

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

## Board of County Commissioners

Jerrod MacPherson  
County Administrator

Matt Rasmussen  
Deputy County Administrator



**Notice: Meeting provided by Live-Broadcast at the following link**  
<https://www.co.benton.wa.us/agendalist.aspx?categoryid=1181>

**AGENDA**  
**BOARD OF BENTON COUNTY COMMISSIONERS**  
**Regular Board Meeting**  
**Tuesday, May 5, 2020**

**9:00 AM**      **Call to Order**  
**Approval of Minutes**  
                ❖ **April 28, 2020**

**Review Agenda**

**Consent Agenda**

**Auditor**

- a. Line Item Transfer, Fund No. 0000101, Dept. 102
- b. Line Item Transfer, Fund No. 0111101, Dept. 000

**Public Works**

- c. Purchase, Installation and Payment Authorization to Pape Machinery for Manufactured Transmission in a John Deere Motor Grader Waiving the Competitive Bidding Requirements
- d. Purchase of Dynapac Single Drum Roller From Pape Machinery Inc.

**Sheriff**

- e. Moorage Agreement w/Port of Kennewick to Maintain a Boat Slip at Clover Island Marina

**Treasurer**

- f. Contract w/Bid4Assets for Online Property Tax Foreclosure Sales

**Public Comment ~ cancelled**

**Scheduled Business**

Coronavirus Aid, Relief, and Economic Security (CARES) Act ~ Auditor Chilton

- CARES Act Grant Agreement w/State of Washington
- Health & Security Coordinator Position in Election's Department
- CARES Act Grant and Health & Security Coordinator Line Item Transfer

**Other Business**

**Draft**

**MINUTES**

**BOARD OF BENTON COUNTY COMMISSIONERS**

Regular Board Meeting  
Tuesday, April 28, 2020, 9:00 a.m.

*Meeting provided by Video Live-Broadcast*

**Present:** Chairman James Beaver  
Commissioner Shon Small (via/teleconference)  
Commissioner Jerome Delvin (via/teleconference)  
County Administrator Jerrod MacPherson  
Clerk of the Board Cami McKenzie

**Benton County Employees Present During All or a Portion of the Meeting:** Deputy County Administrator Matt Rasmussen; DPA Ryan Brown; IT Manager Robert Heard; Robert Blain, Director of Operations/Capital Assets; Chief Scott Souza; Commander Joshua Shelton; Bill Spencer, Assessor.

**Approval of Minutes**

The Minutes of April 14, 2020 were approved.

**Consent Agenda**

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

**Commissioners**

- a. Line Item Transfer, Fund No. 0133-101, Dept. 000
- b. Award of Contract for Official County Newspaper

**Corrections Department**

- c. Agreement w/Lexipol, LLC for Use of Subscription Material for Policy Manuals and Training Bulletins; Amending Resolution 2020-239
- d. Contract w/Kuennen Northwest for Auditing Services for Prison Rape Elimination Act Compliance
- e. Second Amendment w/Naphcare, Inc. to Provide Health Care Services for Inmates

**Human Services**

- f. Agreement w/Safe Harbor Crisis Nursery for Quarantine Beds for Homeless Teens
- g. Line Item Transfer, Fund No. 0154-101, Dept. 000

**Information Technology**

- h. Copier Lease Agreement w/Ricoh USA for Commissioners’ Office @ the Courthouse
- i. Copier Lease Agreement w/Ricoh USA for Public Works @ Public Services Building

**Parks**

- j. Line Item Transfer, Fund No. 0110-102, Dept. 000

### **Public Works**

- k. Contract w/Central Washington Asphalt for Edge Repair
- l. Contract w/Various Companies for As Needed Surfacing Materials
- m. Request Permission to Proceed w/Advertisement and Bid Process for Crack Seal

### **Risk Management**

- n. Washington Counties Risk Pool Appointments

### **Sheriff**

- o. Purchase of Three Vehicles From Columbia Ford Lincoln; Amending Resolution 2019-673
- p. Contract w/Advanced Aircraft Services to Remove and Install Garmin GDL ADSB on County's Cessna

### **Superior Court**

- q. Purchase Authorization From the Trial Court Improvement Fund Committee

### **Public Comment ~ Cancelled**

### **Change Order No. 1 w/Banlin Construction – New Administration Building**

Robert Blain presented Change Order No. 1 with Banlin Construction for the new Administration Building. He said it included modifications to material on the basement walls, the elevator shaft to increase fire proofing and discovery of drywells in the area around the building not originally identified. He said the total amount of the change order was \$44,253.44 plus WSST.

**MOTION:** Commissioner Delvin moved to approve Change Order No. 1 with Banlin Construction for the new Administration Building project, increasing the contract by \$44,253.44 plus WSST for a new contract amount not to exceed \$12,591,598.74 plus WSST. Commissioner Small seconded and upon vote, the motion carried.

### **Other Business**

Commissioner Delvin said there were a lot of emails being received about reopening or not and they were trying to answer all those. He said the County Commissioners were limited on authority and he asked everyone to be patient. He said he heard their concerns, but this was the Governor's decision.

Commissioner Small said he agreed with Commissioner Delvin and commented the Supreme Court upheld the Governor's decision and there was nothing they could do except wait.

Chairman Beaver agreed and said they had to follow the rules of the State of Washington. He added they were all in support of people going back to work and thanked everyone for their patience.

The Board agreed to have its regular meeting the following week. Mr. MacPherson indicated the Governor would be updating the proclamation and they would wait for his decision before deciding about the location of the meeting.

Chairman Beaver added that he spoke to the Mayor of the City of Kennewick and discussed a potential purchase and sale of the fire station property located next to the Justice Center and that Mr. MacPherson and Ms. Mosley would discuss this further. The Board agreed with moving forward with that discussion.

**Account Payables**

Check Date: 04/09/2020

P-Cards #: 420  
Total all funds: \$241,052.00

Check Date: 04/17/2020

EFT's: 1238-1239  
Transfers #: 04172001-04172004  
Total all funds: \$68,023.88

Warrant #: 205652-205811  
Total all funds: \$1,541,511.11

**Payroll**

Check Date: 04/15/2020

Payroll Draw Checks  
Warrant #: 242549  
Direct Deposit #: 152303-152472  
Total all funds: \$119,886.36

Payroll Deductions/Transfers  
Taxes #: 101200412  
Total all funds: \$36,452.85

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

**Resolutions**

- 2020-291: Line Item Transfer, Fund No. 0133-101, Dept. 000
- 2020-292: Award of Contract for Official County Newspaper
- 2020-293: Agreement w/Lexipol, LLC for Use of Subscription Material for Policy Manuals and Training Bulletins; Amending Resolution 2020-239
- 2020-294: Contract w/Kuennen Northwest for Auditing Services for Prison Rape Elimination Act Compliance
- 2020-295: Second Amendment w/Naphcare, Inc. to Provide Health Care Services for Inmates
- 2020-296: Agreement w/Safe Harbor Crisis Nursery for Quarantine Beds for Homeless Teens

- 2020-297: Line Item Transfer, Fund No. 0154-101, Dept. 000
- 2020-298: Copier Lease Agreement w/Ricoh USA for Commissioners' Office @ the Courthouse
- 2020-299: Copier Lease Agreement w/Ricoh USA for Public Works @ Public Services Building
- 2020-300: Line Item Transfer, Fund No. 0110-102, Dept. 000
- 2020-301: Contract w/Central Washington Asphalt for Edge Repair
- 2020-302: Contract w/Various Companies for As Needed Surfacing Materials
- 2020-303: Request Permission to Proceed w/Advertisement and Bid Process for Crack Seal
- 2020-304: Washington Counties Risk Pool Appointments
- 2020-305: Purchase of Three Vehicles From Columbia Ford Lincoln; Amending Resolution 2019-673
- 2020-306: Contract w/Advanced Aircraft Services to Remove and Install Garmin GDL ADSB on County's Cessna
- 2020-307: Purchase Authorization From the Trial Court Improvement Fund Committee
- 2020-308: Approving Change Order No. 1 with Banlin Construction – New Administration Building

There being no further business before the Board, the meeting adjourned at approximately 9:13 a.m.

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Clerk of the Board

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Chairman

# RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY FUNDS RE: TRANSFER OF FUNDS WITHIN  
CURRENT EXPENSE FUND NUMBER 0000101, DEPARTMENT NUMBER 102

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: B. Chilton; Auditor; File

CHILTON

**BENTON COUNTY LINE ITEM TRANSFER**

Dept Name: Auditor

Dept Nbr: 102

Fund Name: Current Expense

Fund Nbr: 0000101

TRANSFER FROM: Dept.

TRANSFER TO: Dept.

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT	BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
514.300	1313	Administrative Assistant	\$9,811	514.300	1163	Chief Deputy Auditor	\$9,811
514.810	1313	Administrative Assistant	\$9,811	514.810	1163	Chief Deputy Auditor	\$9,811
<b>TOTAL</b>			<b>\$19,622</b>	<b>TOTAL</b>			<b>\$19,622</b>

**Explanation:**

To promote the Administrative Assistant to Chief Deputy. Per resolution 2017-089, employee will be placed at 60% and receive increases at the discretion of the elected official.

Prepared by: B. Chilton      Reviewed by: N/A

Date: 4/23/20

Approved

Denied

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

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

# RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY FUNDS RE: TRANSFER OF FUNDS WITHIN  
ELECTION RESERVE FUND NUMBER 0111101

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: B. Chilton; Auditor; File

CHILTON

**BENTON COUNTY LINE ITEM TRANSFER**

Dept Name: Auditor

Dept Nbr: N/A

Fund Name: Election Reserve

Fund Nbr: 0111101

TRANSFER FROM: Dept.

TRANSFER TO: Dept.

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT	BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
514.401	1313	Administrative Assistant	\$9,811	514.401	1163	Chief Deputy Auditor	\$9,811
514.901	1313	Administrative Assistant	\$9,811	514.901	1163	Chief Deputy Auditor	\$9,811
<b>TOTAL</b>			<b>\$19,622</b>	<b>TOTAL</b>			<b>\$19,622</b>

**Explanation:**

To promote the Administrative Assistant to Chief Deputy. Per resolution 2017-089, employee will be placed at 60% and receive increases at the discretion of the elected official.

Prepared by: B. Chilton      Reviewed by: N/A

Date: 4/23/20

Approved

Denied

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

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

# COMMISSIONERS' AGENDA ACTION SHEET

<b>Meeting Date:</b>	Next available meeting	
<b>Subject:</b>	Replace failed transmission in motor grader #0540	
<b>Presenter:</b>		
<b>Prepared By:</b>	M. McGhan	
<b>Reviewed By:</b>	R. Blain	
<b>Type of Agenda Item:</b>	<b>Type of Action Needed:</b>	
<input checked="" type="checkbox"/> Consent Agenda <input type="checkbox"/> Public Hearing <input type="checkbox"/> Scheduled Business	<input type="checkbox"/> Discussion Only (1 <sup>st</sup> ) <input type="checkbox"/> Discussion Only (2 <sup>nd</sup> ) <input type="checkbox"/> Decision/Direction	<input type="checkbox"/> Pass Motion <input checked="" type="checkbox"/> Pass Resolution <input type="checkbox"/> Pass Ordinance

## Summary / Background Information

Benton County ER&R has a John Deere motor grader #0540 that the transmission has failed internally requiring replacement. The motor grader is only halfway through it's expected lifecycle and is prudent to repair.

The *County-Wide Procurement, Leasing, and Contract Policy, Section 2.2.3 Purchases or Leases of \$25,000 or more* calls for purchases over \$25,000 to follow the "Formal Competitive Bid" requirements as established in RCW 36.32.245 unless otherwise exempt under RCW 39.04.280. RCW 39.04.280(1)(a) allows agencies to waive competitive bidding if a purchase is clearly and legitimately limited to a single source of supply. Due to propriety parts and programming, the repair needs to be done at a certified John Deere dealer. A quote was solicited from Papé Machinery in Pasco, WA, the only John Deere certified dealer in our area.

The quote from Papé Machinery, Inc. is as follows and is attached:

Purchase and install 1 remanufactured transmission: \$37,681.20 plus WSST

The Fleet Superintendent recommends having Papé Machinery purchase and install a remanufactured transmission in motor grader #0540.

## Fiscal Impact

**Amount:** \$37,681.20 plus WSST

**Fund:** ER&R Fund

## Recommendation

The Fleet Superintendent recommends the Board waive the competitive bidding requirements and approve the purchase and installation of a remanufactured transmission in motor grader #0540 in an amount not to exceed \$50,000.00 including WSST from Papé Machinery, Inc., Pasco, WA.

## Suggested Motion

Approve as part of the Consent Agenda.

# Service Estimate

**PAPÉ****MACHINERY**

Estimate Date	4/16/2020	Estimate By :	MONTE E
Customer	BENTON COUNTY RD. DEPT.		
Machine	772G	Serial Number	1DW772GXPCE649075
Customers Machine #		Meter Reading	5700

## Work Requested

REMOVE BOTTOM GUARD, LOWER FAN DRIVE PULLEY, HOOD, FUEL TANK, HYDRAULIC RESERVIOR. REMOVE AND REPLACE TRANSMISSION. ASSEMBLE IN REVERSE ORDER. CALIBTRATE TRANSMISSION.

