

November 2, 2009

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

Draft

MINUTES

BOARD OF BENTON COUNTY COMMISSIONERS

Regular Board Meeting
October 26, 2009, 9:00 a.m.
Commissioners' Conference Room
Benton County Courthouse, Prosser, WA

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

Benton County Employees Present During All or a Portion of the Meeting: Deputy Administrator Loretta Smith Kelty; Adam Fyall, Community Development Coordinator; Finance Manager Linda Ivey; Facilities Manager Roy Rogers; Frank Wolf, Pest Control; Treasurer Duane Davidson; Susan Walker and Mike Shuttleworth, Planning Department; DPA Ryan Brown; Steve Becken and Malcolm Bowie, Public Works; Lisa Small, Commissioners' Office; Erhiza Rivera, Treasurer's Office; Central Services Manager Randy Reid.

Approval of Minutes

The Minutes of October 12, 2009 were approved. The Minutes of October 13, 2009 were approved.

Consent Agenda

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

Assessor

- a. Line Item Transfer, Fund No. 0000-101, Dept. 101

Auditor

- b. Surplus of Personal Property

Commissioners

- c. Business Travel & Expense Policy; Rescinding Resolution No. 09-029

Facilities

- d. Purchase 60 Gallon Vulcan Kettle from Smith and Greene Company
- e. Purchase Double Deck Vulcan Convection Oven from Smith and Greene Company

Horticultural Pest

- f. Contract w/Ideal Tree Service for Tree Removal Services

Human Services

- g. Contract Amendment, #09/10-DD-CDC-01, w/Children's Developmental Center

- h. Contract Amendment, #07/09-CMH-LCS-01, w/Lutheran Community Services
- i. Contract Amendment, #07/09-PIHP-LCC-01, w/Lourdes Counseling Center
- j. Contract Amendment, #07/09-CMH-LCC-02, w/Lourdes Counseling Center
- k. Contract Amendment, #07/09-RES-LCC-03, w/Lourdes Counseling Center

Juvenile

- l. Interagency Agreement, #IAA10222, w/St of WA Administrative Office of the Courts
- m. Contract Amendment w/ARAMARK Food Service

Office of Public Defense

- n. Line Item Transfer, Fund No. 0000-101, Dept. 136

Parks

- o. Notice of Completion of Construction of Garage and Storage Facility at Horn Rapids Park
- p. Badger Mountain Environmental Site Assessment

Planning

- q. Line Item Transfer, Fund No. 0000-101, Dept. 116

Public Works

- r. County Roads Improvement District (C.R.I.D.) #15, Cottonwood Drive, Property Segregation
- s. Surplus of Personal Property in Accordance w/Resolution 07-752

Sheriff

- t. Purchase of Tasers & Taser Accessories from WA State Contract #02039
- u. Line Item Transfer, Fund No. 0000-101, Dept. 118
- v. Line Item Transfer, Fund No. 0000-101, Dept. 119
- w. Line Item Transfer, Fund No. 0000-101, Dept. 120
- x. Line Item Transfer, Fund No. 0000-101, Dept. 121
- y. Line Item Transfer, Fund No. 0000-101, Dept. 119
- z. Line Item Transfer, Fund No. 0000-101, Dept. 120

Superior Court

- aa. Line Item Transfer, Fund No. 0156-101, Dept. 000

Treasurer

- bb. Purchase of Additional Equipment for Remodeled Office Space

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

PEDA

Deb Heintz gave the quarterly update on PEDA and briefly discussed the following:

- Prosser Downtown Association tax incentive program
- Community grant writer program
- Strategic planning session
- Groundbreaking at Horse Heaven Vista and Walter Clore Wine Center
- Job fair

Charlie Bush, City of Prosser briefly discussed the following city issues:

- City initiatives and stable revenues
- Major capital projects: railroad crossing; shared avenue construction near ConAgra plant; signal crossing near Walter Clore; pool renovation; water system replacement; north Prosser water improvements – new water reservoir; waste water treatment plant renovation; new public safety building
- Maintenance of recreation funding despite recession; gang prevention; playground equipment replacement; special event ordinance
- Revision of growth plans and comprehensive plan; sign ordinance; residential and commercial development guidelines; pedestrian and bicycle planning; issues coming up (water rights); urban growth area and development review; and street maintenance & construction

Continued Public Hearing – Comprehensive Plan Amendments

Mike Shuttleworth requested a one-week continuance for the public hearing due to a request by Benton City.

The following exhibit was entered into the record:

Staff Exhibit “I”: Letter from Lloyd Carnahan, Mayor of Benton City

MOTION: Commissioner Beaver moved to continue the public hearing to 9:15 a.m. on November 2, 2009. Commissioner Bowman seconded and upon vote, the motion carried.

The Board briefly recessed, reconvening at 9:35 a.m.

Fairgrounds – Workshop

Loretta Smith Kelty presented a discussion paper regarding a proposal by the Fair Association to purchase the Fairgrounds property. Ms. Smith Kelty recommended the Board look at privatization and suggested negotiation of the issues.

Commissioner Beaver said he wanted to move forward with negotiation and wanted Ryan Brown involved.

Commissioner Bowman said it was a philosophical question on whether the County wanted to sell the Fairgrounds and the money made at the Fairgrounds was probably more indirect. He said he personally was not ready to sell the county owned facility but has suggested the Fair Association operate the facility with a full-time lease.

Chairman Benitz said it involved looking at the needs of the community today and in the future and feels there would be cost savings with privatization. However, before he was willing to consider the idea, there would have to be a continuation of 4-H and FFA programs for students to have a home and the Tri-City Horse Racing Association and other events would need to have access to the facility. However, he was willing to look at the concept.

The Board recessed until 9:55 a.m.

2010-2015 Capital Improvement Plan

Loretta Smith Kelty and Lisa Small presented the draft 2010-2015 Capital Improvement Plan for review.

The Board reviewed the plan and made suggested changes, specifically, to leave out the project priority status and add the Clore Center project under Commissioners in the amount of \$100,000 with unknown funding. Ms. Smith Kelty said the document would be finalized and put on the consent agenda for final adoption.

Claim for Damages

CC 09-21: Received on October 14, 2009 from Naathon-Ray Johnson
CC 09-22: Received on October 20, 2009 from John and Pat Storm

Vouchers

Check Date: 10/15/2009
Taxes #: 10109105-10109106
Total all funds: \$36,014.31

Check Date: 10/15/2009
Warrant #: 225628-225861
Total all funds: \$111,819.78

Check Date: 10/16/2009
Warrant #: 935529-935642
Total all funds: \$5,514.91

Check Date: 10/16/2009
Warrant #: 935309-935528
Taxes #: 01161009
Total all funds: \$655,261.89

Check Date: 10/23/2009
Warrant #: 935813-936062
Total all funds: \$1,225,238.12

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

Resolutions

09-686 Line Item Transfer, Fund No. 0000-101, Dept. 101
09-687 Surplus of Personal Property

- 09-688 Business Travel & Expense Policy; Rescinding Resolution No. 09-029
- 09-689 Purchase 60 Gallon Vulcan Kettle from Smith and Greene Company
- 09-690 Purchase Double Deck Vulcan Convection Oven from Smith and Greene Company
- 09-691 Contract w/Ideal Tree Service for Tree Removal Services
- 09-692 Contract Amendment, #09/10-DD-CDC-01, w/Children's Developmental Center
- 09-693 Contract Amendment, #07/09-CMH-LCS-01, w/Lutheran Community Services
- 09-694 Contract Amendment, #07/09-PIHP-LCC-01, w/Lourdes Counseling Center
- 09-695 Contract Amendment, #07/09-CMH-LCC-02, w/Lourdes Counseling Center
- 09-696 Contract Amendment, #07/09-RES-LCC-03, w/Lourdes Counseling Center
- 09-697 Interagency Agreement, #IAA10222, w/St of WA Administrative Office of the Courts
- 09-698 Contract Amendment w/ARAMARK Food Service
- 09-699 Line Item Transfer, Fund No. 0000-101, Dept. 136
- 09-700 Notice of Completion of Construction of Garage and Storage Facility at Horn Rapids Park
- 09-701 Badger Mountain Environmental Site Assessment
- 09-702 Line Item Transfer, Fund No. 0000-101, Dept. 116
- 09-703 County Roads Improvement District (C.R.I.D.) #15, Cottonwood Drive, Property Segregation
- 09-704 Surplus of Personal Property in Accordance w/Resolution 07-752
- 09-705 Purchase of Tasers & Taser Accessories from WA State Contract #02039
- 09-706 Line Item Transfer, Fund No. 0000-101, Dept. 118
- 09-707 Line Item Transfer, Fund No. 0000-101, Dept. 119
- 09-708 Line Item Transfer, Fund No. 0000-101, Dept. 120
- 09-709 Line Item Transfer, Fund No. 0000-101, Dept. 121
- 09-710 Line Item Transfer, Fund No. 0000-101, Dept. 119
- 09-711 Line Item Transfer, Fund No. 0000-101, Dept. 120
- 09-712 Line Item Transfer, Fund No. 0156-101, Dept. 000
- 09-713 Purchase of Additional Equipment for Remodeled Office Space

There being no further business before the Board, the meeting adjourned at approximately 10:20 a.m.

Clerk of the Board

Chairman

Draft

MINUTES

BOARDS OF BENTON AND FRANKLIN COUNTY COMMISSIONERS

Special Bi-County Board Meeting
October 26, 2009, 2:30 p.m.
Commissioners' Conference Room
Benton County Justice Center, Kennewick, WA

Benton County

Present: Chairman Max Benitz, Jr.
Commissioner Leo Bowman
Commissioner Jim Beaver
Clerk of the Board Cami McKenzie

Employees Present: Personnel Manager Melina Wenner; DPA Jonathan Young; Human Services Manager Carrie Huie-Pascua; Deputy Manager Ed Thornbrugh and Kendra Simpson

Franklin County

Present: Chairman Rick Miller
Commissioner Brad Peck
Commissioner Bob Koch
County Administrator Fred Bowen

Executive Session – Contract Compliance – Potential Litigation

The Bi-County Boards went into executive session per RCW 42.30.110(1)(i)(C) with Benton County DPA Jonathan Young at 2:30 p.m. for approximately 45 minutes. Also present were Cami McKenzie, Melina Wenner, Carrie Huie-Pascua, Ed Thornbrugh and Kendra Simpson. The Boards came out at 3:15 p.m. and Mr. Young announced they needed an additional 15 minutes in executive session and the Boards went back into executive session.

The Boards came out of executive session at 3:25 p.m. and Mr. Young announced that no decisions were made.

There being no further business before the Boards, the meeting immediately adjourned.

Clerk of the Board

Chairman, Benton County

Q

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF ADOPTING THE 2010 - 2015 BENTON COUNTY CAPITAL IMPROVEMENT PLAN

WHEREAS, the Board of Benton County Commissioners desires to annually update the Benton County Capital Improvement Plan in conjunction with the annual Benton County Budget; and

WHEREAS, in past years, this document has been titled the Capital Facility Plan and this year the title was changed to Capital Improvement Plan, as additional departments were incorporated into the plan; and

WHEREAS, the Capital Improvement Plan is a planning document to be used in setting policy and establishing priorities for capital projects; and

WHEREAS, the 2010-2015 Capital Improvement Plan shall be adopted as part of the County's budget process and will be amended into the Capital Facilities Element of the Benton County Comprehensive Plan as allowed under RCW 36.70A.130(2)(a)iii; **NOW, THEREFORE**

BE IT RESOLVED, that the Board of Benton County Commissioners hereby adopts the attached 2010-2015 Benton County Capital Improvement Plan.

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 AND FRANKLIN COUNTIES
ACTION SUMMARY COVER SHEET**

COPY

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

BACKGROUND INFORMATION

The Department of Human Services (DHS) would like to amend the agreement contract with Catholic Family and Child Services for mental health treatment services for the 2007-09 biennium. This amendment would extend the original agreement 60 days.

SUMMARY

Award: Consideration shall be fee for service
Period: October 1, 2009 through November 30, 2009
Funding Source: Greater Columbia Behavioral Health

RECOMMENDATION

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

FISCAL IMPACT

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

MOTION

To approve signing Amendment #07/09-PIHP-CFCS-01 with Catholic Family and Child Services and authorize the Chair to sign on behalf of the Board.

JOINT RESOLUTION

Benton County Resolution No. _____

Franklin County Resolution No. _____

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

IN THE MATTER OF EXECUTION OF AMENDMENT #07/09-PIPH-CFCS-01 BETWEEN CATHOLIC FAMILY AND CHILD SERVICES AND BENTON AND FRANKLIN COUNTIES' DEPARTMENT OF HUMAN SERVICES, and

WHEREAS, It is the purpose of this Amendment to extend the current Agreement's end date by 60 days. All other provisions set out in the underlying Agreement remain in full force and effect; and

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

WHEREAS, the Agreement is effective October 1, 2007 and remains effective until November 30, 2009, NOW THEREFORE,

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

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

Dated this . . . day of, 2009

Dated this . . . day of, 2009

Chair, Benton County Commissioners

Chair, Franklin County Commissioners

Chair, Pro Tem

Chair, Pro Tem

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

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

Attest:
Clerk of the Board

Attest:
Clerk of the Board

Carey

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

COPY

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

BACKGROUND INFORMATION

The Department of Human Services (DHS) would like to amend the agreement contract with Catholic Family and Child Services for community mental health treatment services for the 2007-09 biennium. This amendment would extend the original agreement 60 days.

SUMMARY

Award: Consideration shall be fee for service
Period: October 1, 2009 through November 30, 2009
Funding Source: Greater Columbia Behavioral Health

RECOMMENDATION

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

FISCAL IMPACT

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

MOTION

To approve signing Amendment #07/09-CMH-CFCS-01 with Catholic Family and Child Services and authorize the Chair to sign on behalf of the Board.

JOINT RESOLUTION

Benton County Resolution No. _____

Franklin County Resolution No. _____

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

IN THE MATTER OF EXECUTION OF AMENDMENT #07/09-CMH-CFCS-01 BETWEEN CATHOLIC FAMILY AND CHILD SERVICES AND BENTON AND FRANKLIN COUNTIES' DEPARTMENT OF HUMAN SERVICES, and

WHEREAS, It is the purpose of this Amendment to extend the current Agreement's end date by 60 days. All other provisions set out in the underlying Agreement remain in full force and effect; and

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

WHEREAS, the Agreement is effective October 1, 2007 and remains effective until November 30, 2009, NOW THEREFORE,

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

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

Dated this . . . day of, 2009

Dated this . . . day of, 2009

Chair, Benton County Commissioners

Chair, Franklin County Commissioners

Chair, Pro Tem

Chair, Pro Tem

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

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

Attest:
Clerk of the Board

Attest:
Clerk of the Board

Carey

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

AGENDA ITEM	TYPE OF ACTION NEEDED	
Amendment #07/09-CMH-LCS-02	<input checked="" type="checkbox"/> Execute Contract	<input checked="" type="checkbox"/> Consent Agenda
	<input checked="" type="checkbox"/> Pass Resolution	<input type="checkbox"/> Public Hearing
	<input type="checkbox"/> Pass Ordinance	<input type="checkbox"/> 1 st Discussion
	<input type="checkbox"/> Pass Motion	<input type="checkbox"/> 2 nd discussion
	<input type="checkbox"/> Other	<input type="checkbox"/> Other
Prepared By: Carol Carey		

BACKGROUND INFORMATION

The Department of Human Services (DHS) would like to amend the agreement contract with Lutheran Community Services for community mental health treatment services for the 2007-09 biennium. This amendment would extend the original agreement 60 days.

SUMMARY

Award: Consideration shall be fee for service
Period: October 1, 2007 through November 30, 2009
Funding Source: Greater Columbia Behavioral Health

RECOMMENDATION

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

FISCAL IMPACT

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

MOTION

To approve signing Amendment #07/09-CMH-LCS-01 with Lutheran Community Services and authorize the Chair to sign on behalf of the Board.

JOINT RESOLUTION

Benton County Resolution No. _____

Franklin County Resolution No. _____

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

IN THE MATTER OF EXECUTION OF AMENDMENT #07/09-CMH-LCS-02 BETWEEN LUTHERAN COMMUNITY SERVICES AND BENTON AND FRANKLIN COUNTIES' DEPARTMENT OF HUMAN SERVICES, and

WHEREAS, It is the purpose of this Amendment to extend the current Agreement's end date by 60 days. All other provisions set out in the underlying Agreement remain in full force and effect; and

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

WHEREAS, the Agreement is effective October 1, 2007 and remains effective until November 30, 2009, NOW THEREFORE,

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

BE IT FURTHER RESOLVED that the Chairs of Benton and Franklin County Commissioners are hereby authorized to sign amendment #07/09-CMH-LCS-02 on behalf of the Board of Benton and Franklin County Commissioners.

Dated this . . . day of, 2009

Dated this . . . day of, 2009

Chair, Benton County Commissioners

Chair, Franklin County Commissioners

Chair, Pro Tem

Chair, Pro Tem

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

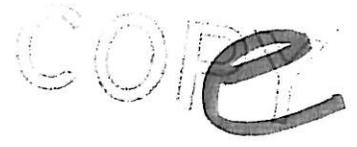
Member
Constituting the Board of County
Commissioners of Franklin County, Washington

Attest:
Clerk of the Board

Attest:
Clerk of the Board

Carey

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



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

BACKGROUND INFORMATION

The Department of Human Services (DHS) would like to amend the agreement contract with Nueva Esperanza Counseling Center for mental health treatment services for the 2007-09 biennium. This amendment would extend the original agreement 60 days.

SUMMARY

Award: Consideration shall be fee for service
Period: October 1, 2007 through November 30, 2009
Funding Source: Greater Columbia Behavioral Health

RECOMMENDATION

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

FISCAL IMPACT

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

MOTION

To approve signing Amendment #07/09-PIHP-NECC-01 with Nueva Esperanza Counseling Center and authorize the Chair to sign on behalf of the Board.

