

Jerome Delvin  
District 1  
Shon Small  
District 2  
Will McKay  
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, April 20, 2021

9:00 AM Call to Order

Pledge of Allegiance

Approval of Minutes

❖ April 13, 2021

Review Agenda

Consent Agenda

#### Assessor

a. Line item Transfer, Fund No. 0000-101, Dept. 101

#### Capital Projects

b. Line Item Transfer, Fund No. 0305-101, Dept. 000

#### Commissioners

c. Engagement Letter w/Foster Garvey, PC for Bond Counsel Services - Issuance of Limited Tax General Obligation Refunding Bonds, 2021

d. 1<sup>st</sup> Amendment to Personal Service Agreement with Visit Tri-Cities

#### Human Resources

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

**Office of Public Defense**

- f. Line Item Transfer, Fund No. 0000-101, Dept. 136

**Purchasing**

- g. Contract w/Yakima Mechanical to Convert Equipment @ Kennewick Road Maintenance Facility From Propane to Natural Gas  
h. Contract w/Wave Design Group for On-Call Architectural & Engineering Services

**Sheriff**

- i. Moorage Agreement w/Richland Yacht Club for a Boat Slip at Columbia Point

**Public Comment** ~ for public engagement during Commissioners' meetings, please use the public comments phone line @: **Dial: 509 460-4941**

**Public Hearing**

**Columbia** Irrigation District Franchise Application ~ C. Woods

**Scheduled Business**

**Nonpartisan** Recruitment and Selection Process – L. Wingfield

**Prosser** Economic Development Association Update ~ Neal Ripplinger

**Position** Request ~ K. Sullivan

- Establishing Human Services Temporary Housing Program Navigator – Line Item Transfer

**Finance** Presentation ~ L. Ivey

- Current Expense
- Public Safety Tax

**Other Business**

**Draft**

**MINUTES**

**BOARD OF BENTON COUNTY COMMISSIONERS**

Regular Board Meeting  
Tuesday, April 13, 2021, 9:00 a.m.

*Meeting provided by Video Live-Broadcast and Telephonically*

**Present:** Chairman Jerome Delvin  
Commissioner Shon Small (via/WebEx)  
Commissioner Will McKay (via/WebEx)  
County Administrator Jerrod MacPherson  
Clerk of the Board Cami McKenzie

**Benton County Employees Present During All or a Portion of the Meeting:** Deputy County Administrator Matt Rasmussen (via/WebEx); Robert Heard, IT Manager; Adam Fyall, Sustainable Development Manager; Finance Manager Linda Ivey; Commander Jon Law; Deputy Brian Tunesvik.

**Pledge of Allegiance**

The Board recited the Pledge of Allegiance.

**Approval of Minutes**

The Minutes of April 6, 2021 were approved.

**Review Agenda**

**Consent Agenda**

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

**Board of Equalization**

- a. Reappointment of George Romano

**Commissioners**

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

**Facilities**

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

**Information Technology**

- d. Purchase of One Scanner from Strictly Technology for Facilities Department
- e. Purchase of One PC & Two Monitors from Dell for Human Services Department
- f. Purchase of Electronic Data Processing & Telecommunications Equipment From CompuNet for Administration Building

### **Public Works**

- g. City of West Richland Franchise to Place a Water & Sewer System Lines & Facilities in County Road Rights of Way

### **Purchasing**

- h. Ratifying Contract w/Top Tree Service for Emergency Removal of Three Trees at Two Rivers Park
- i. Contract w/Dynamic Laundry Systems for Quarterly Inspections and Repair & Maintenance Services for Corrections Dept.
- j. Agreement w/San Diego Police Equipment Co. for Ammunition; Amending Resolution 2020-151
- k. Authorization to Advertise & Bid for Magnesium Chloride for Public Works Department
- l. Authorization to Advertise & Bid the Furnishings Package for the Administration Building
- m. Contract w/Stantec Consulting for Architectural & Engineering Services for Design of Radio System at the Justice Center

### **Public Comment**

None.

### **Public Hearing - Budget Supplemental Requests**

Linda Ivey presented the following budget supplemental requests and stated they were approved to go to public hearing, advertised on the county website, and advertised with the Prosser Record Bulletin two times, as required.

- Human Services Fund No. 0108-101, Dept. 551, in the amount of \$20,946,582 to fund four grants for programs due to the public health emergency with respect to the Coronavirus Disease 2019.
- Current Expense Fund No. 0000-101, Dept. 139, CARES/ARP, in the amount of \$20,000,000 to fund the American Rescue Plan Act (ARP) due to the public health emergency with respect to the Coronavirus Disease 2019.
- REET Technology Fund No. 0129-101, Dept. 000, in the amount of \$300,000, to fund software enhancements for the Assessor's and Treasurer's Offices in conjunction with assessments, tax information and collections.
- Protective Inspection Services, Fund No. 0149-101, Dept. 000, in the amount of \$213,418, to fund a Building Inspector I position as well as a new vehicle and training for inspectors.
- Current Expense Fund No. 0000-101, Dept. 111, District Court, in the amount of \$49,203 to fund security and bailiff services through the WA Administrative Office of the Courts CARES Act Award.
- Current Expense Fund No 0000-115, Dept. 115, Non- Departmental, in the amount of \$6,215,000 to fund ongoing and upcoming County projects.

As there was no one present in person or telephonically to testify, public testimony was closed.

**MOTION:** Commissioner Small moved to approve the request for a budget adjustment for the Human Services Fund, fund number 0108101, in the amount of \$20,946,582. Commissioner McKay seconded and upon vote, the motion carried.

**MOTION:** Commissioner Small moved to approve the request for a budget adjustment for Current Expense, fund number 0000101, CARES/ ARP, Department 139, in the amount of \$20,000,000. Commissioner McKay seconded and upon vote, the motion carried.

**MOTION:** Commissioner Small moved to approve the request for a budget adjustment for the REET Technology Fund, fund number 0129101, in the amount of \$300,000. Commissioner McKay seconded and upon vote, the motion carried.

**MOTION:** Commissioner Small moved to approve the request for a budget adjustment for the Protective Inspection Fund, fund number 0149101, in the amount of \$213,418. Commissioner McKay seconded and upon vote, the motion carried.

**MOTION:** Commissioner Small moved to approve the request for a budget adjustment for Current Expense, fund number 0000101, District Court, Department 111, in the amount of \$49,203. Commissioner McKay seconded and upon vote, the motion carried.

**MOTION:** Commissioner Small moved to approve the request for a budget adjustment for Current Expense, fund number 0000101, Non-Departmental, Department 115, in the amount of \$6,215,000. Commissioner McKay seconded and upon vote, the motion carried.

### **Purchase of One Trailer Mounted Radar**

Commander Law and Deputy Tunesvik presented a request to purchase a trailer mounted radar from National Barricade. The Sheriff's office said they believed the features and quality of the equipment quoted was in the best interest of the county based on the fact the trailer has a slim design for deployment on narrow county road shoulders and the trailer has a bright, vivid and large display for speed readouts and is easy to manage and change. Additionally, the Hanford sites currently utilize this same model and highly recommend it and it comes with a 5-year warranty, which is 2 years longer than any of the other proposal. The company is located in Spokane Valley, WA, which is close for any maintenance or warranty work.

**MOTION:** Commissioner Small moved to approve the purchase of one Wanco Portable Trailer Mounted Compact Radar from National Barricade & Sign Co., Spokane Valley, WA for reasons mentioned above for an amount not to exceed \$10,450.00, plus WSST. Commissioner McKay seconded.

### **Discussion**

The Board expressed its support of the men and women in the Sheriff's office and thanked them for the additional information explaining the desire to purchase from this vendor. Upon vote, the motion carried.

## **Contract - Gordon Thomas Honeywell Governmental Affairs for Federal Lobbying Services**

Adam Fyall presented a contract with Gordon Thomas Honeywell Governmental Affairs for federal lobbying services. He said Benton County has had an annual contract for lobbying services in Olympia at the state level (Washington State Legislature and state agencies) for several years.

Gordon Thomas Honeywell also has a separate federal division that operates in Washington DC doing similar work but on the congressional and federal agency level. With the return of “earmarks” to federal budgeting and a renewed commitment to infrastructure, social programs/facilities, it might be useful to Benton County to have help in DC to assist with funding support for big ticket items such as the Three Rivers Behavior Health Recovery Center and the Benton-Franklin Juvenile Justice At-Risk Youth Services Center.

Mr. Fyall said the contract would be twice the amount of the local contract at \$6,000.00 per month, with a term to the end of year. Additionally, the PA’s office declined to approve the form due to reservations about non-charter counties like Benton County being able to engage in federal level lobbying. However, he noted there were other counties in Washington that currently contract with them on the federal level, including King and Pierce and Skagit and Yakima (both non-charter counties).

The Board agreed it was worth spending the money and would be beneficial to have an extra set of eyes with things moving so quickly. Also, the contract could be evaluated monthly, if needed.

**MOTION:** Commissioner Small moved to approve the Consulting Agreement between Benton County and Gordon Thomas Honeywell Governmental Affairs, as presented. Commissioner McKay seconded and upon vote, the motion carried.

## **Other Business**

### **Certificates of Service – Benton County Employees**

Chairman Delvin recognized the following long-term employees:

Norma Sanchez – District Court – 15 Years

Wilma Barton – Auditor’s Office – 30 Years

Dave Wheeler – Juvenile Administration – 30 Years

### **Covid-19 Update - Phases**

Commissioner Small congratulated Benton County for a successful Phase 3 and looked forward to going to Phase 4 and what those guidelines were going to be. Additionally, the Board commented on the success of the mass vaccination site in Benton County.

## **Payroll**

Check Date: 04/05/2021

### Payroll Checks

Total all funds: \$2,398,282.03

Warrant #: 243087-243132

Direct Deposit #: 160989-161579

### Payroll Deductions/Transfers

Total all funds; \$2,440,331.04

Taxes #: 101210401-101210411

ACH #: 1718-1724

### Payroll Deductions/Warrants

Total all funds: \$128,117.96

Warrant #: 216320-216328

## **Resolutions**

- 2021-304: Reappointment of George Romano
- 2021-305: Line Item Transfer, Fund No. 0000-101, Dept. 107
- 2021-306: Line Item Transfer, Fund No. 0000-101, Dept. 110
- 2021-307: Purchase of One Scanner from Strictly Technology for Facilities Department
- 2021-308: Purchase of One PC & Two Monitors from Dell for Human Services Department
- 2021-309: Purchase of Electronic Data Processing & Telecommunications Equipment From CompuNet for Administration Building
- 2021-310: Approval of City of West Richland Franchise
- 2021-311: Ratifying Contract w/Top Tree Service for Emergency Removal of Three Trees at Two Rivers Park
- 2021-312: Contract w/Dynamic Laundry Systems for Quarterly Inspections and Repair & Maintenance Services for Corrections Dept.
- 2021-313: Agreement w/San Diego Police Equipment Co. for Ammunition; Amending Resolution 2020-151
- 2021-314: Authorization to Advertise & Bid for Magnesium Chloride for Public Works Department
- 2021-315: Authorization to Advertise & Bid the Furnishings Package for the Administration Building
- 2021-316: Contract w/Stantec Consulting for Architectural & Engineering Services for Design of Radio System at the Justice Center
- 2021-317: Budget Adjustment to 2021-2022 Human Services Fund No. 0108-101 Budget - \$20,946,582
- 2021-318: Budget Adjustment to 2021-2022 Current Expense Fund No. 0000-101 Department 139 Budget - \$20,000,000
- 2021-319: Budget Adjustment to 2021-2022 REET Technology Fund No. 0129-101 Budget - \$300,000

- 2021-320: Budget Adjustment to 2021-2022 Protective Inspection Fund No. 0149-101 Budget - \$213,418
- 2021-321: Budget Adjustment to 2021-2022 Current Expense Fund No. 0000-101 Department 111 Budget - \$49,203
- 2021-322: Budget Adjustment to 2021-2022 Current Expense Fund No. 0000-101 Department 115 Budget - \$6,215,000
- 2021-323: Purchase of One Wanco Portable Trailer Mounted Compact Radar from National Barricade & Sign Co. for the Benton County Sheriff's Office
- 2021-324: Consulting Agreement Between Benton County and Gordon Thomas Honeywell Governmental Affairs for Federal Governmental Affairs Consultant Services

There being no further business before the Board, the meeting adjourned at approximately 9:30 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 CURRENT EXPENSE FUND NUMBER 0000101, DEPARTMENT  
101

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

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

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

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

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

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

cc: B. Spencer; Auditor; Danielle Hayes

D.HAYES

**BENTON COUNTY LINE ITEM TRANSFER**

Dept Name:

Dept Nbr:

Fund Name:

Fund Nbr:

TRANSFER FROM: Dept.

