

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, August 2, 2016
Benton County Courthouse, Prosser, WA

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

9:00 AM

Call to Order

Approval of Minutes

❖ **June 26, 2016 Board Meeting**

Review Agenda

Consent Agenda

Commissioners

a. Line Item Transfer, Fund No. 0000-101, Dept. 107

Juvenile

b. Agreement with Pasco High School for Probation Counselor

c. Agreement with Chiawana High School for Probation Counselor

Office of Public Defense

d. Public Defense Services Agreement w/D Orr for Adult Drug Court

e. Termination of Juvenile Public Defense Contract w/P Peterson

f. Amended Contract w/M Trombley for Superior Court Public Defense Services

Public Works

g. Purchase Authorization for Tires from Les Schwab Tire Center

h. Purchase Authorization from Envirotech Services for Deicer

Sheriff

i. Amended Agreement w/Softcode for Software License and Maintenance

j. Interlocal Agreement for Special Investigations Unit to Investigate Officer Incidents

Superior Court

k. Line Item Transfer, Fund No. 0000-101, Dept. 123

Sustainable Development

l. Termination of Amended & Restated Debt Participation Agreement for Jail & District Court
Expansion of 2001

Scheduled Business

Electronic Security Retrofit – RFP Update ~ D Waggoner

Fairgrounds Building 2 & 3 Plaza ~ F Bowen

Unscheduled Visitors

Other Business

Executive Session
Pending Litigation ~ R Brown

10:30 AM Columbia Irrigation District Interviews

Draft

MINUTES

BOARD OF BENTON COUNTY COMMISSIONERS

Regular Board Meeting
Tuesday, July 26, 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 Kelty; Adam Fyall, Sustainable Development Manager; County Engineer Matt Rasmussen; Assistant County Engineer Robert Blain; Planning Manager Mike Shuttleworth; DPA Ryan Brown; Auditor Brenda Chilton; Clerk Josie Delvin; District Court Administrator Jacki Lahtinen; Financial Analyst Paul Schut; DPA Steve Hallstrom; Personnel Manager Lexi Wingfield; Public Services Administrator Fred Bowen; District Court Judge Terry Tanner; Human Services Manager Kyle Sullivan.

Approval of Minutes

The Minutes of July 19, 2016 were approved.

Consent Agenda

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

Facilities

- a. Line Item Transfer, Fund No. 0000-101, Dept. 110

Fairgrounds

- b. Contract w/Apollo Sheet Metal, Inc. for Installation of Lennox Unit
- c. Contract w/Big D's Construction of Tri-Cities, Inc. for Installation of Water Supply System

Human Services

- d. Amendment D w/WA State Dept of Commerce, Community Services & Housing Division
- e. Termination Letter for Greater Columbia Behavioral Health Contracts

Juvenile

- f. Contract w/J Blanco for Functional Family Therapy
- g. Payment Authorization to Tyco SimplexGrinnell System for Fire Alarm Monitoring

Public Safety

- h. Agreement w/Safe Harbor Crisis Nursery for My Friends Place for Overnight Youth Shelter

Public Works

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

Sheriff

- j. Line Item Transfer, Fund No. 0000-101, Dept. 125
- k. Agreement w/City of Kennewick for Use of Kennewick Firearms Range Facility
- l. Contract Extension w/Energy Northwest for Law Enforcement Services

Public Hearing - Supplemental Appropriation

Loretta Smith Kelty announced the public hearing on the supplemental appropriation was cancelled and they would come back at a later date and re-advertise.

Legal Financial Obligation (LFO) Impact Update

Ms. Smith Kelty said she had been working with a team to update the Board on the financial impacts of the LFO docket. She gave a Powerpoint presentation and discussed the following:

- Years 2013-2016 – Current Expense Revenue Categories
- Variance from 2015 to 2016 – forecasting a 19% decrease (to be down by the end of 2016 by approximately \$785,000)

District Court Administrator Jacki Lahtinen discussed the District Court Caseload and highlighted the following:

- Monthly civil infraction penalties were way down; partly due to the LFO's (however, if they decided not to pay their LFO's since they would not go to jail, they were also not paying their infractions)
- Additionally, infraction tickets were down 500 in one month
- Criminal - seeing a decrease in criminal case filings as well (2016 had a pretty good decrease every month)

Commissioner Delvin asked about whether the new officers were on board yet and Andy Miller via/videoconference stated that none of the cities had been able to fill the officer positions with the new 3/10 money.

Undersheriff Jerry Hatcher via/videoconference said they originally had hoped to be done filling the positions by September but were now pushing it back to February (and were not optimistic about hiring by then with the candidates that were applying). He said that hiring new officers was a pretty lengthy process.

Ms. Smith Kelty indicated the other funds (Crime Victim, Law Library, and Judicial Stable Trust) were down and they were seeing hits across the board, not just with Current Expense.

- Superior Court revenue – same situation

Clerk Josie Delvin said there was a national trend and it was coming from a ruling down from the Courts that the judges had to make a decision at the time of sentencing if the defendant had the future ability to pay certain fees; it also affected the ability for the Clerk to collect fees.

- **Average Jail Population**

Undersheriff Jerry Hatcher and Linda Ivey reviewed the average jail population from 2015-2016. Mr. Hatcher said they anticipated a drop in population with the LFO's (about 75) and were trying to mitigate those effects. He said they were constantly evaluating staffing levels to meet current population trends which were always fluctuating; there was \$761,000 not paid out in salaries due to open positions. He said he believed they were close to plateauing and were trying to move staffing levels and contract housing was up to help mitigate the drop in local population.

He added that with law enforcement the types of cases they were seeing were more complex and while the LFO cases went down, they continued to see an increase in mental health cases.

Commissioner Delvin said he wanted to know about the effects of the LFO in advance of the budget preparation so the budget submittals would reflect changes in revenue. He said if everything was down, he didn't see making up the difference from the general fund and the departments would need to look at their personnel staffing.

Commissioner Beaver said he agreed that if revenues were down, they needed to look at alternatives. The cities were aggressively pursuing alternatives to incarceration and the county needed to look to the future and how to address this if the money was not there. He said he was agreeable to a workshop on the issue, if needed.

Chairman Small said it was good information to see what had been happening the last six months and agreed they needed to start making adjustments.

Ms. Delvin commented that the Clerk was authorized to decide whether to go outside or utilize in house staff for the collections (and she was choosing to stay in house). However, she was also authorized to use a wage assignment without any further notices and she would be looking to utilize that and go aggressively after those defendants that had jobs.

Road Construction Closure

County Engineer Matt Rasmussen and Cary Roe, City of Kennewick updated the Board on the upcoming road closures during construction of a new middle school. The update included closures, connections and timeframes and impacts to Clodfelter Road area.

Old Engineering Building - Renovation

Fred Bowen said the estimated costs for modernization of the entire facility was between \$1.5 million to \$1.55 million. Additionally, the Planning Annex and parking lots appraised value was estimated at \$224,000 offsetting some of the costs. Mr. Bowen recommended the Board approve

entering into a contract with CKJT Architects for the development of the construction plans and specifications for the renovation of the Old Engineering Building located behind the Courthouse.

Commissioner Delvin asked whether Prosser WSU should be included. Mr. Bowen said there was plenty of room to include WSU into the renovated building and recommended the County keep the WSU building for storage.

MOTION: Commissioner Beaver moved to approve the Public Services Administrator to proceed with a Contract with CKJT for the development of construction plans and specifications for the renovation of the Old Engineering Building. Commissioner Delvin seconded and upon vote, the motion carried.

Quarterly Financial Update

Paul Schut updated the Board on the quarterly financial status as of June 30, 2016 as follows:

- Highlights
 - 75% through the biennium
 - Revenues at 76.41% (75.80% Amortized); up 20% in retail sales tax – mainly due to construction
 - Expenditures at 68.21%

Other Business

MATRICS Agreement

Commissioner Delvin said the Board signed the MATRICS agreement in 2015 but the cities had not ever signed it and they had not had a MATRICS meeting in some time. Additionally, he said that Franklin County and Pasco were still trying to figure out what they wanted to do. He recommended the Board sign a resolution rescinding that agreement and Ms. McKenzie said she would prepare the resolution for the Board's signature.

Mental Health Court

Commissioner Delvin said he talked with Tara Symons and Judge Butler about Mental Health Court and that temporary housing was a big issue. He said they discussed drafting a letter to Providence to consider building such a facility instead of placing them in the ER beds and maybe the County could partner (using Human Services funds).

The Board agreed to further consider the issue.

Judge Tanner (from the audience) said he agreed the biggest issue for mental health clients was housing.

ARC – Advisory Committee for Accessible Communities Act

Commissioner Delvin asked the Board if it was agreeable to establishing the advisory committee as previously requested by ARC. The Board agreed and Commissioner Delvin said he would have someone from ARC contact the County.

The Board recessed at 10:12 a.m. for approximately five minutes, reconvening at 10:20 a.m.

Executive Session – Pending Litigation

The Board went into executive session at 10:20 a.m. for approximately 30 minutes with DPA Ryan Brown to discuss pending litigation. Also present were special counsel Suzanne Kelly Michael, Susan Looker (Risk Pool), David Sparks, Loretta Smith Kelty, Cami McKenzie, Steve Hallstrom, and Lexi Wingfield. The Board came out at 10:45 a.m. Mr. Brown said the Board discussed pending litigation and took no action.

Vouchers

Check Date: 07/22/2016

Transfers #: 07221601-07221607

Total all funds: \$218,649.41

Warrant #: 142677-142819

Total all funds: \$2,112,011.69

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

Resolutions

- 2016-573: Termination Letter for Greater Columbia Behavioral Health Contracts
- 2016-574: Line Item Transfer, Fund No. 0000-101, Dept. 110
- 2016-575: Contract w/Apollo Sheet Metal, Inc. for Installation of Lennox Unit
- 2016-576: Contract w/Big D’s Construction of Tri-Cities, Inc. for Installation of Water Supply System
- 2016-577: Amendment D w/WA State Dept of Commerce, Community Services & Housing Division
- 2016-578: Contract w/J Blanco for Functional Family Therapy
- 2016-579: Payment Authorization to Tyco SimplexGrinnell System for Fire Alarm Monitoring
- 2016-580: Agreement w/Safe Harbor Crisis Nursery for My Friends Place for Overnight Youth Shelter
- 2016-581: Line Item Transfer, Fund No. 0101-101, Dept. 500
- 2016-582: Line Item Transfer, Fund No. 0000-101, Dept. 125
- 2016-583: Agreement w/City of Kennewick for Use of Kennewick Firearms Range Facility
- 2016-584: Contract Extension w/Energy Northwest for Law Enforcement Services

There being no further business before the Board, the meeting adjourned at approximately 10:45 a.m.

Clerk of the Board

Chairman

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY FUNDS RE: TRANSFER OF FUNDS WITHIN
COMMISSIONERS FUND NUMBER 0000-101, DEPARTMENT NUMBER 107.

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 August, _____, 2016

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, M Flores

Flores

BENTON COUNTY LINE ITEM TRANSFER

Dept Name:

Dept Nbr:

Fund Name:

Fund Nbr:

TRANSFER FR

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
511.200	3201	Vehicle Fuel	\$1,000	511.600	4894	ER & R Repair & Maintenance	\$1,000
TOTAL			\$1,000	TOTAL			\$1,000

Explanation:

Transfer needed to pay estimated ER & R car repairs & maintenance for remainder of 2016

Prepared by:

Date:

Approved

Denied

Date: _____

Chairman

Member

Member

AGENDA ITEM: Consent	TYPE OF ACTION NEEDED Executive Contract <u>xx</u> Pass Resolution <u>xx</u> Pass Ordinance Pass Motion Other	CONSENT AGENDA <u>xx</u> PUBLIC HEARING 1ST DISCUSSION 2ND DISCUSSION OTHER
MEETING DATE: FC 7-20-16 B/C 8-2-16		
SUBJECT: Execution of a School/Juvenile Probation Liaison Agreement with Pasco School Probation Liaison Program at Pasco High School		
Prepared By: Maria Loera		
Reviewed By: Darryl Banks		

BACKGROUND INFORMATION

The Pasco High School/Probation Liaison Project places a probation counselor at Pasco High School to teach Aggression Replacement Training and to work with those youth at the school that are on probation has been in place since 2000. Research indicates this program is making substantial, positive changes in the lives of the youth it serves. In years past funding was received from the Department of Social Health Services, Office of Juvenile Justice to sustain this program. Beginning with the 2005 2006 school year to continue this community vital program, the Pasco School District agreed to compensate the Counties for the contract.

SUMMARY

The Pasco School District would like to continue the program for the period beginning on July 1, 2016 and ending on June 30, 2017.

RECOMMENDATION

We recommend that the Boards of County Commissioners of Benton and Franklin Counties sign the Agreement with the Pasco School District to continue probation services and intervention services to youth located at Pasco High School.

COORDINATION

Coordination of the contract occurred as follows: Maria Loera, Senior Administrative Secretary who compiled the contract; Stephen Hallstrom, Benton County Deputy Prosecuting Attorney who reviewed the contract as to form; Michelle Whitney, Superintendent of Pasco School District and Darryl Banks, Administrator for the Benton-Franklin Counties Juvenile Justice Center.

FISCAL IMPACT

Pasco School District has agreed to compensate the Counties for a maximum amount not to exceed \$43,140.00, which is one-half the cost to the Counties of employing a Probation Counselor. The Fee For Service is included in the Juvenile Justice Dept. 173 Budget. No supplement required.

MOTION

I move that the Chairman of the Board of Benton County Commissioners and the Chairman of the Board of Franklin County Commissioners be hereby authorized to sign the Agreement with the Pasco School District to provide a probation counselor in Pasco High School.

HANDLING/ROUTING

Following signature from Franklin County, route to Benton County for signature. Following signature from Benton County three originals are to be returned to Maria Loera to disperse.

I certify the above information is accurate and complete.

Maria Loera

JOINT RESOLUTION

BENTON COUNTY RESOLUTION NO. _____

FRANKLIN COUNTY RESOLUTION NO. _____

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

RE: IN THE MATTER EXECUTION OF A SCHOOL/JUVENILE PROBATION LIAISON PROGRAM AGREEMENT BETWEEN BENTON-FRANKLIN COUNTIES JUVENILE JUSTICE CENTER AND THE PASCO SCHOOL DISTRICT TO PROVIDE A PROBATION COUNSELOR IN PASCO HIGH SCHOOL, and

WHEREAS, Darryl Banks, Administrator of Benton-Franklin Counties Juvenile Justice Center, believes it is in the best interest of the Juvenile Justice Center that the proposed School/Juvenile Liaison Program Agreement between the Benton-Franklin Counties Juvenile Justice Center and the Pasco School District be approved. The School/Juvenile Probation Liaison Program is a delinquency prevention and intervention program designed to provide research-based programs at Pasco High School. The amount of the Agreement is one-half to the Counties of employing the Probation Counselor; **NOW, THEREFORE**

BE IT RESOLVED, that the Board of Benton County Commissioners and the Board of Franklin County Commissioners accepts the attached Program Agreement; and

BE IT FURTHER RESOLVED, that the Chairman of the Board of Benton County Commissioners, Benton County, Washington and the Chairman of the Board of Franklin County Commissioners, Franklin County, Washington, are hereby authorized to sign, on behalf of their respective county, and the Board concurs with the Administrator's recommendation to award the School/Juvenile Probation Liaison Program Agreement between Benton-Franklin Counties Juvenile Justice Center and the Pasco School District to provide a probation counselor in Pasco High School for a consideration amount payable to the Counties not to exceed \$43,140.00; and

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

DATED this _____ day of _____ 2016
BENTON COUNTY BOARD OF
COMMISSIONERS

DATED this _____ day of _____ 2016
FRANKLIN COUNTY BOARD OF
COMMISSIONERS

Chairman of the Board

Chairman of the Board

Member

Chairman Pro Tem

Member

Constituting the Board of
County Commissioners,
Benton County, Washington

Member

Constituting the Board of
County Commissioners,
Franklin County, Washington

Attest:

Attest:

Clerk of the Board

Clerk of the Board

JUDGES
Hon. Vic L. VanderSchoor
Hon. Robert G. Swisher
Hon. Carrie Runge
Hon. Cameron Mitchell
Hon. Bruce Spanner
Hon. Alexander C. Ekstrom
Hon. Jacqueline Shea-Brown

BENTON-FRANKLIN COUNTIES JUVENILE JUSTICE CENTER



Darryl Banks, Administrator Juvenile
Court Services

SUPERIOR COURT OF THE STATE OF WASHINGTON

JOSEPH R. SCHNEIDER
JERRI G. POTTS
JACQUELINE STAM
Court Commissioners

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

SCHOOL/JUVENILE PROBATION LIAISON PROGRAM AGREEMENT BETWEEN BENTON AND FRANKLIN COUNTIES AND PASCO SCHOOL DISTRICT

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, and Franklin County, a political subdivision, with its principal offices at 1016 North Fourth Avenue, Pasco, WA 99301, by and for the Benton-Franklin Counties Juvenile Justice Center ("BFJJC"), a bi-county agency located at 5606 W. Canal Place STE 106, Kennewick, WA 99336 (hereinafter collectively referred to as the "Counties"), and Pasco School District, with its principal offices at 1215 West Lewis Street, Pasco, WA 99301 (hereinafter referred to as the "District").

RECITALS

- A. The Counties and the District have implemented a School/Juvenile Probation Liaison Program and desire to continue such a program (the "Program") to serve the population identified in Exhibit A to this Agreement, which is attached hereto and incorporated herein by reference; and
- B. The Counties and the District desire to continue the Program in accordance with the Goals and Objectives set forth in Exhibit A to this Agreement.

AGREEMENT

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

1. STATEMENT OF WORK

- 1.1 The parties agree that a description of the Statement of Work for this Agreement is set forth in Exhibit B to this Agreement, which is attached hereto and incorporated herein by reference.
- 1.2 The Counties agree to perform all work described in Exhibit B, Section 1 of this Agreement. The Counties further agree to furnish the necessary personnel, services, facilities, and supplies and otherwise do all things necessary or

incidental to the performance of work set forth in Exhibit B, Section 1 of this Agreement.

- 1.3 The District agrees to perform all work described in Exhibit B, Section 2 of this Agreement. The District further agrees to furnish the necessary personnel, services, facilities, and supplies and otherwise do all things necessary or incidental to the performance of work set forth in Exhibit B, Section 2 of this Agreement.
- 1.4 The Counties and the District shall maintain all records that reflect all direct and indirect costs expended by each party in the performance of this Agreement. The Counties and the District shall maintain written documentation of services provided to all youth under this Program. Such records shall be maintained in a locked, confidential file at Pasco High School. These records shall be available at all reasonable times for inspection, review or audit by authorized personnel from the Counties, the Washington State Auditor, the District, the Benton County Auditor, and the Franklin County Auditor.
- 1.5 The work described herein shall be performed under the coordination of the BFJJC Administrator, or his/her administrative designee and Principal of Pasco High School, or his/her administrative designee for the District, or their successors.

2. COMPENSATION

- 2.1 The District agrees to pay the Counties Three Thousand Five Hundred Ninety-Five Dollars (\$3,595.00) for each month of this Agreement, beginning July 2016, which amounts to a total of Forty Three Thousand One Hundred Forty Dollars (\$43,140.00) for the term of this Agreement. The parties agree that this amount is one-half the cost to the Counties of employing the Probation Counselor described in Exhibit B, Section 1(a) of this Agreement.
- 2.2 The District agrees that it will process each monthly invoice from the Counties with its first payment cycle after receiving each invoice, and that it will remit payment to the Counties no later than thirty days from the date of receipt of each invoice.

3. TERM

The term of this Agreement shall begin July 1, 2016 and will continue through June 30, 2017, unless terminated prior to that time by either party in accordance with Section 4 of this Agreement, below.

4. TERMINATION

- 4.1 The Counties may terminate this Agreement in whole or in part if the Counties determine, in their sole discretion, that such termination is in the best interest of the Counties. The Counties may terminate this Agreement under this paragraph by giving ten calendar days' written notice by certified mail to the District. The

notice period shall begin upon mailing, unless otherwise specified in the notice. In this event, the District shall pay the Counties for all services performed by the Counties up to the effective date of the termination. Payment shall be made in accordance with the Compensation Section of this Agreement.

- 4.2 In the event that funding for this Program is withdrawn, reduced, or limited in any way after the Effective Date of this Agreement, the Counties may summarily terminate this Agreement notwithstanding any other termination provision in this Agreement by giving written notice by certified mail to the District, specifying the termination date. Termination under this paragraph shall be effective on the date specified in the written notice of termination.
- 4.3 If the District breaches any of its obligations hereunder, and fails to cure the breach within ten days after receiving written notice from the Counties to do so, the Counties may immediately terminate this Agreement by giving written notice by certified mail to the District. The District shall bear all costs and expenses incurred by the Counties in completing the work and all damages sustained by the Counties by reason of the District's breach.

5. COMPLIANCE WITH LAWS

The parties agree that all activity pursuant to this Agreement will be in accordance with all applicable federal, state, and local laws, rules, and regulations. It is the policy of the Counties that no person will be subjected to discrimination by the Counties or by their subcontractors because of race, color, national origin, sex, age, religion, creed, marital status, veteran status, the presence of any disability, or any other protected status under the law. The District agrees to comply with that anti-discrimination policy.

6. INDEMNIFICATION

- 6.1 The District shall hold harmless, indemnify, and defend the Counties, their officers, officials, employees, and agents, from and against any and all claims, actions, suits, liability, loss, expenses, damages, and judgments of any nature whatsoever, including reasonable costs and attorneys' fees in defense thereof, for injury, sickness, disability, or death to persons or damage to property or business, caused by or arising out of the District's acts, errors, or omissions in the performance of this Agreement. PROVIDED, that the District's obligation hereunder shall not extend to injury, sickness, death, or damage caused by or arising out of the sole negligence of the Counties, their officers, officials, employees, or agents.
- 6.2 In any and all claims against the Counties, their officers, officials, employees, and/or agents by any employee of the District, its subcontractors, 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 6 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 District 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 District expressly

waives any immunity the District might have had under such laws. By executing this Agreement, the District acknowledges that the foregoing waiver has been mutually negotiated by the parties and that the provisions of this Section 6 shall be incorporated, as relevant, into any contract the District makes with any subcontractor or agent performing work hereunder.

- 6.3 The District'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 District, the District's employees, agents, or subcontractors.

7. GOVERNING LAW; FORUM

The parties agree that this Agreement was made and delivered in the State of Washington and will be governed by the laws of the State of Washington without reference to its choice of law rules. The parties irrevocably consent to the exclusive jurisdiction and venue of the state courts located in Benton or Franklin County, Washington with respect to any dispute arising out of or in connection with this Agreement, and agree not to commence or prosecute any action or proceeding arising out of or in connection with this Agreement other than in the aforementioned courts.

8. SEVERABILITY

The validity of any provision of this Agreement shall not affect the validity of any other provision of this Agreement. If any provision of this Agreement is held to be invalid or unenforceable for any reason, the remaining provisions will continue in full force without being impaired or invalidated in any way. The Counties and the District agree to replace any invalid provision with a valid provision that most closely approximates the intent of the invalid provision.

9. NON-WAIVER OF RIGHTS

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

10. SUCCESSORS AND ASSIGNS

Neither this Agreement nor any of the rights or obligations of either party arising under this Agreement may be assigned or delegated without the other party's prior written consent. Subject to the foregoing, this Agreement will be binding upon, enforceable by, and inure to the benefit of the parties and their successors and assigns.

11. NOTICES

Unless otherwise specifically provided in this Agreement, all notices and other communications under this Agreement must be in writing, and must be given by certified mail, postage prepaid,

or delivered by hand to the party to whom the communication is to be given, at its principal place of business.

