March 1, 2010

THE BOARD OF BENTON COUNTY COMMISSIONERS AGENDA PACKET

Draft

MINUTES

BOARD OF BENTON COUNTY COMMISSIONERS

Regular Board Meeting
February 22, 2010, 9:00 a.m.
Commissioners' Conference Room
Benton County Courthouse, Prosser, WA

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

Benton County Employees Present During All or a Portion of the Meeting: Deputy Administrator Loretta Smith Kelty; Adam Fyall, Community Development Coordinator; Finance Manager Keith Mercer; Personnel Manager Melina Wenner; Facilities Manager Roy Rogers; Ed Thornbrugh, Human Services; Auditor Brenda Chilton; Nick Kooiker and Erhiza Rivera, Treasurer's Office; Stewart Holmes, Auditor's Office; DPA Ryan Brown; Van Petty, Auditor's Office; Mike Shuttleworth, Planning Manger.

Approval of Minutes

The Minutes of February 2, 2010 were approved.
The Minutes of February 8, 2010 were approved.

Review Agenda

Commissioner Bowman requested "c" (Letter to Yakima County Commissioner Mike Leita) and item "d" (Approval of Third Amendment to the Lease Agreement w/Benton-Franklin Health District) be pulled for further discussion.

Consent Agenda

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

Auditor

a. Change of Precinct Boundaries Within Benton County

Commissioners

b. Letter to B Starkey – Benton City Roundabout
e. Support Letters for Ben Franklin Transit

Facilities

f. Agreement w/Moon Security Services, Inc. for Security Monitoring

g. Blanket Service Agreement w/Stratton Surveying
h. Blanket Service Agreement for As Needed Sign Installation
i. Line Item Transfer, Fund No. 0000-101, Dept. 110
j. Award of Janitorial Services to ABM Janitorial Services

Fairgrounds

k. Service Contract w/J.R. Swigart Co., Inc.
l. Surplus of Personal Property - Forklift for Scrap

Human Services

m. Agreement Amendment, #0963-68016, w/Health & Recovery Services Administration
n. Authorization to Purchase Computer Workstations
o. Professional Services Agreement w/M Cummings
p. Travel Expense Reimbursement
q. Agreement w/Lutheran Community Services, #09/11-MH-NONPIHP-LCS-00

Office of Public Defense

r. Interlocal Agreement w/City of Kennewick for District Court Indigent Defense Services
s. Contract w/Verizon Wireless for Wireless Phone Services
t. District Court Indigent Defense Contract Amendment w/R Swinburnson
u. Contract w/N Rodriguez for Superior Court Indigent Defense

Public Works

v. Authorization to Purchase Traffic Counters
w. Authorization to Sign Contract for Wiser Parkway at BNSF Railroad
x. Granting Franchise to Plymouth Water District
y. Public Hearing Approval for Proposed Vacation of Unimproved Right of Way on Hunts Plat
z. Contract w/CWI Security Services, Inc. for Alarm System Monitoring @ Prosser Shop
aa. Line Item Transfer, Fund No. 0501-101, Dept. 650

Sheriff

bb. Agreement w/City of Olympia for Jail Usage
cc. Authorizing Vehicle Purchases – Patrol and Work Crew Replacement Fund
dd. Dangerous Dog Interlocal Agreement Amendment w/City of West Richland
ee. Federal Equitable Sharing Agreement and Certification for 2009

Sustainable Development

ff. Watershed Planning Funding Letter
gg. Economic Development Agreement w/Tri-Cities Development Council

Treasurer

hh. Line Item Transfer, Fund No. 0112-101, Dept. 000
ii. Agreement Amendment w/Armored Car Services

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

Public Hearing – Williams Pipeline Franchise

Steve Becken stated that Williams Northwest Pipeline GP had filed a petition for nonexclusive franchise for natural gas transportation within all of unincorporated Benton County road right of way. He said that based upon current franchise requirements, his office recommended approval of the request, subject to conditions.

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

MOTION: Commissioner Benitz moved to approve the application for franchise for Williams Pipeline with the listed conditions. Commissioner Bowman seconded and upon vote, the motion carried unanimously.

Commissioner Bowman said he had served on the Pipeline Safety Committee and a pipeline company came in and took care of easement problems and he wanted to compliment them on the record because they did a good job.

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

Public Hearing – City of West Richland Franchise

Steve Becken stated the City of West Richland had filed a petition for a nonexclusive franchise for water and sewer system and his office recommended approval subject to conditions.

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

MOTION: Commissioner Bowman moved to approve the franchise application as presented with conditions. Commissioner Benitz seconded and upon vote, the motion carried unanimously.

The Board briefly recessed, reconvening at 9:15 a.m.

County Seat Petition Presentation

Auditor Brenda Chilton presented a letter to the Commissioners outlining the results of the signature comparison on the Petition to the Move the County Seat.

Ms. Chilton said in order to reach the threshold number of 14,368, her office reviewed a total of 19,048 signatures and it was their opinion that 14,368 signatures met the criteria to be considered a match. She also stated her office averaged a review of 1,500 to 1,600 signature per day, 8 hours a day, for a total of 12 days and used three to five employees per day.

Ms. Chilton also recommended that her office scan the Petition for permanent storage purposes so it could be converted to microfilm and sent to State Archives once the County was done with it.

The Board agreed.

The Board also requested Mr. Sparks to bring back a recommendation on moving forward with placing the issue on the ballot, getting an independent firm to review the issue, and finding out exactly what it meant to move the county seat.

Ryan Brown reminded the Board it could not make a formal certification of the signatures until the final deadline in case voters decide to withdraw their signatures from the petition.

Ben-Franklin Transit Relocation Request

Steve Becken provided a letter from Ben Franklin Transit requesting to relocate its Prosser office to the Benton County Maintenance facility in Prosser. Mr. Becken said they could meet 6 of the 7 requirements. Additionally, Mr. Becken said the rental rate would have to be adjusted based on the location of the building and Ben-Franklin would have to provide the electrical for their buses.

The Board agreed to move forward with negotiations regarding a lease.

Other Business

Item "d" - Third Amendment to the Lease Agreement w/Benton-Franklin Health District

Commissioner Bowman requested language in the resolution be changed from "inability" to unable. The Board agreed.

MOTION: Commissioner Bowman moved to approve the resolution to approve the Third Amendment to the Lease Agreement with Benton-Franklin Health District, as modified. Commissioner Benitz seconded and upon vote, the motion carried unanimously.

Item "c" - Letter to Yakima County Commissioner Mike Leita – Water Storage

Commissioner Bowman expressed his concern about speaking for YBSA and Kittitas County and requested they write their own letter. Additionally, he said the letter appeared to be stating the Board's position was "all or nothing". He requested the Board workshop the issue prior to sending the letter.

Commissioner Benitz said he would concur with removing the other signatures, however, this letter stated the Board wanted to move forward with water storage. He said he was not opposed to a workshop as the determinations were made, but the letter needed to go out stating that storage, not further studies, were needed now.

Commissioner Bowman requested a 10-minute workshop on the issue and Chairman Beaver agreed.

Letter to the Sheriff

Commissioner Benitz requested the Board send a thank you letter to the Sheriff regarding the City of Olympia jail usage contract.

The Board agreed.

Veterans Assistance – Income Waiver

MOTION: Commissioner Benitz moved to approve the income waiver request for Javier Prieto. Commissioner Bowman seconded and upon vote, the motion carried unanimously.

Board Meeting – Start Time

Chairman Beaver requested the Board have workshops at 8:30 a.m. prior to starting its regular board meeting. The Board agreed to this request.

Claim for Damages

CC 2010-04: Received on February 11, 2010 from Jose' Luis Bustamante

Vouchers

Check Date: 02/05/2010
Payroll Deductions
Taxes # 10110021-10110024
Warrant #: 943629-943663
Total all funds: $1,826,143.46

Check Date: 02/05/2010
Warrant #: 227067-227206
Direct Deposit #: 49815-50389
Total all funds: $2,036,403.36

Check Date: 02/12/2010
Warrant #: 943818-944078
Total all funds: $1,544,424.88

Check Date: 02/12/2010
Warrant #: 944079-944213
Total all funds: $3,581.82

Check Date: 02/16/2010
Payroll Draw Deductions
Taxes #: 10110025-1011026
Total all funds: $35,022.72

Check Date: 02/16/2010
Warrant #: 227213-227446
Total all funds: $113,995.24

Check Date: 02/19/2010
Warrant #: 944322-944555
Total all funds: $520,363.05

Check Date: 02/19/2010
Warrant #: 944556-944729
Total all funds: $3,242.76

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

Resolutions

10-093	Change of Precinct Boundaries Within Benton County
10-094	Agreement w/Moon Security Services, Inc. for Security Monitoring
10-095	Blanket Service Agreement w/Stratton Surveying
10-096	Blanket Service Agreement for As Needed Sign Installation
10-097	Line Item Transfer, Fund No. 0000-101, Dept. 110
10-098	Award of Janitorial Services to ABM Janitorial Services
10-099	Service Contract w/J.R. Swigart Co., Inc.
10-100	Surplus of Personal Property - Forklift for Scrap
10-101	Agreement Amendment, #0963-68016, w/Health & Recovery Services Administration
10-102	Authorization to Purchase Computer Workstations
10-103	Professional Services Agreement w/M Cummings
10-104	Agreement w/Lutheran Community Services, #09/11-MH-NONPIHP-LCS-00
10-105	Interlocal Agreement w/City of Kennewick for District Court Indigent Defense Services
10-106	Contract w/Verizon Wireless for Wireless Phone Services
10-107	District Court Indigent Defense Contract Amendment w/R Swinburnson
10-108	Contract w/N Rodriguez for Superior Court Indigent Defense
10-109	Authorization to Purchase Traffic Counters
10-110	Authorization to Sign Contract for Wiser Parkway at BNSF Railroad
10-111	Granting Franchise to Plymouth Water District
10-112	Public Hearing Approval for Proposed Vacation of Unimproved Right of Way on Hunts Plat
10-113	Contract w/CWI Security Services, Inc. for Alarm System Monitoring @ Prosser Shop
10-114	Line Item Transfer, Fund No. 0501-101, Dept. 650
10-115	Agreement w/City of Olympia for Jail Usage
10-116	Authorizing Vehicle Purchases – Patrol and Work Crew Replacement Fund
10-117	Dangerous Dog Interlocal Agreement Amendment w/City of West Richland
10-118	Federal Equitable Sharing Agreement and Certification for 2009
10-119	Economic Development Agreement w/Tri-Cities Development Council
10-120	Line Item Transfer, Fund No. 0112-101, Dept. 000
10-121	Agreement Amendment w/Armored Car Services
10-122	Third Amendment to Lease Agreement with Health District

There being no further business before the Board, the meeting adjourned at approximately 9:45 a.m.

Clerk of the Board

Chairman

a

BENTON COUNTY
SALARY REQUEST STATEMENT

REASON FOR REQUEST Switching Unions

POSITION Residential Appraiser Trainee

Lisa Lowary

NAME OF AFFECTED EMPLOYEE/CANDIDATE

EFFECTIVE DATE 3/1/2010

OFFICE/DEPARTMENT Assessor

SALARY FROM 9-D TO 8-E

Barbara Wagner by Harriet Meyers

ELECTED OFFICIAL/DEPARTMENT DIRECTOR

DATE 2/24/2010

APPROVED _____

DENIED _____

_____
CHAIRMAN

_____
MEMBER

_____
MEMBER

_____
DATE

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

See Attached

BASIS:

See Attached

FISCAL IMPACT AND REVIEW

FIRST YEAR IMPACT: $0 - vacated position was budgeted for $33,220. Ms. Lowary's salary would be $31,840 for ten months.

AGGREGATE IMPACT: _____

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

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

None at this time

White--Personnel Yellow--Payroll Pink--Commissioners Goldenrod--Department
BCPERS 0014/95

b

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AMENDING THE BYLAWS AND RULES OF PROCEDURE FOR BOARD OF BENTON COUNTY COMMISSIONERS; REPEALING AND SUPERCEDING RESOLUTION 09-114

WHEREAS, the Board of Benton County Commissioners approved Resolution 09-114 which amended the Bylaws and Rules of Procedure for the Board of Benton County Commissioners; and

WHEREAS, the Board of Benton County Commissioners desires to amend such Bylaws and Rules of Procedure by amending the section relating to "Regular Commission Meetings" by changing the time the Commission shall meet every Monday from 9:00 a.m. to 8:30 a.m. and changing the section relating to "Order of Business" to include a Workshop agenda and delete the Other Business agenda;

NOW, THEREFORE,

BE IT RESOLVED the Board adopts this Resolution and the attached Bylaws and Rules of Procedure, and that such replaces the Bylaws and Rules of Procedure adopted by the Board pursuant to Resolution 09-114; and

BE IT FURTHER RESOLVED that Resolution 09-114 is hereby repealed and superceded by this Resolution.

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

Chairman of the Board

Chairman Pro Tem

Member

Constituting the Board of County Commissioners of Benton County, Washington

Attest: .....
Clerk of the Board

cc: Cmnrs, All Departments, Policy Book, Intranet

McKenzie

BOARD OF BENTON COUNTY COMMISSIONERS
BYLAWS AND RULES OF PROCEDURE

TABLE OF CONTENTS

1. AUTHORITY
2. GENERAL RULES
3. TYPES OF MEETINGS
4. CHAIR AND DUTIES
5. ORDER OF BUSINESS AND AGENDA
6. MINUTES POLICY
7. ORDINANCES, RESOLUTIONS, AND MOTIONS
8. LEGAL ADVICE AND CONFIDENTIAL INFORMATION
9. CITIZENS' RIGHTS
10. AMENDMENT OF THESE RULES

1. AUTHORITY

1.1 Resolution: The Board of Benton County Commissioners (the "Commission" or "Board") may by resolution determine its own rules of conduct and rules of procedure for meetings in accordance with state law. The following set of rules shall be in effect upon their adoption by the Commission and until such time as they are amended or new rules adopted in the manner provided by these rules.

2. GENERAL RULES

2.1 Meetings to be Public: All meetings of the Commission shall be open to the public with the exception of the executive sessions, as allowed by law.

2.2 Quorum: Except as otherwise allowed by state law, two commissioners shall be in attendance to constitute a quorum and be necessary for the transaction of business.

2.3 Commissioners' Meeting Minutes: Summary minutes of all proceedings of the Commission shall be kept by the Clerk to the Board, and shall be the official record of the Commission (see Section 6). Media recordings of such meetings shall be made and kept for as long a period as required by state law.

2.4 Right of Floor: Any member desiring to speak on the subject under consideration shall be recognized at a time determined by the Chair.

2.5 County Administrator: The County Administrator shall attend all meetings of the Commission unless excused by the Commission. The County Administrator shall keep the Commission fully advised as to the general condition, finances, and needs of Benton County (the "County"). At the discretion of the Commission, the County Administrator may make recommendations to the Commission and may take part in discussion on all matters concerning the welfare of the County.

2.6 Clerk to the Board: The Clerk to the Board shall keep minutes of the meeting and perform such other duties as may be required by the County Administrator. The Clerk to the Board shall decide on all matters regarding parliamentary procedure. However, she may seek the advice of the Prosecuting Attorney's Office and/or a Registered Parliamentarian.

2.7 Rules of Order: The current edition of "Robert's Rules of Order Newly Revised", in the possession of the Clerk to the Board shall govern the meetings and deliberations of the Commission, except as they may be in conflict with these rules.

2.8 **Adjournment; Motion to Adjourn:** A motion to adjourn shall be in order at any time, except as follows:

(a) When made as an interruption of a member while speaking;
(b) When the previous question has been ordered or called for; or
(c) When a vote is being taken.

A formal motion to adjourn and terminate the meeting is required if there is not clear consensus to adjourn a meeting via an implicit motion. To adjourn a meeting for continuation at a later time, a formal motion shall be made specifying the requested time and place for the continuation. A motion to adjourn is debatable only as to whether the adjournment is proper and as to the time to which the meeting is adjourned.

2.9 **Reconsideration:** After decision by the Commission on any question, any member who voted with the prevailing side may move a reconsideration of any action during the same meeting or at a subsequent meeting.

2.10 **Recusal:** If a member decides to recuse himself or herself from an issue, his or her recusal and the reasons therefore shall be stated on the record by the recusing member and shall remain in effect for all discussions and decisions on that issue until such issue is resolved. The member shall state their recusal on the record each time the issue is before the Board and shall not be present during any executive sessions regarding the issue.

3. MEETINGS

3.1 **Regular Commission Meetings:** The Commission shall meet every Monday at ~~9:00~~ *8:30* a.m. in the Commissioners' Conference Room of the Benton County Courthouse in Prosser for a regular Commission meeting. When a regular Commission meeting falls on a holiday, the regular meeting shall be held on the following Tuesday at the same hour and same place unless otherwise provided by motion. The Commission may cancel regular meetings by a motion or by written notice issued by the Clerk to the Board or Secretary for the Board at the direction of the County Administrator.

3.2 **Special Meetings:** Special meetings may be called by the Chair or the majority of the Board of Commissioners. At the request of the Chair or two members of the Board, the Secretary or Clerk to the Board shall prepare a written notice of the special meeting, stating the time, place, and subject, and deliver written notice personally by mail, by fax, or by electronic mail, upon each of the Commissioners at least 24 hours before the time of such meeting. Although not required for the meeting to be valid, the Secretary or Clerk to the Board shall also attempt to notify each member of the Commission by telephone or otherwise, of the special meeting. The required written notice shall be waived for any member who actually arrives at the meeting at the time it convenes or who provides a written waiver of the notice to the Secretary or Clerk to the Board at or prior to the time the meeting convenes. The Secretary or Clerk to the Board shall also give written notice of the special meeting to local media (TV, radio, and newspaper) which has filed with the Secretary or Clerk to the Board a written request to be notified of special meetings, to be delivered personally by mail, by fax, or by electronic mail at least 24 hours before the time of such meeting. The Board of Commissioners shall not discuss or make final disposition of any matter not mentioned in the notice. The notices required herein may be dispensed with under the circumstances set forth in RCW 42.30.080 as now in effect or as hereafter amended.

3.3 **Adjourned Sessions:** Any session of the Commission may be continued or adjourned from day to day or for more than one day in accordance with the terms of Section 2.8 hereof and RCW 42.30.090 as now in effect or as hereafter amended, including any requirement of posting an order or notice of adjournment.

3.4 **Executive Sessions:** Executive sessions will be held in accordance with the provisions of the Washington State Open Meetings Act. No executive sessions will be held pursuant to RCW 42.30.110(1)(i), unless an attorney employed or appointed by the Prosecuting Attorney's Office is present.

3.5 **Attendance at Meetings by Conference Telephone:** Members of the Board may participate at any special Board meeting (including emergency meetings) by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting and in the audience, if any, can hear each other at the same time. Members may also participate at regular meetings by such means unless objected to by a majority of the Board at a particular meeting. Participation in a meeting by such means shall constitute presence in person at such meeting.

4. CHAIR AND DUTIES

4.1 **Chair:** The Chair shall satisfy his or her duties set forth in RCW 36.32.100 as now in effect or as hereafter amended. Despite the duty of the Chair to sign on behalf of the County, all members voting in the majority to approve an action or document have the authority to also sign such document in addition to the Chair.

4.2 **Call to Order:** The meetings of the Board shall be called to order by the Chair or, in his/her absence, by the Chair Pro Tem.

4.3 **Preservation of Order:** The Chair shall preserve order and decorum and confine debate to the question under discussion (i.e. order of the day). The Chair should keep the meeting on time, but be flexible when necessary.

4.4 **Points of Order:** The Chair shall consider and rule on all points of order, subject to the right of any member to appeal the Chair's decision to the entire Board. Prior to the Board appealing the decision, it can seek the advice of the Clerk to the Board. An appeal to reverse the decision of the Chair requires a second and must be voted on.

4.5 **Introduction of Motions:** The purpose of a motion is to bring the subject before the Board. All debate and discussion regarding a motion must wait until after the motion has been introduced, seconded, and the Chair has called for discussion. All motions shall be clearly stated in full. "So moved" is not a motion. The Clerk may request that long motions be presented in writing.

4.6 **Powers of the Chair:** The Chair may move, second, and debate from the chair, subject to the same considerations imposed on all members by Robert's Rules, and shall not be deprived of any of the rights and privileges of a member by reason of his or her acting as the Chair.

4.7 **Press Conferences/Special Dedications - Notice to Members:** The Chair, or any individual member of the Board at the direction of the Chair or the majority of the Board, may convey a formal opinion or decision of the Commission at press conferences and special dedications, and shall give at least 24 hour notice to all members of his/her intent to hold any such press conference or make special dedication on behalf of the County. Each member of the Board must approve any exceptions to the 24 hour notice verbally or in writing.

4.8 **Correspondence:** Any correspondence going out under the direction of the Board shall be on Board letterhead. Any correspondence authored by an individual commissioner and not approved by the Board shall go out on letterhead with that commissioner's name and not on Board letterhead.

4.9 **Committee Appointments:** The Chair may make recommendations for committee appointments.

5. ORDER OF BUSINESS AND AGENDA

5.1 **Order of Business:** The business of all regular meetings of the Board shall be transacted in the following order unless the Board, by a majority vote of the members present, suspends the rules and changes the order:

1. *Workshop Agenda*
2. *Call to Order*
3. Approval of Minutes
4. Review Agenda
5. Review and Approval of Consent Agenda
6. Scheduled Business
6. ~~Other Business~~
7. Unscheduled Visitors
8. Adjournment

The consent agenda may contain items that are of a routine and non-controversial nature and may be accepted by consent of the Board by a single vote without reading. If a member of the Board requests such reading, such a request shall be granted. Any item on the consent agenda may be removed and considered separately at the request of any individual Board member.

5.2 **Agenda:** All items to be placed on the agenda must be scheduled with the Secretary or County Administrator prior to 5:00 p.m. on the Wednesday preceding the meeting, and all supporting documentation shall be delivered by the close of business on the Wednesday preceding the meeting. Failure to comply with these deadlines without the consent of the County Administrator shall result in removal of the agenda item. The County Administrator shall arrange a list of such matters according to the order of business and, at the request of the Chair, may review such matters with the Chair before final approval. The Secretary shall furnish each member of the Board, the County Administrator, County personnel, and all news media (pursuant to a written request) a copy of the agenda by 5:00 p.m. on the Thursday preceding the meeting.

5.3 *Workshop Agenda: The Board will not make any decisions during the Workshop Agenda and will schedule these workshop agenda items for decision by the Board no sooner than the next Regular Commission Meeting.*

~~*Other Business: Any member of the Commission may bring additional unanticipated business that he/she believes needs immediate deliberation by the Commission during the "Other Business" agenda item. This procedure should be kept to an absolute minimum, and it is within the Commission's discretion to deliberate on the matter or defer it to a subsequent meeting.*~~

6. MINUTES POLICY

6.1 Content of the Minutes

1. The first paragraph should contain the following information: type of meeting, name of the board, date, time, and place of the meeting, and the members and parties present.

2. The minutes generally should contain a summarized record of what was done at the meeting, not what was said by the members. Minutes will not usually be typed verbatim;

however, verbatim excerpts can be inserted at the Clerk's discretion. Members of the Commission can request additional verbatim excerpts from the Clerk, but they will not be considered part of the minutes nor attached to the minutes, unless typed by the Clerk during the meeting.

No individual member shall instruct the Clerk of the Board as to the contents of the minutes. Any corrections or suggestions shall be in writing, presented at the time of approval, and approved by the Board.

3. The body of the minutes should contain a separate paragraph for each subject matter. Motions will name the mover, seconder, and show how each motion was adopted with the facts as to whether the motion may have been debated or amended. Motions will be indicated in bold and underlined and resolutions will be listed separately at the end of the minutes.

   The minutes should identify the item of business before the board, summarize discussions on the item, and describe the exact disposition of any action, clearly indicating what was done, by whom, and why.

4. The last paragraph contains the time of adjournment.

5 The minutes are closed with the signature and title of the Chair and Clerk to the Board.

6. An action followup sheet, if one is necessary, will be attached to the draft minutes as a reminder to the Board and employees in the Commissioners' office.

6.2 Approval of Minutes

1. Minutes must be approved as read or as corrected.

2. If minutes are approved by general consent, no motion is required unless a member specifically requests one. The Chair may assume this motion and indicate that if there are no corrections, the minutes are approved, or that if there are no further corrections, the minutes are approved as corrected.

3. Once the minutes are approved, the Clerk shall write the word "approved" and date of approval. The Commissioners' initials are written on the draft minutes.

4. The approved minutes are then printed onto the journal pages and prepared for signature by the Chair and Clerk to the Board.

5. Approved minutes may be corrected by motion whenever a typographical or clerical error is found, regardless of the time elapsed. Correction of minutes after they have been approved requires a "Motion to Amend Something Previously Adopted" and majority vote.

6. Nothing may be erased from the journal. Corrections must be made in the margin along with a notation, which states: "Amended, see minutes of ." (Write in the meeting date at which the Motion to Amend Something Previously Adopted was made and approved.) If material is expunged (stricken from the record), a line is drawn through the words that are expunged.

7. ORDINANCES, RESOLUTIONS, AND MOTIONS

7.1 Form: Ordinances, resolutions, and accompanying documents shall be presented to the Board in writing following proper format.

7.2 **Funding:** All resolutions authorizing the expenditure of money shall include the exact source of the funds to be expended.

7.3 **Ordinances - Introduction:** All proposed ordinances must be prepared under the direction of and approved as to form by the Prosecuting Attorney's Office. The department requesting the ordinance shall attach a brief summary of the provisions thereof and any proposed amendments to an existing ordinance; such summary shall indicate the change sought to be made and the name of the department or party requesting the proposed ordinance.

7.4 **Recording of Votes:** The ayes and nays shall be recorded upon the passage of all ordinances and resolutions in the official record of the Board.

7.5 **Tie Vote:** In the event of a tie on any motion when only two members are present at the meeting, the motion shall be postponed to the next appropriate meeting.

7.6 **Numbering Ordinances and Resolutions:** The Clerk to the Board shall assign a number (in consecutive order) to each ordinance or resolution.

7.7 **Ordinance and Resolution Passage Procedure:** When passed by the Board, an ordinance or resolution shall be signed by a majority of the Board members or the Chair and be attested to by the Clerk to the Board. It shall immediately be filed and thereafter preserved in the office of the Commissioners.

1. Absent. If a commissioner is absent, the Clerk to the Board shall affix their name stamp stating "absent" on the signature line on all documents approved on that date.

2. Opposed. If a commissioner opposes the ordinance, resolution, or document, the Clerk to the Board shall affix their name stamp stating "opposed" on the signature line.

8. LEGAL ADVICE AND CONFIDENTIAL INFORMATION

8.1 **Requests for Legal Opinions:** Upon receipt of a written legal opinion from the Prosecuting Attorney's Office relating to County business addressed to any Board member, the Secretary shall distribute the written legal opinion to all members of the Board, except those that have recused themselves from deliberations on the subject matter of the opinion.

8.2 **Confidentiality:** No member of the Commission may make a disclosure of confidential information gained by reason of the member's position on the Board without a motion by the Commission approving such disclosure. If there is any uncertainty whether information is confidential, the Board member shall seek advice from the Prosecuting Attorney's Office.

9. CITIZENS' RIGHTS (PLEASE SEE ATTACHED SIGN-IN SHEET)

9.1 **Scheduled Business – Public Comments:** If the Board allows public comments during scheduled business, the comments should be limited to the time allotted on the agenda for the scheduled business.

9.2 **Unscheduled Visitors:** Any person not scheduled on the agenda, but desiring to address the Board by oral communication may do so during the unscheduled visitor's portion of the agenda.

9.3 **Manner of Addressing the Board During Unscheduled Visitors:** Each person addressing the Board shall step up to the microphone, give his/her name and address in an audible tone of voice for the record and, unless further time is granted by the Board, shall limit their remarks to three minutes. All remarks shall be addressed to the Board as a body, and not to any member thereof.

No questions shall be asked of the Board members, except through the Chair. The Board would then determine the proper disposition of the issue.

9.4 **Written Communications:** Interested parties, or their authorized representatives, may address the Board by written communication in regard to any matter concerning the County's business at any time by mail or through the Clerk to the Board or Secretary. Copies must be distributed to the Board members.

10. AMENDMENT OF THESE RULES

10.1 **Amendment of These Rules:** These rules may be amended or new rules adopted by the Board; provided, the proposed amendments or new rules may only be passed at a Board meeting with all members present at the time the issue is initially discussed.

C

JOINT RESOLUTION

BENTON COUNTY RESOLUTION NO. _____

FRANKLIN COUNTY RESOLUTION NO. _____

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

IN THE MATTER OF APPOINTING LOUISE R. MATZNER TO THE MID-COLUMBIA LIBRARY BOARD OF TRUSTEES

WHEREAS, there exists a vacancy due to a resignation on the Mid-Columbia Library Board of Trustees; and,

WHEREAS, Louise R. Matzner has expressed an interest and willingness to serve on the Board for the unexpired term; and,

WHEREAS, the Library's Board of Trustees unanimously voted to recommend Louise R. Matzner's appointment; **NOW, THEREFORE,**

BE IT RESOLVED that Louise R. Matzner, is hereby appointed to the Mid-Columbia Library Board of Trustees, said term expiring on December 31, 2013.