## Estimate

### Labor Rates

\$121.00 Hour Labor	64	\$7,744.00
\$154.00 Shop Over Time		\$0.00
\$154.00 Field Time		\$0.00
\$195.00 Field Over Time		
\$154.00 Travel Hrs		\$0.00
\$195.00 Travel Over Time		\$0.00
\$135.00 Std Hauling		\$0.00

Parts                      Parts Ticket #                      \$29,450.00

Freight    \$100.00

Outside Work                                      \$0.00

Misc    5.00%                      \$387.20

**Total**    **\$37,681.20**

**This estimate does not include applicable taxes**

The above information is an estimate and is only to provide general cost guidance based upon information provided. Unanticipated time requirements, component pricing, complications, and other factors may result in a substantial variance between actual charges and this estimate. Your Service Advisor will endeavor to keep you as informed as possible as to any such substantial variances

# RESOLUTION

## BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

**IN THE MATTER OF WAIVING THE COMPETITIVE BIDDING REQUIREMENTS FOR THE PURCHASE AND INSTALLATION OF A REMANUFACTURED TRANSMISSION IN A JOHN DEERE MOTOR GRADER (EQUIP. NO. 0540) IN THE ER&R FLEET AND AUTHORIZING PAYMENT TO PAPÉ MACHINERY**

**WHEREAS**, per the *County-Wide Procurement, Leasing, and Contract Policy*, Resolution 2012-677, Section 2.2.3 *Purchases or Leases of \$25,000 or more* calls for those purchases to follow the "Formal Competitive Bid" requirements as established in RCW 36.32.245 unless otherwise exempt under RCW 39.04.280; and

**WHEREAS**, RCW 39.04.280(1)(a) allows agencies to waive competitive bidding if a purchase is clearly and legitimately limited to a single source of supply; and

**WHEREAS**, a John Deere motor grader in the ER&R fleet needs to have the transmission replaced; and

**WHEREAS**, the purchase of parts and installation of the transmission in the motor grader needs to be done by a certified John Deere dealer; and

**WHEREAS**, the only John Deere dealer in our area is Papé Machinery in Pasco, Washington; and

**WHEREAS**, Papé Machinery has estimated the cost of the transmission and installation at \$37,681.20 plus WSST; and

**WHEREAS**, the Fleet Superintendent recommends waiving the bidding requirements and authorizing the local John Deere dealer, Papé Machinery, to repair the motor grader at an amount not to exceed \$50,000.00 including WSST; **NOW, THEREFORE**

**BE IT RESOLVED**, the Board of Benton County Commissioners, Benton County, Washington, hereby concurs with the Fleet Superintendent's recommendation and waives the competitive bidding requirements for the purchase and installation of a remanufactured transmission in a John Deere motor grader (Equip. No. 0540) and authorizes payment to Papé Machinery in an amount not to exceed \$50,000.00 including WSST.

Dated this \_\_\_\_\_ day of May, 2020.

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

\_\_\_\_\_  
Chairman ProTem

\_\_\_\_\_  
Member

Constituting the Board of Commissioners  
of Benton County, Washington

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

Original: Public Works  
cc: Auditor

S. Christen

# COMMISSIONERS' AGENDA ACTION SHEET

<b>Meeting Date:</b>	Next available meeting	
<b>Subject:</b>	Roller purchase from Pape utilizing HGAC contract	
<b>Presenter:</b>		
<b>Prepared By:</b>	M. McGhan	
<b>Reviewed By:</b>	R. Blain	
<b>Type of Agenda Item:</b>	<b>Type of Action Needed:</b>	
<input checked="" type="checkbox"/> Consent Agenda <input type="checkbox"/> Public Hearing <input type="checkbox"/> Scheduled Business	<input type="checkbox"/> Discussion Only (1 <sup>st</sup> ) <input type="checkbox"/> Discussion Only (2 <sup>nd</sup> ) <input type="checkbox"/> Decision/Direction	<input type="checkbox"/> Pass Motion <input checked="" type="checkbox"/> Pass Resolution <input type="checkbox"/> Pass Ordinance

## Summary / Background Information

Per Section 7.0 of Benton County's Procurement, Leasing, and Contracting Policy, *Intergovernmental Cooperative Purchasing Agreements*, the County can join with other governmental agencies for purchases or leases by entering into a written Interlocal Agreement. By Resolution 2017-255 dated April 4, 2017, the Interlocal Contract for Cooperative Purchasing between Benton County and the Houston-Galveston Area Council (HGAC) was approved.

Benton County Road Department needs to replace an Ingersol-Rand double drum roller previously sold to Franklin County (#0452) that was over 10 years old. The decision was made to purchase a Dynapac single drum roller due to local support and availability of parts and warranty repairs. Benton County is a registered member of the HGAC Cooperative Purchasing Program. HGAC has a contract with Papé Machinery, Inc., the local Dynapac dealership. A quote was solicited from Papé Machinery, Inc. for a Dynapac CA2500 single drum roller and is as follows:

Papé Machinery, Inc., Pasco, WA	\$116,375.00 plus WSST
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A Dynapac CA2500 purchased without the HGAC discount is \$172,880.00 plus WSST.

## Fiscal Impact

**Amount:** \$116,375.00 plus WSST (for a total of \$126,383.25)

**Fund:** ER&R Fund and Road Fund\*

\*Funds collected through the rental and sale of #0452, the roller being replaced, are \$25,926.00. The balance of \$100,457.25 will be paid from the Road Fund.

## Recommendation

The Fleet Superintendent requests the Board approve the purchase of one Dynapac CA2500 single drum roller in the amount of \$116,375.00 plus WSST from Papé Machinery, Inc., Pasco, WA. utilizing the HGAC contract.

## Suggested Motion

Approve as part of the Consent Agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AUTHORIZING THE PURCHASE OF ONE DYNAPAC SINGLE DRUM ROLLER FROM PAPÉ MACHINERY, INC. THROUGH THE HGAC COOPERATIVE PURCHASING PROGRAM BY BENTON COUNTY PUBLIC WORKS DEPARTMENT

WHEREAS, per Section 7.0 of Benton County's Procurement, Leasing, and Contracting Policy, *Intergovernmental Cooperative Purchasing Agreements*, the County can join with other governmental agencies for purchases or leases by entering into a written Interlocal Agreement; and

WHEREAS, by Resolution 2017-255 dated April 4, 2017, the Interlocal Contract for Cooperative Purchasing between Benton County and the Houston-Galveston Area Council (HGAC) was approved; and

WHEREAS, HGAC has a contract with the local John Deere dealership, Papé Machinery, Inc., for purchasing single drum rollers; and

WHEREAS, the Benton County Public Works Department needs to replace a drum roller that was over 10 years old that was previously sold to Franklin County (ER&R equipment number 0452); and

WHEREAS, Papé Machinery, Inc. quoted a price of \$116,375.00 plus WSST for a Dynapac single drum roller utilizing HGAC Contract SM10-18; and

WHEREAS, the Fleet Superintendent reviewed the quote for completeness and recommends the purchase of one Dynapac single drum roller from Papé Machinery, Inc. through HGAC; **NOW, THEREFORE,**

**BE IT RESOLVED,** the Board of Benton County Commissioners, Benton County, Washington, hereby concurs with the Fleet Superintendent's recommendation and authorizes the purchase of one Dynapac single drum roller utilizing HGAC Contract No. SM10-18 from Papé Machinery, Inc. in the amount of \$116,375.00 plus WSST.

Dated this \_\_\_\_\_ day of May, 2020.

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

\_\_\_\_\_  
Chairman ProTem

\_\_\_\_\_  
Member

Constituting the Board of Commissioners  
of Benton County, Washington

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

Original: Public Works  
cc: Auditor

S. Christen





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CONTRACT PRICING VERIFICATION

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TO:  
MICHAEL MCGHAN

FROM:  
MARLANA MACK

END USER:  
BENTON COUNTY

DATE:  
04/24/2020

PHONE NUMBER:  
509-539-4769

RE:  
Price Verification

REFERENCE:  
PAPE MACHINERY QUOTE 4.13.20

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We have reviewed the pricing provided through HGACBuy Contract SM10-18. Our review verifies that the pricing provided is in compliance with the contract.

Once a purchase document is executed for this order, please send a completed compilation of all required documents for HGAC processing.

Please advise if we can assist further in this matter.

\*\*\*\*\*This is not an Order Confirmation\*\*\*\*\*

# COMMISSIONERS' AGENDA ACTION SHEET

<b>Meeting Date:</b>	May 5, 2020	
<b>Subject:</b>	Contract with Port of Kennewick for Safeboat Moorage	
<b>Presenter:</b>	Commander, Jon Law	
<b>Prepared By:</b>	Katie Gillies, CFO	
<b>Reviewed By:</b>	Ryan Lukson	
<b>Type of Agenda Item:</b>	<b>Type of Action Needed:</b>	
<input checked="" type="checkbox"/> Consent Agenda	<input type="checkbox"/> Discussion Only (1 <sup>st</sup> )	<input type="checkbox"/> Pass Motion
<input type="checkbox"/> Public Hearing	<input type="checkbox"/> Discussion Only (2 <sup>nd</sup> )	<input checked="" type="checkbox"/> Pass Resolution
<input type="checkbox"/> Scheduled Business	<input type="checkbox"/> Decision/Direction	<input type="checkbox"/> Pass Ordinance

## **Summary / Background Information**

Per Resolution 2012-677, Section 4.0 Services “the County need not advertise or follow a formal competitive bidding procedure for service contracts, but rather the county may instead evaluate and utilize the procedures it deems best under the individual circumstances in order to obtain services of the highest quality at the lowest cost.

The Benton County Sheriff's Office currently does not possess a place to house the emergency response vessels on the Columbia River in a secure environment free from the elements of nature. The Port of Kennewick has offered to lease a vessel moorage slip to the Benton County Sheriff's Office at a significantly reduced rate. This moorage agreement will reduce emergency response times and place our vessel in a safe and secure location and increase public safety.

The Port of Kennewick moorage slip includes one (1) space available with utilities to the Benton County Sheriff's Office for the purpose of storing there Safeboat and to perform minor vessel maintenance.

## **Fiscal Impact**

**Amount:** \$197.04, plus any applicable W.S.S.T

**Fund:** 0148101 – Public Safety Tax Funds

## **Recommendation**

The Benton County Sheriff's Office recommends entering into a contract with the Port of Kennewick for said services that commences May 1, 2020 and terminates December 31, 2020 for an amount not to exceed \$197.04 plus any applicable WSST.

## **Suggested Motion**

Approve as part of consent agenda

# RESOLUTION

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

**IN THE MATTER OF AUTHORIZING THE MOORAGE AGREEMENT BETWEEN THE PORT OF KENNEWICK AND THE SHERIFF'S OFFICE TO MAINTAIN A BOAT SLIP AT THE CLOVER ISLAND MARINA FOR ONE (1) OF THE SHERIFF'S OFFICE MARINE SAFEBOATS**

**WHEREAS**, per Resolution 2012-677, Section 4.0 Services "the County need not advertise or follow a formal competitive bidding procedure for service contracts, but rather the county may instead evaluate and utilize the procedures it deems best under the individual circumstances in order to obtain services of the highest quality at the lowest cost; and

**WHEREAS**, The Benton County Sheriff's Office currently does not possess a place to house the emergency response vessels on the Columbia River in a secure environment free from the elements of nature; and

**WHEREAS**, The Port of Kennewick has offered to lease a vessel moorage slip to the Benton County Sheriff's Office at a significantly reduced rate. This moorage agreement will reduce emergency response times and place our vessel in a safe and secure location and increase public safety; and

**WHEREAS**, The Port of Kennewick moorage slip includes one (1) space available with utilities to the Benton County Sheriff's Office for the purpose of storing there Safeboat and to perform minor vessel maintenance; and

**WHEREAS**, the Benton County Sheriff's Office recommends entering into a contract with the Port of Kennewick for said services with a termination date of December 31, 2020; **NOW, THEREFORE**

**BE IT RESOLVED**, the Board of Benton County Commissioners, Benton County, Washington, hereby concurs with the recommendation and hereby awards the personal service contract to the Port of Kennewick for moorage of the Benton County Sheriff's Office Marine Patrol Safeboat for an annual amount not to exceed \$197.04 plus any applicable WSST; and

**BE IT FURTHER RESOLVED**, the Board authorizes the Chairman to sign the attached Personal Service Contract between Benton County and The Port of Kennewick; and

**BE IT FURTHER RESOLVED** the term of the attached contract commences May 1, 2020 and expires on December 31, 2020.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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

\_\_\_\_\_  
Member

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

Prepared by: K. Gillies

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

Attest.....  
Clerk of the Board

## PORT OF KENNEWICK MOORAGE AGREEMENT

This Moorage License Agreement ("Agreement") is made on the \_\_\_\_\_ day of \_\_\_\_\_, 2020 by and between Port of Kennewick, a Washington municipal corporation ("Port"), and the undersigned Vessel owner ("Owner") under the following terms and conditions:

### Basic Moorage Agreement Provisions

The following Basic Moorage Agreement Provisions are hereby incorporated herewith as part of this Agreement:

- A. Owner Name(s): 

Benton County Sheriff's Office			
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- . Vessel Owner Mailing Address: 

7122 W. Okanogan Place #B	Kennewick	Wa	99336
SAA			
- B. Vessel Owner Home Address: 

Cell:	Home: 509-736-3079	Work: 509-736-3079
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- C. Vessel Owner Phone Contact:
- D. Vessel Owner E-Mail: 

jon.law@co.benton.wa.us
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- E. Vessel Owner Employer: 

Benton County Sheriff's Office
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- F. Emergency Contact: 

Jon Law- 509-736-3079
-----------------------
- G. Vessel Description: 

Make: Safeboat	Model: 29	Year: 2019	Color: Grey	Length: 29
WN: Exempt				
- H. Dock /BH Dock: 

Slip #:	Boathouse:	Boathouse Width:
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- I. Term: This Agreement will commence on May 1, 2020 and end on December 31, 2020. This Agreement will **automatically renew** for subsequent 12-month terms unless terminated by the Port as set forth below or by Owner providing written notice to the Port on or before **NOVEMBER 30TH** of Owner's intent to terminate the Agreement at the end of the current terms. NOTE: No partial year term are allowed without written consent of the Port. JL Initials
- J. Monthly License Fee Total Per Month 

\$24.63
---------

 (See Attached Clover Island Marina Rate Schedule)
- K. Due Date: Moorage payments are due at the Port office on or before the first day of each month. JL Initials

1. **Grant of License.** The Port grants a license to Owner to use the moorage space for moorage of the Vessel, all in accordance with the terms of this Agreement.