TRANSFER TO: Dept.

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT	BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
514.240	3101	Supplies	\$7,850	514.240	3503	Computer Software	\$7,850
TOTAL			\$7,850	TOTAL			\$7,850

Explanation:

We will be utilizing ESRI ArcGIS for drawing legal descriptions. We will also be purchasing Adobe Pro for the clerical staff to stream line and automate many processes.

Prepared by:

Date:

Approved

Denied

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

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

# RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY FUNDS RE: TRANSFER OF FUNDS WITHIN CAPITAL PROJECTS FUND NUMBER 0305101, 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 \_\_\_\_\_, 20\_\_\_\_\_

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

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

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

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

## BENTON COUNTY LINE ITEM TRANSFER

EXHIBIT "A"

Dept Name:

Dept Nbr:

Fund Name:

Fund Nbr:

TRANSFER FROM:

TRANSFER TO:

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT	BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
594.200	4103	Professional Services	\$3,500	518.200	3508	Computer Replacement	\$3,500
<b>TOTAL</b>			<b>\$3,500</b>	<b>TOTAL</b>			<b>\$3,500</b>

Explanation:

Reallocation of funding to line item where funds are expected to be utilized.

Prepared by:

Date:

Approved

Denied

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

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

# COMMISSIONERS' AGENDA ACTION SHEET

<b>Meeting Date:</b>	April 20, 2021	
<b>Subject:</b>	Engagement letter with Foster Garvey, P.C. to serve as Bond Counsel	
<b>Presenter:</b>		
<b>Prepared By:</b>	Reid Hay	
<b>Reviewed By:</b>	Reid Hay, Jerrod MacPherson	
<b>PA Review, Approval to Form:</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A            (If no, include reasoning for no approval)	
<b>Type of Agenda Item:</b>	<b>Type of Action Needed:</b> <i>(Multiple boxes can be checked, if necessary)</i>	
<input checked="" type="checkbox"/> Consent Agenda <input type="checkbox"/> Public Hearing <input type="checkbox"/> Scheduled Business	<input type="checkbox"/> Discussion Only <input type="checkbox"/> Decision / Direction <input type="checkbox"/> Sign Letter / Document <input type="checkbox"/> Pass Motion <input type="checkbox"/> Pass Resolution <input type="checkbox"/> Pass Ordinance <input checked="" type="checkbox"/> Execute Contract	

## Summary / Background Information

Foster Garvey P.C. is the successor firm to Foster Pepper, PLLC which has for years served as Bond Counsel for Benton County. Benton County is seeking to issue Bonds in the principal amount of approximately \$3,700,000 to refund on a current basis all the outstanding principal of the County's Limited Tax General Obligation Bond Refunding Bond from 2018. To do so, it is necessary for the County to retain Bond Counsel to guide it through the process.

Foster Garvey P.C. has provided an Engagement Letter setting forth the services and fees, as well as other matters related to their representation of the County. The Prosecutor's Office has reviewed the letter. The anticipated fee is \$22,500, although that figure may raise in a fashion set out in the letter if additional services are required based on circumstances. The retention of outside legal services requires the consent of the County Prosecutor, and the Benton County Prosecutor has agreed to also sign the Engagement Letter, and to appoint the two attorneys identified in the letter as Special Deputy Prosecuting Attorneys for the County.

## Fiscal Impact

The anticipated fee will be \$22,500, with the final total subject to adjustment based on circumstances and services as set out in the Engagement Letter.

## Recommendation

It is recommended that the Commissioners sign the resolution authorizing the Chairman to sign the Engagement Letter with Foster Garvey, P.C.

## Suggested Motion

Approve as part of consent agenda

# RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

**IN THE MATTER OF AUTHORIZING THE CHAIRMAN OF THE BOARD OF BENTON COUNTY COMMISSIONERS TO SIGN THE ENGAGEMENT LETTER BETWEEN FOSTER GARVEY, P.C. AND BENTON COUNTY TO PROVIDE BOND COUNSEL SERVICES FOR THE ISSUANCE OF LIMITED TAX GENERAL OBLIGATION REFUNDING BONDS, 2021**

**WHEREAS**, Benton County seeks to issue Bonds in the principal amount of approximately \$3,700,000 to refund on a current basis all the outstanding principal of the County's outstanding Limited Tax General Obligation Bond Refunding Bond, 2018; and

**WHEREAS**, Benton County wishes to retain the services of Foster Garvey, P.C. to provide its legal services as Bond Counsel; and

**WHEREAS**, the Benton County Prosecutor consents to the retention of Foster Garvey, P.C. to provide those legal services;

**NOW THEREFORE BE IT RESOLVED** that the Chairman of the Board of Benton County Commissioners is hereby authorized to sign the Bond Counsel Engagement Letter with Foster Garvey, P.C.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

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

\_\_\_\_\_  
**Member**

\_\_\_\_\_  
**Member**

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

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



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Suite 3000  
Seattle, WA 98101

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foster.com

Direct Phone: 206.447.6264  
[lee.marchisio@foster.com](mailto:lee.marchisio@foster.com)

March 30, 2021

RECEIVED

APR 05 2021

BENTON COUNTY PROSECUTOR

Board of County Commissioners  
Benton County, Washington  
620 Market Street  
Prosser, WA 99350

**Re: Bond Counsel Engagement Letter for the Issuance of Limited Tax General  
Obligation Refunding Bonds, 2021**

Honorable Commissioners:

We greatly appreciate the opportunity to again serve as bond counsel to Benton County, Washington (the "County"). As set forth in previous engagement letters, the ethics rules governing lawyers require that we provide the County with a written agreement pertaining to our proposed bond counsel service to the County in connection with the issuance of the above-referenced bonds (the "Bonds") because our fee is contingent upon the issuance of the Bonds. Further, RCW 36.27.040 requires that the Prosecuting Attorney appoint us as special deputy prosecuting attorneys for the limited purpose of providing the legal services described below. Foster Garvey P.C. ("Foster Garvey") (formerly, Foster Pepper PLLC), was last appointed in 2018, but it is appropriate to renew our appointment at this time.

We understand that the County desires to issue the Bonds in the principal amount of approximately \$3,700,000 to refund on a current basis all of the outstanding principal of the County's outstanding Limited Tax General Obligation Refunding Bond, 2018. We further understand that the Bonds will be purchased by D.A. Davidson & Co. The purpose of this engagement letter is to set forth certain matters concerning the services Foster Garvey will perform as bond counsel to the County in connection with the issuance of the Bonds.

**SCOPE OF ENGAGEMENT & FEES**

The services that we will provide the County as bond counsel are described in Part A of the attached "Scope of Services." Based upon: (1) our current understanding of the terms, structure, size and schedule of the financing represented by the Bonds; (2) the duties we will undertake pursuant to this engagement letter; and (3) the responsibilities we will assume in connection therewith, we propose to charge according to the following fee schedule.

<u>Issue Size</u>	<u>Fee</u>
Under \$1MM	Negotiable
\$1MM – \$4.999MM	\$11,200 + \$2.50 per \$1,000 in excess of \$1,000,000
\$5MM – \$9.999MM	\$21,200 + \$1.85 per \$1,000 in excess of \$5,000,000

For refunding bond issues, we apply an adjustment factor of 1.25 from the fee resulting from the above schedule. If the County issues two or more series of Bonds at separate times, a fee would apply to each series. For example, if the County issues one series of limited tax general obligation refunding Bonds in the aggregate principal amount of \$3,720,000, our fee would be \$22,500. We would also request an additional \$15,000 if we are asked to prepare the official statement for the Bonds. Our fees described in the schedule above may increase if: (1) material changes in the structure, size or schedule of the financing occur; or (2) unusual or unforeseen circumstances arise that require a significant increase in our time or responsibility. If, at any time, we believe that circumstances require an adjustment of our original fee schedule, we will advise you. ***Payment of our fee is contingent on a successful closing of each series of the Bonds.*** If for any reason the financing represented by any series of the Bonds is completed without the delivery of our Bond Opinion as bond counsel, or our services are otherwise terminated, we will expect to be compensated at our normal hourly rates for time actually spent on your behalf; provided that, (1) we submit a billing statement to the County that describes the time, legal services and expenses incurred on your behalf, and (2) such compensation shall not exceed the amount of the fee that would have been paid had the Bonds closed with our Bond Opinion.

#### ATTORNEY-CLIENT RELATIONSHIP

Upon execution of this engagement letter, the County will be our client and an attorney-client relationship will exist between us. In this transaction we represent only the County, we are not counsel to any other party, and we are not acting as an intermediary among the parties. Our services as bond counsel regarding the Bonds are limited to those contracted for in this letter. The County's execution of this engagement letter will constitute an acknowledgment of those limitations. Our representation of the County regarding the Bonds will be concluded upon issuance of the Bonds. Nevertheless, subsequent to Closing, we will prepare and distribute to the participants in the transaction a transcript of the proceedings pertaining to the Bonds.

#### CONFLICTS

Foster Garvey represents many political subdivisions, companies and individuals. It is possible that during the time that we are representing the County, one or more of our present or future clients will have transactions with the County. It is also possible that we may be asked to represent, in an unrelated matter, one or more of those types of clients. For example, from time to time in transactions unrelated to the Bonds, our firm represents D.A. Davidson & Co. and the financial institutions that may be selected to purchase the Bonds. We do not foresee, however, that any such prior or future representation will adversely affect our ability to represent you as provided in this letter, either because such matters were or will be sufficiently different from the issuance of the Bonds so as to make such representations not adverse to our representation of you, or because the potential for such adversity is remote or minor and outweighed by the consideration that it is unlikely that advice given to the other client will be relevant to

any aspect of the issuance of the Bonds. Execution of this letter will signify the County's consent to our representation of others consistent with the circumstances described in this paragraph. To the extent we believe such future representation may adversely affect our representation of the County, we will disclose such representation to the County and, if required by ethical rules, seek the appropriate County consent. However, the County's consent to our representation of other clients as described in this paragraph does not extend to our firm's lawyers representing a client in any litigation or similar dispute adverse to the County before any court or similar forum. A separate waiver would need to be sought, based on the facts of the relevant dispute.

If the foregoing terms are acceptable to the County, please cause two copies of this letter to be executed by the appropriate County officials. One copy should be returned to me and the other should be retained in the County's files. We look forward to working with you again.

