

Jerome Delvin
District 1
Shon Small
District 2
James Beaver
District 3

Board of County Commissioners BENTON COUNTY

David Sparks
County Administrator

Loretta Smith Kelty
Deputy County Administrator

AGENDA BOARD OF BENTON COUNTY COMMISSIONERS Regular Board Meeting Tuesday, July 12, 2016 Benton County Courthouse, Prosser, WA

9:00 AM

Call to Order

Approval of Minutes

- ❖ **June 28, 2016 Board Meeting**
- ❖ **June 30, 2016 Bi County Meeting**

Review Agenda

Consent Agenda

Auditor

- a. Canvassing Board Appointment

Board of Equalization

- b. Appointment of B Clark to the Board of Equalization

Facilities

- c. Payment to Kone, Inc. for Elevator Malfunction

Fairgrounds

- d. Contract w/CKJT Architects for Design & Engineering of Exhibit Halls 2 & 3 Renovation

Human Services

- e. Contract w/Our Lady of Lourdes Hospital for ARNP Services
- f. Agreement w/BF Community Action Connections for WA St Community Development Block Grant

Office of Public Defense

- g. Amended Contract w/E Riley to Reflect Change in Firm Name
- h. Amended Contract w/B Riley to Reflect Change in Firm Name
- i. Contract Renewal w/Lexis.Com for Legal Research Services
- j. Amended Contract w/B Pang for Superior Court Public Defense Services

Parks

- k. Line Item Transfer, Fund No. 0000-101, Dept. 126

Public Safety

- l. Line Item Transfer, Fund No. 0148-101, Dept. 120
- m. Line Item Transfer, Fund No. 0148-101, Dept. 135
- n. Agreement w/Mirror Ministries for Human Trafficking Survivor Services

Public Works

- o. Updated Road Department Organizational Chart
- p. Purchase of Kennewick Shop Building from Current Expense Capital Improvement Fund
- q. Solid Waste Purchase of Ely Street Road & Vehicle Maintenance Building from ER&R Fund
- r. Line Item Transfer, Fund No. 0101-101, Dept. 500
- s. Line Item Transfer, Fund No. 0101-101, Dept. 500
- t. Contract w/Grade Worx LLC for Prosser to Grandview Pedestrian & Bicycle Pathway Improvement Project

Sheriff

To view items in detail, please
click on the highlighted area.

- u. Amending Resolution 2014-959, Agreement w/Gall's LLC for Employee Uniforms
 - v. Agreement w/WA St Internet Crimes Against Children Task Force
- Sustainable Development**
- w. Line Item Transfer, Fund No. 0135-101, Fund No. 000

Scheduled Business

Amendment to the Urban Growth Area Applications ~ M Shuttleworth

Countywide Planning Policies Amendments ~ M Shuttleworth

Office of Public Defense ~ E Hsu

- **Supervision** & Quality Control Plan
- **2016** 1st Quarter Report

Unscheduled Visitors

Other Business

Executive Session

2nd Quarter Litigation Update ~ R Brown

Draft

MINUTES

BOARD OF BENTON COUNTY COMMISSIONERS

Regular Board Meeting
Tuesday, June 28, 2016, 9:00 a.m.
Commissioners' Conference Room
Benton County Courthouse, Prosser, WA

Present: Chairman Shon Small
Commissioner Jerome Delvin
Commissioner James Beaver
County Administrator David Sparks
Clerk of the Board Cami McKenzie

Benton County Employees Present During All or a Portion of the Meeting: Deputy Administrator Loretta Smith Kely; Adam Fyall, Sustainable Development Manager; County Engineer Matt Rasmussen; Assistant County Engineer Robert Blain; Planning Manager Mike Shuttleworth; DPA Ryan Brown; Clerk Josie Delvin; District Court Administrator Jacki Lahtinen; GIS Manager Mary Phillips; Fred Bowen, Public Services Administrator; Dan Mack, Road Department; Erhiza Rivera, Treasurer's Office; Taylor Ranger, Auditor's Office; Dale Wilson, Animal Control.

Approval of Minutes

The Minutes of June 21, 2016 were approved.

Review Agenda

Chairman Small announced they would be changing the order of scheduled business by swapping the GIS update with the Candy Mountain Preservation discussion.

Consent Agenda

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

Animal

- a. Line Item Transfer, Fund No. 0000-101, Dept. 137

Auditor

- b. Letter to State Auditor re 2015 Financial Statements
- c. Surplus of Personal Property

Clerk

- d. Fund Expenditures from Trial Court Improvement Fund

Facilities

- e. 3rd Amended Contract w/Meier Enterprises, Inc for Tenant Improvement Project for Prosecuting Attorney's Office & Office of Public Defense
- f. Contract w/Meier Enterprises, Inc for Design & Engineering of WSU Extension Office
- g. Purchase of Bench Seating from Keeney's Office Supply

Fairgrounds

- h. Contract w/Sierra Electric, Inc for Installation of Electrical Pedestals

Human Services

- i. 1st Amended Agreement w/Benton Franklin Community Action Committee for Housing & Essential Needs Program
- j. 1st Amended Agreement w/Benton Franklin Community Action Committee for Ending Family Homelessness Program
- k. 2nd Amended Contract w/J Griffin dba Jet Computer Support for Programming Services
- l. 1st Amended Agreement w/DSHS for Developmental Disabilities Services

Juvenile

- m. Contract w/A Campbell for Functional Family Therapy
- n. Contract w/A Campbell for Domestic Violence Family Counseling
- o. 2nd Amendment w/Apollo Heating & Air for Maintenance & Repairs
- p. Line Item Transfer, Fund No. 0115-101, Dept. 171
- q. Line Item Transfer, Fund No. 0115-101, Dept. 173

Office of Public Defense

- r. Termination of Superior Court Indigent Defense Services w/J Chambers

Personnel

- s. Agreement w/Public Safety Testing, Inc. for Corrections Corporal & Sergeant Testing

Public Safety

- t. Departmental Name Change to Fund No. 0148-101, Dept. 122

Public Works

- u. Purchase of Guardrail, Terminals & Cables from Coral Sales Company
- v. Contract w/Granite Construction Co. for Locust Grove Road Asphalt Repair Project

Superior Court

- w. Line Item Transfer, Fund No. 0000-101, Dept. 138

Rural County Capital Funds Distribution

David Sparks presented a proposed resolution with the five cities and two ports to establish an allocation for the rural county capital funds (.09 sales tax rebate). He said the Board authorized the transfer of funds from the rural county capital fund into the bond fund to repay the remaining debt obligation for the 2002 Justice Center expansion, leaving almost \$6 million in the fund. He said they met with the different entities to come up with a reasonable allocation; Kennewick and Richland have the largest budget and contribute the most sales tax so they would receive the largest allocation and the remaining amount would be divided equally. Additionally, any new monies received in the future would be divided according to the same allocation. The agreement also included retaining 15% of the \$6 million to fund special projects.

The allocation percentage was as follows:

- 18.05% - City of Kennewick
- 16.31% - City of Richland
- 10.94% - City of West Richland
- 10.94% - City of Prosser
- 10.94% - City of Benton City
- 10.94% - Port of Benton County
- 10.94% - Port of Kennewick
- 10.94% - Benton County

Additionally, he said they should receive \$3.5 to \$4 million per year for the next seven years. He indicated that Adam Fyall would be working on the disbursement policy and proposed action for each of the entities to rescind the previous agreements so they could move forward.

Chairman Shon Small welcomed West Richland Mayor Brent Gerry, Kennewick City Manager Marie Mosley and Richland City Manager Cindy Reents.

Everyone complimented Mr. Sparks and his team for working through this multi-jurisdictional issue.

MOTION: Commissioner Beaver moved to approve the resolution establishing an allocation formula for the rural county capital funds (.09 sales tax rebate). Commissioner Delvin seconded and upon vote, the motion carried.

Public Works - GPS Equipment

Matt Rasmussen requested the Board authorize the purchase of 24 GPS units and wireless service agreement to install on 24 vehicles. He said the equipment would be used to gather activity information, engine hours, mileage, idle time, battery voltage, engine diagnostics and location history and would be used for maintenance, safety, response time/dispatching, location verification for damage claims, assignment/route accuracy, evaluation for efficiencies and application recording for the spray program.

Commissioner Delvin said he thought it was a good idea for safety and good use of technology.

MOTION: Commissioner Delvin moved to execute a Wireless Service Agreement with PreCise MRM, LLC for the purchase of GPS equipment and monitoring services. Commissioner Beaver seconded.

Discussion

Chairman Small said he agreed with the safety aspect and using it for efficiencies.

Upon vote, the motion carried.

Engineering Building Update

Fred Bowen said the Board previously approved a contract with CKJT Architects to perform a Feasibility Study to determine the structural condition of the Old Engineering Building located behind the Courthouse in Prosser. The report indicated the building structure appeared to be in good overall condition and did not see any indication that would prevent the building from being safely occupied.

He said the hazardous materials report was limited to the sampled materials and Asbestos-containing materials, lead-containing paint, PCB's-all fluorescent light fixtures & mercury light tubes were identified throughout the building.

He recommended the Board authorize him to seek bids for the removal of all hazardous materials for continued evaluation of the building at the estimated cost of \$46,000.

Commissioner Delvin asked if this would make the building hazardous free if they decided to move forward and Mr. Bowen said yes that it had to be done either way.

MOTION: Commissioner Beaver moved to authorize the Public Services Administrator to seek bids from qualified Contractors and Air Monitoring Consultants for the removal of all Hazardous Materials for continued evaluation of the building. Commissioner Delvin seconded and upon vote, the motion carried.

GIS Department Update

Mary Phillips gave a Powerpoint presentation and highlighted the following:

- GIS Deliverables
 - Maps for the Public/County
 - CD's/DVDs
 - Files Emailed/to Remote Dvice
 - Services to County/Agencies
 - Estimated Online Downloads
 - Images Registered
- GIS Webpage Views (majority were maps, data, and online mapping)
- Featured Projects
 - Road Department Custom Interactive Web Map
 - Planning Department – Comprehensive Map Update and Atlas

Candy Mountain Preserve

Adam Fyall welcomed Park Board members Robin Emmingham and John Becker, and Friends of Badger Mountain members David Comstock, Mark Spinner, and Sharon Grant.

He summarized the project and said there were two landowners willing to sell their land to preserve the open space and a local team that worked on the project for five years to acquire the land. He

said with the Friends of Badger Work, they had an opportunity for a 50% match state grant with one shot at it in 2014. He said they secured the grant of \$700,000 and work tirelessly on fundraising and received a total of \$800,000 to purchase the 186 acres on Candy Mountain.

He said they were now finishing the billings for the RCO grant for reimbursable funds for administrative costs, a new parking lot and trail work in the approximate amount of \$80,000.

Mr. Fyall presented the resolution creating the Candy Mountain Preserve, which also banked the acreage for possible future shrub-steppe mitigation.

Commissioner Delvin thanked Mr. Fyall and David Comstock for their work on the grant and said the Friends of Badger had been relentless in seeing this through and he believed it improved the quality of life for this area.

MOTION: Commissioner Delvin moved to approve the resolution creating the Candy Mountain Preserve. Commissioner Beaver seconded.

Discussion

Commissioner Beaver said this was in line with building a better community and the notion you could spend quality time without spending money and created an opportunity to enjoy the outdoors and a better identity for the Tri-Cities.

Upon vote, the motion carried.

David Comstock presented a check to the Commissioners representing the purchase price of Candy Mountain Preserve. He thanked the Commissioners, Adam Fyall and Friends of Badger and said this was about the community showing how important open space preservation and outdoor recreation was in the community. He said it was their goal to put in the parking lot and trail before the end of the calendar year.

Other Business

Commissioner Delvin said he attended the Columbia Industries annual meeting with Ms. Smith Kelty and Benton County received an award for business partner of the year for the work Josie Delvin and Loretta Smith Kelty did on the records and storage project for the Clerk.

Chairman Small reminded the Board about the bi-county meeting on Thursday.

Vouchers

Check Date: 06/21/2016

Warrant #: 141083-141084

Total all funds: \$39.38

Check Date: 06/24/2016

Transfers #: 06241601-06241611

Total all funds: \$549,671.53

Warrants #: 141345-141502

Total all funds: \$610,141.81

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

Resolutions

- 2016-512: Line Item Transfer, Fund No. 0000-101, Dept. 137
- 2016-513: Surplus of Personal Property
- 2016-514: Fund Expenditures from Trial Court Improvement Fund
- 2016-515: 3rd Amended Contract w/Meier Enterprises, Inc for Tenant Improvement Project for Prosecuting Attorney's Office & Office of Public Defense
- 2016-516: Contract w/Meier Enterprises, Inc for Design & Engineering of WSU Extension Office
- 2016-517: Purchase of Bench Seating from Keeney's Office Supply
- 2016-518: Contract w/Sierra Electric, Inc for Installation of Electrical Pedestals
- 2016-519: 1st Amended Agreement w/Benton Franklin Community Action Committee for Housing & Essential Needs Program
- 2016-520: 1st Amended Agreement w/Benton Franklin Community Action Committee for Ending Family Homelessness Program
- 2016-521: 2nd Amended Contract w/J Griffin dba Jet Computer Support for Programming Services
- 2016-522: 1st Amended Agreement w/DSHS for Developmental Disabilities Services
- 2016-523: Contract w/A Campbell for Functional Family Therapy
- 2016-524: Contract w/A Campbell for Domestic Violence Family Counseling
- 2016-525: 2nd Amendment w/Apollo Heating & Air for Maintenance & Repairs
- 2016-526: Line Item Transfer, Fund No. 0115-101, Dept. 171
- 2016-527: Line Item Transfer, Fund No. 0115-101, Dept. 173
- 2016-528: Termination of Superior Court Indigent Defense Services w/J Chambers
- 2016-529: Agreement w/Public Safety Testing, Inc. for Corrections Corporal & Sergeant Testing
- 2016-530: Departmental Name Change to Fund No. 0148-101, Dept. 122
- 2016-531: Purchase of Guardrail, Terminals & Cables from Coral Sales Company
- 2016-532: Contract w/Granite Construction Co. for Locust Grove Road Asphalt Repair Project
- 2016-533: Line Item Transfer, Fund No. 0000-101, Dept. 138
- 2016-534: Establishing an Allocation Formula for the Rural County Capital Fund
- 2016-535: Wireless Service Agreement with Precise MRM LLC for GPS Equipment
- 2016-536: Creation of Candy Mountain Preserve

There being no further business before the Board, the meeting adjourned at approximately 9:51 a.m.

Clerk of the Board

Chairman

Draft

MINUTES

BOARDS OF BENTON AND FRANKLIN COUNTY COMMISSIONERS

Special Bi-County Board Meeting
Thursday, June 30, 2016, 9:00 a.m.
Benton County Justice Center
Commissioners Conference Room, 2nd Floor
7122 W. Okanogan Place, Bldg. A
Kennewick, WA 99336

Benton County

Present: Chairman Shon Small
Commissioner Jerome Delvin
Commissioner James Beaver
County Administrator David Sparks
Clerk of the Board Cami McKenzie

Benton County/Bi-County Employees Present: Lexi Wingfield, Personnel Manager; DPA Ryan Lukson; Adam Fyall, Sustainable Development; Deputy Administrator Loretta Smith Kelty; Kyle Sullivan, Human Services Manager; DPA Ryan Brown; Tammy McKeirnan, Human Services; Shyanne Faulconer, Community Programs/PR Coordinator.

Franklin County

Present: Chairman Rick Miller
Commissioner Brad Peck
Commissioner Bob Koch
County Administrator Keith Johnson

Discussion on Future of Human Services

Chair Rick Miller acknowledged the Boards met in a bi-county meeting three months ago and came to an agreement, however, things happened since that time that they needed to review. The Franklin County Board indicated they just saw the contract about two weeks ago and there was no hesitation on their part but they needed to review the contract.

Chair Miller said one of the issues was a potential conflict of interest for Rick Weaver. He said he researched Bexar County Texas as the model for a one stop for a mental/behavioral health system, their consultant was willing to come to Tri-Cities and it would eliminate any conflict if they used him.

Commissioner Beaver asked why the conflict of interest wasn't raised at the bi-county meeting where the agreement was unanimously agreed to. He said the counties were making decisions together and then separately making other decisions and the constituents were not being served properly. He said it was time to make a decision and move forward.

Commissioner Peck said he shared that sentiment and enough was enough and they needed to serve the people, but not if it was the wrong decision. He then referred back to the minutes from the last meeting where he made an amendment to the motion stating it was conditioned upon review of the contract for services and was immediately after concerns were expressed regarding a conflict of interest. He said he felt they stuck to what they voted on but agreed the entire process took longer than it should have.

Additionally, Commissioner Peck stated he didn't have any relationship with Rick Weaver and everything he had heard indicated he was competent and highly respected. However they had a situation where an individual was CEO and president of an organization and simultaneously wearing four different hats: 1) a proposal to sign a contract to draft a plan for the future of mental health services in this community; 2) he was head of Comprehensive who could bid on those contracts for public money to provide those services; 3) he was sitting as a board member on GCBH as an alternate that influenced or approved contracts for these same services; and 4) he served on the finance committee that reviewed and advised the financial commitments for these contracts. He said it had nothing to do with his competence but it would be smart to avoid these potential conflicts so he could provide these services for our community.

Commissioner Delvin said he felt the Crisis Response issue should be solved now and proposed the counties give a 30 day notice to GCBH to break the contract for Crisis Response and let them know they wanted them to decide on a contractor or provider to provide that service so it became a stable organization. After that issue was solved they could deal with the rest of the systems but he felt the immediate need was to solve that issue. If they could not agree, then they would have to wait until 2017 when the agreement terminated but he would not take responsibility for what happened in the meantime.

Commissioner Peck agreed that was a good idea, the need was urgent and they should move forward but he wanted to hear from the audience on concerns about Crisis since it was a public meeting.

Chairman Miller said he agreed they needed to move forward on something and agreed with hearing from the audience.

The Boards agreed. Chairman Small said they should limit the comments to two minutes.

Public Comments

Tara Nelson spoke about how she was unable to get the help she needed from Crisis in 2012 before her father shot himself; she indicated Crisis was broken.

Ronnie Bachelor, community health worker, said she had a child that committed suicide and felt that people got the run around from Crisis. She said when a family was in a crisis was when the help was needed; she said they could not do everything but they could do more. She said something needed to happen to support those that were most vulnerable in the community.

Kenneth Taylor said he was working on Claude Oliver's advocacy team. He talked about his own personal issues and said the system needed to be fixed and warned the Commissioners not to just put a contract in place to appease them. He said his son tried to commit suicide two times and Crisis did not help.

Charles Sargent apologized for not speaking sooner on the issue and said his son could not break the cycle of addiction. He asked the Commissioners to sit on the contract once they got it in place to make sure it was working.

Desiree Hall, Pasco, talked about her personal experience and that she spent time in a Lourdes facility. She said the mental health system was strained and broken and needed to be addressed.

Barbara Mead, Lourdes Counseling, said she wanted to thank the Commissioners for the idea of separating Crisis from the rest of the system. She said that Crisis Services was the most challenging service to provide; it was labor intensive and highly educated people must provide that service. She said did not believe the behavioral health system was broken but that it was challenged and mentioned they opened the new Detox Center a week ago; a small but notable progress.

Commissioner Peck said that Lourdes was recognized as one of the highly capable providers in the area and he wanted to know if Lourdes felt disadvantaged in this process.

There was a discussion regarding the appropriateness of that question and whether the Boards were getting off the subject of the special board meeting. DPA Ryan Brown he was going to leave it up to the Board to decide.

Ms. Mead said it was her opinion that if a consultant was brought on to look at the overall behavioral health system that it must be very clearly defined to help the group develop an overall broad vision; then the consultant would step out and the group would work to define specific action plans where the providers were held accountable for those action plans. She said in the ideal world the consultant should be chosen from outside the local providers but also knowledgeable about services in the State of Washington. In response to another question by Commissioner Peck, Ms. Mead said that Lourdes had chosen not to be on the funding committee.

Chairman Small asked Ms. Mead if she had seen any favoritism on the funding board and she said she could not answer that question and she did not attend all those meetings.

Claude Oliver, former Benton County Commissioner, said they were asked by citizens to address this issue in 2004 and they were still at the same place now as they were back then. He said he was in a group that had been meeting for several months and all those members were touched by some tragedy. He said they were looking at finding a fast track to get those services and they

believed Bexar County in San Antonio was on a fast track and were nationally recognized for their work on mental health. He said one of their key components was they had community advisory around their board which was a key factor missing here is this community. He said they also wanted to ask Governor Jay Inslee to send his office of State DHS Mental Health to come and interview this community and meet with all players.

Commissioner Delvin said he reviewed the Commissioner minutes from 2004 but couldn't find a record of what Benton-Franklin CAC came back with. Mr. Oliver said they did talk about a one-stop shop back then and in 2008 six commissioners voted to go forward with CAC.

Commissioner Delvin said it was his recommendation to solve the Crisis issue and let GCBH contract for the services. He said currently the two counties were contracting with them to get the services so either the counties would need to keep it or let GCBH find someone to provide those services.

Claude Oliver said he agreed that sizing up the services that Crisis provided would be the first step in getting the system addressed. He requested the Boards expedite the Bexar County model and that Washington DHS also had a responsibility to review the issue.

Commissioner Beaver said the people were saying the counties were not doing a good job so he was in favor of giving it to GCBH because the longer it stayed with these six guys, the longer it didn't get fixed.

Commissioner Peck asked Mr. Oliver if he felt that going forward with contracting with Crisis would close the door for a one stop. Mr. Oliver said he believed it could preclude it from being part of the system.

Commissioner Koch said he agreed with dealing with the Crisis issue immediately and bringing up Bexar County at the same time.

Chairman Miller said he agreed with the Crisis issue being expedited and also wanted to meet with Bexar County now to discuss planning for this area.

Franklin County discussed the mental health sales tax issue.

Public Comments - Continued

Chris Kennedy said she did not believe they could separate the two issues and would hate to operate Crisis Response because part of the problem was that they had no options. She asked the Boards to look at models that currently worked like the Idaho program and Texas program.

Angi Mantewla said mental health was the same and didn't look different in other areas. She said her concern was that whoever they contracted with for Crisis Response, they should not think that it was fixed; they could do much better but they needed to make sure they were checking up on it.

Aaron Beasley asked the Boards to include in their motion to study other options and put a time limit on it.

Benton County

MOTION: Commissioner Delvin moved to send a joint letter to the GCBH stating they wanted to get out of the contract and request they provide the services in 30 days for the Crisis operations. Commissioner Beaver seconded and upon vote, the motion carried unanimously.

Franklin County

MOTION: Commissioner Koch said he wanted to have the same motion to have a bi-county letter sent to GCBH. Commissioner Peck seconded.

Discussion

Commissioner Peck wanted clarification that it was a joint letter from the two boards giving notice under the contract of their intent to terminate the contract to provide crisis response services at the first opportunity and the motion was only to send that notice.

Benton County indicated that was correct.

Upon vote the motion carried unanimously.

Benton County

MOTION: Commissioner Delvin moved to appoint the two chairs of the Boards to work with Kyle Sullivan on bringing a consultant to our area as soon as possible to look at designing a model for mental health. Commissioner Beaver seconded and upon vote, the motion carried unanimously.

Commissioner Peck said before they moved forward on any motion based on Benton County's action, he wanted to have a discussion. He said Benton County said to appoint the two chairs and he was sure it wasn't the intent of Benton County to tell Franklin County who to appoint.

Commissioner Delvin said he would amend his motion and Commissioner Peck indicated that Benton County's motion was not binding on Franklin County.

Commissioner Peck indicated the motion was for two commissioners to work with Kyle Sullivan and go out and locate a consultant and he wanted to know if there was a recommendation back to the Board whether it was binding to use whomever they found. He said that based on the sense of urgency and the fact they had identified a competent, nationally recognized, independent expert in Bexar County who was available in the next 30 to 40 days, he recommended the Board move for that option instead of having another meeting to study finding someone to come up here.

Chairman Miller agreed.

Franklin County

MOTION: Commissioner Koch moved to work with Kyle Sullivan bringing the consultant (Leon Evans) out of Texas up to give a breakdown of our system at this point. Commissioner Peck seconded.

Discussion

Commissioner Peck noted it was a different motion than passed by Benton County and as such would bind their representative in those discussions to say this was Franklin County’s decision that Leon Evans was the guy and if they wanted to explore other options, they would listen. Upon vote, the motion carried unanimously.

Commissioner Delvin said he didn’t have a problem with that.

Chairman Small said he didn’t have a problem with Bexar County but wanted to have Rick Weaver involved as well.

Chairman Miller said that Leon Evans asked to work with Rick Weaver if we had this conflict and he would reach out to him.

Commissioner Peck said that was not a decision of the Board but he had no opposition to Rick Weaver as long as all other providers and recipients of services in the community had equal and fair access in the process.

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

Clerk of the Board

Chairman

<u>AGENDA ITEM</u>	<u>TYPE OF ACTION NEEDED</u>	
Meeting Date: 7/12/16	Execute Contract _____	Consent Agenda XXX
Subject: Canvassing Board	Pass Resolution _____	Public Hearing
Appt	Pass Ordinance _____	1st Discussion
Prepared by: Marilu Flores	Pass Motion _____	2nd Discussion
Reviewed by:	Other _____	Other

BACKGROUND INFORMATION

The Elections Dept will be having a Primary Election on August 2, 2016, and a Commissioner (typically the Chairman) is appointed to serve on the Canvassing Board who will meet to canvass the Primary Election. Chairman Small is available to serve the timeframe July 13, 2016 through August 15, 2016.

SUMMARY

Chairman Small has agreed to serve on the Canvassing Board for the Presidential Primary.

RECOMMENDATION

Appoint Chairman Shon Small to the Elections Department Canvassing Board to canvass the primary election results.

FISCAL IMPACT

na

MOTION

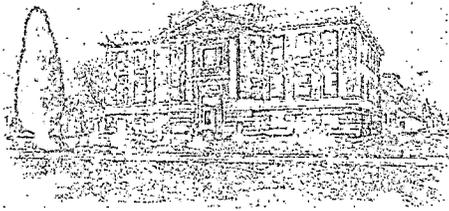
na - on consent agenda

Jerome Delvin
District 1
Shon Small
District 2
James Beaver
District 3

**Board of County Commissioners
BENTON COUNTY**

David Sparks
County Administrator

Loretta Smith Kelty
Deputy County Administrator



CANVASSING BOARD APPOINTMENT

I, Shon Small, Chair of the Benton County Commissioners, hereby designate myself to serve on the Benton County Canvassing Board for the Primary Election to be held on August 2, 2016. I will serve for the timeframe July 13, 2016 through August 15, 2016.

DATED this _____ day of July, 2016.

Shon Small, Chair
Board of County Commissioners

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF APPOINTING BENJAMIN F. CLARK TO THE BENTON COUNTY BOARD OF EQUALIZATION

WHEREAS, there exists a vacancy in the Board of Equalization due to a resignation of a board member; and

WHEREAS, requests for applications were published through the Benton County webpage; and

WHEREAS, Mr. Benjamin F. Clark has expressed an interest and willingness to be appointed to fill the vacancy on the Board which opened on April 30, 2016; **NOW, THEREFORE,**

BE IT RESOLVED that Benjamin F. Clark is hereby appointed to fill the position on the Benton County Board of Equalization, said term expiring on April 30, 2017.

Dated thisday 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>TYPE OF ACTION NEEDED</u>		
Meeting Date: <u>July 12, 2016</u> Subject: <u>Payment to Kone, Inc.;</u> <u>Emergency Services</u> Prepared by: <u>D. Waggoner</u> Reviewed by: _____	Execute Contract _____ Pass Resolution <u>X</u> Pass Ordinance _____ Pass Motion _____ Other _____		Consent Agenda <u>X</u> Public Hearing _____ 1st Discussion _____ 2nd Discussion _____ Other _____

BACKGROUND INFORMATION/ SUMMARY

There has been a delay in getting a new elevator contract in place. Bids are due back on July 1, 2016, resulting in a lapse of 30 days without an elevator maintenance and repair services contract.

Kone, Inc. was called to the Benton County Jail on June 13, 2016 to make an emergency repair to the Jail Kitchen Service Elevator in the amount of \$195.96 plus WSST for a total amount of \$212.81.

APPROVED AS TO FORM

RECOMMENDATION

Authorize Payment to Kone, Inc. in the amount of \$195.96 plus WSST for a total amount of \$212.81.

FISCAL IMPACT

MOTION

Consent Agenda

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AUTHORIZING PAYMENT TO KONE, INC. FOR SERVICES PERFORMED TO TROUBLESHOOT AN ELEVATOR MALFUNCTION

WHEREAS, Benton County entered into a contract with Kone, Inc. on April 28, 2015 per Resolution 2015-315 for complete elevator maintenance and repair services for 16 elevators at various Benton County locations including the Benton County Jail; and

WHEREAS, the contract with Kone, Inc expired on April 30, 2016 and a new contract has not yet been fully executed; and

WHEREAS, the Service Elevator in the Benton County Jail is essential to normal Jail operations and had a malfunction and would not operate; and

WHEREAS, the work was performed without a contract in place; and

WHEREAS, Kone, Inc. performed the work at the rate of the previous contract plus a 2.837% increase; and

WHEREAS, the Facilities Department was able to perform the repairs identified by Kone, Inc and return the elevator to normal service;

NOW, THEREFORE, BE IT RESOLVED the Board of Benton County Commissioners hereby authorizes payment to Kone, Inc. in the amount of \$195,960 plus WSST of \$16.85 for a total amount of \$212,81 for services performed to troubleshoot the malfunction of the Service Elevator at the Benton County Jail.

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



Invoice number: 1157196602 Invoice Date: 06/13/2016 Customer PO No: None KONE Order No: 203352628 Service Order: 9AUS10004792 Date work performed: 05/27/2016		Area Office: Spokane - 072 14737 NE 87th St Redmond WA 98052 Ph: 425-861-9696 Fax: 425-861-9888	KONE Inc., Federal 36 2357423
Bill To: COUNTY OF BENTON 620 MARKET ST PROSSER WA 99350 USA		Location/Project: BENTON COUNTY 7122 W OKANOGAN PL KENNEWICK WA 99336 USA	
Payment Terms: Net 30			

Jeff Johnson called on 05-27-2016 at 12:12PM reporting 12 SERVICE KITCHEN ELEV STOPPED WITH DOORS CLOSED. TRIES TO RESPOND TO CALLS; GOES UP HALF FLOOR THEN RETURNS. DOESN'T GO TO CALL. We arrived at 01:26PM and found the unit shut down due to a building power failure. We restarted unit, checked for proper and safe operation, and upon leaving at 1:57PM we returned the unit to service. This condition is not preventable through routine maintenance, and thus is outside the scope of the KONE Service Agreement. It is 100% billable.

Additional Clarification of Work by Knapinski, Shawn on 5/27/2016: Disconnect switch is failing; customer calling electrician.

Mechanic straight time	0.517	HR	\$	126.64
Mechanic straight time- travel	0.283	HR	\$	69.32
Subtotal			\$	195.96
State Tax			\$	12.73
City Tax			\$	4.12
Total Invoice Amount			\$	212.81

Invoices not paid within 30 days are subject to a service charge of 1.5% per month, or the maximum permitted by law

Please return this portion with your payment

PAYMENT ADVICE

We also accept VISA/Mastercard or EFT payments



Payer: COUNTY OF BENTON 620 MARKET ST PROSSER WA 99350 USA		Invoice number: 1157196602 Invoice Date: 06/13/2016 Customer Number: N341756 KONE Order No: 203352628 Area Office No: U072 Billing Type: YL2	
Remit to: KONE Inc 4156 P O BOX 894156 LOS ANGELES, CA 90189-4156		Use this address for payments only. Direct calls and area correspondence to our area office above.	
		Amount paid if different than invoice amount: \$ INVOICE AMOUNT: \$ 212.81	

115719660200000212818

RESOLUTION 2015 315

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF AWARDING A PUBLIC WORKS CONTRACT TO KONE, INC. FOR COMPLETE ELEVATOR MAINTENANCE AND REPAIR SERVICES FOR 16 ELEVATORS AT VARIOUS BENTON COUNTY LOCATIONS

WHEREAS, per resolution 2012-677, the Board of Benton County Commissioners approved a County-Wide Procurement, Leasing, and Contracting Policy; and

WHEREAS, per Section 3.4.1 (Public Works Contracts less than \$40,000) contracts may be entered into after direct negotiation and authorization by the Board of Benton County Commissioners, with such authorization being in the form of a resolution containing a summary of the three bid quotations obtained; and

WHEREAS, the Facilities Manager received proposals from the following contractors to systematically examine, maintain, adjust and lubricate 16 elevators and provide as needed repairs as follows:

Kone, Inc., Spokane Valley, WA:	\$2,350.00/month
ThyssenKrupp Elevator, Spokane Valley, WA:	\$3,202.00/month
Otis Elevator Company, Spokane, WA:	\$4,200.00/month

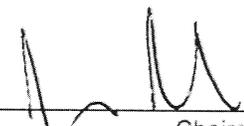
WHEREAS, the Facilities Manager reviewed the proposals and recommends awarding the Public Works Contract to Kone, Inc., Contractor License No. KONE11*96508 for complete elevator maintenance and repair services for 16 elevators at various Benton County locations for 12 months in the total amount not to exceed \$39,999.00 (including WSST); and

NOW, THEREFORE, BE IT RESOLVED the Board of Benton County Commissioners, Benton County, Washington concurs with the recommendation and awards a Public Works Contract to Kone, Inc. for complete elevator maintenance and repair services for 16 elevators at various Benton County for 12 months; and

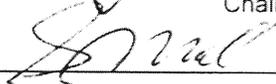
BE IT FURTHER RESOLVED the Board hereby authorizes the Chairman to sign the Public Works Contract with Kone, Inc. attached hereto in an amount not to exceed \$39,999.00 (including WSST); and

BE IT FURTHER RESOLVED, the term of the attached contract begins May 1, 2015 and terminates April 30, 2016.

Dated this 28 day of April, 2015.



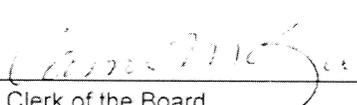
Chairman of the Board



Member



Member

Attest: 

Clerk of the Board

Exhibit B

Request for Proposal Form
Benton County Elevator Maintenance & Services

REQUEST FOR PROPOSAL FORM

COMPANY NAME AND ADDRESS:

Kone, Inc
5805 E. Sharp - A5
Spokane Valley, WA. 99212

PROPOSAL FOR: Benton County Elevator
Maintenance and Services 2015-2016
(12 month contract)

BASE PROPOSAL: \$2,350 monthly or \$28,200 annually

Price quoted in the proposal shall be exclusive of federal taxes. Any Washington State Sales Tax included in the proposal price will not be considered a part of the net proposal amount. The Contract will be awarded to the lowest responsible bidder pursuant to the criteria set forth in RCW 39.04.350(1).

HOURLY RATES:

Please provide hourly billing rates for necessary services and repairs that are outside the scope of work consistent with this RFP. These rates shall not change during the term of the awarded contract.

- Straight Time (8:00 AM to 4:30 PM Monday thru Friday): \$238/hr.
- Overtime (Defined as all hours outside straight time excluding Sundays and Holidays):
\$401/hr.
- Double Time to include Sundays and all Holidays (To include Sundays and all Holidays):
\$460/hr.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN MATTER OF AWARDING ARCHITECTURAL AND ENGINEERING SERVICES TO CKJT ARCHITECTS, PLLC. FOR THE DESIGN AND ENGINEERING OF THE EXHIBIT HALLS 2 & 3 RENOVATION AT BENTON COUNTY FAIRGROUNDS

WHEREAS, resolution 2016-127, authorized CKJT Architects to perform a feasibility study on Exhibit Halls 2 & 3 at the Benton County Fairgrounds; and

WHEREAS, the feasibility study recommended that Exhibit Halls 2 & 3 be renovated at an estimated cost of \$1.62 million; and

WHEREAS, the Board of County Commissioners approved proceeding with the development of construction plans and specifications for the renovation of Exhibit Halls 2 & 3 during the May 17th Board Meeting; and

WHEREAS, the Public Services Administrator recommends entering into a contract with CKJT Architects, PLLC. for the design and engineering of the Exhibit Halls 2 & 3 renovation; and

BE IT RESOLVED, the Board of Benton County Commissioners hereby concurs with the recommendation and awards the attached Professional Services Contract with CKJT Architects, PLLC. to provide architectural and engineering services for the Benton County Fairgrounds Exhibit Halls 2 & 3 renovation; and

BE IT FURTHER RESOLVED, the Board hereby authorizes the Chairman to sign the attached Professional Services Contract with CKJT Architects, PLLC. in an amount not to exceed \$148,888.60 including WSST or 8.5% of final total construction cost; and

BE IT FURTHER RESOLVED, that said contract shall begin immediately upon execution by both parties and expires on December 31, 2017,

Dated this day of, 20

Chairman of the Board

Chairman Pro Tem

Member

Attest:
Clerk of the Board

Constituting the Board of County
Commissioners of Benton County,
Washington

**BENTON COUNTY
PROFESSIONAL SERVICES CONTRACT
TERMS AND CONDITIONS**

THIS CONTRACT is made and entered into by and between **BENTON COUNTY**, a political subdivision, with its principal offices located at 620 Market Street, Prosser, WA 99350 (hereinafter "COUNTY"), and **CKJT ARCHITECTS, PLLC**, a professional limited liability corporation organized under the laws of the state of Washington, with its principal offices located at 128 Vista Way, 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. Terms and Conditions (this Document);
- b. Exhibit A - Scope of Work (Architect's Basic Services, Construction Phase Services, and Duration of Services);
- c. Exhibit B - Compensation and Reimbursable Expenses; and
- d. Exhibit C - Additional Services Fee Schedule.

2. DURATION OF CONTRACT

The term of this Contract shall begin immediately upon execution by both parties and shall expire on December 31, 2017. The CONTRACTOR shall complete all work by the time(s) specified herein and in Exhibit A (attached hereto and incorporated by reference), 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. Provide architect consultant services for the remodel of Exhibit Halls 2 and 3 at the Benton County Fairgrounds, located at 1500 South Oak Street, Kennewick, Washington 99337, in accordance with the scope of work set forth in Exhibit A. CONTRACTOR's provision of services is subject to the requirements and limitations set forth in this section.
- b. The CONTRACTOR agrees to provide its own labor and materials. Unless otherwise provided in this Contract, no

material, labor, or facilities will be furnished by the COUNTY.

- c. The CONTRACTOR shall perform the work consistent with the industry standards in the Architect and Engineering Profession. Specifically, in instances where the Project calls for the architect to exercise independent discretion in making a decision or resolving a dispute, CONTRACTOR shall do so in an independent fashion.
- d. The CONTRACTOR shall complete its work in a timely manner and in accordance with the schedule agreed to by both parties, which is set forth in Exhibit A.
- e. The CONTRACTOR shall confer with the COUNTY from time to time during the progress of the work. The CONTRACTOR shall prepare and present status reports and other information that may be pertinent and necessary, or as may be requested by the COUNTY.

4. CONTRACT REPRESENTATIVES

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

- a. For CONTRACTOR:

Terrance D. Casey
128 Vista Way
Kennewick, WA 99336
Phone: 509-783-5444
Email: tdc@ckjt.com

- b. For COUNTY:

Fred Bowen
Public Services Administrator
7122 W. Okanogan Place, Bldg. A
Kennewick, WA 99336
Phone: (509) 460-4942
Fax: (509) 736-2708
Email: Fred.Bowen@co.benton.wa.us

5. COMPENSATION

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

- a. A detailed description of the compensation to be paid by the COUNTY to the CONTRACTOR is set forth in Exhibit B, "Compensation and Reimbursable Expenses", which is attached hereto and incorporated herein by reference.
- b. The maximum total amount payable by the COUNTY to the CONTRACTOR under this Contract shall not exceed an amount equal to eight and one-half percent (8.5%) of the total construction cost of the remodel project for Exhibit Halls 2 and 3 of the Benton County Fairgrounds. Eight and one-half percent (8.5%) of the total construction cost of the remodel project is estimated, as of the effective date of this Contract, to be One Hundred Thirty-Three Thousand Eight Hundred Eighty-Eight Dollars and Sixty Cents (\$133,888.60). Additional services provided by CONTRACTOR, as described in the last bullet point in Exhibit A, shall be billed in accordance with the hourly rates set forth in Exhibit C, "Additional Services Fee Schedule" (attached hereto and incorporated by reference). The total amount of compensation paid by the COUNTY to CONTRACTOR for the performance of additional services shall not exceed Fifteen Thousand Dollars and Zero Cents (\$15,000.00), including W.S.S.T.
- c. No payment shall be made for any work performed by the CONTRACTOR, except for work identified and set forth in this Contract.
- d. The CONTRACTOR may, in accordance with Exhibit B, submit invoices to the COUNTY not more than once per month during the progress of the work for partial payment of the work completed to date. Invoices shall cover the time CONTRACTOR performed work for the COUNTY during the billing period. The COUNTY shall pay the CONTRACTOR for services rendered in the month following the actual delivery of work and will remit payment within thirty (30) days from the date of receipt.
- e. The CONTRACTOR shall not be paid for services rendered under this Contract unless and until they have been performed to the satisfaction of the COUNTY.

- f. In the event the CONTRACTOR has failed to perform any substantial obligation to be performed by the CONTRACTOR under this Contract and such failure has not been cured within ten (10) days following notice from the COUNTY, the COUNTY may in its sole discretion, upon written notice to the CONTRACTOR, withhold any and all monies due and payable to the CONTRACTOR, without penalty, until such failure to perform is cured or otherwise adjudicated. "Substantial" for the purposes of this Contract means faithfully fulfilling the terms of this Contract with variances only for technical or minor omissions or defects.
- g. Unless otherwise provided in this Contract or any exhibits or attachments hereto, the CONTRACTOR will not be paid for any billings or invoices presented for services rendered prior to the execution of this Contract or after its termination.

6. AMENDMENTS AND CHANGES IN WORK

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

7. HOLD HARMLESS AND INDEMNIFICATION

- a. The CONTRACTOR shall hold harmless, indemnify, and defend the COUNTY, its officers, officials, employees, and agents, from and against any and all claims, actions, suits, liability, loss, expenses, damages, and judgments of any nature whatsoever, including reasonable costs and attorneys' fees in defense thereof, for injury, sickness, disability, or death to persons or damage to property or business, which are caused in whole or in part by any act or omission, negligent or otherwise, of CONTRACTOR or its subcontractors, which arise in connection with the work

performed under this Contract, or are caused or occasioned in whole or in part by reason of the presence of the CONTRACTOR or its subcontractors or their property upon or in the proximity of the property of the County. 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. In the event of the concurrent negligence of the CONTRACTOR, its subcontractors, employees, or agents, and the COUNTIES, its employees or agents, this indemnification obligation of the CONTRACTOR shall be valid and enforceable only to the extent of the negligence of the CONTRACTOR, its subcontractors, employees, and agents.

- b. In any and all claims against the COUNTY, its officers, officials, employees, and agents by any employee of the CONTRACTOR, subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under this Section shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the CONTRACTOR or subcontractor under Workers' Compensation acts, disability benefit acts, or other employee benefit acts, it being clearly agreed and understood by the parties hereto that the CONTRACTOR expressly waives any immunity the CONTRACTOR might have had under such laws, including but not limited to Title 51 of the Revised Code of Washington. **By executing this Contract, the CONTRACTOR acknowledges that the foregoing waiver has been mutually negotiated by the parties and that the provisions of this Section shall be incorporated, as relevant, into any contract the CONTRACTOR makes with any subcontractor or agent performing work hereunder. CONTRACTOR'S obligations under this Section 7 shall survive termination and expiration of this Contract.**
- c. The CONTRACTOR'S obligations hereunder shall include, but are not limited to, investigating, adjusting, and defending all claims alleging loss from action, error, or omission, or breach of any common law, statutory, or other delegated duty by the CONTRACTOR, the CONTRACTOR'S employees, agents, or subcontractors.

8. **INSURANCE**

- a. **Professional Liability Insurance:** Prior to the start of

work under this Contract, the CONTRACTOR shall secure and maintain at its own expense Professional Liability Insurance appropriate to the CONTRACTOR'S profession and shall be written subject to limits of not less than one million dollars (\$1,000,000) each claim and in the aggregate. Such insurance will be provided by an insurance carrier with a Best's Rating of not less than A-VII.

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 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. If the policy is claims made, the retroactive date shall be prior to or coincident with the effective date of this Contract. CONTRACTOR is required to maintain claims made professional liability insurance for a minimum of 36 months after the effective date of termination or completion of this Contract. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of 36 months after the completion of work. CONTRACTOR shall annually provide COUNTY with proof of all such insurance.

- b. **Workers Compensation:** CONTRACTOR shall comply with all State of Washington workers compensation statutes and regulations. Prior to the start of work under this Contract, workers compensation coverage shall be provided for all employees of CONTRACTOR and employees of any subcontractor or sub-subcontractor. Coverage shall include bodily injury (including death) by accident or disease, which arises out of or in connection with the performance of this Contract. CONTRACTOR shall submit a copy of its certificate of coverage from the Department of Labor and Industries prior to commencement of work. 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 and employers liability.

If CONTRACTOR, subcontractor, or sub-subcontractor fails to comply with all State of Washington workers' compensation statutes and regulations and COUNTY incurs fines or is required by law to provide benefits to or obtain coverage

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

- c. **Commercial General Liability and Employers Liability Insurance:** Prior to the start of work under this Contract, CONTRACTOR shall maintain commercial general liability coverage (policy form CG0001 or equivalent) to protect the CONTRACTOR from claims for wrongful death, bodily injury, personal injury and property damage, which may arise from any actions or inactions under this Contract by CONTRACTOR or by anyone directly employed by or contracting with CONTRACTOR. The minimum commercial general liability insurance limits shall be as follows:

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

The commercial general liability policy will contain an endorsement naming the COUNTY, its elected and appointed officials, employees and agents as an Additional Insured and an endorsement that specifically states that CONTRACTOR'S commercial general liability policy shall be primary, and not contributory, with any other insurance maintained by the COUNTY.

The CONTRACTOR will provide commercial general liability coverage that does not exclude any activity to be performed in fulfillment of this Contract and does not exclude liability pursuant to the indemnification requirement under Section 7. CONTRACTOR'S commercial general liability policy shall provide cross liability coverage, indicating essentially that except with respect to the limits of insurance and any rights or duties specifically assigned in this coverage part to the first named insured, this insurance applies as if each named insured were the only named insured, and separately to each insured against whom claims are made or suit is brought.

CONTRACTOR shall also provide Stop Gap Employer's Liability

Insurance coverage with minimum limits as follows:

\$1,000,000 Each Accident

\$1,000,000 Policy Limit for Disease

\$1,000,000 Each Employee for Disease

d. **Automobile Liability:** The CONTRACTOR shall maintain, during the life of this Contract, Automobile Liability Insurance (ISO Form Number CA0001 or equivalent) covering any auto (Symbol 1), or if the Contractor has no owned autos, hired (Symbol 8) and non-owned autos (Symbol 9), in the amount of not less than one million dollars (\$1,000,000) per accident for Bodily Injury and Property Damage to protect CONTRACTOR from claims which may arise from the performance of this Contract, whether such operations be by the CONTRACTOR or by anyone directly or indirectly employed by the CONTRACTOR.

e. **Other Insurance Provisions:**

1. The CONTRACTOR'S liability insurance provisions shall be primary with respect to any insurance or self-insurance programs covering the COUNTY, and its elected and appointed officers, officials, employees, and agents. CONTRACTOR'S liability insurance policies must be endorsed to show this primary coverage. Any insurance, self-insured retention, deductible, or risk retention maintained or participated in by the COUNTY shall be excess and not contributory to CONTRACTOR'S insurance policies.
2. The CONTRACTOR'S liability insurance policies shall contain no special limitations on the scope of protection afforded to the COUNTY as an additional insured.
3. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the COUNTY, or its officers, officials, employees, or agents.
4. The CONTRACTOR'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. The CONTRACTOR shall include all subcontractors as

- insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.
6. The insurance limits mandated for any insurance coverage required by this Contract are not intended to be an indication of exposure, nor are they limitations on indemnification. **If the CONTRACTOR maintains higher limits than the minimums required in this Contract, the COUNTY shall be entitled to coverage for the higher limits maintained by the CONTRACTOR.**
 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. CONTRACTOR is required to maintain claims made professional liability insurance for a minimum of 36 months after the effective date of termination or completion of this Contract. All liability insurance required under this Contract, except for professional liability under Section 8(a), shall be written on an Occurrence Policy form.
 8. CONTRACTOR hereby agrees to waive subrogation with respect to each insurance policy maintained under this Contract. When required by an insurer, or if a policy condition does not permit CONTRACTOR to enter into a pre-loss agreement to waive subrogation without an endorsement, then CONTRACTOR agrees to notify the insurer and obtain such endorsement. This requirement shall not apply to any policy which includes a condition expressly prohibiting waiver of subrogation by the insured or which voids coverage should the CONTRACTOR enter into such a waiver of subrogation on a pre-loss basis.
 9. Compensation and/or payments due to CONTRACTOR under this Agreement are expressly conditioned upon CONTRACTOR'S strict compliance with all insurance requirements. Payment to CONTRACTOR may be suspended in the event of non-compliance. Upon receipt of evidence of CONTRACTOR'S compliance, such payments not otherwise subject to withholding or set-off will be released to CONTRACTOR.

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

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

1. All insurance to be maintained by the CONTRACTOR, other than Professional Liability, Auto Liability and Workers' Compensation, shall specifically include the COUNTY, and its elected officials, employees, and volunteers as an "Additional Insured" by way of endorsement and shall not be reduced or canceled without thirty (30) days written prior notice to the COUNTY. Any insurance or self-insurance maintained by the COUNTY, its elected and appointed officials, employees, and agents shall be excess of the CONTRACTOR's insurance and shall not contribute to it.
2. Certificates of Liability Insurance, with endorsements attached, are to be provided to the County's Contract Representative referenced in Section 4.
3. All written notices under this Section 8 and notice of cancellation or change of required insurance coverages shall be mailed to the COUNTY's Contract Representative referenced in Section 4.
4. 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 at the following address: Benton County Risk Manager, 7122 W. Okanogan Place, Bldg. A, Kennewick, WA 99336.

9. **TERMINATION**

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

that event, the COUNTY shall pay the CONTRACTOR for all cost incurred by the CONTRACTOR in performing the Contract up to the date of such notice. Payment shall be made in accordance with the Compensation Section of this Contract.

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

10. ASSIGNMENT, DELEGATION, AND SUBCONTRACTING

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

11. NON-WAIVER OF RIGHTS

The parties agree that the excuse or forgiveness of performance or waiver of any provision of this Contract does not constitute a waiver of such provision(s) or future performance, or prejudice the right of the waiving party to enforce any of the provisions of this Contract at a later time. All waivers of any provision(s) of this Contract shall be in writing and in the absence of such, no action or inaction shall be construed to be such a waiver.

12. INDEPENDENT CONTRACTOR

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

13. COMPLIANCE WITH LAWS

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

14. INSPECTION OF BOOKS AND RECORDS

The COUNTY may, at reasonable times, inspect the books and records of the CONTRACTOR relating to the performance of this Contract. The CONTRACTOR shall keep, and make available to the County upon request, all records relating to the performance of this Contract for six (6) years after Contract termination or expiration.

15. NONDISCRIMINATION

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

16. OWNERSHIP OF MATERIALS/WORKS PRODUCED

- a. All reports, drawings, plans, specifications, forms of electronic media, 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 there from to the extent such use is not agreed to in writing by the CONTRACTOR.
- b. All design work done 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 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.

17. PATENT/COPYRIGHT INFRINGEMENT

The CONTRACTOR shall hold harmless, indemnify, and defend the COUNTY, its officers, officials, employees, and agents, from and against any claimed action, cause, or demand brought against the COUNTY, where such action is based on the claim that information supplied by the CONTRACTOR or subcontractor infringes any patent or copyright. The CONTRACTOR shall be notified promptly in writing by the COUNTY of any notice of such claim.

18. DISPUTES

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

19. CONFIDENTIALITY

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

20. CHOICE OF LAW, JURISDICTION AND VENUE

- a. This Contract has been and shall be construed as having been made and delivered within the state of Washington, and it is agreed by each party hereto that this Contract shall be governed by the laws of the state of Washington, both as to its interpretation and performance.

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

21. SUCCESSORS AND ASSIGNS

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

22. SEVERABILITY

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

23. ENTIRE AGREEMENT

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

24. NOTICES

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

facsimile, service shall be effective at the beginning of the next working day.

25. SURVIVABILITY

All Contract terms, which by their context are clearly intended to survive the termination and/or expiration of this Contract, shall so survive. These terms include, but are not limited to, indemnification provisions (Sections 7 and 17); extended reporting period requirements for professional liability insurance (Section 8(a)); inspection and keeping of records and books (Section 14); litigation hold notice (Section 26); Public Records Act (Section 27); and confidentiality (Section 19).

26. LITIGATION HOLD NOTICE

In the event the COUNTY learns of circumstances leading to an increased likelihood of litigation regarding any matter where the records kept by CONTRACTOR pursuant to Section 14 of this agreement may be of evidentiary value, the COUNTY may issue written notice to CONTRACTOR of such circumstances and direct the CONTRACTOR to "hold" such records. In the event that CONTRACTOR receives such written notice, CONTRACTOR shall abide by all directions therein whether or not such written notice is received at a time when a Contract between CONTRACTOR and the COUNTY is in force. Such directions will include, but will not be limited to, instructions to suspend the six (6) year purge schedule as set out above in Section 14.

27. PUBLIC RECORDS ACT

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

disclosure of any records marked by CONTRACTOR as confidential or proprietary, so that CONTRACTOR may seek a judicial order of protection if necessary.

- This section intentionally left blank. -

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.

Dated: _____

Dated: 06.30.2016

Benton County Board of Commissioners

CKJT Architects, PLLC

Chairman

Signature

Member

PRINCIPAL
Title:

Member

TERRANCE D CASEY
PRINTED NAME

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

Attest: _____
Clerk of the Board

Approved as to Form

[Signature]
Civil Deputy Prosecuting Attorney

EXHIBIT A

BENTON COUNTY FAIRGROUNDS BUILDINGS #2 & #3 REMODEL

Architect's Basic Services

- Remodel buildings #2 & #3 along with new enclosures between buildings and the existing restroom building as outlined on the drawings and in the Benton County Fairgrounds Feasibility Study prepared by CKJT Architect, pllc dated April 20, 2016.
- No modifications are included for the existing restroom buildings.
- Demolition and design parameters are as established by the above referenced feasibility study.
- The Architect's Basic Services consist of those described above and include usual and customary mechanical and electrical engineering services.

Construction Phase Services

- The Architect's responsibility to provide Construction Phase services commences with the award of the Contract for Construction and terminates on the date which is sixty (60) calendar days after the date of substantial completion.
- Included in the Construction Phase services are the following –
 - Two (2) reviews of each Shop Drawing, Project Data Item, Sample and similar submittal of the contractor.
 - Nine (9) visits to the site by the Architect over the duration of the Project during construction (assumes 4.3 weeks per month x 4.5 months).
 - Two (2) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents.
 - Two (2) inspection of any portion of the Work to determine final completion.

Duration of Services

- If the services covered by this agreement have not been completed within fourteen (14) months of the date of this agreement, though no fault of the Architect, extension of the Architect's service beyond that time shall be compensated as Additional Services.

EXHIBIT B

BENTON COUNTY FAIRGROUNDS BUILDINGS #2 & #3 REMODEL

- Compensation
 - For the Architect's Basic Services as described in Exhibit A, the Owner shall compensate the Architect as a fee percentage of eight and one half percent (8.5%) of the construction cost.
- Compensation Schedule
 - Design Development Phase 22%
 - Construction Document Phase 38%
 - Bidding Phase 5%
 - Construction Phase 34%
 - Project Close-Out 2%

Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate of twelve percent (12%) per annum (1% per month).

- Reimbursable Expenses
 - For reimbursable expenses, the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus ten percent (10%) of the expenses incurred.
 - Types of reimbursable expenses are as follows, but not limited to –
 - Printing plan review and bid documents;
 - Bid advertisement;
 - Plan review fees.

EXHIBIT C

BENTON COUNTY FAIRGROUNDS BUILDING #2 & #3 REMODEL

Additional Services Fee Schedule

CKJT Architects

Principal	\$112.00 /hour
Senior Staff Architect	\$100.00 /hour
Architectural Intern	\$65.00 /hour
Administrative	\$45.00 /hour

DEI Electrical Consultants, Inc.

Principal Engineer	\$150.00 /hour
Professional Engineer	\$125.00 /hour
Lighting Designer	\$125.00 /hour
Senior Designer	\$100.00 /hour
CAD/Revit Technician	\$75.00 /hour

L&S Engineering

Principal	\$160.00 /hour
Associate	\$130.00 /hour
Project Manager	\$120.00 /hour
Designer	\$105.00 /hour
CAD Tech	\$90.00 /hour

<u>AGENDA ITEM</u>	<u>TYPE OF ACTION NEEDED</u>	
Meeting Date: Next Available	Execute Contract	<u> X </u>
Subject: <u>Professional Services Contract between Benton and Franklin Counties Department of Human Services and Our Lady of Lourdes Hospital at Pasco</u>	Pass Resolution	<u> X </u>
Prepared by: Deena Horton, Admin Asst-DHS	Pass Ordinance	<u> </u>
Reviewed by: Kyle Sullivan, Administrator-DHS	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

Benton and Franklin Counties Department of Human Services would like contract Our Lady Lourdes Hospital at Pasco to provide the services of an ARNP.

The Contractor will provide twelve (12) hours of services per week. Services include, but are not limited to evaluation and medication management of for inmates of the Benton County Jail, multidisciplinary team meetings, consultation to jail mental health team, and training to jail staff.

COORDINATION

Kyla Bennett Marshall-BCPA
Kyle Sullivan, DHS

SUMMARY

Award: Not to exceed \$53,976.00
Period: July 1, 2016 through June 30, 2017
Funding Source: Fund 0108-101 Human Services Budget

RECOMMENDATION

- Sign the Resolution to accept the proposed Professional Services Contract
- Approve the proposed Professional Services Contract by signing all the copies where indicated

FISCAL IMPACT

There is no impact on the current expense budget. All revenues and expenditures are from the Fund 0108-101 Human Services Budget, for a maximum total amount not to exceed \$53,976.00.

MOTION

To approve signing a Professional Services Contract between Benton and Franklin Counties Department of Human Services and Our Lady Lourdes Hospital at Pasco, and to authorize the Chair to sign on behalf of the Board.

Signature

RESOLUTION

BENTON COUNTY RESOLUTION NO. _____

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

**RE: IN THE MATTER OF EXECUTING A PROFESSIONAL SERVICES CONTRACT
BETWEEN BENTON AND FRANKLIN COUNTIES DEPARTMENT OF HUMAN
SERVICES AND OUR LADY OF LOURDES HOSPITAL AT PASCO, DOING
BUSINESS AS LOURDES COUNSELING CENTER**

WHEREAS, Benton and Franklin Counties Department of Human Services would like to contract with Our Lady of Lourdes Hospital at Pasco to provide the services of an ARNP (Advanced Registered Nurse Practitioner); and

WHEREAS, the Contractor will provide twelve (12) hours of services per week. Services include, but are not limited to evaluation and medication management for inmates of the Benton County Jail, multidisciplinary team meetings, consultation to jail mental health team, and training to jail staff;

NOW, THEREFORE, BE IT RESOLVED, that the Chairman of the Board of Benton County Commissioners hereby accepts the proposed Professional Services Contract; and

BE IT RESOLVED, that the Chairman of the Board of Benton County Commissioners, be and they hereby is, authorized to sign, on behalf of Benton County, a Professional Services Contract between Benton and Franklin Counties Department of Human Services and Our Lady of Lourdes Hospital at Pasco, to provide the services of an ARNP at the Benton County Jail, for a maximum consideration amount not to exceed \$53,976.00; and

BE IT FURTHER RESOLVED, the term of the attached Professional Services Contract commences on July 1, 2016 and shall expire on June 30, 2017.

