of the date on which Attorney expended time for which additional compensation is sought under this paragraph, and the Counties shall have the right to

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

14. **COSTS AND EXPENSES.**

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

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

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

(ii) In addition to any other prerequisites imposed by court rules, procedures, or standards, as a precondition to Attorney being reimbursed for an expenditure under this paragraph, Attorney shall be required to submit a vendor warrant payment voucher to the Counties that identifies the specific expenditure(s) for which reimbursement is sought (exercising appropriate discretion to protect client confidentiality given that such vouchers are matters of public record unless sealed by the court at Attorney's request) and that has attached thereto a copy of the court order(s) that specifically pre-approved and authorized such expenditure(s) (unless sealed by the court at Attorney's request) together with attached copies of all written payment receipts relating to such incurred expenditure(s) (unless sealed by the court at Attorney's request). Attorney's administrative time expended to prepare, submit, and process

vouchers shall not be billable to the Counties. All payment vouchers and requests for reimbursement under this paragraph shall be subject to the court's review and final approval for payment. Attorney shall submit such payment vouchers to the JJC Administrator within sixty (60) days of Attorney incurring the expense(s) for which reimbursement is sought, and the Counties shall have the right to deny payment of any voucher that is not timely submitted within said requisite sixty (60) day period.

15. **ADDITIONAL ASSISTANCE.** Attorney may from time-to-time be appointed to handle certain Class-A felony matters hereunder in the Juvenile Court Division that may require an extraordinarily excessive amount of Attorney's time and/or responsibility. If Attorney is appointed to handle such a matter, Attorney may request that the Juvenile Court appoint one of the other Juvenile Court Criminal Defense Panel attorneys to assist Attorney in such matter, with the other attorney (unless prevented by a conflict of interest) being appointed to assist Attorney in the same manner as any other indigent defense appointment. The parties intend that the provisions of this paragraph may be pursued and utilized only under extraordinary and exceptional circumstances when the appointment of another attorney is actually necessary to prevent Attorney from performing an inordinately greater amount of work or accepting an inordinately greater amount of responsibility than the other members of the Juvenile Court Criminal Defense Panel. Notwithstanding the foregoing provisions of this paragraph, however, if the Juvenile Court determines in any particular matter within the scope of this paragraph that the appointment of another attorney to assist Attorney requires the appointment of a non-panel member attorney because of the nature and complexity of the particular matter, the Juvenile Court would have the ultimate and inherent discretion and power to do so.

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

17. **INSURANCE.**

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

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

(ii) Attorney shall continuously maintain the professional liability insurance coverage required by this paragraph 17.a throughout the entire term of this Agreement, throughout any other longer time period during which Attorney is obligated to continue performing services and duties hereunder, and for a period of no less than thirty-six (36) consecutive months after Attorney has fully completed all services and duties required hereunder.

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

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

(ii) The insurance policies required by this paragraph 17.b shall require that the insurance company provide the Counties with no less than thirty (30) days prior written notice in the event the policy is cancelled or materially altered; shall comply with all applicable state of Washington insurance requirements; and shall be issued by an insurance company rated A- or better by A.M. Best authorized to conduct business and issue insurance in the state of Washington.

(iii) Attorney shall continuously maintain the insurance coverage required by this paragraph 17.b throughout the entire term of this Agreement and

throughout any other longer time period during which Attorney is obligated to continue performing services and duties hereunder.

c. Contemporaneously with Attorney's execution of this Agreement, Attorney shall provide the Counties and their respective then-designated Risk Managers with copies or certificates of the insurance policies and coverage (including any endorsements) required under this paragraph 17, and Attorney shall annually provide the Risk Managers with the same type of documented proof and confirmation that such insurance policies and coverage continue to exist no later than thirty (30) days after the policies' annual renewal date(s).

18. **COMPLAINTS; PERFORMANCE MONITORING.** In the event that an employee/representative of the Counties or the Juvenile Justice Center receives an oral/written communication from a person represented by Attorney under this Agreement that in substance asserts an unresolved complaint about the legal services rendered to such person by Attorney, the employee/representative receiving such communication shall promptly request and obtain a written, dated, and signed statement from the person that describes and details the relevant facts and circumstances underlying and alleged in the complaint, copies of which shall promptly be provided to the Counties and the JJC Administrator.

a. Upon receiving such complaint, the JJC Administrator, without limitation to any other action the Counties may deem necessary/appropriate to pursue under this Agreement, shall immediately forward a copy of the complaint to Attorney and request and obtain Attorney's written, dated, and signed response thereto (which Attorney shall prepare and provide to the Counties, the JJC Administrator, and the represented person within five (5) business days). The JJC Administrator shall immediately forward copies of the complaint and Attorney's response to the Juvenile Court's Supervising Judge and Court Commissioners ("Juvenile Court Bench") for their review and action they may deem necessary with Attorney and/or the represented person to address and resolve the complaint, and the disposition of the complaint shall be communicated to the represented person as soon as reasonably possible. The JJC Administrator shall follow-up with the Juvenile Court Bench within five (5) business days thereafter to confirm that the complaint has been, or is in the process of being, addressed and disposed of.

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

19. **TERMINATION.**

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

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

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

c. In addition to the foregoing provisions regarding termination, Attorney may elect to terminate this Agreement with or without cause or reason by providing the Counties with sixty (60) days advance written notice of such election; and the Counties may elect to terminate this Agreement with or without cause or reason by providing Attorney with thirty (30) days advance written notice of such election. Without limiting/waiving other provisions of this Agreement relating to Attorney's obligation and duty to accept and complete cases appointed to Attorney, Attorney shall not be appointed any new cases during the last thirty (30) calendar days of the applicable notice period.

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

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

21. **NON-ASSIGNMENT AND TEMPORARY SUBSTITUTIONS.** Except as otherwise expressly provided in paragraphs 21.a. and 21.b. below, Attorney shall not allow or arrange for any other person to perform any of the services required by this Agreement, nor shall Attorney assign, subcontract out, or otherwise delegate any of Attorney's rights, responsibilities, or obligations under this Agreement.

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

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

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

(ii) Attorney shall be responsible to ensure that such other attorney fully complies with all terms and conditions of this Agreement during such temporary absence period (including, without limitation, the requirement to maintain the insurance coverage specified in paragraph 17 above), and Attorney shall be liable for any damages or losses sustained as a result of such other attorney's non-compliance with the terms and conditions of this Agreement.

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

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

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

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

26. **CAPTIONS; TIME COMPUTATION.**

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

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

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

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

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

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

31. **DISPUTE RESOLUTION.**

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

b. In the event that mediation proves unsuccessful in resolving the dispute, the parties shall submit the dispute for resolution via binding arbitration in the Tri-Cities, Washington. A single arbitrator shall be selected by agreement of the parties or, in the absence of agreement, each party shall select one (1) arbitrator and those two (2) so selected arbitrators shall mutually select a third arbitrator. The Counties shall pay one-half of the fees and expenses of the arbitrator(s), and Attorney shall pay the other one-half of such fees and expenses. The provisions of RCW Chapter 7.04A and applicable Mandatory Arbitration Rules as adopted and implemented in Benton-Franklin Superior Court shall be binding as to procedure, except as to the right of appeal, which shall not be applicable. Within ten (10) business days of notice of arbitration, the arbitrator(s) shall be selected and designated and the hearing shall be held within thirty (30) business days thereafter. The arbitrator(s) shall render a written decision and award within ten (10) business days of such hearing. Without limitation, the arbitrator(s) may

award damages, specific performance, and/or injunctive relief, and may register a judgment in superior court, including judgment by default. The most prevailing party shall be entitled to recover such party's reasonable attorneys' fees, costs and expenses from the other party as a part of the arbitration decision and award. In the event of suit or action to enforce an arbitration award, venue shall lie exclusively in superior court, and the most prevailing party in such suit or action shall be entitled to recover such party's reasonable attorneys' fees, costs and expenses from the other party.

32. **NOTICES.**

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

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

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

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

Sharon A. Paradis
Benton-Franklin Juvenile Justice Center Administrator
5606 W. Canal Place, Ste. 106
Kennewick, WA 99336

Eric Hsu
Bi-County Indigent Defense Coordinator
Benton-Franklin Office of Public Defense
7122 W. Okanogan Place, Bldg. A
Kennewick, WA 99336

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

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

d. For purposes of clarity, whenever the terms of this Agreement require Attorney to provide "the Counties" with certain information or notice, such information or

notice shall be provided to the Counties' respective Board of Commissioners unless this Agreement expressly mandates that such information or notice also be provided to some other person/entity.

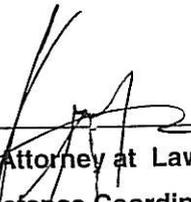
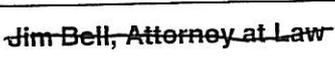
33. **LEGAL COMPLIANCE.** Attorney agrees to and shall strictly follow and comply with any and all federal, state, local, and administrative laws, rules, and regulations applicable to Attorney's pursuit and performance of activities under this Agreement. Without limitation in that regard; Attorney shall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

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

35. **CONTRACT NEGOTIATIONS.** The parties acknowledge that contracts for the remaining attorneys with contracts with Counties to provide indigent defense services to juveniles expire on December 31, 2009 and that, as a result, Counties will be engaged in contract negotiations with such other attorneys during the latter half of calendar year 2009. The parties agree that Attorney shall be entitled to any changes to the agreements afforded to other indigent defense contractors as a result of these contract negotiations, and such changes shall be incorporated into this Agreement by amendment or by execution of a new agreement, which shall be effectuated contemporaneously with the execution of agreements with the other indigent defense contracts to replace the agreements that expire on December 31, 2009.

SIGNATURES APPEAR ON THE FOLLOWING PAGE

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

Attorney	Benton Franklin Counties Juvenile Justice Center
	
Jeff Staples	Sharon A. Paradis
7/14/09 Date	7/17/09 Date
Approved as to Form and Content:	Approved as to Form:
	
Eric Hsu, Attorney at Law	Jim Bell, Attorney at Law
7/16/09 Date	Date
Indigent Defense Coordinator	
BENTON COUNTY APPROVAL	FRANKLIN COUNTY APPROVAL
By: _____	By: _____
Name: <u>Max Benitz, Jr.</u>	Name: <u>Rick Miller</u>
Title: <u>Chairman, Board of Commissioners</u>	Title: <u>Chairman, Board of Commissioners</u>
Date: _____	Date: _____
Attest: _____	Attest: _____
Clerk of the Board: _____	Clerk of the Board: _____

AGENDA ITEM: Consent	TYPE OF ACTION NEEDED	CONSENT AGENDA xx
MEETING DATE: F/C 08-03-09 B/C 08-10-09	Executive Contract XX	PUBLIC HEARING
SUBJECT: Independent Clinic Facilitator Ernie Chapin	Pass Ordinance XX	1 st DISCUSSION
Prepared By: Donna A. Lee	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.

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.

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, 2009 and terminating on June 30, 2010, **NOW, THEREFORE**

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

DATED this 10th day of August 2009.

DATED this 3rd day of August 2009.

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



HARON 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, 2009 through June 30, 2010. 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, unless otherwise authorized in writing by the Intervention Services Manager.
- B. The total amount payable by the Counties to the Contractor under this Contract shall not exceed Ten Thousand Dollars (\$10,000.00).
- 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 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 Representative. 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 Contractor in performing the Contract up to the date of such notice. Payment shall be made in accordance with the Compensation Section of this Contract.

- B. In the event that funding for this project is withdrawn, reduced or limited in any way after the effective date of this Contract, the Counties may summarily terminate this Contract notwithstanding any other termination provision in this Contract. Termination under this paragraph shall be effective upon the date specified in the written notice of termination sent by Counties to the Contractor. After the effective date, no charges incurred under this Contract shall be allowed.
- C. If either party breaches any of its obligations hereunder, and fails to cure the breach within ten (10) days of written notice to do so by the other party, the parties agree that such breach will constitute "cause" to terminate this Contract, in which case the Counties shall pay the Contractor only for the costs of services accepted by the Counties, in accordance with the Compensation Section of this Contract. Upon such termination for cause, the Counties, at its discretion, may obtain performance of the work elsewhere, and the Contractor shall bear all costs and expenses incurred by the Counties in completing the work and all damage sustained by the Counties by reason of the Contractor's breach.

9. ASSIGNMENT, DELEGATION AND SUBCONTRACTING

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

10. NON-WAIVER OF RIGHTS

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

11. INDEPENDENT CONTRACTOR

- A. The Contractor's services shall be furnished by the Contractor as an independent contractor and not as an agent, employee or servant of the Counties. The Contractor specifically has the right to direct and control Contractor's own activities in providing the agreed services in accordance with the specifications set out in this Contract.
- B. The Contractor acknowledges that the entire compensation for this Contract is set forth in Section Four of this Contract, and the Contractor is not entitled to any 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.
- 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.

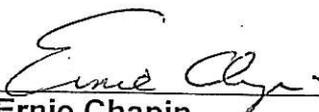
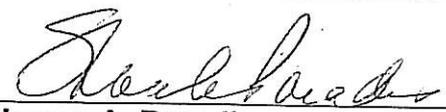
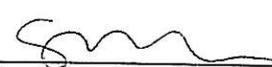
23. ENTIRE AGREEMENT

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
<u>7/28/09</u> Date	<u>7/28/09</u> Date
BENTON COUNTY APPROVAL	FRANKLIN COUNTY APPROVAL
Approved as to Form:  <u>7/16/09</u> Sarah Perry, Deputy Prosecuting Attorney Date	Approved as to Form: <u>Agreed Review Performed by Benton County</u> <u>Ryan Verhulp, Civil Deputy Prosecuting Attorney</u>
By: _____ Name: <u>Max E. Benitz</u> Title: <u>Chairman, Board of Commissioners</u> Date: _____	By: _____ Name: <u>Rick Miller</u> Title: <u>Chairman, Board of Commissioners</u> Date: _____
Attest: Clerk of the Board: _____	Attest: Clerk of the Board: _____

m

AGENDA ITEM: Consent	TYPE OF ACTION NEEDED Executive Contract <u>xx</u> Pass Resolution <u>xx</u> Pass Ordinance Pass Motion Other	CONSENT AGENDA <u>xx</u> PUBLIC HEARING 1ST DISCUSSION 2ND DISCUSSION OTHER
MEETING DATE: F/C 08-03-09 B/C 08-10-09		
SUBJECT: Contract for State Funds for CASA volunteers caseload standard for dependency matters - IAA10121		
Prepared By: Donna A. Lee		
Reviewed By: Sharon Paradis		

BACKGROUND INFORMATION

The State of Washington, Administrative Office of the Courts (AOC) has contracted with the Benton-Franklin Counties Juvenile Justice Center for many years to provide Court Appointed Special Advocate (CASA) representation to dependent youth of Benton and Franklin Counties.

SUMMARY

The purpose of Interagency Agreement NO. IAA10121 is to increase the number of children served by court-appointed special advocates in dependency matters or reduce the average caseload of volunteers to the recommended CASA standards for the biennium period of July 1, 2009 through June 30, 2011.

RECOMMENDATION

We recommend that the Boards of County Commissioners approve the Resolution Authorizing their Chairs to sign the Interagency Agreement for the period commencing July 1, 2009 and completed on June 30, 2011.

FISCAL IMPACT

This is a Grant whereby we are reimburses for services rendered.

MOTION

I move that the Chairman of the Board of Benton County Commissioners, Max E. Benitz, Jr., and the Chairman of the Board of Franklin County Commissioners, Rick Miller, be and they hereby are authorized to sign, on behalf of their respective county, the Interagency Agreement IAA10121 between the State of Washington, Administrative Office of the Courts (AOC) and the Benton-Franklin Counties Juvenile Justice Center.

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 INTERAGENCY AGREEMENT BETWEEN THE JUVENILE JUSTICE CENTER AND THE STATE OF WASHINGTON, ADMINISTRATIVE OFFICE OF THE COURT, and

WHEREAS, Sharon A. Paradis, Administrator of the Juvenile Court, believes it is in the best interest of the Juvenile Justice Center that the Interagency Agreement Number IAA10121 between the State of Washington, Administrative Office of the Court, and Benton-Franklin Counties Juvenile Justice Center be approved as presented for a term commencing July 1, 2009 and terminating on June 30, 2011, **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 10th day of August 2009.

DATED this 3rd day of August 2011.

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:

Clerk of the Board

ATTEST:

Clerk of the Board

INTERAGENCY AGREEMENT IAA10121
between
THE STATE OF WASHINGTON
ADMINISTRATIVE OFFICE OF THE COURTS
and
BENTON/FRANKLIN JUVENILE COURT

THIS AGREEMENT is made and entered into by and between the State of Washington Administrative Office of the Courts, hereinafter referred to as "AOC," and Benton/Franklin Juvenile Court, hereinafter referred to as the "COURT."

