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 item 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, October 19, 2021
Benton County Courthouse, Prosser, WA

9:00 AM **Call to Order**

Pledge of Allegiance

Approval of Minutes
- **October 12, 2021**

Review Agenda

Consent Agenda

Auditor
a. Establishing Travel Card Account Revolving Fund

Canine Shelter
b. Contract w/S. Morris Company for Cremation Services
c. Contract w/Vista Veterinary for Spay and Neuter Services
d. Contract w/Vista Veterinary for Veterinarian Services

Coroner
e. Line Item Transfer, Current Expense 0000-101, Dept. 109

IT
f. One-Year Maintenance/Support Plan with Justice AV Solutions, Inc. for Juvenile Justice Center
g. One-Year Bluebeam Studio Prime Subscription w/Cadd Microsystems

Juvenile

h. Contract w/Personal Touch Cleaning for Janitorial & Maintenance Services

Office of Public Defense

i. Rescinding Resolution 2021-060; Approval of Agreement with LinkedIn Learning

Prosecuting Attorney

j. Line Item Transfer, Current Expense Fund 0000-101, Dept. 117

Public Works

k. Advertise and Proceed to Bid Process for 2021 Catch Basin and Drywell Cleaning

Purchasing

l. Statement of Work with i3 ImageSoft for Benton County District Court for OnBase Document Management

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

Scheduled Business

Washington State Dept. of Ecology Grant w/Corrections Dept for Work Crew Program ~ Cdr Shelton

Veterans' Court Funding ~ M Rasmussen & L Ivey

- Line Item Transfer; Current Expense Fund No 0000-101, Dept. 138
- Coding Correction; PST Fund – Dept. 112 to Current Expense Fund. Dept. 138

Other Business

Executive Session

Pending Litigation ~ R Hay

Draft

MINUTES

BOARD OF BENTON COUNTY COMMISSIONERS

Regular Board Meeting
Benton County Courthouse, Prosser, WA
Tuesday, October 12, 2021, 9:00 a.m.
Meeting provided in-person, by Video Live-Broadcast and Telephonically

Present: Chairman Pro Tem Shon Small
Commissioner Will McKay
County Administrator Jerrod MacPherson
Clerk of the Board Cami McKenzie

Absent: Chairman Jerome Delvin (Vacation)

Benton County Employees Present During All or a Portion of the Meeting: Deputy County Administrator Matt Rasmussen; Robert Heard, IT Manager; Lexi Wingfield, HR Manager; DPA Stephen Hallstrom; Elaine Osborne, Clerk's Office; Finance Manager Linda Ivey; Brian Malley, Planning; Michelle Cooke, Assistant Planning Manager; County Engineer Doug D'Hondt; Cristina Woods, Public Works; Treasurer Ken Spencer; Blanca Parham, Public Works; Sheriff Tom Croskrey; Lt. Erik Magnuson.

Pledge of Allegiance

The Board recited the Pledge of Allegiance.

Approval of Minutes

The Minutes of October 5, 2021 were approved.

Agenda Review

The following item was added to the agenda for discussion:

- Salary Request Statement – Sheriff's Office

Consent Agenda

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

Auditor

a. Data Sharing Agreement w/WA State Auditor for Shared Data Services
b. Surplus and Disposition of Personal Property

c. Two Year Contract w/Phoenix Protective Corp for Armed Security @ Voting Center

Clerk

d. Establishing an Additional Cash Drawer

Public Works

e. Appropriating Funds for Dallas Road Bike Path Project
f. Appropriating Funds for Plymouth Road Pavement Overlay Project

Purchasing

g. Lease Agreement w/City of Richland for Emergency Services for Communication Equipment at Golgotha, Klickitat County
h. Purchase of Automated External Defibrillators & Supplies/Services From LifeMed Safety, Inc.

Public Comment

None.

Public Hearing – Eaton Park Improvement Club, Inc. – Franchise Renewal

Cristina Woods, Public Works, presented the application for franchise renewal for Eaton Park Improvement Club, Inc. for a renewal of domestic water system and associated facilities.

The Public Works Department reviewed the application and recommended approval based on the six conditions listed in the report.

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

MOTION: Commissioner McKay moved to approve Franchise Order and Agreement with Eaton Park Improvement Club, Inc., subject to the six items listed in the report to the Commissioners. Commissioner Small seconded and upon vote, the motion carried.

Request to Proceed with Bid Process for Moderate Risk Waste Facility Retrofit Project

Douglas D'Hondt and Blanca Parham, Public Works, presented a request to proceed with advertising for the Moderate Risk Waste Facility Retrofit Project. Ms. Parham said the facility would be able to take used motor oil, pesticides, paints, household chemicals, gasoline, etc.

The Solid Waste Fund currently had $1,294,651.19 remaining in the budget for this project. If the costs of the project went beyond the budgeted amount, Solid Waste would be able to utilize the 2021-2023 Local Solid Waste Financial Assistance grant through Washington State Department of Ecology. The grant amounted to $682,504.00. The necessary building permits have been secured from the City of Kennewick and the MRWF Retrofit Project was ready to out to bid.

Commissioner McKay asked about funding for operations and Ms. Parham said it would be funded through the Solid Waste Fund.

MOTION: Commissioner McKay moved to approve the resolution approving the advertisement and bid process for Bid No. CB 21-07 Moderate Risk Waste Facility (MRWF) Retrofit Project as presented. Commissioner Small seconded and upon vote, the motion carried.

Zone Change Request - ZC 2021-001, Knutzen Engineering

Michelle Cooke and Brian Malley presented the application for a zone change request on behalf of five property owners in the Finley area. The request was a change in zoning from RL-5 and Heavy Industrial to General Commercial. The Planning Commission voted to recommend approval of the zone change application as submitted, subject to the recommendations, findings of fact, and conclusions. Additionally, the Planning Division recommended approval.

MOTION: Commissioner McKay moved to adopt the Planning Commission's Recommendations, Findings of Fact and Conclusions as the Board's own and approve Zone Change Request ZC 2021-001 as recommended. Chairman Pro Tem Small seconded and upon vote, the motion carried.

Zone Change Request - ZC 2021-002, Knutzen Engineering

Michelle Cooke and Brian Malley presented the application submitted by Knutzen Engineering, requesting a change in zoning designation on two parcels on the north side of Wiser Parkway, from Light Industrial to Interchange Commercial. The Planning Commission voted to forward a positive recommendation to the Board of Commissioners and the Planning Division also recommended approval.

MOTION: Commissioner McKay moved to adopt the Planning Commission's Recommendations, Findings of Fact and Conclusions as the Board's own and approve Zone Change Request ZC 2021-002 as recommended. Chairman Pro Tem Small seconded and upon vote, the motion carried.

Other Business

Salary Request Statement – Sheriff's Office

Sheriff Croskrey and Lt. Erik Magnuson presented the salary request statement. They were proposing to re-hire a former employee to a critical position and under new management, she wanted to come back. She was previously with the Sheriff's office for 17 years and was at a step I. They were proposing to start her at an 8I, not an 8A. Additionally, she would be able to train other employees coming on board and this would be budget neutral as one of the other employees that left was at the same grade.

MOTION: Commissioner McKay moved to approve the Salary Request Statement for Dianne McCants as presented. Commissioner Small seconded and upon vote, the motion carried.

The Board briefly recessed, reconvening at 9:19 a.m.

Executive Session – County's Position/Strategy in Union Negotiations

The Board went into executive session at 9:19 a.m. for up to 20 minutes with DPA Stephen Hallstrom and Lexi Wingfield. Also present were Jerrod MacPherson, Matt Rasmussen, Cami McKenzie, and Linda Ivey.

The Board came out at 9:43 a.m. No decisions were made in executive session.

Payroll

Check Date: 10/05/2021

Payroll Checks
Total all funds: $2,438,991.21
Warrant #: 243339-243368
Direct Deposit #: 165525-166120

Payroll Draw Deductions/Transfers
Total all funds: $2,209,002.87
Taxes #: 101211001-101211011
ACH #: 1966-1972

Payroll Deduction Warrants
Total all funds: $123,927.60
Warrant #: 222028-222037

Resolutions

2021-735: Data Sharing Agreement w/WA State Auditor for Shared Data Services
2021-736: Surplus and Disposition of Personal Property
2021-737: Two Year Contract w/Phoenix Protective Corp for Armed Security @ Voting Center
2021-738: Establishing an Additional Cash Drawer for Clerk
2021-739: Appropriating Funds for Dallas Road Bike Path Project
2021-740: Appropriating Funds for Plymouth Road Pavement Overlay Project
2021-741: Lease Agreement w/City of Richland for Emergency Services for Communication Equipment at Golgotha, Klickitat County
2021-742: Purchase of Automated External Defibrillators & Supplies/Services From LifeMed Safety, Inc.
2021-743: Approval of Advertisement and Bid Process for Bid No. CB 21-07 Moderate Risk Waste Facility Retrofit Project
2021-744: Approval of Zone Change Application ZC 2021-001 for the Change in Zoning Classification On Five Parcels From Rural Lands Five Acre and Heavy Industrial to General Commercial
2021-745: Approval of Zone Change Application ZC 2021-002 for the Change in Zoning Classification On Two Parcels From Light Industrial to Interchange Commercial

There being no further business before the Board, the meeting adjourned at approximately 9:43 a.m.

_____ _____

Clerk of the Board Chairman

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	October 19, 2021
Subject:	Establish Travel Card Account Revolving Fund
Presenter:	
Prepared By:	Brenda Chilton
Reviewed By:	Lorene Roe

PA Review, Approval to Form: ☐ Yes ☐ No ☒ N/A *(If no, include reasoning for no approval)*

Type of Agenda Item:	**Type of Action Needed:** *(Multiple boxes can be checked, if necessary)*	
☒ Consent Agenda	☐ Discussion Only	☐ Pass Motion
☐ Public Hearing	☐ Decision / Direction	☒ Pass Resolution
☐ Scheduled Business	☐ Sign Letter / Document	☐ Pass Ordinance
		☐ Execute Contract

Summary / Background Information

The recently passed Business Travel and Expense Policy provides for the issuance of pre-paid debit cards for advanced travel meal per diem expenses. To facilitate loading of the pre-paid cards with the vendor it is necessary to set up a revolving fund of $10,000.

Fiscal Impact

None.

Recommendation

Move to establish the establish the TRAVEL CARD ACCOUNT REVOLVING FUND in the sum of $10,000 to facilitate loading of pre-paid debit cards for advanced travel meal per diem pursuant to the Benton County Business Travel and Expense Policy.

Suggested Motion

Part of consent agenda

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF ESTABLISHING THE TRAVEL CARD ACCOUNT REVOLVING FUND IN THE AMOUNT OF $10,000 FOR THE ADMINISTRATION OF PREPAID DEBIT CARDS PURSUANT TO THE BENTON COUNTY BUSINESS TRAVEL AND EXPENSE POLICY

WHEREAS, the Benton County Business Travel and Expense Policy, Resolution No. 2021-734, provides for the issuance of pre-paid debit cards for advanced travel meal per diem; and

WHEREAS, to administer the issuance of the pre-paid debit cards for advanced travel meal per diem it is necessary to set up a revolving fund to service loading of the cards with the vendor, Rapid Investments, Inc., dba Rapid Financial Solutions, pursuant to the agreement approved by the Board Commissioners by Resolution No. 2021-385; **NOW, THEREFORE,**

BE IT RESOLVED, that the Auditor's Office is authorized to establish the TRAVEL CARD ACCOUNT REVOLVING FUND in the sum of $10,000 to facilitate loading of pre-paid debit cards for advanced travel meal per diem pursuant to the Benton County Business Travel and Expense Policy; and

BE IT FURTHER RESOLVED, that Aileen Coverdell, Accounting Services Manager, shall be the custodian of the fund.

Dated this _____day of _____, 2021

_____
Chairman of the Board

_____
Member

_____
Member

Constituting the Board of County Commissioners of Benton County, Washington

Attest: _____
Clerk of the Board

CC: B. Chilton, Auditor, Treasurer, File

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	October 19, 2021
Subject:	*Contract with S. Morris Company*
Presenter:	N/A
Prepared By:	Joshua Castilleja
Reviewed By:	Eric Andrews

PA Review, Approval to Form: ☒ Yes ☐ No ☐ N/A *(If no, include reasoning for no approval)*

Type of Agenda Item:	**Type of Action Needed:** *(Multiple boxes can be checked, if necessary)*	
☒ Consent Agenda	☐ Discussion Only	☐ Pass Motion
☐ Public Hearing	☐ Decision / Direction	☒ Pass Resolution
☐ Scheduled Business	☐ Sign Letter / Document	☐ Pass Ordinance
		☒ Execute Contract

Summary / Background Information

Unfortunately, Benton County Canine Shelter (BCCS) sometimes has to humanely euthanize dogs that have come into the BCCS due to court orders, health reasons, or bite incidents. The BCCS Supervisor is recommending re-entering into a contract with The S. Morris Co. for "as needed" pet cremation services, which includes picking up euthanized animals on an "as needed" basis, cremating the euthanized animals at The S. Morris Co.'s facility, and disposing of the ashes.

Fiscal Impact

Pick up & cremation rate equals $0.68 per pound with a total amount not to exceed $10,000 (including WSST) to be paid out of Current Expense (0000-101) Department 137 Animal Control's Budget. No supplement required.

Recommendation

Pass the Resolution

Suggested Motion

N/A consent agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF A PERSONAL SERVICE CONTRACT BETWEEN BENTON COUNTY AND THE S. MORRIS CO. FOR "AS NEEDED" PET CREMATION SERVICES FOR THE BENTON COUNTY ANIMAL CONTROL FACILITY

WHEREAS, per Benton County resolution 2021-233, "The County need not advertise or follow a formal competitive bidding procedure for service contracts (except for architectural, engineering, or design services), but rather the County may instead evaluate and utilize the procedures it deems best under the individual circumstances in order to obtain services of the highest quality at the lowest cost..."; and

WHEREAS, the Benton County Animal Control recommends entering into a Personal Service Contract with The S. Morris Co. for animal cremation services, which includes picking up euthanized animals on an "as needed" basis, cremating the euthanized animals at The S. Morris Co.'s facility, and disposing of the ashes; **NOW, THEREFORE**

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington hereby concurs with the recommendation and authorizes the Chairman of the Board to sign the attached agreement between Benton County and The S. Morris Co. for a contract amount not to exceed $10,000 including WSST; and

BE IT FURTHER RESOLVED, the contract shall commence January 1, 2022 and shall terminate December 31, 2023.

Dated this _____ day of _____, _____

_____
Chairman of the Board

_____
Member

_____
Member

Attest: _____
Clerk of the Board

Constituting the Board of County Commissioners of Benton County, Washington

Orig: BC Animal Control
cc: Auditor; PA; Contract Management; The S. Morris Co., File

Prepared by: J. Castilleja

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 **THE S. MORRIS CO.**, a for profit corporation organized under the laws of the State of Washington, with its principal offices at 32819 SR2, Sultan, WA 98294 (hereinafter "CONTRACTOR").

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

1. CONTRACT DOCUMENTS

This Contract consists of the Terms and Conditions contained in this document.

2. DURATION OF CONTRACT

The term of this Contract shall commence January 1, 2022, and shall expire on December 31, 2023. The CONTRACTOR shall complete all work by the time(s) specified herein, or if no such time is otherwise specified, no later than the expiration date.

3. SERVICES PROVIDED

The CONTRACTOR shall perform the following services:

a. "As needed" pet cremation services, including: picking up and removing euthanized pets from the Benton County Animal Control Facility, located at 1116 N. Grant Place in Kennewick, Washington, on an "as needed" basis; transporting euthanized pets to CONTRACTOR'S facility for cremation; and properly cremating and disposing of the ashes of euthanized pets. COUNTY will store euthanized pets in a freezer until the CONTRACTOR, within a reasonable period of time, picks up and removes the euthanized pets.

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

c. 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.

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' representatives are as follows:

a. For CONTRACT:

Attention: Vice President, Sales
2 Daniels Way,
Cranston, RI. 02921

b. For COUNTY:

Joshua Castilleja
1116 N. Grant Place
Kennewick, WA 99336
(509) 460-4923

5. COMPENSATION

a. For CONTRACTOR'S performance of pet cremation services, in accordance with Section 3 of this Contract, COUNTY shall pay the CONTRACTOR at the rate of Sixty-Eight Cents ($0.68) per pound.

b. The maximum total amount payable by the COUNTY to the CONTRACTOR under this Contract shall not exceed Ten Thousand Dollars and Zero Cents ($10,000.00), including WSST.

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

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

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

Contract or after its termination.

6. AMENDMENTS AND CHANGES IN WORK

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

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

7. HOLD HARMLESS AND INDEMNIFICATION

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

b. In any and all claims against the COUNTY or its officers, officials, employees, or 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. BREACH

In the event of a breach of any of the provisions of this Contract by CONTRACTOR or CONTRACTOR'S agents, representatives, or employees, the COUNTY may immediately terminate this Contract upon giving written notice to CONTRACTOR'S Contract Representative, 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 damages (including consequential damages and costs) suffered by the COUNTY by reason of the CONTRACTOR'S breach.

9. INSURANCE

a. **Workers Compensation:** CONTRACTOR shall comply with all State of Washington workers compensation statutes and regulations. Prior to the start of work under this Contract, workers compensation coverage shall be provided for all employees of CONTRACTOR and employees of any subcontractor or sub-subcontractor. Coverage shall include bodily injury (including death) by accident or disease, which arises out of or in connection

with the performance of this Contract. CONTRACTOR shall submit to the COUNTY a copy of its certificate of coverage from the Washington State Department of Labor and Industries prior to commencement of work. Except as prohibited by law, CONTRACTOR waives all rights of subrogation against the COUNTY for recovery of damages to the extent they are covered by workers compensation and employers liability.

