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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 103

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, 20

_____ Chairman of the Board

_____ Member

_____ Member

Attest:
Clerk of the Board

Constituting the Board of County
Commissioners of Benton County,
Washington

EXHIBIT A

BENTON COUNTY
LINE ITEM TRANSFERS

Resolution No. _____

DEPARTMENT: Board of Equalization

DEPARTMENT NO. 103

FUND NAME: Current Expense

FUND NO. 0000-101

TRANSFER FROM:

TRANSFER TO:

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT	BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
514.240	1187	Director	\$6000	514.240	1188	Director	\$6000
514.240	1190	Secretary	\$6000	514.240	4301	Travel	\$6000

EXPLANATION: due to the many appeals this year these funds need to be transferred.

Prepared by: Peggy Brown

Date 8.26.09

Approved

Denied

Date _____

Chairman

Chairman Pro Tem

Member

b

AGENDA/WORKSHOP ITEM		TYPE OF ACTION NEEDED	
Meeting Date:	31-August-2009	Execute Contract	<u> x </u>
Subject:	Contract for CrossMatch Guardian systems	Pass Resolution	<u> x </u>
		Pass Ordinance	<u> </u>
Prepared By:	J. Randall Reid	Pass Motion	<u> </u>
Reviewed By:	Loretta Smith-Kelty	Other	<u> </u>
		Consent Agenda	<u> x </u>
		Public Hearing	<u> </u>
		1 st Discussion	<u> </u>
		2 nd Discussion	<u> </u>
		Other	<u> </u>

BACKGROUND INFORMATION

As part of the 2009 budget, the Sheriff requested and was approved to acquire two portable digital finger print systems. These systems are manufactured by CrossMatch Technologies which is one of two vendor certified by the Washington State Patrol for interface with AFIS (Automated Fingerprint Identification System). CrossMatch has also provided the stationary digital fingerprint systems currently used in the county jail and juvenile detention. The CrossMatch Guardian™ portable systems will extend the ability of Sheriff's staff to collect digital prints where paper and ink are currently used.

SUMMARY

The attached resolution authorizes the Chairman of the Board to sign a purchase contract with CrossMatch Technologies for two Guardian™ portable digital fingerprint systems.

RECOMMENDATION

1ST Pass resolution.

2nd

FISCAL IMPACT

None. Budgeted for 2009.

MOTION

d

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF A CONTRACT WITH CROSSMATCH TECHNOLOGY FOR PURCHASE OF GUARDIAN™ PORTABLE DIGITAL FINGER PRINT SYSTEMS.

WHEREAS, Benton County currently uses CrossMatch digital finger printing systems in both the county jail and juvenile detention facilities; and

WHEREAS, CrossMatch Technologies, Inc., products are certified by the Washington State Patrol for interface with AFIS (Automated Fingerprint Identification System); and

WHEREAS, the Board of Benton County Commissioners authorized the purchase of two portable digital fingerprint systems as part of the 2009 budget; NOW THEREFORE,

BE IT RESOLVED, by the Board of Benton County Commissioners, that the Chairman of the Board of Benton County Commissioners is authorized to sign the contract with CrossMatch Technologies, Inc., for purchase and installation of two (2) CrossMatch Guardian™ systems for the amount of \$28,179 plus tax.

BE IT FURTHER RESOLVED, that the total purchase is not to exceed \$29,900 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

C

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY FUNDS RE: TRANSFER OF FUNDS WITHIN CURRENT EXPENSE FUND NO 0000-101, DEPARTMENT 108, line item transfer for the purpose of purchasing a Black Berry telephone for Gwen Hoheisel, commercial fruit agent, located in the Prosser Extension office IN THE AMOUNT OF \$550.

BE IT RESOLVED that Max Benitz, Jr, Chairman of the Board of Benton County Commissioners, is hereby requested to sign the transfer of funds from line item 4202 (\$400) and 3101 (\$150) into line item 9101 for a total of \$550.00

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

AGENDA ITEM _____
MEETING DATE: August 31, 2009
Subject: Line Item Transfer
Prepared by: eh
Reviewed by: _____

TYPE OF ACTION NEEDED	
Execute Contract	_____
Pass Resolution	<u> X </u>
Pass Ordinance	_____
Pass Motion	_____
Other	_____

CONSENT AGENDA	_____
PUBLIC HEARING	_____
1 st DISCUSSION	_____
2 nd DISCUSSION	_____

BACKGROUND INFORMATION

County Area Educator, Gwen Hoheisel, currently uses an AT&T cellular phone to conduct county business in the fields while working with fruit growers and on grant research for fruit growers. We would like to switch cellular service to the new Benton County Blackberry program. A switch to this program would enable Gwen to access her email while she is in the fields, which would result in more effective streamlined communications. Funds to pay for this service are charged back to the department from central services through line item 9101 Data Processing Administration. We are requesting that we be allowed to transfer monies from line item 4202 Telephone (\$400) and 3101 Office Supplies (\$250) to line item 9101 Data Processing Administration to enable us to pay for this service for the remainder of this fiscal year. We have adequate funds in both 4202 and 3101 to cover this expense.

SUMMARY

Request to transfer \$400 from line item 4202 to line item 9101.
Request to transfer \$250 from line item 3101 to line item 9101.

RECOMMENDATION

That the Line Item transfer be approved by the Benton County Commissioners

FISCAL IMPACT

No additional supplementary funds are being requested, existing funds are being redirected.

MOTION

It is already a portion of our budget.

BENTON COUNTY LINE ITEM TRANSFER

Dept Name: WSU Extension

Dept Nbr: 108

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
571.210	4202	Telephone	\$400	571.210	9101	Data Processing Administration	\$400
571.210	3101	Office Supplies	\$150	571.210	9101	Data Processing Administration	\$150
TOTAL				TOTAL			
\$550				\$550			

Explanation:

Prepared by: Marianne Ophardt *Marianne Ophardt*

Date: 8-24-09

Approved

Denied

Date: _____

Chairman

Member

Member

d

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF APPROVAL OF THE REVISED FAIRGROUNDS STANDARD LEASE AGREEMENT FORM AND RENTAL RATES, RESCINDING RESOLUTION 07-847;

WHEREAS, Benton County is the sole owner of the Fairgrounds and wishes to lease the facilities during non-fair periods to promote additional income to offset Fairgrounds operating costs; and

WHEREAS, Benton County is the sole approving agency for all Fairgrounds rental contracts; and

WHEREAS, RCW 36.37.010 defines Agricultural Exhibits as a County purpose; and,

WHEREAS, the Board reviewed the attached Fairgrounds Lease schedule; and

WHEREAS, Weekend is defined as Friday and Saturday rentals; and

WHEREAS, Mid-week is defined as Sunday through Thursday rentals: **NOW, THEREFORE,**

BE IT RESOLVED by the Board of Benton County Commissioners, Benton County, Washington, that the Board accepts the revised Fairgrounds Lease schedule; and,

BE IT FURTHER RESOLVED, that the Board authorizes Fairgrounds staff to negotiate compensation for rental of Fairgrounds facilities as provided in the Fairgrounds Lease schedule; and,

BE IT FURTHER RESOLVED, that per RCW 36.37.010, Benton County Fairgrounds facilities may be made available at not cost to agricultural based non-profit organizations, such as, but not limited to 4-H Clubs, for the purpose of holding an agricultural exhibit. ..

Dated this _____ day of _____, 2009

Chairman of the Board

Member

Member

Attest: _____
Clerk of the Board

Benton County Fairgrounds Lease Schedule

<u>Commercial Buildings</u>		<u>Weekend</u>	<u>Mid-week</u>	mid-week is Sun-Thurs
1		\$ 1,200	\$ 400	includes 30 tables and 250 chairs
2		\$ 2,000	\$ 700	includes 50 tables and 400 chairs
3		\$ 1,200	\$ 400	includes 30 tables and 250 chairs
4		\$ 1,200	\$ 400	includes 30 tables and 250 chairs
16		\$ 600	\$ 200	includes 15 tables and 125 chairs
<u>Outdoor</u>		<u>Weekend</u>	<u>Mid-week</u>	
Rodeo Arena		\$ 2,000	\$ 700	
4-h Arena	**	\$ 250	\$ 150	
Wine Garden		\$ 150	\$ 50	
Carnival - north lawn		\$ 750	\$ 250	
Entertainment - center lawn		\$ 750	\$ 250	
Grange-Food Ct		\$ 250	\$ 100	
Oak Street		\$ 400	\$ 150	
Kid Zone- south lawn		\$ 300	\$ 100	
Wedding Garden		\$ 300	\$ 100	
Commercial Pavilion		\$ 400	\$ 150	
<u>Livestock Buildings</u>		<u>Weekend</u>	<u>Mid-week</u>	
6		\$ 400	\$ 150	
7		\$ 400	\$ 150	
8		\$ 400	\$ 150	
9		\$ 400	\$ 150	
10		\$ 400	\$ 150	
11		\$ 400	\$ 150	
12		\$ 500	\$ 200	
5		\$ 400	\$ 150	
Bill Beck Gazebo		\$ 400	\$ 150	
<u>Other</u>				
Grounds	*	per day \$ 10,000		
RV Hookup		per day \$ 10		
Dry camping		per day \$ 6		
RV Hookup	equine area	per month \$ 185		
RV Ltd Hookup	equine area	per month \$ 150		
Horse Stalls	old	per month \$ 100	plus tax ***	
Horse Stalls	new	per month \$ 195	plus tax ***	
Tack Room	horse stalls	per month \$ 15	plus tax ***	
RV Storage	(nterior 10x30)	per month \$ 75	\$2.50 each additional ft (Nov-Feb)	plus tax ***
RV Storage	(covered 15X35)	per month \$ 50	\$1.50 each additional ft (Nov-Feb)	plus tax ***
Add'l Tables		per day \$ 8		
Add'l Chairs		per day \$ 1		
Bleacher		per day \$ 30		
Picnic Tables		per day \$ 10		

(1) The County Administrator has authorization to negotiate and approve combination event rates, within the limit that the combined rate is equal to or greater than 50% the published rate. Also the County Administrator is authorized to offer refunds in aggregate, that shall not exceed 50% of the negotiated contract rate. Agreements and refunds outside this range require the approval by the Board of Benton County Commissioners.

(2) The Fairgrounds Office Manager has authority to negotiate after the agreement is in place if there is a change in attendance requiring greater or lesser amounts of security, insurance, tables or chairs, etc. These changes will be noted in an amendment to the agreement that shall be signed by both the Office Manager and the Lessee.

(3) Additional third party costs (ie. Insurance, security, etc.) are borne by the lessee. Staff will work with risk management on insurance and security issues.

(4) The Fairgrounds monthly Horse Stalls and Camping are available January 1 - June 30. Main Track maintenance is February 1 - May 31.

(* Grounds includes Buildings 1,2,3 and 4; the wine garden, oak street, commercial pavilion, and carnival and entertainment areas- Arenas, horse area, barns and RV Hookup/camping are additional costs.

(**) 4H Arena: mid-week is Mon-Thurs. If the 4H Arena is prepped for any event, a preparation charge of \$150 applies.

(***) Leasehold Excise Tax applies

Benton County Fairgrounds Equine Training and Camping Facility

Rules and Regulations

1. **Benton County Fairgrounds Policies and Procedures**
 - a. BCF Policies and Procedures is applicable to all Boarders, Campers and Renters.
 - b. Boarders, Campers and Renters are responsible for reading and understanding these Policies and Procedures.

2. **County Provided Services**
 - a. BCF Equine Training and Camping Facility Season –
Stall rentals and Camping rentals January 1 through June 30.
Main Track (see “f” below) February 1 through May 31.
All horses, trailers, walkers, RVs, personal property and all other items from stalls and tack rooms must be removed prior to July 1st. **No stall rentals or camping will be allowed from July 1st through December 31st.**
 - b. Utilities, Water, Sewer and Refuse Removal (in refuse barrels only)
 - c. Restrooms, Water Lines and Electrical Hookups.
 - d. Replacement of Light Bulbs in stalls and tack rooms.
 - e. Manure and Straw Removal.
 - f. Main Track – **worked and watered two (2) days a week** when the track is open, unless BCF feels the physical condition deems fit for the event. Maintaining of the track is subject to weather conditions.

3. **Rental Fees**

a. Stall Rent – Row A	\$195.00 per month per stall plus tax
b. Stall Rent – Row B and C	\$100.00 per month per stall plus tax
c. Tack Rooms	\$15.00 per month per tack room plus tax
d. Haul-In Pass	\$100.00 per season
e. Camping – Full Hookups	\$185.00 per month
f. Camping – Electric Only	\$150.00 per month

4. **Boarding and Camping Requirements**
 - a. **Check in at the BCF Administrative Office before moving any horses, RVs or personal property on to the Equine Facility.**
 - b. Complete a Horse Stall Boarding and/or Camping Agreement.
 - c. Pay any outstanding balance.
 - d. **No Horse will be stalled or camping permitted without completed paperwork and outstanding balance paid in full.**

5. **Stalls, Stall Areas and Tack Rooms – Boarder Responsibility**
 - a. BCF reserves the right to inspect all stalls and tack rooms with 24 hours notice, except in the event of a reasonably perceived emergency threatening the safety of person or property, in which case BCF shall be permitted to enter immediately to resolve the emergency.
 - b. Manure and Straw – deposit in designated area(s).
 - c. Remove Trash (use provided trash bins).

- d. Maintain all areas to the condition of the first day of rental. If there is damage beyond ordinary wear and tear, then RENTER or BOARDER shall be responsible for paying the reasonable costs for repairing such damage unless, in the sole discretion of COUNTY,

RENTER or BOARDER is given written permission to repair the damage. RENTER or BOARDER shall not attempt such repair without written permission to do so. Repairs shall be subject to acceptance by COUNTY.

- e. Recoil hoses at faucet after each use.
 - f. Tack Rooms are for tack only.
 - g. Stalls doors can be changed out for personal doors. The doors will need to be turned in to the BCF Maintenance office. You will be responsible for stall doors that are not turned in and will be charged accordingly.
 - h. Walker pedestals can be used on a first come first serve basis. Any damage to the pedestals will be charged to the BOARDER using the pedestal.
 - i. **The following are prohibited in stalls, stall areas and tack rooms:**
 1. Horses are not allowed to run loose on BCF property.
 2. Unattended horses (except in stalls)
 3. Dogs or pets
 4. Pens between stall rows
 5. Freestanding pens (used for overnight stalling)
 6. Sleeping or otherwise residing in, or allowing others to sleep or reside in
 7. Heaters, Fans, Coolers, Electrical Appliances
 8. Extension Cords, Drop Lights
 9. Combustible or Flammable Containers and Items
 10. Cooking or barbequing
 11. Smoking
- 6. Abandoned Horse(s)**
- a. Any horse(s) in an unrented stall or wandering premises and that remains unclaimed for a period in excess of 10 minutes shall be regarded as abandoned and will be subject to removal to Row A – Barns A, B, or C and locked down. A boarding charge of \$50.00 per day per horse will be charged to the owner of the horse if found. Abandoning a horse as described herein constitutes a significant breach of this contract and shall subject the owner to forfeiture of all contractual rights for renting or boarding immediately with no refund of moneys paid. In addition, COUNTY reserves the right to notify law enforcement immediately upon observing any abandoned horse.
- 7. Arenas**
- a. **Main Track** can be used daily or Monday through Sunday during scheduled season times, unless otherwise posted. BCF reserves the right to close the track at any time BCF Management deem necessary. Closure notifications will be posted at the Main Track Entrance and Administrative Office.
 - b. **Sand Track** can be used Monday through Sunday of each week.
 - c. **4-H Arena usage** is not included in this agreement and is strictly prohibited.
- 8. Camping – Camper Responsibility**
- a. Maintain area around camping space by keeping it clean of debris (i.e. garbage, furniture, car parts, garbage, clothes lines, etc.).

- b. Electrical cords must be properly grounded and wired.
 - c. LPG tanks must be securely attached on a firm base and the valve area protected.
 - d. Remove trash (use provided trash bins).
 - e. Pets must be on a leash and supervised at all times. Pet owners must clean up after their pets. No pets are allowed in the restroom, shower facilities or stall areas.
- 9. Prohibited - Equine Training and Camping Facility**
- a. **Altering of the Equine Facility** – changing, adjusting or any way modifying the stalls, stall areas, tack rooms, and camping areas.
 - b. Washing, servicing or repairing motor vehicles (including off road vehicles), trailers, RVs.
 - c. Consuming or possessing alcoholic beverages or illegal substances
 - d. Campfires or open flames of any sort except barbecues utilizing retail barbecue equipment in good repair
 - e. **Removal of Posted BCF Signs**
- 10. Parking – Stall and Camping Areas**
- a. Parking is allowed in designated areas only. Vehicles, trailers, RVs parked in non-designated areas may be towed and impounded at owner's expense.
 - b. **No blocking of shed rows or fire lanes at any time – vehicles blocking shed rows or fire lanes will be towed and impounded immediately at owner's expense.**
 - c. Trailers are to be parked only by the fence line on the east or west side of the Equine Facility or in the gravel parking lot.
- 11. Lost, Stolen or Damaged Property**
- a. BCF shall not be responsible, under any circumstances for property of the Agreement Holder while on the premises. The BCF will not accept lost and found articles for distribution; unclaimed articles must be held and distributed by the Agreement Holder. In addition, the BCF is not responsible for any loss of articles or equipment left unattended in any facility.
- 12. Weapons, Firearms and Fireworks**
- a. Only persons properly licensed under RCW 9.41.070 shall carry concealed firearms on the premises. Possession of unconcealed firearms shall be permitted only pursuant to applicable State and Federal laws. No fireworks permitted on premises. No firearms may be discharged on premises. Discharging firearms or possession/discharging fireworks on premises shall constitute substantial breach of contract and shall subject offender to immediate forfeiture of all contractual rights and moneys paid.
- 13. Safety or Damage**
- a. Contact the Administrative Office or Maintenance Supervisor for any of the following:
 - 1. Safety Concerns
 - 2. Electrical and Water Problems
 - 3. Restroom Maintenance
 - 4. Damage to Stalls or Tack Rooms
 - 5. Removal of Stall and Tack Room Doors

e

<i>AGENDA ITEM</i>	<i>TYPE OF ACTION NEEDED</i>	
MEETING DATE: 8/31/09	Execute Contract XXX	CONSENT AGENDA XXX
SUBJECT:	Pass Resolution	PUBLIC HEARING
Contract for fruit tree	Pass Ordinance	1ST DISCUSSION
spraying	Pass Motion	2ND DISCUSSION
Prepared By: Frank Wolf	Other	OTHER
Reviewed By: Jonathan Young		

BACKGROUND INFORMATION -

The Benton County Horticultural Pest and Disease Board has sent an Order To Take Remedial Action to a Benton County landowner.

SUMMARY

The Benton County Horticultural Pest and Disease Board may require the services of a commercial applicator. The Benton County Horticultural Pest and Disease Board has \$40,000 budgeted in line item 4102 Contract Services for neglected orchard spraying and removal.

RECOMMENDATION

1st Execute contract with J.R. Helicopters LLC to spray orchards on an as needed basis.

FISCAL IMPACT

Expenditures for spraying neglected orchards by the Benton County Horticultural Pest and Disease Board are billed to the landowner. Unpaid bills are filed as a tax lien against the property.

MOTION

Execute contract with J.R. Helicopters LLC to spray orchards on an as needed basis.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WA

IN THE MATTER OF THE AWARD AND CONTRACT WITH J.R. HELICOPTERS LLC
FOR AS NEEDED ORCHARD SPRAYING SERVICES

WHEREAS, resolution 04-534 allows for non-public works services, the county need not advertise or follow a formal competitive bidding procedure; and

WHEREAS, the Benton County Horticultural Pest and Disease Board has sent an order to take remedial action to a Benton County landowner for the neglect of spraying his orchard; and

WHEREAS, the Benton County Horticultural Pest and Disease Board may require services of a commercial applicator and hereby recommends contracting with J.R. Helicopters LLC for as needed orchard spraying services for an contract amount not to exceed \$5,000.00 excluding WSST; and

WHEREAS, expenditures for spraying neglected orchards by the Benton County Horticultural Pest and Disease Board are billed to the landowner, and any unpaid bills are filed as a tax lien against the landowners property; **NOW, THEREFORE**

BE IT RESOLVED, by the Board of Benton County Commissioners, Benton County Washington, the Board hereby agrees with the recommendation and awards J.R. Helicopters LLC the contract for as needed orchard spraying services for an amount not to exceed \$5,000.00 excluding WSST; and

BE IT FURTHER RESOLVED, the Board of Benton County Commissioners hereby authorizes the Chairman of the Board to sign the attached contract hereto for said services.

Dated this _____ day of _____, 2009

Chairman of the Board

Member

Attest: _____
Clerk of the board

Member

Constituting the Board of County
Commissioners of Benton County,

PERSONAL 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 (hereinafter "COUNTY"), and J.R. Helicopters LLC, with its principal offices at 7490 Yakima Valley Highway Zillah, WA 98953, (hereinafter "CONTRACTOR").

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

1. CONTRACT DOCUMENTS

This Contract consists of the following documents:

- a. Terms and Conditions;
- b. Exhibit A, Scope of Work and Compensation.

2. DURATION OF CONTRACT

The term of this Contract shall begin immediately upon execution by the COUNTY and shall expire on December 31, 2009. The CONTRACTOR shall complete all work by the time(s) specified herein, or if no such time is otherwise specified, no later than the expiration date.

3. SERVICES PROVIDED

The CONTRACTOR shall perform the following services:

- a. The Contractor agrees to perform all work on an "as-needed" basis. A detailed description of the services to be performed by the CONTRACTOR is set forth in Exhibit A, Scope of Work and Compensation, which is attached hereto and incorporated herein by reference.
- b. The COUNTY does not guarantee utilization of this contract. The COUNTY may award contracts to other vendors for similar products or services. Actual utilization will be based on availability, proximity of vendor facilities, frequency of deliveries, or any other factor deemed important to the COUNTY.
- c. The CONTRACTOR agrees to provide its own labor and materials. Unless otherwise provided in this Contract, no material, labor, or facilities will be furnished by the COUNTY.

- c. The CONTRACTOR shall perform the work specified in this Contract according to standard industry practice.
- d. The CONTRACTOR shall complete its work in a timely manner and in accordance with the schedule agreed by the parties.
- e. The CONTRACTOR shall confer with the COUNTY from time to time during the progress of the work. The CONTRACTOR shall prepare and present status reports and other information that may be pertinent and necessary, or as may be requested by the COUNTY.

4. CONTRACT REPRESENTATIVES

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

a. For CONTRACTOR: Kent Jura 7490 Yakima Valley Highway Zillah, WA 98953

b. For COUNTY: Frank Wolf 1121 Dudley Avenue Prosser, WA 99350

5. COMPENSATION

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

- a. A detailed description of the compensation to be paid by the COUNTY is set forth in Exhibit A, "Scope of Work and Compensation", which is attached hereto and incorporated herein by reference.
- b. The maximum total amount payable by the COUNTY to the CONTRACTOR under this Contract shall not exceed \$5,000.00.

CONTRACTOR shall monitor its cumulative total accounts receivables to ensure that it will not do work in excess of the total approved payable amount, and that total billings will not exceed the total approved payable amount. CONTRACTOR shall inform COUNTY promptly in writing when the cumulative accounts receivables attributable to COUNTY pursuant to the electrical repair services portion of this contract reaches 80% of the total approved payable amount so that approval and budgeting for additional payable amounts may be obtained if appropriate. Any dollar amount above the maximum

payable amount will only be approved with an amendment to this contract. No payment shall be made for any work performed by the CONTRACTOR, except for work identified and set forth in this Contract and exhibits hereto.

- e. The CONTRACTOR may, in accordance with Exhibit A, 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. Invoices shall cover the time CONTRACTOR performed work for the COUNTY during the billing period. The COUNTY 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.
- f. The CONTRACTOR shall not be paid for services rendered under this Contract unless and until they have been performed to the satisfaction of the COUNTY.
- g. 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 COUNTY, the COUNTY 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.
- h. 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.

6. AMENDMENTS AND CHANGES IN WORK

- a. In the event of any errors or omissions by the CONTRACTOR in the performance of any work required under this Contract, the CONTRACTOR shall make any and all necessary corrections without additional compensation. All work submitted by the CONTRACTOR shall be certified by the CONTRACTOR and checked for errors and omissions. The CONTRACTOR shall be responsible for the accuracy of the work, even if the work is accepted by the COUNTY.
- b. No amendment or modification shall be made to this Contract, unless set forth in a written Contract

Amendment signed by both parties. Work under a Contract Amendment shall not proceed until the Contract Amendment is duly executed by the COUNTY.

7. HOLD HARMLESS AND INDEMNIFICATION

- a. The CONTRACTOR shall hold harmless, indemnify and defend the COUNTY, its officers, officials, employees and agents, from and against any and all claims, actions, suits, liability, loss, expenses, damages, and judgments of any nature whatsoever, including reasonable costs and attorneys' fees in defense thereof, for injury, sickness, disability or death to persons or damage to property or business, caused by or arising out of the CONTRACTOR'S acts, errors or omissions in the performance of this Contract. PROVIDED, that the CONTRACTOR'S obligation hereunder shall not extend to injury, sickness, death or damage caused by or arising out of the sole negligence of the COUNTY, its officers, officials, employees or agents.
- b. In any and all claims against the COUNTY, its officers, officials, employees and agents by any employee of the CONTRACTOR, subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under this Section shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the CONTRACTOR or subcontractor under Workers Compensation acts, disability benefit acts, or other employee benefit acts, it being clearly agreed and understood by the parties hereto that the CONTRACTOR expressly waives any immunity the CONTRACTOR might have had under such laws, including but not limited to Title 51 of the Revised Code of Washington. By executing this Contract, the CONTRACTOR acknowledges that the foregoing waiver has been mutually negotiated by the parties and that the provisions of this Section shall be incorporated, as relevant, into any contract the CONTRACTOR makes with any subcontractor or agent performing work hereunder. CONTRACTOR'S obligations under this Section [7] shall survive termination and expiration of this Contract.
- c. The CONTRACTOR'S obligations hereunder shall include, but are not limited to, investigating, adjusting and defending all claims alleging loss from action, error or omission, or breach of any common law, statutory or other delegated duty by the CONTRACTOR, the CONTRACTOR'S employees, agents or subcontractors.

8. INSURANCE

- a. **Professional Legal Liability:** Prior to the start of work under this Contract, the CONTRACTOR, if he, she or it is a licensed professional, shall maintain Professional Legal Liability or Professional Errors and Omissions coverage appropriate to the CONTRACTOR'S profession and shall be written subject to limits of not less than one million dollars (\$1,000,000) per occurrence, loss or person. If the policy contains a general aggregate or policy limits 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. The policy shall state that coverage is claims made, and state the retroactive date.

CONTRACTOR is also required to buy claims made professional liability insurance for a period of 36 months after completion of this Contract, which can be satisfied by the continuous purchase of the above referenced insurance or an extended reporting period policy. CONTRACTOR shall annually provide COUNTY with proof of all such insurance.

- b. **Workers Compensation:** CONTRACTOR shall comply with all State of Washington workers compensation statutes and regulations. Prior to the start of work under this Contract, workers compensation coverage shall be provided for all employees of CONTRACTOR and employees of any subcontractor or sub-subcontractor. Coverage shall include bodily injury (including death) by accident or disease, which arises out of or in connection with the performance of this Contract. Except as prohibited by law, CONTRACTOR waives all rights of subrogation against the COUNTY for recovery of damages to the extent they are covered by workers compensation, 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 COUNTY incurs fines or is required by law to provide benefits to or

obtain coverage for such employees, CONTRACTOR shall indemnify the COUNTY. Indemnity shall include all fines, payment of benefits to CONTRACTOR or subcontractor employees, or their heirs or legal representatives, and the cost of effecting coverage on behalf of such employees. Any amount owed to COUNTY by CONTRACTOR pursuant to the indemnity agreement may be deducted from any payments owed by COUNTY to CONTRACTOR for performance of this Contract.

- c. **Commercial General Liability and Employers Liability Insurance:** Prior to the start of work under this Contract, CONTRACTOR shall maintain commercial general liability coverage (policy form CG0001 or equivalent) for wrongful death, bodily injury, personal injury and property damage, subject to limits of not less than one million dollars (\$1,000,000) per occurrence. The general aggregate limit shall apply separately to this Contract and be no less than two million dollars (\$2,000,000).

The general commercial liability policy will contain an endorsement naming the COUNTY as an additional insured (CG2010) and an endorsement that specifically states that CONTRACTOR'S general liability policy shall be primary, and not contributory, with any other insurance maintained by the COUNTY.

The CONTRACTOR will provide commercial general liability coverage that does not exclude any activity to be performed in fulfillment of this Contract and does not exclude liability pursuant to the indemnification requirement under Section [7]. 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.

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

- d. **Automobile Liability:** 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.

e. **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 CONTRACTOR'S liability insurance policies shall contain no special limitations on the scope of protection afforded to the COUNTY as an additional insured.
- (3) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the COUNTY, its officers, officials, employees or agents.
- (4) The 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.
- (5) 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.
- (6) The insurance limits mandated for any insurance coverage required by this Contract are not intended to be an indication of exposure nor are they limitations on indemnification.
- (7) The 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. All liability insurance required under this Contract, except for professional liability under Section [8(a)], shall be written on an Occurrence Policy form. Professional liability insurance on a Claims Made form shall have a retroactive date prior to or coincident with the effective date of this Contract.

f. **Verification of Coverage and Acceptability of Insurers:**
All insurance required under this Contract shall be issued by companies admitted to do business within the State of Washington and have a rating of A-, Class VII or better in the most recently published edition of Best's Reports. Any exception to this requirement must be reviewed and approved in writing by the Benton County Risk Manager. If an insurer is not admitted to do business within Washington State, all insurance policies and procedures for issuing the insurance policy must comply with Chapter 48.15 RCW and 284-15 WAC.

- (1) The CONTRACTOR shall furnish the COUNTY with properly executed and unaltered Accord form certificates of insurance and, if requested, a signed policy endorsement(s) which shall clearly evidence all required insurance prior to commencing work under this Contract. The certificates will, at a minimum, list limits of liability and coverage. For any professional liability insurance, the 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 COUNTY by the CONTRACTOR. For other insurance policies, CONTRACTOR shall not cancel or allow the insurance contract to expire except on forty-five (45) days prior written notice to the COUNTY. CONTRACTOR shall also instruct the insurer to give the COUNTY forty-five (45) days advanced written notice of any cancellation by the insurer. The certificate or endorsement shall not limit or negate the insurer's obligation as required by law to notify the COUNTY as an additional insured of cancellation.
- (2) The CONTRACTOR shall furnish the COUNTY with evidence that the additional insured provision required above has been met. Acceptable forms of evidence are the endorsement pages of the policy showing the COUNTY as an additional insured.
- (3) Certificates of insurance shall show the certificate holder as "Benton County" and include "c/o" the COUNTY'S Contract Representative. The address of the certificate holder shall be shown as the current address of the COUNTY'S Contract Representative.
- (4) If the CONTRACTOR or any subcontractor or sub-subcontractor has any employees, CONTRACTOR shall

request the Washington State Department of Labor and Industries, Workers Compensation Representative, to send written verification to Benton County that CONTRACTOR is currently paying workers compensation.

