

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 in-person, by live-broadcast and telephonically via WebEx as follows:**

Live-Broadcast @ link below:

<https://www.co.benton.wa.us/agendalist.aspx?categoryid=1181>

**AGENDA**  
**BOARD OF BENTON COUNTY COMMISSIONERS**  
**Regular Board Meeting**  
**Tuesday, September 28, 2021**  
**Benton County Courthouse, Prosser, WA**

**9:00 AM**

**Call to Order**

**Pledge of Allegiance**

**Approval of Minutes**

❖ **September 21, 2021**

**Review Agenda**

**Consent Agenda**

**Auditor**

- a. Setting the Method for Sale & Minimum Bid on 1973 Cessna 182P Aircraft
- b. Transfer of Funds, Fund No. 0111-101, Dept. 000

**Commissioners**

- c. Transfer of Funds, Fund No. 0000-101, Dept. 115 to 106
- d. Appointment of Marilyn Dickenson to the Columbia Irrigation District Board

**Facilities**

- e. Easement Release & New Easement to City of Kennewick for Construction & Maintenance of Waterlines at the Administration Building
- f. Right of Way Easement to Benton PUD at the Administration Building

**Juvenile**

- g. Transfer of Funds, Fund No. 0115-101, Dept. 171

**Prosecuting Attorney**

**h.** Transfer of Fund, Fund No. 0000-101, Dept. 117

**Purchasing**

- i.** Accepting Work Performed by Chervenell Construction Co. for the Courtroom Audio-Visual Upgrade Project
- j.** Contract w/Keefe Commissary Network for Inmate Commissary Services for Corrections Dept.

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

**Scheduled Business**

**Authorization** for Grant Application Submittal to the Administrative Offices of the Courts for Therapeutic Court Services ~ Tara Symons

**Contract** w/WA State Dept. of Corrections for Jail Bed Space @ the Jail ~ Chief Souza

Agreement w/Axon Enterprise for Purchase of Body & Vehicle Cameras and Taser Equipment for the Sheriff's Office ~ Interim Sheriff Law

**Northwest** Winterfest Event @ the Benton County Fairgrounds ~ A Fyall

**Other Business**

**Executive Session**

Pending Litigation ~ R Lukson & A Morasch

*Draft*

**MINUTES**

**BOARD OF BENTON COUNTY COMMISSIONERS**

Regular Board Meeting  
Benton County Courthouse, Prosser, WA  
Tuesday, September 21, 2021, 9:00 a.m.

*Meeting provided in-person, by Video Live-Broadcast and Telephonically*

**Present:** Chairman Jerome Delvin  
Commissioner Shon Small  
Commissioner Will McKay  
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; Robert Heard, IT Manager; Finance Manager Linda Ivey; Robert Blain, Operations & Capital Programs; Adam Fyall, Sustainable Development Manager; Clerk Josie Delvin; Treasurer Ken Spencer; DPA Ryan Brown; Greg Wendt, Community Development Director.

**Pledge of Allegiance**

The Board recited the Pledge of Allegiance.

**Approval of Minutes**

The Minutes of September 14, 2021 were approved.

**Agenda Review**

The following items were added to Other Business for discussion:

- Funding Letter for Behavioral Health Recovery Center
- Change Order – Total Office Concepts

**Consent Agenda**

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

**Clerk**

- a. Amended Agreement w/ImageSoft for OnBase Licenses

**Commissioners**

- b. Reimbursement Agreement w/WA State Administrative Office of the Courts Regarding Blake Decision
- c. Monthly Billing, Reports & Department Responsibilities for Reimbursement Agreement w/WA State Administrative Office of the Courts Regarding Blake Decision

**Information Technology**

- d. Approving Twelve Month Smarsh Inc. Archiving Platform, Data Retention Policy Order Form

**Juvenile**

- e. Agreement w/State of WA Administrative Office of the Courts for CASA Programs

**Office of Public Defense**

- f. District & Superior Courts Public Defense Contract w/Timothy Dickerson
- g. District Court Public Defense Contract w/Matthew Rutt

**Planning**

- h. Final Plat of Orchard View Estates – SUB 2021-005

**Purchasing**

- i. Contract Extension w/Coleman Oil Company for Card Lock Service
- j. Change Order No. 1 w/Freeform for Administration Building Furniture
- k. Accepting Work Performed by C & E Trenching for Snow Removal Project

**Public Comment**

None.

**Public Hearings****Budget Adjustment to 2021-2022 Current Expense Fund**

Linda Ivey presented the Budget Adjustment to the 2021-2022 Current Expense Fund budget as follows and highlighted the following:

Per budget policy, any cash carry forward in excess of 13% may be transferred. Additionally, to meet operational needs, the Election Reserve Fund should maintain a minimum fund balance of \$500,000. The following transfers were recommended:

- Park Development Fund - \$115,000
- Capital Projects Fund - \$10,098,700
- Sustainable Development Fund - \$130,000
- Fairgrounds Operating Fund - \$300,000
- Election Reserve Fund - \$440,000
- Total impact to Current Expense - \$11,083,700

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

**MOTION:** Commissioner Small moved to approve the request for budget adjustment to the General Fund, 0000-101, Dept. 115 in the amount of \$11,083,700. Commissioner McKay seconded and upon vote, the motion carried.

### **Scheduled Business**

#### **Fairgrounds Feasibility Study & Master Plan Contract w/C. H. Johnson Consulting**

Adam Fyall presented the contract with C.H. Johnson Consulting to perform a feasibility study and master plan.

A request for qualifications for this work was published earlier in the summer, with six respondents and two were interviewed. The scope of services and compensation were negotiated with the consultant, and a contract approved for form and signed by C.H. Johnson Consulting.

Commissioner McKay asked about the other four applicants. Mr. Fyall said they narrowed it down to qualifications and what they offered and understanding of the project and the two that were interviewed stood apart from the others. Additionally, Commissioner McKay asked if the selected applicant would review the generation of funds and Mr. Fyall said the report would include the cost to make improvements, operations, and return on investment. Commissioner McKay said he wanted to be involved in the interviewing process for architects, etc.

Chairman Delvin said it was his experience that public facilities did not make a profit and they should not do this with the expectation it would be a money maker.

The Board expressed concern regarding the cost of the contract and there was a discussion regarding cost and the current market for these types of studies. The total contract was \$236,500.00 excluding WSST to be paid from the REET fund.

**MOTION:** Commissioner Small moved to approve the contract between Benton County and C.H. Johnson Consulting for development of the feasibility study and master plan of the Benton County Fairgrounds as presented. Commissioner McKay seconded and upon vote, the motion carried.

### **Other Business**

#### **Commitment of Funding Letter – Behavioral Health Recovery Center**

Matt Rasmussen said he was working on two grant applications for the recovery center, and they were looking for a letter from the County that it was committed to funding the project from the beginning to completion. He presented a Commitment of Funding letter to assure the Department of Commerce that the County was committed to this project.

There was a discussion regarding funding and Mr. Rasmussen assured the Board they were working within the existing budget and pursuing grants. He said there was a big move right now behind behavioral health and funding was available, so it was a good time to move forward.

Commissioner McKay again requested to be involved in the construction process.

**MOTION:** Commissioner Small moved to approve the letter as presented. Commissioner McKay seconded and upon vote, the motion carried.

#### Change Order with Total Office Concepts

Robert Blain presented a change order with Total Office Concepts to extend the contract completion date by 24 days to October 20, 2021 due to problems with the supply chain.

**MOTION:** Commissioner Small moved to approve the Change Order with Total Office Concepts as presented. Commissioner McKay seconded and upon vote, the motion carried.

#### Transitional Housing

Commissioner Small asked if the Board was agreeable to him researching whether they could use parts of the Trios campus to assist with transitional housing, even during the design phase. The Board agreed.

#### WSAC

Commissioner McKay said he was very impressed with WSAC's involvement with the County's issues. To that end, they were proposing a fee increase of approximately \$15,000 to \$20,000 per year due their staff involvement and he said he was in favor of that increase.

#### Tort Claim

CC 2021-26: Received on September 20, 2021 from Thomas Wilson

#### Payroll

Check Date: 09/15/2021

Payroll Checks

Total all funds: \$118,627.34

Warrant #: 243338

Direct Deposit #: 165368-165523

Payroll Draw Deductions/Transfers

Total all funds: \$21,860.66

Taxes #: 101210912

## **Accounts Payable**

Check Date: 09/17/2021

Warrants #: 221308-221502  
Total all funds: \$4,372,642.94

EFT's #: 1935-1937  
Transfers #: 09172101-09172106  
Total all funds: \$46,841.71

## **Resolutions**

- 2021-690: Amended Agreement w/ImageSoft for OnBase Licenses
- 2021-691: Reimbursement Agreement w/WA State AOC Regarding Blake Decision
- 2021-692: Monthly Billing, Reports & Department Responsibilities for Reimbursement Agreement w/WA State AOC Regarding Blake Decision
- 2021-693: Approving 12-Month Smarsh Inc. Archiving Platform, Data Retention Policy Order Form
- 2021-694: Agreement w/State of WA Administrative Office of the Courts for CASA Programs
- 2021-695: District & Superior Courts Public Defense Contract w/Timothy Dickerson
- 2021-696: District Court Public Defense Contract w/Matthew Rutt
- 2021-697: Final Plat of Orchard View Estates – SUB 2021-005
- 2021-698: Contract Extension w/Coleman Oil Company for Card Lock Service
- 2021-699: Change Order No. 1 w/Freeform for Administration Building
- 2021-700: Accepting Work Performed by C & E Trenching for Snow Removal Project
- 2021-701: Budget Adjustment to the 2021-2022 Current Expense Fund No. 0000101 Department 115 - \$11,083,700
- 2021-702: Professional Services Contract with C.H. Johnson Consulting Inc. for Performing a Feasibility Study and Master Plan for the Benton County Fairgrounds
- 2021-703: Approving Contract Change Order No. 1 with Total Office Concepts Inc. for Furnishing a Portion of the Furniture for the New Administration Building

There being no further business before the Board, the meeting adjourned at approximately 9:39 a.m.

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Clerk of the Board

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Chairman

# COMMISSIONERS' AGENDA ACTION SHEET

|                                                                                                                                                                                 |                                                                                                   |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------|
| <b>Meeting Date:</b> September 28, 2021                                                                                                                                         |                                                                                                   |
| <b>Subject:</b> Setting Minimum Bid on 1973 Cessna 182P Aircraft                                                                                                                |                                                                                                   |
| <b>Presenter:</b>                                                                                                                                                               |                                                                                                   |
| <b>Prepared By:</b> Lorene Roe                                                                                                                                                  |                                                                                                   |
| <b>Reviewed By:</b> Robert Blain                                                                                                                                                |                                                                                                   |
| <b>PA Review, Approval to Form:</b> <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A (If no, include reasoning for no approval) |                                                                                                   |
| <b>Type of Agenda Item:</b>                                                                                                                                                     | <b>Type of Action Needed:</b> (Multiple boxes can be checked, if necessary)                       |
| <input checked="" type="checkbox"/> Consent Agenda                                                                                                                              | <input type="checkbox"/> Discussion Only <input type="checkbox"/> Pass Motion                     |
| <input type="checkbox"/> Public Hearing                                                                                                                                         | <input type="checkbox"/> Decision / Direction <input checked="" 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

As per the Benton County Personal Property Management Policy, a minimum bid is being set on the sale of the 1973 Cessna 182P aircraft of \$50,000. Said aircraft will be posted for public auction through [publicsurplus.com](https://publicsurplus.com)

## Fiscal Impact

None

## Recommendation

The Personal Property Manager recommends placing a minimum bid of \$50,000 on the surplus sale of the 1973 Cessna 182P aircraft

### **Suggested Motion**

Approve as part of consent agenda

# RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

**IN THE MATTER OF SETTING THE METHOD FOR SALE AND MINIMUM BID ON T H E 1973 CESSNA 182P AIRCRAFT IN ACCORDANCE WITH THE BENTON COUNTY PERSONAL PROPERTY POLICY**

**WHEREAS**, on August 31, 2021, the Board of County Commissioners passed resolution 2021-657 declaring as surplus the 1973 Cessna 182P aircraft; and

**WHEREAS**, the Personal Property Policy, resolution 2007-752, sets forth the allowable sale methods for surplus personal property; and

**WHEREAS**, the Personal Property Manager recommends the sale be by public auction to allow for the highest and best bidder and that the aircraft be listed through PublicSurplus.com; and

**WHEREAS**, the Personal Property Policy further sets forth that a minimum bid amount shall be set by the Board of County Commissioners when the method of sale is by public auction; and

**WHEREAS**, staff has researched the current market price for like or similar aircrafts and recommends a minimum bid be set at fifty thousand dollars (\$50,000); **NOW, THEREFORE**,

**BE IT HEREBY RESOLVED** that the Board of Benton County Commissioners directs the method of sale for the 1973 Cessna 182P aircraft be by public auction and authorizes the Personal Property Manager to list the aircraft on PublicSurplus.com with a minimum bid of fifty thousand dollars (\$50,000) to be sold to the highest and best bidder under such terms and conditions as shall be determined by the Personal Property Manager.

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

# RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY FUNDS RE: TRANSFER OF FUNDS WITHIN  
ELECTION RESERVE FUND NUMBER 0111101 DEPARTMENT NUMBER 000

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

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

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

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

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

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

cc: Dept, Auditor, File

prepared by: Lorene Roe

BENTON COUNTY BUDGET ADJUSTMENT

Dept Name:

Dept Nbr:

Fund Name:

Fund Nbr:

TRANSFER FROM: Dept.

TRANSFER TO: Dept.

| BASE SUB<br>(6 digit) | LINE ITEM<br>(4 digit) | LINE ITEM NAME | AMOUNT  | BASE SUB<br>(6 digit) | LINE ITEM<br>(4 digit) | LINE ITEM NAME       | AMOUNT  |
|-----------------------|------------------------|----------------|---------|-----------------------|------------------------|----------------------|---------|
| 514.401               | 3101                   | Supplies       | \$5,320 | 514.401               | 3508                   | Computer Replacement | \$5,320 |
|                       |                        |                |         |                       |                        |                      |         |
|                       |                        |                |         |                       |                        |                      |         |
|                       |                        |                |         |                       |                        |                      |         |
|                       |                        |                |         |                       |                        |                      |         |
|                       |                        |                |         |                       |                        |                      |         |
|                       |                        |                |         |                       |                        |                      |         |
|                       |                        |                |         |                       |                        |                      |         |
| TOTAL                 |                        |                | \$5,320 | TOTAL                 |                        |                      | \$5,320 |

Explanation:

Purchase of two (2) Clear Count Post Imprinter fi-6800. These imprinters are used to number the ballots as they are scanned making an easier search for individual ballots during a risk limiting auditor.

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  
CURRENT EXPENSE FUND NUMBER 0000101, DEPARTMENT NUMBER 115  
TO DEPARTMENT NUMBER 106

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

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

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

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

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

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

cc: Dept., Auditor, File,

Prepared by: Ivey

**BENTON COUNTY LINE ITEM TRANSFER**Dept Name: Dept Nbr: Fund Name: Fund Nbr: 

TRANSFER FROM: Dept 115

TRANSFER TO: Dept 106

| BASE SUB<br>(6 digit) | LINE ITEM<br>(4 digit) | LINE ITEM NAME          | AMOUNT    | BASE SUB<br>(6 digit) | LINE ITEM<br>(4 digit) | LINE ITEM NAME    | AMOUNT    |
|-----------------------|------------------------|-------------------------|-----------|-----------------------|------------------------|-------------------|-----------|
| 511.600               | 4931                   | Fenced Item Contingency | \$800,000 | 512.317               | 4139                   | Blake LFO Refunds | \$800,000 |
|                       |                        |                         |           |                       |                        |                   |           |
|                       |                        |                         |           |                       |                        |                   |           |
|                       |                        |                         |           |                       |                        |                   |           |
|                       |                        |                         |           |                       |                        |                   |           |
|                       |                        |                         |           |                       |                        |                   |           |
|                       |                        |                         |           |                       |                        |                   |           |
|                       |                        |                         |           |                       |                        |                   |           |
|                       |                        |                         |           |                       |                        |                   |           |
| TOTAL                 |                        |                         | \$800,000 | TOTAL                 |                        |                   | \$800,000 |

**Explanation:**

To appropriate funding in the Clerks Office, Department 106, for LFO Reimbursement expenses associated with the Blake Decision. The expenses are Grant funded.

Prepared by: Date: 

Approved



Denied



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

\_\_\_\_\_  
Chairman\_\_\_\_\_  
Member\_\_\_\_\_  
Member

# COMMISSIONERS' AGENDA ACTION SHEET

|                                                    |                                                                                                                                             |
|----------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Meeting Date:</b>                               | 9/28/2021                                                                                                                                   |
| <b>Subject:</b>                                    | Appointment of Marilyn Dickenson to Columbia Irrigation District                                                                            |
| <b>Presenter:</b>                                  |                                                                                                                                             |
| <b>Prepared By:</b>                                | P. Brown                                                                                                                                    |
| <b>Reviewed By:</b>                                | M. Flores                                                                                                                                   |
| <b>PA Review, Approval to Form:</b>                | <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A (If no, include reasoning for no approval) |
| <b>Type of Agenda Item:</b>                        | <b>Type of Action Needed:</b> (Multiple boxes can be checked, if necessary)                                                                 |
| <input checked="" type="checkbox"/> Consent Agenda | <input type="checkbox"/> Discussion Only <input type="checkbox"/> Pass Motion                                                               |
| <input type="checkbox"/> Public Hearing            | <input type="checkbox"/> Decision / Direction <input checked="" 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

The Commissioners' Office was notified of a vacancy on the Board with the Columbia Irrigation District. Marilyn Dickenson expressed an interest in filling the unexpired term that is set to expire 12/31/2023.

## Fiscal Impact

## Recommendation

That the Commissioners review the attached letter from Marilyn Dickenson requesting consideration to be appointed to the Columbia Irrigation District Board to fill the unexpired term.

## Suggested Motion

Consent Agenda

# RESOLUTION

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

**IN THE MATTER OF APPOINTMENT OF MARILYN DICKENSON TO THE COLUMBIA IRRIGATION DISTRICT**

**WHEREAS** there is an open position for Director in Division #4 to the Columbia Irrigation District Board; and

**WHEREAS**, the Board of Benton County Commissioners has received a recommendation from the Columbia Irrigation District Board of Directors for Marilyn Dickenson to fill the open position; **NOW, THEREFORE**,

**BE IT RESOLVED** that Marilyn Dickenson is hereby appointed to fill the unexpired term for the position of Director of Division #4, said term expiring on December 31, 2023; and

**BE IT FURTHER RESOLVED** that Marilyn Dickenson is hereby appointed to fill the unexpired term for the position of Director of Division #4, said term expiring on December 31, 2023.

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

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

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

\_\_\_\_\_  
Member

Attest: .....  
Clerk of the Board

Constituting the Board of County  
Commissioners of Benton County,  
Washington

# COMMISSIONERS' AGENDA ACTION SHEET

|                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                              |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Meeting Date:</b>                                                                                                                                                                                                                         | September 28, 2021                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>Subject:</b>                                                                                                                                                                                                                              | Releasing an old Easement and granting a new Easement for Waterlines to City of Kennewick at the Administration Building site                                                                                                                                                                                                                                                                                                |
| <b>Presenter:</b>                                                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>Prepared By:</b>                                                                                                                                                                                                                          | Shannon Christen                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>Reviewed By:</b>                                                                                                                                                                                                                          | Robert Blain                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>PA Review, Approval to Form:</b> <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A (If no, include reasoning for no approval)<br>No signature, since it is a conveyance and not a contract |                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>Type of Agenda Item:</b>                                                                                                                                                                                                                  | <b>Type of Action Needed:</b>                                                                                                                                                                                                                                                                                                                                                                                                |
| <input checked="" type="checkbox"/> Consent Agenda<br><input type="checkbox"/> Public Hearing<br><input type="checkbox"/> Scheduled Business                                                                                                 | <input type="checkbox"/> Discussion Only (1 <sup>st</sup> )<br><input type="checkbox"/> Discussion Only (2 <sup>nd</sup> )<br><input type="checkbox"/> Decision/Direction<br><input checked="" type="checkbox"/> Sign Letter/Document<br><input type="checkbox"/> Pass Motion<br><input checked="" type="checkbox"/> Pass Resolution<br><input type="checkbox"/> Pass Ordinance<br><input type="checkbox"/> Execute Contract |

## Summary / Background Information

In 1983 Benton County granted an easement for the construction and maintenance of waterlines on the County owned property at 7122 W. Okanogan Place, Kennewick. As the campus changed over the years, the easement has been encroached on and the waterline location has changed. That easement needs to be released and a new easement granted to allow City of Kennewick the right of ingress and egress to inspect, design, construct, reconstruct, operate, maintain, repair, replace and remove waterlines and associated infrastructure over, under and across said easement. This will be a nonexclusive easement, reserving the right to grant additional easements to other parties.

A Deed for Waterline Easement and Release of Easement has been prepared and reviewed by our departmental Deputy Prosecuting Attorney. There is no PA signature block on the document since this is a conveyance and not a contract.

## Fiscal Impact

**Amount:** None

**Fund:** N/A

## Recommendation

The Director of Operations and Capital Programs recommends the Board approve the Deed for Waterline Easement and Release of Easement and sign said document.

## Suggested Motion

Approve as part of the Consent Agenda.

## RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF RELEASING AN EASEMENT AND GRANTING A NEW EASEMENT FOR THE CONSTRUCTION AND MAINTENANCE OF WATERLINES ON THE COUNTY OWNED PROPERTY AT 7122 W. OKANOGAN PLACE, KENNEWICK, WA TO THE CITY OF KENNEWICK

WHEREAS, in 1983 Benton County granted an easement for the construction and maintenance of waterlines on the County owned property at 7122 W. Okanogan Place, Kennewick. As the campus changed over the years, the easement has been encroached on and the waterline location has changed. That easement needs to be released and a new easement granted to allow City of Kennewick the right of ingress and egress to inspect, design, construct, reconstruct, operate, maintain, repair, replace and remove waterlines and associated infrastructure over, under and across said easement; and

WHEREAS, a Deed for Waterline Easement and Release of Easement has been prepared and the departmental Deputy Prosecuting Attorney reviewed the Deed; and

WHEREAS, the Director of Operations and Capital Programs recommends the Board approve said Deed; NOW, THEREFORE,

BE IT RESOLVED the Board of Benton County Commissioners hereby approves a Deed for Waterline Easement and Release of Easement, attached hereto, for the construction and maintenance of waterlines on the County owned property at 7122 W. Okanogan Place, Kennewick, Washington by the City of Kennewick.

Dated this 28th day of September 2021.

\_\_\_\_\_  
Chairman

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

\_\_\_\_\_  
Member

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

Constituting the Board of County  
Commissioners of Benton County,  
Washington

Return to:  
City Clerk's Office  
City of Kennewick  
PO Box 6108  
Kennewick, WA 99336

### **DEED for WATERLINE EASEMENT AND RELEASE OF EASEMENT**

Grantor(s): BENTON COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF WASHINGTON  
Grantee: CITY OF KENNEWICK, A WASHINGTON MUNICIPAL CORPORATION

Legal Description (abbreviated) PORTION OF THE NW 1/4 OF SECTION 32, T. 9 N., R. 29 E., W.M.  
(COMPLETE LEGAL DESCRIPTION SEE EXHIBIT A)  
Assessor's Tax Parcel ID No(s): 1-3299-200-0010-005 & 1-3299-200-0014-001  
Reference Nos. 877120

**THIS DEED for WATERLINE EASEMENT and RELEASE of EASEMENT** is entered into by and between the BENTON COUNTY, a political subdivision of the State of Washington ("Grantor"), and the CITY OF KENNEWICK, a Washington municipal corporation ("Grantee") may be referred to collectively as the "Parties".

### **RECITALS**

**WHEREAS**, Grantor is the sole owner of certain real property located in Benton County, Washington, which is legally described in Exhibit A which is attached hereto; and

**WHEREAS**, in 1983 Grantor conveyed a Former Easement Auditor File Number 877120 to Grantee for the construction and maintenance of WATERLINES on the Property; and

**WHEREAS**, Grantor desires to extinguish the Former Easement Auditor File Number 877120 and grant to THE GRANTEE, THE CITY OF KENNEWICK, a Washington municipal corporation, its successors and assigns, a permanent New Easement over, under and across the real property described in Exhibit B and depicted in Exhibit B-1 herewith attached and made a part hereof, situated in Benton County, State of Washington.

### **TERMS AND CONDITIONS**

1. **Recitals.** The above recitals are a part of this Deed for Easement and the Parties represent and warrant that they are true and correct.
2. **Relinquishment and Replacement.** The Former Easement Auditor File Number 877120 is hereby relinquished by Grantee and replaced by the grant of easement noted below.
3. **Grant of Easement.** Grantor hereby grants to Grantee a permanent New Easement over, under and across the real property described in Exhibit B and depicted in Exhibit B-1 herewith attached and made a part hereof, situated in Benton County, State of Washington.
4. **Easement Purposes.** Grantee shall have the right to enter the property to inspect, design, construct, reconstruct, operate, maintain, repair, replace, and remove waterlines and associated

infrastructure, and may remove landscaping and other obstructions which interfere with the Grantee's designated use of the New Easement. Grantor shall not construct buildings or structures on the New Easement but may make use of the New Easement for any purposes that do not interfere with Grantee's rights provided.

5. **Running Covenants.** The Easement granted herein shall run with the land and is binding upon all subsequent owners thereof.
6. **No Termination Upon Breach.** No breach of the terms contained in this Deed for Easement shall entitle either Party to cancel, rescind or otherwise terminate the easement; provided, however, that this provision shall not limit or otherwise affect any other right or remedy which such party may have hereunder by reason of any breach.

DATED THIS \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, for **BENTON COUNTY**.

GRANTOR:

BENTON COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF WASHINGTON

By: \_\_\_\_\_  
CHAIRMAN, BOARD OF COUNTY COMMISSIONERS

By: \_\_\_\_\_  
CHAIRMAN, PROTEM

By: \_\_\_\_\_  
MEMBER

DATED THIS \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, for **CITY OF KENNEWICK**.

\_\_\_\_\_  
DON BRITAIN, Mayor

Attest:

Approved as to Form:

\_\_\_\_\_  
TERRI L. WRIGHT, City Clerk

\_\_\_\_\_  
LISA BEATON, City Attorney

COUNTY OF BENTON )ss.  
)

GIVEN under my hand and official seal the day and year last above written.