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

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

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

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

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

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

c. **Automobile Liability:** The CONTRACTOR shall maintain, during the life of this Contract, Automobile Liability Insurance (ISO Form Number CA0001) covering any auto (Code 1), or if the CONTRACTOR has no owned autos, covering any hired (Code 8) and non-owned autos (Code 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 be by the CONTRACTOR or by anyone directly or indirectly employed by the CONTRACTOR.

d. **Other Insurance Provisions:**

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

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

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

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

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

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

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

8. The 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, 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 Agreement are expressly conditioned upon CONTRACTOR'S strict compliance with all insurance requirements. Payment to CONTRACTOR may be suspended in the event of non-compliance. Upon receipt of evidence of CONTRACTOR'S compliance, such payments not otherwise subject to withholding or set-off will be released to CONTRACTOR.

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

All insurance required under this Contract shall be issued by companies authorized to do business under the laws of the State of Washington and 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 Workmen's 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 and 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 9 and notice of cancellation or change of required insurance coverages shall be mailed to the COUNTY'S Contract Representative referenced in Section 4.

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

10. TERMINATION

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

b. 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 interests of the CONTRACTOR. The CONTRACTOR may terminate this Contract upon giving ten (10) days written notice by certified mail to the COUNTY. 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.

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 paragraph shall be effective upon the date specified in the written notice of termination sent by COUNTY to the CONTRACTOR. After the effective date, no charges incurred under this Contract shall be allowed.

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

12. NON-WAIVER OF RIGHTS

The parties agree that the excuse or forgiveness of performance or waiver of any provision 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.

13. 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-upon 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. CONTRACTOR shall pay for all taxes, fees, licenses, or payments required by federal, state. or local law which are now or may be enacted during the term of this 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.

14. COMPLIANCE WITH LAWS

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

15. 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 termination or expiration of this Contract.

16. NONDISCRIMINATION

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

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 their 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, 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 shall be effective if personally served upon the other party or if mailed by registered or certified mail, return receipt requested, to the addresses set out in the Contract Representatives Section of this Contract. Notice may also be given by facsimile with the original to follow by regular mail. Notice shall be deemed to be given three days following the date of mailing or immediately, if personally served. For service by facsimile, service shall be effective at the beginning of the next working day.

24. LITIGATION HOLD NOTICE

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

25. PUBLIC RECORDS ACT

CONTRACTOR 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, 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 actually in its possession or in CONTRACTOR'S possession. This may include records provided to the COUNTY by CONTRACTOR that CONTRACTOR might regard as confidential or proprietary. To the extent that CONTRACTOR provides any records to the COUNTY that it regards as confidential or proprietary, it agrees to conspicuously mark the records as such. 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. COUNTY agrees to take all reasonable steps to notify CONTRACTOR in a timely fashion of any request made under the Public Records Act which will require disclosure of any records marked by CONTRACTOR as confidential or proprietary, so that CONTRACTOR may seek a judicial order of protection if necessary.

26. SURVIVABILITY

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

- This section was intentionally left blank -

IN WITNESS WHEREOF, the parties have caused this Contract to be signed by their duly constituted legal representatives and it is effective on the last date signed:

The parties specifically certify that the provisions contained in Section 7 are mutually negotiated.

Date: _____

BENTON COUNTY

_____
Chairman
Benton County Commissioner

Approved as to Form

_____
Civil Deputy Prosecuting Attorney

Date: 10-4-21

THE S.MORRIS CO.

_____
Signature

Everett Alford Facility Manager
Print Name and Title

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	October 19, 2021
Subject:	*Contract with Vista Veterinary Hospital Spay/Neuter Services*
Presenter:	N/A
Prepared By:	Joshua Castilleja
Reviewed By:	Eric Andrews

PA Review, Approval to Form: ☒ Yes ☐ No ☐ N/A *(If no, include reasoning for no approval)*

Type of Agenda Item:	**Type of Action Needed:** *(Multiple boxes can be checked, if necessary)*	
☒ Consent Agenda	☐ Discussion Only	☐ Pass Motion
☐ Public Hearing	☐ Decision / Direction	☒ Pass Resolution
☐ Scheduled Business	☐ Sign Letter / Document	☐ Pass Ordinance
		☒ Execute Contract

Summary / Background Information

Animals housed at the Benton County Canine Shelter (BCCS), upon adoption are required to be spayed or neutered. A contract with a licensed veterinarian is needed to provide such treatment. The BCCS Supervisor recommends re-entering into a contract with Vista Veterinary Hospital Inc. PC doing Business as Vista Veterinary Hospital for "as needed" spay and neuter services for animals housed at BCCS.

Fiscal Impact

Amount not to exceed $15,000 to be paid out of current expense (0000-101) department 137 Canine Shelter's Budget. No supplement required.

Recommendation

Pass the resolution

Suggested Motion

N/A consent agenda

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF A PROFESSIONAL SERVICE CONTRACT BETWEEN BENTON COUNTY AND VISTA VETERINARY HOSPITAL INC., P.C. DOING BUSINESS AS VISTA VETERINARY HOSPITAL FOR "AS NEEDED" SPAY AND NEUTERING SERVICES FOR THE ANIMALS HOUSED IN THE BENTON COUNTY ANIMAL CONTROL FACILITY

WHEREAS, per Benton County resolution 2021-233, "The County need not advertise or follow a formal competitive bidding procedure for service contracts (except for architectural, engineering, or design services), but rather the County may instead evaluate and utilize the procedures it deems best under the individual circumstances in order to obtain services of the highest quality at the lowest cost..."; and

WHEREAS, the Benton County Animal Control Manager recommends entering into a Professional Service Contract with Vista Veterinary Hospital for "as needed" spay and neutering services and other medical services they are qualified to perform for the animals housed in the Benton County Animal Control facility; **NOW, THEREFORE**

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington hereby concurs with the recommendation and authorizes the Chairman of the Board to sign the attached agreement between Benton County and Vista Veterinary Hospital for a contract amount not to exceed $15,000; and

BE IT FURTHER RESOLVED the contract shall commence January 1, 2022 and shall terminate December 31, 2022.

Dated this _____ day of _____, _____

_____
Chairman of the Board

_____
Member

_____
Member

Constituting the Board of Commissioners
of Benton County, Washington

Attest_____
Clerk of the Board

Orig: BC Animal Control
cc: Auditor; PA; Contract Management; Vista Vet, File

Prepared by: J. Castilleja

PROFESSIONAL SERVICES CONTRACT
TERMS AND CONDITIONS

THIS CONTRACT is made and entered into by and between **BENTON COUNTY** (hereinafter "COUNTY"), a political subdivision with its principal offices at 620 Market Street, Prosser, WA 99350 (hereinafter "COUNTY"), operator of **BENTON COUNTY ANIMAL CONTROL** (hereinafter "BCAC"), and **VISTA VETERINARY HOSPITAL, INC. P.C.**, doing business as Vista Veterinary Hospital (hereinafter "CONTRACTOR"), a professional service corporation organized under the laws of the State of Washington with its principal offices at 5603 W. Canal Drive, Kennewick WA 99336.

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

1. CONTRACT DOCUMENTS

This Contract consists of the Professional Services Contract Terms and Conditions (this document).

2. DURATION OF CONTRACT

The term of this Contract shall commence on January 1, 2022. and shall terminate on December 31, 2022, unless terminated earlier pursuant to Section 11 of this Contract.

3. VETERINARIAN SERVICES TO BE PROVIDED:

a. The CONTRACTOR, through its licensed veterinarians and qualified employees, shall provide as needed spay and neuter services for animals housed in the Benton County Animal Control Facility operated by BCAC and located at 1116 Grant Place, Kennewick, WA 99336. Services provided under this Contract shall be provided at CONTRACTOR'S facility located at 5603 W. Canal Drive in Kennewick, Washington or at such other suitable location as agreed upon by the parties' Contract Representatives. All services provided under this Contract shall be performed in accordance with current veterinary medical standards in existence at the time that such work is performed.

b. The COUNTY does not guarantee utilization of this Contract. The COUNTY may award contracts to other vendors for similar

services. Actual utilization will be based on availability or any other factor deemed important to the COUNTY.

c. The CONTRACTOR agrees to provide its own equipment, labor, materials, and facilities. Unless otherwise provided in this Contract or agreed upon by the parties, no equipment, labor, materials, or facilities will be furnished by the COUNTY.

4. CONTRACT REPRESENTATIVES

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

For CONTRACTOR:

Dr. Michelle Meyer
5603 W. Canal Drive
Kennewick, WA 99336
(509) 783-2131

For COUNTY:

Josh Castilleja
1116 Grant Place
Kennewick, WA 99336
(509) 460-4923

5. COMPENSATION

The COUNTY will pay CONTRACTOR to perform services in accordance with Section 3 of this Contract as follows:

a. Spay Rates:
   i. $95.00 per animal that is less than 50lbs
   ii. $148.00 per animal that is greater that 50lbs or this in heat or that is pregnant

b. Neuter Rates:
   i. $70.00 per animal that is less than 50lbs
   ii. $122.00 per animal that is greater than 50lbs

c. The maximum total amount payable by the COUNTY to the CONTRACTOR for the performance of services outlined in Section 3 of this Contract shall not exceed Fifteen Thousand Dollars and Zero Cents ($15,000.00), including W.S.S.T. Payment of any dollar amount above the maximum payable amount will only be approved with an amendment to this Contract executed in accordance with Section 6 of this Contract.

d. Billings for services shall be submitted for payment to the Benton County Animal Control Facility at 1116 N. Grant Place, Kennewick, WA 99336. Each bill shall detail the name of the animal, case number, date of service, and the service(s) performed. Payment to the CONTRACTOR for such services will be based on the standard rates set forth in Section 5.a. of this Contract. The COUNTY shall authorize payment when the service billed is accepted by the COUNTY, and will remit authorized payments within thirty (30) days after receiving the billing for service.

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

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

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

6. AMENDMENTS AND CHANGES IN WORK

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

b. No amendment or modification shall be made to this Contract,

unless set forth in a written Contract Amendment signed by both parties. Work under a Contract Amendment shall not proceed until the Contract Amendment is duly executed by the COUNTY.

7. QUALIFICATIONS OF CONTRACTOR'S VETERINARIANS AND STAFF

By executing this Contract, CONTRACTOR guarantees that all veterinarians employed and working at its facility, the Vista Veterinary Hospital, are licensed in the State of Washington to practice veterinary medicine. The CONTRACTOR shall ensure that all of its veterinarians are continually licensed throughout the duration of the Contract. The CONTRACTOR guarantees that any employee of the CONTRACTOR who performs work pursuant to this Contract is properly licensed and/or certified in accordance with all applicable federal, state, and local laws, rules, and regulations. The CONTRACTOR shall ensure that any employee performing work pursuant to this Contract is licensed and/or certified at the time he or she performs such work.

8. ASSIGNMENT, DELEGATION AND SUBCONTRACTING

a. The CONTRACTOR shall perform the terms of the 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 CONTRACTOR, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award or making of this Contract.

9. PERMITS AND LICENSES

The CONTRACTOR shall have and maintain any and all applicable professional, federal, state, or local certifications, licenses, or permits required by law and this Contract. The CONTRACTOR shall have sole responsibility for the cost of obtaining and maintaining such licenses, certifications, and permits. Proof of required certifications, licenses, and permits shall be provided to COUNTY within ten (10) days of the date of this Contract.

10. HOLD HARMLESS AND INDEMNIFICATION

CONTRACTOR shall hold harmless, indemnify, and defend Benton County and its officers, officials, employees, representatives, 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, caused in whole or in part by any act or omission, negligent or otherwise, of CONTRACTOR or its veterinarians, technicians, agents, representatives, or employees, which arise in connection with the work performed under this Contract or are caused in whole or in part by reason of the presence of the CONTRACTOR or its veterinarians, technicians, agents, representatives, or employees or their property upon or in the proximity of the property of the COUNTY. PROVIDED that CONTRACTOR'S obligation hereunder shall not extend to injury, sickness, death, or damage caused by or arising out of the sole negligence of the COUNTY or its officers, officials, employees, or agents.

In any and all claims against Benton County and its officers, officials, representatives, employees, and agents by CONTRACTOR, any subcontractor, anyone directly or indirectly employed by CONTRACTOR, or anyone for whose acts CONTRACTOR 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 CONTRACTOR or any subcontractor under Workers Compensation acts, disability benefits acts, or other employee benefit acts, it being agreed and understood by the parties hereto that CONTRACTOR expressly waives any immunity CONTRACTOR might have had under such laws, including but not limited to Title 51 of the Revised Code of Washington. **By executing this Contract, 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 CONTRACTOR makes with any other person or agent performing work hereunder. CONTRACTOR'S obligations under this Section 10 shall survive termination and expiration of this Contract.**

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

CONTRACTOR, CONTRACTOR'S representatives, agents, or subcontractors.

11. TERMINATION

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

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

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

12. 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, which must be written subject to limits of not less than one million dollars

($1,000,000) each claim and two million dollars ($2,000,000) 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 thirty-six (36) months after the effective date of termination or completion of this Contract. If coverage is canceled or not renewed, and is not replaced with another claims made policy form with a retroactive date prior to the Contract's effective date, the CONTRACTOR must purchase "extended reporting" coverage for a minimum of thirty-six (36) months after the completion of work. The CONTRACTOR shall annually provide 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 employer's liability.

If CONTRACTOR or any 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, which may arise from any actions or inactions under this Contract by CONTRACTOR or by anyone directly employed by or contracting with CONTRACTOR. The minimum commercial general liability insurance limits shall be as follows:

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

The commercial general liability policy will 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 obtain commercial general liability coverage that does not exclude any activity to be performed in fulfillment of this Contract and does not exclude liability pursuant to the indemnification requirement under Section 10 of this Contract. 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 auto (Symbol 1), or if the CONTRACTOR has no owned autos, any hired (Symbol 8) and non-owned autos (Symbol 9), in the amount of not less than one million dollars ($1,000,000) per accident for Bodily Injury and Property Damage to protect CONTRACTOR from claims which may arise from the performance of this Contract, whether such operations be by the CONTRACTOR or by anyone directly or indirectly employed by the CONTRACTOR.

e. **Other Insurance Provisions**

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

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

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

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

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

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

7. The CONTRACTOR shall maintain all required policies in force from the time services commence until services are completed. Certificates, policies, and endorsements expiring before completion of services shall be promptly replaced. All liability insurance required under this Contract, except for professional liability under Section 12(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 Agreement are expressly conditioned upon CONTRACTOR'S strict compliance with all insurance requirements. Payment to CONTRACTOR may be suspended in the event of non-compliance. Upon receipt of evidence of CONTRACTOR'S compliance, such payments not otherwise subject to withholding or set-off will be released to CONTRACTOR.

f. **Verification of Coverage and Acceptability of Insurers**

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

1. All insurance to be maintained by the CONTRACTOR, other than Professional Liability, Auto Liability, and Workers' Compensation, shall specifically include the COUNTY and its elected officials, employees, and volunteers as an "Additional Insured" by way of endorsement and shall not be reduced or canceled without thirty (30) days prior written notice to the COUNTY. Any insurance or self-insurance maintained by the COUNTY and its elected and 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 set forth in Section 4.

3. All written notices under this Section 12 and notice of cancellation or change of required insurance coverages shall be mailed to the COUNTY'S Contract Representative set forth in Section 4.

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

13. NON-WAIVER OF RIGHTS

The parties agree that the excuse or forgiveness of performance or waiver of any provision 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.

14. 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 the CONTRACTOR is not 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. CONTRACTOR shall pay for all taxes, fees, licenses, or payments required by federal, state, or local law, which are now or may be enacted during the term of this 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.

15. COMPLIANCE WITH LAWS

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

16. 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 all records required by this Contract or created in the performance of this contract for six (6) years after termination of this Contract for audit purposes.

17. NONDISCRIMINATION

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

18. DISPUTES

Differences 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, or designee, shall be final and conclusive, subject to CONTRACTOR'S right to seek judicial relief.

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

20. CHOICE OF LAW, JURISDICTION, AND VENUE

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

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

21. SUCCESSORS AND ASSIGNS

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

22. SEVERABILITY

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

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

23. ENTIRE CONTRACT

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

24. NOTICES

Any notices shall be effective if personally served upon the other party or if mailed by registered or certified mail, return receipt requested, to the addresses set out in the Contract Representatives Section of this Contract. Notice may also be given by facsimile with the original to follow by regular mail. Notice shall be deemed to be given three days following the date of

mailing or immediately, if personally served. For service by facsimile, service shall be effective at the beginning of the next working day.

25. SURVIVABILITY

All Contract terms, which by their context are clearly intended to survive the termination and/or expiration of this Contract, shall so survive. These terms include but are not limited to the following provisions: indemnification; insurance; non-waiver, inspection of books and records; choice of law; compliance with laws; litigation hold; and the Public Records Act.

26. LITIGATION HOLD NOTICE

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

27. PUBLIC RECORDS ACT

CONTRACTOR 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, 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 actually in its possession or in CONTRACTOR'S possession. This may include records provided to the COUNTY by CONTRACTOR that CONTRACTOR might regard 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. 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. COUNTY agrees to take all reasonable steps to notify CONTRACTOR in a timely fashion of any request made under the Public Records Act which will require disclosure of any records

marked by CONTRACTOR as confidential or proprietary, so that CONTRACTOR may seek a judicial order of protection if necessary.

