

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

# Board of County Commissioners BENTON COUNTY

David Sparks  
County Administrator

Loretta Smith Kelty  
Deputy County Administrator

## AGENDA BOARD OF BENTON COUNTY COMMISSIONERS Regular Board Meeting Monday, September 29, 2008 Benton County Courthouse, Prosser, WA

9:00 AM

Call to Order  
Approval of Minutes  
Review Agenda

### CONSENT AGENDA

#### Clerk

- a. Purchase of Shelving Units
- b. Statement of Work for Interlocal Agreement w/WA State Archives & Records Management

#### Coroner

- c. Line Item Transfer, Fund No. 0000-101, Dept. 109

#### Human Services

- d. Mental Health Advisory Board's Change to the Bylaws

#### Juvenile

- e. Criminal Defense Professional Svcs Agreement w/L Magan
- f. Amended Criminal Defense Professional Svcs Agreement w/S Henwood
- g. Amended Criminal Defense Professional Svcs Agreement w/K Hilde
- h. Amended Criminal Defense Professional Svcs Agreement w/J Ovens

#### Personnel

- i. Personal Services Contract w/Sight and Sound Services

#### Road/Engineer

- j. Setting a Public Hearing to Amend 2008-2013 Six Yr Road Program
- k. Authorization to Proceed w/I-82 to SR 397 Intertie Phase 3
- l. Authorization to Proceed w/Webber Canyon Road
- m. Setting a Public Hearing on the Creation of County Road Improvement District #20
- n. Approval of Sheet 1 Plans for North River Road Curve

#### Sheriff

- o. Work Crew Contract – Fire District #1
- p. Work Crew Contract – BCES

**Superior Court**

- q. National Adoption Day Proclamation
- r. Copier Lease w/Ricoh Corporation

**Treasurer**

- s. Manatron ASIX/ASCEND Master Software License & Support Amended Agreement

- 9:05 AM Comprehensive Plan Amendment Workshop – M Shuttleworth
- 9:25 AM Animal Control Discussion – A Fyall
- 9:40 AM 2008 / 2009 TRIDEC Contract – A Fyall
- 9:45 AM 2009 – 2014 Capital Facilities Plan – L Smith Kelty
- 10:15 AM Executive Session – 3<sup>rd</sup> Quarter Litigation Update – R Brown
- 10:30 AM 2009 1-Year Road Program – R Dunfee
- 11:00 AM
  - a. Other Business
  - b. Unscheduled Visitors

Draft

MINUTES

BOARD OF BENTON COUNTY COMMISSIONERS

Regular Board Meeting  
September 22, 2008, 9:00 am.  
Commissioners' Conference Room  
Benton County Courthouse, Prosser, WA

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

**Benton County Employees Present During All or a Portion of the Meeting:** Deputy Administrator Loretta Smith Kelty; Adam Fyall, Community Development Coordinator; Finance Manager Linda Ivey; Facilities Manager Roy Rogers; Personnel Manager Melina Wenner; Ed Thornbrugh, Human Services; Treasurer Duane Davidson; Planning Manager Mike Shuttleworth; Safety/Training Coordinator Bryan Perry; DPA Ryan Brown; Auditor Bobbie Gagner; Central Services Manager Randy Reid; Erhiza Rivera, Treasurer's Office; Public Works Director Ross Dunfee.

Approval of Minutes

The Minutes of September 15, 2008 were approved.

Review Agenda

Commissioner Benitz requested that item "F"(TRIDEC contract) be increased by \$25,000, for a total of \$50,000. He said the request was based on the need to have TRIDEC assist with the Rattlesnake Mt. Issue and the County's need for their strength to accomplish that task.

Chairman Oliver said he would like a workshop with TRIDEC to define the "deliverables".

Commissioner Bowman said he agreed with the need to have TRIDEC assist with Rattlesnake and concurred with Commissioner Benitz' request to have Adam Fyall meet with TRIDEC and bring back a recommendation at the next Board meeting.

Consent Agenda

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

Commissioners

- a. Setting the Salary for the Benton County Prosecuting Attorney
- b. Classifications and Salary Grades for Deputy Prosecuting Attorneys
- c. Administrative Services Agreement w/ICMA Retirement Corporation
- d. Settlement Agreement and Full Release of Claims w/E Riley
- e. Letter of Support for the ARC of the Tri-Cities

Facilities

- g. Blanket Service Agreement for As Needed Surveying Services
- h. Personal Services Contract for Elevator Maintenance

Fairgrounds

- i. Rescinding Resolution 08-689; Lease Agreement w/Desert Ski Club

Human Services

- j. Contract w/WA St. Department of Community, Trade & Economic Development
- k. Personal Services Agreement w/Lutheran Community Services
- l. Salary Placement Request for New Employee

Juvenile

- m. Contract Amendment w/Governor's Juvenile Justice Advisory Committee

Office of Public Defense

- n. Payment for Professional Services and Attorney Fees for M Iaria

Parks

- o. Annexation of Horse Heaven Vista Park Site Into Fire District #3

Personnel

- p. Acceptance of Trust Agreement w/United Employees Benefit Trust

Planning

- q. Appreciation of Service Certificate

Road/Engineer

- r. Public Hearing Authorization for Vacation of Right of Way of Jericho Court
- s. Approval of Lease Agreement for the Travis Quarry

Sheriff

- t. Professional Services Contract Amendment w/Lazy Spur

Superior Court

- u. Rescinding Resolution 08-350 for Part-Time Arbitrator

The Board briefly recessed, reconvening at 9:10 a.m.

**Benton Franklin Fair Association**

Lori Lancaster and Steve Lancaster presented their written proposal for year-round operations of the Benton County Fairgrounds and requested the Board review the proposal.

Commissioner Benitz said he would need some to review the proposal and the issue of "gifting of funds" with the PA's office.

Commissioner Bowman expressed his concern about the traditional users of the Fairgrounds, i.e. Horse Racing, 4-H, Posse, etc. and said he wanted it to be a community facility.

Ms. Lancaster said the Fair Association also wanted the other users to continue to be at the facility.

Cliff Schillinger, Horse Racing, said he was still waiting for a phone call from the Fair Association regarding the new proposal. He said he had three years left on a five-year contract and was proceeding under the terms of his contract and that he wanted to continue to be present at the Fairgrounds.

Chairman Oliver said he was interested in a community master planning process with all participants and wanted to see Benton County contribute \$2 million over the next five years.

### **Requests for Supplemental Appropriations**

Linda Ivey presented the following requests for supplemental appropriation to go to public hearing:

1. Treasurer, \$13,500, for contract services associated with retail sales and use tax. Commissioner Bowman requested the Treasurer's Office provide the Board with a summary report.

**MOTION:** It was moved and seconded to approve the matter go to public hearing. Upon vote, the motion carried.

2. Juvenile, \$622,241 for payment of Justice Center Bond Fund.

**MOTION:** It was moved and seconded to approve the matter go to public hearing. Upon vote, the motion carried.

3. Trial Court Improvement, \$100,116 for offices supplies and computer equipment authorized by Resolution 08-760.

**MOTION:** It was moved and seconded to approve the matter go to public hearing. Upon vote, the motion carried.

4. Central Services, \$77,000 for the computer equipment portion of the Trial Court Improvement supplemental request.

**MOTION:** It was moved and seconded to approve the matter go to public hearing. Upon vote, the motion carried.

5. Superior Court, \$15,169, Superior Court, \$3,762, and Superior Court, \$21,230 for professional services, contract services, travel, Judge Pro Tem and related expenses, all to be reimbursed by the State.

**MOTION:** It was moved and seconded to approve the matters go to public hearing. Upon vote, the motion carried.

6. Juvenile, \$72,750 for grant reimbursed expenses.

**MOTION:** It was moved and seconded to approve the matter go to public hearing. Upon vote, the motion carried.

7. Homeless Housing, \$6,360, pass-through funds for pilot program.

**MOTION:** It was moved and seconded to approve the matter go to public hearing. Upon vote, the motion carried.

### **Other Business**

#### **Historical Preservation Fund**

Commissioner Bowman discussed the format for grant applications to the Historical Preservation Fund and requested Mr. Sparks present it during budget workshops. Commissioner Benitz said there was already a policy in place for use of the funds. Chairman Oliver agreed that Mr. Sparks could review the issue and report back to the Board.

#### **WSDOT Road Map**

Commissioner Bowman provided a copy of the new WSDOT road map and said the Intertie was now on the new map.

#### **Red Mountain Interchange**

Commissioner Bowman provided information on the Red Mountain Interchange and a copy of the letter sent to Governor Gregoire requesting \$6.7 million (three phases) to be included in this year's budget for the Interchange.

#### **Automated External Defibrillators (AED) Policy Discussion**

Bryan Perry presented a policy for administration and medical oversight of the Automated External Defibrillators (AED).

**MOTION:** Commissioner Benitz moved to approve the policy. Commissioner Bowman seconded.

#### **Discussion**

Commissioner Bowman requested the policy be modified to include the "title" of the administrators only, and not the names. The Board agreed.

Upon vote, the motion carried.

### Hiring Policy for PERS 1 Retirees

Melina Wenner presented a policy outlining the procedures set forth under new legislation for hiring employees retired under PERS Plan 1.

**MOTION:** Commissioner Bowman moved to approve the hiring policy for employees retired under PERS Plan 1. Commissioner Benitz seconded and upon vote, the motion carried.

### Other Business

#### All Weather Roads – Moses Lake

Commissioner Bowman stated there was a Council of Governments conference scheduled on October 9 to address all-weather roads as a statewide issue.

#### Benton County Emergency Services (BCES )

Commissioner Benitz said he had received a copy of the proposed 2009 budget for BCES provided by the City of Richland that called for the elimination of Hans Kwatz' position and putting Chief Corsi as a ½ time police chief and ½ time BCES director. He requested the Board review the issue and said he would be calling for an executive session regarding the hiring and firing of employees. He said he still wanted to have elected officials on the executive board to make policy decisions.

#### AG Opinion – Petition to Move County Seat

Ryan Brown said he had received the opinion on Friday afternoon and had not had time to digest it completely. He said he wanted time to review it with Andy Miller before giving a formal opinion to the Board. He indicated he would bring back an opinion to the Board at the next meeting.

Chairman Oliver discussed his concern about the misinformation out in the public regarding the county seat issue.

#### 2009 Council of Government Assessment

Chairman Oliver asked staff for advisement on the assessment for the 2009 budget.

#### Fee Schedule for Clean Air Authority

Chairman Oliver asked staff to review the proposed fee schedule so he could vote on the issue.

The Board recessed, reconvening at 10:30 a.m.

**Executive Session – Potential Litigation**

The Board went into executive session at 10:30 a.m. with attorney Mark Johnson via telephone conference for approximately 20 minutes to discuss potential litigation. Also present were Melina Wenner, Bryan Perry, Loretta Smith Kelty, David Sparks, and Cami McKenzie. The Board came out of executive session at 10:40 a.m. No decisions were made in executive session.

**MOTION:** Commissioner Bowman moved to approve the County Administrator to sign the settlement offer for Claim CC 08-21. Chairman Oliver seconded and upon vote, the motion carried with Commissioner Benitz opposing.

**Resolutions**

- 08-780 Setting the Salary for the Benton County Prosecuting Attorney
- 08-781 Classifications and Salary Grades for Deputy Prosecuting Attorneys
- 08-782 Administrative Services Agreement w/ICMA Retirement Corporation
- 08-783 Settlement Agreement and Full Release of Claims w/E Riley
- 08-784 Blanket Service Agreement for As Needed Surveying Services
- 08-785 Personal Services Contract for Elevator Maintenance
- 08-786 Rescinding Resolution 08-689; Lease Agreement w/Desert Ski Club
- 08-787 Contract w/WA St. Department of Community, Trade & Economic Development
- 08-788 Personal Services Agreement w/Lutheran Community Services
- 08-789 Salary Placement Request for New Employee
- 08-790 Contract Amndment w/Governor’s Juvenile Justice Advisory Committee
- 08-791 Payment for Professional Services and Attorney Fees for M. Iaria
- 08-792 Annexation of Horse Heaven Vista Park Site Into Fire District #3
- 08-793 Acceptance of Trust Agreement w/United Employees Benefit Trust
- 08-794 Public Hearing Authorization for Vacation of Right of Way of Jericho Court
- 08-795 Approval of Lease Agreement for the Travis Quarry
- 08-796 Professional Services Contract Amendment w/Lazy Spur
- 08-797 Rescinding Resolution 08-350 for Part-Time Arbitrator
- 08-798 Approval of Automated External Defibrillator (AED) Policy
- 08-799 Hiring Policy for Employees Retired Under PERS Plan 1
- 08-800 Authorizing the Benton County Administrator to Sign the Settlement Offer for Claim CC 08-21

There being no further business before the Board, the meeting adjourned at approximately at 10:42 a.m.

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

\_\_\_\_\_  
Chairman

a.

# RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF PURCHASING KARDEX SHELVING UNITS FOR USE BY THE CLERKS OFFICE AT THE HEALTH DISTRICT BUILDING

WHEREAS, the GSA Contract No. GS-28F-1004C allows for the purchase of Kardex "L&T Series" shelving; and

WHEREAS, the Clerk researched various filing units and believes this Kardex unit meets the needs of the storage area and provides the highest value to the County; and

WHEREAS, the price quote is \$19,938.61 inclusive of installation and freight; NOW, THEREFORE

BE IT HEREBY RESOLVED by the Board of Benton County Commissioners, Benton County, Washington that the Clerk is authorized to proceed with the purchase under contract No. GS-28F-1004C.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

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

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

\_\_\_\_\_  
Member

Constituting the Board of County  
Commissioners of Benton County,  
Washington

Attest: \_\_\_\_\_  
Clerk of the Board

cc: Clerk, Auditor, file

# Brutzman's **OFFICE SOLUTIONS**

FURNITURE • SUPPLIES • REPROGRAPHICS

Client: Benton County Clerk

Project: Records storage options

Date: 08/21/2008

Option 1 - Kardex "Eagle Series" movable shelving					
Quantity	Item Number	Description	List Price	Net Price	Extension
<i>Carriages, end panels, rails and hardware</i>					
2	EFC-0915-16	Carriage, fixed, 12"D x 192"L	\$ 815.00	451.51	\$ 903.02
14	EMC-1229-16	Carriage, movable, 24"D x 192"L	\$ 1,815.00	1,005.51	\$ 14,077.14
2	EFP-0915-STL	End panel, fixed, 12"W x 88.25"H	\$ 275.00	152.35	\$ 304.70
14	EMP-1229-STL	End panel, movable, 24"W x 88.25"H	\$ 275.00	152.35	\$ 2,132.90
34	6000800-999	Modular deck, 3-rail, with ramp (price per lineal foot)	\$ 285.00	157.89	\$ 5,368.26
14	6005903-000	Handle, heavy duty, black	\$ 95.00	52.63	\$ 736.82
14	SD1-6000	Gear drive, double reduction, 1/6000# ratio	\$ 407.00	225.48	\$ 3,156.72
8	6000560-015	Label holders, 2/pkg.	\$ 8.00	4.43	\$ 35.44
<i>L&amp;T shelving components</i>					
2	LCT-9-4812-7R	Starter section, single-face, 48"W x 12"D x 88.25"H	\$ 607.20	265.95	\$ 531.90
6	TOT-9-4812-7R	Add-on section, single face, 48"W x 12"D x 88.25"H	\$ 549.20	240.55	\$ 1,443.30
14	LCT-9-4824-7R	Starter section, double-faced, 48"W x 24"D x 88.25"H	\$ 974.40	426.79	\$ 5,975.06
42	TOT-9-4824-7R	Add-on section, double face, 48"W x 24"D x 88.25"H	\$ 876.40	383.86	\$ 16,122.12
Sub-total					\$50,787.38
Installation					\$ 2,112.00
Sub-total					\$52,899.38
Freight					\$ 9,400.00
Sub-total					\$62,299.38
Tax					\$ 5,170.85
<b>TOTAL</b>					<b>\$67,470.23</b>
Total filing inches - 44,160.					

Option 2 - Kardex "L&T Series" shelving only					
Quantity	Item Number	Description	List Price	Net Price	Extension
<i>Shelving components</i>					
6	LCT-9-4824-7R	Starter section, double-faced, 48"W x 24"D x 88.25"H	\$ 974.40	426.79	\$ 2,560.74
30	TOT-9-4824-7R	Add-on section, double face, 48"W x 24"D x 88.25"H	\$ 876.40	383.86	\$ 11,515.80
Sub-total					\$14,076.54
Installation					\$ 1,584.00
Sub-total					\$15,660.54
Freight					\$ 2,750.00
Sub-total					\$18,410.54
Tax					\$ 1,528.07
<b>TOTAL</b>					<b>\$19,938.61</b>
Total filing inches - 26,496.					

NOTES: Vendor: Kardex c/o Brutzman's, Inc.  
 GSA Contract number: GS-28F-1004C.  
 FOB Point: Destination.  
 Terms: 1% 20, Net 30.  
 Lead time: 4 to 6 weeks.  
 Shelving discount: 56.2%.  
 Kompakt discount: 44.6%.

b.

# RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF THE LOCAL RECORDS GRANT AWARD FROM THE WASHINGTON STATE ARCHIVES, SUBMITTED BY THE BENTON COUNTY CLERK

WHEREAS, the Benton County Clerk was awarded a records grant in the amount of \$29,997; and

WHEREAS, the grant statement of work require the signature of the County Authorizing Official; NOW, THEREFORE,

BE IT HEREBY RESOLVED that the Board of Benton County Commissioners hereby authorized the Chairman to sign the attached statement of work to the Office of the secretary of State, Washington State Archives, as submitted by the Benton County Clerk

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

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

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

\_\_\_\_\_  
Member

Constituting the Board of County Commissioners of Benton County, Washington

Attest: \_\_\_\_\_  
Clerk of the Board

cc: Clerk, Auditor, R. Ozuna  
Original to Clerk

**STATEMENT OF WORK NO. 1  
FOR INTERLOCAL AGREEMENT 803K-1001**

This Statement of Work is made and entered into by and between the BENTON COUNTY CLERK (hereinafter "CUSTOMER") and the STATE OF WASHINGTON, OFFICE OF THE SECRETARY OF STATE, ARCHIVES & RECORDS MANAGEMENT DIVISION (hereinafter "ARCHIVES"). This Statement of Work (SOW) and exhibit is incorporated into and hereto made an integral part of Interlocal Agreement No. 803K-1001.

**CUSTOMER:**            **Benton County Clerk**  
7122 W. Okanogan Place, Bldg. A  
Kennewick, WA 99336

	<u>Customer</u>	<u>Archives</u>
<b>Contact:</b>	Josie Delvin	Boyd Barber
<b>Title:</b>	County Clerk	Imaging Services Manager
<b>Telephone No.:</b>	509-222-5600	360-586-9608
<b>Email:</b>	josie_delvin@co.benton.wa.us	bbarber@secstate.wa.gov
		David Tuckett
		Customer Service Manager
		360-586-2487
		dtuckett@sestate.wa.gov

I. SPECIFIC SERVICE

ARCHIVES shall provide services and staff and otherwise do all things necessary for or incidental to the performance of work set forth in **Exhibit A** and fully incorporated herein by reference.

II. PRICES

Service	Unit	Unit Price
Federal mileage reimbursement rate	Per Mile	
Per box for all trips	Per Box	1.50
Scan Paper Documents (Up to 11"x17") up to 300 DPI – Grade D	Per Image	0.18
File Renaming	Per File	0.10
16mm Microfilm – Single or Multi-Page TIFF Images (Up to 11"x17") to Microfilm – Basic Service	Per Image	0.0175
Hard Drive, External USB	Each	200.00
All shipping or ferry prices will be charged cost + 30%		
<b>IMAGING ESTIMATE</b>		
Service	# of Units	Total Unit Cost
Federal mileage reimbursement rate	470	272.60
Per box for all trips	120	180.00
Scan Paper Documents (Up to 11"x17") up to 300 DPI – Grade D	130,000	23,400.00
File Renaming	10,000	1,000.00
16mm Microfilm – Single or Multi-Page TIFF Images (Up to 11"x17") to Microfilm – Basic Service	130,000	2,275.00



## Exhibit A

The ARCHIVES shall:

### Pickup & Delivery

- Pickup and deliver the documents from/to CUSTOMER at:  
Benton County Clerk  
620 Market Street  
Prosser, WA 99350
- Large projects may be separated into individual job work orders which are sized based on completing each work order within 90 calendar days.
- Handle documents to prevent damage. Archives will not be held liable for inadvertent damage caused by the scanning process.
- Return documents in the original folder or binder in the box provided. Documents will not be stapled or clipped (reassembled). Oversize documents will be placed back in its original file location.
- Re-box the documents into a new Archive box if the original box is deemed insufficient to properly preserve the records. CUSTOMER will be invoiced for all new boxes required for their project.
- Return the documents to the following location within 15 calendar days of completing the imaging services:  
Benton County Clerk  
620 Market Street  
Prosser, WA 99350
- Deliver hard drive with images to the following location:  
Attn: Josie Delvin  
Benton County Clerk  
620 Market Street  
Prosser, WA 99350

### Project Management

- Contact the first or secondary CUSTOMER contacts with any questions regarding the project.
- Provide timelines, quantities, project complexity, and cost estimates based on our original project review. Estimates may be revised based on the condition of the records at the time they arrive in our production facility. ARCHIVES staff will review the project prior to beginning work and notify the customer of any cost adjustments required for document preparation which exceed the original estimate.

### Scan - Paper Documents

- Perform paper document scanning for documents up to 11" by 17".
  - Record series Civil Case Files and Disposition Authority Number (DAN) GS65-01-08
  - This category of work consists of approximately 130,000 pages within 60 boxes.
  - This category of work is given the complexity Grade D
- Provide Imaging Services for documents up to 11" x 17" on production auto-feed scanners.
- Count each side of two-sided documents as one page.
- "Imaging Services" shall include:
  - Preparing documents for scanning by removing documents from bindings or binders, removing staples, paper clips, flattening and/or mending pages.
  - Removing all oversized (larger than 11" x 17") documents for microfilming and film scanning.
  - Placing a Flash Target where oversized documents were removed. Flash targets will be treated as a normal page for scanning and will have the following information:
    - Oversized document removed and scanned
    - Oversize document description: \_\_\_\_\_
    - File name of oversize document: \_\_\_\_\_
    - File name of first page of parent document: \_\_\_\_\_
  - Placing all oversized images into a separate folder by Record Series.

- Scanning documents in bi-tonal mode at 300 dots per inch (dpi). All clearly visible markings on all pages will be captured in the image.
- Scanning removable notes both on the page and off if text is obscured.
- Performing a visual quality control inspection of every scanned image by viewing each image and comparing it to the original document page.
- Re-scanning poor quality images as needed.
- Providing TIFF Group IV Multi-Page image files.
- Naming images as follows:  
By case files. For example: 982001238.tif (no dashes).

### **Archive Writer**

#### **Basic**

- Perform digital image to microfilm conversion for previously scanned paper documents sized up to 11" by 17".
  - This category of work consists of approximately 130,000 images.
- Conversion services are priced at Grade Basic.
- Convert image files sequentially onto the film by chronological and/or number order according to indexing and file naming scheme.
- Create silver-halide microfilm rolls for each record series.
- Submit microfilm and transmittal documents to the ARCHIVES Security Microfilm section for preservation in the film vault.

#### *The CUSTOMER shall:*

- Provide a clear description of the pickup location and all unique aspects, such as basement, stairs, elevator, etc.
- Clearly label document containers as to their contents.
  - Container identification shall include agency and office name, name of record series, contents (examples: 1-100, AABLE-JOHNSON, 01/01/1900-12/31/1900, etc), and an indication of the container number within a sequence (i.e., 1 of 23, 2 of 23, etc).
- Documents shall be provided to ARCHIVES in standard records boxes. Care should be taken to ensure that no portions of the records are exposed to the elements during transportation.
- Review documents and remove all items CUSTOMER does not want scanned. This includes Post-It notes attached to documents or documents not requiring permanent preservation.
- Make documents available for scanning prior to 08/29/2008.
- Schedule document pickup or return date within 15 calendar days of ARCHIVES notifying CUSTOMER that documents are ready. Documents not arranged for pickup or delivery during this timeframe will be accessioned to the CUSTOMER's Regional Branch Facility.
- Review the imaged records and notify the Archives of any defects or errors within 30 calendar days of invoice date.
- Submit payment for completed work within 30 calendar days of invoice date.
- Provide first and secondary contacts for any questions during the project:
  - First contact:  
Name: Josie Delvin Phone: 509-222-5600 email: josie\_delvin@co.benton.wa.us
  - Secondary contact:  
Name: Jackie Hill Phone: 509-222-3708 email: jackie\_hill@co.benton.wa.us
- Ensure project is ready for processing prior to ARCHIVES picking it up.

### **Pickup & Delivery**

- At the time of pick up and delivery scheduling, inform ARCHIVES of any potential problems that may be encountered picking up or delivering boxes at CUSTOMER location, including lack of a loading dock, difficult building access, times the boxes or building will not be accessible, and the need for a security badge or cardkey.
- Supply directions to your building and the location of loading dock and freight elevator.

- Ensure that boxes are centrally located in a place that is accessible by ARCHIVES truck and allows efficient removal of the boxes.
- Stack the boxes five high with the labels facing out.
- Arrange the boxes in a logical order.
- Accept delivery of documents within 15 calendar days of individual job work order completion.
- When no elevator is available, records must be located on the ground floor. A \$50.00 an hour fee will apply for records that must be manually moved to the ground floor.

C.

# RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

**IN THE MATTER OF COUNTY FUNDS RE: TRANSFER OF FUNDS  
WITHIN THE CURRENT EXPENSE BUDGET DEPARTMENT 109  
CORONER**

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

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

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

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

Attest: \_\_\_\_\_  
Clerk of the Board

cc: Coroner; Auditor; File

### BENTON COUNTY LINE ITEM TRANSFER

Dept Name: Coroner Dept Nbr: 109  
 Fund Name: Current Expense Fund Nbr: 0000-101

TRANSFER FR		TRANSFER TO		AMOUNT	AMOUNT	
BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	LINE ITEM (4 digit)	BASE SUB (6 digit)	LINE ITEM NAME	AMOUNT
563.200	4202	Telephone	3201	563.200	Vehicle fuel	\$2,500
563.200	4301	Travel				
TOTAL				\$2,500	TOTAL	\$2,500

Explanation:  
 Transfer needed to fund the vehicle fuel cost for the remainder of 2008.

Prepared by: Rick Corson Date: 24-Sep-2008  
 Approved  Denied  Date: \_\_\_\_\_

\_\_\_\_\_  
 Chairman  
 \_\_\_\_\_  
 Member  
 \_\_\_\_\_  
 Member

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

COPY <sup>d.</sup>

AGENDA ITEM	TYPE OF ACTION NEEDED	
Changes and additions to Benton and Franklin Counties Mental Health Advisory Board Bylaws	<input 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 <sup>st</sup> Discussion
	<input type="checkbox"/> Pass Motion	<input type="checkbox"/> 2 <sup>nd</sup> discussion
	<input type="checkbox"/> Other	<input type="checkbox"/> Other

**BACKGROUND INFORMATION**

The Benton and Franklin Counties Mental Health Advisory Board (MHAB) would like to make changes and additions to update the bylaws of the Advisory Board. The Board met several times to discuss the bylaws changes and additions and voted to submit the changes and additions to the Boards of County Commissioners of Benton and Franklin Counties.

**RECOMMENDATION**

Sign the resolution to accept the proposed bylaw additions and changes.

**FISCAL IMPACT**

There is no fiscal impact for these by-law changes

**MOTION**

To approve signing the Resolution to allow the change to the Mental Health Advisory Board Bylaws.

# 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 APPROVING THE BENTON AND FRANKLIN COUNTIES MENTAL HEALTH ADVISORY BOARD'S CHANGE TO THE BYLAWS

**WHEREAS**, the Benton and Franklin Counties Mental Health Advisory Board (MHAB) wanted to update the bylaws of the Advisory Board; and

**WHEREAS**, the MHAB met several times to discussed proposed changes and additions; and

**WHEREAS**, the MHAB voted to submit the additions and changes of the MHAB bylaws to the Boards of County Commissioners of Benton and Franklin Counties, NOW THEREFORE,

**BE IT RESOLVED** that the Boards of Benton and Franklin County Commissioners hereby accept the proposed updated bylaw changes and additions; and

**BE IT FURTHER RESOLVED** that the Benton and Franklin County Commissioners sign the resolution allowing the Mental Health Advisory Board bylaw updates.

Dated this .....day of....., 2008

Dated this ..... day of ....., 2008

\_\_\_\_\_  
Claude Oliver, Chair

\_\_\_\_\_  
Robert Koch, Chair

\_\_\_\_\_  
Max Benitz, Jr., Chair, Pro Tem

\_\_\_\_\_  
Rick Miller, Chair, Pro Tem

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

\_\_\_\_\_  
Neva Corkrum, Member  
Constituting the Board of County  
Commissioners of Franklin County, Washington

Attest: .....  
Clerk of the Board

Attest: .....  
Clerk of the Board

cc: Human Services, Franklin County

Carey

**BENTON AND FRANKLIN COUNTIES  
DEPARTMENT OF HUMAN SERVICES**

**BENTON & FRANKLIN MENTAL HEALTH ADVISORY BOARD**

**~ BYLAWS ~**

**I NAME:**

The official name shall be the "Mental Health Advisory Board."

**II PURPOSE:**

The purpose of the bylaws is to establish the rules of procedure for the Mental Health Advisory Board of Benton and Franklin Counties in execution of its duties.

**III MISSION:**

The mission is to advise the Department of Human Services and the Benton and Franklin County Boards of Commissioners on mental health systems issues.

**IV GOAL:**

The goal is to advise Human Services and the County Boards of Commissioners on the board's stated duties and provide a voice for the citizens of Benton and Franklin Counties, which the board represents

**V MEMBERSHIP:**

The membership shall be composed of not less than nine members. All members shall be appointed by and serve at the pleasure of the Board of County Commissioners of Benton and Franklin Counties (hereinafter referred to as the "Board"). The Board may revoke the appointment of any member at will. The term of members other than those receiving initial appointments of less than three years shall be limited to three (3) years. Those appointed initially for less than a three-year term may be appointed, at the end of their initial appointment, to a full three-year term. Vacancies which arise for any reason shall be filled by an appointment from the Board for the remainder of the term. The board will make every effort to include at least one consumer of public mental health services and one advocate and to have membership include geographic and demographic diversity

VI DUTIES:

The Mental Health Board is an advisory board to the Benton and Franklin Counties Department of Human Services (hereinafter referred to as "DHS") and to the Boards of County Commissioners. The purposes of the Advisory Board are:

1. to hold public meetings to solicit input
2. to review and comment on the DHS' plan for Mental Health services
3. to review and comment on DHS' annual budget
4. to review and comment on mental health subcontractor's audits from DHS
5. other duties as assigned

VII ELECTION OF OFFICERS:

1. The officers of the Mental Health Advisory Board shall consist of a Chairperson, Vice-Chairperson and such other officers as the Mental Health Advisory Board may, by majority, vote, approve and appoint.
2. The officers shall serve for a period of one year computed from the date of their election with a limit of two consecutive terms. However, any officer may be removed at any time by a vote of the majority of the Mental Health Advisory Board entered on record. The election of officers shall take place once a year on the occasion of the first meeting of the year.