Sincerely,

FOSTER GARVEY P.C.



By

Lee Marchisio

Accepted and approved this \_\_\_\_ day of \_\_\_\_\_, 2021.

BENTON COUNTY, WASHINGTON

\_\_\_\_\_  
Jerome Delvin, Chairman  
Board of County Commissioners

The terms of engagement set forth herein are accepted and approved this \_\_\_\_ day of \_\_\_\_\_, 2021, and Lee Marchisio (WSBA No. 45351) and William G. Tonkin (WSBA No. 3025) are appointed as special deputy prosecuting attorneys for the County pursuant to RCW 36.27.040.

BENTON COUNTY, WASHINGTON



\_\_\_\_\_  
Andy Miller, Prosecuting Attorney

SCOPE OF BOND COUNSEL SERVICES  
FOSTER GARVEY PC

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The range of services provided by bond counsel can be narrow or broad, and frequently varies from financing to financing. In addition, the amount of work necessary to perform the same services can be quite different depending upon the nature and complexity of the financing. In the following, we use the term “bonds” to include any obligation of the issuing local government (the “Issuer”) for which we are asked to serve as bond counsel.

**A. BOND COUNSEL SERVICES**

The services Foster Garvey traditionally provides as bond counsel to the Issuer include:

- (1) Advising the Issuer and its consultants on the legal requirements applicable to, and when requested, participating with those consultants and the Issuer’s staff in planning, the financing or refinancing of a project, including advice on state law and federal income tax and securities laws;
- (2) Reviewing the transcripts relating to the prior issuance by the Issuer of related outstanding obligations, if any, to assure conformity of the bonds with applicable covenants and conditions;
- (3) Based on facts provided by the Issuer, performing the necessary legal analysis to determine, in financings in which the bonds are intended to be tax-exempt, whether interest on the bonds will qualify for an exclusion from gross income for federal income tax purposes, and preparing tax exemption and nonarbitrage certificates;
- (4) Drafting the ordinances/resolutions and other documents necessary to authorize the bonds to be sold and issued (including, where applicable, ballot title ordinances/resolutions);
- (5) Attending certain meetings relating to the sale and issuance of the bonds;
- (6) Forwarding Issuer financing documents to bond rating agencies and/or bond insurers, when requested by the Issuer or Issuer’s financial consultant or underwriter, and explaining those documents to agency and insurer representatives;
- (7) When requested by the Issuer or Issuer’s financial consultant or underwriter, reading those portions of drafts of the official statement, offering circular or other sales material relating to the bonds prepared by the Issuer’s investment bankers necessary to assure the accuracy only of the description of the bonds, the source of payment and security for the bonds, any continuing disclosure undertaking and the federal tax treatment of the interest on the bonds;
- (8) Preparing closing documents necessary to support the issuance of the bonds and assembling the transcript after the closing; and
- (9) Subject to the completion of proceedings to our satisfaction, furnishing the firm’s approving legal opinion for the bonds regarding the validity and binding effect of the bonds and the excludability of interest on the bonds issued as tax-exempt bonds from gross income for federal income tax purposes.

Our bond opinion will be based on facts and law existing as of its date, and will constitute the expression of our professional judgment on the matters expressly addressed and not a guarantee of result. In rendering that opinion, we will rely upon the certified proceedings and other certifications of public officials and other persons furnished to us without undertaking to verify the same by independent investigation, and we will assume the Issuer's continuing compliance, after the issue date, with applicable laws relating to the bonds. During the course of this engagement, we will rely on the Issuer to provide us with complete and timely information on all developments pertaining to any aspect of the bonds and their security, as well as the expected use of bond proceeds. We understand and expect that officers and employees of the Issuer will cooperate with us in this regard.

## **B. OTHER SERVICES**

Traditional bond counsel services described above do not include the following additional bond and project-related work for the Issuer which we would be pleased to perform on request, working with the Issuer's attorney or other designated representatives. The provision of these services involves appropriate fee arrangements.

(1) The drafting or review for sufficiency of any environmental impact statements or other evidence of compliance with the State and National Environmental Policy Acts, the Shorelines Management Act, Growth Management Act and similar laws;

(2) The drafting or review for accuracy of portions of any official statement, offering circular or other sales material relating to the issuance of the bonds prepared by the Issuer or its underwriter or otherwise used in connection with such bonds, other than the review of those portions of the official statement describing the bonds, the source of payment and security for the bonds, any continuing disclosure undertaking and the expected federal tax treatment of the interest on the bonds is included in our services as bond counsel (See item A.7 above);

(3) Giving advice to the Issuer's consultants regarding the applicability of the registration requirements under federal or state securities laws or regarding federal and state securities disclosure requirements or due diligence review;

(4) Drafting of bond purchase agreements (though as a matter of course as bond counsel we typically review such agreements to assure that they conform to the Issuer's bond authorization documents);

(5) Negotiation and drafting of repurchase agreements, investment contracts, custodial agreements, swap agreements, credit enhancement or liquidity facilities (other than bond insurance), and contracts (including contracts with developers or owners of property included within local improvement districts formed by the Issuer), or disputes or litigation in connection therewith;

(6) Attending rating agency or public information meetings in connection with the issuance of bonds;

(7) Preparation of supplemental opinions required of bond counsel by the Issuer or the underwriter of bonds in connection with their issuance;

(8) The drafting or obtaining of state or federal legislation;

- (9) Participating in administrative proceedings, trial or appellate litigation;
- (10) Drafting special assessment district formation and assessment documents and attending special assessment hearings;
- (11) Work in connection with seeking or obtaining governmental assistance or approvals from governmental agencies other than the Issuer, necessary for carrying out the purposes of the bond issue;
- (12) Providing services relating to public works bidding, negotiating design or construction contracts, or carrying out the acquisition of property or the construction of projects;
- (13) Representing the Issuer in Internal Revenue Service examinations or inquiries, or Securities and Exchange Commission investigations;
- (14) After closing, providing continuing advice to the Issuer or any other party concerning any actions necessary to assure that interest paid on the bonds issued as tax exempt bonds will continue to be excludable from gross income for federal income tax purposes (*e.g.*, our engagement as bond counsel does not include rebate calculations for the bonds, dealing with changes of use or delays in the expenditure of proceeds);
- (15) Assisting the Issuer with its continuing disclosure obligations consistent with applicable securities laws; or
- (16) Addressing any other matter not specifically set forth above that is not required to furnish our bond opinion.

### **C. FILE MANAGEMENT**

After the transaction is concluded, we will deliver to the Issuer a complete copy of the transcript of the transaction. A transcript is delivered generally within 30 to 60 days after closing. We then close our files regarding the matter, and our representation on the transaction is completed. Additional services after closing would be addressed under Part B, above.

Upon request, papers and property furnished by you will be returned promptly. Our own files, including lawyer work product, pertaining to the transaction will be retained by us. For various reasons, including the minimization of unnecessary storage expenses, we reserve the right to dispose of any documents or other materials retained by us after the termination of this engagement.

# COMMISSIONERS' AGENDA ACTION SHEET

<b>Meeting Date:</b>	April 20, 2021		
<b>Subject:</b>	1 <sup>st</sup> Amendment to Personal Service Agreement with Visit Tri Cities		
<b>Presenter:</b>	Matt Rasmussen		
<b>Prepared By:</b>	Matt Rasmussen		
<b>Reviewed By:</b>	Jerrod MacPherson, Eric Andrews		
<b>PA Review, Approval to Form:</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A            (If no, include reasoning for no approval)		
<b>Type of Agenda Item:</b>	<b>Type of Action Needed:</b> <i>(Multiple boxes can be checked, if necessary)</i>		
<input checked="" type="checkbox"/> Consent Agenda <input type="checkbox"/> Public Hearing <input type="checkbox"/> Scheduled Business	<input type="checkbox"/> Discussion Only <input type="checkbox"/> Decision / Direction <input type="checkbox"/> Sign Letter / Document	<input type="checkbox"/> Pass Motion <input checked="" type="checkbox"/> Pass Resolution <input type="checkbox"/> Pass Ordinance <input checked="" type="checkbox"/> Execute Contract	

## Summary / Background Information

As part of the on-going COVID 19 pandemic response Benton County entered into an agreement with Visit Tri Cities Inc to create and publish television spots, radio spots and social media ads providing information about the pandemic response and encouraging responsible behavior for County residents. The Contract was funded using money from the County's CARES allocation and covered the time period between September 2020 and November 2020 when the funding ran out.

As the County transitioned into a new reopening phase and works to administer vaccinations the need for consistent messaging became greater than ever. Because Visit Tri Cities had produced messaging for the County in the past, established a close working relationship with the Benton Franklin Health District, and had a deep understanding of what message is effective in the community it made sense to utilize them again to continue our outreach.

The Board authorized staff to work out a new agreement with Visit Tri Cities with a cost not to exceed \$100,000. The County obtained funding for the proposed work through its open grant for COVID related expenses with FEMA and contributions from the Cities of Kennewick, Richland and Pasco. A contract for \$150,000 was executed that covered the messaging costs from January, February and March.

As the pandemic moves into new phases of reopening and vaccine distribution the need for messaging continues. With an expected influx of funding from the American Rescue Plan local agencies expressed an interest in partnering to continue messaging through the end of June. An intergovernmental agreement was circulated that detailed each parties contribution to the messaging work. Since Benton County already has a contract with Visit Tri Cities it can expedite approval of services and ensure there are no gaps in messaging by amending its existing contract.

The first contract amendment for the Personal Services Agreement with Visit Tri Cities adds \$195,000 to the total amount payable under the contract and extends the end date to July 31, 2021. The extra month is to cover any overlap in television and radio advertising and leave enough time to close out the contract after the work is complete.

## **Fiscal Impact**

The total contract amount is increased to \$345,000. Benton County's portion of the new work is \$48,161 bringing our total contribution to \$66,774. The entire County contribution is eligible for reimbursement through American Rescue Plan funds and/or FEMA emergency grant funds.

## **Recommendation**

Staff recommends that the Board approve the First Amendment to the Personal Services Agreement with Visit Tri Cities.

## **Suggested Motion**

Approve as part of the consent agenda.

# RESOLUTION

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

**IN THE MATTER OF APPROVING THE FIRST AMENDMENT TO A PERSONAL SERVICES CONTRACT WITH VISIT TRI-CITIES FOR THE PRODUCTION AND MESSAGING ASSOCIATED WITH A PUBLIC OUTREACH CAMPAIGN**

**WHEREAS**, on February 29, 2020 the Governor of the State of Washington declared that a state of emergency exists in all counties in the State of Washington; and

**WHEREAS**, on March 17, 2020 the Benton County Board of County Commissioners declared an emergency in response to the developing situation surrounding the COVID-19 pandemic; and

**WHEREAS**, as part of it's continued response to the COVID-19 pandemic the Board of County Commissioners, along with regional partners, desires to continue public outreach and messaging about masking, social distancing and other pandemic related issues; and

**WHEREAS**, the County entered into a personal services agreement with Visit Tri-Cities to provide a campaign on mask wearing, social distancing and other pandemic related issues via Resolution 2021-138; and

**WHEREAS**, the Board of County Commissioners believes it to be in the public interest to contract with Visit Tri-Cities for this work with a portion of the cost being reimbursed through a grant and partnership with Franklin County and the Cities of Kennewick, Richland and Pasco.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Benton County Commissioners hereby approves the attached first amendment to the personal services contract with Visit Tri-Cities increasing the contract amount not to exceed \$345,000 including Washington State Sales Tax and extending the ending date to July 31, 2021.