IN WITNESS WHEREOF, the parties have caused this Contract to be signed by their duly constituted legal representatives and it is effective on the last date signed:

Date: _____

Benton County

_____
Chairman
Benton County Commissioner

Approved as to Form:

_____
Eric Andrews
Civil Deputy Prosecuting Attorney

Date: 10/6/21

Vista Veterinary Hospital, Inc. PC

_____
Dr. Michelle Meyer
Vice President

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	October 19, 2021
Subject:	*Contract with Vista Veterinary Hospital as needed services*
Presenter:	N/A
Prepared By:	Joshua Castilleja
Reviewed By:	Eric Andrews

PA Review, Approval to Form: ☒ Yes ☐ No ☐ N/A *(If no, include reasoning for no approval)*

Type of Agenda Item:	**Type of Action Needed:** *(Multiple boxes can be checked, if necessary)*	
☒ Consent Agenda	☐ Discussion Only	☐ Pass Motion
☐ Public Hearing	☐ Decision / Direction	☒ Pass Resolution
☐ Scheduled Business	☐ Sign Letter / Document	☐ Pass Ordinance
		☒ Execute Contract

Summary / Background Information

Sometimes the animals housed at Benton County Canine Shelter (BCCS), animals being brought into BCCS, or animals owned by the Sheriff's Office (the K9 dog) need medical treatment that cannot be provided by BCCS staff. A contract with a licensed veterinarian is needed to provide such treatment. The BCCS Supervisor recommends re-entering into a contract with Vista Veterinary Hospital Inc. PC doing business as Vista Veterinary Hospital Inc, PC "as Needed" veterinarian medical services for animals housed at BCCS and animals owned by the Sheriff's Office.

Fiscal Impact

Amount not to exceed $20,000 to be paid out to Current Expense (0000-101) Department 137 Canine Shelter's Budget (Sheriff's Office will pay the medical bills for the K9 dog out of their budget). No supplement required.

Recommendation

Pass the Resolution

Suggested Motion

N/A consent agenda

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF A PROFESSIONAL SERVICE CONTRACT BETWEEN BENTON COUNTY AND VISTA VETERINARY HOSPITAL, INC. PC DOING BUSINESS AS VISTA VETERINARY HOSPITAL, INC. PC FOR "AS NEEDED" VETERINARIAN MEDICAL SERVICES FOR THE ANIMALS HOUSED IN THE BENTON COUNTY ANIMAL CONTROL FACILITY AND ANIMALS OWNED BY THE BENTON COUNTY SHERIFF'S OFFICE

WHEREAS, per Benton County resolution 2021-233, "The County need not advertise or follow a formal competitive bidding procedure for service contracts (except for architectural, engineering, or design services), but rather the County may instead evaluate and utilize the procedures it deems best under the individual circumstances in order to obtain services of the highest quality at the lowest cost..."; and

WHEREAS, the Benton County Animal Control Manager recommends entering into a Professional Service Contract with Vista Veterinary Hospital, Inc. PC for "as needed" veterinarian medical services for the animals housed in the Benton County Animal Control Facility and animals owned by the Benton County Sheriff's Office for a contract amount not to exceed $20,000; **NOW, THEREFORE**

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington hereby concurs with the recommendation and authorizes the Chairman of the Board to sign the attached agreement between Benton County and Vista Veterinary Hospital for a contract amount not to exceed $20,000; and

BE IT FURTHER RESOLVED, the contract shall commence January 1, 2022 and shall terminate December 31, 2022.

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

Orig: BC Animal Control
cc: Auditor; PA; Contract Management; Vista Vet, File

Prepared by: J. Castilleja

PROFESSIONAL SERVICES CONTRACT
TERMS AND CONDITIONS

THIS CONTRACT is made and entered into by and between **BENTON COUNTY** ("COUNTY"), a political subdivision of the State of Washington, (hereinafter "COUNTY"), operator of **BENTON COUNTY ANIMAL CONTROL** (hereinafter "BCAC"), with its principal offices at 620 Market Street, Prosser, WA 99350 and **VISTA VETERINARY HOSPITAL INC. P.C.**, doing business as Vista Veterinary Hospital ("CONTRACTOR"), a professional service corporation organized under the laws of the State of Washington with its principal offices at 5603 W. Canal Drive, Kennewick, WA 99336.

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

1. CONTRACT DOCUMENTS

This Contract consists of the Professional Services Contract Terms and Conditions (this document).

2. DURATION OF CONTRACT

The term of this Contract shall commence on the January 1, 2022 and shall terminate on December 31, 2022, unless terminated earlier pursuant to Section 11 of this Contract.

3. VETERINARIAN SERVICES TO BE PROVIDED

a. The CONTRACTOR, through its licensed veterinarians and qualified employees, shall provide as-needed veterinarian medical services and supplies to all animals housed in the Benton County Animal Control Facility, operated by Benton County Animal Control, located at 1116 Grant Place, Kennewick, WA 99336 and all animals owned by the Benton County Sheriff's Office located at 7122 W. Okanogan Place, Building B, Kennewick, WA 99336. All services provided under this Contract shall be performed in accordance with current veterinary medical standards in existence at the time that such work is performed.

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

c. The COUNTY does not guarantee utilization of this Contract. The COUNTY may award contracts to other vendors for similar services. Actual utilization will be based on availability or any other factor deemed important to the COUNTY.

4. CONTRACT REPRESENTATIVES

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

For CONTRACTOR:

Dr. Michelle Meyer
5603 W Canal Drive
Kennewick, WA 99336
(509) 783-2131

For COUNTY:

Joshua Castilleja
1116 Grant Place
Kennewick, WA 99336
(509) 460-4923

5. COMPENSATION

For the services performed hereunder, the CONTRACTOR shall be paid as follows:

a. The CONTRACTOR shall provide a thirty percent (30%) discount off the CONTRACTOR'S standard fee schedule at the time of service for all exams and radiographs. If an animal requires treatment for a traumatic injury or condition (*e.g.*, a trauma requiring surgery), the applicable discount, at a minimum, shall be no less than thirty percent (30%) off the CONTRACTOR'S standard fee schedule at the time of service; however, the discount may be greater based on a case-by-case determination. The CONTRACTOR shall also provide a thirty percent (30%) discount on all supplies.

b. The maximum total amount payable by the COUNTY to the CONTRACTOR for the performance of services set forth in Section 3 of this Contract shall not exceed Twenty Thousand Dollars and Zero Cents ($20,000.00), including W.S.S.T. Payment of any dollar amount above the maximum payable amount

will only be approved with a Contract Amendment executed in accordance with Section 6 of this Contract.

c. Billings for services and supplies provided under this Contract shall be submitted for payment as follows: (1) for services or supplies for animals housed at the Benton County Animal Control Facility, billings shall be submitted to Benton County Animal Control at 1116 Grant Place, Kennewick, WA 99336; and (2) for services or supplies for animals owned by the Benton County Sheriff's Office, billings shall be submitted to the sheriff's office at 7122 W. Okanogan Place, Building B, Kennewick, WA 99336. Each bill shall detail the name of the animal, the date of service or purchase, and the service(s) performed or the supplies purchased. The COUNTY shall authorize payment when the billed for service or supplies are accepted by the COUNTY and will remit authorized payments to the CONTRACTOR within thirty (30) days after receiving the billing.

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

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

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

6. AMENDMENTS AND CHANGES IN WORK

a. In the event of any errors or omissions by the CONTRACTOR in the performance of any work required under this Contract, the CONTRACTOR shall make any and all necessary corrections without additional compensation for those services. All work performed 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 performed, 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

expenses, damages, and judgments of any nature whatsoever, including reasonable costs and attorneys' fees in defense thereof, for injury, sickness, disability, or death to persons or damage to property or business, caused in whole or in part by any act or omission, negligent or otherwise, of the CONTRACTOR or its veterinarians, technicians, agents, representatives, or employees, which arise in connection with the work performed under this Contract, or are caused or occasioned in whole or in part by reason of the presence of the CONTRACTOR or its subcontractors or their property upon or in the proximity of the property of the COUNTY. PROVIDED, that the CONTRACTOR'S obligation hereunder shall not extend to injury, sickness, death, or damage caused by or arising out of the sole negligence of the COUNTY or its officers, officials, employees, or agents.

In 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 10 shall survive termination and expiration of this Contract.**

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.

11. TERMINATION

a. The COUNTY may terminate this Contract in whole or in part whenever the COUNTY determines in its sole discretion that such termination is in the best interests of the COUNTY. The COUNTY may terminate this Contract upon giving ten (10) days

written notice by certified mail to the CONTRACTOR. In that event, the COUNTY shall pay the CONTRACTOR for all cost incurred by the CONTRACTOR in performing the Contract up to the date of such notice. Payment shall be made in accordance with the Compensation Section of this Contract.

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

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

12. 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, which must be written subject to limits of not less than one million dollars ($1,000,000) each claim and two million dollars ($2,000,000) 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 thirty-six (36) months after the effective date of termination or completion of this Contract. If coverage is canceled or not renewed, and is not replaced with another claims-made policy form with a retroactive date prior to the Contract's effective date, the CONTRACTOR must purchase "extended reporting" coverage for a minimum of thirty-six (36) months after the completion of work. The CONTRACTOR shall annually provide 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 or any 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, which may arise from any

actions or inactions under this Contract by CONTRACTOR or by anyone directly employed by or contracting with CONTRACTOR. The minimum commercial general liability insurance limits shall be as follows:

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

The commercial general liability policy will 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 obtain commercial general liability coverage that does not exclude any activity to be performed in fulfillment of this Contract and does not exclude liability pursuant to the indemnification requirement under Section 10 of this Contract. The 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. Other Insurance Provisions

1. The CONTRACTOR'S liability insurance provisions shall be primary with respect to any insurance or self-insurance programs covering the COUNTY and its elected and appointed officers, officials, employees, and agents. CONTRACTOR'S liability insurance policies must be endorsed to show this primary coverage. Any insurance, self-insured retention, deductible, or risk retention maintained or participated in by the COUNTY shall be

excess and not contributory to CONTRACTOR'S insurance policies.

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

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

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

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

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

7. The CONTRACTOR shall maintain all required policies in force from the time services commence until services are completed. Certificates, policies, and endorsements expiring before completion of services shall be promptly replaced. All liability insurance required under this Contract, except for professional liability under Section 12(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 Agreement are expressly conditioned upon CONTRACTOR'S strict compliance with all insurance requirements. Payment to CONTRACTOR may be suspended in the event of non-compliance. Upon receipt of evidence of CONTRACTOR'S compliance, such payments not otherwise subject to withholding or set-off will be released to CONTRACTOR.

e. Verification of Coverage and Acceptability of Insurers

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

1. All insurance to be maintained by the CONTRACTOR, other than Professional Liability and Workers' Compensation, shall specifically include the COUNTY and its elected officials, employees, and volunteers as an "Additional Insured" by way of endorsement and shall not be reduced or canceled without thirty (30) days prior written notice to the COUNTY. Any insurance or self-insurance maintained by the COUNTY and its elected and 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 set forth in Section 4.

3. All written notices under this Section 12 and notice of cancellation or change of required insurance coverages shall be mailed to the COUNTY'S Contract Representative set forth in Section 4.

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

13. NON-WAIVER OF RIGHTS

The parties agree that the excuse or forgiveness of performance or waiver of any provision 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.

14. 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 the CONTRACTOR is not 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. CONTRACTOR shall pay for all taxes, fees, licenses, or payments required by federal, state, or local law, which are now or may be enacted during the term of this 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.

20. CHOICE OF LAW, JURISDICTION, AND VENUE

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

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

21. SUCCESSORS AND ASSIGNS

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

22. SEVERABILITY

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

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

23. ENTIRE CONTRACT

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

24. NOTICES

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 CONTRACTOR in a timely fashion of any request made under the Public Records Act which will require disclosure of any records marked by CONTRACTOR as confidential or proprietary, so that CONTRACTOR may seek a judicial order of protection if necessary.

- This section is intentionally left blank -

IN WITNESS WHEREOF, the parties have caused this Contract to be signed by their duly constituted legal representatives and it is effective on the last date signed:

Date:_____

BENTON COUNTY

_____

Chairman
Benton County Commissioner

Date: 10/4/21

VISTA VETERINARY HOSPITAL, INC. PC

_____

Dr. Michelle Meyer
Vice President

Approved as to Form:

_____

Eric Andrews
Civil Deputy Prosecuting Attorney

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

THE MATTER OF COUNTY FUNDS RE: TRANSFER OF FUNDS WITHIN CURRENT EXPENSE FUND NUMBER 0000-101 DEPARTMENT NUMBER 109

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: William Leach

EXHIBIT "A"

BENTON COUNTY LINE ITEM TRANSFER

Dept Name: Coroner

Dept Nbr: 109

Fund Name: Current Expense

Fund Nbr: 0000101

TRANSFER FROM:

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
563.200	4118	Autopsies	$2,000
TOTAL			$2,000

TRANSFER TO:

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
563.200	9305	New Computer & Hardware	$2,000
TOTAL			$2,000

Explanation:

With the addition of one new full time position through grant funding, there is a need for one additional desktop computer with monitors. The grant for the position did not include funds to purchase any equipment. The Coroner is transferring money from accounts with surplus balances to the New Computer Hardware and Software line item to purchase the needed computer.

Prepared by: William Leach

Date: 30-Sep-2021

Approved ☐

Denied ☐

Date: _____

_____
Chairman

_____
Member

_____
Member

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	October 19, 2021
Subject:	Approving a One-Year JAVS Digital Recording System Maintenance and Support Plan Renewal from Justice AV Solutions, Inc.
Presenter:	
Prepared By:	Alex Garcia
Reviewed By:	Robert Heard, Procurement Department

PA Review, Approval to Form: ☐ Yes ☐ No ☒ N/A *(If no, include reasoning for no approval)*

Type of Agenda Item:	**Type of Action Needed:** *(Multiple boxes can be checked, if necessary)*	
☒ Consent Agenda	☐ Discussion Only	☐ Pass Motion
☐ Public Hearing	☐ Decision / Direction	☒ Pass Resolution
☐ Scheduled Business	☒ Sign Letter / Document	☐ Pass Ordinance
		☐ Execute Contract

Summary / Background Information

On April 28, 2020 the Board signed Resolution 2020-307 using Trial Court Improvement funds to upgrade JAVS Digital Recording Software for Juvenile Justice Courtrooms 1 & 2. JAVS, Inc. is the sole provider and distributor of proprietary products and services which are solely developed, modified, distributed, and supported by JAVS, Inc. The JAVS maintenance and support contract for Juvenile Justice Courts has expired and is on grace period until October 31, 2021.

Information Technology recommends maintenance and support be renewed for Juvenile Justice JAVS Digital Recording System. Funds used to purchase equipment will be taken out of the Juvenile Justice Fund 0115101.171.00000.527.100.4103. JAVS Digital Recording System Maintenance and Support will be purchased from Justice AV Solutions, Inc. in an amount not to exceed $1,549.00 excluding Washington State Sales Tax.

Fiscal Impact

Amount: **$1,549.00 excluding WSST.**

Fund: **Juvenile Justice Fund 0115101.171.00000.527.100.4103**

Recommendation

Information Technology recommends that the Board approve the maintenance and support renewal of JAVS Digital Recording System for the Juvenile Justice Department.

Suggested Motion

Consent Agenda

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF APPROVING A ONE-YEAR JAVS DIGITAL RECORDING SYSTEM MAINTENANCE AND SUPPORT PLAN RENEWAL FROM JUSTICE AV SOLUTIONS, INC.

WHEREAS, on April 28, 2020, the Board of County Commissioners approved Resolution 2020-307 using Trial Court Improvement funds to upgrade JAVS Digital Recording System for Juvenile Justice Courtrooms 1 & 2; and

WHEREAS, Justice AV Solutions, Inc. (JAVS) maintenance and support are critical in helping preserve court records for Juvenile Justice Courts; and

WHEREAS, maintenance and support provides JAVS, Inc. technicians to provide preventative maintenance, on-site support and hardware warranty to maximize reliability of JAVS Digital Recording System; and

WHEREAS, JAVS provided a sole source letter to Benton County stating they are the developer and distributor of proprietary products and services which are solely developed, modified, distributed and supported by JAVS, Inc.; and

WHEREAS, the Prosecuting Attorney's Civil Division has reviewed the agreement and has approved to form; and

WHEREAS, the Purchasing Department has reviewed this purchase and found it complies with Procurement, Leasing, and Contracting Policy; **NOW THEREFORE,**

BE IT RESOLVED, the Board of Benton County Commissioners hereby concurs with Information Technology and approves a one-year JAVS Digital Recording System Maintenance and Support Plan renewal from Justice AV Solutions, Inc. in an amount not to exceed $1,549.00 excluding WSST; and

BE IT FURTHER RESOLVED, JAVS Digital Recording System support will begin August 1, 2021 and will expire July 31, 2022; and

BE IT FURTHER RESOLVED, the Chairman of the Board is hereby authorized to sign the attached quote.