Notary Public in and for the State of  
Washington, residing at \_\_\_\_\_

My commission expires \_\_\_\_\_

## EXHIBIT A

LOT 1: THAT PORTION OF THE NORTHWEST QUARTER OF SECTION 32, TOWNSHIP 9 NORTH, RANGE 29 EAST, W.M., CITY OF KENNEWICK, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF PARCEL 2 AS DEPICTED ON RECORD SURVEY NO. 1794, RECORDED UNDER BENTON COUNTY AUDITOR'S FILE NO. 94-6745, THENCE NORTH 89°39'00" WEST ALONG THE SOUTH LINE OF SAID PARCEL 2 A DISTANCE OF 204.50 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH 00°21'00" EAST 275.27 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF A PUBLIC STREET KNOWN AS RIO GRANDE AVE; THENCE NORTH 89°10'00" WEST 660.35 FEET TO THE BEGINNING OF A CURVE TO THE LEFT THE RADIUS POINT WHICH BEARS SOUTH 00°50'00" WEST 70.00 FEET, THENCE THROUGH A CENTRAL ANGLE OF 90°19'00" AN ARC LENGTH OF 110.34 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF A PUBLIC STREET KNOWN AS NORTH BELFAIR STREET; THENCE SOUTH 00°31'00" WEST 44.97 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT THE RADIUS POINT WHICH BEARS NORTH 89°29'00" WEST 1940.00 FEET; THENCE THROUGH A CENTRAL ANGLE OF 06°14'39" AND ARC LENGTH OF 211.42 FEET; THENCE LEAVING SAID EASTERLY RIGHT-OF-WAY SOUTH 44°48'56" EAST 484.13 FEET; THENCE SOUTH 45°11'04" WEST 400.00 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF A PUBLIC STREET KNOWN AS WEST QUINAULT AVE AND THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT THE RADIUS POINT WHICH BEARS SOUTH 73°10'50" WEST 540.00 FEET; THENCE THROUGH A CENTRAL ANGLE OF 17°20'10" AN ARC LENGTH OF 163.39 FEET; THENCE SOUTH 00°31'00" WEST 210.93 FEET; THENCE LEAVING SAID EASTERLY RIGHT-OF-WAY SOUTH 89°29'00" EAST 474.62 FEET; THENCE NORTH 45°11'04" EAST 853.54 FEET; THENCE NORTH 44°48'56" WEST 589.43 FEET; THENCE NORTH 00°21'00" WEST 22.31 FEET TO THE SAID TRUE POINT OF BEGINNING.

CONTAINS 22.70 ACRES

Ptn of 1-3299-200-0010-003  
All of 1-3299-200-0012-001

All of 1-3299-200-0009-000

TOGETHER WITH AND SUBJECT TO EASEMENTS, RESERVATIONS, COVENANTS, AND RESTRICTIONS OF RECORD AND IN VIEW.

LOT 2: THAT PORTION OF THE NORTHWEST QUARTER OF SECTION 32, TOWNSHIP 9 NORTH, RANGE 29 EAST, W.M., CITY OF KENNEWICK, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF PARCEL 1 AS DEPICTED ON RECORD SURVEY NO. 1794, RECORDED UNDER BENTON COUNTY AUDITOR'S FILE NO. 94-6745, THENCE SOUTH 00°21'00" WEST ALONG THE EAST LINE OF SAID PARCEL 1 A DISTANCE OF 275.27 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 89°39'00" EAST 639.60 FEET; THENCE SOUTH 00°21'00" WEST 315.59 FEET; THENCE SOUTH 45°11'04" WEST 172.47; THENCE NORTH 44°48'56" WEST 589.43; THENCE NORTH 00°21'00" WEST 22.31 FEET TO THE SAID TRUE POINT OF BEGINNING.

CONTAINS 3.26 ACRES

All of 1-3299-200-0014-000  
Ptn of 1-3299-200-0010-003



## STRATTON SURVEYING & MAPPING, PC

313 NORTH MORAIN STREET

KENNEWICK, WA 99336

PHONE: (509) 735-7364

FAX: (509) 735-6560

E-MAIL: [stratton@strattonsurvey.com](mailto:stratton@strattonsurvey.com)

### EXHIBIT B

DATE: 2021-08-12

DRAWING: 5670SK2A.DWG

SITE: BENTON COUNTY ADMIN BUILDING

PARCEL NOS. 132992000010005 & 132992000014001

#### DESCRIPTION

AN EASEMENT 15.00 FEET IN WIDTH AFFECTING THAT PORTION OF TRACTS 1 AND 2 OF THE RECORD OF SURVEY RECORDED IN VOLUME 1 OF SURVEYS AT PAGE 3718, LYING IN THE NORTHWEST QUARTER OF SECTION 32, TOWNSHIP 09 NORTH, RANGE 29 EAST, W.M., BENTON COUNTY, WASHINGTON, LYING 7.50 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT 1 SAID POINT ALSO LYING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF WEST RIO GRANDE AVENUE THENCE SOUTH 89°43'57" WEST ALONG THE NORTHERLY LINE OF SAID TRACT 394.33 FEET; THENCE SOUTH 46°25'59" EAST 517.67 FEET; THENCE SOUTH 43°34'01" WEST 5.00 FEET TO THE SOUTHERLY LINE OF AN EXISTING EASEMENT AND THE TRUE POINT OF BEGINNING;

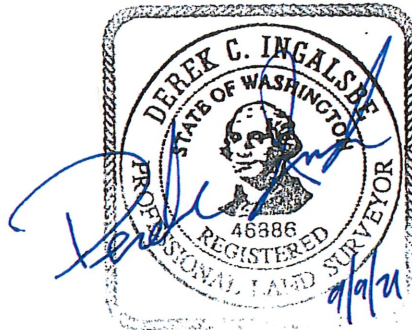
THENCE SOUTH 18°05'24" WEST 62.61 FEET;  
THENCE SOUTH 07°36'03" EAST 62.15 FEET;  
THENCE SOUTH 82°23'57" WEST 44.84 FEET;  
THENCE NORTH 82°23'57" EAST 44.84 FEET;  
THENCE SOUTH 07°36'03" EAST 156.37 FEET;  
THENCE SOUTH 18°38'39" WEST 89.71 FEET;  
THENCE SOUTH 44°16'34" WEST 44.77 FEET;  
THENCE NORTH 45°43'26" WEST 84.15 FEET;  
THENCE SOUTH 45°43'26" EAST 84.15 FEET;  
THENCE SOUTH 44°16'34" WEST 103.07 FEET TO  
HEREINAFTER REFERRED POINT "A";  
THENCE NORTH 45°49'48" WEST 85.50 FEET;  
THENCE SOUTH 89°34'13" WEST 218.75 FEET;  
THENCE NORTH 02°35'49" WEST 32.00 FEET;  
THENCE SOUTH 02°35'49" EAST 32.00 FEET;  
THENCE SOUTH 62°14'01" WEST 42.59 FEET;  
THENCE SOUTH 52°16'20" WEST 33.90 FEET;  
THENCE SOUTH 41°47'09" WEST 36.59 FEET;



THENCE SOUTH 00°02'02" EAST 173.59 FEET;  
THENCE NORTH 00°02'02" WEST 46.53 FEET;  
THENCE SOUTH 84°25'03" WEST 106.60 FEET;  
THENCE NORTH 64°43'17" WEST 14.08 FEET;  
THENCE SOUTH 74°43'58" WEST 11.52 FEET;  
THENCE NORTH 15°16'02" WEST 19.00 FEET;  
THENCE SOUTH 15°16'02" EAST 19.00 FEET;  
THENCE SOUTH 74°43'58" WEST 18.89 FEET TO THE EASTERLY RIGHT-OF-WAY  
LINE OF QUINAULT AVENUE AND THE POINT OF TERMINUS, SAID POINT LANDS  
ON A 540.00 FOOT RADIUS CURVE CONCAVED TO THE SOUTHWEST AND LYING  
25.58 FEET ALONG THE ARC OF SAID CURVE SOUTHEASTERLY FROM AN  
ANGLE POINT IN SAID TRACT 1 PROPERTY LINE;

TOGETHER WITH AN EASEMENT OF SAID WIDTH BEGINNING AT AFORESAID  
POINT "A" THENCE SOUTH 45°49'48" EAST 3.82 FEET;  
THENCE NORTH 89°17'39" EAST 87.04 FEET;  
THENCE SOUTH 00°04'48" WEST 30.43 FEET;  
THENCE NORTH 00°04'48" EAST 30.43 FEET  
THENCE NORTH 89°17'39" EAST 114.69 FEET;  
THENCE SOUTH 66°50'51" EAST 33.04 FEET;  
THENCE SOUTH 27°11'31" EAST 28.94 FEET;  
THENCE NORTH 62°48'29" EAST 18.78 FEET;  
THENCE SOUTH 62°48'29" WEST 18.78 FEET;  
THENCE SOUTH 27°11'31" EAST 21.62 FEET;  
THENCE SOUTH 00°08'48" WEST 81.27 FEET;  
THENCE SOUTH 44°18'11" EAST 28.83 FEET TO HEREINAFTER REFERRED  
POINT "B";  
THENCE SOUTH 44°18'11" EAST 15.88 FEET TO THE NORTHERLY RIGHT-OF-  
WAY LINE OF OAKANOGAN PLACE AND THE POINT OF TERMINUS;

TOGETHER WITH AN EASEMENT OF SAID WIDTH BEGINNING AT AFORESAID  
POINT "B" THENCE SOUTH 44°08'24" WEST 130.42 FEET;  
THENCE NORTH 45°51'36" WEST 13.38 FEET;  
THENCE SOUTH 45°51'36" EAST 13.38 FEET;  
THENCE SOUTH 42°02'26" WEST 33.12 FEET;  
THENCE SOUTH 52°10'00" WEST 46.85 FEET;  
THENCE SOUTH 57°00'55" WEST 51.71 FEET;  
THENCE SOUTH 48°54'19" WEST 50.37 FEET;  
THENCE SOUTH 40°49'46" WEST 54.33 FEET;  
THENCE SOUTH 03°12'31" EAST 14.18 FEET;  
THENCE SOUTH 41°37'57" WEST 46.16 FEET;  
THENCE NORTH 89°36'34" WEST 14.78 FEET;  
THENCE NORTH 00°23'26" EAST 28.25 FEET;  
THENCE SOUTH 00°23'26" WEST 28.25 FEET;  
THENCE NORTH 89°36'34" WEST 302.64 FEET;  
THENCE NORTH 00°23'26" EAST 43.00 FEET



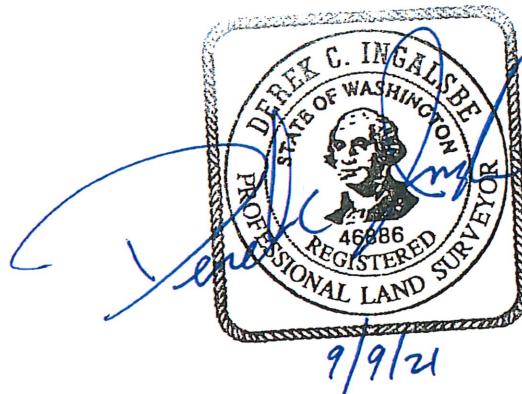
THENCE SOUTH 00°23'26" WEST 43.00 FEET  
THENCE NORTH 89°36'34" WEST 160.02 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF QUINAULT AVENUE AND THE POINT OF TERMINUS, SAID POINT BEARS NORTH 00°36'39" WEST 41.64 FEET FROM THE SOUTHWEST CORNER OF SAID TRACT;

TOGETHER WITH AN EASEMENT OF SAID WIDTH BEGINNING AT AFORESAID POINT "B" THENCE NORTH 44°08'24" EAST 223.96 FEET;  
THENCE NORTH 46°42'25" WEST 47.97 FEET;  
THENCE NORTH 42°52'15" EAST 18.77 FEET;  
THENCE SOUTH 42°52'15" WEST 18.77 FEET;  
THENCE SOUTH 46°42'25" EAST 47.97 FEET;  
THENCE NORTH 44°08'24" EAST 370.88 FEET TO THE EASTERLY LINE OF SAID TRACT 2 AND THE POINT OF TERMINUS SAID POINT BEARS NORTH 00°45'03" WEST 21.38 FEET FROM THE SOUTHEAST CORNER OF SAID TRACT 2.

EDGES OF SAID EASEMENT ARE TO BE LENGTHENED OR SHORTENED TO TERMINATE ON THE SAID RIGHT-OF-WAY AND PROPERTY LINES.

SEE ATTACHED EXHIBIT SKETCH TO ACCOMPANY THIS LEGAL DESCRIPTION.

TOGETHER WITH AND SUBJECT TO EASEMENTS, COVENANTS, RESERVATIONS, RIGHT-OF-WAYS AND RESTRICTIONS OF RECORD AND IN VIEW.

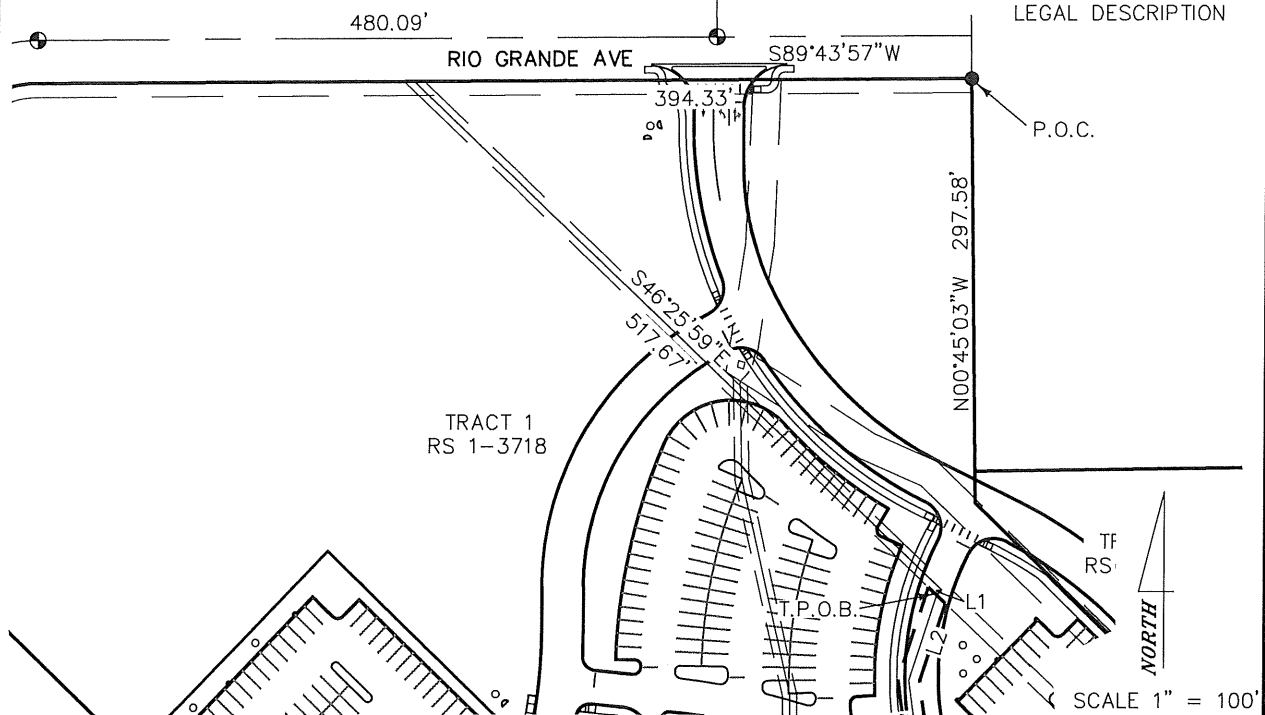


# EXHIBIT B-1

NW 1/4 OF SEC. 32, T09N, R29E, W.M.

## EXHIBIT SKETCH

TO ACCOMPANY  
LEGAL DESCRIPTION



TRACT 1  
RS 1-3718

TF  
RS

NORTH

SCALE 1" = 100'

SKETCH FOR  
BANLIN



STRATTON SURVEYING  
& MAPPING P.C.

313 NORTH WOKAN STREET  
KENNEWICK, WA 98338  
(509) 735-1264  
FAX: (509) 735-9560  
www.strattonsurvey.com

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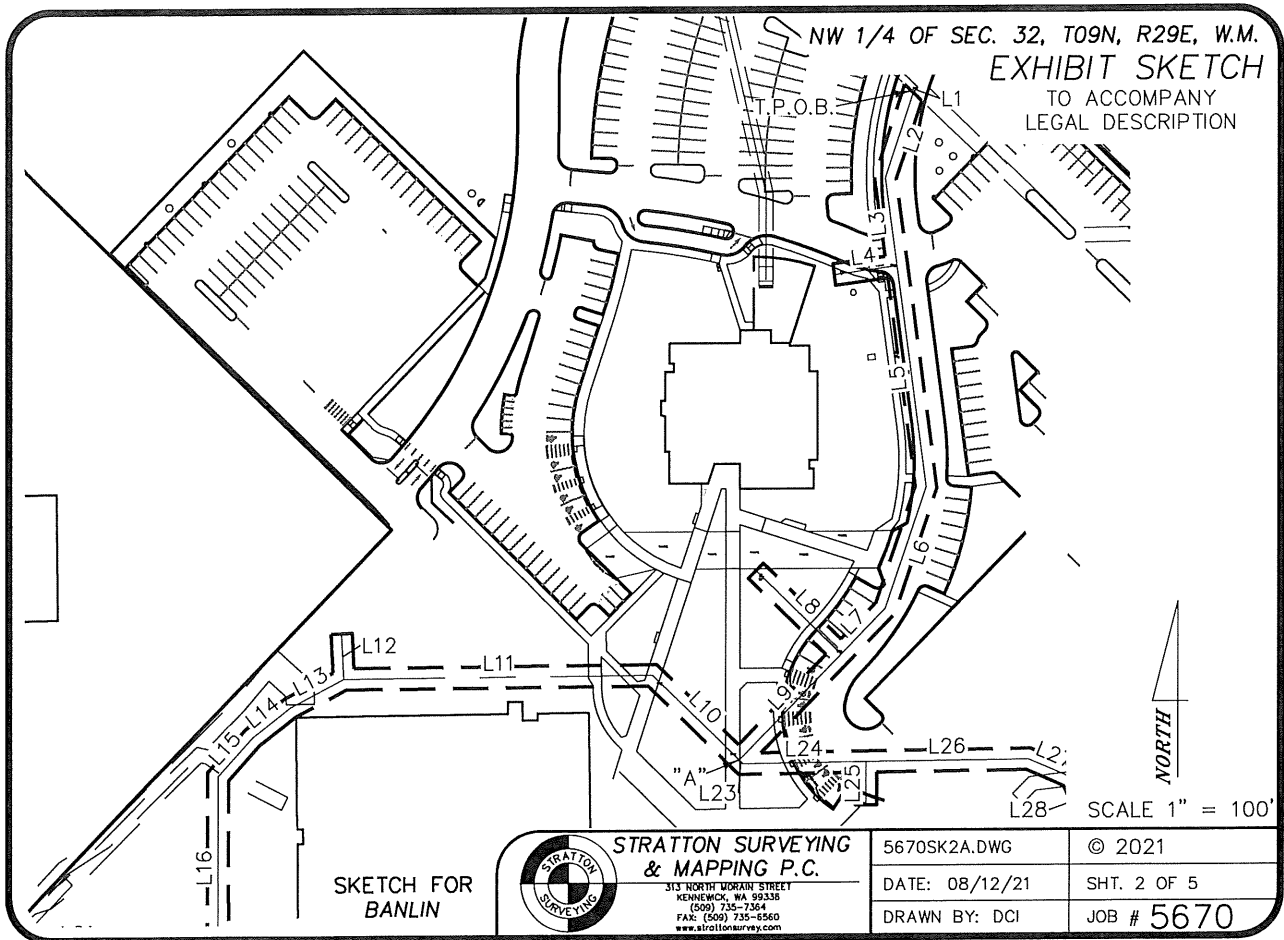
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DATE: 08/12/21

SHT. 1 OF 5

DRAWN BY: DCI

JOB # 5670



**STRATTON SURVEYING  
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KENNEBICK, WA 99036  
(509) 735-7354  
FAX: (509) 735-6560  
www.strattonsurvey.com

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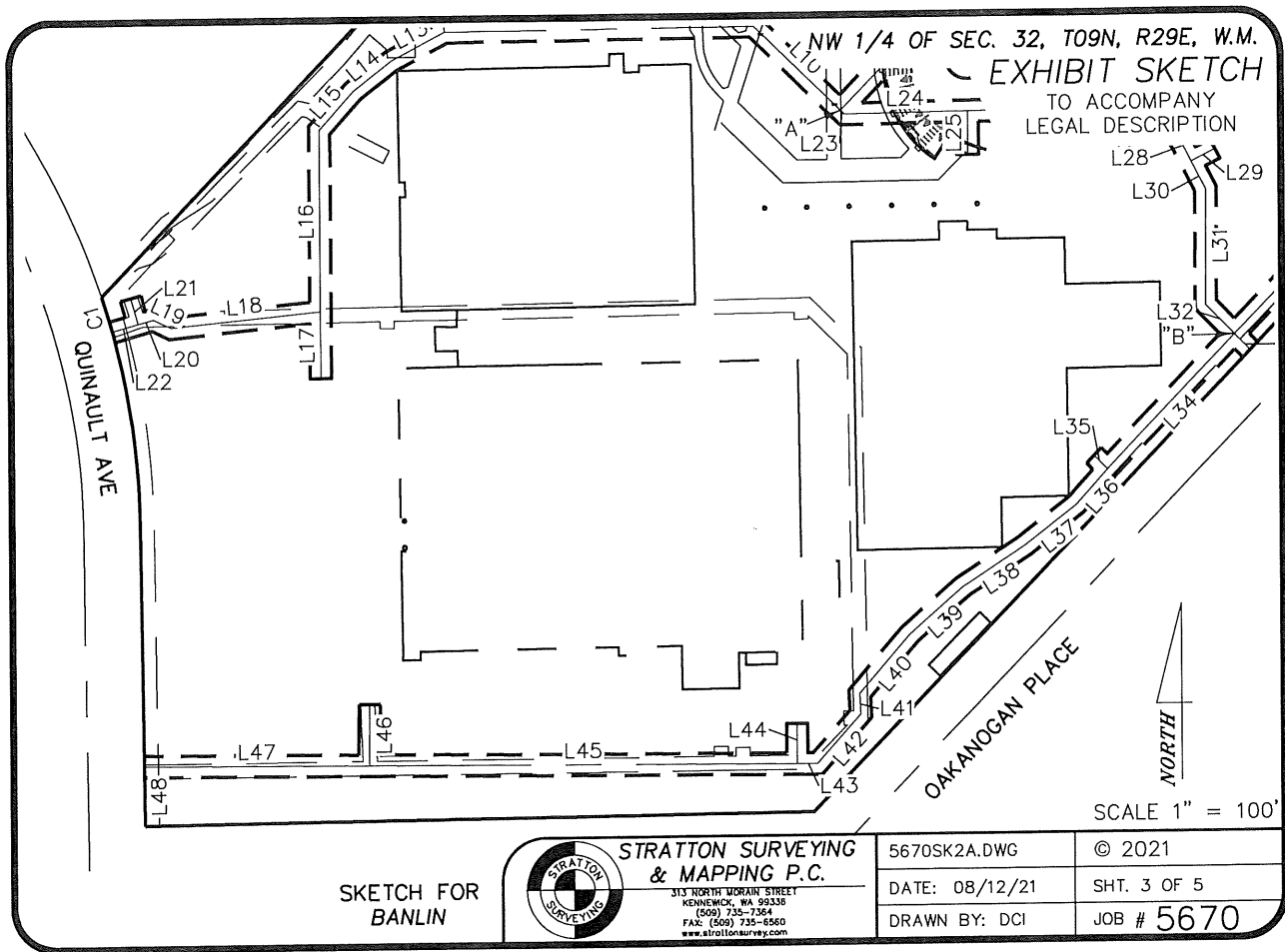
DATE: 08/12/21

DRAWN BY: DCI

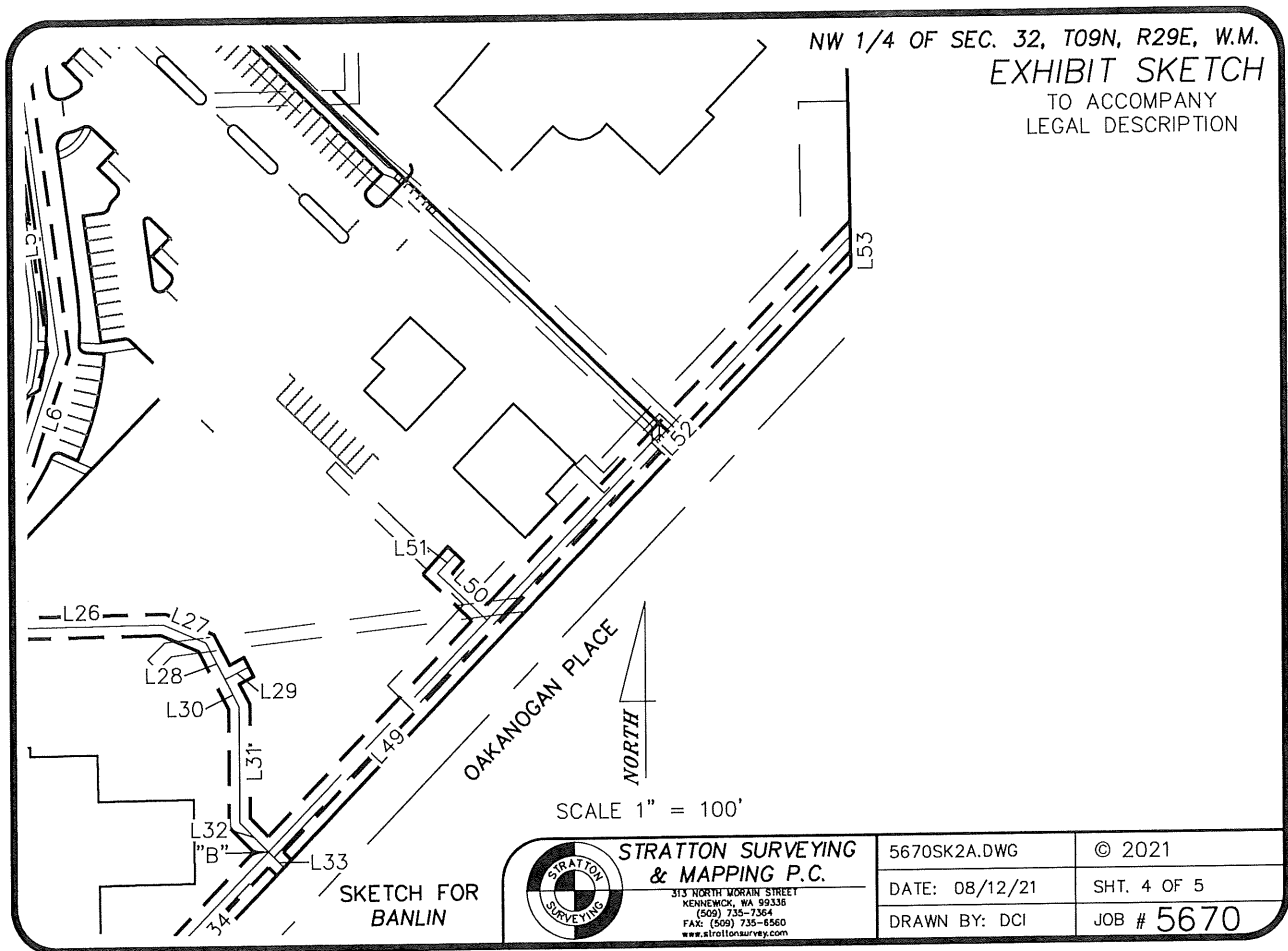
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SHT. 2 OF 5

JOB # 5670



NW 1/4 OF SEC. 32, T09N, R29E, W.M.  
**EXHIBIT SKETCH**  
 TO ACCOMPANY  
 LEGAL DESCRIPTION



**STRATTON SURVEYING  
 & MAPPING P.C.**  
 313 NORTH WOKAN STREET  
 KENNEWICK, WA 99338  
 (509) 735-7364  
 FAX: (509) 735-4560  
 www.strattonsurvey.com

|                |             |
|----------------|-------------|
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| DATE: 08/12/21 | SHT. 4 OF 5 |
| DRAWN BY: DCI  | JOB # 5670  |

NW 1/4 OF SEC. 32, T09N, R29E, W.M.