Dated thisday of , 2016

Chair

Member

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

Attest: _____
Clerk of the Board

**BENTON AND FRANKLIN COUNTIES
DEPARTMENT OF HUMAN SERVICES
PROFESSIONAL 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, by and for the **BENTON AND FRANKLIN COUNTIES' DEPARTMENT OF HUMAN SERVICES**, a bi-county department, with its principal offices at 7102 West Okanogan Place, Suite 201, Kennewick, WA 99336 (hereinafter "COUNTY"), and **OUR LADY OF LOURDES HOSPITAL AT PASCO**, a nonprofit corporation organized under the laws of the state of Washington, doing business as Lourdes Counseling Center, with its principal offices at, 520 North 4th Avenue, Pasco, WA 99301 (hereinafter "CONTRACTOR").

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

1. CONTRACT DOCUMENTS

This Contract consists of the Terms and Conditions contained in this document.

2. DURATION OF CONTRACT

The term of this Contract shall begin July 1, 2016 and shall expire on June 30, 2017. 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 will provide the services of an ARNP (Advanced Registered Nurse Practitioner). The CONTRACTOR will provide twelve (12) hours of ARNP services per week. Direct services include, but are not limited to: evaluation and medication management for inmates of the Benton County Jail, located at 7122 West Okanogan Place, Kennewick, Washington 99336; multidisciplinary team meetings; consultation to jail mental health team; and training to jail staff. Inmates will be referred and approved by a Mental Health Professional (MHP) designated by CONTRACTOR to determine if a referral for ARNP services is appropriate.
- b. In addition, inmates must be assessed for medical

necessity by the MHP. "Medical necessity" means a requested service is reasonably calculated to prevent, diagnose, correct, cure, alleviate, or prevent the worsening of conditions in the recipient that endanger life, cause suffering or pain, result in illness or infirmity, threaten to cause or aggravate a handicap, or cause physical deformity or malfunction, and there is no other equally effective, more conservative or substantially less costly course of treatment available or suitable for the person requesting ARNP services.

Furthermore prior to referral for ARNP services, the inmate must be determined by the MHP to have a mental illness covered by Washington State for public mental health services. To that effect, the individual's impairment(s) and corresponding need(s) must be the result of a mental illness and the intervention must be deemed reasonably necessary to improve, stabilize, or prevent deterioration of functioning resulting from the presence of a mental illness.

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

4. CONTRACT REPRESENTATIVES

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

- a. For CONTRACTOR:

Name: John Serle, Lourdes Health Network,
President and CEO
Address: 520 N. 4th Ave, Pasco, WA 99301
Phone: 509-547-7704
E-mail: jserle@lourdesonline.org

b. For COUNTY:

Name: Kyle Sullivan, Human Services Administrator
Address: 7102 W. Okanogan Suite 201, Kennewick, WA 99336
Phone: (509) 783-5284
Fax: (509) 783-5981
E-mail: Kyle.Sullivan@co.benton.wa.us

5. COMPENSATION

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

- a. A rate of \$1,038.00 per twelve (12) hours of services delivered within the Benton County Jail. This rate is in effect for any ARNP who provides services in accordance with Section 3 of this Contract.
- b. The maximum total amount payable by the COUNTY to the CONTRACTOR under this Contract shall not exceed \$53,976.00.
- c. No payment shall be made for any work performed by the CONTRACTOR, except for work identified and set forth in this Contract.
- d. The CONTRACTOR may submit invoices to the COUNTY not more than once per month during the progress of the work for partial payment of the work completed to date. Invoices shall cover the time CONTRACTOR performed work for the COUNTY during the billing period. The COUNTY shall pay the CONTRACTOR for services rendered in the month following the actual delivery of work and will remit payment within thirty (30) days from the date of receipt.
- e. The CONTRACTOR shall not be paid for services rendered under this Contract unless and until they have been performed to the satisfaction of the COUNTY.
- f. In the event the CONTRACTOR has failed to perform any substantial obligation to be performed by the CONTRACTOR under this Contract and such failure has not been cured within ten (10) days following notice from the COUNTY, the COUNTY may, in its sole discretion, upon written notice to the CONTRACTOR, withhold any and all monies due and payable to the CONTRACTOR, without penalty, until such failure to perform is cured or otherwise adjudicated. "Substantial" for the purposes of this Contract means faithfully fulfilling the terms of this Contract with variances only for technical or minor omissions or defects.

- g. Unless otherwise provided in this Contract or any exhibits or attachments hereto, the CONTRACTOR will not be paid for any billings or invoices presented for services rendered prior to the execution of this Contract or after its termination.

6. AMENDMENTS AND CHANGES IN WORK

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

7. HOLD HARMLESS AND INDEMNIFICATION

- a. The CONTRACTOR shall hold harmless, indemnify and defend the COUNTY, its officers, officials, employees and agents, from and against any and all claims, actions, suits, liability, loss, expenses, damages, and judgments of any nature whatsoever, including reasonable costs and attorneys' fees in defense thereof, for injury, sickness, disability or death to persons or damage to property or business, arising in connection with the work performed under this Contract, or caused or occasioned in whole or in part by reason of the presence of the CONTRACTOR or its subcontractors or their property upon or in the proximity of the property of the County. PROVIDED, that the CONTRACTOR'S obligation hereunder shall not extend to injury, sickness, death or damage caused by or arising out of the sole negligence of the COUNTY, its officers, officials, employees or agents.
- b. In any and all claims against the COUNTY, its officers, officials, employees and agents by any employee of the CONTRACTOR, subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under this Section shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the CONTRACTOR or subcontractor under Workers Compensation

acts, disability benefit acts, or other employee benefit acts, it being clearly agreed and understood by the parties hereto that the CONTRACTOR expressly waives any immunity the CONTRACTOR might have had under such laws, including but not limited to Title 51 of the Revised Code of Washington. By executing this Contract, the CONTRACTOR acknowledges that the foregoing waiver has been mutually negotiated by the parties and that the provisions of this Section shall be incorporated, as relevant, into any contract the CONTRACTOR makes with any subcontractor or agent performing work hereunder. CONTRACTOR'S obligations under this Section 7 shall survive termination and expiration of this Contract.

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

8. INSURANCE

- a. **Professional Liability Insurance:** Prior to the start of work under this Contract, the CONTRACTOR shall secure and maintain at its own expense Professional Liability Insurance appropriate to the CONTRACTOR'S profession and shall be written subject to limits of not less than one million dollars (\$1,000,000) each claim and three million dollars (\$3,000,000) in the aggregate. Such insurance will be provided by an insurance carrier with a Best's Rating of not less than A-VII.

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 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. If the policy is claims made, the retroactive date shall be prior to or coincident with the effective date of this Contract. CONTRACTOR is required to maintain claims made professional liability insurance for a minimum of 36 months after the effective date of termination or completion of this Contract. CONTRACTOR shall annually provide COUNTY with proof of all such insurance. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of 36 months after the completion of work. CONTRACTOR shall annually provide COUNTY with proof of all such insurance.

- b. **Workers Compensation:** CONTRACTOR shall comply with all State of Washington workers compensation statutes and regulations. Prior to the start of work under this Contract, workers compensation coverage shall be provided for all employees of CONTRACTOR and employees of any subcontractor or sub-subcontractor. Coverage shall include bodily injury (including death) by accident or disease, which arises out of or in connection with the performance of this Contract. CONTRACTOR shall submit a copy of its certificate of coverage from the Department of Labor and Industries prior to commencement of work. 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:** Prior to the start of work under this Contract, CONTRACTOR shall maintain commercial general liability coverage (policy form CG0001 or equivalent) to protect the CONTRACTOR from claims for wrongful death, bodily injury, personal injury and property damage, which may arise from any actions or inactions under this Contract by CONTRACTOR or by anyone directly employed by or contracting with CONTRACTOR. The minimum commercial general liability insurance limits shall be as follows:

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

The commercial general liability policy will contain an endorsement naming the COUNTY, its elected and appointed officials, employees and agents as an Additional Insured and an endorsement that specifically states that

CONTRACTOR's commercial general liability policy shall be primary, and not contributory, with any other insurance maintained by the COUNTY.

The CONTRACTOR will provide commercial general liability coverage that does not exclude any activity to be performed in fulfillment of this Contract and does not exclude liability pursuant to the indemnification requirement under Section 7. CONTRACTOR'S commercial general liability policy shall provide cross liability coverage, indicating essentially that except with respect to the limits of insurance and any rights or duties specifically assigned in this coverage part to the first named insured, this insurance applies as if each named insured were the only named insured, and separately to each insured against whom claims are made or suit is brought.

CONTRACTOR shall also provide Stop Gap Employer's Liability Insurance coverage with minimum limits as follows:

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

- d. **Automobile Liability:** The CONTRACTOR shall maintain, during the life of this Contract, Commercial Automobile Liability Insurance (CA0001), or equivalent coverage, in the amount of not less than one million dollars (\$1,000,000) per accident for Bodily Injury and Property Damage to protect CONTRACTOR from claims which may arise from the performance of this Contract, whether such operations be by the CONTRACTOR or by anyone directly or indirectly employed by the CONTRACTOR. Commercial Auto Liability Insurance shall include coverage for owned, non-owned and hire autos. Covered auto shall be designated as "Symbol 1" any auto. CONTRACTOR waives all rights against the COUNTY for the recovery of damages to the extent they are covered by Commercial Auto Liability Insurance.

e. **Other Insurance Provisions:**

1. The CONTRACTOR's liability insurance provisions shall be primary with respect to any insurance or self-insurance programs covering the COUNTY, its elected and appointed officers, officials, employees and agents.
2. The CONTRACTOR's liability insurance policies shall contain no special limitations on the scope of

protection afforded to the COUNTY as an additional insured.

3. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the COUNTY, its officers, officials, employees or agents.
4. The CONTRACTOR's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. The CONTRACTOR shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.
6. The insurance limits mandated for any insurance coverage required by this Contract are not intended to be an indication of exposure nor are they limitations on indemnification.
7. The CONTRACTOR shall maintain all required policies in force from the time services commence until services are completed. Certificates, policies, and endorsements expiring before completion of services shall be promptly replaced. All liability insurance required under this Contract, except for professional liability under Section 8(a), shall be written on an Occurrence Policy form.

f. Verification of Coverage and Acceptability of Insurers:

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

1. All insurance to be maintained by the CONTRACTOR, other than Professional Liability, Auto Liability and Workmen's Compensation, shall specifically include the COUNTY as an "Additional Insured" and shall not be reduced or canceled without thirty(30) days written prior notice to the COUNTY. Any insurance or self-

insurance maintained by the COUNTY, its elected and appointed officials, employees and agents shall be excess of the CONTRACTOR's insurance and shall not contribute to it.

2. Certificates of Liability Insurance are to be provided to the County's Contract Representative referenced in Section 4.b.
3. All written notices under this Section 8 and notice of cancellation or change of required insurance coverages shall be mailed to the COUNTY's Contract Representative referenced in Section 4.b.
4. 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 at the following address: Benton County Risk Manager, 7122 W. Okanogan Place, Bldg. A, Kennewick, WA 99336

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 costs incurred by the CONTRACTOR in performing the Contract up to the date of such notice. Payment shall be made in accordance with the Compensation Section of this Contract.
- b. 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 sixty (60) 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 the Compensation Section of this Contract.
- 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 immediately terminate this Contract by so notifying the CONTRACTOR, in which case the COUNTY shall pay the CONTRACTOR only for the costs of services accepted by the COUNTY, in accordance with the Compensation Section of this Contract. Upon such termination, the COUNTY, at its discretion, may obtain performance of the work elsewhere, and the CONTRACTOR shall bear all costs and expenses incurred by the COUNTY in completing the work and all damage sustained by the COUNTY by reason of the CONTRACTOR'S breach.

10. ASSIGNMENT, DELEGATION AND SUBCONTRACTING

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

11. NON-WAIVER OF RIGHTS

The parties agree that the excuse or forgiveness of performance, or waiver of any provision(s) of this Contract does not constitute a waiver of such provision(s) or future performance, or prejudice the right of the waiving party to enforce any of the provisions of this Contract at a later time. All waivers of any provision(s) of this Contract shall be in writing and in the absence of such, no action or inaction shall be construed to be such a waiver.

12. INDEPENDENT CONTRACTOR

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

this Contract.

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

13. COMPLIANCE WITH LAWS

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

14. INSPECTION OF BOOKS AND RECORDS

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

15. NONDISCRIMINATION

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

16. 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 there from to the extent such use is not agreed to in writing by the CONTRACTOR.
- b. An electronic copy of all word processing documents shall be submitted to the COUNTY upon request or at the end of the job using the word processing program and version specified by the COUNTY.

17. PATENT/COPYRIGHT INFRINGEMENT

The CONTRACTOR shall hold harmless, indemnify, and defend the COUNTY, its officers, officials, employees, and agents, from and against any claimed action, cause, or demand brought against the COUNTY, where such action is based on the claim that information supplied by the CONTRACTOR or subcontractor infringes any patent or copyright. The CONTRACTOR shall be notified promptly in writing by the COUNTY of any notice of such claim.

18. DISPUTES

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

19. CONFIDENTIALITY

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

20. CHOICE OF LAW, JURISDICTION AND VENUE

- a. This Contract has been and shall be construed as having been made and delivered within the State of Washington, and it is agreed by each party hereto that this Contract shall be governed by the laws of the State of Washington, both as to its interpretation and performance.
- b. Any action at law, suit in equity, or judicial proceeding arising out of this Contract shall be instituted and maintained only in any of the courts of competent jurisdiction in Benton County, Washington.

21. SUCCESSORS AND ASSIGNS

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

22. SEVERABILITY

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

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 (3) days following the date of mailing or immediately, if personally served. For service by facsimile, service shall be effective at the beginning of the next working day.

25. SURVIVABILITY

All Contract terms, which by their context are clearly intended to survive the termination and/or expiration of this Contract, shall so survive. These terms include, but are not limited to, indemnification provisions (Sections 7 and 17); extended reporting period requirements for professional liability insurance (Section 8(a)); inspection and keeping of records and books (Section 14); litigation hold notice (Section 26); Public Records Act (Section 27); and confidentiality (Section 19).

26. LITIGATION HOLD NOTICE

In the event the COUNTY learns of circumstances leading to an increased likelihood of litigation regarding any matter where the records kept by CONTRACTOR pursuant to Section 14 of this agreement may be of evidentiary value, the COUNTY may issue written notice to CONTRACTOR of such circumstances and direct the CONTRACTOR to "hold" such records. In the event that CONTRACTOR receives such written notice, CONTRACTOR shall abide by all directions therein whether or not such written notice is received at a time when a Contract between CONTRACTOR and the COUNTY is in force. Such directions will include, but will not be limited to, instructions to suspend the six (6) year purge schedule as set out above in Section 14.

27. PUBLIC RECORDS ACT

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

seek a judicial order of protection if necessary.

28. ASSIGNABILITY

CONTRACTOR may freely assign this Contract or delegate all or part of CONTRACTOR's obligations to any affiliate or successor in interest of Our Lady of Lourdes Hospital at Pasco without consent of the COUNTY. For the avoidance of doubt, the COUNTY's consent is not required for an assignment of this Contract in connection with a sale or other disposition of substantially all of the assets of CONTRACTOR or a subsequent sale by the successor in interest of Our Lady of Lourdes Hospital at Pasco. This Contract is binding upon and inures to the benefit of the parties hereto and their permitted successors and assigns.

In the event that CONTRACTOR assigns this Contract or delegates all or part of CONTRACTOR's obligations to an affiliate or successor in interest, CONTRACTOR shall provide COUNTY written notice of the intent to do so at least sixty (60) days prior to the effective date of any assignment or delegation.

- This section left blank intentionally. -

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.

**For Our Lady Lourdes Hospital at Pasco
DBA Lourdes Counseling Center:**



John Serle,
President and CEO
Lourdes Health Network

6-29-16

Date

For Benton County:

Chairman

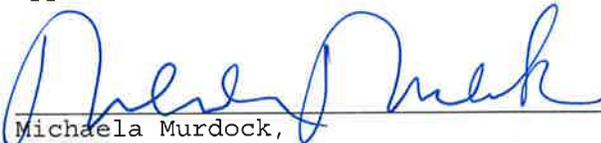
Attest: Clerk of the Board

Approved as to Content:



Kyle Sullivan,
Administrator
Department of Human Services

Approved as to Form:



Michaela Murdock,
Benton County Deputy Prosecuting Attorney

AGENDA ITEM		TYPE OF ACTION NEEDED	
Meeting Date:	Next Available	Execute Agreement	<u> X </u>
Subject:	<u>Agreement #2016/2017-CDBG-CAC between Benton County and Benton-Franklin Community Action Connections</u>	Pass Resolution	<u> X </u>
Prepared by:	Shela Berry, Admin Assist-DHS	Pass Ordinance	<u> </u>
Reviewed by:	Kyle Sullivan, Administrator-DHS	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

Benton County would like to enter into an agreement with Benton-Franklin Community Action Connections to undertake and carry out certain activities and projects under the Washington State Community Development Block Grant (CDBG).

Benton-Franklin Community Action Connections will use funds to provide direct public services that will principally benefit low—and moderate-income persons by increasing their availability to services in the non-entitlement areas of Benton and Franklin Counties. Benton-Franklin Community Action Connections will continue to serve and improve the rural services with the bilingual staff that is trained to provide services under all applicable grants administered by Benton-Franklin Community Action Connections.

Services may include direct resource/referral, utility assistance, medical prescriptions, and transportation assistance. All housing services such as rent and/or deposit assistance will go through the local Coordinated Entry System in Kennewick for referral to Benton-Franklin Community Action Connections. Services will continue to be provided in both English and Spanish languages.

SUMMARY

Award: \$61,334.00

Period: July 1, 2016 through June 30, 2017

Funding Source: Washington State Department of Commerce

RECOMMENDATION

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

FISCAL IMPACT

Funding for the services described in this agreement is provided by Washington State Department of Commerce. **There is no impact on the current expense budget.** All revenues and expenditures are from the Fund 0108-101 Human Services Budget; for a contract amount of \$61,334.00.

MOTION

To approve signing Agreement #2016/2017-CDBG-CAC between Benton County and Benton-Franklin Community Action Connections, and to authorize the Chair to sign on behalf of the Board.



RESOLUTION

BENTON COUNTY RESOLUTION NO. _____

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

RE: IN THE MATTER OF EXECUTING AGREEMENT #2016/2017-CDBG-CAC BETWEEN BENTON COUNTY AND BENTON-FRANKLIN COMMUNITY ACTION CONNECTIONS

WHEREAS, Benton County would like to enter into an agreement with Benton-Franklin Community Action Connections to undertake and carry out certain activities and projects under the Washington State Community Development Block Grant (CDBG), and

WHEREAS, Benton-Franklin Community Action Connections will use funds to provide direct public services that will principally benefit low—and moderate-income persons by increasing their availability to services in the non-entitlement areas of Benton and Franklin Counties. Benton-Franklin Community Action Connections will continue to serve and improve the rural services with the bilingual staff that is trained to provide services under all applicable grants administered by Benton-Franklin Community Action Connections; and

WHEREAS, services may include direct resource/referral, utility assistance, medical prescriptions, and transportation assistance. All housing services such as rent and/or deposit assistance will go through the local Coordinated Entry System in Kennewick for referral to Benton-Franklin Community Action Connections. Services will continue to be provided in both English and Spanish languages;

NOW THEREFORE, BE IT RESOLVED, that the Chairman of the Board of Benton County Commissioners be, and hereby is, authorized to sign, on behalf of Benton County, Agreement #2016/2017-CDBG-CAC between Benton County and Benton-Franklin Community Action Connections, for an agreement amount of \$61,334.00; and

BE IT FURTHER RESOLVED, the term of the attached agreement commences on July 1, 2016 and ends on June 30, 2017.

Dated this.....day of, 2016

Chairman of Board

Member

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

Attest: _____
Clerk of the Board

**Benton and Franklin Counties
DEPARTMENT OF HUMAN SERVICES
Agreement #2016/2017-CDBG-CAC**

This Agreement is made and entered into by and between **Benton County**, a political subdivision, with its principal offices at 620 Market Street, Prosser, WA 99350, by and for the **Benton and Franklin Counties' Department of Human Services**, a bi-county department, with its principal offices at 7102 W. Okanogan Pl., Ste. 201, Kennewick, WA 99336 (hereinafter collectively referred to as "COUNTY") and **Benton-Franklin Community Action Committee**, a nonprofit public benefit corporation organized under the laws of the State of Washington, doing business as Community Action Connections, with its principal offices at 710 West Court Street, Pasco, WA 99301, (hereinafter "Subrecipient") for the purpose of delivering the direct services set forth in Attachment A of this Agreement (hereinafter the "Project").

County's Contact Information:
 Kyle Sullivan, Administrator
 Department of Human Services
 7102 West Okanogan Place, Suite 201
 Kennewick, WA 99336
 Phone: 509.783.5284
 Fax: 509.783.5981
 E-Mail: kyle.sullivan@co.benton.wa.us

Subrecipient Contact Information:
 Judith A. Gidley, Executive Director
 Benton-Franklin Community Action Committee
 710 West Court Street
 Pasco, WA 99301
 Phone: 509.545.4042
 Fax: 509.544.9691
 E-Mail: jgidley@bfcac.org

Agreement Start Date..... July 1, 2016
 Agreement End Date..... June 30, 2017

Consideration \$61,334.00

Attachment A Scope of Work
 Attachment B Services Budget
 Attachment C Partner Participation Agreement
 Attachment D Coordinated Entry System Guidelines
 Attachment E Department of Commerce CDBG Contract 16-62210-002

By their signatures below, the parties agree to the terms and conditions of this Agreement and all documents attached or incorporated by reference. No other understandings or representations, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or bind the parties. The parties signing below certify that they are authorized to sign this Agreement.

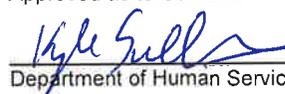
For the Subrecipient:


 Executive Director _____ Date 6/30/16

For Benton County:

 Benton County Commissioners Date

 Attest: Clerk of the Board

Approved as to Content:

 Department of Human Services

Approved as to Form:

 Benton County Prosecutor's Office

As the Washington State Department of Commerce (Commerce) is authorized by the federal Department of Housing and Urban Development (HUD) to provide funds to counties that have been selected to undertake and carry out projects under the Washington State Community Development Block Grant (CDBG) Program in compliance with all applicable local, state, and federal laws, regulations, and policies; and

As the COUNTY has applied for and received a CDBG award, contract number 16-62210-002, with Federal Award Identification Number (FAIN) B-16-DC-53-001 to fund the Project; and

As it benefits the COUNTY to engage the Subrecipient to accomplish the Scope of Work (Attachment A) and the objectives of the local CDBG project;

The parties agree that:

1. SCOPE OF WORK

A. COUNTY Responsibilities

The COUNTY is responsible for administration of the CDBG contract, and for ensuring that CDBG funds are used in accordance with all program requirements (24 CFR 570.501(b)) and the COUNTY's CDBG contract with Commerce (Attachment E). The COUNTY will provide such assistance and guidance to the Subrecipient as may be required to accomplish the objectives and conditions set forth in this Agreement.

B. Subrecipient Responsibilities

The Subrecipient agrees to the terms, conditions, obligations, and requirements of this Agreement and those set forth in the CDBG contract with Commerce (Attachment E).

The Subrecipient will complete, in a satisfactory and proper manner as determined by the COUNTY, the tasks described in the attached Scope of Work (Attachment A) and Budget (Attachment B) to accomplish the objectives of the CDBG project.

The Subrecipient agrees to participate with Benton and Franklin Counties' Department of Human Services in the Coordinated Entry System. Accordingly, Subrecipient agrees to enter into a Partner Participation Agreement with the Department of Human Services as set forth by the Partner Participation Agreement (Attachment C) and designate an individual within its organization to be part of the Benton and Franklin Counties' Department of Human Services Partner Agency Committee (PAC). Subrecipient agrees to follow the Coordinated Entry System guidelines set forth in Attachment D.

The Subrecipient will periodically meet with the COUNTY, at its discretion, to review the status of these tasks.

2. TIME OF PERFORMANCE

The time of performance for this Agreement will begin as of July 1, 2016 and will be in effect until June 30, 2017, unless otherwise terminated as set forth herein.

3. BUDGET

The COUNTY will pass through to the Subrecipient no more than \$61,334.00 in CDBG funds for eligible incurred costs and expenses for the Project. The Subrecipient shall follow the budget approved by Commerce and the COUNTY attached to this Agreement (Attachments B and E). The COUNTY may require a more detailed budget breakdown, and the Subrecipient shall provide such supplementary budget information in a timely fashion in the form and content prescribed by the COUNTY. Any amendments to the budget must first be determined by the COUNTY to be consistent with its CDBG contract with Commerce, and then must be approved in writing by the COUNTY and the Subrecipient.

4. PAYMENT

The COUNTY shall reimburse the Subrecipient in accordance with the payment procedures outlined in the CDBG Management Handbook, Financial Management Section, for all allowable expenses agreed upon by the parties to complete the Scope of Work (Attachment A).

Reimbursement under this Agreement will be based on billings, supported by appropriate documentation of costs actually incurred. It is expressly understood that claims for reimbursement will not be submitted in excess of actual, immediate cash requirements necessary to carry out the purposes of this Agreement. Funds available under this Agreement will be utilized to supplement rather than supplant funds otherwise available.

It is understood that this Agreement is funded in whole or in part with CDBG funds through the Washington State CDBG Program as administered by Commerce and is subject to those regulations and restrictions normally associated with federally-funded programs and any other requirements that the state may prescribe.

5. PERFORMANCE MONITORING

The COUNTY will monitor the performance of the Subrecipient as outlined in the attached Scope of Work (Attachment A) by tracking project progress, reviewing payment requests for applicable costs, managing the timely pass-through of CDBG funds, overseeing compliance with CDBG requirements, and ensuring recordkeeping and audit requirements are met. Substandard performance as determined by the COUNTY will constitute noncompliance with this Agreement.

If action to correct such substandard performance is not taken by the Subrecipient within a reasonable period of time after being notified by the COUNTY, contract suspension or termination procedures will be initiated.

6. GENERAL CONDITIONS

A. General Compliance

The Subrecipient agrees to comply with:

- a) The requirements of Title 24 of the Code of Federal regulations, Part 570 (HUD regulations concerning CDBG); and
- b) All other applicable federal, state and local laws, regulations, and policies governing the funds provided under this Agreement.

B. CDBG National Objective

The Subrecipient certifies the activities carried out under this Agreement will meet a CDBG Program National Objective as defined in 24 CFR 570.208.

C. "Independent Contractor"

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Subrecipient will at all times remain an "independent contractor" with respect to the services to be performed under this Agreement. The COUNTY shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life, and/or medical insurance and Workers' Compensation Insurance, as the Subrecipient is an independent contractor.

D. Hold Harmless and Indemnification

The Subrecipient will hold harmless, defend, and indemnify the COUNTY, its officers, officials, employees, and agents from any and all claims, actions, suits, charges, and judgments whatsoever that arise out of the Subrecipient's performance or nonperformance of the services or subject matter called for in this Agreement. Provided that the Subrecipient'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.

In any and all claims against the COUNTY, its officers, officials, employees, and agents by any employee of the Subrecipient or anyone directly or indirectly employed by them, or anyone for whose acts any of them may be liable, the indemnification obligation in this Agreement 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 Subrecipient under Workers Compensation acts, disability benefit acts, or other employee benefit acts, it being clearly agreed and understood by the parties hereto that the Subrecipient expressly waives any immunity the Subrecipient might have had under such laws, including but not limited to Title 51 of the Revised Code of Washington. By executing this Agreement, the Subrecipient 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 Subrecipient makes with any Subrecipient or agent performing work hereunder. Subrecipient's obligations under this section shall survive termination and expiration of this Agreement.

The Subrecipient'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 Subrecipient, the Subrecipient's employees, agents, or sub-subrecipients.

E. Workers' Compensation

The Subrecipient shall provide Workers' Compensation Insurance Coverage for all of its employees involved in the performance of this Agreement. Subrecipient shall comply with all State of Washington workers compensation statutes and regulations. Prior to the start of work under this Agreement, workers compensation coverage shall be provided for all employees of Subrecipient and employees of any subrecipient or sub-subrecipient. Coverage shall include bodily injury (including death) by accident or disease, which arises out of or in connection with the performance of this Agreement. Subrecipient shall submit a copy of its certificate of coverage from the Department of Labor and Industries prior to commencement of work. Except as prohibited by law, Subrecipient 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 Subrecipient or sub-subrecipient 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, Subrecipient shall indemnify the COUNTY. Indemnity shall include all fines, payment of benefits to Subrecipient, subrecipient employees, or their heirs or legal representatives, and the cost of effecting coverage on behalf of such employees. Any amount owed to COUNTY by Subrecipient pursuant to the indemnity agreement may be deducted from any payments owed by COUNTY to Subrecipient for performance of this Agreement.

F. Insurance & Bonding

The Subrecipient will carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud, and/or undue physical damage, and as a minimum, will purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from the COUNTY.

Professional Liability Insurance: Prior to the start of work under this Agreement, the Subrecipient shall secure and maintain at its own expense Professional Liability Insurance appropriate to the

Subrecipient's profession and shall be written subject to limits of not less than one million dollars (\$1,000,000) each claim and in the aggregate. Such insurance will be provided by an insurance carrier with a Best's Rating of not less than A-VII.

The coverage shall apply to liability for a professional error, act, or omission arising out of the scope of the Subrecipient's services defined in this Agreement. Coverage shall not exclude hazards related to the work rendered as part of the Agreement or within the scope of the Subrecipient's services as defined by this Agreement. If the policy is claims made, the retroactive date shall be prior to or coincident with the effective date of this Agreement. Subrecipient is required to maintain claims made professional liability insurance for a minimum of 36 months after the effective date of termination or completion of this Agreement. Subrecipient shall annually provide COUNTY with proof of all such insurance.

Commercial General Liability and Employers Liability Insurance: Prior to the start of work under this Agreement, Subrecipient shall maintain commercial general liability coverage (policy form CG0001 or equivalent) to protect the Subrecipient from claims for wrongful death, bodily injury, personal injury, and property damage that may arise from any actions or inactions under this Agreement by Subrecipient or by anyone directly employed by or contracting with Subrecipient. The minimum commercial general liability insurance limits shall be as follows:

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

The commercial general liability policy will contain an endorsement naming the COUNTY, its elected and appointed officials, employees, and agents as an Additional Insured and an endorsement that specifically states that Subrecipient's commercial general liability policy shall be primary, and not contributory, with any other insurance maintained by the COUNTY.

The Subrecipient will provide commercial general liability coverage that does not exclude any activity to be performed in fulfillment of this Agreement and does not exclude liability pursuant to the indemnification provisions of this Agreement. Subrecipient's commercial general liability policy shall provide cross liability coverage, indicating essentially that except with respect to the limits of insurance and any rights or duties specifically assigned in this coverage part to the first named insured, this insurance applies as if each named insured were the only named insured, and separately to each insured against whom claims are made or suit is brought.

Subrecipient shall also provide Stop Gap Employer's Liability Insurance coverage with minimum limits as follows:

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

Automobile Liability: The Subrecipient shall maintain, during the life of this Agreement, Commercial Automobile Liability Insurance (CA0001), or equivalent coverage, in the amount of not less than one million dollars (\$1,000,000) per accident for Bodily Injury and Property Damage to protect Subrecipient from claims which may arise from the performance of this Agreement, whether such operations be by the Subrecipient or by anyone directly or indirectly employed by the Subrecipient. Commercial Auto Liability Insurance shall include coverage for owned, non-owned and hire autos. Covered auto shall be designated as "Symbol 1" for any auto. Subrecipient waives all rights against the COUNTY for the recovery of damages to the extent they are covered by Commercial Auto Liability Insurance.

Other Insurance Provisions:

1. The Subrecipient'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 Subrecipient's liability insurance policies shall contain no special limitations on the scope of protection afforded to the COUNTY as an additional insured.
3. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the COUNTY, its officers, officials, employees or agents.
4. The Subrecipient's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. The Subrecipient shall include all Subrecipients as insureds under its policies or shall furnish separate certificates and endorsements for each subrecipient. All coverage for Subrecipients shall be subject to all of the requirements stated herein.
6. The insurance limits mandated for any insurance coverage required by this Agreement are not intended to be an indication of exposure nor are they limitations on indemnification.
7. The Subrecipient shall maintain all required policies in force from the time services commence until services are completed. Certificates, policies, and endorsements expiring before completion of services shall be promptly replaced. All liability insurance required under this Agreement, except for Professional Liability Insurance, shall be written on an Occurrence Policy form.

Verification of Coverage and Acceptability of Insurers:

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

1. All insurance to be maintained by the Subrecipient, other than Professional Liability, Auto Liability and Workmen's Compensation, shall specifically include the COUNTY as an "Additional Insured" and shall not be reduced or canceled without thirty (30) days written prior notice to the COUNTY. Any insurance or self-insurance maintained by the COUNTY, its elected and appointed officials, employees and agents shall be excess of the Subrecipient's insurance and shall not contribute to it.
2. Certificates of Liability Insurance are to be provided to the COUNTY's Contact representative referenced on the Agreement face sheet.
3. All written notices under this Section, and notice of cancellation or change of required insurance coverages, shall be mailed to the COUNTY's Contact representative referenced on the Agreement face sheet.
4. The Subrecipient or its broker shall provide a copy of any and all insurance policies specified in this Agreement upon request of the COUNTY's Contact representative referenced on the Agreement face sheet.

The Subrecipient will furnish the COUNTY with properly executed certificate of insurance or a signed policy endorsement which will clearly evidence all insurance required in this section prior to commencement of services. The certificates will, at a minimum, list limits of liability and coverage. The certificate will provide that the underlying insurance contract will not be cancelled or allowed to expire except on thirty (30) days prior written notice to the COUNTY.

G. Funding Source Recognition

The Subrecipient will insure recognition of the roles of Commerce, the Washington State CDBG program, and the COUNTY in providing services through this Agreement. All activities, facilities, and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, the Subrecipient will include a reference to the support provided herein in all publications made possible with funds available under this Agreement.

H. Amendments

The COUNTY may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of each organization, and approved by the COUNTY governing body. Such amendments shall not invalidate this Agreement, nor relieve or release the COUNTY or Subrecipient from its obligations under this Agreement.

I. Suspension or Termination

In accordance with 2 CFR 200.338-9, the COUNTY may suspend or terminate this Agreement if the Subrecipient materially fails to comply with any terms of this Agreement, which include, but are not limited to, the following:

1. Failure to comply with any of the rules, regulations, or provisions referred to herein, or such statutes, regulations, executive orders, and HUD guidelines, policies, or directives as may become applicable at any time;
2. Failure, for any reason, of the Subrecipient to fulfill in a timely and proper manner its obligations under this Agreement;
3. Ineffective or improper use of funds provided under this Agreement; or
4. Submission by the Subrecipient to the COUNTY of reports that are incorrect or incomplete in any material respect.

In accordance with 2 CFR 200.339, this Agreement may also be terminated by either the COUNTY or the Subrecipient, in whole or in part, by setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if in the case of a partial termination, the COUNTY determines that the remaining portion of the award will not accomplish the purpose for which the award was made, the COUNTY may terminate the award in its entirety.

7. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards

The Subrecipient agrees to comply with 2 CFR 200 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles

The Subrecipient shall administer its program in conformance with 2 CFR 200. These principles will be applied for all costs incurred whether charged on a direct or indirect basis.

3. Duplication of Costs

The Subrecipient certifies that work to be performed under this Agreement does not duplicate any work to be charged against any other contract, subcontract, or other source.

B. Documentation and Record Keeping

1. Records to be Maintained

The Subrecipient will maintain all records required by the Federal regulations specified in 24 CFR 570.506 that are pertinent to the activities to be funded under this Agreement and those described in the CDBG Management Handbook. Such records shall include but not be limited to:

- a) Records providing a full description of each activity undertaken;
- b) Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;
- c) Records required to determine the eligibility of activities;
- d) Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
- e) Records documenting compliance with the civil rights components of the CDBG program;
- f) Financial records as required by 24 CFR 570.502, and 2 CFR 200.333;
- g) Labor standards records required to document compliance with the Davis Bacon Act, the provisions of the Contract Work Hours and Safety Standards Act, and all other applicable Federal, state, and local laws and regulations applicable to CDBG-funded construction projects; and
- h) Other records necessary to document compliance with Subpart K of 24 CFR Part 570.

2. Access to Records and Retention

The grantee, the Washington State Department of Commerce, and other authorized representatives of the state and federal governments shall have access to any books, documents, papers, and records of the Subrecipient that are directly pertinent to this Agreement for the purposes of making audit, examination, excerpts, and transcriptions.

All such records and all other records pertinent to this agreement and work undertaken under this Agreement shall be retained by the Subrecipient for a period of six years after final audit of the COUNTY'S CDBG contract, unless a longer period is required to resolve audit findings or litigation. In such cases, the COUNTY shall request a longer period of record retention.

3. Audits and Inspections

All Subrecipient records with respect to any matters covered by this Agreement will be made available to the COUNTY, Commerce, and duly authorized officials of the state and federal government, at any time during normal business hours, as often as deemed necessary, to audit, examine, and make excerpts or transcripts of all relevant data.

Any deficiencies noted in audit reports must be fully cleared by the Subrecipient within thirty (30) days after receipt by the Subrecipient. Failure of the Subrecipient to comply with the above audit requirements will constitute a violation of this Agreement and may result in the withholding of future payments.

The Subrecipient that expends \$750,000 or more in a fiscal year in federal funds from all sources hereby agrees to have an annual agency audit conducted in accordance with current COUNTY policy concerning Subrecipient audits and 2 CFR 200.501. The Catalog of Federal Domestic Assistance (CFDA) number is 14.228.

C. Reporting

1. Program Income

The Subrecipient shall report annually all program income (as defined at 24 CFR 570.500(a)) generated by activities carried out with CDBG funds made available under this Agreement. The use of program income by the Subrecipient will comply with the requirements set forth at 24 CFR 570.504.

2. Periodic Reports

The Subrecipient, at such times and in such forms as the COUNTY may require, shall furnish the COUNTY such periodic reports as it may request pertaining to the work or services undertaken pursuant to this Agreement, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Agreement.

D. Use and Reversion of Assets

The use and disposition of real property and equipment under this Agreement will be in compliance with the requirements of 2 CFR 200.311 and 313, and 24 CFR 570.502, 570.503, and 570.504, as applicable, which include but are not limited to the following:

1. The Subrecipient will transfer to the COUNTY any CDBG funds on hand and any accounts receivable attributable to the use of funds under this Agreement at the time of expiration, cancellation, or termination.
2. Real property under the Subrecipient's control that was acquired or improved, in whole or in part, with funds under this Agreement in excess of \$25,000 shall be used to meet one of the CDBG National Objectives pursuant to 24 CFR 570.208 until ten (10) years after the contract between Commerce and the COUNTY is closed. If the Subrecipient fails to use CDBG-assisted real property in a manner that meets a CDBG National Objective for this 10-year period of time, the Subrecipient will pay the COUNTY an amount equal to the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property after the CDBG program's approval. Such payment will constitute program income to the COUNTY. The Subrecipient may retain real property acquired or improved under this Agreement after the expiration of the ten-year period.
3. In cases in which equipment acquired, in whole or in part, with funds under this Agreement is sold, the proceeds shall be program income. Equipment not needed by the Subrecipient for activities under this Agreement will be (a) transferred to the COUNTY for CDBG-eligible activities as approved by the CDBG program or (b) retained after compensating the COUNTY.

8. PERSONNEL & PARTICIPANT CONDITIONS

A. Civil Rights

Title VI of the Civil Rights Act of 1964:

Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, creed, religion, sex, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

Section 109 of the Housing and Community Development Act of 1974:

No person in the United States shall on the grounds of race, color, creed, religion, sex or national origin be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

Age Discrimination Act of 1975, as Amended:

No person will be excluded from participation, denied program benefits, or subjected to discrimination on the basis of age under any program or activity receiving federal funding assistance. (42 U.S.C. 610 et. seq.)

Section 504 of the Rehabilitation Act of 1973, as Amended:

No otherwise qualified individual will, solely by reason of his or her disability, be excluded from participation (including employment), denied program benefits, or subjected to discrimination under any program or activity receiving Federal funds. (29 U.S.C. 794)

Public Law 101-336, Americans with Disabilities Act of 1990:

Subject to the provisions of this title, no qualified individual with a disability will, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

B. Section 3 of the Housing and Community Development Act of 1968

Compliance in the Provision of Training, Employment, and Business Opportunities:

1. The work to be performed under this Agreement is on a project assisted under a program providing direct federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower-income residents of the project area; and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part, by persons residing in the area of the project.
2. The parties to this Agreement will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of HUD set forth in 24 CFR 135, and all applicable rules and orders of HUD and Commerce issued there under prior to the execution of this Agreement. The parties to this Agreement certify and agree that they are under no contractual or other disability that would prevent them from complying with these provisions.
3. The Subrecipient will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
4. The Subrecipient will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant, or recipient of federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of HUD, 24 CFR Part 135. The Subrecipient will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract, unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
5. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of HUD and Commerce issued hereunder prior to the execution of the Agreement, shall be a condition of the federal financial assistance provided to the project, binding

upon the applicant or recipient for such assistance, its successors, and assigns. Failure to fulfill these requirements shall subject the applicant, or recipient, its consultants and subcontractors, its successors and assigned to those sanctions specified by the grant or loan agreement or contract through which federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

C. Conduct

1. Assignability

The Subrecipient will not assign or transfer any interest in this Agreement without the prior written consent of the COUNTY thereto; provided, however, that claims for money due or to become due to the Subrecipient from the COUNTY under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the COUNTY and Commerce.

2. Conflict of Interest

No member of the COUNTY'S governing body and no other public official of such locality, who exercises any functions or responsibilities in connection with the planning or carrying out of the project, shall have any personal financial interest, direct or indirect, in this agreement; and the Subrecipient will take appropriate steps to assure compliance.

The Subrecipient agrees to abide by the provisions of 2 CFR 200.318 and 24 CFR 570.611, which includes maintaining a written code or standards of conduct that shall govern the performance of its officers, employees, or agents engaged in the award and administration of contracts supported by Federal funds.

The Subrecipient covenants that its employees have no interest and shall not acquire interest, direct or indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of services hereunder. The Subrecipient further covenants that in the performance of this Agreement, no person having such interest shall be employed.

3. Certification Regarding Debarment, Suspension, Ineligibility ,and Voluntary Exclusion - Lower Tier Covered Transactions

- a) The lower tier contractor certifies, by signing this Agreement that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- b) Where the lower tier contractor is unable to certify to any of the statements in this Agreement, such contractor shall attach an explanation to this Agreement.
- c) The contractor further agrees by signing this Agreement that it will not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.

D. Copyright

If this Agreement results in any copyrightable material or inventions, the COUNTY and/or Commerce reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, the work or materials for governmental purposes.

E. Religious Activities

The Subrecipient agrees that funds provided under this Agreement will not be utilized for inherently religious activities prohibited by 24 CFR 570.200(j), such as worship, religious instruction, or proselytization.

9. SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

10. PERFORMANCE WAIVER

The COUNTY'S failure to act with respect to a breach by the Subrecipient does not waive its right to act with respect to subsequent or similar breaches. The failure of the COUNTY to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

11. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the COUNTY and the Subrecipient for the use of funds received under this Agreement and it supersedes all prior communications and proposals, whether electronic, oral, or written between the COUNTY and the Subrecipient with respect to this Agreement.

Scope of Work

Service Programs:

Benton-Franklin Community Action Committee, doing business as Community Action Connections (CAC), will use funds to provide direct public services that will principally benefit low- and moderate-income persons by increasing their availability to services in the non-entitlement areas of Benton and Franklin Counties. CAC will continue to serve and improve the rural services with our bi-lingual staff that is trained to provide services under all applicable grants administered by CAC.

Services may include direct resource/referral, utility assistance, medical prescriptions, and transportation assistance. All housing services such as rent and/or deposit assistance will go through the local Coordinated Entry System (CES) in Kennewick for referral to CAC. Rural clients from Connell will go through the CES eligibility intake screening with the CAC Family Development Specialist (FDS) who will notify CES staff of assistance provided. Services will be provided in both English and Spanish.

The FDS staff will complete household eligibility, assessment of needs, and delivery of services in the rural non-entitlement areas of the counties. Staff will be stationed at the point of delivery in Connell, serving residents of Connell, Mesa, Basin City, and Kahlotus during designated days/times. CAC staff will provide services that match the client needs. CAC provides a posted/advertised phone number reserved for rural clients to call toll free to arrange for services in Connell on designated days. Residents of Benton City and West Richland may either apply at our Prosser Office and/or our Pasco Office, dependent on the days/times staff is available.

Direct Client Services

- 1st Month Rent: At no time will the amount exceed the actual amount needed to obtain housing.
- Rent Deposit: The amount of security/damage deposit required whenever possible must be either equal to or less than the Fair Market Rent (FMR) based on unit size unless there is written justification in the file explaining the reason for the increased amount, which requires signed approval by the department manager.
- Eviction Prevention Rent: Not to exceed three (3) months, including arrears. Household must be eligible using the CES prevention tool in order to qualify for prevention assistance.
- Utility Deposits: At no time will the amount exceed the actual amount needed to obtain service.
- Utility Costs (Electricity, Gas, Propane, Wood, and Water/Sewer): Utility/energy assistance is available for those clients enrolled, and only provided after documentation that either the client is not eligible for LIHEAP or Helping Hands programs or no funds are available. Water assistance is also available, but requires a shut off notice and can be no more than the amount that is required to retain or re-start the service.
- Application Fees: Up to two times during the housing search period, unless documented need to do more, which requires prior approval from the Benton and Franklin Counties' Department of Human Services (BFDHS) contract manager.
- Transportation: Transportation in the form of bus travel or gas; exceptions must be approved by BFDHS contract manager.
- Medical Prescriptions: This assistance is dedicated to assist persons who do not have the means to pay and/or do not have medical insurance. Maximum of \$200 per calendar year.
- GED Testing Fees: Assistance with actual costs of GED testing fees in order for client to obtain GED.
- Other services as deemed appropriate and/or necessary, only with prior approval from BFDHS.

Resource and Referral Services

- Basic Food Eligibility
- Diapers and Depends
- Project Warm-up
- Winter Coats

SERVICES BUDGET

Purpose: To deliver the direct services listed in the Project Description/Scope of Work Attachment A.

Cost Categories:

Staffing	\$18,400.00	<i>Salary and benefits for .50 FTE providing direct services, to be documented by payroll records</i>
Goods and services	\$3,600.00	<i>Costs must be tied to the delivery of the CDBG public service</i>
Direct Client Services	\$31,534.00	<i>Costs must be for eligible services described in Scope of Work (Attachment A)</i>
Equipment	\$00.00	<i>No equipment costs associated with this contract.</i>
Travel	\$4,800.00	<i>Cost must be tied to the delivery of the CDBG public service</i>
Admin Costs	\$3,000.00	<i>Must be tied to a CDBG public service through the community action program's approved cost allocation plan</i>
TOTAL	\$61,334.00	<i>(Not to include county administration funds)</i>

Budget Narrative:

Staffing: \$ 18,400.00

- Salary and Benefits for .50 FTE providing direct services

Goods & Services: \$3,600.00

- Office/Operating Services – \$200 per month/total 12 months = \$2,400.00
- Telecommunications (Wi-Fi and Cell phone) – \$100 per month for 12 months = \$1,200.00

Direct Client Services: \$31,534..00

Examples of Direct Services:

- Medical Prescriptions – actual amount up to a maximum of \$200 per year
- Rental/Deposits – actual amount up to FMR for deposit/first month rent
- Application Fees – actual amount up to \$45 each fee (maximum 2 per HH)
- Prevention Rent – actual amount up to FMR – not to exceed 3 months including arrears/current month
- Transportation – bus travel or gas up to \$30
- Utility Deposits – actual costs up to amount required to turn on utilities
- Utility Costs – actual cost to prevent shut off after LIHEAP or Helping Hands
- GED Testing Fees – actual costs for GED testing fees in order for client to obtain GED
- Other services as deemed appropriate and/or necessary, only with prior approval from BFDHS

Equipment Purchase: No equipment costs associated with this contract.

Travel: \$4,800.00

- Travel is based on travel reimbursement costs of \$0.575 per mile and subject to change based on WA State mileage and per diem rate. Average cost per month is \$400.00

Admin Cost Allocation: \$3,000.00

- Cost allocation is based on \$250 per month X 12 months = \$3,000. CAC allocates its general costs of administration not readily identifiable to a specific grant in as administrative cost allocation plan. Costs are allocated based on FTE percentage of the number personnel working in any program. This includes insurance, agency telephone services, professional services, etc. This process has been accepted by the Department of Commerce and CAC's auditor for over 15 years.

BENTON AND FRANKLIN COUNTIES
DEPARTMENT OF HUMAN SERVICES

Partner Participation Agreement

The overall goal of the coordinated entry system (CES) provided by Benton and Franklin Counties Department of Human Services (BFDHS) is to partner with community agencies in their efforts to decrease homelessness and reduce the time households spend in homelessness. In order for CES to be successful and improve the experience of households in crisis seeking assistance, both CES and participating agencies will commit to common performance expectations, to be carried out to the best of their availability.

As a CES partner, you can expect the following service commitments from BFDHS CES:

- ❖ Households referred by your agency to CES will be treated with unconditional regard for their situation and scheduled for a screening within 3 business days of your referral.
- ❖ Households will be referred by CES to the necessary housing and support services in a fair and equitable manner, without regard to the individual's race, national origin, ethnicity or gender.
- ❖ All households will be pre-qualified based on your agency's specific criteria prior to receiving a referral to your agency. Criminal background checks will not be performed by CES. CES will contact your agency directly prior to referral, to ensure that there are no unforeseen reasons to expect the referral will be declined.
- ❖ CES will maintain a community-wide Housing Interest Pool (HIP) for households seeking housing program assistance.
- ❖ CES will provide households seeking assistance direct services including; navigator preliminary assessment of program qualifications and barriers, data entry into HMIS, emergency shelter/motel vouchers, homeless prevention and rapid re-housing to qualified households.
- ❖ Provide an ongoing committee forum to enable your agency to provide feedback regarding CES performance, conflicts, as well as continually shape the CES vision and scope of services provided.

As a CES partner, your agency makes the following service commitments to the CES:

- ❖ Provide CES the list of qualification criteria for each of its programs.
- ❖ Refer all households requesting homeless housing assistance to CES.
- ❖ Identify a point of contact(s) for CES to direct any referrals.
- ❖ Maintain the integrity of the Housing Interest Pool list by not admitting households directly for service, except in extenuating circumstances and in such situation, your agency agrees to contact CES by the next business day to notify them of the housing placement.
- ❖ Accept and confirm qualified referrals from CES and provide explanation for referral refusals.
- ❖ Update HMIS on a daily basis to show program availability.
- ❖ Work with BFDHS HMIS coordinator to resolve and improve data quality.
- ❖ Report on community needs, trends and resources that may impact CES.
- ❖ Attend CES housing provider/PAC meetings on a regular basis.

On behalf of BFC Community Action Committee, JUDITH A. GIDLEY, am committed to supporting the success of CES and its mission and will be an active agency partner with Benton and Franklin Counties Department of Human Services Coordinated Entry System.

Judith A. Gidley 6/30/16
 Agency Representative and Date

Kyle Gull
 Benton and Franklin Counties Department of
 Human Services Representative

BENTON AND FRANKLIN COUNTIES
DEPARTMENT OF HUMAN SERVICES

Coordinated Entry System (CES) Guidelines

A. Foundational Principles

- Belief in housing first concept
- Belief of Progressive Engagement and the idea of doing the least for each household rather than the most
- Belief that people are resourceful and can make it without us
- Belief in the consumer as the lead in the process (strength-based approach)
- A willingness to use a system-perspective
- Functions primarily as a centralized intake/triage approach for housing assessment and referral
- A willingness to use front door (no side or back doors)
- Identify and utilize information and strengths of each agency
- Establish role and utilization of HMIS
- Provide community education
- Be data driven
- Know best practice models and consider the best local adaptation

What CES does:

- Assess callers for immediacy of need and place into appropriate program and or service
- Assess callers risks of homelessness
- All callers screened for diversion
- Assess for level of need
- Answers to assessment questions dictate how to proceed with screenings
- All programs that have unique eligibility requirements will be used to verify eligibility and appropriateness
- Provides services on a first come first serve basis allows for a specific number of households to be screened daily.
- Provides additional assessment/case management based on needs with an Intake Specialist.

CES goals:

- Reduce the time homeless
- Quick access to comprehensive information
- Household receives a successful referral
- Household has a clear understanding on the next step
- Decrease duplication of agency work to qualify household
- Decrease duplication of services to the same household
- Provide improved access to services

B. **Prescreening:** The Intake Specialist responds to the household on the phone or in person with a prescreening to determine:

- Presenting issues
- Special Populations: DV and Youth
- Housing Status: at risk, homeless or shelter assistance
- Income eligibility
- Record Ineligibles
- Provide Information

C. **Assessment**

Homeless: Households are considered homeless if they are unsheltered or are living in a temporary housing situation, as described below:

1. A household who lacks a fixed, regular, and adequate nighttime residence, meaning:
 - A household with a primary nighttime residence that is not designed for, or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground; or
 - A household living in a temporary living arrangement, including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or government programs.
2. One or more household members who are exiting a system of care and have no available housing options after exiting:
 - Psychiatric hospital or other psychiatric facility,
 - Substance abuse treatment facility or detox center,
 - Hospital (non-psychiatric),
 - Jail, prison, or juvenile detention facility, or
 - Foster care home or foster care group home.

The definition of homelessness also includes those in a Domestic Violence Shelter, fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions, or in an emergency housing situation which is from no cause of their own.

At Risk of Becoming Homeless: Households are considered at risk of homelessness if they will imminently lose their primary nighttime residence within 14 days of the date of application for assistance, including people facing eviction for non-payment of rent. Rent assistance to prevent homelessness must be targeted to those households at highest risk of becoming homeless.

For households who are determined to be homeless or at risk of homelessness, the intake specialist continues with a full assessment. The assessment incorporates the HMIS Universal Data Elements

Step One:

The assessment determines:

- Household Information
- Income/Housing Information
- Household Characteristics
- Housing Status

If household is in need of emergency shelter only, the Intake Case Manager will move on to complete the shelter assistance eligibility worksheet.

- Determine if household qualifies for emergency motel voucher
- Process motel voucher
- Enter information into HMIS

Step Two:

Will determine one of the following:

1. If Household is at risk:
 - Prevention Eligibility Determination Worksheet
 - Obtain additional paperwork
 - Process rental assistance voucher
 - Enter information into HMIS

2. If Household is homeless:
 - Determine barriers
 - Determine what level of engagement is necessary
 - Process rental assistance voucher
 - Collect addition paperwork necessary to make a housing program referral
 - Enter household into Housing Interest Pool (HIP)
 - Upload information into HMIS
 - Make housing program referral

Applicants are seen on a first come / first served basis. Should there be multiple applicants for a single program opening, clients will then be prioritized for service. For example: (1) unsheltered literally homeless and then (2) sheltered literally homeless.

D. Direct Services Provided within CES

Emergency Motel/Shelter Vouchers: Motel/Shelter vouchers will be issue only as a “last resort” for households that cannot stay at the Union Gospel Mission (UGM) and have no other resources available to them.

- Household will be determined eligible after the Shelter Assistance Eligibility Worksheet is completed by the Intake Case Manager
- Households refused admission to UGM for the following reasons will not be considered eligible:
 - Negative behavior or not adhering to rules while at the UGM
 - Leaving the UGM voluntarily
 - Having a pet which is not considered **medically** necessary. Households with pets must have a document signed by a recognized medical professional (i.e.: doctor or psychiatrist)
- Adult only households will be issued shelter/motel vouchers only during inclement/adverse weather conditions (below 40 degrees/over 95 degrees) except when a health condition prevents them from staying at the UGM which must be documented by a doctor or psychiatrist (i.e. wheel chair, oxygen equipment, mental illness)
- Motel/Shelter vouchers are limited to one week except under special circumstances
- Motel/Shelter vouchers will be issued to motels selected by CES staff

Homeless Prevention: Homeless prevention assistance applies to households facing eviction from their current residence and will be provided based on the Eligibility Criteria and a completed Rating Tool:

- Households at or below 30% AMI
- Household must show an eviction notice that will result in their being homeless within 14 days of screening.
- Only households whom have proof of a crisis which caused the eviction
- or to the start of work under this Agreement, workers compensation coverage Only households who
- Only households who have a reasonable sustainable resolution and can show proof of such
- Households must score at least 20 points on the rating tool to receive assistance (or override authorization)
- Assistance is limited to the amount to prevent the eviction but cannot exceed 30 days of FMR for the appropriate unit size
- Households not eligible for homeless prevention services through CES will be assessed for other housing programs

Rapid Re-Housing: Rapid re-housing assistance applies to households that are currently homeless, or living in a shelter or motel and in need of first month rent and/or deposit.

- Households at or below 30% AMI
- Household will need to show proof of homelessness by submitting a letter from a shelter, receipt from motel (paid for by a charitable or non-profit organization) or other means determined by CES staff
- Households living with family or friends may be eligible for assistance if their stay is jeopardizing the host family's housing (i.e. host family has received an eviction notice due to overcrowding, the host family is on Section 8 housing)
 - Households will complete a full intake assessment to determine barriers and service need
 - Households needing more than one month rent or deposit assistance will be screened and referred to additional programs if found eligible. If no program availability, households will be entered into the HIP
 - Direct service provided by CES will consist of no more than 30 days of FMR
 - Households will need to obtain housing which is suitable for the household size (based on occupancy guidelines) and budget
 - Households receiving assistance by CES must have a reasonable sustainable plan to maintain housing on an ongoing basis and show proof of such without further assistance.

Occupancy Standards for Benton and Franklin Counties:

Household Size*	Unit Size Allowable
1 -2 persons	Studio
1-4 persons	One bedroom
5- 6 persons	Two bedroom
7-8 persons	Three bedroom
9 persons or more	Four bedroom/Plus

*Override with Administrator approval ONLY

Community Resources: CES will provide community resources and referrals including the “Red Book” which is a comprehensive guide to services in Benton and Franklin Counties.

E. **Referral Process:** Clients whom are determined eligible will receive an assessment based on individual need. Referrals to agency partners will be made based on program eligibility. Partner agencies routinely notify CES staff of new openings as they become available. The process will include the following:

- Determine which program is most suitable and has current opening
- Contact the agency to schedule an appointment for the referred household
- Within seven (7) business days after the scheduled appointment, the agency will notify CES whether the client was accepted into the program or why the household was turned away
- Client data and HMIS number will be shared with the referral agency

If an agency sends a client to CES for prescreening and assessment and would like the client referred back to their program, the agency must submit this request in writing. If their program is the most suitable for the client, CES will make every effort to honor the request.

F. **Partner Participation Agreement:** Agency partner agreements will be required for all agencies receiving funds through Benton and Franklin Counties Department of Human Services and any other community agency wanting to participate in the coordinated entry system. Agreements will include the following:

- Partnership agencies must make a good faith effort to serve clients who are referred by CES
- Partnership agencies will notify CES within seven (7) business days after the scheduled appointment if the client has been accepted into the program, or if a referral is turned away and provide an explanation
- Partnership agencies will be represented in PAC (Partner Agency Committee)
- Partnership agencies will send walk-in or phone inquiries to CES for a prescreening
- Partnership agencies will update HMIS within 72 hours of entry and exit of program participants so that “real time” data and bed count availability is accurate.

G. **HMIS data collection and entry:** Accurate and timely HMIS data is essential to the success of the CES. Each household receiving an assessment will be entered into HMIS using the universal data collection requirements by CES. If a household is already part of the HMIS then their information will be updated by CES.

- All information will be scanned into each household’s HMIS profile.
- When a referral is made to a partner agency the HMIS household identifier will be provided so that the partner agency can have access to household data.
- When the partner agency accepts the household into their program then they need to update the HMIS showing program enrollment and services received.
- Audits of HMIS data entered by partner agencies are performed regularly.

H. **Housing Interest Pool (HIP):** If the referred program(s) is full, all households whom receive a full assessment and determined eligible for assistance will be entered into the HIP.

I. **System Evaluation:** System evaluations will be performed annually and the methods will include HMIS data, Department of Commerce Dashboard reports, and PAC feedback. The following are areas which CES will evaluate:

- Are more people being prevented or diverted from entering homelessness?