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

BENTON COUNTY BOARD OF COMMISSIONERS

_____
Chairman of the Board

_____
Member

_____
Member

Constituting the Board of County Commissioners of Benton County, Washington

ATTEST:

_____
Clerk of the Board

FRANKLIN COUNTY BOARD OF COMMISSIONERS

_____
Chairman of the Board

_____
Chairman Pro Tem

_____
Member

Constituting the Board of County Commissioners of Franklin County Washington

ATTEST:

_____
Clerk of the Board

cc: MCL; file

FLORES

mid-columbia LIBRARIES
Grow your mind!

Neva LeBlond Bequette Service Center
405 S. Dayton St. • Kennewick, WA 99336 • (509) 582-4745 • Fax (509) 582-3774

RECEIVED
FEB 18 2010
BENTON COUNTY
COMMISSIONERS

Max	✓
Leo	✓
Jim	✓
David	✓
Loretta	✓
Other	

Agenda 3/1

February 17, 2010

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

Dear Commissioners:

The Mid-Columbia Library Board of Trustees has a vacancy on its Board due to the resignation of Dorothy Evans on November 4, 2009. Mrs. Evans was a Prosser representative and her unexpired term runs until December 31, 2013.

The Library Board advertised this position and received several inquiries. Three candidates completed the application form and two were interviewed. The Interview Committee was very impressed with the qualifications and attributes of the candidates. In a unanimous decision the committee chose to recommend that Louise R. Matzner be appointed to fill this vacancy.

Thank you for your consideration of this matter. Please let us know if we can be of further assistance.

Sincerely,

Gloria Garcia

Gloria Garcia, Chair
Mid-Columbia Library System
Board of Trustees

cc: Franklin County Commissioners

mid-columbia LIBRARIES
Grow your mind!

Neva LeBlond-Bequette Service Center
405 S. Dayton St. • Kennewick, WA 99336 • (509) 582-4745 • Fax (509) 582-3774

RECEIVED
FEB 18 2010
BENTON COUNTY
COMMISSIONERS

Max	✓
Leo	✓
Jim	✓
David	✓
Loretta	✓
Other	Agenda

3/1

February 17, 2010

Franklin County Commissioners
Courthouse
PO Box 1451
Pasco, WA 99301

Dear Commissioners:

The Mid-Columbia Library Board of Trustees has a vacancy on its Board due to the resignation of Dorothy Evans on November 4, 2009. Mrs. Evans was a Prosser representative and her unexpired term runs until December 31, 2013.

The Library Board advertised this position and received several inquiries. Three candidates completed the application form and two were interviewed. The Interview Committee was very impressed with the qualifications and attributes of the candidates. In a unanimous decision the committee chose to recommend that Louise R. Matzner be appointed to fill this vacancy.

Thank you for your consideration of this matter. Please let us know if we can be of further assistance.

Sincerely,

Gloria Garcia

Gloria Garcia, Chair
Mid-Columbia Library System
Board of Trustees

cc: Benton County Commissioners

d

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY FUNDS RE: TRANSFER OF FUNDS WITHIN CAPITAL PROJECTS FUND NUMBER 0305-101, FROM DEPARTMENT NUMBER 000 TO DEPARTMENT NUMBER 000.

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

Dated this _____ day of _____, _____

_____
Chairman of the Board

_____
Member

_____
Member

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

Attest: _____
Clerk of the Board

cc: Auditor; Public Works/Roads; File

SMITHKELTY

EXHIBIT "A"

BENTON COUNTY LINE ITEM TRANSFER

Dept Name: Capital Projects

Dept Nbr: 000

Fund Name: Capital Projects

Fund Nbr: 0305-101

TRANSFER FR

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
594.110	6412	Capital Outlay - Buildings	$50,000
TOTAL			$50,000

TRANSFER TC

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
597.100	9914	County Road	$50,000
TOTAL			$50,000

Explanation:

Transfer needed to pay for a Public Works/Roads Project - Piert Road which was listed in the Benton County Capital Facilities Plan 2009 - 2014 for 2009 in the amount of $29,426. Original 2005 budget was $100,000 and this is the final invoice for this project.

Prepared by: L Smith Kelty

Date: 18-Feb-2010

Approved ☐

Denied ☐

Date: _____

_____
Chairman

_____
Member

_____
Member

Leo Bowman
District 1
Max Benitz, Jr.
District 2
James Beaver
District 3

Board of County Commissioners
BENTON COUNTY

David Sparks
County Administrator

Loretta Smith Kelty
Deputy County Administrator

March 1, 2010

The Honorable Patty Murray, United States Senate
The Honorable Maria Cantwell, United States Senate
The Honorable Doc Hastings, United States House of Representatives

Dear Members of Congress:

On behalf of the Board of Benton County Commissioners, we are writing to express our support for Kennewick General Hospital's funding requests to improve their medical imaging capacity and support their planned expansion at Southridge. These measures are critical to Kennewick General Hospital's ability to keep pace with the growing health care needs of our community.

Kennewick General Hospital continues to build partnerships with the local community and state and federal government. In the Tri-Cities, we are excited about the hospital's vision for Southridge and the move to a three-campus model for the delivery of care. We hope that you will play an active role in achieving our local priorities.

These investments will enable Kennewick General Hospital to continue to provide quality health care to the Tri-Cities community as an independent, public hospital district. By updating and expanding their facilities, Kennewick General Hospital will be able to accommodate new medical technologies, provide private inpatient rooms, increase efficiency and size of emergency and surgery departments and deliver 21st century medical care more efficiently and comfortably for patients.

Kennewick General Hospital has been an integral part of our community for over 50 years. As one of the area's largest employers, the expansion of the hospital is not only good for patient care, but will also contribute significantly to the local economy. Kennewick General Hospital is dedicating and pursuing resources to help ensure patients in the Tri-Cities have choices and continued access to high quality, affordable health care close to home.

Thank you for your consideration of these important funding requests. We appreciate all that you do to improve Benton County.

Sincerely,

BOARD OF BENTON COUNTY COMMISSIONERS

James Beaver, Chairman

cc: Commissioners
Benton County Administration
KGH

P.O. Box 190, Prosser, WA 99350-0190; Phone (509) 786-5600 or (509) 736-3080, Fax (509) 786-5625
commissioners@co.benton.wa.us

KGH
KENNEWICK GENERAL HOSPITAL

KENNEWICK GENERAL HOSPITAL
P.O. Box 6128 • 900 South Auburn Street, Kennewick, WA 99336
Tel 509-586-6111 / Fax 509-586-5892
www.kennewickgeneral.com

RECEIVED
FEB 24 2010
BENTON COUNTY
COMMISSIONERS

Max	✓
Leo	✓
Jim	✓
David	✓
Loretta	✓
Other	

February 23, 2010

Jim Beaver
P.O. Box 190
Prosser, WA 99350

Dear Mr. Beaver,

Every year congress appropriates special grants and earmarks for local constituents. We have been planning for some time to make a request to our congressional delegation that would benefit the Southridge project, as well as request monies for capital funding. In order for our request to be successful, we need to demonstrate that we have local support, and we need your assistance.

It is our sincere hope that you will be willing to direct a support letter to us that will help us in our efforts to receive appropriation funding for development of the infrastructure of our Southridge project in cooperation with the City of Kennewick. I am attaching a template letter of support that we would like you to personalize and print on your company letterhead or personal stationery.

All letters need to be delivered to the KGH Administration Office by March 5th and directed to the attention of Chuck Barnes. The letters will be submitted with our request which will be personally delivered to Doc Hastings, Patty Murray, and Maria Cantwell.

Thank you in advance for your response and know that we certainly appreciate your continued support of KGH and our mission. If you have any questions about this process, please do not hesitate to contact me at 586-5735.

Sincerely,

Charles Barnes
Executive Director Support Services

cc: Glen Marshall, CEO
Victor V. Johnson, KGH Board President

f

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF THE TRANSPORTATION STEERING COMMITTEE, OF THE NATIONAL ASSOCIATION OF COUNTIES

WHEREAS Benton County Commissioner Leo Bowman has been invited to apply for the Chairmanship of the National Association of Counties' Transportation Steering Committee; and,

WHEREAS Commissioner Bowman has a long and distinguished record for advocating for surface transportation improvements in Benton County and throughout Washington State, with relevant experience including but not limited to:

- Serving on the National Association of Counties' Transportation Steering Committee for over 10 years, and as a Vice Chair for more than 5 years;
- Currently serving on the National Association of Counties Board of Directors, representing the Washington State Association of Counties;
- Serving on the Washington State Association of Counties Transportation Committee, and as its Chair;
- Serving on the Washington State Transportation Improvement Board for over 7 years, and as its Chair for 2 years;
- Representing Benton County in the Washington State Good Roads and Transportation Association, and as its Chairman;
- Representing Benton County for over 12 years in the Benton-Franklin MPO/RTPO, and as its Chairman.

WHEREAS Commissioner Bowman has been distinguished himself as a coalition builder with the patience and perseverance needed to bring complicated projects to completion, as evidence by the endorsement of State Transportation Secretary Paula Hammond; **NOW THEREFORE,**

BE IT RESOLVED that the Board of Benton County Commissioners hereby supports the application of Commissioner Leo Bowman for the Chairmanship of the National Association of Counties' Transportation Steering Committee.

Dated this _____ day of _____, 2010.

_____
Chairman

_____
Member

_____
Member

Constituting the Board of Commissioners
of Benton County, Washington.

Attest.....
Clerk of the Board

cc: file

Prepared by: AJ Fyall

RECEIVED
FEB 26 2010
BENTON COUNTY
COMMISSIONERS
Bowman
DS
LSK
3/1 agenda

Washington State Department of Transportation
Paula J. Hammond, P.E.
Secretary of Transportation

Transportation Building
310 Maple Park Avenue S.E.
P.O. Box 47300
Olympia, WA 98504-7300

360-705-7000
TTY: 1-800-833-6388
www.wsdot.wa.gov

February 24, 2010

Judge B. Glen Whitley
President-Elect, Board of Directors
National Association of Counties
Washington, DC 20001

Re: Recommendation for Leo Bowman to proceed to position of Chairmanship of the Transportation Steering Committee, National Association of Counties (NACo)

Dear Judge Whitley:

I am delighted to recommend Leo Bowman for the position of Chairmanship of the Transportation Steering Committee, National Association of Counties (NACo). I have had the pleasure of working with Leo for the last 13 years, and would recommend him highly for the position.

In addition to the extensive time he has spent serving NACo, Mr. Bowman has built local project coalitions, contributed to the past two federal surface transportation bills, and been an asset to the communication between Washington State Department of Transportation and Washington Counties.

I had the satisfaction of working alongside Mr. Bowman in his role as member and chair, within Washington's Transportation Improvement Board, as well as the Commute Trip Reduction Board and found him to be a great advocate on behalf of our Statewide Transportation system and it's importance to our states communities.

I believe you will find Leo Bowman to be a true leader in the field of Transportation. I strongly recommend that he is appointed the position of Chairmanship of the Transportation Steering Committee, National Association of Counties. If you would like to discuss this further, please feel free to contact me at 360.705.7054.

Sincerely,

Paula J. Hammond, P.E.
Secretary of Transportation

9

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF A BLANKET SERVICE AGREEMENT FOR "AS NEEDED" ELECTRICAL SERVICES WITH SIERRA ELECTRIC, INC. AT ALL BENTON COUNTY LOCATIONS

WHEREAS, per resolution 09-811, any public works services or materials involving less than $25,000, advertisement and competitive bidding may be dispensed, and such contracts may be entered into after direct negotiation and authorization from the Board of Benton County Commissioners; and

WHEREAS, the Facilities Manager recommends a blanket service agreement with Sierra Electric, Inc., Pasco, WA – Contractors License No. SIERREI021CZ to be put in place for "as needed" services for electrical services, along with other miscellaneous services they are qualified to perform for all locations of Benton County, to include the Benton County Fairgrounds, for small projects costing less than $25,000; and

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

WHEREAS, the prices for said services is in accordance to the agreement and Sierra Electric, Inc. price rates attached hereto for an accumulative contract amount not to exceed $25,000 including WSST; **NOW THEREFORE,**

BE IT RESOLVED by the Board of Benton County Commissioners, Benton County, Washington, the Board concurs with the recommendation and hereby awards Sierra Electric, Inc. the blanket service agreement for "as needed" services at all Benton County locations; and

BE IT FURTHER RESOLVED the Board hereby authorizes the Chairman to sign the service agreement attached hereto; and

BE IT FURTHER RESOLVED the term of the attached contract expires on December 31, 2010.

Dated this _____ day of _____, 2010

_____
Chairman of the Board

_____
Member

_____
Member

Attest: _____
Clerk of the Board

Original: File – Lisa Small
cc: Facilities; Fairgrounds; Parks; Auditor; R. Ozuna; Sierra Electric, Inc.

Small

PUBLIC WORKS CONTRACT
TERMS AND CONDITIONS

THIS CONTRACT is made and entered into by and between BENTON COUNTY, a political subdivision, with its principal offices at 620 Market Street, Prosser, WA 99350 (hereinafter "COUNTY"), and Sierra Electric, Inc., a Washington corporation with its principal offices at 4120 Swallow Ave. Pasco, WA, (hereinafter "CONTRACTOR").

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

1. **CONTRACT DOCUMENTS**

This Contract consists of these terms and conditions and the following documents

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

2. **DURATION OF CONTRACT**

The term of this Contract shall begin when executed by both parties and shall expire on December 31, 2010. Price adjustments of this contract will only be effective with an executed amendment to this contract. The CONTRACTOR shall complete all work by the time(s) specified herein, or if no such time is otherwise specified, no later than the expiration date.

3. **SERVICES PROVIDED**

The CONTRACTOR agrees to provide "as needed" electrical repair services for all Benton County locations in accordance with the CONTRACTORS 2010 price list proposal attached hereto as Exhibit A. In the event that requested work encompasses work that is legally required to be completed by another type of contractor, CONTRACTOR shall inform COUNTY of that fact and shall coordinate with COUNTY to complete the work in conjunction with such other contractor. In the event that requested work requires, under State or local law, the issuance of a building permit, CONTRACTOR shall be responsible for procuring such building permit and arranging for inspection and certification of the work. CONTRACTOR may bill COUNTY for the full cost of the permit and any labor time for any of its employees involved in the permitting process, but may not charge any additional processing or other fees that it does not actually incur. Individual jobs or work orders for electrical repair

h.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WA

IN THE MATTER OF AWARDING JANITORIAL SERVICES AT THE BENTON COUNTY JUSTICE CENTER, BENTON COUNTY CORONER'S OFFICE & BENTON COUNTY HEALTH DISTRICT BUILDING AND AUTHORIZING THE CHAIRMAN OF THE BOARD TO SIGN THE AGREEMENT BETWEEN BENTON COUNTY AND VARSITY CONTRACTORS, INC.; RESCINDING RESOLUTION 10-098

WHEREAS, Benton County Facilities solicited proposals in accordance with Resolution 09-813 to award public works contracts in amounts less than $200,000 from all qualified contractors on the Benton County Small Works Roster to provide janitorial services at the Benton County Justice Center, Benton County Coroner's Office, and Benton County Health District Building; and

WHEREAS, Benton County Facilities solicited proposals from all janitorial contractors listed on the Benton County Small Works Roster at the time of bidding and received the following proposals:

1. Varsity Contractors, Inc., Boise, ID
   a. 809 hours: $167,700.00 (not including WSST) – (approx. $207.29/hr)
2. ABM Janitorial Services, Kennewick, WA
   a. 902.24 hours: $176,750.52 (not including WSST) - (approx. $195.90/hr)
3. Affordable Specialties & Supply dba: AM PM Cleaning, Kennewick, WA – Declined
4. Tri-Cities Maintenance & Janitorial, Richland, WA – Did not respond
5. Sparkling Sensations, West Richland, WA – Declined

WHEREAS, per Resolution 10-098 dated February 22, 2010 the Board of Benton County Commissioners awarded the janitorial services to ABM Janitorial Services, Kennewick, WA based on the hourly rate and authorized a service contract to be prepared and placed on the consent agenda at a later date; and

WHEREAS, after further review, the Deputy County Administrator recognized that it would be in the County's best interest to reject all proposals based on the current economic climate and explore whether an in-house concept would provide a more cost-effective approach for janitorial services; and

WHEREAS, the County will continue to require janitorial services during the interim between now and such time as a decision has been reached concerning the feasibility of transitioning to in-house janitorial service; and

WHEREAS, given that Varsity Contractors Inc. is the most recent provider of such janitorial services for the County, the Deputy County Administrator solicited and received a proposal from Varsity Contractors, Inc. – License No. VARSIC1108M7 for a temporary contract based on a month-to-month amount of $13,975.00 excluding WSST with a total contract amount not to exceed $83,850.00 excluding WSST; **NOW, THEREFORE**

BE IT RESOLVED by the Board of Benton County Commissioners that the Deputy County Administrator is hereby authorized to proceed with a temporary contract awarding the janitorial services to Varsity Contractors, Inc., Boise, ID for a contract amount not to exceed $83,850.00 (not including WSST) to provide janitorial services at the Benton County Justice Center, Benton County Coroner's Office, and Benton County Health District; and

BE IT FURTHER RESOLVED, the Board hereby authorizes the Chairman of the Board to sign the attached contract between Benton County and Varsity Contractors Inc.; and

BE IT FURTHER RESOLVED, Resolution 10-098 dated February 22, 2010 is hereby rescinded.

Dated this _____ day of _____, 2010

_____
Chairman of the Board

_____
Member

Attest:_____
Clerk of the Board

_____
Member

Constituting the Board of County Commissioners of Benton County,

cc: File; Auditor; R. Ozuna; Varsity Contractors, Inc.

Small

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WA

IN THE MATTER OF AWARDING THE CONTRACT WITH APOLLO SHEET METAL, INC. TO PROVIDE LABOR AND MATERIALS FOR THE INSTALLATION OF A NEW HVAC SYSTEM DUE TO THE GRANDSTAND WIND DAMAGE

WHEREAS, per resolution 09-811, any public works services or materials involving less than $25,000, advertisement and competitive bidding may be dispensed, and such contracts may be entered into after direct negotiation and authorization from the Board of Benton County Commissioners; and

WHEREAS, the Facilities Manager recommends entering into a contract with Apollo Sheet Metal, Inc., Kennewick, WA – Contractors License No. APOLLSM187MK in the amount of $16,397.00 excluding WSST to provide all necessary labor and materials to replace the HVAC System that was damaged during a wind storm out at the Benton County Fairgrounds; **NOW, THEREFORE**

BE IT RESOLVED, by the Board of Benton County Commissioners, Benton County Washington, the Board hereby agrees with the recommendations and awards the HVAC System replacement located at the Benton County Fairgrounds to Apollo Sheet Metal, Inc. for a total contract amount not to exceed $17,000.00 excluding WSST, and

BE IT FURTHER RESOLVED, the Board authorizes the Chairman to sign the contract between Benton County and Apollo Sheet Metal, Inc. to provide said services.

Dated this _____ day of _____, 2010

_____
Chairman of the Board

_____
Member

Attest:_____
Clerk of the board

_____
Member

Constituting the Board of County Commissioners of Benton County,

Orig.: File – Lisa Small
cc: Auditor; R. Ozuna; Apollo Sheet Metal, Inc.

Small

PERSONAL SERVICES CONTRACT
TERMS AND CONDITIONS

RECEIVED
FEB 08 2010
APOLLO SHEET METAL, INC.

THIS CONTRACT is made and entered into by and between **BENTON COUNTY**, a political subdivision of the State of Washington, with its principal offices at 620 Market Street, Prosser, WA 99350 (hereinafter "COUNTY"), and **APOLLO SHEET METAL, INC.** a corporation authorized to do business in the State of Washington with its principal offices at 1201 West Columbia Drive, Kennewick, WA 99336(hereinafter "CONTRACTOR").

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

1. CONTRACT DOCUMENTS

This Contract consists of the following documents:

a. Exhibit A - Contractor's Proposal Dated December 14, 2009
b. Exhibit B - Washington State Prevailing Wage Rates for Public Works Contracts Effective 9/2/09

2. DURATION OF CONTRACT

The term of this Contract shall begin upon execution of both parties and shall expire on June 30, 2010. The CONTRACTOR shall complete all work by the time(s) specified herein, or if no such time is otherwise specified, no later than the expiration date.

3. SERVICES PROVIDED

The CONTRACTOR shall perform the following services:

The CONTRACTOR agrees to furnish and install all necessary labor and materials all in accordance with their proposal dated December 14, 2009 and referenced herein as Exhibit A.

In the event that requested work requires, under State or local law, the issuance of a building permit, CONTRACTOR shall be responsible for procuring such building permit and arranging for inspection and certification of the work. CONTRACTOR may bill COUNTY for the full cost of the permit and any labor time for any of its employees involved in the permitting process, but may not charge any additional processing or other fees that it does not actually incur. The CONTRACTOR agrees to provide its own labor and materials. Unless otherwise provided in this Contract, no material, labor, or facilities will be furnished by the COUNTY.

AGENDA ITEM	TYPE OF ACTION NEEDED	
Meeting Date: 3/1/10	Execute Contract	Consent Agenda X
Subject: Franklin County Farm Bureau	Pass Resolution X	Public Hearing
	Pass Ordinance	1st Discussion
	Pass Motion	2nd Discussion
	Board Direction	Workshop
Prepared by: cmb		
Reviewed by: lsk		

BACKGROUND INFORMATION

Attached for Board review is the Lease Agreement with the Franklin County Farm Bureau. The Lease Agreement has been reviewed and approved as to form by the Prosecuting Attorney's office.

The Lease Agreement allows the Franklin County Farm Bureau to hold their annual Farm Fair for 5th Grade Students at the Fairgrounds on March 23 – 24, 2010.

Compensation potentially represents a greater than 50% discount of the normal rental rate for the facilities being leased.

The Deputy County Administrator recommends approval of the Lease Agreement with the Franklin County Farm Bureau.

RECOMMENDATION

Move the Lease Agreement with the Franklin County Farm Bureau be approved.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF APPROVING THE LEASE AGREEMENT BETWEEN THE BENTON COUNTY FAIRGROUNDS AND THE FRANKLIN COUNTY FARM BUREAU

WHEREAS, the Franklin County Farm Bureau will provide the Benton County Fairgrounds $1,030.00 to hold a Farm Fair for 5th Graders at the Fairgrounds on March 23 – 24, 2010; and

WHEREAS, compensation potentially represents a greater then 50% discount of the normal rental rate for the facilities being leased, and per Resolution 07-870, the agreement must be approved by the Board of Benton County Commissioners; and

WHEREAS, the Benton County Deputy Administrator and Fairgrounds Office Manager recommends the Franklin County Farm Bureau Lease Agreement be approved; **NOW THEREFORE,**

BE IT RESOLVED by the Board of Benton County Commissioners, Benton County, Washington, that the Lease Agreement with the Franklin County Farm Bureau shall be granted; and

BE IT FURTHER RESOLVED that the Board authorizes the Chairman of the Board to sign the Lease Agreement with the Franklin County Farm Bureau.

Dated this _____ day of _____ 2010.

_____
Chairman of the Board

_____
Member

_____
Member

Attest: _____
Clerk of the Board

Constituting the Board of County Commissioners of Benton County, Washington

Originals: Fairgrounds; Franklin County Farm Bureau
cc: Auditor, R. Ozuna, File

K

AGENDA ITEM: Consent	TYPE OF ACTION NEEDED	
MEETING DATE: B/C 03-01-10 F/C 03-10-10	Executive Contract	CONSENT AGENDA x
SUBJECT: Requesting Signature on JABG Contract Amendment for Adjustment of Amount	Pass Resolution X	PUBLIC HEARING
Prepared By: Donna A Lee	Pass Ordinance	1ST DISCUSSION
Reviewed By: Sharon A Paradis	Pass Motion	2ND DISCUSSION
	Other	OTHER

BACKGROUND INFORMATION

The JABG (Juvenile Accountability Block Grant) Budget, which was established and supplemented on May 24, 1999, is a multi-agency, multi-juris-dictional strategy identifying violent, serious, repeat juvenile offenders and bringing together law enforcement agencies in Kennewick, Pasco, Richland, Benton and Franklin Counties, West Richland, Benton City, Prosser, Connell, Kahlotus, and Mesa, to collectively administer accountability-based probation for the high risk, violent, repeat juvenile offenders in the Tri-Cities area.

SUMMARY

The County Program Agreement has been received, for the term of September 1, 2009 to August 31, 2010 and provides services to Benton and Franklin Counties. The contract amount is to make an adjustment to the maximum contract amount.

RECOMMENDATION

I recommend the Boards of County Commissioners authorize their Chairs to sign the County Program Contract Amendment (JABG), as attached.

FISCAL IMPACT

This is a grant whereby we are reimbursed for services

MOTION

I move that the Chairman of the Board of Benton County Commissioners and the Chairman of the Board of Franklin County Commissioners be and hereby authorized to sign, on behalf of their respective county the County Program Contract Amendment 0663-98393-04 between DSHS and the Benton-Franklin Juvenile Justice Center for services in the JABG program for the program year of September 1, 2009 through August 31, 2010.

JOINT RESOLUTION

BENTON COUNTY RESOLUTION NO. _____

FRANKLIN COUNTY RESOLUTION NO. _____

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

IN THE MATTER OF THE REQUEST FOR SIGNATURE FROM THE BOARDS OF BENTON AND FRANKLIN COUNTY COMMISSIONERS ON THE COUNTY PROGRAM CONTRACT AMENDMENT BETWEEN THE JUVENILE JUSTICE CENTER AND THE STATE OF WASHINGTON, DEPARTMENT OF SOCIAL AND HEALTH SERVICES, JUVENILE REHABILITATION ADMINISTRATION, AGREEMENT NUMBER 0663-98393-04 TO PROVIDE FOR SELECTIVE AGGRESSIVE PROBATION (SAP) THROUGH THE JUVENILE ACCOUNTABILITY BLOCK GRANT (JABG), and

WHEREAS, Sharon Paradis, Administrator of the Juvenile Court, believes it is in the best interest of the Juvenile Justice Center that the proposed County Program Contract Amendment, between the Juvenile Court and the State of Washington, Department of Social and Health Services, Juvenile Rehabilitation Administration, be approved as presented for a term commencing September 1, 2009, and terminating on August 31, 2010, **NOW, THEREFORE**,

BE IT RESOLVED, that the Chairman of the Board of Benton County Commissioners and the Chairman of the Board of Franklin County Commissioners be and they hereby are authorized to sign, on behalf of their respective county, the County Program Contract Amendment.

DATED this 1st day of March 2010.

BENTON COUNTY BOARD OF COMMISSIONERS

Chairman of the Board

Member

Member

Constituting the Board of
County Commissioners,
Benton County, Washington

ATTEST:

Clerk of the Board

DATED this 10th day of March 2010.

FRANKLIN COUNTY BOARD OF COMMISSIONERS

Chairman of the Board

Chairman Pro Tem

Member

Constituting the Board of
County Commissioners,
Franklin County, Washington

ATTEST:

Clerk of the Board

Originals (5): 1-BC Commissioners, 1-FC Commissioners, 2-DSHS/JRA, 1-BFJJC

Washington State DEPARTMENT OF SOCIAL & HEALTH SERVICES

CONTRACT AMENDMENT
JABG FFY08

DSHS CONTRACT NUMBER: 0663-98393

Amendment No. 0663-98393-04

This Contract Amendment is between the State of Washington Department of Social and Health Services (DSHS) and the Contractor identified below.

Program Contract Number

Contractor Contract Number

CONTRACTOR NAME	CONTRACTOR doing business as (DBA)		
Benton County			
CONTRACTOR ADDRESS 5606 W. Canal Place, Ste. 106 Kennewick, WA 99336	WASHINGTON UNIFORM BUSINESS IDENTIFIER (UBI) 035-000-971	DSHS INDEX NUMBER 1122	
CONTRACTOR CONTACT Sharon Paradis	CONTRACTOR TELEPHONE (509) 736-2722 Ext:	CONTRACTOR FAX (509) 222-2311	CONTRACTOR E-MAIL ADDRESS sharon.paradis@co.benton.wa.us

DSHS ADMINISTRATION	DSHS DIVISION	DSHS CONTRACT CODE
Juvenile Rehabilitation	Division of Operations Support Services	5002CS-63
DSHS CONTACT NAME AND TITLE Randy Sparks Capital Facilities Budget Administrator	DSHS CONTACT ADDRESS P.O. Box 45720 Olympia, WA 98504-5720	
DSHS CONTACT TELEPHONE (360) 902-8099 Ext:	DSHS CONTACT FAX (360) 902-8108	DSHS CONTACT E-MAIL ADDRESS sparkra@dshs.wa.gov
IS THE CONTRACTOR A SUBRECIPIENT FOR PURPOSES OF THIS CONTRACT? . es	CFDA NUMBERS 16.523	
AMENDMENT START DATE 9/1/2009	CONTRACT END DATE 8/31/2010	
PRIOR MAXIMUM CONTRACT AMOUNT $46,222.00	AMOUNT OF INCREASE OR DECREASE $-1,346.00	TOTAL MAXIMUM CONTRACT AMOUNT $44,876.00

REASON FOR AMENDMENT;
CHANGE OR CORRECT OTHER: SEE PAGE TWO

ATTACHMENTS. When the box below is marked with an X, the following Exhibits are attached and are incorporated into this Contract Amendment by reference:

☒ Additional Exhibits (specify): Exhibit F: FFY08 - JABG Annual Data Report

This Contract Amendment, including all Exhibits and other documents incorporated by reference, contains all of the terms and conditions agreed upon by the parties as changes to the original Contract. No other understandings or representations, oral or otherwise, regarding the subject matter of this Contract Amendment shall be deemed to exist or bind the parties. All other terms and conditions of the original Contract remain in full force and effect. The parties signing below warrant that they have read and understand this Contract Amendment, and have authority to enter into this Contract Amendment.