# EXHIBIT SKETCH

TO ACCOMPANY  
LEGAL DESCRIPTION

| LINE TABLE |        |             |
|------------|--------|-------------|
| LINE       | LENGTH | DIRECTION   |
| L1         | 5.00   | N43°34'01"E |
| L2         | 62.61  | S18°05'24"W |
| L3         | 62.15  | S07°36'03"E |
| L4         | 44.84  | N82°23'57"E |
| L5         | 156.37 | S07°36'03"E |
| L6         | 89.71  | S18°38'39"W |
| L7         | 44.77  | S44°16'34"W |
| L8         | 84.15  | S45°43'26"E |
| L9         | 103.07 | S44°16'34"W |
| L10        | 85.50  | S45°49'48"E |
| L11        | 218.75 | N89°34'13"E |
| L12        | 32.00  | N02°35'49"W |
| L13        | 42.59  | N62°14'01"E |
| L14        | 33.90  | N52°16'20"E |
| L15        | 36.59  | N41°47'09"E |
| L16        | 127.06 | N00°02'02"W |
| L17        | 46.53  | N00°02'02"W |
| L18        | 106.60 | N84°25'06"E |

| LINE TABLE |        |             |
|------------|--------|-------------|
| LINE       | LENGTH | DIRECTION   |
| L19        | 14.08  | S64°43'17"E |
| L20        | 11.52  | N74°43'58"E |
| L21        | 19.00  | S15°16'02"E |
| L22        | 18.89  | N74°43'58"E |
| L23        | 3.82   | S45°49'48"E |
| L24        | 87.04  | N89°17'39"E |
| L25        | 30.43  | N00°04'48"E |
| L26        | 114.69 | N89°17'39"E |
| L27        | 33.04  | S66°50'51"E |
| L28        | 28.94  | S27°11'31"E |
| L29        | 18.78  | S62°48'29"W |
| L30        | 21.62  | S27°11'31"E |
| L31        | 81.27  | S00°08'48"W |
| L32        | 28.83  | S44°18'11"E |
| L33        | 15.88  | S44°18'11"E |
| L34        | 130.42 | S44°08'24"W |
| L35        | 13.38  | S45°51'36"E |
| L36        | 33.12  | S42°02'26"W |

| LINE TABLE |        |             |
|------------|--------|-------------|
| LINE       | LENGTH | DIRECTION   |
| L37        | 46.85  | S52°10'00"W |
| L38        | 51.71  | S57°00'55"W |
| L39        | 50.37  | S48°54'19"W |
| L40        | 54.33  | S40°49'46"W |
| L41        | 14.18  | S03°12'31"E |
| L42        | 46.16  | S41°37'57"W |
| L43        | 14.78  | N89°36'34"W |
| L44        | 28.25  | S00°23'26"W |
| L45        | 302.64 | N89°36'34"W |
| L46        | 43.00  | S00°23'26"W |
| L47        | 160.02 | N89°36'34"W |
| L48        | 41.64  | S00°36'39"E |
| L49        | 223.96 | S44°08'24"W |
| L50        | 47.97  | S46°42'25"E |
| L51        | 18.77  | S42°52'15"W |
| L52        | 370.88 | S44°08'24"W |
| L53        | 21.38  | S00°45'03"E |

| CURVE TABLE |        |        |          |             |       |
|-------------|--------|--------|----------|-------------|-------|
| CURVE       | LENGTH | RADIUS | Δ        | CH DIREC.   | CHORD |
| C1          | 25.58  | 540.00 | 2°42'52" | N16°35'25"W | 25.58 |

SKETCH FOR  
BANLIN



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KENNEWICK, WA 98336  
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DATE: 08/12/21

SHT. 5 OF 5

DRAWN BY: DCI

JOB # 5670

# COMMISSIONERS' AGENDA ACTION SHEET

|                                                                                                                                                                                                                                                     |                                                                                                                 |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|
| <b>Meeting Date:</b>                                                                                                                                                                                                                                | September 28, 2021                                                                                              |
| <b>Subject:</b>                                                                                                                                                                                                                                     | Granting a Right of Way Easement to PUD at the Administration Building site                                     |
| <b>Presenter:</b>                                                                                                                                                                                                                                   |                                                                                                                 |
| <b>Prepared By:</b>                                                                                                                                                                                                                                 | Shannon Christen                                                                                                |
| <b>Reviewed By:</b>                                                                                                                                                                                                                                 | Robert Blain                                                                                                    |
| <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><br>No signature, since it is a conveyance and not a contract |                                                                                                                 |
| <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 checked="" type="checkbox"/> Sign Letter/Document <input type="checkbox"/> Execute Contract              |

## Summary / Background Information

Benton County needs to grant a Right of Way Easement to Public Utility District No. 1 of Benton County (Benton PUD) along the north side of the County owned property at 7122 W. Okanogan Place, Kennewick (the site of the Administration Building) to allow Benton PUD the right of ingress and egress to install, maintain, operate, and test electric distribution, transmission and communications facilities in, on, over, under and across said easement. This will be a nonexclusive easement, reserving the right to grant additional easements to other parties.

A Right of Way Easement document has been prepared and reviewed by our departmental Deputy Prosecuting Attorney. There is no PA signature block on the document since this is a conveyance and not a contract.

## Fiscal Impact

**Amount:** None

**Fund:** N/A

## Recommendation

The Director of Operations and Capital Programs recommends the Board approve the Right of Way Easement and sign said document.

## Suggested Motion

Approve as part of the Consent Agenda.

## RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF GRANTING A RIGHT OF WAY EASEMENT ON THE NORTH SIDE OF THE ADMINISTRATION BUILDING PROPERTY AT 7122 W. OKANOGAN PLACE, KENNEWICK, WA TO PUBLIC UTILITY DISTRICT NO. 1 OF BENTON COUNTY (BENTON PUD)

**WHEREAS**, it is the intention of the Board of County Commissioners to grant a Right of Way Easement to Benton PUD along the north side of the County owned property at 7122 W. Okanogan Place, Kennewick, the site of the Benton County Administration Building; and

**WHEREAS**, a Right of Way Easement has been prepared allowing Benton PUD to have nonexclusive rights of ingress and egress to install, construct, erect, alter, repair, improve, extend, maintain, operate, change, remove, reconstruct, renew, and test electric distribution, transmission and communications facilities and appurtenances in, on, over, under and across the described property; and

**WHEREAS**, the departmental Deputy Prosecuting Attorney reviewed the Easement; and

**WHEREAS**, the Director of Operations and Capital Programs recommends the Board approve said Right of Way Easement; **NOW, THEREFORE**,

**BE IT RESOLVED** the Board of Benton County Commissioners hereby approves granting a Right of Way Easement, attached hereto, on the north side of the County owned property at 7122 W. Okanogan Place, Kennewick, Washington to Public Utility District No. 1 of Benton County.

Dated this 28th day of September 2021.

---

Chairman

---

Chairman Pro-Tem

---

Member

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

Constituting the Board of County  
Commissioners of Benton County,  
Washington

Return To: Benton PUD  
P.O. Box 6270  
Kennewick, WA 99336

## RIGHT OF WAY EASEMENT

THE GRANTOR(S) Benton County  
of Benton County, State of Washington, for good and valuable consideration, the receipt of which is hereby acknowledged, hereby grant(s) to PUBLIC UTILITY DISTRICT NO. 1 of BENTON COUNTY (Grantee), a municipal corporation in the State of Washington, and to its successors and sub-lessee or assigns, and its permittees and licensees, (hereinafter all included in any reference to "Grantee") a perpetual right of way easement described below.

Assessor's Property Tax Parcel Acct. # 1-3299-200-0010-005

**DESCRIPTION:** An easement 10.00-feet in width affecting that portion of Tract 1 of the Record of Survey recorded in Volume 1 of Surveys at Page 3718, lying in the Northwest quarter of Section 32, Township 09 North, Range 29 East, W.M., Benton County, Washington, lying 5.00 feet on each side of the following described centerline:

COMMENCING at the Northeast corner of said Tract 1 said point also lying on the southerly right-of-way line of West Rio Grande Avenue; thence South 89°43'57" West along the northerly line of said Tract 163.57 feet; thence South 00°16'03" East 211.32 feet to the southerly line of an existing easement and the TRUE POINT OF BEGINNING; thence South 01°12'13" East 68.63 feet; thence South 12°50'26" East 155.46 feet; thence South 00°02'45" East 60.36 feet to the point of TERMINUS; edges of said easement are to be lengthened or shortened to terminate on the said existing easement line.

TOGETHER WITH and subject to easements, covenants, reservations, right-of-ways and restrictions of record and in view.

all situated in the County of Benton, State of Washington,

This easement includes the right, privilege and authority of ingress and egress to install, construct, erect, alter, repair, improve, extend, maintain, operate, change, remove, reconstruct, renew and test, electric distribution, transmission and communications facilities and

appurtenances in, on, over, under and across said easement. These facilities may consist of poles, wires, cables, underground facilities, vaults, conduits, anchors, braces, guys, cross-arms, insulators, transformers, structures, signal wires, and other electrical and communications equipment, devices and structures necessary for the transmission of such services. These facilities shall also include devices that are not now used for transmitting said services but may be used in the future. The Grantor(s) agree(s) that all cables, wires and other facilities installed upon or under the above described lands at the Grantee's expense shall remain the property of the Grantee.

Grantee shall have the right to enter and travel along said easement, from time to time, for patrolling purposes and the Grantee shall have the right of ingress and egress over the adjacent lands of the Grantor(s) for the purpose of exercising all rights hereby granted.

Grantee shall also have the right to use this easement to extend electrical and communication services to present and future customers whether or not their property is adjacent to the easement.

Grantee shall have the right to cut, slash, trim and otherwise remove any and all brush, debris, trees, and other growth standing or growing upon the lands of Grantor which, in the opinion of Grantee, constitute a menace or danger to said electrical and communication facilities, or to persons or property by reason of their proximity to said facilities. Title to any such material removed shall be vested in Grantee in consideration of any damages incurred as a result of said growth and the cost of removal of same.

Grantor may grant to a third party, upon such terms as it chooses, any or all of the rights reserved by it herein provided, however, that such use shall not unreasonably interfere with the rights granted to the Grantee.

Grantor covenants not to deposit land or other fill upon land within the easement such that it will reduce clearance between the land and any electrical and communication services below the minimum clearance required by law. Grantor also covenants not to build, place or allow to be built or placed any structure of any kind on the easement without the written approval of Grantee.

Grantor covenants to have the right and power to convey this easement and right of way. Grantor is lawfully seized and possessed of land, free of encumbrances, and will forever warrant and defend title. This easement runs with the land and is binding upon Grantor, its agents, successors, heirs and assigns.

**TITLE:**

The presence and use of said electric and communications facilities on this easement shall give no title in said land to Grantee.

**RECORDING COSTS:**

The Grantee may pay all costs incidental to the preparation of this instrument and for the procurement of such title evidence as may be required.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Jerome Delvin, Chairman

\_\_\_\_\_  
Shon Small, Chairman Pro-Tem

\_\_\_\_\_  
Will McKay, Member

| ACKNOWLEDGMENT – Corporate                                                                                                                                                                                                                                                                                                                                                                             |                              |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| STATE of _____                                                                                                                                                                                                                                                                                                                                                                                         | }                            |
| County of _____                                                                                                                                                                                                                                                                                                                                                                                        |                              |
| On this _____ day of _____, 20____, before me, the undersigned Notary Public, personally appeared _____, _____, and _____ known/proven to be the _____ (Title) respectively, of _____ the corporation that signed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes mentioned in the instrument. |                              |
| GIVEN under my hand and official seal this _____ day of _____, 20____.                                                                                                                                                                                                                                                                                                                                 |                              |
| <div style="border: 1px dotted black; width: 300px; height: 100px;"></div>                                                                                                                                                                                                                                                                                                                             | _____<br>Notary's Signature  |
|                                                                                                                                                                                                                                                                                                                                                                                                        | My Appointment Expires _____ |
|                                                                                                                                                                                                                                                                                                                                                                                                        |                              |
| NOTARY SEAL-Recordable Document, Please follow RCW65.04                                                                                                                                                                                                                                                                                                                                                |                              |

# RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY FUNDS RE: TRANSFER OF FUNDS WITHIN  
JUVENILE CENTER FUND NUMBER 0115101 DEPARTMENT NUMBER 171

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: Crystal Garcia

BENTON COUNTY BUDGET ADJUSTMENT

Dept Name:

Dept Nbr:

Fund Name:

Fund Nbr:

TRANSFER FROM: Dept.

TRANSFER TO: Dept.

| BASE SUB<br>(6 digit) | LINE ITEM<br>(4 digit) | LINE ITEM NAME | AMOUNT | BASE SUB<br>(6 digit) | LINE ITEM<br>(4 digit) | LINE ITEM NAME    | AMOUNT |
|-----------------------|------------------------|----------------|--------|-----------------------|------------------------|-------------------|--------|
| 527.100               | 3111                   | Publications   | \$400  | 527.100               | 3503                   | Computer Software | \$400  |
|                       |                        |                |        |                       |                        |                   |        |
|                       |                        |                |        |                       |                        |                   |        |
|                       |                        |                |        |                       |                        |                   |        |
|                       |                        |                |        |                       |                        |                   |        |
|                       |                        |                |        |                       |                        |                   |        |
|                       |                        |                |        |                       |                        |                   |        |
|                       |                        |                |        |                       |                        |                   |        |
| TOTAL                 |                        |                | \$400  | TOTAL                 |                        |                   | \$400  |

Explanation:

This LIT is necessary to purchase (2) Adobe Pro annual licenses. This software will decrease time spent while processing A/P vouchers electronically.

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  
CURRENT EXPENSE FUND NUMBER 0000101 DEPARTMENT NUMBER 117

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: Ginny Baddley

BENTON COUNTY BUDGET ADJUSTMENT

Dept Name: Prosecuting Attorney

Dept Nbr: 117

Fund Name: Current Expense

Fund Nbr: 0000101

TRANSFER FROM: Dept.

TRANSFER TO: Dept.

| BASE SUB<br>(6 digit) | LINE ITEM<br>(4 digit) | LINE ITEM NAME | AMOUNT  | BASE SUB<br>(6 digit) | LINE ITEM<br>(4 digit) | LINE ITEM NAME       | AMOUNT  |
|-----------------------|------------------------|----------------|---------|-----------------------|------------------------|----------------------|---------|
| 515.300               | 3101                   | Supplies       | \$2,000 | 515.300               | 3508                   | Computer Replacement | \$2,000 |
|                       |                        |                |         |                       |                        |                      |         |
|                       |                        |                |         |                       |                        |                      |         |
|                       |                        |                |         |                       |                        |                      |         |
|                       |                        |                |         |                       |                        |                      |         |
|                       |                        |                |         |                       |                        |                      |         |
|                       |                        |                |         |                       |                        |                      |         |
|                       |                        |                |         |                       |                        |                      |         |
| TOTAL                 |                        |                | \$2,000 | TOTAL                 |                        |                      | \$2,000 |

Explanation:

The adjustment is needed to cover the balance of the cost for replacing a laptop that is not working properly. This particular laptop is also up for replacement. The adjustment is also needed for purchasing two desk top scanners for two current legal secretary positions.

Prepared by: Ginny Baddley

Date: 9/17/21

Approved ☐ Denied ☐

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

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

# COMMISSIONERS' AGENDA ACTION SHEET

|                                                    |                                                                                                                                                    |
|----------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Meeting Date:</b>                               | September 28, 2021                                                                                                                                 |
| <b>Subject:</b>                                    | Accepting work performed by Chervenell Construction Company for the Courtroom Audio-Visual Upgrade Project                                         |
| <b>Presenter:</b>                                  |                                                                                                                                                    |
| <b>Prepared By:</b>                                | P. Schut                                                                                                                                           |
| <b>Reviewed By:</b>                                | R. Blain                                                                                                                                           |
| <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>                                                                                                                      |
| <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 type="checkbox"/> Execute Contract                                                            |

## Summary / Background Information

The County ratified a contract with Chervenell Construction Company for the Courtroom Audio-Visual Upgrade Project on September 29, 2020 (Res. 2020-687). Chervenell Construction Company has completed all work required under the contract. The project has been examined by the Director of Operations and Capital Programs and has been found to comply with the project specifications and drawings.

## Fiscal Impact

**Amount:** N/A

**Fund:** N/A

## Recommendation

The Director of Operations and Capital Programs recommends that the Board formally accept Chervenell Construction Company's work and the project as complete and authorize the release of their retainage bond.

## Suggested Motion

Approve as part of the Consent Agenda.

## RESOLUTION

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

**IN THE MATTER OF ACCEPTING WORK PERFORMED BY CHERVENELL CONSTRUCTION COMPANY UNDER CONTRACT FOR THE COURTROOM AUDIO-VISUAL UPGRADE PROJECT**

**WHEREAS**, on September 29, 2020, the Board of County Commissioners ratified a contract with Chervenell Construction Company of Kennewick, Washington (Resolution 2020-687) for the Courtroom Audio-Visual Upgrade Project; and

**WHEREAS**, the contractor has completed all work required under their contract with Benton County for the project; and

**WHEREAS**, all releases for the project retainage have been received, and all closeout paperwork is in order; and

**WHEREAS**, this project has been examined by the Director of Operations and Capital Programs and has been found to comply with the applicable project specifications and drawings; and

**WHEREAS**, it is the Director of Operations and Capital Programs' recommendation that the Board of Benton County Commissioners formally accept the contractor's work and the project as complete;  
**NOW, THEREFORE,**

**BE IT RESOLVED**, the Board of Benton County Commissioners concurs with the Director of Operations and Capital Programs' recommendation and hereby accepts the work performed by Chervenell Construction Company under contract for the Courtroom Audio-Visual Upgrade Project as being completed in conformance with the contract documents; and

**BE IT FURTHER RESOLVED**, the Board authorizes the release of the retainage bond of \$202,123.25.

Dated this 28th day of September 2021.

\_\_\_\_\_  
Chairman

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

\_\_\_\_\_  
Member

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

Constituting the Board of County  
Commissioners of Benton County,  
Washington

# COMMISSIONERS' AGENDA ACTION SHEET

|                                                    |                                                                                                                                                               |
|----------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Meeting Date:</b>                               | September 28, 2021                                                                                                                                            |
| <b>Subject:</b>                                    | Personal Service Contract between Benton County and Keefe Commissary Network, LLC for Inmate Commissary Services for the Benton County Corrections Department |
| <b>Presenter:</b>                                  |                                                                                                                                                               |
| <b>Prepared By:</b>                                | Lisa Small                                                                                                                                                    |
| <b>Reviewed By:</b>                                | Chief Souza; Cdr. Shelton; Robert Blain; Ryan Lukson                                                                                                          |
| <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> <i>(Multiple boxes can be checked, if necessary)</i>                                                                            |
| <input checked="" type="checkbox"/> Consent Agenda | <input type="checkbox"/> Discussion Only <input type="checkbox"/> Pass Motion                                                                                 |
| <input type="checkbox"/> Public Hearing            | <input type="checkbox"/> Decision / Direction <input checked="" type="checkbox"/> Pass Resolution                                                             |
| <input type="checkbox"/> Scheduled Business        | <input type="checkbox"/> Sign Letter / Document <input type="checkbox"/> Pass Ordinance                                                                       |
|                                                    | <input checked="" type="checkbox"/> Execute Contract                                                                                                          |

## Summary / Background Information

Benton County has contracted with Keefe Commissary Network, LLC for several years to provide as-needed inmate commissary services for the Benton County Corrections Department (BCCD).

BCCD and Keefe Commissary Network, LLC negotiated a new contract and BCCD recommends entering into a two (2) year personal service contract with an option to extend by written amendment for an additional 24-month term.

## Fiscal Impact

Commission rate of 40.5% on all commissionable sales as listed in Attachment C of the attached contract.

## Recommendation

Approve the attached Personal Service Contract between Benton County and Keefe Commissary Network, LLC for a term commencing upon signature of both parties and terminating August 31, 2023 and authorize the Chairman to sign said contract.

## Suggested Motion

Approve as part of the Consent Agenda.

# RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF A PERSONAL SERVICE CONTRACT BETWEEN BENTON COUNTY AND KEEFE COMMISSARY NETWORK, LLC FOR AS-NEEDED INMATE COMMISSARY SERVICES FOR THE BENTON COUNTY CORRECTIONS DEPARTMENT

**WHEREAS**, per Resolution 2021-233, Section 5.3.2 – General Services of the Countywide Procurement, Leasing, and Contracting Policy... “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**, Benton County has contracted with Keefe Commissary Network, LLC for several years to provide as-needed inmate commissary services for the Benton County Corrections Department (BCCD); and

**WHEREAS**, BCCD and Keefe Commissary Network, LLC negotiated a new contract and BCCD recommends entering into a two (2) year personal service contract with an option to extend by written amendment for an additional 24-month term; **NOW, THEREFORE**

**BE IT RESOLVED**, by the Board of Benton County Commissioners, Benton County, Washington, the Board hereby concurs with the recommendation to enter into a Personal Service Contract with Keefe Commissary Network, LLC for “as needed” inmate commissary services for the Benton County Corrections Department; and

**BE IT FURTHER RESOLVED**, the term of the Contract shall commence upon signature of both parties and shall expire on August 31, 2023. Upon mutual agreement of the parties, this Contract may be extended by written amendment for a maximum of two (2) additional 24-month periods; and

**BE IT FURTHER RESOLVED**, the Board hereby authorizes the Chairman to sign the attached Personal Service Contract between Benton County and Keefe Commissary Network, LLC.

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

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

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

\_\_\_\_\_  
Member

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

**BENTON COUNTY  
PERSONAL SERVICES CONTRACT**

**TERMS AND CONDITIONS**

**THIS CONTRACT** is made and entered into by and between **BENTON COUNTY**, a political subdivision with its principal offices at 620 Market Street, Prosser, WA 99350 (hereinafter "COUNTY"), and **KEEFE COMMISSARY NETWORK, LLC**, a Missouri limited company, with its principal offices at 10880 Linpage Place, St. Louis, MO 63132 (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. Attachment A - Scope of Services
- b. Attachment B - Contractor Provided Equipment
- c. Attachment C - Benton County Commissary Menu

**2. DURATION OF CONTRACT**

The term of this Contract shall begin upon signature of both parties and shall expire on August 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. Upon mutual agreement of the parties, this Contract may be extended by written amendment for an additional 24-month term.

**3. SERVICES PROVIDED**

- a. A detailed description of the services to be performed and the products provided by the CONTRACTOR is set forth in Attachments A through C, which are attached hereto and incorporated herein by reference.
- b. The CONTRACTOR agrees to provide its own labor and materials. Unless otherwise provided in this Contract, no material, labor, or facilities will be furnished by the COUNTY.

- c. The CONTRACTOR shall perform the work specified in this Contract according to standard industry practice.
- d. The CONTRACTOR shall complete its work in a timely manner and in accordance with the schedule agreed by the parties.
- e. The CONTRACTOR shall confer with the COUNTY from time to time during the progress of the work. The CONTRACTOR shall prepare and present status reports and other information that may be pertinent and necessary, or as 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: Angelo Leber, Account Mgr.  
Address: 13369 Valley Blvd.  
Fontana, CA 92335  
Phone: (909) 429-6970  
Email: [aleber@keefegroup.com](mailto:aleber@keefegroup.com)

b. For COUNTY:

Name: Joshua Shelton, Commander  
Address: 7122 W Okanogan Place, Bldg. B  
Kennewick, WA 99336  
Phone: (509) 783-1451 ext. 3880  
Email: [Joshua.Shelton@co.benton.wa.us](mailto:Joshua.Shelton@co.benton.wa.us)

#### **5. COMPENSATION**

- a. The COUNTY will receive a commission rate of 40.5% on all commissionable sales as listed in Attachment C. All products listed in Attachment C are considered commissionable sales with exception of stamps and stamped envelopes. Commissionable sales exclude applicable sales tax and refunded items.
- b. No payment shall be made for any work performed or products provided by the CONTRACTOR, except for work and products

identified and set forth in this Contract.

- c. The CONTRACTOR agrees to, in accordance with the rates provided in Attachment C (or as hereafter modified as set forth in Attachment A), submit invoices to the COUNTY not more than once per month for all commissionable sales. Invoices shall cover the products CONTRACTOR provided to the COUNTY during the billing period. All commissionable sales will be deducted from CONTRACTOR'S invoice. Invoices will show detail of commissionable sales, non-commissionable sales, and applicable Washington State Sales Tax. The COUNTY shall pay the CONTRACTOR for the products provided to inmates set forth in Attachment C the month following the actual delivery of the products and will remit payment within forty-five (45) days from the date of receipt of the invoice from the CONTRACTOR.
- d. CONTRACTOR shall pay a set commission rate of 40.5% to COUNTY for all sales generated from the Securepak Program - Internet Commissary Orders as further outlined in Attachment A. This commission is based on total net sales made for inmates of COUNTY from their family and friends. For purposes of the commission calculation, total net sales includes the total amounts paid by COUNTY inmate's family and friends for products purchased from CONTRACTOR for monies which are actually received by CONTRACTOR and specifically excludes any amounts paid for shipping, taxes, or other similar fees, along with sales tax and refunded items. CONTRACTOR shall pay commissions to COUNTY on a quarterly basis, with commission paid by the 15th of the month following the end of the quarter.
- e. The CONTRACTOR shall not be paid for products provided under this Contract unless and until they have been provided 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 attachments hereto, the CONTRACTOR will not be paid for any billings or invoices presented for services rendered and products provided 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, including incorrectly fulfilled orders, the CONTRACTOR shall make any and all necessary corrections without additional compensation. All work submitted by the CONTRACTOR shall be certified by the CONTRACTOR and checked for errors and omissions. The CONTRACTOR shall be responsible for the accuracy of the work, even if the work is accepted by the COUNTY.
- b. No amendment or modification shall be made to this Contract, unless set forth in a written Contract Amendment signed by both parties. Work under a Contract Amendment shall not proceed until the Contract Amendment is duly executed by the COUNTY.

**7. HOLD HARMLESS AND INDEMNIFICATION**

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

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

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

## **8. INSURANCE**

The CONTRACTOR shall obtain and maintain continuously the following insurance:

- a. **Professional Liability Insurance:** Prior to the start of work under this Contract, the CONTRACTOR shall secure and maintain at its own expense Professional Liability Insurance appropriate to the CONTRACTOR'S profession and shall be written subject to limits of not less than one million dollars (\$1,000,000) each claim and in the aggregate. Such insurance must be provided by an insurance carrier with a Best's Rating of not less than A-VII.

The coverage shall apply to liability for a professional error, act, or omission arising out of the scope of the CONTRACTOR'S services defined in this Contract. Coverage shall not exclude hazards related to the work rendered as part of the Contract or within the scope of the CONTRACTOR'S services as defined by this Contract. If the policy is claims made, the retroactive date shall be prior to or coincident with the effective date of this Contract. CONTRACTOR is

required to maintain claims made professional liability insurance for a minimum of 36 months after the effective date of termination or completion of this Contract. If coverage is canceled or non-renewed and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the CONTRACTOR must purchase "extended reporting" coverage for a minimum of 36 months after the completion of work. The CONTRACTOR shall annually provide the COUNTY with proof of all such insurance.