IT IS THE PURPOSE OF THIS AGREEMENT for the COURT to increase the number of children served by court-appointed special advocates (CASA's) in dependency matters or reduce the average caseload of volunteers to recommended CASA standards.

Funds received by the COURT under this agreement may only be used to supplement, not supplant, any other local, state or federal funds received by the COURT.

STATEMENT OF WORK

The COURT shall furnish the necessary personnel, equipment, material and/or service(s) and otherwise do all things necessary for or incidental to the performance of managing a CASA program to serve juvenile dependency cases. The COURT will ensure that the CASA program and CASA volunteers comply with the statutory requirements contained in RCW 13.34.100 and .102. The COURT will submit semi-annual reports to AOC detailing information about the number of children served and the number of volunteers. The format of the report will be that provided in Exhibit A. Semi-annual reports are due as follows:

Period	Report Due
07/01/09 - 12/31/09	01/10/10
01/01/10 - 06/30/10	07/10/10
07/01/10 - 12/31/10	01/10/11
01/01/11 - 06/30/11	07/10/11

PERIOD OF PERFORMANCE

Subject to its other provisions, the period of performance of this Agreement shall commence on July 1, 2009, and be completed on June 30, 2011, unless terminated sooner as provided herein.

PAYMENT

Compensation for the work provided in accordance with this Agreement has been established under the terms of RCW 39.34.130. The parties have determined that the cost of accomplishing the work herein will not exceed \$210,184.00. A maximum of 50% of this amount will be allotted for expenditure during each fiscal year. Payment for satisfactory performance of the work shall not exceed these amounts unless the parties mutually agree to a higher amount in writing, except as governed by the REVENUE SHARING section of this agreement.

BILLING PROCEDURE

The COURT shall submit invoices on properly-completed Washington State form A-19 to:

AOC Financial Services
PO Box 41170
Olympia, Washington 98501

no more frequently than monthly. Payment to the COURT for approved and completed work will be made by warrant or account transfer by AOC within 30 days of receipt of both properly-completed invoices and the detailed information outlined in Exhibit B. Upon expiration of the Agreement, any claim for payment not already made shall be submitted within 30 days after the expiration date or the end of the fiscal year, whichever is earlier.

REVENUE SHARING

AOC, in its sole discretion and upon notice, may reallocate funding between state funded CASA programs. If it appears the COURT may not expend the maximum contract amount, AOC may reduce the maximum contract amount. AOC may increase the maximum contract amount if additional funds become available through this revenue sharing program.

RECORDS MAINTENANCE

The parties to this Agreement shall each maintain books, records, documents and other evidence which sufficiently and properly reflect all direct and indirect costs expended by either party in the performance of the service(s) described herein. These records shall be subject to inspection, review or audit by personnel of both parties, other personnel duly authorized by either party, the Office of the State Auditor, and federal officials so authorized by law. All books, records, documents, and other material relevant to this Agreement will be retained for six years after expiration and the Office of the State Auditor, federal auditors, and any persons duly authorized by the parties shall have full access and the right to examine any of these materials during this period.

Records and other documents, in any medium, furnished by one party to this agreement to the other party, will remain the property of the furnishing party, unless otherwise agreed. The receiving party will not disclose or make available this material to any third parties without first giving notice to the furnishing party and giving it a reasonable opportunity to respond. Each party will utilize reasonable security procedures and protections to assure that records and documents provided by the other party are not erroneously disclosed to third parties.

BACKGROUND CHECKS

The COURT shall:

- Ensure a criminal background check has been completed for all employees, CASA Volunteers, and subcontractors who have access to children;
- Based on the results from the criminal background check, determine if each employee, CASA Volunteer, and subcontractor is suitable for access to children;

- Follow the AOC process, provided by the AOC Program Manager, for processing background checks.

The AOC will:

- Pay for CASA Volunteer criminal background checks.

RIGHTS IN DATA

Unless otherwise provided, data which originates from this Agreement shall be "works for hire" as defined by the U.S. Copyright Act of 1976 and shall be owned by AOC. Data shall include, but not be limited to, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, video and/or sound reproductions. Ownership includes the right to copyright, patent, register, and the ability to transfer these rights.

INDEPENDENT CAPACITY

The employees or agents of each party who are engaged in the performance of this Agreement shall continue to be employees or agents of that party and shall not be considered for any purpose to be employees or agents of the other party.

AGREEMENT ALTERATIONS AND AMENDMENTS

This Agreement may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

TERMINATION

Either party may terminate this Agreement upon 30 days' prior written notification to the other party. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

TERMINATION FOR CAUSE

If for any cause, either party does not fulfill in a timely and proper manner its obligations under this Agreement, or if either party violates any of these terms and conditions, the aggrieved party will give the other party written notice of such failure or violation. The responsible party will be given the opportunity to correct the violation or failure within 15 working days. If failure or violation is not corrected, this Agreement may be terminated immediately by written notice of the aggrieved party to the other.

DISPUTES

In the event that a dispute arises under this Agreement, it shall be determined by a Dispute Board in the following manner: Each party to this Agreement shall appoint one member to the Dispute Board. The members so appointed shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall review the facts, agreement terms and applicable statutes and rules and make a determination of the dispute. The determination of the Dispute Board shall be final and binding on the parties.

GOVERNANCE

This Agreement is entered into pursuant to and under the authority granted by the laws of the state of Washington and any applicable federal laws. The provisions of this Agreement shall be construed to conform to those laws.

In the event of an inconsistency in the terms of this Agreement, or between its terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

- a. Applicable state and federal statutes and rules;
- b. Statement of work; and
- c. Any other provisions of the agreement, including materials incorporated by reference.

ASSIGNMENT

The work to be provided under this Agreement, and any claim arising thereunder, is not assignable or delegable by either party in whole or in part, without the express prior written consent of the other party, which consent shall not be unreasonably withheld.

WAIVER

A failure by either party to exercise its rights under this Agreement shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in a writing signed by an authorized representative of the party and attached to the original Agreement.

SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this agreement, and to this end the provisions of this Agreement are declared to be severable.

ALL WRITINGS CONTAINED HEREIN

This Agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

CONTRACT MANAGEMENT

The program manager for each of the parties shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Agreement:

AOC Program Manager	COURT Program Manager
Regina McDougall	Sharon Paradis Juvenile Court Administrator
PO Box 41170	5606 W Canal Dr, Suite 106
Olympia, WA 98504-1170	Kennewick, WA 99336-1300
360 705-5337	509-736-2724
Regina.McDougall@courts.wa.gov	sharon_paradis@co.benton.wa.us

IN WITNESS WHEREOF, the parties have executed this Agreement.

**THE ADMINISTRATIVE OFFICE
OF THE COURTS**

BENTON/FRANKLIN JUVENILE COURT

Dirk Marler, Director
Judicial Services Division

*** See Attached Signature Page ***
Signature

Printed Name

Date

Date

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 7/29/09

Sharon A. Paradis, Juvenile Court Administrator

BENTON COUNTY APPROVAL

Approved as to Form:

Sarah Perry 7/27/09

Sarah Perry, Deputy Prosecuting Attorney Date

By: _____
Name: Max E. Benitz
Title: Chairman, Board of Commissioners
Date: _____

Attest:

Clerk of the Board: _____

FRANKLIN COUNTY APPROVAL

Approved as to Form:

Agreed Review Performed by Benton County

Ryan Verhulp, Civil Deputy Prosecuting Attorney Date

By: _____
Name: Rick Miller
Title: Chairman, Board of Commissioners
Date: _____

Attest:

Clerk of the Board: _____

n

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY FUNDS RE: TRANSFER OF FUNDS WITHIN
CURRENT EXPENSE FUND NUMBER 0000-101, DEPARTMENT NUMBER 126.

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

Dated this _____ day of _____, _____

Chairman of the Board

Member

Member

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

Attest: _____
Clerk of the Board

cc: Dept., Auditor, L. Ivey

BENTON COUNTY LINE ITEM TRANSFER

Dept Name: Parks

Dept Nbr: 126

Fund Name: Current Expense

Fund Nbr: 0000-101

TRANSFER FROM:

TRANSFER TO:

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT	BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
576-690	3121	Construction Materials	\$475	576-690	9101	Data Processing	\$475
TOTAL			\$475	TOTAL			\$475

Explanation:

Transfer needed to pay for additional administrative costs associated with Blackberry Services.

Prepared by: Cami McKenzie

Date: 22-Jul-2009

Approved

Denied

Date: _____

Chairman

Member

Member

<u>AGENDA ITEM</u>		<u>TYPE OF ACTION NEEDED</u>	
Meeting Date:	August 3, 2009	Execute Contract	_____
Subject:	Updated FMLA Policy	Pass Resolution	<u> X </u>
Prepared by:	Sarah Perry	Pass Ordinance	_____
Reviewed by:		Pass Motion	_____
		Other	_____
		Consent Agenda	<u> X </u>
		Public Hearing	_____
		1st Discussion	_____
		2nd Discussion	_____
		Other	_____

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BACKGROUND INFORMATION

Benton County has a Family and Medical Leave Policy, Resolution 08-480. There have been changes to the Family and Medical Leave Act regulations since the policy was last updated.

SUMMARY

Before the Board for approval and signature is the updated Family and Medical Leave (FMLA) Policy and Resolution. The updated FMLA Policy and forms are in compliance with the new regulations. The policy has been signed by other Benton County elected officials and is therefore ready for approval and signature by the Board.

RECOMMENDATION

Approve and sign the updated Family and Medical Leave Policy and forms.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY,
WASHINGTON:

IN THE MATTER OF COUNTY POLICY RE: THE BENTON COUNTY FAMILY AND
MEDICAL LEAVE POLICY AND FORMS; RESCINDING RESOLUTION 08-480

WHEREAS, Benton County provides Family and Medical Leave to its
eligible employees and has a Family and Medical Leave Policy,
Resolution 08-480; and

WHEREAS, there have been changes to the Family and Medical Leave
Act regulations since that policy was last updated; and

WHEREAS, the attached Benton County Family and Medical Leave Policy
and forms are in compliance with the new regulations; and

WHEREAS, other County Elected Officials have signed and approved
the attached Family and Medical Leave Policy and forms; NOW
THEREFORE

BE IT RESOLVED, that the Board of Benton County Commissioners
hereby approves the attached Family and Medical Leave Policy and
forms and is authorized to sign the same; and that Resolution 08-
480 is hereby rescinded.

Dated this day of, 2009.

Chairman of the Board

Member

Member

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

Attest:
Clerk of the Board

c: All Dept., S. Perry, Policy Book

BENTON COUNTY

FAMILY AND MEDICAL LEAVE POLICY

Benton County provides Family and Medical Leave to employees to the extent provided by and in accordance with the Family and Medical Leave Act (FMLA) and other applicable laws and regulations. The FMLA entitles eligible employees to take up to 12 workweeks of leave in a 12-month period for certain family and medical reasons, as well as additional time for Servicemember Family Leave. In addition, the County provides Pregnancy Disability Leave, Domestic Violence Leave, and Military Spouse Leave in accordance with state law. Nothing in this policy affects or supercedes any federal or state law or collective bargaining agreement that may provide greater entitlements to medical or family leave than those set forth in this policy.

Eligibility

To be eligible for FMLA benefits, an employee must have been employed by Benton County for at least 12 months and must have worked at least 1,250 hours in the preceding 12 months. The 12 months of employment need not be consecutive, but employment periods prior to a break in service of seven years or more are not counted except in certain circumstances, such as a break due to National Guard or Reserve military obligation or as otherwise provided in a written agreement.

Leave Entitlement

Eligible employees are entitled to up to 12 workweeks of FMLA leave during a 12-month period for one or more of the following reasons:

- To care for the employee's child upon birth or to care for a child upon the child's placement with the employee for adoption or foster care;
- The employee's serious health condition that makes the employee unable to perform the essential functions of his/her job (including incapacity due to pregnancy, prenatal medical care, or childbirth);
- To care for the employee's spouse, child, and/or parent who has a serious health condition; and/or
- A qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member who is on active duty, or has been notified of an impending call to active duty as a member of the National Guard or Reserves in support of a contingency operation.

"Child" does not include individuals age 18 or over unless they are incapable of self-care because of a mental or physical disability. "Parent" does not include parent-in-law.

To calculate the 12-month period, Benton County uses a rolling 12-month period measured backward from the date the employee uses FMLA leave.

FMLA leave for birth or placement for adoption or foster care must conclude within 12 months of the birth or placement. Spouses employed by Benton County are jointly entitled to a combined total of 12 workweeks of FMLA leave for the birth or placement, or to care for a parent with a serious health condition.

Servicemember Family Leave: An eligible employee who is the spouse, son, daughter, parent, or next of kin (nearest blood relative) of a covered servicemember who is recovering from a serious injury or illness sustained in the line of duty on active duty is entitled to a total of up to 26 workweeks of leave during a single 12-month period to care for the servicemember. During the single 12-month period, an eligible employee is entitled to a combined total of 26 workweeks of all types of FMLA leave. For purposes of this type of leave, the 12-month period begins with the first day the employee takes leave. The combined total of leave for all FMLA purposes may not exceed 26 weeks in the applicable leave year. Spouses employed by Benton County are jointly entitled to a combined total of 26 workweeks of leave during the single 12-month period.

Intermittent or Reduced-Schedule Leave: In some circumstances, employees may take FMLA leave intermittently, which means taking leave in smaller blocks of time, or by reducing their work schedule. FMLA leave may be taken intermittently or on a reduced schedule when medically necessary for the employee's own serious health condition or to care for a family member with a serious health condition. Intermittent or reduced-schedule leave is also available when necessary because of a qualifying exigency arising from a family member's military service. When intermittent or reduced-schedule leave is needed for planned medical treatment, the employee must try to schedule treatment so as not to unduly disrupt Benton

County's operations. In such cases, Benton County may transfer the employee temporarily to an alternative job with equivalent pay and benefits that better accommodates recurring periods of leave.

Pay and Benefits

Except as otherwise provided in the applicable collective bargaining agreement or nonbargaining employee policy, employees are required to use available accrued paid leave (vacation, floating holiday, and sick leave, if applicable) during the FMLA absence, provided the employee meets requirements of the leave policy. During paid FMLA leave, use of accrued paid leave is considered protected FMLA leave and counted against the employee's FMLA leave entitlement. Conditions related to use of accrued paid leave are set forth in the applicable collective bargaining agreement or nonbargaining employee policy, copies of which can be obtained in the Personnel Resources Office. If the employee does not have accrued paid leave or does not meet the requirements for taking paid leave, the FMLA leave is unpaid. If the employee is on unpaid leave for a major portion of a month, seniority does not accrue.

Compensatory time off is not a form of accrued paid leave that must be used during an FMLA leave. Although an employee may request to use any accrued compensatory time off for an FMLA-qualifying reason, when the employee uses compensatory time, the absence is not counted against the employee's FMLA leave entitlement.

During FMLA leave, Benton County maintains group health insurance coverage when such insurance was provided before the leave is taken and on the same terms as if the employee had continued to work. If applicable, arrangements will need to be made for employees to pay their share of health insurance and other premiums while on FMLA leave. The employee's failure to pay his/her portion of the premiums may result in cancellation of insurance coverage. If the employee fails to return to work from an FMLA leave, in some instances, Benton County may recover premiums it paid to maintain health coverage for the employee during the FMLA leave.

Job Restoration

Upon return from FMLA leave, the employee is usually returned to his/her original job, or to an equivalent job, with equivalent pay, benefits, and other terms and conditions of employment. In some cases, for "key employees" under the FMLA, where employment restoration will cause substantial and grievous economic injury to Benton County's operations, the employee may not be entitled to reinstatement.

Benton County is not required to continue FMLA benefits or reinstate employees who would have been laid off or otherwise had their employment terminated had they continued to work during the FMLA leave period. Employees who are unable to return to work and have exhausted their 12 weeks of FMLA leave in the designated 12-month period no longer have the FMLA protections of leave or job restoration.

Notice and Certification

Employees seeking to use FMLA leave ordinarily must provide at least 30 days' notice of the need for leave when the need is foreseeable. If 30 days' notice is not possible, the employee must provide notice as soon as practicable, generally either the same or next business day. Absent unusual circumstances, employees must comply with the notice and procedural requirements for their department for requesting leave. Employees must provide sufficient information for Benton County reasonably to determine whether the FMLA may apply to the leave request and the anticipated timing and duration of the requested leave.

Benton County may require that an employee's request for leave due to a serious health condition affecting the employee or a covered family member be supported by a certification from a health care provider. Certification is required for a serious injury or illness of a covered servicemember. The employee may also be required to provide a second or third medical opinion and/or periodic recertification of the medical condition and, when leave is for an employee's own serious health condition, a certification that the employee is fit to return to work. Employees who need leave for a qualifying exigency arising from a family member's military service must provide a certification confirming the need for leave. During FMLA leave, the employee may be required to provide periodic reports of the employee's status and intent to return to work.