VIII. REPORTING:

DHS shall include an Advisory Board update to the Boards of County Commissioners on a monthly basis with a copy to the Mental Health Advisory Board. The Board's minutes shall be submitted to the Boards of County Commissioners before their monthly update from DHS.

OFFICERS:

**CHAIR PERSON**

1. The chairperson shall preside over the meetings of the Mental Health Advisory Board and may exercise all powers usually incident to the office, including the full rights as a member of the Mental Health Advisory Board (including, but not limited to voting, seconding motions, making motions, discussions).

2. The chairperson shall have full power to create standing committees or temporary committees of one or more members, charged with such duties, examinations, and inquiries relative to subjects of interest to the Mental Health Advisory Board, as it may by resolution or motion determine. No temporary or standing committee shall have the power to commit the Administrative Board to the endorsement of any plan or program without its submission to and adoption by the Administrative Board.

#### **VICE-CHAIRPERSON**

3. The vice-chairperson shall, in the absence of the chairperson, perform all the duties incumbent upon the chairperson. If the chairperson and the vice-chairperson are both absent from a meeting, the members of the Mental Health Advisory Board shall elect a temporary chairperson who shall have full powers of the chairperson for the duration of that meeting.

#### **SECRETARY**

4. The Director of DHS or his/her designated representative shall be secretary to the Mental Health Advisory Board.
5. The secretary shall keep a record of all meetings of the Mental Health Advisory Board and those records shall remain the property of the Counties and be retained within the Department of Human Services.
6. The secretary shall keep a serially numbered record of all recommendations of the Administrative Board forwarded to the Boards of County Commissioners for their action and a similarly numbered file of reports of the action taken by the Boards of County Commissioners on those recommendations.
7. The secretary shall prepare and distribute notices of meetings to the members of the Mental Health Advisory Board and to the County Commissioners.

#### **IX MEETINGS:**

- A. During each calendar year the Mental Health Advisory Board must hold at least ten regular meetings. All meetings will be held in a location of sufficient size to allow members of the public to attend. Special meetings may be convened in the following manner:

1. the request of the Chairperson;
  2. written request of a majority of Mental Health Advisory Board members;
  3. by the Board; or
  4. by the Director of DHS.
- B. Meetings shall comply with requirements of the Open Meetings Act (RCW 42.30).
- C. Robert's Rules of Order shall be in effect functionally as a guide to conduct Mental Health Advisory Board meetings.

#### X QUORUM:

A majority of the membership of the Mental Health Advisory Board, being not less than five (5) in number, shall constitute a quorum for the transaction of business. Any action taken by a majority of those present, when those present constitute a quorum, shall be deemed to be the action of the Mental Health Advisory Board, except in matters relating to the amendment of these rules of procedure and the final recommendation to DHS for plans and budgets.

Final recommendations to the County Commissioners for approval of amendments to these rules of procedure and final plans and budgets shall be by the affirmative vote of two-thirds (2/3) of the membership (six members).

#### XI ABSENCE OF MEMBERS:

Members unable to attend a regularly scheduled meeting of the Mental Health Advisory Board shall so notify the secretary in advance. Three consecutive unexcused absences shall be construed as a neglect of duty. The position shall be declared vacant, the member so notified, and the Boards of County Commissioners called upon for action.

#### XII REMOVAL OF A BOARD MEMBER:

A Mental Health Advisory Board member may be removed from the board by a majority vote of the quorum. The action to remove a board member shall be exercised only in exceptional circumstances where the board member has clearly demonstrated a failure to meet the obligations outlined in the by-laws and job description such as a recurrent pattern of unexcused absences from board meetings.

#### XIII MINUTES

The secretary shall keep for each meeting recorded minutes for its formal record. Additionally, the secretary will provide written notes for each meeting which include all actions and motions taken by the Mental Health Advisory Board.

### XIII PROXY VOTING

Voting by proxy is not permitted at meetings of the Board or its committees.

#### Compensation

Members of the Mental Health Advisory Board shall not be compensated for their performance of duties.

#### XIV. Confidentiality

Each Board member shall sign a letter of confidentiality. Members shall protect the rights, privacy and all information regarding individuals which they may become aware of in the course of their participation on the Mental Health Advisory Board.

#### XIIV. Order of Precedence

Bylaws which are in conflict with WAC or RCW will be superseded by the specific law.

### AMENDMENT

The rules of procedure may be amended in the following manner:

1. At any regular meeting of the Mental Health Advisory Board the proposed amendment shall be submitted in writing and shall be read at that meeting.
2. The proposed amendment shall then be tabled to the next regular meeting for action.
3. The secretary shall send a copy of the proposed change to all members of the Mental Health Advisory Board and to the Boards of County Commissioners in a reasonable time prior to the meeting, at which time it shall be acted upon. A two-thirds (2/3) majority, or six members, shall be sufficient to recommend amendment or alteration of these rules.
4. Said recommendation must then be approved by the Boards of County Commissioners.
5. Any amendment or alteration of these rules may be initiated by the County Commissioners and upon a written, signed statement of amendment or alteration; the rules shall be so changed.

APPROVED and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

BOARD OF BENTON COUNTY  
COMMISSIONERS

BOARD OF FRANKLIN COUNTY  
COMMISSIONERS

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

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

\_\_\_\_\_  
Member  
Constituting the Board County  
Commissioners,  
Franklin County, Washington

Attest:

Attest:

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

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

e

AGENDA ITEM: Consent		TYPE OF ACTION <u>NEEDED</u>	CONSENT AGENDA <u>xx</u> PUBLIC HEARING 1ST DISCUSSION 2ND DISCUSSION OTHER
MEETING DATE: B/C 09-29-08 F/C 10-06-08			
SUBJECT: Professional Services Agreement for Criminal Defense Panel Attorney, Laurie L. Magan		Executive Contract <u>xx</u>	
		Pass Resolution <u>xx</u>	
		Pass Ordinance	
		Pass Motion	
		Other	
Prepared By:	Kathryn M. Phillips		
Reviewed By:	Sharon Paradis		

**BACKGROUND INFORMATION**

Attached for Board review and approval is the Professional Service Agreement between the Benton-Franklin Counties Juvenile Justice Center (BFJJC) and Defense Panel Attorney, Laurie L. Magan. Ms. Magan has served as a Criminal Defense Panel Attorney under contract with BFJJC since August 2006 and also served as legal representative to the Chemical Dependency Disposition Alternative (CDDA) board. This Professional Service Agreement meets the current Office of Public Defense standards and is for the term of October 15, 2008 through December 31, 2009.

**SUMMARY**

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

**RECOMMENDATION**

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

**FISCAL IMPACT**

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

**MOTION**

I move that the Chairman of the Board of Benton County Commissioners, and the Chairman of the Board Franklin County Commissioners be hereby authorized to sign, on behalf of their respective county, the Professional Services Agreement with Ms. Magan.

JOINT RESOLUTION

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

FRANKLIN COUNTY RESOLUTION NO. \_\_\_\_\_

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

IN THE MATTER OF THE REQUEST FOR SIGNATURE FROM THE BOARDS OF BENTON AND FRANKLIN COUNTY COMMISSIONERS ON THE PROFESSIONAL SERVICE AGREEMENT FOR LEGAL REPRESENTATION OF INDIGENT INDIVIDUALS IN BENTON AND FRANKLIN COUNTIES SUPERIOR COURT, JUVENILE DIVISION, BETWEEN THE JUVENILE JUSTICE CENTER AND LAURIE L. MAGAN, and,

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

NOW, THEREFORE, BE IT RESOLVED, that the Chairman of the Board of Benton County Commissioners and the Chairman of the Board of Franklin County Commissioners be and they hereby are authorized to sign, on behalf of their respective county the Professional Service Agreement between the Juvenile Court and the defense panel attorney, to-wit: Laurie L. Magan.

DATED this 29<sup>th</sup> day of September 2008  
BENTON COUNTY BOARD OF COMMISSIONERS

DATED this 6<sup>th</sup> day of October 2008  
FRANKLIN COUNTY BOARD OF COMMISSIONERS

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

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

\_\_\_\_\_  
Member

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

\_\_\_\_\_  
Member

Constituting the Board of  
County Commissioners,  
Benton County, Washington

\_\_\_\_\_  
Member

Constituting the Board of  
County Commissioners,  
Franklin County, Washington

Attest:

Attest:

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

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

**JUDGES**

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

**BENTON-FRANKLIN COUNTIES  
JUVENILE JUSTICE CENTER**



SHARON PARADIS, Administrator  
Juvenile Court Services

**SUPERIOR COURT OF THE STATE OF WASHINGTON**

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

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

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

**THIS AGREEMENT** is entered into by and between **Laurie L. Magan**, attorney at law, Washington State Bar Association #34086 ("Attorney"); and **BENTON COUNTY** and **FRANKLIN COUNTY**, state of Washington political subdivisions (jointly the "Counties"), for and on behalf of the Benton-Franklin Counties Juvenile Justice Center, a bi-county agency ("Juvenile Justice Center").

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

- A.** The Counties have the legal responsibility to provide legal defense services to indigent persons charged with criminal offenses alleged to have been committed within the Counties' respective jurisdictional boundaries.
- B.** Attorney is engaged in the private practice of law, has direct experience in litigating cases involving persons charged with criminal offenses, and desires to contract with the Counties to provide legal services to indigent persons subject to various legal proceedings in the Juvenile Division of the Counties' respective Superior Courts (the "Juvenile Court Division" or "Juvenile Court").

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

1. **AGREEMENT TERM.** This Agreement shall be deemed effective for all purposes as of the **15<sup>th</sup> day of October, 2008** and shall continue thereafter through and including the **31st day of December, 2009**, unless earlier terminated pursuant to the applicable terms and provisions of this Agreement.

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

a. Attorney presently and regularly maintains an office adequate and appropriate for the practice of law at PO Box 2897, Pasco, Washington 99302. Attorney's current local office telephone and fax numbers are (509) 492-7628 and (509) 545-1233 respectively; and Attorney's current office/work e-mail address is [maganlaw@earthlink.net](mailto:maganlaw@earthlink.net).

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

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

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

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

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

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

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

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

d. During each calendar year of the term of this Agreement, beginning in calendar year 2008, Attorney shall be required to obtain at least seven (7) hours of WSBA-qualified Continuing Legal Education ("CLE") credits in courses directly relating to Attorney's public defense practice under this Agreement. Attorney shall provide the JJC Administrator with written proof and confirmation that such CLE credits have been obtained no later than by December 31<sup>st</sup> of each calendar year. Additionally, during each calendar year during the term of this Agreement, in addition to participating in any specialized training-related activity specified in RCW 10.101.060(1)(a)(iii) or otherwise specifically required by other applicable law or court rule, Attorney shall attend at least one (1) public defense services-related training seminar sponsored and/or approved by the Washington Office of Public Defense ("OPD"), and any CLE credit earned by Attorney by attending such training seminar(s) may be applied towards the above-mentioned minimum seven (7) hours. The Counties may provide Attorney's name and address to the OPD for purposes of the OPD notifying Attorney of any such upcoming training seminars. Attorney shall provide the JJC Administrator with written proof and confirmation that such required training seminar has been attended by Attorney no later than by December 31<sup>st</sup> of each calendar year.

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

f. Pursuant to RCW 10.101.050, no later than the close of business on the 15th day of each month during the term of this Agreement, Attorney shall provide the JJC Administrator with a written report showing the total number and specific types of private practice cases

(which for purposes of this Agreement shall include pro bono cases, retained-fee cases, and any cases handled by Attorney under any other professional/personal services agreement) in which Attorney provided legal services during the preceding month, the total number and specific types of appointed cases under this Agreement in which Attorney provided legal services during the preceding month, and the reasonably approximate percentage of time spent by Attorney during the preceding month providing legal services in private practice cases versus and in relation to time spent by Attorney during the preceding month providing legal services in appointed cases under this Agreement. Additionally, in the event that the public defense attorney caseload activity reporting requirements under RCW 10.101.050 are later amended/modified, Attorney shall correspondingly comply with any such amended/modified reporting requirements upon written notice from the Counties to do so. Notwithstanding any other provisions of this Agreement regarding the payment of compensation to Attorney, if Attorney fails to comply with reporting requirements under this paragraph, Attorney acknowledges and agrees that the JJC Administrator shall have the absolute discretion and authority to stop and withhold the processing and submittal of payment voucher requests for Attorney's compensation under this Agreement until such time as Attorney fully complies with reporting requirements..

#### 4. OTHER INDIGENT DEFENSE AGREEMENTS.

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

b. Additionally, on or about the date of this Agreement, the Counties also contemplate entering into separate and independent professional services agreements with licensed attorneys to primarily provide legal representation to indigent persons subject to civil proceedings in the Juvenile Court Division (collectively the "Juvenile Court Civil Defense Panel").

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

- Any felony, gross misdemeanor, or misdemeanor matter filed or otherwise pending under RCW Title 13 (and/or under any other applicable Washington law) in the Juvenile Court Division.
- Any post-disposition probation violation, revocation, modification, and/or contempt-of-court proceeding relating to any underlying criminal case.
- Any diversion referral consultation and/or diversion revocation proceeding.

- Any material witness or truancy matter (limited to only those truancy matters scheduled on first-appearance dockets).
- Any case or matter returned to the Juvenile Court Division from any higher court.
- Any other type of Juvenile Court Division case or matter (regardless of whether criminal-based or civil-based) in which another Juvenile Court Criminal Defense Panel member and/or a Juvenile Court Civil Defense Panel member and/or any other attorney who is under a professional services agreement to provide legal representation in Juvenile Court is unable to handle due to a conflict of interest.
- Any matter involving a Chemical Dependency Disposition Alternative ("CDDA") case review.

6. **CONTINUED REPRESENTATION.**

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

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

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

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

- (i) Any civil-based matter,
- (ii) Any deferred disposition matter,
- (iii) Any matter involving a juvenile terminated from Drug Court,

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

7. **NUMBER OF APPOINTMENTS.** During each calendar year of the term of this Agreement, Attorney agrees to and shall accept appointments hereunder to represent persons in the Juvenile Court Division up to a maximum of **two hundred twenty-five (225) total case equivalents per calendar year** (proratable for any partial calendar year). The prorated number of total case equivalents for the period October 15, 2008, through December 31, 2008, is forty-seven (47). The date on which a case or matter is filed (rather than its final date of disposition) shall be used to determine the calendar year in which a case equivalent is to be counted.

8. **CASE EQUIVALENTS.**

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

- A felony appointment shall be counted as one (1) case equivalent.
- A misdemeanor appointment shall be counted as one-half ( $\frac{1}{2}$ ) of a case equivalent.
- An appointment to a dependency case shall count as five (5) case equivalents per year.
- An appointment on a mental or alcohol commitment shall count as one-third ( $\frac{1}{3}$ ) of a case equivalent.
- An appointment on a Child In Need of Services (CHINS), Alternative Residential Placement (ARP), or a Youth at Risk Petition (YARP) shall count as two-thirds ( $\frac{2}{3}$ ) of a case equivalent.
- An appointment on a declination hearing shall count as one (1) case equivalent (in addition to the applicable case equivalent for the underlying offense if the case is disposed of in Juvenile Court; i.e., jurisdiction retained by Juvenile Court).
- An appointment to a termination case shall count as five (5) case equivalents per year.
- Assignment to miscellaneous rotating "attorney of the week" matters including, without limitation, contempts, probation violations,

diversion counsels, material witness matters, and truancies, shall count as one-third (1/3) of a case equivalent per matter.

- If Attorney is appointed to a case and withdraws prior to the omnibus hearing for any reason, including the substitution of retained counsel or a conflict of interest, that appointment shall not count as any case equivalent; provided that the court shall retain discretion to award a case equivalent value (or fractional portion thereof) if deemed appropriate.
- Case equivalent value assigned is based on cases, not charges, and is determined by the classification of the most serious offense charged.

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

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

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

9. **CLIENT ELIGIBILITY.** The Juvenile Court Division (or its designee), consistent with applicable laws, rules and standards, shall determine the eligibility of any particular person for representation by Attorney under this Agreement. Attorney is under no obligation to determine a person's eligibility or continuing eligibility to receive publicly-provided representation. However, if Attorney is appointed to represent a person and subsequently discovers that such person may not be eligible to receive publicly-provided representation

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

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

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

a. Without limiting Attorney's duty to initially meet with an indigent person to discuss his/her case as soon as reasonably possible following Attorney's appointment to the case, when Attorney is appointed to an "in custody" case (i.e., a case in which the person is confined/incarcerated), Attorney shall use best efforts to meet face-to-face

within three (3) business days of Attorney receiving the appointment (unless the circumstances of a particular case reasonably require that Attorney make sooner initial contact with the person), otherwise, as soon thereafter as is reasonably feasible.

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

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

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

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

## 12. MONTHLY COMPENSATION.

a. As compensation for Attorney's performance and rendering of independent professional legal services hereunder during the remaining months of 2008, the Counties shall pay Attorney, as professional service attorney fees and not as employment salary/wages, the sum of **\$5,100.31 per month** (proratable for any partial month), payable on the last business day of the month.

b. During calendar year 2009, Attorney's monthly compensation hereunder shall be equal to Attorney's monthly compensation during December of the preceding calendar year plus any cost-of-living-adjustment ("COLA") percentage increase (if any) received by the Juvenile Justice Center's non-bargaining employees during 2009, as the case may be, prospectively effective as of the COLA's effective date.

(i) For example, if the non-bargaining employees received a 3% COLA increase for 2009, Attorney's monthly compensation for 2009 would be \$5,253.32 (i.e., Attorney's December 2008 monthly compensation of \$5,100.31 increased by 3%).

(ii) By way of further example, if the non-bargaining employees received a 3% COLA increase effective as of July 1, 2009 (rather than January 1, 2009), Attorney's monthly compensation would also increase by 3% to \$5,253.32, with such increase being prospectively effective as of July 1, 2009.

c. The above-stated payments to Attorney will immediately cease upon the termination of this Agreement on, or for any reason prior to, the termination date specified in paragraph 1 above. For example, if this Agreement is terminated effective November 30, 2008, the above-stated \$5,100.31 monthly payments to Attorney would also terminate as of such date, and Attorney would not be entitled to receive any further monthly payments from the Counties; provided that, Attorney would be entitled to receive any then-accrued and unpaid amounts for services rendered hereunder prior to such termination date as well as any amounts accruing and owing to Attorney under paragraph 13 below for post-termination continued representation in homicide cases. By way of further example, if this Agreement is terminated effective November 15, 2008, the above-stated \$5,100.31 monthly payments to Attorney would also terminate as of such date, and Attorney would not be entitled to receive any further monthly payments from the Counties; provided that, Attorney would be entitled to receive on a prorata basis any then-accrued and unpaid amounts for services rendered hereunder prior to such termination date (i.e., 50% of the above \$5,100.31 monthly payment amount) as well as any amounts accruing and owing to Attorney under paragraph 13 below for post-termination continued representation in homicide cases.

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

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

a. Payment of any such additional compensation is based on time expended on the case by Attorney only. Time expended by other persons (including, without

limitation, Attorney's support staff, law partners, or associate attorneys) on such cases at Attorney's request or direction shall be part of Attorney's office overhead and shall not be billable to the Counties.

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

#### 14. COSTS AND EXPENSES.

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

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

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

Attorney for such expenditures and costs shall not exceed the amounts that the Counties would be obligated to pay and reimburse to employees of the Juvenile Justice Center under then-existing employee travel-related policies and rules.

(ii) In addition to any other prerequisites imposed by court rules, procedures, or standards, as a precondition to Attorney being reimbursed for an expenditure under this paragraph, Attorney shall be required to submit a vendor warrant payment voucher to the Counties that identifies the specific expenditure(s) for which reimbursement is sought (exercising appropriate discretion to protect client confidentiality given that such vouchers are matters of public record unless sealed by the court at Attorney's request) and that has attached thereto a copy of the court order(s) that specifically pre-approved and authorized such expenditure(s) (unless sealed by the court at Attorney's request) together with attached copies of all written payment receipts relating to such incurred expenditure(s) (unless sealed by the court at Attorney's request). Attorney's administrative time expended to prepare, submit, and process vouchers shall not be billable to the Counties. All payment vouchers and requests for reimbursement under this paragraph shall be subject to the court's review and final approval for payment. Attorney shall submit such payment vouchers to the JJC Administrator within sixty (60) days of Attorney incurring the expense(s) for which reimbursement is sought, and the Counties shall have the right to deny payment of any voucher that is not timely submitted within said requisite sixty (60) day period.

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

16. **INDEMNIFICATION AND HOLD HARMLESS.** Attorney agrees to and shall fully indemnify the Counties and their elected/appointed representatives, officers, employees, and agents; and to hold the Counties and their elected/appointed representatives, officers, employees, and agents fully harmless; from and for any and all losses, damages, costs, charges, claims, demands, suits, or actions of whatsoever nature directly or indirectly arising out of or by reason of Attorney's (or any person, employee, agent, contractor, or entity acting for or on behalf of Attorney or at Attorney's request or direction) acts, defaults, errors and/or omissions of whatsoever nature in the performance of legal services to any person under this

Agreement. In the event any suit or legal proceeding is brought against the Counties or any of their elected/appointed representatives, officers, employees or agents at any time on account of or by reason of any such acts, defaults, errors and/or omissions, Attorney hereby covenants and agrees to assume the defense thereof (through counsel acceptable to the Counties) and to defend the same at Attorney's sole cost and expense and to pay any and all costs, charges, attorneys' fees, and other expenses as well as any and all judgments or awards that may be incurred by or entered against the Counties or any of their elected/appointed representatives, officers, employees or agents in such suits or other legal proceedings. Without limiting the intended broad scope and application of the indemnification and hold harmless provisions of this paragraph, for purposes of this paragraph, Attorney waives, with respect to the Counties only, any immunity that would otherwise be available to Attorney under the Industrial Insurance Act provisions of Title 51 RCW or any other similar workers/employee disability or benefit law. The indemnification and hold harmless provisions of this paragraph shall survive the termination or expiration of this Agreement.

17. **INSURANCE.**

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

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

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

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

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

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

(iii) Attorney shall continuously maintain the insurance coverage required by this paragraph 17.b throughout the entire term of this Agreement and throughout any other longer time period during which Attorney is obligated to continue performing services and duties hereunder. Provided that, however, Attorney may elect to delay and forego obtaining the Commercial General Liability insurance coverage required by this paragraph 17.b until January 1, 2009, at which time such coverage must be obtained and thereafter maintained throughout the entire remaining term of this Agreement and throughout any longer time period during which attorney is obligated to continue performing services and duties hereunder.

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

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

a. Upon receiving such complaint, the JJC Administrator, without limitation to any other action the Counties may deem necessary/appropriate to pursue under this Agreement, shall immediately forward a copy of the complaint to Attorney and request and obtain Attorney's written, dated, and signed response thereto (which Attorney shall prepare and provide to the Counties, the JJC Administrator, and the represented person within five (5) business days). The JJC Administrator shall immediately forward copies of the complaint and Attorney's response to the Juvenile Court's Supervising

Judge and Court Commissioners ("Juvenile Court Bench") for their review and action they may deem necessary with Attorney and/or the represented person to address and resolve the complaint, and the disposition of the complaint shall be communicated to the represented person as soon as reasonably possible. The JJC Administrator shall follow-up with the Juvenile Court Bench within five (5) business days thereafter to confirm that the complaint has been, or is in the process of being, addressed and disposed of.

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

#### 19. TERMINATION.

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

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

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

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

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

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

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

a. Attorney and any of the other Juvenile Court Criminal Defense Panel members may mutually agree to make temporary, substitute appearances for each other on routine docket matters and routine court hearings on an as-needed basis as approved by the court and by the person being represented (if that person has previously discussed the case with his/her appointed attorney). Any compensation or consideration (if any) to be paid or given by Attorney to the other Juvenile Court Criminal Defense Panel members for such substitution(s) shall be a matter of direct negotiation and agreement between Attorney and said other panel members, and said

other members shall not be entitled to receive any additional compensation from the Counties for such substitution(s).

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

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

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

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

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

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

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

26. **CAPTIONS; TIME COMPUTATION.**

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

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

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

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

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

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

31. **DISPUTE RESOLUTION.**

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

b. In the event that mediation proves unsuccessful in resolving the dispute, the parties shall submit the dispute for resolution via binding arbitration in the Tri-Cities, Washington. A single arbitrator shall be selected by agreement of the parties or, in the absence of agreement, each party shall select one (1) arbitrator and those two (2) so selected arbitrators shall mutually select a third arbitrator. The Counties shall pay one-half of the fees and expenses of the arbitrator(s), and Attorney shall pay the other one-half of such fees and expenses. The provisions of RCW Chapter 7.04A and applicable Mandatory Arbitration Rules as adopted and implemented in Benton-Franklin Superior Court shall be binding as to procedure, except as to the right of appeal, which shall not be applicable. Within ten (10) business days of notice of arbitration, the arbitrator(s) shall be selected and designated and the hearing shall be held within thirty (30) business days thereafter. The arbitrator(s) shall render a written decision and award within ten (10) business days of such hearing. Without limitation, the arbitrator(s) may award damages, specific performance, and/or injunctive relief, and may register a judgment in superior court, including judgment by default. The most prevailing party shall be entitled to recover such party's reasonable attorneys' fees, costs and expenses from the other party as a part of the arbitration decision and award. In the event of suit or action to enforce an arbitration award, venue shall lie exclusively in superior court, and the most prevailing party in such suit or action shall be entitled to recover such party's reasonable attorneys' fees, costs and expenses from the other party.

### 32. NOTICES.

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

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

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

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

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

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

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

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

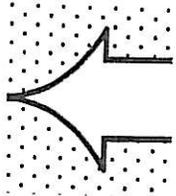
d. For purposes of clarity, whenever the terms of this Agreement require Attorney to provide "the Counties" with certain information or notice, such information or notice shall be provided to the Counties' respective Board of Commissioners unless this Agreement expressly mandates that such information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

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

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

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

Attorney		Benton Franklin Counties Juvenile Justice Center	
<i>Laurie L. Magan</i>	<i>Sharon A. Paradis</i>	<i>9/24/08</i>	<i>9/24/08</i>
Laurie L. Magan	Sharon A. Paradis	Date	Date
Approved as to Form:		Indigent Defense Coordinator	
<i>Timothy G. Klashke</i>	<i>Rafael Gonzales</i>	<i>9/24/08</i>	<i>09/24/08</i>
Timothy G. Klashke, Attorney at Law.....Date	Rafael Gonzales	Date	Date
BENTON COUNTY APPROVAL		FRANKLIN COUNTY APPROVAL	
By: _____	By: _____		
Name: <u>Claude L. Oliver</u>	Name: <u>Robert E Koch</u>		
Title: <u>Chairman, Board of Commissioners</u>	Title: <u>Chairman, Board of Commissioners</u>		
Date: _____	Date: _____		
Attest: _____	Attest: _____		
Clerk of the Board: _____	Clerk of the Board: _____		



P.

AGENDA ITEM: Consent	<b>TYPE OF ACTION NEEDED</b> Executive Contract <u>xx</u> Pass Resolution <u>xx</u> Pass Ordinance Pass Motion Other	CONSENT AGENDA <u>xx</u> PUBLIC HEARING 1ST DISCUSSION 2ND DISCUSSION OTHER
MEETING DATE: B/C 09-29-08 F/C 10-06-08		
SUBJECT: Amendment to Professional Services Agreement for Criminal Defense Panel Attorney - Susan D. Henwood		
Prepared By: Kathryn M. Phillips		
Reviewed By: Sharon Paradis		

**BACKGROUND INFORMATION**

Attached for Board review and approval is the Amendment to Professional Services Agreement between the Benton-Franklin Counties Juvenile Justice Center (BFJJC) and Defense Panel Attorney, Susan Darden Henwood. Ms. Henwood has practiced law for several years in Washington. This negotiated Amendment to Professional Service Agreement meets the current Office of Public Defense standards, includes the provision for Ms. Henwood to cover the CDDA docket and clarifies the caseload reporting language.

**SUMMARY**

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

**RECOMMENDATION**

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

**FISCAL IMPACT**

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

**MOTION**

I move that the Chairman of the Board of Benton County Commissioners, and the Chairman of the Board Franklin County Commissioners be hereby authorized to sign, on behalf of their respective county, the Amendment to Professional Services Agreement with Ms. Henwood.

JOINT RESOLUTION

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

FRANKLIN COUNTY RESOLUTION NO. \_\_\_\_\_

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

IN THE MATTER OF THE REQUEST FOR SIGNATURE FROM THE BOARDS OF BENTON AND FRANKLIN COUNTY COMMISSIONERS ON THE AMENDED PROFESSIONAL SERVICE AGREEMENT TO PROVIDE LEGAL REPRESENTATION TO INDIGENT PERSONS IN BENTON AND FRANKLIN COUNTIES JUVENILE COURT DIVISION, BETWEEN THE JUVENILE JUSTICE CENTER AND SUSAN DARDEN HENWOOD, THUS, AMENDING BENTON COUNTY RESOLUTION 07 325 AND FRANKLIN COUNTY RESOLUTION 2007 250, and

WHEREAS, Sharon A. Paradis, Administrator of the Juvenile Court, believes it is in the best interest of the Juvenile Justice Center that the amended agreement between the criminal defense panel attorney, to-wit: Susan Darden Henwood be approved as presented; and

WHEREAS, approval then necessitates amending Benton County Resolution 07 325 and Franklin County Resolution 2007 250, NOW, THEREFORE

BE IT RESOLVED, that the Chairman of the Board of Benton County Commissioners and the Chairman of the Board of Franklin County Commissioners be and they hereby are authorized to sign, on behalf of their respective county the amended agreements between the Juvenile Court and the defense panel attorney, to-wit: Susan Darden Henwood, thus amending Benton County Resolution 07 325 and Franklin County Resolution 2007 250.

DATED this 29<sup>th</sup> day of September 2008  
BENTON COUNTY BOARD OF COMMISSIONERS

DATED this 6<sup>th</sup> day of October 2008  
FRANKLIN COUNTY BOARD OF COMMISSIONERS

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

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

\_\_\_\_\_  
Member

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

\_\_\_\_\_  
Member

Constituting the Board of  
County Commissioners,  
Benton County, Washington

\_\_\_\_\_  
Member

Constituting the Board of  
County Commissioners,  
Franklin County, Washington

Attest:

Attest:

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

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

JUDGES

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

# BENTON-FRANKLIN COUNTIES JUVENILE JUSTICE CENTER



SHARON PARADIS, Administrator  
Juvenile Court Services

## SUPERIOR COURT OF THE STATE OF WASHINGTON

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

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

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

This Amendment to Professional Services Agreement (the "Amendment") is entered into by and between **Susan Darden Henwood**, attorney at law, Washington State Bar Association #33843 ("Attorney"); and **BENTON COUNTY** and **FRANKLIN COUNTY**, state of Washington political subdivisions (jointly the "Counties"), for and on behalf of the Benton-Franklin Counties Juvenile Justice Center, a bi-county agency ("Juvenile Justice Center").

In consideration of the mutual benefits and covenants contained herein and to be realized hereby, the parties agree that the existing Professional Services Agreement between Attorney and the Counties (corresponding to Benton County Resolution No. 07 325 dated May 21, 2007, and Franklin County Resolution No. 2007 250 dated May 23, 2007), hereinafter referred to as the "Existing PSA," shall be amended as follows:

1. Paragraph 3 of the Existing PSA shall be amended to read as follows:

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

of payment voucher requests for Attorney's compensation under this Agreement until such time as Attorney fully complies with reporting requirements.