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

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

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

shall be as follows:

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

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

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

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

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

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

liability insurance for not less than one million dollars (\$1,000,000) per occurrence and an annual aggregate of two million dollars (\$2,000,000) covering claims involving privacy violations, information theft, damage to or destruction of electronic information, extortion, and network security. Such coverage is required only if any products and/or services related to information technology (including hardware and/or software) are provided to COUNTY and for claims involving any professional services for which the CONTRACTOR is engaged with COUNTY for such length of time as necessary to cover any and all claims.

f. **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.

g. **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. The CONTRACTOR may terminate this Contract in whole or in part whenever the CONTRACTOR determines, in its sole discretion, that such termination is in the best interest of the CONTRACTOR. The CONTRACTOR may terminate this Contract upon giving one hundred twenty (120) days written notice by certified mail to the COUNTY. In that event, the parties

shall continue payments in performance of the Contract up to the date of such notice as provided in Section 5.

- c. In the event that funding for this project is withdrawn, reduced, or limited in any way after the effective date of this Contract, the COUNTY may summarily terminate this Contract notwithstanding any other termination provision in this Contract. Termination under this subsection shall be effective upon the date specified in the written notice of termination sent by COUNTY to the CONTRACTOR. After the effective date, no charges incurred under this Contract shall be allowed.
- d. If the CONTRACTOR breaches any of its obligations hereunder, and fails to cure the breach within ten (10) days of written notice to do so by the COUNTY, the COUNTY may immediately terminate this Contract by so notifying the CONTRACTOR, in which case the COUNTY shall pay the CONTRACTOR only for the costs of services accepted by the COUNTY, in accordance with the Compensation Section of this Contract. Upon such termination, the COUNTY, at its discretion, may obtain performance of the work elsewhere, and the CONTRACTOR shall bear all costs and expenses incurred by the COUNTY in completing the work and all damage sustained by the COUNTY by reason of the CONTRACTOR'S breach.

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

- a. The CONTRACTOR shall perform the terms of this Contract using only its bona fide employees or agents, and the obligations and duties of the CONTRACTOR under this Contract shall not be assigned, delegated, or subcontracted to any other person or firm without the prior express written consent of the COUNTY.
- b. The CONTRACTOR warrants that it has not paid, nor has it agreed to pay, any company, person, partnership, or firm, other than a bona fide employee working exclusively for the CONTRACTOR, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award or making of this Contract.

#### **11. NON-WAIVER OF RIGHTS**

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

this Contract at a later time. All waivers of any provision(s) of this Contract shall be in writing and in the absence of such, no action or inaction shall be construed to be such a waiver.

## **12. INDEPENDENT CONTRACTOR**

- a. The CONTRACTOR'S services shall be furnished by the CONTRACTOR as an independent contractor and not as an agent, employee, or servant of the COUNTY. The CONTRACTOR specifically has the right to direct and control CONTRACTOR'S own activities in providing the agreed services in accordance with the specifications set out in this Contract.
- b. The CONTRACTOR acknowledges that the entire compensation for this Contract is set forth in Section 5 of this Contract, and neither the CONTRACTOR, nor its employees are entitled to any COUNTY benefits, including, but not limited to: vacation pay; holiday pay; sick leave pay; medical, dental, or other insurance benefits; fringe benefits; or any other rights or privileges afforded to COUNTY employees.
- c. The CONTRACTOR shall have and maintain complete responsibility and control over all of its subcontractors, employees, agents, and representatives. No subcontractor, employee, agent, or representative of the CONTRACTOR shall be, deem to be, act, or purport to act as an employee, agent, or representative of the COUNTY.
- d. The CONTRACTOR shall pay for all taxes, fees, licenses, or payments required by federal, state, or local law that are now or may be enacted during the term of this Contract.
- e. The CONTRACTOR agrees to immediately remove any of its employees or agents from their assignment to perform services under this Contract upon receipt of a written request to do so from the COUNTY'S Contract Representative, or designee.

## **13. COMPLIANCE WITH LAWS**

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

## **14. INSPECTION OF BOOKS AND RECORDS**

The COUNTY may, at reasonable times, inspect the books and records of the CONTRACTOR relating to the performance of this Contract. The CONTRACTOR shall keep, and make available to the COUNTY upon

request, all records relating to the performance of this Contract for six (6) years after Contract termination or expiration.

**15. NONDISCRIMINATION**

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

**16. 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.

**17. 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.

**18. 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.

**19. 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.

**20. 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.

**21. 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.

**22. 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.

**23. 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.

#### **24. 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 25); Public Records Act (Section 26); and confidentiality (Section 18).

#### **25. 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.

#### **26. 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 upon signature of both parties.

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

Dated: 9/7/21

**BENTON COUNTY, WASHINGTON**

**KEEFE COMMISSARY NETWORK, LLC**

\_\_\_\_\_  
Jerome Delvin, Chairman  
Benton County Commissioner

\_\_\_\_\_  
Signature

Executive Vice President

Approved as to Form:

Title:



\_\_\_\_\_  
Ryan J Lukson, Civil DPA

John Puricelli

\_\_\_\_\_  
Print Name

**ATTACHMENT A**  
**SCOPE OF SERVICES**

1. **OPERATION OF COMMISSARY BY COUNTY.** COUNTY agrees that during the term of this Agreement, it will, at its own expense: (a) provide personnel to operate the computer equipment, as listed in Attachment B ("Computer Equipment") and the CONTRACTOR proprietary software, as also listed in Attachment B ("CONTRACTOR Software"); (b) manage and reconcile the funds in the Inmate Trust Accounts; and (c) deliver the completed commissary orders to the individual inmates.
2. **COMMISSARY ORDERS AND PRODUCT SPECIFICATIONS:**
  - a. The CONTRACTOR agrees that, on an as-needed basis, it will download all inmate orders for commissary items. CONTRACTOR will bag, box, and ship such commissary items to the COUNTY for distribution to the inmates and invoice COUNTY for all such purchases in accordance with Section 5. CONTRACTOR shall make available for purchase by all inmate commissary items including, but not limited to, hygiene products, writing materials, games, snacks, candies, and a limited clothing selection as set forth in Attachment C. In addition, CONTRACTOR will keep the Computer Equipment updated with complete information as to commissary items available, pricing, and other terms and conditions of sale. This list is subject to product adjustment by the COUNTY as the COUNTY determines the need to adjust products in its sole discretion. The COUNTY will provide said adjustment in email form to CONTRACTOR's Contract Representative.
  - b. CONTRACTOR shall accept orders from family and friends of inmates of the COUNTY utilizing the Access Securepak Program - Internet Commissary Orders. CONTRACTOR shall make available for purchase the same menu items as set forth in Attachment C for friends and family to purchase for inmates of the COUNTY. Inmate packages shall have a weekly dollar limit of \$100 and shall be shipped on a weekly basis. CONTRACTOR agrees to provide posters and online ordering website, toll free COUNTY service ordering and help desk for the Access Securepak Program.
  - c. The CONTRACTOR shall maintain sufficient stock levels in order to limit shortages. The CONTRACTOR shall not

substitute or backorder without notifying the COUNTY and receiving approval from COUNTY to do so.

- d. Commissary orders will be processed by the CONTRACTOR in a secure off-site environment provided by CONTRACTOR. Jail staff may inspect the site without prior notice.
- e. Commissary orders by unit will be delivered to the jail staff between the hours of 7:00 a.m. and 2:00 p.m. on Thursday, unless delivery falls on a Holiday, in which case the CONTRACTOR shall deliver all orders the day prior to the Holiday. The delivery schedule may be changed by mutual agreement of CONTRACTOR and the COUNTY via email. Benton County Corrections is a maximum-security facility; therefore, the CONTRACTOR may experience delivery delays on a routine basis due to access restrictions, but deliveries will be made no less than once a week.
- f. Commissary orders will be delivered by the CONTRACTOR in clear perforated, plastic bags with tamperproof seals. There shall be two (2) copies of the order receipt sealed within the bag. The receipt should contain the following information:  
  
Inmate Name  
Inmate Location  
Inmate ID Number  
Items and quantity included  
Total of order and sales tax  
Balance of the account after the order
- g. In general, all product packaging will be appropriate for use in correctional facilities.
- h. Food items shall be wrapped/package and dated for individual consumption.
- i. All containers shall be made of non-breakable material and clear where available.

- j. All consumable products shall be nonalcoholic (mouthwash, etc.) .
- k. All commissary orders will be boxed by housing unit and all boxes must be clearly marked on the outside with the housing unit to provide maximum efficiency for delivery.
- l. The CONTRACTOR's system will provide a method for handling "restocking" for items that have been ordered but received after the inmate has been released.
- m. The commissary system will automatically update items for pricing, addition and deletions.
- n. The commissary system will create order forms with multiple spending limits for commissary items and big-ticket items.
- o. The CONTRACTOR's commissary system will create quantity restrictions for each item and quantity restrictions for all category of items.
- p. CONTRACTOR shall provide all necessary software and hardware necessary, including kiosks. Software updates of the computer software must be provided free of charge to the COUNTY for the length of the Contract.
- q. Commissary orders may be transmitted using one of the following methods:
  - i. By entering data at a secure Internet web site maintained or managed by the CONTRACTOR.
  - ii. By Secure File Transfer Protocol (FTPS) to a site maintained or managed by the CONTRACTOR.
  - iii. By fax.
  - iv. By attaching order forms to email sent to the CONTRACTOR.

3. **KEEFE FINANCIAL SYSTEMS AND REPORTING (ACCOUNT MANAGEMENT, INMATE BANKING, COMMISSARY, USER MANAGEMENT AND REPORT VIEWER) :**

- a. COUNTY will utilize Keefe Commissary Network (KCN) customized suite of inmate banking and commissary software, KeepTrak™.
- b. COUNTY will utilize Keefe Access Corrections for inmate deposits which will provided at no cost to the COUNTY.
- c. CONTRACTOR agrees to the following at a minimum:
  - i. Provide integration with other software and hardware units, such as but not limited to, Tyler Corrections Management System, telephone kiosks such as ICSolutions, COUNTY banking service provider and COUNTY network. COUNTY acknowledges that CONTRACTOR's integration/interface with Tyler's Corrections Management System will require CONTRACTOR to incur costs. The parties acknowledge all costs associated with that integration/interface are solely the obligation of CONTRACTOR under this Contract.
  - ii. Provide a centralized trust accounting system capable of managing user definable special fund accounts, deposits, disbursements, collection, and general ledger functions operating in a secure environment and fully documented.
  - iii. Keep a detailed history of all financial transactions.
  - iv. Access controlled by user ID and station ID; login and password security features; multi-level security structures; system and transaction audit features such as user ID, date/time stamp, etc.
  - v. Dual entry accounting; Real time general ledger; customizable fields to meet business needs; summarization of transaction amounts; trial balance capability.
  - vi. Ability to use pre-numbered or blank check stock; ability to record bank account, routing and check ID with magnetic ink printing technology; simple and advanced on-line query capabilities; ability to update check status to cleared, voided, expired; automated bank to book reconciliation with the ability to record and retain bank opening and closing balances and dates, documents cleared, bank

- charges and credits; positive pay check issue transfer to allow bank to flag possibly fraudulent checks; automated bank reconciliation capabilities to receive check and deposit status in electronic format from bank.
- vii. Report generator to provide full range of content sensitive reports.
  - viii. Backup maintenance of the main CONTRACTOR server shall be performed daily, and backup files stored at a secure offsite location. Data recovery plan shall be coordinated with COUNTY IT department staff. Backup records are the sole property of the COUNTY.
  - ix. At the termination of this Contract, the CONTRACTOR further agrees to work with any incoming commissary provider and the COUNTY to ensure a smooth transition, including but not limited to providing data (e.g. inmate transaction detail, inmate account information, all accounting system detail records) from the existing system at no cost to the COUNTY.
  - x. Upon termination or expiration of this Contract, CONTRACTOR shall immediately deliver to COUNTY all COUNTY-owned programs and related documentation. In addition, CONTRACTOR grants to COUNTY a limited-term, royalty-free, nonexclusive, irrevocable, and nontransferable license that shall expire with a term not to exceed 6 months after the expiration or earlier termination of this Contract, to use solely for COUNTY purposes, any CONTRACTOR owned or licensed programs, including system software, utilized by CONTRACTOR in performance of this Contract, at no cost to the COUNTY.

**4. HARDWARE/SOFTWARE MAINTENANCE RESPONSE AND SERVICE:**

- a. A maintenance response is defined as a service technician capable of repairing reported trouble either on site or remotely accessing the system with the capability of correcting the trouble, depending on the type and nature of the problem.
- b. The CONTRACTOR shall provide a 24-hour-a-day, 7-day-a-week emergency number and monitored email account for

reporting software problems to insure maximum utilization and minimal downtime. The CONTRACTOR shall provide support in accordance with the following levels:

i. Level 1 - Urgent

Any issue compromising or preventing a facility from performing daily job functions related to commissary and/or inmate banking. Urgent issues are top priority and assigned out accordingly. The assigned Analyst will be responsible for replying to the customer within an hour of receiving the case and will work until the urgent issue has been resolved. Any follow up items stemming from the urgent issue will be handled as standard priority through resolution. Urgent issues include, but are not limited to the following services where the service is unavailable without a workaround:

- Sending/Ordering/Processing Commissary
- Deposit Services - anything preventing deposit transactions from being applied onto the resident financial account
- Lobby Kiosks - hardware issues preventing family/friends from depositing funds onto the resident financial account
- Inmate phone time availability
- Direct Link Trust - anything preventing resident outbound calls
- Inmate Booking
- Inmate Release
- Facility server/hardware offline, database failure
- Creation of new resident accounts and/or updating existing resident accounts via manual entry or an integration

ii. Level 2 - Escalated

Any issue not immediately compromising or preventing facility from performing daily job functions related to commissary and/or inmate banking. Escalated issues are second level priority, behind active urgent cases. The assigned Analyst will be

responsible for replying to the customer within two hours of receiving the case and will work through the escalated issue with the customer until resolution. Escalated issues could include, but are not limited to:

- Billing issues related to commissary sales/refunds
- Non-critical resident account related issues
- Bank reconciliation/check/deposit issues not immediately affecting business

iii. Level 3 - Standard

Any longer-term issue that does not immediately compromise daily job functions. Standard issues are third level priority, behind both active urgent and escalated cases, and may have potential resolution of 5 days or longer. The assigned Analyst will be responsible for replying to the customer within four hours of receiving the case and will work with the customer through resolution. The Analyst is also responsible for keeping the customer updated on progress as needed. Standard issues include, but are not limited to:

- Bank reconciliations and/or general journal reconciliations not immediately affecting daily functions.
- Report creations/modifications.

iv. Priority Assignment: In the event the COUNTY is not satisfied with the assigned priority level or have not received a response to the inquiry within the anticipated response timeframes, please send an email to Support Services escalation at [escalations@keefegroup.com](mailto:escalations@keefegroup.com) to let CONTRACTOR know the urgency of the issue. The Support Services Management Team will escalate the ticket as required. An updated response will be sent to notify the COUNTY that the CONTRACTOR has acknowledged and addressed the change request. If further clarification is needed, a representative from the

Management Team will call the requestor.

v. Contact Information: There are two ways to contact the Support Services Department:

- [KCNHelpdesk@keefegroup.com](mailto:KCNHelpdesk@keefegroup.com) - The Support Services email is actively monitored Monday through Friday, 8am - 5pm CST 2).
- 1.800.864.5986 - Our toll-free phone number is available 24/7.
- During business hours, Analysts are available to assist customers Monday - Friday, 6am - 7pm CST.
- On weekends, and outside of above-mentioned business hours, on-call Analysts are available to assist customers. Customers will call the toll-free number and be asked to leave a voicemail. An on-call Analyst will call the customer back within 30 minutes of them leaving a voicemail.

vi. Escalation Path: If the COUNTY is unable to reach the Analyst assigned to their case, the COUNTY is not contacted in the defined timeframes, or feel that the COUNTY needs to escalate the situation, please send an email to Support Services escalation at [escalations@keefegroup.com](mailto:escalations@keefegroup.com). A member from the Management Team will be in contact with the requestor immediately; or, requestor may call our toll-free number 1.800.864.5986 and ask to speak with a manager.

vii. For your reference, the following is a list of the Support Services Managers:

- Tier 1 Support - All incoming incidents for Keefe and Trinity phones and email submissions:
  - Earnest Muex ([earnest.muex@keefegroup.com](mailto:earnest.muex@keefegroup.com)) - IT Manager for the Tier 1 support team.
- Tier 2 Support - Servers, client workstations, printers, scanners, inmate edge kiosks, network/communication, etc.:

- Ryan Lurk ([rlurk@keefegroup.com](mailto:rlurk@keefegroup.com)) - IT Manager, Hardware/Infrastructure support team.
- Deposit services, email, release, media:
  - Rob Sanders ([rsanders@keefegroup.com](mailto:rsanders@keefegroup.com)) - IT Manager, Inmate Enablement support team.
- Processing orders/refunds, various interfaces, inmate edge kiosk software, TEX, etc.:
  - Justin Perry ([juperry@keefegroup.com](mailto:juperry@keefegroup.com)) - IT Manager, Commissary/Integration support team.
- Software, hardware, inmate POD kiosks, various integrations, etc.:
  - Christina Stuckey ([christina.stuckey@trinityservicesgroup.com](mailto:christina.stuckey@trinityservicesgroup.com)) - IT Manager, Cobra Banker/Canteen Manager support team.
- Daily workflows, cash drawers, balancing, bank reconciliations, etc.:
  - Hannah Wickers ([hwickers@keefegroup.com](mailto:hwickers@keefegroup.com)) - Financial Services Manager, Customer Accounting support team.
- Senior Management:
  - Dan Delmore - Senior IT Manager for the Support Services Management Team  
[ddelmore@keefegroup.com](mailto:ddelmore@keefegroup.com).
  - Tricia Boucher - IT Director for the Support Services Management Team  
[tboucher@keefegroup.com](mailto:tboucher@keefegroup.com)
- c. CONTRACTOR shall provide these maintenance services and any software enhancements as they become available for the Contract period, at no cost to the COUNTY. CONTRACTOR must document and retain system of tracking trouble calls/tickets and be able to provide COUNTY with status and resolution report when requested.
- d. The CONTRACTOR will provide a narrative description of

standard operating procedures for normal system administration tasks specific to the COUNTY software. This description should include/identify any specialized technical skills that will be required by its staff and recommended guidelines for file back up.

- e. The CONTRACTOR is responsible for certifying that all software installed as part of this Contract, and all systems attached to the COUNTY's communication services are free of viruses. The minimum action required is documentation of anti-virus software licenses and documentation of company virus scanning procedures to be followed by the CONTRACTOR prior to access/installing software with the COUNTY environment.
- f. Secure remote access is only available by the internet that does not interface with the COUNTY network or the jail management system. Access is to be coordinated through the COUNTY's IT Department. The CONTRACTOR is responsible for maintaining a secure service capability compatible with a criminal justice environment. The COUNTY's IT Department will provide the necessary technical information. All access is subject to review and approval by the COUNTY's IT department.
- g. When recommending or performing future hardware and/or software upgrades and/or fixes, CONTRACTOR is responsible for informing COUNTY and the COUNTY's IT of potential impacts on existing hardware/operating system configurations. Specifically, the CONTRACTOR must notify the COUNTY and the COUNTY's IT that software enhancements will require modifications to workstation configurations.
- h. The CONTRACTOR shall provide training to all staff required to operate the equipment. The equipment is scheduled to be used in a 24 hour/day, 7 days/week, and 365 days/year facility. The training shall be provided at no charge to the COUNTY. System administration training shall be provided by the CONTRACTOR.
- i. The CONTRACTOR must install the system as necessary, train COUNTY personnel, provide documentation, on-going support, and a toll-free 24-hour emergency line to insure maximum utilization and minimal down time with the proposed system.

- j. The CONTRACTOR's hardware (Attachment B) and software will be provided, warranted, and maintained by CONTRACTOR at no cost to the COUNTY for the life of the Contract. During the term of the Contract, CONTRACTOR agrees to keep current both its hardware and software. All upgrades of hardware and software as well as additional training to facility staff will be provided by CONTRACTOR at no cost to the COUNTY for the life of the Contract. CONTRACTOR will notify the COUNTY of enhancements and modifications to workstation configurations in a timely manner.
- k. COUNTY requires CONTRACTOR to adhere to cyber security best practices and will communicate to the best of CONTRACTOR's ability any security gaps or conflicts that could impair CONTRACTOR services to COUNTY. CONTRACTOR shall have the responsibility to the following actions:
  - i. Response Time to Vulnerabilities. CONTRACTOR, in a timely manner will exercise proper treatment for known vulnerabilities that may impact the COUNTY's business.
  - ii. Notification of Data Breaches. CONTRACTOR shall inform the COUNTY in a timely manner regarding any cyber security breaches that may impact the COUNTY's business. Data Breaches that include the compromise, security, confidentiality, and or integrity of Personal Identifiable Information (PII) shall be reported to the COUNTY no more than 45 days after data breach.
  - iii. Communication of Changes. Any changes to CONTRACTOR's Commissary Service require CONTRACTOR to inform the COUNTY of these changes. COUNTY acknowledges that CONTRACTOR may perform changes to their environment without notice depending on severity of changes needed to sustain a stable working environment to COUNTY. However, CONTRACTOR shall exercise proper communication to COUNTY when changes are needed to reduce disruption to COUNTY business.

**5. THIRD PARTY RECEIPTING:**

- a. The CONTRACTOR will provide Keefe Access Corrections to be used for inmate deposits via the internet, phone, and lobby kiosk which will be provided at no cost to the COUNTY in accordance with this Contract.

- b. The CONTRACTOR and all of its vendors (including but not limited to the third party credit card processor, merchant services provider, payment facilitator) shall be in compliance with Payment Card Industry (PCI) standards and be PCI approved.
- c. The CONTRACTOR shall provide proof that the third-party credit card processor, merchant services provider, and payment facilitator are PCI approved. This proof shall be submitted on an annual basis by or before February 28<sup>th</sup> of each year.
- d. The CONTRACTOR shall provide a copy of their Service Organization Control (SOC) reports to the COUNTY on an annual basis, by or before February 28<sup>th</sup> of each year.
- e. The CONTRACTOR shall remit all funds electronically to the COUNTY within twenty-four hours of receipt; provided, however, because CONTRACTOR is unable to exhibit control over the electronic transmission process, CONTRACTOR cannot warrant the funds will be received by the COUNTY within twenty-four hours of receipt.
- f. The CONTRACTOR guarantees all deposits collected, regardless of any third-party vendor charges. The CONTRACTOR shall not be authorized to debit any bank account of COUNTY.
- g. The CONTRACTOR shall deposit all funds it receives through credit card, phone, and online in an approved public depository before remitting the funds to the COUNTY.
- h. CONTRACTOR's currently approved public depository used for the third-party receipting is: Key Bank.
- i. The CONTRACTOR will provide reports from Access Corrections and Keefe Commissary Network that will allow the COUNTY to reconcile the payments received through the third-party receipting to the inmate accounts kept in the Keefe Commissary Network program.

**6. Kiosks:**

- a. The CONTRACTOR will provide kiosks to the jail lobby for the public to add funds (deposit services) to inmate

accounts. The standard fee structure for credit or cash deposits is as follows:

| STANDARD FEE STRUCTURE |         |         |                     |                             |
|------------------------|---------|---------|---------------------|-----------------------------|
| Gross Amount Deposited | Web     | Phone   | Cash at Lobby Kiosk | Credit/Debit at Lobby Kiosk |
| \$0.01 - \$19.99       | \$4.95  | \$6.95  | \$4.00              | \$4.95                      |
| \$20.00 - \$99.99      | \$7.95  | \$9.95  | \$4.00              | \$7.95                      |
| \$100.00 - \$199.99    | \$9.95  | \$11.95 | \$4.00              | \$9.95                      |
| \$200.00 - \$300.00    | \$11.95 | \$13.95 | \$4.00              | \$11.95                     |

- b. Kiosks will be new or in like new condition and similar in style and size. The COUNTY will not accept kiosks that are unsightly in appearance or in poor working condition.
- c. All kiosks shall be equipped with the necessary safety devices which shall be maintained in operating condition at all times.
- d. The CONTRACTOR agrees to assume the cost and responsibility for all electrical/technology upgrades associated with the installation and ongoing use of the kiosks.
- e. The CONTRACTOR agrees to supply any necessary commissary kiosks within jail area and/or integrate with other vendor's equipment such as inmate phone provider at no cost to the COUNTY.

7. Deposits:

- a. Services. CONTRACTOR will provide money transmission services for payments made through kiosks, online websites, and call centers ("Transactions") for crediting account balances held by COUNTY on behalf of the recipients of funds (the "Services"). CONTRACTOR provides the Services in its capacity as a licensed money services business. CONTRACTOR represents and warrants to COUNTY that CONTRACTOR is duly licensed to provide the Services

and will do so in compliance with applicable laws and regulations.

- b. Authorization. COUNTY authorizes CONTRACTOR to act on its behalf in handling cash and to submit Transactions initiated by individuals through the Services to the credit card networks or otherwise for authorization, processing and settlement to COUNTY for the benefit of designated recipients.
- c. Responsibilities of CONTRACTOR.
  - (i) CONTRACTOR will receive payments from the public, directed to recipients by way of the Services.
  - (ii) CONTRACTOR will transfer payment files to COUNTY on a daily basis. CONTRACTOR will deliver payments to COUNTY by the second business day following (but not including) the day of the transaction by means of an electronic funds transfer ("EFT") to COUNTY's designated bank account; provided, however, CONTRACTOR, in its sole discretion, reserves the right to delay its acceptance of any transaction that CONTRACTOR determines to be suspicious and warrants further investigation. COUNTY acknowledges and agrees that CONTRACTOR may reject, terminate or cancel any proposed transaction should CONTRACTOR determine the transaction is being made for an improper or illegal purpose.
  - (iii) CONTRACTOR will provide COUNTY with daily payment information by way of the CONTRACTOR COUNTY interface.
  - (iv) CONTRACTOR will be responsible for responding to and resolving inquiries and complaints from senders of funds arising out of CONTRACTOR's failure to timely transmit any payment to COUNTY.
  - (v) CONTRACTOR will provide sufficient promotional material to be posted by COUNTY.
  - (vi) CONTRACTOR, upon receipt of written notice from COUNTY, shall place limitations on transactions. The limitations will be implemented by CONTRACTOR as soon as is reasonably practicable.

(vii) CONTRACTOR may contract with a third-party service provider to remove cash from kiosks, to replace receipt paper and to assume responsibility for the funds until deposited into the designated bank account.

d. Responsibilities of COUNTY.

(i) COUNTY will provide CONTRACTOR with the required bank account information for transmission of an EFT. COUNTY agrees to notify CONTRACTOR, in writing, giving fourteen (14) days' notice, of any changes to the bank account information.

(ii) COUNTY will, upon receipt of written documentation of overpayment, promptly, but in no event more than ten (10) business days, refund any overpayment made by CONTRACTOR, for any reason. This is to include, but not be limited to, duplicate payments, payments refunded to customers by CONTRACTOR and any incorrect payments. At CONTRACTOR's sole option and in lieu of the foregoing, CONTRACTOR may offset any such overpayments from future payment amounts transmitted by CONTRACTOR to COUNTY and notify COUNTY of any such offset.

(iii) CONTRACTOR will provide all labor necessary for and will guarantee the workmanship of the installation of a lobby kiosk including, but not limited to, material handling within the facility and all costs associated with the networking, internet connectivity and electrical enhancements required to install a kiosk at the COUNTY's location.

