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

To view items in detail, click on highlighted areas.

Notice: Meeting provided by Live-Broadcast and Telephonically as follows:

Live-Broadcast @ link below:
https://www.co.benton.wa.us/agendalist.aspx?categoryid=1181

Telephonically by:
Dial: 509 222-2310
Meeting ID: 4961#
Attendee Access Code: 4961#

AGENDA
BOARD OF BENTON COUNTY COMMISSIONERS
Regular Board Meeting
Tuesday, July 14, 2020

9:00 AM **Call to Order**
Approval of Minutes
- **June 30, 2020**

Review Agenda

Consent Agenda

Assessor
a. Line Item Transfer, Fund No. 0129-101, Dept. 000
Auditor
b. Canvassing Board Appointment
Board of Equalization
c. Line Item Transfer, Fund No. 0000-101, Dept. 103
Clerk
d. Increasing 5 Cash Drawers; Amending Resolution 2013-222

Corrections

e. Contract Renewal & Addendum w/LexisNexis for External Hard Drive Prison Solutions for Case Law & Revised Codes of WA State
f. Purchase of Weapons, Air Tasers & Electronic Incapacitation Devices From Axon Enterprises
g. Contract w/Tower Plaza Cleaners & Laundromat for Dry Cleaning & Laundry Services
h. Contract w/Columbia Cleaners for Dry Cleaning & Laundry Services
i. Second Contract Amendment w/Summit Food Service for Inmate Population Meals

Human Services

j. Agreement w/Entrust Community Services for Employment Services
k. Agreement w/The Arc of Tri-Cities for Spanish Outreach Staffing
l. Agreement w/The Arc of Tri-Cities for Special Olympics Staffing & Supplies
m. Line Item Transfer, Fund No. 0108-101, Dept. 560

Juvenile

n. Award & Contract w/Lutheran Community Services Northwest for Functional Family Therapy

Parks

o. Contract w/Intermountain West Insulation & Garage Doors for the Badger Mountain Westgate Trail Head Maintenance Building Insulation Project

Public Works

p. Contract w/Cliff Thorn Construction for the Annex Restroom Renovation Project
q. Accepting Work Performed by Boyd's Tree Service for 2019 Brush Cutting Area 4
r. Accepting Work Performed by Banlin Construction for Public Services Building Project
s. Accepting Work Performed by Banlin Construction for Justice Center Restroom Renovation
t. Contract w/Stripe Rite for 2020 Pavement Marking
u. Purchase of 100 Grader Blade Cutting Edges From Pape Machinery
v. Line Item Transfer, Fund No. 0101-101, Dept. No. 500

Public Comment ***~ for public engagement during Commissioners' meetings, please use the public comments phone line at***:

Dial: 509 460-4941

Public Hearing

Adopting Legislation to Authorize A Sales and Use Tax for Affordable & Supportive Housing – K Sullivan

2020 – 2025 Six Year Road Program ~ D D'Hondt

Scheduled Business

Preliminary Plat Approvals ~ G Wendt & M Cooke

- SUB 2020-001 – Grace Estates
- SUB 2020-002 – Orchard View
- SUB 2020-003 –Shaw Vineyard Estates

CARES Act Community Support Grant Program w/TRIDEC ~ A Fyall

Supplemental Appropriation Requests ~ L Ivey

- Cares Act, Dept. 139 - $11,099,000
- Sheriff's Patrol, Dept. 121 -$110,800

Ratifying First Amendment to DSHS Agreement for Employment Services Programs ~ K Sullivan & Mari Clark

Amendment #1 to Benton County Emergency Services Interlocal Agreement ~ M Rasmussen

2021-2022 Public Safety Sales Tax Funding Recommendation ~ M Rasmussen

Joint Purchasing Agreement w/Benton Fire District No. 2 for Shallow Water Rescue Boat – Commander Law & Ron Duncan, Fire #2 Chief

Other Business

Draft

MINUTES

BOARD OF BENTON COUNTY COMMISSIONERS

Regular Board Meeting
Tuesday, June 30, 2020, 9:00 a.m.
Meeting provided by Video Live-Broadcast and Telephonically

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: Matt Rasmussen, Deputy County Administrator; IT Manager Robert Heard; Robert Blain, Director of Operations/Capital Assets; Scott Souza, Chief of Corrections; Commander Joshua Shelton; Adam Fyall, Sustainable Development Manager; Karlee Ainsworth, Assistant HR Manager; Clerk Josie Delvin; Lt. Joshua Combs; District Court Administrator Ela Selga; District Court Judge Terry Tanner; DPA Ryan Brown; PA Andy Miller; and HR Manager Lexi Wingfield.

Approval of Minutes

The Minutes of June 23, 2020 were approved.

Review Agenda

Three items were added to the agenda to be discussed under "Other Business":

- Award of Contract for Finance Department Tenant Improvement
- Requiring Face Coverings in County Buildings
- Corrections Dept. Grant Award

An executive session was added to discuss potential litigation and review a claim or complaint against an elected official.

Consent Agenda

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

Clerk

a. Line Item Transfer, Fund No. 0000-101, Dept. 106

Commissioners

b. Line Item Transfer, Fund No. 0000-101, Dept. 115

Coroner

c. Line Item Transfer, Fund No. 0000-101, Dept. 109

Human Services

d. Contract w/Our Lady of Lourdes Hospital for Advanced Registered Nurse Practitioner Services
e. Contract w/Jennifer Dorsett for Implementation of Prevention Programs Strategies
f. First Amended Contract w/Kristi Sharpe for Implementation of Prevention Programs & Strategies
g. Line Item Transfer, Fund No. 0108-101, Dept. 568

Information Technology

h. Purchase of Electronic Data Processing Equipment, Telecommunication Equipment & Services from CompuNet, Inc.
i. Purchase of Latitude Laptop, Five Docking Stations & Two Monitors For Elections Department From Dell Inc.

Juvenile

j. Line Item Transfer, Fund No. 0115-101, Dept. 173

Planning

k. Final Plat of Ridge View – SUB 2020-004

Public Works

l. Contract w/All Pro Shop Services to Service the Coats Tire Changing Machine
m. Contract w/Double J Excavating Inc for the Roadside Improvements Project
n. Contract w/Central Paving for 2020 Crack Seal Project

Risk Management

o. Salary Request Statement

Public Comment

Name unknown (via/teleconference), expressed her frustration about Benton County not being able to open up. She said she had been calling and emailing the State and wanted to know how much longer they were going to have to do this.

Lisa Thomas, Richland, expressed her disgust with the process and wanted to know when she could meet with the Commissioners in person and was told not until the Governor removed the OPMA restrictions.

Dorothy (last name unknown) asked if the Commissioners were meeting with Governor Inslee during his visit to the Tri-Cities and if the Commissioners were involved in the pre-meeting.

Commissioner Delvin said he would meet with the Governor during the press conference and there was not a pre-meeting that he was aware of.

Dorothy requested the Commissioners encourage positive leadership by requesting everyone to mask up and send out a public service announcement so they could begin to open businesses.

Commissioner Delvin said he had been working on this for three months and they had an active campaign, were posting videos on social media, and holding a press conference tomorrow at 1:00 p.m. with other elected officials.

Randy Slovic, Richland, expressed her concern about the final plat approval of Ridge View with one-acre lots, that it was an example of sprawling, and she was concerned about the costs, water storage, and not being able to recoup costs.

District Court Reorganization

Judge Terry Tanner and Karlee Ainsworth, Assistant HR Manager presented the District Court Reorganization. Judge Tanner said he was happy to report that after hiring their new Administrator a year ago, they had moved along with new technology and efficiencies. Additionally, Ms. Selga went through the entire staffing requirements and found efficiencies and proposed to eliminate one position. The reorganization would save $27,000 during the next budget cycle. Ms. Ainsworth said the position was a Legal Process Assistant III and was currently unfilled.

Mr. MacPherson said they were always encouraging departments to look within their organization and move internally to what worked best and they were supportive of the reorganization.

MOTION: Commissioner Delvin moved to approve the Line Item Transfer as presented for the reorganization of District Court. Commissioner Small seconded and upon vote, the motion carried.

Other Business

Award/Execution of Finance Tenant Improvement Project with Banlin Construction LLC

Robert Blain presented the contract awarding the Finance Tenant Improvement Project to Banlin Construction. He said it was to finish out the 5,000 square feet of open space in the Commissioners' office and remodel space to create staff restrooms. He said they were able to expedite the contract, saving a month on the timeline of the contract.

MOTION: Commissioner Small moved to award bid for CB 20-14 Finance Tenant Improvement and Restroom Addition to Banlin Construction, LLC and approve and execute the contract. Chairman Beaver seconded and upon vote, the motion carried.

Requiring Face Coverings in County Buildings

Matt Rasmussen presented a resolution manding that face coverings be worn inside Benton County Facilities, to comply with the Governor's order issued on June 24, 2020.

MOTION: Commissioner Small moved to approve the Resolution manding that face coverings be worn by all persons when inside Benton County Facilities, as presented. Commissioner Delvin seconded.

Discussion

Commissioner Small said this was just another extension of what was already required of businesses.

Upon vote, the motion carried unanimously.

Corrections Department Grant Award

Chief Scott Souza and Lt. Joshua Combs said on June 9 they sought permission to apply for a grant from the Health Care Authority. They were informed they received funding up to $200,000 (reimbursable) for the Same Day Visit and Transportation Program for individuals transitioning into the community. Chief Souza said they would work with the Commissioners' office to identify funding sources.

MOTION: Commissioner Small moved to approve the grant funding for the Same Day Visit and Transportation Program – Contract No. K4667 between Benton County Corrections Department and Washington State Health Care Authority, as presented. Commissioner Delvin seconded and upon vote, the motion carried unanimously.

Jerrod MacPherson announced the Board would go into executive session for 30 minutes in the executive conference room to discuss potential litigation and review a claim or complaint against an elected official.

The Board briefly recessed to reconvene in the Executive Conference Room.

Executive Session - Potential Litigation/Review Claim or Complaint Against Elected Official

The Board went into executive session at 9:31 a.m. for 30 minutes to discuss potential litigation and review a claim or complaint against an elected official. Present were Chairman Beaver, Commissioners Small and Delvin (via/teleconference), Jerrod MacPherson, Matt Rasmussen, Cami McKenzie, PA Andy Miller, Ryan Brown and Lexi Wingfield. The Board came out at 10:02 a.m. No decisions were made in executive session, but direction was given.

The Board briefly recessed, to reconvene back in the Commissioners' Conference Room.

MOTION: Commissioner Small moved to approve the letter in support of the Benton County Deputy Sheriff's Guild as presented. Commissioner Delvin seconded.

Discussion

Commissioner Small said the Board had been fairly reserved, waiting to see if there would be a response or change in the department, but hoped it would now stop.

Commissioner Delvin said he was really frustrated that there was nothing they could do to hold another elected official accountable. Chairman Beaver agreed, stating the Board's role was budget

and finance, and the Board should be empowered to protect the citizens. Commissioner Delvin said he wanted a defined process that someone could follow, and he was interested in taking this to a state agency to address.

Upon vote, the motion carried unanimously.

Resolutions

2020-421: Line Item Transfer, Fund No. 0000-101, Dept. 106
2020-422: Line Item Transfer, Fund No. 0000-101, Dept. 115
2020-423: Line Item Transfer, Fund No. 0000-101, Dept. 109
2020-424: Contract w/Our Lady of Lourdes Hospital for Advanced Registered Nurse Practitioner Services
2020-425: Contract w/Jennifer Dorsett for Implementation of Prevention Programs & Strategies
2020-426: First Amended Contract w/Kristi Sharpe for Implementation of Prevention Programs & Strategies
2020-427: Line Item Transfer, Fund No. 0108-101, Dept. 568
2020-428: Purchase of Electronic Data Processing Equipment, Telecommunication Equipment & Services from CompuNet, Inc.
2020-429: Purchase of Latitude Laptop, Five Docking Stations & Two Monitors for Elections Department From Dell Inc.
2020-430: Line Item Transfer, Fund No. 0115-101, Dept. 173
2020-431: Final Plat of Ridge View – SUB 2020-004
2020-432: Contract w/All Pro Shop Services to Service the Coats Tire Changing Machine
2020-433: Contract w/Double J Excavating Inc for the Roadside Improvements Project
2020-434: Contract w/Central Paving for 2020 Crack Seal Project
2020-435: Transfer of Funds – Current Expense, Dept. 111, District Court Reorganization
2020-436: Awarding Contract for CB 20-14 Finance Department TI/Restroom Addition to Banlin Construction
2020-437: Mandating Face Coverings be Worn by all Persons when Inside Benton County Facilities
2020-438: Accepting the Grant Award from WA State Health Care Authority for Same Day Visit and Transportation Program

There being no further business before the Board, the meeting adjourned at approximately 10:07 a.m.

_____ _____

Clerk of the Board Chairman

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY FUNDS RE: TRANSFER OF FUNDS WITHIN REET TECHNOLOGY FUND NUMBER 0129101, DEPARTMENT NUMBER 000.

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

Dated this _____ day of _____, _____

_____
Chairman of the Board

_____
Member

_____
Member

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

Attest: _____
Clerk of the Board

cc: Dept., Auditor

Bill Spencer

EXHIBIT "A"

BENTON COUNTY LINE ITEM TRANSFER

Dept Name: | Dept Nbr: 000

Fund Name: Reet Technology | Fund Nbr: 0129101

TRANSFER FROM:

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
594.140	6430	Capital Software	$60,000
TOTAL			$60,000

TRANSFER TO:

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
514.240	4102	Contract Services	$30,000
514.240	4103	Professional Services	$30,000
TOTAL			$60,000

Explanation:

Corrected line items transfers to appropriate funding within the Assessor's Office - Reet Technology Fund.

Prepared by: Bill Spencer | Date: 22-Jun-2020

Approved ☐ | Denied ☐ | Date: _____

_____
Chairman

_____
Member

_____
Member

AGENDA ITEM	TYPE OF ACTION NEEDED			
Meeting Date: July 14, 2020	**Execute Contract**	_____	**Consent Agenda**	**x**
Subject: Canvassing Bd Appt	**Pass Resolution**	**X**	**Public Hearing**	_____
Prepared by: B. Chilton	**Pass Ordinance**	_____	**1st Discussion**	_____
Reviewed by: A. Hatfield	**Pass Motion**	_____	**2nd Discussion**	_____
	Other	_____	**Other**	_____

BACKGROUND INFORMATION

Pursuant to RCW 29A.60.140, the chair of the county legislative body is a member of the canvassing board for canvassing the ballots and returns for elections. An appointment is needed for the upcoming August 4, 2020, Primary Election, and the November 3, 2020, General Election.

RECOMMENDATION

Chair, James Beaver, sign the letter appointing Shon Small as the member on the canvassing board.

FISCAL IMPACT

None.

MOTION

Move to have the Chair, James Beaver, sign the canvassing board appointment designating Shon Small to serve on the Benton County Canvassing Board for the upcoming August 4, 2020, Primary Election, and the November 3, 2020, General Election.

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

Jerrod MacPherson
County Administrator

Board of County Commissioners

Canvassing Board Appointment

I, James Beaver, Chair of the Benton County Commissioners, hereby designate Shon Small to serve on the Benton County Canvassing Board for:

1) The Primary Election to be held on August 4, 2020. He will serve for the timeframe of June 17 through August 18, 2020.

2) The General Election to be held on November 3, 2020. He will serve for the timeframe of October 14 through November 24, 2020.

DATED this 14th day of July, 2020.

_____
James Beaver
Chair, Board of Benton County Commissioners

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY FUNDS RE: TRANSFER OF FUNDS WITHIN CURRENT EXPENSE FUND NUMBER 0000-101, DEPARTMENT NUMBER 103

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…….. , 20……

_____
Chairman of the Board

_____
Member

_____
Member

Attest: ……..
Clerk of the Board

Constituting the Board of County Commissioners of Benton County, Washington

EXHIBIT A

BENTON COUNTY
LINE ITEM TRANSFERS

RESOLUTION NO._____

DEPARTMENT: Board of Equalization **DEPARTMENT NO.** 103

FUND NAME: Current Expense **FUND NO.** 0000-101

TRANSFER FROM: **TRANSFER TO:**

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT	BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
514.240	1190	Secretary	$1,430	514.240	1189	Director	$1,430

EXPLANATION: Funds need to be transferred due to large number of appeals/hearings.

Prepared by: Peggy Brown **Date:** 6/24/20

Approved ( )
Denied ( ) **Date:**_____

_____
Chairman

_____
Member

_____
Member

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	July 14, 2020
Subject:	Increasing cash drawer amount
Presenter:	Josie Delvin
Prepared By:	Josie Delvin
Reviewed By:	

Type of Agenda Item:	**Type of Action Needed:**	
☒ Consent Agenda	☐ Discussion Only (1st)	☐ Pass Motion
☐ Public Hearing	☐ Discussion Only (2nd)	☒ Pass Resolution
☐ Scheduled Business	☐ Decision/Direction	☐ Pass Ordinance

Summary / Background Information

Requesting each of the 5 cash drawers in the Clerk's office to be increased to $300. This will allow the capability to make change easier for those individuals that appear at the Clerk's office. This would increase each cash drawer by $100.

Fiscal Impact

Amount:

Fund:

Recommendation

Pass resolution allowing increase in the amount of each cash drawer.

Suggested Motion

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF INCREASING 5 CASH DRAWERS FOR THE BENTON COUNTY CLERK'S OFFICE; AMENDING RESOLUTION 2013-222

WHEREAS, per resolution 2013-222 DATED March 19, 2013 the Board of Benton County Commissioners established 2 additional cash drawers for the Benton County Clerk's office; and

WHEREAS, the Benton County Clerk's Office has determined that $200.00 for each cash drawer is not enough funds to have on hand for making change; and

WHEREAS, it is recommended that each of the five (5) cash drawers be increased by $100.00 for the Benton County Clerk's Office located in Kennewick, WA for a total amount of $300.00 each; **NOW, THEREFORE**

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington hereby concurs with the request and hereby authorizes the Benton County Clerk's office 5 cash drawers to be increased to $300.00 each for the purpose of making change.

BE IF FURTHER RESOLVED, Resolution 2013-222 is hereby amended.

Dated this _____ day of _____ 20____

_____
Chairman of the Board

_____
Member

_____
Member

Constituting the Board of County Commissioners
of Benton County, Washington

Attest: _____
Clerk of the Board

Orig: Clerk's Office
Cc: Auditor, Treasurer

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	July 14, 2020
Subject:	Service Contract and Addendum with Lexis Nexis for Law Library within the Jail
Presenter:	
Prepared By:	Lisa Small
Reviewed By:	Scott Souza

Type of Agenda Item:	**Type of Action Needed:**	
☒ Consent Agenda	☐ Discussion Only (1st)	☐ Pass Motion
☐ Public Hearing	☐ Discussion Only (2nd)	☐ Pass Resolution
☐ Scheduled Business	☐ Decision/Direction	☐ Pass Ordinance

Summary / Background Information

The Benton County Corrections Department has had a contract with LexisNexis for the External Hard Drive (EHD) systems that meets the requirements to provide case law and revised codes for Washington State to inmates within the Benton County Jail since 2015.

Both parties would like to continue the service and renew the External Hard Drive (EHD) system for a contract amount of $637.00 plus WSST per month with an expiration date of December 31, 2021.

Fiscal Impact

Amount: Contract amount not to exceed $8,400 including WSST.

Fund: Said expenditures shall be paid out of Inmate Benevolence Fund.

Recommendation

Approve the attached Resolution and Contract between Benton County and LexisNexis for a contract amount not to exceed $8,400 including WSST, commencing January 1, 2021 and terminating December 31, 2021 and authorize the Chairman of the Board to sign attached contract.

Suggested Motion

Consent Agenda

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF RENEWING THE SERVICE CONTRACT AND ADDENDUM BETWEEN BENTON COUNTY AND LEXISNEXIS FOR AN EXTERNAL HARD DRIVE PRISON SOLUTIONS FOR CASE LAW AND REVISED CODES OF WASHINGTON STATE TO BE PROVIDED TO INMATES WITHIN THE BENTON COUNTY JAIL

WHEREAS, per 2015-218 dated March 17, 2019, the Board of Benton County Commissioners entered into a service contract with LexisNexis for the External Hard Drive (EHD) systems that meets the requirements to provide case law and revised codes for Washington State to inmates within the Benton County Jail for a service contract amount of $625.00 per month plus WSST; and

WHEREAS, per Resolutions 2015-753; 2016-1033; 2017-829; 2018-909 and 2019-785 the Board of Benton County Commissioners approved the renewals of the contract between Benton County and LexisNexis with a final termination date of December 31, 2020; and

WHEREAS, both parties would like to continue the service and renew the External Hard Drive (EHD) system for a contract amount of $637.00 plus WSST per month with an expiration date of December 31, 2021; **NOW, THEREFORE**

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington hereby approves renewing the contract between Benton County and LexisNexis, a division of RELX, Inc. for the External Hard Drive (EHD) system for a contract amount of $637.00 plus WSST per month, with an overall contract amount not to exceed $8,400 including WSST; and

BE IT FURTHER RESOLVED, the Board hereby authorizes the Chairman of the Board to sign the attached Renewal Letter Agreement between LexisNexis and Benton County; and

BE IT FURTHER RESOLVED, said renewal shall begin January 1, 2021 and shall terminate December 31, 2021.

Dated this _____ day of _____, 2020.

_____
Chairman of the Board

Attest.....
Clerk of the Board

_____
Member

_____
Member

Constituting the Board of Commissioners
of Benton County, Washington

Orig: BCSO
cc: Auditor; S. Godinez; LexisNexis

L. Small

LexisNexis®

Prison Solutions

RENEW YOUR LEXISNEXIS® PRISON SOLUTION ORDER NOW BY SIGNING THIS LETTER AGREEMENT

Thank you for using LexisNexis, a division of RELX Inc. as your provider of legal research materials for correctional facilities.

Currently you are using the LexisNexis services pursuant to the Prison Solution Agreement or Order (the "Order") that allows you to use selected information relevant to your needs in exchange for a fixed monthly commitment. The Order offers you access to comprehensive content and ease-of-use. However, your LexisNexis service under this Order will expire soon.

By signing below, you may extend the term for the following period at the monthly commitment rate indicated below:

Customer Name:	Benton County	**Account Number:**	0099706902

	Extension Period				**Monthly Commitment**
Beginning	**1/1/2021**	**to**	**12/31/2021**	**$**	**637.00**
Beginning		**to**		**$**	
Beginning		**to**		**$**	

Customer hereby certifies that they have _____number of terminals

These changes will be effective on 1/1/2021. Except as expressly stated above, all other terms of the Order will remain unchanged and unaffected by this letter agreement.

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

Chris Conner
Client Mgr--Corrections
C: 937-344-8496
Toll Free:866-293-4261
F: 866-960-2944
chris.conner@lexisnexis.com

If you agree with the new monthly commitment and extended term, then please print this message, provide the information requested for the total number of terminals/licenses/locations then sign and date. Upon completion, return the signed letter agreement to me at the fax number listed above. In order for these changes to be effective on the date listed above, please sign and return this letter agreement no later than the 21st of December.

If you do not respond to this letter, please be advised that the Order will expire at the end of the current commitment period and you will no longer receive updated materials.

Customer Name: Benton County

Authorized Signature:

Print Name: James Beaver, Chairman

Title: Benton County Commissioner

Date:

Approved as to Form.

Ryan J. Lakson, Civil DPA

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	July 14, 2020
Subject:	Purchase Agreement with Axon Enterprises, Inc. for Taser Equipment
Presenter:	
Prepared By:	Lisa Small
Reviewed By:	Chief Souza

Type of Agenda Item:	**Type of Action Needed:**	
☒ Consent Agenda	☐ Discussion Only (1st)	☐ Pass Motion
☐ Public Hearing	☐ Discussion Only (2nd)	☒ Pass Resolution
☐ Scheduled Business	☐ Decision/Direction	☐ Pass Ordinance

Summary / Background Information

The Chief of Corrections recommends renewing the Purchase Agreement with Axon Enterprises, Inc. for the purchase of weapon, air tasers, electronic incapacitation devices, and all other taser equipment utilizing the Washington State Contract No. 02315, as our previous Purchase Agreement terminated June 2, 2020.

Fiscal Impact

Amount: $15,000

Fund: Said expenditures shall be paid out of Dept 120.

Recommendation

Approve the attached Resolution and Purchase Agreement with Axon Enterprises, Inc. and/or their subcontractor and distributor ProForce Law Enforcement, for a contract amount not to exceed $15,000 including WSST, for a term commencing upon signature of both parties and terminating June 2, 2021.

Suggested Motion

Consent Agenda

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF AUTHORIZING THE PURCHASE OF WEAPONS, AIR TASERS & ELECTRONIC INCAPACITATION DEVICES FROM AXON ENTERPRISES, INC. OR PROFORCE LAW ENFORCEMENT AS THEIR SUBCONTRACTOR, UTILIZING WASHINGTON STATE CONTRACT NO. 02315 FOR THE BENTON COUNTY CORRECTIONS DEPARTMENT

WHEREAS, Washington State Contract No. 02315 allows for the purchases of taser weapons and accessories from Axon Enterprises, Inc., Scottsdale, AZ or with ProForce Law Enforcement, Prescott, AZ being their subcontractor and distributor; and

WHEREAS, per Resolution 2019-914 dated December 10, 2019 the Board of Benton County Commissioners approved the Purchase Agreement with Axon Enterprises, Inc. and/or their ProForce Law Enforcement as their subcontractor and distributor, for the purchase of weapon, air tasers, electronic incapacitation devices, and all other taser equipment by utilizing Washington State Contract No. 02315 with a term expiring June 2, 2020; and

WHEREAS, the Chief of Corrections recommends renewing the Purchase Agreement with Axon Enterprises, Inc. for the purchase of the above said equipment utilizing the Washington State Contract No. 02315 for an overall contract amount not to exceed $15,000 including WSST; **NOW, THEREFORE**

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington hereby concurs with the recommendation and hereby approves the purchase of weapons, air tasers, electronic incapacitation devices, and all other taser equipment by utilizing Washington State Contract No. 02315 from Axon Enterprises, Inc., or their subcontractor ProForce Law Enforcement with a total contract amount not to exceed $15,000 including WSST, for a term commencing upon signature of both parties and terminating June 2, 2021; and

BE IT FURTHER RESOLVED, the Board of Benton County Commissioners hereby authorizes the Chairman of the Board to sign the attached Purchase Agreement with Axon Enterprises, Inc.

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

Orig: BCCD
cc: Auditor, PA, Axon, ProForce

Prepared by: L. Small

PURCHASE AGREEMENT
Benton County, Washington

Benton County is a political subdivision, with its principal offices located at 620 Market Street, Prosser, WA 99350

RESOLUTION No: _____

Resolution number must appear on all invoices, packing slips, packages, correspondence, etc.

Vendor: Axon Enterprises, Inc.
Vendor Code:
Vendor Contact: Caitlin Morgan
Vendor Contact Phone: (800) 978-2737
Vendor Principal Place of Business: 17800 N 85th St, Scottsdale, AZ 85255

AGREEMENT:
The Vendor agrees to make available the goods provided in Exhibit B to Benton County under the terms described herein.

Ship To:	Bill To:
Benton County Corrections Department 7122 W. Okanogan Pl. Bldg. B Kennewick, WA 99336	Benton County Corrections Department 7122 W. Okanogan Pl. Bldg. B Kennewick, WA 99336

Line	Description	Qty		
	Vendor agrees to make all the items provided in	TBD		
	Exhibit B available to the County for purchase at			
	the prices provided in Exhibit B, as currently in			
	effect, or hereafter amended pursuant to the State			
	of Washington Contract No. 02315.			
	ProForce Law Enforcement - Distributor			
	3009 North Highway 89			
	Prescott, AZ 86301			

The term of this Agreement shall commence upon signature of both parties and shall expire 6/2/2021. This Agreement supersedes all previous Agreements.

This purchase agreement incorporates by reference all terms and conditions issued off the State of Washington Contract No. 02315 (copy attached hereto as Exhibit A) as well as the Price Worksheet attached as Exhibit B.

Vendor signature on this Purchase Agreement certifies acceptance of this agreement and all terms and conditions, and supersedes any conflicting terms.

In case of conflict, the order of precedence is:
1. The State of Washington Contract No. 02315
2. Purchase Agreement including the Price Worksheet attached at Exhibit B as currently in effect or hereafter amended.

Questions and Clarifications should be Addressed to Buyer Contact:

Contact: Lisa Small
Address: 7122 W. Okanogan Pl, Bldg. B
Kennewick, WA 99336
Phone: 509-735-6555 ext. 3880
Email: Lisa.Small@co.benton.wa.us

Approved as to Form
(Deputy Prosecutor): _____
Ryan J. Luksor, Civil DPA

By signing in the space provided, the parties hereby acknowledge the following:

1) The person executing the Agreement is authorized to enter into and undertake contractual financ obligations on behalf of his/her party;
2) The person executing this Agreement is authorized to do so by his/her party;
3) The parties agree that they shall be bound by facsimile or electronic copies of Agreements (inclu purchase orders) and further agree that such copies shall constitute the original agreement(s) fo purposes.

Vendor Name (Print): Robert Driscoll Title: VP, Assoc. General Counsel Date: 6/29/2020 | 7:01 PM MST

Vendor Signature: DocuSigned by: 55DAEBB131A4424...

Chairman
Benton County
Board of Commissioners: _____ Date: _____
Jim Beaver, Chairman

DocuSign Envelope ID: 114E0E43-D566-4738-BF73-1775FE0E5500

Exhibit A

State of Washington
Contracts & Procurement Division
Department of Enterprise Services
P.O. Box 41411
Olympia, WA 98504-1411

Axon Enterprise, Inc.
17800 N 85th Street
Scottsdale, AZ 85255

SIXTH AMENDMENT
TO
CONTRACT NO. 02315
AIR TASERS AND ELEC. INCAPACITATION DEVICES

This Sixth Amendment ("Amendment") to Contract No. 02315 is made and entered into by and between the State of Washington acting by and through the Department of Enterprise Services, a Washington State governmental agency ("State") and Axon Enterprise, Inc., a Delaware corporation ("Contractor") and is dated effective as of June 3, 2020.

RECITALS

A. State and Contractor (collectively the "Parties") entered into that certain Contract No. 02315 for Air Tasers and Elec. Incapacitation Devices dated effective as of June 3, 2015 ("Contract").

B. The Parties previously amended the Contract as follows:

   a. Amendment 1 effective November 2, 2016 (Added Taser Assurance Plan (TAP)

   b. Amendment 2 effective April 1, 2017 (Increase VMF, Price adjustment, Contract extension, and name change)

   c. Amendment 3 effective October 1, 2018 (Added Taser 60 & Taser 60 unlimited plan)

   d. Amendment 4 effective March 12, 2019 (Removed Taser Assurance Plan)

   e. Amendment 5 effective May 1, 2019 (Extended term and adjusted product pricing)

C. The amendment set forth herein is within the scope of the Contract.

D. The Parties now desire to amend the Contract as set forth herein.

AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth herein, the Parties hereby agree to amend the Contract, as previously amended, as follows:

1. TERM. The term of this contract is hereby extended from June 3, 2020, to now expire June 02, 2021, which is max term for this contract.

2. NO CHANGE OTHER THAN AMENDMENT. Except as amended herein, the Contract is unaffected and remains in full force and effect.

3. INTEGRATED AGREEMENT; MODIFICATION. This Amendment constitutes the entire agreement and understanding of the Parties with respect to the subject matter and supersedes all prior negotiations and representations. In the event of any conflict between this Amendment and the

DocuSign Envelope ID: 114E0E43-D566-4738-BF73-1775FE0E5500

Contract or any earlier amendment, this Amendment shall control and govern. This Amendment may not be modified except in writing signed by the Parties.

4. AUTHORITY. Each party to this Amendment, and each individual signing on behalf of each party, hereby represents and warrants to the other that it has full power and authority to enter into this Amendment and that its execution, delivery, and performance of this Amendment has been fully authorized and approved, and that no further approvals or consents are required to bind such party.

5. ELECTRONIC SIGNATURES. A signed copy of this Amendment or any other ancillary agreement transmitted by facsimile, email, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Amendment or such other ancillary agreement for all purposes.

6. COUNTERPARTS. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original, and all of which counterparts together shall constitute the same instrument which may be sufficiently evidenced by one counterpart. Execution of this Amendment at different times and places by the parties shall not affect the validity thereof so long as all the parties hereto execute a counterpart of this Amendment.

EXECUTED AND EFFECTIVE as of the day and date first above written.

AXON ENTERPRISE, INC.,
A DELAWARE CORPORATION

DocuSigned by:

By: _____
55DAEBB131A4424...

Name: Robert Driscoll

Title: VP, Assoc. General Counsel

Date: 6/1/2020 | 5:06 PM MST

STATE OF WASHINGTON
DEPARTMENT OF ENTERPRISE SERVICES

By: Danny Pratt (Electronic Signature)

Name: Danny Pratt

Title: Contract Specialist 3

Date: 06/02/2020

Washington State Department of
Enterprise Services

02315 – Air Taser and Electronic Incapacitating Devices

Contract & Amendments for TASER International, Inc.

Overview
02315 – Air Taser and Electronic Incapacitating Devices was awarded solely to Axon Enterprises, Inc.

This contract is awarded for statewide coverage as outlined below:

Statewide Contract

Effective Date	Document Title	Document
6/3/2016	Contract Signature Page	02315 Contract Signature.pdf

Effective Date	Document Title	Document
11/2/2016	02315a1 (Amendment #1)	02315a1.pdf; 02315 AMD 1 attachement.docx
4/1/2017	002315a1 (Amendment #2)	02315a2.pdf
10/1/2018	02315 AMD 3	02315 AMD 3.pdf; 02315a3 Attachment 1.docx; 02315a3 Attachment 2.docx
3/12/2019	02315 AMD 4	02315 AMD 4.pdf
6/3/2019	02315 AMD 5	02315 AMD 5.pdf
6/3/2020	02315 AMD 6	02315 AMD 6.pdf

Updates

Date	Change	Completed by
11/2/2016	Added the Taser Assurance Plan Appendix to clarify the Taser	Richard Worthy

	Assurance Plan	
4/1/2017	Extended Contract Term, Adjusted the Vendor Management Fee, Amended Contractor's name, and Amended Contract Pricing.	Richard Worthy
10/1/2018	Added Taser 60 & Taser 60 Unlimited program	Richard Worthy
3/12/2018	Removes TAP program	Richard Worthy
5/29/2019	Extend Contract and Amend Contract Pricing	Richard Worthy
6/3/2020	Contract extension	Leslie Edwards

DES Contract Specialist: Richard Worthy
Phone: 360-407-7932
E-mail: richard.worthy@des.wa.gov

Washington State Department of
Enterprise Services

CONTRACTS & LEGAL SERVICES DIVISION
MASTER CONTRACTS & CONSULTING UNIT

Exhibit B

Ordering & Pricing Information
#02315 – Air Taser and Electronic Incapacitation Devices

COMPANY INFORMATION	
Axon Enterprises, Inc. 17800 N 85th Street Scottsdale, AZ 85255	
Ordering Contact/Address: Name: Sales Operations Email: contracts@axon.com Address: 17800 N 85ht Street Scottsdale, AZ 85255 Phone: 800-978-2737	Payment/Usage contact information: Name: Caitlin Morgan Address: 17800 N 85ht Street Scottsdale, AZ 85255 Phone: 800-978-2737
Customer Service Contact: Name: Caitlin Morgan Email: cs@axon.com Address: 17800 N 85ht Street Scottsdale, AZ 85255	
Federal Tax ID number:	86-0741227
Wash. Dept. of Revenue Registration No.:	602-884-866
Purchasing Cards:	Visa, MasterCard, American Express, EFT/ACH
Prompt Payment Discount	NO
Oregon Cooperative Charge	
Subcontractor:	
ProForce Law Enforcement 3009 North Highway 89 Prescott, AZ 86301 Mike Massimo 800-367-5855	

86-1022874

DES Contracts Administrator:	DES Customer Service:
Richard Worthy, 360-407-7932 richard.worthy@des.wa.gov	360-407-2210 contractingandpurchasing@des.wa.gov

Product Code	Product Description	Unit of Issue	New Price
85181	TASER 60 YEAR 1 PAYMENT: X26P BASIC	N/A	$291.00
85182	TASER 60 YEAR 2 PAYMENT: X26P BASIC	N/A	$291.00
85183	TASER 60 YEAR 3 PAYMENT: X26P BASIC	N/A	$291.00
85184	TASER 60 YEAR 4 PAYMENT: X26P BASIC	N/A	$291.00
85185	TASER 60 YEAR 5 PAYMENT: X26P BASIC	N/A	$291.00
85705	TASER 60 YEAR 1 PAYMENT: X26P UNLIMITED	N/A	$445.00
85706	TASER 60 YEAR 2 PAYMENT: X26P UNLIMITED	N/A	$445.00
85707	TASER 60 YEAR 3 PAYMENT: X26P UNLIMITED	N/A	$445.00
85708	TASER 60 YEAR 4 PAYMENT: X26P UNLIMITED	N/A	$445.00
85709	TASER 60 YEAR 5 PAYMENT: X26P UNLIMITED	N/A	$445.00

22002	Black X2 CEW	EA	$1,220.00
22003	Yellow X2 CEW	EA	$1,220.00
22014	4-year Extended Warranty	EA	$378.00
22150	15' Live Smart Cartridge	EA	$36.00
22151	25' Live Smart Cartridge	EA	$38.00
22155	Inert Simulator 25' Smart Cartridge	EA	$50.00
22157	25' Training Smart Cartridge (Blue Blast Door/Non-conductive)	EA	$37.00
26810	TASER CAM HD	EA	$570.00
26820	TASER CAM HD with Automatic Shut-Down (AS) Feature	EA	$600.00
26762	TASER CAM HD USB download kit	EA	$18.00
26763	TASER CAM HD 4-Year Extended Warranty	EA	$150.00
26764	TASER CAM HD Replacement Battery	EA	$62.00
22013	Kit, Dataport Download, USB, X2	EA	$200.00
22018	Grip, CEW, Hogue, packaged	EA	$19.00
80004	Target, Conductive, 2-Part, Top and Bottom	EA	$33.00
44550	Sim Suit Model II	EA	$675.00

11002	Black X26P CEW, class III LASER	EA	$1,065.00
11003	Yellow X26P CEW, class III LASER	EA	$1,065.00
22010	Performance Power Magazine (PPM)	EA	$65.00
22012	Tactical Performance Power Magazine (TPPM)	EA	$65.00
11010	eXtended Performance Power Magazine (XPPM)	EA	$76.00
22011	Automatic Shut-Down Power Magazine (APPM)	EA	$78.00
11015	eXtended Automatic Shut-Down Power Magazine (XAPPM)	EA	$82.00
11501	Holster, X26P, Right Hand, Blackhawk!	EA	$64.00
11504	Holster, X26P, Left Hand, Blackhawk!	EA	$64.00
11004	4-year Extended Warranty	EA	$331.00
26810	TASER CAM HD	EA	$570.00
26820	TASER CAM HD with Automatic Shut-Down (AS) Feature	EA	$600.00
26763	TASER CAM HD 4-Year Extended Warranty	EA	$150.00
26764	TASER CAM HD Replacement Battery	EA	$62.00
22013	Kit, Dataport Download, USB	EA	$200.00

22018	Grip, CEW, Hogue, packaged	EA	$19.00
34200	15' Field Use3	EA	$27.00
44200	21' Field Use	EA	$29.00
44203	25' XP Field Use	EA	$33.00
44205	21' Non-Conductive Sim	EA	$28.00
85000	Alligator Clip Cartridge	EA	$55.00
26700	Digital Power Magazine (DPM)	EA	$44.00
26701	eXtended Digital Power Magazine (XDPM)	EA	$50.00
26500	X26 Dataport Download Kit	EA	$196.00
22010	Performance Power Magazine (PPM)	EA	$65.00
22012	Tactical Performance Power Magazine (TPPM)	EA	$65.00
22011	Automatic Shut-Down Power Magazine (APPM)	EA	$78.00
70116	Signal Performance Power Magazine (SPPM)1	EA	$100.00
22502	Holster, X2, Right Hand, Safariland STX Basketweave	EA	$99.00
22505	Holster, X2, Left Hand, Safariland STX Basketweave	EA	$99.00
22507	Holster, X2, Right Hand, Safariland STX Hi Gloss	EA	$99.00

22508	Holster, X2, Left Hand, Safariland STX Hi Gloss	EA	$99.00
44415	Sim Suit Helmet	EA	$110.00
44416	Sim Suit Gloves, Set	EA	$62.00
70116	Signal Performance Power Magazine (SPPM)1	EA	$100.00
26762	TASER CAM HD USB download kit	EA	$18.00
80004	Target, Conductive, 2-Part, Top and Bottom	EA	$33.00
44550	Sim Suit Model II	EA	$675.00
44415	Sim Suit Helmet	EA	$110.00
44416	Sim Suit Gloves, Set	EA	$62.00
44952	Holster, X26, Right Hand, Blade-Tech	EA	$43.00
44953	Holster, X26, Left Hand, Blade-Tech	EA	$43.00
44972	Holster, X26, Right Hand, BLACKHAWK!	EA	$43.00
44973	Holster, X26, Left Hand, BLACKHAWK!	EA	$43.00

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	July 14, 2020
Subject:	Contract w/Kim, LLC dba/ Tower Plaza Cleaners & Laundromat, LLC for "as needed" Dry Cleaning and Laundry Services
Presenter:	
Prepared By:	Lisa Small
Reviewed By:	Chief Souza

Type of Agenda Item:	Type of Action Needed:	
☒ Consent Agenda	☐ Discussion Only (1st)	☐ Pass Motion
☐ Public Hearing	☐ Discussion Only (2nd)	☒ Pass Resolution
☐ Scheduled Business	☐ Decision/Direction	☐ Pass Ordinance

Summary / Background Information

Per Resolution 2018-578 the Board of Benton County Commissioners approved the contract between Benton County and Kim, LLC dba/Tower Plaza Cleaners & Laundromat, LLC for laundry services for the Benton County Sheriff's Office, which at that time included Corrections, with a contract termination date of December 31, 2020.

Now that the Benton County Corrections Department (BCCD) has transitioned into its own department, the Auditor's office recommends BCCD have their own contract with Tower Plaza for "as needed" dry cleaning and laundry services.

Attached is a contract between Benton County and Kim, LLC dba/ Tower Plaza Cleaners & Laundromat, LLC for said services with an overall contract amount not to exceed $25,000 including WSST.

The term of the attached said contract shall commence upon signature of both parties and shall terminate December 31, 2022. Upon mutual agreement of both parties, the original terms and conditions of the contract may be extended for up to two (2) 12-month periods, subject to agreement between both parties regarding cost adjustments.

Fiscal Impact

Amount: $25,000
Fund: Expenditures shall be paid from Corrections Budget - Dept 120 with no budget adjustment needed.

Recommendation

Approve the attached Resolution and Personal Service Contract between Benton County and Kim, LLC dba/ Tower Plaza Cleaners & Laundromat, LLC for "as needed" Dry Cleaning and Laundry Services for the Benton County Corrections Department, authorizing the Chairman of the Board to sign the attached contract.

Suggested Motion

Consent Agenda

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF A PERSONAL SERVICE CONTRACT BETWEEN BENTON COUNTY AND KIM, LLC DBA/TOWER PLAZA CLEANERS & LAUNDROMAT, LLC FOR "AS NEEDED" DRY CLEANING AND LAUNDRY SERVICES FOR THE BENTON COUNTY CORRECTIONS DEPARTMENT

WHEREAS, per Resolution 2018-578 dated August 21, 2018 the Board of Benton County Commissioners approved the Contract between Benton County and Kim, LLC dba/Tower Plaza Cleaners & Laundromat, LLC to provide "as needed" dry cleaning and laundry services for the Benton County Sheriff's Office, which at that time included Corrections, with a contract termination date of December 31, 2020; and

WHEREAS, the Benton County Corrections Department (BCCD) has transitioned into their own department and the Benton County Auditor's Office recommends the BCCD have their own laundry service contract with Tower Plaza Cleaners & Laundromat, LLC; and

WHEREAS, the BCCD currently have two different contracts for "as needed" dry cleaning and laundry services; and

WHEREAS, Tower Plaza Cleaners & Laundromat LLC, Pasco, WA offers free delivery and pick up from BCCD, which is a benefit to those employees who work 12 hour shifts and cannot make it to the cleaners during regular business hours; and

WHEREAS, there are some BCCD employees who would rather handle their own laundry service and have the ability to drop their laundry off at a convenient location such as Columbia Cleaners, Kennewick, WA; and

WHEREAS, the BCCD is happy with Tower Plaza Cleaners & Laundromat, LLC services and recommends entering into a contract with Kim, LLC dba/Tower Plaza Cleaners & Laundromat LLC for a period commencing upon signature of both parties and terminating December 31, 2022 for "as needed" dry cleaning and laundry services; and

WHEREAS, Tower Plaza Cleaners & Laundromat LLC has agreed to perform all services provided for BCCD in accordance with the attached contract and rates in Exhibit A and Exhibit B for an overall contract amount not to exceed $25,000 including WSST; **NOW, THEREFORE**

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington concurs with the recommendation and hereby approves the attached contract between Benton County and Kim, LLC dba/Tower Plaza Cleaners & Laundromat LLC for "as needed" dry cleaning and laundry services for the BCCD, with an overall contract amount not to exceed $25,000 including WSST; and

Orig: BCCD
Auditor; PA Office, Tower Plaza

L. Small

BE IT FURTHER RESOLVED, the Board hereby authorizes the Chairman to sign the attached said contract; and

BE IT FURTHER RESOLVED, the term of the attached said contract shall commence upon signature of both parties and shall terminate December 31, 2022. Upon mutual agreement of both parties, the original terms and conditions of the contract may be extended for up to two (2) 12-month periods, subject to agreement between both parties regarding cost adjustments.

Dated this _____ day of _____, 2020

_____
Chairman

_____
Member

_____
Member

Attest: _____
Clerk of the Board

Constituting the Board of County Commissioners
of Benton County, Washington

Orig: BCCD
Auditor; PA Office, Tower Plaza

L. Small

BENTON COUNTY
PERSONAL SERVICES CONTRACT

TERMS AND CONDITIONS

THIS CONTRACT is made and entered into by and between **BENTON COUNTY**, a political subdivision with its principal offices at 620 Market Street, Prosser, WA 99350 (hereinafter "COUNTY"), and **KIM, LLC dba/TOWER PLAZA CLEANERS & LAUNDROMAT, LLC**, with its principal offices at 1208 N. 20TH Ave., Pasco, WA 99301 (hereinafter "CONTRACTOR").

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

1. CONTRACT DOCUMENTS

This Contract consists of these Terms and Conditions and the following documents:

a. Exhibit A - Quote and Compensation
b. Exhibit B - Quote and Compensation - Effective 1/1/2021

2. DURATION OF CONTRACT

The term of this Contract shall begin upon signature of both parties and shall expire on December 31, 2022. The CONTRACTOR shall complete all work by the time(s) specified herein, or if no such time is otherwise specified, no later than the expiration date. Upon mutual agreement of both parties, the original terms and conditions of the Contract may be extended for up to two (2) 12-month periods subject to agreement between both parties regarding cost adjustments.

3. SERVICES PROVIDED

a. The CONTRACTOR shall perform all necessary dry cleaning and laundry services, to include any necessary repairs, for employees of the Benton County Corrections Department. All dry cleaning and laundry services shall be completed within two (2) days of drop off date.

b. The CONTRACTOR shall be responsible for ensuring the pockets of all laundry are free of any item, including but not limited to pens, that may damage the laundry during the dry cleaning

process. Failure of CONTRACTOR to do so will result in payment to the COUNTY of the fair market value of the laundry damaged.

c. The COUNTY does not guarantee utilization of this Contract. The COUNTY may award contract to other vendors for similar products or services. Actual utilization will be based on availability, proximity of vendor facilities, frequency of deliveries, or any other factor deemed important to the COUNTY.

d. The CONTRACTOR agrees to provide its own labor and materials. Unless otherwise provided in this Contract, no material, labor, or facilities will be furnished by the COUNTY.

e. The CONTRACTOR shall perform the work specified in this Contract according to standard industry practice.

f. The CONTRACTOR shall complete its work in a timely manner and in accordance with the schedule outlined in 3.a. above.

g. The CONTRACTOR shall confer with the COUNTY from time to time during the progress of the work. The CONTRACTOR shall prepare and present status reports and other information that may be pertinent and necessary, or as requested by the COUNTY.

4. CONTRACT REPRESENTATIVES

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

a. For CONTRACTOR:

Name:	Ray Gonzalez, Manager
Address:	1208 N. 20th Ave.
	Pasco, WA 99301
Phone:	(509) 547-8738

b. For COUNTY:

Name:	Lisa Small, Contract Coordinator
Address:	7122 W. Okanogan Place, Bldg. B
	Kennewick, WA 99336
Phone:	(509) 735-6555 Ext. 3880
Email:	Lisa.Small@co.benton.wa.us

5. **COMPENSATION**

a. For the services performed under this Contract, the CONTRACTOR shall be paid by the COUNTY as set forth in Exhibit A, "Quote and Compensation" from Contract execution through December 31, 2020 and as set forth in Exhibit B, "Quote and Compensation - Effective 1/1/2021" from January 1, 2021 through December 31, 2022.

b. The maximum total amount payable by the COUNTY to the CONTRACTOR under this Contract shall not exceed twenty five thousand dollars and zero cents ($25,000), including W.S.S.T.

c. No payment shall be made for any work performed by the CONTRACTOR, except for work identified and set forth in this Contract.

d. The CONTRACTOR may, in accordance with Exhibits A and B submit invoices to the COUNTY not more than once per month during the progress of the work for partial payment of the work completed to date. Invoices shall cover the time CONTRACTOR performed work for the COUNTY during the billing period. The COUNTY shall pay the CONTRACTOR for services rendered in the month following the actual delivery of work and will remit payment within thirty (30) days from the date of receipt of the invoice.

e. The CONTRACTOR shall not be paid for services rendered under this Contract unless and until they have been performed to the satisfaction of the COUNTY.

f. In the event the CONTRACTOR has failed to perform any substantial obligation to be performed by the CONTRACTOR under this Contract and such failure has not been cured within ten (10) days following notice from the COUNTY, the COUNTY may, in its sole discretion, upon written notice to the CONTRACTOR, withhold any and all monies due and payable to the CONTRACTOR, without penalty, until such failure to perform is cured or otherwise adjudicated. "Substantial" for the purposes of this Contract means faithfully fulfilling the terms of this Contract with variances only for technical or minor omissions or defects.

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

6. **AMENDMENTS AND CHANGES IN WORK**

a. In the event of any errors or omissions by the CONTRACTOR in the performance of any work required under this Contract, the CONTRACTOR shall make any and all necessary corrections without additional compensation. All work submitted by the CONTRACTOR shall be certified by the CONTRACTOR and checked for errors and omissions. The CONTRACTOR shall be responsible for the accuracy of the work, even if the work is accepted by the COUNTY.

b. No amendment or modification shall be made to this Contract, unless set forth in a written Contract Amendment signed by both parties. Work under a Contract Amendment shall not proceed until the Contract Amendment is duly executed by the COUNTY.

7. **HOLD HARMLESS AND INDEMNIFICATION**

a. The CONTRACTOR shall hold harmless, indemnify, and defend the COUNTY and its officers, officials, employees, and agents from and against any and all claims, actions, suits, liabilities, losses, expenses, damages, and judgments of any nature whatsoever, including reasonable costs and attorneys' fees in defense thereof, for injury, sickness, disability, or death to persons or damage to property or business, arising in connection with the work performed under this Contract, or caused or occasioned in whole or in part by reason of the presence of the CONTRACTOR or its subcontractors or their property upon or in the proximity of the property of the COUNTY. PROVIDED, that the CONTRACTOR'S obligation hereunder shall not extend to injury, sickness, death, or damage caused by or arising out of the sole negligence of the COUNTY or its officers, officials, employees, or agents.

b. In any and all claims against the COUNTY and its officers, officials, employees, and agents by any employee of the CONTRACTOR, any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under this section shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the CONTRACTOR or subcontractor under Workers Compensation acts, disability benefit acts, or other employee benefit acts, it being clearly agreed and understood by the parties hereto that the CONTRACTOR expressly waives

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

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

8. INSURANCE

The CONTRACTOR shall obtain and maintain continuously the following insurance:

a. **Workers Compensation:** CONTRACTOR shall comply with all State of Washington workers compensation statutes and regulations. Prior to the start of work under this Contract, workers compensation coverage shall be provided for all employees of CONTRACTOR and employees of any subcontractor or sub-subcontractor. Coverage shall include bodily injury (including death) by accident or disease, which arises out of or in connection with the performance of this Contract. CONTRACTOR shall submit a copy of its certificate of coverage from the Washington State Department of Labor and Industries prior to commencement of work. Except as prohibited by law, CONTRACTOR waives all rights of subrogation against the COUNTY for recovery of damages to the extent they are covered by workers compensation and employer's liability.

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

CONTRACTOR pursuant to the indemnity agreement may be deducted from any payments owed by COUNTY to CONTRACTOR for performance of this Contract.

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

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

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

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

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

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

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

d. **Other Insurance Provisions:**

1. The CONTRACTOR'S liability insurance provisions shall be primary with respect to any insurance or self-insurance programs covering the COUNTY or its elected and appointed officers, officials, employees, or agents. CONTRACTOR'S liability insurance policies must be endorsed to show this primary coverage. Any insurance, self-insured retention, deductible, or risk retention maintained or participated in by the COUNTY shall be excess and not contributory to CONTRACTOR'S insurance policies.

2. The CONTRACTOR'S liability insurance policies shall contain no special limitations on the scope of protection afforded to the COUNTY as an additional insured.

3. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the COUNTY or its officers, officials, employees, or agents.

4. The CONTRACTOR'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5. The CONTRACTOR shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.

6. The insurance limits mandated for any insurance coverage required by this Contract are not intended to be an indication of exposure nor are they limitations on

indemnification. **If the CONTRACTOR maintains higher limits than the minimums required in this Contract, the COUNTY shall be entitled to coverage for the higher limits maintained by the CONTRACTOR.**

7. The CONTRACTOR shall maintain all required policies in force from the time services commence until services are completed. Certificates, policies, and endorsements expiring before completion of services shall be promptly replaced. All liability insurance required under this Contract shall be written on an Occurrence Policy form.

8. CONTRACTOR hereby agrees to waive subrogation with respect to each insurance policy maintained under this Contract. When required by an insurer, or if a policy condition does not permit CONTRACTOR to enter into a pre-loss agreement to waive subrogation without an endorsement, then CONTRACTOR agrees to notify the insurer and obtain such endorsement. This requirement shall not apply to any policy which includes a condition expressly prohibiting waiver of subrogation by the insured or which voids coverage should the CONTRACTOR enter into such a waiver of subrogation on a pre-loss basis.

9. Compensation and/or payments due to CONTRACTOR under this Contract are expressly conditioned upon CONTRACTOR'S strict compliance with all insurance requirements. Payment to CONTRACTOR may be suspended in the event of non-compliance. Upon receipt of evidence of CONTRACTOR'S compliance, such payments not otherwise subject to withholding or set-off will be released to CONTRACTOR.

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

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

1. All insurance to be maintained by the CONTRACTOR, other than Workers' Compensation, shall specifically include the

COUNTY and its elected officials, employees, and volunteers as an "Additional Insured" by way of endorsement and shall not be reduced or cancelled without thirty (30) days prior written notice to the COUNTY. Any insurance or self-insurance maintained by the COUNTY and its elected or appointed officials, employees, and agents shall be excess of the CONTRACTOR's insurance and shall not contribute to it.

2. Certificates of Liability Insurance, with endorsements attached, must be provided to the COUNTY's Contract Representative referenced in Section 4.

3. All written notices under this Section 8 and notice of cancellation or change of required insurance coverages shall be mailed to the COUNTY's Contract Representative referenced in Section 4.

4. The CONTRACTOR or its broker shall provide a copy of any and all insurance policies specified in this Contract upon request of the Benton County Risk Manager to the following address: Benton County Risk Manager, 7122 W. Okanogan Place, Bldg. A, Kennewick, WA 99336.

9. TERMINATION

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

b. In the event that funding for this project is withdrawn, reduced, or limited in any way after the effective date of this Contract, the COUNTY may summarily terminate this Contract notwithstanding any other termination provision in this Contract. Termination under this subsection shall be effective upon the date specified in the written notice of termination sent by COUNTY to the CONTRACTOR. After the effective date, no charges incurred under this Contract shall be allowed.

c. If the CONTRACTOR breaches any of its obligations hereunder,

and fails to cure the breach within ten (10) days of written notice to do so by the COUNTY, the COUNTY may immediately terminate this Contract by so notifying the CONTRACTOR, in which case the COUNTY shall pay the CONTRACTOR only for the costs of services accepted by the COUNTY, in accordance with the Compensation Section of this Contract. Upon such termination, the COUNTY, at its discretion, may obtain performance of the work elsewhere, and the CONTRACTOR shall bear all costs and expenses incurred by the COUNTY in completing the work and all damage sustained by the COUNTY by reason of the CONTRACTOR'S breach.

10. ASSIGNMENT, DELEGATION, AND SUBCONTRACTING

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

b. The CONTRACTOR warrants that it has not paid, nor has it agreed to pay, any company, person, partnership, or firm, other than a bona fide employee working exclusively for the CONTRACTOR, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award or making of this Contract.

11. NON-WAIVER OF RIGHTS

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

12. INDEPENDENT CONTRACTOR

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

b. The CONTRACTOR acknowledges that the entire compensation for

this Contract is set forth in Section 5 of this Contract, and neither the CONTRACTOR, nor its employees are entitled to any COUNTY benefits, including, but not limited to: vacation pay; holiday pay; sick leave pay; medical, dental, or other insurance benefits; fringe benefits; or any other rights or privileges afforded to COUNTY employees.

c. The CONTRACTOR shall have and maintain complete responsibility and control over all of its subcontractors, employees, agents, and representatives. No subcontractor, employee, agent, or representative of the CONTRACTOR shall be, deem to be, act, or purport to act as an employee, agent, or representative of the COUNTY.

d. The CONTRACTOR shall pay for all taxes, fees, licenses, or payments required by federal, state, or local law that are now or may be enacted during the term of this Contract.

e. The CONTRACTOR agrees to immediately remove any of its employees or agents from their assignment to perform services under this Contract upon receipt of a written request to do so from the COUNTY'S Contract Representative, or designee.

13. COMPLIANCE WITH LAWS

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

14. INSPECTION OF BOOKS AND RECORDS

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

15. NONDISCRIMINATION

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

16. OWNERSHIP OF MATERIALS/WORKS PRODUCED

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

b. An electronic copy of all word processing documents shall be submitted to the COUNTY upon request and/or at the expiration of the Contract, using the word processing program and version specified by the COUNTY.

17. PATENT/COPYRIGHT INFRINGEMENT

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

18. DISPUTES

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

19. CONFIDENTIALITY

The CONTRACTOR and its employees, subcontractors, and subcontractors' employees shall maintain the confidentiality of all information provided by the COUNTY or acquired by the COUNTY in performance of this Contract, except upon the prior written consent of the COUNTY or an order entered by a court of competent

jurisdiction. The CONTRACTOR shall promptly give the COUNTY written notice of any judicial proceeding seeking disclosure of such information.

20. CHOICE OF LAW, JURISDICTION, AND VENUE

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

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

21. SUCCESSORS AND ASSIGNS

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

22. SEVERABILITY

a. If a court of competent jurisdiction holds any part, term, or provision of this Contract to be illegal or invalid, in whole or in part, the validity of the remaining provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as if this Contract did not contain the particular provision held to be invalid.

b. If it should appear that any provision of this Contract is in conflict with any statutory provision of the State of Washington, said provision which may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform to such statutory provision.

23. ENTIRE AGREEMENT

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

24. NOTICES

Any notices provided under this Contract shall be effective if personally served upon the other party or if mailed by registered or certified mail, return receipt requested, to the mailing addresses set out in Section 4 of this Contract. Notice may also be given via e-mail to the Contract Representatives' e-mail addresses identified in Section 4 of this Contract, with the original notice to follow by regular mail. Notice shall be deemed to be given three (3) days following the date of mailing or immediately if personally served. For service by e-mail, service shall be effective at the beginning of the next working day.

25. SURVIVABILITY

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

26. LITIGATION HOLD NOTICE

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

27. PUBLIC RECORDS ACT

The CONTRACTOR hereby acknowledges that the COUNTY is a governmental entity and as such is subject to the requirements of the Public Records Act, Chapter 42.56 RCW. Accordingly, CONTRACTOR understands that to the extent a proper request is made, the COUNTY may be required by virtue of that Act to disclose any records related to this Contract actually in its possession or in

CONTRACTOR'S possession. This may include records that CONTRACTOR regards as confidential or proprietary. To the extent that CONTRACTOR provides any records to the COUNTY that it regards as confidential or proprietary, CONTRACTOR agrees to conspicuously mark the records as such. The CONTRACTOR also hereby waives any and all claims or causes of action for any injury it may suffer by virtue of COUNTY'S release of records covered under the Public Records Act. The COUNTY agrees to take all reasonable steps to notify CONTRACTOR in a timely fashion of any request made under the Public Records Act that will require disclosure of any records marked by CONTRACTOR as confidential or proprietary, so that CONTRACTOR may seek a judicial order of protection if necessary.

28. OBLIGATION TO SAFEGUARD

The CONTRACTOR acknowledges that some of the clothing taken temporary custody of includes Corrections uniforms currently in use by sworn peace officers employed by the Benton County Corrections Department and as such represent important public safety equipment that must be safeguarded against theft, loss or unauthorized access. The CONTRACTOR acknowledges that unauthorized use of such uniforms may result in criminal impersonation of police officers by criminal third parties and may lead to property loss, and bodily injury of death to victims. Accordingly, CONTRACTOR agrees to take all reasonable steps to safeguard any law enforcement uniforms that are temporarily in its custody for laundry services. The steps include, but are not limited to:

a. Ensuring that law enforcement uniforms are stored in a secure portion of CONTRACTOR's premises away from clothing that will be available for customer pickup so as to avoid confusion and inadvertent access by walk-in customers.

b. Ensure that only CONTRACTOR and bona fide employees has access to the law enforcement uniforms.

c. Ensuring that a system is in place by which CONTRACTOR can track the number and type of uniforms it has in custody at any given time in such a manner that theft, loss or misuse can be detected immediately and the type, size, description etc. of any missing uniforms can be readily ascertained.

d. In the same manner as stated in the indemnification section of this Contract, CONTRACTOR shall indemnify, defend and hold COUNTY harmless for any claims, liability, attorney fees, judgements, expenses or costs whatsoever, related in any way to

claims or lawsuits filed as a result of use or handling (including misuse or mishandling) of any uniform while it is legally in CONTRACTOR's custody.

e. CONTRACTOR and bona fide employees shall pass a background investigation prior to handling uniforms under this Contract. This entails providing your full name, date of birth, driver's license number, and if necessary, fingerprints with a payment of $34.75 for livescan, or $71.25 if required to ink roll the fingerprint, to COUNTY'S representative at least 48 hours prior to the anticipated need to handle the uniforms.

f. CONTRACTOR shall immediately (within 24 hours) report any incident where CONTRACTOR, or any of its employees, are arrested or convicted of a crime, or informed by police that CONTRACTOR is a suspect in a crime. Upon receiving such information, CONTRACTOR shall report such information to COUNTY within 24 hours.

g. Immediately (i.e. within 15 minutes) upon learning of the loss, stolen, or misuse of any law enforcement uniform in its custody, CONTRACTOR shall contact the on-duty Corrections Sergeant at the Benton County Corrections Department at (509) 783-1451 ext. 3293, and report such loss, theft or misuse including the type, size and description of the lost, stolen, or misused uniform, the approximate time of the loss, and the circumstances under which it occurred.

This section was intentionally left blank

IN WITNESS WHEREOF, the parties have caused this Contract to be signed by their duly constituted legal representatives and it is effective upon signature of both parties.

Dated: _____

BENTON COUNTY

_____
Jim Beaver, Chairman
Benton County Commissioner

Approved as to Form:

_____
Ryan J. Lukson, Civil DPA

Dated: _____

KIM, LLC DBA/TOWER PLAZA CLEANERS LAUNDROMAT, LLC

_____
Signature

MANAGER.
Title:

RAY GONZALEZ
Print Name

EXHIBIT A – QUOTE AND COMPENSATION

Uniforms (2 Piece)	$ 5.00	Blouse / Skirt	$ 3.00
Trousers	$ 2.25	Sport Coat / Blazer	$ 3.50
Laundered Shirt	$ 2.25	Rain Coat	$ 4.50
Dry Cleaned Shirt / Pants	$ 3.00	Winer Coat	$ 4.50
Neck Tie	$ 1.50	Water-Proofing	$ 4.50
Sweater	$ 3.00	Coveralls	$ 7.00
Pants / Shirt Starched	$ 3.00	Labcoat	$ 5.50

Minor Repairs (such as: buttons, hemming, sew patches on, split seams, etc) $6.00
Does your company have the ability to deliver and pick up items? YES/NO - Free
Do you have multiple locations within the Tri-City's area? YES/NO
Would your company consider a flat monthly rate based on average use? YES/NO

Company Name Tower Plaza Cleaners & Laundromat, LLC

Address: 1208 N 20th Ave., Pasco, WA 99301

Phone Number: (509) 547-8738

Email: tpcleaners01@gmail.com

Contractor's Name: RAY, GONZALEZ (Print Name) Title: MANAGER

Contractors Signature:

EXHIBIT B – QUOTE AND COMPENSATION

PROJECT DESCRIPTION:
Benton County Sheriff is soliciting qualifications and quotation proposals for uniform cleaning from January 1, 2021 – December 31, 2022.

The following is a brief description of what Benton County is soliciting a quotation for, but not limited to:

Uniforms (2 Piece)	$ 5.50	Blouse / Skirt	$ 3.50
Trousers	$ 2.75	Sport Coat / Blazer	$ 4.00
Laundered Shirt	$ 2.75	Rain Coat	$ 5.00
Dry Cleaned Shirt / Pants	$ 3.75	Winer Coat	$ 6.00
Neck Tie	$ 2.00	Water-Proofing	$ 5.50
Sweater	$ 3.50	Coveralls	$ 7.75
Pants / Shirt Starched	$ 3.50	Labcoat	$ 6.50

Minor Repairs (such as: buttons, hemming, sew patches on, split seams, etc) $ _____
Does your company have the ability to deliver and pick up items? YES/NO
Do you have multiple locations within the Tri-City's area? YES/NO
Would your company consider a flat monthly rate based on average use? YES/NO – $3,000 ~~

Rejected by County

Company Name Tower Plaza Laundromat, LLC

Address: 1208 N 20th Ave, Pasco, WA 99301

Phone Number: (509) 547-8738

Email: tpcleaners01@gmail.com

Bidder Name: RAY GONZALEZ (Print Name) Title: MANAGER

Bidder Signature: Ray G

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	July 14, 2020
Subject:	Contract w/Columbia Cleaners for "as needed" Dry Cleaning and Laundry Services
Presenter:	
Prepared By:	Lisa Small
Reviewed By:	Chief Souza

Type of Agenda Item:	**Type of Action Needed:**	
☒ Consent Agenda	☐ Discussion Only (1st)	☐ Pass Motion
☐ Public Hearing	☐ Discussion Only (2nd)	☒ Pass Resolution
☐ Scheduled Business	☐ Decision/Direction	☐ Pass Ordinance

Summary / Background Information

Per Resolution 2018-538 dated August 7, 2018 the Board of County Commissioners approved the Contract between Benton County and Chong Bak dba/Columbia Cleaners for laundry services for the Benton County Sheriff's Office, which at that time included Corrections, with a contract termination date of December 31, 2020.

Now that the Benton County Corrections Department (BCCD) has transitioned into its own department, the Auditor's office recommends the BCCD have their own contract with Columbia Cleaners for "as needed" dry cleaning and laundry services.

Attached is a contract between Benton County and Chong Bak dba/Columbia Cleaners for said services with an overall contract amount not to exceed $25,000 including WSST.

The term of the attached contract shall commence upon signature of both parties and shall terminate December 31, 2022. Upon mutual agreement of both parties, the original terms and conditions of the contract may be extended for up to two (2) 12-month periods, subject to agreement between both parties regarding cost adjustments.

Fiscal Impact

Amount: $25,000
Fund: Expenditures shall be paid from Corrections Budget - Dept 120 with no budget adjustment needed.

Recommendation

Approve the attached Resolution and Personal Service Contract between Benton County and Chong Bak dba/Columbia Cleaners for "as needed" Dry Cleaning and Laundry Services for the Benton County Corrections Department, authorizing the Chairman of the Board to sign the attached contract.

Suggested Motion

Consent Agenda

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF A PERSONAL SERVICE CONTRACT BETWEEN BENTON COUNTY AND CHONG BAK DBA/COLUMBIA CLEANERS FOR "AS NEEDED" DRY CLEANING AND LAUNDRY SERVICES FOR THE BENTON COUNTY CORRECTIONS DEPARTMENT

WHEREAS, per Resolution 2018-538 dated August 7, 2018 the Board of County Commissioners approved the Contract between Benton County and Chong Bak dba/Columbia Cleaners for laundry services for the Benton County Sheriff's Office, which at that time included Corrections, with a contract termination date of December 31, 2020; and

WHEREAS, the Benton County Corrections Department (BCCD) has transitioned into their own department and the Benton County Auditor's Office recommends the BCCD have their own laundry service contract with Columbia Cleaners; and

WHEREAS, the BCCD currently has two different contracts for "as needed" dry cleaning and laundry services; and

WHEREAS, Tower Plaza Cleaners & Laundromat LLC, Pasco, WA offers free delivery and pick up from the BCCD, which is a benefit to those employees who work 12 hour shifts and cannot make it to the cleaners during regular business hours; and

WHEREAS, there are some BCCD employees who would rather handle their own laundry service and have the ability to drop their laundry off at a convenient location such as Columbia Cleaners, Kennewick, WA; and

WHEREAS, the BCCD is happy with Columbia Cleaners and their convenient location and recommends entering into a contract with Chong Bak dba/Columbia Cleaners for a period commencing upon signature of both parties and terminating December 31, 2022 for "as needed" dry cleaning and laundry services; and

WHEREAS, Columbia Cleaners has agreed to perform all services provided for the BCCD in accordance with the attached contract and rates in Exhibit A and Exhibit B for an overall contract amount not to exceed $25,000 including WSST; **NOW, THEREFORE**

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington, concurs with the recommendation and hereby approves the attached Contract between Benton County and Chong Bak dba/Columbia Cleaners for "as needed" dry cleaning and laundry services for the BCCD, with an overall contract amount not to exceed $25,000 including WSST; and

Orig: BCCD
Auditor; PA Office, Columbia Cleaners

L. Small

BE IT FURTHER RESOLVED, the Board hereby authorizes the Chairman to sign the attached said contract; and

BE IT FURTHER RESOLVED, the term of the attached said Contract shall commence upon signature of both parties and shall terminate December 31, 2022. Upon mutual agreement of both parties, the original terms and conditions of the contract may be extended for up to two (2) 12-month periods, subject to agreement between both parties regarding cost adjustments.

Dated this _____ day of _____, 2020

_____
Chairman

_____
Member

_____
Member

Attest: _____
Clerk of the Board

Constituting the Board of County Commissioners
of Benton County, Washington

Orig: BCCD
Auditor; PA Office, Columbia Cleaners

L. Small

BENTON COUNTY
PERSONAL SERVICES CONTRACT

TERMS AND CONDITIONS

THIS CONTRACT is made and entered into by and between **BENTON COUNTY**, a political subdivision with its principal offices at 620 Market Street, Prosser, WA 99350 (hereinafter "COUNTY"), and **CHONG BAK dba/COLUMBIA CLEANERS**, a sole proprietor organized under the laws of the State of Washington with its principal offices at 1102 N Columbia Center Blvd. Ste. A, Kennewick, WA 99336 (hereinafter "CONTRACTOR").

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

1. CONTRACT DOCUMENTS

This Contract consists of these Terms and Conditions and the following documents:

a. Exhibit A - Quote and Compensation
b. Exhibit B - Quote and Compensation - Effective 1/1/2021

2. DURATION OF CONTRACT

The term of this Contract shall begin upon signature of both parties and shall expire on December 31, 2022. The CONTRACTOR shall complete all work by the time(s) specified herein, or if no such time is otherwise specified, no later than the expiration date. Upon mutual agreement of both parties, this contract may be extended for up to two (2) 12-month periods subject to agreement between both parties regarding cost adjustments.

3. SERVICES PROVIDED

a. The CONTRACTOR shall perform all necessary dry cleaning and laundry services, to include any necessary repairs, for employees of the Benton County Corrections Department. All dry cleaning and laundry services shall be completed within two (2) days of drop off date.

b. The CONTRACTOR shall be responsible for ensuring the pockets of all laundry are free of any item, including but not limited to pens, that may damage the laundry during the dry cleaning

process. Failure of CONTRACTOR to do so will result in payment to the COUNTY of the fair market value of the laundry damaged.

c. The COUNTY does not guarantee utilization of this Contract. The COUNTY may award contract to other vendors for similar products or services. Actual utilization will be based on availability, proximity of vendor facilities, frequency of deliveries, or any other factor deemed important to the COUNTY.

d. The CONTRACTOR agrees to provide its own labor and materials. Unless otherwise provided in this Contract, no material, labor, or facilities will be furnished by the COUNTY.

e. The CONTRACTOR shall perform the work specified in this Contract according to standard industry practice.

f. The CONTRACTOR shall complete its work in a timely manner and in accordance with the schedule outlined in 3.a. above.

g. The CONTRACTOR shall confer with the COUNTY from time to time during the progress of the work. The CONTRACTOR shall prepare and present status reports and other information that may be pertinent and necessary, or as requested by the COUNTY.

4. CONTRACT REPRESENTATIVES

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

a. For CONTRACTOR:

Name:	Chong Bak
Address:	1102 N. Columbia Center Blvd. Ste. A Kennewick, WA 99336
Phone:	(509) 783-4477

b. For COUNTY:

Name:	Lisa Small, Contract Coordinator
Address:	7122 W. Okanogan Place, Bldg. B Kennewick, WA 99336
Phone:	(509) 783-1451 Ext. 3880
Email:	Lisa.Small@co.benton.wa.us

5. COMPENSATION

a. For the services performed under this Contract, the CONTRACTOR shall be paid by the COUNTY as set forth in Exhibit A "Quote and Compensation" from Contract execution through December 31, 2020 and as set forth in Exhibit B "Quote and Compensation - Effective 1/1/2021" from January 1, 2021 through December 31, 2022, which is attached hereto and incorporated herein by reference.

b. The maximum total amount payable by the COUNTY to the CONTRACTOR under this Contract shall not exceed twenty five thousand dollars and zero cents ($25,000), including W.S.S.T.

c. No payment shall be made for any work performed by the CONTRACTOR, except for work identified and set forth in this Contract.

d. The CONTRACTOR may, in accordance with Exhibits A & B submit invoices to the COUNTY not more than once per month during the progress of the work for partial payment of the work completed to date. Invoices shall cover the time CONTRACTOR performed work for the COUNTY during the billing period. The COUNTY shall pay the CONTRACTOR for services rendered in the month following the actual delivery of work and will remit payment within thirty (30) days from the date of receipt of the invoice.

e. The CONTRACTOR shall not be paid for services rendered under this Contract unless and until they have been performed to the satisfaction of the COUNTY.

f. In the event the CONTRACTOR has failed to perform any substantial obligation to be performed by the CONTRACTOR under this Contract and such failure has not been cured within ten (10) days following notice from the COUNTY, the COUNTY may, in its sole discretion, upon written notice to the CONTRACTOR, withhold any and all monies due and payable to the CONTRACTOR, without penalty, until such failure to

perform is cured or otherwise adjudicated. "Substantial" for the purposes of this Contract means faithfully fulfilling the terms of this Contract with variances only for technical or minor omissions or defects.