- Are people moving through the homeless assistance more quickly?
- Are more people exiting the system for permanent housing?
- Are lengths of stay in homelessness decreasing?
- Are there fewer repeat entries into homelessness?
- What is the percent of successful referrals to partner agencies?
- What is the percent of households who complete an assessment within 72 hours of first contact with CES?

J. **Partner Agency Committee (PAC):** Benton and Franklin Department of Human Services will hold PAC quarterly to discuss and evaluate CES. This gives an opportunity to provide feedback, resolve issues and conflicts and suggest improvement for the program. Each partner agency will be represented as part of the committee. Partnerships will be developed with housing providers, service providers, mental health agencies and shelters.

K. **Changes to Guidelines:** Benton and Franklin Counties Department of Human Services may issue revised or new Guidelines at any time. Revised copies will be sent as they are published.

L. **Contact Information:**

Tammie Smith
Housing Program Specialist
Email: tammie.smith@co.benton.wa.us
Phone: (509) 783-5284

**BENTON COUNTY
BOARD OF COUNTY COMMISSIONERS**

g. Amended Contract w/E Riley
to Reflect Change in Firm Name

Agenda Request Summary

<u>Type of Action Requested</u>	<u>Classification</u>
<input type="checkbox"/> Execute contract	<input checked="" type="checkbox"/> Consent agenda
<input checked="" type="checkbox"/> Pass resolution	<input type="checkbox"/> Public hearing
<input type="checkbox"/> Pass ordinance	<input type="checkbox"/> 1 st discussion
<input type="checkbox"/> Pass motion	<input type="checkbox"/> 2 nd discussion
<input type="checkbox"/> Other (describe)	<input type="checkbox"/> Other

Requested meeting date: 7/12/16
Presentation length:
Presenting elected office/department: OPD
Prepared by: Eric Hsu
Reviewed by: Loretta Smith-Kelty

BACKGROUND INFORMATION

Ben Riley and Elisa Riley currently each hold a District Court public defense contract and have modified the business structure of their law firm. The law firm name has been changed and it is necessary and appropriate to match the information in the W-9 that they each have on record with the Benton County Auditor.

SUMMARY

Proposed amendment changes the contract holder name to reflect a change in firm name.

RECOMMENDATION

Approve resolutions and execute proposed contract amendments.

ANTICIPATED FISCAL IMPACT

None.

RESOLUTION
BENTON COUNTY RESOLUTION NO. _____

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON
IN THE MATTER OF AMENDING THE DISTRICT COURT PUBLIC DEFENSE CONTRACT IN
BENTON COUNTY DISTRICT COURT WITH ATTORNEY ELISA RILEY TO REFLECT THE
CHANGE TO HER FIRM NAME.

WHEREAS, attorney Elisa Riley ("Attorney") currently holds a District Court public defense contract with Benton County pursuant to Benton County Resolution 2014-1029; and

WHEREAS, Attorney has modified the business structure of her law firm and an amendment to her contract is therefore necessary and appropriate so as to match the information in the W-9 she has on record with the Benton County Auditor's Office;

NOW THEREFORE, BE IT RESOLVED THAT the proposed Contract Amendment, changing the business structure information of Elisa Riley's firm, be executed as presented, and this Contract Amendment be designated BCDC1517ER001A2.

Dated this day of, 20

Dated this day of, 20

Chairman of the Board

Chairman Pro-Tem

Member

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

Attest:
Clerk of the Board

**AMENDMENT TO
PROFESSIONAL SERVICES AGREEMENT TO PROVIDE LEGAL
REPRESENTATION TO INDIGENT PERSONS IN
BENTON COUNTY DISTRICT COURT
CONTRACT # BCDC1517ER001A2**

THE AGREEMENT, previously entered into by and between **Elisa Riley** attorney at law, Washington State Bar Association #36142 ("Attorney") dba **Saxton Riley, PLLC** and **BENTON COUNTY WASHINGTON**, a State of Washington political subdivision ("County"), for and on behalf of the Benton County District Court, designated BCDC1517ER001, and executed by and through Benton County Resolution 2014-1029,

IS HEREBY AMENDED AS FOLLOWS:

The Agreement shall reflect that it is between **Elisa Riley**, attorney at law, Washington State Bar Association #36142 ("Attorney") **Saxton Riley & Riley PLLC**; and **Benton County**, a State of Washington political subdivision ("County"), for and on behalf of the Benton County District Court.

This amended agreement shall be designated **BCDC1517ER001A2**.

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

Approved as to form and content:

Eric Hsu
Public Defense Manager

DATE: 6/13/2014

Elisa Riley
WSBA #36142

Saxton Riley

**Benton County
Office of Public Defense
Payee Change Form**

For Public Defense Contract Vendors

Contract compensation is made according to the information on the face sheet of your contract. Please use this form if you wish to change the payee for your contract compensation.

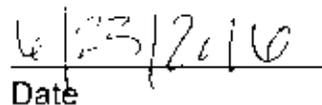
Please tell us about your contract

Contract Number BCDC1517ER001A	Existing Contract Holder Name Elisa V. Riley dba Saxton Riley, PLLC
Date of Contract 12/16/2014 / 01/27/2015	

Please tell us about your desired change

New Contract Holder Name Elisa V. Riley dba Saxton Riley & Riley, PLLC	Reason for Change Name change of firm
Effective date of change (if left blank will be processed immediately)	


Contract Holder Signature


Date

Completed by: _____

REMINDER: You always will need to complete a new W9 form for every change even if your EIN did not change.

***For instructions on how to fill out this form and what to do with it,
please see next pages.***

Benton County Office of Public Defense
7122 W Okanogan Pl, Bldg A
Kennewick, WA 99336

**BENTON COUNTY
BOARD OF COUNTY COMMISSIONERS**

Agenda Request Summary

<u>Type of Action Requested</u>	<u>Classification</u>
<input type="checkbox"/> Execute contract	<input checked="" type="checkbox"/> Consent agenda
<input checked="" type="checkbox"/> Pass resolution	<input type="checkbox"/> Public hearing
<input type="checkbox"/> Pass ordinance	<input type="checkbox"/> 1 st discussion
<input type="checkbox"/> Pass motion	<input type="checkbox"/> 2 nd discussion
<input type="checkbox"/> Other (describe)	<input type="checkbox"/> Other

Requested meeting date: 7/12/16
Presentation length:
Presenting elected office/department: OPD
Prepared by: Eric Hsu
Reviewed by: Loretta Smith-Kelty

BACKGROUND INFORMATION

Ben Riley and Elisa Riley currently each hold a District Court public defense contract and have modified the business structure of their law firm. The law firm name has been changed and it is necessary and appropriate to match the information in the W-9 that they each have on record with the Benton County Auditor.

SUMMARY

Proposed amendment changes the contract holder name to reflect a change in firm name.

RECOMMENDATION

Approve resolutions and execute proposed contract amendments.

ANTICIPATED FISCAL IMPACT

None.

RESOLUTION
BENTON COUNTY RESOLUTION NO. _____

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON
IN THE MATTER OF AMENDING THE DISTRICT COURT PUBLIC DEFENSE CONTRACT IN
BENTON COUNTY DISTRICT COURT WITH ATTORNEY BENJAMIN RILEY TO REFLECT
THE CHANGE TO HIS FIRM NAME.

WHEREAS, attorney Benjamin Riley ("Attorney") currently holds a District Court public defense contract with Benton County pursuant to Benton County Resolution 2014-1030; and

WHEREAS, Attorney has modified the business structure of his law firm and an amendment to his contract is therefore necessary and appropriate so as to match the information in the W-9 he has on record with the Benton County Auditor's Office:

NOW THEREFORE, BE IT RESOLVED THAT the proposed Contract Amendment, changing the business structure information of Benjamin Riley's firm, be executed as presented, and this Contract Amendment be designated BCDC1417BJR001A2

Dated this day of, 20

Dated this day of, 20

Chairman of the Board

Chairman Pro-Tem

Member

Constituting the Board of County
Commissioners, Benton County
Washington

Attest:
Clerk of the Board

**AMENDMENT TO
PROFESSIONAL SERVICES AGREEMENT TO PROVIDE LEGAL
REPRESENTATION TO INDIGENT PERSONS IN
BENTON COUNTY DISTRICT COURT
CONTRACT # BCDC1417BJR001A2**

THE AGREEMENT, previously entered into by and between **Benjamin J. Riley** attorney at law, Washington State Bar Association #34949 ("Attorney") dba **Saxton Riley, PLLC** and **BENTON COUNTY WASHINGTON**, a State of Washington political subdivision ("County"), for and on behalf of the Benton County District Court, designated BCDC1417BJR001, and executed by and through Benton County Resolution 2014-1030,

IS HEREBY AMENDED AS FOLLOWS:

The Agreement shall reflect that it is between **Benjamin J Riley**, attorney at law, Washington State Bar Association #34949 ("Attorney") **Saxton Riley & Riley PLLC**; and **Benton County**, a State of Washington political subdivision ("County"), for and on behalf of the Benton County District Court.

This amended agreement shall be designated **BCDC1417BJR001A2**.

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

DATE: _____

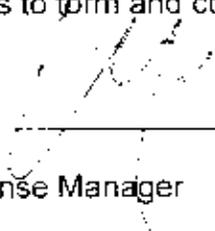
BENTON COUNTY

Chairman

Commissioner

Commissioner

Approved as to form and content:



Eric Hsu
Public Defense Manager

DATE: 06/24/2016

Benjamin J. Riley
WSBA #34949



**Benton County
Office of Public Defense
Payee Change Form**

For Public Defense Contract Vendors

Contract compensation is made according to the information on the face sheet of your contract. Please use this form if you wish to change the payee for your contract compensation.

Please tell us about your contract

Contract Number BCDC1417BJR001A	Existing Contract Holder Name Benjamin J. Riley dba Saxton Riley, PLLC
Date of Contract 12 / 16 / 2014 ; 01/272015/	

Please tell us about your desired change

New Contract Holder Name Benjamin J. Riley dba Saxton Riley & Riley, PLLC	Reason for Change Firm Name Change
Effective date of change (if left blank will be processed immediately)	



Contract Holder Signature

06/23/2016
Date

Completed by: _____

REMINDER: You always will need to complete a new W9 form for every change even if your EIN did not change.

***For instructions on how to fill out this form and what to do with it,
please see next pages.***

Benton County Office of Public Defense
7122 W Okanogan Pl, Bldg A
Kennewick, WA 99336

**BENTON COUNTY
BOARD OF COUNTY COMMISSIONERS
Agenda Request Summary**

<u>Type of Action Requested</u>	<u>Classification</u>
<input checked="" type="checkbox"/> Execute contract	<input checked="" type="checkbox"/> Consent agenda
<input checked="" type="checkbox"/> Pass resolution	<input type="checkbox"/> Public hearing
<input type="checkbox"/> Pass ordinance	<input type="checkbox"/> 1 st discussion
<input type="checkbox"/> Pass motion	<input type="checkbox"/> 2 nd discussion
<input type="checkbox"/> Other (describe)	<input type="checkbox"/> Other

Requested meeting date: July 12, 2016
Presentation length:
Presenting elected office/department: OPD
Prepared by: Eric Hsu
Reviewed by: Loretta Smith-Kelty

BACKGROUND INFORMATION

Staff Defenders with the Benton County Office of Public Defense have a need to conduct legal research to support their duties and Benton County has, for a number of years, contracted for such legal research services with Lexis.com. The most recent contract, which provides the County with significant savings over non-governmental rates, expires on June 30, 2016. The proposed renewal continues the legal research services at the same preferential rates and with limited and clearly stated annual increases.

SUMMARY

Renewal contract with Lexis.com, for legal research services to be used by Benton County Office of Public Defense staff defenders, is proposed for execution.

RECOMMENDATION

Execute renewal contract, approve resolution.

ANTICIPATED FISCAL IMPACT

None beyond budgeted.

RESOLUTION
BENTON COUNTY RESOLUTION NO. _____

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF EXECUTING A CONTRACT RENEWAL WITH LEXIS.COM FOR LEGAL RESEARCH SERVICES TO BE USED BY STAFF DEFENDERS AT THE BENTON COUNTY OFFICE OF PUBLIC DEFENSE.

WHEREAS, Benton County ("County") is obligated by law to provide indigent defense services in Benton County and the Staff Defenders utilized to provide such indigent defense services require access to legal research software; and

WHEREAS, per Benton County resolution 2012-677, "...The County need not advertise or follow a formal competitive bidding procedure for professional service contracts (except for architectural, engineering, or design services), but rather the County may 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, County has been contracting with Lexis.com for legal research services at a special government rate but such contract expires on June 30, 2016; and

WHEREAS; Lexis.com has agreed to continue the government rate offer to Benton County until June 30, 2019 and requires the execution of a contract renewal to do so; and

WHEREAS, the government rate offered to Benton County represents a significant savings over the otherwise applicable commercial rates that Lexis.com offers and therefore the execution of this renewal contract appears to be in the best interests of the County;

NOW THEREFORE, BE IT RESOLVED THAT the attached Lexis Letter Amendment renewing and upgrading the current subscription to its legal research services, effective until June 30, 2019 and with total compensation not to exceed \$8,808 over the life of this extension period, be executed as presented; and **BE IT FURTHER RESOLVED THAT** the Chair of the Board of Commissioners be authorized to sign this Letter Amendment on behalf of the entire Board.

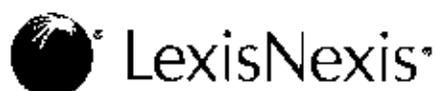
Dated this day of, 20

Chairman of the Board

Chairman Pro-Tem

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

**Attest:
Clerk of the Board**



**RENEW AND UPGRADE YOUR LEXISNEXIS
SUBSCRIPTION TO LEXIS ADVANCE®**

NOW BY SIGNING THIS LETTER AMENDMENT

Thank you for using LexisNexis as your provider of dynamic, up-to-date news, legal and business information. We are dedicated to giving you the cutting edge you need to thrive in today's business environment. Currently you are using the LexisNexis *lexis.com* services pursuant to a Subscription Plan Amendment (the "Amendment") that allows you to use selected information relevant to your needs in exchange for a fixed monthly commitment. The fixed rate Amendment offers you significant savings over transactional or "pay-as-you-go" pricing. However, your Amendment will expire soon. By signing below, you can continue to enjoy these benefits and upgrade your subscription to the Lexis Advance platform. By upgrading to Lexis Advance, you will enjoy the same content you had access to in *lexis.com* but you can take advantage of our new, award winning platform.

Customer Name:	Benton County	Account Number:	144BCC
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Extension Period				Monthly Commitment	
Beginning	Activation	to	7/31/2016	\$	0
Beginning	8/1/2016	to	7/31/2017	\$	237
Beginning	8/1/2017	to	7/31/2018	\$	245
Beginning	8/1/2018	to	7/31/2019	\$	252
Beginning		to		\$	

Current Number of Government Professionals Users*: 4

*You certify that the number of government professionals in your organization is as set forth above. A "Government Professional User" is defined as an attorney, judge, librarian, researcher, investigator or analyst who is employed by your organization. A "Support Staff User" is a person who supports the Government Professional User, including, but not limited to: paralegals, interns, legal secretaries or other administrative support members. Up to 3 ID's may be issued to Support Staff Users for each Government Professional User accounted for above. Each LN ID must be issued for individual use by the Government Professional User or Support Staff User. The price reflected is for the number of Government Professional users per the previous agreement.

By signing this letter, you agree to extend the term of your Amendment and you further acknowledge that your account will be upgraded from *lexis.com* to Lexis Advance during the Extension Period. The upgrade will take place within a commercially reasonable period after you return this letter and your organization's access to *lexis.com* will be terminated as of **7/31/2016** (prior to this time, you will have access to the content in *lexis.com* described in the Amendment).

You acknowledge that the pricing set forth in this letter depends in part on the number of Government Professional Users in your organization (the "Reference Number"). At LN's request from time to time, your organization will certify in writing its then-current Reference Number. In the event of a change in the Reference Number LN may, in its sole discretion upon 30 days' prior written notice to you, increase or decrease the Monthly Commitment by an amount that does not exceed, on a percentage basis, the change in the Reference Number. In addition, if at the time of signing this Letter Agreement there are 11 or more Government Professional Users in your organization, you are required to notify LN in writing if the number of Government Professional Users falls below within 30 days of the staffing change.

This letter agreement shall serve as Subscriber's acceptance of the General Terms & Conditions for Use of the Online Services in effect as of the date of this Amendment and displayed at www.lexisnexis.com/terms/general. Except as expressly stated above, all other terms of the Amendment will remain unchanged and unaffected by this letter amendment.

If you have any questions about your new rate or would like to see a comparison of other pricing options, please contact me, your account representative, at:

James D Sayer
Client Manager
State & Local Government

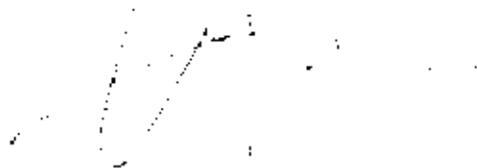
937-247-8152
james.sayer@lexisnexis.com

In order for these changes to be effective on the date listed above, please sign and return this letter amendment no later than 7/20/2016.

If you do not respond to this letter, please be advised that the Amendment will expire at the end of the current commitment period and you will be charged standard, transactional rates for use of the LexisNexis Services.

Customer Name: Benton County _____
Authorized Signature: _____
Print Name: _____
Title: _____
Date: _____

APPROVED AS TO CONTENT



ERIC HSU,
PUBLIC DEFENSE MANAGER

CUSTOMER INFORMATION (Please type or print):

Organization Name: (Full Legal Name)	Benton County		
Billing Frequency:	<input checked="" type="checkbox"/> Monthly	<input type="checkbox"/> Annually	
	Physical Address		Invoice Address
Street Address:	7122 W Okanogan Pl		Same
City:	Kennewick		
State:	WA		
Zip:	99336-2359		
County:	Benton		
Telephone:	(509) 735-3591		
Fax:			
Parent Company: (if applicable)			

Tax Exempt: Yes (attach Sales Tax Exemption Certificate) MSA: Yes No
 No

Tax ID No.

State Contract No.
(If applicable)

NA

PO No.
(If applicable)

Contacts:

	<u>Name</u>	<u>Telephone</u>	<u>Email</u>
Billing:	Denise Gerry		denise.gerry@co.benton.wa.us
2nd Billing:			
Policy/Legal Notification:	Eric Hsu		eric.hsu@co.benton.wa.us
Super Admin:	Denise Gerry		
2nd Super Admin:			

If account has Public Records:

*If Credentialing is unable to complete their processing of your order with complete home address, a Credentialing Analyst will contact you for your DOB or first 5 digits of your SSN.

External IP Address: NA

(Please provide 2 of the 3 Identifiers below)

- 1. Complete Home Address: NA
- 2. Date of Birth: NA
- 3. First 5 of Social: NA

CUSTOMER ID INFORMATION (Please type or print)			
ID HOLDERS' NAMES (additional sheet attached <input type="checkbox"/>)	ID HOLDERS' TITLES/POSITIONS	ID HOLDERS' EMAIL ADDRESSES	LOCATION/ADDRESS
Eric Hsu	Public Defense Manager	eric.hsu@co.benton.wa.us	Main
Alexandria Sheridan	Sr. Staff Defender	alexandria.sheridan@co.benton.wa.us	Main
Michael Vander Sys	Staff Defender	michael.vandersys@co.benton.wa.us	Main
Caleb DiPeso	Staff Defender	caleb.dipeso@co.benton.wa.us	Main

**BENTON COUNTY
BOARD OF COUNTY COMMISSIONERS
Agenda Request Summary**

<u>Type of Action Requested</u>	<u>Classification</u>
<input checked="" type="checkbox"/> Execute contract	<input checked="" type="checkbox"/> Consent agenda
<input checked="" type="checkbox"/> Pass resolution	<input type="checkbox"/> Public hearing
<input type="checkbox"/> Pass ordinance	<input type="checkbox"/> 1 st discussion
<input type="checkbox"/> Pass motion	<input type="checkbox"/> 2 nd discussion
<input type="checkbox"/> Other (describe)	<input type="checkbox"/> Other

Requested meeting date: July 12, 2016
Presentation length:
Presenting elected office/department: OPD
Prepared by: Eric Hsu
Reviewed by: Loretta Smith-Kelty

BACKGROUND INFORMATION

Benton County has been contracting with attorney Brandon Pang for public defense services in Benton County District Court. In light of the departure of Sr. Staff Defender Alexandria Sheridan, as well as increased caseloads, there is a need for an additional public defender in Benton County Superior Court (Thursday docket). Attorney Pang has been working with an OPD mentor over the past few months to prepare for transitioning to Benton County Superior Court and it would be appropriate to amend his public defense contract as proposed to transfer him to Superior Court and completely eliminate his District Court duties with a corresponding change in his compensation (ie eliminating his District Court monthly compensation and paying him by the case for Superior Court cases instead).

SUMMARY

Proposed amendment transfers attorney Brandon Pang transfers his public defense services from Benton County District Court to Benton County Superior Court.

RECOMMENDATION

Excecute amendment as proposed.

ANTICIPATED FISCAL IMPACT

None beyond budgeted.

RESOLUTION
BENTON COUNTY RESOLUTION NO. _____

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF EXECUTING AN AMENDMENT TO THE PUBLIC DEFENSE CONTRACT WITH ATTORNEY BRANDON PANG CONVERTING IT FROM A BENTON COUNTY DISTRICT COURT PUBLIC DEFENSE CONTRACT TO A BENTON COUNTY SUPERIOR COURT PUBLIC DEFENSE CONTRACT.

WHEREAS, Benton County ("County") is obligated by law to provide indigent defense services in Benton County Superior and District Courts; and

WHEREAS, per Benton County resolution 2012-677, "...The County need not advertise or follow a formal competitive bidding procedure for professional service contracts (except for architectural, engineering, or design services), but rather the County may 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, County has been contracting with attorney Brandon Pang ("Attorney") for public defense services in Benton County District Court; and

WHEREAS, Sr. Staff Defender Alexandria Sheridan, who has been assigned to Benton County Superior Court, will be leaving OPD effective July 8, 2016, necessitating the assignment of an additional public defender to Superior Court; and

WHEREAS, Attorney has been preparing for a transition to Superior Court work, has been working with a mentor, and is ready to be reassigned to Superior Court; and

WHEREAS, it is therefore appropriate to amend the public defense contract with Attorney so as to assign him to Superior Court duties and completely eliminate his District Court duties;

NOW THEREFORE, BE IT RESOLVED THAT the public defense contract with attorney Brandon Pang, previously executed by and through Resolution 2014-028, be amended as proposed, reassigning him to Benton County Superior Court;

Dated this day of , 20

Chairman of the Board

Chairman Pro-Tem

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

Attest:
Clerk of the Board

**AMENDMENT TO
PROFESSIONAL SERVICES AGREEMENT TO PROVIDE
LEGAL REPRESENTATION TO INDIGENT PERSONS IN
BENTON COUNTY DISTRICT COURT
BCSC1618BLP001**

CONTRACT SUMMARY			
Contract Type	Superior Court Felonies		
Contract Number	BCSC1618BLP001	Contract Holder	Brandon Pang
WSBA #	46390	Effective Dates	July 1, 2016 – Dec 31, 2018
Caseload Cap	140	Compensation	\$610 per case equivalent

THE AGREEMENT, previously entered into by and between **Brandon L. Pang**, attorney at law, Washington State Bar Association #46390 ("Attorney"), and **BENTON COUNTY, WASHINGTON**, a state of Washington political subdivision ("County"), for and on behalf of the Benton County District Court, executed by and through Resolution #2014-028, is hereby amended by replacing it in its entirety by the following and substituting the contract number with BCSC1618BLP001:

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 felony 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 felony criminal offenses, and desires to contract with the County to provide legal services to indigent persons subject to felony criminal charges in Benton County Superior 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 **July 1, 2016**, and shall continue thereafter through and including **December 31, 2018**, unless earlier terminated pursuant to the applicable terms and provisions of this Agreement.

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

a. Attorney presently and regularly maintains (or has access to) an office adequate and appropriate for the practice of law at 7135 W Hood PI, Kennewick, WA 99336; Attorney's current local office telephone and fax numbers are (509) 591-5519 and no fax number, respectively; and Attorney's current office/work e-mail address is bpanglaw@gmail.com.

b. Throughout the entire term of this Agreement, Attorney shall continue to maintain (or have access to) such 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 Counties Public Defense Manager ("PDM"), the Benton County Prosecuting Attorney, and the Benton-Franklin Counties Superior Court Administrator ("Superior Court Administrator").

c. Regardless of the location or manner in which Attorney decides to maintain an office, throughout the entire term of this Agreement the office facility must comply with any and all applicable public defense standards adopted by the Washington Supreme Court.

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 Benton County Superior 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 felony 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; meets the minimum standards for Superior Court felony public defense (for Class B and Class C felonies) as adopted by the Washington State Supreme Court; has not been a party to a previous personal services agreement with any governmental entity or any other entity for the provision of public indigent defense services that was terminated due to Attorney's breach or other contractual non-compliance; has not been previously employed by any governmental entity or any other entity to provide indigent defense services and had such employment terminated due to any reason relating to Attorney's job performance; 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 other 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 potential termination pursuant to paragraph 19 below in the event that Attorney's license to practice law in Washington is revoked or otherwise limited or restricted; in the event that a court of competent jurisdiction formally determines and expressly finds that Attorney has rendered ineffective assistance of counsel to any person; in the event that Attorney is censured, admonished, or otherwise formally disciplined for conduct or behavior that negatively reflects on Attorney's duty and ability to effectively and competently

render legal services hereunder; or in the event that Attorney is suspended or disbarred from the practice of law in any other state or jurisdiction.

(ii) Attorney shall notify the County within five (5) business days if any event specified in paragraph 3.a.(i) occurs or if any bar association complaint is filed against Attorney. Failure to do so shall constitute a substantial and incurable breach of this Agreement and shall subject this Agreement, at the election of the County, to immediate termination.

b. Attorney acknowledges and agrees that the County may conduct criminal history background check(s) on Attorney including any such recurring check as the County may deem appropriate, in its sole discretion, even at times after execution of this Agreement. 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, Attorney shall obtain at least seven (7) hours of WSBA-qualified Continuing Legal Education ("CLE") credits in courses directly relating to Attorney's public defense practice under this Agreement. Attorney shall provide the PDM with written proof and confirmation that such CLE credits have been obtained no later than by December 31st of each calendar year. Additionally, during each calendar year during the term of this Agreement, in addition to participating in any specialized training-related activity specified in RCW 10.101.060(1)(a)(iii) or otherwise specifically required by other applicable law or court rule, Attorney shall attend at least one (1) public defense services-related training seminar sponsored and/or approved by the Washington 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 PDM with written proof and confirmation that such required training seminar has been attended by Attorney no later than by December 31st of each calendar year.

e. Attorney represents and warrants that, throughout the entire term of this Agreement, Attorney's private law practice caseload; Attorney's schedule; and Attorney's office resources, equipment, and support staff will allow Attorney to competently undertake and effectively perform all services required under this Agreement. Attorney represents and warrants that Attorney's private law practice and schedule will not interfere with Attorney's ability to timely and effectively 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 15 calendar days after the end of each calendar year during the term of this Agreement, Attorney shall provide the PDM 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 year and the total number and specific types of appointed cases under this Agreement in which Attorney provided legal services during the preceding year.

Additionally, in the event that the public defense reporting requirements under RCW 10.101.050, other applicable statute or relevant case law are later amended/modified (or, in the case of case law, reasonably required as a best practice) Attorney shall correspondingly comply with any such amended/modified reporting requirements without added compensation upon written notice from the County to do so.

g. Attorney recognizes and acknowledges that Attorney is required by Washington Supreme Court Order to meet certain Supreme Court-adopted Standards for Indigent Defense ("Defense Standards") to provide quality representation to indigent criminal defendants, and to periodically file certain certifications attesting to Attorney's compliance with such Defense Standards. Attorney understands and acknowledges that Attorney's compliance with such Defense Standards and periodic certification filing requirements is a direct professional and ethical obligation between Attorney and any Court in which Attorney appears while performing services under this Agreement. Attorney further acknowledges and understands that, though Attorney's compliance with such Defense Standards and such periodic certification filing requirements is not an express term of this Agreement and therefore not subject to the County's monitoring or control, Attorney's noncompliance with such Defense Standards and/or such filing requirements would directly impair Attorney's ability to perform and fulfill Attorney's basic obligations under this Agreement. Accordingly, if the County is notified by any Court in which Attorney appears to perform services under this Agreement that Attorney has failed to comply with such Defense Standards or such periodic certification filing requirements, Attorney shall then be considered to be in substantive breach of this Agreement and this Agreement shall then become subject to potential termination under the provisions of paragraph 19.b. below.

h. Attorney understands and acknowledges that Attorney is solely and personally responsible to obtain and maintain all necessary state and local government business licenses and/or other approvals necessary to operate Attorney's private legal services business.

4. **OTHER INDIGENT DEFENSE ATTORNEYS.**

In addition to entering into this Agreement with Attorney, the County has entered into, or contemplates entering into, separate and independent professional services agreements with other licensed attorneys to primarily provide criminal defense services to persons accused of felony crimes in Benton County Superior Court. Attorney agrees to fully cooperate and coordinate with such other independent contractor attorneys, the Benton County Superior Court, the Superior Court Administrator, the PDM, and any attorneys hired and employed by the County ("Public Defenders") to provide criminal defense services to persons accused of felony crimes in Benton County Superior Court, to establish a process to effectuate the efficient and equitable distribution

of case appointments between Attorney, said other independent contractor attorneys, and said Public Defenders (collectively the "Benton County Superior Court Criminal Defense Panel"). The Superior Court Administrator and/or the PDM 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 Benton County Superior 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 felony matter filed or otherwise pending under the applicable Washington criminal statutes and/or under any other applicable Washington law in Benton County Superior Court.
- Any post-disposition probation violation, revocation, modification, and/or contempt-of-court proceeding relating to any underlying criminal case.
- Any misdemeanor or gross misdemeanor filed directly in Benton County Superior Court, whether as a part of another separate case or filed independently.
- Any material witness matter relating to a felony case or matter filed in Benton County Superior Court.
- Any case or matter returned to Benton County Superior Court from any higher court.
- Any other type of Benton County Superior Court case or matter in which another Benton County Superior Court Criminal Defense Panel member and/or any other attorney who is under a professional services agreement to provide legal representation in Benton County Superior 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.
- Any case or matter initially filed in Benton County District Court but then transferred to Benton County Superior Court, including those cases in which the felony charge later is reduced to a non-felony charge.
- Any case or matter for which post-conviction representation is mandated by law including, but not limited to, sentence reviews and requests for furloughs.

6. **CONTINUED REPRESENTATION.**

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

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

a. In the event of termination of this Agreement at the election of either party by providing sixty (60) days' notice of desire to do so as provided by paragraph 19.c below, Attorney shall provide the PDM with accurate documentation identifying Attorney's then-existing indigent defense caseload which shall include for each identified case the case title and cause number, the case type, the case status, and the next court appearance date ("Caseload Information"). Attorney shall provide the Caseload Information to the PDM contemporaneously with Attorney providing his/her notice of termination to the County (or, if the County provides the notice of termination to Attorney, within five (5) business days of Attorney receiving such notice) and Attorney shall again provide the PDM with updated Caseload Information thirty (30) days prior to the effective date of Agreement termination. Attorney shall then be responsible for providing continued legal representation to clients in any and all such identified cases that remain unresolved as of the effective date of Agreement termination for a period of sixty (60) days after such effective date.

b. In the event of expiration of this Agreement by expiration of its specified term set forth in paragraph 1 above, if Attorney provides the PDM with at least sixty (60) days' written notice prior to such term expiration date that Attorney has no interest in seeking a potential new contract with the County to continue providing public defense services after such date and further provides the PDM with all of the Caseload Information required under paragraph 6.a. above, Attorney shall then be responsible for providing continued legal representation to clients in any and all identified cases that remain unresolved as of such term expiration date for a period of sixty (60) days after such expiration date. However, if Attorney fails to timely provide such sixty (60) days' advance notice to the PDM, Attorney shall then be responsible for providing continued legal representation to clients with cases that remain unresolved as of such term expiration date for a period of time equivalent to sixty (60) days plus an additional number of days corresponding to the numerical difference between sixty (60) days advance notice and the number of days advance notice Attorney actually provided to the PDM. By way of illustration, if Attorney only provided thirty (30) days' advance notice to the PDM, then

Attorney would be responsible for providing continued legal representation for an aggregated total of ninety (90) days [i.e., 60 days + (60 days – 30 days)] after the Agreement term expiration date.

c. In the case of either expiration or earlier termination of this Agreement, if the required Caseload Information provided by Attorney pursuant to above paragraphs 6.a. or 6.b. omits any existing case(s), Attorney shall then be responsible for providing continuing legal representation on such omitted case(s) until the earlier of the final resolution of the case(s) or thirty (30) days from the date upon which the existence of such omitted case(s) is brought to the attention of the PDM in writing.

7. **NUMBER OF APPOINTMENTS.** During each calendar year of the term of this Agreement, Attorney agrees to and shall accept appointments hereunder to represent persons in the Benton County Superior Court up to a maximum of **140 total case equivalents per calendar year** (proratable for any partial calendar year).

8. **CASE EQUIVALENTS.**

a. For the sole and exclusive purpose of calculating Attorney's above-referenced "case equivalents" under this Agreement and correspondingly determining the compensation due to Attorney under paragraph 12, the following provisions of this paragraph 8 shall apply, but such provisions are not intended to constitute, and do not constitute, any type of "weighting system" adopted by the County for purposes of Attorney's above-referenced certifications of compliance with the Defense Standards adopted by the Washington State Supreme Court, and such provisions shall not be used or relied upon by Attorney in any way for such reasons or similar purposes.

- (i) Class B and Class C felonies, as well as unclassified felonies, shall constitute one (1) case equivalent.
- (ii) Class A felonies shall constitute two (2) case equivalents.
- (iii) Appointment on a mental health or substance-abuse involuntary commitment (generally only done when the attorney contracted to provide such services has a conflict of interest) shall count as one-half (1/2) of a case equivalent.
- (iv) Appointment to represent a person in a material witness matter in a case pending in Benton County Superior Court shall count as one-half (1/2) of a case equivalent.
- (v) Appointment on a felony matter filed in Benton County Superior Court following a declination hearing in Juvenile Court shall count as one (1) case equivalent notwithstanding any prior case credit granted to any attorney in Juvenile Court.
- (vi) An appointment to a case or matter returned to Benton County Superior Court from a higher court shall be counted as determined by the PDM in his sole discretion following consultation.

- (vii) Case equivalent credit value assigned is based on cases, not charges, and is determined by the classification of the most serious offense charged.
- (viii) Any civil contempt of court proceeding shall count as one-half (1/2) of a case equivalent.
- (ix) Any post-conviction matter shall count as one-third (1/3) of a case equivalent provided that if substantial research or briefing is necessary, then, on a case-by-case basis, at the sole discretion of the PDM, up to a full case equivalent credit may be awarded upon request from Attorney, which formal request must be made by Attorney to the PDM in writing within thirty (30) days from the date of final resolution of such matter, and any untimely requests will not be considered by the PDM.
- (x) Provisional representation of clients during arraignment docket representation on a docket other than the pre-trial docket to which Attorney is regularly assigned (usually only required when staff attorneys employed by Benton County are unable to attend such dockets) shall constitute one-fourth (1/4) of a case equivalent.
- (xi) 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 upon Attorney's request may count as a partial/fractional case equivalent credit if substantive work has been done on the case as determined by the PDM in his sole discretion. Attorney's formal request must be made by Attorney to the PDM in writing within thirty (30) days from the date of Attorney's withdrawal from such matter, and any untimely requests will not be considered by the PDM.
- (xii) In the case of appointments that are exceedingly complex and/or cause Attorney to expend inordinate amounts of time, Attorney may request up to two (2) additional case equivalent credits for such an appointment, which request will be considered and decided by the PDM in his sole discretion. Attorney's formal request must be made by Attorney to the PDM in writing within thirty (30) days from the date of final resolution of such matter, and any untimely requests will not be considered by the PDM.

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 Superior Court and Attorney continues representing the same person in such matter within a twelve (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, 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. Further provided, however, that the PDM may in his sole discretion adjust the case equivalent total after consultation.

9. **CLIENT ELIGIBILITY.** The Benton County Superior 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 Superior Court of such possibility for purposes of the 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 Superior 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 Superior 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 Superior Court to represent such person, or from representing a person on a retained-fee basis whom Attorney has been appointed by the Benton County Superior 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 Superior Court aware of such development for purposes of the Court taking action to appoint another attorney to assume and undertake legal representation in such case.

11. **SCOPE OF REPRESENTATION; FILE RETENTION; CONVICTION OF CRIMINAL OFFENSE.** 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 should 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 Superior 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 obligation 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 should use best efforts to meet face-to-face with such person 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 reasonably appropriate contact/communications with the person so as to keep him/her fully apprised as to the status of his/her case (with the specific manner and frequency of such contact/communications left entirely to Attorney's professional judgment); and Attorney should 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 should contact such person (preferably in person or at least via telephone) 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 PDM of such plea/conviction within seven (7) calendar days thereafter, and Attorney's failure to timely report within such timeframe shall constitute a substantial and incurable breach of this Agreement and result in the immediate and automatic termination of this Agreement. Even if County is timely notified, County may elect, at its sole discretion, to terminate this Agreement and if it elects to do so, may do so with ten (10) days written notice to Attorney:

- (i) Any felony offense as defined in RCW 9.94A.030 and RCW 9A.44.130 or misdemeanor sex offense under the laws of the State of Washington, any other State, or Federal law.
- (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 or its equivalent in any other State or Federal Statute
- (iv) Any crime of dishonesty or deception.

12. **COMPENSATION.**

a. Attorney shall be compensated in the amount of \$610.00 per case equivalent. Attorney is eligible to receive compensation for an appointment after performing a conflicts check and filing a claim for compensation utilizing the procedure set forth under paragraph 12.d. below. Attorney may file a claim for compensation as often as every two (2) weeks, and a single claim for compensation may be filed for multiple case appointments, provided that a claim for compensation for multiple cases must list and specifically identify all of the cases for which compensation is being sought.

b. In addition to receiving the above-stated compensation under paragraph 12.a., Attorney shall receive \$400.00 per day for each full day of trial and \$200.00 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 trial proceedings going beyond 2 p.m. each day. "Trial" for purposes of this paragraph 12.b. only, shall be defined as actual proceedings related to a jury or bench trial in court, and on the record, including jury selection, all portions of the trial, and any special set sentencing proceeding. Trial shall not include any time awaiting a jury decision (even if Attorney is required to remain in or close by the courthouse) and also shall not include any time conferring with the Judge or any other persons off the record. In any case where Attorney has actually expended time or resources preparing for trial and, because of either a motion to dismiss by the prosecutor or the extension of a more favorable offer by the prosecution communicated on the day of trial, the need for trial is permanently eliminated, then Attorney shall nonetheless be entitled to a trial per diem in the amount of \$400.00 if the matter was scheduled for a jury trial or \$200.00 if the matter was scheduled for a bench trial. Attorney may seek compensation for trial per diem by submitting a claim for compensation utilizing the procedure set forth in paragraph 12.d. below. Any claims for trial per diem for matters where the trial was canceled permanently due to a better plea offer or motion to dismiss by the prosecutor on the day of trial shall include a statement that the Attorney did actually expend time or resources preparing for the trial and that the better plea offer or motion to dismiss was not fully anticipated at a time prior to the day of trial.

c. Attorney acknowledges and agrees that the above-stated compensation to Attorney under paragraphs 12.a. and 12.b. shall constitute Attorney's full and exclusive compensation hereunder for all cases handled by Attorney under this Agreement, and

Attorney shall not be entitled to receive any other additional compensation for services performed under this Agreement.

d. As a precondition to Attorney receiving payment of the compensation specified under paragraphs 12.a. and/or 12.b. above, Attorney must submit a claim for compensation to the PDM that includes the necessary information specified in said paragraphs (exercising appropriate discretion to protect client confidentiality given that such claims are matters of public record unless sealed by the court at Attorney's request). Attorney's administrative time expended to prepare, submit, and process claims for compensation shall not be billable to the County. All claims for compensation shall be subject to the PDM's review and final approval for payment. Attorney shall submit claims for compensation to the PDM within sixty (60) days of Attorney becoming entitled to receive such compensation, and the County shall have the right to deny payment of any claim for compensation that is not timely submitted within said requisite sixty (60) day period.

e. If any submitted claim for compensation is disapproved by the PDM in whole or in part for any reason(s), the PDM shall promptly provide Attorney with written notice of such disapproval that specifically identifies and describes the reason(s) for disapproval ("Dispute Notice"). Upon Attorney's receipt of a Dispute Notice, Attorney must notify the PDM in writing within ten (10) business days thereafter if Attorney disputes, and desires to have the PDM reconsider, the Dispute Notice, and Attorney must include with that notice to the PDM any information and/or documentation that Attorney wants the PDM to review and consider as part of that reconsideration process (including, without limitation, full copies of any documents from the official court file relating to the particular case(s) addressed by the Dispute Notice, which court-filed documents the parties' hereby agree shall be conclusively presumed as being complete and accurate for purposes of addressing and resolving any contested Dispute Notice). If Attorney fails to duly respond to a Dispute Notice within said ten (10) day period, the contents of the Dispute Notice shall then become conclusively binding on Attorney and shall be used by the County to calculate and make any compensation payment to Attorney arising from the disapproved claim for compensation. If Attorney duly responds to a Dispute Notice within said ten (10) day period, and if the result of the above-referenced reconsideration process does not fully resolve the disputed issue(s) arising from the Dispute Notice, the parties may then proceed to address and resolve the disputed issue(s) pursuant to the provisions of paragraph 31 below.

f. Attorney shall notify the PDM about any case appointment for which Attorney has already been compensated but for which Attorney has lost eligibility for full case equivalent credit by virtue of a substitution of counsel or withdrawal by Attorney for any other reason before the omnibus hearing as provided in paragraph 8.(xi) above. Attorney shall provide such notice within thirty (30) days of such event (i.e., the substitution of counsel or withdrawal by Attorney resulting in lost eligibility for full case equivalent credit) and, if Attorney believes partial/fractional case equivalent credit is warranted under the provisions of above paragraph 8.(xi), Attorney shall include with such notice a written claim for partial/fractional case equivalent credit to be potentially used and applied for purposes of reversing the previously-awarded full case equivalent credit and correspondingly reducing the compensation previously paid to Attorney based thereon. If Attorney fails to notify the PDM as required in this paragraph 12.f. within said thirty (30) day period, Attorney shall forfeit any eligibility for partial/fractional credit and shall receive

no credit for the particular case appointment even if Attorney performed services for which partial/fractional case equivalent credit may have otherwise been awarded under paragraph 8.(xi).

g. The County shall have the right at any time (even after compensation has been paid to Attorney) to audit records pertaining to Attorney's case appointments under this Agreement, and if such audit determines that Attorney has lost eligibility to receive a full case equivalent credit for a particular case appointment by virtue of a substitution of counsel or withdrawal by Attorney for any other reason, the County shall then be entitled to immediately setoff and deduct any compensation amount(s) previously paid to Attorney for such case appointment, but for which Attorney is no longer eligible to receive, from any compensation amounts then due or thereafter becoming due to Attorney hereunder. Attorney's potential eligibility to receive partial credit for such cases shall be determined pursuant to above paragraphs 8.(xi) and 12.f.

13. **HOMICIDE/PERSISTENT OFFENDER CASES.** Homicide and persistent offender cases are appointed to attorneys pursuant to a separate contract and Attorney should not expect to receive any such appointments under this Agreement.

14. **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 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 or may arrange with the PDM for the service provider (e.g., private investigator, psychologist/psychiatrist, interpreter, testing lab, or expert witness) to be compensated directly by the County provided that, however, Attorney shall not incur any such expense (and shall not direct a service provider to incur any expenses), nor shall Attorney be entitled to be reimbursed or the service provider compensated for any such expense, unless such expense has been pre-approved by the PDM in writing pursuant to pre-approval process established by the PDM and promulgated by written policy. Such pre-authorization will 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 pre-authorization 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 PDM-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 locally adjusted amounts that are established and published by the Federal General Services Administration.

(ii) In addition to any other prerequisites imposed by court rules, procedures, or standards, as a precondition to Attorney being eligible to be reimbursed or a service provider being eligible to be compensated for an expenditure under paragraph 14.b., either Attorney or the service provider shall be required to submit a claim for reimbursement/compensation to the PDM that identifies the specific expenditure(s) for which reimbursement is sought (exercising appropriate discretion to protect client confidentiality given that such claims are matters of public record unless sealed by the court at Attorney's request) and that has attached thereto a copy of the PDM's pre-authorization 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 claims shall not be billable to the County. All payment vouchers and claims for reimbursement/compensation under this paragraph shall be subject to the PDM's review and final approval for payment. Attorney shall submit claims for reimbursement to the PDM 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 claim that is not timely submitted within said requisite sixty (60) day period.

15. **ADDITIONAL ASSISTANCE.** Attorney may from time-to-time be appointed to handle certain Class-A or other serious or complex felony matters hereunder in Benton County Superior Court that may require an extraordinarily excessive amount of Attorney's time and/or responsibility. If Attorney is appointed to handle such a matter, Attorney may request that the PDM appoint one of the other Benton County Criminal Defense Panel attorneys to assist Attorney in such matter, with the other attorney (unless prevented by a conflict of interest) being appointed to assist Attorney in the same manner as any other indigent defense appointment. The decision about whether or not to appoint an additional Attorney for assistance shall be made in the sole and absolute discretion of the PDM. The parties intend that the provisions of this paragraph may be pursued and utilized only under extraordinary and exceptional circumstances when the appointment of another attorney is actually necessary to prevent Attorney from performing an inordinately greater amount of work or accepting an inordinately greater amount of responsibility than the other members of the Benton County Criminal Defense Panel. Notwithstanding the foregoing provisions of this paragraph, however, if the Benton County Superior Court determines in any particular matter that the appointment of another attorney to assist Attorney requires the appointment of a non-panel member attorney because of the nature and complexity of the particular matter, the County recognizes that the Court would have the ultimate and inherent discretion and power to do so.

16. **INDEMNIFICATION AND HOLD HARMLESS.** Attorney agrees to and shall fully indemnify and hold fully harmless the County and its elected/appointed representatives, officers, employees, and agents 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 any other type of 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; provided that, however, the County shall, at all times, retain the full and exclusive right to control the terms and conditions of any type of settlement or other resolution of any such suit or legal proceeding. 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.

17. **INSURANCE.**

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

(i) Said policy shall include coverage as an additional insured for any other person(s) or attorney(s) acting for or on behalf of Attorney in the performance of this Agreement; shall provide professional liability insurance coverage for any acts, errors and/or omissions by Attorney (and/or such additional insureds) during the course of performing legal services under this Agreement; shall require that the insurance company provide the 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 17.a. throughout the entire term of this Agreement, throughout any other longer time period during which Attorney is obligated to continue performing services and duties hereunder, and for a period of no less than thirty-six (36) consecutive months after Attorney has fully completed all services and duties required hereunder.

b. Attorney shall also obtain and maintain, at Attorney's sole cost and expense, a policy of Commercial General Liability insurance (including Endorsement Form CG2011 or direct equivalent insurance industry additional insured endorsement form and including 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 Superior Court, and their elected/appointed representatives, officers, employees and agents as additional insureds; shall be primary coverage for both defense and indemnity and non-contributory with any insurance coverage maintained by the County; and shall provide for waiver of subrogation rights as to the County.

(ii) The insurance policies required by this paragraph 17.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 17.b. throughout the entire term of this Agreement and throughout any other longer time period during which Attorney is obligated to continue performing services and duties hereunder.

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

18. **COMPLAINTS; PERFORMANCE MONITORING.** In the event that the PDM, another employee/representative of the County's Office of Public Defense, or the Benton County Superior Court 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 and is not readily subject to resolution simply by facilitating communication between Attorney and client, a written, dated, and signed statement shall be obtained from the complainant describing and detailing the relevant facts and circumstances underlying and alleged in the complaint, copies of which shall be provided to the PDM.

a. Upon receiving such complaint, the PDM, without limitation to any other action the County may deem necessary/appropriate to pursue under this Agreement, shall promptly forward a copy of the complaint to Attorney and request Attorney's written, dated, and signed response thereto (which Attorney shall prepare and provide to the PDM within five (5) business days). The PDM shall then review the complaint and Attorney's response thereto 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 PDM may then follow-up with the Benton County Superior Court to confirm or advise that the complaint has been, or is in the process of being, addressed and disposed of. The foregoing procedure does not interfere with or otherwise impair the Benton County

Superior 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 PDM have the right to periodically ask, without limitation, the Benton County Superior Court and/or the Superior 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.

19. **TERMINATION.**

a. In addition to any other automatic or discretionary 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 Superior Court relating to the appointment of substitute legal counsel for any person(s) whom Attorney was appointed to represent hereunder; and the County shall be entitled and authorized to setoff and deduct any such additional costs or expenses from any unpaid compensation owing to Attorney hereunder.

Further, in the event that the Benton County Superior 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 and/or the Benton County Superior Court relating to such substitute appointment(s); and the County shall be entitled and authorized to setoff and deduct any such additional costs or expenses from any unpaid compensation owing to Attorney hereunder.

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 if the failure(s) is/are not cured within said ten (10) day period (e.g., termination without further notice or potential termination upon further notice). 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 sixty (60) days advance written notice of such election. Attorney shall continue to receive case appointments during said sixty (60) day notice period and shall have continued responsibility for those appointed cases pursuant to paragraph 6 above. A sixty (60) day notice of termination given by either party under this paragraph 19.c. shall be fully and immediately effective when received by the recipient party pursuant to the provisions of below paragraph 32 (notwithstanding the inclusion of any contrary terms or language in the notice) without any need for formal or informal acceptance or any other response by the recipient party, and such notice may not thereafter be rescinded/revoked by the party giving such notice unless such rescission/revocation is expressly acknowledged and agreed to by the recipient party in writing in the recipient party's sole discretion.

d. In any event, 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, Attorney shall be entitled to be paid for any unpaid compensation duly earned 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 public defense representation in Benton County Superior Court through a County agency (such as an Office of Public Defense or similar entity) that would reduce or fully 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 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 nor in any way guaranteed.

20. **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 Superior 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, 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 PDM, the

Superior Court Administrator, nor the Benton County Superior Court shall have any authority or duty to directly control the actual performance of Attorney's professional services hereunder.

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

a. Attorney and any of the other Benton County 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 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 PDM on a case-by-case basis, in his 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 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 Superior Court Administrator and the PDM) 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 17 above), and Attorney shall be liable for any damages or losses sustained as a result of such other attorney's non-compliance with the terms and conditions of this Agreement.

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 PDM with written notice of such event within five (5) business days of Attorney being called up so that the PDM 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. Conditioned upon Attorney complying with said notice and cooperation requirements, Attorney shall be entitled to resume Attorney's contract duties hereunder upon written request to the PDM within a reasonable time after Attorney's return from active service, but Attorney shall receive no compensation under this Agreement while on leave or during any such transition time.

22. **VACANCY AND REPLACEMENT.** In the event this Agreement is terminated by either party prior to the expiration 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 Superior Court.

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

24. **TEMPORARY JUDICIAL SERVICE.** Subject to, and without limiting/waiving, Attorney's duties and obligations under this Agreement, Attorney may temporarily serve as a judge pro tem in any capacity and under any circumstances except on any criminal cases pending before the Benton County Superior 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 limitation 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 PDM's prior express approval and authorization, which decision shall be decided on a case-by-case basis in the PDM's sole and absolute discretion.

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

26. **CAPTIONS; TIME COMPUTATION.**

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

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

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

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

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

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

31. **DISPUTE RESOLUTION.**

a. The parties hereby specifically waive, release, and irrevocably relinquish any and all right to file a court lawsuit of any type to address any claims or dispute between the parties involving the performance or interpretation of this Agreement or that in any other way relate to, or arise from, this Agreement, and regardless of whether money damages, equitable relief, or any other type of relief is being sought. Provided, however, if necessary due to a party's disregard of and failure to abide by the non-judicial Dispute Resolution provisions contained in this paragraph 31, the other party may pursue court action to seek and obtain an order compelling and enforcing such Dispute Resolution provisions, and as part of such action and court order, the court shall order the party not complying with the requirements of such Dispute Resolution provisions to pay the other party's incurred attorney fees and costs.

b. Accordingly, in furtherance of the parties' above-stated agreement to submit any and all claims and disputes to non-judicial resolution, in the event any type of dispute arises between the parties involving the performance or interpretation of this Agreement, or that in any other way relates to, or arises from, this Agreement, either party

may then make written demand on the other party to submit the dispute to mediation through the assistance of an experienced mediator chosen by mutual agreement of the parties who must be a Washington-licensed attorney experienced in contract disputes. The mediation shall occur within thirty (30) days of the mediation demand, unless the parties mutually agree otherwise. 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.

c. 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 (who must be a Washington-licensed attorney experienced in contract disputes) shall be selected by agreement of the parties or, in the absence of agreement, each party shall select one (1) arbitrator (who must be a Washington-licensed attorney experienced in contract disputes) and those two (2) so selected arbitrators shall mutually select a third arbitrator (who must be a Washington-licensed attorney experienced in contract disputes). 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 after the unsuccessful mediation session, the arbitrator(s) shall be selected and designated, and the hearing shall be held within thirty (30) business days after designation of the arbitrator(s), unless the parties mutually agree otherwise. The arbitrator(s) shall render a written decision and award within ten (10) business days of such hearing. Without limitation, the arbitrator(s) may award damages, specific performance, and/or injunctive relief, and may register a judgment in Benton County Superior Court, including judgment by default. The 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 Benton County Superior Court, and the most prevailing party in such suit or action shall be entitled to recover such party's reasonable attorneys' fees, costs and expenses from the other party.

32. **NOTICES.**

a. Any notices required or permitted to be given by Attorney to the County under this Agreement shall be in writing and shall be either personally delivered to the County's PDM at his below-stated office address; mailed to the County's PDM at his below-stated office address via certified U.S. mail, postage prepaid; or emailed to the County's PDM at the below-stated official email address for notices:

Eric Hsu, Public Defense Manager
Benton Office of Public Defense
7122 West Okanogan Place, Building A
Kennewick, WA 99336

OPDNotices@co.benton.wa.us

b. Any notices required or permitted to be given by the County to Attorney under this Agreement shall be in writing and shall be either personally delivered to Attorney at his/her below-stated business address; mailed to Attorney at his/her business address

set forth in paragraph 2.a above, via certified U.S. mail, postage prepaid; or emailed to Attorney at his/her business email address set forth in paragraph 2.a.

c. Any such notices under this Agreement shall be deemed to have been duly given, made, and received when either personally delivered to the notice recipient in the manner described above; when duly deposited in the U.S. mail addressed to the recipient in the manner described above; or when emailed to the recipient in the manner described above. A party may change the address(es) to which notices are to be sent by giving notice of such change of address(es) in conformity with the above provisions of this paragraph for the giving of notice.

33. **LEGAL COMPLIANCE.** Attorney agrees to and shall strictly follow and comply with any and all federal, state, local, and administrative laws, rules, and regulations applicable to Attorney's pursuit and performance of activities under this Agreement. Without limitation in that regard, Attorney shall timely and fully pay all applicable taxes, fees, licenses, and other payments required by law; and Attorney shall fully comply with any and all anti-discrimination laws and policies including, without limitation, the 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.

34. **PUBLIC DEFENSE MANAGER.** Attorney acknowledges that the County has employed the above-referenced PDM to coordinate, monitor, and evaluate the performances and compliance of independent contractor attorneys (like Attorney) under public defense agreements with the County. Attorney further acknowledges that the County has the right and discretion to direct the PDM to assume and fulfill various roles and functions under this Agreement. Though the PDM 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 with the PDM (and his designees), and to promptly comply with reasonable requests from the PDM (and/or his designees), to allow for the effective monitoring and evaluation of Attorney's performance under and in compliance with this Agreement.

33. **PERFORMANCE STANDARDS MONITORING.** The parties agree and acknowledge that the County, pursuant to its legal duty to provide effective and competent public defense representation, and needing a reasonable, effective and relatively objective way to gauge the effectiveness of contract public defenders, will, by and through its Office of Public Defense, monitor the effectiveness and competence of contract public defenders, including Attorney, by Performance Standards Monitoring ("Monitoring"). Attorney understands that her performance and eligibility for future contracts will be evaluated based on data collected through Monitoring and the County Office of Public Defense may, but is not obligated to, from time to time make known to Attorney any opportunities for improvement as observed through Monitoring efforts and/or issues that need to be addressed. Attorney further agrees to reasonably cooperate with County, its Office of Public Defense, and any staff from that office that are engaged in Monitoring efforts so that data collected through such efforts are accurate and timely. The actual Performance Standards to be monitored are contained in the Performance Standards Monitoring section, attached as Exhibit "A" to this Agreement, the acknowledgement of which, by Attorney's affirmative signature, is required to fully execute 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.

BENTON COUNTY

Date _____

Chairman

Commissioner

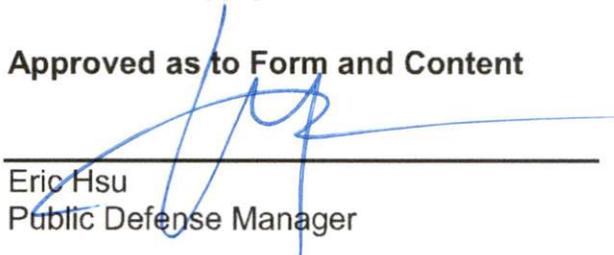
Commissioner

Constituting the Board of County
Commissioners for Benton County

Attest:

Clerk of the Board

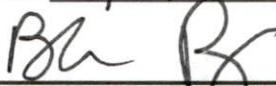
Approved as to Form and Content



Eric Hsu
Public Defense Manager

ATTORNEY

Date 6/30/16



Brandon Pang, WSBA #46390
*Not valid unless Performance Standards
Monitoring Acknowledgment on following
page is also signed.*

EXHIBIT A

PERFORMANCE STANDARDS MONITORING

Attorney acknowledges that County will be engaging in Performance Standards Monitoring as more fully described in Section 34 of this Agreement and that said Monitoring will comprise of the following:

a. Metrics Monitoring will entail the collection of the following metrics specific to Attorney:

- Trials held and cases disposed of with favorable resolutions at trial readiness
- 3.5, 3.6 and other significant motions filed
- Motions filed under RCW 10.77 for competency evaluations
- Number of cases disposed of at trial readiness with dismissal or other comparable favorable result
- Number of cases where investigative services were requested
- Number of visits to incarcerated clients in Benton County Jail
- Time spent on cases
- Number of client complaints

b. Court Observation Monitoring will also entail direct observation of Attorney's performance in court (including, but not limited to pre-trial dockets, motion dockets and trials) by Benton County Office of Public Defense Supervisory Staff to evaluate, among other things:

- Attorney's preparedness and readiness
- Attorney's interactions with clients
- Attorney's ability and willingness to advocate to the court on behalf of clients

Attorney acknowledgment:



I understand and acknowledge that Benton County will utilize the Performance Standards Monitoring as set out in this Exhibit to my public defense contract to evaluate my effectiveness as a public defender and that contract decisions, such as renewals, extensions, caseload increases, or assignment to other public defense duties will be made with reference to the results of such Performance Standards Monitoring.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

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

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

Dated this _____ day of _____, _____

Chairman of the Board

Member

Member

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

Attest: _____
Clerk of the Board

cc: Dept., Auditor

C. McKenzie

BENTON COUNTY LINE ITEM TRANSFER

Dept Name:

Dept Nbr:

Fund Name:

Fund Nbr:

TRANSFER FROM:

TRANSFER TO:

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT	BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
576-800	3117	Chemicals	\$100	576-800	1925	Overtime	\$100
TOTAL			\$100	TOTAL			\$100

Explanation:

2015-2016 Budget. To cover a shortage in the overtime budget.

Prepared by:

Date:

Approved

Denied

Date: _____

Chairman

Member

Member

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY FUNDS RE: TRANSFER OF FUNDS WITHIN
PUBLIC SAFETY TAX FUND FUND NUMBER 0148101, SHERIFF CUSTODY
DEPARTMENT NUMBER 120.

