

**December 15, 2008**

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

Draft

MINUTES

BOARD OF BENTON COUNTY COMMISSIONERS

Regular Board Meeting  
December 8, 2008, 9:00 am.  
Commissioners' Conference Room  
Benton County Courthouse, Prosser, WA

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

**Benton County Employees Present During All or a Portion of the Meeting:** Deputy Administrator Loretta Smith Kelty; Adam Fyall, Community Development Coordinator; Finance Manager Linda Ivey; Facilities Manager Roy Rogers; Personnel Manager Melina Wenner; Treasurer Duane Davidson; Bryan Perry, Safety/Training Coordinator; Ed Thornbrugh, Human Services; Public Works Director Ross Dunfee; Steve Becken, Public Works; DPA Ryan Brown; DPA Sarah Perry; and Norm Childress, Public Works.

Approval of Minutes

The Minutes of November 24, 2008 were approved.

Consent Agenda

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

Commissioners

- a. 2009 Non-Bargaining General Increase of Wages
- b. Appointment of Chairman & Chairman Pro Tem for Year 2009
- c. Reappointment of R Rupp to Benton County Public Facilities District
- d. Authorizing Mid-Columbia Libraries to Contract w/Adams Co. Rural Library Dist. #1
- e. Line Item Transfer, Fund No. 0000-101, Dept. 115

District Court

- f. Contract w/Amelia Uvalle for Interpreter Services
- g. Contract w/Mark Rudeen for Interpreter Services
- h. Contract w/Rosie Arteaga for Interpreter Services

Facilities

- i. Personal Services Contract w/Moon Security for Security Monitoring Services
- j. Blanket Service Agreement w/Metro Rooter & Plumbing for As Needed Services

- k. Blanket Service Agreement w/Sierra Electric, Inc. for As Needed Electrical Services
- l. Service Agreement Amendment w/Apollo Sheet Metal, Inc. for HVAC Services
- m. Blanket Public Works Contract w/Culligan for Water Treatment Services

Human Services

- n. Authorization to Purchase Message Archiver from Gov Connection
- o. Travel Expense Authorization

Juvenile

- p. 2009 Juvenile Operations/Facilities Budget
- q. 2009 Juvenile Operations/Facilities Budget Flat Monthly Payment
- r. Contract Amendment w/J & J Security & Transport, Inc. for Security Services
- s. Contract Amendment w/Washington Collectors Tri-Cities, Inc.
- t. Program Agreement Amendment w/WA St DSHS

Personnel

- u. Contract w/J & J Security & Transport, Inc. for Security Services @ Prosser Courthouse
- v. 2009 Non-Bargaining Wage Structure for Bi-County Operations
- w. Amendment to Contract w/Empirical for Environmental Services
- x. 2009 Contract w/Empirical for Environmental Services

Prosecuting Attorney

- y. Collective Bargaining Agreement Amendment for Courthouse Employees

Road/Engineer

- z. Authorization for Hess Road Bridge Guardrail Update – CE 1903 CRP
- aa. Authorization to Sign Sheet One Plans for Lanell Drive - CE 1897 CRP
- bb. Approving Plymouth Industrial Road Plans

Sheriff

- cc. Contract Extension w/Tri Cities Chaplaincy for Inmate Counseling Services
- dd. Authorization to Purchase Vehicle Docking Stations from WAT, Inc.
- ee. Contract Extension w/Dr. Cooper for Physician Services
- ff. Contract w/Fastsigns for Custom Vehicle Decals, Signs & Banners
- gg. Contract w/Bergstrom Aircraft, Inc. for Aircraft Maintenance and Repairs
- hh. Contract w/Day Wireless Systems for Services & Support to Communication Systems
- ii. Contract w/Columbia Cleaners for Uniform Cleaning
- jj. Agreement w/WA Department of Corrections for Jail Bed Space
- kk. Contract w/Keefe Commissary Network LLC to Furnish Commissary Goods
- ll. Contract Amendment w/Lazy Spur for the Care of Seized Animals
- mm. Contract Amendment w/City of Olympia for Use of Jail Facilities and Services

Superior Court

- nn. Adopting Percentage Rates for Salaries for B/F Superior Court

Treasurer

- oo. Armored Car Service Agreement w/Garda CL Northwest, Inc.

Office of Public Defense

- pp. Addendum to Professional Services Agreement with Scott Naccarato
- qq. Addendum to Professional Services Agreement with Peyman Younesi
- rr. Addendum to Professional Services Agreement with Daniel Kathren

ss. Professional Services Agreement with Brian Anderson

**Other Business**

**NACO Report**

Commissioner Bowman reported on his attendance at the NACO Board meeting in Arizona and provided information regarding the membership benefits report.

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

**Continued Public Hearing- SPV 08-03**

Mike Shuttleworth said at the previous hearing the Board had requested staff meet with the applicant to resolve the issues, but that they were not able to resolve the issues.

Applicant David Rea discussed the suggested solutions by the Planning and Building Department and the reasons why they would not work. He stated he felt the requests were unreasonable and the safety issue was only a policy issue to not increase conflict points on the road. Additionally, he asked about the traffic count that was supposed to be performed at the last public hearing.

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

Commissioner Benitz said he did not take safety issues lightly, but felt the request could be allowed and that it would not impact the property or safety of the residents.

Commissioner Bowman said that apparently the size of the lot and configuration of the home were restrictive and he totally understood the issue of road conflicts and the issue of safety. He indicated he could go either way on this issue.

Chairman Oliver said he would support the matter in favor of the applicant.

**MOTION:** Commissioner Benitz moved to approve the Short Plat Vacation Application of David Rea, as presented. Commissioner Bowman seconded and upon vote, the motion carried.

**Public Hearing – Adoption of Building Fee Schedule**

Steve Brown submitted the new fee schedule for the Building Department.

Commissioner Benitz asked about the 25% processing fee. Mr. Brown said the processing fee was assessed at the time of permit issuance and it was an increase from 10%. Chairman Oliver asked whether large projects would be inordinately expensive. Mr. Brown responded that Benton County's costs were already low, and it didn't really add much to the cost to cover expenses. Commissioner Bowman said that even at a 30% processing fee, Benton County would still be lower than other counties.

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

**MOTION:** Commissioner Benitz moved to approve the Fee Schedule for the Benton County Building Department. Commissioner Bowman seconded and upon vote, the motion carried.

### **Other Business**

#### **Courthouse Lighting/Flagpole Project**

Commissioner Benitz requested the Board look at increased lighting at the main entrance to the Courthouse to show the facility at night. Additionally, he wanted to move the flagpole from the Justice Center located in the old courtyard that was not being used and replace the one at the Courthouse.

Commissioner Bowman asked about the ongoing costs of the lighting and Mr. Rogers responded it would be approximately \$150 per year.

The Board said it was appropriate to move forward and the money be spent from the Capital Facilities budget.

**MOTION:** Commissioner Benitz moved to approve the Prosser Courthouse outside lighting project, in an amount not to exceed \$12,000 + tax. Commissioner Bowman seconded and upon vote, the motion carried.

### **Planning Commission Appointment**

Mike Shuttleworth said he had provided information on two applicants for the open position on the Planning Commission and asked the Board how it wanted to proceed.

**MOTION:** Commissioner Bowman moved to approve Richard Giberson to the open position on the Planning Commission, effective immediately. Commissioner Benitz seconded and upon vote, the motion carried.

### **Executive Session**

The Board went into executive session with DPA Sarah Perry at 9:38 a.m. for approximately 15 minutes to discuss potential litigation. Also present were Rick Corson and Melina Wenner (via videoconference), Ryan Brown, Loretta Smith Kelty, David Sparks, and Cami McKenzie.

The Board came out of executive session at 9:41 a.m. and Ms. Perry stated the Board took no action.

The Board recessed until 9:50 a.m.

**MOTION:** Commissioner Benitz moved to approve the Michael Russell wage claim and authorized David Sparks to sign the settlement agreement. Commissioner Bowman seconded and upon vote, the motion carried.

### **Executive Session**

The Board went into executive session with DPA Sarah Perry at 9:50 a.m. to discuss union contract negotiations for approximately five minutes. Also present were Ryan Brown, Loretta Smith Kely, Paul Hart, David Sparks, and Cami McKenzie. The Board came out of executive session at 9:55 a.m. and Ms. Perry announced the Board took no action.

**MOTION:** Commissioner Benitz moved to approve the Benton County Deputy Sheriff's Guild Bargaining Agreement as proposed for years 2008-2010. Commissioner Bowman seconded and upon vote, the motion carried.

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

### **Roza Area Update**

Ross Dunfee and Norm Childress provided a written update on the Rosa Area sign project and summary on the four recommendations.

- Installation of Stop Ahead Signs – Complete
- Increase Stop Sign Size to 36 x 36 – Complete
- Monitor accident data and citizen calls for improvements – Have met with citizens and continue to work with them
- Contact WSDOT – They have been contacted and Benton County is now on a list for assistance, to be completed around March 2009. Also working with State Patrol to provide a safety brochure

Commissioner Benitz said that signs were not installed at Missimer and McCreedy and Mr. Childress said he would research the matter.

### **Public Comments**

Mike Hogue said he wasn't sure where all the signs were to be installed so he could check whether the work was complete. He also discussed the possibility of rumble strips and asked what WSDOT would be investigating. Mr. Dunfee said they would be checking the county line to district line, north of the freeway. Mr. Dunfee also said they had a spreadsheet showing signs that were installed and would provide a copy.

Patricia Obrien said that citizens were still running stop signs and somehow they were not getting the message. She suggested that maybe rumble strips would work.

\_\_\_\_\_ said there were eight deaths on that stretch of road (Hanks and Gap) and she could not walk across the road to get her newspaper or mail without fear of her life. She said there had not been any discussion of four-way stops on Gap and Hanks Road.

Mr. Childress commented that Public Works followed the criteria set by state law and the roads did not meet the criteria for four-way stops. He said that was the reason they had asked the State to come so it could back up the County if it made some of those decisions.

Jim Willard said he wanted to re-emphasize the safety of Hanks Road. He indicated that Commissioner Benitz had been promising him improvements on Hanks Road for a decade and it was a very dangerous section of road and had to be addressed. He said he appreciated the nice new signs, but also wanted to emphasize more sheriff patrol in that area because people were running these signs on a regular basis.

Bill Denhoed said that some roads were not fit to modify for rumble, but white stripes as visual awareness might possibly help.

Mary Denhoed said she lived in that area and had changed her route just for safety reasons.

Commissioner Benitz asked the Road Department to look at a process on Hanks Road and Gap Road, maybe one rumble strip on the north and south side of Hanks Road to see what it would cost. Additionally, he wanted to look at some white paint and additional sheriff patrol in that area.

The Board agreed to review the costs.

### **Other Business**

#### **Vouchers**

Check Date: 12/05/2008  
Warrant #: 912554-912871  
Total all funds: \$1,374,262.34

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

### **Resolutions**

08-969	Non-Bargaining General Increase of Wages in the Year 2009
08-970	Appointing Chairman and Chairman Pro Tem – Board of County Commissioners
08-971	Reappointing Rebecca Rupp to the Benton County Facilities District
08-972	Authorizing Mid-Columbia Libraries to Contract w/Adams Co. Rural Library Dist. #1
08-973	Line Item Transfer, Fund No. 0000-101, Dept. 115
08-974	Contract w/Amelia Uvalle for Interpreter Services

08-975 Contract w/Mark Rudeen for Interpreter Services  
 08-976 Contract w/Rosie Arteaga for Interpreter Services  
 08-977 Personal Services Contract w/Moon Security for Security Monitoring Services  
 08-978 Blanket Service Agreement w/Metro Rooter & Plumbing for As Needed Services  
 08-979 Blanket Service Agreement w/Sierra Electric, Inc. for As Needed Electrical Services  
 08-980 Service Agreement Amendment w/Apollo Sheet Metal, Inc. for HVAC Services  
 08-981 Blanket Public Works Contract w/Culligan for Water Treatment Services  
 08-982 Authorization to Purchase Message Archiver from Gov Connection  
 08-983 2009 Juvenile Operations/Facilities Budget  
 08-984 2009 Juvenile Operations/Facilities Budget Flat Monthly Payment  
 08-985 Contract Amendment w/J & J Security & Transport, Inc. for Security Services  
 08-986 Contract Amendment w/Washington Collectors Tri-Cities, Inc.  
 08-987 Program Agreement Amendment w/WA St DSHS  
 08-988 Contract w/J & J Security & Transport, Inc. for Security Services @ Prosser Courthouse  
 08-989 2009 Non-Bargaining Wage Structure for Bi-County Operations  
 08-990 Amendment to Contract w/Empirical for Environmental Services  
 08-991 2009 Contract w/Empirical for Environmental Services  
 08-992 Collective Bargaining Agreement Amendment for Courthouse Employees  
 08-993 Authorization for Hess Road Bridge Guardrail Update – CE 1903 CRP  
 08-994 Authorization to Sign Sheet One Plans for Lanell Drive - CE 1897 CRP  
 08-995 Approving Plymouth Industrial Road Plans  
 08-996 Contract Extension w/Tri Cities Chaplaincy for Inmate Counseling Services  
 08-997 Authorization to Purchase Vehicle Docking Stations from WAT, Inc.  
 08-998 Contract Extension w/Dr. Cooper for Physician Services  
 08-999 Contract w/Fastsigns for Custom Vehicle Decals, Signs & Banners  
 08-1000 Contract w/Bergstrom Aircraft, Inc. for Aircraft Maintenance and Repairs  
 08-1001 Contract w/Day Wireless Systems for Services & Support to Communication Systems  
 08-1002 Contract w/Columbia Cleaners for Uniform Cleaning  
 08-1003 Agreement w/WA Department of Corrections for Jail Bed Space  
 08-1004 Contract w/Keefe Commissary Network LLC to Furnish Commissary Goods  
 08-1005 Contract Amendment w/Lazy Spur for the Care of Seized Animals  
 08-1006 Contract Amendment w/City of Olympia for Use of Jail Facilities and Services  
 08-1007 Adopting Percentage Rates for Salaries for B/F Superior Court  
 08-1008 Armored Car Service Agreement w/Garda CL Northwest, Inc.  
 08-1009 Addendum to Professional Services Agreement with Scott Naccarato  
 08-1010 Addendum to Professional Services Agreement with Peyman Younesi  
 08-1011 Addendum to Professional Services Agreement with Daniel Kathren  
 08-1012 Professional Services Agreement with Brian Anderson  
 08-1013 Adopting the Fee Schedule for the Benton County Building Department  
 08-1014 Appointment of Richard Giberson to Fulfill a Vacancy on the Benton County Planning Commission.

08-1015      2008-2010 Collective Bargaining Agreement Between Benton County and Benton  
County Deputy Sheriff's Guild, Representing Commissioned Officers of the  
Sheriff's Office

There being no further business before the Board, the meeting adjourned at approximately 10:40  
a.m.

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Clerk of the Board

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Chairman

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

Board of County Commissioners  
BENTON COUNTY

David Sparks  
County Administrator  
Loretta Smith Kelty  
Deputy County Administrator

December 15, 2008

Ms. Ginny Waltman, AAM  
Washington State Auditor's Office  
100 N. Morain, Suite 216  
Kennewick, WA 99336

Dear Ms. Waltman:

We are providing this letter in connection with your accountability audit of Benton County for the period January 1, 2007 through December 31, 2007 for the purpose of reporting accountability for public resources and compliance with the laws of the State of Washington, Benton County policies or orders, requirements of grants or contracts, and requirements of your Office.

Certain representations in this letter are described as being limited to matters that are material. Items are considered material, regardless of size, if they involve an omission or misstatement of accounting information that, in the light of surrounding circumstances, make it probable that the judgment of a reasonable person relying on the information would be changed or influenced by the omission or misstatement.

We confirm, to the best of our knowledge and belief, having made appropriate inquiries to be able to provide our representations, the following representations made to you during your audit.

1. We acknowledge and understand our responsibility for complying with applicable state and local laws and regulations.
2. We have complied with all applicable state and local laws and regulations.
3. We have followed applicable laws in adopting, approving, and amending budgets.

4. We have made available to you all:
  - a. Financial records and related data.
  - b. Minutes of the meetings of the Board of Commissioners or summaries of actions of recent meetings for which minutes have not yet been prepared.
5. There are no material transactions that have not been properly recorded in the accounting records.
6. We have no knowledge of any fraud or suspected fraud affecting the entity involving:
  - a. Management,
  - b. Employees who have significant roles in internal control, or
  - c. Others where the fraud could have a material effect on the financial statements.
7. We have no knowledge of any allegations of fraud or suspected fraud affecting the entity received in communications from employees, former employees, analysts, regulators or others.
8. The following have been properly recorded or disclosed in the accounting records:
  - a. Transactions between funds.
  - b. Arrangements with financial institutions involving compensating balances or other arrangements involving restrictions on cash balances and line-of-credit or similar arrangements.
  - c. Related-party transactions, including sales, purchases, loans, transfers, leasing arrangements, and guarantees, and amounts receivable from or payable to related parties.
  - d. Guarantees, whether written or oral, under which Benton County is contingently liable.
9. The County of Benton has satisfactory title to all owned assets, and there are no liens or encumbrances on such assets, nor has any asset been pledged.
10. We have complied with all aspects of contractual agreements that would have a material effect on the financial affairs of Benton County in the event of noncompliance. The attached letters regarding claims and litigation would describe any allegations to the contrary, of which we are aware, made by third parties since our June 23, 2008, letter to you.

Ms. Ginny Waltman, AAM

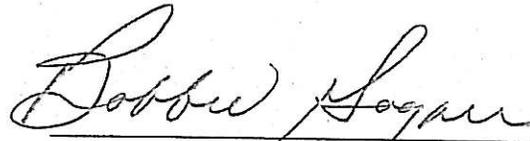
December 15, 2008

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11. We have received no communication from the Internal Revenue Service (IRS) adversely affecting the tax-exempt status of our outstanding debt or noncompliance with arbitrage rules.
12. We acknowledge and understand our responsibility for the design and implementation of programs and controls to safeguard public resources and ensure compliance with applicable laws and regulations, including controls to prevent and detect fraud.
13. We have established adequate procedures and controls to safeguard public resources and ensure compliance with applicable laws and regulations.

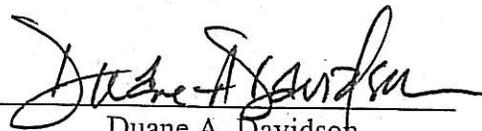
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Claude Oliver  
Chairperson,  
Board of County Commissioners



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Bobbie Gagner  
Benton County Auditor



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Duane A. Davidson  
Benton County Treasurer

cc: Board of County Commissioners  
Bobbie Gagner, Benton County Auditor  
Duane A. Davidson, Benton County Treasurer

Attachments:

1. Letter dated December 15, 2008 to the Board of County Commissioners from Ryan Brown, Chief Civil Deputy: RE: Letter of Representation and Pending Litigation.
2. Letter dated December 15, 2008 to the Board of County Commissioners from Melina Wenner, Risk Manager. RE: Letter of Representation and Claims Update.

**PROSECUTING ATTORNEY  
BENTON COUNTY, WASHINGTON**

**ANDY MILLER**  
PROSECUTING ATTORNEY

**RYAN K. BROWN**  
CHIEF DEPUTY, CIVIL

**SCOTT W. JOHNSON**  
CHIEF DEPUTY, CRIMINAL

**TERRY J. BLOOR**  
CHIEF CRIMINAL DEPUTY

**MARGARET AULT**  
ADMINISTRATOR

7122 West Okanogan Place, Bldg. A  
Kennewick, Washington 99336

(509) 735-3591

786-5608    736-3066  
Prosser        Fax

December 10, 2008

**DEPUTIES**

JULIE E. LONG  
TIMOTHY A. SKEELS  
ADRIENNE M. FARABEE  
DAVID S. BROUSSARD  
ANITA PETRA  
JENNIFER L. JOHNSON  
SARAH H. PERRY  
KATHLEEN B. GALIOTO  
RONALD D. BOY  
MEGAN A. BREDEWEG  
ERIC HSU  
ARTHUR J. BIEKER  
KRISTIN M. MCROBERTS  
JENNY L. JOHNSON  
ALEX B. JOHNSON  
JONATHAN J. YOUNG  
ALLISON T. HEWITT  
ERIN WALLACE

Board of Benton County Commissioners  
620 Market Street  
Prosser, WA 99350

Re: Accountability Audit

Dear Commissioners:

I have reviewed as to form the enclosed draft letter to the SAO related to its accountability audit of Benton County. This letter serves as one of the attachments referenced in paragraph 10 thereof and should be attached to your executed letter. The second attachment to your letter should be a similar letter from the County's Risk Manager that identifies claims filed after June 23, 2008, that have not yet resulted in lawsuits. You will need to obtain that directly from her.

To my knowledge, the following lawsuits have been filed against Benton County or its officials acting in their capacity as such since June 23, 2008, and that are unresolved as of the date of this letter:

1. Crow v. Benton Co., No. 08-2-00666-0, Benton County Superior Court. Complaint alleging negligent road maintenance.
2. Wells Fargo Bank v. Gullsbro Mgmt, LLC, et al., No. 08-2-02952-0, Benton County Superior Court. Complaint for judicial foreclosure of a commercial deed of trust and request for an order of sale of the property by the court. The real property subject to complaint is "Dellacort at Columbia Point." The County is a named defendant and will defend to secure the priority of real property tax liens over the deed of trust.

Board of Benton County Commissioners  
December 15, 2008  
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In addition, the following lawsuits filed prior to June 23, 2008, against the County or its officials in their capacity as such were resolved, between June 23, 2008 and the date of this letter:

1. Panesko v. Benton Co., Benton Co. Superior Ct., No. 07-2-01987-9. Dismissal of appeal of Growth Management Hearing Board decision.
- 2.

Very truly yours,

ANDY MILLER  
Prosecuting Attorney

RYAN K. BROWN, Chief Deputy  
Prosecuting Attorney (Civil)

RKB:ss  
Enclosure  
cc: David Sparks  
Van Pettey  
Melina Wenner (w/o encl.)  
Andy Miller (w/o encl.)

;

Personnel Resources Department  
**BENTON COUNTY**  
7122 West Okanogan Place, Bldg. A • Kennewick, WA 99336  
PHONE: (509) 737-2777 OR (509) 786-5626 • FAX: (509) 737-2778

December 15, 2008

Board of Benton County Commissioners  
620 Market Street  
Prosser, WA 99350

Dear Commissioners:

The following claims have been filed with Benton County or its officials acting in their capacity as of June 23, 2008 and have not yet been resolved:

1. James W. Crowe, CC08-15, claim for \$1.8 million for damages allegedly caused by the Benton County Public Works Department.
2. Lorenzo P. Moreno, CC08-16, claim for \$20,000,000.00 for damages allegedly caused by the Benton County Sheriff's Office.
3. David Brisby, CC08-18, claim for an undisclosed amount for damages allegedly caused by the Benton County Sheriff's Office.

Very truly yours,



MELINA WENNER  
Personnel/Risk Manager

cc: David Sparks  
Ryan Brown  
Andy Miller  
Van Pettey

AGENDA/WORKSHOP ITEM		TYPE OF ACTION NEEDED	
Meeting Date:	15-December-2008	Execute Contract	<u>  x  </u>
Subject:	Approval of Agreement with Courthouse Technologies, Inc.	Pass Resolution	<u>  x  </u>
Prepared By:	J. Randall Reid	Pass Ordinance	_____
Reviewed By:	Loretta Smith-Kelty	Pass Motion	_____
		Other	_____
		Consent Agenda	<u>  x  </u>
		Public Hearing	_____
		1 <sup>st</sup> Discussion	_____
		2 <sup>nd</sup> Discussion	_____
		Other	_____

**BACKGROUND INFORMATION**

Earlier this year, the Board approved expenditures recommended by the Trial Court Improvement Committee (Resolution 08-760). One of those items involved acquiring a replacement for the aging Jury Master system acquired in 1998. Toward this end, an RFP for a Jury Management System was published 15-October-2008. In addition to posting the RFP on the county website and publishing the required legal notice in the local paper, copies of the RFP were sent to five vendors listed on the National Council of State Courts website as providers of jury management software. Franklin County was included as a participant in the RFP process. The RFP closed on 5-November-2008. There was one respondent, Courthouse Technologies, Ltd. (CHT), a company located in New Westminster, BC. The CHT proposal met the requirements of the RFP for both functional specifications and budget. CHT was also a vendor familiar to the Benton County Clerk and Franklin County Clerk.

**SUMMARY**

The accompanying resolution authorizes the Chairman of the Board of County Commissioners to sign an agreement with Courthouse Technologies for a jury management system and services. It also authorizes the Central Services Manager to sign any follow-up documents associated with completing the implementation.

**RECOMMENDATION**

1<sup>ST</sup> Pass resolution.

2<sup>nd</sup>

**FISCAL IMPACT**

Budgeted from Trial Court Improvement Fund for 2008, 2009, 2010, 2011.

**MOTION**

# RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AN AGREEMENT WITH COURTHOUSE TECHNOLOGIES, LTD.,  
FOR A JURY MANAGEMENT SYSTEM.

WHEREAS, a Request for Proposals for a "Jury Management System" was published on 15-October-2008 under the provisions of RCW 39.04.270 Competitive Negotiations; and

WHEREAS, there was only one respondent, Courthouse Technologies, Ltd., of New Westminster, BC; and

WHEREAS, the proposal submitted by Courthouse Technologies met the budgetary and functionality requirements of the Request for Proposal; NOW THEREFORE,

BE IT RESOLVED, by the Board of Benton County Commissioners, that the Chairman of Board of Benton County Commissioners is authorized to sign the agreement with Courthouse Technologies for a jury management system and jury summons services for the Benton County Superior Court Clerk; and

BE IT FURTHER RESOLVED, by the Board of Benton County Commissioners, that the Central Services Manager is authorized to sign any subsequent documents relating to the final scope of work, implementation, and verification that the work has been completed.

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

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

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

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

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

REID

C

# RESOLUTION

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

**IN THE MATTER OF AUTHORIZING THE CHAIRMAN OF THE BOARD TO SIGN THE PROSSER ECONOMIC DEVELOPMENT ASSOCIATION (EDA) ECONOMIC DEVELOPMENT AGREEMENT**

**WHEREAS**, under RCW 36.01.085, counties may contract with nonprofit corporations in furtherance of the public purpose of engaging in economic development; and

**WHEREAS**, Prosser EDA is a nonprofit corporation currently running an economic development program within the geographical boundaries of the Prosser School District; **NOW, THEREFORE,**

**BE IT RESOLVED**, that the Chairman of the Board of Benton County Commissioners is hereby authorized to sign the Economic Development Agreement between Benton County and Prosser EDA.

;

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

**STANDARD SERVICE AGREEMENT  
TERMS AND CONDITIONS**

THIS CONTRACT is made and entered into by and between BENTON COUNTY, a political subdivision of the State of Washington, with its principal offices at 620 Market Street, Prosser, WA 99350 (hereinafter "County"), and Prosser Economic Development Association with its principal address at 1230 Bennett Avenue, Prosser, WA 99350 (hereinafter "Contractor").

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

**1. CONTRACT DOCUMENTS**

This Contract consists of these specific and general terms and conditions, and the 2009 Economic Development Plan provided by the Contractor, which is incorporated as Exhibit A.

**2. DURATION OF CONTRACT**

The term of this Contract shall be effective January 1, 2009 and shall expire on December 31, 2009. The Contractor shall complete all work by the expiration date of this Contract.

**3. SERVICES PROVIDED**

During the term of this Contract, the Contractor shall administer the economic development programs set forth in Exhibit A within the Contractor's service area, which is concurrent with the boundaries of the Prosser School District. Contractor will send monthly work progress reports to the County Contract Representative.

**4. CONTRACT REPRESENTATIVES**

The County's Contract Representative is:

Ms. Loretta Smith Kelty, Contract Manager  
Benton County Commissioners  
PO Box 190  
Prosser, WA 99350  
(509) 786-5600 Phone  
(509) 786-5625 Fax

All correspondence and billing will be sent to the County's Contract Representative.

The Contractor's Contract Representative is:

Debbi Heintz  
Prosser Economic Development Association  
1230 Bennett Avenue  
Prosser, WA 99350  
(509) 786-3600  
www.prosser.org

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

**5. COMPENSATION**

For services provided in paragraph 3, the County agrees to pay the Contractor no more than ten thousand dollars and no cents (\$10,000.00). Contractor shall invoice the County monthly, and payments shall be made in twelve (12) equal monthly payments of eight hundred and thirty-three dollars and thirty-three cents (\$833.33).

**6. AMENDMENT AND CHANGES IN WORK**

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

**7. HOLD HARMLESS AND INDEMNIFICATION**

- a. The Contractor shall hold harmless, indemnify and defend the County, its officers, officials, employees and agents, from and against any and all claims, actions, suits, liability, loss, expenses, damages, and judgments of any nature whatsoever, including reasonable costs and attorneys' fees in defense thereof, for injury, sickness, disability or death to persons, damage to property or business, or any other source of liability whatsoever, caused by or arising out of the Contractor's acts, errors or omissions in the performance of this Contract. PROVIDED, that the Contractor's obligation hereunder shall not extend to injury, sickness, death or damage caused by or arising out of the sole negligence of the County, its officers, officials, employees or agents.
- b. The Contractor's obligations hereunder shall include, but are not limited to, investigating, adjusting and defending all claims alleging loss from action, error or omission, or breach of any common law, statutory or other delegated duty by the Contractor, its employees, agents or subcontractors.

- c. In any and all claims against the County, its officers, officials, employees and agents by any employee of the Contractor, subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under this Section shall not be limited in any way by any limitation on the amount of type of damages, compensation, or benefits payable by or for the Contractor or subcontractor under Workers Compensation acts, disability benefit acts, or other employee benefit acts, it being clearly agreed and understood by the parties hereto that the Contractor expressly waives any immunity the Contractor might have had under such laws. By executing this Contract, the Contractor acknowledges that the parties have mutually negotiated the foregoing waiver and that the provisions of this Section shall be incorporated as relevant, into any contract the Contractor makes with any subcontractor or agent performing work hereunder.

## 8. INSURANCE

The Contractor shall obtain and maintain continuously throughout this agreement the following insurance:

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

one million dollars (\$1,000,000) per accident, using a combined single limit for bodily injury and property damages. Such coverage shall cover liability arising out of "Any Auto". Contractor waives all rights against the County for the recovery of damages to the extent they are covered by business auto liability. Contractor shall cause the carrier for its automobile liability policy to execute a waiver of subrogation in favor of County.

**d. Other Insurance Provisions:**

- 1) The Contractor's liability insurance provisions shall be primary with respect to any insurance or self-insurance programs covering the County, its elected and appointed officers, officials, employees and agents.
- 2) The County, its officers, officials, employees and agents shall be named as additional insured on all required insurance policies, except for any required automobile liability policy.
- 3) The Contractor's liability insurance policies shall contain no special limitations on the scope of protection afforded to the County as an additional insured.
- 4) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County, its officers, officials, employees or agents.
- 5) The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- 6) The insurance limits mandated for any insurance coverage required by this Contract are not intended to be indication of exposure nor are they limitations on indemnification.
- 7) The Contractor shall maintain all required policies in force from the time services commence until services are completed. Certificates, policies, and endorsements expiring before completion of services shall be promptly replaced. Any insurance coverage required of Contractor may not be written as a "claims made" policy.

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

- 1) All insurance required under this Contract shall be issued by companies admitted to do business within the State of Washington and have a rating of A-, Class VII or better in the most recently published edition of Best's Reports. Any exception to this requirement must be reviewed and approved in writing in advance of commencement of work by the Benton County Risk Manager.

If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policy must comply with Chapter 48.15 RCW and 284-15 WAC.