- (5) All written notices under this Section [8] and notice of cancellation or change of required insurance coverages shall be mailed to the COUNTY at the following address:

Benton County Risk Manager/Personnel Dept.
7122 W. Okanogan Place, Bldg. A
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 County 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 COUNTY. If requested by COUNTY, CONTRACTOR must describe its financial condition and the self-insured funding mechanism.

9. TERMINATION

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

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

10. ASSIGNMENT, DELEGATION AND SUBCONTRACTING

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

11. 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. All waivers of any provision(s) of this Contract shall be in writing and in the absence of such, no action or inaction shall be construed to be such a waiver.

12. INDEPENDENT CONTRACTOR

- a. The CONTRACTOR'S services shall be furnished by the CONTRACTOR as an independent contractor and not as an agent, employee or servant of the COUNTY. The CONTRACTOR specifically has the right to direct and control CONTRACTOR'S own activities in providing the agreed services in accordance with the specifications set out in this Contract.

- b. The CONTRACTOR acknowledges that the entire compensation for this Contract is set forth in Section [5] of this Contract, and neither the CONTRACTOR nor its employees are entitled to any COUNTY benefits, including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental, or other insurance benefits, fringe benefits, or any other rights or privileges afforded to COUNTY employees.
- c. The CONTRACTOR shall have and maintain complete responsibility and control over all of its subcontractors, employees, agents, and representatives. No subcontractor, employee, agent, or representative of the CONTRACTOR shall be or deem to be or act or purport to act as an employee, agent, or representative of the COUNTY.
- d. CONTRACTOR shall pay for all taxes, fees, licenses, or payments required by federal, state or local law which are now or may be enacted during the term of this Contract.
- e. The CONTRACTOR agrees to immediately remove any of its employees or agents from their assignment to perform services under this Contract upon receipt of a written request to do so from the COUNTY'S contract representative or designee.

13. COMPLIANCE WITH LAWS

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

14. INSPECTION OF BOOKS AND RECORDS

The COUNTY may, at reasonable times, inspect the books and records of the CONTRACTOR relating to the performance of this Contract. The CONTRACTOR shall keep all records required by this Contract for six (6) years after termination of this Contract for audit purposes.

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. DISPUTES

Disputes between the CONTRACTOR and the COUNTY, arising under and by virtue of this Contract, shall be brought to the attention of the COUNTY at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken.

Any dispute relating to the quality or acceptability of performance and/or compensation due the CONTRACTOR shall be decided by the COUNTY'S Contract Representative or designee. All rulings, orders, instructions and decisions of the COUNTY'S Contract Representative shall be final and conclusive, subject to CONTRACTOR'S right to seek judicial relief.

17. CONFIDENTIALITY

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

18. 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 County, Washington.

19. SUCCESSORS AND ASSIGNS

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

21. SEVERABILITY

- a. If a court of competent jurisdiction holds any part, term or provision of this Contract to be illegal, or invalid in whole or in part, the validity of the remaining provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as if

this Contract did not contain the particular provision held to be invalid.

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

22. ENTIRE AGREEMENT

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

23. NOTICES

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

24. SURVIVABILITY

All Contract terms, which by their context are clearly intended to survive the termination and/or expiration of this Contract, shall so survive. These terms include, but are not limited to, indemnification provisions; inspection and keeping of records and books; litigation hold notice; Public Records Act and confidentiality.

25. LITIGATION HOLD NOTICE

In the event the COUNTY learns of circumstances leading to an increased likelihood of litigation regarding any matter where the records kept by CONTRACTOR pursuant to 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 the six (6) year purge schedule as set out above in

Section [14].

26. PUBLIC RECORDS ACT

CONTRACTOR hereby acknowledges that the COUNTY is a governmental entity and as such is subject to the requirements of the Public Records Act, RCW 42.56 et seq. Accordingly, CONTRACTOR understands that to the extent a proper request is made, the COUNTY may be required by virtue of that Act to disclose any records actually in its possession or deemed by judicial determination to be in its possession, which may include records provided to the COUNTY by CONTRACTOR that CONTRACTOR might regard as confidential or proprietary. To the extent that CONTRACTOR provides any records to the COUNTY that it regards as confidential or proprietary, it agrees to conspicuously mark the records as such. CONTRACTOR also hereby waives any and all claims or causes of action for any injury it may suffer by virtue of COUNTY'S release of records covered under the Public Records Act. COUNTY agrees to take all reasonable steps to notify CONTRACTOR in a timely fashion of any request made under the Public Records Act which will require disclosure of any records marked by CONTRACTOR as confidential or proprietary, so that CONTRACTOR may seek a judicial order of protection if necessary.

- This section was intentionally left blank -

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

DATED: _____

DATED: _____

BENTON COUNTY BOARD OF COMMISSIONERS

J.R. Helicopters LLC

Chairman

Kent Jura
Contract Representative

Member

Member

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

Attest: _____
Clerk of the Board

Approved as to Form:


_____, Deputy
Prosecuting Attorney

Exhibit A

"Scope of Service and Compensation"

Scope of Service

As needed the CONTRACTOR shall spray orchard property as directed by the county's contract representative.

The COUNTY shall supply the insecticide.

The CONTRACTOR shall provide all necessary equipment, tools and other items necessary to perform this contract.

Compensation

The CONTRACTOR shall be paid five hundred dollars to travel to the orchard site for each spray application. The CONTRACTOR shall be paid thirty dollars per acre to apply insecticide. No other compensation will be paid to the CONTRACTOR. CONTRACTOR shall be responsible for all cost of equipment, taxes, licensing and any other expense associated with performance of this contract.

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

CUP

f

AGENDA ITEM	TYPE OF ACTION NEEDED	
Program Agreement #0963-68046 with the Division of Developmental Disabilities Prepared By: Carol Carey	<input checked="" type="checkbox"/> Execute Contract	<input checked="" type="checkbox"/> Consent Agenda
	<input checked="" type="checkbox"/> Pass Resolution <input type="checkbox"/> Pass Ordinance <input type="checkbox"/> Pass Motion <input type="checkbox"/> Other	<input type="checkbox"/> Public Hearing <input type="checkbox"/> 1 st Discussion <input type="checkbox"/> 2 nd discussion <input type="checkbox"/> Other

BACKGROUND INFORMATION

The Division of the Developmental Disabilities would like to contract with the Department of Human Services for the purpose to advance the state legislative policy to provide coordinated and comprehensive state and local program of services for persons with developmental disabilities.

SUMMARY

Award: This agreement has a maximum consideration of \$1,805,260.00

Period: July 1, 2009 through June 30, 2010.

Funding Source: Division Developmental Disabilities through the Department of Social and Health Services

RECOMMENDATION

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

FISCAL IMPACT

Funding for the services described in this Agreement is provided by the Washington State Department of Social and Health Services, Developmental Disabilities Contract. **There is no impact on the current expense budget.** All revenues and expenditures are from the Fund 0108-101 Human Services Budget.

MOTION

To approve signing Agreement #0963-68046 with the Division of Developmental Disabilities and authorize the Chair to sign on behalf of the Board.

JOINT RESOLUTION

Benton County Resolution No. _____

Franklin County Resolution No. _____

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

IN THE MATTER OF EXECUTION OF A PROGRAM AGREEMENT BETWEEN THE DIVISION OF DEVELOPMENTAL DISABILITIES AND BENTON AND FRANKLIN COUNTIES' DEPARTMENT OF HUMAN SERVICES, PROGRAM AGREEMENT #0963-68046, and

WHEREAS, the Division Developmental Disabilities (DDD) would like to contract with the Department of Human Services (DHS) for the purpose to advance the state legislative policy to provide coordinated and comprehensive state and local program of services for persons with developmental disabilities; and

WHEREAS, These services shall commence on July 1, 2009 through June 30, 2010, NOW THEREFORE,

BE IT RESOLVED that the Boards of Benton and Franklin County Commissioners hereby accept the proposed Program Agreement, and

BE IT FURTHER RESOLVED that the Chairs of Benton and Franklin County Commissioners are hereby authorized to sign on behalf of the Board of Benton and Franklin County Commissioners.

Dated this . . . day of, 2009

Dated this . . . day of, 2009

Chair, Benton Co. Commissioners

Chair, Franklin Co. Commissioners

Chair, Pro Tem

Chair, Pro Tem

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

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

Attest:
Clerk of the Board

Attest:
Clerk of the Board

cc: Human Services, Franklin County, Benton County

Carey

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

COPY 9

AGENDA ITEM	TYPE OF ACTION NEEDED	
Amendment #07/09-SA-LCC-01	<input checked="" type="checkbox"/> Execute Contract	<input checked="" type="checkbox"/> Consent Agenda
	<input checked="" type="checkbox"/> Pass Resolution	<input type="checkbox"/> Public Hearing
Prepared By: Carol Carey	<input type="checkbox"/> Pass Ordinance	<input type="checkbox"/> 1 st Discussion
	<input type="checkbox"/> Pass Motion	<input type="checkbox"/> 2 nd discussion
	<input type="checkbox"/> Other	<input type="checkbox"/> Other

BACKGROUND INFORMATION

The Department of Human Services (DHS) would like to amend the agreement contract with Lourdes Counseling Center for substance abuse treatment services for the 2007-09 biennium. This amendment would extend the original agreement three months.

SUMMARY

Award: Consideration shall be fee for service

Period: July 1, 2007 to September 30, 2009

Funding Source: Division of Alcohol and Substance Abuse

RECOMMENDATION

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

FISCAL IMPACT

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

MOTION

To approve signing Amendment #07/09-SA-LCC-01 with Lourdes Counseling Center and authorize the Chair to sign on behalf of the Board.

JOINT RESOLUTION

Benton County Resolution No. _____

Franklin County Resolution No. _____

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

**IN THE MATTER OF EXECUTION OF AMENDMENT #07/09-SA-LCC-01 BETWEEN
LOURDES COUNSELING CENTER AND BENTON AND FRANKLIN COUNTIES'
DEPARTMENT OF HUMAN SERVICES, and**

WHEREAS, It is the purpose of this Amendment is to extend the current Agreement three months. All other provisions set out in the underlying Agreement remain in full force and effect; and

WHEREAS, the consideration of the Amendment is fee for service, and

WHEREAS, the Agreement is effective July 1, 2007 and remains effective until September 30, 2009, NOW THEREFORE,

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

BE IT FURTHER RESOLVED that the Chairs of Benton and Franklin County Commissioners are hereby authorized to sign amendment #07/09-SA-LCC-01 on behalf of the Board of Benton and Franklin County Commissioners.

Dated this . . . day of, 2009

Dated this . . . day of, 2009

Chair, Benton County Commissioners

Chair, Franklin County Commissioners

Chair, Pro Tem

Chair, Pro Tem

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

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

Attest:
Clerk of the Board

Attest:
Clerk of the Board

Carey

AGENDA ITEM: <u>Consent</u>	<u>TYPE OF ACTION NEEDED</u> Executive Contract	Consent Agenda <u>XX</u>
MEETING DATE: B/C 08-31-09	Pass Resolution <u>XX</u>	Public Hearing
SUBJECT: Line Item Transfer	Pass Ordinance	1st Discussion
Prepared By: Donna A. Lee	Pass Motion	2nd Discussion
Reviewed By: Sharon Paradis	Other	Other

BACKGROUND INFORMATION

This line item transfer is to move budget appropriations from Department 173 "Data Processing" to Department 174 "Data Processing" to maximize use of grant dollars. This line item transfer is required in order to remain in compliance with categorical budgets.

SUMMARY

This line item transfer shifts dollars from line item 173-09101 'Data Processing Admin' to line item 174-9101 'Data Processing Admin'.

RECOMMENDATION

We recommend that the Boards of Commissioners of Benton County sign the Resolution authorizing transfer of funds within Juvenile Fund 0115 - 101 Department 173, Contract - Fee for Service.

FISCAL IMPACT

The budget amount is included in the approved Department.

MOTION

I move that the Boards of Commissioners of Benton County sign the Resolution for the Line Item Transfer.

RESOLUTION

BENTON COUNTY RESOLUTION NO. _____

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

IN THE MATTER OF COUNTY FUNDS RE: TRANSFER OF FUNDS WITHIN JUVENILE FUND NUMBER 0115-101, DEPARTMENT NUMBER 173 AND DEPARTMENT 174, JUVENILE FACILITIES,

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

DATED at Prosser, Washington, this 31st day of August 2009.

Chairman

ATTEST:

Member

Clerk of the Board

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

RESOLUTION

BENTON COUNTY RESOLUTION NO. _____

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF EXECUTING AN AMENDMENT TO THE DISTRICT COURT INDIGENT DEFENSE CONTRACT OF ATTORNEY ELISA RILEY INCREASING THE MAXIMUM CASE APPOINTMENT CAP TO 390 CASE EQUIVALENTS.

WHEREAS, the contract for District Court indigent defense services currently effective between Benton County and attorney Elisa Riley, designated with the identifier BCDC0810EVR002, establishes a maximum caseload cap of 330 case equivalents; and

WHEREAS, based on mid-year caseload analysis and forecasting, the needs of the Richland docket, to which Attorney Elisa Riley is currently assigned, exceeds the available capacity by 165 case equivalents; and

WHEREAS, attorney Elisa Riley is willing to accept 60 additional cases during calendar year 2009, which would increase the number of cases assigned to her during calendar year 2009 to 390 total case equivalents; and

WHEREAS, an increase in the case load cap applicable to attorney Elisa Riley's contract to 390 case equivalents would still be in compliance with caseload standards contained in the Washington State Bar Association's Standards for Indigent Defense; and

WHEREAS, it appears to be in Benton County's best interests to facilitate the assignment of 30 additional cases to attorney Elisa Riley so as to reduce the capacity shortfall on the Richland docket, and it is further in Benton County's best interests to compensate attorney Elisa Riley at the rate of \$161.00 per case, that is the equivalent per-case rate for all 2009 District Court contracts; **NOW, THEREFORE**

BE IT RESOLVED THAT the attached Amendment, designated with the identifier: BCDC0810EVR002A, increasing the maximum caseload cap of Contract BCDC0810EVR002 by 30 case equivalents to 390 case equivalents total, be executed as presented.

Dated this day of, 20....

Chairman of the Board

Chairman Pro-Tem

Member

Constituting the Board of County Commissioners
Benton County, Washington

Attest:
Clerk of the Board

cc: Original-Benton County OPD
Copy-Benton Franklin Counties Office of Public Defense, Rosemary Ozuna, Auditor, E. Riley

**Amendment to Professional Services Agreement
#BCDC0810EVR002**

Between

**Benton County and Elisa Riley
To Provide Legal Representation to Indigent Persons
In Benton County District Court**

WHEREAS County has need for contract indigent defense services above and beyond what Attorney was contract to provide pursuant to the underlying agreement;

WHEREAS Attorney desires to accept additional case assignments above and beyond the maximum case equivalent assignments stated by paragraphs 7 and 12 of the underlying agreement;

THEREFORE the underlying agreement shall be amended as follows:

A new sub-paragraph, titled "12(e)" shall be added to the agreement and shall contain the following language:

"For calendar year 2009, Attorney shall accept sixty (60) additional case equivalent assignments above and beyond the maximum case equivalent assignments stated above in paragraph 12(a) for a total of 390 case equivalents assigned and accepted for calendar year 2009. For each of these additional case equivalent assignments, Attorney shall be compensated at the flat rate of \$161. In order to claim this additional compensation, Attorney shall, no less frequently than bi-monthly nor more frequently than monthly, file a Claim for Compensation supported by such documentation as required by the IDC. The payment of compensation shall then be processed as if it were an out-of-pocket expense as described in paragraph 13 "Costs and Expenses."

All remaining provisions in the underlying agreement shall remain the same. Any conflict between the provisions of this Amendment and the provisions of the underlying agreement shall be resolved in favor of the language contained in this Amendment.

This amendment shall be designated with the following identifier: BCDC0810EVR002A

****Signatures on following page****

IN WITNESS WHEREOF, the parties hereto have entered into and executed this Amendment on the latest date set forth below:

Date: _____

Date: August 13, 2009

Benton County

Attorney

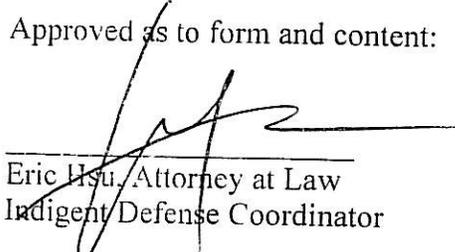
Chairman



Commissioner

Commissioner

Approved as to form and content:



Eric Hsu, Attorney at Law
Indigent Defense Coordinator

RESOLUTION

J

BENTON COUNTY RESOLUTION NO. _____

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF EXECUTING AN INTERLOCAL AGREEMENT WITH THE CITY OF PROSSER

WHEREAS, the City of Prosser, Washington, wishes to contract with Benton County to provide indigent defense services to defendants being prosecuted by the City of Prosser, as required by Criminal Rules for Courts of Limited Jurisdiction (CrRLJ) 3.1;

WHEREAS, Benton County is amenable to providing such services to the City of Prosser upon the terms and conditions contained in the interlocal agreement attached hereto;

NOW THEREFORE, BE IT RESOLVED THAT the annexed interlocal agreement between Benton County and the City of Prosser, for District Court indigent defense services, be executed.

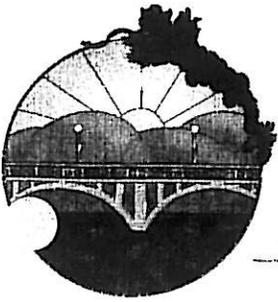
Dated this day of, 20

Chairman of the Board

Chairman Pro-Tem

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

Attest:
Clerk of the Board



City of Prosser

August 21, 2009

Eric Hsu, Indigent Defense Coordinator
Benton & Franklin Counties
Office of Public Defense
7122 W. Okanogan Place, Building A
Kennewick, WA 99336

RE: Interlocal Agreement – Public Defense Services

Dear Mr. Hsu:

At its regularly scheduled meeting on August 11, 2009, the Prosser City Council approved the Interlocal Agreement for Use of Office of Public Defense Services. Enclosed are three original copies of the agreement, signed by the City of Prosser.

Please send me a completed agreement to my attention at the address listed below.

Sincerely,


Sherry Biggs, CMC
City Clerk

Enclosure as stated

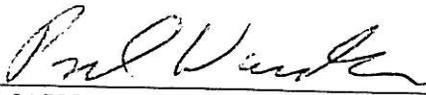
CITY OF PROSSER, WASHINGTON
RESOLUTION NO. 09-1291

A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF PROSSER APPROVING AN INTERLOCAL
AGREEMENT BETWEEN BENTON COUNTY AND THE
CITY OF PROSSER FOR PUBLIC DEFENSE SERVICES.

BE IT RESOLVED, by the City Council of the City of Prosser that it is the desire of the City Council that:

1. The Interlocal Agreement for Public Defense Services, Benton County – City of Prosser, a copy of which is attached hereto and incorporated herein as if fully set forth is hereby approved and the Mayor is authorized to execute the agreement in multiple originals.
2. Once fully executed the City Clerk shall record a certified copy of the Interlocal Agreement with the Benton County Clerk or list the agreement on the City's website as outlined in RCW 39.34.040.

ADOPTED by the City Council of the City of Prosser and **APPROVED** by the Mayor of the City of Prosser this 11th day of August, 2009.

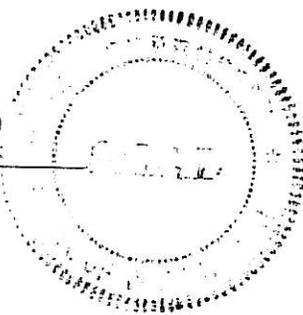


MAYOR PAUL WARDEN

ATTEST:



CITY CLERK



APPROVED AS TO FORM:



CITY ATTORNEY

INTERLOCAL AGREEMENT FOR USE OF OFFICE OF PUBLIC DEFENSE SERVICES

THIS AGREEMENT is made and entered into by and between BENTON COUNTY, a political subdivision of the State of Washington (hereinafter "County") and the City of PROSSER, WASHINGTON, a municipal corporation (hereinafter "City").

For and in consideration of the conditions, covenants and agreements contained herein the parties agree as follows:

1. PURPOSE. The City prosecutes misdemeanor and gross misdemeanor violations of its Municipal Code in Benton County District Court ("District Court"). Pursuant to the Sixth Amendment of the United States Constitution, Section 22 of the Washington State Constitution, and Courts of Limited Jurisdiction Criminal Rule 3.1, the City has a legal obligation to provide defense counsel to all indigent criminal defendants it prosecutes. The City wishes to utilize the administrative services of County's existing Office of Public Defense (hereinafter "BCOPD") to provide indigent defense counsel in criminal misdemeanor cases the City prosecutes, so as to fulfill its legal obligations in that regard.
2. DEFINITIONS.
 - (a) "BCOPD District Court Expenditures" shall mean the gross payments to all contracted public defenders plus the salary and benefits paid to county-employed public defenders.
 - (b) "City Defendant" shall mean a person who stands accused, in a criminal proceeding in District Court, of a crime that constitutes the violation of a provision of City's Municipal Code.
 - (c) "Criminal case filing" shall mean a criminal case filed in District Court under a case number separate and unique from any other case in District Court and shall include traffic criminal cases, non-traffic criminal cases, and DUI criminal cases. Criminal case filing shall not, for purposes of this Agreement, include felony cases that are filed in Benton County Superior Court or felony cases filed in the Benton County District Court, or any civil or other non-criminal case filing (including, without limitation to, infractions).
3. SERVICES PROVIDED.
 - (a) County shall, through and utilizing a combination of independent contractors and/or County employees as it deems appropriate, provide public indigent defense services to indigent defendants facing criminal charges prosecuted by City in District Court ("Defense Services"). The number of contractors and/or employees utilized to provide the Defense Services shall be sufficient to handle caseload volumes in a manner generally consistent with applicable

public indigent defense standards. PROVIDED, that in the event County intends to hire new County employees to provide indigent defense services in City's docket(s), County shall seek and receive the concurrence of City before such action.

- (b) The Defense Services provided by County shall include and be limited to the administrative oversight and management of the following matters:
- i. Individual defense attorney caseloads;
 - ii. Contract management for all contractor defense attorneys including monitoring contract compliance with: a) insurance coverage requirements, background investigation, continuing legal education ("CLE") requirements, and caseload reporting (including private cases) requirements;
 - iii. Financial costs of providing public indigent defense in District Court including the compensation of defense attorneys, receiving, verifying and auditing claims for additional compensation (such as for handling appeals, additional cases, trial per-diems, and investigator and expert expenses), maintenance and management of necessary files and records, compliance with State reporting requirements and responding to State audits;
 - iv. Receiving, investigating, and resolving complaints against indigent defense attorneys filed by represented City Defendants;
 - v. District Court docket assignments; and
 - vi. Assignment of cases to defense attorneys as needed and delegated by the District Court bench.

4. COMPENSATION FROM CITY. City shall pay County as compensation for its provision of District Court Defense Services as follows:

- (a) City shall compensate County by applying the following formula to determine the total annual compensation owing for any given calendar year: (BCOPD Benton County District Court Expenditures for legal services) x (City's percentage of criminal case filings in District Court for the prior calendar year).
- (b) In addition to the compensation determined in section 4(a) herein, City shall also pay an administrative fee, which shall compensate County for the services it provides pursuant to this Agreement as described in Section 3 herein. The fee shall, on an annual basis, equal 5% of the total compensation calculated in Section 4(a).

5. PAYMENT. County shall bill City for the compensation amounts determined and owing under Section 4 above by submitting a detailed monthly invoice to City along with supporting documentation, equal to the amount determined in section 4 above based on the actual monthly amounts, on or before the 15th day of each month, and City shall pay County within 30 days from invoice receipt City agrees to pay any attorneys' fees or costs incurred by County to collect delinquent unpaid invoices. For purposes of this paragraph, "detailed monthly invoice" shall mean an invoice that contains the following information: a) the total BCOPD District Court Expenditures to be allocated for the month; b) applicable allocation percentages to each City; and c) a statement indicating whether or not any Benton County employed indigent defense attorney provided any services on any Superior Court matter or any felony matter filed in District Court and if so, what percentage of their time was utilized for such matter(s). For purposes of this paragraph, "supporting documentation" shall consist of a listing of checks, including payroll checks, processed for the month encompassed by the billing, together with month to date totals for each vendor or employee.

6. METHOD AND MANNER OF SERVICES. County will consider any reasonable request or suggestion from City regarding the method and manner of providing Defense Services in District Court. Furthermore, County agrees to reasonably consult with City prior to instituting any substantial change(s) in the method and manner of providing public indigent defense services that have a potential financial impact on the total cost of providing indigent defense services in District Court. However, City agrees that County has ultimate and final discretion and control over the method and manner of providing public indigent defense services in general and specifically over the method and manner of providing Defense Services under this Agreement including, but not limited to, ultimate and final discretion and control over the following matters:

- (a) The number of attorneys used to provide indigent defense services;
- (b) The selection, retention, discipline and termination of attorneys to provide indigent defense services;
- (c) The decision on whether to provide the Defense Services contemplated by this Agreement through County employees or independent contractors; and
- (d) The assignment or re-assignment of individual defense attorneys to different court dockets.

8. COST OF ATTORNEY MISCONDUCT OR DISQUALIFICATION. In the event that an attorney contracted with to provide indigent defense services contemplated by this Agreement and assigned to provide services on City's docket is found to have engaged in criminal misconduct, and is, as a result, disqualified to continue rendering legal services by the State Bar Association, District Court, Benton County policies on indigent defense, or by the terms and conditions of the professional services agreement pursuant to which such attorney provided indigent defense services, any additional professional services, or legal

costs incurred as a result thereof shall be added to, and considered a part of, that particular calendar year's BCOPD Benton County District Court Expenditures for legal services, for purposes of calculating compensation as set forth in Section 4 of this Agreement.

9. INDIGENT DEFENSE BUDGET. For each year this Agreement is in force, County shall meet and consult with City during the period of time allocated for determining County's District Court indigent defense budget for the subsequent year.

10. NON-DISCRIMINATION POLICY. It is the County's policy that no person shall be subjected to discrimination in the County or by its contractors because of race, color, national origin or ancestry, sex, gender identity, age, religion, creed, marital status, familial status, sexual orientation, political affiliation, veteran status, or the presence of any physical, mental, or sensory handicap.

The City's execution of this Agreement constitutes the City's written assurance that it will fully comply with the County's Non-Discrimination Policy.

11. AUTHORITY. This Agreement is executed in accordance with the authority of RCW 70.48.090 and Chapter 39.34 RCW, the Interlocal Cooperation Act. The following information is provided pursuant to the provisions of RCW 39.34.030:

- (a) The duration and term of this Agreement shall be five years commencing and effective on July 1, 2009;
- (b) The BCOPD shall be responsible for the administration of this Agreement as provided by Section 12 hereof;
- (c) The purpose of this Agreement is to permit City to utilize the services of the BCOPD in providing indigent defense services to indigent defendants charged with crimes by City in District Court;
- (d) Termination of this Agreement shall be as provided in Section 14 hereof;
- (e) This Agreement shall be administered as provided in Section 12 hereof; and
- (f) Unless otherwise specifically agreed by the parties in writing, all property, personal and real, utilized by the parties hereto in the execution of this Agreement shall remain the property of that party initially owning it.

12. ADMINISTRATION. The BCOPD shall administer this Agreement.

13. REMEDIES. No waiver of any right under this Agreement shall be effective unless made in writing by the authorized representative of the party to be bound thereby. Failure to insist upon full performance on any occasion shall not constitute consent to or waiver of any continuation of nonperformance or any later nonperformance; nor does payment of a

billing or continued performance after notice of a deficiency in performance constitute acquiescence thereto.

14. DURATION. This Agreement shall be effective from the date of execution and shall be in force for a period of five years unless earlier terminated pursuant to Section 15 below. This Agreement shall automatically renew for periods of one year unless one party provides 6 months advance notice prior to the end of the term of intent not to renew.

15. TERMINATION. This Agreement may be terminated prior to the end of its term by either County or City with or without cause upon not less than one hundred and eighty (180) days advance written notice.

17. ENTIRE AGREEMENT. This Agreement constitutes the entire integrated agreement and understanding of the undersigned parties relating to the subject matter hereof. 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.

18. 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.

19. 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 County shall pay one-half of the mediator's fees and expenses, and the City 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 pursuant to RCW Chapter 7.04A. 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 County shall pay one-half of the fees and expenses of the arbitrator(s), and the City 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 County 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 Benton County Superior Court, including judgment by default. The 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 Benton County Superior Court, and the 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.

20. REPRESENTATIVES. Each party to this Agreement shall designate and maintain a party-representative for purposes of contact and communications between the parties relating to the subject matter of this Agreement. Either party may change its representative at any time upon written notice to the other party stating the name, title, and both street and mailing address of the party's new designated representative.

The parties' representatives are as follows:

For the County: Eric Hsu
Indigent Defense Coordinator
7122 W. Okanogan Pl, Bldg A
Kennewick, WA 99336
(509) 737-3521

For the City: Cathleen Koch
Finance Director
601 7th Street
Prosser, Washington 99350
(509)786-2332

Sherry Biggs
City Clerk
601 7th Street
Prosser, Washington 99350
(509)786-2332

Notices by either party shall be in writing and shall be served upon the other party's representative. Notices shall be deemed to have been duly-served and received 3 business days after mailing, or immediately upon personal service.

Dated: _____

BENTON COUNTY, WASHINGTON

MAX BENITZ, JR., Chairman

LEO BOWMAN, Member

JIM BEAVER, Member

Constituting the Board of
County Commissioners of Benton County,
Washington

DATED: _____

Attest: _____
Clerk of the Board

Approved as to Content:

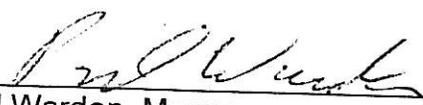
ERIC HSU
Benton County Indigent Defense
Coordinator

Approved as to Form:

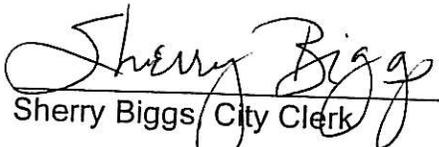
TIMOTHY G. KLASHKE
Attorney at Law

Dated: 8/17/2009

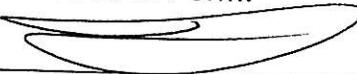
CITY PROSSER, WASHINGTON

By: 
Paul Warden, Mayor

Attest:


Sherry Biggs, City Clerk

Approved as to Form:


Howard M. Saxton III, City Attorney

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costs incurred as a result thereof shall be added to, and considered a part of, that particular calendar year's BCOPD Benton County District Court Expenditures for legal services, for purposes of calculating compensation as set forth in Section 4 of this Agreement.

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15. TERMINATION. This Agreement may be terminated prior to the end of its term by either County or City with or without cause upon not less than one hundred and eighty (180) days advance written notice.