12. ENTIRE AGREEMENT

This Agreement represents the entire agreement between the Counties and the District. The parties expressly acknowledge and agree that, in entering into this Agreement, they have not relied upon any terms (whether written or oral) not included in this Agreement. This Agreement may be modified or amended only by written instrument executed by both parties.

Pasco School District	Benton Franklin Counties Juvenile Justice Center
<i>Saundra Hill</i> <i>6-16-16</i>	<i>Darryl Banks</i> <i>6/2/16</i>
Saundra Hill Superintendent	Darryl Banks Administrator
BENTON COUNTY APPROVAL Approved as to Form: <i>Stephen J. Hallstrom</i> <i>05/19/16</i> _____ Stephen Hallstrom, Deputy Prosecuting Attorney Date	FRANKLIN COUNTY APPROVAL Approved as to Form: _____ Deputy Prosecuting Attorney Date
By: _____ Name: _____ Title: <u>Chairman, Board of Commissioners</u> Date: _____	By: _____ Name: _____ Title: <u>Chairman, Board of Commissioners</u> Date: _____
Attest: Clerk of the Board: _____	Attest: Clerk of the Board: _____

Exhibit A

Program Goals, Objectives, and Population Served

A. PROGRAM GOALS

Broad Overall Goal

The School/Juvenile Probation Liaison Program (the “Program”) is a delinquency prevention and intervention program designed to provide research-based programs in the schools, including School-Based Aggression Replacement Training (ART) and Juvenile Probation in Schools. Youth who are at risk of suspension or expulsion due to behavior and youth who are on probation will be the recipients of these special curricula and services. The Program will be provided at Pasco High School.

Goal 1

The first goal of this Program is to incorporate strategies that are preventative and research-based into Pasco High School’s curriculum, discipline, and safety plans. Those students who are identified as being at-risk for violence and delinquency will be eligible to participate in the Program. These students will be taught a variety of skills and processes that increase the likelihood of prosocial responses with peers, staff, family, and community. A decrease in disciplinary referrals, suspensions, and expulsions for youth that complete the Program is anticipated.

Goal 2

The second goal of this Program is to strengthen the cooperative and proactive efforts between schools, community, and families in providing safe schools and reducing delinquency. To accomplish this goal, community supervision services of motivational/strength-based case management, rehabilitation, treatment, and monitoring of court-ordered sanctions will be provided to students at Pasco High School and in the community in which these students reside, while reserving the Benton-Franklin Juvenile Justice Center (“BFJJC”) for legal processing or prosecuting these students for delinquency.

B. PROGRAM OBJECTIVES

Objective 1

Prevention/Rehabilitation/Research Based Programs

A Probation Counselor employed by the Counties will teach, and a Certified Teacher employed by Pasco High School will co-facilitate, a minimum of 180 hours of curriculum by June 30, 2017. The content of the curriculum will consist of programs supported by research-based meta-analyses and/or literature reviews and individual studies. The following programs will make up the course curriculum for the 2016-2017 school year: School-Based Aggression Replacement Training (ART), 60 hours; Violence Prevention Skills, 15 hours; and Peer Mediation, 15 hours. Each class will enroll, optimally, 12 students; a minimum of one class will

be provided per semester. A minimum of 24 students will participate in the program during the school year with an anticipated 70% completion rate. Time sheets will verify the Probation Counselor and teacher's hours. The curriculum will be outlined in a syllabus. Student participation will be documented in the students' transcripts.

Objective 2

Student Selection/Target Audience

By August 2016 and January 2017, youth from the Pasco High School student body of freshman, sophomores, and juniors will be identified by authorized Pasco School District staff and the Probation Counselor as being at-risk for aggression and violence and appropriate for the Program. These students will be characterized as exhibiting aggressive or violent behaviors as documented in the Pasco High School disciplinary referral records. The Pasco High School Principal or his designee will work with the Probation Counselor to identify students for participation in the Program.

Objective 3

Accountability for Curricula Outcomes

A measure of student proficiency will be that students attain a passing grade. Grades are determined by the following: student participation through daily role modeling (teacher's weekly observation logs), utilization of skill through homework (student handbook logs), and attendance (attendance records). The Probation Counselor will maintain a file of test forms and scores for each student. Student grades are recorded in student transcripts.

Objective 4

Intervention/ Supervision

During the 2016-2017 school year, a Probation Counselor will be located at Pasco High School a minimum of 30 hours a week, including at least one complete school day per week. The Probation Counselor will carry a caseload of students enrolled at Pasco High School who have been placed on court ordered community supervision--estimated at 100 (aggregate over the year) students. The Probation Counselor will be trained in School-Based Aggression Replacement Training (ART) and the Washington Association of Juvenile Court Administrators Risk Assessment (WAJCARA) by the first day of school. In addition, the Probation Counselor will teach a minimum of one class per day of curriculum consisting of ART, Violence Prevention Skills, and Peer Mediation.

The Probation Counselor will act as a liaison between Pasco High School and other BFJJC staff who work with Pasco High School students in other intervention and supervision programs including but not limited to Diversion, Truancy, Family Support Program, Chemical Dependency Disposition Alternative, Family Violence Intervention Project, Selective Aggressive Probation and the Chemical Dependency Disposition Alternative Program.

Objective 5

Administrative Resource for School Safety

The Probation Counselor will work with Pasco High School Administration to provide screening, assessment, and consultation regarding incoming students. The Probation Counselor will participate with Pasco High School staff in the interview of incoming students who present with school safety risk factors as requested by Pasco High School Administration.

C. POPULATION SERVED

In general, the Program is designed to serve two primary subgroups of youth: (1) students who are identified and referred by the school for delinquency prevention services; and (2) students who are currently on probation. These subgroups originate from a population of high school aged youth in the District.

The first project (classroom training) serves those youth who are characterized as at-risk for aggression and violence, and registered as 9th, 10th, or 11th graders for school year 2016-2017. Each semester a minimum of 12 youth from this subgroup will participate in a research-based curriculum. These students will learn prosocial skills, moral reasoning, anger management strategies, peer mediation, and violence prevention awareness. Program staff will be ready to begin providing the curriculum to identified youth within the first month that school is in session for the 2015-2016 school year. The Probation Counselor hired for this Program will receive training and support from BFJJC's Probation Department.

The second project (in-school community supervision/probation) serves those Pasco High School youth that are under court ordered supervision by BFJJC. It is projected that a total of sixty youth will be served each year by this project. These youth will receive case management services and monitoring of court-ordered obligations within the confines of their school and community.

A Probation Counselor employed by the BFJJC will be assigned to the Program and will be responsible for serving both populations. The BFJJC Administrator and the Pasco High School Principal will agree on the Probation Counselor who will be assigned to the Program. A part-time teacher will be hired by the District to assist the Probation Counselor to provide the delinquency prevention curriculum (Aggression Replacement Training, Gang Awareness and Refusal Skills, and Peer Mediation).

In the role of liaison between Pasco High School and BFJJC staff and programs, the Probation Counselor will have involvement with other Pasco High School students who are under the jurisdiction of the BFJJC and will be directly involved with the screening and interview of new students as determined necessary by Pasco High School Administration.

In addition to providing course curriculum, the Probation Counselor will be on campus a minimum of 30 hours per week and readily available to youth on probation for counseling, case management, family meetings and as liaison with school personnel.

EXHIBIT B

Statement of Work

BENTON COUNTY and **FRANKLIN COUNTY**, by and for the Benton-Franklin Counties Juvenile Justice Center ("BFJJC", collectively the "Counties"), and **Pasco School District** (the "District") as part of their School/Juvenile Probation Liaison Program Agreement, agree to the following respective responsibilities under that Agreement:

Section 1

BFJJC shall:

- a) Assign a full-time Probation Counselor dedicated 40 hours per week to the Program. This Probation Counselor will be an employee of the Counties;
- b) Provide training in Aggression Replacement Training for the Probation Counselor and Certified Teacher.
- c) Provide supervision of and clerical support to the Probation Counselor;
- d) Provide office, desk, telephone, and computer for the Probation Counselor;
- e) Provide ongoing review, support, and education to the Probation Counselor, Certified Teacher, and Case Manager for skill in Aggression Replacement Training;
- f) Train the Probation Counselor in the use of the Washington State Juvenile Court Case Management Assessment Process (CMAP), a validated risk assessment tool adopted by the Washington State Association of Juvenile Court Administrators;
- g) Maintain Program and financial data and records as required by the Program and the District and according to BFJJC policies and procedures; and
- h) Assign the Probation Counselor to the following:
 - Use the CMAP as a pre and post test with youth who are assigned to the Probation Counselor's community supervision caseload;
 - Participate in the District Personnel meetings and student staffings as requested by school administrators;
 - Assist with interviews of incoming high school students who present with school safety risk factors as requested by Pasco High School Administration;
 - Work with Pasco High Administration in the identification of youth for the Program curricula;
 - Contact all youth identified for the Program curricula and hold informational meetings for the youth and the youth's parents regarding what will be taught, the

benefits of the Program, how the youth was selected, and what the parents can expect;

- Be available to participate as requested in various school/student meetings such as IEP, MDT, Expulsion, Discipline, Counseling and other mutually agreed upon activities such as Link Crews;
- Solicit community support through donated youth incentives;
- Provide direct community supervision services to all county Program youth on court-ordered community supervision who attend Pasco High School; and
- During school days, be on campus at identified District schools, except as necessary to participate in Program related activities or to attend required BFJJC meetings or court hearings.

Section 2

The District shall:

- a) Assist in identifying students for the Program;
- b) Participate in development of curriculum for the Program;
- c) Hire a Certified Teacher for the Program who will be an employee of the District and whose responsibilities include the following:
 - A minimum of five hours per week daily classroom instruction of identified curricula, including Aggression Replacement Training, Peer Mediation and Violence Prevention;
 - Complete Certified Training programs in Aggression Replacement Training and Peer Mediation as scheduled by the District and BFJJC; and
 - Be available for the following: Staff student cases with the Probation Counselor and Pasco High School staff on an as-needed basis; meet with students as needed to resolve Program-related issues; and contact parents of students.
- d) Provide direction to Probation Counselor and Certified Teacher regarding curriculum, use of guest speakers, and community resources;
- e) Provide input to BFJJC management regarding work performance of Program staff;
- f) Provide office space, classroom, and equipment for Program personnel; and
- g) Maintain Program and financial data and records as required by the Program and BFJJC and according to the District policies and procedures.

c. Agreement with Chiawana High School for Probation Counselor

AGENDA ITEM: Consent MEETING DATE: FC 7-20-16 B/C 8-2-16 SUBJECT: Execution of a School/Juvenile Probation Liaison Agreement with Pasco School Probation Liaison Program at Chiawana High School Prepared By: Maria Loera Reviewed By: Darryl Banks	TYPE OF ACTION NEEDED Executive Contract <u>xx</u> Pass Resolution <u>xx</u> Pass Ordinance Pass Motion Other	CONSENT AGENDA <u>xx</u> PUBLIC HEARING 1ST DISCUSSION 2ND DISCUSSION OTHER
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BACKGROUND INFORMATION

The Chiawana High School/Probation Liaison Project places a probation counselor at Chiawana High School to teach Aggression Replacement Training and to work with those youth at the school that are on probation has been in place since 2000. Research indicates this program is making substantial, positive changes in the lives of the youth it serves. In years past funding was received from the Department of Social Health Services, Office of Juvenile Justice to sustain this program. Beginning with the 2005 2006 school year to continue this community vital program, the Pasco School District agreed to compensate the Counties for the contract.

SUMMARY

The Pasco School District would like to continue the program for the period beginning on July 1, 2016 and ending on June 30, 2017.

RECOMMENDATION

We recommend that the Boards of County Commissioners of Benton and Franklin Counties sign the Agreement with the Pasco School District to continue probation services and intervention services to youth located at Chiawana High School.

COORDINATION

Coordination of the contract occurred as follows: Maria Loera, Senior Administrative Secretary who compiled the contract; Stephen Hallstrom, Benton County Deputy Prosecuting Attorney who reviewed the contract as to form; Michelle Whitney, Superintendent of Pasco School District and Darryl Banks, Administrator for the Benton-Franklin Counties Juvenile Justice Center.

FISCAL IMPACT

Pasco School District has agreed to compensate the Counties for a maximum amount not to exceed \$43,140.00, which is one-half the cost to the Counties of employing a Probation Counselor. The Fee For Service is included in the Juvenile Justice Dept. 173 Budget. No supplement required.

MOTION

I move that the Chairman of the Board of Benton County Commissioners and the Chairman of the Board of Franklin County Commissioners be hereby authorized to sign the Agreement with the Pasco School District to provide a probation counselor in Chiawana High School.

HANDLING/ROUTING

Following signature from Franklin County, route to Benton County for signature. Following signature from Benton County three originals are to be returned to Maria Loera to disperse.

I certify the above information is accurate and complete.

Maria Loera

JOINT RESOLUTION

BENTON COUNTY RESOLUTION NO. _____

FRANKLIN COUNTY RESOLUTION NO. _____

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

RE: IN THE MATTER EXECUTION OF A SCHOOL/JUVENILE PROBATION LIAISON PROGRAM AGREEMENT BETWEEN BENTON-FRANKLIN COUNTIES JUVENILE JUSTICE CENTER AND THE PASCO SCHOOL DISTRICT TO PROVIDE A PROBATION COUNSELOR IN CHIAWANA HIGH SCHOOL, and

WHEREAS, Darryl Banks, Administrator of Benton-Franklin Counties Juvenile Justice Center, believes it is in the best interest of the Juvenile Justice Center that the proposed School/Juvenile Liaison Program Agreement between the Benton-Franklin Counties Juvenile Justice Center and the Pasco School District be approved. The School/Juvenile Probation Liaison Program is a delinquency prevention and intervention program designed to provide research-based programs at Chiawana High School. The amount of the Agreement is one-half to the Counties of employing the Probation Counselor; NOW, THEREFORE

BE IT RESOLVED, that the Board of Benton County Commissioners and the Board of Franklin County Commissioners accepts the attached Program Agreement; and

BE IT FURTHER RESOLVED, that the Chairman of the Board of Benton County Commissioners, Benton County, Washington and the Chairman of the Board of Franklin County Commissioners, Franklin County, Washington, are hereby authorized to sign, on behalf of their respective county, and the Board concurs with the Administrator's recommendation to award the School/Juvenile Probation Liaison Program Agreement between Benton-Franklin Counties Juvenile Justice Center and the Pasco School District to provide a probation counselor in Chiawana High School for a consideration amount payable to the Counties not to exceed \$43,140.00; and

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

DATED this _____ day of _____ 2016
BENTON COUNTY BOARD OF
COMMISSIONERS

DATED this _____ day of _____ 2016
FRANKLIN COUNTY BOARD OF
COMMISSIONERS

Chairman of the Board

Chairman of the Board

Member

Chairman Pro Tem

Member

Constituting the Board of
County Commissioners,
Benton County, Washington

Member

Constituting the Board of
County Commissioners,
Franklin County, Washington

Attest:

Attest:

Clerk of the Board

Clerk of the Board

JUDGES
Hon. Vic L. VanderSchoor
Hon. Robert G. Swisher
Hon. Carrie Runge
Hon. Cameron Mitchell
Hon. Bruce Spanner
Hon. Alexander C. Ekstrom
Hon. Jacqueline Shea-Brown

BENTON-FRANKLIN COUNTIES JUVENILE JUSTICE CENTER



Darryl Banks, Administrator Juvenile
Court Services

SUPERIOR COURT OF THE STATE OF WASHINGTON

JOSEPH R. SCHNEIDER
JERRI G. POTTS
JACQUELINE STAM
Court Commissioners

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

SCHOOL/JUVENILE PROBATION LIAISON PROGRAM AGREEMENT BETWEEN BENTON AND FRANKLIN COUNTIES AND PASCO SCHOOL DISTRICT

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, and Franklin County, a political subdivision, with its principal offices at 1016 North Fourth Avenue, Pasco, WA 99301, by and for the Benton-Franklin Counties Juvenile Justice Center ("BFJJC"), a bi-county agency located at 5606 W. Canal Place STE 106, Kennewick, WA 99336 (hereinafter collectively referred to as the "Counties"), and Pasco School District, with its principal offices at 1215 West Lewis Street, Pasco, WA 99301 (hereinafter referred to as the "District").

RECITALS

- A. The Counties and the District have implemented a School/Juvenile Probation Liaison Program and desire to continue such a program (the "Program") to serve the population identified in Exhibit A to this Agreement, which is attached hereto and incorporated herein by reference; and
- B. The Counties and the District desire to continue the Program in accordance with the Goals and Objectives set forth in Exhibit A to this Agreement.

AGREEMENT

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

1. STATEMENT OF WORK

- 1.1 The parties agree that a description of the Statement of Work for this Agreement is set forth in Exhibit B to this Agreement, which is attached hereto and incorporated herein by reference.
- 1.2 The Counties agree to perform all work described in Exhibit B, Section 1 of this Agreement. The Counties further agree to furnish the necessary personnel, services, facilities, and supplies and otherwise do all things necessary or

incidental to the performance of work set forth in Exhibit B, Section 1 of this Agreement.

- 1.3 The District agrees to perform all work described in Exhibit B, Section 2 of this Agreement. The District further agrees to furnish the necessary personnel, services, facilities, and supplies and otherwise do all things necessary or incidental to the performance of work set forth in Exhibit B, Section 2 of this Agreement.
- 1.4 The Counties and the District shall maintain all records that reflect all direct and indirect costs expended by each party in the performance of this Agreement. The Counties and the District shall maintain written documentation of services provided to all youth under this Program. Such records shall be maintained in a locked, confidential file at Chiawana High School. These records shall be available at all reasonable times for inspection, review or audit by authorized personnel from the Counties, the Washington State Auditor, the District, the Benton County Auditor, and the Franklin County Auditor.
- 1.5 The work described herein shall be performed under the coordination of the BFJJC Administrator, or his/her administrative designee and Principal of Chiawana High School, or his/her administrative designee for the District, or their successors.

2. COMPENSATION

- 2.1 The District agrees to pay the Counties Three Thousand Five Hundred Ninety-Five Dollars (\$3,595.00) for each month of this Agreement, beginning July 2016, which amounts to a total of Forty Three Thousand One Hundred Forty Dollars (\$43,140.00) for the term of this Agreement. The parties agree that this amount is one-half the cost to the Counties of employing the Probation Counselor described in Exhibit B, Section 1(a) of this Agreement.
- 2.2 The District agrees that it will process each monthly invoice from the Counties with its first payment cycle after receiving each invoice, and that it will remit payment to the Counties no later than thirty days from the date of receipt of each invoice.

3. TERM

The term of this Agreement shall begin July 1, 2016 and will continue through June 30, 2017, unless terminated prior to that time by either party in accordance with Section 4 of this Agreement, below.

4. TERMINATION

- 4.1 The Counties may terminate this Agreement in whole or in part if the Counties determine, in their sole discretion, that such termination is in the best interest of the Counties. The Counties may terminate this Agreement under this paragraph by giving ten calendar days' written notice by certified mail to the District. The

notice period shall begin upon mailing, unless otherwise specified in the notice. In this event, the District shall pay the Counties for all services performed by the Counties up to the effective date of the termination. Payment shall be made in accordance with the Compensation Section of this Agreement.

- 4.2 In the event that funding for this Program is withdrawn, reduced, or limited in any way after the Effective Date of this Agreement, the Counties may summarily terminate this Agreement notwithstanding any other termination provision in this Agreement by giving written notice by certified mail to the District, specifying the termination date. Termination under this paragraph shall be effective on the date specified in the written notice of termination.
- 4.3 If the District breaches any of its obligations hereunder, and fails to cure the breach within ten days after receiving written notice from the Counties to do so, the Counties may immediately terminate this Agreement by giving written notice by certified mail to the District. The District shall bear all costs and expenses incurred by the Counties in completing the work and all damages sustained by the Counties by reason of the District's breach.

5. COMPLIANCE WITH LAWS

The parties agree that all activity pursuant to this Agreement will be in accordance with all applicable federal, state, and local laws, rules, and regulations. It is the policy of the Counties that no person will be subjected to discrimination by the Counties or by their subcontractors because of race, color, national origin, sex, age, religion, creed, marital status, veteran status, the presence of any disability, or any other protected status under the law. The District agrees to comply with that anti-discrimination policy.

6. INDEMNIFICATION

- 6.1 The District shall hold harmless, indemnify, and defend the Counties, their officers, officials, employees, and agents, from and against any and all claims, actions, suits, liability, loss, expenses, damages, and judgments of any nature whatsoever, including reasonable costs and attorneys' fees in defense thereof, for injury, sickness, disability, or death to persons or damage to property or business, caused by or arising out of the District's acts, errors, or omissions in the performance of this Agreement. PROVIDED, that the District's obligation hereunder shall not extend to injury, sickness, death, or damage caused by or arising out of the sole negligence of the Counties, their officers, officials, employees, or agents.
- 6.2 In any and all claims against the Counties, their officers, officials, employees, and/or agents by any employee of the District, its subcontractors, 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 6 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 District 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 District expressly

waives any immunity the District might have had under such laws. By executing this Agreement, the District acknowledges that the foregoing waiver has been mutually negotiated by the parties and that the provisions of this Section 6 shall be incorporated, as relevant, into any contract the District makes with any subcontractor or agent performing work hereunder.

- 6.3 The District'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 District, the District's employees, agents, or subcontractors.

7. GOVERNING LAW; FORUM

The parties agree that this Agreement was made and delivered in the State of Washington and will be governed by the laws of the State of Washington without reference to its choice of law rules. The parties irrevocably consent to the exclusive jurisdiction and venue of the state courts located in Benton or Franklin County, Washington with respect to any dispute arising out of or in connection with this Agreement, and agree not to commence or prosecute any action or proceeding arising out of or in connection with this Agreement other than in the aforementioned courts.

8. SEVERABILITY

The validity of any provision of this Agreement shall not affect the validity of any other provision of this Agreement. If any provision of this Agreement is held to be invalid or unenforceable for any reason, the remaining provisions will continue in full force without being impaired or invalidated in any way. The Counties and the District agree to replace any invalid provision with a valid provision that most closely approximates the intent of the invalid provision.

9. NON-WAIVER OF RIGHTS

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

10. SUCCESSORS AND ASSIGNS

Neither this Agreement nor any of the rights or obligations of either party arising under this Agreement may be assigned or delegated without the other party's prior written consent. Subject to the foregoing, this Agreement will be binding upon, enforceable by, and inure to the benefit of the parties and their successors and assigns.

11. NOTICES

Unless otherwise specifically provided in this Agreement, all notices and other communications under this Agreement must be in writing, and must be given by certified mail, postage prepaid,

or delivered by hand to the party to whom the communication is to be given, at its principal place of business.

12. ENTIRE AGREEMENT

This Agreement represents the entire agreement between the Counties and the District. The parties expressly acknowledge and agree that, in entering into this Agreement, they have not relied upon any terms (whether written or oral) not included in this Agreement. This Agreement may be modified or amended only by written instrument executed by both parties.

Pasco School District	Benton Franklin Counties Juvenile Justice Center
<i>Sandra L Hill</i> 6-16-16	<i>Darryl Banks</i> 6/2/16
Sandra Hill Superintendent	Darryl Banks Administrator
BENTON COUNTY APPROVAL Approved as to Form: <i>Stephen J Hallstrom</i> 05/19/16 _____ Stephen Hallstrom, Deputy Prosecuting Attorney Date	FRANKLIN COUNTY APPROVAL Approved as to Form: _____ Deputy Prosecuting Attorney Date
By: _____ Name: _____ Title: <u>Chairman, Board of Commissioners</u> Date: _____	By: _____ Name: _____ Title: <u>Chairman, Board of Commissioners</u> Date: _____
Attest: _____	Attest: _____
Clerk of the Board: _____	Clerk of the Board: _____

Exhibit A

Program Goals, Objectives, and Population Served

A. PROGRAM GOALS

Broad Overall Goal

The School/Juvenile Probation Liaison Program (the “Program”) is a delinquency prevention and intervention program designed to provide research-based programs in the schools, including School-Based Aggression Replacement Training (ART) and Juvenile Probation in Schools. Youth who are at risk of suspension or expulsion due to behavior and youth who are on probation will be the recipients of these special curricula and services. The Program will be provided at Chiawana High School.