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

Dated this _____ day of _____, _____

Chairman of the Board

Member

Member

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

Attest: _____
Clerk of the Board

BENTON COUNTY LINE ITEM TRANSFER

Dept Name:

Dept Nbr:

Fund Name:

Fund Nbr:

TRANSFER FROM:

TRANSFER TO:

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT	BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
594.230	6430	Capital Software	\$105,650	523.620	3106	Operating Supplies	\$5,150
				523.620	3501	Minor Equipment Small Tools	54,760
				523.620	4103	Professional Services	5,675
				523.620	4505	Licenses & Special Fees	40,065
TOTAL			\$105,650	TOTAL			\$105,650

Explanation:

To appropriate funding for the Guardian RFID purchase. Resolution 2015-625 approved the purchase of the Guardian RFID purchase for \$114,800. The budget was appropriated under Capital Software (6430). Request \$105,650 of appropriated budget for Guardian RFID be transferred to Operating supplies, minor equipment and small tools, professional services and licenses and special fees.

Prepared by:

Date:

Approved

Denied

Date: _____

Chairman

Member

Member

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY FUNDS RE: TRANSFER OF FUNDS WITHIN
PUBLIC SAFETY TAX (3/10 OF 1%) FUND NUMBER 0148-101, DEPARTMENT
NUMBER 135

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

Dated this _____ day of _____, _____

Chairman of the Board

Member

Member

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

Attest: _____
Clerk of the Board

cc: Dept., Auditor, File,

Prepared by:

BENTON COUNTY LINE ITEM TRANSFER

Dept Name:

Dept Nbr:

Fund Name:

Fund Nbr:

TRANSFER FROM: Dept 000

TRANSFER TO: Dept 000

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT	BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
521.100	1663	PST Coordinator	\$952	521.100	3508	Computer Replacement	\$797
				521.100	3503	Computer Software	\$155
TOTAL			\$952	TOTAL			\$952

Explanation:

This request is based on Resolution 2016-310 for 1/2 the cost of new computer and Adobe Pro for the PST Coordinator.

Prepared by:

Date:

Approved

Denied

Date: _____

_____ Chairman

_____ Member

_____ Member

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF SIGNING A PERSONAL SERVICES AGREEMENT BETWEEN BENTON COUNTY, WASHINGTON AND MIRROR MINISTRIES FOR HUMAN TRAFFICKING SURVIVOR SERVICES PROPOSAL

WHEREAS, in August, 2014, the voters of Benton County approved Proposition 14-5, a 3/10 of one percent sales and use tax pursuant to RCW 82.14.450 to fund criminal justice and public safety programs in Benton County; and

WHEREAS, funding decisions must fall within the parameters and guidance of the text of voter-approved Proposition 14-5 where to *“improve public safety and combat criminal gang activity and other crime by hiring additional police officers, corrections officers and prosecutors; continuing the Metro Drug Task Force; funding gang and crime prevention efforts; and funding court and clerk programs including a seventh Superior Court Judge; and drug and mental health courts”*; and

WHEREAS, funding gang and crime prevention efforts, the Benton County Gang and Crime Prevention and Intervention Initiative is to improve the quality of life for the residents of Benton County by reducing the incidence of gang-related and other crime in Benton County; and

WHEREAS, on April 12, 2016 the Benton County Board of Commissioners approved funding for gang and crime prevention efforts, utilizing an Request for Proposal process; and

WHEREAS, Mirror Ministries has proposed a Human Trafficking Survivor Service in the annual amount of \$5,000.00 for 2016; **NOW, THEREFORE**

BE IT RESOLVED the amount of \$5,000.00, the 2016 annual budgeted amount prorated for the remaining six months of 2016, has been approved by the Board of Benton County Commissioners; and

BE IT FURTHER RESOLVED each monthly payment will be made payable to Mirror Ministries; and

BE IT FURTHER RESOLVED, this agreement will start July 1, 2016.

Dated this day of, 20

Chairman of the Board

Chairman Pro-Tem

Member

Attest:.....
Clerk of the Board

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

**BENTON COUNTY
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 Mirror Ministries, with its principal offices at 8836 W. Gage Blvd. 204A, Kennewick, WA 99336-7155, (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 (this document);
- b. Exhibit A, Scope of Work Mirror Ministries Human Trafficking Survivor Services; and
- c. Exhibit B, Progress Reporting and Measures; and
- d. Exhibit C, Human Trafficking Survivor Services Budget; and
- e. Exhibit D, Invoice.

2. DURATION OF CONTRACT

The term of this Contract shall begin July 1, 2016, and shall expire on December 31, 2016. The CONTRACTOR shall complete all services 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. A detailed description of the services to be performed by the CONTRACTOR for human trafficking education and training is set forth in Exhibit "A, Scope of Work", which is attached hereto and incorporated herein by reference.
- b. The CONTRACTOR agrees to provide its own labor and materials. Unless otherwise provided in this Contract, no material, labor, or facilities will be furnished by the COUNTY.
- c. The CONTRACTOR shall confer with the COUNTY from time to time during the progress of the services performed. In addition,

when requested by the COUNTY, the CONTRACTOR shall prepare and present status reports in the form of Exhibit B demonstrating services completed to date.

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:

Tricia MacFarlan
PO Box 400
Richland, WA 99352
Phone: (509)948-8792
Fax:
Email: tricia.macfarlan@mirror-ministries.org

b. For COUNTY:

Shyanne Faulconer
PO Box 190
Prosser, WA 99350
Phone : (509)786-5600 x2442
Fax: (509)786-3080
Email: Shyanne.Faulconer@co.benton.wa.us

5. COMPENSATION

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

- a. A detailed description of the compensation to be paid by the COUNTY for the services set forth in Exhibit A is set forth in Exhibit C, "Program Budget Worksheet", which is attached hereto and incorporated herein by reference. Accordingly, for the time period of July 1, 2016, through December 31, 2016, CONTRACTOR shall be compensated based on the amount of expenses set forth in Exhibit C in an amount not to exceed five thousand dollars (\$5,000).
- b. No payment shall be made for any services performed by the CONTRACTOR, except for services identified and set forth in this Contract.

- c. The CONTRACTOR may, in accordance with the amounts set forth in Exhibit D, submit invoices to the COUNTY not more than once per month during the progress of the services performed for partial payment of the services completed to date. The COUNTY shall pay the CONTRACTOR for services rendered in the month following the actual delivery of services and will remit payment within thirty (30) days from the date of receipt.
- d. 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.
- e. 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.
- f. Unless otherwise provided in this Contract or any exhibits or attachments hereto, the CONTRACTOR will not be paid for any billings or invoices presented for services rendered prior to the execution of this Contract or after its termination.

6. AMENDMENTS

No amendment or modification shall be made to this Contract, unless set forth in a written Contract Amendment signed by both parties. Services performed 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, which are caused in whole or in part by any act or omission, negligent or otherwise, of CONTRACTOR or its subcontractors, which arise

in connection with the services performed under this Contract, or are caused or occasioned in whole or in part by reason of the presence of the CONTRACTOR or its subcontractors or their property upon or in the proximity of the property of the County. PROVIDED, that the CONTRACTOR'S obligation hereunder shall not extend to injury, sickness, death or damage caused by or arising out of the sole negligence of the COUNTY, its officers, officials, employees or agents.

- b. In any and all claims against the COUNTY, its officers, officials, employees and agents by any employee of the CONTRACTOR, subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under this Section shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the CONTRACTOR or subcontractor under Workers Compensation acts, disability benefit acts, or other employee benefit acts, it being clearly agreed and understood by the parties hereto that the CONTRACTOR expressly waives any immunity the CONTRACTOR might have had under such laws, including but not limited to Title 51 of the Revised Code of Washington. **By executing this Contract, the CONTRACTOR acknowledges that the foregoing waiver has been mutually negotiated by the parties and that the provisions of this Section shall be incorporated, as relevant, into any contract the CONTRACTOR makes with any subcontractor or agent performing services hereunder. CONTRACTOR'S obligations under this Section [7] shall survive termination and expiration of this Contract.**
- c. The CONTRACTOR'S obligations hereunder shall include, but are not limited to, investigating, adjusting and defending all claims alleging loss from action, error or omission, or breach of any common law, statutory or other delegated duty by the CONTRACTOR, the CONTRACTOR'S employees, agents or subcontractors.

8. INSURANCE

- a. **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. CONTRACTOR shall submit a copy of its certificate of coverage from the Department of Labor and Industries prior to commencement of work. 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 and employers liability.

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

- b. **Commercial General Liability and Employers Liability Insurance:** Prior to the start of work under this Contract, CONTRACTOR shall maintain commercial general liability coverage (policy form CG0001 or equivalent) to protect the CONTRACTOR from claims for wrongful death, bodily injury, personal injury and property damage, which may arise from any actions or inactions under this Contract by CONTRACTOR or by anyone directly employed by or contracting with CONTRACTOR. The minimum commercial general liability insurance limits shall be as follows:

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

The commercial general liability policy will contain an endorsement naming the COUNTY, its elected and appointed officials, employees and agents as an Additional Insured and an endorsement that specifically states that CONTRACTOR's commercial general liability policy shall be primary, and not contributory, with any other insurance maintained by the COUNTY.

The CONTRACTOR will provide commercial general liability

coverage that does not exclude any activity to be performed in fulfillment of this Contract and does not exclude liability pursuant to the indemnification requirement under Section [7]. CONTRACTOR'S commercial general liability policy shall provide cross liability coverage, indicating essentially that except with respect to the limits of insurance and any rights or duties specifically assigned in this coverage part to the first named insured, this insurance applies as if each named insured were the only named insured, and separately to each insured against whom claims are made or suit is brought.

CONTRACTOR shall also provide Stop Gap Employer's Liability Insurance coverage with minimum limits as follows:

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

- c. **Automobile Liability:** The CONTRACTOR shall maintain, during the life of this Contract, Automobile Liability Insurance (ISO Form Number CA0001 or equivalent) covering any auto (Symbol 1), or if the Contractor has no owned autos, hired (Symbol 8) and non-owned autos (Symbol 9), in the amount of not less than one million dollars (\$1,000,000) per accident for Bodily Injury and Property Damage to protect CONTRACTOR from claims which may arise from the performance of this Contract, whether such operations be by the CONTRACTOR or by anyone directly or indirectly employed by the CONTRACTOR.

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. CONTRACTOR'S liability insurance policies must be endorsed to show this primary coverage. Any insurance, self-insured retention, deductible or risk retention maintained or participated in by the COUNTY shall be excess and not contributory to CONTRACTOR'S insurance policies.
2. The CONTRACTOR'S liability insurance policies shall contain no special limitations on the scope of protection afforded to the COUNTY as an additional insured.
3. Any failure to comply with reporting provisions of the

policies shall not affect coverage provided to the COUNTY, its officers, officials, employees or agents.

4. The CONTRACTOR'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. The CONTRACTOR shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.
6. The insurance limits mandated for any insurance coverage required by this Contract are not intended to be an indication of exposure nor are they limitations on indemnification. **If the CONTRACTOR maintains higher limits than the minimums required in this contract, the COUNTY shall be entitled to coverage for the higher limits maintained by the CONTRACTOR.**
7. The CONTRACTOR shall maintain all required policies in force from the time services commence until services are completed. Certificates, policies, and endorsements expiring before completion of services shall be promptly replaced. All liability insurance required under this Contract, shall be written on an Occurrence Policy form.
8. CONTRACTOR hereby agrees to waive subrogation with respect to each insurance policy maintained under this Contract. When required by an insurer, or if a policy condition does not permit CONTRACTOR to enter into a pre-loss agreement to waive subrogation without an endorsement, then CONTRACTOR agrees to notify the insurer and obtain such endorsement. This requirement shall not apply to any policy which includes a condition expressly prohibiting waiver of subrogation by the insured or which voids coverage should the CONTRACTOR enter into such a waiver of subrogation on a pre-loss basis.
9. Compensation and/or payments due to CONTRACTOR under this Agreement are expressly conditioned upon CONTRACTOR'S strict compliance with all insurance requirements. Payment to CONTRACTOR may be suspended in the event of non-compliance. Upon receipt of evidence of CONTRACTOR'S compliance, such payments not otherwise subject to

withholding or set-off will be released to CONTRACTOR.

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

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

1. All insurance to be maintained by the CONTRACTOR, other than Auto Liability and Workmen's Compensation, shall specifically include the COUNTY, its elected officials, employees and volunteers as an "Additional Insured" by way of endorsement and shall not be reduced or canceled without thirty (30) days written prior notice to the COUNTY. Any insurance or self-insurance maintained by the COUNTY, its elected and appointed officials, employees and agents shall be excess of the CONTRACTOR's insurance and shall not contribute to it.
2. Certificates of Liability Insurance, with endorsements attached, are to be provided to the County's Contract Representative referenced in Section 4.
3. All written notices under this Section **[8]** and notice of cancellation or change of required insurance coverages shall be mailed to the COUNTY's Contract Representative referenced in Section 4.
4. 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 at the following address: Benton County Risk Manager, 7122 W. Okanogan Place, Bldg. A, Kennewick, WA 99336.

9. **TERMINATION**

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

event, the COUNTY shall pay the CONTRACTOR for all cost incurred by the CONTRACTOR in performing the Contract up to the date of such notice. Payment shall be made in accordance with the Compensation Section of this Contract.

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

10. ASSIGNMENT, DELEGATION AND SUBCONTRACTING

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

11. NON-WAIVER OF RIGHTS

The parties agree that the excuse or forgiveness of performance, or waiver of any provision(s) of this Contract does not constitute a waiver of such provision(s) or future performance, or prejudice the right of the waiving party to enforce any of the provisions of this Contract at a later time. All waivers of any provision(s) of this Contract shall be in writing and in the absence of such, no action or inaction shall be construed to be such a waiver.

12. INDEPENDENT CONTRACTOR

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

13. COMPLIANCE WITH LAWS

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

14. INSPECTION OF BOOKS AND RECORDS

The COUNTY may, at reasonable times, inspect the books and records of the CONTRACTOR relating to the performance of this Contract. The CONTRACTOR shall keep, and make available to the County upon request, all records relating to the performance of this Contract for six (6) years after Contract termination or expiration.

15. NONDISCRIMINATION

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

16. OWNERSHIP OF MATERIALS/WORKS PRODUCED

- a. All reports, 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 there from to the extent such use is not agreed to in writing by the CONTRACTOR.
- b. An electronic copy of all word processing documents shall be submitted to the COUNTY upon request or at the end of the job using the word processing program and version specified by the COUNTY.

17. PATENT/COPYRIGHT INFRINGEMENT

The CONTRACTOR shall hold harmless, indemnify and defend the COUNTY, its officers, officials, employees and agents, from and against any claimed action, cause or demand brought against the COUNTY, where such action is based on the claim that information supplied by the CONTRACTOR or subcontractor infringes any patent or copyright. The CONTRACTOR shall be notified promptly in writing by the COUNTY of any notice of such claim.

18. DISPUTES

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

instructions and decisions of the COUNTY'S Contract Representative shall be final and conclusive, subject to CONTRACTOR'S right to seek judicial relief.

19. CONFIDENTIALITY

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

20. CHOICE OF LAW, JURISDICTION AND VENUE

- a. This Contract has been and shall be construed as having been made and delivered within the State of Washington, and it is agreed by each party hereto that this Contract shall be governed by the laws of the State of Washington, both as to its interpretation and performance.
- b. Any action at law, suit in equity, or judicial proceeding arising out of this Contract shall be instituted and maintained only in any of the courts of competent jurisdiction in Benton County, Washington.

21. SUCCESSORS AND ASSIGNS

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

22. SEVERABILITY

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

be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform to such statutory provision.

23. ENTIRE AGREEMENT

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

24. NOTICES

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

25. SURVIVABILITY

All Contract terms, which by their context are clearly intended to survive the termination and/or expiration of this Contract, shall so survive. These terms include, but are not limited to, indemnification provisions (Sections [7] and [17]); inspection and keeping of records and books (Section [14]); litigation hold notice (Section [26]); Public Records Act (Section [27]) and confidentiality (Section [19]).

26. LITIGATION HOLD NOTICE

In the event the COUNTY learns of circumstances leading to an increased likelihood of litigation regarding any matter where the records kept by CONTRACTOR pursuant to Section [14] of this agreement may be of evidentiary value, the COUNTY may issue written notice to CONTRACTOR of such circumstances and direct the CONTRACTOR to "hold" such records. In the event that CONTRACTOR receives such written notice, CONTRACTOR shall abide by all directions therein whether or not such written notice is received at a time when a Contract between CONTRACTOR and the COUNTY is in force. Such directions will include, but will not be limited to, instructions to suspend the six (6) year purge schedule as set out above in Section [14].

27. PUBLIC RECORDS ACT

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

IN WITNESS WHEREOF, the parties have caused this Contract to be signed by their duly constituted legal representatives and is effective on July 1, 2016.

Dated: _____

Dated: _____

Benton County Board of Commissioners

Mirror Ministries

Chairman

Signature

Member

President

Title:

Member

Tricia MacFarlan

PRINTED NAME

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

Attest: _____
Clerk of the Board

Approved as to Form

Civil Deputy Prosecuting Attorney

RESOLUTION

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

**IN THE MATTER OF APPROVING THE UPDATED BENTON COUNTY ROAD DEPARTMENT
ORGANIZATIONAL CHART**

WHEREAS, a new classification, Engineering Intern, was created per Resolution 2016-452, and

WHEREAS, the County Engineer has determined that the Engineering Intern (Grade 6) is a necessary position and should be added to the Road Department Organizational Chart, and

WHEREAS, a revised organizational chart has been prepared reflecting these changes; **NOW
THEREFORE**,

BE IT RESOLVED that the revised Road Department Organizational Chart, attached, be hereby approved; and,

BE IT FURTHER RESOLVED that the position of Engineering Intern (Grade 6) be created; and,

BE IT FURTHER RESOLVED that the Board of Benton County Commissioners retains the right to modify or repeal this determination at their discretion and without prior notification; and,

BE IT FURTHER RESOLVED that this Resolution is not intended nor shall be interpreted as limiting or compromising the County’s “at will” employer status; and,

BE IT FURTHER RESOLVED that at the recommendation of the County Engineer the County Administrator has the authority to move employees who possess a Professional Engineers License (P.E.) up to two (2) grades higher than the established grade for their position.

Dated this 12th day of July 2016.

Chairman of the Board

Chairman Pro-Tem

Member

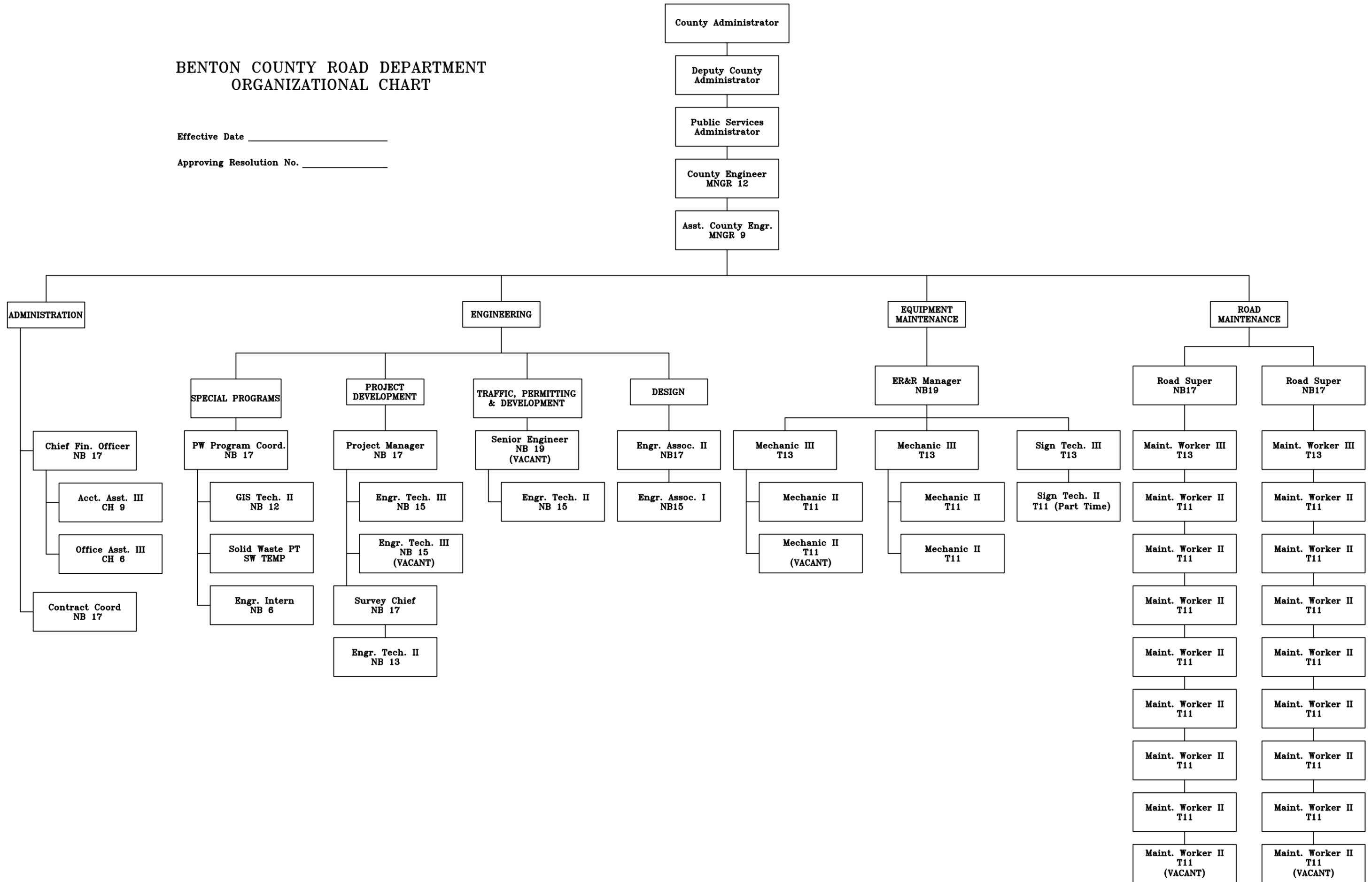
Constituting the Board of County
Commissioners of Benton County,
Washington

Attest: _____
Clerk of the Board

BENTON COUNTY ROAD DEPARTMENT ORGANIZATIONAL CHART

Effective Date _____

Approving Resolution No. _____



p. Purchase of Kennewick Shop Building from Current Expense Capital Improvement Fund

<u>AGENDA ITEM</u>	<u>TYPE OF ACTION NEEDED</u>	
Meeting Date: 7/12/216__	Execute Contract _____	Consent Agenda <u> X </u>
Subject: <u>ER&R Loan</u>	Pass Resolution <u> X </u>	Public Hearing _____
<u>Repayment</u>	Pass Ordinance _____	1st Discussion _____
Prepared by: MSR_	Pass Motion _____	2nd Discussion _____
Reviewed by:	Other _____	Other _____

BACKGROUND INFORMATION

In January 2015 the ER&R fund began construction of a new vehicle maintenance facility on Wiser Parkway in Kennewick. The ER&R fund did not have the resources to fund the construction internally so it was agreed that the County Capital Improvement Fund would be used to construct the facility and that the ER&R fund would repay the costs of construction over time.

The total amount owed is based on all expenditures for construction beginning March 6, 2015. Interest at a rate of 1.00% has been added to each expenditure from its original posting date. The total amount to be repaid is \$3,542,335.86.

The ER&R fund has received \$480,000 in revenue from the sale of the old maintenance facility on Ely Street in Kennewick. That revenue is being applied to the total amount to be repaid. The total loan amount is then \$3,062,335.86.

The interest rate is based on the current 5 year Treasury Daily Yield, currently 1.00%. The rate will be reviewed annually and adjusted based on the 5 year Treasury Daily yield at the time of review (typically December 31st).

The term of the loan is 20 years with 2 payments due each year on January 31 and July 31.

SUMMARY

The ER&R fund has borrowed money from the Capital Improvement Fund for the construction of a new facility. The work is now complete and terms need to be established for the repayment of that loan.

RECOMMENDATION

Staff recommends the Board approve the loan repayment terms as presented.

FISCAL IMPACT

The ER&R fund will repay \$3,542,335.86 to the Capital Improvement Fund plus interest on any unpaid balance over the next 20 years. Revenue for the loan payment will be generated through overhead rates applied to vehicle maintenance costs for all Departments and outside customers that use the facility.

MOTION

Approve as part of the consent agenda.

RESOLUTION

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY WASHINGTON:

IN THE MATTER OF COUNTY ROADS, RE: ER&R PURCHASE OF KENNEWICK SHOP BUILDING FROM CURRENT EXPENSE CAPITAL IMPROVEMENT FUND

WHEREAS, the County recently completed construction of a new vehicle and road maintenance facility ("Facility") located at 102808 Wiser Parkway, and

WHEREAS, the new Facility was constructed as a place to perform work, and to store equipment, supplies and vehicles, all for the purposes for which the ER&R Fund was established, as provided in 36.33A, RCW, and

WHEREAS, the Equipment Rental and Revolving Fund ("ER&R Fund") did not have the resources to directly fund the cost of construction, therefore, the County's Capital Improvement Fund paid all expense related thereto in a principal amount of \$3,510,882.14, and

WHEREAS, it is appropriate for ER&R to own the Facility and repay the costs incurred by the Capital Improvement Fund over time, and

WHEREAS, the 5 year Daily Treasury Yield currently at an annual rate of one percent (1.00%) constitutes a reasonable rate of interest for an inter-fund loan, consistent with RCW 43.09.210, and

WHEREAS, funds for the project have been expended from the Capital Improvement Fund beginning in March of 2015, constituting a loan on which interest should accrue from the date of the first expenditure, and

WHEREAS, the ER&R fund has collected \$480,000 from the surplus of the old shop facility which will be used to pay down the total purchase price; and

WHEREAS, the County Engineer deems it appropriate for ER&R Fund to repay the cost of construction of the new vehicle and road maintenance facility to the Capital Improvement Fund; **NOW THEREFORE**,

BE IT RESOLVED the total purchase price, including accrued interest to date and the amount already paid by the ER&R Fund is \$3,062,335.06; and

BE IT FURTHER RESOLVED that simple interest shall be charged on the unpaid balance at the rate determined below; and

BE IT FURTHER RESOLVED the interest rate shall be based on the 5 year Daily Treasury Yield rate and shall be fixed for one year and adjusted annually on December 31st based on the current rate; and

BE IT FURTHER RESOLVED that the term for repayment shall be 20 years; and

BE IT FURTHER RESOLVED that payment shall be due each 6 month period starting July 31, 2016.

Dated this 12th day of July 2016.

Chairman

Attest: _____

Clerk of the Board

Chairman Pro-Tem

Member

Constituting the Board of County
Commissioners of Benton County,
Washington

<u>AGENDA ITEM</u>	<u>TYPE OF ACTION NEEDED</u>	
Meeting Date: <u>July 12, 2016</u> Subject: <u>Solid Waste Purchase of ER&R Road Shop</u> Prepared by: <u>gnd</u> Reviewed by: <u>MSR</u>	Execute Agreement _____ Pass Resolution <u>X</u> _____ Pass Ordinance _____ Pass Motion _____ Other _____	Consent Agenda <u>X</u> _____ Public Hearing _____ 1st Discussion _____ 2nd Discussion _____ Other _____

BACKGROUND INFORMATION

The Benton County Road Department has been working towards the construction of a new fixed facility for its moderate risk waste program since the last facility burned down in 2010. One site that has been considered in previous studies is the Benton County road maintenance facility in Kennewick (1709 S Ely Street; parcels 111892020029000 and 111892020046002). Due to certain unique characteristics of the property – including its relative nearness to SR-395, its current ownership by a Benton County fund, and the construction of a new road maintenance facility in Kennewick that resulted in the current facility being vacated – the Benton County Road Department, following a feasibility study on the site produced in June 2015, has proceeded with the process of designing and constructing a new moderate risk waste facility (MRWF) at this site (Res. 2015-574). The property is, at this time, still held by the Benton County ER&R Fund (0501101). The Benton County Solid Waste Fund (0155101) is currently in a position to receive ownership from the ER&R Fund for the one-time cost of \$450,000.

SUMMARY

The Benton County Solid Waste Fund aims to purchase the existing Benton County Road Department at 1709 S Ely Street in Kennewick, Washington. This transaction will be for the establishment of a moderate risk waste facility and will transfer \$450,000 from the Solid Waste Fund to the ER&R Fund, the current owner of the facility.

RECOMMENDATION

The County Engineer recommends that the Board approve the transfer of \$450,000 from the Solid Waste Fund to the ER&R Fund for the procurement of the aforementioned facility.

FISCAL IMPACT

The Solid Waste Fund (0155101) will transfer \$450,000 to the ER&R Fund (0501101). The property at 1709 S Ely Street, Kennewick, Washington, composed of two (2) parcels, will be transferred to the Solid Waste Fund.

MOTION

Approve as part of the consent agenda.

RESOLUTION

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY WASHINGTON:

IN THE MATTER OF SOLID WASTE, RE: SOLID WASTE PURCHASE OF ELY STREET ROAD AND VEHICLE MAINTENANCE BUILDING FROM THE ER&R FUND

WHEREAS, the County recently completed construction of a new vehicle and road maintenance facility in Kennewick, and

WHEREAS, the old shop site on Ely Street is no longer needed by ER&R or the Road Department, and

WHEREAS, the Solid Waste has need of the facility for a Moderate Risk Waste Facility, and

WHEREAS, the property and improvements were appraised in June 2015 for a total amount of \$515,000. A portion of the property was declared surplus and sold to a neighboring parcel in May 2016, and

WHEREAS, the County Engineer deems it in the best interest of the Solid Waste Fund to purchase the old Road and Vehicle Maintenance Facility from the ER&R fund; **NOW THEREFORE**,

BE IT RESOLVED that the Road and Vehicle Maintenance facility on Ely Street in Kennewick Washington be transferred from the ER&R fund to the Solid Waste fund for a one-time payment of \$450,000

Dated this 12th day of July 2016.

Chairman

Attest: _____
Clerk of the Board

Chairman Pro-Tem

Member

Constituting the Board of County
Commissioners of Benton County, Washington

r. Line Item Transfer, Fund No.
0101-101, Dept. 500

<u>AGENDA ITEM</u>	<u>TYPE OF ACTION NEEDED</u>	
Meeting Date: <u>July 12, 2016</u>	Execute Agreement _____ <u>X</u>	Consent Agenda _____ <u>X</u>
Subject: <u>Line Item Transfer</u>	Pass Resolution _____ <u>X</u>	_____
Prepared by: <u>KDL</u>	Pass Ordinance _____	Public Hearing _____
Reviewed by: <u>MSR</u>	Pass Motion _____	1st Discussion _____
	Other _____	2nd Discussion _____
		Other _____

BACKGROUND INFORMATION

A new Engineering Intern position was established on June 7, 2016 per Resolution 2016-452. A line item transfer is required in order to fund the position. Funds are being transferred from the budgeted Senior Engineer position, which is vacant.

SUMMARY

A line item transfer is required to fund the salary of the Engineering Inter position.

RECOMMENDATION

Approve transfer of funds within County Road fund.

FISCAL IMPACT

None

MOTION

Approve as part of the Consent Agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY ROADS, RE: TRANSFER OF FUNDS WITHIN COUNTY ROAD FUND 0101-101, DEPARTMENT NUMBER 500

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

Dated this 12th day of July, 2016.

Chairman of the Board.

Chairman Pro-Tem.

Member.

Attest: _____
Clerk of the Board

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

K. Laughlin

BENTON COUNTY LINE ITEM TRANSFER

Dept Name:

Dept Nbr:

Fund Name:

Fund Nbr:

TRANSFER FROM:

TRANSFER TO:

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT	BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
543.700	1039	Senior Engineer	\$20,000	543.700	1049	Engineering Intern	\$20,000.00
TOTAL			\$0	TOTAL			\$20,000

Explanation:

Prepared by:

Date:

Approved

Denied

Date: _____

Chairman

Member

Member

s. Line Item Transfer, Fund No.
0101-101, Dept. 500

<u>AGENDA ITEM</u>	<u>TYPE OF ACTION NEEDED</u>	
Meeting Date: <u>July 12, 2016</u>	Execute Agreement _____	Consent Agenda <u>X</u>
Subject: <u>Line Item Transfer</u>	Pass Resolution <u>X</u> _____	Public Hearing _____
Prepared by: <u>cma</u>	Pass Ordinance _____	1st Discussion _____
Reviewed by: <u>msr</u>	Pass Motion _____	2nd Discussion _____
	Other _____	Other _____

BACKGROUND INFORMATION

A new GIS Technician II position was established on September 29, 2015 per Resolution 2015-693. A line item transfer is required in order to fund the position. Funds are being transferred from the budgeted Engineering Technician III position, which has been vacant.

SUMMARY

A line item transfer is required to fund the salary of the GIS Technician II position.

RECOMMENDATION

Approve transfer of funds within County Road fund.

FISCAL IMPACT

None.

MOTION

Approve as part of the Consent Agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY FUNDS RE: TRANSFER OF FUNDS WITHIN COUNTY ROAD FUND 0101-101, DEPARTMENT NUMBER 500

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

Dated this 12th day of July, 2016.

Chairman of the Board.

Chairman Pro-Tem.

Member.

Attest: _____
Clerk of the Board

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

BENTON COUNTY LINE ITEM TRANSFER

Dept Name:

Dept Nbr:

Fund Name:

Fund Nbr:

TRANSFER FROM:

TRANSFER TO:

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT	BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
543.700	1035	Engineering Tech III	\$30,000	543.700	1047	GIS Technician II	\$30,000.00
TOTAL			\$0	TOTAL			\$30,000

Explanation: Explanation: Engineering Technician II position is currently vacant. A portion of the budget's funds from the Engineering Technician II position to be transferred to the GIS Technician II line item to fund the salary for the rest of the 2016.

Prepared by:

Date:

Approved

Denied

Date: _____

Chairman

Member

Member

Exhibit A

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY ROADS RE: AUTHORIZING THE CHAIRMAN TO SIGN THE CONTRACT WITH GRADE WORX LLC FOR THE PROSSER TO GRANDVIEW PEDESTRIAN AND BICYCLE PATHWAY IMPROVEMENTS PROJECT – C.E. 1992 CRP

WHEREAS, by Resolution 2016-491 dated June 14, 2016, an award was made to Grade Worx LLC, Goldendale, Washington and as directed, staff has prepared a contract for Board approval; and

WHEREAS, our departmental assigned Deputy Prosecuting Attorney from the Civil Division has reviewed and approved as to form said contract; and

WHEREAS, the contract in the amount of \$79,310.16 has been executed by Grade Worx LLC; **NOW, THEREFORE**

BE IT RESOLVED, that the Board of County Commissioners hereby authorizes the Chairman of the Board of County Commissioners to sign on behalf of Benton County said contract awarded June 14, 2016 to Grade Worx LLC, in the amount of \$79,310.16 plus any necessary Change Orders in accordance with Section 3.8 of the Benton County Procurement, Leasing and Contracting Policy per Resolution 2012-677 or any future amendments to said policy; and

BE IT FURTHER RESOLVED, that the County Engineer is hereby authorized to proceed with the Prosser to Grandview Pedestrian and Bicycle Pathway Improvements project according to the terms of the contract; and

BE IT FURTHER RESOLVED, the Prosser to Grandview Pedestrian and Bicycle Pathway Improvements project – C.E. 1992 CRP shall be completed in its entirety within twenty (20) working days as described in the contract documents.

Dated this 12th day of July, 2016.

Chairman.

Chairman Pro-Tem.

Attest: _____
Clerk of the Board

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

CONTRACT

THIS CONTRACT, made and entered into this _____ day of _____, 2016, between the COUNTY OF BENTON, STATE OF WASHINGTON, (hereinafter "the County") acting through the Board of County Commissioners, under and by virtue of RCW 36, as amended, and Grade Worx LLC, P. O. Box 635, Goldendale, WA 98620, (hereinafter "the Contractor").

WITNESSETH:

That in consideration of the terms and conditions contained herein and in the Contract Documents attached hereto and made a part of this agreement, the parties hereto covenant and agree as follows:

I. The Contractor shall furnish all tools, materials, and equipment, and shall do all work described in and in accordance with the attached plans and specifications entitled "Contract Provisions and Plans, C.E. 1992 CRP – Prosser to Grandview Pedestrian & Bicycle Pathway Improvements," and as described in and in accordance with the State of Washington 2016 Standard Specifications for Road, Bridge, and Municipal Construction adopted by the County, (hereinafter collectively referred to as "the Contract Documents") which are by this reference incorporated herein and made part hereof, and shall perform any changes to the work in accord with the Contract Documents.

The Contractor shall provide and bear the expense of all equipment, work and labor, of any sort whatsoever that may be required for the transfer of materials and for constructing and completing the work provided for in these Contract Documents except those items mentioned therein to be furnished by the County.

II. The County hereby promises and agrees with the Contractor to employ, and does employ the Contractor to provide the materials and to do and cause to be done the above described work and to complete and finish the same in accord with the attached plans and specifications and the terms and conditions herein contained, and hereby contracts to pay for the same according to the attached specifications and the schedule of unit or itemized prices at the time and in the manner and upon the conditions provided for in this contract. The County further agrees to employ the Contractor to perform any alterations in or additions to the work covered by this contract and every part thereof and any force account work that may be ordered and to pay for the same under the terms of this contract and the attached plans and specifications.

III. The Contractor, for himself, and for his heirs, executors, administrators, successors, and assigns, does hereby agree to the full performance of all the covenants herein contained upon the part of the Contractor.

IV. The County agrees to pay to the Contractor, as full and complete compensation for materials and work provided in accordance with the Contract Documents, the sum of \$79,310.16, payable as provided in the Contract Documents.

V. It is further provided that no liability shall attach to the County by reason of entering into this contract, except as expressly provided herein.

VI. 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 attorney fees 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.

VII. The Contractor specifically waives the Contractor's immunity under Title 51 RCW (Industrial Insurance statute), and acknowledges that his waiver of immunity was mutually and expressly negotiated by the parties, and expressly agrees that Contractor's promise to indemnify and hold harmless applies to all claims filed by and/or injuries to the Contractor's own employees.

IN WITNESS WHEREOF, the said Contractor has executed this instrument, and the Board of County Commissioners of Benton County, Washington has caused this instrument to be executed by and in the name of the said Board of County Commissioners the day and year first above written.

Executed by the Contractor

COUNTY OF BENTON

William P. Lancaster

Calvin J. Stutz

Chairman, Board of Commissioners

Attest: _____

Clerk of the Board

Date: _____

APPROVED AS TO FORM:

Kimberly
Benton County Deputy Prosecuting Attorney

Date: 6/2/16

<u>AGENDA ITEM</u>	<u>TYPE OF ACTION NEEDED</u>		
Meeting Date: <u>July 12, 2016</u>	Execute Contract	_____	Consent Agenda <u> X </u>
Subject: <u>Resolution Amendment</u>	Pass Resolution	<u> X </u>	Public Hearing _____
Prepared by: <u>L. Small</u>	Pass Ordinance	_____	1st Discussion _____
Reviewed by:	Pass Motion	_____	2nd Discussion _____
	Other	_____	Other _____

BACKGROUND INFORMATION/ SUMMARY

Per Resolution 2014-959 the Board of Benton County Commissioners awarded the purchase agreement for the procurement of employee uniforms – Class A and other related items to Gall's LLC for a two year contract with a Board authorized amount not to exceed \$70,000 including WSST.

This \$70,000 not to exceed amount was just an estimate of what we believe would be spent on Class A uniforms and equipment within the two year period. Due to the new hires and positions, we are getting close to the amount not to exceed and will most likely pass that amount before the end of 2016.

RECOMMENDATION

BCSO recommends establishing the authorized amounts based on the rates per item that was established in Exhibit A attached to the original agreement and Resolution 2014-959, plus WSST.

FISCAL IMPACT

Expenditures were included in the 2015/16 budget.

MOTION

Consent Agenda

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF AMENDING RESOLUTION 2014-959 REGARDING THE PURCHASE AGREEMENT FOR THE PROCUREMENT OF EMPLOYEE UNIFORMS – CLASS A AND OTHER RELATED ITEMS FROM GALL’S LLC FOR THE BENTON COUNTY SHERIFF’S OFFICE

WHEREAS, per Resolution 2014-959 the Board of Benton County Commissioners awarded the purchase agreement for the procurement of employee uniforms – Class A and other related items to Gall’s LLC for a two year contract with a Board authorized amount not to exceed \$70,000 including WSST; and

WHEREAS, it is necessary to amend Resolution 2014-959, as the Benton County Sheriff’s Office is approaching the not to exceed amount of \$70,000 including WSST for Class A uniforms and other related items; and

WHEREAS, the Sheriff’s Office recommends establishing the authorized amounts based on the rates per item established in Exhibit A attached to the original purchase agreement and Resolution 2014-959, plus WSST; **NOW, THEREFORE**

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington, hereby concurs with the Sheriff’s Office recommendation and authorizes payment to Gall’s LLC dba/Blumenthal’s Uniforms & Equipment based on the rates outlined in the original purchase agreement, plus WSST attached to Resolution 2014-959; and

BE IT FURTHER RESOLVED the term of the original contract commences January 1, 2015 and expires on December 31, 2016; and

BE IT FURTHER RESOLVED, Resolution 2014-959 is hereby amended.

Dated this _____ day of _____, 2016

Chairman of the Board

Member

Member

Attest: _____
Clerk of the Board

Constituting the Board of County Commissioners
of Benton County, Washington

<u>AGENDA ITEM</u>	<u>TYPE OF ACTION NEEDED</u>		
Meeting Date: <u>July 12, 2016</u>	Execute Contract	_____	Consent Agenda <u>X</u>
Subject: <u>Interagency Agreement w/ Seattle Police Dept.</u>	Pass Resolution	<u>X</u>	Public Hearing _____
Prepared by: <u>L. Small</u>	Pass Ordinance	_____	1st Discussion _____
Reviewed by: <u>Ryan Lukson</u>	Pass Motion	_____	2nd Discussion _____
	Other	_____	Other _____

BACKGROUND INFORMATION/ SUMMARY

Attached is an interagency agreement between Washington State Internet Crimes Against Children Task Force (WA ICAC TF) acting through the City of Seattle Police Department and Benton County, by and for the Benton County Sheriff’s Office. Whereas, both parties wish to update the task force agreement that was signed by the Sheriff in March 2011 with the attached interagency agreement, which will supersede all previous agreements.

The mission of the national ICAC Task Force Program is to assist state and local law enforcement agencies by developing an effective response to technology-facilitated child sexual exploitation and Internet crimes against children, which assistance encompasses forensic and investigative components, training and technical assistance, victim services, prevention, and community education.

The Seattle Police Department (SPD) has been designated by the OJJDP as the “Lead Agency” to oversee the multi-jurisdictional WA ICAC TF intended to combat crimes related to the sexual exploitation, enticement and victimization of children through the Internet, online communication systems, telecommunications technology and other computer technology.

The SPD requires signature from Benton County prior to obtaining their signature. I will return a fully executed copy to the Commissioners office once I receive it.

RECOMMENDATION

Approve the attached Resolution and Interagency Agreement between Washington State Internet Crimes against Children Task Force acting through the City of Seattle Police Department and Benton County, by and for the Benton County Sheriff’s Office, authorizing the Benton County Sheriff to sign the agreement.

APPROVED AS TO FORM

Ryan Lukson

FISCAL IMPACT

No fiscal impact, as the ICAC Task Force Program picks up all necessary expense.

MOTION

Consent Agenda

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AUTHORIZING THE BENTON COUNTY SHERIFF TO SIGN THE INTERAGENCY AGREEMENT BETWEEN THE WASHINGTON STATE INTERNET CRIMES AGAINST CHILDREN TASK FORCE ACTING THROUGH THE CITY OF SEATTLE POLICE DEPARTMENT AND BENTON COUNTY, BY AND FOR THE BENTON COUNTY SHERIFF'S OFFICE

WHEREAS, the Benton County Sheriff's Office signed an interagency agreement in March 2011 between the Seattle Police Department and the Benton County Sheriff's Office to participate with the Washington State Internet Crimes against Children Task Force (WA ICAC TF); and

WHEREAS, both parties agree to update the task force agreement with the attached interagency agreement, which supersedes all previous agreements; and

WHEREAS, the United States Department of Justice (DOJ) Office of Juvenile Justice and Delinquency Prevention (OJJDP) have created the Internet Crimes Against Children (ICAC) Task Force Program, which is a national network of state and local law enforcement cybercrime units; and

WHEREAS, the mission of the national ICAC Task Force Program is to assist state and local law enforcement agencies by developing an effective response to technology-facilitated child sexual exploitation and Internet crimes against children, which assistance encompasses forensic and investigative components, training and technical assistance, victim services, prevention and community education; and

WHEREAS, the Seattle Police Department (SPD) has been designated by the OJJDP as the "Lead Agency" to oversee the multi-jurisdictional Washington State Internet Crimes Against Children Task Force (WA ICAC TF) intended to combat crimes related to the sexual exploitation, enticement and victimization of children through the Internet, online communication systems, telecommunications technology and other computer technology; and

WHEREAS, the SPD is the recipient of a Federal grant through the OJJDP to assist in the investigation and prosecution of Internet crimes against children and will assist law enforcement agencies in Washington State to increase their computer forensic capabilities and receive appropriate training to investigate Internet related cases; and

WHEREAS, agencies that agree to work with the SPD as the "Lead Agency" are required to execute the attached interagency agreement under the authorization of the proper authority of said agency following all of the terms, conditions and tenets contained within the agreement; **NOW, THEREFORE**

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington, hereby concurs with the attached interagency agreement between the Washington State Internet Crimes Against Children Task Force acting through the City of Seattle Policy Department and Benton County, by and for the Benton County Sheriff's Office and hereby authorizes the Benton County Sheriff to sign said agreement; and

BE IT FURTHER RESOLVED, the term of the attached agreement is effective from July 1, 2016 and expires on June 30, 2018. This Interagency Agreement shall automatically be renewed for one (1) additional year until such time as federal funding for the ICAC Task Force Program ends, or the Interagency Agreement is canceled by either party upon 30 days' written notice as set forth more fully in Article XII of the attached agreement.

Dated this _____ day of _____, 2016.

Chairman of the Board

Member

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

Attest: _____
Clerk of the Board



INTERAGENCY AGREEMENT

BETWEEN

THE WASHINGTON STATE INTERNET CRIMES AGAINST CHILDREN TASK FORCE ACTING THROUGH THE CITY OF SEATTLE POLICE DEPARTMENT

AND

BENTON COUNTY SHERIFF OFFICE

This Interagency Agreement is entered into by and between the Washington State Internet Crimes against Children Task Force (WA ICAC TF), acting through the City of Seattle Police Department and Benton County, by and for Benton County Sheriff's Office (Affiliate Agency) acting through its duly authorized representative.

WHEREAS, The United States **Department of Justice (DOJ) Office of Juvenile Justice and Delinquency Prevention (OJJDP)** have created the Internet Crimes Against Children (ICAC) Task Force Program, which is a national network of state and local law enforcement cybercrime units. The mission of the national ICAC Task Force Program is to assist state and local law enforcement agencies develop an effective response to technology-facilitated child sexual exploitation and Internet crimes against children. This assistance encompasses forensic and investigative components, training and technical assistance, victim services, prevention and community education. Due in large part to the technological aspects of these cases, the ICAC Task Force Program promotes a multi-jurisdictional, multi-agency, team approach to investigating and prosecuting ICAC cases; and

WHEREAS, the ICAC Task Force Program is a national network of 61 coordinated task forces representing more than 3,500 federal, state, and local law enforcement and prosecutorial agencies with each task force having an agency designated by the **OJJDP** as the "Lead Agency" which is the law enforcement agency that is awarded federal funding to serve as the "Lead" "Agency" for the corresponding Task Force.

WHEREAS, the SPD has been designated by the **OJJDP** as the "Lead Agency" to oversee the multi-jurisdictional **Washington State Internet Crimes Against Children Task Force (WA ICAC TF)** intended to combat crimes related to the sexual exploitation, enticement and victimization of children through the Internet, online communication systems, telecommunications technology and other computer technology; and

WHEREAS, the SPD is the recipient of a Federal grant through the **OJJDP** to assist in the investigation and prosecution of Internet crimes against children; and

WHEREAS, the SPD will assist law enforcement agencies in Washington State to increase their computer forensic capabilities and receive appropriate training to investigate Internet related cases; and

WHEREAS, agencies that agree to work with the SPD as the “Lead Agency” shall be identified in the program as an “Affiliate” or “Affiliate Agency” will execute this signed agreement under the authorization of the proper authority of said agency following all of the terms, conditions and tenets contained herein.

NOW THEREFORE, the parties hereto agree as follows:

This Interagency Agreement contains thirteen (13) Articles.

ARTICLE I TERM OF AGREEMENT

Affiliate Agencies may withdraw from this Interagency Agreement and new Affiliate Agencies may be added by executing an Interagency Agreement with the SPD in substantially the same form as this Interagency Agreement. The term of this Interagency Agreement shall be in effect until terminated pursuant to the provisions hereof. Either agency may cancel this agreement with (30) thirty days of written notification to the other agency. Said notification must be provided from the appropriate authorized authority within that agency. Upon receipt of the written notification the SPD will permanently remove the agency from Affiliate Agency status with the ICAC Program.

ARTICLE II OPERATIONAL STANDARDS

Affiliate Agencies agree to adhere to the *ICAC Task Force Program Operational and Investigative Standards*, attached to and made part of this Agreement, as Attachment A. The undersigned law enforcement agency agrees to investigate ICAC cases within their jurisdiction, and assist other jurisdictions to investigate these cases.

Affiliate Agencies agree to participate on the Washington Internet Crimes Against Children Task Force that is overseen by the SPD.

Affiliate Agencies agree to use only sworn law enforcement investigators to conduct ICAC investigations. Each investigator involved with undercover operations **must** receive ICAC Program training prior to initiating proactive investigations and shall submit reports of all undercover activity to the **SPD ICAC**.

Affiliate Agencies agree to conduct reactive investigations where subjects are associated within the Affiliate Agencies jurisdiction, including investigations of child pornography, Cybertip (CT) referrals from the National Center for Missing and Exploited Children (NCMEC), Internet Service Provider (ISP) and law enforcement referrals, and other ICAC-related investigations. Additional case initiations may develop from subject interviews,

documented public sources, direct observations of suspicious behavior, public complaints, etc.

Affiliate Agencies agree to record and document all undercover online activity. Any deviations from this policy due to unusual circumstances shall be documented in the relevant case file, reviewed and authorized by the ICAC Unit Commander, or equivalent, for that agency.

Affiliate Agencies agree to provide the SPD with access to all ICAC investigative files including, without limitation, computer records, in order to ensure compliance with all national ICAC standards.

Affiliate Agencies agree to locate its ICAC investigators in secured space, to be provided by the Affiliate Agency, with controlled access to all equipment, software, and investigative files. At a minimum, information should be maintained in locked cabinets and under control of **each** Affiliate Agencies ICAC personnel, with restricted access to authorized personnel.

Affiliate Agencies agree to conduct education and prevention programs to foster awareness and provide practical, relevant guidance to children, parents, educators, librarians, the business and law enforcement communities, and other individuals concerned about Internet child safety issues. Presenters shall not discuss ongoing investigative techniques and undercover operations utilized by the WA ICAC TF, its Affiliate Agencies or the national ICAC Program.

Affiliate Agencies agree to be responsible for proper maintenance and use of any equipment purchased with OJJDP Grant funds and loaned to an Affiliate Agency by the SPD. Upon termination of this Interagency Agreement, ownership of equipment, hardware, and other non-expendable items will revert to the SPD.

Affiliate Agencies agree to utilize applicable State and Federal laws to prosecute criminal, civil, and forfeiture actions against identified violators, as appropriate.

Affiliate Agencies shall maintain accurate records pertaining to prevention, education and enforcement activities, to be collected and forwarded not less than monthly to the SPD ICAC Commander, Seattle Police Department, PO Box 34986, Seattle, WA 98124-4986, for statistical reporting purposes (form provided.)

ARTICLE III SUPERVISION

Each Affiliate Agency will be responsible for the day-to-day operational supervision, administrative control, and personal and professional conduct of its officers and agents assigned to assist the WA ICAC TF. WA ICAC TF investigations are a cooperative effort and investigative decisions will be a joint process guided by the WA ICAC TF standards.

ARTICLE IV JURISDICTION

The principal sites of WA ICAC TF activities will be in the respective jurisdictional area of each Affiliate Agency. Nothing in this agreement shall otherwise limit or enhance the jurisdiction and powers normally possessed by an Affiliate Agency's employee(s) as a member of the WA ICAC TF. Affiliate Agencies may on occasion be referred investigations that are outside of the physical boundaries of their respective municipalities due to specific needs, capabilities or expertise as identified by the WA ICAC TF Lead Agency. Affiliate Agencies agree to take these referrals and conduct appropriate investigations in conformance with the ICAC Operational Standards, investigative or operational training, and their agency policing policies.

ARTICLE V EVIDENCE

Seized evidence and any other related forfeiture will be handled in a manner consistent with the seizing law enforcement agency's policies.

ARTICLE VI INSURANCE AND LIABILITY

Each Affiliate Agency shall maintain sufficient insurance coverage or a fully funded self-insurance program, approved by the State of Washington, for the protection and handling of the liabilities including injuries to persons and damage to property. Each Affiliate Agency agrees to maintain, at its own expense, insurance or self-insurance coverage for all of its liability exposures for this Agreement and agrees to provide the City of Seattle with at least 30 days prior written notice of any material change in the Affiliate Agency's liability coverage.

ARTICLE VII REPORTING STANDARDS

Using a process provided by the SPD, **each** Affiliate Agency shall submit monthly statistics to the SPD on all ICAC investigations or other investigative work pertaining to the sexual exploitation of children via the Internet. These statistics shall be submitted in the appropriate format by the 10th day of each successive month that the statistics were acquired and shall include data on all related investigations opened or closed during the month in all of the categories as designated on the provided form.

In addition, a breakdown or summary of basic case data shall be included for each sexual exploitation of a minor (child pornography) case, and/or criminal solicitation of a minor (enticement/traveler) case investigated by an Affiliate Agency along with references to any local media reporting on the investigation. The SPD will be responsible for all required reporting to the **OJJDP**.

ARTICLE VIII TRAINING

Affiliate Agencies **shall** make every effort to make investigators designated as Task Force Members available for applicable specialized training provided through the national ICAC Program and other appropriate training programs. The SPD will review training requests and provide funding for ICAC-approved training when appropriate. This funding will include, but is not limited to; WA ICAC TF hosted, or sponsored or facilitated training through the national ICAC Programs authorized vendors.

Affiliate Agencies seeking funding assistance will be required to submit requests at least thirty (30) days in advance in writing and to comply with the procedures set forth in a separate Interagency Agreement for funding requests. A sample of this Interagency Agreement is available upon request but in no way is tacit or expressed authorization of requested funding or financial assistance given in advance. Funding under the Interagency Agreement is limited to the available funds that are received by the SPD under the **OJJDP** Grant program for the national ICAC program.

ARTICLE IX CONFIDENTIALITY

The parties agree that any confidential information pertaining to investigations of WA ICAC TF will be held in the strictest confidence, and will only be shared with other Affiliate Agencies or other law enforcement agencies not participating in the WA ICAC TF where necessary or as otherwise permitted by federal and/or state law.

ARTICLE X COMPLIANCE WITH EQUAL OPPORTUNITY LAWS

To the extent required by law, the Affiliate Agency shall comply with all applicable laws, standards, orders and regulations regarding equal employment which are applicable to the Affiliate Agency's performance of this Interagency Agreement, including Rules of Practice for Administrative Proceeding to Enforce Equal Opportunity under Executive Order No. 11246, title 41, subtitle B, Chapter 60, part 60-30, which are incorporated herein by reference.

ARTICLE XI GOVERNING LAW AND VENUE

This Interagency Agreement is governed in all respects by applicable local, State, and Federal laws which shall supersede any provisions made in this Interagency Agreement to the contrary. Any provision effected will not negate the rest of the Interagency Agreement. In case any one or more of the provisions contained in this Interagency Agreement shall be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision thereof and this Interagency Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein. Exclusive venue is in Seattle, King County, Washington.

ARTICLE XII EFFECTIVE DATE

This Interagency Agreement shall be effective on July 1, 2016 and continue for one (1) years. Upon expiration of the two (2) years this Interagency Agreement shall automatically be renewed for one (1) additional year until such time as federal funding for the ICAC Task Force Program ends or the Interagency Agreement is canceled by either party upon 30 days' written notice delivered to both parties' as delineated in ARTICLE I TERM OF AGREEMENT. This Interagency may be executed in multiple counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

The additional or deletion of Affiliate Agencies to or from this Interagency Agreement shall not affect the Interagency Agreement with the remaining Affiliate Agencies.

This Interagency Agreement can be amended or replaced in the event of new requirements under the national ICAC Task Force Program or as designated by law or other proper lawful authority.

ARTICLE XIII AMENDMENTS

No modification or amendment of the provisions hereof shall be effective unless in writing and signed by authorized representatives of the parties hereto. The parties hereto expressly reserve the right to modify this Agreement, by mutual agreement.

**WASHINGTON STATE
INTERNET CRIMES AGAINST CHILDREN
TASK FORCE**

INTERAGENCY AGREEMENT

EXECUTED BY

The **SEATTLE POLICE DEPARTMENT (SPD)**,
a department of the City of Seattle, hereinafter referred to as "SPD",
Department Authorization Representative:
Captain Michael Edwards
PO Box 34986
Seattle WA 98124-4986

AND

The **BENTON COUNTY SHERIFF'S OFFICE**,
a department of the County of Benton, hereinafter referred to as "BCSO"
Department Authorized Representative:
Sheriff Steven Keane
Benton County Sheriff's Office
7122 W. Okanogan Place, Bldg. B
Kennewick, WA 99336

In Witness Whereof, the parties have executed this Agreement by having their representatives affix their signatures below.

**BENTON COUNTY, BY AND FOR
BENTON COUNTY SHERIFF'S OFFICE**

SEATTLE POLICE DEPARTMENT


Steven Keane, Sheriff

Kathleen O'Toole, Chief of Police

Date: 7/5/16

Date:

Approved as to Form:

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Ryan J. Lukson, DPA

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Internet Crimes Against Children Program

OPERATIONAL AND INVESTIGATIVE STANDARDS

ICAC Program Operational and Investigative Standards
FOR ICAC PURPOSES ONLY
Revised Update: October 16, 2014
Page 1 of 17

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Definitions of Terms

Applicability of Terms

Although some of the definitions below may be generally applicable to law enforcement, they are intended for use in the interpretation of these Standards. As such, where any term defined below is capitalized in these Standards, the Standards are referring to that term as defined below. By contrast, where any term defined below is not capitalized in these Standards, the Standards are referring to that term as it is used generally in the field of law enforcement.

“**Affiliate**” or **Affiliate Agency**” is an agency that is working with a Lead Agency as part of a regional or State ICAC Task Force. An Affiliate has agreed in writing to adhere to these Standards.

“**Authorized Personnel**” are Members who themselves lack powers of arrest but have been authorized by their respective agency to participate in Investigations and are being supervised by Sworn Personnel.

“**Commander**” is the Member of a Lead Agency who has been designated by that Lead Agency and recognized by OJJDP as the leader of the corresponding Task Force.

“**CEOS**” is the Child Exploitation and Obscenity Section of the Criminal Division of the DOJ.

“**Crime**” is any offense (or group thereof) that involves (or involve) the exploitation/victimization of children facilitated by technology.

“**CVIP**” is the Child Victim Identification Project operated by NCMEC.

“**CyberTipline**” is a reporting mechanism operated by NCMEC that allows for the reporting of suspected Crimes.

“**Deconflict**” is a process whereby Members are able to submit Investigative information to each other and/or to ICAC-related databases in order to determine whether other Members or other law enforcement agencies have information concerning the same targets or Crimes.

“**DOJ**” is the United States Department of Justice.

“**Employee**” is a sworn or compensated individual, or any individual working under the direction and control of a law enforcement agency.

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“**Equipment**” is any device or tool – including but not limited to computers, phones, and online accounts and services -- purchased or obtained for use in ICAC-related matters.

“**ICAC**” is the Internet Crimes Against Children Program, a national program composed of state and regional Task Forces.

“**Images**” are visual depictions in any form (image or video/printed or digital) of child sexual exploitation as defined by federal and/or state statute.

“**Investigation**” is an investigation into a Crime. Likewise, “Investigate” “Investigating” and “Investigative” are used within the same context.