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- (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 County shall pay one-half of the mediator's fees and expenses, and the City 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 pursuant to RCW Chapter 7.04A. 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 County shall pay one-half of the fees and expenses of the arbitrator(s), and the City 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 County Superior Court shall be binding as to procedure, except as to the right of appeal,

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Prosser, Washington 99350
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Sherry Biggs
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Dated: _____

BENTON COUNTY, WASHINGTON

MAX BENITZ, JR., Chairman

LEO BOWMAN, Member

JIM BEAVER, Member

Constituting the Board of
County Commissioners of Benton County,
Washington

DATED: _____

Attest: _____
Clerk of the Board

Approved as to Content:

ERIC HSU
Benton County Indigent Defense
Coordinator

Approved as to Form:

TIMOTHY G. KLASHKE
Attorney at Law

Dated: 8/17/2009

CITY PROSSER, WASHINGTON

By: *Paul Warden*
Paul Warden, Mayor

Attest:

Sherry Biggs
Sherry Biggs, City Clerk

Approved as to Form:

[Signature]
Howard M. Saxton III, City Attorney

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- (a) City shall compensate County by applying the following formula to determine the total annual compensation owing for any given calendar year: (BCOPD Benton County District Court Expenditures for legal services) x (City's percentage of criminal case filings in District Court for the prior calendar year).
- (b) In addition to the compensation determined in section 4(a) herein, City shall also pay an administrative fee, which shall compensate County for the services it provides pursuant to this Agreement as described in Section 3 herein. The fee shall, on an annual basis, equal 5% of the total compensation calculated in Section 4(a).

5. PAYMENT. County shall bill City for the compensation amounts determined and owing under Section 4 above by submitting a detailed monthly invoice to City along with supporting documentation, equal to the amount determined in section 4 above based on the actual monthly amounts, on or before the 15th day of each month, and City shall pay County within 30 days from invoice receipt City agrees to pay any attorneys' fees or costs incurred by County to collect delinquent unpaid invoices. For purposes of this paragraph, "detailed monthly invoice" shall mean an invoice that contains the following information: a) the total BCOPD District Court Expenditures to be allocated for the month; b) applicable allocation percentages to each City; and c) a statement indicating whether or not any Benton County employed indigent defense attorney provided any services on any Superior Court matter or any felony matter filed in District Court and if so, what percentage of their time was utilized for such matter(s). For purposes of this paragraph, "supporting documentation" shall consist of a listing of checks, including payroll checks, processed for the month encompassed by the billing, together with month to date totals for each vendor or employee.

6. METHOD AND MANNER OF SERVICES. County will consider any reasonable request or suggestion from City regarding the method and manner of providing Defense Services in District Court. Furthermore, County agrees to reasonably consult with City prior to instituting any substantial change(s) in the method and manner of providing public indigent defense services that have a potential financial impact on the total cost of providing indigent defense services in District Court. However, City agrees that County has ultimate and final discretion and control over the method and manner of providing public indigent defense services in general and specifically over the method and manner of providing Defense Services under this Agreement including, but not limited to, ultimate and final discretion and control over the following matters:

- (a) The number of attorneys used to provide indigent defense services;
- (b) The selection, retention, discipline and termination of attorneys to provide indigent defense services;
- (c) The decision on whether to provide the Defense Services contemplated by this Agreement through County employees or independent contractors; and
- (d) The assignment or re-assignment of individual defense attorneys to different court dockets.

8. COST OF ATTORNEY MISCONDUCT OR DISQUALIFICATION. In the event that an attorney contracted with to provide indigent defense services contemplated by this Agreement and assigned to provide services on City's docket is found to have engaged in criminal misconduct, and is, as a result, disqualified to continue rendering legal services by the State Bar Association, District Court, Benton County policies on indigent defense, or by the terms and conditions of the professional services agreement pursuant to which such attorney provided indigent defense services, any additional professional services, or legal

costs incurred as a result thereof shall be added to, and considered a part of, that particular calendar year's BCOPD Benton County District Court Expenditures for legal services, for purposes of calculating compensation as set forth in Section 4 of this Agreement.

9. INDIGENT DEFENSE BUDGET. For each year this Agreement is in force, County shall meet and consult with City during the period of time allocated for determining County's District Court indigent defense budget for the subsequent year.

10. NON-DISCRIMINATION POLICY. It is the County's policy that no person shall be subjected to discrimination in the County or by its contractors because of race, color, national origin or ancestry, sex, gender identity, age, religion, creed, marital status, familial status, sexual orientation, political affiliation, veteran status, or the presence of any physical, mental, or sensory handicap.

The City's execution of this Agreement constitutes the City's written assurance that it will fully comply with the County's Non-Discrimination Policy.

11. AUTHORITY. This Agreement is executed in accordance with the authority of RCW 70.48.090 and Chapter 39.34 RCW, the Interlocal Cooperation Act. The following information is provided pursuant to the provisions of RCW 39.34.030:

- (a) The duration and term of this Agreement shall be five years commencing and effective on July 1, 2009;
- (b) The BCOPD shall be responsible for the administration of this Agreement as provided by Section 12 hereof;
- (c) The purpose of this Agreement is to permit City to utilize the services of the BCOPD in providing indigent defense services to indigent defendants charged with crimes by City in District Court;
- (d) Termination of this Agreement shall be as provided in Section 14 hereof;
- (e) This Agreement shall be administered as provided in Section 12 hereof; and
- (f) Unless otherwise specifically agreed by the parties in writing, all property, personal and real, utilized by the parties hereto in the execution of this Agreement shall remain the property of that party initially owning it.

12. ADMINISTRATION. The BCOPD shall administer this Agreement.

13. REMEDIES. No waiver of any right under this Agreement shall be effective unless made in writing by the authorized representative of the party to be bound thereby. Failure to insist upon full performance on any occasion shall not constitute consent to or waiver of any continuation of nonperformance or any later nonperformance; nor does payment of a

billing or continued performance after notice of a deficiency in performance constitute acquiescence thereto.

14. DURATION. This Agreement shall be effective from the date of execution and shall be in force for a period of five years unless earlier terminated pursuant to Section 15 below. This Agreement shall automatically renew for periods of one year unless one party provides 6 months advance notice prior to the end of the term of intent not to renew.

15. TERMINATION. This Agreement may be terminated prior to the end of its term by either County or City with or without cause upon not less than one hundred and eighty (180) days advance written notice.

17. ENTIRE AGREEMENT. This Agreement constitutes the entire integrated agreement and understanding of the undersigned parties relating to the subject matter hereof. 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.

18. 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.

19. 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 County shall pay one-half of the mediator's fees and expenses, and the City 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 pursuant to RCW Chapter 7.04A. 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 County shall pay one-half of the fees and expenses of the arbitrator(s), and the City 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 County 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 Benton County Superior Court, including judgment by default. The 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 Benton County Superior Court, and the 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.

20. REPRESENTATIVES. Each party to this Agreement shall designate and maintain a party-representative for purposes of contact and communications between the parties relating to the subject matter of this Agreement. Either party may change its representative at any time upon written notice to the other party stating the name, title, and both street and mailing address of the party's new designated representative.

The parties' representatives are as follows:

For the County: Eric Hsu
Indigent Defense Coordinator
7122 W. Okanogan Pl, Bldg A.,
Kennewick, WA 99336
(509) 737-3521

For the City: Cathleen Koch
Finance Director
601 7th Street
Prosser, Washington 99350
(509)786-2332

Sherry Biggs
City Clerk
601 7th Street
Prosser, Washington 99350
(509)786-2332

Notices by either party shall be in writing and shall be served upon the other party's representative. Notices shall be deemed to have been duly-served and received 3 business days after mailing, or immediately upon personal service.

Dated: _____

BENTON COUNTY, WASHINGTON

MAX BENITZ, JR., Chairman

LEO BOWMAN, Member

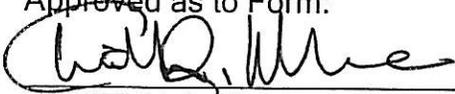
JIM BEAVER, Member

Constituting the Board of
County Commissioners of Benton County,
Washington
DATED: _____

Attest: _____
Clerk of the Board

Approved as to Content:

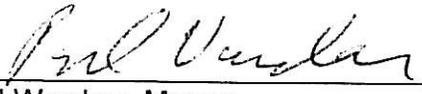
ERIC HSU
Benton County Indigent Defense
Coordinator

Approved as to Form:


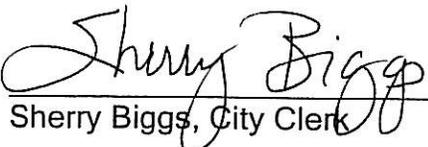
TIMOTHY G. KLASHKE
Attorney at Law

Dated: 8/17/2009

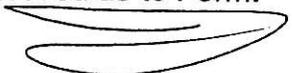
CITY PROSSER, WASHINGTON

By: 

Paul Warden, Mayor

Attest:


Sherry Biggs, City Clerk

Approved as to Form:


Howard M. Saxton III, City Attorney

<u>AGENDA ITEM</u>	<u>TYPE OF ACTION NEEDED</u>	
Meeting Date: 8/31/09 Subject: Contract Cancellation Prepared by: <u>M. Wenner</u>	Execute Contract Pass Resolution <u>X</u> Pass Ordinance Pass Motion Other	Consent Agenda <u>X</u> Public Hearing 1st Discussion 2nd Discussion Other

K

BACKGROUND INFORMATION

CCSI, Inc. has served as Benton County's Third Party Administrator for Workers' Compensation since January 1, 2008. In addition to the Benton County contract, CCSI also had a contract with Department of Energy. Unfortunately, CCSI's contract with DOE was not renewed and will end effective September 30, 2009.

In order to maintain the same adjuster for Benton County's workers' compensation claims as well as have our claims administrated out of the Tri-Cities area, we have selected Penser as our new TPA. I have prepared the service agreement between Benton County and Penser, which will also be before the Board for approval on August 31, 2009. The move to Penser will also save the County annually \$18,850.

Therefore in accordance with the current contract with CCSI, I have prepared a cancellation notice. See attached letter which cancels the contract effective September 30, 2009.

RECOMMENDATION

Having been reviewed by Melina Wenner, Personnel/Risk Manager, and Jonathan Young, Civil DPA, we recommend the cancellation be signed.

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

**Board of County Commissioners
BENTON COUNTY**

David Sparks
County Administrator

Loretta Smith Kelty
Deputy County Administrator

August 31, 2009

VIA CERTIFIED MAIL

Lisa McManus
President & C.O.O.
CCS Holding, Ltd. Partnership
PO Box 541388
Dallas, TX 75354-1388

RE: Personal Services Contract Between Benton County and Contract Claims Services, Inc.

Dear Ms. McManus:

As required in Section 9 – TERMINATION of the current contract, this letter serves as Benton County's written notification sent certified mail to terminate the contract between Benton County and Contract Claims Services, Inc. effective September 30, 2009.

Sincerely,

BOARD OF COUNTY COMMISSIONERS

Max Benitz, Jr.
Chairman

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AUTHORIZING THE CHAIRMAN TO SIGN THE NOTIFICATION LETTER TO CANCEL THE SERVICE AGREEMENT BETWEEN BENTON COUNTY AND CONTRACT CLAIMS SERVICES, INC.; RESCINDING RESOLUTION 07-887

BE IT RESOLVED that the Chairman of the Board of Benton County Commissioners, Benton County, Washington is hereby authorized to sign the attached cancellation notification, and

BE IT FURTHER RESOLVED, resolution 07-887 dated December 7, 2007 is hereby rescinded and the attached contract thereto is cancelled.

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

Org: Personnel
cc: Auditor; R. Ozuna; CCS, Inc.

M. Wenner

<u>AGENDA ITEM</u>	<u>TYPE OF ACTION NEEDED</u>	
Meeting Date: 8/31/09 Subject: Contract Prepared by: <u>M. Wenner</u>	Execute Contract Pass Resolution <u> X </u> Pass Ordinance Pass Motion Other	Consent Agenda <u> X </u> Public Hearing 1st Discussion 2nd Discussion Other

BACKGROUND INFORMATION

See attached Personal Service Contract between Penser North America, Inc. and Benton County.

RECOMMENDATION

Having been reviewed by Melina Wenner, Personnel/Risk Manager, and Jonathan Young, Civil DPA, we recommend the agreement be signed.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AUTHORIZING THE BOARD OF BENTON COUNTY COMMISSIONERS TO SIGN THE PERSONAL SERVICES CONTRACT BETWEEN BENTON COUNTY AND PENSER NORTH AMERICA, INC.

BE IT RESOLVED that the Board of Benton County Commissioners is hereby authorized to sign the attached personal services contract between Benton County and Penser North America, Inc.

Dated this day of, 20

Chairman of the Board

Chairman Pro-Tem

Member

Attest:
Clerk of the Board

Constituting the Board of County
Commissioners of Benton County,
Washington

cc: R. Sparks, M. Wenner, R. Ozuna

**PERSONAL 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 (hereinafter "COUNTY"), and Penser North America, Inc., a Washington corporation, with their principal offices at 1818 Terminal Drive, Richland, WA. 99354 and Corporate Offices at 700 Sleater-Kinney Road SE, Ste. B, #170, Lacey, WA 98503, (hereinafter "CONTRACTOR").

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

1. CONTRACT DOCUMENTS

This Contract consists of the following documents:

- a. Response to Request for Proposal submitted by Penser North America, Inc. in August, 2009, attached as Exhibit A.

2. DURATION OF CONTRACT

The term of this Contract shall begin October 1, 2009, and shall expire on September 30, 2012. 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.

3. SERVICES PROVIDED

The CONTRACTOR shall perform the following services:

- a. Workers' Compensation Claims Adjudication. A detailed description of the services to be performed by the CONTRACTOR is set forth in Exhibit "A", "Response to Request for Proposal", which is attached hereto and incorporated herein by reference.
- b. The CONTRACTOR agrees to provide its own labor and materials. Unless otherwise provided for in the Contract, no material, labor, or facilities will be furnished by the COUNTY.
- c. The CONTRACTOR shall perform the work specified in the Contract according to standard industry practice.

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

4. CONTRACT REPRESENTATIVES

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

- a. For CONTRACTOR: Barrett G. Parks, President Penser North America, Inc, 700 Sleater-Kinney Road SE, Ste. B, #170, Lacey, WA 98503
- b. For COUNTY: Melina Wenner, Personnel/Risk Manager, Benton County, 7122 West Okanogan Place, Bldg. A, Kennewick, Washington 99336.

5. COMPENSATION

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

- a. A detailed description of the compensation to be paid by the COUNTY is set forth in Exhibit A, which is attached hereto and incorporated herein by reference.
- b. The maximum total amount payable by the COUNTY to the CONTRACTOR under this Contract shall not exceed \$23,650 per year, payable in monthly installments of \$1,970.83; provided billings for allocated loss expense items set forth on page 17 of Exhibit A, may be in addition to this monthly charge and maximum amount.
- 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 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. Invoices shall cover the time CONTRACTOR performed work

for the COUNTY during the billing period. The COUNTY 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.

- 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 COUNTY.
- 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 COUNTY, the COUNTY 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 for 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.

6. AMENDMENTS AND CHANGES IN WORK

- a. In the event of any errors or omissions by the CONTRACTOR in the performance of any work required under this Contract, the CONTRACTOR shall make any and all necessary corrections without additional compensation. All work submitted by the CONTRACTOR shall be certified by the CONTRACTOR and checked for errors and omissions. The Contractor shall be responsible for the accuracy of the work, even if the work is accepted by the COUNTY.
- b. No amendment or modification shall be made to this Contract, unless set forth in a written Contract Amendment signed by both parties. Work under a Contract Amendment shall not proceed until the Contract Amendment is duly executed by the COUNTY.

7. HOLD HARMLESS AND INDEMNIFICATION

- a. Contractor agrees, to the fullest extent permitted by law, to indemnify and hold harmless the County, its officers, directors, employees and agents from and against any liabilities, damages and costs (including reasonable attorneys fees and costs of defense) arising from the performance of services under this agreement, to the extent caused by the negligent acts, errors or omissions of the Contractor or anyone for whom the Contractor is legally responsible, subject to any limitations of liability contained within this agreement. The County agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Contractor, its officers, directors, employees and agents from any liabilities, damages and costs (including reasonable attorneys fees and costs of defense) to the extent caused by the negligent acts, errors or omissions of the County, the County's contractors, consultants or anyone for whom the County is legally responsible.
- 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, the CONTRACTOR'S employees, agents or subcontractors.

8. INSURANCE

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

The coverage shall apply to liability for a professional error, act or omission arising out of the scope of the CONTRACTOR'S services defined in this Contract. Coverage shall not exclude bodily injury or property damage. Coverage shall not exclude hazards related to the work rendered as part of the Contract or within the scope of the CONTRACTOR'S services as defined by this Contract including testing, monitoring, measuring operations, or laboratory analysis where such

services are rendered as part of the Contract. The policy shall state that coverage is claims made, and state the retroactive date. CONTRACTOR is also required to buy claims made professional liability insurance for a period of 36 months after completion of this Contract, which can be satisfied by the continuous purchase of the above referenced insurance or an extended reporting period policy. CONTRACTOR shall annually provide COUNTY with proof of all such insurance.

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

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

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

liability that may arise from the failure to maintain such coverage.

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

- c. **Commercial General Liability and Employers Liability Insurance:** CONTRACTOR shall maintain commercial general liability coverage (policy form CG001 or equivalent) for wrongful death, bodily injury, personal injury and property damage, subject to limits of not less than one million dollars (\$1,000,000) per occurrence. The general aggregate limit shall apply separately to this Contract and be no less than two million dollars (\$2,000,000).

The general commercial liability policy will contain an endorsement naming the COUNTY as an additional insured (CG2010) and an endorsement that specifically states that CONTRACTOR's general liability policy shall be primary, and not contributory, with any other insurance maintained by the COUNTY.

The CONTRACTOR will provide commercial general liability coverage which does not exclude any activity to be performed in fulfillment of this Contract and does not exclude liability pursuant to the indemnification requirements under Section 7. 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 also shall maintain employers liability insurance with limits of not less than one million dollars (\$1,000,000) each incident for bodily injury by accident or one million dollars (\$1,000,000) each employee for bodily injury by disease.

- d. **Automobile Liability:** 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.
- e. **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 CONTRACTOR'S liability insurance policies shall contain no special limitations on the scope of protection afforded to the COUNTY as an additional insured.
 - (3) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the COUNTY, its officers, officials, employees or agents.
 - (4) The 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.
 - (5) 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.
 - (6) The insurance limits mandated for any insurance coverage required by this Contract are not intended to be an indication of exposure nor are they limitations on indemnification.
 - (7) The 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. All liability insurance required under this Contract, except for professional liability under Section 8(a), shall be written on an Occurrence Policy form. Professional liability insurance on a Claims Made form shall have a retroactive date prior to or coincident with the effective date of this Contract.

f. **Verification of Coverage and Acceptability of Insurers:**

All insurance required under this CONTRACT shall be issued by companies admitted to do business within the State of Washington and have a rating of A-, Class VII or better in the most recently published edition of Best's Reports. Any exception to this requirement must be reviewed and approved in writing by the Benton County Risk Manager. If an insurer is not admitted to do business within Washington State, all insurance policies and procedures for issuing the insurance policy must comply with Chapter 48.15 RCW and 284-15 WAC.

- (1) The CONTRACTOR shall furnish the COUNTY with properly executed and unaltered Acord form certificates of insurance and, if requested, a signed policy endorsement which shall clearly evidence all required insurance prior to commencing work under this Contract. The certificates will, at a minimum, list limits of liability and coverage. For any professional liability insurance, the 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 COUNTY by the CONTRACTOR. For other insurance policies, CONTRACTOR shall not cancel or allow the insurance contract to expire except on forty-five (45) days prior written notice to the COUNTY. The certificate or endorsement shall not limit or negate the insurer's obligation as required by law to notify the COUNTY as an additional insured of cancellation.
- (2) The CONTRACTOR shall furnish the COUNTY with evidence that the additional insured provision required above has been met. Acceptable forms of evidence are the endorsement pages of the policy showing the COUNTY as an additional insured.

- (3) Certificates of insurance shall show the certificate holder as "Benton County" and include "c/o" the COUNTY'S Contract Representative. The address of the certificate holder shall be shown as the current address of the COUNTY'S Contract Representative.
- (4) If the CONTRACTOR or any subcontractor has any employees, CONTRACTOR shall request the Washington State Department of Labor and Industries, Workers Compensation Representative, to send written verification to Benton County that CONTRACTOR is currently paying workers compensation.
- (5) All written notices under this Section 8 and notice of cancellation or change of required insurance coverages shall be mailed to the COUNTY at the following address:

Benton County Risk Manager
7122 W. Okanogan Place, Bldg. A
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 County 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 COUNTY. If requested by COUNTY, CONTRACTOR must describe its financial condition and the self-insured funding mechanism.

9. TERMINATION

- a. The COUNTY may terminate this Contract in whole or in part whenever the COUNTY determines, in its sole discretion, that such termination is in the best interests of the COUNTY. The COUNTY may terminate this Contract upon giving ten (10) days written notice by certified mail to the CONTRACTOR. In that event, the COUNTY shall pay the CONTRACTOR for all cost incurred by the CONTRACTOR in performing the Contract up to the date of such notice. Payment shall be made in accordance with the Compensation Section of this Contract.

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

10. ASSIGNMENT, DELEGATION AND SUBCONTRACTING

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

11. 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. All waivers of any provisions of this Contract shall be in writing and in absence of such, no action or inaction shall be construed to be such a waiver.

12. INDEPENDENT CONTRACTOR

- a. The CONTRACTOR'S services shall be furnished by the CONTRACTOR as an independent contractor and not as an agent, employee or servant of the COUNTY. The CONTRACTOR specifically has the right to direct and control CONTRACTOR'S own activities in providing the agreed services in accordance with the specifications set out in this Contract.
- b. The CONTRACTOR acknowledges that the entire compensation for this Contract is set forth in Section 5 of this Contract, and neither the CONTRACTOR nor its employees are entitled to any COUNTY benefits, including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental, or other insurance benefits, fringe benefits, or any other rights or privileges afforded to COUNTY employees.
- c. The CONTRACTOR shall have and maintain complete responsibility and control over all of its subcontractors, employees, agents, and representatives. No subcontractor, employee, agent, or representative of the CONTRACTOR shall be or deem to be or act or purport to act as an employee, agent, or representative of the COUNTY.
- d. CONTRACTOR shall pay for all taxes, fees, licenses, or payments required by federal, state or local law which are now or may be enacted during the term of this Contract.
- e. The CONTRACTOR agrees to immediately remove any of its employees or agents from their assignment to perform services under this Contract upon receipt of a written request to do so from the COUNTY'S contract representative or designee.

13. COMPLIANCE WITH LAWS

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

14. INSPECTION OF BOOKS AND RECORDS

The COUNTY may, at reasonable times, inspect the books and records of the CONTRACTOR relating to the performance of this Contract. The CONTRACTOR shall keep all records required by this Contract for six (6) years after termination of this Contract for audit purposes.

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, color, creed, religion, national origin, age, sex, honorably discharged, veteran status, disability or any other protected status.

16. OWNERSHIP OF MATERIALS/WORKS PRODUCED

- a. All reports, drawings, plans, specifications, 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 COUNTY. Ownership includes the right to copyright, patent, register, and the ability to transfer these rights. The COUNTY 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 COUNTY upon request or at the end of the job using the word processing program and version specified by the COUNTY.

17. PATENT/COPYRIGHT INFRINGEMENT

The CONTRACTOR shall hold harmless, indemnify and defend the COUNTY, its officers, officials, employees and agents, from and against any claimed action, cause or demand brought against the COUNTY, 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 COUNTY of any notice of such claim.

18. DISPUTES

Disputes between the CONTRACTOR and the COUNTY, arising under and by virtue of this Contract, shall be brought to the attention of the COUNTY at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Any dispute relating to the quality or acceptability of performance and/or compensation due the CONTRACTOR shall be decided by the COUNTY'S Contract Representative or designee. All rulings, orders, instructions and decisions of the COUNTY'S Contract Representative shall be final and conclusive, subject to CONTRACTOR'S right to seek judicial relief.

19. CONFIDENTIALITY

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

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 County, Washington.

21. SUCCESSORS AND ASSIGNS

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

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.

25. SURVIVABILITY

All Contract terms, which by their context are clearly intended to survive the termination and/or expiration of this Contract, shall so survive. These terms include, but are not limited to, indemnification provisions of Section 7; extended reporting period requirements for professional liability insurance of Section 8(a); inspection and keeping of records and books set forth in Section 14; litigation hold notice of Section 26; Public Records Act compliance described in Section 27 and confidentiality requirement of Section 19.

26. LITIGATION HOLD NOTICE

In the event the COUNTY learns of circumstances leading to an increased likelihood of litigation regarding any matter where the records kept by CONTRACTOR pursuant to Section 14 of 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 the six (6) year purge schedule as set out above in Section 14.

27. PUBLIC RECORDS ACT

CONTRACTOR hereby acknowledges that the COUNTY is a governmental entity and as such is subject to the requirements of the Public Records Act, RCW 42.56 *et seq.* Accordingly, CONTRACTOR understands that to the extent a proper request is made, the COUNTY may be required by virtue of that Act to disclose any records actually in its possession or deemed by judicial determination to be in its possession, which may include records provided to the COUNTY by CONTRACTOR that CONTRACTOR might regard as confidential or proprietary. To the extent that CONTRACTOR provides any records to the COUNTY that it regards as confidential or proprietary, it agrees to conspicuously mark the records as such. CONTRACTOR also hereby waives any and all claims or causes of action for any injury it may suffer by virtue of COUNTY'S release of records covered under the Public Records Act. COUNTY agrees to take all reasonable steps to notify CONTRACTOR in a timely fashion of any request made under the Public Records Act which will require disclosure of any records marked by CONTRACTOR as confidential or proprietary, so that CONTRACTOR may seek a judicial order of protection if necessary.

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

DATED:

DATED:

BENTON COUNTY BOARD OF
COMMISSIONERS

CONTRACTOR
Penser North America, Inc.

Chairman

By _____
Barrett G. Parks, President

Member

Contract Penser North America,
a Washington Corporation

Member

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

By _____
Print Name

Attest:

Clerk of the Board

Approved as to Form:

Deputy Prosecuting Attorney

Exhibit A

Workers' Compensation Services Proposal For

Benton County

Prepared by

Penser North America, Inc.

August 2009

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Penser's Approach

Penser North America Inc. (Penser) realizes that not every organization's workers' compensation program is alike. This is why we tailor our program to meet your unique needs from management reports to specific claim procedures. Whether it is specific banking arrangements, reporting requirements, unique protocols, or the number of status meetings desired, Penser will adapt the program as needed.

By partnering with Penser, your workers' compensation program will benefit from a wealth of knowledge and experience unparalleled in the industry. Our commitment to excellent service ensures your employees a timely and complete response to their needs. We are dedicated to hiring and training the best people in the field of workers' compensation. Our team concept of claim management extends from all departments to your organization, working together to produce a highly effective and financially sound program.

Penser's History

Established in 1968, Penser North America was originally known as Penser International Ltd. Penser was set up specifically to represent state funded employers on matters of workers' compensation. In the mid-seventies, Penser expanded its services to include unemployment cost containment, human resources, loss control and self-insurance claims administration.

Our growth has been steady, and we have set the standard by which other third party administrators now operate. After 37 years, what started as a new concept and in modest beginnings, has now grown to a full-fledged force in the third party administration, human resource and loss control areas.

***Workers'
Compensation
Philosophy***

Our workers' compensation administration philosophy and goals are very simple. We want to minimize overall claim program costs and, at the same time, provide an efficient and timely benefit delivery to injured workers. Over the years, we have been very successful in accomplishing these goals.

This success is largely attributed to our commitment of:

- Working closely with our customers and developing programs designed specifically to their needs.
- Hiring, training, and retaining the best people in the industry.

***Workers'
Compensation
Service Program***

By utilizing the elements mentioned above, we have executed our four-pronged Workers' Compensation Service Program. The four components of this program are:

- Claim management services
- Loss control services
- Information management
- Client services

Penser recognizes that your specific claim handling requirements are unique. During the implementation phase, appropriate management staff from your organization will be asked to join forces with the Penser team to discuss and agree upon minimum claim handling requirements. This will establish solid communication lines to develop a positive working relationship between Penser personnel and Benton County personnel. It is essential that each party understand their responsibilities to achieve expected results.

The following is a sample of our "claim standards," which represent our normal claim handling practices. Penser will customize these benchmarks to meet your specific program objectives.

Claim Management Services and Philosophy

Penser has developed a systematic, aggressive, hands-on, claim management philosophy. Our claim representatives are given the necessary tools, caseloads, and training to carry out their jobs in a very proactive manner.

This philosophy can be broken down into four primary components:

- Early intervention
- Initial file workup
- Ongoing claim management
- Claim status meetings

Early Intervention

Receiving a claim and aggressively working on it early is key to controlling claim costs. Early intervention is a process that requires a collective effort between the Third Party Administrator (TPA) and the employer. We work with your organization and the appropriate individuals to ensure they are thoroughly trained on how to report claims in a timely manner. Penser will work with you to develop convenient and efficient means of reporting, whether it is via phone, fax, email, or U.S. Mail.

Upon receipt of the claim form, Penser initiates the following early intervention steps:

- Timely claim entry
- Supervisory review of all new claims upon receipt
- Identify "red flag" problem claims
- Develop plan of action
- Need for investigation determined
- Evaluate return-to-work program
- Reserve recommendations made
- Assignment of file to claim representative

Priority contact within 24 hours of receipt of claim and communication with the following:

- Employer
- Employee (when there is lost time)
- Attending physician

Initial File Workup

After the supervisor has reviewed the file, made recommendations, and the initial "three-point" contact has been made, the claim representative proceeds with the following steps:

Claim Investigation

Claim investigation is an integral part of Pensers' claim management service. Our claim representatives do an internal investigation on all claims. The depth of each claim investigation is case specific. When appropriate, our claim representatives request recorded statements from injured workers and witnesses, do on-site inspections, and

**Initial File Workup
(cont.)**

gather photographs. If the possibility of third party involvement exists, claim investigation is vital to the subrogation process and recovery of applicable claim expenses. Surveillance, when appropriate and client-approved, is conducted by an outside expert.

Early Return to Work Addressed

Returning injured workers back to regular or modified duty as quickly as possible is one of the most effective elements in controlling costs. Through our initial "three point" contact, and subsequent medical and job offer documentation (when appropriate), Penser quickly assists workers back into the workplace whenever possible. We work very closely with our clients to assist in the creation and utilization of modified duty work.

Plan of Action Development

Once the file is reviewed, and the initial contacts made, the claim representative formulates their plan to bring the claim to closure. This plan is a step-by-step outline of the issues that need to be addressed (and the action to address the issues) to bring the claim to a successful resolution.

Initial File Reserve Established

Reserves are established and entered into our computer system within 72 hours of receipt of the first report of injury. These reserves reflect exposures commensurate with the injury, degree of disability, and any appropriate subject factors. Each file contains a reserve calculation sheet and/or comments in the computer system. Benton County will play an integral part in the reserve philosophy and establishment and in the ongoing review of reserves.

Initial Claim Action Taken

Once a claim is analyzed, the initial calls made, reserves set, and the plan of action formulated, the claim representative takes the necessary steps to move the claim forward to the next step of resolution. Whether it be a custom letter to the attending physician, scheduling an early second opinion, or a vendor assignment, action is taken early in the claim process and then documented in the system.