2. Paragraph 5 of the Existing PSA shall be amended to read as follows:

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

- Any felony, gross misdemeanor, or misdemeanor matter filed or otherwise pending under RCW Title 13 (and/or under any other applicable Washington law) in the Juvenile Court Division.
- Any post-disposition probation violation, revocation, modification, and/or contempt-of-court proceeding relating to any underlying criminal case.
- Any diversion referral consultation and/or diversion revocation proceeding.
- Any material witness or truancy matter (limited to only those truancy matters scheduled on first-appearance dockets).
- Any case or matter returned to the Juvenile Court Division from any higher court.
- Any other type of Juvenile Court Division case or matter (regardless of whether criminal-based or civil-based) in which another Juvenile Court Criminal Defense Panel member and/or a Juvenile Court Civil Defense Panel member and/or any other attorney who is under a professional services agreement to provide legal representation in Juvenile Court is unable to handle due to a conflict of interest.
- Any matter involving a Chemical Dependency Disposition Alternative ("CDDA") case review.

3. Paragraph 8.a of the Existing PSA shall be amended to read as follows:

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

- A felony appointment shall be counted as one (1) case equivalent.
- A misdemeanor appointment shall be counted as one-half (½) of a case equivalent.
- An appointment to a dependency case shall count as five (5) case equivalents per year.
- An appointment on a mental or alcohol commitment shall count as one-third (1/3) of a case equivalent.
- An appointment on a Child In Need of Services (CHINS), Alternative Residential Placement (ARP), or a Youth at Risk Petition (YARP) shall count as two-thirds (2/3) of a case equivalent.
- An appointment on a declination hearing shall count as one (1) case equivalent (in addition to the applicable case equivalent for the underlying offense if the case is disposed of in Juvenile Court; i.e., jurisdiction retained by Juvenile Court).
- An appointment to a termination case shall count as five (5) case equivalents per year.
- Assignment to miscellaneous rotating "attorney of the week" matters including, without limitation, contempts, probation violations, diversion

counsels, material witness matters, and truancies, shall count as one-third (1/3) of a case equivalent per matter.

- If Attorney is appointed to a case and withdraws prior to the omnibus hearing for any reason, including the substitution of retained counsel or a conflict of interest, that appointment shall not count as any case equivalent; provided that the court shall retain discretion to award a case equivalent value (or fractional portion thereof) if deemed appropriate.
- Case equivalent value assigned is based on cases, not charges, and is determined by the classification of the most serious offense charged.
- An appointment to a CDDA case review shall not count as any case equivalent.

4. A new paragraph 11.e shall be added to the Existing PSA to read as follows:

11.e. Without limitation to Attorney's other duties to represented indigent persons under this Agreement, Attorney's representation duties within the specific context of CDDA case reviews shall generally include representation of the indigent person at all scheduled review hearings and participation in any CDDA case staffing proceedings prior to review hearings.

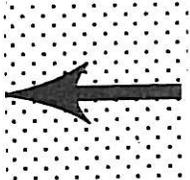
5. A new paragraph 12.e shall be added to the Existing PSA to read as follows:

12.e. In addition to the above-stated compensation to Attorney, Attorney shall be paid, as professional service attorney fees and not as employment salary/wages, the additional sum of **\$125.00 per month** (proratable for any partial month). Attorney's representation of persons in CDDA case reviews under this Agreement. Provided that, however, in the event that public funding for the CDDA program is lost or reduced and the Counties do not then decide to terminate such program (whereupon such additional compensation to Attorney would correspondingly also terminate), the parties agree to negotiate in good faith a reduced compensation amount to Attorney for CDDA case reviews. In the event that the parties fail to reach a negotiated and agreed reduction in Attorney's compensation, the issue will be resolved by the parties pursuant to the provisions of paragraph 31 below.

6. All other applicable terms and conditions of the Existing PSA not amended by, or otherwise inconsistent with, this Amendment shall remain unchanged and in full force and effect.

This Amendment shall be effective upon execution by the parties.

<b>Attorney</b>		<b>Benton Franklin Counties Juvenile Justice Center</b>	
<i>Susan Darden Henwood</i>	<i>09/24/08</i>	<i>Sharon A. Paradis</i>	<i>9/24/2008</i>
Susan Darden Henwood	Date	Sharon A. Paradis	Date
<b>Approved as to Form:</b>		<b>Indigent Defense Coordinator</b>	
<i>Timothy G. Klashke</i>	<i>9/24/08</i>	<i>Rafael Gonzales</i>	<i>09/24/08</i>
Timothy G. Klashke, Attorney at Law	Date	Rafael Gonzales	Date
<b>BENTON COUNTY APPROVAL</b>		<b>FRANKLIN COUNTY APPROVAL</b>	
By: _____	By: _____		
Name: <u>Claude Oliver</u>	Name: <u>Robert E Koch</u>		
Title: <u>Chairman, Board of Commissioners</u>	Title: <u>Chairman, Board of Commissioners</u>		
Date: _____	Date: _____		
Attest: _____	Attest: _____		
Clerk of the Board: _____	Clerk of the Board: _____		



AGENDA ITEM: Consent	<b>TYPE OF ACTION NEEDED</b> Executive Contract <u>  xx  </u> Pass Resolution <u>  xx  </u> Pass Ordinance Pass Motion Other	CONSENT AGENDA <u>  xx  </u> PUBLIC HEARING 1ST DISCUSSION 2ND DISCUSSION OTHER
MEETING DATE: B/C 09-29-08 F/C 10-06-08		
SUBJECT: Amendment to Professional Services Agreement for Criminal Defense Panel Attorney - Keith Hilde		
Prepared By: Kathryn M. Phillips		
Reviewed By: Sharon Paradis		

**BACKGROUND INFORMATION**

Attached for Board review and approval is the Amendment to Professional Services Agreement between the Benton-Franklin Counties Juvenile Justice Center (BFJJC) and Defense Panel Attorney, Keith Hilde. Mr. Hilde has practiced law for several years in Washington. This negotiated Amendment to Professional Service Agreement meets the current Office of Public Defense standards and clarifies the caseload reporting language.

**SUMMARY**

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

**RECOMMENDATION**

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

**FISCAL IMPACT**

This amendment poses no fiscal impact to the counties for this amendment.

**MOTION**

I move that the Chairman of the Board of Benton County Commissioners, and the Chairman of the Board Franklin County Commissioners be hereby authorized to sign, on behalf of their respective county, the Amendment to Professional Services Agreement with Mr. Hilde.

JOINT RESOLUTION

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

FRANKLIN COUNTY RESOLUTION NO. \_\_\_\_\_

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

IN THE MATTER OF THE REQUEST FOR SIGNATURE FROM THE BOARDS OF BENTON AND FRANKLIN COUNTY COMMISSIONERS ON THE AMENDED PROFESSIONAL SERVICE AGREEMENT TO PROVIDE LEGAL REPRESENTATION TO INDIGENT PERSONS IN BENTON AND FRANKLIN COUNTIES JUVENILE COURT DIVISION, BETWEEN THE JUVENILE JUSTICE CENTER AND KEITH HILDE, THUS, AMENDING BENTON COUNTY RESOLUTION 07 510 AND FRANKLIN COUNTY RESOLUTION 2007 362, and

WHEREAS, Sharon A. Paradis, Administrator of the Juvenile Court, believes it is in the best interest of the Juvenile Justice Center that the amended agreement between the criminal defense panel attorney, to-wit: Keith Hilde be approved as presented; and

WHEREAS, approval then necessitates amending Benton County Resolution 07 510 and Franklin County Resolution 2007 362, NOW, THEREFORE

BE IT RESOLVED, that the Chairman of the Board of Benton County Commissioners and the Chairman of the Board of Franklin County Commissioners be and they hereby are authorized to sign, on behalf of their respective county the amended agreements between the Juvenile Court and the defense panel attorney, to-wit: Keith Hilde, thus amending Benton County Resolution 07 510 and Franklin County Resolution 2007 362.

DATED this 29<sup>th</sup> day of September 2008  
BENTON COUNTY BOARD OF COMMISSIONERS

DATED this 6<sup>th</sup> day of October 2008  
FRANKLIN COUNTY BOARD OF COMMISSIONERS

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

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

\_\_\_\_\_  
Member

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

\_\_\_\_\_  
Member

Constituting the Board of  
County Commissioners,  
Benton County, Washington

Attest:

\_\_\_\_\_  
Member

Constituting the Board of  
County Commissioners,  
Franklin County, Washington

Attest:

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

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

JUDGES

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

# BENTON-FRANKLIN COUNTIES JUVENILE JUSTICE CENTER



SHARON PARADIS, Administrator  
Juvenile Court Services

## SUPERIOR COURT OF THE STATE OF WASHINGTON

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

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

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

This Amendment to Professional Services Agreement (the "Amendment") is entered into by and between **Keith Hilde**, attorney at law, Washington State Bar Association #**30369** ("Attorney"); and **BENTON COUNTY** and **FRANKLIN COUNTY**, state of Washington political subdivisions (jointly the "Counties"), for and on behalf of the Benton-Franklin Counties Juvenile Justice Center, a bi-county agency ("Juvenile Justice Center").

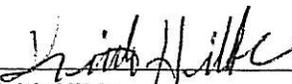
In consideration of the mutual benefits and covenants contained herein and to be realized hereby, the parties agree that the existing Professional Service Agreement between Attorney and the Counties (corresponding to Benton County Resolution No. 07 510 dated July 23, 2007, and Franklin County Resolution No. 2007 362 dated July 18, 2007), hereinafter referred to as the "Existing PSA," shall be amended as follows:

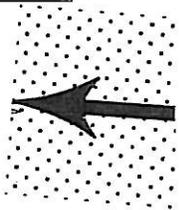
1. Paragraph 3 of the Existing PSA shall be amended to read as follows:

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

2. All other applicable terms and conditions of the Existing PSA not amended by, or otherwise inconsistent with, this Amendment shall remain unchanged and in full force and effect.

This Amendment shall be effective upon execution by the parties.

<b>Attorney</b>		<b>Benton Franklin Counties Juvenile Justice Center</b>	
	<u>9-24-2008</u>		<u>9/24/2008</u>
Keith Hilde	Date	Sharon A. Paradis	Date
<b>Approved as to Form:</b>		<b>Indigent Defense Coordinator</b>	
	<u>9/24/08</u>		<u>09/24/08</u>
Timothy G. Klashke, Attorney at Law.....Date	Date	Rafael Gonzales	Date
<b>BENTON COUNTY APPROVAL</b>		<b>FRANKLIN COUNTY APPROVAL</b>	
By: _____	By: _____		
Name: <u>Claude Oliver</u>	Name: <u>Robert E Koch</u>		
Title: <u>Chairman, Board of Commissioners</u>	Title: <u>Chairman, Board of Commissioners</u>		
Date: _____	Date: _____		
Attest: _____	Attest: _____		
Clerk of the Board: _____	Clerk of the Board: _____		



h.

AGENDA ITEM: Consent	<b>TYPE OF ACTION NEEDED</b> Executive Contract <u>xx</u> Pass Resolution <u>xx</u> Pass Ordinance Pass Motion Other	CONSENT AGENDA <u>xx</u> PUBLIC HEARING 1ST DISCUSSION 2ND DISCUSSION OTHER
MEETING DATE: B/C 09-29-08 F/C 10-06-08		
SUBJECT: Amendment to Professional Services Agreement for Criminal Defense Panel Attorney - Julie A. Ovens		
Prepared By: Kathryn M. Phillips		
Reviewed By: Sharon Paradis		

**BACKGROUND INFORMATION**

Attached for Board review and approval is the Amendment to Professional Services Agreement between the Benton-Franklin Counties Juvenile Justice Center (BFJJC) and Defense Panel Attorney, Julie A. Ovens. Ms. Ovens has practiced law for several years in Washington. This negotiated Amendment to Professional Service Agreement meets the current Office of Public Defense standards and clarifies the caseload reporting language.

**SUMMARY**

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

**RECOMMENDATION**

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

**FISCAL IMPACT**

This amendment poses no fiscal impact to the counties for this amendment.

**MOTION**

I move that the Chairman of the Board of Benton County Commissioners, and the Chairman of the Board Franklin County Commissioners be hereby authorized to sign, on behalf of their respective county, the Amendment to Professional Services Agreement with Ms. Ovens.

JOINT RESOLUTION

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

FRANKLIN COUNTY RESOLUTION NO. \_\_\_\_\_

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

IN THE MATTER OF THE REQUEST FOR SIGNATURE FROM THE BOARDS OF BENTON AND FRANKLIN COUNTY COMMISSIONERS ON THE AMENDED PROFESSIONAL SERVICE AGREEMENT TO PROVIDE LEGAL REPRESENTATION TO INDIGENT PERSONS IN BENTON AND FRANKLIN COUNTIES JUVENILE COURT DIVISION, BETWEEN THE JUVENILE JUSTICE CENTER AND JULIE A. OVENS, THUS, AMENDING BENTON COUNTY RESOLUTION 07 671 AND FRANKLIN COUNTY RESOLUTION 2007 498, and

WHEREAS, Sharon A. Paradis, Administrator of the Juvenile Court, believes it is in the best interest of the Juvenile Justice Center that the amended agreement between the criminal defense panel attorney, to-wit: Julie A. Ovens be approved as presented; and

WHEREAS, approval then necessitates amending Benton County Resolution 07 671 and Franklin County Resolution 2007 498, NOW, THEREFORE

BE IT RESOLVED, that the Chairman of the Board of Benton County Commissioners and the Chairman of the Board of Franklin County Commissioners be and they hereby are authorized to sign, on behalf of their respective county the amended agreements between the Juvenile Court and the defense panel attorney, to-wit: Julie A. Ovens, thus amending Benton County Resolution 07 671 and Franklin County Resolution 2007 498.

DATED this 29<sup>th</sup> day of September 2008  
BENTON COUNTY BOARD OF COMMISSIONERS

DATED this 6<sup>th</sup> day of October 2008  
FRANKLIN COUNTY BOARD OF COMMISSIONERS

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

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

\_\_\_\_\_  
Member

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

\_\_\_\_\_  
Member

Constituting the Board of  
County Commissioners,  
Benton County, Washington

Attest:

\_\_\_\_\_  
Member

Constituting the Board of  
County Commissioners,  
Franklin County, Washington

Attest:

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

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

JUDGES

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

# BENTON-FRANKLIN COUNTIES JUVENILE JUSTICE CENTER



SHARON PARADIS, Administrator  
Juvenile Court Services

## SUPERIOR COURT OF THE STATE OF WASHINGTON

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

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

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

This Amendment to Professional Services Agreement (the "Amendment") is entered into by and between **Julie A. Ovens**, attorney at law, Washington State Bar Association #32316 ("Attorney"); and **BENTON COUNTY** and **FRANKLIN COUNTY**, state of Washington political subdivisions (jointly the "Counties"), for and on behalf of the Benton-Franklin Counties Juvenile Justice Center, a bi-county agency ("Juvenile Justice Center").

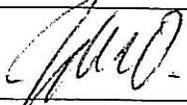
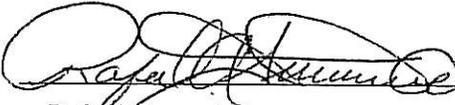
In consideration of the mutual benefits and covenants contained herein and to be realized hereby, the parties agree that the existing Professional Service Agreement between Attorney and the Counties (corresponding to Benton County Resolution No. 07 671 dated September 17, 2007, and Franklin County Resolution No. 2007 498 dated September 24, 2007), hereinafter referred to as the "Existing PSA," shall be amended as follows:

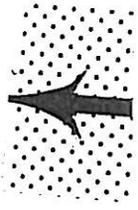
1. Paragraph 3 of the Existing PSA shall be amended to read as follows:

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

2. All other applicable terms and conditions of the Existing PSA not amended by, or otherwise inconsistent with, this Amendment shall remain unchanged and in full force and effect.

This Amendment shall be effective upon execution by the parties.

<b>Attorney</b>		<b>Benton Franklin Counties Juvenile Justice Center</b>	
	<u>9-24-08</u>		<u>9/24/2008</u>
Julie A. Ovens	Date	Sharon A. Paradis	Date
<b>Approved as to Form:</b>		<b>Indigent Defense Coordinator</b>	
	<u>9/24/08</u>		<u>09/24/08</u>
Timothy G. Klashke, Attorney at Law.....Date		Rafael Gonzales Date	
<b>BENTON COUNTY APPROVAL</b>		<b>FRANKLIN COUNTY APPROVAL</b>	
By: _____	By: _____		
Name: <u>Claude Oliver</u>	Name: <u>Robert E Koch</u>		
Title: <u>Chairman, Board of Commissioners</u>	Title: <u>Chairman, Board of Commissioners</u>		
Date: _____	Date: _____		
Attest: _____	Attest: _____		
Clerk of the Board: _____	Clerk of the Board: _____		



<u>AGENDA ITEM</u>	<u>TYPE OF ACTION NEEDED</u>		
Meeting Date: Monday, Sept. 29, 2008 Subject: Personal Services Contract w/Sight and Sound Services Prepared by: Melina Wenner Reviewed by:	Execute Contract <input checked="" type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	Consent Agenda <input checked="" type="checkbox"/> Public Hearing <input type="checkbox"/> 1st Discussion <input type="checkbox"/> 2nd Discussion <input type="checkbox"/> Other <input type="checkbox"/>

**BACKGROUND INFORMATION**

Before the Board for approval and signature is a Resolution for a Personal Services Contract with Terms and Conditions with Robert Kreider dba Sight and Sound Services. Mr. Kreider will be providing videography services to create a training DVD from a live training session of the Benton County Anti-Discrimination and Harassment Training. The training will be conducted by Senior Deputy Prosecutor Sarah Perry.

**SUMMARY**

Approve and sign the Resolution and Settlement Agreement.

**MOTION**

Move to approve and sign the Resolution and Settlement Agreement between Benton County and Robert Kreider dba Sight and Sound Services

# RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF APPROVING THE PERSONAL SERVICE AGREEMENT FOR VIDEOGRAPHY SERVICES TO CREATE A TRAINING DVD FOR ANTI-DISCRIMINATION AND HARASSMENT TRAINING

WHEREAS, the County is conducting Anti-Discrimination and Harassment Training for all elected officials, department managers and employees; and

WHEREAS, it is in the best interests of the County to have a training DVD for future training sessions; and

WHEREAS, it is believed that Robert Kreider dba Sight and Sound Services will provide the best videography services to create a training DVD from a live training session conducted by Senior Deputy Prosecutor Sarah Perry; **NOW THEREFORE**

**BE IT RESOLVED**, that the Benton County Board of Commissioners approves the Personal Services Contract and is authorized to sign the same.

Dated this ..... day of ....., 2008

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

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

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

Attest: .....  
Clerk of the Board

Original: Melina Wenner

**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 ROBERT KREIDER dba SIGHT AND SOUND SERVICES, with its principal offices at 6201 W. Clearwater Ave., Ste. D, (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 Terms and Conditions contained herein and following documents:

- a. **Exhibit A, Scope of Work**

**2. DURATION OF CONTRACT**

The term of this Contract shall begin September 30, 2008, and shall expire on **November 1, 2008**. 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. **Videography services to create a training DVD from live training sessions conducted by Senior Deputy Prosecutor Sarah Perry as directed by Ms. Perry. A detailed description of the services to be performed by the CONTRACTOR is set forth in Exhibit "A, Scope of Work", which is attached hereto and incorporated herein by reference.**
- b. **The CONTRACTOR agrees to provide its own labor, media and equipment. 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:            Bob Kreider  
   Sight and Sound Services  
   6201 W. Clearwater Ave., Ste. D  
   Kennewick, WA 99336
- b. For COUNTY:                 Melina Wenner  
   Personnel Manager  
   7122 W. Okanogan Place, Bldg. A  
   Kennewick, WA 99336

5. COMPENSATION

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

- a. Compensation shall be in the form of a piece rate payable upon completion of the entire project to the satisfaction of COUNTY. No payment shall be due or payable in any way for work, equipment used, or media expended for anything less than the completed product as contemplated by this Agreement.
- b. The maximum total amount payable by the COUNTY to the CONTRACTOR under this Contract shall not exceed \$600.00.
- c. No payment shall be made for any work performed by the CONTRACTOR, except for work identified and set forth in this Contract.
- d. The CONTRACTOR shall be responsible for submitting an invoice to COUNTY upon completion of the work and. No

interim or progress payments shall be invoiced or paid.

- 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, modification or renewal shall be made to this Contract, unless set forth in a written Contract Amendment signed by both parties. Work under a Contract Amendment shall not proceed until the Contract Amendment is duly executed by the COUNTY.

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. By executing this Contract, the CONTRACTOR acknowledges that the foregoing waiver has been mutually negotiated by the parties and that the provisions of this Section shall be incorporated, as relevant, into any contract the CONTRACTOR makes with any subcontractor or agent performing work hereunder.
- c. The CONTRACTOR'S obligations hereunder shall include, but are not limited to, investigating, adjusting and defending all claims alleging loss from action, error or omission, or breach of any common law, statutory or other delegated duty by the CONTRACTOR, the CONTRACTOR'S employees, agents or subcontractors.
- d. The indemnification obligations detailed above shall extend to any allegations of infringement of any intellectual property rights including, but not limited to, copyright, trademark or service mark rights, to the extent that such alleged infringement results from anything other than a specific request or direction from COUNTY to utilize or include the offending material, mark, slogan, music or any other intellectual property. No request or direction from COUNTY shall be interpreted as requesting or directing CONTRACTOR to violate Federal or State intellectual property laws.

8. INSURANCE

- a. **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.

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

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

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.

c. **Other Insurance Provisions:**

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

services are completed. Certificates, policies, and endorsements expiring before completion of services shall be promptly replaced. If the CONTRACTOR'S liability coverage is written as a claims made policy, then the CONTRACTOR must evidence the purchase of an extended reporting period or "tail" coverage for a three-year period after completion of the services required under this Contract.

- d. **Verification of Coverage and Acceptability of Insurers:** All insurance required under this CONTRACT shall be issued by companies admitted to do business within the State of Washington and have a rating of A-, Class VII or better in the most recently published edition of Best's Reports. Any exception to this requirement must be reviewed and approved by the Benton County Prosecutor's Office. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policy must comply with Chapter 48.15 RCW and 284-15 WAC.
- (1) The CONTRACTOR shall furnish the COUNTY with properly executed and unaltered accord form certificates of insurance or a signed policy endorsement which shall clearly evidence all required insurance within ten (10) days after the effective date of this Contract. The certificates will, at a minimum, list limits of liability and coverage. The certificates will provide that the underlying insurance contract will not be canceled or allowed to expire, except on thirty (30) days prior written notice to the COUNTY. Any certificate or endorsement limiting or negating the insurer's obligation to notify the COUNTY of cancellation or changes shall be altered so as not to negate the intent of this provision.
  - (2) The CONTRACTOR shall furnish the COUNTY with evidence that the additional insured provision required above has been met. Acceptable forms of evidence are the endorsement pages of the policy showing the COUNTY as an additional insured.
  - (3) Certificates of insurance shall show the certificate holder as "Benton County" and include "c/o" the COUNTY'S Contract Representative. The address of the certificate holder shall be shown as the current address of the COUNTY'S Contract

Representative.

- (4) The 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:  
  
Risk Manager  
Benton County Prosecuting Attorney's Office  
7320 W. Quinault Avenue  
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, notwithstanding any other provision to the contrary, 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 terminate this Contract, in which case the COUNTY shall pay the CONTRACTOR only for the costs of services accepted by the COUNTY, in accordance with the Compensation Section of this Contract. Upon such termination, the COUNTY, at its discretion, may obtain performance of the work elsewhere, and the CONTRACTOR shall bear all costs and expenses incurred by the COUNTY in completing the work and all damage sustained by the COUNTY by reason of the CONTRACTOR'S breach.

**10. ASSIGNMENT, DELEGATION AND SUBCONTRACTING**

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

**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.

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

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 race, color, creed, religion, national origin, age, sex, marital status, veteran status, or the presence of any disability.

**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.

**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**

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

**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, 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.

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

SIGHT AND SOUND SERVICES

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Robert Kreider

\_\_\_\_\_  
Member

Its \_\_\_\_\_

\_\_\_\_\_  
Member

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

Attest: \_\_\_\_\_

Clerk of the Board

Approved as to Form:

\_\_\_\_\_  
Eric Hsu, Deputy Prosecuting Attorney

EXHIBIT A - SCOPE OF WORK

CONTRACTOR SHALL:

1. Video tape Benton County's Anti-Discrimination and Harassment Training for 1 day, 9/30/08, starting at 8:30 am and lasting for most of the day. Videotaping will span multiple sessions of the same material.
2. In conjunction with and consultation with Senior Deputy Prosecutor Sarah Perry, edit and produce the final DVD. Specifically, where multiple versions of the same footage are available, Ms. Perry shall be consulted to make the final decision as to which versions of the footage to be used. Ms. Perry will also provide direction as to chapter divisions (if any) desired, and usage of titles or other text in the editing process.
3. Supply all equipment needed to video tape (video-recorder, computer equipment, microphones, etc.) and all necessary media.
4. Provide COUNTY with two (2) verified DVD masters in a format (+R or -R) most compatible with COUNTY's existing DVD playing equipment as determined by CONTRACTOR's professional experience and actual testing.

Services will be billed to

Benton County Personnel  
Attn: Melina Wenner  
7122 W. Okanogan Place, Bldg. A  
Kennewick, WA 99336

J.

**RESOLUTION**

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

IN THE MATTER OF COUNTY ROADS, RE: SETTING A PUBLIC HEARING TO AMEND THE  
2008-2013 SIX YEAR ROAD PROGRAM

WHEREAS, to request RATA funds for a road project in the succeeding biennium, the project must be  
listed in the even-numbered year of the County's Six Year Transportation Program, and;

WHEREAS, Nine Canyon Road: Mills Road to Beck Road was inadvertently omitted from the 2008-  
2013 Six Year Road Program, and;

WHEREAS, Benton County desiring to apply for RATA funds, needs to amend the 2008-2013 Six Year  
Road Program to include Nine Canyon Road: Mills Road to Beck Road, and;

WHEREAS, a Public Hearing must be held to consider the proposed amendment of the 2008-2013 Six  
Year Road Program, NOW, THEREFORE

BE IT RESOLVED that a Public Hearing be held to consider amending the 2008-2013 Six Year Road  
Program to include Nine Canyon Road: Mills Road to Beck Road, Monday, October 13, 2008 at 10:35  
a.m. in the Commissioner's Meeting Room, Benton County Courthouse, Prosser, Washington.

Dated this 29<sup>th</sup> day of September 2008.

\_\_\_\_\_  
Chairman

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

\_\_\_\_\_  
Member

Attest: \_\_\_\_\_  
Clerk of the Board

Constituting the Board of County  
Commissioners of Benton County,  
Washington

RBD:SWB

K.

RESOLUTION NO. \_\_\_\_\_  
Road Program Item: #1 - 08-13 Six Year Road Program

County Engineer Project No. 1526 CRP  
Arterial  Access

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON  
IN THE MATTER OF COUNTY ROADS, RE: I-82 at SR 397 Intertie Phase 3

IT IS HEREBY RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, that the County Engineer is hereby authorized to have county forces install additional permanent traffic signing.

Length of Project: \_\_\_\_\_ ± miles; Width of Roadbed: \_\_\_\_\_ ft.; Surface: \_\_\_\_\_ ft.; Pavement: \_\_\_\_\_ ft.  
Type and depth of surfacing: \_\_\_\_\_  
Bridge \_\_\_\_\_ Irrigation Crossing: Length \_\_\_\_\_ ft.; Width \_\_\_\_\_ ft.  
Estimated date of beginning: September 30, 2008; Estimated date of completion: October 7, 2008

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

	<u>County Road Fund</u>			<u>Total</u>
Prel. Engr				0.00
Right-of-Way				0.00
Mat. from Stkple	900.00			900.00
Day Labor	233.00			233.00
Contract				0.00
Const. Engr.				0.00
Contingencies	367.00			367.00
Total	<u>1,500.00</u>	<u>0.00</u>	<u>0.00</u>	<u>1,500.00</u>

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

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

ADOPTED this 29th day of September, 2008.

(SEAL)

Attest:

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

\_\_\_\_\_  
Chairman

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

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

RBD:LJM:dlh

RESOLUTION NO. \_\_\_\_\_  
 Road Program Item #14 08-13 Six Year Road Program

County Engineer Project No. 1620 CRP  
 Arterial  Access

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON  
 IN THE MATTER OF COUNTY ROADS, RE: WEBBER CANYON ROAD (DENNIS ROAD to KIONA)

IT IS HEREBY RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, that the County Engineer is hereby authorized to proceed with the improvement of Webber Canyon Road from Dennis Road to Kiona according to the contract awarded to Tapani Underground, Inc., Battle Ground, Washington, on September 8, 2008.

Length of Project: 0.19± miles; Width of Roadbed: 43.5 ft.; Surface: 33 ft.; Pavement: 32 ft.  
 Type and depth of surfacing: Hot Mixed Asphalt (HMA Class 1/2 inch PG 70-28)  
 Bridge \_\_\_ Irrigation Crossing: Length \_\_\_ ft.; Width \_\_\_ ft.  
 Estimated date of beginning: October 1, 2008; Estimated date of completion: December 31, 2009.

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

	<u>County Road &amp; CP Funds</u>	<u>Federal Funds</u>	<u>RAP Funds</u>	<u>Total</u>
Prel. Engr.	50,000.00	250,000.00	79,000.00	379,000.00
Right-of-Way	19,030.00	0.00	171,270.00	190,300.00
Mat. from Stkple				0.00
Day Labor				0.00
Contract	3,124,471.50	1,300,000.00	500,000.00	4,924,471.50
Const. Engr.	345,528.50			345,528.50
Contingencies	170,200.00			170,200.00
<b>Total</b>	<b>3,709,230.00</b>	<b>1,550,000.00</b>	<b>750,270.00</b>	<b>6,009,500.00</b>

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

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

ADOPTED this 29th day of September, 2008.

\_\_\_\_\_  
 Chairman

(SEAL)

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

Attest:

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

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

RBD:LJM:dlh

## RESOLUTION

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

A RESOLUTION of Benton County, Washington, setting a date and time for a public hearing on the creation of a county road improvement district for making certain improvements within that district pursuant to property owners' petition therefor, and providing for the publication and mailing to property owners of notice of that hearing.

WHEREAS, RCW 36.88.050 provides for the initiation of road improvement districts by the petition method; and

WHEREAS, a petition was submitted to the Board of County Commissioners (the "Board") of Benton County, Washington (the "County") to form a county road improvement district (the "CRID") to make improvements to certain areas of Wisser Parkway; and

WHEREAS, the petition was forwarded by the Clerk of the Board to the Director of the Department of Public Works of the County for investigation and confirmation of sufficiency of the petition; and

WHEREAS, the Director of the Department of Public Works determined that the petition had been signed by the owners, according to the records of the Benton County Auditor, of a majority of the front footage upon the improvement to be made and of the area within the proposed CRID No. 20; and

WHEREAS, the Board finds that said petition is sufficient and that the property within the proposed CRID is sufficiently developed; and

WHEREAS, the Board must set a date and time for the holding of a public hearing on that petition to consider formation of the CRID; NOW, THEREFORE,

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON, as follows:

Section 1. It is the intention of the Board to consider the improvement of Wisser Parkway located between Badger Road and Cottonwood Drive by making all improvements necessary to meet County Road standards, all in accordance with County construction standards.