Goal 1

The first goal of this Program is to incorporate strategies that are preventative and research-based into Chiawana High School’s curriculum, discipline, and safety plans. Those students who are identified as being at-risk for violence and delinquency will be eligible to participate in the Program. These students will be taught a variety of skills and processes that increase the likelihood of prosocial responses with peers, staff, family, and community. A decrease in disciplinary referrals, suspensions, and expulsions for youth that complete the Program is anticipated.

Goal 2

The second goal of this Program is to strengthen the cooperative and proactive efforts between schools, community, and families in providing safe schools and reducing delinquency. To accomplish this goal, community supervision services of motivational/strength-based case management, rehabilitation, treatment, and monitoring of court-ordered sanctions will be provided to students at Chiawana High School and in the community in which these students reside, while reserving the Benton-Franklin Juvenile Justice Center (“BFJJC”) for legal processing or prosecuting these students for delinquency.

B. PROGRAM OBJECTIVES

Objective 1

Prevention/Rehabilitation/Research Based Programs

A Probation Counselor employed by the Counties will teach, and a Certified Teacher employed by Chiawana High School will co-facilitate, a minimum of 180 hours of curriculum by June 30, 2017. The content of the curriculum will consist of programs supported by research-based meta-analyses and/or literature reviews and individual studies. The following programs will make up the course curriculum for the 2016-2017 school year: School-Based Aggression Replacement Training (ART), 60 hours; Violence Prevention Skills, 15 hours; and Peer Mediation, 15 hours. Each class will enroll, optimally, 12 students; a minimum of one class will

be provided per semester. A minimum of 24 students will participate in the program during the school year with an anticipated 70% completion rate. Time sheets will verify the Probation Counselor and teacher's hours. The curriculum will be outlined in a syllabus. Student participation will be documented in the students' transcripts.

Objective 2

Student Selection/Target Audience

By August 2016 and January 2017, youth from the Chiawana High School student body of freshman, sophomores, and juniors will be identified by authorized Pasco School District staff and the Probation Counselor as being at-risk for aggression and violence and appropriate for the Program. These students will be characterized as exhibiting aggressive or violent behaviors as documented in the Chiawana High School disciplinary referral records. The Chiawana High School Principal or his designee will work with the Probation Counselor to identify students for participation in the Program.

Objective 3

Accountability for Curricula Outcomes

A measure of student proficiency will be that students attain a passing grade. Grades are determined by the following: student participation through daily role modeling (teacher's weekly observation logs), utilization of skill through homework (student handbook logs), and attendance (attendance records). The Probation Counselor will maintain a file of test forms and scores for each student. Student grades are recorded in student transcripts.

Objective 4

Intervention/ Supervision

During the 2016-2017 school year, a Probation Counselor will be located at Chiawana High School a minimum of 30 hours a week, including at least one complete school day per week. The Probation Counselor will carry a caseload of students enrolled at Chiawana High School who have been placed on court ordered community supervision--estimated at 100 (aggregate over the year) students. The Probation Counselor will be trained in School-Based Aggression Replacement Training (ART) and the Washington Association of Juvenile Court Administrators Risk Assessment (WAJCARA) by the first day of school. In addition, the Probation Counselor will teach a minimum of one class per day of curriculum consisting of ART, Violence Prevention Skills, and Peer Mediation.

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Objective 5

Administrative Resource for School Safety

The Probation Counselor will work with Chiawana High School Administration to provide screening, assessment, and consultation regarding incoming students. The Probation Counselor will participate with Chiawana High School staff in the interview of incoming students who present with school safety risk factors as requested by Chiawana High School Administration.

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The first project (classroom training) serves those youth who are characterized as at-risk for aggression and violence, and registered as 9th, 10th, or 11th graders for school year 2016-2017. Each semester a minimum of 12 youth from this subgroup will participate in a research-based curriculum. These students will learn prosocial skills, moral reasoning, anger management strategies, peer mediation, and violence prevention awareness. Program staff will be ready to begin providing the curriculum to identified youth within the first month that school is in session for the 2016-2017 school year. The Probation Counselor hired for this Program will receive training and support from BFJJC's Probation Department.

The second project (in-school community supervision/probation) serves those Chiawana High School youth that are under court ordered supervision by BFJJC. It is projected that a total of sixty youth will be served each year by this project. These youth will receive case management services and monitoring of court-ordered obligations within the confines of their school and community.

A Probation Counselor employed by the BFJJC will be assigned to the Program and will be responsible for serving both populations. The BFJJC Administrator and the Chiawana High School Principal will agree on the Probation Counselor who will be assigned to the Program. A part-time teacher will be hired by the District to assist the Probation Counselor to provide the delinquency prevention curriculum (Aggression Replacement Training, Gang Awareness and Refusal Skills, and Peer Mediation).

In the role of liaison between Chiawana High School and BFJJC staff and programs, the Probation Counselor will have involvement with other Chiawana High School students who are under the jurisdiction of the BFJJC and will be directly involved with the screening and interview of new students as determined necessary by Chiawana High School Administration.

In addition to providing course curriculum, the Probation Counselor will be on campus a minimum of 30 hours per week and readily available to youth on probation for counseling, case management, family meetings and as liaison with school personnel.

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Statement of Work

BENTON COUNTY and **FRANKLIN COUNTY**, by and for the Benton-Franklin Counties Juvenile Justice Center ("BFJJC", collectively the "Counties"), and **Pasco School District** (the "District") as part of their School/Juvenile Probation Liaison Program Agreement, agree to the following respective responsibilities under that Agreement:

Section 1

BFJJC shall:

- a) Assign a full-time Probation Counselor dedicated 40 hours per week to the Program. This Probation Counselor will be an employee of the Counties;
- b) Provide training in Aggression Replacement Training for the Probation Counselor and Certified Teacher.
- c) Provide supervision of and clerical support to the Probation Counselor;
- d) Provide office, desk, telephone, and computer for the Probation Counselor;
- e) Provide ongoing review, support, and education to the Probation Counselor, Certified Teacher, and Case Manager for skill in Aggression Replacement Training;
- f) Train the Probation Counselor in the use of the Washington State Juvenile Court Case Management Assessment Process (CMAP), a validated risk assessment tool adopted by the Washington State Association of Juvenile Court Administrators;
- g) Maintain Program and financial data and records as required by the Program and the District and according to BFJJC policies and procedures; and
- h) Assign the Probation Counselor to the following:
 - Use the CMAP as a pre and post test with youth who are assigned to the Probation Counselor's community supervision caseload;
 - Participate in the District Personnel meetings and student staffings as requested by school administrators;
 - Assist with interviews of incoming high school students who present with school safety risk factors as requested by Chiawana High School Administration;
 - Work with Pasco High Administration in the identification of youth for the Program curricula;
 - Contact all youth identified for the Program curricula and hold informational meetings for the youth and the youth's parents regarding what will be taught, the

benefits of the Program, how the youth was selected, and what the parents can expect;

- Be available to participate as requested in various school/student meetings such as IEP, MDT, Expulsion, Discipline, Counseling and other mutually agreed upon activities such as Link Crews;
- Solicit community support through donated youth incentives;
- Provide direct community supervision services to all county Program youth on court-ordered community supervision who attend Chiawana High School; and
- During school days, be on campus at identified District schools, except as necessary to participate in Program related activities or to attend required BFJJC meetings or court hearings.

Section 2

The District shall:

- a) Assist in identifying students for the Program;
- b) Participate in development of curriculum for the Program;
- c) Hire a Certified Teacher for the Program who will be an employee of the District and whose responsibilities include the following:
 - A minimum of five hours per week daily classroom instruction of identified curricula, including Aggression Replacement Training, Peer Mediation and Violence Prevention;
 - Complete Certified Training programs in Aggression Replacement Training and Peer Mediation as scheduled by the District and BFJJC; and
 - Be available for the following: Staff student cases with the Probation Counselor and Chiawana High School staff on an as-needed basis; meet with students as needed to resolve Program-related issues; and contact parents of students.
- d) Provide direction to Probation Counselor and Certified Teacher regarding curriculum, use of guest speakers, and community resources;
- e) Provide input to BFJJC management regarding work performance of Program staff;
- f) Provide office space, classroom, and equipment for Program personnel; and
- g) Maintain Program and financial data and records as required by the Program and BFJJC and according to the District policies and procedures.

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

<u>Type of Action Requested</u>	<u>Classification</u>
<input type="checkbox"/> Execute contract	<input type="checkbox"/> Consent agenda
<input 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 26, 2016
Presentation length:
Presenting elected office/department: OPD
Prepared by: Eric Hsu
Reviewed by: Loretta Smith-Kelty

BACKGROUND INFORMATION

Benton County Superior operates an Adult Drug Court and Benton County is legally obligated to provide public defense services for participants. Attorney Deric Orr has been providing such public defense services (through a contract with his law partner Scott Johnson) but the contract was a bi-county contract with Franklin County and it has been terminated with an effective date of June 30, 2016. Since the services provided by attorney Orr have been satisfactory, it is recommended to re-contract with him, for Benton County participants only, at a higher rate to account for the increase in capacity to 45 persons, with funding from the Public Safety Sales Tax. The effective date of the new public defense contract is July 1, 2016.

SUMMARY

A new public defense services contract with attorney Deric Orr, for the Benton County participants in the Adult Drug Court, is presented for execution.

RECOMMENDATION

Execute public defense services contract. Approve resolution.

ANTICIPATED FISCAL IMPACT

None beyond what is already budgeted.

RESOLUTION
BENTON COUNTY RESOLUTION NO. _____

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF EXECUTING A PROFESSIONAL SERVICES AGREEMENT WITH ATTORNEY DERIC ORR FOR PUBLIC DEFENSE SERVICES IN THE BENTON COUNTY ADULT DRUG COURT PROGRAM.

WHEREAS, Benton County ("County") is obligated by law to provide public defense services in Benton County Superior Court for participants in the Adult Drug Court Program; 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, attorney Deric Orr ("Attorney") has been providing public defense services for participants in the Adult Drug Court Program for the past two years through his law firm partner Scott Johnson, and by way of a bi-county public defense contract with Franklin County that expires June 30, 2016; and

WHEREAS, the public defense services provided by Attorney have been satisfactory and it appears to be in the best interests of Benton County to re-contract with Attorney though with a higher compensation level to account for the increased capacity of the Adult Drug Court Program effective July 1, 2016; and

NOW THEREFORE, BE IT RESOLVED THAT contract BCSC1618DJO001D with maximum Annual compensation of \$40,650.72 plus trial per diems, and other allowable costs and expenses (above and beyond the amount of the underlying agreement itself) be executed as presented.

Dated this day of , 20

Chairman of the Board

Chairman Pro-Tem

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

**Attest:
Clerk of the Board**

**PROFESSIONAL SERVICES AGREEMENT TO PROVIDE LEGAL
REPRESENTATION TO PERSONS PARTICIPATING IN BENTON COUNTY
SUPERIOR COURT ADULT DRUG COURT PROGRAM
#BCSC1618DJO001D**

CONTRACT SUMMARY			
Contract Type	Superior Court Adult Drug Court		
Contract Number	BCSC1618DJO001D	Contract Holder	Deric J. Orr
WSBA #	47332	Effective Dates	July 1, 2016 – Dec 31, 2018
Caseload Cap	37 case floating cap	Compensation	\$3,387.56 per month

THIS AGREEMENT is entered into by and between **DERIC J. ORR**, attorney at law, Washington State Bar Association # 46332 (“Attorney”), dba Johnson & Orr, P.S..., and the **COUNTY of BENTON**, a State of Washington political subdivisions (the “County”), for and on behalf of the Benton County Court.

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

- A. The County has the legal responsibility to provide legal defense services to indigent persons charged with felony criminal offenses alleged to have been committed within the County’s jurisdictional boundaries.
- B. Drug court programs, such as the Benton-Franklin Superior Court Adult Drug Court program, have been shown to reduce recidivism and save taxpayers nationwide money and resources through offering participants an alternative to full criminal prosecution at the pre-adjudication level.
- C. 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 persons participating in the Benton County Superior Court Adult Drug Court program.
- D. While the Counties of Benton & Franklin have a joint, bi-county judicial district and operate a joint Adult Drug Court, this Agreement is intended to, and shall only, provide public defense services for persons participating in said Adult Drug Court by virtue of a case filed in Benton County Superior Court.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein, the County of Benton 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 an office adequate and appropriate for the practice of law at 1313 N Young St, Ste C, Kennewick, WA 99336. Attorney's current local office telephone and fax numbers are (509) 374-1554 and (509) 374-8124, respectively; and Attorney's current office/work e-mail address is Deric@johnsonorr.com.

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

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

3. **ATTORNEY'S QUALIFICATIONS.** Attorney acknowledges and agrees that the County has an obligation to provide competent and effective legal counsel to indigent persons subject to proceedings in the Benton County Superior Court and to persons participating in the Benton County Superior Court Adult Drug Court ("Drug Court") program. 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 felony

criminal defense or criminal prosecution matters or direct experience in the specific practice areas covered by this Agreement; has not been subject to a termination proceeding involving a previous personal service agreement for indigent defense services; has not been censured, admonished, or otherwise formally disciplined for past conduct or behavior that would negatively reflect on Attorney's duty and ability to effectively and competently render legal services hereunder; has not been suspended or disbarred from the practice of law in any state or jurisdiction at any time in the past; and does not have any bar association complaints filed and pending against him/her.

(i) This Agreement may be subject to review and, if applicable and/or necessary, further action pursuant to paragraph 18 below in the event that Attorney's license to practice law in Washington is revoked or otherwise limited or restricted; in the event that a court of competent jurisdiction formally determines and expressly finds that Attorney has rendered ineffective assistance of counsel to any person; in the event that Attorney is censured, admonished, or otherwise formally disciplined for conduct or behavior that negatively reflects on Attorney's duty and ability to effectively and competently render legal services hereunder; or in the event that Attorney is suspended or disbarred from the practice of law in any other state or jurisdiction.

(ii) Attorney shall notify the County within three (3) business days if any event specified in paragraph 3.a.(i) above occurs or if any bar association complaint is filed against Attorney.

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

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

d. During each calendar year of the term of this Agreement, Attorney shall be required to obtain at least seven (7) hours of WSBA-qualified Continuing Legal Education ("CLE") credits in courses directly relating to Attorney's public defense practice under this Agreement. Attorney shall provide the 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 efficiently perform such services including, without limitation, Attorney's ability to prepare for and attend regularly scheduled trials and dockets or Attorney's ability to schedule and conduct face-to-face meetings with the persons Attorney is appointed to represent under this Agreement for purposes of discussing, preparing, and pursuing the most viable defense(s) and/or resolution available and keeping such persons reasonably apprised as to the status of their case.

f. Pursuant to RCW 10.101.050, no later than December 31st of each calendar year, 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 month and the total number and specific types of appointed cases under this Agreement in which Attorney provided legal services during the preceding month. Additionally, in the event that the public defense attorney caseload activity reporting requirements under RCW 10.101.050 are later amended/modified, Attorney shall correspondingly comply with any such amended/modified reporting requirements without added compensation upon written notice from the County to do so.

4. **OTHER INDIGENT DEFENSE AGREEMENTS.** The County has entered or will enter 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 said other attorneys, the Benton County Superior Court, the Drug Court, the Superior Court Administrator, and the PDM to establish a process to effectuate the efficient and equitable distribution of case appointments between Attorney and said other attorneys (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 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 Drug Court in which publicly provided counsel is furnished or required by law. More specifically, Attorney shall accept court appointments to represent persons on any of the following types of matters:

- Any criminal matter filed or otherwise pending under the applicable Washington criminal statutes and/or under any other applicable Washington law in the Benton County Superior Court in which the defendant has been admitted to, or in certain circumstances is pending admission to, the Drug Court program.
- Any post-disposition proceeding relating to the specific underlying criminal case as may be required under the rules and/or policies of the Drug Court.

6. **POST-TERMINATION REPRESENTATION.** Attorney has a duty to timely and fully complete all cases appointed to Attorney under this Agreement. Provided that, however, unless the parties subsequently agree otherwise in writing, Attorney's duty in that regard shall terminate upon the date this Agreement terminates, and Attorney shall have no obligation to continue post-termination representation beyond that date.

7. **DRUG COURT APPOINTMENTS.** During the term of this Agreement, Attorney agrees to and shall accept appointments hereunder to represent all persons participating in the Drug Court program (by and through cases filed in Benton County) solely with regard to matters relating to their participation in Drug Court: Attorney shall not represent Drug Court participants in any underlying criminal matters without specific approval from, or at the direction of, the Drug Court Judge. Attorney's representation of participants in the Drug Court program by and through cases filed in Franklin County, shall be a matter of direct contract between Attorney and Franklin County, and shall be completely and totally outside of the scope of this Agreement.

8. **CASE EQUIVALENTS AND CASELOAD.** Throughout the term of this Agreement, the Attorney shall keep and maintain records consistent with the provisions of this Agreement in a format adequate to accurately track and monitor Attorney's appointments hereunder. For purposes of calculating Attorney's appointments under this Agreement, each appointment shall be deemed and counted as being one (1) "case equivalent." The caseload that Attorney is expected to assume, and the associated compensation, under this Agreement shall not exceed 37 participants at any given time. If the portion of Drug Court capacity allocated to participants with cases filed in Benton County increases or decreases, then the parties agree to renegotiate the compensation and other related provisions of this Agreement.

9. **CLIENT ELIGIBILITY.** The Drug Court (or its designee), consistent with applicable laws, rules and standards and the policies of the Drug Court, 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 Drug Court of such possibility for purposes of the Drug Court (or its designee) taking action at its discretion to re-determine whether such person is/remains eligible to receive such publicly-provided representation. If the Drug 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 Drug Court to represent such person, or from representing a person on a retained-fee basis whom Attorney has been appointed by the Drug 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 Drug Court aware of such development for purposes of the Drug Court taking immediate action to appoint another attorney to assume and undertake legal representation in such case.

11. **SCOPE OF REPRESENTATION; FILE RETENTION.** Attorney agrees to and shall represent all persons whom Attorney is appointed to represent hereunder with the same skill and commitment as Attorney exercises and expends when representing persons on a private and/or retained-fee basis. Without limitation in that regard, such representation shall include:

- a. Evaluation and investigation of the underlying allegation and ensuring that the Drug Court participant's due process rights are fully protected.

b. Participating fully as a Drug Court team member, committing to the program's mission and goals and working as a full partner to ensure the program's and participant's success.

c. Fully advising Drug Court participants of their legal rights, legal options, treatment options, program terms, conditions and policies and potential sentencing outcomes while maintaining a relationship with the participant that promotes the participant's long-term best interest.

d. Monitoring participant progress and encouraging full participation in the appropriate treatment and/or other rehabilitative services.

e. Advocating for appropriate and effective incentives and sanctions in order to promote the participant's success and achieve program compliance.

f. Without limiting Attorney's duty to initially meet with a person to discuss his/her case as soon as reasonably possible following Attorney's appointment to the case, when Attorney is appointed to an "in custody" case (i.e., a case in which the person is confined/incarcerated), Attorney shall use best efforts to meet face-to-face within three (3) business days of Attorney receiving the appointment (unless the circumstances of a particular case reasonably require that Attorney make earlier initial contact with the person), otherwise, as soon thereafter as is reasonably feasible.

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

h. 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.

i. 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 misconduct under RCW Title 50 and result in the immediate and automatic termination of this Agreement:

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

12. **MONTHLY COMPENSATION.**

a. As compensation for Attorney's performance and rendering of independent professional legal services hereunder, Attorney shall be compensated in the amount of **\$3,387.56** (proratable for any partial month),

b. The above-stated payments to Attorney will immediately cease upon the termination of this Agreement on, or for any reason prior to, the termination date specified in paragraph 1 above. For example, if this Agreement is terminated effective October 31, 2016, the above-referenced monthly payments to Attorney would also terminate as of such date, and Attorney would not be entitled to receive any further monthly payments from the County; provided that, Attorney would be entitled to receive any then-accrued and unpaid amounts for services rendered hereunder prior to such termination date. By way of further example, if this Agreement is terminated effective November 15, 2016, the above-stated monthly payments to Attorney would also terminate as of such date, and Attorney would not be entitled to receive any further monthly payments from the County; provided that, Attorney would be entitled to receive on a prorata basis any then-accrued and unpaid amounts for services rendered hereunder prior to such termination date (i.e., 50% of the above-stated monthly payment amount).

e. Attorney acknowledges and agrees that the above-stated compensation to Attorney shall constitute Attorney's full and exclusive compensation hereunder for all cases and matters handled by Attorney under this Agreement.

13. **DRUG COURT FUNDING.** Notwithstanding anything contained herein to the contrary (including, without limitation, the terms and provisions in paragraph 18 below), in the event that alternate or supplemental funding sources for the Drug Court program are either terminated or otherwise become no longer available, the County shall have the right to terminate this Agreement upon thirty (30) days written notice to Attorney.

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 out-of-pocket expenses directly related to an indigent person's case such as private investigator fees, psychological or psychiatric evaluations, interpreter fees, scientific test fees, expert witness fees, and costs of out-of-area travel, meals and lodging.

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

(ii) In addition to any other prerequisites imposed by court rules, procedures, or standards, as a precondition to Attorney being reimbursed for an expenditure under this paragraph, Attorney shall be required to submit a vendor warrant payment voucher to the County that identifies the specific expenditure(s) for which reimbursement is sought (exercising appropriate discretion to protect client confidentiality given that such vouchers are matters of public record unless sealed by the court at Attorney's request) and that has attached thereto a copy of the court order(s) that specifically pre-approved and authorized such expenditure(s) (unless sealed by the court at Attorney's request) together with attached copies of all written payment receipts relating to such incurred expenditure(s) (unless sealed by the court at Attorney's request). Attorney's administrative time expended to prepare, submit, and process

vouchers shall not be billable to the County. All payment vouchers and requests for reimbursement under this paragraph shall be subject to the court's review and final approval for payment. Attorney shall submit such payment vouchers to the Superior Court Administrator within sixty (60) days of Attorney incurring the expense(s) for which reimbursement is sought, and the County shall have the right to deny payment of any voucher that is not timely submitted within said requisite sixty (60) day period.

15. **INDEMNIFICATION AND HOLD HARMLESS.** Attorney agrees to and shall fully indemnify the County and its elected/appointed representatives, officers, employees, and agents; and to hold the County and its elected/appointed representatives, officers, employees, and agents fully harmless; from and for any and all losses, damages, costs, charges, claims, demands, suits, or actions of whatsoever nature directly or indirectly arising out of or by reason of Attorney's (or any person, employee, agent, contractor, or entity acting for or on behalf of Attorney or at Attorney's request or direction) acts, defaults, errors and/or omissions of whatsoever nature in the performance of legal services to any person under this Agreement. In the event any suit or legal proceeding is brought against the County or any of its elected/appointed representatives, officers, employees or agents at any time on account of or by reason of any such acts, defaults, errors and/or omissions, Attorney hereby covenants and agrees to assume the defense thereof (through counsel acceptable to the County) and to defend the same at Attorney's sole cost and expense and to pay any and all costs, charges, attorneys' fees, and other expenses as well as any and all judgments or awards that may be incurred by or entered against the County or any of its elected/appointed representatives, officers, employees or agents in such suits or other legal proceedings. Without limiting the intended broad scope and application of the indemnification and hold harmless provisions of this paragraph, for purposes of this paragraph, Attorney waives, with respect to the County only, any immunity that would otherwise be available to Attorney under the Industrial Insurance Act provisions of Title 51 RCW or any other similar workers/employee disability or benefit law. The indemnification and hold harmless provisions of this paragraph shall survive the termination or expiration of this Agreement.