JOINT RESOLUTION

Benton County Resolution No. _____

Franklin County Resolution No. _____

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

IN THE MATTER OF EXECUTION OF AMENDMENT #07/09-PIHP-NECC-01 BETWEEN NUEVA ESPERANZA COUNSELING CENTER AND BENTON AND FRANKLIN COUNTIES' DEPARTMENT OF HUMAN SERVICES, and

WHEREAS, It is the purpose of this Amendment to extend the current Agreement's end date by 60 days. All other provisions set out in the underlying Agreement remain in full force and effect; and

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

WHEREAS, the Agreement is effective October 1, 2007 and remains effective until November 30, 2009, NOW THEREFORE,

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

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

Dated this . . . day of, 2009

Dated this . . . day of, 2009

Chair, Benton County Commissioners

Chair, Franklin County Commissioners

Chair, Pro Tem

Chair, Pro Tem

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

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

Attest:
Clerk of the Board

Attest:
Clerk of the Board

Carey

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

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

BACKGROUND INFORMATION

The Department of Human Services (DHS) would like to amend the agreement contract with Nueva Esperanza Counseling Center for community mental health treatment services for the 2007-09 biennium. This amendment would extend the original agreement 60 days.

SUMMARY

Award: Consideration shall be fee for service
Period: October 1, 2007 through November 30, 2009
Funding Source: Greater Columbia Behavioral Health

RECOMMENDATION

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

FISCAL IMPACT

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

MOTION

To approve signing Amendment #07/09-CMH-NECC-01 with Nueva Esperanza Counseling Center and authorize the Chair to sign on behalf of the Board.

JOINT RESOLUTION

Benton County Resolution No. _____

Franklin County Resolution No. _____

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

IN THE MATTER OF EXECUTION OF AMENDMENT #07/09-CMH-NECC-01 BETWEEN NUEVA ESPERANZA COUNSELING CENTER AND BENTON AND FRANKLIN COUNTIES' DEPARTMENT OF HUMAN SERVICES, and

WHEREAS, It is the purpose of this Amendment to extend the current Agreement's end date by 60 days. All other provisions set out in the underlying Agreement remain in full force and effect; and

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

WHEREAS, the Agreement is effective October 1, 2007 and remains effective until November 30, 2009, NOW THEREFORE,

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

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

Dated this . . . day of, 2009

Dated this . . . day of, 2009

Chair, Benton County Commissioners

Chair, Franklin County Commissioners

Chair, Pro Tem

Chair, Pro Tem

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

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

Attest:
Clerk of the Board

Attest:
Clerk of the Board

Carey

09 9

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

AGENDA ITEM	TYPE OF ACTION NEEDED	
Amendment #09/09-DIV-NECC-02	<input checked="" type="checkbox"/> Execute Contract <input checked="" type="checkbox"/> Pass Resolution <input type="checkbox"/> Pass Ordinance <input type="checkbox"/> Pass Motion <input type="checkbox"/> Other	<input checked="" type="checkbox"/> Consent Agenda <input type="checkbox"/> Public Hearing <input type="checkbox"/> 1 st Discussion <input type="checkbox"/> 2 nd discussion <input type="checkbox"/> Other
Prepared By: Carol Carey		

BACKGROUND INFORMATION

The Department of Human Services (DHS) would like to amend the agreement contract with Nueva Esperanza Counseling Center for mental health diversion services at the Detoxification Facility for the 2009-09 biennium. This amendment would extend the original agreement 60 days.

SUMMARY

Award: Consideration shall be fee for service
Period: October 1, 2007 through November 30, 2009
Funding Source: Greater Columbia Behavioral Health

RECOMMENDATION

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

FISCAL IMPACT

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

MOTION

To approve signing Amendment #09/09-DIV-NECC-02 with Nueva Esperanza Counseling Center and authorize the Chair to sign on behalf of the Board.

JOINT RESOLUTION

Benton County Resolution No. _____

Franklin County Resolution No. _____

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

**IN THE MATTER OF EXECUTION OF AMENDMENT #09/09-DIV-NECC-02 BETWEEN
NUEVA ESPERANZA COUNSELING CENTER AND BENTON AND FRANKLIN
COUNTIES' DEPARTMENT OF HUMAN SERVICES, and**

WHEREAS, It is the purpose of this Amendment to extend the current Agreement's end date by 60 days. All other provisions set out in the underlying Agreement remain in full force and effect; and

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

WHEREAS, the Agreement is effective October 1, 2007 and remains effective until November 30, 2009, NOW THEREFORE,

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

BE IT FURTHER RESOLVED that the Chairs of Benton and Franklin County Commissioners are hereby authorized to sign amendment #09/09-DIV-NECC-02 on behalf of the Board of Benton and Franklin County Commissioners.

Dated this . . . day of, 2009

Dated this . . . day of, 2009

Chair, Benton County Commissioners

Chair, Franklin County Commissioners

Chair, Pro Tem

Chair, Pro Tem

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

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

Attest:
Clerk of the Board

Attest:
Clerk of the Board

Carey

RESOLUTION

h

BENTON COUNTY RESOLUTION NO. _____

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF EXECUTING A PERSONAL SERVICE AGREEMENT WITH SCOTT W. JOHNSON FOR INDIGENT DEFENSE SERVICES IN BENTON COUNTY DISTRICT COURT

WHEREAS, as a result of the departure of an existing Benton County District Court contract attorney, there is a vacancy to be filed; and

WHEREAS, the Benton-Franklin Office of Public Defense (OPD) Coordinator recommends contracting with Scott W. Johnson to provide legal representation for indigent persons charged with crimes in Benton County District Court; and

NOW, THEREFORE, BE IT RESOLVED the attached Professional Services Agreement between Scott W. Johnson and Benton County to provide legal representation for indigent persons charged with crimes in Benton County District Court, effective November 1, 2009 through December 31, 2010, be approved as presented.

Dated this _____ day of _____, 20 _____

Chairman of the Board

Chairman Pro-Tem

Member

Constituting the Board of County Commissioners,
Benton County, Washington

Attest: _____
Clerk of the Board

Originals: OPD, Scott Johnson
cc: Auditor, District Court, R. Ozuna

**PROFESSIONAL SERVICES AGREEMENT TO PROVIDE LEGAL
REPRESENTATION TO INDIGENT PERSONS IN
BENTON COUNTY DISTRICT COURT
CONTRACT # BCDC0810SWJ001**

THIS AGREEMENT is entered into by and between **Scott W. Johnson**, attorney at law, Washington State Bar Association # **27839** ("Attorney"); and **BENTON COUNTY**, a State of Washington political subdivision ("County"), for and on behalf of the Benton County District Court.

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

- A. The County has the legal responsibility to provide legal defense services to indigent persons charged with misdemeanor criminal offenses alleged to have been committed within the County's 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 County to provide legal services to indigent persons subject to misdemeanor criminal charges in the Benton County District Court.

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

1. **AGREEMENT TERM.** This Agreement shall be deemed effective for all purposes as of **November 1, 2009**, and shall continue thereafter through and including the **31st day of December 2010**, 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 **7135 W Hood Pl, Kennewick, WA 99336**. Attorney's current local office telephone and fax numbers are **(509) 374-1554** and **(509) 374-8124** respectively; and Attorney's current office/work e-mail address is **swj99352@msn.com**.

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 greater Tri-Cities, Washington, and/or Attorney may change Attorney's telephone/fax number to another greater 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 Benton-Franklin Indigent Defense Coordinator ("IDC"), the Benton County Prosecuting Attorney, and the Benton County District Court Administrator ("District Court Administrator").

c. The County prefers 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 with or from represented persons.

3. **ATTORNEY'S QUALIFICATIONS.** Attorney acknowledges and agrees that the County has an obligation to provide competent and effective legal counsel to indigent persons subject to proceedings in the Benton County District Court. 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 persons accused of misdemeanor crimes 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 criminal defense or criminal prosecution matters; has not been subject to a termination proceeding involving a previous personal service agreement for indigent defense services; 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 filed and pending against him/her.

(i) This Agreement may be subject to review and, if applicable and/or necessary, further action pursuant to paragraph 17 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 County within three (3) business days if any event specified in paragraph 3.a.(i) above occurs or if any bar association complaint 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 County 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 County 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 Indigent Defense Coordinator with written proof and confirmation that such CLE credits have been obtained no later than by December 31st of each calendar year. Additionally, during each calendar year during the term of this Agreement, in addition to participating in any specialized training-related activity specified in RCW 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 State 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 County 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 IDC with written proof and confirmation that such required training seminar has been attended by Attorney no later than by December 31st of each calendar year.

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 by the 15th day of each month during the term of this Agreement, Attorney shall provide the IDC 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 and the total number and specific types of appointed cases under this Agreement in which Attorney provided legal services during the preceding month. 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 without added compensation upon written notice from the County to do so.

g. In order to qualify to represent indigent defendants in any appeals to Superior Court pursuant to RALJ, Attorney shall verify that he/she meets the standards for such representation as promulgated by the Washington State Bar Association in its Standards for Indigent Defense (Standard 14). Verification shall be in such form as reasonably required by the IDC. Failure to complete such verification will disqualify Attorney from being appointed to RALJ appeals cases.

4. **OTHER INDIGENT DEFENSE AGREEMENTS.** The County has entered into separate and independent professional services agreements with other licensed attorneys, and also employs in-house staff attorneys to primarily provide criminal defense services to persons accused of misdemeanor crimes in Benton County District Court. Attorney agrees to fully cooperate and coordinate with said other attorneys, the Benton County District Court, the District Court Administrator and the IDC to establish a process to effectuate the efficient and equitable distribution of case appointments between Attorney and said other attorneys (collectively the "Benton County District Court Criminal Defense Panel"). The District Court Administrator and/or the IDC shall have the inherent discretion and authority to monitor and control (and reasonably modify/change) such process.

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 Benton County District Court 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 misdemeanor matter filed or otherwise pending under the applicable Washington criminal statutes and/or under any other applicable Washington law in the Benton County District Court.
- Any post-disposition probation violation, revocation, modification, and/or contempt-of-court proceeding relating to any underlying criminal case.
- Any material witness matter relating to a case or matter filed in Benton County District Court.
- Any case or matter returned to the Benton County District Court from any higher court.
- Any other type of Benton County District Court case or matter in which another Benton County District Court Criminal Defense Panel member and/or any other attorney who is under a professional services agreement to provide legal representation in Benton County District Court is unable to handle due to a conflict of interest.
- Any case or matter transferred from the Juvenile Court through declination or other court proceedings.
- Any civil contempt of court proceeding, not including non-contempt matters such as non-criminal custody or paternity matters.
- Provided that Attorney is qualified to do so and provides verification as provided in 3(g) above, Attorney may be appointed to represent indigent defendants in RALJ appeals to Superior Court.

Compliance unit assignment: Upon written direction from the IDC, Attorney may be assigned to the *compliance unit* provided that the IDC, to the extent possible and practicable, should not make such an assignment against an attorney's expressed desires, and shall only do so if necessary to maintain adequate representation or continuation of representation. Attorneys assigned to the *compliance unit* shall not receive any newly filed misdemeanor matters, material witness matters, matters returned to Benton County District Court from any higher court, any matters transferred from the Juvenile Court through declination or other court proceedings, any conflict cases or any civil contempt cases, and will not be expected to handle RALJ appeals (unless they request to be assigned such cases). Instead, *compliance team* attorneys shall be responsible, as a team, for providing representation for the following:

- In-custody initial appearances in Benton County District Court. Such representation shall be provisional only and shall not continue beyond

the initial appearance hearing. The purpose of such in-custody representation shall be to resolve compliance or failure to pay fine cases as possible, to make release decision arguments on new criminal charges, and, when possible (usually when plea agreements may be reached with prosecutors) to resolve new criminal charges.

- Providing representation to defendants during all regularly scheduled District Court compliance and failure to pay fine dockets except the compliance dockets associated with District Court felonies, and with compliance/fail to pay fine cases docketed in Benton County District Court in Prosser.

6. **CONTINUED REPRESENTATION.**

Attorney has a duty to timely and fully complete all cases appointed to Attorney under this Agreement. "Timely and fully complete" means, for each case, continuing to represent the defendant up to and including the time of final disposition of their case whether by way of conviction, dismissal of all charges (as a result of a finding of not guilty or as a result of an empanelled jury being unable to reach a verdict), or a change of plea and entering of a sentencing. However, if restitution is not agreed upon at time of sentencing and a separate restitution hearing is necessitated, then Attorney shall represent the defendant at such restitution hearing in order to have "timely and fully completed" the case. In cases where a defendant is placed on a deferred prosecution or stipulated order of continuance program, then Attorney shall be responsible for providing legal representation to such a defendant in the event the defendant is accused of a violation of the terms of such a program and is ordered to show cause why their participation in such a program should not be terminated. The determination of case credit entitlement at such subsequent representation shall be governed by the provisions of Article 8(b) herein.

Attorney's responsibility to provide continuing legal representation to clients upon expiration or termination of this Agreement shall be as follows:

a) In the case of termination of this Agreement at the election of either party by providing 90 days notice of desire to do so (as provided by Article 17 below), provided that Attorney provides the IDC with accurate documentation of caseload including: case title, case type, case status and next appearance date both contemporaneously with providing such notice of termination (or, if notice is provided by County, within 5 business days of such notice) and 30 days prior to the effective date of such termination, Attorney shall be responsible for providing continued legal representation to clients with cases that remain unresolved as of the effective date of the termination, for no more than 30 days after the effective date of such termination.

b) In the case of expiration of this Agreement according to its terms, if Attorney provides at least 90 days notice of intent not to renew the Agreement and further provides the IDC with accurate documentation of caseload including: case title, case type, case status and next appearance date both contemporaneously with providing

such notice of non renewal, and 30 days prior to the effective date of such termination, then Attorney's responsibility for providing continued legal representation shall be the same as provided in paragraph "a)" of this Article.

c) In the case of expiration of this Agreement according to its terms, if Attorney provides less than 90 days notice of intent not to renew the Agreement, then the Attorney's responsibility to provide continuing legal representation to clients with cases that remain unresolved as of the effective date of the termination shall be for a period of time equivalent to 30 days plus the number of days corresponding to the difference between 90 days notice and the actual number of days notice. By way of illustration, if only 30 days notice was provided, then Attorney shall be responsible for providing continued legal representation for: 30 days + (90 days - 30 days = 60 days) for a total number of days of 90.

d) In the case of either expiration or termination of this agreement, if the report of caseload provided by Attorney pursuant to subsections "a)" or "b)" of this article omit any cases, then Attorney shall continue to be responsible for providing continuing legal representation on such cases until the earlier of: 1) resolution of the case; or 2) 30 days from the date when the existence of such omitted cases is brought to the attention of the IDC in writing.

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 Benton County District Court up to a maximum of **three hundred and eighty (380) total case equivalents per calendar year** (proratable for any partial calendar year) for calendar year 2008 with downward adjustments in 2009 and 2010 as indicated in paragraph 12 below. 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. The maximum number of appointments stated above shall be calculated exclusive of appointments to RALJ appeals and exclusive of cases handled by Attorney while assigned to the *compliance unit*. Provided, however, that if Attorney is assigned, during any full calendar year, to the *compliance unit* for less than that full calendar year, then for purposes of calculating case equivalent totals for the year, Attorney shall be credited with thirty-two (32) case equivalents for each month when Attorney is assigned to the *compliance unit*.

8. **CASE EQUIVALENTS.**

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

- A misdemeanor appointment shall be counted as one (1) case equivalent.
- A probation violation appointment shall be counted as one-third (1/3) case equivalent unless the probation violation appointment requires appearance on the Prosser docket of Benton County

District Court or Attorney is assigned to the *compliance unit*. Probation violation appointments requiring appearance on the Prosser docket of Benton County District Court shall be counted as one-half (1/2) case equivalent. During any period of time Attorney is assigned to the *compliance unit*, probation violation appointments shall not count as a case equivalent of any sort.

- An appointment on a mental or substance-abuse commitment, generally to be appointed only when necessary for conflict reasons, shall count as one (1) case equivalent.
- An appointment to represent a person in a material witness matter in a case pending in Benton County District Court shall count as one half (1/2) of a case equivalent.
- An appointment to a case or matter returned to Benton County District Court from a higher court shall be counted as determined by the IDC following consultation.
- 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 IDC shall retain discretion to award a case equivalent value (or fractional portion thereof) if deemed appropriate following consultation.
- Case equivalent value assigned is based on cases, not charges, and is determined by the classification of the most serious offense charged.
- Any civil contempt of court proceeding shall count as one-half (1/2) of a case equivalent.
- RALJ appeals shall not count as a case equivalent of any sort.

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 Benton County District Court and Attorney continues representing the same person in such matter within a 12-month period (e.g., if Attorney was appointed to represent a person on a criminal charge who fails to appear for trial but is back before the court within 12 months, 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. Provided, however, the IDC may in his discretion adjust the case equivalent total earned under this paragraph upon written request from, and after review and consultation with, Attorney.

d. In any case where Attorney is appointed contemporaneously on multiple compliance and/or failure to pay fine cases, or any combination thereof, involving the same defendant, all of which are resolved on the same docket during the same court appearance(s), such combination of multiple cases shall be considered one case for purposes of case credits, and shall, collectively, be considered either a one-third (1/3) case equivalent or one-half (1/2) case equivalent as specified in 8(a) above.

e. Throughout the term of this Agreement, Attorney shall maintain case appointment records sufficient to provide the following information about each case assigned to Attorney through this Agreement: case name, client name, case number, date of assignment, and charges and date of resolution. On a monthly basis, prior to the 15th day of the month, Attorney shall provide such records to the IDC in a format acceptable by the IDC, including an electronic format if required, for all cases assigned for the calendar year up to and including the preceding month.

9. **CLIENT ELIGIBILITY.** The Benton County District Court (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 Benton County District Court of such possibility for purposes of the District Court (or its designee) taking action at its discretion to re-determine whether such person is/remains eligible to receive publicly-provided representation. If the Benton County District Court (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 Benton County District Court'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 Benton County District Court to represent such person, or from representing a person on a retained-fee basis whom Attorney has been appointed by the Benton County District Court to represent provided that the matter(s) involving the retained representation are wholly independent and unrelated to the matter for which Attorney was appointed.

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 Benton County District Court aware of such development for purposes of the District Court taking immediate action to appoint another attorney to assume and undertake legal representation in such case. Under no circumstance shall Attorney ever be required to bear the cost of seeking or compensating conflict counsel.