2. **Monthly License Fee.** Owner shall pay Port in advance, on or before the first day of each month, the monthly license fee set forth above. See also the Clover Island Marina Rate Schedule. All payments shall be made payable to Port and delivered to the Port's address, or at such other address as Port may hereafter designate. Payments by check or cash only. Credit/debit cards are not accepted at this time.

3. **Utilities.** At Owner's request, and subject to the payment of utility fees provided for herein, Port shall make available to Owner at the moorage space electrical power, water, and such other utility services generally made available to owners at the dock. Port does not warrant the availability of utility services, and shall not be responsible for any damage or injury due to the interruption or unavailability of utility services. Without limiting the generality of the foregoing, Owner acknowledges that water service may be discontinued between Fall and Spring, on a schedule as determined by the Port. In addition, Port does not warrant that the utility services will be compatible with the utility service requirements of any vessel to be moored at the dock (including electrical interconnection requirements or the effect of electrolytic action), and Owner assumes all risk in this regard. Owner shall be responsible for ascertaining that the available electrical and other utility services to the moorage space are suitable for Owner's needs. All utilities shall be furnished to the moorage space at the established rates provided by the applicable utility provider's current rates. Owner shall be solely responsible for the payment of all utility charges applicable to the moorage space, which utilities shall be measured by a separate meter where applicable and billed on a quarterly basis. JL Initials

4. **Late Fee; Interest; NSF Charge.** If Owner shall fail to pay when due any monthly license fee or any other sums due under this Agreement on or before the fifteenth (15th) day of any month, a late charge equal to the greater of (i) \$50, or (ii) five percent (5%) of the overdue amount shall be payable by Owner to reimburse the Port for costs relating to collecting and accounting for said late payment(s). In addition to any applicable late fees, 12% APR interest (1% per month), shall be applied to the total unpaid balances beginning the sixteenth (16th) day of any month. If an Owner check is returned by the bank for any reason, Owner shall pay a fifty (\$50) dollar fee for the Port's administrative costs and shall pay any associated bank fees. Future payments may be required to be made by cash or money order. The Port and Owner hereby agree that these charges represent a fair and reasonable estimate of what the Port might incur by reason of Owner's late or NSF payment. These fees are due and payable with the current rent payment. Port's

acceptance of any late charge, interest or NSF fee shall not be deemed an extension of the date license fees are due or prevent the Port from exercising any other rights or remedies under this Agreement. The Port reserves the right to revise its policy regarding late payment and NSF check charges without notice. Owner may also be subject to additional fees related to collection, chain up, haul out, impound, storage and auction. JL Initials

5. **Use.** Owner may use the moorage space only for purposes of moorage of the Vessel and minor vessel maintenance, and for no other purpose whatsoever. Commercial use is prohibited. Use of and access to the moorage space and/or dock shall be subject to Port or Port's employees', agents', or contractors' right to demand proof of ownership of the Vessel. Port or its employees, agents, or contractors shall have the right to deny access to the moorage space and/or dock if Owner fails to provide such proof of ownership upon demand. Owner's vessel length must be within the guidelines established by the Port. Prior to any change of vessels, Owner shall obtain written authorization of such change by the Port. The Port shall have the right to inspect the new vessel for size and condition prior to determining whether authorization shall be granted to moor the substitute vessel. If the Port authorizes the substitution of vessels, all other terms and conditions of this Agreement shall remain in full force and effect.

6. **Renovations.** The parties acknowledge that Port may elect in its sole discretion to (i) construct one or more new buildings, as well as piers and pilings, in and around the dock and on adjacent parcels, and (ii) perform major repairs and renovations to the dock and adjacent buildings and improvements and that such repairs and work may create noise, dust, vibrations, other construction-related impacts, including periodic limits on access to the dock.

7. **Care of Moorage Space; Maintenance.** Owner shall keep and maintain the moorage space in a clean and sanitary condition at all times, and in accordance with the Port's dock rules and regulations. The Port does not accept Owner's vessel for storage or as a bailee. Owner shall notify the Port in advance of the employment of outside commercial labor and report work performed on the vessel or boathouse. Upon termination of this Agreement, Owner shall surrender the moorage space in good order and repair, other than normal wear and tear resulting from ordinary use. Under no circumstances, nor at any time, may Owner change, modify, or alter the moorage space or any other portion of the dock. Owner shall not install or place any personal property, dinghies, equipment, boxes, or lockers of any type on any portion of the dock or walkways. Owner acknowledges that discharge by Owner of sewage, toxic materials or other liquids or solids, which could be considered pollutants is illegal, and deemed to be a default under this Agreement, and Owner hereby indemnifies Port against any expense incurred by Port, including attorneys' fees, in connection with cleaning up or rectifying any such discharge. Owner shall also utilize a mooring system adequate to provide safe berth for the Vessel plus safe and efficient handling of passengers and goods. Owner shall not refuel or engage in major repairs or maintenance of any vessel at the dock. Owner shall not utilize the dock as a boat launch. Owner shall maintain the seaworthy condition of any vessel using the moorage space. Owner shall maintain any boathouse covered by this Agreement pursuant to all applicable federal, state, local laws, regulations and codes. Owner shall comply with Best Management Practices ("BMPs") relating to the use of the dock as promulgated by Washington State Department of Ecology from time to time. The current BMPs are hereby incorporated into this Agreement as they exist and as they may be modified or supplemented. Owner shall cause owner's agents, licensees and invitees to comply with such dock rules and regulations and the BMPs. From time to time, Port maintenance staff may be assisted by supervised Department of Corrections' work crews.

8. **Transfer & Assignment.** This Agreement and Owner's rights hereunder are not transferable or assignable without the prior written approval of Port, which approval may be withheld by Port in its sole discretion. In addition, Owner may not assign or sublet the right to use the moorage space. In this respect, this Agreement is personal to Owner and may not be used or transferred to any other person. A \$50.00 transfer fee shall apply for any tenant requested slip transfers.

9. **Insurance.** At all times during the term of this Agreement, Owner shall carry in full force and effect, with insurance companies authorized to do business in the State of Washington, **bodily injury and property damage liability insurance** with limits of a least \$1,000,000 per occurrence and vessel pollution coverage in compliance with the Oil Protection Act of 1990, or be a member of a risk pool whereby the following requirements of insurance will not apply. A Certificate of Insurance or copy of Owner's insurance policy showing **evidence of insurance** will be delivered to the Port annually and the Port will be notified thirty (30) days in advance of any cancellation either by an endorsement to Owners policy or personally by written notice by owner. The foregoing insurance shall cover damage done to the dock, the port, and any other boats or equipment (including fishing boats and equipment) in the vicinity of the dock. Owner shall not be entitled to moor any vessels at the moorage space until evidence of insurance satisfactory to port has been provided by owner. At all times during the term of this agreement, owner shall also carry in full force and effect with insurance companies authorized to do business in the state of Washington **comprehensive watercraft liability insurance** for each vessel owned or operated by owner and located at the dock with limits of at least \$1,000,000 per occurrence for property damage and bodily injury and death, and which shall protect against damage done to the dock and other boats and equipment in the vicinity of the dock. The issuing insurer will provide port with not less than thirty (30) days' prior written notice of any material change or cancellation. Except for the port's deductible amount, each party hereby waives, and each party shall cause their respective property insurance policy or policies to include a waiver of such carrier's entire right of recovery (i.e., subrogation) against the other party, and the officers, directors, agents, representatives, employees, successors and assigns of the other party, for all claims which are covered or would be covered by the property insurance required to be carried hereunder or which is actually carried by the waiving party. JL Initials

10. **Indemnity.** Port shall not be liable to Owner or any other person for any loss, injury, death or damage to persons or property (including the Vessel) that may arise at the Dock, on in or around the water adjacent thereto, except for loss, injury, death or damage caused by the willful misconduct or gross negligence of Port or its agents or employees. Owner agrees to indemnify, defend and hold Port harmless from and against all loss, cost, liability, damage and expense, including but not limited to reasonable attorneys' fees, penalties and fees, incurred in connection with or arising from (a) any default by Owner of the terms and conditions of this Agreement, (b) the use of the Dock by Owner and its guests, invitees, visitors and agents, (c) acts, omissions or negligence of Owner or its guests, invitees, visitors and agents in or around the Dock, (d) the use of or operation any vessel on or about the Dock by Owner and its guests, invitees, visitors and agents, or (e) any claims by any other person by reason of loss, injury, death or damage to persons or property due to an act, occurrence or omission set forth in (a), (b), (c), or (d) above. Owner acknowledges that any vessels moored at the Dock (and any personal property contained therein) and all personal property of Owner are located at the Dock at Owner's sole risk, and Port shall not be liable for any loss or damage thereto. Furthermore, Owner shall be solely responsible and liable for, and shall indemnify, defend and hold harmless Port for, from and against any and all hazardous substances existing at the Dock on in or around the water adjacent thereto or present in or on the air, ground

water, soil, buildings or other improvements or otherwise in, on, under or about the Dock or any other property, resulting from Owner's handling of hazardous substances during the period of this Agreement.

11. **Damage, Destruction, or Condemnation.** If the Dock or any portion thereof is at any time destroyed or damaged by a casualty, or if any portion of the Dock or adjacent parcels are taken pursuant to the exercise or threatened exercise of the power of eminent domain (including a conveyance in lieu thereof), Port may elect to terminate this Agreement.

12. **No Liens.** Owner will not permit any mechanics' liens or other liens to be placed upon the Dock or any adjacent properties. Nothing herein shall be deemed or construed in any way as constituting the consent or request of Port, express or implied, by inference or otherwise, to any person for the performance of any labor or the furnishing of any materials to the Dock or any part thereof, nor as giving Owner any right, power, or authority to contract for or permit the rendering of any services or the furnishing of any materials that would give rise to any mechanic's or other liens against the Dock or any adjacent parcels. In the event any such lien is attached thereto, then, in addition to any other right or remedy of Port, Port may, but shall not be obligated to, discharge the same, and any amount paid by Port for any of the aforesaid purposes including, but not limited to, reasonable attorneys' fees, shall be paid by Owner to Port promptly on demand. If any lien is recorded in connection with Owner's work at the Dock or materials provided thereat, Owner shall, within ten (10) business days after request, post such bond as will release the affected property from such lien.

13. **Default Remedies.** If Owner violates the terms of this Agreement, and such failure continues for a period of three (3) days after Port has given Owner written notice thereof, Owner shall be in default hereunder. Upon default, Port may exercise any and all remedies available to Port hereunder or otherwise provided by law including, but not limited to the remedies set forth in RCW 53.08.320 or according to the summary procedure authorized in RCW 60.36.010. Without limiting the foregoing, Port may immediately terminate this Agreement without limiting the liability of Owner for all amounts due hereunder. Upon termination of this Agreement, and if Owner has not already done so, Port shall be authorized to remove any vessels moored at the Dock and all property of Owner from the Dock and to make repairs to any vessels if necessary in connection therewith, all at the cost, expense and risk of Owner. If any vessel remains at the Dock or in the Port following termination of this Agreement, and without limiting the other remedies of Port hereunder, Owner shall be deemed, at Port's election, to be holding over pursuant to this Agreement and shall be subject to the provisions of paragraph 24 "Holding Over" below.

14. **Cumulative Remedies, No Waiver.** Port's rights and remedies hereunder are cumulative in nature and pursuit of any particular remedy shall not be deemed an election of remedies or a waiver of any other remedies available hereunder or otherwise available in law. No waiver or forbearance of a default of this Agreement shall be construed as a waiver or forbearance of any other or subsequent breach, and the acceptance of any performance hereunder, or the payment of any amount after the same has become due or at a time when any other default exists shall not constitute a waiver of the right to demand payment of all other amounts owed or a waiver of any other default then or thereafter existing.

15. **Vessels.** Owner agrees to keep accurate records of all vessels that use the Dock, including records of the Vessels' owners, Vessels' license numbers, state registration number, and U.S. Coast Guard Certificate. A current registration number and valid decal must be prominently displayed on vessel.