- 2) The Contractor shall furnish the County with properly executed and unaltered Acord form certificate of insurance of a signed policy endorsement which shall clearly evidence all required insurance within ten (10) days after the effective date of this Contract. The certificates will, at a minimum, list limits of liability and coverage. The certificates will provide that the underlying insurance contract will not be canceled or allowed to expire, except on thirty (30) days prior written notice to the County. Any certificate or endorsement limiting or negating the insurer's obligation to notify the County of cancellation or changes shall be altered so as not to negate the intent of this provision. Acceptable forms of evidence are the endorsement pages of the policy showing the County as an additional insured.
- 3) Certificates of insurance shall show the certificate holder as "Benton County" and include "C/O" the County's Contract Representative. The address of the certificate holder shall be shown as the current address of the County's Contract Representative.
- 4) The Contractor shall request the Washington State Department of Labor and Industries, Workers Compensation Representative, to send written verification to Benton County that Contractor is currently paying workers compensation.
- 5) All written notices and notice of cancellation or change of required insurance coverage shall be mailed to the County's Contract Representative identified above.
- 6) The Contractor or its broker shall provide a copy of any and all insurance policies specified in this Contract upon request of the Benton County Risk Manager.

If Contractor is self-insured for worker's compensation coverage, evidence of its status, as a self-insured entity shall be provided to County. If requested by County, contractor must describe its financial condition and the self-insured funding mechanism.

## 9. TERMINATION

- a. The County may terminate this Contract in whole or in part whenever the County determines, in its sole discretion, that such termination is in the best interests of the County. The County may terminate this Contract upon giving ten (10) days written notice by certified mail to the

Contractor. In that event, the County will owe Contractor for invoices previously submitted in accordance with this Contract and a pro-rata payment for the portion of the final month in which this Contract was effective prior to termination.

- b. The Contractor may not terminate this Contract in whole or in part without the written consent of the County.

10. COMPLIANCE WITH LAWS

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

11. NONDISCRIMINATION

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

12. DISPUTES

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

13. ASSIGNMENT, DELEGATION AND SUBCONTRACTING

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

14. ENTIRE AGREEMENT

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

15. NOTICES

Any notices shall be effective if personally served upon the

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

**16. SEVERABILITY**

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

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

The parties specifically certify that the provisions contained within paragraph 7(c) are mutually negotiated.

BENTON COUNTY

PROSSER ECONOMIC DEVELOPMENT  
ASSOCIATION

\_\_\_\_\_  
Claude Oliver, Chairman  
Benton County Commission

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

Approved as to Form:

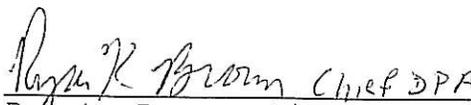
  
\_\_\_\_\_  
Deputy Prosecuting Attorney

EXHIBIT A  
2009  
ECONOMIC DEVELOPMENT  
PLAN

PROSSER ECONOMIC DEVELOPMENT  
ASSOCIATION

1230 Bennett Avenue, Prosser, WA 99350

(509)786-3600 Fax (509)786-2399

[www.prosser.org](http://www.prosser.org)

# MISSION STATEMENT

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*The mission of Prosser Economic Development Association is organized for the purpose of promoting and advancing the economic welfare and development of the City of Prosser and the surrounding area designated as the Prosser School District area, thereby improving the quality of life and contributing to the overall economic development of the State of Washington.*

The Prosser Economic Development Association (PEDA) will identify opportunities and constraints through dialogs with the funding entities, private industry, grassroots constituents and outside sources. The 2009 Work Plan and corresponding resource was presented to the Board of Directors at their November meeting and was approved. The approved plan by the Prosser EDA Board of Directors will be presented to the participating entities: City of Prosser, Benton County and Port of Benton. These entities will then consider the merits of the plan and adopt the work plan to fulfill their contractual services: City-\$26,000 Port-\$30,000 County-\$10,000

# Prosser Economic Development Association

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## 2009 OFFICERS

Max Benitz . . . . . President  
Dr. Robert Stevens . . . . . Past President  
Jane Hagarty . . . . . Vice President  
Katie Nelson . . . . . Secretary  
Tanya Wagner . . . . . Treasurer

## 2009 BOARD OF DIRECTORS

Shelley Clark	Bruce Etzel	Dr. Eric Leber
Christie McAloon	Scott Pontin	Dick Poteet
Glenda Schmidt	Steve Sensney	Dr. Ray Tolcacher

# 2009 WORK PLAN

## PROSSER ECONOMIC DEVELOPMENT ASSOCIATION

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The 2009 work plan continues the commitment of its community partners to build a solid economic base in Prosser; benefiting all citizens. Prosser EDA's work plan is built around the organization's continuing mission to promote and advance the economic welfare and development of its service area. Successes of Prosser EDA improve the quality of life and contributes to the overall economic development to the area and region. The mission is accomplished through community partnerships with government, business, industry and individual volunteers who commit time and resources toward this goal.

The results of this commitment to economic development are clearly visible throughout the community. On a consistent average for the past five years, over 50 jobs per year have been created as new businesses have located or existing businesses have expanded in the City or outlying areas within the service district in Benton County. This year 136 requests for assistance have been made through our organization in the past 10 months; total numbers for the year will fall into the 170 range. Based upon this estimate, there are 1.5 contacts made to Prosser EDA every day of the business week. Individuals living inside and outside the city limits are wishing to start, expand or retain a business within Benton County in record numbers.

Prosser EDA has a unique ability to hold, in confidence, business inquiries about our service area; unlike the cities and counties, which information is public. Prosser EDA will assist the County, City and Port of Benton of all business leads that are in the jurisdiction of the Prosser EDA boundaries within Benton County.

### THE 2009 WORK PLAN FOCUSES ON FOUR KEY AREAS:

1. Organizational Development/General Administration
2. Recruitment
3. Retention & Expansion
4. Project Development

The next section of the 2009 work plan will briefly outline each key area including goals, benefits to the community and tasks necessary to accomplish goals targeted for the coming year.

# 2009 WORK PLAN

## ORGANIZATIONAL DEVELOPMENT

### GENERAL ADMINISTRATION

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#### **GOAL:**

Continue to strengthen administrative functions of Prosser EDA. This includes activities related to Prosser EDA finances, communications, membership and future planning.

#### **BENEFIT:**

A strong Prosser EDA built upon a solid source of funding, marketing, public relations and comprehensive planning allows the economic development work to move forward innovatively and aggressively.

#### **TASKS:**

##### **A. Funding**

- Continue to build a strategic fundraising action plan for the private investor program for Prosser EDA.
- Obtain a balanced approach from funding partners (City, Port & County)
- Provide grant research opportunities for Benton County.

##### **B. Organizational Marketing & Public Relations**

- Press releases on expansions, new business, special events
- Annual Report and Meeting
- Economic development communication link to both public and private entities

##### **C. Comprehensive Planning**

- Identify potential economic development in Benton County/PEDA service district (Paterson, Whitstran, Crow Butte)
- Ascertain the highest and best use for future land development and infrastructure needs

##### **D. Planning with Partners**

- Attend Tridec Case Management Monthly meetings
- Attend Benton-Franklin Council of Governments Small Cities Monthly meeting
- Attend monthly Administrative Partnership meetings with County, Port and City
- Attend Washington State Main Street Advisory Steering Committee meetings.

# 2009 WORK PLAN

## RECRUITMENT

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### GOAL:

Create 45 new jobs within Prosser EDA's service area. Seek companies which offer good family wage jobs with benefits which fit in with the character of Prosser and which are respectful to local environmental concerns.

### BENEFIT:

Job creation translates to more residents working in the Prosser EDA's service area, paying local taxes to support schools and essential services. Availability of family wage jobs keeps more young people in the local area rather than leaving to find employment elsewhere. Encouraging young families to live and work in the community helps to support the hospital and schools to continue to provide quality services in health care and education. There has been an increase in young adults returning to the area to seek employment, start businesses and settle here.

This is, in part, due to: 1) the continuing growth of the wine industry 2) the recent wave of revitalization occurring in the downtown core and 3) new construction of locations for business clusters at Exit 80.

### TASKS:

#### A. Targeted Recruitment

- Conduct focus groups to identify Benton County residents going outside the Prosser commercial district to make purchases and potential new business start-ups
- Recruit "Green" companies to increase green collar jobs; partnering with the Port on Biomass Gasification Project
- Identify and recruit:
  - Food industry clustering utilizing local agricultural products
  - Overnight Accommodations - B&B's, Hotel/Motel
  - Ancillary businesses to support commercial, retail development
  - Value added Agricultural Businesses

#### B. Information and Referral

- Serve as a source of information for inquiries on business-related aspects for the service area
- On-going effort to assist in business plan development and permitting
- Advocate for start-ups. Develop a new business start-up checklist

### C. Recruitment Marketing

- Washington Association of Wine Grape Growers Conference & Trade Show
- Retail & Food-related Trade Show(s)
- Communicate and recruit economic growth through E-newsletters
- Build relationships with businesses in the region and encourage expansion for identified targeted businesses within a geographical area for a focused recruitment effort within the County
- Market City, County & Port Properties

# 2009 WORK PLAN

## BUSINESS RETENTION AND EXPANSION

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### GOAL:

Build a unified, healthy business community in Prosser.

### BENEFIT:

Encourages growth and retention of existing businesses which increases the creation of jobs while fostering new commercial and tourism development. Citizens see value in community and take pride in community, civic and business accomplishments.

### TASKS:

#### A. Information, Referral & Business Assistance Program

- Serve as a source of information for inquires on business-related aspects.
- Continue to partner with Small Business Development Center and Benton-Franklin Council of Governments.
- Business Service Workshop co-sponsored with Historic Downtown Prosser Association, Yakima Valley Community College and Columbia Basin Community College.

#### B. Business Incentive Program

- Investigate public/private resources for offering business incentives.
- Increase contributions through the Business & Occupation Tax Credit Program

#### C. Land Use Planning

- Land use planning for revisions to comprehensive plan for City.
- Partner with County & City for strategy in annexation plan.
- Identify potential land purchases for Port of Benton.

#### D. Job Fair

- In coordination with Work Force Development Council/Tri-Cities hold a local job fair focusing on large agribusinesses in the County.
- Identify specific issues related to job recruitment and retention.
- Work to enhance job skills and training by identifying resource availability

#### E. Access to Frontage Roads

- Continue investigation, demonstration & planning for opening access north of I-82 for business development.
- Re-zoning for eventual city acquisition; defining highest & best land use.
- Partner with County, City and Port of Benton to detail options for access, funding and targeted recruitment.

# 2009 WORK PLAN

## PROJECT DEVELOPMENT

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### GOAL:

Provide loaned executive expertise to assist variety of projects to advance towards completion.

### BENEFIT:

When finished, these projects will encourage growth and retention of commercial, agriculture and tourism development; bringing new start-up businesses and job creation to the area.

### TASKS:

#### A. Benton County Courthouse (upon Board approval)

- Committee involvement in courthouse remodel plans
- Education and grant opportunities for promotion of authentic, historical site.
- Create awareness of economic value to community.

#### B. Horse Heaven Vista

- Review project progress weekly and request appropriate reporting from Project Manager.
- Develop priority of property renovation based on bidding process
- Finalize educational kiosk and signage.
- Host Community Opening of Site

#### D. Clore Funding Strategies

- Recruit letters of support from strategic partners
- Key entities identified and contacted to request lobbying support
- Develop Board contacts with legislators and timeline for implementation
- Lobbying efforts at State and Federal Level
- Development of phased grant application to Economic Development Administration (federal level) in planning and construction.

#### E. Columbia Basic College

- Continue to encourage and facilitate meetings between CBC and Prosser School District for advancing the concept of a CBC presence

- Assist in development of curriculum offered
- Proceed to develop planning for a branch campus

Orig.: File - L Smith Kelty

cc: Auditor: R. Ozuna; Prosser Economic Development Association

AGENDA ITEM  
MEETING DATE: December 15, '08  
Subject: Memorandum of Agreement  
between Benton County and WSU  
Prepared by: rlt  
Reviewed by: \_\_\_\_\_

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

CONSENT AGENDA	_____
PUBLIC HEARING	_____
1 <sup>st</sup> DISCUSSION	_____
2 <sup>nd</sup> DISCUSSION	_____

d

**BACKGROUND INFORMATION**

Memorandum of Agreement between Washington State University and Benton County for services of Extension programs.

**SUMMARY**

The county pays a portion of our salary (about 33%) and WSU pays the balance and all benefits.

**RECOMMENDATION**

That the Memorandum of Agreement between Benton County and Washington Sate University be passed.

**FISCAL IMPACT**

**MOTION**

It is already a portion of our budget.

# RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN The MATTER OF AUTHORIZING The CHAIRMAN OF The BOARD TO SIGN MEMORANDUM OF AGREEMENT BETWEEN WASHINGTON STATE UNIVERSITY EXTENSION AND BENTON COUNTY;

BE IT RESOLVED that *Claude Oliver*, Chairman of the Board of Benton County Commissioners, is hereby authorized to sign the Amendment of the Memorandum of Agreement between Washington State University Extension and Benton County regarding funding through a Personal Services Contract for 2009.

Dated this ..... day of ....., 19 .....

\_\_\_\_\_  
Chairman of the Board.  
\_\_\_\_\_  
Member.  
\_\_\_\_\_  
Member.

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

Attest: .....  
Clerk of the Board

**MEMORANDUM OF AGREEMENT**

**Between**

**WASHINGTON STATE UNIVERSITY EXTENSION**

**And**

**Benton**

**County**

**APPENDIX A**

The following funds will be provided under this Memorandum of Agreement for the period January 1, 2009 through December 31, 2009 to provide an extension program.

**TOTAL    \$85,665**

\_\_\_\_\_  
Linda Kirk Fox                      Date  
Associate Vice President and Dean  
WSU Extension

\_\_\_\_\_  
County Commissioners                      Date  
or County Executive

\_\_\_\_\_  
Daniel G. Nordquist                      Date  
AVPRA/Director  
Office of Grant & Research Development

April 15, 2008

<u>AGENDA ITEM</u>	<u>ACTION NEEDED</u>	<u>DISCUSSION TYPE</u>
Meeting Date: 15 Dec 2008 Subject: support letter Memo Date: 05 Dec 2008 Prepared By: AJF Reviewed By: LSK	Execute Contract Pass Resolution Pass Ordinance Pass Motion X Other	Consent Agenda X Public Hearing 1st Discussion 2nd Discussion Other

**SUMMARY & BACKGROUND**

Benton Conservation District has requested a letter of support from the County and other partners as they apply for an EPA grant. I have attached an email from Rachel Little of BCD further explaining the request, and have attached the draft letter for Board consideration.

**FISCAL IMPACT**

None.

**From:** "Rachel Little" <riddle@clearwire.net>  
**To:** "Vanderburg, Susie (WSCC)" <svan461@ecy.wa.gov>, <rand461@ecy.wa.gov>, <...  
**CC:** "Heather Wendt" <heather-wendt@wa.nacdnet.org>, "Kara Kaelber" <kara-kae...  
**Date:** 11/26/2008 4:43 PM  
**Subject:** Salmon Summit needs your support by Dec 16

Thank you for your generous participation in previous Salmon Summit events. Serving so many students with such a high-quality educational outdoor experience would not be possible without your support.

Benton Conservation District is applying for a 2009 environmental education grant from the Environmental Protection Agency, to help fund Salmon Summit. As an important partner in Salmon Summit, we would like to include you in the proposal process. You can make the application stronger with a letter of support.

EPA is looking to fulfill specific priorities through this grant program, and we believe that Salmon Summit addresses several key components. Our proposal will include expansion of the service area to include Benton, Franklin, Yakima, Walla Walla, Klickitat, Chelan, Grant and Lincoln counties. This year, BCD is serving at least one school in each of these counties. Due to the geographic spread of schools, we will use the original Salmon Summit event as a model for two similar additional events. EPA is also interested in projects with environmental significance, such as salmon recovery, endangered species and water conservation in the arid West, which all relate to Salmon Summit. We believe that Salmon Summit promotes environmental stewardship in students who release fish into the river, spend the day at natural resource learning stations, then return home to tell their families about the experience. Salmon Summit is also an excellent opportunity for students to learn about careers in natural resources directly from staff at learning stations, and encourage lifelong membership in community organizations that protect natural resources.

Your letter would be most effective if it includes specific elements, including Salmon Summit as:

a model for similar natural resource events in other areas

expansion into new areas throughout eastern Washington

encouraging environmental stewardship

career education, encouraging students to pursue careers in natural resources

OR lifelong membership in conservation organizations

Your commitment to participate in Salmon Summit, May 2010

The proposal will request funding for school bus transportation to Salmon Summit and some staff time in coordinating the event. If you have any questions, or would like to discuss the proposal, please contact me.

Letters needed by December 16. I apologize for the short notice. According to EPA preferences, the proposal will be submitted on hard copy via standard mail.

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

**Board of County Commissioners**  
**BENTON COUNTY**

David Sparks  
County Administrator

Loretta Smith Kelty  
Deputy County Administrator

15 December 2008

Environmental Protection Agency  
Grant Review Team

**Re: "Salmon Summit"**

To Whom It May Concern,

Benton County has been a partner in the "Salmon Summit" event, which is part of the "Salmon in the Classroom" program, for the past several years. We host the Salmon Summit event at one of our parks in central Benton County each spring. The Summit is our largest single event in our parks system each year, bringing about 1500 students to the park along with over 20 additional partners that put-on demonstrations and facilitate outdoor learning stations.

Benton County supports the Benton Conservation District's ongoing efforts to facilitate Salmon Summit and Salmon in the Classroom. We look forward to hosting their event each year and plan to do so for years to come.

The Salmon Summit model in Benton County is successful, and we support the District's efforts to replicate the event in other parts of Eastern Washington.

One of the limitations for Salmon Summit each year, however, has been the abilities of some schools to get students out of the classroom for a day and to the event. There have been cases in the last few years where some schools could not participate in the Summit because there were not adequate resources for transportation. A grant such as the one available from EPA would be instrumental in ensuring that all of the schools who want to participate in Salmon Summit, can do so.

We hope that you will look favorably on Benton Conservation District's environmental stewardship efforts like we have, and that you will support their grant request for Salmon Summit.

Sincerely,

BOARD OF COUNTY COMMISSIONERS,  
BENTON COUNTY, WASHINGTON

\_\_\_\_\_  
Claude Oliver, Chairman

cc: Benton Conservation District  
Benton County Park Board

f

# RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF APPOINTMENT TO THE BENTON COUNTY ADVISORY COUNCIL FOR THE OFFICE OF AGING & LONG TERM CARE

WHEREAS, Lee Parsons has expressed an interest in serving on the Aging & Long Term Care Advisory Council; and

WHEREAS, the Advisory Council desires to have Ms. Parsons appointed for a three-year term; **NOW, THEREFORE,**

**BE IT RESOLVED** that Lee Parsons, 717 Ford Street, Prosser, WA 99350 is hereby appointed to the Benton County Advisory Council for the Office of Aging & Long Term Care, said term expiring on December 31, 2011.

;

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

**ALTC** Aging &  
Long Term  
Care  
Southeast Washington

RECEIVED  
DEC 04 2008  
BENTON COUNTY  
COMMISSIONERS

December 2, 2008

Benton County Commissioners  
P.O. Box 250  
Prosser, WA 99350

Re: Aging & Long Term Care Advisory Board Membership

Dear Commissioners:

Please find enclosed an ALTC Advisory Council Appointee form for Lee Parsons. Ms. Parsons has expressed her desire in serving on the council and the Benton County Advisory Council feels she will be a great asset to their board.

Ms. Parsons will fill the currently vacant, expired 3-year term of Position #5. The new term will expire on December 31, 2011 and we ask that you please place her appointment on the Commissioners agenda at the earliest opportunity.

Please contact me with any questions or if additional information is required and we would appreciate receiving formal confirmation of her appointment.

Thank you.

Sincerely,



Kathleen Coffey  
ALTC Advisory Board Coordinator / Administrative Assistant  
Email address: coffeke@dshs.wa.gov

enclosure

Cc: Joyce Dosch, Benton County Advisory Chair  
Lee Parsons

P.O. Box 8349 • Yakima, WA 98908  
(509) 965-0105 (Voice/TDD) • Fax (509) 965-0221 • 1-800-572-7354  
Web Page: [www.co.yakima.wa.us/altc](http://www.co.yakima.wa.us/altc)

Southeast Washington Counties:  
Asotin • Benton • Columbia • Franklin • Garfield • Kittitas • Walla Walla • Yakima



PO BOX 8349, YAKIMA WA 98908  
Ph: 965-0105  
Toll Free: 1 (800) 572-7354  
Fax: 965-0221

### ADVISORY COUNCIL APPOINTEE FORM

Lee Parsons  
Name 538-46-5831  
Social Security Number  
717 Ford St Prosser WA 99350  
Home Address City State Zip Benton 509/786-4868  
County Home Phone  
Benton County Assessor's Office PO Box 902  
Business/Professional Occupation Business Address Prosser WA 99350  
City State Zip  
Seniors + Disabled Persons Advocate in all areas.  
Area(s) of community service(s) in which you are interested.

COMPLIANCE REQUIREMENT OF FEDERAL REGISTER VOL. 45, NO. 63 COMPOSITION OF THE COUNCIL (Check one)  
 Age 59 or under       Age 60 or over

RACE/ETHNICITY (Check one)  
 Caucasian       African American       Hispanic  
 Native American       Asian       Other: \_\_\_\_\_  
 Please Specify

Are you currently a participant of ALTC Services?       No       Yes

Please list the organizations on which you currently serve:  
 Boards: \_\_\_\_\_  
 Commissions: past United Good Neighbors - Board Member / Secretary  
 Advisory Councils: \_\_\_\_\_  
 Civic Organizations: past Toastmasters International  
 Fraternal Clubs: past Facilitator - Annie Tran Center for Grief + Loss

Other: Currently - Senior / Disability Exemption Specialist - Benton County  
 I AM AVAILABLE TO ACCEPT AN APPOINTMENT TO THE OFFICE OF AGING AND LONG TERM CARE (4+ yrs)  
 ADVISORY COUNCIL FOR A TERM NOT TO EXCEED THREE YEARS.

Lee Parsons  
Signature 6/6/08  
Date

Please return to ALTC, Attn: Kathleen Coffey, at the address or fax number above.

**ALTC** Aging &  
Long Term  
Care  
Southeast Washington

RECEIVED  
DEC 04 2008  
BENTON COUNTY  
COMMISSIONERS

December 2, 2008

Benton County Commissioners  
P.O. Box 190  
Prosser, WA 99350

Dear Commissioners:

This letter is our formal request asking you please reappoint *Lucille Krebs* to serve another term on the ALTC Benton County Advisory Board as she has indicated to us her desire to continue. Ms. Krebs' is a two-year term, which will then expire on 12/31/10.

Thank you for your consideration and prompt attention. We would appreciate receiving formal confirmation of this reappointment. Please see the compilation of the board as we know it to be on January 1, 2009.

Sincerely,



Kathleen Coffey  
ALTC Advisory Board Coordinator /  
Administrative Assistant

**REAPPOINTMENTS**

Lucille Krebs  
5225 W. Clearwater #C-2,  
Kennewick, WA 99337  
Term Expires: **12/31/08**

**CONTINUING MEMBERS**

Joyce Dosch  
502 W. 21<sup>st</sup> Avenue  
Kennewick, WA 99337  
Term Expires: **12/31/09**

Evelyn Chaney  
1603 N. Lincoln Street  
Kennewick, WA 99336  
Term Expires: **12/31/10**

**CONTINUING MEMBERS**

Shawn Richman  
815 7<sup>th</sup> Street  
Prosser, WA 99350  
Term Expires: **12/31/09**

Lee Parsons  
717 Ford Street  
Prosser, WA 99350  
Term Will Expire: 12/31/11  
*(pending appointment by  
the Benton County  
Commissioners – request  
has been made)*

P.O. Box 8349 • Yakima, WA 98908  
(509) 965-0105 (Voice/TDD) • Fax (509) 965-0221 • 1-800-572-7354  
Web Page: [www.co.yakima.wa.us/altc](http://www.co.yakima.wa.us/altc)

Southeast Washington Counties:  
Asotin • Benton • Columbia • Franklin • Garfield • Kittitas • Walla Walla • Yakima

# RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF REAPPOINTMENT TO THE BENTON COUNTY  
ADVISORY COUNCIL FOR THE OFFICE OF AGING & LONG TERM CARE

WHEREAS, the term for Lucille Krebs will expire on December 31, 2008; and

WHEREAS, Ms. Krebs has expressed an interest to be reappointed for an additional term; and

WHEREAS, the Advisory Council desires to have Ms. Krebs be appointed for a two-year term; NOW, THEREFORE,

BE IT RESOLVED that Lucille Krebs, 5225 W. Clearwater #C-2, Kennewick, WA 99337 is hereby reappointed to the Benton County Advisory Council for the Office of Aging & Long Term Care, said term expiring on December 31, 2010.

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

h

# RESOLUTION

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

**IN THE MATTER OF AWARD FOR THE PROCUREMENT OF OFFICE FURNITURE FOR THE BENTON COUNTY DISTRICT COURT PROBATION DEPARTMENT LOCATED AT THE BENTON COUNTY JUSTICE CENTER, KENNEWICK, WASHINGTON.**

**WHEREAS, that Benton County District Court Probation Department solicited quotes from qualified vendors listed on the Benton County Vendors list; and**

**WHEREAS, Benton County District Court Probation Department received on quote from Brutzman's Office Solutions Inc., Richland, WA in the Amount of \$8,265.50 WSST and Minncor Industries, ST. Paul, MN declined to respond; and**

**WHEREAS, The District Court Administration reviewed the quote and believes it is in the best interest of the County to award the procurement of the office furniture to Brutzman's Office Solutions Inc.: NOW THEREFORE**

**BE IT RESOLVED, by the Board of Benton County Commissioners, Benton County Washington hereby concurs with the recommendation and awards the procurement of the office furniture for the Benton County District Court Probation Department to Brutzman's Office Solutions Inc., Richland, WA – for a contract amount of \$8,265.50 including WSST; and**

**BE IT FURTHER RESOLVED, THAT THE board of Benton County Commissioners hereby approves the procurement of the Benton County District Court Probation Department office furniture from Brutzman's Office Solutions Inc., Richland, Washington**

**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**

# QUOTE

BRUTZMAN'S OFFICE SOLUTIONS  
P.O. BOX 6044

KENNEWICK, WA 99336-0044  
phone:(509) 735-0300  
FAX:(509) 735-0330

sold to:

BENTON CO. DISTRICT COURT  
7122 W. OKANOGAN PLACE BLDG A  
KENNEWICK, WA 993362359

order number: 0000712022  
customer number: 7358476  
telephone number: ( )735-8476 ext:  
fax number: ( )736-3069  
page number: 1  
order date: 10/17/2008

ship to:

0302

7122 W. OKANOGAN PLACE BLDG A  
KENNEWICK, WA 993362359

special comments/instructions:

purchase order	customer representative	invoice terms	sales representative			
	JUDY 735-8476 X3280	NET 10TH PROX	KEN BRUTZMAN			
quantity	mfg/product number	product description	unit price	net price	unit	amount
***Additional components to complete Probation office move**						
2	HAW FPFC-62-B	HAWORTH ITEM 90 DEG. FABRIC FINISH POST 62"	89.00 / 1	28.48 / 1	EACH	56.96
2	HAW FPFC-35-B	HAWORTH ITEM 90 DEG. FABRIC FINISH POST 35"	78.00 / 1	24.96 / 1	EACH	49.92
3	HAW EFN-235-B	HAWORTH ITEM STRAIGHT FABRIC PANEL NO-POWER 24" X 35"	620.00 / 1	198.40 / 1	EACH	595.20
2	HAW FPFS-62-B	HAWORTH ITEM 180 DEG FABRIC FINISH POST 62"	82.00 / 1	26.24 / 1	EACH	52.48
2	HAW ZEBR-0000-PN	HAWORTH ITEM BRACKET,UNIGROUP/TOO/PLACES,REAR-CORNER	15.00 / 1	4.80 / 1	EACH	9.60
6	HAW ZEBD-1600-PR	HAWORTH ITEM CNTLVR BRKT,UNIGROUP/TOO/PLACES,STANDARD,16.5"D	43.00 / 1	13.76 / 1	EACH	82.56
6	HAW ZEBD-1600-PL	HAWORTH ITEM CNTLVR BRKT,UNIGROUP/TOO/PLACES,STANDARD,16.5"D	43.00 / 1	13.76 / 1	EACH	82.56
1	HAW WURA-2442-LTSA	HAWORTH ITEM RECT WORKSURFACE 24D X 42W	240.00 / 1	76.80 / 1	EACH	76.80
1	HAW WUCE-4248-LTSAL44	HAWORTH ITEM CORNER,90DEG WRAP-AROUND EXTENDED WORKSURFACE 42 X 48	657.00 / 1	210.24 / 1	EACH	210.24
2	HAW FDRV-5	HAWORTH ITEM REG. FLIPPER DOOR,VIDENE 60",1 LOCK	554.00 / 1	177.28 / 1	EACH	354.56
2	HAW SR-5	HAWORTH ITEM REGULAR SHELF 60"	252.00 / 1	80.64 / 1	EACH	161.28
3	HAW EFN-262-B	HAWORTH ITEM STRAIGHT FABRIC PANEL NO-POWER 24" X 62"	711.00 / 1	227.52 / 1	EACH	682.56
1	HAW EFN-4262-B	HAWORTH ITEM STRAIGHT FABRIC PANEL NO-POWER 42" X 62"	925.00 / 1	296.00 / 1	EACH	296.00
1	HAW WURA-2436-LTSA	HAWORTH ITEM RECT WORKSURFACE 24D X 36W	218.00 / 1	69.76 / 1	EACH	69.76

# QUOTE

BRUTZMAN'S OFFICE SOLUTIONS  
P.O. BOX 6044

KENNEWICK, WA 99336-0044  
phone:(509) 735-0300  
FAX:(509) 735-0330

order number: 0000712022  
customer number: 7358476  
telephone number: ( )735-8476 ext:  
fax number: ( )736-3069  
page number: 2  
order date: 10/17/2008

sold to:

BENTON CO. DISTRICT COURT  
7122 W. OKANOGAN PLACE BLDG A  
KENNEWICK, WA 993362359

ship to:

0302

7122 W. OKANOGAN PLACE BLDG A  
KENNEWICK, WA 993362359

special comments/instructions:

purchase order		customer representative		invoice terms		sales representative	
		JUDY 735-8476 X3280		NET 10TH PROX		KEN BRUTZMAN	
quantity	mfg/product number	product description	unit price	net price	unit	amount	
2	HAW PDS-24-HLN	HAWORTH ITEM SUSPENDED PEDESTAL DRAWER 24",1 LOCK	773.00 / 1	247.36 / 1	EACH	494.72	
1	HAW EFN-342-B	HAWORTH ITEM STRAIGHT FABRIC PANEL NO-POWER 36" X 42"	754.00 / 1	241.28 / 1	EACH	241.28	
2	HAW HKTC-21-M	HAWORTH ITEM KEYBOARD TRAY,COMFORT WRIST REST-21" TRACK	462.00 / 1	277.20 / 1	EACH	554.40	
1	HAW WUCE-4860-LTSAL44	HAWORTH ITEM CORNER,90DEG WRAP-AROUND EXTENDED WORKSURFACE 48 X 60	682.00 / 1	218.24 / 1	EACH	218.24	
1	HAW WURA-2424-LTSA	HAWORTH ITEM RECT WORKSURFACE 24D X 24W	181.00 / 1	57.92 / 1	EACH	57.92	
1	HAW SR-2	HAWORTH ITEM REGULAR SHELF 24"	205.00 / 1	65.60 / 1	EACH	65.60	
2	HAW PDS-24-JLN	HAWORTH ITEM SUSPENDED PEDESTAL DRAWER 24",1 LOCK	637.00 / 1	203.84 / 1	EACH	407.68	
1	HAW WURA-2448-LTSA	HAWORTH ITEM RECT WORKSURFACE 24D X 48W	307.00 / 1	98.24 / 1	EACH	98.24	
1	HAW EFN-435-B	HAWORTH ITEM STRAIGHT FABRIC PANEL NO-POWER 48" X 35"	864.00 / 1	276.48 / 1	EACH	276.48	
INSTALLATION SERVICES INLCUDES LABOR TO MOVE FURNITURE FROM SECOND FLOOR TO FIRST FLOOR.						2,112.00	
DESIGN SERVICES VERIFY MEASURMENTS, CREATE AUTOCAD FILE AND INSTALLATION DRAWINGS, INTEGRATE EXISTING INVENTORY WITH NEW PRODUCTS. 5 HOURS @ \$65.00 PER HOUR.						325.00	
*****NOTES*****							
>Pricing per U.S. Communities contract #RQ-878957-20.							
>Lead time: 4 to 5 weeks.							