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 District 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 earlier 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 earlier 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. Attorney shall retain such case records in their entirety (or a complete and legible copy thereof, to include electronic file storage) for a period of no less than seven (7) years from the date on which the case or matter is fully and finally concluded or for any other time period specified under applicable court rule or statute, whichever date/event occurs last.

d. Upon Attorney pleading guilty or being convicted of any of the following-described offenses, Attorney shall notify the IDC 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. COMPENSATION.

a. During calendar year 2008, Attorney's monthly compensation hereunder shall be **\$4,591.67 per month** (proratable for any partial month), payable on the last business day of the month for handling **380 total case equivalents** during the calendar year.

b. During calendar year 2009, Attorney's monthly compensation hereunder shall be **\$4,830.00 per month** (proratable for any partial month), payable on the last business day of the month for handling **360 total case equivalents** during the calendar year.

c. During calendar year 2010, Attorney's monthly compensation hereunder shall be **\$5,071.67 per month**, (proratable for any partial month), payable on the last business day of the month for handling **360 total case equivalents** during the calendar year.

d. **Payment of monthly compensation shall be contingent on Attorney complying with case reporting provisions stated herein, including in Articles 8(d) and 3(f). Failure by attorney to comply with case reporting provisions shall be cause to delay payment of monthly compensation until such failure is remedied.**

e. In addition to the stated monthly compensation, during calendar years 2008 and 2009, Attorney shall receive \$200 per day for each full day of trial and \$100 for each partial day of trial, not to include pre-trial motions or time waiting for disposition. A full day of trial is defined as actual in-session trial proceedings going beyond four (4) total hours for that trial day. Commencing in calendar year 2010, Attorney shall receive \$300 per day for each full day of trial and \$150 for each partial day of trial.

e. 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 October 31, 2008, the above referenced 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 County; provided that, Attorney would be entitled to receive any then-accrued and unpaid amounts for services rendered hereunder prior to such termination date. By way of further example, if this Agreement is terminated effective November 15, 2008, the above-stated 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 County; 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-stated monthly payment amount). Attorney acknowledges and agrees that the above-stated compensation to Attorney 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 case equivalents.

f. RALJ appeals to Superior Court shall be compensated during calendar year 2009 at the rate of \$400 per case as a flat rate. Thereafter, compensation shall be increased for calendar year 2010 by the percentage increase that equals the cost of living increase percentage allotted to non-bargaining Benton County employees for that year. Provided that if a cost of

living increase is allotted to Benton County employees at a time other than at the beginning of the calendar year, then the increase contemplated by this paragraph shall be effective as of the same time the cost of living increase is paid, and shall not be retroactive to the beginning of the year under any circumstances.

13. **COSTS AND EXPENSES.**

a. Attorney acknowledges and agrees that Attorney shall not be entitled to claim or receive any reimbursement/payment from the County 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 County recognizes, 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 County would be obligated to pay and reimburse to employees of the Benton County District Court 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 County 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 County. 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 District Court Administrator within sixty (60) days of Attorney incurring the expense(s) for which reimbursement is sought, and the County shall have the right to deny payment of any voucher that is not timely submitted within said requisite sixty (60) day period.

14. **INDEMNIFICATIONS AND HOLD HARMLESS.** Attorney agrees to and shall fully indemnify the County and its elected/appointed representatives, officers, employees, and agents; and to hold the County and its 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 County or any of its 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 County) 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 County or any of its 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 County 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.

15. **INSURANCE.** Prior to commencement of services under this Contract, Attorney shall submit to Benton County certificates of insurance or certified copies of insurance policies and endorsements, if requested by the County, for the coverage required below and shall maintain the same type and amount of coverage as is currently in effect for the life of this Contract. Attorney shall maintain at Attorney's sole expense unless otherwise stipulated, the insurance coverages as listed below.

The Attorney shall not commence work under this Contract until the Attorney has obtained all insurance required under this paragraph and such insurance has been approved by the County.

a. **Professional Liability Insurance.** The Attorney shall secure and maintain at its own expense Professional Liability Insurance in the amount of not less than \$1,000,000 each claim and in the aggregate. If coverage is Claims Made, the retroactive date shall be prior to or coincident with the date of this contract. The policy shall state that coverage is claims made, and state the retroactive date. Claims Made form coverage shall be maintained by the Attorney for a minimum of three (3) years following the termination of this Contract, and the Attorney shall annually provide the County with proof of renewal.

b. **Commercial General Liability Insurance.** The Attorney shall maintain, during the life of the Contract, Commercial General Liability Insurance Policy Form (CG0001) or equivalent to protect the Attorney from claims for damages for bodily injury, including wrongful death, as well as from claims of property damage which may arise from any operations under this contract whether such operations be by the Attorney or by anyone directly employed by or contracting with the Attorney. The minimum Commercial General Liability Insurance limits are as follows:

\$2,000,000 General Aggregate
\$1,000,000 Products/Completed Operations Aggregate
\$1,000,000 Personal Injury and Advertising Injury
\$1,000,000 Each Occurrence

The Commercial General Liability Insurance policy shall contain an endorsement naming the Benton County, its elected and appointed officials, employees and agents as Additional Insured and an endorsement that specifically states the Attorney's Commercial General Liability Insurance shall be primary, and not contributory, with any other insurance maintained by the County.

Commercial General Liability Insurance shall provide cross liability coverage, indicating essentially that except with respect to the limits of insurance, and any rights or duties specifically assigned in this coverage part to the first named insured, this insurance applies as if each named insured were the only named insured, and separately to each insured against whom claims are made or suit is brought.

Specific wording for Additional Insured shall read:

Benton County, its elected and appointed officials, employees and agents

c. **Stop Gap Employer's Liability Insurance.** Attorney shall provide Stop Gap Employer's Liability Insurance coverage with minimum limits as follows:

\$1,000,000 Each Accident
\$1,000,000 Policy Limit for Disease
\$1,000,000 Each Employee for Disease

d. **Worker's Compensation Insurance.** Attorney shall secure its liability for industrial injury to its employees in accordance with the provisions of Title 51 of the Revised Code of Washington. Attorney shall submit a copy of its certificate of coverage from the Department of Labor and Industries prior to the commencement of work.

All Liability coverages, except Professional Liability, shall be written on an Occurrence form. If coverage is Claims Made form, the Retroactive Date shall be prior to or coincident with the date of this contract, and the policy shall state that coverage is Claims Made, and state the Retroactive Date. Should Claims Made be the only option, a minimum of three (3) year tail coverage shall be maintained after the expiration of the contract.

All insurance policies shall be issued by companies authorized to do business under the laws of the State of Washington and have a Best's rating of at least A-VII. All insurance other than Professional Liability and Workers' Compensation to be maintained by the Attorney shall specifically include Benton County, its elected and appointed officials, employees and agents as "Additional Insured". All insurance shall not be reduced or canceled without thirty (30) days written prior notice to the County. The Attorney's insurance coverage shall be primary insurance to any insurance policies or policies of self-insurance maintained by Benton County.

Sub-Attorneys. Attorney shall include all Sub-Attorneys as Additional Insureds under its policies or shall furnish separate certificates and endorsements for each Sub-Attorney. All coverages for subcontracts shall be subject to all of the requirements stated herein.

Certificates of Liability Insurance are to be provided to the following:

Eric Hsu
Indigent Defense Coordinator
Benton-Franklin Office of Public Defense
7122 West Okanogan Place, Building A
Kennewick, WA 99336

16. **COMPLAINTS; PERFORMANCE MONITORING.** In the event that an employee/representative of the County or the Benton County District Court or the IDC 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 complainant describing and detailing the relevant facts and circumstances underlying and alleged in the complaint, copies of which shall promptly be provided to the County, the Benton County Court Administrator and the IDC.

a. Upon receiving such complaint, the IDC, without limitation to any other action the County may deem necessary/appropriate to pursue under this Agreement, shall immediately forward a copy of the complaint to Attorney and obtain Attorney's written, dated, and signed response thereto (which Attorney shall prepare and provide to the County and the IDC within five (5) business days, who then shall provide the represented person with a copy of the response within five (5) business days thereafter). The IDC shall review the complaint and Attorney's response and take any action deemed 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 IDC then may follow-up with the Benton County District Court within five (5) business days thereafter to confirm or advise that the complaint has been, or is in the process of being, addressed and disposed of. This stated procedure does not interfere with or otherwise impair the Benton County District Court's ability and/or duty to monitor the performance of attorneys appearing before the court.

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 County may deem necessary/appropriate, Attorney acknowledges that the County and/or the IDC have the right to periodically ask, without limitation, the Benton County District Court and/or the District Court Administrator and/or other attorneys and/or persons previously represented by Attorney to provide the County with an evaluation/assessment of the quality and effectiveness of Attorney's performance of legal services and related duties and obligations under this Agreement, provided that such inquiry shall not be made of any person represented, absent a complaint from such person, during the course of representation.

17. 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 County and/or the Benton County District Court 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 Benton County District 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 County relating to such substitute appointment(s).

b. In addition to the above-referenced automatic termination provisions, the County 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 County's right to terminate this Agreement in such regard shall be in addition to any other rights and remedies available to the County.

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

d. In any event, consistent with the provisions of paragraph 12.e. 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 County 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.

e. If the County decides in its discretion to provide indigent defense representation in Benton County District Court through a County agency (such as an Office of Public Defense or similar entity) that would eliminate the need for continuing this Agreement with Attorney, the County will notify Attorney of the

County's intentions in that regard as soon as reasonably practicable so that Attorney and the County can mutually coordinate and pursue an appropriate transition. Upon receipt of such notice from the County, Attorney may apply to the County for available staff-attorney employment positions in such agency in accordance with the County's then-existing hiring and employment practices and policies; though Attorney understands and acknowledges that the hiring of Attorney to fill any such positions would not be automatic or in any way guaranteed.

18. **INDEPENDENT CONTRACTOR.** Attorney fully understands, acknowledges, and agrees that Attorney shall not be an agent, representative, or employee of the County or the Benton County District Court 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, disability act coverage or 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 County, the County's IDC, nor the Benton County District Court shall have any authority or duty to directly control the actual performance of Attorney's professional services hereunder.

19. **NON-ASSIGNMENT AND TEMPORARY SUBSTITUTIONS.** Except as otherwise expressly provided in paragraphs 19.a. and 19.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 Benton County District Court Criminal Defense Panel members or staff attorneys employed by Benton County 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 Benton County District 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 County for such substitution(s). Provided, however, that substitution arrangements made by and between any contracted Defense Panel member and a staff attorney employed by Benton County shall not involve monetary compensation paid either way, and shall only be on a *quid pro quo* or "mutual coverage" basis.

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 IDC on a case-by-case basis, in his/her sole and absolute discretion) leave of absence from the practice of law and/or the requirements of representation under this Agreement during the term of this Agreement and is unable to obtain the assistance of the other Benton County District 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 District Court Administrator and the-IDC) 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 County for such substitution(s).

(ii) Unless called to active military duty, 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 15 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.

c. In the event Attorney is called up for active military duty or for direct civilian support of active military operations, Attorney shall provide the County and the IDC with written notice of such event within five (5) business days of Attorney being called up so that the IDC and Attorney can coordinate and arrange for an appropriate substitute attorney to handle Attorney's duties under this Agreement while Attorney is on military leave and any reasonable back-to-civilian-life transition time requested by Attorney upon return. Attorney shall receive no compensation under this Agreement while on leave or during any such transition time.

20. **VACANCY AND REPLACEMENT.** In the event this Agreement is terminated by either party prior to the termination date specified in paragraph 1 above, the County 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 Benton County District Court.

21. **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.

22. **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 Benton County District 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 IDC's prior express approval and authorization, which decision shall be decided on a case-by-case basis in the IDC'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.

23. **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.

24. **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.

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

26. **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.

27. **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.

28. **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.

29. **DISPUTE RESOLUTION.**

a. In the event any type of dispute arises between the parties involving the performance or interpretation of this Agreement, and assuming that the parties are unable to resolve such dispute within a reasonable time after it arises, the parties agree that the dispute shall be submitted to mediation through the assistance of an experienced mediator chosen by mutual agreement between the parties. The County shall pay one-half of the mediator's fees and expenses, and 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 pursuant to RCW Chapter 7.04A. A single arbitrator shall be selected by agreement of the parties or, in the absence of agreement, each party shall select one (1) arbitrator and those two (2) so selected arbitrators shall mutually select a third arbitrator. The County shall pay one-half of the fees and expenses of the arbitrator(s), and 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 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.

30. **NOTICES.**

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

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

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

Jacki Lahtinen
Benton County District Court Administrator
7122 West Okanogan Place, Building A
Kennewick, WA 99336

Eric Hsu
Indigent Defense Coordinator
Benton-Franklin Office of Public Defense
7122 West Okanogan Place, Building A
Kennewick, WA 99336

b. Any notices required or permitted to be given by the County 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 2a. 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 County" with certain information or notice, such information or notice shall be provided to the County's Board of Commissioners or the Board's designee unless this Agreement expressly mandates that such information or notice also be provided to some other person/entity.

31. **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 County's policy that no person will be subjected to discrimination by the County 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.

32. **INDIGENT DEFENSE COORDINATOR.** Attorney acknowledges that the County has established and employed the IDC to coordinate, monitor, and evaluate the performances and compliance of independent contractor attorneys (like Attorney) under public indigent defense agreements with the County. Attorney further acknowledges that the County has the right and discretion to direct the IDC to 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 in compliance with this Agreement.

(SIGNATURES APPEAR ON FOLLOWING PAGE)

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

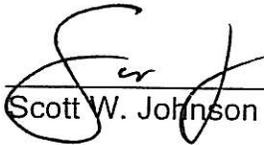
DATE: _____

DATE: 10/27/09

BENTON COUNTY

ATTORNEY

Chairman

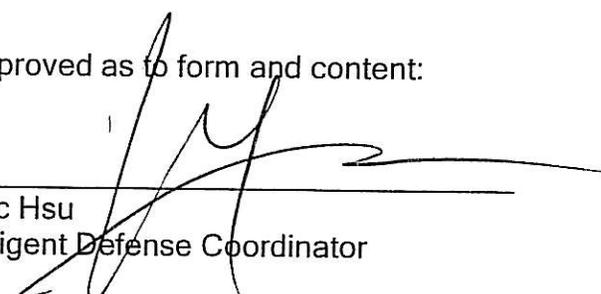


Scott W. Johnson

Commissioner

Commissioner

Approved as to form and content:



Eric Hsu
Indigent Defense Coordinator

Exhibit "B"

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AN AGREEMENT BETWEEN THE CITY OF PROSSER AND BENTON COUNTY TO USE THE SOLID WASTE BRUSH BANDIT

WHEREAS, the City of Prosser has requested the use of the Brush Bandit owned by Solid Waste, and

WHEREAS, an Interlocal Agreement defining the responsibilities of the County and the City has been prepared and has been Approved as to Form by the Prosecuting Attorney's Office and has been approved by the City of Prosser, and

WHEREAS, the Public Works Manager has recommended approval of said Interlocal Agreement, NOW, THEREFORE,

BE IT RESOLVED that the Interlocal Agreement by and between the City of Prosser and Benton County for use of the Solid Waste Brush Bandit is hereby approved and the Chairman is authorized to sign said agreement.

Dated this _____ day _____ 2009.

Chairman

Chairman Pro-Tem

Member

Attest: _____
Clerk of the Board

Constituting the Board of County
Commissioners of Benton County,
Washington

SWB

**INTERLOCAL COOPERATION AGREEMENT
SOLID WASTE BRUSH BANDIT**

THIS AGREEMENT is made and entered into this _____ day of _____ 2009, by and between the City of Prosser whose address 601 7th Street, Prosser, Washington 99350 (hereinafter "the City") and Benton County, whose address is P.O. Box 110, Prosser, Washington, 99350 (hereinafter "Benton County").

WHEREAS, the Interlocal Cooperation Act, as amended and codified in Chapter 39.34 RCW provides for interlocal cooperation between government agencies; and

WHEREAS, Benton County Solid Waste is the owner of a Brush Bandit, and

WHEREAS, the City of Prosser has requested the use of said Brush Bandit to conduct necessary maintenance on City owned property.

NOW, THEREFORE, in consideration of the mutual agreements and covenants herein contained, the parties agree as follows:

1. **Purpose:** The purpose of this agreement is to establish mutual aid to the City of Prosser by enabling the City to utilize equipment owned by the Benton County Solid Waste Department so that the City can perform maintenance on City owned property.
2. **Responsibilities of Benton County:**
 - A. Benton County shall be responsible for all maintenance of the Brush Bandit, and delivery and pick up of the Brush Bandit to the site designated by the City.
 - B. Benton County personnel will deliver the Brush Bandit to a site designated by the City and at a date and time agreed upon by the parties at least forty-eight (48) hours in advance of the delivery date.

2. **Responsibilities of the City of Prosser:** The City shall have the following duties and responsibilities under this Agreement:
- A. The City shall inspect the Brush Bandit upon arrival to ensure the Brush Bandit is in a working and safe condition
 - B. The City shall pay directly to Benton County all amounts set forth in certified statements of Benton County's labor expenses involved in delivering and picking up the Brush Bandit within thirty (30) days of receipt of a certified statement of these documents.
 - C. The City shall notify the County within twenty-four (24) hours of final use of the Brush Bandit, that the Brush Bandit is ready to be returned to the County.
 - D. The City shall be responsible for the cost of repairs for any damage done to the Brush Bandit during the time the Brush Bandit is under the control of the City. Under the control of the City is defined as from the time the Brush Bandit is delivered to the City to the time it is picked up by the County.
 - E. The Brush Bandit shall be returned to the County completely refueled.

4. **Representation, Warranties, and Indemnities:**

- A. The City represents and warrants to Benton County that it has authority to enter into this Interlocal Agreement pursuant to RCW 39.34.030(2).
- B. Benton County represents and warrants to the City that it has the authority to enter into this Interlocal Agreement pursuant to RCW 39.34.030(2).
- C. The City shall defend, protect, and hold harmless the County from and against all claims, suits, and/or actions arising from negligent or intentional acts or omissions of the City's employees and agents while performing under this Agreement. In case of joint negligence, any damages allowed shall be levied in proportion to the percentage of negligence attributed to each party.