Dated this 19 day of October , 2021

Chairman of the Board

Member

Member

Constituting the Board of County Commissioners
of Benton County, Washington

Attest: _____
Clerk of the Board

Orig: Information Technology
cc: Auditor

Prepared by: A. Garcia

Classic Coverage Extended Warranty, Preventative Maintenance and Support Agreement

This Extended Warranty, Preventative Maintenance, and Support Agreement "Agreement" is entered into by and between Justice AV Solutions "JAVS" and **Benton-Franklin Juvenile Justice Center** "Customer" located in **Kennewick, WA** for the period of **August 1, 2021** extending through **July 31, 2022.**

WHEREAS, Customer is in possession of the JAVS recording system(s) more particularly identified in Attachment A "System":

WHEREAS, JAVS will provide the following Extended Warranty Coverage, Preventative Maintenance, Support, and Services so as to maximize the reliability of Customer's systems(s) "Services;"

NOW, THEREFORE, in consideration of the promises and mutual covenants contained herein, the parties hereby agree as follows:

A. DEFINITIONS

- *CODEC*-Technically known as the video conferencing unit (VCU), the codec compresses and decompresses data for video signals.
- *Extended Warranty*-Coverage of JAVS provided equipment to include repair or replacement for a specified period after the expiration of the original warranty.
- *Preventative Maintenance (PM*)-The scheduled cleaning and adjustment of JAVS provided systems as outlined in the respective agreement.
- *Service*-The provision for onsite technical support, user training, and servicing JAVS provided equipment as defined by the contract.
- *Standard Travel*-Travel within the contiguous 48 states and within a 150-mile radius (300 miles round trip) of closest stationed JAVS service technician.
- *Support*-Remote phone and online troubleshooting and diagnostics.
- *Travel Premium*-Travel within the contiguous 48 states more than the 150-mile radius (300 miles round trip) from the closest stationed JAVS service technician calculated as a round trip distance less standard 300 miles divided by 70 MPH times the applicable hourly rate.
- *Warranty*-Coverage of JAVS provided equipment to include repair or replacement for a period of 1 year from the date of install.

B. SERVICES

1. Help Desk Support. In the event of a System(s) malfunction or questions about system operation, the Customer is encouraged to contact the JAVS help desk by phone at 877-528-7457 or via email at helpdesk@javs.com Monday-Friday 8:00 am to 9:30 pm EST. Calls after 9:30 pm local time will normally go to voicemail and be addressed at the beginning of the next business day. JAVS trained help desk staff to provide immediate troubleshooting, training, and diagnostics on common issues that can be resolved quickly. JAVS also provides on-line PC support and training through your internet connection. If the issue requires an on-site technician, our help desk will gather the necessary contact information including the: contact's name, phone number, city, system identification number, and detailed description

of the issue. The contact information is used by JAVS to log/track issues properly, assign priority levels based on contract status, and dispatch the appropriate technician to the Customer location.

2. Response Times. In the event that a component from Attachment A requires an on-site repair to address a reported issue, JAVS will schedule a visit during regular business hours. The response time is conditional to Customer's approved room and equipment availability and the severity of the issue, which is measured in four priority levels: Urgent, High, Normal, and Supportive. Any variation from the timeframes referenced below will be discussed and mutually agreed upon by Customer and JAVS. For clarification, the priority levels are described in Attachment B.

3. Extended Warranty. **Extended warranty is available on JAVS provided and installed equipment less than 5 years old, based on the date of installation**.
JAVS will provide and provision a prolonged warranty on JAVS supplied equipment, both of JAVS manufacture and third party, outside of the manufacturer's standard warranty. JAVS will attempt to repair the faulty equipment dependent upon parts and courtroom availability. If the equipment is not repairable in the field, JAVS at its discretion, will either provide a temporary unit until the original equipment is repaired and reinstalled, or a permanent exchange will be put in service. If the covered equipment requiring repair is no longer available or deemed non-repairable, JAVS will be responsible for the replacement product and all costs associated with its replacement.

   Non-warranted equipment:

   JAVS provided and installed equipment older than 5 years old, based on the date of installation.

   JAVS will attempt to repair the faulty equipment, dependent upon courtroom availability. For non-warranted equipment, the Customer is responsible for the cost of all repair parts, including shipping. From time to time, non-warranted equipment may be deemed non-repairable. If the non-warranted equipment is not repairable in the field, the Customer is responsible for the cost of the replacement product(s). JAVS recorders older than 5 years old, are not eligible for repair involving part(s) replacement and require the purchase of new recorder at client expense.
   For replacement items purchased from JAVS, JAVS will provide labor at no charge.

   Components of Polycom Video Conferencing Codecs are included with this agreement. The Codec unit itself has optional coverage directly through Polycom and is separate from this agreement. After the expiration of the initial warranty separate support coverage is available through Polycom. If the court wishes to renew the warranty, please reach out to megan.molnar@javs.com to request a quote.

4. On-site Warranty Support. JAVS will provide on-site warranty services, which include removing equipment and forwarding to the manufacturer for repair, installing loaner and/or new equipment as deemed necessary by JAVS, and re-installing repaired equipment; on all products listed on Attachment A.

5. Preventative Maintenance. JAVS will perform a bi-annual inspection, review, and operational test of the System and make adjustments as deemed necessary by JAVS. Preventative Maintenance includes updating any System software and firmware as required. All Preventative Maintenance will be coordinated and scheduled with a Customer appointed representative to occur during regular business

hours. JAVS will provide documentation to the Customer via a Preventative Maintenance form detailing the status of each system which includes key system information and hard drive capacity of the System. JAVS will document and test each function/mode of the entire System(s) which includes the automatic audio and video mixer/switcher, control boxes, microphones, cameras, time and date generator, monitors, streaming servers, recorders, PA processors and speakers, private mode feed muting, playback/presentation, assisted listening devices and audio/video conferencing to ensure proper creation of the audio/video record and system operation.

C. EXCLUSIONS

Notwithstanding anything to the contrary elsewhere in this Agreement, JAVS shall have no responsibility and/or liability regarding the following:

1. All video conferencing equipment, bandwidth, network stability, and call quality issues are the responsibility of the court. *
2. Normal wear and tear items such as back-up UPS batteries and projector lamps. *
3. Consumable items such as batteries, CD's, DVD's, printer paper, and print cartridges. *
4. Services, software, hardware, and Operating Systems that are no longer supported by a third party. *
5. Upgrades of Systems which would transition from analog camera systems to digital, or major software version upgrades, such as AutoLog 7 to AutoLog 8.
6. Vandalism (including inmate abuse), deliberate tampering with the System, intentional or unintentional damage caused by other contractors/staff, attempted repair and/or maintenance by any personnel not employed by JAVS. *
7. Repair or replacement of any equipment in the event of damage due to negligence or other claims covered by Customer's insurance. *
8. Customer-provided or non-JAVS certified equipment, hardware, and software. *
9. Moving of equipment. *
10. Customer requested on-site advanced training. *
11. Repairs and/or service that requires reconfiguring JAVS equipment due to changes made by Customer's third-party hardware, network, anti-virus settings, or any local IP provider connection (i.e. change of IP address or network configuration, video conferencing connection issues) *
12. Lost records or data recovery due to equipment failure, computer viruses, or Customer user error.
13. Migration of Customer recordings for archival, retention, and restoration. *
14. Shipping delays for repair, loaner or replacement parts and equipment.

*Customer approval required to perform services for the indicated Exclusions, which will be billed at current labor rates plus parts and expenses if applicable.

FEES/PAYMENTS for exclusions

A fee of $125.00 per hour (1-hour minimum) plus *Travel and expenses, will apply for each request for on-site service for services not covered by this agreement. Travel time is defined as a portal to portal.

D. TERMS

DI. Effective Date. The Agreement begins **August 1, 2021** and will continue for a period of **1 year** thereafter.

DII. Fees; Payments. In consideration of JAVS provision of the Services, Customer pays a fixed fee of

$1,549.00 "Fee" plus any applicable state taxes. Payment of Fee will be made within 30 days from the date of the invoice.

BREAKDOWN OF MAINTENANCE FEE
Contract Period: August 1, 2021 - July 31, 2022
MAC-00482

	Courtroom Number/Location	SID #	System Description	Maintenance Fee
1	Main Courtroom	SID-89530	JAVS TX Recording System	$1,549.00
			Total	**$1,549.00**

Note: A. JAVS reserves the right to review and recalculate fees associated with the service agreement and adjust accordingly for the next contract period. Changes in the pricing of fees reflect added coverage for new equipment and/or services not previously covered under the service agreement and/or the removal of equipment that is no longer covered. This review is performed prior to the delivery of the subsequent agreement and can affect your agreement fees for that period.

3. Billing of Excluded Services. A fee of $125.00 per hour (one-hour minimum) plus expenses will be charged for any excluded services (Includes Video Conferencing Systems, see Section C.) requested by the Customer for on-site support.

4. Refunds. Refunds of Fees payable hereunder will be limited to a pro-rated portion calculated per business day of the total amount paid for the Agreement in the event that agreed response time is not met. The pro-rated portion of the Agreement Fees payable to Customer as a refund shall be limited to the number of days required to respond that are in excess of the agreed response period. No refund shall be payable for days that JAVS does not have access to the covered equipment. No refund shall exceed the value of the Agreement. A request for a pro-rated refund payable to Customer for a decommissioned System(s) must be received in writing.

E. NO WAIVER

WHETHER BY CHOICE OR NEGLECT JAVS FAILURE TO ENFORCE ANY TERM, EXCLUSION, OR LIMITATION HEREIN SHALL NOT BE CONSTRUED OR INTERPRETED AS A WAIVER OF JAVS RIGHT TO ENFORCE ANY TERM, EXCLUSION, OR LIMITATION CONTAINED IN THIS AGREEMENT.

F. LIMITATION OF LIABILITY

JAVS DOES NOT ACCEPT LIABILITY BEYOND THE REMEDIES SET FORTH IN THIS AGREEMENT OR ANY LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION ANY LIABILITY FOR PRODUCTS NOT BEING AVAILABLE FOR USE OR FOR LOST DATA OR SOFTWARE. SOME STATES (OR JURISDICTIONS) DO NOT ALLOW THE EXCLUSION OR

LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.

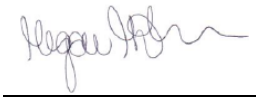
G. DISPUTE RESOLUTION

ANY CLAIM, DISPUTE, OR CONTROVERSY, WHETHER IN CONTRACT, TORT, OR OTHERWISE, WHETHER PRE-EXISTING, PRESENT OR FUTURE, AND INCLUDING STATUTORY, COMMON LAW, INTENTIONAL TORT, AND EQUITABLE CLAIMS AGAINST JAVS arising from or relating to this Agreement, its interpretation, performance, or the breach, termination or validity thereof, the relationships which result from this Agreement, including, to the full extent permitted by applicable law, limitations of liability, indemnity, and relationships with third parties, JAVS advertising, or any related purchase or service SHALL BE RESOLVED EXCLUSIVELY AND FINALLY BY BINDING ARBITRATION ADMINISTERED BY THE NATIONAL ARBITRATION FORUM (NAF) under its Code of Procedure then in effect (available via the Internet at http://www.arb-forum.com/, or via telephone at 800-474-2371).

ACCEPTED BY Chairman of the Board
Benton County Board of Commissioners

Signature	
Name	Jerome Delvin
Title	Commissioner
Date	10/19-2021
Phone #	509-783-5710
Email	commissioners@co.benton.wa.us

ACCEPTED BY JAVS
Justice AV Solutions

Signature	
Name	Megan Molnar
Title	Contract Administrator
Date	March 29, 2021
Phone #	502.489.5118
Email	Megan.molnar@javs.com

ACCEPTED BY CUSTOMER
Additional Court Representative (if required by court)

Signature	
Name	
Title	
Date	

Customer contact for scheduling of maintenance/repair

Name	Robert Heard
Title	IT Manager
Phone	509-222-2399
Email	robert.heard@co.benton.wa.us

JUSTICE AV SOLUTIONS

CLASSIC COVERAGE EXTENDED WARRANTY, PREVENTATIVE MAINTENANCE AND SUPPORT AGREEMENT

Benton-Franklin Juvenile Justice Center Main Courtroom
Kennewick, WA

Account #	SID#	Qty.	Part #	Description	Install Date	Service	Warranty	5 YEAR DATE
				JAVS CENTRO TX RECORDING SYSTEM				
74112	SID-89530	1	JAV-CENTRO-TX	JAVS Centro TX Ethernet Controlled Audio/Video Processor - Base Unit with Centro TX software	7/31/2020	Yes	Yes	7/31/2025
				DIGITAL RECORDER & SOFTWARE				
74112	SID-89530	1	JAV-REC8-AO-M	JAVS Recorder 8 with multichannel audio capture card via MARC (no video capture)	7/31/2020	Yes	Yes	7/31/2025
74112	SID-89530	1	JAV-SRMK	Single Rack Mount Kit	7/31/2020	Yes	Yes	7/31/2025
74112	SID-89530	1	JAV-SW-AL7S	AutoLog 7 Session Logging and Control Software	7/31/2020	Yes	Yes	7/31/2025
74112	SID-89530	1	JAV-SW-V15P	Viewer 2015 Pro	7/31/2020	Yes	Yes	7/31/2025
				MICROPHONES				
74112	SID-89530	6	JAV-PLX-CB	FlexMic Plexiglass - C Bend	7/31/2020	Yes	Yes	7/31/2025
74112	SID-89530	6	JAV-JM14	JAVS FlexMic with Multicolor LED and Touch Button	7/31/2020	Yes	Yes	7/31/2025
74112	SID-89530	6	JAV-27153	C2G 10ft Cat6 550 MHz Snagless (UTP) Patch Cable - Black	7/31/2020	Yes	Yes	7/31/2025
				PA SYSTEM				
74112	SID-89530	1	JAV-AFS2	Dual Channel Advanced Feedback Suppression Processor	7/31/2020	Yes	Yes	7/31/2025
74112	SID-89530	1	JAV-CSA-240Z	2 Channel Amplifier 40W per Channel with 70V & 100V Speaker Outputs	7/31/2020	Yes	Yes	7/31/2025
74112	SID-89530	1	JAV-GS108	8-Port 10/100/1000 Fast Ethernet Gigabit Switch	7/31/2020	Yes	Yes	7/31/2025
				EQUIPMENT RACK & WIRING				
74112	SID-89530	1	JAV-ED1000RTXL2U	1000 VA On-Line UPS 8 Outlets	7/31/2020	Yes	Yes	7/31/2025
74112	SID-89530	1	JAV-DTRK-1418	14 RU Desktop Cabinet 18" Deep (No Doors)	7/31/2020	Yes	Yes	7/31/2025
74112	SID-89530	1	JAV-5-RS18	DTRK Series EQ Rack Slides 18" Depth Rack	7/31/2020	Yes	Yes	7/31/2025
74112	SID-89530	1	JAV-DT-VFD-14	Vented Front Door for 14 RU DTRK Cabinet	7/31/2020	Yes	Yes	7/31/2025
74112	SID-89530	1	JAV-EB1	1 Space Econo Blank (Black)	7/31/2020	Yes	Yes	7/31/2025
74112	SID-89530	1	JAV-EB2	2 Space Econo-Blank (Black)	7/31/2020	Yes	Yes	7/31/2025
74112	SID-89530	1	JAV-LL-DTRK	Leverlock Kit Bracket Cable Management System for DTRK Series Racks	7/31/2020	Yes	Yes	7/31/2025
74112	SID-89530	1	JAV-LL-VC21	Leverlock Channels for Cable Management for DTRK Series Racks	7/31/2020	Yes	Yes	7/31/2025
74112	SID-89530	1	JAV-UTR1-MP	Half Depth, single Rack space shelf	7/31/2020	Yes	Yes	7/31/2025

ATTACHMENT B

Priority Level	Example	Initial Response*	On-Site Response**
Urgent	Non-Recording System; inability to record audio; inability to record judge, witness or attorney microphone(s)	1 Business Hour	2 Business Days
High	Faulty monitor, camera, microphone (other than Urgent Level examples), or system mode not critical to recording; publishing; secondary recorder;	2 Business Hours	3 Business Days
Normal	System adjustments to microphone or PA levels, camera views and user settings;	4 Business Hours	5 Business Days
Supportive	Operational training or minor/preferred hardware or software user adjustments, video conference	8 Business Hours	Next scheduled Preventative Maintenance or other higher-level repair visit

*****An "Initial Response" for the purposes of this Agreement is when a service ticket is opened and acknowledged by JAVS help desk or JAVS Safeguard Technician.

******An "On-Site Response" for the purposes of this Agreement is the time from when JAVS help desk or JAVS Safeguard Technician logs the ticket and when the JAVS Safeguard Technician arrives to Customer's agreed upon appointment for the initial on-site repair.

Alex Garcia

From: Eric Andrews
Sent: Tuesday, October 5, 2021 2:12 PM
To: Alex Garcia
Cc: Robert Heard
Subject: RE: JAVS Maintenance expense code

I approve as to form.

Eric T. Andrews
Deputy Pros. Attorney, Civil
Benton Co. Pros. Attorney's Office
Phone: (509) 735-3591
Fax: (509) 222-3705

This email, any and all attachments hereto, and all information contained and conveyed herein may contain and be deemed confidential attorney client privileged and/or work product information. If you have received this email in error, please delete and destroy all electronic, hard copy and any other form immediately. It is illegal to intentionally intercept, endeavor to intercept or procure any other person to intercept or endeavor to intercept, any wire, oral or electronic communication.

From: Alex Garcia <Alex.Garcia@co.benton.wa.us>
Sent: Tuesday, October 5, 2021 1:16 PM
To: Eric Andrews <Eric.Andrews@co.benton.wa.us>
Cc: Robert Heard <Robert.Heard@co.benton.wa.us>
Subject: FW: JAVS Maintenance expense code

Hi Eric,

Can you please take look at agreement and let us know if all good?