16. **Electronic Gate Cards.** Port shall issue to Owner no more than two (2) Electronic Gate Cards ("Cards") to provide access to the Dock and the Moorage Space. The Cards shall be surrendered to Port upon termination of this Agreement. Cards shall remain the property of Port at all times, and Port may revoke the right of Owner to use the Cards if Owner is in default under this Agreement. Cards are for the personal use of Owner and may not be transferred to or used by any other parties. Owner agrees to notify Port immediately if any Card is lost or stolen. A replacement fee of \$25 shall be charged for any lost or stolen Card. Port reserves the right to revise its policy regarding gate card replacement fee without notice. JL Initials

17. **Limitation of Liability.** If Port is in default hereunder, Port's liability shall be limited to its right, title and interest in the Dock. The Port and any agent, officer, director, official, or employee of the Port shall not be personally liable hereunder.

18. **Access to Vessels.** Port shall have the right with reasonable notice to inspect the Moorage Space and/or board any vessels moored at the Dock to determine if the Moorage Space and/or such vessels are in compliance with the terms of this Agreement and the Port's Dock Rules and Regulations.

19. **No Living Aboard.** No person may live aboard or stay aboard for extended periods of time the Vessel when moored at the Dock. Tenants may stay for a maximum of 3 consecutive nights on vessel when moored at the Dock. JL Initials

20. **Parking.** Outside of designated areas, parking on Clover Island is for DAY USE ONLY. Violators shall be towed at owner's expense. Extended use parking permits, for a specific period of time, may be obtained at the Port office and will be issued at Port discretion. JL Initials

21. **Port's Right to Terminate.** Notwithstanding anything to the contrary elsewhere in this Agreement, Port shall have the right to terminate this Agreement at any time for any reason or for no reason at all by providing at least thirty (30) days' prior written notice of termination to Owner, in which notice Port shall specify its desired Early Termination Date. If Port elects to terminate the Agreement early as provided herein, the Early Termination Date chosen by Port shall operate as if that date were the time originally fixed for the expiration of the Agreement. The parties recognize that the foregoing early termination right is important to Port and that any delay caused by the failure of Owner to vacate the Moorage Space pursuant to this paragraph when required can cause irreparable harm to the Port and future Owners. Therefore, Port and Owner agree that time is of the essence of this paragraph and that if any dispute arises between Port and Owner with respect to the provisions of this paragraph, any other provisions of this Agreement notwithstanding, Owner will vacate the Moorage Space upon early termination of the Agreement as provided above, and Owner shall be deemed to have waived any rights in law or equity to possession of the Moorage Space. The Port shall have the right to relocate the vessel to wet or dry storage if Owner has not removed the vessel within ten (10) days after termination of the Agreement and the Owner shall be deemed, at Port's election, to be holding over pursuant to this Agreement and shall be subject to the provisions of paragraph 24 "Holding Over" below.

22. **Port's Right to Relocate.** During the term of this Agreement, Port shall have the right, for any reason, to relocate the Owner's Moorage Space to another location at the Dock. In the event Port so elects to relocate Owner, Port shall notify Owner and propose the new moorage space location to Owner. Owner shall have fifteen (15) days from the receipt of said notice to elect to accept said relocation. In the event that the relocation proposal is accepted by Owner, Port and Owner shall revise this Agreement to reflect the new moorage space. Upon such relocation, such new space shall be deemed the "Moorage Space" hereunder for all purposes and the Agreement shall be deemed amended to that effect without further formality. Monthly License Fee rates for the new space shall be the same as those agreed to in the original Agreement, subject to adjustment for additional or less moorage space, as applicable. All other terms and conditions of the original Agreement shall remain in full force and effect. In the event that Owner elects not to accept the relocation of its Moorage Space, Owner shall so notify Port in writing. Port shall then have the option for thirty (30) days to terminate Owner's Agreement or to allow Owner to remain in its present Moorage Space. In the event that Port elects to terminate the Agreement, Owner shall be given thirty (30) days' notice.

23. **No Warranties.** Port makes no warranties, express or implied, as to the condition of the Dock (including floats, walkways, gangways, ramps, gear and related items) or the suitability of the Moorage Space for Owner's intended purposes. Port makes no representations or warranties, express or implied, regarding the draft of the Dock or that the approaches to the Dock, or the moorage space itself, will be free from wreckage or debris. Owner acknowledges that Owner has had an opportunity to inspect the Moorage Space and the Dock prior to execution of this Agreement and agrees to accept same in their current condition.

24. **Holding Over.** If Owner fails to remove the Vessel from the Dock upon termination of this Agreement, and without otherwise limiting the rights of Port hereunder, Owner shall pay Port the applicable daily rate for transient moorage (as determined by Port acting in its sole discretion) for each day the Vessel continues to be moored at the Dock. The Port shall have the right to elect to chain up, remove, impound, store and/or auction Vessel at Owner's expense.

25. **Notices.** Any notices hereunder shall be given in writing and be addressed to the parties' respective address for notices as follows:

Port of Kennewick  
350 Clover Island Drive, Suite 200  
Kennewick, WA 99336

Owner  
Mailing Address Set Forth in Basic Provisions Above

26. **Removal of Vessel in Emergency.** In case of emergency, Port is authorized to move any or all vessels without liability for damages or loss of any kind. Owner agrees to pay Port reasonable compensation for moving the vessels under such circumstances.

27. **Section Headings.** The section headings in this Agreement are inserted for convenience only and are not intended to be used in the interpretation of the Sections they introduce.

28. **Dock Rules and Regulations.** Owner shall comply in all respects with the Dock Rules and Regulations adopted by Port, which Dock Rules and Regulations may be revised by Port from time to time at the Port's sole discretion. Dock Rules and Regulations will be posted on the Port's website and will be provided to Owner upon Owner's request. Failure to comply with the Dock Rules and Regulations shall constitute a default hereunder.

29. **Binding on Heirs.** This Agreement and the terms and conditions hereof are binding upon and shall inure to the benefit of the successors and assigns of Port and the heirs, executors, administrators and, to the extent permitted hereunder, the assigns of Owner.

30. **Attorneys' Fees.** In the event that any action or other legal proceeding is brought to enforce any provision of this Agreement, the prevailing party shall be entitled to recover all costs plus reasonable attorneys' fees from the non-prevailing party (including proceedings on appeal or in arbitration).

31. **Severability.** If any provision of this Agreement shall be found to be void, such determination shall not affect any other provision of this Agreement.

32. **Venue.** The Port and Owner agree that venue for any litigation involving this Agreement is proper in state court situated in Benton County, Washington, or any federal court situated in Spokane County, Washington.

33. **Amendments.** This Agreement constitutes the entire understanding and agreement of Port and Owner as to the matters set forth herein. No alteration of or amendment to this Agreement shall be effective unless in writing and signed by both the Port and the Owner.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

PORT OF KENNEWICK

CHAIRMAN OF THE BOARD

By: \_\_\_\_\_  
Tana Bader-Inglima, Deputy CEO

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

APPROVED AS TO FORM:

  
Ryan J. Lukson, Civil DPA

## Katie Gillies

---

**From:** Jon Law  
**Sent:** Tuesday, April 21, 2020 9:02  
**To:** Katie Gillies  
**Subject:** FW: [EXTERNAL] RE: Moorage agreement

See below. Its been taken care of.

thanks

---

**From:** Kandy Yates <KYates@portofkennewick.org>  
**Sent:** Monday, April 20, 2020 11:44  
**To:** Jon Law <Jon.Law@co.benton.wa.us>  
**Subject:** [EXTERNAL] RE: Moorage agreement

**CAUTION:** This email originated from outside of Benton County. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Sure, not a problem. You can pay May – December 2020.

Thank you,

*Kandy Yates*

Office Assistant/Marina Manager  
**PORT of KENNEWICK**  
350 Clover Island Drive, Suite 200  
Kennewick, WA 99336

O: (509) 586-1186  
F: (509) 582-7678  
E: [kyates@portofkennewick.org](mailto:kyates@portofkennewick.org)  
W: [www.portofkennewick.org](http://www.portofkennewick.org)

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**From:** Jon Law [<mailto:Jon.Law@co.benton.wa.us>]  
**Sent:** Monday, April 20, 2020 11:35 AM  
**To:** Kandy Yates <[KYates@portofkennewick.org](mailto:KYates@portofkennewick.org)>  
**Subject:** Moorage agreement

Kandy,

Good afternoon. My name is Jon Law, I am a Commander at the Benton County Sheriff's Office and I oversee our marine division. I am preparing to send our moorage agreement to the Board of County Commissioners for approval. In one of the provisions in the contract it states that partial year agreements cannot be approved without written consent. Being a government agency we cannot pay for services not rendered and in this case that refers to January-April of 2020.

I was wondering if you would give us consent begin paying the monthly fee associated beginning May running through December 2020?

Lastly, I wanted to thank the Port of Kennewick for being so gracious in allowing us a space for such a reduced rate. It will help public safety and assist in more rapid responses on the river.

Thank you,

Jon Law, Commander

# COMMISSIONERS' AGENDA ACTION SHEET

<b>Meeting Date:</b>	May 5, 2020		
<b>Subject:</b>	Bid4Assets Inc. Professional Services Agreement		
<b>Presenter:</b>	Kenneth Spencer		
<b>Prepared By:</b>	Alicia Woods		
<b>Reviewed By:</b>	Kenneth Spencer		
<b>PA Review, Approval to Form:</b>	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> N/A <i>(If no, include reasoning for no approval)</i>
<b>Type of Agenda Item:</b>	<b>Type of Action Needed:</b>		
<input checked="" type="checkbox"/> Consent Agenda	<input type="checkbox"/> Discussion Only (1 <sup>st</sup> )	<input type="checkbox"/> Pass Motion	
<input type="checkbox"/> Public Hearing	<input type="checkbox"/> Discussion Only (2 <sup>nd</sup> )	<input checked="" type="checkbox"/> Pass Resolution	
<input type="checkbox"/> Scheduled Business	<input type="checkbox"/> Decision/Direction	<input type="checkbox"/> Pass Ordinance	
	<input type="checkbox"/> Sign Letter/Document	<input checked="" type="checkbox"/> Execute Contract	

## Summary / Background Information

In 2018, the Commissioners approved resolution 268 authorizing the continuation of the professional service agreement with Bid4Assets Inc, allowing the Treasurer to use Bid4Assets Inc. to conduct online foreclosure auctions. The Benton County Treasurer has researched online foreclosure auction vendors and has found it most economical and efficient to continue to utilize the services provided by Bid4Assets, Inc. to conduct an online foreclosure auction for the 2020 foreclosure sale.

## Fiscal Impact

**Amount:** \$250.00 set-up fee plus \$125.00 fee per parcel submitted

**Fund:** Treasurer's O&M Fund

This agreement will impact the Treasurer's O&M Fund and will have no impact on Current Expense. A \$125.00 per parcel fee will be charged for properties submitted to be listed on the Bid4Assets website regardless of redemption or removal prior to the auction date. Properties that were not paid for, unsold or pulled from the website during the initial auction may be re-listed in a secondary or tertiary auction within 45 days for a fee of \$90.00 per sold/redeemed/removed. There is no charge for unsold parcels.

A set-up fee of \$250.00 will be charged when submitting less than 50 parcels for the initial sale. There is no set up fee for the two optional re-offer sales.

## Recommendation

Pass Resolution, Execute Contract

## Suggested Motion

N/A Consent Agenda

# RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF AUTHORIZING THE CHAIRMAN OF THE BOARD TO SIGN THE CONTRACT WITH BID4ASSETS INC.

**WHEREAS**, the County Treasurer has researched online foreclosure auction vendors and has found it most economical and efficient to use the services provided by Bid4Assets Inc. for conducting online property tax foreclosure sales; and

**WHEREAS**, the County Treasurer has utilized the services provided by Bid4Assets Inc. in previous foreclosure sales and was pleased with the service provided; and

**WHEREAS**, the online foreclosure sales have been a continued success and all parties involved would like to enter into agreement for the 2020 online foreclosure sale with the option of renewal for the 2021 & 2022 online foreclosure sales; and

**WHEREAS**, the attached service contract has been reviewed and approved as to form by a Deputy Prosecuting Attorney; **NOW THEREFORE**

**BE IT RESOLVED**, that the Board of Benton County Commissioners hereby concurs with the Treasurer's recommendation and authorizes the Chairman of the Board to sign the attached service agreement (Exhibit "A") with Bid4Assets Inc.; and

**BE IT FURTHER RESOLVED**, the cost per parcel is \$125 and a set-up fee of \$250 will apply to the initial sale if submitting less than 50 parcels; and

**BE IT FURTHER RESOLVED**, the term of this agreement shall include the 2020 online foreclosure auction with the option of renewal for two additional one-year terms. Contract is effective the date of signature and shall term December 31, 2020.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

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

Attest.....  
Clerk of the Board



**COUNTY OF BENTON**  
**Online Auction Services**

**Bid4Assets Professional Services Agreement**

**THIS** Professional Services Agreement (hereinafter referred to as the “Agreement”), is made as of the \_\_\_\_ day of \_\_\_\_\_, 202\_\_ (the “Effective Date”) by and between **BID4ASSETS, INC.**, a Maryland corporation, having an address of 8757 Georgia Avenue, Suite 520, Silver Spring, MD 20910 (hereinafter referred to as "Bid4Assets") and the **COUNTY OF BENTON**, a political subdivision of the state of Washington, having an address of Prosser Courthouse, 2<sup>nd</sup> Floor, 620 Market Street, Prosser, WA 99350, (hereinafter referred to as “Treasurer”).