5. **Duration of Agreement.** The term of this Agreement shall commence upon the execution by both parties and shall expire on or before December 31, 2010.
6. **Termination of Agreement.** Either party may terminate this Agreement, by providing written notice to the designated contacts for each party identified in Section 13 of this Agreement. This written notice must be served on the other party within thirty days (30) of the date of termination.
7. **Partial Invalidity.** Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law. Any provisions of this Agreement, which shall prove to be invalid, void, or illegal, shall in no

way affect, impair, or invalidate any other provisions herein, and such other provisions shall remain in full force and effect.

8. **No Third-Party Rights.** Except as expressly provided herein, nothing in this Agreement shall be construed to permit anyone other than the parties hereto and their successors and assigns to rely upon the covenants and agreements herein not to give any such third party a cause of action (as a third-party beneficiary or otherwise) on account of nonperformance hereunder.
9. **Assignability.** The rights, duties, and other obligations of either party to this Agreement may not be assigned to any third party without the prior written consent of the other party, which consent shall not be unreasonably withheld.
10. **Interlocal Cooperation Act.** No special budget or funds are anticipated, nor shall be created. It is not intended that a separate legal entity be established to conduct this cooperative undertaking, nor is the acquisition, holding, or disposing of real or personal property other than as specifically provided within the terms of this Agreement anticipated. The Benton County Solid Waste Specialist shall be designated as the Administrator of this Interlocal Agreement.
11. **Entire Agreement.** This Agreement and any amendments thereto mutually agreed to by the parties, constitutes the entire Agreement between the parties hereto and no other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or bind any of the parties. Either party may request changes to the Agreement. Proposed changes that are mutually agreed upon shall be incorporated by written amendment hereto
12. **Dispute Resolution.** It is the parties' intent to resolve any disputes relating to the interpretation or application of this Agreement informally through discussions at the staff level. In the event disputes cannot be resolved informally at the staff level, then the parties agree to first submit the dispute to non-binding mediation/dispute resolution before resorting to litigation.
13. **Litigation.** In the event that any suit or action is instituted by either party to enforce compliance with or interpret any of the terms, covenants, or conditions of this Agreement, the prevailing party shall be entitled to collect, in addition to necessary court costs, such sums as the court may adjudge as reasonable attorney fees. The venue for any action to enforce or interpret this Agreement shall lie in the Superior Court for Benton County, Washington.

14. **Notices.** All notices and demands shall be in writing and sent to the parties hereto at their address as follows:

To Benton County:

Donna Holmes, Solid Waste Specialist
Benton County Solid Waste
P.O. Box 110
Prosser, WA 99350-0110

To City of Prosser:

L.J. Dacorsi
Public Works Director
City of Prosser
601 7th Street
Prosser, WA 99320

15. **Filing of Agreement.** Executed copies of this agreement shall be filed as required by Section 39.34.040 of the Revised Code of Washington prior to this agreement becoming effective.
16. **Evidence of Authority.** Upon execution of this Agreement, the City shall provide Benton County and Benton County shall provide the City with a certified copy of the resolution, ordinance, or other authority given to execute this Agreement pursuant to RCW 39.34.030(2), and said document will be attached hereto and incorporated herein as **Exhibit "A"** (City) and **Exhibit "B"** (County).

IN WITNESS WHEREOF said parties have caused this Agreement to be signed by the duly authorized officials on the day and year first written above.

CITY OF PROSSER,
WASHINGTON

BENTON COUNTY,
WASHINGTON

By: Paul Wanda
Mayor

By: _____
Chairman, Board of County
Commissioners

Attest:

Attest:

Sherry Biggs
City Clerk

Clerk of the Board

Date: 10-28-09

Date: _____

Approved as to form:

Approved as to form:

[Signature]

Attorney, City of Prosser

Benton County Prosecuting Attorney

Date: 10-28-09

Date: _____

EXHIBIT A

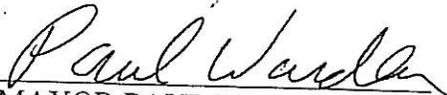
CITY OF PROSSER, WASHINGTON
RESOLUTION NO. 09-1300

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PROSSER APPROVING AN INTERLOCAL COOPERATION AGREEMENT FOR USE OF BENTON COUNTY'S PUBLIC WORKS BRUSH BANDIT EQUIPMENT

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

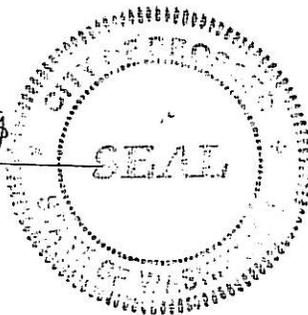
1. The Interlocal Cooperation Agreement for Use of Benton County's Public Works Brush Bandit Equipment, a copy of which is attached hereto and incorporated herein as if fully set forth is hereby approved and the Mayor or his designee is authorized to execute the agreement in multiple originals.
2. Once fully executed the City Clerk shall list the agreement on the City's website as outlined in RCW 39.34.040.

ADOPTED by the City Council of the City of Prosser and **APPROVED** by the Mayor of the City of Prosser this 27th day of October, 2009.


MAYOR PAUL WARDEN

ATTEST:


CITY CLERK



Approved as to form:



CITY ATTORNEY

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF COUNTY FUNDS, RE: PETTY CASH FUNDS IN THE
TREASURER'S OFFICE

WHEREAS, the Treasurer has two petty cash funds; and

WHEREAS, the Treasurer has determined the office now only needs one (1) petty cash fund; and

WHEREAS, the Treasurer needs enough cash on hand to decrease the number of trips to the Bank to obtain change for the cashiers; **NOW THEREFORE**,

BE IT RESOLVED, the two petty cash funds of \$100 and \$200 be combined and with an additional \$700, a \$1,000 Petty Cash and Change Fund is hereby established for use by the Treasurer.

Dated this _____ day of _____, 20__.

Chairman of the Board

Member

Member

Constituting the Board of County
Commissioners of Benton County,
Washington

Attest: _____

Clerk of the Board
CC: County Auditor, County Treasurer

Prepared by D. Davidson

K

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF EXTENDING THE CURRENT AGREEMENT WITH THE MASTER'S TOUCH, INC. FOR THE FORMATTING, PRINTING, AND MAILING OF THE BENTON COUNTY PROPERTY TAX STATEMENTS

WHEREAS, the Treasurer desires to extend the current contract (Resolution #07-573) with the Master's Touch for the printing, formatting, and mailing of the Benton County property tax statements, and

WHEREAS, the Master's Touch, Inc. has agreed to extend the contract for the 2010 property tax statements, **NOW THEREFORE**,

BE IT RESOLVED, the Chairman of the Board is authorized to sign the one-year extension of the contract for the year 2010.

BE IT FURTHER RESOLVED, The Treasurer is authorized to obtain the Master's Touch to also act as the agent for obtaining address correction services and facilitating postage services in relation to mailing of the tax statements.

Dated this _____ day of _____, _____

Chairman of the Board

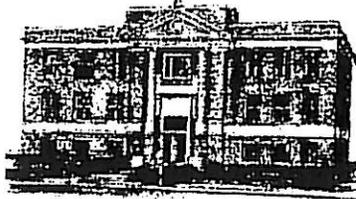
Member

Member

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

Attest: _____
Clerk of the Board
County Auditor, County Treasurer,

Prepared by: D.A.Davidson



DUANE A. DAVIDSON, CPA
Benton County Treasurer

PO Box 630, Prosser, WA 99350 (509)
Prosser 509-786-2255 Fax 786-5628 ←
509-736-3087
Kennewick 509-735-8505 Fax 736-2705
www.co.benton.wa.us/html/treasurer

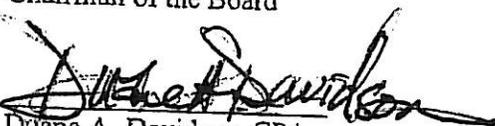
October 19, 2009

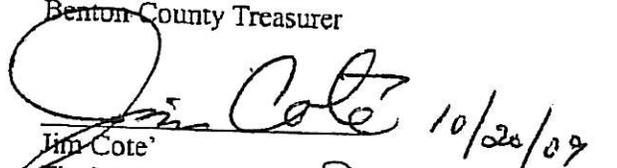
ATTN: Jim Cote'
Master's Touch, LLC
1405 N. Ash Street
Spokane, WA 99201-2805

AFFIDAVIT OF CONTRACT EXTENSION

In August 2007 a contract was established between Benton County and Master's Touch for tax statement services for the year 2008 with an option to extend services for the year 2009. Per correspondence, both parties have agreed to extend this existing contract through the year 2010. Please acknowledge your agreement to these terms as stated in Exhibit "A" and return.

Max Benitz, Jr.
Chairman of the Board


Duane A. Davidson, CPA
Benton County Treasurer


Jim Cote' 10/20/09
The Masters Touch Per Exhibit A

DAD/njk

CC: Benton County Commissioners
Rosemary Ozuna, Prosecuting Attorney's Office

Attachment: Exhibit "A"

9:05

AGENDA ITEM: MTG. DATE: November 2, 2009 SUBJECT: Short Plat Vacation - SPV 09-05, Robert & Kimberly Kennell Prepared & Reviewed By: Michael Shuttleworth	TYPE OF ACTION NEEDED Execute Contract Pass Resolution X Pass Ordinance Pass Motion X Other	Consent Agenda Public Hearing X 1st Discussion 2nd Discussion Other
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BACKGROUND INFORMATION

On December 26, 2000, Short Plat 2545 was recorded, which created 4 lots. The recorded short plat included a 60-foot Access Easement that was also recorded under Auditor File No. 872046. Robert and Kimberly Kennell, the owner of Lot 2 of Short Plat 2545 are requesting that 60-foot Access Easement located on Lot 2 of Short Plat 2545 be vacated off of the face of the short plat. The Short Plat Vacation Application stated the reason for the request was in order to utilize the space for septic system at significantly lower cost. If the Board decides to vacate the easement as requested, it would not vacate the easement recorded under Auditor File No. 872046, that would have to be done by the applicants.

Property owners of the lots within the short plat and owners of property within 300' of the outer perimeter of said short plat have been notified. All concerned agencies such as Health Department, Benton County Engineer, Benton County Fire Marshal and affected utility companies have been notified of this proposal. Attached are the comments received to date related to this application. Verizon Telephone has indicated that they wished to have a 10-foot easement put on the short plat. In discussion with Verizon we have informed them that if they have equipment or utility lines in the area, that they can contact the landowners at any time, separate from this vacation process and record an easement.

The Benton County Code requires the Board of County Commissioners to conduct a public hearing on the proposed vacation and allow for public comments regarding the vacation request. The public hearing notice for application SPV 09-05 was published on October 22, 2009 and the public hearing is scheduled for November 2, 2009 at 9:05 a.m.

SUMMARY

Benton County has received an application requesting the vacation of 60-foot Access Easement located on Lot 2 of Short Plat 2545. The Board of County Commissioners is scheduled to conduct a public hearing on November 2, 2009 at 9:05 a.m.

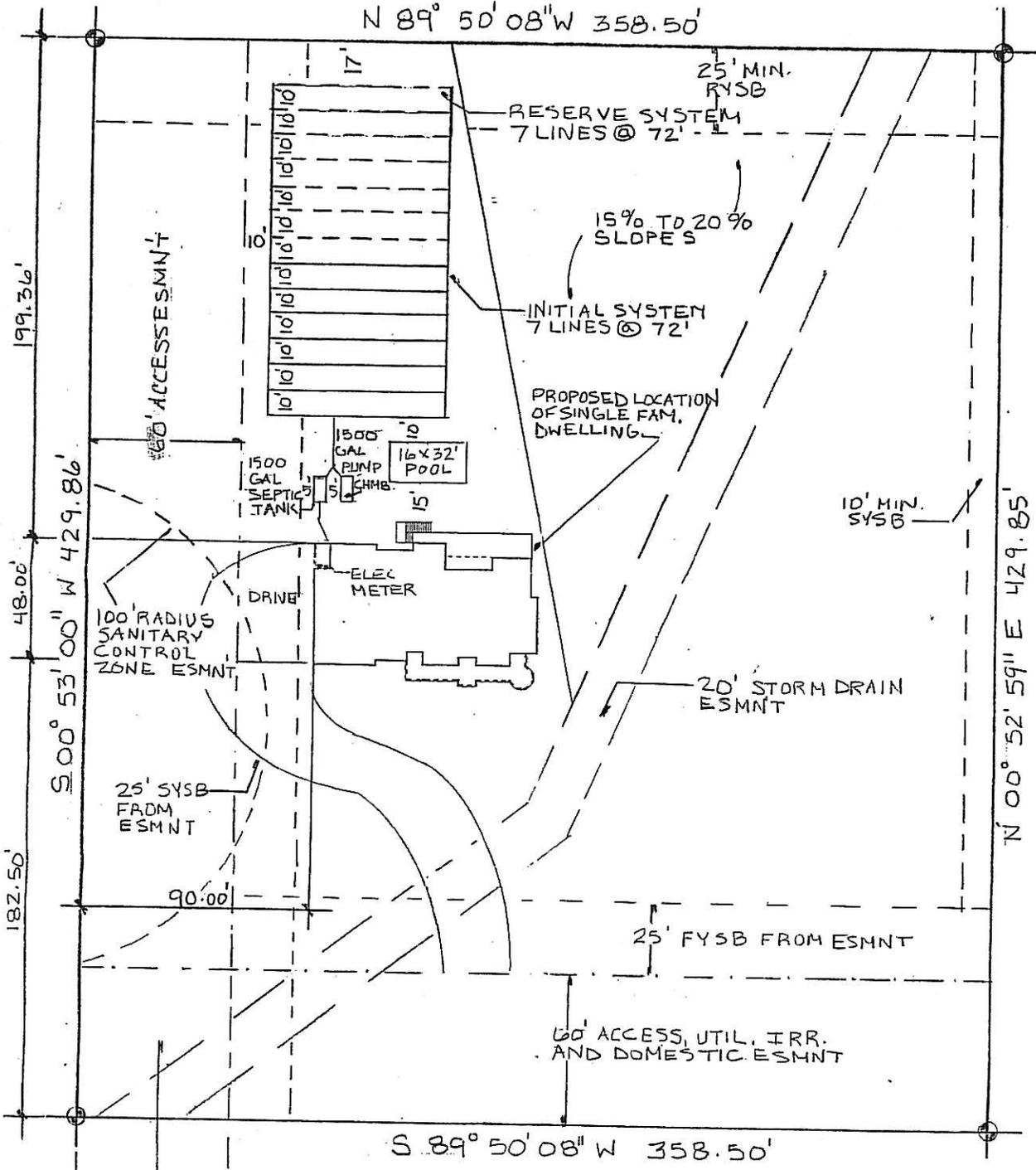
RECOMMENDATION

It is the recommendation of the Planning Department that the Boards of County Commissioners conduct a public hearing, and based on the testimony received, either approve or deny the request. Based on the information received thus far, the Planning Department does not see any problems with the proposed vacation of the above noted easement on Lots 2 of Short Plat 2545.

MOTION

The Benton County Planning Department recommends the following motion: The Benton County Boards of Commissioners approve the vacation of the 60-foot Access Easement located on the south 369.86 feet of the east 60 feet of Lot 2, Short Plat 2545 in the Southeast Quarter of Section 3, Township 8 North, Range 28 East, W.M. from the face of the short plat. This motion is conditioned on the applicant vacating that portion of the 60-foot Access Easement located on Lot 2 of Short Plat 2545 recorded under Auditor File No. 872046. That the applicant provide the Benton County Planning Department with a copy of the recorded document, prior to the signing of the resolution by the Board of County Commissioners. The document must be approved and recorded within 1 year of the date of approval by the Benton County Boards of Commissioner or this approval will be null and void.

KENNELL RESIDENCE
 PARCEL ID# 1038 8401 2545 002
 3708 S. 1015 PRSE WALNUT LANE
 KENNEWICK WA BENTON COUNTY
 LOT 2 OF SHORT PLAT 2545
 3.54 ACRES



SITE PLAN

SCALE 1" = 40'

1015 S. PRSE
 WALNUT LANE

RECEIVED

SEP 23 2009

BENTON COUNTY PLANNING DEPARTMENT
SHORT PLAT VACATION APPLICATION

Benton County
Planning Department

FILE NO. SPV09-05

RECEIVED

SEP 16 2009

Benton County
Planning Department

- Name and address of applicant: Rob + Kimberly Kennell 21091
8103 3708 S. 1015 PRSE Walnut Lane, Kennewick, WA 99338
W. Bruneau Phone number: Home: 374-0909 K cell
Kennewick Work: 528-7109
- Legal owners name and address: Rob + Kimberly Kennell
3708 S. 1015 PRSE Walnut Lane, Kennewick, WA 99338
Phone number: Home: 374-0909 Rob
Work: 737-0333
- Parcel Number or Legal description of the short plat to be vacated: 1038 840125415 002
- Explain the reason for the requested vacation. In order to utilize the space
for septic system + significantly lower cost.
- Describe the existing land uses on the properties to be vacated: - no current use/purpose
There is an unusuable well that the access easement
is on + will continued to be accessed if needed.
- COMMENTS OR PERTINENT INFORMATION: we would like to remove
the easement to the south of the well - Thank you.

I certify that the information given above is true and complete to the best of my knowledge.

PLEASE SIGN AND THEN PRINT YOUR NAME: Signatures of all persons holding an ownership interest in the real property area is required.

Signature Block for individuals only.