“**Investigative Persona**” – any identity established or created by an Employee to aid an Investigation.

“**Investigator**” is a Member who is a part of the Sworn Personnel of a Task Force.

“**Lead**” or “**Lead Agency**” is the law enforcement agency that receives the ICAC grant and is designated by OJJDP to act as the lead agency for the corresponding Task Force.

“**Member**” is a Lead or Affiliate Agency’s employee who is either Sworn Personnel or Authorized Personnel and who has been designated to work on ICAC-related matters for his/her respective agency and Task Force.

“**National Initiative**” is any proposal that relies on the cooperation and resources of a significant number of Task Forces and, accordingly, has been approved by OJJDP.

“**NCMEC**” is the National Center for Missing and Exploited Children.

“**OJJDP**” is the Office of Juvenile Justice and Delinquency Prevention within the DOJ.

“**Supervisor**” is a Member who has been designated by his/her respective agency to supervise Investigations and other ICAC-related matters.

“**Standards**” are all of the provisions of these, the ICAC Operational and Investigative Standards.

“**Sworn Personnel**” are Members with powers of arrest.

“**Task Force**” is the Lead Agency and its Affiliate(s) (combined) as designated by OJJDP for a particular state or region.

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1. Purpose of the ICAC Standards

These Standards are established by OJJDP to guide administration and operation of ICAC and its Members when working on ICAC-related Investigations and matters.

ICAC Members should make every reasonable effort to comply with these Standards. However, since many aspects of Investigations are dynamic and laws vary widely between jurisdictions – their genesis; methods for their evidentiary pursuit; and their application within court – it is difficult to anticipate every circumstance that might present itself. Thus, reasonable deviations from these Standards may occur depending upon various factors (e.g., emergency situations; timing constraints; accessibility constraints; resource constraints; technology constraints; perceived conflicts between the Standards and statutes, decisional law, and court orders; et cetera).

Should questions regarding the interpretation of these Standards arise or conflicts occur between these Standards and agency policies or law, the subject Commander faced with the issue shall seek the guidance of an OJJDP Program Manager. However, nothing in these Standards is meant to interfere with a Commander's or Supervisor's lawful tactical decision-making.

Commanders may supplement, but not contradict, these Standards in the written agreements they establish with their Affiliates to promote the effective operation of their Task Forces.

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2. ICAC National Program

2.1 Mission of the ICAC Program

The Internet Crimes Against Children Task Force Program (ICAC) helps state and local law enforcement agencies develop an effective response to technology-facilitated child sexual exploitation and Internet crimes against children. This support encompasses forensic and investigative components, training and technical assistance, victim services, prevention and community education.

2.2 ICAC Background

The Internet Crimes Against Children Program (ICAC) is a national network of 61 coordinated task forces representing more than 3,500 federal, state, and local law enforcement and prosecutorial agencies. These agencies are engaged in both proactive and reactive investigations, forensic examinations, and criminal prosecutions. By helping state and local agencies develop effective, sustainable responses to online child victimization – including responses to child sexual abuse images (Images), The ICAC Program has increased law enforcement’s capacity to combat technology facilitated crimes against children at every level.

The ICAC Program was developed in response to the increasing number of children and teenagers using the Internet and other technology, the proliferation of child sexual abuse images available electronically, and the heightened online activity by predators seeking unsupervised contact with potential underage victims.

Because ICAC Members understand that arrests alone cannot resolve the problem of technology-facilitated child sexual exploitation, the ICAC Program is also dedicated to training law enforcement officers and prosecutors, as well as educating parents and youth about the potential dangers of online activity.

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3. Oversight of the ICAC Program

3.1 The oversight of the ICAC Task Force Program and the administration of ICAC grants is the responsibility of OJJDP. The oversight of each Task Force falls to its Commander. The oversight of each agency, both Lead and Affiliate, falls to its designated Supervisor.

3.2 Commanders shall ensure there are supervisory systems and protocols in place that provide for observation, documentation, and review of ICAC activity. Said systems shall comply with the principles of quality case management and shall ensure that ICAC activities comply with agency policies and these Standards.

3.3 Commanders shall ensure that each Member in his/her Lead Agency and each Supervisor of an Affiliate Agency receives a copy of the Standards.

3.3.1 Supervisors shall ensure that each Member in his/her Affiliate Agency receives a copy of the Standards.

3.4 Commanders shall submit all proposed National Initiatives to OJJDP prior to the start of the project.

3.4.1 OJJDP may suggest amendments to the original proposal following consultation with the presenting Commander and, as appropriate, other federal, state, and local entities.

3.5 Supervisors shall inform their Members about departmental or Task Force employee assistance programs and services available to them.

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4. Selection and Retention of Task Force Members

4.1 When practicable during the selection process of Members, Commanders and Supervisors shall evaluate prospective candidates for work histories that indicate prior investigative experience, courtroom testimony skills, technical knowledge and ability, an ability to prudently handle sensitive information, a genuine interest in the protection of children, and an understanding of the effects that Members may experience when exposed to Images.

4.2 Commanders and Supervisors shall acknowledge the potential effects of Investigations and exposure to Images. When practicable, they shall attempt to mitigate the potential effects of the work using, for example, the following techniques:

- *Work environment considerations* – Commanders and Supervisors are encouraged to provide a physical location for the work environment that allows the Investigator to conduct discreet Investigations.
- *Work flexibility* – Commanders and Supervisors are encouraged to allow flexibility for Investigators and others who are exposed to Images (e.g., frequent breaks, having an open-door policy, etc.).
- *Educating colleagues* – Commanders and Supervisors are encouraged to teach their colleagues that the viewing of Images is serious and restricted.
- *Work with Mental Health Providers (MHP)* – In compliance with their agency guidelines, Commanders and Supervisors are encouraged to work with MHP to make recommendations for care of Members and to provide education and training designed to minimize the impact of Images.
- *Training* -- Commanders and Supervisors are encouraged to share or seek out best practices for minimization of the impact of Images and to promote attendance at trainings regarding methods used to minimize said impact.

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5. Training

5.1 Carefully-managed Investigations conducted by well-trained Investigators are among the most effective techniques available to law enforcement for addressing Crime.

5.2 All national training curricula supported by ICAC resources shall be conducted consistent with the Standards and shall be approved by OJJDP.

5.3 Commanders shall ensure that nominees to attend any ICAC-sponsored national in-person training are current Members.

5.4 Task Forces may develop and deliver Task Force training. This training shall comply with the Standards and shall be approved by the Commander. All costs to develop and deliver the training shall be the responsibility of the Task Force or Affiliate providing the Task Force training.

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6. Case Management

6.1 Commanders and Supervisors are responsible for determining Investigative priorities and selecting cases for Investigation in their respective agencies. Those determinations shall include an assessment of victim risk, jurisdiction, known offender behavioral characteristics, and the likelihood of securing the information necessary to pursue each Investigation.

6.2 Conventional boundaries often are meaningless in today's digital world where the usual constraints of time, place, and distance lose their relevance. These factors increase the possibility of Lead and/or Affiliate Agencies targeting other law enforcement personnel, Investigating the same target, or inadvertently disrupting an ongoing Investigation. To foster effective case coordination, collaboration, and communication, each Member shall make every effort to Deconflict all active Investigations.

6.3 Lead and Affiliate Agencies shall be subject to their respective agency's incident reporting procedures and case supervision systems. At a minimum, a unique identifier shall be assigned to each case.

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7. Task Force Reporting Requirements to OJJDP

7.1 The reports described below do not replace the semi-annual progress report required by the Office of Justice Programs' Financial Guide.

7.2 Commanders shall compile and submit a Task Force Monthly Performance Measures Report to the OJJDP-designated location before the end of the following calendar month.

7.2.1 Affiliates shall report their activity to their respective Commander by the 10th of each month using the ICAC Monthly Performance Measures Report.

7.3 Commanders shall compile and submit information on all cases referred for local, state, or federal prosecution. Information is required for all cases referred by the Lead Agency, as well as all Affiliates that received more than \$20,000 a year in OJJDP ICAC funding, and any Affiliate the Commander selects to include. The case reporting requirement is ongoing and begins with the prosecutorial agency the case is referred to and continues through the final disposition of the case.

7.3.1 This ongoing quarterly report shall be submitted within 30 days of the end of the quarter.

7.4 Commanders shall compile and submit an annual report which details each of their Affiliates. The report shall be submitted in a method determined by OJJDP and shall include the following information:

7.4.1 The name of each Affiliate Agency.

7.4.2 The staffing level of each Affiliate including the number of Investigators, prosecutors, education specialists, and forensic specialists dedicated to Investigating and prosecuting Crime.

7.4.3 This ongoing annual report shall be submitted within 30 days of the end of the calendar year.

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8. Investigations

8.1 Investigations shall be conducted in a manner consistent with applicable laws and constitutional requirements.

8.2 Only Sworn Personnel shall conduct Investigations.

8.2.1 Authorized Personnel acting under the direction and supervision of Sworn Personnel may participate in Investigations.

8.2.2 Members shall not approve, condone, encourage, or promote cyber-vigilanteism by private citizens. As such, Members shall not use unauthorized private citizens to proactively seek out Investigative targets.

8.2.3 The above section (8.2.2) shall not preclude the use of information related to a Crime provided by victims or public citizens who discover evidence (e.g., CyberTip reports, mandated reports from professionals, computer repair shop complaints, parental complaints, et cetera). Nor does it preclude the use of authorized over-hears or other similar investigative methods designed to further an Investigation.

8.3 Investigations shall be documented. Any departures from this provision due to unusual or exigent circumstances shall be documented in the relevant case file and reviewed by the Supervisor.

8.3.1 The retention, storage, security, and disposal of Investigative or case information shall be consistent with the subject agency's policies and federal and state law regarding same.

8.3.2 Access to Investigative case files shall be restricted to Authorized Personnel.

8.4 Members shall not electronically upload, transmit, or forward any Images.

8.4.1 Section 8.4 shall not prohibit the transfer of evidence between Investigators as provided for by sections 8.9 and 8.10 of these Standards nor shall it prohibit the submission of Images to CVIP as provided for by section 10.1 of these Standards.

8.5 Visual depictions of any identifiable person used to represent an investigative persona or any identifiable minor, shall be only those of an Employee who has given his or her written consent and only if that Employee was at least 18 years old at the time of consent. Further, the depictions themselves may be of that Employee under the age of 18.

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8.6 Absent prosecutorial input to the contrary, during online dialogue, officers shall allow the Investigative target to set the tone, pace, and subject matter of the online conversation

8.6.1 The above section (8.6) shall not be construed to prohibit Investigators from performing any of the following activities when initiating or conducting an Investigation: (a) posting information including visual depictions (image or video/printed or digital) to establish an online presence, (b) placing advertisements or posts, or (c) sending messages.

8.6.2 Members shall familiarize themselves with relevant state and federal law, including but not limited to those regarding the defense of entrapment, and should confer with relevant prosecutors for legal consultation, as needed.

8.6.3 Members planning large-scale (multi-target) operations shall advise the Commander and shall consult relevant prosecutors regarding the operation.

8.7 The examination of digital storage devices shall be performed consistent with the subject agency's protocol.

8.8 Images shall be maintained pursuant to the subject agency's policy.

8.8.1 Absent a court order specifically ordering otherwise, evidence containing Images shall not be released to any defendant or representative thereof.

8.9 Absent exigent circumstances, all Members' case referrals between jurisdictions shall include:

- Notification to and acceptance by the Commander(s) of both jurisdictions that are involved in the referral;
- A secure (i.e., digitally-protected) copy of the case file;
- An official Investigative report or affidavit containing case details; and,
- Documentation, preferably the original, of all legal process conducted and all compliance with same, especially those documents related to the issue of jurisdiction and identification of suspect(s).

8.10 The transfer of evidence containing Images among law enforcement shall be done in a secure manner.

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9. Work Environment

9.1 ICAC Equipment shall be reserved for the exclusive use of its Members, and shall be used in accordance with their respective agency's policies.

9.2 When practicable, Equipment which might be used in undercover aspects of an Investigation shall be purchased covertly.

9.3 No personally-owned Equipment shall be used in Investigations.

9.4 Software shall be properly acquired and licensed.

9.5 Investigations shall be conducted in an approved work environment as designated by a Commander or Supervisor.

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10. Victim Identification

10.1 Identifying child victims of Crime is a critical element of the ICAC Program. DOJ and OJJDP require the Lead Agencies and Affiliates to submit Images to CVIP as a means to improve child victim identification. Absent exigent circumstances, Images shall be sent to CVIP pursuant to NCMEC's standards regarding same. In addition, Lead Agencies and Affiliates are encouraged to collaborate with NCMEC in their effort to identify children depicted in Images.

10.2 Absent exigent circumstances, victim-identifying information shall be protected from public disclosure pursuant to the protections set forth in federal and state law.

10.3 Lead Agencies and Affiliates shall adhere to local, state, and federal laws regarding mandated reporting, victim notification, and victim assistance.

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11. Public Awareness and Community Outreach

11.1 Public awareness activities and community outreach are a critical component of ICAC. Lead and Affiliate Agencies shall foster awareness and shall provide practical relevant guidance to children, parents, educators, and others concerned with child safety.

11.2 Presentations to school personnel, parents, and community groups are excellent ways to promote awareness. These presentations shall not depict identifiable victims nor shall they use pornographic or sexually explicit images. Presenters shall not discuss confidential Investigative techniques.

11.3 Members shall not endorse any product or service without the express written consent of an OJJDP Program Manager. While making public presentations, Members may indicate a preference for a product or service, but, where done, shall avoid an implicit endorsement and shall include alternatives in the presentation.

11.4 Materials and presentations shall be consistent with ICAC's mission and background, as enumerated in Section 2 of these Standards.

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12. Media Relations and Media Releases

12.1 Media releases relating to prosecutions, Crime alerts, or other matters concerning ICAC operations shall not include information regarding confidential Investigative techniques, and shall be coordinated, when applicable, with the law enforcement agencies involved with the subject Investigations, in a manner consistent with sound information management and sound media relations practices.

12.2 Commanders and Supervisors may speak to members of the media about their own agency's ICAC-related activities per the terms of their agency's policy on such media relations. No individual affiliated with ICAC may speak on behalf of the national ICAC Program without the express written consent of OJJDP.

12.3 Commanders shall inform their OJJDP Program Manager if approached by national media outlets about the national ICAC Program (as opposed to media seeking information about local activities) so that a coordinated national response can be prepared by OJJDP.

12.4 Information provided by Task Forces to the media shall be consistent with ICAC's mission and background, as described in Section 2 of these Standards.

End of ICAC Standards

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

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

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

Dated this _____ day of _____, _____

Chairman of the Board

Member

Member

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

Attest: _____
Clerk of the Board

cc: Dept., Auditor, File,

Prepared by:

BENTON COUNTY LINE ITEM TRANSFER

Dept Name:

Dept Nbr:

Fund Name:

Fund Nbr:

TRANSFER FROM: Dept 000

TRANSFER TO: Dept 000

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT	BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
558.610	1652	Community Relations Coordinator	\$952	558.610	3508	Computer Replacement	\$797
				558.610	3503	Computer Software	\$155
TOTAL			\$952	TOTAL			\$952

Explanation:

This request is based on Resolution 2016-367 for 1/2 the cost of new computer and Adobe Pro for the Community Relations Coordinator.

Prepared by:

Date:

Approved

Denied

Date: _____

_____ Chairman

_____ Member

_____ Member

<p><u>AGENDA ITEM</u> MTG. DATE: July 12, 2016 SUBJECT: Urban Growth Area Applications Memo Date: July 5, 2016 Prepared By: Michael Shuttleworth</p>	<p><u>TYPE OF ACTION</u> <u>NEEDED</u> Execute Contract Pass Resolution X Pass Ordinance Pass Motion X Other</p>	<p>Consent Agenda Public Meeting X 1st Discussion 2nd Discussion Other</p>
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BACKGROUND INFORMATION

RCW 36.70A.130(3)(a) requires that the County and Cities review their designated urban growth areas, and the densities permitted within both the incorporated and unincorporated portions of each urban growth area.

According to BCC 16.14.050(b) applications to amend Urban Growth Area (UGA) boundaries shall only be accepted every five (5) years to be acted upon by the Board of County Commissioners every fifth year counting from the year 2009 (i.e., 2014, 2019, etc.). Complete applications for the five-year review cycle must be received by December 1st of the preceding year (i.e., December 1, 2008 for the 2009 UGA review process).

Several of the Planning Departments for Cities within Benton County have asked to be able to submit Urban Growth Area Amendments as part of the County's 2017 Comprehensive Plan Update process. Attached to this memo is a draft resolution that would allow the cities to submit UGA amendments by December 31, 2016 to be considered as part of the 2017 update process. After the 2017 Comprehensive Plan update, the UGA amendment application cycle will return to the schedule noted in BCC 16.14.050(b).

Any UGA application that is submitted during the update process will require all the information for a UGA amendment as noted in BCC 16.14.050(c).

SUMMARY

Several of the Cities within Benton County have requested the ability to submit amendments to their Urban Growth Areas during the County's 2017 Comprehensive Plan Update process. The Planning Commission considered the request at a public meeting on June 14, 2016 and recommended approval of the request to allow the Cities to submit UGA amendments by December 31, 2016 for review in 2017.

RECOMMENDATION

Planning Commission recommends that the Board adopt the attached resolution allowing each City jurisdiction to submit an Urban Growth Area Amendment application as part of the 2017 Comprehensive Plan Update Process.

MOTION

The Board adopt the attached resolution agreeing to allow each City jurisdiction to submit an Urban Growth Area Amendment application as part of the 2017 Comprehensive Plan Update Process.

RESOLUTION

BEFORE THE BOARD OF COMISSIONERS OF BENTON COUNTY, WASHINGTON
IN THE MATTER OF COUNTY PLANNING RE: AMENDMENT TO THE BENTON COUNTY COMPREHENSIVE
PLAN, URBAN GROWTH AREA.

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

WHEREAS, on March 12, 2007, the Benton County Commissioners updated the Benton County Comprehensive Plan; and,

WHEREAS, Washington State Planning law requires continued review and evaluation of the Benton County Comprehensive Plan and Urban Growth Areas, pursuant to RCW 36.70A.130. (5)(c); and,

WHEREAS, Washington State Planning law requires Benton County to review and evaluate its Comprehensive Plan, pursuant to RCW 36.70A.130. (5)(c), by June 30, 2017; and,

WHEREAS, Chapter 16.14 of the Benton County Code provides the process for reviewing and processing of Urban Growth Areas; and,

WHEREAS, RCW 36.70A.130(3)(a) requires the County to review its Urban Growth Areas; and the densities permitted within both the incorporated and unincorporated portions of each Urban Growth Area as part of the review and evaluation process and,

WHEREAS, the Cities within Benton County have requested the ability to submit applications to amend their Urban Growth Areas as part of the 2017 update process, and,

WHEREAS, the Benton County Planning Commission reviewed the resolution at their June 14, 2016 meeting and recommended that the proposed resolution be adopted by the Board of County Commissioners, and,

WHEREAS, the Board finds that it would be in the best interest of the County to allow the Cities to submit applications in 2016 for review and decision in 2017 for amendments to their Urban Growth Areas, NOW THEREFORE

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS that Benton County will accept Comprehensive Plan Amendment applications, from the Cities, to amend the Cities' Urban Growth Area Boundaries, provided said applications comply with the following:

1. The applications shall contain all the information required in BCC 16.14.060(a), (b) and (c) for a complete application, and
2. All applications must be submitted and determined to be complete by December 31, 2016.

Dated this 12th day of July, 2016.

Chairman of the Board

Member

Member

Constituting the Board of County
Commissioners of Benton County
Washington.

Attest _____
Clerk of the Board

MES

Benton County Planning Department

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

PCM 1.1

DATE: MAY 27, 2016
TO: BENTON COUNTY PLANNING COMMISSION
FROM: BENTON COUNTY PLANNING DEPARTMENT
RE: APPLICATIONS FOR URBAN GROWTH AREAS.

BACKGROUND:

RCW 36.70A.130(3)(a) requires the County review its designated urban growth area or areas, and the densities permitted within both the incorporated and unincorporated portions of each urban growth area. In conjunction with this review by the county, each city located within an urban growth area shall review the densities permitted within its boundaries, and the extent to which the urban growth occurring within the county has located within each city and the unincorporated portions of the urban growth areas.

According to BCC 16.14.050(b) applications to amend Urban Growth Area boundaries shall only be accepted every five (5) years to be acted upon by the Board of County Commissioners every fifth year counting from the year 2009 (i.e., 2014, 2019, etc.). Complete applications for the five-year review cycle must be received by December 1st of the preceding year (i.e., December 1, 2008 for the 2009 UGA review process).

A couple of the Planning Departments for Cities within Benton County have asked to be able to submit Urban Growth Area Amendments are part of the 2017 update process. Attached to this memo is a draft resolution that would allow the cities to submit UGA amendments by December 31, 2016 to be considered as part of the 2017 update process. After the 2017 comprehensive plan update, the UGA amendments application cycle will return to the schedule in BCC 16.14.050(b).

The Cities would be required to submit all the information required for a UGA amendment as shown in BCC 16.14.050(c).

STAFF FINDINGS:

APPLICABLE DEVELOPMENT REGULATIONS:

16.14.050 COMPREHENSIVE PLAN--AMENDMENTS--APPLICATION PERIOD. (a) Subject to the exceptions found in RCW 36.70A.130(2)(a) and 36.70A.130(2)(b), applications to amend the Comprehensive Plan shall only be accepted between October 1st and December 1st of any year, and all applications will be considered concurrently by the Board of County Commissioners in the calendar year that follows the year in which the application is submitted.

(b) Except as provided in BCC 16.14.050(c), applications to amend Urban Growth Area boundaries shall only be accepted every five (5) years to be acted upon by the Board of County Commissioners every fifth year counting from the year 2009 (i.e., 2014, 2019, etc.). Complete applications for the five-year review cycle must be received by December 1st of the preceding year (i.e., December 1, 2008 for the 2009 UGA review process).

(c) Applications to amend Urban Growth Area boundaries may be submitted annually concurrently with all other applications to amend the Comprehensive Plan submitted in accordance with BCC 16.14.050(a); provided, such applications may be considered in years other than those specified in BCC 16.14.050(b) only if:

(1) The application submitted under this subsection shall not increase the area within the city's amended Urban Growth Area by an amount exceeding seven (7) percent of the total area within the city's limits prior to the application.

(2) The area proposed to be added to an Urban Growth Area by an application under this subsection must be identified in the city's adopted comprehensive plan as an area designated to be used for industrial use and such area must be so zoned by the city upon annexation of such area.

(3) Prior to the submission of its application, the city shall have received a completed development proposal from an applicant that satisfies the criteria set forth in BCC 16.14.060(d)(1).

(4) Prior to the submission of its application, the city shall have adopted a phased master plan for the area to which the amendment applies containing at least the elements set forth in BCC 16.14.060(d)(2).

(5) The application shall be submitted only during the application period set forth above under BCC 16.14.050(a), and no application may be submitted after December 1, 2015.

RCW 36.70(3)(a) Each county that designates urban growth areas under RCW 36.70A.110 shall review, according to the schedules established in subsection (5) of this section, its designated urban growth area or areas, and the densities permitted within both the incorporated and unincorporated portions of each urban growth area. In conjunction with this review by the county, each city located within an urban growth area shall review the densities permitted within its boundaries, and the extent to which the urban growth occurring within the county has located within each city and the unincorporated portions of the urban growth areas.

(b) The county comprehensive plan designating urban growth areas, and the densities permitted in the urban growth areas by the comprehensive plans of the county and each city located within the urban growth areas, shall be revised to accommodate the urban growth projected to occur in the county for the succeeding twenty-year period. The review required by this subsection may be combined with the review and evaluation required by RCW 36.70A.215.

RECOMMENDATION: It is the recommendation of the Planning Department that the Planning Commission review the attached Draft Resolution and recommend to the Board of County Commissioners that they approve the Draft Resolution as shown in PCM 1.2

RESOLUTION

BEFORE THE BOARD OF COMISSIONERS OF BENTON COUNTY, WASHINGTON
IN THE MATTER OF COUNTY PLANNING RE: AMENDMENT TO THE BENTON COUNTY COMPREHENSIVE
PLAN, URBAN GROWTH AREA.

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

WHEREAS, on March 12, 2007, the Benton County Commissioners updated the Benton County Comprehensive
Plan; and,

WHEREAS, Washington State Planning law requires continued review and evaluation of the Benton County
Comprehensive Plan and Urban Growth Areas, pursuant to RCW 36.70A.130. (5)(c); and,

WHEREAS, Washington State Planning law requires Benton County to review and evaluate its Comprehensive
Plan, pursuant to RCW 36.70A.130. (5)(c), by June 30, 2017; and,

WHEREAS, Chapter 16.14 of the Benton County Code provides the process for reviewing and processing of
Urban Growth Areas; and,

WHEREAS, RCW 36.70A.130(3)(a) requires the County to review its Urban Growth Areas; and the densities
permitted within both the incorporated and unincorporated portions of each Urban Growth Area as part of the
review and evaluation process and,

WHEREAS, the Cities within Benton County have requested the ability to submit applications to amend their
Urban Growth Areas as part of the 2017 update process, and,

WHEREAS, the Benton County Planning Commission reviewed the resolution at their June 14, 2016 meeting
and recommended that the proposed resolution be adopted by the Board of County Commissioners, and,

WHEREAS, the Board finds that it would be in the best interest of the County to allow the Cities to submit
applications in 2016 for review and decision in 2017 for amendments to their Urban Growth Areas, NOW
THEREFORE

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS that Benton County will accept
Comprehensive Plan Amendment applications, from the Cities, to amend the Cities' Urban Growth Area
Boundaries, provided said applications comply with the following:

1. The applications shall contain all the information required in BCC 16.14.060(a), (b) and (c)
for a complete application, and
2. All applications must be submitted and determined to be complete by December 31, 2016.

Dated this _____ day of June, 2016.

Chairman of the Board

Member

Member

Constituting the Board of County
Commissioners of Benton County
Washington.

Attest _____
Clerk of the Board

**EXHIBIT LIST FOR
Countywide Planning Policies**

			DATED
Planning Commission Staff Memo Exhibit List - (April 12, 2016 cancelled) May 10, 2016			
PCM 1 Includes:	PCM 1.1	Staff Memo w/Document A & Document B	April 4, 2016
	PCM 1.2	Notice of Public Hearing	March 25, 2016
Planning Commission Hearing Exhibit List - May 10, 2016			
PCH 1	PCH 1.1	Comments from Futurewise	April 8, 2016
Planning Commission Staff Memo Exhibit List - Contineud Hearing June 14, 2016			
PCM 2	PCM 2.1	Staff Memo	May 27, 2016
	PCM 2.2	Comment from the Dept. of Commerce	May 11, 2016
	PCM 2.3	CWPP Updated Proposed Changes	May 27, 2106
	PCM 2.4	CWPP Matrix	May 27, 2016
Board of County Commissioners Staff Memo List - July 12, 2016			
BCCM 1 Includes:	BCCM 1.1	Board of County Commissioners Agenda Sheet	July 5, 2016
	BCCM 1.2	Proposed Resolution	July 5, 2016
Board of County Commissioners Hearing Exhibit List -July 12, 2016			
BCCH 1	BCCH 1.1		
	BCCH 1.2		
	BCCH 1.3		
	BCCH 1.4		

PCR = Planning Commission Record Exhibits
PCM = Planning Commission Memo Exhibits
PCH = Planning Commission Exhibits submitted during Hearing
BCCM = Board of County Commissioners Memo Exhibits
BCCH = Board of County Commissioners Hearing Exhibits submitted during Hearing

BCCM 1.1

AGENDA ITEM MTG. DATE: July 12, 2016 SUBJECT Countywide Planning Policies MEMO DATE: July 5, 2016 Prepared By: Michael Shuttleworth	<u>TYPE OF ACTION</u>	Consent Agenda
	<u>NEEDED</u>	Public Meeting X
	Execute Contract	1st Discussion
	Pass Resolution X	2nd Discussion
	Pass Ordinance	Other
	Pass Motion X	
	Other	

BACKGROUND INFORMATION

RCW 36.70a.210 requires the County and Cities within the County to jointly develop Countywide Planning Policies (CWPPs). The CWPP is a written policy statement used solely for establishing a countywide framework from which county and cities comprehensive plans are developed and updated. The Benton County Planning Department and the Planning Departments of the Cities have worked over the past year on updating these policies. The original CWPPs were adopted in February of 1993 and have not been updated since.

On May 10, 2016 and June 14, 2016, the Benton County Planning Commission conducted a public hearing on the revised CWPPs. Based on the written and oral testimony presented at the public hearing the Planning Commission passed a motion recommending approval and adoption of the proposed CWPPs to the Benton County Board of County Commission.

In order to comply with GMA requirements, City jurisdictions within Benton County must agree to the adoption of the revised CWPPs. In order to facilitate this process, Benton County, in consultation with the cities, has developed the following adoption/ratification process for the draft CWPPs:

1. The Benton County Planning Commission reviews and makes a recommendation on proposed CWPPs.
2. The Benton County Board of Commissioners (BOCC) adopts a resolution agreeing in principle to the proposed CWPPs, but acknowledges that changes may need to be made based on input from each jurisdiction. The BOCC’s resolution will contain a statement requesting that each jurisdiction ratify the CWPPs adopted by Benton County and will lay out a schedule for future approval steps.
3. CWPPs approved by the BOCC are then reviewed by each jurisdiction.
4. The elected body of each jurisdiction must pass a resolution stating that the jurisdiction either: (a) supports the CWPPs in their entirety, (b) rejects the CWPPs in their entirety, or (c) supports the CWPPs with specific changes.

5. If specific changes are identified by a jurisdiction in step four, the Benton County Planning Department and Planning Commission may amend the CWPPs and attempt to reconcile any conflicting changes.
6. The Benton County BOCC adopts, by ordinance, the final CWPPs.

SUMMARY

The Planning Commission conducted a Public Hearing on Tuesday, May 10, 2016 and Tuesday June 14, 2016 and made a recommendation to the Board of County Commissioners that the proposed County Wide Planning Policies be approved. The Board of County Commissioners will review and consider the Planning Commission's recommendation at a public meeting and if they agree with the Planning Commission's recommendation adopt the attached resolution. The resolution will then be sent to the Cities of Kennewick, Richland, West Richland, Benton City and Prosser. Each city will pass a resolution which states that they either: (a) approve the CWPPs in their entirety, (b) reject the CWPPs in their entirety, (c) or support the CWPPs with specific changes.

RECOMMENDATION

The Planning Commission recommends that the Board adopt the attached resolution agreeing in principle to the proposed CWPPs, but acknowledging that changes may need to be made based on input from each jurisdiction. The BOCC's resolution will contain a statement requesting that each jurisdiction ratify the CWPPs adopted by Benton County.

MOTION

The Board adopt the attached Resolution agreeing in principle to the proposed CWPPs, but acknowledging that changes may need to be made based on input from each jurisdiction. The Board directs the Planning Department to send the resolution and draft policies to the Cities for their review and support of the CWPP.

RESOLUTION

BEFORE THE BOARD OF COMISSIONERS OF BENTON COUNTY, WASHINGTON
IN THE MATTER OF COUNTY PLANNING RE: AMENDMENTS TO THE BENTON COUNTY WIDE
PLANNING POLICIES.

WHEREAS, RCW 36.0A.210 requires the County adopt a countywide planning policy in cooperation with the cities located in whole or in part within the county and,

WHEREAS, on September 28, 1992, the Benton County Commissioners adopted Resolution 92-296, Countywide Planning Policies for Benton County; and,

WHEREAS, on March 12, 2007, the Benton County Commissioners updated the Benton County Comprehensive Plan; and,

WHEREAS, the Countywide Planning Policies for Benton County have not been reviewed or updated since September 28, 1992 and,

WHEREAS, in 2016, the Planning Departments of the Cities and County reviewed the existing Countywide Planning Policies for Benton County and have suggested changes to such policies and,

WHEREAS, the Benton County Planning Commission reviewed the proposed changes to the Countywide Planning Policies for Benton County and conducted a public hearing on May, 10, 2016 and June 14, 2016; and,

WHEREAS, the Benton County Planning Commission, after considering the public testimony presented, did recommend to the Board of County Commissioners that the proposed amended Countywide Planning Policies be adopted by the Board of County Commissioners, and,

WHEREAS, the Benton County Planning Commission, did also recommend to the Board of County Commissioners that the proposed amended Countywide Planning Policies be sent to the Cities within Benton County for their review and approval; and,

WHEREAS, the Board finds that the Cities within Benton County must concur with the amended Countywide Planning Policies; and,

WHEREAS, the Board finds that it would be in the best interest of the County to adopted the amended Countywide Planning Policies, and,

WHEREAS, the Board agrees in principle to the proposed amended Countywide Planning Policies for Benton County, but acknowledging that changes may need to be made based on input from each jurisdiction; NOW THEREFORE,

BE IT RESOLVED that the Board of County Commissioners agrees in principle to the proposed amended Countywide Planning Policies for Benton County and directs the Benton County Planning Manager to send the proposed amended Countywide Planning Policies for Benton County to the Cities of Kennewick, Richland, West Richland, Benton City and Prosser for their review and concurrence.

BE IT ALSO RESOLVED that if the cities have changes to the proposed amended Countywide Planning Policies, those changes will be reviewed by the Benton County Planning Commission and the Planning Commission will make a recommendation to the Board of County Commissioners.

Dated this 12th day of July, 2016.

Chairman of the Board

Member

Member

Constituting the Board of County
Commissioners of Benton County
Washington.

Attest _____
Clerk of the Board

Benton County Planning Department

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

PCM 2.1

DATE: MAY 27, 2016
TO: BENTON COUNTY PLANNING COMMISSION
FROM: BENTON COUNTY PLANNING DEPARTMENT
RE: DRAFT COUNTY-WIDE PLANNING POLICIES

BACKGROUND:

RCW 36.70a.210 requires the County and Cities within the County to jointly develop County Wide Planning Policies (CWPP). The CWPP is a written policy statement used solely for establishing a countywide framework from which county and city comprehensive plans are developed and adopted. Benton County Planning and the Planning Departments of the Cities have worked the past year on updating the Benton Countywide Planning Policies. The original CWPP's were adopted in September of 1992 and have not been updated since then.

The Planning Commission conducted a public hearing on May 10, 2016 and continued the hearing to allow additional time to review the proposed Countywide Planning Policies and the comments that were received. The County Planning Department and the City Planners have looked at the comments received on this proposal and have made changes based on those comments as shown in PCM 2.3.

Also attached is a chart (PCM 2.4) showing the difference between the original Countywide Planning Policies adopted in 1992 and those being proposed with this memo. The Planning Department is suggesting that based on comments received, the formula in Policy #4 in the 1992 Countywide Policies be put back into the proposed updated policies.

STAFF FINDINGS:

APPLICABLE DEVELOPMENT REGULATIONS:

1. According to RCW 36.70A.210(3), the countywide planning policy shall at a minimum, address the following:
 - (a) Policies to implement RCW 36.70A.110;
 - (b) Policies for promotion of contiguous and orderly development and provision of urban services to such development;
 - (c) Policies for siting public capital facilities of a countywide or statewide nature, including transportation facilities of statewide significance as defined in RCW [47.06.140](#);
 - (d) Policies for countywide transportation facilities and strategies;
 - (e) Policies that consider the need for affordable housing, such as housing for all economic segments of the population and parameters for its distribution;

- (f) Policies for Joint County and city planning within urban growth areas;
- (g) Policies for countywide economic development and employment, which must include consideration of the future development of commercial and industrial facilities; and
- (h) An analysis of the fiscal impact.

RECOMMENDATION: It is the recommendation of the Planning Department that the Planning Commission review the attached Draft Countywide Planning Policies and recommend to the Board of County Commissioners that they approve the Countywide Planning Policies as shown in Exhibit PCM 2.3.



PCM 2.2

STATE OF WASHINGTON

DEPARTMENT OF COMMERCE

1011 Plum Street SE • PO Box 42525 • Olympia, Washington 98504-2525 • (360) 725-4000
www.commerce.wa.gov

May 11, 2016

Mr. Michael E. Shuttleworth
Planning Manager
Post Office Box 910
Prosser, Washington 99350

RE: Proposed amendments to the Benton County County-wide Planning Policies

Dear Mr. Shuttleworth:

Thank you for the opportunity to comment on the proposed amendments to the Benton County County-wide Planning Policies. We received materials associated with this proposal on February 10, 2016 and processed the proposal with Material ID No. 22086. We commend you on your efforts to strengthen the framework for planning in Benton County as you begin the periodic review of your comprehensive plan required by RCW 36.70A.130(5)(c). Please consider the following comments regarding the proposed changes as you continue to coordinate with local stakeholders, and present recommendations to the appointed and elected officials in Benton County.

We encourage and support the following:

- The amended policies promote a collaborative approach to support the regional economy and reflect our agency's mission to grow and improve jobs in Washington State. Policy No. 19 strengthens the framework for economic development in Benton County and encourages each jurisdiction to integrate economic development approaches in their respective comprehensive plans.
- The amended policies maintain support for the provision of affordable housing for all economic segments of the population. We look forward to seeing progress on the quantification and projection of housing needs by income level and housing types, and the efforts by each municipality to address the projected county-wide needs.
- Policy No. 10 requires consistency between the Benton County County-wide Planning Policies and the comprehensive plans of each jurisdiction.
- The policies have been revised to provide a clear process for ratification and any future amendments.

We have some suggestions for strengthening your County-wide Planning Policies:

- The existing policies are an appendix to the Land Use Element of the Benton County Comprehensive Plan. If you intend to replace the existing policies with the proposed policies, you should indicate the provisions you are removing and amending in underline strikethrough format. This will enable the public and local decision makers to better understand the proposed changes.

- Selecting a county-wide population projection is a fundamental decision in the planning process. The proposed policies do not indicate the process for selecting a county-wide population projection. We recommend clarifying the process for selecting a county-wide population projection and the specific factors under consideration. Clarifying the factors you consider when making such a decision will likely benefit elected and appointed officials, urban service providers, and members of the public.

You should specify that the projection must fall within the range provided by the Office of Financial Management (OFM) and that it covers a twenty-year planning period based on the statutory deadline.¹ You may also consider starting with OFM's most likely projection for the county, the medium range², and making adjustments based on OFM's assumptions for Benton County; along with the three factors which influence demographics – births, deaths, and net migration. You could also specify the role of the county and each jurisdiction in the selection of a population projection. WAC 365-196-310 provides additional guidance on the population forecast and its relationship to sizing Urban Growth Areas (UGAs).

- Policy No. 2 provided factors which the county will consider when allocating the projected county-wide population growth. We encourage you to retain the specific factors because they provide a defensible basis for decisions on allocation of population to UGAs throughout the county. If you retain this language, you should also consider the ability to provide urban services throughout the twenty-year planning period when making allocation decisions; particularly in regards to the availability of water. We further recommend that policies provide for the accommodation of population within the existing UGA and through infill before consideration of further expansion.³
- We support the inclusion of language addressing employment projections in Policy No. 4 based on our previous recommendations. Considering both population and employment growth, along with the broad range of needs and services that will accompany that growth, is necessary for meeting the requirements of selecting and allocating county-wide growth forecasts.⁴ You should specify the process for developing a county-wide employment forecast and how employment will be allocated throughout the county.⁵ This should include clarifying any underlying factors used to forecast land needed for employment. Additionally, you should consider amending your policies to ensure the development of a county-wide forecast for commercial and industrial land needs informs UGA sizing decisions and ensures consistency among the plans of local jurisdictions.⁶

When developing a county-wide employment forecast, you should consider factors such as the ratio of forecast jobs to population, and compare that to past levels locally and in other comparable regions. You could also look at economic trends and forecasts produced by other agencies or sources such as local port districts or the regional Metropolitan Planning Organization (MPO). Ultimately, a regional approach to economic development, rather than an accumulation of local approaches, will encourage further cooperation and success for the municipalities and key stakeholders in the region.

We have concerns about the following that you should address before you adopt the revisions to the Benton County County-wide Planning Policies:

¹ RCW 36.70A.110(2)

² RCW 43.62.035

³ WAC 365-196-310(3)(f)

⁴ WAC 365-196-310(4)

⁵ WAC 365-196-310(2)(d)

⁶ WAC 365-196-310(4)

- The proposed policies direct the county to adopt the OFM high series population projection, without any clear rationale for why that projection is needed. As noted earlier, the OFM medium series projection is the most likely projection provided by demographers at OFM.⁷ The county has discretion to pick a population figure within the OFM range, but deviation from the middle series should be supported by demographic analysis and a clear underlying rationale. The five factors in Policy No.2 which are being proposed for removal represent data sources or considerations that could support the county's desire to deviate from the OFM medium series.
- Policy No. 2 would require the county to use the OFM high series for the current update, and each subsequent update. It would also require the allocation of population without considering the various factors which influence regional growth such as the availability of water, changing circumstances in the community, or the financial ability to accommodate growth with urban levels of service. We recommend that you remove this policy. It is not necessary to select the county's population projection for the current update and could result in costly long-term land use and infrastructure decisions.
- Policy No. 3 indicates that UGA's in the county will be established to ensure that there is sufficient land and service capacity, up to 120 percent of determined need, to meet projected populations at urban densities and service standards within municipalities. We recommend that you revise this policy to more accurately reflect the requirements of RCW 36.70A.110(2) and WAC 365-196-310, and to clarify that you are using a market factor of 20 percent.

Specifically, UGA sizing decisions should not be based solely on projected populations. Sizing decisions should take into account the projected population and employment growth, along with the broad range of needs and uses that will accompany the projected urban growth. WAC 365-196-310 provides specific details on the requirements and recommendations for meeting the requirements when considering land needed for employment or public purposes.

- Policy No. 4 has been revised to state "That Urban Growth Areas of each City shall be based upon official and accepted population projections for minimum of 20 years." The Washington State Supreme Court has interpreted the requirements of RCW 36.70A.110 and determined that an UGA designation cannot exceed the amount of land necessary to accommodate projected urban growth, plus a reasonable land market supply factor.⁸ Population projections cover a twenty-year period and begin on the statutory due date identified in RCW 36.70A.130. Jurisdictions may choose to adopt a projection that exceeds the twenty-year horizon, but UGA sizing decisions must be based on the need to accommodate twenty years of growth.⁹ We recommend that you remove the words "minimum of" from the first sentence of Policy No. 4.
- Policy No. 4 has been amended to exclude the uniform formula for a land capacity analysis present in the original County-wide Planning Policies. County-wide Planning Policies are required to provide specific procedures for governing amendments to UGA's, including the review required by RCW 36.70A.130(3).¹⁰

While the policies commit to developing a buildable lands analysis, we are concerned that the failure to identify the process for conducting a land capacity analysis could result in disagreements between municipal and county stakeholders, and obfuscates the process of amending UGA boundaries for members of the public and other interested parties. The assumptions used in a land capacity analysis are very important and should be clearly identified.

⁷ RCW 43.62.035

⁸ Thurston County v. WWGMHB and 1000 Friends of WA No. 80115-1

⁹ RCW 36.70A.110(2)

¹⁰ WAC 365-196-305(4)(iii)

Mr. Michael E. Shuttleworth
May 11, 2016
Page 4

We recommend that within your County-wide Planning Policies you identify the process for conducting a land capacity analysis, specify the underlying assumptions, and clarify who is responsible for conducting the analysis in each UGA.

We extend our continued support to Benton County in achieving the goals of the Growth Management Act and the vision of your community. Thank you again for the opportunity to comment. If you have any questions or would like technical assistance on any land use issues, please feel free to contact me at william.simpson@commerce.wa.gov or 509-280-3602.

Sincerely,



William Simpson
Senior Planner
Growth Management Services

WS:lw

cc: Rick Simon, Development Services Manager, City of Richland
Gregory McCormick, AICP, Community Planning Director, City of Kennewick
Aaron Lambert, Community Development Director, City of West Richland
Steve Zetz, City Planner, City of Prosser
Stephanie Haug, Clerk/Treasurer, Benton City
Brian Malley, Executive Director, Benton Franklin Council of Governments
Jeffrey Wilson, AICP, Senior Managing Director, Growth Management Services
David Andersen, AICP, Eastern Region Manager, Growth Management Services

Please note that this exhibit shows only the May 10th proposed changes not the original 1992 policy language and also includes changes proposed since the May 10, 2016 public hearing. Please see the matrix for the current and proposed language changes.

**COUNTYWIDE PLANNING POLICIES
FOR
BENTON COUNTY**

PCM 2.3

Originally adopted September 28, 1992
Resolution # 92-296

AMENDMENTS:

_____, 2016 Ordinance # _____ (Amending Res.# 92-296) Effective Date: _____

Benton County

Countywide Planning Policies

Introduction & Overview:

The Washington State Growth Management Act (GMA) requires that cities and counties adopt comprehensive plans. The GMA further requires that counties adopt Countywide Planning Policies (CWPPs), in cooperation with the cities located in whole or in part within the county. CWPP establish a countywide framework for developing and adopting county and city comprehensive plans. The role of the CWPP is to coordinate comprehensive plans of jurisdictions in the same county for regional issues or issues affecting common borders (RCW 36.70A.100). Under state law, RCW 36.70A.210(1) describes the relationship between comprehensive plans and CWPPs. It says that:

a 'countywide planning policy' is a written policy statement or statements used solely for establishing a countywide framework from which county and city comprehensive plans are developed and adopted pursuant to this chapter. This framework shall ensure that city and county comprehensive plans are consistent as required in RCW 36.70A.100. Nothing in this section shall be construed to alter the land use powers of the cities.

In order to achieve the objectives above, and to ensure that regional planning efforts and governmental actions are consistent with current legal requirements and information, substantial revisions to the Benton County CWPPs have been proposed. The development of these revisions was a collaborative process between the County and the cities.

History:

In 1991, one year after the Washington State Legislature enacted the Growth Management Act (GMA), the GMA was amended to require that Countywide Planning Policies (CWPPs) be adopted within those counties subject to the GMA. The first Benton County Countywide Planning Policies were adopted on September 28, 1992.

Amendments and Adoption:

In the years since the last CWPPs were adopted in Benton County, the GMA has evolved through amendments and judicial interpretations provided by the GMA and the courts. The revised CWPPs attempt to provide procedures for County and city/town coordination to address these issues.

The GMA does not specifically address amendments to the CWPPs; however, it has become apparent that the Benton County CWPPs should be updated in order to better address

countywide planning concerns and coordination between jurisdictions in the County. A public hearing was held by the Benton County Planning Commission on April 12, 2016.

Benton County is the lead agency for this proposal and has determined that it does not have a significant adverse impact on the environment and a Determination of Non Significance was issued on February 10, 2016.

In order to comply with GMA requirements and the adoption/amendment procedures identified below, all jurisdictions in Benton County must agree to the adoption of the revised CWPPs. This process will involve the planning departments, planning commissions, and elected representatives of each jurisdiction. In order to facilitate this process, Benton County, in consultation with the cities, has developed the following adoption/ratification process for the draft CWPPs:

1. Benton County Planning Commission recommendation on proposed CWPPs.
2. The Benton County Board of Commissioners (BOCC) adopts a resolution agreeing in principle to the proposed CWPPs, but acknowledging that changes may need to be made based on input from each jurisdiction. The BOCC's resolution will contain a statement requiring that each jurisdiction ratify the CWPPs adopted by Benton County and will lay out a schedule for future approval steps.
3. CWPPs approved by Benton County BOCC reviewed by each jurisdiction's Planning Commission.
4. The elected body of each jurisdiction passes a resolution which states that the jurisdiction either: (a) supports the CWPPs in their entirety, (b) rejects the CWPPs in their entirety, or (c) supports the CWPPs with specific changes.
5. If specific changes are identified by a jurisdiction in step four, the Benton County Planning Department and Planning Commission may amend the CWPPs and attempt to reconcile and conflicting changes.
6. The Benton County BOCC adopts, by ordinance, the final CWPPs.

References:

Benton County. (1992). Countywide Planning Policies.
Benton County Comprehensive Plan.

BENTON COUNTYWIDE PLANNING POLICIES

Countywide planning policy is a written policy statement or statements used solely for establishing a countywide framework from which County and City comprehensive plans are developed and adopted. This framework will ensure that City and County comprehensive plans are consistent with statewide planning policies and as required by the Growth Management Act.

POLICIES TO IMPLEMENT RCW 36.70A.110:

Policy #1: The Comprehensive Plans of Benton County and each of the cities therein shall be prepared and adopted with the objective to facilitate economic prosperity by accommodating growth consistent with the following:

1. Urban Growth. Encourage development in urban areas where adequate public facilities exist or can be provided in a cost efficient manner.
2. Reduce the inappropriate conversion of undeveloped land into low density development lacking adequate services, injurious to ground and surface water quality, destructive to the area's agricultural lands base and less than cost effective relative to public service costs.
3. Transportation. Encourage efficient multi-modal transportation systems that are based on regional priorities and coordinated with county and city comprehensive plans.
4. Property rights. Private property rights shall not be taken for public use without just compensation having been made. The property rights of land owners shall be protected from arbitrary and discriminatory actions.
5. Permits. Maintain a permit review process that provides for integrated and consolidated review.
6. Natural resource industries. Maintain and encourage natural resource-based industries, including agricultural, fisheries and mineral industries.
7. Open space and recreation. Encourage the retention of open space and the development of recreational opportunities, conserve fish and wildlife habitat, and increase access to natural resource lands and water.
8. Environment. Protect the environment and enhance the region's high quality of life, including air and water quality and the availability of water.
9. Citizen participation and coordination. Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts.
10. Public facilities and services. Ensure that those public facilities and services

necessary to support development shall be adequate to serve development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards. With the exception of water, sewer, and local access streets, which shall be available at the time of occupancy, the term "adequate" shall be defined as either available at the time of occupancy, or shown on the current Capital Improvement Plan (CIP), as a funded project within six years.

11. Historic preservation. Identify and encourage the preservation of lands, sites, and structures that have historical or archaeological significance.

POLICIES FOR PROMOTION OF CONTIGUOUS AND ORDERLY DEVELOPMENT AND THE PROVISION OF URBAN SERVICES TO SUCH DEVELOPMENT;

Policy #2: The County shall allocate future projected populations through the use of the latest ~~high series~~ population projections published by the Washington State Office of Financial Management (OFM). Allocation of future populations shall be based on the following distribution: City of Kennewick 40% of total county population; City of Richland 28% of total county population; Benton County 19% of total county population; City of West Richland 8% of total county population; City of Prosser 3% of total county population and City of Benton City 2% of total county population. ~~At a minimum, the~~The County, in consultation with the Cities, will review the OFM population projection ranges (Low, Medium and High) and allocation percentages whenever OFM publishes new GMA population projections.

Policy #3: The locating of Urban Growth Areas within the County shall be accomplished through the use of accepted planning practices which provide sufficient land and service capacity, up to ~~120% of the~~ determined need, to meet projected populations at urban densities and service standards within the Cities, and urban densities for those portions of the County located within the urban growth areas.

Policy #4: That Urban Growth Areas of each City shall be based upon official and accepted population projections for minimum of 20 years. The gross undeveloped and underdeveloped acreage within the city limits and the Urban Growth Area shall be sufficient to meet all the land requirements, for the following: community and essential public facilities, population projection, commercial and industrial activities, employment projections, infill and to prevent inflation of land cost due to a limited land supply. ~~The County will work with the cities to develop a buildable lands analysis to help determine the amount of land available for development. All jurisdictions comprehensive plans shall reflect individuality and not just a regional plan.~~

- a. The jurisdictions within the county shall use a uniform formula for identifying the land area necessary per capita for each community. Each jurisdiction's population projection shall be multiplied by its gross per capita land area

requirement, which in the aggregate will define total land needs within the Urban Growth Area (UGA).

The uniform formula is as follows:

$A + B + C + D + E + F + G + H + I + J + K = \text{acreage/per capita (or acreage per dwelling unit if per capita is divided by average household size) where:}$

A = residential land per capita; (or DU)

B = parks and recreational area per capita;

C = area required for public facilities (fire stations, jails, etc.) per capita;

D = area required for schools per capita;

E = commercial area per capita, or per employee;

F = industrial/manufacturing area per capita;

G = open space (golf courses, etc.) per capita;

H = public service lands required for transportation network, easements and R.O.W.s per DU;

I* = use 70% build-out for all residential lands;

J = add 25% to the total of A Through I for land supply/demand balance;

K = land credit for undevelopable lands i.e. Critical Areas including steep slopes, wetlands, habitat, etc. within the UGA.

* The same factor should be used for all jurisdictions.

Policy #5 : That within the urban growth area, urban uses shall be concentrated in and adjacent to existing urban services or where they are shown on a Capital Improvement Plan to be available within 6 years.

Policy #6: That cities limit the extension of service district boundaries and water and sewer infrastructure to areas within each jurisdiction's urban growth area contained in their adopted Comprehensive Plan. Utility plans should attempt to reflect possible needs for 50 years.

Policy #7: Within each Comprehensive Plan, the Land Use Plan for urban growth areas shall designate urban densities and indicate the general locations of greenbelt and critical areas.

Policy #8: Wherever possible, given consideration of all other variables, such as existing unused service infrastructure, the placement of an urban growth line into an area of existing commercial agriculture shall be avoided.

Policy #9: The appropriate directions for the expansion of urban growth areas are those which are unincorporated lands with existing service infrastructure and lands adjacent to corporate limits.

Policy #10: All policies within each jurisdiction's Comprehensive Plans shall be modified to be consistent with adopted Countywide Policies.

POLICIES FOR SITING PUBLIC FACILITIES OF A COUNTYWIDE OR STATEWIDE NATURE:

Policy #11: The County and Cities, along with public participation shall develop a cooperative regional process to site essential public facilities of regional and statewide importance. The objective of the process shall be to ensure that such facilities are located so as to protect environmental quality, optimize access and usefulness to all jurisdictions, and equitably distribute economic benefits/burdens throughout the region or county.

At the Countywide and multi-county level, the following action should be accomplished:

- a. Develop a uniform siting procedure which enables selection of optimum project sites and appropriate size and scale relative to intended benefit area.

Policy #12: Support the existing solid waste program that promotes and maintains a high level of public health and safety, protects the natural and human environment of Benton County and encourages public involvement by securing representation of the public in the planning process.

Policy #13: Encourage and expand coordination and communication among all jurisdictions and solid waste agencies/firms in Benton and Franklin Counties in order to develop consistent and cost-effective programs that avoid duplication of effort and gaps in program activities.

- a. Utilize the existing Benton-Franklin Solid Waste Advisory Committee.

POLICIES FOR COUNTYWIDE TRANSPORTATION FACILITIES AND STRATEGIES:

Policy #14: Maintain active County-City participation in the Regional Transportation Planning Organization in order to facilitate City, County, and State coordination in planning regional transportation facilities and infrastructure improvements to serve essential public facilities including Port District facilities and properties.

POLICIES THAT CONSIDER THE NEED FOR AFFORDABLE HOUSING, SUCH AS HOUSING FOR ALL ECONOMIC SEGMENTS OF THE POPULATION AND PARAMETERS FOR ITS DISTRIBUTION:

Policy #15: The County and Cities within shall work together to provide housing for all

economic segments of the population. All jurisdictions shall seek to create the conditions necessary for the construction of affordable housing, at the appropriate densities within the cities and County. The following actions should be accomplished:

- a. Jointly quantify and project total Countywide housing needs by income level and housing type (i.e. rental, ownership, senior, farm worker housing, group housing.)
- b. Establish a mechanism whereby the housing efforts/programs of each jurisdiction address the projected Countywide need.
- c. Address the affordable housing needs of very low, low, and moderate income households, and special needs individuals through the Comprehensive Housing Affordability Strategy (CHAS).
- d. Develop design standards for implementation within the Comprehensive Plan with special attention to be given to the residential needs of low to moderate income families.

POLICIES FOR JOINT COUNTY AND CITY PLANNING WITHIN URBAN GROWTH AREAS:

Policy #16: Urban growth areas may include territory located outside of a city if such territory may be characterized by urban growth or is adjacent to territory already characterized by urban growth. Within urban growth areas, only urban development may occur. For the purposes of locating urban growth areas, and permitting new development within them, "Urban" is defined as:

- a. Having dedicated and improved (surfaced) streets, with dimension, design and construction standards for new development determined by "joint city/county standards" and;
- b. For new development, road, street and intersection right-of way widths located and sized to accommodate projected local and regional average daily traffic (ADT) as determined by each jurisdictions Land Use Plan Transportation Element and, where relevant, projections of the Benton Franklin Council of Governments.

Policy #17: To encourage logical expansions of corporate boundaries into urban growth areas, and to enable the most cost efficient expenditure of public funds for the provision of urban services into newly annexed areas. The County and each City shall jointly develop and implement development, land division and building standards, and coordinated permit procedures for the review and permitting of new subdivisions within Urban Growth Areas.

- a. Joint development standards shall be adopted by all jurisdictions. Standards may

vary between the County and various incorporated jurisdictions.

POLICIES FOR COUNTYWIDE ECONOMIC DEVELOPMENT AND EMPLOYMENT;

Policy #18: Consistent with the protection of public health, safety, welfare, and the use of natural resources on a long-term sustainable basis, the ability of service capacity to accommodate demands, and the expressed desires of each community, Comprehensive Plans shall jointly and individually support the County and region's economic prosperity in order to promote employment and economic opportunity for all citizens.

Policy #19: The County and Cities have historically partnered with each other as well as with other organizations to achieve economic development throughout the region. It is the intention of the County and Cities to continue to actively pursue mutually beneficial partnerships that promote growth in all sectors of business and industry, including but not limited to: areas of agriculture, agri-business, industrial, commercial, public schools, recreation and tourism. Key strategies will include promoting family wage jobs, increasing income and reducing poverty, increase business formation, expansion and retention, and creating jobs and financial investment to improve the economics of our communities.

- a. An economic development element should be integrated into the comprehensive plan of each jurisdiction. The economic development element should establish goals and policies for each jurisdiction; actively promote employment opportunities for family-wage jobs; support the retention and expansion of businesses and industry in Benton County; support development of public schools; encourage the development of tourist-related businesses, including those that capitalize on area agricultural and other resources.
- b. Comprehensive Plans should foster and promote a natural environment that will contribute to economic growth and prosperity, and a business environment that offers diverse economic opportunities for businesses of all types and sizes in the region.
- c. The County and Cities should encourage public and private agency cooperation and participation in the comprehensive planning process. These agencies should cooperatively evaluate trends and opportunities to identify strategies meeting long-term economic needs for the County region.
- d. The County and Cities agree that Benton County may establish economic development strategies and implementation criteria for siting major industrial and resource based development within rural areas of the County in accordance with RCW 36.70A.365.
- e. The provision of utilities and other supporting urban governmental services to commercial and industrial areas should be coordinated and assigned a high priority

by utility purveyors and service providers.

- f. A Countywide land use inventory should be established to monitor commercial and industrial land supply.
- g. Support the development of public schools in areas where present or can be extended, is financially supportable at urban densities, where the extension of public infrastructure will protect health and safety, as per WAC 365-196-425(3)(b).

AN ANALYSIS OF THE FISCAL IMPACT.

Policy #20: Capital Improvement Plans and Land Use Plans, shall conduct fiscal analyses which identify and refine the most cost effective use of regional and local public services. This should be accomplished through actions including the following:

- a. City's six year CIPs for streets, water, and sewer should show infrastructure sized to accommodate build-out of service areas within the 20 year urban growth area, at a minimum.
- b. Construction design and placement standards for roads, intersections and streets (with provisions for storm water conveyance), sewer, water and lighting infrastructure, should be determined based upon an analysis which identifies the lowest public expenditure over extended periods of time. Utilities should be incorporated into such analyses.
- c. Build out scenarios should be factored into school, fire and police service demand projections.

Policy #21: Support the development of public schools in areas where utilities are present or can be extended, is financially supportable at urban densities, where the extension of public infrastructure will protect health and safety, [and the school locations are consistent with the analysis recommended by](#) ~~as per~~ WAC 365-196-425(3)(b).

AMENDING POLICIES.

Policy #22: The Growth Management Act requires counties planning under the Act to adopt a countywide planning policy in cooperation with the cities located in the county. The countywide planning policy is to be a written policy statement or statements used solely for establishing a countywide framework from which county and city comprehensive plans are developed and adopted pursuant to this [GMA] chapter." The purpose for the Benton County Wide Planning Policies is to meet this requirement of the Act. This document is a tool that will provide the necessary guidance to achieve consistency during the updating of comprehensive plans for the county and the cities/towns.