**W I T N E S S E T H:**

WHEREAS, the Benton County Treasurer’s Office (hereinafter referred to as “Treasurer”) desires Internet advertising and auction services of tax- foreclosed and tax title properties and desires to engage Bid4Assets to provide said services by reason of its qualification, experience and facilities for doing the type of work herein contemplated, and Bid4Assets has offered to provide the required services on the terms set forth herein; and

NOW, THEREFORE, in consideration of the mutual covenants and for other good and valuable consideration, the receipt and sufficiency of which Bid4Assets and Treasurer acknowledge, Bid4Assets and Treasurer agree as follows:

1. Services to be Rendered. A description of the services to be provided is contained in **Exhibit B**, attached hereto and incorporated by reference.
2. Exclusive Agreement to Sell. Treasurer hereby hires Bid4Assets to be the exclusive venue to facilitate the sale and transfer of real property assets of Treasurer listed (hereinafter referred to as the “Assets”, “Parcels” or “Properties”) on Bid4Assets online venue (the “Website” or “Site”). Treasurer warrants that the Treasurer is authorized to sell the Assets. Treasurer agrees that Bid4Assets services are provided solely in accordance with the terms of this Agreement and further agrees to be bound by the Bid4Assets Terms of Service as they appear on the Bid4Assets Website ([www.Bid4Assets](http://www.Bid4Assets)) on the Effective Date (the “Terms of Service”). This Agreement supersedes any conflicting stipulations outlined in the Terms of Service. Bid4Assets agrees to utilize its Site to facilitate the sale and transfer (the “Auction”) between Treasurer and the network of potential bidders who have registered to be bidders with Bid4Assets (the “Buyer” or the “Buyers”).
3. Time to Provide Asset Information. In order to effectively list the Assets for sale, Treasurer must provide documentation and due diligence information regarding the Assets (the “Information”) by ten (10) business days prior to the date the Assets are to be posted on the Bid4Assets Site. This delivery date is hereafter referred to as the “Information Delivery

Date”. Additional time to post Assets may be required by Bid4Assets when a large number of Assets are posted simultaneously. The information (the “Information”) to be posted should include:

- Description of each asset or lot of items to be sold, including APN/ATN number, tax rate and area, street address (where applicable), among other data
- Pictures of the assets, if available
- Any special features of Asset
- Terms of sale
- Other information that can assist the bidders in making an informed purchase decision.
- If applicable, minimum prices for each asset or lot of items.

Alterations to Information after the Information Delivery Date will result in a fee of ten dollars (\$10.00) at each occurrence for each asset that is affected to cover the additional services provided by Bid4Assets. Any auction support services requested by the Treasurer outside of Bid4Assets’ normal business hours (9am to 5:30 pm Eastern Time) may require an additional charge to the Treasurer.

4. Auction Date; Term of Agreement. Provided that the Information is delivered to Bid4Assets by the Information Delivery Date, the Auction shall be listed and advertised in a Preview Period prior to the start of the Auction. The Auction will continue for a period of one (1) to five (5) days after commencement of the Auction. The Auction will be reopened and closed no more than two (2) times beyond the original Auction, and within forty-five (45) days of the original Auction, if any parcels that are bid on fail to actually settle with a cash payment. This Agreement shall be effective until December 31, 2020, unless sooner terminated as hereinafter. This agreement may be renewed for two (2) additional one (1) year periods by the written mutual consent of all parties at the fees as specified in **Exhibit A**.

5. Marketing of the Assets. Bid4Assets will provide standard marketing services of direct email notification to users in our buyer base interested in assets similar to the Treasurer’s, and placement of the Asset offerings in the applicable asset channel page of the Bid4Assets Website. Additional marketing may include newspaper advertising in local publications and press releases to local and national media outlets. Bid4Assets is required to obtain prior approval from the Treasurer of all email notices, listings, advertisements and press releases. Treasurer will post notices of sale as required by law for Washington tax foreclosure and tax title sales and may post sale notices on properties to be sold.

6. Service Fees. The Treasurer agrees to pay to Bid4Assets fees for Internet advertising and auction services in accordance with this Agreement as specified in **Exhibit A**. For the periods where the auction is re-opened, the Treasurer will pay only the per parcel fee in **Exhibit A** for only those parcels in the re-opened auction. No payment shall be made to Bid4Assets except as set forth in this agreement.

7. Optional Online Financial Services: Treasurer may elect to have Bid4Assets supply



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pre-bid deposit and payment processing services. If elected, Treasurer will also indicate in **Exhibit A** hereto.

8. Termination. The Treasurer or Bid4Assets may at its election, without cause, terminate this Agreement by written notice. A Notice of Termination will be deemed effective ninety (90) days after personal delivery, or one-hundred (100) days after mailing by U.S. Mail, postage prepaid. In addition, either party may immediately terminate this Agreement should the other party fail to substantially perform in accordance with the terms and conditions of this Agreement through no fault of the party initiating the termination. In the event either Bid4Assets or Treasurer terminates this Agreement, Bid4Assets shall submit to the Treasurer all files, memoranda, documents, correspondence and other items generated in the course of performing this Agreement within forty-five (45) days after the effective day of any written Notice of Termination. Paragraph 6, and the obligation to pay for services rendered by Bid4Assets, Inc., shall survive any termination of this Agreement.

9. Notices. All notices required or provided for in this Agreement shall be provided to the parties at the following addresses, by personal delivery or deposit in the U.S. Mail, postage prepaid, registered or certified mail, addressed as specified below. Notices delivered personally shall be deemed received upon receipt; mailed or expressed notices shall be deemed received five (5) days after deposit. A party may change the address to which notice is to be given by giving notice as provided above.

To County:                   Benton County Treasurer  
                                      Attn: Kenneth Spencer, Jr.  
                                      P.O. Box 630  
                                      Prosser, WA 99350

To Bid4Assets:            Bid4Assets, Inc.  
                                      Attn: Jesse Loomis  
                                      8757 Georgia Avenue, Ste. 520  
                                      Silver Spring, Maryland 20910

10. Authority to Bind County. It is understood that Bid4Assets, in its performance of any and all duties under this Agreement, except as otherwise provided in this Agreement, has no authority to bind the Treasurer to any agreements or undertakings.

11. Modifications of Agreement. This Agreement may be modified in writing only, signed by the parties in interest at the time of the modification.

12. Confidentiality. Bid4Assets shall not, without the written consent of the Treasurer, communicate confidential information, designated in writing or identified in this Agreement as such, to any third party and shall protect such information from inadvertent disclosure to any third party in the same manner that they protect their own confidential information, unless such disclosure is required in response to a validly issued subpoena or other process of law. Upon completion of this Agreement, the provisions of this paragraph shall continue to



survive.

13. Audit, Inspection and Retention of Records. Bid4Assets agrees to maintain and make available to Treasurer accurate books and records relative to all its activities under this Agreement. Bid4Assets shall permit Treasurer to audit, examine and make excerpts and transcripts from such records, and to conduct audits of all invoices, materials, records of personnel or other data related to all other matters covered by this Agreement. Bid4Assets shall maintain such data and records in an accessible location and condition for a period of not less than ten (10) years from the date of final payment under this Agreement, or until after the conclusion of any audit, whichever occurs last. Bid4Assets will provide copies of any above stated records as requested by the Treasurer. The State of Washington and/or any federal agency having an interest in the subject of this Agreement shall have the same rights conferred upon Treasurer herein.

14. Signature Authority. Each party has full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each party has been properly authorized and empowered to enter into this Agreement.

15. General Terms.

a. This Agreement comprises the entire agreement between Treasurer and Bid4Assets, Inc. and supersedes all prior agreements between the parties, regarding the subject matter contained herein.

b. This Agreement shall be governed in all respects by the laws of the State of Washington. Any action at law, suit in equity or judicial proceeding arising out of this agreement shall be instituted and maintained only in any of the courts of competent jurisdiction in Benton County, Washington.

16. Assignment, Delegation, and Subcontracting. Bid4Assets shall perform the terms of this agreement using only its bona fide employees or agents who have the qualifications to perform under this Agreement. The obligations and duties of Bid4Assets under this agreement shall not be assigned, delegated or subcontracted to any other person or entity without the prior express written consent of the Treasurer.

17. Compliance with Laws. Bid4Assets shall comply with all applicable federal, state and local laws, rules, and regulations in performing this Agreement.

18. Hold Harmless and Indemnification. Bid4Assets shall hold harmless, indemnify and defend the Treasurer from and against any and all claims, actions, suits, liability, losses, expenses, damages and judgments of any nature whatsoever, including costs and attorney fees in defense thereof, for injury or damage to persons or to property or business, caused by or arising out of Bid4Assets' acts, errors or omissions or the acts, errors or omissions of its employees, agents, subcontractors or anyone for whose acts any of them may be liable, in the performance of this Agreement. Claims shall include, but not be limited to, assertions that



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information supplied or used by Bid4Assets or its subcontractor(s) infringes any patent, copyright, trademark, trade name, or otherwise results in an unfair trade practice PROVIDED HOWEVER, that Bid4Assets' obligations hereunder shall not extend to injury or damage caused by or arising out of the sole negligence of the Treasurer, its officers, officials, employees or agents. In the event of the concurrent negligence of the parties, the Bid4Assets' obligations hereunder shall apply only to the percentage of fault attributable to it, its employees, agents or subcontractors. This section shall supersede and replace any conflicting provisions of this Agreement, including but not limited to the "Terms of Service" sections "Nature of Bid4Assets Responsibilities" (Section 4.5), "Limitations of Liability" (Section 5.2) and "Release and Indemnification" (Section 5.6).

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County of Benton  
Professional Services Agreement

IN WITNESS WHEREOF, each party has entered into this Agreement effective as of the Effective Date for itself, its employees, officers, partners and successors, to be fully bound by all terms and condition of this Agreement.

**Bid4Assets:**

Dated: 3/3/2020

By

*Jesse Loomis*

**Jesse D. Loomis, Chief Executive Officer**  
Federal Tax I.D. No. 52-2154558

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

APPROVED:

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

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

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

Approved as to Form

*[Signature]*  
\_\_\_\_\_  
Civil Deputy Prosecuting Attorney



**Exhibit A  
Bid4Assets Service Fees  
Tax-Foreclosed/Tax Title Parcels**

Select One	Amount per Parcel (APN/ATN number)
<input checked="" type="checkbox"/> Option A:	<p>A \$125 Per Parcel Fee (APN number) will be charged for properties SUBMITTED TO BE LISTED on the Website (regardless of redemption or removal prior to auction date).</p> <p>Properties that were not paid for, unsold or pulled from the website during the initial auction may be re-listed in a secondary or tertiary auction within 45 days for a fee of \$90 Per SOLD/REDEEMED/REMOVED. There is no charge for unsold parcels.</p> <p>A Set-Up Fee of \$250.00 will be charged for submitting less than 50 parcels for the initial sale. There is no set-up fee for the two optional re-offer sales.</p>
<input type="checkbox"/> Option B:	<p>A \$150 Per Parcel Fee (APN number) will be charged for properties SOLD/REDEEMED/REMOVED on the Website</p> <p>Properties that were not paid for, unsold or pulled from the site during the initial auction may be re-listed in a secondary or tertiary auction within 45 days at the same rate.</p> <p>A Set-Up Fee of \$250.00 will be charged less than 50 parcels submitted in the initial sale. There is no set-up fee on the re-offer sales.</p>

OPTIONAL FINANCIAL SERVICES FEE	
Type	Amount
<input checked="" type="checkbox"/> BidDeposit Per Storefront	\$35.00 per deposit paid by the depositor
<input checked="" type="checkbox"/> Payment Processing	\$35.00 per parcel paid by the winning bidder



**Exhibit B**  
**Scope of Work**

**Website Advertising and Auction Services for Tax-Foreclosed/Tax Title Properties:**

Bid4Assets to provide Website services on the Bid4Assets' Website for the Benton County Treasurer's Office to advertise and auction properties. Website services will include organizing, posting, hosting, and servicing advertised properties (including pictures of the properties when available) and due diligence information. These advertised properties will be auctioned on the Website at the direction of the Treasurer. For the duration of each auction, advertising on the Website will be available to the public twenty-four hours per day, seven days per week ("24/7"). The Treasurer will have the opportunity to remove parcels from an auction prior to bid opening.

Auction advertising is anticipated for four (4) to five (5) weeks prior to the auction. The auction advertising Website will be developed and maintained to accommodate all necessary aspects of auction advertising acceptable to the Treasurer.

Bid4Assets shall, at the direction of the Treasurer, establish parameters for auction advertising (in terms of time, minimum price, reserve price and settlement terms), develop a Web-based and traditional marketing effort, disseminate due diligence information online to potential bidders, and support the sale of properties.

Bid4Assets shall assign passwords to registered and pre-qualified bidders.

Bid4Assets shall send emails to registered users and bidders upon the occurrence of any of the following events: (1) auction advertising information posted online (2) auction commencement (3) bid has been received (4) bidder has been outbid. Bid4Assets shall structure auction so that bidders can bid automatically.

**Pre-Qualification of Bidders:**

Bid4Assets will structure the Website so as to inform potential buyers of certain relevant information concerning Washington property tax sales prior to bidding on properties. At the sole discretion of the Treasurer, a qualifying deposit may be waived and other bidder qualifications may be imposed. All bidder qualifications are subject to review and approval by the Treasurer.

**Rejecting Bids:**

Bid4Assets will structure the Website in a manner that permits the Treasurer to reject a bid for properties for any reason whatsoever.