Thanks,

Alex Garcia
Assistant Manager
Benton County Information Technology
Ext 3742

From: Carol Vance <Carol.Vance@co.benton.wa.us>
Sent: Tuesday, October 5, 2021 12:20 PM
To: Alex Garcia <Alex.Garcia@co.benton.wa.us>
Subject: FW: JAVS Maintenance expense code

Here is the expense code. I will try and catch you after lunch!
Thank you Carol

JUSTICE AV SOLUTIONS

13020 Middletown Industrial Boulevard
Louisville, Kentucky 40223

800.354.JAVS (5287)
solutions@javs.com
www.javs.com

Sole Source Letter For:

Benton County Purchasing

August 4, 2021

To Whom It May Concern:

This letter is to certify that Justice AV Solutions formerly known as Jefferson Audio Video Systems (JAVS®), Inc., a Kentucky-based corporation, headquartered in Louisville, Kentucky is the developer, distributor and sole source vendor of various digital audio/video equipment and software applications. JAVS has over 10,000 installations worldwide.

The following is a list of proprietary products and services, which are solely developed, produced, modified, distributed, and supported by JAVS, Inc.

Software: (Including, but not limited to)

- Autolog 7.0
- Autolog 8.0
- Viewer 7
- Viewer 8
- Scheduler 7
- Scheduler 8
- Publisher 7
- Publisher 8
- MRA Server 7
- MRA Server 8
- BookShelf 7
- BookShelf 8
- Finder 7
- Finder 8

Hardware: (Including, but not limited to)

- Centro –CX,AX,PX and TX
- JAVS Digital Recorder 8
- All Hardware w/ JAVS logo

JAV Services: Service Contracts (JAVS product line)

- Help Desk

JUSTICE AV SOLUTIONS

13020 Middletown Industrial Boulevard
Louisville, Kentucky 40223

800.354.JAVS (5287)
solutions@javs.com
www.javs.com

JAVS, Inc. holds all rights to source codes and equipment patents and holds the exclusive right to establish pricing, make changes, provide technical support (either directly or through subcontractors), and provide delivery of the above-named equipment and software.

Any persons engaged in the act of marketing, advertising, and/or selling the above-named hardware and software packages must have the expressed written authority to do so as a direct agent for JAVS, Inc. Any unauthorized representations are not recognized as valid.

Thank you for your interest in JAVS! We look forward to assisting you with your digital audio/video solutions.

If you have any questions or require additional information, please feel free to contact us at your convenience.

Sincerely,



Kevin Otey
Justice AV Solutions
502-380-6443
Kevin.Otey@javs.com

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	October 19, 2021
Subject:	Authorizing a One-Year Bluebeam Studio Prime License and Subscription Agreement from CADD Microsystems Inc.
Presenter:	
Prepared By:	Robert Heard
Reviewed By:	Anthony Von Moos, Procurement Dept

PA Review, Approval to Form: ☒ Yes ☐ No ☐ N/A *(If no, include reasoning for no approval)*

Type of Agenda Item:	**Type of Action Needed:** *(Multiple boxes can be checked, if necessary)*	
☒ Consent Agenda	☐ Discussion Only	☐ Pass Motion
☐ Public Hearing	☐ Decision / Direction	☒ Pass Resolution
☐ Scheduled Business	☐ Sign Letter / Document	☐ Pass Ordinance
		☒ Execute Contract

Summary / Background Information

On May 25, 2021, the Board approved Resolution 2021-433 authorizing the purchase of EnerGov permitting software from Tyler Technologies. One of the requirements during the deployment of EnerGov is to subscribe to Bluebeam Studio Prime which allows for internal and public collaboration when using EnerGov's permitting application. CADD Microsystems Inc. is a vendor that Tyler Technologies recommends when purchasing Bluebeam Studio Prime.

Fiscal Impact

Amount: **$2,500 excluding WSST for 2021 and $2,500 excluding WSST for 2022.**

Fund: **Capital Project Fund (0305101).**

Recommendation

Recommend the Board of Benton County Commissioners authorize the purchase of a one-year Bluebeam Studio Prime subscription for the use of Tyler Technologies EnerGov permitting software from CADD Microsystems Inc. in an amount not to exceed $2,500 excluding Washington State Sales Tax, and authorize the Chairman of the Board to sign the Studio Prime License and Subscription Agreement between Benton County and Bluebeam, Inc.

Suggested Motion

Approve as part of the Consent Agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF APPROVING THE PURCHASE OF A ONE-YEAR BLUEBEAM STUDIO PRIME SUBSCRIPTION FOR THE USE OF TYLER TECHNOLOGIES ENERGOV PERMITTING SOFTWARE FROM CADD MICROSYSTEMS INC. AND AUTHORIZE THE CHAIRMAN OF THE BOARD TO SIGN THE STUDIO PRIME LICENSE AND SUBSCRIPTION AGREEMENT BETWEEN BENTON COUNTY AND BLUEBEAM, INC.

WHEREAS, on May 25, 2021, the Board approved Resolution 2021-433 authorizing the purchase of Tyler Technologies EnerGov permitting software; and

WHEREAS, a subscription for Bluebeam Studio Prime is a requirement for the EnerGov software application; and

WHEREAS, Tyler Technologies recommended purchasing Bluebeam Studio Prime from CADD Microsystems Inc.; and

WHEREAS, the Purchasing Department has reviewed this purchase and finds it complies with the Procurement, Leasing, and Contracting Policy; and

WHEREAS, the Prosecuting Attorney's Civil Division has reviewed the Studio Prime License and Subscription Agreement and has approved to form; **NOW, THEREFORE**

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington, hereby approves a one-year Bluebeam Studio Prime subscription for the use of Tyler Technologies EnerGov Permitting Software from CADD Microsystems Inc. in an amount not to exceed $2,500 excluding Washington State Sales Tax; and

BE IT FURTHER RESOLVED, the Board approves the Chairman of the Board to sign the Studio Prime License and Subscription Agreement; and

BE IT FURTHER RESOLVED, the Board approves the Information Technology Manager to renew the Bluebeam Studio Prime subscription in 2022 in an amount not to exceed $2,500 excluding Washington State Sales Tax; and

BE IT FURTHER RESOLVED, the term of the Agreement shall commence upon the Effective Date for a period of one (1) year. Said term shall renew for additional periods of one (1) upon payment of the Subscription Fees on or before the renewal date, unless terminated as further outlined in the attached Agreement.

Dated this 19 day of October , 2021

_____
Chairman of the Board

_____
Member

Attest: _____
Clerk of the Board

_____
Member

Constituting the Board of County Commissioners
of Benton County, Washington

Orig: Information Technology
cc: Auditor, PA, Bluebeam, CADD Microsystems

Prepared by: R. Heard

Bluebeam Studio Prime
Prepared For: Benton County, WA

Quote #Q149918
Quote Date: 10/4/2021
Terms: Net 30

Prepared For:
Robert Heard
Contact: Tim Brown
<tim.brown@co.benton.wa.us>
Benton County Information Technology
PO Box 608
Prosser WA 99350
United States

Deliver To:
Benton County Information Technology
620 Market Street
Courthouse - 2nd Floor
Prosser WA 99350
United States

Prepared By:
CADD Microsystems Inc.
Account Rep: Brittany Ainsley
Support Rep #2: Bridget McConkie

CADD MICROSYSTEMS

The following quote details the cost to purchase a 1-year subscription of Bluebeam Studio Prime:

Benton County, WA
CM: Robert Heard
Robert.Heard@co.benton.wa.us

Bluebeam Studio Prime
Subscription Period: 1-year

Qty.	Description	Unit Price	Ext. Price	Tax %
1	***Bluebeam New Studio Prime Level 1 (up to 100 users), Annual Subscription, Cloud***	*$2,340.00*	*$2,340.00*	

A secure cloud-based subscription option that provides advanced administrative functionality for added visibility over your organization's Studio activity, with access to external application integrations.
The pricing is based on the level selected, which includes 100 total number of users. The Studio Prime license operates on an annual subscription and a purchase agreement must be signed and submitted to Bluebeam in order to authorize the use of the license through the renewal period.

Total Items	**$2,340.00**
Total Taxes	**$0.00**
Total	**$2,340.00**

Terms & Conditions:

1. Payment terms require prior credit approval.
2. Product returns will not be accepted without prior approval.
3. All pre-paid training and consulting services expire one year from date of paid invoice.
4. Prices valid for 30 days or as otherwise specified above.
5. CADD Microsystems does its best to comply with state taxing authorities, however if the state determines that sales tax is due on this purchase the customer assumes full responsibility for sales/use tax if this purchase is found to be taxable by any state authority.

Thank you for providing CADD Microsystems the opportunity to provide this quote. This quote has been prepared for you by:

CADD Microsystems, Inc.
Account Rep
Brittany Ainsley
(804) 767-5138
Brittany.Ainsley@caddmicrosystems.com

Secondary Support Rep
Bridget McConkie
(410) 637-3861
bridget.mcconkie@caddmicrosystems.com

This document from CADD Microsystems, Inc. contains CONFIDENTIAL INFORMATION for the use ONLY of the intended recipient. If you are not the intended recipient or a person responsible for delivering it to the intended recipient you are hereby notified that any use, distribution, or copying of this communication or its contents is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone at 703.719.0500.

STUDIO PRIME
LICENSE AND SUBSCRIPTION AGREEMENT

This Studio Prime License and Subscription Agreement (the "Agreement") is entered into by and between Bluebeam, Inc. ("Bluebeam") and the undersigned ("Licensee") and made effective as of the date signed by Bluebeam below.

1. **DEFINITIONS.**
   a. "Documentation" includes the Studio Terms of Use (www.bluebeam.com/legal/studio-terms-of-use), this Agreement, Bluebeam's Privacy Policy (www.bluebeam.com/legal/privacy-policy), and the documentation published by Bluebeam on its website (www.bluebeam.com) with regard to the Studio Prime services.
   b. "Licensed User" means Licensee or any employee, agent or other individual that Licensee has duly authorized to access and use the Software pursuant to the applicable end-user license agreement for the Software.
   c. "Prime Administrator" means one or more persons designated by Licensee to administer Licensee's Studio Prime Account.
   d. "Prime Collaborator" means any Studio User who is invited by a Prime Member to be an Attendee in a Project or Session as such terms are defined in the Studio Terms of Use.
   e. "Prime Member" means a Licensed User who is invited by a Prime Administrator to join Licensee's Studio Prime Account. Upon the Licensed User's acceptance to join a Studio Prime Account, that licensed User's Studio account becomes a managed account under the Studio Prime Account to be managed and controlled by Licensee.
   f. "Prorated Subscription Fees" mean the Subscription Fees in effect on the date the User Level is increased that is prorated over the remainder of the Initial Term or Renewal Term, as applicable.
   g. "Software" means the Revu® software application for editing, managing, marking-up, designing and sharing PDF documents.
   h. "Studio" means a cloud-based collaboration platform accessible via the Software that connects Studio Users and gives them the ability to communicate and markup and review documents in real-time.
   i. "Studio Prime" means the optional, paid subscription service that provides Licensee with advanced administrative functionality and visibility over the Licensed User's Studio usage activity and access to third party application integrations.
   j. "Studio Prime Account" means the account created for Licensee upon the execution of this Agreement.
   k. "Studio User" means any individual who has established a Bluebeam user account, has agreed to the Studio Terms of Use, and thereafter accesses and uses the Studio services.
   l. "Subscription Fees" are the annual subscription fees due in exchange for access and use of Studio Prime.
   m. "User Level" means a combination of Licensee's Prime Administrators, Prime Collaborators and Prime Members.

2. **LICENSE TO USE STUDIO PRIME.** Subject to Licensee's acceptance of and on-going compliance with this Agreement, Bluebeam grants Licensee a limited, non-sublicensable, non-transferable, non-exclusive, revocable right and license to access and use the Studio Prime services during the Initial Term and any applicable Renewal Term in accordance with the Documentation. The Studio Prime services may only be used by Licensee and Licensee's Prime Administrator, Prime Members and Prime Collaborators and only for Licensee's own lawful business purposes.

3. **RESERVATION OF RIGHTS.** All right, title, and interest in and to Studio Prime and the related services and Documentation, including, without limitation, all copyrights, patents (whether pending or issued), trade secret rights, trademarks, and other intellectual property, are owned and retained by Bluebeam. All rights not expressly granted or licensed to Licensee herein are reserved.

4. **GENERAL TERMS.**
   a. Modifications. Bluebeam reserves the right to revise, modify or update Studio Prime from time to time in its sole discretion to add new features or functionality or modify existing features or functionality.
   b. User Level Restrictions. Licensee may only have such number of Prime Administrators, Prime Collaborators and Prime Members access and use Licensee's Studio Prime account that equals the User Level paid for by Licensee. Licensee may increase the User Level at any time upon written notice to Bluebeam and payment of the Prorated Subscription Fees. Licensee may decrease the User Level upon written notice to Bluebeam made at least thirty (30) days prior to each applicable Renewal Date. Any such decrease shall be effective on the Renewal Date for the following Renewal Term.
   c. Prime Administrators. Licensee acknowledges and agrees that Prime Administrator are solely responsible for (a) inviting Studio Users to become Prime Members or Prime Collaborators; (b) managing all Prime Member and Prime Collaborator accounts (including, without limitation, access and permissions to Projects and Sessions for which they are Attendees); (c) assign, create, modify and remove Prime Member and Prime Collaborator permission and restrictions; (d) managing and controlling all content (including, without limitation, Project Files and Sessions Files) created or uploaded into or used in connection with the Studio Prime Account.
   d. Prime Members. Licensee acknowledges and agrees that it shall inform and instruct all Prime Members under Licensee's Studio Prime Account of the following: (a) the Prime Member's Studio account will be under the exclusive control of the Prime Administrator; (b) the Prime Administrator can and will access the account and related content, create and modify permissions related to the account and otherwise monitor the Prime Members usage of the account; and (c) the Prime Member may only have one Studio account, which is the Prime Member account.

5. **SUBSCRIPTION FEES AND PAYMENT TERMS.**
   a. Subscription Fees. Licensee agrees to pay the Subscription Fees in effect on the Effective Date for the Initial Term. Licensee further agrees to pay the Subscription Fees in effect on each Renewal Date for each applicable Renewal Term unless Licensee has terminated this Agreement pursuant to Section 6 below. Provided there is a change in the User Level during the Initial Term or any Renewal Term, Licensee agrees to pay Bluebeam the Prorated Subscription Fees.
   b. Payment Terms. Bluebeam shall invoice Licensee for the Subscription Fees and Prorated Subscription Fees, if applicable, and Licensee agrees to pay all such invoices on Net 30 day terms. Subscription Fees and Prorated Subscription Fees are non-transferable and non-refundable.
   c. Past Due Accounts. Failure to make any payment required hereunder within forty-five (45) days of the Renewal Date will cause this Agreement to terminate without notice and further access to the Studio Prime services will cease.
6. **TERM AND TERMINATION.**
   a. Term. This Agreement shall commence upon the Effective Date and continue for a period of one (1) year (the "Initial Term"). The Initial Term shall renew for additional periods of one (1) year (each a "Renewal Term") upon Licensee's payment of the Subscription Fees on or before the Renewal Date or according to the terms of the applicable invoice Bluebeam provides to Licensee. Unless otherwise notified in writing at least thirty (30) days prior to each Renewal Date, this Agreement shall renew at the same User Level as the Initial Term or previous Renewal Term as applicable. The Initial Term and all Renewal Terms are collectively referred to herein as the "Term". The "Renewal Date" is the date that is one (1) year following the Effective Date and each annual reoccurrence thereof.
   b. Termination. This Agreement may be terminated (a) by either party providing written notice of termination to the other party at least forty-five (45) days at any point during the Term; or (b) pursuant to the terms of Section 5.c.; or (c) pursuant to the terms of Section 7.
   c. Effective of Termination. Upon the termination of this Agreement, the license provided herein and Licensee's access and use of the Studio Prime services shall immediately cease.

7. **RIGHT TO AUDIT.** Bluebeam reserves the right to periodically conduct audits of Licensee's use of the Studio Prime services to verify compliance with the terms of this Agreement (each an "Audit"). Licensee shall be given no less than ten (10) days prior written notice of Bluebeam's intent to conduct an Audit. Audits will be conducted during Licensee's normal business hours and will occur no more than once in any twelve (12) month period. In the event an Audit shows that Licensee's actual use of the Studio Prime services exceeds the User Level paid for, Bluebeam shall provide notice to the Licensee and allow for a contract amendment to include increase of usage at quoted contract price. If no amendment is made within 30 days of audit, Bluebeam will have the right to immediately invoice Licensee for the additional use, including applicable late fees and interest at the legally allowable rate, and the reasonable costs of the Audit. If Licensee fails to pay such invoice on Net 60 day terms, Bluebeam may terminate this Agreement in addition to all other remedies that may be available to it in law or in equity.