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

6. AMENDMENTS AND CHANGES IN WORK

a. In the event of any errors or omissions by the CONTRACTOR in the performance of any work required under this Contract, the CONTRACTOR shall make any and all necessary corrections without additional compensation. All work submitted by the CONTRACTOR shall be certified by the CONTRACTOR and checked for errors and omissions. The CONTRACTOR shall be responsible for the accuracy of the work, even if the work is accepted by the COUNTY.

b. No amendment or modification shall be made to this Contract, unless set forth in a written Contract Amendment signed by both parties. Work under a Contract Amendment shall not proceed until the Contract Amendment is duly executed by the COUNTY.

7. HOLD HARMLESS AND INDEMNIFICATION

a. The CONTRACTOR shall hold harmless, indemnify, and defend the COUNTY and its officers, officials, employees, and agents from and against any and all claims, actions, suits, liabilities, losses, expenses, damages, and judgments of any nature whatsoever, including reasonable costs and attorneys' fees in defense thereof, for injury, sickness, disability, or death to persons or damage to property or business, arising in connection with the work performed under this Contract, or caused or occasioned in whole or in part by reason of the presence of the CONTRACTOR or its subcontractors or their property upon or in the proximity of the property of the COUNTY. PROVIDED, that the CONTRACTOR'S obligation hereunder shall not extend to injury, sickness, death, or damage caused by or arising out of the sole negligence of the COUNTY or its officers, officials, employees, or agents.

b. In any and all claims against the COUNTY and its officers, officials, employees, and agents by any employee of the

CONTRACTOR, any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under this section shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the CONTRACTOR or subcontractor under Workers Compensation acts, disability benefit acts, or other employee benefit acts, it being clearly agreed and understood by the parties hereto that the CONTRACTOR expressly waives any immunity the CONTRACTOR might have had under such laws, including but not limited to Title 51 of the Revised Code of Washington. **By executing this Contract, the CONTRACTOR acknowledges that the foregoing waiver has been mutually negotiated by the parties and that the provisions of this section shall be incorporated, as relevant, into any contract the CONTRACTOR makes with any subcontractor or agent performing work hereunder. CONTRACTOR'S obligations under this Section 7 shall survive termination and expiration of this Contract.**

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

8. INSURANCE

The CONTRACTOR shall obtain and maintain continuously the following insurance:

a. **Workers Compensation:** CONTRACTOR shall comply with all State of Washington workers compensation statutes and regulations. Prior to the start of work under this Contract, workers compensation coverage shall be provided for all employees of CONTRACTOR and employees of any subcontractor or sub-subcontractor. Coverage shall include bodily injury (including death) by accident or disease, which arises out of or in connection with the performance of this Contract. CONTRACTOR shall submit a copy of its certificate of coverage from the Washington State Department of Labor and Industries prior to commencement of work. Except as prohibited by law, CONTRACTOR waives all rights of subrogation against the COUNTY for recovery of damages to the extent they are covered by workers compensation and employer's liability.

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

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

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

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

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

insured against whom claims are made or suit is brought.

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

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

c. **Other Insurance Provisions:**

1. The CONTRACTOR'S liability insurance provisions shall be primary with respect to any insurance or self-insurance programs covering the COUNTY or its elected and appointed officers, officials, employees, or agents. CONTRACTOR'S liability insurance policies must be endorsed to show this primary coverage. Any insurance, self-insured retention, deductible, or risk retention maintained or participated in by the COUNTY shall be excess and not contributory to CONTRACTOR'S insurance policies.

2. The CONTRACTOR'S liability insurance policies shall contain no special limitations on the scope of protection afforded to the COUNTY as an additional insured.

3. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the COUNTY or its officers, officials, employees, or agents.

4. The CONTRACTOR'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5. The CONTRACTOR shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.

6. The insurance limits mandated for any insurance coverage required by this Contract are not intended to be an indication of exposure nor are they limitations on indemnification. **If the CONTRACTOR maintains higher limits than the minimums required in this Contract, the COUNTY shall be entitled to coverage for the higher limits**

maintained by the CONTRACTOR.

7. The CONTRACTOR shall maintain all required policies in force from the time services commence until services are completed. Certificates, policies, and endorsements expiring before completion of services shall be promptly replaced. All liability insurance required under this Contract shall be written on an Occurrence Policy form.

8. CONTRACTOR hereby agrees to waive subrogation with respect to each insurance policy maintained under this Contract. When required by an insurer, or if a policy condition does not permit CONTRACTOR to enter into a pre-loss agreement to waive subrogation without an endorsement, then CONTRACTOR agrees to notify the insurer and obtain such endorsement. This requirement shall not apply to any policy which includes a condition expressly prohibiting waiver of subrogation by the insured or which voids coverage should the CONTRACTOR enter into such a waiver of subrogation on a pre-loss basis.

9. Compensation and/or payments due to CONTRACTOR under this Contract are expressly conditioned upon CONTRACTOR'S strict compliance with all insurance requirements. Payment to CONTRACTOR may be suspended in the event of non-compliance. Upon receipt of evidence of CONTRACTOR'S compliance, such payments not otherwise subject to withholding or set-off will be released to CONTRACTOR.

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

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

1. All insurance to be maintained by the CONTRACTOR, other than Workers' Compensation, shall specifically include the COUNTY and its elected officials, employees, and volunteers as an "Additional Insured" by way of endorsement and shall not be reduced or cancelled without

thirty (30) days prior written notice to the COUNTY. Any insurance or self-insurance maintained by the COUNTY and its elected or appointed officials, employees, and agents shall be excess of the CONTRACTOR's insurance and shall not contribute to it.

2. Certificates of Liability Insurance, with endorsements attached, must be provided to the COUNTY's Contract Representative referenced in Section 4.

3. All written notices under this Section 8 and notice of cancellation or change of required insurance coverages shall be mailed to the COUNTY's Contract Representative referenced in Section 4.

4. The CONTRACTOR or its broker shall provide a copy of any and all insurance policies specified in this Contract upon request of the Benton County Risk Manager to the following address: Benton County Risk Manager, 7122 W. Okanogan Place, Bldg. A, Kennewick, WA 99336.

9. TERMINATION

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

b. In the event that funding for this project is withdrawn, reduced, or limited in any way after the effective date of this Contract, the COUNTY may summarily terminate this Contract notwithstanding any other termination provision in this Contract. Termination under this subsection shall be effective upon the date specified in the written notice of termination sent by COUNTY to the CONTRACTOR. After the effective date, no charges incurred under this Contract shall be allowed.

c. If the CONTRACTOR breaches any of its obligations hereunder, and fails to cure the breach within ten (10) days of written notice to do so by the COUNTY, the COUNTY may immediately terminate this Contract by so notifying the CONTRACTOR, in

which case the COUNTY shall pay the CONTRACTOR only for the costs of services accepted by the COUNTY, in accordance with the Compensation Section of this Contract. Upon such termination, the COUNTY, at its discretion, may obtain performance of the work elsewhere, and the CONTRACTOR shall bear all costs and expenses incurred by the COUNTY in completing the work and all damage sustained by the COUNTY by reason of the CONTRACTOR'S breach.

10. ASSIGNMENT, DELEGATION, AND SUBCONTRACTING

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

b. The CONTRACTOR warrants that it has not paid, nor has it agreed to pay, any company, person, partnership, or firm, other than a bona fide employee working exclusively for the CONTRACTOR, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award or making of this Contract.

11. NON-WAIVER OF RIGHTS

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

12. INDEPENDENT CONTRACTOR

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

b. The CONTRACTOR acknowledges that the entire compensation for this Contract is set forth in Section 5 of this Contract, and neither the CONTRACTOR, nor its employees are entitled to any COUNTY benefits, including, but not limited to: vacation pay;

holiday pay; sick leave pay; medical, dental, or other insurance benefits; fringe benefits; or any other rights or privileges afforded to COUNTY employees.

c. The CONTRACTOR shall have and maintain complete responsibility and control over all of its subcontractors, employees, agents, and representatives. No subcontractor, employee, agent, or representative of the CONTRACTOR shall be, deem to be, act, or purport to act as an employee, agent, or representative of the COUNTY.

d. The CONTRACTOR shall pay for all taxes, fees, licenses, or payments required by federal, state, or local law that are now or may be enacted during the term of this Contract.

e. The CONTRACTOR agrees to immediately remove any of its employees or agents from their assignment to perform services under this Contract upon receipt of a written request to do so from the COUNTY'S Contract Representative, or designee.

13. COMPLIANCE WITH LAWS

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

14. INSPECTION OF BOOKS AND RECORDS

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

15. NONDISCRIMINATION

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

16. OWNERSHIP OF MATERIALS/WORKS PRODUCED

a. All reports, drawings, plans, specifications, forms of electronic media, data, and documents produced in the

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

b. An electronic copy of all word processing documents shall be submitted to the COUNTY upon request and/or at the expiration of the Contract, using the word processing program and version specified by the COUNTY.

17. PATENT/COPYRIGHT INFRINGEMENT

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

18. DISPUTES

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

19. CONFIDENTIALITY

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

20. CHOICE OF LAW, JURISDICTION, AND VENUE

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

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

21. SUCCESSORS AND ASSIGNS

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

22. SEVERABILITY

a. If a court of competent jurisdiction holds any part, term, or provision of this Contract to be illegal or invalid, in whole or in part, the validity of the remaining provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as if this Contract did not contain the particular provision held to be invalid.

b. If it should appear that any provision of this Contract is in conflict with any statutory provision of the State of Washington, said provision which may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform to such statutory provision.

23. ENTIRE AGREEMENT

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

24. NOTICES

Any notices provided under this Contract shall be effective if personally served upon the other party or if mailed by registered or certified mail, return receipt requested, to the mailing addresses set out in Section 4 of this Contract. Notice may also be given via e-mail to the Contract Representatives' e-mail addresses identified in Section 4 of this Contract, with the original notice to follow by regular mail. Notice shall be deemed to be given three (3) days following the date of mailing or immediately if personally served. For service by e-mail, service shall be effective at the beginning of the next working day.

25. SURVIVABILITY

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

26. LITIGATION HOLD NOTICE

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

27. PUBLIC RECORDS ACT

The CONTRACTOR hereby acknowledges that the COUNTY is a governmental entity and as such is subject to the requirements of the Public Records Act, Chapter 42.56 RCW. Accordingly, CONTRACTOR understands that to the extent a proper request is made, the COUNTY may be required by virtue of that Act to disclose any records related to this Contract actually in its possession or in CONTRACTOR'S possession. This may include records that CONTRACTOR regards as confidential or proprietary. To the extent that CONTRACTOR provides any records to the COUNTY that it regards as

confidential or proprietary, CONTRACTOR agrees to conspicuously mark the records as such. The CONTRACTOR also hereby waives any and all claims or causes of action for any injury it may suffer by virtue of COUNTY'S release of records covered under the Public Records Act. The COUNTY agrees to take all reasonable steps to notify CONTRACTOR in a timely fashion of any request made under the Public Records Act that will require disclosure of any records marked by CONTRACTOR as confidential or proprietary, so that CONTRACTOR may seek a judicial order of protection if necessary.

28. OBLIGATION TO SAFEGUARD

The CONTRACTOR acknowledges that some of the clothing taken temporary custody of includes Corrections uniforms currently in use by sworn peace officers employed by the Benton County Corrections Department and as such represent important public safety equipment that must be safeguarded against theft, loss or unauthorized access. The CONTRACTOR acknowledges that unauthorized use of such uniforms may result in criminal impersonation of police officers by criminal third parties and may lead to property loss, and bodily injury of death to victims. Accordingly, CONTRACTOR agrees to take all reasonable steps to safeguard any law enforcement uniforms that are temporarily in its custody for laundry services. The steps include, but are not limited to:

a. Ensuring that law enforcement uniforms are stored in a secure portion of CONTRACTOR's premises away from clothing that will be available for customer pickup so as to avoid confusion and inadvertent access by walk-in customers.

b. Ensure that only CONTRACTOR and bona fide employees has access to the law enforcement uniforms.

c. Ensuring that a system is in place by which CONTRACTOR can track the number and type of uniforms it has in custody at any given time in such a manner that theft, loss or misuse can be detected immediately and the type, size, description etc. of any missing uniforms can be readily ascertained.

d. In the same manner as stated in the indemnification section of this Contract, CONTRACTOR shall indemnify, defend and hold COUNTY harmless for any claims, liability, attorney fees, judgements, expenses or costs whatsoever, related in any way to claims or lawsuits filed as a result of use or handling (including misuse or mishandling) of any uniform while it is legally in CONTRACTOR's custody.

e. CONTRACTOR shall immediately (within 24 hours) report any incident where CONTRACTOR, or any of its employees, are arrested or convicted of a crime, or informed by police that CONTRACTOR is a suspect in a crime. Upon receiving such information, CONTRACTOR shall report such information to COUNTY within 24 hours.

f. Immediately (i.e. within 15 minutes) upon learning of the loss, stolen, or misuse of any law enforcement uniform in its custody, CONTRACTOR shall contact the on-duty Corrections Sergeant at the Benton County Corrections Department at (509) 783-1451 ext. 3293, and report such loss, theft or misuse including the type, size and description of the lost, stolen, or misused uniform, the approximate time of the loss, and the circumstances under which it occurred.

This section was intentionally left blank

IN WITNESS WHEREOF, the parties have caused this Contract to be signed by their duly constituted legal representatives, and it is effective upon signature of both parties.

Dated:_____

BENTON COUNTY

Jim Beaver, Chairman
Benton County Commissioner

Approved as to Form:

Ryan L. Lukson, Civil DPA

Dated: 6-29-2020.

CHONG BAK
DBA/COLUMBIA CLEANERS

Signature

owner

Title:

CHONG W BAK

Print Name

EXHIBIT A – QUOTE AND COMPENSATION

Uniforms (2 Piece)	$ 5.67	Blouse / Skirt	$ 2.84
Trousers	$ 2.84	Sport Coat / Blazer	$ 3.57
Laundered Shirt	$ 2.00	Rain Coat	$ 6.87
Dry Cleaned Shirt / Pants	$ 2.84	Winer Coat	$ 5.11
Neck Tie	$ 1.65	Water-Proofing	$ 2.27
Sweater	$ 3.00	Coveralls	$ 6.71
Pants / Shirt Starched	$ 2.84/2.00	Labcoat	$ 5.05

Minor Repairs (such as: buttons, hemming, sew patches on, split seams, etc) $.55 – 3.65
Does your company have the ability to deliver and pick up items? YES/NO
Do you have multiple locations within the Tri-City's area? YES/NO
Would your company consider a flat monthly rate based on average use? YES/NO

Company Name Columbia Cleaners

Address: 1102 N. Columbia Center Blvd., Ste A, Kennewick, WA 99336

Phone Number: (509) 783-4477

Email: ColumbiaCleaners@gmail.com

Contractor's Name: Chong W Bak (Print Name) Title: Owner

Contractors Signature: Chong W Bak

EXHIBIT B – QUOTE AND COMPENSATION

PROJECT DESCRIPTION:
Benton County Sheriff is soliciting qualifications and quotation proposals for uniform cleaning from January 1, 2021 – December 31, 2022.

The following is a brief description of what Benton County is soliciting a quotation for, but not limited to:

Uniforms (2 Piece)	$ 6.40	Blouse / Skirt	$ 3.20
Trousers	$ 3.20	Sport Coat / Blazer	$ 3.92
Laundered Shirt	$ 2.35	Rain Coat	$ 7.22
Dry Cleaned Shirt / Pants	$ 3.20	Winer Coat	$ 5.46
Neck Tie	$ 2.00	Water-Proofing	$ 2.62
Sweater	$ 3.35	Coveralls	$ 7.06
Pants / Shirt Starched	$ 3.20/2.35	Labcoat	$ 5.40

Minor Repairs (such as: buttons, hemming, sew patches on, split seams, etc) $0.75 - $4.10
Does your company have the ability to deliver and pick up items? YES (NO)
Do you have multiple locations within the Tri-City's area? YES (NO)
Would your company consider a flat monthly rate based on average use? YES (NO)

Company Name Columbia Cleaners

Address: 1102 N Columbia Center BLVD STE A Kennewick, WA 99336

Phone Number: 509-783-4477

Email: ColumbiaCleaners@gmail.com

Bidder Name: Chong W Bak (Print Name) Title: Owner

Bidder Signature: Chong W Bak

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	July 14, 2020
Subject:	Second Contract Amendment between Benton County and Summit Food Service, LLC
Presenter:	
Prepared By:	Lisa Small
Reviewed By:	Chief Souza

Type of Agenda Item:	**Type of Action Needed:**	
☒ Consent Agenda	☐ Discussion Only (1st)	☐ Pass Motion
☐ Public Hearing	☐ Discussion Only (2nd)	☒ Pass Resolution
☐ Scheduled Business	☐ Decision/Direction	☐ Pass Ordinance

Summary / Background Information

Per Resolution 2016-1005 dated December 6, 2016, the Board of Benton County Commissioners entered into an Institutional Food Service Contract with Consolidated Food Management, Inc., now doing business as Summit Food Service, LLC.

Per Resolution 2018-539, the First Amendment was necessary as both parties wished to renew the term of the Contract for two (2) additional years to cover the period from January 1, 2019 through December 31, 2020.

The attached Second Amendment is necessary as both parties have agreed to amend the price scale to provide prices per meal for inmate population between 165 – 485, as there has been a reduction in inmate population due to COVID-19.

Fiscal Impact

Amount: Approx. 27% increase based on what we are currently paying per meal $1.331 to +/- $1.689 per meal based on our current average daily population due to COVID.

Fund: Said expenditures shall be paid out of Department 120 with no budget adjustment necessary.

Recommendation

Approve the attached Resolution and Second Amendment to the Contract between Benton County and Summit Food Service, LLC, authorizing the Chairman to sign the attached Second Amendment.

Suggested Motion

Consent Agenda

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF THE SECOND CONTRACT AMENDMENT BETWEEN BENTON COUNTY AND SUMMIT FOOD SERVICE, LLC FOR CORRECTIONS FOOD SERVICES LOCATED AT THE BENTON COUNTY JAIL, KENNEWICK, WA

WHEREAS, per Resolution 2016-1005 dated December 6, 2016, the Board of Benton County Commissioners entered into an Institutional Food Service Contract with Consolidated Food Management, Inc., now doing business as Summit Food Service, LLC; and

WHEREAS, the First Amendment was necessary as both parties wished to renew the term of the Contract for two (2) additional years to cover the period from January 1, 2019 through December 31, 2020; and

WHEREAS, this Second Amendment is necessary as both parties have agreed to amend the price scale to provide prices per meal for inmate population between 165 – 485, as there has been a reduction in inmate population due to COVID-19; **NOW, THEREFORE**

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington, concurs with the Second Amendment and authorizes the Chairman to sign the attached Second Contract Amendment between Benton County and Summit Food Service, LLC; and

BE IT FURTHER RESOLVED, said contract shall commence January 1, 2017 and shall terminate December 31, 2020. Upon agreement of both parties, this contract may be extended one (1) additional two-year term after agreement on cost adjustments for the renewal term; and

BE IT FURTHER RESOLVED, the attached Second Amendment attached hereto shall take effect July 1, 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

Orig: BCCD
cc: Auditor, PA, Summit

Prepared by: L. Small

DocuSign Envelope ID: A5CE7A30-6DE4-451A-A5CC-99A5AEC49903

Second Amendment to Institutional Food Service Contract Between Benton County and Summit Food Service, LLC

This Contract Amendment , made and entered into this _____ day of _____, 2020 by and between BENTON COUNTY, a political subdivision of the State of Washington, with its principal offices at 620 Market Street, Prosser, WA 99350 (hereinafter "COUNTY" or "BCC"), and SUMMIT FOOD SERVICE, LLC, a Washington corporation with its principal offices at 1751 County Road B West, Suite 300, Roseville, MN 55113 ("CONTRACTOR").

WITNESSETH:

WHEREAS, COUNTY and CONTRACTOR entered into an Institutional Food Service Contract (the "Contract") effective January 1, 2017 for the management of the food service operation at Benton COUNTY.

WHEREAS, the First Amendment was necessary as both parties wished to renew the term of the Contract for two (2) additional years to cover the period from January 1, 2019 through December 31, 2020.

WHEREAS, this Second Amendment is necessary as both parties have agreed to amend the price scale to provide prices per meal for inmate population between 165 – 485 as there has been a reduction in inmate population due to COVID-19.

NOW, THEREFORE, in consideration of the provisions and agreements set forth herein, the parties agree that all provisions of their original Contract shall remain in effect except Exhibit A which is amended as follows:

a) **Exhibit A** - is hereby deleted and replaced in its entirety with the attached Exhibit A.

The remainder of this page was left blank intentionally

DocuSign Envelope ID: A5CE7A30-6DE4-451A-A5CC-99A5AEC49903

IN WITNESS WHEREOF, the Parties to this Second Contract Amendment have executed this Amendment to take effect July 1, 2020.

Dated_____

BENTON COUNTY

Jim Beaver, Chairman
Benton County Commissioner

Approved As To Form:

Ryan J Lukson, Civil DPA

Dated 6/30/2020

SUMMIT FOOD SERVICE, LLC

DocuSigned by:
Marlin Sejnoha
6C88EA359CCD40D...

By: Marlin C. Sejnoha, Jr.

Witness

EXHIBIT A – Effective July 1, 2020

Inmate Population	Daily Meals		2017-2018 Cost/Meal	CPI%	2019 Cost/Meal	CPI%	2020 Cost/Meal
165-180	495	540	$ -		$ -		$ 2.740
181-196	543	588	$ -		$ -		$ 2.551
197-212	591	636	$ -		$ -		$ 2.393
213-228	639	684	$ -		$ -		$ 2.259
229-244	687	732	$ -		$ -		$ 2.143
245-260	735	780	$ -		$ -		$ 2.043
261-276	783	828	$ -		$ -		$ 1.954
277-292	831	876	$ -		$ -		$ 1.876
293-308	879	924	$ -		$ -		$ 1.807
309-324	927	972	$ -		$ -		$ 1.745
325-340	975	1020	$ -		$ -		$ 1.689
341-356	1023	1068	$ -		$ -		$ 1.650
357-372	1071	1116	$ -		$ -		$ 1.615
373-388	1119	1164	$ -		$ -		$ 1.584
389-404	1167	1212	$ -		$ -		$ 1.556
405-420	1215	1260	$ -		$ -		$ 1.528
421-436	1263	1308	$ -		$ -		$ 1.506
437-452	1311	1356	$ -		$ -		$ 1.485
453-468	1359	1404	$ -		$ -		$ 1.467
469-484	1407	1452	$ -		$ -		$ 1.451
485-500	1455	1500	$ 1.263	2.800%	$ 1.298	2.500%	$ 1.331
501-516	1503	- 1548	$ 1.242	2.800%	$ 1.277	2.500%	$ 1.309
517-532	1551	- 1596	$ 1.225	2.800%	$ 1.259	2.500%	$ 1.291
533-548	1599	- 1644	$ 1.208	2.800%	$ 1.242	2.500%	$ 1.273
549-564	1647	- 1692	$ 1.198	2.800%	$ 1.232	2.500%	$ 1.262
565-580	1695	- 1740	$ 1.181	2.800%	$ 1.214	2.500%	$ 1.244
581-596	1743	- 1788	$ 1.169	2.800%	$ 1.202	2.500%	$ 1.232
597-612	1791	- 1836	$ 1.157	2.800%	$ 1.189	2.500%	$ 1.219
613-628	1839	- 1884	$ 1.147	2.800%	$ 1.179	2.500%	$ 1.209
629-635	1887	- 1905	$ 1.140	2.800%	$ 1.172	2.500%	$ 1.201
636-651	1908	- 1953	$ 1.133	2.800%	$ 1.165	2.500%	$ 1.194
652-667	1956	- 2001	$ 1.124	2.800%	$ 1.155	2.500%	$ 1.184
668-683	1998	- 2040	$ 1.116	2.800%	$ 1.147	2.500%	$ 1.176
684-699	2043	- 2088	$ 1.108	2.800%	$ 1.139	2.500%	$ 1.167
700-715	2091	- 2136	$ 1.099	2.800%	$ 1.130	2.500%	$ 1.158
716-731	2139	- 2184	$ 1.092	2.800%	$ 1.123	2.500%	$ 1.151
732-747	2187	2220	$ 1.086	2.800%	$ 1.116	2.500%	$ 1.144

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	July 14, 2020
Subject:	Agreement #20/20-DD-ENT-00
Presenter:	
Prepared By:	Mari Clark, DHS contract Manager
Reviewed By:	Kyle Sullivan, DHS Manager

Type of Agenda Item:	**Type of Action Needed:**	
☒ Consent Agenda	☐ Discussion Only (1st)	☐ Pass Motion
☐ Public Hearing	☐ Discussion Only (2nd)	☒ Pass Resolution
☐ Scheduled Business	☐ Decision/Direction	☐ Pass Ordinance

Summary / Background Information

Benton County Department of Human Services would like to enter into contract with Entrust Community Services to provide employment services to those in our community with developmental disabilities. Entrust will be filling a gap in service providers in our community since we had two providers end services.

This Agreement is for three months as we wait for the new contract to be issued from Developmental Disabilities Administration, then a new contract for the remainder of the year will be issued.

Fiscal Impact

Amount: Fee-For-Service

Fund: Funding for the services described in this Agreement is provided by Developmental Disabilities Administration. **There is no impact on the current expense budget.** All revenues and expenditures are from the Fund 0108-101 Human Services Budget.

Recommendation

- Sign the Resolution to accept the proposed Contract Agreement
- Approve the proposed First Amendment to Contract Agreement #20/20-DD-ENT-00 by signing all the copies where indicated

Suggested Motion

To approve signing First Amendment to Contract Agreement #20/20-DD-ENT-00 with Entrust Community Services and to authorize the Chair to sign on behalf of the Board.

Kyle Sullivan, Manager
Benton County
Department of Human Services

RESOLUTION

Benton County Resolution No. _____

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF EXECUTING GRANT AGREEMENT #20/20-DD-ENT-00 BETWEEN BENTON COUNTY DEPARTMENT OF HUMAN SERVICES AND ENTRUST COMMUNITY SERVICES.

WHEREAS, Benton County Department of Human Services will enter into contract with Entrust Community Services to provide employment services to individuals with developmental disabilities; and

WHEREAS, Benton County Department of Human Services would like to contract with Entrust Community Services for a term commencing on July 1, 2020 and expiring on September 30, 2020; **NOW, THEREFORE**

BE IT RESOLVED, that the Board of Benton County Commissioners hereby accepts the proposed Grant Agreement; and

BE IT FURTHER RESOLVED, that the Chairman of the Board of Benton County Commissioners be, and hereby is, authorized to sign on behalf of Benton County, Agreement #20/20-DD-ENT-00 with Entrust Community Services to provide employment services to individuals with developmental disabilities for a consideration amount of Fee-For-Service; and

BE IT FURTHER RESOLVED, the term of the attached Agreement commences on July 1, 2020 and shall expire on September 30, 2020.

Dated this . . . .day of . . . . . , 2020

_____
Chair

_____
Member

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

Attest: _____
Clerk of the Board

cc: Human Services; Benton County Commissioners D. Horton

Benton and Franklin Counties
DEPARTMENT OF HUMAN SERVICES
Agreement #20/20-DD-ENT-00

This Agreement is made and entered into by and between Benton County, a political subdivision, with its principal offices at 620 Market Street, Prosser, WA 99350, by and for the **Benton and Franklin Counties' Department of Human Services**, a bi-county department, with its principal offices at 7102 West Okanogan Place, Suite 201, Kennewick, WA 99336 (hereinafter collectively referred to as "Counties") and **Entrust Community Services**, a Washington State Corporation, with its principal offices at PO BOX 9727, Yakima, WA 98909-0727. (hereinafter "Contractor").

Counties Contact Information:
Kyle Sullivan, Administrator
Department of Human Services
7102 W. Okanogan Pl., Ste. 201
Kennewick, WA 99336
Phone: 509.783.5284 / Fax 509.783.5981
E-Mail: Kyle.sullivan@co.benton.wa.us

Contractor Contact Information:
Tom Gaulke, CEO
Entrust Community Services
P O Box 9727
Yakima, WA 98909-0727
Phone: 509.834.2961 / Fax: 509.453.1614
E-Mail: gaulket@entrustcs.org

Is the Contractor a subrecipient for purposes of this Agreement ..... No
CFDA Number (Federal Block Grant Funding) ..... N/A

Agreement Start Date ..... July 1, 2020
Agreement End Date (unless terminated sooner as set forth herein this Agreement) ..... September 30, 2020
The Contractor shall complete all work by the time(s) specified herein, or if no such time is otherwise specified, no later than the end date.

Consideration ..... Fee-For-Service

Attachments incorporated into this Agreement

Exhibit "A" – Data Security Requirements
Exhibit "B" – Fee-For-Service Schedule
Exhibit "C" – Additional Hour Request Form
Exhibit "D"- Change/Termination/Withdrawal Form
Exhibit "E" – Travel Policy
Exhibit "F" – Individual Service Review Form CI
Exhibit "G" – Individual Service Review Form
Exhibit "H" – Proposal Request Form

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

For the Contractor:

Tom Gaulke _____ Title: CEO _____ Date: 6-22-2020

For Benton County:

_____ _____ _____
Benton County Chair — Date — Attest: Clerk of the Board

_____ _____
Member — Date

_____ _____
Member — Date

Approved as to Content

_____
Department of Human Services

Approved as to Form

_____
Benton County Prosecutor's Office

TABLE OF CONTENTS

GENERAL TERMS AND CONDITIONS

Definitions 4
Amendments and Changes in Work 5
Assignment, Delegation and Subcontracting 5
Audit Requirement 6
Choice of Law, Jurisdiction and Venue 6
Compliance with Laws 6
Compliance with HIPAA 6
Debarment Certification 6
Disputes 6
Entire Agreement 6
Hold Harmless and Indemnification 6
Independent Contractor 7
Insurance 8
Non-Discrimination 11
Non-Waiver of Rights 11
Notices 11
Order of Precedence 11
Ownership of Materials/Works Produced 11
Patent / Copyright Infringement 11
Prohibition of Political Activities 12
Public Records Act 12
Records Maintenance and Inspection 12
Litigation Hold Notice 13
Reduction or Suspension of Services 13
Relationship of the Parties 13
Severability 13
Successors and Assigns 13
Survivability 13
Termination 13
Treatment of Individuals Served Property 14
Treatment of Property 14

SPECIFIC TERMS AND CONDITIONS

Definitions 15
Purpose 17
Client Eligibility 18
Credentials and Minimum Requirements 18
Home and Community Based Waiver Services Assignment of Medicaid Billing Rights 18
Background/Criminal History Check 18
Reporting Abuse and Neglect 18

STATEMENT OF WORK

Referenced Documents and Policies 18
Community Inclusion 18
Living Wages 18
DDA Person Centered Service Plans 19
Individualized Employment and community Inclusion Plans 19
Semi-Annual Progress Reports 19
Additional Hours Request 19
Change/Termination/Withdrawal Form 19
Progress Notes 19
Client Contact 19
Individual Employment and Group Supported Employment 19
Six-Month Review/Twelve Month Review 19
Employer/Provider Relationship Term 20
Phases & Billable Activities 20
Home and Community Based Settings 20
Quality Assurance and Service Evaluation 21
On-Site Evaluation 21

CONSIDERATION AND PAYMENT PROVISIONS

Consideration 21

Billing Procedures 22
Right to Withhold Payment 24
Duplicative Funding 24
Recovery of Fees 24
Reductions in Funding 24
Single State Medicaid 24
DSHS/DRW Access Agreement 24

1. GENERAL TERMS AND CONDITIONS

a. Definitions:

(1) **CFR** means the Code of Federal Regulations. All references in this Agreement and any Program Agreement to CFR chapters or sections shall include any successor, amended, or replacement regulation. The CFR may be accessed at http://www.gpoaccess.gov/cfr/index.html.

(2) **Counties Representative** means any County employee who has been delegated with contract-signing authority by the Counties Human Services Administrator or his/her designee.

(3) **Debarment** means an action taken by a federal official to exclude a person or business entity from participating in transactions involving certain federal funds.

(4) **DSHS** means the Washington State Department of Social and Health Services.

(5) **Family or Families** means individuals, of any age, living together in the same household and related by blood, marriage, adoption or as a result of sharing legal custody of a minor child [WAC 388-825-020].

(6) **General Terms and Conditions** means the contractual provisions contained within this Agreement, which govern the contractual relationship between the Counties and the Contractor, under the Program Agreements subsidiary to and incorporating therein by reference this Agreement.

(7) **HIPAA** means the Health Insurance Portability and Accountability Act of 1996, as codified at 42 USCA 1320d-d8, and regulations enacted pursuant to its provisions, successor law and/or regulation.

(8) **Monitoring** means a contractual review to determine compliance with the terms and conditions of this Agreement.

(9) **Personal Information** means information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers.

(10) **Program Agreement** or County Program Agreement means a written agreement between the Counties and the Contractor containing special terms and conditions, including a statement of work to be performed by the Contractor and payment to be made by the Counties.

(11) **RCW** means the Revised Code of Washington. All references in this Agreement and any Program Agreement to RCW chapters or sections shall include any successor, amended, or replacement statute. The RCW can be accessed at http://apps.leg.wa.gov/rcw/.

(12) **Shall** means compliance is mandatory.

(13) **Single Audit** means an audit that will encompass the entirety of the financial operations of the Contractor and which meets the requirements prescribed by Federal Office of Management and Budget (OMB) guidelines.

(14) **Subcontract** means a separate contract between the Counties and an individual or entity (Subcontractor) to perform all or a portion of the duties and obligations that the Counties shall perform pursuant to any Program Agreement.

(15) **Subcontractor** means any person, partnership, corporation, association or organization, not in the employment of the Contractor, who has a subcontract agreement directly with the contractor or a subsequent tier subcontract agreement with an intermediate subcontractor.

(16) **Subrecipient** means any person or government department, agency, or establishment that receives federal financial assistance through DSHS, or other State agency, to carry out a program for which they are accountable through an agreement, a contract, subcontract, or an award.

(17) **USC** means United States Code. All references in this Agreement and any Program Agreement to USC chapters or sections shall include any successor, amended, or replacement statute. The USC may be accessed at http://www.gpoaccess.gov/uscode/.

(18) **Use as it relates to HIPAA compliance** means, with respect to individually identifiable health information, the sharing, employment, application, utilization, examination, or analysis of such information within an entity that maintains such information.

(19) **Vulnerable Adult** means a person:

(a) Sixty (60) years of age or older who has the functional, mental, or physical inability to care for himself or herself; or is found incapacitated under Chapter 11.88 RCW; or

(b) Who has a developmental disability as defined under RCW 71A.10.020; or

(c) Admitted to licensed facilities, including boarding homes, nursing homes, adult family homes, residential habilitation centers, or any other facility licensed by DSHS; or

(d) Receiving services from home health, hospice or home care agencies licensed or required to be licensed under Chapter 70.127 RCW; or

(e) Receiving services from an individual provider (RCW 74.34.020).

(20) **WAC** means the Washington Administrative Code. All references in this Agreement and any Program Agreement to WAC chapters or sections shall include any successor, amended, or replacement regulation. The WAC can be accessed at http://apps.leg.wa.gov/wac/.

b. **Amendments and Changes in Work:**

(1) In the event of any errors or omissions by the Contractor in the performance of any work required under this Agreement, the Contractor shall make any and all necessary corrections without additional compensation. All work submitted by the Contractor shall be certified by the Contractor and checked for errors and omissions. The Contractor shall be responsible for the accuracy of the work, even if the work is accepted by the Counties.

(2) No amendment or modification shall be made to this Agreement unless set forth in a written contract amendment signed by authorized representatives of both parties. Work under a contract amendment shall not proceed until the contract amendment is duly executed by the Counties.

c. **Assignment, Delegation and Subcontracting:**

(1) The Contractor shall perform the terms of this Agreement using only its bona fide employees or agents, and the obligations and duties of the Contractor under this Agreement shall not be assigned, delegated, or subcontracted to any other person or firm without the prior express written consent of the Counties' authorized representatives.

(2) The Contractor warrants that it has not paid nor has it agreed to pay any company, person, partnership, or firm, other than a bona fide employee working exclusively for

the Contractor, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award or making of this Agreement.

d. **Audit Requirement:**

(1) If the Contractor is subject to OMB Circular A-133 (Single Audit), the Contractor shall comply with OMB circular A-133 audit requirements and perform any corrective actions identified in the audit findings per A-133 requirements.

(2) If the Contractor is not subject to an OMB Circular A-133 audit, the Contractor shall provide to the Counties a CPA audit or CPA review within 180 days of the subcontractor's fiscal year end. The scope of the audit or review shall include the entire operation and related legal entity, be in accordance with Generally Accepted Accounting Principles (GAAP), and include a management letter that addresses any audit findings.

(3) The Contractor shall take whatever corrective action is required by the Counties to mitigate risk or resolve outstanding audit findings.

e. **Choice of Law, Jurisdiction and Venue:**

(1) This Agreement has been and shall be construed as having been made and delivered within the State of Washington and it is agreed by each party hereto that this Agreement shall be governed by the laws of the State of Washington, both as to its interpretation and performance.

(2) 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 or Franklin County, Washington.

f. **Compliance with Laws:** The Contractor shall comply with all applicable federal, state, and local laws, rules and regulations in performing this Agreement.

g. **Compliance with HIPAA:** At all times during the term of this Agreement, the Contractor shall implement policies and procedures to safeguard and maintain protected health information in accordance with the requirements of state and federal law, and particularly the provisions of the Health Insurance Portability and Accountability Act.

h. **Debarment Certification:** The Contractor, by signature to this Agreement, certifies that the Contractor is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this Agreement by any federal department or agency. The Contractor shall not employ any person or contract with any person or agency excluded from participation in federal health care programs or debarred or suspended per this Agreement.

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

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

k. **Hold Harmless and Indemnification:**

(1) The Contractor shall hold harmless, indemnify and defend the Counties, its officers, officials, employees and agents, from and against any and all claims, actions, suits,

liability, loss, expenses, damages, and judgments of any nature whatsoever, including reasonable costs and attorneys' fees in defense thereof, for injury, sickness, disability or death to persons or damage to property or business, caused by or arising out of the Contractor's acts, errors or omissions in the performance of this Agreement. PROVIDED, that the Contractor's obligation hereunder shall not extend to injury, sickness, death or damage caused by or arising out of the sole negligence of the Counties, their officers, officials, employees or agents.

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

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

I. **Independent Contractor:**

(1) The Contractor's services shall be furnished by the Contractor as an independent contractor and not as an agent, employee or servant of the Counties. The Contractor specifically has the right to direct and control the Contractor's own activities in providing the agreed services in accordance with the specifications set out in this Agreement.

(2) The Contractor acknowledges that the entire compensation for this Agreement is set forth in the Consideration and Payment Provision Section of this Agreement, and neither the Contractor nor its employees are entitled to any Counties benefits, including, but not limited to: vacation pay, holiday pay, sick leave pay, medical, dental, or other insurance benefits, fringe benefits, or any other rights or privileges afforded to the Counties' employees.

(3) The Contractor shall have and maintain complete responsibility and control over all of its subcontractors, employees, agents, and representatives. No subcontractor, employee, agent, or representative of the Contractor shall be or deem to be or act or purport to act as an employee, agent, or representative of the Counties.

(4) The Contractor shall pay for all taxes, fees, licenses, or payments required by federal, state or local law which are now or may be enacted during the term of this Agreement.

(5) The Contractor agrees to immediately remove any of its employees or agents from their assignment to perform services under this Agreement upon receipt of a written request to do so from the Counties' contract representative or designee.

m. **Insurance:**

(1) **Professional Legal Liability**: Prior to the start of work under this Agreement, the Contractor, if he, she or it is a licensed professional, shall maintain Professional Legal Liability or Professional Errors and Omissions coverage appropriate to the Contractor's profession and shall be written subject to limits of not less than one million dollars ($1,000,000) per occurrence, loss or person. If the policy contains a general aggregate or policy limit, it shall be at least two times the incident, loss or person limit.

The coverage shall apply to liability for a professional error, act or omission arising out of the scope of the Contractor's services defined in this Agreement. Coverage shall not exclude bodily injury or property damage. Coverage shall not exclude hazards related to the work rendered as part of the Agreement or within the scope of the Contractor's services as defined by this Agreement including testing, monitoring, measuring operations, or laboratory analysis where such services are rendered as part of the Agreement. The policy shall state that coverage is claims made, and state the retroactive date. Contractor is also required to buy claims made professional liability insurance for a period of 36 months after completion of this Agreement, which can be satisfied by the continuous purchase of the above referenced insurance or an extended reporting period policy. Contractor shall annually provide Counties with proof of all such insurance.

(2) **Workers Compensation:** Contractor shall comply with all State of Washington workers compensation statutes and regulations. Prior to the start of work under this Agreement, workers compensation coverage shall be provided for all employees of Contractor and employees of any subcontractor or sub-subcontractor. Coverage shall include bodily injury (including death) by accident or disease, which arises out of or in connection with the performance of this Agreement. Except as prohibited by law, Contractor waives all rights of subrogation against the Counties for recovery of damages to the extent they are covered by workers compensation, employer's liability, commercial liability or commercial umbrella liability insurance.

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

Certain work or services under this Agreement may require insurance coverage for long shore or harbor works other than seaman as provided in the Long Shore and Harbor Workers Compensation Act [33 U.S.C. Section 901 et seq.]. Failure to obtain coverage in the amount required by law may result in civil and criminal liabilities. Contractor is fully responsible for ascertaining if such insurance is required and shall maintain insurance in compliance with that Act. Contractor is responsible for all civil and criminal liability that may arise from the failure to maintain such coverage.

Certain work or services under this Agreement may require insurance coverage for seamen injured during employment resulting from the negligence of the owner, master or fellow crew members as provided in 46 U.S.C. Section 688. Failure to obtain coverage in the amount required by law may result in civil and criminal liabilities.

Contractor is fully responsible for ascertaining if such insurance is required and shall maintain insurance in compliance with that Act. Contractor is responsible for all civil and criminal liability that may arise from the failure to maintain coverage.

(3) **Commercial General Liability and Employers Liability Insurance**: Prior to the start of work under this Agreement, Contractor shall maintain Commercial General Liability coverage (policy form CG0001 or equivalent) for wrongful death, bodily injury, personal injury and property damage, subject to limits of not less than one million dollars ($1,000,000) per occurrence. The general aggregate limit shall apply separately to this Agreement and be no less than two million dollars ($2,000,000).

The general commercial liability policy will contain an endorsement naming the County, both Benton and Franklin County, as additional insureds (CG2010) and an endorsement that specifically states that Contractor's general liability policy shall be primary, and not contributory, with any other insurance maintained by the County.

The Contractor will provide commercial general liability coverage that does not exclude any activity to be performed in fulfillment of this Agreement and does not exclude liability pursuant to the indemnification requirement under the Hold Harmless and Indemnification section of this Agreement. Specialized forms specific to the industry of the Contractor will be deemed equivalent; provided, coverage will be no more restrictive than would be provided under a standard commercial general liability policy and will include contractual liability coverage.

If Contractor has any employees, Contractor also shall maintain employer's liability insurance with limits of not less than one million dollars ($1,000,000) each incident for bodily injury by accident or one million dollars ($1,000,000) each employee for bodily injury by disease.

(4) **Automobile Liability**: This section is required if services involve the use of vehicles by Contractor or the transportation of Counties' employees or third parties. The Contractor shall maintain business automobile liability insurance with a limit of not less than one million dollars ($1,000,000) per accident, using a combined single limit for bodily injury and property damages. Such coverage shall cover liability arising out of "Any Auto". The Contractor waives all rights against the Counties for the recovery of damages to the extent they are covered by business auto liability.

(5) **Other Insurance Provisions**:

(a) The Contractor's liability insurance provisions shall be primary with respect to any insurance or self-insurance programs covering the Counties, their elected and appointed officers, officials, employees and agents.

(b) The Contractor's liability insurance policies shall contain no special limitations on the scope of protection afforded to the Counties as an additional insured.

(c) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Counties, their officers, officials, employees or agents.

(d) The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

(e) The Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.

(f) The insurance limits mandated for any insurance coverage required by this Agreement are not intended to be an indication of exposure nor are they limitations on indemnification.

(g) The Contractor shall maintain all required policies in force from the time services commence until services are completed. Certificates, policies, and endorsements expiring before completion of services shall be promptly replaced. All liability insurance required under this Agreement, except for professional liability insurance described above shall be written on an Occurrence Policy form. Professional liability insurance on a Claims Made form shall have a retroactive date prior to or coincident with the effective date of this Agreement.

(6) **Verification of Coverage and Acceptability of Insurers**: All insurance required under this Agreement shall be issued by companies admitted to do business within the State of Washington and have a rating of A-, Class VII or better in the most recently published edition of Best's Reports. Any exception to this requirement must be reviewed and approved in writing by the Counties' Risk Managers. If an insurer is not admitted to do business within Washington State, all insurance policies and procedures for issuing the insurance policy must comply with Chapter 48.15 RCW and 284-15 WAC.

(a) The Contractor shall furnish the Counties with properly executed and unaltered Accord form certificates of insurance and, if requested, a signed policy endorsement(s) which shall clearly evidence all required insurance prior to commencing work under this Agreement. The certificates will, at a minimum, list limits of liability and coverage. For any professional liability insurance, the Contractor agrees that the insurance contract will not be canceled or allowed to expire except on twenty-eight (28) days prior written notice to the Counties by the Contractor. For other insurance policies, Contractor shall not cancel or allow the insurance contract to expire except on forty-five (45) days prior written notice to the Counties. The Contractor shall also instruct the insurer to give the Counties forty-five (45) days advanced written notice of any cancellation by the insurer. The certificate or endorsement shall not limit or negate the insurer's obligation as required by law to notify the Counties as an additional insured of cancellation.

(b) The Contractor shall furnish the Counties with evidence that the additional insured provision required above has been met. Acceptable forms of evidence are the endorsement pages of the policy showing the Counties as an additional insured.

(c) Certificates of insurance shall show the certificate holders as "Benton County" and "Franklin County" and include "c/o" the Counties' contract representative. The address of the certificate holder shall be shown as the current address of the Counties' contract representative.

(d) If the Contractor or any subcontractor or sub-subcontractor has any employees, Contractor shall request the Washington State Department of Labor and Industries, Workers Compensation Representative, to send written verification to Benton County that the Contractor is currently paying workers compensation.

(e) All written notices under this Section and notice of cancellation or change of required insurance coverages shall be mailed to the Counties at the following addresses:

Benton County Risk Manager/Personnel Department
7122 W. Okanogan Place, Bldg. A
Kennewick, WA 99336

(f) The Contractor or its broker shall provide a copy of any and all insurance policies specified in this Agreement upon request of the Benton County or Franklin County Risk Manager.

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

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

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

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

q. **Order of Precedence:** 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:

(1) Applicable federal, state and local law, regulations, rules, and ordinances;

(2) Specific Terms and Conditions of this Agreement;

(3) General Terms and Conditions of this Agreement;

(4) Other terms and conditions of this Agreement.

r. **Ownership of Materials/Works Produced:**

(1) All reports, drawings, plans, specifications, all forms of electronic media, and data and documents produced in the performance of the work under this Contract shall be "works for hire" as defined by 17 USC§ 101 and shall be owned by the Counties. Ownership includes the right to copyright, patent, register, and the ability to transfer these rights. The Counties agrees that if they use any materials prepared by the Contractor for purposes other than those intended by this Agreement, they do so at their sole risk and agree to hold the Contractor harmless therefrom to the extent such use is not agreed to in writing by the Contractor.

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

s. **Patent / Copyright Infringement:** The Contractor shall hold harmless, indemnify and defend the Counties, their officers, officials, employees and agents, from and against any claimed action, cause or demand brought against the Counties, where such action is based on the claim that information supplied by the Contractor or subcontractor infringes any patent or copyright. The Contractor shall be notified promptly in writing by the Counties of any notice of such claim.

t. **Prohibition of Political Activities:** No funds, material, property or contracted services provided under the terms of this Agreement shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office.

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

v. **Records Maintenance and Inspection:**

(1) **Records Maintenance:** The Contractor shall keep all records required by this Agreement for (6) years, unless otherwise stated herein, after termination of this Agreement. The Contractor shall maintain records in their original form that are sufficient to:

(a) document the performance of all acts required by law, regulation, or this Agreement;
(b) substantiate the Contractor's statement of its organization's structure, tax status, capabilities, and performance;
(c) demonstrate accounting procedures and practices which sufficiently and properly document the Contractor's billings to the Counties and all expenditures made by the Contractor to perform as required by this Agreement;
(d) ascertain that personnel policies, procedures and practices are in compliance with this Agreement; and
(e) ascertain that all taxes and insurance required by State and Federal law and this Agreement were paid by the Contractor.

(2) **Right of Inspection:** The Counties may, at reasonable times, inspect the books and records of the Contractor relating to the performance of this Agreement. Authorized persons shall have the right to examine the Contractor's performance and financial records and perform other activities to determine the Contractor's compliance with the terms of this Agreement. The Counties shall give the Contractor reasonable notice of monitoring, auditing, observation and other visits by its officers and employees to the Contractor's place(s) of business.

(3) **Notice of Inspections:** The Contactor shall verbally notify the Counties immediately of any inspections, audits, accreditation, or program reviews of services by any individual, agency, or governmental unit, and to promptly provide the Counties with

copies of any written reports of such inspections, audits, accreditation or program reviews.

w. **Litigation Hold Notice:** In the event the Counties learn of circumstances leading to an increased likelihood of litigation regarding any matter where the records kept by the Contractor pursuant to the Records Maintenance and Inspection section of this Agreement may be of evidentiary value, the Counties may issue written notice to the Contractor of such circumstances and direct the Contractor to "hold" such records. In the event that the Contractor receives such written notice, the Contractor shall abide by all directions therein whether or not such written notice is received at a time when an Agreement between the Contractor and the Counties is in force. Such directions will include, but will not be limited to, instructions to suspend the six (6) year purge schedule as set out in the Records Maintenance and Inspection section above.

x. **Reduction or Suspension of Services:** The Contractor shall provide the Counties with prompt notification of any discontinuance or suspension of or significant reduction in any category of services provided by this Agreement or any change in location of the provision of such services. Said changes shall only be made in accordance with the provisions of the Agreement.

y. **Relationship of the Parties**: The Department of Human Services shall be the representative of the Counties with full authority for administering and overseeing the performance of this Agreement. Except as expressly provided within Section 1.14.6 and 1.14.6.5 above, whenever, in this Agreement, provision is made for the Contractor to contact or give notice to the Counties or provide them with documents, reports, voucher claims, or any other information, or for the Counties to give notice to the Contractor to review, inspect, observe, or audit this Contractor's contracted services, facilities, programs, or records, the term "Counties" shall mean the Department of Human Services. The parties shall notify in writing any change to contract contact information.

z. **Severability:**

(1) If a court of competent jurisdiction holds any part, term or provision of this Agreement to be illegal, or invalid in whole or in part, the validity of the remaining provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as if this Agreement did not contain the particular provision held to be invalid.

(2) If it should appear that any provision of this Agreement is in conflict with any statutory provision of the State of Washington, said provision which may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform to such statutory provision.

aa. **Successors and Assigns:** The Counties, to the extent permitted by law, and the Contractor each bind themselves, their partners, successors, executors, administrators, and assigns to the other party to this Agreement and to the partners, successors, administrators, and assigns of such other party in respect to all covenants to this Agreement.

bb. **Survivability:** All Agreement terms, which by their context are clearly intended to survive the termination and/or expiration of this Agreement, shall so survive. These terms include, but are not limited to, indemnification provisions; extended reporting period requirements for professional liability insurance; inspection and keeping of records and books; litigation hold notice; Public Records Act and confidentiality.

cc. **Termination:**

(1) The Counties may terminate this Agreement in whole or in part whenever the Counties determine, in their sole discretion, that such termination is in the best interests of the Counties. The Counties may terminate this Agreement upon giving ten (10) days written notice by certified mail to the Contractor. In that event, the Counties shall pay

the Contractor for all costs incurred by the Contractor in performing the Agreement up to the date of such notice. Payment shall be made in accordance with the Consideration and Payment Provisions Section of this Agreement.

(2) In the event that funding for this project is withdrawn, reduced or limited in any way after the effective date of this Agreement, the Counties may summarily terminate this Agreement notwithstanding any other termination provision of this Agreement. Termination under this paragraph shall be effective upon the date specified in the written notice of termination sent by the Counties to the Contractor. After the effective date, no charges incurred under this Agreement shall be allowed.

(3) If the Contractor breaches any of its obligations hereunder, and fails to cure the breach within ten (10) days of written notice to do so by the Counties, the Counties may immediately terminate this Agreement by so notifying the Contractor, in which case the Counties shall pay the Contractor only for the costs of services accepted by the Counties, in accordance with the Consideration and Payment Provisions Section of this Agreement. Upon such termination, the Counties, at their discretion, may obtain performance of the work elsewhere, and the Contractor shall bear all costs and expenses incurred by the Counties in completing the work and all damage sustained by the Counties by reason of the Contractor's breach.

(4) The Contractor may terminate this Agreement, in whole or in part, by giving thirty (30) days written notice to the Counties' contract representative. In the event of termination, the Counties shall pay the Contractor for services provided up until the termination date. Nothing in this section shall limit the rights of the Counties pursuant to this Agreement or by law.

(5) In the event of termination of this Agreement for any reason, the Contractor shall submit to the Counties within seven (7) calendar days of the notice of termination a Transition Plan to assist the Counties with the transfer of individuals served to ensure continuation of services.

dd. **Treatment of Individuals Served Property:** Unless otherwise provided in this Agreement, the Contractor shall ensure that any adult individual receiving services from the Contractor under this Agreement has unrestricted access to the individual's personal property. The Contractor shall not interfere with any adult individual's ownership, possession, or use of the individual's property. The Contractor shall provide individuals under age eighteen (18) with reasonable access to their personal property that is appropriate to the individual's age, development, and needs. Upon termination or completion of this Agreement, the Contractor shall immediately release to the individual and/or the individual's guardian or custodian all of the individual's personal property. This section does not prohibit the Counties from implementing such lawful and reasonable policies, procedures and practices as the Counties deem necessary for safe, appropriate, and effective service delivery (for example, appropriately restricting individual's access to, or possession of use of, lawful or unlawful weapons and drugs).

ee. **Treatment of Property:** Title to all property purchased or furnished by the Counties for use by the Contractor during the term of this Agreement shall remain titled to the Counties. Title to all property purchased or furnished by the Contractor for which the Contractor is entitled to reimbursement by the Counties under this Agreement shall pass to and vest in the Counties. The Contractor shall protect, maintain, and insure all Counties' property in its possession against loss or damage and shall return the Counties' property to the Counties upon Agreement termination or expiration.

2. **Specific Terms and Conditions:** The words and phrases listed below, as used in this Program Agreement, shall each have the following definitions:

   a. "**Acuity Level**" means the level of an individual's abilities and needs as determined through the DDA assessment.

   b. "**AWA**" means ALTSA Web Access also referred to as the CMIS.

   c. "**Additional Consumer Services**" refers to indirect client service types as follow:

      (1) "**Community Information and Education**": Activities to inform and/or educate the general public about developmental disabilities and related services. These may include information and referral services; activities aimed at promoting public awareness and involvement; and community consultation, capacity building and organization activities.

      (2) "**Training**": To increase the job-related skills and knowledge of staff, providers, volunteers, or interning students in the provision of services to people with developmental disabilities. Also, to enhance program related skills of board or advisory board members.

      (3) "**Other Activities**": Reserved for special projects and demonstrations categorized into the following types:

         (a) "**Infrastructure Projects**": Projects in support of clients (services not easily tracked back to a specific working age client) or that directly benefit a client(s) but the client is not of working age. Examples include planning services like benefits planning and generic job development. E.g. "Project Search."

         (b) "**Start-Up Projects**": Projects that support an agency or directly benefit the agency. Examples include equipment purchases and agency administrative support.

         (c) "**Partnership Projects**": Collaborative partnerships with school districts, employment providers, DVR, families, employers and other community collaborators needed to provide the employment supports and services young adults with developmental disabilities require to become employed during the school year they turn twenty-one (21).

   d. "**BARS**" means DDA Budget and Accounting Reporting System.

   e. "**Client**" means a person with a developmental disability as defined in Chapter 388-823 WAC who is currently eligible and active with Developmental Disabilities Administration.

   f. "**County**" means the county or counties entering into this Program Agreement.

   g. "**Consumer Support**" refers to direct Client service types as follows:

      (1) "Community Inclusion" or "CI": services are individualized services provided in typical integrated and community settings. Services will promote individualized skill development, independent living and community integrations for persons to learn how to actively and independently engage in their local community. Activities will provide opportunities to develop relationships and to learn, practice and apply skills that result in greater independence and community inclusion. These services may be authorized for individuals age 62 and older. These services may be authorized instead of employment support (Individual Employment or Group Supported Employment) for working age individuals who have received nine months of employment support.

(2) "Child Development Services" or "CDS": Birth to three services are designed to meet the developmental needs of each eligible child and the needs of the family related to enhancing the child's development. Services may include specialized instruction, speech-language pathology, occupational therapy, physical therapy, assistive technology, and vision services. Services are provided in natural environments to the maximum extent appropriate.

(3) "Individual Supported employment" or "IE": services are a part of an individual's pathway to employment and are tailored to individual needs, interests, and abilities, and promote career development. These are individualized services necessary to help persons with developmental disabilities obtain and continue integrated employment at or above the state's minimum wage in the general workforce. These services may include intake, discovery, assessment, job preparation, job marketing, job supports, record keeping and support to maintain a job.

(4) "Individualized Technical Assistance" or "ITA": services are a part of an individual's pathway to individual employment. This service provides assessment and consultation to the employment provider to identify and address existing barriers to employment. This is in addition to supports received through supported employment services for individuals who have not yet achieved their employment goal.

(5) "Group Supported Employment" or "GSE": services are a part of an individual's pathway to integrated jobs in typical community employment. These services are intended to be short term and offer ongoing supervised employment for groups of no more than eight (8) workers with disabilities in the same setting. The service outcome is sustained paid employment leading to further career development in integrated employment at or above minimum wage. Examples include enclaves, mobile crews, and other business models employing small groups of workers with disabilities in integrated employment in community settings.

h. "**CRM**" means the DDA Case Resource Manager.

i. "**CSA**" means County Service Authorization.

j. "**DD**" means developmental disabilities.

k. "**DDA**" means the Developmental Disabilities Administration within DSHS.

l. "**DDA Region**" means the DDA Regional office.

m. "**DVR**" means the Division of Vocational Rehabilitation.

n. "**HCBS**" means the Medicaid Home and Community Based Services.

o. "**ISP**" means the Individual Support Plan, a document that authorizes and identifies the DDA paid services to meet a client's assessed needs.

p. "**PASRR**" means Preadmission Screening and Resident Review.

q. "**PCSP**" means Person Centered Service Plan, a document that authorizes and identifies the DDA paid services to meet a Client's assessed needs. Formerly referred to as the Individual Support Plan.

r. "**Quality Assurance**" means an adherence to all Program Agreement requirements, including DDD Policy 6.13, *Employment/Day Program Provider Qualifications*, County Guidelines and the Criteria for Evaluation, as well as a focus on reasonable expected levels of performance, quality, and practice.

s. "**Quality Improvement**" means a focus on activities to improve performance above minimum standards and reasonably expected levels of performance, quality and practice.

t. "**Service Provider**" is a qualified client service vendor who is contracted to provide Employment and Day Program services.

u. "**Subcontractor**" is the service provider contracted by the County to provide services.

3. **Purpose:** This Program Agreement is entered into between the Counties and the Contractor in accordance with Chapter 71A.14 RCW. Its purpose is to advance the state legislative policy to provide a coordinated and comprehensive state and local program of services for persons with developmental disabilities.

4. **Client Eligibility:** Client eligibility and service referral are the responsibility of the DDA pursuant to Chapter 388-823 WAC (Eligibility) and Chapter 388-825 WAC (Service Rules). Only persons referred by the DDA shall be eligible for direct client services under this Agreement. It is DDA's responsibility to determine and authorize the appropriate direct service(s) type. Direct client services provided without authorization are not reimbursable under this Program Agreement.

5. **Credentials and Minimum Requirements:**

a. **Qualified Service Providers:** The Contractor shall meet qualifications as outlined in DDA Policy 6.13 (Program Provider Qualifications) which is incorporated herein by reference.

b. **Sufficient Policies and Procedures for Agency:** The Contractor shall maintain adequate internal control systems. The Contractor shall maintain written policy procedural manual/handbook for information systems, personnel, accounting/finance, and implementation of programs in sufficient detail such that operations can continue should staffing change or absences occur.

c. **Fiscal Responsibility:** The Contractor must demonstrate the ability to safeguard public funds including maintaining books, records, documents and other materials relevant to the provision of goods and services.

d. **Home and Community Based Waiver Services Assignment of Medicaid Billing Rights:** The Contractor shall agree to assign to the Counties its Medicaid billing rights for services to DDA clients eligible under Title XIX programs in this Agreement. Written documentation shall be available to DSHS on request.

e. **Background / Criminal History Check:** A background criminal history clearance is required every three (3) years for all employees, subcontractors, and/or volunteers who may have unsupervised access to vulnerable DSHS clients, in accordance with RCW 43.43.830-845, RCW 74.15.030, and Chapter 388 WAC. If the entity reviewing the application elects to hire or retain an individual after receiving notice that the applicant has a conviction for an offense that would disqualify the applicant from having unsupervised access to vulnerable adults as defined in Chapter 74.34 RCW, then the Counties shall deny payment for any subsequent services rendered by the disqualified individual provider. The DSHS Background Check Central Unit (BCCU) must be utilized to obtain background clearance.

f. **Reporting Abuse and Neglect:** The Contractor and staff are mandated reporters under RCW 74.34.020(13), and must comply with reporting requirements described in RCW 74.34.035, .040, and Chapter 26.44 RCW. If the Counties are notified by DSHS that the Contractor staff member is cited or on the registry for a substantiated finding, then that associated staff will be prohibited from providing services under this Agreement.

The Contractor is required, per DDA Policy 5.13 (Protection from Abuse: Mandatory Reporting), to promptly report to Counties and DDA if:

(1) If they have reasonable cause to believe that abandonment, abuse, financial exploitation or neglect (as defined in RCW 74.34.020) of a person who has a developmental disability (as defined in RCW 71A.10.020) has occurred.

(2) If they have reason to suspect that sexual or physical assault of such a person has occurred, they shall also immediately report to the appropriate law enforcement agency.

g. Contractors are specifically authorized to have data storage on portable devices or media in accordance with the Data Security Requirements.

h. Contractors who provide Child Development Services (birth to three early intervention services), must provide those services under the regulations implementing the Individuals with Disabilities Education Act (IDEA), Part C, and Washington State's Early Support for Infant and Toddler Federally Approved Plan.

6. **Statement of Work:** The Contractor shall provide the services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth below. Working collaboratively and sharing information as needed for service coordination, the parties shall provide DD services within the counties as set forth below:

a. The Contractor shall comply with the following referenced documents found at DDA Internet site https://www.dshs.wa.gove/dda/county-best-practices under "County Best Practices":

(1) DDA Policy 4.11, County Services for Working Age Adults;

(2) Chapter WAC 388-850, chapter 388-828 WAC, WAC 388-845-0001, 0030, 0210, 0215, 0220, 0600-0610, 1030-1040, 1400-1410, 2100, 2110;

(3) Criteria for Evaluation;

(4) DDA Guiding Values;

(5) County Guide to Achieve DDA's Guiding Values;

(6) DDA Guidelines for Community assessments within Employment and Vocational Programs; and

(7) Disability Rights Washington (formerly Washington Protection and Advocacy System) Access Agreement.

b. The Contractor will provide consumer support services that include the following program outcomes:

(1) Monthly Community Inclusion service support hours will be based on the Client's CI service level per WAC 388-828-9310 for all Clients who began receiving CI services July 1, 2011 and forward.

(a) To ensure health and safety, promote positive image and relationships in the community, increase competence and individualized skill-building, and achieve other expected benefits of CI, services will occur individually or in a group of no more than two (2) or three (3) individuals with similar interests and needs.

(b) CI services will focus on activities that are typically experienced by the general public. Support to participate in segregated activities and/or specialized activities will not be reimbursed.

(c) A client receiving CI services will not receive employment support simultaneously.

(d) A Client receiving CI services may at any time choose to leave Community Inclusion to pursue work and receive employment support.

(2) Clients in an employment program will be supported to work towards a living wage. A living wage is the amount needed to enable an individual to meet or exceed his/her living expenses. Clients should be supported to average twenty (20) hours of

community work per week or eighty-six (86) hours per month; however, each person's preferred hours of employment should be taken into consideration. The amount of service a Client receives will be based on his/her demonstrated need, acuity level and work history per WAC 388-828.

(3) The Client's DDA PCSP is the driver for service. The AWA CSA and the hours will not exceed the Client's DDA PCSP. Service changes will not occur until the client has received proper notification from DDA.

(4) All clients will have an Individualized Employment or Community Inclusion plan to identify Client's preferences. Minimum plan elements are outlined in the reference document "Criteria for an Evaluation." A copy of the Client's individualized plan will be provided to the Client, their CRM, County, guardian and others as appropriate.

(5) Semi-annual progress reports that describe the outcomes of activities will be provided by the Contractor to the client, CRM, County, guardian and others as appropriate.

(6) Contractor shall submit the "DDA Additional Hours Request" form to request additional hours. The form shall be submitted to the CRM and County. The request must be made before the hours are provided to qualify for reimbursement.

(7) Contractor shall submit the "Change/Termination/Withdrawal" form to communicate a reduction in hours, service change, termination of service, or withdrawal from service. Form shall be submitted to CRM and County by the last day of the week, the changes were made.

(8) Provider will document each activity related to service of the client in the form of progress notes. These notes shall be kept in the client's file and made available for review by the County and/or DDA. Progress notes must include at minimum the following:

(a) The date of the activity;

(b) A brief description of activity, including how the activity relates to the individual's goals in the Employment/Community Inclusion Plan;

(c) The amount of time the interaction took, recorded in quarter hour increments;

(d) Name of the person entering the progress note and any staff involved in the activities being recorded.

(9) All clients will be contacted by their service provider according to Client need and at least once per month.

(10) If Clients in Individual Employment or Group Supported Employment, have not obtained paid employment at minimum wage or better within six (6) months, the Contractor will assure the following steps are taken:

(a) Review the progress toward employment goals;

(b) Provide evidence of consultation with the Client/guardian; and

(c) Develop additional strategies with the Client/guardian, county staff, employment support staff, case manager, and others identified by the Client. Strategies may include providing technical assistance, changing to a new provider, and/or providing additional resources as needed to support the individual's pursuit of employment. The additional strategies and review will be documented for each Client and kept in the Client's file.

(d) Contractor will use the Individual Service Review Exhibit G "Individual Service Review" form for documentation.

(11) If after twelve (12) months the Client remains unemployed, an additional review will be conducted. The provider will address steps outlined in the previous six-month progress report in the next six-month progress report. The Client may request to participate in Community Inclusion activities, or the Client may choose to remain in an employment program. When requesting to participate in CI, the Client shall communicate directly with his or her DDA Case Manager. The DDA Case Manager is responsible for authorizing CI services.

(12) For Individual Employment where the Contractor is also the Client's employer, long term funding will remain available to the service provider employer for six-months after the employee DDA Client's date of hire. At the end of the six-month period, if the DDA Client continues to need support on the job, another provider who is not he employer of record must provide the support unless the County or DDA issues prior written approval for the service provider to continue to provide long-term supports if needed. If the county or DDA approves the continuation of long-term supports where the service provider is also the Client's employer, the county or DDA will regularly monitor these positions to assure fading efforts occur when appropriate and any potential conflict of interest is addressed.

(13) Individual Employment staff hours must be attributed to the Individual Employment an Billable Activity Phase(s).

(14) For Group Supported Employment (GSE), Clients must have paid work. The total number of direct service staff hours provided to the group should be equal to or greater than the group's collective amount of individual support monthly base hours. If the direct service staff hours are less than the collective amount, then the provider will be reimbursed only for the number of hours staff actually provided. The collective group's individual hours should be the minimum staff hours delivered to support the group.

(a) A GSE client must be on-site/at work at least their base individual hours as a minimum per month. If a client is not on-site/at work for all of their base hours, the county should verify that the provider delivered the collective group's individual hours to the group (what was the number of staff hours provided to the group during the month? If it was less than the collective group's total the provider can only bill for the staff hours that were provided).

(b) A GSE agency may not bill for a GSE client who does not receive services during an entire service month.

(c) A GSE agency must have a record of which staff is supporting which clients on any given day.

(d) A GSE agency must have supportive documentation that provides clear evidence of support helping with specific activities as identified in the client plan to move a client on their pathway towards their employment goal(s).

(e) Running a GSE service is a part of the business operation and not billable to individuals (contract procurement, contract maintenance, or administration function associated with GSE).

(f) Individual time in the community working towards the individual employment goal, separate from the group time, must include phase information (refer to Employment Phases and Billable Activities – see Phases – to 4 for element/activity description).

(15) Employment and day services must adhere to the Home and Community Based settings (HCBS) requirements of 42CFR 441 520(a)(1), including that:

(a) The setting is integrated in the greater community and supports individuals to have full access to the greater community;

(b) Ensures the individual receives services in the community to the same degree of access as individuals not receiving Medicaid HCBS;

(c) The setting provides opportunities to seek employment and work in competitive integrated settings; and

(d) The setting facilitates individual choice regarding services and supports, and who provides them.

(16) Quality Assurance and Service Evaluation: The Contractor shall develop and have available an evaluation system to review services. The evaluation system must have both a Quality Assurance and Quality Improvement component, and both must include objective measures. The objective measures at a minimum will include performance indicators, by acuity, that include the number of new jobs; job loss and reasons for job loss; the percentage employed earning minimum wage or better; and the average number of hours worked. The County's service evaluation system shall serve as the method by which current providers demonstrate that they continue to be qualified providers. A copy of such evaluation system shall be provided upon request.

(17) The County shall evaluate and review services at least one on-site visit to the Contractor during the contract time period. The County will maintain written documentation of the evaluations, recommendations and corrective action plans for the Contractor.

(a) Provisional Status: If the Contractor receives a corrective action plan for not delivering services in accordance with this Agreement, the County reserves the right to place the Contractor on a provisional status, which means:

- No new referrals will be issued for services to the Contractor until the Contractor is in compliance with providing services in accordance to this Agreement
- DDA will be informed of the provisional status of the Contractor is in compliance with providing services in accordance to this Agreement
- Once the Contractor is in compliance with the corrective action plan, the provisional status will be removed, DDA will be informed and the Contractor will be able to resume receiving new referrals

(18) The Contractor shall participate in regularly quarterly meetings with the County and DDA to remain updated and current on all requirements and information.

7. Consideration

a. The County shall pay the Contractor for the services outlined in the Statement or Work section of this Agreement provided to eligible clients on a "fee-for-service" basis at the prevailing rates approved by DDA. A detailed description of the compensation (rates) to be paid by the Counties is set forth in Exhibit "" Fee-For-Service Schedule.

b. The Employment Phases & Billable Activates document defines the individual Client services that DDA reimburses. The document can be located on the DSHS DDA County Best Practices website at https://www.dshs.wa.gov/dda/county-best-practices.

c. The Community Inclusion Phases & Billable Activates document defines the individual Client services that DDA reimburses. The document can be located on the DSHS DDA County Best Practices website at https://www.dshs.wa.gov/dda/county-best-practices.

d. A claim for each individual that is made must indicate the number of service units delivered to each individual. Units are defined as:

(1) An "Hour" is at least fifty (50) minutes of direct service. Partial hour must be recorded in quarter hour increments.

(2) A "Month" represents a minimum of at least fifty (50) minutes of direct service for CDS reimbursement.

e. Funds will follow currently authorized clients if they move and/or choose a different qualified provider.

f. Travel time will be documented from the Contractor's office, previous service site, or other "starting location" which provides the greatest efficiency in time. Whichever starting location is "least" should be documented.

(1) Travel time will be documented for direct support staff only.

(2) Staff time and travel time to the annual DDA PCSP is reportable under the client's primary service phase.

(3) Transportation of clients, other than during the service are not allowed. An example would be picking up a client at home and taking them to the office to job search or taking a client home after services have ended.

(4) County approved travel expenses for Additional Consumer Services, will be reimbursed according to the Travel Policy Exhibit E.

g. The following Additional Consumer Support Services are billable:

h. Administrative tasks and activities cannot be billed to the client's support hours. Administrative tasks and activities include:

(1) Preparing monthly billing

(2) Administrative review of client services

(3) Quality control of client services by Managers/Supervisors

(4) Managers/Supervisors time spent in training of new support staff.

(5) Training:

(a) Staff Training: Costs incurred for planned, structured activities for the purpose of providing, or improving, or enhancing job-related knowledge and skills of staff, providers, volunteers, or interning students in the provision of developmental disabilities services.

(6) Community Information and Education: to inform and/or educate the general public about developmental disabilities and related services. These may include information and referral services; activities aimed at promoting public awareness and involvement; and community consultation, capacity building and organization activites.

(7) Other Activities:

(a) Infrastructure projects: Projects in support of Clients (services not easily tracked back to a specific working age Client) or that directly benefit a Client(s) but the Client is not of working age. Examples include planning services like benefits planning and generic job development e.g. Project Search.

(b) Star-up projects: Projects that support an agency or directly benefit the agency. Examples include equipment purchases and agency administrative support.

(c) Partnership projects: Collaborative partnerships with school districts, employment providers, DVR, families, employers and other community collaborators needed to provide the employment supports and services young adults with developmental disabilities require to become employed during the school year they turn twenty-one (21).

8. **Billing and Payment**

a. The Contractor shall submit written claims for reimbursements earned on the appropriate forms provided by the Counties. The Counties will pay the Contractor with County warrants within thirty (30) days following the approval of the receipt of claims for payment. All initial claims for reimbursement must be received by the Counties within twenty (20) days following the last day of the month which the service is provided.

b. Right to Withhold Payment: The Counties expressly reserve the right to withhold payment in whole or in part when:

(1) Contractor fails to submit claims for reimbursement within twenty (20) days following the last day of the month and billing has been processed, the Contractor will not receive payment until the next billing cycle;

(2) Contractor fails to submit documentation required by the Agreement sufficient to substantiate claims for payments;

(3) Contractor fails to maintain its reporting obligations under this Agreement;

(4) Claims for payment are inconsistent with the terms and conditions of this Agreement;

(5) Contractor doesn't comply with this Agreement; or

(6) Contractor is accused of or commits a violation of any local, state, or federal law.

c. Duplicative Funding:

(1) Clients will be assisted in accessing DVR services per the DDA/DVR MOU. Client services shall not be reimbursed under this Agreement when the same services are paid for under the Rehabilitation Act of 1973 by DVR, Public Law 94-142 or any other source of public or private funding.