Benton County may delay leave to employees who do not provide proper advance notice of the foreseeable need for leave, and may delay or deny approval of leave for lack of proper certification establishing the need for leave.

No Discrimination or Retaliation

Benton County does not tolerate any interference, restraint, or denial of the exercise of any right provided by the FMLA, nor does it tolerate any adverse action or discrimination against any individual for exercising FMLA rights, opposing any practice related to the FMLA, or because of involvement in any proceeding related to the FMLA.

Additional Information

Additional information about FMLA leave can be obtained from Benton County's Personnel Resources Department, which is located on the second floor of the Kennewick Justice Center (phone: 737-2777).

Poster and FMLA Forms

- Attachment A: FMLA Poster – Employee Rights and Responsibilities Under the Family and Medical Leave Act
- Attachment B: Notice of Eligibility / Rights & Responsibilities
- Attachment C: Designation Notice
- Attachment D: Certification of Health Care Provider for Employee's Serious Health Condition
- Attachment E: Certification of Health Care Provider for Family Member's Serious Health Condition
- Attachment F: Certification of Qualifying Exigency for Military Family Leave
- Attachment G: Certification for Serious Injury or Illness of Covered Servicemember – for Military Family Leave

Approved and accepted by the undersigned Benton County Elected Officials:

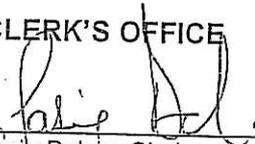
**BENTON COUNTY
BOARD OF COMMISSIONERS**

Max E. Benitz, Chairman

James Beaver, Member

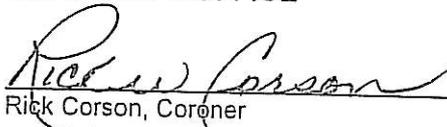
Leo M. Bowman, Member

CLERK'S OFFICE



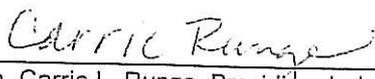
Josie Delvin, Clerk

CORONER'S OFFICE



Rick Corson, Coroner

SUPERIOR COURT



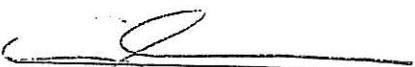
Hon. Carrie L. Runge, Presiding Judge

PROSECUTING ATTORNEY'S OFFICE



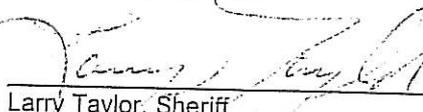
Andy Miller, Prosecuting Attorney

DISTRICT COURT



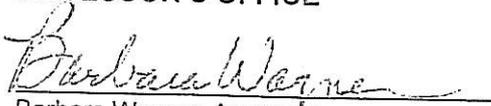
Hon. Holly A. Hollenbeck, Presiding Judge

SHERIFF'S OFFICE



Larry Taylor, Sheriff

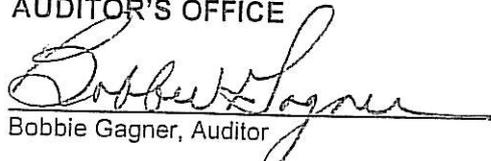
ASSESSOR'S OFFICE


Barbara Wagner, Assessor

TREASURER'S OFFICE


Duane Davidson, Treasurer

AUDITOR'S OFFICE


Bobbie Gagner, Auditor

EMPLOYEE RIGHTS AND RESPONSIBILITIES UNDER THE FAMILY AND MEDICAL LEAVE ACT

Basic Leave Entitlement

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- For incapacity due to pregnancy, prenatal medical care or child birth;
- To care for the employee's child after birth, or placement for adoption or foster care;
- To care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform the employee's job.

Military Family Leave Entitlements

Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the servicemember medically unfit to perform his or her duties for which the servicemember is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

Benefits and Protections

During FMLA leave, the employer must maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

Eligibility Requirements

Employees are eligible if they have worked for a covered employer for at least one year, for 1,250 hours over the previous 12 months, and if at least 50 employees are employed by the employer within 75 miles.

Definition of Serious Health Condition

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

Use of Leave

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

Substitution of Paid Leave for Unpaid Leave

Employees may choose or employers may require use of accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the employer's normal paid leave policies.

Employee Responsibilities

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures.

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

Employer Responsibilities

Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

Covered employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

Unlawful Acts by Employers

FMLA makes it unlawful for any employer to:

- Interfere with, restrain, or deny the exercise of any right provided under FMLA;
- Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

Enforcement

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer.

FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

FMLA section 109 (29 U.S.C. § 2619) requires FMLA covered employers to post the text of this notice. Regulations 29 C.F.R. § 825.300(a) may require additional disclosures.



For additional information:
1-866-4US-WAGE (1-866-487-9243) TTY: 1-877-889-5627
WWW.WAGEHOUR.DOL.GOV



U.S. Wage and Hour Division

U.S. Department of Labor | Employment Standards Administration | Wage and Hour Division

WHD Publication 1420 Revised January 2009

ATTACHMENT A

BENTON COUNTY

**NOTICE OF ELIGIBILITY / RIGHTS & RESPONSIBILITIES
(FAMILY AND MEDICAL LEAVE ACT)**

Part A – NOTICE OF ELIGIBILITY

TO: _____
Employee

DATE: _____

FROM: _____
Elected Official/Department Manager

On _____, we acquired information that you need leave, or you informed us that you need leave, beginning on _____ and ending on or about _____, for:

- _____ The birth of a child, or placement of a child with you for adoption or foster care.
- _____ Your own serious health condition.
- _____ Because you are needed to care for your _____ spouse _____ child _____ parent due to his/her serious health condition.
- _____ Because of a qualifying exigency arising out of the fact that your _____ spouse _____ son/daughter _____ parent is on active duty or call to active duty status in support of a contingency operation as a member of the National Guard or Reserves.
- _____ Because you are the _____ spouse _____ son/daughter _____ parent _____ next of kin of a covered servicemember with a serious injury or illness.

This Notice is to inform you that you:

- _____ Are eligible for FMLA leave (See Part B below for Rights and Responsibilities).
- _____ Are **not** eligible for FMLA leave, because (only one reason need be checked, although you may not be eligible for other reasons):
 - _____ You have not met the FMLA's 12-month length of service requirement. As of the first date of requested leave, you will have worked approximately _____ months towards this requirement.
 - _____ You have not met the FMLA's 1,250-hours-worked requirement.
- _____ Meet eligibility requirements for FMLA leave, but have exhausted your leave entitlement for the 12-month period.

Part B – RIGHTS AND RESPONSIBILITIES FOR TAKING FMLA LEAVE

As explained in Part A, you meet the eligibility requirements for taking FMLA leave and still have FMLA leave available in the applicable 12-month period. **However, for us to determine whether your absence qualifies as FMLA leave, you must return the following information to us by _____.** If a certification is requested below, you have at least 15 calendar days from receipt of this Notice to return the certification. If sufficient information is not provided in a timely manner, your leave may be denied.

- _____ Sufficient certification to support your request for FMLA leave. A certification form that sets forth the information necessary to support your request _____ is _____ is not enclosed.
- _____ Sufficient documentation to establish the required relationship between you and your family member.
- _____ Other information needed: _____

- _____ No additional information requested.

If your leave does qualify as FMLA leave, you will have the following responsibilities while on FMLA leave (only checked blanks apply):

During paid FMLA leave, your portion of **insurance premiums** will continue to be deducted from your paycheck. For any unpaid portions of your FMLA leave, contact the Personnel Resources Office at 737-2777 to make arrangements to continue to make your share of the premium payments on your health insurance to maintain health benefits while you are on leave. You have a 30-day grace period in which to make premium payments. If payment is not timely, your group health insurance may be cancelled, provided we notify you in writing at least 15 days before the date that your health coverage will lapse, or, at our option, we may pay your share of the premiums during FMLA leave, and recover these payments from you upon your return to work.

Except as otherwise provided in the applicable collective bargaining agreement or nonbargaining employee policy, you will be required to use your available **accrued paid leave** (vacation, floating holiday, and sick leave, if applicable) during your FMLA absence, provided you meet requirements of the leave policy. During paid FMLA leave, use of your accrued paid leave is considered protected FMLA leave and counted against your FMLA leave entitlement. Conditions related to use of accrued paid leave are set forth in the applicable collective bargaining agreement or nonbargaining employee policy, copies of which can be obtained in the Personnel Resources Office. If you do not meet the requirements for taking paid leave, you remain entitled to take unpaid FMLA leave. Compensatory time off is not a form of accrued paid leave that must be used during an FMLA leave. An employee may request to use any accrued compensatory time off for an FMLA-qualifying reason, but the absence is not counted against the employee's FMLA leave entitlement.

Due to your status with Benton County, you are considered a "**key employee**" as defined in the FMLA, and restoration to employment may be denied following FMLA leave because restoration will cause substantial and grievous economic injury to the County. We **have** **have not** determined that restoring you to employment at the end of FMLA leave will cause substantial and grievous economic harm to the County.

While on leave, you will be required to furnish **periodic reports** of your status and intent to return to work. Contact _____ every _____. (Indicate interval of periodic reports, as appropriate for the particular leave situation.)

If the circumstances of your leave change and you are able to return to work earlier than the date initially provided, you will be required to notify your supervisor at least two workdays prior to the date you intend to report for work.

If your leave does qualify as FMLA leave, you will have the following rights while on FMLA leave:

- You have a right under the FMLA for up to 12 weeks of unpaid leave in a 12-month period calculated as a "rolling" 12-month period measured backward from the date of any FMLA leave usage.
- You have the right under the FMLA for up to 26 weeks of unpaid leave in a single 12-month period to care for a covered servicemember with a serious injury or illness. This single 12-month period commenced on _____.
- Your health benefits must be maintained during any period of unpaid leave under the same conditions as if you continued to work.
- You must be reinstated to the same or an equivalent job with the same pay, benefits, and terms and conditions of employment on your return from FMLA-protected leave. (If your leave extends beyond the end of your FMLA entitlement, you do not have return rights under FMLA.)
- If you do not return to work following FMLA leave for a reason other than: 1) the continuation, recurrence, or onset of a serious health condition which would entitle you to FMLA leave; 2) the continuation, recurrence, or onset of a covered servicemember's serious injury or illness which would entitle you to FMLA leave; or 3) other circumstances beyond your control, you may be required to reimburse the County for its share of health insurance premiums paid on your behalf during your FMLA leave.

Once we obtain the information from you as specified above, we will inform you, usually within 5 business days, whether your leave will be designated as FMLA leave and count towards your FMLA leave entitlement. If you have any questions, please do not hesitate to contact: _____ at _____.

BENTON COUNTY

DESIGNATION NOTICE (FAMILY AND MEDICAL LEAVE ACT)

TO: _____
Employee

DATE: _____

FROM: _____
Elected Official/Department Manager

We have reviewed your need or request for FMLA leave and any supporting documentation you have provided.

We received your most recent information on _____ and decided:

Your FMLA leave request is approved. All leave taken for this reason will be designated as FMLA leave. The FMLA requires that you notify us as soon as practicable if dates of scheduled leave change or are extended, or were initially unknown. Based on the information you have provided to date, we are providing the following information about the amount of time that will be counted against your leave entitlement:

_____ Provided there is no deviation from your anticipated leave schedule, the following number of hours, days, or weeks will be counted against your leave entitlement: _____

_____ Because the leave you will need will be unscheduled, it is not possible to provide the hours, days, or weeks that will be counted against your FMLA entitlement at this time. You have the right to request this information once in a 30-day period (if leave was taken in the 30-day period).

Please be advised:

We are requiring you to substitute or use paid leave during your FMLA leave, except as otherwise provided in the applicable collective bargaining agreement or nonbargaining employee policy, provided you meet requirements of the leave policy. Paid and unpaid leave taken for this reason count against your FMLA leave entitlement.

_____ You will be required to present a fitness-for-duty certificate to be restored to employment. If such certification is not timely received, your return to work may be delayed until certification is provided. A list of the essential functions of your position is attached. The fitness-for-duty certification must address your ability to perform these functions.

Additional information is needed to determine if your FMLA leave request can be approved:

_____ The certification you provided is not complete and sufficient to determine whether the FMLA applies to your leave request. You must provide the following information no later than _____ (which is at least seven calendar days from this Notice), unless it is not practicable under the particular circumstances despite your diligent good faith efforts, or your leave may be denied. The following information is needed:

_____ We are exercising our right to have you obtain a second or third opinion medical certification at our expense, and we will provide further details at a later time.

Your FMLA Leave request is Not Approved.

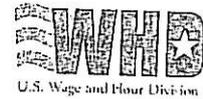
_____ The FMLA does not apply to your leave request.

_____ You have exhausted your FMLA leave entitlement in the applicable 12-month period.

_____ Other: _____

Certification of Health Care Provider for
Employee's Serious Health Condition
(Family and Medical Leave Act)

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division



OMB Control Number: 1215-0181
Expires: 12/31/2011

SECTION I: For Completion by the EMPLOYER

INSTRUCTIONS to the EMPLOYER: The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA protections because of a need for leave due to a serious health condition to submit a medical certification issued by the employee's health care provider. Please complete Section I before giving this form to your employee. Your response is voluntary. While you are not required to use this form, you may not ask the employee to provide more information than allowed under the FMLA regulations, 29 C.F.R. §§ 825.306-825.308. Employers must generally maintain records and documents relating to medical certifications, recertifications, or medical histories of employees created for FMLA purposes as confidential medical records in separate files/records from the usual personnel files and in accordance with 29 C.F.R. § 1630.14(c)(1), if the Americans with Disabilities Act applies.

Employer name and contact: _____

Employee's job title: _____ Regular work schedule: _____

Employee's essential job functions: _____

Check if job description is attached: _____

SECTION II: For Completion by the EMPLOYEE

INSTRUCTIONS to the EMPLOYEE: Please complete Section II before giving this form to your medical provider. The FMLA permits an employer to require that you submit a timely, complete, and sufficient medical certification to support a request for FMLA leave due to your own serious health condition. If requested by your employer, your response is required to obtain or retain the benefit of FMLA protections. 29 U.S.C. §§ 2613, 2614(c)(3). Failure to provide a complete and sufficient medical certification may result in a denial of your FMLA request. 20 C.F.R. § 825.313. Your employer must give you at least 15 calendar days to return this form. 29 C.F.R. § 825.305(b).

Your name: _____
First Middle Last

SECTION III: For Completion by the HEALTH CARE PROVIDER

INSTRUCTIONS to the HEALTH CARE PROVIDER: Your patient has requested leave under the FMLA. Answer, fully and completely, all applicable parts. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as "lifetime," "unknown," or "indeterminate" may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the employee is seeking leave. Please be sure to sign the form on the last page.

Provider's name and business address: _____

Type of practice / Medical specialty: _____

Telephone: () Fax: ()

PART A: MEDICAL FACTS

1. Approximate date condition commenced: _____

Probable duration of condition: _____

Mark below as applicable:

Was the patient admitted for an overnight stay in a hospital, hospice, or residential medical care facility?
___ No ___ Yes. If so, dates of admission:

Date(s) you treated the patient for condition:

Will the patient need to have treatment visits at least twice per year due to the condition? ___ No ___ Yes.

Was medication, other than over-the-counter medication, prescribed? ___ No ___ Yes.

Was the patient referred to other health care provider(s) for evaluation or treatment (e.g., physical therapist)?
___ No ___ Yes. If so, state the nature of such treatments and expected duration of treatment:

2. Is the medical condition pregnancy? ___ No ___ Yes. If so, expected delivery date: _____

3. Use the information provided by the employer in Section I to answer this question. If the employer fails to provide a list of the employee's essential functions or a job description, answer these questions based upon the employee's own description of his/her job functions.

Is the employee unable to perform any of his/her job functions due to the condition: ___ No ___ Yes.

If so, identify the job functions the employee is unable to perform:

4. Describe other relevant medical facts, if any, related to the condition for which the employee seeks leave (such medical facts may include symptoms, diagnosis, or any regimen of continuing treatment such as the use of specialized equipment):

PART B: AMOUNT OF LEAVE NEEDED

5. Will the employee be incapacitated for a single continuous period of time due to his/her medical condition, including any time for treatment and recovery? No Yes.

If so, estimate the beginning and ending dates for the period of incapacity: _____

6. Will the employee need to attend follow-up treatment appointments or work part-time or on a reduced schedule because of the employee's medical condition? No Yes.

If so, are the treatments or the reduced number of hours of work medically necessary?
 No Yes.

Estimate treatment schedule, if any, including the dates of any scheduled appointments and the time required for each appointment, including any recovery period:

Estimate the part-time or reduced work schedule the employee needs, if any:

_____ hour(s) per day; _____ days per week from _____ through _____

7. Will the condition cause episodic flare-ups periodically preventing the employee from performing his/her job functions? No Yes.