(iv) COUNTY agrees that CONTRACTOR may determine, in its sole discretion, to suspend, terminate or place restrictions on one or more individual's ability to use the Services. CONTRACTOR will provide COUNTY with access to its web portal which includes a list of inmates who are restricted from using the Services.

e. Exclusivity. CONTRACTOR has the exclusive right to provide the Services for the COUNTY and the exclusive right to collect and receive money handling fees associated with the Services which fees will belong to

CONTRACTOR. The foregoing exclusivity is not meant to prohibit the COUNTY from accepting and processing payments made to inmates through money orders, checks or in the event CONTRACTOR is unable through its kiosk(s), cash payments.

f. Refunds/Chargebacks.

- (i) The Parties acknowledge that once CONTRACTOR accepts a transaction submitted to the applicable payment network or otherwise for processing, CONTRACTOR cannot cancel or change the transaction. Except to the extent required by applicable law, payments processed by CONTRACTOR are non-refundable to the individual by CONTRACTOR. Individuals may have additional refund or chargeback rights under their cardholder agreement with the card issuer or applicable law.
- (ii) In the case of chargebacks or returned funds, CONTRACTOR will be responsible for pursuing the chargeback through the card association's dispute resolution processes, if appropriate in CONTRACTOR's sole discretion. Upon written request from CONTRACTOR, COUNTY agrees to provide requested information needed to pursue the chargeback.
- (iii) If an individual requests a refund, CONTRACTOR will not be responsible for making those funds available if they have been already settled to a designated account by CONTRACTOR or are beyond CONTRACTOR's control.

**ATTACHMENT B**  
**CONTRACTOR PROVIDED EQUIPMENT**

All equipment shall be provided by the CONTRACTOR to the COUNTY at no cost to the COUNTY. Such equipment will be approved by COUNTY's IT and within specifications required by COUNTY.

|                                                                                    |
|------------------------------------------------------------------------------------|
| SHI - Online Banking Customer – Virtual Server                                     |
| Network install                                                                    |
| SHI - Lexmark MX421ade - printer x 2 printers                                      |
| One (1) colored printer for commissary reports and receipts                        |
| Upgrade to Cloud banking                                                           |
| Lobby Kiosk x 2 kiosks                                                             |
| SHI - USB Printer Cable 2.0 Type A to Type B Cable - 6 ft                          |
| Inducomp - Intake Kiosk - Avalanche 180 Bulk Acceptor                              |
| Token Works - M260 Drivers license/credit card reader                              |
| TKC - For Cable/DSL, T1 - Checkpoint 1430 Firewall (priced by <b>TKC</b> )         |
| TKC - 16-Port Managed Switch - UniFi US-16-150W (with POE), incl 2xSFP fiber ports |

# Attachment C

## Commissary Menu

Benton County

May 18, 2021



| Item | Description | Price |
|------|-------------|-------|
|------|-------------|-------|

|                   |                               |         |
|-------------------|-------------------------------|---------|
| <b>Hot Snacks</b> |                               |         |
| 2664              | Macaroni & Cheese 3 oz        | \$ 2.20 |
| 2669              | Spicy Cheesy Refrid Beans     | \$ 2.45 |
| 6000              | Chicken Ramen                 | \$ 1.05 |
| 6002              | Beef Ramen                    | \$ 1.05 |
| 6003              | Cajun Shrimp                  | \$ 1.05 |
| 6004              | Texas Beef Ramen              | \$ 1.05 |
| 6005              | Chili Ramen                   | \$ 1.05 |
| 6007              | Cajun Chicken Ramen           | \$ 1.05 |
| 6011              | Hot & Spicy Veg Ramen         | \$ 1.05 |
| 6050              | Keefe Instant White Rice 8 oz | \$ 2.20 |
| 6172              | Chili No Beans                | \$ 2.95 |
| 6174              | Hot Chili w/ Beans 11.25 oz   | \$ 2.95 |
| 6527              | Oatmeal Maple & Br Sugar      | \$ 0.65 |

|                    |                                         |         |
|--------------------|-----------------------------------------|---------|
| <b>Cold Snacks</b> |                                         |         |
| 2584               | Tuna w/Jalapenos In Water               | \$ 3.30 |
| 2615               | Reg Summer Sausage                      | \$ 1.85 |
| 2622               | Hot & Spicy Summer Sausage 3 oz         | \$ 2.00 |
| 2623               | Regular Summer Sausage                  | \$ 2.00 |
| 3581               | Summer Sausage Hot/Spicy 1.625 oz       | \$ 1.85 |
| 6178               | Mackeral                                | \$ 2.50 |
| 6189               | Fish Steaks Spicy Mustard               | \$ 2.00 |
| 6190               | Fish Steaks Green Chilis In Oil 3.53 oz | \$ 2.00 |
| 6191               | Salmon Flakes In Water 3.53 oz          | \$ 2.60 |
| 6195               | Premium Chicken Breast Diced 4.5 oz     | \$ 4.10 |
| 6296               | Orig Flavor Beef Jerky                  | \$ 2.35 |
| 6600               | Flour Tortillas 6ct 8 in                | \$ 2.10 |
| 6826               | Fresh Catch Tuna 4.23 oz.               | \$ 4.00 |

| Item | Description | Price |
|------|-------------|-------|
|------|-------------|-------|

|                             |                                    |         |
|-----------------------------|------------------------------------|---------|
| <b>Chips &amp; Crackers</b> |                                    |         |
| 2737                        | Chili Cheese Fritos 2 oz           | \$ 1.25 |
| 3110                        | Keebler Crackers Club 5.25 oz      | \$ 2.00 |
| 3219                        | Cheese On Cheese Sandwich Crackers | \$ 0.85 |
| 3222                        | Toasted Peanut Butter Crackers     | \$ 0.85 |
| 3223                        | Peanut Butter On Cheese Crackers   | \$ 0.85 |
| 6116                        | Cheese Puffs                       | \$ 1.70 |
| 6125                        | MI Hot Hot Hot Bbq Chips 1.5 oz    | \$ 1.10 |
| 6127                        | Hot Spicy Pork Rinds               | \$ 1.85 |
| 6134                        | Caramel Popcorn                    | \$ 1.55 |
| 6154                        | Nacho Flvr Doritos                 | \$ 1.25 |
| 6159                        | Cheetos Flamin Hot 1.75 oz         | \$ 1.25 |
| 6167                        | Cheetos Cheese Crunchy 2 oz        | \$ 1.25 |
| 6208                        | Student Snack Mix                  | \$ 2.00 |
| 6212                        | Cajun Snack Mix                    | \$ 1.90 |
| 6213                        | Healthy Snack Mix                  | \$ 1.90 |
| 6220                        | Cornnuts Chili Picante             | \$ 1.45 |
| 6606                        | Salted Peanuts 1.75 oz             | \$ 0.85 |

|                  |                                |         |
|------------------|--------------------------------|---------|
| <b>Beverages</b> |                                |         |
| 2000             | Single Serve Keefe Coffee      | \$ 0.35 |
| 2010             | Keefe Coffee 4 oz              | \$ 5.75 |
| 2011             | Keefe Decaf Coffee 3 oz        | \$ 5.75 |
| 2015             | Keefe Freeze Dried Coffee 3 oz | \$ 6.90 |
| 2017             | Maxwell House Coffee 4 oz      | \$ 7.20 |
| 2041             | French Vanilla Cappuccino 8 oz | \$ 4.00 |
| 2110             | S.S Fruit Punch                | \$ 0.40 |
| 2198             | Rich Hot Cocoa Mix             | \$ 4.00 |
| 2282             | Keefe Alturo Blend Coffee      | \$ 5.75 |
| 2283             | Keefe Colombian Blend          | \$ 6.80 |
| 2310             | Lemonade 6 oz                  | \$ 3.00 |

| Item | Description | Price |
|------|-------------|-------|
|------|-------------|-------|

|              |                               |         |
|--------------|-------------------------------|---------|
| <b>Candy</b> |                               |         |
| 4000         | M&M Plain Choc                | \$ 1.45 |
| 4001         | M&M Choc Peanut               | \$ 1.45 |
| 4004         | Baby Ruth Candy Bar           | \$ 1.45 |
| 4005         | Butterfinger Candy Bar 1.9 oz | \$ 1.45 |
| 4010         | Snickers Choc Peanut          | \$ 1.45 |
| 4013         | Milk Way Choc Caramel         | \$ 1.45 |
| 4019         | Chick O Stick                 | \$ 0.65 |
| 4031         | Twix Choc Caramel Cookie      | \$ 1.45 |
| 4035         | Reeses Peanut Butter Cup      | \$ 1.45 |
| 4036         | Hershey'S Chocolate Bar       | \$ 1.45 |
| 4100         | Butterscotch Discs 4.25 oz    | \$ 1.50 |
| 4110         | Lemon Drops                   | \$ 1.50 |
| 4115         | Red Licorice Bites            | \$ 1.30 |
| 4120         | Root Beer Barrels             | \$ 1.50 |
| 4121         | Jelly Beans 4 oz              | \$ 1.50 |
| 4135         | Jolly Ranchers Asst. 3.7 oz   | \$ 1.55 |
| 4145         | Starlight Mints 3.75 oz       | \$ 1.35 |
| 4150         | Sour Fruit Balls 4.25 oz      | \$ 1.50 |
| 4155         | Sugar Free Wild Fruit 1.7     | \$ 1.50 |
| 4160         | Tootsie Rolls                 | \$ 1.50 |
| 4314         | Kellogg Blueberry Pop Tarts   | \$ 1.55 |
| 4387         | Rocky Road Bar                | \$ 1.35 |



## Commissary Menu

Benton County

May 18, 2021

| Item | Description | Price |
|------|-------------|-------|
|------|-------------|-------|

|                             |                                      |         |
|-----------------------------|--------------------------------------|---------|
| <b>Cookies &amp; Pastry</b> |                                      |         |
| 2725                        | Pop Tarts Frosted Brown Sugar        | \$ 1.50 |
| 2726                        | Cinnamon Roll                        | \$ 1.35 |
| 2757                        | Sweet & Salty Almnd Gran Bar         | \$ 1.50 |
| 2758                        | Granola Bar - Crunchy Peanut Butter  | \$ 0.95 |
| 2759                        | Crunchy Oats/Honey Granola           | \$ 0.95 |
| 3010                        | Grandmas Cookies Choc Chip 2.5 oz    | \$ 1.20 |
| 3015                        | Grandmas Cookies Oatml Raisin 2.5 oz | \$ 1.20 |
| 3020                        | Oreo Cookies 2.4 oz                  | \$ 1.25 |
| 3030                        | Vanilla Cream Cookies 6 oz           | \$ 2.00 |
| 3031                        | Orng-Pnapple Creams 6 oz             | \$ 2.00 |
| 3035                        | Choc Chip Cookies 6 oz               | \$ 2.00 |
| 3040                        | Iced Oatml Cookies 6 oz              | \$ 2.00 |
| 3045                        | Duplex Cremes 6 oz                   | \$ 2.00 |
| 3193                        | Kelloggs Pop Tarts Strawberry 2Pk    | \$ 1.50 |
| 3205                        | Choc Dbl Decker Moon Pie             | \$ 1.30 |
| 3230                        | Peanut Butter Wafers                 | \$ 1.10 |
| 3231                        | Oatmeal & Creme Snack Cake           | \$ 0.55 |
| 3261                        | Mega Buneez                          | \$ 1.70 |
| 3309                        | Rice Krispie Treats 1.3 oz           | \$ 1.20 |
| 6526                        | Cinn Roll Oatmeal                    | \$ 0.65 |
| 6540                        | Nutrigrain Cereal Bar Strawberry     | \$ 0.65 |

| Item | Description | Price |
|------|-------------|-------|
|------|-------------|-------|

|                   |                                  |         |
|-------------------|----------------------------------|---------|
| <b>Condiments</b> |                                  |         |
| 4056              | Peanut Butter Squeeze Pouch 2 oz | \$ 1.20 |
| 6262              | Mayonnaise 12Pk                  | \$ 1.60 |
| 6263              | Mustard 12Pk                     | \$ 1.25 |
| 6264              | Bago Ketchup 12Pk                | \$ 1.25 |
| 6412              | Grape Jelly 1 oz.                | \$ 0.50 |
| 6428              | Cheddar Cheese Squeeze 2 oz      | \$ 1.10 |
| 6429              | Jalapeno Cheese Squeeze 2 oz     | \$ 1.10 |
| 6518              | Pepper - Single Packet           | \$ 0.05 |
| 6519              | Salt- Single Packet              | \$ 0.05 |
| 2081              | Sugar Packet Single              | \$ 0.05 |
| 2087              | Non Dairy Creamer 10Pk           | \$ 1.00 |
| 2091              | Sugartwin 10 Pk                  | \$ 1.00 |

| Item | Description | Price |
|------|-------------|-------|
|------|-------------|-------|

|                      |                           |         |
|----------------------|---------------------------|---------|
| <b>Miscellaneous</b> |                           |         |
| 0800                 | 5 Inch Comb               | \$ 0.30 |
| 0825                 | Small Afro Pik            | \$ 0.65 |
| 0855                 | Ponytail Holder           | \$ 0.20 |
| 1001                 | Large Stamped Envelope    | \$ 0.70 |
| 1015                 | Manilla Envelope          | \$ 0.30 |
| 1060                 | Paper 50 ct White Pad     | \$ 2.25 |
| 1070                 | Sketch Pad 8.5 X 11 White | \$ 2.25 |
| 1085                 | Beveled Eraser            | \$ 0.80 |
| 1086                 | Pocket Dictionary li      | \$ 4.85 |
| 1087                 | Spanish English Dictionar | \$ 3.35 |
| 1300                 | Aviator Playing Cards     | \$ 2.00 |
| 1305                 | Pinochle Cards            | \$ 2.00 |
| 1400                 | Gen Bowl W/ld 24 oz       | \$ 1.35 |
| 1430                 | Washcloth White           | \$ 0.65 |
| 3886                 | Christmas Card            | \$ 0.90 |
| 5273                 | Reading Glasses 1.25      | \$ 5.00 |
| 5274                 | Reading Glasses 1.50      | \$ 5.00 |
| 5275                 | Reading Glasses 1.75      | \$ 5.00 |
| 5276                 | Reading Glasses 2.0       | \$ 5.00 |
| 5277                 | Reading Glasses 2.25      | \$ 5.00 |
| 5280                 | Reading Glasses 3.00      | \$ 5.00 |
| 5282                 | Reading Glasses 1.0       | \$ 5.00 |



## Commissary Menu

Benton County

May 18, 2021

| Item | Description | Price |
|------|-------------|-------|
|------|-------------|-------|

|                |                                      |          |
|----------------|--------------------------------------|----------|
| <b>Hygeine</b> |                                      |          |
| 0002           | Conditioner 4 oz                     | \$ 1.45  |
| 0020           | Dandruff Shampoo 4 oz                | \$ 1.75  |
| 0051           | Softee Conditioner Bergamot 5 oz     | \$ 3.05  |
| 0118           | Force A/P Deod Roll-On 3 oz          | \$ 1.85  |
| 0123           | Stick Deodorant - Indigent .5 oz     | \$ 0.75  |
| 0210           | Skin Care Lotion 4 oz                | \$ 1.35  |
| 0215           | Cocoa Butter Lotion 4 oz             | \$ 1.35  |
| 0251           | Athlete Ft Cream Tolnaftate .5 oz    | \$ 3.00  |
| 0255           | Zit Free Bensoyl Peroxide 1 oz       | \$ 3.65  |
| 0320           | Magic Cream Shave 6 oz               | \$ 9.00  |
| 0400           | Irish Spring 3.2 oz Soap             | \$ 1.50  |
| 0410           | Ivory Soap (1/Bar)                   | \$ 1.50  |
| 0424           | Next1 Moisturizing Soap 5 oz         | \$ 1.40  |
| 0426           | Next1 Sport Bar Soap 5 oz            | \$ 1.40  |
| 0447           | Cool Wave Flouride Toothpaste        | \$ 2.25  |
| 0490           | Soap Dish                            | \$ 0.75  |
| 0519           | Colgate Anticavity Toothpaste 2.5 oz | \$ 2.55  |
| 0535           | Sensodyne Toothpaste 4 oz            | \$ 10.00 |
| 0539           | Toothpaste .6 oz                     | \$ 0.13  |
| 0557           | Antishank Toothbrush                 | \$ 0.30  |
| 0583           | Ibuprofen 2 Pk                       | \$ 0.60  |
| 0594           | Denture Cleanser                     | \$ 7.64  |
| 0595           | Effergrip 2.5 oz                     | \$ 5.75  |
| 0596           | Denture Bath (Cup)                   | \$ 2.50  |
| 0614           | Gen Tylenol (Non-Aspirin)            | \$ 0.60  |
| 0642           | Roloids (1 Roll)                     | \$ 1.20  |
| 0652           | Triple Antibiotic Ointment           | \$ 5.45  |
| 0671           | Cherry Cough Drops- 30 ct            | \$ 1.70  |
| 4197           | Clear Toothpaste                     | \$ 0.13  |

| Item | Description | Price |
|------|-------------|-------|
|------|-------------|-------|

|                 |                        |         |
|-----------------|------------------------|---------|
| <b>Clothing</b> |                        |         |
| 1504            | T-Shirt Small          | \$ 3.30 |
| 1505            | T-Shirt Med            | \$ 3.95 |
| 1506            | T-Shirt Lg             | \$ 3.95 |
| 1507            | XL T-Shirt             | \$ 3.95 |
| 1508            | X XL T-Shirt           | \$ 5.50 |
| 1509            | 3X Large T-Shirt       | \$ 5.50 |
| 1529            | Boxer Shorts White Sm  | \$ 4.25 |
| 1530            | Boxer Shorts White Med | \$ 4.25 |
| 1531            | Boxer Shorts White Lg  | \$ 4.25 |
| 1532            | Boxer Shorts White XL  | \$ 4.25 |
| 1533            | Boxer Shorts Wht 2 XL  | \$ 4.00 |
| 1534            | Boxer Shorts Wht 3 XL  | \$ 4.25 |
| 1540            | Tube Sock              | \$ 1.60 |
| 1551            | Thermal Top Med        | \$ 6.00 |
| 1552            | Thermal Top Lg         | \$ 6.00 |
| 1553            | Thermal Top XL         | \$ 6.00 |
| 1554            | Thermal Top 2XL        | \$ 6.00 |
| 1560            | Thermal Bottom Small   | \$ 6.00 |
| 1561            | Thermal Bottom Med     | \$ 6.00 |
| 1562            | Thermal Bottom Lg      | \$ 6.00 |
| 1563            | Thermal Bottom XL      | \$ 6.00 |
| 1564            | Thermal Bottom 2XL     | \$ 6.00 |
| 1565            | Thermal Bottom 3XL     | \$ 6.00 |
| 1625            | Sports Bra Small       | \$ 7.25 |
| 1626            | Sports Bra Medium      | \$ 7.25 |
| 1627            | Sports Bra Large       | \$ 7.25 |
| 1628            | Sports Bra XL          | \$ 7.00 |
| 1651            | Womens Panties Sz 8    | \$ 2.05 |
| 1652            | Womens Panties Sz 10   | \$ 2.45 |

| Item | Description | Price |
|------|-------------|-------|
|------|-------------|-------|

# COMMISSIONERS' AGENDA ACTION SHEET

|                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                |
|----------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Meeting Date:</b>                                                                                                                         | September 28,2021                                                                                                                                                                                                                                                                                                                              |
| <b>Subject:</b>                                                                                                                              | Authorization to Submit for Therapeutic Court Enhancement Grant and Designate District Court Presiding Judge as Signatory                                                                                                                                                                                                                      |
| <b>Presenter:</b>                                                                                                                            | Tara Symons                                                                                                                                                                                                                                                                                                                                    |
| <b>Prepared By:</b>                                                                                                                          | Ela Selga                                                                                                                                                                                                                                                                                                                                      |
| <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<br><input type="checkbox"/> Public Hearing<br><input checked="" type="checkbox"/> Scheduled Business | <input type="checkbox"/> Discussion Only<br><input type="checkbox"/> Decision / Direction<br><input type="checkbox"/> Sign Letter / Document<br><input type="checkbox"/> Pass Motion<br><input checked="" type="checkbox"/> Pass Resolution<br><input type="checkbox"/> Pass Ordinance<br><input checked="" type="checkbox"/> Execute Contract |

## Summary / Background Information

The District Court has an opportunity to apply for a grant through the Administrative Offices of the Court (AOC) to fund urine analysis (UA) that used to be provided by Benton County Corrections Department and to provide funds for housing and other treatment services needed by individuals with substance abuse problems. The grant will also be used for additional training for the Therapeutic Court team. The amount being requested in the grant is \$222,000.

## Fiscal Impact

There is no fiscal impact. The grant amount is \$222,000.

## Recommendation

Authorize the District Court to Apply for Therapeutic Court Enhancement Grant and designate the District Court Presiding Judge as signatory to the grant.

## Suggested Motion

Authorization District Court to Submit Application Therapeutic Court Enhancement Grant and Designate District Court Presiding Judge as Signatory.

# RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AUTHORIZING THE SUBMITTAL OF A THERAPEUTIC COURT ENHANCEMENT GRANT APPLICATION AND DESIGNATING THE DISTRICT COURT PRESIDING JUDGE TO SIGN THE APPLICATION WITH THE ADMINISTRATIVE OFFICES OF THE COURTS, and

**WHEREAS**, ESB 5476 seeks to address substance abuse and establish substance use recovery services and mandates the Washington State Administrative Office of the Courts (AOC) to allocate and distribute funds to therapeutic courts;

**WHEREAS**, the AOC is accepting Therapeutic Court grant applications that identify individuals before the courts with substance use disorders or other behavioral health needs, and engage those individuals with community-based therapeutic interventions;

**WHEREAS**, it appears it is in the best interest of Benton County District Court to authorize the Therapeutic Court grant application in the amount of \$222,000 to pay for urine analysis, housing and treatment for participants, including training for Therapeutic Court team members;

**WHEREAS**, it is a requirement of the grant that the application be signed by a District Court Presiding Judge; **NOW THEREFORE**,

**BE IT RESOLVED** that the Board of Benton County Commissioners authorizes submittal of the Therapeutic Court enhancement grant application in the amount of \$222,000, and;

**BE IT FURTHER RESOLVED**, that the District Court Presiding Judge is authorized to sign the Therapeutic Court grant application with the AOC;

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

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

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

\_\_\_\_\_  
Member

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

Constituting the Board of County Commissioners  
Of Benton County, WA

Cc: Auditor  
District court

RSelga

# COMMISSIONERS' AGENDA ACTION SHEET

|                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                  |  |
|----------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| <b>Meeting Date:</b>                                                                                                                         | September 28, 2021                                                                                                                                                                                                                                                                                                                               |  |
| <b>Subject:</b>                                                                                                                              | Interagency Contract No. K12418 between Benton County and Washington State Department of Corrections for Jail Bed Space at the Benton County Jail                                                                                                                                                                                                |  |
| <b>Presenter:</b>                                                                                                                            | Chief Souza                                                                                                                                                                                                                                                                                                                                      |  |
| <b>Prepared By:</b>                                                                                                                          | Lisa Small                                                                                                                                                                                                                                                                                                                                       |  |
| <b>Reviewed By:</b>                                                                                                                          | Chief Souza; Cdr. Shelton; Ryan Lukson; Purchasing Dept.                                                                                                                                                                                                                                                                                         |  |
| <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> (Multiple boxes can be checked, if necessary)                                                                                                                                                                                                                                                                      |  |
| <input type="checkbox"/> Consent Agenda<br><input type="checkbox"/> Public Hearing<br><input checked="" type="checkbox"/> Scheduled Business | <input type="checkbox"/> Discussion Only <input type="checkbox"/> Pass Motion<br><input type="checkbox"/> Decision / Direction <input checked="" type="checkbox"/> Pass Resolution<br><input checked="" type="checkbox"/> Sign Letter / Document <input type="checkbox"/> Pass Ordinance<br><input checked="" type="checkbox"/> Execute Contract |  |

## Summary / Background Information

Benton County and Washington State Department of Corrections (DOC) had Contract No. K9420 for jail bed space at the Benton County jail that terminated December 31, 2020.

Benton County and the DOC have agreed upon the terms and conditions for Contract No. K12418 and wish to enter into said Contract with a commencement date of January 1, 2021 and a termination date of June 30, 2023.

Both parties wish to back date the contract to January 1, 2021 in order for Benton County to bill DOC for any expenditures necessary between January 1, 2021 and the date of signature of attached Contract.

DOC has requested that Benton County sign the Contract first. They will return a fully executed copy for our records.

## Fiscal Impact

**Basic Per Diem Rate: \$93.71**/per Department Offender per day. Rate will increase 5% for the period of July 1, 2022 through June 30, 2023.

**Pharmaceutical Rate: \$25.89**/per Department Offender per day.

**Specialty Rates for Medical Care; Compliant Mental Health Care; Acute Mental Health: \$60**/per Department Offender per day above basic per diem rate.

**Office Space Rental: \$620.63**/per month

**Parking Rental: \$33.33**/per vehicle per month (4 four designated parking spaces for DOC)

## Recommendation

Approve the attached Resolution and Interagency Contract No. K12418 between Benton County and WA State Department of Corrections for jail bed space at the Benton County jail.

## Suggested Motion

The Board of Benton County Commissioners concurs with the recommendation and hereby approves the attached Interagency Contract No. K12418 between Benton County and Washington State Department of Corrections for jail bed space at the Benton County jail.

# RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF AUTHORIZING THE BOARD TO SIGN INTERAGENCY CONTRACT NO K12418 BETWEEN BENTON COUNTY AND WASHINGTON STATE DEPARTMENT OF CORRECTIONS FOR JAIL BED SPACE AT THE BENTON COUNTY JAIL

**WHEREAS**, Benton County and Washington State Department of Corrections (DOC) had an Interagency Contract No. K9420 for the use of the Benton County jail facilities that terminated December 31, 2020; and

**WHEREAS**, Benton County and DOC have agreed upon the terms and conditions for Interagency Contract No. K12418 and wish to enter into said Contract with a commencement date of January 1, 2021 and continuing through June 30, 2023; and

**WHEREAS**, the Benton County Chief of Corrections has reviewed said Contract and recommends entering into Interagency Contract No. K12418; **NOW, THEREFORE**

**BE IT RESOLVED**, the Board of Benton County Commissioners, Benton County, Washington concurs with the recommendation and hereby approves the attached Interagency Contract No. K12418 between Benton County and DOC for jail bed space at the Benton County jail; and

**BE IT FURTHER RESOLVED**, the per diem rate for each Department Offender shall be \$93.71 per day. The per diem for each Department Offender rate will increase by 5% for the period July 1, 2022 through June 30, 2023; and

**BE IT FURTHER RESOLVED**, specialty rates for medical care, compliant mental health care, and acute mental health shall be \$60 per Department Offender per day above basic per diem rate; and

**BE IT FURTHER RESOLVED**, suitable office space within the jail facility shall be made available for DOC Officers' use at a rate of \$620.63 per month; and

**BE IT FURTHER RESOLVED**, four (4) designated parking spaces for DOC transport vehicles within the secured perimeter of facility parking will be made available at a rate of \$33.33/per vehicle per month; and

**BE IT FURTHER RESOLVED**, Interagency Contract No. K12418 shall commence January 1, 2021 and shall continue through June 30, 2023, unless terminated by either party pursuant to the attached Interagency Contract.