**Withdrawing Properties:**

Bid4Assets will structure the Website in a manner that permits the Treasurer to withdraw single or multiple properties from the on-going auction advertising for any reason whatsoever, subject to the terms outlined in the Professional Services Agreement, under which per parcel fees are still due.

**Confirmation of Successful Bid:**

Bid4Assets will notify successful bidders, at the direction of the Treasurer, immediately after the auction.

**Bidder's Instructions:**

Bid4Assets will include bidder's instructions on the Website that sets forth the following information: (1) This is a "buyer beware" sale without warranties of any kind and without notice as to any outstanding easements, restrictions, or encumbrances; (2) All sales are where is, as is, and final with no refunds available; (3) You must be 18 years of age to bid (4) The minimum bid should be listed on the Website; (5) Auction start date and time; (6) Auction end date and time; (7) The Treasurer's right to reject bids for any reason whatsoever; (8) The Treasurer's right to withdraw properties for any reason whatsoever; (9) county employees and their agents are prohibited from bidding and, (10) any other legal restrictions deemed appropriate.

**Treasurer's Instructions:**

Treasurer will provide Bid4Assets data as requested in a bulk asset upload form (Excel spreadsheet) provided by Bid4Assets. Treasurer will provide this data at least two weeks prior to the beginning of the Treasurer's Preview period, during which interested bidders may examine the property listings and due diligence online. In addition, where applicable, the Treasurer will provide photos in any standardized format no larger than 900W x 900H pixel format, and maps in .PDF, .tiff or in .jpeg individually no larger than 1MB each.

**Collection of Deed Information:**

Bid4Assets will assist with the collection of information for the Treasurer's deeds and REET affidavit by providing access to Bid4Assets' proprietary electronic DeedWizard via a hyperlink from the winning bidder email sent at the close of an auction. Information collected will include the Property Tax Number, name(s) of individuals to whom the property should be conveyed, legal description of individuals (i.e. husband and wife as joint tenants, etc.), bidder name, bid information, mailing address, and phone number.

After bidders have submitted their information, DeedWizard will generate a form that they can check for errors and then reject or submit, and print for their own records. Bid4Assets



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will provide the Treasurer with a comprehensive electronic report detailing this data once it is complete.

**Reporting:**

Bid4Assets will provide the Treasurer with a complete report at the conclusion of each auction. Information will include number of page views, number of individuals who viewed due diligence, number of unique bidders, number of total bids, winning bid amounts, and contact information of successful bidders.

**Security:**

Bid4Assets must provide a secure online environment to protect the confidentiality of the data exchanged. The auction advertising website must be hosted on a secure server, using Secured Socket Layers. Site must provide a complete audit trail of all transactions.

AGENDA/WORKSHOP ITEM		TYPE OF ACTION NEEDED	
Meeting Date:	May 5, 2020	Execute Contract	<u>  X  </u>
Subject:	CARES Act Grant	Pass Resolution	_____
By:	B. Chilton	Pass Ordinance	_____
Reviewed By:	R. Hay	Pass Motion	_____
		Other	_____
		Consent Agenda	<u>  X  </u>
		Public Hearing	_____
		1st Discussion	_____
		2nd Discussion	_____
		Other	_____

**BACKGROUND INFORMATION**

The Election Division of the Auditor’s Office will be receiving a federal grant from the CARES Act to “prevent, prepare for, and respond to coronavirus, domestically or internationally, for the 2020 Federal election cycle”.

**SUMMARY**

Benton County will be allocated \$251,113.95 which includes \$209,261.63 in federal funds, and the remaining amount as matching funds from the State of Washington

**MOTION**

Move to authorize the Chairman of the Board to sign the Intergovernmental Grant Agreement between the State of Washington, Office of the Secretary of State, and Benton County, and to further authorize the Auditor to sign any subsequent addendums or modifications, should the County receive any additional funding through the CARES Act for elections.

**RESOLUTION**

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

**IN THE MATTER OF AN INTERGOVERNMENTAL GRANT AGREEMENT BETWEEN THE STATE OF WASHINGTON, OFFICE OF THE SECRETARY OF STATE, AND BENTON COUNTY,**

**WHEREAS**, in response to the challenges posed by COVID-19 to the 2020 elections Congress allocated \$400 million dollars in election grants to help states “prevent, prepare for, and respond to the coronavirus” so that elections proceed safely, accurately, and legitimately; and

**WHEREAS**, Benton County will be allocated \$251,113.95 which includes \$209,261.63 in federal funds, and the remaining amount as matching funds from the State of Washington; and

**WHEREAS**, Benton County is also set to receive another federal grant award in an amount to be determined but in similar amount to the CARES Act funding; **NOW, THEREFORE**,

**BE IT RESOLVED**, the Chairman of the Board is authorized to sign the Intergovernmental Grant Agreement between the State of Washington, Office of the Secretary of State, and Benton County, in the sum of \$251,113.95 for the term commencing on the date of the execution of the agreement through December 31, 2020 ; and

**BE IT FURTHER RESOLVED**, that the Auditor is authorized to sign any subsequent addendums or modifications to the Intergovernmental Grant Agreement, should the County receive any additional funding through the CARES Act for elections.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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

\_\_\_\_\_  
Member

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

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

B. Chilton; L. Roe; A. Hatfield

**INTERGOVERNMENTAL GRANT AGREEMENT  
BETWEEN  
THE STATE OF WASHINGTON,  
OFFICE OF THE SECRETARY OF STATE,  
AND  
BENTON COUNTY**

THIS INTERGOVERNMENTAL GRANT AGREEMENT is made and entered into between the Office of the Secretary of State, hereinafter referred to as "OSOS," and Benton County, hereinafter referred to as "County."

**I. AWARD IDENTIFICATION**

County's name	Benton County
County's unique identifier	DUNS #602898884
Federal Award Identification number (FAIN)	EAC1651DB2020DR-2020-61000001-410001-EAC1908000000
Federal Award Date	April 6, 2020
Period of Performance	3/28/2020 – 12/31/2020
Amount of Federal Funds Obligated	<b>\$209,261.63</b>
Total Amount of Federal Funds Obligated	<b>\$209,261.63</b>
Total Amount of Award to County (Federal and State Funds)	<b>\$251,113.95</b>
Federal Award Project Description	As authorized under Section 101 of the Help America Vote Act of 2002 (P.L. 107-252) (HAVA) and provided for in the CARES Act, 2020 (Public Law 116-136), the purpose of this award is to "prevent, prepare for, and respond to coronavirus, domestically or internationally, for the 2020 Federal election cycle."
Federal Awarding Agency	U.S. Elections Assistance Commission
CFDA Number and Name	90.404 HAVA Election Security Grants
Total award amount	\$8,308,437 (Federal) \$1,661,687 (State)
Is the Award Research and Development?	No

## II. DEFINITIONS & INTERPRETATION

Except as otherwise provided herein, as used in this Agreement capitalized terms shall have the following meanings:

“Award” means federal funds and matching state funds provided to the County under this Agreement, pursuant to the 2020 HAVA Cares Act Grant, for the purpose of preventing, preparing for, and responding to coronavirus, domestically or internationally, for the 2020 Federal election cycle.

“Business Day” shall mean a day that is not either Saturday or Sunday and is not a holiday observed by the State of Washington or a Federal holiday listed in 5 USC § 6103.

“CARES Act” means Public Law 116-136, the purpose of which is to “prevent, prepare for, and respond to coronavirus, domestically or internationally, for the 2020 Federal election cycle.”

“EAC” means the Election Assistance Commission.

“HAVA” means the Help America Vote Act of 2002.

“2020 HAVA CARES Act” means Public Law 116-136, the purpose of which is to “prevent, prepare for, and respond to coronavirus, domestically or internationally, for the 2020 Federal election cycle.”

“OSOS” means the State of Washington Office of the Secretary of State.

## III. PURPOSE

It is the purpose of this Agreement to provide the County with federal funds and a state matching share of funds as authorized under Section 101 of the Help America Vote Act of 2002 (P.L. 107-252) (HAVA) and provided for in the CARES Act, 2020 (Public Law 116-136), for the purpose of preventing, preparing for, and responding to coronavirus, domestically or internationally, for the 2020 Federal elections cycle.

## IV. AWARD

County is hereby awarded the amount of funds stated in section I of this Agreement – Total Amount of Award to County (Federal and State Funds).

**V. STATEMENT OF WORK**

The County shall furnish the necessary personnel, equipment, material and/or service(s) and otherwise do all things necessary for or incidental to the performance of work set forth in **Exhibit "A"** attached hereto and incorporated herein.

**VI. PERIOD OF PERFORMANCE**

The period of performance of this Agreement shall commence on the date of execution, and proceed until December 31, 2020, unless terminated sooner as provided in this Agreement.

**VII. ADMINISTRATIVE OBLIGATIONS OF COUNTY****Accounting Standards**

The County agrees to comply with 2 CFR 200 - Uniform Administrative Requirements, Cost Principles, and Audit Requirements. The County agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred under this program.

**Cost Principles**

The County shall administer its program in conformance with 2 CFR 200 Subpart E (200.400-475). These principles shall be applied for all costs incurred whether charged on a direct or indirect basis. The County agrees to adhere to the accounting principles and procedures required therein.

**County Monitoring and Management**

County agrees to abide by, and cooperate with OSOS, in meeting the applicable federal requirements for sub-recipient monitoring and management found in 2 CFR 200.331.

**Interest**

The County shall place funds received under this Agreement in an interest bearing account. All funds received under this Agreement will remain in that account until spent by the County on allowable activities. Interest earned on deposited funds will be spent on allowable activities under this Agreement. In the event of termination of this Agreement in accordance with its terms, interest earned on deposited funds shall be remitted to OSOS together with all unspent federal and state match grant funds.

**VIII. GENERAL OBLIGATIONS OF THE COUNTY**

**General Standards**

The County shall procure materials in accordance with the requirements of 2 CFR 200, Subpart D regarding Procurement Standards, and shall subsequently follow, 2 CFR 200, Subpart D Property Standards, covering utilization and disposal of property.

**Equipment**

The purchase of equipment is an unallowable activity except when it is an integral part (such as part of a structure or built into a structure) of an eligible project or service. Equipment, with a unit cost of \$5,000 or more, must have prior approval by the Office of the Secretary of State before any expense is incurred. The County shall comply with its own current policies concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policy, and as may be procured with funds provided herein. All other program assets (property, equipment, accounts receivable, etc.), other than unused grant funds and interest, shall revert to the County upon expiration of this Agreement, unless this Agreement is terminated under its own terms, or a different disposition of program assets is specified separately in writing by the Parties.

**Unused Funds**

Unused grant funds, including interest earned on grant funds, shall be returned to OSOS on December 31, 2020, unless this Agreement is terminated sooner.

**IX. DOCUMENTATION AND RECORDKEEPING****Records to be maintained**

The County shall maintain all records required by the Federal regulations that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

- a) Records providing a full description of each activity undertaken by County hereunder;
- b) Records demonstrating that each individual activity undertaken by County meets one of the provisions in Section 101 of HAVA and the Congressional Joint Explanatory Statement for the Consolidated Appropriations Act of 2020;
- c) Records required for determining the eligibility of activities;
- d) Records documenting compliance with Davis Bacon and Related Acts;
- e) Financial records as required by 2 CFR 200 Subpart D; and

- f) Other records necessary to document compliance with applicable laws, rules, and regulations.

### **Public Records Act**

The County shall comply with the provisions of the Public Records Act, Chapter 42.56 RCW, and all other applicable records laws. When a public records request related to this Agreement is received by the County, it shall provide notice to the OSOS Project Manager identified in Section XVII of this Agreement.

### **Format of records**

Wherever practicable, the County shall collect, transmit, and store records related to this Award in an electronic, machine readable format.

### **Retention Period**

The County shall retain all records according to applicable federal and state laws.

### **Protections for Data**

The County shall comply with all federal and state regulations to ensure proper disposal of data.

## **X. REPORTING REQUIREMENTS**

Pursuant to the CARES Act, within 20 days of each election in the 2020 Federal election cycle, the State will send a report accounting for the State's use of the funds. To allow for the time needed for the State to compile the data and write the report, the County must submit a report containing a list of expenditures for each election within 14 calendar days of the election date. The format of this list of expenditures and the required categories will be the same as those provided by the EAC for the 2020 election cycle. When the OSOS receives this information from the EAC, it will provide that format and the categories to the County via email.

A Federal Financial Report and progress report for the period ending December 31, 2020 will be due from the State on February 28, 2021. To allow for the time needed to compile the data and write the report, the County must submit a final list of expenditures, in the format specified by EAC and provided to the counties via OSOS, at least 15 business days in advance of that date.

## **XI. AUDITS AND INSPECTIONS**

### **Audits**

If the County expends \$750,000 or more in federal awards during its fiscal year, the County is required to provide the appropriate single or program-specific audit in accordance with the provisions outlined in 2 CFR Part 200.501.

### **Inspections and Interviews**

County shall provide OSOS and its representatives, as well as authorized representatives of the Federal awarding agency, Inspectors General, and the Comptroller General of the United States, pursuant to 2 CFR 200.336, access to the premises of the County at any time and from time to time during normal business hours and upon reasonable notice under the circumstances for the purposes of:

- a) Inspecting and copying (at County's expense) any and all program documents maintained by the County; and
- b) Discussing the affairs, finances and business of the County with any representative of County who is present at such premises or with the County Auditors to disclose to OSOS and its representatives and/or any authorized representatives of the Federal awarding agency, Inspectors General, and the Comptroller General of the United States, any and all financial and other information regarding the County that is reasonably related to the program.