8. **DISCLAIMERS OF WARRANTY; LIMITATION OF LIABILITY.**
   a. **DISCLAIMER OF WARRANTIES**. STUDIO AND STUDIO PRIME ARE PROVIDED "AS IS" AND "AS AVAILABLE" AND WITHOUT WARRANTY OF ANY KIND WHATSOEVER. BLUEBEAM DOES NOT WARRANT THAT THE FEATURES AND FUNCTIONS WILL MEET YOUR REQUIREMENTS OR THAT THE OPERATION OF SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE. BLUEBEAM EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF NON-INFRINGEMENT, LACK OF VIRUSES, ACCURACY OR COMPLETENESS OF RESPONSES OR RESULTS, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. LICENSEE ACKNOWLEDGES THAT BLUEBEAM DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE OR ERROR-FREE.
   b. **LIMITATION OF LIABILITY**. OTHER THAN IN CONNECTION WITH A PARTY'S INDEMNIFICATION OBLIGATIONS HEREUNDER, AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL LICENSEE OR BLUEBEAM BE LIABLE FOR ANY LIABILITY, LOST REVENUES, LOST PROFITS, OR ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES WHATSOEVER OR HOWEVER CAUSED ARISING OUT OF OR IN ANY WAY RELATED TO THESE SERVICES WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9. **CONFIDENTIALITY.** This Agreement and the terms and conditions contained herein are strictly confidential and shall not be disclosed to any person, entity or third party except (a) as may be necessary to comply with applicable law or to confer with a financial, tax or legal advisor with regard to the subject matter of this Agreement, or (b) to either party's employees who have a legitimate need-to-know and who agree to uphold the confidentiality obligations set forth herein.

10. **GOVERNING LAW AND ARBITRATION.** This Agreement shall be governed and construed in accordance with the laws of the State of Washington, excluding Washington's choice-of-law principles, and all claims relating to or arising out of this contract, or the breach thereof, whether sounding in contract, tort or otherwise, shall likewise be governed by the laws of the State of Washington, excluding Washington's choice-of-law principles. The application of the United Nations Convention of Contracts for the International Sale of Goods is expressly excluded. Any controversy or claim, whether in law or in equity, arising out of or relating to this EULA, or the breach thereof, shall be settled by arbitration in Los Angeles County administered by JAMS in accordance with its Streamlined Arbitration Rules & Procedures, and judgment on the award rendered by the arbitrator(s) is final and not appealable and may be entered in any court having jurisdiction thereof.

11. **CONTROLLING LANGUAGE.** This Agreement has been prepared in the English language and the English language shall control its interpretation. All notices to be provided by either party hereto shall be in the English language. In the event of any conflict between the English language version and any translation of this EULA that may be provided for convenience only, the English language meaning shall control.

12. **NOTICES**. Any notice or other communications required by this Agreement shall be in writing and sent as follows: If to Licensee to the Prime Administrator via email.
If to Bluebeam via email to legal@bluebeam.com.
Notices will be considered given and received the date an email is sent unless the actual date sent is not a business day (based on the recipient's time zone) then the next business day in the jurisdiction in which the recipient is located shall be considered the date of delivery.

13. **NO ASSIGNMENT**. This Agreement may not be transferred or assigned, voluntarily, by operation of law or otherwise, without Bluebeam's express written consent which may be withheld, delayed or conditioned in the sole discretion of Bluebeam. Provided Bluebeam grants such consent, this Agreement shall be binding upon the assignee in the same manner that it is binding upon Licensee.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed by their respective authorized representatives.

For and on behalf of Licensee: Shon Small, Chairman Pro-tem, Board of Benton County Commissioners

Licensee's Address: 620 Market Street, Prosser, WA 99350

Signed: _____

Print Name: Shon Small Title: Chairman Pro-tem

Date Signed: October 19, 2021 Telephone: 509-786-5603

Email: central.services@co.benton.wa.us

Prime Administrator Information:
Licensee is required to name a Studio User as the Prime Administrator and the account to which this Studio Prime license will be established. It can be changed by Licensee at a later time.

Name: Robert Heard, IT Manager

Telephone: 509-222-2399

Studio User ID: _____

For and on behalf of Bluebeam, Inc.
A Delaware corporation located at 443 S. Raymond Avenue, Pasadena, California 91105 USA

Signed: _____

Print Name: _____ Title: _____

Date Signed: _____

Approved as to Form
Eric Andrews, Deputy Prosecuting Attorney

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	FC 10/05/21 BC 10/19/21
Subject:	Public Works Contract with The Personal Touch Cleaning, Inc.
Presenter:	N/A
Prepared By:	Rosa Garcia
Reviewed By:	Darryl Banks

PA Review, Approval to Form: ☒ Yes ☐ No ☐ N/A *(If no, include reasoning for no approval)*

Type of Agenda Item:	**Type of Action Needed:** *(Multiple boxes can be checked, if necessary)*	
☒ Consent Agenda	☐ Discussion Only	☐ Pass Motion
☐ Public Hearing	☐ Decision / Direction	☒ Pass Resolution
☐ Scheduled Business	☐ Sign Letter / Document	☐ Pass Ordinance
		☐ Execute Contract

Summary / Background Information

The Benton-Franklin Counties Juvenile Justice Center solicited proposals from contractors on the Benton County Small Works Roster for janitorial and building maintenance services for the Juvenile Justice Center as the contract with The Personal Touch Cleaning, Inc. is set to expire on October 31, 2021.

Only two proposals were received:
- The Personal Touch Cleaning, Inc., Kennewick, WA (UBI No. 602839614) - $3,697.98 monthly base rate, excluding WSST
- Intermountain Cleaning Services, Inc., Yakima, WA (UBI No. 601402255) - $5,761.50 monthly base rate, excluding WSST
- DelSol, Inc., Pasco, WA (UBI No. 602132697) – Did not respond

The Personal Touch Cleaning, Inc. submitted the lowest bid. The additional services quoted are only based on availability of funds and the needs to the Juvenile Justice Center. The monthly base rate is the only guaranteed service to this Contract.

Fiscal Impact

Amount not to exceed $113,500.00 excluding WSST to be paid out of Current Expense Dept. 172 Facilities Budget. No supplemental required.

Recommendation

The Juvenile Administrator reviewed the proposal and recommends contracting with The Personal Touch Cleaning, Inc.

Suggested Motion

Approve as part of consent agenda.

JOINT RESOLUTION

BENTON COUNTY RESOLUTION NO. _____

FRANKLIN COUNTY RESOLUTION NO. _____

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

IN THE MATTER OF AWARDING THE PERSONAL TOUCH CLEANING, INC. A PUBLIC WORKS CONTRACT FOR JANITORIAL SERVICES AT THE BENTON-FRANKLIN COUNTIES JUVENILE JUSTICE CENTER

WHEREAS, the following proposals were solicited from contractors on the Benton County's Small Works Roster for janitorial and building maintenance services, and received the following bids:

- The Personal Touch Cleaning, Inc., Kennewick, WA (UBI No. 602839614) - $3,697.98 monthly base rate, excluding WSST
- Intermountain Cleaning Services, Inc., Yakima, WA (UBI No. 601402255) - $5,761.50 monthly base rate, excluding WSST
- DelSol, Inc., Pasco, WA (UBI No. 602132697) - Did not respond

WHEREAS, the Benton Franklin Counties Juvenile Justice Center Administrator reviewed the proposals and recommends contracting with The Personal Touch Cleaning, Inc. for a monthly base rate of $3,697.98, and the additional services quoted will be based on availability of funds and the specific needs of the Juvenile Justice Center. The monthly base rate is the only guaranteed service to this contract; **NOW, THEREFORE**

BE IT RESOLVED, by the Board of Benton County Commissioners, Benton County, Washington and by the board of Franklin County Commissioners, Franklin County, Washington the Boards concur with the Juvenile Administrator's recommendation and hereby awards The Personal Touch Cleaning, Inc. the Public Works Contract for janitorial and building maintenance services for the Juvenile Justice Center for a monthly base rate of $3,697.98, plus additional services quoted on an as needed basis for a total contract amount not to exceed $113,500.00 excluding WSST; and

BE IT FURTHER RESOLVED, the Board hereby authorizes the Chair of Benton County and the Chair of Franklin County to sign the Public Works Contract attached hereto; and

BE IT FURTHER RESOLVED, the term of the attached contract commences on November 1, 2021 and shall expire on October 31, 2023.

DATED this _____ day of _____ 2021
BENTON COUNTY BOARD OF COMMISSIONERS

_____
Chair of the Board

_____
Chair Pro Tem

_____
Member

Constituting the Board of
County Commissioners,
Benton County, Washington

Attest:

_____
Clerk of the Board

DATED this _____ day of _____ 2021
FRANKLIN COUNTY BOARD OF COMMISSIONERS

_____
Chair of the Board

_____
Chair Pro Tem

_____
Member

Constituting the Board of
County Commissioners,
Franklin County, Washington

Attest:

_____
Clerk of the Board

Originals (2): 1-BC Commissioners, 1-FC Commissioners, Electronic (2): 1-Personal Touch Cleaning, 1-BFJJC

R. Garcia

BENTON-FRANKLIN COUNTIES
PUBLIC WORKS CONTRACT
TERMS AND CONDITIONS

THIS CONTRACT is made and entered into by and between Benton County, a political subdivision with its principal offices at 620 Market Street, Prosser, WA 99350 and Franklin County, a political subdivision with its principal offices at 1016 North Fourth Avenue, Pasco, WA 99301, by and for the Benton-Franklin Counties Juvenile Justice Center, a bi-county agency located at 5606 W. Canal Place, Suite 106, Kennewick, WA 99336 (hereinafter "COUNTIES"), and **The Personal Touch Cleaning, Inc.**, a corporation organized under the laws of the State of Washington with its principal offices at 6855 West Clearwater Avenue, Suite L., Kennewick, WA 99336 (hereinafter "CONTRACTOR").

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

1. CONTRACT DOCUMENTS

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

a. Exhibit A - Specifications;
b. Exhibit B - Floor Plans for Administration
c. Exhibit C - Floor Plans for Detention
d. Exhibit D - Commercial Services Cost Proposal; and
e. Exhibit E - Washington State Prevailing Wage Rates for Public Works Contracts

2. DURATION OF CONTRACT

The term of this Contract shall begin on **November 1, 2021** and shall expire on **October 31, 2023**. The CONTRACTOR shall complete all work by the time(s) specified herein, or if no such time is otherwise specified, no later than the expiration date.

3. SERVICES PROVIDED

a. The CONTRACTOR shall utilize its bona fide employees, provide janitorial services as more fully defined in Exhibit A for designated portions of the Benton and Franklin Counties Juvenile Justice Center at 5606 W. Canal Place, Suite 106, Kennewick, WA.

The CONTRACTOR agrees to provide all the necessary cleaning supplies and equipment needed for the performance of this contract. The COUNTIES shall furnish all toilet and rest room supplies such as hand soaps, toilet paper, paper towels, plastic garbage bags, toilet seat liners, and sanitary bags suitable for the installed dispensers.

b. In the event that the requested work encompasses work that is legally required to be completed by another type of contractor, CONTRACTOR shall inform COUNTIES of that fact and shall coordinate with COUNTIES to complete the work in conjunction with the other contractor.

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

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

e. The CONTRACTOR shall complete its work in a timely manner and in accordance with the schedule agreed by the parties.

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

4. CONTRACT REPRESENTATIVES

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

a. For CONTRACTOR:

Name:	J.P. Malnik
Address:	6855 West Clearwater Avenue, Ste. L Kennewick, WA 99336
Phone:	(509) 735-9052
Email:	personaltouchcleaning@msn.com

b. For COUNTIES:

Name:	Darryl Banks, Administrator
Address:	5606 W. Canal Place, Suite 106 Kennewick, WA 99336
Phone:	(509) 222-2316
Email:	Darryl.Banks@co.benton.wa.us

5. COMPENSATION

a. For the services performed under this Contract, the CONTRACTOR shall be paid in accordance with the attached documents hereto as Exhibits A, B, C, & D. No payment shall be made for any work performed by the CONTRACTOR, except for work identified and set forth in this Contract.

b. The maximum total amount payable by the COUNTIES to the CONTRACTOR under this Contract shall not exceed One Hundred Thirteen Thousand, Five Hundred Dollars ($113,500.00), excluding W.S.S.T.

c. The CONTRACTOR shall have received training on the requirements related to public works and prevailing wage or, have completed three (3) or more public works projects and have had a valid business license in Washington for three (3) or more years and exempt from required training in RCW 39.04.350.

d. Prior to any compensation being paid, CONTRACTOR shall submit a Statement of Intent to Pay Prevailing Wages via https://secureaccess.wa.gov/ and then forward a copy of the statement to COUNTIES' Contract Representative. At the completion of all work contemplated by this Contract, or at the end of the contract term, whichever comes first, CONTRACTOR shall submit an Affidavit of Wages Paid via https://secureaccess.wa.gov/ and then forward a copy of the affidavit to COUNTIES' Contract Representative. No final payment will be made until the affidavit is provided. COUNTIES require that all Statements of Intent to Pay Prevailing Wages and Affidavits of Wages Paid be filed electronically with https://secureaccess.wa.gov/.

e. The CONTRACTOR may invoice the COUNTIES for filing fees paid to the Washington State Department of Labor and Industries for filing one Statement of Intent to Pay Prevailing Wages per Contract and one Affidavit of Wages Paid per Contract, as

required by L&I.

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

6. INVOICING

a. The CONTRACTOR may submit invoices to the COUNTIES for services that have been performed as they are performed, but shall not submit invoices more than once per calendar month. Such invoices shall detail the work done, the personnel involved, and the date of service and shall also reference the work order provided to COUNTIES as required in Section 3.c. of this Contract.

b. Before or at the time that the CONTRACTOR submits its first invoice, the CONTRACTOR and any subcontractors and sub-subcontractors employed by the CONTRACTOR for the work contemplated by this Contract shall submit a Statement of Intent to Pay Prevailing Wages via https://secureaccess.wa.gov and then forward a copy of the statement to the COUNTIES' Contract Representative.

c. The CONTRACTOR shall not be paid for work rendered under this Contract until all required parties have executed and submitted a Statement of Intent to Pay Prevailing Wages in accordance with this section and the work has been performed to the satisfaction of the COUNTIES. The COUNTIES shall only be liable to pay for invoiced amounts that are detailed and supported as described in this section. The COUNTIES shall authorize payment when the work billed is accepted by the COUNTIES and will remit payment for the accepted work, less any retainage or other legally withheld funds, within thirty (30) days after receiving the invoice.

d. For each invoiced and approved payment due to the CONTRACTOR under this section, the COUNTIES shall withhold from the earned portion of the payment (*i.e.* that portion excluding sales tax or other tax) five percent (5%) as a contract retainage, pursuant to RCW 60.28.011 and in accordance with chapter 60.28 RCW. Within ten (10) days following the execution of this Contract, the CONTRACTOR shall submit written notice to the COUNTIES stating the method it has elected pursuant to RCW 60.28.011(4) for the holding of moneys retained by the COUNTIES. If such written election is not received by the COUNTIES, then the COUNTIES may choose any method allowed by RCW 60.28.011(4)(a)-(c) for holding the

retained moneys.

7. AMENDMENTS AND CHANGES IN WORK

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

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

8. HOLD HARMLESS AND INDEMNIFICATION

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

b. In any and all claims against the COUNTIES or its officers, officials, employees, or agents by any employee of the CONTRACTOR, subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them

may be liable, the indemnification obligation under this Section shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the CONTRACTOR or subcontractor under workers compensation acts, disability benefit acts, or other employee benefit acts, it being clearly agreed and understood by the parties hereto that the CONTRACTOR expressly waives any immunity the CONTRACTOR might have had under such laws, including but not limited to Title 51 of the Revised Code of Washington. **By executing this Contract, the CONTRACTOR acknowledges that the foregoing waiver has been mutually negotiated by the parties and that the provisions of this Section shall be incorporated, as relevant, into any contract the CONTRACTOR makes with any subcontractor or agent performing work hereunder. CONTRACTOR'S obligations under this Section 8 shall survive termination and expiration of this Contract.**

c. The CONTRACTOR'S obligations hereunder shall include, but are not limited to, investigating, adjusting, and defending all claims alleging loss from action, error, or omission, or breach of any common law, statutory, or other delegated duty by the CONTRACTOR or the CONTRACTOR'S employees, agents, or subcontractors. The foregoing indemnification obligations of the CONTRACTOR are a material inducement to COUNTIES to enter into this Contract, are reflected in the CONTRACTOR'S compensation, and have been mutually negotiated by the parties.

9. INSURANCE

The CONTRACTOR shall obtain and maintain continuously the following insurance:

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

covered by workers compensation and employers liability.

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

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

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

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

The CONTRACTOR must provide commercial general liability coverage that does not exclude any activity to be performed in fulfillment of this Contract and does not exclude liability pursuant to the indemnification requirement under Section 8. CONTRACTOR'S commercial general liability policy shall provide cross liability coverage, indicating essentially that except with respect to the limits of insurance and any rights or duties specifically assigned in this coverage part to the

first named insured, this insurance applies as if each named insured were the only named insured, and separately to each insured against whom claims are made or suit is brought.

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

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

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

d. **Other Insurance Provisions**:

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

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

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

4. The CONTRACTOR'S insurance shall apply separately to each insured against whom claim is made or suit is

brought, except with respect to the limits of the insurer's liability.

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

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

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

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

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

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

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

1. All insurance to be maintained by the CONTRACTOR, other than Auto Liability and Workers' Compensation, shall specifically include the COUNTIES and its elected officials, employees, and volunteers as an "Additional Insured" by way of endorsement and shall not be reduced or canceled without thirty (30) days prior written notice to the COUNTIES. Any insurance or self-insurance maintained by the COUNTIES or its elected and appointed officials, employees, or agents shall be excess of the CONTRACTOR'S insurance and shall not contribute to it.

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

3. All written notices under this Section 9 and notice of cancellation or change of required insurance coverages shall be mailed to the COUNTIES' Contract Representative referenced in Section 4.