# QUOTE

BRUTZMAN'S OFFICE SOLUTIONS  
P.O. BOX 6044

KENNEWICK, WA 99336-0044

phone:(509) 735-0300

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KENNEWICK, WA 993362359

special comments/instructions:

purchase order	customer representative	invoice terms	sales representative			
	JUDY 735-8476 X3280	NET 10TH PROX	KEN BRUTZMAN			
quantity	mfg/product number	product description	unit price	net price	unit	amount

>FOB Point: Destination.

	7,632.04
sales tax	633.46
total	8,265.50

**From:** Jacki Lahtinen  
**To:** Ted Jackson  
**Date:** 12/9/2008 2:17 PM  
**Subject:** Re: Fwd: office furniture

Unfortunately we need to use Haworth Products to match existing furniture configuration.

Jacki Lahtinen  
Administrator  
Benton County District Court

>>> "Ted Jackson" <[Ted.Jackson@state.mn.us](mailto:Ted.Jackson@state.mn.us)> 12/9/2008 6:45 AM >>>  
Hi Jacki,

Unfortunately we cannot bid any of the Haworth furniture. If you are allowing any substitutions, we do have several other vendors we work with that might allow us to save you some money. Please let me know your thoughts and thanks for giving us an opportunity to bid your project.

Ted

Ted A. Jackson

Project Consultant  
MINNCOR Industries  
651-361-7532  
[tjackson@minncor.com](mailto:tjackson@minncor.com)

[www.minncor.com](http://www.minncor.com) ( <http://www.minncor.com/> )

>>> "Jacki Lahtinen" <[jacki\\_lahtinen@co.benton.wa.us](mailto:jacki_lahtinen@co.benton.wa.us)> 12/8/2008 3:49 PM >>>  
I am acquiring bids for some office furniture. The furniture is Haworth would you be able to give me a quote.

Jacki Lahtinen  
Administrator  
Benton County District Court

# RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY,  
WASHINGTON

IN THE MATTER OF AUTHORIZING PAYMENT TO HAWORTH, INC. FOR THE  
PROCUREMENT OF FURNITURE FOR THE NEW COURTROOMS TI PROJECT  
LOCATED AT THE BENTON COUNTY JUSTICE CENTER, KENNEWICK, WA

**WHEREAS**, per Resolution 08-674 dated July 28, 2008, the Board of Benton County Commissioners authorized the procurement of Haworth office furniture for the Benton County Courtrooms TI projects to Brutzman's Office Solutions per their U.S. Communities Contract RQ07-878957-20/N051016; and

**WHEREAS**, after the contract was completed, the Facilities Manager and District Court Administrator realized there were three (3) additional chairs that should have been included in the original order; and

**WHEREAS**, District Court Administrator ordered the three (3) additional chairs from Brutzman's Inc., and then was billed directly from Haworth, Inc. in the amount of \$1,241.79 including WSST; and

**WHEREAS**, District Court Administrator and the County Facilities Manager recommends the payment to be made directly to Haworth, Inc. for the purchase of said furniture and be paid from the Capital Facilities Fund; **NOW, THEREFORE**

**BE IT RESOLVED** by the Board of Benton County Commissioners, Benton County, Washington, hereby concurs with the recommendation and authorizes payment in the amount of \$1,241.79 including WSST to Haworth, Inc. for the procurement of three (3) additional chairs for the new Benton County Courtrooms TI project, and said purchase shall be paid from the Capital Facilities Fund.

;

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2008

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

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

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

# RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF AWARDING A BLANKET PERSONAL SERVICE CONTRACT TO A-ONE REFRIGERATION & HEATING INC. FOR "AS NEEDED" KITCHEN EQUIPMENT REPAIR SERVICES THROUGHOUT BENTON COUNTY FACILITIES

**WHEREAS**, per resolution 08-131, any public works services or materials involving less than \$10,000, advertisement and competitive bidding may be dispensed, and such contracts may be entered into after direct negotiation and authorization from the Board of Benton County Commissioners; and

**WHEREAS**, Facilities personnel solicits A One Refrigeration & Heating Inc. for various kitchen equipment repair projects; and

**WHEREAS**, the Facilities Manager recommends a blanket service agreement with A One Refrigeration & Heating Inc, Kennewick, WA to be put in place for "as needed" kitchen equipment repair services and other miscellaneous services they are qualified to perform throughout Benton County facilities for small projects costing less than \$10,000; and

**WHEREAS**, this blanket contract would allow the Facilities Manager to move forward with services without requiring a contract for each service needed; and

**WHEREAS**, the prices for said services is in accordance to the agreement and A One Refrigeration & Heating Inc's price rate attached hereto for an accumulative contract amount not to exceed \$15,000 including WSST; **NOW THEREFORE**,

**BE IT RESOLVED** by the Board of Benton County Commissioners, Benton County, Washington, the Board concurs with the Facilities Manager's recommendation and hereby awards A One Refrigeration & Heating Inc. the blanket service agreement for "as needed" services throughout Benton County facilities.

**BE IT FURTHER RESOLVED** the Board hereby authorizes the Chairman to sign the personal service contract attached hereto.

**BE IT FURTHER RESOLVED** the term of the attached contract begins January 1, 2009 and expires on December 31, 2009.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2008

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

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

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

**PERSONAL SERVICES CONTRACT  
TERMS AND CONDITIONS**

THIS CONTRACT is made and entered into by and between BENTON COUNTY, a political subdivision, with its principal offices at 620 Market Street, Prosser, WA 99350 (hereinafter "COUNTY"), and A One Refrigeration & Heating, Inc., a Washington corporation with its principal offices at 1611 W. Kennewick Avenue, Kennewick, WA 99336, (hereinafter "CONTRACTOR").

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

**1. CONTRACT DOCUMENTS**

This Contract consists of the following documents

- a. Exhibit A - Contractor's Proposal
- b. Exhibit B - Washington State Prevailing Wage Rates for Public Works Contracts

**2. DURATION OF CONTRACT**

The term of this Contract shall begin January 1, 2009 and shall expire on December 31, 2009. The CONTRACTOR shall complete all work by the time(s) specified herein, or if no such time is otherwise specified, no later than the expiration date.

**3. SERVICES PROVIDED**

The CONTRACTOR shall perform the following services:

- a. The CONTRACTOR agrees to provide "as needed" kitchen equipment repair services for all Benton County locations in accordance with the CONTRACTORS 2009 price list proposal attached hereto as Exhibit A. In the event that requested work encompasses work that is legally required to be completed by another type of contractor, CONTRACTOR shall inform COUNTY of that fact and shall coordinate with COUNTY to complete the work in conjunction with such other contractor. In the event that requested work requires, under State or local law, the issuance of a building permit, CONTRACTOR shall be responsible for procuring such building permit and arranging for inspection and certification of the work. CONTRACTOR may bill COUNTY for the full cost of the permit and any labor time for any of its employees involved in the permitting process, but may not charge any additional processing or other fees that it does not actually incur.

Individual jobs or work orders for kitchen equipment repair services shall be initiated by the COUNTY representative or his designee by way of a telephone call. Thereafter, upon completion of services, Contractor shall ensure that a completed work order, detailing the work done, the time expended, and the parts used, is remitted to the COUNTY representative or his designee prior to Contractor leaving the work site.

- b. The COUNTY does not guarantee utilization of this contract. The COUNTY may award contracts to other vendors for similar products or services. Actual utilization will be based on availability, proximity of vendor facilities, frequency of deliveries, or any other factor deemed important to the COUNTY.
- c. The CONTRACTOR agrees to provide its own labor and materials. Unless otherwise provided in this Contract, no material, labor, or facilities will be furnished by the COUNTY.

**4. CONTRACT REPRESENTATIVES**

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

- a. For CONTRACTOR:

Al Hagen Owner/President  
1611 W. Kennewick Ave.  
Kennewick, WA 99336  
Phone 509-586-7613  
Fax 509-586-7981

- b. For COUNTY:

Roy Rogers  
7122 W. Okanogan Pl.  
Kennewick, WA 99336  
Phone 509-222-3710  
Fax 509-736-2708

**5. COMPENSATION**

The CONTRACTOR shall be paid for kitchen equipment repair services in accordance with the price rates provided in Exhibit A attached hereto. The total amount payable by the COUNTY to the CONTRACTOR under this agreement is not to exceed fifteen thousand

dollars and zero cents (\$15,000.00) including W.S.S.T. CONTRACTOR shall monitor its cumulative total accounts receivables to ensure that it will not do work in excess of the total approved payable amount, and that total billings will not exceed the total approved payable amount. CONTRACTOR shall inform COUNTY promptly in writing when the cumulative accounts receivables attributable to COUNTY pursuant to the kitchen equipment repair services portion of this contract reaches 80% of the total approved payable amount so that approval and budgeting for additional payable amounts may be obtained if appropriate. Any dollar amount above the maximum payable amount will only be approved with an amendment to this contract. For any projects involving alteration, repair or replacement of any kitchen equipment that is built into, and therefore constitutes an integral part of any building belonging to COUNTY, prior to any compensation being paid, CONTRACTOR shall submit a Statement of Intent to Pay Prevailing Wages in a form approved and certified by the Washington State Department of Labor and Industries directly to COUNTY's contract representative. At the completion of all work contemplated by this agreement or at the end of the contract term, whichever comes first, the work contemplated herein, CONTRACTOR shall submit an affidavit of wages paid in compliance with prevailing wage requirements, pre-certified by the Department of Labor and Industries, directly to COUNTY's contract representative. Such affidavit shall be in a form approved by the Washington State Department of Labor and Industries. No final payment will be made until such affidavit is provided.

## 6. INVOICING

The CONTRACTOR may submit invoices to the COUNTY for services that have been performed as they are performed, but shall not submit invoices more than once per calendar month. Such invoices shall detail the work done, the personnel involved, the date of service and shall also reference the work order provided to COUNTY as required in article 3 "Services Provided" above. For any projects involving alteration, repair or replacement of any kitchen equipment that is built into, and therefore constitutes an integral part of any building belonging to COUNTY, at such time as the first invoice is submitted, or any time thereto, CONTRACTOR, as well as all sub-contractors and sub-sub-contractors which are employed by the CONTRACTOR for the work contemplated by this agreement, shall submit a Statement of Intent to Pay Prevailing Wages in the form and manner required by RCW 39.12.040 to COUNTY'S representative. The CONTRACTOR shall not be paid for services rendered under this Contract, that are subject to prevailing wage requirements, until a Statement of

Intent to Pay Prevailing Wages has been executed and submitted as required above by all required parties and the services have been performed to the COUNTY's satisfaction. COUNTY shall only be liable to pay for invoiced amounts which are detailed and supported as described in this article. The COUNTY shall authorize payment when the work billed is accepted by the COUNTY; and will remit payment, less any retainage or other legally withheld funds, for the accepted work within thirty (30) days after receiving the invoice. PROVIDED that for each invoiced and approved progress payment, COUNTY shall withhold from the earned portion of that payment (ie excluding sales or other tax) 5% as retainage pursuant to RCW 60.28.010, subject to all further provisions of the remainder of RCW chapter 60.28. Within ten (10) days following the execution of this agreement, CONTRACTOR shall submit written notice stating its election of the method of holding of the moneys retained, pursuant to RCW 60.28.010(2). If such written election is not received, then the COUNTY may choose any of the allowed manners of holding the moneys allowed by RCW 60.28.010(2)(a)-(c)."

7. AMENDMENTS AND CHANGES IN WORK

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

8. HOLD HARMLESS AND INDEMNIFICATION

- a. The CONTRACTOR shall hold harmless, indemnify and defend the COUNTY, its officers, officials, employees and agents, from and against any and all claims, actions, suits, liability, loss, expenses, damages, and judgments of any nature whatsoever, including reasonable costs and attorneys' fees in defense thereof, for injury, sickness, disability or death to persons or damage to property or business, caused by or arising out of the CONTRACTOR'S acts, errors or omissions in

the performance of this Contract. PROVIDED, that the CONTRACTOR'S obligation hereunder shall not extend to injury, sickness, death or damage caused by or arising out of the sole negligence of the COUNTY, its officers, officials, employees or agents.

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

- b. In any and all claims against the COUNTY, its officers, officials, employees and agents by any employee of the CONTRACTOR, subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under this Section shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the CONTRACTOR or subcontractor under Workers Compensation acts, disability benefit acts, or other employee benefit acts, it being clearly agreed and understood by the parties hereto that the CONTRACTOR expressly waives any immunity the CONTRACTOR might have had under such laws including but not limited to Title 51 of the Revised Code of Washington. By executing this Contract, the CONTRACTOR acknowledges that the foregoing waiver has been mutually negotiated by the parties and that the provisions of this Section shall be incorporated, as relevant, into any contract the CONTRACTOR makes with any subcontractor or agent performing work hereunder. CONTRACTORS obligations under this Section 8 shall survive termination and expiration of this Contract.
- c. The CONTRACTOR'S obligations hereunder shall include, but are not limited to, investigating, adjusting and defending all claims alleging loss from action, error or omission, or breach of any common law, statutory or other delegated duty by the CONTRACTOR, the CONTRACTOR'S employees, agents or subcontractors.

9. INSURANCE

The CONTRACTOR shall obtain and maintain continuously, the following insurance:

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

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

be reviewed and approved in writing in advance of commencement of work by the Benton County Prosecutor's Office. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policy must comply with Chapter 48.15 RCW and 284-15 WAC.

- 10) The CONTRACTOR shall furnish the COUNTY with properly executed and unaltered accord form certificate of insurance of a signed policy endorsement which shall clearly evidence all required insurance within ten (10) days after the effective date of this contract. The certificates will, at a minimum, list limits of liability and coverage. The certificates will provide that the underlying insurance contract will not be canceled or allowed to expire, except on thirty (30) days prior written notice to the COUNTY. Any certificate or endorsement limiting or negating the insurer's obligation to notify the COUNTY of cancellation or changes shall be altered so as not to negate the intent of this provision. Acceptable forms of evidence are the endorsement pages of the policy showing the COUNTY as an additional insured.
- 11) Certificates of insurance shall show the certificate holder as "Benton County" and include "C/O" the COUNTY'S Contract Representative. The address of the certificate holder shall be shown as the current address of the COUNTY'S Contract Representative.
- 12) The CONTRACTOR shall request the Washington State Department of Labor and Industries, Workers Compensation Representative, to send written verification to Benton County that CONTRACTOR is currently paying workers compensation.
- 13) All written notices and notice of cancellation or change of required insurance coverage shall be mailed to the COUNTY at the following address:  
  
Risk Manager  
Benton County Prosecuting Attorney's Office  
7320 W. Quinault Avenue  
Kennewick, WA 99336
- 14) The CONTRACTOR or its broker shall provide a copy of any and all insurance policies specified in this Contract upon request of the Benton County Risk Manager.

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

**10. PERFORMANCE BOND**

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

**11. TERMINATION**

- a. The COUNTY may terminate this Contract in whole or in part whenever the COUNTY determines, in its sole discretion, that such termination is in the best interests of the COUNTY. The COUNTY may terminate this Contract upon giving ten (10) days written notice by certified mail to the CONTRACTOR. In that event, the COUNTY shall pay the CONTRACTOR for actual costs incurred by the CONTRACTOR in performing the Contract up to the date of such notice. Payment shall be made in accordance with Article 6, Invoicing. Nothing in this section shall limit the rights of the COUNTY pursuant to this agreement or by law.
- b. The CONTRACTOR may terminate this Contract in whole or in part whenever the CONTRACTOR determines, in its sole discretion, that such termination is in the best interests of the CONTRACTOR. The CONTRACTOR may terminate this Contract upon giving thirty (30) days written notice by certified mail to the COUNTY. In that event, the COUNTY shall pay the CONTRACTOR for all costs incurred by the CONTRACTOR in performing the Contract up to the date of such notice. Payment shall be made in accordance with Article 6, Invoicing. Nothing in this section shall limit the rights

of the COUNTY pursuant to this agreement or by law.

**12. COMPLIANCE WITH LAWS AND PREVAILING WAGES**

The CONTRACTOR shall comply with all applicable federal, state and local laws, rules and regulations in performing this Contract, including, but not limited to, prevailing wage laws. Specifically, at a minimum, the prevailing wages set out in Exhibit B shall be paid to all employees, agents, sub-contractors or sub-sub-contractors who do any work for CONTRACTOR on this project. For any projects involving alteration, repair or replacement of any kitchen equipment that is built into, and therefore constitutes an integral part of any building belonging to COUNTY, CONTRACTOR shall ensure that all sub-contractors or sub-sub-contractors sign an agreement to pay these same wages, and that such a signed agreement is submitted to COUNTY prior to sub-contractor commencing any work on the project. This schedule is duplicated from the Washington State Department of Labor & Industries website, is provided for informational purposes only and COUNTY takes no responsibility for any inaccuracies or ambiguities contained therein. If CONTRACTOR believes the schedules contains any such ambiguities or inaccuracies then CONTRACTOR is responsible for contact the Department of Labor and Industries directly to resolve them. Perceived inaccuracies or ambiguities in the schedule shall not relieve CONTRACTOR from its obligation pursuant to this contract and relevant law to pay prevailing wages.

**13. NONDISCRIMINATION**

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

**14. DISPUTES**

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

**15. ASSIGNMENT, DELEGATION AND SUBCONTRACTING**

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

**16. ENTIRE AGREEMENT**

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

**17. NOTICES**

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

**18. SEVERABILITY**

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

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

The parties specifically certify that the provisions contained within paragraph 8(b) are mutually negotiated.

BENTON COUNTY

A One Refrigeration & Heating,  
Inc.

\_\_\_\_\_  
Claude Oliver, Chairman  
Benton County Commissioner

\_\_\_\_\_  
Al Hagen  
Owner/President

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

Approved as to Form:

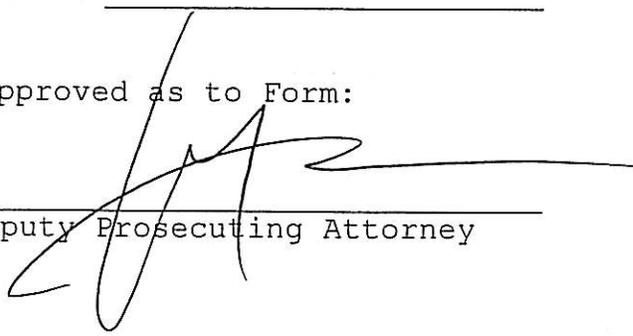
  
\_\_\_\_\_  
Deputy Prosecuting Attorney

Exhibit A

December 02, 2008

Kieth Mercer  
Benton County Commissioners Office

Re; Contract Price for maintenance services.

A-One Refrigeration & Heating INC. Hourly Rates for the calendar year of 2009

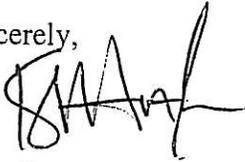
Non Emergency \$ 102.00

Emergency \$ 164.00

All rates and or times are billed at 1 hour minimum.

Vehicle and or fuel surcharges are always \$10.00 per trip.

Sincerely,

A handwritten signature in black ink, appearing to read 'KHagen', written over a horizontal line.

Kyle Hagen  
Vice President  
A-One Refrigeration & Heating INC.

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

COPY 

AGENDA ITEM	TYPE OF ACTION NEEDED	
<b>Amendment #0763-20235-02 with the Division of Alcohol and Substance Abuse</b> Prepared By: Carol Carey	<input checked="" type="checkbox"/> Execute Contract	<input checked="" type="checkbox"/> Consent Agenda
	<input checked="" type="checkbox"/> Pass Resolution	<input type="checkbox"/> Public Hearing
	<input type="checkbox"/> Pass Ordinance	<input type="checkbox"/> 1 <sup>st</sup> Discussion
	<input type="checkbox"/> Pass Motion	<input type="checkbox"/> 2 <sup>nd</sup> discussion
	<input type="checkbox"/> Other	<input type="checkbox"/> Other

**BACKGROUND INFORMATION**

The Division of Alcohol and Substance Abuse (DASA) is amending the original agreement with the Department of Human Services to reduce funding for the Children's Transition Innovative funds by \$10,000.00

**SUMMARY**

**Award:** The maximum consideration will be \$4,688,371.00  
**Period:** November 17, 2008 through June 30, 2009  
**Funding Source:** Division of Alcohol and Substance

**RECOMMENDATION**

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

**FISCAL IMPACT**

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

**MOTION**

To approve signing Agreement #0763-20235-02 with the Division of Alcohol and Substance Abuse and to authorize the Chair of each County to sign on behalf of the Board.

# JOINT RESOLUTION

Benton County Resolution # \_\_\_\_\_

Franklin County Resolution # \_\_\_\_\_

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

**IN THE MATTER OF EXECUTION OF AN AMENDMENT TO DECREASE THE TOTAL AMOUNT IN THE AGREEMENT FOR PROVIDING SUBSTANCE ABUSE TREATMENT SERVICES BETWEEN THE DIVISION OF ALCOHOL AND SUBSTANCE ABUSE AND BENTON AND FRANKLIN COUNTIES' DEPARTMENT OF HUMAN SERVICES, AGREEMENT #0763-20265-02**

**WHEREAS**, the Division of Alcohol and Substance Abuse would like to amend the original agreement with the Department of Human Services to decrease contract amounts for Children's Transition Initiative funds; and

**WHEREAS**, the amendment decreases the contract by \$10,000.00 to a maximum consideration of \$4,698,371.00 and

**WHEREAS**, the amendment is effective November 17, 2008 through June 30, 2009, NOW THEREFORE,

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

**BE IT FURTHER RESOLVED** that the Chairman of each County is hereby authorized to sign the amendment on behalf of the Board of Benton and Franklin County Commissioners.

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

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

\_\_\_\_\_  
Claude L. Oliver, Chair

\_\_\_\_\_  
Robert E. Koch, Chair

\_\_\_\_\_  
Max E. Benitz, Jr., Chair Pro-tem

\_\_\_\_\_  
Rick Miller, Chair Pro-tem

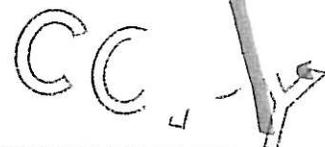
\_\_\_\_\_  
Leo Bowman, Member  
Constituting the Board of County Commissioners  
Of Benton County, Washington

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

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

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

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



AGENDA ITEM	TYPE OF ACTION NEEDED	
Joint Resolution for Records Management Services, Inc. for records storage	<input checked="" type="checkbox"/> Execute Addendum	<input checked="" type="checkbox"/> Consent Agenda
	<input checked="" type="checkbox"/> Pass Resolution	<input type="checkbox"/> Public Hearing
Prepared By: Carol Carey	<input type="checkbox"/> Pass Ordinance	<input type="checkbox"/> 1 <sup>st</sup> Discussion
	<input type="checkbox"/> Pass Motion	<input type="checkbox"/> 2 <sup>nd</sup> discussion
	<input type="checkbox"/> Other	<input type="checkbox"/> Other

**BACKGROUND INFORMATION**

This agreement will serve to provide for the storage and management of patient records from Sunderland Family Treatment Services, a previous mental health outpatient treatment provider for the Counties, until the records can be properly transferred to each patient's new treatment provider or appropriate alternative storage is obtained.

**SUMMARY**

**Period:** September 1, 2008 until amended or terminated by either party.

**Fund Source:** Greater Columbia Behavioral Health (mental health funding)

**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.

**MOTION**

To approve signing the Joint Resolution for records storage and maintenance and to authorize the Chair of each County to sign the Agreement on behalf of Boards of Benton and Franklin County Commissioners.

**BENTON COUNTY RESOLUTION # \_\_\_\_\_**

**FRANKLIN COUNTY RESOLUTION # 2008 532**

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

**IN THE MATTER OF EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT BETWEEN RECORDS MANAGEMENT SERVICES, INC., AND BENTON AND FRANKLIN COUNTIES' DEPARTMENT OF HUMAN SERVICES.**

**WHEREAS**, the Department of Human Services would like Records Management to provide storage and management of patient records from Sunderland Family Treatment Services, a previous mental health outpatient treatment provider for the Counties, until the records can be properly transferred to each patient's new treatment provider; and

**WHEREAS**, the consideration for this PSA is fee for service; and

**WHEREAS**, the Agreement shall be effective September 1, 2008; NOW THEREFORE

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

**BE IT FURTHER RESOLVED** that the Chairman is hereby authorized to sign the agreement on behalf of the Boards of Benton & Franklin County Commissioners.

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

Dated this <sup>8<sup>th</sup></sup> day of . . . DEC . . . . ., 2008

\_\_\_\_\_  
Chair, Benton County Commissioners

*R. Koch*  
Chair, Franklin County Commissioners

\_\_\_\_\_  
Chair Pro Tem

*P. [Signature]*  
Chair Pro Tem

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

Neva J. Corkrum - Absent  
Member  
Constituting the Board of County Commissioners  
of Franklin County, Washington

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

Attest: *Mary Withers*  
Clerk of the Board

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

COPY

AGENDA ITEM	TYPE OF ACTION NEEDED	
Interlocal Cooperation between BFDHS and County of Skamania	<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 <sup>st</sup> Discussion
	<input type="checkbox"/> Pass Motion	<input type="checkbox"/> 2 <sup>nd</sup> discussion
	<input type="checkbox"/> Other	<input type="checkbox"/> Other

**BACKGROUND INFORMATION**

Skamania County operates Skamania County Community Health which provides mental health programs for the people of Skamania County including attendant MIS support.

The Department of Human Services would like to enter into an Interlocal Cooperation Agreement with Skamania County to provide MIS support services to Skamania County Community Health in return for monetary compensation.

**SUMMARY**

**Funding Source/Award:** Skamania County Community Health will pay Benton and Franklin Counties Department of Human Services a start up fee of \$2,261 plus \$289.00 per month for server disk space utilization, network access and staff support.

**RECOMMENDATION**

Sign the resolution to accept the proposed purchase.

**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 the Resolution to provide services to Skamania County Community Health.

# 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 CONTRACTING FOR THE PROVISION OF PROVIDING OF MIS SERVICES TO  
SKAMANIA COUNTY COMMUNITY HEALTH,**

**WHEREAS**, Skamania County operates Skamania County Community Health which provides mental health programs for the people of Skamania County including attendant MIS support,

**WHEREAS**, the Department of Human Services would like to enter into an Interlocal Cooperation Agreement with Skamania County to provide MIS support services to Skamania County Community Health in return for monetary compensation, and,

**WHEREAS**, Skamania County will pay the Department of Human Services a start up fee of \$2,261 plus \$289 per month for server disk space utilization, network access and staff support, **NOW THEREFORE**,

**BE IT RESOLVED**, that the Benton and Franklin County Commissioners are authorized to sign the Interlocal Cooperation Agreement for MIS support services with Skamania County.

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

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

\_\_\_\_\_  
Chair, Benton Co Commissioners

\_\_\_\_\_  
Chair, Franklin Co Commissioners

\_\_\_\_\_  
Chair, Pro Tem

\_\_\_\_\_  
Chair, Pro Tem

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

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

Attest: .....  
Clerk of the Board

Attest: .....  
Clerk of the Board

Originals: Agency, Human Services, Franklin County, Benton County

Carey

AGENDA ITEM: <u>Consent</u>	<u>TYPE OF ACTION NEEDED</u> Executive Contract <u>XX</u>	Consent Agenda <u>XX</u>
MEETING DATE: B/C 12-15-08 F/C 12-17-08	Pass Resolution <u>XX</u>	Public Hearing
SUBJECT: Personal Services Contract Amendment with Apollo Sheet Metal	Pass Ordinance	1st Discussion
Prepared By: Kathryn M. Phillips	Pass Motion	2nd Discussion
Reviewed By: Sharon Paradis	Other	Other

#### BACKGROUND INFORMATION

Apollo Sheet Metal the only authorized service representative for the heating and air conditioning units installed at the Benton-Franklin Counties Juvenile Justice Center. Apollo is familiar with our facility and equipment and has provided service to BFJJC since August of 2006. The contract amendment is to continue the maintenance service from January 1, 2009 through December 31, 2009.

#### SUMMARY

The Benton and Franklin County Boards of Commissioners signed the original Personal Service Contract in Benton and Franklin Counties Superior Court Juvenile Division for Apollo Sheet Metal on August 14, 2006 and August 21, 2006, respectively.

#### RECOMMENDATION

We recommend that the Boards of Commissioners of Benton and Franklin Counties sign the Personal Services Contract Amendment between Benton-Franklin Juvenile Justice Center and Apollo Sheet Metal for the period of January 1, 2009 through December 31, 2009.

#### FISCAL IMPACT

The budget amount is included in the approved Juvenile Facilities Department #172 budget.

#### MOTION

I move that the Boards of Commissioners of Benton and Franklin Counties sign the Personal Services Contract Amendment between Benton-Franklin Counties Juvenile Justice Center and Apollo Sheet Metal to provide heating and air-conditioning maintenance for the Juvenile Justice Center for the period of January 1, 2009 through December 31, 2009.

JOINT RESOLUTION

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

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

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

IN THE MATTER OF THE REQUEST FOR SIGNATURE FROM THE CHAIRMAN OF THE BOARDS OF BENTON AND FRANKLIN COUNTY COMMISSIONERS ON THE PERSONAL SERVICES CONTRACT AMENDMENT BETWEEN THE JUVENILE JUSTICE CENTER AND APOLLO SHEET METAL, THUS, AMENDING BENTON COUNTY RESOLUTION 07 113 AND FRANKLIN COUNTY RESOLUTION 2007 080, and

WHEREAS, Sharon Paradis, Administrator of the Juvenile Court, believes it is in the best interest of the Juvenile Justice Center that the amended personal services contract amendment between the Juvenile Court and Apollo Sheet Metal, be approved as presented; and

WHEREAS, approval then necessitates amending Benton County Resolution 07 113 and Franklin County Resolution 2007 080, NOW, THEREFORE,

BE IT RESOLVED, that the Chairman of the Board of Benton County Commissioners and the Chairman of the Board of Franklin County Commissioners be and they hereby are authorized to sign, on behalf of their respective county the amended personal service contract amendment between the Juvenile Court and Apollo Sheet Metal, thus, amending Benton County Resolution 07 113 and Franklin County Resolution 2007 080.

DATED this 15<sup>th</sup> day of December 2008  
BENTON COUNTY BOARD OF COMMISSIONERS

DATED this 17<sup>th</sup> day of December 2008  
FRANKLIN COUNTY BOARD OF COMMISSIONERS

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

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

\_\_\_\_\_  
Member

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

\_\_\_\_\_  
Member

Constituting the Board of  
County Commissioners,  
Benton County, Washington

\_\_\_\_\_  
Member

Constituting the Board of  
County Commissioners,  
Franklin County, Washington

Attest:

Attest:

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

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

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

# BENTON-FRANKLIN COUNTIES JUVENILE JUSTICE CENTER



SHARON PARADIS, Administrator  
Juvenile Court Services

## SUPERIOR COURT OF THE STATE OF WASHINGTON

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

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

RECEIVED

DEC 03 2008

### PERSONAL SERVICE CONTRACT AMENDMENT BETWEEN BENTON-AND FRANKLIN COUNTIES SUPERIOR COURTS, JUVENILE DIVISION, AND APOLLO SHEET METAL, INC.

This Contract Amendment is made and entered into by and between Benton County, a political subdivision, with its principal offices at 620 Market Street, Prosser, WA 99350 and Franklin County, a political subdivision, with its principal offices at 1016 North Fourth Avenue, Pasco, WA 99301, by and for the Benton/Franklin Counties Juvenile Justice Center, a bi-county agency located at 5606 W. Canal Place STE 106, Kennewick, WA 99336 (hereinafter, collectively referred to as, "Counties"), and Apollo Sheet Metal, with its principal offices at 1207 W Columbia DR, Kennewick WA 99336 (hereinafter "Contractor").