## **XII. AWARD CONTINGENCIES**

The County shall implement or have implemented the Drug-Free Workplace Requirements of 2 C.F.R. § 182.200 and comply with subpart C of 2 C.F.R. Part 180- Debarment & Suspension & include in lower-tier covered transactions.

## **XIII. SUBCONTRACTS**

The County shall abide by the following requirements and include all applicable provisions in any subcontracts paid for with federal funds:

### **Equal Employment Opportunity**

All contracts shall contain a provision requiring compliance with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, and Department of Labor."

### **Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 276c)**

All contracts and subgrants in excess of \$2,000 for construction or repair awarded by County shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or

County shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the Federal awarding agency.

#### **Contract Work Hours and Safety Standards Act (40 U.S.C 327-333)**

Where applicable, all contracts awarded by County in excess of \$2,000 for construction contracts and in excess of \$2,500 for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

#### **Rights to Inventions Made Under a Contract or Agreement**

Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

#### **Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended**

Contractors and subgrants of amounts in excess of \$100,000 shall contain a provision that requires the them to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.) Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

#### **Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)**

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee

of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying in non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

**Davis Bacon Act of 1931 (Public -- No. 403-74th Congress [S.3303])**

That the advertised specifications for every contract in excess of \$2,000, to which the United States or the District of Columbia is a party, for construction, alteration, and/or repair, including painting and decorating, of public buildings or public works of the United States or the District of Columbia within the geographical limits of the States of the Union or the District of Columbia, and which requires or involves the employment of mechanics and/or laborers shall contain a provision stating the minimum wages to be paid various classes of laborers and mechanics which shall be based upon the wages that will be determined by the Secretary of Labor to be prevailing for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the city, town, village, or other civil subdivision of the State in which the work is to be performed, or in the District of Columbia if the work is to be performed there; and every contract based upon these specifications shall contain a stipulation that the contractor or his subcontractor shall pay all mechanics and laborers employed directly upon the site of the work, unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account, the full amounts accrued at time of payment, computed at wage rates not less than those stated in the advertised specifications, regardless of any contractual relationship which may be alleged to exist between the contractor or subcontractor and such laborers and mechanics, and that the scale of wages to be paid shall be posted by the contractor in a prominent and easily accessible place at the site of the work; and the further stipulation that there may be withheld from the contractor so much of accrued payments as may be considered necessary by the contracting officer to pay to laborers and mechanics employed by the contractor or any subcontractor on the work the difference between the rates of wages required by the contract to be paid laborers and mechanics on the work and the rates of wages received by such laborers and mechanics and not refunded to the contractor, subcontractors, or their agents.

**Debarment and Suspension (E.O.s 12549 and 12689)**

No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with E.O.s 12549 and 12689, "Debarment and Suspension." This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

**Public Law 88-352, Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) (24 CFR Part 1)**

The County must comply with the provisions of "Public Law 88-352," which refers to Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.). The law provides that no person in the United States shall, on the grounds of race, color or national origin, be denied the benefits of, be excluded from participation in, or be subjected to discrimination under any program or activity receiving federal financial assistance.

**Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794)**

The County must comply with Section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified individual shall, solely by reason of his or her disability, be excluded from participation (including employment), denied program benefits or be subjected to discrimination under any program or activity receiving federal assistance funds.

**Americans with Disabilities Act (42 U.S.C. 12101, et seq.)**

The County shall comply with the provisions of the Americans with Disabilities Act, 42 U.S.C. 12101, et. seq. That Act provides a comprehensive national mandate to eliminate discrimination against individuals with disabilities. The Act may impose requirements on the County in four principle ways: 1) with respect to employment; 2) with respect to the provision of public services; 3) with respect to transportation; 4) with respect to existing facilities and new construction.

**The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C Section 4321 et seq., and 24 CFR Part 58)**

The County shall comply with the provisions of the National Environmental Policy Act of 1969. The purpose of this Act is to attain the widest use of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences. Environmental review procedures, including determining and publishing a Finding of Significance or of No Significance for a proposal, are a necessary part of this process. Pursuant to these provisions, the County must also submit environmental certifications to the Department when requesting that funds be released for the project. The County must certify that the proposed project will not significantly impact the environment and that the County has complied with environmental regulations and fulfilled its obligations to give public notice of the funding request, environmental findings and compliance performance.

**Executive Order 11990, May 24, 1977: Protection of Wetlands (42 F.R. 26961 et seq.)**

The County shall comply with Executive Order 11990. The intent of this Executive Order is (1) to avoid, to the extent possible, adverse impacts associated with the destruction or modification of wetland, and (2) to avoid direct or indirect support of new construction in wetlands wherever there is a practical alternative.

The County, to the extent permitted by law, must avoid undertaking or providing assistance for new construction located in wetlands unless (1) there is no practical alternative to such construction, and (2) the proposed action includes all practical measures to minimize harm

to wetlands which may result from such use. In making this determination, the County may take into account economic, environmental and other pertinent factors.

**Executive Order 11988, May 24, 1977: Floodplain Management (42 F.R. 26951 et seq)**

The County shall comply with the provisions of Executive Order 11988. The intent of this Executive Order is to (1) avoid, to the extent possible, adverse impacts associated with the occupancy and modification of floodplains, and (2) avoid direct or indirect support of floodplain development wherever there is a practical alternative. If the County proposes to conduct, support or allow an action to be located in a floodplain, the County must consider alternatives to avoid adverse effects and incompatible involvement in the floodplain. If siting in a floodplain is the only practical alternative, the County must, prior to taking any action: (1) design or modify its actions in order to minimize any potential harm to the floodplain, and (2) prepare and circulate a notice containing an explanation of why the action is proposed to be located in a floodplain.

**The Wild and Scenic Rivers Act of 1968, as amended (16 U.S.C. 1271 et seq.)**

The County shall comply with the Wild and Scenic Rivers Act. The purpose of this Act is to preserve selected rivers or sections of rivers in their free-flowing condition, to protect the water quality of such rivers and to fulfill other vital national conservation goals. Federal assistance by loan, grant, license, or other mechanism cannot be provided to water resources construction projects that would have a direct and adverse effect on any river included or designated for study or inclusion in the National Wild and Scenic River System.

**Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et seq.)**

The County shall comply with the Coastal Zone Management Act of 1972, as amended. The intent of this Act is to preserve, protect, develop, and where possible, restore or enhance the resources of the nation's coastal zone. Federal agencies cannot approve assistance for proposed projects that are inconsistent with the state's Coastal Zone Management program except upon a finding by the U.S. Secretary of Commerce that such a project is consistent with the purpose of this chapter or necessary in the interests of national security.

**The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.)**

The County shall comply with the Endangered Species Act of 1973, as amended. The intent of this Act is to ensure that all federally assisted projects seek to preserve endangered or threatened species. Federally authorized and funded projects must not jeopardize the continued existence of endangered and threatened species or result in the destruction of or modification of habitat of such species which is determined by the U.S. Department of the Interior, after consultation with the state, to be critical.

**The Reservoir Salvage Act of 1960, as amended by the Archaeological and Historical Preservation Act of 1974 (16 U.S.C. 469 et seq.)**

Under the Reservoir Salvage Act, the County must comply with provisions for the preservation of historical and archaeological data (including relics and specimens) that might otherwise be irreparably lost or destroyed as a result of any alteration of the terrain caused as a result of any federal construction project or federally licensed activity or program. Whenever the County finds, or is notified in writing by an appropriate historical or archaeological authority, that its activities in connection with any federal funded construction project or federally licensed project, activity or program may cause irreparable loss or destruction of significant scientific, prehistoric, historical or archaeological data, the County must stop work immediately and must notify the U.S. Secretary of Interior and the Department in writing and provide appropriate information concerning the project or program activity.

**The Archaeological and Historical Data Preservation Act of 1974 (16 U.S.C. 469 a-1 et seq.)**

The County shall comply with the Archaeological and Historical Data Preservation Act, which provides for the preservation of historic and archaeological information that would be lost due to development and construction activities as a result of federally funded activities.

**The Safe Drinking Water Act of 1974, as amended (42 U.S.C. Section 201, 300(f) et seq., and U.S.C. Section 349)**

The County must comply with the Safe Drinking Water Act, as amended, which is intended to protect underground sources of water. No commitment for federal financial assistance, according to this Act, shall be entered into for any project, which the U.S. Environmental Protection Agency determines, may contaminate an aquifer that is the sole or principal drinking water source for an area.

**The Federal Water Pollution Control Act of 1972, as amended, including the Clean Water Act of 1977, PUBLIC LAW 92-212 (33 U.S.C. Section 1251 et seq.)**

The County must assure compliance with the Water Pollution Control Act, as amended, which provides for the restoration of chemical, physical and biological integrity of the nation's water.

**The Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.)**

The County must assure compliance with the Solid Waste Disposal Act, as amended. The purpose of this Act is to promote the protection of health and the environment and to conserve valuable material and energy resources.

**The Fish and Wildlife Coordination Act of 1958, as amended (16 U.S.C. Section 661 et seq.)**

The County must assure compliance with the Fish and Wildlife Coordination Act, as amended. The Act assures that wildlife conservation receives equal consideration and is coordinated with other features of water resources development programs.

**Relocation Assistance & Real Property Acquisition Policy, Chapter 8.26 RCW**

The County shall comply with the provisions of Chapter 8.26 RCW and Chapter 365-24 WAC when its activities involve any acquisition of real property assisted under this Agreement or the displacement of any family, individual, business, nonprofit organization or farm that results from such acquisition.

**State Environmental Policy Act (SEPA), Chapter 43.21 (C) RCW**

The County shall comply with the provisions of Chapter 43.21(C) RCW and Chapter 197-11 WAC, the guidelines by which local agencies will (1) require environmental checklists from private and public entities considering an action potentially subject to the Environmental Impact Statement (EIS) requirement of SEPA, (2) make "threshold determinations" that such an action will not have a significant environmental impact, (3) provide for the preparation of a draft and final EIS if the action has significant impact, and (4) circulate the EIS to other agencies and interested parties.

**Noise Control, Chapter 70.107 RCW**

The County shall assure compliance with the state Noise Control Act. Objectives of the Act are to assist local governments in implementing local noise ordinances and to control and reduce excessive noise in Washington.

**Shoreline Management Act of 1971, Chapter 90.58 RCW**

The County shall comply with the provisions of Chapter 90.58 RCW. This Act defines a planning program and a permit system, which are initiated at the local government level under state guidance. Its purpose is to protect and enhance the state's shoreline and it includes a comprehensive shoreline inventory process and a master program for regulation of shoreline uses. A permit application at the local level must be in compliance with those plans and consistent with the state Coastal Zone Management program if substantial developments and shoreline modifications occur, and a record of the application and decision must be submitted to the state.

**State Building Code, Chapter 19.27 RCW; Energy Related Building Standards, Chapter 19.27A RCW; and Provisions in Buildings for Aged and Handicapped Persons, Chapter 70.92 RCW**

The County shall comply with the provisions of Chapter 19.27 RCW, Chapter 19.27A RCW, Chapter 70.92 RCW and the regulations for building construction and for barrier free facilities adopted by the Washington State Building Code Council pursuant to these statutes.

The State Building Code Act provides for a uniform state building code and mandates counties, cities and towns to administer and enforce its provisions. Local governments are authorized to modify the state building code to fit local conditions as long as such modifications do not result in a code that is less than the minimum performance standards and objectives contained in the state code.

**Open Public Meetings Act, Chapter 42.30 RCW**

The County shall comply with provisions of Chapter 42.30 RCW which require that all meetings of the governing body which pertain to this Agreement shall be open to the public except those where specific provision is made for executive sessions pursuant to RCW 42.30.110.

**Law Against Discrimination, Chapter 49.60 RCW**

The County shall comply with the provisions of Chapter 49.60 RCW in all activities relating to this Agreement.

**Governor's Executive Order 89-10, December 11, 1989: Protection of Wetlands, and Governor's Executive Order 90-04, April 21, 1990: Protection of Wetlands**

The County shall ensure that it avoids any activities that would adversely affect wetlands and adequately mitigates unavoidable impacts. For the purposes of this requirement, except where a contrary definition is provided by statute, mitigation means: (1) avoiding the impact altogether by not taking certain action or part of an action; (2) minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts; (3) rectifying the impact by repairing, rehabilitating, or restoring the affected environment; (4) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; (5) compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and (6) monitoring the impact and taking appropriate corrective measures.

Mitigation for individual actions may include a combination of the above measures. Mitigation may not include any of the above measures to the extent that they may be contrary to statute as applied under the particular circumstances. Emergency work that is essential to save lives and protect property and public health is exempt from these provisions.

**XIV. EVENT OF DEFAULT OR TERMINATION**

**Termination for Convenience**

Either party may terminate this Agreement upon 30 days prior written notification to the other party. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement

prior to the effective date of termination. All unspent federal and state match grant funds, as well as grant funds determined by OSOS to be for unallowable expenditures must be returned to the OSOS grant program within 30 days of termination.

### **Termination for Cause**

If for any cause, either party does not fulfill in a timely and proper manner its obligations under this Agreement, or if either party violates any of these terms and conditions, the aggrieved party will give the other party written notice of such failure or violation. The responsible party will be given the opportunity to correct the violation or failure within 15 working days. If failure or violation is not corrected, this Agreement may be terminated immediately by written notice of the aggrieved party to the other. In the event of a termination for cause, all unused grant funds, as well as grant funds determined by OSOS to be for unallowable expenditures, must be returned to the OSOS grant program.