Diary Set for Next Action Step

Once the initial workup is complete, a diary is set for the next review. Adherence to the diary system is critical for success in claim management. The length of time before the next review depends on the individual claim. The diary maybe set for 30 days or it may be within 24 hours. The length of diary is set by the claim representative in conjunction with the input of the claim supervisor. Our claim management software alerts the claim representative on a daily basis of what files are due to be reviewed. This tracking system along with supervisory reviews ensures that all claims are kept up to date and reviewed appropriately.

Ongoing Claim Management

After the initial workup of the file, the claim representative works within the diary system; the claim representatives are also prepared to take action prior to the scheduled diary date, if necessary. This phase of the claim process can be characterized by the following elements:

Medical Management

Penser's claim representatives are qualified to manage almost all medical aspects of a claim. Because of this experience we do not have to send each file out for a nurse review or an Independent Medical Examination (IME). We aggressively work with the attending physicians on return to work, treatment, and rating issues. We use nurse consultants in very serious cases, or cases where a particular specialty is needed. IMEs are also used, but we are careful not to overuse this resource. When our claim representatives schedule independent medical examinations, they do so with thoughtful consideration, and often they schedule directly with a physician's office and not an IME panel. This saves thousands of dollars for our clients over the course of a policy year.

Penser uses Genex Corporation for bill review, utilization review/reduction and PPO medical reductions.

Litigation Management

Our claim staff works very closely with the injured workers to respond to their needs and provide timely benefits. However, despite our best efforts, occasionally workers seek legal counsel to assist them through the claim and appeal processes. When this occurs, we will advise Benton County obtain legal counsel, or in some instances we can work with your organization to provide a defense. If a case requires outside legal counsel, we assign the case to an attorney (with the client's approval) and actively monitor and manage the legal process to resolution. We have strong relationships with several defense attorneys including Lawrence Mann of Wallace, Klor and Mann PS.

Vocational Rehabilitation Management

Penser works aggressively in the modified duty return-to-work process. We do not assign vocational counselors to assist us; we take extra steps to eliminate the need for an outside vendor. However, when return to work is not possible with the employer at the time of injury, our claim representatives work closely with qualified vocational consultants. Our experience and understanding of the vocational process has enabled us to be successful in limiting the dollars and time spent in this very expensive aspect of claim management.

Claim Management

We write custom letters to doctors' offices when appropriate, communicate with physicians' offices for light duty release, or call the injured worker to ensure treatment is progressing. Penser gets immediate, same-day response from most attending physicians. We proactively manage the entire claim from the time we receive it to

closure. Our claim representatives maintain a strict diary system to ensure every claim is moving toward closure.

Claim Status Meetings

A critical part of ensuring all claims are progressing toward closure is to have monthly and/or quarterly status meetings with the employer. These meetings maintain the focus of the program and are brainstorming sessions on difficult cases. Also, by having regular status meetings, there are no surprises on claim costs or outstanding reserves.

Loss Control Services

Penser uses a two-pronged approach to minimize workers' compensation costs. Our loss control services are available to assist your organization in preventing accidents while our claim department works to contain the cost of injuries.

When utilized, the mission of our loss control service is to aid in preventing accidents, meeting safety regulations, and assisting with special problems. We accomplish these goals through a consultant-type approach to loss control. We begin by meeting with management, examining types and frequency of accidents, and reviewing safety programs; then we customize our service to your organization.

Elements of Loss Control Service Program

- Safety Program Management
- Program Compliance Audits
- Regulatory Compliance
- Education and Training
- Safety Inspections
- Accident Investigations
- Troubleshooting
- Claim Analysis
- Industrial Hygiene
- Ergonomics

Safety Program Management

Successful accident prevention is essential for achieving high productivity and low costs long term. Penser's loss control consultant can help your organization identify the systems errors that lead to accidents, offer controlling strategies, and help design measuring and accountability systems. Our loss control consultant can assist in determining achievable organizational goals and the means to achieve them. Your assigned consultant will review and analyze the loss history and existing programs and meet with key people in your organization.

This consultative approach will identify important areas where we may be able to reduce accidents and improve your safety management program.

Program Compliance Audits

The Department of Labor and industries (L & I) audits self-insured employers on a random basis. These audits include a review of your safety program to ensure compliance with state regulations. Our loss control consultant is experienced with these audits and will provide you with the latest compliance information and L & I's current focus to help prepare for a successful audit.

Regulatory Compliance

Our consultant can assist with meeting the myriad of L & I's safety regulations and other safety program needs. Some of the safety programs and topics that we provide consultation for include:

- Accident investigations
- Back injury prevention
- New employee orientation
- Effective safety committees
- Job safety analysis
- Accident repeater programs
- Behavior based safety
- Hearing conservation
- Lockout-tag out
- Electrical safety
- Forklift driver safety
- Fleet safety

Education and Training

Ongoing safety education is an important element to any successful safety program. Our loss control consultant is an experienced educator and trainer. His experience and depth of resources make it possible to customize training and educational programs for staff, trainers, supervisors, and key employees. The topics of training are diverse to meet your general and specific needs.

Safety Inspections

Our loss control consultant stays abreast of pertinent regulatory developments and will provide updates on changes. We follow proposed regulations closely and are able to add regulatory input and attend important public hearings.

If your facilities are subjected to a WISHA inspection, we may be able to protect your interests during the inspection process, review the citation for validity, suggest abatement strategies, and guide your organization through the appeal process before the Board of Industrial Insurance Appeals.

Accident Investigations

We assist in the investigation of serious accidents, including the following very important areas:

- Follow up accident guidance
- Reporting requirements
- Assistance during WISHA investigations
- Conduct interviews and gather statements
- Determine contributing causes
- Safeguards to prevent reoccurrences

Troubleshooting

Recognizing that every organization has special and sometimes unpredictable safety needs, we developed our loss control service program to specialize in addressing unique safety concerns. Our consultant possesses extensive knowledge in occupational safety and health. We also have working relationships with established laboratories and specialty consultants, if the need arises.

Claim Analysis

The monthly loss analysis report we provide contains useful statistical information that will help you focus your accident prevention resources. The loss analysis breaks down your claims by location, department, length of service, month, day of the week, hour of the day, activity, injury type, and body type. Your designated loss control consultant will review the loss analysis to track costs per claim, loss trends, and other information that will assist you in targeting accident prevention efforts.

Industrial Hygiene

Unlike physical safety hazards, industrial health exposures may be especially difficult to discover. Our consultant is trained in industrial hygiene. We offer our clients a wide variety of bulk, air and liquid sampling services to determine occupational exposure to hazardous chemicals. Your designated consultant will provide ideas to help you prevent noise induced hearing loss and evaluate compliance with state hearing conservation program requirements.

Ergonomics

Cumulative trauma disorders are increasingly found in the workplace. Ergonomic hazards can be found in the office or in the field environment. Our staff can evaluate workstation ergonomic exposures and assist in developing solutions to prevent these costly injuries.

Information Management

Penser utilizes a state-of-the-art claim management computer system. This system is not only user friendly for our claim adjusters and clients, it provides a complete analysis of an employer's losses and consequently allows for a unique tool in which to analyze workers' compensation claims and to develop programs for reducing associated expenses.

Highlights of Penser M.I.S.

- Standard reports
- Custom reports
- On-line capabilities

Standard Reports

Standard to Penser's service is a variety of customer reports, including weekly check lists, monthly check registers, and a monthly loss analysis. The standard report package will detail the most current information on your account's activity and the status of each open claim. Injuries and costs are summarized for all specific locations, and cumulative totals for the entire company are also summarized. These reports include medical and indemnity payments and estimated future costs, thus, allowing for an accurate accounting of your workers' compensation program.

Custom Reports

Our computer system provides flexibility on the information reported. As a result, we can run reports on almost any type of information in the database. For example, we can run multiple claim lists, injury specific reports, over dollar amount (claims that exceed a set dollar amount), claim logs, and many more.

On-line Capabilities

With our on-line capability our clients have access to all of their claim information in real time. The on-line access allows you to view the same information the adjuster is viewing. This includes claim notes, payment detail, reserve history, etc.

Client Services

Penser recognizes there are additional services important to operating a self-insurance program that were not mentioned previously. Our client services program compiles these additional needs to ensure your program is unique to your organization. Some of these additional services may include:

- Technical support
- Training and program orientation
- Audit assistance
- Excess insurance reporting
- Accounting services

Technical Support

Penser provides technical support to incorporate your account into our

**Client Services
(cont.)**

computer system. We will work together to decipher reports and develop tracking systems that work for you. We provide assistance and special reports that help with the completion of quarterly and annual reports. Penser also provides customized claim forms.

Training and Program Orientation

Orienting your management and supervisory personnel is vital to the success of your workers' compensation program. Penser is absolutely committed to getting our relationship off to a great start, and we are committed to getting your program off to a great start as well.

We provide training seminars explaining claim form processing, filing procedures, and reporting requirements. We also keep you apprised and provide counsel on governmental issues and concerns. Our assistance also includes working with you through the takeover process.

Audit Assistance

Compliance with L & I guidelines is extremely important. Our staff has years of experience in the audit process. We work with you to ensure the program is in compliance and ready for inspection at any time.

Excess Insurance Reporting

Penser works with you and your insurance carrier to assist in the renewal of your policy. We provide the reports to assist in the underwriting process. Also, we monitor our claim department to guarantee we meet each carrier's claim reporting requirements.

Accounting Services

Penser will establish a specific checking account from which we will issue your workers' compensation checks. We will customize the banking situation to fit your specific needs with regard to the checking account and can accommodate vouchers or any other unique situation that may exist. Penser prints customized checks with your company name, address, and signature authority. We will establish security and cash management checks and balances on your account (i.e., dollar amount second signatures are required, dollar amount a phone call or note to you is required before a check).

Also, as part of our accounting services, we prepare and mail all 1099 statements to vendors and report this information to the IRS.

Takeover Process

As previously mentioned, Penser is committed to getting our relationship with Benton County off to a great start. A large part of this is creating a seamless transition process.

Upon proposal acceptance, we will set up a meeting at your location for the purpose of staff introductions, review of your needs and service instructions, expectations, and operating procedures. From this point, throughout the takeover process, we will be in contact with the appropriate staff within your organization to implement all facets of the takeover.

To ensure that the takeover of your claim program goes smoothly, we have developed the following six step process:

Open and closed claims list requested

- Files are reconciled to the claim lists

Financial check registers for each open claim requested

- Data incorporated into Penser's computer system and cross-checked

Claim files are reassembled

- Open claims entered into our system

Claim technicians review each open file

- Review reserves and adjust if necessary
- Develop plan of action on each file

Claim status review committee formed

- Formal meeting with client within first month of takeover (However, immediate/constant communication with client will be established at the time of takeover)
- Review files
- Reserves and plan of actions approved

We will also notify your excess carrier of your change to Penser.

Some of the steps in the above process will be able to be eliminated or abbreviated as your current claims adjuster, Wanda Olson, will remain your primary contact. This continuity will help to ensure a smooth transition both for you and your injured workers.

*Proposed Service
Team*

Phil Valdens, Vice President

EXPERIENCE

- Penser North America Inc., Vice President, 1998 - Present
- Gallagher Bassett Services, Branch Manager, 1995 – 1998
- Johnston and Culberson, Inc., Claim Adjuster, 1989 - 1995

RESPONSIBILITIES

Phil will serve as your account executive. He will work with your organization to coordinate claims and information services. He will oversee all claims assigned to the claims team. He will assist the team with technical, legal, investigative, and vocational rehabilitation issues. In, addition, Phil is available to answer any questions or concerns that your representatives might have.

To Be Announced Next Week , Richland Office Manager-

EXPERIENCE

- Over 20 years of Washington workers' compensation experience both on the employer and the TPA side

The claims manager will supervise all claims assigned to the claim representative. She will assist the claim representative with technical, legal, investigative, and vocational issues. She will also review all claims work to ensure it is in compliance with "Best Practice", Department of Labor & Industries, and Customer Service guidelines. She is also available to provide consulting to the employer on circumstances, scenarios, and general questions regarding claims, the claim process and workers' compensation statutes, laws and regulations.

Wanda Olson , Claim Representative

EXPERIENCE

- Current CCSI and Benton County claim representative

RESPONSIBILITIES

Wanda will be your day-to-day contact, and will also be your claim representative. Wanda will adjust all aspects of your claims (both Indemnity and medical only), including-but not limited to-early intervention, investigation, plan of action development, claim reserving and litigation management. Regular contact with all parties will be done to ensure a positive progress of each claim in order to move the claim toward resolution and closure. Wanda is also available to provide consulting to the employer on circumstances, scenarios and general questions regarding claims, the claim process and workers' compensation statutes, laws & regulations

References

We have provided reliable and proven workers' compensation administrative services to many Northwest companies. In addition, our client list includes hundreds of companies both nationally and locally. Our success is measured in our quality of business relationships. Below are just a few of our valued customers. Additional companies can be made available upon request:

Pierce County	Kirk Stenger	253/798-6284
WaferTech	Priscilla Madson	360/817-3717
City of Puyallup	Sheri Thomas	253/841-5594
Broetje Orchards	Lucy Cartagena	509/749-2217
City of Redmond	Patriick Koenig	425/556-2178
Lewis County	Harry Green	360/740-1494
Anderson Hay & Grain	Mike Rogel	509/962-0607
Quality Transportation Services Inc.	Susan Payment	509/248-2996

Why Penser?

- ✓ Low claims staff turnover
- ✓ Appropriate claims loads for claims staff
- ✓ Proactive Claims Management
- ✓ Program designed for your specific needs and specifications
- ✓ Status Meetings
- ✓ Responsive Customer Service
- ✓ Loss Control Resources
- ✓ State of the Art computer- Reporting systems
- ✓ Adjuster that is familiar with Benton Co.
- ✓ Local- Richland office
- ✓ Strong, experienced local manager

Proposed Service Fees

Takeover Fees (paid in full at time of takeover):

- One-time takeover fee for file conversion, tape transfer and management of future re-opened claims: **\$5,500 flat fee.**

Ongoing Claim Administration - Penser proposes the following ongoing administration fee structure: **\$ 18,150 annual fee charge.**

Ongoing Administration Services include:

- Claim management services
- Management information services (including on-line access)
- Client services
- Quarterly and annual report filing assistance
- E-mail access
- Monthly loss reports/ Customized Ad-Hoc Reports
- Annual report

Cost containment services utilized by outside vendors are billed to their respective claim files and is not part of the annual fee. Outside bill review is charged to the individual claim files and is not part of annual fee.

Loss control services are not part of this pricing and are available at a discounted contract or hourly rate.

<u>AGENDA ITEM</u>		<u>TYPE OF ACTION</u>		
Meeting Date :	Aug. 31, 2009	Execute Contract :		Consent Agenda :
Subject :	Grant Application	Pass Resolution :	X	Public Hearing :
Prepared by :	SWB	Pass Ordinance :		1st Discussion :
Reviewed by :		Pass Motion :	X	2 nd Discussion :
		Other :	Sign Grant	Other :

X
m

BACKGROUND INFORMATION

We have received notice from the Washington State Public Works Board of a Small Communities in Rural Counties Grant Program Application 2009 that is making \$9,531,000.00 available for projects. We have one project that is shovel ready, Travis Road from Hensen Road to Sellards Road. The project being shovel ready is one of the main criteria. If we were to secure the grant funding, we would be able to construct Travis Road to an all weather standard. This is the missing piece in having an all weather truck route from Kiona to Plymouth.

SUMMARY

We have completed the application, which must be turned in no later than September 8. If funding is received, we would come before the Board to amend the six and one year programs to allow construction to start either in late 2009 or early 2010.

RECOMMENDATION

It is our recommendation that grant be signed by the Board and the application be submitted to the to the Washington State Public Wrks Board.

FISCAL IMPACT

If the grant is received, \$1,500,000 would be available for construction. Based upon our engineer's estimate, the County may need to contribute approximately \$250,000.

MOTION

Move to approve as a part of the consent agenda.



RESOLUTION

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

IN THE MATTER OF COUNTY ROADS, RE: SMALL COMMUNITIES IN RURAL
COUNTIES GRANT PROGRAM APPLICATION 2009

WHEREAS, the Washington State Public Works Board has made available \$9,531,000.00 in
grant money under Small Communities in Rural Counties Grant Program Application 2009, and

WHEREAS, we have received notification that Benton County is eligible to apply for a grant
under this program, and

WHEREAS, Travis Road, construction estimated at \$1,500,000.00, from Hensen Road to
Sellards Road is shovel ready and meets the criteria of the program, NOW, THEREFORE

BE IT RESOLVED that the grant application for \$1,500,000.00 for Travis Road be approved
and the Chairman of the Board is hereby authorized to sign said grant application on behalf of
Benton County.

Dated this 31st day of August 2009

Chairman

Chairman Pro-Tem

Member

Attest: _____
Clerk of the Board

Constituting the Board of County
Commissioners of Benton County,
Washington

RBD:SWB

Small Communities in Rural Counties Grant
Program Application
2009

Eligible Jurisdictions	Small Communities Located in Rural-Designated Counties Local governments serving communities in the following rural counties as defined in RCW 43.160.20: Adams, Asotin, Benton, Chelan, Clallam, Columbia, Cowlitz, Douglas, Ferry, Franklin, Garfield, Grant, Grays Harbor, Island, Jefferson, Kittitas, Klickitat, Lewis, Lincoln, Mason, Okanogan, Pacific, Pend Oreille, San Juan, Skagit, Skamania, Stevens, Wahkiakum, Walla Walla, Whatcom, Whitman, Yakima.
Eligible Projects	Public works projects that create jobs for small communities in rural counties based on the unemployment rate of the county; the impact on unemployment based on the number of jobs created/retained as a result of the project; the ability of the applicant to complete the project promptly; and the value the project presents to the community in lasting improvements to public safety, environmental quality, recreation and community life, or economic development. Projects must include a construction component.
Requested Amount per Jurisdiction	Total Available Grant Resources for Statewide Competition Is \$9,531,000 <ul style="list-style-type: none">▪ No maximum limit on the amount a jurisdiction may request▪ Minimum limit for grant award is \$100,000
Application Submittal Requirements	Jurisdictions may submit only ONE application per jurisdiction for this program. <ul style="list-style-type: none">▪ Mail/ship/hand-deliver ONE SIGNED ORIGINAL HARDCOPY and three additional copies to the address below*; <u>and</u>▪ Email the completed Word file to Christina.Gagnon@commerce.wa.gov. <p style="text-align: center;">Public Works Board 906 Columbia St SW PO Box 48319 Olympia, WA 98504-8319</p> <p>*IMPORTANT: Your submittal is not valid until the <u>original signed application</u> is received by the Public Works Board office.</p>
Application Due Date	One signed original hardcopy and three additional copies must be postmarked or delivered to the Public Works Board on or before September 8, 2009.
Selection Process	Two-phased approach: <ul style="list-style-type: none">▪ Phase I—preliminary project list based on scored selection criteria▪ Phase II—Board deliberation based on legislative intent, statewide, and system-wide spread.
Questions?	Please refer to the Client Service Representative (CSR) list at the end of this application to find the contact information of the CSR assigned to your area. They will be happy to answer your questions.

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SECTION 1: GENERAL APPLICANT INFORMATION

GENERAL APPLICANT INFORMATION

I.1	Applicant's Legal Name	Benton County										
I.2	Municipal Corporation Agency # (MCAG)	0	0	9	5	http://www.pwb.wa.gov/macg_listing.asp						
I.3	Federal Tax ID #	9	1	-	6	0	0	1	2	9	6	
I.4	Project Street Address	Travis Road										
	Mailing Address	P.O. Box 1001										
	City	Prosser										
	State	WA	Zip	9	9	3	5	0	-	0	9	5
I.5	County	Benton										
I.6	Project GPS Coordinates ¹ (attach project map)	Project Location					Water Body Location					
		Latitude (e.g., 45.3530)		Longitude (e.g., 120.4510)			Latitude (e.g., 45.3530)		Longitude (e.g., 120.4510)			
		46.1300		119.4543								
I.7	Current population within jurisdiction	165,500					Population affected by this project:					
							Number		%			
							16,550		10			
I.8	Legislative District http://apps.leg.wa.gov/DistrictFinder/Default.aspx	16					Congressional District http://apps.leg.wa.gov/DistrictFinder/Default.aspx	4				
I.9	Authorized Person to Sign Contract	Max E. Benitz, Jr										
	Telephone	509-786-5600										
	Fax	509-786-5625										
	Email	max.benitz@co.benton.wa.us										
I.10	Project Manager	Bryan Thorp										
	Telephone	509-786-5611										
	Fax	509-786-5627										
	Email	bryan.thorp@co.benton.wa.us										
I.11	Project Title	Travis Road; CE1773 CRP										
I.12	Grant Amount Requested	\$1,500,000										
I.13	Total Project Cost	\$1,930,836										

¹ Provide the GPS coordinates representative of your project location and the water body affected. The project location is the approximate center of where you will be working. The water body location should be within the water body affected by the project. GPS information can be found on Google Earth (download free software at <http://earth.google.com>).

SECTION 2: PROJECT INFORMATION

PROJECT CATEGORY & TYPE

1.1	Project Category - check one box only (Not scored)
	<input type="checkbox"/> Public Safety <input type="checkbox"/> Environmental Quality <input type="checkbox"/> Recreation & Community Life <input checked="" type="checkbox"/> Economic Development
	Project Type - sewer, water, road, community center, park, etc. (Not scored)
	Road

PROJECT NEED AND DESCRIPTION

1.2	In 300 words or less, please describe the project to be completed. (Not scored)
	<p>Travis Road is a narrow major farm to market/truck route, resulting in trucks traveling in the middle of the road and moving over for on coming traffic. The current road is a substandard road that is rapidly deteriorating and is closed to truck traffic during the thawing periods. The road is to be widened and constructed to an all weather standard, allowing it to remain open year around. Horizontal and vertical curves are to be corrected to meet todays standards. Keeping Travis Road open year around will be more condusive to full time rather than seasonal employment for agricultural workers. It will also allow for processing and marketing of agricultural products that is now difficult due to the unreliable state of road conditions that exist. Safety improvements will also be a much appreciated benefit of this project.</p>

PROJECT SCOPE OF WORK

1.3	Describe in detail all the activities that will accomplish this project. This should include only the contract deliverables, e.g., number of feet and size of pipe to be laid, etc. Please do not use this section to explain the problem. The activities in your scope of work must be completed within 24 months of contract execution. The scope of work needs to correspond with the project budget and schedule and it will be part of your contract, should your project be approved for funding. (Not scored)
	<p>The old roadway will be totally obliterated and a total reconstruction for the new roadway will be done. Grading is made up of Roadway Excavation at 92,050 c.y. and Embankment at 66,170 cubic yards. Culvert pipe to be placed, ranges from 12 inch diameter to 84 inch dia. and total lineal feet equals 2,242 feet. Surfacing is made up of Base Course at 32,000 tons and Top Course at 13,310 tons. Paving with HMA equals 10,820 tons. Other items include Seeding, Striping, Traffic control, Structure Excavation, Gravel Backfill for pipes, Fencing, Mailboxes and Trimming and Cleanup. An Engineer's Estimate showing all items is attached with the application.</p>

PROJECT SCHEDULE

1.4	Indicate the month and year when the activities were or will be completed. Schedule should clearly correspond to Question 3.3. Readiness-to-Proceed. The applicant will be contractually obligated to complete the project within 24 months of contract execution. (Project Schedule is not scored but will be checked for accuracy and cross-referenced with Readiness-to-Proceed.)		
Activity	Current Status	% Complete	Completion Date (Mo/Yr)
Engineering Report	N/A	100	
Cultural and Historical Resources Review (Section 106 or Executive Order 05-05) ²	Underway	50	11/2009
Environmental Review	Complete	100	
Land/Right-of-Way Acquisition	Complete	100	
Permits	Complete	100	
Public Involvement/Information	Complete	100	
Bid Documents	Underway	95	11/2009
Award Construction Contract		0	1/2010
Start Construction		0	2/2010
Complete Construction		0	9/2010
Construction Inspection		0	9/2010
Other:			

² The EO 05-05 requires recipients of state funds to consult with interested parties (i.e., Department of Archaeology and Historic Preservation, and Indian Tribes) prior to starting project construction. This consultation should take place as early as possible, in order to avoid delays in starting the project construction. If you have questions regarding this process, please contact Stephen Dunk at (360) 725-3157 or email him at Stephen.Dunk@commerce.wa.gov.

REQUIRED PERMITS (LOCAL, STATE, AND FEDERAL)

1.5	List the permits required for the proposed project and indicate status of each permit (e.g., applied for, pending, issued, etc.). If no permits are required, explain why not. This list needs to correspond with Question 3.3. Readiness-to-Proceed. For assistance with your permitting requirements, contact the Office of Regulatory Assistance or go to http://www.ora.wa.gov . (Not scored)	
Permit	Expected Date Submitted	Expected Date Issued or Received
1.		
2.		
3.		
4.		
5.		
6.		
If no permits are required, please explain why not.	Through the SEPA review process, it was determined that no permits were required.	

PROJECT COSTS

1.6	The Total Estimated Project Cost must equal the Total Project Funding in Question 2.7. The Project Costs table will become a part of your contract, should this project be approved for funding. (Project Costs is not scored but will be checked for accuracy.)
Cost Category	Amount
Engineering Report	
Cultural and Historical Resources Review (Section 106 or Executive Order 05-05) ³	2000
Environmental Review	100
Land/Right-of-Way Acquisition	18,266
Permits	
Public Involvement/Information	
Bid Documents	71,470
Construction	1,762,640
Other Fees (Sales or Use Taxes)	
Contingency (5%)	80,600
Other:	
Other:	
TOTAL ESTIMATED PROJECT COST	\$1,935,076

³ The EO 05-05 requires recipients of state funds to consult with interested parties (i.e., Department of Archaeology and Historic Preservation, and Indian Tribes) prior to starting project construction. This consultation should take place as early as possible, in order to avoid delays in starting the project construction. If you have questions regarding this process, please contact Stephen Dunk at (360) 725-3157 or email him at Stephen.Dunk@commerce.wa.gov.

PROJECT FUNDING

1.7 The Total Project Funding must equal the Total Estimated Project Cost in Question 2.6.

Please state the status of your funding sources as follows:

- Funds are **Planned** if they are found in a formally adopted Capital Facilities Plan.
- Funds are **Applied for** if a formal application has been submitted to a funding source, and the funding source confirms that application or funding request has been received (attach notification from funder that application has been received).
- Funds are considered **Secured** if a formal notice of approval for the funds is in place from the funding source (attach letter from funder or contract number). Local revenue must be in an approved budget to be considered secured.

(Project Funding is not scored but will be checked for accuracy and cross-referenced with Readiness-to-Proceed.)

Type of Funding	Identify Source ⁴	Amount	Status (Planned, Applied for, Secured)	Contract/Reference Number
Local Revenue (Rates, General Fund, Levies, Reserves, Assessments, ULID, LID, etc.)				
Local Revenue #1	State Gas Tax	435,076	Secured	
Local Revenue #2				
Local Revenue #3				
Total Local Revenue				
Other Non-Match Loans				
Non-Match Loan #1				
Non-Match Loan #2				
Total Other Non-Match Loans				
Loans (State/Federal, Private Agency or Organization)				
Other Loan #1				
Other Loan #2				
Other Loan #3				
Total Loans				
Grants (State/Federal Agency or Organization)				
Grant #1				
Grant #2				
Grant #3				
Total Grants				
Small Communities in Rural Counties Grant Request				
This Grant Request	PWB	1,500,000		
TOTAL PROJECT FUNDING		\$1,932,836		

⁴ If federal funds are included in the project funding package, the project is subject to the federal Section 106 Cultural Historic Requirements. If you have questions regarding this process, please contact Stephen Dunk at (360) 725-3157 or email him at Stephen.Dunk@commerce.wa.gov.

SECTION 3: PROJECT PRIORITIZATION

Projects will be prioritized based on the following criteria:

- (a) The county's unemployment rate;
- (b) The impact on unemployment based on the number of jobs created/retained as a result of the project;
- (c) The ability of the applicant to complete the project promptly; and
- (d) The value the project presents to the community in lasting improvements to public safety, environmental quality, recreation and community life, or economic development.

SCORED PROJECT QUESTIONS

UNEMPLOYMENT RATE

I.1 The Washington State Employment Security Department table (TABLE 1) on the following page will be used for purposes of determining county unemployment rates. Points will be awarded for projects whose jurisdictions are located in counties with unemployment rates listed in the following categories:

(Max 16 points)

Unemployment Rates	Points
Less than 5.4	0
5.4 - 6.2	2
6.3 - 7.6	4
7.7 - 8	6
8.1 - 8.4	8
8.5 - 9.7	10
9.8 - 12	12
12.1 - 12.7	14
Above 12.7	16

JOB CREATION / RETENTION

I.2 The Washington State Employment Security Department table (TABLE 1) on the following page will be used for purposes of measuring the impact on unemployment based on the number of jobs created/retained as a result of the project.

Please provide estimates on job creation/retention resulting from this project, and explain your method for estimating the numbers. **(Max 12 points)**

A. Number of construction jobs that will be created as part of this project:	45
B. Number of public and/or private sector jobs that will be created or retained upon project completion:	120

Please describe how you arrived at this estimate:

Number of pertinent jobs from last

road project plus retained

construction inspectors.

Conversations with agricultural

producers and processors that use

or will use Travis Road.

TABLE 1

Washington State Employment Security Department Labor Market and Economic Analysis		
June 2009 Preliminary		
Not Seasonally Adjusted	Unemployment	Unemployment Rate
Washington State Total	329,980	9.2
Adams	630	7.1
Asotin	970	8.5
Benton County (Kennewick-Pasco-Richland MSA)	6,350	6.5
Chelan County (Wenatchee MSA)	3,260	7.6
Clallam (Port Angeles MSA)	3,040	9.8
Columbia	160	9.7
Cowlitz (Longview MSA)	5,690	12.7
Douglas County (Wenatchee MSA)	1,760	7.9
Ferry	390	12.1
Franklin County (Kennewick-Pasco-Richland MSA)	2,780	7.6
Garfield	70	6.2
Grant (Moses Lake MSA)	3,710	8.2
Grays Harbor (Aberdeen MSA)	4,130	12.4
Island (Oak Harbor MSA)	2,960	8.7
Jefferson	1,130	8
Kittitas (Ellensburg MSA)	1,840	8.1
Klickitat	1,080	9.4
Lewis (Centralia MSA)	4,220	12.8
Lincoln	410	8.1
Mason (Shelton MSA)	2,610	10.1
Okanogan	1,860	7.9
Pacific	1,150	12
Pend Oreille	750	13.4
San Juan	530	5.4
Skagit (Mt. Vernon-Anacortes MSA)	5,950	9.9
Skamania	710	13.5
Stevens	2,450	12.4
Wahkiakum	220	12.7
Walla Walla MSA (Walla Walla)	1,990	6.2
Whatcom (Bellingham MSA)	9,370	8.4
Whitman (Pullman MSA)	1,200	6.2
Yakima (Yakima MSA)	10,770	8.2

READINESS-TO-PROCEED

<p>1.3</p>	<p>All responses are based on "at the time of application." If you are not required to do a particular task, identify N/A in "Completed at time of application" box and explain below why this activity is not applicable to your project. (Max 40 points)</p> <p>Applicant certifies that by securing this grant funding, the entire funding for this project has been secured * (15 points) (attach letters from funders or contract numbers)</p> <p>Applicant certifies that engineering and design are 100% complete* (5 points)</p> <p>Applicant certifies that all applicable permits are in hand* (5 points)</p> <p>Applicant certifies that bid documents are ready* (5 points)</p> <p>Applicant certifies that right-of-way/easement for project is acquired* (5 points)</p> <p>Applicant certifies that cultural and historic and/or environmental reviews are complete. Please attach verification that consultation with both Department of Archaeological and Historic Preservation (DAHP) and concerned tribe(s) has been completed.* (5 points)</p>	<p>Completed at time of application (or N/A)</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
<p>If marked N/A, in order to receive points, please explain why activity is not required.</p>		

* These items must match the project's Scope of Work as well as the Project Schedule and Funding Budget.