In consideration of the mutual benefits and covenants contained herein, the parties agree that their Contract, numbered as Benton County Resolution No. 07 113 and executed on February 26, 2007, and Franklin County Resolution No. 2007 080 and executed on February 21, 2007, section 1, Contract Amendment Documents, section 2, Duration of Contract, and section 5, Compensation, shall be amended as follows:

1. CONTRACT AMENDMENT DOCUMENTS

This Contract Amendment includes the following attached exhibits, which are incorporated herein by reference:

- A. Exhibit A, Preventative Maintenance
- B. Exhibit B, Washington State Prevailing Wage – Benton County (Effective 8-31-08)

2. DURATION OF CONTRACT

The term of this Contract shall begin January 1, 2009, and shall expire on December 31, 2009, and will renew for a maximum of one (1) additional successive one-year period on January 1 of the following year unless the Counties notifies the Contractor no later than November 1 that the Counties is not renewing this Contract for the following year. The Contractor shall complete all work by the time(s) specified herein, or if no such time is otherwise specified, no later than the expiration date.

5. COMPENSATION

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

- A. The Counties shall pay Contractor in accordance with the terms herein this Contract Amendment and within the applicable terms of Exhibit A and Exhibit B.
- B. No payment shall be made for any work performed by the Contractor, except for work identified and set forth in this Contract and amendments thereto. No initial payment shall be authorized or come due until Contractor has submitted to Counties a statement of intent to pay prevailing wages, in a form approved by, and as certified by, the Washington State Department of Labor and Industries. Further, final payment shall not be authorized or come due until Contractor has submitted to Counties an affidavit of prevailing wages actually paid, in a form approved by, and as certified by, the Washington State Department of Labor and Industries.

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

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

**Apollo Sheet Metal**

*Dale W. Hollandsworth*      12/13/08  
 Dale Hollandsworth      Date

**BENTON COUNTY APPROVAL**

Approved as to Form:

Agreed Review Performed by Franklin County  
 Sarah Perry, Deputy Prosecuting Attorney      Date

By: \_\_\_\_\_  
 Name: Claude L. Oliver  
 Title: Chairman, Board of Commissioners  
 Date: \_\_\_\_\_

Attest:

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

**Benton Franklin Counties  
 Juvenile Justice Center**

*Sharon A. Paradis*      12/11/2008  
 Sharon A. Paradis      Date

**FRANKLIN COUNTY APPROVAL**

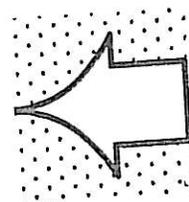
Approved as to Form:

*730P*      12/08/2008  
 Ryan Verhulp, Civil Deputy Prosecuting Attorney      Date

By: \_\_\_\_\_  
 Name: Robert E. Koch  
 Title: Chairman, Board of Commissioners  
 Date: \_\_\_\_\_

Attest:

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





## Preventative Maintenance

Apollo Sheet Metal, Inc. is committed to supplying our customers with the highest quality in preventative maintenance and services. The company and its leadership believe in listening to our customers' needs and building strong lasting relationships. The scope of these services has been determined as a result of our discussions concerning your specific HVAC system support needs. Our support solution includes the services as outlined below:

### GENERAL SUPPORT PROGRAM FEATURES

*(Included with all Support Programs)*

- **Discount on Parts and Labor:** As a support contract customer you will receive an additional 10% discount on parts that need to be replaced or repaired and a 10% discount on the labor (if necessary) to install them.
- **Account Manager:** A designated Account Manager will be responsible for your total service satisfaction. Your Account Manager will provide the designated services, monitor equipment performance, track equipment service history, and consult with you to meet your objectives.
- **Documentation:** All scheduled and unscheduled service visits will be documented by a work order form detailing the service performed, materials used and hours spent.
- **System and Service Log:** APOLLO SHEET METAL, INC. will provide you with a log to enable you to document concerns, system problems, and other related items requiring our attention. Each scheduled service visit shall begin with a review of the log.
- **Dedicated Service Team:** Our Highly Skilled Service Team is knowledgeable in all facets of the HVAC industry. We can quickly diagnose system problems, thus saving hours of labor that would be required by someone less familiar with your system.
- **Priority Response Time:** As a support program customer, you will be given priority for "emergency" calls. Should an emergency arise, we will give you top priority over non-support program customers as well as the discounted support program service rates. Guaranteed response times are identified under the "Specific Technical support Inclusion" section of this proposal.

## HVAC SYSTEMS MAINTENANCE

### SPECIFIC TECHNICAL SUPPORT INCLUSIONS:

- **Annual Fall Heating Verification:** Verification of your heating systems operation is an effective way to maximize equipment performance and efficiency. During this verification all air filters will be checked, belts will be inspected and heating operation will be thoroughly tested and adjusted for optimum performance. Additional checks include inspection and lubrication of all motors bearings and bushings, inspection and cleaning of evaporator and condenser coils, fans and blower wheels, inspection and tightening of all electrical connections and wiring, adjustment of refrigerant levels on heat pumps, and combustion efficiency testing on gas heat units.

**Annual Heating Verification Hours:                      40 hours**

- **Annual Spring Cooling Verification:** Verification of your cooling systems operation is an effective way to maximize equipment performance and efficiency. During this verification all air filters will be checked, belts will be inspected and cooling operation will be thoroughly tested and adjusted for optimum performance. Additional checks include inspection and lubrication of all motors bearings and bushings, inspection and cleaning of evaporator and condenser coils, fan blades and blower wheels, inspection and tightening of all electrical connections and wiring, adjustment of refrigerant levels.

**Annual Cooling Verification Hours:                      40 hours**

- **Mid Winter Inspection:** During our Mid-Winter inspection all air filters will be checked, belts will be adjusted and proper heating operation will be verified.

**Mid-Winter Inspection Hours:                                      40 hours**

- **Mid-Summer Inspection:** During our Mid-Summer inspection all air filters will be checked, belts will be adjusted and proper cooling operation will be verified.

**Mid-Summer Inspection Hours:                                      40 hour**

**ENVIRONMENTAL CONTROL SYSTEM MAINTENANCE****SPECIFIC TECHNICAL SUPPORT INCLUSIONS:**

- **Annual HVAC Controls Verification:** Verification of your HVAC controls is an effective way to maximize building comfort and efficiency. We will verify overall system operation via the system software and physical verification. In addition heat/cool set points and occupancy schedules will be reviewed and adjusted if necessary.

**Annual Controls Verification Hours: 8 hours**

- **Priority On-Site Support:** We will provide consultation as requested to assist your operator(s) in identifying, verifying and resolving problems found in executing the tasks for which they have received training from Apollo Sheet Metal. As a support program customer, you will be given priority for "non-scheduled" calls. Should such an emergency arise, we will give you top priority over non-support program customer.

**On-Site Support Hours Allowance: 8 hours**

- **Training:** Continued training is recommended to refresh your current knowledge as well as provide valuable information on the new system features that may become available in future revisions of your system. The hours shown reflect requirements that were determined during our meetings and conversations regarding your current personnel proficiencies and staffing. During each site visit, we encourage your staff to participate and ask questions. We have found this to be one of the most effective ways to increasing system knowledge. Topics covered will be tailored to the trainees' knowledge, experience level, and areas of interest. Training classes shall be scheduled and completed quarterly utilizing total hours as follows:

**Annual Training Hours Allowance: 4 hours**

SUPPORT PROGRAM PRICING SUMMARY:

Support Program Feature	Hours	Cost	Support Program Sell Price
<b>HVAC Maintenance</b>			
Fall Heating Verification:	40	\$3400	\$3000.
Spring cooling Verification:	40	\$3400.	\$3000.
Mid-Winter Inspection:	40	\$3400.	\$3000.
Mid Summer Inspection:	40	\$3400.	\$3000.
<b>Environmental Controls</b>			
Controls Testing & Verification:	8	\$680.	\$600.
Priority On-Site Support:	8	\$680.	\$600.
Training:	4	\$340.	\$300.
<b>Totals:</b>	<b><u>180</u></b>	<b><u>\$15,300.</u></b>	<b><u>\$13,500.</u></b>

**Support Program Sell Price – Year 1: \$13,500. + Tax.**

Please contact me if you should have any questions or require further clarification on our Support Program solution. We thank you for this opportunity to serve you better.

Respectfully,

Curt Dickinson  
Controls Division  
Apollo Sheet Metal  
509-586-1104

By and Between

**Apollo Sheet Metal**  
1207 W. Columbia Drive  
Kennewick, Wash. 99336

**Benton- Franklin Juvenile Justice Center**  
5606 W. Canal  
Kennewick, Wash. 99336

Service shall be provided at the following location: 5606 W. Canal Kennewick , Washington.

Apollo Sheet Metal shall provide the services as outlined in this Support Service program document dated November 13, 2008.

**Duration:** This agreement shall remain in effect for an original term of 1 year beginning Jan 1, 2009 for the annual amount stated below. Sixty (60) days prior to current contract expiration date, representative of the Juvenile Justice Center and Apollo Sheet Metal shall reevaluated the facility needs and modify the support program services as required.

**Termination:** Either party may terminate this agreement with sixty (60) day written notice with current reconciliation of costs.

**Charges:** For services outlined herein, Benton-Franklin Juvenile Justice Center agrees to pay Apollo Sheet Metal the following amount payable upon presentation of quarterly invoices.

Year 1-January 1, 2009 thru December 31, 2009: \$13,500+ tax.

Prices quoted in this proposal do not include sales tax and are firm for 45 days from date of proposal.

Proposal Accepted by:

Proposal submitted by:

Sharon A. Paradis  
Print or type name  
Sharon A. Paradis 12/1/2008  
Signature Date  
Administrator  
Title

Curt Dickinson  
Controls Division  
Apollo Sheet Metal  
Curt Dickinson 11-13-08  
Signature Date



PREVAILING WAGE RATES  
FOR  
BENTON COUNTY

APPRENTICES

EFFECTIVE DATE  
8/31/2008

Stage of Progression & Hour Range	Prevailing Wage	Overtime Code	Holiday Code	Note Code
<b><u>ASBESTOS ABATEMENT WORKERS</u></b>				
<b><u>JOURNEY LEVEL</u></b>				
1 0000-1000 HOURS 60.00%	\$21.30	1M	5D	
2 1001-2000 HOURS 70.00%	\$23.56	1M	5D	
3 2001-3000 HOURS 80.00%	\$25.83	1M	5D	
4 3001-4000 HOURS 90.00%	\$28.09	1M	5D	
<b><u>BOILERMAKERS</u></b>				
<b><u>JOURNEY LEVEL</u></b>				
1 0000-1000 HOURS 70.00%	\$40.86	1C	5N	
2 1001-2000 HOURS 75.00%	\$42.44	1C	5N	
3 2001-3000 HOURS 80.00%	\$44.02	1C	5N	
4 3001-4000 HOURS 85.00%	\$45.60	1C	5N	
5 4001-5000 HOURS 90.00%	\$47.17	1C	5N	
6 5001-6000 HOURS 95.00%	\$48.75	1C	5N	
<b><u>BRICK AND MARBLE MASONS</u></b>				
<b><u>JOURNEY LEVEL</u></b>				
1 0000-0700 HOURS 40.00%	\$21.58	2M	5A	
2 0701-2100 HOURS 55.00%	\$25.57	2M	5A	
3 2101-2800 HOURS 60.00%	\$26.90	2M	5A	
4 2801-3500 HOURS 70.00%	\$29.55	2M	5A	
5 3501-4200 HOURS 80.00%	\$32.21	2M	5A	
6 4201-5000 HOURS 90.00%	\$34.86	2M	5A	
<b><u>CARPENTERS</u></b>				
<b><u>CARPENTER</u></b>				
1 0000-0500 HOURS 60.00%	\$21.34	1B	5A	8N
2 0501-1000 HOURS 65.00%	\$22.67	1B	5A	8N
3 1001-1700 HOURS 70.00%	\$24.01	1B	5A	8N
4 1701-2400 HOURS 75.00%	\$29.60	1B	5A	8N
5 2401-3100 HOURS 80.00%	\$30.93	1B	5A	8N
6 3101-3800 HOURS 85.00%	\$32.27	1B	5A	8N
7 3801-4500 HOURS 90.00%	\$33.61	1B	5A	8N
8 4501-5200 HOURS 95.00%	\$34.94	1B	5A	8N
<b><u>MILLWRIGHT AND MACHINE ERECTORS</u></b>				
1 1st Period 70.00%	\$25.41	1B	5A	8N
2 2nd Period 75.00%	\$31.10	1B	5A	8N
3 3rd Period 80.00%	\$32.53	1B	5A	8N
4 4th Period 85.00%	\$33.97	1B	5A	8N
<b><u>PILEDRIVER/CARPENTER</u></b>				
1 0000-0500 HOURS 60.00%	\$21.34	1B	5A	8N
2 0501-1000 HOURS 65.00%	\$22.67	1B	5A	8N
3 1001-1700 HOURS 70.00%	\$24.01	1B	5A	8N
4 1701-2400 HOURS 75.00%	\$29.60	1B	5A	8N
5 2401-3100 HOURS 80.00%	\$30.93	1B	5A	8N
6 3101-3800 HOURS 85.00%	\$32.27	1B	5A	8N

PREVAILING WAGE RATES  
FOR  
BENTON COUNTY

APPRENTICES

EFFECTIVE DATE  
8/31/2008

Stage of Progression & Hour Range	Prevailing Wage	Overtime Code	Holiday Code	Note Code
7 3801-4500 HOURS 90.00%	\$33.61	1B	5A	8N
8 4501-5200 HOURS 95.00%	\$34.94	1B	5A	8N
<u>PILED RIVER/DRIVING, PULLING, CUTTING, PLACING COLLARS, SETTING, WELDING, OR CREOSOTE TREATED MATERIAL ON ALL PILING</u>				
1 0000-0500 HOURS 60.00%	\$21.50	1B	5A	8N
2 0501-1000 HOURS 65.00%	\$22.85	1B	5A	8N
3 1001-1700 HOURS 70.00%	\$24.20	1B	5A	8N
4 1701-2400 HOURS 75.00%	\$29.80	1B	5A	8N
5 2401-3100 HOURS 80.00%	\$31.15	1B	5A	8N
6 3101-3800 HOURS 85.00%	\$32.50	1B	5A	8N
7 3801-4500 HOURS 90.00%	\$33.85	1B	5A	8N
8 4501-5200 HOURS 95.00%	\$35.20	1B	5A	8N
<u>CEMENT MASONS</u>				
<u>JOURNEY LEVEL</u>				
1 0000-1000 HOURS 60.00%	\$23.74	1N	5D	
2 1001-2000 HOURS 70.00%	\$26.26	1N	5D	
3 2001-3000 HOURS 80.00%	\$28.77	1N	5D	
4 3001-4000 HOURS 90.00%	\$31.29	1N	5D	
<u>RYWALL TAPERS</u>				
<u>JOURNEY LEVEL</u>				
1 0000-0750 HOURS 50.00%	\$16.05	1P	5A	
2 0751-1500 HOURS 55.00%	\$17.21	1P	5A	
3 1501-2250 HOURS 65.00%	\$21.56	1P	5A	
4 2251-3000 HOURS 75.00%	\$23.86	1P	5A	
5 3001-3750 HOURS 85.00%	\$28.20	1P	5A	
6 3751-4500 HOURS 90.00%	\$29.36	1P	5A	
<u>ELECTRICIANS - INSIDE</u>				
<u>JOURNEY LEVEL</u>				
APPRENTICES INDENTURED ON OR AFTER APRIL 12, 2005				
1 0000-1000 HOURS 45.00%	\$20.96	1E	5A	
2 1001-2000 HOURS 50.00%	\$22.65	1E	5A	
3 2001-3500 HOURS 55.00%	\$28.57	1E	5A	
4 3501-5000 HOURS 65.00%	\$32.72	1E	5A	
5 5001-6500 HOURS 75.00%	\$36.86	1E	5A	
6 6501-8000 HOURS 85.00%	\$41.01	1E	5A	
4 3501-5000 HOURS 70.00%	\$34.79	1E	5A	
5 5001-6500 HOURS 80.00%	\$38.93	1E	5A	
6 6501-8000 HOURS 90.00%	\$43.07	1E	5A	
<u>ELECTRICIANS - POWERLINE CONSTRUCTION</u>				
<u>JOURNEY LEVEL LINEPERSON</u>				
1 0000-1000 HOURS 60.00%	\$33.08	4A	5A	
2 1001-2000 HOURS 63.00%	\$34.30	4A	5A	
3 2001-3000 HOURS 67.00%	\$35.87	4A	5A	
4 3001-4000 HOURS 72.00%	\$37.97	4A	5A	
5 4001-5000 HOURS 78.00%	\$40.42	4A	5A	

PREVAILING WAGE RATES  
FOR  
BENTON COUNTY

APPRENTICES

EFFECTIVE DATE  
8/31/2008

Stage of Progression & Hour Range	Prevailing Wage	Overtime Code	Holiday Code	Note Code
6 5001-6000 HOURS 86.00%	\$43.68	4A	5A	
7 6001-7000 HOURS 90.00%	\$45.31	4A	5A	
<u>POLE SPRAYER</u>				
1 0000-1000 HOURS 85.70%	\$43.55	4A	5A	
2 1001-2000 HOURS 89.80%	\$45.23	4A	5A	
3 2001-3000 HOURS 92.80%	\$46.45	4A	5A	
<u>ELEVATOR CONSTRUCTORS</u>				
<u>MECHANIC</u>				
1 0000-1000 HOURS 50.00%	\$21.61	4A	6Q	
2 1001-1700 HOURS 55.00%	\$39.43	4A	6Q	
3 1701-3400 HOURS 65.00%	\$44.00	4A	6Q	
4 3401-5100 HOURS 70.00%	\$46.88	4A	6Q	
5 5101-6800 HOURS 80.00%	\$51.53	4A	6Q	
<u>ELECTRONIC TECHNICIANS</u>				
<u>ELECTRONIC TECHNICIANS JOURNEY LEVEL</u>				
1 0000-1000 HOURS 45.00%	\$8.07	1		
2 1001-2000 HOURS 50.00%	\$8.07	1		
3 2001-3500 HOURS 55.00%	\$8.07	1		
4 3501-5000 HOURS 65.00%	\$8.07	1		
5 5001-6500 HOURS 75.00%	\$8.25	1		
6 6501-8000 HOURS 85.00%	\$9.35	1		
<u>TELECOMMUNICATION TECHNICIANS</u>				
<u>TELECOMMUNICATION TECHNICIANS JOURNEY LEVEL</u>				
1 0000-1000 HOURS 45.00%	\$8.07	1		
2 1001-2000 HOURS 50.00%	\$8.70	1		
3 2001-3500 HOURS 55.00%	\$9.56	1		
4 3501-5000 HOURS 65.00%	\$11.30	1		
5 5001-6500 HOURS 75.00%	\$13.04	1		
6 6501-8000 HOURS 85.00%	\$14.78	1		
<u>GLAZIERS</u>				
<u>JOURNEY LEVEL</u>				
1 0000-1000 HOURS 55.00%	\$14.44	1K	5A	
2 1001-2000 HOURS 60.00%	\$15.33	1K	5A	
3 2001-3000 HOURS 65.00%	\$17.22	1K	5A	
4 3001-4000 HOURS 70.00%	\$18.11	1K	5A	
5 4001-5000 HOURS 80.00%	\$19.89	1K	5A	
6 5001-6000 HOURS 90.00%	\$21.66	1K	5A	
<u>HEAT &amp; FROST INSULATORS AND ASBESTOS WORKERS</u>				
<u>MECHANIC</u>				
1 0000-1600 HOURS 60.00%	\$30.26	1U	5K	
2 1601-3200 HOURS 70.00%	\$33.20	1U	5K	
3 3201-4800 HOURS 80.00%	\$36.13	1U	5K	
4 4801-6400 HOURS 90.00%	\$39.07	1U	5K	
<u>HOD CARRIERS &amp; MASON TENDERS</u>				

PREVAILING WAGE RATES  
FOR  
BENTON COUNTY

APPRENTICES

EFFECTIVE DATE  
8/31/2008

Stage of Progression & Hour Range	Prevailing Wage	Overtime Code	Holiday Code	Note Code
<u>JOURNEY LEVEL</u>				
1 0000-1000 HOURS 60.00%	\$22.16	1M	5D	
2 1001-2000 HOURS 70.00%	\$24.57	1M	5D	
3 2001-3000 HOURS 80.00%	\$26.98	1M	5D	
4 3001-4000 HOURS 90.00%	\$29.39	1M	5D	
<u>INSULATION APPLICATORS</u>				
<u>JOURNEY LEVEL</u>				
1 0000-1000 HOURS 50.00%	\$8.07	1		
2 1001-2000 HOURS 60.00%	\$9.52	1		
3 2001-3000 HOURS 75.00%	\$11.90	1		
4 3001-4000 HOURS 90.00%	\$14.28	1		
<u>IRONWORKERS</u>				
<u>JOURNEY LEVEL</u>				
1 0000-0750 HOURS 65.00%	\$26.11	1O	5A	
2 0751-1500 HOURS 70.00%	\$27.58	1O	5A	
3 1501-2250 HOURS 75.00%	\$38.51	1O	5A	
4 2251-3000 HOURS 80.00%	\$39.99	1O	5A	
5 3001-3750 HOURS 90.00%	\$42.94	1O	5A	
6 3751-4500 HOURS 90.00%	\$42.94	1O	5A	
7 4501-5250 HOURS 95.00%	\$44.41	1O	5A	
8 5251-6000 HOURS 95.00%	\$44.41	1O	5A	
<u>LABORERS</u>				
<u>GENERAL LABORER</u>				
1 0000-1000 HOURS 60.00%	\$21.30	1M	5D	
2 1001-2000 HOURS 70.00%	\$23.56	1M	5D	
3 2001-3000 HOURS 80.00%	\$25.83	1M	5D	
4 3001-4000 HOURS 90.00%	\$28.09	1M	5D	
<u>LABORERS - UNDERGROUND SEWER &amp; WATER</u>				
<u>GENERAL LABORER</u>				
1 0000-1000 HOURS 60.00%	\$21.30	1M	5D	
2 1001-2000 HOURS 70.00%	\$23.56	1M	5D	
3 2001-3000 HOURS 80.00%	\$25.83	1M	5D	
4 3001-4000 HOURS 90.00%	\$28.09	1M	5D	
<u>LATHERS</u>				
<u>JOURNEY LEVEL</u>				
1 0000-0500 HOURS 60.00%	\$20.94	1B	5A	8N
2 0501-1000 HOURS 65.00%	\$22.24	1B	5A	8N
3 1001-2000 HOURS 70.00%	\$23.54	1B	5A	8N
4 2001-3000 HOURS 75.00%	\$29.10	1B	5A	8N
5 3001-4000 HOURS 80.00%	\$30.40	1B	5A	8N
6 4001-5000 HOURS 85.00%	\$31.70	1B	5A	8N
7 5001-6000 HOURS 90.00%	\$33.00	1B	5A	8N
8 6001-8000 HOURS 95.00%	\$34.31	1B	5A	8N
<u>PAINTERS</u>				

PREVAILING WAGE RATES  
FOR  
BENTON COUNTY

APPRENTICES

EFFECTIVE DATE  
8/31/2008

Stage of Progression & Hour Range	Prevailing Wage	Overtime Code	Holiday Code	Note Code
<u>JOURNEY LEVEL</u>				
1 0000-0750 HOURS 55.00%	\$15.87	1W	5A	
2 0751-1500 HOURS 65.00%	\$19.41	1W	5A	
3 1501-2250 HOURS 75.00%	\$21.42	1W	5A	
4 2251-3000 HOURS 80.00%	\$23.95	1W	5A	
5 3001-3750 HOURS 85.00%	\$24.96	1W	5A	
6 3751-4500 HOURS 95.00%	\$26.97	1W	5A	
<u>PLASTERERS</u>				
<u>JOURNEY LEVEL</u>				
1 1st Period 60.00%	\$23.70	1N	5D	
2 2nd Period 70.00%	\$26.21	1N	5D	
3 3rd Period 80.00%	\$28.72	1N	5D	
4 4th Period 90.00%	\$31.23	1N	5D	
<u>PLUMBERS &amp; PIPEFITTERS</u>				
<u>JOURNEY LEVEL</u>				
1 0000-1000 HOURS 45.00%	\$38.14	1Q	5A	
2 1001-2000 HOURS 50.00%	\$39.92	1Q	5A	
3 2001-3000 HOURS 55.00%	\$41.71	1Q	5A	
4 3001-4000 HOURS 60.00%	\$43.48	1Q	5A	
5 4001-5000 HOURS 65.00%	\$45.27	1Q	5A	
6 5001-6000 HOURS 70.00%	\$47.05	1Q	5A	
7 6001-7000 HOURS 75.00%	\$48.84	1Q	5A	
8 7001-8000 HOURS 80.00%	\$60.61	1Q	5A	
9 8001-9000 HOURS 85.00%	\$52.40	1Q	5A	
10 9001-10000 HOURS 85.00%	\$52.40	1Q	5A	
<u>POWER EQUIPMENT OPERATORS</u>				
<u>BACKHOE &amp; HOE RAM (3/4 - 3 YD)</u>				
ALL EQUIPMENT				
1 0000-1000 HOURS 65.00%	\$26.24	1M	5D	8D
2 1001-2000 HOURS 70.00%	\$27.50	1M	5D	8D
3 2001-3000 HOURS 75.00%	\$28.77	1M	5D	8D
4 3001-4000 HOURS 80.00%	\$30.03	1M	5D	8D
5 4001-5000 HOURS 85.00%	\$31.30	1M	5D	8D
6 5001-6000 HOURS 90.00%	\$32.56	1M	5D	8D
<u>POWER EQUIPMENT OPERATORS- UNDERGROUND SEWER &amp; WATER</u>				
<u>(SEE POWER EQUIPMENT OPERATORS)</u>				
1 0000-1000 HOURS 65.00%	\$26.24			
2 1001-2000 HOURS 70.00%	\$27.50			
3 2001-3000 HOURS 75.00%	\$28.77			
4 3001-4000 HOURS 80.00%	\$30.03			
5 4001-5000 HOURS 85.00%	\$31.30			
6 5001-6000 HOURS 90.00%	\$32.56			
<u>POWER LINE CLEARANCE TREE TRIMMERS</u>				

PREVAILING WAGE RATES  
FOR  
BENTON COUNTY

APPRENTICES

EFFECTIVE DATE  
8/31/2008

Stage of Progression & Hour Range	Prevailing Wage	Overtime Code	Holiday Code	Note Code
<u>TREE TRIMMER</u>				
1 0000-1000 HOURS 75.00%	\$26.65	4A	5A	
2 1001-2000 HOURS 80.00%	\$27.88	4A	5A	
3 2001-3000 HOURS 85.00%	\$29.13	4A	5A	
4 3001-4000 HOURS 90.00%	\$30.37	4A	5A	
<u>REFRIGERATION &amp; AIR CONDITIONING MECHANICS</u>				
<u>MECHANIC</u>				
1 0000-1000 HOURS 40.00%	\$12.46	1		
2 1001-2000 HOURS 50.00%	\$15.58	1		
3 2001-3000 HOURS 55.00%	\$17.14	1		
4 3001-4000 HOURS 60.00%	\$18.70	1		
5 4001-5000 HOURS 65.00%	\$20.25	1		
6 5001-6000 HOURS 70.00%	\$21.81	1		
7 6001-7000 HOURS 80.00%	\$24.93	1		
8 7001-8000 HOURS 85.00%	\$26.49	1		
9 8001-9000 HOURS 85.00%	\$26.49	1		
10 9001-10000 HOURS 85.00%	\$26.49	1		
<u>RESIDENTIAL CARPENTERS</u>				
<u>JOURNEY LEVEL</u>				
1 1st Period 60.00%	\$10.90	1		
2 2nd Period 65.00%	\$11.80	1		
3 3rd Period 70.00%	\$12.71	1		
4 4th Period 75.00%	\$13.62	1		
5 5th Period 80.00%	\$14.53	1		
6 6th Period 85.00%	\$15.44	1		
7 7th Period 90.00%	\$16.34	1		
8 8th Period 95.00%	\$17.25	1		
<u>RESIDENTIAL ELECTRICIANS</u>				
<u>JOURNEY LEVEL</u>				
1 0000-1000 HOURS 50.00%	\$13.33	1		
2 1001-2000 HOURS 60.00%	\$16.00	1		
3 2001-3000 HOURS 75.00%	\$20.00	1		
4 3001-4000 HOURS 90.00%	\$23.99	1		
<u>RESIDENTIAL PLUMBERS &amp; PIPEFITTERS</u>				
<u>JOURNEY LEVEL</u>				
1 1st Period 50.00%	\$12.32	1		
2 2nd Period 55.00%	\$13.55	1		
3 3rd Period 60.00%	\$14.78	1		
4 4th Period 70.00%	\$17.25	1		
5 5th Period 80.00%	\$19.71	1		
6 6th Period 90.00%	\$22.18	1		
<u>RESIDENTIAL SHEET METAL WORKERS</u>				
<u>JOURNEY LEVEL (FIELD OR SHOP)</u>				
1 0000-0900 HOURS 50.00%	\$17.92	1B	5A	

PREVAILING WAGE RATES  
FOR  
BENTON COUNTY

APPRENTICES

EFFECTIVE DATE  
8/31/2008

Stage of Progression & Hour Range	Prevailing Wage	Overtime Code	Holiday Code	Note Code
2 0901-1800 HOURS 60.00%	\$20.08	1B	5A	
3 1801-3600 HOURS 70.00%	\$26.44	1B	5A	
4 3601-5400 HOURS 80.00%	\$28.66	1B	5A	
<b><u>ROOFERS</u></b>				
<b><u>JOURNEY LEVEL</u></b>				
1 0000-0700 HOURS 70.00%	\$24.54	2P	5I	
2 0701-1400 HOURS 75.00%	\$25.67	2P	5I	
3 1401-2100 HOURS 80.00%	\$26.80	2P	5I	
4 2101-2800 HOURS 85.00%	\$27.93	2P	5I	
5 2801-3500 HOURS 90.00%	\$29.05	2P	5I	
6 3501-4200 HOURS 95.00%	\$30.18	2P	5I	
<b><u>SHEET METAL WORKERS</u></b>				
<b><u>JOURNEY LEVEL (FIELD OR SHOP)</u></b>				
<b>ENVIRONMENTAL</b>				
2 0000-2000 HOURS 50.00%	\$25.58	1B	5A	
3 2001-4000 HOURS 60.00%	\$29.66	1B	5A	
4 4001-6000 HOURS 70.00%	\$33.78	1B	5A	
1 0000-1000 HOURS 40.00%	\$20.48	1B	5A	
2 1001-2000 HOURS 45.00%	\$22.54	1B	5A	
3 2001-4000 HOURS 50.00%	\$25.58	1B	5A	
4 4001-6000 HOURS 60.00%	\$29.66	1B	5A	
5 6001-8000 HOURS 70.00%	\$33.78	1B	5A	
6 8001-10000 HOURS 80.00%	\$38.04	1B	5A	
<b><u>SOFT FLOOR LAYERS</u></b>				
<b><u>JOURNEY LEVEL</u></b>				
1 0000-1000 HOURS 50.00%	\$13.47	1N	5A	
2 1001-2000 HOURS 55.00%	\$15.10	1N	5A	
3 2001-3000 HOURS 60.00%	\$15.99	1N	5A	
4 3001-4000 HOURS 70.00%	\$17.77	1N	5A	
5 4001-5000 HOURS 80.00%	\$19.55	1N	5A	
6 5001-6000 HOURS 90.00%	\$21.33	1N	5A	
<b><u>SPRINKLER FITTERS (FIRE PROTECTION)</u></b>				
<b><u>JOURNEY LEVEL</u></b>				
<b>CLASS 1</b>				
1 1st Period 50.00%	\$21.46	1R	5Q	
10 10th Period 90.00%	\$41.47	1R	5Q	
2 2nd Period 50.00%	\$21.46	1R	5Q	
3 3rd Period 55.00%	\$27.14	1R	5Q	
4 4th Period 60.00%	\$28.58	1R	5Q	
5 5th Period 65.00%	\$34.27	1R	5Q	
6 6th Period 70.00%	\$35.71	1R	5Q	
7 7th Period 75.00%	\$37.15	1R	5Q	
8 8th Period 80.00%	\$38.59	1R	5Q	
9 9th Period 85.00%	\$40.03	1R	5Q	
<b><u>ILE, MARBLE &amp; TERRAZZO FINISHERS</u></b>				

PREVAILING WAGE RATES  
FOR  
BENTON COUNTY

APPRENTICES

EFFECTIVE DATE  
8/31/2008

Stage of Progression & Hour Range	Prevailing Wage	Overtime Code	Holiday Code	Note Code
<u>FINISHER</u>				
1 0000-0700 HOURS 60.00%	\$19.04	2M	5A	
2 0701-2100 HOURS 70.00%	\$20.73	2M	5A	
3 2101-2800 HOURS 80.00%	\$22.42	2M	5A	
4 2801-3500 HOURS 90.00%	\$24.11	2M	5A	
<u>TERRAZZO WORKERS &amp; TILE SETTERS</u>				
<u>JOURNEY LEVEL</u>				
1 0000-0700 HOURS 50.00%	\$19.40	2M	5A	
2 0701-2100 HOURS 60.00%	\$21.49	2M	5A	
3 2101-2800 HOURS 70.00%	\$23.59	2M	5A	
4 2801-3500 HOURS 80.00%	\$25.69	2M	5A	
5 3501-4200 HOURS 90.00%	\$27.78	2M	5A	
6 4201-4900 HOURS 95.00%	\$28.83	2M	5A	
<u>TRAFFIC CONTROL STRIPERS</u>				
<u>JOURNEY LEVEL</u>				
1 0000-0500 HOURS 60.00%	\$16.60	1		
2 0501-1000 HOURS 60.00%	\$16.60	1		
3 1001-2333 HOURS 60.00%	\$16.60	1		
4 2334-4666 HOURS 73.00%	\$20.20	1		
5 4667-7000 HOURS 88.00%	\$24.35	1		
<u>TRUCK DRIVERS</u>				
<u>DUMP TRUCK</u>				
ALL TRUCKS				
1 0000-0700 HOURS 70.00%	\$28.12	1N	5D	8M
2 0701-1400 HOURS 80.00%	\$30.60	1N	5D	8M
3 1401-2100 HOURS 90.00%	\$33.08	1N	5D	8M

AGENDA ITEM: Consent	<b>TYPE OF ACTION NEEDED</b> Executive Contract <u>xx</u> Pass Resolution <u>xx</u> Pass Ordinance Pass Motion Other	CONSENT AGENDA    x
MEETING DATE: B/C 12-15-08 F/C 12-17-08		PUBLIC HEARING
SUBJECT: Contract Amendment between Tri-Cities Maintenance & Janitorial II to continue janitorial/custodial services.		1ST DISCUSSION
Prepared By: Kathryn M. Phillips		2ND DISCUSSION
Reviewed By: Sharon Paradis		OTHER

**BACKGROUND INFORMATION**

Since a reduction in funding in June of 2004, the Benton-Franklin Counties Juvenile Justice Center faced a significant challenge in retaining a qualified maintenance employee. In June of 2006 we were successful in identifying a contact cleaning service to clean our facility for the funds allocated for these duties. Tri-Cities Maintenance & Janitorial has been providing custodial service to our facility since June 2006. This Personal Services Contract Amendment that is presented would continue uninterrupted service for the period of January 1, 2009 through December 31, 2009.