16. **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 16.a throughout the entire term of this Agreement, throughout any other longer time period during which Attorney is obligated to continue performing services and duties hereunder, and for a period of no less than thirty-six (36) consecutive months after Attorney has fully completed all services and duties required hereunder.

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

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

(ii) The insurance policies required by this paragraph 16.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 16.b throughout the entire term of this Agreement and throughout any other longer time period during which Attorney is obligated to continue performing services and duties hereunder. Provided that, however, Attorney may elect to delay and forego obtaining the Commercial General Liability insurance coverage required by this paragraph 16.b until January 1, 2009, at which time such coverage or such other coverage as may be agreed must be obtained and thereafter maintained throughout the entire remaining term of this Agreement and

throughout any longer time period during which attorney is obligated to continue performing services and duties hereunder.

c. Contemporaneously with Attorney's execution of this Agreement, Attorney shall provide the County and their then-designated Risk Manager(s) with copies or certificates of the insurance policies and coverage (including any endorsements) required under this paragraph 16, and Attorney shall annually provide the Risk Manager(s) with the same type of documented proof and confirmation that such insurance policies and coverage continue to exist no later than thirty (30) days after the policies' annual renewal date(s).

17. **COMPLAINTS; PERFORMANCE MONITORING.** In the event that an employee/representative of the County or the Drug Court or the PDM receives an oral/written communication from a person represented by Attorney under this Agreement that in substance asserts an unresolved complaint about the legal services rendered to such person by Attorney, the employee/representative receiving such communication shall promptly request and obtain a written, dated, and signed statement from the complainant describing and detailing the relevant facts and circumstances underlying and alleged in the complaint, copies of which shall promptly be provided to the County, the Superior Court Administrator and 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 immediately forward a copy of the complaint to Attorney and request and obtain Attorney's written, dated, and signed response thereto (which Attorney shall prepare and provide to the County and the PDM within five (5) business days, who then shall provide the represented person with a copy of the response within five (5) business days thereafter). The PDM shall review the complaint and Attorney's response and take any action deemed necessary with Attorney and/or the represented person to address and resolve the complaint, and the disposition of the complaint shall be communicated to the represented person as soon as reasonably possible. The PDM then may follow-up with the Drug Court within five (5) business days thereafter to confirm or advise that the complaint has been, or is in the process of being, addressed and disposed of. This stated procedure does not interfere with or otherwise impair the Drug 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 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 Drug 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.

18. **TERMINATION.**

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

Further, in the event that the Drug 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 Drug Court relating to such substitute appointment(s).

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

c. In addition to the foregoing provisions regarding termination, either party may elect to terminate this Agreement with or without cause or reason by providing the other party with ninety (90) days advance written notice of such election. Without limiting/waiving other provisions of this Agreement relating to Attorney's obligation and duty to accept and complete cases appointed to Attorney, Attorney shall be obligated to provide professional services throughout the full ninety (90) day period.

d. In any event, consistent with the provisions of paragraph 12.d. above and regardless of the manner in which this Agreement is terminated, Attorney acknowledges and agrees that Attorney shall not be entitled to receive any further

compensation from the County in the event this Agreement is terminated; provided that, however, Attorney shall be entitled to be paid for all services duly performed by Attorney under this Agreement up to the date of termination.

e. If the County decides in its discretion to provide public defense representation in Drug Court through a County agency (such as an Office of Public Defense or similar entity) that would eliminate the need for continuing this Agreement with Attorney, the County will notify Attorney of the County's intentions in that regard as soon as reasonably practicable so that Attorney and the County can mutually coordinate and pursue an appropriate transition. Upon receipt of such notice from the County, Attorney may apply to the County for available staff-attorney employment positions in such agency in accordance with the County's then-existing hiring and employment practices and policies; though Attorney understands and acknowledges that the hiring of Attorney to fill any such positions would not be automatic or in any way guaranteed.

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

20. **NON-ASSIGNMENT AND TEMPORARY SUBSTITUTIONS.** Except as otherwise expressly provided in paragraphs 20.a. and 20.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. The parties expressly agree that it is permissible for Attorney to discharge his duties pursuant to this Agreement fully, or mostly through attorneys who are either shareholders or employees at his law firm (collectively "Substitute Attorneys"), namely the following:

- Scott Johnson, WSBA #27839

provided that Substitute Attorneys shall, at all times while providing the services contemplated by this Agreement, be fully and completely supervised by Attorney, that Attorney takes full responsibility for the services provided by Substitute Attorneys and for Substitute Attorneys' compliance with this Agreement and that Attorney shall maintain

full insurance coverage (as required by Section 16 herein) that names and covers the Substitute Attorneys fully and completely at all times.

a. Attorney and any of the Benton County Superior Court Criminal Defense Panel members may mutually agree to have a panel member make temporary, substitute appearances for Attorney on routine docket matters and routine court hearings on an as-needed basis as approved by the Drug 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 a Benton County Superior Court Criminal Defense Panel member for such substitution(s) shall be a matter of direct negotiation and agreement between Attorney and said panel member, and said panel member 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/her sole and absolute discretion) leave of absence from the practice of law and/or the requirements of representation under this Agreement during the term of this Agreement and is unable to obtain the assistance of any Benton County Superior Court Criminal Defense Panel member 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 Drug 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 16 above), and Attorney shall be liable for

any damages or losses sustained as a result of such other attorney's non-compliance with the terms and conditions of this Agreement.

c. In the event Attorney is called up for active military duty or for direct civilian support of active military operations, Attorney shall provide the County and the 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. Attorney shall receive no compensation under this Agreement while on leave or during any such transition time.

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

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

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

24. **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.

25. **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.

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

27. **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.

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

29. **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.

30. **DISPUTE RESOLUTION.**

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

b. In the event that mediation proves unsuccessful in resolving the dispute, the parties shall submit the dispute for resolution via binding arbitration pursuant to RCW Chapter 7.04A. A single arbitrator shall be selected by agreement of the parties or, in the absence of agreement, each party shall select one (1) arbitrator and those two (2) so selected arbitrators shall mutually select a

third arbitrator. The County shall pay one-half of the fees and expenses of the arbitrator(s), and Attorney shall pay the other one-half of such fees and expenses. The provisions of RCW Chapter 7.04A and applicable Mandatory Arbitration Rules as adopted and implemented in Benton County Superior Court shall be binding as to procedure, except as to the right of appeal, which shall not be applicable. Within ten (10) business days of notice of arbitration, the arbitrator(s) shall be selected and designated and the hearing shall be held within thirty (30) business days thereafter. The arbitrator(s) shall render a written decision and award within ten (10) business days of such hearing. Without limitation, the arbitrator(s) may award damages, specific performance, and/or injunctive relief, and may register a judgment in Benton County Superior Court, including judgment by default. The 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.

31. **NOTICES.**

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

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

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

Patricia J. Austin
Benton-Franklin Counties Superior Court Administrator
7122 W. Okanogan Place, Bldg. A
Kennewick, WA 99336

Eric Hsu
Public Defense Manager
Benton County Office of Public Defense
7122 W. Okanogan Place, Bldg. A
Kennewick, WA 99336

b. Any notices required or permitted to be given by the County to Attorney under this Agreement shall be in writing and shall be personally delivered

to Attorney or mailed to Attorney via certified U.S. mail, postage prepaid, at Attorney's office address specified and set forth in paragraph 2 above.

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

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

32. **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.

33. **PUBLIC DEFENSE MANAGER.** Attorney acknowledges that the County have established and employed the PDM to coordinate, monitor, and evaluate the performances and compliance of independent contractor attorneys (like Attorney) under public indigent defense agreements with the County. Attorney further acknowledges that the County has the right and discretion to direct the 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 and promptly comply with reasonable requests from the PDM to allow for the effective monitoring and evaluation of Attorney's performance under and in compliance with this Agreement.

****SIGNATURES APPEAR ON FOLLOWING PAGE****

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

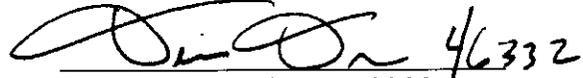
Date: _____

Date: 6-23-16

BENTON COUNTY

ATTORNEY

Chairman


Deric J. Orr, WSBA# 46332

Commissioner

Commissioner



Approved as to Content
Eric Hsu, Attorney at Law
Public Defense Manager

**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: 8/2/16
 Presentation length:
 Presenting elected office/department: OPD
 Prepared by: Eric Hsu
 Reviewed by: Loretta Smith-Kelty

BACKGROUND INFORMATION

Benton County (together with Franklin County, for the time being) contracts with, among others, attorney Pamela Peterson for public defense services in juvenile court on dependency matters. Attorney Peterson was recently appointed to the Superior Court Bench as a Court Commissioner effective July 18, 2016. As such, she has submitted written notice to terminate her contract wishing to do so before she starts work as a Court Commissioner. The proposed bi-county resolution acknowledges her termination notice and sets the effective date to July 17, 2016 in light of her Superior Court appointment.

SUMMARY

Proposed bi-county resolution acknowledges the contract termination notice submitted by attorney Pamela Peterson who has been appointed to the Benton-Franklin Superior Court Bench as a Court Commissioner effective July 18, 2016 and who therefore must relinquish her public defense contract before that date.

RECOMMENDATION

Approve bi-county resolution as presented.

ANTICIPATED FISCAL IMPACT

None

RESOLUTION

BENTON COUNTY RESOLUTION NO. _____
FRANKLIN COUNTY RESOLUTION NO. 2016 290

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON; AND
FRANKLIN COUNTY, WASHINGTON.

IN THE MATTER OF ACKNOWLEDGING THE CONTRACT TERMINATION NOTICE SUBMITTED
BY PAMELA PETERSON, A PUBLIC DEFENSE CONTRACT ATTORNEY PROVIDING SERVICES
IN BENTON AND FRANKLIN COUNTIES.

WHEREAS, Benton County and Franklin County ("Counties") are obligated by law to provide indigent
defense services to children in Benton & Franklin Counties Superior Court, Juvenile Division, on
dependency matters ("Matters"); 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, attorney Pamela Peterson has been providing public defense services in Matters
pursuant to a professional services agreement with the Counties ("Agreement"); and

WHEREAS; Section 19 of the Agreement states that either party may terminate the agreement with
or without cause upon 90 days advance written notice; and

WHEREAS; Attorney has provided written notice of termination but requests that the termination
notice period be shortened since Attorney has been appointed to the Superior Court Bench as a Court
Commissioner with an effective date of July 18, 2016 and as a Court Commissioner Attorney should
not still be under a public defense contract with the Counties; and

WHEREAS, it is therefore appropriate to deem Agreement terminated with a final effective date of
July 17, 2016 with compensation, caseload responsibilities and other related details to be resolved as
provided in the Agreement;

NOW THEREFORE, BE IT RESOLVED THAT agreement BFJC1617PEP001, with attorney Pamela
Peterson, executed by and through Resolutions 2016-025 (Benton) and 2015-474 (Franklin) for
public defense services for children in dependency proceedings in Benton and Franklin Counties
Superior Court, Juvenile Division, be terminated as requested by attorney Pamela Peterson, with a
final effective date of the termination of July 17, 2016;

Dated this day of, 20

Dated this 20, day of JULY, 20 16

Chairman of the Board

Chairman of the Board

Chairman Pro-Tem

approved VIA phone

Chairman Pro-Tem

Member

Brad Peck

Member

Constituting the Board of County
Commissioners, Benton County
Washington

Constituting the Board of County
Commissioners, Franklin County
Washington

Attest:
Clerk of the Board

Attest: Karin Milton

BI-COUNTY RESOLUTION 2016 025
BENTON COUNTY RESOLUTION NO. _____
FRANKLIN COUNTY RESOLUTION NO. 2015 474

BEFORE THE BOARDS OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON & FRANKLIN COUNTY, WASHINGTON.

IN THE MATTER OF EXECUTING A PROFESSIONAL SERVICES AGREEMENT WITH PAMELA PETERSON FOR PUBLIC DEFENSE SERVICES IN BENTON & FRANKLIN COUNTIES JUVENILE COURT.

WHEREAS, Benton County and Franklin County ("Counties") are obligated by law to provide indigent defense services in Benton & Franklin Counties Juvenile Court for dependency cases; 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, a Request for Qualifications ("RFQ") or other acceptable process was followed, attorney Pamela Peterson ("Attorney") has expressed interest in providing contract public defense services as detailed above and after due consideration Attorney was selected for contract award; and

WHEREAS, Attorney has been providing the contract public defense services as detailed above and the services so provided have been satisfactory to the Counties; and

WHEREAS, as represented by Attorney, and to the best knowledge of the Counties, Attorney meets all requisite professional, legal and rule-based standards for providing the public defense services as detailed above; and

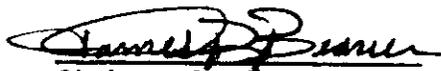
WHEREAS, it therefore appears to be in the best interests of the Counties to contract with Attorney for the public defense services as detailed above and in the proposed professional services agreement;

NOW THEREFORE, BE IT RESOLVED THAT contract BFJC1617PEP001 with maximum Annual compensation of \$34,300.56 plus trial per diems, and other allowable costs and expenses (above and beyond the amount of the underlying agreement itself) be executed as presented.

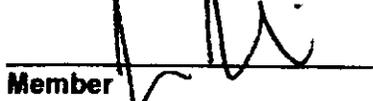
Dated this 5 day of Jan, 2016.



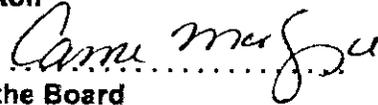
Chairman of the Board



Chairman Pro-Tem



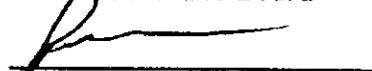
Member
Constituting the Board of County
Commissioners, Benton County
Washington

Attest: 

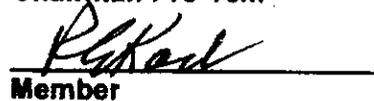
Clerk of the Board



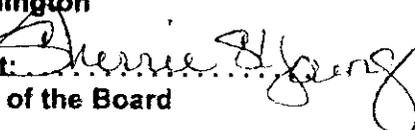
Chairman of the Board



Chairman Pro-Tem



Member
Constituting the Board of County
Commissioners, Franklin County
Washington

Attest: 

Clerk of the Board

**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: 8/2/16
Presentation length:
Presenting elected office/department: OPD
Prepared by: Eric Hsu
Reviewed by: Loretta Smith-Kelty

BACKGROUND INFORMATION

Benton County presently contracts with attorney Michelle Trombley for public defense services in Benton County Superior Court through a contract providing for a caseload maximum of 140 cases annually (93.3% of a full time caseload under state caseload standards). Attorney Pamela Peterson, who holds a juvenile dependency public defense contract has been appointed to the Superior Court Bench as a Court Commissioner so is relinquishing her juvenile dependency part-time contract (representing 37.5% of a full-time caseload under state standards). The skill-set for dependency contracts is difficult to find and the time to fill the contract vacated by attorney Peterson is short (she starts as Court Commissioners July 18, 2016). Accordingly, the interest expressed by attorney Trombley in taking on this part-time contract in addition to her Superior Court contract is very welcome and in the County's best interests. However, in order to accommodate both contracts, it is necessary to reduce the caseload maximum in attorney Trombley's Superior Court contract to 90 cases annually. Therefore the contract amendment has been proposed. Since the Superior Court contract provides that compensation is paid on a per-case basis, there is no need to adjust the compensation for this reduced caseload.

SUMMARY

Contract amendment, reducing caseload of Superior Court public defense contract attorney Michelle Trombley, so that she can take on an additional and separate part-time juvenile dependency public defense contract, is proposed for execution.

RECOMMENDATION

Execute amendment as proposed. Approve resolution.

ANTICIPATED FISCAL IMPACT

None

RESOLUTION
BENTON COUNTY RESOLUTION NO. _____

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF EXECUTING AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH MICHELLE TROMBLEY FOR PUBLIC DEFENSE SERVICES IN BENTON COUNTY SUPERIOR COURT

WHEREAS, Benton County is obligated by law to provide indigent defense services in Benton County Superior Court (“Services”); 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, Benton County provides such Services through contracts with, among others, attorney Michelle Trombley (“Attorney”); and

WHEREAS; the contract with Attorney provides for a caseload maximum of 140 cases annually, which is 93.3% of a full time caseload under State caseload standards; and

WHEREAS, Attorney will be recommended for award of a separate additional part-time juvenile dependency public defense contract that has been vacated in light of attorney Pamela Peterson’s appointment to the Superior Court Bench as a Court Commissioner with a caseload of 37.5% of full-time; and

WHEREAS, in light of this anticipated award of a separate additional part-time contract it is necessary to reduce the caseload maximum of Attorney’s Superior Court public defense contract and a reduction to 90 cases annually would allow her to provide needed services on both contracts without exceeding state caseload standards;

NOW THEREFORE, BE IT RESOLVED THAT the proposed contract amendment, changing the caseload maximum in the contract with attorney Michelle Trombley for public defense services in Benton County Superior Court (executed by and through Resolution 2015-399) from 140 cases annually to 90 cases annually, be executed as presented.

Dated this day of , 20

Chairman of the Board

Chairman Pro-Tem

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

Attest:
Clerk of the Board

cc: Originals – OPD, Michelle Trombley
Copy – Auditor, Superior Court, S Araiza

**SECOND AMENDMENT TO
PROFESSIONAL SERVICES AGREEMENT TO PROVIDE
LEGAL REPRESENTATION TO INDIGENT PERSONS IN
BENTON COUNTY SUPERIOR COURT
BCSC1517MTT001**

THIS AGREEMENT, previously entered into by and between **Michelle T. Trombley**, attorney at law, Washington State Bar Association #42912 ("Attorney"), dba Trombley Law, PLLC, and **BENTON COUNTY, WASHINGTON**, a state of Washington political subdivision ("County"), for and on behalf of the Benton County Superior Court, originally executed by and through Benton County Resolution 2015-399 and amended by and through Resolution 2015-507,

IS HEREBY AMENDED AS FOLLOWS:

7. **NUMBER OF APPOINTMENTS.** The number "140" in this section shall be replaced by the number "90."

All other provisions shall remain in effect.

This amendment shall be designated BCSC1517MTT001A2.

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

Date: _____

Date: 7-18-15

BENTON COUNTY

ATTORNEY

Chairman

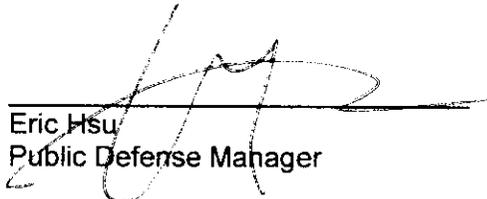


Michelle T. Trombley WSBA #42912

Commissioner

Approved as to Content and Form:

Commissioner



Eric Hsu
Public Defense Manager

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF THE PURCHASE OF TIRES FOR E.R.&R. MANAGED EQUIPMENT AND VEHICLES

WHEREAS, by Resolution 2016-239 dated March 22, 2016, the Board of County Commissioners approved the purchase of various sized tires for use on E.R.&R. managed equipment and vehicles from both Pasco Tire Factory, Pasco, Washington and Commercial Tire, Pasco, Washington, depending upon availability, utilizing the Washington State DES Contract in an amount not to exceed \$80,000.00; and

WHEREAS, the 2016 Benton County Road Program has \$90,000.00 budgeted for equipment tire purchases; and

WHEREAS, it is sometimes necessary to purchase tires from a vendor not listed under State Contract 01712 due to pricing and availability; **NOW, THEREFORE,**

BE IT RESOLVED, that the Board of County Commissioners authorizes the County Engineer to purchase various sized tires for use on E.R.&R. managed equipment and vehicles from Les Schwab Tire Center outside State Contract 01712 when the tire needs are not being met through the State Contract, in a total amount not to exceed \$10,000.00 for the period January 1, 2016 through December 31, 2016.

Dated this 2nd day of August, 2016.

Chairman of the Board.

Chairman Pro-Tem.

Member.

Attest: _____
Clerk of the Board

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

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY ROADS, RE: PURCHASE OF CATEGORY 1 CORROSION INHIBITED LIQUID MAGNESIUM CHLORIDE (DEICER) THROUGH THE WASHINGTON STATE DEPARTMENT OF ENTERPRISE SERVICES MASTER CONTRACT USAGE AGREEMENT-CONTRACT NO. 02714 FROM ENVIROTECH SERVICES, GREELEY, COLORADO

WHEREAS, by Resolution 2013-431 dated June 11, 2013, the Board of County Commissioners approved the Master Contract Usage Agreement for the purpose of purchasing or acquiring goods and services under contracts entered into by the Department of Enterprise Services; and

WHEREAS, the deicer that Benton County Road Department previously purchased has been dispersed and it is necessary to purchase deicer in preparation for winter maintenance activities; and

WHEREAS, Category 1 Deicer for WSDOT Region 5, Maintenance Area 3 is listed on Contract 02714 and is available from EnviroTech Services, Greeley, Colorado; and

WHEREAS, the County Engineer recommends the approval of the purchase through the use of the Master Contract Usage Agreement-Contract No. 02714; and

WHEREAS, the amount of deicer needing to be purchased is dependent upon weather conditions and can vary from year to year; **NOW, THEREFORE**,

BE IT RESOLVED, that the Board of County Commissioners authorizes the Road Department to purchase Category 1 Corrosion Inhibited Liquid Magnesium Chloride (deicer) from EnviroTech Services, Greeley, Colorado through the use of the Washington State Master Contract Usage Agreement-Contract No. 02714 from August 1, 2016 through July 31, 2017, at the current state contract rate in an amount not to exceed \$75,000.00; and

BE IT FURTHER RESOLVED, the Board of County Commissioners authorizes the Chairman to sign the attached Purchase Agreement for purchase of said deicer.

Dated this 2nd day of August, 2016

Chairman of the Board.

Chairman Pro-Tem.

Member.

Attest: _____
Clerk of the Board

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

EXHIBIT A



Contract Summary

Snow & Ice Control Products

Contract#: 02714 Replaces: 02708, 07113, 04006

For the purchase of snow and ice control products utilized in maintaining major streets and highways.

Current Term Start Date: 08-18-2014 Award Date: 07-09-2014 Est. Annual Worth: \$1,173,794

Current Term Ends On: 08-18-2022 Final Term Ends On: 08-18-2022

Diversity: 0% WBE 0% MBE

Contact Info: Master Contracts & Consulting – Mark Roush at (360) 407-9311 or mark.roush@des.wa.gov

Who can use this contract?

- » Organizations with Master Contract Usage Agreements
- » Oregon Coop Members

Current Documents

- » Contract & Amendments
- » Pricing & Ordering Information
- » Specifications

Historical Documents

- » Original Solicitation
- » Bid Tab

Resources

- » Contract Comments
- » Vendor and Contract Performance Feedback
- » Green Product Listing
- » Best Buy Form

Contractors	OMWBE	Veteran	Small Business
AMERICA WEST ENVIRONMENTAL SUPPLIES, INC. - w579		N	N
ENVIROTECH SERVICES, INC. - w3757		N	N
LTI, INC. - w17938		N	N
PARADIGM CHEMICAL LLC - w47198		N	N
ROADWISE, INC. - w38		N	N
SALT DISTRIBUTORS, INC - w4912		N	Y
TWO RIVERS TERMINAL - w17937		N	N

M=OMWBE Certified Minority Owned W=OMWBE Certified Women Owned MS=Self Identified Minority Owned WS=Self Identified Women Owned



State of Washington Specifications

Effective Date: August 18, 2014

Contract number:	02714
Contract title:	Snow & Ice Control Products
Specifications:	Product specifications are based on the Qualified Products List (QPL) developed by the <u>Pacific Northwest Snowfighters</u> (PNS) Association of British Columbia, Idaho, Montana, Oregon and Washington. All vendors must maintain approved status on the QPL. Any material changes to a product listed on the QPL by either the manufacturer or the vendor, which in any way makes it different from the original qualified material, shall be grounds for disqualifying the product from the list.