4. The CONTRACTOR or its broker shall provide a copy of any and all insurance policies specified in this Contract upon request of the Benton-Franklin Counties Risk Manager at the following addresses: 5606 West Canal Place, Suite 106, Kennewick, WA 99336.

10. PERFORMANCE AND PAYMENT BONDS

The CONTRACTOR shall furnish Benton and Franklin COUNTIES with a Performance Bond and Labor and Materials Payment Bond with sufficient sureties acceptable to Benton and Franklin Counties, in an amount equal to one hundred percent (100%) of the contract sum as security for the performance by the contractor of this Contract

and payment of all the persons performing labor and supplying materials pursuant to this Contract. Proof of the performance and payment bonds must be received by COUNTIES within ten (10) days following the execution of this Contract.

11. NON-WAIVER OF RIGHTS

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

12. INDEPENDENT CONTRACTOR

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

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

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

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

e. The CONTRACTOR agrees to immediately remove any of its employees or agents from their assignment to perform services under this Contract upon receipt of a written request to do

so from the COUNTIES' Contract Representative or designee.

13. COMPLIANCE WITH LAWS

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

14. OTHER PROVISIONS

The Contractor shall comply with the following other provisions for all services provided under this Contract.

a. Background Check/Criminal History

1. Contractor shall authorize Counties to conduct a background check of the Contractor. The background check may include, but is not limited to, a review of records on file with the Washington State Patrol, the FBI National Criminal Information Computer (NCIC) and Interstate Identification Index (III), local law enforcement agencies, the Department of Licensing, courts of law, and other agencies, and also may, depending upon assignment of Contractor, involve fingerprinting.

2. In accordance with chapters 388-700 WAC, 72.05 RCW, and 43.20A RCW the Contractor shall be required to conduct background check/criminal history clearance for all employees, subcontractors, and/or volunteers who may or will have regular access to any client/juvenile.

3. In addition, the Contractor may also be required to conduct background check/criminal history clearance for employees, subcontractors, and/or volunteers, who may or will have limited access to any client/juvenile.

b. Sexual Misconduct

1. The Contractor shall ensure all employees, subcontractors, and/or volunteers are knowledgeable about the requirements of RCW 13.40.570 and of the new crimes included in RCW 9A.44, Sex Offenses.

2. The Contractor shall ensure that written notification must occur within seven (7) days of a conviction or plea of guilty to any offenses as defined in RCW 9.94A.030 and RCW 9A.44.130, any crime specified in Chapter 9A.44 RCW when the victim is a juvenile and any violent offense as defined

in RCW 9.94A.030. Such notification will be directed to the Office of the Juvenile Court Administrator, Benton-Franklin Counties Juvenile Justice Center, 5606 West Canal Place, Suite 106, Kennewick WA 99336.

15. INSPECTION OF BOOKS AND RECORDS

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

16. CHOICE OF LAW AND JURISDICTION

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

17. SUCCESSORS AND ASSIGNS

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

18. TERMINATION

a. The COUNTIES may terminate this Contract in whole or in part whenever the COUNTIES determine in its sole discretion that such termination is in the best interests of the COUNTIES. The COUNTIES may terminate this Contract upon giving ten (10) days written notice by certified mail to the CONTRACTOR. In that event, the COUNTIES shall pay the CONTRACTOR for actual costs incurred by the CONTRACTOR in performing the Contract up to the date of such notice. Payment shall be made in accordance with Section 6, Invoicing. Nothing in this Section shall limit the rights of the COUNTIES pursuant to this Contract or by law.

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 interests of

the CONTRACTOR. The CONTRACTOR may terminate this Contract upon giving thirty (30) days written notice by certified mail to the COUNTIES. In that event, the COUNTIES shall pay the CONTRACTOR for all costs incurred by the CONTRACTOR in performing the Contract up to the date of such notice. Payment shall be made in accordance with Section 6, Invoicing. Nothing in this Section shall limit the rights of the COUNTIES pursuant to this Contract or by law.

19. COMPLIANCE WITH LAWS AND PREVAILING WAGES

The CONTRACTOR shall comply with all applicable federal, state, and local laws, rules, and regulations in performing this Contract, including, but not limited to, prevailing wage laws. Specifically, at a minimum, the prevailing wages set out in Exhibit E, which is attached hereto and incorporated herein by reference, shall be paid to all employees, agents, subcontractors, and sub-subcontractors who do any work for the CONTRACTOR on this project. The CONTRACTOR shall ensure that all subcontractors or sub-subcontractors sign an agreement to pay these same wages and that the signed agreement is submitted to the COUNTIES prior to subcontractor commencing any work on the project. This schedule of prevailing wages is duplicated from the Washington State Department of Labor and Industries website, it is provided for informational purposes only, and the COUNTIES takes no responsibility for any inaccuracies or ambiguities contained therein. If CONTRACTOR believes the schedule contains any such ambiguities or inaccuracies, then the CONTRACTOR is responsible for contacting the Washington State Department of Labor and Industries directly to resolve them. Perceived inaccuracies or ambiguities in the schedule shall not relieve CONTRACTOR from its obligation pursuant to this Contract and relevant law to pay prevailing wages.

20. NONDISCRIMINATION

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

21. DISPUTES

Disputes over the CONTRACTOR'S performance shall be promptly addressed in writing by the aggrieved party in order that such

matters may be settled or other appropriate action promptly taken. Any dispute relating to the quality or acceptability of performance and/or compensation due the CONTRACTOR shall be decided by the COUNTIES' Contract Representative or designee. All rulings, orders, instructions, and decisions of the COUNTIES' Contract Representative shall be final and conclusive, subject to CONTRACTOR'S right to seek judicial relief.

22. ASSIGNMENT, DELEGATION, AND SUBCONTRACTING

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

23. ENTIRE AGREEMENT

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

24. NOTICES

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

25. SEVERABILITY

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

b. If it should appear that any provision of this Contract is in conflict with any statutory provision of the State of Washington, said provision which may conflict therewith shall

be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform to such statutory provision.

26. LITIGATION HOLD NOTICE

In the event the COUNTIES learn of circumstances leading to an increased likelihood of litigation regarding any matter where the records kept by CONTRACTOR regarding the work performed under this Contract may be of evidentiary value, the COUNTIES may issue written notice to CONTRACTOR of such circumstances and direct the CONTRACTOR to "hold" such records. In the event that CONTRACTOR receives such written notice, CONTRACTOR shall abide by all directions therein whether or not such written notice is received at a time when a Contract between CONTRACTOR and the COUNTIES is in force. Such directions will include, but will not be limited to, instructions to suspend any regularly scheduled purge schedule.

27. PUBLIC RECORDS ACT

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

28. SURVIVABILITY

All Contract terms, which by their context are clearly intended to survive the termination and/or expiration of this Contract, shall so survive. These terms include, but are not limited to, provisions for: indemnification; insurance; non-waiver; inspection of books and records; choice of law; compliance with laws; litigation hold;

and the Public Records Act.

29. CONFIDENTIALITY

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

- This section was intentionally left blank -

IN WITNESS WHEREOF, the parties have caused this Contract to be signed by their duly constituted legal representatives and it is effective **November 1, 2021.**

The parties specifically certify that the provisions contained within Section 9 are mutually negotiated.

The Personal Touch Cleaning, Inc.	**Benton-Franklin Counties Juvenile Justice Center**
9/21/21	9-22-2021
J.P. Malnik **Date** **President**	**Darryl Banks** **Date** **Juvenile Court Administrator**
BENTON COUNTY APPROVAL	**FRANKLIN COUNTY APPROVAL**
Approved as to Form: 09/22/21 Stephen Hallstrom, Deputy Prosecuting Attorney Date	Approved as to Form: Civil Deputy Prosecuting Attorney Date
By: _____ Name: _____ Title: _____ Date: _____	By: _____ Name: _____ Title: _____ Date:
Attest: Clerk of the Board: _____	Attest: Clerk of the Board: _____

1. GENERAL REQUIREMENTS

A. TERM OF CONTRACT SERVICE

1. CONTRACT PERIOD: The period for which janitorial services shall be provided in accordance with these specifications is defined within Section 2 of the Personal Service Contract Terms and Conditions. Term shall be November 1, 2021 ***through October 31, 2023.***

B. CONTRACT

The successful bidder (hereinafter referred to as "Contractor") shall execute an appropriate contract with Benton-Franklin Counties Juvenile Justice Center (hereinafter referred to as "Counties") for a term of twenty-four (24) months. The contract shall be subject to and incorporate by reference all documents including the Specifications, Floor Plan, Contractor Proposal, and Prevailing Wage Rates within ten (10) days after the date of award.

C. BONDS AND LICENSES

1. The Contractor shall be licensed to do business in the State of Washington and shall submit a copy of their current business license with his/her Qualification Statement.
2. In addition to responsible bidder criteria under RCW 39.04.350, the Contractor shall have received training on the requirements related to public works and prevailing wage or, have completed three (3) or more public works projects and have had a valid business license in Washington for three (3) or more years and exempt from required training in RCW 39.04.350.

The Contractor shall furnish an annual performance bond with sufficient sureties acceptable to the Counties in an amount equal to 100% of the contract sum as security for the performance by the Contractor of this contract prior to starting on site, and thereafter for each year the contract is extended. The bond shall be furnished prior to the beginning date of the extended contract year. Failure to furnish this bond will cause the Contractor's proposal to be rejected and the Counties shall consider other proposals that have met all specified requirements.

3. The Contractor shall furnish an annual labor and materials payment bond with the sufficient sureties acceptable to the Counties in an amount not less than 100% of the annual contract sum as security for the payment of all persons performing labor or providing materials pursuant to this contract. This bond shall be furnished to the Counties prior to starting on site, and thereafter for each year the contract is extended. The bond shall be furnished prior to the beginning date of the extended contract year.

D. CONTRACTOR'S FAILURE TO PERFORM

The Contractor shall be prepared to start work in accordance with the specifications, immediately upon execution of the Contract. Failure to complete the work as scheduled will result in written notice to the Contractor terminating his/her right to proceed as to the whole or any part of the contract. In the event of such termination, the Contractor shall be liable to the Counties for any excess costs for such services.

2. SERVICE SPECIFICATIONS

A. GENERAL INFORMATION

1. Services performed under this contract shall be subject to inspection and approval of the Counties. The Cleaning Quality Requirements (CQR) set forth in Section 4 represents minimum standards.
2. All necessary cleaning supplies and equipment needed for the performance of this contract shall be furnished by the Contractor. The Counties shall furnish all toilet and rest room supplies such as hand soaps, toilet paper, paper towels, plastic garbage bags, toilet seat liners, and sanitary bags suitable for the installed dispensers.
3. Limited storage space will be provided for use by the Contractor to store supplies and/or equipment. The Contractor shall maintain the storage area(s), including the sink room(s) in a safe, neat and orderly manner. All tools and equipment shall be maintained in a clean and safe condition at all times and neatly stored each night in the assigned storage area(s).
4. The Counties shall not be responsible for any loss of or damage to the Contractor's supplies, materials, equipment or the personal belongings of the Contractor's employees caused by fire, theft, vandalism or other conditions.

B. CONTRACTOR'S SUPERVISION AND QUALITY CONTROL PROGRAM

The Contractor shall provide supervision and quality control inspections of the building areas included in the contract.

C. CONDUCT OF CONTRACTOR'S EMPLOYEES

1. The Contractor shall prohibit his/her employees from disturbing papers on desks, opening desk drawers or cabinets, or using telephones, computers, copiers, fax machines or other office equipment intended for County use. The Contractor and his/her employees must acknowledge that all written material in the offices are considered confidential and are not to be read or reviewed by the Contractor or his/her employees.
2. All "lost and found" articles will be turned into the Counties Facilities Manager or designee.
3. The Contractor shall require his/her employees to comply with the instructions pertaining to conduct and building regulations issued by the Counties.
4. The Contractor's employees shall maintain the building security by not unlocking doors or gates to let anyone into the building during the performance of their duties under the contract. The Contractor and his/her employees shall enter and exit through detention. The Contractor and his/her employees shall sign in and out when entering and leaving detention.
5. The Contractor will not permit any employee or agent who has been determined by the Counties to be unsuitable to work or provide services under this contract to enter the Benton Franklin Counties Juvenile Justice Center.
6. Prior to performing any duties, the Counties will conduct security background checks on the Contractor's employees or agents performing any work or service at the Benton-

Franklin Counties Juvenile Justice Center. The Counties shall have the right to reject any of the Contractor's employees.

7. While performing janitorial services on Counties premises, Contractor employees shall not possess any firearms or other deadly weapons and shall not bring in the Benton-Franklin Counties Juvenile Justice Center any weapon or implement prohibited by law or court order.
8. Contractor employees shall not store any personal items unrelated to the performance of their work on or upon COUNTIES premises at any time.
9. Background Check/Criminal History
    a. Contractor shall authorize COUNTIES to conduct a background check of the Contractor. The background check may include, but is not limited to, a review of records on file with the Washington State Patrol, the FBI National Criminal Information Computer (NCIC) and Interstate Identification Index (III), local law enforcement agencies, the Department of Licensing, courts of law, and other agencies, and also may, depending upon assignment of Contractor, involve fingerprinting.
    b. In accordance with chapters 388-700 WAC, 72.05 RCW, and 43.20A RCW the Contractor shall be required to conduct background check/criminal history clearance for all employees, subcontractors, and/or volunteers who may or will have regular or limited access to any client/juvenile.

3. BUILDING OFFICE HOURS AND CLEANING SCHEDULE

A. Duties shall be performed five (5) days per week, Monday through Friday, starting no earlier than 5:30 PM. Areas in detention are to be cleaned first followed by the Administration Building. If a legal holiday occurs on a scheduled cleaning day, the cleaning shall be done on the next workday. The Cleaning Frequency Schedule set forth in Section (4) is provided as a minimum requirement to maintain the building areas at the highest standard.

B. In case of any emergency condition at the Benton-Franklin Counties Juvenile Justice Center, including but not limited to the flooding of a particular section of the building, the Contractor shall, at the direction of the Counties: (1) provide additional resources adequate to respond to janitorial needs created by the emergency, while performing the work required under this contract (2) divert resources to respond to the janitorial needs created by the emergency.

4. CLEANING QUALITY REQUIREMENTS (CQR)

IMPORTANT: CONTRACTOR shall remind its employees that often restrooms continue to be utilized by COUNTY employees after hours. Therefore, when cleaning restrooms utilized by members of the opposite sex as any given CONTRACTOR employee, such employee shall employ appropriate preventative measures to reduce the chances of inadvertent invasion of privacy. These measures shall include announcing loudly into the open restroom door "Janitor – coming in to clean – anyone in there?" at least twice, and then ascertaining that the restroom is unoccupied prior to entering, and propping the door open with a pail or

other indicator that the restroom is closed for cleaning, for the entire time the janitor is inside. Under no circumstances shall janitors commence cleaning of a restroom utilized by members of the opposite sex while anyone of the opposite sex is inside for any reason.

This section outlines the minimum acceptable standards for services performed under this contract.