**SUMMARY**

The Benton and Franklin County Boards of Commissioners signed the original Personal Service Contract in Benton and Franklin Counties Superior Court Juvenile Division for Tri-Cities Maintenance & Janitorial II on June 5, 2006 and June 12, 2006, respectively.

**RECOMMENDATION**

I recommend that the Board of Benton County Commissioners and the Board of Franklin County Commissioners sign the Personal Service Contract Amendment between Tri-Cities Maintenance & Janitorial II and Benton-Franklin Juvenile Justice Center for services for the period of January 1, 2009 through December 31, 2009.

**FISCAL IMPACT**

This is a fee for services rendered contract and has been approved in the 2009 Juvenile Budget.

**MOTION**

I move that the Chairman of the Board of Benton County Commissioners, and the Chairman of the Board Franklin County Commissioners be hereby authorized to sign the personal service contract amendment with the Tri-Cities Maintenance & Janitorial II.

JOINT RESOLUTION

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

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

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

IN THE MATTER OF THE REQUEST FOR SIGNATURE FROM THE CHAIRMAN OF THE BOARDS OF BENTON AND FRANKLIN COUNTY COMMISSIONERS ON THE PERSONAL SERVICES CONTRACT AMENDMENT BETWEEN THE JUVENILE JUSTICE CENTER AND TRI-CITIES MAINTENANCE & JANITORIAL II, THUS, AMENDING BENTON COUNTY RESOLUTION 07 088 AND FRANKLIN COUNTY RESOLUTION 2007 073, and

WHEREAS, Sharon Paradis, Administrator of the Juvenile Court, believes it is in the best interest of the Juvenile Justice Center that the amended personal services contract amendment between the Juvenile Court and Tri-Cities Maintenance & Janitorial II, be approved as presented; and

WHEREAS, approval then necessitates amending Benton County Resolution 07 088 and Franklin County Resolution 2007 073, NOW, THEREFORE,

BE IT RESOLVED, that the Chairman of the Board of Benton County Commissioners and the Chairman of the Board of Franklin County Commissioners be and they hereby are authorized to sign, on behalf of their respective county the amended personal service, contract amendment between the Juvenile Court and Tri-Cities Maintenance & Janitorial II.

DATED this 15<sup>th</sup> day of December 2008  
BENTON COUNTY BOARD OF COMMISSIONERS

DATED this 17<sup>th</sup> day of December 2008  
FRANKLIN COUNTY BOARD OF COMMISSIONERS

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

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

\_\_\_\_\_  
Member

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

\_\_\_\_\_  
Member

Constituting the Board of  
County Commissioners,  
Benton County, Washington

Attest:

\_\_\_\_\_  
Member

Constituting the Board of  
County Commissioners,  
Franklin County, Washington

Attest:

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

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

**JUDGES**

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

# BENTON-FRANKLIN COUNTIES JUVENILE JUSTICE CENTER



SHARON PARADIS, Administrator  
Juvenile Court Services

## SUPERIOR COURT OF THE STATE OF WASHINGTON

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

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

### PERSONAL SERVICE CONTRACT AMENDMENT BETWEEN BENTON AND FRANKLIN COUNTIES SUPERIOR COURTS JUVENILE DIVISION AND TRI-CITIES MAINTENANCE & JANITORIAL II

This Contract Amendment is made and entered into by and between Benton County, a political subdivision, with its principal offices at 620 Market Street, Prosser, WA 99350 and Franklin County, a political subdivision, with its principal offices at 1016 North Fourth Avenue, Pasco, WA 99301, by and for the Benton/Franklin Counties Juvenile Justice Center, a bi-county agency located at 5606 W. Canal Place STE 106, Kennewick, WA 99336 (hereinafter, collectively referred to as, "Counties"), and Tri-Cities Maintenance & Janitorial II, with its principal offices at 303 Casey STE A, Richland, WA 99352 (hereinafter, collectively referred to as "Contractor").

In consideration of the mutual benefits and covenants contained herein, the parties agree that their Contract, numbered as Benton County Resolution No. 07 088 and executed on February 5, 2007, and Franklin County Resolution No. 2007 073 and executed on February 12, 2007, section 1, Duration of Contract, and section 4, Compensation shall be amended as follows:

**1. DURATION OF CONTRACT**

The term of this Contract shall begin January 1, 2009, and shall expire on December 31, 2009, and will renew for a maximum of one (1) additional successive one-year period on January 1 of the following year unless the Counties notifies the Contractor no later than November 1 that the Counties is not renewing this Contract for the following year. The Contractor shall complete all work by the time(s) specified herein, or if no such time is otherwise specified, no later than the expiration date.

**4. COMPENSATION**

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

- A. The fee for services rendered shall be \$2,528.00 per month, pro-rated for each partial month.



P

# RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF A PROFESSIONAL SERVICE AGREEMENT WITH ANASTASIA M. MCKINLEY, ATTORNEY AT LAW FOR LEGAL REPRESENTATION OF INDIGENT INDIVIDUALS CHARGED WITH MISDEMEANORS IN BENTON COUNTY DISTRICT COURT

WHEREAS, the Board of County Commissioners and Anastasia M. McKinley, Attorney at Law, both desire to enter into an agreement effective on January 01, 2009 for legal representation of indigent individuals charged with misdemeanors in District Court;

NOW, THEREFORE,

BE IT RESOLVED that the Board of Benton County Commissioners hereby approves the attached Professional Service Agreement for Legal Representation Of Indigent Individuals Charged With Misdemeanors In District Court with Anastasia M. McKinley, Attorney at Law for the period January 01, 2009 through December 31, 2010.

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

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

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

\_\_\_\_\_  
Member

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

Attest: .....  
Clerk of the Board

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

**THIS AGREEMENT** is entered into by and between **Anastasia M. McKinley**, attorney at law, Washington State Bar Association #20789 ("Attorney") dba Stacey M. McKinley, P.O. Box 202, Richland, WA 99352; 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 **January 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 Stacey McKinley, Attorney at Law, P.O. Box 202, Richland, WA 99352. Attorney's current local office telephone and fax numbers are (509) 628-6800 and (509) 628-2307 respectively; and Attorney's current office/work e-mail address is McKinley.Stacey@gmail.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 2009, 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 31<sup>st</sup> of each calendar year. Additionally, during each calendar year during the term of this Agreement, in addition to participating in any specialized training-related activity specified in RCW 10.101.060(1)(a)(iii) or otherwise specifically required by other applicable law or court rule, Attorney shall attend at least one (1) public defense services-related training seminar sponsored and/or approved by the Washington 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 31<sup>st</sup> of each calendar year.

e. Attorney represents and warrants that, throughout the entire term of this Agreement, Attorney's private law practice caseload; Attorney's schedule; and Attorney's office resources, equipment, and support staff will allow Attorney to competently undertake and effectively perform all services required under this Agreement. Attorney represents and warrants that Attorney's private law practice and schedule will not interfere with Attorney's ability to timely and efficiently perform such services including, without limitation, Attorney's ability to prepare for and attend regularly scheduled trials and dockets or Attorney's ability to schedule and conduct face-to-face meetings with the persons Attorney is

appointed to represent under this Agreement for purposes of discussing, preparing, and pursuing the most viable defense(s) and/or resolution available and keeping such persons reasonably apprised as to the status of their case.

f. Pursuant to RCW 10.101.050, no later than by the 15<sup>th</sup> 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.

4. **OTHER INDIGENT DEFENSE AGREEMENTS.** The County has entered into separate and independent professional services agreements with other licensed 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.

6. **CONTINUED REPRESENTATION.**

a. Attorney has a duty to timely and fully complete all cases appointed to Attorney under this Agreement. In that regard, Attorney shall continue to provide representation for those persons whom Attorney was appointed to represent and whose case was not concluded prior to the effective date of termination of this Agreement for up to ninety (90) days following the effective date of termination. Attorney's obligation to continue post-termination representation shall not in any way entitle Attorney to receive any additional compensation beyond the compensation amount(s) specified in this Agreement. By way of example, in the event that Attorney is required by this paragraph to continue representing a person charged with a crime or other matter after the termination date of this Agreement, Attorney shall not be entitled to receive any compensation as a result of such continued, post-termination representation, except for any court-authorized cost reimbursements specified in paragraph 13.b below.

b. Notwithstanding anything in this paragraph 6 or elsewhere in this Agreement to the contrary, Attorney's post-termination duty and obligation to continue representing persons whom Attorney was appointed to represent in Benton County District Court for up to ninety (90) days shall be limited to a sixty (60) day period following the termination date for the following types of matters:

- (i) Any civil-based matter;
- (ii) Any matter involving a represented person for whom a warrant has been issued; and
- (iii) Any case where personal service is not effected within thirty (30) days of the date of the notice of termination.

c. Attorney will be appointed to no new cases under this Agreement during the thirty (30) day period prior to its termination date specified in paragraph 1 above if Attorney provides written notice to the County at least sixty (60) days prior to such termination date of Attorney's desire and intent to not pursue contracting with the County again to provide indigent defense services in Benton County District Court after such termination date. Attorney may belatedly provide such written notice at any time within said sixty (60) day time period, but the appointment of new cases to Attorney will not stop until thirty (30) days after the date such notice is received by the County.

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 sixty (360) total case equivalents per calendar year** (proratable for any partial calendar year) for calendar year 2009 with downward adjustment in 2010 as indicated in paragraph 12.b 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.

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-half (1/2) case equivalent.
- 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.

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

9. **CLIENT ELIGIBILITY.** The 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.

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. MONTHLY COMPENSATION.

a. 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.

b. 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 **340 total case equivalents** during the calendar year.

c. In addition to the stated monthly compensation, during calendar year 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.

d. 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, 2009, 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, 2009, 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.

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.**

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

(i) Said policy shall include coverage as an additional insured for any other person(s) or attorney(s) acting for or on behalf of Attorney in the performance of this Agreement; shall provide professional liability insurance coverage for any acts, errors and/or omissions by Attorney (and/or such additional insureds) during the course of performing legal services under this Agreement; shall require that the insurance company

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

(ii) Attorney shall continuously maintain the professional liability insurance coverage required by this paragraph 15.a. throughout the entire term of this Agreement, throughout any other longer time period during which Attorney is obligated to continue performing services and duties hereunder, and for a period of no less than thirty-six (36) consecutive months after Attorney has fully completed all services and duties required hereunder.

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

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

(ii) The insurance policies required by this paragraph 15.b. shall require that the insurance company provide the County with no less than thirty (30) days prior written notice in the event the policy is cancelled or materially altered; shall comply with all applicable state of Washington insurance requirements; and shall be issued by an insurance company rated A- or better by A.M. Best authorized to conduct business and issue insurance in the state of Washington.

(iii) Attorney shall continuously maintain the insurance coverage required by this paragraph 15.b throughout the entire term of this Agreement and throughout any other longer time period during which Attorney is obligated to continue performing services and duties hereunder.

c. Contemporaneously with Attorney's execution of this Agreement, Attorney shall provide the County and its then-designated Risk Manager(s) with copies or certificates of the insurance policies and coverage (including any endorsements) required under this paragraph 15, and Attorney shall annually provide the Risk Manager(s) with the same type of documented proof and confirmation that such insurance policies and coverage continue to exist no later than thirty (30) days after the policies' annual renewal date(s).

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 request 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.d. 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 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).

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

Loretta Smith Kelty  
Indigent Defense Coordinator  
Benton-Franklin Office of Public Defense  
7122 West Okanogan Place, Building A  
Kennewick, WA 99336

After December 15, 008, Eric Hsu will replace Loretta Smith Kelty as IDC

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: \_\_\_\_\_

BENTON COUNTY

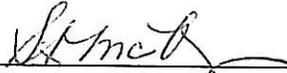
\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Commissioner

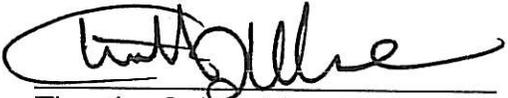
\_\_\_\_\_  
Commissioner

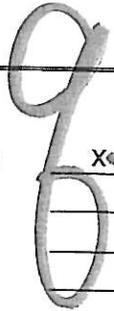
DATE: 12/10/08

ATTORNEY

  
\_\_\_\_\_  
Anastasia M. McKinley

Approved as to Form:

  
\_\_\_\_\_  
Timothy G. Klashke  
Attorney as law



<u>AGENDA ITEM</u>	<u>TYPE OF ACTION NEEDED</u>	<u>Facilities</u>
Meeting Date: <u>12/15/2008</u>	Execute Contract _____	Consent Agenda _____
Subject: _____	Pass Resolution _____	Public Hearing _____
Prepared by: <u>L. Small</u>	Pass Ordinance _____	1st Discussion _____
Reviewed by: <u>LSK</u>	Pass Motion _____	2nd Discussion _____
		Other Business _____

**BACKGROUND INFORMATION**

The Board awarded a contract to CWH Architects for "as needed" A&E services with an expiration date of July 31, 2008.

The Parks department was working with CWH Architects on a restroom addition to the concessions building at Horn Rapids Park; however, the project did not get off the ground until after CWH's contract expired.

CWH Architects did provide services for said project, therefore, a contract is needed to complete the A&E services and to get authorization for all payments to CWH Architects for said services on this specific project.

The attached is an A&E service agreement for the restroom addition at Horn Rapids Park for a contract amount not to exceed \$6,301.00.

**RECOMMENDATION**

Approve the attached resolution and authorize the Chairman of the Board to sign the attached service contract with CWH Architects for a contract amount not to exceed \$6,301.

# RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WA

IN THE MATTER OF CONTRACTING WITH CWH ARCHITECTS PS TO PROVIDE ARCHITECTURAL AND ENGINEERING SERVICES

WHEREAS, Benton County Facilities Manager recommends entering into a service agreement with CWH Architects PS to provide Architectural and Engineering Services for the construction of the restroom addition to the concession building at Horn Rapids Park; and

WHEREAS, all services provided under said Contract shall not exceed \$6,301.00 unless agreed to by amendment by both parties; **NOW, THEREFORE**

**BE IT RESOLVED**, by the Board of Benton County Commissioners, Benton County, Washington, the Board hereby authorizes the Chairman to sign the Professional Services Contract with CWH Architects PS for a Contract amount not to exceed \$6,301.00 for services performed on the restrooms at Horn Rapids Park.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2008

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

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

Constituting the Board of County  
Commissioners of Benton County,  
Washington

Attest: \_\_\_\_\_  
Clerk of the board

**PROFESSIONAL SERVICES CONTRACT  
TERMS AND CONDITIONS**

THIS CONTRACT is made and entered into by and between **BENTON COUNTY**, a political subdivision of the State of Washington, with its principal offices at 620 Market Street, Prosser, WA 99350 (hereinafter "COUNTY"), and **CWH ARCHITECTS PS** with its principal offices at 6320 W. Clearwater Avenue, Suite C, Kennewick, WA 99336 (hereinafter "CONTRACTOR").

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

1. **CONTRACT DOCUMENTS**

This Contract includes the following additional document.

- a. Exhibit "A"

2. **DURATION OF CONTRACT**

The term of this Contract shall begin immediately upon execution by both parties, and shall expire approval by the Board of Commissioners via resolution.

3. **SERVICES PROVIDED**

The COUNTY requires and the CONTRACTOR agrees to perform the following services:

- a. Provide Architectural and Engineering Services for the Horn Rapids Restroom Addition to Concession Building.
  - i. The CONTRACTOR agrees to provide its own labor and materials as included costs in the fees payable consistent with Exhibit A and Article 5 below. Unless otherwise provided for in a work order, no materials, labor, or facilities will be furnished by the COUNTY.
  - ii. The CONTRACTOR shall be responsible for producing all contract documents and correspondence related to construction or improvement projects for which CONTRACTOR is responsible. CONTRACTOR shall oversee, manage and direct all facets of projects in a manner

consistent with the standards expected of similarly situated architects on construction or improvement projects within the State of Washington. CONTRACTOR shall generate all necessary documentation and contracts associated with construction or improvement projects for which CONTRACTOR is responsible subject, when appropriate, to review by COUNTY's legal counsel, and shall amend or modify such documents and contracts at the direction of COUNTY's legal counsel or COUNTY's representative. These documents and contracts include, but are not limited to: request for proposals/request for competitive bids to include posting the legal advertisements; Notices to Proceed; AIA standard form contracts; Change Orders; approval of all Progress Payments; Letter of Substantial Completion; The CONTRACTOR shall forward all original documents to the COUNTY at COUNTY's request, and shall retain all records related to any given project for the appropriate Washington State Retention Schedule as promulgated by the Washington State Archivist.

iii. The CONTRACTOR shall perform the work consistent with the industry standards in the A&E Profession. Specifically, in instances where project contracts call for the architect to exercise independent discretion in making a decision or resolving a dispute, CONTRACTOR shall do "so in an independent fashion.

iv. The CONTRACTOR shall complete each task assigned in a timely manner according to the schedule agreed to by the parties.

b. Information and Reports: The CONTRACTOR'S representative shall meet with the COUNTY'S representative as specified in each work order, and if not stated, no less than one time per week while a work order is in progress. The CONTRACTOR shall prepare and present status reports and other required information as specified in each work order, or as otherwise requested in writing by the COUNTY.

4. CONTRACT REPRESENTATIVES

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

- a. For CONTRACTOR: **Wayne Hunsucker, AIA**  
6320 W. Clearwater Ave, Suite C  
Kennewick, WA 99336  
Phone: 509-736-0581  
Fax: 509-735-1420
  
- b. For COUNTY: **Roy Rogers, Facilities Manager**  
7122 W. Okanogan Place, Bldg A  
Kennewick, WA 99336  
Phone: 509-736-3082  
Fax: 509-736-2708  
Cell: 509-539-5334

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

5. COMPENSATION

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

The maximum total amount payable by the COUNTY to the CONTRACTOR under this Contract shall not exceed \$6,301.00 unless agreed to by amendment by both parties. The Contractor shall be paid the amount stated in each work order and approved resolution consistent with the rates established in Exhibit A.

6. INVOICING

- a. Each invoice shall contain a detailed description of the work performed.
  
- b. Partial Payments: The CONTRACTOR may submit invoices to the COUNTY not more than twice per month during the progress of the work for partial payment of the work completed to date of invoice, less amounts paid on previous invoices. Each invoice shall cover all work

performed for the COUNTY during the billing period. The CONTRACTOR shall not be paid for services rendered under this contract until they have been performed to the COUNTY'S satisfaction. The County shall authorize payment when the work billed is accepted by the County; and will remit payment for the accepted work within thirty (30) days after receiving the invoice.

- c. In the event the CONTRACTOR has failed to substantially perform any obligation specified on a work order and such failure has not been cured within then (10) days following notice from the COUNTY, the COUNTY may, in its sole discretion and upon written notice to the CONTRACTOR, withhold without penalty any and all amounts due and payable to the CONTRACTOR, until such failure to perform is cured or otherwise adjudicated. "Substantial" for the purposes of this Contract means fulfilling the terms of a work order with variances only for technical or minor omissions or defects.
- d. Unless otherwise provided, the CONTRACTOR will not be paid for any work performed prior to the effective date of this Contract or after its termination.

7. AMENDMENTS AND CHANGES IN WORK

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

8. HOLD HARMLESS AND INDEMNIFICATION

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

CONTRACTOR'S employees, agents or subcontractors.

9. INSURANCE

- a. **Professional Legal Liability:** The CONTRACTOR shall maintain Professional Liability or Errors and Omissions coverage appropriate to the CONTRACTOR'S profession which shall be written subject to limits of not less than one million dollars (\$1,000,000) per occurrence, with a general aggregate of no less than two million dollars (\$2,000,000).

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

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

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

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

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

- d. **Other Insurance Provisions:**

- (1) The CONTRACTOR'S liability insurance provisions shall be primary with respect to any insurance or self-insurance programs covering the COUNTY, its elected and appointed officers, officials, employees and agents.
- (2) The COUNTY, its officers, officials, employees and agents shall be named as additional insureds

with respect to performance of services on all required insurance policies, except for any required automobile liability policy.

- (3) The CONTRACTOR'S liability insurance policies shall contain no special limitations on the scope of protection afforded to the COUNTY as an additional insured.
- (4) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the COUNTY, its officers, officials, employees or agents.
- (5) The CONTRACTOR'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- (6) The CONTRACTOR shall include all subcontractors, if any, as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.
- (7) The insurance limits mandated for any insurance coverage required by this Contract are not intended to be an indication of exposure nor are they limitations on indemnification.
- (8) The CONTRACTOR shall maintain all required policies in force from the time services commence until services are completed. Certificates, policies, and endorsements expiring before completion of services shall be promptly replaced. The commercial general liability policy required by this agreement shall afford coverage for all losses sustained within the coverage period regardless of when the claim or lawsuit is filed ie the policy may not be a "claims made" policy.

**e. Verification of Coverage and Acceptability of Insurers:** All insurance required under this CONTRACT shall

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

- (1) The CONTRACTOR shall furnish the COUNTY with properly executed and unaltered accord form certificates of insurance or a signed policy endorsement which shall clearly evidence all required insurance within ten (10) days after the effective date of this Contract. The certificates will, at a minimum, list limits of liability and coverage. The certificates will provide that the underlying insurance contract will not be canceled or allowed to expire, except on thirty (30) days prior written notice to the COUNTY. Any certificate or endorsement limiting or negating the insurer's obligation to notify the COUNTY of cancellation or changes shall be altered so as not to negate the intent of this provision.
- (2) The CONTRACTOR shall furnish the COUNTY with evidence that the additional insured provision required above has been met. Acceptable forms of evidence are the endorsement pages of the policy showing the COUNTY as an additional insured.
- (3) Certificates of insurance shall show the certificate holder as "Benton County" The address of the certificate holder shall be shown as the current address of the COUNTY'S Contract Representative.
- (4) The CONTRACTOR shall request the Washington State Department of Labor and Industries, Workers Compensation Representative, to send written verification to Benton County that CONTRACTOR is currently paying workers compensation.
- (5) All written notices under this Section 9 and

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cc: Auditor; R. Ozuna; Facilities; CWH Architects

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notice of cancellation or change of required insurance coverage's shall be mailed to the COUNTY at the following address:

**Lisa Small, Contract Administration**  
PO Box 190  
Prosser, WA 99350  
Phone: 509-786-5600  
Fax: 509-786-5625

- (6) The CONTRACTOR or its broker shall provide a copy of any and all insurance policies specified in this Contract upon request of the Benton County Contracts Administrator listed above.
- (7) If CONTRACTOR is self-insured for worker's compensation coverage, evidence of its status as a self-insured entity shall be provided to COUNTY. If requested by COUNTY, CONTRACTOR must describe its financial condition and the self-insured funding mechanism.

**10. TERMINATION**

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

be made in accordance with Article 5, Compensation.

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

**11. ASSIGNMENT, DELEGATION AND SUBCONTRACTING**

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

**12. NON-WAIVER OF RIGHTS**

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

**13. INDEPENDENT CONTRACTOR**

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

**14. COMPLIANCE WITH LAWS**

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cc: Auditor; R. Ozuna; Facilities; CWH Architects

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

**15. INSPECTION OF BOOKS AND RECORDS**

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

**16. NONDISCRIMINATION**

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

**17. OWNERSHIP OF MATERIALS/WORKS PRODUCED**

a. All reports, drawings, plans, specifications, all forms of electronic media, and data and documents produced in the performance of the work under this Contract shall be "works for hire" as defined by the U.S. Copyright Act of 1976 and shall be owned by the County. Ownership includes the right to copyright, patent, register, and the ability to transfer these rights. The COUNTY agrees that if it uses any materials prepared by the CONTRACTOR for purposes other than those intended by this Contract, it does so at its sole risk and it agrees to hold the CONTRACTOR harmless therefrom to the extent such use is not agreed to in writing by the CONTRACTOR.

b. All design work performed by the CONTRACTOR shall be done on AutoCAD (release 12 or higher), or other systems mutually agreed upon; an electronic copy of which shall be submitted to the COUNTY upon request and/or at the end of the job. Should a construction project result from the work of the CONTRACTOR, the record drawings from the CONTRACTOR shall be transposed onto the

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cc: Auditor; R. Ozuna; Facilities; CWH Architects

electronic design drawings and submitted to the COUNTY.

c. An electronic copy of all word processing documents shall be submitted to the COUNTY upon request or at the end of the job using the word processing program and version specified by the COUNTY.

**18. PATENT/COPYRIGHT INFRINGEMENT**

The CONTRACTOR shall hold harmless, indemnify and defend the COUNTY, its officers, officials, employees and agents, from and against any claims, causes of action, or demands brought against the COUNTY, where such action is based on the claim that information supplied by the CONTRACTOR or subcontractor infringes any patent or copyright. The COUNTY will promptly notify the CONTRACTOR any such claims in writing.

**19. DISPUTES**

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

**20. CONFIDENTIALITY**

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

**21. CHOICE OF LAW, JURISDICTION AND VENUE**

a. This Contract has been and shall be construed as

having been made and delivered within the State of Washington, and it is agreed by each party hereto that this contract shall be governed by the laws of the State of Washington, both as to its interpretation and performance.

- b. Any action at law, suit in equity, judicial proceeding arising out of this Contract shall be instituted and maintained only in any of the courts of competent jurisdiction in Benton County, Washington.

## **22. SUCCESSORS AND ASSIGNS**

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

## **23. SEVERABILITY**

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

## **22. ENTIRE AGREEMENT**

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

24. NOTICES

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

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

**BENTON COUNTY COMMISSIONERS**

**CWH ARCHITECTS PS**

\_\_\_\_\_  
**Claude Oliver, Chairman**

\_\_\_\_\_  
**C. Wayne Hunsucker, AIA**

Dated: \_\_\_\_\_  
;

Approved as to Form:

\_\_\_\_\_  
Deputy Prosecuting Attorney

# RESOLUTION



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

**IN THE MATTER OF APPROVING PAYMENT FOR ARCHITECTURAL SERVICES FOR THE TWO RIVERS PARK BOAT DOCK**

**WHEREAS**, per Resolution 06-036 the Board of Benton County Commissioners approved the amendment number two (2) extending the Architectural and Engineering Services Agreement to expire July 30, 2007; and

**WHEREAS**, per resolution 07-172 dated March 19, 2007 the Board of Benton County Commissioners awarded architectural services for the Two Rivers Park Boat Dock to CWH Architects for an amount not to exceed \$22,000 under said contract; and

**WHEREAS**, per resolution 07-583 dated August 20, 2007 the Board of Commissioners renewed the Architectural and Engineering Service Agreement with CWH Architects with an expiration date of July 31, 2008; and

**WHEREAS**, per resolution 08-449 dated April 7, 2008 the Board of Benton County Commissioners awarded the construction of the boat dock repair services to Siefken & Sons Construction, Inc per resolution 08-449 dated April 7, 2008; and

**WHEREAS**, the service contract with CWH, Architects expired prior to Siefken & Sons finishing the construction at the boat docks and Benton County received a architectural and engineering bill for the final paperwork for said project; **NOW, THEREFORE**

**BE IT RESOLVED**, the Board of Benton County Commissioners, Benton County, Washington hereby authorizes payment to CWH Architects in the amount of \$1,544.00 for the closeout paperwork of the Two Rivers Park Boat Dock Project.

Dated this ..... day of ....., 20....

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

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

\_\_\_\_\_  
Member

Attest: .....  
Clerk of the Board

Constituting the Board of County  
Commissioners of Benton County,  
Washington

<u>AGENDA ITEM</u>	<u>ACTION NEEDED</u>	<u>DISCUSSION TYPE</u>
<b>Meeting Date: 15 Dec 2008</b> <b>Subject: Badger Master Plan</b> <b>Memo Date: 10 Dec 2008</b> <b>Prepared By: AJF</b> <b>Reviewed By: LSK</b>	<b>Execute Contract</b> <b>Pass Resolution X</b> <b>Pass Ordinance</b> <b>Pass Motion</b> <b>Other</b>	<b>Consent Agenda X</b> <b>Public Hearing</b> <b>1st Discussion</b> <b>2nd Discussion</b> <b>Other</b>

### SUMMARY

The Park Board seeks authorization to move ahead with a professionally facilitated master planning process for Badger Mountain Centennial Preserve. The attached resolution would authorize staff to initiate our standard procurement process to recommend a consultant for hire.

### BACKGROUND

The Park Board and staff initiated a master planning process in early 2006 but this effort resulted in a false start. It was realized that while it is not a huge project, it was too big to be handled in-house, and that a consultant would be needed to do the heavy lifting and bring the document together. The project was suspended until further notice.