[Signature] Rob Kennell Kimberly 9/10/09
Applicant's Signature Print Name Kennell Date

5008112 TIC 872046

ADVISE FOR RECORD AT REQUEST OF USER

FILED FOR RECORD AT REQUEST OF

FILED BY
JAN 27 10 49 AM '83
VERKER H. - CLERK
DEPUTY
RECORDED IN VOL. 431

WHEN RECORDED RETURN TO

Name..... Jeffrey D. Daniels
Address..... 526 S. Dawes
City, State, Zip..... Kennewick, WA 99336

RECORDED BY m
INDEXED BY _____

Statutory Warranty Deed

THE GRANTOR El Rancho Reata, Inc.

for and in consideration of \$7,900.00

in hand paid, conveys and warrants to Dale F. Daniels and Judy M. Daniels (his wife) and Jeffrey D. Daniels (their son) in the County of Benton, State of Washington:

20 acres more or less: The north half of the Northeast quarter of the Southeast quarter of Section 3 Township 8 North, Range 28 E. W. M. 60' (feet) Easement on the East boundary for Ingress and Egress. Easements for ingress and egress as follows 60' (feet) easements on North, South, East and West Boundrys of Section 3, Township 8N; Range 28 E.W.M.

Subject to:
Together with:



This deed is given in fulfillment of that certain real estate contract between the parties hereto, dated December 4, 1974, and conditioned for the conveyance of the above described property, and the covenants of warranty herein contained shall not apply to any title, interest or encumbrance arising by, through or under the purchaser in said contract, and shall not apply to any taxes, assessments or other charges levied, assessed or becoming due subsequent to the date of said contract.

Real Estate Sales Tax was paid on this sale on January 23, 1976, Rec. No. 60273
Dated January 21, 1983

James W. Rickard
El Rancho Reata, Inc.
President

STATE OF WASHINGTON }
COUNTY OF _____ } ss.

On this day personally appeared before me _____
to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that _____ signed the same as _____ free and voluntary act and deed, for the uses and purposes therein mentioned.

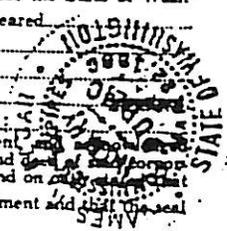
GIVEN under my hand and official seal this _____ day of _____, 19_____
Notary Public in and for the State of Washington, residing at _____

STATE OF WASHINGTON }
COUNTY OF Benton } ss.

On this 21st day of January, 1983, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared James W. Rickard

_____ President and _____
respectively of El Rancho Reata, Inc., the corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on _____ that _____ he is authorized to execute the said instrument and that the seal affixed is the corporate seal of said corporation.

Witness my hand and official seal hereto affixed the day and year first above written.
James W. Rickard
Notary Public in and for the State of Washington, residing at Richland



Benton County Planning Department

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

DATE: September 30, 2009

TO: Badger Mountain Irrigation District
 Verizon Telephone Company
 Benton County Public Works
 Benton County Building Office
 Benton County Fire Marshal
 Benton County Fire District No.1
 City of Richland
 City of Kennewick
 Benton PUD

RECEIVED

OCT 27 2009

Benton County
Planning Department

FROM: R.J. LOTT, Associate Planner

RE: SHORT PLAT VACATION - SPV 09-05

Attached is a copy of a short plat vacation for the vacation of 60 foot access easement located on the East property line of Lot 2 of Short Plat 2545. Please review this short plat vacation and return your comments to our office within seven (7) days. This item will go to a public hearing before the Board of County Commissioners. If you have any questions, please do not hesitate to contact me.

PLEASE COMMENT BELOW AND RETURN:

IT APPEARS THAT VERIZON HAS FACILITIES WITHIN THIS
ACCESS/UTILITY EASEMENT. VERIZON WILL REQUIRE A 10'
UTILITY EASEMENT IN ORDER TO PROTECT & PRESERVE EXISTING
FACILITIES

MARCIA MATSON

CONTRACT ENGINEER - VERIZON

736-3720

Benton County Planning Department

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

RECEIVED

OCT 7 2009

DATE: September 30, 2009

TO: Badger Mountain Irrigation District
Verizon Telephone Company
Benton County Public Works
Benton County Building Office
Benton County Fire Marshal
Benton County Fire District No.1
City of Richland
City of Kennewick
Benton PUD

Benton County
Planning Department
RECEIVED OCT 05 2009

COPY

FROM: R.J. LOTT, Associate Planner

RE: SHORT PLAT VACATION - SPV 09-05

Attached is a copy of a short plat vacation for the vacation of 60 foot access easement located on the East property line of Lot 2 of Short Plat 2545. Please review this short plat vacation and return your comments to our office within seven (7) days. This item will go to a public hearing before the Board of County Commissioners. If you have any questions, please do not hesitate to contact me.

PLEASE COMMENT BELOW AND RETURN:

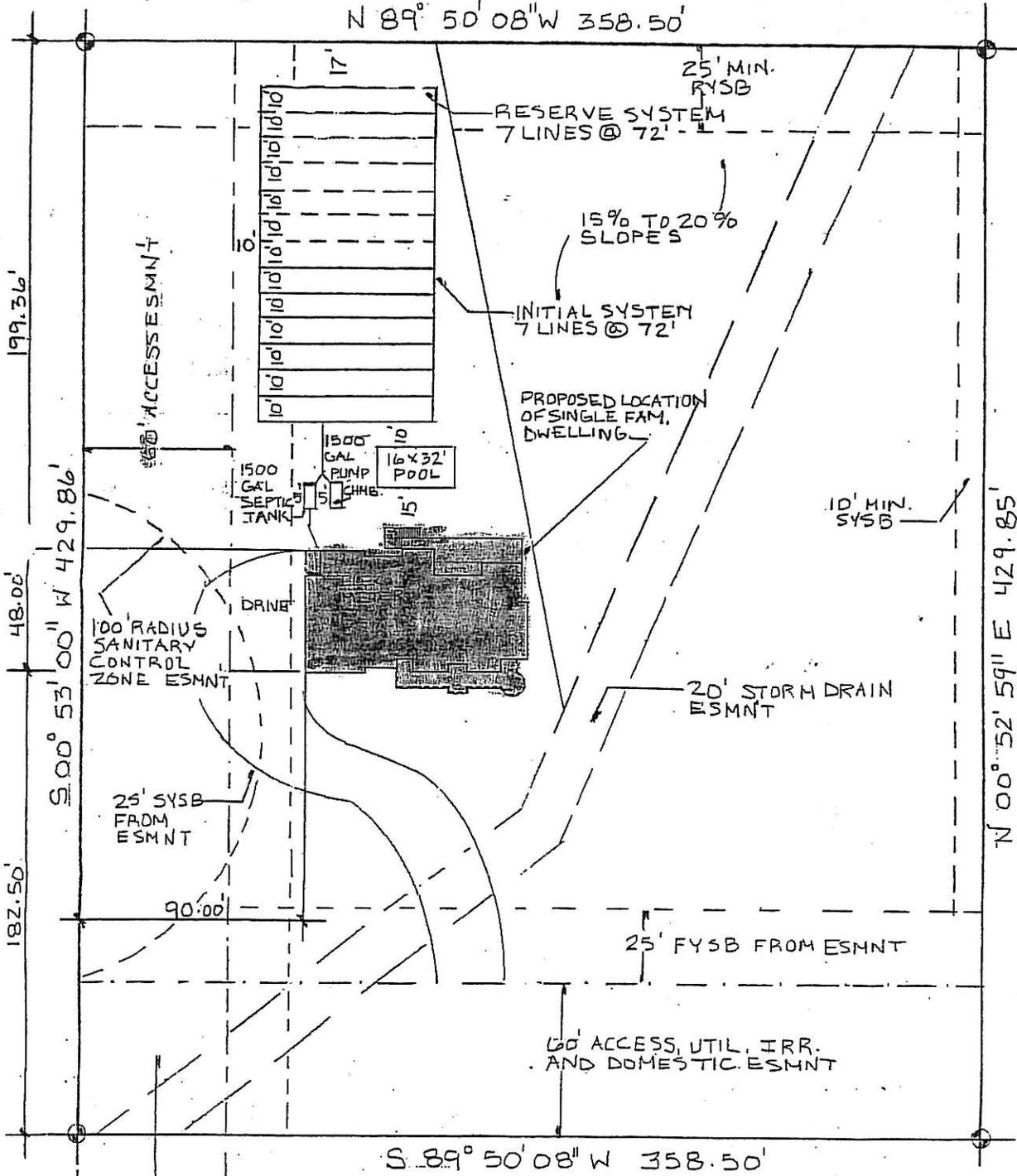
After review, BMID has no problem with vacation of easement as described in these documents and the site plan drawing. However, the existing sanitary control easement held by BMID must remain intact.

*Brad Anderson
District Manager
BMID*

5 October 2009

KENNELL RESIDENCE
 PARCEL ID # 1038 8401 2545 002
 3708 S. 1015 PRSE WALNUT LANE
 KENNEWICK WA BENTON COUNTY
 LOT 2 OF SHORT PLAT 2545
 3.54 ACRES

COPY



SITE PLAN

SCALE 1" = 40'



1015 S. PRSE
 WALNUT LANE

From: Steve Brown
To: Planning Department
Date: 9/30/2009 4:19 PM
Subject: Re: SPV 09-05 Agency Review Documents

No comments- SB

>>> Planning Department 9/30/2009 2:15 PM >>>

Please see the attached documents for agency review and comment on a short plat vacation for Rob and Kimberly Kennell. You may respond by email to the address below with your comments.

Benton County Planning Department
P.O. Box 910
1002 Dudley Avenue
Prosser WA 99350
786-5612-Prosser
736-3086-Tri-Cities
786-5629-Fax

RECEIVED

OCT 1 - 2009

**Benton County
Planning Department**

Benton County Planning Department

Planning Department - RE: SPV 09-05 Agency Review Documents

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

From: "Simon, Rick" <RSimon@CI.RICHLAND.WA.US>
To: 'Planning Department' <Planning.Department@co.benton.wa.us>
Date: 10/2/2009 10:58 AM
Subject: RE: SPV 09-05 Agency Review Documents

The City of Richland has no comments regarding this application.

Rick Simon

From: Planning Department [mailto:Planning.Department@co.benton.wa.us]
Sent: Wednesday, September 30, 2009 2:16 PM
To: Benton PUD; Simon, Rick; Ken Williams; Lyle Cornish; Michelle Johnson; Rick Hall; Rod Worthington; Steve Brown; Tomi Chalk; Badger Mountain Irrigation
Subject: SPV 09-05 Agency Review Documents

Please see the attached documents for agency review and comment on a short plat vacation for Rob and Kimberly Kennell. You may respond by email to the address below with your comments.

Benton County Planning Department
P.O. Box 910
1002 Dudley Avenue
Prosser WA 99350
786-5612-Prosser
736-3086-Tri-Cities
786-5629-Fax

RECEIVED

OCT 2 - 2009

**Benton County
Planning Department**

9:10

AGENDA ITEM MTG. DATE: November 2, 2009 SUBJECT: Ordinance 466 Amendment–Sunset Clause MEMO DATE: October 21, 2009 Prepared By: Susan M. Walker Reviewed By: Michael Shuttleworth	TYPE OF ACTION NEEDED Execute Contract Pass Resolution X Pass Ordinance Pass Motion X Other	Consent Agenda Public Hearing X 1st Discussion 2nd Discussion Other
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BACKGROUND INFORMATION

In December 1998, the Benton County Commissioners adopted an Ordinance, titled "Interim Growth Management Regulations", that provided overlay densities in unincorporated Benton County outside of the Interim Urban Growth Areas. The ordinance amended Title 16 of the Benton County Code and adopted the land use map densities proposed in the new comprehensive plan consistent with the Plans goals, objectives, and policies. The ordinance was enacted to maintain the densities and integrity of the Plan while the County developed and adopted new development regulations and zoning ordinances consistent with the Plan. The ordinance also provides for exemption from the density requirements for areas where the surrounding parcels already have a greater density than allowed in the comprehensive plan. The Planning Department is proposing to extend the effective date until December 21, 2010, when we anticipate new zoning and development regulations to be in place.

The Planning Commission at their meeting on October 13, 2009 reviewed the proposed ordinance and recommended approval to the Board of County Commissioners. Attached to this memo is a copy of the proposed amendment and the Planning Commission's Findings of Fact.

SUMMARY

This amendment will extend the effective date of Ordinance 466 "Interim Growth Management Regulations" until December 21, 2010.

RECOMMENDATION

It is the recommendation of the Planning Department and Planning Commission that the Board of County Commissioners adopts the Planning Commission's Findings of Fact as their own and make a motion to approve the ordinance amendment.

FISCAL IMPACT

None

MOTION

At the conclusion of the public meeting, the Board will need to make a motion adopting the Planning Commission Findings of Fact as your own and approving the resolution and adopting the ordinance amendment to BCC 16.10.080.

ORDINANCE NO. _____

AN ORDINANCE relating to interim growth management regulations, amending Ordinance 466, Section 1 and BCC 16.10.080.

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

SECTION 1. Ordinance 466, Section 1 and BCC 16.10.080 are hereby amended to read as follows:

SUNSET CLAUSE. This ordinance shall be effective until December 21, ((2009)) 2010 unless permanently adopted after public hearing or renewed for an additional period by action of the Benton County Board of Commissioners.

SECTION 2. 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 3. EFFECTIVE DATE. This ordinance shall take effect and be in full force upon its passage and adoption.

ADOPTED AND PASSED this _____ day of _____, 2009.

Chairman of the Board.

Chairman Pro-Tem.

Member.

Approved as to Form:

Ryan K Brown
Deputy Prosecuting Attorney

Constituting the Board of
County Commissioners of
Benton County, Washington

Attest: _____
Clerk of the Board

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

I. INTRODUCTION

In the Matter of: County Planning, amending Ordinance 443, BCC 16.10.080

Pursuant to Chapter 36.70 RCW, the Benton County Planning Commission has held a public hearing on October 13, 2009 for the purpose of hearing testimony for and against and considering adoption of an ordinance amendment to Ordinance 466, BCC 16.10.080 to extend the effective date until December 21, 2010.

The members of the Planning Commission and their attendance for the afore-mentioned hearing are as follows: Martin Sheeran, Eugene Johnson, Lloyd Coughlin, Rick Giberson and James Wetzel.

All persons desiring to speak for or against, or in relation to the amendment were given full and complete opportunity to be heard. The Planning Commission is now satisfied that this matter has been sufficiently considered. Therefore, the Benton County Planning Commission hereby makes and enters the following:

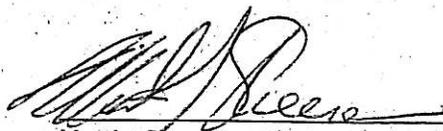
II. FINDINGS OF FACT

- A. Legal notification was given on October 3, 2009. The public hearing was conducted on October 13, 2009.
- B. The proposed amendment is found to be in conformance with the intent of the Benton County Comprehensive Plan. **Yes**
- C. Written and oral testimony have indicated the following concerning the proposed amendment:
Neither
- D. The Planning Commission finds the proposed amendment to be of the same character as and in general keeping with existing uses authorized in such zone. N/A
- E. A majority of the Planning Commission felt that the record and testimony **did** establish the need for the proposed amendment to maintain consistency with the Comprehensive Plan and state law.
- F. A majority of the Planning Commission indicated that the approval of the proposed amendment would be in the public interest. **YES**

III. ANALYSIS OF FACTORS CONSIDERED CONTROLLING

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

IV. THEREFORE BE IT RESOLVED BY THE BENTON COUNTY PLANNING COMMISSION, through it's Vice Chairman as authorized by motion of the Planning Commission, adopts these findings and conclusions and that such ordinance amendment is hereby recommended for approval with such recommendation to be forwarded to the Board of County Commissioners.


Martin Sheeran, Chairman
Date 10/13/09
BENTON COUNTY PLANNING COMMISSION

Continued until Nov. 2, 2009

9:15

AGENDA ITEM Nov 2, 09 MTG. DATE: October 26, 2009 SUBJECT: 2009 Comp Plan Amendments MEMO DATE: October 21, 2009 Prepared By: Susan M. Walker Reviewed By: Michael Shuttleworth	TYPE OF ACTION NEEDED Execute Contract Pass Resolution X Pass Ordinance Pass Motion X Other	Consent Agenda Public Hearing X 1st Discussion 2nd Discussion Other
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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 2009-amendment process also included the five-year review of the cities Urban Growth Areas (UGA's). The Board of County Commissioners held a workshop to review the Planning Commission findings and information regarding these amendments on September 14, 2009. Board of County Commissioners held hearings on the proposals September 28, 2009. A continued hearing has been scheduled for October 26th, 2009 at 9:05 a.m. in the Commissioners Hearing room in Prosser to take final action on the 2009 applications for Comprehensive Plan amendments.

The 2009 Amendment Proposals are as follows:

● **CPA 09-01**

SUMMARY

A proposal by William and Nancy Pace to change the Comprehensive Plan land use designation from Heavy Industrial (HI) to Rural Lands Five 5 (RL-5) on an 11 acre parcel of land located in the northeast quarter of Section 12 of Township 5N., Range 27 E.W.M., lying north of Christy Road approximately one mile west of Plymouth, WA., was approved by the Board of Commissioners on September 28th, 2009.

MOTION

To approve and sign the attached resolution approving Comprehensive Plan Amendment application CPA 09-01 (Exhibit A).

● **CPA 09-02**

SUMMARY

A proposal by the City of Richland to include 178.36 acres of land in Section 11, Township 8N., Range 28 E.W.M., located south of the I-82 and west of the Badger Road Interchange on Badger Road into its Urban Growth Area (UGA) boundary, was approved by the Board of Commissioners on September 28th, 2009.

MOTION

To approve and sign the attached resolution approving Comprehensive Plan Amendment application CPA 09-02 (Exhibit B).



● **CPA 09-03**

SUMMARY

A revised proposal by the City of Benton City to include New Area A and New Area B, located both south and east of Benton City, including approximately 499 acres of additional land into the City of Benton City's Urban Growth Area Boundary, was approved by the Board of County Commissioners on September 28th, 2009.

MOTION

To approve and sign the attached resolution approving Comprehensive Plan Amendment application CPA 09-03 (Exhibit C).

● **CPA 09-04**

SUMMARY

A proposal by Harold and Susan Bond to change the Comprehensive Plan land use designation from Rural Lands 5 Acre (RL-5) to General Commercial, on a 6.37 acre parcel located in southwest quarter of Section 15, Township 9 North, Range 27 East W.M., south of I-82, approximately two miles east of Benton City on Jacobs Road, was denied by the Board of County Commissioners on September 28th, 2009.