Contracts Specialist:	Melanie Williams	Alternate Contact	Customer Service
Phone Number:	(360) 407-9399	Phone Number:	(360) 407-2210
Fax Number:	(360)-586-2426	Email address:	<u>contractingandpurch</u>
Email address:	<u>melanie.williams@des.wa.gov</u>		<u>asing@des.wa.gov</u>

1. ORDERING

Orders will be placed by fax or email unless otherwise mutually agreed between Purchaser and Vendor. WSDOT will use a Field Order.

The official order date shall be the date of the transmittal to the Vendor when received by the Vendor prior to 2pm. Orders received after 2pm will be considered as received the next business day.

Vendor shall immediately notify Purchaser if unable to meet the delivery requirements as defined herein. If the Purchaser schedules a date outside of the 30 day delivery requirement identified herein, the order shall be considered late if not received on the scheduled delivery date.

Purchaser is to provide the Vendor with all necessary delivery information when ordering, including but not limited to: business phone, cell phone, fax number, emergency/after-hours number, driving directions, delivery address, driving instructions, receiving times/days, delivery truck type, etc.

2. DELIVERY

Delivery must be made during Purchaser's normal work hours and within timeframes specified herein and on the purchase order. Acceptance of late delivery shall not constitute a waiver of timely performance in future purchases.

For WSDOT facilities, regular business days/hours shall be Monday through Friday, 8am to 4pm (PST), excluding Washington State holidays or extended business hours. Contractor is to coordinate extended delivery days/hours with Purchaser prior to making deliveries. It is the Vendor's responsibility to ensure a Purchaser is available to accept deliveries.

Failure to comply with agreed upon delivery times may subject Vendor to liquidated or other damages. The Purchaser may refuse shipment when delivered after normal working hours. The Vendor shall verify specific working hours of individual Purchasers and instruct carrier(s) to deliver accordingly. The acceptance by the purchaser of late performance, with or without objection by the Purchaser, shall not waive the right to claim damage for such breach.

Three (3) Day Delivery: From November 1 to April 30 orders may specify three (3) day delivery from the official order date. Purchasers will indicate on Purchase Document whether they can accept deliveries during extended business hours. Deliveries made on or after the 4th calendar day shall be subject to liquidated damages for late delivery. During an emergency event, vendors will give preference to WSDOT over MCUA Members if supply is overwhelmed by demand.

Seven (7) Day Delivery: Purchaser must specify on the order document that delivery must be made in 7 days from the Official Order Date. Deliveries made on or after the 8th calendar date shall be subject to liquidated damages for late delivery. During an emergency event, vendors will give preference to WSDOT over MCUA Members if supply is overwhelmed by demand.

For 3 day and 7 day delivery orders over 60 tons per location, a minimum of 60 tons must be delivered within three days from the Official Order Date. The balance of the order must be delivered 60 tons per day until the order is fulfilled.

Thirty (30) Day Delivery – Solid Products: Purchaser may specify on the order document that delivery shall be made within thirty (30) calendar days from the official order date. Deliveries made on or after the 31st calendar day shall be subject to liquidated damages for late delivery.

Vendor shall provide the Purchaser 24-hour notification of delivery prior to the scheduled delivery, if requested on the order. Delivery notification shall be made during Purchaser's regular business hours.

Vendor may charge a drop shipment fee for each additional stop when there are multiple delivery locations for one truckload. Purchasers may specify multiple delivery locations within the same WSDOT Region.

The Bill of Lading shall include the following information: Date of Delivery (initialed by driver), Purchase Order Number, Product Name, Vendor Name, Delivery Location, Total Amount being delivered, certified scale ticket or certified flow meter ticket, Product Lot number, Transport Company information: Name, tank, trailer or rail car number, point and date of origin.

If a Vendor agrees to extend contract pricing to State of Washington MCUA members, the delivered price will be based on the corresponding WSDOT Maintenance Area.

3. ADDITION OF DELIVERY LOCATIONS

New delivery locations may be added at any time during the term of this contract by Purchaser(s) contacting the Vendor directly to setup the account. Purchaser shall allow the Vendor five (5) business days to set-up a new location account and delivery logistics once an order confirmation is received. The contract need not be updated to reflect new delivery locations.

4. SHIPPING

Typical truckload volumes are:

Product Type	Description	Approx. Weight	Minimum per Truck Load	Typical Quantity Per Truck Load
Solid	Bulk	2,000 lbs/Ton	30 Tons	30 Tons
Liquid	Bulk	Variable/Ton	5,000 Gallons	6,500 Gallons

Contractor shall package products as follows:

For liquid products, packaging shall be for bulk products shipped in tanker trucks in full truckload delivery quantities, unless otherwise specified in the order document.

For solid products, packaging shall be bulk loads in full truckload delivery quantities.

All products shall be protected from the weather elements and secured in a manner to prevent it from dislodging during transit.

5. UNLOADING

To avoid unnecessary unloading delays, Purchaser shall provide ready access to delivery site, adequate room for maneuvering, easy access to liquid tank connection, and a clearly identified unloading spot. Average length of trailer truck is 48 feet and end dump trucks may rise 30 feet above ground level. If an unloading site is not adequate for deliveries, the Vendor will notify the Purchaser.

Unloading of products is the responsibility of the Vendor. There shall be no additional cost to the Purchaser for unloading-related activities.

For bulk solid products, an end-dump truck is required for delivery at all WSDOT locations unless otherwise stated on the order document. If the Purchaser requires another type of delivery truck, it must be specified on the order document. There shall be no additional costs to the Purchaser for different types of delivery trucks. Purchaser will identify areas that require a belt loader truck.

For bulk liquid, Purchaser's liquid storage tanks will be fitted with a three-inch male pipe cam lock fitting to allow for unloading of product. Vendor will be responsible for all necessary equipment to transfer liquid chemical products to Purchaser's storage tanks. Contractor shall visually inspect the discharge valve prior to unloading for the presence of any foreign materials.

An anti-foaming agent will be available during delivery and unloading from the Vendor for use as needed, at no additional charge to the Purchaser, to control foaming during loading, unloading, and agitation of liquid chemical products.

The Purchaser must note any product issues at the point of delivery on the Bill of Lading. The Purchaser may reject any shipment if problems are noted and immediately halt the unloading process. The Purchaser must immediately advise the Headquarters Maintenance Operations office of any ordering, delivery, storage, or product quality issues. At the time of bid posting the contacts are Jim Anderson and Jay Wells. Customer may change or update this as needed through written notification to the Contract Administrator and Vendor.

6. INVOICING

Invoices will include the unit of measure, unit price, total price for units measured, and a copy of the bill of lading before Purchasers will process invoices for payment.

7. 80/120 VOLUME COMMITMENTS

WSDOT will provide 80/120 target volume commitments for each WSDOT Region for the upcoming winter season for Categories 1, 2, and 8A-R. Products that are new to this contract (8A-B, 8-B, 8C-B, 8C-R, A1, A2, A3, 4B and 11) are not subject to 80/120 commitments. WSDOT commits to purchasing no less than 80%, and the Vendor is responsible for supplying up to 120%, of the target volume. If the Vendor supplies the same product to multiple regions, purchase volume may be aggregated to meet the 80% minimum purchase, and the 120% maximum supply quantity.

Target purchases may be adjusted annually by August 31. Adjusted quantities will be addressed by mutual written agreement through contract amendment.

8. ADDITION OF NEW PRODUCTS

New, improved, or updated products, allowed within Bidder's awarded categories, available from an awarded Vendor and listed on the Pacific Northwest Snowfighters (PNS) Association's QPL may be substituted for a product currently listed in the contract. Substitutions and pricing will be at the sole discretion of the Contract Administrator and through written mutual agreement.

9. TESTING NEW PNS PRODUCTS

During the term of this contract, Purchasers reserve the right to purchase other snow and ice control products for testing and evaluation purposes from any vendor whether on contract or not. Such purchases may result in a maximum displacement of 10% total volume of contracted items. However, the maximum volume displaced may be increased based on legislative direction. The Vendors of displaced products will not be compensated for lost orders, volume or profit.

10. SAMPLING AND TESTING FOR COMPLIANCE

All orders are subject to field inspection, sampling and testing on an as delivered basis at the prerogative of the Purchaser. If the vendor offloads product without giving the Purchaser an

opportunity for field inspection, sampling or testing, the material may be deemed non-compliant and subjected to total rejection.

Each type of product may be tested for conformance to PNS specifications during the year. When a sample is taken for testing it will be taken from the delivered shipment. The sample will be used for testing and/or fingerprinting at the Purchaser's expense to insure product quality.

When shipping a sample for testing, Purchaser must include the following information: State Contract Number, Purchase Order Number, Manufacturer or Vendor Name, Name of Product, Lot number of Product, Shipping date, bill of lading number, date received, delivery location, quantity of material delivered, and name and phone number of person receiving the load and taking the samples. (WSDOT will use a third party laboratory; other Purchasers may use a testing laboratory of their choice).

For liquid products a one-gallon sample will be taken from the transfer hose in three equal parts. Each part will be compositely mixed together with the other parts to make up the one-gallon sample that will be submitted to the laboratory for testing. The sample will be collected during unloading of the delivered product by taking a sample from the first third, second third, and last third of the load. If the trailer or pup has compartments, then three equal samples shall be taken from only one of the compartments to complete the sample.

For solid products, samples of the materials should be obtained from a complete cross section of the load. The sample should be placed into a clean and dry wide mouth one-gallon container with a screw top lid and sealed with tape as soon as the sample has been taken to avoid exposing the sample unduly to atmospheric moisture. Sample portions shall be taken from the top, center, and bottom of the load in proportion to the cross section area at that point and well within the stack each time. It is best practice to cut completely through the stack if practicable. Fine material sifts to the bottom. Care should be taken to obtain a complete and representative sample.

11. CERTIFICATION OF PRODUCT DELIVERED

Contractor shall provide with each shipment a certification that all products delivered meet PNS Qualified Product List and specifications as bid.

Contractor will provide a Lot (Batch or Control) Number for each shipment. The Lot Number is a specific number assigned to that particular production run of the product being delivered. A Lot Number can be the source of multiple deliveries. The Lot Number shall be legible and identified on delivery documents. The Lot Number must enable the Purchaser and Vendor to track delivered products back to its manufacture point, date of manufacture and specific batch for quality assurance and verification. Failure to have a Lot Number with each shipment is grounds for rejection of the load at time of delivery.

For liquid products, the Vendor shall provide a legible printed ticket from a flow meter or certified weight scale that has been tested and certified through the WSDA Weights and Measures Program

on an annual basis. Weight tickets shall be stamped with a Weigh Master Seal. Purchaser may request that the meter (or certified weight scale) be retested and certified again during the delivery year, at no cost to the Purchaser if the data is in question.

12. PRODUCT WARRANTY

For product that has been stored properly, Vendor will be responsible for warranting product that is carried over from season to season. If WSDOT discovers that stored product does not meet PNS specifications the following year, the Vendor agrees to take all necessary action to bring the product back into compliance or replace it with product that does meet PNS Specification. Replacement shall be at the Vendor's expense and occur within 30 days. Either option shall be at no cost to the Purchaser.

13. LIQUIDATED DAMAGES

Liquidated damages may be assessed on any product delivered, which does not meet the product specifications as developed by the Qualified Products List published by the Pacific Northwest Snowfighters (PNS). Purchaser will deduct liquidated damages from the payment of the invoice for the actual amount of product not delivered according to the terms of this agreement. Liquidated damages may be cumulative.

If the Vendor fails to deliver the product in the timeframe specified on the order document, liquidated damages will be assessed:

- \$500 per day for the 4th calendar day and every following day on a 3-day order placement up to 50% of the order value
- \$200 per day for the 8th day and every following day on a 7-day order placement up to 50% of the order value
- \$100 per day for the 31st day and every day following a 30-day order placement up to 50% of the order value
- \$100 for delivery made outside normal business hours with an additional \$100 if delivery is more than one hour past regular business hours, not to exceed \$200 per shipment

For liquid product delivered outside the specified concentration ranges the following liquidated damages will be assessed:

- Concentration exceeding specification by 1.1% or more (but not below the required concentration limit: \$1000 per load per delivery location
- Concentration below specification limit at 24% to 24.9%: \$1500 per load per delivery location
- Concentration below specification limit at less than 24%: 100% of the value per load per delivery location

For solid product delivered outside the specified moisture, gradation and segregation/separation specifications, liquidated damages will be assessed at \$450 per load per delivery location. Permissible variations of 5% will be allowed for each sieve size.

For Corrosion inhibited product delivered outside the corrosion specifications, liquidated damages will be assessed at \$750 per load per delivery location. Purchaser may elect to reject shipment at its sole discretion without incurring additional costs. Vendor shall remove any rejected product and contaminated material from the Purchaser's site. Purchaser shall determine the amount of material, if any, that has been contaminated by the shipment. Vendor shall replace the rejected product with product that meets specifications. All associated costs for removal and replacement of rejected product and contaminated material shall be at the Vendor's sole expense, including shipping and handling.

14. OTHER REQUIRED REPORTS

Monthly Contract Activity Reports: Vendor shall provide monthly sales reports for each delivery location supplied through this contract. Reports are due by the 15th of the following month. Vendor shall email the report, in Microsoft Excel, to the Contract Administrator and designated WSDOT representative(s). Reports are not required during months with zero sales. The report shall include:

- Product Purchased
- Delivery Region, Maintenance Area, Specific Location
- Delivery Option (3 day, 7 day, 30, day)
- Date Ordered
- Date and Quantity Delivered
- Total Dollar Amount of Sales for the month
- Year to date total volume and dollar amounts

Additional reports may be required by the Contract Administrator to obtain information needed for bid design, contract negotiation, or other need as determined by the Contract Administrator. Vendors will provide reports upon request and within the specified timeframe.

CITY OF SPOKANE

The following terms and conditions apply only to the City of Spokane

1. STORAGE

It is the City's intent to have 206,000 gallons in ready inventory at the beginning of a major winter snow and ice storm with a potential re-supply of 60,000 gallons every 48 hours at each site during the storm. The City has onsite storage of 86,000 gallons located at the Northside Satellite, 4101 East Queen Street, Spokane, WA. Vendor will supply product to the Northside Satellite on a keep full basis. The other 120,000 gallons are to be stored in rail cars on a siding or other site/facility approved by the City of Spokane.

2. OFF-SITE STORAGE

Vendor's off-site storage must be located within the city limits or the western half of the Havana rail yard just north of Sprague and east of Havana. Storage site shall be made readily available to City crews and be provided with continuous power to the City's pumping facility to operate its

lighting, heating and pumping system. The cost for power and readiness shall be included in the unit cost of the product provided.

3. END OF SEASON INVENTORY

At the end of the winter season, or approximately March 31, the Vendor will fill the City's storage tanks. Any material left in the vendor supplied storage will be returned to the Vendor and a credit issued.

4. DELIVERY

Normal working hours shall be Sunday through Saturday, excluding City holidays, between the hours of 6am and 2pm or 5pm and 1am unless otherwise requested and approved by the City.

5. BUSINESS LICENSE REQUIREMENTS

The Vendor shall be responsible for contacting the City's Taxes & Licenses Department at (509) 625-6070 to obtain a business license or receive a determination of exemption in accordance to Section 8.01.070 of the Spokane Municipal Code.



Contract Updates

Contract Number: 02714

Snow & Ice Control Products

08-14-2015 :	CONTRACT STATUS	The contract has been extended, term date has been updated to the new contract end date of 8/18/2022.
09-02-2014 :	CONTRACT CHANGE	Amendment 2 has been issued to LTI, Inc. and Salt Distributors, Inc. determining WSDOT 80/120 Target Volumes for the 2014 - 2015 Winter Season.
09-02-2014 :	CONTRACT CHANGE	Amendment 1 has been issued to Roadwise, Inc., EnviroTech Services, Inc. and America West Environmental determining WSDOT 80/120 Target Volumes for the 2014 - 2015 Winter Season.
08-08-2014 :	CONTRACT CHANGE	Amendment 1 has been executed with LTI, Inc. and Salt Distributors, Inc. removing WSDOT Region 5 South Central, Maintenance Area 4 from LTI, Inc. and adding it to Salt Distributors, Inc. which will allow Salt Distributors to provide service to this area.
07-31-2014 :		IFB 02714 Snow & Ice Control Products, Category 1 has been awarded to Roadwise (Regions 1, 4, 6) and EnviroTech, (Regions 2, 3, 5). The period of performance beings 8/18/14.
07-17-2014 :		Award of IFB 02714 Category 1 Rebid is delayed while the agency responds to a protest that has been filed.
07-15-2014 :		One debrief request was received on IFB 02714 Category 1 (Rebid). The debrief was held Friday, July 11, 2014, which prohibits award for 5 business days making the earliest award possible Monday, July 21, 2014.
07-15-2014 :		Contract #02714 (Snow & Ice Control Products) was awarded July 9, 2014. The contract was awarded by product and by region, and goes into effect Aug. 18, 2014. •Category 1 – Corrosion Inhibited Liquid Magnesium Chloride: Will be awarded at a later date because this category was rebid. The bid closed July 2, 2014. •Category 2 – Corrosion Inhibited Liquid Calcium Chloride: Awarded to America West Environmental Supplies, Inc. of Pasco, WA. •Category 4B – Corrosion Inhibited Solid Sodium Chloride: Awarded to EnviroTech Services, Inc. of Greely, CO. •Category 8A-B – Standard Gradation Brining Salt: Awarded to Salt Distributors, Inc. of Newman Lake, WA. •Category 8A-R – Standard Gradation Road Salt: Awarded to LTI, Inc. of Lynden, WA •Category 8B – Standard Gradation Road Salt: Regions 1 – 5 awarded to LTI, Inc. of Lynden, WA and Region 6 awarded to Salt Distributors, Inc. of Newman Lake, WA. •Category 8C-B – Fine Gradation Brining Salt: Awarded to Salt Distributors, Inc. of Newman Lake, WA. •Category 8C-R – Fine Gradation Road Salt: Awarded to Salt Distributors, Inc. of Newman Lake, WA. •Category 11 – Corrosion Inhibited Liquid Chloride Blended Brines: Awarded to Two Rivers Terminal, LLC of Pasco, WA. •Category A1 – Corrosion Inhibitor for Sodium Chloride Brine: Awarded to Paradigm Chemical, LLC of Lakewood, CO. •Category A2 – Corrosion Inhibitor for Sodium Chloride and Calcium Chloride Brine: Awarded to America West Environmental Supplies, Inc. of Pasco, WA. For additional information about this contract, please visit the webpage or contact DES Contract Specialist Melanie Williams at (360) 407-9399.

07-09-2014 :	Repost of IFB 02714 for rebid of Category 1 closed July 2, 2014. Announcement of Apparent Successful Bidder was made July 7, 2014. One vendor has requested a debrief. Bidders are given a five day protest period. The earliest award can be made is July 21, 2014.
06-23-2014 :	Repost of IFB 02714 for rebid of Category 1 was posted June 23, 2014 with a bid closing date of July 2, 2014. Complaints must be received prior to the bid closing date.
06-23-2014 :	DES provided a protest response to EnviroTech Services on Friday, June 20, 2014. DES felt there was ambiguous language provided in the IFB regarding the number of non-cost factor submittals that could be submitted as part of the bid package, which may have prevented the State from capturing an accurate picture of non-cost factors for evaluation and consideration. Therefore, and true to the state's procurement goals, the State will cancel and rebid Category 1 as allowed for in RCW 39.26.160(l)(a)(i).
06-18-2014 :	Award of this contract is delayed while the department reviews two protests that have been filed.
06-05-2014 :	Debriefs have been requested by two vendors. Bidders are given a five day protest period. The earliest award can be made is June 13, 2014.
06-05-2014 :	Notice of Apparent Successful Bidder (ASB) was sent out to all bidders on May 29, 2014. Bidders are given a three day period to request a debrief. The earliest award can be made is June 2, 2014.
05-08-2014 :	IFB 02714 Snow & Ice Control Products' replacement contract for 02708 closed 4/30/14. Evaluation is underway. Bidders will be notified via email of the apparent successful bidder(s).
03-28-2014 :	IFB 02714 Snow & Ice Control Products' replacement contract for 02708 was posted to WEBS 3/26/14. Pre-Bid Conference will be held 4/9/14 at 9:30am at 1500 Jefferson Street SW Olympia, WA 98501. Bid closing date is 4/30/14 at 2PM.





STATE OF WASHINGTON
DEPARTMENT OF ENTERPRISE SERVICES

1500 Jefferson Street SE, Olympia, WA 98501

July 30, 2014

Jerold Vincent, PNW Regional Manager
 EnviroTech Services, Inc.
 910 – 54th Avenue #230
 Greely, CO 80634

Dear Mr. Vincent:

Congratulations, your firm has been selected as a successful bidder on state Contract 02714 Snow & Ice Control Products. Specifically, your company has been awarded Category 1 – Corrosion Inhibited Liquid Magnesium Chloride, Region 2, 3, and 5 as follows:

Category 1	Meltdown w/Shield AP		Concentration: 30%	Drop Shipment: \$125.00	
Region 2	3 Day Delivery	7 Day Delivery	Region 5	3 Day Delivery	7 Day Delivery
Maintenance Area 1	\$150.27	\$148.65	Maintenance Area 1	\$151.00	\$147.00
Maintenance Area 2	\$152.06	\$150.43	Maintenance Area 2	\$143.79	\$136.65
Maintenance Area 3	\$159.46	\$157.80	Maintenance Area 3	\$147.63	\$142.39
Region 3	3 Day Delivery	7 Day Delivery	Maintenance Area 4	\$157.58	\$114.23
Maintenance Area 1	\$175.55	\$170.66			
Maintenance Area 2	\$180.46	\$175.55			
Maintenance Area 3	\$191.31	\$186.36			
Maintenance Area 4	\$177.92	\$173.02			

Enclosed is a signed copy of the Authorized Offer & Contract Signature Page acknowledging acceptance. The period of performance begins August 18, 2014.

Per Section 5.6 Price Adjustments, Diesel Fuel Surcharge, a baseline price for diesel fuel will be established August 18, 2014 utilizing the Oil Price Information Service (OPIS) for Spokane, WA, contract

Contract 02714 Snow & Ice Control Products

July 30, 2014

Page 2 of 2

average rack price for ultralow #2 Diesel (USLD #2) fuel using the report subscribed to and received by DES. The Contract Administrator will verify OPIS pricing on the 18th day of every month thereafter and issue a notice of price adjustment, if applicable. Fuel surcharges will be effective on the first day of each month.

Your firm must also submit quarterly usage reports. The sales report form is located at: <https://fortress.wa.gov/ga/apps/CSR/login.aspx>. Once sales have been reported, you will receive an invoice to remit to DES a .74% management fee as addressed in the Competitive Procurement Standards, which was an appendix to the IFB.

If you have any questions regarding these requirements or other contractual matters, please contact me at (360) 407-9399. I look forward to a mutually beneficial business partnership in the administration of our contract. Thank you.

Sincerely,



Melanie Williams
Contracts Specialist

Enclosures: Authorized Offer & Contract Signature Page

AUTHORIZED OFFER & CONTRACT SIGNATURE PAGE

In submitting this Bid, the Authorized Signatory below acknowledges having read and understood the entire IFB and agrees to comply with its terms and conditions including the Certifications and Assurances. The Authorized Signatory also agrees to fulfill the offer made in this Bid and any subsequently awarded Contract.

In witness whereof, the parties hereto, having read this Contract in its entirety, including all attachments, do agree in each and every particular and have thus set their hands hereunto.

For DES use Only:

This Contract is effective upon final DES signature.