CONTRACTOR SIGNATURE	PRINTED NAME AND TITLE	DATE SIGNED
See attached signature page		
DSHS SIGNATURE	PRINTED NAME AND TITLE Del Hontanosas Grants & Contracts Manager	DATE SIGNED

NAMES AND TITLES OF AUTHORIZED OFFICER (PERSON WITH LEGAL AUTHORITY: COUNTY COMMISSIONERS' CHAIRMAN OF THE BOARD, MAYOR, CITY/TOWN MANAGER, AGENCY DIRECTOR)

BENTON-FRANKLIN COUNTIES JUVENILE JUSTICE CENTER

Sharon A Paradis 2/19/2010

Sharon A. Paradis, Juvenile Court Administrator

BENTON COUNTY APPROVAL

Approved as to Form:

2/18/10

Sarah Perry, Deputy Prosecuting Attorney Date

By: _____
Name: James Beaver
Title: Chairman, Board of Commissioners
Date: _____

Attest:

Clerk of the Board: _____

FRANKLIN COUNTY APPROVAL

Approved as to Form:

Agreed Review Performed by Benton County

Ryan Verhulp, Civil Deputy Prosecuting Attorney Date

By: _____
Name: Brad Peck
Title: Chairman, Board of Commissioners
Date: _____

Attest:

Clerk of the Board: _____

This Contract between the State of Washington Department of Social and Health Services (DSHS) and the ontractor is hereby amended as follows:

The purpose of this amendment is to replace amendment #: 0663-98393-03 due to an error in determining the JABG funding for Federal Fiscal Year (FFY) 2008.

1. In Section #6. Acknowledgement of Assistance, delete "Award No. 2005-JB-FX-0037" and replace with "Award No. 2008-JB-FX-0038".

2. In Section #20. Reports, add item (g):

   "The Contractor shall complete the JRA provided "FFY08 - JABG Annual Data Report", attached as Exhibit F: FFY08 – JABG Annual Data Report and incorporated herein by reference, and submit to the JABG Program Administrator identified on page one of this Agreement no later than May 15, 2010."

3. In Exhibit A – Statement of Work, #4. Contract Project Dates, is amended as follows:

   The project start date is September 1, 2009, with a duration of 12 months, ending on August 31, 2010.

   For the new grant period of September 1, 2009 through August 31, 2010, the maximum consideration is only $11,219 and the match amount is $1,247. No unspent funds from the previous grant period of September 1, 2008 through August 31, 2009 may be carried forward.

   The amended total maximum consideration for this contract that includes the past grant periods is $44,876.

All other terms and conditions of this Contract remain in full force and effect.

FFY08 - JABG Annual Data Report

Reporting Period: April 1, 2009 – March 31, 2010

JRA is required to report statistics each year on the JABG Grant. Please complete this data collection form to the extent possible for the reporting period referenced above. **Please mail, e-mail or fax this completed document to Randy Sparks at sparkra@dshs.wa.gov or (360) 902-8108 by May 15, 2010.**

Instructions:

A. Target Population for this Subgrant

Please check the appropriate boxes to indicate for this subgrant:

1. The population actually served during the reporting period; and
2. The populations, if any, to which the program offers targeted services.

Targeted services include any services or approaches specifically designed to meet the needs of the population (e.g., gender specific, culturally based, developmentally appropriate services).

B. Output/Outcome Performance Measures for this Subgrant

Please enter the appropriate value in each of the Reporting Format categories (e.g., A & B) and the percentage (C) will auto calculate for this subgrant.

A. Target Population for this Subgrant

	Population	1. Did you actually serve any of the following groups during the reporting period?	2. Did you offer targeted services for any of the following groups during the reporting period?
ETHNICITY	American Indian/Alaskan Native Asian Black/African American Hispanic or Latino (of any race) Native Hawaiian and Other Pacific Islander Other Race White/Caucasian Youth population not directly served	☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐	☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐
JUSTICE	At-Risk Population (no prior offense) First Time Offenders Repeat Offenders Sex Offenders Status Offenders Violent Offenders Youth population not directly served	☐ ☐ ☐ ☐ ☐ ☐ ☐	☐ ☐ ☐ ☐ ☐ ☐ ☐
GENDER	Male Female Youth population not directly served	☐ ☐ ☐	☐ ☐ ☐
AGE	Under 11 12 – 13 14 – 15 16 – 17 18 and over Youth population not directly served	☐ ☐ ☐ ☐ ☐ ☐	☐ ☐ ☐ ☐ ☐ ☐
GEO	Rural Suburban Tribal Urban Youth population not directly served	☐ ☐ ☐ ☐ ☐	☐ ☐ ☐ ☐ ☐
OTHER	Mental Health Pregnant Substance Abuse Truant/Dropout	☐ ☐ ☐ ☐	☐ ☐ ☐ ☐

B. Output/Outcome Performance Measures for this Subgrant

PA 11: Accountability-Based Programs (Mandatory Indicators are Bolded)

#	Output/Outcome Measure	Definition	Reporting Format	Value	Reporting Term
1	Number and percent of eligible youth served using graduated sanctions approaches	An unduplicated count of the number of youth served using a graduated sanctions approach by the program during the reporting period. Definition of the number of youth served for a reporting period is the number of program youth served during any part of the reporting period using a graduated sanctions approach. To calculate the percentage, divide the number above by the total number of youth served during the reporting period. Program records are the preferred data source.	A Number of youth admitted to graduated sanctions program B Number of youth admitted into any grantee program C Percent A/B		Output
1.	Number and percent of program youth completing program requirements	The number and percent of program youth who have successfully fulfilled all program obligations and requirements. Program obligations will vary by program, but should be a predefined list of requirements or obligations that clients must meet prior to program completion. Program records are the preferred data source. The total number of youth include those who exited successfully or unsuccessfully.	A Number of program youth who exited the program having completed program requirements B Number of youth who left the program C Percent A/B		Short Term Outcome
13	**Number and percent of program youth who reoffend**	The number and percent of program youth who were rearrested or seen at juvenile court for a new delinquent offense. Appropriate for any youth-serving program. Official records (police, juvenile court) are the preferred data source. (Short term if it occurs during or by the end of the program year. Long term if it occurs 6 months to 1 year after program completion/or program enters maintenance phase).	A Number of youth with a new offense B Number of youth in the program C Percent A/B		Short Term Outcome
14	**Number and percent of program youth who reoffend**	The number and percent of program youth who were rearrested or seen at juvenile court for a new delinquent offense. Appropriate for any youth-serving program. Official records (police, juvenile court) are the preferred data source. (Short term if it occurs during or by the end of the program year. Long term if it occurs 6 months to 1 year after program completion/or program enters maintenance phase).	A Number of youth with a new offense B Number of youth in the program C Percent A/B		Long Term Outcome

#	Output/Outcome Measure	Definition	Reporting Format	Value	Reporting Term
15a	**Substance use**	The number and percent of program youth who have exhibited a decrease in substance use during the reporting period. Self-report or staff rating are most likely data sources.	A Number of program youth participating in the program who have exhibited indicated change in behavior B Number of youth served during the reporting period C A/B		Short Term Outcome
15l	**Antisocial behavior**	The number and percent of youth who have exhibited a decrease in antisocial behavior during the reporting period. Self-report or staff ratings are the preferred data source.	A Number of program youth with the noted behavioral change during the reporting period B Number of youth in program during the reporting period C A/B		Short Term Outcome

AGENDA ITEM: Consent	TYPE OF ACTION NEEDED Executive Contract XX	Consent Agenda XX
MEETING DATE: B/C 03-01-10 F/C 03-10-10	Pass Resolution XX	Public Hearing
SUBJECT: Personal Services Agreement with Coffey Refrigeration	Pass Ordinance	1st Discussion
Prepared By: Donna A. Lee	Pass Motion	2nd Discussion
Reviewed By: Sharon Paradis	Other	Other

BACKGROUND INFORMATION

Coffey Refrigeration is an expert in their industry and can provide essential "as needed" kitchen equipment repair services for the Benton-Franklin Counties Juvenile Justice Center.

SUMMARY

Benton-Franklin Counties Juvenile Justice Center would like to contract with Coffey Refrigeration for "as needed" kitchen equipment repair services.

RECOMMENDATION

We recommend that the Boards of Commissioners of Benton and Franklin Counties sign the Personal Services Contract between Benton-Franklin Counties Juvenile Justice Center and Coffey Refrigeration for the period of January 01, 2010 through December 31, 2010.

FISCAL IMPACT

The budget amount is included in the Juvenile Facilities' budget.

MOTION

I move that the Boards of Commissioners of Benton and Franklin Counties sign the Personal Services Contract between Benton-Franklin Counties Juvenile Justice Center and Coffey Refrigeration, to provide "as needed" kitchen equipment repairs for the Juvenile Justice Center for the period of January 01, 2010 through December 31, 2010.

JOINT RESOLUTION

BENTON COUNTY RESOLUTION NO. _____

FRANKLIN COUNTY RESOLUTION NO. _____

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

IN THE MATTER OF THE REQUEST FOR SIGNATURE FROM THE CHAIRMAN OF THE BOARDS OF BENTON AND FRANKLIN COUNTY COMMISSIONERS ON THE PERSONAL SERVICES CONTRACT BETWEEN THE JUVENILE JUSTICE CENTER AND YODER, INC, DBA COFFEY REFRIGERATION, and

WHEREAS, Sharon A. Paradis, Administrator of the Juvenile Court, believes it is in the best interest of the Juvenile Justice Center that the Personal Services Contract between Yoder Inc., dba Coffey Refrigeration, and Benton-Franklin Counties Juvenile Justice Center be approved as presented for a term commencing January 01, 2010 and terminating on December 31, 2010, **NOW, THEREFORE**

BE IT RESOLVED, that the Chairman of the Board of Benton County Commissioners and the Chairman of the Board of Franklin County Commissioners be and they hereby are authorized to sign, on behalf of their respective county, the Personal Services Contract.

DATED this 1st day of March 2010
BENTON COUNTY BOARD OF COMMISSIONERS

_____
Chairman of the Board

_____
Member

_____
Member

Constituting the Board of
County Commissioners,
Benton County, Washington

Attest:

_____
Clerk of the Board

DATED this 10th day of March 2010
FRANKLIN COUNTY BOARD OF COMMISSIONERS

_____
Chairman of the Board

_____
Chairman Pro Tem

_____
Member

Constituting the Board of
County Commissioners,
Franklin County, Washington

Attest:

_____
Clerk of the Board

Originals (4): 1-BC Commissioners, 1-FC Commissioners, 1-Coffey, 1-Juvenile

PUBLIC WORKS CONTRACT
TERMS AND CONDITIONS

THIS CONTRACT is made and entered into by and between BENTON COUNTIES, a political subdivision, with its principal offices at 620 Market Street, Prosser, WA 99350 and Franklin COUNTIES, a political subdivision of the State of Washington, with its principal offices at 1016 North Fourth Avenue, Pasco, WA 99301, by and for the Benton-Franklin Counties Juvenile Justice Center, a bi-COUNTIES agency located at 5606 W. Canal Place STE 106, Kennewick, WA 99336 (hereinafter, collectively referred to as "COUNTIES"), and Yoder Inc., a Washington corporation, doing business as Coffey Refrigeration, with its principal offices at PO Box 6257, Kennewick, WA 99336, (hereinafter "CONTRACTOR").

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

1. CONTRACT DOCUMENTS

This Contract consists of these terms and conditions and the following documents

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

2. DURATION OF CONTRACT

The term of this Contract shall begin January 1, 2010 and shall expire on December 31, 2010. Price adjustments of this contract will only be effective with an executed amendment to this contract. The CONTRACTOR shall complete all work by the time(s) specified herein, or if no such time is otherwise specified, no later than the expiration date.

3. SERVICES PROVIDED

The CONTRACTOR agrees to provide "as needed" kitchen equipment repair services for the Benton-Franklin Counties Juvenile Justice Center location in accordance with the CONTRACTORS 2010 price list proposal attached hereto as Exhibit A. In the event that requested work encompasses work that is legally required to be completed by another type of contractor, CONTRACTOR shall inform COUNTIES of that fact and shall coordinate with COUNTIES to complete the work in conjunction with such other contractor. In the event that requested work requires, under State or local law,

RESOLUTION

M

BENTON COUNTY RESOLUTION NO._____
FRANKLIN COUNTY RESOLUTION NO. 2010-059

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

IN THE MATTER OF EXECUTING A CONTRACT, #BFSC1011JFB001, WITH ATTORNEY JAMES F BELL, TO PROVIDE INDIGENT DEFENSE SERVICES IN BENTON AND FRANKLIN COUNTY SUPERIOR COURTS TO PERSONS SUBJECT TO DETENTION PURSUANT TO THE INVOLUNTARY TREATMENT ACT, RCW CHAPTER 71.05.

WHEREAS, Benton and Franklin Counties ("Counties") are legally obligated to provide indigent defense services to persons subject to detention pursuant to the Involuntary Treatment Act ("ITA"), RCW Chapter 71.05;

WHEREAS, attorney James F Bell has previously provided these indigent defense services and continues to provide them to the satisfaction of the Counties;

WHEREAS, it therefore appears to be in the best interests of Benton & Franklin Counties to execute contract #BFSC1011JFB001 by which attorney James F Bell would continue providing indigent defense services for ITA cases under substantially the same terms and conditions as previously;

WHEREAS, the previously partially executed version of Contract BFSC1011JFB001, and accompanying bi-county resolution, Benton County Resolution No. 10-084, had a typographical error and had to be rescinded;

NOW THEREFORE, BE IT RESOLVED THAT the attached Contract, designated with the identifier: BFSC1011JFB001, be executed as presented and BE IT FURTHER RESOLVED THAT the bi-county resolution with Benton County Resolution No. 10-084, that has been executed only by the Benton County Board of Commissioners, be hereby rescinded.

Dated this ..... day of ....., 2010.

Chairman of the Board

Chairman Pro-Tem

Member

Constituting the Board of County Commissioners, Benton County Washington

Attest: .....
Clerk of the Board

ABSTAIN

Chairman of the Board

Chairman Pro-Tem

Member

Constituting the Board of County Commissioners, Franklin County Washington

Attest: .....
Clerk of the Board

cc: Original – OPD, James Bell
Copy –Franklin County, Auditor, Superior Court, Human Services, R Ozuna

n

R E S O L U T I O N

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY ROAD PURCHASES RE: E. R. & R. PURCHASE OF REFINED PETROLEUM PRODUCTS - BULK DIESEL FUEL FOR 2010

WHEREAS, it is the intention of the Board of County Commissioners to purchase for the County Road Department Refined Petroleum Products - Bulk Diesel Fuel; NOW, THEREFORE,

BE IT RESOLVED that the County Engineer is hereby authorized to schedule and advertise a bid date for the purchase of Refined Petroleum Products - Bulk Diesel Fuel.

Dated this 1st day of March, 2010.

_____
Chairman of the Board.

_____
Chairman Pro-Tem.

_____
Member.

Attest: _____
Clerk of the Board

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

SWB:LJM:slc

R E S O L U T I O N

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY ROAD PURCHASES RE: E. R. & R. PURCHASE TRAFFIC SIGN MATERIALS 2010

WHEREAS, by resolution dated February 8, 2010, bid call was authorized for ERR Purchase of Traffic Sign Materials; and

WHEREAS, bids were received as set forth in the attached tabulation; and

WHEREAS, the lowest bid was submitted by Zumar Industries, Inc., Tacoma, Washington; and

WHEREAS, the County Engineer recommends award of the contract to Zumar Industries, Inc.; NOW, THEREFORE,

BE IT RESOLVED that the business of supplying Benton County with Traffic Sign Materials be awarded to Zumar Industries, Inc., Tacoma, Washington, in the amount of $71,836.25, plus Washington State sales tax in the amount of $5,962.41; and

BE IT FURTHER RESOLVED that the County Engineer is hereby authorized to proceed with the purchase.

Dated this 1st day of March, 2010.

_____
Chairman of the Board.

_____
Chairman Pro-Tem.

_____
Member.

Attest: _____
Clerk of the Board

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

MJB:LJM:slc

PROJECT:	20[illegible] ERR PURCHASE - TRAFFIC SIGN MATERIALS					ZUMAR INDUSTRIES, INC.		CUSTOM PRODUCTS CORP		LYLE SIGNS, INC.		TRAFFIC SAFETY SUPPLY	
LOCATION:	L [illegible]N COUNTY					P[illegible] 14549		P O Box 54091		115 17th Street SW		COMPAN	
LET BY:	BOARD OF COUNTY COMMISSIONERS					Tacoma, WA 98444-0549		Jackson, MS 39288-4091		Jamestown, ND 58401		2324 SE Umatilla Street	
DATE:	February 18, 2010, 10:30 a.m., Local Time											Portland, OR 97202	
ITEM NO	QTY	TYPE	DESCRIPTION	SIZE	COLOR	UNIT PRICE	BID AMOUNT	UNIT PRICE	BID AMOUNT	UNIT PRICE	BID AMOUNT	UNIT PRICE	BID AMOUNT
Metal Traffic Signs													
1	125	R1-1	Stop	30" x 30"	W/R	23.00	2,875.00	25.66	3,207.50	30.00	3,750.00	30.10	3,762.50
2	50	R1-1	Stop	36" x 36"	W/R	33.00	1,650.00	36.95	1,847.50	45.00	2,250.00	43.15	2,157.50
3	125	R2-1	Speed Limit	24" x 30"	B/W	19.00	2,375.00	21.64	2,705.00	25.00	3,125.00	24.16	3,020.00
4	40	17-701**	Primitive Road	30" x 36"	B/W	28.00	1,120.00	31.63	1,265.20	38.00	1,520.00	36.10	1,444.00
		**Additional 1/2" rivet hole 20" up from bottom of all the 17-701 Primitive Road signs drilled											
5	20	W1-1R	Turn	30" x 30"	B/Y	24.00	480.00	26.36	527.20	31.00	620.00	30.10	602.00
6	20	W1-1L	Turn	30" x 30"	B/Y	24.00	480.00	26.36	527.20	31.00	620.00	30.10	602.00
7	20	W1-2R	Curve	30" x 30"	B/Y	24.00	480.00	26.36	527.20	31.00	620.00	30.10	602.00
8	20	W1-2L	Curve	30" x 30"	B/Y	24.00	480.00	26.36	527.20	31.00	620.00	30.10	602.00
9	10	W1-3L	Reverse Turn	30" x 30"	B/Y	24.00	240.00	26.36	263.60	31.00	310.00	30.10	301.00
10	30	W1-4R	Reverse Curve	30" x 30"	B/Y	24.00	720.00	26.36	790.80	31.00	930.00	30.10	903.00
11	20	W1-4L	Reverse Curve	30" x 30"	B/Y	24.00	480.00	26.36	527.20	31.00	620.00	30.10	602.00
12	25	W1-5R	Winding	30" x 30"	B/Y	24.00	600.00	26.36	659.00	31.00	775.00	30.10	752.50
13	70	W1-6	Arrow	48" x 24"	B/Y	30.00	2,100.00	33.74	2,361.80	40.00	2,800.00	50.00	3,500.00
14	70	W1-7	Double Arrow	48" x 24"	B/Y	30.00	2,100.00	33.74	2,361.80	40.00	2,800.00	50.00	3,500.00
15	50	W2-1	Cross Road	30" x 30"	B/Y	24.00	1,200.00	26.36	1,318.00	31.00	1,550.00	30.10	1,505.00
16	125	W2-2	Side Road	30" x 30"	B/Y	24.00	3,000.00	26.36	3,295.00	31.00	3,875.00	30.10	3,762.50
17	25	W2-3R	Side Rd Angle	30" x 30"	B/Y	24.00	600.00	26.36	659.00	31.00	775.00	30.10	752.50
18	25	W2-3L	Side Rd Angle	30" x 30"	B/Y	24.00	600.00	26.36	659.00	31.00	775.00	30.10	752.50
19	20	W2-4	T Intersection	30" x 30"	B/Y	24.00	480.00	26.36	527.20	31.00	620.00	30.10	602.00
20	10	W2-5	Y Intersection	30" x 30"	B/Y	24.00	240.00	26.36	263.60	31.00	310.00	30.10	301.00
21	30	W3-1A	Stop Ahead	30" x 30"	B/R/Y	24.00	720.00	32.43	972.90	31.00	930.00	31.58	947.40
22	10	W5-1	Road Narrows	30" x 30"	B/Y	24.00	240.00	26.36	263.60	31.00	310.00	30.10	301.00
23	50	W3-1A	Stop Ahead	36" x 36"	B/R/Y	35.00	1,750.00	46.33	2,316.50	45.00	2,250.00	43.15	2,157.50
24	15	W1-10R	Curve Intersection	30" x 30"	B/Y	24.00	360.00	26.36	395.40	31.00	465.00	30.10	451.50
25	15	W1-10L	Curve Intersection	30" x 30"	B/Y	24.00	360.00	26.36	395.40	31.00	465.00	30.10	451.50
26	15	W8-3A	Pavement Ends	30" x 30"	B/Y	24.00	360.00	26.36	395.40	31.00	465.00	30.10	451.50
27	30	W10-1	Advance RxR	36"	B/Y	35.00	1,050.00	37.77	1,133.10	45.00	1,350.00	43.15	1,294.50
28	40	W13-1	Speed Advisory	18" x 18"	B/Y	9.00	360.00	10.52	420.80	13.00	520.00	9.97	398.80
29	30	W14-1	Dead End	30" x 30"	B/Y	24.00	720.00	26.36	790.80	31.00	930.00	30.10	903.00
30	10	W13-401	For_Mile	24" x 18"	B/Y	12.00	120.00	13.04	130.40	15.00	150.00	14.66	146.60
31	10	Om-1	Object Marker	18" x 18"	Red	9.00	90.00	9.90	99.00	13.00	130.00	9.95	99.50
32	20	S3-1	School Bus	30" x 30"	B/YG	24.00	480.00	49.03	980.60	50.00	1,000.00	52.93	1,058.60
33	50	Om-3L	Object Marker	12" x 36"	B/Y	11.25	562.50	13.04	652.00	15.00	750.00	13.16	658.00
34	50	Om-3R	Object Marker	12" x 36"	B/Y	11.25	562.50	13.04	652.00	15.00	750.00	13.16	658.00
35	30	W1-8	Chevron	24" x 30"	B/Y	19.00	570.00	21.64	649.20	25.00	750.00	24.16	724.80
36	5	R11-4	Road Closed To Thru Traffic	60" x 30"	B/W	48.00	240.00	52.34	261.70	62.50	312.50	78.04	390.20
37	20	W20-1	Road Works Ahead	36" x 36"	B/O	33.00	660.00	37.77	755.40	45.00	900.00	43.15	863.00
38	20	W8-7	Loose Gravel	30" x 30"	B/O	24.00	480.00	26.36	527.20	31.00	620.00	30.10	602.00
39	20	W13-1	Speed Advisory	24" x 24"	B/O	15.00	300.00	17.37	347.40	20.00	400.00	19.40	388.00
40	10	M4-9L	Detour with Arrow	30" x 24"	B/O	19.00	190.00	21.64	216.40	25.00	250.00	24.16	241.60
41	10	M4-9R	Detour with Arrow	30" x 24"	B/O	19.00	190.00	21.64	216.40	25.00	250.00	24.16	241.60
42	10	M4-10L	Detour with Arrow	48" x 18"	B/O	23.00	230.00	25.30	253.00	30.00	300.00	37.62	376.20
43	10	M4-10R	Detour with Arrow	48" x 18"	B/O	23.00	230.00	25.30	253.00	30.00	300.00	37.62	376.20
44	10	G20-2A	End of Road Work	36" x 18"	B/O	17.00	170.00	19.53	195.30	23.00	230.00	21.79	217.90
45	20	W21-1701	Motorcycles Use Caution	36" x 36"	B/O	33.00	660.00	37.77	755.40	45.00	900.00	43.15	863.00
46	20	W21-2	Fresh Oil	36" x 36"	B/O	33.00	660.00	37.77	755.40	45.00	900.00	43.15	863.00
47	10	W8-8	Rough Road	36" x 36"	B/O	33.00	330.00	37.77	377.70	45.00	450.00	43.15	431.50
48	20	W20-2	Detour Ahead	36" x 36"	B/O	33.00	660.00	37.77	755.40	45.00	900.00	43.15	863.00
49	20	W20-3	Road Closed Ahead	36" x 36"	B/O	33.00	660.00	37.77	755.40	45.00	900.00	43.15	863.00

P

Exhibit "B"

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AN INTERLOCAL COOPERATIVE AGREEMENT BETWEEN THE KENNEWICK IRRIGATION DISTRICT AND BENTON COUNTY

WHEREAS, Benton County and the Kennewick Irrigation District (KID) desire to enter into an Interlocal Cooperative Agreement, and

WHEREAS, an Interlocal Cooperative Agreement allowing KID to obtain quarry rock from Owens Quarry R-87 has been prepared and has been Approved as to Form by the Prosecuting Attorney's Office and has been approved by the Kennewick Irrigation District, and

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

BE IT RESOLVED that the Interlocal Cooperative Agreement by and between the Kennewick Irrigation District and Benton County is hereby approved and the Chairman is authorized to sign said agreement.

Dated this 1st day March 2010.

_____
Chairman

_____
Chairman Pro-Tem

_____
Member

Attest:_____
Clerk of the Board

Constituting the Board of County Commissioners of Benton County, Washington

SWB

INTERLOCAL COOPERATIVE PURCHASING AGREEMENT

THIS AGREEMENT is made and entered into this _____ day of _____, by and between the Kennewick Irrigation District, whose address is P.O. Box 6900; Kennewick, Washington 99336 (hereinafter "KID") and Benton County, whose address is P.O. Box 1001, Prosser, Washington, 99350 (hereinafter "Benton County").

WHEREAS, The Interlocal Cooperation Act, as amended and codified in Chapter 39.34 of the Revised Code of Washington provides for interlocal cooperation between governmental agencies; and

WHEREAS, Chapter 39.33 of the Revised Code of Washington provides for the intergovernmental disposition of property, and

WHEREAS, the County owns and controls a certain quarry, commonly referred to as the Owens Quarry R-87, in Benton County, and KID has control and operation of certain irrigation facilities located in Benton County, and

WHEREAS, periodically KID requires quarry rock for the operation and maintenance of KID facilities and,

WHEREAS, KID is desirous of obtaining quarry rock and,

NOW, THEREFORE, the parties agree as follows:

1. **Purpose:** The purpose of this agreement is to set forth the terms by which KID may obtain quarry rock from the County.

2. **Administration:** No new or separate legal or administrative entity is created to administer the provision of this agreement. A joint board consisting of the KID Secretary Manager, or his designee, and County's County Administrator, or his designee, shall administer this agreement. All actions shall require the unanimous approval of the joint board.

3. **Scope:** This agreement is subject to the following:

    a. KID shall have the privilege of removing quarry rock from the Owens Quarry R-87 at times in the manner and in such quantity as is convenient to KID, provided such removal shall not interfere with County's operation and use of the quarry site.

    b. The parties agree that for the purposes of this agreement, the value of the quarry rock removed from the County pit by KID shall be $0.60 per cubic yard of material.

KID agrees to maintain an accurate record of the rock, which it removes. During the first week of January each year, KID shall provide the County with a report of the quantity of rock removed. Payment for the rock shall be paid by January 31 of each year.

4. **Duration Of Agreement - Termination:** This agreement shall remain in force until December 31, 2013. By mutual agreement, this agreement may be extended. To extend the agreement, both parties must sign an addendum to the original agreement acknowledging any changes to the original agreement and the new date of termination. Either party may terminate the agreement by serving written notice of termination on the other party sixty days (60) prior to the date of termination.

5. **Compliance With Legal Requirements:** Each party shall comply with federal, state and local laws and regulations.

6. **Filing:** Executed copies of this agreement shall be filed as required by RCW 39.34.040 prior to this agreement becoming effective.

7. **Non-Delegation/Non-Assignment:** Neither party may delegate the performance of any contractual obligation to a third party unless mutually agreed in writing. Neither party may assign this agreement without the written consent of the other party, which consent shall not be unreasonably withheld.