Is it medically necessary for the employee to be absent from work during the flare-ups?
 No Yes. If so, explain:

Based upon the patient's medical history and your knowledge of the medical condition, estimate the frequency of flare-ups and the duration of related incapacity that the patient may have over the next 6 months (e.g., 1 episode every 3 months lasting 1-2 days):

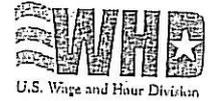
Frequency: _____ times per _____ week(s) _____ month(s)

Duration: _____ hours or _____ day(s) per episode

ADDITIONAL INFORMATION: IDENTIFY QUESTION NUMBER WITH YOUR ADDITIONAL ANSWER

Certification of Health Care Provider for
Family Member's Serious Health Condition
(Family and Medical Leave Act)

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division



OMB Control Number: 1215-0181
Expires: 12/31/2011

SECTION I: For Completion by the EMPLOYER

INSTRUCTIONS to the EMPLOYER: The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA protections because of a need for leave to care for a covered family member with a serious health condition to submit a medical certification issued by the health care provider of the covered family member. Please complete Section I before giving this form to your employee. Your response is voluntary. While you are not required to use this form, you may not ask the employee to provide more information than allowed under the FMLA regulations, 29 C.F.R. §§ 825.306-825.308. Employers must generally maintain records and documents relating to medical certifications, recertifications, or medical histories of employees' family members, created for FMLA purposes as confidential medical records in separate files/records from the usual personnel files and in accordance with 29 C.F.R. § 1630.14(c)(1), if the Americans with Disabilities Act applies.

Employer name and contact: _____

SECTION II: For Completion by the EMPLOYEE

INSTRUCTIONS to the EMPLOYEE: Please complete Section II before giving this form to your family member or his/her medical provider. The FMLA permits an employer to require that you submit a timely, complete, and sufficient medical certification to support a request for FMLA leave to care for a covered family member with a serious health condition. If requested by your employer, your response is required to obtain or retain the benefit of FMLA protections. 29 U.S.C. §§ 2613, 2614(c)(3). Failure to provide a complete and sufficient medical certification may result in a denial of your FMLA request. 29 C.F.R. § 825.313. Your employer must give you at least 15 calendar days to return this form to your employer. 29 C.F.R. § 825.305.

Your name: _____
First Middle Last

Name of family member for whom you will provide care: _____
First Middle Last

Relationship of family member to you: _____
First Middle Last

If family member is your son or daughter, date of birth: _____

Describe care you will provide to your family member and estimate leave needed to provide care:

Employee Signature _____ Date _____

SECTION III: For Completion by the HEALTH CARE PROVIDER

INSTRUCTIONS to the HEALTH CARE PROVIDER: The employee listed above has requested leave under the FMLA to care for your patient. Answer, fully and completely, all applicable parts below. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as "lifetime," "unknown," or "indeterminate" may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the patient needs leave. Page 3 provides space for additional information, should you need it. Please be sure to sign the form on the last page.

Provider's name and business address: _____

Type of practice / Medical specialty: _____

Telephone: (_____) _____ = _____ Fax: (_____) _____

PART A: MEDICAL FACTS

1. Approximate date condition commenced: _____

Probable duration of condition: _____

Was the patient admitted for an overnight stay in a hospital, hospice, or residential medical care facility?
 No Yes. If so, dates of admission: _____

Date(s) you treated the patient for condition: _____

Was medication, other than over-the-counter medication, prescribed? No Yes.

Will the patient need to have treatment visits at least twice per year due to the condition? No Yes

Was the patient referred to other health care provider(s) for evaluation or treatment (e.g., physical therapist)?
 No Yes. If so, state the nature of such treatments and expected duration of treatment:

2. Is the medical condition pregnancy? No Yes. If so, expected delivery date: _____

3. Describe other relevant medical facts, if any, related to the condition for which the patient needs care (such as medical facts may include symptoms, diagnosis, or any regimen of continuing treatment such as the use of specialized equipment):

PART B: AMOUNT OF CARE NEEDED: When answering these questions, keep in mind that your patient's need for care by the employee seeking leave may include assistance with basic medical, hygienic, nutritional, safety or transportation needs, or the provision of physical or psychological care:

4. Will the patient be incapacitated for a single continuous period of time, including any time for treatment and recovery? No Yes.

Estimate the beginning and ending dates for the period of incapacity: _____

During this time, will the patient need care? No Yes.

Explain the care needed by the patient and why such care is medically necessary:

5. Will the patient require follow-up treatments, including any time for recovery? No Yes.

Estimate treatment schedule, if any, including the dates of any scheduled appointments and the time required for each appointment, including any recovery period:

Explain the care needed by the patient, and why such care is medically necessary: _____

6. Will the patient require care on an intermittent or reduced schedule basis, including any time for recovery? No Yes.

Estimate the hours the patient needs care on an intermittent basis, if any:

_____ hour(s) per day; _____ days per week from _____ through _____

Explain the care needed by the patient, and why such care is medically necessary:

7. Will the condition cause episodic flare-ups periodically preventing the patient from participating in normal daily activities? No Yes.

Based upon the patient's medical history and your knowledge of the medical condition, estimate the frequency of flare-ups and the duration of related incapacity that the patient may have over the next 6 months (e.g., 1 episode every 3 months lasting 1-2 days):

Frequency: times per week(s) month(s)

Duration: hours or day(s) per episode

Does the patient need care during these flare-ups? No Yes.

Explain the care needed by the patient, and why such care is medically necessary: _____

ADDITIONAL INFORMATION: IDENTIFY QUESTION NUMBER WITH YOUR ADDITIONAL ANSWER

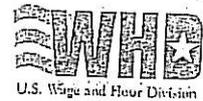
Signature of Health Care Provider Date

PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT

If submitted, it is mandatory for employers to retain a copy of this disclosure in their records for three years. 29 U.S.C. § 2616; 29 C.F.R. § 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 20 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Ave., NW, Washington, DC 20210. **DO NOT SEND COMPLETED FORM TO THE DEPARTMENT OF LABOR; RETURN TO THE PATIENT.**

Certification of Qualifying Exigency
For Military Family Leave
(Family and Medical Leave Act)

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division



OMB Control Number: 1215-0181
Expires: 12/31/2011

SECTION I: For Completion by the EMPLOYER

INSTRUCTIONS to the EMPLOYER: The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA leave due to a qualifying exigency to submit a certification. Please complete Section I before giving this form to your employee. Your response is voluntary, and while you are not required to use this form, you may not ask the employee to provide more information than allowed under the FMLA regulations, 29 C.F.R. § 825.309.

Employer name: _____

Contact Information: _____

SECTION II: For Completion by the EMPLOYEE

INSTRUCTIONS to the EMPLOYEE: Please complete Section II fully and completely. The FMLA permits an employer to require that you submit a timely, complete, and sufficient certification to support a request for FMLA leave due to a qualifying exigency. Several questions in this section seek a response as to the frequency or duration of the qualifying exigency. Be as specific as you can; terms such as "unknown," or "indeterminate" may not be sufficient to determine FMLA coverage. Your response is required to obtain a benefit. 29 C.F.R. § 825.310. While you are not required to provide this information, failure to do so may result in a denial of your request for FMLA leave. Your employer must give you at least 15 calendar days to return this form to your employer.

Your Name: _____
First Middle Last

Name of covered military member on active duty or call to active duty status in support of a contingency operation:

First Middle Last

Relationship of covered military member to you: _____

Period of covered military member's active duty: _____

A complete and sufficient certification to support a request for FMLA leave due to a qualifying exigency includes written documentation confirming a covered military member's active duty or call to active duty status in support of a contingency operation. Please check one of the following:

- A copy of the covered military member's active duty orders is attached.
- Other documentation from the military certifying that the covered military member is on active duty (or has been notified of an impending call to active duty) in support of a contingency operation is attached.
- I have previously provided my employer with sufficient written documentation confirming the covered military member's active duty or call to active duty status in support of a contingency operation.

PART A: QUALIFYING REASON FOR LEAVE

1. Describe the reason you are requesting FMLA leave due to a qualifying exigency (including the specific reason you are requesting leave):

2. A complete and sufficient certification to support a request for FMLA leave due to a qualifying exigency includes any available written documentation which supports the need for leave; such documentation may include a copy of a meeting announcement for informational briefings sponsored by the military, a document confirming an appointment with a counselor or school official, or a copy of a bill for services for the handling of legal or financial affairs. Available written documentation supporting this request for leave is attached. Yes No None Available

PART B: AMOUNT OF LEAVE NEEDED

1. Approximate date exigency commenced: _____

Probable duration of exigency: _____

2. Will you need to be absent from work for a single continuous period of time due to the qualifying exigency? No Yes.

If so, estimate the beginning and ending dates for the period of absence:

3. Will you need to be absent from work periodically to address this qualifying exigency? No Yes.

Estimate schedule of leave, including the dates of any scheduled meetings or appointments:

Estimate the frequency and duration of each appointment, meeting, or leave event, including any travel time (i.e., 1 deployment-related meeting every month lasting 4 hours):

Frequency: _____ times per _____ week(s) _____ month(s)

Duration: _____ hours _____ day(s) per event.

PART C

If leave is requested to meet with a third party (such as to arrange for childcare, to attend counseling, to attend meetings with school or childcare providers, to make financial or legal arrangements, to act as the covered military member's representative before a federal, state, or local agency for purposes of obtaining, arranging or appealing military service benefits, or to attend any event sponsored by the military or military service organizations), a complete and sufficient certification includes the name, address, and appropriate contact information of the individual or entity with whom you are meeting (i.e., either the telephone or fax number or email address of the individual or entity). This information may be used by your employer to verify that the information contained on this form is accurate.

Name of Individual: _____ Title: _____

Organization: _____

Address: _____

Telephone: () _____ Fax: () _____

Email: _____

Describe nature of meeting: _____

PART D

I certify that the information I provided above is true and correct.

Signature of Employee

Date

PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT

If submitted, it is mandatory for employers to retain a copy of this disclosure in their records for three years. 29 U.S.C. § 2616; 29 C.F.R. § 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 20 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution AV, NW, Washington, DC 20210. DO NOT SEND THE COMPLETED FORM TO THE WAGE AND HOUR DIVISION; RETURN IT TO THE EMPLOYER.

Certification for Serious Injury or
Illness of Covered Servicemember - -
for Military Family Leave (Family and
Medical Leave Act)

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division



OMB Control Number: 1215-0181
Expires: 12/31/2011

Notice to the EMPLOYER INSTRUCTIONS to the EMPLOYER: The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA leave due to a serious injury or illness of a covered servicemember to submit a certification providing sufficient facts to support the request for leave. Your response is voluntary. While you are not required to use this form, you may not ask the employee to provide more information than allowed under the FMLA regulations, 29 C.F.R. § 825.310. Employers must generally maintain records and documents relating to medical certifications, recertifications, or medical histories of employees or employees' family members, created for FMLA purposes as confidential medical records in separate files/records from the usual personnel files and in accordance with 29 C.F.R. § 1630.14(c)(1), if the Americans with Disabilities Act applies.

SECTION I: For Completion by the EMPLOYEE and/or the COVERED SERVICEMEMBER for whom the Employee Is Requesting Leave INSTRUCTIONS to the EMPLOYEE or COVERED SERVICEMEMBER: Please complete Section I before having Section II completed. The FMLA permits an employer to require that an employee submit a timely, complete, and sufficient certification to support a request for FMLA leave due to a serious injury or illness of a covered servicemember. If requested by the employer, your response is required to obtain or retain the benefit of FMLA-protected leave. 29 U.S.C. §§ 2613, 2614(c)(3). Failure to do so may result in a denial of an employee's FMLA request. 29 C.F.R. § 825.310(f). The employer must give an employee at least 15 calendar days to return this form to the employer.

SECTION II: For Completion by a UNITED STATES DEPARTMENT OF DEFENSE ("DOD") HEALTH CARE PROVIDER or a HEALTH CARE PROVIDER who is either: (1) a United States Department of Veterans Affairs ("VA") health care provider; (2) a DOD TRICARE network authorized private health care provider; or (3) a DOD non-network TRICARE authorized private health care provider INSTRUCTIONS to the HEALTH CARE PROVIDER: The employee listed on Page 2 has requested leave under the FMLA to care for a family member who is a member of the Regular Armed Forces, the National Guard, or the Reserves who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list for a serious injury or illness. For purposes of FMLA leave, a serious injury or illness is one that was incurred in the line of duty on active duty that may render the servicemember medically unfit to perform the duties of his or her office, grade, rank, or rating.

A complete and sufficient certification to support a request for FMLA leave due to a covered servicemember's serious injury or illness includes written documentation confirming that the covered servicemember's injury or illness was incurred in the line of duty on active duty and that the covered servicemember is undergoing treatment for such injury or illness by a health care provider listed above. Answer, fully and completely, all applicable parts. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as "lifetime," "unknown," or "indeterminate" may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the employee is seeking leave.

Certification for Serious Injury or Illness
of Covered Servicemember - - for
Military Family Leave (Family and
Medical Leave Act)

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division



SECTION I: For Completion by the EMPLOYEE and/or the COVERED SERVICEMEMBER for whom the Employee Is Requesting Leave. (This section must be completed first before any of the below sections can be completed by a health care provider.)

Part A: EMPLOYEE INFORMATION

Name and Address of Employer (this is the employer of the employee requesting leave to care for covered servicemember):

Name of Employee Requesting Leave to Care for Covered Servicemember:

First Middle Last

Name of Covered Servicemember (for whom employee is requesting leave to care):

First Middle Last

Relationship of Employee to Covered Servicemember Requesting Leave to Care:

Spouse Parent Son Daughter Next of Kin

Part B: COVERED SERVICEMEMBER INFORMATION

(1) Is the Covered Servicemember a Current Member of the Regular Armed Forces, the National Guard or Reserves? Yes No

If yes, please provide the covered servicemember's military branch, rank and unit currently assigned to:

Is the covered servicemember assigned to a military medical treatment facility as an outpatient or to a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients (such as a medical hold or warrior transition unit)? Yes No If yes, please provide the name of the medical treatment facility or unit:

(2) Is the Covered Servicemember on the Temporary Disability Retired List (TDRL)? Yes No

Part C: CARE TO BE PROVIDED TO THE COVERED SERVICEMEMBER

Describe the Care to Be Provided to the Covered Servicemember and an Estimate of the Leave Needed to Provide the Care:

SECTION II: For Completion by a United States Department of Defense ("DOD") Health Care Provider or a Health Care Provider who is either: (1) a United States Department of Veterans Affairs ("VA") health care provider; (2) a DOD TRICARE network authorized private health care provider; or (3) a DOD non-network TRICARE authorized private health care provider. If you are unable to make certain of the military-related determinations contained below in Part B, you are permitted to rely upon determinations from an authorized DOD representative (such as a DOD recovery care coordinator). (Please ensure that Section I above has been completed before completing this section.) Please be sure to sign the form on the last page.

Part A: HEALTH CARE PROVIDER INFORMATION

Health Care Provider's Name and Business Address: _____

Type of Practice/Medical Specialty: _____

Please state whether you are either: (1) a DOD health care provider; (2) a VA health care provider; (3) a DOD TRICARE network authorized private health care provider; or (4) a DOD non-network TRICARE authorized private health care provider: _____

Telephone: () _____ Fax: () _____ Email: _____

PART B: MEDICAL STATUS

(1) Covered Servicemember's medical condition is classified as (Check One of the Appropriate Boxes):

(VSI) Very Seriously Ill/Injured – Illness/Injury is of such a severity that life is imminently endangered. Family members are requested at bedside immediately. (Please note this is an internal DOD casualty assistance designation used by DOD healthcare providers.)

(SI) Seriously Ill/Injured – Illness/injury is of such severity that there is cause for immediate concern, but there is no imminent danger to life. Family members are requested at bedside. (Please note this is an internal DOD casualty assistance designation used by DOD healthcare providers.)

OTHER Ill/Injured – a serious injury or illness that may render the servicemember medically unfit to perform the duties of the member's office, grade, rank, or rating.

NONE OF THE ABOVE (Note to Employee: If this box is checked, you may still be eligible to take leave to care for a covered family member with a "serious health condition" under § 825.113 of the FMLA. If such leave is requested, you may be required to complete DOL FORM WH-380 or an employer-provided form seeking the same information.)