In the event that the termination for cause occurs due to any violation of this Agreement by the County, the County may be required to reimburse the OSOS grant program for the expended portions of the grant funds.

The rights and remedies of OSOS provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

### **Termination Procedure**

Upon termination of this Agreement, OSOS, in addition to any other rights provided in this Agreement, may require the County to deliver to OSOS any property specifically produced, furnished, or acquired with grant funds provided under the Agreement.

OSOS shall pay to the County the agreed upon price, if separately stated, for completed work and service(s) accepted by OSOS and the amount agreed upon by the County and OSOS for (i) completed work and service(s) for which no separate price is stated, (ii) partially completed work and service(s), (iii) other property or services which are accepted by OSOS, and (iv) the protection and preservation of property, unless the termination is for default, in which case OSOS shall determine the extent of the liability of OSOS. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this contract. OSOS may withhold from any amounts due the County such sum as OSOS determines to be necessary to protect OSOS against potential loss or liability.

The rights and remedies of OSOS provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

After receipt of a notice of termination, and except as otherwise directed by OSOS, the County shall:

- Stop work under the Agreement on the date, and to the extent specified, in the notice;

- Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the Agreement as is not terminated;
- Assign to OSOS in the manner, at the times, and to the extent directed by OSOS, all of the rights, title, and interest of the County under the orders and subcontracts so terminated, in which case OSOS has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
- Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of OSOS to the extent OSOS may require, which approval or ratification shall be final for all the purposes of this clause;
- Transfer title to OSOS and deliver in the manner, at the times, and to the extent directed by OSOS any property which, if the contract had been completed, would have been required to be furnished to OSOS;
- Complete performance of such part of the work as shall not have been terminated by OSOS; and
- Take such action as may be necessary, or as OSOS may direct, for the protection and preservation of the property related to this contract which is in the possession of the County and in which OSOS has or may acquire an interest.

#### **XV. SAVINGS**

In the event funding from federal, state or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement and prior to normal completion, OSOS may terminate the contract under the "Termination for Convenience" clause, without the 30-day notice requirement, subject to renegotiation under those new funding limitations and conditions.

#### **XVI. DISPUTES**

Each party shall make a good faith effort to negotiate a resolution of any disputes between the parties related to this Agreement. In the event of litigation or other action brought to enforce Agreement terms, each party shall bear its own attorneys' fees and costs. Nothing in the Agreement shall be construed to limit the parties' choice of a mutually acceptable Alternate Dispute Resolution method in addition to the dispute resolution procedure outlined above.

#### **XVII. AGREEMENT MANAGEMENT**

The Project Manager for each of the parties shall be the contact person for communications regarding the performance of this Agreement.

<b><u>Project Manager for County is:</u></b>	<b><u>Project Manager for the OSOS is:</u></b>
<p><b><u>Benton County Auditor</u></b>                      Brenda Chilton                      PO Box 470                      Prosser, WA 99350-0470                      Phone: 509-736-3085                      E-mail: <a href="mailto:brenda.chilton@co.benton.wa.us">brenda.chilton@co.benton.wa.us</a></p>	<p><b><u>Shannon Cortez</u></b>                      Deputy Director                      Elections Division                      P.O. Box 40220                      Olympia, WA 98504-0220                      Phone: 360-902-4169                      E-mail: <a href="mailto:shannon.cortez@sos.wa.gov">shannon.cortez@sos.wa.gov</a></p>

**XVIII. GOVERNANCE**

This Agreement is entered into pursuant to and under the authority granted by the laws of the state of Washington and any applicable federal laws. The provisions of this Agreement shall be construed and interpreted in accordance with those laws, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

In the event of an inconsistency in the terms of this Agreement, or between its terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

- Applicable Federal and state of Washington statutes and regulations
- The terms and conditions of this Agreement
- The attachments to this Agreement

**XIX. ALL WRITINGS CONTAINED HEREIN**

This Agreement contains the entire understanding between the parties, and there are no other agreements, understandings, or representations set forth or incorporated by reference herein.

No subsequent modifications or amendments of this Agreement shall be of any force or effect unless in writing, signed by authorized representatives of the OSOS and County and made part of this original Agreement.

**XX. HOLD HARMLESS**

Each party to this Agreement shall be responsible for its own acts and omissions and those of its officers, employees and agents. No party to this Agreement shall be responsible for the acts or omissions of entities or individuals not a party to this Agreement.

**XXI. FORCE MAJEURE**

Neither party will incur any liability to the other if its performance of any obligation under this Agreement is prevented or delayed by causes beyond its control and without the fault or negligence of either party. Causes beyond a party's control may include, but are not limited to, acts of God or war, changes in controlling law, regulations, orders or the requirements of any governmental entity, natural disasters, fire, epidemics and quarantines.

Both parties shall notify each other orally within five (5) days and in writing within ten (10) days of the date on which the party becomes aware, or should have reasonably become aware, that such cause would prevent or delay its performance. Such notification shall (i) describe fully such cause(s) and its effect on performance, (ii) state whether performance under the Agreement is prevented or delayed and (iii) if performance is delayed, state a reasonable estimate of the duration of the delay. The party claiming force majeure shall have the burden of proving that such cause(s) delayed or prevented its performance despite its diligent efforts to perform and shall produce such supporting documentation as the other party may reasonably request. After receipt of such notification, the party not claiming force majeure may elect either to terminate the agreement or to extend the time for performance as reasonably necessary to compensate for the delay.

**XXII. SEVERABILITY**

The provisions of this Agreement are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Agreement.

**BENTON COUNTY**

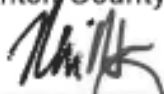
**OFFICE OF THE SECRETARY OF STATE**

\_\_\_\_\_  
James Beaver                      Date  
Chair, Board of Commissioners

\_\_\_\_\_  
Mark Neary                      Date  
Assistant Secretary of State

APPROVED AS TO FORM:  
Attorney General's Office

APPROVED AS TO FORM:  
Benton County Prosecutor

  
\_\_\_\_\_  
REID HAY, Deputy

*Brenda Chilton*                      04/24/2020  
\_\_\_\_\_  
Brenda Chilton                      Date  
County Auditor

## **EXHIBIT A**

### **STATEMENT OF WORK**

The CARES Act makes clear that grant funds are for costs associated with the national emergency related to coronavirus and are to be spent *“to prevent, prepare for, and respond to coronavirus, domestically or internationally, for the 2020 Federal election cycle.”* The following is a list of activities eligible for Local Government Grant Funding, for which grant funds may be used during the upcoming 2020 Federal Election cycle. This list is not comprehensive and the County may spend funds for activities not listed as long as the activities are associated with compliance with the Title III requirements of HAVA and the CARES Act:

- Acquisition of additional voting equipment, including high speed or central count tabulators and hardware and software to allow for social distancing or to reduce or eliminate election staff handling potentially contaminated mail-in ballots
- Installation and security for additional mail drop-boxes, for example at popular drop boxes to maintain social distancing
- Temporary elections office staffing, beyond normal levels, due to the coronavirus
- Cleaning supplies and protective masks and equipment for elections staff in voting centers, in ballot processing areas, or anywhere where election staff need cleaning supplies or protective equipment due to coronavirus
- Overtime salary and benefit costs, associated with the impacts of coronavirus, for elections staff
- Training of elections employees on sanitization procedures
- Public communication of changes in registration, ballot request options, or voting procedures, including information on coronavirus precautions being implemented during the voting process.
- Mailings to inform the public on changes or determination of procedures of coronavirus precautions, options in voting, and other voting information.
- Pre- and post-election deep cleaning of election offices, voting centers, ballot processing areas, or any other space where elections staff have worked or processed ballots
- Additional laptops and mobile IT equipment
- Additional automated letter opening equipment

AGENDA/WORKSHOP ITEM		TYPE OF ACTION NEEDED	
Meeting Date:	May 5, 2020	Execute Contract	_____
Subject:	Special Duty Assignment	Pass Resolution	<u>  x  </u>
By:	B. Chilton	Pass Ordinance	_____
Reviewed By:	L. Roe/L. Wingfield/S. Hallstrom	Pass Motion	_____
		Other	_____
		Consent Agenda	_____
		Public Hearing	_____
		1st Discussion	_____
		2nd Discussion	_____
		Other	<u>  x  </u>

**BACKGROUND INFORMATION**

The Election Division of the Auditor’s Office will be receiving two federal grants. One grant from the CARES Act to “prevent, prepare for, and respond to coronavirus, domestically or internationally, for the 2020 Federal election cycle”. The other grant is related to federal funding for increased security measures related to the 2020 election cycle. The total of the grants will be approximately \$500,000 and includes provisions for staffing related to the administration of the grants.

**SUMMARY**

Given the additional responsibilities associated with the administration of these grants between now and the end of 2020, it is necessary to create a temporary special duty assignment position in the Election Division of the Auditor’s Office. Said position will be titled a Health & Security Coordinator and shall be in place from May 1, 2020 through December 31, 2020. This position has been reviewed by Steve Hallstrom, Deputy PA, and Lexi Wingfield, HR Manager.

**MOTION**

Move to approve the temporary special duty assignment position of Health & Security Coordinator in the Election Division of the Auditor’s Office for the period of May 1, 2020 through December 31, 2020, which position shall be placed at a Grade 13, Non-Bargaining.

## RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF A TEMPORARY SPECIAL DUTY ASSIGNMENT POSITION IN THE ELECTION DIVISION OF THE AUDITOR'S OFFICE, TITLED HEALTH & SECURITY COORDINATOR,

**WHEREAS**, in response to the challenges posed by COVID-19 to the 2020 elections Congress allocated \$400 million dollars in election grants to help states "prevent, prepare for, and respond to the coronavirus" so that elections proceed safely, accurately, and legitimately; and

**WHEREAS**, Benton County will be allocated \$251,113.95 which includes \$209,261.63 in federal funds, and the remaining amount as matching funds from the State of Washington; and

**WHEREAS**, Benton County is also set to receive another federal grant award in an amount to be determined but in similar amount to the CARES Act funding; and

**WHEREAS**, given the additional responsibilities associated with the administration of these grants between now and the end of 2020, it is necessary to create a temporary special duty assignment position in the Election Division of the Auditor's Office; and

**WHEREAS**, the primary duties of this position shall be to coordinate the programs related to expenditure of the federal grant dollars associated with the administration of the 2020 federal elections, including but not limited to planning and documenting health and security programs relating to COVID-19 and ballot security, procurement processes related to additional IT infrastructure or ballot processing equipment necessary to maintain safe social distancing processes, planning and delivering programs to train regular and temporary employees in safe operating procedures, coordinate and run regular safety meetings during the election cycle, securing necessary additional building resources to allow for a safe and efficient ballot processing program, serve as liaison with facilities and IT to identify and procure additional security assets, and any other duties as assigned relating to the administration of the federal grants set forth herein.

**WHEREAS**, it is the recommendation of the Auditor, County Administrator, and Human Resources Manager that the temporary special duty assignment position of Health & Security Coordinator be created in the Election Division of the Auditor's Office for the period of May 1, 2020 through December 31, 2020, which position shall be placed at a Grade 13, Non-Bargaining; **NOW, THEREFORE**,

**BE IT RESOLVED**, the temporary special duty assignment position of Health & Security Coordinator is created in the Election Division of the Auditor’s Office for the period of May 1, 2020 through December 31, 2020, which position shall be placed at a Grade 13, Non-Bargaining.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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

\_\_\_\_\_  
Member

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

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

# RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY FUNDS RE: TRANSFER OF FUNDS WITHIN  
CURRENT EXPENSE FUND NUMBER 0000101, DEPARTMENT NUMBER 115  
TO DEPARTMENT NUMBER 102

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

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

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

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

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

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

cc: Dept., Auditor, File,

Prepared by: Ivey

### BENTON COUNTY LINE ITEM TRANSFER

Dept Name:

Dept Nbr:

Fund Name:

Fund Nbr:

TRANSFER FROM: Dept 115

TRANSFER TO: Dept 102

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT	BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
511.600	4931	Fenced Item Contingency	\$500,154	514.410	1823	Health & Security Coordinator	\$31,612
				514.410	1905	Temporary Help	\$100,000
				514.410	1925	Overtime	\$20,000
				514.410	2102	Social Security FICA	\$11,599
				514.410	2103	Medical Insurance	\$10,084
				514.410	2104	Retirement	\$6,637
				514.410	2119	Paid Family Leave Act	\$222
				514.410	3101	Supplies	\$145,000
				514.410	4103	Professional Services	\$125,000
				514.410	9000	Interfund Payments	\$50,000
<b>TOTAL</b>			<b>\$500,154</b>	<b>TOTAL</b>			<b>\$500,154</b>

**Explanation:**

To appropriate funding for 2 Federal Grants received by the Auditor's Office. One Grant is for the CARES Act to prevent, prepare for, and respond to coronavirus for the 2020 Federal election cycle. One Grant is for increased security measures related to the 2020 election cycle. The grant includes provisions for staffing related to the Administration of the grants. The position, Health & Security Coordinator, is a temporary Special Duty Assignment which ends at the completion of the Grant on December 31, 2020. Health & Security Coordinator is a Grade 13B, Non bargaining position.

Prepared by:

Date:

Approved

Denied

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

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member