**Dated this 20th day of April 2021.**

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

\_\_\_\_\_  
**Chairman Pro Tem**

\_\_\_\_\_  
**Member**

Attest: .....  
**Clerk of the Board**

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

**FIRST CONTRACT AMENDMENT  
PERSONAL SERVICES CONTRACT**

**THIS FIRST CONTRACT AMENDMENT** (hereinafter "First Amendment") 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 **VISIT TRI CITIES INC.**, a corporation organized under the laws of the State of Washington, with its principal offices at 7130 W. Grandridge Blvd., Suite B, Kennewick, WA 99336 (hereinafter "CONTRACTOR").

**WHEREAS**, per Benton County Resolution No. 2021-138, the parties entered into a Personal Services Contract, beginning February 9, 2021 and ending June 30, 2021 (hereinafter the "CONTRACT"), whereby CONTRACTOR agreed to provide print, digital, television, radio/streaming music production and advertising for a public outreach campaign related to the on-going response to the COVID-19 pandemic; and

**WHEREAS**, the original funding amount has been exhausted but messaging work needs to continue to promote COVID-19 safety and vaccine distribution; and

**WHEREAS**, this First Amendment is necessary to add additional funding to the contract and extend the duration to accomplish the additional messaging; and

**NOW THEREFORE**, the parties agree that all provisions of the CONTRACT remain in full force and effect, except for the following amendment:

1. **CONTRACT DOCUMENTS** Section 1. of the CONTRACT, "CONTRACT DOCUMENTS" is amended by the addition of the following:
  - b. Exhibit B – COVID-19 Mitigation & Economic Recovery Proposal.
2. **DURATION OF CONTRACT** Section 2. of the CONTRACT, "DURATION OF CONTRACT" is amended to read as follows:

The term of this Contract shall begin on the last date signed and shall expire on July 31, 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. **COMPENSATION** Section 5.a. of the CONTRACT, "COMPENSATION" is amended to read as follows:

For the services performed under this Contract, the CONTRACTOR shall be paid up to three hundred forty five thousand dollars (\$345,000), including W.S.T., in accordance with Exhibit A, "Scope of Work and Fees" and Exhibit B, "COVID-19 Mitigation & Economic Recovery Proposal", which are attached hereto and incorporated herein by reference.

Section 5.b. of the CONTRACT, "COMPENSATION" is amended to read as follows:

The maximum total amount payable by the COUNTY to the CONTRACTOR under this Contract shall not exceed one hundred fifty thousand dollars (\$345,000), including W.S.S.T.

**IN WITNESS WHEREOF**, the parties have caused this First Amendment to the CONTRACT to be signed by their duly constituted legal representatives and it is effective on the last date signed.

**FOR BENTON COUNTY**

**VISIT TRI CITIES, INC.**

\_\_\_\_\_  
Chairman Date


  
\_\_\_\_\_  
Signature Date 04/14/21

\_\_\_\_\_  
Name Michael Novakovich

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

\_\_\_\_\_  
Title President & CEO

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Benton County Deputy Prosecuting Attorney, Civil

\_\_\_\_\_  
Date 14 APRIL 2021

## EXHIBIT B

# Visit Tri-Cities COVID-19 Mitigation & Economic Recovery Proposal

In order for our region to advance the work of recovering our economy and way of life, we must continue to communicate broadly to the residents of Benton and Franklin Counties that all residents play a crucial role in our ability to restore public health, preserve businesses, jobs and our local economy; behaviors of residents of the region are the key determinant of Benton and Franklin Counties' ability to move to subsequent phases of the Washington State Roadmap to Recovery Phased Approach.

**Proposed In-Market Campaign** encourages residents to get vaccinated when eligible. Key messaging also includes the continuation of practices, safety measures and protocols in place by the Benton Franklin Health District, State and Federal public health entities to mitigate the transmission of COVID- 19.

## COVID Mitigation/In-Market Campaigns

### Overview

While Visit Tri-Cities' primary mission is to attract visitors to the region, the organization demonstrated its ability to be a regional communicator of public health messaging early on in the pandemic. Most recently VTC has partnered with area jurisdictions to provide community-wide COVID mitigation communications in coordination with the Benton-Franklin Health District.

**Target Market:** Visit Tri-Cities will target Benton and Franklin Counties with a population of approximately 300,000.

**Market Segments:** Target markets will be variable dependent upon the community's greatest need to ensure public health and advance our movement through Washington State's Road Map To Recovery Phases.

### Deliverables

Visit Tri-Cities will create and execute deliverables in coordination with the Benton-Franklin Health District to mitigate the adverse public health and economic impacts of COVID-19. This will include campaigns to support adherence to mask wearing, social distancing, limiting gathering size, testing and vaccination. Vaccine messaging will provide education about vaccination to encourage participation, communicate realistic vaccine expectations so individuals receive the second dose (as appropriate), debunk vaccine myths and encourage the continuation of appropriate COVID mitigation practices. Deliverables to be used within Benton and Franklin Counties will be developed in English and Spanish.

## EXHIBIT B

- :30 broadcast and OTT commercials
- :15 pre-roll videos
- Social media display ads\*
- Digital display ads
- :15 and :30 radio

\* As Facebook allows – COVID messaging restrictions apply

### **Monthly Budget – In Market Campaign: \$65,000**

#### **Digital Advertising: \$12,000**

This includes display and banner ads that would be targeted at Benton and Franklin Counties.

#### **Television & OTT (streaming platforms): \$30,000**

Broadcast and OTT spots provide significant opportunity for engagement. However, they are the costliest marketing medium in the proposed mix. Fortunately, we can expect to receive matching spots from the participating broadcast stations, increasing the total televised spots exponentially during the campaign.

#### **Radio/Streaming Music: \$8,000**

Radio and streaming music ad placement is very economical, comparatively. We can also expect to receive matching spots from the participating stations. Again, exponentially increasing the total spots delivered over the duration of the campaign. Streaming advertising is more targeted and would deliver impressions (per listener) based on budget rather than placements.

#### **Production: \$10,000**

Four unique campaigns developed monthly in-house by Visit Tri-Cities or through a subcontractor to support the above tactics.

#### **VTC Creative Development, Creative Directing and Campaign Management: \$5,000**

### **Production Outline**

Proposed budget and suggested production is expected to achieve optimal exposure using multiple channels, a high frequency, and the use of existing and fresh creatives targeted at community's highest need demographics. While we feel the recommended budget allows for the achievement of the desired goal – frequency and/or channels can be scaled down to reduce expense.

## EXHIBIT B

### Project Management Team

**Michael Novakovich**, CDME President & CEO, Visit Tri-Cities  
C: 509.947.0197 | [Michael@visittri-cities.com](mailto:Michael@visittri-cities.com)

**Karisa Saywers**, Marketing Director, Visit Tri-Cities  
C: 509.554.0455 | [Karisa@visittri-cities.com](mailto:Karisa@visittri-cities.com)

**Kim Shugart**, Senior Vice President, Visit Tri-Cities  
C: 509.947.6887 | [Kim@visittri-cities.com](mailto:Kim@visittri-cities.com)

### Contact Information

**Visit Tri-Cities**  
7130 W. Grandridge Blvd., Ste. B  
Kennewick, WA 99336  
509.735.8486  
[Visittri-Cities.com](http://Visittri-Cities.com)

# RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY FUNDS RE: TRANSFER OF FUNDS WITHIN  
CURRENT EXPENSE FUND NUMBER 0000101, DEPARTMENT NUMBER 110.

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 \_\_\_\_\_, \_\_\_\_\_ 2021

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

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

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

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

cc: Dept., Auditor

Prepared by: K. Ainsworth

### BENTON COUNTY LINE ITEM TRANSFER

Dept Name:

Dept Nbr:

Fund Name:

Fund Nbr:

TRANSFER FROM:

TRANSFER TO:

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT	BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
518.301	1268	Maintenance Worker	\$57,444	518.301	1520	Fac Lead Maintenance Worker	\$57,444
523.500	1268	Maintenance Worker	\$46,358	523.500	1520	Fac Lead Maintenance Worker	\$46,358
<b>TOTAL</b>				<b>TOTAL</b>			
<b>\$103,803</b>				<b>\$103,803</b>			

**Explanation:**

2021-2022 Budget. It was agreed to during the 2/23/2021 board meeting that all of the funds from the successful candidate for the Facilities Lead Maintenance Worker's former line item would be moved to their new line item established via 2021-194 in order to ensure that the former position remains unfilled and eliminated.

Prepared by:

Date:

Approved

Denied

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

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

# RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY FUNDS RE: TRANSFER OF FUNDS WITHIN  
FUND NUMBER 0000101, DEPARTMENT NUMBER 136

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

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

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

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

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

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

cc: Dept., Auditor, File,

Prepared by: E Hsu

**BENTON COUNTY LINE ITEM TRANSFER**

Dept Name:

Dept Nbr:

Fund Name:

Fund Nbr:

TRANSFER FROM: Dept 136

TRANSFER TO: Dept 136

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT	BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
515.919	4103	Professional Services	\$8,320	515.910	3503	Computer Software	\$720
				515.910	3508	Computer Replacement	\$7,600
<b>TOTAL</b>			<b>\$8,320</b>	<b>TOTAL</b>			<b>\$8,320</b>

**Explanation:**

Additional funding is needed in referencewd line items to pay for: 1) IT hardware purchases that were reimbursed by a State COVID grant; and 2) for e-signature software costs for attorneys (needed to improve their ability to address large backlog of cases resulting from factors including (primarily) COVID factors.

Prepared by:

Date:

Approved  Denied

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

\_\_\_\_\_ Chairman

\_\_\_\_\_ Member

\_\_\_\_\_ Member

# COMMISSIONERS' AGENDA ACTION SHEET

<b>Meeting Date:</b>	April 20, 2021
<b>Subject:</b>	Award & execute contract with Yakima Mechanical for Natural Gas Conversion at the Kennewick Road Maintenance Facility
<b>Presenter:</b>	
<b>Prepared By:</b>	slc
<b>Reviewed By:</b>	M. McGhan
<b>PA Review, Approval to Form:</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <i>(If no, include reasoning for no approval)</i>
<b>Type of Agenda Item:</b>	<b>Type of Action Needed:</b>
<input checked="" type="checkbox"/> Consent Agenda	<input type="checkbox"/> Discussion Only (1 <sup>st</sup> ) <input type="checkbox"/> Pass Motion
<input type="checkbox"/> Public Hearing	<input type="checkbox"/> Discussion Only (2 <sup>nd</sup> ) <input checked="" type="checkbox"/> Pass Resolution
<input type="checkbox"/> Scheduled Business	<input type="checkbox"/> Decision/Direction <input type="checkbox"/> Pass Ordinance
	<input type="checkbox"/> Sign Letter/Document <input checked="" type="checkbox"/> Execute Contract

## Summary / Background Information

At the request of the neighboring property owners, a natural gas line was installed by Cascade Natural Gas along the east side of the Kennewick Road Maintenance Facility property on Wiser Parkway. It is more economical to use natural gas to run some of the equipment at the maintenance facility, so it was decided it is in the best interest of the County to convert that equipment to natural gas. Quotes were solicited for converting 2 furnaces, a pressure washer and a boiler from propane to natural gas. Three quotes were received with Yakima Mechanical, Inc. being the lowest at \$7,357.00 plus WSST. The Fleet Superintendent recommends award of the project to Yakima Mechanical, Inc.