(2) Was the condition for which the Covered Service member is being treated incurred in line of duty on active duty in the armed forces? Yes No

(3) Approximate date condition commenced: _____

(4) Probable duration of condition and/or need for care: _____

(5) Is the covered servicemember undergoing medical treatment, recuperation, or therapy? Yes No. If yes, please describe medical treatment, recuperation or therapy: _____

PART C: COVERED SERVICEMEMBER'S NEED FOR CARE BY FAMILY MEMBER

- (1) Will the covered servicemember need care for a single continuous period of time, including any time for treatment and recovery? Yes No
If yes, estimate the beginning and ending dates for this period of time: _____
- (2) Will the covered servicemember require periodic follow-up treatment appointments?
 Yes No If yes, estimate the treatment schedule: _____
- (3) Is there a medical necessity for the covered servicemember to have periodic care for these follow-up treatment appointments? Yes No
- (4) Is there a medical necessity for the covered servicemember to have periodic care for other than scheduled follow-up treatment appointments (e.g., episodic flare-ups of medical condition)? Yes No If yes, please estimate the frequency and duration of the periodic care:

Signature of Health Care Provider: _____ Date: _____

PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT

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RESOLUTION

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

IN THE MATTER OF AN INTERLOCAL COOPERATIVE AGREEMENT BETWEEN BENTON COUNTY AND FRANKLIN COUNTY FOR GENERAL EQUIPMENT AND/OR SERVICES THROUGH THEIR DEPARTMENT OF PUBLIC WORKS

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

WHEREAS, Benton County and Franklin County desire to provide equipment and/or services through their Department of Public Works; and

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

WHEREAS, the Board of Benton County Commissioners constitutes the legislative authority of Benton County and desires to enter into the attached agreement as being in the best interest of Benton County,
NOW, THEREFORE,

BE IT RESOLVED the Benton County Board of Commissioners hereby approves the attached Interlocal Cooperative Agreement between Benton County and Franklin county for general equipment and/or services through their Department of Public Works.

Dated this 3rd day of August 2009

Chairman

Chairman Pro-Tem

Member

Attest: _____
Clerk of the Board

Constituting the Board of County
Commissioners of Benton County,
Washington

SWB

g.

**INTERLOCAL COOPERATIVE AGREEMENT
BETWEEN FRANKLIN COUNTY AND BENTON COUNTY
FOR GENERAL EQUIPMENT AND/OR SERVICES THROUGH DEPARTMENT OF
PUBLIC WORKS**

THIS AGREEMENT is made and entered into by and between Franklin County (Hereinafter "Franklin") and Benton County, (Hereinafter "Benton") pursuant to the authority granted by Chapter 39.34 RCW, INTERLOCAL COOPERATION ACT.

**ARTICLE I
PURPOSE**

- 1.01 **PURPOSE.** The purpose of this Agreement is to set forth the terms and conditions under which Franklin County or Benton County will provide equipment and/or services through its Department of Public Works, as requested by either party in a manner convenient to the county providing the equipment or service. Either party to this agreement shall make a reasonable effort to assure the availability of equipment and/or services to the other party.

**ARTICLE II
ADMINISTRATION**

- 2.01 **ADMINISTRATOR.** The following individuals are designated as representatives of the respective parties. The representatives shall be responsible for administration of this Agreement and for coordinating and monitoring performance under this Agreement. In the event such representatives are changed, the party making the change shall notify the other party.
- 2.02 Franklin's representative shall be the County Engineer.
- 2.03 Benton's representative shall be the Public Works Manager.

**ARTICLE III
DURATION AND RENEWAL OF AGREEMENT**

- 3.01 **DURATION AND RENEWAL.** This Agreement shall be effective when executed by both parties and shall continue unless terminated in writing by either party. Thereafter, this Agreement shall automatically renew annually on January 1st unless terminated by either party.

**ARTICLE IV
COMPENSATION TO THE COUNTY**

- 4.01 **COMPENSATION TO THE COUNTY.** Both parties hereby agree to reimburse the other for the costs of the work performed or equipment rented as requested by one county herein to the other county herein and shall be based on the actual cost of labor, equipment, plus all costs for fringe benefits to labor, including but not limited to, Social Security, retirement, industrial and medical aid costs, prorated sick leave, holidays and vacation time, and group medical insurance. Also, an additional fifteen percent of the total costs shall be added for overhead expenses for accounting, billing and administrative services, after a certified statement of the costs is provided within thirty (30) days of the service or equipment rental. The amount invoiced shall be paid within thirty (30) days after billing.

**ARTICLE V
PERFORMANCE OF AGREEMENT**

- 5.01 **COMPLIANCE WITH ALL LAWS.** Each party shall comply with all federal, state, and local laws, rules, regulations and ordinances applicable to the performance of this Agreement, including without limitation, all those pertaining to wages and hours, confidentiality, disabilities, and discrimination.
- 5.02 **MAINTENANCE AND AUDIT OF RECORDS.** Each party shall maintain books, records, documents and other materials relevant to its performance under this Agreement. These records shall be subjected to inspection, review and audit by either party or its designee, and the Washington State Auditor's Office. Each party shall retain all such books, records, documents and other materials for the applicable retention period under federal and Washington law.
- 5.03 **ON-SITE INSPECTIONS.** Either party or its designee may evaluate the performance of this Agreement through on-site inspection to determine whether performance is in compliance with the standards set forth in this Agreement, and in compliance with federal, state and local laws, rules, regulations and ordinances.
- 5.04 **TREATMENT OF ASSETS AND PROPERTY.** No fixed assets or personal or real property will be jointly or cooperatively, acquired, held, used, or disposed of pursuant to this Agreement.

- 5.05 **IMPROPER INFLUENCE**. Each party agrees, warrants and represents that it did not and will not employ, retain or contract with any person or entity on a contingent compensation basis for the purpose of seeking, obtaining, maintaining or extending this Agreement. Each party agrees, warrants and represents that no gratuity whatsoever has been or will be offered or conferred with a view towards obtaining, maintaining or extending this Agreement.
- 5.06 **CONFLICT OF INTEREST**. The elected and appointed officials and employees of the parties shall not have any personal interest, direct or indirect, which gives rise to a conflict of interest.
- 5.07 **ASSIGNMENT AND SUBCONTRACTING**: No portion of this Agreement may be assigned or subcontracted to any other individual, firm or entity without the express and prior written approval of both parties' authorized representatives.
- 5.08 **NOTICE**: Except as set forth elsewhere in the Agreement, for all purposes under this Agreement, except service of process, notice to Benton shall be to the Public Works Manager, P.O. Box 1001, Prosser, Washington, 99350 and to the Benton County Commissioners, P.O. Box 190, Prosser, Washington, 99350. Notice to Franklin for all purposes under this Agreement shall be to: Franklin County Engineer 3416 Stearman Avenue, Pasco, Washington 99301 and the Franklin County Commissioners 1016 North Fourth Avenue, Pasco, Washington 99301.

ARTICLE VI INDEMNIFICATION

- 6.01 **INDEMNIFICATION**. Franklin agrees to and shall defend, indemnify and hold harmless Benton, its appointed and elective officers, agents and employees, from and against all loss or expense, including but not limited to judgments, settlements, attorney's fees and costs by reason of any and all claims and demands upon Benton, its elected or appointed officials, agents or employees for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained by any person or persons and on account of damage to property including loss of use thereof, whether such injury to persons or damage to property is due to the negligence of Franklin, its elected officers, employees or their agents, except only such injury or damage as shall have been occasioned by the sole negligence of Benton, its appointed or elected officials, agents or employees. It is further provided that no liability shall attach to Benton by reason of entering into this contract, except as expressly provided herein.

Benton agrees to and shall defend, indemnify and hold harmless Franklin, its appointed and elective officers, agents and employees, from and against all loss or

expense, including but not limited to judgments, settlements, attorney's fees and costs by reason of any and all claims and demands upon Franklin, its elected or appointed officials, agents or employees for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained by any person or persons and on account of damage to property including loss of use thereof, whether such injury to persons or damage to property is due to the negligence of Benton, its elected officers, employees or their agents, except only such injury or damage as shall have been occasioned by the sole negligence of Franklin, its appointed or elected officials, agents or employees. It is further provided that no liability shall attach to Franklin by reason of entering into this contract, except as expressly provided herein.

ARTICLE VII DISPUTES

- 7.01 **TIME.** Time is of the essence of this Agreement.
- 7.02 **GOVERNING LAW AND VENUE.** This Agreement shall be governed exclusively by the laws of the State of Washington. The Benton County Superior Court shall be the sole proper venue for any and all suits brought to enforce or interpret the provisions of this Agreement.
- 7.03 **ATTORNEY'S FEES.** If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, each party shall pay its own attorney's fees incurred in that action, arbitration or proceeding.

ARTICLE VIII TERMINATION

- 8.01 **TERMINATION.** Any party hereto may terminate this Agreement upon thirty (30) days notice in writing either personally delivered or mailed postage-prepaid by certified mail, return receipt requested, to the party's last known address for the purposes of giving notice under this paragraph. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

**ARTICLE IX
GENERAL PROVISIONS**

- 9.01 **CHANGES, MODIFICATIONS, AMENDMENTS AND WAIVERS.** The Agreement may be changed, modified, amended or waived only by written agreement signed by the parties' authorized representatives and adopted by resolution of each party's legislative authority. Any waiver of a term or condition of this Agreement shall apply only to the specific act, occurrence or omission and shall not constitute a waiver as to any other term or condition or future act, occurrence or omission. Waiver or breach of any term or condition of this Agreement shall not be considered a waiver of any prior or subsequent breach.
- 9.02 **ASSIGNMENT.** Neither party may assign its rights or delegate its duties under this Agreement, whether by assignment, further, subcontract or other means. Any such attempted assignment or delegation shall be void and shall constitute a material breach of this Agreement.
- 9.03 **SEVERABILITY.** In the event any term or condition of this Agreement or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications of this Agreement which can be given effect without the invalid term, condition, or application. To this end the terms and conditions of this Agreement are declared severable.
- 9.04 **ENTIRE AGREEMENT.** This Agreement contains all the terms and conditions agreed upon by the parties. All items incorporated herein by reference are attached. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.
- 9.05 **FILING.** This Agreement shall be filed pursuant to RCW 39.34.040.

IN WITNESS WHEREOF, the parties have executed this Agreement this 8th day of June, 2009

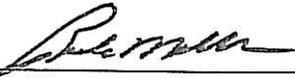
IN WITNESS WHEREOF, the parties have executed this Agreement this ____ day of _____, 2009

APPROVED:

APPROVED:

BOARD OF COUNTY COMMISSIONERS,
FRANKLIN COUNTY, WASHINGTON

BOARD OF COUNTY COMMISSIONERS,
BENTON COUNTY, WASHINGTON


Rick Miller, Chair

Chair


Robert E. Koch, Chair Pro Tem

Member


Brad Peck, Member

Member

ATTEST:

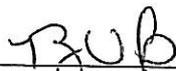
ATTEST: "

By: 
Clerk of the Board

By: _____
Clerk of the Board

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: 
Ryan E. Verhulp, Chief Civil
Deputy Prosecuting Attorney

By: 
Deputy/Prosecuting Attorney

FRANKLIN COUNTY RESOLUTION NO. 2009 221

BEFORE THE BOARD OF COUNTY COMMISSIONERS, FRANKLIN COUNTY,
WASHINGTON

**RE: INTERLOCAL COOPERATIVE AGREEMENT BETWEEN FRANKLIN
COUNTY AND BENTON COUNTY FOR GENERAL EQUIPMENT AND/OR
SERVICES THROUGH THEIR DEPARTMENT OF PUBLIC WORKS**

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

WHEREAS, Franklin County and Benton County desire to provide equipment and/or services through their Department of Public Works; and

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

WHEREAS, the Board of Franklin County Commissioners constitutes the legislative authority of Franklin County and desires to enter into the attached agreement as being in the best interest of Franklin County;

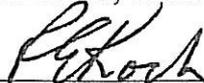
NOW, THEREFORE, BE IT RESOLVED the Franklin County Board of Commissioners hereby approves the attached Interlocal Cooperative Agreement between Franklin County and Benton County for general equipment and/or services through their Department of Public Works.

APPROVED this 8th day of June 2009.

BOARD OF COUNTY COMMISSIONERS
FRANKLIN COUNTY, WASHINGTON



Rick Miller, Chairman



Robert E. Koch, Chair Pro Tem



Brad Peck, Member

Attest:



Clerk to the Board

Originals: Auditor
Benton County
Franklin County Public Works

cc: Franklin County Prosecutor

R

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF AUTHORIZING THE CHAIRMAN OF THE BOARD TO SIGN THE CONTRACT EXTENSION BETWEEN THE BENTON COUNTY SHERIFF'S OFFICE AND ENERGY NORTHWEST TO PROVIDE SPECIALIZED LAW ENFORCEMENT SERVICES ON AN AS NEEDED BASIS, CURRENT EXPENSE FUND NO. 0000-101, SHERIFF PATROL DEPARTMENT 121

WHEREAS, the Benton County Sheriff's Office entered into a contract with Energy Northwest on June 30, 2003 to provide specialized law enforcement services on an as needed basis as requested by the authorized Energy Northwest Technical Representative, contract number 00314952; and

WHEREAS, the Benton County Sheriff's Office and Energy Northwest extended the contract in 2004 through June 30, 2009; and

WHEREAS, the Benton County Sheriff's Office wishes to extend the contract with Energy Northwest through June 30, 2010 and increase the total amount payable to Benton County by \$20,000 for a total amount payable not to exceed \$160,400; and

WHEREAS, the Patrol Captain has reviewed the contract extension and recommends contracting with Energy Northwest; **NOW THEREFORE**

BE IT RESOLVED, by the Board of Benton County Commissioners, Benton County Washington, the Board concurs with the Patrol Captain's recommendation and hereby authorizes the Chairman of the Board to sign the attached Contract Extension with Energy Northwest; and

BE IT FURTHER RESOLVED, that the term of the attached Contract Extension expires on June 30, 2010; and

BE IT FURTHER RESOLVED, that all other terms and conditions of the Contract shall remain the same including the Memo of Understanding dated May 19, 2005.

Dated this _____ day of _____, 2009.

Chairman of the Board

Member

Member

Constituting the Board of Commissioners
of Benton County, Washington.

Attest.....
Clerk of the Board

Orig: Sheriff's Office
cc: Auditor, Rosemary, Energy NW

Prepared by: K Mercer

Contract

ENERGY NORTHWEST
People·Vision·Solutions
Contracts & Purchasing

Contract: 00314952
Release :
Executed: 06/30/03
Printed : 07/20/09
Page : 1

Mail Invoice To:

ACCOUNTS PAYABLE MD PE55
ENERGY NORTHWEST
PO BOX 968
RICHLAND WA 99352-0968

Vendor Code: B0947
KEITH MERCER
BENTON COUNTY SHERIFF
7320 WEST QUINAULT
KENNEWICK WA 99336

Vendor Phone: (509) 735-6555
Vendor Fax: (509) 736-3895
Work Location:

Please Direct Inquiries to:

LINDA M. PARRELLA
Title: PURCH/CNTR LEAD
Phone: 509-377-4251
Fax : 509-377-4357

Ext:

Title: BENTON COUNTY SHERIFF LAW ENFORCEMENT SERVICES

** DUPLICATE COPY **

Total Value : \$160,400.00 USD
Pricing Method: FIRM FIXED PRICE

Contract Type : CONSULTING/TECHNICAL SER
Project : ADMINOHD

Start Date: 07/01/09
End Date : 06/30/10

Vendor Authorized Signature

Linda Parrella

Authorized Signature

Printed Name/Title

7/20/09 Printed Name/Title

Date Signed

Phone

Date Signed

Phone

Terms and Conditions - Text at End

Fac	Standard	Rev	S/P	Text	Title
	APPENDIX A	000		N	STATEMENT OF WORK
	APPENDIX B	001	S	N	SCHEDULE OF PAYMENTS

Contract Amendments

Contract

 **ENERGY
NORTHWEST**
People·Vision·Solutions
Contracts & Purchasing

Contract: 00314952
Release :
Executed: 06/30/03
Printed : 07/20/09
Page : 2

Amendment: 003

Execution Date : 07/20/09

Title : INCREASE CONTRACT VALUE BY \$20,000 AND EXTEND TERM

Amended Start : 07/01/09

Amended End Date: 06/30/10

Amendment Value: \$20,000.00

Pricing Method : FIRM FIXED PRICE

* * * End of Contract * * *

S

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY FUNDS RE: TRANSFER OF FUNDS WITHIN
CURRENT EXPENSE FUND NUMBER 0000-101, SHERIFF PATROL
DEPARTMENT NUMBER 121.

BE IT RESOLVED, by the Board of Benton County Commissioners, that 2009
funds shall be transferred as outlined in Exhibit "A", attached hereto.