The County Commissioners will review the policies and cause a final proposal to be transmitted to the cities for ratification and ultimately back to the Board of Commissioners for final action. The County Wide Planning Policies will be considered adopted when ratified by the cities and approved by the Board of Commissioners. Cities agree to take action within 45 days of the transmittal of the proposal and to submit resolutions of ratification to the county to document the action taken by the city.

The Board of Commissioners agrees to adopt the ratified policies without modification upon receipt of notice that at least three cities have acted affirmatively. The Commissioners will convene to consider possible modifications to these policies if ratification is not accomplished.

Future amendments to the County Wide Planning Policies may be considered when proposed by the County or a City.

LOCATE URBAN GROWTH AREAS

Population Projections

1. Review and comment on preliminary OFM population projections due in Dec. 91.
2. Legislative bodies of each jurisdiction to review OFM population projections.
3. Update the existing land use inventory to reflect current conditions (use county GIS when available in 3-92, to provide county-wide land use inventory).
4. GMC derives formula for allocation of OFM population projections -sends formula to individual jurisdictions via the BCPPC.
 - BCPPC sends to indiv.jurisdictions legislative bodies for review
 - BOCC takes action on pop.allocation

Land Use Element Map

1. Identify accepted uniform planning criteria used for locating Urban Growth Areas:
 - natural physical barriers and roads
 - existing service capacity (supply/deficit)
 - projected service capacity (new supply)
 - planning objectives (GMA req.) and;
2. Uniform criteria for insuring adequate land supply within Urban Growth Areas:
 - enable growth without creating excess demand for services, congestion etc.,
 - discourage sprawl without grossly inflating land costs;
3. Identify uniform, established candidates for the supply of developable land within the Urban Growth areas:

-vacant, underutilized, partially utilized

4. Identify uniform, established candidates for lands to be excluded from development, such as lands:

- needed for R.O.W.
- hazardous, critical, open space etc.,
- too costly to provide services
- to be zoned agricultural with Transfers of Density Rights (TDRs)

5. Map existing public, private and semi-public service district boundaries and;

6. Inventory all existing capital facilities for public, private and semi-public service providers, and transportation network, identify existing capacity:

<u>Water</u>	<u>sewer</u>
<u>fire</u>	<u>police</u>
<u>schools</u>	<u>ports</u>
<u>parks</u>	<u>libraries</u>
<u>hospital</u>	<u>communications</u>

7. Confer with BFRC to establish current level transportation data re: inventory

-each jurisdiction to build on BFRC transportation data; define local street conditions, capacities, programmed and needed improvements.

8. Inventory housing stock - identify existing supply/demand ratio by housing.

9. Using Population Projections per jurisdiction, accomplish the following:

- project new housing mix/type and occupancy rates;
- identify projected gross new demands for services identified in item #5, above;
- equate existing services infrastructure capabilities and C.I. P's with gross new demands;
- identify new C.I.s, (supplies of water, sewer, school, rec. fac. etc.,) necessary to meet gross new demands;
- survey options to meet gross new service with cost effectiveness on essential services (i.e., water and sewer, road maintenance as a priority) and; type, identify present need (use Census);
- with the cost effectiveness of meeting other services demands as a consideration.

10. Contact each utility purveyor. Solicit participation on LUE advisory committees on relevant issues.

11. Inventory facilities/capacities of existing utility services, identify current plans for new facilities and capacities including but not limited to electric, telecommunications, natural gas. Rely on BFRC data.

12. lands such as: utility and transportation corridors, landfills, sewage treatment facilities,

recreation, schools etc.,

-integrate existing information from comp. plans, needs assessments, pop. projections, into one joint list of needed public lands;

-county must work with state and cities to identify areas of shared need and shall prepare a prioritized list with estimated acquisition dates;

-capital acquisition budget for each jurisdiction with jointly agreed upon priorities and schedule. *

13. Identify Open Space Corridors within and between Urban Growth Areas, including:

-lands used or designated as recreational, wildlife habitat, trails, and "critical areas" as defined in sec .3

-optional: develop a mechanism to purchase fee simple or lesser interests in these open spaces using funds authorized by RCW 84.34.230 *

-develop an acquisitions list for those lands with critical resources imposing extreme constraints on development *

14. Draft a procedure, including siting criteria, for locating/approving essential public facilities.

-review list of essential facilities provided by OFM with the objective to identify those suitable for location in urban vs rural areas.

15. Consistent with the revised Policies in the Comp. Plan Texts, integrate population projections, land use and capital facilities inventory data, lands necessary for new capital facilities, and total land requirements to support population projections densities, open space and critical/natural areas (set asides) into **new 20 year Urban Growth Areas.**

16. Review of Urban Growth Areas by each jurisdiction's legislative body.

17. BOCC adopts Urban Growth Areas, then;

PREPARE DRAFT LAND USE MAP

Map Designations

1. Prepare Draft Land Use Map with general distribution, location and extent of land uses, and:

-Urban Growth Areas and Rural Lands;

-Open Space;

-Public Facilities and lands;

-population densities;

-building intensities;

-est. future pop. densities (multiply av. bldg. densities X pers/household re: ~~page 57 of 1985 Comp. Plan.~~(update with 1990 census)

* not necessary for locating urban growth boundaries

BENTON COUNTY-WIDE PLANNING POLICIES

Proposed changes for Planning Commission, June 14, 2016

Number	Commenter	Existing Policies	Proposed Amendment/Comment
Introduction		County-wide planning policy is a written policy statement or statements used solely for establishing a county-wide framework from which county and city comprehensive plans are developed and adopted. This framework will insure that city and county comprehensive plans are consistent as required by the Growth Management Act.	County-wide planning policy is a written policy statement or statements used solely for establishing a county-wide framework from which county and city comprehensive plans are developed and adopted. This framework will insure that city and county comprehensive plans are consistent <u>with statewide planning policies</u> <u>and</u> as required by the Growth Management Act.
Policy 1:		The Comprehensive Plans of Benton County and each of the cities therein shall be prepared and adopted with the objective to facilitate economic prosperity by accommodating growth consistent with the following:	No changes.
Policy 1.1:		Urban Growth. Encourage development in urban areas where adequate public facilities exist or can be provided in a cost efficient manner.	No changes.
Policy 1.2:		Avoid sprawl. Avoid the inappropriate conversion of undeveloped land into low density development, lacking adequate services, injurious to ground and surface water quality, destructive to the area's agricultural lands base, and less than cost effective relative to public service costs.	Avoid sprawl. <u>Avoid Reduce</u> the inappropriate conversion of undeveloped land into low density development, lacking adequate services, injurious to ground and surface water quality, destructive to the area's agricultural lands base, and less than cost effective relative to public service costs.
Policy 1.3:		Transportation. Encourage efficient multi-modal transportation systems that are based on regional priorities and coordinated with county and city comprehensive plans.	No Changes.

Number	Commenter	Existing Policies	Proposed Amendment/Comment
Policy 1.4:		Property rights. Private property rights shall not be taken for public use without just compensation having been made. The property rights of land owners shall be protected from arbitrary and discriminatory actions.	
Policy 1.5:		Permits. Applications for permits shall be processed in a timely and fair manner to ensure predictability.	Permits. <u>Maintain a permit review process that provides for the integrated and consolidated review.</u> Applications for permits shall be processed in a timely and fair manner to ensure predictability.
Policy 1.6:		Natural resource industries. Maintain and enhance natural resource-based industries, including productive agricultural, fisheries and mineral industries. Encourage the conservation of productive agricultural lands and discourage incompatible uses.	Natural resource industries. Maintain and <u>enhance encourage</u> natural resource-based industries, including productive agricultural, fisheries and mineral industries. <u>Encourage the conservation of productive agricultural lands and discourage incompatible uses.</u>
Policy 1.7:		Open space and recreation. Encourage the retention of open space and the development of recreational opportunities, conserve fish and wildlife habitat, increase access to natural resource lands and water, and develop parks.	Open space and recreation. Encourage the retention of open space and the development of recreational opportunities, conserve fish and wildlife habitat, increase access to natural resource lands and water, and develop parks.
Policy 1.8:		Environment. Protect the environment and enhance the region's high quality of life, including air and water quality, and the availability of water.	No Changes.
Policy 1.9:		Citizen participation and coordination. Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts.	No Changes.
Policy 1.10:		Public facilities and services. Ensure that those public facilities and services necessary to support development shall be adequate to serve	Public facilities and services. Ensure that those public facilities and services necessary to support development shall be adequate to serve

Number	Commenter	Existing Policies	Proposed Amendment/Comment
		development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards. With the exception of water, sewer, streets and power services, which shall be available at the time of occupancy, the term "adequate" shall be defined as either available at the time of occupancy, or shown on the current C.I.P. as a funded project within six years.	development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards. With the exception of water, sewer <u>and local access</u> streets, and power services which shall be available at the time of occupancy, the term "adequate" shall be defined as either available at the time of occupancy, or shown on the current C.I.P. as a funded project within six years.
Policy 1.11:		Historic preservation. Identify and encourage the preservation of lands, sites, and structures that have historical or archaeological significance.	No Changes
<u>Policy 1.12</u>		New Policy	<u>Economic development. Encourage economic development throughout the County that is consistent with adopted comprehensive plans, promote economic opportunity for all citizens of this County, especially for unemployed and for disadvantaged persons, promote the retention and expansion of existing businesses and recruitment of new businesses, recognize regional differences impacting economic development opportunities, and encourage growth in areas experiencing insufficient economic growth, all within the capacities of the County's natural resources, public services, and public facilities.</u>
Policy 2:		County-wide projected population shall be allocated among jurisdictions through the use of any or all of the following factors applied to each jurisdiction:	<u>The County shall allocate future projected populations through the use of the latest population projections published by the Washington State Office of Financial Management (OFM). Allocation of future</u>

Number	Commenter	Existing Policies	Proposed Amendment/Comment
		<p>a. Documented historical growth rates over the last decade, the last 2 decades, and the last 2 years.</p> <p>b. Current growth rates.</p> <p>c. Developing or current planning programs which a jurisdiction has, and which identify quantitative increases in business and industry development, and housing construction activity.</p> <p>d. School enrollments over 2 decades, and within the last 2 years.</p> <p>e. Pending development proposals (applications) which would add either jobs or new housing units.</p> <p>f. Intangibles.</p>	<p><u>populations shall be based on the following distribution: City of Kennewick 40% of total county population; City of Richland 28% of total county population; Benton County 19% of total county population; City of West Richland 8% of total county population; City of Prosser 3% of total county population and City of Benton City 2% of total county population. The County, in consultation with the Cities, will review the OFM population projection ranges (Low, Medium and High) and allocation percentages whenever OFM publishes new GMA population projections.</u></p> <p>County-wide projected population shall be allocated among jurisdictions through the use of any or all of the following factors applied to each jurisdiction:</p> <p>a. Documented historical growth rates over the last decade, the last 2 decades, and the last 2-5 or 10 years.</p> <p>b. Current growth rates.</p> <p>c. Developing or current planning programs which a jurisdiction has, and which identify quantitative increases in business and industry development, and housing construction activity.</p> <p>d. School enrollments over 2 decades, and within the last 2-5 or 10 years.</p>

Number	Commenter	Existing Policies	Proposed Amendment/Comment
			e. — Pending development proposals (applications) which would add either jobs or new housing units.
Policy 3:		<p>The locating of urban growth areas within the county shall be accomplished through the use of accepted planning practices which provide sufficient land and service capacity to meet projected populations at urban densities and service standards within the cities, and urban densities for those portions of the county located within the urban growth areas. Such planning practices include those on</p>	<p>The locating of urban growth areas within the county shall be accomplished through the use of accepted planning practices which provide sufficient land and service capacity, <u>up to determined need</u>, to meet projected populations at urban densities and service standards within the cities, and urban densities for those portions of the county located within the urban growth areas.</p>
Policy 4:		<p>That Urban Growth Areas of each city shall be based upon official and accepted population projections for minimum 20 year periods. The gross undeveloped and underdeveloped acreage within the city limits and the Urban Growth Area shall be sufficient to meet all the land requirements, including community and essential public facilities, of the population projection, including the need to prevent inflation of land cost due to a too limited land supply.</p> <p>a. The jurisdictions within the county shall use a uniform formula for identifying the land area necessary per capita for each community. Each jurisdiction's population projection shall be multiplied by its gross per capita land area requirement, which in the aggregate will define total land needs within the Urban Growth Area</p>	No Changes.

Number	Commenter	Existing Policies	Proposed Amendment/Comment
		(UGA).	
Policy 4 – Uniform Formula		<p>The uniform formula is as follows:</p> $A + B + C + D + E + F + G + H + I + J + K =$ <p>acreage/per capita (or acreage per dwelling unit if per capita is divided by average household size) where:</p> <ul style="list-style-type: none"> A = residential land per capita; (or DU) B = parks and recreational area per capita; C = area required for public facilities (fire stations, jails, etc.,) per capita; D = area required for schools per capita; E = commercial area per capita, or per employee; F = industrial/manufacturing area per capita; G = open space (golf courses, etc.) per capita; H = public service lands required for transportation network, easements and R.O.W.s per DU; I* = use 70% build-out for all residential lands; J = add 25% to the total of A Through I for land supply/demand balance; K = land credit for undevelopable lands i.e. Critical Areas including 	No Changes.

Number	Commenter	Existing Policies	Proposed Amendment/Comment
		<p>steep slopes, wetlands, habitat, etc. within the UGA.</p> <p>* The same factor should be used for all jurisdictions.</p>	
Policy 5:		That within the urban growth area urban uses shall be concentrated in and adjacent to existing urban services or where they are shown on a Capital Improvement Plan to be available within 6 years.	
Policy 6:		That cities limit the extension of service district boundaries and water and sewer infrastructure to areas within each jurisdiction's urban growth area of its adopted Comprehensive Plan.	That cities limit the extension of service district boundaries and water and sewer infrastructure to areas within each jurisdiction's urban growth area of its adopted Comprehensive Plan. <u>Utility plans should attempt to reflect possible needs for 50 years.</u>
Policy 7:		Within each Comprehensive Plan, the Land Use Plan for urban growth areas shall designate urban densities and indicate the general locations of greenbelt and open space areas. To the extent made practical by the natural features of the land form, open spaces and greenbelt shall be contiguous across jurisdictional lines, so as to enable their use as linked and contiguous recreational resources including parks, and bike and riding paths.	Within each Comprehensive Plan, the Land Use Plan for urban growth areas shall designate urban densities and indicate the general locations of greenbelt and critical areas. To the extent made practical by the natural features of the land form, open spaces and greenbelt shall be contiguous across jurisdictional lines, so as to enable their use as linked and contiguous recreational resources including parks, and bike and riding paths
Policy 8:		Wherever possible, given consideration of all other variables, such as existing unused service infrastructure, the placement of an urban growth line into an area of existing or potential intensive commercial agriculture shall be avoided, unless an adequate open space buffer within the urban growth area is provided.	Wherever possible, given consideration of all other variables, such as existing unused service infrastructure, the placement of an urban growth line into an area of existing potential intensive commercial agriculture shall be avoided, unless an adequate open space buffer within the urban growth area is provided.

Number	Commenter	Existing Policies	Proposed Amendment/Comment
Policy 9:		<p>The appropriate directions for the expansion of urban growth areas are those which are unincorporated lands substantially engrossed by urban development; areas with existing service infrastructure; lands adjacent to corporate limits and confined on the other side by major features such as highways; and existing rural residential development characterized by compromised agricultural productivity; average lot sizes less than 10 acres; and existing streets and utility services.</p>	<p>The appropriate directions for the expansion of urban growth areas are those which are unincorporated lands substantially engrossed by urban development with existing service infrastructure <u>and</u> lands adjacent to corporate limits. corporate limits and confined on the other side by major features such as highways; and existing rural residential development characterized by compromised agricultural productivity; average lot sizes less than 10 acres; and existing streets and utility services</p>
Policy 10:		<p>All policies within each jurisdiction's Comprehensive Plans, required by ESHB 2929, shall be modified to be consistent with and implement adopted County-wide Policies.</p>	<p>All policies within each jurisdiction's Comprehensive Plans required by ESHB 2929 shall be modified to be consistent with adopted County-wide Policies.</p>
Policy 11:		<p>The County and cities within, along with public participation shall develop a cooperative regional process to site essential public facilities of regional and statewide importance. The objective of the process shall be to ensure that such facilities are located so as to protect environmental quality, optimize access and usefulness to all jurisdictions, and equitably distribute economic benefits/burdens through out the region or county.</p> <p>At the County-wide and multi-county level, the following actions should be accomplished:</p> <p>a. Develop a uniform siting procedure which enables selection of optimum project sites</p>	<p>No Changes.</p>

Number	Commenter	Existing Policies	Proposed Amendment/Comment
		and appropriate size and scale relative to intended benefit area.	
Policy 12		Support the existing solid waste program that promotes and maintains a high level of public health and safety, protects the natural and human environment of Benton County and encourages public involvement by securing representation of the public in the planning process.	No Changes.
Policy 13:		Encourage and expand coordination and communication among all jurisdictions and solid waste agencies/firms in Benton and Franklin Counties in order to develop consistent and cost-effective programs that avoid duplication of effort and gaps in program activities. a. Utilize the existing Benton-Franklin Solid Waste Advisory Committee.	No Changes.
Policy 14:		Maintain active county-city participation in the Regional Transportation Policy Organization in order to facilitate city, county, and state coordination in planning regional transportation facilities and infrastructure improvements to serve essential public facilities including Port District facilities and properties.	Maintain active county-city participation in the Regional Transportation Policy <u>Planning</u> Organization in order to facilitate city, county, and state coordination in planning regional transportation facilities and infrastructure improvements to serve essential public facilities including Port District facilities and properties.
Policy 15		New housing within urban growth areas shall be compatible in character and standards with that of the adjacent city area.	New housing within urban growth areas shall be compatible in character and standards with that of the adjacent city area.
Policy 16		That site constructed, modular and manufactured housing shall be recognized as needed and functional housing types.	That site constructed, modular and manufactured housing shall be recognized as needed and functional housing types.
<u>Policy 15:</u>		The County and cities within shall work together to provide housing for all economic segments of	No Changes.

Number	Commenter	Existing Policies	Proposed Amendment/Comment
		<p>the population. All jurisdictions shall seek to create the conditions necessary for the construction of affordable housing, at the appropriate densities within the cities and County. The following actions should be accomplished:</p> <p>a. Jointly quantify and project total county-wide housing needs by income level and housing type (i.e. rental, ownership, senior, farm worker housing, group housing.)</p> <p>b. Establish a mechanism whereby the housing efforts/programs of each jurisdiction address the projected county-wide need.</p> <p>c. Address the affordable housing needs of very low, low and moderate income households, and special needs individuals through the Comprehensive Housing affordability Strategy (CHAS).</p>	
<p><u>Policy 16:</u></p>		<p>Urban growth areas may include territory located outside of a city only if such territory already is characterized by urban growth or is adjacent to territory already characterized by urban growth. Within urban growth areas, only urban development may occur. For the purposes of locating urban growth areas, and permitting new development within them, "Urban" is defined as:</p> <p>a. having dedicated and improved (surfaced) streets, with dimension, design and construction standards for new development</p>	<p>Urban growth areas may include territory located outside of a city only if ,such territory may be already is characterized by urban growth or is adjacent to territory already characterized by urban growth. Within urban growth areas, only urban development may occur. For the purposes of locating urban growth areas, and permitting new development within them, "Urban" is defined as:</p> <p>a. having dedicated and improved (surfaced) streets, with dimension, design and</p>

Number	Commenter	Existing Policies	Proposed Amendment/Comment
		<p>determined by "joint city/county standards" and;</p> <p>b. For new development, road, street and intersection right-of way widths located and sized to accommodate projected local and regional average daily traffic (ADT) as determined by the Land Use Plans Transportation Elements and, where relevant, projections of the BFRC Regional System and;</p> <p>c. having either public sewer or water service, with additional service requirements (e.g. standards of Policy #19), for new development consistent with "joint/city county standards."</p>	<p>construction standards for new development determined by "joint city/county standards" and;</p> <p>b. For new development, road, street and intersection right-of way widths located and sized to accommodate projected local and regional average daily traffic (ADT) as determined by the Land Use Plans Transportation Elements and, where relevant, projections of the BFRC Regional System <u>Benton Franklin Council of Governments</u> and;</p> <p>c. having either public sewer or water service, with additional service requirements (e.g. standards of Policy #19), for new development consistent with "joint/city county standards."</p>
<u>Policy 17:</u>		<p>To encourage logical expansions of corporate boundaries into urban growth areas, and to enable the most cost efficient expenditure of public funds for the provision of urban services into newly annexed areas; the County and each city shall jointly develop and implement development, land division and building standards, and coordinated permit procedures for the review and permitting of new subdivisions within Urban Growth Areas.</p> <p>a. The joint standards developed, but never adopted, by the County and the cities of Richland and Kennewick in 1985 shall be used as the basis for the new standards.</p>	<p>To encourage logical expansions of corporate boundaries into urban growth areas, and to enable the most cost efficient expenditure of public funds for the provision of urban services into newly annexed areas; the County and each city shall jointly develop and implement development, land division and building standards, and coordinated permit procedures for the review and permitting of new subdivisions within Urban Growth Areas.</p> <p>a. <u>The joint standards developed shall be adopted by all jurisdictions. Standards may vary between the County and various incorporated jurisdictions.</u></p>

Number	Commenter	Existing Policies	Proposed Amendment/Comment
		<p>b. Standards for the following shall be developed and adopted:</p> <ol style="list-style-type: none"> 1. Street Locations, both major and secondary; 2. Street R.O.W. widths; 3. Street widths; 4. Curbs and gutters; 5. Sidewalks for secondary streets only; 6. Road construction standards ; 7. Cul De Sacs, location and dimensions; 8. Storm Drainage facilities, quantity, quality and discharge locations; 9. Street lights, conduit, fixtures, locations; 10. Sewer, septic regulations, private sewer, dry sewer facilities; 11. Water, pipe sizes, locations, construction standards; 12. Fire protection, station locations, fire flows, uniform codes; 13. All building requirements; 14. Subdivision and platting requirements (in accord with chapter RCW 58.17) including parks and open space; 15. Mobile home and manufactured home regulations; 16. Zoning Ordinances: permitted uses in Urban Growth Areas, setbacks; building heights, lot coverage etc. 	<p>a. The joint standards developed, but never adopted, by the County and the cities of Richland and Kennewick in 1985 shall be used as the basis for the new standards.</p> <p>b. Standards for the following shall be developed and adopted:</p> <ol style="list-style-type: none"> 1. Street Locations, both major and secondary; 2. Street R.O.W. widths; 3. Street widths; 4. Curbs and gutters; 5. Sidewalks for secondary streets only; 6. Road construction standards ; 7. Cul De Sacs, location and dimensions; 8. Storm Drainage facilities, quantity, quality and discharge locations; 9. Street lights, conduit, fixtures, locations; 10. Sewer, septic regulations, private sewer, dry sewer facilities; 11. Water, pipe sizes, locations, construction standards; 12. Fire protection, station locations, fire flows, uniform codes; 13. All building requirements; 14. Subdivision and platting requirements (in accord with chapter RCW 58.17) including parks and open space; 15. Mobile home and manufactured home regulations;

Number	Commenter	Existing Policies	Proposed Amendment/Comment
		c. As either an alternative, or adjunct to a) above, a city and the County may choose to enter into an interlocal agreement whereby the application of development standards, and the authorities and functions of permit review, inspection and enforcement are assigned.	<p>16. Zoning Ordinances: permitted uses in Urban Growth Areas, setbacks, building heights, lot coverage etc.</p> <p>c. As either an alternative, or adjunct to a) above, a city and the County may choose to enter into an interlocal agreement whereby the application of development standards, and the authorities and functions of permit review, inspection and enforcement are assigned.</p>
<u>Policy 18:</u>		Consistent with the protection of public health, safety, and welfare, and the use of natural resources on a long-term sustainable basis, the ability of service capacity to accommodate demands, and the expressed desires of each community, Comprehensive Plans shall jointly and individually support the county and region's economic prosperity in order to promote employment and economic opportunity for all citizens.	No Changes.
<u>Policy 19</u>			<p><u>The County and Cities have historically partnered with each other as well as with other organizations to achieve economic development throughout the region. It is the intention of the County and Cities to continue to actively pursue mutually beneficial partnerships that promote growth in all sectors of business and industry, including but not limited to: areas of agriculture, agri-business, industrial, commercial, public schools, recreation and tourism. Key strategies will include promoting family wage jobs, increasing income and reducing poverty, increase</u></p>

Number	Commenter	Existing Policies	Proposed Amendment/Comment
			<p><u>business formation, expansion and retention, and creating jobs and financial investment to improve the economics of our communities.</u></p> <p><u>a. An economic development element should be integrated into the comprehensive plan of each jurisdiction. The economic development element should establish goals and policies for each jurisdiction; actively promote employment opportunities for family-wage jobs; support the retention and expansion of businesses and industry in Benton County; support development of public schools; encourage the development of tourist-related businesses, including those that capitalize on area agricultural and other resources.</u></p> <p><u>b. Comprehensive Plans should foster and promote a natural environment that will contribute to economic growth and prosperity, and a business environment that offers diverse economic opportunities for businesses of all types and sizes in the region.</u></p> <p><u>c. The County and Cities should encourage public and private agency cooperation and participation in the comprehensive planning process. These agencies should cooperatively evaluate trends and opportunities to identify strategies meeting long-term economic needs for the County region.</u></p> <p><u>d. The County and Cities agree that Benton County may establish economic development</u></p>

Number	Commenter	Existing Policies	Proposed Amendment/Comment
			<p><u>strategies and implementation criteria for siting major industrial and resource based development within rural areas of the County in accordance with RCW 36.70A.365.</u></p> <p><u>e. The provision of utilities and other supporting urban governmental services to commercial and industrial areas should be coordinated and assigned a high priority by utility purveyors and service providers.</u></p> <p><u>f. A Countywide land use inventory should be established to monitor commercial and industrial land supply.</u></p> <p><u>g. Support the development of public schools in areas where present or can be extended, is financially supportable at urban densities, where the extension of public infrastructure will protect health and safety, as per WAC 365-195-425(3)(b).</u></p>
<u>Policy 20:</u>		<p>Where Capital Improvement Plans and Land Use Plans, involve land areas within, or tributary to land within the urban growth areas, the County and Cities, individually and jointly, shall routinely conduct fiscal analyses which identify and refine the most cost effective provision of regional and local public services and infrastructure over the long term. This should be accomplished through actions including the following:</p> <p>a. City's six year C.I.P.s for streets, water, and sewer should show infrastructure sized to</p>	<p>Where Capital Improvement Plans and Land Use Plans involve land areas within, or tributary to land within the urban growth areas, the County and Cities, individually and jointly shall routinely conduct fiscal analyses which identify and refine the most cost effective provision-use of regional and local public services and infrastructure over the long term. This should be accomplished through actions including the following:</p> <p>a. City's six year C.I.P.s for streets, water, and sewer should show infrastructure sized to</p>

Number	Commenter	Existing Policies	Proposed Amendment/Comment
		<p>accommodate build-out of service areas within the 20 year urban growth area, at a minimum.</p> <p>b. Construction design and placement standards for roads, intersections and streets (with provisions for storm water conveyance), and sewer, water and lighting infrastructure, should be determined based upon an analysis which identifies the lowest public expenditure over extended periods of time. Utilities should be incorporated into such analyses.</p> <p>c. Build out scenarios should be factored into school, fire and police service demand projections.</p>	<p>accommodate build-out of service areas within the 20 year urban growth area, at a minimum.</p> <p>b. Construction design and placement standards for roads, intersections and streets (with provisions for storm water conveyance), and sewer, water and lighting infrastructure, should be determined based upon an analysis which identifies the lowest public expenditure over extended periods of time. Utilities should be incorporated into such analyses.</p> <p>c. Build out scenarios should be factored into school, fire and police service demand projections.</p>
Policy 21			<p>Support the development of public schools in areas where utilities are present or can be extended, is financially supportable at urban densities, where the extension of public infrastructure will protect health and safety, and the school locations are consistent with the analysis recommended by WAC 365-196-425(3)(b)</p>
Policy 22.			<p>The Growth Management Act requires counties planning under the Act to adopt a countywide planning policy in cooperation with the cities located in the county. The countywide planning policy is to be a written policy statement or statements used solely for establishing a countywide framework from which county and city comprehensive plans are developed and adopted pursuant to this [GMA] chapter.” The purpose for the Benton County Wide Planning</p>

Number	Commenter	Existing Policies	Proposed Amendment/Comment
			<p><u>Policies is to meet this requirement of the Act. This document is a tool that will provide the necessary guidance to achieve consistency during the updating of comprehensive plans for the county and the cities/towns.</u></p> <p><u>The County Commissioners will review the policies and cause a final proposal to be transmitted to the cities for ratification and ultimately back to the Board of Commissioners for final action. The County Wide Planning Policies will be considered adopted when ratified by the cities and approved by the Board of Commissioners. Cities agree to take action within 45 days of the transmittal of the proposal and to submit resolutions of ratification to the county to document the action taken by the city.</u></p> <p><u>The Board of Commissioners agrees to adopt the ratified policies without modification upon receipt of notice that at least three cities have acted affirmatively. The Commissioners will convene to consider possible modifications to these policies if ratification is not accomplished.</u></p> <p><u>Future amendments to the County Wide Planning Policies may be considered when proposed by the County or a City.</u></p>
<u>AttachmentA</u>		LOCATE URBAN GROWTH AREAS	
1.		Review and comment on preliminary OFM population projections due in Dec. 91.	Review and comment on preliminary OFM population projections -due in Dec. 91- .

Number	Commenter	Existing Policies	Proposed Amendment/Comment
2.		Legislative bodies of each jurisdiction to review OFM population projections.	No changes
3.		Update the existing land use inventory to reflect current conditions (use county GIS when available in 3-92, to provide county-wide land use inventory)	Update the existing land use inventory to reflect current conditions (use county GIS— when available in 3-92, to provide county-wide land use inventory)
4.		GMC derives formula for allocation of OFM population projections -sends formula to individual jurisdictions via the BCPPC. -BCPPC sends to indiv. jurisdictions legislative bodies for review -BOCC takes action on pop. allocation	No Changes.
		Land Use Element Map	No Changes.
1.		Identify accepted uniform planning criteria used for locating Urban Growth Areas: -natural physical barriers and roads -existing service capacity (supply/deficit) -projected service capacity (new supply) -planning objectives (GMA req.) and;	No Changes.
2.		Uniform criteria for insuring adequate land supply within Urban Growth Areas: -enable growth without creating excess demand for services, congestion etc., -discourage sprawl without grossly inflating land costs;	No Changes.
3.		Identify uniform, established candidates for the supply of developable land within the Urban Growth areas: -vacant, under utilized, partially utilized	No Changes.

Number	Commenter	Existing Policies	Proposed Amendment/Comment
4.		Identify uniform, established candidates for lands to be excluded from development, such as lands: -needed for R.O.W. -hazardous, critical, open space etc., -too costly to provide services -to be zoned agricultural with Transfers of Density Rights (TDRs)	No Changes.
5.		Map existing public, private and semi-public service district boundaries and;	No Changes.
6.		Inventory all existing capital facilities for public, private and semi-public service providers, <u>and transportation network</u> , identify existing capacity: Water sewer Fire police Schools ports Parks libraries Hospital communications	No Changes.
7.		Confer with BFRC to establish current level transportation data re: inventory -each jurisdiction to build on BFRC transportation data; define local street conditions, capacities, programmed and needed improvements.	No Changes.
8.		Inventory housing stock - identify existing supply/demand ratio by housing.	No Changes.

Number	Commenter	Existing Policies	Proposed Amendment/Comment
9.		<p>Using Population Projections per jurisdiction, accomplish the following:</p> <ul style="list-style-type: none"> -project <u>new</u> housing mix/type and occupancy rates; -identify projected gross <u>new</u> demands for services identified in item #5, above; - equate existing services infrastructure capabilities and C.I. P.s with gross <u>new</u> demands; -identify new C.I.s, (supplies of water, sewer, school, rec. fac. etc.)necessary to meet gross <u>new</u> demands; -survey options to meet gross <u>new</u> service with cost effectiveness on essential services (i.e., water and sewer, road maintenance as a priority) and; type, identify present need (use Census); -with the cost effectiveness of meeting other services demands as a consideration. 	<p>Using Population Projections per jurisdiction, accomplish the following:</p> <ul style="list-style-type: none"> -projectnewhousing mix/type and occupancy rates; -identify projected gross new demands for services identified in item #5, above; - equate existing services infrastructure capabilities and C.I. P.s with gross new demands; -identifynewC.I.s, (supplies of water, sewer, school, rec. fac. etc.)necessary to meet gross new demands; -survey options to meet gross new service with cost effectiveness on essential services (i.e., water and sewer, road maintenance as a priority) and; type, identify present need (use Census); -with the cost effectiveness of meeting other services demands as a consideration.
10.		Contact each utility purveyor. Solicit participation on LUE advisory committees on relevant issues.	No Changes.
11.		Inventory facilities/capacities of existing utility services, identify current plans for new facilities and capacities including but not limited to electric, telecommunications, natural gas. Rely on BFRC data.	No Changes.
12.	SD	lands such as: utility and transportation corridors, land fills, sewage treatment facilities, recreation, schools etc.,	No Changes.

Number	Commenter	Existing Policies	Proposed Amendment/Comment
		<ul style="list-style-type: none"> -integrate existing information from comp. plans, needs assessments, pop. projections, into one joint list of needed public lands; -county must work with state and cities to identify areas of shared need and shall prepare a prioritized list with estimated acquisition dates; -capital acquisition budget for each jurisdiction with jointly agreed upon priorities and schedule. * 	
13.		<p>Identify Open Space Corridors within and between Urban Growth Areas, including:</p> <ul style="list-style-type: none"> -lands used or designated as recreational, wildlife habitat, trails, and "critical areas" as defined in sec .3 -optional: develop a mechanism to purchase fee simple or lesser interests in these open spaces using funds authorized by RCW 84.34.230 * -develop an acquisitions list for those lands with critical resources imposing extreme constraints on development * 	No Changes.
14.		<p>Draft a procedure, including siting criteria, for locating/approving essential public facilities.</p> <p>-review list of essential facilities provided by OFM with the objective to identify those suitable for location in urban vs rural areas.</p>	No Changes.

Number	Commenter	Existing Policies	Proposed Amendment/Comment
15.		Consistent with the revised Policies in the Comp. Plan Texts, integrate population projections, land use and capital facilities inventory data, lands necessary for new capital facilities, and total land requirements to support population projections (including sec. 15 lands, lands for essential facilities RESHB sec 1), densities, open space and critical/natural areas (set asides) into <u>new 20 year Urban Growth Areas.</u>	Consistent with the revised Policies in the Comp. Plan Texts, integrate population projections, land use and capital facilities inventory data, lands necessary for new capital facilities, and total land requirements to support population projections (including sec. 15 lands, lands for essential facilities RESHB sec 1), densities, open space and critical/natural areas (set asides) into new 20 year Urban Growth Areas.
16.		Review of Urban Growth Areas by each jurisdiction's legislative body.	No Changes.
17.		BOCC adopts Urban Growth Areas, then;	
		PREPARE DRAFT LAND USE MAP	
1.	SD	<p>Prepare Draft Land Use Map with general distribution, location and extent of land uses, and:</p> <ul style="list-style-type: none"> -Urban Growth Areas and Rural Lands; -Open Space; -Public Facilities and lands; -population densities; -building intensities; -est. future pop. densities (multiply av. bldg. densities X pers/household re: page 57 of 1985 Comp. Plan.(update with 1990 census) <p>* not necessary for locating urban growth boundaries</p>	

Number	Commenter	Existing Policies	Proposed Amendment/Comment
Policy			
Policy			Support the development of public schools in areas where present or can be extended, is financially supportable at urban densities, where the extension of public infrastructure will protect health and safety, as per WAC 365-195-425(3)(b)

Urban sprawl and the cost of public services

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Abstract. One of the principle criticisms of urban sprawl is that it undermines the cost-effective provision of public services. In this paper the authors examine whether or not this is true through an exploratory analysis of the influence that alternative development patterns have on twelve measures of public expenditure: total direct, capital facilities, roadways, other transportation, sewerage, trash collection, housing and community development, police protection, fire protection, parks, education, and libraries. The objectives of the analysis are threefold. First, the authors, through a background discussion, provide a brief overview of previous research on the relationship between urban development patterns and the cost of public services. Second, through empirical analysis, they examine how the character of urban development affects per capita public outlays in a cross-section of 283 metropolitan counties during the 1982–92 time period. A separate equation is estimated for each measure of expenditure, providing substantive evidence on how density, the spatial extent of urbanized land area, property value, and political fragmentation affect the cost of services. Finally, the authors use the results of the empirical analysis to develop a set of policy recommendations and directions for future research.

1 Introduction

Over the last several decades there has been a sustained interest in measuring the relative costs of alternative forms of development in US metropolitan areas (Burchell, 1998; Frank, 1989; RERC, 1974). Throughout, a major emphasis has been on the question of whether or not urban sprawl—low-density, discontinuous, suburban-style development, often characterized as the result of rapid, unplanned, and/or uncoordinated growth (Nelson et al, 1995)—undermines the cost-effective provision of urban services. This issue is important because, unlike many other criticisms of sprawl, it provides a practical point of departure for debates over the role that governments should play in regulating the outcome of urban growth. In particular, the high service costs allegedly incurred through far-flung development patterns serve as a key source of leverage for urban planners and others advocating the use of growth management and ‘smart growth’ programs to promote more compact urban areas (for example, see Ewing, 1997). But despite claims that land-use regulation is necessary to maintain efficient service provision, the supporting evidence remains thin and inconclusive. How does the character of urban development affect the cost of services, and what does this imply for land-use planning and growth management efforts administered in the name of economic efficiency?

In this paper we respond to these questions with an exploratory analysis of the influence that alternative development patterns have on twelve measures of public expenditure: total direct, capital facilities, roadways, other transportation, sewerage, trash collection, housing and community development, police protection, fire protection, parks, education, and libraries. Our objectives are threefold. First, we provide a

brief overview of previous research on the relationship between urban form and the cost of public services. Second, we examine how the character of urban development affects per capita public outlays in a cross-section of 283 metropolitan counties during the 1982–92 time period. A separate equation is estimated for each measure of expenditure, providing substantive evidence on how density, the spatial extent of urbanized land area, property value, and political fragmentation affect the cost of services. Third, we use the results of the empirical analysis to develop a set of policy recommendations and directions for future research. We suggest that growth management programs may be justified from the standpoint of public finance and that development impact fees have significant potential for mitigating the fiscal effects of urban sprawl. Future research should focus on evaluating the cost of services by means of alternative measures of urban form, on determining whether or not the quality of service provision is affected by the physical character of development, and on evaluating the relative costs and benefits of political fragmentation, after taking into account its influence on urban sprawl.

The paper is organized into four sections. In section 2 we review previous research on the relationship between urban development and the cost of services in US metropolitan areas. In the section 3 we present the empirical analysis, including the research hypotheses, modeling framework, and estimation results. In section 4 we provide a discussion of the modeling results, focusing on policy recommendations and directions for future research. Finally, in section 5, we conclude the paper with a summary of the research findings.

2 Background

Widespread interest in evaluating the causes and consequences of alternative development patterns emerged in the 1960s, just following the first major postwar boom of suburban development in the United States. At the time, urban sprawl was a relatively new phenomenon, so much of the early research focused on defining its key characteristics and its relationship to newly evolving land markets (Bahl, 1968; Clawson, 1962). Although generally inconclusive about the costs and benefits of sprawl, these and other studies collectively characterized it as being composed of low-density, scattered, strip, and leapfrog development patterns and as being eminently associated with land speculation, suburbanization, and political fragmentation (Burchell, 1998; Downs, 1999). Since its initial rise, sprawl has come to represent the dominant mode of growth in most US metropolitan areas and, as a result, it continues to generate extensive debate over its desirability as a pattern of land use. On the one hand, proponents defend urban sprawl as a fulfillment of consumer preferences whereas, on the other hand, detractors fault it for contributing to numerous social and economic problems (Ewing, 1997; Gordon and Richardson, 1997).

Despite its intensity, this debate has been hampered by a failure on both sides to distinguish sprawl from general suburbanization and by a lack of criteria for establishing what constitutes an ideal urban form in the first place. Suburbanization often occurs at high densities—as the experiences of Las Vegas, Los Angeles, Phoenix, and many other western cities have shown—even though it is still considered sprawl. Meanwhile, in other instances, low-density suburbanization has produced many communities that present none of the problems, such as environmental degradation, socioeconomic segregation, and traffic congestion, that sprawl is commonly faulted for. Because of this dichotomy, density emerges as only part of the picture and can sometimes provide a misleading image of urban form. Placed in a broader context, the problem of sprawl in Los Angeles, for example, may stem more from the city's tremendous land area and extreme separation of land uses than density alone (Burchell et al, 1998). Even so,

density remains the most common measure used to describe urban form because of its intuitive appeal and the difficulty of obtaining data on alternative measures.

On a more pragmatic level, there remains the question of what constitutes an ideal urban form. Planning is a normative profession, responsible for shaping cities into what they 'ought' to be, but there are very few rigorous criteria for justifying one outcome over another (Talen and Ellis, 2002). But urban form matters in meaningful ways to people who live, work, and/or otherwise spend time in cities, so policies that aim to shape it should be guided by well-founded theory and have a clear set of objectives (Carruthers, 2002a). The physical outcome of urban development directly affects the livability, property values, transportation alternatives, and many other aspects of the urban environment and therefore is central to the planning process. This is expressed in one of the fundamental theories of urban form (Lynch, 1981), which suggests that cities may be evaluated on the basis of five dimensions (vitality, sense, fit, assess, and control) and two metacriteria (efficiency and justice). Together, these social use values describe how well a city serves the needs of its populace and promotes its quality of life. Ultimately, they suggest that an ideal urban form is one that is dynamic and responsive to the needs of its residents—in short, one that produces net benefits for the public at large and that may continually be adapted to minimize negative externalities.

Among the most tangible points of departure for evaluating urban form is urban planners' well-known contention that sprawl undermines the cost-effective provision of public services (Altshuler and Gómez-Ibáñez, 1993; Kaiser et al, 1995). In particular, it is argued that, for many services, the cost *per unit* of development rises as densities decrease (Kelly, 1993; Knaap and Nelson, 1992; Nelson et al, 1995; Porter, 1997). That is, low-density, spatially expansive development patterns lead to greater costs because of the large investments required to extend roadways and other types of infrastructure that transmit water, sewage, electricity, and other services long distances to reach relatively fewer numbers of people (Carruthers, 2002a). Urban sprawl may also undermine economies of scale for other services, including police protection and public education, by lowering the density of individual consumers. That public goods and services are priced according to their average as opposed to their marginal cost adds to the problem, as land developers have little motivation to help maintain a cost-effective urban form. The location of new development continues to be determined by land speculation and potential for profit instead of its impact on aggregate public welfare. As an outcome, growth commonly enjoys significant subsidies, as the costs it imposes end up being financed through collective property tax revenues (Bruekner, 2000; Lee, 1981).

The logic behind this reasoning is straightforward but the supporting evidence remains thin, and little is known about the actual relationship between urban form and the cost of services—if any exists at all. As a practical matter, site planners and engineers have investigated how alternative development patterns affect the cost of delivering physical infrastructure, including roads, schools, sewers, and other public facilities. Although many of these studies find that low-density developments are more expensive to support, they have produced few generalizable conclusions because of their site-specific focus and an overall lack of standardized measures of expenditure (for a thorough review, see Frank, 1989; for a recent analysis of this type, see Speir and Stephenson, 2002). The most well known of these was undertaken by the Real Estate Research Corporation (RERC, 1974), publishing its findings under the title *The Costs of Sprawl*. RERC attempted to use an 'internally consistent' set of estimates for the direct costs of alternative development patterns to illustrate that urban sprawl was approximately twice as expensive to serve as 'high-density planned' development patterns. But despite its extensive impact, the RERC study has also received significant criticism over the years for its methodology and failure to control for the influence of factors other

than density that affect the cost of service provision (Altshuler and Gómez-Ibáñez, 1993; Ladd, 1998).

More recently, a series of regression-based analyses conducted by Ladd and Yinger (1991) and Ladd (1992; 1994) suggests that greater densities are associated with higher, not lower, public service expenditures. Drawing on cross-sectional data and controlling for other determinants of spending, Ladd and Yinger found that the cost of services rises with density, contradicting the findings of earlier site-based analyses. Specifically, using a 'piecewise' regression procedure, Ladd (1992) illustrated that the relationship may be U-shaped, first declining as density increases but then increasing sharply, leading to average costs that exceed the minimum by as much as 43% in very dense counties. The implication is that urban services are subject to economies and diseconomies of scale—a finding that is explained in terms of the 'harshness' of high-density areas or, in other words, the increased traffic congestion, crime rates, and other conditions associated with urban environments (Ladd, 1998). If this is the case, urban sprawl may not be as costly as planners claim, undermining the rationale for policies aimed at shaping compact development patterns.

Despite the high quality and methodological rigor of these analyses, other evidence suggests that further research drawing on cross-sectional data is needed before the relationship between urban form and service expenditures is fully understood. For example, in an analysis of the 159 counties forming the 25 largest metropolitan areas in the United States, Pendall (1999) finds that public indebtedness is associated with urban sprawl. Although the direction of causation examined is the opposite of that examined here, the implication is that low-density development patterns require greater public expenditures to support them than do high-density development patterns. Moreover, in a cross-section of 283 metropolitan counties we have found that density has a negative influence on the cost of infrastructure, including roadways and sewers (Carruthers, 2000b; Carruthers and Ulfarsson, 2002). Unlike Ladd's (1992; 1994) expenditure model, in which indicator variables were used to partition the dataset categorically by density, we assumed a linear overall relationship and focused specifically on the interconnected influences of several characteristics of urban development. The results suggest that per capita spending on infrastructure declines at greater densities but increases with the spatial extent of urbanized land area and property values. It may therefore be the 'spread' of a metropolitan area and that relative strength of its property tax base, rather than its 'bulk', that leads to greater per capita service expenditure.

Finally, in addition to these and other characteristics of the built environment, urban sprawl has also been described in terms of the political structure of metropolitan regions (Burchell, 1998; Downs, 1994; 1999). In particular, new local governments and special districts are often formed in order to increase and/or maintain the quality of service provision in newly urbanizing areas (Foster, 1997; Lewis, 1996). This process is fundamental to the perpetuation of sprawl because new incorporations and service districts literally enable suburban development to proceed at the urban fringe (Carruthers, 2003; Carruthers and Ulfarsson, 2002). In turn, the 'fiscal zoning' and growth-control strategies often employed in these communities work to lower densities, virtually ensuring that metropolitan areas become more spread out over time. Even so, the thinking among many suburban residents is that the formation of small general and special purpose governments helps to secure the highest possible quality of public services for the lowest possible price. In this way, the process of political fragmentation compounds questions regarding the relationship between the character of urban development and service expenditures by simultaneously promoting the physical dimensions of urban sprawl and seeking to achieve greater cost-effectiveness in service delivery (Fischel, 1985).

In theoretical terms, the role that fragmentation plays in reducing the cost of public services may be understood through the Tiebout model of metropolitan governance. Specifically, the model suggests that, assuming a mobile population capable of 'voting with their feet', highly fragmented metropolitan areas should exhibit relatively lower per capita service expenditures as communities minimize their operating costs in order to attract and retain residents (Tiebout, 1956). This expectation has generally been reinforced by empirical research finding that the greater the number of jurisdictions, the lower their overall expenditure, but little is known about how spending on different *types* of services is affected (Dowding et al, 1994). The question is an important one because it has direct implications for the role of planning and growth management in many metropolitan regions, especially if the physical characteristics of development also make a difference.

In sum, the relationship between urban form and public service expenditure remains ambiguous and controversial. Early research developed a strong foundation for characterizing sprawl but remains inconclusive about the desirability of sprawl as a form of land use. Meanwhile, normative theory suggests that an ideal urban form is one that maximizes social use value by creating net benefits to the public at large and that may be adapted to minimize negative externalities. Within this context, public service expenditures represent a tangible point of departure for evaluating the impact of urban sprawl on aggregate public welfare. Site-based analyses have attempted to address the issue from a practical standpoint, estimating the infrastructure costs associated with alternative development patterns, but these have provided only limited insight because of their overemphasis on density as singular determinant of public spending. Regression-based analyses have produced conflicting evidence, partly because of methodological differences but also because of differences in the way the character of urban development is measured (an issue discussed in section 3.1). Adding to the complexity, the political structure of fragmented metropolitan regions may also affect service provision by promoting greater cost-effectiveness, even as it works to create low-density development patterns. Meanwhile, the alleged costs of sprawl continue to serve as leverage for growth management and 'smart growth' programs aimed at shaping compact, high-density urban areas in both academic and applied planning forums. Although it is impossible for any single analysis to account for all the relative costs and benefits of alternative development patterns, there is a clear need for more detailed testing of how the various physical and political dimensions of metropolitan areas affect public service expenditure.

3 Empirical analysis

In this section we present an empirical analysis of the relationship between alternative development patterns and expenditure on public services in a cross-section of 283 metropolitan counties, observed over the 1982–92 decade. The process is divided into three steps. In the first we provide a framework for measuring the physical and political characteristics of urban development (section 3.1). In the second we describe the data and specify the empirical model (section 3.2). In the third we deliver the estimation results for twelve different forms of expenditure: total direct, capital facilities, roadways, other transportation, sewerage, trash collection, housing and community development, police protection, fire protection, parks, education, and libraries (section 3.3).

3.1 Measuring the characteristics of urban development

Two key factors have detracted from analysts' ability to estimate accurately the costs of alternative development patterns in the past: the interconnected influences of different physical characteristics of urban development, and the difficulty of obtaining appropriate measurements. First, most research has been narrowly focused on the question

of how density, as a singular measure of urban development, influences public service expenditure. This approach is problematic because although density may help to create economies of scale for certain urban services it does not unilaterally describe the character of urban areas. For example, many services are also subject to economies of geographic scope, which depend on the spatial extent of the area they provide for—especially where facilities are immobile and the cost of service delivery varies from location to location (Knaap and Nelson, 1992). Moreover, measurement of the influence of density in isolation may yield misleading results because dense urban areas also have high land values and therefore generate greater property taxes (Ewing, 1997). In this way, density may ‘pay for itself’, obscuring the actual costs that it generates. Where this is the case, density is likely to be positively correlated with the cost of service delivery, because of the greater spending through property tax revenues, not because of the physical form of the development itself.

Second, because of data limitations, analysts have until recently been limited to measuring the density of specific sites or, in the case of cross-sectional analyses, to using county land area as the spatial unit. As mentioned in section 2, the site-based approach has limitations because its findings do not necessarily apply beyond a localized area. The use of counties as the spatial unit of analysis is even more problematic because their large size obscures actual urban density. Counties are also ineffective spatial units for measuring changes in density through time—because the spatial unit remains fixed, any amount of population growth, by definition, leads to greater density. When measured this way, changes in county density over time more accurately represent changes in population than in the character of development occurring within.

In this analysis we address these two shortcomings by accounting simultaneously for the influence of density, the spatial extent of urbanized land area, and property value. Measurement of these dimensions is made possible by the National Resources Inventory (NRI), of the US Department of Agriculture (USDA), which records the number of acres of urbanized land and other major land-use categories at the county level every five years (USDA, 2002). Using these data: density is measured as the number of jobs and people per acre of urbanized land; the spatial extent of urbanized land area in a county is given by the total number of developed acres; and property value is expressed as the total locally assessed property value per acre of urbanized land. Employment plus population is used to calculate density, because the amount of developed land depends both on residential land use and on nonresidential land use. Also, in the case of property value, it is assumed that assessed land value corresponds primarily to urban development because the analysis focuses on metropolitan counties and it is impossible to separate the data according to land use. Together, the three measures provide a more realistic profile of the character of urban development within a county than is possible when the land area of the county itself is used. The approach has the added benefit of allowing the spatial unit to vary over time.

In addition to physical characteristics, in our empirical analysis we control for the effects of political fragmentation. Urban service expenditure is closely linked to the underlying political landscape—especially where land-use authority is distributed among numerous jurisdictions. In order to capture this effect, political structure is measured in terms of per capita municipalities and per capita special districts, with higher values corresponding to greater fragmentation. For example, a perfectly fragmented metropolitan area, with each person being his or her own mayor, would have a measure of 1 on an index of per capita municipalities. Note that measurement of political fragmentation in this way ‘double counts’ people, because total population is the denominator both in per capita municipalities and per capita special districts. This is appropriate because it is hypothesized that the ratio of *each* type of government to

the total population affects public service expenditure. In addition to these measures, because we make use of county-level data (described in section 3.2), an indicator variable is used to distinguish between central city and suburban counties; the two types of counties often have very different socioeconomic characteristics, so it is reasonable to expect that their spending patterns may vary systematically.

Finally, it is important to note the limitations and strengths of the analytical framework just described. At issue here is the scale at which the analysis is conducted. On the one hand, these measures—density, the spatial extent, or spread, of urbanized land, property value, and political fragmentation—are limited in the sense that they cannot capture the place-to-place variation in urban form that occurs within large metropolitan areas. It is quite possible, for example, to have ‘traditional’ urban neighborhoods imbedded in an overall pattern of urban sprawl. At a finer scale, urban form may be described in terms of centralization, concentration, connectivity, grain (which describes land-use mix), and numerous other measures that deal more directly with *patterns* of land use and that are capable of drawing out localized variation (Alberti, 1999; Galster et al, 2001). On the other hand, the measures incorporated in this analysis capture a great deal of variation in the *overall* character of metropolitan areas and provide a detailed basis for testing hypotheses regarding how alternative development patterns affect public service expenditures within an interregional framework. Although none of these variables measures sprawl directly, given previous interpretations in the planning literature, lower density, larger urbanized land area, greater fragmentation, and suburban county classification may generally be viewed as lying at that end of the spectrum.

3.2 Empirical model

In order to investigate the relationship between public service expenditures and the physical and political dimensions of sprawl, the variables described in section 3.1 are imbedded within an equation containing additional variables measuring sources of revenue:

$$e = f(\mathbf{B}, \mathbf{P}, \mathbf{R}, \mathbf{u}), \quad (1)$$

where expenditure, e , on a given public service is a function of: the characteristics of the built environment, including density, urbanized land area, and property value (\mathbf{B}); political characteristics, including per capita municipal governments, per capita special districts, and the indicator variable marking counties that contain a central city (\mathbf{P}); revenue, including local tax and intergovernmental sources (\mathbf{R}); and \mathbf{u} , a vector of unobserved effects. The two revenue variables are defined as the *total value* of locally assessed taxes—because communities rely on different combinations of property and sales taxes and tax rates—and state *plus* federal aid, respectively. These variables were originally tested in disaggregated form, including separate variables for property tax, state aid, and federal aid, but the detail added little to the results of the analysis: property tax alone was not an adequate explanatory variable, and state and federal aid were often collinear with one another.

In table 1 (see over) we provide a definition of each independent variable and summarize the effects that each is expected to have on the dependent variables. One variable that is conspicuously absent from the list is income, which plays a major role in shaping residents’ preferences for public services (Ladd, 1992; 1994). Income was tested in the model but competed with property value because of multicollinearity between the two variables—when income was added, property value would become insignificant and/or reverse its sign, and the density variable was also negatively affected. For this reason, income was discarded as an explanatory variable.

Table 1. Expected influence of the independent variables on public expenditure.

Variable	Expected effect	Variable definition
Built environment		
density	–	Average number of people plus jobs per acre of urbanized land
urbanized land	+	Total number of acres of urbanized land
property value	+	Average locally assessed property value per acre of urbanized land (US\$1000 per acre)
Political characteristics		
per capita municipal governments (thousands)	–	Number of municipal governments headquartered in county, divided by population
per capita special districts (thousands)	–	Number of special districts headquartered in county, divided by population
central city indicator	+	1 if the county contains a central city; 0 if not
Revenue		
per capita local tax revenue	+	Total value of locally assessed tax dollars within county, per person
per capita intergovernmental revenue	+	Total value of state plus federal aid (US\$) received by general purpose governments within county, per person

The functional relationship identified in equation (1) is specified as an econometric model with variables collected for 283 counties located in fourteen states at three points in time: 1982, 1987, and 1992. The dataset includes all metropolitan counties in Arizona, California, Colorado, Florida, Georgia, Idaho, Nevada, New Mexico, North Carolina, Oregon, Tennessee, Texas, Utah, and Washington (1998 Census definition). These states are similar in the sense that each ranks among the top twenty most rapidly growing states in the country, but they also capture significant geographic diversity. The widespread growth in the states makes them especially good locations for examining the relationship between urban development patterns and service expenditure because their cities are evolving rapidly, producing changes that may be traced through the longitudinal structure of the dataset. In figure 1 we show all counties included in the analysis (shaded dark gray), and in table 2 (see over) we list descriptive statistics and data sources for each dependent and independent variable used in the analysis.

Two accommodations are made in order to make the best use of the dataset within an econometric framework. First, because we employ cross-sectional and time-series data the model is specified by using a fixed-effects estimation method, adding constant terms for the years 1987 and 1992, and thirteen of the fourteen states—one from each group (1982 and Texas) is omitted in order to avoid perfect multicollinearity with the overall intercept. This controls for correlation across locations, because observations from all locations at a particular *time* are likely to share unobservable effects, and for correlation through time, because observations from a particular *location* are likely to share unobservable effects. The fixed-effects approach also helps us to minimize any omitted variable bias that may affect the parameter estimates. Ideally, location-specific fixed effects would be added for each county in the dataset, but this would require the addition of too many additional constant terms (282 instead of 13). The state-specific fixed effects represent a good compromise because they capture everything that sets a given state apart from the rest through time. Second, because the data are based on countywide aggregations, and because the counties are of different sizes, it is likely that the observations are heteroscedastic. Within an ordinary least squares (OLS) regression model, heteroscedasticity causes the estimates of the coefficients to become inefficient; although they remain unbiased and consistent, the usual estimate of the variance-covariance matrix becomes

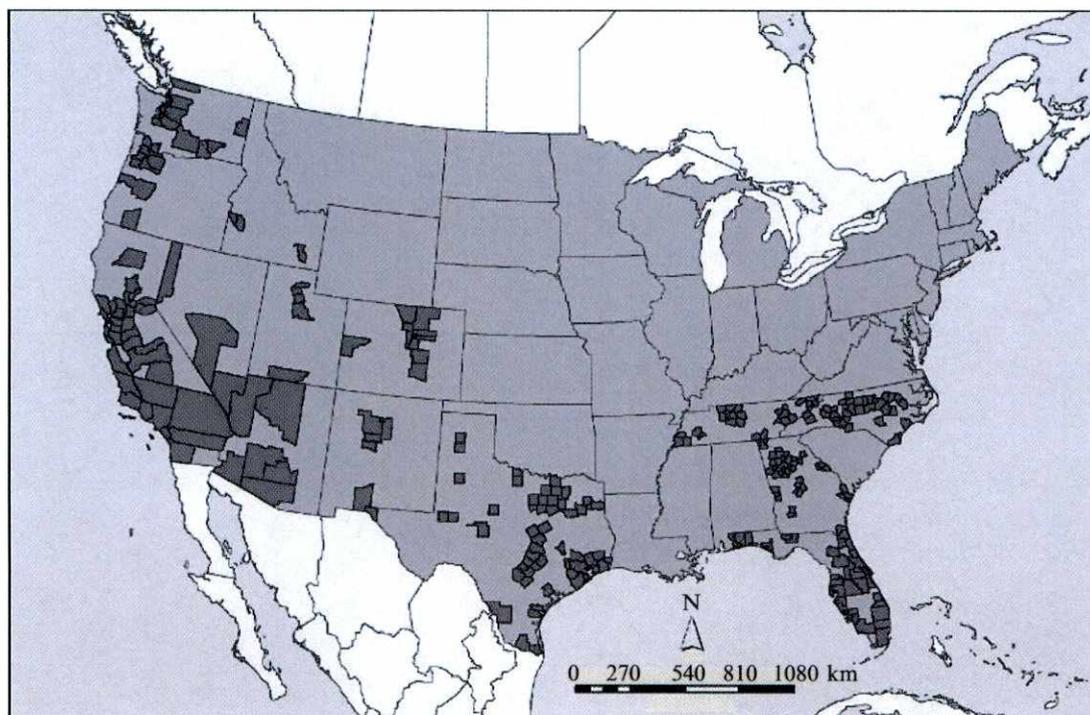


Figure 1. Counties included in the empirical analysis.

biased, thereby making it difficult to make statistical inferences about the coefficients. In order to avoid this problem, the model is estimated using White's heteroscedasticity-consistent estimator for the variance-covariance matrix. For a discussion of fixed effects and White's heteroscedasticity-consistent estimator, see Kennedy (1998).