Section 2. The estimated cost and expense of the improvements (including those described in RCW 36.88.300) are declared to be approximately \$2,252,000.00. It is the intention of

the Board that shall be borne by and assessed against the property included in the CRID herein proposed to be established.

Section 3. The proposed CRID shall be known and designated as County Road Improvement District No. 20, and shall have the boundaries as described on Exhibit A attached hereto and by this reference incorporated herein.

Section 4. All persons who may desire to object to the construction of the improvements or the formation of the proposed CRID are notified to appear and present all objections at a meeting of the Board to be held at the Commissioners' meeting room in the Benton County Courthouse, 620 Market Street in Prosser, Washington at 9:05 a.m., local time, on October 20, 2008, which time and place are fixed for the hearing of matters relating to such proposed improvements and all objections thereto.

Section 5. The Director of the Department of Public Works is directed to submit to the Board at, or prior to, the date fixed for such hearing, a diagram or print showing thereon the lots, tracts and parcels of land and other property which will be specifically benefited thereby, and the estimated amount of the cost and expense of such improvements to be borne by each lot, tract or parcel of land or other property, and also designating thereon all property which is being purchased under contract from the County.

Section 6. The Clerk of the Board is authorized and directed to give notice of the adoption of this resolution of intention to each owner or reputed owner of any lot, tract or parcel of land or other property within the proposed CRID by mailing the notice to the owner or reputed owner of the property as shown on the tax rolls of the Benton County Treasurer at the address shown thereon at least 15 days prior to the October 20, 2008, public hearing, as required by law, which notice shall further state the fact that the property owners may withdraw their names from the petition or add their names thereto at any time prior to 5:00 p.m., local time, of the Friday before the hearing. This resolution of intention also shall be published in at least two consecutive issues of a newspaper of general circulation in the County, the date of the first publication to be at least 15 days prior to the date fixed for hearing.

ADOPTED by the Board of County Commissioners of Benton County, Washington, at a regular open public meeting thereof held this 29<sup>th</sup> September 2008.

BOARD OF COUNTY COMMISSIONERS  
BENTON COUNTY, WASHINGTON

\_\_\_\_\_  
Chairman

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

\_\_\_\_\_  
Member

ATTEST:

\_\_\_\_\_  
Clerk, Board of County Commissioners

## EXHIBIT A

That portion of Section 11, Township 8 North, Range 28 East, W.M., Benton County, Washington. Lying East of the Easterly right of way of Cottonwood Drive, South of the Southerly right of way of Highway I-82, and West of the Easterly right of way of the Burlington Northern Santa Fe Railroad, the perimeter being described as follows:

Beginning at the Southwest corner of said Section, said corner being on the Centerline of a public road known as Cottonwood Drive; thence North  $00^{\circ} 33' 17''$  West along said Centerline and along the West line of said Section 2,515.48 feet to the West Quarter Corner; thence North  $89^{\circ} 29' 06''$  East, 30.00 feet to the True Point of Beginning; thence North  $00^{\circ} 33' 17''$  West, 1,329.88 feet to the Southerly right of way line of Washington State Highway I-82; thence South  $89^{\circ} 26' 38''$  East along said Southerly right of way line 195.29 feet; thence North  $89^{\circ} 24' 18''$  East along said Southerly right of way line 746.65 feet to the beginning of a curve to the right, the radius point of which bears South  $00^{\circ} 33' 22''$  West, a distance of 4,885.00 feet; thence Southeasterly along said Southerly right of way line and said curve 2,625.54 feet; thence South  $54^{\circ} 08' 01''$  East along said Southerly right of way line 342.07 feet; thence South  $59^{\circ} 08' 19''$  East along said Southerly right of way line 264.76 feet to the intersection of the Westerly right of way line of the Burlington Northern Santa Fe Railroad; thence South  $30^{\circ} 10' 07''$  West along said Westerly right of way 956.64 feet; thence South  $59^{\circ} 49' 53''$  East, 350.00 feet to the Westerly right of way line of a public road known as Badger Road; thence South  $30^{\circ} 10' 07''$  West along said right of way line 70.00 feet; thence North  $59^{\circ} 49' 53''$  West, 350.00 feet to said Westerly right of way line of the Burlington Northern Santa Fe Railroad; thence South  $30^{\circ} 10' 07''$  West along said right of way 381.67 feet; thence South  $70^{\circ} 08' 11''$  West, 580.73 feet; thence South  $63^{\circ} 37' 34''$  West, 137.93 feet; thence South  $49^{\circ} 42' 25''$  West 339.91 feet; thence North  $49^{\circ} 02' 03''$  West, 408.32 feet; thence North  $47^{\circ} 05' 51''$  West, 30.65 feet; thence North  $31^{\circ} 06' 55''$  East, 114.45 feet to a point of curvature to the right, said curve having a radius of 500.00 feet; thence continuing along said curve through an angle of  $33^{\circ} 22' 56''$  an arc distance of 291.31 feet to a point of tangency;

thence North  $64^{\circ} 29' 51''$  East, 67.10 feet to a point of curvature to the left, said curve having a radius of 500.00 feet; thence continuing along said curve through an angle of  $34^{\circ} 19' 44''$  an arc distance of 299.58 feet; thence North  $30^{\circ} 10' 07''$  East, 222.80 feet; thence North  $59^{\circ} 50' 09''$  West, 267.83 feet; thence North  $75^{\circ} 04' 17''$  West, 1,171.38 feet; thence South  $89^{\circ} 41' 24''$  West, 1,280.68 feet to the True Point of Beginning.

I, the undersigned, the duly chosen, qualified and acting Clerk of the Board of County Commissioners of Benton County, Washington (the "County") and keeper of the records of the County, CERTIFY that:

1. The attached Resolution No. \_\_\_\_\_ (the "Resolution") is a true and correct copy of the resolution of the Board of County Commissioners, as finally passed at a meeting of such Board held on the 29<sup>th</sup> day of September, 2008, and duly recorded in the Board's minute books; and
2. Such meeting was duly convened and held in all respects in accordance with law, and, to the extent required by law, due and proper notice of such meeting was given; that a quorum was present throughout the meeting and a majority of the County Commissioners present at the meeting voted in the proper manner for the adoption of the Resolution; that all other requirements and proceedings incident to the proper adoption or passage of the Resolution have been duly fulfilled, carried out and otherwise observed, and that I am authorized to execute this Certificate.

IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

BOARD OF COUNTY COMMISSIONERS  
BENTON COUNTY, WASHINGTON

\_\_\_\_\_  
Clerk, Board of County Commissioners

n.

# RESOLUTION

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

IN THE MATTER OF COUNTY ROADS, RE: NORTH RIVER ROAD CURVE, CE 1874 CRP; ROTHROCK ROAD/FOISY ROAD/OIEH INTERSECTION, CE 1886 CRP; AND JOHNSON ROAD/HINZERLING ROAD/OIEH INTERSECTION, CE 1885 CRP

WHEREAS, it is the intention of the Board of County Commissioners to reconstruct the curve on North River Road, and the intersections of Rothrock Road/Foisy Road/OIEH; and Johnson Road/Hinzerling Road/OIEH; NOW, THEREFORE,

BE IT RESOLVED that the County Engineer is authorized to schedule and advertise the bid date for said projects; and

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

Dated this 29th day of September 2008.

\_\_\_\_\_  
Chairman

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

\_\_\_\_\_  
Member

Attest: \_\_\_\_\_  
Clerk of the Board

Constituting the Board of County  
Commissioners of Benton County,  
Washington

RBD:BLT:dlh

AGENDA ITEM =====	TYPE OF ACTION NEEDED =====	
Meeting Date: September 29, 2008 Subject: BCFD#1 Agreement Prepared By: J. Thompson Reviewed By:	Execute Contract <u>xxx</u> Pass Resolution xxx Pass Ordinance Pass Motion Other	Consent Agenda <u>  X</u> Public Hearing 1st Discussion 2nd Discussion Other

**SUMMARY & BACKGROUND INFORMATION**

Work Crew 4's current Agreement will expire 9-30-08. Benton County and Benton County Fire District #1 (BCFD #1) have negotiated a new Agreement, which will run through 12-31-2009 and increase the fee from \$200.00 to \$220.00 per day.

**FISCAL IMPACT**

This contract will bring in approximately \$13,600.00 in 2009

**MOTION**

# RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF AUTHORIZING THE CHAIRMAN OF THE BOARD TO SIGN THE AGREEMENT BETWEEN BENTON COUNTY AND BENTON COUNTY FIRE DISTRICT #1 FOR THE PURPOSE OF HAVING BENTON COUNTY PROVIDE WORK CREW(S) TO BENTON COUNTY FIRE DISTRICT #1

**WHEREAS**, the Board awarded the Agreement and authorized the Chairman to sign the Agreement between Benton County and Benton County Fire District #1 for the purpose of having Benton County provide work crew(s) to Benton County Fire District #1, via Resolution 07-338 on May 21, 2007; and

**WHEREAS**, the Agreement was extended through September 30, 2008 on August 18, 2008 per Resolution 08-722; and

**WHEREAS**, a new agreement has been drafted and approved by the Benton County Prosecutor's Office, Sheriff Larry D. Taylor, and Benton County Fire District #1 for the purpose of having Benton County provide work crew(s) to Benton County Fire District #1 through December 31, 2009; **NOW THEREFORE**,

**BE IT RESOLVED**, the Benton County Commissioners hereby approves the attached Agreement for the purpose of having Benton County provide work crew(s) to Benton County Fire District #1 through December 31, 2009 and authorized the Chairman of the Board to sign the attached Agreement between Benton County and Benton County Fire District #1.

Dated this 29th day of September, 2008.

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

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

Constituting the Board of Commissioners  
of Benton County, Washington.

Attest.....  
Clerk of the Board

**AGREEMENT BETWEEN BENTON COUNTY AND  
BENTON COUNTY FIRE DISTRICT #1  
FOR THE PROVISION OF WORK CREWS**

THIS AGREEMENT is entered into by and between Benton County (hereinafter "County") and Benton County Fire District #1 (hereinafter "BCFD #1") for the purpose of having Benton County provide work crew(s) to the BCFD #1 for monetary compensation.

WHEREAS, the Benton County Correctional Facility routinely provides alternative programs for some eligible inmates as provided by law; and

WHEREAS, the continued offering of alternative programs to full incarceration for certain non-violent offenders helps them in development of a work ethic and self discipline; and

WHEREAS, the sentencing of offenders to work crew is an effective punishment; and

WHEREAS, RCW 9.94A.725 provides for a work crew sentence for persons convicted of crimes; and

WHEREAS, individuals on the work crew can provide a benefit to the public at minimal cost; and

WHEREAS, the implementation of a work crew concept in Benton County has proven to be in the best interest of the taxpayers of Benton County;

NOW, THEREFORE:

The parties mutually agree as follows:

1. **Purpose of Agreement:**

The purpose of this agreement is to provide an alternative to incarceration for appropriate for non-violent offenders to reduce the demand for jail facilities and provide useful public services at minimal cost.

2. **Responsibilities of Benton County:**

- a. Benton County, through the Sheriff's Office Bureau of Corrections, will provide transportation and supervision for all work crews unless otherwise agreed by the BCFD #1 and the County.
- b. Inmates must meet requirements established by the County to be eligible for work crews. One requirement is that the sentencing judge or court commissioner sentence the inmate

to work crew for all or a portion of his/her sentence.

- c. Any and all necessary documentation or paperwork regarding the work crew shall be provided by the County.
- d. The County shall provide any safety equipment such as hard hats and safety glasses as needed unless otherwise agreed by the parties.

3. **Responsibilities of the BCFD #1:**

(BCFD #1 shall have the following responsibilities under this agreement:

- a. Accept and utilize work crew(s) for civic improvement tasks for the benefit of the community. All tasks performed shall be unskilled labor and shall not be done on private property unless owned or operated by a nonprofit entity, except that, for emergency purposes only, work crews may perform snow removal. BCFD # shall further ensure that the assigned civic improvement tasks have minimal negative impact on existing private industries or the labor force in Benton County, not affect employment opportunities for people with developmental disabilities contracted through sheltered workshops as defined in RCW 82.04.385, and otherwise comply with the requirements set forth in RCW 9.94A.725.
- b. Provide the necessary tools, equipment except safety equipment identified in 2(c) above, and, on occasion, supervision and training of the work crew(s).

4. **Cost Agreement:**

The work crew program costs shall be billed to BCFD #1 on a monthly basis. The rate will be \$ 220.00 per day of work crew usage. This includes \$ 100.00 per day for cost of L&I coverage for the work crew participants to be paid by the County. The costs shall be reviewed annually and mutually agreed upon, in writing by all parties. The County shall bill the BCFD #1 for the work crew program no later than the 15th of the proceeding month. Thereafter, the BCFD #1 shall have thirty (30) days to remit payment to the County.

5. **Administration:**

The Benton County Sheriff's Office Bureau of Corrections shall administer this agreement.

The contacts for the parties are

*For the County*

Benton County Sheriff's Office  
ATTN: Captain Al Thompson  
7122 Okanogan Pl Bldg. A  
Kennewick, WA 99336  
PHONE: (509) 735-6555  
FAX: (509) 736-3895

*For BCFD #1*

Benton County Fire Protection District #1  
Attn: Chief Bob Gear  
144610 E. Law Lane  
Kennewick, WA 99337-2012  
PHONE: (509) 734-9100  
FAX: (509)734-9200

Except as otherwise specified, any and all notices contemplated by this agreement or by relevant law, are effective as soon as such written notice is placed, postage pre-paid in a US Mail receptacle for pickup, *and* sent by facsimile.

If a dispute or complaint arises, pursuant to RCW 9.94A.725 as to the required minimum negative impact on existing private industries or labor force in Benton County of the assigned civic improvement tasks of any work crew utilized pursuant to this agreement, then the County may direct BCFD #1 in writing, to immediately cease assigning work crews to the particular task.

If the County reasonably believes that any given task to which a work crew is assigned does not comport with the requirements set out in RCW 9.94A.725, then the County may direct BCFD #1 in writing, to immediately cease assigning work crews to the particular task.

If BCFD #1 receives written notification to immediately cease assigning work crews to a particular task as set forth in this section, then immediately upon receipt of such notification, it shall cease assigning work crews to that particular task. Thereupon, it is

the responsibility of BCFD #1 to assign alternate tasks to work crews, which meet the requirements of this contract and RCW 9.94A.725.

Under no circumstances shall written notice from the County to cease assigning work crews to a particular task pursuant to the provisions in this section relieve either party of the duty to provide 30 days written notice of intent to termination this agreement. PROVIDED that if, following written notice as set out in this section, if BCFD #1 does not immediately cease assigning work crews to the task referred to, then County may, at its option, terminate this agreement immediately.

6. **Effective Date:**

This agreement shall be effective as of the date of execution by all parties.

7. **Duration:**

This agreement shall expire on December 31, 2009.

8. **Termination:**

At the election of either party this agreement may be terminated with or without cause upon the giving of thirty (30) days' written notice to the other party, with the time period calculated exclusive of the date of mailing and faxing the written notice. BCFD #1 agrees to pay for all work crew days provided up to and including the date of termination.

9. **Indemnification/Hold Harmless:**

- a. BCFD#1 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 (including expenses of arbitration), 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 BCFD #1's acts, errors or omissions in the performance of this Contract, including any claim by any interested party pursuant to provisions of RCW 9.94A.725 regarding the requirements that assigned civic improvement tasks have a minimum negative impact on existing private industries or labor force in Benton County. PROVIDED, that the BCFD#1'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. Should both parties be held by a court of law to be at fault, each party shall share in any and all damages, liability, loss and judgments proportionate to their respective percentage or share of fault.

- b. In any and all claims against the COUNTY, its officers, officials, employees and agents by any employee of the BCFD#1, 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 BCFD#1 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 BCFD#1 expressly waives any immunity the BCFD#1 might have had under such laws. BY EXECUTING THIS CONTRACT, THE BCFD#1 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 BCFD#1 MAKES WITH ANY SUBCONTRACTOR OR AGENT PERFORMING WORK HEREUNDER.
- c. The BCFD#1'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 BCFD, the BCFD#1's employees, agents or subcontractors.

10. **Modifications:**

Any modification to this agreement shall be by mutual agreement, in writing and signed by each of the parties.

12. **Severability:**

- a. If a court of competent jurisdiction holds any part, term or provision of this Agreement 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 Agreement did not contain the particular provision held to be invalid.
- b. If it should appear that any provision of this Agreement 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.

13. **Entire Agreement:**

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

understanding are specifically excluded.

14. **Non-Waiver of Rights:**

The parties agree that the excuse or forgiveness of performance, or waiver of any provision(s) of this agreement 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 agreement at a later time.

15. **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, 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.

EXECUTED \_\_\_\_\_

BOARD OF BENTON COUNTY  
COMMISSIONERS

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

Attest:

Approved as to form

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

\_\_\_\_\_  
Eric Hsu  
Deputy Prosecuting Attorney

EXECUTED \_\_\_\_\_

\_\_\_\_\_  
Larry D. Taylor  
Benton County Sheriff

EXECUTED \_\_\_\_\_

\_\_\_\_\_  
BCFD #1 Chief

P.

AGENDA ITEM =====	TYPE OF ACTION NEEDED =====	
Meeting Date: September 29, 2008 Subject: BCES Agreement Prepared By: J. Thompson Reviewed By:	Execute Contract <u>xxx</u> Pass Resolution <u>xxx</u> Pass Ordinance Pass Motion Other	Consent Agenda <u>  X</u> Public Hearing 1st Discussion 2nd Discussion Other

**SUMMARY & BACKGROUND INFORMATION**

Benton County has been providing work crew services to Benton County Emergency Services (BCES) for a number of years. Benton County and BCES have negotiated a new Agreement, which will run through 12-31-2009 and increase the fee from \$100.00 to \$220.00 per day.

**FISCAL IMPACT**

This contract will bring in \$2,640.00 in 2009

**MOTION**

# RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF AUTHORIZING THE CHAIRMAN OF THE BOARD TO SIGN THE AGREEMENT BETWEEN BENTON COUNTY AND BENTON COUNTY EMERGENCY SERVICES FOR THE PURPOSE OF HAVING BENTON COUNTY PROVIDE WORK CREW(S) TO BENTON COUNTY EMERGENCY SERVICES

WHEREAS, the Benton County Correctional Facility routinely provides alternative programs for some eligible inmates as provided by law; and

WHEREAS, the continued offering of alternative programs to full incarceration for certain non-violent offenders helps them in development of a work ethic and self discipline; and

WHEREAS, the sentencing of offenders to work crew is an effective punishment; and

WHEREAS, RCW 9.94A.725 provides for a work crew sentence for persons convicted of crimes; and

WHEREAS, individuals on the work crew can provide a benefit to the public at minimal cost; and

WHEREAS, the implementation of a work crew concept in Benton County has proven to be in the best interest of the taxpayers of Benton County;

WHEREAS, an agreement has been drafted and approved by the Benton County Prosecutor's Office, Sheriff Larry D. Taylor, and Benton County Emergency Services for the purpose of having Benton County provide work crew(s) to Benton County Emergency Services through December 31, 2009; **NOW THEREFORE,**

**BE IT RESOLVED,** the Benton County Commissioners hereby approves the attached Agreement for the purpose of having Benton County provide work crew(s) to Benton County Emergency Services through December 31, 2009 and authorized the Chairman of the Board to sign the attached Agreement between Benton County and Benton County Emergency Services.

Dated this 29th day of September, 2008.

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

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

Constituting the Board of Commissioners  
of Benton County, Washington.

Attest.....  
Clerk of the Board

Original: File – Sheriffs Office  
cc: Auditor; R. Ozuna; BCES

J. Thompson

**AGREEMENT BETWEEN BENTON COUNTY AND  
BENTON COUNTY EMERGENCY SERVICES  
FOR THE PROVISION OF WORK CREWS**

THIS AGREEMENT is entered into by and between Benton County (hereinafter "County") and BENTON COUNTY EMERGENCY SERVICES (hereinafter "BCES") for the purpose of having Benton County provide work crew(s) to the BCES for monetary compensation.

WHEREAS, the Benton County Correctional Facility routinely provides alternative programs for some eligible inmates as provided by law; and

WHEREAS, the continued offering of alternative programs to full incarceration for certain non-violent offenders helps them in development of a work ethic and self discipline; and

WHEREAS, the sentencing of offenders to work crew is an effective punishment; and

WHEREAS, RCW 9.94A.725 provides for a work crew sentence for persons convicted of crimes; and

WHEREAS, individuals on the work crew can provide a benefit to the public at minimal cost; and

WHEREAS, the implementation of a work crew concept in Benton County has proven to be in the best interest of the taxpayers of Benton County;

NOW, THEREFORE:

The parties mutually agree as follows:

1. **Purpose of Agreement:**

The purpose of this agreement is to provide an alternative to incarceration for appropriate non-violent offenders to reduce the demand for jail facilities and provide useful public services at minimal cost.

2. **Responsibilities of Benton County:**

- a. Benton County, through the Sheriff's Office Bureau of Corrections, will provide transportation and supervision for all work crews unless otherwise agreed by the BCES and the County.
- b. Inmates must meet requirements established by the County to be eligible for work crews. One requirement is that the sentencing judge or court commissioner sentence the

inmate to work crew for all or a portion of his/her sentence.

- c. Any and all necessary documentation or paperwork regarding the work crew shall be provided by the County.
- d. The County shall provide any safety equipment such as hard hats and safety glasses as needed unless otherwise agreed by the parties.

3. **Responsibilities of the BCES:**

BCES shall have the following responsibilities under this agreement:

- a. Accept and utilize work crew(s) for civic improvement tasks for the benefit of the community. All tasks performed shall be unskilled labor and shall not be done on private property unless owned or operated by a nonprofit entity, except that, for emergency purposes only, work crews may perform snow removal. BCES shall further ensure that the assigned civic improvement tasks have minimal negative impact on existing private industries or the labor force in Benton County, not affect employment opportunities for people with developmental disabilities contracted through sheltered workshops as defined in RCW 82.04.385, and otherwise comply with the requirements set forth in RCW 9.94A.725.
- b. Provide the necessary tools, equipment except safety equipment identified in 2(c) above, and, on occasion, supervision and training of the work crew(s).

4. **Cost Agreement:**

The work crew program costs shall be billed to BCES on a monthly basis. The rate will be \$ 220.00 per day of work crew usage. This includes \$ 100.00 per day for cost of L&I coverage for the work crew participants to be paid by the County. The costs shall be reviewed annually and mutually agreed upon, in writing by all parties. The County shall bill the BCES for the work crew program no later than the 15th of the proceeding month. Thereafter, the BCES shall have thirty (30) days to remit payment to the County.

5. **Administration:**

The Benton County Sheriff's Office Bureau of Corrections shall administer this agreement.

The contacts for the parties are

*For the County*

Benton County Sheriff's Office  
ATTN: Captain Al Thompson  
7122 Okanogan Pl Bldg. A  
Kennewick, WA 99336  
PHONE: (509) 735-6555  
FAX: (509) 736-3895

*For BCES*

BCES  
Attn: Hans Kwast  
651 Truman Avenue  
Richland, WA 99352  
PHONE: (509) 628-0333

Except as otherwise specified, any and all notices contemplated by this agreement or by relevant law, are effective as soon as such written notice is placed, postage pre-paid in a US Mail receptacle for pickup, *and* sent by facsimile.

If a dispute or complaint arises, pursuant to RCW 9.94A.725 as to the required minimum negative impact on existing private industries or labor force in Benton County of the assigned civic improvement tasks of any work crew utilized pursuant to this agreement, then the County may direct BCES in writing, to immediately cease assigning work crews to the particular task.

If the County reasonably believes that any given task to which a work crew is assigned does not comport with the requirements set out in RCW 9.94A.725, then the County may direct BCES in writing, to immediately cease assigning work crews to the particular task.

If BCES receives written notification to immediately cease assigning work crews to a particular task as set forth in this section, then immediately upon receipt of such notification, it shall cease assigning work crews to that particular task. Thereupon, it is the responsibility of BCES to assign alternate tasks to work crews, which meet the requirements of this contract and RCW 9.94A.725.

Under no circumstances shall written notice from the County to cease assigning work crews to a particular task pursuant to the provisions in this section relieve either party of the duty to provide 30 days written notice of intent to termination this agreement. PROVIDED that if, following written notice as set out in this section, if BCES does not immediately cease assigning work crews to the task referred to, then County may, at its option, terminate this agreement immediately.

6. **Effective Date:**

This agreement shall be effective as of the date of execution by all parties.

7. **Duration:**

This agreement shall expire on December 31, 2009.

8. **Termination:**

At the election of either party this agreement may be terminated with or without cause upon the giving of thirty (30) days' written notice to the other party, with the time period calculated exclusive of the date of mailing and faxing the written notice. BCES agrees to pay for all work crew days provided up to and including the date of termination.

9. **Indemnification/Hold Harmless:**

- a. BCES 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 (including expenses of arbitration), 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 BCES's acts, errors or omissions in the performance of this Contract, including any claim by any interested party pursuant to provisions of RCW 9.94A.725 regarding the requirements that assigned civic improvement tasks have a minimum negative impact on existing private industries or labor force in Benton County. PROVIDED, that the BCES'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. Should both parties be held by a court of law to be at fault, each party shall share in any and all damages, liability, loss and judgments proportionate to their respective percentage or share of fault.
- b. In any and all claims against the COUNTY, its officers, officials, employees and agents by any employee of the BCES, 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 BCES 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 BCES expressly waives any immunity the BCES might have had under such laws. BY EXECUTING THIS CONTRACT, THE BCES 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 BCES MAKES WITH ANY SUBCONTRACTOR OR AGENT PERFORMING WORK HEREUNDER.

- c. The BCES'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 BCES, the BCES's employees, agents or subcontractors.

10. **Modifications:**

Any modification to this agreement shall be by mutual agreement, in writing and signed by each of the parties.

12. **Severability:**

- a. If a court of competent jurisdiction holds any part, term or provision of this Agreement 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 Agreement did not contain the particular provision held to be invalid.
- b. If it should appear that any provision of this Agreement 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.

13. **Entire Agreement:**

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

14. Non-Waiver of Rights:

The parties agree that the excuse or forgiveness of performance, or waiver of any provision(s) of this agreement 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 agreement at a later time.

15. 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, 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.

EXECUTED \_\_\_\_\_

BOARD OF BENTON COUNTY  
COMMISSIONERS

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

Attest:

Approved as to form

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

\_\_\_\_\_  
Eric Hsu  
Deputy Prosecuting Attorney

EXECUTED \_\_\_\_\_

\_\_\_\_\_  
Larry D. Taylor  
Benton County Sheriff

EXECUTED \_\_\_\_\_

\_\_\_\_\_  
Hans Kwast  
Director

9

### BENTON COUNTY AGENDA ITEM

AGENDA ITEM: _____	<b>Type of Action</b>		
MEETING DATE: 09/29/08	Execute Contract	_____	CONSENT AGENDA <u>  X  </u>
SUBJECT: Proclamation for National Adoption Day	Pass Resolution	_____	PUBLIC HEARING _____
	Pass Ordinance	_____	1 <sup>ST</sup> DISCUSSION _____
Prepared By: Pat Austin	Pass Motion	_____	2 <sup>ND</sup> DISCUSSION _____
	Other	_____	OTHER _____
Reviewed By: _____	Approve for Hearing	_____	_____

#### BACKGROUND INFORMATION

The Court is preparing for the third year to participate in National Adoption Day. The Benton and Franklin Counties Superior Court will be holding it's ceremony on November 14, 2008 and would like both Benton and Franklin Counties to proclaim November 14<sup>th</sup> as National Adoption Day.

#### SUMMARY

#### RECOMMENDATION

Recommend signing proclamation.

#### FISCAL IMPACT

#### MOTION

I move to declare November 14, 2008 as National Adoption Day in Benton County and sign the proclamation.

## NATIONAL ADOPTION DAY PROCLAMATION

By Chairman Claude Oliver of Benton County, Washington;

**WHEREAS**, the County of Benton County recognizes the importance of giving children permanent, safe and loving families through adoption; and

**WHEREAS**, more than 129,000 children in the United States foster care system are waiting to be adopted; and

**WHEREAS**, to help these children find permanent, nurturing families, the local courts of Benton County will open their doors on National Adoption Day, Friday, November 14, 2008 to finalize the adoptions of local children and join other organizations to celebrate all adoptions; and

**WHEREAS**, this effort along with similar celebrations in all 50 states around the country will offer children the chance to live with stable and loving families and encourage other dedicated individuals to make a powerful difference in the lives of a child through adoption;

**NOW, THEREFORE**, I Claude Oliver, Chairman of the Benton County Commissioners, by virtue of the authority vested in me, do hereby proclaim November 14, 2008, as NATIONAL ADOPTION DAY in this county, and in so doing, urge all citizens to join in a national efforts to raise awareness about the importance of adoption.

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Claude Oliver, Chairman  
Benton County Commissioners

## BENTON COUNTY AGENDA ITEM

AGENDA ITEM: _____	<b>Type of Action</b>			
MEETING DATE: 09/29/08	Execute Contract		CONSENT AGENDA	X
SUBJECT: Copier Lease	Pass Resolution	X	PUBLIC HEARING	_____
_____	Pass Ordinance	_____	1 <sup>ST</sup> DISCUSSION	_____
_____	Pass Motion	_____	2 <sup>ND</sup> DISCUSSION	_____
Prepared By: Pat Austin	Other	_____	OTHER	_____
Reviewed By: _____	Approve for Hearing	_____		_____

**BACKGROUND INFORMATION**

Superior Court currently has two copiers of which the leases are to expire in October, 2008. Two new copiers have been identified as replacements under the State of Washington Contract.

**SUMMARY**

See above.

**RECOMMENDATION**

Approve resolution.

**FISCAL IMPACT**

No impact at this time.

**MOTION**

I move to approve Bi-County Resolution No. \_\_\_\_\_ in the matter of leasing (2) copiers for the Benton County Superior Court Administrator's Administrative Office and Family Court Services Office at the Benton County Justice Center in Kennewick, Washington.

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

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

**IN THE MATTER OF LEASING TWO (2) COPIERS FOR THE BENTON COUNTY SUPERIOR COURT ADMINISTRATOR'S ADMINISTRATIVE OFFICE AND FAMILY COURT SERVICES OFFICE AT THE BENTON COUNTY JUSTICE CENTER IN KENNEWICK, WASHINGTON.**

**WHEREAS**, the Benton County Superior Court requires the use of two (2) copiers on a lease basis; and,

**WHEREAS**, RCW 39.34.030 permits, by its operation, Benton County to utilize contracts awarded by the Washington State Department of General Administration pursuant to its purchasing co-op, of which Benton County is a member; and,

**WHEREAS**, the State General Administration Purchasing Co-op has awarded copier lease contracts to numerous manufacturers, including Ricoh Corporation, a new Jersey Corporation, and has negotiated extremely favorable lease terms for such copier lease contracts; and,

**WHEREAS**, the Benton County Superior Court finds that its interests are best served by entering into a lease of two (2) Ricoh MP 5000SPF copiers with the following accessories: SR790; BU3030; FAC33; fax option type 5000, printer/scanner unit type 5000 pursuant to the lease contract negotiated by the State General Administration Purchasing Co-op; and

**WHEREAS**, the State General Administration Purchasing Co-op and Ricoh Corporation require political subdivisions to execute a purchase order directly with Ricoh Corporation in order to take advantage of its awarded contract;

**NOW THEREFORE, BE IT RESOLVED** that the Board of Benton County Commissioners hereby authorizes the lease of two (2) copiers from Ricoh Corporation by and through the State of Washington General Administration Purchasing Co-op as described above, for the use of the Benton County Superior Court

**BE IT FURTHER RESOLVED** that the Chairman of the Board of County Commissioners is hereby authorized to sign the attached purchase order with Ricoh Corporation in order to effectuate this lease.