Dated this day of ,

Chairman of the Board

Member

Member

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

Attest:
Clerk of the Board

BENTON COUNTY LINE ITEM TRANSFER

Dept Name: Sheriff Patrol

Dept Nbr: 121

Fund Name: Current Expense

Fund Nbr: 0000-101

TRANSFER FROM:

TRANSFER TO:

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT	BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
521.210	1455	Investigator	\$6,320	521.931	1562	Detective	\$6,320
TOTAL			\$6,320	TOTAL			\$6,320

Explanation:

This line item transfer is needed do to grant award notification and contract for the Registered Sex Offender Address and Residency Verification Program not being received in sufficient time to requests a supplement before the July 2009 payroll is processed. BCSO received notification that the funding for this program is extended through June 30, 2010 and is expected to be extended into 2011. A requests for supplement to the budget funding the Registered Sex Offender Address and Residency Verification Program for the second half of 2009 will follow.

Prepared by: Julie Thompson

Date: 24-Jul-2009

Approved

Denied

Date: _____

Chairman

Member

Member

RESOLUTION



BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY FUNDS RE: TRANSFER OF FUNDS WITHIN
SUSTAINABLE DEV. FUND NUMBER 0135-101, DEPARTMENT NUMBER 000.

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

Dated this _____ day of _____, _____

Chairman of the Board

Member

Member

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

Attest: _____
Clerk of the Board

cc: Dept., Auditor, L. Ivey

BENTON COUNTY LINE ITEM TRANSFER

Dept Name: Sustainable Dev.

Dept Nbr: 000

Fund Name: Sustainable Dev.

Fund Nbr: 0135-101

TRANSFER FROM:

TRANSFER TO:

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT	BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
558.610	4102	Contract Services	\$475	558.610	9101	Data Processing Admin.	\$475
TOTAL			\$475	TOTAL			\$475

Explanation:

Transfer needed to pay for additional administrative costs associated with Blackberry Services.

Prepared by: Cami McKenzie

Date: 22-Jul-2009

Approved

Denied

Date: _____

Chairman

Member

Member



Washington State Auditor
Brian Sonntag

9:05
RECEIVED

JUL 15 2009

BENTON COUNTY
COMMISSIONERS

July 13, 2009

Max	<input checked="" type="checkbox"/>
Leo	<input checked="" type="checkbox"/>
Jim	<input checked="" type="checkbox"/>
David	<input checked="" type="checkbox"/>
Loretta	<input checked="" type="checkbox"/>
Other	<input type="checkbox"/>

Max Benitz
Benton County Commissioner
620 Market St.
P.O. Box 190
Prosser, WA 99350

Dear Mr. Benitz:

Thank you for contacting us regarding your concerns about the inter-local agreements among Benton County and other counties in central and south-eastern Washington. The agreements establish Greater Columbia Behavioral Health as a Regional Support Network to provide mental health services. You also raised a concern about a possible conflict of interest.

We reviewed your concerns, listed below, and found:

Question 1:

Can four inter-local agreements be used to establish Greater Columbia Behavioral Health?

Response:

State law (RCW 39.34.030) outlines the requirements for inter-local agreements. If one agency is being created, only one inter-local should be used to outline procedures, policies, bylaws and other areas of its formation.

Question 2:

Can contracted providers of mental health services be voting members of the Greater Columbia's Board and serve on the Funding and Fiscal Operations Committee?

Response:

State law (RCW 42.23) says in part that providers acting as "municipal officers" of such an organization cannot vote on issues that would indirectly or directly



FOIP

benefit them, whether they are on a board or a committee. The law provides some exceptions, one of which applies when the individual has only a remote interest in the action and has disclosed that interest to other board and/or committee members and documented the issue in meeting minutes. Other exceptions may be found in state law (RCW 42.23.030 and .040). Questions relating specifically to the Board should be discussed with your legal counsel.

Question 3:

Does the State's quality assurance requirement (Subpart D – Quality Assessment and Performance Improvement, Section 438,214 (d), criteria No. 3) for regional support networks need to be included in the inter-local agreement?

Response:

This provision should not be included as it appears to be an operational requirement and not related to formation requirements for the network.

If you have any questions regarding our response, please contact us at (509) 734-7104.

Sincerely,



Kent Zirker
Washington State Auditor's Office
Audit Manager, Team Tri-Cities

Cc: Julie LaPierre, GCBH Interim Director/Office Manager

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

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

RECITALS

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

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

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

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

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

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

ARTICLE 1

PURPOSE

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

ARTICLE 2

PARTIES TO AGREEMENT

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

ARTICLE 3

EFFECTIVE DATE AND DURATION OF AGREEMENT

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

ARTICLE 4

MEMBERSHIP COMPOSITION

Membership, pursuant to RCW 71.24 as amended from time to time, shall be limited to the several counties of and in the State of Washington. GCBH through its Bylaws shall provide for the reasonable admission of new member counties. In accordance with RCW 71.24.300 the member counties shall include tribal authorities in the administration and management of GCBH if requested by the tribal authority. As signatories to the Agreement the counties shall be known as the "member counties". The tribal authority appointed to GCBH, if any, shall be known as the "member tribal authority". A new member county may join GCBH after approval of majority vote of the ~~Governing Board~~ as defined in Article 6, Section A, and shall become an active participant member of GCBH commencing on the date specified by the ~~Governing Board~~.

ARTICLE 5

NATURE OF THE REGION

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

ARTICLE 6

ORGANIZATION

~~I. GOVERNING BOARD~~

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

Each county shall appoint a Director and one Alternate Director in the manner set forth above. Alternate Directors shall have the same authority to attend, participate in, and vote at any meeting of the Governing Board or a Committee. ~~as that member county's Director when such Director is absent from the meeting.~~ Alternate Directors shall have the same authority when the Director is absent as herein provided. Only Directors shall vote on the adoption of bylaws, the approval of biennial budgets for expenditures and supplements, the Funding Allocation Policy or the involuntary cancellation of a member county. Each Director shall have one vote.

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

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

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

OPERATIONAL BOARD

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

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

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

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

ARTICLE 7

INSURANCE AND INDEMNIFICATION:

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

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

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

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

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

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

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

ARTICLE 8

ADMINISTRATIVE ENTITY

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

ARTICLE 9

BUDGET AND RECORDS

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

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

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

ARTICLE 10

CANCELLATION AND WITHDRAWAL

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

1. failure to participate in a majority of meetings of the ~~Governing Board~~,

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

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

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

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

ARTICLE 11

TERMINATION OF GCBH

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

ARTICLE 12

PROPERTY OF THE REGION

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

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

ARTICLE 13

LEGAL NOTICES

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

ARTICLE 14

AMENDMENTS

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

ARTICLE 15

PROHIBITION AGAINST ASSIGNMENT

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

ARTICLE 16

ENFORCEMENT AND VENUE

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

ARTICLE 17

DEFAULT

If any member county fails to perform any term or condition of this Agreement and such failure continues for a period of sixty (60) days after GCBH has given the member county written notice of such failure, the member county shall be in default thereunder. Upon default, GCBH may immediately cancel the member county's membership effective immediately without further notice, or exercise any remedies herein

provided or otherwise provided by law. The rights and remedies of GCBH are cumulative in nature and pursuit of any particular remedy shall not be deemed an election of remedies or a waiver of any other remedies available thereunder or otherwise available by law.

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

ARTICLE 18

NO WAIVERS

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

ARTICLE 19

SEVERABILITY

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

ARTICLE 20

TIME

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

ARTICLE 21

HEADINGS

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

ARTICLE 22

GOVERNING LAW

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

ARTICLE 23

COUNTERPART COPIES

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

ARTICLE 24

AGREEMENT COMPLETE

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

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

~~SECOND AMENDED INTERLOCAL AGREEMENT FOR THE REFORMATION OF
GREATER COLUMBIA BEHAVIORAL HEALTH REGIONAL SUPPORT NETWORK~~

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

ASOTIN COUNTY, WASHINGTON

Chairman

Member

Member

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

Attest:

Clerk of the Board

Approved as to form:

Prosecuting Attorney

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

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

BENTON COUNTY, WASHINGTON

Chairman

Member

Member

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

Attest:

Clerk of the Board

Approved as to form:

Deputy Prosecuting Attorney

~~SECOND AMENDED INTERLOCAL AGREEMENT FOR THE REFORMATION OF
GREATER COLUMBIA BEHAVIORAL HEALTH REGIONAL SUPPORT NETWORK~~

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

COLUMBIA COUNTY, WASHINGTON

Chairman

Member

Member

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

Attest:

Clerk of the Board

Approved as to form:

Prosecuting Attorney

~~SECOND AMENDED INTERLOCAL AGREEMENT FOR THE REFORMATION OF
GREATER COLUMBIA BEHAVIORAL HEALTH REGIONAL SUPPORT NETWORK~~

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

FRANKLIN COUNTY, WASHINGTON

Chairman

Member

Member

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

Attest:

Clerk of the Board

Approved as to form:

Deputy Prosecuting Attorney

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

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

GARFIELD COUNTY, WASHINGTON

Chairman

Member

Member

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

Attest:

Clerk of the Board

Approved as to form:

Deputy Prosecuting Attorney

~~SECOND AMENDED INTERLOCAL AGREEMENT FOR THE REFORMATION OF
GREATER COLUMBIA BEHAVIORAL HEALTH REGIONAL SUPPORT NETWORK~~

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

KITTITAS COUNTY, WASHINGTON

Chairman

Member

Member

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

Attest:

Clerk of the Board

Approved as to form:

Deputy Prosecuting Attorney

~~SECOND AMENDED INTERLOCAL AGREEMENT FOR THE REFORMATION OF
GREATER COLUMBIA BEHAVIORAL HEALTH REGIONAL SUPPORT NETWORK~~

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

KLICKITAT COUNTY, WASHINGTON

Chairman

Member

Member

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

Attest:

Clerk of the Board

Approved as to form:

Deputy Prosecuting Attorney

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

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

SKAMANIA COUNTY, WASHINGTON

Chairman

Member

Member

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

Attest:

Clerk of the Board

Approved as to form:

Deputy Prosecuting Attorney

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

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

WALLA WALLA COUNTY, WASHINGTON

Chairman

Member

Member

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

Attest:

Clerk of the Board

Approved as to form:

Deputy Prosecuting Attorney

~~SECOND AMENDED INTERLOCAL AGREEMENT FOR THE REFORMATION OF
GREATER COLUMBIA BEHAVIORAL HEALTH REGIONAL SUPPORT NETWORK~~

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

WHITMAN COUNTY, WASHINGTON

Chairman

Member

Member

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

Attest:

Clerk of the Board

Approved as to form:

Deputy Prosecuting Attorney

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

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

YAKIMA COUNTY, WASHINGTON

Chairman

Member

Member

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

Attest:

Clerk of the Board

Approved as to form:

Deputy Prosecuting Attorney

Greater Columbia Behavioral Health Bylaws

Article 1 Offices

1. Regional Office. The Regional Office of Greater Columbia Behavioral Health ("GCBH") shall be located in Benton County, Washington. The Board of Directors of GCBH may change the location of the Regional Office provided, however, that the office shall always be located within one of the Member ~~Government~~Countiess of GCBH.
2. Other Offices. The Board of Directors may establish other offices at any time, at any place within one or more Member ~~Government~~Counties.

Article 2 Board of Directors

1. General Powers. The affairs of GCBH shall be managed by its Board of Directors ("Board").
2. Composition and Selection. GCBH shall be governed by a Board of Directors ("Board") which shall be composed of one Director from each Member ~~Government~~County. Each Director shall be appointed by and serve at the pleasure of their Member ~~Government~~County. Each Member ~~Government~~County shall also appoint at least one Alternate Director. Directors shall be County Commissioners and Alternate Directors may be any other designee of member counties.
 - (a) An Alternate Director shall attend meetings ~~and vote~~ in the absence of the Director. "Absence," as the term is used in this section, includes "vacancy" as defined below in this Article. Alternate Directors shall have the same authority when the Director is absent, except that only Directors shall vote on the adoption of bylaws, the approval of biennial budgets for expenditures and supplements, the Funding Allocation Policy or the involuntary cancellation of a member county.
 - (b) Appointment of a Board member shall be effective upon receipt of a written notice of appointment at the GCBH Regional Office. Removal of a Board member by a Member ~~Government~~County shall be effective upon receipt of a written notice of termination at the GCBH Regional Office.
 - (c) If a Member ~~Government~~County's membership in GCBH is terminated for any reason by any method, that Member ~~Government~~County shall no longer have a Director on the Board or on any Committee created by the Board.
3. Vacancies. A vacancy in the Board shall exist in case of death, resignation, expiration of term, or removal of a Director by the Member ~~Government~~County that

made the appointment, or when the Director ceases to be an employee or official of the appointing Member Government County. Vacancies in the positions of Director or Alternate Director shall be filled in the manner provided by these Bylaws for regular appointment of such persons.

4. Compensation. Reasonable and necessary expenses incurred by members of the Board for attendance at meetings of the Board and its committees, or in pursuit of GCBH business, may be reimbursed.
5. Meetings.
 - (a) Annual Meetings. The annual meeting of the Board shall be held in January of each year at a date and time designated by the Board. At the meeting, the affairs of GCBH shall be considered and any other business may be transacted which is within the powers of the Board. The election of officers shall take place every even-numbered year for a two year term.
 - (b) Regular Meetings. The Chair of the Board shall establish the dates for regular monthly meetings. The annual meeting held in January shall serve as a regular meeting.
 - (c) Special Meetings. Special meetings of the Board, for the purpose of taking any action which is within the powers of the Board, may be called at any time by the Chair or by not less than seven (7) Directors. Upon receipt of a written request that a special meeting of the Board be called for any proper purpose, the Chair forthwith shall cause notice to be given to the Member Government Counties that a meeting will be held at a time requested by the Chair or Directors calling the meeting. The meeting shall be held not less than twenty-four (24) hours nor more than twenty-one (21) days after receipt of the request. No business other than that specified in the notice of the special meeting shall be transacted at that meeting. Special meetings may be by means of a conference telephone or similar communications equipment. All persons participating in a telephone conference meeting must hear each other simultaneously. Participation by such means shall constitute presence in person at the meeting.
6. Notice. Notice of each annual, regular and special meeting shall be given to each Director by mail or other means of communication, in the manner provided by law. Such notice shall specify:
 - (a) The place, the date, and the hour of such meeting;
 - (b) A proposed agenda for the meeting which, providing the meeting is not a special meeting, shall not preclude the Board from addressing matters not on the proposed agenda;

- (c) Such other matters, if any, as may be expressly required by statute or by the Interlocal Agreement creating GCBH.
7. Place of Meeting. All meetings of the Board shall be held at the Regional Office or at a place designated by the Chair.
8. Quorum. A majority of the Directors of the Board shall constitute a quorum for the transaction of business. The Board must have and maintain a quorum in order to do business and take board action.
9. Adjourned Meetings.
- (a) Adjournment. Any meeting of the Board, regardless of whether a quorum is present, may be adjourned from time to time by the vote of a majority of the Directors present.
- (b) Notice. When any meeting of the Board is adjourned for ten (10) days or more, notice of the reconvening of an adjourned meeting shall be given as in the case of an original meeting. When reconvening an adjourned meeting for less than the (10) days, except as specifically provided herein or by law, it shall be unnecessary to give any notice of the time and place or of the business to be transacted, other than by announcement of the time and place of reconvening at the meeting at which such adjournment is taken.
10. Rules of Procedure for Meetings. All meetings of the Board shall be conducted in accordance with Robert's Rules of Order, except where such are in conflict with the law, the Interlocal Agreement creating GCBH, or these Bylaws, whereupon the later three in the listed order of priority shall govern over Robert's Rules of Order.
11. Voting. Directors and Alternate Directors representing Member governments Counties which are members on the day of a meeting of the Board shall be entitled to vote at the meeting. Every Member Government County shall have one vote. Proxy voting shall be permitted only upon the receipt of written authorization for such proxy signed and dated by the absent Board Director member and submitted to the Chair prior to the vote and acknowledged by the Chair for the record. Separate authorization shall be required for each meeting of the Board. Proxy votes shall be given to Directors only for matters under Article 2(2)(a) requiring the vote of a Director. A vote of the majority of those Directors by proxy and as present at a meeting shall be sufficient to constitute action by the Board.

On the day of the Board of Directors meeting, in the event of an emergency preventing a Board member's attendance at the meeting, a majority vote of the Board members present may allow the acceptance of a verbal (telephone) proxy offered by the member, and auditorily witnessed by two Board members. An emergency is defined as an unexpected situation or sudden occurrence of a serious and urgent nature that demands immediate action.

Article 3 Officers

1. Officers. The officers of GCBH shall be a Chair, no more than two Vice Chairs, Secretary and Treasurer. The Board may in addition provide for other officers as it deems necessary for the performance of the business of the ~~GCRSNGCBH~~. All officers of GCBH shall be Directors.
2. Election and Term of Office. Officers of GCBH shall be elected by the Board, from its members, at the annual meeting in January and shall serve a term of two years, or until replaced by subsequent election. Each officer's term shall commence upon that officer's election.
3. Removal. Any officer may be removed without cause by a two-thirds vote of the Board at any regular or special meeting at which a quorum is present.
4. Resignation. An officer may resign at any time by giving written notice to the Board or to the Chair. Any such resignation shall take effect at the date of the receipt of such notice or at any later time specified therein. Unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Upon resignation, removal or otherwise occurring vacancy of an officer, the Board shall hold an election at the next regular meeting to fill the position for the remainder of the term.