MOTION

To approve and sign the attached resolution denying Comprehensive Plan Amendment application CPA 09-04 (Exhibit D).

● **CPA 09-05**

SUMMARY

A proposal by Chuck Barnes of Kennewick General Hospital Properties to change the Comprehensive Plan from Heavy Industrial (HI) to Rural Lands 5 Acre (RL-5), on two parcels located in Sections 5 & 6, of Township 7N., Range 31 E.W.M., consisting of approximately 52.13 acres in south Finley previously known as Hover Industrial Park and a parcel containing 2.32 acres (parcel #106713000005000) owned by Paul Meier, was approved by the Board of County Commissioners on September 28th, 2009.

MOTION

To approve and sign the attached resolution approving Comprehensive Plan Amendment application CPA 09-05 (Exhibit E).

● **CPA 09-06**

SUMMARY

A proposal by staff proposing housekeeping edits that update text in regard to the completion of the Finley Intertie in Chapter Five, the Rural Element; and related edits to road names on the transportation maps in Chapter Eight, the Transportation Element.

MOTION

To approve and sign the attached resolution approving Comprehensive Plan Amendment application CPA 09-06 (Exhibit F).

FISCAL IMPACT

No fiscal impacts have been identified regarding these planning proposals.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON
IN THE MATTER OF COUNTY PLANNING RE: AMENDMENT TO THE BENTON COUNTY
COMPREHENSIVE PLAN. FILE NO. CPA 09-01, APPLICANT: WILLIAM AND NANCY PACE,
COUNTY RESIDENTS.

WHEREAS, on June 22, 1998, the Benton County Board of Commissioners adopted the Benton County Comprehensive Plan; and,

WHEREAS, Washington State Planning law requires continuing review and evaluation of the Comprehensive Plan pursuant to RCW 36.70A.130(2)(a); and,

WHEREAS, Benton County provides for annual Comprehensive Plan Amendments in BCC 16.14; and,

WHEREAS, the Benton County Planning Commission did conduct a public hearing on July 14, 2008, at 7:00 p.m., in the Planning Annex, 1002 Dudley Avenue, Prosser, WA 99350, to review and receive written and oral testimony with reference to the proposed Comprehensive Plan Amendment (CPA) 09-01, a proposal received from William and Nancy Pace to change the land use designation on maps in Chapter Four of the Comprehensive Plan from Heavy Industrial to Rural Lands Five (RL-5), on their property consisting of approximately 11 acres located in the Northeast quarter of Section 12, Township 5 North, Range 27 East, W.M. , lying north of Christy Road, one mile west of Plymouth Wa., in unincorporated Benton County, and,

WHEREAS, the Benton County Planning Commission at the conclusion of its public hearing conducted on July 14th, 2009, voted to recommend approval of CPA 09-01 to the Board of Commissioners, and,

WHEREAS the Planning Commission recommendation was forwarded to the Board of Commissioners on September 23, 2009, and the legal notification was published on September 10, 2009; and copies of the notice mailed to those interested parties as noted in the file maintained in the Planning Department, and,

WHEREAS, the Board of County Commissioners did conduct their own public hearings on September 28, 2009, at 9:05 a.m. in the Commissioner's Meeting Room, Third Floor, Courthouse, Prosser WA 99350; and,

WHEREAS, the proposal has been reviewed under the requirements of RCW 43.21C (SEPA) and a determination of non-significance was issued on January 20, 2009; and,

WHEREAS, the Board finds that proper legal notification, public hearing and review have been made; and,

WHEREAS, after consideration of the above mentioned request and after reviewing the Planning Commission record, staff analysis and memos, and all written and oral comments submitted at the public hearing, the Board of County Commissioners adopts the Planning Commission's findings (located in the CPA 09-01 file in the Planning department) as their own, and it appears to be in the public's best interest to approve the request; NOW THEREFORE,

BE IT RESOLVED that the Board of County Commissioners hereby amends the Comprehensive Plan to include changes to Land Use Maps 4.0 and 4.4, in Chapter Four, changing the designation on approximately 11 acres of land (Parcel #1-1257-100-0003-000) from Heavy Industrial to Rural Lands Five as set forth in CPA 09-01, File Map Exhibit 8, attached.

Dated this _____ day of _____.

Chairman of the Board

Member

Member
Constituting the Board of County
Commissioners of Benton County
Washington

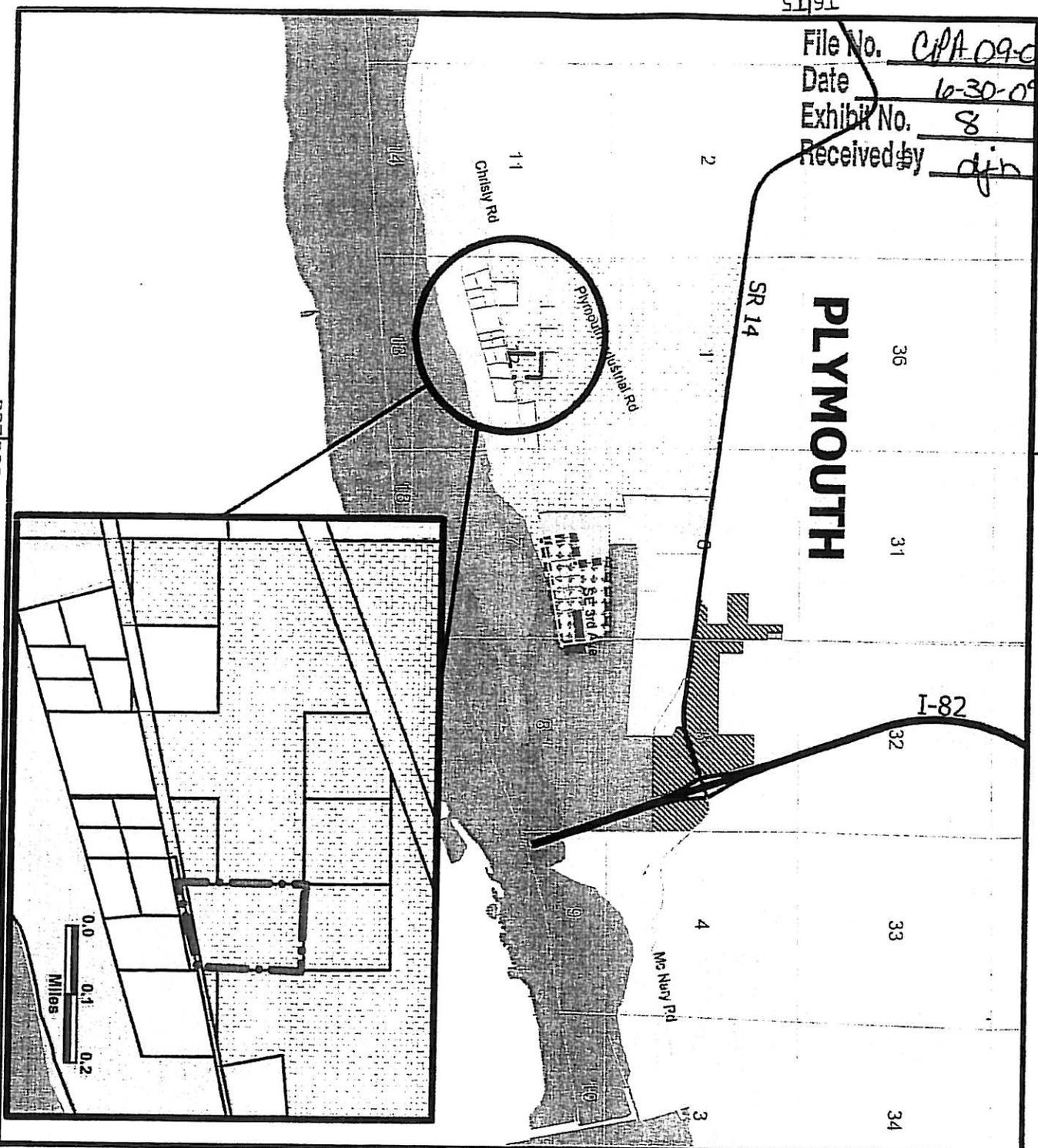
Attest.....
Clerk of the Board

Michael Shuttleworth/smw
cc: Prosecuting Attorney's Office

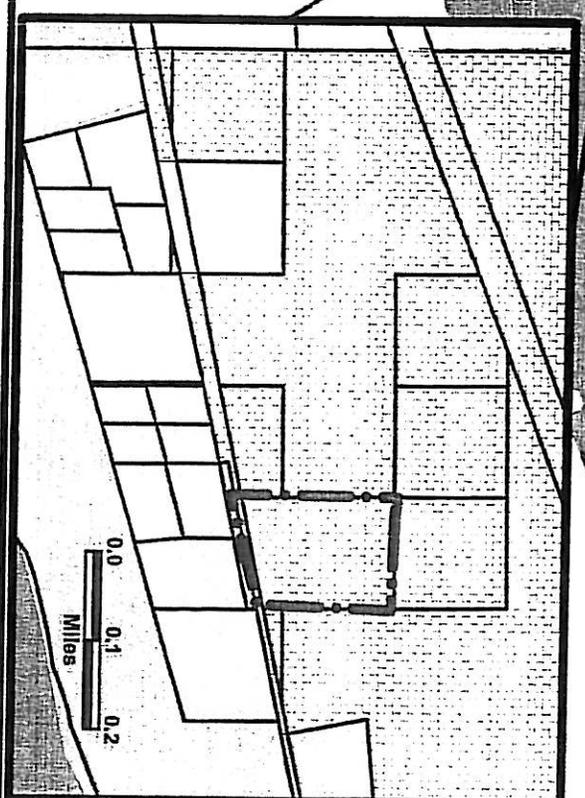
51|91
 File No. CPA-09-01
 Date 10-30-09
 Exhibit No. 8
 Received by djn

R27 R28

PLYMOUTH



36
31
32
33
34

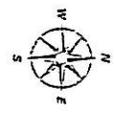


T5|T6

BENTON COUNTY
 PLANNING DEPARTMENT
LAND USE MAP
 CPA 09-01
WILLIAM & NANCY
PACE
 Date Printed 5/20/09

Legend

- HEAVY INDUSTRIAL
- LIGHT INDUSTRIAL
- RURAL LANDS 5
- GMA AG
- RURAL LANDS 1-3
- COMMUNITY COMMERCIAL
- COMMUNITY CENTER
- INTERCHANGE COMMERCIAL
- PUBLIC



R27 R28

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON
IN THE MATTER OF COUNTY PLANNING RE: AMENDMENT TO THE BENTON COUNTY
COMPREHENSIVE PLAN. FILE NO. CPA 09-02, APPLICANT: CITY OF RICHLAND.

WHEREAS, on June 22, 1998, the Benton County Board of Commissioners adopted the Benton County Comprehensive Plan; and,

WHEREAS, Washington State Planning law requires continuing review and evaluation of the Comprehensive Plan pursuant to RCW 36.70A.130(2)(a); and,

WHEREAS, Benton County provides for annual Comprehensive Plan Amendments and every five years requests for Urban Growth Area (UGA) modifications in BCC 16.14; and,

WHEREAS, the Benton County Planning Commission did conduct a public hearing on July 14, 2009, at 7:00 p.m., in the Planning Annex, 1002 Dudley Avenue, Prosser, WA 99350, to review and receive written and oral testimony with reference to the proposed Comprehensive Plan Amendment (CPA) 09-02, a proposal by the City of Richland to add 178.36 acres into its Urban Growth Area boundary located in Section 11, Township 8N, Range 28 E.W.M., located south of the I-82 and west of the Badger Road Interchange on Badger Road, and,

WHEREAS, the City did prepare and adopt a capital facilities analysis titled Cottonwood Urban Area Expansion Capital Facilities Analysis (CFP) for water, sewer, roads and utilities for the expansion of the City's UGA by approximately 178.36 acres; and,

WHEREAS, the Benton County Planning Commission at the conclusion of its public hearing conducted on July 14th, 2009 was unable to obtain a majority vote on this action, therefore no recommendation was forwarded with CPA 09-02 to the Board of County Commissioners with the record on September 23, 2009, and the legal notification was published on September 10, 2009; and copies of the notice mailed to those interested parties as noted in the file maintained in the Planning Department and,

WHEREAS, the Board of County Commissioners did conduct their own public hearings on September 28, 2009, at 9:05 a.m. in the Commissioner's Meeting Room, Third Floor, Courthouse, Prosser WA 99350; and,

WHEREAS, the proposal has been reviewed under the requirements of RCW 43.21C (SEPA) and a determination of non-significance was issued on January 21, 2009; and,

WHEREAS, the Board finds that proper legal notification, public hearing and review have been made; and,

WHEREAS, after consideration of the above mentioned request and after reviewing the Planning Commission record, staff analysis and memos, and all written and oral comments submitted at the public hearing, and,

WHEREAS; the land is located at an I-82 interchange with uniquely located public utilities adjacent to serve the commercial, light industrial and school facility needs of the area, and,

WHEREAS; a majority of the Board of County Commissioners finds the application by the City of Richland is in compliance with the goals of the Growth Management Act identified in RCW 36.70A.020 (5) and the Benton Countywide Policies (20) that require that Comprehensive Plans shall jointly and individually support the County and region's economic prosperity in order to promote employment and economic opportunity for all citizens; and consistent with the goals of the Benton County Comprehensive Plan, and,

NOW THEREFORE, BE IT RESOLVED that the Board of County Commissioners hereby amends the Comprehensive Plan to include changes to Land Use Maps 4.0 and 4.5 in Chapter Four, designating an additional 178.36 acres of land into the City of Richland's Urban Growth Boundary as set forth in CPA 09-02, File Map Exhibit 5, attached; and include in the Capital Facilities Element and other areas of the Plan where appropriate, language and narrative that incorporates by reference the Cottonwood Urban Area Expansion Capital Facilities Analysis (CFP).

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

Michael Shuttleworth/smw
cc: Prosecuting Attorney's Office

Date 10-30-09

Exhibit No. 5

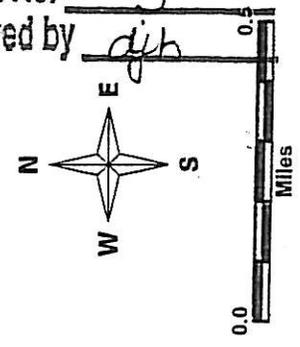
Received by *djh*

COMPREHENSIVE PLAN
AMENDMENT
CPA 09-02
LAND USE MAP OF
URBAN GROWTH AREA
EXPANSION
CITY OF RICHLAND
Date Printed 5/12/09

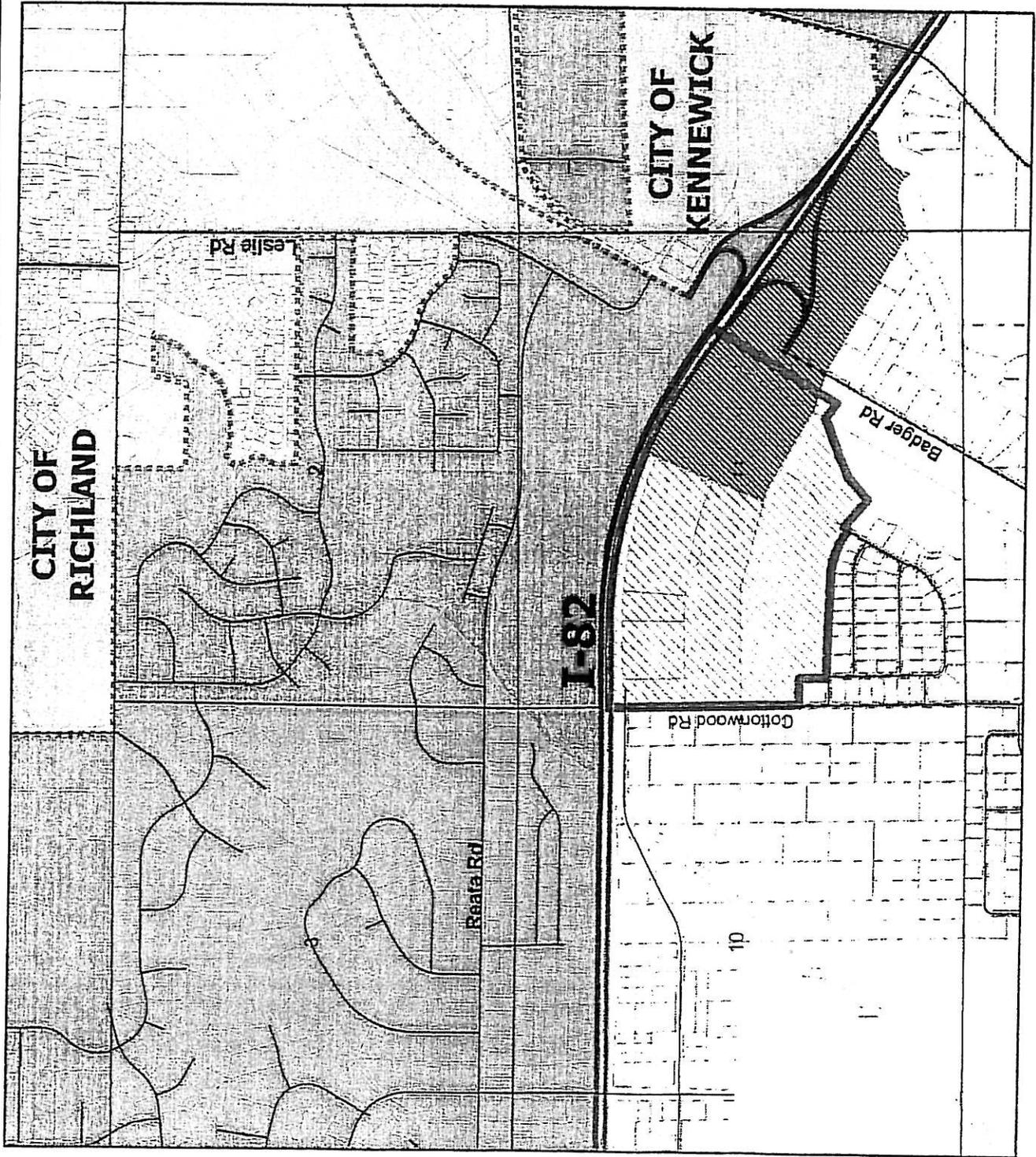
Legend

-  PROPOSED UGA
-  CITY LIMITS
-  CURRENT UGA
-  LIGHT INDUSTRIAL
-  HWY COMMERCIAL
-  RURAL LANDS 1
-  RURAL LANDS 5
-  GMA AG

BENTON COUNTY
PLANNING DEPARTMENT



EXHIBIT



This information was prepared by the Benton County Planning staff for presentation and planning purposes only. Benton County does not accept the liability for the accuracy of any information shown hereon. Any use made of this information is solely at the risk of the user.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON
IN THE MATTER OF COUNTY PLANNING RE: AMENDMENT TO THE BENTON COUNTY
COMPREHENSIVE PLAN. FILE NO. CPA 09-03, APPLICANT: CITY OF BENTON CITY.