In the time since, Badger Mountain has quickly become one of the most popular recreational sites in the Tri-Cities, and by far the most popular park in the Benton County system. Management has been ad hoc however, with case-by-case approvals of projects such as the two existing trails. The Park Board has stated that it wants a comprehensive master plan in place before addressing any more projects or major policy issues. For example, the stewardship group – the Friends of Badger Mountain – have proposed a third trail on the mountain, but the Park Board has put this request on hold pending completion of a master plan.

The master plan will allow all of the user groups and the public to weigh-in on the development of project ideas and policy that will be vetted in a public process, approved by the Park Board, and known by everyone in a published document. Examples of major topics of the master will address include but are not limited to:

- Allowable and prohibited uses,
- Trail types, placement, and construction standards,
- Other amenities (benches, kiosks, access points, signage, etc)
- Wildfire policy and response,
- Weed control and restoration,
- Interaction with and roles of stewardship groups and volunteers.

The Park Board considers this project a very high priority.

An advisory committee has already been established, including representatives from user groups and the public. Staff is ready to proceed with an RFP and could be back to Commissioners with a recommendation by the end of January.

### FISCAL IMPACT

The entire project will be stipulated not to exceed \$25,000. All funding would come from the Park Development Fund, and all funds are available at this time.

# RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF CREATING A MASTER PLAN FOR THE  
BADGER MOUNTAIN CENTENNIAL PRESERVE

**WHEREAS**, the *Parks Comprehensive Plan*, adopted in 2008, calls for the development of master plans for each of the County's parks over time; and,

**WHEREAS**, the Badger Mountain Centennial Preserve has become the County's most popular park in terms of daily usage; and,

**WHEREAS**, there are several issues that remain unresolved that the master plan would address, such as trail siting and development, wildfire policy, and access locations and amenities; and,

**WHEREAS**, the Benton County Park Board, after receiving input from the public, the user groups, and volunteers, has said that creation of a "Badger Mountain Centennial Preserve Master Plan" is a top priority for parks; **NOW THEREFORE**,

**BE IT RESOLVED**, by the Board of County Commissioners that staff should work with the Benton County Park Board to commence a professionally facilitated master planning process for the Badger Mountain Centennial Preserve. The public master planning process will result in a plan for use and development of the park, and will be paid-for entirely out of the Park Development Fund, in an amount not to exceed \$25,000.00. A qualified consultant will be recommended to the Board of County Commissioners for hire after going through a standard procurement process.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

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

Constituting the Board of Commissioners  
of Benton County, Washington.

Attest.....  
Clerk of the Board

orig: BOCC file  
cc: Auditor, Prosecutor (Ozuna), Parks, Park Board, Friends of Badger Mountain

Prepared by: A.J. Fyal

# RESOLUTION



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

**IN THE MATTER OF REAPPOINTMENT OF ALLISON M. TAYLOR TO THE BENTON COUNTY CIVIL SERVICE COMMISSION**

**WHEREAS**, Allison M. Taylor's term expires on the Benton County Civil Service Commission on December 31, 2008; and

**WHEREAS**, Allison M. Taylor has expressed her willingness to be reappointed to the Benton County Civil Service Commission for an additional six-year term; and

**WHEREAS**, the Board of Benton Civil Service Commissioners recommend the reappointment of Allison M. Taylor; **NOW THEREFORE**,

**BE IT RESOLVED** that Allison M. Taylor, residing at 15585 W. Byron Rd, Prosser, Washington, 99350, is hereby reappointed to the Benton County Civil Service Commission, said term to expire on December 31, 2014.

Dated this ..... day of ....., 20 .....

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

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

\_\_\_\_\_  
Member

Attest: .....  
Clerk of the Board

Constituting the Board of County  
Commissioners of Benton County,  
Washington

cc: Susan Ratliff, Benton County Civil Service Secretary/Chief Examiner

Ratliff

# FIRST SERVICE AGREEMENT AMENDMENT

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THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of December, 2008 by and between **BENTON COUNTY, WASHINGTON** hereinafter called "COUNTY" and **THE AMERICAN RED CROSS, A FEDERALLY CHARTERED INSTRUMENTALITY OF THE UNITED STATES OF AMERICA WITH ITS CORPORATE AND POLITICAL BODY IN THE DISTRICT OF COLUMBIA, AND DOING BUSINESS IN BENTON COUNTY AS THE BENTON-FRANKLIN CHAPTER OF THE AMERICAN RED CROSS, Kennewick, WA 99336** a firm licensed to do business in the State of Washington, hereinafter called "CONTRACTOR".

The parties entered into a Service Agreement dated June 1, 2007 (the "AGREEMENT") to provide certification and training for First Aid and CPR for Benton County employees.

The parties agree that all provisions of their amended agreement remain in effect except for the following amendments:

3. SERVICES PROVIDED the existing section is amended by adding the following paragraph:
  - f. Provide certification and training for Automatic External Defibrillators.
5. COMPENSATION the existing paragraph shall be amended with the following:
  - a. The maximum total amount payable by the COUNTY to the CONTRACTOR under this Contract shall not exceed \$35.00 per employee for Adult CPR and First Aid Refresher Class, \$42.00 per employee for Workplace Standard First Aid and CPR Initial Class, and \$53.00 per employee for Workplace Standard First Aid and CPR/AED Initial Class.

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

**BENTON COUNTY**

**THE AMERICAN RED CROSS**

\_\_\_\_\_  
Benton County Commissioner

\_\_\_\_\_  
Megan Phillips

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Approved as to Form:

\_\_\_\_\_  
Deputy Prosecuting Attorney

Date: \_\_\_\_\_



# RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AUTHORIZING THE CHAIRMAN OF THE BOARD OF BENTON COUNTY COMMISSIONERS TO SIGN THE PUBLIC SAFETY TESTING SUBSCRIBER AGREEMENT FOR TESTING SERVICES TO BENTON COUNTY.

BE IT RESOLVED that the Chairman of the Board of Benton County Commissioners is hereby authorized to sign the attached subscriber agreement for testing services for Benton County.

Dated this ..... day of ....., 20 .....

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

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

\_\_\_\_\_  
Member

Constituting the Board of County  
Commissioners of Benton County,  
Washington

Attest: .....  
Clerk of the Board

cc: Personnel, Civil Service, Auditor



## SUBSCRIBER AGREEMENT

WHEREAS, Public Safety Testing, Inc. is a skilled provider of testing services to police, fire, and other public safety agencies, and

WHEREAS, the subscriber public agency, either directly or through a civil service commission, tests, evaluates, ranks and hires law enforcement and/or firefighters and/or other public safety positions in the performance of its public safety functions, and

WHEREAS, the subscribing public entity desires to join in a Subscriber Agreement, NOW, THEREFORE,

Public Safety Testing, Inc. (the "Contractor") and Benton County, a municipal corporation of the state of Washington (hereinafter "Subscriber") do enter into this Subscriber Agreement under the terms and conditions set forth herein.

1. Description of Basic Services. This Agreement begins January 1, 2009. The Contractor will provide the following services to the Subscriber:
  - 1.1 Advertising and recruiting assistance, application processing, and administration of written examinations and/or physical ability tests for (check all that apply):
    - Entry-level Deputy Sheriff
    - Corrections Officer
  - 1.2 Report to the Subscriber the scores of applicants, with all information necessary for the Subscriber to place passing applicants upon its eligibility list, and rank them relative to other candidates on appropriately constituted continuous testing eligibility lists. Contractor will report "raw" test scores to the Subscriber – no preference points will be factored into applicant scores and it is the Subscriber's responsibility to factor veteran's preference points in accordance with applicable federal and state laws.
  - 1.3 Written examination scores will be reported to the Subscriber as a percentage score (based on 100%) and physical ability test scores will be reported as "Pass" or "Fail".

The passing score for written examinations is set by the test developer at 70%. If Subscriber requires a different passing score, please check the box below and note the required passing score:

Subscriber's passing score is: \_\_\_\_\_%

- 1.4 Appear in any administrative or civil service proceeding in order to testify to and provide any and all necessary information to document the validity of the testing process, to participate in the defense of any testing process conducted by the Contractor pursuant to this Agreement and to otherwise provide any information necessary to the Subscriber to evaluate challenges to or appeals from the testing process. The Contractor shall appear without additional charge. The Subscriber shall pay the reasonable cost of travel and appearance for any expert witness deemed necessary by the Subscriber to validate the testing process, including but not limited to, representatives of any company which holds the copyright to any testing material and whose testimony or appearance is deemed necessary to validate the process.

Provided, however, Contractor shall not be required to appear at its cost nor to defend in any administrative or court proceeding arising from our out of a claim or challenge relating to Subscriber's use of other testing process(es) or out of Subscriber's attempt to establish multiple or blended eligibility lists for the same position based in whole or in part on other testing process(es). "Other testing process(es)" means any test or testing process other than those provided by the Contractor under this Agreement.

- 1.5 Term & Fees. The Subscriber elects (select all that apply):

- A one-year subscription at the following rates:
  - Deputy Sheriff testing @ \$3,500
  - Corrections Officer testing @ \$5,000
- A three-year subscription at the following rates
  - Deputy Sheriff testing @ \$3,000 annually
  - Corrections Officer testing @ \$4,500 annually

- 1.6 Payment. Subscriber shall pay an amount equal to twenty-five percent (25%) of the annual fee set forth above quarterly for services rendered in the previous quarter and for basic services including but not limited to, software relating to online application, advertising formats, previously advertised scheduling of test dates, model civil service rules, testing systems, as well as ongoing testing and recruitment, and any and all other work developed at the cost of the Contractor prior to or contemporaneous with the execution of this Agreement. Payment shall be made within 45 days of receipt of invoice.

2. Additional Services. In addition to the services provided under this Agreement, the Subscriber may, at its sole discretion, elect to purchase additional services from the Contractor. Such services shall be requested by and contracted for pursuant to separate written agreement.

3. Acknowledgements of Subscriber. The Subscriber understands and acknowledges, and specifically consents to the following stipulations and provisions:
  - 3.1 Because applicable civil service law prohibits having multiple eligibility lists for the same class of hires, this Agreement is an exclusive agreement for these services.
  - 3.2 The written and physical agility scores of any applicant shall be valid for 15 months from the date of certification by the Contractor or 12 months from the date of placement upon the Subscriber's eligibility list, whichever first occurs, following the report of the Contractor, and rules compatible with continuous testing shall be adopted. The Subscriber shall review its applicable hiring processes, advertisements, personnel policies and civil service rules (as applicable) to ensure compliance with the provisions of this Agreement.
  - 3.3 An applicant may, in addition to the Subscriber's eligibility list, elect to have his/her score reported to and subject to placement on the eligibility list of any other Subscriber. Nothing in this Agreement shall be interpreted to prohibit the use of an applicants' score for consideration in or processing through any other subscriber's hiring and/or civil service eligibility process. The Subscriber agrees that if an applicant is hired by another agency through this service, the applicant's name shall be removed from Subscriber's eligibility list.
  - 3.4 The Subscriber specifically understands and acknowledges that the Contractor may charge a reasonable application fee from any and all applicants.
  - 3.5 The Subscriber is encouraged to and may also conduct advertising as it deems necessary to support/enhance recruiting efforts. The Subscriber shall link PublicSafetyTesting.com on its agency's website, if it so maintains one.
  - 3.6 Public Safety Testing views recruiting as a partnership with the Subscriber. The Subscriber agrees to actively participate in recruiting efforts for positions within the Subscriber agency.
  - 3.7 The Subscriber agrees to keep the Contractor up-to-date as to the agency's hiring status, minimum and special requirements, all information appearing on the agency's PST website profile and the names of any candidates hired through these services.
4. Testing Standard and Warranty of Fitness for Use. All testing services conducted under this Agreement shall be undertaken in accordance with the provisions of the Washington State Civil Service Statutes, Chapter 41.08 and 41.12 RCW, or the terms of other applicable statute as the Subscriber shall notify the Contractor that the Subscriber must meet. Tests shall also be conducted in accordance with the general standards established by the Subscriber; the Subscriber shall be responsible for notifying the Contractor of any unusual or special process or limitation. The test utilized, the proctoring of the test and any and all other services attendant to or necessary to provide a valid passing or failing score to the Subscriber shall be conducted in accordance with generally accepted practice in the human resources, Civil Service and Public Safety Testing community. The Subscriber may

monitor the actions and operations of the Contractor at any time. The Contractor shall maintain complete written records of its procedures and the Subscriber may, on reasonable request, review such records during regular business hours. Any and all written materials, and the standards for physical fitness testing utilized, shall comply with all applicable copyrights and laws. The Contractor expressly agrees and warrants that all tests and written materials utilized have been acquired by the Contractor in accordance with the appropriate copyright agreements and laws and that it has a valid right to use and administer any written materials and tests in accordance with such agreements and laws. If Subscriber uses or authorizes the use of other testing process(es) this warranty shall be null and void.

5. Independent Contractor. The Contractor is an independent contractor. Any and all agents, employees or contractors of the Contractor, shall have such relation only with the Contractor. Nothing herein shall be interpreted to create an employment, agency or contractual relationship between the Subscriber and any employee, agent or sub-contractor of the Contractor.
6. Indemnity and Hold Harmless. The parties agree and hold harmless each other, their officers, agents and employees. Such indemnification includes defending, adjusting, compensation for costs, damages and attorneys fees in accordance with the following provisions:
  - 6.1 The Contractor shall indemnify and hold harmless the Subscriber, its employees and agents from any and all costs, claims or liability arising from:
    - 6.1.1 Violation of any copyright agreement or statute relating to the use and administration of the tests or other written materials herein provided for;
    - 6.1.2 Any cost, claim or liability arising from or out of the claims of any employee, agent or sub-contractor of the Contractor to the end that the Contractor shall be an independent Contractor and the Subscriber shall be relieved of any and all claims arising from or relating to such employment relationships or contracts between the Contractor and third parties;
    - 6.1.3 The alleged negligent or tortious act of the Contractor in the provision of services under this Agreement.
    - 6.1.4 This indemnity shall not apply to any administrative or court proceeding arising from or out of any process in which the Subscriber has utilized or authorized other testing process(es).
    - 6.1.5 Workers Compensation: Contractor shall comply with all State of Washington workers compensation statutes and regulations. Prior to the start of work under this Contract, workers compensation coverage shall be provided for all employees of Contractor and employees of any subcontractor or sub-subcontractor. Coverage shall include bodily injury (including death) by accident or disease, which arises out of or in

connection with the performance of this Contract. Except as prohibited by law, Contractor waives all rights of subrogation against the Subscriber for recovery of damages to the extent they are covered by workers compensation, employers liability, commercial liability or commercial umbrella liability insurance.

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

In any and all claims against the COUNTY, its officers, officials, employees and agents by any employee of the CONTRACTOR, subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under this Section shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the CONTRACTOR or subcontractor under Workers Compensation acts, disability benefit acts, or other employee benefit acts, it being clearly agreed and understood by the parties hereto that the CONTRACTOR expressly waives any immunity the CONTRACTOR might have had under such laws including but not limited to Title 51 of the Revised Code of Washington. By executing this Contract, the CONTRACTOR acknowledges that the foregoing waiver has been mutually negotiated by the parties and that the provisions of this Section shall be incorporated, as relevant, into any contract the CONTRACTOR makes with any subcontractor or agent performing work hereunder. CONTRACTORS obligations under this Section 8 shall survive termination and expiration of this Contract.

6.2 The Subscriber shall indemnify and hold harmless the Contractor, its officers, agents and employees from any and all cost, claim or liability arising from or out of the alleged negligent or tortious act of the Subscriber in the provision of services hereunder.

7. Termination. This Agreement terminates on the last day of December, 201 | \_\_\_\_\_. The Contractor and the Subscriber may withdraw from this Agreement at any time for any reason with 90 days written notice, provided, however, that the provisions of paragraphs 1.4, 4, 5 and 6 shall remain in full force and effect following the termination of this Agreement with respect to, and continuing for so long as any applicant tested by the Contractor remains on the eligibility list of the Subscriber.

7.1 If the Subscriber elects to terminate this Agreement prior to the termination date specified in section 7, Subscriber shall pay the Contractor an early termination fee. The purpose of this early termination fee is to cover the direct and indirect costs of refunding and or rescheduling applicants that had signed up to test for the Subscriber. The early termination fee is one-third (33%) of the annual subscriber fee as noted in Section 1.5 of this Agreement. The early termination fee is in addition to any other fees agreed to by this Agreement.

8. Entire Agreement, Amendment. This is the entire Agreement between the parties. Any prior agreement, written or oral, shall be deemed merged with its provisions. This Agreement shall not be amended, except in writing, at the express written consent of the parties hereto.

This Agreement is dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

BENTON COUNTY, WA

PUBLIC SAFETY TESTING, INC.

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

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

Print: \_\_\_\_\_

Print: Jon F. Walters, Jr.

Its: \_\_\_\_\_

Its: President

Contact: \_\_\_\_\_

Jon Walters

Address: \_\_\_\_\_

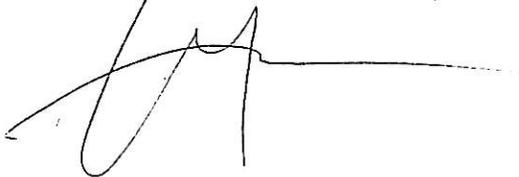
20818 – 44<sup>th</sup> Ave. W., Suite 160

City/State: \_\_\_\_\_

Lynnwood, WA 98036

Telephone: \_\_\_\_\_

425.776.9615

APPROVED AS TO FORM;  


BENTON COUNTY  
SALARY REQUEST STATEMENT

COPY W

REASON FOR REQUEST Salary Placement POSITION Legal Sec. Superv.

Chevy I Isaksen

NAME OF AFFECTED EMPLOYEE/CANDIDATE

EFFECTIVE DATE 12/1/08

OFFICE/DEPARTMENT PA

SALARY FROM \$2936/mo TO \$3900/mo  
Baraining 9c Non Barq. 13D

Ordy Gubb  
ELECTED OFFICIAL/DEPARTMENT DIRECTOR  
DATE 1/1/2008

APPROVED _____
DENIED _____
CHAIRMAN _____
MEMBER _____
MEMBER _____
DATE _____

BACKGROUND INFORMATION (Attach documentation; organizational chart, application, contract language, budgetary approval, appraisal, Resolution, etc.)

*see attached :*

BASIS:

FISCAL IMPACT AND REVIEW

FIRST YEAR IMPACT: ϕ

*see attached*

AGGREGATE IMPACT: ϕ

Attach the Employment Opportunity, if applicable, and Classification Description document(s). State how this individual meets or exceeds the criteria listed in these documents.

*see attached*

List names of other employees who hold the same classification. Include grade, step, and salary.

White--Personnel  
BCPERS 0014/95

Yellow--Payroll

Pink--Commissioners

Goldenrod--Department

BENTON COUNTY  
SALARY REQUEST STATEMENT

COPY

REASON FOR REQUEST Salary

POSITION Legal Sec. VI

Placement for Pam Braidshaw

NAME OF AFFECTED EMPLOYEE/CANDIDATE

EFFECTIVE DATE 12/08

OFFICE/DEPARTMENT PA

SALARY FROM 2969 TO 3145

APPROVED _____
DENIED _____
CHAIRMAN _____
MEMBER _____
MEMBER _____
DATE _____

Andy Miller  
ELECTED OFFICIAL/DEPARTMENT DIRECTOR  
DATE 12/09/08

BACKGROUND INFORMATION (Attach documentation; organizational chart, application, contract language, budgetary approval, appraisal, Resolution, etc.)

BASIS:

FISCAL IMPACT AND REVIEW

FIRST YEAR IMPACT: \_\_\_\_\_

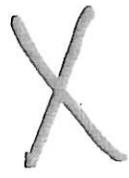
AGGREGATE IMPACT: \_\_\_\_\_

Attach the Employment Opportunity, if applicable, and Classification Description document(s). State how this individual meets or exceeds the criteria listed in these documents.

List names of other employees who hold the same classification. Include grade, step, and salary.

White--Personnel BCPERS 0014/95	Yellow--Payroll	Pink--Commissioners	Goldenrod--Department
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Return to:  
Benton County Public Works  
P.O. Box 1001  
Prosser, WA 99350



## RESOLUTION

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

IN THE MATTER OF COUNTY ROADS RE: THE VACATION AND  
ABANDONMENT OF A PORTION OF IMPROVED ROAD RIGHT OF WAY  
ADJACENT TO FINLEY ROAD (AKA CR-397 INTERTIE), LOCATED IN SECTION  
34 TOWNSHIP 8 NORTH, RANGE 30 EAST, W.M.

WHEREAS, a public hearing was held August 4, 2008 to consider the request of the  
Benton County Engineer to vacate the following described right of way:

A parcel of land in Section 34, Township 8 North, Range 30 East, W.M. more  
particularly described as follows:

Beginning at the Southeast corner of said Section 34; thence North 00°17'48" East  
along the East line of said Section a distance of 2,654.17 feet to the East ¼ corner of  
said Section; thence South 51° 44' 25" West, 837.03 feet to the True Point of  
Beginning, said point being on the Southerly right of way line of Finley Road (AKA  
I-82 Intertie); thence North 52° 19' 45" East along said Southerly right of way line a  
distance of 115.10 feet; thence North 37° 24' 27" West, 46.79 feet; thence  
South 30° 14' 45" West, 124.45 feet to the Point of Beginning.

Said parcel containing 0.062 acres more or less.

WHEREAS, the County Engineer reported that the original right of way was granted to  
Benton County by several Quit Claim Deeds: 369640, 369641, 569362, 569363, 569365,  
569652, 572437, 572489; and that additional right of way was recently purchased for Phase  
2 of the Intertie project under Quit Claim Deed 2005-001472, and

WHEREAS, during construction of the Phase 3 Intertie project, it was discovered that View Orchards, Inc. had irrigation lines within a portion of the new right of way, and

WHEREAS, Benton County Public Works staff met with View Orchards, Inc. landowners and proposed a land trade, consisting of vacating a portion of Finley Road right of way in exchange for the deeding of another portion of land for Finley Road; and

WHEREAS, there were no requests for easements by any of the utilities,

WHEREAS, and there being no further testimony forthcoming, the Board closed the hearing and finds as follows:

1. Notice of public hearing was given as provided by statute;
2. The subject right of way is adjacent to an improved and maintained right of way;
3. The right of way is not the sole legal access to any separate parcel;
4. View Orchards, Inc. is to submit a Quit Claim Deed for the right of way to be deeded to Benton County;
5. The public will be benefited by the vacation and abandonment of the subject right of way and it does not appear to be in the public interest to preserve the subject right of way for the County Road System of the future; and

WHEREAS, a Quit Claim deed was submitted to View Orchards, Inc. for signature on August 5, 2008 and resent on November 13, 2008 with a request to return the deed by December 1, 2008; and

WHEREAS, View Orchards, Inc. after being informed that not returning the deed would result in the vacation request being denied, did not return the signed deed, NOW, THEREFORE

BE IT RESOLVED that the request of the County Engineer to vacate and abandon the following described right of way be denied:

A parcel of land in Section 34, Township 8 North, Range 30 East, W.M. more particularly described as follows:

Beginning at the Southeast corner of said Section 34; thence North 00°17'48" East along the East line of said section a distance of 2,654.17 feet to the East ¼ corner of said section; thence South 51° 44' 25" West, 837.03 feet to the True Point of Beginning, said point being on the Southerly right of way line of Finley Road (AKA I-82 Intertie); thence North 52° 19' 45" East along said Southerly right of way line a

distance of 115.10 feet; thence North 37° 24' 27" West, 46.79 feet; thence South 30° 14' 45" West, 124.45 feet to the Point of Beginning.

Said Parcel containing 0.062 acres more or less.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Chairman

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

\_\_\_\_\_  
Member

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

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

;

RBD:LSS

Y

# RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF PURCHASING INMATE CLOTHING AND BEDDING SUPPLIES FROM BOB BARKER COMPANY INC. FOR THE BENTON COUNTY JAIL FACILITY, KENNEWICK, WASHINGTON

WHEREAS, per resolution 08-131 and 08-132 authorizes purchase of materials, equipment and supplies valued between \$5,000 and \$25,000 without advertisement and formal sealed bidding if the county secures written quotes from different vendors on the vendor list; and

WHEREAS, the Benton County Sheriff's Office gets solicited by different companies such as Security First Mattresses, Durby Mattresses, Pacific Link, and Robinson Textiles Inc. to purchase inmate clothing and bedding supplies on a regular basis; and

WHEREAS, the Benton County Sheriff's Office compares each solicitation prices with our current vendor, Bob Barker Company Inc; and

WHEREAS, Bob Barker Company Inc. still has the best pricing for inmate clothing (uniform tops, uniform bottoms, and sandals) and bedding supplies (towels, blankets, and sheets), which includes free shipping; and

WHEREAS, the Benton County Sheriff's Office recommends purchasing inmate clothing and bedding supplies from Bob Barker Company Inc; **NOW THEREFORE,**

**BE IT RESOLVED,** by the Board of Benton County Commissioners, Benton County, Washington, the Board concurs with the Benton County Sheriff's Office recommendation and hereby authorizes the Sheriff's Office to proceed with the purchase of inmate clothing and bedding supplies from Bob Barker Company Inc. in the amount not to exceed \$15,000.00 including WSST.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

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

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

Constituting the Board of Commissioners  
of Benton County, Washington.

Attest.....  
Clerk of the Board

Orig: Sheriff's Office  
cc: Auditor, Al Thompson, R. Ozuna, Barker

Prepared by: K Mercer

# RESOLUTION

2

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF AWARDING THE PERSONAL SERVICE CONTRACT TO DR. TAE-IM MOON FOR PSYCHOLOGICAL EVALUATIONS FOR THE BENTON COUNTY SHERIFF'S OFFICE

**WHEREAS**, per resolution 04-534, "...that for all contracts for non-public works services the county need not advertise or follow a formal competitive bidding procedure, but shall instead evaluate and utilize the procedures it deems best under the individual circumstances in order to obtain services of the highest quality at the lowest cost."; and

**WHEREAS**, the Benton County Sheriff's Office has a personal service contract with Psychological Consultants for psychological evaluations per Resolution 07-682; and

**WHEREAS**, the Benton County Sheriff's Office would like to have a backup for psychological evaluations; and

**WHEREAS**, Dr. Tae-Im Moon has provided pre-hire psychological clearance evaluations and fitness for duty evaluation to the Benton County Sheriff's Office in the past; and

**WHEREAS**, Benton County Sheriff's Office recommends that the Board of Benton County Commissioners enter into an agreement with Dr. Tae-Im Moon for psychological evaluations; **NOW THEREFORE**,

**BE IT RESOLVED**, by the Board of Benton County Commissioners, Benton County, Washington, the Board concurs with the Benton County Sheriff's Office recommendation and hereby awards the personal service contract to Dr. Tae-Im Moon in the amount of \$15,000.00 including WSST; and

**BE IT FURTHER RESOLVED** that the Board authorizes the Chairman to sign the attached Personal Service Contract.

**BE IT FURTHER RESOLVED** the term of the attached contract commences when executed by both parties and expires on December 31, 2010.

Dated this \_\_\_\_\_ of \_\_\_\_\_, 2008

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

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

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

Orig: File - Sheriff's Office  
cc: Auditor, R. Ozuna, Dr. Moon

Prepared by K. Mercer

PERSONAL SERVICES CONTRACT  
TERMS AND CONDITIONS

THIS CONTRACT is made and entered into by and between BENTON COUNTY, a political subdivision, with its principal offices at 620 Market Street, Prosser, WA 99350 (hereinafter "COUNTY"), and Dr. Tae-Im Moon, a sole proprietor with its principal offices at 750 George Washington Way, Richland, WA 99352 (hereinafter "CONTRACTOR").

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

1. CONTRACT DOCUMENTS

This Contract consists of the following documents

a. [Terms and Conditions;]

2. DURATION OF CONTRACT

The term of this Contract shall begin immediately upon execution by the parties, and shall expire on December 31, 2010.

3. SERVICES PROVIDED

The CONTRACTOR shall perform the following services:

a. The Contractor shall: (1) conduct pre-hire psychological clearance evaluations and Fitness for Duty evaluations, as needed and requested by County; (2) on occasion, when there is a need for more in-depth testing of a pre-hire clearance applicant, arrangements and specific details of the services requested will be discussed and provided on a case by case basis; (3) should the need for individual therapy, emergency crisis consultation or limited critical debriefing with existing staff arise, those services can also be requested and provided, as appropriate. These services shall be provided by Dr. Tae-Im Moon or a bona fide employee who is professionally qualified as a Licensed Mental Health

Professional. Reports for pre-hire psychological clearance evaluations shall be provided to COUNTY within three weeks of the evaluation.

- b. The CONTRACTOR agrees to provide the described services in their entirety, including supplying any necessary equipment. None of the services may be subcontracted unless agreed to by COUNTY in writing, in advance of the provision of such services.
- c. The CONTRACTOR shall perform the work specified in the Contract according to standard industry practice.
- d. The CONTRACTOR shall complete its work in a timely manner and in accordance with the schedule agreed by the parties.
- e. This contract shall not be construed to require COUNTY, or any of its elected officials, departments or employees to exclusively utilize the services of CONTRACTOR for any of the types of work described or contained in paragraph "a" of this section.

4. CONTRACT REPRESENTATIVES

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

- a. For CONTRACTOR: Dr. Tae-Im Moon  
750 George Washington Way  
Richland, WA 99352  
(509) 946-7012
- b. For COUNTY: Julie Thompson  
Administrative Assistant  
Benton County Sheriff's Office  
7122 W Okanogan Pl Bldg A  
Kennewick, WA 99336  
(509) 735-6555 ext. 3273

5. COMPENSATION

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

- a. \$700 per pre-hire psychological clearance evaluation. Other services will be charged according to the then current rate of Contractor. The hourly rate for Contractor is \$125. Periodic rate increases will occur not more frequently than annually. The County will be given written notice of any future rate changes a minimum of one month in advance of the effective date of the change.
- d. No payment shall be made for any work performed by the CONTRACTOR, except for work identified and set forth in this Contract unless agreed to by both the CONTRACTOR and COUNTY.
- e. The Contractor shall submit a billing to the County with each Psychological Clearance Report for each applicant evaluated.
- f. The CONTRACTOR shall not be paid for services rendered under this Contract unless and until they have been performed to the satisfaction of the COUNTY.
- g. In the event the CONTRACTOR has failed to perform any substantial obligation to be performed by the CONTRACTOR under this Contract and such failure has not been cured within ten (10) days following notice from the COUNTY, the COUNTY may, in its sole discretion, upon written notice to the CONTRACTOR, withhold any and all monies due and payable to the CONTRACTOR, without penalty, until such failure to perform is cured or otherwise adjudicated. "Substantial" for the purposes of this Contract means faithfully fulfilling the terms of this Contract with variances only for technical or minor omissions or defects.
- h. Unless otherwise provided for in this Contract or any exhibits or attachments hereto, the CONTRACTOR will not be paid for any billings or invoices presented for

services rendered prior to the execution of this Contract or after its termination.

6. AMENDMENTS AND CHANGES IN WORK

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

7. HOLD HARMLESS AND INDEMNIFICATION

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

indemnification obligation under this Section shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the CONTRACTOR or subcontractor under Workers Compensation acts, disability benefit acts, or other employee benefit acts, it being clearly agreed and understood by the parties hereto that the CONTRACTOR expressly waives any immunity the CONTRACTOR might have had under such laws. By executing this Contract, the CONTRACTOR acknowledges that the foregoing waiver has been mutually negotiated by the parties and that the provisions of this Section shall be incorporated, as relevant, into any contract the CONTRACTOR makes with any subcontractor or agent performing work hereunder.

- c. The CONTRACTOR'S obligations hereunder shall include, but are not limited to, investigating, adjusting and defending all claims alleging loss from action, error or omission, or breach of any common law, statutory or other delegated duty by the CONTRACTOR, the CONTRACTOR'S employees, agents or subcontractors.

8. INSURANCE

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

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

the Contract. CONTRACTOR is required to buy professional liability insurance for a period of 36 months after completion of this Contract, which can be satisfied by the continuous purchase of the above referenced insurance or an extended reporting period policy.