8. **No Third-Party Rights.** Except as expressly provided herein, nothing in this Agreement shall be construed to permit anyone other than the parties hereto and their successors and assigns to rely upon the covenants and agreements herein not to give any such third party a cause of action (as a third-party beneficiary or otherwise) on account of nonperformance hereunder.

9. **Hold Harmless:** Each party shall be liable and responsible for the consequences of any negligent or wrongful act or failure to act or failure to act on the part of itself and its employees. Neither party assumes responsibility to the other party for the consequences of any act or admission of any person, firm or corporation not a party to this agreement.

10. **Partial Invalidity.** Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law. Any provisions of this Agreement, which shall prove to be invalid, void, or illegal shall in no way affect, impair, or invalidate any other provisions herein, and such other provisions shall remain in full force and effect.

11. **Entire Agreement.** This Agreement and any amendments thereto mutually agreed to by the parties, constitutes the entire Agreement between the parties hereto and no other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or bind any of the parties. Either party may request changes to the Agreement. Proposed changes that are mutually agreed upon shall be incorporated by written amendment hereto.

12. **Dispute Resolution.** It is the parties' intent to resolve any disputes relating to the interpretation or application of this Agreement informally through discussions at the staff level. In the event disputes cannot be resolved informally at the staff level, then the parties agree to first submit the dispute to non-binding mediation/dispute resolution before resorting to litigation.

13. **Litigation.** In the event that any suit or action is instituted by either party to enforce compliance with or interpret any of the terms, covenants, or conditions of this Agreement, the prevailing party shall be entitled to collect, in addition to necessary court costs, such sums as the court may adjudge as reasonable attorney fees. The venue for any action to enforce or interpret this Agreement shall lie in the Superior Court for Benton County, Washington.

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

To Benton County:	Steve Becken, Public Works Manager Benton County Public Works P.O. Box 1001 Prosser, WA 99350-0954
To Kennewick Irrigation District	Charles Freeman, Secretary Manager Kennewick Irrigation District P.O. Box 6900 Kennewick, WA 99336

15. **Evidence of Authority.** Upon execution of this Agreement, the Kennewick Irrigation District shall provide Benton County and Benton County shall provide the Kennewick Irrigation District with a certified copy of the resolution, ordinance, or other authority given to execute this Agreement pursuant to RCW 39.34.030(2), and said document will be attached hereto and incorporated herein as **Exhibit "A"** (KID) and **Exhibit "B"** (County).

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

KENNEWICK IRRIGATION DISTRICT

By: Charles Freeman

Attest:

Doris Fridley
Executive Secretary

Date: 2-16-2010

Approved as to form:

Attorney for Kennewick Irrigation District

Date: 2/16/10

BENTON COUNTY, WASHINGTON

By: _____
Chairman, Board of County Commissioners

Attest:

_____
Clerk of the Board

Date: _____

Approved as to form:

Benton County Prosecuting Attorney

Date: 2/24/10

PLEASE RETURN TO:
DORIS FISKE, EXECUTIVE ASSISTANT
KENNEWICK IRRIGATION DISTRICT
12 W. KENNEWICK AVE.
KENNEWICK, WA 99336

KENNEWICK IRRIGATION DISTRICT
RESOLUTION 2010-06

Exhibit "A"

RESOLUTION

IN THE MATTER OF AN INTERLOCAL COOPERATIVE AGREEMENT BETWEEN THE KENNEWICK IRRIGATION DISTRICT AND BENTON COUNTY

WHEREAS, Kennewick Irrigation District (KID) and Benton County desire to enter into an Interlocal Cooperative Agreement; and

WHEREAS, an Interlocal Cooperative Agreement allowing KID to obtain quarry rock from Owens Quarry R-87 has been prepared and has been Approved as to Form by the Prosecuting Attorney's Office of Benton County; and

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

BE IT RESOLVED that the Interlocal Cooperative Agreement by and between the Kennewick Irrigation District and Benton County is hereby approved and the Secretary/District Manager is authorized to sign said agreement.

RESOLUTION 2010-06 IS HEREBY ADOPTED by the Board of Directors of Kennewick Irrigation District, Benton County, Washington, at a regular open public meeting thereof this 16th day of February 2010.

John Jaksch, President

Gene Huffman, Vice President

Patrick McGuire, Director

David McKenzie, Director

John C. Pringle, Director

8

RESOLUTION NO._____

County Engineer Project No. 1918 REIMB
Arterial Access x

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON
IN THE MATTER OF COUNTY ROADS, RE: WISER PARKWAY AT BNSF RAILROAD

IT IS HEREBY RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, that the County Engineer is hereby authorized to proceed with the improvement of Wiser Parkway at BNSF Railroad according to the contract awarded to Big D's Construction of Tri-Cities, LLC., Pasco, Washington, on February 8, 2010.

Length of Project: 0.076± miles; Width of Roadbed: 40.0 ft.; Surface: 33 ft.; Pavement: 32 ft.
Type and depth of surfacing: Hot Mixed Asphalt (HMA Class 1/2 inch PG 70-28) .
Bridge ___Irrigation Crossing: Length ____ ft.; Width ____ ft.
Estimated date of beginning: March 1, 2010 ; Estimated date of completion: May 31, 2010.

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

	County Road	Reimbursable from Vitrification Impact Fund	Kennewick School Dist Share costs up to $100,000	Total
Prel. Engr.		20,000.00		20,000.00
Right-of-Way		118,000.00		118,000.00
Mat. from Stkple				0.00
BNSF Crossing		277,752.00	100,000.00	377,752.00
Contract		197,828.50		197,828.50
Const. Engr.		15,000.00		15,000.00
Contingencies		7,519.50		7,519.50
Total	0.00	636,100.00	100,000.00	736,100.00

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

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

ADOPTED this 1st day of March, 2010.

_____
Chairman

(SEAL)

_____
Chairman Pro-Tem

Attest:

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

_____
Clerk of the Board

SWB:LJM:slc

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY ROADS, RE: WISER PARKWAY RAILROAD CROSSING, CE 1918 CRP

WHEREAS, Benton County is proposing the construction of Wiser Parkway crossing the Burlington Northern Santa Fe (BNSF) Railroad tracks, and

WHEREAS, prior to any construction work taking place within the BNSF right of way, the County must obtain a "Grade Crossing Construction and Maintenance Agreement" from BNSF and must submit a payment in the amount of $118,000.00 for a permanent easement and a temporary construction easement, and

WHEREAS, said agreement has been presented to the County by BNSF for signature and has been approved as to form by the Prosecuting Attorney's Office, NOW, THREFORE,

BE IT RESOLVED that the Chairman of the Board of County Commissioners be authorized to sign said agreement on behalf of Benton County.

BE IT FURTHER RESOLVED that the agreement and a payment of $118,000.00 be forwarded to BNSF for final approval.

Dated this 1st day of March 2010.

_____
Chairman

_____
Chairman Pro-Tem

_____
Member

Attest:_____
Clerk of the Board

Constituting the Board of County Commissioners of Benton County, Washington

SWB

GRADE CROSSING CONSTRUCTION AND MAINTENANCE AGREEMENT

Wiser Parkway
U.S. D.O.T. No. 932567D
Yakima Valley Subdivision
Railroad Line Segment 48
Railroad Milepost 11.33

This Agreement **("Agreement")**, is executed to be effective as of this _____ day of _____, 20___ **("Effective Date")**, by and between BNSF RAILWAY COMPANY, a Delaware corporation **("BNSF")**, and the COUNTY OF BENTON, a political subdivision of the State of Washington **("Agency")**.

RECITALS:

WHEREAS, BNSF owns and operates a line of railroad in and through the County of Benton, State of Washington;

WHEREAS, in the interest of aiding vehicular travel and public safety, the Agency is undertaking a project to create the new Wiser Parkway at-grade crossing, located at BNSF Line Segment 48 and Milepost 11.33, and designated by the new D.O.T. No. 932567D, by constructing a 2-lane roadway and installing railroad crossing signals and activation equipment within a new roadway easement across the BNSF right-of-way as indicated on the Exhibit A, attached hereto and incorporated herein; and

WHEREAS, the parties agree that the RAILROAD will receive no ascertainable benefit from the installation of advance warning signs, pavement marking stop bars or crossing signal equipment (hereinafter collectively called, "Crossing Signal Equipment"); and

WHEREAS, the Agency also desires BNSF to install a new crossing surface at Wiser Parkway with a new concrete and rubber crossing surface;

WHEREAS, the Agency is paying for the acquisition and installation of crossing signal equipment and the new crossing surface at Wiser Parkway; and

WHEREAS, the BNSF agrees to purchase and install, at AGENCY'S sole expense, the crossing signal equipment and the new crossing surface described in the scope of work herein, and upon the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE I – SCOPE OF WORK

1. The term **"Project"** as used herein includes any and all work related to the construction of Wiser Parkway by Agency and installation of crossing signals, activation equipment & new crossing surface at U.S. D.O.T No. 932567D, (hereinafter referred to as the **"Crossing"**) by BNSF, more particularly described on the Exhibit A, including, but not limited to, any and all changes to telephone, telegraph, signal and electrical lines and appurtenances, temporary and permanent track work, fencing, grading, alterations to or new construction of drainage facilities, preliminary and construction engineering and contract preparation.

ARTICLE II – BNSF OBLIGATIONS

In consideration of the covenants of Agency set forth herein and the faithful performance thereof, BNSF agrees as follows:

1. In consideration of the faithful performance of the Agency's covenants contained herein, BNSF hereby grants to Agency, its successors and assigns, upon and subject to the terms and conditions set forth in this Agreement, a temporary non-exclusive license (hereinafter called, "Temporary Construction License") to construct the Crossing across or upon the portion of BNSF's right-of-way described further on Exhibit A, attached hereto and incorporated herein, excepting and reserving BNSF's rights, and the rights of any others who have obtained, or may obtain, permission or authority from BNSF, to do the following:

(a) Operate, maintain, renew and/or relocate any and all existing railroad track or tracks, wires, pipelines and other facilities of like character upon, over or under the surface of said right-of-way;

(b) Construct, operate, maintain, renew and/or relocate upon said right-of-way, without limitation, such facilities as the BNSF may from time to time deem appropriate;

(c) Otherwise use or operate the right-of-way as BNSF may from time to time deem appropriate.

Prior to commencing any work on BNSF's property or right-of-way, Agency must pay BNSF the sum of Eighteen Thousand and No/100 Dollars ($18,000.00) as compensation for the Temporary Construction License. The term of the Temporary Construction License begins on the Effective Date and ends on the earlier of (i) substantial completion of the Project, or (ii) twelve (12) months following the Effective Date. The Temporary Construction License and related rights given by BNSF to Agency in this provision are without warranty of title of any kind, express or implied, and no covenant of warranty of title will be implied from the use of any word or words herein contained. The Temporary Construction License is for construction of the Crossing only and shall not be used by Agency for any other purpose. Agency acknowledges and agrees that Agency shall not have the right, under the Temporary Construction License, to use the Crossing. In the event Agency is evicted by anyone owning, or claiming title to or any interest in said right-of-way, BNSF will not be liable to Agency for any damages, losses or any expenses of any nature whatsoever. The granting of similar rights to others, subsequent to the date of this Agreement, will not impair or interfere with the rights granted to Agency herein.

Upon receiving the payment from Agency described in the subsequent sentence and provided Agency is in compliance with the terms and conditions of this Agreement, BNSF will grant to Agency, its successors and assigns, an easement (hereinafter called, the "Easement") to enter upon and use that portion of BNSF's right-of-way as is necessary to use and maintain the Crossing, substantially in the form of Exhibit B attached to this Agreement. Agency must pay BNSF the sum of One Hundred Thousand and No/100 Dollars ($100,000.00) as compensation for the Easement within thirty (30) days of issuing a Notice to Proceed pursuant to Article III, Section 8 of this Agreement. If Agency fails to pay BNSF within the thirty day time period set forth in the preceding sentence, BNSF may stop construction of the Project until full payment is received by BNSF.

2. BNSF will furnish all labor, materials, tools, and equipment for railroad work required for the construction of the Project, such railroad work and the estimated cost thereof being as shown on Exhibit D attached hereto and made a part hereof. In the event construction on the Project has not commenced within six (6) months following the Effective Date, BNSF may, in its sole and absolute discretion, revise the cost estimates set forth in said Exhibit D. In such event, the revised cost estimates will become a part of this Agreement as though originally set forth herein. Any item of work incidental to the items listed on Exhibit D not specifically mentioned therein may be included as a part of this Agreement upon written approval of Agency, which approval will not be unreasonably withheld. Construction of the Project must include the following railroad work by BNSF:

(a) Procurement of materials, equipment and supplies necessary for the railroad work;

(b) Preliminary engineering, design, and contract preparation;

(c) Furnishing of flagging services during construction of the Project as required and set forth in further detail on Exhibit C, attached to this Agreement and made a part hereof;

(d) Furnishing engineering and inspection as required in connection with the construction of the Project;

(e) Installation of one 32-foot concrete crossing surface for the one track complete with new rail, ties, ballast, fasteners, along with appropriate surfacing, to carry the improved roadway and shoulders;

(f) Installation of Crossing Signal Equipment and Crossing Signal Control House as shown on Exhibit A; and

(g) Make such changes in the alignment, location and elevation of its telephone, telegraph, signal and/or wire lines and appurtenances along, over or under the tracks, both temporary and permanent, as may become necessary by reason of the construction of the Project.

3. BNSF will do all railroad work set forth in Article II, Section 2 above on an actual cost basis, when BNSF, in its sole discretion, determines it is required by its labor agreements to perform such work with its own employees working under applicable collective bargaining agreements.

4. Agency agrees to reimburse BNSF for work of an emergency nature caused by Agency or Agency's contractor in connection with the Project which BNSF deems is reasonably necessary for the immediate restoration of railroad operations, or for the protection of persons or BNSF property. Such work may be performed by BNSF without prior approval of Agency and Agency agrees to fully reimburse BNSF for all such emergency work.

5. BNSF may charge Agency for insurance expenses, including self-insurance expenses, when such expenses cover the cost of Employer's Liability (including, without limitation, liability under the Federal Employer's Liability Act) in connection with the construction of the Project. Such charges will be considered part of the actual cost of the Project, regardless of the nature or amount of ultimate liability for injury, loss or death to BNSF's employees, if any.

6. During the construction of the Project, BNSF will send Agency progressive invoices detailing the costs of the railroad work performed by BNSF under this Agreement. Agency must reimburse BNSF for completed force-account work within thirty (30) days of the date of the invoice for such work. Upon completion of the Project, BNSF will send Agency a detailed invoice of final costs, segregated as to labor and materials for each item in the recapitulation shown on Exhibit D. Pursuant to this section and Article IV, Section 7 herein, Agency must pay the final invoice within ninety (90) days of the date of the final invoice. BNSF will assess a finance charge of .033% per day (12% per annum) on any unpaid sums or other charges due under this Agreement which are past its credit terms. The finance charge continues to accrue daily until the date payment is received by BNSF, not the date payment is made or the date postmarked on the payment. Finance charges will be assessed on delinquent sums and other charges as of the end of the month and will be reduced by amounts in dispute and any unposted payments received by the month's end. Finance charges will be noted on invoices sent to Agency under this section.

ARTICLE III – AGENCY OBLIGATIONS

In consideration of the covenants of BNSF set forth herein and the faithful performance thereof, Agency agrees as follows:

1. Agency must furnish to BNSF plans and specifications for the Project. Said plans (reduced size 11" x 17"), showing the plan and profile of the roadway work on BNSF right-of-way and marked as Exhibit A, attached hereto and made a part hereof, must be submitted to BNSF for the development of railroad cost estimates.

2. Agency must make any required application and obtain all required permits and approvals for the construction of the Project.

3. Agency must acquire all rights of way necessary for the construction of the Project.

4. Agency must make any and all arrangements for the installation or relocation of wire lines, pipe lines and other facilities owned by private persons, companies, corporations, political subdivisions or public utilities other than BNSF which may be necessary for the construction of the Project.

5. Agency must construct the Project as shown on the attached Exhibit A and do all work ("Agency's Work") provided for in the plans and specifications for the Project, except railroad work that will be performed by BNSF hereunder. Agency must furnish all labor, materials, tools and equipment for the performance of Agency's Work. The principal elements of Agency's Work are as follows:

(a) Design and Construction of Wiser Parkway;

(b) Installation of a pavement marking stop bar in accordance with the Manual on Uniform Traffic Control Devices (hereinafter called, "MUTCD");

(c) Installation of advance warning signs in accordance with the MUTCD;

(d) Perform all necessary grading and paving, including backfill of excavations and restoration of disturbed vegetation on BNSF's right-of-way;

(e) Provide suitable drainage, both temporary and permanent;

(f) Provide all barricades, lights, flagmen or traffic control devices necessary for preventing vehicular traffic from using the Crossing, during the installation of the concrete crossing surfaces, and also during the installation of the Crossing Signal Equipment.

(g) Construct asphalt/concrete roadway surface on approaches to each track. Roadway surface will match elevation of the Main Track crossing surface and remain level to a point at least thirty (30) feet from nearest rail. Any concrete headers will be constructed no closer than 5'-6" (preferably 6'-0") from centerline of each track to provide for a minimum of 11'-0" (preferably 12'-0") opening for track and railroad crossing surface;

(h) Provide and place six (6) to twelve (12) inch wide section of asphalt between roadway concrete headers and the new concrete crossing surface;

(i) Job site cleanup including removal of all construction materials, concrete debris, surplus soil, refuse, contaminated soils, asphalt debris, litter and other waste materials to the satisfaction of BNSF;

6. The Agency will approve the location of the signals and signal bungalow prior to the installation by BNSF.

7. The Agency must have advanced railroad crossing signs and standard pavement markings in place at the crossing shown on Exhibit A (if the same are required by the MUTCD) prior to the acceptance of this Project by the Agency.

8. The Agency must give BNSF's Manager Public Projects written notice to proceed (**"Notice to Proceed"**) with the railroad portion of the work after receipt of necessary funds for the Project. BNSF will not begin the railroad work (including, without limitation, procurement of supplies, equipment or materials) until written notice to proceed is received from Agency.

9. The Agency's Work must be performed by Agency or Agency's contractor in a manner that will not endanger or interfere with the safe and timely operations of BNSF and its facilities.

10. For any future inspection or maintenance, either routine or otherwise, performed by subcontractors on behalf of the Agency, Agency shall require the subcontractors to execute Exhibit C-1. Prior to performing any future maintenance with its own personnel, Agency shall: comply with all of BNSF's applicable safety rules and regulations; require any Agency employee performing maintenance to complete the safety training program at the BNSF's Internet Website "contractororientation.com"; notify BNSF when, pursuant to the requirements of Exhibit C, a flagger is required to be present; procure, and have approved by BNSF's Risk Management Department, Railroad Protective Liability insurance.

11. Agency must require its contractor(s) to notify BNSF's Roadmaster at least thirty (30) calendar days prior to requesting a BNSF flagman in accordance with the requirements of Exhibit C attached hereto. Additionally, Agency must require its contractor(s) to notify BNSF's Manager of Public Projects thirty (30) calendar days prior to commencing work on BNSF property or near BNSF tracks.

12. Agency must include the following provisions in any contract with its contractor(s) performing work on said Project:

(a) The Contractor is placed on notice that fiber optic, communication and other cable lines and systems (collectively, the "Lines") owned by various telecommunications companies may be buried on BNSF's property or right-of-way. The locations of these Lines have been included on the plans based on information from the telecommunications companies. The contractor will be responsible for contacting BNSF's Engineering Representative (Joe Schnell 360-418-6368) and/or the telecommunications companies and notifying them of any work that may damage these Lines or facilities and/or interfere with their service. The contractor must also mark all Lines shown on the plans or marked in the field in order to verify their locations. The contractor must also use all reasonable methods when working in the BNSF right-of-way or on BNSF property to determine if any other Lines (fiber optic, cable, communication or otherwise) may exist.

(b) Failure to mark or identify these Lines will be sufficient cause for BNSF's engineering representative (Joe Schnell) to stop construction at no cost to the Agency or BNSF until these items are completed.

(c) In addition to the liability terms contained elsewhere in this Agreement, the contractor hereby indemnifies, defends and holds harmless BNSF for, from and against all cost, liability, and expense whatsoever (including, without limitation, attorney's fees and court costs and expenses) arising out of or in any way contributed to by any act or omission of Contractor, its subcontractors, agents and/or employees that cause or in any way or degree contribute to (1) any damage to or destruction of any Lines by Contractor, and/or its subcontractors, agents and/or employees, on BNSF's property or within BNSF's right-of-way, (2) any injury to or death of any person employed by or on behalf of any telecommunications company, and/or its contractor, agents and/or employees, on BNSF's property or within BNSF's right-of-way, and/or (3) any claim or cause of action for alleged loss of profits or revenue by, or loss of service by a customer or user of such telecommunication company(ies). **THE LIABILITY ASSUMED BY CONTRACTOR WILL APPLY ONLY TO THE EXTENT OF THE NEGLIGENCE OF CONTRACTOR, ITS AGENTS OR EMPLOYEES, AND WILL NOT BE AFFECTED BY THE FACT, IF IT IS A FACT, THAT THE DAMAGE, DESTRUCTION, INJURY, DEATH, CAUSE OF ACTION OR CLAIM WAS OCCASIONED BY OR CONTRIBUTED TO BY THE NEGLIGENCE OF BNSF, ITS AGENTS, SERVANTS, EMPLOYEES OR OTHERWISE, EXCEPT TO THE EXTENT THAT SUCH CLAIMS ARE PROXIMATELY CAUSED BY THE INTENTIONAL MISCONDUCT OR SOLE NEGLIGENCE OF BNSF.**

It is mutually negotiated between the parties that the indemnification obligation shall include all claims brought by Contractor's employees against BNSF, its agents, servants, employees or otherwise, and Contractor expressly waives its

immunity under the industrial insurance act (RCW Title 51) and assumes potential liability for all actions brought by its employees.

(d) The Contractor will be responsible for the rearrangement of any facilities or Lines determined to interfere with the construction. The Contractor must cooperate fully with any telecommunications company(ies) in performing such rearrangements.

13. Agency must require compliance with the obligations set forth in this agreement, including Exhibit C and Exhibit C-1, and incorporate in each prime contract for construction of the Project, or the specifications therefor (i) the provisions set forth in Article III; (ii) the provisions set forth in Article IV; and (iii) the provisions set forth in Exhibit C and Exhibit C-1, attached hereto and by reference made a part hereof.

14. Except as otherwise provided below in this Section, all construction work performed hereunder by Agency for the Project will be pursuant to a contract or contracts to be let by Agency, and all such contracts must include the following:

(a) All work performed under such contract or contracts within the limits of BNSF's right-of-way must be performed in a good and workmanlike manner in accordance with plans and specifications approved by BNSF;

(b) Changes or modifications during construction that affect safety or BNSF operations must be subject to BNSF's approval;

(c) No work will be commenced within BNSF's right-of-way until each of the prime contractors employed in connection with said work must have (i) executed and delivered to BNSF a letter agreement in the form of Exhibit C-1, and (ii) delivered to and secured BNSF's approval of the required insurance;

(d) If it is in Agency's best interest, Agency may direct that the construction of the Project be done by day labor under the direction and control of Agency, or if at any time, in the opinion of Agency, the contractor has failed to prosecute with diligence the work specified in and by the terms of said contract, Agency may terminate its contract with the contractor and take control over the work and proceed to complete the same by day labor or by employing another contractor(s) provided; however, that any contractor(s) replacing the original contractor(s) must comply with the obligations in favor of BNSF set forth above and, provided further, that if such construction is performed by day labor, Agency will, at its expense, procure and maintain on behalf of BNSF the insurance required by Exhibit C-1; and

(e) To facilitate scheduling for the Project, Agency shall have its contractor give BNSF's Roadmaster four weeks advance notice of the proposed times and dates for work windows. BNSF and Agency's contractor will establish mutually agreeable work windows for the Project. BNSF has the right at any time to revise or change the work windows, due to train operations or service obligations. BNSF will not be responsible for any additional costs and expenses resulting from a change in work windows. Additional costs and expenses resulting from a change in work windows shall be accounted for in the contractor's expenses for the Project.

15. Agency must advise the appropriate BNSF Manager Public Projects, in writing, of the completion date of the Project within thirty (30) days after such completion date. Additionally, Agency must notify BNSF's Manager Public Projects, in writing, of the date on which Agency and/or its Contractor will meet with BNSF for the purpose of making final inspection of the Project.

16. **TO THE FULLEST EXTENT PERMITTED BY THE LAWS OF THE STATE OF WASHINGTON, AGENCY HEREBY RELEASES, INDEMNIFIES, DEFENDS AND HOLDS HARMLESS BNSF, ITS AFFILIATED COMPANIES, PARTNERS, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS FOR, FROM AND**

AGAINST ANY AND ALL CLAIMS, LIABILITIES, FINES, PENALTIES, COSTS, DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, DEMANDS, JUDGMENTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, COURT COSTS AND ATTORNEYS' FEES) OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON (INCLUDING, WITHOUT LIMITATION, THE EMPLOYEES OF THE PARTIES HERETO) OR ENTITY DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO (IN WHOLE OR IN PART) (I) THE USE, OCCUPANCY OR PRESENCE OF AGENCY, ITS CONTRACTORS, SUBCONTRACTORS, EMPLOYEES OR AGENTS IN, ON, OR ABOUT THE CONSTRUCTION SITE, (II) THE PERFORMANCE, OR FAILURE TO PERFORM BY THE AGENCY, ITS CONTRACTORS, SUBCONTRACTORS, EMPLOYEES, OR AGENTS, ITS WORK OR ANY OBLIGATION UNDER THIS AGREEMENT, (III) THE SOLE OR CONTRIBUTING ACTS OR OMISSIONS OF AGENCY, ITS CONTRACTORS, SUBCONTRACTORS, EMPLOYEES, OR AGENTS IN, ON, OR ABOUT THE CONSTRUCTION SITE, (IV) AGENCY'S BREACH OF THE TEMPORARY CONSTRUCTION LICENSE OR EASEMENT GRANTED TO AGENCY PURSUANT TO ARTICLE II OF THIS AGREEMENT, (V) ANY RIGHTS OR INTERESTS GRANTED TO AGENCY PURSUANT TO THE TEMPORARY CONSTRUCTION LICENSE OR EASEMENT DISCUSSED IN ARTICLE II OF THIS AGREEMENT, (VI) AGENCY'S OCCUPATION AND USE OF BNSF'S PROPERTY OR RIGHT-OF-WAY, INCLUDING, WITHOUT LIMITATION, SUBSEQUENT MAINTENANCE OF THE CROSSING BY AGENCY, OR (VII) AN ACT OR OMISSION OF AGENCY OR ITS OFFICERS, AGENTS, INVITEES, EMPLOYEES OR CONTRACTORS OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM, OR ANYONE THEY CONTROL OR EXERCISE CONTROL OVER. THE LIABILITY ASSUMED BY AGENCY WILL APPLY ONLY TO THE EXTENT OF THE NEGLIGENCE OF AGENCY, ITS AGENTS OR EMPLOYEES, AND THIS WILL NOT BE AFFECTED BY THE FACT, IF IT IS A FACT, THAT THE DAMAGE, DESTRUCTION, INJURY OR DEATH WAS OCCASIONED BY OR CONTRIBUTED TO BY THE NEGLIGENCE OF BNSF, ITS AGENTS, SERVANTS, EMPLOYEES OR OTHERWISE, EXCEPT TO THE EXTENT THAT SUCH CLAIMS ARE PROXIMATELY CAUSED BY THE INTENTIONAL MISCONDUCT OR SOLE NEGLIGENCE OF BNSF.

It is mutually negotiated between the parties that the indemnification obligation shall include all claims brought by Agency's employees against BNSF, its agents, servants, employees or otherwise, and Agency expressly waives its immunity under the industrial insurance act (RCW Title 51) and assumes potential liability for all actions brought by its employees.

ARTICLE IV – JOINT OBLIGATIONS

IN CONSIDERATION of the premises, the parties hereto mutually agree to the following:

1. All work contemplated in this Agreement must be performed in a good and workmanlike manner and each portion must be promptly commenced by the party obligated hereunder to perform the same and thereafter diligently prosecuted to conclusion in its logical order and sequence. Furthermore, any changes or modifications during construction which affect BNSF will be subject to BNSF's approval prior to the commencement of any such changes or modifications.

2. The work hereunder must be done in accordance with the Exhibit A and the detailed plans and specifications approved by BNSF.

3. Agency must require its contractor(s) to reasonably adhere to the Project's construction schedule for all Project work. The parties hereto mutually agree that BNSF's failure to complete the railroad work in accordance with the construction schedule due to inclement weather or unforeseen railroad emergencies will not constitute a breach of this Agreement by BNSF and will not subject BNSF to any liability. Regardless of the requirements of the construction schedule, BNSF reserves the right to reallocate the labor forces assigned to complete the railroad work in the event of an emergency to provide for the immediate restoration of railroad operations (BNSF or its related railroads) or to protect persons or property on or near any BNSF owned property. BNSF will not be liable for any additional costs or expenses resulting from any such reallocation of its labor forces. The parties mutually agree that any reallocation of labor forces by BNSF pursuant to this provision and any direct or indirect consequences or costs resulting from any such reallocation will not constitute a breach of this Agreement by BNSF.