This is an Award for: Snow & Ice Control Products *and based on the attached award letter, which is incorporated by reference.*

APPROVED (DES)	
Department of Enterprise Services 1500 Jefferson Street SE PO Box 41411 Olympia, WA 98501	
Washington State Department of Enterprise Services	
<i>Melanie Williams</i> Signature	<i>7/30/14</i> Date
<i>Melanie Williams, Procurement Coord.</i> Typed or Printed Name, Title	
<i>[Signature]</i> Manager Signature (if applicable)	<i>7/30/14</i> Date
<i>Michael Maverick MCC Team 3</i> Manager's Typed or Printed Name, Title	
CONTACT INFORMATION	
Contact:	Melanie Williams
Title:	Contracts Specialist
Phone:	360-407-9399
Fax:	360-586-2426
Email:	melanie.williams@des.wa.gov

APPROVED (VENDOR/CONTRACTOR)	
EnviroTech Services, Inc. 910 54 th Ave. # 230 Greeley, CO 80634	
Bidder's Company Name & Address	
X <i>[Signature]</i> Signature	<i>6/27/14</i> Date
<i>Kevin C. Whyte - Treasurer</i> Typed or Printed Name, Title	
CONTACT INFORMATION	
Contact:	<u>Jerold Vincent</u>
Title:	<u>PNW Regional Manager</u>
Phone:	<u>541-233-3476</u>
Fax:	<u>970-346-3959</u>
Email:	jvincent@envirotechservices.com

As Received *[Signature]*

**State of Washington
Pricing & Ordering Information
Effective Date: 10/1/15**

Contract Administrator: Mark Roush (360) 407-9311 mark.roush@des.wa.gov
 Alternate Contact: Customer Service (360) 407-2210 contractingandpurchasing@des.wa.gov
 Current Term: 8/18/15-8/17/22

Diesel Fuel Surcharge: Effective 10/1/15 - \$0.29/mile (credit to customer)

Liquid Deicer Products For 2015/2016

WSDOT CC	7754-554-195		7754-535-090		Not in inventory. 7754-535-xxx		
Vendor:	Roadwise	EnviroTech	America West		Two Rivers Terminal		
Product Offered:	FreezGard CI Plus	Meltdown with Shield AP	Calcium Chloride w/Boost		Road Guard XCEL		
Order Information:	Mel Lawson	Order Fulfillment	Peggy Adams		Trevor Idler		
	888-530-6033	800-577-5346	509-547-2240		509-547-7776		
	mlawson@roadwise-inc.com	orders@envirotechservices.com	peggy@america-west.net		industrial@tworiversterminal.com		
	Pcard Accepted: No	Pcard Accepted: VISA, Mastercard, American Express, Discover	Pcard Accepted: Yes		Pcard Accepted: No.		
	ORCPP Members: With Mileage	ORCPP Members: Add 25%	ORCPP Members: Yes		ORCPP Members: With Mileage		
South Central Region							
Area 1		\$151.00	\$147.00	\$196.54	\$195.54	\$228.87	\$227.37
Area 2		\$143.79	\$136.65	\$189.00	\$188.00	\$230.11	\$228.61
Area 3		\$147.63	\$142.39	\$182.72	\$181.72	\$221.45	\$219.95
Area 4		\$154.58	\$152.30	\$185.72	\$184.72	\$232.59	\$231.09
Eastern Region							
Area 1	\$153.95	\$150.00		\$198.84	\$197.84	\$230.11	\$228.61
Area 2	\$153.95	\$150.00		\$193.59	\$192.59	\$226.39	\$224.89
Area 3	\$155.80	\$153.00		\$189.35	\$188.35	\$216.04	\$214.54
Area 4	\$155.80	\$153.00		\$209.84	\$208.84	\$233.82	\$232.32

<u>AGENDA ITEM</u>	<u>TYPE OF ACTION NEEDED</u>		
Meeting Date: 8/2/16	Execute Contract	_____	Consent Agenda <u> X </u>
Subject: <u>Resolution 2013-705</u>	Pass Resolution	<u> X </u>	Public Hearing _____
<u>Amendment</u>	Pass Ordinance	_____	1st Discussion _____
Prepared by: <u>L. Small</u>	Pass Motion	_____	2nd Discussion _____
Reviewed by: <u>Ryan Lukson</u>	Other	_____	Other _____

BACKGROUND INFORMATION/SUMMARY

The Benton County Sheriff’s Office Civil Division has been utilizing SoftCode, Inc., Marlborough, Massachusetts for a number of years, which provides software and maintenance services for the use of tracking all information and documentation for services such as small claims, child custody, summons, subpoenas, domestic violence protection orders, court orders, and etc.

Per Resolution 2013-705 the Benton County Commissioners entered into two agreements with SoftCode, Inc. for the Perpetual Software License Agreement (for record signature only) and the Software Maintenance Agreement in the amount of \$2,000 per year.

The Benton County Sheriff’s Office received a letter dated August 29, 2014 announcing that Softcode, Inc. became part of Tyler Technologies.

Section 3 of the Software Maintenance Agreement states that the maintenance shall automatically renew annually on the renewal date for an additional one (1) year term under the then current fees.

The 2016 annual renewal fee has increase to \$2,060.00 plus WSST and the Sheriff’ Office recommends amending Resolution 2013-705 to reflect this change and have the Board authorize any future fee changes.

RECOMMENDATION

Approve the attached Resolution amending Resolution 2013-705 to reflect the 2016 renewal annual software maintenance fee to \$2,060.00 plus WSST and authorize any changes to future annual renewal fees.

FISCAL IMPACT

Annual amount of \$2,060 for customer support and updates.

MOTION

Consent Agenda

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AMENDING RESOLUTION 2013-705 AUTHORIZING THE SOFTWARE LICENSE AGREEMENT AND SOFTWARE MAINTENANCE AGREEMENT BETWEEN BENTON COUNTY AND SOFTCODE FOR THE BENTON COUNTY SHERIFF'S OFFICE CIVIL DIVISION

WHEREAS, per Resolution 2013-705 the Benton County Commissioners entered into two agreements with SoftCode, Inc. for the Perpetual Software License Agreement (for record signature only) and the Software Maintenance Agreement in the amount of \$2,000 per year for the Civil Division in the Benton County Sheriff's Office; and

WHEREAS, said software and maintenance services provides services for the use of tracking all information and documentation for small claims, child custody, summons, subpoenas, domestic violence protection orders, court orders, and etc.; and

WHEREAS, the Benton County Sheriff's Office received a letter dated August 29, 2014 announcing that Softcode, Inc. became part of Tyler Technologies; and

WHEREAS, Section 3 of the Software Maintenance Agreement states that the maintenance shall automatically renew annually on the renewal date for an additional one (1) year term under the then current fees; and

WHEREAS, the annual renewal fee has increase to \$2,060.00 plus WSST and the Sheriff's Office recommends amending Resolution 2013-705 to reflect this change and have the Board authorize any changes to future annual maintenance renewal fees; **NOW, THEREFORE**

BE IT RESOLVED, the Board of Benton County Commissioners hereby concurs with amending Resolution 2013-705 to reflect the 2016 annual software maintenance renewal fee change to \$2,060.00 plus WSST and approve any changes to future maintenance renewal fees payable to Tyler Technologies.

Dated this _____ day of _____, 2016

Chairman of the Board

Member

Member

Constituting the Board of Commissioners
of Benton County, Washington.

Attest.....
Clerk of the Board

<u>AGENDA ITEM</u>	<u>TYPE OF ACTION NEEDED</u>		
Meeting Date: <u>August 2, 2016</u> Subject: <u>Interlocal Agreement for Special Investigations Unit</u> Prepared by: <u>L. Small</u> Reviewed by: <u>Ryan Brown</u>	Execute Contract _____ Pass Resolution <u> X </u> Pass Ordinance _____ Pass Motion _____ Other _____		Consent Agenda <u> X </u> Public Hearing _____ 1st Discussion _____ 2nd Discussion _____ Other _____

BACKGROUND INFORMATION/ SUMMARY

Per Resolution 11-147 dated February 28, 2011, the Board of Benton County Commissioners entered into an Interlocal Agreement for Special Investigation Unit (SIU) with local law enforcement agencies to help facilitate investigations of incidents involving law enforcement officers that result in grievous or fatal injury to another person or to an officer resulting from acts of another person investigate officer involved incidents

Whereas the local law enforcement agencies would like to update the Interlocal Agreement and include other law enforcement agencies who would like to participate.

The SIU is a multijurisdictional team consisting of members from some or all of the parties hereto and who are selected and shall operate in accordance with the Special Investigations Unit Protocol, attached as Exhibit A to and referenced in the Interlocal Agreement.

Bringing to the Commissioners' attention, Section 9 of the attached Interlocal Agreement, like the 2011 agreement, assigns liability for damages other than property damages to the agency employing the SIU officer(s) whose actions or inactions are in question. This is in contrast to other Interlocal Agreements, like our SWAT Agreements, where the agency requesting assistance assumes liability for the actions of those officers from other jurisdictions that are providing assistance.

The City of Kennewick has asked that Benton County start the signature process and they will provide us a fully executed copy for our records.

RECOMMENDATION

Approve the attached Resolution and Interlocal Agreement authorizing the Benton County Sheriff's signature on the attached agreement.

APPROVED AS TO FORM

Ryan Brown

FISCAL IMPACT

Each agency shall be responsible for their employees' wages and associated employee costs of the SIU and any other costs further outlined in Section 5 of the SIU Protocol.

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 INTERLOCAL AGREEMENT FOR SPECIAL INVESTIGATIONS UNIT TO INVESTIGATE OFFICER INVOLVED INCIDENTS; RESCINDING RESOLUTION 11-147

WHEREAS, as per Resolution 11-147 dated February 28, 2011, the Board of Benton County Commissioners entered into an Interlocal Agreement for Special Investigation Unit (SIU) with local law enforcement agencies to help facilitate investigations of incidents involving law enforcement officers that result in grievous or fatal injury to another person or to an officer resulting from acts of another person investigate officer involved incidents; and

WHEREAS, Benton, Franklin, and Walla Walla Counties, and the municipalities of Kennewick, Richland, West Richland, Prosser, Pasco, Connell, Walla Walla, Washington State Patrol, and Washington State Department Of Fish And Wildlife (parties) desire to update the SIU Interlocal Agreement and include other law enforcement agencies who would like to participate; and

WHEREAS, the SIU is a multijurisdictional team consisting of members from some or all of the parties hereto and who are selected and shall operate in accordance with the Special Investigations Unit Protocol, attached as Exhibit A and incorporated by reference "SIU Protocol" in the attached Interlocal Agreement; and

WHEREAS, each agency shall be responsible for their employees' wages and associated employee costs of the SIU and any other costs further outlined in Section 5 of the SIU Protocol;
NOW, THEREFORE

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington hereby concurs with the attached Interlocal Agreement and authorizes the Benton County Sheriff to sign the Interlocal Agreement between Benton, Franklin, and Walla Walla Counties, and the municipalities of Kennewick, Richland, West Richland, Prosser, Pasco, Connell, Walla Walla, Washington State Patrol, and Washington State Department Of Fish And Wildlife for Special Investigations Unit (SIU) to investigate officer involved incidents; and

BE IT FURTHER RESOLVED, the term of the Agreement shall commence upon signature of all parties and continue through December 1, 2018 and shall automatically extend for consecutive one (1) year terms, unless terminated pursuant to the terms of the agreement; and

BE IT FURTHER RESOLVED, the attached Interlocal Agreement supersedes all prior negotiations, agreements and understandings with respect thereto including but not limited to the SIU Interlocal Agreement executed by several of the parties in early 2011; and

BE IT FURTHER RESOLVED, Benton County Resolution 11-147 is hereby rescinded.

Dated this _____ day of _____, 2016

Chairman of the Board

Chairman Pro-Tem

Member

Attest: _____
Clerk of the Board

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

**INTERLOCAL AGREEMENT FOR
SPECIAL INVESTIGATIONS UNIT TO INVESTIGATE
OFFICER INVOLVED INCIDENTS**

THIS INTERLOCAL AGREEMENT is effective upon the date executed by all parties and its recording with the Benton County Auditor. In consideration of the mutual covenants below, the parties agree as follows:

1. **PARTIES**. The parties to this Agreement are Benton, Franklin and Walla Walla counties, political subdivisions of the State of Washington, the municipalities of Kennewick, Richland, West Richland, Prosser, Pasco, Connell, Walla Walla, the Washington State Patrol and the Washington State Department of Fish and Wildlife, an agency of the State of Washington.

2. **AUTHORITY**. This Agreement is entered into pursuant to Chapter 10.93 (Washington Mutual Aid Peace Officers Powers Act) and Chapter 39.34 (Interlocal Cooperation Act) of the Revised Code of Washington.

3. **PURPOSE**. The parties hereto desire to establish a Special Investigations Unit consisting of law enforcement officers from the various local law enforcement agencies to help facilitate orderly, thorough and objective investigations of incidents involving law enforcement officers that result in grievous or fatal injury to another person or to an officer resulting from acts of another person. Any party may request assistance from SIU considering the complexity of an investigation that requires additional resources.

4. **FORMATION**. There is hereby created a multi-jurisdictional team to be known as the "SPECIAL INVESTIGATIONS UNIT" ("SIU"), the members of which shall be officers from some or all of the parties hereto and who shall be selected and shall operate in accordance with the Special Investigations Unit Protocol, attached as Exhibit A and incorporated herein by reference ("SIU Protocol").

5. **DURATION AND TERMINATION**. The term of this Agreement shall be through December 1, 2018. This Agreement shall automatically extend for consecutive one (1) year terms, unless terminated pursuant to the terms of this Agreement.

A party may terminate this Agreement or, alternatively, withdraw its participation in SIU by providing written notice to the chief law enforcement officer for each party of its intent to terminate or withdraw from this Agreement. A notice of termination or withdrawal shall become effective upon the latter of: a) ninety (90) days after service of the notice on the chief law enforcement officers for all parties; or b) at the conclusion of any SIU investigation that is pending on the date specified by (a) above.

6. **GOVERNANCE.** SIU shall be governed by the SIU Protocol attached hereto and incorporated by reference. The SIU Protocol may be amended from time to time by written approval of the Sheriffs and Chiefs for all parties to this Agreement. Upon such amendment, the amended SIU Protocol will be provided to each Sheriff and Chief and shall supercede any prior versions of that document.

7. **ASSIGNMENT OF OFFICERS.** The parties agree to cooperate with respect to the assigning of officers to the SIU and that the appointment of SIU officers will be in accordance with the SIU Protocol.

8. **REQUEST FOR SIU ASSISTANCE.** As stated in the SIU Protocol, departments are under no obligation to request the assistance of SIU. If the assistance of the SIU is requested, the SIU shall be activated and will operate pursuant to the SIU Protocol.

9. **ALLOCATION OF LIABILITY/INDEMNIFICATION.** Each of the parties agrees that any liability or claim for property damages arising out of the actions or inactions of an officer that has been appointed to the SIU and acting within the course and scope of the officer's duties as a member of the SIU shall be the responsibility of the party that requests SIU assistance. Each of the parties agrees that any other liability or claim arising out of the actions or inactions of an officer that has been appointed to the SIU and acting within the course and scope of the officer's duties as a member of the SIU shall be the responsibility of the agency employing the SIU officer(s) whose actions or inactions are in question. These provisions are intended to expressly allocate liability by written agreement as authorized by RCW 10.93.040. These provisions are not intended to require indemnification or payment by any party of that portion of any judgment against any members of the SIU team or

party hereto based on intentional wrongful conduct that is outside the scope of employment of any members of the SIU or of that portion of any judgment for punitive damages against a SIU team member or party to this Agreement. Payment of punitive damages, if any, shall be the sole responsibility of any individual against whom said judgment is rendered unless his or her employer elects to make said payment voluntarily.

In the event that a claim or lawsuit is brought against a party or its employee(s) for actions arising out of their conduct in the operation of the SIU, such party shall promptly notify all other parties in writing that said claim or lawsuit has been filed or commenced.

10. COMPLETE AGREEMENT. This Agreement and the exhibit attached hereto contain the entire agreement of the parties with respect to the subject matter of this Agreement. Any oral or written representations or understandings not incorporated in this Agreement are specifically excluded. This Agreement supersedes all prior negotiations, agreements and understandings with respect thereto including but not limited to the SIU interlocal agreement executed by several of the parties in early 2011. This Agreement may only be amended by a written document duly executed by all parties.

11. INTERLOCAL COOPERATION ACT PROVISIONS. No special budget or funds are anticipated nor created to implement this Agreement. It is not intended that a separate legal entity be established to conduct this cooperative undertaking, nor is the acquiring, holding, or disposing of real or personal property contemplated other than as specifically provided within the terms of this Agreement. The Chief of Police for the City of Richland or his or her designee shall be the Administrator of this Interlocal Agreement.

12. FILING WITH AUDITOR. This Agreement shall be filed with the Benton County Auditor.

13. AUTHORIZED SIGNATORIES. By signing below, the signor certifies that he or she has the authority to sign this Agreement on behalf of the party, and the party agrees to the terms of this Agreement.

BENTON COUNTY

Steve Keane
Steve Keane, Sheriff

Date: 7/25/16

Andy Miller
Andy Miller, Prosecuting Attorney

Date: JULY 25, 2016

Attest:

By: _____

Approved as to form:

Ryan Brown

Ryan Brown, Chief Deputy Prosecutor

FRANKLIN COUNTY

Jim Raymond
Jim Raymond, Sheriff

Date: _____

Shawn Sant
Shawn Sant, Prosecuting Attorney

Date: _____

Attest:

By: _____

Approved as to form:

Ryan Verhulp
Ryan Verhulp, Deputy Prosecutor

CITY OF KENNEWICK

Ken Hohenberg
Ken Hohenberg, Chief of Police
Date: _____

Marie Mosley
Marie Mosley, City Manager
Date: _____

Attest:

By: _____

Approved as to form:

Lisa Beaton
Lisa Beaton, City Attorney

CITY OF RICHLAND

Chris Skinner
Chris Skinner, Chief of Police
Date: _____

Cindy Johnson
Cindy Johnson, City Manager

CITY OF PASCO

Robert Metzger
Robert Metzger, Chief of Police
Date: _____

Dave Zabell
Dave Zabell, City Manager
Date: _____

Attest:

By: _____

Approved as to form:

Leland B. Kerr
Leland B. Kerr, City Attorney

CITY OF CONNELL

Chris Turner
Chris Turner, Chief of Police
Date: _____

Bruce Blackwell
Bruce Blackwell, Mayor

Date: _____

Date: _____

Attest: _____

Attest: _____

By: _____

By: _____

Approved as to form:

Approved as to form:

Heather Kintzley, City Attorney

Dan Hultgrenn, City Attorney

CITY OF WEST RICHLAND

CITY OF PROSSER

Brian McElroy, Chief of Police
Date: _____

David Giles, Chief of
Police
Date: _____

Brent Gerry, Mayor
Date: _____

Dave Stockdale, City Administrator
Date: _____

Attest:

Attest:

By: _____

By: _____

WASHINGTON STATE PATROL

**Walla Walla County Sheriff's
Office**

John R. Batiste, Chief of
Washington State Patrol
Date: _____

John A Turner, Sheriff
Date: _____

**WASHINGTON STATE DEPARTMENT OF
FISH AND WILDLIFE**

James L Nagle, Walla Walla County
Prosecutor
Date: _____

Chris Anderson, Chief
Date: _____

City of Walla Walla

Scott Bieber, Chief of Police
Date: _____

Nabiel Shawa, City Manager

Date: _____

Attest: _____

By: _____

Approved as to form:

Tim Donaldson, City Attorney



SPECIAL INVESTIGATIONS UNIT

Protocol

Member Agencies:

Benton County Sheriff's Office

Kennewick Police Department

Richland Police Department

West Richland Police Department

Prosser Police Department

Franklin County Prosecutor

Walla Walla Police Department

Washington State Department of Fish and Wildlife

Franklin County Sheriff's Office

Pasco Police Department

Washington State Patrol

Connell Police Department

Benton County Prosecutor

Walla Walla County Prosecutor

Walla Walla County Sheriff's Office

*Special Investigations Unit (SIU)
Protocol*

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1. MISSION AND PURPOSE OF SIU

The purpose of the Special Investigations Unit (SIU) is to investigate officer-involved incidents that occur within Benton, Franklin and Walla Walla Counties which involve great bodily harm or death. The SIU will conduct a criminal investigation to develop relevant information to allow a determination of the presence or absence of criminal liability on the part of those involved in the incident, specifically:

- A. To determine whether the nature and the quality of the involved conduct is prohibited by statutes which provide for criminal penalties upon conviction, and
- B. If criminal conduct does exist, determine the identity of the person(s) responsible, and
- C. If criminal conduct does exist, determine the degree of crime(s), the existence of any factual or legal defenses to that crime, and the presence or absence of any factors which could mitigate or aggravate punishment for that crime.

While SIU does not investigate administrative concerns the Employer Agency may have, it is recognized the criminal investigation results are of interest to the Venue and Employer Agencies for their internal use. The results of the SIU criminal investigation will be fully available to the Venue and Employer Agencies for that purpose unless otherwise prohibited by law.

SIU criminal investigations shall follow the rules of law established by the state and federal constitutions, and statutory and case law which apply to criminal investigations. The investigation shall be performed in a manner that provides both the appearance and the reality of a thorough, fair, complete and professional investigation that is free of conflicts of interest.

2. GOALS OF SIU

- A. To perform the criminal investigation of officer-involved incidents likely to result in great bodily harm or death.
- B. To promote public trust by conducting professional and consistent multi-jurisdictional investigations of officer-involved incidents which involve great bodily harm or death.
- C. To maximize the availability and sharing of the latest technological equipment and techniques.
- D. To consolidate and share the skills of the most experienced commanders, supervisors and investigators.
- E. To conduct thorough investigations in a timely fashion.
- F. Any party may request assistance from SIU considering the complexity of an investigation in their venue that requires additional resources.

3. GOVERNANCE

The creation and operation of the Special Investigations Unit (SIU) will be governed by an Inter-Local Agreement signed by the Chief/Sheriff for participating law enforcement agencies, and participating Prosecutors and Coroners. SIU Protocol will identify operational aspects of the Unit.

4. CRIMINAL INVESTIGATION AND ADMINISTRATIVE REVIEW

[Type text]

*Special Investigations Unit (SIU)
Protocol*

The Employer Agency shall be responsible for any administrative investigation and/or review of officer-involved incidents. The SIU criminal investigation has investigative priority over the administrative investigation and/or review. Employer Agency personnel conducting an administrative investigation and/or review should not be involved in an SIU investigation, nor will they normally be present or engage in SIU interviews with Subject or Witness Officers.

An allowable exception may be if the Involved Officer or Witness Officer requests to provide a single, voluntary (non-compelled Garrity) statement, and requests that Employer Agency personnel conducting an administrative investigation and/or review be allowed to observe the SIU criminal investigation interview. The Administrative Investigator shall be allowed to monitor the interview, but shall not be part of the SIU criminal investigative interview. The Administrative Investigator can then conduct the administrative interview after the SIU Investigators have completed their criminal investigation interview and left the room.

5. COSTS

Each Member Agency shall be responsible for their employees' wages and associated employee costs of the SIU.

Any necessary equipment or other associated investigative costs that are not covered by the shared resources of the Member Agencies shall be the responsibility of the Venue Agency upon the approval of the Venue Agency Chief/Sheriff. This includes potential costs for a private company to transcribe SIU recorded interviews. The SIU Commander shall consult with the Venue Agency Chief/Sheriff prior to committing to any additional costs.

The SIU will not be responsible for handling claims of damage to private property as a result of the Officer-Involved Incident or subsequent criminal investigation. Responsibility for handling such claims shall fall upon the Venue Agency Chief/Sheriff.