As little is known about the exact nature (shape) of the relationship between urban development patterns and service expenditure, extensive sensitivity testing was conducted in order to achieve the best possible fit between the dependent and independent variables. As Ladd (1992) found, we also found that neither linear nor log-linear forms are appropriate; instead, a semilog form was adopted by taking the log of the dependent variable only. This allows the function itself to be nonlinear but still to preserve the *linear-in-parameters* assumption necessary to estimate an equation properly by using OLS. Because of the semilog form, the estimated coefficients were interpreted as percentages—that is, a unit change in the independent variable produces a percentage change in the dependent variable (Kennedy, 1998). The result is an econometric specification of equation (1), with the following functional form:

$$\ln e_{it} = \alpha + \lambda_j + \tau_t + \beta x_{it} + \varepsilon_{it}, \quad (2)$$

where i ranges over all counties; t ranges over the three time periods (1982, 1987, and 1992); j ranges over the fourteen states; α represents the overall constant; λ represents the locational fixed effects; τ represents the temporal fixed effects; β represents a vector of estimable coefficients; x represents the vector of independent variables given by equation (1); and ε represents the stochastic error term. As noted above, two of the fixed effects are restricted in each equation ($\tau_{1982} = 0$, and $\lambda_{\text{Texas}} = 0$) in order to avoid perfect multicollinearity with the overall intercept (α).

Table 2. Descriptive statistic and data sources for the dependent and independent variables.

	Mean	Median	Standard deviation	Data sources
Dependent variables				USCG, various years c; REIS, various years
per capita total expenditure (US\$)	1 463.31	1 348.74	984.48	
per capita spending (US\$) on				
capital facilities	188.56	144.56	258.66	
roadways	58.63	56.31	31.90	
other transportation	16.46	3.99	38.53	
sewerage	34.08	24.70	36.70	
trash collection	19.61	16.79	17.12	
housing	22.19	16.60	23.61	
police protection	59.93	55.82	27.65	
fire protection	29.03	26.98	21.12	
parks	26.22	19.62	24.27	
education	547.05	542.40	173.17	
libraries	7.63	6.11	6.51	
Built environment				
density (number of jobs and people per acre)	4.80	3.90	4.41	USDA, 2002; REIS, various years
urbanized land (acres)	68 677.64	45 900.00	96 784.27	USDA, 2002; REIS, various years
property value (US\$ thousands per acre)	67 258.69	42 003.99	96 784.27	USDA, 2002; USCG, various years b
Political characteristics				
per capita municipal governments (thousands), $t - 5$	0.07	0.04	0.09	USCG, various years a; REIS, various years
per capita special districts (thousands), $t - 5$	0.12	0.08	0.13	USCG, various years a; REIS, various years
Revenue				
per capita local tax revenue (US\$)	494.99	454.00	213.01	USCG, various years b; REIS, various years
per capita intergovernmental revenue (US\$)	408.88	376.23	195.21	USCG, various years b; REIS, various years

Note: $t - 5$, previous period.

3.3 Estimation results

By using data from the *Compendium of Governmental Finances* of the US Census of Government (USCG, various years c), we estimated twelve separate models for per capita spending on public services: total direct, capital facilities, roadways, other transportation, sewerage, trash collection, housing and community development, police protection, fire protection, parks, education, and libraries. In table 3 we provide a description of each dependent variable, as defined by the census survey form used to collect the data; the first two variables—per capita total direct expenditure and per capita spending on capital facilities—are aggregate measures, extending over all individual types of services. The results for each model are presented in table 4 (see over), showing the OLS estimates and *t*-statistics for all independent variables. The number of included observations varies slightly across equations because observations where the dependent variable was equal to zero were dropped. Because of the exploratory nature of the analysis, greater emphasis is placed on the hypothesis tests (the *t*-statistics) than the coefficients; although the coefficients are useful for judging the relative magnitude of the influence of a significant variable, they should not be interpreted literally.

The OLS estimates provide strong support for the hypothesis that public service expenditure is closely linked to the physical and political structure of metropolitan areas. First, the parameter estimates for *density* are negative and significant in several of the models, suggesting that it creates economies of scale for: public spending on the whole (total direct expenditure), capital facilities, roadways, police protection, and education. For each of these services, the per capita cost decreases as densities increase,

Table 3. Description of dependent variables (source: USCG, 2000).

Variable	Description
Per capita total direct expenditure	Sum of direct expenditure, including salaries and wages
Per capita spending on capital facilities	Sum of capital outlays, including new construction, the purchase of equipment, and outlays on land and existing structures
Per capita spending on roadways	Expenditure on the construction and maintenance of municipal streets, sidewalks, bridges and toll facilities, and street lighting, on snow removal, and on highway engineering, control, and safety
Per capita spending on other transportation	Expenditure on municipal airports, parking facilities, and sea and inland port facilities and subsidies to private transit facilities
Per capita spending on sewerage	Expenditure for the construction, maintenance, and operation of sanitary and storm sewer systems and sewage disposal plants
Per capita spending on trash collection	Expenditure on street cleaning and the collection and disposal of garbage
Per capita spending on housing and community development	Expenditure on urban renewal, slum clearance, and housing projects
Per capita spending on police protection	Expenditure on municipal police agencies, including coroners, medical examiners, vehicular inspection activities, and traffic control and safety activities
Per capita spending on fire protection	Expenditure incurred for firefighting and fire prevention, including contributions to volunteer fire units
Per capita spending on parks	Expenditure on parks and recreation, including playgrounds, golf courses, swimming pools, museums, marinas, community music, drama, celebrations, zoos, and other cultural activities
Per capita spending on education	Expenditure on local schools
Per capital spending on libraries	Expenditure on municipal and nongovernmental libraries

Table 4. Ordinary least squares estimates for expenditure equations: aggregate expenditure (total direct and on capital facilities) and expenditure on roadway, other transportation, sewerage, trash collection, housing and community development ('housing'), police protection, fire protection, parks and recreation, education and libraries.

	Total direct		Capital facilities		Roadways		Other transportation	
	coefficient	<i>t</i>	coefficient	<i>t</i>	coefficient	<i>t</i>	coefficient	<i>t</i>
Constant	6.07*	82.27	3.69*	27.75	3.29*	32.43	-1.82*	-5.48
Built environment								
density	-0.03*	-2.52	-0.03*	-1.86	-0.06*	-7.09	0.10*	3.41
urbanized land	2.84×10^{-7} *	1.55	6.03×10^{-7} *	1.82	3.12×10^{-7} *	1.30	2.66×10^{-6} *	3.62
property value	8.63×10^{-7} *	1.80	1.23×10^{-6} *	1.61	1.63×10^{-6} *	3.83	-3.80×10^{-6} *	-3.32
Political characteristics								
per capita municipal governments	-0.47*	-3.27	-0.51*	-1.54	0.62*	3.72	-0.90	-0.82
per capita special districts	-0.21	-0.85	-0.43	-1.28	-0.06	-0.31	-0.80*	-1.40
central city indicator	0.12*	4.78	0.09*	1.83	0.03	0.64	0.91*	6.56
Revenue								
per capita local tax revenue	1.27×10^{-3} *	6.90	1.67×10^{-3} *	5.70	1.07×10^{-3} *	4.27	3.97×10^{-3} *	8.48
per capita intergovernment revenue	1.30×10^{-3} *	9.26	1.02×10^{-3} *	5.00	4.58×10^{-4} *	3.40	2.21×10^{-3} *	4.00
Temporal effects								
1987	-0.02	-0.65	0.08*	1.54	0.07*	1.55	-0.11	-0.70
1992	-0.08*	-1.99	0.14*	2.00	-0.04	-0.95	-0.39*	-2.10
Locational effects								
Arizona	-0.04	-0.94	-0.37*	3.62	0.59*	9.02	-1.00*	-2.38
California	-0.21*	-3.36	-0.43*	-3.68	0.13*	1.63	-0.46*	-1.58
Colorado	0.09	1.12	0.27*	2.10	0.48*	5.60	-0.41*	-1.51
Florida	0.10*	2.70	0.27*	3.47	0.23*	4.87	0.75*	4.13
Georgia	0.07*	2.18	0.33*	3.40	-0.02	-0.42	-0.43*	-1.71
Idaho	0.01	0.12	0.29*	1.92	0.38*	4.36	1.54*	5.45
North Carolina	3.87×10^{-3}	0.07	-0.35*	-3.58	-1.09*	-10.31	-0.09	-0.38
New Mexico	0.01	0.08	0.27*	2.05	0.40*	3.27	0.49*	1.51
Nevada	0.10*	1.93	0.56*	2.61	0.64*	5.61	1.48*	2.57
Oregon	-0.01	-0.18	-0.20*	-1.96	0.15*	1.90	-0.36	-0.99
Tennessee	0.42*	7.55	0.09	0.96	0.44*	8.35	0.34	1.08
Utah	0.25*	3.79	0.38*	2.52	0.11*	1.45	0.40	0.88
Washington	0.14	1.27	0.31*	2.94	0.39*	4.33	1.33*	3.98
Number of observations		849		849		849		684
Adjusted R^2		0.62		0.40		0.61		0.42

Table 4 (continued).

	Sewerage		Trash collection		'Housing'		Police protection	
	coefficient	<i>t</i>	coefficient	<i>t</i>	coefficient	<i>t</i>	coefficient	<i>t</i>
Constant	1.76*	9.40	1.28*	7.07	1.31*	5.16	2.93*	35.11
Built environment								
density	0.03	1.12	-0.02	-0.71	0.01	0.31	-0.02*	-1.87
urbanized land	5.42×10^{-7}	1.08	7.30×10^{-7} *	1.89	6.86×10^{-7} *	1.88	3.20×10^{-7} *	2.25
property value	-1.46×10^{-6} *	-1.34	2.65×10^{-7}	0.24	5.98×10^{-7}	0.64	6.32×10^{-7} *	1.37
Political characteristics								
per capita municipal governments	-1.82*	-3.11	0.21	0.45	-2.54*	-3.21	-0.63*	-1.95
per capita special districts	-1.24*	-2.80	-1.39*	-2.69	-1.97*	-3.34	-0.46*	-1.83
central city indicator	0.18*	2.04	0.39*	4.48	0.52*	5.33	0.12*	4.82
Revenue								
per capita local tax revenue	2.28×10^{-3} *	7.82	1.36×10^{-3} *	5.66	8.28×10^{-4} *	2.51	1.47×10^{-3} *	9.43
per capita intergovernment revenue	1.38×10^{-3} *	4.42	1.80×10^{-3} *	5.51	2.05×10^{-3} *	4.89	7.33×10^{-4} *	4.97
Temporal effects								
1987	-0.07	-0.62	-0.17*	-1.97	-0.23*	-2.30	1.91×10^{-3}	0.07
1992	-0.12	-1.10	-0.02	-0.26	-0.29*	-2.37	-1.53×10^{-3}	-0.03
Locational effects								
Arizona	-0.17	-0.74	-0.11	-0.83	-0.16	-0.79	0.37*	7.67
California	0.08	0.45	-1.40*	-5.53	-0.16	-0.71	0.23*	3.59
Colorado	0.17	1.00	-1.62*	-4.04	0.43*	1.99	0.16*	2.37
Florida	-0.67*	-3.50	0.56*	6.03	-0.12	-0.82	0.38*	10.80
Georgia	-0.36*	-2.57	0.13*	1.44	0.20	1.29	0.10*	2.66
Idaho	0.81*	3.99	0.93*	5.67	1.25*	3.26	0.49*	5.87
North Carolina	-0.61*	-3.35	0.37*	4.46	0.30*	1.94	0.07*	1.62
New Mexico	-0.27	-0.73	-0.04	-0.20	-0.43*	-1.62	0.47*	6.56
Nevada	-0.48	-1.16	-2.82*	-7.40	0.40*	1.80	0.88*	7.40
Oregon	0.50*	3.26	-1.78*	-5.90	0.92*	4.48	0.04	0.80
Tennessee	0.24*	1.61	0.65*	5.41	0.85*	4.69	0.21*	4.18
Utah	0.49*	2.21	0.17	0.83	0.23	0.70	0.28*	1.56
Washington	0.59*	3.89	-0.17	-0.92	0.10	0.54	0.18*	2.97
Number of observations	753		839		849		849	
Adjusted R^2	0.34		0.41		0.32		0.70	

Table 4 (continued).

	Fire protection		Parks and recreation		Education		Libraries	
	coefficient	<i>t</i>	coefficient	<i>t</i>	coefficient	<i>t</i>	coefficient	<i>t</i>
Constant	1.58*	8.73	1.13	6.08	5.64*	74.03	0.33*	2.09
Built environment								
density	-0.02	-0.78	-4.86×10 ⁻³	-0.28	-0.04*	-4.48	-0.01	-0.49
urbanized land	3.94×10 ⁻⁷	1.16	6.11×10 ^{-7*}	1.50	-1.89×10 ^{-7*}	-1.36	572×10 ^{-7*}	1.68
property value	7.26×10 ⁻⁷	0.65	4.24×10 ⁻⁷	0.48	9.65×10 ^{-7*}	2.52	322×10 ⁻⁹	5.00×10 ⁻³
Political characteristics								
per capita municipal governments	-2.64*	-6.52	-2.10*	-3.64	0.03	0.18	-1.61*	-4.15
per capita special districts	-0.57	-1.24	-1.26*	-3.17	-0.34*	-1.32	-1.22*	-3.43
central city indicator	0.32*	5.96	0.39*	6.48	-0.03*	-1.38	0.18*	2.61
Revenue								
per capita local tax revenue	2.07×10 ^{-3*}	5.71	2.59×10 ^{-3*}	6.39	7.93×10 ^{-4*}	5.78	218×10 ^{-3*}	7.03
per capita intergovernment revenue	1.15×10 ^{-3*}	3.87	1.02×10 ^{-3*}	3.72	1.25×10 ^{-3*}	6.99	6.97×10 ^{-4*}	3.17
Temporal effects								
1987	-0.07	-0.91	-0.14*	-1.86	0.02	0.92	-0.02	-0.29
1992	-0.15*	-1.55	-0.28*	-2.88	-0.06	-1.19	-0.08	-0.95
Locational effects								
Arizona	0.31*	2.29	0.52*	4.23	-0.08*	-1.58	0.55*	3.68
California	0.24*	1.58	0.34*	2.05	-0.32*	-4.59	0.52*	3.97
Colorado	0.19	1.28	0.90*	5.77	-0.03	-0.53	0.59*	4.27
Florida	0.36*	4.96	0.60*	6.28	-0.10*	-3.73	0.31*	3.18
Georgia	-0.01	-0.11	0.02	0.18	-0.27*	-6.14	-0.57*	-4.93
Idaho	1.03*	7.89	0.92*	5.81	-0.08	-0.93	1.13*	8.05
North Carolina	0.14	1.21	0.23*	1.65	-0.12*	-4.01	0.46*	3.87
New Mexico	0.39*	2.17	0.81*	3.53	-0.17*	-2.63	0.77*	3.82
Nevada	0.95*	4.60	1.59*	8.41	-0.24*	-3.11	0.86*	5.52
Oregon	0.74*	6.33	0.32*	2.63	0.12*	1.99	0.64*	5.13
Tennessee	0.46*	3.79	0.26*	1.64	-0.17*	-3.34	-0.20*	-1.66
Utah	0.85*	3.81	1.52*	5.96	0.14*	2.13	1.22*	-7.82
Washington	0.71*	5.91	0.99*	6.21	-0.08*	-1.37	1.19*	7.38
Number of observations	846		843		849		827	
Adjusted R ²	0.53		0.58		0.55		0.54	

* Significant at $p < 0.10$.

Note: For units of measurement, see table 2.

with the greatest savings realized in areas with very high densities. An individual police officer patrolling a square mile in a dense urban area may provide protection to many more people than his or her counterpart in a suburban area. Likewise, fewer roads are needed in high-density areas, and school systems may be operated more efficiently—fewer (though larger) schools and less bussing of pupils are needed, for example. Among the rest of the models, density is insignificant and/or negative except in two logical instances: other transportation and sewerage. The positive coefficient in the equation for other transportation makes sense given the increased need for parking garages, public transit, and other facilities in high-density areas. Similarly, the positive correlation between density and sewerage is likely attributable to the use of private septic systems and lack of stormwater systems in low-density areas. Assuming a one-tailed hypothesis test in the opposite direction to that specified—positive instead of negative—the density coefficient in the sewerage equation is significant at an 85% confidence level. Overall, the models provide good evidence that density works to increase the cost-effectiveness of public service expenditure.

Second, the spatial extent of *urbanized land* is positive and significant in most of the models, indicating that the spread of a metropolitan area plays an important role in determining public service expenditure. As explained in the background discussion, urban sprawl requires roadways and sewer systems to be extended over long distances to reach relatively fewer people. Trash collection and street cleaning activities must cover larger areas and, similarly, police and fire protection are spread thin, requiring more patrols and, potentially, more station houses to achieve a given level of service. In the case of parks and libraries, a greater number of facilities must be built in order for people throughout the metropolitan area to enjoy equal access. In one instance—education—the urbanized land coefficient is significant and negative, but this effect is more likely to be a result of the overall size of the urban area than its spatial extent. The coefficient is positive and insignificant in the housing and community development equation, indicating that the spatial extent of urban development has little effect on spending on these services.

Third, *property value* is significant in five of the twelve equations and positively correlated with per capita spending for all services except for other transportation and sewerage. These findings illustrate the balancing effect that property value has in helping dense urban areas support themselves—and also how an examination of the influence of density in isolation may provide misleading results. As property values are generally the greatest in high-density areas, their contributions to public revenue through property taxes enable density to support itself. In the case of other transportation and sewerage, the negative coefficient is logical, because parking garages, sewerage treatment plants, and other locally undesirable facilities are less likely to be built in areas with high property values.

Fourth, the three political characteristics are significant in most of the equations, highlighting the role that political fragmentation plays in influencing patterns of public spending. Specifically, all of the coefficients for *per capita municipal governments* and *per capita special districts* carry negative signs, except in the roadways model, where municipal fragmentation has a positive influence, and in the trash collection and education models, where the respective variables are insignificant. These findings suggest that the formation of small general and special purpose governments may work to lower per capita spending, although it remains unclear just how this occurs. Although it is possible that greater efficiencies are achieved through competition among jurisdictions, some analysts have suggested that fragmentation may create fewer opportunities for budget maximization and/or may reduce communities' willingness to provide certain types of collective services (Dowding et al, 1994). In either case, further

research is needed in order to develop a better understanding of how fragmentation affects public service expenditures. Meanwhile, the *central city indicator* captures significant differences between the spending patterns of central city and suburban counties. In all cases except for education, the parameter estimates indicate that more money is spent on public services in central cities. This finding is realistic, as central cities commonly house facilities such as parks and museums that are used by the metropolitan area at large and are often where infrastructure systems converge. The negative sign on the education coefficient is interesting because it reinforces the notion that higher quality school systems are located in suburban areas.

Finally, the remaining control variables—revenue and the temporal and locational fixed effects—fulfill their expected role within the equations. Being perhaps the most important determinants of public spending, local tax revenue and intergovernmental revenue are significant and positive in all equations. The temporal fixed effects are only occasionally significant, indicating that little time-specific correlation exists among locations at the times of observation. The locational fixed effects, in contrast, are mostly significant, revealing important state-to-state differences in per capita spending patterns. Unfortunately, because the fixed effects capture an amalgamation of unobserved effects, they have no straightforward interpretation; instead, they highlight the need for further research aimed at uncovering state-level variables that affect local governments' spending patterns.

4 Discussion

The results of the empirical analysis (summarized in table 4) illustrate the numerous ways in which the characteristics of urban development affect public service expenditures. Collectively, they point to two overarching conclusions: (1) the physical pattern of development has a multidimensional effect, with density, urbanized land area, and property value all influencing the per capita value spent on service provision; and (2) one way or another, the political structure of metropolitan areas makes a difference, with greater fragmentation being associated with lower expenditure. Although the first of these findings is a well-known argument that is widely accepted among the planning community (Kaiser et al, 1995) there was little in the way of supporting evidence prior to this study. What follows are several policy-relevant insights and directions for future research.

By far the most salient finding of the analysis is that the per capita cost of most services declines with density (after controlling for property value) and rises with the spatial extent of urbanized land area. This reinforces planners' claim that urban sprawl undermines cost-effective service provision, and lends support to growth management and 'smart growth' programs aimed at increasing the density and contiguity of metropolitan areas—at least from the standpoint of public finance. In particular, the models show that there are savings to be gained in numerous areas, especially where both the density and the spread of the metropolitan area matter for the cost of service delivery. One important exception is sewerage, but further investigation is needed to determine whether the positive correlation is attributable to the increased *cost* or increased *use* of sanitary and stormwater sewage systems in high-density areas. In other words, the coefficient may reflect the greater reliance on septic tanks and above-ground stormwater drainage in low-density areas. The positive influence of the urbanized land area variable (though not quite significant within acceptable tolerances) suggests that this may be the case because it indicates that sewerage systems are more expensive when spread over greater areas. Although this evidence does not unilaterally justify growth management, it indicates that communities may wish to carefully evaluate whether or not greater efficiencies could be achieved through their urban form.

Empirical research on the effectiveness of state-based growth management programs suggests that they may help to reduce public expenditures through their influence on urban form. Specifically, programs that require local governments to produce plans that are consistent with state-defined goals and objectives and that incorporate urban growth boundaries (such as in Oregon) have been found to increase urban densities, which in turn affect the cost of public services. Programs that do not require consistency among jurisdictions' planning activities (such as in Georgia) and/or that rely on concurrency (such as in Florida) may inadvertently contribute to sprawl, thereby raising the cost of services (for an analysis demonstrating these results, see Carruthers, 2002b).

As an extension, the strong link between urban form and service expenditures reinforces the rationale for 'market-based' approaches to growth management, such as the use of development impact fees. As described in section 2, one of the principal complaints of urban sprawl is that it often ends up being financed by the public-at-large through average cost pricing mechanisms. Impact fees alter this situation by shifting some or all of the costs of growth to the private sector, forcing developers to consider more seriously the costs of alternative development patterns (Altshuler and Gómez-Ibáñez, 1993). As these costs are eventually passed on to homebuyers—making new housing more expensive—low-density development patterns may continue to be accommodated as long as market demand is sufficient to uphold the increase in price. Ultimately, the effect on the physical pattern of development rests on the elasticity of demand for low-density growth. Although it is probably unrealistic to assess impact fees for the ongoing costs of service provision, evidence suggests that it may be relatively easy to shift the costs of physical infrastructure to the private sector (Speir and Stephenson, 2002). It may therefore be worthwhile to compel new development to finance the roads, sewerage, schools, and other infrastructure that it requires. For example, in the average county in the dataset, capital facilities account for about 13% of total direct expenditure—a substantial proportion of their overall budgets. Density, urbanized land area, and property value are all highly significant in the capital facilities model, providing good evidence in favor of assessing impact fees at least for physical infrastructure. Even if growth continues to proceed at low densities, the increased price of housing and other development will strengthen the tax base, raising the amount of revenue available to support the ongoing costs of operation.

The results of this analysis point to several directions for future research. First, there is a need for additional work to incorporate alternative measures of urban form of the sort mentioned in section 3.1. For example, Galster et al (2001) have recently defined seven distinct dimensions of urban land-use patterns beyond density: centrality, clustering, concentration, contiguity, nuclearity, mixed use, and proximity. Each of these has been developed for and tested in thirteen metropolitan areas. Similarly, Alberti (1999) has emphasized the need to look beyond density and to include measures of centralization, connectivity, and grain in studies of urban form, especially with respect to its impact on the environment. Although the development of these types of measures for multiple metropolitan areas presents a considerable challenge, they hold much promise for offering further insight into the relationship between urban form and the cost of public services.

Second, given the potential savings to be gained through more compact urban development patterns, a major question that remains is whether or not the *quality* of service is affected. In this paper we have dealt with intermediate outputs but not the final outputs eventually consumed by the public. Future research should focus on evaluating how the character of urban development influences people's enjoyment of public services—congestion, for example, may overshadow the benefits of reduced cost

if it significantly lowers the accessibility of a given service. However, the increased property values of high-density areas may yield sufficient revenue to maintain a high enough level of service provision to offset the effects of congestion and/or to provide specialized forms of services that are unavailable in other areas. These issues are important because, ultimately, citizen support for growth management programs and for other policies aimed at shaping more compact development patterns is likely to rest heavily on how the outcome affects their quality of life.

Finally, the finding that fragmentation is associated with lower per capita spending suggests that there is a trade-off to be made between the physical and political structure of metropolitan areas. In particular, a number of studies have shown evidence that fragmentation contributes to urban sprawl in a physical sense by lowering densities and/or promoting growth at the urban fringe (Carruthers, 2002b; 2003; Carruthers and Ulfarsson, 2002; Lewis, 1996; Pendall, 1999; Shen, 1996). So, even if the lower costs are attributable to interjurisdictional competition, as the Tiebout model suggests, they may not offset the effects caused by the physical pattern of development. Likewise, if the correlation reflects the limitations of smaller tax bases, the creation of new municipalities and special districts may not be an advantageous approach to dealing with public services—no matter what the effect of the physical pattern of development. In any case, further applied research aimed at uncovering the nature of the relationship between fragmentation and service expenditures and at evaluating the relative costs and benefits of alternative political structures is needed before any substantive conclusions can be made.

5 Summary and conclusions

Over the last several decades there has been a sustained interest in evaluating the relative costs of alternative forms of development in US metropolitan areas. In this paper we examined this issue through an analysis of the relationship between the physical and political structure of metropolitan areas and twelve separate measures of public expenditure: total direct, capital facilities, roadways, other transportation, sewerage, trash collection, housing and community development, police protection, fire protection, parks, education, and libraries. Our primary contribution has been to provide empirical evidence of the widely held—but largely unfounded—belief among planners that urban sprawl raises the cost of providing public services. In this way, we have contributed to the sprawl–antisprawl debate in favor of more compact cities; although US metropolitan areas will continue to suburbanize, the results presented here suggest that they may maintain a more cost-effective urban form by doing so at higher densities and by consuming less land. Although public service expenditures represent just one aspect of urban performance, minimising the cost of such services to residents produces net benefits to the public at large, as long as the quality of those services remains unaffected. Talen and Ellis (2002) recently called for research to develop well-validated criteria for identifying desirable outcomes of urban development. The findings of this analysis represent substantive evidence that, at least from the standpoint of public finance, a more compact urban form is a desirable planning goal.

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PCM 1.1

DATE: APRIL 4, 2016

TO: BENTON COUNTY PLANNING COMMISSION

FROM: BENTON COUNTY PLANNING DEPARTMENT

RE: DRAFT COUNTYWIDE PLANNING POLICIES

BACKGROUND:

RCW 36.70A.210 requires the County and Cities within the County to jointly develop Countywide Planning Policies (CWPPs). The CWPPs is a written policy statement used solely for establishing a countywide framework from which county and city comprehensive plans are developed and adopted. The original CWPPs were adopted in September 28, 1992 and have not been updated since then. The Benton County Planning Department and the Planning Departments of the Cities have worked over the past year to update the Benton Countywide Planning Policies.

APPLICABLE DEVELOPMENT REGULATIONS:

1. According to RCW 36.70A.210(3), the countywide planning policy shall at a minimum, address the following:
 - (a) Policies to implement RCW [36.70A.110](#);
 - (b) Policies for promotion of contiguous and orderly development and provision of urban services to such development;
 - (c) Policies for siting public capital facilities of a countywide or statewide nature, including transportation facilities of statewide significance as defined in RCW [47.06.140](#);
 - (d) Policies for countywide transportation facilities and strategies;
 - (e) Policies that consider the need for affordable housing, such as housing for all economic segments of the population and parameters for its distribution;
 - (f) Policies for Joint County and city planning within urban growth areas;
 - (g) Policies for countywide economic development and employment, which must include consideration of the future development of commercial and industrial facilities; and
 - (h) An analysis of the fiscal impact.

In March, the Planning Commission reviewed the draft CWPPs at a workshop. The CWPPs were also sent out to reviewing agencies for their comments. As of the date of this memo we have received comments from Washington State Department of Commerce and Futurwise. The Benton County Planning Department and the Planning Departments of the cities met and discussed the comments and based on that discussion, changes were made to the CWPP's. Those changes are as follows:

1. A process for approving and amending the CWPP was added.
2. Policy #2 was amended to define how the population projection from OFM would be allocated to the jurisdictions.
3. Information about employment projections and the development of buildable land analysis was added to Policy #4.

There are two documents attached to this memo. Document A is the CWPPs with the change made since the workshop in red and Document B is a cleaned up version of the draft CWPPs.

PUBLIC HEARING:

The Planning Commission is scheduled to conduct a public hearing on Tuesday, April 12, 2016. The notice for the public hearing was published in the Tri City Herald on March 31, 2016. Planning Staff is recommending that the Planning Commission conduct the public hearing and make a recommendation to the Board of County Commissioners to either approve, approve with changes or reject the proposed Countywide Planning Policies. The Board of County Commissioners will then review the recommendation of the Planning Commission, will consider the policies at a public meeting and adopt a resolution. The resolution will be sent to the Cities of Kennewick, Richland, West Richland, Benton City, and Prosser. Each city will need to pass a resolution which states that they either: (a) approve the CWPPs in their entirety, (b) reject the CWPPs in their entirety, (c) or support the CWPPs with specific changes.

RECOMMENDATION: It is the recommendation of the Planning Department that the Planning Commission conduct the public hearing, consider all testimony and make a recommendation for approval to the Board of County Commissioners on the attached Draft Countywide Planning Policies.

COUNTYWIDE PLANNING POLICIES
FOR
BENTON COUNTY

Originally adopted September 28, 1992
Resolution # 92-296

AMENDMENTS:

2016 Ordinance #

(Amending Res.# 92-296) Effective Date:

Benton County

Countywide Planning Policies

Introduction & Overview:

The Washington State Growth Management Act (GMA) requires that cities and counties adopt comprehensive plans. The GMA further requires that counties adopt Countywide Planning Policies (CWPPs), in cooperation with the cities located in whole or in part within the county. CWPP establish a countywide framework for developing and adopting county and city comprehensive plans. The role of the CWPP is to coordinate comprehensive plans of jurisdictions in the same county for regional issues or issues affecting common borders (RCW 36.70A.100). Under state law, RCW 36.70A.210(1) describes the relationship between comprehensive plans and CWPPs. It says that:

a ‘countywide planning policy’ is a written policy statement or statements used solely for establishing a countywide framework from which county and city comprehensive plans are developed and adopted pursuant to this chapter. This framework shall ensure that city and county comprehensive plans are consistent as required in RCW 36.70A.100. Nothing in this section shall be construed to alter the land use powers of the cities.

In order to achieve the objectives above, and to ensure that regional planning efforts and governmental actions are consistent with current legal requirements and information, substantial revisions to the Benton County CWPPs have been proposed. The development of these revisions was a collaborative process between the County and the cities.

History:

In 1991, one year after the Washington State Legislature enacted the Growth Management Act (GMA), the GMA was amended to require that Countywide Planning Policies (CWPPs) be adopted within those counties subject to the GMA. The first Benton County Countywide Planning Policies were adopted on September 28, 1992.

Amendments and Adoption:

In the years since the last CWPPs were adopted in Benton County, the GMA has evolved through amendments and judicial interpretations provided by the GMA and the courts. The revised CWPPs attempt to provide procedures for County and city/town coordination to address these issues.

The GMA does not specifically address amendments to the CWPPs; however, it has become apparent that the Benton County CWPPs should be updated in order to better address countywide planning concerns and coordination between jurisdictions in the County. A public hearing was held by the Benton County Planning Commission on April 12, 2016.

Benton County is the lead agency for this proposal and has determined that it does not have a significant adverse impact on the environment and a Determination of Non Significance was issued on February 10, 2016.

In order to comply with GMA requirements and the adoption/amendment procedures identified below, all jurisdictions in Benton County must agree to the adoption of the revised CWPPs. This process will involve the planning departments, planning commissions, and elected representatives of each jurisdiction. In order to facilitate this process, Benton County, in consultation with the cities, has developed the following adoption/ratification process for the draft CWPPs:

1. Benton County Planning Commission recommendation on proposed CWPPs.
2. The Benton County Board of Commissioners (BOCC) adopts a resolution agreeing in principle to the proposed CWPPs, but acknowledging that changes may need to be made based on input from each jurisdiction. The BOCC's resolution will contain a statement requiring that each jurisdiction ratify the CWPPs adopted by Benton County and will lay out a schedule for future approval steps.
3. CWPPs approved by Benton County BOCC reviewed by each jurisdiction's Planning Commission.
4. The elected body of each jurisdiction passes a resolution which states that the jurisdiction either: (a) supports the CWPPs in their entirety, (b) rejects the CWPPs in their entirety, or (c) supports the CWPPs with specific changes.
5. If specific changes are identified by a jurisdiction in step four, the Benton County Planning Department and Planning Commission may amend the CWPPs and attempt to reconcile and conflicting changes.
6. The Benton County BOCC adopts, by ordinance, the final CWPPs.

References:

Benton County. (1992). Countywide Planning Policies.
Benton County Comprehensive Plan.

BENTON COUNTYWIDE PLANNING POLICIES

Countywide planning policy is a written policy statement or statements used solely for establishing a countywide framework from which County and City comprehensive plans

are developed and adopted. This framework will ensure that City and County comprehensive plans are consistent with statewide planning policies and as required by the Growth Management Act.

POLICIES TO IMPLEMENT RCW 36.70A.110:

Policy #1: The Comprehensive Plans of Benton County and each of the cities therein shall be prepared and adopted with the objective to facilitate economic prosperity by accommodating growth consistent with the following:

1. Urban Growth. Encourage development in urban areas where adequate public facilities exist or can be provided in a cost efficient manner.
2. Reduce the inappropriate conversion of undeveloped land into low density development lacking adequate services, injurious to ground and surface water quality, destructive to the area's agricultural lands base and less than cost effective relative to public service costs.
3. Transportation. Encourage efficient multi-modal transportation systems that are based on regional priorities and coordinated with county and city comprehensive plans.
4. Property rights. Private property rights shall not be taken for public use without just compensation having been made. The property rights of land owners shall be protected from arbitrary and discriminatory actions.
5. Permits. Maintain a permit review process that provides for integrated and consolidated review.
6. Natural resource industries. Maintain and encourage natural resource-based industries, including agricultural, fisheries and mineral industries.
7. Open space and recreation. Encourage the retention of open space and the development of recreational opportunities, conserve fish and wildlife habitat, and increase access to natural resource lands and water.
8. Environment. Protect the environment and enhance the region's high quality of life, including air and water quality and the availability of water.
9. Citizen participation and coordination. Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts.
10. Public facilities and services. Ensure that those public facilities and services necessary to support development shall be adequate to serve development at the time the development is available for occupancy and use without decreasing current service levels

below locally established minimum standards. With the exception of water, sewer, and local access streets, which shall be available at the time of occupancy, the term "adequate" shall be defined as either available at the time of occupancy, or shown on the current Capital Improvement Plan (CIP), as a funded project within six years.

11. Historic preservation. Identify and encourage the preservation of lands, sites, and structures that have historical or archaeological significance.

POLICIES FOR PROMOTION OF CONTIGUOUS AND ORDERLY DEVELOPMENT AND THE PROVISION OF URBAN SERVICES TO SUCH DEVELOPMENT;

Policy #2: The County shall allocate future projected populations through the use of the latest 'high series' population projections published by the Washington State Office of Financial Management (OFM). Allocation of future populations shall be based on the following distribution: City of Kennewick 40% of total county population; City of Richland 28% of total county population; Benton County 19% of total county population; City of West Richland 8% of total county population; City of Prosser 3% of total county population and City of Benton City 2% of total county population. At a minimum, the County, in consultation with the Cities, will review the OFM population projection ranges (Low, Medium and High) and allocation percentages whenever OFM publishes new GMA population projections.

~~Countywide projected population shall be allocated among jurisdictions through the use of any or all of the following factors applied to each jurisdiction:~~

~~a. Documented historical growth rates over the last decade, the last 2 decades, and the last 5 or 10 years.~~

~~b. Current growth rates.~~

~~c. Developing or current planning programs which a jurisdiction has, and which identify quantitative increases in business and industry development, and housing construction activity.~~

~~d. School enrollments over 2 decades, and within the last 5 or 10 years.~~

~~e. Pending development proposals (applications) which would add either jobs or new housing units.~~

Policy #3: The locating of Urban Growth Areas within the County shall be accomplished through the use of accepted planning practices which provide sufficient land and service capacity, up to 120% of determined need, to meet projected populations at urban densities and service standards within the Cities, and urban densities for those portions of the County located within the urban growth areas.

Policy #4: That Urban Growth Areas of each City shall be based upon official and accepted population projections for minimum of 20 years ~~periods and no more than a 50 year period~~. The gross undeveloped and underdeveloped acreage within the city limits and the Urban Growth Area shall be sufficient to meet all the land requirements, for the following: community and essential public facilities, population projection, commercial and industrial ~~activates activities, employment projections, infill~~ and to prevent inflation of land cost due to a limited land supply. The County will work with the cities to develop a buildable lands analysis to help determine the amount of land available for development. All jurisdictions comprehensive plans shall reflect individuality and not just a regional plan.

Policy #5 : That within the urban growth area, urban uses shall be concentrated in and adjacent to existing urban services or where they are shown on a Capital Improvement Plan to be available within 6 years.

Policy #6: That cities limit the extension of service district boundaries and water and sewer infrastructure to areas within each jurisdiction's urban growth area contained in their adopted Comprehensive Plan. Utility plans should attempt to reflect possible needs for 50 years.

Policy #7: Within each Comprehensive Plan, the Land Use Plan for urban growth areas shall designate urban densities and indicate the general locations of greenbelt and critical areas.

Policy #8: Wherever possible, given consideration of all other variables, such as existing unused service infrastructure, the placement of an urban growth line into an area of existing commercial agriculture shall be avoided.

Policy #9: The appropriate directions for the expansion of urban growth areas are those which are unincorporated lands with existing service infrastructure and lands adjacent to corporate limits.

Policy #10: All policies within each jurisdiction's Comprehensive Plans shall be modified to be consistent with adopted Countywide Policies.

POLICIES FOR SITING PUBLIC FACILITIES OF A COUNTYWIDE OR STATEWIDE NATURE:

Policy #11: The County and Cities, along with public participation shall develop a cooperative regional process to site essential public facilities of regional and statewide importance. The objective of the process shall be to ensure that such facilities are located so as to protect environmental quality, optimize access and usefulness to all jurisdictions, and equitably distribute economic benefits/burdens throughout the region or county.

At the Countywide and multi-county level, the following action should be accomplished:

- a. Develop a uniform siting procedure which enables selection of optimum project sites and appropriate size and scale relative to intended benefit area.

Policy #12: Support the existing solid waste program that promotes and maintains a high level of public health and safety, protects the natural and human environment of Benton County and encourages public involvement by securing representation of the public in the planning process.

Policy #13: Encourage and expand coordination and communication among all jurisdictions and solid waste agencies/firms in Benton and Franklin Counties in order to develop consistent and cost-effective programs that avoid duplication of effort and gaps in program activities.

- a. Utilize the existing Benton-Franklin Solid Waste Advisory Committee.

POLICIES FOR COUNTYWIDE TRANSPORTATION FACILITIES AND STRATEGIES:

Policy #14: Maintain active County-City participation in the Regional Transportation Planning Organization in order to facilitate City, County, and State coordination in planning regional transportation facilities and infrastructure improvements to serve essential public facilities including Port District facilities and properties.

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- b. Establish a mechanism whereby the housing efforts/programs of each jurisdiction address the projected Countywide need.
- c. Address the affordable housing needs of very low, low, and moderate income households, and special needs individuals through the Comprehensive Housing Affordability Strategy (CHAS).

- d. Develop design standards for implementation within the Comprehensive Plan with special attention to be given to the residential needs of low to moderate income families.

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- a. Having dedicated and improved (surfaced) streets, with dimension, design and construction standards for new development determined by "joint city/county standards" and;
- b. For new development, road, street and intersection right-of way widths located and sized to accommodate projected local and regional average daily traffic (ADT) as determined by each jurisdictions Land Use Plan Transportation Element and, where relevant, projections of the Benton Franklin Council of Governments.

Policy #17: To encourage logical expansions of corporate boundaries into urban growth areas, and to enable the most cost efficient expenditure of public funds for the provision of urban services into newly annexed areas. The County and each City shall jointly develop and implement development, land division and building standards, and coordinated permit procedures for the review and permitting of new subdivisions within Urban Growth Areas.

- a. Joint development standards shall be adopted by all jurisdictions. Standards may vary between the County and various incorporated jurisdictions.

POLICIES FOR COUNTYWIDE ECONOMIC DEVELOPMENT AND EMPLOYMENT;

Policy #18: Consistent with the protection of public health, safety, welfare, and the use of natural resources on a long-term sustainable basis, the ability of service capacity to accommodate demands, and the expressed desires of each community, Comprehensive Plans shall jointly and individually support the County and region's economic prosperity in order to promote employment and economic opportunity for all citizens.

Policy #19: The County and Cities have historically partnered with each other as well as with other organizations to achieve economic development throughout the region. It is the intention of the County and Cities to continue to actively pursue mutually beneficial partnerships that promote growth in all sectors of business and industry, including but not limited to: areas of agriculture, agri-business, industrial, commercial, public schools,

recreation and tourism. Key strategies will include promoting family wage jobs, increasing income and reducing poverty, increase business formation, expansion and retention, and creating jobs and financial investment to improve the economics of our communities.

- a. An economic development element should be integrated into the comprehensive plan of each jurisdiction. The economic development element should establish goals and policies for each jurisdiction; actively promote employment opportunities for family-wage jobs; support the retention and expansion of businesses and industry in Benton County; support development of public schools; encourage the development of tourist-related businesses, including those that capitalize on area agricultural and other resources.
- b. Comprehensive Plans should foster and promote a natural environment that will contribute to economic growth and prosperity, and a business environment that offers diverse economic opportunities for businesses of all types and sizes in the region.
- c. The County and Cities should encourage public and private agency cooperation and participation in the comprehensive planning process. These agencies should cooperatively evaluate trends and opportunities to identify strategies meeting long-term economic needs for the County region.
- d. The County and Cities agree that Benton County may establish economic development strategies and implementation criteria for siting major industrial and resource based development within rural areas of the County in accordance with RCW 36.70A.365.
- e. The provision of utilities and other supporting urban governmental services to commercial and industrial areas should be coordinated and assigned a high priority by utility purveyors and service providers.
- f. A Countywide land use inventory should be established to monitor commercial and industrial land supply.
- g. Support the development of public schools in areas where present or can be extended, is financially supportable at urban densities, where the extension of public infrastructure will protect health and safety, as per WAC 365-1965-425(3)(b).

AN ANALYSIS OF THE FISCAL IMPACT.

Policy #20: Capital Improvement Plans and Land Use Plans, shall conduct fiscal analyses which identify and refine the most cost effective use of regional and local public services. This should be accomplished through actions including the following:

- a. City's six year CIPs for streets, water, and sewer should show infrastructure sized to accommodate build-out of service areas within the 20 year urban growth area, at a minimum.
- b. Construction design and placement standards for roads, intersections and streets (with provisions for storm water conveyance), sewer, water and lighting infrastructure, should be determined based upon an analysis which identifies the lowest public expenditure over extended periods of time. Utilities should be incorporated into such analyses.
- c. Build out scenarios should be factored into school, fire and police service demand projections.

Policy #21: Support the development of public schools in areas where utilities are present or can be extended, is financially supportable at urban densities, where the extension of public infrastructure will protect health and safety, as per WAC 365-1965-425(3)(b).

AMENDING POLICIES.

Policy #22: The Growth Management Act requires counties planning under the Act to adopt a countywide planning policy in cooperation with the cities located in the county. The countywide planning policy is to be a written policy statement or statements used solely for establishing a countywide framework from which county and city comprehensive plans are developed and adopted pursuant to this [GMA] chapter." The purpose for the Benton Countywide Planning Policies is to meet this requirement of the Act. This document is a tool that will provide the necessary guidance to achieve consistency during the updating of comprehensive plans for the county and the cities/towns.

The County Commissioners will review the policies and cause a final proposal to be transmitted to the cities for ratification and ultimately back to the Board of Commissioners for final action. The Countywide Planning Policies will be considered adopted when ratified by the cities and approved by the Board of Commissioners. Cities agree to take action within 45 days of the transmittal of the proposal and to submit resolutions of ratification to the county to document the action taken by the city.

The Board of Commissioners agrees to adopt the ratified policies without modification upon receipt of notice that at least three cities have acted affirmatively. The Commissioners will convene to consider possible modifications to these policies if ratification is not accomplished.

Future amendments to the Countywide Planning Policies may be considered when proposed by the County or a City.

**COUNTYWIDE PLANNING POLICIES
FOR
BENTON COUNTY**

Originally adopted September 28, 1992
Resolution # 92-296

AMENDMENTS:

_____, 2016 Ordinance # _____ (Amending Res.# 92-296) Effective Date: _____

Benton County

Countywide Planning Policies

Introduction & Overview:

The Washington State Growth Management Act (GMA) requires that cities and counties adopt comprehensive plans. The GMA further requires that counties adopt Countywide Planning Policies (CWPPs), in cooperation with the cities located in whole or in part within the county. CWPP establish a countywide framework for developing and adopting county and city comprehensive plans. The role of the CWPP is to coordinate comprehensive plans of jurisdictions in the same county for regional issues or issues affecting common borders (RCW 36.70A.100). Under state law, RCW 36.70A.210(1) describes the relationship between comprehensive plans and CWPPs. It says that:

a 'countywide planning policy' is a written policy statement or statements used solely for establishing a countywide framework from which county and city comprehensive plans are developed and adopted pursuant to this chapter. This framework shall ensure that city and county comprehensive plans are consistent as required in RCW 36.70A.100. Nothing in this section shall be construed to alter the land use powers of the cities.

In order to achieve the objectives above, and to ensure that regional planning efforts and governmental actions are consistent with current legal requirements and information, substantial revisions to the Benton County CWPPs have been proposed. The development of these revisions was a collaborative process between the County and the cities.

History:

In 1991, one year after the Washington State Legislature enacted the Growth Management Act (GMA), the GMA was amended to require that Countywide Planning Policies (CWPPs) be adopted within those counties subject to the GMA. The first Benton County Countywide Planning Policies were adopted on September 28, 1992.

Amendments and Adoption:

In the years since the last CWPPs were adopted in Benton County, the GMA has evolved through amendments and judicial interpretations provided by the GMA and the courts. The revised CWPPs attempt to provide procedures for County and city/town coordination to address these issues.

The GMA does not specifically address amendments to the CWPPs; however, it has become apparent that the Benton County CWPPs should be updated in order to better address countywide planning concerns and coordination between jurisdictions in the County. A public hearing was held by the Benton County Planning Commission on April 12, 2016.

Benton County is the lead agency for this proposal and has determined that it does not have a significant adverse impact on the environment and a Determination of Non Significance was issued on February 10, 2016.

In order to comply with GMA requirements and the adoption/amendment procedures identified below, all jurisdictions in Benton County must agree to the adoption of the revised CWPPs. This process will involve the planning departments, planning commissions, and elected representatives of each jurisdiction. In order to facilitate this process, Benton County, in consultation with the cities, has developed the following adoption/ratification process for the draft CWPPs:

1. Benton County Planning Commission recommendation on proposed CWPPs.
2. The Benton County Board of Commissioners (BOCC) adopts a resolution agreeing in principle to the proposed CWPPs, but acknowledging that changes may need to be made based on input from each jurisdiction. The BOCC's resolution will contain a statement requiring that each jurisdiction ratify the CWPPs adopted by Benton County and will lay out a schedule for future approval steps.
3. CWPPs approved by Benton County BOCC reviewed by each jurisdiction's Planning Commission.
4. The elected body of each jurisdiction passes a resolution which states that the jurisdiction either: (a) supports the CWPPs in their entirety, (b) rejects the CWPPs in their entirety, or (c) supports the CWPPs with specific changes.
5. If specific changes are identified by a jurisdiction in step four, the Benton County Planning Department and Planning Commission may amend the CWPPs and attempt to reconcile and conflicting changes.
6. The Benton County BOCC adopts, by ordinance, the final CWPPs.

References:

Benton County. (1992). Countywide Planning Policies.
Benton County Comprehensive Plan.

BENTON COUNTYWIDE PLANNING POLICIES

Countywide planning policy is a written policy statement or statements used solely for establishing a countywide framework from which County and City comprehensive plans

are developed and adopted. This framework will ensure that City and County comprehensive plans are consistent with statewide planning policies and as required by the Growth Management Act.

POLICIES TO IMPLEMENT RCW 36.70A.110:

Policy #1: The Comprehensive Plans of Benton County and each of the cities therein shall be prepared and adopted with the objective to facilitate economic prosperity by accommodating growth consistent with the following:

1. Urban Growth. Encourage development in urban areas where adequate public facilities exist or can be provided in a cost efficient manner.
2. Reduce the inappropriate conversion of undeveloped land into low density development lacking adequate services, injurious to ground and surface water quality, destructive to the area's agricultural lands base and less than cost effective relative to public service costs.
3. Transportation. Encourage efficient multi-modal transportation systems that are based on regional priorities and coordinated with county and city comprehensive plans.
4. Property rights. Private property rights shall not be taken for public use without just compensation having been made. The property rights of land owners shall be protected from arbitrary and discriminatory actions.
5. Permits. Maintain a permit review process that provides for integrated and consolidated review.
6. Natural resource industries. Maintain and encourage natural resource-based industries, including agricultural, fisheries and mineral industries.
7. Open space and recreation. Encourage the retention of open space and the development of recreational opportunities, conserve fish and wildlife habitat, and increase access to natural resource lands and water.
8. Environment. Protect the environment and enhance the region's high quality of life, including air and water quality and the availability of water.
9. Citizen participation and coordination. Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts.
10. Public facilities and services. Ensure that those public facilities and services necessary to support development shall be adequate to serve development at the time the development is available for occupancy and use without decreasing current service levels

below locally established minimum standards. With the exception of water, sewer, and local access streets, which shall be available at the time of occupancy, the term "adequate" shall be defined as either available at the time of occupancy, or shown on the current Capital Improvement Plan (CIP), as a funded project within six years.

11. Historic preservation. Identify and encourage the preservation of lands, sites, and structures that have historical or archaeological significance.

POLICIES FOR PROMOTION OF CONTIGUOUS AND ORDERLY DEVELOPMENT AND THE PROVISION OF URBAN SERVICES TO SUCH DEVELOPMENT;

Policy #2: The County shall allocate future projected populations through the use of the latest 'high series' population projections published by the Washington State Office of Financial Management (OFM). Allocation of future populations shall be based on the following distribution: City of Kennewick 40% of total county population; City of Richland 28% of total county population; Benton County 19% of total county population; City of West Richland 8% of total county population; City of Prosser 3% of total county population and City of Benton City 2% of total county population. At a minimum, the County, in consultation with the Cities, will review the OFM population projection ranges (Low, Medium and High) and allocation percentages whenever OFM publishes new GMA population projections.

Policy #3: The locating of Urban Growth Areas within the County shall be accomplished through the use of accepted planning practices which provide sufficient land and service capacity, up to 120% of determined need, to meet projected populations at urban densities and service standards within the Cities, and urban densities for those portions of the County located within the urban growth areas.

Policy #4: That Urban Growth Areas of each City shall be based upon official and accepted population projections for minimum of 20 years. The gross undeveloped and underdeveloped acreage within the city limits and the Urban Growth Area shall be sufficient to meet all the land requirements, for the following: community and essential public facilities, population projection, commercial and industrial activities, employment projections, infill and to prevent inflation of land cost due to a limited land supply. The County will work with the cities to develop a buildable lands analysis to help determine the amount of land available for development. All jurisdictions comprehensive plans shall reflect individuality and not just a regional plan.

Policy #5 : That within the urban growth area, urban uses shall be concentrated in and adjacent to existing urban services or where they are shown on a Capital Improvement Plan to be available within 6 years.

Policy #6: That cities limit the extension of service district boundaries and water and sewer infrastructure to areas within each jurisdiction's urban growth area contained in their

adopted Comprehensive Plan. Utility plans should attempt to reflect possible needs for 50 years.

Policy #7: Within each Comprehensive Plan, the Land Use Plan for urban growth areas shall designate urban densities and indicate the general locations of greenbelt and critical areas.

Policy #8: Wherever possible, given consideration of all other variables, such as existing unused service infrastructure, the placement of an urban growth line into an area of existing commercial agriculture shall be avoided.

Policy #9: The appropriate directions for the expansion of urban growth areas are those which are unincorporated lands with existing service infrastructure and lands adjacent to corporate limits.

Policy #10: All policies within each jurisdiction's Comprehensive Plans shall be modified to be consistent with adopted Countywide Policies.

POLICIES FOR SITING PUBLIC FACILITIES OF A COUNTYWIDE OR STATEWIDE NATURE;

Policy #11: The County and Cities, along with public participation shall develop a cooperative regional process to site essential public facilities of regional and statewide importance. The objective of the process shall be to ensure that such facilities are located so as to protect environmental quality, optimize access and usefulness to all jurisdictions, and equitably distribute economic benefits/burdens throughout the region or county.

At the Countywide and multi-county level, the following action should be accomplished:

- a. Develop a uniform siting procedure which enables selection of optimum project sites and appropriate size and scale relative to intended benefit area.

Policy #12: Support the existing solid waste program that promotes and maintains a high level of public health and safety, protects the natural and human environment of Benton County and encourages public involvement by securing representation of the public in the planning process.

Policy #13: Encourage and expand coordination and communication among all jurisdictions and solid waste agencies/firms in Benton and Franklin Counties in order to develop consistent and cost-effective programs that avoid duplication of effort and gaps in program activities.

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The Board of Commissioners agrees to adopt the ratified policies without modification upon receipt of notice that at least three cities have acted affirmatively. The Commissioners will convene to consider possible modifications to these policies if ratification is not accomplished.

Future amendments to the Countywide Planning Policies may be considered when proposed by the County or a City.

Benton County Planning Department

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

NOTICE OF PUBLIC HEARING

PCM 1.2

NOTICE OF HEARINGS before the Benton County Planning Commission, in the matter of County Planning:

Benton County Comprehensive Plan Amendment - File No. CPA 2016-001, a proposal to change the Land Use Designation from Rural Lands 5 Acre to Heavy industrial on a 40 acre parcel. The proposal site is located on at 228812 E. Game Farm Road in the Southwest Quarter of the Southeast Quarter in Section 23, Township 8 North, Range 30 East, W.M., one half mile east of the intersection of Game Farm Road and SR 397. Applicant: Kennewick Game Farm LLC

Zone Change Request – ZC 2016-001, a proposal to change the Land use zoning from Rural Lands 5 to Heavy Industrial on a 40 acre parcel. The proposal site is located on at 228812 E. Game Farm Road in the Southwest Quarter of the Southeast Quarter in Section 23, Township 8 North, Range 30 East, W.M., one half mile east of the intersection of Game Farm Road and SR 397. Applicant: Kennewick Game Farm LLC

Countywide Planning Policies – Amendments are being made to the Benton County Countywide Planning Policies (CWPPs) adopted in February of 1993. The Countywide Planning Policies are written policy statements used solely for establishing a countywide framework from which county and city comprehensive plans are developed and adopted.

NOTICE IS HEREBY GIVEN that public comment will be taken on the above proposals on Tuesday, April 12, 2016 at 7:00 p.m., in the Benton County Planning Annex Hearing Room at 1002 Dudley Avenue in Prosser. CPA 2016-001 & ZC 2016-001 have been reviewed under the requirements of the State Environmental Policy Act (RCW 43.21C) and a Determination of Non-Significance (DNS) was issued on February 17, 2016.

Comments regarding the proposals or the SEPA determination may be made at the above-mentioned hearing, submitted in writing to the Benton County Planning Department; P.O. Box 910, Prosser, WA 99350; Faxed to (509) 786-5629; or sent via the County website at <http://tinyurl.com/CPAresidentfeedback>. Written, faxed, or website comments must be received by 5:00 p.m. on April 11, 2016. Information regarding the proposals or a copy of the DNS may be obtained free of charge by calling the Benton County Planning Department at (509) 736-3086 (from Tri Cities) or 786-5612 (Prosser) or by accessing the website at <http://tinyurl.com/cpadocs>.

It is Benton County's policy that no qualified individual with a disability shall by reason of such disability be excluded from participation in public meetings. If you wish to use auxiliary aids or require assistance to comment at this public meeting, please contact the ADA Coordinator or the Benton County Planning Department at the above stated phone numbers and/or address no later than 48 hours prior to the date of the meeting. The Request for Reasonable Accommodation form is available online at www.co.benton.wa.us or from the Planning Department.

Dated this 25th day of March 2016.

Martin Sheeran, Chairman

Benton County Planning Commission

Michael Shuttleworth, Planning Manager
Benton County Planning Department

PUBLISH Thursday March 31, 2016

Benton County Office of Public Defense
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BENTON COUNTY OFFICE OF PUBLIC DEFENSE

SUPERVISION AND QUALITY CONTROL PLAN

Quality Representation – Fiscal Accountability

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INTRODUCTION & PURPOSE

Introduction & Purpose

At the core of the Mission of Benton County Office of Public Defense (“OPD”) is the fulfilling of the legal right to public defense counsel by providing well-trained, diligent, competent, public defenders when required by law. The nature of OPD’s staffing is such that the majority of the public defense services it provides are done so through contracts with private attorneys¹. While there are many advantages of providing public defense services through private attorney contracts (including flexibility, ability to attract talent, and cost effectiveness) it can be difficult sometimes to monitor the effectiveness and quality of the public defense services being provided.

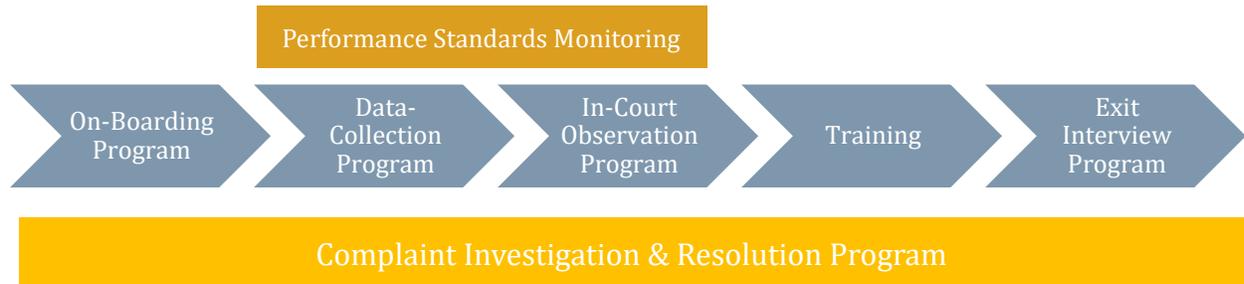
To promote high levels of competence and quality with public defense services, OPD has implemented a number of programs aimed at providing management with relevant and useful data and information by which to make strategic decisions, engage in short and long term planning, and make contract related decisions.

¹ The current staffing model has three fully employed staff defenders and over 40 contract defenders providing the OPD’s legally mandated public defense services.

OVERVIEW

Overview

Quality control for public defense contract holders in Benton County will be accomplished by a number of interlinked programs.



Together these programs, which are explained in further detail in the remainder of this whitepaper, form the overall quality control strategy by which Benton County Office of Public Defense will advance its mission of providing *quality representation with fiscal accountability*.

On-Boarding

WHAT IS ON-BOARDING

Unlike starting as a new employee, new contract defenders, while qualified to take on public defense cases by virtue of education and experience, can have a hard time getting acquainted with both OPD's culture and expectations, as well as the processes (and even personalities or idiosyncrasies) of practicing public defense law in Benton County. The On-Boarding program is designed to be an orientation that will help new contract defenders transition effectively into their new roles so as to make it as smooth as possible both for them and for their clients.