PROJECT VALUE

1.4 What value does the project present to the community in lasting improvements to public safety, environmental quality, recreation and community life, or economic development? Check one box below.
(Max 10 points)
 Please attach relevant documentation to support your project (please do not attach entire plans or reports).*

EXISTING (Max 10 points)	NEAR-TERM (Max 7 points)	LONG-TERM (Max 4 points)
<ul style="list-style-type: none"> • The problem to be resolved, or the opportunity to take advantage of, exists at this time • Severe situation that requires immediate attention 	<ul style="list-style-type: none"> • The problem to be resolved, or the opportunity to take advantage of, will emerge within the next 2 years • Documented trend toward potential system failure • External agency driving project • Maintaining compliance with regulations & requirements • Repairing & replacement • Maintaining industry standards 	<ul style="list-style-type: none"> • The problem to be resolved, or the opportunity to take advantage of, will emerge in 3-5 years • System component redundancy • System enhancement • Enhancing growth & development

Please indicate whether the problem, or opportunity to take advantage of, is considered existing, near-term, or long-term (check one box only).
 Your selection must match the selection in Question 2.1.

Project Category	EXISTING problem/opportunity	NEAR-TERM problem/opportunity	LONG-TERM problem/opportunity
Public Safety	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Environmental Quality	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Recreation & Community Life	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Economic Development	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

* Examples of documentation include regulatory order, adopted comprehensive plan, study, report, capital facilities plan, economic development plan, internal monitoring, insurance statement, external agency driving need, adopted resolution.

1.5	Is project considered a community priority? Please answer the following questions. (Max 22 points)		
A	Has community involvement occurred for this project? (Max 7 points) If Yes, please select at least one type of community involvement and indicate most recent date.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
	<input checked="" type="checkbox"/> The need for the project was discussed at an open city/town council or county board meeting. <input checked="" type="checkbox"/> The need for the project was stated at a local public hearing. <input checked="" type="checkbox"/> The project was identified as a priority by a public input process, such as a needs survey or community forum. <input type="checkbox"/> Other (please specify): _____		Most recent date of public involvement: 4/27/09
B	Is project included in an approved plan or completed study? (Max 7 points) If Yes, please select at least one type of plan, or indicate study, and reference section/chapter.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
	<input type="checkbox"/> Comprehensive land use plan <input type="checkbox"/> Economic development plan <input type="checkbox"/> Capital facilities plan <input type="checkbox"/> Water, sewer, street, or other system plan <input type="checkbox"/> Community strategic plan <input checked="" type="checkbox"/> Other (please specify): Six- Year Road Program		
C	Please indicate the life expectancy of the project. (Max 7 points)		
	30 Years		
D	Has the jurisdiction undertaken any other measures/activities to address the problem/situation? (Max 1 point) If Yes, please describe.	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
	We are maintaining a hard surface by constant patching of the existing road. Also Benton County will have spent \$13,000,000 on this corridor and this proposed project is the last missing link.		

PROJECT SCHEDULE INFORMATION:

If offered funding, the following deadlines will be imposed:

- Final scope of work must be submitted to the Board within 30 days of award offer.
- Signed contract must be returned to the Board within 90 days of award offer.
- Project must be completed and closed out within 24 months of contract execution.
- Reimbursement may be requested for eligible project costs incurred back to July 1, 2009.

APPLICANT CERTIFICATION

WHEREAS, **Benton County** (name of local government) is applying to the Public Works Board Small Communities in Rural Counties Grant Program for an eligible project; and

WHEREAS, RCW 43.155.070 requires that applicants planning under RCW 36.70A.040 must have adopted comprehensive plans in conformance with the requirements of chapter 36.70A RCW, and must have adopted development regulations in conformance with the requirements of chapter 36.70A RCW; and

WHEREAS, the local governing body of the applicant has approved submission of this application for a Small Communities in Rural Counties Grant; and

WHEREAS the applicant certifies that, there is currently no litigation in existence seeking to enjoin the commencement or completion of the above-described public facilities project or to enjoin the applicant from repaying the Small Communities in Rural Counties Grant extended by the Public Works Board with respect to such project, should such repayment be required. The applicant is not a party to litigation, which will materially affect its ability to repay such grant on the terms contained in the grant contract.

WHEREAS, the applicant recognizes and acknowledges that the information in the application form is the only information, which will be considered in the evaluation and/or rating process. Incomplete responses will result in a reduced chance of funding. In order to ensure fairness to all, the Public Works Board does not accept any additional written materials or permit applicants to make presentations before the Public Works Board; and

WHEREAS, it is necessary that certain conditions be met as part of the application process; and

WHEREAS, the grant will not exceed the maximum amount allowed by the Public Works Board of eligible costs incurred for the project; and

WHEREAS, the information provided in this application is true and correct to the best of the applicant's belief and knowledge and it is understood that the Public Works Board may verify information, and that untruthful or misleading information may be cause for rejection of this application or termination of any subsequent grant contract(s); and

NOW THEREFORE, **Benton County** (name of local government) certifies that it meets these requirements, and further that it intends to enter into a grant contract with the Public Works Board, provided that the terms and conditions for a Small Communities in Rural Counties Grant are satisfactory to both parties.

Signed:

Name:

Max J. Benitz, Jr.

Title:

Chairman, Board of County Commissioner

Phone Number:

509-786-5600

Date:

Attest:

CERTIFICATION BY PREPARER OF APPLICATION

To Be Completed by Staff Member or Consultant

WHEREAS, **Steven W. Becken** (name of staff member or consultant) has prepared this application for a Public Works Board Small Communities in Rural Counties Grant; and

WHEREAS, the preparer recognizes and acknowledges that the information in this application is the only information that will be considered in the evaluation and/or rating process. Incomplete responses will result in a reduced chance of funding, and that in order to ensure fairness for all, the Public Works Board does not accept any additional written materials or permit applicants to make presentations before the Public Works Board; and

WHEREAS, the information provided in this application is true and correct to the best of the preparer's belief and knowledge; and

NOW THEREFORE, **Steven W. Becken** (name of staff member or consultant) recognizes and acknowledges the above declarations and certifies that this application meets the above requirements.

Signed:



Name:

Steven W. Becken

Title:

Public Works Manager

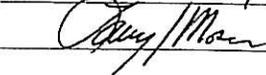
Phone Number:

509-786-5611

Date:

8-25-09

Attest:



CLIENT SERVICE REPRESENTATIVES

County	CSR	
Adams	Chris Gagnon	Terry Dale
Asotin	Chris Gagnon	360-725-3155
Benton	Terry Dale	Terry.Dale@commerce.wa.gov
Chelan	Stephen Dunk	
Clallam	Chris Gagnon	
Columbia	Chris Gagnon	Stephen Dunk
Cowlitz	Bruce Lund	360-725-3157
Douglas	Chris Gagnon	Stephen.Dunk@commerce.wa.gov
Ferry	Bruce Lund	
Franklin	Terry Dale	
Garfield	Chris Gagnon	Chris Gagnon
Grant	Chris Gagnon	360-725-3158
Grays Harbor	Isaac Huang	Christina.Gagnon@commerce.wa.gov
Island	Terry Dale	
Jefferson	Isaac Huang	
Kittitas	Stephen Dunk	Isaac Huang
Klickitat	Bruce Lund	360-725-3162
Lewis	Stephen Dunk	Isaac.Huang@commerce.wa.gov
Lincoln	Bruce Lund	
Mason	Stephen Dunk	
Okanogan	Isaac Huang	Bruce Lund
Pacific	Bruce Lund	360-725-3163
Pend Oreille	Bruce Lund	Bruce.Lund@commerce.wa.gov
San Juan	Terry Dale	
Skagit	Terry Dale	
Skamania	Bruce Lund	
Stevens	Bruce Lund	
Wahkiakum	Bruce Lund	
Walla Walla	Terry Dale	
Whatcom	Terry Dale	
Whitman	Stephen Dunk	
Yakima	Stephen Dunk	

ENGINEER'S ESTIMATE

TRAVIS ROAD - Sellards To Henson
CE 1773 CRP

ITEM NO	APPROX QTY	UNIT	ITEM DESCRIPTION	PRICE PER UNIT	TOTAL AMOUNT
TRAVIS ROAD					
1	1.00	L.S.	Mobilization	\$80,000.00	\$80,000.00
2	1.00	L.S.	Clearing and Grubbing	\$6,000.00	\$6,000.00
3	1.00	L.S.	Removal of Structures and Obstructions	\$5,000.00	\$5,000.00
4	92,050	C.Y.	Roadway Excavation Including Haul	\$2.00	\$184,100.00
5	66,170	C.Y.	Embankment Compaction	\$0.50	\$33,085.00
6	44,493	S.Y.	Pavement Pulverization	\$0.65	\$28,920.45
7	1,708	L.F.	Plain St. Culv. Pipe 0.064 In. Th. 12 Inch Diam.	\$23.00	\$39,284.00
8	166	L.F.	Plain St. Culv. Pipe 0.064 In. Th. 24 Inch Diam.	\$50.00	\$8,300.00
9	158	L.F.	Plain St. Culv. Pipe 0.064 In. Th. 48 Inch Diam.	\$65.00	\$10,270.00
10	210	L.F.	Plain St. Culv. Pipe 0.079 In. Th. 84 Inch Diam.	\$150.00	\$31,500.00
11	25	C.Y.	Commercial Concrete for Headwall	\$800.00	\$20,000.00
12	32,000	TON	Crushed Surfacing Base Course	\$8.50	\$272,000.00
13	13,310	TON	Crushed Surfacing Top Course	\$9.00	\$119,790.00
14	10,820	TON	HMA Class A PG 64-28	\$65.00	\$703,300.00
15	12	ACRE	Seeding, Fertilizing, and Mulching	\$1,800.00	\$21,600.00
16	50,054	L.F.	Paint Line	\$0.20	\$10,010.80
17	1.00	L.S.	Project Temporary Traffic Control	\$15,000.00	\$15,000.00
18	705	C.Y.	Structure Excavation Class B Incl. Haul	\$6.00	\$4,230.00
19	365	C.Y.	Gravel Backfill for Pipe Zone Bedding from Stockpile R-128	\$10.00	\$3,650.00
20	1,000	L.F.	Wire Fence Type 2	\$6.50	\$6,500.00
21	4	Each	Mailbox Support Type 1	\$350.00	\$1,400.00
22	1	eACH	Mailbox Support Type 2	\$700.00	\$700.00
23	1.00	L.S.	Trimming and Cleanup	\$2,500.00	\$2,500.00
24	1.00	L.S.	SPCC Plan	\$500.00	\$500.00
25	1.00	DOL.	Minor Changes	\$5,000.00	\$5,000.00

CONTRACT TOTAL \$1,612,640.25

Construction Engineering \$150,000.00

TOTAL \$1,762,640.25

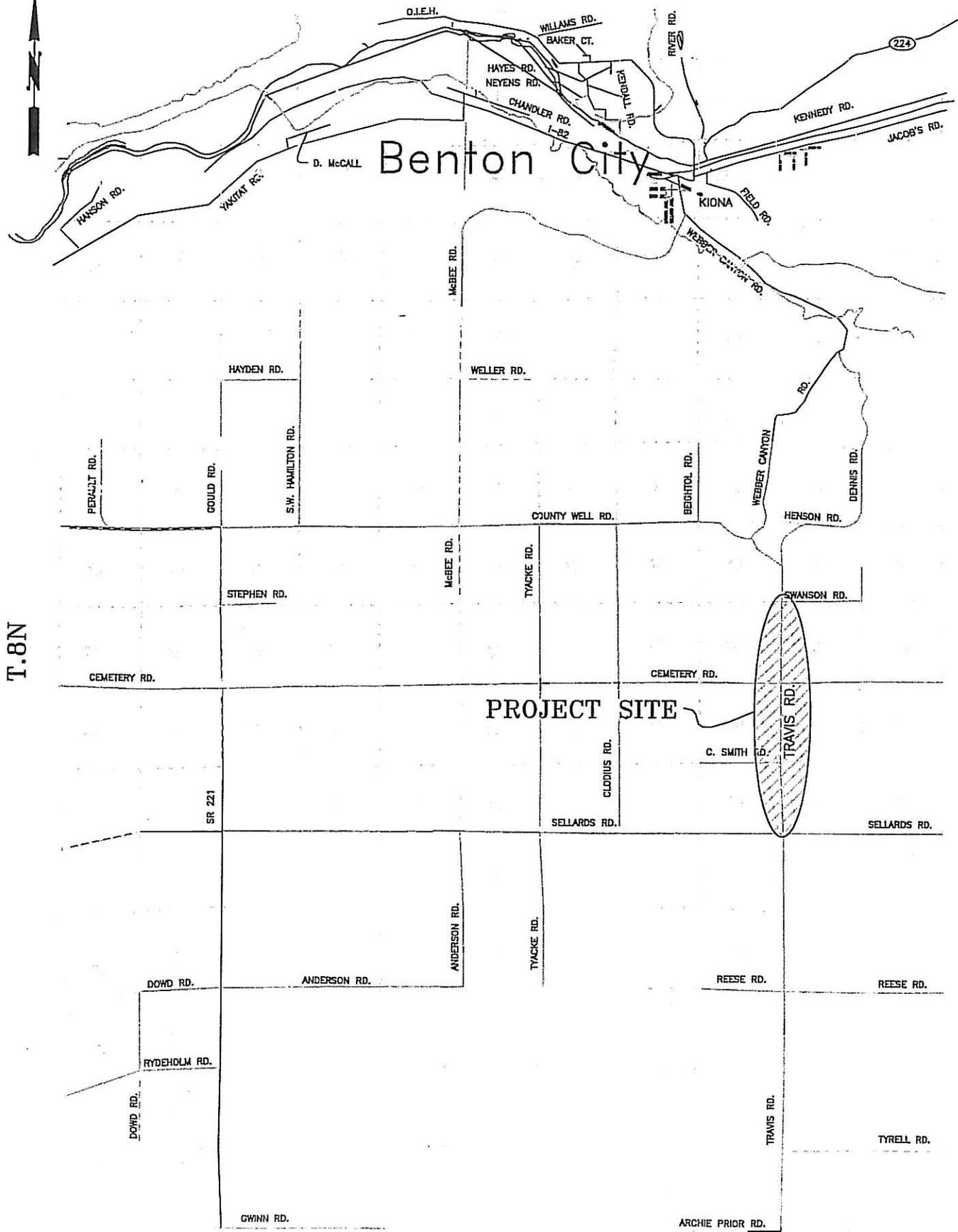
Prepared by: _____
Marty Groom
Engineer II

Date

Approved: _____
Steven W. Becken
Public Works Manager

Date

c: Bryan Thorp, Project Engineer
Larry Moser, Financial Administrator
Lee Rawlings, Road Maintenance Manager



T.8N

R. 27E

RESOLUTION 09 280

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY ROADS RE: COMPREHENSIVE SIX-YEAR ROAD PROGRAM, 2010 -2015

WHEREAS, RCW 36.81.121 requires development of perpetual advanced six-year plans for coordinated transportation; and

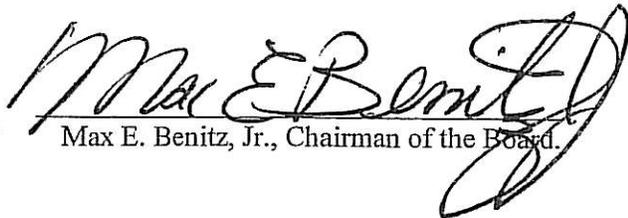
WHEREAS, the updated six-year plan, describing the road maintenance and improvement program for the period of 2010 through 2015 shall be adopted prior to adoption of annual budget, after one or more public hearings; and

WHEREAS, a public hearing on said six-year plan/road program was held on April 27, 2009; and

WHEREAS, in accordance with the RCW's, the priority array and bridge report that were prepared by the Acting County Engineer and staff were considered as a part of the six-year plan; NOW THEREFORE,

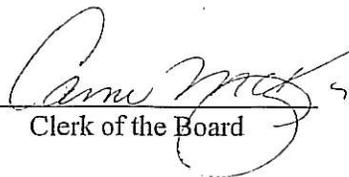
BE IT RESOLVED that the Six-Year Road Program for the period of 2010 through 2015 is hereby approved.

Dated this 27th day of April, 2009.


Max E. Benitz, Jr., Chairman of the Board.


Leo M. Bowman, Chairman Pro-Tem.


James R. Beaver, Member.

Attest: 
Clerk of the Board

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

RBD:slc

2010 - 2015 ROAD PROGRAM

PRIOR ITY	PROJECT	LENGTH (mi)	COST EST	COUNTY			STATE			FEDERAL			UNKNOWN FUNDING SOURCE	CONSTRUCTION					
				ROAD FUND		CONTRIBUTIONS	TIB	CRAB	BFCOG	WSDOT	2010	2011		2012	2013 to 2015				
				P & MVFT	P&T R	AMT	UCP	RAP	ST/PR	STP/XP									
	POTENTIAL NEW ROADS																		
1	PIERT RD: SR 397 to Bowties	1.8	4,000	500		342	170	POK - 172	1,667				1,491						4,000
2	WEBBER CANYON RD: BNSF Grade Separation	0.0	2,400	100						2,300				2,400					
3	WEBBER CANYON RD: Kama to I-82 and Kama Roads	0.3	1,500	300						1,200				1,500					1,500
4	CRID No. 77: ANTIORI RD: Sunset to Col Solara Winery	0.9	1,500			1,500	Bond												1,500
5	I-82 RED MOUNTAIN INTERCHANGE	1.5	24,700										24,700						24,700
	Subtotal		34,100	900		1,842			1,667		3,500		25,191	3,900					30,200
	RURAL ARTERIAL PROGRAM																		
6	HANKS RD: Crosby to Altar	3.0	3,500	3,000						500				500	3,000				
7	CLODFELTER RD: Beniley to C. Williams	2.8	2,155	860						1,275				2,155					
8	LOCUST GROVE RD: Chedellier to Edwards	1.5	1,345	485						850				1,345					
9	NINE CANYON RD: CR 397 to Mills	3.3	3,045	304						2,741					304				
10	NINE CANYON RD: Mills to Beck	2.6	2,825	263						2,543					304				
11	NINE CANYON RD: Beck to Coffin	3.0	3,250										3,250						3,250
12	KNOX RD: District Line to Trullicka	2.3	2,500										2,500						2,500
13	KNOX RD: Trullicka to OIEH	2.1	2,283										2,283						2,283
14	MEALS RD: Beginning of Pavement to Ayers	2.5	2,718										2,718						2,718
15	FINLEY RD: CR 397 to End of Pavement	2.5	2,718										2,718						2,718
16	CASE RD: OIEH to Hanks	2.3	2,500										2,500						2,500
	Subtotal		20,850	4,882		0			0	7,800			15,975	4,900	6,045	2,825			15,975
	PAVED ROAD UPGRADES																		
17	TRAVIS RD: Sellards to Henson	3.2	1,500	1,500										1,500					
18	SELLARDS RD: SR 221 to Travis	7.0	4,650	4,650															4,650
19	BERT JAMES RD: Sellards to SR 221	4.0	4,150										4,150						4,150
20	COUNTY WELL RD: SR 221 to Travis	7.0	6,600										6,600						6,600
21	OIEH: Chandler to Knox	1.5	1,630										1,630						1,630
22	CHRISTY RD: BNSF RR Xing to Plymouth	3.5	3,150										3,150						3,150
23	OLYMPIA STREET: Kennenwick City Limits to CR-397	0.5	310	118									310						310
	Subtotal		20,850	6,268		0			0	0			14,580	310	1,500	4,650			14,580
	BRIDGE, CULVERT, ENHANCEMENT & SAFETY PROJECTS																		
24	BERNATH RD: BNSF RR Xing Approach	0.1	180	180										180					
25	THOMAS RD: BID Bridge Replacement (33210-0.759)	0.4	250	250									250						250
26	JOHNSON RD/GRIFFIN RD: Intersection Improvements	0.5	1,000										1,000						1,000
	Subtotal		1,430	430		0			0	0			1,000	180	250	0			1,000
	ANNUAL PROGRAMS & EMERGENT PROJECTS																		
27	PAVED ROAD UPGRADE PROJECTS		60	60															60
28	GRAVEL ROAD PAVING PROJECTS		60	60															60
29	PATHS & TRAILS		60	60															60
30	RAILROAD CROSSINGS		60	60															60
31	EMERGENT PROJECTS		600	600															600
32	SAFETY PROJECTS		60	60															60
33	PLAT ROADS		120	120															120
34	CR 397 (I-82 to SR 397 Interlie): PWYTF Loan Repayment		1,245	1,245															1,245
	Subtotal		2,265	2,038		60			0	0			0	330	375	0			2,265
	TOTALS		87,636	14,690		1,950			1,667	7,808	3,692		57,700	8,769	8,174	7,855			62,838

(All \$'s x 1000)

n

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

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

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

WHEREAS, the Local Programs Engineer has requested Benton County prepare Supplement No. 3 to the Local Agency Agreement No. LA 5278 to de-obligate ARRA funds in the amount of \$199,353.00 due to the bid amount being lower than originally estimated for construction; NOW, THEREFORE,

BE IT RESOLVED, that Supplement No. 3 for Webber Canyon Road Railroad Undercrossing for the Local Agency Agreement No. LA 5278, be and hereby is approved, and the Chairman is authorized to sign on behalf of Benton County.

Dated this 31st day of August, 2009.

Chairman.

Chairman Pro-Tem.

Attest: _____
Clerk of the Board

Member.

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

SWB:BLT:slc



Local Agency Agreement Supplement

Agency <u>Benton County</u>		Supplement Number <u>3</u>
Federal Aid Project Number <u>ARRA-HPP-STPR-A031(002)</u>	Agreement Number <u>LA 5278</u>	CFDA No. <u>20.205</u> <small>(Catalog of Federal Domestic Assistance)</small>

The Local Agency desires to supplement the agreement entered into and executed on 8/18/99

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

The changes to the agreement are described as follows:

Project Description

Name Webber Canyon Road CE 1722 CRP Length 0.3 miles

Termini Kiona South City Limits To I-82 Interchange

Description of Work No Change

Reason for Supplement

De-Obligate ARRA funds due to Bid

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

Type of Work	Estimate of Funding				
	(1) Previous Agreement/Suppl.	(2) Supplement	(3) Estimated Total Project Funds	(4) Estimated Agency Funds	(5) Estimated Federal Funds
PE					
<u>86.5</u> %	a. Agency	14,017.00	14,017.00	1,892.00	12,125.00
	b. Other consultant	270,000.00	270,000.00	36,450.00	233,550.00
	c. Other				
Federal Aid Participation Ratio for PE	d. State	5,000.00	5,000.00	675.00	4,325.00
	e. Total PE Cost Estimate (a+b+c+d)	289,017.00	289,017.00	39,017.00	250,000.00
Right of Way	f. Agency				
%	g. Other				
Federal Aid Participation Ratio for RW	h. Other				
	i. State				
	j. Total RW Cost Estimate (f+g+h+i)				
Construction	k. Contract	3,023,587.00	-199,353.00	2,824,234.00	2,824,234.00
	l. Other				
	m. Other				
	n. Other				
<u>100</u> %	o. Agency	272,088.00	272,088.00		272,088.00
Federal Aid Participation Ratio for CN	p. State	4,325.00	4,325.00		4,325.00
	q. Total CN Cost Estimate (k+l+m+n+o+p)	3,300,000.00	-199,353.00	3,100,647.00	3,100,647.00
	r. Total Project Cost Estimate (e+j+q)	3,589,017.00	-199,353.00	3,389,664.00	3,350,647.00

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

Agency Official

Washington State Department of Transportation

By Max E. Benitz

By _____

Title Chairman, Board of County Commissioners Director of Highways and Local Programs

Date Executed _____



RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY ROADS RE: C.E. 1924 SMP - PAVEMENT MARKING-2009

WHEREAS, by resolution dated August 17, 2009, award was made to Stripe Rite, Inc., Sumner, Washington for C.E. 1924 SMP - PAVEMENT MARKING-2009; and

WHEREAS, the contract in the amount of \$223,995.00 has been executed by Stripe Rite, Inc., Sumner, Washington; NOW, THEREFORE,

BE IT RESOLVED that the Board hereby authorizes the Chairman of the Board of County Commissioners to sign said contract for and on behalf of Benton County.

Dated this 31st day of August, 2009.

Chairman of the Board.

Chairman Pro-Tem.

Member.

Attest: _____
Clerk of the Board

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

SWB:LJM:slc

<u>AGENDA ITEM</u>		<u>TYPE OF ACTION</u>			
Meeting Date :	Aug. 31, 2009	Execute Contract :		Consent Agenda :	X
Subject :	Traffic Control	Pass Resolution :	X	Public Hearing :	
Prepared by :	NWC	Pass Ordinance :		1st Discussion :	
Reviewed by :	SWB	Pass Motion :		2 nd Discussion :	
		Other :		Other :	

P

BACKGROUND INFORMATION

Brian Lane intersects with Lesa Marie Lane west of Leslie Road near Richland, both are County roads. Local residents have reported conflicts with uncontrolled traffic at this intersection. The intersection at various times has high traffic volumes during events at the athletic field located at the west end of Lesa Marie Lane. Local residents have reported several conflicts and near misses at this intersection. Those residents have requested stop control at the intersection of Brian Lane and Lesa Marie Lane to help reduce conflicts and near misses.

SUMMARY

Traffic on Brian Lane should stop before entering the through traffic on Lesa Marie Lane. Benton County should install stop signs at the intersection of Brian Lane and Lesa Marie Lane to control traffic. There is no history of accidents at this location. Residents have indicated they have had near misses from vehicles not stopping at this intersection. This installation would meet the guidelines stated in the Manual on Uniform Traffic Control Devices.

RECOMMENDATION

Pass a resolution for Stop Sign traffic control at the intersection of Brian Lane and Lesa Marie Lane. northbound and southbound traffic on Brian Lane will stop at Lesa Marie Lane before proceeding.

FISCAL IMPACT

Anticipated and budgeted as routine traffic control. No additional fiscal impact. Routine maintenance of stop sign.

MOTION

Adoption of consent agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON :

IN THE MATTER OF TRAFFIC CONTROL ON CERTAIN COUNTY ROADS RE:

Stop control on Brian Lane

WHEREAS, The Board of County Commissioners of Benton County, Washington in the exercise of a governmental function for and on behalf of said Benton County in the protection of life, health, safety, welfare and convenience of the inhabitants of said County, is desirous of making certain restrictions on the traffic using the County Roads designated below; NOW, THEREFORE,

BE IT RESOLVED by the Board of County Commissioners of Benton County, Washington, that the traffic control on County Roads designated below shall be as follows;

Northbound traffic on Brian Lane and southbound traffic on Brian Lane shall stop at Lesa Marie Lane before proceeding.

This resolution shall be effective August 31, 2009.

Dated this 31st day of August, 2009.

Chairman of the Board.

Chairman Pro-Tem.

Member.

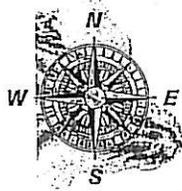
Attest : _____
County Clerk of the Board

Constituting the Board of
Commissioners of Benton County,
Washington.

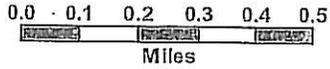
SWB;NWC:nwc

BENTON COUNTY ATLAS

Rural Benton County
City of Richland
City of Kennewick

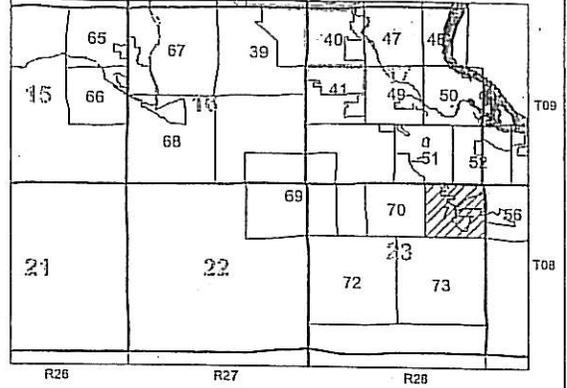


Map Scale 1:20000



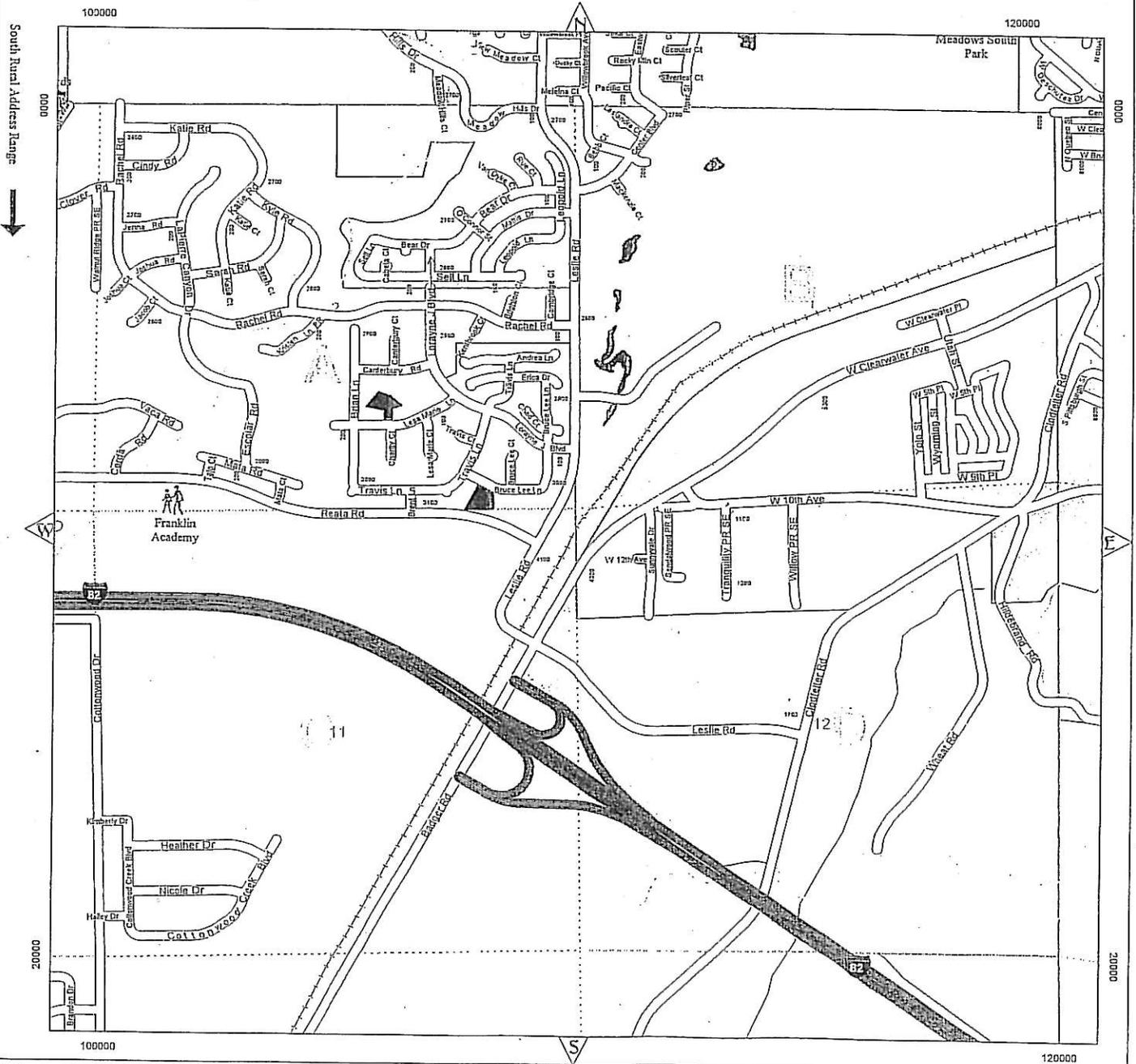
BENTON COUNTY
GEOGRAPHIC INFORMATION SYSTEMS DEPARTMENT

Page Locator



East Rural Address Range →

South Rural Address Range ↓



9.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF AUTHORIZING PURCHASES OF PELCO ELECTRONIC PARTS AND SUPPLIES OFF THE WASHINGTON STATE CONTRACT #03502 FOR THE MASTER CONTROL REMODEL, JAIL DEPRECIATION FUND NO. 0142-101.