(2) The Contractor shall not charge or accept additional remuneration from any client, relative, friend, payee, guardian, or attorney of the client, or any other person for services provided under this Agreement, other than those specifically authorized by this Agreement.

(3) In the event the contractor charges or accepts prohibited remuneration, the County shall have the right to assert a claim against the Contractor on behalf of the client, for double the amount charged. Any violation of this provision shall b e deemed a material breach of this Agreement.

d. Recovery of Fees: If the Contractor bills and is paid fees for services that the County later finds were (a) not delivered or (b) not delivered in accordance with applicable standards, the County shall recover the fees for those services and the Contractor shall fully cooperate during the recovery.

e. Reduction in Funding: The County expressly reserves the right to modify or terminate this Agreement if the funding it receives from the State for contracted services is withdrawn, reduced or limited, The County may reduce the level of services authorized or eliminate specific categories of services insofar as necessary to reflect any funding reductions or limitations. The County shall notify the contractor promptly of any reduction or proposed reduction in funding. The contractor agrees that, upon receipt of such notice, it shall take immediate, appropriate and reasonable action to reduce its spending in the affected funding area so that the payments earned do not exceed the reduced funding level.

9. **Single State Medicaid Agency – Health Care Authority (HCA):** HCA, as the single state Medicaid Agency, has administrative authority for Title XIX coverage per 42 CFR 431.10. DSHS is the operating agency for the Home and Community Based Waivers for services for people with

developmental disabilities. The Contractor only has responsibility for services covered in this agreement.

10. **DSHS/DRW Access Agreement:** The DRW February 27, 2001 Access Agreement with DDA is incorporated by reference. The Contractor assures that its staff have reviewed the Access Agreement. The agreement covers DRW's access to individuals with developmental disabilities, Clients, programs and records, outreach activities, authority to investigate allegations of abuse and neglect, and other miscellaneous matters and is binding for all providers of DDA contracted services.

Data Security Requirements

1. **Definitions.** The words and phrases listed below, as used in this Exhibit, shall each have the following definitions:
a. "Authorized User(s)" means an individual or individuals with an authorized business requirement to access DSHS Confidential Information.

b. "Hardened Password" means a string of at least eight characters containing at least one alphabetic character, at least one number and at least one special character such as an asterisk, ampersand or exclamation point.

c. "Unique User ID" means a string of characters that identifies a specific user and which in conjunction with a password, passphrase or other mechanism, authenticates a user to an information system.

2. **Authority.** The security requirements described in this document reflect the applicable requirements of Standard 141. 10 (https://ocio.wa.gov/policies) of the Office of the Chief Information Officer for the state of Washington, and of the DSHS Information Security Policy and Standards Manual. Reference material related to these requirements can be found here: https://www.dshs.wa.gov/fsa/central-contract-services/keeping-dshs-client-information-private-and-secure, which is a site developed by the DSHS Information Security Office and hosted by DSHS Central Contracts and Legal Services.

4. **Administrative Controls.** The Contractor must have the following controls in place:
a. A documented security policy governing the secure use of its computer network

3. **Protection of Data.** The Contractor agrees to store Data on one or more of the following media and protect the Data as described:

a. **Hard disk drives.** Data stored on local workstation hard disks. Access to the Data will be restricted to Authorized User(s) by requiring logon to the local workstation using a Unique User ID and Hardened Password or other authentication mechanisms which provide equal or greater security, such as biometrics or smart cards.

b. **Network server disks.** Data stored on hard disks mounted on network servers and made available through shared folders. Access to the Data will be restricted to Authorized Users through the use of access control lists which will grant access only after the Authorized User has authenticated to the network using a Unique User ID and Hardened Password or other authentication mechanisms which provide equal or greater security, such as biometrics or smart cards. Data on disks mounted to such servers must be located in an area, which is accessible only to authorized personnel, with access controlled through use of a key, card key, combination lock, or comparable mechanism.

For DSHS Confidential Information stored on these disks, deleting unneeded Data is sufficient as long as the disks remain in a Secured Area and otherwise meet the requirements listed in the

above paragraph. Destruction of the Data as outlined in Section 5. Data Disposition may be deferred until the disks are retired, replaced, or otherwise taken out of the Secure Area.

c. **Optical discs (CDs or DVDs) in local workstation optical disc drives.** Data provided by DSHS on optical discs which will be used in local workstation optical disc drives and which will not be transported out of a Secured Area. When not in use for the contracted purpose, such discs must be locked in a drawer, cabinet or other container to which only Authorized Users have the key, combination or mechanism required to access the contents of the container. Workstations which access DSHS Data on optical discs must be located in an area which is accessible only to authorized personnel, with access controlled through use of a key, card key, combination lock, or comparable mechanism.

d. **Optical discs (CDs or DVDs) in drives or jukeboxes attached to servers.** Data provided by DSHS on optical discs which will be attached to network servers and which will not be transported out of a Secured Area. Access to Data on these discs will be restricted to Authorized Users through the use of access control lists which will grant access only after the Authorized User has authenticated to the network using a Unique User ID and Hardened Password of other authentication mechanisms which provide equal or greater security, such as biometrics or smart cards. Data on discs attached to such servers must be located in an area which is accessible only to authorized personnel, with access controlled through use of a key, card key, combination lock, or comparable mechanism.

e. **Paper documents.** Any paper records must be protected by storing the records in a Secure Area which is only accessible to authorized personnel. When not in use, such records must be stored in a Secure Area.

f. **Remote Access.** Access to and use of the Data over the State Governmental Network (SGN) or Secure Access Washington (SAW) will be controlled by DSHS staff who will issue authentication credentials (e.g. a Unique User ID and Hardened Password) to Authorized Users on Contractor staff. Contractor will notify DSHS staff immediately whenever an Authorized User in possession of such credentials is terminated or otherwise leaves the employ of the Contractor, and whenever an Authorized User's duties change such that the Authorized User no longer requires access to perform work for this Contract.

g. **Data storage on portable devices or media.**

(1) Except where otherwise specified herein, DSHS Data shall not be stored by the Contractor on portable devices or media unless specifically authorized within the terms and conditions of the Contract. If so authorized, the Data shall be given the following protections:

(a) Encrypt the Data;

(b) Control access to devices with a Unique User ID and Hardened Password or stronger authentication method such as physical token or biometrics;

(c) Manually lock devices whenever they are left unattended and set devices to lock automatically after a period of inactivity, if this feature is available. Maximum period of inactivity is 20 minutes;

(d) Apply administrative and physical security controls to Portable Devices and Portable Media by:

(i) Keeping them in locked storage when not in use,

(ii) Using check-in/check-out procedures when they are shared, and

(iii) Taking frequent inventories

(2) When being transported outside of a Secure Area, Portable Devices and Portable Media with DSHS Confidential Information must be under the physical control of Contractor staff with authorization to access the Data, even if the Data is encrypted.

h. **Data stored for backup purposes.**

(1) DSHS Confidential Information may be stored on portable media as part of a Contractor's existing, documented backup process for business continuity or disaster recover purposes. Such storage is authorized until such time as that media would be reused during the course of normal backup operations. If backup media is retired while DSHS Confidential Information still exists upon it, such media will be destroyed at that time in accordance with the disposition requirements in Section 5. Data Disposition.

(2) DSHS Data may be stored on non-portable media (e.g. Storage Area Network drives, virtual media, etc.) as part of a Contractor's existing, documented backup process for business continuity or disaster recovery purposes. If so, such media will be protected as otherwise described in this exhibit. If this media is retired while DSHS Confidential Information still exists upon it, the data will be destroyed at the time in accordance with the disposition requirements in Section 5. Data Disposition.

4. **Cloud Storage.** DSHS Confidential Information requires protections equal to or greater than those specified elsewhere within this exhibit. Cloud storage of Data is problematic as neither DSHS nor the contractor has control of the environment in which the Date is stored. For this reason:

a. DSHS Data will not be stored in any consumer grade Cloud solution, unless all of the following conditions are met:

(1) Contractor has written procedures in place governing use of the Cloud storage and Contractor attest to the County and keep a copy of that attestation for your record in writing that all such procedures will be uniformly followed;

(2) The Data will be Encrypted while within the contractor network;

(3) The Data will remain Encrypted during transmission to the Cloud;

(4) The Data will remain Encrypted at all times while residing within the Cloud storage solution;

(5) Contractor will possess a decryption key for the Data, and the decryption key will be possessed only by the Contractor;

(6) The Data will not be downloaded to non-authorized systems, meaning systems that are not on the contractor network;

(7) The Data will not be downloaded to non-authorized systems, meaning systems that are not on the contractor network;

(8) The Data will not be decrypted until downloaded onto a computer within the control of an Authorized User and within either the DSHS or Contractor's network.

b. Data will not be stored on an Enterprise Cloud storage solution unless either:
(1) The Cloud storage provider is treated as any other Sub-Contractor and agrees in writing to all of the requirements within this exhibit; or,

(2) The Cloud storage solution used is HIPAA compliant;

(3) If the Data includes protected health information covered by the Health Insurance Portability and Accountability Act (HIPAA), the cloud provider must sign a Business Associate Agreement prior to Data being stored in their Cloud solution.

3. **System Protection** To prevent compromise of systems which contain DSHS Data or through which that Data passes:
a. Systems containing DSHS Data must have all security patches or hotfixes applied within 3 months of being made available.

b. The contractor will have a method of ensuring that the requisite patches and hotfixes have been applied within the required timeframes.

c. Systems containing DSHS Data shall have an Anti-Malware application, if available, installed.

d. Anti-Malware software shall be kept up to date. The produce, its anti-virus engine, and any malware database they system uses, will be no more than one update behind current.

4. **Data Segregation**
a. DSHS category 4 data must be segregated or otherwise distinguishable from non-DSHS data. This is to ensure that when no longer needed by the Contractor, all DSHS Data can be identified for return or destruction. It also aids in determining whether DSHS Data has or may have been compromised in the event of a security breach. As such, one or more of the following methods will be used for data segregation.

b. DSHS Data will be kept on media (e.g. hard disk, optical disc, tape, etc.) which will contain no non-DSHS data. And/or

c. DSHS Data will be stored in a logical container on electronic media, such as a partition or folder dedicated to DSHS Data. And/or

d. DSHS Data will be stored in a database which will contain no non-DSHS data. And/or,

e. DSHS Data will be stored within a database and will be distinguishable from non-DSHS data by the value of a specific field or fields within database records.

f. When stored as physical paper documents, DSHS Data will be physically segregated from non-DSHS data in a drawer, folder, or other container.

g. When it is not feasible or practical to segregate DSHS Data from non-DSHS data, then both the DSHS Data and the non-DSHS data with which it is commingled must be protected as described in this exhibit.

5. **Data Disposition**. When the contracted work has been completed or when no longer needed, except as noted in Section 3. Media on which Data may be stored and associated acceptable methods of destruction are as follows:

Data stored on :	Will be destroyed by:
Server or workstation hard disks, or Removable media (e.g. floppies, USB flash drives, portable hard disks) excluding optical discs	Using a "wipe" utility which will overwrite the Data at least three (3) times using either random or single character data, or Degaussing sufficiently to ensure that the Data cannot be reconstructed, or Physically destroying the disk
Paper documents with sensitive or Confidential Information	Recycling through a contracted firm provided the contract with the recycler assures that the confidentiality of Data will be protected.
Paper documents containing Confidential Information requiring special handling (e.g. protected health information)	On-site shredding, pulping, or incineration
Optical discs (e.g. CDs or DVDs)	Incineration, shredding, or completely defacing the readable surface with a coarse abrasive
Magnetic tape	Degaussing, incinerating or crosscut shredding

6. **Notification of Compromise or Potential Compromise.** The compromise or potential compromise of DSHS shared Data must be reported to the County Representative verbally within twenty-four (24) hours of the occurrence and followed by written documentation within

five working days unless otherwise requested. Contractor must also take actions to mitigate the risk of loss and comply with any notification or other requirements imposed by law or DSHS.

7. **Data shared with Subcontractors.** If DSHS Data provided under this Contract is to be shared, must include the data security provisions within this Contract and within any amendments, attachments, or exhibits within this Contract.

By signing below, your agency is agreeing they are in full compliance with the listed Data Security Requirements.

Agency: Entrust Community Services Date: 6-22-2020

Authorized Signature: Tom Gaulke

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	July 14, 2020
Subject:	#PSC-ARC-SP2P-DD-00
Presenter:	
Prepared By:	Mari Clark, DHS contract Manager
Reviewed By:	Kyle Sullivan, DHS Manager

Type of Agenda Item:

- ☒ Consent Agenda
- ☐ Public Hearing
- ☐ Scheduled Business

Type of Action Needed:

- ☐ Discussion Only (1st)
- ☐ Discussion Only (2nd)
- ☐ Decision/Direction
- ☐ Pass Motion
- ☒ Pass Resolution
- ☐ Pass Ordinance

Summary / Background Information

Benton County Department of Human Services would like to enter into Agreement #PSC-ARC-SP2P-DD-00 to provide fiscal support for a staff member to reach out to Spanish speaking families in our community to connect families to available services for individuals with developmental disabilities.

Fiscal Impact

Amount: $11,500.00

Fund: Funding for the services described in this Agreement is provided by Developmental Disabilities Administration. **There is no impact on the current expense budget.** All revenues and expenditures are from the Fund 0108-101 Human Services Budget.

Recommendation

- Sign the Resolution to accept the Agreement
- Approve the proposed Contract Agreement #PSC-ARC-SP2P-DD-00 by signing all the copies where indicated

Suggested Motion

To approve signing Contract Agreement #PSC-ARC-SP2P-DD-00 with Arc of Tri-Cities and to authorize the Chair to sign on behalf of the Board.

Kyle Sullivan, Manager
Benton County
Department of Human Services

RESOLUTION

Benton County Resolution No. _____

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF EXECUTING GRANT AGREEMENT #PSC-ARC-SP2P-DD-00 BETWEEN BENTON COUNTY DEPARTMENT OF HUMAN SERVICES AND THE ARC OF TRI-CITIES.

WHEREAS, Benton County Department of Human Services currently contracts with the Arc of Tri-Cities to provide staff to reach out to Spanish speaking families in our community to connect families to available services for individuals with developmental disabilities; and

WHEREAS, Benton & Franklin Counties Department of Human Services would like to re-contract with Arc of Tri-Cities for a term commencing on July 1, 2020 and expiring on June 30, 2021; **NOW, THEREFORE**

BE IT RESOLVED, that the Board of Benton County Commissioners hereby accepts the proposed Grant Agreement; and

BE IT FURTHER RESOLVED, that the Chairman of the Board of Benton County Commissioners be, and hereby is, authorized to sign on behalf of Benton County, Agreement #PSC-ARC-SP2P-DD-00 with Arc of Tri-Cities to provide outreach to Spanish speaking families to connect them to services for individuals with developmental disabilities for a consideration amount of eleven thousand five hundred dollars and no cents ($11,500.00); and

BE IT FURTHER RESOLVED, the term of the attached Agreement commences on July 1, 2020 and shall expire on June 30, 2021.

Dated this . . . .day of . . . . . , 2020

_____
Chair

_____
Member

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

Attest: _____
Clerk of the Board

cc: Human Services; Benton County Commissioners

M.Clark

BENTON COUNTY
PERSONAL SERVICES CONTRACT
#PSC-ARC-SP2P-DD-00

TERMS AND CONDITIONS

THIS CONTRACT is made and entered into by and between **BENTON COUNTY**, a political subdivision with its principal offices at 620 Market Street, Prosser, WA 99350 (hereinafter "COUNTY"), and **ARC OF TRI-CITIES**, a Not-For-Profit corporation organized under the laws of the State of Washington with its principal offices at 1455 Fowler Street, Richland, WA 99352 (hereinafter "CONTRACTOR").

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

1. CONTRACT DOCUMENTS

This Contract consists of these Terms and Conditions and the following documents:

a. Exhibit A - Scope of Work; and

2. DURATION OF CONTRACT

The term of this Contract shall begin on the last date signed and shall expire on June 30, 2021. The CONTRACTOR shall complete all work by the time(s) specified herein, or if no such time is otherwise specified, no later than the expiration date.

3. SERVICES PROVIDED

a. The CONTRACTOR shall provide staff for the Spanish Parent to Parent position. Staff will connect Spanish speaking families with available services in our community for individuals with developmental disabilities. A detailed description of the services to be performed by the CONTRACTOR is set forth in Exhibit A, "Scope of Work", which is attached hereto and incorporated herein by reference.

b. The CONTRACTOR agrees to provide its own labor and materials. Unless otherwise provided in this Contract, no material, labor, or facilities will be furnished by the COUNTY.

c. The CONTRACTOR shall perform the work specified in this Contract according to standard industry practice.

d. The CONTRACTOR shall complete its work in a timely manner and in accordance with the schedule agreed by the parties.

e. The CONTRACTOR shall confer with the COUNTY from time to time during the progress of the work. The CONTRACTOR shall prepare and present status reports and other information that may be pertinent and necessary, or as requested by the COUNTY.

4. CONTRACT REPRESENTATIVES

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

a. For CONTRACTOR:

Name:	Cindy O'Neill
Address:	1455 Fowler Street Richland, WA 99352
Phone:	509.783.1131
Email:	cindyo@arcoftricities.com

b. For COUNTY:

Name:	Kyle Sullivan
Address:	7102 W. Okanogan Place, Ste. 201 Kennewick, WA 99301
Phone:	509-737-3909
Email:	kyle.sullivan@co.benton.wa.us

5. COMPENSATION

a. The maximum total amount payable by the COUNTY to the CONTRACTOR under this Contract shall not exceed eleven thousand, five hundred dollars and no cents ($ 11,500.00).

b. No payment shall be made for any work performed by the CONTRACTOR, except for work identified and set forth in this Contract.

c. The CONTRACTOR may, submit invoices to the COUNTY once per

month during the progress of the work for partial payment of the work completed to date. Invoices shall cover the time CONTRACTOR performed work for the COUNTY during the billing period. The COUNTY shall pay the CONTRACTOR for services rendered in the month following the actual delivery of work and will remit payment within thirty (30) days from the date of receipt of the invoice.

d. The CONTRACTOR shall submit county issued invoice and supporting documentation to the COUNTY by the twentieth (20th) of the following month, services were provided.

e. The CONTRACTOR shall not be paid for services rendered under this Contract unless and until they have been performed to the satisfaction of the COUNTY.

f. In the event the CONTRACTOR has failed to perform any substantial obligation to be performed by the CONTRACTOR under this Contract and such failure has not been cured within ten (10) days following notice from the COUNTY, the COUNTY may, in its sole discretion, upon written notice to the CONTRACTOR, withhold any and all monies due and payable to the CONTRACTOR, without penalty, until such failure to perform is cured or otherwise adjudicated. "Substantial" for the purposes of this Contract means faithfully fulfilling the terms of this Contract with variances only for technical or minor omissions or defects.

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

6. AMENDMENTS AND CHANGES IN WORK

a. In the event of any errors or omissions by the CONTRACTOR in the performance of any work required under this Contract, the CONTRACTOR shall make any and all necessary corrections without additional compensation. All work submitted by the CONTRACTOR shall be certified by the CONTRACTOR and checked for errors and omissions. The CONTRACTOR shall be responsible for the accuracy of the work, even if the work is accepted by the COUNTY.

b. No amendment or modification shall be made to this Contract, unless set forth in a written Contract Amendment signed by both parties. Work under a Contract Amendment shall not

proceed until the Contract Amendment is duly executed by the COUNTY.

7. HOLD HARMLESS AND INDEMNIFICATION

a. The CONTRACTOR shall hold harmless, indemnify, and defend the COUNTY and its officers, officials, employees, and agents from and against any and all claims, actions, suits, liabilities, losses, expenses, damages, and judgments of any nature whatsoever, including reasonable costs and attorneys' fees in defense thereof, for injury, sickness, disability, or death to persons or damage to property or business, arising in connection with the work performed under this Contract, or caused or occasioned in whole or in part by reason of the presence of the CONTRACTOR or its subcontractors or their property upon or in the proximity of the property of the COUNTY. PROVIDED, that the CONTRACTOR'S obligation hereunder shall not extend to injury, sickness, death, or damage caused by or arising out of the sole negligence of the COUNTY or its officers, officials, employees, or agents.

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

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

by the CONTRACTOR, or the CONTRACTOR'S employees, agents, or subcontractors.

8. INSURANCE

The CONTRACTOR shall obtain and maintain continuously the following insurance:

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

The coverage shall apply to liability for a professional error, act, or omission arising out of the scope of the CONTRACTOR'S services defined in this Contract. Coverage shall not exclude hazards related to the work rendered as part of the Contract or within the scope of the CONTRACTOR'S services as defined by this Contract. If the policy is claims made, the retroactive date shall be prior to or coincident with the effective date of this Contract. CONTRACTOR is required to maintain claims made professional liability insurance for a minimum of 36 months after the effective date of termination or completion of this Contract. If coverage is canceled or non-renewed and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the CONTRACTOR must purchase "extended reporting" coverage for a minimum of 36 months after the completion of work. The CONTRACTOR shall annually provide the COUNTY with proof of all such insurance.

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

COUNTY for recovery of damages to the extent they are covered by workers compensation and employers liability.

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

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

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

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

The CONTRACTOR must provide commercial general liability coverage that does not exclude activities to be performed in fulfillment of this Contract and does not exclude liability pursuant to the indemnification requirement under Section 7. CONTRACTOR'S commercial general liability policy shall provide cross liability coverage, indicating essentially that except with respect to the limits of insurance and any rights

or duties specifically assigned in this coverage part to the first named insured, this insurance applies as if each named insured were the only named insured, and separately to each insured against whom claims are made or suit is brought.

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

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

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

e. **Other Insurance Provisions:**

1. The CONTRACTOR'S liability insurance provisions shall be primary with respect to any insurance or self-insurance programs covering the COUNTY or its elected and appointed officers, officials, employees, or agents. CONTRACTOR'S liability insurance policies must be endorsed to show this primary coverage. Any insurance, self-insured retention, deductible, or risk retention maintained or participated in by the COUNTY shall be excess and not contributory to CONTRACTOR'S insurance policies.

2. The CONTRACTOR'S liability insurance policies shall contain no special limitations on the scope of protection afforded to the COUNTY as an additional insured.

3. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the COUNTY or its officers, officials, employees, or agents.

4. The CONTRACTOR'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's

liability.

5. The CONTRACTOR shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.

6. The insurance limits mandated for any insurance coverage required by this Contract are not intended to be an indication of exposure nor are they limitations on indemnification. **If the CONTRACTOR maintains higher limits than the minimums required in this Contract, the COUNTY shall be entitled to coverage for the higher limits maintained by the CONTRACTOR.**

7. The CONTRACTOR shall maintain all required policies in force from the time services commence until services are completed. Certificates, policies, and endorsements expiring before completion of services shall be promptly replaced. CONTRACTOR is required to maintain claims made professional liability insurance for a minimum of 36 months after the effective date of termination or completion of this Contract. All liability insurance required under this Contract, except for professional liability under Section 8(a), shall be written on an Occurrence Policy form.

8. CONTRACTOR hereby agrees to waive subrogation with respect to each insurance policy maintained under this Contract. When required by an insurer, or if a policy condition does not permit CONTRACTOR to enter into a pre-loss agreement to waive subrogation without an endorsement, then CONTRACTOR agrees to notify the insurer and obtain such endorsement. This requirement shall not apply to any policy which includes a condition expressly prohibiting waiver of subrogation by the insured or which voids coverage should the CONTRACTOR enter into such a waiver of subrogation on a pre-loss basis.

9. Compensation and/or payments due to CONTRACTOR under this Contract are expressly conditioned upon CONTRACTOR'S strict compliance with all insurance requirements. Payment to CONTRACTOR may be suspended in the event of non-compliance. Upon receipt of evidence of CONTRACTOR'S compliance, such payments not otherwise subject to withholding or set-off will be released to CONTRACTOR.

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

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

1. All insurance to be maintained by the CONTRACTOR, other than Professional Liability, Auto Liability, and Workers' Compensation, shall specifically include the COUNTY and its elected officials, employees, and volunteers as an "Additional Insured" by way of endorsement and shall not be reduced or cancelled without thirty (30) days prior written notice to the COUNTY. Any insurance or self-insurance maintained by the COUNTY and its elected or appointed officials, employees, and agents shall be excess of the CONTRACTOR's insurance and shall not contribute to it.

2. Certificates of Liability Insurance, with endorsements attached, must be provided to the COUNTY's Contract Representative referenced in Section 4.

3. All written notices under this Section 8 and notice of cancellation or change of required insurance coverages shall be mailed to the COUNTY's Contract Representative referenced in Section 4.

4. The CONTRACTOR or its broker shall provide a copy of any and all insurance policies specified in this Contract upon request of the Benton County Risk Manager to the following address: Benton County Risk Manager, 7122 W. Okanogan Place, Bldg. A, Kennewick, WA 99336.

9. TERMINATION

a. The COUNTY may terminate this Contract in whole or in part whenever the COUNTY determines in its sole discretion that such termination is in the best interests of the COUNTY. The COUNTY may terminate this Contract upon giving thirty (30)

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

b. In the event that funding for this project is withdrawn, reduced, or limited in any way after the effective date of this Contract, the COUNTY may summarily terminate this Contract notwithstanding any other termination provision in this Contract. Termination under this subsection shall be effective upon the date specified in the written notice of termination sent by COUNTY to the CONTRACTOR. After the effective date, no charges incurred under this Contract shall be allowed.

c. If the CONTRACTOR breaches any of its obligations hereunder, and fails to cure the breach within ten (10) days of written notice to do so by the COUNTY, the COUNTY may immediately terminate this Contract by so notifying the CONTRACTOR, in which case the COUNTY shall pay the CONTRACTOR only for the costs of services accepted by the COUNTY, in accordance with the Compensation Section of this Contract. Upon such termination, the COUNTY, at its discretion, may obtain performance of the work elsewhere, and the CONTRACTOR shall bear all costs and expenses incurred by the COUNTY in completing the work and all damage sustained by the COUNTY by reason of the CONTRACTOR'S breach.

10. ASSIGNMENT, DELEGATION, AND SUBCONTRACTING

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

b. The CONTRACTOR warrants that it has not paid, nor has it agreed to pay, any company, person, partnership, or firm, other than a bona fide employee working exclusively for the CONTRACTOR, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award or making of this Contract.

11. NON-WAIVER OF RIGHTS

The parties agree that the excuse or forgiveness of performance,

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

12. INDEPENDENT CONTRACTOR

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

b. The CONTRACTOR acknowledges that the entire compensation for this Contract is set forth in Section 5 of this Contract, and neither the CONTRACTOR, nor its employees are entitled to any COUNTY benefits, including, but not limited to: vacation pay; holiday pay; sick leave pay; medical, dental, or other insurance benefits; fringe benefits; or any other rights or privileges afforded to COUNTY employees.

c. The CONTRACTOR shall have and maintain complete responsibility and control over all of its subcontractors, employees, agents, and representatives. No subcontractor, employee, agent, or representative of the CONTRACTOR shall be, deem to be, act, or purport to act as an employee, agent, or representative of the COUNTY.

d. The CONTRACTOR shall pay for all taxes, fees, licenses, or payments required by federal, state, or local law that are now or may be enacted during the term of this Contract.

e. The CONTRACTOR agrees to immediately remove any of its employees or agents from their assignment to perform services under this Contract upon receipt of a written request to do so from the COUNTY'S Contract Representative, or designee.

13. COMPLIANCE WITH LAWS

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

14. INSPECTION OF BOOKS AND RECORDS

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

15. NONDISCRIMINATION

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

16. OWNERSHIP OF MATERIALS/WORKS PRODUCED

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

b. An electronic copy of all word processing documents shall be submitted to the COUNTY upon request and/or at the expiration of the Contract, using the word processing program and version specified by the COUNTY.

17. PATENT/COPYRIGHT INFRINGEMENT

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

18. DISPUTES

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

19. CONFIDENTIALITY

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

20. CHOICE OF LAW, JURISDICTION, AND VENUE

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

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

21. SUCCESSORS AND ASSIGNS

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

22. SEVERABILITY

a. If a court of competent jurisdiction holds any part, term, or provision of this Contract to be illegal or invalid, in whole

or in part, the validity of the remaining provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as if this Contract did not contain the particular provision held to be invalid.

b. If it should appear that any provision of this Contract is in conflict with any statutory provision of the State of Washington, said provision which may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform to such statutory provision.

23. ENTIRE AGREEMENT

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

24. NOTICES

Any notices provided under this Contract shall be effective if personally served upon the other party or if mailed by registered or certified mail, return receipt requested, to the mailing addresses set out in Section 4 of this Contract. Notice may also be given via e-mail to the Contract Representatives' e-mail addresses identified in Section 4 of this Contract, with the original notice to follow by regular mail. Notice shall be deemed to be given three (3) days following the date of mailing or immediately if personally served. For service by e-mail, service shall be effective at the beginning of the next working day.

25. SURVIVABILITY

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

26. LITIGATION HOLD NOTICE

In the event the COUNTY learns of circumstances leading to an increased likelihood of litigation regarding any matter where the

records kept by CONTRACTOR pursuant to Section 14 of this Contract may be of evidentiary value, the COUNTY may issue written notice to CONTRACTOR of such circumstances and direct the CONTRACTOR to "hold" such records. In the event that CONTRACTOR receives such written notice, CONTRACTOR shall abide by all directions therein whether or not such written notice is received at a time when a Contract between CONTRACTOR and the COUNTY is in force. Such directions will include, but will not be limited to, instructions to suspend the six (6) year purge schedule required by Section 14 of this Contract.

27. PUBLIC RECORDS ACT

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

- This section left blank intentionally -

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

Dated: _____

FOR: BENTON COUNTY

_____
Chairman

_____
Member

_____
Member

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

Attest: _____
Clerk of the Board

Approved as to Form:

_____
Civil Deputy Prosecuting Attorney

Dated: 6/23/2020

FOR: ARC OF TRI-CITIES

Cindy Oneill
Signature

Exec Director
Title: Director

Cindy O'Neill
Print Name

Approved as to Content:

_____
Human Services Manager

The Spanish Parent to Parent position will provide the following to families in Benton & Franklin Counties:

- Educate Spanish speaking parents to access services for family members
- Assist families in making connections with other agencies in the community for support
- Provide Spanish workshops, Pave meetings and other social gatherings for families
- Direct families on how to connect with Developmental Disabilities Administration
- Provide guidance on referrals to Children's hospital or other facilities for therapies
- Translate Resource Directory in Spanish
- Other services families need

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	July 14, 2020
Subject:	#PSC-ARC-SO-DD-00
Presenter:	
Prepared By:	Mari Clark, DHS contract Manager
Reviewed By:	Kyle Sullivan, DHS Manager

Type of Agenda Item:	**Type of Action Needed:**	
☒ Consent Agenda	☐ Discussion Only (1st)	☐ Pass Motion
☐ Public Hearing	☐ Discussion Only (2nd)	☒ Pass Resolution
☐ Scheduled Business	☐ Decision/Direction	☐ Pass Ordinance

Summary / Background Information

Benton County Department of Human Services would like to enter into Agreement #PSC-ARC-SO-DD-00 to provide staff and supplies for the local Special Olympics office. The ARC will provide but are not limited to coordinating registration for activities, host games, recruit coaches, provide reporting, etc.

Fiscal Impact

Amount: $22,400.00

Fund: Funding for the services described in this Agreement is provided by millage dollars. **There is no impact on the current expense budget.** All revenues and expenditures are from the Fund 0108-101 Human Services Budget.

Recommendation

- Sign the Resolution to accept the Agreement
- Approve the proposed Contract Agreement #PSC-ARC-SO-DD-00 by signing all the copies where indicated

Suggested Motion

To approve signing Contract Agreement #PSC-ARC-SO-DD-00 with Arc of Tri-Cities and to authorize the Chair to sign on behalf of the Board.

Kyle Sullivan, Manager
Benton County
Department of Human Services

RESOLUTION

Benton County Resolution No. _____

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF EXECUTING GRANT AGREEMENT #PSC-ARC-SO-DD-00 BETWEEN BENTON AND FRANKLIN COUNTIES DEPARTMENT OF HUMAN SERVICES AND THE ARC OF TRI-CITIES.

WHEREAS, Benton County Department of Human Services currently contracts with the Arc of Tri-Cities to provide staff and supplies to have a Special Olympics office locally and host games, provide team registration, and coaching for individuals with disabilities; and

WHEREAS, Benton & Franklin Counties Department of Human Services would like to re-contract with Arc of Tri-Cities for a term commencing on July 1, 2020 and expiring on June 30, 2021;
NOW, THEREFORE

BE IT RESOLVED, that the Board of Benton County Commissioners hereby accepts the proposed Grant Agreement; and

BE IT FURTHER RESOLVED, that the Chairman of the Board of Benton County Commissioners be, and hereby is, authorized to sign on behalf of Benton County, Agreement #PSC-ARC-SO-DD-00 with Arc of Tri-Cities to provide Special Olympics activities for those with disabilities locally in our community for a consideration amount of twenty-two thousand four hundred dollars and no cents ($22,400.00); and

BE IT FURTHER RESOLVED, the term of the attached Agreement commences on July 1, 2020 and shall expire on June 30, 2021.

Dated this . . . .day of . . . . . , 2019

_____
Chair

_____
Member

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

Attest: _____
Clerk of the Board

cc: Human Services; Benton County Commissioners D. Horton

BENTON COUNTY
PERSONAL SERVICES CONTRACT
#PSC-ARC-SO-DD-00

TERMS AND CONDITIONS

THIS CONTRACT is made and entered into by and between **BENTON COUNTY**, a political subdivision with its principal offices at 620 Market Street, Prosser, WA 99350 (hereinafter "COUNTY"), and **ARC OF TRI-CITIES**, a Not-For-Profit corporation organized under the laws of the State of Washington with its principal offices at 1455 Fowler Street, Richland, WA 99352 (hereinafter "CONTRACTOR").

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

1. CONTRACT DOCUMENTS

This Contract consists of these Terms and Conditions and the following documents:

a. Exhibit A - Scope of Work; and

2. DURATION OF CONTRACT

The term of this Contract shall begin on the last date signed and shall expire on June 30, 2021. The CONTRACTOR shall complete all work by the time(s) specified herein, or if no such time is otherwise specified, no later than the expiration date.

3. SERVICES PROVIDED

a. The CONTRACTOR shall provide staff for the local Special Olympics office and supplies needed. Staff will manage registration for local special Olympics activities, provide administration duties for required state reporting, and recruit coaches among other activities. A detailed description of the services to be performed by the CONTRACTOR is set forth in Exhibit A, "Scope of Work", which is attached hereto and incorporated herein by reference.

b. The CONTRACTOR agrees to provide its own labor and materials. Unless otherwise provided in this Contract, no material,

labor, or facilities will be furnished by the COUNTY.

c. The CONTRACTOR shall perform the work specified in this Contract according to standard industry practice.

d. The CONTRACTOR shall complete its work in a timely manner and in accordance with the schedule agreed by the parties.

e. The CONTRACTOR shall confer with the COUNTY from time to time during the progress of the work. The CONTRACTOR shall prepare and present status reports and other information that may be pertinent and necessary, or as requested by the COUNTY.

4. CONTRACT REPRESENTATIVES

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

a. For CONTRACTOR:

Name:	Cindy O'Neill
Address:	1455 Fowler Street
	Richland, WA 99352
Phone:	509.783.1131
Email:	cindyo@arcoftricities.com

b. For COUNTY:

Name:	Kyle Sullivan
Address:	7102 W. Okanogan Place, Ste. 201
	Kennewick, WA 99301
Phone:	509-737-3909
Email:	kyle.sullivan@co.benton.wa.us

5. COMPENSATION

a. The maximum total amount payable by the COUNTY to the CONTRACTOR under this Contract shall not exceed twenty-two thousand four hundred dollars and no cents ($ 22,400.00).

b. No payment shall be made for any work performed by the CONTRACTOR, except for work identified and set forth in this Contract.

the work completed to date. Invoices shall cover the time CONTRACTOR performed work for the COUNTY during the billing period. The COUNTY shall pay the CONTRACTOR for services rendered in the month following the actual delivery of work and will remit payment within thirty (30) days from the date of receipt of the invoice.

d. The CONTRACTOR shall submit county issued invoice and supporting documentation to the COUNTY by the twentieth (20^{th}) of the following month, services were provided.

e. The CONTRACTOR shall not be paid for services rendered under this Contract unless and until they have been performed to the satisfaction of the COUNTY.

f. In the event the CONTRACTOR has failed to perform any substantial obligation to be performed by the CONTRACTOR under this Contract and such failure has not been cured within ten (10) days following notice from the COUNTY, the COUNTY may, in its sole discretion, upon written notice to the CONTRACTOR, withhold any and all monies due and payable to the CONTRACTOR, without penalty, until such failure to perform is cured or otherwise adjudicated. "Substantial" for the purposes of this Contract means faithfully fulfilling the terms of this Contract with variances only for technical or minor omissions or defects.

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

6. AMENDMENTS AND CHANGES IN WORK

a. In the event of any errors or omissions by the CONTRACTOR in the performance of any work required under this Contract, the CONTRACTOR shall make any and all necessary corrections without additional compensation. All work submitted by the CONTRACTOR shall be certified by the CONTRACTOR and checked for errors and omissions. The CONTRACTOR shall be responsible for the accuracy of the work, even if the work is accepted by the COUNTY.

b. No amendment or modification shall be made to this Contract, unless set forth in a written Contract Amendment signed by both parties. Work under a Contract Amendment shall not proceed until the Contract Amendment is duly executed by the

COUNTY.

7. HOLD HARMLESS AND INDEMNIFICATION

a. The CONTRACTOR shall hold harmless, indemnify, and defend the COUNTY and its officers, officials, employees, and agents from and against any and all claims, actions, suits, liabilities, losses, expenses, damages, and judgments of any nature whatsoever, including reasonable costs and attorneys' fees in defense thereof, for injury, sickness, disability, or death to persons or damage to property or business, arising in connection with the work performed under this Contract, or caused or occasioned in whole or in part by reason of the presence of the CONTRACTOR or its subcontractors or their property upon or in the proximity of the property of the COUNTY. PROVIDED, that the CONTRACTOR'S obligation hereunder shall not extend to injury, sickness, death, or damage caused by or arising out of the sole negligence of the COUNTY or its officers, officials, employees, or agents.

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

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

subcontractors.

8. INSURANCE

The CONTRACTOR shall obtain and maintain continuously the following insurance:

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

The coverage shall apply to liability for a professional error, act, or omission arising out of the scope of the CONTRACTOR'S services defined in this Contract. Coverage shall not exclude hazards related to the work rendered as part of the Contract or within the scope of the CONTRACTOR'S services as defined by this Contract. If the policy is claims made, the retroactive date shall be prior to or coincident with the effective date of this Contract. CONTRACTOR is required to maintain claims made professional liability insurance for a minimum of 36 months after the effective date of termination or completion of this Contract. If coverage is canceled or non-renewed and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the CONTRACTOR must purchase "extended reporting" coverage for a minimum of 36 months after the completion of work. The CONTRACTOR shall annually provide the COUNTY with proof of all such insurance.

b. **Workers Compensation:** CONTRACTOR shall comply with all State of Washington workers compensation statutes and regulations. Prior to the start of work under this Contract, workers compensation coverage shall be provided for all employees of CONTRACTOR and employees of any subcontractor or sub-subcontractor. Coverage shall include bodily injury (including death) by accident or disease, which arises out of or in connection with the performance of this Contract. CONTRACTOR shall submit a copy of its certificate of coverage from the Washington State Department of Labor and Industries prior to commencement of work. Except as prohibited by law, CONTRACTOR waives all rights of subrogation against the COUNTY for recovery of damages to the extent they are covered

by workers compensation and employers liability.

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

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

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

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

The CONTRACTOR must provide commercial general liability coverage that does not exclude activities to be performed in fulfillment of this Contract and does not exclude liability pursuant to the indemnification requirement under Section 7. CONTRACTOR'S commercial general liability policy shall provide cross liability coverage, indicating essentially that except with respect to the limits of insurance and any rights or duties specifically assigned in this coverage part to the

first named insured, this insurance applies as if each named insured were the only named insured, and separately to each insured against whom claims are made or suit is brought.

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

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

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

e. **Other Insurance Provisions:**

1. The CONTRACTOR'S liability insurance provisions shall be primary with respect to any insurance or self-insurance programs covering the COUNTY or its elected and appointed officers, officials, employees, or agents. CONTRACTOR'S liability insurance policies must be endorsed to show this primary coverage. Any insurance, self-insured retention, deductible, or risk retention maintained or participated in by the COUNTY shall be excess and not contributory to CONTRACTOR'S insurance policies.

2. The CONTRACTOR'S liability insurance policies shall contain no special limitations on the scope of protection afforded to the COUNTY as an additional insured.

3. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the COUNTY or its officers, officials, employees, or agents.

4. The CONTRACTOR'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5. The CONTRACTOR shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.

6. The insurance limits mandated for any insurance coverage required by this Contract are not intended to be an indication of exposure nor are they limitations on indemnification. **If the CONTRACTOR maintains higher limits than the minimums required in this Contract, the COUNTY shall be entitled to coverage for the higher limits maintained by the CONTRACTOR.**

7. The CONTRACTOR shall maintain all required policies in force from the time services commence until services are completed. Certificates, policies, and endorsements expiring before completion of services shall be promptly replaced. CONTRACTOR is required to maintain claims made professional liability insurance for a minimum of 36 months after the effective date of termination or completion of this Contract. All liability insurance required under this Contract, except for professional liability under Section 8(a), shall be written on an Occurrence Policy form.

8. CONTRACTOR hereby agrees to waive subrogation with respect to each insurance policy maintained under this Contract. When required by an insurer, or if a policy condition does not permit CONTRACTOR to enter into a pre-loss agreement to waive subrogation without an endorsement, then CONTRACTOR agrees to notify the insurer and obtain such endorsement. This requirement shall not apply to any policy which includes a condition expressly prohibiting waiver of subrogation by the insured or which voids coverage should the CONTRACTOR enter into such a waiver of subrogation on a pre-loss basis.

9. Compensation and/or payments due to CONTRACTOR under this Contract are expressly conditioned upon CONTRACTOR'S strict compliance with all insurance requirements. Payment to CONTRACTOR may be suspended in the event of non-compliance. Upon receipt of evidence of CONTRACTOR'S compliance, such payments not otherwise subject to withholding or set-off will be released to CONTRACTOR.

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

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

1. All insurance to be maintained by the CONTRACTOR, other than Professional Liability, Auto Liability, and Workers' Compensation, shall specifically include the COUNTY and its elected officials, employees, and volunteers as an "Additional Insured" by way of endorsement and shall not be reduced or cancelled without thirty (30) days prior written notice to the COUNTY. Any insurance or self-insurance maintained by the COUNTY and its elected or appointed officials, employees, and agents shall be excess of the CONTRACTOR's insurance and shall not contribute to it.

2. Certificates of Liability Insurance, with endorsements attached, must be provided to the COUNTY's Contract Representative referenced in Section 4.

3. All written notices under this Section 8 and notice of cancellation or change of required insurance coverages shall be mailed to the COUNTY's Contract Representative referenced in Section 4.

4. The CONTRACTOR or its broker shall provide a copy of any and all insurance policies specified in this Contract upon request of the Benton County Risk Manager to the following address: Benton County Risk Manager, 7122 W. Okanogan Place, Bldg. A, Kennewick, WA 99336.

9. TERMINATION

a. The COUNTY may terminate this Contract in whole or in part whenever the COUNTY determines in its sole discretion that such termination is in the best interests of the COUNTY. The COUNTY may terminate this Contract upon giving thirty (30) days written notice by certified mail to the CONTRACTOR. In

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

b. In the event that funding for this project is withdrawn, reduced, or limited in any way after the effective date of this Contract, the COUNTY may summarily terminate this Contract notwithstanding any other termination provision in this Contract. Termination under this subsection shall be effective upon the date specified in the written notice of termination sent by COUNTY to the CONTRACTOR. After the effective date, no charges incurred under this Contract shall be allowed.

c. If the CONTRACTOR breaches any of its obligations hereunder, and fails to cure the breach within ten (10) days of written notice to do so by the COUNTY, the COUNTY may immediately terminate this Contract by so notifying the CONTRACTOR, in which case the COUNTY shall pay the CONTRACTOR only for the costs of services accepted by the COUNTY, in accordance with the Compensation Section of this Contract. Upon such termination, the COUNTY, at its discretion, may obtain performance of the work elsewhere, and the CONTRACTOR shall bear all costs and expenses incurred by the COUNTY in completing the work and all damage sustained by the COUNTY by reason of the CONTRACTOR'S breach.

10. ASSIGNMENT, DELEGATION, AND SUBCONTRACTING

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

b. The CONTRACTOR warrants that it has not paid, nor has it agreed to pay, any company, person, partnership, or firm, other than a bona fide employee working exclusively for the CONTRACTOR, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award or making of this Contract.

11. NON-WAIVER OF RIGHTS

The parties agree that the excuse or forgiveness of performance, or waiver of any provision(s) of this Contract does not constitute

a waiver of such provision(s) or future performance, or prejudice the right of the waiving party to enforce any of the provisions of this Contract at a later time. All waivers of any provision(s) of this Contract shall be in writing and in the absence of such, no action or inaction shall be construed to be such a waiver.

12. INDEPENDENT CONTRACTOR

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

b. The CONTRACTOR acknowledges that the entire compensation for this Contract is set forth in Section 5 of this Contract, and neither the CONTRACTOR, nor its employees are entitled to any COUNTY benefits, including, but not limited to: vacation pay; holiday pay; sick leave pay; medical, dental, or other insurance benefits; fringe benefits; or any other rights or privileges afforded to COUNTY employees.

c. The CONTRACTOR shall have and maintain complete responsibility and control over all of its subcontractors, employees, agents, and representatives. No subcontractor, employee, agent, or representative of the CONTRACTOR shall be, deem to be, act, or purport to act as an employee, agent, or representative of the COUNTY.

d. The CONTRACTOR shall pay for all taxes, fees, licenses, or payments required by federal, state, or local law that are now or may be enacted during the term of this Contract.

e. The CONTRACTOR agrees to immediately remove any of its employees or agents from their assignment to perform services under this Contract upon receipt of a written request to do so from the COUNTY'S Contract Representative, or designee.

13. COMPLIANCE WITH LAWS

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

14. INSPECTION OF BOOKS AND RECORDS

The COUNTY may, at reasonable times, inspect the books and records

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

15. NONDISCRIMINATION

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

16. OWNERSHIP OF MATERIALS/WORKS PRODUCED

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

b. An electronic copy of all word processing documents shall be submitted to the COUNTY upon request and/or at the expiration of the Contract, using the word processing program and version specified by the COUNTY.

17. PATENT/COPYRIGHT INFRINGEMENT

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

18. DISPUTES

Disputes between the CONTRACTOR and the COUNTY, arising under and

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

19. CONFIDENTIALITY

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

20. CHOICE OF LAW, JURISDICTION, AND VENUE

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

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

21. SUCCESSORS AND ASSIGNS

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

22. SEVERABILITY

a. If a court of competent jurisdiction holds any part, term, or provision of this Contract to be illegal or invalid, in whole or in part, the validity of the remaining provisions shall

not be affected, and the parties' rights and obligations shall be construed and enforced as if this Contract did not contain the particular provision held to be invalid.

b. If it should appear that any provision of this Contract is in conflict with any statutory provision of the State of Washington, said provision which may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform to such statutory provision.

23. ENTIRE AGREEMENT

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

24. NOTICES

Any notices provided under this Contract shall be effective if personally served upon the other party or if mailed by registered or certified mail, return receipt requested, to the mailing addresses set out in Section 4 of this Contract. Notice may also be given via e-mail to the Contract Representatives' e-mail addresses identified in Section 4 of this Contract, with the original notice to follow by regular mail. Notice shall be deemed to be given three (3) days following the date of mailing or immediately if personally served. For service by e-mail, service shall be effective at the beginning of the next working day.

25. SURVIVABILITY

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

26. LITIGATION HOLD NOTICE

In the event the COUNTY learns of circumstances leading to an increased likelihood of litigation regarding any matter where the records kept by CONTRACTOR pursuant to Section 14 of this Contract

may be of evidentiary value, the COUNTY may issue written notice to CONTRACTOR of such circumstances and direct the CONTRACTOR to "hold" such records. In the event that CONTRACTOR receives such written notice, CONTRACTOR shall abide by all directions therein whether or not such written notice is received at a time when a Contract between CONTRACTOR and the COUNTY is in force. Such directions will include, but will not be limited to, instructions to suspend the six (6) year purge schedule required by Section 14 of this Contract.

27. PUBLIC RECORDS ACT

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

- This section left blank intentionally -

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

Dated: _____

FOR: BENTON COUNTY

_____
Chairman

_____
Member

_____
Member

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

Attest: _____
Clerk of the Board

Approved as to Form:

_____
Civil Deputy Prosecuting Attorney

Dated: 6/23/2020

FOR: ARC OF TRI-CITIES

Cindy Arnold
Signature

Exec Director
Title: Director

Cindy O'Neill
Print Name

Approved as to Content:

_____
Human Services Manager

Exhibit "A"

Billable Activities
Management of registration of athletes, coaches and volunteers for Special Olympics
Marketing activities for local Special Olympic opportunities
Recruitment of new coaches and providing appropriate training for new coaches
Fundraising activities to support state and local Special Olympic costs
Management of Special Olympics database
Provide local coaches with necessary equipment and facility requests
Networking activities to develop partnerships with Parks and Recreations and community partners
Development activities to host local Special Olympic Competitions
Social media maintenance activities for local Special Olympics
Supplies needed for operations

The activities above are the identified activities by the Arc of Tri-Cities to be supported by this Agreement.

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	07/14/2020
Subject:	Computer Replacement
Presenter:	Kyle Sullivan
Prepared By:	Tammy McKeirnan
Reviewed By:	Kyle Sullivan

Type of Agenda Item:

- ☒ Consent Agenda
- ☐ Public Hearing
- ☐ Scheduled Business

Type of Action Needed:

- ☐ Discussion Only (1st)
- ☐ Discussion Only (2nd)
- ☐ Decision/Direction
- ☐ Pass Motion
- ☐ Pass Resolution
- ☐ Pass Ordinance

Summary / Background Information

Fiscal Impact

Amount: There is no impact on the current Expense budget. All revenues and expenditures are from the Fund 0108.101 Human Services.

Recommendation

- Approve the Resolution

Motion

Approve the line item transfer in the amount of $20,000 from Human Services fund to purchase eight computers in order to be able to upgrade to Windows 10. Also to purchase two surf-pro tablets and lap top computer.

Kyle Sullivan, Manager
Benton County Dept of Human Services

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY FUNDS RE: TRANSFER OF FUNDS WITHIN HUMAN SERVICES FUND NUMBER 0108.101, DEPARTMENT NUMBER 560.

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

Dated this _____ day of _____, _____

_____
Chairman of the Board

_____
Member

_____
Member

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

Attest: _____
Clerk of the Board

cc: Dept., Auditor, Human Resources

tmckeirnan

T McKeirnan

EXHIBIT "A"

BENTON COUNTY LINE ITEM TRANSFER

Dept Name: Contract Management Dept Nbr: 560

Fund Name: Human Services Fund Nbr: 0108.101

TRANSFER FROM: / TRANSFER TO:

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT	BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
565.110	3501	Minor Equipment	$20,000	565.110	3508	Computer Replacement	$20,000
TOTAL			$20,000	TOTAL			$20,000

Explanation:

Human Services department replaced eight computers in order to be able to upgrade to Window 10. Also purchase two surf pro tablets and one lap top computer.

Prepared by: Tammy McKeirnan Date: 17-Jun-2020

Approved ☐ Denied ☐ Date: _____

_____
Chairman

_____
Member

_____
Member

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	FC 06/23/20 BC 07/07/20
Subject:	Professional Services Contract with Lutheran Community Services Northwest
Presenter:	
Prepared By:	Rosa Garcia
Reviewed By:	Darryl Banks

Type of Agenda Item:	**Type of Action Needed:**	
☒ Consent Agenda	☐ Discussion Only (1st)	☐ Pass Motion
☐ Public Hearing	☐ Discussion Only (2nd)	☒ Pass Resolution
☐ Scheduled Business	☐ Decision/Direction	☐ Pass Ordinance

Summary / Background Information

Lutheran Community Services Northwest wishes to contract with the Benton-Franklin Counties Juvenile Justice Center to provide Functional Family Therapy to youth referred by the Counties.

The attached Professional Services Contract commences on July 1, 2020 and expires on June 30, 2022.

Fiscal Impact

Amount: These are state funds whereby we are reimbursed for services which are incorporated in the Juvenile Court's budget. Amount not to exceed $60,000.00.

Fund: To be paid out of Current Expense Dept. 174. No Supplemental required.

Recommendation

We recommend that the Board of Commissioners of Benton County and the Board of Commissioners of Franklin County sign the Professional Services Contract between Lutheran Community Services Northwest and the Benton-Franklin Counties Juvenile Justice Center for services.

Suggested Motion

I move that the Chairman of the Board of Benton County Commissioners and the Chairman of the Board of Franklin County Commissioners be hereby authorized to sign the Professional Services Contract with Lutheran Community Services Northwest.

JOINT RESOLUTION

BENTON COUNTY RESOLUTION NO. _____

FRANKLIN COUNTY RESOLUTION NO. _____

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

IN THE MATTER OF AWARDING LUTHERAN COMMUNITY SERVICES NORTHWEST A PROFESSIONAL SERVICES CONTRACT FOR THE DELIVERY OF FUNCTIONAL FAMILY THERAPY

WHEREAS, per Resolution 2012-677, "...for all contracts for non-public works services the county need not advertise or follow a formal competitive bidding procedure, but may instead evaluate and utilize the procedures it deems best under the individual circumstances in order to obtain services of the highest quality at the lowest cost;" and

WHEREAS, Benton and Franklin Counties would like to contract with Lutheran Community Services Northwest to provide Functional Family Therapy to youth referred by the Counties from July 1, 2020 through June 30, 2022; and

WHEREAS, the Juvenile Administrator recommends entering into a new Professional Services Contract; **NOW, THEREFORE,**

BE IT RESOLVED, that the Board of Benton County Commissioners, Benton County, Washington; and the Board of Franklin County Commissioners, Franklin County, Washington, concurs with the Juvenile Administrator's recommendation and hereby awards the Professional Services Contract to Lutheran Community Services Northwest in an amount not to exceed $60,000.00; and

BE IT FURTHER RESOLVED, that the Chairman is authorized to sign the attached Professional Services Contract; and

BE IT FURTHER RESOLVED, the term of the attached contract commences July 1, 2020 and expires on June 30, 2022.

DATED this ____ day of _____ 2020
BENTON COUNTY BOARD OF COMMISSIONERS

_____
Chairman of the Board

_____
Member

_____
Member

Constituting the Board of
County Commissioners,
Benton County, Washington

Attest:

_____
Clerk of the Board

DATED this ____ day of _____ 2020
FRANKLIN COUNTY BOARD OF COMMISSIONERS

_____
Chairman of the Board

_____
Chairman Pro Tem

_____
Member

Constituting the Board of
County Commissioners,
Franklin County, Washington

Attest:

_____
Clerk of the Board

Originals (2): 1-BC Commissioners, 1-FC Commissioners; Electronic (2): 1-Lutheran, 1-Juvenile

R. Garcia

BENTON-FRANKLIN COUNTIES
PROFESSIONAL SERVICES CONTRACT
TERMS AND CONDITIONS

THIS CONTRACT is made and entered into by and between Benton County, a political subdivision with its principal offices at 620 Market Street, Prosser, WA 99350 and Franklin County, a political subdivision with its principal offices at 1016 North Fourth Avenue, Pasco, WA 99301, by and for the Benton-Franklin Counties Juvenile Justice Center, a bi-county agency located at 5606 W. Canal Place, Suite 106, Kennewick, WA 99336 (hereinafter "COUNTIES"), and **Lutheran Community Services Northwest**, a nonprofit corporation organized under the laws of the State of Oregon with its principal offices at 4040 S. 188th Street, Suite 300, SeaTac, Washington 99188 (hereinafter "CONTRACTOR").

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

1. CONTRACT DOCUMENTS

This Contract consists of these Terms and Conditions and the following documents:

a. Exhibit A - Washington State Functional Family Therapy Project Quality Assurance and Improvement System

2. DURATION OF CONTRACT

The term of this Contract shall begin on **July 1, 2020** and shall expire on **June 30, 2022**. The CONTRACTOR shall complete all work by the time(s) specified herein, or if no such time is otherwise specified, no later than the expiration date.

3. SERVICES PROVIDED

a. The CONTRACTOR will provide Functional Family Therapy (FFT) to youth referred by the Counties in accordance with the FFT model. This includes, but is not limited to:

   1. Concepts and practice contained in the most recent Blueprints for Violence Prevention: Functional Family Therapy.

2. Providing eligible moderate to high-risk youth and families with an average of twelve (12) sessions of family therapy that focuses on identifying obtainable goals and developing a behavior change program for the family.

3. Acceptance of Clinical Guidance as supplied by FFT, Inc, including engaging with the FFT Consultant in formal telephonic and in-person consultation as determined by the FFT Consultant.

4. Entry and monitoring of FFT clinical assessments and subsequent treatment plans of youth through FFT case-reporting system.

5. Providing FFT services in accordance with the FFT model and the Washington State FFT Project Quality Assurance and Improvement System/Plan, which is attached as Exhibit A to this Contract and incorporated herein by reference. This includes but is not limited to: the concepts and practice contained in the Functional Family Therapy Clinical Training Manual; the general precepts, practice, and assessment procedures contained in FFT Initial three-day training and the three two-day follow-up trainings.

6. Providing progress information on each youth/family served by the Contractor under this Contract as follows:

   Upon completion of each FFT session the Contractor will send a written status report to the youth's Juvenile Probation Counselor (JPC).

   No later than the 5th of each month, the Contractor will submit a written Session List to the Intervention Services Manager for each youth served under this Contract for the prior month, and upon successful completion or termination of a family from FFT services, the Contractor will submit a written final report to the Intervention Services Manager.

7. Participate in mutually agreed upon case staffing and program review meetings.

8. Maintain an approved level of proficiency with the FFT model as evaluated by the assigned FFT Consultant and the Juvenile Court Administrator.

9. Provide information on each FFT therapist's model adherence to the appropriate regional contact.

b. Additional FFT requirements include but are not limited to:

1. Youth served under this Contract shall be under the jurisdiction of the Benton-Franklin Counties Juvenile Justice Center during the FFT intervention. To assist in this supervision, the Contractor shall share pertinent information with the Counties and shall safeguard electronic and hard copy client information.

2. The Contractor shall meet monthly with the Counties' Intervention Prevention Service Manager or designee for program review.

3. Prior to services being initiated, the Contractor must receive a written referral for services by the Counties.

c. The Contractor agrees to accept up to a full caseload of FFT clients on behalf of the Benton-Franklin Juvenile Justice Center.

d. The CONTRACTOR agrees to provide its own labor and materials. Unless otherwise provided in this Contract, no material, labor, or facilities will be furnished by the COUNTIES.

e. The Contractor acknowledges that prior to entering into this Contract it is in receipt of, and is familiar with, the FFT model, practices, procedures, materials, and training referenced herein.

f. The CONTRACTOR shall perform the work specified in this Contract according to standard industry practice.

g. The CONTRACTOR shall complete its work in a timely manner and in accordance with the schedule agreed by the parties.

h. The CONTRACTOR shall confer with the COUNTIES from time to time during the progress of the work. The CONTRACTOR shall prepare and present status reports and other information that may be pertinent and necessary, or as requested by the COUNTIES.

4. CONTRACT REPRESENTATIVES

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

a. For CONTRACTOR:

Name:	Sharon Gentry
Address:	3321 West Kennewick Ave., Suite 150 Kennewick, WA 99336
Phone:	(509) 735-6446
Email:	sgentry@lcsnw.org

b. For COUNTIES:

Name:	Darryl Banks, Administrator
Address:	5606 W. Canal Place, Suite 106 Kennewick, WA 99336
Phone:	(509) 222-2316
Email:	Darryl.Banks@co.benton.wa.us

5. COMPENSATION

a. For the services performed under this Contract, the CONTRACTOR shall be paid as follows: At the rate $733.33 per family for the completion of each phase of the three (3) phase FFT Model, including engagement and motivation, behavior change and generalization, for a maximum of $2200.00 per family for completion of all three (3) phases including additional hours for ancillary duties (as described by the FFT Model).

b. The maximum total amount payable by the COUNTIES to the CONTRACTOR under this Contract shall not exceed Sixty Thousand Dollars ($60,000.00).

c. No payment shall be made for any work performed by the CONTRACTOR, except for work identified and set forth in this Contract.

d. The CONTRACTOR may submit invoices to the COUNTIES not more than once per month during the progress of the work for partial payment of the work completed to date. Invoices shall cover the time CONTRACTOR performed work for the COUNTIES during the billing period. The COUNTIES shall pay the

CONTRACTOR for services rendered in the month following the actual delivery of work and will remit payment within thirty (30) days from the date of receipt of the invoice.

e. The CONTRACTOR shall not be paid for services rendered under this Contract unless and until they have been performed to the satisfaction of the COUNTIES.

f. In the event the CONTRACTOR has failed to perform any substantial obligation to be performed by the CONTRACTOR under this Contract and such failure has not been cured within ten (10) days following notice from the COUNTIES, the COUNTIES may, in its sole discretion, upon written notice to the CONTRACTOR, withhold any and all monies due and payable to the CONTRACTOR, without penalty, until such failure to perform is cured or otherwise adjudicated. "Substantial" for the purposes of this Contract means faithfully fulfilling the terms of this Contract with variances only for technical or minor omissions or defects.

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

6. AMENDMENTS AND CHANGES IN WORK

a. In the event of any errors or omissions by the CONTRACTOR in the performance of any work required under this Contract, the CONTRACTOR shall make any and all necessary corrections without additional compensation. All work submitted by the CONTRACTOR shall be certified by the CONTRACTOR and checked for errors and omissions. The CONTRACTOR shall be responsible for the accuracy of the work, even if the work is accepted by the COUNTIES.

b. No amendment or modification shall be made to this Contract, unless set forth in a written Contract Amendment signed by both parties. Work under a Contract Amendment shall not proceed until the Contract Amendment is duly executed by the COUNTIES.

7. HOLD HARMLESS AND INDEMNIFICATION

a. The CONTRACTOR shall hold harmless, indemnify, and defend the COUNTIES and its officers, officials, employees, and agents from and against any and all claims, actions, suits,

liabilities, losses, expenses, damages, and judgments of any nature whatsoever, including reasonable costs and attorneys' fees in defense thereof, for injury, sickness, disability, or death to persons or damage to property or business, arising in connection with the work performed under this Contract, or caused or occasioned in whole or in part by reason of the presence of the CONTRACTOR or its subcontractors or their property upon or in the proximity of the property of the COUNTIES. PROVIDED, that the CONTRACTOR'S obligation hereunder shall not extend to injury, sickness, death, or damage caused by or arising out of the sole negligence of the COUNTIES or its officers, officials, employees, or agents.

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

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

8. INSURANCE

The CONTRACTOR shall obtain and maintain continuously the following insurance:

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

The coverage shall apply to liability for a professional error, act, or omission arising out of the scope of the CONTRACTOR'S services defined in this Contract. Coverage shall not exclude hazards related to the work rendered as part of the Contract or within the scope of the CONTRACTOR'S services as defined by this Contract. If the policy is claims made, the retroactive date shall be prior to or coincident with the effective date of this Contract. CONTRACTOR is required to maintain claims made professional liability insurance for a minimum of 36 months after the effective date of termination or completion of this Contract. If coverage is canceled or non-renewed and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the CONTRACTOR must purchase "extended reporting" coverage for a minimum of 36 months after the completion of work. The CONTRACTOR shall annually provide the COUNTIES with proof of all such insurance.

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

If CONTRACTOR, subcontractor, or sub-subcontractor fails to comply with all State of Washington workers compensation statutes and regulations and COUNTIES incurs fines or is required by law to provide benefits to or obtain coverage for such employees, CONTRACTOR shall indemnify the COUNTIES.

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

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

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

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

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

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

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

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

e. **Other Insurance Provisions:**

1. The CONTRACTOR'S liability insurance provisions shall be primary with respect to any insurance or self-insurance programs covering the COUNTIES or its elected and appointed officers, officials, employees, or agents. CONTRACTOR'S liability insurance policies must be endorsed to show this primary coverage. Any insurance, self-insured retention, deductible, or risk retention maintained or participated in by the COUNTIES shall be excess and not contributory to CONTRACTOR'S insurance policies.

2. The CONTRACTOR'S liability insurance policies shall contain no special limitations on the scope of protection afforded to the COUNTIES as an additional insured.

3. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the COUNTIES or its officers, officials, employees, or agents.

4. The CONTRACTOR'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5. The CONTRACTOR shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor.

All coverage for subcontractors shall be subject to all of the requirements stated herein.

6. The insurance limits mandated for any insurance coverage required by this Contract are not intended to be an indication of exposure nor are they limitations on indemnification. **If the CONTRACTOR maintains higher limits than the minimums required in this Contract, the COUNTIES shall be entitled to coverage for the higher limits maintained by the CONTRACTOR.**

7. The CONTRACTOR shall maintain all required policies in force from the time services commence until services are completed. Certificates, policies, and endorsements expiring before completion of services shall be promptly replaced. CONTRACTOR is required to maintain claims made professional liability insurance for a minimum of 36 months after the effective date of termination or completion of this Contract. All liability insurance required under this Contract, except for professional liability under Section 8(a), shall be written on an Occurrence Policy form.

8. CONTRACTOR hereby agrees to waive subrogation with respect to each insurance policy maintained under this Contract. When required by an insurer, or if a policy condition does not permit CONTRACTOR to enter into a pre-loss agreement to waive subrogation without an endorsement, then CONTRACTOR agrees to notify the insurer and obtain such endorsement. This requirement shall not apply to any policy which includes a condition expressly prohibiting waiver of subrogation by the insured or which voids coverage should the CONTRACTOR enter into such a waiver of subrogation on a pre-loss basis.

9. Compensation and/or payments due to CONTRACTOR under this Contract are expressly conditioned upon CONTRACTOR'S strict compliance with all insurance requirements. Payment to CONTRACTOR may be suspended in the event of non-compliance. Upon receipt of evidence of CONTRACTOR'S compliance, such payments not otherwise subject to withholding or set-off will be released to CONTRACTOR.

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

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

1. All insurance to be maintained by the CONTRACTOR, other than Professional Liability, Auto Liability, and Workers' Compensation, shall specifically include the COUNTIES and its elected officials, employees, and volunteers as an "Additional Insured" by way of endorsement and shall not be reduced or cancelled without thirty (30) days prior written notice to the COUNTIES. Any insurance or self-insurance maintained by the COUNTIES and its elected or appointed officials, employees, and agents shall be excess of the CONTRACTOR'S insurance and shall not contribute to it.

2. Certificates of Liability Insurance, with endorsements attached, must be provided to the COUNTIES' Contract Representative referenced in Section 4.

3. All written notices under this Section 8 and notice of cancellation or change of required insurance coverages shall be mailed to the COUNTIES' Contract Representative referenced in Section 4.

4. The CONTRACTOR or its broker shall provide a copy of any and all insurance policies specified in this Contract upon request of the Benton-Franklin Counties Juvenile Justice Center to the following address: 5606 West Canal Place, Suite 106, Kennewick, WA 99336.

9. TERMINATION

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

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

b. In the event that funding for this project is withdrawn, reduced, or limited in any way after the effective date of this Contract, the COUNTIES may summarily terminate this Contract notwithstanding any other termination provision in this Contract. Termination under this subsection shall be effective upon the date specified in the written notice of termination sent by COUNTIES to the CONTRACTOR. After the effective date, no charges incurred under this Contract shall be allowed.

c. If the CONTRACTOR breaches any of its obligations hereunder, and fails to cure the breach within ten (10) days of written notice to do so by the COUNTIES, the COUNTIES may immediately terminate this Contract by so notifying the CONTRACTOR, in which case the COUNTIES shall pay the CONTRACTOR only for the costs of services accepted by the COUNTIES, in accordance with the Compensation Section of this Contract. Upon such termination, the COUNTIES, at its discretion, may obtain performance of the work elsewhere, and the CONTRACTOR shall bear all costs and expenses incurred by the COUNTIES in completing the work and all damage sustained by the COUNTIES by reason of the CONTRACTOR'S breach.

10. ASSIGNMENT, DELEGATION, AND SUBCONTRACTING

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

b. The CONTRACTOR warrants that it has not paid, nor has it agreed to pay, any company, person, partnership, or firm, other than a bona fide employee working exclusively for the CONTRACTOR, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award or making of this Contract.

11. NON-WAIVER OF RIGHTS

The parties agree that the excuse or forgiveness of performance,

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

12. INDEPENDENT CONTRACTOR

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

b. The CONTRACTOR acknowledges that the entire compensation for this Contract is set forth in Section 5 of this Contract, and neither the CONTRACTOR, nor its employees are entitled to any COUNTIES benefits, including, but not limited to: vacation pay; holiday pay; sick leave pay; medical, dental, or other insurance benefits; fringe benefits; or any other rights or privileges afforded to COUNTIES employees.

c. The CONTRACTOR shall have and maintain complete responsibility and control over all of its subcontractors, employees, agents, and representatives. No subcontractor, employee, agent, or representative of the CONTRACTOR shall be, deem to be, act, or purport to act as an employee, agent, or representative of the COUNTIES.

d. The CONTRACTOR shall pay for all taxes, fees, licenses, or payments required by federal, state, or local law that are now or may be enacted during the term of this Contract.

e. The CONTRACTOR agrees to immediately remove any of its employees or agents from their assignment to perform services under this Contract upon receipt of a written request to do so from the COUNTIES' Contract Representative, or designee.

13. COMPLIANCE WITH LAWS

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

14. OTHER PROVISIONS

The Contractor shall comply with the following other provisions for all services provided under this Contract.

a. Background Check/Criminal History

1. Contractor shall authorize Counties to conduct a background check of the Contractor. The background check may include, but is not limited to, a review of records on file with the Washington State Patrol, the FBI National Criminal Information Computer (NCIC) and Interstate Identification Index (III), local law enforcement agencies, the Department of Licensing, courts of law, and other agencies, and also may, depending upon assignment of Contractor, involve fingerprinting.

2. In accordance with chapters 388-700 WAC, 72.05 RCW, and 43.20A RCW the Contractor shall be required to conduct background check/criminal history clearance for all employees, subcontractors, and/or volunteers who may or will have regular access to any client/juvenile.

3. In addition, the Contractor may also be required to conduct background check/criminal history clearance for employees, subcontractors, and/or volunteers, who may or will have limited access to any client/juvenile.

b. Sexual Misconduct

1. The Contractor shall ensure all employees, subcontractors, and/or volunteers are knowledgeable about the requirements of RCW 13.40.570 and of the new crimes included in RCW 9A.44, Sex Offenses.

2. The Contractor shall ensure that written notification must occur within seven (7) days of a conviction or plea of guilty to any offenses as defined in RCW 9.94A.030 and RCW 9A.44.130, any crime specified in Chapter 9A.44 RCW when the victim is a juvenile and any violent offense as defined in RCW 9.94A.030. Such notification will be directed to the Office of the Juvenile Court Administrator, Benton-Franklin Counties Juvenile Justice Center, 5606 West Canal Place, Suite 106, Kennewick WA 99336-1388.

15. INSPECTION OF BOOKS AND RECORDS

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

16. NONDISCRIMINATION

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

17. OWNERSHIP OF MATERIALS/WORKS PRODUCED

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

b. An electronic copy of all word processing documents shall be submitted to the COUNTIES upon request and/or at the expiration of the Contract, using the word processing program and version specified by the COUNTIES.

18. PATENT/COPYRIGHT INFRINGEMENT

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

in writing by the COUNTIES of any notice of such claim.

19. DISPUTES

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

20. CONFIDENTIALITY

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

21. CHOICE OF LAW, JURISDICTION, AND VENUE

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

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

22. SUCCESSORS AND ASSIGNS

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

23. SEVERABILITY

a. If a court of competent jurisdiction holds any part, term, or provision of this Contract to be illegal or invalid, in whole or in part, the validity of the remaining provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as if this Contract did not contain the particular provision held to be invalid.

b. If it should appear that any provision of this Contract is in conflict with any statutory provision of the State of Washington, said provision which may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform to such statutory provision.

24. ENTIRE AGREEMENT

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

25. NOTICES

Any notices provided under this Contract shall be effective if personally served upon the other party or if mailed by registered or certified mail, return receipt requested, to the mailing addresses set out in Section 4 of this Contract. Notice may also be given via e-mail to the Contract Representatives' e-mail addresses identified in Section 4 of this Contract, with the original notice to follow by regular mail. Notice shall be deemed to be given three (3) days following the date of mailing or immediately if personally served. For service by e-mail, service shall be effective at the beginning of the next working day.

26. SURVIVABILITY

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

27. LITIGATION HOLD NOTICE

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

28. PUBLIC RECORDS ACT

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

- This section left blank intentionally -

IN WITNESS WHEREOF, the parties have caused this Contract to be signed by their duly constituted legal representatives, and it is effective on July 1, 2020.

The parties specifically certify that the provisions contained within Section 8 are mutually negotiated.

Lutheran Community Services Northwest	**Benton Franklin Counties Juvenile Justice Center**
May 30, 2020	6-9-2020
David Duea Date **President & CEO**	**Darryl Banks** Date **Juvenile Court Administrator**
BENTON COUNTY APPROVAL Approved as to Form: 060520 Stephen Hallstrom, Deputy Prosecuting Attorney Date	**FRANKLIN COUNTY APPROVAL** Approved as to Form: Civil Deputy Prosecuting Attorney Date
By: _____ Name: _____ Title: _____ Date: _____	By: _____ Name: _____ Title: _____ Date: _____
Attest: Clerk of the Board: _____	Attest: Clerk of the Board: _____

EXHIBIT A
Washington State Functional Family Therapy Project
Quality Assurance and Improvement System
Updated June 2010

Introduction

The Washington State Functional Family Therapy Project is dedicated to implementing Functional Family Therapy with high model fidelity. Recent evidence suggests that evidence-based intervention programs depend on high model fidelity for successful outcomes (WSIPP 2004). In Functional Family Therapy, model fidelity is based on the dimensions clinical adherence to the principles and interventions of the model as well as the competent delivery of the model. Ensuring model fidelity in a community based system of care requires an ongoing systematic system of both quality assurance and quality improvement. Quality assurance involves the ongoing and accurate monitoring and tracking of reliable measures of model implementation. Quality improvement involves the systematic implementation of activities to improve accurate implementation of the intervention.

In the sections below, the principles and protocols for the Washington State Functional Family Therapy Quality Assurance and Improvement system are outlined.

Principles of Quality Assurance and Improvement

Given the sensitive nature of quality assurance information it is important to clearly identify the principles of the model prior to implementation. The Washington State FFT quality assurance and improvement system is based on the following principles:

1. The primary goal of this system of quality assurance is improvement of the delivery of FFT. As such, quality assurance information is:
    - Intended for use primarily by FFT clinical consultants who are most capable of determining systematic improvement plans. The FFT Consultant must adhere to model fidelity and exhibit clinical competence. (see FFT Consultant QA standards)
    - It is not intended as a tool for routine program administration. While Juvenile Court and/or Regional Administrators need aggregate and summarized information that informs overall program implementation, specific clinical data is most useful as a tool for clinical supervision.
    - Therapists should be provided with accurate and timely feedback directly from the FFT clinical consultant. Therapists who perform below the national standards of model fidelity should be presented with a systematic plan for improvement.
    - Therapists who, after all attempts at improvement, continue to demonstrate model fidelity outcomes below the minimal national standard should not practice the FFT model.
    - Quality assurance information is intended for employment status decisions only after all possible improvement strategies have been attempted.