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 Yakima Mechanical, Inc. The Fleet Superintendent recommends the Chairman sign said contract.

## Fiscal Impact

**Amount:** \$7,357.00 plus WSST

**Fund:** ER&R Fund (0501-101)

## Recommendation

It is recommended by the Fleet Superintendent that the Board concur and award the contract to convert equipment at the Kennewick Road Maintenance Facility from propane to natural gas to Yakima Mechanical, Inc. 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 YAKIMA MECHANICAL, INC., YAKIMA, WASHINGTON FOR CONVERTING EQUIPMENT AT THE KENNEWICK ROAD MAINTENANCE FACILITY ON WISER PARKWAY FROM PROPANE TO NATURAL GAS AND AUTHORIZING THE CHAIRMAN TO SIGN SAID CONTRACT**

**WHEREAS**, a natural gas line was recently installed along the east side of the Kennewick Road Maintenance Facility property and provides the opportunity to convert some equipment from propane to natural gas being it is more economical and therefore in the best interest of the County; and

**WHEREAS**, quotes were solicited for converting 2 furnaces, a pressure washer and a boiler to run on natural gas; and

**WHEREAS**, three quotes were received and are as follows:

Yakima Mechanical, Inc. (YAKIMMI953R1) Yakima, WA	\$ 7,357.00 plus WSST
A-One Refrigeration & Heating (AONERH*1125MS) Pasco, WA	\$ 8,366.00 plus WSST
Johnson Controls, Inc. (JOHNSCI366BZ) Spokane, WA	\$ 14,768.00 plus WSST

**WHEREAS**, the Fleet Superintendent reviewed the quotes for completeness and recommends awarding said project to Yakima Mechanical, Inc., Yakima, WA as the lowest bidder; and

**WHEREAS**, 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 Yakima Mechanical, Inc.; and

**WHEREAS**, the Fleet Superintendent recommends the Chairman sign said contract; **NOW, THEREFORE**

**BE IT RESOLVED**, the Board of Benton County Commissioners concurs with the Fleet Superintendent's recommendation and awards the project for converting 2 furnaces, a pressure washer and a boiler from propane to natural gas at the Kennewick Road Maintenance Facility to Yakima Mechanical, Inc., Yakima, Washington in the amount of \$7,357.00 plus 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 Yakima Mechanical, Inc.; and

**BE IT FURTHER RESOLVED**, the Fleet Superintendent is hereby authorized to proceed with the natural gas conversion project according to the terms of the contract; and

**BE IT FURTHER RESOLVED**, the natural gas conversion project shall commence on this date and expire on June 30, 2021.

Dated this 20th day of April 2021.

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Chairman Pro-Tem

\_\_\_\_\_  
Member

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

Constituting the Board of County  
Commissioners of Benton County,  
Washington

**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 **YAKIMA MECHANICAL, INC.**, a corporation organized under the laws of the State of Washington with its principal offices at 205 South Fourth Ave., Yakima, WA 98902 (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 – Yakima Mechanical Quote dated 3-26-21
- b. Exhibit B – Washington State Prevailing Wage Rates for Public Works Contracts.

**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 conversion services from propane to natural gas on 2 furnaces, a pressure washer and a boiler all at the Benton County Road Maintenance Facility located at 102808 Wiser Parkway, Kennewick, WA 99338.
- 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: Jamie Dunbar  
Address: 205 South Fourth Ave.  
Yakima, WA 98902  
Phone: 509-469-2773  
Email: jamie@yakimatrstatesupply.com

b. For COUNTY:

Name: Michael McGhan, Fleet Superintendent  
Address: 102808 Wiser Parkway  
Kennewick, WA 99338  
Phone: 509-786-5611  
Email: michael.mcghan@co.benton.wa.us

**5. COMPENSATION**

- a. For the services performed under this Contract, the CONTRACTOR shall be paid a flat fee of Seven thousand three hundred fifty seven dollars (\$7,357.00), excluding W.S.S.T., in accordance with Exhibit A, Yakima Mechanical Quote, which is attached hereto and incorporated herein by reference.
- b. 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/>.

- c. 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.

**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: \_\_\_\_\_

Date: 4-7-21

**BENTON COUNTY**

**YAKIMA MECHANICAL, INC.**

\_\_\_\_\_  
Chairman  
Benton County Board of County Commissioners

*Jamie Dunbar*  
\_\_\_\_\_  
Signature

Approved as to Form:

Owner

Title:

*Reid Hay*  
\_\_\_\_\_  
Reid Hay, Civil Deputy Prosecuting Attorney

Jamie Dunbar  
\_\_\_\_\_  
PRINTED NAME



**BURNERS - BOILERS - REFRIGERATION - CONTROLS  
 RESTAURANT APPLIANCES - HVAC**

**205 SOUTH FOURTH AVE. YAKIMA, WA. 98902  
 (509) 469-2773 (509) 248-4939 FAX (509) 576-0372**

**BENTON COUNTY  
 GAS CONVERSION**

Attn: MICHAEL MCGHAN

3-26-21

The following is the quote you requested for converting your gas system from LP to Natural gas. This price includes gas conversion kits, gas piping from new meter to existing piping, regulators for each appliance, prevailing wage, and all labor to complete this project.

Our price to accomplish this project is as follows

**Total: \$ 7,357.00 + tax**

Please Note: The above price does not account for any overtime labor.

Once again, thank you very much for considering us for your upcoming project. We look forward to seeing and / or hearing from you soon.

Best Regards,

Jamie Dunbar  
 Yakima Mechanical

Acceptance of this proposal- The undersigned agrees upon the terms outlined above. Please sign and return one copy to us to commence the above project. Additional work not outlined above can be completed on a time and material basis, unless other arrangements are agreed upon by an officer of Yakima Mechanical inc.

Authorized signature \_\_\_\_\_

**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 March 26, 2021.

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](mailto:publicworks@co.benton.wa.us)

# COMMISSIONERS' AGENDA ACTION SHEET

<b>Meeting Date:</b>	April 20, 2021
<b>Subject:</b>	Contract w/ Wave Design Group, LLC for On-Call Architectural & Engineering Services
<b>Presenter:</b>	N/A
<b>Prepared By:</b>	P. Schut
<b>Reviewed By:</b>	R. Blain
<b>PA Review, Approval to Form:</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <i>(If no, include reasoning for no approval)</i>
<b>Type of Agenda Item:</b>	<b>Type of Action Needed:</b>
<input checked="" type="checkbox"/> Consent Agenda	<input type="checkbox"/> Discussion Only (1 <sup>st</sup> ) <input type="checkbox"/> Pass Motion
<input type="checkbox"/> Public Hearing	<input type="checkbox"/> Discussion Only (2 <sup>nd</sup> ) <input checked="" type="checkbox"/> Pass Resolution
<input type="checkbox"/> Scheduled Business	<input type="checkbox"/> Decision/Direction <input type="checkbox"/> Pass Ordinance
	<input type="checkbox"/> Sign Letter/Document <input checked="" type="checkbox"/> Execute Contract

## Summary / Background Information

The 2021-2026 Capital Improvement Plan includes several small projects over the next couple of years that will need the assistance of a professional Architect & Engineer.

County Staff has found it more cost-effective to bring in one Architect & Engineer Group to design for those types of projects rather than do multiple RFQs for each project.

Qualifications were solicited to provide architectural & engineering services, on an on-call basis, for various projects which meet the small public works process.

After a review of qualifications submitted, it was determined that Wave Design Group, LLC, Kennewick, Washington, would best provide the services needed.

A Professional Services Contract has been prepared, reviewed, and approved as to form by our departmental deputy prosecuting attorney and signed by Wave Design Group, LLC.

## Fiscal Impact

**Amount:** \$300,000.00 excluding W.S.S.T.

**Fund:** Various Funds

## Recommendation

Approve the Contract with Wave Design Group, LLC for on-call architectural and engineering services.

## Suggested Motion

Approve as part of the Consent Agenda.

**RESOLUTION**

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

**IN THE MATTER OF EXECUTING A PROFESSIONAL SERVICES CONTRACT WITH WAVE DESIGN GROUP, LLC, FOR PROVIDING ON-CALL ARCHITECTURAL & ENGINEERING SERVICES**

**WHEREAS**, the 2021-2026 Capital Improvement Plan includes several small projects over the next couple of years that will need the assistance of a professional Architect & Engineer; and

**WHEREAS**, County Staff have found it to be more cost-effective to bring in one Architect & Engineer Group to do the design for those types of projects rather than doing multiple RFQs for each project; and

**WHEREAS**, qualifications were solicited to provide architectural & engineering services, on an on-call basis, for any project which meets the requirements of the small public works process; and

**WHEREAS**, after review of qualifications submitted, it was determined that Wave Design Group, LLC, Kennewick, Washington, would best be able to provide the services needed; and

**WHEREAS**, a Professional Services Contract has been prepared, reviewed, and approved as to form by our departmental deputy prosecuting attorney, and signed by Wave Design Group, LLC; **NOW, THEREFORE,**

**BE IT RESOLVED**, that the Board of County Commissioners hereby approves the Professional Services Contract with Wave Design Group, LLC, of Kennewick, Washington, to provide on-call professional architectural & engineering services with a maximum total amount payable not to exceed \$300,000.00, including Washington State Sales Tax, unless agreed to by amendment by both parties; and

**BE IT FURTHER RESOLVED**, the Board of County Commissioners hereby authorizes the County Administrator or written designee to assign task orders directly relating to this Contract; and

**BE IT FURTHER RESOLVED**, the task orders shall be ratified by the Board of County Commissioner no later than two weeks after execution; and

**BE IT FURTHER RESOLVED**, the term of this Contract commences on this date and terminates on March 31, 2023.

Dated this 20<sup>th</sup> day of April 2021.

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

\_\_\_\_\_  
Chairman Pro-Tem.

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

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

**BENTON COUNTY  
ARCHITECTURAL/ENGINEERING  
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 (hereinafter "COUNTY"), and **WAVE DESIGN GROUP, LLC**, a corporation organized under the laws of the State of Washington with its principal offices at 418 N Kellogg Street, Ste B, 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 - Fees

**2. DURATION OF CONTRACT**

The term of this Contract shall begin on the last date signed and shall expire on March 31, 2023. The CONTRACTOR shall complete all work by the time(s) specified herein, or if no such time is otherwise specified, no later than the expiration date.