5. Chair. The Chair shall be the Chief Executive Officer of GCBH and in general shall supervise the business and affairs of GCBH. The Chair shall chair the Board and the Executive Committee, and shall have such other powers and duties as may be prescribed by the Board or these Bylaws.
6. Vice Chairs. In the absence of the Chair or in the event of his/her inability or refusal to perform the duties of the Chair, at the direction of the Executive Committee or Board, a Vice Chair shall perform all the duties of the Chair, and when so acting shall have all the powers of the Chair.
7. Secretary. The Secretary shall assure that minutes of actions are taken at all meetings of the Board, the notices given thereof, the names of those present at the meetings and the proceedings thereof, shall be sent to each Director. The minutes of all meetings of the Board shall be sent as soon as possible after each meeting.

The Secretary shall assure that meeting notices are given in accordance with the bylaws. The Secretary shall assure that the official GCBH documents and records, including the book of minutes of Board meetings and a list of all Directors and Alternate Directors, are kept at the Regional Office of GCBH. The Secretary shall assure distribution to the Directors copies of the same, and shall have such other powers and duties as may be prescribed by the Board or these Bylaws.

8. Treasurer. The Treasurer shall assure that adequate and correct financial records of GCBH, including accounts of its assets, liabilities, receipts and disbursements, are kept and maintained and reported as directed by the Board. The Treasurer shall assure that financial adopted policies and procedures shall be followed and shall have such other powers and duties as may be prescribed by the Board or these Bylaws.
9. Executive Committee. The Executive Committee shall consist of the Chair, no more than two Vice Chairs, Secretary, Treasurer, and immediate past Chair. Each Executive Committee member has one vote. The Regional Advisory Board Chair shall be an ex-officio, non-voting member. The Chair shall chair the committee, which shall meet monthly unless canceled by the Chair. The Board shall avoid a Board member majority on the Executive Committee.
 - (a) Duties. The Executive Committee shall have the following powers and duties:
 - i. Recommends to the Board adoption of the budget and approval of the monthly expenditures.
 - ii. Conducts or authorizes general business of GCBH at the pleasure of the Board.
 - (b) Board Review. The Board shall review, approve, disapprove or modify all acts of the Executive Committee. Each Board member shall be provided a copy of the minutes of Executive Committee meetings. A majority vote of the Board shall supersede any acts of the Executive Committee.
 - (c) Unless so authorized by the Board, the Executive Committee shall not have any power or authority to bind GCBH by any contract or engagement or to pledge or to render it liable for any purpose or to any amount.

Article 4 Committees

1. Committees. The Chair may appoint Directors to committees to assist the Board with its duties. The Board and/or Chair shall create committees by resolution which shall include information regarding the membership, parameters of the committee, allocation of funding, reporting structure and a review date.

Article 5 Regional Office

Appointment and Removal. The Board shall hire an ~~RSN/PHP Coordinator~~Director who shall serve at the pleasure of the Board. Such employment shall be at will with such terms and conditions as approved by the Board and determined to be appropriate. In the absence of an ~~RSN/PHP Coordinator~~Director, a Member ~~Government~~County Director shall at the request of the Board, act as the ~~RSN/PHP Coordinator~~Director on a temporary basis and be responsible for the day to day conduct of GCBH business until a new ~~RSN/PHP Coordinator~~Director may be employed.

Powers and Duties. The Regional Office through the ~~RSN/PHP Coordinator~~Director shall:

- (a) carry out the orders of the Executive Committee and the Board and shall be responsible to the Executive Committee and the Board for the efficient administration of the affairs of GCBH;
 - (b) keep the Executive Committee and the Board advised of the affairs of GCBH;
 - (c) have such other powers and duties as may be determined by the Board;
 - (d) accept and deposit all funds with the Treasurer of the Member ~~Government~~County in which the Regional Office is located;
 - (e) assure that all funds are invested by the Member ~~Government~~County Treasurer for the sole benefit of GCBH;
 - (f) submit a register of revenues and expenditures to the Executive Committee for review and approval.
3. Authorization to Sign Contracts. The Board may authorize the ~~RSN/PHP Coordinator~~Director to enter into any contract or execute any instrument in the name of and on behalf of GCBH, and such Board authorization may be general or confined to specific instances. Unless so authorized by the Board, the ~~RSN/PHP Coordinator~~Director shall not have any power or authority to bind GCBH by any contract or engagement or to pledge or to render it liable for any purpose or to any amount.
4. The ~~RSN/PHP Coordinator~~Director shall have authority to hire, dismiss, and supervise all employees of GCBH subject to GCBH Policies and Procedures.

Article 6 Operations and Finances

1. Each Member GovernmentCounty of GCBH shall receive all funding as approved by the Board of Directors.
2. Accounts. The Board shall establish and maintain such funds and accounts as may be required by generally accepted accounting principles (GAAP) and the Washington State Budget Accounting Reporting System ("BARS").
3. Fiscal Year. The fiscal year of GCBH shall be from July 1 through June 30.
4. Audit. The Board shall provide for an annual audit of the accounts and records of GCBH by either the State Auditor or a Certified Public Accountant. Such audit shall conform to generally accepted accounting practices. Audit costs shall be borne by GCBH administrative costs.
5. Deposit of Funds and Warrants. All funds of GCBH shall be deposited with the Member GovernmentCounty in which the Regional Office is located. All expenses of GCBH shall be processed by the Member GovernmentCounty using GCBH funds.
6. Annual Report. The Board shall send an annual report to the Member GovernmentCounties not later than four (4) months after the close of each fiscal year. Such report shall contain a balance sheet as of the end of the fiscal year, an income statement and statement of changes in financial position for the fiscal year, the annual audit report.
7. Inspection of GCBH Records. The accounting books and records, the list of Member GovernmentCounties' designated representatives, and minutes of proceedings of the Board of Directors shall be open to public inspection at any reasonable time. The right of inspection includes the right to copy and make extracts.
8. Pre-Existing Facilities and Assets. All assets used by GCBH and owned by a Member GovernmentCounty prior to the establishment of GCBH shall remain the property of the Member governmentCounty during the duration of GCBH and following any dissolution of GCBH and concluding its affairs.
9. Capital Improvement of Pre-Existing Facilities and Assets. GCBH shall have the authority, upon the agreement of the owning Member governmentCounty, to make capital improvements to any pre-existing asset or facility. In the event of termination of the owning Member governmentCounty as a member, the Board of Directors shall determine the Fair Market Value of the improvement as of the date of termination or dissolution. The decision of the Board shall be binding and not appealable. The owning Member governmentCounty shall pay to GCBH the fair market value of the improvements. All capital improvements to pre-existing assets and facilities shall become and remain the property of the owning Member GovernmentCounty subject to GCBH's claim to reimbursement as set forth in this paragraph.

10. Assets and Facilities Acquired by GCBH. GCBH shall have authority to acquire, manage and operate any asset or facility in its own name as the Board of Directors may deem appropriate. Any asset or facility so acquired shall be the property of GCBH and not any Member GovernmentCounty. In the event any Member GovernmentCounty terminates its membership of GCBH, it shall not have any claim against GCBH or any of its Member GovernmentCounties or the asset or facility of GCBH or the value thereof.
11. Assets and Facilities Owned by GCBH. In the event of a dissolution of GCBH, each Member GovernmentCounty shall receive its pro-rata share of the value of each asset or facility owned by GCBH as determined by the GCBH Board of Directors.
12. Operation of Facilities. GCBH shall have the authority to operate facilities and provide direct client services as determined by the Board and permitted by law.
13. Revenue. GCBH is authorized to accept revenue from the State of Washington, the U.S. Government, Member GovernmentCounties and any other source which is not precluded by any law governing GCBH.
14. Budget. The Board shall adopt an annual budget consistent with anticipated revenue from all sources. The Board shall have no authority to adopt a budget in which expenditures exceed revenue plus cash reserves.
15. Excess Financial Obligations. In the event GCBH incurs financial obligations which are in excess of its budget and its cash reserves, this financial obligation shall be paid by the Member GovernmentCounties in the same proportion as their share of GCBH funding.

Article 7 New Member GovernmentCounties

1. Membership. A new Member GovernmentCounty may join GCBH, after approval of a majority vote of the Board and shall become an active participant member of GCBH commencing on the date specified by the Board.
2. New Member GovernmentCounty Interest in GCBH Assets. A new Member GovernmentCounty shall not assume any liability of GCBH, funded or unfunded, which arose prior to the date it became a member of GCBH. A new Member GovernmentCounty shall have no claim to any assets of GCBH which were acquired by GCBH prior to the date the new Member GovernmentCounty became a member. In accordance with Article 6, a new Member GovernmentCounty shall share in GCBH liabilities and assets arising or acquired after the date the Member GovernmentCounty becomes a member.

Article 8 Duty to Indemnify and Hold Harmless

1. Member GovernmentCounty Operated Facilities and Member GovernmentCounty Providing Services. In the event any Member GovernmentCounty shall operate a facility or in any other manner provide direct service to clients, and such action shall result in a claim being made against GCBH, the Member GovernmentCounty providing the service or operating the facility shall have the obligation to appear and defend any such claim without any right to reimbursement or contribution by GCBH. In addition, the Member GovernmentCounty shall indemnify and hold GCBH, its Board, its employees and agents harmless from liability for any such claim.
2. GCBH Operated Facilities and GCBH Providing Services. In the event GCBH shall operate any facility or in any other manner provide direct service to clients, and such action shall result in a claim being made against any Member GovernmentCounty, GCBH shall have the obligation to appear and defend any such claim without right to any reimbursement or contribution. In addition, GCBH shall indemnify and hold Member GovernmentCounties, its elected officials, employees and agents harmless from liability for any such claim. GCBH's obligation to defend, indemnify and hold harmless as stated in this paragraph shall be limited to GCBH's available insurance coverage plus available cash reserves, as declared by the Board.
3. Indemnification. GCBH shall indemnify every person who was or is a party or is or was threatened to be made a party to any action, suit, or proceeding, whether civil, criminal, administrative or investigative, solely by reason of the fact that he or she is or was a director, officer, employee, or agent of GCBH; against expenses (including attorneys fees), judgments, fines, and amount paid in settlement actually and reasonable incurred by him/her in connection with such action, suit or proceeding. Such indemnification may, in the discretion of the Board, include advances of his/her expenses in advance of final disposition of such action, suit or proceedings, subject to the provisions of any applicable law.
4. Pre-Existing Claims. In the event any Member GovernmentCounty shall have any pre-existing claims against it for its operation of a facility or in any other provision of a direct service to clients which resulted or shall result in a claim being made against GCBH, the Member GovernmentCounty providing the service or operating the facility shall have the obligation to appear and defend any such claim without any right to reimbursement or contribution by GCBH. In addition, the Member GovernmentCounty shall indemnify and hold GCBH, its Board, its employees and agents harmless from liability for any such claim.

Article 9 Conflict of Interest and Appearance of Fairness

1. GCBH is subject to Washington State law regarding conflicts of interest and the appearance of fairness. Where conflicts of interest or appearance of fairness issues arise, the affected Member Government Counties shall conform to the advice of GCBH legal counsel. However, if the affected Member Government County disagrees with the advice of GCBH legal counsel, the Board may by majority vote exclude a Member Government County Director from a portion of any executive session where a matter of potential legal conflict between GCBH and the Member Government County of the Director is to be discussed.
2. All GCBH Board members shall also comply with the GCBH Conflict of Interest Policy as adopted and amended by the GCBH Board of Directors.

Article 10 Regional Advisory Board

1. Establishment. GCBH has established a Regional Advisory Board.
2. Appointment of Members. Appointments to the GCBH Advisory Board shall be made as follows:
 - (a) Prospective members complete an application form and then will be interviewed by members of the Regional Advisory Board.
 - (b) The Regional Advisory Board will recommend the prospective member to the GCBH Executive Committee for appointment.
 - (c) The Executive Committee will review the application and recommendation, and if approved, the Chair will appoint the prospective new member.

Membership shall consist of four (4) members from each of the three established provider networks and one (1) position for the Yakama Nation for a total of thirteen (13) members.

(a) Provider Networks:

- i. Western: Yakima, Kittitas, Klickitat, and Skamania Counties.
- ii. Central: Benton and Franklin Counties.
- iii. Eastern: Walla Walla, Columbia, Garfield, Asotin, and Whitman Counties.

3. Quorum. A simple majority shall constitute a quorum for the transaction of business.
4. Compliance with Representation Requirements. The Regional Office shall review and monitor Advisory Board membership to insure that the membership meets the criteria of representing various populations and interest groups as required by applicable statute and regulations. In the event the Advisory Board is not in accordance with applicable statute and regulations, the Board of Directors shall determine the Regional Advisory Board membership changes so as to meet the representation requirements of the applicable statutes and regulations.

5. Duties. The Greater Columbia Behavioral Health Advisory Board shall advise the Region by reviewing and providing comments on the plans and policies of GCBH. In addition, the Regional Advisory Board shall develop an annual workplan in conjunction with the Board of Directors. The Chair of the Advisory Board or designee shall be an ex-officio, non-voting member of the Board of Directors and the Executive Committee and as specified in the GCBH Advisory Board Bylaws.

Article 11 Withdrawal and Termination

1. Termination for Cause. A Member ~~Government~~County's participation in GCBH may be terminated for cause for the reasons and in the manner stated in the Greater Columbia Behavioral Health Interlocal Agreement.
2. Voluntary Withdrawal. Any member may voluntarily withdraw provided it has given three months written notice of its intent to withdraw to the Chair of the Board of Directors.
3. Termination of GCBH. GCBH may be terminated in accordance with Article 11 of the Greater Columbia Behavioral Health Interlocal Agreement. The Board of Directors will continue to operate GCBH in order to conclude its affairs and terminate any of its contractual obligations.
4. Termination or Withdrawal of Individual Members. Pursuant to Article 10 of the Greater Columbia Behavioral Health Interlocal Agreement, any Member ~~Government~~County involuntarily terminated or voluntarily withdrawing may do so without any claim for any assets of GCBH or for any revenue expected by GCBH, except the Member ~~Government~~County shall be paid for service provided by the Member ~~Government~~County to GCBH up to the effective date of the termination. Any terminating or withdrawing Member ~~Government~~County shall remain liable for its pro-rata share based upon the GCBH formula of any unpaid or unfunded liabilities of GCBH incurred before or existing on the date of withdrawal.
5. Assets of GCBH may be liquidated at fair market value as determined by the Board. Proceeds from liquidation, all liquid assets and non-liquidated assets shall be distributed to the Member ~~Government~~Counties as set forth in Article 6 above. Distribution to the Member ~~Government~~Counties of these funds, properties and non-liquidated assets shall be made only after all obligations of GCBH have been paid.
6. Any unfunded or unpaid liability remaining shall be paid directly by the individual Member ~~Government~~Counties in proportion to their respective pro rata share of GCBH revenue.

Article 12 Amendments

1. New Bylaws may be adopted or these Bylaws, or any portion hereof, may be amended or repealed by an affirmative two-thirds vote of the Board of Directors following thirty (30) days written notice including a copy of the proposed change(s).

Dated this _____ day of _____, ~~1997~~2009.

Asotin County	Klickitat County
Benton County	Skamania County
Columbia County	Walla Walla County
Franklin County	Whitman County
Garfield County	Yakama Nation
Kittitas County	Yakima County

<u>AGENDA ITEM</u>		<u>TYPE OF ACTION NEEDED</u>		
Meeting Date:	07/27/09	Execute Contract	_____	<div style="text-align: right; font-size: 2em; font-weight: bold;">9.15</div> Consent Agenda _____ Public Hearing _____ 1st Discussion _____ 2nd Discussion _____ Other workshop
Subject:	District Court	Pass Resolution	_____	
	Districting Plan	Pass Ordinance	_____	
Prepared by:	Comnr Benitz	Pass Motion	_____	
Reviewed by:	_____	Other	_____	

BACKGROUND INFORMATION

Commissioner Benitz has been working with the cities and our Prosecuting Attorney's Office to address the issues of our Districting Plan in District Court.

Commissioner Benitz would like the Board's concurrence on considering the Interlocal Agreement between the cities (Kennewick, Richland, West Richland and Prosser) and the County on District Court services.