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  
PURCHASE ORDER FOR LEASE OF EQUIPMENT  
GENERAL TERMS AND CONDITIONS

VENDOR: Ricoh Corporation, a New Jersey Corporation

1. RELATED DOCUMENTS

This purchase order consists of the following documents:

- a. General Terms and Conditions (this document)
- b. Exhibit A, Special Terms and Conditions of State Contract #03706
- c. Exhibit B, schedule of compensation

2. DURATION OF LEASE

The term of this Lease shall begin upon execution, and shall expire after 60 full months.

3. BENTON COUNTY CONTACT

The contact person for Benton County shall be:

Pat Austin  
Benton County Superior Court Administrator  
7122 W Okanogan Pl, Bldg A

(509) 736-3071

5. COMPENSATION

Compensation is set out in Exhibit B - for each of the two copiers: \$234.80 per month up to 100,000 copies each per month, with a rate of \$0.0066 for overages. Total for two copiers: \$469.60 per month.

6. COPIER MODEL INFORMATION

2 each:

Ricoh MP 5000SPF with the following accessories: SR790; BU3030; FAC33; fax option type 5000, printer/scanner unit type 5000

7. LEASE LOCATION

The lease location for this CONTRACT shall be:

Benton County Superior Court  
7122 W Okanogan Pl, Bldg A  
Kennewick, WA 99336

8. 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, 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.

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

DATED:

BENTON COUNTY BOARD OF  
COMMISSIONERS

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

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

Attest: \_\_\_\_\_

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

Approved as to Form:

\_\_\_\_\_  
Eric Hsu, Deputy Prosecuting  
Attorney

DATED:

CONTRACTOR  
Ricoh Corporation

\_\_\_\_\_  
[Print Name]

Title: \_\_\_\_\_

\_\_\_\_\_  
Signature

# EXHIBIT A

## SPECIAL TERMS AND CONDITIONS

### 1. **Survivability**

Placements made using the authority provided by this Contract will survive the Contract itself. Those customers renting or leasing the equipment will continue to receive ongoing service from the Contractor at the agreed upon Contract rate through the term of their placement contract agreement. The Contract terms and conditions will survive the authorizing contract through that final term.

Those customers purchasing equipment will receive ongoing service from the Contractor at the agreed upon Contract rate until the expiration of the Contract.

Upon the Contract termination, customers and Contractors may agree to further extend a placement. Such further extensions will not be for more than twelve month terms, and the State will reserve the right to terminate these placements with 30 days notice and without termination penalties.

### 2. **Equipment Additions/Deletions**

During the term of the contract, Contractors may add or delete contract equipment introduced or removed from the market by the manufacturer provided the equipment falls within the scope of the Contractor's awarded contract. Contractor shall update its dedicated contract website to reflect this change. New equipment must be adequately described and the associated price list must be updated to reflect the new equipment's prices. Pricing must utilize the same pricing structure as was used for other equipment falling into the same product category.

### 3. **Equipment Installation/Removal**

The installation and/or removal of contract equipment shall be performed in a professional manner. The customer's premises shall be left in a clean condition. The Contractor may be required to repair all damage and/or provide full compensation for damage to the customer's premises that occurred during equipment installation/removal. All cables used to connect the equipment must be pre-approved by customer's Information Services (IS) staff in advance of order finalization and placement.

Installation and removal costs shall be included in equipment pricing, except in the specific cases where delivery and self installation is identified on the order. In those cases equipment is to be delivered to the customer's identified delivery point at no additional charge (i.e. – shipped freight prepaid FOB destination and included in contract price). However, extraordinary delivery requirements and their associated extra costs may be charged to the purchaser as a separate line item on the invoice, when pre-approved by the purchaser.

Installation of equipment to be networked must be coordinated with the customer's internal IS personnel in charge of the computer network and telephone system to which the machine may be connected.

Connectivity service support is to be available to coordinate installation with agency personnel and be available to answer questions and concerns on the equipment installed. Personnel in charge of the installation must be available to coordinate installation with ordering agency internal staff in charge of the customer's network. Service support personnel, knowledgeable in digital equipment and in networking equipment, will be required to provide all necessary maintenance and repair.

### 4. **Training on Equipment**

Contractor shall provide ordering agencies up to two (2) hours free in-house training at the time of equipment installation or by appointment within five (5) working days as arranged with agency personnel. Training to include, but not limited to, standard functional use of machine to networked

users as well as training to any assigned agency personnel to enable them to instruct others. Such training shall be provided at no additional charge to the customer.

#### 5. **Operator's Manual**

Instruction and maintenance manuals shall be furnished for all contract equipment and software delivered and installed. Electronic instructional media will be furnished for all software provided. Manuals shall contain, but not be limited to, the following:

- A section describing the capability of the equipment.
- A section on machine specifications.
- A section describing operating instructions.
- A section describing the installation and use criteria of the equipment.
- A section describing general maintenance instructions.
- A section describing software installation and user guides.

#### 6. **Newly Installed Machine Performance Problems**

Ordering agency will evaluate the performance of newly installed equipment for a 30-day period after installation. If the machine's performance is unsatisfactory, the ordering agency will immediately contact the Contractor to pursue corrective action and resolution of the problem. Resolution of machine performance problems may result in:

- The replacement of the machine with another machine of the same brand and model, at no additional cost (including delivery and installation) to the customer, or
- Return of the machine and cancellation of the order at no charge to the customer.

#### 7. **Equipment Loaners**

The Contractor shall be responsible for any delivery, installation/removal charges associated with equipment loaners.

Equipment Repair: Contract equipment under any rental or maintenance agreement which is non-operational and cannot be repaired within 24 working hours of notification that service is required, at customer's request will be replaced within two (2) working days by a loaner unit until repairs are completed. Loaner equipment does not have to be the same model, but must perform the same functions as the equipment being repaired.

Partial Operability: In the case of machines needing repair, but which are still partially operable, requirements and arrangements for loaner equipment will be made between the Contractor and customer. If no agreement can be reached, the Contract Administrator administering this Contract will make a final determination.

Late Equipment Delivery: If requested equipment (purchased, rented or leased) cannot be supplied within the Contractor's specified delivery time, substitute equipment, of equal or greater performance capabilities must be temporarily installed pending the installation of the ordered new equipment. In issues of dispute, the Contract Administrator administering this Contract will make a final determination.

#### Trial Placements:

- May not exceed thirty (30) days
- May run in conjunction with another vendor's ongoing placement but may not offset the cost of an early termination penalty

#### 8. **Equipment Relocation/Transfer**

Contract users shall be afforded the option to move or transfer contract equipment from one agency location to another agency location (within the same agency, or to another agency) as deemed

necessary with no change to rental or maintenance plans. For agency self-moves, no installation or removal charges will be billed to either location for customer's self relocated/transferred equipment. The customer will be responsible for required repairs or damage that occurred during the transfer. Contractor/dealer shall be notified of the move to insure continued maintenance service and accurate record keeping.

Alternately, agencies may elect to have their dealer move the equipment and pay a move and set-up fee. The dealer will provide a moving price prior to the move and hold the price firm. No other fees apply and the dealer is responsible for repairs required following such transfer.

Movement of equipment must be coordinated with agency's internal Information Services (IS) personnel in charge of the computer network and telephone system to which the machine may be connected or disconnected.

#### **9. Excessive Service and Downtime**

Equipment, including all accessories and software, supplied through this contract shall be capable of continuous operation. Therefore, Contractor shall guarantee that all contract equipment will be operational at least 95% of normal business hours. Equipment that develops a trend of requiring an excessive number of service calls shall be reported by the agency to the Contractor or by the Contractor to the agency as the situation warrants. Should the equipment, any accessories, or software become inoperable for a period of twenty-four (24) consecutive working hours, the Contractor shall, at the agency's option, provide, at no charge, a loaner or accessory of equal capability of non-performing piece of equipment while repairs are being completed.

Contractors are to maintain a service log for each machine serviced describing maintenance and repair services provided. A no-cost copy of service logs/reports must be provided to the customer and/or the Contract Administrator within five (5) working days of request.

#### **10. Materials and Workmanship**

Contractors shall be required to furnish all materials, equipment and services necessary to perform contractual requirements. Materials and workmanship in the construction of equipment for this contract shall conform to all codes, regulations and requirements for such equipment, specifications contained herein, and the normal uses for which intended. Materials shall be manufactured in accordance with the best commercial practices and standards for this type of equipment.

#### **11. Contractor Performance**

General Requirements: OSP and ordering agencies monitor and maintain records on Contractor performance. Said performance shall be a factor in evaluation and award of this and all future contracts. Agencies will be provided with product/service performance report forms to complete and submit to the Contract Administrator to assist in monitoring Contractor's contract performance.

Damages: Ordering Agencies have an ongoing requirement for the materials, equipment and services specified herein. Vendors are urged to give careful consideration to the Ordering Agency's requirements, to the manufacturer's production capabilities and to its performance capabilities when establishing dates for equipment delivery and on-site installation and set-up. Note order lead-times specified in Contractor Information section. Damages will be assessed in the amount of actual damages incurred by the ordering agency as a result of Contractor's failure to make timely delivery and installation. Further, Ordering Agencies are entitled to recover actual costs associated with Contractor's failure to perform the contract as specified herein.

#### **12. Equipment Inspection/Testing/Acceptance**

Inspections, tests, measurements, or other acts or functions performed by the Ordering Agency shall in no manner be construed as relieving the Contractor from full compliance with contract requirements. At a minimum, an installed device must demonstrate the capability of providing the functions and services specified in the manufacturer's published literature.

Any equipment delivered through this contract that fails to perform to manufacturer's specifications may, within fifteen (15) days of equipment receipt and at the Ordering Agency's request, be replaced with a new unit or the defective unit be repaired under manufacturer's warranty.

### 13. Installation Site Requirements

Prior to order acceptance, Contractor must advise Ordering Agency of any and all specialized installation and environmental customer site requirements for the delivery and installation of contract equipment. This information should include, but is not limited to the following:

- Air conditioning;
- Electrical requirements;
- Special grounding;
- Cabling requirements;
- Space requirements;
- Humidity and temperature limits;
- Noise level, and;
- Any other considerations critical to the installation.

### 14. Availability of Repair Parts

Vendor must guarantee the availability of repair parts for a minimum of five (5) years subsequent to Ordering Agency's acceptance of the contract equipment. All branded equipment components, spare parts, application software, and ancillary equipment purchased and supplied under this contract must conform to manufacturer specifications. The Contractor is responsible for ensuring that these items are operable and installed in accordance with manufacturer's specifications.

### 15. Service and Maintenance Support

Service Technicians: Contractors shall have a service organization staffed by full-time employees of the Contractor or designated by the Contractor as their full-time authorized representative. Service representatives shall be factory-trained technicians. All warranty or maintenance services to be performed on contract products as well as any associated hardware or software shall be performed by qualified technicians properly trained and/or authorized by the manufacturer to perform such services.

Maintenance: Maintenance is defined as the service required to maintain contract equipment at performance levels equal to or greater than the performance specified and published by the manufacturer or the specifications specifically stated herein. Maintenance is to include all service components and consumable supplies (excluding paper) including drums, developer, toner and staples.

Repair Parts: In the event that the performance of maintenance services under the contract results in a need to replace defective parts, such items may only be replaced by new OEM parts. In no instance shall the Contractor be permitted to replace defective items with refurbished, remanufactured, or surplus items without prior written authorization of the customer. The Contractor must maintain an adequate supply of spare parts and components.

Preventative/Scheduled Maintenance: Preventative/scheduled maintenance shall be based on the specific needs of individual machines as determined by the manufacturer and shall be performed in accordance with the manufacturer's recommendations. The Contractor shall schedule regular preventative maintenance (PM) service as scheduled in advance with the Agency. Scheduled PM calls

will not be considered downtime. The PM calls shall include, but not be limited to, routine cleaning, lubrication, necessary adjustments, and replacement of unserviceable parts.

Costs: Maintenance costs shall be expressed and charged for on a "cost per copy" basis for all purchased, rented or leased equipment.

Maintenance Performed During Warranty Period: On all equipment (purchased, rented, or leased) obtained through this contract, maintenance service charges (on a "cost-per-copy" basis) shall apply during the manufacturer's warranty period.

Maintenance Caused by Operator Error, Misuse or Abuse: Should the cause of the service call be determined by mutual consent to be an operator error, misuse or abuse by the agency, the Contractor may charge for the service call at the rate specified herein for "Additional Installation/Network Labor Rate."

Maintenance Agreements: Contractor may request that Contract customers sign Maintenance Agreements provided any terms or conditions in the agreement that are in conflict with the terms and conditions of this Contract shall be unenforceable.

Reporting to Customer: When on site, the Contractor's service technician must report to the customer's designated coordinator prior to and after each service call. Equipment maintenance or upgrades which may affect equipment performance/service must be coordinated with the customer's coordinator a minimum of 48 hours in advance. Maintenance or upgrades which might affect equipment performance/service will not normally be conducted during office hours.

#### **16. Dealers/Distributors**

During the Contract period, the Contractor or Contract Administrator may remove a dealer or distributor from the list of those designated to service this Contract at any time without further explanation or process. The Contractor may propose dealer/distributor additions for consideration and does agree to provide interim service should any listed resource become unavailable or deemed unsuitable by the Contract Administrator. The decision about the suitability of dealers/distributors, sales representatives and outlets will be solely that of the Contract Administrator.

#### **17. Lack of Timely Repair Service Response**

In cases where the Contractor is not able to respond to repair service requests within the specified contract time frame, the contract customer shall have the option of acquiring repair services from another manufacturer certified source and the Contractor shall be responsible for full reimbursement of costs incurred by the customer. Repair services provided by another manufacturer certified source when the Contractor fails to respond in a timely manor would not constitute grounds to void the manufacturer's warranty.

#### **18. Equipment Warranty(ies)**

Contractor shall submit a copy of the manufacturer's standard warranty with all equipment delivered under this Contract. A full on-site parts and labor warranty shall be for a minimum period of ninety (90) calendar days after receipt and acceptance of equipment by the Ordering Agency. This warranty must cover all common equipment, accessories, hardware, parts, labor, travel, software, and all other necessary ancillary equipment required to maintain the equipment in proper operation.

In the event of any conflict between Contract terms and conditions and any of the terms and conditions included in the manufacturer's warranty, to afford the State maximum benefits, the Contract terms and conditions shall prevail.

#### **19. Special Promotions**

Contractors may offer discounted special pricing on their website. Specials will run for one or more calendar months, be plainly visible and be available to all contract customers during the promotional period. The Contractor will furnish a summary of placements made during the promotion to Contract Administrator for file within thirty (30) days of promotion completion.

## **20. Bulk Placements**

Customers may request special consideration when planning orders for five (5) or more devices to be ordered and delivered at one time. Contractors may offer discounted pricing or any other additional services not otherwise prohibited by the contract that assists the customer in the placement.

## **21. Rentals**

The following rental plans are to be available with each commencing on the date of installation or after an agreed upon qualifying trial period (not to exceed thirty (30) days):

- Twenty-four (24) Month Rental,
- Thirty-six (36) Month Rental,
- Forty-eight (48) Month Rental, and
- Sixty (60) Month Rental.

Some Contract customers may require month to month (not to exceed nine (9) months) rental terms. Although not specifically priced in the Contract, Contractors may offer these rental programs to those who require them. Pricing for such rental terms is to be consistent with established contract pricing methodology listed in the contract.

Should the customer be asked to sign a rental agreement, any conflict between the provisions of the Contractor's rental agreement and the terms and conditions of this Contract shall be resolved in favor of what is most beneficial to the customer. Rental periods may extend beyond the expiration or termination of this Contract.

## **22. Expiration/Renewal of Rental Agreement**

The Contractor will send e-mail notification of pending end of term at ninety (90) days and again at sixty (60) days prior to end of rental term. Customers may choose one of the following three (3) options at the end of the rental term:

- They may conclude the rental and return the machine to the Contractor. Customer shall not be responsible for pickup, shipping or transportation charges to return the equipment to the Contractor.
- They may continue the placement with a continuation of the same terms and commitment but with the lower mutually agreed to monthly rental rate on a month to month basis, or for an additional fixed period of time.
- They may convert to month to month rental at the same rental rate.

However, if Contractor has not notified the customer that the end of the rental term has been reached or if the customer has not notified the Contractor of which of the above options they have selected, the rental shall automatically be converted to a month to month rental at the same rental rate. The cost of maintenance service shall continue unchanged.

For rental terms that extend beyond a total of sixty (60) months, the Contractor may, with thirty (30) days written notice, unilaterally terminate the rental and remove the machine at no additional cost to the customer should the Contractor's service technicians be unable to maintain the device in good working order.

## **23. Rental Machine Upgrades and Downgrades**

A term placement may be concluded before it has run full term to upgrade or downgrade. When the agency replaces the equipment with equipment from the same Contractor, a four (4) month payment

penalty will apply, unless the Contractor reduces or waives the penalty. When a new Contractor is selected, thirty (30) days notice to the current Contractor is required and a four (4) month penalty will apply. New Contractors may not waive or offset the penalty.

#### **24. Operating Leases**

Customers may obtain Contract equipment through an Operating Lease (where no ownership in the equipment transfers to the customer during or at the end of the lease period) at rate(s) established in the Contract. A maintenance service program shall be charged for separately on a cost per copy basis as provided for herein. During the term of the lease agreement, the lease may not be cancelled unless the Contractor fails to maintain the equipment in good working order as specified herein or for non-appropriation of funds. Such cancellation shall be permitted without penalty with thirty (30) days written notification to the Contractor.

The following operating lease plans are to be available to Contract customers. Each plan shall commence on the date of equipment installation or after an agreed upon qualifying trial period (not to exceed thirty (30) days):

- Thirty-six (36) Month Operating Lease,
- Forty-eight (48) Month Operating Lease, and
- Sixty (60) Month Operating Lease.

With a minimum thirty (30) day notice prior to the end of the operating lease agreement, Contractor shall remove the equipment and return it to the Contractor's facility at no additional cost to the customer. Customer may not purchase the machine at the end of the term of the operating lease. However, customer may continue using the machine on a month-to-month rental basis until the machine is picked up and returned to the Contractor.

Should the customer be asked to sign an operating lease agreement, any conflict between the provisions of the Contractor's lease agreement and the terms and conditions of this Contract shall be resolved in favor of what is most beneficial to the customer.

#### **25. Standard Leases**

Political subdivision customers may obtain Contract equipment under the Contractor's standard lease provisions and rates established for Standard Equipment Leases (where ownership in the equipment transfers to the customer during and/or at the end of the lease period). The purchase price(s) specified in the Contract shall be used when establishing lease rates. For this reason standard leases shall be reported by the Contractor as contract activity and the payment of a Purchasing Fee shall apply to this transaction. There may be limited opportunity for the customer to cancel the lease during its term depending on the provisions of the Contractor's standard lease agreement.

Standard lease purchases by State agency customers must be arranged through the Washington State Office of the Treasurer. If approved by the Office of the Treasurer, the equipment will be purchased from the Contractor and State agency will make periodic payments to the Office of the State Treasurer. Any State agency lease not arranged through the Washington State Office of the Treasurer may be canceled and the equipment returned to the supplier at any time without further financial obligation to the supplier or leaseholder. Should the equipment be returned following such cancellation, the Contractor will be liable for any transportation and storage charges as well as damages to the product that occurs during the return of the equipment to the Contractor/leaseholder or its representative.

#### **26. Early Termination Charges**

Agencies that wish to terminate a term rental plan may do so with sixty (60) days written notice to the Contractor. Early termination charges may be assessed if an approved rental agreement is canceled prior to the end of the rental term or is otherwise inconsistent with cancellation terms. Payment of a

four (4) month rental penalty will apply. Termination charges will not apply to those rental plans canceled due to non-appropriation of funds (whether at agency or local level), where upgrading or downgrading models by the same manufacturer, or in cases where the Contract Administrator finds non-performance or reduced funding to be the cause of termination.

The Contract Administrator reserves the right to reduce or waive early termination fees. Unresolved site service problems will be a consideration. It is the intent of the State that agencies complete the terms of each rental as was agreed.

**27. Payment of Property Taxes**

Contractors shall be responsible for the payment of property taxes when customers have obtained Contract equipment under a rental or operating lease authorized by the Contract. Customers who have obtained Contract equipment under the terms of the Contractor's Standard Lease Agreement will be responsible for payment of property taxes when separately listed on the invoice.

**28. Risk of Loss or Damage**

The Ordering Agency shall be relieved from risks of loss or damage to all equipment purchased, rented or leased during shipment prior to equipment installation at the customer's designated location. Ordering Agencies will be responsible for risks of loss or damage to the equipment once it has been delivered/installed and signed for by customer's representative. Contractors shall clearly demonstrate they have informed customers of this responsibility prior to order placement.

**29. Customer Pricing Verification**

For those Vendors whose pricing reflects a discount off of the Manufacturer's Suggested Retail Price, it shall be required that the Vendor provide the customer with a copy of the Buyer's Laboratory report showing associated pricing so that the customer will be able to validate the price being quoted by the Vendor. For those Vendors whose pricing reflects a fixed price amount, the customer may validate pricing by referring to the Current Contract Information (CCI) document.

# COPIER BASICS

## DICTIONARY

### **FEATURES:**

These are functions that come standard with machines. They are usually not optional. As a general rule, the larger the copier, the more features that are available. The following are the most common features found on copiers today:

#### **Reduction and Enlargement:**

Copiers have the ability to zoom (reduce/enlarge) in 1% increments.

#### **Automatic Magnification:**

The copier will automatically select the best reduction or enlargement ratio.

#### **Automatic Paper Selection:**

The copier automatically matches paper output size to original document size.

#### **Margin Shift:**

The ability of the machine to shift the image to the right or left to allow for binding or three-hole punching.

Many additional features exist and may be offered on a particular model. Please check product literature for a listing of all features.

### **OPTIONS AND ACCESSORIES:**

These are devices that can be added to the base copier for an additional charge. The following is a list of the most common options:

#### **Stand (Cabinet):**

A stand for a desktop copier. Most stands have casters that provide mobility as well as storage areas for supplies and cassettes. A stand is strongly recommended due to the size and weight of most copiers. There may be a standard cabinet and a heavy cabinet. Consider the application.

#### **Document Feeders:**

These devices "feed" originals onto the exposure glass and properly position them for copying. There are several types:

- Automatic Document Feeders (ADF): A device that holds a stack of originals and feeds them automatically, one at a time onto the exposure glass for copying.
- Reversing Automatic Document Feeders (RADF or ARDF): This type of feeder performs the same functions as an ADF with the added capability to automatically invert (turn) a two-sided original to copy material off of both sides.
- Recirculating Document Feeder or Handler (RDF or RDH): This device feeds originals from a stack in a feed tray onto the exposure glass and then back into the feed tray making one complete set. If more than one set is required, the copier repeats this process as many times as is necessary. This process eliminates the need for a sorter. However, it should be noted that the condition of the originals decreases as the copy run for sets increases.

#### **Sorter Collator:**

This is a device that is added to a copier to use during the production of sets of copies. It consists of bins – 10 and 20 bin sorters are common – into which the copies of sets are inserted so that a number of separate sets can be produced. Often several versions are available for given machine. Consider the usage profile.

#### **Sorter Stapler:**

A type of sorter that automatically staples copied sets in the bins, when a job is completed.

**Automatic Duplex Unit (Duplexing):**

When this device is installed, the copier can automatically produce two-sided copies. This type of device may come as an option or a standard feature on the copier. There are two ways that duplex may be used:

- **1:2 – Simplex to Duplex**, or single sided *originals* to two-sided *copies*. The document feeder can be an ADF, ARDF, or RDH.
- **2:2 – Duplex to Duplex**, or two-sided *originals* to two sided *copies*. The document feeder must be an ARDF or RDH.

**Controller/Accounting Systems:**

A device that allows the copier to require an ID or access code before copying can begin. Copier usage can be tracked for each code.

**LCT/LCPT:**

Also known as LCC (Large Capacity Cassette) or LCD (Large Capacity Drawer). These paper sources hold 1,000 sheets or more.

EXHIBIT B  
SCHEDULE OF COMPENSATION

Ricoh MP 5000SPF copier	\$180.38 (includes up to 100,000 copies per month - overage charged at \$0.0066 per page)
SR790	\$18.33
BU3030	\$2.99
FAC33	\$2.54
Fax option type 5000	\$14.24
Printer/scanner unit type 5000	\$16.32
<hr/>	
Total per each of two copiers:	\$272.42

3

# RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

**IN THE MATTER OF APPROVAL OF AN AMENDMENT TO THE "MANATRON ASIX/ ASCEND - MASTER SOFTWARE LICENSE & SUPPORT AGREEMENT" TO INCLUDE ADDITIONAL SOFTWARE LICENSES FOR WEB SERVICES FOR THE TREASURER'S OFFICE.**

**WHEREAS**, on April 13, 1998, by Resolution #98-186 (Exhibit A), the Board of County Commissioners authorized the Master Agreement with ASIX Inc. (now d.b.a. Manatron, Inc.) for a treasury management software system; and,

**WHEREAS**, the Board has previously agreed with the concept of purchasing the licenses, computer equipment, software, and implementation costs for web presentation of property taxes by Resolution 08-753 (Exhibit B); and,

**WHEREAS**, the attached (Exhibit C) "AMENDMENT TO MASTER SOFTWARE LICENSE AND SUPPORT AGREEMENT (MSLA)" amends the present contract to allow for the implementation of AscendWeb products for the County Treasurer's Office to provide tax information via the web; **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 "MSLA" with Manatron Inc.; and,

**BE IT FURTHER RESOLVED**, the Board of County Commissioners hereby authorizes the County Treasurer/ Central Services to take all necessary actions (example Exhibit D) to purchase the necessary software licenses, hardware, software and other costs associated with the implementation of AscendWeb.

Dated this \_\_\_\_\_ day of \_\_\_\_\_,

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

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

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

Prepared by D. Davidson

Attest: \_\_\_\_\_  
Clerk of the Board

Central Services, County Auditor's Office, County Assessor's Office, Rosemary Ozuna (PA), Treasurer's Office

3486

# RESOLUTION

98 186

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AUTHORIZING THE CHAIRMAN OF THE BOARD OF BENTON COUNTY COMMISSIONERS TO SIGN THE "ASIX SERVICES AGREEMENT" AND THE "ASIX ASCEND MASTER SOFTWARE LICENSE & SUPPORT AGREEMENT" BETWEEN ASIX, INC. AND BENTON COUNTY.

WHEREAS, in accordance with the procedures outlined in RCW 39.04.270 for competitive negotiations, a Request for Proposal for a tax administration and treasury management system for the Benton County Assessor and Treasurer was advertised beginning on March 8, 1998, and sent to four prospective vendors; and,

WHEREAS, the only response was from Asix, Inc.; and,

WHEREAS, the proposal from Asix, Inc., meets all of the mandatory requirements for the desired system; and,

WHEREAS, the proposal from Asix, Inc., is within the budget approved for this project; NOW, THEREFORE,

BE IT RESOLVED that the Board of Benton County Commissioners authorizes the Chairman of said Board to sign the "Asix Services Agreement" and the "Asix Ascend Master Software License & Support Agreement" on behalf of the Board.

Dated this 12th day of April, 1998

Leo M. Bowers  
Chairman of the Board

Clark K. [Signature]  
Member

[Signature]  
Member

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

Attest: [Signature]  
Clerk of the Board

Copy ASIX  
to [unclear]

REID

RESOLUTION 08 753

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY FUNDS RE: TRANSFER OF FUNDS WITHIN REET TECHNOLOGY FUND NUMBER 0129-101, DEPARTMENT NUMBER 000.

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

Dated this 2 day of Sept, 2008

*Charles L. Allen*  
Chairman of the Board

*Ma E. Bentley*  
Member

*Leo M. Bauman*  
Member

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

CC: Treasurer's Office; Rosie Sparks, Auditor's Office

Attest: *Carmen M. ...*  
Clerk of the Board

RECEIVED  
SEP 03 2008  
BENTON COUNTY  
TREASURER

**BENTON COUNTY LINE ITEM TRANSFER**

Dept Name: None Dept Nbr: 000  
 Fund Name: REET TECHNOLOGY Fund Nbr: 0129-101

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
514.200	3101	Office Supplies	\$15,000	514.200	9401	Computer Purchases	\$10,000
514.200	4103	Professional Services	\$15,000	514.200	9402	Computer Software	\$20,000
TOTAL			\$30,000	TOTAL			\$30,000

**Explanation:**

The Treasurer requests from the Board the ability to purchase the licenses, computer equipment, software, and implementation costs associated with web presentation of Benton County Property Taxes. This service will provide free access of taxpayer records for use by the taxpayers, banks, mortgage companies, and title/ escrow companies. Proposal is from Asix Inc. the vendor of the county's tax collection software system. This web service will provide greater public access to tax information and a more reliable system in both data integrity and service time.

Prepared by: Duane A. Davidson Date: 02-Sep-2008

Approved  Denied

*Claude R. Choy*

Chairman

*Max E. Bennett*

Member

*Sho M. Brannon*

Member

June 24, 2008

Duane Davidson - Treasurer  
 Benton County  
 PO Box 630  
 Prosser, Washington 99350

RE: Proposal for AscendWeb Implementation

Dear Duane:

Thank you for the opportunity to propose the implementation of AscendWeb products at Benton County. The goal of this document is to outline the costs that will be incurred to the County for the installation of our product set, and to also identify elements that will need to be taken into consideration as we move forward on this important project. As previously stated, in order to present the most financially appealing approach, our goal is to install virtually the same tools that are in use currently by Yakima County with the exception of employing a facility for making tax payments via the Web. Should you wish to move in that direction at some future point, there is nothing in our current approach that would prevent you from doing so (additional product licensing and services would be required in that event).

Implementing AscendWeb involves licensing software, services for installation, and ongoing product support as follows:

Software Licenses

AscendWeb	\$15,000
Ascend Statement Server	\$10,000

Implementation Services \$5,000

**Total Software & Services** **\$30,000**

Annual Software Support \$5,000 (1<sup>st</sup> Year's support will be billed when licenses are purchased, prorated to County's annual cycle. Support fees subject to annual increases.)

The above pricing includes the following assumptions:

- All implementation services will be performed remotely from our Bellevue offices.
- Any customization requested by Benton County will be an additional cost.

- Benton County's website will mimic Yakima's site up to and including the "shopping cart" which will allow a taxpayer to determine amounts due on multiple properties. Site will not include the opportunity for payment of outstanding taxes.
- Yakima's site includes configurable grids for presenting "user defined" property information. Should the County wish to configure these grids, it is available at a reasonable additional cost.
- Benton County IT will be responsible for providing appropriate hardware for the project, as well as ensuring our implementation staff has necessary access for installing software.
- Benton County will be responsible for any additional database licensing required for providing Web access to your database.