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

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

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

Attest.....  
Clerk of the Board

\_\_\_\_\_  
Member

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

Orig: BCCD  
cc: Auditor, PA, Procurement, DOC

Prepared by: L. Small

# INTERAGENCY CONTRACT

## PURPOSE

This Contract is entered into by Benton County (hereinafter "Contractor") and the Department of Corrections (hereinafter "Department" or "DOC") for the purpose of maximizing the efficient and cost effective use of existing resources and to provide adequate facilities and programs for the confinement, care, and treatment of Department Offenders in accord with the provisions of [RCW 39.34](#) and [RCW 72.68.040](#). The Department and the Contractor specifically find this Contract is necessary and desirable in order to provide adequate confinement, housing and care to the Department Offenders transferred to and detained by the Contractor pursuant to [RCW 9.94A.631](#).

In consideration of the promises, payments, covenants and agreements contained in this Contract, the parties agree as follows:

## Article I      DEFINITIONS

**Section 1.1**      **Contractor** – means Benton County and its employees, licensed practitioners, contractors, vendors, and volunteers.

**Section 1.2**      **Contractor Inmate** – means any resident of the Facility who is not a Department Offender.

**Section 1.3**      **Department or DOC** – means the Department of Corrections of the state of Washington, any division, section, office, unit, or other entity of the Department, or any of the officers or other officials lawfully representing the Department.

**Section 1.4**      **Department Offender** – means any offender under the Department's jurisdiction.

**Section 1.5**      **DOC Utilization Management Office** – means the Department's medical contact that receives, reviews, and approves Contractor's extraordinary medical care requests to provide necessary medical care to Department Offenders. The Nurse Desk is available telephonically 24 hours a day, 7 days a week at 360-725-8733 and during normal business hours via email at [NurseDesk@DOC1.wa.gov](mailto:NurseDesk@DOC1.wa.gov).

**Section 1.6**      **Extraordinary Medical Care** – means medically necessary medical, psychiatric or dental care that is not commonly available through the Facility's health services and incurs additional cost. This may include, but not limited to, extraordinary medications such as immunosuppressive drugs, and hepatitis C treatment and antiretroviral medications.

**Section 1.7**      **Facility** – means the Contractor's non-Department operated correctional facility used for the total confinement of Department Offenders and Contractor inmates.

**Section 1.8** **Formulary** Medications – Medications in this category may be prescribed when medically necessary according to the Offender Health Plan (OPH) and require no further approval for use. The DOC Pharmaceutical Management and Formulary Manual can be viewed at: <http://doc.wa.gov/business/healthcareproviders/default.asp>

**Section 1.9** **In-Facility care** – means medical, mental health and dental care provided as part of the per diem to include all over-the-counter medication, which is any medication that does not require a prescription, and routine medical supplies, routine medical/psychiatric/dental care, regular health screenings, and emergent medical treatment provided on-site at the Facility that is undistinguishable from services provided to Contractor inmates.

**Section 1.10** **Licensed practitioner** – means any licensed health care practitioner performing services within the person's authorized scope of practice following [RCW Title 18](#).

**Section 1.11** **Medicaid** – means [Title XIX of the Social Security Act](#) enacted by the social security amendments of 1965 (42 U.S.C. Sec. 1396; 79 Stat. 343), as amended.

**Section 1.12** **Medically Necessary Care** – means medical care that meets one or more of the following criteria for a given patient at a given time:

**Section 1.12.1** Is essential to life or preservation of limb, OR

**Section 1.12.2** Reduces intractable pain, OR

**Section 1.12.3** Prevents significant deterioration of activities of daily living (ADLs), OR

**Section 1.12.4** Is of proven value to significantly reduce the risk of one of the three outcomes above (e.g. certain immunizations), OR

**Section 1.12.5** Immediate intervention is not medically necessary, but delay of care would make future care or intervention for intractable pain or preservation of ADLs significantly more dangerous, complicated, or significantly less likely to succeed, OR

**Section 1.12.6** Reduces severe psychiatric symptoms to a degree that permits engagement in programming that advances correctional interests, OR

**Section 1.12.7** Is described as part of a Departmental policy or health care protocol or guideline and delivered according to such policy, protocol, or guideline, OR

**Section 1.12.8** From a public health perspective, is necessary for the health and safety of a community of individuals and is medically appropriate, but may not be medically necessary for the individual (for example, treatment for head lice);

**Section 1.12.9** Not considered experimental or to be lacking in medically recognized professional documentation of efficacy; and,

**Section 1.12.10** Not administered solely for the convenience of the Offender or the health care provider.

**Section 1.13** **Offender Day** – means any day, or portion thereof, a Department Offender is in the custody of the Contractor including the first day the Offender is sanctioned or held by the

Department to a term of confinement to be served in the Facility.

**Section 1.13.1** An Offender day ends at midnight of the day immediately preceding the day of the Offender's release from the Department's sanction, transferred to a Department institution, transferred to another Facility, released to the custody of the Department, or released to the community.

**Section 1.13.2** An Offender day shall not include any day that is by state law the financial responsibility of the Contractor or any other jurisdiction.

**Section 1.14** **Offender Health Plan** – means the Department's [Offender Health Plan](#) (OHP) that describes the medically necessary medical, mental health, and dental services available to Department Offenders, as well as the services that are limited or not available. The OHP is not a contract or a guarantee of services to Department Offenders.

**Section 1.15** **Per diem rate** – means the amount per day per Department Offender that the Contractor will be reimbursed by the Department for all in-Facility care, including but not limited to all medical, mental health, dental, food, clothing and housing which are the same or similar that is provided to Contractor inmates.

**Section 1.16** **Secretary** – means the Secretary of the Department and delegates authorized in writing to act on the Secretary's behalf.

## Article II      TERM OF THE CONTRACT/PAYMENT

**Section 2.1** **Term.** This Contract supersedes all previous oral and written contracts and agreements between the parties relating to the confinement, care, and treatment of Department Offenders. This Contract commences January 1, 2021 and continues through June 30, 2023, unless terminated by either party pursuant to this Contract.

**Section 2.2** **Termination.** This Contract may be terminated by either party, without cause, upon sixty (60) days written notice to the other party. Not later than sixty (60) days after the receipt or delivery of a termination notice, the Department agrees to take physical custody of Department Offenders confined at the Facility pursuant to this Contract.

However, if the Department Offender is held pursuant to RCW 9.94A.631, the Department may not be required to move the Department Offender. Additionally, if this Contract is terminated and Department Offenders remain detained pursuant to RCW 9.94A.631, then the Department's per diem will revert to the OFM established rate.

Both parties agree to waive the written notice requirement if either party, in its sole discretion, determines there is an immediate threat to public safety, health, or welfare that requires contract termination. In such cases, both parties agree to provide verbal and written notice of the termination as soon as possible.

**Section 2.3    Termination Due to Non-Appropriation of Funds.** The terms of this Contract are contingent upon sufficient appropriations by the Washington State Legislature to the Department to pay sums pursuant to this Contract. If the Legislature does not allocate sufficient appropriations, this Contract shall terminate immediately without penalty and without the sixty (60) day notice period. The Department is responsible for the services provided to Department Offenders prior to termination and removal of Department Offenders, as prescribed by law.

**Section 2.4    Per Diem Billing.**

**Section 2.4.1 Per Diem per Offender:**

- a. **\$93.71    The basic per diem Department Offender rate is \$93.71 per Department Offender per day.**

The basic per diem Department Offender rate will increase by 5% for the period July 1, 2022 through June 30, 2023.

- b. **\$25.89    Pharmaceutical Cost per diem rate for all Department Offenders in custody.**

**Specialty Rate: The following Department Offender per diem Specialty Rates are not included in the per diem rates noted above. Contractor must provide, with invoices, documentation for each Specialty Rate billed, to include Offender name, DOC number, location in the facility, and reason for designation at such rate.**

- c. **\$60.00    Medical Care** – Payable at this rate only when the Offender is in a designated infirmary bed/unit/cell. Payment at this rate is also included for any Offender who is on an active monitoring protocol for detox.
- d. **\$60.00    Compliant Mental Health Care** – payable at this rate only when the Offender is actively being managed by a mental health case manager.
- e. **\$60.00    Acute Mental Health** – payable at this rate only when the Offender requires special monitoring due to an apparent mental health condition or requires intensive mental health services provided by the jails multidisciplinary team.
- f. The Contractor agrees to only bill the DOC monthly for the actual bed days used by Department Offenders in the preceding month. The Contractor also agrees that it will not bill the DOC for any bed day that is the financial responsibility of any other jurisdiction, and that it will submit monthly itemized bills to the Department in an electronic spreadsheet format that includes the Offender's name, DOC number, date of birth, and dates the Offender was held by the Contractor under the Department's authority. If applicable, the

Contractor agrees to identify in the monthly bill, any beds that are being counted toward the day-for-day exchange for any Contractor boarder being held by the Department in a Department institution.

**Section 2.4.1 Other Billing.** The Department will Reimburse Contractor for the following services when provided to DOC Offenders:

- a. **Transport and Hospital Watch Cost** – reimbursement only when documentation of services is provided. Department will reimburse the Contractor for each attending officer at the time-and-one-half overtime rate of \$50.52 per hour.

The Contractor agrees to run all sanctions imposed by the Department consecutively to all other sanctions and/or sentences imposed by any other jurisdiction, unless a court order requires them to run concurrently.

**Section 2.4.2** The Department's financial responsibilities under this Contract terminate when the Department takes custody of the Department Offender, when the Department's sanction has been served, or when the Department's hold or detainer is no longer valid, whichever is earliest.

## **2.5 Office and Parking Rental**

**Section 2.5.1 Office Space.** Suitable office space within the Jail Facility of 331 square feet will be provided for Department utilization as outlined in Attachment D at the following rate:

Office Space - \$22.50 per sf x 331 = \$620.63/per month (\$7,447.50 annually)

**Section 2.5.2 Parking Space.** Four (4) designated parking spaces for DOC transport vehicles within the secured perimeter of Facility parking will be made available for Department utilization at the following rate:

Parking Space - \$33.33/per vehicle x (4)/per month (\$ 1,599.84 annually)

## Article III      RESPONSIBILITIES

**Section 3.1 Target Population.** Department Offenders transferred to the Contractor will be primarily, but not exclusively, those who are in violation of community supervision requirements, awaiting a hearing on alleged violations, parenting sentencing alternative violators, and work release violators. The Contractor reserves the right to refuse to accept Department Offenders at the Contractor's sole discretion.

If an emergency exists at the Contractor's facility or the Contractor's own inmate population becomes too large to accommodate Department Offenders, then any or all of the Department

Offenders housed in the Contractor's facility may be transferred, or temporarily held at another appropriate facility pursuant to applicable policies and state and local laws and regulations. If offenders need to be released, DOC will submit a Cancellation of Detainer or have the offenders transferred to another facility.

**Section 3.2 Offender Housing, Confinement and Sanction Time.** The Contractor agrees to take into custody, confine and supervise Department Offenders in the Facility pursuant to this Contract. Department Offenders may be integrated with the Contractor's inmate population, as allowed by law, regulation, and ordinance. Placement of Department Offenders in the Facility following this Contract may occur at any time after the beginning of the term of this Contract, pursuant to this Contract.

No person who appears to be sick or injured will be booked in the Facility until he or she has received proper medical attention.

However, in the absence of a contract, if a community corrections officer arrests or causes the arrest of an Offender pursuant to [RCW 9.94A.631](#), the Offender shall be taken into custody, confined and detained and shall not be released from custody except upon approval pursuant to a written order by authorized Department staff.

**Section 3.2.1** Each party agrees that Department Offenders shall serve any Department imposed sanction time consecutive to all other sentences, pursuant to RCW 9.94A.589(2), unless a Court of competent jurisdiction orders their sentence(s) to run concurrently with a previously imposed Department sanction. In the event this occurs, the Contractor agrees to provide the Department with a copy of the Court's order.

**Section 3.2.2** Each party agrees to notify the other in writing any time the Department's jurisdiction has been tolled, or should be tolled by non-DOC confinement pursuant to [RCW 9.94A.171](#).

**Section 3.2.3** The Contractor agrees that the Department shall not be financially responsible for any Department Offender during the period the Department sanction has been tolled by non-DOC confinement.

### **Section 3.3 Transportation of Department Offenders.**

**Section 3.3.1** The Department agrees to provide or arrange for transportation of Department Offenders to and from the Facility except when the transportation is determined by Facility staff to be necessary to secure emergency medical evaluation or treatment, or when transportation is required to support the orderly operation of the Facility, in which case the Contractor shall provide the transportation.

**Section 3.3.2** If requested by the Department, the Contractor, at its sole discretion, may provide transportation of Department Offenders to and from designated sites, including but not limited to assisting, when possible, in the transportation of Department Offenders to and from other facilities in surrounding counties.

**Section 3.3.3** Contractor Transport Costs. The Department agrees to reimburse the

Contractor for all reasonable costs incurred by the Contractor for its transports of Department Offenders requested by the Department.

**Section 3.3.4** Department Transportation from Facilities. The Department agrees to provide the Contractor a minimum of 24 hours written notice prior to transporting a Department Offender from the Facility. The Department shall be responsible for the transportation of Department Offenders to and from Department institutions. Nothing in this section precludes either party from waiving the 24 hour written notification.

#### **Section 3.4    Return of Department Offenders.**

**Section 3.4.1** Return of Department Offenders to Department. The Department may, after proper notice pursuant to Section 3.3.4, demand that a Department Offender be returned to Department custody at any time prior to the completion of his or her sanction/sentence.

**Section 3.4.2** Contractor's Return of Department Offenders. The Contractor may request to return a Department Offender to the Department at any time. The Department agrees to transport such Offender as soon as possible, but not later than 48 hours after receiving the Contractor's request. If the Contractor requests the Department Offender's return, and the Department cannot meet the Contractor's timeframe, then the Contractor may transport the Offender to the nearest Department designated location. The Department shall reimburse the Contractor for all reasonable costs incurred by the Contractor for its transports of such Department Offender under this section.

**Section 3.4.3** Court's Return of Department Offenders. If a Court with competent jurisdiction orders a Department Offender to be returned to the Department, then the Department agrees that it will accept custody as soon as possible, but no later than seven (7) days after receiving notice. The Department shall be responsible for the Department Offender's transportation to the nearest suitable Department designated location, unless the Contractor agrees to provide transport pursuant to Section 3.3.2 above.

**Section 3.5    Return of Department Offender to the Community.** Immediately upon completion of a sentence within the Facility by a Department Offender, Department is responsible for transporting Department Offender to the facility from which the Offender originated, unless the Contractor agrees to release the Offender directly from the Facility into the local community. The Contractor agrees to complete a national "Wants and Warrants" check and to notify the Department and any interested jurisdiction of the Department Offender's pending release if any wants or warrants are found prior to any Department Offenders release by the Contractor.

**Section 3.6    Jurisdiction.** Department Offenders placed in the Contractor's custody are under the Department's jurisdiction, however upon the Department Offender's placement at the Facility, the Department authorizes the Contractor to assume custody. The Department agrees to provide the Contractor with documentation of the Contractor's authority to detain the Offender. **The Contractor agrees to immediately notify the Department of all non-Department holds if and when non-Department holds are placed on Department Offenders or when non-Department**

holds are closed or removed from Department Offenders as detailed in Attachment A.

**Section 3.6.1** The Contractor agrees to not transfer or transport any Department Offender held by the Department or serving a Department sanction for a term of confinement until the Department takes custody of the Offender, the Department's sanction has been served, or the Department's hold or detainer is no longer valid, whichever is earliest.

**Section 3.6.2** Department Offenders detained in the Facility shall only be transferred to another confinement facility or Department institution after authorization is obtained from the Violator Desk, the after-business Duty Officer, or the Contract Coordinator as detailed in Attachment A.

**Section 3.7 Public Records.** Both parties agree to comply with Washington State's Public Records Act, RCW 42.56.040 through 42.56.570 (act). The act requires each party to make available for inspection and copying nonexempt "public records." A "public record" includes any "writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained" by the party in accord with RCW 42.56.070(1).

**Section 3.8 Medical Care.** It is the intent of the parties that Department Offenders in the Contractor's custody receive safe, appropriate and cost-effective medical care consistent with the Department's [Offender Health Plan](#) (OHP) and **Attachment B**.

**Section 3.8.1 Contractor Responsibilities.**

- 3.8.1.1** The Contractor agrees to provide Department Offenders in the Facility care identical to the care provided to Contractor inmates. The Contractor agrees to provide Department Offenders twenty-four (24) hour access to emergency medical care. The Contractor agrees to provide the most cost-effective, medically appropriate method of transportation and security for all Department Offenders taken out of the Facility, to in-county emergent and non-emergent medical appointments. The Contractor may require Department Offenders to pay co-pay fees for medical visits.
- 3.8.1.2** The Contractor agrees to follow the Department's pre-authorization procedure through the Department's Utilization Management Office for all extraordinary medically necessary care provided to Department Offenders beyond what is normally provided to Contractor's inmates.
- 3.8.1.3** **ONLY the Department's Nurse Desk can authorize the transfer of a Department Offender from the Facility for medical reasons.**
- 3.8.1.4** In an emergency, when pre-authorization is not feasible, the Contractor agrees to notify the Department, as soon as possible, but not later than four (4) hours after transporting a Department Offender to the nearest emergency room or other medical facility and before any hospital admission.

- 3.8.1.5 Following the OHP and consistent with RCW 70.48.130(2), the Department does not consider experimental or elective procedures to be medically necessary. The Department will not reimburse for elective or experimental medical procedures. The Department will not be responsible for the payment of or for medical care required as a result of any tort committed by the Contractor, or its employees, or by its agents, contractors, vendors, or volunteers in the course of their providing services to Department Offenders, or for care which could have foreseeably been prevented.
- 3.8.1.6 The Contractor agrees to be financially responsible for all unauthorized health care provided to Department Offenders.
- 3.8.1.7 The Contractor agrees to be financially responsible for any medical costs incurred due to the negligent action or inaction of Contractor's employees.

**Section 3.8.2     Department Responsibilities.**

- 3.8.2.1 The Department agrees to be financially responsible for pre-authorized extraordinary medical care provided by the Contractor to Department Offenders that is consistent with this Contract, the OHP and the Department's prescription formulary.
- 3.8.2.2 If the Department Offender is under the exclusive jurisdiction of the Department, then the Department may authorize medically necessary care. However, if it is later determined that another jurisdiction(s) or entity is financially responsible; then the Department may not pay for part or all of the costs associated with the medically necessary care.
- 3.8.2.3 The Department agrees to reimburse the Contractor for emergency medical costs incurred by a Department Offender under the conditions of this Contract. Emergency medical care costs may include a facility fee, physician services, labs and imaging. The Department is not obligated to reimburse the Contractor for medical care or treatment provided to a Department Offender without the Department's pre-authorization in non-emergency situations, or without the required notification as specified by paragraph 3.8.1.4 in emergency situations.
- 3.8.2.4 The Department may, at its option, request the return of a Department Offender for medical reasons. The Department's medical financial responsibilities under this Contract terminate when the Department takes custody of the Offender, when the Department's sanction has been served, or when the Department's hold or detainer is no longer valid, whichever is earliest.
- 3.8.2.5 For medications costing in excess of \$1,200.00/month per offender the Contractor shall, at its sole discretion, refuse to accept the offender or be entitled to reimbursement of the total cost of the medication. In lieu of said reimbursement, the Department may elect at its sole discretion to provide

the Contractor with the required medication. For Department Offenders that fall within this category the Department will not be billed the Pharmaceutical Cost of \$25.89 outlined in Section 2.4.(b).

Any questions related to medication reimbursement may be directed to the Nurse Desk at NurseDesk@doc1.wa.gov or (360) 725-8733.

### **Section 3.8.3     Safe Transfer of Care.**

- 3.8.3.1 HIPAA.** Both parties agree to follow [the Health Insurance Portability and Accountability Act of 1996 \(HIPAA\)](#). HIPPA protects the privacy of individually identifiable protected health information. It allows the exchange of this information between the Department and the Contractor for the purpose of billing and payment. This allows the Contractor to provide the Department documentation of the Department Offender's health information and Contractor's treatment activities so that the Contractor can receive reimbursement under this Contract for costs of health care provided to Department Offenders. [See CFR 45 § 164.506](#). HIPPA also clarifies the standard for use and disclosure for correctional institutions and other law enforcement custodial situations in [CFR 45 §164.512](#).
- 3.8.3.2** The Contractor agrees to consult with the Department's Utilization Management Office prior to transferring a Department Offender for medical reasons. "Transferring," as used in this section, includes moving the Department Offender into the Contractor's medical unit within the Facility.
- 3.8.3.3** The Contractor also agrees to consult telephonically with the medical staff at any facility receiving the Department Offender and agrees to transport, with the Department Offender, any applicable medical records, current care instructions, and all appropriately labeled medications. The medical record shall at a minimum include the Department Offender's name, DOC number, date of birth, any known allergies, current medication list, and description of current medical problem(s), the Facility medical care previously provided, and the Facility medical staff contact information.
- 3.8.3.4** Prior to the Contractor transferring a Department Offender to any other correctional facility, the Contractor agrees to obtain the Department's authorization, and if approved to provide a copy of the Department's authorization to hold the Department Offender at the receiving facility.
- 3.8.3.5** The Department agrees to transport, with the Department Offender, any applicable medical records and current care instructions. The medical record shall at a minimum include the Department Offender's name, DOC number, date of birth, any known allergies, current medication list and description of current medical problem(s), the Facility medical care

previously provided, and the Department's institutional medical staff contact information.

**Section 3.8.4     Medical Care Utilization Review.** The Contractor agrees to allow the Department and its agents to conduct concurrent and retrospective utilization audits and reviews of any and all medical services provided to Department Offenders. The Contractor agrees that any and all of its medical service contracts will include authorization for the Department's concurrent and retrospective utilization audits and reviews of any and all medical services provided to Department Offenders.

**Section 3.8.5     Medical Billing.** Contractor costs incurred for a Department Offender's medical care not included in the per diem may be reimbursed by the Department consistent with this Contract and **Attachment C**.

The Contractor agrees to electronically send itemized monthly bills to the Department at: [DOCHQMedicalRAB@DOC1.WA.GOV](mailto:DOCHQMedicalRAB@DOC1.WA.GOV).

The itemized reimbursement claims must contain the Department Offender's name and DOC number and attached supporting documentation of the service provided that includes the date(s) of service, the name of the practitioner who ordered the service, details of the service/item(s) provided, the prescriptions(s) provided, the facility(s) that provided the service(s), and a copy of any health care claims paid to off-site providers. All reimbursements claims must also include documentation showing proof of payment by the Contractor.

The Contractor agrees to submit itemized billing statements electronically to the Department for reimbursement and data collection purposes. If billings received do not contain the detailed information or supporting documents required, they will be returned to the Contractor and not processed.

The Contractor agrees to submit itemized bills for medical services to Department within 365 days after the date of service. Department will, however, accept bills beyond this timeframe when communication about such late billing occurs between the Contractors and the Department prior to 365 days after the date of service.

**Section 3.9     Notification of Release Date.** The Department agrees to calculate a Department Offender's release date and notify, when possible, the Offender of their release date. The Department also agrees to notify the Contractor, in writing, of the Department Offender's release date within 24 hours of scheduled release. The Contractor will not release a Department Offender unless the Department's sanction has been served, or when the Department's hold or detainer is no longer valid, whichever is earliest.

The Contractor also agrees to notify the Department if a Department Offender receives additional confinement or holds from a non-Department jurisdiction(s). The Department will not be financially responsible for any per diem or medical costs beyond the sanction time imposed by DOC. Should the Department Offender be given any other sanction or sentence that is to be run consecutive to the Department's sanction, the Department's sanction time will run before said consecutive local time.

**Section 3.10 Contract Coordinator.** Each party agrees to identify a coordinator who is responsible for administering the Contract on behalf of that party. Should the coordinator be absent for an extended period of time, the coordinator shall arrange for, and notify the other party in writing of the alternate contact person during the coordinator's absence. The DOC Contract Coordinator's contact information is provided in **Attachment A**.

**Section 3.11 Use of Facilities.** The Contractor agrees to provide Department staff and officers suitable facilities for conducting Department Offender hearings and reviews Monday through Friday during normal business hours, and at other times upon written notice.

The room provided will have sufficient space to safely and efficiently conduct Department Offender hearings and reviews. Sufficient space means that the room provided must be of a size sufficient to accommodate at least three (3) people and must be equipped with overhead lighting, at least one (1) electrical power/outlet, a writing surface and three chairs. .

Where possible the Contractor agrees to provide a means for contacting the Contractor staff during the hearing. If a "panic button" or other method is not available, the Contractor agrees to ensure Department Offenders remain restrained during Department hearings and reviews.

**Section 3.12 Inspections.** The Contractor agrees to allow the Department and its agents to inspect and audit the Contractor's Facility(s) with or without advance notice. The inspection/audit may include, but is not limited to: reviewing holding and detaining facilities, expense reports, interviewing Department Offenders and reviewing Department Offender medical records.

**Section 3.13 Offender Programs.** Department Offenders will have the same access to programs provided to Contractor inmates housed in the Facility. Should the Department elect to provide additional programs for Department Offenders, at the Department's expense, the Contractor agrees to provide workspace to conduct those programs, provided that such space is available and not being used by the Contractor.

**Section 3.14 Orientation.** Upon a Department Offender's arrival at the Facility, the Contractor agrees to conduct a NCIC check and provide an orientation for the Department Offender as if the Department Offender were a Contractor inmate. This orientation must include the Facility's: 1) requirements for work; 2) Facility rules and disciplinary procedures; 3) medical care availability; and 4) visitation rules.

The Department will advise Department Offenders of the requirement to follow the rules of the Facility.

**Section 3.15 Clothing.**

**Section 3.15.1** Clothing and bedding for Department Offenders will be provided and maintained in accordance with the Facility's policies.

**Section 3.15.2** The Contractor agrees to provide work clothing and equipment appropriate to a Department Offender's assignment to the same extent as provided for Contractor inmates.

**Section 3.15.3** The Contractor agrees to furnish Department Offenders with climate appropriate outerwear comparable to that provided to Contractor inmates.

**Section 3.15.4** Department Offenders will be released in the clothing in which they arrived or in Department-provided apparel.

**Section 3.16 Transferable Items.** The Contractor agrees to provide the Department with a list of allowable items that may be transferred with a Department Offender.

**Section 3.17 Compensation for Work.** The Contractor agrees to provide Department Offenders who participate in Contractor employment the same reimbursement, if any, as provided to Contractor inmates performing similar work.

**Section 3.18 Discipline.** The Contractor may discipline Department Offenders in accordance with the Contractor's rules and disciplinary procedures. The Contractor agrees to notify the Department as soon as possible but not later than 72 hours after disciplining a Department Offender whose conduct results in a guilty finding for a level II or level III rule violation(s), as defined by Contractor policy, or a referral for charges. In such cases, the Department reserves the right to determine if the Department Offender's misconduct should also be addressed through the Department's violation and hearing processes.

The Contractor reserves the right to refer a Department Offender's misconduct for new charges and the right to move Department Offenders to more secure housing within the Facility consistent with the Contractor's policies, procedures and prudent facility management practices. The Contractor may require the Department to retake any Department Offender whose behavior requires segregated or protective housing pursuant to this Contract. The Department may request a Department Offender be returned to the Department if the Department Offender's behavior or health requires segregated or protective housing pursuant to this Contract.

**Section 3.19 Facility Operations.** The Contractor agrees to manage Department Offenders consistent with the management of Contractor inmates and in accordance with the law. The Contractor agrees to maintain staffing levels at the Facility in sufficient numbers and rank, as determined by the Contractor, to maintain the safety of the public, staff, Contractor inmates, and Department Offenders and to reasonably carry out the provisions of this Contract.