ON-BOARDING PROCESS

The on-boarding process consists of the following:

1. An orientation session and plan with supervisory staff at OPD which includes personal introductions to judges, prosecutors, and other public defenders, and an introduction to key court processes, docket responsibilities and forms with which new contractors should be familiar.
2. Providing the contract attorney with a comprehensive Contract Defender Manual which provides important information about contract obligations, OPD procedures, public defender resources, and court processes, including embedded hyperlinks to associated forms and documents. *The Contract Defender Manual is constantly updated as necessary to make sure that incoming contract defenders always have the most current information about changes as they come about.*
3. Pairing new contract attorneys with more experienced attorneys as necessary and requested, to provide mentorship resources and promote professional growth and retention.

PERFORMANCE STANDARDS MONITORING - DATA COLLECTION

Performance Standards Monitoring - Data Collection

WHAT IS DATA COLLECTION

The Data Collection Program uses the collection and review of multiple data points to provide a broad picture of public defender effectiveness and competence both on a general system-level basis and on an individual attorney basis.

WHAT DATA IS COLLECTED

A comprehensive set of Performance Standards data is collected from a number of different sources. The data points collected are all relevant to the quality of public defense services both as stated in the court's opinion in *Wilbur v. Mt. Vernon*, and in various other national studies.

DATA COLLECTED

DATA POINT	SOURCE	IMPORTANCE
Caseloads	Reports from public defenders as well as from the various courts.	Contractual obligations as well as Washington Public Defense Standards require that public defenders not exceed certain caseloads.
Jail and Juvenile Detention visits	Data received directly from Benton County Jail and Benton/Franklin Juvenile Detention Facility	It is critically important that public defenders visit their incarcerated clients so that they can keep them informed about their cases and so that the clients can ask questions or express concerns about the proceedings.
Trials held	Billings from defenders for contractually mandated trial per diems.	It is well understood that the decision whether or not proceed to trial is always that of the client so this is an indicator that is not entirely within the control of public defenders. Nevertheless, a nonexistent or extremely low number of cases going to trial can be an indication that public defenders are not effectively and aggressively defending cases.
RCW 10.77 Mental Health Evaluation motions filed	Reported directly by public defenders.	The number of private mental health evaluations by themselves are not <i>per se</i> indicative of the quality of public defense representation.

PERFORMANCE STANDARDS MONITORING - DATA COLLECTION

		However, this data point is being tracked because it is indicative of the higher complexity of cases and the accompanying need for additional professional, fiscal and training resources and is therefore useful for planning and forecasting.
Disposed of at trial readiness	Reported directly by public defenders	Quite often, even though public defenders have prepared to take a case to trial, prosecutors will make a more favorable offer (such as a Stipulated Orders of Continuance ² or Deferred Prosecution Agreements) which will be accepted at that time. Unless data regarding the number of such “Disposed of at readiness” cases is collected, then the number of trials held will not fairly represent the amount of effort public defenders are putting into defending their cases.
Key motions filed	Reported directly by public defenders.	Whether or not public defenders are regularly filing key motions (defined as motions that may be dispositive of the case or that may otherwise result in a significant advantage for the client in resolution of the case) is indicative of how much work they are putting into defending cases. While this is a strategic decision and therefore within the public defender’s exclusive decision-making authority, most public defenders defer to their clients when deciding whether to file motions since plea offers can change significantly when motions are filed.
Investigator usage	Collected through billings by investigators.	The effective defense of many felony cases, as well as some serious misdemeanors, requires the use of investigative services. Benton County provides investigative

² A Stipulated Order of Continuance (“SOC”) is a resolution that continues the case for a defined period of time at the end of which it would be dismissed, conditioned upon certain actions by the defendant as well as obedience to the law. SOCs are quite similar to Deferred Prosecution Agreements.

PERFORMANCE STANDARDS MONITORING - DATA COLLECTION

		services to support public defenders at no cost to them.
Private Mental health evaluations	Collected through billings by evaluators.	This data point measures the number of times public defenders have been dissatisfied with the “initial” evaluation conducted by Eastern State Hospital and request funding for a second “private” evaluation. As with the number of RCW 10.77 mental health evaluations, the number of private mental health evaluations by themselves are not <i>per se</i> indicative of the quality of public defense representation. However, this data point is being tracked because it is indicative of the higher complexity of cases and the accompanying need for additional professional, fiscal and training resources and is therefore useful for planning and forecasting.
Expert usage (including mental health experts)	Collected through billings by experts.	The effective defense of some felony cases, and the occasional serious misdemeanor (or misdemeanor involving mental health issues) requires the use of expert services. Benton County provides expert services to support public defenders at no cost to them.
Time spent on public defense cases	Collected directly from public defenders.	
Complaints filed against public defenders	Collected through OPD records.	Obviously formal complaints filed against public defenders by clients have the potential to be indicative of serious problems. All formal complaints (defined as complaints in writing by a client, stating a specific concern with a public defender’s performance in a case) are investigated by OPD and corrective or disciplinary action is taken as necessary.

PERFORMANCE STANDARDS MONITORING - DATA COLLECTION

HOW DATA IS REPORTED

To make the collected data more understandable, and to also account for caseload volume factors, the collected data is converted to “indices” as shown in the following table, and reported in OPD’s Quarterly Reports.

DATA CONVERSION		
DATA POINT	CONVERTED INTO	WHAT IT MEANS
Caseload	Not converted	n/a
Jail and Juvenile Detention Visits	Jail Visits Index	How many visits were made per thousand cases appointed.
Trials Held	Trials Index	How many trials were held per thousand cases appointed.
RCW 10.77 motions filed	10.77 Motions Index	How many RCW 10.77 motions were filed per thousand cases appointed.
Disposed of at Trial Readiness	Disposed of at Trial Readiness Index	How many cases per thousand were disposed of at trial readiness with a favorable resolution.
Key Motions Held	Motions Index	How many key motions were filed per thousand cases appointed.
Investigator Usage	Investigator Index	How many investigators were used per thousand cases appointed.
Mental Health Evaluations	Mental Health Evaluation Index	How many independent mental health evaluations were conducted per thousand cases appointed.
Expert Usage	Experts Index	How many experts were used per thousand cases appointed.
Time Spent on Public Defense Cases	Time Index	How much time was spent per case on average.
Complaints Against Public Defenders	Complaints Index	How many complaints were filed per thousand cases appointed.

Note on Calculating Performance Indices – Indices can be divided into two categories for purposes of calculation: **No Lag Indices** where there is little delay between the time of case appointment and the event being measured by the index, and **Lag Indices** where there is usually significant delay (60 to 90 days)

PERFORMANCE STANDARDS MONITORING - DATA COLLECTION

between the time of case appointment and the event being measured by the index³. No Lag Indices are calculated using the caseload of the current quarter. For better accuracy, and to account for the lag, Lag Indices are calculated using the caseload of the previous quarter.

NO LAG INDICES

Jail Visits Index

Detention Visits Index

Complaints Index

Motions Index

10.77 (mental health) Motions Index

Disposed at Trial Readiness Index

LAG INDICES

Mental Health Evaluations Index

Investigative Services Index

Expert Services Index

Trials Index

For example: Investigative Services Index is a Lag Index. Therefore, in calculating the Investigative Services Index for Q2 2015, the number of investigative services bills paid in Q2 2015 would be divided by the caseload from the previous quarter (Q1 2015) and multiplied by 1,000 for the index. On the other hand the Jail Visits Index is a No Lag Index. Therefore, in calculating the Jail Visits Index for the same Q2 2015, the number of jail visits for Q2 2015 would be divided by the caseload from the same quarter (Q2 2015) and multiplied by 1,000 for the index.

³ Since the numbers underlying these indices are collected based on billings, the time between appointment and the time services are rendered (averaging 30 days, possibly more with trial numbers) and the time between when services are rendered and billing is received (45-60 days) add up to usually result in billing occurring in the next quarter after case appointment.

PERFORMANCE STANDARDS MONITORING - COURT OBSERVATION

Performance Standards Monitoring - Court Observation

As useful as objective data may be in evaluating performance, it is not complete without actual observation of public defender in-court performance. Therefore, the second prong to the Performance Standards Monitoring Program is Court Observation.

WHAT IS COURT OBSERVATION

Court Observation is the actual in-court observation and evaluation of public defenders conducted by the Public Defense Manager or designee and is designed to ensure that each public defender has his/her in-court performance observed at least once per quarter.

WHAT IS EVALUATED DURING COURT OBSERVATION

Court Observation is conducted in a uniform manner and records are kept about the performance of public defenders both on a general docket and attorney/case-specific basis.

During each Court Observation session, the following information is recorded and performance criteria evaluated:

GENERAL DOCKET CRITERIA

CRITERIA	IMPORTANCE
Are all assigned defenders present (or, if not present, have they notified OPD and made arrangements for coverage)?	It is important for good client service, as well as for docket and judicial efficiency, that public defenders are in court when required.
Are all assigned defenders generally prepared and calling cases in an orderly fashion (Superior Court) or ready when their cases are called (other jurisdictions)?	
Does there appear to be excessive discussions in court with in-custody or out-of-custody clients prior to calling cases?	Public defenders are expected to meet with their clients in advance of court sessions. Meeting with clients in court not only disrupts the flow of court proceedings, but also increases the risk that clients have insufficient time to discuss issues or consider options. It is understood, however, that factors including uncooperative clients or shifting time frames, may make it difficult to meet with clients before court appearances.
Are any defenders not in the courtroom when required?	Clearly public defenders must be in court when required.
Are defenders sharing in responsibility of being available to stand in for arraignments or other "general duties" when needed?	Some "general docket" responsibilities are expected to be shared by public defenders on the docket. This usually relates to cases that are

PERFORMANCE STANDARDS MONITORING - COURT OBSERVATION

called before there is a formal assignment to a specific attorney (such as arraignments called in Superior Court).

ATTORNEY/CASE-SPECIFIC CRITERIA

CRITERIA	IMPORTANCE
In or Out-of-custody?	Cases where the client is in-custody always require more diligence and quicker action since speedy trial timeframes are shorter and continued incarceration has significant impacts on clients and their families.
Status of case	Careful attention is paid (and records kept) on the purpose of the hearing and what was (or wasn't) accomplished.
Was the case continued without much action taken and if so was there a reasonable justification?	Particular attention is paid to cases where nothing much is accomplished and the case is simply continued to another date. Excessive continuing of cases can be indicative of insufficient efforts to handle the case or other issues relating to attorney competence or efforts. Reasons for continuances are always noted and evaluated if provided on the record.
Any indication that client meetings outside of courtroom have taken place?	It is important that public defenders are meeting with clients before court.
Does defender appear prepared?	This indicator often goes hand in hand with indicators of client meetings before court. Obviously being prepared for court (and whatever transaction or action is being planned) is of paramount importance in effective representation.
Does defender appear effective in advocating for client?	Public defenders will be evaluated on their willingness and effectiveness in advocating for their clients. This includes, for example, their effectiveness in arguing for bail, addressing sentencing issues, and especially in advancing their client's interests when unexpected issues arise on the fly.
Any significant problems noted?	If any significant issues of concern are noted, then the time, case name and number, and details are noted for further follow up.

All Court Observation records are archived and indexed for easy retrieval. Contract public defenders are informed about the Performance Standards Monitoring Program and advised that the results of both the Data Collection and Court Observation prongs of the Program will be used to assist with contract award,

PERFORMANCE STANDARDS MONITORING - COURT OBSERVATION

transfer, and promotional decisions. When significant client complaints are received, the records collected through the Performance Standards Monitoring Program are also anticipated to be useful in resolving them appropriately.

Training

Benton County OPD has, and will continue to be, committed to supporting its public defenders by providing them with local, free, training on topics that relevant and helpful to their public defense practice through the OPD In-House Training Program. Training is always approved by the Washington State Bar Association for Continuing Legal Education (“CLE”) credits since OPD is an approved CLE training provider, and is also always provided at no cost to the taxpayers due to a fee waiver by the Bar Association and a network of attorneys and professionals who provide training at no cost.

TRAINING TOPICS

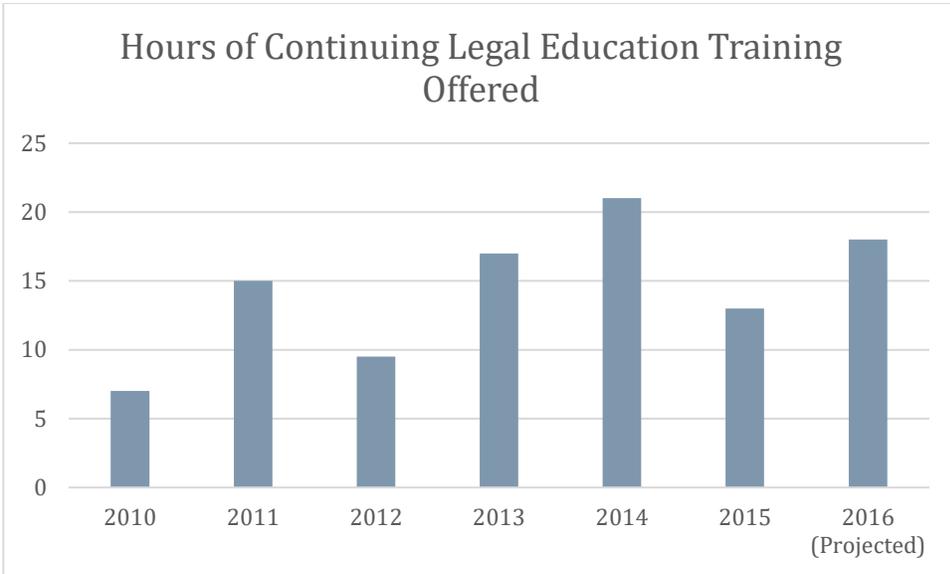
Training topics have included the following, in both classroom and workshop settings:

- Trial advocacy (various topics)
- Mental health resources and programs
- Working with mentally ill clients (including interviewing tips)
- Computer forensics
- Immigration law
- Crime scene forensics (including blood spatter and other forensics associated with violent crime)
- Arson forensics
- Audio forensics
- Juvenile dependency cases
- Defending legal financial obligation cases
- Presentation skills
- Defending DUI cases
- Cross-examination skills
- Using investigators in public defense cases
- Case law updates
- Dealing with the emotional stress of public defense work

NUMBER OF TRAINING HOURS

The number of training hours each year has been reported in the office’s Annual Reports. Since the inception of the program in 2010, over 80 hours of training has been provided through the OPD In-House Training Program

TRAINING



COMPLAINT INVESTIGATION & RESOLUTION

Complaint Investigation & Resolution

OPD has developed a very well-defined complaint resolution program for client complaints against public defenders. The program is intended to strike a balance between the many competing interests when it comes to complaints, including:

1. Accessibility to clients of complaint process
2. Limitation of complaint process to legitimate complaints only (ie weeding out complaints by anyone else other than clients except when clients are incapacitated or mentally ill)
3. Encouragement of clients and public defenders to take steps toward better working relationships before formal complaints are considered by clients
4. Facilitation of better client/public defender communication without a need for a formal complaint (and therefore preserving attorney-client relationships and leading to better representation and outcomes)
5. Thoroughness of investigations
6. Facilitation of quick and appropriate resolutions
7. Communication with clients

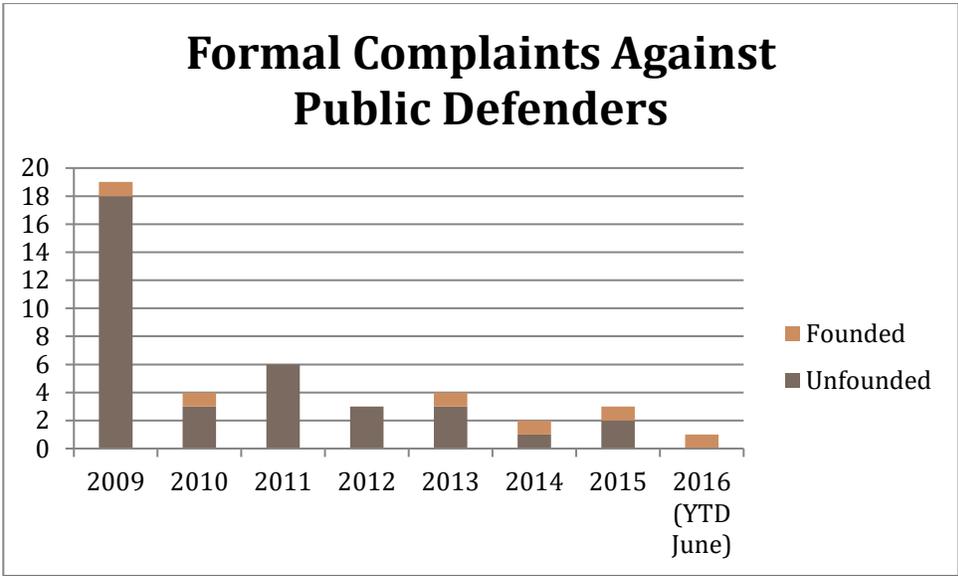
It features multiple and well-publicized ways for complaints to be received, a defined process (including timeframes) for investigation, and a clear resolution to each. More information about OPD's Complaint Investigation & Resolution Program can be found on the [Client Complaint page](#) of our website.

PROGRAM SUCCESS

The success of this program is apparent in the fact that unfounded complaints now comprise a significantly lower percentage of overall formal complaints than before with a number of recent founded complaints resulting in appropriate disciplinary action against contract defenders⁴. OPD has even received compliments from the State Office of Public Defense who has informed us that they even suggest other jurisdictions review OPD's [Client Complaint Page](#) when working on putting together their own policies and procedures.

⁴ In addition to outright contract termination, sometimes contract defenders are also offered contract caseload limitations or transfers to a more appropriate contract as a means of addressing problems raised.

COMPLAINT INVESTIGATION & RESOLUTION



Exit Interviews

The final piece to the quality control equation is conducting exit interviews with outgoing contract defenders and staff defenders (who are leaving on good terms). Through experience, it is quite apparent that feedback received is much more honest and candid when contract and continued employment considerations are no longer a factor. Still a work in progress, the ultimate goal of exit interviews is to use a combination of in-person interviews and on-line questionnaires to gather as much information as possible about what OPD is doing well and should continue doing, what OPD is not doing well and should discontinue or do differently, and what practices OPD may want to consider incorporating.

CONCLUSION

Conclusion

Ensuring the quality of public defense services is the number one priority at the Benton County Office of Public Defense. This whitepaper has outlined OPD's multi-faceted approach to monitoring public defense quality. As Benton County and OPD's needs change and evolve, and as the legal landscape of public defense in Washington State changes, modifications will be made to this approach. If you are interested in learning more about OPD's operations or changes to its public defense quality monitoring efforts, please visit [OPD's website](http://BentonCountyDefense.org) (BentonCountyDefense.org) and review its [Annual Reports and Strategic Plans](#).

Special note about Performance Standards Monitoring: The results of the Data Collection prong of Performance Standards Monitoring are published in [OPD's Quarterly Reports](#). Quarterly Reports are posted on OPD's website after they have been presented formally to the Benton County Board of County Commissioners.

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BENTON COUNTY OFFICE OF PUBLIC DEFENSE

Q1 2016 QUARTERLY REPORT

Quality Representation – Fiscal Accountability

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INTRODUCTION

Introduction

WHAT IS THIS REPORT

This is a quarterly report of the Benton County Office of Public Defense (“BCOPD”) and provides important insight into **performance standards** met by public defenders; public defense **caseloads** during the quarter; and **financial status** for the biennium-to-date.

PERFORMANCE STANDARDS MONITORING

To ensure the quality of representation provided by Benton County public defenders, BCOPD utilizes Performance Standards Monitoring. The portion of this report dedicated to Performance Standards Monitoring provides information both on the methodology utilized as well as actual numbers for the quarter.

CASELOADS

Having a manageable caseload is a foundational factor in effective public defense representation. This report will provide an in-depth analysis of caseloads for the first quarter of 2016 including trends, comparisons with previous years, and correlation with public defense caseload standards.

FINANCIALS

The financial analysis contained in this report is for the biennium-to-date and provides both a break-down of spending and indication of whether spending is above or below predicted/planned levels.

PERFORMANCE STANDARDS MONITORING - BACKGROUND

Performance Standards Monitoring - Background

Benton County Office of Public Defense is committed to providing quality public defense services to its clients. In order to monitor public defense service quality and to continually seek opportunities for improvement, BCOPD utilizes a Performance Standards Monitoring system

This system consists of two parts: collection of Performance Metrics and In-Court Observation.

For more information about Performance Standards Monitoring, please see OPD's Supervision and Quality Control Plan.

PERFORMANCE METRICS

Utilizing the opinion in *Wilbur v. Mt. Vernon* and the important public defense quality factors identified in that case, as well as materials from the State Office of Public Defense, BCOPD has identified the following metrics as important in evaluating public defender performance and collects them either directly from public defenders or from alternative reliable sources:

METRIC	DESCRIPTION
Jail visits	Visits to adult inmates at the Benton County Jail.
Detention visits	Visits to, or phone calls with, juveniles detained at the Juvenile Detention Center.
Mental health evaluations	Number of public defense funded mental health evaluations either for a "second opinion" competency evaluation (if the public defender disagrees with the Eastern State Hospital evaluation result) or for a capacity evaluation (to determine whether lack of mental capacity to commit the charged crime should be a defense.
Complaints	Number of complaints that are "formal." In order to be considered formal, a complaint must state a particular problem or issue, being in writing, and be made directly by a client.
Investigative services	Number of cases where a private investigator is assigned and does work on the case ¹ .
Expert services	Number of cases where an expert is retained, and does work on the case.
Trials	Number of cases that go to trial.
Disposed of at Readiness	Number of cases that are resolved in a manner favorable to the defendant (such as with a Stipulated Order of Continuance or deferral) at trial readiness.

¹ This is estimated using billings without regard to multiple billings for the same case (which is rare).

PERFORMANCE STANDARDS MONITORING - BACKGROUND

Motions

Number of cases where the public defender files certain (usually dispositive) key motions including motions to suppress evidence or statements.

Hours worked

This is collected only and not reported

Number of hours expended by public defenders on different categories of work related to individual cases.

Conversion into Performance Indices

To make the collected metrics more understandable and correlated with caseloads (which would obviously have a bearing on the metrics) they have each been converted into an index, representing their equivalent per 1,000 cases appointed.

For example: if, during a given quarter, there were 20 cases with investigators appointed, and the relevant caseload was 250 cases, then the Investigative Services Index for that quarter would be 80 (meaning that for every 1,000 cases appointed, 80 were appointed investigators).

Calculating Performance Indices – Indices can be divided into two categories for purposes of calculation: **No Lag Indices** where there is little delay between the time of case appointment and the event being measured by the index, and **Lag Indices** where there is usually significant delay (60 to 90 days) between the time of case appointment and the event being measured by the index². No Lag Indices are calculated using the caseload of the current quarter. For better accuracy, and to account for the lag, Lag Indices are calculated using the caseload of the previous quarter.

NO LAG INDICES

Jail Visits Index

Detention Visits Index

Complaints Index

Motions Index

10.77 (mental health) Motions Index

Disposed of at Readiness Index

LAG INDICES

Mental Health Evaluations Index

Investigative Services Index

Expert Services Index

² Since the numbers underlying these indices are collected based on billings, the time between appointment and the time services are rendered (averaging 30 days, possibly more with trial numbers) and the time between when services are rendered and billing is received (45-60 days) add up to usually result in billing occurring in the next quarter after case appointment.

PERFORMANCE STANDARDS MONITORING - BACKGROUND

Trials Index

For example: Investigative Services Index is a Lag Index. Therefore, in calculating the Investigative Services Index for Q2 2015, the number of investigative services bills paid in 2015 would be divided by the caseload from the previous quarter (Q1 2015) and multiplied by 1,000 for the index.

IN-COURT OBSERVATION

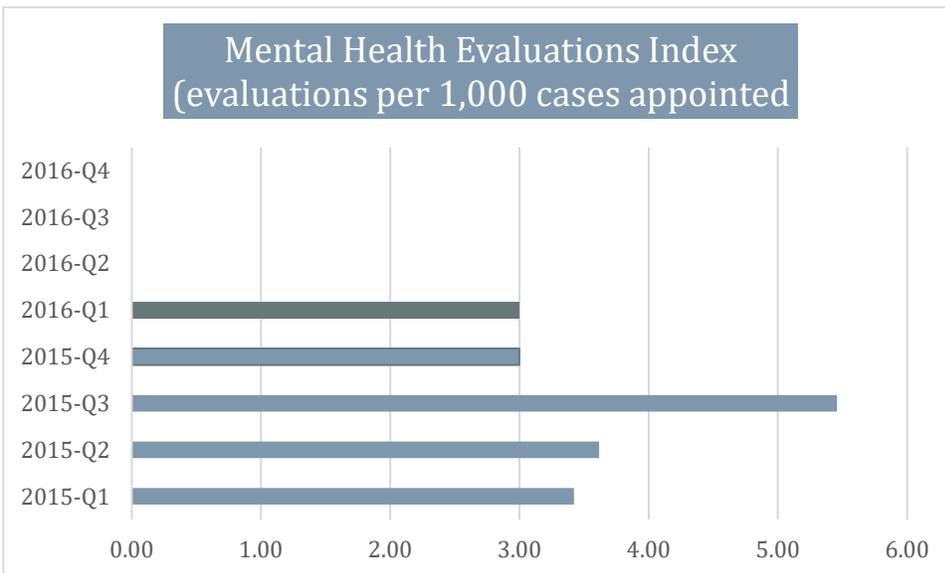
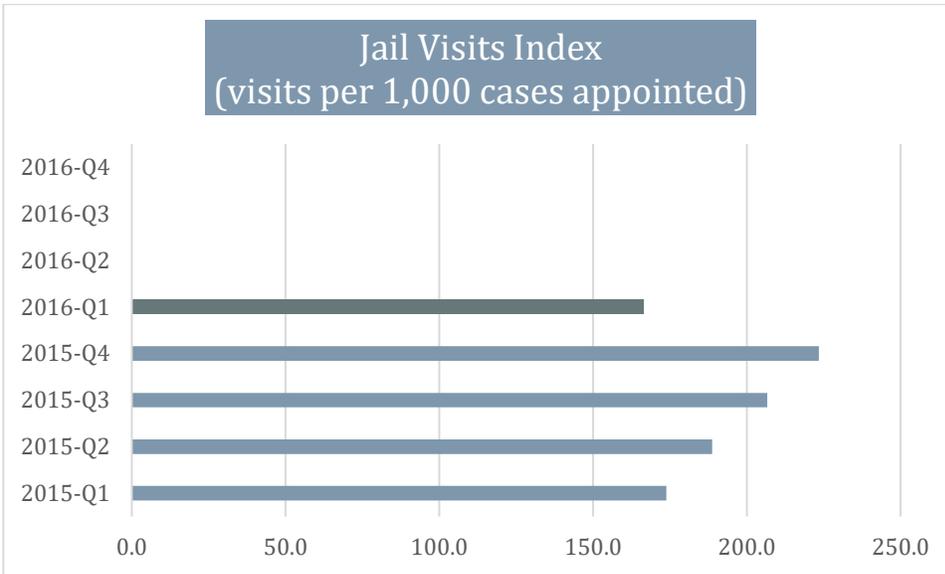
Regular unscheduled observation is conducted for all court jurisdictions and specialty dockets where BCOPD provides public defense services. Observation is conducted primarily by the Public Defense Manager though it may sometimes be delegated to other Staff Defenders who have supervisory duties. Observations are recorded in an electronic, searchable, database and include key observations about the docket as a whole as well as individual public defender performance. The actual criteria used for in-court observation is published in OPD's Supervision and Quality Control Plan. Future Quarterly Reports will publish the number of In-Court Observation sessions conducted.

PERFORMANCE STANDARDS MONITORING – RESULTS

Performance Standards Monitoring – Results

MULTI-JURISDICTIONAL DATA

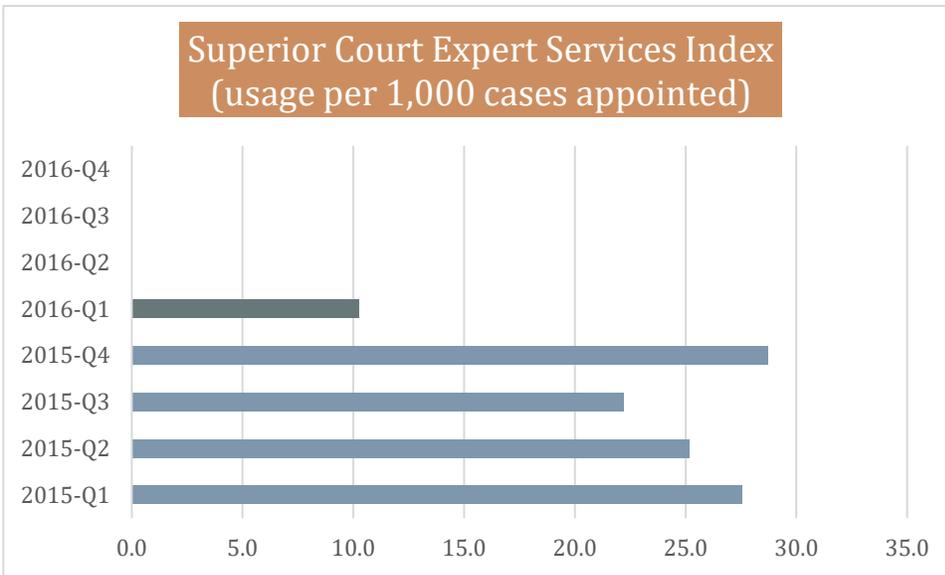
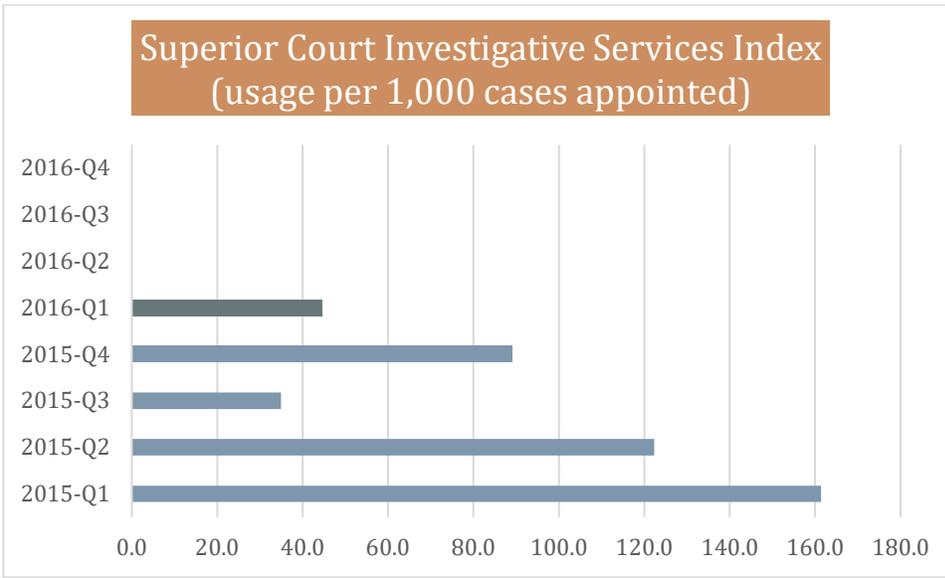
The data in this section is aggregate data for all Superior Court and District Court adult cases.



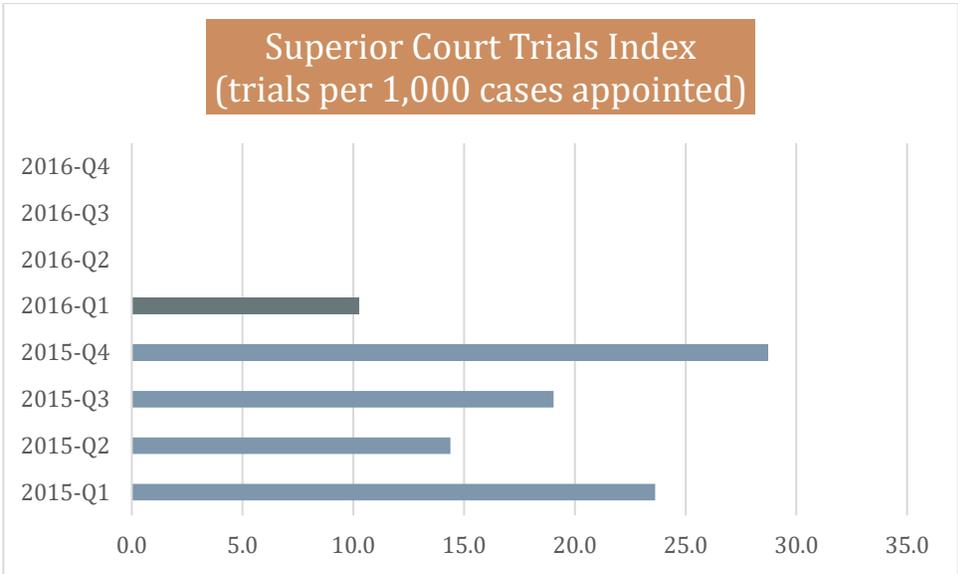
PERFORMANCE STANDARDS MONITORING – RESULTS

SUPERIOR COURT DATA

Data for the Motions Index, 10.77 Motions Index and Disposed at Trial Readiness Index has only been available for one quarter so will not be displayed until 2016 Q2.

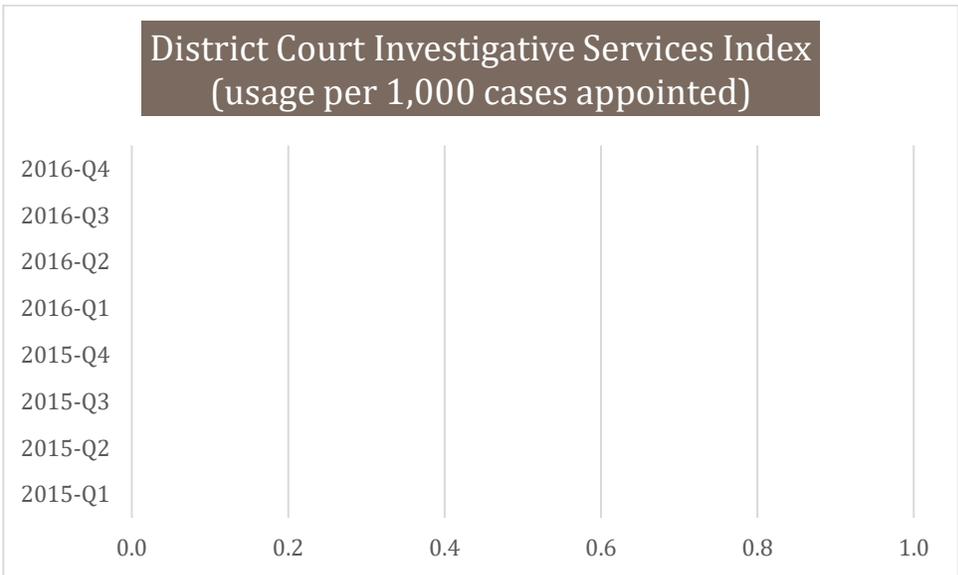


PERFORMANCE STANDARDS MONITORING – RESULTS

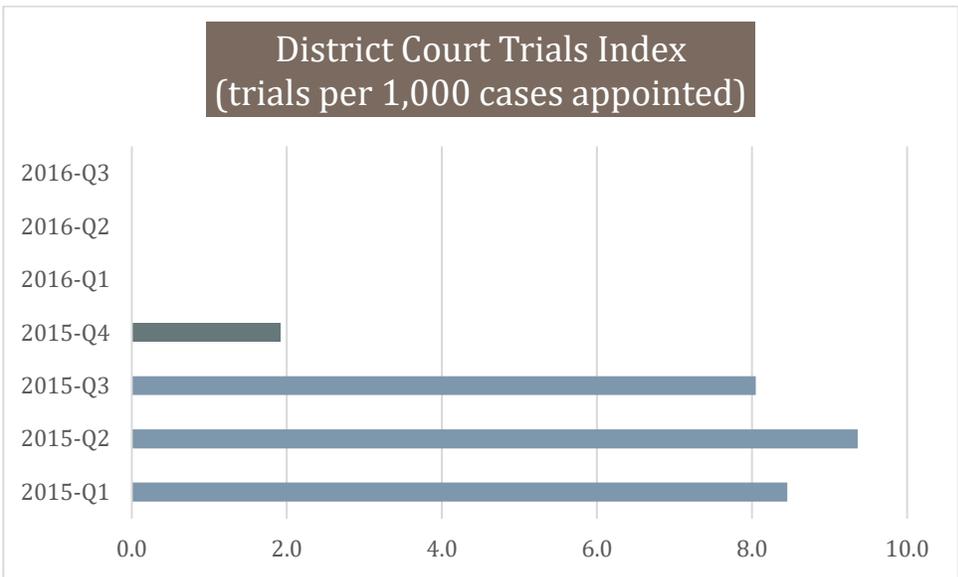
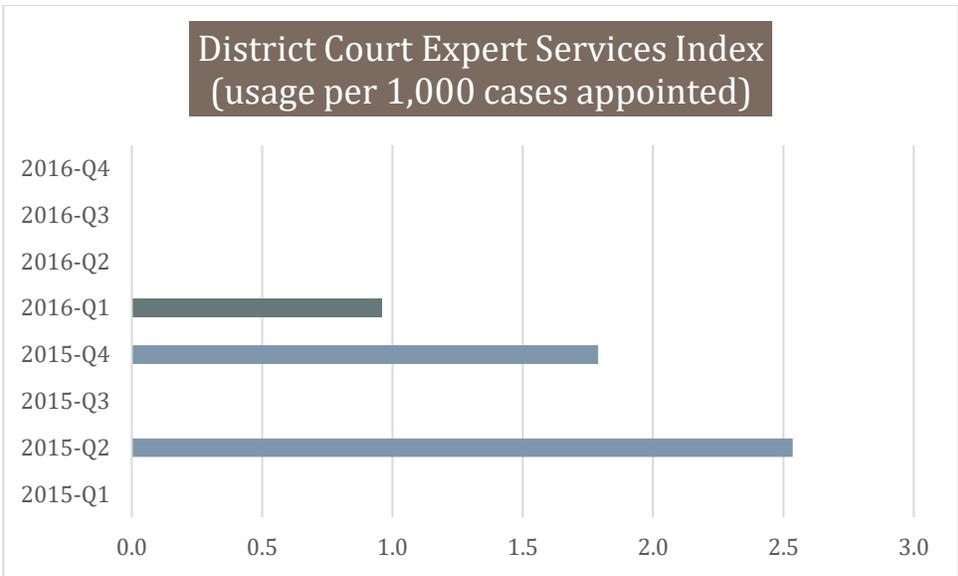


DISTRICT COURT DATA

Data for the Motions Index, 10.77 Motions Index and Disposed at Trial Readiness Index has only been available for one quarter so will not be displayed until 2016 Q2.



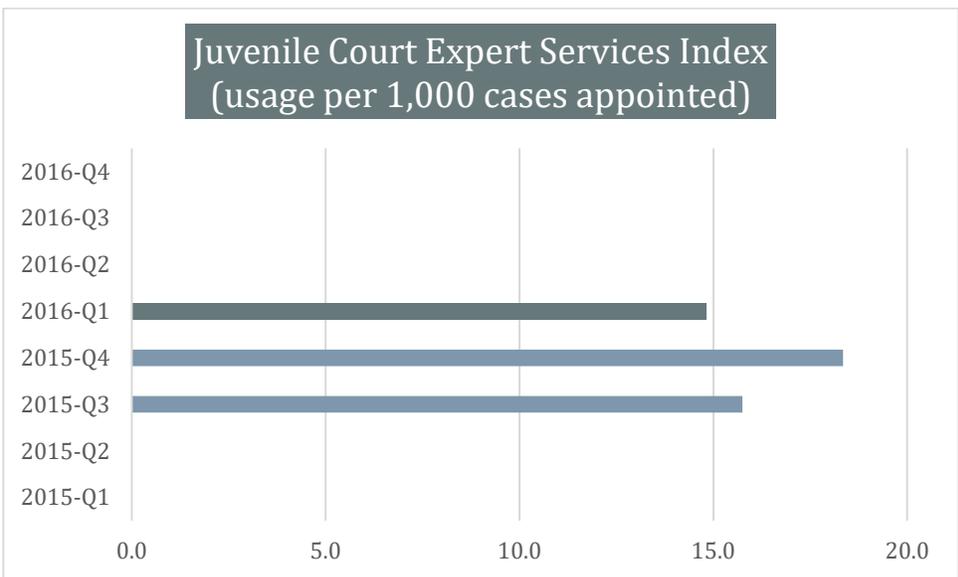
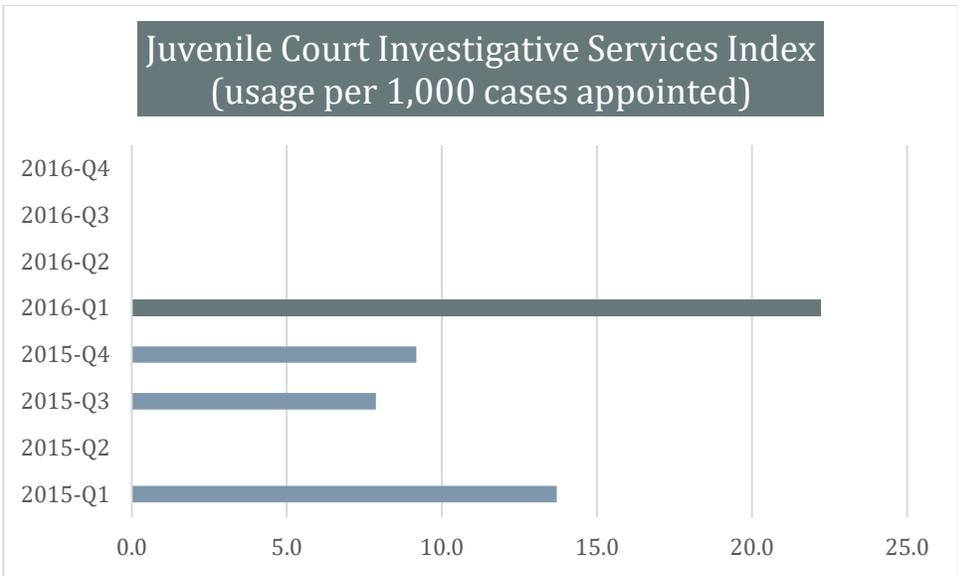
PERFORMANCE STANDARDS MONITORING – RESULTS



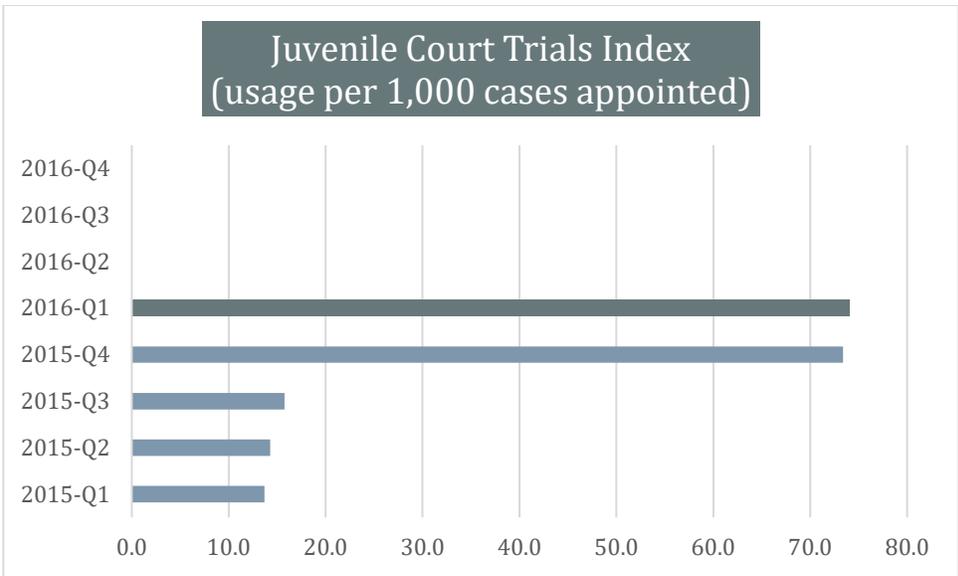
JUVENILE COURT DATA

Data for the Motions Index, 10.77 Motions Index and Disposed at Trial Readiness Index and Detention Visits Index has only been available for one quarter so will not be displayed until 2016 Q2.

PERFORMANCE STANDARDS MONITORING – RESULTS



PERFORMANCE STANDARDS MONITORING – RESULTS



CASELOADS

Caseloads

SOURCE OF CASELOAD DATA

Caseload data is obtained from a number of different sources and cross-checked to ensure maximum accuracy.

CASELOAD DATA SOURCES

Individual attorney reports

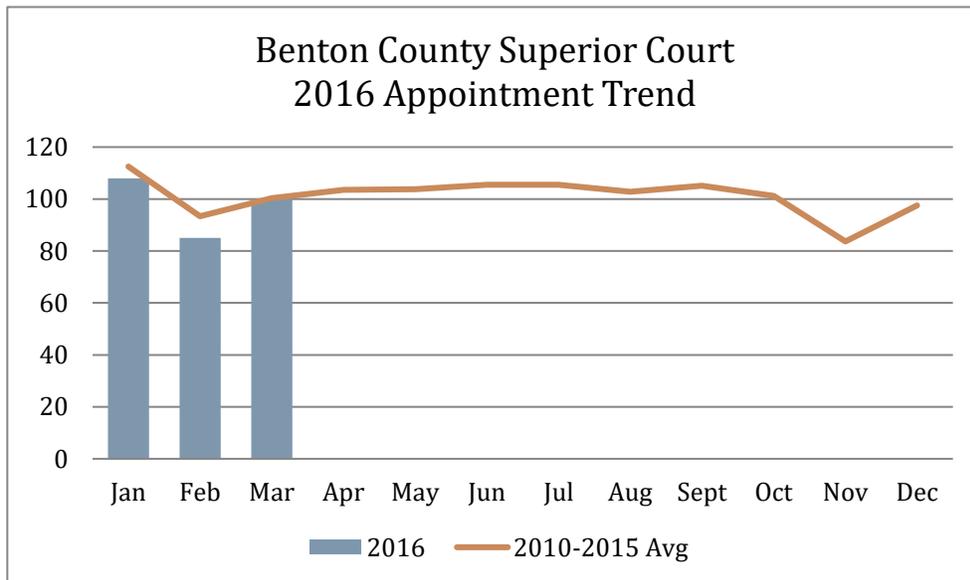
Reports provided directly by the court

State published reports on Administrative Office of the Courts ("AOC") website

CASELOAD UPDATE

All data in this caseload update is current as of the end of the first quarter, 2016 (March 31, 2016).

Superior Court Caseload – trend vs historical average



The caseload in Benton County Superior Court is trend right at or slightly below historic 5-year average levels. The Prosecutor's Office has recently hired an additional felony prosecutor; however, so an upward trend is anticipated for the rest of the year.

Superior Court Caseload – available capacity vs projected year-end caseload

The calculations for this analysis are based on the following number of defenders in Superior Court with the listed corresponding contract capacities.

CASE CAP	NUMBER OF CONTRACTS
140 cases per year (contractor)	5
125 cases per year (contractor)	2

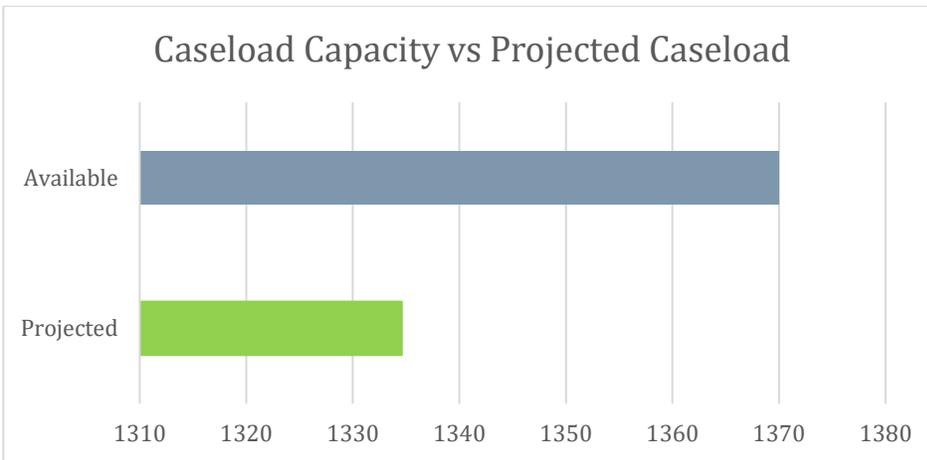
CASELOADS

135 cases per year (staff defender with supervisory duties) 2

150 cases per year (staff defender without supervisory duties) 1

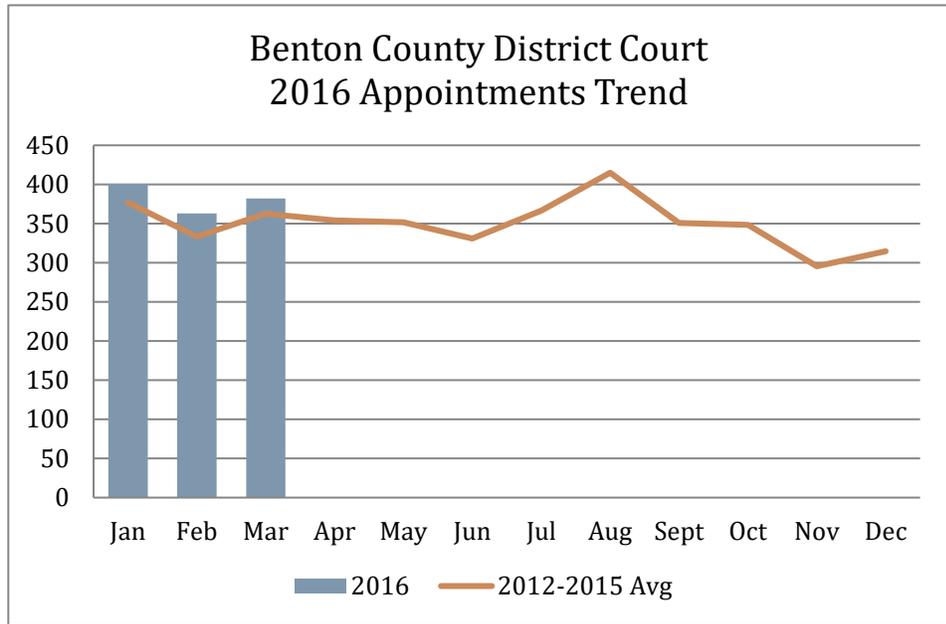
Additional assumptions are:

- No contractors terminate their contracts before end of 2016 (caseload transitions can skew projections)
- Between the hiring of the additional felony prosecutor and the significant increase in law enforcement hiring in the county due to the Public Safety Sales Tax, caseloads from May until the end of the year will be an average of 10% above 2011-2015 averages



CASELOADS

District Court Caseload – trend vs historical average



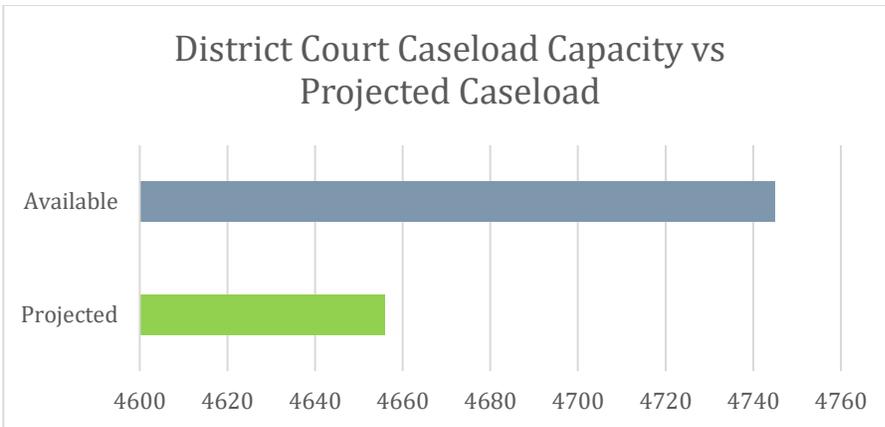
The caseload in Benton County District Court is persistently above recent four-year average and this trend is fully expected to persist in light of Public-Safety Sales Tax driven law enforcement hiring.

District Court Caseload – available capacity vs projected year-end caseload

Current capacity of contractors is as follows:

CASE CAP	NUMBER OF CONTRACTS
390 cases per year (contractor)	10
345 cases per year (contractor)	1
300 cases per year (contractor – incoming, effective July 18, 2016)	1
200 cases per year (contractor)	1

CASELOADS

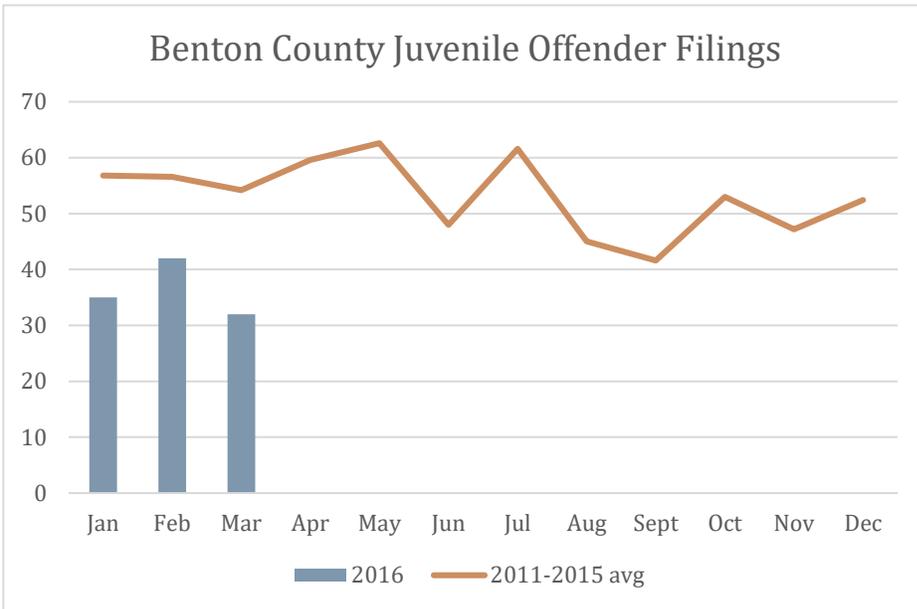


Additional assumptions are:

- No contractors terminate their contracts before end of 2016 (caseload transitions can skew projections)
- The current, above-average rate of appointments persists and does not increase before year's end
- The contractor scheduled to start July 18, 2016 with a caseload of 300 cases annually, does in fact start on time

CASELOADS

Juvenile Court Caseload – trend vs historical average



The caseload in Benton County Juvenile Court is significantly below recent five-year average and this trend is fully expected to persist. Actions taken in response to this trend have included reduction of contracts from five to four.

³ All juveniles charged with criminal offense are presumed to be indigent and entitled to public defense counsel. Therefore, no differentiation is made, in record-keeping at OPD, between number of cases filed and number of cases appointed to public defense counsel.

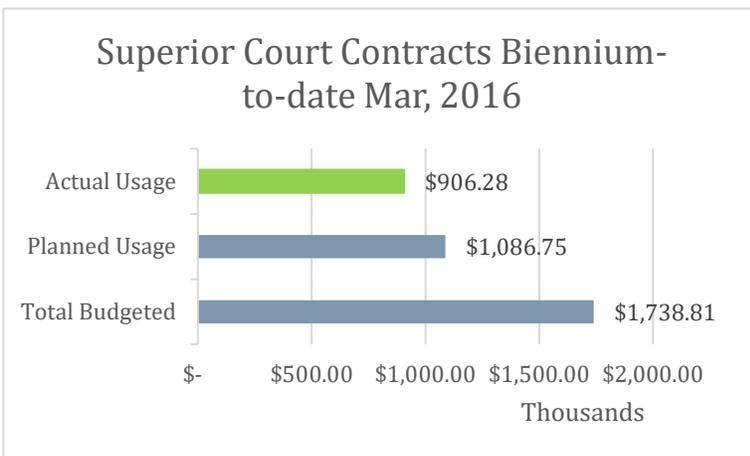
FINANCIALS

Financials

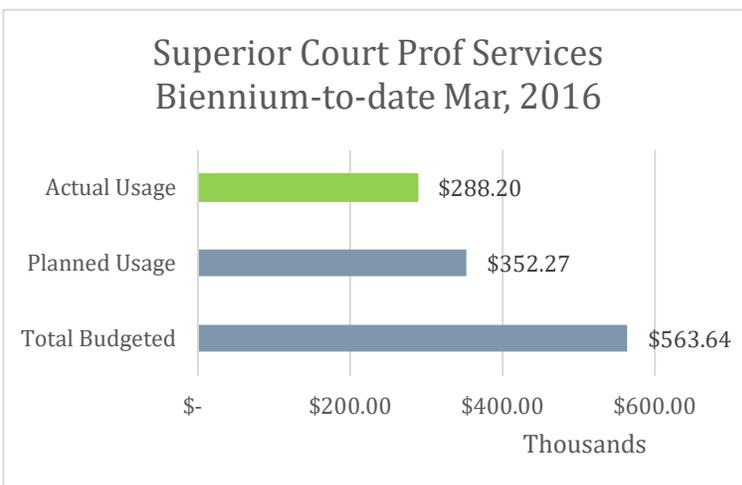
This section outlines OPD finances in each of its major categories along with a projection for year-end surplus or deficit.

FINANCIAL UPDATE AS OF END OF MARCH 31, 2016

Superior Court Contract Services

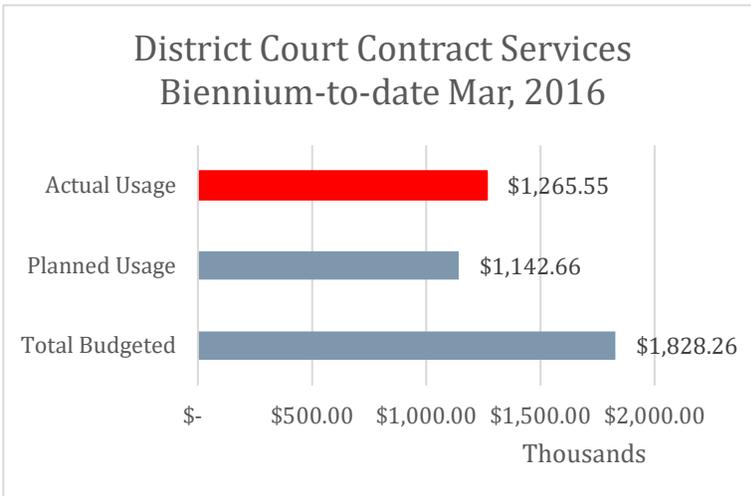


Superior Court Professional Services

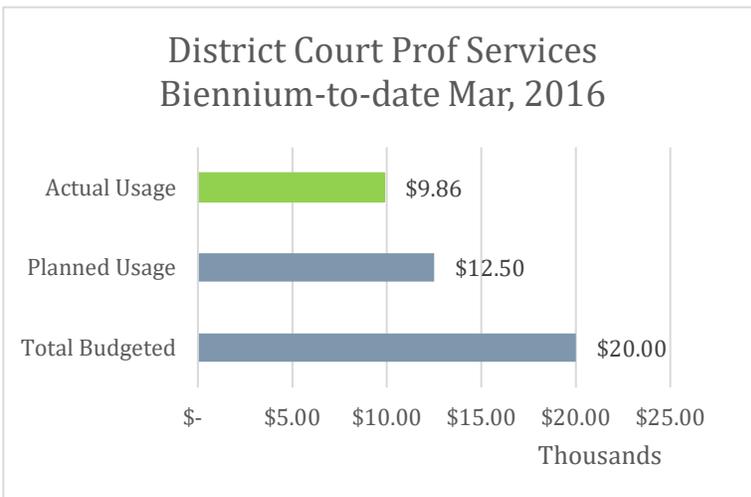


FINANCIALS

District Court Contracts



District Court Professional Services



CONCLUSION

Conclusion

Thank you for your interest in the Benton County Office of Public Defense. The Quarterly Report series, in combination with the Annual Report and Strategic Plan (usually published in the first quarter of each year) serve to provide information to stakeholders and the public about OPD's operational statistics and commitment to quality public defense services as well as fiscal accountability.