#### County IT considerations

Benton County will need to have 2 servers available for this project, both relatively lightweight and inexpensive (2-Processor minimum). One will be the Web server, and the other dedicated for the installation of Ascend Statement Server. At the County's convenience, we suggest that appropriate IT staff engage in a conference call with our staff to discuss issues such as hardware requirements, network access and security issues. Our staff does have all necessary documentation to communicate requirements to County IT.

An additional consideration involves database licensing. Benton County will need to purchase additional Informix RDBMS licenses to support additional "users" as a result of providing web access to your taxpayers. Other counties have purchased 2-processors licenses of Informix Workgroup Server edition which are available for a cost in the 12K to 15K range, plus annual maintenance fees. While Manatron is not a reseller of the IBM Informix products, we can certainly assist the County in locating contacts for acquiring product quotes.

Lastly, if Benton County has already licensed Microsoft SQL Server database, another avenue that the County can consider is migrating the Ascend database from Informix to SQL Server. ASIX/Manatron has moved some customers already with great success, and we believe that in the long term it will be in the best interests of Benton County. In that the primary goal of this proposal is the Web project I will not go into detail on that topic at this time, but am prepared to provide costing and additional information upon your request.

Again, thank you very much for this opportunity; and hope to move forward at your earliest opportunity. Please contact me at 800.335.2525 extension 7257, or via email at [john.walters@manatron.com](mailto:john.walters@manatron.com).

Sincerely,

John Walters  
VP Sales, Western Region  
Manatron, Inc.

# MANATRON

The power to manage well.

## AMENDMENT TO MASTER SOFTWARE LICENSE AND SUPPORT AGREEMENT (MSLA) BETWEEN BENTON COUNTY, WA AND MANATRON/ASIX, Inc.

This Amendment # WA91808BC, dated September 18, 2008, amends the MSLA between Benton County and ASIX Inc. (A wholly-owned subsidiary of Manatron, Inc.)

WHEREAS, Manatron/ASIX, Inc. is providing software maintenance services in accordance with terms defined in the MSLA and Appendix A lists the applicable software licensed as of the date the contract was approved. Benton County has purchased license rights to additional software products that are currently not identified on the Appendix A of the MSLA.

Benton County and Manatron/ASIX have agreed to update the MSLA to add software products to the contract as shown in the attached Appendix A.

Therefore, Benton County and ASIX agree to amend the MSLA as follows.

### MSLA – Appendix A

#### Amend existing MSLA to append with attached Appendix A

Except as expressly amended in this Amendment, the terms and conditions of the original MSLA shall remain in full force and effect.

Provisions for support of the newly licensed software, AscendWeb will be limited to "bug fixes" only.

In Witness Hereof, Benton County and Manatron, Inc. have caused this Amendment One to be executed on \_\_\_\_\_.

Benton County

Approved as to form:

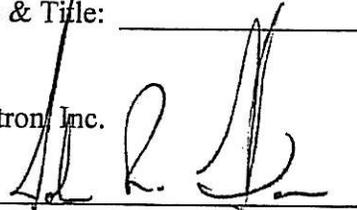
By: \_\_\_\_\_

By: \_\_\_\_\_

Name & Title: \_\_\_\_\_

Kathleen Fitzgerald, Deputy  
Prosecuting Attorney's Office

Manatron, Inc.

By:  \_\_\_\_\_

Name & Title: John R. Hansen, V.P. of Operations



# MANATRON

The power to manage well.

Page 1 of 1

September 18, 2008

Duane Davidson – Treasurer  
Benton County  
620 Market Street  
Prosser, WA 99350

Customer Purchase Order #: \_\_\_\_\_

Dear Duane:

This work order is submitted for the implementation of AscendWeb at Benton County. Also accompanying this work order is an amendment to the County's software license agreement to add Ascend Web as a licensed module.

Benton County, WA authorizes Manatron, Inc. to perform the following services:

Manatron will provide services to implement AscendWeb as previously described in the proposal to the County dated September 10, 2008. AscendWeb is compatible with the County's Ascend Assessment Administration and Property Tax application. Manatron will assist with testing of the application on the County's site and provide training and user documentation as to its use. All related services will be provided via the County's VPN connection already in place with Manatron, as well as by phone. No travel is required for this work.

With reasonable notice and based upon availability, County staff will be made available to assist in testing of the application within the County's business environment.

Fees

Benton County will be billed as follows:

\$15,000 for AscendWeb Software License

\$10,000 for Ascend Statement Server Software License

\$5,000 for standard implementation services

\$1,500 for product extension related to adjusting grid locations and integration/pass through to US Bank for payment

processing

\$2,075 for Washington State Sales Tax (8.3% of the software cost)

**TOTAL: \$33,575.00**Billing

Manatron will bill County \$25,000 at signing of Work Order and the balance (\$8,575) at either 12/31/2008 or at go-live, whichever occurs first.

Annual software maintenance, as described in the County's MSLA and associated addendums, is priced at \$5,000 annually and will be billed with Benton County's 2009 annual support invoice.

**SIGNATURE:**

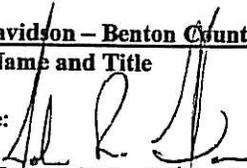
Signature

Duane Davidson – Benton County Treasurer

Printed Name and Title

Date

Signature:


John R. Hansen, V.P. of Operations

Printed Name and Title

September 18, 2008

Date

Commissioner  
Oliver

9:05

<b>AGENDA ITEM:</b> <b>MTG. DATE:</b> September 29, 2008 <b>SUBJECT:</b> 2008 Comprehensive Plan Annual Amendment Process <b>MEMO DATE:</b> September 24, 2008 <b>Prepared By:</b> Susan M. Walker <b>Reviewed By:</b> Michael Shuttleworth	<b><u>TYPE OF ACTION NEEDED</u></b> Execute Contract Pass Resolution Pass Ordinance Pass Motion Other X	Consent Agenda Public Hearing 1st Discussion 2nd Discussion <b>WORKSHOP</b> X
--	--	---

### **BACKGROUND INFORMATION**

Washington State planning law requires continuing review and evaluation of comprehensive plans pursuant to RCW 36.70A.130(1) with revisions and amendments to the Comprehensive Plan considered by the county no more frequently than once every year (RCW 36.70A.130(2)(a)). The 2008 amendment process also included the every five-year review of the cities Urban Growth Areas (UGA's). Proposed Amendments can have several origins. Amendments can be submitted at the direction of the Planning Commission, Board of Commissioners, Planning Director, any owner of property in unincorporated Benton County seeking an amendment that only affects their own property, amendments for property in the unincorporated county supported by signatures of ten residents, or by any general or special purpose district. Urban Growth Area boundaries can only be proposed by cities whose UGA is the subject of the application. The County is processing five proposals during the annual 2008 process. Three of these proposals have been addressed by the Planning Commission and are shown in the "Summary" as files: CPA 08-02, CPA 08-04, & CPA 08-05. The Planning Commission held its public hearings on these proposed amendments July 15<sup>th</sup> and August 19<sup>th</sup> 2008. A copy of the Staff Review and Recommendation and Findings of Fact are attached.

### **SUMMARY**

**File CPA 08-02**, is a request by the City of West Richland to expand its Urban Growth Area to include 747 additional acres located west of the city in portions of Sections 10, 11, 14, & 15, in Township 9, Range 27 E.W.M.

**File CPA 08-04**, is a proposal by the Benton County Administrator to include in Chapter Nine, Tables 9.0 & 9.1, new capital facilities and maintenance projects slated for funding and completion in the Benton County 2008-2013 Capital Facilities Plan.

**File CPA 08-05**, is staff "housekeeping" edits to text in the following chapters of the Benton County Comprehensive Plan: Chapter 1, Introduction, and Chapter Three; Goals, Policies and Actions to reflect recent legislative changes to the RCW; and in Chapter 9; Capital Facilities Element, to update text in regard to Parks and Recreational Facilities.

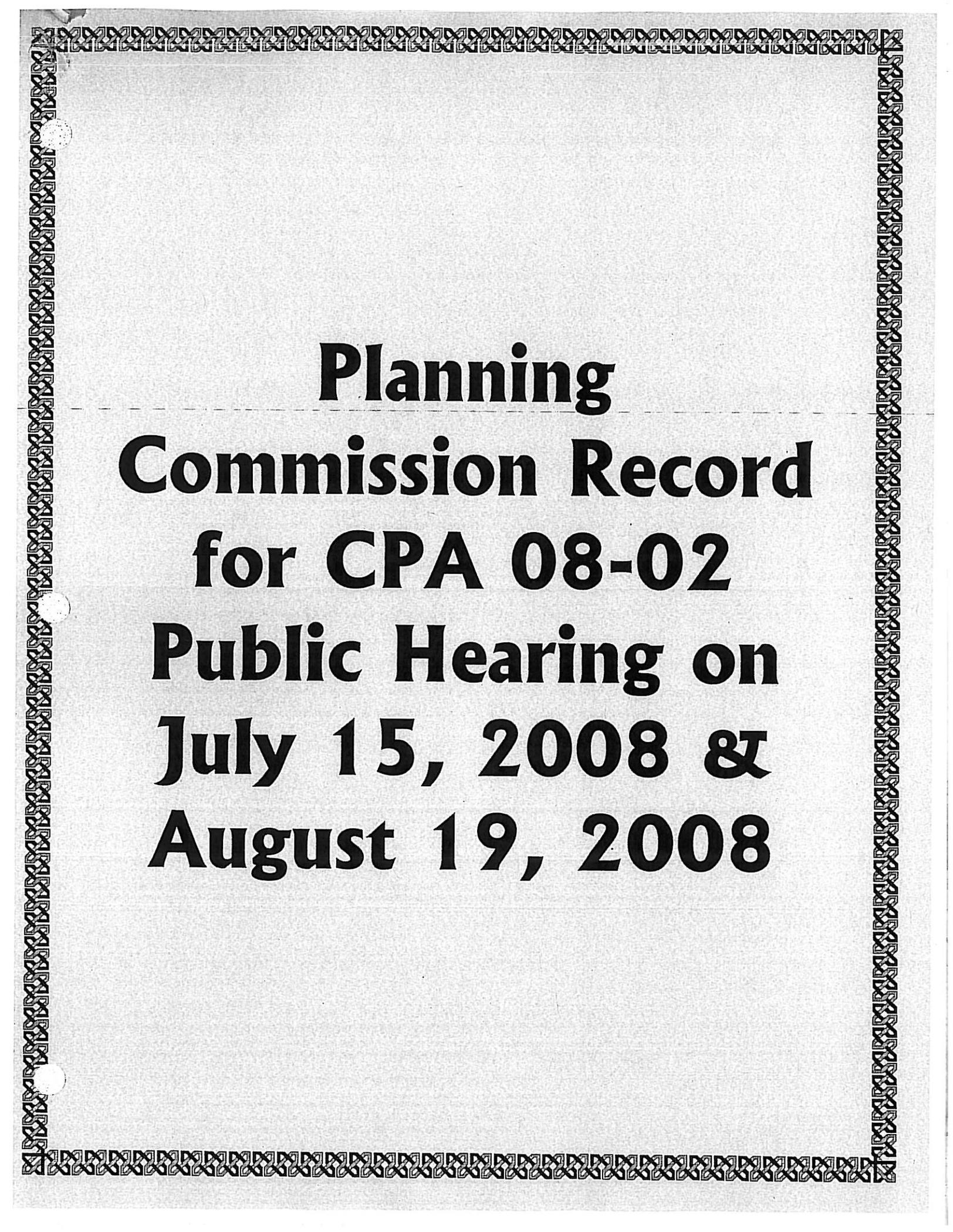
### **RECOMMENDATION**

After receiving public testimony and reviewing the Planning Staff recommendations, the Planning Commission voted to deny the West Richland's UGA request CPA 08-02, and recommended approval of CPA proposals 08-04 and 08-05. A public hearing has been scheduled for the Board of County Commissioners for October 13<sup>th</sup>, 2008, at 9:50 a.m. on these amendment proposals.

### **FISCAL IMPACT**

The inclusion of these amendments into the Comprehensive Plan does not require or guarantee future funding by the County. However, in order to qualify for REET funds, and most state and federal loans and grants, capital facility projects must be specified in the Capital Facilities Element of the Comprehensive Plan. Capital projects shown in the Comprehensive Plan may be reviewed for funding on an annual basis during the budget process.

**MOTION** None necessary



**Planning  
Commission Record  
for CPA 08-02  
Public Hearing on  
July 15, 2008 &  
August 19, 2008**

RECOMMENDATION OF THE  
BENTON COUNTY PLANNING COMMISSION

RE: Proposal to add land to the  
Urban Growth Area of the City  
of West Richland.

File No. **CPA 08-02**  
RECOMMENDATION, FINDINGS OF FACT

**RECOMMENDATION**

**CPA: 08-02** A proposal by The City of West Richland to include an additional 747 acres of land into its Urban Growth Boundary (UGA). The proposal includes a Capital Facilities Plan adopted by the West Richland City Council. The City states that the intended land use for the land is Combined Commercial/Light Industrial (CLI). The general location of the proposal is immediately north and west of Candy Mountain and north of I-82 (Exhibit 4, Site Map & Exhibit 5, Land Use Map).

The Planning Commission is hereby recommending **DENIAL** of the application. This action is based upon the following findings pursuant to RCW 36.70A.

**RESOLUTION**

WHEREAS, the Legal notification pursuant to RCW 36.70A.130 was given on July 3, 2008; and,

WHEREAS, the public hearing was held on July 15, 2008 at 7:00 p.m., in the Planning Annex, 1002 Dudley Avenue, Prosser, WA 99350; and,

WHEREAS, the following members were present, Eugene Johnson, Lloyd Coughlin, James Wetzel, and James Willard; and,

WHEREAS, the Planning Commission considered all evidence and testimony submitted and after discussion closed the hearing to further public comment and continued the public hearing to August 19, 2008 at 7:00 p.m., in the Planning Annex, 1002 Dudley Avenue, Prosser, WA 99350; and,

WHEREAS, at the continued hearing August 19<sup>th</sup>, 2008, the following members were present, Eugene Johnson, Lloyd Coughlin, James Wetzel, and Martin Sheeran; and,

WHEREAS, the Planning Commission considered all evidence and testimony submitted and after discussion voted four members in favor, with three members absent on the Planning Commission to recommend denial of the West Richland UGA application proposal, concurring with **the staff recommendation**; and,

WHEREAS, the Planning Commission is entering its written findings, conclusions and recommendations concerning this matter, and is forwarding the same to the Board of County Commissioners.

**FINDINGS AND CONCLUSIONS**

### **Purpose of the Plan Amendment**

Benton County adopted its GMA Comprehensive plan in 1998. Per the requirements of the Growth Management Act, the adoption included a 20 Year Urban Growth Area for each of the five incorporated cities within the County. Generally the "out year" or "planning horizon" for the 20-year period is 2015. According to the Plan, the County and Cities are to review the 20-year Urban Growth Boundaries every five years as part of the Plan's regular five-year update. The planning horizon for this review is 2025. Per the requirements of the Washington State Growth Management Act (GMA) the year 2025 population projections used to calculate land use needs are provided by the State Office of Financial Management (OFM).

According to the City, the purpose for the UGA expansion is not to add land to the UGA in order to accommodate projected population growth, but rather to include within its UGA an additional 747 acres that surrounds the alignment of a future I-82 interchange shown in the Transportation Element of the Benton County Comprehensive Plan. The presumption is that the interchange will be built and become the "well-defined City entrance" off of interstate I-82 (item 7, page 2, Application for CPA 08-02), and will be the gateway to the Red Mountain AVA development

The requirements of RCW 36.70A 110 (2) and (3) that set forth criteria for the sizing and locating of urban growth areas do not include exceptions that enable the enlargement of a UGA simply to exert municipal land use authority over an area that has upon it a local project designation that is contingent upon the uncertainties of future federal approval and funding.

### **Plan Amendment Consistency with the Countywide Planning Policies (CWPP).**

#### **CWPP #4**

**The UGA's are to be based on Official Population Projections for the County (i.e. OFM). The gross undeveloped acreage within the city limits and UGA shall be sufficient to meet all the land requirements, including community and essential public facilities, of the population projection.**

The City's submittal of its application for an enlargement of its UGA does not provide an analysis of land use needs as is required by CWPP #4. Within the submittal there is not an acres/per capita analysis of the existing land use condition and of future use needs upon which to base and support an enlarged UGA. The City's reason for this omission is found in its application materials, which include the following statements:

*"The request to expand the urban growth area is not to provide additional residential land, but to facilitate the establishment of an interchange commercial area off Interstate 82, and to provide support services to the Red Mountain AVA" (page 1, Buildable lands Summary, City of West Richland, WA).*

#### **CWPP #4a.**

**Jurisdictions shall use a uniform formula for identifying land area necessary per capita.**

A majority of the Planning Commission members find that the data submitted, does not correctly, or completely apply the uniform formula.

The City's submittal does not present an analysis demonstrating the need for additional Commercial

and Light Industrial lands, which is the designation the City states it will apply to the lands requested for inclusion with its UGA. Within the submitted application materials the City states:

*"Zoning within the current city limits includes 1,076 acres of industrial and 1,309 acres of commercial land, which is likely more than the City will need to support the projected 20-year population" (page 1, Build-able lands Summary, City of West Richland, WA).*

The failure to comply with CWPP #4, and the admission that no additional lands are needed to accommodate the city's projected population growth, leaves no justification for expansion of the UGA under RCW 36.70A.110 (2), which requires that lands that are included within an UGA shall be for meeting the 20 year urban growth projection of the state office of financial management.

It is estimated that including the Lewis and Clark Ranch the City has approximately 10,000 acres of vacant land. Because of the omission of data required by CWPP # 4 from the City's application, it is not possible here to discern the existing average residential density within the residential zones of the developed portion of the City (i.e., the developed residential portions outside of the ranch). However a comparison of the minimum lots sizes of the single family residential zoning districts of the W. Richland, Kennewick and Richland zoning codes demonstrates the degree to which the City of West Richland's Comprehensive Plan facilitates urban sprawl rather than reduce it as required by RCW 36.70A.020 (1) and (2). In terms of the density (lot size per dwelling), West Richland residential zoning districts are not sized to reduce sprawl. According to the City's submittal materials, of its 4077 acres of Residential acreage (designated/zoned), eighty percent are for low-density development at less than five (5) Du/Acre. The designation of "less than 5 Du/acre" really means from 1 to 2 units per acre (i.e., 40,000, 22,000, 20,000, and 15,000 sq. ft. lots).

The City's existing land supply resource is so disproportionately large relative to its needs. The requirements of RCW 36.70A 110 (2) and (3) that set forth criteria for the sizing and locating of urban growth areas do not include exceptions that enable the enlargement of a UGA simply to exert municipal land use authority over an area that has upon it a local project designation that is contingent upon the uncertainties of future federal approval and funding.

#### **CWPP #7**

**Within each Comp Plan, the land use plan for urban growth areas shall designate urban densities, location of greenbelts and open space, and contiguous open spaces.**

A majority of the Planning Commission members find that the City does have predominantly suburban densities but within the proposed addition, the city has not identified greenbelts and open space.

#### **CWPP #8**

**Avoid the placement of UGAs into an area of existing or potential agriculture –unless adequate buffers are provided**

A majority of the Planning Commission members find that the area proposed for inclusion for the West Richland UGA contains large portions of acreage favorably located and oriented for wine grapes and suitable for agriculture pending the advent of planned (KID) water supplies. However, it must be pointed out here that the County has not designated the land for agriculture and therefore does not protect it for such use.

## **CWPP #9**

**The appropriate directions for the expansion of urban growth areas are those that are:**

- **Substantially engrossed by urban development.**

A majority of the Planning Commission members find that the configuration of the proposed acreage represents a classic "step out" or "leap frog" development with only a thin attachment in its northeast corner to the city boundary. Beyond the thin attachment, the perimeter of the proposed area is engulfed by undeveloped rural lands and bisects through several large parcels. The proposed area is rural in nature and cannot be characterized as urban growth. The city's application states on page 1 of the application: "*The subject property is largely undeveloped. The Tri-Cities Raceway is located along SR 224 in the northeast portion of the proposed UGA expansion, and two single family residences are located along Kennedy Road at the southern extreme.*" The proposed area does not meet the characteristics identified in CWPP # 9 for lands that are eligible for inclusion within a UGA.

- **Areas with existing service infrastructure**

A majority of the Planning Commission members find that the acreage proposed for inclusion within the UGA is not developed and cannot be characterized by urban growth that has adequate existing public facility and service capacities to serve such development; only a very small portion of the proposal (the abandoned racetrack area), in relation to the total acreage is adjacent to public infrastructure on Keene Road. The area of the proposal is devoid of existing service capacities except in its most northeast corner at Keene Road.

- **Lands adjacent to corporate limits and confined on the other side by major features (e.g., highways)**

A majority of the Planning Commission members find that the UGA expansion has only a thin connection to the city's corporate boundary in the northeast; the area proposed for inclusion within the UGA is configured solely for the purpose of extending city jurisdiction to the area that includes the potential for a new interchange on I-82. Aside from that thin connection to the City, the proposed area extends in excess of a mile into unincorporated lands that surround it on all sides.

- **Existing rural residential development characterized by compromised agricultural productivity.**

A majority of the Planning Commission members find that agricultural productivity within the proposal is not compromised and that some of the acreage is favorably located and oriented for wine grapes pending the advent of planned water supplies; however the County has not designated the land for agriculture and therefore does not protect it for such use.

- **Average lot size of less than 10 acres**

A majority of the Planning Commission members find that the average lot size of the proposed area is 30 acres, greatly in excess of the less than 10 acre average required by policy directive.

- **Existing streets and utility services**

A majority of the Planning Commission members find that there are no existing improved streets other than the site perimeter being bordered by Hwy 224, Kennedy and Keene Road and that there are neither water or sewer services on the sites proposed for inclusion within the UGA.

### **Plan Consistency with the State Growth Management Act (GMA).**

**36.70A.020(1)**

**Urban Growth. Encourage growth in urban areas where adequate public services and facilities exist or can be provided in an efficient manner.**

A majority of the Planning Commission members find that urban services do not exist within the proposed UGA area and that because of the omission of data required by CWWP # 4 from the City's application, it is not possible here to discern the existing average residential density within the residential zones of the developed portion of the City (i.e., the developed residential portions outside of the ranch). However, a comparison shown in the planning staff recommendation of the minimum lots sizes of the single family residential zoning districts of the W. Richland, Kennewick and Richland zoning codes demonstrates the degree to which the City of West Richland's Comprehensive Plan facilitates urban sprawl rather than reduce it as required by RCW 36.70A.020 (1) and (2) as shown in Table 1 of the July 7, 2008 staff report.

**36.70A.020(2)**

**Reduce Sprawl. Reduce the inappropriate conversion of undeveloped land into sprawling low-density development.**

A majority of the Planning Commission members find that Table 1 of the July 7, 2008 staff report demonstrates the degree to which the City of West Richland's Comprehensive Plan facilitates urban sprawl rather than reduce it as required by RCW 36.70A.020 (1) and (2).

**36.70A.110(1)**

**An urban growth area may include territory that is located outside a city only if such territory is already characterized by urban growth whether or not the urban growth area includes a city, or is adjacent to territory already characterized by urban growth, or is a designated new fully contained community as defined by RCW 36.70A.350**

A majority of the Planning Commission members find that the acreage proposed by the City for inclusion within its UGA is not developed and cannot be characterized as urban growth; the city's application states on page 1: "*The subject property is largely undeveloped. The Tri-Cities Raceway is located along SR 224 in the northeast portion of the proposed UGA expansion, and two single family residences are located along Kennedy Road at the southern extreme.*" The area of the proposal is devoid of existing service capacities except in its most north east corner at Keene Road. Large portions of the acreage are suitable for agriculture pending the advent of planned (KID) water supplies. The proposed area cannot be characterized as adjacent to an area that is characterized by urban growth.

**36.70A.110(2)**

**Each Urban Growth Area shall permit urban densities and shall include greenbelt and open space areas.**

A majority of the Planning Commission members find that greenbelts and open space are not shown as part of the proposal.

**36.70A.110(3)**

**Urban Growth shall be located first in areas already characterized by urban growth that have adequate existing public facility and service capacities to serve such development, second in areas already characterized by urban growth that will be served adequately by**

**a combination of both existing public facilities services that are provided by either public or private sources, and third in the remaining portions of urban growth areas.**

A majority of the Planning Commission members find that the acreage proposed for inclusion within the UGA is not developed and cannot be characterized as urban growth, nor is it adjacent to an area that is characterized by urban growth or that has adequate existing public facility and service capacities to serve such development. There is only a very small portion of the proposal (the abandoned racetrack area), in relation to the total acreage is adjacent to public infrastructure on Keene Road. With only a thin connection to the city's corporate boundary in the northeast, the area proposed for inclusion within the UGA is configured solely for the purpose of extending city jurisdiction to the area that includes the potential new interchange on I-82. Aside from that thin connection, to the City, the proposed area extends in excess of a mile into unincorporated lands that surround it on all sides.

The City's existing land supply resource is so disproportionately large relative to its needs. The requirements of RCW 36.70A 110 (2) and (3) that set forth criteria for the sizing and locating of urban growth areas do not include exceptions that enable the enlargement of a UGA simply to exert municipal land use authority over an area that has upon it a local project designation that is contingent upon the uncertainties of future federal approval and funding.

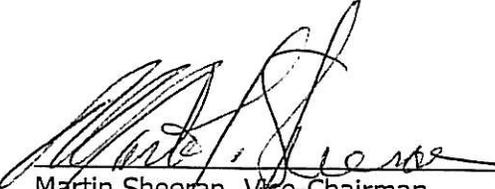
**SEPA**

A majority of the Planning Commission concludes that the requirements of the State Environmental Policy Act have been met based on the following facts that they believe to be true based on the testimony:

1. An Environmental Checklist was prepared and a Determination of Non Significance was issued on March 26, 2008.
2. The staff memo dated July 7, 2008 indicated that the requirements of the State Environmental Policy Act have been met.

A majority of the Planning Commission members find that all of the facts set forth in the attached Planning Department Staff Report are accurate. Supporting documents have been considered and addressed.

THEREFORE BE IT RESOLVED THAT THE BENTON COUNTY PLANNING COMMISSION, through its chairman adopts these findings and conclusions with respect to File No. **CPA 08-02**, and hereby recommends to the Board of County Commissioners **DENIAL** of the comprehensive plan amendment as recommended in the Staff Memo dated July 7, 2008.

  
Martin Sheeran, Vice-Chairman      Date 9-15-08  
BENTON COUNTY PLANNING COMMISSION

9:25

<u>AGENDA ITEM</u>	<u>ACTION NEEDED</u>	<u>DISCUSSION TYPE</u>
Meeting Date: 29 Sep 2008	Execute Contract	Consent Agenda
Subject: Animal Control	Pass Resolution	Public Hearing
Memo Date: 24 Sep 2008	Pass Ordinance	1st Discussion
Prepared By: AJF	Pass Motion	2nd Discussion
Reviewed By: LSK	Other X	Other X

**SUMMARY**

Staff has continued to work the "animal control" – or more accurately, "dog control" issue with the City of West Richland. Attached for Commissioner review is a memo outlining a dog control proposal worked-out by City and County staff, and fiscal details of that proposal. Also attached is a draft ordinance for Commissioner review, which is a revision based on comments received at the previous workshop in August. Staff is prepared to take further direction from the Board on this issue.

###

# Memorandum

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**Date:** 29 September 2008  
**To:** Board of Commissioners  
**From:** Adam J. Fyall  
**Copy:** David Sparks, Loretta Smith Kelty, Ryan Brown, Layne Erdman  
**Re:** Animal Control program and ordinance proposal

Members of the Board,

After much work and input from our "animal control task force" and the community at large over several years, I believe that a workable program for basic control services for nuisance, stray, and abandoned dogs has been suggested and can be achieved. This program would involve contracting with the City of West Richland for provision of these services and would not create any new County agency or FTEs. There would be a cost-shared arrangement with the City for start-up and capital facility expenses, and an arrangement for ongoing contracted services expenses.

The City did a lot of research comparing their current operations with other communities in the state. This proposal meets the community's basic needs in regards to dog control while containing and streamlining costs to a great degree. West Richland has confidence in this proposal, and I believe it is suitable for our current needs and anticipated growth while taking advantage of existing opportunities.

## Ordinance

I have worked with Ryan Brown to complete a draft ordinance that we believe mirrors the City's ordinance very closely and meets the desires of the Board that you expressed at our previous workshop in August. The ordinance covers the entire area of unincorporated Benton County.

## Location

West Richland is currently looking at City owned property adjacent to a well house on Ruppert Road. They are having the property surveyed at this time although it appears to be adequate for our needs. Further, this property adjoins industrial zoned property which is a preferred zoning for noise-related issues.

## Cats

Following-up on cats... Tri-City Animal Control does not do active trapping in the cities, and requires either that a citizen trap and bring the cats in to the shelter, or TCAC will be willing to pick-up a trapped cat when combined with another call. Of all of the calls that I have received in the last couple of years on "animal control", none have been concerning cats. Indeed, I have had more calls about nuisance chickens (1) than cats. Furthermore, West Richland does not think that we should attempt to deal with cats in the County unless there are specific cases of cruelty/abuse. If sometime down the road circumstances change, the situation can always be

reconsidered; but at this time, staff recommends that the County **not adopt** an animal control policy that actively deals with any other animals except dogs. The draft ordinance reflects this recommendation, as it addresses only "DOG CONTROL".

## OPERATIONS

### Manpower

We propose 1.5 FTE at a cost of **\$80,000** including benefits. West Richland will move the current ACO to full time kennel master, then hire a half-time assistant.

Using models from Arizona and elsewhere, we will also work to develop agreements with the County Sheriff's Work Crew and/or Coyote Ridge work crews to work at the kennel periodically for major cleaning/groundwork, etc.

### Operations

This includes food, fuel, utilities, uniforms, euthanasia costs, and cremation costs. Food has traditionally been donated to West Richland, but we do not assume that going forward. The budget number is **\$100,000**, which is my estimate on the high side.

## CAPITAL

### Facility

We evaluated facilities from Whitman Co (800 ft<sup>2</sup>), to Ellensburg (2,200 ft<sup>2</sup>), to Spokane (12,000 ft<sup>2</sup>). I propose that something in the 3,000-4,000 ft<sup>2</sup> range would be good for our current and future needs. It should be a simple building, not unlike the concession building we constructed recently at Horn Rapids Park. Concrete floors with good drainage capabilities, stout construction, skylights, good storage capacity but also with some quieter office space. At \$50/ft<sup>2</sup> a 4,000 ft<sup>2</sup> building would cost around \$200,000. Add architect's fees, permits, bidding, extension of utilities, and landscaping and I believe **\$250,000** is a good budget number for capital costs.

### FF&E

For the first year, West Richland says that it has two trucks that can be fitted and put into full service. However, at some point in the near future – probably year two – a new truck will have to be purchased and outfitted with a slide-in unit at a cost of about \$25,000. For now, I estimate year one start-up fixture, furniture, and equipment such as cages, tools, etc at another \$25,000; giving us a total of about \$50,000 over two years, but a start-up FF&E of **\$25,000**.