4. BNSF will have the right to stop construction work on the Project if any of the following events take place: (i) Agency (or any of its contractors) performs the Project work in a manner contrary to the plans and specifications approved by BNSF; (ii) Agency (or any of its contractors), in BNSF's opinion, prosecutes the Project work in a manner which is hazardous to BNSF property, facilities or the safe and expeditious movement of railroad traffic; (iii) the insurance described in the attached Exhibit C-1 is canceled during the course of the Project; or (iv) Agency fails to pay BNSF for the Temporary Construction License or the Easement pursuant to Article II, Section 1 of this Agreement. The work stoppage will continue until all necessary actions are taken by Agency or its contractor to rectify the situation to the satisfaction of BNSF's Division Engineer or until additional insurance has been delivered to and accepted by BNSF. In the event of a breach of (i) this Agreement, (ii) the Temporary Construction License, or (iii) the Easement, BNSF may immediately terminate the Temporary Construction License or the Easement. Any such work stoppage under this provision will not give rise to any liability on the part of BNSF. BNSF's right to stop the work is in addition to any other rights BNSF may have including, but not limited to, actions or suits for damages or lost profits. In the event that BNSF desires to stop construction work on the Project, BNSF agrees to immediately notify the following individual in writing:

Steven W. Becken
Public Works Manager
Benton County Public Works
P.O. Box 1001
Prosser, WA 99350

5. Agency must supervise and inspect the operations of all Agency contractors to assure compliance with the plans and specifications approved by BNSF, the terms of this Agreement and all safety requirements of the BNSF railroad. If BNSF determines that proper supervision and inspection is not being performed by Agency personnel at any time during construction of the Project, BNSF has the right to stop construction (within or adjacent to its operating right-of-way). Construction of the Project will not proceed until Agency corrects the situation to BNSF's reasonable satisfaction. If BNSF feels the situation is not being corrected in an expeditious manner, BNSF will immediately notify Steven W. Becken for appropriate corrective action.

6. Pursuant to this section and Article II, Section 6 herein, Agency must, out of funds made available to it for the construction of the Project, reimburse BNSF in full for the **actual costs** of all work performed by BNSF under this Agreement.

7. All expenses detailed in statements sent to Agency pursuant to Article II, Section 6 herein will comply with the terms and provisions of the Federal Aid Highway Program Manual, U.S. Department of Transportation, as amended from time to time, which manual is hereby incorporated into and made a part of this Agreement by reference. The parties mutually agree that BNSF's preliminary engineering, design, and contract preparation costs described in Article II, Section 2 herein are part of the costs of the Project even though such work may have preceded the date of this Agreement.

8. The construction of the Project will not commence until Agency gives BNSF's Manager Public Projects thirty (30) days prior written notice of such commencement. The commencement notice will reference D.O.T. Crossing No. 932567D and must state the time that construction activities will begin.

9. In addition to the terms and conditions set forth elsewhere in this Agreement, BNSF and the Agency agree to the following terms upon completion of construction of the Project:

(a) Agency will own and be fully responsible for repairs, maintenance, future construction or reconstruction of the Wiser Parkway roadway.

(b) Agency will maintain the elevation of the Wiser Parkway roadway approaches to match the elevation on the railroad track crossing surfaces and to be no more than three (3) inches above or six (6) inches below top-of-rail elevation at a distance measured thirty (30) feet from the nearest rail.

(c) Agency will maintain the advanced railroad crossing warning signs and pavement markings and agrees to hold harmless and indemnify BNSF for any claims, damages or losses, in whole or in part, caused by or due to the Agency's failure to maintain the advanced warning signs and markings or other requirements of the MUTCD.

(d) Agency will do nothing and permit nothing to be done in the maintenance of the Wiser Parkway roadway, which will interfere with or endanger facilities of BNSF.

(e) It is expressly understood by Agency and BNSF that any right to install utilities will be governed by a separate permit or license agreement between the parties hereto.

(f) BNSF will operate and maintain the Crossing Signal Equipment, Crossing Signal House, and the new crossing surface in proper condition. Agency must reimburse BNSF for the costs of maintaining the Crossing Signal Equipment, Crossing Signal House, and the new crossing surface within thirty (30) days of the date of any invoice for such costs. In the event the Agency fails to reimburse BNSF pursuant to this provision, finance charges will be assed on any unpaid amounts pursuant to Article II, Section 6 above.

(g) If a railway or highway improvement project necessitates rearrangement, relocation, or alteration of the Crossing Signal Equipment, Crossing Signal House, or the new crossing surface installed hereunder, the costs for such rearrangement, relocation or alteration will be the responsibility of the party requesting such changes.

(h) If any of the Crossing Signal Equipment is partially or wholly destroyed, then such repair and/or replacement costs must be distributed among the parties as follows:

a) In the event the BNSF's sole negligence destroys or damages the Crossing Signal Equipment and/or the Crossing Signal House, BNSF must, at its sole cost and expense, replace or repair such Crossing Signal Equipment and/or Crossing Signal House.

b) In the event the Crossing Signal Equipment is damaged or destroyed by any other cause, Agency must reimburse BNSF for the costs to replace or repair such Crossing Signal Equipment and/or Crossing Signal House.

(i) If the Crossing Signal Equipment and/or Crossing Signal House installed hereunder cannot, through age, be maintained, or by virtue of its obsolescence, requires replacement, the cost of installation of the new crossing signal equipment and/or new crossing signal house will be paid by the Agency.

10. Agency must notify and obtain prior authorization from BNSF's Manager of Public Projects before entering BNSF's right-of-way for **Inspection and Maintenance** purposes and the BNSF Manager of Public Projects will determine if flagging is required. If the construction work hereunder is contracted, Agency must require its prime contractor(s) to comply with the obligations set forth in Exhibit C and Exhibit C-1, as the same may be revised from time to time. Agency will be responsible for its contractor(s) compliance with such obligations.

11. Any books, papers, records and accounts of the parties hereto relating to the work hereunder or the costs or expenses for labor and material connected with the construction will at all reasonable times be open to inspection and audit by the agents and authorized representatives of the parties hereto, as well as the State of Washington and the Federal Highway Administration, for a period of one (1) year from the date of the final BNSF invoice under this Agreement.

12. The covenants and provisions of this Agreement are binding upon and inure to the benefit of the successors and assigns of the parties hereto. Notwithstanding the preceding sentence, neither party hereto may assign any of its rights or obligations hereunder without the prior written consent of the other party.

13. In the event construction of the Project does not commence within 12 months of the Effective Date, this Agreement will become null and void.

14. Neither termination nor expiration of this Agreement will release either party from any liability or obligation under this Agreement, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination or expiration.

15. To the maximum extent possible, each provision of this Agreement will be interpreted in such a manner as to be effective and valid under applicable law. If any provision of this Agreement is prohibited by, or held to be invalid under, applicable law, such provision will be ineffective solely to the extent of such prohibition or invalidity and the remainder of the provision will be enforceable.

16. This Agreement (including exhibits and other documents, manuals, etc. incorporated herein) is the full and complete agreement between BNSF and Agency with respect to the subject matter herein and supersedes any and all other prior agreements between the parties hereto.

17. Any notice provided for herein or concerning this Agreement must be in writing and will be deemed sufficiently given when sent by certified mail, return receipt requested, to the parties at the following addresses:

BNSF Railway Company:	BNSF's Manager Public Projects 2454 Occidental Ave S Suite 1A Seattle, WA 98134
Agency:	Benton County Public Works P.O. Box 1001 Prosser, WA 99350

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and attested by its duly qualified and authorized officials as of the day and year first above written.

BNSF RAILWAY COMPANY

By: _____

Printed Name: _____

Title: _____

AGENCY

COUNTY OF BENTON

By: _____

Printed Name: _____

Title: _____

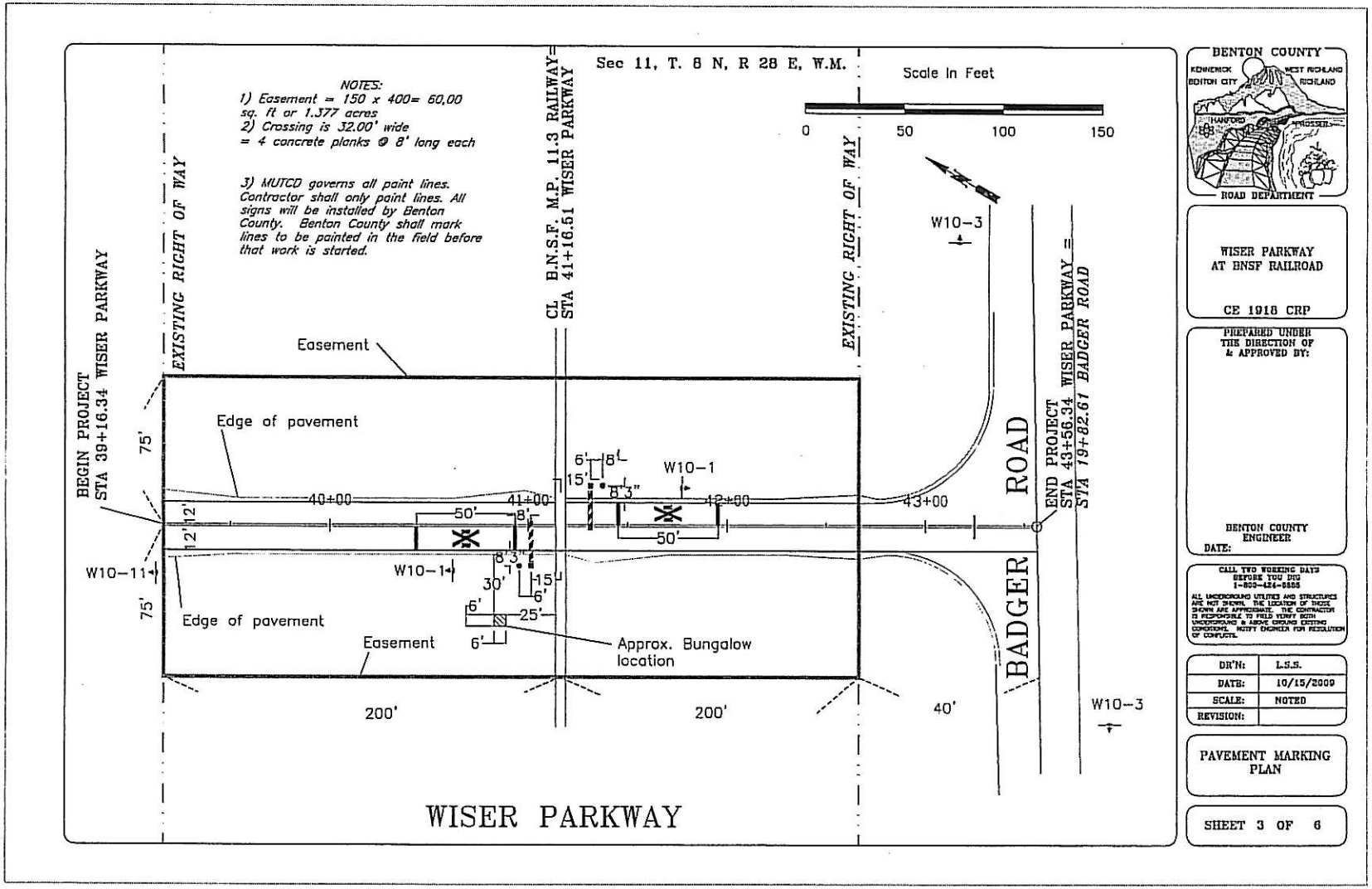
Approved as to Form:

By: _____

Printed Name: Jonathan Young

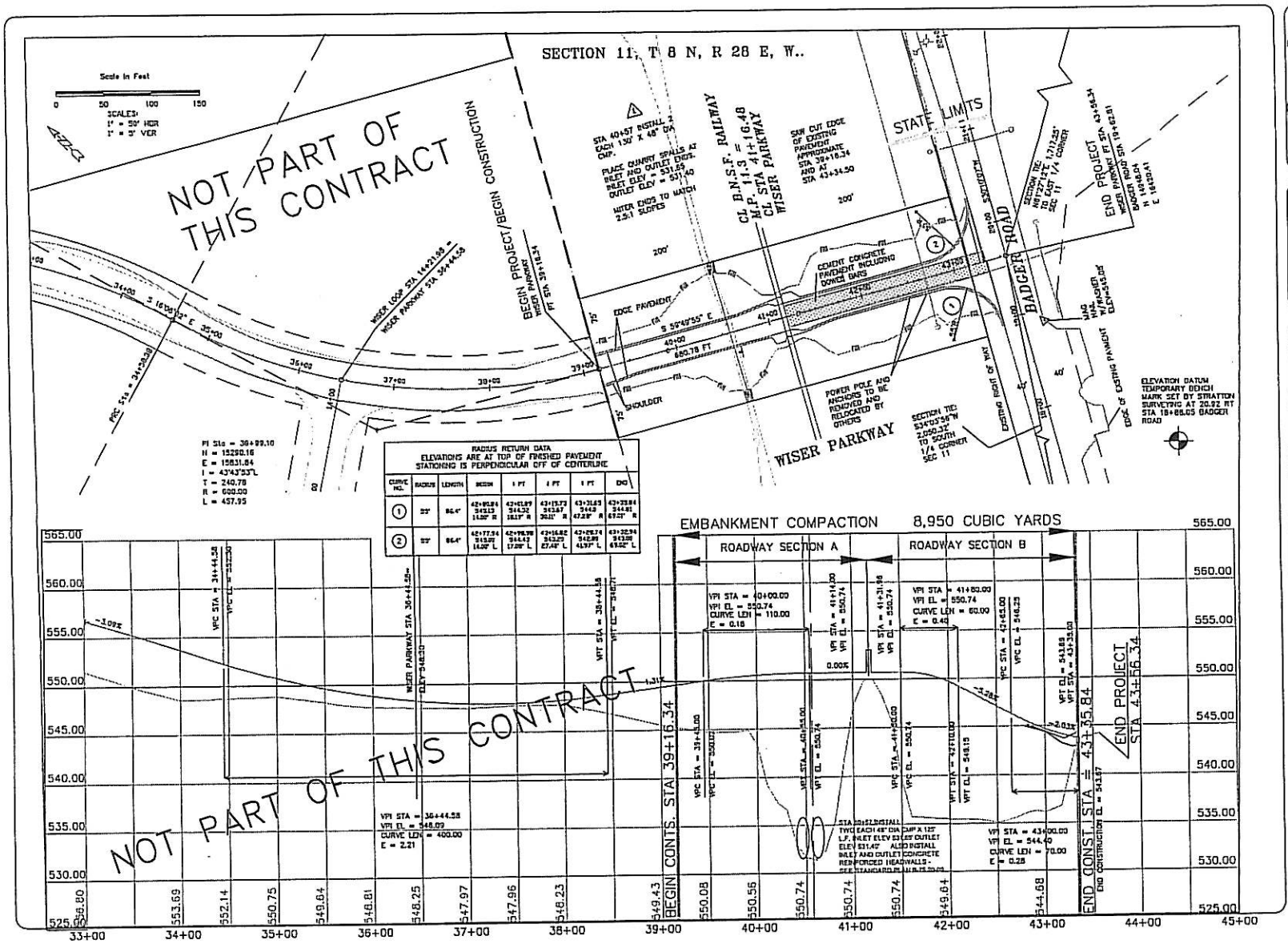
Title: Civil Deputy Prosecutor

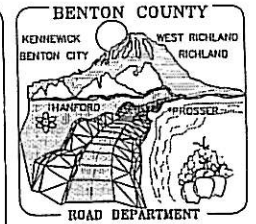
Exhibit "A"



Sec 11, T. 8 N, R 28 E, W.M.
Scale In Feet
0
50
100
150
NOTES:
1) Easement = 150 x 400= 60,00 sq. ft or 1.377 acres
2) Crossing is 32.00' wide = 4 concrete planks @ 8' long each
3) MUTCD governs all paint lines. Contractor shall only paint lines. All signs will be installed by Benton County. Benton County shall mark lines to be painted in the field before that work is started.
BEGIN PROJECT STA 39+16.34 WISER PARKWAY
EXISTING RIGHT OF WAY
CL B.N.S.F. M.P. 11.3 RAILWAY= STA 41+16.51 WISER PARKWAY
EXISTING RIGHT OF WAY
END PROJECT STA 43+56.34 WISER PARKWAY = STA 19+82.61 BADGER ROAD
BADGER ROAD
W10-3
W10-1
W10-11
Easement
Edge of pavement
Edge of pavement
Easement
Approx. Bungalow location
40+00
41+00
42+00
43+00
75'
75'
12'
12'
50'
50'
30'
25'
6'
15'
8'
8'3"
200'
200'
40'
WISER PARKWAY
BENTON COUNTY
KENNEWICK
BENTON CITY
WEST RICHLAND
RICHLAND
HANFORD
PROSSER
ROAD DEPARTMENT
WISER PARKWAY AT BNSF RAILROAD
CE 1918 CRP
PREPARED UNDER THE DIRECTION OF & APPROVED BY:
BENTON COUNTY ENGINEER
DATE:
CALL TWO WORKING DAYS BEFORE YOU DIG 1-800-424-5555
ALL UNDERGROUND UTILITIES AND STRUCTURES ARE NOT SHOWN. THE LOCATION OF THOSE SHOWN ARE APPROXIMATE. THE CONTRACTOR IS RESPONSIBLE TO FIELD VERIFY BOTH UNDERGROUND & ABOVE GROUND EXISTING CONDITIONS. NOTIFY ENGINEER FOR RESOLUTION OF CONFLICTS.
DR'N: L.S.S.
DATE: 10/15/2009
SCALE: NOTED
REVISION:
PAVEMENT MARKING PLAN
SHEET 3 OF 6

Exhibit "A"





WISER PARKWAY
BNSF RR CROSSING

CE 1918 CRP

PREPARED UNDER THE DIRECTION OF & APPROVED BY:

EXPIRES

BENTON COUNTY ENGINEER

DATE:

CALL TWO WORKING DAYS BEFORE YOU DIG 1-800-424-5555

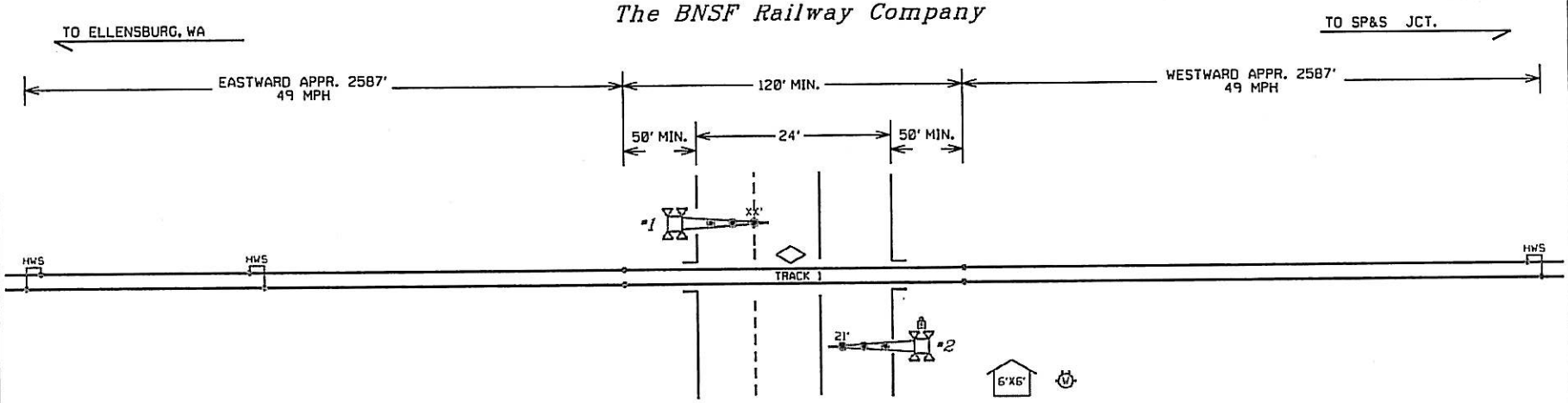
ALL UNDERGROUND UTILITIES AND STRUCTURES ARE NOT SHOWN. THE LOCATION OF THOSE SHOWN ARE APPROXIMATE. THE CONTRACTOR IS RESPONSIBLE TO FIELD VERIFY BOTH UNDERGROUND & ABOVE GROUND EXISTING CONDITIONS. NOTIFY ENGINEER FOR RESOLUTION OF CONFLICTS.

DR'N:	LSS
DATE:	11/12/2009
SCALE:	SEE BAR SCALE
REVISIONS:	

PLAN & PROFILE

SHEET 4 OF 6

The BNSF Railway Company



WISER PKWY
DOT # XXX XXX X

Exhibit "A"

INSTALL: GATES & FLASHERS

CONTROL DEVICES: NONE

BOLD = IN

~~SLASH~~ - OUT

SALVAGE: NONE

	INSTRUMENT HOUSE
	BELL
	METER
•	CROSSING CONTROLL CONNECTIONS
	BIDIRECTIONAL CROSSING CONTROL
	UNIDIRECTIONAL CROSSING CONTROL
	COUPLER OR TERMINATION
	GUARD RAIL

Warning device placement:
Clearance to C.L. Track = Min. 12'
Edge of Road to C.L. Foundation:
Min. 4'3" with curb.
Min. 8'3" without curb.
Max. 12'
House Clearance: 25' Min. to Near Rail
30' Min. to Edge of Road
ALL LIGHTS TO BE LED

BNSF RAILWAY CO.
(LOCATION) KENNEWICK, WA
(STREET) WISER PARKWAY
LS: 0048
M.P. 11.32
DOT # XXX XXX X
DIVISION: NORTHWEST
SUBDIVISION: YAKIMA VALLEY
KANSAS CITY
NO SCALE
DATE: 12/11/2009
FILE: 0048011_32.dgn
DDF/DDF

0048011_32.dgn 12/18/2009 12:46:23 PM

EXHIBIT "B"

EASEMENT AGREEMENT

FOR WISER PARKWAY

(C&M Agreement)

THIS EASEMENT AGREEMENT FOR WISER PARKWAY ("**Easement Agreement**") is made and entered into as of the ____ day of _____ 20___ ("**Effective Date**"), by and between BNSF RAILWAY COMPANY, a Delaware corporation ("**Grantor**"), and the COUNTY OF BENTON, a political subdivision of the State of Washington ("**Grantee**").

A. Grantor owns or controls certain real property situated at or near the vicinity of Kennewick, County of Benton, State of Washington, at Mile Post 11.33, [Project # 932567D], as described or depicted on **Exhibit "A"** attached hereto and made a part hereof (the "**Premises**").

B. Grantor and Grantee have entered into that certain Construction and Maintenance Agreement dated as of _____ concerning improvements on or near the Premises (the "**C&M Agreement**").

C. Grantee has requested that Grantor grant to Grantee an easement over the Premises for the Easement Purpose (as defined below).

D. Grantor has agreed to grant Grantee such easement, subject to the terms and conditions set forth in this Easement Agreement.

NOW, THEREFORE, for and in consideration of the foregoing recitals which are incorporated herein, the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

Section 1 Granting of Easement.

1.1 Easement Purpose. The "**Easement Purpose**" shall be for the purposes set forth in the C&M Agreement. Any improvements to be constructed in connection with the Easement Purpose are referred to herein as "**Improvements**" and shall be constructed, located, configured and maintained by Grantee in strict accordance with the terms of this Easement Agreement and the C&M Agreement.

1.2 Grant. Grantor does hereby grant unto Grantee a non-exclusive easement ("**Easement**") over the Premises for the Easement Purpose and for no other purpose. The Easement is granted subject to any and all restrictions, covenants, easements, licenses, permits, leases and other encumbrances of whatsoever nature whether or not of record, if any, relating to the Premises and subject to all with all applicable federal, state and local laws, regulations, ordinances, restrictions, covenants and court or administrative decisions and orders, including Environmental Laws (defined below) and zoning laws (collectively, "**Laws**"),. Grantor may not make any alterations or improvements or perform any maintenance or repair activities within the Premises except in accordance with the terms and conditions of the C&M Agreement.

1.3 Reservations by Grantor. Grantor excepts and reserves the right, to be exercised by Grantor and any other parties who may obtain written permission or authority from Grantor:

(a) to install, construct, maintain, renew, repair, replace, use, operate, change, modify and relocate any existing pipe, power, communication, cable, or utility lines and appurtenances and other facilities or structures of like character (collectively, "Lines") upon, over, under or across the Premises;

(b) to install, construct, maintain, renew, repair, replace, use, operate, change, modify and relocate any tracks or additional facilities or structures upon, over, under or across the Premises; and

(c) to use the Premises in any manner as the Grantor in its sole discretion deems appropriate, provided Grantor uses all commercially reasonable efforts to avoid material interference with the use of the Premises by Grantee for the Easement Purpose.

Section 2 **Term of Easement**. The term of the Easement, unless sooner terminated under provisions of this Easement Agreement, shall be perpetual.

Section 3 **No Warranty of Any Conditions of the Premises.** Grantee acknowledges that Grantor has made no representation whatsoever to Grantee concerning the state or condition of the Premises, or any personal property located thereon, or the nature or extent of Grantor's ownership interest in the Premises. Grantee has not relied on any statement or declaration of Grantor, oral or in writing, as an inducement to entering into this Easement Agreement, other than as set forth herein. GRANTOR HEREBY DISCLAIMS ANY REPRESENTATION OR WARRANTY, WHETHER EXPRESS OR IMPLIED, AS TO THE DESIGN OR CONDITION OF ANY PROPERTY PRESENT ON OR CONSTITUTING THE PREMISES, ITS MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, THE QUALITY OF THE MATERIAL OR WORKMANSHIP OF ANY SUCH PROPERTY, OR THE CONFORMITY OF ANY SUCH PROPERTY TO ITS INTENDED USES. GRANTOR SHALL NOT BE RESPONSIBLE TO GRANTEE OR ANY OF GRANTEE'S CONTRACTORS FOR ANY DAMAGES RELATING TO THE DESIGN, CONDITION, QUALITY, SAFETY, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OF ANY PROPERTY PRESENT ON OR CONSTITUTING THE PREMISES, OR THE CONFORMITY OF ANY SUCH PROPERTY TO ITS INTENDED USES. GRANTEE ACCEPTS ALL RIGHTS GRANTED UNDER THIS EASEMENT AGREEMENT IN THE PREMISES IN AN "AS IS, WHERE IS" AND "WITH ALL FAULTS" CONDITION, AND SUBJECT TO ALL LIMITATIONS ON GRANTOR'S RIGHTS, INTERESTS AND TITLE TO THE PREMISES. Grantee has inspected or will inspect the Premises, and enters upon Grantor's rail corridor and property with knowledge of its physical condition and the danger inherent in Grantor's rail operations on or near the Premises. Grantee acknowledges that this Easement Agreement does not contain any implied warranties that Grantee or Grantee's Contractors (as hereinafter defined) can successfully construct or operate the Improvements.

Section 4 **Nature of Grantor's Interest in the Premises.** GRANTOR DOES NOT WARRANT ITS TITLE TO THE PREMISES NOR UNDERTAKE TO DEFEND GRANTEE IN THE PEACEABLE POSSESSION OR USE THEREOF. NO COVENANT OF QUIET ENJOYMENT IS MADE. In case of the eviction of Grantee by anyone owning or claiming title to or any interest in the Premises, or by the abandonment by Grantor of the affected rail corridor, Grantor shall not be liable to refund Grantee any compensation paid hereunder.

Section 5 **Improvements.** Grantee shall take, in a timely manner, all actions necessary and proper to the lawful establishment, construction, operation, and maintenance of the Improvements, including such actions as may be necessary to obtain any required permits, approvals or authorizations from applicable governmental authorities. Any and all cuts and fills, excavations or embankments necessary in the construction, maintenance, or future alteration of the Improvements shall be made and maintained in such manner, form and extent as will provide adequate drainage of and from the adjoining lands and premises of the Grantor; and wherever any such fill or embankment shall or may obstruct the natural and pre-existing drainage from such lands and premises of the Grantor, the Grantee shall construct and maintain such culverts or drains as may be requisite to preserve such natural and pre-existing drainage, and shall also wherever necessary, construct extensions of existing drains, culverts or ditches through or along the premises of the Grantor, such extensions to be of adequate sectional dimensions to preserve the present flowage of drainage or other waters, and of materials and workmanship equally as good as those now existing. In the event any construction, repair, maintenance, work or other use of the Premises by Grantee will affect any Lines, fences, buildings, improvements or other facilities (collectively, "**Other Improvements**"), Grantee will be responsible at Grantee's sole risk to locate and make any adjustments necessary to such Other Improvements. Grantee must contact the owner(s) of the Other Improvements notifying them of any work that may damage these Other Improvements and/or interfere with their service and obtain the owner's written approval prior to so affecting the Other Improvements. Grantee must mark all Other Improvements on the Plans and Specifications and mark such Other Improvements in the field in

order to verify their locations. Grantee must also use all reasonable methods when working on or near Grantor property to determine if any Other Improvements (fiber optic, cable, communication or otherwise) may exist. The Grantee agrees to keep the above-described premises free and clear from combustible materials and to cut and remove or cause to be cut and removed at its sole expense all weeds and vegetation on said premises, said work of cutting and removal to be done at such times and with such frequency as to comply with Grantee and local laws and regulations and abate any and all hazard of fire.