2. Monitoring and Tracking model fidelity (quality assurance) must be based on:

- reliable and valid measures
- from multiple domains (dissemination adherence and fidelity as outlined in the FFT supervision manual)
- based upon multiple measures (specific case level ratings, global therapist rating) gathered from different and relevant perspectives (FFT clinical consultant and client)
- Incremental measurement, that is, more specific measures of fidelity are only undertaken when global ratings suggest that more specific and time intensive measures are necessary

3. Quality improvement is based upon:
    - Ongoing, specific, and timely feedback based on accurate measure of model fidelity (adherence and competence).
    - A systematic and individualized plan of therapist improvement

Quality Assurance

Functional Family Therapy (FFT) has developed a comprehensive Adherence Protocol that is central to successful implementation of FFT. The Web-based computer monitoring and tracking application (Clinical Services System-FFT CSS) is the mechanism to gather, manage and feedback multiple fidelity ratings while also providing real time feedback to therapists and clinical consultants. No single measure adequately portrays therapist dissemination adherence and fidelity. In the FFT system, five measures of quality assurance are used to monitor and track model fidelity.

Quality assurance instruments:

1. Progress Notes (Therapist Report)

    At each treatment encounter therapists report on interventions used in sessions to accomplish phase goals and the progress they believed was made in accomplishing these goal(s).

    Goal:

    - To obtain the therapist perspective of the process of FFT at the level of intervention.
    - To provide feedback to the clinical consultant regarding the therapist clinical decision making processes.
    - To provide specific areas of concern to be targeted by the clinical consultant in weekly consultation.

    Process:

    - Therapists complete the progress notes following each session and enter the progress note on the FFT-CSS.
    - Clinical consultants review the therapist's progress notes during weekly consultation and determine areas to provide focused help and assistance.

2. Family Self Report (FSR) and Therapist Self Report (TSR)

    The Family Self Report (FSR) is a 7-item instrument measuring the client/family experiences in FFT. All family members complete the FSR after the first and the

second session of every phase (Engagement and Motivation, Behavior Change, and Generalization.

Goal:

- To obtain the family perspective on their experience in therapy.

Process:

- Families complete the FSR at the above stated intervals.
- FSR's are entered into the CSS by the FFT therapist. FSR's are available for therapist review for self-monitoring.
- Ratings are maintained in the FFT-CSS for use in consultation.

The Therapist Self Report (TSR) is a 6 item instrument measuring the therapist experience of alliance with family members. Therapist will complete the TSR after the 1st and second session of every phase (Engagement and Motivation) Behavior Change Phase, and Generalization.

Goal:

- To obtain the therapist perspective on their experience of alliance with the family.

Process:

- Therapists complete the TSR at the above stated intervals TSR's are entered into CSS by the FFT therapist.
- Ratings are maintained in the FFT-CSS for use in consultation.

3. Weekly Dissemination Adherence & Fidelity ratings (Clinical Consultant Report). At weekly consultation, FFT clinical consultants rate each FFT therapist on levels of Dissemination Adherence (application of the necessary technical elements that occur outside of the therapy sessions ie. Progress note completion, assessment completion) and Fidelity (clinical adherence and clinical competence ie. the use of model interventions as appropriate by phase and implemented in ways that are unique to family) These ratings represent the FFT therapist's dissemination adherence and fidelity in the case discussed during weekly consultation. Global Dissemination and Fidelity can be determined from ratings of each construct over time (across cases).

   Goal:

   - To identify specific issues of therapist dissemination adherence and fidelity.
   - Identify specific issues of group dissemination adherence and fidelity.
   - Provide focused consultation to the working group.

   Process:

   - Ratings are maintained in the FFT-CSS for use in consultation.
   - Issues of dissemination adherence and fidelity addressed in weekly consultation.

- Weekly dissemination adherence and fidelity ratings are entered into the CSS by the FFT clinical consultant. The CSS produces a report of these ratings over time for use by the clinical consultant.

4. Global Therapist Rating (Clinical Consultant Report)

   The Global Therapist rating (FFT-GTR) is a 35-item instrument completed by the FFT clinical consultant a minimum of three times each year. The global rating includes assessments of model principles, specific phase based practice, and service delivery profile.

   Goal:
   - To identify therapist dissemination adherence and fidelity in FFT.
   - Provide specific information to therapist and site regarding performance.
   - Identification of therapists in need of additional training.

   Process:
   - Global Therapist Rating completed by the FFT clinical consultant.
   - Global therapist ratings are entered into the CSS by the FFT clinical consultant. The CSS generates a report of these ratings.
   - Global Therapist Ratings are reported to FFT Quality Assurance Administrator for dissemination to Juvenile Court and/or Regional Administrators.
   - FFT clinical consultant provides verbal feedback to therapist.

5. Environmental Feedback Report (FFT QA Administrator Report)

   The Environmental Report is an evaluation of the work environment that supports the therapist's adherence and competence to the FFT model. The Environmental Feedback Report is completed annually by the FFT Quality Assurance Administrator.

   Goal:
   - To identify program environment barriers to successful FFT implementation.
   - To identify assessment and referral processes that support or negatively impact successful FFT implementation.
   - To provide specific and written feedback to the program in order to enhance the delivery of FFT services.

   Process:
   - Environmental feedback report is drafted by the FFT Quality Assurance Administrator.
   - Environmental feedback report sent to the Juvenile Court Administrator for review and potential discussion.
   - Action plan developed (if necessary).

Quality Improvement System

Quality Improvement System is based on the principle that therapists should receive specific and timely information regarding their performance. Successful quality

improvement is based on concrete feedback that allows for individualized plans for improvement. Feedback should come from first from the immediate clinical consultant, followed by the FFT State Quality Assurance Administrator.
When a therapist's performance falls below the national standard, the following steps will occur. Administrators will receive reports regarding therapist performance every 90-120 days. When informal improvement plans are implemented, juvenile court and/or Regional Administrators will be notified. When formal improvement plans are required, Juvenile Court and/or Administrators are involved in the development of the plan.

Step 1: Individual Consultation with Therapist

- FFT clinical consultant will call the therapist individually and discuss the issues of concern and develop an individualized method for therapist improvement.
- Individual Consultation with the therapist is the result of one or more of the following: a series of weekly supervision ratings below the standard, problems with therapist progress notes, inconsistent use of CSS and service delivery profile below the national standard (less than five active families for an extended period of time, less than an average of three sessions per family per month for an extended period of time, cases open longer than four months consistently).

Step 2: Informal Improvement Plan

- If therapist adherence performance does not improve the FFT clinical consultant will work with the state FFT Quality Assurance Administrator to develop an informal plan.
- The State FFT Quality Assurance Administrator will consult with the Juvenile Court and/or Regional Administrator to inform them of the ongoing concerns and informal plan development.
- The informal improvement plan may include additional adherence monitoring, individual supervision, or additional training.
- If the informal improvement plan does not result in improved adherence within three months, a formal improvement plan will be implemented.

Step 3: Formal Improvement Plan

- If therapist adherence performance does not improve under the informal improvement plan or if there is risk of harm to clients because of the therapist's performance, a formal improvement plan will be developed lasting not more than six months. The CJAA Advisory Committee and/or Regional Administrators will be informed of formal improvement plans by the FFT Quality Assurance Administrator. Any problems implementing the improvement plan will be referred to the WAJCA Executive Board. This formal plan can include but is not limited to:
    - Increased CSS monitoring (weekly)
    - Co-visits
    - Additional consultation with clinical consultant
    - Reading assignments
    - Videotape instruction
    - Additional formal training – initial three-day or two-day follow up

- Audio/Video Tape Rating – process used will be as follows:
    a. FFT therapist audio or videotapes two FFT sessions.
    b. Tapes submitted to FFT clinical consultant, who, in consultation with FFT Quality Assurance Administrator and FFT LLC determines the tape rater.
    c. Video Tapes rated using the FFT-GRT system.
    d. Specific feedback provided to the FFT therapist and may be provided to Juvenile Court and/or Administrator.

Step 4: Removal from FFT Practice

- If therapist adherence performance does not improve under the formal improvement plan, the FFT Quality Assurance Administrator may recommend to the Washington State CJAA Advisory Committee that the therapist be removed from active FFT practice because they are no longer qualified to perform FFT Therapy.

Quality Assurance and Improvement Process

The quality assurance and improvement system is ongoing. The primary goal for new and experienced therapists is to identify problems of model adherence and provide assistance so the therapist can improve their practice. The goal with newly trained FFT therapist is to identify concerns with model fidelity early so additional training and supervision can be provided; for experienced therapists, the goal is to prevent model drift.

New Therapists

Subsequent to the initial three-day clinical training the following steps will occur during the first year of FFT practice.

Training/ Clinical Activity	Quality Assurance/Improvement Activity	Quality Improvement Activities/Action
Initial Clinical Training	Observation	Overall assessment provided to Juvenile Court and/or Regional Administrator on all therapists following initial training by FFT Quality Assurance Administrator
FFT Cases (on going, minimum of five active for part time therapists and 10-12 cases for full time therapists)	Progress note FSR and TSR Monthly Session Average Based on 1 hour session per family per week	*Activity:* Information monitored by FFT clinical consultant through CSS and weekly consultation *Action:* FFT clinical consultant provides feedback in weekly consultation
Consultation (on going,	Weekly Supervision Checklist	*Activity:* Supervision Rating entered on the CSS by

minimum of four hours per month)		FFT clinical consultant *Action:* Information monitored by FFT clinical consultant and FFT Quality Assurance Administrator
Follow-up training #1 (Approximately 90 days after initial training)	FFT trainer provides feedback to FFT clinical consultant and FFT Quality Assurance Administrator	*Activity:* Verbal feedback provided to FFT clinical consultant based on therapist participation *Action:* FFT clinical consultant incorporates feedback into weekly consultation
Follow-up training #2 (Approximately six months after initial training)	FFT trainer provides feedback to FFT clinical consultant and FFT Quality Assurance Administrator	*Activity:* Verbal feedback provided to FFT clinical consultant based on therapist participation *Action:* FFT clinical consultant incorporates feedback into weekly consultation
Follow-up training #3 (Approximately nine months after initial training)	FFT trainer provides feedback to FFT clinical consultant and FFT Quality Assurance Administrator	*Activity:* Verbal feedback provided to FFT clinical consultant based on therapist participation *Action:* FFT clinical consultant incorporates feedback into weekly consultation
Global Therapist Rating(GTR) (ongoing every 90-120 days)		*Activity:* GTR entered on the CSS *Action:* • GTR completed by FFT clinical consultant • GTR feedback provided to therapist by FFT clinical consultant • GTR reviewed by FFT Quality Assurance Administrator • Juvenile Court and/or Regional Administrators provided with GTR adherence/competence levels of each therapist at their site by FFT Quality Assurance Administrator

Timeline for experienced FFT Therapists

Training/ Clinical Activity	Quality Assurance/Improvement Activity	Quality improvement Activities/Action
FFT Cases (on going, minimum of five active for part time therapists and 10 -12 for full time therapists)	Progress note FSR and TSR Monthly Session Average Based on 1 hour session per week per family	*Activity:* Information monitored by FFT clinical consultant through CSS and weekly consultation *Action:* FFT clinical consultant provides feedback in weekly consultation
Consultation (on going, minimum of four hours per month)	Weekly Supervision Checklist	*Activity:* Supervision Rating entered on the CSS by FFT clinical consultant *Action:* Information monitored by FFT clinical consultant and FFT Quality Assurance Administrator
Global Therapist Rating(GTR) (ongoing every 90-120 days)		*Activity:* *a.* GTR entered on the CSS *Action:* • GTR completed by FFT clinical consultant • GTR feedback provided to therapist by FFT clinical consultant • GTR reviewed by FFT Quality Assurance Administrator • Juvenile Court and/or Regional Administrators provided with GTR adherence/competence levels of each therapist at their site by FFT Quality Assurance Administrator
Informal Improvement Plan	Global Therapist Rating CSS Review	*Activity:* a. GTR entered on the CSS b. CSS reviewed for service delivery profile including review of Weekly Supervision Checklists

	Weekly Supervision Checklist	*Action:* a. Overall feedback provided to therapist by FFT clinical consultant b. Informal agreement developed outlining areas for therapist to focus on in the next three month period. (The informal improvement plan may include additional adherence monitoring, individual supervision, and/or additional training) c. Informal plan shared by FFT clinical consultant with FFT Quality Assurance Administrator d. Juvenile Court and/or Regional Administrators may be provided with elements of the informal improvement plan for the therapist at their site by FFT Quality Assurance Administrator, if deemed necessary

Formal Improvement Plan (upon unsuccessful completion of informal improvement plan not to last more than six months)	Global Therapist Rating CSS Review Weekly Supervision Checklist Informal Plan Outcome	*Activity:* a. GTR entered on the CSS b. CSS reviewed for service delivery profile including review of Weekly Supervision Checklists c. Outcome of informal improvement plan items reviewed *Action:* a. Formal plan drafted by FFT Quality Assurance Administrator in concert with FFT clinical consultant b. Formal plan presented to FFT therapist by FFT Quality Assurance Administrator and FFT clinical consultant c. The CJAA Advisory Committee and/or Regional Administrators will be informed of formal improvement plans by the FFT Quality Assurance Administrator. Any problems implementing the improvement plan will be referred to the WAJCA Executive Board.

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	July 14, 2020
Subject:	Award & execute contract with Intermountain West Insulation & Garage Doors for the Badger Mountain Westgate Trail Head Maintenance Building Insulation project
Presenter:	
Prepared By:	slc
Reviewed By:	R. Blain

Type of Agenda Item:	**Type of Action Needed:**	
☒ Consent Agenda	☐ Discussion Only (1st)	☐ Pass Motion
☐ Public Hearing	☐ Discussion Only (2nd)	☒ Pass Resolution
☐ Scheduled Business	☐ Decision/Direction	☐ Pass Ordinance

Summary / Background Information

Quotes were solicited for the Badger Mountain Westgate Trail Head Maintenance Building Insulation project. Three quotes were received. Intermountain West Insulation & Garage Doors was the lowest bidder at $9,123.00 plus WSST. The Director of Operations and Capital Programs recommends award of the bid to Intermountain West Insulation & Garage Doors.

A contract has been prepared; and reviewed and approved as to form by the departmental assigned Deputy Prosecuting Attorney from the Civil Division; and has been executed by Intermountain West Insulation & Garage Doors. The Director of Operations and Capital Programs recommends the Chairman sign said contract.

Fiscal Impact

Amount: Not to exceed $11,000.00

Fund: Capital Projects Fund

Recommendation

It is recommended by the Director of Operations and Capital Programs that the Board concur and award the contract to Intermountain West Insulation & Garage Doors and authorize the Chairman to sign the contract.

Suggested Motion

Approve as part of the Consent Agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AWARDING A CONTRACT TO INTERMOUNTAIN WEST INSULATION & GARAGE DOORS, KENNEWICK, WASHINGTON FOR THE BADGER MOUNTAIN WESTGATE TRAIL HEAD MAINTENANCE BUILDING INSULATION PROJECT AND AUTHORIZING THE CHAIRMAN TO SIGN SAID CONTRACT

WHEREAS, the maintenance building at the Badger Mountain Westgate Trail Head needs to be insulated and quotes were solicited from local contractors; and

WHEREAS, the following three quotes were received from contractors:

Intermountain West Insulation & Garage Doors (IWIINI*111MU) Kennewick, WA	$ 9,123.00 plus WSST
D & R Insulation LLC (DRINSIL845MH) Kennewick, WA	$ 9,988.80 plus WSST
Smith Insulation, Inc. (SMITHII032BI) Kennewick, WA	$10,141.60 plus WSST

WHEREAS, the Director of Operations and Capital Programs reviewed the quotes for completeness and recommends awarding said project to Intermountain West Insulation & Garage Doors, Kennewick, WA as the lowest bidder; and

WHEREAS, a contract has been prepared, and reviewed and approved as to form by the departmental assigned Deputy Prosecuting Attorney from the Civil Division, and has been executed by Intermountain West Insulation & Garage Doors; and

WHEREAS, the Director of Operations and Capital Programs recommends the Chairman sign said contract; **NOW, THEREFORE,**

BE IT RESOLVED, the Board of Benton County Commissioners concurs with the Director of Operations and Capital Program's recommendation and awards the bid for insulating the Badger Mountain Westgate Trail Head Maintenance Building to Intermountain West Insulation & Garage Doors in the amount not to exceed $11,000.00 including WSST; and

BE IT FURTHER RESOLVED, the Board hereby authorizes the Chairman of the Board of County Commissioners to sign on behalf of Benton County said contract to Intermountain West Insulation; and

BE IT FURTHER RESOLVED, the Director of Operations and Capital Programs is hereby authorized to proceed with the Badger Mountain Westgate Trail Head Maintenance Building Insulation project according to the terms of the contract; and

BE IT FURTHER RESOLVED, the contract shall begin on the date last signed and shall expire on September 30, 2020.

Dated this 14th day of July 2020.

_____
Chairman

_____
Chairman Pro-Tem

_____
Member

Attest:_____
Clerk of the Board

Constituting the Board of County Commissioners of Benton County, Washington

Orig.: Public Works

S. Christen

Intermountain West Insulation & Garage Doors
9304 W. Clearwater Dr. Ste A Kennewick WA 99336
Office: (509) 735-8411 Fax: (509) 783-6600
Contract Registration # IWIINI*111MU
E-mail: davea@iwinsulation.com
www.iwinsulation.com

Insulation Quote

HBA member '90

Client Information

Name	Benton County Capital Programs Robert Blain
Address	Badger Mountain Westgate Trail Head Tan & brown pole building
City, State	Richland WA 99352
Phone	736-2704 Fax
Email	robert.blain@co.benton.wa. Cell Robert cell 378-5532

Billing Address	7122 W Okanogan Pl Bldg A
City, State	Kennewick 99336
Bid Date	6/2/20
Good Until	90 days

Qty	Description		Unit Price	TOTAL
	Prevailing wages apply			$ -
				$ -
				$ -
				$ -
1260	Under roof insulation	R-25x24 + VR facing tape seams 19'	$2.35	$ 2,961.00
2000	Exterior wall insulation	R-19 FSK + stick pin support/safety caps 14'	$2.00	$ 4,000.00
150	Gable ends insulation	R-19 FSK + stick pin support/safety caps 19'	$3.50	$ 525.00
458	Seal flutes @ base, top, slopes & corners posts. Foam/caulk		$1.50	$ 687.00
1	Manlift		$950.00	$ 950.00
				$ -
				$ -
	Alternate systems > advantage will be more resistant to impacts, rodents, dust & insects.			
	2" closed cell spray foam under roof cost is $4410			$ -
	1" closed cell spray foam exterior walls/gable ends cost is $3,980			$ -
	Ignition barrier coating cost is $7680.00			$ -
				$ -
	Notes			$ -
	Flat framed walls/gable ends require curtain hung insulation between poles.			$ -
				$ -
				$ -
				$ -
				$ -

Invoices: walls/Floor Attic

If we arrive at job site and job is not ready, trip charge of $____ will be charged. We require 24 hrs notice to cancel job.

Production Notes:
250 ft per ruler, seal attic boxes

Subtotal		$ 9,123.00
Options from below		
Sales Tax	8.60%	$ 784.58
Total		$ 9,907.58

Acceptance of this bid, indicated by contractor's signature or verbal authorization to begin work, requires contractor to pay all legal costs, attorney fees, and all other expenses involved in the event legal action is necessary for the collection of this quotation.

Contractor Signature: _____

Salesman: David L. Adams

Cell: (509) 947-5828

	Options (Not included in subtotal)	Price	Option Totals	Credits	Code

HIGH PERFORMANCE HPIP INSULATION PROFESSIONALS

IDA International Dust Association

NORTHWEST ENERGY STAR HOMES

CERTIFIED ENERGY EXPERT

Offering 10 year warranty, Foam Spray, Paint, Epoxy Floors & Pressure Washing

D&R Insulation LLC

4602 W Imnaha Ave Kennewick WA 99336
Phone: 509-619-4931
Email: patty@drinsulationllc.com
Web: www.drinsulationllc.com
WA LIC: DRINSIL845MH OR LIC: 225824

CLIENT INFORMATION

Name: Robert Blain
Property Address: 5305 E PR 210 NE Richland WA
Date: 06/11/2020

INSULATION BID GOOD FOR 60 DAYS

PLEASE CONTACT PATTY FOR SCHEDULING *509.619.4931*

INSULATION BID

Description:

Insulation Install – Ceiling R-21x23+WMPV
Insulation Install – Walls R-21x23+WMPV
Penetrations
Prevailing Wage

Base Price - $9,988.80
Sales Tax NOT Included In Base Price

*****LIFT PROVIDED BY CLIENT...**
IF LIFT PROVIDED BY D&R AN ADDITIONAL CHARGE OF $395 WILL BE ADDED TO FINAL INVOICE***

D&R Representative: _____ Date: _____

Client Representative: _____ Date: _____

Note: Once work is completed and should legal action be necessary to collect payment for this bid, client will be responsible for all attorney fees, legal costs, and all other expenses. Client acceptance of this bid may be by verbal approval or by signing above.

PROPOSAL

Smith Insulation, Inc.

Contractor Since 1946

License Number: SMITHII032B1

Main Office • *49 Wallula Avenue* • *Walla Walla, WA 99362-9143* • *Phone* **(509) 529-7506** • *Fax (509) 529-9431*
Branch office • *331 West Columbia Drive* • *Kennewick, WA 99336-3655* • *Phone* **(509) 586-0408** • *Fax (509) 582-7572*

PROPOSAL SUBMITTED TO:		PHONE:	FAX:
Robert Blane		509-736-2704	
BILLING ADDRESS		JOB NAME:	
5305 E PR210			
CITY, STATE & ZIP		JOB LOCATION	
Richland, WA			
DATE	CONTACT NAME	E-MAIL	JOB SITE PHONE #:
6-8-20		Robert.blain@co.benton.wa.us	

We hereby submit estimates for;
Insulate exterior walls to R-25 w/white WMP50, Secure using pins and round caps
Insulate ceiling to R-25 w/white WMP50, secure using staples
Seal all penetrations and ribs in metal w/foam
Total: $10141.60 +tax
This is bid as a prevailing wage job

We Propose hereby to furnish material and labor – complete in accordance with the above specifications, for the sum of: _____ Dollars ($).

TERMS & CONDITIONS: _____
ADD (5%) Charge for Credit Card Payments. THIS IS YOUR NOTICE OF INTENT TO LIEN IF NOT PAID WITH-IN TERMS.
Seller shall have the option of assessing a past due account with a late charge payment of 11/2% per month, $2.00 min. fee.

** All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from the above specifications involving extra costs, become an additional charge over and above this estimate. All agreements are contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Smith Insulation, Inc. workers are fully covered by Workman's Compensation Insurance.

Authorized
Signature: James A. McEwen

This PROPSAL may be withdrawn if not accepted within 60 DAYS

Acceptance of Proposal – The above prices, specifications, terms and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Date of Acceptance: _____

Signature: _____

Signature: _____

BENTON COUNTY
PUBLIC WORKS CONTRACT

TERMS AND CONDITIONS

THIS CONTRACT is made and entered into by and between **BENTON COUNTY**, a political subdivision with its principal offices at 620 Market Street, Prosser, WA 99350 (hereinafter "COUNTY"), and **INTERMOUNTAIN WEST INSULATION & GARAGE DOORS**, a corporation organized under the laws of the State of Washington with its principal offices at 9304 W. Clearwater Dr., Ste. A, Kennewick, WA 99336 (hereinafter "CONTRACTOR").

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

1. CONTRACT DOCUMENTS

This Contract consists of these Terms and Conditions and the following documents:

a. Exhibit A – Insulation Quote dated June 2, 2020;
b. Exhibit B – Washington State Prevailing Wage Rates for Public Works Contracts;
c. Exhibit C – Certifications
d. Exhibit D – Certification of Compliance with Wage Payment Statutes

2. DURATION OF CONTRACT

The term of this Contract shall begin on the date last signed and shall expire on September 30, 2020. The CONTRACTOR shall complete all work by the time(s) specified herein, or if no such time is otherwise specified, no later than the expiration date.

3. SERVICES PROVIDED

a. The CONTRACTOR shall provide installation of insulation to the Badger Mountain Westgate Trail Head Maintenance Building at 5305 E. PR210, Richland, WA. A detailed description of the services to be performed by the CONTRACTOR is set forth in Exhibit A, "Insulation Quote" which is attached hereto and incorporated herein by reference.

b. In the event that the requested work encompasses work that is legally required to be completed by another type of contractor, CONTRACTOR shall inform COUNTY of that fact and shall coordinate with COUNTY to complete the work in conjunction with the other contractor. In the event that the requested work requires, under State or local law, the issuance of a building or other permit, CONTRACTOR shall be responsible for procuring such permit and arranging for inspection and certification of the work. CONTRACTOR may bill COUNTY for the full cost of the permit and any labor time for any of its employees involved in the permitting process, but may not charge any additional processing or other fees that it does not actually incur.

c. Upon completion of services, CONTRACTOR shall ensure that a completed work order, detailing the work done, the time expended, and the parts used, is remitted to the COUNTY's Contract Representative, or his or her designee, prior to the CONTRACTOR leaving the work site.

d. The CONTRACTOR agrees to provide its own labor and materials. Unless otherwise provided in this Contract, no material, labor, or facilities will be furnished by the COUNTY.

e. The CONTRACTOR shall perform the work specified in this Contract according to standard industry practice.

f. The CONTRACTOR shall complete its work in a timely manner and in accordance with the schedule agreed by the parties.

g. The CONTRACTOR shall confer with the COUNTY from time to time during the progress of the work. The CONTRACTOR shall prepare and present status reports and other information that may be pertinent and necessary, or as may be requested by the COUNTY.

4. CONTRACT REPRESENTATIVES

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

a. For CONTRACTOR:

Name:	David Adams
Address:	9304 W. Clearwater Dr., Ste. A Kennewick, WA 99336
Phone:	509-735-8411
Email:	davea@iwinsulation.com

b. For COUNTY:

Name:	Robert Blain, Director of Operations and Capital Programs
Address:	7122 W. Okanogan Place, Bldg. A Kennewick, WA 99336
Phone:	509-736-2704
Email:	robert.blain@co.benton.wa.us

5. COMPENSATION

a. For the services performed under this Contract, the CONTRACTOR shall be paid at the rates set forth in Exhibit A, "Insulation Quote", which is attached hereto and incorporated herein by reference.

b. The maximum total amount payable by the COUNTY to the CONTRACTOR under this Contract shall not exceed Eleven Thousand Dollars and Zero Cents ($11,000.00), including W.S.S.T.

c. Prior to any compensation being paid, CONTRACTOR shall submit a Statement of Intent to Pay Prevailing Wages via https://secureaccess.wa.gov/ and then forward a copy of the statement to COUNTY'S Contract Representative. At the completion of all work contemplated by this Contract,

or at the end of the contract term, whichever comes first, CONTRACTOR shall submit an Affidavit of Wages Paid via https://secureaccess.wa.gov/ and then forward a copy of the affidavit to COUNTY'S Contract Representative. No final payment will be made until the affidavit is provided. COUNTY requires that all Statements of Intent to Pay Prevailing Wages and Affidavits of Wages Paid be filed electronically with https://secureaccess.wa.gov/.

d. The CONTRACTOR may invoice the COUNTY for filing fees paid to the Washington State Department of Labor and Industries for filing one Statement of Intent to Pay Prevailing Wages per year and one Affidavit of Wages Paid per site visit when billable work is performed.

e. No payment shall be for any work performed by CONTRACTOR, except for work identified and set forth in this Contract.

6. INVOICING

a. The CONTRACTOR may submit invoices to the COUNTY for services that have been performed as they are performed, but shall not submit invoices more than once per calendar month. Such invoices shall detail the work done, the personnel involved, and the date of service and shall also reference the work order provided to COUNTY as required in Section 3.c. of this Contract.

b. Before or at the time that the CONTRACTOR submits its first invoice, the CONTRACTOR and any subcontractors and sub-subcontractors employed by the CONTRACTOR for the work contemplated by this Contract shall submit a Statement of Intent to Pay Prevailing Wages via https://secureaccess.wa.gov and then forward a copy of the statement to the COUNTY's Contract Representative.

c. The CONTRACTOR shall not be paid for work rendered under this Contract until all required parties have executed and submitted a Statement of Intent to Pay Prevailing Wages in accordance with this section and the work has been performed to the satisfaction of the COUNTY. The COUNTY shall only be liable to pay for invoiced amounts that are detailed and supported as described in this section. The COUNTY shall authorize payment when the work billed is accepted by the COUNTY and will remit payment for the accepted work, less any retainage or other legally withheld funds, within thirty (30) days after receiving the invoice.

d. For each invoiced and approved payment due to the CONTRACTOR under this section, the COUNTY shall withhold from the earned portion of the payment (*i.e.* that portion excluding sales tax or other tax) five percent (5%) as a contract retainage, pursuant to RCW 60.28.011 and in accordance with chapter 60.28 RCW. Within ten (10) days following the execution of this Contract, the CONTRACTOR shall submit written notice to the COUNTY stating the method it has elected pursuant to RCW 60.28.011(4) for the holding of moneys retained by the COUNTY. If such written election is not received by the COUNTY, then the COUNTY may choose any method allowed by RCW 60.28.011(4)(a)-(c) for holding the retained moneys.

7. AMENDMENTS AND CHANGES IN WORK

a. In the event of any errors or omissions by the CONTRACTOR in the performance of any work required under this Contract, the CONTRACTOR shall make any and all necessary corrections without additional compensation. All work submitted by the CONTRACTOR shall be certified by

the CONTRACTOR and checked for errors and omissions. The CONTRACTOR shall be responsible for the accuracy of the work, even if the work is accepted by the COUNTY.

b. No amendment or modification shall be made to this Contract, unless set forth in a written Contract Amendment signed by both parties. Work under a Contract Amendment shall not proceed until the Contract Amendment is duly executed by the COUNTY.

8. HOLD HARMLESS AND INDEMNIFICATION

a. The CONTRACTOR shall hold harmless, indemnify, and defend the COUNTY and its officers, officials, employees, and agents from and against any and all claims, actions, suits, liabilities, losses, expenses, damages, and judgments of any nature whatsoever, including reasonable costs and attorneys' fees in defense thereof, for injury, sickness, disability, or death to persons or damage to property or business, arising in connection with the work performed under this Contract, or caused or occasioned in whole or in part by reason of the presence of the CONTRACTOR or its subcontractors or their property upon or in the proximity of the property of the COUNTY. PROVIDED, that the CONTRACTOR'S obligation hereunder shall not extend to injury, sickness, death, or damage caused by or arising out of the sole negligence of the COUNTY or its officers, officials, employees, or agents. In the event of the concurrent negligence of the CONTRACTOR or its subcontractors, employees, or agents and the COUNTY or its employees or agents this indemnification obligation of the CONTRACTOR shall be valid and enforceable only to the extent of the negligence of the CONTRACTOR and its subcontractors, employees, and agents.

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

c. The CONTRACTOR'S obligations hereunder shall include, but are not limited to, investigating, adjusting, and defending all claims alleging loss from action, error, or omission, or breach of any common law, statutory, or other delegated duty by the CONTRACTOR or the CONTRACTOR'S employees, agents, or subcontractors. The foregoing indemnification obligations of the CONTRACTOR are a material inducement to COUNTY to enter into this Contract, are reflected in the CONTRACTOR's compensation, and have been mutually negotiated by the parties.

9. INSURANCE

The CONTRACTOR shall obtain and maintain continuously the following insurance:

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

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

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

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

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

The CONTRACTOR must provide commercial general liability coverage that does not exclude any activity to be performed in fulfillment of this Contract and does not exclude liability pursuant to the indemnification requirement under Section 8. CONTRACTOR'S commercial general liability policy shall provide cross liability coverage, indicating essentially that except with respect to the limits of insurance and any rights or duties specifically assigned in this coverage part to the first named insured, this insurance applies as if each named insured were the only named insured, and separately to each insured against whom claims are made or suit is brought.

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

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

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

d. **Other Insurance Provisions**:

1. The CONTRACTOR'S liability insurance provisions shall be primary with respect to any insurance or self-insurance programs covering the COUNTY and its elected and appointed officers, officials, employees, and agents. CONTRACTOR'S liability insurance policies must be endorsed to show this primary coverage. Any insurance, self-insured retention, deductible, or risk retention maintained or participated in by the COUNTY shall be excess and not contributory to CONTRACTOR'S insurance policies.

2. The CONTRACTOR'S liability insurance policies shall contain no special limitations on the scope of protection afforded to the COUNTY as an additional insured.

3. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the COUNTY or its officers, officials, employees, or agents.

4. The CONTRACTOR'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5. The CONTRACTOR shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.

6. The insurance limits mandated for any insurance coverage required by this Contract are not intended to be an indication of exposure nor are they limitations on indemnification. **If the CONTRACTOR maintains higher limits than the minimums required in this contract, the COUNTY shall be entitled to coverage for the higher limits maintained by the CONTRACTOR.**

7. The CONTRACTOR shall maintain all required policies in force from the time services commence until services are completed. Certificates, policies, and endorsements expiring before completion of services shall be promptly replaced. All liability insurance required under this Contract shall be written on an Occurrence Policy form.

8. CONTRACTOR hereby agrees to waive subrogation with respect to each insurance policy maintained under this Contract. When required by an insurer, or if a policy condition does not permit CONTRACTOR to enter into a pre-loss agreement to waive subrogation without an endorsement, then CONTRACTOR agrees to notify the insurer and obtain such endorsement. This requirement shall not apply to any policy which includes a condition expressly prohibiting waiver of subrogation by the insured or which voids coverage should the CONTRACTOR enter into such a waiver of subrogation on a pre-loss basis.

9. Compensation and/or payments due to CONTRACTOR under this Contract are expressly conditioned upon CONTRACTOR'S strict compliance with all insurance requirements. Payment to CONTRACTOR may be suspended in the event of non-compliance. Upon receipt of evidence of CONTRACTOR'S compliance, such payments not otherwise subject to withholding or set-off will be released to CONTRACTOR.

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

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

1. All insurance to be maintained by the CONTRACTOR, other than Auto Liability and Workers' Compensation, shall specifically include the COUNTY and its elected officials, employees, and volunteers as an "Additional Insured" by way of endorsement and shall not be reduced or canceled without thirty (30) days prior written notice to the COUNTY. Any insurance or self-insurance maintained by the COUNTY or its elected and appointed officials, employees, or agents shall be excess of the CONTRACTOR's insurance and shall not contribute to it.

2. Certificates of Liability Insurance, with endorsements attached, must be provided to the County's Contract Representative referenced in Section 4.

3. All written notices under this Section 9 and notice of cancellation or change of required insurance coverages shall be mailed to the COUNTY's Contract Representative referenced in Section 4.

4. The CONTRACTOR or its broker shall provide a copy of any and all insurance policies specified in this Contract upon request of the Benton County Risk Manager at the following address: Benton County Risk Manager, 7122 W. Okanogan Place, Bldg. A, Kennewick, WA 99336.

10. PERFORMANCE AND PAYMENT BONDS

The CONTRACTOR shall furnish Benton County with a Performance Bond and Labor and Materials Payment Bond with sufficient sureties acceptable to Benton County, in an amount equal to one hundred percent (100%) of the contract sum as security for the performance by the contractor of this Contract and

payment of all the persons performing labor and supplying materials pursuant to this Contract. PROVIDED that the CONTRACTOR may elect, in lieu of the bonds, to allow the COUNTY to retain ten percent (10%) of the contract amount either for a period of thirty (30) days after the date of final acceptance, or until all necessary releases from the Washington State Department of Revenue, the Washington State Department of Labor and Industries, and the Employment Security Department have been received and any liens filed under chapter 60.28 RCW have been settled, whichever is later. Proof of the performance and payment bonds, or written notification of the CONTRACTOR'S desire to elect the alternative to the bonds (described above), must be received by COUNTY within ten (10) days following the execution of this Contract.

11. NON-WAIVER OF RIGHTS

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

12. INDEPENDENT CONTRACTOR

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

b. The CONTRACTOR acknowledges that the entire compensation for this Contract is set forth in Section 5 of this Contract, and neither the CONTRACTOR nor its employees are entitled to any COUNTY benefits, including, but not limited to: vacation pay; holiday pay; sick leave pay; medical, dental, or other insurance benefits; fringe benefits; or any other rights or privileges afforded to COUNTY employees.

c. The CONTRACTOR shall have and maintain complete responsibility and control over all of its subcontractors, employees, agents, and representatives. No subcontractor, employee, agent, or representative of the CONTRACTOR shall be, deem to be, act, or purport to act as an employee, agent, or representative of the COUNTY.

d. The CONTRACTOR shall pay for all taxes, fees, licenses, or payments required for the performance of work under this Contract by federal, state, or local law that is now or may be enacted during the term of this Contract.

e. The CONTRACTOR agrees to immediately remove any of its employees or agents from their assignment to perform services under this Contract upon receipt of a written request to do so from the COUNTY'S Contract Representative or designee.

13. INSPECTION OF BOOKS AND RECORDS

The COUNTY may, at reasonable times, inspect the books and records of the CONTRACTOR relating to the performance of this Contract. The CONTRACTOR shall keep, and make available to the County upon

request, all records relating to the performance of this Contract for six (6) years after Contract termination or expiration.

14. CHOICE OF LAW AND JURISDICTION

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

15. SUCCESSORS AND ASSIGNS

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

16. TERMINATION

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

17. COMPLIANCE WITH LAWS AND PREVAILING WAGES

The CONTRACTOR shall comply with all applicable federal, state, and local laws, rules, and regulations in performing this Contract, including, but not limited to, prevailing wage laws. Specifically, at a minimum, the prevailing wages set out in Exhibit B, which is attached hereto and incorporated herein by reference, shall be paid to all employees, agents, subcontractors, and sub-subcontractors who do any work for the CONTRACTOR on this project. The CONTRACTOR shall ensure that all subcontractors or sub-subcontractors sign an agreement to pay these same wages and that the signed agreement is submitted to the COUNTY prior to subcontractor commencing any work on the project. This schedule of prevailing wages is duplicated from the Washington State Department of Labor and Industries website, it is provided for informational purposes only, and the COUNTY takes no responsibility for any inaccuracies or ambiguities contained therein. If CONTRACTOR believes the schedule contains any such ambiguities or inaccuracies, then the CONTRACTOR is responsible for contacting the Washington State Department of Labor and Industries directly to resolve them. Perceived inaccuracies or ambiguities in the schedule shall not relieve CONTRACTOR from its obligation pursuant to this Contract and relevant law to pay prevailing wages.

18. NONDISCRIMINATION

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

19. DISPUTES

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

20. ASSIGNMENT, DELEGATION, AND SUBCONTRACTING

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

21. ENTIRE AGREEMENT

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

22. NOTICES

Any notices shall be effective if personally served upon the other party or if mailed by registered or certified mail, return receipt requested, to the addresses set out in Section 4 of this Contract. Notice may also be given by e-mail, using the e-mail addresses set forth in Section 4 of this Contract, with the original to follow by regular mail. Notice shall be deemed effective three (3) days following the date of mailing or immediately if personally served. For service by e-mail, service shall be effective at the beginning of the next working day.

23. SEVERABILITY

a. If a court of competent jurisdiction holds any part, term or provision of this Contract to be illegal, or invalid in whole or in part, the validity of the remaining provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as if the Contract did not contain the particular provision held to be invalid.

b. If it should appear that any provision of this Contract is in conflict with any statutory provision of the State of Washington, said provision which may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform to such statutory provision.

24. LITIGATION HOLD NOTICE

In the event the COUNTY learns of circumstances leading to an increased likelihood of litigation regarding any matter where the records kept by CONTRACTOR regarding the work performed under this Contract may be of evidentiary value, the COUNTY may issue written notice to CONTRACTOR of such circumstances and direct the CONTRACTOR to "hold" such records. In the event that CONTRACTOR receives such written notice, CONTRACTOR shall abide by all directions therein whether or not such written notice is received

at a time when a Contract between CONTRACTOR and the COUNTY is in force. Such directions will include, but will not be limited to, instructions to suspend any regularly scheduled purge schedule.

25. PUBLIC RECORDS ACT

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

26. SURVIVABILITY

All Contract terms, which by their context are clearly intended to survive the termination and/or expiration of this Contract, shall so survive. These terms include, but are not limited to, provisions for: indemnification; insurance; non-waiver; inspection of books and records; choice of law; compliance with laws; litigation hold; and the Public Records Act.

27. CONFIDENTIALITY

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

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

Date:_____

BENTON COUNTY

Chairman
Benton County Board of County Commissioners

Approved as to Form:

Eric Andrews, Civil Deputy Prosecuting Attorney

Date: 6/25/20

INTERMOUNTAIN WEST INSULATION & GARAGE DOORS

Signature

President
Title:

T. Dean Moody
PRINTED NAME

EXHIBIT A

Intermountain West Insulation & Garage Doors
9304 W. Clearwater Dr. Ste A Kennewick WA 99336
Office: (509) 735-8411 Fax: (509) 783-6600
Contract Registration # IWIINI*111MU
E-mail: davea@iwinsulation.com
www.iwinsulation.com

Insulation Quote

HBA member '90

Client Information

Name	Benton County Capital Programs Robert Blain
Address	Badger Mountain Westgate Trail Head Tan & brown pole building
City, State	Richland WA 99352
Phone	736-2704 Fax
Email	robert.blain@co.benton.wa. Cell Robert cell 378-5532

Billing Address	7122 W Okanogan Pl Bldg A
City, State	Kennewick 99336
Bid Date	6/2/20
Good Until	90 days

Qty	Description		Unit Price	TOTAL
	Prevailing wages apply			$ -
				$ -
				$ -
				$ -
1260	Under roof insulation	R-25x24 + VR facing tape seams 19'	$2.35	$ 2,961.00
2000	Exterior wall insulation	R-19 FSK + stick pin support/safety caps 14'	$2.00	$ 4,000.00
150	Gable ends insulation	R-19 FSK + stick pin support/safety caps 19'	$3.50	$ 525.00
458	Seal flutes @ base, top, slopes & corners posts. Foam/caulk		$1.50	$ 687.00
1	Manlift		$950.00	$ 950.00
				$ -
				$ -
	Alternate systems > advantage will be more resistant to impacts, rodents, dust & insects.			
	2" closed cell spray foam under roof cost is **$4410**			$ -
	1" closed cell spray foam exterior walls/gable ends cost is **$3,980**			$ -
	Ignition barrier coating cost is **$7680.00**			$ -
				$ -
	Notes			$ -
	Flat framed walls/gable ends require curtain hung insulation between poles.			$ -
				$ -
				$ -
				$ -
				$ -

Invoices: walls/Floor Attic	Subtotal	$ 9,123.00
If we arrive at job site and job is not ready, trip charge of $ ____ will be charged. We require 24 hrs notice to cancel job.	**Options from below**	
	Sales Tax 8.60%	$ 784.58
Production Notes: 250 ft per ruler, seal attic boxes	**Total**	$ 9,907.58

Acceptance of this bid, indicated by contractor's signature or verbal authorization to begin work, requires contractor to pay all legal costs, attorney fees, and all other expenses involved in the event legal action is necessary for the collection of this quotation.

Contractor Signature: _____
Salesman: *David L. Adams*
Cell: (509) 947-5828

	Options (Not included in subtotal)	Price	Option Totals	Credits	Code

HIGH PERFORMANCE HPIP INSULATION PROFESSIONALS
IDA International Door Association
NORTHWEST ENERGY STAR HOMES
CERTIFIED ENERGY EXPERT

Offering 10 year warranty, Foam Spray, Paint, Epoxy Floors & Pressure Washing

EXHIBIT B

State of Washington
Department of Labor & Industries
Prevailing Wage Section
PO Box 44540, Olympia, WA 98504-4540
360-902-5335

Public contract awarding agencies are required by RCW 39.12.030 to include a provision stating the required prevailing rate(s) of wage in the bid and contract specifications for public works. Historically, this has required inclusion of a list of such rates in the specifications. Labor & Industries looked at how to allow an additional option within the law and rule.

Bid specifications may provide the required prevailing wage rate information in this alternate format:

> The Department of Labor & Industries prevailing wage rate website is http://wsdot.wa.gov/Design/ProjectDev/WageRates/default.htm
>
> The publication date to use is June 2, 2020.
>
> The public works project is located in Benton County.

A copy of the prevailing wage rates, the benefit code key and the supplement are available for viewing at the Public Works Department, 620 Market Street, Prosser, WA Monday through Friday, between 8:00 a.m. & noon and between 1:00 p.m. & 5:00 p.m. except holidays.

The Public Works Department will mail a hard copy of the wage rates upon request. We can be reached at (509)786-5611 or (509)736-3084 or by email at publicworks@co.benton.wa.us

EXHIBIT C

CERTIFICATIONS

PUBLIC WORKS TRAINING

The undersigned hereby certifies that the contractor has received L & I training, per RCW 39.04.350, or has completed three or more public works projects and has had a valid business license in Washington for three or more years and therefore are exempt from training.

ASSURANCE OF NON-DISCRIMINATION

The undersigned hereby agrees that he shall comply with Benton County's Non-Discrimination Policy and Plan, which is consistent with Titles VI and VII of the 1964 Civil Rights Act as amended in 1972; Executive Order 11246 as amended by Executive Order 11375; Sections 503 and 504 of the Rehabilitation Act of 1975 and the Age Discrimination in Employment Act of 1967; the 1974 Vietnam Era Veteran Readjustment Assistance Act; and the Washington State Laws Against Discrimination, Chapter 49.60 RCW. The policy reads as follows:

It is the policy of Benton County that no person shall be subjected to discrimination in the County or by its subcontractors because of race, color, national origin, sex, age, religion, creed, marital status, disabled or Vietnam era veteran status, or the presence of any physical, mental or sensory handicap.

NON-COLLUSION DECLARATION

I hereby declare, under penalty of perjury under the laws of the United States that the following statement is true and correct:

That the undersigned person(s), firm, association or corporation has (have) not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the project for which this proposal is submitted.

CONTRACTOR'S REGISTRATION NO. IWIINT*111MU

CONTRACTOR'S EMPLOYMENT SECURITY DEPARTMENT NO. 673210004

FIRM NAME: Intermountain West Insulation

SIGNATURE OF AUTHORIZED OFFICIAL

T. Dean Moody / president
(PRINT NAME AND TITLE)

DATED this 25th day of June, 2020.

ADDRESS OF BIDDER: 9304 W. Clearwater Dr. Kennewick, WA 99336

TELEPHONE NO.: (509) 735-8411 EMAIL:

BENTON COUNTY
WASHINGTON

EXHIBIT D

Certification of Compliance with Wage Payment Statutes

The bidder hereby certifies that, within the three-year period immediately preceding the bid solicitation date, June 2, 2020, the bidder is not a "willful" violator, as defined in RCW 49.48.082, of any provision of chapters 49.46, 49.48, or 49.52 RCW, as determined by a final and binding citation and notice of assessment issued by the Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction.

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

INTERMOUNTAIN WEST INTERNATIONAL
9304 W. CLEARWATER DR.
KENNEWICK, WA 99336

Bidder's Business Name

Signature of Authorized Official*

T. Dean Moody
Printed Name

President
Title

Date | Kennewick (City (where signed)) | WA (State)

Check One:

Sole Proprietorship ☐ Partnership ☐ Joint Venture ☐ Corporation ☑

State of Incorporation, or if not a corporation, State where business entity was formed:

WA

If a co-partnership, give firm name under which business is transacted:

Intermountain West Insulation

** If a corporation, proposal must be executed in the corporate name by the president or vice-president (or any other corporate officer accompanied by evidence of authority to sign). If a co-partnership, proposal must be executed by a partner.*

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	July 14, 2020
Subject:	Execute contract with Cliff Thorn Construction for the Annex Restroom Renovation project
Presenter:	
Prepared By:	slc
Reviewed By:	R. Blain

Type of Agenda Item:	**Type of Action Needed:**	
☒ Consent Agenda	☐ Discussion Only (1st)	☐ Pass Motion
☐ Public Hearing	☐ Discussion Only (2nd)	☒ Pass Resolution
☐ Scheduled Business	☐ Decision/Direction	☐ Pass Ordinance

Summary / Background Information

By Resolution 2020-402 dated June 16, 2020, an award was made to Cliff Thorn Construction for the Annex Restroom Renovation project – CB20-01. As directed a contract has been prepared; and reviewed and approved as to form by the departmental assigned Deputy Prosecuting Attorney from the Civil Division; and has been executed by Cliff Thorn Construction.

Fiscal Impact

Amount: $102,543.00

Fund: Capital Projects Fund

Recommendation

It is recommended by the Director of Operations and Capital Programs that the Board approve and sign the contract with Cliff Thorn Construction for the Annex Restroom Renovation project.

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 CHAIRMAN TO SIGN THE CONTRACT WITH CLIFF THORN CONSTRUCTION FOR THE ANNEX RESTROOM RENOVATION PROJECT

WHEREAS, by Resolution 2020-402 dated June 16, 2020, an award was made to Cliff Thorn Construction, Richland, Washington for the Annex Restroom Renovation project – CB20-01 and as directed, staff has prepared a contract for Board approval; and

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

WHEREAS, the contract in the amount of $102,543.00 plus Washington State Sales Tax has been executed by Cliff Thorn Construction; **NOW, THEREFORE,**

BE IT RESOLVED, that the Board of Benton County Commissioners hereby approves and is authorized to sign the contract awarded June 16, 2020 to Cliff Thorn Construction, in the amount of $102,543.00 plus Washington State Sales Tax; and

BE IT FURTHER RESOLVED, that the Director of Operations and Capital Programs is hereby authorized to proceed with the Annex Restroom Renovation project – CB20-01 according to the terms of the contract; and

BE IT FURTHER RESOLVED, the project shall begin on the date of the Notice to Proceed and be completed in its entirety within sixty (60) calendar days as described in the contract documents.

Dated this 14th day of July, 2020.

_____
Chairman.

_____
Chairman Pro-Tem.

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

Attest:_____
Clerk of the Board

Orig.: Public Works
c: Auditor

S. Christen

Shannon Christen

From: Eric Andrews
Sent: Thursday, June 25, 2020 9:13 AM
To: Shannon Christen
Cc: Robert Blain
Subject: RE: Annex Restroom Renovation Project

I approve this contract as to form.

R/

Eric T. Andrews
Deputy Pros. Attorney, Civil
Benton Co. Pros. Attorney's Office
Phone: (509) 735-3591
Fax: (509) 222-3705

This email, any and all attachments hereto, and all information contained and conveyed herein may contain and be deemed confidential attorney client privileged and/or work product information. If you have received this email in error, please delete and destroy all electronic, hard copy and any other form immediately. It is illegal to intentionally intercept, endeavor to intercept or procure any other person to intercept or endeavor to intercept, any wire, oral or electronic communication.

From: Shannon Christen <Shannon.Christen@co.benton.wa.us>
Sent: Friday, June 19, 2020 11:00 AM
To: Eric Andrews <Eric.Andrews@co.benton.wa.us>
Cc: Robert Blain <Robert.Blain@co.benton.wa.us>
Subject: RE: Annex Restroom Renovation Project

Eric-

Attached is what should be the final draft copy of the AIA contract for the Annex Restroom project. The only change (besides names, addresses and the dollar amount) since you last saw it is *Section 6.1.7.2 Verification of subcontractor responsibility criteria* was added to satisfy RCW 39.04.350(1).

Let us know when you have reviewed and we will have the architect prepare the final document for your signature. Contact Robert or I if you have any questions.

Thank you.

Shannon Christen
Contract Coordinator
Benton County Public Works Department
509/786-5611 Ext. 5665

AIA® Document A104™ – 2017

Standard Abbreviated Form of Agreement Between Owner and Contractor

AGREEMENT made as of the day of July in the year 2020
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

Benton County
7122 W. Okanogan Pl., Bldg. A
Kennewick, WA 99336
Telephone Number: 509-736-2704

and the Contractor:
(Name, legal status, address and other information)

Cliff Thorn Construction
1552 Georgia Avenue
Richland, WA 99352
509-416-2007

for the following Project:
(Name, location and detailed description)

Benton County Annex Building Restroom Renovation
5600 West Canal Drive
Kennewick, WA 99336

The Architect:
(Name, legal status, address and other information)

Wave Design Group
418 N. Kellogg St., Suite B
Kennewick, WA 99336
Telephone Number: 509-737-1000

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Init.
/

AIA Document A104™ – 2017 (formerly A107™ – 2007). Copyright © 1936, 1951, 1958, 1961, 1963, 1966, 1970, 1974, 1978, 1987, 1997, 2007 and 2017 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This document was produced by AIA software at 15:54:42 ET on 06/25/2020 under Order No.3723020267 which expires on 06/25/2021, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1380934989)

TABLE OF ARTICLES

1 THE WORK OF THIS CONTRACT

2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

3 CONTRACT SUM

4 PAYMENT

5 DISPUTE RESOLUTION

6 ENUMERATION OF CONTRACT DOCUMENTS

7 GENERAL PROVISIONS

8 OWNER

9 CONTRACTOR

10 ARCHITECT

11 SUBCONTRACTORS

12 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

13 CHANGES IN THE WORK

14 TIME

15 PAYMENTS AND COMPLETION

16 PROTECTION OF PERSONS AND PROPERTY

17 INSURANCE AND BONDS

18 CORRECTION OF WORK

19 MISCELLANEOUS PROVISIONS

20 TERMINATION OF THE CONTRACT

21 CLAIMS AND DISPUTES

EXHIBIT A DETERMINATION OF THE COST OF THE WORK

ARTICLE 1 THE WORK OF THIS CONTRACT

The Contractor shall execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 2.1 The date of commencement of the Work shall be:
(Check one of the following boxes.)

[ ] The date of this Agreement.

AIA Document A104™ – 2017 **(formerly A107™** – 2007). Copyright © 1936, 1951, 1958, 1961, 1963, 1966, 1970, 1974, 1978, 1987, 1997, 2007 and 2017 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This document was produced by AIA software at 15:54:42 ET on 06/25/2020 under Order No.3723020267 which expires on 06/25/2021, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1380934989)

[X] A date set forth in a notice to proceed issued by the Owner.

[ ] Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 2.2 The Contract Time shall be measured from the date of commencement.

§ 2.3 Substantial Completion

§ 2.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:
(Check the appropriate box and complete the necessary information.)

[X] Not later than sixty (60) calendar days from the date of commencement of the Work.

[ ] By the following date:

§ 2.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date

§ 2.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 2.3, liquidated damages, if any, shall be assessed as set forth in Section 3.5.

ARTICLE 3 CONTRACT SUM

§ 3.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be one of the following:
(Check the appropriate box.)

[X] Stipulated Sum, in accordance with Section 3.2 below

[ ] Cost of the Work plus the Contractor's Fee, in accordance with Section 3.3 below

[ ] Cost of the Work plus the Contractor's Fee with a Guaranteed Maximum Price, in accordance with Section 3.4 below

(Based on the selection above, complete Section 3.2, 3.3 or 3.4 below.)

§ 3.2 The Stipulated Sum shall be one hundred two thousand five hundred forty-three dollars and zero cents ($102,543.00), excluding WSST, subject to additions and deductions as provided in the Contract Documents.

§ 3.2.1 The Stipulated Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:
(State the numbers or other identification of accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

AIA Document A104™ – 2017 **(formerly A107™** – 2007). Copyright © 1936, 1951, 1958, 1961, 1963, 1966, 1970, 1974, 1978, 1987, 1997, 2007 and 2017 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This document was produced by AIA software at 15:54:42 ET on 06/25/2020 under Order No.3723020267 which expires on 06/25/2021, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1380934989)

§ 3.2.2 Unit prices, if any:
(Identify the item and state the unit price and the quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit ($0.00)

§ 3.2.3 Allowances, if any, included in the stipulated sum:
(Identify each allowance.)

Item	Price

§ 3.3 Cost of the Work Plus Contractor's Fee
§ 3.3.1 The Cost of the Work is as defined in Exhibit A, Determination of the Cost of the Work.

§ 3.3.2 The Contractor's Fee:
(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee and the method of adjustment to the Fee for changes in the Work.)

§ 3.4 Cost of the Work Plus Contractor's Fee With a Guaranteed Maximum Price
§ 3.4.1 The Cost of the Work is as defined in Exhibit A, Determination of the Cost of the Work.

§ 3.4.2 The Contractor's Fee:
(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee and the method of adjustment to the Fee for changes in the Work.)

§ 3.4.3 Guaranteed Maximum Price
§ 3.4.3.1 The sum of the Cost of the Work and the Contractor's Fee is guaranteed by the Contractor not to exceed dollars and cents ($ 000.00), subject to additions and deductions by changes in the Work as provided in the Contract Documents. This maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner.
(Insert specific provisions if the Contractor is to participate in any savings.)

§ 3.4.3.2 The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:
(State the numbers or other identification of accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

§ 3.4.3.3 Unit Prices, if any:
(Identify the item and state the unit price and the quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit ($0.00)

AIA Document A104™ – 2017 **(formerly A107™** – 2007). Copyright © 1936, 1951, 1958, 1961, 1963, 1966, 1970, 1974, 1978, 1987, 1997, 2007 and 2017 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This document was produced by AIA software at 15:54:42 ET on 06/25/2020 under Order No.3723020267 which expires on 06/25/2021, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1380934989)

§ 3.4.3.4 Allowances, if any, included in the Guaranteed Maximum Price:
(Identify each allowance.)

Item	Price

§ 3.4.3.5 Assumptions, if any, on which the Guaranteed Maximum Price is based:

§ 3.4.3.6 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes or equipment, all of which, if required, shall be incorporated by Change Order.

§ 3.4.3.7 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions contained in Section 3.4.3.5. The Owner shall promptly furnish such revised Contract Documents to the Contractor. The Contractor shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions contained in Section 3.4.3.5 and the revised Contract Documents.

§ 3.5 Liquidated damages, if any:
(Insert terms and conditions for liquidated damages, if any.)

If the Work is not substantially complete within this period of time, or extension thereof granted by the Owner, the Owner will sustain damage that will be impracticable and extremely difficult to quantify in the event of and by reason of such delays. The Contractor shall pay to the Owner liquidated damages in the sum of $750 for each calendar day of delay. Any sums that may be due the Owner as liquidated damages may be deducted from any monies due or to become due the Contractor under the Contract or may be collected from the Contractor's surety.

ARTICLE 4 PAYMENT

§ 4.1 Progress Payments

§ 4.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 4.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§ 4.1.3 Provided that an Application for Payment is received by the Architect not later than the the fifth day of a month, the Owner shall make payment of the certified amount to the Contractor not later than the thirtieth day of the same month. If an Application for Payment is received by the Architect after the date fixed above, payment shall be made by the Owner not later than Thirty (30) days after the Architect receives the Application for Payment.
(Federal, state or local laws may require payment within a certain period of time.)

§ 4.1.4 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold retainage from the payment otherwise due as follows:
(Insert a percentage or amount to be withheld as retainage from each Application for Payment and any terms for reduction of retainage during the course of the Work. The amount of retainage may be limited by governing law.)

Five Percent (5%)

§ 4.1.5 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

Init.
/
AIA Document A104™ – 2017 (formerly A107™ – 2007). Copyright © 1936, 1951, 1958, 1961, 1963, 1966, 1970, 1974, 1978, 1987, 1997, 2007 and 2017 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This document was produced by AIA software at 15:54:42 ET on 06/25/2020 under Order No.3723020267 which expires on 06/25/2021, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1380934989)

(Insert rate of interest agreed upon, if any.)

%

§ 4.2 Final Payment

§ 4.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Section 18.2, and to satisfy other requirements, if any, which extend beyond final payment;

.2 the Contractor has submitted a final accounting for the Cost of the Work, where payment is on the basis of the Cost of the Work with or without a Guaranteed Maximum Price; and

.3 a final Certificate for Payment has been issued by the Architect in accordance with Section 15.7.1.

.4 Retainage will only be released in accordance with RCW 60.28 on completion of the work and once all required forms and reports have been filed with the Owner, Architect, Department of Labor and Industries, Department of Revenue and the Employment Securities Department

§ 4.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

ARTICLE 5 DISPUTE RESOLUTION

§ 5.1 Binding Dispute Resolution

For any claim subject to, but not resolved by, mediation pursuant to Section 21.5, the method of binding dispute resolution shall be as follows:
(Check the appropriate box.)

[ ] Arbitration pursuant to Section 21.6 of this Agreement

[X] Litigation in a court of competent jurisdiction

[ ] Other *(Specify)*

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, claims will be resolved in a court of competent jurisdiction.

ARTICLE 6 ENUMERATION OF CONTRACT DOCUMENTS

§ 6.1 The Contract Documents are defined in Article 7 and, except for Modifications issued after execution of this Agreement, are enumerated in the sections below.

§ 6.1.1 The Agreement is this executed AIA Document A104™–2017, Standard Abbreviated Form of Agreement Between Owner and Contractor.

§ 6.1.2 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203–2013 incorporated into this Agreement.)

§ 6.1.3 The Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

AIA Document A104™ – 2017 (formerly A107™ – 2007). Copyright © 1936, 1951, 1958, 1961, 1963, 1966, 1970, 1974, 1978, 1987, 1997, 2007 and 2017 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This document was produced by AIA software at 15:54:42 ET on 06/25/2020 under Order No.3723020267 which expires on 06/25/2021, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1380934989)

§ 6.1.4 The Specifications:
(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

Section	Title	Date	Pages
Division 00 through Division 12	Construction Specifications	04-29-2020	173

§ 6.1.5 The Drawings:
(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

Number	Title	Date
	Annex Building Restroom Renovation	03-16-2020

§ 6.1.6 The Addenda, if any:

Number	Date	Pages

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are enumerated in this Article 6.

§ 6.1.7 Additional documents, if any, forming part of the Contract Documents:

.1 Other Exhibits:
(Check all boxes that apply.)

[ ] Exhibit A, Determination of the Cost of the Work.

[ ] AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this Agreement.)

[ ] The Sustainability Plan:

Title	Date	Pages

[ ] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

.2 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents.)

The Contractor shall be responsible for verifying their sub-contractors have met the requirements stated below:

Verification of subcontractor responsibility criteria.
A public works contractor must verify responsibility criteria for each first tier subcontractor, and a

AIA Document A104™ – 2017 (formerly A107™ – 2007). Copyright © 1936, 1951, 1958, 1961, 1963, 1966, 1970, 1974, 1978, 1987, 1997, 2007 and 2017 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This document was produced by AIA software at 15:54:42 ET on 06/25/2020 under Order No.3723020267 which expires on 06/25/2021, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1380934989)

subcontractor of any tier that hires other subcontractors must verify responsibility criteria for each of its subcontractors. Verification shall include that each subcontractor, at the time of subcontract execution, meets the responsibility criteria listed in RCW 39.04.350(1) and possesses an electrical contractor license, if required by chapter 19.28 RCW, or an elevator contractor license, if required by chapter 70.87 RCW. This verification requirement, as well as the responsibility criteria, must be included in every public works contract and subcontract of every tier.

ARTICLE 7 GENERAL PROVISIONS

§ 7.1 The Contract Documents

The Contract Documents are enumerated in Article 6 and consist of this Agreement (including, if applicable, Supplementary and other Conditions of the Contract), Drawings, Specifications, Addenda issued prior to the execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

§ 7.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind between any persons or entities other than the Owner and the Contractor.

§ 7.3 The Work

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 7.4 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 7.5 Ownership and use of Drawings, Specifications and Other Instruments of Service

§ 7.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and will retain all common law, statutory and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 7.5.2 The Contractor, Subcontractors, Sub-subcontractors and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to the protocols established pursuant to Sections 7.6 and 7.7, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner, Architect and the Architect's consultants.

§ 7.6 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building

AIA Document A104™ – 2017 **(formerly A107™** – 2007). Copyright © 1936, 1951, 1958, 1961, 1963, 1966, 1970, 1974, 1978, 1987, 1997, 2007 and 2017 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This document was produced by AIA software at 15:54:42 ET on 06/25/2020 under Order No.3723020267 which expires on 06/25/2021, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1380934989)

Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 7.7 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

§ 7.8 Severability

The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 7.9 Notice

§ 7.9.1 Except as otherwise provided in Section 7.9.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

(If other than in accordance with AIA Document E203–2013, insert requirements for delivering Notice in electronic format such as name, title and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

§ 7.9.2 Notice of Claims shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 7.10 Relationship of the Parties

Where the Contract is based on the Cost of the Work plus the Contractor's Fee, with or without a Guaranteed Maximum Price, the Contractor accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Contractor's skill and judgment in furthering the interests of the Owner; to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish and approve, in a timely manner, information required by the Contractor and to make payments to the Contractor in accordance with the requirements of the Contract Documents.

ARTICLE 8 OWNER

§ 8.1 Information and Services Required of the Owner

§ 8.1.1 Prior to commencement of the Work, at the written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 8.1.1, the Contract Time shall be extended appropriately.

§ 8.1.2 The Owner shall furnish all necessary surveys and a legal description of the site.

§ 8.1.3 The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

AIA Document A104™ – 2017 **(formerly A107™** – 2007). Copyright © 1936, 1951, 1958, 1961, 1963, 1966, 1970, 1974, 1978, 1987, 1997, 2007 and 2017 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This document was produced by AIA software at 15:54:42 ET on 06/25/2020 under Order No.3723020267 which expires on 06/25/2021, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1380934989)

§ 8.1.4 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 9.6.1, the Owner shall secure and pay for other necessary approvals, easements, assessments, and charges required for the construction, use, or occupancy of permanent structures or for permanent changes in existing facilities.

§ 8.2 Owner's Right to Stop the Work

If the Contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents, or repeatedly fails to carry out the Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order is eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity.

§ 8.3 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents, and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to any other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 15.4.3, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including the Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 21.

ARTICLE 9 CONTRACTOR

§ 9.1 Review of Contract Documents and Field Conditions by Contractor

§ 9.1.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents.

§ 9.1.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 8.1.2, shall take field measurements of any existing conditions related to that portion of the Work and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies, or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional unless otherwise specifically provided in the Contract Documents.

§ 9.1.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 9.2 Supervision and Construction Procedures

§ 9.2.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters.

§ 9.2.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for or on behalf of the Contractor or any of its Subcontractors.

AIA Document A104™ – 2017 (formerly A107™ – 2007). Copyright © 1936, 1951, 1958, 1961, 1963, 1966, 1970, 1974, 1978, 1987, 1997, 2007 and 2017 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This document was produced by AIA software at 15:54:42 ET on 06/25/2020 under Order No.3723020267 which expires on 06/25/2021, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1380934989)

§ 9.3 Labor and Materials

§ 9.3.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 9.3.2 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

§ 9.3.3 The Contractor may make a substitution only with the consent of the Owner, after evaluation by the Architect and in accordance with a Modification.

§ 9.4 Warranty

The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation or normal wear and tear under normal usage. All other warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 15.6.3.

§ 9.5 Taxes

The Contractor shall pay sales, consumer, use, and other similar taxes that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 9.6 Permits, Fees, Notices, and Compliance with Laws

§ 9.6.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

§ 9.6.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work. If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 9.7 Allowances

The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. The Owner shall select materials and equipment under allowances with reasonable promptness. Allowance amounts shall include the costs to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts. Contractor's costs for unloading and handling at the site, labor, installation, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowance.

§ 9.8 Contractor's Construction Schedules

§ 9.8.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall not exceed time limits current under the Contract Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.

§ 9.8.2 The Contractor shall perform the Work in general accordance with the most recent schedule submitted to the Owner and Architect.

AIA Document A104™ – 2017 **(formerly A107™** – 2007). Copyright © 1936, 1951, 1958, 1961, 1963, 1966, 1970, 1974, 1978, 1987, 1997, 2007 and 2017 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This document was produced by AIA software at 15:54:42 ET on 06/25/2020 under Order No.3723020267 which expires on 06/25/2021, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1380934989)

§ 9.9 Submittals

§ 9.9.1 The Contractor shall review for compliance with the Contract Documents and submit to the Architect Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents in coordination with the Contractor's construction schedule and in such sequence as to allow the Architect reasonable time for review. By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them; (2) determined and verified materials, field measurements, and field construction criteria related thereto, or will do so; and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents. The Work shall be in accordance with approved submittals.

§ 9.9.2 Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents.

§ 9.9.3 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents or unless the Contractor needs to provide such services in order to carry out the Contractor's own responsibilities. If professional design services or certifications by a design professional are specifically required, the Owner and the Architect will specify the performance and design criteria that such services must satisfy. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional. If no criteria are specified, the design shall comply with applicable codes and ordinances. Each Party shall be entitled to rely upon the information provided by the other Party. The Architect will review and approve or take other appropriate action on submittals for the limited purpose of checking for conformance with information provided and the design concept expressed in the Contract Documents. The Architect's review of Shop Drawings, Product Data, Samples, and similar submittals shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. In performing such review, the Architect will approve, or take other appropriate action upon, the Contractor's Shop Drawings, Product Data, Samples, and similar submittals.

§ 9.10 Use of Site

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 9.11 Cutting and Patching

The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly.

§ 9.12 Cleaning Up

The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus material from and about the Project.

§ 9.13 Access to Work

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

§ 9.14 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents or where the copyright violations are contained in Drawings, Specifications or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

§ 9.15 Indemnification

§ 9.15.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work,

AIA Document A104™ – 2017 (formerly A107™ – 2007). Copyright © 1936, 1951, 1958, 1961, 1963, 1966, 1970, 1974, 1978, 1987, 1997, 2007 and 2017 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This document was produced by AIA software at 15:54:42 ET on 06/25/2020 under Order No.3723020267 which expires on 06/25/2021, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1380934989)

provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 9.15.1.

§ 9.15.2 In claims against any person or entity indemnified under this Section 9.15 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 9.15.1 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

ARTICLE 10 ARCHITECT

§ 10.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction, until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified in writing in accordance with other provisions of the Contract.

§ 10.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

§ 10.3 The Architect will visit the site at intervals appropriate to the stage of the construction to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 10.4 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of and will not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 10.5 Based on the Architect's evaluations of the Work and of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 10.6 The Architect has authority to reject Work that does not conform to the Contract Documents and to require inspection or testing of the Work.

§ 10.7 The Architect will review and approve or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 10.8 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect will make initial decisions on all claims, disputes, and other matters in question between the Owner and Contractor but will not be liable for results of any interpretations or decisions rendered in good faith.

AIA Document A104™ – 2017 (formerly A107™ – 2007). Copyright © 1936, 1951, 1958, 1961, 1963, 1966, 1970, 1974, 1978, 1987, 1997, 2007 and 2017 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This document was produced by AIA software at 15:54:42 ET on 06/25/2020 under Order No.3723020267 which expires on 06/25/2021, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1380934989)

§ 10.9 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

ARTICLE 11 SUBCONTRACTORS

§ 11.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site.

§ 11.2 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the Subcontractors or suppliers proposed for each of the principal portions of the Work. The Contractor shall not contract with any Subcontractor or supplier to whom the Owner or Architect has made reasonable written objection within ten days after receipt of the Contractor's list of Subcontractors and suppliers. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 11.3 Contracts between the Contractor and Subcontractors shall (1) require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by the terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, which the Contractor, by the Contract Documents, assumes toward the Owner and Architect, and (2) allow the Subcontractor the benefit of all rights, remedies and redress against the Contractor that the Contractor, by these Contract Documents, has against the Owner.

ARTICLE 12 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 12.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 12.2 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's activities with theirs as required by the Contract Documents.

§ 12.3 The Owner shall be reimbursed by the Contractor for costs incurred by the Owner which are payable to a Separate Contractor because of delays, improperly timed activities, or defective construction of the Contractor. The Owner shall be responsible to the Contractor for costs incurred by the Contractor because of delays, improperly timed activities, damage to the Work, or defective construction of a Separate Contractor.

ARTICLE 13 CHANGES IN THE WORK

§ 13.1 By appropriate Modification, changes in the Work may be accomplished after execution of the Contract. The Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, with the Contract Sum and Contract Time being adjusted accordingly. Such changes in the Work shall be authorized by written Change Order signed by the Owner, Contractor, and Architect, or by written Construction Change Directive signed by the Owner and Architect. Upon issuance of the Change Order or Construction Change Directive, the Contractor shall proceed promptly with such changes in the Work, unless otherwise provided in the Change Order or Construction Change Directive.

§ 13.2 Adjustments in the Contract Sum and Contract Time resulting from a change in the Work shall be determined by mutual agreement of the parties or, in the case of a Construction Change Directive signed only by the Owner and Architect, by the Contractor's cost of labor, material, equipment, and reasonable overhead and profit, unless the parties agree on another method for determining the cost or credit. Pending final determination of the total cost of a Construction Change Directive, the Contractor may request payment for Work completed pursuant to the Construction Change Directive. The Architect will make an interim determination of the amount of payment due for purposes of certifying the Contractor's monthly Application for Payment. When the Owner and Contractor agree on adjustments to the Contract Sum and Contract Time arising from a Construction Change Directive, the Architect will prepare a Change Order.

AIA Document A104™ – 2017 (formerly A107™ – 2007). Copyright © 1936, 1951, 1958, 1961, 1963, 1966, 1970, 1974, 1978, 1987, 1997, 2007 and 2017 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This document was produced by AIA software at 15:54:42 ET on 06/25/2020 under Order No.3723020267 which expires on 06/25/2021, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1380934989)

§ 13.3 After consultation with the owner, the Architect will have authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be effected by written order and shall be binding on the Owner and Contractor. The Contractor shall carry out such written orders promptly. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work.

§ 13.4 If concealed or unknown physical conditions are encountered at the site that differ materially from those indicated in the Contract Documents or from those conditions ordinarily found to exist, the Contract Sum and Contract Time shall be equitably adjusted as mutually agreed between the Owner and Contractor; provided that the Contractor provides notice to the Owner and Architect promptly and before conditions are disturbed.

ARTICLE 14 TIME

§ 14.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing this Agreement the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 14.2 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 14.3 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 14.4 The date of Substantial Completion is the date certified by the Architect in accordance with Section 15.6.3.

§ 14.5 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) changes ordered in the Work; (2) by labor disputes, fire, unusual delay in deliveries, abnormal adverse weather conditions not reasonably anticipatable, unavoidable casualties, or any causes beyond the Contractor's control; or (3) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine, subject to the provisions of Article 21.

ARTICLE 15 PAYMENTS AND COMPLETION

§ 15.1 Schedule of Values

§ 15.1.1 Where the Contract is based on a Stipulated Sum or the Cost of the Work with a Guaranteed Maximum Price pursuant to Section 3.2 or 3.4, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Stipulated Sum or Guaranteed Maximum Price to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy required by the Architect. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 15.1.2 The allocation of the Stipulated Sum or Guaranteed Maximum Price under this Section 15.1 shall not constitute a separate stipulated sum or guaranteed maximum price for each individual line item in the schedule of values.

§ 15.2 Control Estimate

§ 15.2.1 Where the Contract Sum is the Cost of the Work, plus the Contractor's Fee without a Guaranteed Maximum Price pursuant to Section 3.3, the Contractor shall prepare and submit to the Owner a Control Estimate within 14 days of executing this Agreement. The Control Estimate shall include the estimated Cost of the Work plus the Contractor's Fee.