6. DEFINITIONS

A. OFFICER-INVOLVED INCIDENT

Incidents in which the member of a participating agency is an Involved Officer, or the victim of an action, that involves great bodily harm or death. The incident may include but is not necessarily limited to:

- (1) Intentional and accidental shootings, including police tactical incidents involving specialized response units.
- (2) Intentional and accidental use of any other dangerous or deadly weapon.
- (3) Assaults upon law enforcement officers; assaults on other law enforcement employees who are on duty or are acting for a law enforcement purpose.
- (4) Attempts by law enforcement employees to make arrests or to otherwise gain physical control for a law enforcement purpose.
- (5) Any fatal injury or great bodily harm received while in police custody, including custodial trauma or custodial suicide, but excluding fatal injuries of prisoners which occur while the inmate is under a physician's treatment for a disease or other natural condition which has been diagnosed prior to death.
- (6) Vehicular collisions, and specifically:
 - a. Including any vehicle fatality which occurs
 - i. After, although not necessarily as a result of, police gunfire directed at the suspect or the suspect vehicle.

[Type text]

*Special Investigations Unit (SIU)
Protocol*

- ii. In connection with the use of vehicle(s) by police as a “legal intervention” technique intended to apprehend a suspect. “Legal intervention” includes vehicle ramming, roadblocks, and forcing a vehicle to alter its course by cutting in front of it or by contact.
- iii. As a result of a police pursuit.
- b. Excluding any vehicle fatality which involves:
 - i. Off-duty non-sworn law enforcement employees who are not, at the time of the incident, acting for an actual, apparent, or purported law enforcement purpose.
 - ii. Solo vehicular collisions in which the only injury is suffered by a law enforcement employee who was the driver and sole occupant of a vehicle which was not involved in a collision with any other occupied vehicle.

B. POLICE EMPLOYEE

This protocol applies to employees and to certain other people affiliated with the participating agencies, as follows:

- (1) Full-time, part-time, and hourly sworn and unsworn employees, whether on-duty or off-duty, who are acting actually, apparently, or purportedly for a law enforcement purpose at the time of the incident.
- (2) Reserve law enforcement officers who are on-duty or who are acting actually, apparently, or purportedly for a law enforcement purpose at the time of the incident.
- (3) Temporary employees and volunteers, whether paid or unpaid, who are on-duty or who are acting actually, apparently, or purportedly for a law enforcement purpose at the time of the incident.

C. INVOLVED OFFICER

- (1) The police employee who used lethal force, or potentially lethal force, in connection with an incident involving a fatal injury or great bodily harm.
- (2) An officer who operated a motor vehicle while on-duty that was involved in a fatal injury and meets the criteria identified in Section 6A(6), “Definitions.”

D. FATAL INJURY

Death or great bodily harm.

E. GREAT BODILY HARM

As defined by RCW 9A.04.110(4)(c), great bodily harm means bodily injury which creates a probability of death, or which causes significant serious permanent disfigurement, or which causes a significant permanent loss or impairment of the function of any bodily part or organ.

F. WITNESS OFFICER

An officer who witnessed the use of force by the Involved Officer, and whose action was not a use of lethal force, or potentially lethal force, in connection with an incident involving a fatal injury or great bodily harm.

G. VENUE AGENCY

The Member Agency or Agencies within whose geographical jurisdiction the officer involved incident occurs.

When an officer-involved incident occurs in part in two or more jurisdictions, each of those jurisdictions is a Venue Agency.

[Type text]

*Special Investigations Unit (SIU)
Protocol*

When an incident occurs on the boundary of two jurisdictions, or at a location where the relevant boundary is not readily ascertainable or is in dispute, the Venue Agency should be:

- (1) The Employer Agency if the Involved Officer is employed by either boundary agency, or
- (2) The agency with the greater interest in the case by virtue of having the predominant police involvement in the incident or by virtue of having had the majority of acts leading up to the fatality occur within its jurisdiction.

For custodial deaths, the agency having custody of the person at the time his/her distress was first discovered is a Venue Agency. Also, a Venue Agency is the one within whose jurisdiction any fatal action was inflicted.

If the death was caused by conduct which was apparently criminal, the lead Venue Agency is the agency within whose geographical jurisdiction the act occurred. If there is apparently no criminal conduct involved in the cause of death, the lead Venue Agency is the one having custody of the victim when distress was first discovered.

If an Involved Officer is in an incident which occurs within the jurisdiction of another Member Agency, and if that officer was acting in the performance of his/her duty at the time of the incident, the Venue Agency may elect to relinquish its role in the criminal investigation.

H. VENUE COUNTY

The county in which the incident occurs.

I. EMPLOYER AGENCY

The Member Agency that employs the Involved Officer, or employs an officer who is the victim of a fatal or grievous bodily injury. In many cases the Venue Agency will also be the Employer Agency.

J. MEMBER AGENCIES

Those agencies that have reviewed and agreed to the terms of the Inter-Local Agreement that adopts this Protocol.

- (1) Voting Member Agency: A Member Agency that has a representative assigned to SIU. These agencies will be allowed to vote on matters related to SIU (i.e. proposed revisions to the SIU Protocol).
- (2) Non-Voting Member Agency: A Member Agency that does not have a representative assigned to SIU. These agencies may be allowed to participate in SIU discussions, but will not be allowed to vote on matters related to SIU.

7. UNIT MEMBERS

A. UNIT COMMANDER

The SIU Commander shall be from a Member Agency with the rank of Commander, Captain, or Undersheriff, appointed by the Chiefs and Sheriffs. The Unit Commander has the overall responsibility to manage and coordinate assigned incidents as well as ensure the readiness and training of the Unit. The Unit Commander will serve as liaison between the Unit and the Chief/Sheriff of the Venue Agency and Employer Agency. The Unit Commander shall determine which SIU Members and other resources will be used to investigate each incident.

B. ASSISTANT UNIT COMMANDERS

[Type text]

*Special Investigations Unit (SIU)
Protocol*

The Assistant SIU Commanders shall be from a Member Agency with the rank of Commander, Captain, Undersheriff or Lieutenant, appointed by the Chiefs and Sheriffs. An Assistant Commander assumes the Unit Commander's duties and responsibilities in the absence of the Unit Commander. The Assistant Unit Commander should not be from the same agency as the Unit Commander.

C. ADMINISTRATIVE COMMANDER

The Administrative Commander shall be from a Member Agency with the rank of Commander, Captain, Undersheriff or Lieutenant, appointed by the Chiefs and Sheriffs. The responsibilities of the Administrative Commander include: arranging, coordinating, and documenting all training for the Unit, maintaining records of Unit call-outs, Unit personnel records/roster, Unit equipment inventory, and managing the financial transactions/records of the Unit. The Administrative Commander acts as the SIU Commander in the absence of the SIU Commander and Assistant Commander. . The Administrative Commander should not be from the same agency as the Unit Commander or Assistant Unit Commander.

D. INVESTIGATIVE UNIT SUPERVISORS

Investigative Unit Supervisors shall be from a Member Agency with a supervisory rank. SIU Supervisors will be appointed by the Chiefs and Sheriffs based upon recommendations from the Unit Commander. Investigative Unit Supervisors shall be assigned by the Unit Commander to respond to and supervise assigned aspects of an officer-involved incident. Unit Supervisors shall report directly to the Unit Commander. If an additional supervisor(s) is needed, the Unit Commander shall designate an acting supervisor from within SIU. Unit Supervisors should not be from the same agency.

E. INVESTIGATORS

Investigators shall be commissioned officers from a Member Agency, preferably with previous experience as a Detective. They shall be appointed by their respective agencies. Investigators should work in teams of two or complete specific investigatory tasks at the direction of a SIU supervisor.

F. EVIDENCE TECHNICIAN

The Evidence Technician shall be from a Member Agency. The SIU Evidence Technician will help with documenting evidence, collecting evidence, packaging evidence, transporting evidence, data collection and other duties assigned.

G. CORONER REPRESENTATIVE

A coroner representative from each participating county will be assigned to SIU to perform the Coroner's function during the investigation of an SIU incident. The representative from the Venue County Coroner's Office will be activated for incidents involving death to aid in the investigation of that particular incident.

H. PROSECUTOR REPRESENTATIVE

A prosecutor representative from each participating county will be assigned to SIU to serve as a legal consultant. The representative from the Venue County will be activated to provide legal advice in the investigation of that particular incident.

8. UNIT COMPOSITION

SIU should be comprised of the below-listed members. It may not be necessary to have all members activated to respond to an incident. The Unit Commander shall determine which SIU resources are needed for each incident.

- A. Unit Commander (1)
- B. Assistant Unit Commander (2)
- C. Administrative Commander (1)
- D. Supervisors (4)
- E. Investigators (16)
- F. Evidence Technician (3)
- G. Coroner Representative (3 – one from each participating county)
- H. Prosecutor Representative (3 – one from each participating county)

9. APPOINTMENT/SELECTION OF UNIT MEMBERS

A. APPOINTED MEMBERS

- (1) The Chiefs and Sheriffs shall appoint the SIU Unit Commander, Assistant Unit Commander and Administrative Commander.
- (2) The SIU Supervisors shall be appointed by the Chiefs and Sheriff's based upon recommendations from the Unit Commander.

B. SELECTED MEMBERS

SIU Investigators should be selected through the following process:

- (1) The SIU Commander shall make written notification to the Member Agency's Sheriffs and Police Chiefs soliciting personnel from their respective agencies for assignment to SIU.
- (2) The SIU Administrative Commander shall ensure all applicants meet prerequisites.
- (3) Qualified applicants shall be interviewed by a Review Board approved by the SIU Commander.
- (4) All applicants shall be interviewed using criteria pertinent for the position of a SIU Investigator. The same questions should be asked of each applicant.
- (5) At the conclusion of the Review Board the SIU Commander should consider the recommendations of the Board and submit the recommendations to the Chiefs and Sheriffs for final selection.

C. PREREQUISITES

- (1) The applicant's agency must be a Member Agency of SIU.
- (2) The applicant must have the recommendation from their Chief/Sheriff.
- (3) The agency and applicant must be willing to make a commitment of 3 years service to SIU (excludes promotion/exigent circumstances)
- (4) The agency and applicant should be willing to make a commitment to 8 hours of training each quarter.
- (5) The applicant must be willing to be on call and reasonably available for call-out.
- (6) The applicant shall be a commissioned officer, preferably with previous experience as a Detective.
- (7) The applicant should meet the basic training requirements identified in the SIU Protocol.

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D. PERIODIC APPOINTMENT REVIEW

The Chiefs/Sheriffs shall review the appointment of their SIU Members who have served three years for possible rotation or replacement.

10. CONFIDENTIALITY

Information obtained by SIU investigations will generally be confidential while the investigation is pending. SIU Members shall not voluntarily share confidential information with individuals other than SIU Members. The SIU Commander is allowed to share information with the Venue and Employer Agencies' Chief/Sheriff, but no other personnel, to include non-involved Chiefs or Sheriffs.

Once the investigation is complete, the investigation file will be subject to requests under the Public Records Act. Refer to Section 33, "Release of Information/Public Information Officer."

11. REMOVAL FROM UNIT

Members can be removed from SIU by their respective Chief/Sheriff in accordance with the agency's policies or practices.

12. UNIT MEMBERS FROM AN EMPLOYER AGENCY

To maintain proper objectivity, any SIU member from an Employer Agency should not participate in the investigation of that particular incident. An exception may apply to the Washington State Patrol, which includes the Washington State Patrol Crime Labs and Crime Scene Response Team, since they are a statewide agency.

13. TRAINING

SIU members should have received the basic training identified below prior to appointment with SIU. Some courses may be waived based upon the member's experience and/or on-the-job training, as determined by the SIU Commander. The advanced training, taken before and/or during their SIU appointment, is desirable and Member Agencies should make reasonable effort to provide this training.

A. BASIC TRAINING

- (1) Basic Homicide Investigation
- (2) Crime Scene Investigation
- (3) Interviewing and Interrogation
- (4) Crime Scene Photography (which may include Videography)

B. ADVANCED TRAINING

- (1) Advanced Homicide Investigation
- (2) Advanced Interviewing and Interrogation
- (3) Officer-Involved Shooting Investigation
- (4) Blood Spatter
- (5) Crime Scene Laboratory Services
- (6) DNA
- (7) In-Custody Death Investigation (which may include Excited Delirium and Positional Asphyxia)

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*Special Investigations Unit (SIU)
Protocol*

- (8) Other related training, seminars, and conferences or on-going training as offered by WSCJTC or other training venues on an as available basis.

C. IN-SERVICE TRAINING

The SIU shall strive to maintain a unit of highly skilled and trained investigators. SIU should train together as a unit at least twice annually. Quarterly training should be allowed based upon need.

14. SIU RECORDS

Records shall be maintained by the SIU Administrative Commander of all Unit activity including:

- A. Selection Process
- B. Personnel History
- C. Call-out activity
- D. Unit and individual training

15. REQUESTING SIU ASSISTANCE

Departments are under no obligation to request the assistance of SIU. The Venue Agency may choose to investigate the incident without SIU assistance. Each department should establish their own guidelines as to when and if they will request assistance from SIU.

The Protocol identified in this document becomes effective upon the activation of SIU.

Member Agencies may request SIU activation upon the occurrence of any sensitive or critical event involving a law enforcement employee which may have possible criminal liability attached. Upon this unilateral invocation, the matter will be investigated under the provisions of this Protocol. Such incidents may include:

- A. A fatality which is not covered by this protocol and guideline.
- B. An officer-involved incident where the injuries are not fatal.
- C. Any other sensitive or critical event involving a law enforcement employee where criminal conduct is a possibility to be investigated.

While formed primarily to investigate officer-involved incidents, SIU may be requested for non-officer involved incidents.

16. ACTIVATION

- A. A Chief of Police/Sheriff, or their designee, should make the request for SIU through their respective communications center.
- B. The communications center shall contact the SIU Commander or an SIU Assistant Commander if the Commander is not available per SIU call-out instructions.
- C. The SIU Commander should call the Venue Agency supervisor at the scene to obtain all available information.
- D. The SIU Commander shall determine what and how many SIU resources are needed. Not all incidents may require activation of the entire SIU.
- E. Call-out instructions for the SIU shall be provided to communication centers by the SIU Commander.

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17. AUTHORITY

Once the agreement has been made for SIU to investigate an incident, as requested by the Venue Agency representative, the SIU Commander shall have sole and exclusive authority concerning the criminal investigation of the incident.

Washington State Patrol policy directs that the WSP will investigate use of lethal force by its personnel, and that the WSP will not attempt to prevent a concurrent investigation by other agencies with jurisdiction. The SIU and WSP should work jointly to criminally investigate the incident if the Involved Officer is a WSP trooper.

18. VENUE AGENCY RESPONSIBILITIES

- A. The Venue Agency shall be a Member Agency in order for the SIU to be activated.
- B. Venue Agency first responders should ensure that emergency life saving measures are taken.
- C. The on-scene Venue Agency supervisor may attempt to obtain critical information pertinent to the safety of officers and citizens. Refer to Section 19, "Obtaining Critical Information."
- D. The Venue Agency should ensure proper crime scene protection. This includes, but is not limited to, immediately securing the crime scene, controlling access into the crime scene, and recording the names of individuals who have entered the crime scene. Written reports are expected from those who enter a designated crime scene.
- E. The Venue Agency should identify, and take reasonable steps to protect, perishable evidence at the scene.
- F. The Venue Agency should attempt to identify witnesses who are present at the scene. Potential witnesses (including Witness Officers) should be sequestered as soon as reasonably possible. Witness Officers should be directed by their Employer Agency supervisor or commander to not discuss details of the case with the Involved Officer or other Witness Officers until SIU has completed their interviews with those officers.
- G. If, prior to the arrival of SIU personnel, a person is transported to a hospital with life-threatening or fatal injuries, the Venue Agency should provide an officer to accompany that person in order to:
 - (1) Locate, preserve, safeguard and maintain the chain of custody for physical evidence.
 - (2) Obtain a dying declaration, spontaneous statement, and/or statement of then-existing, or previous, mental or physical state.
 - (3) Maintain custody of the person if he/she has been arrested.
 - (4) Provide information to medical personnel about the incident that is relevant to treatment, and obtain information from medical personnel relevant to the criminal investigation.
 - (5) Identify relevant people, including witnesses and medical personnel.
- H. If a law enforcement officer has been injured and transported to a hospital, the agency in whose jurisdiction the hospital is located should provide appropriate security and assistance. The Employer Agency should be responsible for providing necessary assistance to the officer's family at the hospital.
- I. The Venue Agency representative should make the initial request for the SIU.
- J. The Venue Agency should provide a Supervisor or Incident Commander who is available at the scene. That person should update SIU personnel upon their arrival at the scene.
- K. The Venue Agency should make department personnel available to the SIU.
- L. For incidents in which a suspect is taken into custody, the Venue Agency will coordinate appropriate security measures with the SIU Commander and bear the costs of security until

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the suspect is available for booking. It is understood that special circumstances may dictate that another Non-Venue Agency may provide assistance and security upon request of the Venue Agency's Chief/Sheriff.

- M. The Venue Agency should turn over to SIU in a timely manner all evidence that is in their possession.
- N. The Venue Agency should make all documents, reports, and information on the incident available to the SIU in a timely manner.
- O. The Venue Agency should allow use of space and equipment as needed by the SIU.

19. OBTAINING CRITICAL INFORMATION

The Involved Officer may have information that is pertinent to the safety of officers and citizens, as well as the proper preservation of the crime scene. Such information may include, but not be limited to; medical aid that is needed, information necessary to apprehend suspect(s), and identification of perishable evidence. For purposes of this protocol, the reasons or basis for the use of force by an Involved Officer, or details of that use of force, is not considered critical information.

The Venue Agency on-scene supervisor may, based upon that agency's training, policy or guidelines, attempt to obtain critical information from the Involved Officer that is reasonably necessary to aid injured persons, apprehend suspect(s) and protect perishable evidence

All Member Agency supervisors and commanders should be familiar with *Garrity v. New Jersey* and the consequences to a criminal investigation of directing or ordering an employee to answer questions.

- A. The SIU investigation shall not consider or use any compelled information provided by an Involved Officer who was directed or ordered to provide such information.
- B. Any supervisor or other agency member who has directed or ordered an employee to answer questions shall immediately report that fact to the first-arriving SIU investigator and the SIU Commander upon his/her arrival at the scene.
 - (1) Details of the compelled information learned from the employee shall not be provided to SIU personnel.
- C. The SIU Commander shall attempt contact with the Involved Officer to inquire if he/she was directed or ordered to answer any questions.
 - (1) Details of the compelled information shall not be obtained.
 - (2) The SIU Commander shall ensure that no compelled information is used as part of the SIU investigation unless authorized by the Venue Agency prosecutor.

20. TURNING OVER CONTROL OF THE CRIME SCENE TO SIU

The Venue Agency Supervisor or Incident Commander shall turn over control of the crime scene to the SIU Commander upon his/her arrival. SIU then becomes responsible for the crime scene and initiation of the criminal investigation. The Venue Agency shall maintain perimeter control of the crime scene if requested by the SIU Commander.

A criminal act or investigation (i.e. robbery, burglary, search or arrest warrant service) may have preceded the Officer-Involved Incident. If so, the SIU Commander shall consult with the Venue Agency Incident Commander to determine which agency should investigate that preceding event, to include pursuing criminal charges related to that event. If so requested, SIU shall assume responsibility for the criminal investigation of the preceding event. Otherwise, SIU will limit its criminal investigation to the Officer-Involved Incident.

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21. SIU GUIDELINES

The SIU is comprised of personnel from multiple agencies, whose specific investigative roles may change from case to case. The SIU recognizes it is important to maintain consistency in the quality and type of investigation that is performed. Therefore, the SIU Commander will devise guidelines to be used during SIU investigations. SIU members will follow the guidelines as a part of their investigation.

22. SEIZING AN OFFICER'S WEAPON

If, upon arrival of SIU personnel, an Involved Officer is still in possession of a firearm or other weapon that was used in the incident, the SIU Commander will coordinate obtaining that firearm or weapon with the Employer Agency Supervisor or Incident Commander.

The SIU Commander shall ensure an inspection is conducted of all Witness Officer's (or other officers who may have been present at the time that force was applied) firearms, ammunition or other weapons. These inspections will be coordinated through that officer's Employer Agency Supervisor or Incident Commander.

23. RECOGNIZING POTENTIAL TRAUMA

The duties and responsibilities of a law enforcement officer may place an officer in a position in which he/she may justifiably need to use deadly force, or result in an officer being the victim of a crime.

It is recognized the Involved Officer or Witness Officer may encounter psychological trauma from an incident that is a result of them fulfilling their duties and responsibilities. SIU personnel will be alert for signs that indicate an officer may be suffering from such trauma. SIU personnel will treat involved officers with sensitivity and awareness as to the potential of acute stress reaction and/or other psychological trauma.

24. REMOVING OFFICERS FROM THE SCENE

If, upon arrival of SIU personnel, an Involved Officer or Witness Officer is still present at the scene, the SIU Commander will coordinate with the Venue and Employer Agency Supervisor or Incident Commander the removal of those officers from the scene.

To assure witness credibility these officers should, whether they are removed from the scene prior to or after SIU arrival, be kept separated from each other until statements are obtained by SIU. Witness Officers should be directed by their Employer Agency supervisor or commander to not discuss details of the case with the Involved Officer or other Witness Officers until SIU has completed their interviews with those officers.

25. PEER SUPPORT GROUP COUNSELORS

It is recognized that the Employer Agency may have guidelines in place that allow Peer Support Group Counselors who are not involved in the incident to have access to the Involved or Witness Officers. These discussions are considered privileged communications pursuant to

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RCW 5.60.060. SIU will allow Peer Support Group Counselor involvement per the Employer Agency's policy or guideline.

26. DOCUMENTING THE INVOLVED OFFICER'S CONDITION

SIU Members should photograph and document any injuries the Involved Officer, or any other officer, may have received. The Involved Officer's clothing will also be photographed and documented. The clothing may be seized as evidence.

27. INTERVIEWING LAW ENFORCEMENT EMPLOYEES

It is recognized that officers who justifiably use deadly force as a part of their duties and responsibilities may be subject to civil litigation. It is acknowledged that the SIU criminal investigation interview with Involved Officer(s) and Witness Officer(s) may be used by the Employer Agency in the administrative investigation and/or review of the incident to determine if any policy violations may have occurred. However, Employer Agency personnel conducting an administrative investigation and/or review should not be involved in an SIU investigation, nor will they normally engage in SIU interviews with Involved or Witness Officers. An allowable exception may be if the Involved Officer or Witness Officers agree to provide a single voluntary (non-compelled Garrity) statement, and requests that Employer Agency personnel conducting an administrative investigation and/or review be allowed to observe the SIU criminal investigation interview.

SIU recognizes that each agency's collective bargaining agreements (CBA) may establish guidelines for interviewing the Involved Officer and Witness Officers. SIU members will familiarize themselves with the Employer Agency's CBA as it pertains to this topic.

Any interview with the Involved Officer or Witness Officer will be scheduled by the SIU Commander through the Employer Agency's Chief/Sheriff or his/her designee.

With the officer's consent, formal interviews by SIU Members with the Involved Officer and Witness Officer(s) will be ~~tape~~ digitally recorded and transcribed.

A. Interview with the Involved Officer.

- (1) Unless the Involved Officer is a suspect involving possible criminal charges, the interview with the officer should be treated as a witness interview balancing the need to obtain all necessary information with sensitivity for the circumstances of the necessity of the interview. This approach is to be consistent with similar interviews with non-law enforcement officers. An example would be interviewing the parents of a deceased child when there is no probable cause to believe that a parent has committed a crime.
- (2) Research indicates an Involved Officer's memory often will be helped by revisiting the crime scene and doing a walk through after evidence and evidence markers have been removed, and before the officer has been interviewed. It is recognized this process can be instrumental in separating a true picture of the event from perceptually distorted recollections, and that the officer may recognize things in the scene that will stimulate recall. Consequently, if requested by the Involved Officer, SIU will generally allow the officer, with only his/her legal counsel, to do a walk-through of the scene prior to a formal interview. The legal right to do a walk-through after investigators have left the scene (i.e.