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

If CONTRACTOR does not intend to utilize the services of employees during any portion of providing the services under this agreement, then it must notify COUNTY of this fact in writing prior to commencing any services under this contract.

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

The CONTRACTOR will provide commercial general liability coverage which does not exclude any activity to be performed in fulfillment of this Contract. Specialized forms specific to the industry of the CONTRACTOR will be deemed equivalent; provided,

coverage will be no more restrictive than would be provided under a standard commercial general liability policy and will include contractual liability coverage.

d. **Other Insurance Provisions:**

(1) The CONTRACTOR'S liability insurance provisions shall be primary with respect to any insurance or self-insurance programs covering the COUNTY, its elected and appointed officers, officials, employees and agents.

(2) The COUNTY, its officers, officials, employees and agents shall be named as additional insureds with respect to performance of services on all required insurance policies, except for any required automobile liability policy.

(3) The CONTRACTOR'S liability insurance policies shall contain no special limitations on the scope of protection afforded to the COUNTY as an additional insured.

- (4) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the COUNTY, its officers, officials, employees or agents.
- (5) The CONTRACTOR'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- (6) The CONTRACTOR shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.
- (7) The insurance limits mandated for any insurance

coverage required by this Contract are not intended to be an indication of exposure nor are they limitations on indemnification.

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

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

(1) The CONTRACTOR shall furnish the COUNTY with properly executed and unaltered accord form certificates of insurance or a signed policy endorsement which shall clearly evidence all required insurance within ten (10) days after the effective date of this Contract. The certificates will, at a minimum, list limits of liability and coverage. The certificates will provide that the underlying insurance contract will not be canceled or allowed to expire, except on thirty (30) days prior written notice to the COUNTY. Any certificate or endorsement limiting or negating the insurer's obligation to notify the COUNTY of cancellation or changes shall be altered so as not to negate the intent of this provision.

- (2) The CONTRACTOR shall furnish the COUNTY with evidence that the additional insured provision required above has been met. Acceptable forms of evidence are the endorsement pages of the policy showing the COUNTY as an additional insured.
- (3) Certificates of insurance shall show the certificate holder as "Benton County" and include "c/o" the COUNTY'S Contract Representative. The address of the certificate holder shall be shown as the current address of the COUNTY'S Contract Representative.
- (4) Unless CONTRACTOR does not intend to utilize the services of any employees in fulfilling the terms of this contract, and CONTRACTOR has so notified counties in writing, CONTRACTOR shall request the Washington State Department of Labor and Industries, Workers Compensation Representative, to send written verification to Benton County that CONTRACTOR is currently paying workers compensation.
- (5) All written notices under this Section 8 and notice of cancellation or change of required insurance coverages shall be mailed to the COUNTY at the following address:  
  
**Risk Manager  
Benton County Prosecuting Attorney's Office  
7320 W. Quinault Avenue  
Kennewick, WA 99336**
- (6) The CONTRACTOR or its broker shall provide a copy of any and all insurance policies specified in this Contract upon request of the Benton County Risk Manager.
- (7) If CONTRACTOR is self-insured for worker's compensation coverage, evidence of its status as a self-insured entity shall be provided to COUNTY. If requested by COUNTY, CONTRACTOR must describe its financial condition and the self-

insured funding mechanism.

9. TERMINATION

- a. The COUNTY may terminate this Contract in whole or in part whenever the COUNTY determines, in its sole discretion, that such termination is in the best interests of the COUNTY. The COUNTY may terminate this Contract upon giving sixty (60) days written notice by certified mail to the CONTRACTOR. In that event, the COUNTY shall pay the CONTRACTOR for all cost incurred by the CONTRACTOR in performing the Contract up to the date of such notice. Payment shall be made in accordance with the Compensation Section of this Contract.
- b. In the event that funding for this project is withdrawn, reduced or limited in any way after the effective date of this Contract, the COUNTY may summarily terminate this Contract notwithstanding any other termination provision in this Contract. Termination under this paragraph shall be effective upon the date specified in the written notice of termination sent by COUNTY to the CONTRACTOR. After the effective date, no charges incurred under this Contract shall be allowed.
- c. If the CONTRACTOR breaches any of its obligations hereunder, and fails to cure the breach within ten (10) days of written notice to do so by the COUNTY, the COUNTY may terminate this Contract, in which case the COUNTY shall pay the CONTRACTOR only for the costs of services accepted by the COUNTY, in accordance with the Compensation Section of this Contract. Upon such termination, the COUNTY, at its discretion, may obtain performance of the work elsewhere, and the CONTRACTOR shall bear all costs and expenses incurred by the COUNTY in completing the work and all damage sustained by the COUNTY by reason of the CONTRACTOR'S breach.

10. ASSIGNMENT, DELEGATION AND SUBCONTRACTING

- a. The CONTRACTOR shall perform the terms of the Contract using only its bona fide employees or agents, and the

obligations and duties of the CONTRACTOR under this Contract shall not be assigned, delegated, or subcontracted to any other person or firm without the prior express written consent of the COUNTY.

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

11. NON-WAIVER OF RIGHTS

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

12. INDEPENDENT CONTRACTOR

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

b. The CONTRACTOR acknowledges that the entire compensation for this Contract is set forth in Section [Five] of this Contract, and the CONTRACTOR is not entitled to any COUNTY benefits, including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental, or other insurance benefits, fringe benefits, or any other rights or privileges afforded to COUNTY employees.

c. The CONTRACTOR shall have and maintain complete responsibility and control over all of its subcontractors, employees, agents, and representatives. No subcontractor, employee, agent, or representative of the CONTRACTOR shall be or deem

to be or act or purport to act as an employee, agent, or representative of the COUNTY.

d. CONTRACTOR shall pay for all taxes, fees, licenses, or payments required by federal, state or local law which are now or may be enacted during the term of this Contract.

e. The CONTRACTOR agrees to immediately remove any of its employees or agents from their assignment to perform services under this Contract upon receipt of a written request to do so from the COUNTY'S contract representative or designee.

**13. COMPLIANCE WITH LAWS**

The CONTRACTOR shall comply with all applicable federal, state and local laws, rules and regulations in performing this Contract. This includes, but is not limited to, implementation of privacy and record-keeping practices in compliance with the Health Insurance Portability and Accountability Act (HIPAA).

**14. INSPECTION OF BOOKS AND RECORDS**

The COUNTY may, at reasonable times, inspect the books and records of the CONTRACTOR relating to the performance of this Contract. The CONTRACTOR shall keep all records required by this Contract for six (6) years after termination of this Contract for audit purposes. If County learns of circumstances which may lead to an increased likelihood that County may be named as a defendant in a lawsuit where any books or records created or maintained pursuant to this agreement may be of evidentiary value and County so advises CONTRACTOR in writing, CONTRACTOR shall suspend any document purging or destruction schedule related to the books or records identified by County, and shall take all reasonable steps to protect and keep such books and records safe from destruction, unauthorized access, or alteration.

**15. NONDISCRIMINATION**

The CONTRACTOR, its assignees, delegates, or subcontractors shall not discriminate against any person in the performance of any of its obligations hereunder on the basis of race, color,

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

**16. OWNERSHIP OF MATERIALS/WORKS PRODUCED**

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

**17. PATENT/COPYRIGHT INFRINGEMENT**

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

**18. DISPUTES**

Differences between the CONTRACTOR and the COUNTY, arising under and by virtue of this Contract, shall be brought to the attention of the COUNTY at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Any dispute relating to the quality or acceptability of performance and/or compensation due the CONTRACTOR shall be decided by the COUNTY'S Contract

Representative or designee. All rulings, orders, instructions and decisions of the COUNTY'S Contract Representative shall be final and conclusive, subject to CONTRACTOR'S right to seek judicial relief.

**19. CONFIDENTIALITY**

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

**20. CHOICE OF LAW, JURISDICTION AND VENUE**

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

**21. SUCCESSORS AND ASSIGNS**

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

**22. SEVERABILITY**

- a. If a court of competent jurisdiction holds any part, term or provision of this Contract to be illegal, or invalid in whole or in part, the validity of the remaining provisions shall not be affected, and the

parties' rights and obligations shall be construed and enforced as if the Contract did not contain the particular provision held to be invalid.

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

**23. ENTIRE AGREEMENT**

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

**24. NOTICES**

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

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

DATED: \_\_\_\_\_

DATED: November 4, 2008.

**BENTON COUNTY BOARD OF COMMISSIONERS**

**CONTRACTOR  
Dr. Tae-Im Moon**

\_\_\_\_\_  
Chairman

Tae-Im Moon, Ph.D.  
Dr. Tae-Im Moon

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

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

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

Approved as to Form:

\_\_\_\_\_  
Eric Hsu, Sr. Deputy  
Prosecuting Attorney  
Its \_\_\_\_\_

# RESOLUTION

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BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

**IN THE MATTER OF PROVIDING USE OF JAIL FACILITIES TO THE CITY OF OLYMPIA AND RESCINDING RESOLUTION 08-1006**

**WHEREAS**, Benton County and City of Olympia have a contract for the use of the Benton County Jail; and

**WHEREAS**, the contract was entered into on December 20, 2002 between Benton County and the City of Olympia, for the use of jail facilities effective through December 31, 2003 with the option to extend on a year to year basis. The contract was extended annually through December 31, 2006; and

**WHEREAS**, a similar contract was entered into for the use of the jail facilities for 2007 and 2008; and

**WHEREAS**, Benton County and the City of Olympia wish to enter into a similar contract for the use of the jail facilities effective January 1, 2009 through December 31, 2009; **NOW, THEREFORE**

**BE IT HEREBY RESOLVED**, the Benton County Commissioners hereby approves the attached Agreement and authorized the Chairman of the Board to sign the attached Agreement between Benton County and the City of Olympia for the use of the Benton County jail facilities.

**BE IT FURTHER RESOLVED**, the term of the attached agreement commences on January 1, 2009 and expires on December 31, 2009.

**BE IT FURTHER RESOLVED**, Resolution 08-1006 is hereby rescinded.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2008.

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

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

Constituting the Board of County Commissioners of  
Benton County, Washington

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

Orig     Sheriffs Office  
cc:     Auditor, R. Ozuna, Olympia

Prepared by: K. Mercer

## AGREEMENT FOR USE OF JAIL FACILITIES

THIS AGREEMENT is made and entered into by and between BENTON COUNTY, a political subdivision of the State of Washington hereinafter "County"), and the City of Olympia, a municipal corporation under the laws of the State of Washington/political subdivision of the State of Washington (hereinafter "Contract Agency").

### RECITALS

WHEREAS, the County is authorized by law to operate a jail for misdemeanants and felons and the Contract Agency is authorized by law to operate a jail for misdemeanants and felons;

WHEREAS, the Contracting Agency wishes to designate the County jail as a place of confinement for the incarceration of one or more inmates lawfully committed to the Contract Agency's custody;

WHEREAS, the County is amenable to accepting and keeping inmates received from the Contract Agency in the County's custody at its jail for a rate of compensation mutually agreed to herein;

WHEREAS, RCW 39.34.080 and other Washington laws authorize any public agency to contract with another public agency to perform services and activities that each such public agency is authorized by law to perform; and

WHEREAS, the County and Contract Agency have considered the anticipated costs of incarceration services and potential revenues to fund such services and determined it is in each of their best interests to enter into this Agreement as authorized and provided for by RCW 39.34.080 and other Washington law.

### AGREEMENT

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

**1. PURPOSE:** It is the purpose of this Agreement to provide for the use by the Contract Agency of the County's jail facilities and services at the County's jail located at the Benton County Justice Center, 7122 W. Okanogan Place, Bldg. B, Kennewick, Washington 99336. Such use shall be solely for the purpose of incarcerating inmates otherwise subject to incarceration at Contract Agency's jail facilities and shall be further subject to all terms and conditions contained herein.

**2. MAILING AND CONTACT ADDRESS:** All written notices, reports and correspondence required or allowed by this Agreement shall be sent to the following:

County: Benton County Jail,  
Attn.: Jail Administrator  
7122 W. Okanogan Pl. Bldg. A  
Kennewick, Washington 99336  
Facsimile: (509) 783-5852  
Tel. No. (509) 735-6555 ext.3290

Contract Agency: City of Olympia  
Attn.: Jail Administrator  
900 Plum Street Southeast  
Olympia, WA 98501  
  
P.O. Box 1967  
Olympia, Washington 98507-1967  
Facsimile: (360) 753-8460  
Tel. No. (360) 753-8417

Notices shall be effective immediately upon receipt if delivered in person. If notice is delivered by US Mail, then it shall be effective three days following the day when it is deposited, postage prepaid, in an official mail receptacle, properly addressed to the other party's contact address and person. If notice is made by facsimile, then it shall be effective at the time of start of business, on the next business day following successful transmission.

Each party must have a contact person at all times this agreement is in force. Parties may change their contact person by submitting notice of such change to the other party in writing.

#### **4. AVAILABILITY OF JAIL FACILITIES:**

Subject to the County's rights with respect to certain inmates set forth in Sections 8 and 9 herein, the County shall accept and keep inmates, up to the guaranteed minimum stated in Section 5 (a) below, at the request of the Contract Agency, unless in the sole discretion of the County, its inmate population is at capacity or so near capacity that there is a risk that the reasonable operational capacity limits of the County's jail might be reached or exceeded if the County does not begin to refuse to accept or request removal of the Contract Agency's inmates. Acceptance of inmates above and beyond the guaranteed minimum shall be at the sole discretion of the County. The Contract Agency shall only submit inmates for confinement under this Agreement that the sentencing court has sentenced to 24 hours a day jail confinement and without eligibility for participation in work crew, work release, home monitoring or any other programs in which inmates serve all or part of their sentences outside the confines of a jail.

#### **5. COMPENSATION FROM CONTRACT AGENCY:**

(a) Block Purchase. County guarantees availability to Contract Agency of 28 beds per day during the calendar year 2009. As consideration for the bed availability, Contract Agency agrees to pay County \$660,826 by January 15, 2009 for 10,220 Prisoner Days in a block purchase of 28 beds/day (\$64.66/day). Bed days used in excess of the yearly block purchase shall be charged to Contract Agency at the daily rate of the block purchase for the year. Such billing may begin immediately upon exceeding the amount of the block

purchase and may be billed on a monthly basis. Payment shall be made as provided in subsection 5(c) below.

A "Prisoner Day" shall be that of a calendar day beginning from the time an inmate is transferred to the custody of the County as set forth in this Agreement.

(b) Other Costs. The Contract Agency shall also pay such other costs as are incurred by County or third parties in incarcerating inmates on behalf of Contract Agency, as set forth herein, including but not limited to any medical costs required by Section 6.

(c) Billing. The County may bill the Contracting Agency on the 15th day of each month for all amounts due to the County under this Agreement for the services rendered in the prior calendar month. Payment shall be due from the Contract Agency by the 15th day of the following month. Account balances overdue 30 days or more will be subject to a service charge of 1% per month (12% per annum). Should it become necessary, the Contract Agency shall pay all collection costs associated with late payments.

(d) Booking Fee. The collection of a booking fee from the Contract Agency's inmates pursuant to RCW 70.48.390 shall be subject to the discretion of the Contract Agency and shall not be collected by the County from such inmates. Contract Agency shall not request or require County to assess such a fee on its behalf.

## **6. MEDICAL COSTS AND TREATMENT:**

(a) Services Provided. Upon transfer of custody to the County, the County shall provide or arrange for the Contract Agency's inmates to receive all necessary medical, psychiatric and dental services in accordance with the policies and procedures of the County and applicable law.

(b) Cost Responsibility. The Contract Agency shall be responsible for, or shall pay for the cost of all medication prescribed for any of its inmates. The Contract Agency shall also pay for all costs associated with the delivery of medical, psychiatric and dental services provided to an inmate which, in the sole discretion of the County, require the services of a third-party medical, dental or psychiatric services provider, and for all emergency medical, dental or psychiatric services, wherever provided. These costs shall be paid directly to the provider or as a reimbursement to the County, as directed by the County. The County shall bill the Contract Agency only for the actual costs charged to the County and shall provide an itemization with such billing.

(c) Notice. Except in case of situations deemed an emergency at the sole discretion of the County, the County shall notify the Contract Agency's contact person in writing, by mail or facsimile, prior to transfer of a Contract Agency's inmate to a medical, dental or psychiatric provider outside of the County jail or to a hospital for medical, psychiatric or dental services.

(d) Pre-Confinement Consents or Refusals. If a Contract Agency inmate has either 1) received medical, psychiatric or dental treatment; or 2) refused any medical, psychiatric or dental treatment, from the Contract Agency or any third-party provider of such services before transfer for confinement in the County jail, the Contract Agency shall provide to the County all written verification of any authorization of or refusal to authorize care or treatment

for such inmate(s).

(e) Return for Medical Services. Nothing herein shall preclude the Contract Agency from retaking custody of an ill or injured inmate by retaking custody of such inmate at the County jail. Such retaking of custody shall be preceded by written notice at least 24 hours in advance of the desired time of retaking custody. However, in situations where the County, in its sole discretion determines, that an inmate requires emergency medical care, the County shall have the right to arrange for emergency medical services (at the Contract Agency's expense) notwithstanding a request from the Contract Agency to retake custody of the inmate.

(f) Records. The County shall keep records of all medical, psychiatric or dental services it provides to an inmate. Upon resumption of custody by the Contract Agency, the Contract Agency shall receive a copy or summary of the medical, psychiatric or dental records held by the County for an inmate of the Contract Agency.

## **7. TRANSPORTATION OF CONTRACT PRISONERS:**

(a) Regular Transport. The County agrees to perform, at no additional charge, one (1) round-trip transport per calendar week of inmates to and from the County jail and the City of Olympia, Washington, in order to transport inmates of the Contract Agency to and from the County jail. The County shall have sole discretion to set the day and time of such transport.

(b) Additional Transport Without Costs. The County agrees to perform one (1) additional round-trip transport per calendar week, at no additional charge, when the number of inmates ready and waiting to be transported to or from the County jail for the Contract Agency constitutes a minimum of three (3) inmates. The day and time of such transports are within the sole discretion of the County.

(c) Additional Transport with Costs. For any additional transports by the County required by court order or made at the Contract Agency's request, the Contract Agency shall reimburse the County for all costs associated with such transport; provided, this Agreement shall not be deemed to create an obligation of the County to provide any transports other than those set forth in Section 7(a) or (b) above.

(d) Contract Agency Transport. In the event either party requests that custody of an inmate be transferred back to the Contract Agency, in accordance with any such right set forth in this Agreement, the County shall transport such inmate in accordance with the guidelines set forth in this Section 7 (a) or (b) above. If the Contract Agency desires to take custody of such inmate earlier than the next County transport without cost and the County does not agree to a transport by the County at the expense of the Contract Agency under Section 7 (c) above, the Contract Agency shall take custody of the inmate at the County jail and handle all transport responsibility. The Contract Agency shall cause written notice of any such expected transport by the Contract Agency to be received by the County at least 24 hours before the time of such transport.

## **8. TRANSFER OF CUSTODY:**

(a) Commencement of Custody by County. Contract Agency inmates shall not be deemed to be in the legal custody of the County until deputies from the Benton County Sheriff's Department take physical control of such inmate. The County shall not be required to take such control of an inmate until the Contract Agency has delivered copies of all inmate records pertaining to the inmate's incarceration by the Contract Agency or its agent, including a copy or summary of each inmate's medical records held by the Contracting Agency or its agent, and a copy of the document that provides legal authority for the incarceration of the inmate. If additional information is requested by the County regarding a particular inmate, the parties shall mutually cooperate to obtain such information. In the absence of documentation and information satisfactory to the County, the receiving officer may refuse to accept the Contract Agency's inmate for confinement. County shall not be required to take custody of or assume control of or responsibility for any property of the inmate, except for such property that the County allows inmates to keep in their cell. The Contract Agency's officers delivering an inmate to the transportation location shall be responsible for ensuring that all paperwork is in order and that all property allowed to be transported with the inmate is properly packaged. At such time, and only at such time, as all paperwork and property are in order will the County take physical control of and assume custody of and responsibility for the Contract Agency's inmate to be confined.

(b) Further Transfer of Custody. Except as otherwise allowed by Section 10 of this Agreement, the County shall not be required to, under any circumstances, transfer custody of any inmate confined pursuant to this Agreement to any agency other than to the Contract Agency without the written authorization from a court of competent jurisdiction. Even with such authorization, such transfer to another agency shall be at the discretion of County and shall be further subject to the provisions of Article 7 above.

(c) Responsibilities Upon Assumption of Custody. Upon transfer of custody to the County, it shall be the County's responsibility to administer the inmate's sentence pursuant to the order of the committing court in the State of Washington and the Contract Agency's determinations regarding early release credits. It is the Contract Agency's duty to determine the amount, if any, of early release credits earned by each of its inmates and to timely notify the County of the effect of such credits upon each inmate's release date. During such confinement, the County shall provide and furnish or arrange for all necessary medical and hospital services and supplies in accordance with Section 6 of this Agreement.

(d) Resumption of Custody by Contracting Agency. The Contract Agency shall be deemed to have resumed legal custody of an inmate previously transferred to the County for incarceration pursuant to this agreement, upon either presentation of such inmate to the Contracting Agency at Olympia, Washington, or upon the Contract Agency's officers taking physical control of an inmate at any other location.

**9. RIGHT TO REFUSE/RETURN AN INMATE:** The County shall have the right to refuse to accept or to return any of the Contract Agency's inmates under any one of the following circumstances.

(a) Pending Medical Needs. The County shall have the right to refuse to accept any Contract Agency inmate who, at the time of presentation for transportation to the County jail for confinement, appears as determined by the County, in need of medical, psychiatric or dental attention, until the Contract Agency has provided medical, psychiatric or dental treatment to the inmate to the satisfaction of the County.

b) Problematic Physical History or Behavior and New Medical Conditions. The County shall have the right to refuse to accept or to return any Contract Agency's inmate that, in the sole judgment of the County, has a history of serious medical problems, presents a serious risk of escape, presents a serious risk of injury to other persons or property, represents a risk to the orderly and safe operation of the jail, or develops an illness or injury that may adversely affect or interfere with the operations of the County Jail. Any special transport costs, medical or otherwise, incurred in the return of Contract Agency's inmate under this subsection shall be the responsibility of the Contract Agency.

(c) Pending Charges. The County shall further have the right to refuse to accept or return any inmate from the Contract Agency for confinement that has misdemeanor, gross misdemeanor or felony charges pending.

(d) Claims/Litigation. The County shall have the right to refuse to accept or to return any Contract Agency inmate that files a claim or lawsuit against the County or indicates an intent to do so.

(e) Return for Release. The County shall have the right to return any Contract Agency inmate at anytime within six (6) days of the scheduled completion of a sentence of confinement by such inmate.

(f) Return Due to Upcoming Expiration. The County shall have the right to begin returning Contract Agency's inmates during the thirty days preceding expiration of this Agreement so that all inmates may be transported pursuant to the regular transports under Section 7 (a) and (b) above.

(g) Notice of Return and Transport. The County shall provide written notice, via facsimile or mail, of the anticipated return of an inmate under this Section 9 to the contact person identified herein for the Contract Agency. The County shall transport the inmate(s) authorized for return under this Section 9 in accordance with Section 7 (a) or (b) and within seven days of such notice, unless the Contract Agency transports such inmate(s) at the Contract Agency's expense.

**10. REMOVAL FROM JAIL - OTHER GROUNDS:** The Contract Agency's inmates may be removed from the County jail for the following reason(s):

(a) Request by Contract Agency. Upon written request of the Contract Agency for transfer of custody back to the Contract Agency. In such case, the inmate will either be transported by the Contract Agency or by the County pursuant to Section 7 above.

(b) Court Order. By order of a court having jurisdiction over a Contract Agency's inmate. In

such case, transport shall be according to the terms expressed in the court order, or by the Contract Agency or the County pursuant to Section 7 above.

(c) Treatment Outside of Jail. For medical, psychiatric or dental treatment or care not available within the County jail, or which, in the County's sole discretion, requires the services of a third-party medical, psychiatric or dental care provider at a location outside of the Jail.

(d) Catastrophe. In the event of any catastrophic condition presenting, in the sole discretion of the County, an eminent danger to the safety of the inmate(s) or personnel of the County. In such case, the County will inform the Contract Agency, at the earliest practicable time, of the whereabouts of the inmate(s) so removed and shall exercise all reasonable care for the safekeeping and custody of such inmate(s).

#### **11. TRANSFER OF INMATES UPON TERMINATION/EXPIRATION OF AGREEMENT:**

(a) Termination by County. In the event of a notice of termination from the County in accordance with Section 21 below, it shall be the County's obligation to transport the Contract Agency's inmates to the Contract Agency at Olympia, Washington, at no expense to the Contract Agency. Such transports shall be made as if the Agreement were expiring and in accordance with the terms of Section 9 above, subsections (f) and (g).

(b) Termination by Contract Agency. In the event of a notice of termination from the Contract Agency in accordance with Section 21 below, the county agrees to continue weekly transports according to section 7. (a) and (b) until all inmates are returned to the Contract Agency before the termination date of the contract. Release dates schedule shall be determined between the County and the Contract agency according to the inmates normal release date or earlier if necessary to transport prior to the termination date. Until such removal, the Contract Agency shall pay the compensation and costs set forth herein related to the housing of such inmate(s). The County shall retain all rights hereunder, notwithstanding such termination, until all of the Contract Agency's inmates are removed from the jail. If the population of Contract Agency inmates or timing of notice of termination is such that transports pursuant to section 7(a) and (b) will not be completed prior to the anticipated termination date, then County may increase transports beyond that in section 7 (a) and (b) at Contract Agency's expense, or may require the Contract Agency transport the excess inmates.

#### **12. INMATE RIGHTS, ACCOUNTS AND PROGRAMS:**

(a) Early Release Credit and Discipline. With respect to the Contract Agency's inmates, the County shall maintain and manage disciplinary issues and shall administrator sanctions, including removal of earned early release credit, as per facility rules. No discipline prohibited by federal or state law will be permitted. The disciplinary policies and rules of the County jail shall apply equally to inmates confined pursuant to this Agreement and to those otherwise confined.

(b) Inmate Accounts. The County shall establish and maintain an account for each inmate

received from the Contract Agency and shall credit to such account all money received from an inmate or from the Contract Agency on behalf of an inmate. The County shall make disbursements from such accounts by debiting such accounts in accurate amounts for items purchased by the inmate for personal needs. Disbursements shall be made in limited amounts as are reasonably necessary for personal maintenance. At termination or expiration of this Agreement, an inmate's return to the Contract Agency, or death or escape of an inmate, the County shall submit a check to each inmate or such inmate's representative eligible for reimbursement.

(c) Programs. The County shall provide the Contract Agency's inmates with access to all educational, recreational and social service programs offered at the County jail under the terms and conditions applicable to all other inmates at the jail.

(d) Inability to Serve Time Outside of Facility. In accordance with Section 4 of this Agreement, the Contract Agency's inmates shall not be allowed to leave the jail for participation in correctional work crews, work release programs, home monitoring or any other program in which other inmates sometimes are allowed to leave the physical confines of the jail as part of serving their sentence.

### **13. ACCESS TO FACILITY AND PRISONERS:**

(a) Access to Facility. Contract Agency shall have the right to inspect, at mutually agreeable times, the County jail in order to confirm such jail maintains standards acceptable to the Contract Agency and that its inmates are treated appropriately. The County agrees to manage, maintain and operate its facilities consistent with all applicable federal, state and local laws applicable to the location of the jail in Benton County, Washington.

(b) Access to Inmates. Contract Agency personnel shall have the right to interview inmates from the Contract Agency at any reasonable time within the jail. Contract Agency officers shall be afforded equal priority for use of jail interview rooms with other departments, including the Benton County Sheriff's Department.

### **14. ESCAPES AND DEATHS:**

(a) Escapes. In the event of an escape by a Contract Agency's inmate from the County jail, the Contract Agency will be notified by phone and in writing as soon as practical. The County shall have the primary authority to direct the investigation and to pursue the prisoner within its jurisdiction. Any costs related to the investigation and pursuit within its jurisdiction will be the responsibility of the County. The County shall not be required to pursue and return the Contract Agency's escaped inmates from outside of the County's jurisdiction.

(b) Deaths.

- (1) In the event of a death of a Contract Agency inmate in the County jail, the Contract Agency shall be promptly notified by phone and in writing. Benton County Sheriff's Office Bureau of Law Enforcement and the Benton County Coroner will investigate the circumstances. The Contract Agency may, if it

wishes, join in the investigation and receive copies of all records and documents in connection with the investigation.

- (2) The County shall, subject to the authority of the Benton County Coroner, follow the written instructions of the Contract Agency regarding the disposition of the body. Such written instructions shall be provided within three working days of receipt by the Contract Agency of notice of such death. All expenses related to necessary preparation of the body and transport charges shall be the responsibility of the Contract Agency. With written consent from the Contract Agency, the County may arrange burial and all matters related or incidental thereto, and the Contract Agency shall pay all such expenses. This paragraph deals with relations between the parties to this Agreement and shall not affect the liability or rights of any relative or other person for the disposition of the deceased or any expenses connected therewith.

**15. POSTING OF BAIL:** The County shall serve as agent for the Contract Agency in receipt of any bail bonds or any monies posted for or by a Contract Agency's inmate for the City of Olympia.

**16. RECORD KEEPING:** The County agrees to maintain a system of record keeping relative to the booking and confinement of each of the Contract Agency's inmates consistent with the record keeping by the County for all other inmates. The County shall make copies of said records available to the Contract Agency upon its request. Monthly medical charges will be itemized indicating all medical costs and procedures performed. The contract Agency will be bound by all confidentiality laws applicable to jail and/or medical records.

**17. INDEMNIFICATION AND INSURANCE:**

(a) Indemnification of Contract Agency. The County shall indemnify the Contract Agency, its officers, agents and employees, from and against any claim, damages, losses and expenses, including but not limited to reasonable attorney's fees, arising from the County's performance under this Agreement; provided, to the extent the claim, damages, losses and expenses are caused by intentional acts of or by the concurrent negligence of the Contract Agency, its officers, agents, or employees, the County's indemnification obligation hereunder shall be limited to the County's proportionate share of liability as agreed to by the parties to this Agreement or determined by a court of competent jurisdiction.

(b) Indemnification of County. The Contract Agency shall indemnify the County, its officers, agents and employees, from and against any claim, damages, losses and expenses, including but not limited to reasonable attorney's fees, arising from the Contract Agency's performance under this Agreement; provided, to the extent the claim, damages, losses and expenses are caused by intentional acts of or by the concurrent negligence of the County, its officers, agents, or employees, the Contract Agency's indemnification obligation hereunder shall be limited to the Contract Agency's proportionate share of liability as agreed to by the parties to this Agreement or determined by a court of competent jurisdiction.

(c) Insurance Requirement. Each party shall obtain and maintain liability coverage in minimum liability limits of Two Million Dollars (\$2,000,000) per occurrence and Three Million Dollars (\$3,000,000) in the aggregate for its conduct creating liability exposures related to confinement of inmates, including general liability, errors and omissions, auto liability and police professional liability. The insurance policy or policies shall provide coverage for those events that occur during the term of the policy, despite when the claim is made. Self-insurance or participation in a risk pool shall be sufficient to comply with the provisions of these insurance requirements.

(d) Certificate of Insurance. Each party to this Agreement agrees to provide the other with evidence of insurance coverage in the form of either 1) a certificate from a solvent insurance provider confirming coverage from a solvent insurance pool which is sufficient to address the insurance obligations set forth above; or 2) written evidence of participation in a program of self insurance or participation of a risk pool that is sufficient to address the insurance obligations set forth above.

**18. NON-DISCRIMINATION POLICY:** The County and the Contract Agency agree not to discriminate in the performance of this Agreement on the basis of of race, sexual orientation, color, national origin, sex, age, religion, creed, marital status, disabled or Vietnam era veteran status, or the presence of any physical, mental, or sensory handicap, or any other classes of persons protected from discrimination by any Federal or State law.