§ 15.2.2 The Control Estimate shall include:

.1 the documents enumerated in Article 6, including all Modifications thereto;

.2 a list of the assumptions made by the Contractor in the preparation of the Control Estimate to supplement the information provided by the Owner and contained in the Contract Documents;

.3 a statement of the estimated Cost of the Work organized by trade categories or systems and the Contractor's Fee;

AIA Document A104™ – 2017 (formerly A107™ – 2007). Copyright © 1936, 1951, 1958, 1961, 1963, 1966, 1970, 1974, 1978, 1987, 1997, 2007 and 2017 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This document was produced by AIA software at 15:54:42 ET on 06/25/2020 under Order No.3723020267 which expires on 06/25/2021, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1380934989)

.4 a project schedule upon which the Control Estimate is based, indicating proposed Subcontractors, activity sequences and durations, milestone dates for receipt and approval of pertinent information, schedule of shop drawings and samples, procurement and delivery of materials or equipment the Owner's occupancy requirements, and the date of Substantial Completion; and

.5 a list of any contingency amounts included in the Control Estimate for further development of design and construction.

§ 15.2.3 When the Control Estimate is acceptable to the Owner and Architect, the Owner shall acknowledge it in writing. The Owner's acceptance of the Control Estimate does not imply that the Control Estimate constitutes a Guaranteed Maximum Price.

§ 15.2.4 The Contractor shall develop and implement a detailed system of cost control that will provide the Owner and Architect with timely information as to the anticipated total Cost of the Work. The cost control system shall compare the Control Estimate with the actual cost for activities in progress and estimates for uncompleted tasks and proposed changes. This information shall be reported to the Owner, in writing, no later than the Contractor's first Application for Payment and shall be revised and submitted with each Application for Payment.

§ 15.2.5 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions contained in the Control Estimate. The Owner shall promptly furnish such revised Contract Documents to the Contractor. The Contractor shall notify the Owner and Architect of any inconsistencies between the Control Estimate and the revised Contract Documents.

§ 15.3 Applications for Payment

§ 15.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 15.1, for completed portions of the Work. The application shall be notarized, if required; be supported by all data substantiating the Contractor's right to payment that the Owner or Architect require; shall reflect retainage if provided for in the Contract Documents; and include any revised cost control information required by Section 15.2.4. Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 15.3.2 With each Application for Payment where the Contract Sum is based upon the Cost of the Work, or the Cost of the Work with a Guaranteed Maximum Price, the Contractor shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner to demonstrate that cash disbursements already made by the Contractor on account of the Cost of the Work equal or exceed progress payments already received by the Contractor plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Contractor's Fee.

§ 15.3.3 Payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment stored, and protected from damage, off the site at a location agreed upon in writing.

§ 15.3.4 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information and belief, be free and clear of liens, claims, security interests or other encumbrances adverse to the Owner's interests.

§ 15.4 Certificates for Payment

§ 15.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Architect determines is properly due, or notify the Contractor and Owner of the Architect's reasons for withholding certification in whole or in part as provided in Section 15.4.3.

§ 15.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluations of the Work and the data in the Application for Payment, that, to the best of the

AIA Document A104™ – 2017 (formerly A107™ – 2007). Copyright © 1936, 1951, 1958, 1961, 1963, 1966, 1970, 1974, 1978, 1987, 1997, 2007 and 2017 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This document was produced by AIA software at 15:54:42 ET on 06/25/2020 under Order No.3723020267 which expires on 06/25/2021, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1380934989)

Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 15.4.3 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 15.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 15.4.1. If the Contractor and the Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 9.2.2, because of

.1 defective Work not remedied;
.2 third-party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Contractor;
.3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
.4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
.5 damage to the Owner or a Separate Contractor;
.6 reasonable evidence that the Work will not be completed within the Contract Time and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
.7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 15.4.4 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 15.4.3, in whole or in part, that party may submit a Claim in accordance with Article 21.

§ 15.5 Progress Payments

§ 15.5.1 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to sub-subcontractors in a similar manner.

§ 15.5.2 Neither the Owner nor Architect shall have an obligation to pay or see to the payment of money to a Subcontractor or supplier except as may otherwise be required by law.

§ 15.5.3 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 15.5.4 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

AIA Document A104™ – 2017 **(formerly A107™** – 2007). Copyright © 1936, 1951, 1958, 1961, 1963, 1966, 1970, 1974, 1978, 1987, 1997, 2007 and 2017 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This document was produced by AIA software at 15:54:42 ET on 06/25/2020 under Order No.3723020267 which expires on 06/25/2021, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1380934989)

§ 15.6 Substantial Completion

§ 15.6.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 15.6.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 15.6.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. When the Architect determines that the Work or designated portion thereof is substantially complete, the Architect will issue a Certificate of Substantial Completion which shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 15.6.4 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance and consent of surety, if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 15.7 Final Completion and Final Payment

§ 15.7.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection and, when the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions stated in Section 15.7.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 15.7.2 Final payment shall not become due until the Contractor has delivered to the Owner a complete release of all liens arising out of this Contract or receipts in full covering all labor, materials and equipment for which a lien could be filed, or a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including costs and reasonable attorneys' fees.

§ 15.7.3 The making of final payment shall constitute a waiver of claims by the Owner except those arising from

- .1 liens, claims, security interests or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents;
- .3 terms of special warranties required by the Contract Documents; or
- .4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 15.7.4 Acceptance of final payment by the Contractor, a Subcontractor or supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of the final Application for Payment.

ARTICLE 16 PROTECTION OF PERSONS AND PROPERTY

§ 16.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- .1 employees on the Work and other persons who may be affected thereby;

AIA Document A104™ – 2017 (formerly A107™ – 2007). Copyright © 1936, 1951, 1958, 1961, 1963, 1966, 1970, 1974, 1978, 1987, 1997, 2007 and 2017 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This document was produced by AIA software at 15:54:42 ET on 06/25/2020 under Order No.3723020267 which expires on 06/25/2021, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1380934989)

.2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and

.3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation, or replacement in the course of construction.

The Contractor shall comply with, and give notices required by, applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities bearing on safety of persons and property and their protection from damage, injury, or loss. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, a Subcontractor, a sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 16.1.2 and 16.1.3. The Contractor may make a claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 9.15.

§ 16.2 Hazardous Materials and Substances

§ 16.2.1 The Contractor is responsible for compliance with the requirements of the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents, and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased in the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

§ 16.2.2 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area, if in fact, the material or substance presents the risk of bodily injury or death as described in Section 16.2.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

§ 16.2.3 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall indemnify the Contractor for all cost and expense thereby incurred.

ARTICLE 17 INSURANCE AND BONDS

§ 17.1 Contractor's Insurance

§ 17.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in this Section 17.1 or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the insurance required by this Agreement from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 18.4, unless a different duration is stated below:

§ 17.1.2 Commercial General Liability insurance for the Project written on an occurrence form with policy limits of not less than two million dollars ($2,000,000) each occurrence, two million dollars ($2,000,000) general aggregate, and two million dollars ($2,000,000) aggregate for products-completed operations hazard, providing coverage for claims including

.1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;

.2 personal and advertising injury;

AIA Document A104™ – 2017 (formerly A107™ – 2007). Copyright © 1936, 1951, 1958, 1961, 1963, 1966, 1970, 1974, 1978, 1987, 1997, 2007 and 2017 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This document was produced by AIA software at 15:54:42 ET on 06/25/2020 under Order No.3723020267 which expires on 06/25/2021, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1380934989)

.3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
.4 bodily injury or property damage arising out of completed operations; and
.5 the Contractor's indemnity obligations under Section 9.15.

§ 17.1.3 Automobile Liability covering vehicles owned by the Contractor and non-owned vehicles used by the Contractor, with policy limits of not less than one million dollars ($1,000,000) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance, and use of those motor vehicles along with any other statutorily required automobile coverage.

§ 17.1.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as those required under Section 17.1.2 and 17.1.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 17.1.5 Workers' Compensation at statutory limits.

(Paragraphs deleted)
§ 17.1.10 The Contractor shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Section 17.1 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the period required by Section 17.1.1. The certificates will show the Owner as an additional insured on the Contractor's Commercial General Liability and excess or umbrella liability policy.

§ 17.1.11 The Contractor shall disclose to the Owner any deductible or self- insured retentions applicable to any insurance required to be provided by the Contractor.

§ 17.1.12 To the fullest extent permitted by law, the Contractor shall cause the commercial liability coverage required by this Section 17.1 to include (1) the Owner, the Architect, and the Architect's Consultants as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner's general liability insurance policies and shall apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Architect and the Architect's Consultants, CG 20 32 07 04.

§ 17.1.13 Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by this Section 17.1, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 17.1.14 Other Insurance Provided by the Contractor
(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)

Coverage	Limits

AIA Document A104™ – 2017 (formerly A107™ – 2007). Copyright © 1936, 1951, 1958, 1961, 1963, 1966, 1970, 1974, 1978, 1987, 1997, 2007 and 2017 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This document was produced by AIA software at 15:54:42 ET on 06/25/2020 under Order No.3723020267 which expires on 06/25/2021, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1380934989)

§ 17.2 Owner's Insurance

§ 17.2.1 Owner's Liability Insurance

The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance.

§ 17.2.2 Property Insurance

§ 17.2.2.1 The Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance written on a builder's risk "all-risks" completed value or equivalent policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed or materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section 17.2.2.2, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

§ 17.2.2.2 Unless the parties agree otherwise, upon Substantial Completion, the Owner shall continue the insurance required by Section 17.2.2.1 or, if necessary, replace the insurance policy required under Section 17.2.2.1 with property insurance written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 18.4.

§ 17.2.2.3 If the insurance required by this Section 17.2.2 is subject to deductibles or self-insured retentions, the Owner shall be responsible for all loss not covered because of such deductibles or retentions.

§ 17.2.2.4 If the Work involves remodeling an existing structure or constructing an addition to an existing structure, the Owner shall purchase and maintain, until the expiration of the period for correction of Work as set forth in Section 18.4, "all-risks" property insurance, on a replacement cost basis, protecting the existing structure against direct physical loss or damage, notwithstanding the undertaking of the Work. The Owner shall be responsible for all co-insurance penalties.

§ 17.2.2.5 Prior to commencement of the Work, the Owner shall secure the insurance, and provide evidence of the coverage, required under this Section 17.2.2 and, upon the Contractor's request, provide a copy of the property insurance policy or policies required by this Section 17.2.2. The copy of the policy or policies provided shall contain all applicable conditions, definitions, exclusions, and endorsements.

§ 17.2.2.6 Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any insurance required by this Section 17.2.2, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

§ 17.2.2.7 Waiver of Subrogation

§ 17.2.2.7.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by this Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this Section 17.2.2.7 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of

AIA Document A104™ – 2017 (formerly A107™ – 2007). Copyright © 1936, 1951, 1958, 1961, 1963, 1966, 1970, 1974, 1978, 1987, 1997, 2007 and 2017 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This document was produced by AIA software at 15:54:42 ET on 06/25/2020 under Order No.3723020267 which expires on 06/25/2021, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1380934989)

indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 17.2.2.7.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 17.2.2.7.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

§ 17.2.2.8 A loss insured under the Owner's property insurance shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements, written where legally required for validity, the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 17.2.3 Other Insurance Provided by the Owner
(List below any other insurance coverage to be provided by the Owner and any applicable limits.)

Coverage	Limits

§ 17.3 Performance Bond and Payment Bond
§ 17.3.1 The Owner shall have the right to require the Contractor to furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder as stipulated in the Contract Documents on the date of execution of the Contract.

§ 17.3.2 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

ARTICLE 18 CORRECTION OF WORK

§ 18.1 The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed, or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense, unless compensable under Section A.1.7.3 in Exhibit A, Determination of the Cost of the Work.

§ 18.2 In addition to the Contractor's obligations under Section 9.4, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 15.6.3, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty.

§ 18.3 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Section 8.3.

§ 18.4 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 18.5 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Article 18.

AIA Document A104™ – 2017 **(formerly A107™** – 2007). Copyright © 1936, 1951, 1958, 1961, 1963, 1966, 1970, 1974, 1978, 1987, 1997, 2007 and 2017 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This document was produced by AIA software at 15:54:42 ET on 06/25/2020 under Order No.3723020267 which expires on 06/25/2021, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1380934989)

ARTICLE 19 MISCELLANEOUS PROVISIONS

§ 19.1 Assignment of Contract

Neither party to the Contract shall assign the Contract without written consent of the other, except that the Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate such assignment.

§ 19.2 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 21.6.

§ 19.3 Tests and Inspections

Tests, inspections, and approvals of portions of the Work required by the Contract Documents or by applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities shall be made at an appropriate time. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 19.4 The Owner's representative:
(Name, address, email address and other information)

Robert Blain, Director of Operations and Capital Programs
7122 W. Okanogan Place, Bldg. A
Kennewick, WA 99336
Telephone Number: 509-736-2704
robert.blain@co.benton.wa.us

§ 19.5 The Contractor's representative:
(Name, address, email address and other information)

Michael Thorn, Vice President
1552 Georgia Ave.
Richland, WA 99352
Cell Number: 509-948-2202
Office Number: 509-416-2007
mike@ctcbuilds.com

§ 19.6 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

ARTICLE 20 TERMINATION OF THE CONTRACT

§ 20.1 Termination by the Contractor

If the Architect fails to certify payment as provided in Section 15.4.1 for a period of 30 days through no fault of the Contractor, or if the Owner fails to make payment as provided in Section 4.1.3 for a period of 30 days, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner payment for Work executed, including reasonable overhead and profit, costs incurred by reason of such termination, and damages.

§ 20.2 Termination by the Owner for Cause

§ 20.2.1 The Owner may terminate the Contract
(Paragraphs deleted)

AIA Document A104™ – 2017 (formerly A107™ – 2007). Copyright © 1936, 1951, 1958, 1961, 1963, 1966, 1970, 1974, 1978, 1987, 1997, 2007 and 2017 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This document was produced by AIA software at 15:54:42 ET on 06/25/2020 under Order No.3723020267 which expires on 06/25/2021, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1380934989)

in whole or in part whenever the OWNER determines in its sole discretion that such termination is in the best interests of the OWNER. The OWNER may terminate this Contract upon giving ten (10) days' written notice by certified mail to the CONTRACTOR. In that event, the COUNTY shall pay the CONTRACTOR for actual costs incurred by the CONTRACTOR in performing the Contract up to the date of such notice. Payment shall be made in accordance with Article 4, Payment. Nothing in this Section shall limit the rights of the OWNER pursuant to this Contract or by law.

§ 20.2.2 When the OWNER terminates the Contract in accordance with Section 20.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

(Paragraph deleted)

§ 20.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Architect, upon application, and this obligation for payment shall survive termination of the Contract.

§ 20.3 Termination by the Owner for Convenience

The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause. The Owner shall pay the Contractor for Work executed; and costs incurred by reason of such termination, including costs attributable to termination of Subcontracts; and a termination fee, if any, as follows:
(Insert the amount of or method for determining the fee payable to the Contractor by the Owner following a termination for the Owner's convenience, if any.)

ARTICLE 21 CLAIMS AND DISPUTES

§ 21.1 Claims, disputes, and other matters in question arising out of or relating to this Contract, including those alleging an error or omission by the Architect but excluding those arising under Section 16.2, shall be referred initially to the Architect for decision. Such matters, except those waived as provided for in Section 21.11 and Sections 15.7.3 and 15.7.4, shall, after initial decision by the Architect or 30 days after submission of the matter to the Architect, be subject to mediation as a condition precedent to binding dispute resolution.

§ 21.2 Notice of Claims

§ 21.2.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 18.2, shall be initiated by notice to the Architect within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 21.2.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 18.2, shall be initiated by notice to the other party.

§ 21.3 Time Limits on Claims

The Owner and Contractor shall commence all claims and causes of action against the other and arising out of or related to the Contract in accordance with the requirements of the final dispute resolution method selected in this Agreement whether in contract, tort, breach of warranty, or otherwise, within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all claims and causes of action not commenced in accordance with this Section 21.3.

§ 21.4 If a claim, dispute or other matter in question relates to or is the subject of a mechanic's lien, the party asserting such matter may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 21.5 The parties shall endeavor to resolve their disputes by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with their Construction Industry Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation.

Init.
/
AIA Document A104™ – 2017 **(formerly A107™** – 2007). Copyright © 1936, 1951, 1958, 1961, 1963, 1966, 1970, 1974, 1978, 1987, 1997, 2007 and 2017 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This document was produced by AIA software at 15:54:42 ET on 06/25/2020 under Order No.3723020267 which expires on 06/25/2021, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes: (1380934989)

The request may be made concurrently with the binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 21.6 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association, in accordance with the Construction Industry Arbitration Rules in effect on the date of this Agreement. Demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 21.7 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 21.8 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, any party to an arbitration may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of a Claim not described in the written Consent.

§ 21.9 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

§ 21.10 Continuing Contract Performance

Pending final resolution of a Claim, except as otherwise agreed in writing, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 21.11 Waiver of Claims for Consequential Damages

The Contractor and Owner waive claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

.1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and

.2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 20. Nothing contained in this Section 21.11 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

AIA Document A104™ – 2017 (formerly A107™ – 2007). Copyright © 1936, 1951, 1958, 1961, 1963, 1966, 1970, 1974, 1978, 1987, 1997, 2007 and 2017 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This document was produced by AIA software at 15:54:42 ET on 06/25/2020 under Order No.3723020267 which expires on 06/25/2021, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.
User Notes:
(1380934989)

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

Dated:_____

for: Benton County

_____
Chairman

_____
Member

_____
Member

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

Attest:_____
Clerk of the Board

Approved as to Form

_____
Eric Andrews, Civil Deputy Prosecuting Attorney

Dated: 7-2-20

for: Cliff Thorn Construction

Michael Thorn
Signature

Vice President
Title:

Michael Thorn
Print Name

CLIFFTC891P8
License Number

Init.

/

AIA Document A104™ – 2017 (formerly A107™ – 2007). Copyright © 1936, 1951, 1958, 1961, 1963, 1966, 1970, 1974, 1978, 1987, 1997, 2007 and 2017 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This document was produced by AIA software at 15:54:42 ET on 06/25/2020 under Order No.3723020267 which expires on 06/25/2021, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	July 14, 2020
Subject:	Accepting work by Boyd's Tree Service for 2019 Brush Cutting-Area 4
Presenter:	
Prepared By:	slc
Reviewed By:	D. D'Hondt

Type of Agenda Item:	**Type of Action Needed:**	
☒ Consent Agenda	☐ Discussion Only (1st)	☐ Pass Motion
☐ Public Hearing	☐ Discussion Only (2nd)	☒ Pass Resolution
☐ Scheduled Business	☐ Decision/Direction	☐ Pass Ordinance

Summary / Background Information

The County entered into a contract with Boyd's Tree Service for the 2019 Brush Cutting-Area 4 project on December 10, 2019 (Res. 2019-924). Boyd's Tree Service has completed all work required under the contract. The project has been examined by the County Engineer and has been found to be in compliance with the project specifications and drawings.

Fiscal Impact

Amount: N/A

Fund: N/A

Recommendation

The County Engineer recommends that the Board formally accept Boyd's Tree Service work and the project as complete.

Suggested Motion

Approve as part of the Consent Agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF ACCEPTING WORK PERFORMED BY BOYD'S TREE SERVICE UNDER CONTRACT FOR C.E. 2086 SMP – 2019 BRUSH CUTTING-AREA 4

WHEREAS, on December 10, 2019 the Board of County Commissioners entered into a contract with Boyd's Tree Service of Kennewick, Washington (Resolution 2019-924) for C.E. 2086 SMP – 2019 Brush Cutting-Area 4; and

WHEREAS, the contractor has completed all work required pursuant to their contract with Benton County for the project; and

WHEREAS, all releases for the project retainage have been received and all close out paperwork is in order; and

WHEREAS, this project has been examined by the County Engineer and has been found to be in compliance with the applicable project specifications and drawings; and

WHEREAS, it is the County Engineer's recommendation that the Board of Benton County Commissioners formally accept the contractor's work and the project as complete; **NOW, THEREFORE,**

BE IT RESOLVED that the Board of Benton County Commissioners concurs with the County Engineer's recommendation and hereby accepts the work performed by Boyd's Tree Service under contract for C.E. 2086 SMP – 2019 Brush Cutting-Area 4 as being completed in conformance with the contract documents.

Dated this 14th day of July 2020.

_____
Chairman

_____
Chairman Pro-Tem

_____
Member

Attest:_____
Clerk of the Board

Constituting the Board of County Commissioners of Benton County, Washington

Original: Public Works

S. Christen

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	July 14, 2020
Subject:	Accepting work by Banlin Construction, LLC for Public Services Building project
Presenter:	
Prepared By:	slc
Reviewed By:	R. Blain

Type of Agenda Item:	**Type of Action Needed:**	
☒ Consent Agenda	☐ Discussion Only (1st)	☐ Pass Motion
☐ Public Hearing	☐ Discussion Only (2nd)	☒ Pass Resolution
☐ Scheduled Business	☐ Decision/Direction	☐ Pass Ordinance

Summary / Background Information

The County entered into a contract with Banlin Construction, LLC for the C.E. 2037 – Benton County Public Services Building project on March 26, 2019 (Res. 2019-248). Banlin Construction, LLC has completed all work required under the contract. The project has been examined by the Director of Operations and Capital Programs and has been found to be in compliance with the project specifications and drawings.

Fiscal Impact

Amount: N/A

Fund: N/A

Recommendation

The Director of Operations and Capital Programs recommends that the Board formally accept Banlin Construction, LLC's work and the project as complete.

Suggested Motion

Approve as part of the Consent Agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF ACCEPTING WORK PERFORMED BY BANLIN CONSTRUCTION, LLC UNDER CONTRACT FOR C.E. 2037 – BENTON COUNTY PUBLIC SERVICES BUILDING PROJECT

WHEREAS, on March 26, 2019 the Board of County Commissioners entered into a contract with Banlin Construction, LLC of Kennewick, Washington (Resolution 2019-248) for C.E. 2037 – Benton County Public Services Building project; and

WHEREAS, the contractor has completed all work required pursuant to their contract with Benton County for the project; and

WHEREAS, all releases for the project retainage have been received and all close out paperwork is in order; and

WHEREAS, this project has been examined by the Director of Operations and Capital Programs and has been found to be in compliance with the applicable project specifications and drawings; and

WHEREAS, it is the Director of Operations and Capital Programs' recommendation that the Board of Benton County Commissioners formally accept the contractor's work and the project as complete; **NOW, THEREFORE,**

BE IT RESOLVED that the Board of Benton County Commissioners concurs with the Director of Operations and Capital Programs' recommendation and hereby accepts the work performed by Banlin Construction, LLC under contract for C.E. 2037 – Benton County Public Services Building project as being completed in conformance with the contract documents.

Dated this 14th day of July 2020.

_____
Chairman

_____
Chairman Pro-Tem

_____
Member

Attest:_____
Clerk of the Board

Constituting the Board of County Commissioners of Benton County, Washington

Original: Public Works

S. Christen

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	July 14, 2020
Subject:	Accepting work by Banlin Construction, LLC for Justice Center Restroom Renovation
Presenter:	
Prepared By:	slc
Reviewed By:	R. Blain

Type of Agenda Item:

- ☒ Consent Agenda
- ☐ Public Hearing
- ☐ Scheduled Business

Type of Action Needed:

- ☐ Discussion Only (1st)
- ☐ Discussion Only (2nd)
- ☐ Decision/Direction
- ☐ Pass Motion
- ☒ Pass Resolution
- ☐ Pass Ordinance

Summary / Background Information

The County entered into a contract with Banlin Construction, LLC for the CB19-16 – Justice Center Restroom Renovation project on October 29, 2019 (Res. 2019-773). Banlin Construction, LLC has completed all work required under the contract. The project has been examined by the Director of Operations and Capital Programs and has been found to be in compliance with the project specifications and drawings.

Fiscal Impact

Amount: N/A

Fund: N/A

Recommendation

The Director of Operations and Capital Programs recommends that the Board formally accept Banlin Construction, LLC's work and the project as complete.

Suggested Motion

Approve as part of the Consent Agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF ACCEPTING WORK PERFORMED BY BANLIN CONSTRUCTION, LLC UNDER CONTRACT FOR CB19-16 JUSTICE CENTER RESTROOM RENOVATION PROJECT

WHEREAS, on October 29, 2019 the Board of County Commissioners entered into a contract with Banlin Construction, LLC of Kennewick, Washington (Resolution 2019-773) for CB19-16 Justice Center Restroom Renovation project; and

WHEREAS, the contractor has completed all work required pursuant to their contract with Benton County for the project; and

WHEREAS, all releases for the project retainage have been received and all close out paperwork is in order; and

WHEREAS, this project has been examined by the Director of Operations & Capital Programs and has been found to be in compliance with the applicable project specifications and drawings; and

WHEREAS, it is the Director of Operations & Capital Program's recommendation that the Board of Benton County Commissioners formally accept the contractor's work and the project as complete; **NOW, THEREFORE,**

BE IT RESOLVED that the Board of Benton County Commissioners concurs with the Director of Operations & Capital Program's recommendation and hereby accepts the work performed by Banlin Construction, LLC under contract for CB19-16 Justice Center Restroom Renovation project as being completed in conformance with the contract documents.

Dated this 14th day of July 2020.

_____
Chairman

_____
Chairman Pro-Tem

_____
Member

Attest:_____
Clerk of the Board

Constituting the Board of County Commissioners of Benton County, Washington

Original: Public Works

S. Christen

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	July 14, 2020
Subject:	Execute contract with Stripe Rite, Inc. for the 2020 Pavement Marking project
Presenter:	
Prepared By:	slc
Reviewed By:	D. D'Hondt

Type of Agenda Item:	**Type of Action Needed:**	
☒ Consent Agenda	☐ Discussion Only (1st)	☐ Pass Motion
☐ Public Hearing	☐ Discussion Only (2nd)	☒ Pass Resolution
☐ Scheduled Business	☐ Decision/Direction	☐ Pass Ordinance

Summary / Background Information

By Resolution 2020-403 dated June 16, 2020, an award was made to Stripe Rite, Inc. for the 2020 Pavement Marking project – C.E. 2090 SMP. As directed, a contract has been prepared; and reviewed and approved as to form by our departmental assigned Deputy Prosecuting Attorney from the Civil Division; and has been executed by Stripe Rite, Inc.

Fiscal Impact

Amount: $290,865.00

Fund: Road Fund (0101-101)

Recommendation

It is recommended by the County Engineer that the Board authorize the Chairman to sign the contract with Stripe Rite, Inc. for the 2020 Pavement Marking project.

Suggested Motion

Approve as part of the Consent Agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY ROADS RE: AUTHORIZING THE CHAIRMAN TO SIGN THE CONTRACT WITH STRIPE RITE, INC. FOR C.E. 2090 SMP – 2020 PAVEMENT MARKING

WHEREAS, by Resolution 2020-403 dated June 16, 2020, an award was made to Stripe Rite, Inc., Kennewick, Washington and as directed, staff has prepared a contract for Board approval; and

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

WHEREAS, the contract in the amount of $290,865.00 has been executed by Stripe Rite, Inc.; **NOW, THEREFORE,**

BE IT RESOLVED, that the Board of Benton County Commissioners hereby authorizes the Chairman of the Board of County Commissioners to sign on behalf of Benton County the contract awarded June 16, 2020 to Stripe Rite, Inc., for the C.E. 2090 SMP – 2020 Pavement Marking project in the amount of $290,865.00 plus any necessary Change Orders in accordance with Section 3.8 of the Benton County Procurement, Leasing and Contracting Policy per Resolution 2012-677 or any future amendments to said policy; and

BE IT FURTHER RESOLVED, that the County Engineer is hereby authorized to proceed with the 2020 Pavement Marking project according to the terms of the contract; and

BE IT FURTHER RESOLVED, the project shall be completed in its entirety within forty-five (45) working days as described in the contract documents.

Dated this 14th day of July 2020.

_____
Chairman.

_____
Chairman Pro-Tem.

_____
Member.

Attest:_____
Clerk of the Board

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

Orig.: Public Works
c: Auditor

S. Christen

CONTRACT

THIS CONTRACT, made and entered into this _____ day of _____, 2020, between the COUNTY OF BENTON, STATE OF WASHINGTON, (hereinafter "the County") acting through the Board of County Commissioners, under and by virtue of RCW 36, as amended, and STRIPE RITE, INC., (hereinafter "the Contractor").

WITNESSETH:

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

I. The Contractor shall furnish all tools, materials, and equipment, and shall do all work described in and in accordance with the attached plans and specifications entitled "**Contract Provisions and Plans, CE 2090 SMP – 2020 Pavement Marking**," and as described in and in accordance with the State of Washington 2020 Standard Specifications for Road, Bridge, and Municipal Construction adopted by the County, (hereinafter collectively referred to as "the Contract Documents") which are by this reference incorporated herein and made part hereof, and shall perform any changes to the work in accord with the Contract Documents.

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

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

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

IV. The County agrees to pay to the Contractor, as full and complete compensation for materials and work provided in accordance with the Contract Documents, the sum of $290,865.00, payable as provided in the Contract Documents.

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

VI. The Contractor shall hold harmless, indemnify and defend the County, its officers, officials, employees and agents, from and against any and all claims, actions, suits, liability, loss, expenses, damages, and judgments of any nature whatsoever, including reasonable costs and attorney fees thereof, for injury, sickness, disability or death to persons or damage to property or business, caused by or arising out of the Contractors acts, errors or omissions in the performance of this Contract. Provided, that the Contractor's obligation hereunder shall not extend to injury, sickness, death or damage caused by or arising out of the sole negligence of the County, its officers, officials, employees, or agents.

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

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

STRIPE RITE, INC.

Signature

Branch Mgr

Title

6/22/20

Date

COUNTY OF BENTON

Chairman, Board of Commissioners

Attest: _____
Clerk of the Board

Date

APPROVED AS TO FORM:

Reid Hay
Benton County Deputy Prosecuting Attorney

6/18/20

Date

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	July 14, 2020
Subject:	Purchase of Grader Blade Cutting Edges from Papé Machinery
Presenter:	
Prepared By:	Michael McGhan
Reviewed By:	Robert Blain

Type of Agenda Item:	**Type of Action Needed:**	
☒ Consent Agenda	☐ Discussion Only (1st)	☐ Pass Motion
☐ Public Hearing	☐ Discussion Only (2nd)	☒ Pass Resolution
☐ Scheduled Business	☐ Decision/Direction	☐ Pass Ordinance

Summary / Background Information

Public Works Department maintenance crews use road graders during snow events to help keep the roads clear. The edges on the graders see considerable wear during the winter use. ER&R purchases a single, large order of grader blade cutting edges annually to get better pricing and save on shipping costs.

ER&R needs to purchase 100 grader blade cutting edges for use on county owned road graders. Three quotes were solicited. The lowest bidder was Papé Machinery at $14,129.00 plus WSST.

Fiscal Impact

Amount: $14,129.00 plus WSST

Fund: ER&R (0501-101)

Recommendation

Approve the purchase of 100 grader blade cutting edges from Papé Machinery for $14,129.00 plus WSST.

Suggested Motion

Approve as part of the Consent Agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF THE PURCHASE OF 100 GRADER BLADE CUTTING EDGES FROM PAPÉ MACHINERY, PASCO, WASHINGTON

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

WHEREAS, per Section 2.2.2 (Purchases or Leases between $5,000 and $24,999), county departments are required to obtain quotations from at least three (3) vendors on the vendor list and such purchase is to be approved by the Board of Benton County Commissioners by resolution; and

WHEREAS, written quotations for 100 grader blade cutting edges were solicited and are as follows:

Papé Machinery, Pasco, WA	$14,129.00 plus WSST
Western States Equipment Company, Pasco, WA	$16,454.00 plus WSST
NC Machinery, Yakima, WA	$19,301.32 plus WSST

WHEREAS, the Fleet Superintendent reviewed the quotes for completeness and recommends the purchase of the grader blade cutting edges from Papé Machinery, Pasco, Washington; **NOW, THEREFORE,**

BE IT RESOLVED the Board of County Commissioners approves the purchase of 100 grader blade cutting edges from Papé Machinery, Pasco, Washington, for $14,129.00 plus WSST; and

BE IT FURTHER RESOLVED that the Fleet Superintendent is hereby authorized to proceed with the purchase.

Dated this 14th day of July 2020.

_____
Chairman

_____
Chairman Pro-Tem

_____
Member

Attest:_____
Clerk of the Board

Constituting the Board of County Commissioners of Benton County, Washington

Orig.: Public Works
cc: Auditor

S. Christen

PAPE MACHINERY

lectronic Estimate

07/02/20 P A P E ' M A C H I N E R Y ESTIMATE #- 245156
13:40:26 BRANCH- 08
PAGE- 01 ** ESTIMATE ** DIVISN- 01

700157 BENTON COUNTY PUBLIC WOR
102808 WISER PARKWAY
KENNEWICK WA 99338
509-786-5611

MK/MODEL:
SERIAL #:
EQUIP #:

SPG: /

SEG- 1

Qty	Part Number/Description	Wt	O/H	Sell	Ext/Cst
100	7D1577 GRADER BLAD@			141.29	14,129.00

PARTS	LABOR	MISC	
14,129.00	.00	.00	14,129.00
		STATE/LOCAL TAX	1,215.09
		GRAND TOTAL-->	15,344.09

QUOTATION

NO.: Q000193737-1

QUOTATION DATE: 6/17/2020
QUOTATION EXPIRES: 7/17/2020
CUSTOMER: 0722030
CUSTOMER PO:
CUSTOMER REF:
TERMS: Net 30
DIVISION: General Line
LOCATION: Pasco Parts
DELIVERY: Will Call

Pasco
2100 Frontier Loop Pasco, WA 99301
509.547.9541

QUOTED TO:
Benton County - Road Dept
PO Box 1001
Prosser, WA 99350-0954

SHIP TO:
Western States Equipment - Pasco
2100 E Frontier Loop
Pasco, WA 99301-5978

CUSTOMER REFERENCE:	ORDERED BY:	PHONE NUMBER:	SALES PERSON:
	Jacob Roberts		Lee Horton

MAKE	MODEL	SERIAL NUMBER	EQUIPMENT NUMBER	CUSTOMER EQUIPMENT NUMBER
ONA	NOT IN SYSTEM	Not In System	E0000265	

ORDER QTY	UNIT	ITEM NUMBER	DESCRIPTION	UNIT WEIGHT	RETURNABLE	UNIT PRICE	DISCOUNT %	PRICE
100	pc	7D1577	Cutting Edge	126.55	Yes	193.58	15.00%	16,454.00

TOTAL PARTS: 16,454.00
TAX: 1,415.04

ESTIMATED TOTAL WEIGHT: 12655

QUOTATION AMOUNT: $17,869.04

NC MACHINERY

CAT®

17025 WEST VALLEY HIGHWAY
TUKWILA WA 98188-6519
(425)251-5800

73 ECLIPSE INDUSTRIAL PARKWAY
PORT ANGELES WA 98363-9403
(360)452-9222

2020 FREEWAY DRIVE
MOUNT VERNON WA 98273-5476
(360)424-4292

2603 PACIFIC HIGHWAY EAST
FIFE WA 98424
(253)896-0878

1178 NW MARYLAND
CHEHALIS WA 98532-1811
(360)748-8845

2100 TERRACE HEIGHTS
YAKIMA WA 98901-2127
(509)248-2371

5535 BAKER FLATS DR.
WENATCHEE WA 98802
(509)886-5561

14597 169TH DR SE
MONROE WA 98272
(360)805-6000

5450 ARCTIC BLVD
ANCHORAGE AK 99518-1532
(907)561-1766

401 VAN HORN ROAD
FAIRBANKS AK 99701
(907)452-7251

8550 AIRPORT BLVD.
JUNEAU AK 99801-8064
(907)789-0181

2050 W. RUPEE CIRCLE
WASILLA AK 99654
(907)352-3400

1171 AIRPORT BEACH RD
DUTCH HARBOR AK 99692-7345
(907)581-1367

FOR INQUIRIES PLEASE REFERENCE THIS NUMBER

CUSTOMER QUOTE * EXPIRES 07/19/20 *CHARGE*

DOCUMENT NO. YKQ007537

SOLD TO
COUNTY OF BENTON
PUBLIC WORKS DEPT
PO BOX 1001
PROSSER WA 99350-0608

CUSTOMER NO.
1746800
STORE
26

SHIP TO
620 MARKET STREET
PROSSER WA 99350

FILLED BY
W/C PIECES
W/O LOC

ORDERED BY	TELEPHONE	CUST.ORDER NO.	INSTRUCTIONS	DELIVERY LOCATION	SHIP VIA
	509 786 2262	26:		26:	

MAKE P/C	MODEL	SERIAL NUMBER	EQUIP NO.	ARRANGEMENT NO.	DATE	TIME	ENT BY	REFERENCE NO.	PAGE
					6/19/20	8:39:42	ICJ		1

ITEM NO.	ORDER	SHIP	B/O	PART NUMBER/ DESCRIPTION	R	DESCRIPTION	TR	SOS	GROSS WEIGHT	UNIT PRICE	EXTD PRICE
PARTS SALES PERSON: IAN C JONES - YAK											
1	100	2	98	7D-1577 CUTTING EDGE				000	126.6	184.36	18436.00
MSC	1			OUT SHIP&HANDLE					.0	865.32	865.32

TOTAL GROSS WEIGHT OF SHIPPED ITEMS 12660.0

ALL ITEMS WITH AN ASTERISK ARE NON RETURNABLE

YAKIMA TAX 1544.11

USD SELL TOTAL 20845.43

RETURN POLICY: Merchandise cannot be returned for credit without our prior approval and only in accordance with our Parts Return Policy. A copy of the Policy is available upon request.

Acceptance of items described above shall constitute acceptance of the terms and conditions on the reverse side hereof, including LIMITED WARRANTY, DISCLAIMER AND RELEASE and EXCLUSION OF LIABILITIES

RECEIVED BY

DATE

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY FUNDS RE: TRANSFER OF FUNDS WITHIN COUNTY ROAD FUND NUMBER 0101101, DEPARTMENT NUMBER 500.

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

Dated this _____ 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 J. Bowe

EXHIBIT "A"

BENTON COUNTY LINE ITEM TRANSFER

Dept Name: Road Dept Nbr: 500

Fund Name: County Road Fund Nbr: 0101101

TRANSFER FROM: TRANSFER TO:

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT	BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
594.420	6400	Equipment	$20,356	597.100	0501	Transfer Out	$20,356
518.620	4100	Professional Services	$8,000	542.313	9100	Interfund Professional Services	$2,000
				542.320	9100	Interfund Professional Services	$2,500
				542.712	9100	Interfund Professional Services	$2,500
				542.640	9300	Interfund Supplies	$1,000
TOTAL			$28,356	TOTAL			$28,356

Explanation:

Reallocation of funding to where funds are expected to be utilized. In addition, moving funds to purchase sign shop printer from ER&R.

Prepared by: Jennifer Bowe Date: 02-Jul-2020

Approved ❑ Denied ❑ Date: _____

_____
Chairman

_____
Member

_____
Member

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	July 14, 2020
Subject:	Adopting Legislation to Authorize a Sales and Use Tax for Affordable and Supportive Housing
Presenter:	Kyle Sullivan
Prepared By:	Kirsten Yniguez
Reviewed By:	Reid Hay

PA Review, Approval to Form: ☒ Yes ☐ No ☐ N/A *(If no, include reasoning for no approval)*

Type of Agenda Item:	**Type of Action Needed:**	
☐ Consent Agenda	☐ Discussion Only (1st)	☒ Pass Motion
☒ Public Hearing	☐ Discussion Only (2nd)	☒ Pass Resolution
☐ Scheduled Business	☐ Decision/Direction	☒ Pass Ordinance
	☐ Sign Letter/Document	☐ Execute Contract

Summary / Background Information

This ordinance is the follow up legislation that was adopted by the County in the 2019 resolution of intent to adopt Substitute House Bill 1406 (82.14.540 RCW), authorizing a sales and use tax for the acquisition, construction or rehabilitation of affordable and supportive housing and also for the operations and maintenance cost of affordable or supportive housing. The tax is credited against the 6.5% state sales taxes collected, therefore, will not result in a higher sales and use tax within Benton County.

The resolution that accompanies the ordinance also authorizes the creation of special revenue fund called the "Affordable and Supportive Housing Fund" (#0159101) into which the revenue collected pursuant to the ordinance will be placed.

Fiscal Impact

Amount: Increased sales tax collection

Fund: County Special Revenue Fund #0159101

Recommendation

Approval of this ordinance as required in the legislation.

Suggested Motion

The Board adopts the ordinance to implement the additional sales tax collection and authorize the creation of an Affordable and Supportive Housing Fund.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF ADOPTING LEGISLATION TO AUTHORIZE A SALES AND USE TAX FOR AFFORDABLE AND SUPPORTIVE HOUSING IN ACCORDANCE WITH RCW 82.14.540, ESTABLISHING THE AFFORDABLE AND SUPPORTIVE HOUSING FUND, FUND NUMBER 0159-101, AND OTHER MATTERS RELATED THERETO.

WHEREAS, in the 2019 Regular Session, the Washington State Legislature approved, and the Governor signed, Substitute House Bill 1406 (Chapter 338, Laws of 2019), now codified at RCW 82.14.540; and

WHEREAS, the Board of Benton County Commissioners adopted resolution 2019-677 declaring the County's intent to adopt legislation pursuant to RCW 82.14.540 to authorize a local sales and use tax credited against the state sales and use tax for affordable or supportive housing at the maximum rate established for counties under that statute; and

WHEREAS, to collect the tax, a county must adopt an ordinance authorizing the tax within one year of the effective date of the bill, or July 28, 2020; and

WHEREAS, the tax is credited against state sales taxes collected within Benton County and, therefore, will not result in higher sales and use taxes within Benton County and will represent an additional source of funding to address housing needs in Benton County; and

WHEREAS, the Benton County Human Services Department is prepared to coordinate the development of a plan for use of resources consistent with RCW 82.14.540; and

WHEREAS, a special revenue fund should be established to account for the portion of the state sales and use tax collected for these purposes;

NOW THEREFORE BE IT RESOLVED, by the Board of County Commissioners of Benton County, Washington, that Ordinance No. _____ is approved, adopted immediately, and shall take effect and be in full force on July 29, 2020; and

BE IT FURTHER RESOLVED, that the Affordable and Supportive Housing Fund is hereby established to account for the portion of the state sales and use tax collected in accordance with RCW 82.14.540; and

BE IT FURTHER RESOLVED, that the Benton County Auditor is hereby authorized to establish said Affordable and Supportive Housing Fund to be identified as Fund Number 0159-101; and

BE IT FURTHER RESOLVED, that monies received into Fund Number 0159-101 may be invested by the Benton County Treasurer, with all monies received from such investments being receipted into and retained within the fund.

Dated this _____ day of _____, 2020.

_____

Chairman of the Board

Orig: Commissioners
cc: Auditor, Treasurer, Human Services

Prepared by: K Yniguez

_____
Member

_____
Member

Constituting the Board of Commissioners
of Benton County, Washington

Attest.....
Clerk of the Board

Orig: Commissioners
cc: Auditor, Treasurer, Human Services

Prepared by: K Yniguez

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	July 14, 2020
Subject:	2020-2025 Six-Year Road Program
Presenter:	Douglas D'Hondt
Prepared By:	BEP
Reviewed By:	DPD

PA Review, Approval to Form: ☐ Yes ☐ No ☒ N/A *(If no, include reasoning for no approval)*

Type of Agenda Item:	**Type of Action Needed:**	
☐ Consent Agenda	☐ Discussion Only (1st)	☐ Pass Motion
☒ Public Hearing	☐ Discussion Only (2nd)	☒ Pass Resolution
☐ Scheduled Business	☐ Decision/Direction	☐ Pass Ordinance
	☐ Sign Letter/Document	☐ Execute Contract

Summary / Background Information

Resolution 2018-137A approved the amendment to include the 2017 Roadside Improvement Project on the 2018-2023 Six-Year Road Program. The 2017 Roadside Improvement Project was not added to the 2019-2024 or the 2020-2025 Six-Year Road Program. A public hearing was held on July 14, 2020 after being advertised on July 1, 2020 and July 8, 2020 with no opposition being brought forth. Therefore, an amendment of the 2020-2025 Six-Year Road Program to include the 2017 Roadside Improvement Project needs to be approved by the Board.

Fiscal Impact

Amount: **$463,800**

Fund: **Road**

Recommendation

Approve the amendment of the 2020-2025 Six-Year Road Program.

Suggested Motion

Move to amend the 2020-2025 Six-Year Road Program to include the 2017 Roadside Improvement Project.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY ROADS RE: APPROVING THE AMENDMENT OF THE 2020 - 2025 SIX-YEAR ROAD PROGRAM TO INCLUDE THE 2017 ROADSIDE IMPROVEMENT PROJECT

WHEREAS, RCW 36.81.121 requires development of perpetual advanced six-year plans for coordinated transportation; and

WHEREAS, Resolution 2018-137A approved the amendment to include the 2017 Roadside Improvement Project on the 2018-2023 Six-Year Road Program; and

WHEREAS, the 2017 Roadside Improvement Project was not added to the 2019-2024 or the 2020-2025 Six-Year Road Program; and

WHEREAS, in 2017 Benton County was awarded a grant of $463,800 through the Highway Safety Improvement Program for design and construction of the project; and

WHEREAS, said funds are being spent on the 2017 Roadside Improvement Project; and

WHEREAS, a public hearing was held on July 14, 2020 and no opposition was brought forth; and

WHEREAS, the County Engineer recommends an amendment to the 2020 – 2025 Six-Year Road Program to include the 2017 Roadside Improvement Project; **NOW, THEREFORE,**

BE IT RESOLVED the 2020 – 2025 Six-Year Road Program is here by amended to include the 2017 Roadside Improvement Project.

Dated this 14th day of July, 2020.

_____
Chairman of the Board.

_____
Chairman Pro-Tem.

_____
Member.

Attest_____
Clerk of the Board

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

Orig.: Public Works B. Parham

BENTON COUNTY ROAD DEPARTMENT

2018-2023 SIX-YEAR TRANSPORTATION IMPROVEMENT PROGRAM

2017 Roadside Improvements

Countywide

Description and Scope

This project will use contractors to flatten slopes along county roadways and improve the conditions of the shoulders of County roads.

Purpose and Need

Run off the road collisions were found to be one of the most prevalent types of collisions in Benton County. As such, they have been targetted by the County's traffic safety plan. This project will provide more available room for correction prior to a run off the road collision.

History and Current Status

The Washington State Department of Transportation has set the statewide goal of reducing collisions to zero. In an effort to reach that goal, it promotes the adoption of a traffic safety plan by each local jurisdiction. Funds are available to address concerns in the traffic safety plan. As slope flattening and shoulder improvements are indicated as a major source of improvement for Benton County, this project will move the County further along its traffic safety plan.

Operating and Maintenance Impact

This project is not anticipated to greatly increase maintenance costs. The County will have to maintain the flattened slopes and shoulder improvements, but these will just shift the kind of maintenance done within the County right-of-way. No right-of-way will be purchased.

PARTICIPATING FUNDS	TOTAL ESTIMATED PROJECT REVENUE	REVENUES					
		2018-2019		2020-2021		2022-2023	
HSIP	$ 463,800.00	$ 463,800.00					
	$ -						
	$ -						
TOTAL	$ 463,800.00	$ 463,800.00	$ -	$ -	$ -	$ -	$ -

PARTICIPATING FUNDS	TOTAL ESTIMATED PROJECT COSTS	EXPENDITURES					
		2018-2019		2020-2021		2022-2023	
Construction	$ 463,800.00	$ 463,800.00					
	$ -						
	$ -						
TOTAL	$ 463,800.00	$ 463,800.00	$ -	$ -	$ -	$ -	$ -

Washington State Department of Transportation

Six Year Transportation Improvement Program
From 2020 to 2025

Agency: Benton Co.
County: Benton
MPO/RTPO: BFCG N Inside Y Outside

Functional Class	Priority Number	A. PIN/Project No. / C. Project Title / D. Road Name or Number / E. Begin & End Termini / F. Project Description	B. STIP ID / G. Structure ID	Hearing	Adopted	Amendment	Resolution No.	Improvement Type	Utility Codes	Total Length	Environmental Type	RW Required
00	26	2017 ROADSIDE IMPROVEMENTS COUNTYWIDE Various to Various Countywide shoulder and slope improvements. Install stop signs.	WA-10966					21		115.000	CE	No

Funding

Status	Phase	Phase Start Year (YYYY)	Federal Fund Code	Federal Funds	State Fund Code	State Funds	Local Funds	Total Funds
S	CN	2020	HSIP	453,000		0	0	453,000
			Totals	**453,000**		**0**	**0**	**453,000**

Expenditure Schedule

Phase	1st	2nd	3rd	4th	5th & 6th
ALL	465,000	0	0	0	0
Totals	**465,000**	**0**	**0**	**0**	**0**

	Federal Funds		State Funds	Local Funds	Total Funds
Grand Totals for Benton Co.	**453,000**		**0**	**300,000**	**753,000**

To view the complete packet, call the Commissioners' office @ 509.786.5600

EXHIBIT LIST FOR SUB 2020-001/EA 2020-001
Preliminary Plat of Grace Estates

			DATED
Planning Commission Memo Exhibit List - June 9, 2020			
PCM 1 Includes:	PCM 1.1	Staff Report	May 15, 2020
	PCM 1.2	Site Map	February 3, 2020
	PCM 1.3	Notice of Public Hearing	May 20, 2020
	PCM 1.4	Planning Department Letter to Applicant	February 19, 2020
	PCM 1.5	Finding of Need for Additional Processing Time	February 19, 2020
		APPLICATION SUBMITTAL	
	PCM 1.6	Subdivision Application	January 16, 2020
	PCM 1.7	Plat Map for Grace Estates	January 16, 2020
	PCM 1.8	Preliminary Stormwater Drainage Report	January 16, 2020
		SEPA INFORMATION	
	PCM 1.9	Environmental Checklist EA 2020-001	January 16, 2020
	PCM 1.10	Notice of Application	February 3, 2020
	PCM 1.11	Mitigated Determination of Non Significance	April 9, 2020
		COMMENTS	
	PCM 1.12	Benton Franklin Health District Letter	January 18, 2020
	PCM 1.13	West Benton Fire District #3	February 4, 2020
	PCM 1.14	Benton PUD Comments	February 5, 2020
	PCM 1.15	City of Prosser	February 6, 2020
	PCM 1.16	Sunnyside Valley Irrigation District	February 7, 2020
	PCM 1.17	Benton Franklin Health District Letter	February 12, 2020
	PCM 1.18	Sunnyside Valley Irrigation District	February 12, 2020
	PCM 1.19	Benton County Public Works	February 18, 2020
	PCM 1.20	Benton County Assessor	February 18, 2020
	PCM 1.21	Benton County Public Works	February 19, 2020
	PCM 1.22	Benton County Fire Marshal Comments	February 20, 2020
	PCM 1.23	Letter from Scott Honeycutt	March 2, 2020
	PCM 1.24	Dept. of Arch. & Historic Preservation	February 11, 2020
	PCM 1.25	City of Prosser	April 9, 2020
	PCM 1.26	Dept. of Arch. & Historic Preservation	April 23, 2020
	PCM 1.27	Benton County Public Works	May 12, 2020
Board of County Commissioners Memo Exhibit List - July 14, 2020			
BCCM 1 Includes:	BCCM 1.1	Commissioners Agenda Action Sheet	July 1, 2020
	BCCM 1.2	Draft Resolution	July 1, 2020
	BCCM 1.3	Planning Commission Findings & Recommendation	June 9, 2020
	BCCM 1.4	Planning Commission Meeting Audio	June 9, 2020

The Exhibit Numbers are found in the Top Right Hand Corner of each document.
PCM = Planning Commission Memo Exhibits
BCCM = County Commissioner Memo Exhibits

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	July 14, 2020 **Memo Date:** July 1, 2020
Subject:	Preliminary Plat of Grace Estates - SUB 2020-001 Applicant: Ron Wenger
Presenter:	Greg Wendt, Planning Manager and Michelle Cooke, Principal Planner
Prepared By:	Donna Hutchinson
Reviewed By:	Greg Wendt

Type of Agenda Item:	Type of Action Needed:	
☐ Consent Agenda	☐ Discussion Only (1st)	☒ Pass Motion
☐ Public Hearing	☐ Discussion Only (2nd)	☒ Pass Resolution
☒ Scheduled Business	☒ Decision/Direction	☐ Pass Ordinance

Summary / Background Information

The applicant submitted a preliminary plat application (PCM 1.6) and map (PCM 1.7) to subdivide approximately 9.37 acres into 7 residential lots. The preliminary plat is known as Grace Estates. The land is zoned Urban Growth Area Residential. The average lot size in the development is approximately 1.25 acres and the lots are proposed to be served by a new public road and individual wells and septic systems. The property lies south of North River Road, east of Moore Road in unincorporated Prosser, WA. The site is located on parcels 102843012461003 and 102843012461004.

The Benton County Commissioners set Tuesday, July 14, 2020 at 9:00 a.m. in the Commissioners Chamber Room, Benton County Courthouse, 620 Market Street, Prosser, WA. 99350 for the Board of County Commissioners to conduct a closed record (appeal) hearing with reference to this preliminary plat.

On June 9, 2020, at the conclusion of the open record hearing, the Planning Commission voted (5-0) to forward a positive recommendation to the Board of County Commissioners subject to eight (8) findings of fact and eighteen (18) conditions of approval. With the completion of the open record hearing, the Benton County Code requires the Board of County Commissioners conduct a closed record (appeal) hearing with reference to this preliminary plat.

All the information that has been submitted to the Planning Commission is being submitted to the Board of County Commissioners for inclusion in the public record and will need to be considered by the Board of County Commissioners with reference to this matter.

Fiscal Impact - Maintenance of new County Roads

Amount: Unknown

Fund: Unknown

Recommendation

Planning Commission recommendation:

At the conclusion of the open record hearing, the Planning Commission voted 5– 0 to forward a positive recommendation to the Board of County Commissioners subject to eight (8) findings of fact and eighteen (18) conditions of approval (Recommendation, Findings of Fact and Conditions).

Planning Department recommendation:

It is the Planning Department's recommendation that the Board of County Commissioners approve the preliminary plat as submitted, subject to the Planning Commission's Recommendation, Findings of Fact and Conditions.

Suggested Motion

If the Board agrees with the Planning Commission, a motion can be made to adopt the Planning **Commission's** Recommendation, Findings of Fact and Conditions as the **Board's** own and approve the preliminary plat of Grace Estates - SUB 2020-001 as recommended by the Planning Commission.

If however, the Board disagrees with the Planning Commission's recommendation then the Board will have to complete their own Findings and either approve the plat with additional conditions or deny the plat. If based on the Boards record, the wish is to complete their own Findings of Fact and Conditions, the Planning Department could draft the Board's Decision and Conclusions for the Board's approval.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF COUNTY PLANNING REGARDING PRELIMINARY PLAT APPLICATION SUB 2020-001 – GRACE ESTATES. APPLICANT: RON WENGER, PARCEL NUMBERS 102843012461003 AND 102843012461004.

WHEREAS, the Legal notification pursuant to the Benton County Subdivision Regulations, BCC 9.05.040, was given on Wednesday, May 27, 2020.; and,

WHEREAS, public notice procedures, pursuant to RCW 58.17.080 and 58.17.090, were carried out including: Notice to affected jurisdictions, (February 4, 2020); publication of Notice of Application (February 12, 2020) and Legal Notice in the Prosser Record Bulletin (May 27, 2020); and,

WHEREAS, the Planning Commission held a public hearing on June 9, 2020 at 6:00 p.m., in the Planning Annex, 1002 Dudley Avenue, Prosser, WA 99350 and all those who testified and those public hearing exhibits that were received into evidence are identified in the minutes for the open record hearing; and,

WHEREAS, in an effort to continue to provide public access to the Planning Commission meetings during the Governor's "Stay Home, Stay Healthy" order, the public was provided telephonic and video access for the public to view and provide testimony at the Planning Commission meetings; and,

WHEREAS, the Planning Commission at the open record hearing held on June 9, 2020, considered the testimony submitted and voted to recommend approval with conditions of the Preliminary Plat of Grace Estates - SUB 2020-001; and,

WHEREAS, the Planning Commission entered its recommendation, written findings of fact, and conditions of approval concerning this matter, and forwarded the same to the Board of County Commissioners; and,

WHEREAS, the Board of County Commissioners did review the record and recommendation prepared by the Planning Commission and considered oral and written arguments based upon the record at a Closed Record Appeal Hearing on Tuesday, July 14, 2020; and,

WHEREAS, the Board of County Commissioners did adopt the Planning Commission's Finding of Fact and Conditions of Approval as their own (which are kept in File No. SUB 2020-001 in the Planning Department records); and,

WHEREAS, it further appears that the public interest will be served by the approval of the Preliminary Plat of Grace Estates - SUB 2020-001 as considered by the Board of County Commissioners; NOW THEREFORE,

BE IT RESOLVED, that the Board of County Commissioners hereby adopts the Planning Commission's Findings of Fact and Conditions of Approval as their own regarding the Preliminary Plat of Grace Estates – SUB 2020-001 and hereby approves the preliminary plat.

Dated this 14th day of July 2020.

_____
Chairman of the Board

_____
Member

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

Attest.....
Clerk of the Board

GW:djh

RECOMMENDATION OF THE BENTON COUNTY PLANNING COMMISSION

RE: In the Matter of County Planning: relating to the preliminary plat of Grace Estates by Ron Wenger located in Section, 2 Township 8 North, Range 24 East. W.M.

SUB 2020-001
RECOMMENDATION, FINDINGS OF FACT AND CONCLUSIONS

RECOMMENDATION

SUB 2020-001: A proposal by Ron Wenger for the preliminary plat of Grace Estates, a subdivision of approximately 9.37 acres into 7 residential lots with an average lot size of 1.25 acres on Parcel Nos. 1-0284-301-2461-003 and 1-0284301-2461-004 is hereby recommended to be **APPROVED WITH CONDITIONS**. This action is based upon the following findings pursuant to RCW 58.17.110.

RESOLUTION

WHEREAS, the legal notification for the open record public hearing was given pursuant to RCW 36.70.590 on May 27, 2020;

WHEREAS, an open record public hearing was held on June 9, 2020 at 6:00 p.m., in the Planning Annex, 1002 Dudley Avenue, Prosser, WA 99350;

WHEREAS, the Planning Commission was available to receive public testimony, exhibits, and answer questions in the public portion of the hearing with the public being able to attend and comment through telephonic access to the meeting. The meeting was also broadcast through video access to allow the public to view the meeting; and,

WHEREAS, the following members attended the meeting, including, Lloyd Coughlin, Brian Skeels, Marjorie Kaspar, Tammy McKeirnan, Leo Perales, and Martin Sheeran; and,

WHEREAS, all those who testified and those public hearing exhibits that were received into evidence are identified in the minutes for the hearing on June 9, 2020; and,

WHEREAS, the Planning Commission at the open record public hearing considered the evidence submitted and voted to recommend approval with the findings of fact as outlined in the staff memo dated May 12, 2020; and,

WHEREAS, the Planning Commission is entering its written findings of fact, conclusions and recommendations concerning this matter, and is forwarding the same to the Board of County Commissioners and,

FINDINGS OF FACT

1. The proposed subdivision (PCM 1.6 - application and PCM 1.7 preliminary plat map) conforms to the Benton County Comprehensive Plan, any applicable zoning requirements and other applicable land use controls;
    a. The proposed use is in conformance with the intent of the Comprehensive Plan based on the following facts:
        i. The 9.37-acre site is bordered on the north, east and south by lands zoned UGAR. The land to the west is zoned RL-1;
        ii. The Benton County Comprehensive Plan designates this area as Urban. The property is in the City of Prosser's Urban Growth Area. The City's Comprehensive Land Use Map identifies that land as Residential;
        iii. The site is zoned Urban Growth Area Residential (UGAR). The preliminary plat complies with the minimum lot size and minimum average lot width required for UGAR Zoning District;
        iv. The overall plat average lot size is 1.25 acres;
        v. This development is consistent with the required minimum lot size and density standards contained in the City of Prosser Comprehensive Plan; and
        vi. The creation of 7 residential lots in the UGAR Zoning District furthers the implementation of the Benton County Comprehensive Plan.
    b. The proposed plat is consistent with the applicable zoning requirements of the Benton County Code, Title 11, based on the following facts:
        i. The property is zoned Urban Growth Area Residential (UGAR). The preliminary plat complies with the minimum lot size and minimum average lot width required for the UGAR Zoning District.
    c. The proposed subdivision does comply with the requirements of the Benton County Code, Title 9, Subdivision Regulations;
        i. The proposed subdivision complies with the purpose and preliminary plat requirements included in BCC 9.05 Subdivision - Preliminary Plat;
        ii. An open record hearing for the preliminary plat was held on June 9, 2020. During the hearing, the Planning Commission considered all relevant information including oral and written comments/testimony; and
        iii. At the conclusion of the open record hearing, the Planning Commission rendered a recommendation to the Board of County Commissioners.
    d. The proposed subdivision complies with the Benton County Critical Area Ordinance BCC Title 15.
        i. Upon completion of a review of BCC Title 15 and the Benton County Critical Area Maps, no designated critical areas have been identified on this property. A critical area report is not required for the processing of a preliminary plat at this location; and
        ii. The proposed plat is not located in a special flood hazard area as identified on the Federal Emergency Management Agency Flood Insurance Rate Maps and BCC 3.26.

e. The requirements of the State Environmental Policy Act have been met based on the following:

   i. The proposed subdivision has been reviewed under the requirements of BCC Title 6, Chapter 6.35 and the State Environmental Policy Act.

   ii. During the SEPA comment period, the Washington State Department of Archeology and Historic Preservation (PCM 1.24) recommended a professional archeological survey of the project area be conducted.

   iii. An MDNS with mitigation/conditions (PCM 1.11) was issued for the project on April 9, 2020.

2. The County Engineer has provided a written representation that the proposed subdivision provides adequate means of access and conformance with the road and drainage requirements of Benton County;

   a. Reference the Benton County Public Works Department comments as it relates to stormwater and drainage easements (PCM 1.21); Reference the Benton County Public Works Department comments as it relates to roads and mitigation requirements (PCM 1.19, PCM 1.21, and 1.27)

3. The proposed subdivision meets the requirements BCC 9 Subdivision Regulations;

   a. The proposed subdivision complies with the purpose and preliminary plat requirements included in BCC 9.05 Subdivision- Preliminary Plat;

4. The public interest will be served by the proposed division and dedication;

   a. The creation of 7 residential lots in the UGAR Zoning District furthers the implementation of the Benton County Comprehensive Plan; and

   b. Benton County standards are to be complied with including the construction and dedication of a new public road.

5. Appropriate provisions are made for the public health, safety, and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water, sanitary wastes, parks and recreation, playgrounds, schools, school grounds, and sidewalks;

   a. Appropriate provisions have been made for the public health and safety based on the following facts:

      i. The applicant has proposed that the preliminary plat be served by single family wells for potable domestic water services;

      ii. The Benton Franklin Health District has reviewed the preliminary plat and has no objections provided water and sanitary services are provided to the development and compliance with Health Departments standards is obtained by each lot; and

      iii. Fire hydrants are not required to be installed as a public water supply is not available at the site. West Benton Fire District #3 will provide fire protection.

   b. Appropriate provisions have been made for open spaces based on the following facts:

      i. The proposed subdivision does not contain land to be designated for open space.

   c. Appropriate provisions have been made for drainage ways based on the following facts:

i. Knutzen Engineering prepared a Preliminary Stormwater Drainage Report for the applicants of Grace Estates dated January 23, 2020 (PCM 1.8). The report discusses the provisions made for both offsite and onsite stormwater as it relates to this property and the proposed development;

ii. Reference the Benton County Public Works Department comments as it relates to stormwater and drainage easements (PCM 1. PCM 1.19, PCM 1.21, and 1.27).

d. Appropriate provisions have been made for streets or roads, alleys, and other public ways based on the following facts:

i. The public interest will be served by the proposed division and dedication as the Benton County Road Department standards are to be complied with including the construction and dedication of a new public road; and

ii. Reference the Benton County Public Works Department comments as it relates to road and mitigation requirements (PCM 1.19, PCM 1.21, and 1.27)

e. Appropriate provisions have been made for transit stops based on the following facts:

i. Ben Franklin Transit did not comment on transit service for the proposed development. The proposed plat and surrounding area are not served by public transit.

f. Adequate provisions have been made for potable water supplies based on the following facts:

i. The plat will be provided potable water by individual groundwater wells.

ii. The plat is located within the boundaries of the Benton County Rural Water Supply Program and subject to Benton County Ordinance 619.

iii. The applicant submitted the subdivision application prior to the adoption of Ordinance 619. In Section 8(c) of Ordinance 619, the applicant is not required to purchase mitigation certificates as a component of plat review and approval. A note has been placed on the plat for applicants of future building permits to acquire applicable mitigation certificates and comply with the requirements of the Rural Water Supply Program.

iv. The Benton Franklin Health District has reviewed the proposal and find that it generally meets their requirements provided all conditions of approval as listed in the letter dated October 16, 2019 (PCM 1.12) are satisfied.

g. Adequate provisions have been made for sanitary waste based on the following facts:

i. All lots in the development are proposed to be served by individual septic systems.

h. Adequate provisions have been made for parks, recreation, and playgrounds based on the following facts:

i. The proposed subdivision does not contain land to be designated for parks or recreation. The Benton County Code does not require park dedications.

i. Appropriate provisions have been made for schools and school grounds and for sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school based on the following facts:

i. The proposed plat is within the Prosser School District. The School District did not provide comments on this proposal as to whether there are adequate provisions to assure safe walking conditions for students who walk to and from school or waiting for school buses.

6. The Benton-Franklin Health District has reviewed the proposed subdivision for compliance with its rules and regulations and has not expressed objection to the proposed subdivision; and,

   a. Reference the BFHD comments as it relates to this preliminary plat (PCM 1.19, PCM 1.21, and 1.27).

7. The proposed subdivision is located within an irrigation district, and the applicant shall comply with RCW 58.17.310 as it now exists or is hereafter amended.

   a. The applicant is required to comply with the Sunnyside Valley Irrigation District standards and requirements as they relate to RCW 58.17.310.

8. RCW 58.17.110 (1)(2)(3)(4). Approval or disapproval of subdivision - factors to be considered- conditions of approval, including, (4) If water supply is to be provided by a groundwater withdrawal exempt from permitting under RCW 90.44.050, the applicant's compliance with RCW 90.44.050 and with applicable rules adopted pursuant to chapters 90.22 and 90.54 RCW is sufficient in determining appropriate provisions for water supply for a subdivision, dedication, or short subdivision under this chapter.

   a. The proposed plat is consistent with RCW 58.17.110 (1)(2)(3)(4). The plat is to be provided potable water from individual groundwater wells.

   b. Future homes and/or dwelling units shall comply with Benton County Ordinance 619 and the Benton County Rural Water Supply Program.

SUGGESTED CONDITIONS OF APPROVAL:

1. Applicant shall meet and comply with the requirements of the **Benton County Road Department**, including the following:

   a. The developer shall provide a complete set of construction drawings for review and approval by the County and associated utilities. The drawings shall contain all appropriate information listed on the attached Minimum Plan Requirements. Grading plan will include grading to shape any drainage easements to route and fully contain all runoff based upon the 100-year storm within the easement limits. All plans and associated reports shall be prepared by a Professional Engineer licensed to practice in the State of Washington.

   b. All construction shall be in accordance with the most current WSDOT Standard Specifications for Road, Bridge and Municipal Construction, applicable Benton County Standard Plans and the requirements of the County Engineer.

   c. All roads within this plat shall have a paved width of 24 feet with a minimum 1-foot gravel shoulder. Roadways shall be designed for a minimum 25 mile per hour design speed.

   d. The pavement return radius at all intersections shall be a minimum of 35 feet.

   e. All stormwater from the roadways shall be contained on the plat and shall utilize surface infiltration (ditches, swales, ponds) for detention. The developer shall have an infiltration test performed at each proposed detention area. Tests shall be done with

an infiltrometer using the falling head or constant head method. Other methods of infiltration rate determination shall be approved by the County.

f. The developer shall provide a complete stormwater runoff report developed in accordance with the Stormwater Management Manual for Eastern Washington accosting for all impervious and pervious surfaces draining to the roadside ditches. Design storm shall be a Modified SCS Type IA with a 25-year return frequency.

g. All signage including but not limited to stop signs, speed limit signs and street name signs shall be installed by the developer in accordance with Benton County Standard Plans.

h. All new power, telephone, cable TV and irrigation shall be installed outside of the County right of way in the appropriate easements. Domestic water piping may be installed within the County right of way in accordance with a valid franchise agreement.

i. Survey monuments, with cases and covers per Benton County Standard R-14B, shall be placed at all road intersections, points of curvature, points of tangency, centers of cul-de-sacs, section corners and quarter corners. All monuments shall be set by a Professional Land Surveyor licensed to practice in the state of Washington.

j. The developer shall widen Moore Road to 20 feet from the intersection of North River Road to 150 feet South of W Grace Lane. All construction shall be in accordance with the most current WSDOT Standard Specifications for Road, Bridge and Municipal Construction, applicable Benton County Standard Plans and the requirements of the County Engineer.

k. The developer shall provide a complete set of construction drawings depicting the road widening for review and approval by the County and associated utilities.

l. The developer shall dedicate 30 feet of right-of-way from the western property line of the plat.

m. The developer shall vacate the existing 10-foot utility easement AF# 92-17718.

n. The fencing along the properties on Moore Road shall be moved away from the edge of the new pavement.

o. The developer shall widen the radii of the intersection with North River Road to 35 feet

p. Add the following notes to the face of the final plat:

- Benton County is not responsible for the maintenance or upkeep of any stormwater retention facility or drainage easements. All such maintenance and upkeep are the responsibility of the underlying property owner.
- Prior to the construction of any driveway or the issuance of any building permit for any lot within this subdivision the property owner shall obtain a Road Approach Permit from the Benton County Public Works Department and install the required temporary construction access.
- No trees, shrubs, weeds, fencing or other obstructions more than 24 inches in height are permitted within Benton County right of way.
- Property owners that install grass, curbing, rock mulch or other landscaping within the County right of way do so at their own risk. The County will not repair or replace damaged landscaping due to construction or maintenance operations.

- All lots within this plat shall only have access to W Grace Lane.

q. For more information please contact Cristina Woods at 509-786-5611 or Cristina.Woods@co.benton.wa.us.

2. Applicant shall meet and comply with the requirements of the **City of Prosser**, including the following:

   a. It should be noted that further density post annexation would not be allowed without adequate hydrants and storm water systems approved by the City Engineer.

   b. The right-of-way is adequate in size.

   c. Further development may require improvements to the parks.

   d. For more information please contact Steve Zetz at the City of Prosser at (509) 786-2332.

3. Applicant shall meet and comply with the requirements of the **Benton Franklin Health District**. BFHD provided the following comments:

   a. Each lot must be configured to allow a 100-foot radius water supply protection zone to fit within the lot lines or a 100-foot protection zone must be established around each proposed well site.

   b. All lots shall have a minimum of 1 acre in size and contain a minimum of 18,000 square feet of usable land area after all easements and encumbrances are subtracted.

   c. All wells, irrigation lines, canals, and surface waters within 150ft of the plat are shown on the plat map.

   d. All easements, including road access easements and utility.

   e. Prior to final approval, a long plat final review fee (Code 54.37 for $200) must be submitted to this office for the final walk through review of the plat for compliance with Benton-Franklin Health Department Rules and Regulations No. 2 and WAC 246-272A, and for the issuance of appropriate comments to the Benton County Planning Department.

   f. Prior to the issuance of any on-site sewage disposal permits, additional test holes may be required to verify acceptable area for initial and replacement sewage disposal system and design criteria such as trench depth on each lot.

   g. It is recommended that some provision be made to facilitate future connection to a municipal sewer utility at such time as said utility becomes available.

   h. The following statements are placed on the plat:

      - "This plat appears to have suitable conditions for the use of on-site sewage disposal systems. However, because of the nature of the testing methods used, we have no way of determining whether each lot can comply with Benton-Franklin Board of Health Rules and Regulation at the time of permit issuance. Further be advised this department's approval of any lot within this plat for the use of on-site sewage disposal systems may be contingent upon that lot passing additional soil inspections, percolation tests, and/or other requirements at a later date."

      - "The lots within this short plat may have specific limitations and/or restrictions for Health the placement Department of should on-site be sewage contacted

disposal for further systems. The Benton-Franklin Health Department should be contacted for further information."

i. Please contact Deana Chiodo at (509) 460-4316 for more information.

4. Applicant shall meet and comply with the requirements of the **Benton PUD**, including the following:

   a. A 10' utility easement extending from the eastern end of the cul-de-sac, over the north 10' of Lot 7 is required.

   b. Please contact Shanna Everson with Benton PUD at (509) 585-5367 or eversons@bentonpud.org for more information.

5. Applicant shall meet and comply with the requirements of the **Sunnyside Valley Irrigation District**, including the following:

   a. SVID does not have facilities within the parcels for development.

   b. Irrigation distribution facilities and easements must be provided pursuant to RCW 58.17.310.

   c. Access for plats and/or subdivisions will not be allowed on SVID operation and maintenance roads.

   d. Buildings will not be allowed within SVID easements or right-of-way.

   e. Obstructions will not be allowed within SVID easements or right-of-way without permits.

   f. All irrigation assessments must be paid in full prior to SVID approval.

   g. Refer to www.SVID.org (under the 'Resources/or landowners tab) for the list of general requirements for plat approval by SVID.

   h. Please contact SVID for additional subdivision requirements and fees specific to this project.

   i. Please contact Rigo Diosdado at (509) 837-6980 or diosdador@SVID.org.

6. Applicant shall meet and comply with the requirements of the **Benton County Fire Marshal** including the following:

   a. If any individual driveway is 200 feet or more, an approved turn around for Emergency Services vehicles is required.

   b. The subdivision shall comply with BBC 3.18.045 Minimum Road Requirements and 3.05.046 Special Fire Protection.

   c. Please contact the Benton County Fire Marshal, Clark Posey, at (509)735-3500 or Clark.Posey@co.benton.wa.us for more information.

7. Applicant shall meet and comply with the requirements of the **Department of Archeology and Historic Preservation**, including the following:

   a. The State Historic Preservation Officer (SHPO) and the Department of Archaeology and Historic Preservation (DAHP) concur with the results and recommendations made in the applicant's revised survey report.

   b. An Archaeological Site Alteration & Excavation Permit will be required for this project. Instructions for applying for a permit can be found at https://dahp.wa.gov/archaeology/archaeological-permitting.

c. For more information please contact Sydney Hanson, Transportation Archaeologist at (360) 586-3082 or Sydney.Hanson@dahp.wa.gov.

8. Applicant shall meet and comply with the requirements of the **Benton County Planning Department**, including the following:

   a. The applicant shall meet and comply with the SEPA Determination for this application, including the MDNS with mitigation/conditions issued by the Planning Department on April 9, 2020 (PCM1.11).

   b. The applicant shall meet and comply with the recommendation's included in the March 30, 2020 letter from the Washington State Department of Archeology and Historic Preservation, including the submittal of the site form, the updated survey report, and permit application for the project. Compliance with the Cultural Resources Survey Report completed by Northwest Anthropology for this project shall be complied with.

   c. Add contour lines to the plat map, not to exceed 10-foot intervals to adequately show the topography of the land to be subdivided.

   d. Show the location of permanent buildings, wells (including wells within one-hundred (100) feet of the proposed subdivision), water courses, bodies of water, overhead and underground utilities, railroad lines, municipal boundaries, section lines, township lines, and other important features existing upon, over and under the land proposed to be subdivided on the plat map.

   e. Show the names of adjacent subdivisions and the location and names of all adjacent streets, as well as, names of adjacent property owners to the subdivision on the plat map.

   f. Show the location, name, right-of-way widths, and type of surfacing of all streets and alleys located within and adjacent to the land to be subdivided on the plat map.

   g. List the square feet of each lot in addition to the acreage.

   h. The following notes shall be placed on the final plat:

      - "During construction on each property, all construction debris shall be maintained on-site and properly disposed of. Dust control measures including an adequate water supply shall be provided".