SUMMARY

RECOMMENDATION

Workshop

FISCAL IMPACT

MOTION



RECEIVED

JUL 21 2009

BENTON COUNTY COMMISSIONERS

July 10, 2009

Max	<input checked="" type="checkbox"/>
Bob	<input checked="" type="checkbox"/>
Jim	<input checked="" type="checkbox"/>
David	<input checked="" type="checkbox"/>
Loretta	<input checked="" type="checkbox"/>
Other	<input type="checkbox"/>

Max Benitz, Chairman
Board of Benton County Commissioners
P. O. Box 190
Prosser, WA 99350

Re: Kennewick's Petition to Terminate Municipal Department
Interlocal Agreement with Benton County for District Court Services

Dear Chairman Benitz:

On July 7, 2009, the Kennewick City Council reviewed and approved the enclosed Resolution No. 09-23 petitioning Benton County to terminate Kennewick's Municipal Department in District Court. In conjunction with Resolution No. 09-23, Council also approved the enclosed Interlocal Agreement with Benton County for District Court Services per RCW 39.34.180. The purpose of this letter is to present both documents for consideration and approval by the Benton County Commissioners. The Resolution and Interlocal Agreement are the culmination of discussion and work that has occurred through the District Court Districting Committee process. It is the City's desire to move to a system which better fits the District Court services it receives from Benton County.

RCW 39.34.180 contemplates that cities may contract with the County for District Court services. This proposed Interlocal Agreement will preserve the status quo for how Kennewick pays for the District Court services it receives from Benton County; the City will continue to pay based upon its percentage of usage of court services. The City of Kennewick appreciates the hard work of the Judges and Staff of District Court. It is the City's intent to continue as a participant in Benton County District Court. Approval of the City's Petition and the Interlocal Agreement will help Kennewick continue to provide this necessary service to its citizens in an effective and efficient manner. Therefore, the City respectfully requests the Board approve the enclosed Petition and Interlocal Agreement.

Very Truly Yours,

ROBERT R. HAMMOND
City Manager

Enclosures

cc: Ryan Brown

CITY MANAGER'S OFFICE

CITY OF KENNEWICK
RESOLUTION NO. 09-23

A RESOLUTION PETITIONING THE COUNTY COMMISSIONERS OF
BENTON COUNTY TO TERMINATE THE KENNEWICK MUNICIPAL
DEPARTMENT OF DISTRICT COURT

WHEREAS, Benton County has established a District Court System; and

WHEREAS, the City of Kennewick previously petitioned Benton County to establish a
Municipal Department to be operated by the Benton County District Court to process civil,
criminal misdemeanor, and traffic infraction cases occurring within the City of Kennewick; and

WHEREAS, the City of Kennewick no longer desires to continue its Municipal Department; and

WHEREAS, the City of Kennewick finds it more efficient to enter into an Interlocal Agreement
with Benton County to process the above-described cases; NOW THEREFORE,

BE IT HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF KENNEWICK,
WASHINGTON AS FOLLOWS:

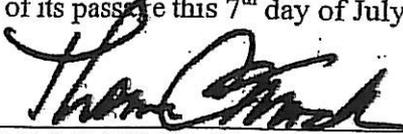
Section 1. The City Council hereby petitions the County Commissioners of Benton County to
terminate the Kennewick Municipal Department of District Court.

Section 2. This resolution shall take effect upon:

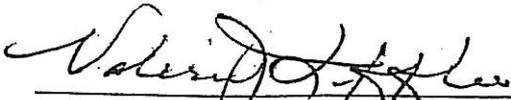
- a. Execution by the parties of an Interlocal Agreement;
- b. The adoption by Benton County of a Districting Plan that is consistent with the
Interlocal Agreement; and
- c. The recording of said Interlocal Agreement with the Benton County Auditor.

PASSED BY THE CITY COUNCIL OF THE CITY OF KENNEWICK, WASHINGTON, this
7th day of July, 2009, and signed in authentication of its passage this 7th day of July, 2009.

Attest:



THOMAS C. MOAK, Mayor



VALERIE J. LOFFLER, City Clerk

RESOLUTION NO. 09-23 filed and recorded in the
office of the City Clerk of the City of Kennewick,
Washington, this 8th day of July, 2009.

Approved as to Form:



LISA BEATON, City Attorney



VALERIE J. LOFFLER, City Clerk

<u>AGENDA ITEM</u>	<u>ACTION NEEDED</u>	<u>DISCUSSION TYPE</u>
Meeting Date: 03 Aug 2009 Subject: dog control Memo Date: 28 Jul 2009 Prepared By: AJF Reviewed By: LSK	Execute Contract Pass Resolution Pass Ordinance Pass Motion Other	Consent Agenda Public Hearing 1st Discussion 2nd Discussion Other
		930 X

SUMMARY

Staff is providing a periodic update on the subject of "animal control" and any role the County may or may not have in it.

BACKGROUND AND DISCUSSION

There are several independent options to update and discuss...

West Richland: Over the past year, the County has been looking at a possible partnership with the City of West Richland. The most talked-about scenario would have the City and County teaming-up to build a new facility, then the City operating that facility and providing contracted services to the County.

The County paid for a study that provided basic costs and one-line drawings for a possible facility. The property initially offered by the City as a site for a new facility has proven problematic due to its size and configuration. The City has since confirmed on July 23 that a second, five-acre parcel, in the same area as the first site, could also be made available. With this new parcel, the size and configuration issues could be overcome, although it is farther away from utilities.

In the meantime, the City has decided to begin moving forward. The City has been under pressure to remove its animal control operations from the "Paradise" location because of encroaching residential development. As such, Council has authorized staff to relocate the existing facility and operations from Paradise to the original Ruppert Road location. Final action is awaiting a building permit.

Vote of the People: At its last discussion, Commissioners directed staff to look into the possibility of putting animal control on the November ballot. This would include at a minimum, a levy "lid lift" (permanent) to fund ongoing operations, and also perhaps an "excess levy" (temporary) to cover capital costs of a facility. Examination by Commissioner, Auditor, Assessor, and Prosecutor staff revealed some problems with this approach, namely, that the permanent lid lift would have to apply Countywide, not just in the unincorporated areas of the County being served; however the temporary excess levy could be applied only to the unincorporated areas.

The deadline to have a ballot on the November 2009 ballot is Tuesday, August 11. Staff would need to know on Monday if Commissioners want to proceed with this option.

Simple RFQ/RFP: Another option that has been discussed, is to advertise a request for qualifications or proposals and see what kind of response is received. In doing this, the Board would determine an amount of money that would be made available annually for operations. This number would likely start in the \$200,000 - \$250,000 range, since this is the amount staff has settled-in on as a consistent ballpark budget for operations of similar size elsewhere in the region. Staff is suggesting that the annual budget could likely be funded through cash carry-forward.

TCACA: As the Board is aware, staff has had a number of communications with the Tri-Cities Animal Control Authority (ACA) over the past couple of years regarding the possibilities of partnering in some capacity with the ACA. The main issue has always been that the ACA's current facility in Pasco is already operating at or near capacity throughout the year. The existing shelter cannot offer the County reliable priority service.

In a July 7 letter from Kennewick City Councilor James Hempstead, an offer was again extended for Benton County, as well as for Franklin County and the City of West Richland to participate with the ACA. Specifically, Mr. Hempstead is suggesting and offering that the County consider partnering with the ACA as they evaluate their future facilities and operations – this letter has more of a future rather than present slant.

As Commissioners may be aware, the ACA commissioned a future needs study, and received a recommendation for a facility that is project to cost on the order of four million dollars. After their collective eyes popped, the ACA created a task force headed by Councilor Hempstead to examine things more closely. My read of the situation is that the ACA would like to both one, get the overall facility cost down; and two, find more partners among whom to spread that reduced cost. In any event, based on all previous discussions with ACA personnel, as well as Shelter staff (Angela Zilar); staff cannot see a way for the County to meet its needs by partnering with the ACA now to meet *current needs* given the limitations of the current shelter.

#

9:45

DRAFT

INTERLOCAL COOPERATION AGREEMENT
RELATING TO
SOUTHRIDGE REVITALIZATION AREA

This Interlocal Cooperation Agreement (the "Agreement") is made and entered into as of July 28, 2009, by the City of Kennewick, Washington, a municipal corporation and code city of the State of Washington (the "City"), and Benton County, Washington, a public body corporate of the State of Washington (the "County").

- RECITALS

WHEREAS, the City and the County are each authorized by Second Substitute Senate Bill 5045 (Chapter 270, Laws of 2009) (the "Act") to establish "revitalization areas" and to use "local revitalization financing" therein to finance "public improvements" that are reasonably likely to increase private investment and employment within such revitalization areas and generate increases in state and local property, sales, and use tax revenues;

WHEREAS, the City has created on the date hereof, pursuant to Ordinance No. 5265 (the "Ordinance"), a revitalization area designated as the "Southridge Revitalization Area" (the "Revitalization Area"); and

WHEREAS, the City and the County wish to evidence their respective agreements pertaining to the use of "local property tax allocation revenues" and "local sales and use tax increment" for purposes of local revitalization financing of public improvements within the Revitalization Area;

NOW, THEREFORE, in consideration of the mutual promises contained herein, and the benefits to be realized by each party and by the general public from the creation of the Revitalization Area, the City and the County agree as follows:

1. Authority and Purpose. This Agreement is entered into pursuant to the authority of chapters 39.34 RCW and the Act. This Agreement sets forth the County's approval of and agreement to, pursuant to Sections 106, 107, 201 and 301 of the Act, the City's use of the County's share of "local property tax allocation revenues" (as defined in Section 102(6) of the Act) with respect to the Revitalization Area and a portion of the County's share of "local sales and use tax increments" (as defined in Section 102(8) of the Act) with respect to the Revitalization Area for local revitalization financing of the Public Improvement Costs of the Public Improvements (as such terms are defined in the Ordinance).

2. Timing of Real Property Tax Distributions. Commencing on January 1, 2011, the "local property tax allocation revenues" (as defined in Section 102(6) of the Act) attributable to the County with respect to the Revitalization Area, not to exceed \$83,000 annually, will be distributed by the County Treasurer pursuant to Section 201 of the Act and used by the City for the purposes described by Section 1 of this Agreement. Such

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distributions shall terminate on the earlier of: (i) the date such revenues are no longer obligated to pay the costs of the Public Improvements up to twenty-eight million dollars (\$28,000,000), whether such obligation is evidenced by LRF Bonds (as defined in the Ordinance) or contracts relating to pay-as-you-go projects being financed with such local revitalization financing; and (ii) December 31, 2035 ~~(provided, that any delinquent taxes collected after such date that were due on or before December 31, 2035, shall be distributed to the City to the extent the tax revenue so collected is attributable to "property tax allocation revenue value" (as defined in Section 102(13) of the Act) with respect to the Revitalization Area.~~

3. Timing of Sales and Use Tax Distributions. ~~Commencing on January 1, 2011, the County will allocate and distribute a portion of its "local sales and use tax increment" (as defined in Section 102(8) of the Act) with respect to the Revitalization Area, not to exceed \$37,000 annually (including an annualized amount for the new construction sales tax, which could be distributed as received and taken as a credit over future years) to the City pursuant to Sections 107 and 301 of the Act for the purposes described by Section 1 of this Agreement. To the extent the State of Washington Department of Revenue does not make such allocation and distributions to the City on behalf of the County, the City will invoice the County by the 15th day of the month following each quarter end, the amount of "sales and use tax increments" generated in the revitalization area for the previous quarter based upon the sales and use tax information the City receives from the Department of Revenue on a monthly basis, not to exceed \$37,000 annually (including an annualized amount for the new construction sales tax, which could be distributed as received and taken as a credit over future years). The invoice will identify the business name, total monthly retail sales in the revitalization area, and the amount of sales and use tax increment, generated for the County in the revitalization area, based on the .15% sales and use tax rate applicable to the County. The County shall make such payments to the City within 30 days of the invoice date. In the event that no "local sales and use tax increment" is realized by the County in a quarter, the County will not be required to make any payment to the City for that quarter. In the event no payment is due to the City by the County, the City will provide notification to the County that no payment is due for that quarter. Such allocation and distributions shall terminate on the earlier of: (i) the date such local sales and use tax increment is no longer obligated to pay the costs of the Public Improvements, whether such obligation is evidenced by LRF Bonds (as defined in the Ordinance) or contracts relating to pay-as-you-go projects being financed with such local revitalization financing; and (ii) December 31, 2035.~~

(a) Commencing on January 1, 2011, the County will allocate and distribute a portion of its "local sales and use tax increment" (as defined in Section 102(8) of the Act, RCW 82.14.030 and authorized at a rate not to exceed .15%) with respect to the Revitalization Area, to the City pursuant to Sections 107 and 301 of the Act for the purposes described in Section 1 of this Agreement; said allocation and distribution shall not exceed \$37,000 annually.

(b) The City will invoice the County by the 15th day of the month following each quarter end, the amount of "sales and use tax increments" generated in the

revitalization area for the previous calendar quarter based upon the sales and use tax information the City receives from the Department of Revenue, or other comparable source on a monthly basis, not to exceed \$37,000 annually. The invoice will identify the business name, total monthly retail sales in the revitalization area, and the amount of sales and use tax increment, generated for the County in the revitalization area based on the sales and use tax rate applicable to the County as identified in 3(a) above. The County shall make such payments to the City within 30 days of the invoice date.

- (c) The "local sales and use tax increment" relating to new construction shall be amortized over 25 years and 1/25th of this amount shall be included with the "local sales and use tax increment" relating to the annual retail sales to determine the annual allocation, not to exceed \$37,000. On the January 15th billing, in addition to the billing information noted in 3(b), the City will provide the County with the annual "sales and use tax increment" on new construction in the revitalization area by calculating 1/25th of the "sales and use tax increment" relating to new construction, along with 1/25th of any previous year's "sales and use tax increment" on new construction. This final billing will provide a reconciliation of the total "sales tax and use tax increments" invoiced and paid by the County for the previous calendar year, plus the January 15th billing to ensure the County is billed for the "sales and use tax increment", not to exceed \$37,000 annually.
- (d) In the event that no "local sales and use tax increment" is realized by the County in a quarter, the County will not be required to make any payment to the City for that quarter. In the event no payment is due to the City by the County the City will provide notification to the County that no payment is due for that quarter.
- (e) The allocation and distributions of the County's "sales and use tax increment" shall terminate on the earlier of: (i) the date such local sales and use tax increment is no longer obligated to pay costs of the Public Improvements up to twenty eight million dollars (\$28,000,000), whether such obligation is evidenced by LRF Bonds (as defined in the Ordinance) or contracts relating to pay-as-you-go projects being financed with such local revitalization financing; and (ii) December 31, 2035.

4. Interlocal Cooperation Act Required Provisions.

(a) Duration. This Agreement shall continue until the earlier of (i) the date that all obligations to distribute money to the City under Sections 2 and 3 of this Agreement have expired, and (2) December 31, 2035. In the event the City does not receive approval from the Department of Revenue for the Southridge Local Revitalization Financing project, this agreement shall terminate upon the City receiving notification of denial from the Department of Revenue.

(b) Organization of Separate Entity and Its Powers. No separate legal entity is intended to be created pursuant to this Agreement.

(c) Purpose. See Section 1 above.

(d) Manner of Financing and Establishing and Maintaining a Budget. The financing of the Public Improvements will be accomplished in the manner described under Sections 1, 2 and 3 of this Agreement. The parties adopt Section 5 of the Ordinance as the budget for such expenditures.

(e) Termination and Disposal of Property. This Agreement may not be terminated any earlier than as provided in paragraph 4(a) above. Title to all property acquired by any party in the performance of this Agreement shall remain with the acquiring party upon termination of this Agreement.

(f) Administration of this Agreement. The County hereby designates the County Administrator as its representative for the purpose of implementing this Agreement on behalf of the County. The City hereby designates the City Manager as its representative for the purpose of implementing this Agreement on behalf of the City.

(g) Manner of Acquiring, Holding and Disposing of Property. All real and personal property acquired pursuant to this Agreement shall be acquired by the City, held by the City and disposed in such manner as the City determines from time to time.

(e) Agreement to be Filed. The City shall file this Agreement with its City Clerk. The City shall also file this Agreement with the County Auditor.

6. Severability. If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, but this Agreement shall be construed as if such invalid, illegal or unenforceable provisions had never been contained herein.

7. Counterparts. The parties may sign this Agreement in one or more counterparts hereto and each counterpart shall be treated as an original.

8. Binding Effect. Both parties have full power and authority to execute and deliver this Agreement and to perform their respective obligations under this Agreement. This Agreement constitutes a valid and binding obligation of the County and the City and is enforceable in accordance with its provisions.

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

(Signatures appear on the following page.)

IN WITNESS WHEREOF, the parties have executed the Agreement and it shall be effective as of the last date of execution below.

CITY OF KENNEWICK, WASHINGTON

City Manager

ATTEST:

City Clerk

(SEAL)

BENTON COUNTY, WASHINGTON

Chair, Board of County Commissioners

Commissioner

Commissioner

ATTEST:

Clerk of the Board of
County Commissioners

(SEAL)