## BUDGET

This budget is for total start-up capital and first year operating expenses:

<b>Capital</b>	
4000 ft <sup>2</sup> building with fencing and landscaping	250,000
FF&E	25,000
<b>Total Start-Up Capital Costs</b>	<b>275,000</b>
<b>Operations</b>	
Salary & Wages for 1.5 FTE	80,000
Supplies, Utilities, Communications, Professional Services, Etc.	100,000
<b>Total First Year Maintenance and Operations Costs</b>	<b>180,000</b>
<b>Total Start-up and First Year Operations</b>	<b>455,000</b>

### Cost Share

Based on my discussions with the City I propose that West Richland cover the cost of the full-time employee (\$53,000) and Benton County cover the cost of the part-time employee. (Benton County budgets \$27,000 for 2009)

I propose that the parties split the remaining operations costs (estimated at up-to \$100,000) at 50/50. The City has suggested that after the first year or two, this figure be re-adjusted to reflect the actual level of service. For example, if the County ends up being around 75% of the calls, we would renegotiate the operations cost share to a 75/25 split. (Benton County budgets \$50,000 for 2009)

The above items total to \$87,000, and we have confidence in that number. For contingencies and inflation, we might consider rounding up to \$100,000 for budget planning for 2009 operations for the County share.

We have not discussed initial building costs in-depth, but the City has stated that it will need "significant help" with capital costs, although it can provide all of the siting, permitting, connections, etc.

###

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE relating to dog control, adding a new chapter to Title 2 of the Benton County Code.

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

SECTION 1. There is hereby added a new chapter to Title 2 of the Benton County Code which shall be entitled, "DOG CONTROL."

SECTION 2. There is hereby added a new section to such chapter which shall read as follows:

DEFINITIONS. (a) As used in this chapter, unless the context indicates otherwise, the following words or phrases shall have the following meanings:

- (1) "Animal control authority" means any local governmental unit designated by the County to enforce the provisions of this chapter.
- (2) "At heel" shall be those circumstances when a dog is positioned and controlled in such a manner so as to remain within a distance of two (2) feet from its owner or other competent person having charge of such dog.
- (3) "At large" means off the premises of the owner of the dog unless such dog:
  - (A) is attached to a leash or a chain of sufficient strength to restrain the dog, and not more than eight (8) feet in length, when said leash or chain is held by a person competent to restrain and control the dog off the owner's premises;
  - (B) is properly restrained within a motor vehicle or housed in a veterinary hospital; or
  - (C) is accompanied by and at heel beside the owner or competent responsible person.
- (4) "County" means Benton County, Washington.
- (5) "County animal shelter" means an animal shelter designated by the County to receive and hold impounded dogs under this chapter.
- (6) "Competent person" means any person who, by reason of age and physical ability and/or training, is capable of maintaining control of a dog to the extent required by this chapter.
- (7) "Dog" means and includes female, spayed female, male and neutered male dogs.
- (8) "Health officer" includes any person designated as such by the Benton-Franklin District Health Department, or any other person designated as such by the County.

(9) "Microchip implant" means an identifying integrated circuit placed under the skin of a dog.

(10) "Owner" means any person, group of persons, firm, association or corporation owning, possessing, keeping, harboring or having control or custody of a dog.

(11) "Person" includes any person, partnership, corporation, trust or association of persons.

(12) "Veterinary hospital" means a public establishment regularly maintained and operated by a licensed veterinarian for the diagnosis and treatment of disease and injury to animals.

(13) "Pound master" refers to any person employed by, or under contract with, the County to care for and dispose of strays or other animals confined under this chapter.

(b) All other words and phrases used in this chapter will have their commonly accepted meaning.

(c) Whenever a type or breed of animal is described in this chapter, it includes any hybrid, cross breed or mixed breed of such animal to any degree that the type or breed can be identified by either the animal's appearance, behavior or pedigree.

SECTION 3. There is hereby added a new section to such chapter which shall read as follows:

**DOGS AT LARGE.** It is unlawful for any owner of any dog to allow, suffer or permit such dog to be at large and within unincorporated Benton County. Any dog at large and within unincorporated Benton County is a nuisance. Any dog which is at large and within unincorporated Benton County may be impounded by the animal control authority.

SECTION 4. There is hereby added a new section to such chapter which shall read as follows:

**SETTING AT LARGE PROHIBITED.** It is unlawful for any person, except the owner or his or her duly authorized agent, to willfully open any door or gate on any private premises or unleash any dog for the purpose of enticing or enabling any dog to leave such private premises.

SECTION 5. There is hereby added a new section to such chapter which shall read as follows:

**NOTICE OF IMPOUNDING--PROCEDURES.** Upon seizing and impounding any dog, the animal control authority shall give notice of such impounding in substantially the following manner.

(a) If the dog is wearing a tag identifying its owner, if the dog is implanted with a microchip implant detected by a scanner used by the animal control authority or if the identify of the owner is otherwise known to the animal control authority, then, as soon as reasonably practicable after the dog is impounded, the animal control authority shall notify the owner, by telephone or by

leaving a written notice at the owner's residence, or the contact veterinary hospital that implanted the microchip, that the dog has been impounded and may be redeemed as provided in this chapter.

SECTION 6. There is hereby added a new section to such chapter which shall read as follows:

REDEMPTION OF IMPOUNDED DOGS. (a) Any impounded dog may be redeemed by the owner, or authorized representative of the owner, by payment to the animal control authority of an impounding fee, said fee to be established by resolution of the Board of County Commissioners. In addition, the redeeming owner, or authorized representative of the owner, shall first pay a daily boarding fee established by resolution of the Board of County Commissioners for each calendar day or portion thereof that the dog has been confined, and also the actual cost, if any, of treating an injured dog.

(b) Proof of an unexpired rabies vaccination must also be produced before a dog is released from impound.

(c) Upon receiving all fees due, the animal control authority shall execute a receipt in duplicate. The original shall be delivered to the person redeeming the dog and a copy, upon which such person shall acknowledge delivery of the dog, shall be retained by the animal control authority.

SECTION 7. There is hereby added a new section to such chapter which shall read as follows:

UNCLAIMED DOGS--DISPOSITION. Except as set forth in Section 8 below, if an impounded dog is not claimed and redeemed within seventy-two (72) hours of impoundment, then, at the discretion of the animal control authority, such dog may be adopted out or humanely destroyed.

SECTION 8. There is hereby added a new section to such chapter which shall read as follows:

MICROCHIP IMPLANTED DOGS--DISPOSITION. If an impounded dog bearing a detected microchip implant is not claimed or redeemed within ten (10) days of the date of impoundment, then it may be adopted out or humanely destroyed by the animal control authority.

SECTION 9. There is hereby added a new section to such chapter which shall read as follows:

DESTRUCTION OF DOGS. (a) Any dog which is not redeemed by the owner and not adopted out by the animal control authority or pound master may be humanely destroyed and properly disposed of by the animal control authority or pound master. The destruction of all dogs shall be done in a humane manner.

(b) In the event of an emergency endangering the health or safety of any person where seizure and impoundment of a dog is deemed inadvisable or impractical, or for humane considerations, the animal control authority at its discretion may summarily destroy the dog involved.

SECTION 10. There is hereby added a new section to such chapter which shall read as follows:

VIOLATIONS--PENALTIES. (a) Except as set forth in Section 11, each violation of any provision of this chapter shall be a civil infraction. Each violation shall be subject to a penalty in the amount listed below plus any court costs assessed by the Benton County District Court.

(1) First violation of any provision of this chapter - thirty dollars (\$30.00)

(2) Second violation of any provision of this chapter - fifty dollars (\$50.00)

(3) Third violation of any provision of this chapter - seventy-five dollars (\$75.00)

(4) Any additional violations of any provision of this chapter - one hundred dollars (\$100.00)

(b) Each person is guilty of a separate offense for each and every violation of any provision of this chapter by such person.

SECTION 11. There is hereby added a new section to such chapter which shall read as follows:

IDENTIFICATION-REFUSAL-PENALTY. Any person requested to identify himself or herself to the animal control authority pursuant to an investigation of an infraction under this chapter, has a duty to identify himself or herself and give his or her current address. Failure to so identify himself or herself shall constitute a misdemeanor punishable by a fine of not to exceed five hundred dollars (\$500.00) or by imprisonment for not more than ninety (90) days or by both such fine and imprisonment.

SECTION 12. SEVERABILITY. If any provision of this ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 13. EFFECTIVE DATE. This ordinance shall take effect and be in full force upon its passage and adoption.

ADOPTED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

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

Ordinance No. \_\_\_\_\_  
Continued  
Page 5

Approved as to Form:

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

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

\_\_\_\_\_  
Member.

Constituting the Board of  
County Commissioners of  
Benton County, Washington

Attest: \_\_\_\_\_  
Clerk of the Board

9:40

<u>AGENDA ITEM</u>	<u>ACTION NEEDED</u>	<u>DISCUSSION TYPE</u>
Meeting Date: 29 Sep 2008 Subject: TRIDEC Contract Memo Date: 24 Sep 2008 Prepared By: AJF Reviewed By: LSK	Execute Contract X Pass Resolution X Pass Ordinance Pass Motion None	Consent Agenda Public Hearing 1st Discussion 2nd Discussion X Other

**SUMMARY**

For Board consideration is the 2008 economic development agreement with the Tri-City Industrial Council (TRIDEC). This contract represents a continuation of the annual agreements the County has had with TRIDEC for several years. The package contains the contract and the 2008/2009 workscope as prepared by TRIDEC.

**BACKGROUND**

The County has contracted with TRIDEC for several years for industrial and agricultural recruitment and promotion. This contract continues that tradition.

On September 22nd, this contract came before the Board, and there were requests for some changes to the workscope and to the compensation. The workscope changes are in blue and appear on the first and second page (regarding the specific and intensive work that TRIDEC has been doing per Rattlesnake Mountain). The compensation has been changed from \$28,000 for 15 months to \$53,000 for 15 months – an increase of \$25,000 to reflect the Rattlesnake Mountain work.

**FISCAL IMPACT**

\$53,000.00 from the Sustainable Development Fund.

# # #

# RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON  
IN THE MATTER OF AN ECONOMIC DEVELOPMENT AGREEMENT WITH THE  
TRI-CITY DEVELOPMENT COUNCIL

WHEREAS, RCW 36.01.085 states that "It shall be in the public purpose for all counties to engage in economic development programs. In addition, counties may contract with nonprofit corporations in furtherance of this and other acts relating to economic development"; and,

WHEREAS, the Tri-City Development Council (TRIDEC) is a nonprofit corporation currently running an economic development program within Benton County that promotes Benton County and the Tri-Cities area; **NOW THEREFORE,**

**BE IT RESOLVED,** that the Chairman of the Board of Benton County Commissioners is hereby authorized to sign the Economic Development Agreement between Benton County and TRIDEC.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

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

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

Constituting the Board of Commissioners  
of Benton County, Washington.

Attest.....  
Clerk of the Board

## **STANDARD SERVICE AGREEMENT TERMS AND CONDITIONS**

THIS CONTRACT is made and entered into by and between BENTON COUNTY, a political subdivision of the State of Washington, with its principal offices at 620 Market Street, Prosser, Washington 99350 (hereinafter "COUNTY"), and the TRI-CITY DEVELOPMENT COUNCIL (TRIDEC) with its principal address at 901 North Colorado Street, Kennewick, Washington, 99336; (hereinafter "CONTRACTOR").

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

### **1. CONTRACT DOCUMENTS**

This Contract consists of this agreement and the following attached exhibit, which is incorporated herein by this reference

- A. 2008/2009 Work Plan – TRIDEC Commerce and Industry Division

### **2. DURATION OF CONTRACT**

The term of this Contract shall begin on October 1, 2008, and shall expire on December 31, 2009.

### **3. SERVICES PROVIDED**

The COUNTY requires and the CONTRACTOR agrees to develop and execute a regional marketing program, as more specifically described in the attached "Exhibit A", focused on business recruitment and promotion. The goal of these programs will be economic stability and balanced growth throughout Benton County, as well as marketing of the Hanford Site as appropriate.

### **4. CONTRACT REPRESENTATIVES**

The parties' representatives are as follows:

- a. For CONTRACTOR: Carl Adrian, President  
Tri-City Development Council  
901 North Colorado Street  
Kennewick, Washington 99336  
509-735-1000

b. For COUNTY: Loretta Smith Kelty, Deputy Administrator  
Benton County Commissioners' Office  
7122 West Okanogan Place  
Kennewick, Washington 99336  
509-786-5600

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

**5. COMPENSATION & INVOICING**

The parties acknowledge that the Work Plan described in "Exhibit A" must be performed under this agreement, and the cost of such work is to be funded only partly by the COUNTY. The CONTRACTOR is obligated to obtain whatever funding is required to complete the Work Plan. In order to partially fund the CONTRACTOR'S cost to perform the Work Plan, the COUNTY agrees to pay the CONTRACTOR the sum of \$53,000.00. Payments shall be made in five (5) equal quarterly payments of \$10,600.00. These quarterly payments to the CONTRACTOR shall be for the periods ending December 31, 2008; March 31, 2009; June 30, 2009; September 30, 2009; and December 31, 2009, respectively. The COUNTY will make quarterly payments within four weeks of receipt of an invoice and a work progress report from CONTRACTOR.

**6. AMENDMENT AND CHANGES IN WORK**

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

**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. The CONTRACTOR'S obligations hereunder shall include, but are not limited to, investigating, adjusting, and defending all claims alleging loss from action, error or omission, or breach of any common law, statutory or other delegated duty by the CONTRACTOR, its employees, agents, or subcontractors.

**8. INSURANCE**

- a. Workers Compensation: CONTRACTOR shall comply with all Washington State Workers Compensation laws. Except as prohibited by law, CONTRACTOR waives all rights of subrogation against the COUNTY for recovery of damages to the extent they are covered by workers compensation, employers liability, commercial liability or commercial umbrella liability insurance.
- b. Commercial General Liability Insurance: CONTRACTOR shall maintain commercial general liability coverage for bodily injury, personal injury and property damage, subject to limits of not less than five-hundred thousand dollars (\$500,000) per occurrence. The general aggregate limit shall apply separately to this Contract and be no less than one million dollars (\$1,000,000). CONTRACTOR shall provide certificate of such insurance to COUNTY'S representative prior to start of work, with COUNTY as Certificate Holder.
- c. Verification of Coverage and Acceptability of Insurers: All insurance required under this CONTRACT shall be issued by companies admitted to do business within the State of Washington and have a rating of A-, Class VII or better in the most recently published edition of Best's Reports.

**9. TERMINATION**

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 invoices previously submitted in accordance with this contract and a pro-rata payment for the portion of the calendar quarter for which services were rendered prior to the date any such termination is effective.

**10. COMPLIANCE WITH LAWS**

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

**11. NONDISCRIMINATION**

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

**12. DISPUTES**

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

**13. ENTIRE AGREEMENT**

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

**14. NOTICES**

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

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

**BOARD OF  
BENTON COUNTY COMMISSIONERS**

**TRI-CITY DEVELOPMENT COUNCIL**

\_\_\_\_\_  
Claude Oliver, Chairman  
Dated: \_\_\_\_\_

\_\_\_\_\_  
Carl Adrian, President  
Dated: \_\_\_\_\_

**Attest:** \_\_\_\_\_  
Clerk of the Board  
Dated: \_\_\_\_\_

**Approved as to Form:**

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

# COMMERCE AND INDUSTRY DIVISION 2008/2009 WORK PLAN TRI-CITY DEVELOPMENT COUNCIL

## INTRODUCTION

The purpose of the Tri-City Development Council (TRIDEC) is to increase economic activity throughout Benton and Franklin Counties. Indicators of a strong vibrant economy include job growth, low unemployment, increased personal income levels and investment in the community from private and public sources.

## TRIDEC MISSION

“To achieve economic stability and balanced growth through the retention and creation of jobs and the enhancement of the quality of life in the region.”

Mission objectives for job creation and growth are the responsibility of the Commerce and Industry Division and the Commerce Appreciation, Retention and Expansion Program (CARE).

## COMMERCE & INDUSTRY DIVISION FOCUS

In 2006, AngelouEconomics reviewed the Tri-Cities unique strengths, identified target industries fitting the region, proposed positioning and branding strategies, and suggested recruitment of high visibility and high wage employers. These recommendations continue to drive the TRIDEC 2008/2009 Work Plan, with activities focusing on multiple marketing channels to influence the location decisions of growing companies.

Angelou comments that site location decisions are primarily based on the perceived availability of a desirable workforce. Perceptions, rather than facts, are significant, and marketing is the best method for enhancing the positive perceptions of this area. Now, TRIDEC extends incorporation of Angelou’s suggestions into this work plan. Communications will highlight the region’s best selling points, verify its best target industries, and utilize the best marketing methods for reaching potential clients.

## OBJECTIVES

- Identify, attract, and assist financially viable and expanding businesses in establishing operations in Benton and Franklin Counties through systematically increasing the number of direct marketing contacts in target industries.
- Work with ports, cities, counties and other partners to pursue the region’s marketing objectives as well as special marketing initiatives that may relate to a specific site or geographic area.
- Use resources effectively by avoiding the duplication of activities and concentrating on marketing tactics that produce positive results.
- Continue collaboration with County leadership on regulations effecting business development in rural sections of Benton County. Continue involvement on issues regarding Red Mountain Viticultural Area, particularly infrastructure improvements, and proposed transportation and highway access challenges.
- For the short-term, coordinate efforts to ensure access to Rattlesnake Mountain for critical emergency management infrastructure and scientific research. Elements include:
  - Funding and implementing Winter 2008-2009 road maintenance;
  - Assisting the involved parties on technical planning related to transitioning from the old infrastructure to the new infrastructure atop the mountain.

- Coordinating activities and information among and between the County and the other involved government, non-profit, and corporate partners involved in this project.
- For the longer term, continue exploration of conditions under which limited public access to the top of the mountain would be possible. Also, work creatively with the County and the Congressional delegation to find resources both for maintenance of the road on Rattlesnake Mountain, and for capital improvements to that road.

## **OVERALL STRATEGY**

Actively communicate with business owners, senior managers, and decision makers within successful, growing companies, and consultants assisting such firms, in new facility decisions. Improve the probability of identifying expansion and relocation candidates by developing focused target industry lists, refinement of databases to reflect a narrowed focus, and concentrate direct marketing and sales activities geographically.

## **PAID ADVERTISING**

The purpose of TRIDEC's advertising program has been three-fold. First, advertising in selected publications keeps the Tri-Cities name in the minds of the site selection community. Second, to encourage interested parties to obtain more information via the TRIDEC web site and finally, to generate bona fide leads. The amount of national advertising placed over the past few years has trended downward. At the same time there have been specific opportunities in state-wide publications where, because of editorial content, it made good sense for TRIDEC to be present. TRIDEC will continue to place a small amount of advertising in selected publications at state and national levels. TRIDEC will investigate the merits of focusing on vertical media within the Target Industry categories as opposed to general purpose business or economic development publications.

## **ELECTRONIC MARKETING**

The TRIDEC e-newsletter will be transmitted quarterly for the foreseeable future and annually thereafter. The newsletter will contain news from local companies and organizations, emphasizing stories of significance to TRIDEC's target industries. Distribution of the newsletter will focus on the combined TRIDEC/Research District list of companies, site selectors and other business influencers (e.g. major accounting and law firms).

## **ONLINE WEB PRESENCE**

As more and more initial site location searches begin on the Internet, TRIDEC's web site has become an increasingly important source of information. In 2007, [www.tridec.org](http://www.tridec.org) received 89,416 visits (245 visits per day). Our goal is to ensure that information reported on our website is up to date and accurate. This requires maintaining the Sites/Buildings section on our website and similar content on [www.choosewashington.com](http://www.choosewashington.com) and [www.fastfacility.com](http://www.fastfacility.com). The Sites/Buildings section of the website includes the most relevant information on sites and properties in Benton and Franklin Counties meeting size criteria (10,000 contiguous square feet for office buildings, 15,000 contiguous square feet for industrial buildings, 15+ acres for industrial sites, and all business parks). Website updates also include information on the CARE Program (Commerce Appreciation, Retention and Expansion) and other appropriate activities.

## **COLLATERAL MATERIALS**

Primary focus will continue on creation and modification of value proposition statements. Materials are designed to focus major target industry and outline Tri-City advantages for each sector. Statements will be available in both printed and electronic formats and posted on TRIDEC's web site.

## PUBLIC RELATIONS

### **PUBLIC RELATIONS COUNCIL**

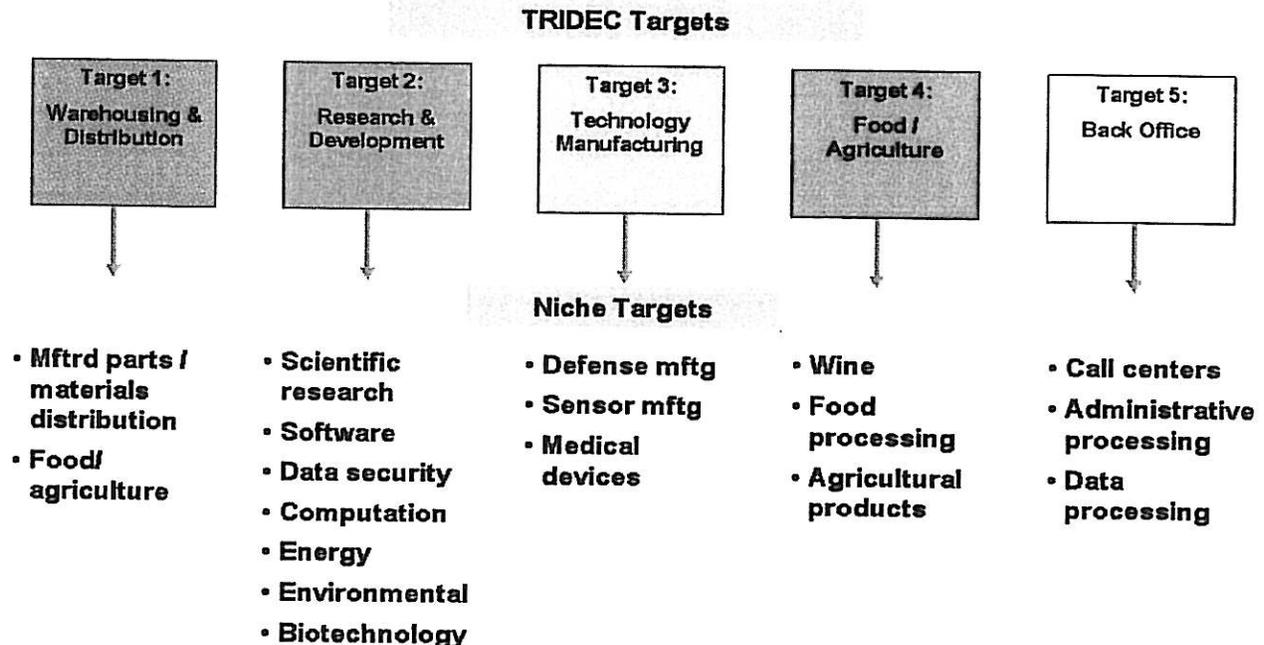
The TRIDEC initiated Tri-Cities Public Relations Council will continue emphasizing generation of out-of-state print and other media outlets to raise awareness of the Tri-Cities. Responsibilities and duties of the Council are:

- Identify avenues for generating national publicity about the Tri-Cities.
- Identify interesting stories and events beneficial to promoting the Tri-Cities.
- Collaborate with local writers and PR freelancers to participate in promoting the community; identifying story ideas, and; assisting the Council in connecting with outside media resources.
- Manage compensation program for writers and media freelancers, covering specific/assigned stories, who succeed in getting them published or aired through national media outlets. The Council will coordinate story ideas with the Tri-Cities Visitor and Convention Bureau and other partner organizations.
- TRIDEC will host one or more visits by editors and writers of target industry publications to generate stories about the Tri-Cities.

## BUSINESS RECRUITMENT

### **AREAS OF TARGETED FOCUS**

TRIDEC and partners work closely to communicate with industries capable of expanding to the Tri-Cities. The following chart shows the list of target industries for the Tri-Cities as recommended by AngelouEconomics:



*NOTE: The agricultural products niche includes all Value-Added Agriculture Products and Processes (VAAPP), high-value bioproducts as exemplified by the Bioproducts Science & Engineering Laboratory at WSU, and renewable fuels and co-products.*

**PACIFIC NORTHWEST NATIONAL LABORATORY, TRI-CITY RESEARCH DISTRICT, AND INNOVATION PARTNERSHIP ZONE** – Industries of interest to Pacific Northwest National Laboratory (PNNL) are inherently significant to both the Tri-City Research District and Innovation Partnership Zone. Collaboration with these three entities precipitates improvement and expansion of TRIDEC marketing communications program. Communal information provided has been refined within target industries to include organization size, growth history, product mix, and geographic location.

**FOOD/AGRICULTURE / WAREHOUSING & DISTRIBUTION** – Substantial growth in the Pasco Processing Center creates interest in industrial development of land and facilities to the east, across US 395 from the Center. In addition, development of the Heritage Industrial Center provides significant opportunity for firms requiring specialized transportation infrastructure and creative water reuse capability.

**WINE INDUSTRY** - The wine industry, as part of VAAPP, is another area of importance in the region. Businesses supporting growers and processors will continue to be the focus of recruitment efforts in this sector. Support businesses include equipment manufacturers, testing laboratories, alcohol adjustment concentrators, bottling equipment, bungs, capsules, etc. The nature of the geographic concentration of the grower/processor activities in this area will necessitate emphasis on Port of Kennewick properties, West Richland, Benton City and Prosser.

#### **BUSINESS RECRUITMENT ACTIVITIES**

During 2008/2009 TRIDEC will design and implement a series of at least six mailings using a combination of lenticular postcards, letters, and conventional postcards to site location consultants and company executives in target industry sectors.

TRIDEC's business recruitment activities will focus on four primary categories of contacts:

1. Senior management in target industry companies
2. Site selection consultants, substantive industrial real estate firms, and other third party advisors,
3. Trade associations and publications associated with target industries.
4. Individuals with historical links to the Tri-Cities, identified through personal referrals, the PNNL Alumni Program, or lists of prominent graduates of WSU or CBC.

#### **BUSINESS RECRUITMENT ACTIVITY GOALS**

As an Associate Development Organization (ADO), TRIDEC has performance goals that must be met for the Washington State Office of Community, Trade and Economic Development. Below are expectations for FY 2009 (7/1/08 to 6/30/09).

- Number and Types of Marketing Materials Developed or Maintained – 9 (FY09)
- Number of Business Contacts Initiated – 11,000 (FY09)
- Number of Site Selector Contacts Made – 75 (FY09)
- Number of Trade Shows Attended – 8 (FY09)

- Number of Businesses Requesting Recruitment Assistance – 68 (FY09)
- Number of In-Bound Visits Hosted – 8 (FY09)
- Number of Client Proposals Developed – 36 (FY09)
- Number of Retention/Expansion Cases Identified – 8 (FY09)
- Number of Start-Up Businesses Requesting Assistance – 3 (FY09)
- Number of Engagements with other Organizations and Local Governments to Increase Community Assets/Capacity – 6 (FY09)

**MARKETING MISSIONS** – TRIDEC will undertake a minimum of four sales missions during the term of this agreement. Several economic development organizations, business and state agency leaders will be invited to participate in these activities.

Typically teams of two individuals will make calls with a focused message on the advantages of doing business in the Tri-Cities. Prospects in target industry categories will be emphasized; however, calls will not be limited.. Site Selection Consultants as well as contacts from CoreNet Global and the Industrial Asset Management Council (IAMC) will also be visited. Generally, prospects will be contacted by mail and telephone prior to personal visits.

To the extent warranted by interest from companies in the target market, TRIDEC intends to use representatives from partner organizations and/or local business persons in these missions.

#### **PARTICIPATION IN NATIONAL/REGIONAL ORGANIZATIONS**

*CoreNet Global and International Asset Management Council* - Membership in both CoreNet Global and IAMC will continue. These are the only two nationally recognized professional associations focused on educating corporate real estate professional and third party providers in site selection processes. Each conducts two national gatherings annually with CoreNet averaging 2,500 attendees per event and IAMC with approximately 400. “Active” members of these organizations represent most of the Fortune 500 companies and “service provider” members include almost all of the national real estate firms and site selection consultants. These gatherings are excellent for networking and building relationships with both corporate and service provider communities.

TRIDEC has traditionally attended all four national events, and has partnered with CTED on hospitality venues and exhibit hall presence. TRIDEC will continue to sponsor breakfast at both the Spring and Fall forums. TRIDEC is investigating possible collaborate with economic development interests in Washington, Oregon, and Idaho to share costs in hosting a private function at the Fall 2009 meeting.

*Attend Area Development Site Selection Consultants Forum:* Area Development is the economic development industry’s most successful general-purpose magazine. During 2008 Area Development sponsored two events featuring the industry’s leading site location consultants in panel discussions. Topics included focusing on best practices in response to RFP’s, incentive clawbacks, and site selection process viewed from each consultant’s perspective. These biannual events are limited in attendance to 100 participants and provided an excellent opportunity for networking with consultants. TRIDEC has been participating in these events since 2007. While participation in both events during 2009 may be beneficial, this plan concentrates on the spring meeting held in early May.

**Conduct One Site Location Consultant Familiarization Tour:** While “fam” tours for site location consultants are an excellent method of introducing the community to individuals who have influence location decisions the tours are also problematic. Consultants are often reluctant to take several days out of their schedule to visit a single community. Frequently trainees are sent because top consultants are too busy. Competition between communities is fierce, with many offering major golf tournaments, championship NASCAR races, big game and bird hunting, and salt water. Tours must be crafted with just the right mix of business and pleasure to be attractive. TRIDEC has conducted “fam” tours in the past connection with larger meetings being held in the Pacific Northwest. TRIDEC also participates regularly with CTED in tours conducted for site location consultants and business writers.

### **TRADE SHOWS/TARGET INDUSTRY EVENTS**

**Continue participation in the Washington Trade Show Consortium (WTSC):** TRIDEC is a member of the Washington Trade Show Consortium, an ad hoc group of economic development organizations and port districts sharing both the costs of, and leads from, selected trade shows around the country. During 2009, TRIDEC has the opportunity to attend the following shows in cooperation with the WTSC:

- Medical Design & Manufacturing show, Anaheim, February 9-12
- Renewable Energy World Conference & Expo North America, Las Vegas, March 10-12
- IBEX, International Boat Builders Expo, Miami Beach, October 6-8
- Solar Power International, San Jose, October 19-22
- PackExpo, Las Vegas, October 5-7

**Attend BIO 2009:** The International BIO Show sponsored the Biotechnology Industry Organization is the world’s largest gather of biotechnology and bioprocess firms in the world. TRIDEC plans only to attend the if CTED actually invests substantially in the effort. To date, CTED is unable to commit to participation due to emerging fiscal constraints. Their staff will coordinated with TRIDEC on a path forward, with TRIDEC cost of participation of significant importance. The show is scheduled May 18-21 in Orlando.

**Attend Industrial Biotechnology and Bioprocessing World Congress:** Exhibit at the Industrial Biotechnology and Bioprocessing World Congress. Leaders from the biotechnology, chemical and agricultural industries are participating. The show in 2008 provided an opportunity to meet with industry leaders and companies involved in the alternative energy sector. The location and length of the 2009 show has not been determined.

### **CARE PROGRAM (COMMERCE APPRECIATION, RETENTION AND EXPANSION)**

The greatest economic development asset any community has is its existing businesses, accounting for 60 – 80% of all new jobs created. This is why, along with start-ups and recruitment, a business retention and expansion program is vital to the economic health of a community. Beginning in November of 2000 TRIDEC started the CARE program. Its objective is to help existing businesses, primarily manufacturing companies, become more competitive, encouraging them to stay and expand in the community, to be healthy, happy and here. The CARE program will continue to partner with federal, state and local economic development organizations to continue to participate in the growth of businesses in Benton and Franklin Counties.