      - "Prior to the granting of a building or factory assembled (FAS) permit for each lot by the County, the applicant for a building or FAS permit must comply with RCW 90.44.050, as currently existing and hereafter amended, regarding public ground water. The applicant must demonstrate that potable water is legally available by presenting (A) evidence of a valid water right permit from the Washington State Department of Ecology for the proposed wells for each lot; (B) a water well report filed and received by the Washington State Department of Ecology for an exempted well that complies with the 5,000 gallon per day exemption described in RCW 90.44.050, as currently existing and hereafter amended; or (C) a written approval of the Washington State Department of Health that a group A or group B public water supply system has been installed and is available for providing potable water to the lot."

      - "This plat is located within the Benton County Rural Water Supply Program Mitigation Area. All new dwelling units located within this plat are required to comply with Benton County Ordinance 619 (BCC Title 15), Benton County Rural Water Supply Program, as amended. All new dwelling units shall acquire

a mitigation certificate from Benton County prior to building permit issuance. In addition, all new dwelling units within the Mitigation Area are required to meter their water usage through a meter approved by the County and pay an annual program fee in an amount set by the County."

- "All ground disturbing activities or development within this subdivision shall be evaluated by the Washington State Department of Archeology and Historic Preservation to see if an Archaeological Site Alteration & Excavation Permit will be required."
- Addresses [noted in brackets] are subject to change until the exact location of the dwelling and access onto the plat is determined.

i. Per BCC 9.09.030(p) Development- Estate Fencing; double frontage lots are discouraged. To mitigate for this, an estate type fence or a 3-rail traditional ranch type fence shall be placed along the following locations:

- East side of Lots 4-7 along the 40' access easement.
- South side of Lots 5-7 along the 30' access easement.

j. The 10' utility easement (92-17718) along the north 10' feet of the subdivision is not shown on short plat 2461, consider removing.

k. A 10' utility easement existing on the south 10' of the subdivision as recorded under AF# 96-24124. Please show this easement on the plat map.

l. The 30' and 40' access and utility easements as shown on the plat map contain multiple easements within these areas. Please show the boundary of each individual easement and their associated width within these easement areas.

m. Please update the legal description as shown on the plat map to match the legal description in the title report. The second line should read:

- "under recording no. 1999-037648".

n. The road name "Grace" is already assigned within Benton County. Please submit three proposed road names to the Planning Department for their review and approval. The proposed names should contain between 3-12 characters. The possible names should not: contain non-letter characters, exceed two words in length, contain directional names (north, south), and should avoid similar sounding names to existing roads in the County and Cities.

9. Preliminary plat approval shall be effective for 5 (five) years from the date of Board of County Commissioner approval. Exceptions shall comply and approved subject to the provisions of BCC 9.05.110 (e) as currently existing or hereafter amended.

10. Any amendments to an approved preliminary plat must be completed in accordance with BCC 9.05.140 as currently existing or hereafter amended.

11. Prior to the final plat being reviewed for final approval, the requirements of the Benton County Planning Department, Benton County Fire Marshal, Benton County Engineer, Benton Franklin Health District, and other commenting agencies and conditions shall be met and complied with.

12. Final Plat applications shall be submitted to the Planning Department. An applicant shall submit a final plat application that follows BCC 9.07 - Final Plat standards and requirements, as currently existing or hereafter amended:

13. All lots in the final plat shall meet the design standards for final plat approval as specified in Benton County Code 9.09 - Design and Improvements, as currently existing or hereafter

amended, and meet all of the zoning requirements as specified in Benton County Code, Title 11 - Zoning, as currently existing or hereafter amended.

14. The location and size of all irrigation and utility easements necessary for electric power, telephone service, water, sewer and cable TV are to be coordinated with the proper utilities and/or reviewing agencies and shown on the final plat. The developer will need to open the utility trenches, including road crossings, based on individual utility requirements and specifications.

15. Address numbers shall be coordinated with the Planning Department and placed on the final plat. Addresses [noted in brackets] are subject to change until the exact location of the dwelling and access onto the plat is determined.

16. The applicant shall coordinate with the Post Office regarding centralized box unit (CBU) locations for the development, if necessary.

17. All of the statements that are required to be on the notes of the plat shall be either: 1) recorded as a restrictive covenant on each applicable parcel with the County Auditor, or 2) described in detail in the developer's covenants that are recorded and provided to each lot owner, prospective landowner, and the Planning Department at the time of final plat approval and recording.

18. That the preliminary plat is modified in all necessary respects so that the final plat will reflect the requirements of approval. If the final plat will be in conflict with any of the conditions of approval as adopted by the Planning Commission as a result of the modifications, then the final plat must be reviewed by the Planning Commission at a public meeting for approval prior to sending the final plat to the Board of County Commissioners.

N**OW, THEREFORE BE IT RESOLVED BY THE BENTON COUNTY PLANNING COMMISSION**, through its chairman as authorized by motion of the Planning Commission, adopts these findings of fact and conditions with respect to File No. SUB 2020-001, the preliminary plat of Orchard View and such plat is hereby recommended to the Board of County Commissioners for APPROVAL WITH EIGHT (8) FINDINGS OF FACT and EIGHTEEN (18) CONDITIONS OF APPROVAL.

6/9/2020

Martin Sheeran, Chairman DATE
BENTON COUNTY PLANNING COMMISSION

The Audio Recording of the Planning Commission meeting for June 9, 2020 can be found on the County Website, on the Planning Commission agenda page for June 9, 2020. http://tinyurl.com/PCAgendaPg

Planning Department
(509) 786-5612
P.O. Box 910
Prosser, WA 99350

www.co.benton.wa.us
planning.department@co.benton.wa.us
Prosser Office: 620 Market Street, 1st Floor
Kennewick Office: 102206 East Wiser Parkway

PCM 1.1

STAFF REPORT TO THE
BENTON COUNTY PLANNING COMMISSION

FILE NO:	**SUB 2020-001** **Grace Estates Preliminary Plat – 7 Residential Lots**
MEMO DATE:	May 15, 2020
HEARING DATE:	June 9, 2020
APPLICANT:	Ron Wenger 908 Florence Prosser, WA 99350
OWNER:	Same as applicant
LOCATION:	The site is located on Lots 3 and 4 of Short Plat 2461 in Section 2, Township 8 North, Range 24, East, W.M. lying south of North River Road, east of Moore Road, in unincorporated Prosser, WA. The site is located on parcels 102843012461003 and 102843012461004.
PROPERTY SIZE:	Approximately 9.37 acres
AREA TO BE USED:	Approximately 9.37 acres
LAND USE:	Residential
COMP. PLAN:	Urban
ZONING:	Urban Growth Area Residential
SUGGESTED STAFF RECOMMENDATION:	**Positive recommendation** subject to eight (8) findings of fact and eighteen (18) conditions of approval

---

APPLICATION DESCRIPTION

The applicant has submitted a preliminary plat application (PCM 1.6) and map (PCM 1.7) to subdivide approximately 9.37 acres into 7 residential lots. The preliminary plat is known as Grace Estates. The land is zoned Urban Growth Area Residential.

The average lot size in the development is approximately 1.25 acres and the lots are proposed to be served by a new public road and individual wells and septic systems.

The property lies south of North River Road, east of Moore Road in unincorporated Prosser, WA. The site is located on parcels 102843012461003 and 102843012461004.

PUBLIC NOTICE

1. A Notice of Application was published in the Prosser Record Bulletin on February 12, 2020 (PCM 1.10).
2. Planning Staff mailed out review packets to technical agencies on February 4, 2020.
3. A Finding of Need for additional processing time was issued on February 19, 2020.
4. A Notice of Public Hearing was published in the Prosser Record Bulletin on May 27, 2020. (PCM 1.3)
5. Property owners within 300 feet were mailed the notice of Public Hearing on May 22, 2020.
6. A SEPA Determination of Mitigated Non-Significance (MDNS) (PCM 1.11) was issued on April 9, 2020.

APPLICABLE STANDARDS/ORDINANCES

1. Comprehensive Plan: Benton County Comprehensive Plan.
2. SEPA: BCC, Title 6, Chapter 6.35 Environmental Policy.
3. Subdivision Code: BCC, Title 9, Subdivision Regulations.
4. Zoning Code: BCC, Title 11, Zoning Regulations.
5. Critical Area Ord.: BCC, Title 15, Critical Areas- BCC 15.02 - 15.14.
6. RCW 58.17: Plats and Subdivisions.
7. Planning Commission/Open Record Hearing:

   Pursuant to BCC 9.05.070, an open record hearing on the proposed subdivision shall be held before the Planning Commission. The Planning Commission shall consider all relevant information, including but not limited to:

   a. The staff report by the Planning Department;

   b. Any written comments or concerns expressed by other reviewing agencies;

   c. Oral and written testimony from persons present at the hearing; and

   If the Planning Commission finds that additional information is needed, the Planning Commission may continue the hearing for up to thirty-five (35) days or such longer period as agreed to by the applicant and direct that the additional information be gathered.

AGENCY COMMENTS

1. Benton County Planning Department: See the suggested findings of fact and conditions of approval for the Planning Department's comments and requirements.
2. Benton County Public Works Department: See comments dated February 19, 2020 (PCM 1.21).
3. Benton Franklin Health District: See comments dated January 18, 2020 (PCM 1.12).
4. Sunnyside Valley Irrigation District: See comments dated February 7, 2020 (PCM 1.16).
5. Benton PUD: See comments dated February 5, 2020 (PCM 1.14).
6. Benton County Assessor's Office: Submitted a "no comment" to the Planning Department dated February 18, 2020 (PCM 1.20).

7. Benton County Fire Marshal: See comments dated February 20, 2020 (PCM 1.22).
8. Washington State Department of Archeology & Historic Preservation: See comments dated February 11, 2020 (PCM 1.24) and April 23, 2020 (PCM 1.26).
9. West Benton Fire District # 3: See comments dated February 4, 2020 (PCM 1.13).
10. City of Prosser: See comments dated February 6, 2020 (PCM 1.15) and April 9, 2020 (PCM 1.25).

CRITERIA FOR FINDINGS OF FACT

1. Pursuant to **BCC 9.05.080, Consideration of Preliminary Subdivision**, the Benton County Planning Commission, after conducting an open record hearing and considering all information presented, shall forward a recommendation to the Board of County Commissioners regarding whether the preliminary plat be approved, approved with conditions, or denied as proposed. Prior to making any recommendation, the Planning Commission shall make the following written findings:
    a. That the proposed subdivision conforms to the Benton County Comprehensive Plan, any applicable zoning requirements and other applicable land use controls;
    b. That the County Engineer, or designee, has provided a written representation that the proposed subdivision provides adequate means of access and conformance with the road and drainage requirements of Benton County;
    c. That the proposed subdivision meets the requirements of BCC 9.05;
    d. That the public interest will be served by the proposed division and dedication;
    e. That appropriate provisions are made for the public health, safety, and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water, sanitary wastes, parks and recreation, playgrounds, schools, school grounds, and sidewalks;
    f. That the Benton-Franklin Health District has reviewed the proposed subdivision for compliance with its rules and regulations and has not expressed objection to the proposed subdivision; and
    g. If any portion of the proposed subdivision is located within an irrigation district, that the applicant has complied with RCW 58.17.310 as it now exists or is hereafter amended.
2. **RCW 58.17.110 (1)(2)(3)(4). Approval or disapproval of subdivision - factors to be considered- conditions of approval**, including, (4) If water supply is to be provided by a groundwater withdrawal exempt from permitting under RCW 90.44.050, the applicant's compliance with RCW 90.44.050 and with applicable rules adopted pursuant to chapters 90.22 and 90.54 RCW is sufficient in determining appropriate provisions for water supply for a subdivision, dedication, or short subdivision under this chapter.

RECOMMENDATION

Benton County Planning Staff will assist the Planning Commission with the determination of findings and conditions for the preliminary plat of Grace Estates - File Number SUB 2020-001.

The Benton County Planning Department recommends that the Planning Commission forward a **recommendation of approval** to the Benton County Board of Commissioners for application SUB 2020-001, with the following suggested findings of fact, conditions of approval, and motion.

SUGGESTED FINDINGS OF FACT:

1. The proposed subdivision (PCM 1.6 - application and PCM 1.7 preliminary plat map) conforms to the Benton County Comprehensive Plan, any applicable zoning requirements and other applicable land use controls;
    a. The proposed use is in conformance with the intent of the Comprehensive Plan based on the following facts:
        i. The 9.37-acre site is bordered on the north, east and south by lands zoned UGAR. The land to the west is zoned RL-1;
        ii. The Benton County Comprehensive Plan designates this area as Urban. The property is in the City of Prosser's Urban Growth Area. The City's Comprehensive Land Use Map identifies that land as Residential;
        iii. The site is zoned Urban Growth Area Residential (UGAR). The preliminary plat complies with the minimum lot size and minimum average lot width required for UGAR Zoning District;
        iv. The overall plat average lot size is 1.25 acres;
        v. This development is consistent with the required minimum lot size and density standards contained in the City of Prosser Comprehensive Plan; and
        vi. The creation of 7 residential lots in the UGAR Zoning District furthers the implementation of the Benton County Comprehensive Plan.
    b. The proposed plat is consistent with the applicable zoning requirements of the Benton County Code, Title 11, based on the following facts:
        i. The property is zoned Urban Growth Area Residential (UGAR). The preliminary plat complies with the minimum lot size and minimum average lot width required for the UGAR Zoning District.
    c. The proposed subdivision does comply with the requirements of the Benton County Code, Title 9, Subdivision Regulations;
        i. The proposed subdivision complies with the purpose and preliminary plat requirements included in BCC 9.05 Subdivision - Preliminary Plat;
        ii. An open record hearing for the preliminary plat was held on June 9, 2020. During the hearing, the Planning Commission considered all relevant information including oral and written comments/testimony; and
        iii. At the conclusion of the open record hearing, the Planning Commission rendered a recommendation to the Board of County Commissioners.
    d. The proposed subdivision complies with the Benton County Critical Area Ordinance BCC Title 15.
        i. Upon completion of a review of BCC Title 15 and the Benton County Critical Area Maps, no designated critical areas have been identified on this property. A critical area report is not required for the processing of a preliminary plat at this location; and
        ii. The proposed plat is not located in a special flood hazard area as identified on the Federal Emergency Management Agency Flood Insurance Rate Maps and BCC 3.26.

e. The requirements of the State Environmental Policy Act have been met based on the following:

   i. The proposed subdivision has been reviewed under the requirements of BCC Title 6, Chapter 6.35 and the State Environmental Policy Act.

   ii. During the SEPA comment period, the Washington State Department of Archeology and Historic Preservation (PCM 1.24) recommended a professional archeological survey of the project area be conducted.

   iii. An MDNS with mitigation/conditions (PCM 1.11) was issued for the project on April 9, 2020.

2. The County Engineer has provided a written representation that the proposed subdivision provides adequate means of access and conformance with the road and drainage requirements of Benton County;

   a. Reference the Benton County Public Works Department comments as it relates to stormwater and drainage easements (PCM 1.21); Reference the Benton County Public Works Department comments as it relates to roads and mitigation requirements (PCM 1.19 and PCM 1.21)

3. The proposed subdivision meets the requirements BCC 9 Subdivision Regulations;

   a. The proposed subdivision complies with the purpose and preliminary plat requirements included in BCC 9.05 Subdivision- Preliminary Plat;

4. The public interest will be served by the proposed division and dedication;

   a. The creation of 7 residential lots in the UGAR Zoning District furthers the implementation of the Benton County Comprehensive Plan; and

   b. Benton County standards are to be complied with including the construction and dedication of a new public road.

5. Appropriate provisions are made for the public health, safety, and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water, sanitary wastes, parks and recreation, playgrounds, schools, school grounds, and sidewalks;

   a. Appropriate provisions have been made for the public health and safety based on the following facts:

      i. The applicant has proposed that the preliminary plat be served by single family wells for potable domestic water services;

      ii. The Benton Franklin Health District has reviewed the preliminary plat and has no objections provided water and sanitary services are provided to the development and compliance with Health Departments standards is obtained by each lot; and

      iii. Fire hydrants are not required to be installed as a public water supply is not available at the site. West Benton Fire District #3 will provide fire protection.

   b. Appropriate provisions have been made for open spaces based on the following facts:

      i. The proposed subdivision does not contain land to be designated for open space.

   c. Appropriate provisions have been made for drainage ways based on the following facts:

i. Knutzen Engineering prepared a Preliminary Stormwater Drainage Report for the applicants of Grace Estates dated January 23, 2020 (PCM 1.8). The report discusses the provisions made for both offsite and onsite stormwater as it relates to this property and the proposed development;

ii. Reference the Benton County Public Works Department comments as it relates to stormwater and drainage easements (PCM 1.15).

d. Appropriate provisions have been made for streets or roads, alleys, and other public ways based on the following facts:

i. The public interest will be served by the proposed division and dedication as the Benton County Road Department standards are to be complied with including the construction and dedication of a new public road; and

ii. Reference the Benton County Public Works Department comments as it relates to road and mitigation requirements (PCM 1.19 and PCM 1.21)

e. Appropriate provisions have been made for transit stops based on the following facts:

i. Ben Franklin Transit did not comment on transit service for the proposed development. The proposed plat and surrounding area are not served by public transit.

f. Adequate provisions have been made for potable water supplies based on the following facts:

i. The plat will be provided potable water by individual groundwater wells.

ii. The plat is located within the boundaries of the Benton County Rural Water Supply Program and subject to Benton County Ordinance 619.

iii. The applicant submitted the subdivision application prior to the adoption of Ordinance 619. In Section 8(c) of Ordinance 619, the applicant is not required to purchase mitigation certificates as a component of plat review and approval. A note has been placed on the plat for applicants of future building permits to acquire applicable mitigation certificates and comply with the requirements of the Rural Water Supply Program.

iv. The Benton Franklin Health District has reviewed the proposal and find that it generally meets their requirements provided all conditions of approval as listed in the letter dated October 16, 2019 (PCM 1.12) are satisfied.

g. Adequate provisions have been made for sanitary waste based on the following facts:

i. All lots in the development are proposed to be served by individual septic systems.

h. Adequate provisions have been made for parks, recreation, and playgrounds based on the following facts:

i. The proposed subdivision does not contain land to be designated for parks or recreation. The Benton County Code does not require park dedications.

i. Appropriate provisions have been made for schools and school grounds and for sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school based on the following facts:

i. The proposed plat is within the Prosser School District. The School District did not provide comments on this proposal as to whether there are adequate

provisions to assure safe walking conditions for students who walk to and from school or waiting for school buses.

6. The Benton-Franklin Health District has reviewed the proposed subdivision for compliance with its rules and regulations and has not expressed objection to the proposed subdivision; and,
    a. Reference the BFHD comments as it relates to this preliminary plat (PCR 1.12).
7. The proposed subdivision is located within an irrigation district, and the applicant shall comply with RCW 58.17.310 as it now exists or is hereafter amended.
    a. The applicant is required to comply with the Sunnyside Valley Irrigation District standards and requirements as they relate to RCW 58.17.310.
8. RCW 58.17.110 (1)(2)(3)(4). Approval or disapproval of subdivision - factors to be considered- conditions of approval, including, (4) If water supply is to be provided by a groundwater withdrawal exempt from permitting under RCW 90.44.050, the applicant's compliance with RCW 90.44.050 and with applicable rules adopted pursuant to chapters 90.22 and 90.54 RCW is sufficient in determining appropriate provisions for water supply for a subdivision, dedication, or short subdivision under this chapter.
    a. The proposed plat is consistent with RCW 58.17.110 (1)(2)(3)(4). The plat is to be provided potable water from individual groundwater wells.
    b. Future homes and/or dwelling units shall comply with Benton County Ordinance 619 and the Benton County Rural Water Supply Program.

SUGGESTED CONDITIONS OF APPROVAL:

1. Applicant shall meet and comply with the requirements of the **Benton County Road Department**, including the following:
    a. The developer shall provide a complete set of construction drawings for review and approval by the County and associated utilities. The drawings shall contain all appropriate information listed on the attached Minimum Plan Requirements. Grading plan will include grading to shape any drainage easements to route and fully contain all runoff based upon the 100-year storm within the easement limits. All plans and associated reports shall be prepared by a Professional Engineer licensed to practice in the State of Washington.
    b. All construction shall be in accordance with the most current WSDOT Standard Specifications for Road, Bridge and Municipal Construction, applicable Benton County Standard Plans and the requirements of the County Engineer.
    c. All roads within this plat shall have a paved width of 24 feet with a minimum 1-foot gravel shoulder. Roadways shall be designed for a minimum 25 mile per hour design speed.
    d. The pavement return radius at all intersections shall be a minimum of 35 feet.
    e. All stormwater from the roadways shall be contained on the plat and shall utilize surface infiltration (ditches, swales, ponds) for detention. The developer shall have an infiltration test performed at each proposed detention area. Tests shall be done with an infiltrometer using the falling head or constant head method. Other methods of infiltration rate determination shall be approved by the County.

f. The developer shall provide a complete stormwater runoff report developed in accordance with the Stormwater Management Manual for Eastern Washington accosting for all impervious and pervious surfaces draining to the roadside ditches. Design storm shall be a Modified SCS Type IA with a 25-year return frequency.

g. All signage including but not limited to stop signs, speed limit signs and street name signs shall be installed by the developer in accordance with Benton County Standard Plans.

h. All new power, telephone, cable TV and irrigation shall be installed outside of the County right of way in the appropriate easements. Domestic water piping may be installed within the County right of way in accordance with a valid franchise agreement.

i. Survey monuments, with cases and covers per Benton County Standard R-14B, shall be placed at all road intersections, points of curvature, points of tangency, centers of cul-de-sacs, section corners and quarter corners. All monuments shall be set by a Professional Land Surveyor licensed to practice in the state of Washington.

j. The developer shall widen Moore Road to 20 feet from the intersection of North River Road to 150 feet South of W Grace Lane. All construction shall be in accordance with the most current WSDOT Standard Specifications for Road, Bridge and Municipal Construction, applicable Benton County Standard Plans and the requirements of the County Engineer.

k. The developer shall provide a complete set of construction drawings depicting the road widening for review and approval by the County and associated utilities.

l. The developer shall dedicate 30 feet of right-of-way from the western property line of the plat.

m. The developer shall vacate the existing 10-foot utility easement AF# 92-17718.

n. The fencing along the properties on Moore Road shall be moved away from the edge of the new pavement.

o. The developer shall widen the radii of the intersection with North River Road to 35 feet

p. Add the following notes to the face of the final plat:

- Benton County is not responsible for the maintenance or upkeep of any stormwater retention facility or drainage easements. All such maintenance and upkeep are the responsibility of the underlying property owner.
- Prior to the construction of any driveway or the issuance of any building permit for any lot within this subdivision the property owner shall obtain a Road Approach Permit from the Benton County Public Works Department and install the required temporary construction access.
- No trees, shrubs, weeds, fencing or other obstructions more than 24 inches in height are permitted within Benton County right of way.
- Property owners that install grass, curbing, rock mulch or other landscaping within the County right of way do so at their own risk. The County will not repair or replace damaged landscaping due to construction or maintenance operations.
- All lots within this plat shall only have access to W Grace Lane.

q. For more information please contact Cristina Woods at 509-786-5611 or Cristina.Woods@co.benton.wa.us.

2. Applicant shall meet and comply with the requirements of the **City of Prosser**, including the following:

   a. It should be noted that further density post annexation would not be allowed without adequate hydrants and storm water systems approved by the City Engineer.

   b. The right-of-way is adequate in size.

   c. Further development may require improvements to the parks.

   d. For more information please contact Steve Zetz at the City of Prosser at (509) 786-2332.

3. Applicant shall meet and comply with the requirements of the **Benton Franklin Health District**. BFHD provided the following comments:

   a. Each lot must be configured to allow a 100-foot radius water supply protection zone to fit within the lot lines or a 100-foot protection zone must be established around each proposed well site.

   b. All lots shall have a minimum of 1 acre in size and contain a minimum of 18,000 square feet of usable land area after all easements and encumbrances are subtracted.

   c. All wells, irrigation lines, canals, and surface waters within 150ft of the plat are shown on the plat map.

   d. All easements, including road access easements and utility.

   e. Prior to final approval, a long plat final review fee (Code 54.37 for $200) must be submitted to this office for the final walk through review of the plat for compliance with Benton-Franklin Health Department Rules and Regulations No. 2 and WAC 246-272A, and for the issuance of appropriate comments to the Benton County Planning Department.

   f. Prior to the issuance of any on-site sewage disposal permits, additional test holes may be required to verify acceptable area for initial and replacement sewage disposal system and design criteria such as trench depth on each lot.

   g. It is recommended that some provision be made to facilitate future connection to a municipal sewer utility at such time as said utility becomes available.

   h. The following statements are placed on the plat:

      - "This plat appears to have suitable conditions for the use of on-site sewage disposal systems. However, because of the nature of the testing methods used, we have no way of determining whether each lot can comply with Benton-Franklin Board of Health Rules and Regulation at the time of permit issuance. Further be advised this department's approval of any lot within this plat for the use of on-site sewage disposal systems may be contingent upon that lot passing additional soil inspections, percolation tests, and/or other requirements at a later date."

      - "The lots within this short plat may have specific limitations and/or restrictions for Health the placement Department of should on-site be sewage contacted disposal for further systems. The Benton-Franklin Health Department should be contacted for further information."

i. Please contact Deana Chiodo at (509) 460-4316 for more information.

4. Applicant shall meet and comply with the requirements of the **Benton PUD**, including the following:

   a. A 10' utility easement extending from the eastern end of the cul-de-sac, over the north 10' of Lot 7 is required.

   b. Please contact Shanna Everson with Benton PUD at (509) 585-5367 or eversons@bentonpud.org for more information.

5. Applicant shall meet and comply with the requirements of the **Sunnyside Valley Irrigation District**, including the following:

   a. SVID does not have facilities within the parcels for development.

   b. Irrigation distribution facilities and easements must be provided pursuant to RCW 58.17.310.

   c. Access for plats and/or subdivisions will not be allowed on SVID operation and maintenance roads.

   d. Buildings will not be allowed within SVID easements or right-of-way.

   e. Obstructions will not be allowed within SVID easements or right-of-way without permits.

   f. All irrigation assessments must be paid in full prior to SVID approval.

   g. Refer to www.SVID.org (under the 'Resources/or landowners tab) for the list of general requirements for plat approval by SVID.

   h. Please contact SVID for additional subdivision requirements and fees specific to this project.

   i. Please contact Rigo Diosdado at (509) 837-6980 or diosdador@SVID.org.

6. Applicant shall meet and comply with the requirements of the **Benton County Fire Marshal** including the following:

   a. If any individual driveway is 200 feet or more, an approved turn around for Emergency Services vehicles is required.

   b. The subdivision shall comply with BBC 3.18.045 Minimum Road Requirements and 3.05.046 Special Fire Protection.

   c. Please contact the Benton County Fire Marshal, Clark Posey, at (509)735-3500 or Clark.Posey@co.benton.wa.us for more information.

7. Applicant shall meet and comply with the requirements of the **Department of Archeology and Historic Preservation**, including the following:

   a. The State Historic Preservation Officer (SHPO) and the Department of Archaeology and Historic Preservation (DAHP) concur with the results and recommendations made in the applicant's revised survey report.

   b. An Archaeological Site Alteration & Excavation Permit will be required for this project. Instructions for applying for a permit can be found at https://dahp.wa.gov/archaeology/archaeological-permitting.

   c. For more information please contact Sydney Hanson, Transportation Archaeologist at (360) 586-3082 or Sydney.Hanson@dahp.wa.gov.

8. Applicant shall meet and comply with the requirements of the **Benton County Planning Department**, including the following:

   a. The applicant shall meet and comply with the SEPA Determination for this application, including the MDNS with mitigation/conditions issued by the Planning Department on April 9, 2020 (PCM1.11).

   b. The applicant shall meet and comply with the recommendation's included in the March 30, 2020 letter from the Washington State Department of Archeology and Historic Preservation, including the submittal of the site form, the updated survey report, and permit application for the project. Compliance with the Cultural Resources Survey Report completed by Northwest Anthropology for this project shall be complied with.

   c. Add contour lines to the plat map, not to exceed 10-foot intervals to adequately show the topography of the land to be subdivided.

   d. Show the location of permanent buildings, wells (including wells within one-hundred (100) feet of the proposed subdivision), water courses, bodies of water, overhead and underground utilities, railroad lines, municipal boundaries, section lines, township lines, and other important features existing upon, over and under the land proposed to be subdivided on the plat map.

   e. Show the names of adjacent subdivisions and the location and names of all adjacent streets, as well as, names of adjacent property owners to the subdivision on the plat map.

   f. Show the location, name, right-of-way widths, and type of surfacing of all streets and alleys located within and adjacent to the land to be subdivided on the plat map.

   g. List the square feet of each lot in addition to the acreage.

   h. The following notes shall be placed on the final plat:

      - "During construction on each property, all construction debris shall be maintained on-site and properly disposed of. Dust control measures including an adequate water supply shall be provided".

      - "Prior to the granting of a building or factory assembled (FAS) permit for each lot by the County, the applicant for a building or FAS permit must comply with RCW 90.44.050, as currently existing and hereafter amended, regarding public ground water. The applicant must demonstrate that potable water is legally available by presenting (A) evidence of a valid water right permit from the Washington State Department of Ecology for the proposed wells for each lot; (B) a water well report filed and received by the Washington State Department of Ecology for an exempted well that complies with the 5,000 gallon per day exemption described in RCW 90.44.050, as currently existing and hereafter amended; or (C) a written approval of the Washington State Department of Health that a group A or group B public water supply system has been installed and is available for providing potable water to the lot."

      - "This plat is located within the Benton County Rural Water Supply Program Mitigation Area. All new dwelling units located within this plat are required to comply with Benton County Ordinance 619 (BCC Title 15), Benton County Rural Water Supply Program, as amended. All new dwelling units shall acquire a mitigation certificate from Benton County prior to building permit issuance. In addition, all new dwelling units within the Mitigation Area are required to meter

their water usage through a meter approved by the County and pay an annual program fee in an amount set by the County."

- "All ground disturbing activities or development within this subdivision shall be evaluated by the Washington State Department of Archeology and Historic Preservation to see if an Archaeological Site Alteration & Excavation Permit will be required."
- Addresses [noted in brackets] are subject to change until the exact location of the dwelling and access onto the plat is determined.

i. Per BCC 9.09.030(p) Development- Estate Fencing; double frontage lots are discouraged. To mitigate for this, an estate type fence or a 3-rail traditional ranch type fence shall be placed along the following locations:
   - East side of Lots 4-7 along the 40' access easement.
   - South side of Lots 5-7 along the 30' access easement.

j. The 10' utility easement (92-17718) along the north 10' feet of the subdivision is not shown on short plat 2461, consider removing.

k. A 10' utility easement existing on the south 10' of the subdivision as recorded under AF# 96-24124. Please show this easement on the plat map.

l. The 30' and 40' access and utility easements as shown on the plat map contain multiple easements within these areas. Please show the boundary of each individual easement and their associated width within these easement areas.

m. Please update the legal description as shown on the plat map to match the legal description in the title report. The second line should read:
   - "under recording no. 1999-037648".

n. The road name "Grace" is already assigned within Benton County. Please submit three proposed road names to the Planning Department for their review and approval. The proposed names should contain between 3-12 characters. The possible names should not: contain non-letter characters, exceed two words in length, contain directional names (north, south), and should avoid similar sounding names to existing roads in the County and Cities.

9. Preliminary plat approval shall be effective for 5 (five) years from the date of Board of County Commissioner approval. Exceptions shall comply and approved subject to the provisions of BCC 9.05.110 (e) as currently existing or hereafter amended.

10. Any amendments to an approved preliminary plat must be completed in accordance with BCC 9.05.140 as currently existing or hereafter amended.

11. Prior to the final plat being reviewed for final approval, the requirements of the Benton County Planning Department, Benton County Fire Marshal, Benton County Engineer, Benton Franklin Health District, and other commenting agencies and conditions shall be met and complied with.

12. Final Plat applications shall be submitted to the Planning Department. An applicant shall submit a final plat application that follows BCC 9.07 - Final Plat standards and requirements, as currently existing or hereafter amended:

13. All lots in the final plat shall meet the design standards for final plat approval as specified in Benton County Code 9.09 - Design and Improvements, as currently existing or hereafter amended, and meet all of the zoning requirements as specified in Benton County Code, Title 11 - Zoning, as currently existing or hereafter amended.

14. The location and size of all irrigation and utility easements necessary for electric power, telephone service, water, sewer and cable TV are to be coordinated with the proper utilities and/or reviewing agencies and shown on the final plat. The developer will need to open the utility trenches, including road crossings, based on individual utility requirements and specifications.
15. Address numbers shall be coordinated with the Planning Department and placed on the final plat. Addresses [noted in brackets] are subject to change until the exact location of the dwelling and access onto the plat is determined.
16. The applicant shall coordinate with the Post Office regarding centralized box unit (CBU) locations for the development, if necessary.
17. All of the statements that are required to be on the notes of the plat shall be either: 1) recorded as a restrictive covenant on each applicable parcel with the County Auditor, or 2) described in detail in the developer's covenants that are recorded and provided to each lot owner, prospective landowner, and the Planning Department at the time of final plat approval and recording.
18. That the preliminary plat is modified in all necessary respects so that the final plat will reflect the requirements of approval. If the final plat will be in conflict with any of the conditions of approval as adopted by the Planning Commission as a result of the modifications, then the final plat must be reviewed by the Planning Commission at a public meeting for approval prior to sending the final plat to the Board of County Commissioners.

SUGGESTED MOTION:

The Planning Commission forwards a **recommendation of approval** to the Benton County Board of Commissioners for Application SUB 2020-001/EA 2020-001, subject to the eight (8) findings of fact and eighteen (18) conditions of approval as stated in the staff memo (PCM 1.1) dated May 15, 2020, which includes the preliminary plat approval for 7 residential lots and that the Chairman, in conjunction with the Secretary of the Planning Commission, prepare and adopt written findings and conclusions reflecting the commission's recommendation for approval that articulate and are consistent with the findings, conclusions and recommendations made by the Planning Commission tonight.

To view the complete packet, call the Commissioners' office @ 509.786.5600

EXHIBIT LIST FOR SUB 2020-002/EA 2020-004
Preliminary Plat of Orchard View

			DATED
Planning Commission Memo Exhibit List - June 9, 2020			
PCM 1 Includes:	PCM 1.1	Staff Report	May 20, 2020
	PCM 1.2	Site Map	February 6, 2020
	PCM 1.3	Notice of Public Hearing	May 20, 2020
	PCM 1.4	Extension of Time Request	April 15, 2020
	PCM 1.5	Finding of Need for Additional Processing Time	April 15, 2020
		APPLICATION SUBMITTAL	
	PCM 1.6	Subdivision Application	January 29, 2020
	PCM 1.7	Plat Map for Orchard View	January 29, 2020
	PCM 1.8	Preliminary Stormwater Drainage Report	January 29, 2020
		SEPA INFORMATION	
	PCM 1.9	Environmental Checklist EA2020-004	January 29, 2020
	PCM 1.10	Notice of Application	February 3, 2020
	PCM 1.11	Mitigated Determination of Non Significance	February 27, 2020
		COMMENTS	
	PCM 1.12	Benton Franklin Health District Letter	December 16, 2019
	PCM 1.13	Columbia Irrigation District Letter	February 5, 2020
	PCM 1.14	Benton County Fire Marshal Comments	February 5, 2020
	PCM 1.15	Dept. of Ecology Letter	February 13, 2020
	PCM 1.16	Benton County Assessor	February 18, 2020
	PCM 1.17	City of Kennewick Comments	February 19, 2020
	PCM 1.18	Jack/Nancy Julson Letter	February 20, 2020
	PCM 1.19	Benton County Public Works Comments	Febuary 21, 2020
	PCM 1.20	Jack/Nancy Julson 2nd Letter	February 21, 2020
	PCM 1.21	Claudius/Nancy/Christopher Mace Letter	February 21, 2020
	PCM 1.22	City of Kennewick GIS Comments	March 3, 2020
	PCM 1.23	Bonneville Power Administration Letter	March 13, 2020
	PCM 1.24	City of Kennewick Letter	March 13, 2020
	PCM 1.25	Benton PUD Comments	March 20, 2020
	PCM 1.26	Benton County Public Works Comments	May 19, 2020
	PCM 1.27	Benton County Public Works Comments	May 13, 2020
Board of County Commissioners Memo Exhibit List - July 14, 2020			
BCCM 1 Includes:	BCCM 1.1	Commissioners Agenda Action Sheet	July 1, 2020
	BCCM 1.2	Draft Resolution	July 1, 2020
	BCCM 1.3	Planning Commission Findings & Recommendation	June 9, 2020
	BCCM 1.4	Planning Commission Meeting Audio	June 9, 2020

The Exhibit Numbers are found in the Top Right Hand Corner of each document.
PCM = Planning Commission Memo Exhibits
BCCM = County Commissioner Memo Exhibits

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	July 14, 2020 Memo Date: July 1, 2020
Subject:	Preliminary Plat of Orchard View - SUB 2020-002 Applicant Hayden Homes
Presenter:	Greg Wendt, Planning Manager and Michelle Cooke, Principal Planner
Prepared By:	Donna Hutchinson
Reviewed By:	Greg Wendt

Type of Agenda Item:	Type of Action Needed:	
☐ Consent Agenda	☐ Discussion Only (1st)	☒ Pass Motion
☐ Public Hearing	☐ Discussion Only (2nd)	☒ Pass Resolution
☒ Scheduled Business	☐ Decision/Direction	☐ Pass Ordinance

Summary / Background Information

The applicant has submitted a preliminary plat application (PCM 1.6) and map (PCM 1.7) to subdivide approximately 9.1 acres into 29 residential lots. The preliminary plat is known as Orchard View. The land is zoned Urban Growth Area Residential. The average lot size in the development is approximately 11,378 square feet and the lots are proposed to be served by new public roads, city water, and city sewer services. The property is located southwest of the intersection of E. 19th Avenue and S. Gum Street in unincorporated Kennewick WA on parcel number 1-0780-300-0081-000.

On June 9, 2020, at the conclusion of the open record hearing, the Planning Commission voted (5-0) to forward a positive recommendation to the Board of County Commissioners subject to eight (8) findings of fact and twenty-one (21) conditions of approval. With the completion of the open record hearing, the Benton County Code requires the Board of County Commissioners conduct a closed record (appeal) hearing with reference to this preliminary plat.

The Benton County Commissioners set Tuesday, July 14, 2020 at 9:00 a.m. in the Commissioners Chamber Room, Benton County Courthouse, 620 Market Street, Prosser, WA. 99350 for the Board of County Commissioners to conduct a closed record (appeal) hearing with reference to this preliminary plat.

All the information that has been submitted to the Planning Commission is being submitted to the Board of County Commissioners for inclusion in the public record and will need to be considered by the Board of County Commissioners with reference to this matter.

Fiscal Impact - Maintenance of new County Roads

Amount: Unknown

Fund: Unknown

Recommendation

Planning Commission recommendation:

At the conclusion of the open record hearing, the Planning Commission voted 5– 0 to forward a positive recommendation to the Board of County Commissioners subject to eight (8) findings of fact and twenty-one (21) conditions of approval (Recommendation, Findings of Fact and Conditions).

Planning Department recommendation:

It is the Planning Department's recommendation that the Board of County Commissioners approve the preliminary plat as submitted, subject to the Planning Commission's Recommendation, Findings of Fact and Conditions.

Suggested Motion

If the Board agrees with the Planning Commission, a motion can be made to adopt the Planning **Commission's** Recommendation, Findings of Fact and Conditions as **the Board's** own and approve the preliminary plat of Orchard View - SUB 2020-002 as recommended by the Planning Commission.

If, however, the Board disagrees with the Planning Commission's recommendation then the Board will have to complete their own Findings and either approve the plat with additional conditions or deny the plat. If based on the Boards record, the wish is to complete their own Findings of Fact and Conditions, the Planning Department could draft the Board's Decision and Conclusions for the Board's approval.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF COUNTY PLANNING REGARDING PRELIMINARY PLAT APPLICATION SUB 2020-002 – ORCHARD VIEW. APPLICANT: HAYDEN HOMES, PARCEL NUMBERS 1-0780-300-0081-000.

WHEREAS, the Legal notification pursuant to the Benton County Subdivision Regulations, BCC 9.05.040, was given on Wednesday, May 27, 2020.; and,

WHEREAS, public notice procedures, pursuant to RCW 58.17.080 and 58.17.090, were carried out including: Notice to affected jurisdictions, (February 4, 2020); publication of Notice of Application (February 12, 2020) and Legal Notice in the Prosser Record Bulletin (May 27, 2020); and,

WHEREAS, the Planning Commission held a public hearing on June 9, 2020 at 6:00 p.m., in the Planning Annex, 1002 Dudley Avenue, Prosser, WA 99350 and all those who testified and those public hearing exhibits that were received into evidence are identified in the minutes for the open record hearing; and,

WHEREAS, in an effort to continue to provide public access to the Planning Commission meetings during the Governor's "Stay Home, Stay Healthy" order, the public was provided telephonic and video access for the public to view and provide testimony at the Planning Commission meetings; and,

WHEREAS, the Planning Commission at the open record hearing held on June 9, 2020, considered the testimony submitted and voted to recommend approval with conditions of the Preliminary Plat of Orchard View - SUB 2020-002; and,

WHEREAS, the Planning Commission entered its recommendation, written findings of fact, and conditions of approval concerning this matter, and forwarded the same to the Board of County Commissioners; and,

WHEREAS, the Board of County Commissioners did review the record and recommendation prepared by the Planning Commission and considered oral and written arguments based upon the record at a Closed Record Appeal Hearing on Tuesday, July 14, 2020; and,

WHEREAS, the Board of County Commissioners did adopt the Planning Commission's Finding of Fact and Conditions of Approval as their own (which are kept in File No. SUB 2020-002 in the Planning Department records); and,

WHEREAS, it further appears that the public interest will be served by the approval of the Preliminary Plat of Orchard View - SUB 2020-002 as considered by the Board of County Commissioners; NOW THEREFORE,

BE IT RESOLVED, that the Board of County Commissioners hereby adopts the Planning Commission's Findings of Fact and Conditions of Approval as their own regarding the Preliminary Plat of Orchard View – SUB 2020-002 and hereby approves the preliminary plat.

Dated this 14th day of July 2020.

_____
Chairman of the Board

_____
Member

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

Attest.....
Clerk of the Board

GW:djh

RECOMMENDATION OF THE BENTON COUNTY PLANNING COMMISSION

RE: In the Matter of County Planning:
relating to the preliminary plat of
Orchard View by Hayden Homes located in
Section 7, Township 8 North, Range 30 East. W.M.

SUB 2020-002
RECOMMENDATION, FINDINGS OF FACT
AND CONCLUSIONS

RECOMMENDATION

SUB 2020-002: A proposal by Brian Thoreson (Hayden Homes) for the preliminary plat of Orchard View, a subdivision of approximately 9.10 acres into 29 residential lots with an average lot size of 11,378 square feet on Parcel # 1-0780-300-0081-000 is hereby recommended to be **APPROVED WITH CONDITIONS**. This action is based upon the following findings pursuant to RCW 58.17.110.

RESOLUTION

WHEREAS, the legal notification for the open record public hearing was given pursuant to RCW 36.70.590 on May 27, 2020;

WHEREAS, an open record public hearing was held on June 9, 2020 at 6:00 p.m., in the Planning Annex, 1002 Dudley Avenue, Prosser, WA 99350;

WHEREAS, the Planning Commission was available to receive public testimony, exhibits, and answer questions in the public portion of the hearing with the public being able to attend and comment through telephonic access to the meeting. The meeting was also broadcast through video access to allow the public to view the meeting; and,

WHEREAS, the following members attended the meeting, including, Lloyd Coughlin, Brian Skeels, Marjorie Kaspar, Tammy McKeirnan, Leo Perales, and Martin Sheeran; and,

WHEREAS, all those who testified and those public hearing exhibits that were received into evidence are identified in the minutes for the hearing on June 9, 2020; and,

WHEREAS, the Planning Commission at the open record public hearing considered the evidence submitted and voted to recommend approval with the findings of fact as outlined in the staff memo dated May 12, 2020; and,

WHEREAS, the Planning Commission is entering its written findings of fact, conclusions and recommendations concerning this matter, and is forwarding the same to the Board of County Commissioners and,

FINDINGS OF FACT

1. The proposed subdivision (PCM 1.1-application and PCM 1.2-preliminary plat map) conforms to the Benton County Comprehensive Plan, any applicable zoning requirements and other applicable land use controls;
    a. The proposed use is in conformance with the intent of the Comprehensive Plan based on the following facts:
        i. The 9.1-acre site is bordered on the north, west, and south by lands zoned UGAR. The land to the east is zoned RL-1;
        ii. The Benton County Comprehensive Plan designates this area as Urban. The property is located in the City of Kennewick's Urban Growth Area. The City's Comprehensive Land Use Map identifies that land as Low Density Residential;
        iii. The site is zoned Urban Growth Area Residential (UGAR). The preliminary plat complies with the minimum lot size and minimum average lot width required for UGAR Zoning District;
        iv. The overall plat average lot size is 11,378 square feet;
        v. This development is consistent with the required minimum lot size and density standards contained in the City of Kennewick Comprehensive Plan; and
        vi. The creation of 29 residential lots in the UGAR Zoning District furthers the implementation of the Benton County Comprehensive Plan.
    b. The proposed plat is consistent with the applicable zoning requirements of the Benton County Code, Title 11, based on the following facts:
        i. The property is zoned Urban Growth Area Residential (UGAR). The preliminary plat complies with the minimum lot size and minimum average lot width required for the UGAR Zoning District.
    c. The proposed subdivision does comply with the requirements of the Benton County Code, Title 9, Subdivision Regulations;
        i. The proposed subdivision complies with the purpose and preliminary plat requirements included in BCC 9.05 Subdivision - Preliminary Plat;
        ii. An open record hearing for the preliminary plat was held on March 24, 2020. During the hearing, the Planning Commission considered all relevant information including oral and written comments/testimony; and
        iii. At the conclusion of the open record hearing, the Planning Commission rendered a recommendation to the Board of County Commissioners.
    d. The proposed subdivision complies with the Benton County Critical Area Ordinance BCC Title 15.
        i. Upon completion of a review of BCC Title 15 and the Benton County Critical Area Maps, no designated critical areas have been identified on this property. A critical

area report is not required for the processing of a preliminary plat at this location; and

ii. The proposed plat is not located in a special flood hazard area as identified on the Federal Emergency Management Agency Flood Insurance Rate Maps and BCC 3.26.

e. The requirements of the State Environmental Policy Act have been met based on the following:

i. The proposed subdivision has been reviewed under the requirements of BCC Title 6, Chapter 6.35 and the State Environmental Policy Act;

ii. During the SEPA comment period, the State Department of Ecology (PCM 1.15) recommended that the soil on the property be sampled and analyzed as it relates to pesticides and contaminants. Ecology also recommended a NPDES Construction Stormwater General Permit should be obtained if the project anticipates disturbing ground with the potential for stormwater discharge off-site.

iii. An MDNS with mitigation/conditions (PCM 1.11) was issued for the project on February 27, 2020.

2. The County Engineer has provided a written representation that the proposed subdivision provides adequate means of access and conformance with the road and drainage requirements of Benton County;

a. Reference the Benton County Public Works Department comments as it relates to stormwater and drainage easements (PCM 1.19, 1.26 and 1.27); and

b. Reference the Benton County Public Works Department comments as it relates to roads and mitigation requirements (PCM 1.19, 1.26, and 1.27).

3. The proposed subdivision meets the requirements BCC 9 Subdivision Regulations;

a. The proposed subdivision complies with the purpose and preliminary plat requirements included in BCC 9.05 Subdivision- Preliminary Plat;

4. The public interest will be served by the proposed division and dedication;

a. The creation of 29 residential lots in the UGAR Zoning District furthers the implementation of the Benton County Comprehensive Plan; and

b. Benton County standards are to be complied with including the construction and dedication of new public roads.

5. Appropriate provisions are made for the public health, safety, and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water, sanitary wastes, parks and recreation, playgrounds, schools, school grounds, and sidewalks;

a. Appropriate provisions have been made for the public health and safety based on the following facts:

i. The applicant has proposed that the preliminary plat be served by the City of Kennewick for potable domestic water and sanitary services;

ii. The Benton Franklin Health District has reviewed the preliminary plat and has no objections provided water and sanitary services are provided to the development and compliance with Health Departments standards is obtained by each lot; and

iii. Fire hydrants are to be located, installed, inspected and approved by the Benton County Fire Marshal.

b. Appropriate provisions have been made for open spaces based on the following facts:

i. The proposed subdivision does not contain land to be designated for open space.

c. Appropriate provisions have been made for drainage ways based on the following facts:

i. PLS Engineering prepared a Final Drainage Report for the applicants of Orchard View, dated January 24, 2020 (PCR 1.8). The report discusses the provisions made for both offsite and onsite stormwater as it relates to this property and the proposed development; and

ii. Reference the Benton County Public Works Department comments as it relates to stormwater and drainage easements (PCM 1.19, 1.25, and 1.26).

d. Appropriate provisions have been made for streets or roads, alleys, and other public ways based on the following facts:

i. The public interest will be served by the proposed division and dedication as the Benton County Road Department standards are to be complied with including the construction and dedication of new public roads; and

ii. Reference the Benton County Public Works Department comments as it relates to roads and mitigation requirements (PCM PCM 1.19, 1.25, and 1.26)).

e. Appropriate provisions have been made for transit stops based on the following facts:

i. Ben Franklin Transit did not comment on transit service for the proposed development. The proposed plat and surrounding area are not served by public transit.

f. Adequate provisions have been made for potable water supplies based on the following facts:

i. The plat will be provided potable water by the City of Kennewick; and

ii. The Benton Franklin Health District has no objections provided the proposed water services by the City of Kennewick are provided to all future development in the area.

g. Adequate provisions have been made for sanitary waste based on the following facts:

i. All lots in the development are proposed to be served by the City of Kennewick sewer system.

h. Adequate provisions have been made for parks, recreation, and playgrounds based on the following facts:

   i. The proposed subdivision does not contain land to be designated for parks or recreation. The Benton County Code does not require park dedications.

i. Appropriate provisions have been made for schools and school grounds and for sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school based on the following facts:

   i. The proposed plat is within the Kennewick School District. The School District did not provide comments on this proposal as to whether there are adequate provisions to assure safe walking conditions for students who walk to and from school or waiting for school buses.

6. The Benton-Franklin Health District has reviewed the proposed subdivision for compliance with its rules and regulations and has not expressed objection to the proposed subdivision; and,

   a. Reference the BFHD comments as it relates to this preliminary plat (PCM 1.12).

7. The proposed subdivision is located within an irrigation district, and the applicant has complied with RCW 58.17.310 as it now exists or is hereafter amended.

   a. The applicant is required to comply with the Columbia Irrigation District standards and requirements as they relate to RCW 58.17.310.

8. RCW 58.17.110 (1)(2)(3)(4). Requires the approval or disapproval of subdivision- factors to be considered- conditions of approval, including, (4) If water supply is to be provided by a groundwater withdrawal exempt from permitting under RCW 90.44.050, the applicant's compliance with RCW 90.44.050 and with applicable rules adopted pursuant to chapters 90.22 and 90.54 RCW is sufficient in determining appropriate provisions for water supply for a subdivision, dedication, or short subdivision under this chapter.

   a. The proposed plat is consistent with RCW 58.17.110 (1)(2)(3)(4). The plat is to be provided potable water by the City of Kennewick.

CONDITIONS OF APPROVAL

1. Applicant shall meet and comply with the requirements of the **Benton County Road Department**, including the following:

   a. The developer shall provide a complete set of engineered construction drawings for review and approval by the County and associated utilities. The drawings shall contain all appropriate information listed on the attached Minimum Plan Requirements. Grading plan will include grading to shape any drainage easements to route and fully contain all runoff based upon the 100-year storm within the easement limits. All plans and associated reports shall be prepared by a Professional Engineer licensed to practice in the State of Washington.

   b. All construction shall be in accordance with the most current WSDOT Standard Specifications for Road, Bridge and Municipal Construction, applicable Benton County Standard Plans and the requirements of the County Engineer.

c. All roads within this plat shall have a paved width of 24 feet with a minimum 1-foot gravel shoulder. Roadways shall be designed for a minimum 25 mile per hour design speed.

d. The pavement return radius at all intersections shall be a minimum of 35 feet.

e. All stormwater from the roadways shall be contained on the plat and shall utilize surface infiltration (ditches, swales, ponds) for detention. The developer shall have an infiltration test performed at each proposed detention area. Tests shall be done with an infiltrometer using the falling head or constant head method. Other methods of infiltration rate determination shall be approved by the County.

f. The developer shall provide a complete stormwater runoff report developed in accordance with the Stormwater Management Manual for Eastern Washington accosting for all impervious and pervious surfaces draining to the roadside ditches. Design storm shall be a Modified SCS Type IA with a 25-year return frequency.

g. All signage including but not limited to stop signs, speed limit signs and street name signs shall be installed by the developer in accordance with Benton County Standard Plans.

h. All new power, telephone, cable TV and irrigation shall be installed outside of the County right of way in the appropriate easements. Domestic water piping may be installed within the County right of way in accordance with a valid franchise agreement.

i. Survey monuments, with cases and covers per Benton County Standard R-14B, shall be placed at all road intersections, points of curvature, points of tangency, centers of cul-de-sacs, section corners and quarter corners. All monuments shall be set by a Professional Land Surveyor licensed to practice in the state of Washington.

j. The developer shall widen the lane abutting their plat. E 19th Ave. and S Gum Street shall have one lane widened to 14 feet from centerline. All construction shall be in accordance with the most current WSDOT Standard Specifications for Road, Bridge and Municipal Construction, applicable Benton County Standard Plans and the requirements of the County Engineer.

k. The developer shall be responsible to relocate power poles abutting their property line to the utility easement in the plat.

   - Public Works is considering the request from Brian Thoreson to not be required to relocate the power poles abutting his property on S. Gum Street to the utility easement in Orchard View subdivision.
   - Provided that a mitigation plan for the non-relocation of the power poles on S. Gum St that follows the WSDOT standards or the City of Kennewick standards and is approved by the City of Kennewick, Public Works may remove the requirement to move the power poles.
   - If a feasible mitigation plan is submitted and approved, S. Gum St will only have to be widened to 12 feet instead of 14 feet.
   - All other requirements remain the same.

l. Power poles shall not obstruct the access to E. 19th or S. Gum St.

m. The access to S. Gum St. on lot 15 shall be removed.

n. Add the following notes to the face of the final plat:

- Benton County is not responsible for the maintenance or upkeep of any stormwater retention facility or drainage easements. All such maintenance and upkeep are the responsibility of the underlying property owner.
- Prior to the construction of any driveway or the issuance of any building permit for any lot within this subdivision the property owner shall obtain a Road Approach Permit from the Benton County Public Works Department and install the required temporary construction access.
- No trees, shrubs, weeds, fencing or other obstructions more than 24 inches in height are permitted within Benton County right of way.
- Property owners that install grass, curbing, rock mulch or other landscaping within the County right of way do so at their own risk. The County will not repair or replace damaged landscaping due to construction or maintenance operations.
- No lots within this plat shall have access to E. 19th AVE.
- Lots 16 and 15 shall not have direct access to S. Gum St.

o. For more information please contact Cristina Woods at 509-786-5611 or Cristina.Woods@co.benton.wa.us.

2. Applicant shall meet and comply with the requirements of the **City of Kennewick Public Works**, including the following:

a. Developer is required to submit civil drawings with the water and sanitary sewer design for City review and approval to issue a Public Works permit to connect to City utilities.

b. We do not have a formal policy on development in the County. That said, if a developer chooses to build an urban street section per City detail 2-1 (curb, gutter, sidewalk, stormwater retention and streetlights), the City has an agreement with the County that we will sweep the streets, clean the catch basins and maintain the street lighting within the subdivision streets. We look at County developments on a case-by-case basis.

c. We are not requiring urban standards along their 19th and Gum frontages, but we think it would be advantageous if the developer would consider putting in a pathway behind the power poles, for a place for schoolchildren and other pedestrians to walk.

d. There is an existing 12-inch waterline (WL) in E 19th Ave installed by Record Drawing B2231. Developer will be required to extend 12-inch WL in 19th Ave, Developer's portion of that 12-inch WL will depend on their need based on hydraulics. It is also possible that Developer will need to extend it north in Gum St to E 15th Ave to create a loop based on the hydraulic need. A water system hydraulic analysis required to model proposed water main system for the site.

e. Provide water lines as required by Fire Department to meet fire protection to meet City of Kennewick Standards on Fire Hydrant spacing per City detail 1-3.

f. For water main located outside the City right of way, provide a 15-foot waterline easement centered over any new water main, and five feet beyond fire hydrant runs. Record the document with the Benton County Auditor, including the property owner's signature. Dedication of the easement is required prior to acceptance of the utility permit per KMC 14.09.050.

g. There is a 12-inch force main discharging into a manhole at SI of E 19th and S Gum St. There is a 15-inch sewer main north of the sanitary sewer manhole flowing north.

h. Design Engineer will need to do some engineering analysis to determine if this site will be able to gravity into the existing sewer at E 19th and Gum or discharge into the manhole before the sanitary sewer lift station at E 23rd and S Gum St.

i. Call out the Record Drawings number on all plans showing existing water/sewer utilities that installed such utilities. All shall clearly identify the size and type of water/sewer utility that is being proposed or connected to (i.e. "Existing 8-inch Water" or similar).

j. If the Stormwater runoff is designed to City of Kennewick Standards: Provide a Storm Water Site Plan (drainage report) and storm design to retain and dispose of a 25-year 24-hour storm following the Storm Water Management Manual for Eastern Washington (SMMEW) and Section 5-8. Infiltration tests are required at the location and depth of the planned infiltration structures along with a soils log to 5 feet below that point.

k. Design and construct all underground infiltration structures to meet the Washington State Underground Injection Control (UIC) Rule. Provide an assessment of the design against the UIC pretreatment requirements. Provide UIC registration numbers on the plans prior seeking the City's signature.

l. This site requires a separate DPW Permit for civil plan reviews with the following:
   - PDF copy of the Application for Civil Review and Permitting and Storm Calculations.
   - One full size (24"x36") PDF copy of the construction plans.
   - After project completion, Record Drawings showing improvements made on the property will be required prior to acceptance of the construction permit(s).

m. Kennewick Survey Data Requirements for Construction Plans and As built Drawings:
   - Design and build all projects with current City Survey Data.
   - For detailed information on Kennewick Survey Data and Record Drawings go to COK website @ https://www.go2kennewick.com/314/Civil-Plan-Review.

n. For more information please contact Ferando Garcia at City of Kennewick Public Works at (509) 585-4481 or Fernando.Garcia@ci.kennewick.wa.us.

3. Applicant shall meet and comply with the requirements of the **Benton Franklin Health District**. BFHD provided the following comments:

a. This is in regards to the conversation we had regarding the 29 lot development at SW corner of E 19th Ave and S Gum Street in Kennewick. Mr. Thoreson has indicated that the City of Kennewick will be supplying sewer and water for those lots. BFHD has no comments on these lots provided the City supplies sewer and water.

b. Please contact Jim Coleman at (509) 460-4319 for more information.

4. Applicant shall meet and comply with the requirements of the **Benton PUD**, including the following:

   a. There are several conflicting overhead lines that appear to interfere with the subdivision development. Cost to relocate these lines will likely be in the hundreds of thousands of dollars. We would like other options to be explored that may work for all parties. Additionally, correspondence and permits regarding utilities crossing the BPA easement must be submitted prior to construction of facilities.

   b. Please contact Tina Glines with Benton PUD at (509) 582-1241 or glinest@bentonpud.org for more information.

5. Applicant shall meet and comply with the requirements of the **Bonneville Power Administration**, including the following:

   a. The Bonneville Power Administration (BPA) has reviewed the above-mentioned proposed plat and its relationship to the BPA 100-foot wide transmission line easement that this plat impacts. BPA does have some concerns with the activities that may occur within the proposed plat.

   b. BPA easements are taken with certain restrictions on the underlying land. In order to maintain operation and safety criteria, all activities planned within the BPA easement need to be approved by BPA prior to their occurrence. Activities that block maintenance crews (such as the installation of fences) or safety concerns (such as buildings, driveways, utilities, or small structures) need to be addressed prior to construction in order to avoid later modification, at the landowner's expense.

   c. In order to avoid problems in this location and to notify prospective landowners, BPA requests that the following language be included on the plat map:

      - The Bonneville Power Administration (BPA) imposes certain conditions on the portions of those properties encumbered by its high voltage transmission line easement. BPA does not allow structures to be built within the easement, nor does it allow access to be blocked to any transmission facilities. Any activity that is to occur within the easement needs to be permitted by BPA prior to installation or construction. Information regarding the permitting process for proposed uses of the easement may be addressed to BPA Real Estate Field Services at (800) 282-3713.

   d. In addition, BPA needs the opportunity to review the location of the proposed road to ascertain whether or not the clearance here allows for safe passage of vehicles (per National Electric Safety Code). This process takes up to 90 days to complete and is typically initiated by a land use application that the developer submits to BPA.

e. Whether or not this property is subdivided and/or this plat approved, the owner will need to submit a land use application, the associated $250 application fee and acquire a Land Use Agreement from BPA, along with the county's building permit for any portion of the owner's development plans that lie within BPA's easement.

f. For more information please contact Mike DeKlyen at (503) 230-5510 or by email at mjdeklyen@bpa.gov.

6. Applicant shall meet and comply with the requirements of the **Department of Ecology**, including the following:

TOXICS CLEAN-UP

a. Based upon the historical agricultural use of this land, there is a possibility the soil contains residual concentrations of pesticides. Ecology recommends that the soils be sampled and analyzed for lead and arsenic, and for organochlorine pesticides. If these contaminants are found at concentrations above the Model Toxics Control Act cleanup levels Ecology recommends that potential buyers be notified of their occurrence.

b. If you have any questions or would like to respond to these Toxics Clean-up comments, please contact Valerie Bound at 509-454-7886 or email at valerie.bound@ecy.wa.gov.

WATER QUALITY

c. Project with Potential to Discharge Off-Site

d. If the project anticipates disturbing ground with the potential for stormwater discharge off-site, the NPDES Construction Stormwater General Permit is recommended. This permit requires that the SEPA checklist fully disclose anticipated activities including building, road construction and utility placements. Obtaining a permit may take 38-60 days.

e. The permit requires that a Stormwater Pollution Prevention Plan (Erosion Sediment Control Plan) shall be prepared and implemented for all permitted construction sites. These control measures must be able to prevent soil from being carried into surface water and storm drains by stormwater runoff. Pe1mit coverage and erosion control measures must be in place prior to any clearing, grading, or construction.

f. In the event that an unpermitted stormwater discharge does occur off-site, it is a violation of Chapter 90.48 RCW, Water Pollution Control and is subject to enforcement action.

g. More information on the stormwater program may be found on Ecology's stormwater website at: http://www.ecy.wa.gov/programs/wg/stormwater/construction/. Please submit an application or contact Lloyd Stevens, Jr. at the Dept. of Ecology, 509-574-3991, with questions about this permit.

7. Applicant shall meet and comply with the requirements of the **Columbia Irrigation District**, including the following:

a. All Platting Fees must be paid in full prior to any approvals.

b. All Irrigation Assessments must be paid in full.

c. Obtain and follow the District's "Standard Specifications" for installing pipe and services.

d. Submit a copy of the Plat and the irrigation plan to be installed for approval. The plat must be approved by CID prior to any excavation or starting the project. The irrigation plan shall include:
   - Location and size of the irrigation easements
   - Location of new services
   - Show pipe and valve size

e. Install pipe and services per the approved irrigation plan.

f. Prior to covering the installed pipe and services, call the District for an inspection and final approval.

g. If applicable the developer will be responsible for payment of any CID engineering cost associated with the project.

h. Please contact CID (Lila Freshment at 509-586-6118) for more information.

8. Applicant shall meet and comply with the requirements of the **Benton County Fire Marshal** including the following:

   a. The Benton County Fire Marshal comments are that fire hydrants are to be located, installed, inspected and approved by the City of Kennewick.

   b. The locations of the hydrants are not shown on the preliminary plat map. Please identify the hydrant locations on the plat map and submit a copy of the agreement to supply services by the City of Kennewick Public Services Department to the Benton County Fire Marshal prior to Final Plat Approval.

   c. Please contact the Benton County Fire Marshal, Clark Posey, at (509)735-3500 or Clark.Posey@co.benton.wa.us for more information.

9. Applicant shall meet and comply with the requirements of the **City of Kennewick**'s addressing and street names:

   a. As proposed Empire St shall be named S Elm Pl.

   b. As proposed Braeburn Ave shall be named E 21st Ave.

   c. As proposed Honey Crisp St shall be named S Fir Pl.

   d. The northern most 176.12' section of road right-of-way running west/east shall be named E 20th Pl.

   e. The following addresses shall be assigned to each lot:

Lot 1:1904	Lot 5: 2030	Lot 9: 532
Lot 2: 1918	Lot 6: 2044	Lot 10: 546
Lot 3: 2002	Lot 7: 504	Lot 11: 560
Lot 4: 2016	Lot 8: 518	Lot 12: 602

Lot 13: 2130
Lot 14: 2116
Lot 15: 616
Lot 16: 615
Lot 17: 2012
Lot 18: 2004
Lot 19: 2018
Lot 20: 603
Lot 21: 539
Lot 22: 525
Lot 23: 520
Lot 24: 534
Lot 25: 546
Lot 26: 561
Lot 27: 547
Lot 28: 533
Lot 29: 519

10. Applicant shall meet and comply with the requirements of the **Benton County Planning Department**, including the following:
    a. The applicant shall meet and comply with the SEPA Determination for this application, including the MDNS with mitigation/conditions issued by the Planning Department on February 27, 2020 (PCM 1.11).
    b. Per BCC 9.09.030(p) Development- Estate Fencing; double frontage lots are discouraged. To mitigate for this, an estate type fence shall be placed along the following locations:
        - The north property lines of Lots 1, 29, 28, 27, and 26;
        - The east property lines of Lots 15 and 16.
    c. The following notes shall be placed on the final plat:
        - "During construction on each property, all construction debris shall be maintained on-site and properly disposed of. Dust control measures including an adequate water supply shall be provided".
        - Addresses [noted in brackets] are subject to change until the exact location of the dwelling and access onto the plat is determined."
11. Preliminary plat approval shall be effective for 5 (five) years from the date of Board of County Commissioner approval. Exceptions shall be in compliance and approved subject to the provisions of BCC 9.05.110 (e) as currently existing or hereafter amended.
12. Any amendments to an approved preliminary plat must be completed in accordance with BCC 9.05.140 as currently existing or hereafter amended.
13. Prior to the final plat being reviewed for final approval, the requirements of the Benton County Planning Department, Benton County Fire Marshal, Benton County Engineer, Benton Franklin Health District, and other commenting agencies and conditions shall be met and complied with.
14. Final Plat applications shall be submitted to the Planning Department. An applicant shall submit a final plat application that follows BCC 9.07 - Final Plat standards and requirements, as currently existing or hereafter amended:
15. All lots in the final plat shall meet the design standards for final plat approval as specified in Benton County Code 9.09 Design and Improvements, as currently existing or hereafter amended, and meet all of the zoning requirements as specified in Benton County Code, Title 11 Zoning, as currently existing or hereafter amended.

16. The location and size of all irrigation and utility easements necessary for electric power, telephone service, water, sewer and cable TV are to be coordinated with the proper utilities and/or reviewing agencies and shown on the final plat. The developer will need to open the utility trenches, including road crossings, based on individual utility requirements and specifications.

17. Address numbers shall be coordinated with the Planning Department and placed on the final plat. Addresses [noted in brackets] are subject to change until the exact location of the dwelling and access onto the plat is determined.

18. The Benton County Road Department and the City of Kennewick shall approve the name of the proposed road(s) in the preliminary plat.

19. The applicant shall coordinate with the Post Office regarding centralized box unit (CBU) locations for the development, if necessary.

20. All of the statements that are required to be on the notes of the plat shall be either: 1) recorded as a restrictive covenant on each applicable parcel with the County Auditor, or 2) described in detail in the developer's covenants that are recorded and provided to each lot owner, prospective landowner, and the Planning Department at the time of final plat approval and recording.

21. That the preliminary plat is modified in all necessary respects so that the final plat will reflect the requirements of approval. If the final plat will be in conflict with any of the conditions of approval as adopted by the Planning Commission as a result of the modifications, then the final plat must be reviewed by the Planning Commission at a public meeting for approval prior to sending the final plat to the Board of County Commissioners.

N**OW, THEREFORE BE IT RESOLVED BY THE BENTON COUNTY PLANNING COMMISSION**, through its chairman as authorized by motion of the Planning Commission, adopts these findings of fact and conditions with respect to File No. SUB 2020-002, the preliminary plat of Orchard View and such plat is hereby recommended to the Board of County Commissioners for APPROVAL WITH EIGHT (8) FINDINGS OF FACT and TWENTY-ONE (21) CONDITIONS OF APPROVAL.

Martin Sheeran 6/9/2020

Martin Sheeran, Chairman DATE
BENTON COUNTY PLANNING COMMISSION

The Audio Recording of the Planning Commission meeting for June 9, 2020 can be found on the County Website, on the Planning Commission agenda page for June 9, 2020. http://tinyurl.com/PCAgendaPg

Planning Department
(509) 786-5612
P.O. Box 910
Prosser, WA 99350

www.co.benton.wa.us
planning.department@co.benton.wa.us
Prosser Office: 620 Market Street, 1st Floor
Kennewick Office: 102206 East Wiser Parkway

STAFF REPORT TO THE
BENTON COUNTY PLANNING COMMISSION

FILE NO:	SUB 2020-002 Orchard View Preliminary Plat – 29 Residential Lots
MEMO DATE:	May 20, 2020
HEARING DATE:	June 9, 2020
APPLICANT:	Brian Thoreson (Hayden Homes) 2464 SW Glacier Pl, Suite 110 Redmond, Oregon 97756
OWNER:	Stuart McKinnis 2306 S Garfield St Kennewick, WA 99337
LOCATION:	The site is located southwest of the intersection of E 19th Avenue and S Gum Street in Kennewick WA and is described as that portion of the East 175 feet of the East 160 feet of the East Half of the Southeast Quarter of the Northeast Quarter of the Southwest Quarter in Section 7, Township 8 North, Range 30 East, W.M.; 1-0780-300-0081-000.
PROPERTY SIZE:	Approximately 9.1 acres
AREA TO BE USED:	Approximately 9.1 acres
LAND USE:	Residential
COMP. PLAN:	Urban
ZONING:	Urban Growth Area Residential
SUGGESTED STAFF and RECOMMENDATION:	Positive recommendation subject to nine (9) findings of fact seven (7) conditions of approval.

APPLICATION DESCRIPTION

The applicant has submitted a preliminary plat application (PCM 1.6) and map (PCM 1.7) to subdivide approximately 9.1 acres into 29 residential lots. The preliminary plat is known as Orchard View. The land is zoned Urban Growth Area Residential.

The average lot size in the development is approximately 11,378 square feet and the lots are proposed to be served by new public roads, city water, and city sewer services.

The property is located southwest of the intersection of E. 19th Avenue and S. Gum Street in unincorporated Kennewick WA on parcel number 1-0780-300-0081-000.

PUBLIC NOTICE

1. A Notice of Application was published in the Prosser Record Bulletin on February 12, 2020 (PCM 1.10).
2. The Planning Staff mailed out review packets to technical agencies on February 4, 2020.
3. An Finding of Need for Additional Processing Time was issued on April 15, 2020.
4. A Notice of Public Hearing was published in the Prosser Record Bulletin on May 27, 2020 (PCM 1.3).
5. Property Owners within 300 feet were mailed notice on May 22, 2020.
6. A SEPA Determination of Mitigated Non-Significance (MDNS) (PCM 1.11) was issued on February 27, 2020.

APPLICABLE STANDARDS/ORDINANCES

1. Comprehensive Plan: Benton County Comprehensive Plan.
2. SEPA: BCC, Title 6, Chapter 6.35 Environmental Policy.
3. Subdivision Code: BCC, Title 9, Subdivision Regulations.
4. Zoning Code: BCC, Title 11, Zoning Regulations.
5. Critical Area Ord.: BCC, Title 15, Critical Areas- BCC 15.02 - 15.14.
6. RCW 58.17: Plats and Subdivisions.
7. Planning Commission/Open Record Hearing:

   Pursuant to BCC 9.05.070, an open record hearing on the proposed subdivision shall be held before the Planning Commission. The Planning Commission shall consider all relevant information, including but not limited to:

   a. The report of the Planning Department;

   b. Any written comments or concerns expressed by other reviewing agencies;

   c. Oral and written testimony from persons present at the hearing; and

   If the Planning Commission finds that additional information is needed, the Planning Commission may continue the hearing for up to thirty-five (35) days or such longer period as agreed to by the applicant and direct that the additional information be gathered.

AGENCY COMMENTS

1. Benton County Planning Department: See the suggested findings of fact and conditions of approval for the Planning Department's comments and requirements.
2. Benton County Public Works Department: See comments dated February 21, 2020 (PCM 1.19) and May 19, 2020 (PCM1.26).

3. Benton Franklin Health District: See comments dated December 16, 2019 (PCM 1.12).
4. Columbia Irrigation District: See comments dated February 5, 2020 (PCM 1.13).
5. Benton PUD: See email comments dated March 20, 2020 (PCM 1.25).
6. Benton County Assessor's Office: Submitted a "no comment" to the Planning Department dated February 18, 2020 (PCM 1.16).
7. Benton County Fire Marshal: See comments dated February 5, 2020 (PCM 1.14).
8. Washington State Department of Ecology: See comments dated February 13, 2020 (PCM 1.15).
9. Bonneville Power Administration: See comments dated March 16, 2020 (PCM 1.23).
10. City of Kennewick: See comments dated March 13, 2020 (PCM 1.24).

CRITERIA FOR FINDINGS OF FACT

1. Pursuant to BCC 9.05.080, Consideration of Preliminary Subdivision, the Benton County Planning Commission, after conducting an open record hearing and considering all information presented, shall forward a recommendation to the Board of County Commissioners regarding whether the preliminary plat be approved, approved with conditions, or denied as proposed. Prior to making any recommendation, the Planning Commission shall make the following written findings:
    a. That the proposed subdivision conforms to the Benton County Comprehensive Plan, any applicable zoning requirements and other applicable land use controls;
    b. That the County Engineer, or designee, has provided a written representation that the proposed subdivision provides adequate means of access and conformance with the road and drainage requirements of Benton County;
    c. That the proposed subdivision meets the requirements of BCC 9.05
    d. That the public interest will be served by the proposed division and dedication;
    e. That appropriate provisions are made for the public health, safety, and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water, sanitary wastes, parks and recreation, playgrounds, schools, school grounds, and sidewalks;
    f. That the Benton-Franklin Health District has reviewed the proposed subdivision for compliance with its rules and regulations and has not expressed objection to the proposed subdivision; and
    g. If any portion of the proposed subdivision is located within an irrigation district, that the applicant has complied with RCW 58.17.310 as it now exists or is hereafter amended.
2. RCW 58.17.110 (1)(2)(3)(4). Approval or disapproval of subdivision - factors to be considered- conditions of approval, including, (4) If water supply is to be provided by a groundwater withdrawal exempt from permitting under RCW 90.44.050, the applicant's compliance with RCW 90.44.050 and with applicable rules adopted pursuant to chapters 90.22 and 90.54 RCW is sufficient in determining appropriate

provisions for water supply for a subdivision, dedication, or short subdivision under this chapter.