Section 6 Taxes and Recording Fees. Grantee shall pay when due any taxes, assessments or other charges (collectively, "**Taxes**") levied or assessed upon the Improvements by any governmental or quasi-governmental body or any Taxes levied or assessed against Grantor or the Premises that are attributable to the Improvements. Grantee agrees to purchase, affix and cancel any and all documentary stamps in the amount prescribed by statute, and to pay any and all required transfer taxes, excise taxes and any and all fees incidental to recordation of the Memorandum of Easement. In the event of Grantee's failure to do so, if Grantor shall become obligated to do so, Grantee shall be liable for all costs, expenses and judgments to or against Grantor, including all of Grantor's legal fees and expenses.

Section 7 Environmental.

7.1 Compliance with Environmental Laws. Grantee shall strictly comply with all federal, state and local environmental Laws in its use of the Premises, including, but not limited to, the Resource Conservation and Recovery Act, as amended (RCRA), the Clean Water Act, the Oil Pollution Act, the Hazardous Materials Transportation Act, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and the Toxic Substances Control Act (collectively referred to as the "**Environmental Laws**"). Grantee shall not maintain a "treatment," "storage," "transfer" or "disposal" facility, or "underground storage tank," as those terms are defined by Environmental Laws, on the Premises. Grantee shall not handle, transport, release or suffer the release of "hazardous waste" or "hazardous substances", as "hazardous waste" and "hazardous substances" may now or in the future be defined by any Environmental Laws.

7.2 Notice of Release. Grantee shall give Grantor immediate notice to Grantor's Resource Operations Center at (800) 832-5452 of any release of hazardous substances on or from the Premises, violation of Environmental Laws, or inspection or inquiry by governmental authorities charged with enforcing Environmental Laws with respect to Grantee's use of the Premises. Grantee shall use its best efforts to promptly respond to any release on or from the Premises. Grantee also shall give Grantor immediate notice of all measures undertaken on behalf of Grantee to investigate, remediate, respond to or otherwise cure such release or violation.

7.3 Remediation of Release. In the event that Grantor has notice from Grantee or otherwise of a release or violation of Environmental Laws which occurred or may occur during the term of this Easement Agreement, Grantor may require Grantee, at Grantee's sole risk and expense, to take timely measures to investigate, remediate, respond to or otherwise cure such release or violation affecting the Premises. If during the construction or subsequent maintenance of the Improvements, soils or other materials considered to be environmentally contaminated are exposed, Grantee will remove and safely dispose of said contaminated soils. Determination of soils contamination and applicable disposal procedures thereof, will be made only by an agency having the capacity and authority to make such a determination.

7.4 Preventative Measures. Grantee shall promptly report to Grantor in writing any conditions or activities upon the Premises known to Grantee which create a risk of harm to persons, property or the environment and shall take whatever action is necessary to prevent injury to persons or property arising out of such conditions or activities; provided, however, that Grantee's reporting to Grantor shall not relieve Grantee of any obligation whatsoever imposed on it by this Easement Agreement. Grantee shall promptly respond to Grantor's request for information regarding said conditions or activities.

7.5 Evidence of Compliance. Grantee agrees periodically to furnish Grantor with proof satisfactory to Grantor that Grantee is in compliance with this **Section 7**. Should Grantee not comply fully with the above-stated obligations of this **Section 7**, notwithstanding anything contained in any other provision hereof, Grantor may, at its option, terminate this Easement Agreement by serving five (5) days' notice of termination upon

Grantee. Upon termination, Grantee shall remove the Improvements and restore the Premises as provided in **Section 9**.

Section 8 Default and Termination.

8.1 Grantor's Performance Rights. If at any time Grantee, or Grantee's Contractors, fails to properly perform its obligations under this Easement Agreement, Grantor, in its sole discretion, may: (i) seek specific performance of the unperformed obligations, or (ii) at Grantee's sole cost, may arrange for the performance of such work as Grantor deems necessary for the safety of its rail operations, activities and property, or to avoid or remove any interference with the activities or property of Grantor, or anyone or anything present on the rail corridor or property with the authority or permission of Grantor. Grantee shall promptly reimburse Grantor for all costs of work performed on Grantee's behalf upon receipt of an invoice for such costs. Grantor's failure to perform any obligations of Grantee or Grantee's Contractors shall not alter the liability allocation set forth in this Easement Agreement.

8.2 Abandonment. Grantor may, at its option, terminate this Easement Agreement by serving five (5) days' notice in writing upon Grantee if Grantee should abandon or cease to use the Premises for the Easement Purpose. Any waiver by Grantor of any default or defaults shall not constitute a waiver of the right to terminate this Easement Agreement for any subsequent default or defaults, nor shall any such waiver in any way affect Grantor's ability to enforce any section of this Easement Agreement.

8.3 Effect of Termination or Expiration. Neither termination nor expiration will release Grantee from any liability or obligation under this Easement, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination or expiration, or, if later, the date the Premises are restored as required by **Section 9**.

8.4 Non-exclusive Remedies. The remedies set forth in this **Section 8** shall be in addition to, and not in limitation of, any other remedies that Grantor may have under the C&M Agreement, at law or in equity.

Section 9 Surrender of Premises.

9.1 Removal of Improvements and Restoration. Upon termination of this Easement Agreement, whether by abandonment of the Easement or by the exercise of Grantor's termination rights hereunder, Grantee shall, at its sole cost and expense, immediately perform the following:

(a) remove all or such portion of Grantee's Improvements and all appurtenances thereto from the Premises, as Grantor directs at Grantor's sole discretion;

(b) repair and restore any damage to the Premises arising from, growing out of, or connected with Grantee's use of the Premises;

(c) remedy any unsafe conditions on the Premises created or aggravated by Grantee; and

(d) leave the Premises in the condition which existed as of the Effective Date.

9.2 Limited License for Entry. If this Easement Agreement is terminated, Grantor may direct Grantee to undertake one or more of the actions set forth above, at Grantee's sole cost, in which case Grantee shall have a limited license to enter upon the Premises to the extent necessary to undertake the actions directed by Grantor. The terms of this limited license include all of Grantee's obligations under this Easement Agreement. Termination will not release Grantee from any liability or obligation under this Easement Agreement, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination, or, if later, the date when Grantee's Improvements are removed and the Premises are restored to the condition that existed as of the Effective Date. If Grantee fails to surrender the Premises to Grantor upon any termination of the Easement, all liabilities and obligations of Grantee hereunder shall continue in effect until the Premises are surrendered.

Section 10 Liens. Grantee shall promptly pay and discharge any and all liens arising out of any

construction, alterations or repairs done, suffered or permitted to be done by Grantee on the Premises or attributable to Taxes that are the responsibility of Grantee pursuant to **Section 6**. Grantor is hereby authorized to post any notices or take any other action upon or with respect to the Premises that is or may be permitted by Law to prevent the attachment of any such liens to any portion of the Premises; provided, however, that failure of Grantor to take any such action shall not relieve Grantee of any obligation or liability under this **Section 10** or any other section of this Easement Agreement.

Section 11 **Tax Exchange**. Grantor reserves the right to assign this Easement Agreement to Apex Property & Track Exchange, Inc. ("**Apex**"). Apex is a qualified intermediary within the meaning of Section 1031 of the Internal Revenue Code of 1986, as amended, and Treas. Reg. § 1.1031(k)-1(g), for the purpose of completing a tax-deferred exchange under said Section 1031. Grantor shall bear all expenses associated with the use of Apex, or necessary to qualify this transaction as a tax-deferred exchange, and, except as otherwise provided herein, shall protect, reimburse, indemnify and hold harmless Grantee from and against any and all reasonable and necessary additional costs, expenses, including, attorneys fees, and liabilities which Grantee may incur as a result of Grantor's use of Apex or the qualification of this transaction as a tax-deferred transaction pursuant to Section 1031. Grantee shall cooperate with Grantor with respect to this tax-deferred exchange, and upon Grantor's request, shall execute such documents as may be required to effect this tax-deferred exchange.

Section 12 **Notices**. Any notice required or permitted to be given hereunder by one party to the other shall be delivered in the manner set forth in the C&M Agreement. Notices to Grantor under this Easement shall be delivered to the following address: BNSF Railway Company, Real Estate Department, 2500 Lou Menk Drive, Ft. Worth, TX 76131, Attn: Permits, or such other address as Grantor may from time to time direct by notice to Grantee.

Section 13 **Recordation**. It is understood and agreed that this Easement Agreement shall not be in recordable form and shall not be placed on public record and any such recording shall be a breach of this Easement Agreement. Grantor and Grantee shall execute a Memorandum of Easement in the form attached hereto as **Exhibit "B"** (the "**Memorandum of Easement**") subject to changes required, if any, to conform such form to local recording requirements. The Memorandum of Easement shall be recorded in the real estate records in the county where the Premises are located. If a Memorandum of Easement is not executed by the parties and recorded as described above within ____ days of the Effective Date, Grantor shall have the right to terminate this Easement Agreement upon notice to Grantee.

Section 14 **Miscellaneous**.

14.1 All questions concerning the interpretation or application of provisions of this Easement Agreement shall be decided according to the substantive Laws of the State of Washington without regard to conflicts of law provisions.

14.2 In the event that Grantee consists of two or more parties, all the covenants and agreements of Grantee herein contained shall be the joint and several covenants and agreements of such parties. This instrument and all of the terms, covenants and provisions hereof shall inure to the benefit of and be binding upon each of the parties hereto and their respective legal representatives, successors and assigns and shall run with and be binding upon the Premises.

14.3 If any action at law or in equity is necessary to enforce or interpret the terms of this Easement Agreement, the prevailing party or parties shall be entitled to reasonable attorneys' fees, costs and necessary disbursements in addition to any other relief to which such party or parties may be entitled.

14.4 If any provision of this Easement Agreement is held to be illegal, invalid or unenforceable under present or future Laws, such provision will be fully severable and this Easement Agreement will be construed and enforced as if such illegal, invalid or unenforceable provision is not a part hereof, and the remaining provisions hereof will remain in full force and effect. In lieu of any illegal, invalid or unenforceable provision herein, there will be added automatically as a part of this Easement Agreement a provision as similar in its terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable.

14.5 This Easement Agreement is the full and complete agreement between Grantor and Grantee with respect to all matters relating to Grantee's use of the Premises, and supersedes any and all other agreements between the parties hereto relating to Grantee's use of the Premises as described herein. However, nothing herein is intended to terminate any surviving obligation of Grantee or Grantee's obligation to defend and hold Grantor harmless in any prior written agreement between the parties.

14.6 Time is of the essence for the performance of this Easement Agreement.

14.7 The terms of the C&M Agreement are incorporated herein as if fully set forth in this instrument which terms shall be in full force and effect for purposes of this Easement even if the C&M Agreement is, for whatever reason, no longer in effect.

[Signature page follows]

Witness the execution of this Easement Agreement as of the date first set forth above.

GRANTOR:

BNSF RAILWAY COMPANY, a Delaware corporation

By: _____
Name: _____
Title: _____

GRANTEE:

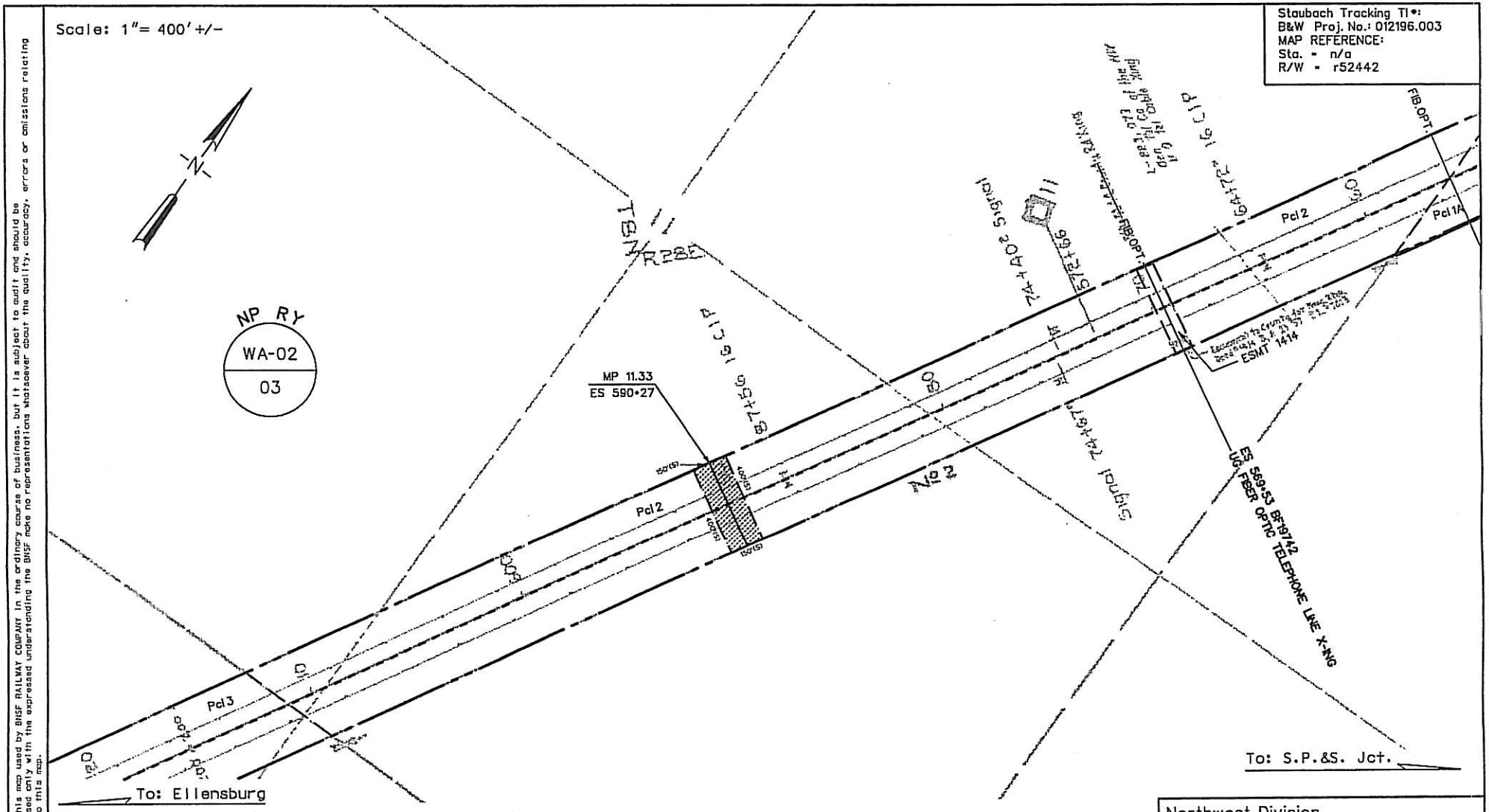
COUNTY OF BENTON,
a political subdivision of the State of Washington

By: _____
Name: _____
Title: _____

EXHIBIT "A"

Premises

EXHIBIT "A"



This map used by BNSF RAILWAY COMPANY in the ordinary course of business, but it is subject to audit and should be used only with the expressed understanding the BNSF make no representations whatsoever about the quality, accuracy, errors or omissions relating to this map.

To: Benton County

Near: Kennewick
Benton County,
Washington

Northwest Division
Yakima Valley Subdiv.- L.S. 0048-W
Val. Sec. 51800
NP WA-02, Map 3
Sec. 11, T6N, R28E WILLM
November 19, 2009 REV.12/2/2009
M.P. 11.33 RBJ

DRAWING NO. 3-48068R1

EXHIBIT A

A strip of land lying in Section 11, Township 8 North, Range 28 East, W.M., located within the 400.00 wide Burlington Northern Santa Fe Railroad right of way and being 150.00 feet in width, lying 75.00 on each side of the following described line:

Beginning at the South quarter corner of Section 11, Township 8 North, Range 28 East, W.M.; thence North 34°03'56" East 2,050.32 feet to a point of intersection of the centerline of Badger Road and the centerline of Wiser Parkway and the true point of beginning; thence North 59°49'55" West 440.00 feet to the terminus of said line

Containing 1.377 acres or 60,000 square feet plus or minus.

EXHIBIT "B"

Memorandum of Easement

THIS MEMORANDUM OF EASEMENT is hereby executed this ___ day of _____, 20___, by and between BNSF RAILWAY COMPANY, a Delaware corporation ("**Grantor**"), whose address for purposes of this instrument is 2500 Lou Menk Drive, Fort Worth, Texas 76131, and the COUNTY OF BENTON, a political subdivision of the State of Washington ("**Grantee**"), whose address for purposes of this instrument is _____, which terms "Grantor" and "Grantee" shall include, wherever the context permits or requires, singular or plural, and the heirs, legal representatives, successors and assigns of the respective parties:

WITNESSETH:

WHEREAS, Grantor owns or controls certain real property situated in Benton County, Washington as described on **Exhibit "A"** attached hereto and incorporated herein by reference (the "**Premises**');

WHEREAS, Grantor and Grantee entered into an Easement Agreement, dated _____ (the "**Easement Agreement**") which set forth, among other things, the terms of an easement granted by Grantor to Grantee over and across the Premises (the "**Easement**"); and

WHEREAS, Grantor and Grantee desire to memorialize the terms and conditions of the Easement Agreement of record.

For valuable consideration the receipt and sufficiency of which are hereby acknowledged, Grantor does grant unto Grantee and Grantee does hereby accept from Grantor the Easement over and across the Premises.

The term of the Easement, unless sooner terminated under provisions of the Easement Agreement, shall be perpetual. Provisions regulating the use and purposes to which the Easement shall be limited, are set forth in detail in the Easement Agreement and Grantor and Grantee agree to abide by the terms of the Easement Agreement.

All the terms, conditions, provisions and covenants of the Easement Agreement are incorporated herein by this reference for all purposes as though written out at length herein, and both the Easement Agreement and this Memorandum of Easement shall be deemed to constitute a single instrument or document. This Memorandum of Easement is not intended to amend, modify, supplement, or supersede any of the provisions of the Easement Agreement and, to the extent there may be any conflict or inconsistency between the Easement Agreement or this Memorandum of Easement, the Easement Agreement shall control.

[Signature page follows]

IN WITNESS WHEREOF, Grantor and Grantee have executed this Memorandum of Easement to as of the date and year first above written.

GRANTOR:

BNSF RAILWAY COMPANY, a Delaware corporation

By: _____
Name: _____
Title: _____

GRANTEE:

COUNTY OF BENTON,
a political subdivision of the State of Washington

By: _____
Name: _____
Title: _____

STATE OF _____ §
§
COUNTY OF _____ §

This instrument was acknowledged before me on the ___ day of _____, 20___, by _____ _____(name) as _____(title) of BNSF RAILWAY COMPANY, a Delaware corporation.

_____
Notary Public

(Seal)

My appointment expires:_____

STATE OF _____ §
§
COUNTY OF _____ §

This instrument was acknowledged before me on the ___ day of _____, 200__, by _____ _____(name) as _____(title) of, the COUNTY OF BENTON, a political subdivision of the State of Washington.

_____
Notary Public

(Seal)

My appointment expires:_____

EXHIBIT "C"
CONTRACTOR REQUIREMENTS

1.01 General

- **1.01.01** The Contractor must cooperate with **BNSF RAILWAY COMPANY**, hereinafter referred to as "Railway" where work is over or under on or adjacent to Railway property and/or right-of-way, hereafter referred to as "Railway Property", during the construction of Wiser Parkway.

- **1.01.02** The Contractor must execute and deliver to the Railway duplicate copies of the Exhibit "C-1" Agreement, in the form attached hereto, obligating the Contractor to provide and maintain in full force and effect the insurance called for under Section 3 of said Exhibit "C-1". Questions regarding procurement of the Railroad Protective Liability Insurance should be directed to Rosa Martinez at Marsh, USA, 214-303-8519.

- **1.01.03** The Contractor must plan, schedule and conduct all work activities so as not to interfere with the movement of any trains on Railway Property.

- **1.01.04** The Contractor's right to enter Railway's Property is subject to the absolute right of Railway to cause the Contractor's work on Railway's Property to cease if, in the opinion of Railway, Contractor's activities create a hazard to Railway's Property, employees, and/or operations. Railway will have the right to stop construction work on the Project if any of the following events take place: (i) Contractor (or any of its subcontractors) performs the Project work in a manner contrary to the plans and specifications approved by Railway; (ii) Contractor (or any of its subcontractors), in Railway's opinion, prosecutes the Project work in a manner which is hazardous to Railway property, facilities or the safe and expeditious movement of railroad traffic; (iii) the insurance described in the attached Exhibit C-1 is canceled during the course of the Project; or (iv) Contractor fails to pay Railway for the Temporary Construction License or the Easement. The work stoppage will continue until all necessary actions are taken by Contractor or its subcontractor to rectify the situation to the satisfaction of Railway's Division Engineer or until additional insurance has been delivered to and accepted by Railway. In the event of a breach of (i) this Agreement, (ii) the Temporary Construction License, or (iii) the Easement, Railway may immediately terminate the Temporary Construction License or the Easement. Any such work stoppage under this provision will not give rise to any liability on the part of Railway. Railway's right to stop the work is in addition to any other rights Railway may have including, but not limited to, actions or suits for damages or lost profits. In the event that Railway desires to stop construction work on the Project, Railway agrees to immediately notify the following individual in writing:

  Steven W. Becken
  Public Works Manager
  Benton County Public Works
  P.O. Box 1001
  Prosser, WA 99350

- **1.01.05** The Contractor is responsible for determining and complying with all Federal, State and Local Governmental laws and regulations, including, but not limited to environmental laws and regulations (including but not limited to the Resource Conservation and Recovery Act, as amended; the Clean Water Act, the Oil Pollution Act, the Hazardous Materials Transportation Act, CERCLA), and health and safety laws and regulations. The Contractor hereby indemnifies, defends and holds harmless Railway for, from and against all fines or penalties imposed or assessed by Federal, State and Local Governmental Agencies against the Railway which arise out of Contractor's work under this Agreement.

- **1.01.06** The Contractor must notify Benton County and Railway's Manager Public Projects, telephone number 206-625-6146 at least thirty (30) calendar days before commencing any work on Railway Property. Contractors notification to Railway, must refer to Railroad's file 932567D.

- **1.01.07** For any bridge demolition and/or falsework above any tracks or any excavations located with any part of the excavations located within, whichever is greater, twenty-five (25) feet of the nearest track or intersecting a slope from the plane of the top of rail on a 2 horizontal to 1 vertical slope beginning at eleven (11) feet from centerline of the nearest track, both measured perpendicular to center line of track, the Contractor must furnish the Railway five sets of working drawings showing details of construction affecting Railway Property and tracks. The working drawing must include the proposed method of installation and removal of falsework, shoring or cribbing, not included in the contract plans and two sets of structural calculations of any falsework, shoring or cribbing. For all excavation and shoring submittal plans, the current "BNSF-UPRR Guidelines for Temporary Shoring" must be used for determining the design loading conditions to be used in shoring design, and all calculations and submittals must be in accordance with the current "BNSF-UPRR Guidelines for Temporary Shoring". All submittal drawings and calculations must be stamped by a registered professional engineer licensed to practice in the state the project is located. All calculations must take into consideration railway surcharge loading and must be designed to meet American Railway Engineering and Maintenance-of-Way Association (previously known as American Railway Engineering Association) Coopers E-80 live loading standard. All drawings and calculations must be stamped by a registered professional engineer licensed to practice in the state the project is located. The Contractor must not begin work until notified by the Railway that plans have been approved. The Contractor will be required to use lifting devices such as, cranes and/or winches to place or to remove any falsework over Railway's tracks. In no case will the Contractor be relieved of responsibility for results obtained by the implementation of said approved plans.

- **1.01.08** Subject to the movement of Railway's trains, Railway will cooperate with the Contractor such that the work may be handled and performed in an efficient manner. The Contractor will have no claim whatsoever for any type of damages or for extra or additional compensation in the event his work is delayed by the Railway.

1.02 Contractor Safety Orientation

- **1.02.01 No employee of the Contractor, its subcontractors, agents or invitees may enter Railway Property without first having completed Railway's Engineering Contractor Safety Orientation, found on the web site www.contractororientation.com. The Contractor must ensure that each of its employees, subcontractors, agents or invitees completes Railway's Engineering Contractor Safety Orientation through internet sessions before any work is performed on the Project. Additionally, the Contractor must ensure that each and every one of its employees, subcontractors, agents or invitees possesses a card certifying completion of the Railway Contractor Safety Orientation before entering Railway Property. The Contractor is responsible for the cost of the Railway Contractor Safety Orientation. The Contractor must renew the Railway Contractor Safety Orientation annually. Further clarification can be found on the web site or from the Railway's Representative.**

1.03 Railway Requirements

- **1.03.01** The Contractor must take protective measures as are necessary to keep railway facilities, including track ballast, free of sand, debris, and other foreign objects and materials resulting from his operations. Any damage to railway facilities resulting from Contractor's operations will be repaired or replaced by Railway and the cost of such repairs or replacement must be paid for by the Agency.

- **1.03.02** The Contractor must notify the Railway and provide blasting plans to the Railway for review seven (7) calendar days prior to conducting any blasting operations adjacent to or on Railway's Property.

- **1.03.03** The Contractor must abide by the following temporary clearances during construction:

  - 15' Horizontally from centerline of nearest track
  - 21'-6" Vertically above top of rail
  - 27'-0" Vertically above top of rail for electric wires carrying less than 750 volts
  - 28'-0" Vertically above top of rail for electric wires carrying 750 volts to 15,000 volts
  - 30'-0" Vertically above top of rail for electric wires carrying 15,000 volts to 20,000 volts
  - 34'-0" Vertically above top of rail for electric wires carrying more than 20,000 volts

- **1.03.04** Upon completion of construction, the following clearances shall be maintained:

    - 25' Horizontally from centerline of nearest track
    - 23'-3 ½" Vertically above top of rail

- **1.03.05** Any infringement within State statutory clearances due to the Contractor's operations must be submitted to the Railway and to Benton County and must not be undertaken until approved in writing by the Railway, and until Benton County has obtained any necessary authorization from the State Regulatory Authority for the infringement. No extra compensation will be allowed in the event the Contractor's work is delayed pending Railway approval, and/or the State Regulatory Authority's approval.

- **1.03.06** In the case of impaired vertical clearance above top of rail, Railway will have the option of installing tell-tales or other protective devices Railway deems necessary for protection of Railway operations. The cost of tell-tales or protective devices will be borne by the Agency.

- **1.03.07** The details of construction affecting the Railway's Property and tracks not included in the contract plans must be submitted to the Railway by Benton County for approval before work is undertaken and this work must not be undertaken until approved by the Railway.

- **1.03.08** At other than public road crossings, the Contractor must not move any equipment or materials across Railway's tracks until permission has been obtained from the Railway. The Contractor must obtain a "Temporary Construction Crossing Agreement" from the Railway prior to moving his equipment or materials across the Railways tracks. The temporary crossing must be gated and locked at all times when not required for use by the Contractor. The temporary crossing for use of the Contractor will be constructed and, at the completion of the project, removed at the expense of the Contractor.

- **1.03.09** Discharge, release or spill on the Railway Property of any hazardous substances, oil, petroleum, constituents, pollutants, contaminants, or any hazardous waste is prohibited and Contractor must immediately notify the Railway's Resource Operations Center at 1(800) 832-5452, of any discharge, release or spills in excess of a reportable quantity. Contractor must not allow Railway Property to become a treatment, storage or transfer facility as those terms are defined in the Resource Conservation and Recovery Act or any state analogue.

- **1.03.10** The Contractor upon completion of the work covered by this contract, must promptly remove from the Railway's Property all of Contractor's tools, equipment, implements and other materials, whether brought upon said property by said Contractor or any Subcontractor, employee or agent of Contractor or of any Subcontractor, and must cause Railway's Property to be left in a condition acceptable to the Railway's representative.

1.04 Contractor Roadway Worker on Track Safety Program and Safety Action Plan

- 1.04.01 Each Contractor that will perform work within 25 feet of the centerline of a track must develop and implement a Roadway Worker Protection/On Track Safety Program and work with Railway Project Representative to develop an on track safety strategy as described in the guidelines listed in the on track safety portion of the Safety Orientation. This Program must provide Roadway Worker protection/on track training for all employees of the Contractor, its subcontractors, agents or invitees. This training is reinforced at the job site through job safety briefings. Additionally, each Contractor must develop and implement the Safety Action Plan, as provided for on the web site **www.contractororientation.com**, which will be made available to Railway prior to commencement of any work on Railway Property. During the performance of work, the Contractor must audit its work activities. The Contractor must designate an on-site Project Supervisor who will serve as the contact person for the Railway and who will maintain a copy of the Safety Action Plan, safety audits, and Material Safety Datasheets (MSDS), at the job site.