**3. SERVICES PROVIDED**

The COUNTY requires and the CONTRACTOR agrees to perform the following services:

- a. Provide On-Call Architectural and Engineering Services for various public works projects that have an total expected cost less than three-hundred and fifty thousand dollars (\$350,000) all in accordance with rates established within Exhibit A, "Fees" attached hereto; subject to the following requirements and limitations:

- i. The CONTRACTOR agrees to provide its own labor and

materials as included costs in the fees payable consistent with Exhibit A and Section 5 below. Unless otherwise provided for in a work order, no materials, labor, or facilities will be furnished by the COUNTY.

ii. The COUNTY shall furnish the CONTRACTOR with a proposed work order for each project under this Contract, and the CONTRACTOR shall in return provide the COUNTY with a detailed breakdown proposal including the scope of work and fees consistent with the Exhibit A for services to be performed.

iii. The CONTRACTOR shall review the COUNTY's scope of work, budget and schedule and reach an understanding with the COUNTY of the project requirements. Based on the approved project requirements, the CONTRACTOR shall develop a design. Upon COUNTY's approval of the design, CONTRACTOR shall prepare construction documents indicating requirements for construction of the project and shall coordinate its services with any consulting services the COUNTY provides. The Contractor shall assist the COUNTY in filing documents required for the approval of government authorities in obtaining proposals and in awarding contracts for construction. During the construction phase, CONTRACTOR shall act as the COUNTY's representative to the extent set forth in this Contract. CONTRACTOR will visit the construction site at intervals appropriate the stage of construction to become generally familiar with the progress and quality of the work. CONTRACTOR will not have control over or charge of, and will not be responsible for, construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the construction work. Based on the CONTRACTOR's observations and evaluations of the construction, CONTRACTOR shall certify amount the amounts due to the construction contractor. CONTRACTOR shall promptly review and approve or take appropriate action upon construction contractor's submittals for the limited purpose of checking with the conformance of information given and the design concept expressed in the contract documents. CONTRACTOR shall be responsible for producing all contract documents and correspondence related to construction or improvement projects for which CONTRACTOR is responsible. CONTRACTOR shall oversee, manage and direct all facets of project in a manner consistent with the standards expected of similarly situated architects on construction or improvement projects within the State of Washington. CONTRACTOR shall generate all necessary documentation and contracts associated

with construction or improvement projects for which CONTRACTOR is responsible subject, when appropriate, to review by COUNTY's legal counsel, and shall amend or modify such documents and contracts at the direction of COUNTY's legal counsel or COUNTY's representative. These documents and contracts include, but are not limited to: request for proposals/request for competitive bids to include posting the legal advertisements; Notices to Proceed; AIA standard form contracts; Change Orders; approval of all Progress Payments; Letter of Substantial Completion. The CONTRACTOR shall forward all original documents to the COUNTY at COUNTY's request, and shall retain all records related to any given project for the appropriate Washington State Retention Schedule as promulgated by the Washington State Archivist.

iv. The CONTRACTOR shall perform the work consistent with the industry standards in the A&E Profession. Specifically, in instances where project contracts call for the architect to exercise independent discretion in making a decision or resolving a dispute, CONTRACTOR shall do so in an independent fashion.

v. The CONTRACTOR shall complete each task assigned in a timely manner according to the schedule agreed to by the parties.

b. Information and Reports: The CONTRACTOR'S representative shall meet with the COUNTY'S representative as specified in each work order, and if not stated, no less than one time per week while a work order is in progress. The CONTRACTOR shall prepare and present status reports and other required information as specified in each work order, or as otherwise requested in writing 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: Harvey D. Prickett  
Address: 418 N. Kellogg St. Suite B  
Kennewick, WA 99336  
Phone: 509-737-1000  
Email: harvey@wavedesigngroupllc.com

b. For COUNTY:

Name: Robert Blain  
Address: 7122 W Okanogan Place; Bldg. A  
Kennewick WA, 99336  
Phone: 509-736-3080  
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, "Fees", 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 three-hundred thousand dollars and zero cents (\$300,000.00), excluding W.S.S.T.
- c. No payment shall be made for any work performed by the CONTRACTOR, except for work identified and set forth in this Contract.
- d. The CONTRACTOR may, in accordance with Exhibit A, 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. 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 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 paragraph shall be effective upon the date specified in the written notice of termination sent by COUNTY to the CONTRACTOR. After the effective date, no charges incurred under this Contract shall be allowed.
- c. If the CONTRACTOR breaches any of its obligations hereunder,

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

**10. ASSIGNMENT, DELEGATION, AND SUBCONTRACTING**

- a. The CONTRACTOR shall perform the terms of this Contract using only its bona fide employees or agents, and the obligations and duties of the CONTRACTOR under this Contract shall not be assigned, delegated, or subcontracted to any other person or firm without the prior express written consent of the COUNTY with the exception that all electrical system design performed under this contract may be performed by Conley Engineering, Inc.
- 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 its obligations hereunder on the basis of age, sex, marital status, sexual orientation, race, creed, religion, color, national origin, honorably discharged veteran or military status, disability, or any other protected status.

**16. OWNERSHIP OF MATERIALS/WORKS PRODUCED**

- a. All reports, drawings, plans, specifications, forms of electronic media, data, and documents produced in the performance of the work under this Contract shall be "works for hire" as defined by the U.S. Copyright Act of 1976 and shall be owned by the COUNTY. Ownership includes the right to copyright, patent, 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. All design work done by the CONTRACTOR shall be done on AutoCAD Civil 3D 2015 or higher, or other systems mutually agreed upon, an electronic copy of which shall be submitted to the COUNTY upon request and/or at the expiration of the Contract. Should a construction project result from the work of the CONTRACTOR, the record drawings from the CONTRACTOR shall be transposed onto the electronic design drawings and submitted to the COUNTY.
- c. An electronic copy of all word processing documents shall be submitted to the COUNTY upon request 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: \_\_\_\_\_

Dated: 4/7/2021

**FOR: BENTON COUNTY**

**FOR: WAVE DESIGN GROUP, LLC**

\_\_\_\_\_  
Chairman

  
Signature

\_\_\_\_\_  
Member

PRESIDENT  
Title:


\_\_\_\_\_  
Member

HANVELY PRIGGETT  
Print Name

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

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

Approved as to Form

  
Civil Deputy Prosecuting Attorney



## 2021 Fee Schedule

Our compensation will be determined based on time and expenses in accordance with the following schedule unless a lump sum amount is so indicated in the proposal or service agreement. Our current rates are as follows:

<u>Personnel Category</u>	<u>Hourly Rate</u>
Senior Architect/Senior Engineer	\$200.00
Project Architect	\$185.00
Project Engineer	\$185.00
Project Manager	\$175.00
Senior Designer	\$175.00
Interior Designer	\$150.00
Designer	\$150.00
Draftsperson/CAD Operator	\$125.00
Administration	\$125.00
<u>Other Fees</u>	<u>Rate</u>
Mileage by car	\$0.56 per mile
Oversized E Size Plots	\$4.50
D Size Colored Plots	\$5.00
D Size Plots	\$3.00
Check Plots (11" x 17")	\$1.00
Colored Photos for Marketing (8-1/2" x 11")	\$5.00
Coordination, Process & Handling	15% markup on invoices billed directly to client
Postage	*Actual cost plus 15%
Shipping Fees	*Actual cost plus 15%
Courier Service	*Our rate for delivery

# COMMISSIONERS' AGENDA ACTION SHEET

<b>Meeting Date:</b>	April 13, 2021	
<b>Subject:</b>	Contract with Richland Yacht Club for Jetboat Moorage	
<b>Presenter:</b>		
<b>Prepared By:</b>	Katie Gillies, CFO	
<b>Reviewed By:</b>	Ryan Lukson	
<b>Type of Agenda Item:</b>	<b>Type of Action Needed:</b>	
<input checked="" type="checkbox"/> Consent Agenda	<input type="checkbox"/> Discussion Only (1 <sup>st</sup> )	<input type="checkbox"/> Pass Motion
<input type="checkbox"/> Public Hearing	<input type="checkbox"/> Discussion Only (2 <sup>nd</sup> )	<input checked="" type="checkbox"/> Pass Resolution
<input type="checkbox"/> Scheduled Business	<input type="checkbox"/> Decision/Direction	<input type="checkbox"/> Pass Ordinance

## **Summary / Background Information**

Resolution 2021-233 Section 5.0 Services “the County need not advertise or follow a formal competitive bidding procedure for service contracts, but rather the county may instead evaluate and utilize the procedures it deems best under the individual circumstances in order to obtain services of the highest quality at the lowest cost.”

Per Resolution 2020-417 the Board of Benton County Commissioners approved the personal service contract between Benton County and The Richland Yacht Club to the for moorage of the Benton County Sheriff's Office Marine Patrol Jetboat that expired September 30, 2020.

The Richland Yacht Club moorage slip includes one (1) space available to the Benton County Sheriff's Office for the purpose of storing the Jetboat.

The Richland Yacht Club has offered to lease a vessel moorage slip to the Benton County Sheriff's Office starting April 1, 2021 through October 31, 2021. The Agreement will automatically renew for subsequent seven-month (April through October) terms annually unless terminated by either party by providing 30 days written notice.

## **Fiscal Impact**

**Amount:** \$600.00, plus any applicable W.S.S.T

**Fund:** 0127101 – Boating Safety & Patrol Fund

## **Recommendation**

The Benton County Sheriff's Office recommends entering into a contract with the Richland Yacht Club for said services that commences April 1, 2021 through October 31, 2021 for an amount not to exceed \$600.00 plus any applicable W.S.S.T.

## **Suggested Motion**

Approve as part of consent agenda

# RESOLUTION

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

**IN THE MATTER OF AUTHORIZING THE MOORAGE AGREEMENT BETWEEN THE RICHLAND YACHT CLUB AND THE SHERIFF'S OFFICE TO MAINTAIN A BOAT SLIP AT THE COLUMBIA POINT FOR ONE (1) OF THE SHERIFF'S OFFICE MARINE JET BOAT**

**WHEREAS**, per Resolution 2021-233 Section 5.0 Services "the County need not advertise or follow a formal competitive bidding procedure for service contracts, but rather the county may instead evaluate and utilize the procedures it deems best under the individual circumstances in order to obtain services of the highest quality at the lowest cost"; and

**WHEREAS**, per Resolution 2020-417 the Board of Benton County Commissioners approved the personal service contract between Benton County and The Richland Yacht Club for moorage of the Benton County Sheriff's Office Marine Patrol Jetboat that expired September 30, 2020; and

**WHEREAS**, The Richland Yacht Club moorage slip includes one (1) space available to the Benton County Sheriff's Office for the purpose of storing the Jetboat. This moorage agreement will reduce emergency response times and place our vessel in a safe and secure location and increase public safety; and

**WHEREAS**, The Richland Yacht Club has offered to lease a vessel moorage slip to the Benton County Sheriff's Office starting April 1, 2021 through October 31, 2021. The Agreement will automatically renew for subsequent seven-month (April through October) terms annually unless terminated by either party by providing 30 days' written notice; and

**WHEREAS**, The Benton County Sheriff's Office recommends entering into a contract with the Richland Yacht Club for said services beginning April 1, 2021 through October 31, 2021 and automatically renewing for subsequent seven-month terms unless terminated by either party by providing 30 days' written notice; **NOW, THEREFORE**

**BE IT RESOLVED**, the Board of Benton County Commissioners, Benton County, Washington, hereby concurs with the recommendation and hereby awards the personal service contract to the Richland Yacht Club for moorage of the Benton County Sheriff's Office Marine Patrol Jetboat for an annual amount not to exceed \$600.00 plus any applicable WSST; and

**BE IT FURTHER RESOLVED**, the Board authorizes the Chairman to sign the attached Personal Service Contract between Benton County and The Richland Yacht Club; and

**BE IT FURTHER RESOLVED** the term of the attached contract commences April 1, 2021 and automatically renews for subsequent seven-month terms unless terminated by either party by providing 30 days' written notice.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

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

\_\_\_\_\_  
Member

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

Attest.....  
Clerk of the Board

**Richland Yacht Club - Facility Use and Hold Harmless Agreement**

The undersigned member of the Richland Yacht club or Civic Organization shall and will indemnify and hold harmless, the Richland Yacht Club and all its members, officers, and agents from and against any and all liability claims, demands, expenses, fees, penalties, suits, proceedings, actions and causes of actions, of any and every kind and nature, arising or growing out of, or in any way connected with the undersigned member' s use of the Richland Yacht Club facilities.