**Section 3.20 Religious Opportunity.** The Contractor agrees to provide Department Offenders the same space and opportunity for religious services as provided to Contractor inmates.

**Section 3.21 Telephone.** The Contractor agrees to provide Department Offenders access to telephone services consistent with telephone services provided to Contractor inmates.

**Section 3.22 Commissary and Mail.** The Contractor agrees to provide Department Offenders commissary and mail services consistent with commissary and mail services provided to Contractor inmates.

**Section 3.23 Offender Funds.** The Contractor agrees to administer Department Offender funds

consistent with the fund administration provided to Contractor inmates. If, by mutual Contract, the Contractor agrees to house Department Offenders who are non-violators, the Contractor then agrees to administer Department Offender funds to include the appropriate accounting process to accommodate statutorily mandated deductions.

**Section 3.24 Visitation.** The Contractor agrees to provide Department Offenders visitation opportunities consistent with those that are provided to Contractor inmates.

**Section 3.25 Grievance Procedures.** The Contractor agrees to handle initial Department Offender grievances consistent with Contractor inmate grievance procedures. The Department agrees to handle appeals or additional reviews of Department Offender grievances at the request of the Contractor.

**Section 3.26 Access to Courts.** Contractor agrees to provide Department Offenders in Contractor's custody under this Contract meaningful access to the courts through: (a) the use of court appointed attorneys to satisfy their Sixth Amendment right to counsel, (b) access to contracted attorneys provided by the Department, and/or (c) access to legal resource materials at the Facility. The Contractor also agrees to provide Department Offenders opportunity to access legal materials at the Facility or to access the Department Offender's attorney in accordance with security and operating needs and consistent with access granted to Contractor inmates. The Department will provide a mechanism for Department Offenders to access additional legal materials from the Department if requested by Department Offenders.

**Section 3.27 Death of an Offender.** The Contractor agrees to immediately notify the Contract Coordinator telephonically of any Department Offender's death. **See Attachment A.** The Contractor also agrees that the Department Offender's death shall be reviewed by the coroner of the local jurisdiction pursuant to the Contractor's policies and procedures. The Contractor also agrees to provide the Department certified copies of the Department Offender's death certificate, autopsy report, file, and medical records.

**Section 3.28 Escape of an Offender.** The Contractor agrees to immediately notify the Contract Coordinator telephonically if a Department Offender escapes. **See Attachment A.** The Contractor also agrees to immediately notify all local law enforcement agencies.

#### Article IV      CONTRACTOR EMPLOYEES

**Section 4.1 Independent Contractor.** Each party agrees to perform its duties hereunder as an independent contractor and not as an employee. Neither the Contractor nor any agent or employee of the Contractor shall be deemed to be an agent or employee of the Department. Neither the Department nor any agent or employee of the Department shall be deemed to be an agent or employee of the Contractor. The Contractor agrees to pay, when due, all required employment taxes and income tax withholding including all Federal and State income tax and local head tax on any monies paid pursuant to this Contract. Neither the Contractor nor the Department shall have authorization, express or implied to bind the other to any Contracts,

liability or understanding except as expressly set forth herein.

**Section 4.2 Personnel.** The Contractor agrees to retain sufficient personnel to deliver 24-hour care and supervision to Department Offenders, consistent with Contractor's policies and the governing laws, as well as administrative and support service personnel for the overall operation of the Facility. The Contractor agrees to subject all applicants to a thorough background check prior to their employment at the Facility.

**Section 4.3 Training.** Each Party agrees to train their employees in accordance with its policies and the law. Each Party also agrees to be responsible for all claims, damages, liability and court awards including costs, expenses and attorney fees incurred as a result of any action or omission of its employees, agents, subcontractors or assignees incurred in connection with the training.

## Article V      PREA COMPLIANCE

**Section 5.1 Compliance.** The Contractor agrees to ensure that all of the Contractor's employees, vendors and volunteers who have contact with Department Offenders comply with all federal and state laws regarding sexual misconduct, including but not limited to:

**Section 5.1.1** The Prison Rape Elimination Act of 2003 (PREA);

**Section 5.1.2** The standards for adult prisons and jails or community confinement facilities, whichever is applicable, as promulgated by the US Attorney,

**Section 5.1.3** RCW 72.09.225 or RCW 13.40.570, Sexual misconduct by state employees, contractors;

**Section 5.1.4** RCW 9A.44.010, Definitions,

**Section 5.1.5** RCW 9A.44.160, Custodial sexual misconduct in the first degree; and,

**Section 5.1.6** RCW 9A.44.170, Custodial sexual misconduct in the second degree; and

**Section 5.1.7** Zero tolerance toward all forms of sexual abuse and sexual harassment.

**Section 5.2 Monitoring.** The Contractor agrees to provide to the Department documented compliance with the Federal PREA standards, and to allow the Department to monitor their facility's compliance.

**Section 5.2.1** Monitoring may include, but is not limited to: site visits, access to facility data, and review of applicable documentation.

**Section 5.2.2** The Department may terminate this Contract should the Contractor fail to provide documentation that demonstrates that the Contractor is actively and effectively working toward and is making substantive progress toward achieving compliance or should the Contractor fail to maintain PREA compliance between auditing periods, after being given a reasonable opportunity to cure.

**Section 5.3 Termination.** The Department may terminate this Contract should Contractor elect to discontinue pursuit of PREA compliance, or should the Contractor be found in noncompliance

through a PREA Audit and fail to cure such noncompliance within the identified time-frames or should the Contractor be found to be in egregious violation of PREA.

## Article VI      INDEMNIFICATION

**Section 6. Indemnification.** Each party agrees to be responsible for the negligent acts or omissions of its staff. Each party agrees to defend and indemnify the other party and its elected and appointed officials, officers, employees and agents against all claims, losses, damages, suits and expenses, including reasonable attorneys' fees and costs, to the extent they arise out of, or result from, the performance of this Contract by the indemnitor or its elected or appointed officials, officers, employees and agents. The indemnitor's duty to defend and indemnify extends to, but is not limited to, claims by the elected or appointed officials, officers, employees or agents of the indemnitor or of any contractor or subcontractor of indemnitor. The indemnitor waives its immunity under Title 51 (Industrial Insurance) of the Revised Code of Washington solely for the purposes of this provision and acknowledges that this waiver was mutually negotiated. This provision shall survive the expiration or termination of this Contract.

## Article VII      MISCELLANEOUS

**Section 7.1 Existing State Law.** This Contract shall not be construed to alter the legal responsibilities of the Contractor or the Department with regard to the legal and fiscal responsibility for confinement, care, and treatment of Department Offenders under state law.

**Section 7.2 Disputes.** Disputes between the parties may be submitted to arbitration if the parties are unable to resolve any disputes arising hereunder through conference. No disputes may be submitted to arbitration without the consent of both parties. Nothing in this section is intended to limit either party access to any and all courts of law of this state or country.

**Section 7.3 Equal Employment Opportunity.** The parties ascribe to the principles of equal employment opportunity. Neither is responsible for ensuring that the other is in compliance with equal employment statutes or policies.

**Section 7.4 Invalidity and Severability.** To the extent that this Contract may be executed and performance of the obligations of the parties may be accomplished within the intent of the Contract, the terms of this Contract are several and should any term or provision hereof be declared invalid or become inoperative for any reason, such invalidity or failure shall not affect the validity of any other term or provision hereof. In the event that any provision of this Contract is held invalid, that provision shall be null and void. However, the validity of the remaining provisions of the Contract shall not be affected thereby.

**Section 7.5 Jurisdiction and Venue.** The laws of the State of Washington and the rules and regulations issued pursuant thereto shall be applied in the interpretation, execution and enforcement of this Contract. Venue for any legal action related to the performance or interpretation of this Contract shall be in the Superior Court in Thurston County, Washington.

**Section 7.6    Scope of Contract.** This Contract and any appendices or exhibits to it incorporate all the contracts, covenants, and understandings between the parties. No prior contract or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Contract. This Contract shall not be altered, changed, or amended except by mutual consent of the parties in writing.

**Section 7.7    Compliance with Applicable Laws.** The parties agree at all times during the performance of their obligations of this Contract to strictly adhere to all applicable federal and state laws and regulations.

**Section 7.8    Audit.** At no additional cost, all records relating to the Contractor's performance under this Contract shall be subject at all reasonable times to inspection, review, and audit by the Department, the Office of the State Auditor, and federal and state officials so authorized by law, in order to monitor and evaluate performance, compliance, and quality assurance under this Contract. The Contractor shall provide access to its facilities for this purpose. Any overpayments discovered in the course of such audits, after notice to the Contractor, may be withheld from future payments.

**REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK – SIGNATURE PAGE FOLLOWS**

THIS CONTRACT, consisting of eighteen (18) pages and three (3) attachments, is executed by the persons signing below who warrant that they have the authority to execute the Contract.

BENTON COUNTY CORRECTIONS DEPT.

WASHINGTON STATE  
DEPARTMENT OF CORRECTIONS

Scott Souza 9/21/2021  
Scott Souza, Chief of Corrections DATE

\_\_\_\_\_  
Contracts Administrator DATE

BOARD OF COMMISSIONERS  
BENTON COUNTY, WASHINGTON

Approved by:  
The Office of the Attorney  
General on August 21, 2015.

\_\_\_\_\_  
Jerome Delvin, Chair DATE

\_\_\_\_\_  
Shon Small, Pro-Tem DATE

\_\_\_\_\_  
Will McKay, Commissioner DATE

ATTEST (Clerk):

\_\_\_\_\_  
Cami McKenzie, Clerk of the Board DATE

Approved as to form by:

Ryan Lukson

Ryan Lukson, Attorney

## Attachment A

### DOC Contact Information

|                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                       |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Violator Medical Issues</b> <ul style="list-style-type: none"> <li>• Pre-Authorization for extraordinary medical expenses</li> <li>• Pre-Authorization for high cost medications.</li> <li>• Notification: of emergent Offender medical issue or</li> <li>• Hospitalization</li> <li>• Requests for transfer due to medical or mental health issues.</li> </ul> | <b>DOC Nurse Desk-24/7</b> <ul style="list-style-type: none"> <li>• 360-725-8733</li> </ul> <p>Additional contact during business hours:</p> <ul style="list-style-type: none"> <li>• <a href="mailto:NurseDesk@doc1.wa.gov">NurseDesk@doc1.wa.gov</a></li> <li>• Fax: 360-586-9060</li> </ul>                                                                        |
| <b>Violator Issues</b> <ul style="list-style-type: none"> <li>• To request a transfer of violator</li> <li>• Notification of additional non-DOC sentence/sanction confinement</li> <li>• Notification of violator discipline/new charges</li> <li>• Notification of any non- DOC detainees/ holds</li> </ul>                                                       | <b>DOC Violator Desk</b><br>Monday-Friday (except Holidays): 7:00 am-5:00 pm <ul style="list-style-type: none"> <li>• 1-855-584-6528</li> <li>• <a href="mailto:Violatordesks@doc.wa.gov">Violatordesks@doc.wa.gov</a></li> <li>• <i>When calling outside of hours listed call the DOC Warrants Desk and ask to speak to the CCD Section Duty Officer.</i></li> </ul> |
| <b>DOC Secretary Warrant</b>                                                                                                                                                                                                                                                                                                                                       | <b>DOC Warrants Desk-24/7</b> <ul style="list-style-type: none"> <li>• 360-725-8888</li> </ul>                                                                                                                                                                                                                                                                        |
| <b>Concerns after normal business hours</b><br>For example: Offenders under DOC supervision or issues related to DOC staff or DOC equipment                                                                                                                                                                                                                        | <b>DOC Warrants Desk-24/7</b><br><i>Warrants Desk will refer to the appropriate Duty Officer</i> <ul style="list-style-type: none"> <li>• 360-725-8888</li> </ul>                                                                                                                                                                                                     |
| <b>Violator Medical Billing</b> <ul style="list-style-type: none"> <li>• Requests for reimbursement for medical care not included in the Offender base rate.</li> </ul>                                                                                                                                                                                            | <b>Medical Disbursement Unit</b> <ul style="list-style-type: none"> <li>• <a href="mailto:DOCHQMedicalRAB@doc1.wa.gov">DOCHQMedicalRAB@doc1.wa.gov</a></li> <li>• 360-725-8298</li> <li>• Fax: 360-586-1320</li> </ul>                                                                                                                                                |
| <b>DOC Contract Coordinator</b> <ul style="list-style-type: none"> <li>• Contract concerns/issues</li> <li>• Death of a Violator</li> <li>• Violator Escape</li> </ul>                                                                                                                                                                                             | <b>Greg Oliver</b><br>Monday-Friday (except Holidays): 8:00 am-5:00 pm <ul style="list-style-type: none"> <li>• <b>Work 360-725-8943</b></li> <li>• After hours/holidays 360-584-3202</li> <li>• <a href="mailto:gregory.oliver@doc.wa.gov">gregory.oliver@doc.wa.gov</a></li> </ul>                                                                                  |

Last updated 1/11/2017

## Attachment B

### **PRE-AUTHORIZATION AND MEDICAL BILLING INSTRUCTIONS**

#### **Pre-Authorization**

The County/Violator Facility must obtain pre-authorization through the Department's Utilization Management Office for all health care beyond what is normally provided to County inmates. This includes notification of incarceration of Offenders who are on specialty/high cost medications for long-term or chronic conditions such as Hepatitis C, HIV, MS or any other condition that requires the consistent administration of medications during their incarceration.

In the case of an emergency when pre-authorization is not feasible, the County/Violator Facility must notify the Department's Utilization Management Office as soon as possible, but no later than four (4) hours after transporting the Department Offender to an emergency room or other medical facility and before any hospital admission.

The following information must be included with notifications:

- The date and time the Offender left your facility for the medical event;
- The name of the hospital or medical facility;
- The medical issue/reason for trip; and
- The date and time the Offender returned to your facility (if applicable).

Please note that if **ANY** hospitalization results in an inpatient event the Department, if properly notified, will apply for Medicaid coverage under the Affordable Care Act and the County/Violator Facility will not be billed for qualifying services. However, the County/Violator Facility must notify the Department of the hospitalization and follow the emergency notification and/or pre-authorization process so that a Medicaid application can be initiated for the event.

The Department is not obligated to reimburse the County/Violator Facility for medical care or treatment provided to a Department Offender without the Department's pre-authorization or notification within the timeframe specified in the contract.

Pre-authorization requests for extraordinary medical care including pertinent medical records and other supporting documentation are faxed to the Utilization Management Office at (360) 586-9060.

The Department's Utilization Management Office will be available via telephone to assist staff 24 hours a day and 7 days per week.

- From 8 a.m. - 4:30 p.m. Monday – Friday (except holidays), the Nurse Desk is available at [NurseDesk@doc1.wa.gov](mailto:NurseDesk@doc1.wa.gov) or (360) 725-8733.
- After normal business hours and during holidays, please call (360) 725-8733. The call will forward to the on-call UM Nurse.

If authorization for extraordinary medical care is denied, the practitioner may appeal the Department's decision by submitting a written request and supporting documentation to DOC via email at [DOCHQMedicalRAB@DOC1.wa.gov](mailto:DOCHQMedicalRAB@DOC1.wa.gov)

## Medical Billing

It is the responsibility of the billing County/Violator Facility to process payment for all bills prior to sending them to the Department for reimbursement. However, if the County/Violator facility is unable to make payment for direct billings, you may send a written request to the Department to process payment on the behalf of the County/Violator Facility can be submitted by fax (360) 586-1320 or email to [DOCHQMedicalRAB@DOC1.WA.GOV](mailto:DOCHQMedicalRAB@DOC1.WA.GOV). Please include a copy of the bill with the request. The Department will respond to written requests for assistance with payment of direct billings within seven (7) business days of receipt. Please do not instruct the billing entity to bill the Department directly.

Monthly medical billings are to be submitted electronically to the Medical Disbursement Unit at [DOCHQMedicalRAB@DOC1.WA.GOV](mailto:DOCHQMedicalRAB@DOC1.WA.GOV). Itemized invoices for services provided onsite by the incarcerating facility should be submitted to the Department on a monthly basis for the previous month's services. Any billing for offsite services should be submitted for reimbursement or payment within thirty (30) days of the date of service. We understand that each monthly billing may have medical invoices for previous months and that is acceptable; however, in an effort to ensure the cleanest billing process, please bill one month at a time whenever possible. Itemized statements must be submitted in the format below with supporting documentation when applicable. Incomplete or missing data or supporting documentation may result in delays or denial of payment.

If unable to submit billing electronically, please fax to:

Department of Corrections  
Health Services Contract, Claims and Benefits Unit  
Fax: (360) 586-1320

A sample billing entry is provided below

| DOC#   | Verified Agency | DOSTO     | Member Name | Auth Number      | Service From | Service To | Vendor Name               | Provider Name     | Posted/Paid Amount |
|--------|-----------------|-----------|-------------|------------------|--------------|------------|---------------------------|-------------------|--------------------|
| 123456 | DOC             | 31-May-19 | Doe, John   | 09/16/2019-282-1 | 02-Sep-18    | 02-Sep-18  | KADLEC REGIONAL MEDICAL   | HAYEE, KYAWT      | \$ 78.08           |
| 123456 | DOC             | 31-May-19 | Doe, John   | 01/01/1800-0-1   | 30-Apr-19    | 30-Apr-19  | NORTHWEST EMERGENCY       | HEGERHORST, MITCH | \$ -               |
| 123456 | DOC             | 31-May-19 | Doe, John   | 04/19/2019-103-1 | 15-Apr-19    | 15-Apr-19  | COLUMBIA VALLEY EMERGENCY | THOMAS, BRANDON   | \$ 333.68          |
| 123456 | DOC             | 31-May-19 | Doe, John   | 03/07/2019-384-1 | 05-Mar-19    | 05-Mar-19  | KENNEWICK RADIOLOGY       | GRIGG, ANDERSON   | \$ 5.25            |
| 123456 | DOC             | 31-May-19 | Doe, John   | 03/07/2019-384-1 | 05-Mar-19    | 05-Mar-19  | KENNEWICK RADIOLOGY       | GRIGG, ANDERSON   | \$ (5.25)          |
| 123456 | DOC             | 31-May-19 | Doe, John   | 11/29/2018-47-1  | 17-Nov-18    | 17-Nov-18  | NORTHWEST EMERGENCY       | PHEYSEY, DAVID    | \$ 61.73           |

### Monthly billings must include:

- A coversheet with all pertinent details including the total amount billed, month of service, facility name, contact information for the billing staff( including an email address, phone number and fax number), address for where to submit the payment, an invoice number (this is your internal invoice tracking number), and Federal Tax ID number;
- Itemized Charges to include the name of the Offender and DOC# who the charges are for, what the charges are for and the total amount of the charges. If you are asking for reimbursement for services paid to offsite providers, a copy of the original healthcare claim form paid by the facility must be included. If charges are for onsite services, the detail of what services were provided must be listed along with copies of any paid bills for those services with a break-out of the amount attributed to the DOC Offenders.
- Supporting documentation including verification of DOC hold, any authorizations from the Utilization Management Office and all Health Insurance Claim Forms (CMS 1500 or UB-04) and/or

invoices from community providers showing what was billed and documentation of what you paid if requesting reimbursement, for medications, you must provide a copy of the pharmacy bill to include the drug name, dosage and quantity provided and amount paid for the drugs;

- Credits for returned prescriptions (if applicable) listed in the same way as noted above and clearly marked as CREDIT.

Once DOC has completed the verification process and is ready to process payment, the County will be notified by email or fax of any denials or credits.

For billing questions or concerns, please email [DOCHOMedicalRAB@DOC1.WA.GOV](mailto:DOCHOMedicalRAB@DOC1.WA.GOV).

## **HIPAA**

The Health Insurance Portability and Accountability Act (HIPAA – CFR 45) of 1996 protects the privacy of individually identifiable, protected health information or PHI. This law allows for the exchange of this information between covered entities for the purpose of billing and payment which allows you to provide the required back-up documentation regarding the Offenders' health information and treatment activities for support of payment purposes (§ 164.506 (c)(3)). It further clarifies the standard for use and disclosure for correctional institutions and other law enforcement custodial situations in §164.512(k).

## Attachment C

Department of Corrections

Medical Billing Reimbursement Form

(County/City/Tribal) Jail  
(Street Address)  
(Phone Number)

Offender Housing Invoice  
(Month) 2015  
Total Amount (\$00.00)

Bill to:  
Washington State Department of Correction  
P.O. Box 41149  
Olympia, WA 98504 (360) 725-8620  
[DOCViolatorbedbilling@DOC1.WA.GOV](mailto:DOCViolatorbedbilling@DOC1.WA.GOV)

Daily Bed Day Rate: \$65.00

| Name                         | DOC #  | DOB      | DOC start date<br>Sanction/Confinement | DOC End/Transfer date<br>for Sanction/Confinement | Total # of billed DOC<br>Days | Total amount billed to<br>DOC |
|------------------------------|--------|----------|----------------------------------------|---------------------------------------------------|-------------------------------|-------------------------------|
| Doe, Jane                    | 123456 | 1/15/89  | 7/19/15                                | 7/21/15                                           | 2                             | \$130.00                      |
| Smith, Johnny                | 121212 | 2/26/62  | 7/8/15                                 | 7/20/15                                           | 12                            | \$780.00                      |
| County Border Exchange Days: |        |          |                                        |                                                   |                               |                               |
| Jahnsen, Doe                 | 555555 | 10/31/92 | 8/1/15                                 | 8/1/15                                            | -1                            | -\$65.00                      |
| TOTAL                        |        |          |                                        |                                                   | 13                            | \$845.00                      |

| Last Name | First Name | DOC#   | Date of Birth | Date of Service | Medical Facility or RX name, & strength | RX quantity or # of days | RX # or reason for treatment | Name of jail staff contacting DOC medical staff | Date and time of contact with medical staff | Name of DOC medical staff contacted | Copy of approved medications request attached, if available? Y, N or N/A | Copy of off-site medical provider claim form and/or Contractors' original pharmacy bill attached as required? Y/N | Amount of copay paid by Offender if any | Amount paid by contractor | Amount billed to DOC |
|-----------|------------|--------|---------------|-----------------|-----------------------------------------|--------------------------|------------------------------|-------------------------------------------------|---------------------------------------------|-------------------------------------|--------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------|-----------------------------------------|---------------------------|----------------------|
| Doe       | Jane       | 123456 | 1/15/89       | 7/20/15         | Gabapentin 30 MG Tab                    | 3 pills                  | 1234561                      | Elmer Phud                                      | 7/20/15; 12:34 pm                           | Tammy Williams                      | Y                                                                        | Y                                                                                                                 | \$1.00                                  | \$12.50                   | \$11.50              |
| Smith     | Johnny     | 121212 | 2/26/62       | 7/10/15         | St Joseph's Hospital                    | 7 days                   | Chest pain                   | Erin Rogers                                     | 7/10/15; 2:40 am                            | Lisa Russell-Tutty                  | N/A                                                                      | Y                                                                                                                 | \$ -                                    | \$2,500.00                | \$2,500.00           |
| Jahnsen   | Doe        | 555555 | 10/31/92      | 8/1/15          | Walla-Walla General Hospital            | 5 weeks                  | Foreign object removal       | Billie Goat                                     | 8/1/15; 4:10 pm                             | Sarah Nichols                       | N/A                                                                      | Pending                                                                                                           | \$4.00                                  | \$5,000.00                | \$4,996.00           |

# COMMISSIONERS' AGENDA ACTION SHEET

|                                                                                                                                              |                                                                                                                                                         |                                                                                                                                                                                     |  |
|----------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| <b>Meeting Date:</b>                                                                                                                         | 28 September 2021                                                                                                                                       |                                                                                                                                                                                     |  |
| <b>Subject:</b>                                                                                                                              | "Northwest Winterfest" Event at Benton County Fairgrounds                                                                                               |                                                                                                                                                                                     |  |
| <b>Presenter:</b>                                                                                                                            | Adam J. Fyall                                                                                                                                           |                                                                                                                                                                                     |  |
| <b>Prepared By:</b>                                                                                                                          | AJF                                                                                                                                                     |                                                                                                                                                                                     |  |
| <b>Reviewed By:</b>                                                                                                                          | AJF                                                                                                                                                     |                                                                                                                                                                                     |  |
| <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> (Multiple boxes can be checked, if necessary)                                                                             |                                                                                                                                                                                     |  |
| <input type="checkbox"/> Consent Agenda<br><input type="checkbox"/> Public Hearing<br><input checked="" type="checkbox"/> Scheduled Business | <input type="checkbox"/> Discussion Only<br><input checked="" type="checkbox"/> Decision / Direction<br><input type="checkbox"/> Sign Letter / Document | <input checked="" type="checkbox"/> Pass Motion<br><input type="checkbox"/> Pass Resolution<br><input type="checkbox"/> Pass Ordinance<br><input type="checkbox"/> Execute Contract |  |

## Summary

Staff seeks direction from the Board on the matter of proceeding with a facility use agreement for the new "Northwest Winterfest" event at the Fairgrounds. The agreement is in our standard form, designed for approval and signature by the county administrator, but because this would be such a substantial event and with a long-term rental, staff would like specific acknowledgement and endorsement from the Board.

## Background

Northwest Winterfest is a community festival centered on large lighted displays of a winter theme. The event is augmented by food, music, and other cultural activities and is held in the evening hours. The organization is based in Spokane and that is where the event was previously held very successfully pre-pandemic (few photos next page). Organizers plan to stage a Spokane Winterfest earlier in the season, then move to the Tri-Cities.

Organizers approached the County in 2020, and staff has been working with them on the particulars of the possible event. Because of the unusual nature of the event compared to the weddings, quinceañeras, and corporate dinners we usually host at the Fairgrounds, staff wants to brief commissioners more than would be the usual and get the Board's endorsement for moving forward. The attached facility use agreement has been approved for form by the Prosecutor's Office and signed by Winterfest.

The lease period would be January 14, 2022 through April 30, 2022. This includes all set-up and tear-down. The public event is expected to run for 39 days within this window. The leased area will include the North Lawn where most of the activity will be, complemented by Building 1 and the surrounding and connecting asphalt areas. Other events will be able to use other parts of the Fairgrounds during this time. Though it is generally not a high-use time of the year for us, a few small events have been booked. Winterfest will actively market the event, to which they expect an average of about 600 visitors per day.

Our best analogy for Winterfest is probably Scaregrounds, which was held at the Fairgrounds for several years in the past. That event would also take-up a building and substantial outdoor space, and require significant set-up and tear-down time before and after their multi-week event. Scaregrounds was successful, well-received, and a good fit for the Fairgrounds. We expect similarly of Winterfest.

### **Fiscal Impact**

The financial considerations are detailed in Section 3 and Appendix A. In summary, the rental fee paid to the County will be \$30,300 plus \$1.00 from every entry ticket sold.

### **Recommendation**

Staff recommends approval of the Northwest Winterfest facility use agreement.

### **Suggested Motion**

"I move for staff to proceed with execution of the Fairgrounds facility use agreement between Benton County and Northwest Winterfest, directing the county administrator to sign said agreement."