## INITIATIVES

**Smartmap Activities** – Smartmap is a brand developed by TRIDEC in 2003, focused on the manufacturing sector. Smart represents “Smart Manufacturing Technologies” and Map stands for “Manufacturing Assistance Program.”

- **Smartmap Expo** – The 7th Annual Smartmap Expo will be held October 1<sup>st</sup> and 2<sup>nd</sup>, 2009 at the Three Rivers Convention Center, Kennewick. The Expo has become the premier networking event for manufacturers in the Pacific Northwest. A popular feature of the Expo is the TRIDEC Manufacturing Appreciation Luncheon.
- **Smartmap Tours** – Tours offer an opportunity for area manufacturers to tour another company’s facility, receiving presentations on the host company’s history and business model and network with participating manufacturers. The Tours are scheduled one per quarter.

**Trade Week** – Participate in Trade Week 2009, with the Washington State Office of Trade and Economic Development, International Trade Division. This event will involve International Trade Division staff, domestic and international, presenting to and visiting with manufacturers from Benton and Franklin Counties.

**Mexican Opportunity** – Partner with the U.S. Commercial Service offices in Spokane and Mexico City in an effort to get appropriate companies in Benton and Franklin Counties to participate in Mexico’s National Infrastructure Plan.

**Manufacturing Intern Program** – Partner with Washington State University Tri-Cities in developing a “Global Learning/Manufacturing Intern Program.”

**Technology Showcase** – Partner with the Washington Technology Center/APEL, Washington State University Tri-Cities and the Pacific Northwest National Laboratory to develop a technology showcase and discussion event as part of the Smartmap Expo 2009.

**Seminars** – Partner with WorkSource Columbia Basin and Washington Manufacturing Services to present Manufacturing and/or Office Lean 101 Seminars.

**Program Coordination** – Coordinate with programs from the Washington State Department of Community, Trade and Economic Development and Washington Manufacturing Services as they relate to manufacturing companies in the Tri-Cities.

**Local Business Visitations** – Visit manufacturing companies in Benton and Franklin Counties throughout the year to determine their needs, future plans and where TRIDEC can be of assistance.

## APPENDIX – 2008/2009 COMMERCE & INDUSTRY WORK PLAN

### ASSESSMENT OF TRI-CITY ADVANTAGES AND DISADVANTAGES

Angelou summarizes the strengths and weaknesses of the Tri-Cities within 5 major site selection categories: Economic, Structural, Workforce, R&D, and Costs.

**1. Economic conditions:** The overall characteristics of region that support the business model or facility requirements of the industry, including location, size, and industry clusters.

The Tri-Cities is an economy of 107, 000 workers and 216,000 people. Historically, growth has been driven by activity at Hanford and more recently by cleanup at the DOE site. The Federal Budget for Hanford peaked at \$2.1 billion in FY '05 and is projected to range from \$1.7 to \$1.9 billion through FY '11. Over one-fifth of the jobs in the region are in Professional Business Services, which encompasses professional, scientific, technical and waste remediation services, the sectors in which Hanford and PNNL employees are classified. Tri-Cities' top 4 growth industries over the past 3 years are financial services, educational and health services, professional business services, and construction. Tri-Cities' positive job growth outpaces the nation in every sector, with considerable gains, relative to their share of total employment, in professional business and health services. Despite slowing growth rates, overall growth remains strong in the area.

**2. Structural assets:** The infrastructure required by companies for their reliable and cost effective operations, including utility infrastructure and transportation (air, roads, and ports).

The Tri-Cities offers a location with direct access to the west coast's major markets. Manufacturing and agricultural firms can easily ship their goods to a variety of nearby large metropolitan areas. Portland, Seattle and Vancouver, BC each have MSA's over two million people and are all within 400 miles of the area. Business service firms also benefit from this close proximity, allowing them to access clients quickly and frequently.

The region is well served by major interstate highways, river ports, and an extensive rail network. The Tri-Cities region lies directly north of I-82, which links up with three major thoroughfares: I-84, I-90, and I-5. These excellent highway connections act as a draw to any employer that requires frequent shipment and receipt of goods.

In addition to highway access, an extensive rail network is available with mainline service provided by the Burlington Northern Santa Fe and the Union Pacific Railroads. The Burlington Northern Santa Fe operates a major computerized classification yard in Pasco and both railroads offer inter-modal loading facilities in the Tri-Cities.

The Tri-Cities region benefits from having four ports in close proximity. The Port of Benton, Port of Kennewick, Port of Pasco, and the Port of Walla Walla serve the Tri-Cities for its shipping needs, though minimal waterborne cargo occurs. Together, the Ports are capable of handling a wide variety of cargo. The Columbia-Snake river system covers 465 miles from the Pacific Ocean into the North American continent. This commercial waterway allows numerous barge lines to ship commodities throughout the world, which is necessary for multinational manufacturers.

The Tri-Cities is the third busiest airport in Washington in terms of commercial air passenger traffic and ranks fourth in terms of the number of actual aircraft operations. Currently, the Tri-Cities Airport offers direct commercial flights to Seattle, Portland, Denver, Salt Lake City, and Las Vegas. The airport

currently handles 25 commercial flights per day, serving an average of 630 passengers per day. The cost of air travel does appear high relative to larger markets and any perceived high costs can be attributed to the lack of direct air service and neighboring airport alternatives.

Utility cost and service is an advantage for the region. Multiple power sources supply the region with cheap and reliable electricity, including a thermonuclear plant, a coal fired plant, and three hydroelectric plants. These power sources currently supply an ample amount of energy, leaving enough capacity to support much more growth in the area.

**3. Workforce:** The demographics and skill sets of workers that are required by companies in order to be successful.

The Tri-Cities region as a whole lags behind the U.S. in overall educational attainment, while Richland far exceeds the U.S. levels. Today, 23% of Tri-Cities adults 25 years or older have a Bachelor's degree or higher, while 39% of Richland adults have a Bachelor's degree. 22% of Kennewick adults have a Bachelor's or higher, as do 11% of Pasco adults. The region as a whole has seen a steady increase in educational attainment, but gains in Kennewick and Pasco have not kept pace with improvements across the U.S.

The Tri-Cities is home to a plentiful supply of scientists and engineers. In fact, the Tri-Cities boast one of the highest numbers of PhD's per capita. Science, architecture, engineering, and farming are occupation groups that enjoy an above average concentration in the Tri-Cities (3-4 times the U.S. concentration). Construction, education, and transportation have concentrations above average as well.

The Tri-Cities has the highest per capita concentration of several engineering categories (environmental, health and safety, and nuclear) and second highest per capita concentration of physicists in the country (behind Boulder, Colorado) and chemical and civil engineers. The Tri-Cities has the fourth-highest concentration of all types of architects and engineers, behind Huntsville, San Jose, and Melbourne FL.

Despite a large number of technical workers, the Tri-Cities has a relatively small labor pool, with about 140,000 workers within a one-hour drive of central Tri-Cities. The region's size naturally means that the labor pool from which businesses can draw will be limited. For some occupations, especially jobs involving high technology, filling positions may prove difficult. Technology firms will find it necessary to recruit talent from larger metros to compensate for the small labor force. Technology companies (including PNNL) have expressed concern over filling technical positions.

Another concern for the region's marketability is the reality that the regions base of young professionals is shrinking. The Tri-Cities' percentage of residents between 25 to 44 years of age has declined by 5% since 1990. This indicates that the region is having a hard time retaining its late stage teenagers and young adults. The young professional age group (25-44) is important to relocating companies, as they provide the supply of innovative and creative workers for tomorrow's growing businesses.

The ability to recruit and retain this workforce is improving in the Tri-Cities. Already sizeable recreation opportunities (river, bike paths, parks, and sporting facilities) are receiving new investments by local governments. However, the lack of "nighttime" entertainment options such as restaurants and bars would be a noticeable shortcoming for the region in the eyes of many young professionals.

Educational institutions in the Tri-Cities are getting stronger. Public schools are recognized for their quality and student scores are improving, though the region still lags U.S. averages. WSU-Tri-Cities are

successfully expanding its service to the student and business community in the region. Columbia Basin College educates a vast majority of post-secondary students in the Tri-Cities. Students can earn their entire bachelor's degree within the confines of the Tri-Cities when combining courses offered at WSU with lower divisions courses offered at Columbia Basin College in Pasco. Nearly 60% of the students who transfer to WSU Tri-Cities come from CBC. CBC fills a crucial need in supplying residents with an opportunity to begin their education, and WSU-Tri-Cities allows the full extension to a bachelor's or graduate degree.

WSU-TC's received authority during the 2006 Washington Legislative Session to begin admitting lower division students (freshmen and sophomores) beginning in the fall of 2007. The branch campus will be submitting a more detailed plan which will include admission targets and detailed program/course descriptions to the Legislature later in 2006.

WSU Tri-Cities and PNNL are also collaborating efforts to create The Bioproducts, Sciences, and Engineering Laboratory (BSEL), which is under construction on the University campus. The new lab will specialize in converting agriculture waste into usable products, provide the University with additional classrooms, and bridge the gap between researchers at PNNL and faculty and students at the University.

**4. *Research and development:*** The role of universities, colleges, or research parks and incubators in the support of new idea creation, technology commercialization, and the formation of workforce.

The strong technical capabilities of the Tri-Cities are based in the presence of Pacific Northwest National Laboratory and numerous Hanford engineering contractors.

PNNL has significant strengths in several areas of both basic and applied science that offer direct application to the private sector such as: Environmental Sciences, Biological Research, Energy Research, Computational Science, and other niche research areas. Homeland security has become a growing area of focus for PNNL, accounting for 51% of all research. Homeland security work is today focused on nuclear non-proliferation and weapons, but new areas such as detection, information analysis, and communications offer new opportunities for growth.

Despite the presence of PNNL and Hanford, the local entrepreneurial climate is underdeveloped in the region and venture capital investments are rare. The environment for entrepreneurship and research is improving with the creation of a new Life Sciences Discovery Fund by the State of Washington. A total of \$350 million in forthcoming strategic tobacco settlement funds will be used to attract an additional \$650 million in private capital. The \$1 billion fund will be used to help finance groundbreaking research and development of biomedical and other scientific advances to ease human suffering and make Washington a center for these activities. A Board of Directors chaired by Dr. Lura Powell, who was appointed by the Governor in June 2005, will manage the fund. Dr. Powell is a resident of the Tri-Cities and is past director for PNNL. The Life Sciences Discovery Board is limited to awards totaling \$35 million in public funds a year, plus any private money raised. Due to the state constitution, grants cannot be awarded directly to private companies and will instead go to research institutions, many of which partner with private industry.

Research has and will always be a core selling point for the Tri-Cities. Continued efforts to expand collaboration between PNNL, WSU-Tri-Cities, local institutions, and the private sector will further enhance the marketability of the region as a research cluster.

**5. Costs of doing business and living:** The cost factors most important to a company, which may include real estate, taxes, and incentives, as well as the cost of living for a corporation's workers.

Compared with other large or technology metros in the U.S., the Tri-Cities are cost competitive. Land prices are generally low, real estate rental rates are below tech averages, and tax costs are relatively low.

According to Selective Real Estate Company, the range for better class office space in the Tri-Cities is between \$16.00-22.00 per square foot. This level is on par with Portland and slightly below Seattle, with ranges between \$18.94-21.41/sf and \$18.66-23.78/sf respectively. Industrial space follows suit, ranging from \$.25-.55/sf, while Portland (\$.28-.75/sf) and Seattle (\$.46-.85/sf) are significantly higher. While costs are lower, the lack of availability of facilities for sale or sublease space for rent prevents real estate costs from being strength. In fact, few buildings are available for lease or purchase in the Tri-Cities that are "client-ready". Land, however, is widely available, with significant large parcels available in the periphery of the region. In total, over 2500 acres of office or industrial land is available for lease or purchase within the Tri-Cities today. Construction costs in the Tri-Cities for new buildings are in-line with U.S. cost averages.

The Tri-Cities has a moderate tax burden for businesses, with some tax incentives available. Washington ranks in the middle of the 50 states at 24th in total state and local taxes as a percentage of income, 38th in state tax burden on a per capita basis. While the sales tax rate is high, the property tax is more moderate, but still ranks uncompetitive versus other U.S. states. When combining state and local property tax collections, Washington ranks 16th highest. The B&O tax has several disadvantages as well. The B&O tax places a heavy burden on small firms with low profit margins, and discourages some business investment (that cannot be deducted from typical income taxes).

The cost of real estate in the Tri-Cities is lower than larger neighboring metros, but price differences are not enough to be a significant draw to relocating companies.

10:30

<u>AGENDA ITEM</u>		<u>TYPE OF ACTION NEEDED</u>	
Meeting Date:	<u>September 29, 2008</u>	Execute Agreement	_____
Subject:	<u>2009 1-Year Road Program</u>	Pass Resolution	_____
Prepared by:	<u>dlh</u>	Pass Ordinance	_____
Reviewed by:	<u>RBD</u>	Pass Motion	_____
		Other	_____
		Consent Agenda	_____
		Public Hearing	_____
		1st Discussion	<u>XX</u>
		2nd Discussion	_____
		Other	_____

**BACKGROUND INFORMATION**

- Attachments: Draft 2009 Road Program Pages 1 - 4
- Exhibit A – Diverted Road Taxes
- Exhibit B – Bituminous Surface Treatment
- Exhibit C – Capital funds available for projects
- Exhibit D – Road budget shortfalls
- Exhibit E - August 2008 BCS Reports

Project, maintenance preservation and diversion costs are increasing at rates higher than revenues. Consequently capital available for projects is shrinking. At the current rate, capital for projects will diminish in a few years. Much of the Boards ability to arrest rapid capital declines is limited from outside effects. The Board has limited control over national inflation rates, product shortages, manufactured product limitations, and national disasters that, for many reasons, escalate project costs. To keep a healthy capital roadway program in the future, the Board may wish to consider the available funding sources while also considering the decline in gas tax revenues.

Public Works is seeking Board direction for the 2009 Road Program

**SUMMARY**

Public Works is seeking Commissioner preferences concerning the attached draft 2009 Road Program.

**RECOMMENDATION**

**FISCAL IMPACT**

**MOTION**

None.

DRAFT  
2009 ROAD PROGRAM  
Estimated Revenues

09/24/08

B.A.R.S.#		COUNTY	STATE	FEDERAL	PWTF	OTHER	TOTAL
291.74.0001	Fund Balance January 1, 2009						
311.10.0500	Road Levy 2009 (Prior to \$470,795 Diversion to Traffic Law Enforcement)	1,154,489	0	0	0	0	1,154,489
311.12.0001	Administrative Refund	5,253,924	0	0	0	0	5,253,924
317.20.0001	Leasehold	35,000	0	0	0	0	35,000
321.91.2100	Franchise Fees	0	100,000	0	0	0	100,000
322.90.0002	Trail Access Permits	1,000	0	0	0	0	1,000
336.00.8901	Gas Tax (County Apportionment)	500	0	0	0	0	500
338.42.0501	Road Maintenance Services	0	3,184,267	0	0	0	3,184,267
338.95.0501	Road Construction & Engr Services	25,000	0	0	0	0	25,000
341.50.0501	Sale of Maps	100,000	0	0	0	0	100,000
341.69.0501	Sale of Prints	100	0	0	0	0	100
344.10.0501	Various Road Repairs	15,000	0	0	0	0	15,000
344.10.0502	Private Road Signs	10,000	0	0	0	0	10,000
344.20.0501	Sale of Aggregate Materials	500	0	0	0	0	500
344.90.0501-2	Plat Road/Access Road/Encroachment Review	5,000	0	0	0	0	5,000
344.90.0503-4	Road Vacations / Affidavits of Correction	18,000	0	0	0	0	18,000
349.16.0501	Personnel Admin Services by Co Road	2,200	0	0	0	0	2,200
349.95.0001	Road & Engineering Services (Park Developm't Horse Heaven Vista)	150,000	0	0	0	0	150,000
361.11.0001	Interest	0	0	0	0	30,000	30,000
362.10.0501	Equipment & Vehicle Rentals	25,000	0	0	0	0	25,000
362.90.0501-2	Other Rents	500	0	0	0	0	500
367.00-0001	Contributions / Donations	200	0	0	0	0	200
369.10.0501	Special Sales By County Road	0	0	0	0	392,000	392,000
369.40.0501	Judgements and Settlements	300	0	0	0	0	300
369.90.0001	Miscellaneous Revenues	300	0	0	0	0	300
369.90.0501	Sale of Salvage - Road	2,000	0	0	0	0	2,000
369.90.0502	Miscellaneous Revenues (REA Capital Payment)	100	0	0	0	0	100
369.90.0504	Tourist Information Signs	200	0	0	0	0	200
366.70.0501	Sales Tax Collection	500	0	0	0	0	500
391.60.0501	Intergovernmental Loan Proceeds	1,500	0	0	0	0	1,500
395.10.0002	Sale of Fixed Assets - Equipment	0	0	0	162,500	0	162,500
395.10.0501	Sale of Fixed Assets - Road	500	0	0	0	0	500
397.10.0000	Operating Transfers-In to Road Fund	500	0	0	0	0	500
.0103	Flood Control Fund						
.0114	Paths & Trails Reserve Fund	0	0	0	0	54,500	54,500
.0305	CRID: Sagebrush Road	0	0	0	0	23,500	23,500
.0305	Capital Projects Fund (Plerf Road)	0	0	0	0	10,000	10,000
.0305	Capital Projects Fund (Webber Canyon Rd Phase 1)	0	0	0	0	29,426	29,426
		0	0	0	0	1,800,000	1,800,000
		0	0	0	0	0	0
	Subtotal	6,802,313	3,284,267	0	162,500	2,339,426	12,588,506
<b>GRANT / MATCHING FUNDS</b>							
333.20.2501	Federal: STP/U Urban	0	0	0	0	0	0
333.20.2502	STP/R Rural	0	0	0	0	0	0
333.20.2503	BRAC, BRRP Bridge	0	0	2,690,000	0	0	2,690,000
333.20.2504	STP/S Safety (HES)	0	0	0	0	0	0
333.20.2505	R-HCP Railroad (RRP)	0	0	0	0	0	0
333.20.2506	ER Emergency Relief Program	0	0	0	0	0	0
333.20.2507	STP/E Enhancement (TEP)	0	0	0	0	0	0
333.20.2508	Rural Economic Vitality (REV) Program	0	0	367,000	0	0	367,000
333.20.2509	Rural 2-Lane Road Safety Improvements	0	0	0	0	0	0
333.20.2510	Demonstration Projects (HPP)	0	0	250,000	0	0	250,000
333.11.3070	DOC Economic Development Admin (EDA)	0	0	10,000	0	0	10,000
		0	0	0	0	0	0
334.03.6100	Freight Mobility Strategic Investment Board (FMSIB)	0	0	0	0	0	0
334.03.7100	Rural Arterial Program	0	0	0	0	0	0
334.03.7200	CAPP (Arterial Preservation)	0	1,960,000	0	0	0	1,960,000
334.03.8501	Transportation Improvement Board AIP/TPP Grants	0	380,460	0	0	0	380,460
	Subtotal	0	305,000	0	0	0	305,000
	GRAND TOTAL	6,802,313	5,929,727	3,317,000	162,500	2,339,426	18,550,966



**PUBLIC WORKS ROAD FUND PURCHASES**

**ROAD FUND #0101-101**

09/24/08

<u>QTY</u>	<u>ITEM</u>	<u>COST</u>	<u>REPLACEMENT YES/NO</u>
6	VIP Subscriptions (Autocad=1; Autodesk Map=5)	\$3,100	Yes
1	Geomedia V.6.1 and one year maintenance	\$2,000	No
3	Geomedia Subscriptions	\$1,050	Yes
6	Civil 3D Software	\$10,000	Yes
1	2-Drawer Hanging Plat Files	\$4,000	No
1	Laptop Computer and Projector for WebCast Programs	\$3,000	No
<b>Total Road Fund #0101-101</b>		<b>\$23,150</b>	

# EQUIPMENT RENTAL & REVOLVING FUND PURCHASES

ER&R FUND #0501-101

09/24/08

**REPLACEMENT  
YES/NO**

**QTY**

**COST**

**A.**

**GENERAL/SPECIAL PURPOSE VEHICLES/EQUIPMENT**

1	Road Grader	\$150,000	Yes
1	Extended Cab Gas 1/2 Ton 4x2 AT Pickup	\$20,000	Yes
5	Regular Cab Gas 3/4 Ton 4x4 AT Pickup	\$115,000	Yes
1	Regular Cab Diesel 3/4 Ton 4x4 MT Pickup	\$26,000	Yes
1	Crew Cab 4x4 1-Ton (non-dually) Chassis w/Survey Utility Box	\$42,500	Yes
1	Remanufactured Engine for #491	\$7,000	Yes
1	Repaint Dump Box on #406	\$3,000	No
1	Repaint Utility Box on #476 Sign Truck	\$5,000	No
1	Repaint Rock Rake #489	\$3,000	No
1	Metal Fabrication Break Machine	\$1,500	No
1	Air/Hydraulic Floor Jack	\$1,500	Yes
1	10,500 Gallon Liquid De-icer Storage Tank	\$9,000	No
N/A	Steel/Carbide Cutting Bits	\$17,500	Supply
N/A	Equipment Tires (Car/Pickup/Truck/Heavy Equipment)	\$21,000	Supply
N/A	Steel Bid	\$5,000	Supply
N/A	Tire Chain Parts	\$4,500	Supply
N/A	Small Shop Equipment & Tools	\$4,000	
N/A	Sign Shop Equipment & Tools	\$1,500	
<b>Total</b>		<b>\$437,000</b>	

**ER & R VEHICLES FOR OTHER DEPARTMENTS**

2	Extended Cab Small 4x4 Pickup for Building Dept.	\$44,000	Yes
1	Midsized 4-Door Sedan for Building Dept	\$20,000	Yes
<b>Total</b>		<b>\$64,000</b>	

**B.**

**OFFICE EQUIPMENT**

1	Lab & Testing Equipment (for Eng'r Lab Trailer)	\$3,000	Yes
3	Computers	\$12,500	Yes
4	Flat Panel Computer Monitors (19" Monitors)	\$1,000	Yes
N/A	Office Equipment and Furnishings	\$3,000	Yes
<b>Total</b>		<b>\$19,500</b>	

**C.**

**FACILITIES**

General Building Maintenance & Repairs	\$15,000	
<b>Total</b>	<b>\$15,000</b>	

**D.**

**INVENTORY**

Aggregate Purchase (Crushing & Stockpiling at Horrigan R-126)	\$300,000	
Traffic Sign Materials	\$100,000	
Herbicide Chemicals	\$197,500	
Bulk Diesel Fuel	\$275,000	
Liquid De-icer (Magnesium Chloride)	\$12,000	
<b>Total</b>	<b>\$884,500</b>	

**Grand Total**

**\$1,420,000**

Exhibit A

**DIVERTED ROAD TAXES**

Year	Amount	Increase	Mileage (1/1/xx)
1997	\$65,223.51		876.0
1998	\$96,660.12	48%	876.2
1999	\$70,795.39	-27%	880.2
2000	\$71,414.85	1%	873.0
2001	\$77,418.00	8%	870.1
2002	\$185,748.24	140%	870.2
2003	\$298,465.59	61%	873.3
2004	\$368,873.28	24%	879.7
2005	\$344,941.13	-6%	880.5
2006	\$377,848.56	10%	879.2
2007	\$394,220.92	4%	877.6
*2008	\$417,849.00	6%	861.7
**2009	\$461,056.00	10%	

\* Budgeted

\*\* Proposed

Cost increase from 1997 to 2008 = 541%  
Mileage decrease, same period = -14.2

Exhibit B

**BITUMINOUS SUFACE TREATMENT**

<u>Year</u>	<u>County Contract</u>	<u>County Total</u>	<u>Road Miles</u>	<u>Cost Per Mile</u>	<u>CE</u>
1997	452,565	555,158 *	97	<b>5,723</b>	1604
1998	298,104	388,534 *	76	<b>5,112</b>	1612
1999	388,552	491,730 *	74	<b>6,645</b>	1635
2000	427,004	498,292 *	60	<b>8,305</b>	1666
2001	266,876	655,036 *	76	<b>8,619</b>	1700
2002	671,983	843,378 *	80	<b>10,542</b>	1730
2003	712,578	892,700 *	104	<b>8,584</b>	1762
2004	596,767	767,848 *	96	<b>7,998</b>	1783
2005	566,669	872,974 *	75	<b>11,640</b>	1812
2006	664,754	1,036,004 *	68	<b>15,235</b>	1827
2007	701,668	980,625 *	52	<b>18,858</b>	1864
2008	809,123	1,147,450 *	73	<b>15,718</b>	1888

\* The county total includes the cost of crack sealing and aggregate from county stockpile.

**Exhibit C**

**Operating Costs versus Construction Costs = Capital funds available for projects.**

I:\excel/Budget/2009 Budget Dollars Available for Construction 09-10-08

<u>YEAR</u>		<u>REVENUES</u>	<u>OPERATING EXPENSES</u>	<u>AVAILABLE CONSTRUCTION DOLLARS</u>
2005 *	Prop Tax	3,662,501	1,115,662	Preservation Maintenance Admin. Operations
	Leasehold	29,416	3,118,570	
	CAPP	333,372	923,785	
	MVFT	<u>2,992,563</u>	<u>441,956</u>	
	* = Actuals	<b>7,017,852</b>	<b>5,599,972</b>	
2006 *	Prop Tax	4,213,304	951,009	Preservation Maintenance Admin. Operations
	Leasehold	59,200	3,173,651	
	CAPP	390,835	1,041,502	
	MVFT	<u>3,083,214</u>	<u>551,907</u>	
	* = Actuals	<b>7,746,552</b>	<b>5,718,070</b>	
2007 *	Prop Tax	4,389,250	1,442,835	Preservation Maintenance Admin. Operations
	Leasehold	98,121	3,512,551	
	CAPP	374,906	970,093	
	MVFT	<u>3,154,168</u>	<u>490,214</u>	
	* = Actuals	<b>8,016,445</b>	<b>6,415,693</b>	
2008 **	Prop Tax	4,614,012	1,450,220	Preservation Maintenance Admin. Operations
	Leasehold	90,000	3,617,358	
	CAPP	400,400	1,115,610	
	MVFT	<u>3,367,687</u>	<u>653,706</u>	
	** = Budgeted	<b>8,472,099</b>	<b>6,836,894</b>	
2009 ***	Prop Tax	4,783,139	1,822,371	Preservation Maintenance Admin. Operations
	Leasehold	100,000	3,753,959	
	CAPP	380,460	1,324,495	
	MVFT	<u>3,184,267</u>	<u>655,404</u>	
	*** = Proposed	<b>8,447,866</b>	<b>7,556,229</b>	

Exhibit D

ROAD BUDGET SHORTFALLS

Project	Length mi.	ROW Obtained	Available Funding (\$ Million)		Project Cost (\$ Million)	Shortfall
			Federal	State RAP		
<b>New Roads</b>						
Piert Rd	2	No		\$1.7	\$4.2	\$2.5
Webber Canyon - Underpass		Yes	\$2.2		\$3.5	\$1.3
Kiona Roads		N/A			\$1.8	\$1.8
<b>Rural Arterial Program</b>						
Hanks Rd.	3	No		\$0.5	\$3.7	\$3.2
Clodfelter Rd.	3	Partially		\$1.3	\$1.8	\$0.5
Locust Grove Rd.	2	No		\$0.9	\$1.2	\$0.3
Nine Canyon Rd. - Ph. 1	3	No		\$2.7	\$3.1	\$0.4
Nine Canyon Rd. - Ph. 2	3	No		\$2.5	\$2.8	\$0.3
<b>Paved Road Upgrades</b>						
Travis Rd.	3	Yes			\$2.3	\$2.3
Bert James Rd.	4	Partially			\$3.0	\$3.0
Webber Canyon Rd - South	2	Yes	\$0.5		\$1.3	\$0.8
Three Curves		Yes			\$0.4	\$0.4
Sellards Rd	7	No			\$3.5	\$3.5
County Well Rd.	6	No			\$4.5	\$4.5
<b>Gravel Road Upgrades</b>						
Clodius & Tyacke Rds.	4	Yes			\$3.0	\$3.0
Gould, Hayden & Hamilton Rds.	6	Partially			\$4.0	\$4.0
Tyrell Rd.	4	No			\$3.0	\$3.0
Owens Rd.	4	No			\$4.0	\$4.0
						\$38.9

**Exhibit E**

**BENTON COUNTY SHERIFF REPORTS**

# SHERIFF

## ★ BENTON COUNTY

SEP - 4 2008

Month & Year	August 2008			Name	J. Weakley 519		
	BS Arrest	HS Arrest	Total To Date		Traffic Infractions	BS Arrest	HS Arrest
D.W.I.			1	Speed (Non Radar)			1
Physical Control				Speed (Radar)	17	10	221
Reckless Driving			5	Vehicle License			26
Negligent Driving				Vehicle Equipment			2
Hit & Run				Drivers License	2		5
N.V.O.L.			1	Driving Infractions	2		13
D.W.L.S./R.	7	1	49	No Insurance	10		88
Warrant Service	1		17	Seat Belt Violation	4	2	24
Dumping Arrest				N.V.O.L.	4		12
Criminal (Traffic)			7	Other Infractions	4		8
Others				Truck Violations	2		3
<b>Total Criminal</b>	<b>8</b>	<b>1</b>	<b>80</b>	<b>Total Infractions</b>	<b>45</b>	<b>12</b>	<b>403</b>
Accident Investigations	1		21	<b>Total Warnings</b>			
<b>Total Miles</b>	<b>2258</b>		<b>18499</b>	Written			
<b>Total Gas Used</b>	<b>187</b>		<b>1408</b>	Verbal	20		160
<b>Miles Per Gallon</b>	<b>12.0</b>		<b>13.1</b>	<b>Total Penalty</b>	<b>13,653.00</b>		
<b>Weight Checks</b>	<b>10</b>		<b>30</b>	<b>Year to Date</b>	<b>99,938.00</b>		
				<b>Citations to Date</b>	<b>398</b>	<b>85</b>	<b>483</b>

# SHERIFF



SEP - 2 2008

Month & Year

August, 2008

Name Carlos Trevino

	BS Arrest	HS Arrest	Total To Date		BS Arrest	HS Arrest	Total To Date
Criminal Traffic				Traffic Infractions			
D.W.I.				Speed (Non Radar)			
Physical Control				Speed (Radar)		13	165
Reckless Driving			2	Vehicle License	3		7
Negligent Driving #			2	Vehicle Equipment			2
Hit & Run	1		2	Drivers License	1		8
N.V.O.L.	1		3	Driving Infractions	8		21
D.W.L.S./R.	3		39	No Insurance	7		52
Warrant Service	6		30	Seat Belt Violaton			6
Dumping Arrest				N.V.O.L.			
Criminal (Traffic)	3		7	Other Infractions			16
Others	5		19	Truck Violations			1
Total Criminal	19		104	Total Infractions	19	13	278
Accident Investigations	1		25	Total Warnings			
Total Miles	1,875		14,916	Written			
Total Gas Used	179.4		1,365.92	Verbal			
Miles Per Gallon	10.45		10.92	Total Penalty #	8,260		\$64,386
Out of State Vehicle Report To State				Year to Date			
Weight Checks	6		22	Citations to Date			
				Training			