WHEREAS, Washington State Contract No. 03502 allows URS Electronics Inc. to sell Pelco electronic parts and supplies; and

WHEREAS, Benton County Sheriff's Office would like to purchase Pelco electronic parts and supplies off the Washington State Contract No. 03502 for the master control remodel; **NOW THEREFORE,**

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County Washington, hereby approves purchases of Pelco electronic parts and supplies off the Washington State Contract No. 03502 from URS Electronics Inc. in an amount not to exceed \$42,000.00 including WSST; and

BE IT FURTHER RESOLVED, the Board authorizes the Sheriff or his designee to sign the Purchase Agreements for electronic parts and supplies off the Washington State Contract No. 03502.

Dated this _____ day of _____, 2009.

Chairman of the Board

Member

Member

Constituting the Board of Commissioners
of Benton County, Washington.

Attest.....
Clerk of the Board

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

Prepared by: K Mercer

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF AUTHORIZING PURCHASES OF ELECTRONIC PARTS AND SUPPLIES OFF THE WASHINGTON STATE CONTRACT #03103 FOR THE MASTER CONTROL REMODEL, JAIL DEPRECIATION FUND NO. 0142-101.

WHEREAS, Washington State Contract No. 03103 allows URS Electronics Inc. to sell electronic parts and supplies; and

WHEREAS, Benton County Sheriff's Office would like to purchase electronic parts and supplies off the Washington State Contract No. 03103 for the master control remodel; **NOW THEREFORE,**

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County Washington, hereby approves purchases of electronic parts and supplies off the Washington State Contract No. 03103 from URS Electronics Inc. in an amount not to exceed \$11,000.00 including WSST; and

BE IT FURTHER RESOLVED, the Board authorizes the Sheriff or his designee to sign the Purchase Agreements for electronic parts and supplies off the Washington State Contract No. 03103.

Dated this _____ day of _____, 2009.

Chairman of the Board

Member

Member

Constituting the Board of Commissioners
of Benton County, Washington.

Attest.....
Clerk of the Board

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

Prepared by: K Mercer

9:05 AM

**WASHINGTON COUNTIES RISK POOL
PRESENTATION**

Melina Wenner

9:35

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF APPROVING AN AMENDMENT TO THE BENTON COUNTY DISTRICT COURT DISTRICTING PLAN TO AUTHORIZE TWO ADDITIONAL JUDGE POSITIONS

WHEREAS, in the 2009 legislative session the Washington State legislature authorized two additional judicial positions for the Benton County District Court; and

WHEREAS, the District Court Districting Committee was convened pursuant to Chapter 3.38 RCW to consider amending the 1995 District Court Districting Plan to create the two additional judicial positions; and

WHEREAS, the District Court Districting Committee recommended that the plan be adopted as set forth in the attached Benton County District Court Districting Plan; and

WHEREAS, the Board of Benton County Commissioners gave notice of and held a public hearing on the proposed plan in accordance with RCW 3.38.030; and

WHEREAS, the Board of Benton County Commissioners hereby finds that the attached plan conforms to the standards set forth in chapters 3.30 through 3.74 RCW and is conducive to the best interests and welfare of the county as a whole; **NOW THEREFORE**

BE IT RESOLVED, the Board of Benton County Commissioners hereby approves the attached plan and authorizes the Chairman to execute the same on behalf of the Board.

Dated this day of, 20

Chairman of the Board

Chairman Pro-Tem

Member

Attest:
Clerk of the Board

Constituting the Board of County
Commissioners of Benton County,
Washington

BENTON COUNTY DISTRICT COURT
DISTRICTING PLAN

1. The boundaries of the District Court shall conform to and be coextensive with the boundaries of Benton County as a whole.
2. Five (5) full-time Judges shall serve in the district and no district court commissioners.
3. Five courtrooms located within the Benton County Justice Center shall be provided, as well as an additional courtroom in Prosser. All court records shall be maintained in the office of the District Court Administrator in the Benton County Justice Center and in the District Court office, Prosser Courthouse.
4. Judges shall sit in Prosser and in the Benton County Justice Center.
5. The District Court may designate divisions to handle municipal cases pursuant to interlocal agreements. There shall be five divisions within the District Court to be designated as follows:
 - a. Division 1 to serve Benton County;
 - b. Division 2 to serve the City of Kennewick;
 - c. Division 3 to serve the City of West Richland;
 - d. Division 4 to serve the City of Prosser;
 - e. Division 5 to serve the City of Richland.
6. The District Court shall be known by the name of the Benton County District Court.
7. Each city for which a division is established within the District Court shall pay a percentage of the total combined salaries of the Judges and the costs and overhead for operation of the District Court in accordance with its interlocal agreement with Benton County.
8. This Districting Plan for the Benton County District Court shall take effect when it is adopted by resolution by the Benton County Board of Commissioners, and shall supercede any prior districting plans.

DATED this _____ day of _____, 2009.

BOARD OF BENTON COUNTY COMMISSIONERS

By _____
Max Benitz, Jr., Chairman

ATTEST: _____
Clerk of the Board

Approved as to form:
ANDY MILLER
Prosecuting Attorney

By 
Deputy Prosecuting Attorney

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF APPROVING AN AMENDMENT TO THE BENTON COUNTY DISTRICT COURT DISTRICTING PLAN TO AUTHORIZE TWO ADDITIONAL JUDGE POSITIONS

WHEREAS, in the 2009 legislative session the Washington State legislature authorized two additional judicial positions for the Benton County District Court; and

WHEREAS, the District Court Districting Committee was convened pursuant to Chapter 3.38 RCW to consider amending the 1995 District Court Districting Plan to create the two additional judicial positions; and

WHEREAS, the District Court Districting Committee recommended to the Board of Benton County Commissioners a Benton County District Court Districting Plan; and

WHEREAS, the Board of Benton County Commissioners gave notice of and held a public hearing on the proposed plan in accordance with RCW 3.38.030; and

WHEREAS, the Board of Benton County Commissioners agrees with the terms of the Plan recommended by the Benton County District Court Districting Committee, but believe it should reference the Benton County Courthouse, not the Prosser Courthouse; and

WHEREAS, the Board of Benton County Commissioners hereby finds that the attached plan conforms to the standards set forth in chapters 3.30 through 3.74 RCW and is conducive to the best interests and welfare of the county as a whole; **NOW THEREFORE**

BE IT RESOLVED, the Board of Benton County Commissioners hereby approves the attached plan and authorizes the Chairman to execute the same on behalf of the Board.

Dated this day of, 20

Chairman of the Board

Chairman Pro-Tem

Member

Attest:
Clerk of the Board

Constituting the Board of County
Commissioners of Benton County,
Washington

BENTON COUNTY DISTRICT COURT
DISTRICTING PLAN

1. The boundaries of the District Court shall conform to and be coextensive with the boundaries of Benton County as a whole.
2. Five (5) full-time Judges shall serve in the district and no district court commissioners.
3. Five courtrooms located within the Benton County Justice Center shall be provided, as well as an additional courtroom in Prosser. All court records shall be maintained in the office of the District Court Administrator in the Benton County Justice Center and in the District Court office at the Benton County Courthouse.
4. Judges shall sit in Prosser and in the Benton County Justice Center.
5. The District Court may designate divisions to handle municipal cases pursuant to interlocal agreements. There shall be five divisions within the District Court to be designated as follows:
 - a. Division 1 to serve Benton County;
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 - d. Division 4 to serve the City of Prosser;
 - e. Division 5 to serve the City of Richland.
6. The District Court shall be known by the name of the Benton County District Court.
7. Each city for which a division is established within the District Court shall pay a percentage of the total combined salaries of the Judges and the costs and overhead for operation of the District Court in accordance with its interlocal agreement with Benton County.
8. This Districting Plan for the Benton County District Court shall take effect when it is adopted by resolution by the Benton County Board of Commissioners, and shall supercede any prior districting plans.

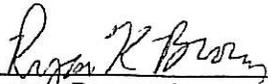
DATED this _____ day of _____, 2009.

BOARD OF BENTON COUNTY COMMISSIONERS

By _____
Max Benitz, Jr., Chairman

ATTEST: _____
Clerk of the Board

Approved as to form:
ANDY MILLER
Prosecuting Attorney

By 
Deputy Prosecuting Attorney

PUBLIC HEARING NOTICE

NOTICE IS HEREBY GIVEN: That the Board of Benton County Commissioners has before it an amendment to the Benton County District Court Districting Plan. These amendments include, but are not limited to, changing the current Judge positions from three to five and eliminating the municipal departments and creating divisions for cities that use District Court. Said proposed amended Plan reads in its entirety as follows:

1. The boundaries of the District Court shall conform to and be coextensive with the boundaries of Benton County as a whole;
2. Five full time Judges shall serve in the district and no district court commissioners;
3. Five courtrooms located within the Benton County Justice Center shall be provided as well as an additional courtroom in Prosser. All court records shall be maintained in the office of the District Court Administrator in the Benton County Justice Center and in the District Court office, Prosser Courthouse;
4. Judges shall sit in Prosser and in the Benton County Justice Center;
5. The District Court may designate divisions to handle municipal cases pursuant to interlocal agreements. There shall be five divisions within the District Court designated as follows: a) Division 1 to serve Benton County; b) Division 2 to serve the City of Kennewick; c) Division 3 to serve the City of West Richland; d) Division 4 to serve the City of Prosser; e) Division 5 to serve the City of Richland;
6. The District Court shall be known by the name of the Benton County District Court;
7. Each city for which a division is established within the District Court shall pay a percentage of the total combined salaries of the Judges and the costs and overhead for operation of the District Court in accordance with its interlocal agreement with Benton County;
8. This Districting Plan for the Benton County District Court shall take effect when it is adopted by resolution by the Benton County Board of Commissioners and shall supercede any prior districting plans.

NOTICE IS FURTHER GIVEN: That a hearing will be conducted on Monday, August 31, 2009 at 9:35 AM, in the Commissioners' Board Room, Benton County Courthouse, Prosser, Washington, at which time any person may appear and be heard either for or against the proposed Districting Plan.

FURTHER INFORMATION regarding this matter and copies of the proposed amendment is available from the Benton County Commissioners' Office, PO Box 190, Prosser, WA 99350; telephone (509) 786-5600 or (509) 736-3080. Copies will be mailed upon request at no charge to the public. Copies will also be available at the public hearing.

DATED at Prosser, WA this 18th day of August, 2009.

By: Marilu Flores, Administrative Secretary
E-Mailed to TCH & posted 08/17/09
Publish 08/20/09

9:45

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF TERMINATING THE CITY OF KENNEWICK MUNICIPAL DEPARTMENT OF DISTRICT COURT AND AUTHORIZING THE ADOPTION OF THE INTERLOCAL AGREEMENT WITH THE CITY OF KENNEWICK FOR DISTRICT COURT SERVICES

WHEREAS, the City of Kennewick has petitioned Benton County to terminate its current Municipal Department which is 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 desires to enter into an Interlocal Agreement with Benton County for District Court Services; **NOW, THEREFORE,**

BE IT RESOLVED, the Board of County Commissioners hereby terminates the City of Kennewick's Municipal Department operated by the Benton County District Court; and

BE IT FURTHER RESOLVED, the Board of County Commissioners hereby agrees to execute the Interlocal Agreement with the City of Kennewick for District Court Services.

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



RECEIVED

JUL 21 2009

BENTON COUNTY COMMISSIONERS

July 10, 2009

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

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

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

210 W. 6th Avenue • P.O. Box 6108 • Kennewick, WA 99336-0108
(509) 585-4238 • Fax (509) 585-4445

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:

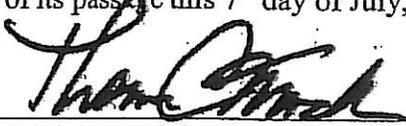
Section 1. The City Council hereby petitions the County Commissioners of Benton County to terminate the Kennewick Municipal Department of District Court.

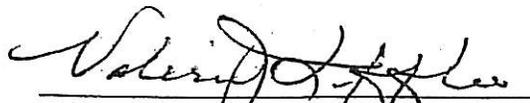
Section 2. This resolution shall take effect upon:

- 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

Please return recorded document to:

Kennewick City Clerk
P. O. Box 6108
Kennewick, WA 99336

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

THIS AGREEMENT is made this 7th day of July, 2009, by and between the CITY OF KENNEWICK, a municipal corporation, hereinafter called "City" and BENTON COUNTY, a political subdivision of the State of Washington, hereinafter called "County."

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

WHEREAS, a municipal department of the Benton County District Court for the City was established by the Benton County Commissioners pursuant to the adoption of the Benton County District Court Districting Plan on June 8, 1973, under Chapters 3.38 and 3.46, Revised Code of Washington; and

WHEREAS, the City has requested that its municipal department be terminated and that the County provide the services of its District Court System to the City pursuant to this Interlocal Agreement authorized by RCW 39.34.180; and

WHEREAS, the County is in agreement with the City's request to terminate its municipal department and to provide the facilities and services of its District Court System pursuant to the terms of this Interlocal Agreement; and

WHEREAS, the District Court Districting Committee has recommended to the Board of Benton County Commissioners that the District Court Districting Plan adopted on April 3, 1995, and currently in effect, be amended so as to be consistent with this Interlocal Agreement; and

WHEREAS, in return for the facility usage and services of the Benton County District Court, the City will continue to pay its pro rata share of the Judges' salaries and benefits, the salaries and benefits of the District Court personnel, and all other costs of District Court, except as otherwise provided herein, based on the City's share of usage of District Court; and

WHEREAS, the purpose of this Interlocal Agreement is to terminate the City's municipal department that has been in existence since 1973 and to set forth the terms of usage of District Court by the City pursuant to RCW 39.34.180; NOW THEREFORE,

BE IT AGREED by and between the parties as follows:

- (1) **Termination of Municipal Department.** The City's municipal department of the Benton County District Court is terminated effective upon (a) the execution of this Agreement by all parties; (b) the adoption of a Districting Plan that is consistent with this Agreement; and (c) the recording of this Agreement with the Benton County Auditor.
- (2) **District Court Services.** The County and its District Court shall furnish to the City the facilities and services of the Benton County District Court for all cases filed by the City in the District Court, over which District Court has jurisdiction, for purposes of enforcing violation of state statutes or city ordinances committed by persons within the City's jurisdiction that constitute gross misdemeanors, misdemeanors, or civil infractions. Nothing in this Agreement shall permit the City to regulate the administration of the court.
- (3) **Compensation.**
 - (a) Calculation of Percentage of Usage. The parties have determined, and do hereby agree, that in return for the facility usage and services of District Court, the City shall pay to the County, the City's pro rata share of the total costs of and overhead of the District Court, including the salaries and benefits of the District Court Judges. This pro rata share shall be an amount equal to the ratio of the total number of violations filed by the City, whether infractions or criminal violations, to the total number of: (1) violations filed by all jurisdictions in the District Court, plus (2) felony complaints filed in District Court, plus (3) small claims cases filed, plus (4) civil cases filed, plus (5) petitions for anti-harassment orders. The payment of such pro rata share of costs by the City constitutes a fair reimbursement to the County for the facility usage and services of District Court, and the parties agree that no separate filing fee shall be required from the City for the cases it files in District Court under this Agreement.
 - (b) Costs to be Allocated by Percentage. The total costs allocated by paragraph 3(a) above shall include, but are not limited to, the salaries and benefits of the District Court Judges, salaries and benefits of the District Court personnel and all other costs of and overhead for the District Court, excluding: (i) expenditures from the Benton County Probation Assessment Fund, which is separately funded by the payment of probation assessments by criminal defendants as ordered by District Court in criminal cases filed by the City and other jurisdictions; and (ii) the costs of public defense for criminal defendants in District Court, which shall be reimbursed by the City pursuant to a separate agreement between the parties.

- (c) Time Period for Determining Percentage. The ratio described above in paragraph 3(a) shall, for 2009, be based upon the time period of August 1, 2007, through July 31, 2008. For the billings for each subsequent calendar year, the ratio will be based on the figures for the twelve-month time period consisting of the preceding August through July, unless the Presiding District Court Judge notifies the County and the City that a different 12-month period will be used for such calculations.
- (4) **Billings.** The County will invoice the City monthly for the City's pro rata share of the expenses incurred by District Court in the preceding month. All sums due to the County from the City shall be paid within thirty (30) days of mailing of such invoice, via regular mail or electronic mail.
- (5) **Distribution of Revenues to the City.** All money received by the District Court pursuant to court action in a case filed by the City, including penalties, fines, bail forfeitures, fees and costs, except as otherwise provided herein, shall be paid by District Court to the City; provided, that the County may retain all money received as payments of assessments for probation costs ordered in the City's cases. The City shall not be entitled to any revenue received by District Court other than revenues received pursuant to court action in a case filed by the City.
- (6) **City Obligations with Respect to Revenues.** The District Court shall provide the City a Remittance Summary prepared by the Washington State Administration of the Courts (AOC) for the appropriate time period at the same time it makes a payment to the City under paragraph (5) above. It shall be the City's obligation to pay from the revenues, including interest revenues, that it receives pursuant to paragraph (5) above, all amounts due and owing to the State of Washington and to deposit that portion of the revenues that it retains in accordance with law. The City agrees to hold the County harmless with respect to any claims or allegations that the City has not remitted the required amounts to the State of Washington.
- (7) **Term.** This Agreement shall be effective upon execution by the parties and recording with the Benton County Auditor and shall remain in effect through December 31, 2022, unless earlier terminated pursuant to the terms of this Agreement or extended by written amendment.
- (8) **Termination and Notice of Termination.** This Agreement is terminable by either party without cause if such party provides written notice of intent to terminate in accordance with RCW 3.50.810 and 35.20.010. Any such notice from the City must be received by the Chairperson of the Benton Board of County Commissioners by the statutorily required date, and any such notice from the County must be received by the Mayor of the City by the statutorily required date.
- (9) **Ownership of Property.** All real and personal property used in the operation of District Court has been and shall continue to be acquired by the County, owned by the County and may be disposed of in the discretion of the County.

- (10) **Waiver of Binding Arbitration.** Provided that this Agreement is not earlier terminated pursuant to the terms stated above, this Agreement will expire on December 31, 2022, unless a written renewal Agreement is executed prior to such date. The City and the County waive and release any right to invoke binding arbitration under RCW 3.62.070, 35.20.010, 39.34.180 or other applicable law as related to this Agreement, any extension or amendment of this Agreement, or any discussions or negotiations relating thereto.
- (11) **Advisory Committee.** The appropriate costs and overhead of the District Court shall be determined by the County legislative authority. An advisory committee composed of the Chairperson of the Board of Benton County Commissioners or his or her designee, the Presiding Judge of the District Court, the District Court Administrator, and a designee from each city within the County that pursuant to agreement pays a pro rata share of the cost of District Court will meet prior to the adoption of each budget for District Court and may make a recommendation on such budget to the County legislative authority. Such committee may also make a recommendation to the Presiding Judge regarding any requested change in the twelve-month period used to allocate costs for the following year.
- (12) **Indemnification Regarding City Ordinances.** The City agrees that the County does not assume any liability or responsibility for or release the City from any liability or responsibility which arises in whole or in part from the existence or effect of City ordinances, rules or regulations, policies or procedures. If any cause, claim, suit, action or administrative proceeding is commenced in which the enforceability and/or validity of any City ordinance, rule, regulation, policy or procedure is at issue, the City shall defend the same at its sole expense and if judgment is entered or damages are awarded against the City, the County, or both, the City shall satisfy the same, including all chargeable costs and attorney fees. This provision shall survive the termination of this Agreement.
- (13) **General Indemnification.** The City and the County each agree to defend and indemnify the other and its elected and appointed officials, officers, employees and agents against all claims, losses, damages, suits, and expenses, including reasonable attorneys' fees and costs, to the extent they arise out of, or result from, the negligence or willful misconduct of the indemnitor or its elected or appointed officials, officers, employees and agents in the performance of this Agreement. The indemnitor's duty to defend and indemnify extends to claims by the elected or appointed officials, officers, employees or agents of the indemnitor or of any contractor or subcontractor or indemnitor. The indemnitor waives its immunity under Title 51 of the Revised Code of Washington solely for the purpose of this provision and acknowledges that this waiver was mutually negotiated. This provision shall survive the termination of this Agreement.
- (14) **Captions.** The paragraph and subsection captions used in this Agreement are for convenience only and shall not control or affect the meaning or construction of any provisions of this Agreement.

- (15) **Entire Agreement.** This Agreement contains the entire Agreement and understanding of the parties with respect to the subject matter hereof, and supercedes all prior oral or written understandings, agreements, promises or other undertakings between the parties.
- (16) **Governing Law.** This Agreement shall be interpreted in accordance with the laws and court rules of the State of Washington in effect on the date of execution of this Agreement. In the event any party deems it necessary to institute legal action or proceedings to ensure any right or obligation under this Agreement, the parties agree that such action shall be brought in a court of competent jurisdiction situated in Benton County, Washington.
- (17) **No Third Party Rights.** Except as expressly provided herein, nothing in this Agreement shall be construed to permit anyone other than the parties hereto to rely upon the covenants and agreements herein contained nor to give any such third party a cause of action (as a third party beneficiary or otherwise) on account of any nonperformance hereunder.
- (18) **Amendment or Waiver.** This Agreement may not be modified or amended except by written instrument approved by resolution or ordinance duly adopted by the City and the County. No course of dealing between the parties or any delay in exercising any rights hereunder shall operate as a waiver of any rights of any party.

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

Date: 7-7-09

Date: _____

CITY OF KENNEWICK

BOARD OF COUNTY COMMISSIONERS
OF BENTON COUNTY

Robert R. Hammond
ROBERT R. HAMMOND, City Manager

MAX E. BENITZ, JR, Chairman

Attest:
Valerie J. Loffler
VALERIE J. LOFFLER, City Clerk

LEO BOWMAN, Commissioner

Approved as to Form:

JAMES BEAVER, Commissioner

Lisa Beaton
LISA BEATON, City Attorney

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

Attest:

CAMI MCKENZIE, Clerk of the Board

Form Approved:

= 151 Ryan Brown
RYAN BROWN, Prosecuting Attorney

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF TERMINATING THE CITY OF RICHLAND MUNICIPAL COURT OF DISTRICT COURT AND AUTHORIZING THE ADOPTION OF THE INTERLOCAL AGREEMENT WITH THE CITY OF RICHLAND FOR DISTRICT COURT SERVICES

WHEREAS, the City of Richland has petitioned Benton County to terminate its current Municipal Court which is operated by the Benton County District Court to process civil, criminal misdemeanor, and traffic infraction cases occurring within the City of Richland; and

WHEREAS, the City of Richland desires to enter into an Interlocal Agreement with Benton County for District Court Services; **NOW, THEREFORE**,

BE IT RESOLVED, the Board of County Commissioners hereby terminates the City of Richland's Municipal Court operated by the Benton County District Court; and

BE IT FURTHER RESOLVED, the Board of County Commissioners hereby agrees to execute the Interlocal Agreement with the City of Richland for District Court Services.

Dated this day of, 20

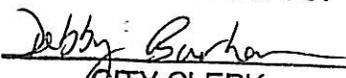
Chairman of the Board

Chairman Pro-Tem

Member

Attest:
Clerk of the Board

Constituting the Board of County
Commissioners of Benton County,
Washington


CITY CLERK

RESOLUTION NO. 38-09

A RESOLUTION of the City of Richland petitioning the Benton County Board of Commissioners to terminate the City of Richland's RCW 3.46 Municipal Court.

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

WHEREAS, the City of Richland has had a Municipal Department to process civil, criminal misdemeanor and traffic infractions cases within the Benton County District Court since 1973; and

WHEREAS, the City entered into an April 3, 1995 District Court Districting Plan as required by RCW 3.38 and RCW 3.46; and

WHEREAS, discussion among and between the various municipal jurisdictions within Benton County which utilize the District Court has resulted in the understanding that the parties, County and Cities, could be better and more efficiently served by use of an Interlocal Agreement to process the District Court cases; and

WHEREAS, should the Benton County Commissioners terminate the Richland municipal department of District Court, the April 3, 1995 District Court Redistricting Plan will be amended to be consistent with the proposed Interlocal Agreement;

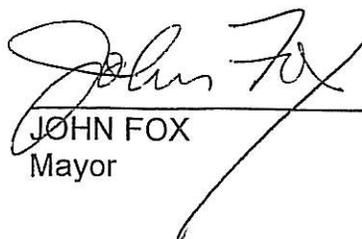
NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Richland as follows:

Section 1.01 The City of Richland petitions the Benton County Board of Commissioners to terminate the City of Richland's RCW 3.46 municipal court.

Section 1.02 It is further resolved that this resolution will take effect immediately but termination is to be effective only upon the execution by both parties of the proposed Interlocal Agreement Between Benton County and the City of Richland for District Court Services and the recording of said Interlocal Agreement with the Benton County Auditor.

BE IT FURTHER RESOLVED that this resolution shall take effect immediately.

ADOPTED by the City Council of the City of Richland at a regular meeting on the 21st day of July, 2009.


JOHN FOX
Mayor

ATTEST:


DEBRA C. BARHAM, CMC
Chief Deputy City Clerk

APPROVED AS TO FORM:


THOMAS O. LAMPSON
City Attorney

A CERTIFIED TRUE COPY


CITY CLERK

Please return recorded document to:

Richland City Clerk
P. O. Box 190 MS-05
Richland, WA 99352

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

THIS AGREEMENT is made this 31st day of ~~July~~^{Aug}, 2009, by and between the CITY OF RICHLAND, a municipal corporation, hereinafter called "City" and BENTON COUNTY, a political subdivision of the State of Washington, hereinafter called "County."

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

WHEREAS, a municipal department of the Benton County District Court for the City was established by the Benton County Commissioners pursuant to the adoption of the Benton County District Court Districting Plan on June 8, 1973, under Chapters 3.38 and 3.46, Revised Code of Washington; and

WHEREAS, the City has requested that its municipal department be terminated and that the County provide the services of its District Court System to the City pursuant to this Interlocal Agreement authorized by RCW 39.34.180; and

WHEREAS, the County is in agreement with the City's request to terminate its municipal department and to provide the facilities and services of its District Court System pursuant to the terms of this Interlocal Agreement; and

WHEREAS, the District Court Districting Committee has recommended to the Board of Benton County Commissioners that the District Court Districting Plan adopted on April 3, 1995, and currently in effect, be amended so as to be consistent with this Interlocal Agreement; and

WHEREAS, in return for the facility usage and services of the Benton County District Court, the City will continue to pay its pro rata share of the Judges' salaries and benefits, the salaries and benefits of the District Court personnel, and all other costs of

District Court, except as otherwise provided herein, based on the City's share of usage of District Court; and

WHEREAS, the purpose of this Interlocal Agreement is to terminate the City's municipal department that has been in existence since 1973 and to set forth the terms of usage of District Court by the City pursuant to RCW 39.34.180; NOW THEREFORE,

BE IT AGREED by and between the parties as follows:

- (1) **Termination of Municipal Department.** The City's municipal department of the Benton County District Court is terminated effective upon (a) the execution of this Agreement by all parties; (b) the adoption of a Districting Plan that is consistent with this Agreement; and (c) the recording of this Agreement with the Benton County Auditor.
- (2) **District Court Services.** The County and its District Court shall furnish to the City the facilities and services of the Benton County District Court for all cases filed by the City in the District Court, over which District Court has jurisdiction, for purposes of enforcing violation of state statutes or city ordinances committed by persons within the City's jurisdiction that constitute gross misdemeanors, misdemeanors, or civil infractions. Nothing in this Agreement shall permit the City to regulate the administration of the court.
- (3) **Compensation.**
 - (a) Calculation of Percentage of Usage. The parties have determined, and do hereby agree, that in return for the facility usage and services of District Court, the City shall pay to the County, the City's pro rata share of the total costs of and overhead of the District Court, including the salaries and benefits of the District Court Judges. This pro rata share shall be an amount equal to the ratio of the total number of violations filed by the City, whether infractions or criminal violations, to the total number of: (1) violations filed by all jurisdictions in the District Court, plus (2) felony complaints filed in District Court, plus (3) small claims cases filed, plus (4) civil cases filed, plus (5) petitions for anti-harassment orders. The payment of such pro rata share of costs by the City constitutes a fair reimbursement to the County for the facility usage and services of District Court, and the parties agree that no separate filing fee shall be required from the City for the cases it files in District Court under this Agreement.
 - (b) Costs to be Allocated by Percentage. The total costs allocated by paragraph 3(a) above shall include, but are not limited to, the salaries and benefits of the District Court Judges, salaries and benefits of the District Court personnel and all other costs of and overhead for the District Court, excluding: (i) expenditures from the Benton County Probation Assessment Fund, which is separately funded by the payment of probation

assessments by criminal defendants as ordered by District Court in criminal cases filed by the City and other jurisdictions; and (ii) the costs of public defense for criminal defendants in District Court, which shall be reimbursed by the City pursuant to a separate agreement between the parties.