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public property crime scene versus private property crime scene) will need to be considered. The same approach is often used in homicide cases involving witnesses or suspects who are not law enforcement officers.

- (3) It is recognized the interview may take place as soon as practical after the incident occurred.
- (4) The Involved Officer should be allowed to provide a written statement prior to the interview if they so desire.
- (5) The Involved Officer will be treated with sensitivity and awareness as to the potential of acute stress reaction and/or other psychological trauma.
- (6) The Involved Officer has the same constitutional rights as any other citizen. The officer has the right to have legal counsel present during the interview. The officer should be provided a reasonable time to consult with legal counsel prior to the formal interview.
- (7) If the Involved Officer requests a Guild Representative (other than an attorney) be present during the interview, the SIU Interviewer(s) will notify the SIU Commander. The Commander will then consult with the Venue County's prosecutor and the Employer Agency Chief/Sheriff. A decision will then be made as to whether a Guild representative can be present during the interview. If a Guild Representative is allowed to sit in on the interview, the Representative will not be allowed to interfere with or obstruct the interview process.
- (8) As determined by legal standards, the Miranda Rights are generally required only when a criminal suspect is in custody and is subjected to interrogation. Consequently, an Involved Officer should only be advised of Miranda at the beginning of an SIU interview if it meets this standard.

SIU Investigators shall consult with the Venue Agency prosecutor concerning possible advisement of Miranda prior to a formal interview with the Involved Officer. There may be case specific circumstances which may prompt the Venue County prosecutor to request an Involved Officer be advised of Miranda prior to the SIU interview. If such a request is made, SIU Investigators shall advise the Involved Officer of Miranda at the beginning of the interview.

- (9) Prior to the beginning of an interview, the Involved Officer will be advised that they are being questioned related to a criminal investigation and that they are free to leave.
- (10) SIU Members will obtain statements from the Involved Officer only if it is "free and voluntary." If an Involved Officer indicates he/she will not provide a statement unless compelled to do so, the interview will be stopped. SIU Interviewer(s) shall notify the SIU Commander, who will notify the Venue County prosecutor's office and the Employer Agency Chief/Sheriff.
- (11) Should an Involved Officer elect to not provide a voluntary, non-compelled statement to SIU Investigators, the Venue County prosecutor may:
 - Request a Coroner's Inquest be convened pursuant to RCW 36.24.020 to aid in determining facts of the case and the cause of death, or
 - Request a Special Inquiry be convened pursuant to RCW 10.27.170.

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B. Interview with a Witness Officer.

- (1) Interviews with Witness Officer(s) will likely need to be arranged on the same day that the incident occurred. Witness Officers will be interviewed separately.
- (2) Unit Members should be alert for signs the Witness Officer(s) are traumatized and may need some time to decompress prior to giving a statement.
- (3) Generally, an officer who is a witness to the use of force and is not involved in the application of force in any manner and not a subject of the investigation, does not have a right to union representation during his/her interview. That is unless the Witness Officer reasonably believes his/her statement may result in discipline. Under such circumstances, if the officer requests Guild representation, he/she may be allowed to have a Guild Representative present during the interview. The Representative will not be allowed to interfere with or obstruct the interview process.
- (4) Witness Officer(s) may, if appropriate, be asked to participate in a walk-through of the scene with SIU investigators.

28. INTOXICANT TESTING

Law enforcement employees have the same rights and privileges that any civilian would have regarding intoxicant testing. If SIU Members determine a law enforcement employee's state of sobriety is relevant to the criminal investigation, they may:

- A. Obtain the blood and/or urine sample by valid consent.
- B. Apply for a search warrant to obtain the samples.
- C. When applicable, utilize the provisions of the Motor Vehicle Code of state statutes for vehicle driving incidents.

29. RELIEVING INVOLVED OFFICERS OF DUTY

SIU will not be involved in relieving any Involved Officer or Witness Officer of their duties. Any such action will be the responsibility of the Employer Agency.

30. PLANNED POLICE ACTION

If the Officer-Involved Incident is a result of a planned police action (i.e. search warrant service, arrest warrant service, tactical operation), documents and materials associated with the planning and execution of that action shall be turned over to SIU. Personnel involved in the action shall be interviewed by SIU. Those personnel should not debrief the incident amongst themselves until the last SIU interview is conducted with those involved.

31. AUTOPSY

Autopsies will be coordinated with the SIU Coroner Representative and will be conducted through the Venue County Coroner's office. A SIU Member will be present during autopsy and take all appropriate investigative steps.

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32. KEEPING THE VENUE/EMPLOYER AGENCY INFORMED

The SIU Commander should ensure the Venue Agency and Employer Agency's Chief/Sheriff is kept informed of the progress of the criminal investigation.

33. RELEASE OF INFORMATION / PUBLIC INFORMATION OFFICER

The SIU Commander, the Venue Agency and Employer Agency Chief/Sheriff should identify a single Public Information Officer for release of information to the public. Release of detailed information pertaining to the criminal investigation requires notification to the SIU Commander. Under no circumstances should information be released that may compromise a SIU investigation, unless required by law.

Requests for Release of Public Records of SIU investigative reports preferably would be made through the Venue Agency. However, individual agencies represented on the Unit will be required to follow applicable statutes for reports of their Unit members should a request for public records be filed with that agency. Release of any reports or records will follow the policy or guideline of the respective agencies. The SIU Commander will be notified by the Venue Agency, Employer Agency or any Unit Members that receive a records request related to the incident while the investigation is pending.

34. RELEASE OF THE CRIME SCENE

Only the SIU Commander, in consultation with and approval from the Venue Agency Prosecutor, may authorize release of the crime scene upon completion of the criminal investigation. The SIU Commander shall notify the Employer and Venue Agency Chief/Sheriff of the intent to release the scene prior to it actually being released.

35. REFERRAL TO THE COUNTY PROSECUTOR

In coordination with the SIU Prosecutor Representative, the SIU Commander will present the SIU investigative file to the Venue County Prosecutor for consideration of a Coroner's Inquest, referral to the Department of Justice, and review of filing on any potential criminal charges.

The Prosecutor shall also be available for consultation on search warrants, special inquiry proceedings, special inquiry subpoenas, and issues regarding statements by law enforcement officers when Garrity or other issues are raised.

36. EVIDENCE STORAGE

All evidence should be stored under the control of, and at the evidence storage facility of, a Non-Employer Member Agency designated by the SIU Commander. The SIU Commander shall coordinate with that Member Agency's Chief/Sheriff. The SIU Evidence Technician shall work with that Member Agency's Evidence Technician on details of inventorying and storage of evidence items.

The Venue Agency shall be responsible for storage and handling costs of extraordinary items such as vehicles, HAZMAT, etc.

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37. CASE FILES

All original reports, statements, and other documentation of Venue Agency employees should be filed and maintained by the Venue Agency. Copies of those reports, statements, and other documentation shall be submitted to the SIU Commander in a timely manner.

SIU will file reports under the assigned Venue Agency case number. The Venue Agency face sheet and original report will be completed by a Venue Agency officer, other than the Involved Officer. It is recognized the original report may be brief, and will be supplemented by detailed SIU reports.

Justifiable homicides often occur in conjunction with other criminal offenses. The National Incident Based Reporting System (NIBRS) data collection guidelines identify the justifiable homicide must be reported as a separate incident from the other criminal offense. For the justifiable homicide case, NIBRS requires that the Involved Officer be listed as a “suspect,” and the perpetrator who is killed be listed as a “victim.” Other officers or civilians should be listed as “witness” or “involved other.”

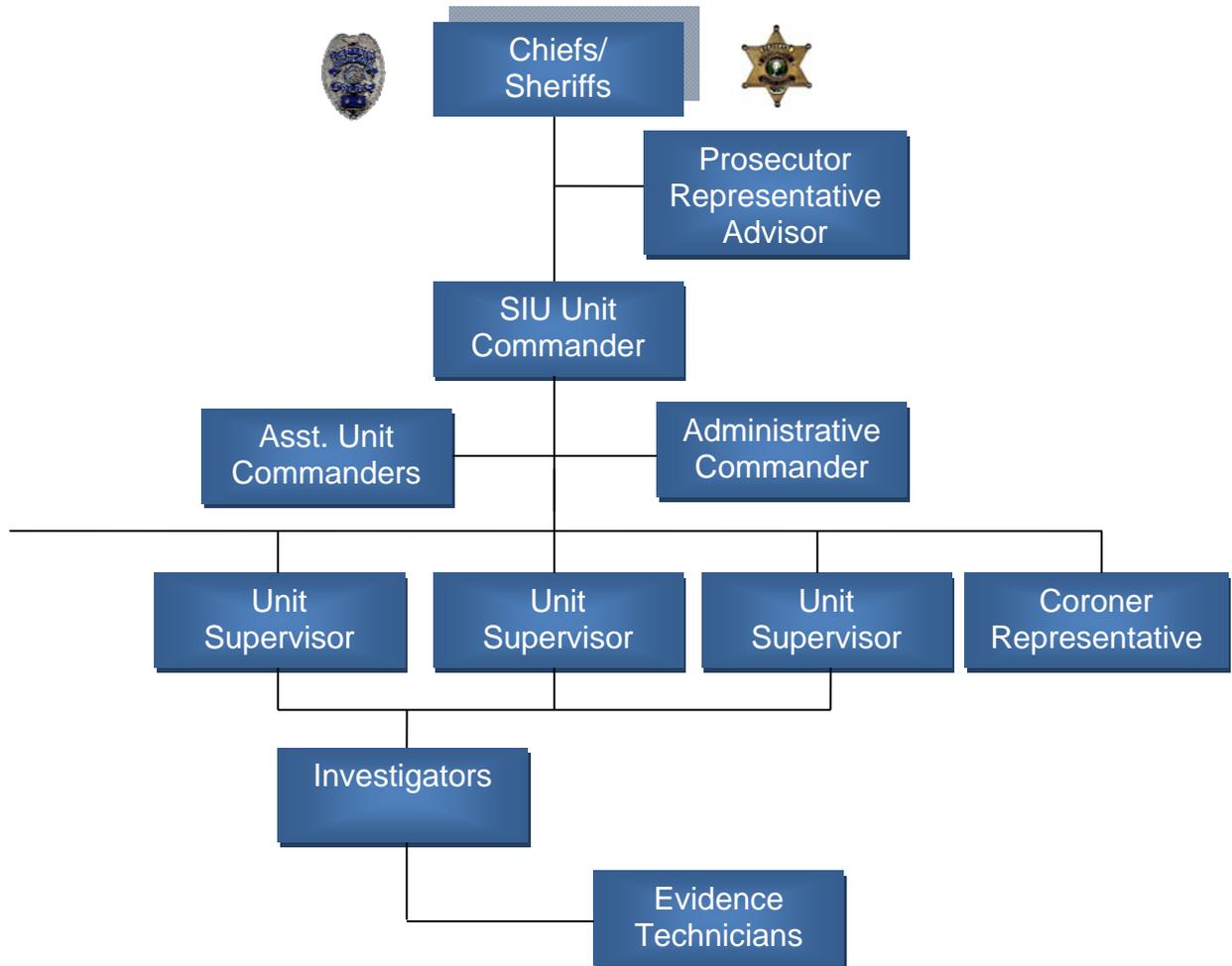
SIU members shall file their reports on a standard supplemental report template, different than the I-Leads electronic report system. Those reports shall be printed and submitted to the SIU Commander upon completion. The SIU Commander will establish a master page number for each page of the report. The SIU Commander shall be responsible for ensuring all people listed on SIU reports are entered into the I-Leads database, and the completed report is scanned in and electronically attached to the Venue Agency report. Reading access capabilities to the electronic version of the report will be restricted and locked until the criminal investigation and administrative review is completed. It shall be unrestricted only with authorization from the Venue Agency Chief/Sheriff. The procedure in Section 33, “Release of Information,” will be followed for requests for release of public records.

SIU reports will be completed in a timely manner. The SIU Commander and Venue Agency Chief/Sheriff will coordinate where the original SIU investigative file will be stored. Upon completion of the investigation and after the case has been referred to the Venue County prosecutor’s office, copies of the SIU investigative file should be made available to the Venue/Employer Agency Chief/Sheriff with the approval of the Venue County Prosecutor.

38. INCIDENT DEBRIEFING

An incident debriefing for SIU members will be conducted as soon as practical after each activation. The debriefing will be scheduled and conducted by the SIU Commander.

39. ORGANIZATIONAL CHART



BENTON COUNTY AGENDA ITEM

AGENDA ITEM:	Type of Action		
MEETING DATE: 08/02/16 9:05AM	Execute Contract	<input type="checkbox"/>	CONSENT AGENDA <input checked="" type="checkbox"/>
SUBJECT: Line Item Transfers	Pass Resolution	<input checked="" 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"/>
Prepared By: Pat Austin	Other	<input type="checkbox"/>	OTHER <input type="checkbox"/>
Reviewed By: Loretta Smith-Kelty	Approve for Hearing	<input type="checkbox"/>	

BACKGROUND INFORMATION

Request for a line item transfer of funds from social security and retirement line items to the Professional Services line item for interpreter costs, vulnerable adult GAL fees, attorney fees, security officers and visiting judge fees. This line item has been depleted due to the mandatory requirements to provide interpreters for court hearings and GALs and/or attorneys for incapacitated and indigent persons, in addition to lack of staff available for hearings involving high-risk cases requiring hiring of security for the hearings.

SUMMARY

See attached line item transfer spreadsheet itemizing the transfer of funds.

RECOMMENDATION

Recommend approval.

FISCAL IMPACT

No fiscal impact. All funds are within the Superior Court 2015-2016 budget.

MOTION

I move to approve Resolution No. _____ authorizing line item transfer in the amount of \$30,000.00 as outlined on Exhibit "A" of the Resolution.

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 0000101, DEPARTMENT NUMBER 123.

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: Commissioners; Auditor; File, Superior Court

BENTON COUNTY LINE ITEM TRANSFER

Dept Name: Superior Court-Admin

Dept Nbr: 123

Fund Name: Current Expense

Fund Nbr: 0000101

TRANSFER FROM: Superior Court

TRANSFER TO: Superior Court

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT	BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
512.210	2102	Social Security	\$15,000	512.219	4103	Professional Services	15,000
512.210	2104	Retirement	\$15,000	512.219	4103	Professional Services	15,000
TOTAL			\$30,000	TOTAL			\$30,000

Explanation: Transfer of funds from Benefit line items to the Professional Services line item for interpreter costs, vulnerable adult GAL fees, attorney fees, security officers and visiting judge fees. This line item has been depleted due to the mandatory requirements to provide interpreters for court hearings and GALs and/or attorneys for incapacitated and indigent persons, in addition to lack of staff available for hearings involving high-risk cases requiring hiring of security for the hearings.

Prepared by: Patricia Austin, Superior Court Administrator

Date: 25-Jul-2016

Approved

Denied

Date: _____

Chairman

Member

Member

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF THE RURAL COUNTY CAPITAL FUND – TERMINATION OF THE “AMENDED AND RESTATED DEBT PARTICIPATION AGREEMENT FOR JAIL AND DISTRICT COURT EXPANSION” OF 2001

WHEREAS, in December of 2001, the Board of County Commissioners, along with the cities of Kennewick, Prosser, Richland, and West Richland; amended and restated their original *Debt Participation Agreement – Jail and District Court Expansion* from 2000 for the use of Rural County Capital Funds to repay a portion of the non-voted general obligation bond issuance for the expansion of the Benton County Jail and District Court facilities located at the Justice Center in Kennewick; and,

WHEREAS, in recent years the Rural County Capital Fund’s annual revenues have exceeded the yearly bond principal and interest payment, resulting in a cash reserve; and,

WHEREAS, in December 2015, the Board of County Commissioners authorized the transfer of funds from the Rural County Capital Fund into the bond fund for payment of the remaining debt obligation; and,

WHEREAS, with the Jail and District Court expansion debt situation resolved, Benton County and its city and port partners are prepared to move forward with a new deployment of Rural County Capital Funds, in accordance with the allocations set forth in Resolution 2016-534 and as stipulated by the economic development mandates of RCW 82.14.370; **NOW THEREFORE**,

BE IT RESOLVED, by the Board of County Commissioners that the Chairman is authorized to sign the *Termination of Amended and Restated Debt Participation Agreement for Jail and District Court Expansion* that, when signed by all parties and recorded with the Benton County Auditor, shall release the County of its obligations to reserve funds for debt service on the Jail and provide for the creation of new agreements with its city and port district partners for allocation and disbursement of the residual Rural County Capital Fund balance and future accruals.

Dated this _____ day of _____, 2016.

Chairman of the Board

Member

Member

Constituting the Board of Commissioners
of Benton County, Washington.

Attest.....
Clerk of the Board

orig: Commissioners
cc: Auditor, Prosecutor (Brown), Sustainable Development, Treasurer
Cities of: Benton City, Kennewick, Prosser, Richland, West Richland; Ports of: Benton, Kennewick

Prepared by: AJ Fyall

TERMINATION OF AMENDED AND RESTATED DEBT PARTICIPATION AGREEMENT FOR JAIL AND DISTRICT COURT EXPANSION

This Termination Agreement, effective upon the date all parties have executed it and filing with the Benton County Auditor, is entered into by and between Benton County, a political subdivision of the State of Washington ("County"), and the cities of Richland, Kennewick, Prosser, and West Richland, all municipal corporations of the State of Washington (collectively, the "Cities") to terminate the Amended and Restated Debt Participation Agreement that the County and the Cities executed in late 2001 and that was recorded on January 3, 2002.

RECITALS

WHEREAS, the County and the Cities executed a Debt Participation Agreement – Jail and District Court Expansion on June 15, 2000;

WHEREAS, the County subsequently received construction bids and, with full knowledge and support of the Cities, selected certain alternatives to include in the project;

WHEREAS, with the concurrence of the Cities, on May 30, 2001, the County entered into a construction contract with Garco Construction, Inc. to build the facilities described in that contract and in the June 15, 2001 Debt Participation Agreement;

WHEREAS, on approximately June 5, 2001, Garco Construction, Inc. began said construction;

WHEREAS, the County and the Cities later concurred for various reasons it was prudent to complete the third floor of the new jail facility currently under construction;

WHEREAS, the County and the Cities therefore agreed to amend and restate their existing Debt Participation Agreement to reflect their agreement that the third floor of the new jail would be completed and how to fund the costs of such additional construction;

WHEREAS, the purpose of the Amended and Restated Debt Participation Agreement executed by the parties and recorded on January 3, 2002 ("ARDP Agreement") was to govern the parties' agreement as to how to finance the construction of the Benton County Jail and District Court expansion;

WHEREAS, one source of funds the parties agreed to dedicate to paying the debt service for the general obligation bonds issued by the County to finance the construction project was the Rural County Capital Funds received by the County commencing August 1, 2001;

WHEREAS, while said bonds are still outstanding despite the completion of construction, the County now has sufficient funds reserved to pay the remaining debt service and no longer needs commitments from the Cities to assist with any potential funding shortfalls; and,

WHEREAS, as a result there is no longer the need to maintain the parties' ARDP Agreement or to continue to reserve future Rural County Sales and Use Tax revenues derived from Benton County code, chapter 8.10, as authorized by RCW 82.14.370, for payment of said debt service.

AGREEMENT

NOW THEREFORE, based on the mutual agreements set forth herein, the County and the Cities hereby agree to the following effective upon execution by all parties:

1. The Cities were never required to make any financial contributions under the ARDP Agreement and continue to acknowledge that they never obtained any legal or beneficial ownership interest in any of the facilities described in the ARDP Agreement.
2. The ARDP Agreement shall be terminated effective as the date all parties execute this Termination Agreement.
3. All persons executing this Termination Agreement on behalf of the County or any of the Cities hereby represent that they have the authority or have been duly authorized to execute, deliver and duly perform this Termination Agreement.
4. This Termination Agreement may be executed in any number of counterparts, each of which shall for all purposes be deemed to be an original and all of which shall together constitute but one and the same instrument.
5. This Termination Agreement sets forth in full the entire agreement of the parties, and any other verbal or written agreement, representations, or understanding on any subject related hereto is deemed to be null and void and of no effect.
6. This Termination Agreement shall be construed pursuant to the laws of the State of Washington and shall not be amended, changed, modified, altered, or terminated except by the written agreement of the County and Cities.
7. Upon full execution, this Termination Agreement shall be filed with the Benton County Auditor.

BENTON COUNTY

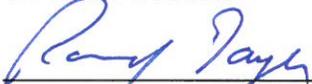
Chairman, Board of Commissioners

Date: _____

Approved as to Form:

Date: _____

CITY OF PROSSER



Randy Taylor, Mayor

Date: 7/21/16

Approved as to Form:


Date: 7/22/16

CITY OF WEST RICHLAND



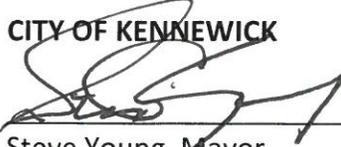
Brent Gerry, Mayor

Date: 7-25-2016

Approved as to Form:


Date: 7/22/16

CITY OF KENNEWICK



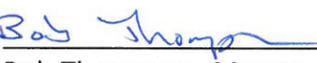
Steve Young, Mayor

Date: 7/19/16

Approved as to Form:


Date: 7-19-2016

CITY OF RICHLAND



Bob Thompson, Mayor

Date: 7-20-16

Approved as to Form:


Date: 7-20-16

<u>AGENDA ITEM</u>		<u>TYPE OF ACTION NEEDED</u>		
Meeting Date:	8-2-16	Execute Contract	_____	Consent Agenda
Subject:	<u>RFP Process</u>	Pass Resolution	<u> X </u>	Public Hearing
	<u>Round 3 approval</u>	Pass Ordinance	_____	1st Discussion
Prepared by:	<u>D. Waggoner</u>	Pass Motion	<u> X </u>	2nd Discussion
Reviewed by:		Other	_____	Other

BACKGROUND INFORMATION / SUMMARY

On May 10, 2016, with Resolution 2016-390, the BOCC approved the advertisement of a Request for Proposal for the selection of a contractor for the Security System Retrofit Project. This RFP included three stages and Stage One and Stage Two have been accomplished. The Facilities Manager and the Selection Team seek permission to proceed to Round Three. This round will disperse technical documents and request a detailed proposal from each of the top three contractors.

RECOMMENDATION

Approve the continuation of the RFP process with Round Three.

FISCAL IMPACT

MOTION

Move to authorize Round Three of the Request for Proposal selection process.

<u>AGENDA ITEM</u>	<u>TYPE OF ACTION NEEDED</u>	
Meeting Date: <u>Aug. 2nd 2016</u>	Execute Contract _____	Consent Agenda _____
Subject: <u>Fairgrounds</u>	Pass Resolution _____	Public Hearing _____
Prepared by: <u>Fred Bowen</u>	Pass Ordinance _____	1st Discussion <u>X</u>
	Pass Motion <u>X</u>	2nd Discussion _____
	Other _____	Other _____

BACKGROUND INFORMATION

May 17th, 2016 the Board approved the development of construction plans and specifications for the renovation of Buildings 2 and 3 at the Fairgrounds.

SUMMARY

The grass area between the two buildings is scheduled to become an open concrete plaza. New storefront entry doors will be installed in the sides of each building from the plaza area as the main entries.

As plan development proceeded it was suggested that a timber line roof structure matching the décor of the existing buildings be place over the plaza area creating a central entry point and provide cover from adverse weather conditions as the public enters the buildings.

RECOMMENDATION

I'm asking the Boards approval to add the timber line roof structure over the plaza area between the two buildings creating a central entry point for entering the buildings.

FISCAL IMPACT

Total estimated cost \$200,000

MOTION

Move to approve the Public Services Administrator to proceed with the addition of the timber line roof structure over the plaza area between buildings 2&3 at the Fairgrounds.