1.05 Railway Flagger Services:

- **1.05.01** The Contractor must give Railway's Roadmaster (telephone 206-625-6880) a minimum of thirty (30) calendar days advance notice when flagging services will be required so that the Roadmaster can make appropriate arrangements (i.e., bulletin the flagger's position). If flagging services are scheduled in advance by the Contractor and it is subsequently determined by the parties hereto that such services are no longer necessary, the Contractor must give the Roadmaster five (5) working days advance notice so that appropriate arrangements can be made to abolish the position pursuant to union requirements.

- **1.05.02** Unless determined otherwise by Railway's Project Representative, Railway flagger will be required and furnished when Contractor's work activities are located over, under and/or within twenty-five (25) feet measured horizontally from centerline of the nearest track and when cranes or similar equipment positioned beyond 25-feet from the track centerline could foul the track in the event of tip over or other catastrophic occurrence, but not limited thereto for the following conditions:

- **1.05.02a** When, upon inspection by Railway's Representative, other conditions warrant.

- **1.05.02b** When any excavation is performed below the bottom of tie elevation, if, in the opinion of Railway's representative, track or other Railway facilities may be subject to movement or settlement.

- **1.05.02c** When work in any way interferes with the safe operation of trains at timetable speeds.

- **1.05.02d** When any hazard is presented to Railway track, communications, signal, electrical, or other facilities either due to persons, material, equipment or blasting in the vicinity.

- **1.05.02e** Special permission must be obtained from the Railway before moving heavy or cumbersome objects or equipment which might result in making the track impassable.

- **1.05.03** Flagging services will be performed by qualified Railway flaggers.

- **1.05.03a** Flagging crew generally consists of one employee. However, additional personnel may be required to protect Railway Property and operations, if deemed necessary by the Railways Representative.

- **1.05.03b** Each time a flagger is called, the minimum period for billing will be the eight (8) hour basic day.

- **1.05.03c** The cost of flagger services provided by the Railway will be borne by Benton County. The estimated cost for one (1) flagger is approximately between $800.00-$1,600.00 for an eight (8) hour basic day with time and one-half or double time for overtime, rest days and holidays. The estimated cost for each flagger includes vacation allowance, paid holidays, Railway and unemployment insurance, public liability and property damage insurance, health and welfare benefits, vehicle, transportation, meals, lodging, radio, equipment, supervision and other costs incidental to performing flagging services. Negotiations for Railway labor or collective bargaining agreements and rate changes authorized by appropriate Federal authorities may increase actual or estimated flagging rates. **THE FLAGGING RATE IN EFFECT AT THE TIME OF PERFORMANCE BY THE CONTRACTOR HEREUNDER WILL BE USED TO CALCULATE THE ACTUAL COSTS OF FLAGGING PURSUANT TO THIS PARAGRAPH.**

- **1.05.03d** The average train traffic on this route is 5 freight trains per 24-hour period at a timetable speed 49 MPH and 0 passenger trains at a timetable speed of 49 MPH.

1.06 Contractor General Safety Requirements

- **1.06.01 Work in the proximity of railway track(s) is potentially hazardous where movement of trains and equipment can occur at any time and in any direction. All work performed by contractors within 25 feet of any track must be in compliance with FRA Roadway Worker Protection Regulations.**

- **1.06.02 Before beginning any task on Railway Property, a thorough job safety briefing must be conducted with all personnel involved with the task and repeated when the personnel or task changes. If the task is within 25 feet of any track, the job briefing must include the Railway's flagger, as applicable, and include the procedures the Contractor will use to protect its employees, subcontractors, agents or invitees from moving any equipment adjacent to or across any Railway track(s).**

- **1.06.03 Workers must not work within 25 feet of the centerline of any track without an on track safety strategy approved by the Railway's Project Representative. When authority is provided, every contractor employee must know: (1) who the Railway flagger is, and how to contact the flagger, (2) limits of the authority, (3) the method of communication to stop and resume work, and (4) location of the designated places of safety. Persons or equipment entering flag/work limits that were not previously job briefed, must notify the flagger immediately, and be given a job briefing when working within 25 feet of the center line of track.**

- **1.06.04 When Contractor employees are required to work on the Railway Property after normal working hours or on weekends, the Railroad's representative in charge of the project must be notified. A minimum of two employees must be present at all times.**

- **1.06.05** Any employees, agents or invitees of Contractor or its subcontractors under suspicion of being under the influence of drugs or alcohol, or in the possession of same, will be removed from the Railway's Property and subsequently released to the custody of a representative of Contractor management. Future access to the Railway's Property by that employee will be denied.

- **1.06.06** Any damage to Railway Property, or any hazard noticed on passing trains must be reported immediately to the Railway's representative in charge of the project. Any vehicle or machine which may come in contact with track, signal equipment, or structure (bridge) and could result in a train derailment must be reported immediately to the Railway representative in charge of the project and to the Railway's Resource Operations Center at 1(800) 832-5452. Local emergency numbers are to be obtained from the Railway representative in charge of the project prior to the start of any work and must be posted at the job site.

- **1.06.07** For safety reasons, all persons are prohibited from having pocket knives, firearms or other deadly weapons in their possession while working on Railway's Property.

- **1.06.08** All personnel protective equipment (PPE) used on Railway Property must meet applicable OSHA and ANSI specifications. Current Railway personnel protective equipment requirements are listed on the web site, **www.contractororientation.com**, however, a partial list of the requirements include: a) safety glasses with permanently affixed side shields (no yellow lenses); b) hard hats c) safety shoe with: hardened toes, above-the-ankle lace-up and a defined heel; and d) high visibility retro-reflective work wear. The Railroad's representative in charge of the project is to be contacted regarding local specifications for meeting requirements relating to hi-visability work wear. Hearing protection, fall protection, gloves, and respirators must be worn as required by State and Federal regulations. **(NOTE – Should there be a discrepancy between the information contained on the web site and the information in this paragraph, the web site will govern.)**

- **1.06.09 THE CONTRACTOR MUST NOT PILE OR STORE ANY MATERIALS, MACHINERY OR EQUIPMENT CLOSER THAN 25'-0" TO THE CENTER LINE OF THE NEAREST RAILWAY TRACK. MATERIALS, MACHINERY OR EQUIPMENT MUST NOT BE STORED OR LEFT WITHIN 250 FEET OF ANY HIGHWAY/RAIL AT-GRADE CROSSINGS OR TEMPORARY CONSTRUCTION CROSSING, WHERE STORAGE OF THE SAME WILL OBSTRUCT THE VIEW OF A TRAIN APPROACHING THE CROSSING. PRIOR TO BEGINNING WORK, THE CONTRACTOR MUST ESTABLISH A STORAGE AREA WITH CONCURRENCE OF THE RAILROAD'S REPRESENTATIVE.**

- **1.06.10** Machines or vehicles must not be left unattended with the engine running. Parked machines or equipment must be in gear with brakes set and if equipped with blade, pan or bucket, they must be lowered to the ground. All machinery and equipment left unattended on Railway's Property must be left inoperable and secured against movement. (See internet Engineering Contractor Safety Orientation program for more detailed specifications)

- **1.06.11** Workers must not create and leave any conditions at the work site that would interfere with water drainage. Any work performed over water must meet all Federal, State and Local regulations.

- **1.06.12** All power line wires must be considered dangerous and of high voltage unless informed to the contrary by proper authority. For all power lines the minimum clearance between the lines and any part of the equipment or load must be; 200 KV or below - 15 feet; 200 to 350 KV - 20 feet; 350 to 500 KV - 25 feet; 500 to 750 KV - 35 feet; and 750 to 1000 KV - 45 feet. If capacity of the line is not known, a minimum clearance of 45 feet must be maintained. A person must be designated to observe clearance of the equipment and give a timely warning for all operations where it is difficult for an operator to maintain the desired clearance by visual means.

1.07 Excavation

- **1.07.01** Before excavating, the Contractor must determine whether any underground pipe lines, electric wires, or cables, including fiber optic cable systems are present and located within the Project work area. The Contractor must determine whether excavation on Railway's Property could cause damage to buried cables resulting in delay to Railway traffic and disruption of service to users. Delays and disruptions to service may cause business interruptions involving loss of revenue and profits. Before commencing excavation, the Contractor must contact BNSF's Field Engineering Representative (Rusty Olson 206-625-6189). All underground and overhead wires will be considered HIGH VOLTAGE and dangerous until verified with the company having ownership of the line. **It is the Contractor's responsibility to notify any other companies that have underground utilities in the area and arrange for the location of all underground utilities before excavating.**

- **1.07.02** The Contractor must cease all work and notify the Railway immediately before continuing excavation in the area if obstructions are encountered which do not appear on drawings. If the obstruction is a utility and the owner of the utility can be identified, then the Contractor must also notify the owner immediately. If there is any doubt about the location of underground cables or lines of any kind, no work must be performed until the exact location has been determined. There will be no exceptions to these instructions.

- **1.07.03** All excavations must be conducted in compliance with applicable OSHA regulations and, regardless of depth, must be shored where there is any danger to tracks, structures or personnel.

- **1.07.04** Any excavations, holes or trenches on the Railway's Property must be covered, guarded and/or protected when not being worked on. When leaving work site areas at night and over weekends, the areas must be secured and left in a condition that will ensure that Railway employees and other personnel who may be working or passing through the area are protected from all hazards. All excavations must be back filled as soon as possible.

1.08 Hazardous Waste, Substances and Material Reporting

- **1.08.01** If Contractor discovers any hazardous waste, hazardous substance, petroleum or other deleterious material, including but not limited to any non-containerized commodity or material, on or adjacent to Railway's Property, in or near any surface water, swamp, wetlands or waterways, while performing any work under this Agreement, Contractor must immediately: (a) notify the Railway's Resource Operations Center at 1(800) 832-5452, of such discovery: (b) take safeguards necessary to protect its employees, subcontractors, agents and/or third parties: and (c) exercise due care with respect to the release, including the taking of any appropriate measure to minimize the impact of such release.

1.09 Personal Injury Reporting

- 1.09.01 The Railway is required to report certain injuries as a part of compliance with Federal Railroad Administration (FRA) reporting requirements. Any personal injury sustained by an employee of the Contractor, subcontractor or Contractor's invitees while on the Railway's Property must be reported immediately (by phone mail if unable to contact in person) to the Railway's representative in charge of the project. The Non-Employee

Personal Injury Data Collection Form contained herein is to be completed and sent by Fax to the Railway at 1(817) 352-7595 and to the Railway's Project Representative no later than the close of shift on the date of the injury.

NON-EMPLOYEE PERSONAL INJURY DATA COLLECTION

INFORMATION REQUIRED TO BE COLLECTED PURSUANT TO FEDERAL REGULATION. IT SHOULD BE USED FOR COMPLIANCE WITH FEDERAL REGULATIONS ONLY AND IS NOT INTENDED TO PRESUME ACCEPTANCE OF RESPONSIBILITY OR LIABILITY.

1. Accident City/St _____ 2. Date: _____ Time:
   County: _____ 3. Temperature: _____ 4. Weather
   (if non-Railway location)

5. Social Security #

6. Name (last, first, mi)

7. Address: Street: _____ City: _____ St._____ Zip:

8. Date of Birth: _____ and/or Age _____ Gender:
   (if available)

9. (a) Injury: _____ (b) Body Part:
   (i.e. (a) Laceration (b) Hand)

11. Description of Accident (To include location, action, result, etc.):

12. Treatment:
    - ? First Aid Only
    - ? Required Medical Treatment
    - ? Other Medical Treatment

13. Dr. Name _____ 30. Date:

14. Dr. Address:
    Street: _____ City: _____ St: _____ Zip:

15. Hospital Name:

16. Hospital Address:
    Street: _____ City: _____ St: _____ Zip:

17. Diagnosis:

FAX TO
RAILWAY AT (817) 352-7595
AND COPY TO
RAILWAY ROADMASTER FAX

EXHIBIT "C-1"

Agreement
Between
BNSF RAILWAY COMPANY
and the
CONTRACTOR

BNSF RAILWAY COMPANY
Attention: Manager Public Projects

Railway File: 932567D
Agency Project: Wiser Parkway

Gentlemen:

The undersigned (hereinafter called, the "Contractor"), has entered into a contract (the "Contract") dated _____, 20___, with Benton County for the performance of certain work in connection with the Wiser Parkway project. Performance of such work will necessarily require contractor to enter BNSF RAILWAY COMPANY ("Railway") right of way and property ("Railway Property"). The Contract provides that no work will be commenced within Railway Property until the Contractor employed in connection with said work for Benton County (i) executes and delivers to Railway an Agreement in the form hereof, and (ii) provides insurance of the coverage and limits specified in such Agreement and Section 3 herein. If this Agreement is executed by a party who is not the Owner, General Partner, President or Vice President of Contractor, Contractor must furnish evidence to Railway certifying that the signatory is empowered to execute this Agreement on behalf of Contractor.

Accordingly, in consideration of Railway granting permission to Contractor to enter upon Railway Property and as an inducement for such entry, Contractor, effective on the date of the Contract, has agreed and does hereby agree with Railway as follows:

Section 1. RELEASE OF LIABILITY AND INDEMNITY

Contractor hereby waives, releases, indemnifies, defends and holds harmless Railway for all judgments, awards, claims, demands, and expenses (including attorneys' fees), for injury or death to all persons, including Railway's and Contractor's officers and employees, and for loss and damage to property belonging to any person, arising in any manner from Contractor's or any of Contractor's subcontractors' acts or omissions or any work performed on or about Railway's property or right-of-way. **This obligation shall not include such claims, costs, damages, or expenses which may be caused by the sole negligence of Railway or its contractors, agents or employees; Provided, that if the claims or damages are caused by or result from the concurrent negligence or other acts or omissions of (a) Railway, its contractors, agents or employees and (b) Contractor, its subcontractors, agents or employees, this provision shall be valid and enforceable only to the extent of the negligence of the Contractor, its subcontractors, agents or employees.**

It is mutually negotiated between the parties that the indemnification obligation shall include all claims brought by Contractor's employees against Railway, its agents, servants, employees or otherwise, and Contractor expressly waives its immunity under the industrial insurance act (RCW Title 51) and assumes potential liability for all actions brought by its employees.

THE INDEMNIFICATION OBLIGATION ASSUMED BY CONTRACTOR INCLUDES ANY CLAIMS, SUITS OR JUDGMENTS BROUGHT AGAINST RAILWAY UNDER THE FEDERAL EMPLOYEE'S LIABILITY ACT, INCLUDING CLAIMS FOR STRICT LIABILITY UNDER THE SAFETY APPLIANCE ACT OR THE LOCOMOTIVE INSPECTION ACT, WHENEVER SO CLAIMED.

Contractor further agrees, at its expense, in the name and on behalf of Railway, that it will adjust and settle all claims made against Railway, and will, at Railway's discretion, appear and defend any suits or actions of law or in equity brought against Railway on any claim or cause of action arising or growing out of or in any manner connected with any liability assumed by Contractor under this Agreement for which Railway is liable or is alleged to be liable. Railway will give notice to Contractor, in writing, of the receipt or dependency of such claims and

thereupon Contractor must proceed to adjust and handle to a conclusion such claims, and in the event of a suit being brought against Railway, Railway may forward summons and complaint or other process in connection therewith to Contractor, and Contractor, at Railway's discretion, must defend, adjust, or settle such suits and protect, indemnify, and save harmless Railway from and against all damages, judgments, decrees, attorney's fees, costs, and expenses growing out of or resulting from or incident to any such claims or suits.

In addition to any other provision of this Agreement, in the event that all or any portion of this Article shall be deemed to be inapplicable for any reason, including without limitation as a result of a decision of an applicable court, legislative enactment or regulatory order, the parties agree that this Article shall be interpreted as requiring Contractor to indemnify Railroad to the fullest extent permitted by applicable law.

It is mutually understood and agreed that the assumption of liabilities and indemnification provided for in this Agreement survive any termination of this Agreement.

Section 2. TERM

This Agreement is effective from the date of the Contract until (i) the completion of the project set forth herein, and (ii) full and complete payment to Railway of any and all sums or other amounts owing and due hereunder.

Section 3. INSURANCE

Contractor must, at its sole cost and expense, procure and maintain during the life of this Agreement the following insurance coverage:

A. Commercial General Liability insurance. This insurance must contain broad form contractual liability with a combined single limit of a minimum of $2,000,000 each occurrence and an aggregate limit of at least $4,000,000. Coverage must be purchased on a post 1998 ISO occurrence form or equivalent and include coverage for, but not limit to the following:

- Bodily Injury and Property Damage
- Personal Injury and Advertising Injury
- Fire legal liability
- Products and completed operations

This policy must also contain the following endorsements, which must be indicated on the certificate of insurance:

- It is agreed that any workers' compensation exclusion does not apply to ***Railroad*** payments related to the Federal Employers Liability Act or a ***Railroad*** Wage Continuation Program or similar programs and any payments made are deemed not to be either payments made or obligations assumed under any Workers Compensation, disability benefits, or unemployment compensation law or similar law.
- The definition of insured contract must be amended to remove any exclusion or other limitation for any work being done within 50 feet of railroad property.
- Any exclusions related to the explosion, collapse and underground hazards must be removed.

No other endorsements limiting coverage as respects obligations under this Agreement may be included on the policy.

B. Business Automobile Insurance. This insurance must contain a combined single limit of at least $1,000,000 per occurrence, and include coverage for, but not limited to the following:

- Bodily injury and property damage
- Any and all vehicles owned, used or hired

C. Workers Compensation and Employers Liability insurance including coverage for, but not limited to:

- Contractor's statutory liability under the worker's compensation laws of the state(s) in which the work is to be performed. If optional under State law, the insurance must cover all employees anyway.
- Employers' Liability (Part B) with limits of at least $500,000 each accident, $500,000 by disease policy limit, $500,000 by disease each employee.

D. Railroad Protective Liability insurance naming only the ***Railroad*** as the Insured with coverage of at least $2,000,000 per occurrence and $6,000,000 in the aggregate. The policy Must be issued on a standard ISO form CG 00 35 10 93 and include the following:

- Endorsed to include the Pollution Exclusion Amendment (ISO form CG 28 31 10 93)
- Endorsed to include the Limited Seepage and Pollution Endorsement.
- Endorsed to remove any exclusion for punitive damages.
- No other endorsements restricting coverage may be added.
- The original policy must be provided to the ***Railroad*** prior to performing any work or services under this Agreement

Other Requirements:

All policies (applying to coverage listed above) must not contain an exclusion for punitive damages and certificates of insurance must reflect that no exclusion exists.

Contractor agrees to waive its right of recovery against ***Railroad*** for all claims and suits against ***Railroad***. In addition, its insurers, through the terms of the policy or policy endorsement, waive their right of subrogation against ***Railroad*** for all claims and suits. The certificate of insurance must reflect the waiver of subrogation endorsement. Contractor further waives its right of recovery, and its insurers also waive their right of subrogation against ***Railroad*** for loss of its owned or leased property or property under contractor's care, custody or control.

Contractor's insurance policies through policy endorsement, must include wording which states that the policy is primary and non-contributing with respect to any insurance carried by ***Railroad***. The certificate of insurance must reflect that the above wording is included in evidenced policies.

All policy(ies) required above (excluding Workers Compensation and if applicable, Railroad Protective) must include a severability of interest endorsement and ***Railroad*** must be named as an additional insured with respect to work performed under this agreement. Severability of interest and naming ***Railroad*** as additional insured must be indicated on the certificate of insurance.

Contractor is not allowed to self-insure without the prior written consent of ***Railroad.*** If granted by ***Railroad***, any deductible, self-insured retention or other financial responsibility for claims must be covered directly by contractor in lieu of insurance. Any and all ***Railroad*** liabilities that would otherwise, in accordance with the provisions of this ***Agreement***, be covered by contractor's insurance will be covered as if contractor elected not to include a deductible, self-insured retention or other financial responsibility for claims.

Prior to commencing the Work, contractor must furnish to ***Railroad*** an acceptable certificate(s) of insurance including an original signature of the authorized representative evidencing the required coverage, endorsements, and amendments and referencing the contract audit/folder number if available. The policy(ies) must contain a provision that obligates the insurance company(ies) issuing such policy(ies) to notify ***Railroad*** in writing at least 30 days prior to any cancellation, non-renewal, substitution or material alteration. This cancellation provision must be indicated on the certificate of insurance. Upon request from ***Railroad***, a certified duplicate original of any required policy must be furnished. Contractor should send the certificate(s) to the following address:

Manager Public Projects
BNSF Railway
2454 Occidental Ave S Suite 1A
Seattle, WA 98134

Any insurance policy must be written by a reputable insurance company acceptable to ***Railroad*** or with a current Best's Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the service is to be provide.

Contractor represents that this ***Agreement*** has been thoroughly reviewed by contractor's insurance agent(s)/broker(s), who have been instructed by contractor to procure the insurance coverage required by this ***Agreement.*** Allocated Loss Expense must be in addition to all policy limits for coverages referenced above. Not more frequently than once every five years, ***Railroad*** may reasonably modify the required insurance coverage to reflect then-current risk management practices in the railroad industry and underwriting practices in the insurance industry.

If any portion of the operation is to be subcontracted by contractor, contractor must require that the subcontractor provide and maintain the insurance coverages set forth herein, naming ***Railroad*** as an additional insured, and requiring that the subcontractor release, defend and indemnify ***Railroad*** to the same extent and under the same terms and conditions as contractor is required to release, defend and indemnify ***Railroad*** herein.

Failure to provide evidence as required by this section will entitle, but not require, ***Railroad*** to terminate this ***Agreement*** immediately. Acceptance of a certificate that does not comply with this section will not operate as a waiver of contractor's obligations hereunder.

The fact that insurance (including, without limitation, self-insurance) is obtained by contractor will not be deemed to release or diminish the liability of contractor including, without limitation, liability under the indemnity provisions of this ***Agreement.*** Damages recoverable by ***Railroad*** will not be limited by the amount of the required insurance coverage.

For purposes of this section, ***Railroad*** means "Burlington Northern Santa Fe Corporation", "BNSF RAILWAY COMPANY" and the subsidiaries, successors, assigns and affiliates of each.

Section 4. EXHIBIT "C" CONTRACTOR REQUIREMENTS

The Contractor must observe and comply with all provisions, obligations, requirements and limitations contained in the Contract, and the Contractor Requirements set forth on Exhibit "C" attached to the Contract and this Agreement, , including, but not be limited to, payment of all costs incurred for any damages to Railway roadbed, tracks, and/or appurtenances thereto, resulting from use, occupancy, or presence of its employees, representatives, or agents or subcontractors on or about the construction site.

Section 5. TRAIN DELAY

Contractor is responsible for and hereby indemnifies and holds harmless Railway (including its affiliated railway companies, and its tenants) for, from and against all damages arising from any unscheduled delay to a freight or passenger train which affects Railway's ability to fully utilize its equipment and to meet customer service and contract obligations. Contractor will be billed, as further provided below, for the economic losses arising from loss of use of equipment, contractual loss of incentive pay and bonuses and contractual penalties resulting from train delays, whether caused by Contractor, or subcontractors, or by the Railway performing work under this Agreement. Railway agrees that it will not perform any act to unnecessarily cause train delay.

For loss of use of equipment, Contractor will be billed the current freight train hour rate per train as determined from Railway's records. Any disruption to train traffic may cause delays to multiple trains at the same time for the same period.

Additionally, the parties acknowledge that passenger, U.S. mail trains and certain other grain, intermodal, coal and freight trains operate under incentive/penalty contracts between Railway and its customer(s). Under these arrangements, if Railway does not meet its contract service commitments, Railway may suffer loss of performance or incentive pay and/or be subject to penalty payments. Contractor is responsible for any train performance and incentive penalties or other contractual economic losses actually incurred by Railway which are attributable to a train delay caused by Contractor or its subcontractors.

The contractual relationship between Railway and its customers is proprietary and confidential. In the event of a train delay covered by this Agreement, Railway will share information relevant to any train delay to the extent consistent with Railway confidentiality obligations. Damages for train delay are currently $382.20 per hour per incident. **THE RATE THEN IN EFFECT AT THE TIME OF PERFORMANCE BY THE CONTRACTOR HEREUNDER WILL BE USED TO CALCULATE THE ACTUAL COSTS OF TRAIN DELAY PURSUANT TO THIS AGREEMENT.**

Contractor and its subcontractors must give Railway's representative four weeks advance notice of the times and dates for proposed work windows. Railway and Contractor will establish mutually agreeable work windows for the project. Railway has the right at any time to revise or change the work windows due to train operations or service obligations. Railway will not be responsible for any additional costs or expenses resulting from a change in work windows. Additional costs or expenses resulting from a change in work windows shall be accounted for in Contractor's expenses for the project.

Contractor and subcontractors must plan, schedule, coordinate and conduct all Contractor's work so as to not cause any delays to any trains.

Kindly acknowledge receipt of this letter by signing and returning to the Railway two original copies of this letter, which, upon execution by Railway, will constitute an Agreement between us.

_____
(Contractor)

By:_____
Printed Name:_____
Title:_____

Contact Person: _____
Address: _____
_____
City:_____ State:___ Zip:____
Fax: _____
Phone: _____
E-mail:_____

BNSF Railway Company

By:_____
Name:_____
Manager Public Projects

Accepted and effective _____, 20___.

Exhibit D

***** MAINTAIN PROPRIETARY CONFIDENTIALITY *****

BNSF RAILWAY COMPANY
FHPM ESTIMATE FOR
BENTON COUNTY, WA

LOCATION VISTA | DETAILS OF ESTIMATE | PLAN ITEM : PSIOGGYE47 | VERSION : 1

PURPOSE, JUSTIFICATION AND DESCRIPTION

REVISED TO NEW PRICING LIST 09/04/03

INSTALL CONSTANT WARNING, FLASHERS WITH GATES AT WISER PARKWAY IN KENNEWICK, WA. NORTHWEST DIV., YAKIMA VALLEY SUBDIV., L/S 0048, M.P. 11.32, DOT # OGGYE47
MONTHLY POWER UTILITY COST CENTER: 61504

THE MATERIAL LIST BELOW REFLECTS TYPICAL REPRESENTIVE PACKAGES USED FOR ESTIMATING PURPOSE ONLY.
THEY CAN BE EXPECTED TO CHANGE AFTER THE ENGINEERING PROCESS. DETAILED AND ACCURATE MATERIAL LISTS WILL BE FURNISHED WHEN ENGINEERING IS COMPLETED.
CONTINUING CONTRACTS HAVE BEEN ESTABLISHED FOR PORTIONS OF SIGNAL WORK ON THE BNSF RAILROAD.
THIS ESTIMATE IS GOOD FOR 90 DAYS. THEREAFTER THE ESTIMATE IS SUBJECT TO CHANGE IN COST FOR LABOR, MATERIAL, AND OVERHEAD.

********** SIGNAL WORK ONLY **********

BENTON COUNTY, WA IS FUNDING THIS PROJECT 100%.

MAINTAIN PROPRIETARY CONFIDENTIALITY.