- (c) Time Period for Determining Percentage. The ratio described above in paragraph 3(a) shall, for 2009, be based upon the time period of August 1, 2007, through July 31, 2008. For the billings for each subsequent calendar year, the ratio will be based on the figures for the twelve-month time period consisting of the preceding August through July, unless the Presiding District Court Judge notifies the County and the City that a different 12-month period will be used for such calculations.
- (4) **Billings.** The County will invoice the City monthly for the City's pro rata share of the expenses incurred by District Court in the preceding month. All sums due to the County from the City shall be paid within thirty (30) days of mailing of such invoice, via regular mail or electronic mail.
- (5) **Distribution of Revenues to the City.** All money received by the District Court pursuant to court action in a case filed by the City, including penalties, fines, bail forfeitures, fees and costs, except as otherwise provided herein, shall be paid by District Court to the City; provided, that the County may retain all money received as payments of assessments for probation costs ordered in the City's cases. The City shall not be entitled to any revenue received by District Court other than revenues received pursuant to court action in a case filed by the City.
- (6) **City Obligations with Respect to Revenues.** The District Court shall provide the City a Remittance Summary prepared by the Washington State Administration of the Courts (AOC) for the appropriate time period at the same time it makes a payment to the City under paragraph (5) above. It shall be the City's obligation to pay from the revenues, including interest revenues, that it receives pursuant to paragraph (5) above, all amounts due and owing to the State of Washington and to deposit that portion of the revenues that it retains in accordance with law. The City agrees to hold the County harmless with respect to any claims or allegations that the City has not remitted the required amounts to the State of Washington.
- (7) **Term.** This Agreement shall be effective upon execution by the parties and recording with the Benton County Auditor and shall remain in effect through December 31, 2022, unless earlier terminated pursuant to the terms of this Agreement or extended by written amendment.
- (8) **Termination and Notice of Termination.** This Agreement is terminable by either party without cause if such party provides written notice of intent to terminate in accordance with RCW 3.50.810 and 35.20.010. Any such notice

from the City must be received by the Chairperson of the Benton Board of County Commissioners by the statutorily required date, and any such notice from the County must be received by the Mayor of the City by the statutorily required date.

- (9) **Ownership of Property.** All real and personal property used in the operation of District Court has been and shall continue to be acquired by the County, owned by the County and may be disposed of in the discretion of the County.
- (10) **Waiver of Binding Arbitration.** Provided that this Agreement is not earlier terminated pursuant to the terms stated above, this Agreement will expire on December 31, 2022, unless a written renewal Agreement is executed prior to such date. The City and the County waive and release any right to invoke binding arbitration under RCW 3.62.070, 35.20.010, 39.34.180 or other applicable law as related to this Agreement, any extension or amendment of this Agreement, or any discussions or negotiations relating thereto.
- (11) **Advisory Committee.** The appropriate costs and overhead of the District Court shall be determined by the County legislative authority. An advisory committee composed of the Chairperson of the Board of Benton County Commissioners or his or her designee, the Presiding Judge of the District Court, the District Court Administrator, and a designee from each city within the County that pursuant to agreement pays a pro rata share of the cost of District Court will meet prior to the adoption of each budget for District Court and may make a recommendation on such budget to the County legislative authority. Such committee may also make a recommendation to the Presiding Judge regarding any requested change in the twelve-month period used to allocate costs for the following year.
- (12) **Indemnification Regarding City Ordinances.** The City agrees that the County does not assume any liability or responsibility for or release the City from any liability or responsibility which arises in whole or in part from the existence or effect of City ordinances, rules or regulations, policies or procedures. If any cause, claim, suit, action or administrative proceeding is commenced in which the enforceability and/or validity of any City ordinance, rule, regulation, policy or procedure is at issue, the City shall defend the same at its sole expense and if judgment is entered or damages are awarded against the City, the County, or both, the City shall satisfy the same, including all chargeable costs and attorney fees. This provision shall survive the termination of this Agreement.
- (13) **General Indemnification.** The City and the County each agree to defend and indemnify the other and its elected and appointed officials, officers, employees and agents against all claims, losses, damages, suits, and expenses, including reasonable attorneys' fees and costs, to the extent they arise out of, or result from, the negligence or willful misconduct of the indemnitor or its elected or appointed officials, officers, employees and agents in the performance of this Agreement. The indemnitor's duty to defend and indemnify extends to claims by

the elected or appointed officials, officers, employees or agents of the indemnitor or of any contractor or subcontractor or indemnitor. The indemnitor waives its immunity under Title 51 of the Revised Code of Washington solely for the purpose of this provision and acknowledges that this waiver was mutually negotiated. This provision shall survive the termination of this Agreement.

- (14) **Captions.** The paragraph and subsection captions used in this Agreement are for convenience only and shall not control or affect the meaning or construction of any provisions of this Agreement.
- (15) **Entire Agreement.** This Agreement contains the entire Agreement and understanding of the parties with respect to the subject matter hereof, and supercedes all prior oral or written understandings, agreements, promises or other undertakings between the parties.
- (16) **Governing Law.** This Agreement shall be interpreted in accordance with the laws and court rules of the State of Washington in effect on the date of execution of this Agreement. In the event any party deems it necessary to institute legal action or proceedings to ensure any right or obligation under this Agreement, the parties agree that such action shall be brought in a court of competent jurisdiction situated in Benton County, Washington.
- (17) **No Third Party Rights.** Except as expressly provided herein, nothing in this Agreement shall be construed to permit anyone other than the parties hereto to rely upon the covenants and agreements herein contained nor to give any such third party a cause of action (as a third party beneficiary or otherwise) on account of any nonperformance hereunder.
- (18) **Amendment or Waiver.** This Agreement may not be modified or amended except by written instrument approved by resolution or ordinance duly adopted by the City and the County. No course of dealing between the parties or any delay in exercising any rights hereunder shall operate as a waiver of any rights of any party.

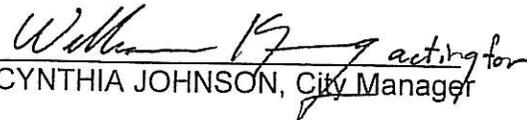
IN WITNESS WHEREOF, the parties hereto have hereunto set their hands the day and year herein above mentioned.

Date: 7-23-09

Date: _____

CITY OF RICHLAND

BOARD OF COUNTY COMMISSIONERS
OF BENTON COUNTY


CYNTHIA JOHNSON, City Manager

MAX E. BENITZ, JR, Chairman

Attest:

Debra C. Barham
DEBRA C. BARHAM, Deputy City Clerk

Approved as to Form:

Thomas O. Lampson
THOMAS O. LAMPSON, City Attorney

LEO BOWMAN, Commissioner

JAMES BEAVER, Commissioner

Constituting the Board of County
Commissioners of Benton County
Washington

Attest:

CAMI MCKENZIE, Clerk of the Board

Form Approved:

is/ Ryan Brown
RYAN BROWN, Prosecuting Attorney

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF TERMINATING THE CITY OF WEST RICHLAND MUNICIPAL DEPARTMENT OF DISTRICT COURT AND AUTHORIZATING THE ADOPTION OF THE INTERLOCAL AGREEMENT WITH THE CITY OF WEST RICHLAND FOR DISTRICT COURT SERVICES

WHEREAS, the City of West Richland has petitioned Benton County to terminate its current Municipal Department which is operated by the Benton County District Court to process civil, criminal misdemeanor, and traffic infraction cases occurring within the City of West Richland; and

WHEREAS, the City of West Richland desires to enter into an Interlocal Agreement with Benton County for District Court Services; **NOW, THEREFORE**,

BE IT RESOLVED, the Board of County Commissioners hereby terminates the City of West Richland's current Municipal Department operated by the Benton County District Court; and

BE IT FURTHER RESOLVED, the Board of County Commissioners hereby agrees to execute the Interlocal Agreement with the City of West Richland for District Court Services.

Dated this day of, 20

Chairman of the Board

Chairman Pro-Tem

Member

Attest:
Clerk of the Board

Constituting the Board of County
Commissioners of Benton County,
Washington

**CITY OF WEST RICHLAND
RESOLUTION NO. 14-09**

**A RESOLUTION OF THE CITY OF WEST RICHLAND, WASHINGTON,
PETITIONING THE COUNTY COMMISSIONERS OF BENTON COUNTY TO
TERMINATE THE WEST RICHLAND MUNICIPAL DEPARTMENT OF
DISTRICT COURT AND REPEALING RESOLUTION 28-07**

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

WHEREAS, the City of West Richland 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 West Richland; and

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

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

NOW, THEREFORE, the City Council of the City of West Richland, Washington does hereby resolve as follows:

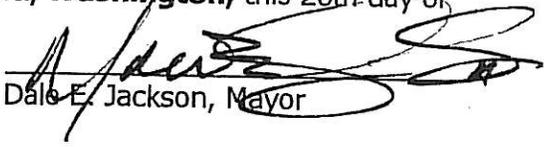
Section 1. The City Council hereby petitions the County Commissioners of Benton County to terminate the West Richland Municipal Department of District Court.

Section 2. Resolution 28-07 which authorized the appointment of Judge Eugene Pratt is hereby repealed.

Section 3. 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.

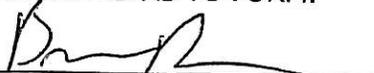
PASSED by the City Council of the City of West Richland, Washington, this 20th day of July, 2009.


Dale E. Jackson, Mayor

ATTEST:


Julie Richardson, City Clerk

APPROVED AS TO FORM:


Bronson Brown, City Attorney

Please return recorded document to:

West Richland City Clerk
3801 W. Van Giesen
West Richland, WA 99336

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

THIS AGREEMENT is made this 31st day of ^{Aug}~~July~~, 2009, by and between the CITY OF WEST RICHLAND, a municipal corporation, hereinafter called "City" and BENTON COUNTY, a political subdivision of the State of Washington, hereinafter called "County."

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

WHEREAS, a municipal department of the Benton County District Court for the City was established by the Benton County Commissioners pursuant to the adoption of the Benton County District Court Districting Plan on June 8, 1973, under Chapters 3.38 and 3.46, Revised Code of Washington; and

WHEREAS, the City has requested that its municipal department be terminated and that the County provide the services of its District Court System to the City pursuant to this Interlocal Agreement authorized by RCW 39.34.180; and

WHEREAS, the County is in agreement with the City's request to terminate its municipal department and to provide the facilities and services of its District Court System pursuant to the terms of this Interlocal Agreement; and

WHEREAS, the District Court Districting Committee has recommended to the Board of Benton County Commissioners that the District Court Districting Plan adopted on April 3, 1995, and currently in effect, be amended so as to be consistent with this Interlocal Agreement; and

WHEREAS, in return for the facility usage and services of the Benton County District Court, the City will continue to pay its pro rata share of the Judges' salaries and benefits, the salaries and benefits of the District Court personnel, and all other costs of District Court, except as otherwise provided herein, based on the City's share of usage of District Court; and

WHEREAS, the purpose of this Interlocal Agreement is to terminate the City's municipal department that has been in existence since 1973 and to set forth the terms of usage of District Court by the City pursuant to RCW 39.34.180; NOW THEREFORE,

BE IT AGREED by and between the parties as follows:

- (1) **Termination of Municipal Department.** The City's municipal department of the Benton County District Court is terminated effective upon (a) the execution of this Agreement by all parties; (b) the adoption of a Districting Plan that is consistent with this Agreement; and (c) the recording of this Agreement with the Benton County Auditor.
- (2) **District Court Services.** The County and its District Court shall furnish to the City the facilities and services of the Benton County District Court for all cases filed by the City in the District Court, over which District Court has jurisdiction, for purposes of enforcing violation of state statutes or city ordinances committed by persons within the City's jurisdiction that constitute gross misdemeanors, misdemeanors, or civil infractions. Nothing in this Agreement shall permit the City to regulate the administration of the court.
- (3) **Compensation.**
 - (a) Calculation of Percentage of Usage. The parties have determined, and do hereby agree, that in return for the facility usage and services of District Court, the City shall pay to the County, the City's pro rata share of the total costs of and overhead of the District Court, including the salaries and benefits of the District Court Judges. This pro rata share shall be an amount equal to the ratio of the total number of violations filed by the City, whether infractions or criminal violations, to the total number of: (1) violations filed by all jurisdictions in the District Court, plus (2) felony complaints filed in District Court, plus (3) small claims cases filed, plus (4) civil cases filed, plus (5) petitions for anti-harassment orders. The payment of such pro rata share of costs by the City constitutes a fair reimbursement to the County for the facility usage and services of District Court, and the parties agree that no separate filing fee shall be required from the City for the cases it files in District Court under this Agreement.
 - (b) Costs to be Allocated by Percentage. The total costs allocated by paragraph 3(a) above shall include, but are not limited to, the salaries and benefits of the District Court Judges, salaries and benefits of the District Court personnel and all other costs of and overhead for the District Court, excluding: (i) expenditures from the Benton County Probation Assessment Fund, which is separately funded by the payment of probation assessments by criminal defendants as ordered by District Court in criminal cases filed by the City and other jurisdictions; and (ii) the costs of public defense for criminal defendants in District Court, which shall be reimbursed by the City pursuant to a separate agreement between the parties.

- (c) Time Period for Determining Percentage. The ratio described above in paragraph 3(a) shall, for 2009, be based upon the time period of August 1, 2007, through July 31, 2008. For the billings for each subsequent calendar year, the ratio will be based on the figures for the twelve-month time period consisting of the preceding August through July, unless the Presiding District Court Judge notifies the County and the City that a different 12-month period will be used for such calculations.
- (4) **Billings.** The County will invoice the City monthly for the City's pro rata share of the expenses incurred by District Court in the preceding month. All sums due to the County from the City shall be paid within thirty (30) days of mailing of such invoice, via regular mail or electronic mail.
- (5) **Distribution of Revenues to the City.** All money received by the District Court pursuant to court action in a case filed by the City, including penalties, fines, bail forfeitures, fees and costs, except as otherwise provided herein, shall be paid by District Court to the City; provided, that the County may retain all money received as payments of assessments for probation costs ordered in the City's cases. The City shall not be entitled to any revenue received by District Court other than revenues received pursuant to court action in a case filed by the City.
- (6) **City Obligations with Respect to Revenues.** The District Court shall provide the City a Remittance Summary prepared by the Washington State Administration of the Courts (AOC) for the appropriate time period at the same time it makes a payment to the City under paragraph (5) above. It shall be the City's obligation to pay from the revenues, including interest revenues, that it receives pursuant to paragraph (5) above, all amounts due and owing to the State of Washington and to deposit that portion of the revenues that it retains in accordance with law. The City agrees to hold the County harmless with respect to any claims or allegations that the City has not remitted the required amounts to the State of Washington.
- (7) **Term.** This Agreement shall be effective upon execution by the parties and recording with the Benton County Auditor and shall remain in effect through December 31, 2022, unless earlier terminated pursuant to the terms of this Agreement or extended by written amendment.
- (8) **Termination and Notice of Termination.** This Agreement is terminable by either party without cause if such party provides written notice of intent to terminate in accordance with RCW 3.50.810 and 35.20.010. Any such notice from the City must be received by the Chairperson of the Benton Board of County Commissioners by the statutorily required date, and any such notice from the County must be received by the Mayor of the City by the statutorily required date.
- (9) **Ownership of Property.** All real and personal property used in the operation of District Court has been and shall continue to be acquired by the County, owned by the County and may be disposed of in the discretion of the County.

- (10) **Waiver of Binding Arbitration.** Provided that this Agreement is not earlier terminated pursuant to the terms stated above, this Agreement will expire on December 31, 2022, unless a written renewal Agreement is executed prior to such date. The City and the County waive and release any right to invoke binding arbitration under RCW 3.62.070, 35.20.010, 39.34.180 or other applicable law as related to this Agreement, any extension or amendment of this Agreement, or any discussions or negotiations relating thereto.
- (11) **Advisory Committee.** The appropriate costs and overhead of the District Court shall be determined by the County legislative authority. An advisory committee composed of the Chairperson of the Board of Benton County Commissioners or his or her designee, the Presiding Judge of the District Court, the District Court Administrator, and a designee from each city within the County that pursuant to agreement pays a pro rata share of the cost of District Court will meet prior to the adoption of each budget for District Court and may make a recommendation on such budget to the County legislative authority. Such committee may also make a recommendation to the Presiding Judge regarding any requested change in the twelve-month period used to allocate costs for the following year.
- (12) **Indemnification Regarding City Ordinances.** The City agrees that the County does not assume any liability or responsibility for or release the City from any liability or responsibility which arises in whole or in part from the existence or effect of City ordinances, rules or regulations, policies or procedures. If any cause, claim, suit, action or administrative proceeding is commenced in which the enforceability and/or validity of any City ordinance, rule, regulation, policy or procedure is at issue, the City shall defend the same at its sole expense and if judgment is entered or damages are awarded against the City, the County, or both, the City shall satisfy the same, including all chargeable costs and attorney fees. This provision shall survive the termination of this Agreement.
- (13) **General Indemnification.** The City and the County each agree to defend and indemnify the other and its elected and appointed officials, officers, employees and agents against all claims, losses, damages, suits, and expenses, including reasonable attorneys' fees and costs, to the extent they arise out of, or result from, the negligence or willful misconduct of the indemnitor or its elected or appointed officials, officers, employees and agents in the performance of this Agreement. The indemnitor's duty to defend and indemnify extends to claims by the elected or appointed officials, officers, employees or agents of the indemnitor or of any contractor or subcontractor or indemnitor. The indemnitor waives its immunity under Title 51 of the Revised Code of Washington solely for the purpose of this provision and acknowledges that this waiver was mutually negotiated. This provision shall survive the termination of this Agreement.
- (14) **Captions.** The paragraph and subsection captions used in this Agreement are for convenience only and shall not control or affect the meaning or construction of any provisions of this Agreement.

- (15) **Entire Agreement.** This Agreement contains the entire Agreement and understanding of the parties with respect to the subject matter hereof, and supercedes all prior oral or written understandings, agreements, promises or other undertakings between the parties.
- (16) **Governing Law.** This Agreement shall be interpreted in accordance with the laws and court rules of the State of Washington in effect on the date of execution of this Agreement. In the event any party deems it necessary to institute legal action or proceedings to ensure any right or obligation under this Agreement, the parties agree that such action shall be brought in a court of competent jurisdiction situated in Benton County, Washington.
- (17) **No Third Party Rights.** Except as expressly provided herein, nothing in this Agreement shall be construed to permit anyone other than the parties hereto to rely upon the covenants and agreements herein contained nor to give any such third party a cause of action (as a third party beneficiary or otherwise) on account of any nonperformance hereunder.
- (18) **Amendment or Waiver.** This Agreement may not be modified or amended except by written instrument approved by resolution or ordinance duly adopted by the City and the County. No course of dealing between the parties or any delay in exercising any rights hereunder shall operate as a waiver of any rights of any party.

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

Date: 7-20-09

Date: _____

CITY OF WEST RICHLAND

BOARD OF COUNTY COMMISSIONERS
OF BENTON COUNTY


DALE JACKSON, Mayor

MAX E. BENITZ, JR, Chairman

Attest:


JULIE RICHARDSON, City Clerk

LEO BOWMAN, Commissioner

Approved as to Form:


BRONSON BROWN, City Attorney

JAMES BEAVER, Commissioner

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

Attest:

CAMI MCKENZIE, Clerk of the Board

Form Approved:

151 Ryan Brown

RYAN BROWN, Prosecuting Attorney

RECEIVED

AUG 27 2009

BENTON COUNTY
COMMISSIONERS

BENTON COUNTY PROSECUTOR
CIVIL DIVISION
7122 W. Okanogan Place, Bldg. A
Kennewick, WA 99336
(509) 735-3591 Fax (509) 222-3705

MEMORANDUM

HAND DELIVERED
TO: Max Benitz, Commissioner
FROM: Ryan Brown, Chief Deputy Prosecuting Attorney, Civil *RKB*
DATE: August 25, 2009
RE: District Court Interlocal Agreement

Enclosed are (1) three original interlocal agreements signed by Prosser for the use of district court services; (2) a copy of Prosser resolution 09-1289 requesting termination of its municipal department contingent upon execution of the interlocal for district court services; adoption of a districting plan consistent with that interlocal; execution of an interlocal for indigent defense services; and filing of the interlocals with the county auditor; and (3) a copy of Prosser resolution 09-1290 approving the interlocal agreement for district court services.

Two things to point out. One, Prosser's request to terminate its municipal department is contingent upon execution of an interlocal for indigent defense services. I do not know the status of that mater. Second, please remind your staff to file the interlocal(s) with the auditor's office.

Once fully executed, please forward copies to me for my file.

Encls.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF TERMINATING THE CITY OF PROSSER MUNICIPAL DEPARTMENT OF DISTRICT COURT AND AUTHORIZING THE ADOPTION OF THE INTERLOCAL AGREEMENT WITH THE CITY OF PROSSER FOR DISTRICT COURT SERVICES

WHEREAS, the City of Prosser has petitioned Benton County to terminate its current Municipal Department which is operated by the Benton County District Court to process civil, criminal misdemeanor, and traffic infraction cases occurring within the City of Prosser; and

WHEREAS, the City of Prosser desires to enter into an Interlocal Agreement with Benton County for District Court Services; **NOW, THEREFORE,**

BE IT RESOLVED, the Board of County Commissioners hereby terminates the City of Prosser's Municipal Department operated by the Benton County District Court; and

BE IT FURTHER RESOLVED, the Board of County Commissioners hereby agrees to execute the Interlocal Agreement with the City of Prosser for District Court Services.

Dated this day of, 20

Chairman of the Board

Chairman Pro-Tem

Member

Attest:
Clerk of the Board

Constituting the Board of County
Commissioners of Benton County,
Washington

Please return recorded document to:

Prosser City Clerk
601 7th Street
Prosser, WA 99350

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

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

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

WHEREAS, a municipal department of the Benton County District Court for the City was established by the Benton County Commissioners pursuant to the adoption of the Benton County District Court Districting Plan on April 3, 1995, under Chapters 3.38 and 3.46, Revised Code of Washington; and

WHEREAS, the City has requested that its municipal department be terminated and that the County provide the services of its District Court System to the City pursuant to this Interlocal Agreement authorized by RCW 39.34.180; and

WHEREAS, the County is in agreement with the City's request to terminate its municipal department and to provide the facilities and services of its District Court System pursuant to the terms of this Interlocal Agreement; and

WHEREAS, the District Court Districting Committee has recommended to the Board of Benton County Commissioners that the District Court Districting Plan adopted on April 3, 1995, and currently in effect, be amended so as to be consistent with this Interlocal Agreement; and

WHEREAS, in return for the facility usage and services of the Benton County District Court, the City will continue to pay its pro rata share of the Judges' salaries and benefits, the salaries and benefits of the District Court personnel, and all other costs of District Court, except as otherwise provided herein, based on the City's share of usage of District Court; and

WHEREAS, the purpose of this Interlocal Agreement is to terminate the City's municipal department that has been in existence since 1995 and to set forth the terms of usage of District Court by the City pursuant to RCW 39.34.180; NOW THEREFORE,

BE IT AGREED by and between the parties as follows:

- (1) **Termination of Municipal Department.** The City's municipal department of the Benton County District Court is terminated effective upon (a) the execution of this Agreement by all parties; (b) the adoption of a Districting Plan that is consistent with this Agreement; and (c) the recording of this Agreement with the Benton County Auditor.
- (2) **District Court Services.** The County and its District Court shall furnish to the City the facilities and services of the Benton County District Court for all cases filed by the City in the District Court, over which District Court has jurisdiction, for purposes of enforcing violation of state statutes or city ordinances committed by persons within the City's jurisdiction that constitute gross misdemeanors, misdemeanors, or civil infractions. Nothing in this Agreement shall permit the City to regulate the administration of the court.
- (3) **Compensation.**
 - (a) Calculation of Percentage of Usage. The parties have determined, and do hereby agree, that in return for the facility usage and services of District Court, the City shall pay to the County, the City's pro rata share of the total costs of and overhead of the District Court, including the salaries and benefits of the District Court Judges. This pro rata share shall be an amount equal to the ratio of the total number of violations filed by the City, whether infractions or criminal violations, to the total number of: (1) violations filed by all jurisdictions in the District Court, plus (2) felony complaints filed in District Court, plus (3) small claims cases filed, plus (4) civil cases filed, plus (5) petitions for anti-harassment orders. The payment of such pro rata share of costs by the City constitutes a fair reimbursement to the County for the facility usage and services of District Court, and the parties agree that no separate filing fee shall be required from the City for the cases it files in District Court under this Agreement.
 - (b) Costs to be Allocated by Percentage. The total costs allocated by paragraph 3(a) above shall include, but are not limited to, the salaries and benefits of the District Court Judges, salaries and benefits of the District Court personnel and all other costs of and overhead for the District Court, excluding: (i) expenditures from the Benton County Probation Assessment Fund, which is separately funded by the payment of probation assessments by criminal defendants as ordered by District Court in criminal cases filed by the City and other jurisdictions; and (ii) the costs of public defense for criminal defendants in District Court, which shall be reimbursed by the City pursuant to a separate agreement between the parties.

- (c) Time Period for Determining Percentage. The ratio described above in paragraph 3(a) shall, for 2009, be based upon the time period of August 1, 2007, through July 31, 2008. For the billings for each subsequent calendar year, the ratio will be based on the figures for the twelve-month time period consisting of the preceding August through July, unless the Presiding District Court Judge notifies the County and the City that a different 12-month period will be used for such calculations.
- (4) **Billings.** The County will invoice the City monthly for the City's pro rata share of the expenses incurred by District Court in the preceding month. All sums due to the County from the City shall be paid within thirty (30) days of mailing of such invoice, via regular mail or electronic mail.
- (5) **Distribution of Revenues to the City.** All money received by the District Court pursuant to court action in a case filed by the City, including penalties, fines, bail forfeitures, fees and costs, except as otherwise provided herein, shall be paid by District Court to the City; provided, that the County may retain all money received as payments of assessments for probation costs ordered in the City's cases. The City shall not be entitled to any revenue received by District Court other than revenues received pursuant to court action in a case filed by the City.
- (6) **City Obligations with Respect to Revenues.** The District Court shall provide the City a Remittance Summary prepared by the Washington State Administration of the Courts (AOC) for the appropriate time period at the same time it makes a payment to the City under paragraph (5) above. It shall be the City's obligation to pay from the revenues, including interest revenues, that it receives pursuant to paragraph (5) above, all amounts due and owing to the State of Washington and to deposit that portion of the revenues that it retains in accordance with law. The City agrees to hold the County harmless with respect to any claims or allegations that the City has not remitted the required amounts to the State of Washington.
- (7) **Term.** This Agreement shall be effective upon execution by the parties and recording with the Benton County Auditor and shall remain in effect through December 31, 2022, unless earlier terminated pursuant to the terms of this Agreement or extended by written amendment.
- (8) **Termination and Notice of Termination.** This Agreement is terminable by either party without cause if such party provides written notice of intent to terminate in accordance with RCW 3.50.810 and 35.20.010. Any such notice from the City must be received by the Chairperson of the Benton Board of County Commissioners by the statutorily required date, and any such notice from the County must be received by the Mayor of the City by the statutorily required date.
- (9) **Ownership of Property.** All real and personal property used in the operation of District Court has been and shall continue to be acquired by the County, owned by the County and may be disposed of in the discretion of the County.

- (c) Time Period for Determining Percentage. The ratio described above in paragraph 3(a) shall, for 2009, be based upon the time period of August 1, 2007, through July 31, 2008. For the billings for each subsequent calendar year, the ratio will be based on the figures for the twelve-month time period consisting of the preceding August through July, unless the Presiding District Court Judge notifies the County and the City that a different 12-month period will be used for such calculations.
- (4) **Billings.** The County will invoice the City monthly for the City's pro rata share of the expenses incurred by District Court in the preceding month. All sums due to the County from the City shall be paid within thirty (30) days of mailing of such invoice, via regular mail or electronic mail.
- (5) **Distribution of Revenues to the City.** All money received by the District Court pursuant to court action in a case filed by the City, including penalties, fines, bail forfeitures, fees and costs, except as otherwise provided herein, shall be paid by District Court to the City; provided, that the County may retain all money received as payments of assessments for probation costs ordered in the City's cases. The City shall not be entitled to any revenue received by District Court other than revenues received pursuant to court action in a case filed by the City.
- (6) **City Obligations with Respect to Revenues.** The District Court shall provide the City a Remittance Summary prepared by the Washington State Administration of the Courts (AOC) for the appropriate time period at the same time it makes a payment to the City under paragraph (5) above. It shall be the City's obligation to pay from the revenues, including interest revenues, that it receives pursuant to paragraph (5) above, all amounts due and owing to the State of Washington and to deposit that portion of the revenues that it retains in accordance with law. The City agrees to hold the County harmless with respect to any claims or allegations that the City has not remitted the required amounts to the State of Washington.
- (7) **Term.** This Agreement shall be effective upon execution by the parties and recording with the Benton County Auditor and shall remain in effect through December 31, 2022, unless earlier terminated pursuant to the terms of this Agreement or extended by written amendment.
- (8) **Termination and Notice of Termination.** This Agreement is terminable by either party without cause if such party provides written notice of intent to terminate in accordance with RCW 3.50.810 and 35.20.010. Any such notice from the City must be received by the Chairperson of the Benton Board of County Commissioners by the statutorily required date, and any such notice from the County must be received by the Mayor of the City by the statutorily required date.
- (9) **Ownership of Property.** All real and personal property used in the operation of District Court has been and shall continue to be acquired by the County, owned by the County and may be disposed of in the discretion of the County.

- (10) **Waiver of Binding Arbitration.** Provided that this Agreement is not earlier terminated pursuant to the terms stated above, this Agreement will expire on December 31, 2022, unless a written renewal Agreement is executed prior to such date. The City and the County waive and release any right to invoke binding arbitration under RCW 3.62.070, 35.20.010, 39.34.180 or other applicable law as related to this Agreement, any extension or amendment of this Agreement, or any discussions or negotiations relating thereto.
- (11) **Advisory Committee.** The appropriate costs and overhead of the District Court shall be determined by the County legislative authority. An advisory committee composed of the Chairperson of the Board of Benton County Commissioners or his or her designee, the Presiding Judge of the District Court, the District Court Administrator, and a designee from each city within the County that pursuant to agreement pays a pro rata share of the cost of District Court will meet prior to the adoption of each budget for District Court and may make a recommendation on such budget to the County legislative authority. Such committee may also make a recommendation to the Presiding Judge regarding any requested change in the twelve-month period used to allocate costs for the following year.
- (12) **Indemnification Regarding City Ordinances.** The City agrees that the County does not assume any liability or responsibility for or release the City from any liability or responsibility which arises in whole or in part from the existence or effect of City ordinances, rules or regulations, policies or procedures. If any cause, claim, suit, action or administrative proceeding is commenced in which the enforceability and/or validity of any City ordinance, rule, regulation, policy or procedure is at issue, the City shall defend the same at its sole expense and if judgment is entered or damages are awarded against the City, the County, or both, the City shall satisfy the same, including all chargeable costs and attorney fees. This provision shall survive the termination of this Agreement.
- (13) **General Indemnification.** The City and the County each agree to defend and indemnify the other and its elected and appointed officials, officers, employees and agents against all claims, losses, damages, suits, and expenses, including reasonable attorneys' fees and costs, to the extent they arise out of, or result from, the negligence or willful misconduct of the indemnitor or its elected or appointed officials, officers, employees and agents in the performance of this Agreement. The indemnitor's duty to defend and indemnify extends to claims by the elected or appointed officials, officers, employees or agents of the indemnitor or of any contractor or subcontractor or indemnitor. The indemnitor waives its immunity under Title 51 of the Revised Code of Washington solely for the purpose of this provision and acknowledges that this waiver was mutually negotiated. This provision shall survive the termination of this Agreement.
- (14) **Captions.** The paragraph and subsection captions used in this Agreement are for convenience only and shall not control or affect the meaning or construction of any provisions of this Agreement.