RECOMMENDATION

Benton County Planning Staff will assist the Planning Commission with the determination of findings and conditions for the preliminary plat of Orchard View - File Number SUB 2020-002.

The Benton County Planning Department recommends that the Planning Commission forward a recommendation of approval to the Benton County Board of Commissioners for application SUB 2020-002, with the following suggested findings of fact, conditions of approval, and motion.

SUGGESTED FINDINGS OF FACT:

1. The proposed subdivision (PCM 1.6-application and PCM 1.7-preliminary plat map) conforms to the Benton County Comprehensive Plan, any applicable zoning requirements and other applicable land use controls;
    a. The proposed use is in conformance with the intent of the Comprehensive Plan based on the following facts:
        i. The 9.1-acre site is bordered on the north, west, and south by lands zoned UGAR. The land to the east is zoned RL-1;
        ii. The Benton County Comprehensive Plan designates this area as Urban. The property is located in the City of Kennewick's Urban Growth Area. The City's Comprehensive Land Use Map identifies that land as Low Density Residential;
        iii. The site is zoned Urban Growth Area Residential (UGAR). The preliminary plat complies with the minimum lot size and minimum average lot width required for UGAR Zoning District;
        iv. The overall plat average lot size is 11,378 square feet;
        v. This development is consistent with the required minimum lot size and density standards contained in the City of Kennewick Comprehensive Plan; and
        vi. The creation of 29 residential lots in the UGAR Zoning District furthers the implementation of the Benton County Comprehensive Plan.
    b. The proposed plat is consistent with the applicable zoning requirements of the Benton County Code, Title 11, based on the following facts:
        i. The property is zoned Urban Growth Area Residential (UGAR). The preliminary plat complies with the minimum lot size and minimum average lot width required for the UGAR Zoning District.
    c. The proposed subdivision does comply with the requirements of the Benton County Code, Title 9, Subdivision Regulations;
        i. The proposed subdivision complies with the purpose and preliminary plat requirements included in BCC 9.05 Subdivision - Preliminary Plat;

ii. An open record hearing for the preliminary plat was held on June 9, 2020. During the hearing, the Planning Commission considered all relevant information including oral and written comments/testimony; and

iii. At the conclusion of the open record hearing, the Planning Commission rendered a recommendation to the Board of County Commissioners.

d. The proposed subdivision complies with the Benton County Critical Area Ordinance BCC Title 15.

i. Upon completion of a review of BCC Title 15 and the Benton County Critical Area Maps, no designated critical areas have been identified on this property. A critical area report is not required for the processing of a preliminary plat at this location; and

ii. The proposed plat is not located in a special flood hazard area as identified on the Federal Emergency Management Agency Flood Insurance Rate Maps and BCC 3.26.

e. The requirements of the State Environmental Policy Act have been met based on the following:

i. The proposed subdivision has been reviewed under the requirements of BCC Title 6, Chapter 6.35 and the State Environmental Policy Act;

ii. During the SEPA comment period, the State Department of Ecology (PCM 1.15) recommended that the soil on the property be sampled and analyzed as it relates to pesticides and contaminants. Ecology also recommended a NPDES Construction Stormwater General Permit should be obtained if the project anticipates disturbing ground with the potential for stormwater discharge off-site.

iii. An MDNS with mitigation/conditions (PCM 1.11 was issued for the project on February 27, 2020.

2. The County Engineer has provided a written representation that the proposed subdivision provides adequate means of access and conformance with the road and drainage requirements of Benton County;

a. Reference the Benton County Public Works Department comments as it relates to stormwater and drainage easements (PCM 1.19); and

b. Reference the Benton County Public Works Department comments as it relates to roads and mitigation requirements (PCM 1.6 Subdivision and PCM 1.7 SEPA).

3. The proposed subdivision meets the requirements BCC 9 Subdivision Regulations;

a. The proposed subdivision complies with the purpose and preliminary plat requirements included in BCC 9.05 Subdivision- Preliminary Plat;

4. The public interest will be served by the proposed division and dedication;

a. The creation of 29 residential lots in the UGAR Zoning District furthers the implementation of the Benton County Comprehensive Plan; and

b. Benton County standards are to be complied with including the construction and dedication of new public roads.

5. Appropriate provisions are made for the public health, safety, and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water, sanitary wastes, parks and recreation, playgrounds, schools, school grounds, and sidewalks;

   a. Appropriate provisions have been made for the public health and safety based on the following facts:

      i. The applicant has proposed that the preliminary plat be served by the City of Kennewick for potable domestic water and sanitary services;

      ii. The Benton Franklin Health District has reviewed the preliminary plat and has no objections provided water and sanitary services are provided to the development and compliance with Health Departments standards is obtained by each lot; and

      iii. Fire hydrants are to be located, installed, inspected and approved by the Benton County Fire Marshal.

   b. Appropriate provisions have been made for open spaces based on the following facts:

      i. The proposed subdivision does not contain land to be designated for open space.

   c. Appropriate provisions have been made for drainage ways based on the following facts:

      i. PLS Engineering prepared a Final Drainage Report for the applicants of Orchard View, dated January 24, 2020 (PCR 1.8. The report discusses the provisions made for both offsite and onsite stormwater as it relates to this property and the proposed development; and

      ii. Reference the Benton County Public Works Department comments as it relates to stormwater and drainage easements (PCM 1.19).

   d. Appropriate provisions have been made for streets or roads, alleys, and other public ways based on the following facts:

      i. The public interest will be served by the proposed division and dedication as the Benton County Road Department standards are to be complied with including the construction and dedication of new public roads; and

      ii. Reference the Benton County Public Works Department comments as it relates to roads and mitigation requirements (PCM 1.19).

   e. Appropriate provisions have been made for transit stops based on the following facts:

      i. Ben Franklin Transit did not comment on transit service for the proposed development. The proposed plat and surrounding area are not served by public transit.

   f. Adequate provisions have been made for potable water supplies based on the following facts:

      i. The plat will be provided potable water by the City of Kennewick; and

ii. The Benton Franklin Health District has no objections provided the proposed water services by the City of Kennewick are provided to all future development in the area.

g. Adequate provisions have been made for sanitary waste based on the following facts:

i. All lots in the development are proposed to be served by the City of Kennewick sewer system.

h. Adequate provisions have been made for parks, recreation, and playgrounds based on the following facts:

i. The proposed subdivision does not contain land to be designated for parks or recreation. The Benton County Code does not require park dedications.

i. Appropriate provisions have been made for schools and school grounds and for sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school based on the following facts:

i. The proposed plat is within the Kennewick School District. The School District did not provide comments on this proposal as to whether there are adequate provisions to assure safe walking conditions for students who walk to and from school or waiting for school buses.

6. The Benton-Franklin Health District has reviewed the proposed subdivision for compliance with its rules and regulations and has not expressed objection to the proposed subdivision; and,

a. Reference the BFHD comments as it relates to this preliminary plat (PCM 1.12).

7. The proposed subdivision is located within an irrigation district, and the applicant has complied with RCW 58.17.310 as it now exists or is hereafter amended.

a. The applicant is required to comply with the Columbia Irrigation District standards and requirements as they relate to RCW 58.17.310.

8. RCW 58.17.110 (1)(2)(3)(4). Requires the approval or disapproval of subdivision- factors to be considered- conditions of approval, including, (4) If water supply is to be provided by a groundwater withdrawal exempt from permitting under RCW 90.44.050, the applicant's compliance with RCW 90.44.050 and with applicable rules adopted pursuant to chapters 90.22 and 90.54 RCW is sufficient in determining appropriate provisions for water supply for a subdivision, dedication, or short subdivision under this chapter.

a. The proposed plat is consistent with RCW 58.17.110 (1)(2)(3)(4). The plat is to be provided potable water by the City of Kennewick.

SUGGESTED CONDITIONS OF APPROVAL:

1. Applicant shall meet and comply with the requirements of the Benton County Road Department, including the following:

a. The developer shall provide a complete set of engineered construction drawings for review and approval by the County and associated utilities. The drawings shall contain all appropriate information listed on the attached Minimum Plan

Requirements. Grading plan will include grading to shape any drainage easements to route and fully contain all runoff based upon the 100-year storm within the easement limits. All plans and associated reports shall be prepared by a Professional Engineer licensed to practice in the State of Washington.

b. All construction shall be in accordance with the most current WSDOT Standard Specifications for Road, Bridge and Municipal Construction, applicable Benton County Standard Plans and the requirements of the County Engineer.

c. All roads within this plat shall have a paved width of 24 feet with a minimum 1-foot gravel shoulder. Roadways shall be designed for a minimum 25 mile per hour design speed.

d. The pavement return radius at all intersections shall be a minimum of 35 feet.

e. All stormwater from the roadways shall be contained on the plat and shall utilize surface infiltration (ditches, swales, ponds) for detention. The developer shall have an infiltration test performed at each proposed detention area. Tests shall be done with an infiltrometer using the falling head or constant head method. Other methods of infiltration rate determination shall be approved by the County.

f. The developer shall provide a complete stormwater runoff report developed in accordance with the Stormwater Management Manual for Eastern Washington accosting for all impervious and pervious surfaces draining to the roadside ditches. Design storm shall be a Modified SCS Type IA with a 25-year return frequency.

g. All signage including but not limited to stop signs, speed limit signs and street name signs shall be installed by the developer in accordance with Benton County Standard Plans.

h. All new power, telephone, cable TV and irrigation shall be installed outside of the County right of way in the appropriate easements. Domestic water piping may be installed within the County right of way in accordance with a valid franchise agreement.

i. Survey monuments, with cases and covers per Benton County Standard R-14B, shall be placed at all road intersections, points of curvature, points of tangency, centers of cul-de-sacs, section corners and quarter corners. All monuments shall be set by a Professional Land Surveyor licensed to practice in the state of Washington.

j. The developer shall widen the lane abutting their plat. E 19th Ave. and S Gum Street shall have one lane widened to 14 feet from centerline. All construction shall be in accordance with the most current WSDOT Standard Specifications for Road, Bridge and Municipal Construction, applicable Benton County Standard Plans and the requirements of the County Engineer.

k. The developer shall be responsible to relocate power poles abutting their property line to the utility easement in the plat.

    - Public Works is considering the request from Brian Thoreson to not be required to relocate the power poles abutting his property on S. Gum Street to the utility easement in Orchard View subdivision.

- Provided that a mitigation plan for the non-relocation of the power poles on S. Gum St that follows the WSDOT standards or the City of Kennewick standards and is approved by the City of Kennewick, Public Works may remove the requirement to move the power poles.
- If a feasible mitigation plan is submitted and approved, S. Gum St will only have to be widened to 12 feet instead of 14 feet.
- All other requirements remain the same.

l. Power poles shall not obstruct the access to E. 19th or S. Gum St.

m. The access to S. Gum St. on lot 15 shall be removed.

n. Add the following notes to the face of the final plat:

- Benton County is not responsible for the maintenance or upkeep of any stormwater retention facility or drainage easements. All such maintenance and upkeep are the responsibility of the underlying property owner.
- Prior to the construction of any driveway or the issuance of any building permit for any lot within this subdivision the property owner shall obtain a Road Approach Permit from the Benton County Public Works Department and install the required temporary construction access.
- No trees, shrubs, weeds, fencing or other obstructions more than 24 inches in height are permitted within Benton County right of way.
- Property owners that install grass, curbing, rock mulch or other landscaping within the County right of way do so at their own risk. The County will not repair or replace damaged landscaping due to construction or maintenance operations.
- No lots within this plat shall have access to E. 19th AVE.
- Lots 16 and 15 shall not have direct access to S. Gum St.

o. For more information please contact Cristina Woods at 509-786-5611 or Cristina.Woods@co.benton.wa.us.

2. Applicant shall meet and comply with the requirements of the City of Kennewick Public Works, including the following:

a. Developer is required to submit civil drawings with the water and sanitary sewer design for City review and approval to issue a Public Works permit to connect to City utilities.

b. We do not have a formal policy on development in the County. That said, if a developer chooses to build an urban street section per City detail 2-1 (curb, gutter, sidewalk, stormwater retention and streetlights), the City has an agreement with the County that we will sweep the streets, clean the catch basins and maintain the street lighting within the subdivision streets. We look at County developments on a case-by-case basis.

c. We are not requiring urban standards along their 19th and Gum frontages, but we think it would be advantageous if the developer would consider putting in a pathway behind the power poles, for a place for schoolchildren and other pedestrians to walk.

d. There is an existing 12-inch waterline (WL) in E 19th Ave installed by Record Drawing B2231. Developer will be required to extend 12-inch WL in 19th Ave, Developer's portion of that 12-inch WL will depend on their need based on hydraulics. It is also possible that Developer will need to extend it north in Gum St to E 15th Ave to create a loop based on the hydraulic need. A water system hydraulic analysis required to model proposed water main system for the site.

e. Provide water lines as required by Fire Department to meet fire protection to meet City of Kennewick Standards on Fire Hydrant spacing per City detail 1-3.

f. For water main located outside the City right of way, provide a 15-foot waterline easement centered over any new water main, and five feet beyond fire hydrant runs. Record the document with the Benton County Auditor, including the property owner's signature. Dedication of the easement is required prior to acceptance of the utility permit per KMC 14.09.050.

g. There is a 12-inch force main discharging into a manhole at SI of E 19th and S Gum St. There is a 15-inch sewer main north of the sanitary sewer manhole flowing north.

h. Design Engineer will need to do some engineering analysis to determine if this site will be able to gravity into the existing sewer at E 19th and Gum or discharge into the manhole before the sanitary sewer lift station at E 23rd and S Gum St.

i. Call out the Record Drawings number on all plans showing existing water/sewer utilities that installed such utilities. All shall clearly identify the size and type of water/sewer utility that is being proposed or connected to (i.e. "Existing 8-inch Water" or similar).

j. If the Stormwater runoff is designed to City of Kennewick Standards: Provide a Storm Water Site Plan (drainage report) and storm design to retain and dispose of a 25-year 24-hour storm following the Storm Water Management Manual for Eastern Washington (SMMEW) and Section 5-8. Infiltration tests are required at the location and depth of the planned infiltration structures along with a soils log to 5 feet below that point.

k. Design and construct all underground infiltration structures to meet the Washington State Underground Injection Control (UIC) Rule. Provide an assessment of the design against the UIC pretreatment requirements. Provide UIC registration numbers on the plans prior seeking the City's signature.

l. This site requires a separate DPW Permit for civil plan reviews with the following:
    - PDF copy of the Application for Civil Review and Permitting and Storm Calculations.
    - One full size (24"x36") PDF copy of the construction plans.
    - After project completion, Record Drawings showing improvements made on the property will be required prior to acceptance of the construction permit(s).

m. Kennewick Survey Data Requirements for Construction Plans and As built Drawings:
    - Design and build all projects with current City Survey Data.
    - For detailed information on Kennewick Survey Data and Record Drawings go to COK website @ https://www.go2kennewick.com/314/Civil-Plan-Review.

n. For more information please contact Fernando Garcia at City of Kennewick Public Works at (509) 585-4481 or Fernando.Garcia@ci.kennewick.wa.us.

3. Applicant shall meet and comply with the requirements of the Benton Franklin Health District. BFHD provided the following comments:

    a. This is in regard to the conversation we had regarding the 29 lot development at SW corner of E 19th Ave and S Gum Street in Kennewick. Mr. Thoreson has indicated that the City of Kennewick will be supplying sewer and water for those lots. BFHD has no comments on these lots provided the City supplies sewer and water.

    b. Please contact Jim Coleman at (509) 460-4319 for more information.

4. Applicant shall meet and comply with the requirements of the Benton PUD, including the following:

    a. There are several conflicting overhead lines that appear to interfere with the subdivision development. Cost to relocate these lines will likely be in the hundreds of thousands of dollars. We would like other options to be explored that may work for all parties. Additionally, correspondence and permits regarding utilities crossing the BPA easement must be submitted prior to construction of facilities.

    b. Please contact Tina Glines with Benton PUD at (509) 582-1241 or glinest@bentonpud.org for more information.

5. Applicant shall meet and comply with the requirements of the Bonneville Power Administration, including the following:

    a. The Bonneville Power Administration (BPA) has reviewed the above-mentioned proposed plat and its relationship to the BPA 100-foot wide transmission line easement that this plat impacts. BPA does have some concerns with the activities that may occur within the proposed plat.

    b. BPA easements are taken with certain restrictions on the underlying land. In order to maintain operation and safety criteria, all activities planned within the BPA easement need to be approved by BPA prior to their occurrence. Activities that block maintenance crews (such as the installation of fences) or safety concerns (such as buildings, driveways, utilities, or small structures) need to be addressed prior to construction in order to avoid later modification, at the landowner's expense.

    c. In order to avoid problems in this location and to notify prospective landowners, BPA requests that the following language be included on the plat map:
        - The Bonneville Power Administration (BPA) imposes certain conditions on the portions of those properties encumbered by its high voltage transmission line easement. BPA does not allow structures to be built within the easement, nor

does it allow access to be blocked to any transmission facilities. Any activity that is to occur within the easement needs to be permitted by BPA prior to installation or construction. Information regarding the permitting process for proposed uses of the easement may be addressed to BPA Real Estate Field Services at (800) 282-3713.

d. In addition, BPA needs the opportunity to review the location of the proposed road to ascertain whether or not the clearance here allows for safe passage of vehicles (per National Electric Safety Code). This process takes up to 90 days to complete and is typically initiated by a land use application that the developer submits to BPA.

e. Whether or not this property is subdivided and/or this plat approved, the owner will need to submit a land use application, the associated $250 application fee and acquire a Land Use Agreement from BPA, along with the county's building permit for any portion of the owner's development plans that lie within BPA's easement.

f. For more information please contact Mike DeKlyen at (503) 230-5510 or by email at mjdeklyen@bpa.gov.

6. Applicant shall meet and comply with the requirements of the Department of Ecology, including the following:

TOXICS CLEAN-UP

a. Based upon the historical agricultural use of this land, there is a possibility the soil contains residual concentrations of pesticides. Ecology recommends that the soils be sampled and analyzed for lead and arsenic, and for organochlorine pesticides. If these contaminants are found at concentrations above the Model Toxics Control Act cleanup levels Ecology recommends that potential buyers be notified of their occurrence.

b. If you have any questions or would like to respond to these Toxics Clean-up comments, please contact Valerie Bound at 509-454-7886 or email at valerie.bound@ecy.wa.gov.

WATER QUALITY

c. Project with Potential to Discharge Off-Site

d. If the project anticipates disturbing ground with the potential for stormwater discharge off-site, the NPDES Construction Stormwater General Permit is recommended. This permit requires that the SEPA checklist fully disclose anticipated activities including building, road construction and utility placements. Obtaining a permit may take 38-60 days.

e. The permit requires that a Stormwater Pollution Prevention Plan (Erosion Sediment Control Plan) shall be prepared and implemented for all permitted construction sites. These control measures must be able to prevent soil from being carried into surface water and storm drains by stormwater runoff. Permit coverage and erosion control measures must be in place prior to any clearing, grading, or construction.

f. In the event that an unpermitted stormwater discharge does occur off-site, it is a violation of Chapter 90.48 RCW, Water Pollution Control and is subject to enforcement action.

g. More information on the stormwater program may be found on Ecology's stormwater website at: http://www.ecy.wa.gov/programs/wg/stormwater/construction/. Please submit an application or contact Lloyd Stevens, Jr. at the Dept. of Ecology, 509-574-3991, with questions about this permit.

7. Applicant shall meet and comply with the requirements of the Columbia Irrigation District, including the following:

   a. All Platting Fees must be paid in full prior to any approvals.

   b. All Irrigation Assessments must be paid in full.

   c. Obtain and follow the District's "Standard Specifications" for installing pipe and services.

   d. Submit a copy of the Plat and the irrigation plan to be installed for approval. The plat must be approved by CID prior to any excavation or starting the project. The irrigation plan shall include:
      - Location and size of the irrigation easements
      - Location of new services
      - Show pipe and valve size

   e. Install pipe and services per the approved irrigation plan.

   f. Prior to covering the installed pipe and services, call the District for an inspection and final approval.

   g. If applicable the developer will be responsible for payment of any CID engineering cost associated with the project.

   h. Please contact CID (Lila Freshment at 509-586-6118) for more information.

8. Applicant shall meet and comply with the requirements of the Benton County Fire Marshal including the following:

   a. The Benton County Fire Marshal comments are that fire hydrants are to be located, installed, inspected and approved by the City of Kennewick.

   b. The locations of the hydrants are not shown on the preliminary plat map. Please identify the hydrant locations on the plat map and submit a copy of the agreement to supply services by the City of Kennewick Public Services Department to the Benton County Fire Marshal prior to Final Plat Approval.

   c. Please contact the Benton County Fire Marshal, Clark Posey, at (509)735-3500 or Clark.Posey@co.benton.wa.us for more information.

9. Applicant shall meet and comply with the requirements of the City of Kennewick's addressing and street names:

   a. As proposed Empire St shall be named S Elm Pl.

   b. As proposed Braeburn Ave shall be named E 21st Ave.

   c. As proposed Honey Crisp St shall be named S Fir Pl.

   d. The northern most 176.12′ section of road right-of-way running west/east shall be named E 20th Pl.

e. The following addresses shall be assigned to each lot:

- Lot 1:1904
- Lot 2: 1918
- Lot 3: 2002
- Lot 4: 2016
- Lot 5: 2030
- Lot 6: 2044
- Lot 7: 504
- Lot 8: 518
- Lot 9: 532
- Lot 10: 546
- Lot 11: 560
- Lot 12: 602
- Lot 13: 2130
- Lot 14: 2116
- Lot 15: 616
- Lot 16: 615
- Lot 17: 2012
- Lot 18: 2004
- Lot 19: 2018
- Lot 20: 603
- Lot 21: 539
- Lot 22: 525
- Lot 23: 520
- Lot 24: 534
- Lot 25: 546
- Lot 26: 561
- Lot 27: 547
- Lot 28: 533
- Lot 29: 519

10. Applicant shall meet and comply with the requirements of the Benton County Planning Department, including the following:

    a. The applicant shall meet and comply with the SEPA Determination for this application, including the MDNS with mitigation/conditions issued by the Planning Department on February 27, 2020 (PCM 1.11).

    b. Per BCC 9.09.030(p) Development- Estate Fencing; double frontage lots are discouraged. To mitigate for this, an estate type fence shall be placed along the following locations:

        - The north property lines of Lots 1, 29, 28, 27, and 26;
        - The east property lines of Lots 15 and 16.

    c. The following notes shall be placed on the final plat:

        - "During construction on each property, all construction debris shall be maintained on-site and properly disposed of. Dust control measures including an adequate water supply shall be provided".
        - Addresses [noted in brackets] are subject to change until the exact location of the dwelling and access onto the plat is determined."

11. Preliminary plat approval shall be effective for 5 (five) years from the date of Board of County Commissioner approval. Exceptions shall be in compliance and approved subject to the provisions of BCC 9.05.110 (e) as currently existing or hereafter amended.

12. Any amendments to an approved preliminary plat must be completed in accordance with BCC 9.05.140 as currently existing or hereafter amended.

13. Prior to the final plat being reviewed for final approval, the requirements of the Benton County Planning Department, Benton County Fire Marshal, Benton County Engineer, Benton Franklin Health District, and other commenting agencies and conditions shall be met and complied with.

14. Final Plat applications shall be submitted to the Planning Department. An applicant shall submit a final plat application that follows BCC 9.07 - Final Plat standards and requirements, as currently existing or hereafter amended:

15. All lots in the final plat shall meet the design standards for final plat approval as specified in Benton County Code 9.09 Design and Improvements, as currently existing or hereafter amended, and meet all of the zoning requirements as specified in Benton County Code, Title 11 Zoning, as currently existing or hereafter amended.

16. The location and size of all irrigation and utility easements necessary for electric power, telephone service, water, sewer and cable TV are to be coordinated with the proper utilities and/or reviewing agencies and shown on the final plat. The developer will need to open the utility trenches, including road crossings, based on individual utility requirements and specifications.

17. Address numbers shall be coordinated with the Planning Department and placed on the final plat. Addresses [noted in brackets] are subject to change until the exact location of the dwelling and access onto the plat is determined.

18. The Benton County Road Department and the City of Kennewick shall approve the name of the proposed road(s) in the preliminary plat.

19. The applicant shall coordinate with the Post Office regarding centralized box unit (CBU) locations for the development, if necessary.

20. All of the statements that are required to be on the notes of the plat shall be either: 1) recorded as a restrictive covenant on each applicable parcel with the County Auditor, or 2) described in detail in the developer's covenants that are recorded and provided to each lot owner, prospective landowner, and the Planning Department at the time of final plat approval and recording.

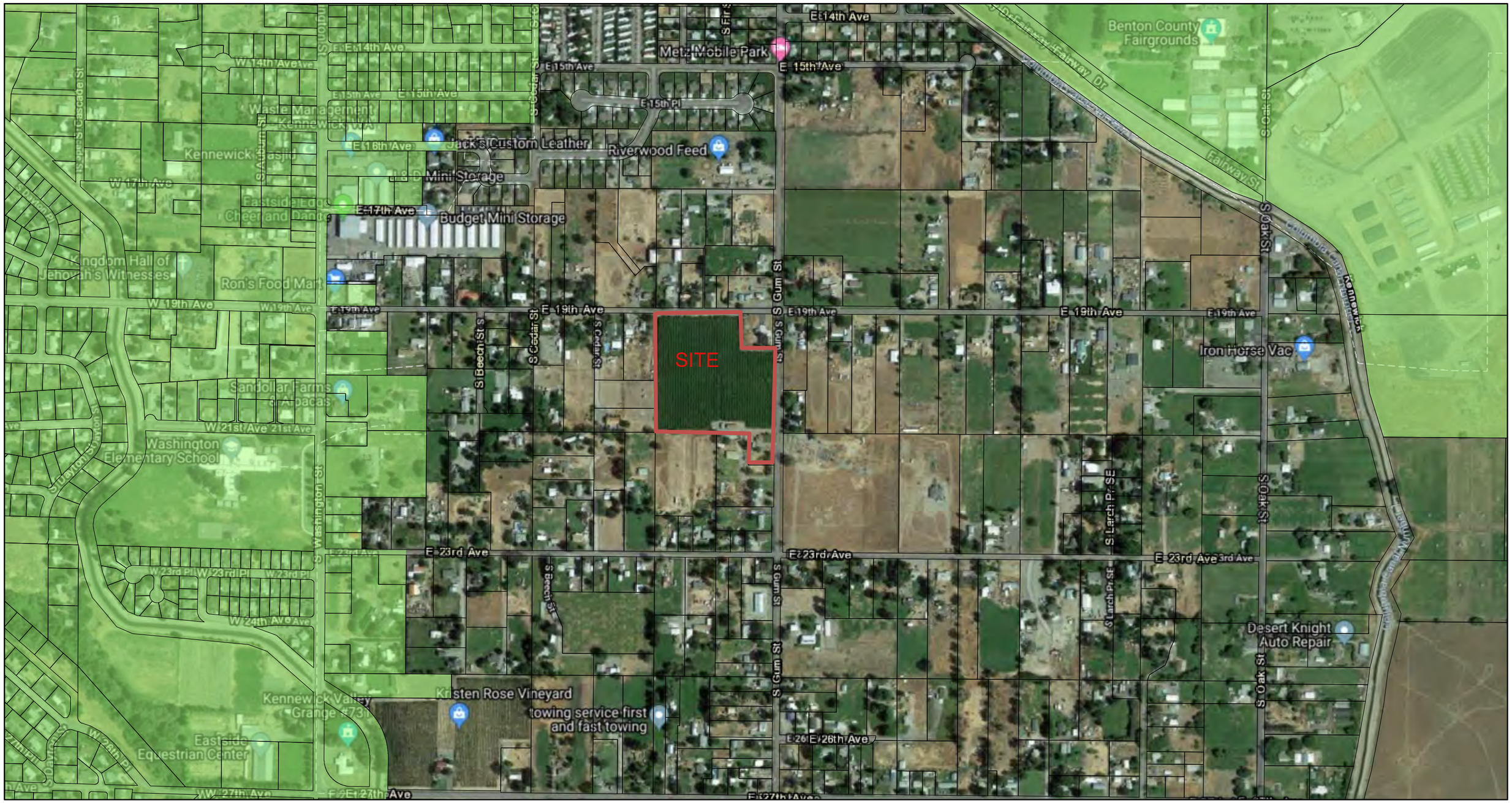
21. That the preliminary plat is modified in all necessary respects so that the final plat will reflect the requirements of approval. If the final plat will be in conflict with any of the conditions of approval as adopted by the Planning Commission as a result of the modifications, then the final plat must be reviewed by the Planning Commission at a public meeting for approval prior to sending the final plat to the Board of County Commissioners.

SUGGESTED MOTION:

The Planning Commission forwards a recommendation of approval to the Benton County Board of Commissioners for Application SUB 2020-002/EA 2020-004, subject to the eight (8) findings of fact and twenty-one (21) conditions of approval as stated in the staff memo (PCM 1.1) dated May 15, 2020, which includes the preliminary plat approval for 29 residential lots, and that the Chairman, in conjunction with the Secretary of the Planning Commission, prepare and adopt written findings and conclusions reflecting the commission's recommendation for approval that articulate and are consistent with the findings, conclusions and recommendations made by the Planning Commission tonight.

SUB 2020-002 Vicinity Map

PCM 1.2



2/6/2020, 1:30:01 PM

To view the complete packet, call the Commissioners' office @ 509.786.5600

EXHIBIT LIST FOR SUB 2020-003/EA 2020-0008
Preliminary Plat of Shaw Vineyard Estates

			DATED
Planning Commission Memo Exhibit List - June 9, 2020			
PCM 1 Includes:	PCM 1.1	Staff Report	May 21, 2020
	PCM 1.2	Site Map	March 10 ,2020
	PCM 1.3	Notice of Public Hearing	May 20, 2020
	PCM 1.4	Extension of Time Request	March 16, 2020
	PCM 1.5	Finding of Need for Additional Processing Time	March 16, 2020
		APPLICATION SUBMITTAL	
	PCM 1.6	Subdivision Application	February 14, 2020
	PCM 1.7	Plat Map for Shaw Vineyard Estates	March 5, 2020
	PCM 1.8	Hydrology Report	February 14, 2020
	PCM 1.9	Benton Franklin Health District letter	February 14, 2020
		SEPA INFORMATION	
	PCM 1.9	Environmental Checklist EA2020-008	February 14, 2020
	PCM 1.10	Notice of Application	March 10, 2020
	PCM 1.11	Mitigated Determination of Non Significance	April 9, 2020
		COMMENTS	
	PCM 1.12	Dept. of Arch. and Historic Preservation letter	March 16, 2020
	PCM 1.13	Benton County Public Works Comments	April 7, 2020
	PCM 1.14	Benton County Fire Marshal Comments	March 13, 2020
	PCM 1.15	Benton REA	March 16, 2020
	PCM 1.16	Assessor's Comments	May 12, 2020
Board of County Commissioners Memo Exhibit List - July 14, 2020			
BCCM 1 Includes:	BCCM 1.1	Commissioners Agenda Action Sheet	July 1, 2020
	BCCM 1.2	Draft Resolution	July 1, 2020
	BCCM 1.3	Planning Commission Findings & Recommendation	June 9, 2020
	BCCM 1.4	Planning Commission Meeting Audio	June 9, 2020

The Exhibit Numbers are found in the Top Right Hand Corner of each document.
PCM = Planning Commission Memo Exhibits
BCCM = County Commissioner Memo Exhibits

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	July 14, 2020
Subject:	Preliminary Plat of Shaw Vineyard Estates - SUB 2020-003 Applicant: Tyler Franzheim/Shaw Horn Rapids, LLC
Presenter:	Greg Wendt, Planning Manager and Michelle Cooke, Principal Planner
Prepared By:	Donna Hutchinson
Reviewed By:	Greg Wendt

Type of Agenda Item:	**Type of Action Needed:**	
☐ Consent Agenda	☐ Discussion Only (1st)	☒ Pass Motion
☐ Public Hearing	☐ Discussion Only (2nd)	☒ Pass Resolution
☒ Scheduled Business	☐ Decision/Direction	☐ Pass Ordinance

Summary / Background Information

The applicant has submitted a preliminary plat application (PCM 1.6) and map (PCM 1.7) to subdivide approximately 71.10 acres into 8 residential lots. The preliminary plat is known as Shaw Vineyard Estates. The land is zoned Rural Lands Five Acre District. The average lot size in the development is approximately 8.45 acres and the lots are proposed to be served by new public roads and individual wells and septic systems. The property lies west of Carel and Lenore Lanes and south of Horn Rapids Drive in unincorporated West Richland, WA on parcels 114072000002003 and 114073000001000.

On June 9, 2020, at the conclusion of the open record hearing, the Planning Commission voted (5-0) to forward a positive recommendation to the Board of County Commissioners subject to eight (8) findings of fact and sixteen (16) conditions of approval. With the completion of the open record hearing, the Benton County Code requires the Board of County Commissioners conduct a closed record (appeal) hearing with reference to this preliminary plat.

The Benton County Commissioners set Tuesday, July 14, 2020 at 9:00 a.m. in the Commissioners Chamber Room, Benton County Courthouse, 620 Market Street, Prosser, WA. 99350 for the Board of County Commissioners to conduct a closed record (appeal) hearing with reference to this preliminary plat.

All the information that has been submitted to the Planning Commission is being submitted to the Board of County Commissioners for inclusion in the public record and will need to be considered by the Board of County Commissioners with reference to this matter.

Fiscal Impact - Maintenance of new County Roads

Amount: **Unknown**

Fund: **Unknown**

Recommendation

Planning Commission recommendation:

At the conclusion of the open record hearing, the Planning Commission voted 5-0 to forward a positive recommendation to the Board of County Commissioners subject to eight (8) findings of fact and sixteen (16) conditions of approval (Recommendation, Findings of Fact and Conditions).

Planning Department recommendation**:**

It is the Planning Department's recommendation that the Board of County Commissioners approve the preliminary plat as submitted, subject to the Planning Commission's Recommendation, Findings of Fact and Conditions.

Suggested Motion

If the Board agrees with the Planning Commission, a motion can be made **to adopt the Planning Commission's Recommendation, Findings of Fact and Conditions as the Board's own and approve the preliminary plat of Shaw Vineyard Estates - SUB 2020-003 as recommended by the Planning Commission.**

If, however, the Board disagrees with the Planning Commission's recommendation then the Board will have to complete their own Findings and either approve the plat with additional conditions or deny the plat. If based on the Boards record, the wish is to complete their own Findings of Fact and Conditions, the Planning Department could draft the Board's Decision and Conclusions for the Board's approval.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF COUNTY PLANNING REGARDING PRELIMINARY PLAT APPLICATION SUB 2020-003 – SHAW VINEYARD ESTATES. APPLICANT: TYLER FRANZHEIM/SHAW HORN RAPIDS, LLC, PARCEL NUMBERS 114072000002003 and 114073000001000.

WHEREAS, the Legal notification pursuant to the Benton County Subdivision Regulations, BCC 9.05.040, was given on Wednesday, May 27, 2020.; and,

WHEREAS, public notice procedures, pursuant to RCW 58.17.080 and 58.17.090, were carried out including: Notice to affected jurisdictions, (February 4, 2020); publication of Notice of Application (February 12, 2020) and Legal Notice in the Prosser Record Bulletin (May 27, 2020); and,

WHEREAS, the Planning Commission held a public hearing on June 9, 2020 at 6:00 p.m., in the Planning Annex, 1002 Dudley Avenue, Prosser, WA 99350 and all those who testified and those public hearing exhibits that were received into evidence are identified in the minutes for the open record hearing; and,

WHEREAS, in an effort to continue to provide public access to the Planning Commission meetings during the Governor's "Stay Home, Stay Healthy" order, the public was provided telephonic and video access for the public to view and provide testimony at the Planning Commission meetings; and,

WHEREAS, the Planning Commission at the open record hearing held on June 9, 2020, considered the testimony submitted and voted to recommend approval with conditions of the Preliminary Plat of Shaw Vineyard Estates - SUB 2020-003; and,

WHEREAS, the Planning Commission entered its recommendation, written findings of fact, and conditions of approval concerning this matter, and forwarded the same to the Board of County Commissioners; and,

WHEREAS, the Board of County Commissioners did review the record and recommendation prepared by the Planning Commission and considered oral and written arguments based upon the record at a Closed Record Appeal Hearing on Tuesday, July 14, 2020; and,

WHEREAS, the Board of County Commissioners did adopt the Planning Commission's Finding of Fact and Conditions of Approval as their own (which are kept in File No. SUB 2020-003 in the Planning Department records); and,

WHEREAS, it further appears that the public interest will be served by the approval of the Preliminary Plat of Shaw Vineyard Estates - SUB 2020-003 as considered by the Board of County Commissioners; NOW THEREFORE,

BE IT RESOLVED, that the Board of County Commissioners hereby adopts the Planning Commission's Findings of Fact and Conditions of Approval as their own regarding the Preliminary Plat of Orchard View – SUB 2020-003 and hereby approves the preliminary plat.

Dated this 14th day of July 2020.

_____
Chairman of the Board

_____
Member

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

Attest.....
Clerk of the Board

GW:djh

RECOMMENDATION OF THE BENTON COUNTY PLANNING COMMISSION

RE: In the Matter of County Planning: relating to the preliminary plat of Shaw Vineyard Estates by Tyler Franzheim located in Section, 7 Township 10 North, Range 27 East. W.M.

SUB 2020-003
RECOMMENDATION, FINDINGS OF FACT AND CONCLUSIONS

RECOMMENDATION

SUB 2020-003: A proposal by Tyler Franzheim for the preliminary plat of Shaw Vineyard Estates, a subdivision of approximately 71.10 acres into 8 residential lots with an average lot size of 8.45 acres on Parcel Nos. 1-1407-200-0002-003 and 1-1407-300-0001-000 is hereby recommended to be **APPROVED WITH CONDITIONS**. This action is based upon the following findings pursuant to RCW 58.17.110.

RESOLUTION

WHEREAS, the legal notification for the open record public hearing was given pursuant to RCW 36.70.590 on May 27, 2020;

WHEREAS, an open record public hearing was held on June 9, 2020 at 6:00 p.m., in the Planning Annex, 1002 Dudley Avenue, Prosser, WA 99350;

WHEREAS, the Planning Commission was available to receive public testimony, exhibits, and answer questions in the public portion of the hearing with the public being able to attend and comment through telephonic access to the meeting. The meeting was also broadcast through video access to allow the public to view the meeting; and,

WHEREAS, the following members attended the meeting, including, Lloyd Coughlin, Brian Skeels, Marjorie Kaspar, Tammy McKeirnan, Leo Perales, and Martin Sheeran; and,

WHEREAS, all those who testified and those public hearing exhibits that were received into evidence are identified in the minutes for the hearing on June 9, 2020; and,

WHEREAS, the Planning Commission at the open record public hearing considered the evidence submitted and voted to recommend approval with the findings of fact as outlined in the staff memo dated May 21, 2020; and,

WHEREAS, the Planning Commission is entering its written findings of fact, conclusions and recommendations concerning this matter, and is forwarding the same to the Board of County Commissioners and,

FINDINGS OF FACT

1. The proposed subdivision (PCM 1.6 - application and PCM 1.7 preliminary plat map) conforms to the Benton County Comprehensive Plan, any applicable zoning requirements and other applicable land use controls;
    a. The proposed use is in conformance with the intent of the Comprehensive Plan based on the following facts:
        i. The 71.10-acre site is bordered on the north, east and south by lands zoned RL-5. The land to the west is within West Richland city limits;
        ii. The Benton County Comprehensive Plan designates this area as Rural Remote;
        iii. Rural Remote is the predominant rural land use in the County. This land is located mostly between the agricultural lands (GMA Agriculture), Rural Transition, and the Urban Growth Areas. Rural Remote land use is intended to enhance and preserve the County's rural character, which includes rural open space, low densities, wildlife habitat, public open space for outdoor recreational activities, and rural home sites on which a limited range of agricultural activities may be conducted. Allowable density in Rural Remote land use is 1Du/5acres.
        iv. The site is zoned Rural Lands Five Acre District (RL-5). The preliminary plat complies with the minimum lot size and minimum average lot width required for the RL-5 Zoning District;
        v. The smallest lot size is 5.00 acres and the average lot size for this plat is 8.45 acres;
        vi. This development is consistent with the required minimum lot size and density standards contained in the Benton County Comprehensive Plan; and
        vii. The creation of 8 residential lots in the RL-5 Zoning District furthers the implementation of the Benton County Comprehensive Plan.
    b. The proposed plat is consistent with the applicable zoning requirements of the Benton County Code, Title 11, based on the following facts:
        i. The property is zoned Rural Lands Five Acre District (RL-5). The preliminary plat complies with the minimum lot size and minimum average lot width required for the RL-5 Zoning District.
    c. The proposed subdivision does comply with the requirements of the Benton County Code, Title 9, Subdivision Regulations;
        i. The proposed subdivision complies with the purpose and preliminary plat requirements included in BCC 9.05 Subdivision - Preliminary Plat;
        ii. An open record hearing for the preliminary plat was held on June 9, 2020. During the hearing, the Planning Commission considered all relevant information including oral and written comments/testimony; and
        iii. At the conclusion of the open record hearing, the Planning Commission rendered a recommendation to the Board of County Commissioners.

d. The proposed subdivision complies with the Benton County Critical Area Ordinance BCC Title 15.

   i. Upon completion of a review of BCC Title 15 and the Benton County Critical Area Maps, no designated critical areas have been identified on this property. A critical area report is not required for the processing of a preliminary plat at this location; and

   ii. The proposed plat is not located in a special flood hazard area as identified on the Federal Emergency Management Agency Flood Insurance Rate Maps and BCC 3.26.

e. The requirements of the State Environmental Policy Act have been met based on the following:

   i. The proposed subdivision has been reviewed under the requirements of BCC Title 6, Chapter 6.35 and the State Environmental Policy Act.

   ii. During the SEPA comment period, the Washington State Department of Archeology and Historic Preservation (PCM 1.12) recommended a professional archeological survey of the project area be conducted.

   iii. An MDNS with mitigation/conditions (PCM 1.11) was issued for the project on April 9, 2020.

2. The County Engineer has provided a written representation that the proposed subdivision provides adequate means of access and conformance with the road and drainage requirements of Benton County;

   a. Reference the Benton County Public Works Department comments as it relates to stormwater and drainage easements (PCM 1.13); and

   b. Reference the Benton County Public Works Department comments as it relates to roads and mitigation requirements (PCM 1.13).

3. The proposed subdivision meets the requirements BCC 9 Subdivision Regulations;

   a. The proposed subdivision complies with the purpose and preliminary plat requirements included in BCC 9.05 Subdivision- Preliminary Plat;

4. The public interest will be served by the proposed division and dedication;

   a. The creation of 8 residential lots in the RL-5 Zoning District furthers the implementation of the Benton County Comprehensive Plan; and

   b. Benton County standards are to be complied with including the construction and dedication of new public roads.

5. Appropriate provisions are made for the public health, safety, and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water, sanitary wastes, parks and recreation, playgrounds, schools, school grounds, and sidewalks;

   a. Appropriate provisions have been made for the public health and safety based on the following facts:

      i. The applicant has proposed that the preliminary plat be served by single family wells for potable domestic water services;

ii. The Benton Franklin Health District has reviewed the preliminary plat and has no objections provided water and sanitary services are provided to the development and compliance with Health Departments standards is obtained by each lot; and

iii. Fire hydrants are not required to be installed as a public water supply is not available at the site. West Benton Fire District #4 will provide fire protection.

b. Appropriate provisions have been made for open spaces based on the following facts:

i. The proposed subdivision does not contain land to be designated for open space.

c. Appropriate provisions have been made for drainage ways based on the following facts:

i. Knutzen Engineering prepared a preliminary stormwater drainage report for the applicants of Shaw Vineyard Estates dated February 14, 2020 (PCM 1.8). The report discusses the provisions made for both offsite and onsite stormwater as it relates to this property and the proposed development;

ii. Reference the Benton County Public Works Department comments as it relates to stormwater and drainage easements (PCM 1.13).

d. Appropriate provisions have been made for streets or roads, alleys, and other public ways based on the following facts:

i. The public interest will be served by the proposed division and dedication as the Benton County Road Department standards are to be complied with including the construction and dedication of new public roads; and

ii. Reference the Benton County Public Works Department comments as it relates to road and mitigation requirements (PCM 1.13).

e. Appropriate provisions have been made for transit stops based on the following facts:

i. Ben Franklin Transit did not comment on transit service for the proposed development. The proposed plat and surrounding area are not served by public transit.

f. Adequate provisions have been made for potable water supplies based on the following facts:

i. The plat will be provided potable water by individual groundwater wells.

ii. The plat is located within the boundaries of the Benton County Rural Water Supply Program and subject to Benton County Ordinance 619.

iii. The applicant is required to provide proof of a valid domestic water right or may purchase mitigation certificates from the Benton County Water Bank for each lot within the subdivision as a condition of final plat approval. A note has been placed on the plat for applicants of future building permits to acquire and install meters on groundwater wells and comply with the requirements of the Rural Water Supply Program.

iv. The Benton Franklin Health District has reviewed the proposal and find that it generally meets their requirements provided all conditions of approval as listed in the letter dated February 14, 2020 (PCM 1.9) are satisfied.

g. Adequate provisions have been made for sanitary waste based on the following facts:

i. All lots in the development are proposed to be served by individual septic systems.

h. Adequate provisions have been made for parks, recreation, and playgrounds based on the following facts:

i. The proposed subdivision does not contain land to be designated for parks or recreation. The Benton County Code does not require park dedications.

i. Appropriate provisions have been made for schools and school grounds and for sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school based on the following facts:

i. The proposed plat is within the West Richland School District. The School District did not provide comments on this proposal as to whether there are adequate provisions to assure safe walking conditions for students who walk to and from school or waiting for school buses.

6. The Benton-Franklin Health District has reviewed the proposed subdivision for compliance with its rules and regulations and has not expressed objection to the proposed subdivision;

a. Reference the BFHD comments as it relates to this preliminary plat (PCR 1.9).

7. The proposed subdivision is not located within an irrigation district; and

8. RCW 58.17.110 (1)(2)(3)(4). Approval or disapproval of subdivision - factors to be considered- conditions of approval, including, (4) If water supply is to be provided by a groundwater withdrawal exempt from permitting under RCW 90.44.050, the applicant's compliance with RCW 90.44.050 and with applicable rules adopted pursuant to chapters 90.22 and 90.54 RCW is sufficient in determining appropriate provisions for water supply for a subdivision, dedication, or short subdivision under this chapter.

a. The proposed plat is consistent with RCW 58.17.110 (1)(2)(3)(4). The plat is to be provided potable water from individual groundwater wells.

b. The develop shall provide proof of an existing valid domestic water right or shall purchase mitigation certificates for each lot within the proposed subdivision prior to final approval.

c. Future homes and/or dwelling units shall comply with Benton County Ordinance 619 and the Benton County Rural Water Supply Program.

CONDITIONS OF APPROVAL

1. Applicant shall meet and comply with the requirements of the Benton County Road Department, including the following:

a. The developer shall provide a complete set of engineered construction drawings for review and approval by the County and associated utilities. The drawings shall contain all appropriate information listed on the attached Minimum Plan Requirements. Grading plan will include grading to shape any drainage easements to route and fully contain all runoff based upon the 100-year storm within the easement limits. All plans and associated reports shall be prepared by a Professional Engineer licensed to practice in the State of Washington.

b. All construction shall be in accordance with the most current WSDOT Standard Specifications for Road, Bridge and Municipal Construction, applicable Benton County Standard Plans and the requirements of the County Engineer.

c. All roads within this plat shall have a paved width of 24 feet with a minimum 1-foot gravel shoulder. Roadways shall be designed for a minimum 25 mile per hour design speed.

d. The pavement return radius at all intersections shall be a minimum of 35 feet.

e. All stormwater from the roadways shall be contained on the plat and shall utilize surface infiltration (ditches, swales, ponds) for detention. The developer shall have an infiltration test performed at each proposed detention area. Tests shall be done with an infiltrometer using the falling head or constant head method. Other methods of infiltration rate determination shall be approved by the County.

f. The developer shall provide a complete stormwater runoff report developed in accordance with the Stormwater Management Manual for Eastern Washington accosting for all impervious and pervious surfaces draining to the roadside ditches. Design storm shall be a Modified SCS Type IA with a 25-year return frequency.

g. All signage including but not limited to stop signs, speed limit signs and street name signs shall be installed by the developer in accordance with Benton County Standard Plans

h. All new power, telephone, cable TV and irrigation shall be installed outside of the County right of way in the appropriate easements. Domestic water piping may be installed within the County right of way in accordance with a valid franchise agreement

i. Survey monuments, with cases and covers per Benton County Standard R-14B, shall be placed at all road intersections, points of curvature, points of tangency, centers of cul-de-sacs, section corners and quarter corners. All monuments shall be set by a Professional Land Surveyor licensed to practice in the state of Washington.

j. Additional easements shall be required for any roadway slope cuts or fills that extend beyond the proposed County right-of-way.

k. Add the following notes to the face of the final plat:

- Benton County is not responsible for the maintenance or upkeep of any stormwater retention facility or drainage easements. All such maintenance and upkeep are the responsibility of the underlying property owner.
- Prior to the construction of any driveway or the issuance of any building permit for any lot within this subdivision the property owner shall obtain a Road Approach Permit from the Benton County Public Works Department and install the required temporary construction access.
- No trees, shrubs, weeds, fencing or other obstructions more than 24 inches in height are permitted within Benton County right of way.
- Property owners that install grass, curbing, rock mulch or other landscaping within the County right of way do so at their own risk. The County will not repair or replace damaged landscaping due to construction or maintenance operations.

- Lot 2 and 6 shall not have direct access to Carel Lane.

l. For more information please contact Cristina Woods at 509-786-5611 or Cristina.Woods@co.benton.wa.us.

2. Applicant shall meet and comply with the requirements of the Benton Franklin Health District. BFHD provided the following comments:

   a. All lots within the plat must be a minimum of one acre (43,560 square feet) gross land area after all easements and encumbrances are subtracted.

   b. All lots within the plat must have a minimum of 0.5 acres of useable land area. The amount of useable land area is determined by soil type. As soil types vary throughout the plat and lots themselves, the most conservative amount, 0.5 acres, is used to determine amount of useable land area.

   c. Any wells within 150' of the property shall be shown on the plat and will include the 100'sanitary control zone.

   d. It is recommended that the entire subdivision be dry sewered to facilitate future connection to a municipal sewer facility.

   e. The following statements are placed on the plat:

      - "This plat appears to have suitable conditions for the use of on-site sewage disposal systems. However, because of the nature of the testing methods used, we have no way of determining whether each lot can comply with Benton-Franklin District Board of Health Rules and Regulations at the time of permit issuance."
      - "Further be advised that this department's approval of any lot within this plat for the use of on-site sewage disposal systems may be contingent upon that lot passing additional soil inspections/percolation tests, and/or other requirements at a later date."
      - "On-site sewage disposal systems installed within this plat may require systems meeting a minimum of Treatment Level C in accordance with the Benton-Franklin District Board of Health Rules and Regulation No. 2."

   f. Prior to issuance of on-site sewage disposal permits, additional test holes may be required to verify acceptable area for initial and replacement sewage disposal system and design criteria such as trench depth on each lot.

   g. Prior to final approval, this office must be given the opportunity to review the final plat for compliance with Benton-Franklin Health Department Rules and ·Regulations No. 2 and WAC 246- 2'12, and issue appropriate comments to the Benton County Planning Department.

   h. Contact BFHD for more information." Please contact JoDee Peyton at (509) 460-4318 for more information.

3. Applicant shall meet and comply with the requirements of the Benton REA, including the following:

   a. Please show utility easements in the following locations:

- 10 feet adjacent to all road rights-of-way on all lots, including around the cul-de-sac.
- The north 10 feet of Lots: 2, 3, 5, 6, and 7.
- The east 10 feet of Lots: 1, 2, 3, and 4.

b. Please contact Chris Cooke with Benton REA at (509) 786-8252 or for more information.

4. Applicant shall meet and comply with the requirements of the Benton County Fire Marshal including the following:

   a. If any individual driveway is 200 feet or more, an approved turn around for Emergency Services vehicles is required.

   b. The subdivision shall comply with BBC 3.18.045 Minimum Road Requirements and 3.05.046 Special Fire Protection.

   c. Please contact the Benton County Fire Marshal, Clark Posey, at (509) 735-3500 or Clark.Posey@co.benton.wa.us for more information.

5. Applicant shall meet and comply with the requirements of the Department of Archeology and Historic Preservation, including the following:

   a. DAHP recommends a professional archaeological survey of the project area be conducted prior to ground disturbing activities.

   b. For more information please contact Sydney Hanson, Transportation Archaeologist at (360) 586-3082 or Sydney.Hanson@dahp.wa.gov.

6. Applicant shall meet and comply with the requirements of the Benton County Planning Department, including the following:

   a. This plat is located within the Benton County Rural Water Supply Program Mitigation Area. The applicant is required to participate in the Benton County Rural Water Supply Program and must provide documentation of a valid domestic water right or purchase a Benton County Water Bank mitigation certificate for each proposed lot of the subdivision prior to final approval.
      - Please contact Michelle Cooke with the Benton County Planning Department for more information on the requirements of the Benton County Rural Water Supply Program at 509-786-5612.

   b. The applicant shall meet and comply with the SEPA Determination for this application, including the MDNS with mitigation/conditions issued by the Planning Department on April 9, 2020 (PCM 1.11).

   c. The applicant shall meet and comply with the recommendation's included in the March 16, 2020 letter from the Washington State Department of Archeology and Historic Preservation.

   d. Show the location of permanent buildings, wells (including wells within one-hundred (100) feet of the proposed subdivision), water courses, bodies of water, overhead and underground utilities, railroad lines, municipal boundaries, section lines, township lines, and other important features existing upon, over and under the land proposed to be subdivided on the plat map.

e. Show the names of adjacent subdivisions and the location and names of all adjacent streets, as well as, names of adjacent property owners to the subdivision on the plat map.

f. Show the location, name, right-of-way widths, and type of surfacing of all streets and alleys located within and adjacent to the land to be subdivided on the plat map.

g. Indicate any areas within the plat having a slope of fifteen (15) percent or greater.

h. The second line of the legal description should read: "together with the north 294.20 feet of the west..." as listed in the title report.

i. Within the legal description please amend:
   - The second line of the legal description to read: "together with the north 294.20 feet of the west..." as listed in the title report.
   - The sixth line contains a spelling error, please amend to read "volume."
   - The Auditor's File number listed on the last line should read: "2002-000896".

j. Label the Benton REA easement 2004-041114 as listed in the title report.

k. List the square feet of each lot in addition to the acreage.

l. Please update the Owner to read: Shaw Horn Rapids, LLC

m. Within the vicinity map; "Kitty Kate Lane" is not a valid County road; please remove.

n. The following notes shall be placed on the final plat:
   - "During construction on each property, all construction debris shall be maintained on-site and properly disposed of. Dust control measures including an adequate water supply shall be provided".
   - "Prior to the granting of a building or factory assembled (FAS) permit for each lot by the County, the applicant for a building or FAS permit must comply with RCW 90.44.050, as currently existing and hereafter amended, regarding public ground water. The applicant must demonstrate that potable water is legally available by presenting (A) evidence of a valid water right permit from the Washington State Department of Ecology for the proposed wells for each lot; (B) a water well report filed and received by the Washington State Department of Ecology for an exempted well that complies with the 5,000 gallon per day exemption described in RCW 90.44.050, as currently existing and hereafter amended; or (C) a written approval of the Washington State Department of Health that a group A or group B public water supply system has been installed and is available for providing potable water to the lot."
   - "This plat is located within the Benton County Rural Water Supply Program Mitigation Area. All new dwelling units located within this plat are required to comply with Benton County Ordinance 619 (BCC Title 15), Benton County Rural Water Supply Program, as amended. All new dwelling units shall provide proof of a valid domestic water right prior to building permit issuance. In addition, all new dwelling units within the Mitigation Area are required to meter their water usage through a meter approved by the County and pay an annual program fee in an amount set by the County."

- "All dwelling units and swimming pools within this plat shall have a setback of one hundred fifty (150) feet from any parcel zoned GMA Agriculture or from any adjacent orchard, hop field and/or vineyard of ten (10) acres or more. Please contact the Benton County Planning Department for more information."
- "This plat is not located within an irrigation district."
- "Addresses [noted in brackets] are subject to change until the exact location of the dwelling and access onto the plat is determined."

7. Preliminary plat approval shall be effective for 5 (five) years from the date of Board of County Commissioner approval. Exceptions shall comply and approved subject to the provisions of BCC 9.05.110 (e) as currently existing or hereafter amended.
8. Any amendments to an approved preliminary plat must be completed in accordance with BCC 9.05.140 as currently existing or hereafter amended.
9. Prior to the final plat being reviewed for final approval, the requirements of the Benton County Planning Department, Benton County Fire Marshal, Benton County Engineer, Benton Franklin Health District, and other commenting agencies and conditions shall be met and complied with.
10. Final Plat applications shall be submitted to the Planning Department. An applicant shall submit a final plat application that follows BCC 9.07 - Final Plat standards and requirements, as currently existing or hereafter amended:
11. All lots in the final plat shall meet the design standards for final plat approval as specified in Benton County Code 9.09 - Design and Improvements, as currently existing or hereafter amended, and meet all of the zoning requirements as specified in Benton County Code, Title 11 - Zoning, as currently existing or hereafter amended.
12. The location and size of all irrigation and utility easements necessary for electric power, telephone service, water, sewer and cable TV are to be coordinated with the proper utilities and/or reviewing agencies and shown on the final plat. The developer will need to open the utility trenches, including road crossings, based on individual utility requirements and specifications.
13. Address numbers shall be coordinated with the Planning Department and placed on the final plat. Addresses [noted in brackets] are subject to change until the exact location of the dwelling and access onto the plat is determined.
14. The applicant shall coordinate with the Post Office regarding centralized box unit (CBU) locations for the development, if necessary.
15. All of the statements that are required to be on the notes of the plat shall be either: 1) recorded as a restrictive covenant on each applicable parcel with the County Auditor, or 2) described in detail in the developer's covenants that are recorded and provided to each lot owner, prospective landowner, and the Planning Department at the time of final plat approval and recording.
16. That the preliminary plat is modified in all necessary respects so that the final plat will reflect the requirements of approval. If the final plat will be in conflict with any of the conditions of approval as adopted by the Planning Commission as a result of the modifications, then

the final plat must be reviewed by the Planning Commission at a public meeting for approval prior to sending the final plat to the Board of County Commissioners.

N**OW, THEREFORE BE IT RESOLVED BY THE BENTON COUNTY PLANNING COMMISSION**, through its chairman as authorized by motion of the Planning Commission, adopts these findings of fact and conditions with respect to File No. SUB 2020-003, the preliminary plat of Shaw Vineyard Estates and such plat is hereby recommended to the Board of County Commissioners for APPROVAL WITH EIGHT (8) FINDINGS OF FACT and SIXTEEN (16) CONDITIONS OF APPROVAL.

6/9/2020

Martin Sheeran, Chairman DATE
BENTON COUNTY PLANNING COMMISSION

The Audio Recording of the Planning Commission meeting for June 9, 2020 can be found on the County Website, on the Planning Commission agenda page for June 9, 2020. http://tinyurl.com/PCAgendaPg

Planning Department
P.O. Box 910
1002 Dudley Avenue
Prosser, WA 99350

Phone (509) 786-5612
Fax (509) 786-5629
planning.department@co.benton.wa.us
co.benton.wa.us

PCM 1.1

STAFF REPORT TO THE BENTON COUNTY PLANNING COMMISSION

FILE NO:	**SUB 2020-003** **Preliminary Plat of Shaw Vineyard Estates**
MEMO DATE:	May 21, 2020
HEARING DATE:	June 9, 2020
APPLICANT:	Shaw Horn Rapids, LLC (Tyler Franzheim) 3019 Duportail St, #312 Richland, WA 99352
OWNER:	Same as applicant
LOCATION:	The site is located in the Southwest Quarter of the Northwest Quarter of Section 14, Township 10 North, Range 27, East, W.M. lying west of Carel and Lenore Lanes and south of Horn Rapids Drive in unincorporated West Richland, WA on parcels 114072000002003 and 114073000001000.
PROPERTY SIZE:	Approximately 71.10 acres
AREA TO BE USED:	Approximately 67.60 acres
LAND USE:	Residential
COMP. PLAN:	Rural Remote
ZONING:	Rural Lands Five Acre District
SUGGESTED STAFF RECOMMENDATION:	**Positive recommendation** subject to eight (8) findings of fact and sixteen (16) conditions of approval.

APPLICATION DESCRIPTION

The applicant has submitted a preliminary plat application (PCM 1.6) and map (PCM 1.7) to subdivide approximately 71.10 acres into 8 residential lots. The preliminary plat is known as Shaw Vineyard Estates. The land is zoned Rural Lands Five Acre District.

The average lot size in the development is approximately 8.45 acres and the lots are proposed to be served by new public roads and individual wells and septic systems.

The property lies west of Carel and Lenore Lanes and south of Horn Rapids Drive in unincorporated West Richland, WA on parcels 114072000002003 and 114073000001000.

PUBLIC NOTICE

1. A Notice of Application was published in the Prosser Record Bulletin on March 10, 2020 (PCM 1.10).
2. Planning Staff mailed out review packets to technical agencies on March 10, 2020.
3. A Finding of Need for Additional Processing Time was issued on March 16, 2020.
4. A Notice of Public Hearing was published in the Prosser Record Bulletin on May 27, 2020. (PCM 1.3)
5. Property owners within 300 feet were mailed notice on February 5, 2020.
6. A SEPA Determination of Mitigated Non-Significance (MDNS) (PCM 1.11) was issued on April 9, 2020.

APPLICABLE STANDARDS/ORDINANCES

1. Comprehensive Plan: Benton County Comprehensive Plan.
2. SEPA: BCC, Title 6, Chapter 6.35 Environmental Policy.
3. Subdivision Code: BCC, Title 9, Subdivision Regulations.
4. Zoning Code: BCC, Title 11, Zoning Regulations.
5. Critical Area Ord.: BCC, Title 15, Critical Areas- BCC 15.02 - 15.14.
6. RCW 58.17: Plats and Subdivisions.
7. Planning Commission/Open Record Hearing:

   Pursuant to BCC 9.05.070, an open record hearing on the proposed subdivision shall be held before the Planning Commission. The Planning Commission shall consider all relevant information, including but not limited to:

   a. The staff report by the Planning Department;
   b. Any written comments or concerns expressed by other reviewing agencies;
   c. Oral and written testimony from persons present at the hearing; and

   If the Planning Commission finds that additional information is needed, the Planning Commission may continue the hearing for up to thirty-five (35) days or such longer period as agreed to by the applicant and direct that the additional information be gathered.

AGENCY COMMENTS

1. Benton County Planning Department: See the suggested findings of fact and conditions of approval for the Planning Department's comments and requirements.
2. Benton County Public Works Department: See comments dated April 7, 2020 (PCM 1.13).
3. Benton Franklin Health District: See comments dated February 14, 2020 (PCM 1.9).
4. Benton REA: See comments dated March 16, 2020 (PCM 1.15).
5. Benton County Fire Marshal: See comments dated March 13, 2020 (PCM 1.14).
6. Washington State Department of Archeology & Historic Preservation: See comments dated March 16, 2020 (PCM 1.12).

CRITERIA FOR FINDINGS OF FACT

1. Pursuant to **BCC 9.05.080, Consideration of Preliminary Subdivision**, the Benton County Planning Commission, after conducting an open record hearing and considering all information presented, shall forward a recommendation to the Board of County Commissioners regarding whether the preliminary plat be approved, approved with conditions, or denied as proposed. Prior to making any recommendation, the Planning Commission shall make the following written findings:
    a. That the proposed subdivision conforms to the Benton County Comprehensive Plan, any applicable zoning requirements and other applicable land use controls;
    b. That the County Engineer, or designee, has provided a written representation that the proposed subdivision provides adequate means of access and conformance with the road and drainage requirements of Benton County;
    c. That the proposed subdivision meets the requirements of BCC 9.05;
    d. That the public interest will be served by the proposed division and dedication;
    e. That appropriate provisions are made for the public health, safety, and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water, sanitary wastes, parks and recreation, playgrounds, schools, school grounds, and sidewalks;
    f. That the Benton-Franklin Health District has reviewed the proposed subdivision for compliance with its rules and regulations and has not expressed objection to the proposed subdivision; and

g. If any portion of the proposed subdivision is located within an irrigation district, that the applicant has complied with RCW 58.17.310 as it now exists or is hereafter amended.

2. **RCW 58.17.110 (1)(2)(3)(4). Approval or disapproval of subdivision - factors to be considered- conditions of approval**, including, (4) If water supply is to be provided by a groundwater withdrawal exempt from permitting under RCW 90.44.050, the applicant's compliance with RCW 90.44.050 and with applicable rules adopted pursuant to chapters 90.22 and 90.54 RCW is sufficient in determining appropriate provisions for water supply for a subdivision, dedication, or short subdivision under this chapter.

RECOMMENDATION

Benton County Planning Staff will assist the Planning Commission with the determination of findings and conditions for the preliminary plat of Shaw Vineyard Estates - File Number SUB 2020-003.

The Benton County Planning Department recommends that the Planning Commission forward a **recommendation of approval** to the Benton County Board of Commissioners for application SUB 2020-003, with the following suggested findings of fact, conditions of approval, and motion.

SUGGESTED FINDINGS OF FACT:

1. The proposed subdivision (PCM 1.6 - application and PCM 1.7 preliminary plat map) conforms to the Benton County Comprehensive Plan, any applicable zoning requirements and other applicable land use controls;
    a. The proposed use is in conformance with the intent of the Comprehensive Plan based on the following facts:
        i. The 71.10-acre site is bordered on the north, east and south by lands zoned RL-5. The land to the west is within West Richland city limits;
        ii. The Benton County Comprehensive Plan designates this area as Rural Remote;
        iii. Rural Remote is the predominant rural land use in the County. This land is located mostly between the agricultural lands (GMA Agriculture), Rural Transition, and the Urban Growth Areas. Rural Remote land use is intended to enhance and preserve the County's rural character, which includes rural open space, low densities, wildlife habitat, public open space for outdoor recreational activities, and rural home sites on which a limited range of agricultural activities may be conducted. Allowable density in Rural Remote land use is 1Du/5acres.

iv. The site is zoned Rural Lands Five Acre District (RL-5). The preliminary plat complies with the minimum lot size and minimum average lot width required for the RL-5 Zoning District;

v. The smallest lot size is 5.00 acres and the average lot size for this plat is 8.45 acres;

vi. This development is consistent with the required minimum lot size and density standards contained in the Benton County Comprehensive Plan; and

vii. The creation of 8 residential lots in the RL-5 Zoning District furthers the implementation of the Benton County Comprehensive Plan.

b. The proposed plat is consistent with the applicable zoning requirements of the Benton County Code, Title 11, based on the following facts:

i. The property is zoned Rural Lands Five Acre District (RL-5). The preliminary plat complies with the minimum lot size and minimum average lot width required for the RL-5 Zoning District.

c. The proposed subdivision does comply with the requirements of the Benton County Code, Title 9, Subdivision Regulations;

i. The proposed subdivision complies with the purpose and preliminary plat requirements included in BCC 9.05 Subdivision - Preliminary Plat;

ii. An open record hearing for the preliminary plat was held on June 9, 2020. During the hearing, the Planning Commission considered all relevant information including oral and written comments/testimony; and

iii. At the conclusion of the open record hearing, the Planning Commission rendered a recommendation to the Board of County Commissioners.

d. The proposed subdivision complies with the Benton County Critical Area Ordinance BCC Title 15.

i. Upon completion of a review of BCC Title 15 and the Benton County Critical Area Maps, no designated critical areas have been identified on this property. A critical area report is not required for the processing of a preliminary plat at this location; and

ii. The proposed plat is not located in a special flood hazard area as identified on the Federal Emergency Management Agency Flood Insurance Rate Maps and BCC 3.26.

e. The requirements of the State Environmental Policy Act have been met based on the following:

i. The proposed subdivision has been reviewed under the requirements of BCC Title 6, Chapter 6.35 and the State Environmental Policy Act.

ii. During the SEPA comment period, the Washington State Department of Archeology and Historic Preservation (PCM 1.12) recommended a professional archeological survey of the project area be conducted.

iii. An MDNS with mitigation/conditions (PCM 1.11) was issued for the project on April 9, 2020.

2. The County Engineer has provided a written representation that the proposed subdivision provides adequate means of access and conformance with the road and drainage requirements of Benton County;

   a. Reference the Benton County Public Works Department comments as it relates to stormwater and drainage easements (PCM 1.13); and

   b. Reference the Benton County Public Works Department comments as it relates to roads and mitigation requirements (PCM 1.13).

3. The proposed subdivision meets the requirements BCC 9 Subdivision Regulations;

   a. The proposed subdivision complies with the purpose and preliminary plat requirements included in BCC 9.05 Subdivision- Preliminary Plat;

4. The public interest will be served by the proposed division and dedication;

   a. The creation of 8 residential lots in the RL-5 Zoning District furthers the implementation of the Benton County Comprehensive Plan; and

   b. Benton County standards are to be complied with including the construction and dedication of new public roads.

5. Appropriate provisions are made for the public health, safety, and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water, sanitary wastes, parks and recreation, playgrounds, schools, school grounds, and sidewalks;

   a. Appropriate provisions have been made for the public health and safety based on the following facts:

      i. The applicant has proposed that the preliminary plat be served by single family wells for potable domestic water services;

      ii. The Benton Franklin Health District has reviewed the preliminary plat and has no objections provided water and sanitary services are provided to the development and compliance with Health Departments standards is obtained by each lot; and

      iii. Fire hydrants are not required to be installed as a public water supply is not available at the site. West Benton Fire District #4 will provide fire protection.

   b. Appropriate provisions have been made for open spaces based on the following facts:

i. The proposed subdivision does not contain land to be designated for open space.

c. Appropriate provisions have been made for drainage ways based on the following facts:

i. Knutzen Engineering prepared a preliminary stormwater drainage report for the applicants of Shaw Vineyard Estates dated February 14, 2020 (PCM 1.8). The report discusses the provisions made for both offsite and onsite stormwater as it relates to this property and the proposed development;

ii. Reference the Benton County Public Works Department comments as it relates to stormwater and drainage easements (PCM 1.13).

d. Appropriate provisions have been made for streets or roads, alleys, and other public ways based on the following facts:

i. The public interest will be served by the proposed division and dedication as the Benton County Road Department standards are to be complied with including the construction and dedication of new public roads; and

ii. Reference the Benton County Public Works Department comments as it relates to road and mitigation requirements (PCM 1.13).

e. Appropriate provisions have been made for transit stops based on the following facts:

i. Ben Franklin Transit did not comment on transit service for the proposed development. The proposed plat and surrounding area are not served by public transit.

f. Adequate provisions have been made for potable water supplies based on the following facts:

i. The plat will be provided potable water by individual groundwater wells.

ii. The plat is located within the boundaries of the Benton County Rural Water Supply Program and subject to Benton County Ordinance 619.

iii. The applicant is required to provide proof of a valid domestic water right or may purchase mitigation certificates from the Benton County Water Bank for each lot within the subdivision as a condition of final plat approval. A note has been placed on the plat for applicants of future building permits to acquire and install meters on groundwater wells and comply with the requirements of the Rural Water Supply Program.

iv. The Benton Franklin Health District has reviewed the proposal and find that it generally meets their requirements provided all conditions of

approval as listed in the letter dated February 14, 2020 (PCM 1.9) are satisfied.

g. Adequate provisions have been made for sanitary waste based on the following facts:

   i. All lots in the development are proposed to be served by individual septic systems.

h. Adequate provisions have been made for parks, recreation, and playgrounds based on the following facts:

   i. The proposed subdivision does not contain land to be designated for parks or recreation. The Benton County Code does not require park dedications.

i. Appropriate provisions have been made for schools and school grounds and for sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school based on the following facts:

   i. The proposed plat is within the West Richland School District. The School District did not provide comments on this proposal as to whether there are adequate provisions to assure safe walking conditions for students who walk to and from school or waiting for school buses.

6. The Benton-Franklin Health District has reviewed the proposed subdivision for compliance with its rules and regulations and has not expressed objection to the proposed subdivision;

   a. Reference the BFHD comments as it relates to this preliminary plat (PCR 1.9).

7. The proposed subdivision is not located within an irrigation district; and

8. RCW 58.17.110 (1)(2)(3)(4). Approval or disapproval of subdivision - factors to be considered- conditions of approval, including, (4) If water supply is to be provided by a groundwater withdrawal exempt from permitting under RCW 90.44.050, the applicant's compliance with RCW 90.44.050 and with applicable rules adopted pursuant to chapters 90.22 and 90.54 RCW is sufficient in determining appropriate provisions for water supply for a subdivision, dedication, or short subdivision under this chapter.

   a. The proposed plat is consistent with RCW 58.17.110 (1)(2)(3)(4). The plat is to be provided potable water from individual groundwater wells.

   b. The develop shall provide proof of an existing valid domestic water right or shall purchase mitigation certificates for each lot within the proposed subdivision prior to final approval.

   c. Future homes and/or dwelling units shall comply with Benton County Ordinance 619 and the Benton County Rural Water Supply Program.