WHEREAS, on June 22, 1998, the Benton County Board of Commissioners adopted the Benton County Comprehensive Plan; and,

WHEREAS, Washington State Planning law requires continuing review and evaluation of the Comprehensive Plan pursuant to RCW 36.70A.130(2)(a); and,

WHEREAS, Benton County provides for annual Comprehensive Plan Amendments and every five years requests for Urban Growth Area (UGA) modifications in BCC 16.14; and,

WHEREAS, the Benton County Planning Commission did conduct a public hearing on July 14, 2009 and continued the hearing to August 11, 2009, at 7:00 p.m., in the Planning Annex, 1002 Dudley Avenue, Prosser, WA 99350, to review and receive written and oral testimony with reference to the proposed Comprehensive Plan Amendment (CPA) 09-03, a proposal by the City of Benton City to add 1,545 acres of land into its Urban Growth Area boundary located to the south and east of the City, and,

WHEREAS, the City did prepare and adopt a capital facilities analysis titled Benton City Capital Facilities Plan for Proposed 2009 Urban Growth Area Expansion (CFP) for water, sewer, roads and utilities for the expansion of the City's UGA by approximately 1,545 acres; and,

WHEREAS, the City revised and reduced its initial proposal at the direction of the Benton County Planning Commission to include Area A and Area B, consisting of approximately 483 acres shown as Exhibit 26, dated July 30, 2009, and,

WHEREAS, the Benton County Planning Commission at the conclusion of its public hearing voted to recommend denial of CPA 09-03 to the Board of Commissioners, and,

WHEREAS, the Planning Commission recommendation was forwarded to the Board of Commissioners on September 23, 2009, and the legal notification was published on September 10, 2009; and copies of the notice mailed to those interested parties as noted in the file maintained in the Planning Department and to members of the Public Participation (PPP) List, and,

WHEREAS, the Board of County Commissioners did conduct their own public hearings on September 28, 2009, at 9:05 a.m. in the Commissioner's Meeting Room, Third Floor, Courthouse, Prosser WA 99350; and,

WHEREAS, the proposal has been reviewed under the requirements of RCW 43.21C (SEPA) and a determination of non-significance was issued on January 20, 2009; and,

WHEREAS, the Board finds that proper legal notification, public hearing and review have been made; and,

WHEREAS, after consideration of the above mentioned request and review of the Planning Commission record, staff analysis and memos, and all written and oral comments received at the public hearings, and,

WHEREAS, an Economic Development Strategic Plan for Benton City was submitted with testimony by the Benton City Economic Development Committee that included job creation and economic development strategies for the proposed area, and,

WHEREAS, Benton City is working toward the purchase of the Harrison Water System in Area B to enhance existing City facilities and services, and future growth, and,

WHEREAS; a majority of the Board of County Commissioners finds the application by the City of Benton City complies with the goals of the Growth Management Act identified in RCW 36.70A.020 (5), and the Benton Countywide Policies (20) that require that Comprehensive Plans shall jointly and individually support the county and region's economic prosperity in order to promote employment and economic opportunity for all citizens; consistent with the Benton County Comprehensive Plan, and,

NOW THEREFORE, BE IT RESOLVED that the Board of County Commissioners hereby amends the Comprehensive Plan to include changes to the Land Use Maps 4.0 and 4.2 in Chapter Four designating New Area A and New Area B, consisting of approximately 499 acres of additional land into the City of Benton City's Urban Growth Area Boundary, as set forth in CPA 09-03, File Map Exhibit E, attached, and include in the Capital Facilities Element and other areas of the Plan where appropriate, language and narrative that incorporates by reference the Benton City Capital Facilities Plan for Proposed 2009 Urban Growth Area Expansion (CFP).

Dated this _____ day of _____.

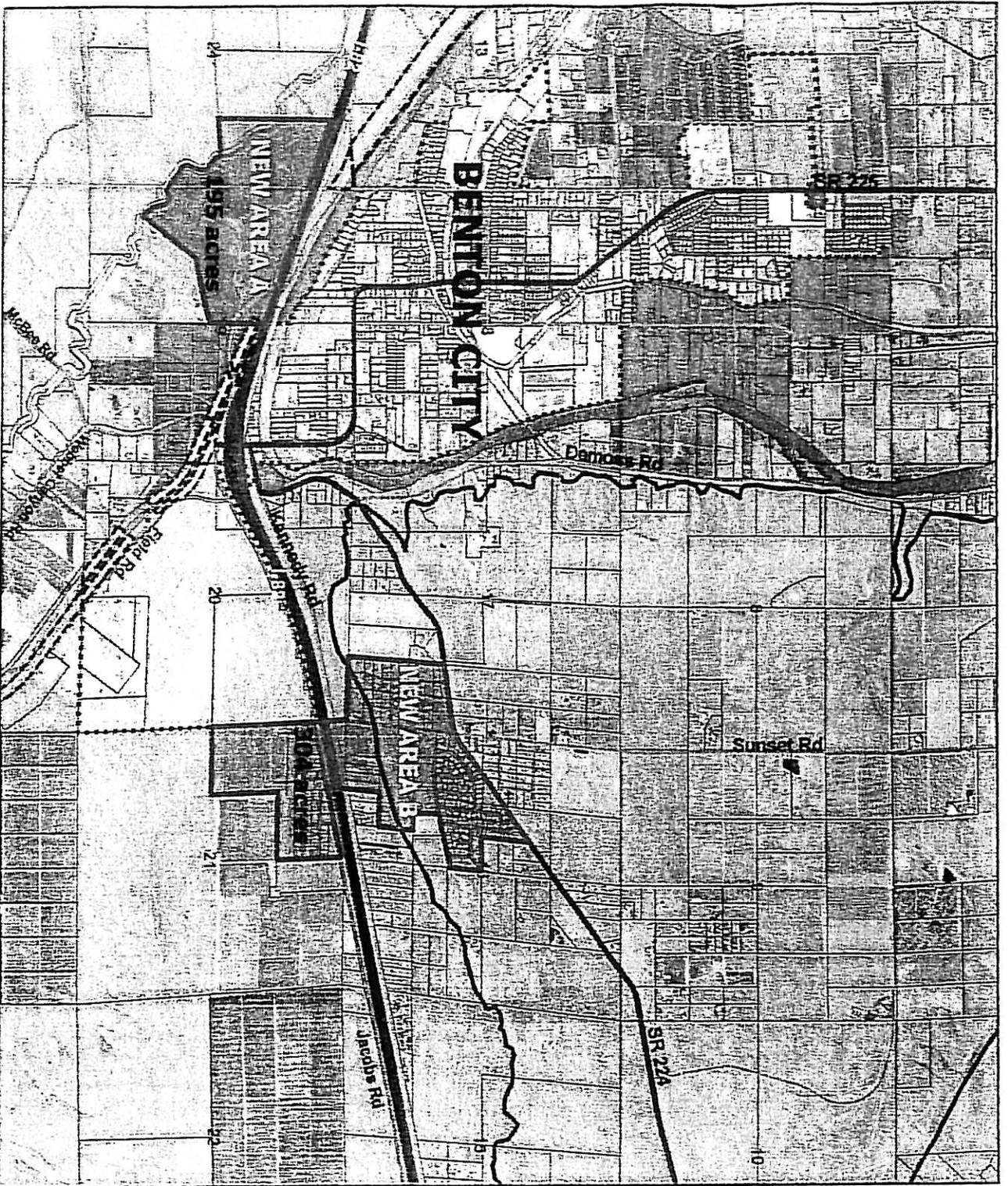
Chairman of the Board

Member

Member
Constituting the Board of County
Commissioners of Benton County
Washington

Attest.....
Clerk of the Board

Michael Shuttleworth/smw
cc: Prosecuting Attorney's Office



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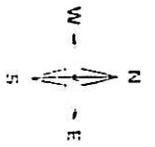
**COMPREHENSIVE PLAN
AMENDMENT
CPA 09-03
AERIAL MAP OF
URBAN GROWTH AREA
EXPANSION**

BENTON CITY

Date Printed 9/27/09

- Legend**
- CITY LIMITS
 - ▭ EXISTING UGA
 - ▭ REVISIED UGA PROPOSALS
 - RedMountainAVA
 - Rail Line

BENTON COUNTY
Planning Department



File No. UP1-09-03
Date 9-23-09
Staff Exhibit No. 6
Prop. Exhibit No. _____
Opp. Exhibit No. _____
Received by dfb

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON
IN THE MATTER OF COUNTY PLANNING RE: AMENDMENT TO THE BENTON COUNTY
COMPREHENSIVE PLAN. FILE NO. CPA 09-04, APPLICANT: HAROLD AND SUSAN BOND,
PASCO, WA.

WHEREAS, on June 22, 1998, the Benton County Board of Commissioners adopted the Benton County Comprehensive Plan; and,

WHEREAS, Washington State Planning law requires continuing review and evaluation of the Comprehensive Plan pursuant to RCW 36.70A.130(2)(a); and,

WHEREAS, Benton County provides for annual Comprehensive Plan Amendments in BCC 16.14; and,

WHEREAS, the Benton County Planning Commission did conduct a public hearing on July 14, 2008, at 7:00 p.m., in the Planning Annex, 1002 Dudley Avenue, Prosser, WA 99350, to review and receive written and oral testimony with reference to the proposed Comprehensive Plan Amendment (CPA) 09-04, a proposal received from Harold and Susan Bond to change the land use designation on maps in Chapter Four of the Comprehensive Plan from Rural Residential Five (RL-5) to General Commercial, on a 6.37 acre parcel located in the southwest quarter of Sections 15, in Township 9 North, Range 27 East W.M., south of I-82, approximately 2 miles east of Benton City on Jacobs Road, and,

WHEREAS, the Benton County Planning Commission at the conclusion of its public hearing conducted on July 14th, 2009, voted to recommend to the Board of Commissioners denial of CPA 09-04, and,

WHEREAS, the Planning Commission recommendation was forwarded to the Board of Commissioners on September 23, 2009, and the legal notification was published on September 10, 2009; and copies of the notice mailed to those interested parties as noted in the file maintained in the Planning Department, and,

WHEREAS, the Board of County Commissioners did conduct their own public hearings on September 28, 2009, at 9:05 a.m. in the Commissioner's Meeting Room, Third Floor, Courthouse, Prosser WA 99350; and,

WHEREAS, the proposal has been reviewed under the requirements of RCW 43.21C (SEPA) and a determination of non-significance was issued on January 20, 2009; and,

WHEREAS, the Board finds that proper legal notification, public hearing and review have been made; and,

WHEREAS, after consideration of the above mentioned request and after reviewing the Planning Commission record, staff analysis and memos, and all written and oral comments submitted at the public hearing, the Board of County Commissioners adopts the Planning Commission's findings and conclusions (located in the CPA 09-04 file in the Planning Department) as their own, and it appears to be in the public's best interest to deny the request; NOW THEREFORE,

BE IT RESOLVED that the Board of County Commissioners hereby denies CPA 09-04, the request by Harold and Susan Bond to change the land use designation from Rural Lands Five to General Commercial on a 6.37 acre parcel located in the southwest quarter of Sections 15, in Township 9 North, Range 27 East W.M., south of I-82, approximately 2 miles east of Benton City on Jacobs Road.

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

Michael Shuttleworth/smw
cc: Prosecuting Attorney's Office

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON
IN THE MATTER OF COUNTY PLANNING RE: AMENDMENT TO THE BENTON COUNTY
COMPREHENSIVE PLAN. FILE NO. CPA 09-05, APPLICANT: CHUCK BARNES,
KENNEWICK GENERAL HOSPITAL, KENNEWICK, WA.

WHEREAS, on June 22, 1998, the Benton County Board of Commissioners adopted the Benton County Comprehensive Plan; and,

WHEREAS, Washington State Planning law requires continuing review and evaluation of the Comprehensive Plan pursuant to RCW 36.70A.130(2)(a); and,

WHEREAS, Benton County provides for annual Comprehensive Plan Amendments in BCC 16.14; and,

WHEREAS, the Benton County Planning Commission did conduct a public hearing on July 14, 2008, at 7:00 p.m., in the Planning Annex, 1002 Dudley Avenue, Prosser, WA 99350, to review and receive written and oral testimony with reference to the proposed Comprehensive Plan Amendment (CPA) 09-05, A request by Chuck Barnes on behalf of the Kennewick General Hospital (KGH) to change the Comprehensive Plan land use designation on maps in Chapter Four from Heavy Industrial to Rural Lands 5, on two parcels located in Sections 5 & 6, of Township 7 N., Range 31 E.W.M., consisting of approximately 52.13 acres, and including a small parcel containing 2.32 acres owned by Paul Meier located at the southwest corner of the KGH property in concurrence with the owner, and,

WHEREAS, the Benton County Planning Commission at the conclusion of its public hearing conducted on July 14th, 2009, voted to recommend approval of CPA 09-05 to the Board of Commissioners, and,

WHEREAS the Planning Commission recommendation was forwarded to the Board of Commissioners on September 23, 2009, and the legal notification was published on September 10, 2009; and copies of the notice mailed to those interested parties as noted in the file maintained in the Planning Department, and,

WHEREAS, the Board of County Commissioners did conduct their own public hearings on September 28, 2009, at 9:05 a.m. in the Commissioner's Meeting Room, Third Floor, Courthouse, Prosser WA 99350; and,

WHEREAS, the proposal has been reviewed under the requirements of RCW 43.21C (SEPA) and a determination of non-significance was issued on January 20, 2009; and,

WHEREAS, the Board finds that proper legal notification, public hearing and review have been made; and,

WHEREAS, after consideration of the above mentioned request and after reviewing the Planning Commission record, staff analysis and memos, and all written and oral comments submitted at the public hearing, the Board of County Commissioners adopts the Planning Commission's findings (located in the CPA 09-05 file in the Planning department) as their own, and it appears to be in the public's best interest to approve the request; NOW THEREFORE,

BE IT RESOLVED that the Board of County Commissioners hereby amends the Comprehensive Plan to include changes to Land Use Maps 4.0 and 4.6, in Chapter Four designating approximately 52.13 acres, and a small parcel containing 2.32 acres owned by Paul Meier located at the southwest corner of the KGH property from Heavy Industrial to Rural Lands Five as set forth in CPA 09-05, File Map Exhibit 5, attached.

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

Michael Shuttleworth/smw
cc: Prosecuting Attorney's Office

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON
IN THE MATTER OF COUNTY PLANNING RE: AMENDMENT TO THE BENTON COUNTY
COMPREHENSIVE PLAN. FILE NO. CPA 09-06, APPLICANT: BENTON COUNTY
PLANNING STAFF.

WHEREAS, on June 22, 1998, the Benton County Board of Commissioners adopted the Benton County Comprehensive Plan; and,

WHEREAS, Washington State Planning law requires continuing review and evaluation of the Comprehensive Plan pursuant to RCW 36.70A.130(2)(a); and,

WHEREAS, Benton County provides for annual Comprehensive Plan Amendments in BCC 16.14; and,

WHEREAS, the Benton County Planning Commission did conduct a public hearing on July 14, 2008, at 7:00 p.m., in the Planning Annex, 1002 Dudley Avenue, Prosser, WA 99350, to review and receive written and oral testimony with reference to the proposed Comprehensive Plan Amendment (CPA) 09-06, staff edits to amend text in regard to the completion of the Finley Intertie in Chapter Five, the Rural Element; and related map edits on the transportation maps in Chapter Eight, the Transportation Element, and,

WHEREAS, the Benton County Planning Commission at the conclusion of its public hearing conducted on July 14th, 2009, voted to recommend approval of CPA 09-06 to the Board of Commissioners, and,

WHEREAS the Planning Commission recommendation was forwarded to the Board of Commissioners on September 23, 2009, and the legal notification was published on September 10, 2009; and copies of the notice mailed to those interested parties as noted in the file maintained in the Planning Department, and,

WHEREAS, the Board of County Commissioners did conduct their own public hearings on September 28, 2009, at 9:05 a.m. in the Commissioner's Meeting Room, Third Floor, Courthouse, Prosser WA 99350; and,

WHEREAS, the "housekeeping edit" nature of the proposal does not require review under RCW 43.21C (SEPA); and,

WHEREAS, the Board finds that proper legal notification, public hearing and review have been made; and,

WHEREAS, after consideration of the above mentioned request and after reviewing the Planning Commission record, staff analysis and memos, and all written and oral comments submitted at the public hearing, the Board of County Commissioners find it

necessary and appropriate to amend text in regard to the completion of the Finley Intertie in Chapter Five, the Rural Element; and related map edits on the transportation maps in Chapter Eight, the Transportation Element, as proposed in CPA 09-06, and it appears to be in the public's best interest to approve the request; NOW THEREFORE,

BE IT RESOLVED that the Board of County Commissioners hereby amends the Comprehensive Plan to include the Staff proposed edits in Chapter Five and Chapter Eight, as set forth in CPA 09-06 File, Exhibits 2 and 3, attached.

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

Michael Shuttleworth/smw
cc: Prosecuting Attorney's Office

The current population within the Kennewick-Finley Rural Planning Area is approximately 7,578 people. Finley is a stable community, with a surprisingly high percentage (76%) of residents having lived in the community more than 10 years⁶. The housing supply numbers 2,526 units and is a mixture of old and new manufactured and site built homes, with manufactured homes predominating⁷. The average density is one dwelling unit per 5.7 acres. The average household size is 3.0 persons.