**19. ADMINISTRATION/DISPOSAL OF PROPERTY:** This Agreement is executed in accordance with the authority of Chapter 39.34 RCW, the Interlocal Cooperation Act. Pursuant to the provisions of RCW 39.34.030, the Benton County Sheriff shall be responsible for administering the confinement of inmates hereunder. No real or personal property will be jointly acquired by the parties under this Agreement. All property owned by each of the parties shall remain its sole property to hold and dispose of in its sole discretion.

**20. WAIVER OF RIGHTS:** No waiver of any right under this Agreement shall be effective unless made in writing by an authorized representative of the party to be bound thereby. Failure to insist upon full performance or failure to enforce breach of this agreement on any occasion shall not constitute consent to or waiver of any continuation of nonperformance or any later nonperformance; nor does payment of a billing or continued performance after notice of a deficiency in performance constitute an acquiescence thereto.

**21. TERMINATION:** This Agreement may be terminated prior to expiration by written notice from either party delivered by regular mail to the contact person at address set forth herein. Termination by said notice shall become effective ninety (90) days after receipt of such notice. The notice shall set forth the reason the party wishes to terminate the Agreement and the specific plan for accommodating the affected inmates, if any.

**22. WAIVER OF ARBITRATION RIGHTS:** Both parties acknowledge and agree that they are familiar with the provisions of RCW 39.34.180(3), as now in effect, and that of their own free will they hereby expressly waive any and all rights under RCW 39.34.180(3), as now in effect or as hereinafter amended, to arbitrate the level of compensation for incarceration

services charged under this Agreement, or any renewal thereof, that either party may possess. The parties further agree that such level of compensation and all other issues related to the purpose of this Agreement will only be as agreed to herein or as otherwise agreed to in a writing executed by the parties.

**23. DURATION:** This Agreement shall be effective on January 1, 2009 and shall continue through December 31, 2009, unless terminated earlier under the terms set forth in Section 21 above. This Agreement may be renewed for successive periods of one year by written addendum executed by all parties hereto under such terms as the parties agree in writing. Nothing in this Agreement shall be construed to make it necessary for the Contracting Agency to continuously house inmates with the County.

**24. GOVERNING LAW:** The parties hereto agree that, except where expressly otherwise provided, the laws and administrative rules and regulations of the State of Washington shall govern in any matter relating to this Agreement and an inmate's confinement under this Agreement.

**25. MISCELLANEOUS:** In providing these services to the Contract Agency, the County is an independent contractor and neither its officers, agents, or employees are employees of the Contract Agency for any purpose including responsibility for any federal or state tax, industrial insurance or Social Security liability. No provision of services under this Agreement shall give rise to any claim of career service or civil service right, which may accrue to an employee of the Contract Agency under any applicable law, rule, or regulation.

Date: \_\_\_\_\_  
BENTON COUNTY, WASHINGTON

Date: \_\_\_\_\_  
CITY OF OLYMPIA, WASHINGTON

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Member

\_\_\_\_\_  
City Attorney (approved as to form only)

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

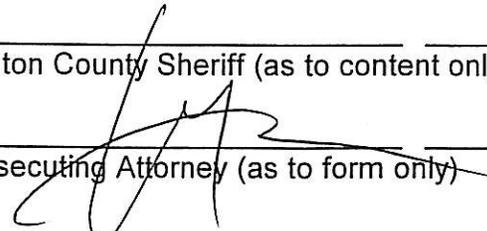
\_\_\_\_\_  
Attest: City Clerk

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

Approved

\_\_\_\_\_  
Benton County Sheriff (as to content only)

\_\_\_\_\_  
Prosecuting Attorney (as to form only)



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

Board of County Commissioners  
BENTON COUNTY

David Sparks  
County Administrator  
Loretta Smith Kelty  
Deputy County Administrator

December 15, 2008

Mr. Bill Shawver  
230007 Game Farm Road  
Finely, WA 99337

In response to your call regarding garbage contracts for unincorporated Benton County, Counties in Washington State have no authority over solid waste collection services or fees. Authority for solid waste services in unincorporated areas of the state are regulated, franchised and certified through the Washington Utilities and Transportation Commission (WUTC).

Cities are exempted from WUTC franchise requirements through RCW 81.77.020. Therefore, city governments have the flexibility to write tailored contracts to fit desired levels of service and negotiate fee structures that best fit their situation.

Unfortunately, because franchises are awarded by the WUTC to the lowest bidder that provides a very basic service in unincorporated areas, minimal service levels are usually offered to county residents.

The rules governing the WUTC franchise process are legislated by the State. If you would like to see changes made to these rules, you should contact your State Legislator.

Thank you for your interest and concern about this matter.

Sincerely,

---

Claude Oliver, Chairman

---

Max Benitz, Jr., Chairman Pro-Tem

---

Leo Bowman, Member

<u>AGENDA ITEM</u>		<u>TYPE OF ACTION NEEDED</u>	
Meeting Date:	December 15, 2008	Execute Contract	<u>  X  </u>
Subject:	Appraisers 2009 CBA	Pass Resolution	<u>      </u>
Prepared by:	Sarah Perry	Pass Ordinance	<u>      </u>
Reviewed by:		Pass Motion	<u>      </u>
		Other	<u>      </u>
		Consent Agenda	<u>  X  </u>
		Public Hearing	<u>      </u>
		1st Discussion	<u>      </u>
		2nd Discussion	<u>      </u>
		Other	<u>      </u>

BACKGROUND INFORMATION

The negotiating teams for Benton County and the Union representing the Appraisers bargaining unit have negotiated and agreed upon a collective bargaining agreement (CBA) for 2009, and that agreement is now before the Board for approval and signature.

RECOMMENDATION

Approve and sign the 2009 Appraisers CBA.

FISCAL IMPACT

See the 2009 Appraisers CBA.

MOTION

Move to approve the 2009 Appraisers CBA.

9:05

**From:** "Ginny Waltman" <waltmang@sao.wa.gov>  
**To:** "Marilu Flores" <marilu\_flores@co.benton.wa.us>  
**Date:** 11/14/2008 11:57 AM  
**Subject:** RE: FW: WA State Audit 2007 Exit Conference

Thank you. An hour at the most will be fine. It might take less than that however we would not want to cut it short or go over into another time slot. Thank you again.

Ginny

-----Original Message-----

From: Marilu Flores [mailto:marilu\_flores@co.benton.wa.us]  
Sent: Friday, November 14, 2008 11:50 AM  
To: Ginny Waltman  
Cc: David Sparks; Loretta SmithKelty; Van Pettey  
Subject: Re: FW: WA State Audit 2007 Exit Conference

Yes, we can do Dec. 15th @ 9:05 am. How much time?.....Marilu

Marilu Flores  
Administrative Secretary  
Benton County Commissioners Office  
PO Box 190  
Prosser WA 99350  
(509) 786-5600 - office  
(509) 786-5625 - fax

>>> "Ginny Waltman" <waltmang@sao.wa.gov> 11/14/2008 11:38 AM >>>  
Hi Marilu,

Van mentioned he would like to attend the exit conference and he is gone the week of December 7th so in light of this information would it be possible to have the exit the following Monday, December 15th instead? I am sorry for the changes. Thank you.

Ginny

-----Original Message-----

From: Ginny Waltman  
Sent: Friday, November 14, 2008 11:21 AM  
To: 'Marilu Flores'  
Cc: 'Van Pettey'  
Subject: RE: WA State Audit 2007 Exit Conference

Hi Marilu,

December 8th works well for us at 9:35 a.m. We will probably need an hour at the most. Thank you and please confirm the date and time. Thank you.

Ginny

-----Original Message-----

From: Marilu Flores [mailto:marilu\_flores@co.benton.wa.us]  
Sent: Friday, November 14, 2008 9:32 AM

To: Ginny Waltman  
Subject: Re: WA State Audit 2007 Exit Conference

Hello Ginny:

I can schedule the exit conference at this time. However, our Board will not be meeting on December 1st. I can schedule this matter for December 8th at 9:35 am. Please let me know if this will work with your schedule and also the amount of time you would need. Thank you.....Marilu

Marilu Flores  
Administrative Secretary  
Benton County Commissioners Office  
PO Box 190  
Prosser WA 99350  
(509) 786-5600 - office  
(509) 786-5625 - fax

>>> "Ginny Waltman" <waltmang@sao.wa.gov> 11/13/2008 6:17 PM >>>  
Hi Marilu,

We are completed with our audit work for the year 2007 at Benton County and would like to schedule an exit conference with the County. I am assuming the County would like to have this exit conference in an Open Public Meeting and if so our first available date would be Monday, December 1, 2008 if this works for the County. If this is not a good date, let me know and we can work on some other dates.

Thank you for your time and help.

Ginny

Ginny Waltman  
Assistant Audit Manager  
Washington State Auditor's Office  
(509) 734-7104  
waltmang@sao.wa.gov

<u>AGENDA ITEM</u>		<u>TYPE OF ACTION</u>		
Meeting Date :	Dec. 15, 2008	Execute Contract :	_____	Consent Agenda :
Subject :	Finley Rd Trucks	Pass Resolution :	_____	Public Hearing :
Prepared by :	NWC	Pass Ordinance :	_____	1st Discussion :
Reviewed by :	RBD	Pass Motion :	_____	2 <sup>nd</sup> Discussion :
		Other :	_____	Other : Proj. Update

10:05

**BACKGROUND INFORMATION**

Citizens in the Finley area have expressed concerns regarding truck traffic on Finley Road. The citizens have requested that trucks be restricted from using Finley Road.

**SUMMARY**

Benton County Public Works staff has conducted a traffic study to determine the traffic patterns on Finley Road. Vehicle volumes as well as speed and classification were recorded. Documentation is attached. A map with a preferred truck route was distributed to local industry to help voluntarily divert trucks from Finley Road. Included with your packet are discussion material about the use of compression brakes as well as examples of RCWs regarding Washington laws and local authority for restricting trucks. Examples of local ordinances or resolutions are included for reference. Staff will discuss options and seeks board direction on this matter. Completion of the Piert Road extension project would relieve truck traffic once completed

**RECOMMENDATION**

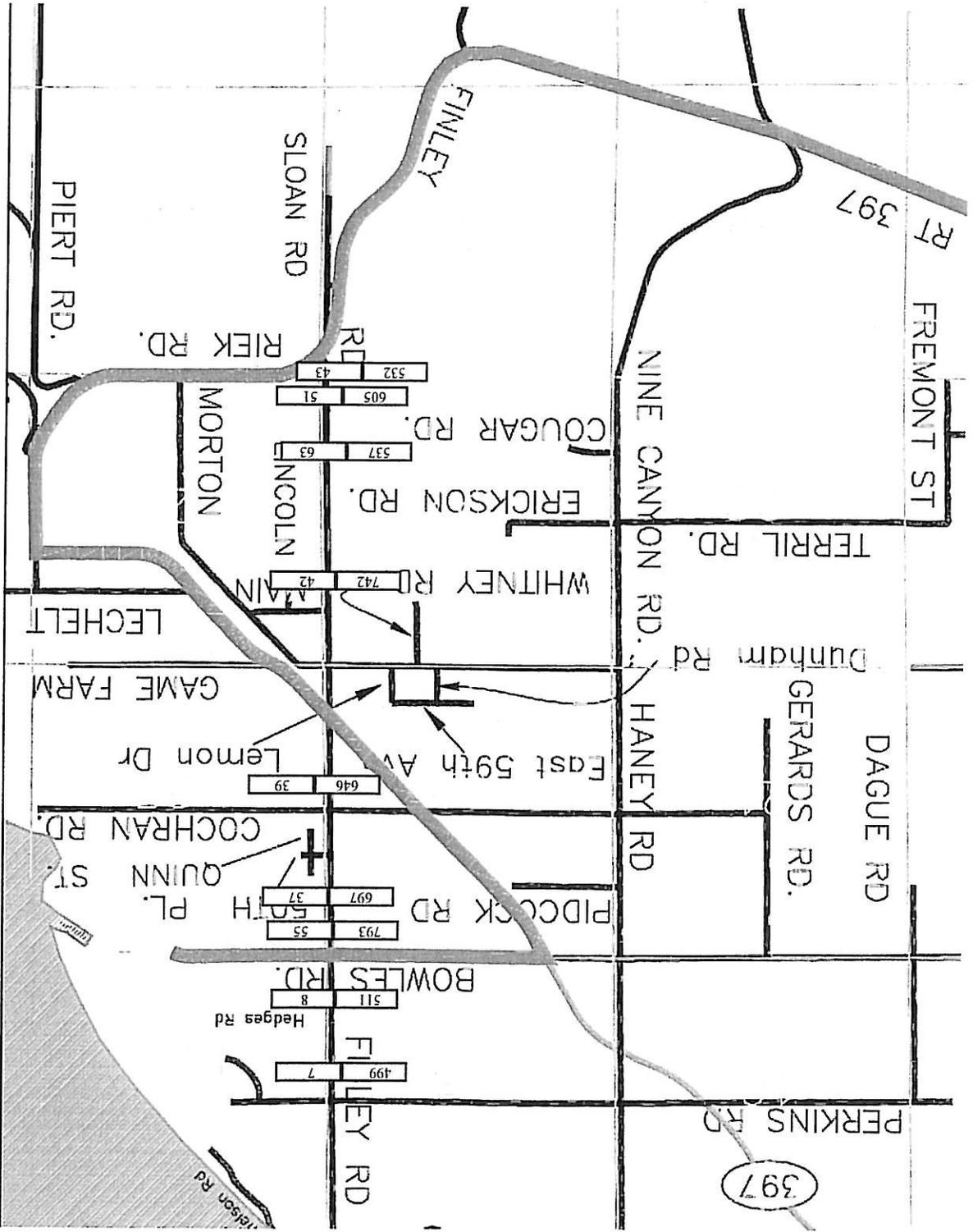
**FISCAL IMPACT**

Unknown.

**MOTION**

N/A

Avg Veh/Day	Avg Trk/Day
-------------	-------------



**Intertie - CR397 Open 10/8/2008**

**3 Axle  
Single**

Name	Location	M.P	Date	Hours	Total Veh.	or Larger	% Trucks	85th % MPH	55+ MPH	65+ MPH
Finley Rd	N. of CR397	10.14	10/27/2008	10	263	23	8.75%	47.5	5	0
			10/28/2008	24	563	58	10.30%	47.8	9	1
			10/29/2008	24	574	35	6.10%	48.1	3	0
			10/30/2008	24	504	30	5.95%	48.1	9	2
			10/31/2008	11	157	19	12.10%	46.3	1	0
				93	<b>2061</b>	<b>165</b>	<b>8.01%</b>			
Avg. Tk/Day		43								
Avg. Veh/Day		532								
Finley Rd	N. of Reik	11.339	9/3/2008	15	622	73	11.74%	47.4	18	9
			9/4/2008	24	482	62	12.86%	47.2	8	1
			9/5/2008	24	393	43	10.94%	47.8	7	1
			9/6/2008	24	651	76	11.67%	47.0	11	2
			9/7/2008	24	607	58	9.56%	47.1	13	3
			9/8/2008	24	412	54	13.11%	46.7	9	1
				145	<b>3246</b>	<b>379</b>	<b>11.68%</b>			
Avg. Tk/Day		63								
Avg. Veh/Day		537								
Finley Rd	S. of Main ST	11.836	10/27/2008	11	386	23	5.96%	42.8	3	1
			10/28/2008	24	757	55	7.27%	42.3	6	1
			10/29/2008	24	822	34	4.14%	42.2	0	0
			10/30/2008	24	696	31	4.45%	42.4	3	0
			10/31/2008	10	216	20	9.26%	41.4	0	0
				93	<b>2877</b>	<b>163</b>	<b>5.67%</b>			
Avg. Tk/Day		42								
Avg. Veh/Day		742								
Finley Rd	N. of SR397	12.353	7/14/2008	11	337	24	7.12%	38.5	0	0
			7/15/2008	24	624	72	11.54%	38.5	0	0
			7/16/2008	24	630	58	9.21%	38.6	2	1
			7/17/2008	24	644	35	5.43%	38.6	1	0
			7/18/2008	11	135	11	8.15%	40.0	0	0
				94	<b>2370</b>	<b>200</b>	<b>8.44%</b>			
Avg. Tk/Day		51								
Avg. Veh/Day		605								
Finley Rd	S. of Cochran	12.463	10/27/2008	11	363	27	7.44%	43.7	4	2
			10/28/2008	24	649	54	8.32%	43.1	3	0
			10/29/2008	24	652	36	5.52%	44.1	7	0
			10/30/2008	24	682	26	3.81%	43.5	7	0
			10/31/2008	10	159	9	5.66%	43.8	3	0
				93	<b>2505</b>	<b>152</b>	<b>6.07%</b>			
Avg. Tk/Day		39								
Avg. Veh/Day		646								
Finley Rd	S. of Bowles	12.877	10/27/2008	11	426	26	6.10%	41.1	3	2
			10/28/2008	24	729	49	6.72%	40.8	4	2
			10/29/2008	24	701	36	5.14%	41.9	2	1
			10/30/2008	24	698	23	3.30%	41.4	3	0
			10/31/2008	10	148	9	6.08%	41.7	0	0
				93	<b>2702</b>	<b>143</b>	<b>5.29%</b>			
Avg. Tk/Day		37								
Avg. Veh/Day		697								
Finley Rd	S. of Bowles	13.05	7/14/2008	13	540	33	6.11%	38.5	0	0
			7/15/2008	24	792	71	8.96%	38.2	4	3
			7/16/2008	24	825	57	6.91%	38.8	0	0
			7/17/2008	24	847	48	5.67%	38.8	0	0
			7/18/2008	11	167	10	5.99%	39.4	0	0
				96	<b>3171</b>	<b>219</b>	<b>6.91%</b>			
Avg. Tk/Day		55								
Avg. Veh/Day		793								
Finley Rd	N. of Bowles	13.384	10/27/2008	12	348	6	1.72%	44.4	5	2
			10/28/2008	24	509	16	3.14%	44.0	4	1
			10/29/2008	24	531	8	1.51%	44.7	4	2
			10/30/2008	24	570	3	0.53%	44.3	1	0
			10/31/2008	12	85	0	0.00%	45.7	3	0
				96	<b>2043</b>	<b>33</b>	<b>1.62%</b>			
Avg. Tk/Day		8								
Avg. Veh/Day		511								
Finley Rd	S. of Perkins	13.646	7/7/2008	12	340	3	0.88%	30.1	3	3
			7/8/2008	24	512	6	1.17%	30.0	0	0
			7/9/2008	24	534	10	1.87%	30.0	0	0
			7/10/2008	11	90	2	2.22%	31.7	0	0
				71	<b>1476</b>	<b>21</b>	<b>1.42%</b>			
Avg. Tk/Day		7								
Avg. Veh/Day		499								

**RCW 46.37.395**

**Compression brakes (Jake brakes).**

(1) This section applies to all motor vehicles with a gross vehicle weight rating of 4,536 kilograms or more (10,001 pounds or more), registered and domiciled in Washington state, operated on public roads and equipped with engine compression brake devices. An engine compression brake device is any device that uses the engine and transmission to impede the forward motion of the motor vehicle by compression of the engine.

(2) The driver of a motor vehicle equipped with a device that uses the compression of the motor vehicle engine shall not use the device unless: The motor vehicle is equipped with an operational muffler and exhaust system to prevent excess noise. A muffler is part of an engine exhaust system which acts as a noise dissipative device. A turbocharger is not permitted to be used as a muffler or a noise dissipative device.

(3) The monetary penalty for violating subsection (2) of this section is: (a) Two hundred fifty dollars for the first violation; (b) five hundred dollars for the second violation; and (c) seven hundred fifty dollars for each violation thereafter.

(4) All medium and heavy trucks must comply with federal code 205 - transportation equipment noise emission controls, subpart B.

(5) Nothing in this section prohibits a local jurisdiction from implementing an ordinance that is more restrictive than the state law and Washington state patrol rules regarding the use of compression brakes.

[2006 c 50 § 3; 2005 c 320 § 1.]

**RCW 46.44.080**

**Local regulations -- State highway regulations.**

Local authorities with respect to public highways under their jurisdiction may prohibit the operation thereon of motor trucks or other vehicles or may impose limits as to the weight thereof, or any other restrictions as may be deemed necessary, whenever any such public highway by reason of rain, snow, climatic or other conditions, will be seriously damaged or destroyed unless the operation of vehicles thereon be prohibited or restricted or the permissible weights thereof reduced: PROVIDED, That whenever a highway has been closed generally to vehicles or specified classes of vehicles, local authorities shall by general rule or by special permit authorize the operation thereon of school buses, emergency vehicles, and motor trucks transporting perishable commodities or commodities necessary for the health and welfare of local residents under such weight and speed restrictions as the local authorities deem necessary to protect the highway from undue damage: PROVIDED FURTHER, That the governing authorities of incorporated cities and towns shall not prohibit the use of any city street designated a part of the route of any primary state highway through any such incorporated city or town by vehicles or any class of vehicles or impose any restrictions or reductions in permissible weights unless such restriction, limitation, or prohibition, or reduction in permissible weights be first approved in writing by the department of transportation.

The local authorities imposing any such restrictions or limitations, or prohibiting any use or reducing the permissible weights shall do so by proper ordinance or resolution and shall erect or cause to be erected and maintained signs designating the provisions of the ordinance or resolution in each end of the portion of any public highway affected thereby, and no such ordinance or resolution shall be effective unless and until such signs are erected and maintained.

The department shall have the same authority as hereinabove granted to local authorities to prohibit or restrict the operation of vehicles upon state highways. The department shall give public notice of closure or restriction. The department may issue special permits for the operation of school buses and motor trucks transporting perishable commodities or commodities necessary for the health and welfare of local residents under specified weight and speed restrictions as may be necessary to protect any state highway from undue damage.

[2006 c 334 § 16; 1977 ex.s. c 151 § 29; 1973 2nd ex.s. c 15 § 1; 1961 c 12 §46.44.080 . Prior: 1937 c 189 § 54; RRS § 6360-54.]

**NOTES:**

**Rules of court:** Monetary penalty schedule -- IRLJ 6.2.

**Effective date -- 2006 c 334:** See note following RCW 47.01.051.

**Federal requirements -- Severability -- 1977 ex.s. c 151:** See RCW 47.98.070 and 47.98.080.

How do I get an "Exhaust Brakes Prohibited" sign installed?

Q. How do I get an "Exhaust Brakes Prohibited" sign installed?

A. Exhaust brakes (also known as engine brakes, jake brakes etc.) are legal in Oregon as long as they are muffled. ODOT can NOT post signs prohibiting the use of muffled brakes. Exhaust brakes are considered a safety feature on trucks. We do have an "Unmuffled Engine Braking Prohibited" sign available to remind drivers of the provisions listed in ORS 811.492 and 810.241.

This sign can be installed in specified locations if it meets the following warrants:

1. The area has an established record of unmuffled engine brake noise complaints (minimum of six different people complaining about four different incidents) supported by an engineering investigation.
2. Signed concurrence from the law enforcement agency in the jurisdiction that the sign falls within acknowledging an action plan to enforce the law.
3. Approval of State Traffic Engineer on State Highways.
4. Jurisdictions other than ODOT may use their own criteria to determine the location of this sign.

To learn more (page 97 in chapter 3)

Please note: Truck drivers are aware the unmuffled engine brakes are illegal in Oregon and it is unlikely this signing will make a noticeable difference where truck braking is being heard.

For further information or to send in request with the above mentioned paperwork, please contact:

ODOT Region 2 Traffic  
Attention: Traffic Engineer  
455 Airport Rd., Bldg. A  
Salem, OR 97301-5397

# Lewis County Washington

## Chapter 10.27 COMPRESSION BRAKES PROHIBITED

### Sections:

- 10.27.010 Declaration of purpose.
- 10.27.020 Scope and construction of terms.
- 10.27.030 Definitions.
- 10.27.040 Prohibited hours and areas.
- 10.27.050 Notice and posting of signs.
- 10.27.060 Violations - Penalty.

### **10.27.010 Declaration of purpose.**

It is hereby declared by board of county commissioners, that the use of compression brakes in some residential areas within the corporate limits of Lewis County disturbs the peace and quiet and disturbs the residents of the county in their rest and in the enjoyment of their property, and by reason thereof, the board of county commissioners finds that the use of such brakes in designated areas to be a public nuisance. [Ord. 1182 § 2, 2003]

### **10.27.020 Scope and construction of terms.**

Terms used in this chapter shall have that meaning given to them in this RCW Title 46, except as expressly defined herein; and where not defined herein shall have that meaning clearly indicated by the context in which such term is used. [Ord. 1182 § 2, 2003]

### **10.27.030 Definitions.**

(1) "Brake" means any device used for slowing, halting or stopping the movement of any motor vehicle.

(2) "Compression brakes" means motor vehicle brakes which are activated or worked by the compression of the engine of the motor vehicle. [Ord. 1182 §2, 2003]

(3) "Motor vehicle" includes automobiles, tractors, trucks, trailers and transportation equipment of all kinds and sizes or any combination or combinations of the foregoing. [Ord. 1182 § 2, 2003]

#### **10.27.040 Prohibited hours and areas.**

Between the hours of 10:00 pm and 6:00 am Pacific Time, on each and every day of the year, the use of compression brakes in the following designated areas within the corporate limits of Lewis County is prohibited:

(1) Gore Road from the intersection of La Due Cemetery Road westerly to its terminus at Leonard Road. [Ord. 1182 § 2, 2003]

#### **10.27.050 Notice and posting of signs.**

(1) The Lewis County department of public works shall, as soon as possible following the effective date of the creation of a designated area for compression brake restrictions under LCC 10.27.040, but in any event, not more than 30 days thereafter, erect signs upon all county roads approaching or entering said compression brake restriction area.

(2) The signs shall be of a size and character to be readily visible and readable, declaring that "Compression Brake Use Prohibited between hours of 10 PM and 6 AM," and referencing the county code chapter and briefly setting forth the penalty for violation. [Ord. 1182 § 2, 2003]

#### **10.27.060 Violation - Penalty.**

Violation of this section shall constitute a misdemeanor and upon conviction thereof shall be punished as provided for in RCW 9A.20.021(3). It shall not be deemed a misdemeanor if an emergency situation exists and the use of compression brakes is necessary for the protection of persons or property. [Ord. 1182 § 2, 2003]

**Ross Dunfee - Economic Stimulus Package Request for Information**

10:20

**From:** "Eric Johnson" <EJohnson@wacounties.org>  
**Date:** 12/9/2008 8:10 AM  
**Subject:** Economic Stimulus Package Request for Information  
**CC:** "Brad Banks" <banks@wacounties.org>, "Michelle Nelson" <MNelson@wacounties.org>, "Scott Merriman" <SMerriman@wacounties.org>, "Gary Rowe" <GRowe@wacounties.org>  
**Attachments:** Initial Stimulus Project Listing.xls

Dear County Commissioners/Council Members/Executives:

For the past several weeks numerous reports and information requests regarding the potential economic stimulus package that Congress is discussing along with President – Elect Obama have surfaced. With this in mind, WSAC is gathering data to support an initial listing of potential projects that could receive funding from a federal economic stimulus package.

On Friday, Stan Finklestein, Executive Director for the Association of Washington Cities and I met with Governor Gregoire to discuss a variety of issues facing State and Local Governments, including the potential economic stimulus package. The Governor discussed her meeting with President-Elect Obama and the National Governor's Association desire for infrastructure funding and flexibility within an economic stimulus package.

At the same time, the National Association of Counties is also engaged in gathering data from the nation's counties to support funding for county projects. Moreover, I know that a number of you have been contacted by WSDOT, your congressional delegation, and others to garner project information.

At this point, let me share with you what we know and what WSAC needs from you:

1. It is important that monies come to Washington State without restrictions from the federal government. Allow Washington State, in conjunction with cities and counties, to determine the criteria and method to distribute the federal funds. Hold us accountable, but keep the funds flexible.
2. Our desire is to think broadly in regards to public infrastructure for the purposes of any project funding as you prepare a list for consideration. Below is a list of typical projects being mentioned.
3. Projects are going to need to be started 60-120 days after a potential bill is signed in late January. These projects will need to have design and permitting complete so they can start within this time frame.
4. I am attaching a form for you to submit to me so we can forward this information to both Governor Gregoire and the National Association of Counties. Please complete and return this form to WSAC staff member Brad Banks at [bbanks@wacounties.org](mailto:bbanks@wacounties.org) by December 19, 2008.

Typical projects (but do not be confined to this list) being discussed at this time include:

- Roads

- Bridges
- Transit Systems
- Airport Capital Projects
- Water Systems
- Storm Water Projects
- Sewage Treatment Facilities
- School Construction
- County Buildings
- Park and Recreation Facilities
- Hospitals
- Housing
- Broadband
- Rail
- Green Infrastructure (wind, solar, etc)
- ADA Compliance

Finally, the WSAC Executive Board desires that WSAC stay focused on providing consistent and regular communication on this issue to our members. The Executive Board believes it is important that Counties' work to assure that funds, if received, are distributed in an equitable and responsible manner, consistent with criteria and policies that we are engaged in developing.

I am also sending a copy of this email to your Clerks of the Boards/Council, County Administrators, and County Engineers.

If you have any questions, please contact me.

**Eric**

Eric Johnson, Executive Director  
Washington State Association of Counties

206 Tenth Avenue S.E.  
Olympia, Washington 98501-1311

Direct: 360-586-4219 ext 109  
Cell: 360-481-2241  
Office: 360-753-1886

[ejohnson@wacounties.org](mailto:ejohnson@wacounties.org)  
[www.wacounties.org](http://www.wacounties.org)

County	Project Title	Brief Project Description	Stimulus Amount Needed (\$ thousands)	Total Project Cost (\$ thousands)	When Will Project Be Ready to Start (Mo/Yr)	Permits /SEPA/NEPA Approved/ Anticipated (Mo/Yr)	Other Information
Benton	Piert Rd: SR 397 to Bowles	Construct 1.8 miles of new road	\$1,600	\$3,200	Apr-09	Apr-09	
Benton	Webber Canyon Rd: BNSF Grade Separation	Construct new BNSF Railroad Bridge	\$3,375	\$3,375	Jan-09	Jan-09	
Benton	Webber Canyon Rd: Kiona to I-82 and Kiona roads	Relocate Webber Canyon Rd. to new BNSF RRR bridge	\$1,800	\$1,800	Jan-09	Jan-09	
Benton	I-82 Red Mountain Interchange	Design/Build to install a new I-82 overcrossing and interchange	\$24,700	\$24,700	Feb-09	Dec-09	
Benton	CRID No ??: Arlinort Rd: Sunset to Col Solare Winery	Construct 1.0 miles of new roadway	\$900	\$900	??	??	
Benton	CRID No??: Sagebrush Rd: Cottonwood Spr to Badger	Construct 1.3 miles of new roadway	\$1,500	\$1,500	Mar-09	Mar-09	
Benton	Sellards Rd: SR 221 to Travis	Reconstruct 2.0 miles and CTB/overlay 5.0 miles of existing road	\$3,000	\$3,000	Dec-08	Dec-08	Ready to Bid
Benton	Travis Rd: Sellards to Henson	Reconstruct 3.5 miles of existing road	\$1,500	\$1,500	Mar-09	Mar-09	
Benton	Bert James Rd: Sellards to SR 221	Reconstruct 4.0 miles of existing road	\$2,000	\$2,000	Mar-09	Mar-09	
Benton	County Wall Rd: SR 221 to Travis	CTB/overlay 7.0 miles of existing road	\$3,000	\$3,000	Mar-09	Mar-09	
Benton	Webber Canyon Rd: MP 1.25 to Dennis	Reconstruct 2.0 miles of existing road	\$700	\$1,200	Dec-09	Dec-09	
Benton	Christy Rd: BNSF RRR Xing to Dennis	Reconstruct 3.5 miles of existing road	\$1,750	\$1,750	Mar-09	Mar-09	
Benton	Olympia St: Kennewick City Limits to Intertie	Reconstruct 0.5 miles of existing road	\$500	\$500	Apr-10	Apr-10	
Benton	Johnson Rd./Griffin Rd: Intersection Improvements	Reconstruct intersection	\$1,500	\$1,500	Dec-08	Dec-08	Ready to Rebid
		Total	\$46,225	\$46,725			