DESCRIPTION	QUANTITY	U/M		COST	TOTAL $
**********					
LABOR					
**********					
ELECTRICAL LABOR F/POWER TRANS SYS	54.0	MH		1,421	
SIGNAL FIELD LABOR - CAP	880.0	MH		22,933	
SIGNAL SHOP LABOR - CAP	80.0	MH		2,104	
PAYROLL ASSOCIATED COSTS				18,220	
EQUIPMENT EXPENSES				8,240	
DA LABOR OVERHEADS				28,430	
INSURANCE EXPENSES				4,163	
TOTAL LABOR COST				85,511	85,511
**********					
MATERIAL					
**********					
BATTERY	1.0	LS	N	8,625	
BUNGALOW 6X6	1.0	EA	N	8,612	
BUNGALOW MATERIAL	1.0	LS	N	5,644	
CABLE	1.0	LS	N	8,575	
CHARGERS	1.0	LS	N	1,575	
CONDUIT, PVC 4", SCH 80	75.0	FT	N	293	
CONSTANT WARNING	1.0	EA	N	24,329	
FIELD MATERIAL	1.0	LS	N	5,425	
GATE MECH	2.0	EA	N	16,270	
LAMP RESISTOR	1.0	EA	N	792	
LED GATE LIGHT KIT	2.0	EA	N	794	
LED LIGHT ADJUSTMENT	8.0	EA	N	1,928	
LIGHT OUT DETECTOR	1.0	EA	N	891	
MATERIAL FOR ELECTRICAL	1.0	EA		1,500	
RECORDER	1.0	EA	N	5,203	
SHUNT, NBS	2.0	EA	N	1,764	
SHUNT, NBS LESLIE RD	2.0	EA	N	1,764	
TELLULAR DEVICE	1.0	EA	N	2,600	
MATERIAL HANDLING				75	
USE TAX				8,105	
OFFLINE TRANSPORTATION				1,209	
TOTAL MATERIAL COST				105,973	105,973
**********					
OTHER					
**********					
AC POWER SERVICE	1.0	EA		5,000	
CONTRACT ENGR.	1.0	EA	N	8,000	
FILL DIRT	10.0	CY	N	250	
FOUNDATION, GATE	2.0	EA	N	1,010	

Exhibit D

SURFACE ROCK	10.0	CY	N	250
TOTAL OTHER ITEMS COST				14,510
				14,510
PROJECT SUBTOTAL				205,994
CONTINGENCIES				20,599
BILL PREPARATION FEE				2,266
GROSS PROJECT COST				228,859
LESS COST PAID BY BNSF				0
TOTAL BILLABLE COST				228,859

Exhibit D

***** MAINTAIN PROPRIETARY CONFIDENTIALITY *****

BNSF RAILWAY COMPANY
FHPM ESTIMATE FOR
BENTON COUNTY, WA

LOCATION VISTA | DETAILS OF ESTIMATE | PLAN ITEM : 000157644 | VERSION : 1

PURPOSE, JUSTIFICATION AND DESCRIPTION

INSTALL PUBLIC XING - NWN DIV - YAKIMA VALLEY SUB - LS 48 - MP 11.34 - RDM VULGAS - DE HIPOL

DESCRIPTION OF PROJECT AS PROVIDED BY PROJECT ENGINEER
INSTALL 32 FOOT PUBLIC XING

BILLING FOR THIS PROJECT SHOULD BE DIRECTED TO:
100% BILLABLE TO BENTON COUNTY, WA - PROJECT ENGR RUSTY OLSON

AFE REQUESTED BY:

MAINTAIN PROPRIETARY CONFIDENTIALITY
THE PHYSICAL LIMITS OF THIS PROJECT ARE DESCRIBED BY LINE SEGMENT, MILE POST RANGES, AND IN SOME CASES TRACK NUMBER. THIS IS THE PRIMARY AREA FOR THE PROJECT. THERE WILL BE CASES WHERE WORK MAY OCCUR BEYOND THE DEFINED LIMITS. PROJECTS THAT INCLUDE SIGNAL, ELECTRICAL, OR TELECOMMUNICATION EQUIPMENT MAY REQUIRE ACTIVITY BEYOND THESE DEFINED TRACK LIMITS. ALL OR PORTIONS OF SOME PROJECTS MAY OCCUR IN AREAS WHERE NO MILEPOST SIGNS EXIST SUCH AS YARDS. THIS ESTIMATE IS GOOD FOR 90 DAYS. THEREAFTER THE ESTIMATE IS SUBJECT TO CHANGE IN COST FOR LABOR, MATERIAL, AND OVERHEAD.

DESCRIPTION	QUANTITY	U/M		COST	TOTAL $
**********					
LABOR					
**********					
PLACE FIELD WELDS - CAP	64.0	MH		1,501	
PLACE OTM - CAP	24.0	MH		556	
PLACE PUBLIC CROSSING - CAP	240.0	MH		5,367	
SIGNAL FIELD LABOR - CAP	8.0	MH		211	
SURFACE TRACK - REPLACEMENT - CAP	48.0	MH		1,164	
PAYROLL ASSOCIATED COSTS				6,057	
EQUIPMENT EXPENSES				5,096	
DA LABOR OVERHEADS				9,452	
INSURANCE EXPENSES				1,383	
TOTAL LABOR COST				30,787	30,787
**********					
MATERIAL					
**********					
ANCHOR, RAIL,UNIT, 5.5" BASE	426.0	EA	**	674	
ANCHOR, RAIL, BAGGED, UNIT, 6" BASE	184.0	EA	**	218	
BALLAST, SPRAGUE, WA (MTN, NWN, NWE,	200.0	NT	**	1,082	
JOINT, COMPROMISE, 115 LB/112 LB, LH, 3L & 4L	2.0	PR	**	377	
JOINT, COMPROMISE, 115 LB/112 LB, RH, 1R & 2R	2.0	PR	**	375	
TRACK PANEL, 136 LB 40 FT- 10 FT TIES-PANDROL	1.0	EA	**	4,873	
PLATE, TIE, 5.5 IN BASE, DS	56.0	EA	**	538	
PLATE, TIE, 6 IN BASE, DS (6 HOLES EFF AUG, 2009)	56.0	EA	**	377	
RAIL, TRANSN,LH,25 FT, 136-1/4 WORN 115	2.0	EA		2,817	
RAIL, TRANSN,RH,25 FT, 136-1/4 WORN 115	2.0	EA		2,817	
SIGN, NO.121,FLANGER SIGN	2.0	EA	**	12	
SIGN,CROSSING WHISTLE,W/LETTER W	2.0	EA	**	9	
SPIKE, TRACK, 5/8 X 6-IN. 241 PER KEG	250.0	EA	**	120	
TIE, TRK,GRADE 5,TREATED,HARDWOOD,8.5 FT	20.0	EA	**	970	
WELDKIT, GENERIC FOR ALL RAIL WEIGHTS	10.0	KT		710	
CONC 136 08-SEC WITH FILLER FOR 10' WOOD TIES	32.0	FT		6,631	
CONCRETE XING RAMP AND PANEL RESTRAINT,	1.0	ST		257	
MATERIAL HANDLING				1,132	
ONLINE TRANSPORTATION				3,140	
USE TAX				1,912	
OFFLINE TRANSPORTATION				202	
TOTAL MATERIAL COST				29,243	29,243
**********					
OTHER					
**********					

Exhibit D

LOADER		1.0 LS	5,000	
	TOTAL OTHER ITEMS COST		5,000	5,000
	PROJECT SUBTOTAL			65,030
	CONTINGENCIES			6,503
	BILL PREPARATION FEE			716
	GROSS PROJECT COST			72,249
	LESS COST PAID BY BNSF			0
	TOTAL BILLABLE COST			72,249

Exhibit D

***** MAINTAIN PROPRIETARY CONFIDENTIALITY *****

BNSF RAILWAY COMPANY
FHPM ESTIMATE FOR

LOCATION VISTA | DETAILS OF ESTIMATE | PLAN ITEM : 000157371 | VERSION : 1

PURPOSE, JUSTIFICATION AND DESCRIPTION

PIP - NEW GRADE CROSSING - KENNEWICK, WA
DESCRIPTION OF PROJECT AS PROVIDED BY PROJECT ENGINEER - FLAGGING - 55 DAYS
LS 48 - MP 11.34
YAKIMA VALLEY SUBDIVISION - NORTHWEST NORTH DIVISION
RDM VULGAS - DE HIPOL

BILLING FOR THIS PROJECT SHOULD BE DIRECTED TO:
100% BILLABLE TO BENTON COUNTY, WA

AFE REQUESTED BY: RUSTY OLSON/ TODD KUHN

MAINTAIN PROPRIETARY CONFIDENTIALITY
THE PHYSICAL LIMITS OF THIS PROJECT ARE DESCRIBED BY LINE SEGMENT, MILE POST RANGES, AND IN SOME CASES TRACK NUMBER. THIS IS THE PRIMARY AREA FOR THE PROJECT. THERE WILL BE CASES WHERE WORK MAY OCCUR BEYOND THE DEFINED LIMITS. PROJECTS THAT INCLUDE SIGNAL, ELECTRICAL, OR TELECOMMUNICATION EQUIPMENT MAY REQUIRE ACTIVITY BEYOND THESE DEFINED TRACK LIMITS. ALL OR PORTIONS OF SOME PROJECTS MAY OCCUR IN AREAS WHERE NO MILEPOST SIGNS EXIST SUCH AS YARDS. THIS ESTIMATE IS GOOD FOR 90 DAYS. THEREAFTER THE ESTIMATE IS SUBJECT TO CHANGE IN COST FOR LABOR, MATERIAL, AND OVERHEAD.

DESCRIPTION	QUANTITY U/M	COST	TOTAL $
**********			
LABOR			
**********			
FLAGGING - PUBLIC CROSSING - OPER	660.0 MH	16,378	
PAYROLL ASSOCIATED COSTS		11,279	
EQUIPMENT EXPENSES		9,487	
DA LABOR OVERHEADS		17,599	
INSURANCE EXPENSES		2,577	
TOTAL LABOR COST		57,320	57,320
**********			
MATERIAL			
**********			
TOTAL MATERIAL COST		0	0
**********			
OTHER			
**********			
TOTAL OTHER ITEMS COST		0	0
PROJECT SUBTOTAL			57,320
CONTINGENCIES			0
BILL PREPARATION FEE			574
GROSS PROJECT COST			57,894
LESS COST PAID BY BNSF			0
TOTAL BILLABLE COST			57,894

Exhibit D

***** MAINTAIN PROPRIETARY CONFIDENTIALITY *****

BNSF RAILWAY COMPANY
FHPM ESTIMATE FOR
BENTON COUNTY

LOCATION VISTA | DETAILS OF ESTIMATE | PLAN ITEM : 000157370 | VERSION : 1

PURPOSE, JUSTIFICATION AND DESCRIPTION

PIP - NEW GRADE CROSSING - KENNEWICK, WA
DESCRIPTION OF PROJECT AS PROVIDED BY PROJECT ENGINEER
LS 48 - MP 11.34
YAKIMA VALLEY SUBDIVISION - NORTHWEST NORTH DIVISION
RDM VULGAS - DE HIPOL

BILLING FOR THIS PROJECT SHOULD BE DIRECTED TO:
100% BILLABLE TO BENTON COUNTY, WA

AFE REQUESTED BY: RUSTY OLSON/ TODD KUHN

MAINTAIN PROPRIETARY CONFIDENTIALITY
THE PHYSICAL LIMITS OF THIS PROJECT ARE DESCRIBED BY LINE SEGMENT, MILE POST RANGES, AND IN SOME CASES TRACK NUMBER. THIS IS THE PRIMARY AREA FOR THE PROJECT. THERE WILL BE CASES WHERE WORK MAY OCCUR BEYOND THE DEFINED LIMITS. PROJECTS THAT INCLUDE SIGNAL, ELECTRICAL, OR TELECOMMUNICATION EQUIPMENT MAY REQUIRE ACTIVITY BEYOND THESE DEFINED TRACK LIMITS. ALL OR PORTIONS OF SOME PROJECTS MAY OCCUR IN AREAS WHERE NO MILEPOST SIGNS EXIST SUCH AS YARDS. THIS ESTIMATE IS GOOD FOR 90 DAYS. THEREAFTER THE ESTIMATE IS SUBJECT TO CHANGE IN COST FOR LABOR, MATERIAL, AND OVERHEAD.

DESCRIPTION	QUANTITY U/M	COST	TOTAL $
**********			
LABOR			
**********			
TOTAL LABOR COST		0	0
**********			
MATERIAL			
**********			
TOTAL MATERIAL COST		0	0
**********			
OTHER			
**********			
15 DAYS CONTRACTED CONSULTING INSPECTOR	1.0 LS	18,564	
TOTAL OTHER ITEMS COST		18,564	18,564
PROJECT SUBTOTAL			18,564
CONTINGENCIES			0
BILL PREPARATION FEE			186
GROSS PROJECT COST			18,750
LESS COST PAID BY BNSF			0
TOTAL BILLABLE COST			18,750

5

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF AUTHORIZING SUPPRESSORS PURCHASE FROM LARSEN FIREARMS FOR THE BENTON COUNTY SHERIFF'S OFFICE, WORKER'S COMPENSATION FUND, 0503-101

WHEREAS, per resolution 09-812, "if any county department other than Public Works desires to purchase or lease from a vendor on Benton County's vendor list and not advertise and solicit formal sealed bids, it shall secure written quotes from at least three (3) different vendors on the vendor list, unless the product is such that it is not reasonable to obtain three price quotes"; and

WHEREAS, the Benton County Sheriff's Office provided information to the Benton County Risk Manager that supported the use of fire arm suppressors as a preventive measurer; and

WHEREAS, the Benton County Risk Manager approved the purchase of suppressors for the Benton County SWAT team members; and

WHEREAS, the Benton County Sheriff's Office consulted the vendors list and found that there were only three companies on the vendors list that offered the SureFire FA556-212 suppressors with flash hider; and

WHEREAS, the Benton County Sheriff's Office solicited the following companies to provide a quote for SureFire FA556-212 suppressors with flash hider; and

Larsen Firearms, Pasco, WA (see attached quote)
SureFire LLC, Fountain Valley, CA (see attached quote)
Blumenthal Uniform & Equipment, Seattle, WA. (see attached quote)

WHEREAS, Larsen Firearms had the lowest quote for the SureFire FA556-212 suppressors with flash hider; and

WHEREAS, the Patrol Captain has reviewed the quotes for completeness and recommends purchasing the SureFire FA556-212 suppressors with flash hider from Larsen Firearms; **NOW THEREFORE,**

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County Washington, concurs with the Patrol Captain's recommendation and hereby authorizes SureFire FA556-212 suppressors with flash hider purchase from Larsen Firearms in an amount not to exceed $7,500 including WSST.

Dated this _____ day of _____, 2010.

_____
Chairman of the Board

_____
Member

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

Attest.... .....
Clerk of the Board

Orig: Sheriff's Office
cc: Auditor, Purchase file

Prepared by: J. Thompson

LARSEN FIREARMS
Law Enforcement and Tactical Supplies
Class 3 Dealer

P.O. BOX 3457 PASCO, WA 99301

Estimate

Date	Estimate #
1/6/2010	349

Name / Address
BENTON CO. SHERIFF 7122 W. OKANOGAN PLACE, BLDG. A KENNEWICK,WA. 99336

ATTN: CLAY VANNOY

Terms	Rep	FOB
Net 15	LL	

Item	Description	Qty	Cost	Total
SUREFIRE	FA556-212 suppressor w/ one Flash Hider	6	1,096.41	6,578.46T

Subtotal	$6,578.46
Sales Tax (8.3%)	$546.01
Total	$7,124.47

Phone #	Fax #	E-mail	Web Site
(509) 545-0346	(509) 545-3161	SALES@LARSENFIREARMS.C...	www.Larsenfirearms.com

SureFire, LLC
18300 Mount Baldy Circle, Fountain Valley, CA 92708-6122 USA
714-545-9444 Fax: 714-545-9537
800-828-8809
www.surefire.com

Quote

Quote Number: 11665 **Date:** 2/16/2010 **Expires:** 3/18/2010 **Page:** 1 of 1

Quote To:

1254979

BENTON COUNTY SHERIFF OFFICE
7122 W. OKANOGAN PLACE
BLDG A
ATTN: LT CLAY VANNOY
KENNEWICK WA 99336
USA

Ship To:

BENTON COUNTY SHERIFF OFFICE
7122 W. OKANOGAN PLACE
BLDG A
ATTN: LT CLAY VANNOY
KENNEWICK, WA 99336
USA

Phone: 509-735-6555 Fax: 509-736-3062
Email: CLAY.VANNOY@CO.BENTON.WA.US

THIS QUOTE IS GOOD FOR 30 DAYS FROM ABOVE DATE.
PLEASE REFERENCE THIS QUOTE NUMBER WHEN PLACING ORDER.

*** UPS GROUND FREIGHT COST IS $ 35.00 IN ADDITION TO QUOTE TOTAL ***
*** QUOTE TOTAL SUBJECT TO WASHINGTON SALES TAX ON FINAL ORDER ***

ISSUED BY ALEX NUNES EXT. 2225

U. S. Dollars

Line	Part Number	Description
1	FA556-212-BK	SUPR. ONLY FOR 5.56, BK

Quantity	Unit Price	Ext. Price	Discount	Total Price
6	1,168.00	7,008.00		7,008.00

Line	Part Number	Description
2	FH556-212A	FLASH HIDER / ADAPTER, FH556-212, FA556K, FH556MG SUPPRESSOR (1/2-28 THREAD)

Quantity	Unit Price	Ext. Price	Discount	Total Price
6	103.20	619.20		619.20

Quote Total: 7,627.20 *USD*

QuotForm. Doc Version: SF.8.03.404A.002

BLUMENTHAL UNIFORMS & EQUIP.
DEPT #4179 PO BOX 34936
SEATTLE, WA 98124-1936
QUESTIONS CALL (866) 465-5006

Q U O T A T I O N

Quote Date:	Quote#	Page
2/09/10	796848	1

BILL
BENTON COUNTY SHERIFF DEPT(WA)
7122 W. OKANOGAN
BLDG A
KENNEWICK, WA 99336

SHIP
BENTON COUNTY SHERIFF DEPT(WA)
ATTN: BRIAN WHITE
7122 W. OKANOGAN BLDG A
KENNEWICK, WA 99336

(509) 735-6555 03

Employee: *SUPRESSOR

Cust Code	Slsmn	Cust P.O.	Ship Via	Terms	Due Date
BENTONCOSD	231	QUOTE	UPS GROUN	NET 30	

PHONE

Line Num	Item Code	Vendor Reference	Item Description	Qty Order	Qty Ship	Qty B.O.	Gross Price	Disc	Net Price	Ext Price
1	2399990000	23	MISC.GUN ACCESSORIES & TARGETS SUREFIRE FA556-212 SUPRESSOR	6	0	6	1460.00	8.7%	1333.00	7998.00
2	2399990000	23	MISC.GUN ACCESSORIES & TARGETS SUREFIRE FA556-212A FLASH HIDER ADAPTOR	6	0	6	129.00	7.7%	119.00	714.00

SUBTOTAL	8712.00
SALES TAX	723.10
TOTAL QUOTATION	9435.10

QUESTIONS EMAIL LINDAH@BLUMENTHALUNIFORMS.COM
VISIT US @ WWW.BLUMENTHALUNIFORMS.COM

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF AUTHORIZING AMMUNITION PURCHASES FROM LARSEN FIREARMS FOR THE BENTON COUNTY SHERIFF'S OFFICE, CURRENT EXPENSE FUND NUMBER 0000-101, DEPARTMENT 121

WHEREAS, per resolution 09-812, "if any county department other than Public Works desires to purchase or lease from a vendor on Benton County's vendor list and not advertise and solicit formal sealed bids, it shall secure written quotes from at least three (3) different vendors on the vendor list, unless the product is such that it is not reasonable to obtain three price quotes"; and

WHEREAS, the Benton County Sheriff's Office consulted the vendors list and found that there were only three companies on the vendors list that offered ammunition; and

WHEREAS, the Benton County Sheriff's Office solicited the following companies to provide a quote for ammunition; and

Larsen Firearms, Pasco, WA (see attached quote)
ProForce Law Enforcement, Prescott, AZ (see attached quote)
San Diego Police Equipment CO., INC. (see attached quote)

WHEREAS, after evaluating expected delivery dates and the need to meet the scheduled and required training date, it was determined that Larsen Firearms is the only one to meet the required delivery deadline; and

WHEREAS, the Patrol Captain has reviewed the quotes for completeness and recommends purchasing ammunition from Larsen Firearms; **NOW THEREFORE,**

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County Washington, concurs with the Patrol Captain's recommendation and hereby authorizes ammunition purchase from Larsen Firearms in an amount not to exceed $9,000 including WSST.

Dated this _____ day of _____, 2010.

_____
Chairman of the Board

_____
Member

_____
Member

Constituting the Board of Commissioners
of Benton County, Washington.

Attest.....
Clerk of the Board

Orig: Sheriff's Office
cc: Auditor, Purchase file

Prepared by: J. Thompson

LARSEN FIREARMS

Law Enforcement and Tactical Supplies
Class 3 Dealer

P.O. BOX 3457 PASCO, WA 99301

RECEIVED
FEB 02 2010
BENTON COUNTY
SHERIFF'S DEPT

Estimate

Date	Estimate #
2/2/2010	357

Name / Address
BENTON CO. SHERIFF 7122 W. OKANOGAN PLACE, BLDG. A KENNEWICK,WA. 99336

AMY VANNOY

Terms	Rep	FOB
Net 15	LL	

Item	Description	Qty	Cost	Total
PMC CCI	.223 55gr FMJ 1000rds per case (In Stock) Speer Lawman .40cal 1000rds per case (In Stock)	10 15	359.38 305.00	3,593.80T 4,575.00T

Subtotal	$8,168.80
Sales Tax (8.3%)	$678.01
Total	$8,846.81

Phone #	Fax #	E-mail	Web Site
(509) 545-0346	(509) 545-3161	SALES@LARSENFIREARMS.C...	www.Larsenfirearms.com

Corporate: 3009 N. Highway 89. Prescott, AZ 86301
Store: 655 Berry Street. Suite H Brea, CA 92821
Tel: (800) 367-5855 Fax: (928) 445-3468

PROFORCE LAW ENFORCEMENT

QUOTATION

2 FEBRUARY 2010 **OR/WA AMMO CONTRACT 9702**

DEPT: BENTON COUNTY SHERIFF (WA)
ATTN: LT VANNOY
PHONE: 509-735-6555 EXT 3283
EMAIL: CLAY.VANNOY@CO.BENTON.WA.US

ITEM #	QTY	PRODUCT DESCRIPTION	EXTENDED PRICE
L223R3	10,000	REMINGTON UMC 223 CAL, 55 GR METAL CASE @ $284.95 **PER 1000**	$2,849.50
L40SW3	15,000	REMINGTON UMC 40S&W, 180 GR, METAL CASE @ $220.43 **PER 1000**	$3306.45
		APPLICABLE WA STATE SALES TAX 8.30%	$510.94
		N/C SHIPPING ON ORDERS OVER $500.00 APPROX DELIVERY IS 120-150 DAYS ARO	
		TOTAL	$6,666.89

We sincerely appreciate your law enforcement business and look forward to serving you in the future!

Respectfully,
ProForce Law Enforcement

Jerry Yslas
www.jerryy@proforceonline.com
Law Enforcement Specialist

IMPORTANT:

*ProForce is registered with the California Board of Equalization to remit sales tax.

This quotation is based on department purchase order, F.E.T. Exemption, payment by check, and stated quantities. ATF or the manufacturer may require additional forms. Sample forms may be found at http://www.lawgun.com/Forms.htm.

Ordering instructions: Please fax a copy of the department purchase order and F.E.T. Exemption Form to (928) 445-3468. **PLEASE MAIL ORIGINALS** to ProForce Law Enforcement, 3009 N Hwy 89, Prescott, AZ 86301.

Standard terms are Net 30 days. If department policy does not allow for partial shipments and payments, separate purchase orders will be necessary.
Standard manufacturer's warranty applies to all department purchases unless otherwise specifically noted.

This quote is valid for 45 days from the date of issue, and is subject to manufacturer's availability and price change. Please call (800) 367-5855 if this bid is still pending at expiration of quote.

Please Note: A 20% restocking fee will apply to all returned goods. Please call us for a return authorization number.

FEDERAL PREMIUM
LAW ENFORCEMENT AMMUNITION
Speer LE

SAN DIEGO POLICE EQUIPMENT CO., INC.
8205-A RONSON ROAD
SAN DIEGO, CA 92111
Phone: (800) 367-8989 Fax: (858) 974-8530
sales@sandiegopoliceequipment.com

SIMUNITION
P.A.C.A. PROTECTION BODY ARMOR

QUOTATION

FAXED 02/02/2010 @2:40 PM

Date: 2/2/2010 Good Until: 3/2/2010 Terms: Net 30

To: LT CLAY VANNOY Agency: BENTON COUNTY SHERIFF - WA Quoted By: LESLIE

Phone: 509-735-6555 Fax: 509-736-3062 Email:

Quantity	Unit	Product Code	Description	Unit Price	Extended Price
15	CS/1000	CCI-53652**	SPEER LAWMAN .40CAL 180GR TMJ (ETA = 6+ MONTHS)	$233.45	$3,501.75
20	CS/500	FED-XM193H**	FEDERAL 5.56MM 55GR FMJ (ETA = 2 MONTHS)	$186.40	$3,728.00
				$0.00	$0.00
			** PRICING PER WASHINGTON STATE CONTRACT # 10903	$0.00	$0.00
				$0.00	$0.00
				$0.00	$0.00
				$0.00	$0.00
				$0.00	$0.00
				$0.00	$0.00
				$0.00	$0.00
				$0.00	$0.00
				$0.00	$0.00
				$0.00	$0.00

NOTES: FOR DEPARTMENT PURCHASE ONLY

SUBTOTAL:	$7,229.75
TAX 8.3%:	$600.07
FREIGHT:	$0.00
TOTAL:	$7,829.82

FEB-02-2010 TUE 02:32 PM SDPEC FAX NO. 858 974 8530 P. 01/01

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF AUTHORIZING RIFLE PURCHASES FROM KESSELRING'S FOR THE BENTON COUNTY SHERIFF'S OFFICE, CURRENT EXPENSE FUND NUMBER 0000-101, DEPARTMENTS 121

WHEREAS, per resolution 09-812, "if any county department other than Public Works desires to purchase or lease from a vendor on Benton County's vendor list and not advertise and solicit formal sealed bids, it shall secure written quotes from at least three (3) different vendors on the vendor list, unless the product is such that it is not reasonable to obtain three price quotes"; and

WHEREAS, the Benton County Sheriff's Office consulted the vendors list and found that there were only three companies on the vendors list that offered the Smith & Wesson M&P 15 rifles; and

WHEREAS, the Benton County Sheriff's Office solicited the following companies to provide a quote for six (6) Smith & Wesson M&P 15 rifles; and

Kesselring's, Burlington, WA (see attached quote)
Larsen Firearms, Pasco, WA (see attached quote)
L.E.E.D, Tacoma, WA (see attached quote)

WHEREAS, Kesselring's had the lowest quote for the rifles; and

WHEREAS, the Patrol Captain has reviewed the quotes for completeness and recommends purchasing six (6) Smith & Wesson M&P 15 rifles from Kesselring's; **NOW THEREFORE,**

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County Washington, concurs with the Patrol Captain's recommendation and hereby authorizes purchase from Kesselring's in an amount not to exceed $5,600 including WSST.

Dated this _____ day of _____, 2010.

_____
Chairman of the Board

_____
Member

_____
Member

Constituting the Board of Commissioners
of Benton County, Washington.

Attest.....
Clerk of the Board

Orig: Sheriff's Office
cc: Auditor, Purchase file

Prepared by: J. Thompson

kk

KESSELRING'S

4024 Old Hwy 99 North
Burlington, WA 98223 Phone: 360/724-5841 Fax: 360/724-6613
e-Mail: le@kesselrings.com Web: www.Kesselrings.com

ORDER / QUOTATION FORM

BILL TO: Dep't / Agency BENTON COUNTY SHERIFF 01/28/2010

Name CLAY V.

Address

City

State Zip

Phone ( )

Fax (509) 736-3062

SHIP TO:

Name

Address

City

State Zip

e-Mail clay.vannoy@co.benton.wa.us

Quantity	Item #	Description	Unit Price	Amount
6	311000LE	SNW M&P CARBINE RIFLE	$787.56	$4,725.36
				$0.00
				$0.00
				$0.00
				$0.00
				$0.00
				$0.00
		NOTE: WA. ST. SALES TAX IS ONLY A GUESS AT 0.082%		$0.00
		YOUR ACTUAL TAX MAY BE DIFFERENT.		$0.00
				$0.00
				$0.00

Subtotal	$4725.36
Sales Tax WA Only	$387.48
Shipping	$0.00
Total	$5112.84

☐ Check or Money Order Enclosed

Method of Payment (Check One)

☐ Purchase Order No.

Please Bill: ☐ Visa ☐ MasterCard ☐ American Express

Credit Card Number

Expiration Date

Special Notes:

QUOTE GOOD FOR 30 DAYS FROM ABOVE DATE. TERMS: NET 30

Authorized Signature

LARSEN FIREARMS
Law Enforcement and Tactical Supplies
Class 3 Dealer

P.O. BOX 3457 PASCO, WA 99301

Estimate

Date	Estimate #
2/1/2010	356

Name / Address
BENTON CO. SHERIFF 7122 W. OKANOGAN PLACE, BLDG. A KENNEWICK,WA. 99336

CLAY VANNOY

Terms	Rep	FOB
Net 15	LL	

Item	Description	Qty	Cost	Total
S&W	AR15 #311000LE FET Out	6	809.64	4,857.84T

Subtotal	$4,857.84
Sales Tax (8.3%)	$403.20
Total	$5,261.04

Phone #	Fax #	E-mail	Web Site
(509) 545-0346	(509) 545-3161	SALES@LARSENFIREARMS.C...	www.Larsenfirearms.com

L.E.E.D.
6902 6th Avenue
Tacoma, WA 98406
USA

Voice: 503-656-0353
Fax: 503-656-0353

QUOTATION

Quote Number: ML01281005
Quote Date: Jan 28, 2010
Page: 1

Quoted To:
Benton County Sheriff's Office 7122 W. Okanogan Place Bldg. A Kennewick, WA 99336 USA

Customer ID	Good Thru	Payment Terms	Sales Rep
99336BCSO	2/27/10	Net 30 Days	ML

Quantity	Item	Description	Unit Price	Amount
6.00	311000	S&W Model M&P15 Rifle: 5.56MM NATO, 16" Bbl.	851.50	5,109.00
			Subtotal	5,109.00
			Sales Tax	424.05
			TOTAL	5,533.05