# # #



**BENTON COUNTY FAIRGROUNDS**

1500 South Oak Street, Bldg #20  
Kennewick, WA 99337  
(509) 222-3751

**FACILITY USE AGREEMENT**

TODAY'S DATE: **August 27, 2021**

FACILITY USE AGREEMENT NUMBER: **11.22**

EVENT DATE(S): **02/10/2022 through 03/20/2022**

NUMBER OF DAYS: **39 event days**

BUILDING(S) / AREA: **North Lawn, Central Lawn, Bldg 1 and surrounding asphalt,  
Use of ticket booths included.**

USER: **Northwest Winterfest**

MAILING ADDRESS: **3328 E 24<sup>th</sup>, Spokane, WA 99223**

CONTACT: **Sam Song**

PHONE: **509.280.2739** EMAIL: **samsong44@hotmail.com**

TIME OF THE EVENT: **Sun, Tue, Wed and Thur: 5:00pm – 9:00pm  
Fri & Sat: 5:00pm - 9:30pm**

TYPE OF EVENT: **Northwest Winterfest**

ESTIMATED ATTENDANCE: **~606 per day**

SELLING TICKETS: YES ☒ NO ☐

IF YES, TICKET OUTLET(S): **TicketsWest**

**THIS FACILITY USE AGREEMENT (AGREEMENT)** is entered into effective upon the signature of both parties, between **NORTHWEST WINTERFEST (USER)**, a corporation organized under the laws of the State of Washington with its principal offices at 3328 E 24<sup>th</sup>, Spokane, WA 99223 and **BENTON COUNTY (COUNTY)**, a political subdivision of the State of Washington and operator of the Benton County Fairgrounds with its principal offices at 620 Market Street, Prosser, WA 99350.

**1. EVENT**

- a. **Northwest Winterfest** using the North Lawn, Central Lawn, Building #1 and surrounding asphalt arriving January 14, 2022 and departing April 30, 2022 with an estimated attendance of ~606 people per event day, hereafter referred to as the EVENT.
- b. **USER SHALL NOT PERMIT DOGS THAT HAVE BEEN DESIGNATED BY ANY STATE, COUNTY, OR LOCAL GOVERNMENTAL AGENCY AS "DANGEROUS DOGS," OR ITS SUBSTANTIAL EQUIVALENT, PURSUANT TO ANY STATE, COUNTY, OR LOCAL LAW OR ORDINANCE TO BE ON COUNTY'S PREMISES AT ANY TIME.**
- c. With respect to the areas identified in Exhibit B and for an event similar to a Chinese Lantern Festival, USER wishes to exercise Section II Grounds Rental Policies 1. Reservations Section a of the currently approved Benton County Fairgrounds (BCF) Policies and Procedures adopted by the Board of Commissioner's of Benton County June 2007, the 'first right of refusal' for dates beginning January 1 and ending April 30 of each year until December 31, 2024. USER agrees to notify the Benton County Event Coordinator no later than September 1 of each year, their intention to hold a festival.

**2. FACILITIES USED FOR THE EVENT**

- a. USER agrees to use the buildings, grounds, equipment, and services specified in the attached Exhibit A, entitled "FEES AND DESCRIPTION OF BUILDINGS, GROUNDS, EQUIPMENT, AND SERVICES APPLICABLE TO USER'S LICENSE TO USE THE FACILITIES" commencing January 14, 2022 and ending April 30, 2022. USER WARRANTS THAT THE FACILITIES WILL BE USED ONLY FOR LAWFUL PURPOSES NECESSARY AND IN SUPPORT OF THE EVENT.
- b. USER's license to hold the EVENT includes non-exclusive use of the Benton County Fairgrounds' main parking lot. USER must cooperate with other authorized users of the Benton County Fairgrounds, if any, to mutually use the main parking lot without disruption to each other. For the safety of all users, and in compliance with local and state codes and ordinances, no parking is allowed in fire lanes or where otherwise posted "No Parking". Other than vehicles associated with event maintenance and security, all vehicles must be removed from loading areas and parked in the main parking lot before the EVENT begins. All parking during the EVENT is limited to the main parking lot. Vehicles found in violation of the above policies may be towed away at the owner's expense.
- c. USER may erect temporary fencing as needed to restrict access of individuals and vehicles from the portion of the fairgrounds not identified in Exhibit B. At no time shall such fencing impede emergency vehicle access or obstruct fire lanes.
- d. It is the policy of COUNTY to provide reasonable accommodations to individuals with disabilities and to comply with the Americans with Disabilities act. USER is provided permission to use lightweight vehicles such as golfcart style or UTV for mobility impaired individuals to enjoy event. Any damage from such use to event areas will be corrected by USER prior to leaving fairgrounds.

### **3. PAYMENTS**

- a. In consideration for the license to hold the EVENT, USER and COUNTY agree the total facility use fee for event will be \$30,300 as detailed in Exhibit A. If listed fee are not paid by identified dates, this Agreement will be null and void, unless otherwise agreed to in writing by COUNTY. Upon such termination, USER shall be obligated to pay a cancellation fee as specified in Section 5 of this Agreement.
- b. COUNTY and USER agree USER may charge for parking at the event. Parking fee is to be collected and retained by USER.
- c. COUNTY and USER agree total dollars amounting to \$1.00 per sold ticket will be remitted to COUNTY no later than May 30, 2022.
- d. Additional buildings for an event supporting NW Winterfest during this agreement will be scheduled based on availability and charged at 50% of daily building rental fee; no additional processing fee will be collected. Payment for use of additional building(s) will be invoiced and due no later than May 30, 2022.

### **4. CAMPING OVERNIGHT**

- a. COUNTY does not make any warranties as to the suitability of the campgrounds for USER's purposes or the compatibility of campground infrastructure with any equipment anticipated to be used by USER or participants in USER's EVENT. USER is responsible for ensuring that the campgrounds, as they exist, are suitable for USER's purposes and that campground infrastructure meets the needs of USER and/or any participants in USER's EVENT. USER may request a walk-through of the campground facilities and COUNTY shall take all reasonable steps to accommodate such a request. Walk-throughs are provided only by appointment during regular business hours.
- b. USER has approval of overnight camping for event staff and event security at no additional charge. Access to water is seasonal and USER should verify with facilities personnel availability. COUNTY provides no on-site RV dump stations.

### **5. CANCELLATION OF EVENT**

- a. The parties recognize that cancellations made less than sixty (60) days prior to the first EVENT date will potentially cause the COUNTY to lose facility use or rental revenue. The parties further recognize that, for a number of reasons outside of the control of the parties, the actual amount of the loss is often difficult to quantify. Therefore, the parties agree to the following schedule of liquidated damages, which shall become due and owing if USER cancels the EVENT less than sixty (60) days prior to the first day of the EVENT:
  1. If cancellation is made less than sixty (60) days prior to the first EVENT date, then USER shall pay twenty-five percent (25%) of the total facility use fee specified in Exhibit A as liquidated damages to COUNTY.
  2. If cancellation is made less than thirty (30) days prior to the first EVENT date, then USER shall pay fifty percent (50%) of the total facility use fee specified in Exhibit A as liquidated damages to COUNTY.
  3. If USER receives written notice of amendment with less than sixty (60) days prior to the first day of the EVENT and this amendment gives cause for cancellation, then no penalty shall be assessed.

4. If a natural disaster or pandemic gives cause for cancellation or postponement of an event, no penalty shall be assessed. Refund of fees paid will be at the discretion of COUNTY.

- b. The liquidated damages specified in this section may be recovered by COUNTY in the same manner as if it were seeking to recover any other sum due under this Agreement, and may utilize any lawful means to do so.

**6. CONCESSIONAIRES**

USER agrees and certifies that, if food or beverage concessions are made available at the EVENT by any vendor or entity, each vendor or entity providing food and/or beverage concessions will comply with the insurance requirements of Section 9 of this Agreement. Prior to the EVENT, USER must provide verification to COUNTY that each vendor or entity is in compliance with said insurance requirements. In addition, USER agrees that all other provisions of this Agreement extend to the serving of food or beverage by any vendor or entity at the EVENT including, but not limited to, the indemnification obligations of USER in Section 15.

**7. NOVELTIES/SOUVENIRS**

USER warrants that novelties, souvenirs, or similar merchandise may be sold at the EVENT.

**8. PROCESSING FEE:**

USER must pay a nonrefundable processing fee of **\$300.00** at the time USER executes this Agreement. THIS AGREEMENT IS NOT EFFECTIVE UNTIL EXECUTED BY COUNTY AND THE PROCESSING FEE IS RECEIVED. Damages to the Benton County Fairgrounds resulting from EVENT activities will be charged to the USER at replacement cost plus labor (the cost of labor not exceeding the average cost for such labor in the Tri-Cities' area). Neither the Benton County Fairgrounds, nor Benton County assume any liability whatsoever for any loss or injury to the USER or USER's property while on Benton County Fairgrounds' property.

**9. INSURANCE**

- a. USER agrees to purchase, and maintain in force throughout the duration of this Agreement, **commercial general liability insurance with a limit in the sum of not less than one million dollars (\$1,000,000) per occurrence for bodily injury to or the death of any one person and damage to property, and two million dollars (\$2,000,000) in the aggregate for bodily injury to or the death of any number of persons and damage to property. Furthermore, the policy shall contain an endorsement providing insurance for liquor liability with a minimum coverage of one million dollars (\$1,000,000) per incident and two million dollars (\$2,000,000) in the aggregate.** The insurance policy shall add Benton County Fairgrounds, Benton County, and its officers, directors, elected officials, agents, and employees as additional insureds and shall include a provision prohibiting cancellation of the policy except after thirty (30) days prior written notice to COUNTY.
- b. USER shall ensure that all vendors and contractors for the EVENT are either covered by their own insurance policies, or added as an additional insured on USER's policy in the following amounts:
1. If the vendor or contractor will be serving or supplying alcoholic beverages, or will be involved in the determination of whether or not to serve someone an alcoholic beverage, including verification of age and verification of level of intoxication of patrons, then the policy must be a **commercial general liability policy with limits of one million dollars (\$1,000,000) per incident and two million dollars (\$2,000,000) general aggregate, and further, must have a**

**liquor liability endorsement with limits of one million dollars (\$1,000,000) per incident and two million dollars (\$2,000,000) general aggregate.**

2. If the vendor or contractor will be serving food or food items, or beverages other than alcoholic beverages of any type, then the policy must be a **commercial general liability policy that does not exclude claims for food poisoning, and has limits of one million dollars (\$1,000,000) per incident and two million dollars (\$2,000,000) general aggregate.**
- c. USER is responsible for enforcing the above-stated insurance requirements and obtaining written proof from the vendors and contractors. No later than thirty (30) business days prior to the EVENT, USER shall provide to COUNTY proof of the insurance required by this section in the form of unaltered ACORD insurance certificates. In the case of liquor liability and food poisoning coverage, the proof of insurance must include applicable endorsements and/or copies of the exclusions pages evidencing that such coverage is afforded.
- d. **All insurance policies required by this section shall include move-in and move-out days, as well as the EVENT days.**
- e. All insurance policies required by this section shall cover losses that occur during the covered period regardless of when the claim is filed (*i.e.*, policies cannot be “claims made” policies).
- f. All insurance policies required by this section shall be primary to any insurance policies or policies of self-insurance carried by COUNTY.
- g. The limits required by this section are not intended to be an indication of liability, nor are they to be considered limits on the amount of indemnification.
- h. The USER shall include all sub-USERS/subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each sub-USER/subcontractor. All coverage for sub-USERS/subcontractors must comply with all of the insurance requirements set forth in this section.
- i. The USER’s liability insurance policies shall contain no special limitations on the scope of protection afforded to the COUNTY as an additional insured.
- j. **USER SHALL PROVIDE, NO LATER THAN THIRTY (30) DAYS PRIOR TO ANY EVENT COVERED BY THIS AGREEMENT, PROOF OF ALL FORMS OF INSURANCE REQUIRED IN THIS SECTION. THIS PROOF SHALL CONSIST OF A CERTIFICATE OF INSURANCE NAMING “BENTON COUNTY FAIRGROUNDS” AS CERTIFICATE HOLDER, AS WELL AS COPIES OF ALL KEY PROVISIONS, EXCLUSIONS, AND ENDORSEMENTS FROM THE POLICY, INCLUDING THE REQUIRED ADDITIONAL INSURED LANGUAGE.**

#### **10. PERMITS/LAWS**

- a. All necessary city and/or state permits and/or licenses must be obtained and presented to COUNTY prior to the first day of the EVENT or the first day of set-up, if applicable.
- b. USER shall comply with all federal, state, and local laws, ordinances, rules, and regulations. USER acknowledges that all buildings, premises, or structures located in or upon the Facility Use Agreement premises are considered “public buildings” for purposes of Chapter 70.160 RCW, which prohibits smoking in and around public places. USER must ensure that the security personnel retained pursuant

to Section 11 of this Agreement are specifically instructed to enforce the provisions of Chapter 70.160 RCW.

## 11. SECURITY

- a. COUNTY does not make any warranties as to the suitability of the facilities for USER's purposes or compatibility of the facilities with any equipment anticipated to be used by USER or any participants at USER's EVENT. USER takes full responsibility for the safety and well-being of participants while they are participating in the EVENT. USER is responsible for inspecting the building and premises and for ensuring that they are sufficient to provide for the safety and security of EVENT participants. COUNTY will make all reasonable attempts to honor requests for a walk-through of the premises and buildings to be used. Walk-throughs are by appointment only during regular business hours.
- b. USER shall designate a primary and secondary contact person for purposes of the EVENT. These contact persons must be persons who have authority during the EVENT to direct how the EVENT is being operated, including the operations of any vendors (such as music DJs, food concessionaires, etc.). **Sixteen (16) days prior to the event USER shall furnish to COUNTY the names and contact information of the designated contact persons on the form provided by COUNTY, see Exhibit C, including the cellular telephone numbers at which the contact persons can be contacted AT ALL TIMES DURING OPERATION OF THE EVENT, and copies of their photo IDs.** Depending on the size of the EVENT, USER may designate, at its discretion, additional contact persons, but shall do so in writing. If EVENT security or law enforcement officers responding to any incident at the EVENT are unable to contact any designated contact person for a period of fifteen (15) minutes or longer, then COUNTY shall have the option to terminate the EVENT and USER's license to use the facility pursuant to this Agreement. If the EVENT is terminated for these reasons, USER forfeits all right to recover any payments paid to date.
- c. USER is responsible for hiring security personnel of sufficient skill and number to ensure the safety and security of the EVENT and its participants. USER is responsible for choosing the security company and contracting with them for services. PROVIDED that the following minimum standards for security services must be met:
  1. The security services contracted for must be from a licensed and bonded security company authorized to do business in the State of Washington.
  2. USER is responsible for ensuring that security services at the EVENT meet staffing level sufficient to cover event and after-hours protection of displays.
- d. USER shall provide to COUNTY written proof of compliance with the minimum security requirements for the EVENT no less than sixteen (16) days prior to the date of the EVENT, or the first day thereof. Proof must be in the form of a signed contract, as well as full contact information of the security company for verification purposes. If proof is not supplied as required, then the EVENT will be deemed to be cancelled, USER's license to use the facilities on the EVENT date(s) will be nullified, and the provisions of the cancellation policy will be utilized.
- e. In addition to the security service provisions above, USER may contract with appropriate law enforcement agencies to provide law enforcement officers at the EVENT at USER's expense. The number of officers necessary will be determined solely by USER in consultation with the appropriate law enforcement agencies. If USER elects to contract with law enforcement agencies as provided herein, then USER shall inform COUNTY in writing of this election, including the total cost of law

enforcement officers' services. USER shall pay these total costs prior to the first day of the EVENT and will not be provided access to the premises if they are not paid.

- f. If at any time circumstances of the EVENT cause USER or the contracted law enforcement agencies to determine, in their sole discretion, that additional law enforcement officers should be hired for the EVENT to ensure the safety of the EVENT, then USER may hire additional law enforcement officers for the EVENT. Under such circumstances, USER will be solely responsible for the additional costs.
- g. The law enforcement officers hired for this EVENT shall have primary security responsibilities for the EVENT and will also enforce all state and local laws. At all times when the EVENT is active, USER's designated contact person(s) shall be available for contact by the law enforcement officers. Upon demand by the law enforcement officers or any one of them, USER or USER's designated contact shall provide proof of compliance with all permitting or license requirements, including liquor serving permits. Failure to provide such proof of compliance upon demand or failure of the designated contact person(s) to be available for contact shall be a breach of this Agreement.
- h. Law enforcement officers hired by USER for this EVENT shall have the authority to shut down the EVENT and exclude persons from COUNTY's property for any of the reasons set out in this Agreement or otherwise provided for by law.

## **12. SERVING ALCOHOL**

- a. USER is required to obtain and maintain a liquor license from the State of Washington and post the license prior to commencement of the EVENT.
- b. USER agrees to abide by and enforce at the EVENT the COUNTY's policies regarding the presence of alcohol or the use of alcoholic beverages on COUNTY property.
- c. COUNTY'S POLICY IS THAT NO LIQUOR MAY BE CONSUMED BY ANY INDIVIDUAL UNDER TWENTY-ONE (21) YEARS OF AGE OR WHO IS APPARENTLY UNDER THE INFLUENCE OF LIQUOR. THIS POLICY WILL BE STRICTLY ENFORCED AND KNOWING VIOLATION OF THE POLICY MAY RESULT IN TERMINATION OF THIS AGREEMENT AND ASSOCIATED EVENT(S) AND FORFEITURE OF ALL RIGHTS TO USE THE FACILITY USE AGREEMENT PROPERTY.

## **13. NOISE CONTROL**

- a. Noise is considered a nuisance if it exceeds 55 decibels between the hours of 6:00 am and 8:00 pm and 45 decibels between the hours of 8:00 pm and 6:00 am (Kennewick Municipal Code Title 9, Health and Sanitation). Decibel reading will be taken at the intersection of 10th Street and Oak Street.
- b. If a reasonable complaint is received alleging excessive noise, the USER will be given a warning to reduce the noise level. The volume and bass must be reduced to an acceptable level and remain there. A second complaint will result in the EVENT being continuously monitored by a Benton County Fairground's representative at USER's cost in the amount of \$100.00 per hour. A third complaint will result in the EVENT being shut down and all parties asked to leave with USER forfeiting all facility use payments and its license to use the facility. A complaint that results in a citation being issued or arrest being made pursuant to Kennewick Municipal Code 9.48.010 and 9.48.020, or any other applicable state or local law, shall also result in the EVENT being shut down and all parties required to leave with USER forfeiting all facility use payments and its license to use the facility.

#### 14. TERMINATION OR AMENDMENT

Unless otherwise specified herein, COUNTY reserves the right to terminate or amend this Agreement at any time by giving the USER thirty (30) days written notice. Notice is assumed to be received by USER on the day following the date it is addressed to USER's address and mailed by first class, certified mail, unless that day falls on a Sunday or a legal holiday, in which case notice will be assumed to be received on the day after the Sunday or holiday.

#### 15. INDEMNIFICATION AND HOLD HARMLESS

- a. USER agrees to defend, indemnify, and hold harmless COUNTY and its elected and appointed officials, employees, agents, licensees, and representatives from and against any and all suits, claims, actions, losses, costs, penalties, damages, attorneys' fees, and all other costs of defense of whatever kind or nature arising out of injury, sickness, disability, or death of any and all persons (including third-parties, subcontractors, agents, licensees, or representatives, and any of their employees) or damage to or destruction of any property or business (including, without limitation, USER or COUNTY's property or any other activity or omission that results in civil liability of any type) in any manner caused by or arising in connection with the use of the premises or from any activity, work, or thing done, permitted, or suffered by USER on or about the premises, or caused or occasioned in whole or in part by reason of the presence of USER or its subcontractors or their property upon or in proximity to the property of the COUNTY. PROVIDED that USER's obligation hereunder shall not extend to injury, sickness, death, or damage caused by the sole negligence of COUNTY. These indemnification obligations shall specifically include indemnification for any fines, fees, penalties, or costs incurred by USER during the course of the EVENT for violations of any law, ordinance, or regulation including, but not limited to, Washington State law on Smoking in Public Places, Chapter 70.160 RCW. In the event of litigation between the parties to enforce the rights under this section, COUNTY shall be entitled to attorneys' fees and all other costs incurred in establishing its rights. USER's obligations pursuant to this section include investigating, adjusting, and defending any cause of action or claim falling within the parameters as set out in this section.
- b. In any and all claims against the COUNTY or its officers, officials, employees, or agents by any employee of the USER, 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 USER 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 USER expressly waives any immunity the USER might have had under such laws. **By executing this Agreement, the USER 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 USER makes with any subcontractor or agent performing work hereunder.**

#### 16. ATTENDANCE

- a. In any literature provided to attendees and any tickets sold, USER shall prominently state in writing a warning that unruly persons, persons who are suspected of engaging in criminal activity, visibly intoxicated persons, and persons who by dressing in "gang colors" or by the use of hand signals or language clearly exhibit an affiliation with a criminal gang are not welcome at the EVENT and may be removed from the premises at any time. If it is not possible to include this admonition in EVENT literature or tickets, or if no EVENT literature or tickets will be produced or utilized, then USER shall post signs stating this warning at all entrances open to participants. The warning on any posted sign must be in black 24-point type or larger on a white background, and the sign must be posted in a location that is conspicuous and reasonably calculated to be seen by all persons entering the EVENT.

- b. USER shall inform security personnel immediately if he or she becomes aware of people who fit the criteria of people who should be removed from the EVENT. USER may not, under any circumstances, interfere with the efforts of security personnel to remove such persons.

**17. FAIRGROUNDS CONTACT**

- a. The following individuals are the Contact Representatives for the Benton County Fairgrounds:

Benton County Facilities On-Call: 509-222-3735

- b. The Contact Representatives for the Fairgrounds may be contacted for the following reasons:
  - 1. To access locked locations of the Benton County Fairgrounds for functions essential to the EVENT.
  - 2. In the event of malfunction of services or equipment essential to the EVENT.
- c. The Contact Representatives for the Fairgrounds SHALL be contacted if any of the following occurs:
  - 1. The police department is summoned to the scene for any criminal investigation that takes place on the premises of the Fairgrounds.
  - 2. The fire department or an ambulance is summoned to the scene for an incident involving injury or illness to a person on the premises of the Fairgrounds.
  - 3. USER is unable to ensure that all persons have left the premises of the Fairgrounds at the termination of the EVENT.
  - 4. There is a situation, such as a fire, explosion, or structural failure, which results in substantial damage to COUNTY's property and/or injury to persons.

**18. PUBLIC RECORDS ACT**

USER hereby acknowledges that the COUNTY is a governmental entity and as such is subject to the requirements of the Public Records Act, RCW 42.56 *et seq.* Accordingly, USER 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 Agreement actually in its possession or in USER's possession. This may include records that USER might regard as confidential or proprietary. To the extent that USER provides any records to the COUNTY that it regards as confidential or proprietary, USER agrees to conspicuously mark the records as such. USER 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. COUNTY agrees to take all reasonable steps to notify USER in a timely fashion of any request made under the Public Records Act that will require disclosure of any records marked by USER as confidential or proprietary, so that USER may seek a judicial order of protection if necessary.

**19. POLICIES AND PROCEDURES**

In signing this Facility Use Agreement, the USER signifies that the USER has been provided a copy of the approved Policies and Procedures governing use of the Benton County Fairgrounds and has had an

opportunity to review those policies and procedures. The parties agree that the provisions contained within the Policies and Procedures manual are hereby incorporated into this Agreement and any violation of such provisions shall constitute a breach of this Facility Use Agreement.

**20. ENTIRE AGREEMENT**

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

**21. ASSIGNMENT, DELEGATION, AND SUB-USERS/SUBCONTRACTORS**

- a. The USER shall perform the terms of this Agreement using only its bona fide employees or agents. The obligations, duties, and use of the facilities of or by the USER under this Agreement shall not be assigned, delegated, or subleased/subcontracted to any other person or firm without the prior express written consent of the COUNTY.
- b. The USER 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 USER, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award or making of this Agreement.

**22. INFRASTRUCTURE**

- a. Only Benton County Facilities personnel have the authority to reset, start, or stop electrical or water systems within the buildings or on the BCF.
- b. Benton County IT department shall be consulted prior to any change in the technological foundations. No audio-video equipment or system can be installed or attached to Benton County IT infrastructure without BC IT approval.
- c. User shall not make changes to any building, roadway or open area located within BCF.

- This section left blank intentionally. -

I, **Sam Song** have read and fully understand this Agreement. I hereby certify that I have the authority to bind Northwest Winterfest to the terms and conditions set forth herein. In the event I do not have the authority, I acknowledge and agree that I shall be personally liable for any payments due under this Agreement and for any breach that occurs under the Agreement. I agree to abide by the conditions set forth in this Facility Use Agreement and assume the responsibility for enforcing these policies.

**COUNTY: BENTON COUNTY**

**USER: NW WINTERFEST**

BY: \_\_\_\_\_  
Jerrod Macpherson, County Administrator  
Or Matt Rasmussen, Deputy County  
Administrator

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

BY:  \_\_\_\_\_

Date: 09/03/2021

Name: Sam Song

Title: Executive Director

Approved as to form:

BY:  \_\_\_\_\_  
Civil Deputy Prosecutor

## **EXHIBIT A**

### **FEES AND DESCRIPTION OF BUILDINGS, GROUNDS, EQUIPMENT, AND SERVICES APPLICABLE TO USER'S LICENSE TO USE THE FACILITIES**

#### **PROCESSING FEE**

**Nonrefundable processing fee.**

**NONREFUNDABLE PROCESSING FEE TOTAL:                   \$ 300.00**

#### **BUILDING(S) AND/OR AREA(S) FEES**

North Lawn, Central Lawn, Building #1 and surrounding asphalt area.

USER has a license to use above listed buildings and/or areas. A map showing the location of the above listed buildings and/or areas for which USER has a license is attached as Exhibit B to the Agreement and is incorporated herein by reference. USER's license to use the facilities includes EVENT parking in the Main Parking Lot.

**BUILDING(S)/AREA TOTAL:   \$ 30,000.00**

#### **EQUIPMENT RENTAL FEES**

Additional Equipment:

No additional county equipment is included.

USER is responsible to arrange for delivery, servicing and removal of portable toilets and wash stations for use during their event. USER will remit payment directly to company from which portable toilets and wash stations are rented.

**EQUIPMENT RENTAL TOTAL:                   \$ 0.00**

## **SECURITY FEES**

USER will provide.

**SECURITY TOTAL:      \$ 0.00**

## **REFUSE DISPOSAL FEES**

- **USER will contact Waste Management whose local office is located at 1611 S Washington St, Kennewick, WA and phone number of 509-582-5121 to arrange delivery of refuse disposal bins.**
- **USER will move refuse disposal bins to weekly pick up location as per their agreement with Waste Management.**
- **No refuse disposal bins will be provided by COUNTY for event.**

**REFUSE TOTAL:    Direct Payment to WM**

**NAME: NW WINTERFEST**

**AGREEMENT DATE:  
JANUARY 14, 2022 through April 30, 2022**

**SUMMARY OF FEE(S)**

|                                     |                            |
|-------------------------------------|----------------------------|
| <b>Nonrefundable Processing Fee</b> | <b>\$ <u>300.00</u></b>    |
| <b>Building(s)/Area Fees</b>        | <b>\$ <u>30,000.00</u></b> |

**Payment Schedule:**

|                                                |                    |
|------------------------------------------------|--------------------|
| <b>At time of agreement signing:</b>           | <b>\$300.00</b>    |
| <b>50% January 1, 2022:</b>                    | <b>\$15,000.00</b> |
| <b>25% March 1, 2022:</b>                      | <b>\$7,500.00—</b> |
| <b>25% July 29, 2022:</b>                      | <b>\$7,500.00</b>  |
| <b>Plus - Ticket Revenue due July 29, 2022</b> |                    |

**TOTAL FEE: \$ 30,300.00 Plus ticket revenue.**