SUGGESTED CONDITIONS OF APPROVAL:

1. Applicant shall meet and comply with the requirements of the **Benton County Road Department**, including the following:

    a. The developer shall provide a complete set of engineered construction drawings for review and approval by the County and associated utilities. The drawings shall contain all appropriate information listed on the attached Minimum Plan Requirements. Grading plan will include grading to shape any drainage easements to route and fully contain all runoff based upon the 100-year storm within the easement limits. All plans and associated reports shall be prepared by a Professional Engineer licensed to practice in the State of Washington.

    b. All construction shall be in accordance with the most current WSDOT Standard Specifications for Road, Bridge and Municipal Construction, applicable Benton County Standard Plans and the requirements of the County Engineer.

    c. All roads within this plat shall have a paved width of 24 feet with a minimum 1-foot gravel shoulder. Roadways shall be designed for a minimum 25 mile per hour design speed.

    d. The pavement return radius at all intersections shall be a minimum of 35 feet.

    e. All stormwater from the roadways shall be contained on the plat and shall utilize surface infiltration (ditches, swales, ponds) for detention. The developer shall have an infiltration test performed at each proposed detention area. Tests shall be done with an infiltrometer using the falling head or constant head method. Other methods of infiltration rate determination shall be approved by the County.

    f. The developer shall provide a complete stormwater runoff report developed in accordance with the Stormwater Management Manual for Eastern Washington accosting for all impervious and pervious surfaces draining to the roadside ditches. Design storm shall be a Modified SCS Type IA with a 25-year return frequency.

    g. All signage including but not limited to stop signs, speed limit signs and street name signs shall be installed by the developer in accordance with Benton County Standard Plans

    h. All new power, telephone, cable TV and irrigation shall be installed outside of the County right of way in the appropriate easements. Domestic water piping may be installed within the County right of way in accordance with a valid franchise agreement

    i. Survey monuments, with cases and covers per Benton County Standard R-14B, shall be placed at all road intersections, points of curvature, points of tangency, centers of cul-de-sacs, section corners and quarter corners. All

monuments shall be set by a Professional Land Surveyor licensed to practice in the state of Washington.

j. Additional easements shall be required for any roadway slope cuts or fills that extend beyond the proposed County right-of-way.

k. Add the following notes to the face of the final plat:

- Benton County is not responsible for the maintenance or upkeep of any stormwater retention facility or drainage easements. All such maintenance and upkeep are the responsibility of the underlying property owner.
- Prior to the construction of any driveway or the issuance of any building permit for any lot within this subdivision the property owner shall obtain a Road Approach Permit from the Benton County Public Works Department and install the required temporary construction access.
- No trees, shrubs, weeds, fencing or other obstructions more than 24 inches in height are permitted within Benton County right of way.
- Property owners that install grass, curbing, rock mulch or other landscaping within the County right of way do so at their own risk. The County will not repair or replace damaged landscaping due to construction or maintenance operations.
- Lot 2 and 6 shall not have direct access to Carel Lane.

l. For more information please contact Cristina Woods at 509-786-5611 or Cristina.Woods@co.benton.wa.us.

2. Applicant shall meet and comply with the requirements of the **Benton Franklin Health District**. BFHD provided the following comments:

a. All lots within the plat must be a minimum of one acre (43,560 square feet) gross land area after all easements and encumbrances are subtracted.

b. All lots within the plat must have a minimum of 0.5 acres of useable land area. The amount of useable land area is determined by soil type. As soil types vary throughout the plat and lots themselves, the most conservative amount, 0.5 acres, is used to determine amount of useable land area.

c. Any wells within 150' of the property shall be shown on the plat and will include the 100'sanitary control zone.

d. It is recommended that the entire subdivision be dry sewered to facilitate future connection to a municipal sewer facility.

e. The following statements are placed on the plat:

- "This plat appears to have suitable conditions for the use of on-site sewage disposal systems. However, because of the nature of the testing methods used, we have no way of determining whether each lot can comply with Benton-Franklin District Board of Health Rules and Regulations at the time of permit issuance."
- "Further be advised that this department's approval of any lot within this plat for the use of on-site sewage disposal systems may be contingent upon that lot passing additional soil inspections/percolation tests, and/or other requirements at a later date."
- "On-site sewage disposal systems installed within this plat may require systems meeting a minimum of Treatment Level C in accordance with the Benton-Franklin District Board of Health Rules and Regulation No. 2."

f. Prior to issuance of on-site sewage disposal permits, additional test holes may be required to verify acceptable area for initial and replacement sewage disposal system and design criteria such as trench depth on each lot.

g. Prior to final approval, this office must be given the opportunity to review the final plat for compliance with Benton-Franklin Health Department Rules and ·Regulations No. 2 and WAC 246- 2'12, and issue appropriate comments to the Benton County Planning Department.

h. Contact BFHD for more information." Please contact JoDee Peyton at (509) 460-4318 for more information.

3. Applicant shall meet and comply with the requirements of the **Benton REA**, including the following:

   a. Please show a utility easement in the following locations:

      - 10 feet adjacent to all road rights-of-way on all lots, including around the cul-de-sac.
      - The north 10 feet of Lots: 2, 3, 5, 6, and 7.
      - The east 10 feet of Lots: 1, 2, 3, and 4.

   b. Please contact Chris Cooke with Benton REA at (509) 786-8252 or for more information.

4. Applicant shall meet and comply with the requirements of the **Benton County Fire Marshal** including the following:

   a. If any individual driveway is 200 feet or more, an approved turn around for Emergency Services vehicles is required.

   b. The subdivision shall comply with BBC 3.18.045 Minimum Road Requirements and 3.05.046 Special Fire Protection.

c. Please contact the Benton County Fire Marshal, Clark Posey, at (509) 735-3500 or Clark.Posey@co.benton.wa.us for more information.

5. Applicant shall meet and comply with the requirements of the **Department of Archeology and Historic Preservation**, including the following:

   a. DAHP recommends a professional archaeological survey of the project area be conducted prior to ground disturbing activities.

   b. For more information please contact Sydney Hanson, Transportation Archaeologist at (360) 586-3082 or Sydney.Hanson@dahp.wa.gov.

6. Applicant shall meet and comply with the requirements of the **Benton County Planning Department**, including the following:

   a. This plat is located within the Benton County Rural Water Supply Program Mitigation Area. The applicant is required to participate in the Benton County Rural Water Supply Program and must provide documentation of a valid domestic water right or purchase a Benton County Water Bank mitigation certificate for each proposed lot of the subdivision prior to final approval.

      - Please contact Michelle Cooke with the Benton County Planning Department for more information on the requirements of the Benton County Rural Water Supply Program at 509-786-5612.

   b. The applicant shall meet and comply with the SEPA Determination for this application, including the MDNS with mitigation/conditions issued by the Planning Department on April 9, 2020 (PCM 1.11).

   c. The applicant shall meet and comply with the recommendation's included in the March 16, 2020 letter from the Washington State Department of Archeology and Historic Preservation.

   d. Show the location of permanent buildings, wells (including wells within one-hundred (100) feet of the proposed subdivision), water courses, bodies of water, overhead and underground utilities, railroad lines, municipal boundaries, section lines, township lines, and other important features existing upon, over and under the land proposed to be subdivided on the plat map.

   e. Show the names of adjacent subdivisions and the location and names of all adjacent streets, as well as, names of adjacent property owners to the subdivision on the plat map.

   f. Show the location, name, right-of-way widths, and type of surfacing of all streets and alleys located within and adjacent to the land to be subdivided on the plat map.

   g. Indicate any areas within the plat having a slope of fifteen (15) percent or greater.

h. The second line of the legal description should read: "together with the north 294.20 feet of the west…" as listed in the title report.

i. Within the legal description please amend:
   - The second line of the legal description to read: "together with the north 294.20 feet of the west…" as listed in the title report.
   - The sixth line contains a spelling error, please amend to read "volume."
   - The Auditor's File number listed on the last line should read: "2002-000896".

j. Label the Benton REA easement 2004-041114 as listed in the title report.

k. List the square feet of each lot in addition to the acreage.

l. Please update the Owner to read: Shaw Horn Rapids, LLC

m. Within the vicinity map; "Kitty Kate Lane" is not a valid County road; please remove.

n. The following notes shall be placed on the final plat:
   - "During construction on each property, all construction debris shall be maintained on-site and properly disposed of. Dust control measures including an adequate water supply shall be provided".
   - "Prior to the granting of a building or factory assembled (FAS) permit for each lot by the County, the applicant for a building or FAS permit must comply with RCW 90.44.050, as currently existing and hereafter amended, regarding public ground water. The applicant must demonstrate that potable water is legally available by presenting (A) evidence of a valid water right permit from the Washington State Department of Ecology for the proposed wells for each lot; (B) a water well report filed and received by the Washington State Department of Ecology for an exempted well that complies with the 5,000 gallon per day exemption described in RCW 90.44.050, as currently existing and hereafter amended; or (C) a written approval of the Washington State Department of Health that a group A or group B public water supply system has been installed and is available for providing potable water to the lot."
   - "This plat is located within the Benton County Rural Water Supply Program Mitigation Area. All new dwelling units located within this plat are required to comply with Benton County Ordinance 619 (BCC Title 15), Benton County Rural Water Supply Program, as amended. All new dwelling units shall provide proof of a valid domestic water right prior to building permit issuance. In addition, all new dwelling units within the Mitigation Area are required to meter their water usage through a

meter approved by the County and pay an annual program fee in an amount set by the County."

- "All dwelling units and swimming pools within this plat shall have a setback of one hundred fifty (150) feet from any parcel zoned GMA Agriculture or from any adjacent orchard, hop field and/or vineyard of ten (10) acres or more. Please contact the Benton County Planning Department for more information."
- "This plat is not located within an irrigation district."
- "Addresses [noted in brackets] are subject to change until the exact location of the dwelling and access onto the plat is determined."

7. Preliminary plat approval shall be effective for 5 (five) years from the date of Board of County Commissioner approval. Exceptions shall comply and approved subject to the provisions of BCC 9.05.110 (e) as currently existing or hereafter amended.
8. Any amendments to an approved preliminary plat must be completed in accordance with BCC 9.05.140 as currently existing or hereafter amended.
9. Prior to the final plat being reviewed for final approval, the requirements of the Benton County Planning Department, Benton County Fire Marshal, Benton County Engineer, Benton Franklin Health District, and other commenting agencies and conditions shall be met and complied with.
10. Final Plat applications shall be submitted to the Planning Department. An applicant shall submit a final plat application that follows BCC 9.07 - Final Plat standards and requirements, as currently existing or hereafter amended:
11. All lots in the final plat shall meet the design standards for final plat approval as specified in Benton County Code 9.09 - Design and Improvements, as currently existing or hereafter amended, and meet all of the zoning requirements as specified in Benton County Code, Title 11 - Zoning, as currently existing or hereafter amended.
12. The location and size of all irrigation and utility easements necessary for electric power, telephone service, water, sewer and cable TV are to be coordinated with the proper utilities and/or reviewing agencies and shown on the final plat. The developer will need to open the utility trenches, including road crossings, based on individual utility requirements and specifications.
13. Address numbers shall be coordinated with the Planning Department and placed on the final plat. Addresses [noted in brackets] are subject to change until the exact location of the dwelling and access onto the plat is determined.
14. The applicant shall coordinate with the Post Office regarding centralized box unit (CBU) locations for the development, if necessary.

15. All of the statements that are required to be on the notes of the plat shall be either: 1) recorded as a restrictive covenant on each applicable parcel with the County Auditor, or 2) described in detail in the developer's covenants that are recorded and provided to each lot owner, prospective landowner, and the Planning Department at the time of final plat approval and recording.
16. That the preliminary plat is modified in all necessary respects so that the final plat will reflect the requirements of approval. If the final plat will be in conflict with any of the conditions of approval as adopted by the Planning Commission as a result of the modifications, then the final plat must be reviewed by the Planning Commission at a public meeting for approval prior to sending the final plat to the Board of County Commissioners.

SUGGESTED MOTION:

The Planning Commission forwards a **recommendation of approval** to the Benton County Board of Commissioners for Application SUB 2020-003/EA 2020-008, subject to the eight (8) findings of fact and sixteen (16) conditions of approval as stated in the staff memo (PCM 1.1) dated May 21, 2020, which includes the preliminary plat approval for 8 residential lots and that the Chairman, in conjunction with the Secretary of the Planning Commission, prepare and adopt written findings and conclusions reflecting the commission's recommendation for approval that articulate and are consistent with the findings, conclusions and recommendations made by the Planning Commission tonight.

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	14 July 2020
Subject:	CARES Act Community Support Grant Program – Contract with TRIDEC
Presenter:	Adam J. Fyall
Prepared By:	AJF
Reviewed By:	

Type of Agenda Item:	**Type of Action Needed:**	
☐ Consent Agenda	☐ Discussion Only (1st)	☐ Pass Motion
☐ Public Hearing	☐ Discussion Only (2nd)	☒ Pass Resolution
☒ Scheduled Business	☐ Decision/Direction	☐ Pass Ordinance

Summary

For the Board's consideration is a standard service agreement that would pay TRIDEC to assist the County with implementation of a temporary cash grant program intended to inject relief funds into the Benton County business community.

Background

Staff will provide a thorough briefing at the meeting. In short, Benton County has been availed of significant funds from the federal government and passed through the State (Department of Commerce) for the County's use in meeting unexpected and immediate hardships at the County and in the community. A portion of these funds – about $3½ million – will be disbursed to small businesses and non-profit organizations in Benton County through a cash grant program. County Administration wishes to deploy the expertise and resources of the County's longtime economic development partner, TRIDEC, in getting these funds out into the business community efficiently, effectively, and transparently. Staff will provide more specifics about the program at the meeting.

The agreement has been approved for form and signed by the contractor. The County/TRIDEC team intends to open the application window on Friday, July 17. All funds must be disbursed by the County by October 31.

Fiscal Impact

The County shall pay TRIDEC a sum of $115,000.00 for services under the terms of the agreement, and the funds shall come from the CARES Act grant.

Recommendation

Staff recommends entering into this agreement with TRIDEC.

Suggested Motion

"I move that Benton County enter into the new standard services agreement with TRIDEC for assistance in implementation of the CARES Act community support grant program."

Attachments

- Resolution
- Benton County / TRIDEC contract

# # #

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF APPROVAL OF A STANDARD SERVICE AGREEMENT BETWEEN BENTON COUNTY AND THE TRI-CITY DEVELOPMENT COUNCIL FOR ASSISTANCE WITH IMPLEMENTING BENTON COUNTY'S "CORONAVIRUS AID, RELIEF, & ECONOMIC SECURITY ACT COMMUNITY SUPPORT GRANT PROGRAM"

WHEREAS, the Coronavirus Aid, Relief, and Economic Security ("CARES") Act was passed by Congress earlier in 2020, providing cash resources for state and local governments; and,

WHEREAS, Benton County has received CARES Act funds, and will use a portion of said funds to establish a community support cash grant program to assist businesses and nonprofit organizations operating within Benton County with their financial hardships during the economic shutdown of 2020; and,

WHEREAS, the Tri-City Development Council ("TRIDEC") is a longtime economic development partner of the County as well as its designated "associate development organization", and has the expertise and resources on-hand to assist the County with this grant program endeavor; and,

WHEREAS, it is in the best interests of the County and the community for the County to contract with TRIDEC for assistance with implementing the CARES Act grant program in order to get needed resources into the community in an efficient and timely manner; **NOW, THEREFORE**,

BE IT RESOLVED that the Board of Benton County Commissioners approves the standard services agreement between Benton County and TRIDEC for implementation of the County's CARES Act grant program, and authorizes the Chairman to sign said agreement. TRIDEC shall be paid a sum of $115,000.00 for services rendered under the terms of the agreement, which will expire on November 30, 2020.

Dated this 14th day of July, 2020.

_____
Chairman of the Board

_____
Member

_____
Member

Constituting the Board of Commissioners
of Benton County, Washington.

Attest.....
Clerk of the Board

orig: Commissioners
cc: TRIDEC

Prepared by: A.J. Fyall

STANDARD SERVICE AGREEMENT
TERMS AND CONDITIONS

This Agreement is made and entered into by and between BENTON COUNTY, a political subdivision of the State of Washington, with its principal offices at 620 Market Street, Prosser, Washington 99350 (hereinafter "COUNTY"), and the TRI-CITY DEVELOPMENT COUNCIL (TRIDEC), a Washington nonprofit corporation, with its principal address at 7130 West Grandridge Boulevard - Suite A, Kennewick, Washington, 99336; (hereinafter "CONTRACTOR").

WHEREAS, on March 27, 2020, the Coronavirus Aid, Relief, & Economic Security Act ("CARES Act") was signed into law providing federal funding relief for American workers, families, industries, and state & local governments; and,

WHEREAS, on April 27, 2020, the State of Washington announced the allocation of nearly $300 million for local governments from the Coronavirus Relief Fund ("CRF") available under the CARES Act;

WHEREAS, the COUNTY'S share of the CRF is $11,099,000; and,

WHEREAS, the COUNTY desires to allocate a substantial portion of its share of the CRF to a new "CARES Act Community Support Grant Program" to assist distressed businesses and non-profit organizations within Benton County; and,

WHEREAS, the COUNTY has determined that engaging with its long-time economic development and business outreach partner TRIDEC would yield efficiencies in time and process in the development and implementation of the CARES Act Community Support Grant Program that are not available to the COUNTY alone;

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

1. CONTRACT DOCUMENTS

This Agreement consists of this Agreement and the following attached **Exhibit A**, which is incorporated herein by this reference.

2. DURATION OF CONTRACT

The term of this Agreement shall begin when executed by both parties, and shall expire on November 30, 2020.

3. SERVICES PROVIDED

CONTRACTOR shall perform CARES Act grant implementation functions and services for the COUNTY for the duration of this Agreement, as detailed in the attached Scope of Work ("**Exhibit A**") and made part of this Agreement. All COUNTY funds provided under this Agreement shall be used only for the purposes of funding CONTRACTOR personnel working to render the CARES Act Community Support Grant Program implementation services described specifically in **Exhibit A.**

CONTRACTOR is also the COUNTY'S "associate development organization", as designated by the COUNTY to the Washington State Department of Commerce, and is eligible to receive certain funds from the COUNTY to finance certain personnel in economic development offices. As such, COUNTY and CONTRACTOR have a separate 2020 economic development services agreement pertaining to functions and services **not** related to CARES Act grant implementation.

4. CONTRACT REPRESENTATIVES

The parties' representatives are as follows:

a. For CONTRACTOR: Laura Warr, Director of Finance
Tri-City Development Council
7130 West Grandridge Boulevard - Suite A
Kennewick, Washington 99336
509-735-1000

b. For COUNTY: Adam J. Fyall, Sustainable Development Manager
Benton County
7122 West Okanogan Place
Kennewick, Washington 99336
509-736-3053

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

5. COMPENSATION & INVOICING

The parties acknowledge that Federal funding, passed first through the State and then through the COUNTY, is made available to support CONTRACTOR personnel in their work on CARES Act Community Support Grant Program development and implementation services described in this Agreement. The work scope of this Agreement is completely separate from and in addition to the work scope of the annual economic development agreement between the COUNTY and the

CONTRACTOR. To compensate CONTRACTOR for the work to be performed under this Agreement, the COUNTY agrees to pay the CONTRACTOR the sum total of $115,000..00. Payments shall be made by the COUNTY to the CONTRACTOR in the following four installments: The CONTRACTOR shall submit an invoice to the COUNTY in the amount of $28,750.00 on or after July 31, 2020; the CONTRACTOR shall submit a second invoice to the COUNTY in the amount of $28,750.00 on or after August 30, 2020; the CONTRACTOR shall submit a third invoice to the COUNTY in the amount of $28,750.00 on or after September 30, 2020; and the CONTRACTOR shall submit a fifth and final invoice to the COUNTY in the amount of $28,750.00 on or before October 31, 2020. No invoices may be submitted after October 31, 2020. The COUNTY shall make payments within twenty-eight (28) days of receipt of each invoice from CONTRACTOR.

6. AMENDMENT AND CHANGES IN WORK

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

7. HOLD HARMLESS AND INDEMNIFICATION

a. The CONTRACTOR shall hold harmless, indemnify, and defend the COUNTY and its officers, officials, employees, and agents from and against any and all claims, actions, suits, liabilities, losses, expenses, damages, and judgments of any nature whatsoever, including reasonable costs and attorneys' fees in defense thereof, for injury, sickness, disability, or death to persons or damage to property or business, arising in connection with the work performed under this Contract, or caused or occasioned in whole or in part by reason of the presence of the CONTRACTOR or its subcontractors or their property upon or in the proximity of the property of the COUNTY. PROVIDED, that the CONTRACTOR'S obligation hereunder shall not extend to injury, sickness, death, or damage caused by or arising out of the sole negligence of the COUNTY or its officers, officials, employees, or agents.

b. In any and all claims against the COUNTY and its officers, officials, employees, and agents by any employee of the CONTRACTOR, any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under this section shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits

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

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

8. INSURANCE

a. **Workers Compensation:** CONTRACTOR shall comply with all Washington State Workers Compensation laws. Except as prohibited by law, CONTRACTOR waives all rights of subrogation against the COUNTY for recovery of damages to the extent they are covered by workers compensation, employers liability, commercial liability or commercial umbrella liability insurance.

b. **Commercial General Liability Insurance:** CONTRACTOR shall maintain commercial general liability coverage for bodily injury, personal injury and property damage, subject to limits of not less than five-hundred thousand dollars ($500,000) per occurrence. The general aggregate limit shall apply separately to this Contract and be no less than one million dollars ($1,000,000). CONTRACTOR shall provide certificate of such insurance to COUNTY'S representative prior to start of work, with COUNTY as Certificate Holder.

c. **Verification of Coverage and Acceptability of Insurers:** All insurance required under this CONTRACT shall be issued by companies admitted to do business within the State of Washington and have a rating of A-, Class VII or better in the most recently published edition of Best's Reports.

9. TERMINATION

The COUNTY may terminate this Contract in whole or in part whenever the COUNTY determines, in its sole discretion, that such termination is in the best interests of the COUNTY. The COUNTY may terminate this Contract upon giving ten (10) days written notice by certified mail to the CONTRACTOR. In that event, the COUNTY shall pay the CONTRACTOR for invoices previously submitted in accordance with this Agreement and a pro-rata payment for the portion of the month for which services were rendered prior to the date any such termination is effective.

10. COMPLIANCE WITH LAWS

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

11. NONDISCRIMINATION

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

12. DISPUTES

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

13. ENTIRE AGREEMENT

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

14. NOTICES

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

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

Benton County
Board of Commissioners

_____
Jim Beaver, Chairman

_____
Dated: _____

Constituting the
Board of Commissioners of
Benton County, Washington.

Attest:

_____
Clerk of the Board

Approved as to Form:

_____
Deputy Prosecuting Attorney

Tri-City Development Council

_____
Karl Dye, President

_____
Dated: _____

EXHIBIT A

2020 CARES Act
Community Support Grant Program
Scope of Work

BENTON COUNTY ("COUNTY") is contracting with TRIDEC ("CONTRACTOR") for assistance in developing and implementing a business and non-profit organization financial assistance grant program supported by Coronavirus Aid, Relief, & Economic Security Act funds, provided by the federal government and through the State of Washington via the Department of Commerce. The COUNTY will have approximately three-and-one-half million dollars ($3,500,000.00) to disburse to qualified companies and organizations through this grant program. Under the terms of this Agreement, CONTRACTOR shall:

1. Develop eligibility and evaluation criteria for grant recipients for review and approval by the COUNTY.

2. Develop and administer a grant application process, including:
    a. Time schedule for application process;
    b. Creation of a simple web-based and paper-based application;
    c. Strategy for advertising, publicity, recruitment, marketing;
    d. Collection and organization of applications;
    e. Evaluation of applications, including qualification and prioritization;
    f. Submission of recommendations for funding to COUNTY.

3. Forward recommendations on grant applications to COUNTY for approval or disapproval and contracting. Recommendations shall be forwarded to the COUNTY in bi-weekly stages to keep the process moving. The latest date for submission of recommendations on grant applications by CONTRACTOR shall be no later than September 15, 2020.

4. Develop a follow-up protocol with grant recipients. CONTRACTOR shall synthesize data collected from surveys of grant recipients, and prepare and deliver a final report to COUNTY on its work performed under this Agreement no later than November 30, 2020.

# # #

AGENDA ITEM	TYPE OF ACTION NEEDED			
Meeting Date: 7/14/2020	**Execute Contract**	_____	**Consent Agenda**	_____
Subject: Request to go to Public Hearing	**Pass Resolution**	_____	**Public Hearing**	_____
	Pass Ordinance	_____	**1st Discussion**	__X__
	Pass Motion	____	**2nd Discussion**	_____
Prepared by: Linda Ivey	**Other**	__X__	**Other**	_____
Reviewed by:				

BACKGROUND INFORMATION / SUMMARY

Benton County was awarded $11,099,000 in CARES Act funds due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19) via Resolution 2020-391,

The Award was received after the completion of the 2019-2020 budget process.

A Budget Supplement of the current year's expenditures budget is requested and must be approved in a Public Hearing.

A new Department is requested in the Current Expense Fund, Department 139.

RECOMMENDATION

The Finance Manager recommends that the Board of Benton County Commissioners go to Public Hearing on August 4, 2020 to potentially approve the request for a budget adjustment for Current Expense, CARES Act, Department 139.

FISCAL IMPACT

Fiscal Impact to Current Expense, CARES Act, Department 139 is budget neutral as eligible expenditures are reimbursed.

MOTION

The Board of Benton County Commissioners hereby approve going to Public Hearing on August 4, 2020 for the potential approval of the request for a budget adjustment for Current Expense, CARES Act, Department 139.

Commissioners' Date Stamp:

TRANSMITTAL
REQUEST FOR BUDGET ADJUSTMENT

Fund Name:	**Current Expense**	Fund Number:	**0000101**
Dept Name:	**CARES Act**	Dept Number:	**139**

Request Summary

Expenditure

BARS Number	Item Name	Additional Amount	Revised Budget
513.100.4103	Professional Services	11,099,000	11,099,000
	Total Adjustment	$11,099,000	

Revenue

BARS Number	Item Name	Amount
333.21.9991	CARES Act 1	11,099,000
	Total Revenue	$11,099,000

Basis for Budget Adjustment (Attach Documentation as Appropriate):
Benton County was awarded $11,099,000 in CARES Act funds due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19) via Resolutions 2020-391. Supplement necessary as the grant was not included in the 2019-2020 budget process.

Commissioners

☐ Approved for Hearing
☐ Denied

Review Notes: _____

_____
CHAIRMAN

_____
COMMISSIONER

_____
COMMISSIONER

AGENDA ITEM	TYPE OF ACTION NEEDED			
Meeting Date: 7/14/2020	**Execute Contract**	_____	**Consent Agenda**	_____
Subject: Request to go to Public Hearing	**Pass Resolution**	_____	**Public Hearing**	_____
	Pass Ordinance	_____	**1st Discussion**	__X__
	Pass Motion	____	**2nd Discussion**	_____
Prepared by: Linda Ivey	**Other**	__X__	**Other**	_____
Reviewed by:				

BACKGROUND INFORMATION / SUMMARY

Benton County was awarded $250,000 for the FY19 BJA STOP School Violence Prevention and Mental Health Training Program via Resolution 2019-752,

The Award was received after the completion of the 2019-2020 budget process.

A Budget Supplement of the current year's expenditures budget is requested and must be approved in a Public Hearing.

The award is over three years, with anticipated expenditures in the 2019-2020 budget of $110,800.

RECOMMENDATION

The Finance Manager recommends that the Board of Benton County Commissioners go to Public Hearing on August 4, 2020 to potentially approve the request for a budget adjustment for Current Expense, Sheriff Patrol, Department 121.

FISCAL IMPACT

Fiscal Impact to Current Expense, Sheriff Patrol, Department 121 is budget neutral as eligible expenditures are reimbursed.

MOTION

The Board of Benton County Commissioners hereby approve going to Public Hearing on August 4, 2020 for the potential approval of the request for a budget adjustment for Current Expense, Sheriff Patrol, Department 121.

Commissioners' Date Stamp:

TRANSMITTAL
REQUEST FOR BUDGET ADJUSTMENT

Fund Name:	**Current Expense**	Fund Number:	**0000101**
Dept Name:	**Sheriff Patrol**	Dept Number:	**121**

Request Summary

Expenditure

BARS Number	Item Name	Additional Amount	Revised Budget
521.340.3101	Supplies	2,700	5,664
521.340.3501	Minor Equipment & Small Tools	8,100	49,339
521.340.4102	Contract Services	13,278	59,598
521.340.4905	Training	20,079	67,743
594.210.6401	Capital Outlay	66,643	66,643
	Total Adjustment	$110,800	

Revenue

BARS Number	Item Name	Amount
333.16.8390	BJA - STOP School Violence Program	$110,800
	Total Revenue	$110,800

Basis for Budget Adjustment (Attach Documentation as Appropriate):
The Benton County Sheriff's Office accepted the funding under the FY19 BJA STOP School Violence Prevention and Mental Health Training Program in the amount of $250,000 for 3 years from Office of Justice Programs under Resolution 2019-752. A Supplement is necessary as the grant was not included in the 2019-2020 budget process due to the timing of the grant solicitation. The first year it is anticipated to incur expenditures of $110,800 and in 2021-2022, $139,200.

Commissioners

☐ Approved for Hearing

☐ Denied

CHAIRMAN

Review Notes: _____

COMMISSIONER

COMMISSIONER

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	July 14, 2020
Subject:	Ratify First Amendment to Agreement 1963-58964
Presenter:	Kyle Sullivan and Mari Clark
Prepared By:	Mari Clark, DHS Contract Manager
Reviewed By:	Kyle Sullivan, DHS Manager

Type of Agenda Item:	**Type of Action Needed:**	
☐ Consent Agenda	☐ Discussion Only (1st)	☐ Pass Motion
☐ Public Hearing	☐ Discussion Only (2nd)	☒ Pass Resolution
☒ Scheduled Business	☒ Decision/Direction	☐ Pass Ordinance

Summary / Background Information

Developmental Disabilities Administration (DDA) would like to extend the current contract with Benton County Department of Human Services for the purpose to advance the state legislative policy to provide a coordinated and comprehensive state and local program of employment services for persons with developmental disabilities.

Due to a hiring and contract freeze at the state level, this contract was not sent to DHS until the day the original agreement expired. DHS had the County Administrator sign the contract per Benton County Resolution 2020 258 so the agreement did not expire.

Fiscal Impact

Amount: $1,951,185.00

Fund: Funding for the services described in this Agreement is provided by Developmental Disabilities Administration. **There is no impact on the current expense budget.** All revenues and expenditures are from the Fund 0108-101 Human Services Budget.

Recommendation

- Sign the Ratified First Amendment to Contract Agreement 1963-58964 that has already been executed

Suggested Motion

To ratify the signed First Amendment to Agreement Number 1963-58964 Benton County Resolution 2020 258 between Developmental Disabilities Administration and Benton County Department of Human Services and to authorize the Chair to sign on behalf of the Board.

Kyle Sullivan, Manager
Benton County DHS Manager

BENTON COUNTY RESOLUTION

BENTON COUNTY RESOLUTION NO. _____

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON;

RE: IN THE MATTER OF RATIFYING FIRST AMENDMENT TO DSHS AGREEMENT NUMBER: 1963-58964, BETWEEN THE DEVELOPMENTAL DISABILITIES ADMINISTRATION WITHIN DEPARTMENT OF SOCIAL AND HEALTH SERVICES AND BENTON COUNTY DEPARTMENT OF HUMAN SERVICES, TO ADVANCE THE STATE LEGISLATIVE POLICY TO PROVIDE A COORDINATED AND COMPREHENSIVE STATE AND LOCAL PROGRAM OF EMPLOYMENT SERVICES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES

WHEREAS, the Developmental Disabilities Administration (DDA) would like to extend the current contract with Benton County Department of Human Services for the purpose to advance the state legislative policy to provide a coordinated and comprehensive state and local program of employment services for persons with developmental disabilities; and

WHEREAS, this First Amendment would extend the end date of the Agreement to June 30, 2021 and increase the consideration by one million nine hundred fifty-one thousand one hundred eighty-five dollars and no cents ($1,951,185.00); NOW, THEREFORE,

BE IT RESOLVED, that the Benton County Administrator be and hereby is, authorized to sign, on behalf of Benton County, per Benton County Resolution 2020 258, and the Board of Benton County Commissioners hereby ratifies the First Amendment to Grant Agreement 1963-58964, for Developmental Disabilities employment services, between DSHS Developmental Disabilities Administration, and Benton County Department of Human Services for a total grant amount of three million nine hundred forty-three thousand seven hundred fifty-eight dollars and no cents ($3,943,758.00); and

BE IT FURTHER RESOLVED, the term of the attached Agreement commences on July 1, 2020 and expires on June 30, 2021.

Dated this_____day of_____, 2020.

_____
Chair

_____
Member

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

Attest: _____
Clerk of the Board

cc: Human Services; Benton Commissioners M. Clark

Washington State Department of Social & Health Services

Transforming lives

CONTRACT AMENDMENT

DSHS CONTRACT NUMBER:
1963-58964

Amendment No. 01

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

Program Contract Number
Click here to enter text.
Contractor Contract Number

CONTRACTOR NAME	CONTRACTOR doing business as (DBA)	
Benton County	Benton-Franklin DDA County Services	
CONTRACTOR ADDRESS Department of Human Services 7102 West Okanogan Place Suite 201 Kennewick, WA 99336-	WASHINGTON UNIFORM BUSINESS IDENTIFIER (UBI) 035-000-971	DSHS INDEX NUMBER 1122

CONTRACTOR CONTACT	CONTRACTOR TELEPHONE	CONTRACTOR FAX	CONTRACTOR E-MAIL ADDRESS
Mari Clark	(509) 737-3902	(509) 783-5981	mari.clark@co.benton.wa.us

DSHS ADMINISTRATION	DSHS DIVISION	DSHS CONTRACT CODE
Developmental Disabilities Admin	Division of Developmental Disabilities	1769CS-63

DSHS CONTACT NAME AND TITLE	DSHS CONTACT ADDRESS
Seanna Woodard Operations Manager	1611 W Indiana Ave Spokane, WA 99205

DSHS CONTACT TELEPHONE	DSHS CONTACT FAX	DSHS CONTACT E-MAIL ADDRESS
(509)329-2952	(509)568-3037	woodas@dshs.wa.gov

IS THE CONTRACTOR A SUBRECIPIENT FOR PURPOSES OF THIS CONTRACT?	CFDA NUMBERS
No	

AMENDMENT START DATE	**CONTRACT END DATE**
07/01/2020	06/30/2021

PRIOR MAXIMUM CONTRACT AMOUNT	AMOUNT OF INCREASE OR DECREASE	TOTAL MAXIMUM CONTRACT AMOUNT
$1,992,573.00	$1,951,185.00	$3,943,758.00

REASON FOR AMENDMENT;
CHANGE OR CORRECT PERIOD OF PERFORMANCE AND MAX CONTRACT AMOUNT

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

☒ Additional Exhibits (specify): Exhibit B

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

CONTRACTOR SIGNATURE	PRINTED NAME AND TITLE	DATE SIGNED
Jerrod MacPherson	Jerrod MacPherson, County Administrator	06/30/2020
DSHS SIGNATURE	PRINTED NAME AND TITLE	DATE SIGNED

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

1. The Total Maximum Contract Amount is hereby increased in the amount of $1,951,185 for a new Contract Amount of $3,943,758. This amount is for services provided during the added fiscal year.

2. The Program Agreement end date is extended to June 30, 2021.

3. Section 1. Definition Specific to Program Agreement Item c.(3) (c) will be replaced with the following language:

a. (3) (c) "Partnership Project". Collaborative partnerships with school districts, employment providers, DVR, families, employers and other community collaborators needed to provide the employment supports and services young adults with developmental disabilities require to become employed during the school year they turn twenty-one (21). Supports provided should complement and not replace what the student(s) receive through the Individualized Education Program (IEP).

4. Section 1. Definition specific to Program Agreement will include the following definitions:

v. Competitive Integrated Employment - work performed by an individual on a part-time or full-time basis, within an integrated setting within the community that meets HCBS settings requirements. The individual must be compensated at minimum wage or higher, using the higher of the Federal, State, or local rate, and at a rate comparable to the wage paid to non-disabled workers performing the same tasks, including receiving the same benefits and opportunities for advancement.

w. Employment Outcome Payment – A document derived from employment readiness activities performed by transition students who are between ages 19 through 20 that identifies actionable next step for employment. The employment service providers developing the Job Foundation report will be supporting transition students with employment activities for an average of 35 hours until student moves to Job Development phase of employment activities.

x. Job Foundation document – A document derived from employment readiness activities performed by transition students that identifies actionable next step for employment.

5. Section 6. Statement of Work is revised to include the following:

q. Partnership Project.

(1) A Job Foundation document will be completed per guidelines for eligible students. Eligible students are DDA clients who were born between 9/1/00 through 8/31/01, currently attending school and have completed an application to participate in this Value Based Payment project. The VBP project application will include the following minimum criteria identified in the sample application found at: https://www.dshs.wa.gov/sites/default/files/DDA/dda/documents/Job%20Foundation%20Application_040720%20%28002%29.docx

(2) Qualified providers will collaborate with School District staff to complete the Job Foundation document and then provide a copy to the County. To be a qualified provider for the Partnership Project the Counties must require the provider to have a current contract with the Division of Vocational Rehabilitation; a contract in good standing with the County and cannot be in provisional status; a minimum of two years' experience providing Individual Employment with

demonstrated job placement skills. If the Job Foundation recommendation is for subminimum wage work / group work, service provider may not continue support.

(3) County participating in the Partnership Project must have the ability to work collaboratively with School Districts to identify DDA students in high school, collect and track information, be proficient in electronic spreadsheets, and ability to evaluate if completed Job Foundation document(s) meet quality standards.

r. Employment Outcome Payment. – Providers, with transition students born between 9/1/00 through 8/31/01, high acuity and authorized for Individual employment, may receive one outcome payment if student obtains a competitive integrated job approved by the County within timeframes described in the chart below. If the County is also the service provider DDA will provide the job approval. If the job is at a minimum of ten hours of work per week an additional amount will be include in the payment.

6. Section 8. Billing and Payment, will include the following:

l. Reimbursement for Partnership project: a claim of $2,400 per student for each completed Job Foundation document that is at a satisfactory or above rating will be requested through the AWA system as other monthly cost

m. 94 Partnership line item. A copy of the completed Job Foundation document will be sent electronically to DDA Employment and Day HQ staff.

m. Job placement verification for transition students: The AWA Employment Output for Individual Employment will be completed and submitted with payment request to verify employer, job start date, job type, etc.

7. Adding two new section as follows effective 7/1/2019:

Section 12. Confidential Information. All Counties and their subcontractors must:

A. Ensure the security of Confidential Information;
B. Use a Trusted Network when available;
C. When transporting outside of a Secure Area, Portable Devices and Portable Media with DSHS Confidential Information must be under the physical control of staff with authorization to access the Data, even if the Data is encrypted.
D. When transporting data containing DSHS Confidential Information outside a Secure Area must encrypt the data.

Section 13. Data Security Requirements. Exhibit A shall only apply to the County if the County serves 150 or more DSHS clients. The Exhibit A will apply to the County subcontractor if the subcontractor serves 150 or more DSHS clients.

8. Exhibit A – Data Security Requirements the following replaces existing language effective 7/1/2020:

Section 1 Definitions, item e, "Encrypt means to encode Confidential Information into a format that can only be read by those possessing a "key" ; a password, digital certificate or other mechanism available only to authorized users. Encryption must use a key length of at least 128 bits (256 preferred and required to be implemented by 6/30/2021 for symmetric keys, or 2048 bits for asymmetric keys. When a symmetric key is used, the advance Encryption Standard (AES) must be used if available.

Section 4 Authorization, Authentication, and Access, item h, (6) Ensuring use of Multi-factor Authentication to connect from the external end point to the internal end point. All contractors must be in compliance by 6/30/2021.

9. Exhibit B. Program Agreement Budget is hereby replaced with the following Budget Revision:

EXHIBIT B

Program Agreement Budget

☐ **Original Budget** ☒ **Budget Revision**

REVENUES

Fiscal Year	Fund Source	Original	1st Revision	2nd Revision	3rd Revision
2020	State Only	1,057,300			
	Waiver				
	Total Rev.	$1,992,573			

Fiscal Year	Fund Source	Original	1st Revision	2nd Revision	3rd Revision
2021	State Only	1,037,760			
	Waiver				
	Total Rev.	$1,951,185			

COUNTY FY 2021 SPENDING PLAN

	Planned Expenditures				
	Local Funds	PASRR Funds	State Funds	Medicaid Funds	TOTAL
ADMINISTRATION (CMIS/AWA BARS 11)			70,206	57,442	127,648
OTHER CONSUMER SUPPORTS (CMIS/AWA Code 31, 32, 41, 92, 93, 94)			65,613	53,684	119,297
CONSUMER SUPPORT					
STATE-ONLY			12,744		12,744
Child Development			86,898		86,898
MEDICAID CLIENTS			802,299	802,299	1,604,598
ROADS to COMMUNITY LIVING					
TOTAL			1,037,760	913,425	1,951,185

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

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	July 14, 2020
Subject:	Amendment No. 1 to BCES Interlocal Agreement
Presenter:	Matt Rasmussen
Prepared By:	Matt Rasmussen
Reviewed By:	Jerrod MacPherson

Type of Agenda Item:	**Type of Action Needed:**	
☐ Consent Agenda	☐ Discussion Only (1st)	☐ Pass Motion
☐ Public Hearing	☐ Discussion Only (2nd)	☒ Pass Resolution
☒ Scheduled Business	☐ Decision/Direction	☐ Pass Ordinance

Summary / Background Information

For the past several years Benton County Emergency Services (BCES) has been working on ways to improve the coverage of the 800MHz radio system and fill in gaps in service. Studies have been conducted and the results of those studies have indicated that by adding a new communications tower on Red Mountain and making necessary upgrades to the existing Golgotha repeater site system coverage will be greatly improved.

In October 2018 the Board of County Commissioners authorized up to $2.5 million to be spent in order to complete the Red Mountain tower project (Resolution 2018-748). Since that time staff has been working with BCES to determine the final site location and get the necessary agreements in place to proceed. Due to the length of time since the original authorization the cost of the project has increased and staff now believes it may take up to $3 million to complete the tower and repeater upgrades. Additional money, up to $2 million, is also needed to obtain right of way for and construction of an access road to the tower site. That work will be complete by Benton County staff.

In order to continue moving forward with the project an amendment is needed to the interlocal agreement that created BCES (Resolution 2018-398). Such amendment has been prepared, approved by the various agencies and approved to form by the Benton County Civil Prosecutors Office.

Fiscal Impact

Amount: $5,000,000

Fund: Public Safety Sales Tax

Up to $5,000,000 for construction of a communications tower, access road and upgrades to a repeater site.

Recommendation

Staff recommends that the Board approve the amendment to the Second Amended and Restated Interlocal Agreement for Benton County Emergency Services.

Suggested Motion

I move to approve Amendment Number 1 to the 2018 Second Amended and Restated Interlocal Agreement for Benton County Emergency Services.

R E S O L U T I O N

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF APPROVING AMENDMENT NO. 1 TO THE 2018 SECOND AMENDED AND RESTATED INTERLOCAL AGREEMENT FOR BENTON COUNTY EMERGENCY SERVICES FOR THE PURPOSE OF FUNDING AN ADDITIONAL COMMUNICATIONS SITE

WHEREAS, for the past several years Benton County Emergency Services (BCES) has been studying ways to improve the coverage of the 800MHz radio system and from such studies has determined that adding a new communication site at Red Mountain that will be integrated into the existing simulcast system including making necessary hardware, software, and service upgrades at the Golgotha ASTRO 25 Repeater site will result in coverage improvements; and

WHEREAS, the proposed amendment provides that Benton County will reimburse up to $3,000,000 for costs incurred by BCES, by and through its Administrative Jurisdiction, to render the communication site initially operable; and

WHEREAS, the proposed amendment provides that Benton County will expend additional funds associated with procuring right of way for and constructing an access road to the communications site; and

WHEREAS, Benton County will be the sole owner of the communications equipment on the Red Mountain site; and

WHEREAS, operational costs for the site will be distributed among all 800MHz users pursuant to the current agreement; **NOW, THEREFORE**

BE IT RESOLVED, that the Board of County Commissioners approves Amendment No. 1 to the 2018 Second Amended and Restated Interlocal Agreement for Benton County Emergency Services.

Dated this 14th day of July, 2020.

_____
Chairman

_____
Chairman Pro-Tem

_____
Member

Attest: _____
Clerk of the Board

Constituting the Board of
County Commissioners of Benton
County, Washington

Orig: Commissioners ` M. Rasmussen

AMENDMENT NO. 1 TO THE 2018 SECOND AMENDED AND RESTATED INTERLOCAL AGREEMENT FOR BENTON COUNTY EMERGENCY SERVICES FOR FUNDING AN ADDITIONAL COMMUNICATION SITE

THIS AMENDMENT NO. 1 TO THE 2018 SECOND AMENDED AND RESTATED INTERLOCAL AGREEMENT is made and entered into by and between the following entities (collectively, the "Parties"):

Benton County, a political subdivision of the State of Washington;
Franklin County, a political subdivision of the State of Washington;
City of Kennewick, a Washington municipal corporation;
City of Richland, a Washington municipal corporation;
City of West Richland, a Washington municipal corporation;
City of Prosser, a Washington municipal corporation;
City of Benton City, a Washington municipal corporation;
City of Pasco, a Washington municipal corporation;
Benton County Fire Protection District Nos. 1, 2 and 4, all of which are Washington special purpose districts; and
Public Utility District #1 of Benton County, a Washington special purpose district.

WHEREAS, several of the above-referenced entities were parties to a 2009 Interlocal Agreement to fund the acquisition of a digital 800MHz radio system to provide enhanced public safety communications; and

WHEREAS, since execution of that 2009 Interlocal Agreement, Franklin County, the City of Pasco and PUD #1 joined with the previously existing entities to participate in certain aspects of the operations of Benton County Emergency Services (BCES); and

WHEREAS, in 2018, the Parties executed a Second Amended and Restated Interlocal Agreement for Benton County Emergency Services (the "2018 Interlocal Agreement") to reflect the rights and responsibilities of all BCES participants; and

WHEREAS, for the past several years, BCES has been studying ways to improve coverage of the 800MHz system, and based on such studies Benton County has agreed to add one (1) communication site to be located on Red Mountain that will be integrated into BCES's existing simulcast system, and the necessary hardware, software, and services to upgrade the Golgotha ASTRO 25 Repeater site to integrate that communication site into the system; and

WHEREAS, Benton County will reimburse up to $3,000,000 for costs incurred by BCES, by and through its Administrative Jurisdiction, to render the identified communication site initially operable; and

WHEREAS, Benton County will expend additional funds associated with the cost of constructing a County-owned access easement to the communication site terminating on a parcel agreed to by Benton County, provided BCES will not be reimbursed for such costs as Benton

County will directly incur and pay such costs for the easement, including acquisition, design, construction, and provision of utilities to the site (specifically electric); and

WHEREAS, the Parties enter into this Amendment No. 1 to set forth the financing and ownership terms with respect to the proposed additional communication site on Red Mountain.

NOW THEREFORE, in consideration of the mutual covenants contained herein, and in accordance with RCW 39.34.030 and Section 8 of the 2018 Interlocal Agreement for Benton County Emergency Services, the Parties agree to amend the 2018 Interlocal Agreement as follows:

1. Section 4.C. of the FINANCES section of the 2018 Interlocal Agreement is deleted and replaced in its entirety with the following language:

   800MHz Fund. The 800MHz Fund shall be used for the maintenance and operation of any 800MHz radio system, whether analog or digital, utilized by BCES. The Executive Board is authorized to levy annual radio assessments upon all Parties who use radios under the 800MHz system, and to impose contract fees upon any contracting agencies for use of the same. Assessments shall be determined annually by the Executive Board for inclusion in the Parties' annual budgets. Assessments shall be paid in periodic installments on a schedule determined by the Executive Board. In the event an unforeseen exigent circumstance or uninsured civil judgment results in costs to the Organization in excess of the budgeted expenses for operation and administration of the 800MHz system, the Executive Board is authorized to proportionately levy, by percentage of the Parties' total 800MHz budget responsibility, additional fees to cover the unexpected liability. Such excess costs shall be promptly remitted, upon demand, to Benton County Emergency Services. If the cost overrun is attributable to a single agency's action or inaction, the entire cost overrun shall be borne by that agency.

   In order to improve coverage of the 800MHz radio system maintained and operated by BCES in certain areas of unincorporated Benton County, one (1) communication site on Red Mountain will be constructed consisting of a trunked simulcast repeater; one (1) microwave; an equipment shelter; a tower; a generator; a fuel tank; and batteries (the "Communication Site"). To integrate the new Communication Site into the existing system, the Golgotha ASTRO 25 Repeater Site must be upgraded with certain hardware, software and services (the "Golgotha Upgrade"). To facilitate construction of the Communication Site and the Golgotha Upgrade, Benton County agrees to: 1) reimburse BCES, by and through its Administrative Jurisdiction, in an amount equal to the lesser of: a) Three Million Dollars ($3,000,000); or b) the actual costs to purchase and install the Communication Site and Golgotha Upgrade; and 2) directly pay the costs of easement acquisition, design, and construction of a means of ingress and egress, along with provision of utilities (specifically electric) to a parcel agreed upon by Benton County on which the Communication Site will be located. All operational costs of the Communication Site shall be paid by the Parties hereto in the same manner as other operational costs paid from the 800MHz fund.

   The Administrative Jurisdiction is responsible for compliance with applicable procurement laws respecting the purchase and installation of the Communication Site and Golgotha

Upgrade. Benton County is responsible for compliance with applicable procurement laws respecting the access easement to the Communication Site.

Benton County shall deposit One Million Dollars ($1,000,000) into the 800MHz Fund within thirty (30) days of the full execution of this Amendment No. 1 to the 2018 Interlocal Agreement. The Administrative Jurisdiction will place the deposit in an interest bearing account, and interest will accrue to the benefit of BCES and may be expended on the Communication Site. Beginning on the thirtieth (30^{th}) day after the initial deposit, and occurring every thirty (30) days thereafter until the Communication Site is completed, the Administrative Jurisdiction will send to Benton County a written summary of the expenses incurred for the purchase and installation of the Communication Site. Upon thirty (30) days written notice from the Administrative Jurisdiction that less than Two Hundred Fifty Thousand Dollars ($250,000) of Benton County's deposited funds under this section remain in said account, Benton County will deposit another Two Hundred Fifty Thousand Dollars ($250,000). The account will continue to be replenished by Benton County in this manner until $3,000,000 in the aggregate has been deposited by Benton County, or BCES has been fully reimbursed, by and through its Administrative Jurisdiction, for the actual costs of the purchase and installation of the Communication Site and Golgotha Upgrade, whichever occurs first. Within thirty (30) days of release of retainage to the contractor for the Communication Site work, the Administrative Jurisdiction will return to Benton County the balance of all deposits made by Benton County for the Communication Site that were not expended.

Parties to this Agreement who use the 800MHz system will continue to contribute to its operation and maintenance costs, including costs for operation and maintenance of the Communication Site, through annual radio assessments.

2. Section 5.C. of the PROPERTY AND EQUIPMENT section of the 2018 Interlocal Agreement is deleted and replaced in its entirety with the following language:

Specific Property Owned Solely by Benton County, Richland and Kennewick. All Parties hereto acknowledge that the federal government may have ownership interests or rights with respect to equipment purchased with funds provided by the federal government. All Parties further acknowledge and agree that the Communication Site on Red Mountain as referenced in Section 4.C above shall be owned exclusively by Benton County. All Parties further acknowledge and agree that the remainder of the digital 800MHz radio system, the real property and improvements located at 651 Truman Avenue in Richland, Washington, the leasehold interests and other 800MHz equipment used by Benton County Emergency Services and the Parties hereto at the several existing sites and the Benton County Microwave System used by Benton County Emergency Services shall be owned exclusively by Benton County and the cities of Richland and Kennewick as follows: fifty percent (50%) ownership by Benton County; twenty-five percent (25%) ownership by Kennewick; twenty-five percent (25%) ownership by Richland. The contributions by Pasco and Franklin County required pursuant to section 4.G above do not create any ownership interests in the above assets by those entities.

3. All remaining terms, conditions and provisions of the 2018 Interlocal Agreement shall remain in full force and effect.

4. This Amendment shall be construed in accordance with, and governed by, the laws of the state of Washington.

5. The headings contained in this Amendment are for ease of reference only and shall not be considered in construing this Amendment.

[Signature page to follow]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates identified next to their signatures below.

BENTON COUNTY, WASHINGTON

JAMES BEAVER, Chairman Date

SHON SMALL, Member Date

JEROME DELVIN, Member Date

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

Attest:

Clerk of the Board

Approved as to Form:

Ryan K. Brown, Benton County Chief Deputy Prosecuting Attorney

FRANKLIN COUNTY, WASHINGTON

ROBERT E. KOCH, Chairman Date

BRAD PECK, Chairman Pro-Tem Date

CLINT DIDIER, Member Date

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

Attest:

Clerk of the Board

Approved as to Form:

Jennifer Johnson, Franklin County Deputy Prosecuting Attorney

[Signatures continue below]

CITY OF PASCO

DAVE ZABELL Date
Pasco City Manager

Attest:

Debby Barham, City Clerk

Approved as to Form:

Eric Ferguson, Kerr Ferguson Law, PLLC
City Attorney for Pasco

CITY OF KENNEWICK

MARIE E. MOSLEY Date
Kennewick City Manager

Attest:

Terri L. Wright, City Clerk

Approved as to Form:

Lisa Beaton
Kennewick City Attorney

CITY OF RICHLAND

CYNTHIA D. REENTS Date
Richland City Manager

Attest:

Jennifer Rogers, City Clerk

Approved as to Form:

Heather Kintzley
Richland City Attorney

CITY OF WEST RICHLAND

BRENT GERRY Date
West Richland Mayor

Attest:

Julie Richardson, City Clerk

Approved as to Form:

Bronson Brown, Bell Brown & Rio, PLLC
City Attorney for West Richland

[Signatures continue below]

CITY OF PROSSER

RANDY TAYLOR Date
Prosser Mayor

Attest:

Rachel Shaw, City Clerk

Approved as to Form:

Howard Saxton
Prosser City Attorney

CITY OF BENTON CITY

LINDA LEHMAN Date
Benton City Mayor

Attest:

Stephanie Haug, City Clerk

Approved as to Form:

Eric Ferguson, Kerr Ferguson Law, PLLC
City Attorney for Benton City

BENTON COUNTY FIRE PROTECTION DISTRICTS 1, 2, AND 4

DAVID M. JENKINS Date
BCFPD #1 Commission Chair

Attest:_____

BARRY ORTH Date
BCFPD #2 Commission Chair

Attest:_____

GREGG COUCH Date
BCFPD #4 Commission Chair

Attest:_____

[Signatures continue below]

PUBLIC UTILITY DISTRICT #1 OF BENTON COUNTY (BENTON PUD)

_____ Attest:_____

RICK DUNN Date
General Manager

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	July 14, 2020
Subject:	2021-2022 Public Safety Sales Tax Funding Recommendation
Presenter:	Matt Rasmussen, Deputy County Administrator
Prepared By:	Shyanne Palmus, Communications Coordinator
Reviewed By:	Matt Rasmussen, Deputy County Administrator

PA Review, Approval to Form: ☐ Yes ☐ No ☒ N/A *(If no, include reasoning for no approval)*

Type of Agenda Item:	**Type of Action Needed:** *(Multiple boxes can be checked, if necessary)*	
☐ Consent Agenda	☐ Discussion Only	☒ Pass Motion
☐ Public Hearing	☒ Decision / Direction	☐ Pass Resolution
☒ Scheduled Business	☐ Sign Letter / Document	☐ Pass Ordinance
		☐ Execute Contract

Summary / Background Information

On March 10, 2020 staff presented to the Board of Commissioners regarding opening a Request for Proposals (RFP) for soliciting proposals for 2021-2022 Public Safety Sales Tax funding. This RFP was open from April 1, 2020 through May 15, 2020 to both internal County departments as well as non-profit community applicants.

All RFP submissions were presented to the Board of Commissioners by their respective County department or community agency on either June 2, 2020 (external requests) or on June 4, 2020 (internal departments).

A review committee consisting of one Commissioner, County Administrators, and County finance and communications staff reviewed the submitted proposals after a legal review was completed to determine the legal applicability of the request to the Public Safety Sales Tax ballot title (Proposition 14-5).

After a thorough review, the attached funding recommendations were finalized by the review committee for Commissioner consideration and possible decision.

Once a final funding determination is made by the Board of Commissioners, staff will prepare contracts with the approved external agencies. All approved internal requests will be included in the upcoming budget process.

Fiscal Impact

Potential fiscal impact of $3,642,102.00 to the 2021-2022 Public Safety Sales Tax fund (0148101).

Recommendation

Approve the review committee funding recommendations for the 2021-2022 Public Safety Sales Tax.

Suggested Motion

I move to approve the 2021-2022 Public Safety Sales Tax funding recommendations as presented, and direct staff to proceed with the necessary contracting or budget processes, for final approval at a later date.

2021-2022 PUBLIC SAFETY SALES TAX - RECOMMENDED FUNDING

REVIEW COMMITTEE RECOMMENDED FUNDING - PRESENTED TO BOARD OF COMMISSIONERS JULY 14, 2020

**ONE-TIME REQUEST*

INTERNAL DEPARTMENT REQUESTS VS. FUNDING RECOMMENDATION

Department	Description	Request	Recommendation
Clerk	Additional Staff	$ 129,487.00	$ 129,487.00
Corrections	Jail Mental Health Services Expansion	244,293.50	-
Corrections	Substance Use Services Expansion	151,016.00	-
Human Services	Case Manager Position	188,562.00	-
District Court	Mental Health Court Expansion	47,001.00	43,129.00
District Court	Veterans Court Expansion	137,809.00	52,880.00
Office of Public Defense	Public Defense Services	502,000.00	502,000.00
Prosecuting Attorney	Additional Staff	401,057.00	-
Superior Court	Adult Drug Court	212,041.00	-
Superior Court	Bailiff Positions	266,425.00	133,213.00
Sheriff	Administrative Clerk Position	152,710.00	-
Sheriff	Paralegal Public Records Clerk	157,980.00	-
Sheriff	AFIS Mobile ID Program*	30,000.00	30,000.00
Sheriff	Interview Room Recording System JAVS iRecord*	23,000.00	23,000.00
Sheriff	Investigations Forensic Software Programs*	69,000.00	69,000.00
Sheriff	New Crime Scene Evidence Vehicle*	405,000.00	-
Sheriff	Portable Radar Speed Trailer Replacement*	12,000.00	12,000.00
Sheriff	Thermal Imagers for Fleeing Subjects and Rescue Operations*	55,000.00	55,000.00
Sheriff	Waterways Safety*	150,500.00	110,500.00
	TOTAL INTERNAL REQUESTS VS. RECOMMENDATION	**$ 3,334,881.50**	**$ 1,160,209.00**

EXTERNAL GANG & CRIME PREVENTION INITIATIVE REQUESTS VS. FUNDING RECOMMENDATION

Organization Name	Program Name	Request	Recommendation
Benton-Franklin Health District	Nurse Family Partnership	$ 674,289.00	$ 550,000.00
Boys & Girls Club	Kennewick Clubhouse	500,000.00	500,000.00
Boys & Girls Club	Prosser Clubhouse	200,000.00	200,000.00
Chaplaincy Health Care	Step Up Program	79,340.00	79,340.00
Communities in Schools of Benton-Franklin	In Schools & Beyond with Communities in Schools	626,947.44	236,157.00
Kiona-Benton City School District	Kiona-Benton Crime Prevention Program	76,000.00	76,000.00
Partners for Early Learning	Building Resilience Through Family Support	292,544.00	292,544.00
Safe Harbor Support Center	My Friends Place	400,000.00	400,000.00
Support, Advocacy, & Resource Center (SARC)	Human Trafficking Intervention & Prevention	294,012.00	147,852.00
	TOTAL EXTERNAL REQUESTS VS. RECOMMENDATION	**$ 3,143,132.44**	**$ 2,481,893.00**

TOTAL	**$ 6,478,013.94**	**$ 3,642,102.00**

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	July 14, 2020
Subject:	Approve MOU and Interlocal Joint Purchasing Agreement with Benton County Fire District #2 for the purchase of a Shallow Water Rescue Boat
Presenter:	Jon Law, Commander & Ron Duncan, Fire Chief BCFPD #2
Prepared By:	Katie Gillies, CFO
Reviewed By:	Ryan Lukson

Type of Agenda Item:	**Type of Action Needed:**	
☐ Consent Agenda	☒ Discussion Only (1st)	☐ Pass Motion
☐ Public Hearing	☐ Discussion Only (2nd)	☒ Pass Resolution
☒ Scheduled Business	☐ Decision/Direction	☐ Pass Ordinance

Summary / Background Information

Pursuant to the Interlocal Cooperation Act - RCW 39.34, Benton County Fire District #2 and Benton County wishes to enter into an Interlocal Joint Purchasing Agreement and MOU for the purposes of purchasing and operating a shallow water rescue boat for emergency response on the Yakima and Columbia Rivers. Currently BCSO does not have this capability and depends solely on Columbia Basin Dive Rescue for shallow water emergency response.

Benton County Fire District #2 and Benton County wish to jointly purchase a RockProof boat, River Rocket Rescue boat, Model 1872 and trailer that will be used by both parties for rescue missions along the Columbia and Yakima rivers in accordance with the attached MOU.

Benton County Sheriff's Office has requested and received approval from the Washington State Parks & Recreation Commission to utilize a portion of the Vessel Registration Fee funds for the purpose of funding one half of the purchase price of the vessel. The boat will be purchased by both parties, with BCFD #2 one half of the purchase price and Benton County funding the other half of the purchase price. This vessel will be titled to BCFPD #2 subject to the termination provisions in the attached Memorandum of Understanding.

Fiscal Impact

Amount: $35,000, plus any applicable W.S.S.T

Fund: 0127101 – Boating Safety & Patrol Fund

Recommendation

Approve the attached Resolution, MOU & Interlocal Joint Purchase Agreement between Benton County and Benton County Fire District #2 for the joint purchase of a RockProof shallow water rescue boat not to exceed $35,000 plus any applicable W.S.S.T

Suggested Motion

Approve the Chairman to sign the Interlocal Joint Purchasing Agreement, MOU and Resolution between Benton Fire Protection District #2 and Benton County Sheriff's Office for the purchase of a RockProof Boat.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF AN INTERLOCAL JOINT PURCHASING AGREEMENT AND MEMORANDUM OF UNDERSTANDING BETWEEN BENTON FIRE DISTRICT No. 2 AND BENTON COUNTY FOR A SHALLOW WATER RESCUE BOAT

WHEREAS, pursuant to the Interlocal Cooperation Act - RCW 39.34, Benton Fire Protection District No. 2 and Benton County wishes to enter into an Interlocal Joint Purchasing Agreement for a shallow water rescue boat for emergency response in shallow waters in the Yakima and Columbia Rivers. Currently the Benton County Sheriff's Office does not have this capability and depends solely on Columbia Basin Dive Rescue for shallow water response; and

WHEREAS, Chapter 39.34 of the Revised Code of Washington provides for intergovernmental disposition of property and the parties desire to utilize each other's procurement agreements when it is in their mutual interest; and

WHEREAS, Benton Fire Protection District No. 2 and Benton County wish to jointly purchase a Rockproof boat, River Rocket Rescue boat, Model 1872 and trailer that will be used by both parties for rescue missions along the Columbia and Yakima rivers; and

WHEREAS, Benton County Sheriff's Office has requested and received approval from the Washington State Parks & Recreation Commission to utilize a portion of the Vessel Registration Fee funds for the Benton County portion of this purchase. The boat will be purchased by both parties and the title held by Benton County Fire Protection District No. 2 subject to the termination provisions in the attached Memorandum of Understanding;

WHEREAS, the BCSO is seeking authorization to move forward with the procurement process to jointly purchase the Rockproof shallow water rescue boat in collaboration with Benton City Fire Protection District #2 with BCSO's portion not to exceed $35,000 plus any applicable W.S.S.T utilizing the Boating Safety & Patrol Fund; **NOW, THEREFORE**

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington, hereby concurs with the attached Interlocal Joint Purchasing Agreement and Memorandum of Understanding between Benton Fire Protection District No. 2 and Benton County for the purchase of a Rockproof shallow water rescue boat for a one-time amount not to exceed of $35,000 plus any applicable WSST; and

BE IT FURTHER RESOLVED, the Board authorizes the Chairman to sign the attached Interlocal Joint Purchasing Agreement and Memorandum of Understanding between Benton County and Benton Fire Protection District No. 2; and

BE IT FURTHER RESOLVED the term of the attached Agreement and Memorandum of Understanding shall remain in force until cancelled by either party in writing.

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

Prepared by: K. Gillies

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

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

Prepared by: K. Gillies

MEMORANDUM OF UNDERSTANDING
BETWEEN
BENTON COUNTY FIRE PROTECTION DISTRICT NO. 2
AND BENTON COUNTY SHERIFF'S OFFICE

This Memorandum of Understanding ("MOU") is between the **BENTON COUNTY FIRE PROTECTION DISTRICT NO. 2 ("BCFPD#2")**, and **BENTON COUNTY SHERIFF'S OFFICE ("BCSO"),** hereinafter these individual entities will be referred to collectively as "Participants".

WHEREAS, The Participants wish to purchase a Rockproof Boats, River Rocket Rescue boat, Model 1872 and trailer that will be used by both parties for rescue missions (the "Boat"), the Boat has been purchased by both parties and is owned by BCFPD#2 subject to the below termination provisions;

WHEREAS, the Boat is essential to both Participants for rescue missions on the Columbia and Yakima rivers;

NOW, THEREFORE, the Participants acknowledge as follows:

I. PURPOSE

This MOU identifies the roles and responsibilities of each Participant in the use and maintenance of the Boat.

II. RESPONSIBILITIES OF PARTICIPANTS

1. BCFPD#2 will hold title to the Boat and will provide comprehensive insurance for the Boat that names them as an insured.
2. BCSO will also have insurance on the Boat that covers them as an operator of the Boat.
3. The Boat will be housed at BCFPD#2 at Station 210.

III. DURATION AND TERMINATION

This MOU shall be perpetual. Either Participant may terminate this MOU by providing written notice to the other to the addresses below. It will be effective ten days after receiving such notice as set forth in Section F. below. The Participants anticipate the Boat to be purchased in early calendar year 2021. As such, the parties agree to the following compensation arrangement upon termination by either party which shall result in sole possession and ownership of the Boat by BCSO:

2020 calendar year: No payment to either party (prior to purchase of boat)
2021 calendar year: Thirty thousand-dollar ($30,000) payment from BCSO to BCFPD#2.
2022 calendar year: Twenty-seven thousand-dollar ($27,000) payment from BCSO to BCFPD#2.
2023 calendar year: Twenty-four thousand-dollar ($24,000) payment from BCSO to BCFPD#2.
2024 calendar year: Twenty-one thousand-dollar ($21,000) payment from BCSO to BCFPD#2.
2025 calendar year: Eighteen thousand-dollar ($18,000) payment from BCSO to BCFPD#2.
2026 calendar year: Fifteen thousand-dollar ($15,000) payment from BCSO to BCFPD#2.
2027 calendar year: Twelve thousand-dollar ($12,000) payment from BCSO to BCFPD#2.
2028 calendar year: Nine thousand-dollar ($9,000) payment from BCSO to BCFPD#2.
2029 calendar year: Six thousand-dollar ($6,000) payment from BCSO to BCFPD#2.
2030 calendar year: Three thousand-dollar ($3,000) payment from BCSO to BCFPD#2.
2031 calendar year and all subsequent calendar years in perpetuity: Zero-dollar ($0) payment from BCSO to BCFPD#2.

IV. GENERAL PROVISIONS

A. Governing Law. Interpretation of this MOU and any disputes regarding it shall be determined under the laws of Washington. In the event of litigation, the prevailing party will be entitled to their attorney's fees and costs.

B. Venue. All parties agree to venue within the judicial district of Benton County in the State of Washington.

C. Validity. If any portion of this MOU is held to be invalid, its invalidity will not affect the validity or enforceability of any other provision.

D. Costs/Finance. Each Participant will pay one half of the cost to purchase the Boat. Each Participant will be individually responsible for any costs associated with damage or theft that occurs when the Boat is in their possession. BCFPD#2 shall be responsible for inventory and routine operational checks. Both Participants will be equally responsible for routine maintenance and repair of the Boat that occurs at regularly scheduled intervals. Any maintenance or repairs beyond those considered routine (not conducted at regularly scheduled intervals) shall only be performed after written mutual agreement of the parties. The cost of said maintenance and repairs shall be born equally by both Participants.

E. Property. There is no real property involved. This is personal property acquired by BCFPD#2 and BCSO.

F. Notices. All notices, requests, demands, or other communications which are required or may be given pursuant to the terms of this MOU shall be in writing and shall be deemed to have been duly received (i) on the date of delivery if personally delivered by hand, (ii) upon the third day after such notice is deposited in the United States mail, if mailed by registered or certified mail, postage prepaid, return receipt requested, (iii) on the date of delivery if sent by a nationally recognized overnight express courier, or (iv) by facsimile upon written confirmation (other than the automatic confirmation that is received from the recipient's facsimile machine) of receipt by the recipient of such notice:

If to the BCFPD#2: Benton County Fire Protection District No. 2
Ron Duncan, Chief
1304 Dale Ave. P.O. Box 719
Benton City, WA 99320

If to the BCSO: Benton County Sheriff's Office
Benton County Justice Center
Jerry Hatcher, Sheriff
7122 W. Okanogan Place Bldg. A
Kennewick, WA 99336

G. Entire Agreement. This MOU embodies the entire understanding between the Participants with respect to their collaborative efforts, and supersedes any prior or contemporaneous representations, either oral or written. No amendments or changes to this MOU shall be effective unless made in writing and signed by authorized representatives of the Participants.

H. No Agent Authority. None of the Participants to this MOU is authorized or empowered to act as agent for the others for any purpose and shall not on behalf of the others enter into any contract, warranty, or representation as to any matter. None of the participants to this MOU shall be bound by the acts or conduct of the others.

I. Boat Operation. The parties agree that operation of the Boat shall be in accordance with the mutual agreed upon Swift Water and Flood Rescue Operations Joint Standard Operating Guidelines attached as Exhibit A.

J. Joint Board/Administrator. There is no joint board or administrator.

IN WITNESS WHEREOF, the Participants have executed this MOU in duplicate by proper persons duly authorized. This MOU is effective as of the date of the final signature executed.

BENTON COUNTY FIRE PROTECTION DISTRICT NO. 2

By: _____
Ron Duncan, Fire Chief

Date: 7/1/20

BENTON COUNTY SHERIFF'S OFFICE

By: _____
Jerry Hatcher, Benton County Sheriff

Date: _____

BENTON COUNTY COMMISSIONERS OFFICE

By: _____
Chairman of the Board of Benton County Commissioners

Date: _____

Approved as to form:

By: _____
Ryan Lukson

INTERLOCAL JOINT PURCHASING AGREEMENT

THIS AGREEMENT is between Benton County, a political subdivision of the State of Washington, and Benton Fire District #2, a political subdivision of the State of Washington.

WITNESSETH:

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

WHEREAS, Chapter 39.34 of the Revised Code of Washington provides for intergovernmental disposition of property; and

WHEREAS, the parties desire to utilize each other's procurement agreements when it is in their mutual interest; --

NOW, THEREFORE, the parties agree as follows:

1. PURPOSE: The purpose of this agreement is to acknowledge the parties' mutual interest to jointly bid the acquisition of goods and services where such mutual effort can be planned in advance and to authorize the acquisition of goods and services and the purchase or acquisition of goods and services under contracts where a price is extended by either party's bidder to other governmental agencies.

2. ADMINISTRATION: No new or separate legal or administrative entity is created to administer the provisions of this agreement. Nor is any joint board or joint cooperative created to administer the provisions of this agreement.

3. SCOPE: This agreement shall allow the following general and specific activities:

   A. Purchase or acquisition of goods and services by each party acting as agent for either or both parties when agreed to in advance, in writing;
   B. Purchase or acquisition of goods and services by each party where provision has been provided in contracts for other governmental agencies to avail themselves of goods and services offered under the contract and/or where either party's bidder is willing to extend prices to other governmental agencies.

   C. Purchase of a Rockproof, River Rocket Rescue boat, Mode 1872

4. DURATION AGREEMENT – TERMINATION: This agreement shall remain in force until cancelled by either party in writing. In the event the agreement is

terminated, or for any property which is jointly purchased which has lived its useful life, said property shall be disposed of as surplus property with the proceeds divided equally amongst the parties, or as set forth in a separate written agreement executed by both parties.

5. RIGHT TO CONTRACT INDEPENDENT ACTION PRESERVED: Each party reserves the right to contract independently for the acquisition of goods or services without notice to the other party and shall not bind or otherwise obligate the other party to participate in the activity.

6. ACQUIRING, HOLDING, DISPOSING OF PROPERTY: All property jointly purchased shall be held securely at the Benton County Fire District 2 facility in Benton City, Washington.

7. COMPLIANCE WITH LEGAL REQUIREMENT: Each party accepts responsibility for compliance with federal, state or local laws and regulations including, in particular, bidding requirements applicable to its acquisition of goods and services.

8. FINANCING: The method of financing of payment shall be through budgeted funds or other available funds of the party for whose use the property is actually acquired or disposed. Each party accepts no responsibility for the payment of the acquisition price of any goods or services intended for use by the other party.

9. FILING: Executed copies of this agreement shall be filed, or listed on the public agency's website, as required by Section 39.34.040 of the Revised Code of Washington prior to this agreement becoming effective.

10. INTERLOCAL COOPERATION DISCLOSURE: Each party may insert in its solicitations for goods a provision disclosing that other authorized governmental agencies may also wish to procure the goods being offered to the party and allowing the bidder the option of extending its bid to other agencies at the same bid price, terms and conditions.

11. NON-DELEGATION/NON-ASSIGNMENT: Neither party may delegate the performance of any contractual obligation, to a third party, unless mutually agreed in writing. Neither party may assign this agreement without the written consent of the other party.

12. HOLD-HARMLESS: Each party shall be liable and responsible for the consequence of any negligent or wrongful act of failure to act on the part of itself and its employees. Neither party assumes responsibility to the other party for the consequences of any act or omission of any person, firm or corporation not a party to this agreement.

13. SEVERABILITY: Any provision of this agreement, which is prohibited or unenforceable, shall be ineffective to the extent of such prohibition or

unenforceability, without invalidating the remaining provision or affecting the validity or enforcement of such provisions.

BENTON COUNTY FIRE PROTECTION DISTRICT NO. 2

By: _____

Ron Duncan, Fire Chief

Date: 7-1-20

By: _____

Barry Orth, Chairman of the Board of Fire Commissioners

Date: 07/06/2020

BENTON COUNTY SHERIFF'S OFFICE

By: _____

Jerry Hatcher, Benton County Sheriff

Date: _____

BENTON COUNTY COMMISSIONERS OFFICE

By: _____

Chairman of the Board of Benton County Commissioners

Date: _____

Approved as to form:

By: _____

Ryan Lukson

Don Hoch
Director

STATE OF WASHINGTON

WASHINGTON STATE PARKS AND RECREATION COMMISSION

1111 Israel Road S.W. • P.O. Box 42650 • Olympia, WA 98504-2650 • (360) 902-8500
TDD (Telecommunications Device for the Deaf): (360) 664-3133
www.parks.wa.gov

June 4nd 2020,

Jon Law & Katie Gillies
Chief Financial Officer
Benton County Sheriff's Office
7122 W. Okanogan Place, Bldg. A
Kennewick, Washington 99336
509-735-6555

Dear Mr. Law and Ms. Gillies,

Thank for your email requesting to utilize Vessel Registration Fee funds on a Rock Proof Boat. Based on your description of the project, the request is applicable for the use of VRF funds.

After reviewing your request, it is determined that your department meets the requirements herein:

1) Recreational Boating Safety Program guidelines as set for by RCW 88.02.650 and WAC 352-65-040.
2) The request meets the standards set by the Washington State Parks and Recreation Commission Allowable Costs and Expenditures For State Vessel Registration Fees and Federal Assistance Grants (2018, p.3).

The next step is to notify our Budget Fiscal Analyst of your expense to get an update on funds in your Vessel Registration Fee allotment.

Rob Sendak
Manager, Boating Law Administrator, MPA
Washington State Boating Program
Washington State Parks & Recreation Commission
1111 Israel Road SW, Olympia, WA 98504
Rob.sendak@parks.wa.gov
Cell: 360-628-1876
Desk: 360-902-8836