- (15) **Entire Agreement.** This Agreement contains the entire Agreement and understanding of the parties with respect to the subject matter hereof, and supersedes all prior oral or written understandings, agreements, promises or other undertakings between the parties.
- (16) **Governing Law.** This Agreement shall be interpreted in accordance with the laws and court rules of the State of Washington in effect on the date of execution of this Agreement. In the event any party deems it necessary to institute legal action or proceedings to ensure any right or obligation under this Agreement, the parties agree that such action shall be brought in a court of competent jurisdiction situated in Benton County, Washington.
- (17) **No Third Party Rights.** Except as expressly provided herein, nothing in this Agreement shall be construed to permit anyone other than the parties hereto to rely upon the covenants and agreements herein contained nor to give any such third party a cause of action (as a third party beneficiary or otherwise) on account of any nonperformance hereunder.
- (18) **Amendment or Waiver.** This Agreement may not be modified or amended except by written instrument approved by resolution or ordinance duly adopted by the City and the County. No course of dealing between the parties or any delay in exercising any rights hereunder shall operate as a waiver of any rights of any party.

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

Date: 8/17/2009

Date: _____

CITY OF PROSSER

BOARD OF COUNTY COMMISSIONERS
OF BENTON COUNTY



PAUL WARDEN, Mayor

MAX E. BENITZ, JR., Chairman

Attest:



SHERRY BIGGS, City Clerk

LEO BOWMAN, Commissioner

Approved as to Form:



JAMES BEAVER, Commissioner

HOWARD M. SAXTON III, City Attorney

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

Attest:

CAMI MCKENZIE, Clerk of the Board

Form Approved:

Ryan R Brown

RYAN BROWN, Prosecuting Attorney (Deputy)

**CITY OF PROSSER
RESOLUTION NO. 09-1289**

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

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

WHEREAS, the City of Prosser 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 Prosser; and

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

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

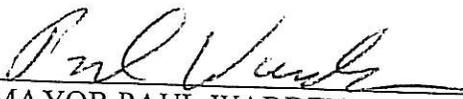
**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE
CITY OF PROSSER, WASHINGTON AS FOLLOWS:**

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

Section 2. This resolution shall take effect upon:

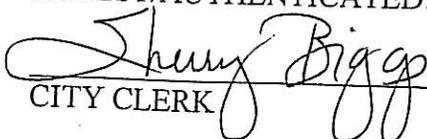
- a. Execution by the parties of an Interlocal Agreement for District Court Services;
- b. The adoption by Benton County of a Districting Plan that is consistent with the Interlocal Agreement;
- c. Execution by the parties of an Interlocal Agreement for Indigent Defense Services; and
- d. The filing of said Interlocal Agreement in accordance with RCW 39.34.040.

ADOPTED by the City Council of the City of Prosser and **APPROVED** by the Mayor of the City of Prosser this 11th day of August, 2009.

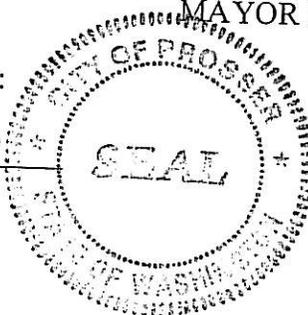


MAYOR PAUL WARDEN

ATTEST/AUTHENTICATED:



CITY CLERK



APPROVED AS TO FORM:



CITY ATTORNEY

**CITY OF PROSSER, WASHINGTON
RESOLUTION NO. 09-1290**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF PROSSER APPROVING AN INTERLOCAL
AGREEMENT BETWEEN BENTON COUNTY AND THE
CITY OF PROSSER FOR DISTRICT COURT SERVICES.

BE IT RESOLVED, by the City Council of the City of Prosser that it is the desire of the City Council that:

1. The Interlocal Agreement for District Court Services, Benton County – City of Prosser, a copy of which is attached hereto and incorporated herein as if fully set forth is hereby approved and the Mayor is authorized to execute the agreement in multiple originals.
2. Once fully executed the City Clerk shall record a certified copy of the Interlocal Agreement with the Benton County Clerk or list the agreement on the City's website as outlined in RCW 39.34.040.

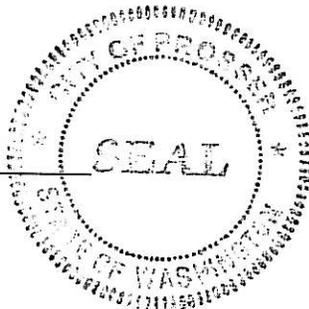
ADOPTED by the City Council of the City of Prosser and **APPROVED** by the Mayor of the City of Prosser this 11th day of August, 2009.



MAYOR PAUL WARDEN

ATTEST:


CITY CLERK



APPROVED AS TO FORM:


CITY ATTORNEY



CITY OF BENTON CITY
OFFICE OF THE MAYOR

RECEIVED

AUG 20 2009

BENTON COUNTY
COMMISSIONERS

August 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"/>

Mr. Max Benitz, Chairman
Mr. James Beaver, Commissioner
Mr. Leo Bowman, Commissioner
BENTON COUNTY COMMISSIONERS
620 Market Street
Prosser WA 99350

RE: District Court Districting Plan

Dear Members of the Board of the Benton County Commissioners:

As a member of the District Court Districting Committee, I wish to express on behalf of the City of Benton City, our approval of the Benton County District Court Districting Plan which was submitted and approved by the Committee for recommendation of adoption at its meeting of August 13, 2009.

Respectfully yours,


Lloyd R. Carnahan
Mayor

9:50

From: Loretta SmithKelty
To: Kyler Bachofner
CC: Linda Ivey; Max Benitz
Date: 8/26/2009 1:36 PM
Subject: Re: FW: EPIC Budget

Good Morning Kyler: thank you for sending the 2009 budget. We also requested the quarterly reports - reports EPIC sends to DSHS for the center.

Thank you,

Loretta Smith Kelty
Deputy County Administrator

>>> "Kyler Bachofner" <KylerB@epicnet.org> 8/26/2009 9:45 AM >>>
Good Morning Loretta!

Attached is the 2009 Kennewick Secure Crisis Residential Budget. Please let me know if you have any questions or concerns.

Would it be possible to get a copy of the contract between Benton County and EPIC that the commissioner was referring to? We have an old contract and we want to ensure that we are reviewing the same contract that the commissioner was referring to.

Thank you so much! Have a great day! -Kyler

Kyler Bachofner

Director, EPIC Youth Services

600 Superior Lane

P.O. Box 9279

Yakima, Washington 98902

Phone: 509-452-7606

Fax: 509-452-7634

E-mail: Kylerb@epicnet.org

CONTRACT FOR THE PURCHASE OF PROPERTY BETWEEN
BENTON COUNTY AND EPIC

The parties to this agreement are Benton County, a municipal corporation, and Enterprise for Progress in the Community, a Washington non-profit corporation (EPIC). The purpose of this Agreement is to provide for the terms and conditions of a sale of a certain parcel property currently owned by Benton County to EPIC. The parties hereby agree to the following:

The land owned by Benton County to be conveyed to EPIC is described as:

Tract 22, Highlands Plat "A", lying south of Quinault Avenue in Section 33, Township 9 North, Range 29 East, W.M. This would be a one-acre lot known as lot number 3 as shown in the attached Short Plat (Exhibit A).

Benton County shall convey such property to EPIC by statutory warranty deed containing the following condition:

This Deed is made subject to the condition that EPIC shall use the property as a Secured Crises Residential Center and/or Regional Crises Residential Center, as those terms are currently or in the future defined in EPIC's agreement with the Washington State Department of Social and Health Services (DSHS), as such agreement now exists or in the future may be amended; provided, that if funding for such Center is not available to EPIC from DSHS or funding is reduced by DSHS to such an extent that it is financially unfeasible for EPIC to operate such Center, the property shall be used to provide residential services for youth in crises. Within nine (9) months of the date of this Deed, EPIC shall commence construction on such property of a Secured Crises Residential Center and/or Regional Crises Residential Center, as described above, and shall thereafter complete construction within eighteen (18) months of commencement of construction. In the event that EPIC ceases to use such property for the uses stated herein, Benton County shall have the option to exercise a right of reverter, as set forth herein. In the event that EPIC fails to timely commence or complete construction, or if it fails to comply with the use provisions of this Deed, Benton County shall have the right to notify EPIC and any lienholder in writing specifying the lack of compliance with the condition of this Deed. EPIC or the lienholder shall thereafter have ninety (90) days to cure any noncompliance, provided that if such noncompliance cannot be reasonably cured within such 90 day period, and if EPIC or the lienholder has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the time to cure provided for herein shall be extended in writing by Benton County to a time by which such noncompliance can be reasonably cured. If EPIC and any lienholder is unable to cure the noncompliance as provided herein, as determined by the Superior Court for Benton County, Washington, EPIC or any lienholder shall thereafter have the right to remove and have released the condition of this Deed by payment to Benton

County of an amount equal to the assessed value of land only without improvements on the date of determination of noncompliance. Such amount shall be paid within ninety (90) days of a final determination that EPIC and any lienholder has failed to timely cure its lack of compliance with the condition of this Deed. Upon payment, Benton County shall promptly release the condition of this Deed by recording an appropriate instrument and thereafter the property shall not be subject to the condition stated herein. In the event of EPIC's and any lienholder's failure to timely pay such amount, Benton County shall be entitled to have the Superior Court for Benton County, Washington, enter an Order finally determining the rights of the parties and vesting title to the property, along with all improvements thereon, in Benton County. So long as any facilities on the property are funded by DSHS, Benton County shall receive from EPIC a copy of EPIC's quarterly report to DSHS for the center. The condition contained in this Deed shall be binding upon the successors and assigns of EPIC.

This sale and transfer shall be subject to EPIC receiving, at its expense, a commitment for title insurance to the property, acceptable to EPIC.

All rights and obligations of ownership of the property shall be with EPIC and its successors and assigns.

Benton County shall provide to the parcel, at its expense, all necessary access, roads, sewer, water, electricity and other services and structure necessary for EPIC to develop the property for the use stated herein.

EPIC shall pay the sum of \$10 to Benton County as valuable consideration for the property.

FOR COUNTY:

FOR EPIC:

Claude A. Oliver
 CLAUDE OLIVER, Chairman
 Dated: 6/28/99

Ed Ferguson
 Print Name: Ed Ferguson
 Title: Executive Director
 Dated: 6/28/99

ATTEST:

Joni Lynn Cabbage
 Clerk of the Benton County Board
 Of County Commissioners

Approved as to form:

Jule M. Morris
 Benton County Prosecuting Attorney

BENTON COUNTY PROSECUTOR

7320 W. QUINAULT
KENNEWICK, WA. 99336
(509) 735-3591
FAX: (509) 736-3066

TO: Board of Benton County Commissioners
FROM: Pam Bradley, DPA *Pam*
DATE: July 26, 2000
RE: Deed Transferring Ownership to EPIC

Please find enclosed a Resolution together with a Statutory Warranty Deed and Real Estate Excise Tax Affidavit to conclude the transfer of the Quinault property to EPIC. The deed includes the reverter language that was previously negotiated between Benton County and EPIC. I have enclosed a copy of the resolution approving that contract for reference.

There was a delay in executing a deed to EPIC because we did not have a legal description for the property. However, with the recording of the short plat on July 10, 2000, we now have a correct legal description and can complete the transaction.

I apologize for submitting this resolution after the agenda was scheduled. However, I did not receive the title report until late Wednesday afternoon (no problems noted on the report). Therefore, I request that this matter be considered during "unscheduled visitors" on Monday, July 31, 2000. Thank you.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF BENTON COUNTY TRANSFERRING TO EPIC A PARCEL OF LAND DESCRIBED HEREIN.

WHEREAS, the following described land is owned by the County of Benton:

Lot 3 of Short Plat No. 2508 according to the survey thereof recorded under Auditor's File No. 2000-017385, records of Benton County, Washington

WHEREAS, by Resolution No. 99-136 the above said property was declared surplus and authorized to be sold through private negotiation; and

WHEREAS, by Resolution No. 99-326 the Board decided to offer to sell the above said property to EPIC; and

WHEREAS, by contract between Benton County and EPIC the transfer of ownership shall be by Statutory Warranty Deed and shall contain a reverter to Benton County; NOW, THEREFORE,

BE IT RESOLVED that the Chairman of the Board of Commissioners is authorized to sign the attached Statutory Warranty Deed and Real Estate Excise Tax Affidavit transferring the above said property to EPIC on behalf of the Board of Benton County Commissioners.

Dated this day of , 19

Chairman of the Board.

Member.

Member.

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

Attest:
Clerk of the Board

Statutory Warranty Deed

The Grantor, COUNTY OF BENTON

for and in consideration of ten dollars (\$10) and other valuable consideration conveys and warrants to ENTERPRISE FOR PROGRESS IN THE COMMUNITY

the following described real estate, situated in the County of Benton, State of Washington:

Lot 3 of Short Plat No. 2508, according to the survey thereof recorded under Auditor's file No. 2000-017385, records of Benton County, Washington

A Portion of Tax Parcel # 1-3399-202-0022-002.

This Deed is made subject to the condition that EPIC shall use the property as a Secured Crises Residential Center and/or Regional Crises Residential Center, as those terms are currently or in the future defined in EPIC's agreement with the Washington State Department of Social and Health Services (DSHS), as such agreement now exists or in the future may be amended; provided, that if funding for such Center is not available to EPIC from DSHS or funding is reduced by DSHS to such an extent that it is financially unfeasible for EPIC to operate such Center, the property shall be used to provide residential service for youth in crises. Within nine (9) months of the date of this Deed, EPIC shall commence construction on such property of a Secured Crises Residential Center and/or Regional Crises Residential Center, as described above, and shall thereafter complete construction within eighteen (18) months of commencement of construction. In the event that EPIC ceases to use such property for the uses stated herein, Benton County shall have the option to exercise a right of reverter, as set forth herein. In the event that EPIC fails to timely commence or complete construction, or if it fails to comply with the use provisions of this Deed, Benton County shall have the right to notify EPIC and any lienholder in writing specifying the lack of compliance with the condition of this Deed. EPIC or the lienholder shall thereafter have ninety (90) days to cure any noncompliance, provided that if such noncompliance cannot be reasonably cured within such 90 day period, and if EPIC or the lienholder has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the time to cure provided for herein shall be extended in writing by Benton County to a time by which such noncompliance can be reasonably cured. If EPIC and any lienholder is unable to cure the noncompliance as provided herein, as determined by the Superior Court for Benton County, Washington, EPIC or any lienholder shall thereafter have the right to remove and have released the condition of this Deed by payment to Benton County of an amount equal to the assessed value of land only

without improvements on the date of determination of noncompliance. Such amount shall be paid within ninety (90) days of a final determination that EPIC and any lienholder has failed to timely cure its lack of compliance with the condition of this deed. Upon payment, Benton County shall promptly release the condition of this Deed by recording an appropriate instrument and thereafter the property shall not be subject to the condition stated herein. In the event of EPIC's and any lienholder's failure to timely pay such amount, Benton County shall be entitled to have the Superior Court for Benton County, Washington, enter an Order finally determining the rights of the parties and vesting title to the property, along with all improvements thereon, in Benton County. So long, as any facilities on the property are funded by DSHS, Benton County shall receive from EPIC a copy of EPIC's quarterly report to DSHS for the center. The condition contained in this Deed shall be binding upon the successors and assigns of EPIC.

Dated _____, 2000.

BENTON COUNTY

Max E. Benitz, Jr., Chairman

State of Washington)
)
County of Benton)

On this date, before me, the undersigned, a notary public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, the elected Commissioner for the County of Benton that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of Benton County, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute said instrument.

Witness my hand and official seal hereto affixed on October _____, 2000.

NOTARY PUBLIC
Appointment Expires: _____

PLEASE TYPE OR PRINT
PLEASE SEE REVERSE

REAL ESTATE EXCISE TAX AFFIDAVIT

This form is your receipt
when stamped by cashier.

CHAPTER 82.45 RCW - CHAPTER 458-61 WAC
FOR USE AT COUNTY TREASURER'S OFFICE
(Use Form No. 84-0001B for Reporting Transfers of Controlling Interest of Entity Ownership to the Department of Revenue)
THIS AFFIDAVIT WILL NOT BE ACCEPTED UNLESS ALL AREAS 1-7 ARE FULLY COMPLETED

1 SELLER GRANTOR	Name <u>Benton County</u>	2 BUYER GRANTEE	Name <u>Enterprise for Progress in the Community</u>
	Street <u>620 Market Street</u>		Street <u>P.O. Box 9279</u>
	City/State/Zip <u>Prosser, Washington 99350</u>		City/State/Zip <u>Yakima, Washington 98909</u>
3 ADDRESS TO SEND ALL PROPERTY TAX RELATED CORRESPONDENCE		4 ALL TAX PARCEL NUMBERS	
Name <u>Enterprise for Progress in the Community</u>		<u>A Portion of Tax</u>	
Street <u>P.O. Box 9279</u>		<u>Parcel</u>	
City/State/Zip <u>Yakima, Washington 98909</u>		<u># 1-3899-202-0022-002</u>	
5 COUNTY TREASURER PLACE ASSESSED VALUE IF TAX EXEMPT			

4
LEGAL DESCRIPTION OF PROPERTY SITUATED IN UNINCORPORATED _____ COUNTY OR IN CITY OF Kennewick
Street Address (if property is improved): 1112 Grant Place

Lot 3 of Shont Plat No. 2508 according to the survey thereof
Auditor's File No. 2000-017385, records of
Benton County, Washington

5
Is this property currently:

YES	NO
Classified or designated as forest land? Chapter 84.33 RCW	<input type="checkbox"/> <input checked="" type="checkbox"/>
Classified as current use land (open space, farm and agricultural, or timber)? Chapter 84.34 RCW	<input type="checkbox"/> <input checked="" type="checkbox"/>
Exempt from property tax as a nonprofit organization? Chapter 84.36 RCW Seller's Exempt Reg. No. _____	<input type="checkbox"/> <input checked="" type="checkbox"/>
Receiving special valuation as historic property? Chapter 84.26 RCW	<input type="checkbox"/> <input checked="" type="checkbox"/>

Property Type: land only land with new building
 land with previously used building land with mobile home
 timber only building only

Principal Use: Apt. (4+ unit) residential
 timber agricultural commercial/industrial
 other _____

6
Description of personal property included in gross selling price, both
tangible (eg: furniture, equipment, etc.) or intangible (eg: goodwill,
agreement not to compete, etc.)

If exemption claimed, list WAC number and explanation.
WAC No. (Sec/Sub) 458-61-420
Explanation government transfer

Type of Document Statutory Warranty Deed
Date of Document _____

Gross Selling Price \$ _____
Personal Property (deduct) \$ _____
Taxable Selling Price \$ _____
Excise Tax: State \$ _____
Local \$ _____
Delinquent Interest: State \$ _____
Local \$ _____
Delinquent Penalty \$ _____
Total Due \$ -0-

A MINIMUM OF \$2.00 IS DUE AS A PROCESSING FEE AND TAX DUE

8
(1) NOTICE OF CONTINUANCE (RCW 84.33 OR RCW 84.34)
If the new owner(s) of land that is classified or designated as current use
or forest land wish to continue the classification or designation of such
land, the new owner(s) must sign below. If the new owner(s) do not desire
to continue such classification or designation, all compensating or
additional tax calculated pursuant to RCW 84.33.120 and 140 or RCW
84.34.108 shall be due and payable by the seller or transferor at the time
of sale. The county assessor must determine if the land transferred
qualifies to continue classification or designation and must so indicate
below. Signatures do not necessarily mean the land will remain in
classification or designation. If it no longer qualifies, it will be removed
and the compensating taxes will be applied. All new owners must sign.

This land does does not qualify for continuance.

Date _____
DEPUTY ASSESSOR

(2) NOTICE OF COMPLIANCE (Chapter 84.26 RCW)
If the new owner(s) of property with special valuation as historic property
wish to continue this special valuation the new owner(s) must sign below.
If the new owner(s) do not desire to continue such special valuation, all
additional tax calculated pursuant to Chapter 84.26 RCW, shall be due
and payable by the seller or transferor at the time of sale.

(3) OWNER(S) SIGNATURE _____

7
AFFIDAVIT
I Certify Under Penalty Of Perjury Under The Laws Of The State Of
Washington That The Foregoing Is True And Correct. (See back of this
form). Benton County

Signature of Grantor/Agent _____
Name (print) Max E. Benitz, Jr.
Date and Place of Signing: _____

Signature of Grantee/Agent _____
Name (print) Ed Ferguson
Date & Place of Signing: _____

Perjury is a class C felony which is punishable by imprisonment in the state correctional institution for a maximum term of not more
5 years, or by a fine in an amount fixed by the court of not more than five thousand dollars (\$5,000.00), or by both imprisonment and
fine. RCW 9A.20.020 (1C).

Dr Darrell Olson 783-1623

Leo Bowman - FW: Proposed Water Cons. Board Statutory Changes

10:00

From: "Rajala, Janet (ECY)" <jaca461@ECY.WA.GOV>
To: <rudyp@co.adams.wa.us>, <rogerh@co.adams.wa.us>, <jeffs@co.adams.wa.us>, <lindar@co.adams.wa.us>, <commissioners@co.benton.wa.us>, <ron.walter@co.chelan.wa.us>, <doug.england@co.chelan.wa.us>, <keith.goehner@co.chelan.wa.us>, <kstanton@co.douglas.wa.us>, <dsnyder@co.douglas.wa.us>, <mhunt@co.douglas.wa.us>, <commissioners@co.ferry.wa.us>, <pshults@co.franklin.wa.us>, <commissioners@co.grant.wa.us>, <BICC@co.island.wa.us>, <district1@co.island.wa.us>, <district2@co.island.wa.us>, <district3@co.island.wa.us>, <bocc@co.kittitas.wa.us>, <bocc@co.klickitat.wa.us>, "Lewis Co. Commissioners" <bocc@co.lewis.wa.us>, <dbly@co.lincoln.wa.us>, <shutsell@co.lincoln.wa.us>, <thopkins@co.lincoln.wa.us>, <tims@co.mason.wa.us>, <lyndare@co.mason.wa.us>, <rossg@co.mason.wa.us>, <alampe@co.okanogan.wa.us>, <bhover@co.okanogan.wa.us>, <mlpeterson@co.okanogan.wa.us>, <TMielke@spokanecounty.org>, <MRichard@spokanecounty.org>, <BMager@spokanecounty.org>, <Commissioners@co.stevens.wa.us>, <wolfec@co.thurston.wa.us>, <romeros@co.thurston.wa.us>, <valenk@co.thurston.wa.us>, <wwcocommissioners@co.walla-walla.wa.us>, <maribethb@co.whitman.wa.us>, <commissioners.web@co.yakima.wa.us>
Date: 8/24/2009 7:24 AM
Subject: FW: Proposed Water Cons. Board Statutory Changes
CC: "Stoffel, Keith L. (ECY)" <KSTO461@ECY.WA.GOV>, "Slattery, Ken (ECY)" <kshw461@ECY.WA.GOV>
Attachments: Summary of draft changes to 90.80.doc; 90 80 RCW-draft 4 - 2009.pdf

Honorable Commissioners:

There are changes proposed that affect the counties authorities to appoint board members. Your review of the proposed language amendments to the Water Conservancy Board statute would be appreciated. See note below. Again, I apologize for the short turn around. Please get comments back to me no later than COB, Friday, August 28. Thank you.

1. Specifically, it provides a process for replacing a board member under very specific circumstances. As the law reads currently, there is no way for a board member to be removed from the board unless they resign or the term expires. This has been a problem when a board member just stops communicating with the county, state, or the board. The board is left with quorum and operational difficulties. Please see section RCW 90.80.050 for specific language.
2. Additionally, we are proposing a requirement that boards communicate with counties when transferring into and out of a county. See section RCW 90.80.070(3)(c).

Thank you again for your assistance.

00:01
Janet L. Rajala

Water Resources Program

Phone: (509) 329-3421

Fax: (509) 329-3529

E-mail: jaca461@ecy.wa.gov

From: Rajala, Janet (ECY)
Sent: Saturday, August 22, 2009 3:42 PM
To: CELP (Rachael Paschal Osborn); Colville Tribe (Trevino) (lois.trevino@colvilletribes.com.); 'amanda@washingtonwatertrust.org'; 'info@warivers.org'; 'gary.passmore@colvilletribes.com'; 'ppuhn@squaxin.nsn.us'; 'croj@critfc.org'
Cc: Stoffel, Keith L. (ECY); Slattery, Ken (ECY); Schuppe, Mark (ECY)
Subject: Proposed Water Cons. Board Statutory Changes

Your review of the attached documents is requested. I apologize for such short notice. Please return any comments to me by Friday, August 28, COB. I will be in Monday, August 24 and Friday, August 28 if you have any questions.

Attached is proposed language to change the Water Conservancy Board statute, RCW 90.80. The other document explains why the changes are proposed. This draft has gone through several reviews internally as well as a committee of water conservancy board members and consultants including:

Dr. Darryll Olsen, Benton Co. Board, Consultant

Mike Schwisow, Thurston Co. Board, Lobbyist

Jeff Stevens, Yakima Co. Board, Engineer Consultant

Don Phelps, Chelan Co. Board, Engineer Consultant

George Schlender, Spokane Co. Board, Fmr Ecology Employee, Consultant

Jill Van Hulle, Consultant

In addition it has been distributed to boards for review.

This may be submitted as agency request legislation for the 2010 session. I will be on vacation after September 3 and must submit the final proposal no later than September 3. Your response is very crucial and I appreciate your time to review.

<<Summary of draft changes to 90.80.doc>> <<90 80 RCW-draft 4 - 2009.pdf>>

Janet L. Rajala

Water Resources Program

Phone: (509) 329-3421

Fax: (509) 329-3529

E-mail: jaca461@ecy.wa.gov

The following are the changes made based on feedback from Ecology staff, stakeholder group of board members and consultants. The following provides a short description as to the intended affect on the statute.

Please review the draft changes to the statute

Summary of changes

Section 010 – Definitions

- Add definitions for “ineligible” and “report of examination” – clarifies common terms used with boards
- Definition of “transfer” that makes sense with the first sentence of RCW 90.80.055(1)(a) – The definition is specific to three sections within the two RCWs. However, RCW 90.80.055(1)(a) seems to include all types of transfers (e.g., under RCW 90.03.395, 90.03.397, 90.03.570, 90.44.105, etc.). This would clarify the boards’ authorities to reflect what is stated in RCW 90.80.055 (1)(a).

Section 050 - Corporate powers – Board composition – Members' terms, expenses--Alternates--Eligibility to be appointed.

- Subsection 2 - Provides a means for counties to identify and replace a board member who simply “disappears.” Some board members move from the area or decide they no longer want to participate, but they fail to notify the board, county, Ecology or all three. Boards have had difficulty functioning when they lack enough for a quorum or to vote. It also keeps the board operational.
- Subsection 5 – Provides a means for a board to continue operating if one board member is ineligible.
- Subsection 6 – Gives more context to the definition “ineligible.”

Section 055 – Additional board powers.

- Subsection 1 – This language is trying to clarify the ability of the boards to prioritize applications received. As the statute and rule stand, it appears it’s possible that a board may be able to prioritize applications other than for public health and safety and environmental enhancement. It could allow applications to be prioritized at the pleasure of the board (by WRIs within the board’s county. This may not be fair to the applicant. Here are three references that were considered:
 - RCW 90.03.380(5)
 - RCW 90.80.055(1) – working on a countywide or areawide basis (all are bds are currently county wide)
 - WAC 173-153-060(3)
- Subsection 2(d)– Language was added to clarify the board/Ecology relationship when providing technical assistance. The purpose is to empower the boards and ensure they remain an active participant in the process. Ecology is working hard to ensure it provides information directly to boards and not receive it through the applicant or other third party. Too many “he said, she said” scenarios seems to slow the process.
- Subsection 3 – Clarifies the roles of boards during the 45 (75) day review period. With such a short review period, Ecology has limited time and questions will be resolved between Ecology and the board. Applicants may raise their concerns to the board during this review time.

Section 065 - Dissolution of board –

- Add Suspension of board authorities to title –better defines the process for dissolution since this appears to be occurring now..
- Subsection 2 – Provide a means to provide counties and boards to work with Ecology to resolve operational concerns before seeking dissolution. This would give the counties, boards, and Ecology some time to get the board back up to operating speed or provide additional training if needed to assist the board. Neither the Mason Co. Commissioners nor Ecology could get a response from the board members on the water conservancy board for two years. Ecology finally suggested they dissolve the board and start over, which they did. This amendment would resolve these kinds of issues.
- Subsection 3 – Provides Ecology specific guidance to involve the board in resolving the reasons boards become inoperable.
- Subsection 4 – Makes petitioning for dissolution a last step by Ecology to ensure an operational board that meets the purposes for which the board was created.

Section 070 - Applications for water transfers -- Notice--Record of decision -- Review--Alternate serving as commissioner.

- Subsection 1 – Clarifies that applicants choose to file before a board and what that choice means when it is made. It is expected that the board process will be respected and used as intended.
- Subsection 2 – Clarifies what is meant by the geographic jurisdiction of the board and when and where a public hearing should be held. The statute is currently not clear where and how many public hearings must be held. This is more critical as the northern counties increase their concern over water rights “leaving” their county and economic base. Ecology receives many questions to the existing language such as
 - How many hearings do we have to hold?
 - Do we have to hold one in each county?
 - Does this mean we have to hold one if a proposed transfer crosses a WRIA boundary within the county of jurisdiction of the board?

Sec 080 - Records of decision -- Transmittal to department and others -- Internet posting -- Review.

- Subsection 5 – Allows Ecology to return without action to the board any decision that was adopted without consideration of statutory requirements (quorum, ineligible commissioners, etc.). Ecology needs a means to return a decision to the board that is clearly incomplete. (e.g., statements made about a field exam or hydrogeology analysis being done but no narrative describing the details of the findings). This is to protect the applicant from having to start over because a board failed to properly document its decision with sufficient evidence. It also stops the clock on Ecology’s review when it is returned to the jurisdiction of the board. Ecology is concerned about the language alleviating the possibility of the agency being arbitrary in its decision to return the ROD/ROE.
- Subsection 6 – Provides the Ecology’s review period starts over when it receives a revised ROD/ROE.
- Subsection 7 – Appeal process for return without action decisions.

Sec 090 – Appeal from director’s decision.

- Make language consistent with the rest of the statutory language – Bugs the heck out of Janet that the terms affirm, modify, and reversed were replaced in this section to be approve, modify, or deny.

Sec 120 – Conflicts of interest

- Added ethical issues to the conflict of interest section.
- Subsection (3)(a) – Ensures due process for the public about bring up conflict of interest issues. If they don't know they must bring up the issue, can they be held to the standard currently identified? This language was added to the rule in 2002 as a result of an attorney/board member who advised that a person's right to due process may not be served if this is not stated up front.
- Subsection 4 and 5 – This tries to address the ethical concerns of a board member also serving as a consultant to an applicant before their own board.

Sec 135 – Updates the citation to reflect statutory changes.

Sec 901 – Reports to the Legislature

This section should be repealed since all deadlines and requirements for reports have passed or are no longer required.