Benton County agrees to compensate the Richland Yacht Club \$600.00 in consideration for a 24-foot moorage slip lease fee for the period starting April 1, 2021 through October 31, 2021. This Agreement automatically renews for subsequent seven-month (April through October) terms annually unless terminated by either party by providing 30 days' written notice.

The representative of Benton County has read and understands the above and agree to abide with this agreement and all the rules and regulations of the Richland Yacht Club pertaining to the use of the Club property, equipment and/or facilities by a member or Civic Organization.

By: \_\_\_\_\_  
Chairman of the Board,  
Benton County Commissioners

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

Richland Yacht Club Board Approval Date: P. C. Larson RYC Commodore  
10/20/20

Orientation completed by: \_\_\_\_\_ Date: \_\_\_\_\_

Approve as to form: Ryan Larson

**Richland Yacht Club - Moorage Request**

**Personal Data:**

**Date Submitted:**

Applicants Name: Benton County Sheriff's Office

Address: 7122 W. Okanogan Place #A

City: Kennewick

State: WA

Zip: 99336

Telephone numbers you want called in the event of any problem on the docks or with your boat that you should be notified about once you are assigned moorage.

Preferred Number: 509-735-6555

Alternate: 509-736-3079

**Vessel Description:**

Type/Make: Northwest Jetboat

Length: 24 ft Beam: \_\_\_\_\_

**Insurance and Vessel Registration**

\_\_\_\_\_ Attach copy of current vessel registration

X Self Insured

**Specifics of your Moorage Request:**

New member (circle one): YES / NO

Slip Size (circle one): 24' 32' 40' 45' 56' End Tie (circle one): YES / NO

Special request details (e.g. specific slip): \_\_\_\_\_

**Acknowledgement:**

In accepting a moorage assignment, I agree to abide by the By-Laws and Standing Rules of the Club as they apply to conduct, dock use, and moorage.

I acknowledge the requirement to use 3/8" or larger dock lines in sufficient number to preclude damage to the slip from boat movement.

I acknowledge that the Club does not carry any insurance covering my vessel, its contents or any property I bring onto or maintain at my slip.

I acknowledge that I am solely responsible for my vessel and any damage it may cause while moored at the Clubs docks.

Applicants Signature: \_\_\_\_\_

**Assignment:**

Slip Designator: \_\_\_\_\_

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

Dock Captain Signature: \_\_\_\_\_

# COMMISSIONERS' AGENDA ACTION SHEET

<b>Meeting Date:</b>	April 20 <sup>th</sup> , 2021	
<b>Subject:</b>	Columbia Irrigation District; New Franchise	
<b>Presenter:</b>	Cristina Woods, Public Works	
<b>Prepared By:</b>	Cristina Woods, Public Works	
<b>Reviewed By:</b>	Douglas D'Hondt, County Engineer	
<b>PA Review, Approval to Form:</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <i>(If no, include reasoning for no approval)</i>	
<b>Type of Agenda Item:</b>	<b>Type of Action Needed:</b> <i>(Multiple boxes can be checked, if necessary)</i>	
<input type="checkbox"/> Consent Agenda	<input type="checkbox"/> Discussion Only	<input checked="" type="checkbox"/> Pass Motion
<input checked="" type="checkbox"/> Public Hearing	<input type="checkbox"/> Decision / Direction	<input type="checkbox"/> Pass Resolution
<input type="checkbox"/> Scheduled Business	<input type="checkbox"/> Sign Letter / Document	<input type="checkbox"/> Pass Ordinance
		<input type="checkbox"/> Execute Contract

## **Summary / Background Information**

Benton County has received an application to renew a Franchise Order and Agreement for an irrigation pipeline system and associated facilities from Columbia Irrigation District.

## **Fiscal Impact**

None

## **Recommendation**

Benton County Public Works recommends the Commissioners approve the Franchise Order and Agreement with Columbia Irrigation District, subject to the 6 items listed in the report to the Commissioners.

## **Suggested Motion**

Move to approve Franchise Order and Agreement with Columbia Irrigation District, subject to the 6 items listed in the report to the Commissioners.



April 20<sup>th</sup>, 2021

BOARD OF COUNTY COMMISSIONERS  
Benton County Courthouse  
Prosser, WA 99350

RE: Application for Franchise: Columbia Irrigation District

Commissioners:

Columbia Irrigation District has filed a petition for a nonexclusive franchise for an irrigation pipeline system and associated facilities within Benton County road right of way.

This office has reviewed the request and based upon our current franchise requirements recommends approval of the request subject to the following conditions:

1. The term of the franchise be for a ten (10) year period.
2. The Grantee shall carry liability insurance with Benton County named as an insured with a minimum limit of \$1,000,000.00. A copy of the proof of insurance is to be provided to Benton County.
3. Placement of facilities within the right of way shall meet all requirements of Benton County as to location and repair of roads and right of way.
4. Should Benton County require utility relocation work because of road reconstruction, maintenance, or any other reason, said work shall be at the Grantee's expense.
5. The franchise is nonexclusive.
6. The Grantee sign the Order and Agreement for Nonexclusive Franchise, which will be prepared based upon the requirements set forth at the public hearing.

If you have any questions, please contact this office.

Sincerely,

Douglas D'Hondt, P.E., L.E.G  
County Engineer

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
BENTON COUNTY, WASHINGTON

IN THE MATTER OF APPLICATION OF )  
**Columbia Irrigation District** )  
\_\_\_\_\_) FOR A )  
(Please print name of company exactly as it will appear in franchise) )  
NONEXCLUSIVE FRANCHISE TO LOCATE, CONSTRUCT, MAINTAIN, )  
OPERATE USE REPAIR, AND IF NECESSARY REPLACE A )  
irrigation pipeline ) WITHIN THE COUNTY OF )  
\_\_\_\_\_) )  
(Please print exact wording as it will appear in franchise) )  
BENTON, STATE OF WASHINGTON, UPON, OVER, UNDER, ALONG )  
AND ACROSS CERTAIN COUNTY ROADS AND PUBLIC HIGHWAYS, OR )  
PARTS THEREOF, NOT WITHIN THE LIMITS OF ANY INCORPORATED )  
CITY OR TOWN. )

(County use:)

No. \_\_\_\_\_ )  
APPLICATION FOR FRANCHISE )  
PURSUANT TO RCW 36.55.040. )

TO THE HONORABLE BOARD OF COUNTY COMMISSIONERS,  
BENTON COUNTY, WASHINGTON:

**Columbia Irrigation District**

\_\_\_\_\_, duly authorized to transact business in the State of Washington (Grantee), hereby applies for the authority and a nonexclusive franchise, to be granted to said Grantee to locate, construction, maintain, operate, use, repair, and, if necessary, remove facilities upon, over, under, along and across any and all Benton County roads, highways, streets, alleys and bridges of which all or portions thereof are physically located in the Sections, Townships, and Ranges within the County of Benton, State of Washington, as set forth in the schedule marked "Exhibit A" attached hereto and by this reference made a part hereof, excluding, however, any portions thereof which are within the corporate limits of any incorporated city or town, but including all portions which are within any unincorporated town or community.

Grantee requests that the Board of County Commissioners fix a time and place for hearing this application, and cause the County Engineer of Benton County to give public notice of said hearing at the expense of said applicant, by posting notices of said hearings in three (3) public places in the county seat of said Benton County, at least fifteen days before the day fixed for said hearing, and also cause to be published a like notice, at the expense of said applicant, two (2) times in the official newspaper of the Benton County, the last publication of such notice to be not less than five (5) days before the day fixed for said hearing; which notice shall state the name of the applicant, shall describe the Benton County roads, highways, streets, alleys, bridges or portions thereof within said Benton County to be included in the franchise for which this application is made by reference to the Sections, Townships, and Ranges in which they are physically located, and shall show the time and place fixed for said hearing.

The Franchise Application fee in the amount of \$500.00, in the form of check (cash or check), accompanies this application and is non-refundable. Upon approval, the franchise term will be for a period of ten (10) years.

Dated this 9th day of March, 2021.

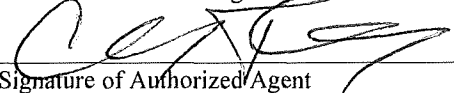
Respectfully submitted by:

**Clancy Flynn, Secretary/Manager**

**(509) 586-6118**

Name of Authorized Agent PLEASE PRINT

Phone Number of Applicant



**(509) 586-0485**

Signature of Authorized Agent

FAX Number of Applicant

**10 E. Kennewick Avenue**

Address of Applicant

2<sup>nd</sup> Name of Authorized Agent PLEASE PRINT (if required)

**Kennewick WA 99336**

City State Zip

2<sup>nd</sup> Signature of Authorized Agent (if required)

**cid@columbiairrigation.com**

E-mail address

EXHIBIT A

All unincorporated areas of Benton County

# COMMISSIONERS' AGENDA ACTION SHEET

<b>Meeting Date:</b>	4/20/2021	
<b>Subject:</b>	Recruitment and Selection Process for Nonpartisan Elective Office Vacancies Policy Update	
<b>Presenter:</b>	L. Wingfield	
<b>Prepared By:</b>	L. Wingfield	
<b>Reviewed By:</b>	Jerrod MacPherson	
<b>PA Review, Approval to Form:</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <i>(If no, include reasoning for no approval)</i>	
<b>Type of Agenda Item:</b>	<b>Type of Action Needed:</b> <i>(Multiple boxes can be checked, if necessary)</i>	
<input type="checkbox"/> Consent Agenda <input type="checkbox"/> Public Hearing <input checked="" type="checkbox"/> Scheduled Business	<input type="checkbox"/> Discussion Only <input type="checkbox"/> Pass Motion <input type="checkbox"/> Decision / Direction <input checked="" type="checkbox"/> Pass Resolution <input type="checkbox"/> Sign Letter / Document <input type="checkbox"/> Pass Ordinance <input type="checkbox"/> Execute Contract	

## Summary / Background Information

County policies are being reviewed and updated. The Recruitment and Selection Process for Nonpartisan Elective Office Vacancies Policy has been updated to reflect current business processes and needs. The policy was originally established in 2009 and has not been updated since.

## Fiscal Impact

No supplement required.

## Recommendation

Recommend the Board of Benton County Commissioners sign the Resolution and adopt the updated Recruitment and Selection Process for Nonpartisan Elective Office Vacancies Policy.

## Suggested Motion

I move to adopt the updated Recruitment and Selection Process for Nonpartisan Elective Office Vacancies Policy and rescind resolution 09-103.

# RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

**IN THE MATTER OF ADOPTING THE UPDATED RECRUITMENT AND SELECTION PROCESS FOR NONPARTISAN ELECTIVE OFFICE VACANCIES POLICY.**

**WHEREAS**, Benton County Resolution 09-103 adopted the Recruitment and Selection Process for Nonpartisan Elective Office Vacancies Policy; and

**WHEREAS**, the policy has been reviewed and a determination has been made to update the policy to reflect current business needs and processes; **THEREFORE**,

**BE IT RESOLVED**, that the Board of Benton County Commissioners hereby adopt the attached and updated Recruitment and Selection Process for Nonpartisan Elective Office Vacancies Policy; and

**BE IT FURTHER RESOLVED**, that the Board of Benton County Commissioners rescind resolution 09-103.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

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

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

Constituting the Board of Commissioners  
of Benton County, Washington

Attest.....