Infrastructure

School Facilities

Sixty-five percent of the Kennewick-Finley Planning area reside in the Finley School District #52. The current population in the district is 4,925 residents in 1,641 households. The Finley School District operates three schools serving 1,030 students. The Riverview High School located on Lemon Drive, serves grades 9-12. Finley Middle School accommodates grades 7 and 8, and is located on Game Farm Road. The Finley Elementary School houses the Kindergarten through sixth grade, and is located on Cougar Road, off Nine Canyon Road. To further ease crowding, the district has plans to build an additional 14,000 square feet at the Middle School site.

Transportation Facilities

Major transportation infrastructure within the Kennewick-Finley Rural Planning Area consists principally of the Highway SR-397 and the Burlington Northern (B.N.) railroad

line, which parallel each other in a narrow corridor extending from the Kennewick City limits in the northwest through the Finley rural area. ~~where SR-397 ends just south of its intersection with Finley Road.~~ South of Finley Road the railroad line trends south and west to follow the Columbia River shoreline to the coast.

The SR-397/B.N. corridor is intersected at various points by east-west aligned arterial roads including 10th Street, and Haney, Finley, and Bowles Roads, which serve the collectors and neighborhood streets to and within the interior of Finley. The SR-397/B.N. corridor is the only

<p>Top 4 Issues/Desired Improvements</p> <ul style="list-style-type: none">road improvementsordinance to clean up trashcontrol/limit growthwater/sewer improvements <p>Kennewick-Finley Survey Respondents</p>

direct ingress and egress to rural Finley. It is virtually the only truck route.

Due to the recent and projected increased industrial activity in South Finley, and the overall increase in regional rail traffic, to which B.N. is has respondeding to by adding an additional line parallel to the existing track in Finley, both truck and rail traffic along the SR-397/B.N. corridor are expected to increase significantly within the next decade.

The close proximity of the railroad line to SR-397, and the intersection of the corridor by a narrow arterial at less than perpendicular angles on

⁶ Benton County Rural Survey 1993

⁷ 1,540 units/or 61%

sharply elevated railroad crossings, restricts "sight" distances, and leaves little room for crossing vehicles to "queue" up outside of the traffic lanes. These factors, coupled with the fact that much of the truck and rail transport is carrying toxic chemicals and by-products, makes the corridor inadequate and potentially problematic relative to safety and emergency access/egress within Finley. An incident involving any combination of collision, derailment, chemical spill, or fire which would block the SR 397 corridor to emergency response and citizen evacuation could have potentially catastrophic results.

~~The county is currently engaged in a public process to identify a second arterial route into Finley on the landward side of the railroad corridor. This route would connect to I-82 to the southwest. Such a route could serve to decrease the volume of truck traffic using SR 397, and provide an alternate route for emergency situations.~~

~~However, a second route will not solve the safety problems inherent to the existing roadway geometry of the SR-397/B.N. corridor. This must be addressed by Washington State Department of Transportation.~~

A recently constructed road development serving the Finley area extends SR 397 west and connects to I-82 at the Locust Grove Exit. At a cost of \$21 million, the "Intertie" stretches 11 miles through the remote areas of Benton County connecting to the several businesses along the river in Finley. The road is constructed to WSDOT standards with two 12 foot lanes and six foot

shoulders. In the more urban area of Finley, a center turn lane has been added and an overpass constructed at the Burlington Northern railroad crossing at Riek and Piert Roads.

This new route, SR 397, provides an alternate truck route for industrial and farm-to-market truck traffic to the Finley and south Kennewick industrial and agricultural areas, relieves traffic congestion in Kennewick by bypassing the populated Tri-Cities area, and also serves as a secondary access/emergency route for the residents of Finley. In 2009, the road extension was assumed by the state highway system.

~~In addition to the necessity for a second arterial route into south Finley, the Citizen's Rural Advisory Committee requested that several road links in north and west Finley area be completed for routine circulation and emergency access purposes. These, and potential routes for the newly constructed second Finley access route SR 397 are shown on the "Transportation Map" for the Finley Planning Region, Figure Map 8-3.~~

Barge facilities for waterborne transportation exist in south Finley as part of the existing infrastructure serving industry.

Existing Land Use

The Kennewick-Finley Rural Planning Area encompasses approximately 15,506 acres, or 53% percent of the Finley Planning Region.

Land uses consist of irrigated agriculture; including livestock, rural residential use, minor acreages of

BENTON COUNTY

STATE OF WASHINGTON

TRANSPORTATION MAP

Existing and Proposed Facilities

--- COVERAGE KEY ---

EXISTING

PROPOSED

-  State Highways/Interstates
-  County Roads
-  Major Collectors
-  Railroads

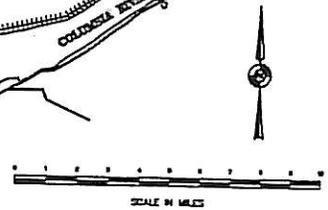
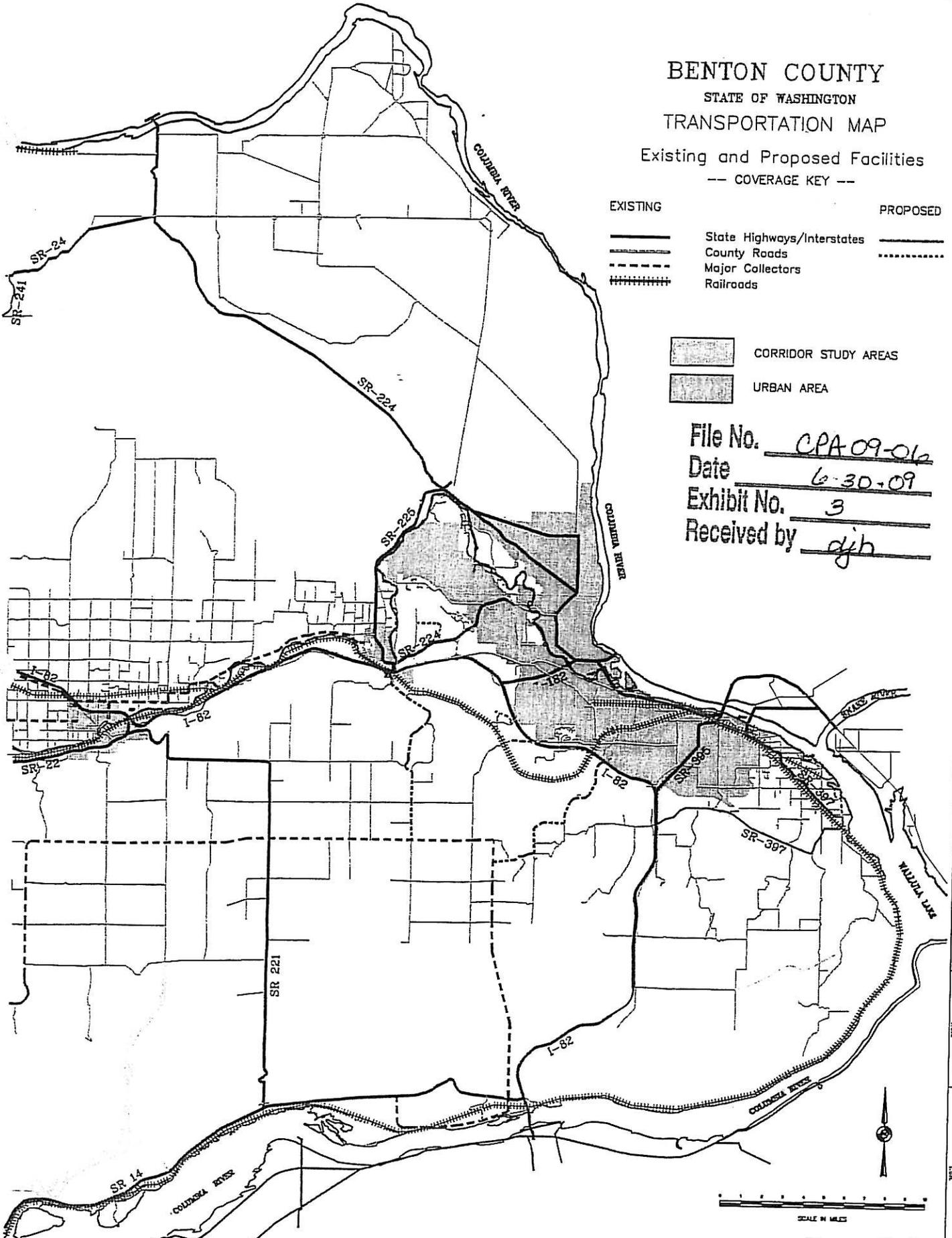
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- 



CORRIDOR STUDY AREAS

URBAN AREA

File No. CPA 09-06
 Date 6-30-09
 Exhibit No. 3
 Received by djh



BENTON COUNTY COMPREHENSIVE PLAN
 This information was prepared by the Benton County Planning staff for presentation and planning purposes only. Benton County does not accept any liability for the accuracy of any information shown hereon. Any use made of this information is solely at the risk of the user.

Figure 8-0

BENTON COUNTY STATE OF WASHINGTON HORSEHEAVEN PLANNING REGION TRANSPORTATION MAP

- | | |
|---|---|
| <p>(Existing)</p> <ul style="list-style-type: none"> State Highways/Interstates County Roads Major Collectors Railroads | <p>(Proposed)</p> <ul style="list-style-type: none"> Corridor Study Area |
|---|---|

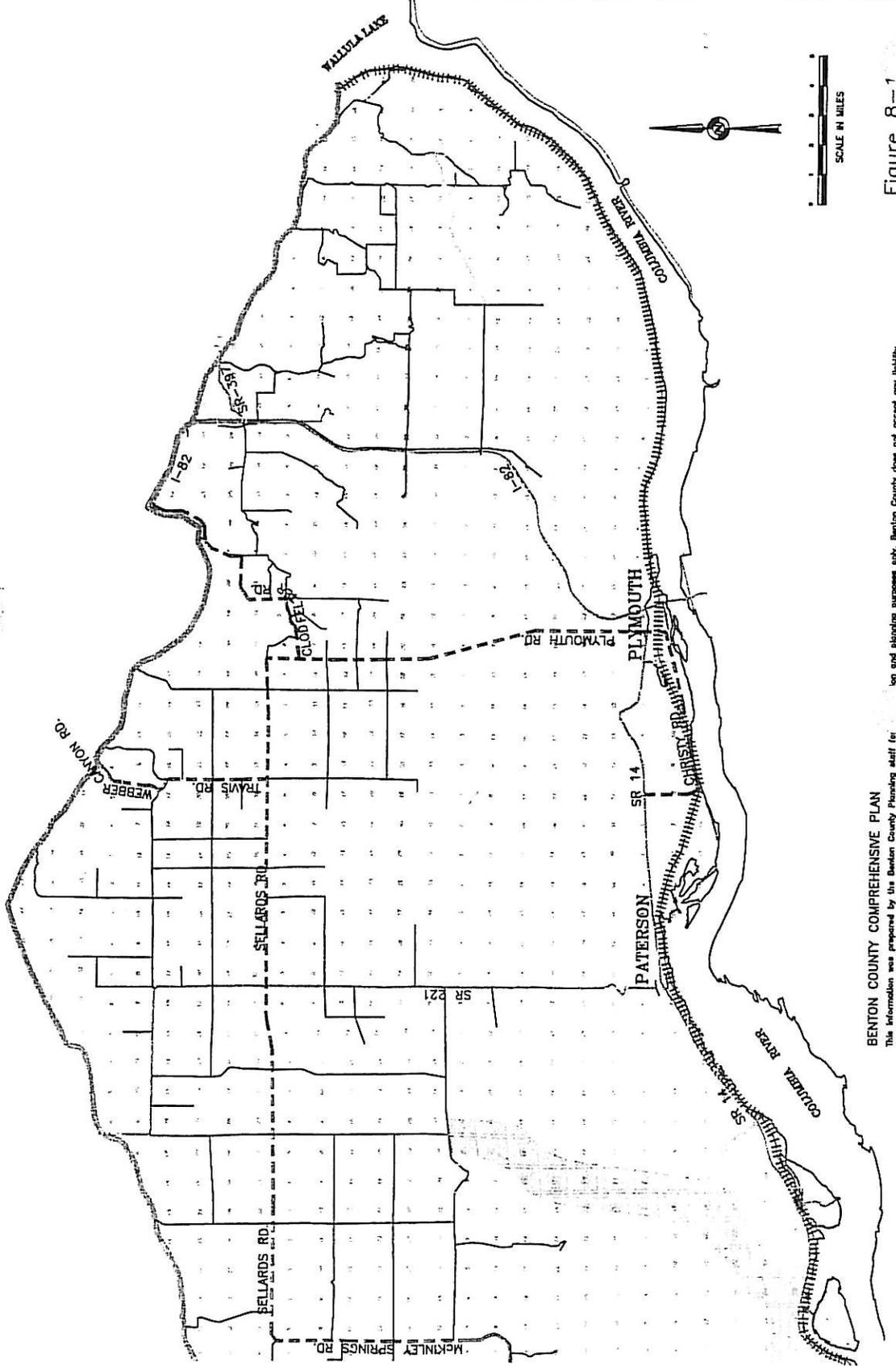


Figure 8-1

BENTON COUNTY COMPREHENSIVE PLAN
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 planning purposes only. Benton County does not accept any liability
 for the accuracy of any information shown herein. Any use made of
 this information is solely at the risk of user.

BENTON COUNTY

STATE OF WASHINGTON

FINLEY PLANNING REGION

TRANSPORTATION MAP

- | | | | |
|------------|----------------------------|------------|---------------|
| (Existing) | | (Proposed) | |
| ————— | State Highways/Interstates | ----- | |
| ===== | County Roads | ----- | |
| ----- | Major Collectors | ----- | |
| | Railroads | ☐ | Barge Portage |

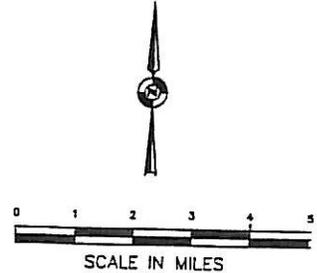
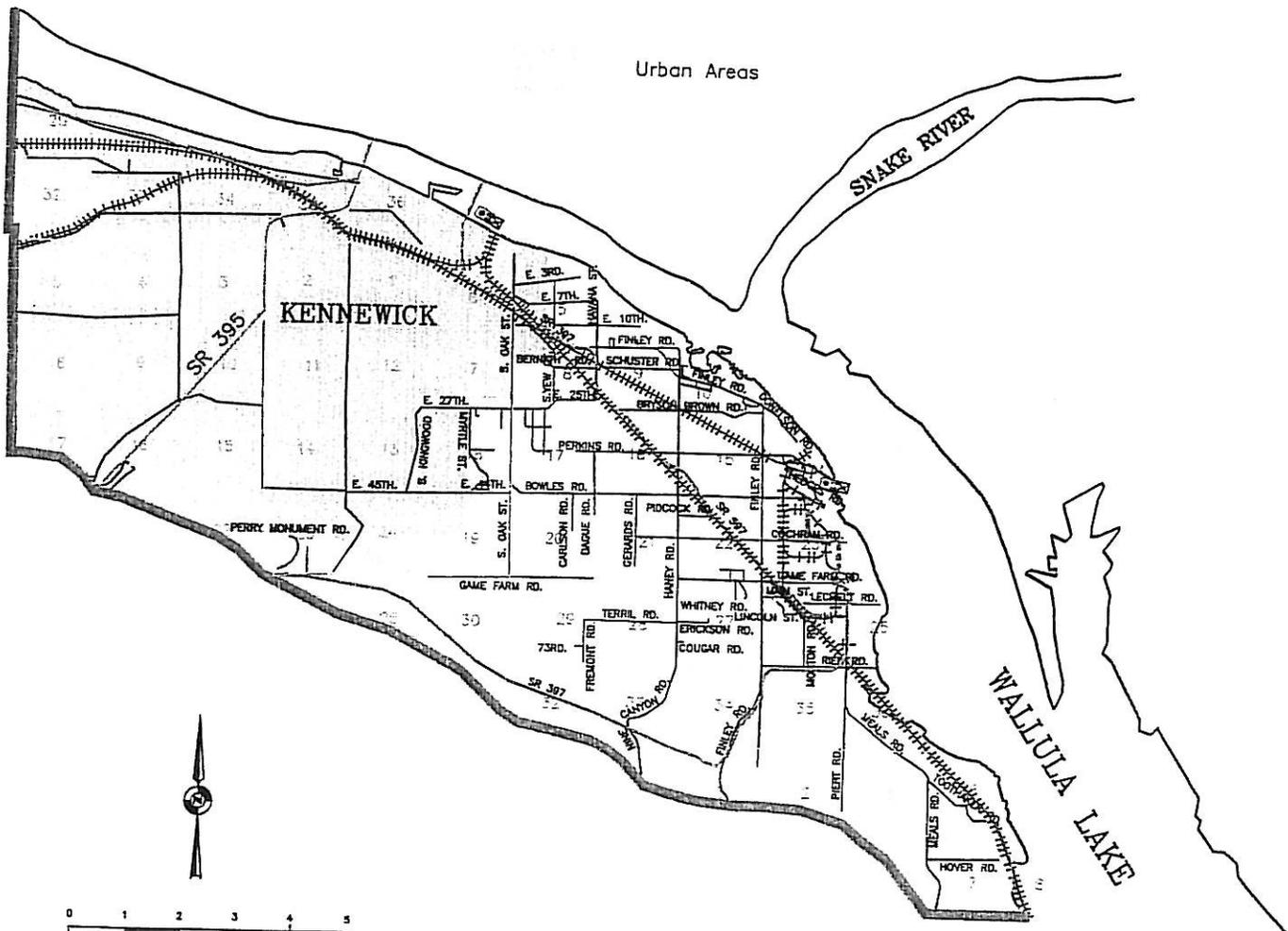


Figure 8-3

BENTON COUNTY COMPREHENSIVE PLAN

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9:30 am

RAILROAD INFORMATION

S Becken

No Information Provided