Clerk of the Board

BENTON COUNTY RECRUITMENT AND SELECTION PROCESS  
FOR NONPARTISAN ELECTIVE OFFICE VACANCIES

1. GENERAL

A nonpartisan elective office shall become vacant upon the death, resignation, removal of the officer, or for other causes. Per RCW 36.16.110, the County legislative authority shall fill the vacancy by appointment during a regular or special meeting after being notified of a vacancy in any County nonpartisan elective office. The appointment shall be of a person qualified to hold such nonpartisan elective office. Additionally, the appointed person shall hold the nonpartisan elective office until the next general election, when their successor is elected. The Commissioners shall fill such vacancy from a non-prioritized list of three (3) candidates submitted by the County Administrator.

2. PURPOSE

The purpose of this process is to define the recruitment and selection process for nonpartisan elective office vacancies.

3. RESPONSIBILITY

- a. It is the responsibility of the Benton County Board of Commissioners to ensure that all matters affecting the recruitment and selection of applicants for a vacant nonpartisan elective office within Benton County are carried out in accordance with applicable state and federal requirements.
- b. It is the responsibility of the County Administrator to work with the Human Resources Department to determine the most suitable selection devices and submit a list of three (3) candidates to the Commissioners.
- c. It is the responsibility of the Human Resources Department to maintain this policy and ensure that the procedures set forth in this policy are followed in a consistent manner.

4. POLICY

It is the policy of Benton County to recruit and select the most qualified person for each vacant nonpartisan elective office of the County.

5. RECRUITMENT

The Human Resources Department shall develop and conduct an active recruitment program.

a. The County shall use classification specifications and job-related criteria to recruit and select a person to fill the vacant nonpartisan elective office.

b. Recruitment of a Vacant Nonpartisan Elective Office

In order to attract an adequate number of candidates for a vacant nonpartisan elective office, the Human Resources Department will post a vacancy announcement and publicize the vacancy on the Benton County website and anywhere else deemed appropriate.

c. Applications

Applications for a vacant nonpartisan elective office shall be filled out utilizing the Benton County application process via electronic submission found on their website at [www.co.benton.wa.us](http://www.co.benton.wa.us). To be accepted for review, applications must be submitted via the electronic submission by the date and time specified on the vacancy announcement.

d. Eligible Applicants

Only those applicants who submit the required application materials as specified in the vacancy announcement and who meet the minimum qualifications for the vacant nonpartisan elective office will be considered eligible to compete in the selection process.

## 6. SELECTION

The selection process shall maximize reliability, objectivity, and validity through a job-related assessment of the applicant's attributes necessary for successful performance.

a. Selection Devices

The County Administrator in consultation with the Human Resources Department will determine the selection device to be used to obtain the best, qualified candidates for the vacant nonpartisan elective office. Such selection devices may include but are not limited to: position related written tests, interviews, work samples, resumes, supplemental questionnaires, committee rankings and/or recommendations, and/or background and reference inquiries. Utilizing the best fit selection device(s) for the vacancy, the County Administrator will submit a list of three (3) candidates to the Benton County Board of Commissioners.

## 7. APPOINTMENT

The Benton County Board of Commissioners shall fill the vacancy from the list of three (3) candidates submitted by the County Administrator. The appointment may follow interviews of the three (3) candidates during a regular or special board meeting. The Human Resources Department will provide the Board of Commissioners with all materials submitted for each candidate, schedule interviews, and assist in providing the core interview questions that will be asked to all candidates.

## 8. POLICY UPDATES

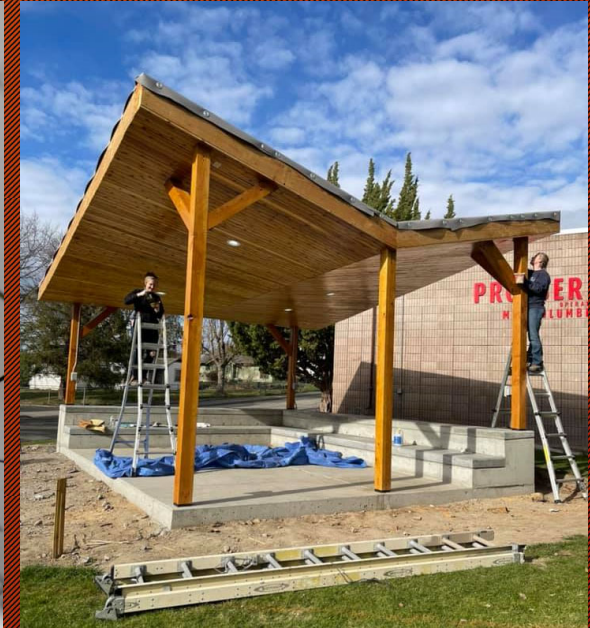
Established via Resolution 09-103 on February 9, 2009

Updated April 2021

# Director's Report

By Neal Ripplinger  
Executive Director





## Business Retention, Recruitment & Expansion

# Prosser Business Spotlight



**PROSSER**  
ECONOMIC DEVELOPMENT ASSOC.  
THE DIRECTION YOU'LL WANT TO GROW

To date we've featured over 40 local businesses. Each business is advertised via direct email, social media and now Prosser Record-Bulletin.

Record-Bulletin

\$1.00

NEWSATVALLEYPUBLISHING.COM MARCH 24, 2021

## Create The Business Spotlight

Each week The Business Spotlight highlights a local Prosser business.

### The Prosser House



By Prosser Economic Development

The Prosser House is situated in the home that was built for Prosser's first mayor back in 1896. This chef driven restaurant is a place that locals embrace and people traveling will not want to miss.

After years of traveling Chef John Gray and his wife Belem have proudly joined the Prosser community, to bring you a great spot complete with indoor and outdoor dining, a fresh seasonal style of home cooking and a genuinely warm comfortable place you won't want to miss.

Location: 1232 Wine Country Road

Sep 17

Prosser Business Spotlight: [Jade's British Girl Treats](#). Located at 1115 Grant Ave., Jade's provides artisan chocolates, breakfast bites, lunch specials a... See More



You and 51 others 9 Comments 25 Shares

Like Comment Share

3,067 people reached >

Boost Post

# Tourism Study

Working with Hub Collective to facilitate a study to identify Prosser's tourism potential paid for through a USDA grant



## Prosser Partners

Meeting twice monthly  
with the Chamber of  
Commerce, City of  
Prosser and Historic  
Downtown Prosser  
Association

**PROSSER**  
CHAMBER OF COMMERCE



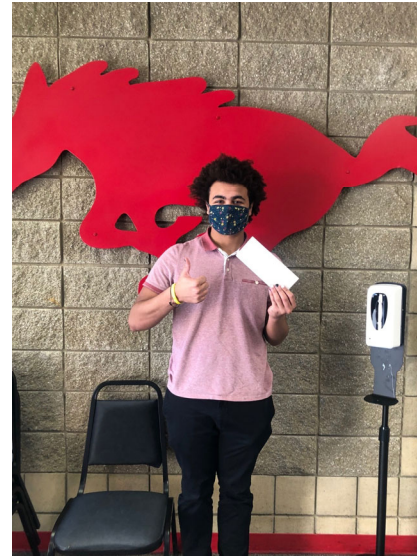


## USDA Grant

Application complete for a small business post-COVID resiliency grant.

# Mustang Business Plan

Partnered with the Prosser School District for the 10<sup>th</sup> annual event held virtually for the first time

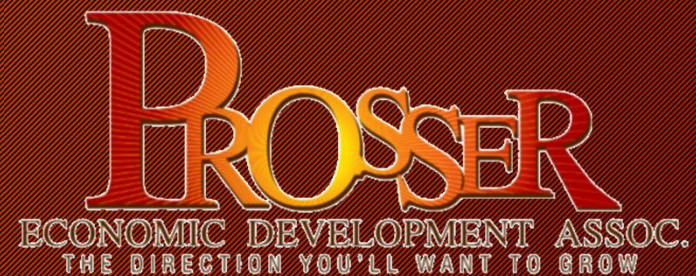


# Prosser EDA Annual Meeting

Thursday, April 29<sup>th</sup> 5:30 - 6:30 pm  
Register for free at [www.prosser.org](http://www.prosser.org)

## Speakers Include

- City of Prosser
- Chamber of Commerce
- Historic Downtown Prosser
- Prosser Memorial Health
- Prosser School District



## Contact Information

Neal Ripplinger, Executive Director

236 Port Ave., Suite A., Prosser

Office Phone: (509) 786-3600

Cell Phone: (509) 303-8999

[neal@prosser.org](mailto:neal@prosser.org)

# COMMISSIONERS' AGENDA ACTION SHEET

<b>Meeting Date:</b>	April 20, 2021	
<b>Subject:</b>	LIT Establishing Human Services Temporary Housing Program Navigator	
<b>Presenter:</b>	K. Sullivan	
<b>Prepared By:</b>	K. Ainsworth	
<b>Reviewed By:</b>		
<b>PA Review, Approval to Form:</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <i>(If no, include reasoning for no approval)</i>	
<b>Type of Agenda Item:</b>	<b>Type of Action Needed:</b> <i>(Multiple boxes can be checked, if necessary)</i>	
<input type="checkbox"/> Consent Agenda <input type="checkbox"/> Public Hearing <input checked="" type="checkbox"/> Scheduled Business	<input type="checkbox"/> Discussion Only <input type="checkbox"/> Decision / Direction <input type="checkbox"/> Sign Letter / Document	<input type="checkbox"/> Pass Motion <input checked="" type="checkbox"/> Pass Resolution <input type="checkbox"/> Pass Ordinance <input type="checkbox"/> Execute Contract

## Summary / Background Information

The Emergency Rental Assistant Grant was approved earlier this year, and in response, the Benton County Board of Commissioners approved Human Services hiring two (2) Temporary Housing Program Navigators. The expiration date of the Grant funding was recently extended through September of 2022 and while the addition of the two (2) previously approved positions has been immensely helpful, it is apparent that additional help is still needed to manage and disperse the Grant funds. Human Services is requesting one additional extended temporary Housing Program Navigator to help provide the community with the greatest assistance when administering funding as provided by the Grant. Human Services will work with HR to assure the extended temporary employee follows temporary help guidelines and does not continue employment beyond the expiration of the Grant or December 31, 2022 whichever is earlier.

## Fiscal Impact

No supplement required

## Recommendation

Recommend the Board of Benton County Commissioners sign the Resolution and the LIT to create a Temp Housing Program Navigator.

## Suggested Motion

I move to approve the resolution and attached LIT to create a Temp Housing Program Navigator.

# 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 0108101, 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; and

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2021

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

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

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

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

cc: Dept., Auditor, File,

Prepared by: Karlee Ainsworth

### BENTON COUNTY LINE ITEM TRANSFER

Dept Name:

Dept Nbr:

Fund Name:

Fund Nbr:

TRANSFER FROM:

TRANSFER TO:

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT	BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
566.220	4155	Contract Services	\$35,000	565.110	1260	Temp Housing Program Navigator	\$29,000
				565.110	2102	Social Security	\$2,220
				565.110	2104	Retirement	\$3,730
				565.110	2119	Paid Family Leave	\$50
<b>TOTAL</b>			<b>\$35,000</b>	<b>TOTAL</b>			<b>\$35,000</b>

**Explanation:**

2021-2022 Budget. New Position 1260 is grant related for the Emergency Rental Assistance Grant and ends with the completion of the grant or December 31, 2022, whichever is earlier.

Prepared by:

Date:

Approved

Denied

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

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member



## Finance Presentation

January 1, 2019 – December 31, 2020  
Current Expense



## Finance Presentation

January 1, 2021 – March 31, 2021  
Current Expense



## Finance Presentation

January 1, 2021 – March 31, 2021  
Public Safety Tax

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