Locations and Task	Weekly	Monthly	Qrtrly	Semi-Annual
All Office Space				
Clean counters, tables, windowsills, doors jambs, kickplates, and other horizontal surfaces to remove spills and smudges	5x			
Dust mop and spot clean all hard floor surfaces to remove spillage and scuffs	5x			
All medical exam rooms shall have floors swept or vacuumed, then mopped with a disinfectant cleaner	5x			
Empty all waste and recycling receptacles, install new liner, return to original location	3x MWF			
Carpets to be vacuumed in high traffic areas such as hallways, corridors, etc. and spot removed	5x			
Spot clean and remove finger marks, smudges and scuffs from doors, hardware, doorframes, walls, partitions, etc.	5x			
Check for burned out lights, plumbing issues, and other damage and report to building facilitator/management	5x			
Spot clean door glass and relites	5x			
Dust all counters, ledges, desks, chairs, tables, file cabinets, picture frames, telephones, and other flat surfaces that are within reach	1x			
Carpets to be vacuumed in normal traffic areas such as under desks, counters, tables, and spots removed	1x			
Interior office partition windows washed				1x
Vacuum all perimeter edges of carpet including behind doors, next to walls, etc.		1x		
Dust miniblinds			1x	
Dust and remove cobwebs from all exterior lighting inside the building overhangs			1x	
Shampoo carpets in high traffic areas such as corridors, hallways, waiting rooms, courtrooms, conference rooms, entryways, accounting rooms, doorways, etc.			1x	
Wax, polish and/or buff hard floor surfaces to maintain a glossy finish			1x	
Dust all ceiling vent diffusers, grills, and lights				1x
Shampoo all other carpets outside monthly schedule. Including offices, meeting rooms, etc.				1x
Strip and refinish all hard surface floors				1x
Clean and oil oak surfaces				1x
Wash plastic carpet protectors				1x

Common Areas, Entrances, Lobbies, Stairwells, Exterior				
Vacuum and/or damp mop all floors	5x			
Clean all entry glass, metal, and wood surfaces	5x			

Locations and Task	**Weekly**	**Monthly**	**Qrtrly**	**Semi-Annual**
Remove any spots and marks off walls and floors	5x			
Report any fixture, light, or other item that is not working to building facilitator/management	5x			
Wipe down entry guards desk(s)	5x			
Check stairwells for trash, spot clean as needed	5x			
Wipe down all doors, jambs, and thresholds	5x			
Empty interior/exterior waste and install new liner	5x			
Wipe down all benches	5x			
Wipe down stairwell handrails	1x			
Dust all horizontal and vertical surfaces, remove cobwebs	1x			
Sweep stairwells	1x			
Wax, polish and/or buff hard floors surfaces to maintain a glossy finish	1x			
Dust and spot clean all directory signs, boards, etc.		1x		
Clean out all door thresholds		1x		
Clean all relights, extinguisher cabinets, and office signs		1x		
Mop stairwells		1x		
Clean all baseboards			1x	
Vacuum vertical fabric surfaces			1x	
Clean all exterior windows and ledges including courtyard by had via rope drop or lift. Remove hard water spots and cobwebs. Pressure washing not preferred			1x – 3 times yr.	
Clean off all exterior window ledges of all dirt, cobwebs (including can lights), and trash			1x	
Dust all ceiling vent diffusers, grills, and lights			1x	
Clean all interior windows and wipe down sills				1x

Janitorial Rooms				
Organize and maintain in good condition	5x			
Take all trash to dumpsters	5x			
Keep all janitorial carts, equipment, etc. neat and orderly	5x			
Clean out mop, dust, and organize	1x			

Restrooms and Showers				
Restock all paper products and soap	5x			
Empty all waste receptacles, install new liner, return to original location	5x			
Empty and clean sanitary napkin disposal units and replace liner	5x			
Clean and disinfect all parts of toilets, urinals, sinks, fixtures, partitions, countertops, and walls around each fixture – remove all stains, scale, etc.	5x			
Spot clean all hard wall and partition surfaces	5x			
Clean and/or polish all fixtures – stainless stalls, dispensers, shelves, door handles, kick plates, mirrors, etc.	5x			
Report any fixture or light that is not working to building facilitator/manager	5x			
Dust then wet mop all hard floors with disinfectant cleaner	5x			
Clean showers	5x			
Scrub walls, tile, etc. in showers	1x			
Dust all surfaces	1x			

Locations and Task	Weekly	Monthly	Qrtrly	Semi-Annual
Pour clean water down shower and floor drains	1x			
Dust vents and grills		1x		
Fully clean all hard wall and partition surfaces		1x		
Scrub all floors and reseal or apply applicable finish		1x		
Disinfect and polish/scrub and/or buff restroom floors			1x	
Strip all hard surface floors and reseal or apply applicable finish				1x

Kitchen / Breakrooms / Classrooms / Labs				
Wipe down and sanitize all horizontal surfaces – tables, counters, backsplash, etc.	5x			
Empty all trash and install new liner, and return to original location	5x			
Dry and wet mop floors with disinfectant	5x			
Clean all empty sinks	5x			
Report any fixture or light that is not working to building facilitator/manager	5x			
Restock all paper products and soap	5x			
Scrub floors and reseal or apply applicable finish		1x		
Strip all hard surface floors and reseal or apply applicable finish				1x

ADDITIONAL ITEMS TO BE BID ON SEPERATELY PLEASE PROVIDE QUOTES IN ADDITION TO THE BASE BID.

(1) Four times per year WINDOW WASHING AND CLASS CLEANING of exterior windows of the Administrative Building in its entirety regardless of highlighted color in Exhibit B.

(2) Two times per year CARPET SHAMPOOING of the carpets in the reception area, down the hallway to detention, and down the hallway to the Commissioner Office.

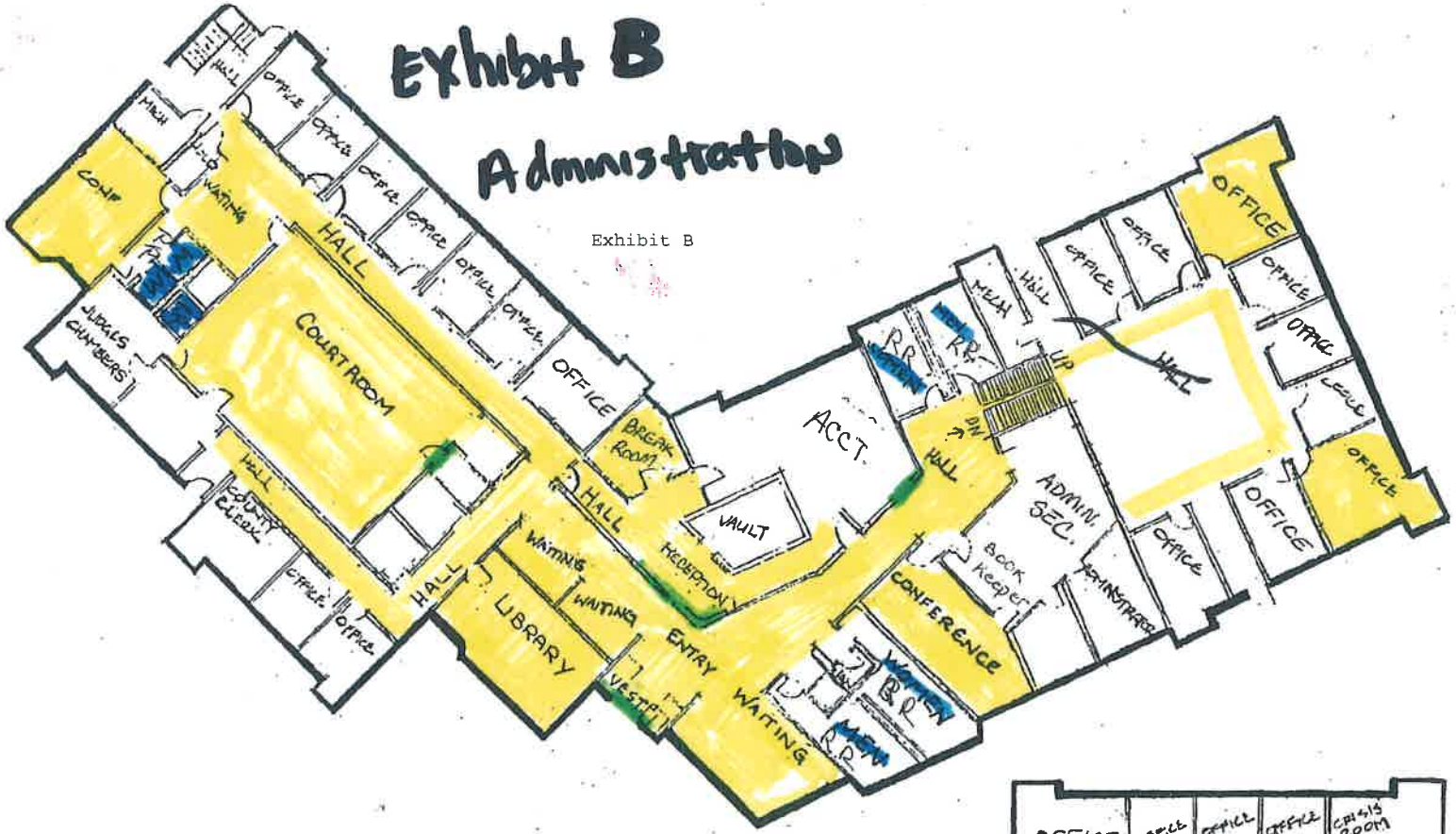
(3) Two times per year WINDOW WASHING AND GLASS CLEANING of all interior windows highlighted in yellow in Exhibit B.

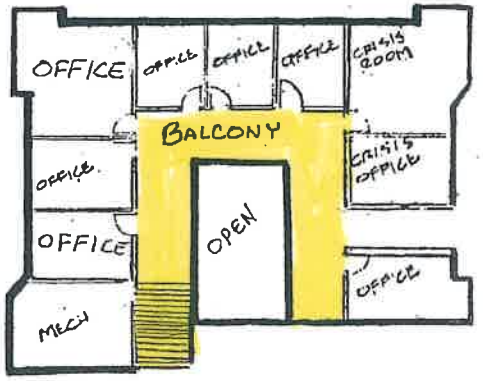
(4) Two times per year FLOOR FINISHING of the Detention Center in its entirety regardless of highlighted color in Exhibit C and the Administrative Building in its entirety regardless of highlighted color in Exhibit B.

Exhibit B

Administration

Exhibit B





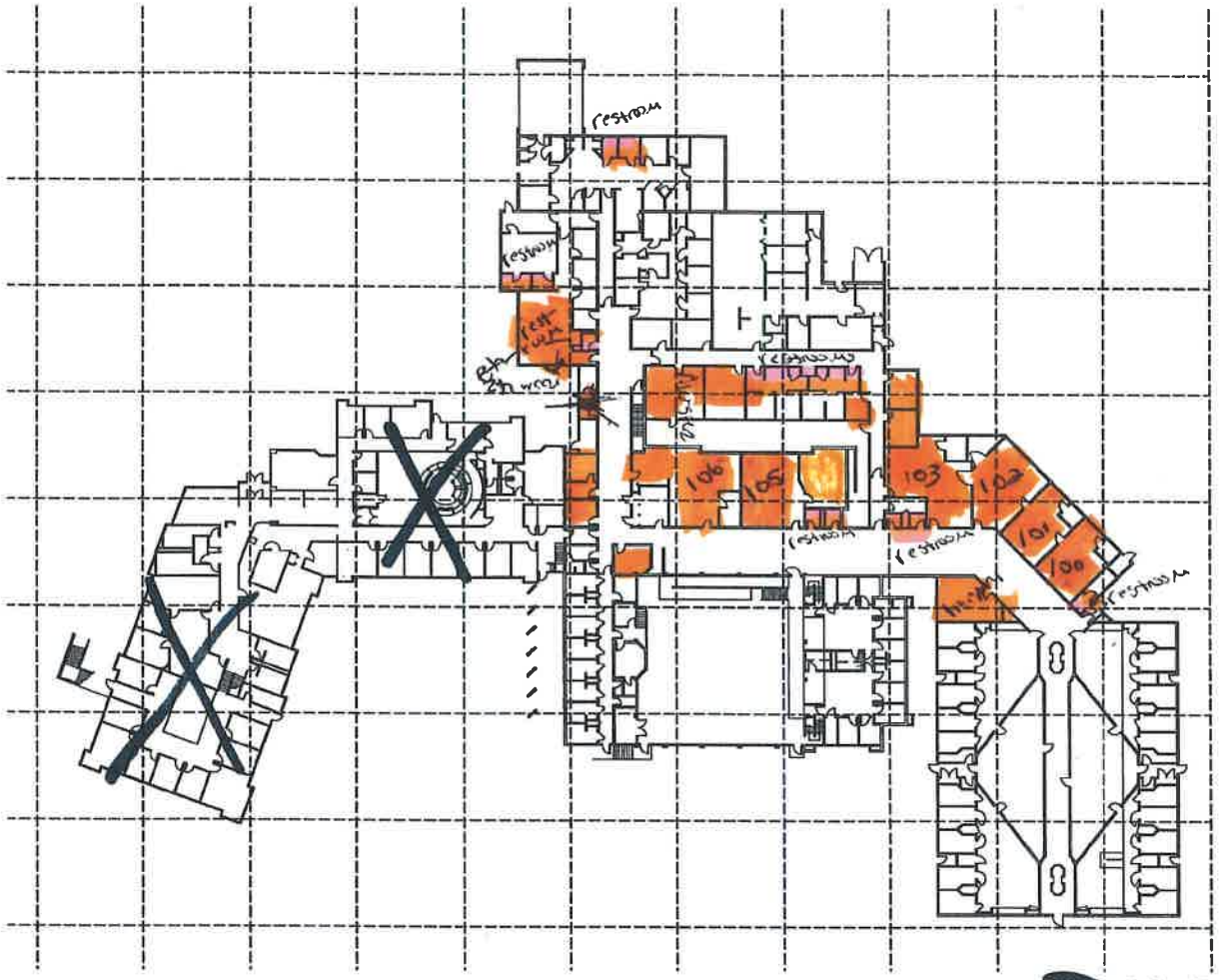


Exhibit C

Exhibit C

Exhibit D

The Personal Touch CLEANING INC.

Quality Residential & Commercial Care.

Locally Owned & Operated Since1989.

Commercial Service Estimate
9/7/2021
(Attachment #2)

The listed price includes all required janitorial cleaning as well as equipment and supplies for

BENTON FRANKLIN JUVENILE JUSTICE CENTER

5606 W. Canal Pl. Suite 106
Kennewick, WA. 99336
509-783-2151

Contact: Rosa Garcia

Janitorial Services

Base Price $3697.98 per month

Price quoted for additional items in addition to the base quote

1. **Four times per year window washing and glass cleaning of exterior windows of the Administrative Building in its entirety.**

   $487.50 x 4 = $1950.00 per year

2. **Four times per year cleaning of carpets in Reception area, hallways to Detention and other high traffic areas.**

   $750.00 x 4 = $3000.00 per year

3. **Two times per year window washing and glass cleaning of all interior windows highlighted in yellow in Exhibit B.**

   $412.50 x 2 = $825.00 per year

4. **Two times per year machine floor services for designated VCT flooring areas.**

   $1800.00 x 2 = $3600.00 per year

*6855 W. Clearwater Ave. Suite L * Kennewick, WA. 99336*
*Office: 509-735-9052 * Fax: 509-783-4160 * Email personaltouchcleaning@msn.com*

5. **Buffing of VCT flooring two times per year (the quarters that we do not do the full floor service)**

   $400.00 x 2 = $800.00 per year

6. **Semi-annual carpet shampoo of all areas not covered in Quarterly service.**

   $1000.00 x 2 = $2000.00 per year.

6855 W. Clearwater Suite L * Kennewick, WA 99336
Office 509-735-9052 * Fax: 509-783-4160 * Email personaltouchcleaning@msn.com

State of Washington
Department of Labor & Industries

Prevailing Wage Section - Telephone 360-902-5335
PO Box 44540, Olympia, WA 98504-4540

Washington State Prevailing Wage

The PREVAILING WAGES listed here include both the hourly wage rate and the hourly rate of fringe benefits. On public works projects, worker's wage and benefit rates must add to not less than this total. A brief description of overtime calculation requirements are provided on the Benefit Code Key.

Journey Level Prevailing Wage Rates for the Effective Date: 9/15/2021

County	Trade	Job Classification	Wage	Holiday	Overtime	Note	*Risk Class
Benton	Building Service Employees	Janitor	$13.69		1		View
Benton	Building Service Employees	Shampooer	$13.69		1		View
Benton	Building Service Employees	Waxer	$13.69		1		View
Benton	Building Service Employees	Window Cleaner	$13.69		1		View

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	October 19, 2021
Subject:	Rescission of resolution approving agreement with LinkedIn Learning for on-line training
Presenter:	N/A
Prepared By:	Denise Gerry
Reviewed By:	Eric Hsu

PA Review, Approval to Form: ☐ Yes ☐ No ☒ N/A *(If no, include reasoning for no approval)*

Type of Agenda Item:	**Type of Action Needed:** *(Multiple boxes can be checked, if necessary)*	
☒ Consent Agenda	☐ Discussion Only	☐ Pass Motion
☐ Public Hearing	☐ Decision / Direction	☒ Pass Resolution
☐ Scheduled Business	☐ Sign Letter / Document	☐ Pass Ordinance
		☐ Execute Contract

Summary / Background Information

Previously, by way of Resolution 2021-601, Benton County approved the renewal of the online training subscription agreement with LinkedIn Learning to provide training resources for Commissioners' Office and County Administration staff. Subsequently, it was discovered that much of the needed training contained within LinkedIn Learning was already duplicated within the Neogov training module for which Benton County is already licensed. As such, it is appropriate to rescind the resolution approving the LinkedIn Learning subscription.

Fiscal Impact

None beyond budgeted.

Recommendation

Rescind Resolution 2021-601 as proposed canceling the online training subscription agreement with LinkedIn Learning.

Suggested Motion

Approve with consent agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF RESCINDING RESOLUTION 2021-601 AUTHORIZING THE RENEWAL OF THE SUBSCRIPTION FOR LINKEDIN LEARNING ON-LINE TRAINING

WHEREAS, Benton County previously executed Resolution 2021-601, authorizing the renewal of the subscription for LinkedIn Learning On-line Training ("LinkedIn Learning"); and

WHEREAS, since the time of execution of Resolution 2021-601, it has been discovered that much of the training contained in LinkedIn Learning is also available through the employee training module of Neogov, for which Benton County is already licensed; and

WHEREAS, it is unnecessary to have duplicate training; and

WHEREAS, LinkedIn still has not billed Benton County for the renewal of LinkedIn Learning and has not activated the licenses for the new billing cycle; and

WHEREAS, it is therefore appropriate to cancel the duplicative LinkedIn Learning license; **NOW, THEREFORE**

BE IT RESOLVED Resolution 2021-601 is hereby rescinded and the renewal of the LinkedIn Learning On-Line Training program is canceled.

Dated this _____ day of _____ 20 _____

_____
Chairman of the Board

_____
Member

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

Attest: _____
Clerk of the Board

cc: Originals – Commissioners
Copy – Auditor, S Godinez

E. Hsu

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

EXHIBIT "A"

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 (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT	BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
515.300	3101	Supplies	$1,200	515.300	3508	Computer Replacement	$1,200
TOTAL			$1,200	TOTAL			$1,200

Explanation:

The adjustment is needed for purchasing a desk top scanner and a printer for the PA office staff in our Prosser office once the office is moved to the new location within the Courthouse.

Prepared by: Ginny Baddley Date: 10/7/21

Approved ❑ Denied ❑ Date: _____

_____
Chairman

_____
Member

_____
Member

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	10/19/2021
Subject:	2021 Catch Basin and Drywell Cleaning
Presenter:	N/A
Prepared By:	Ryan Skeen
Reviewed By:	Doug D'Hondt

PA Review, Approval to Form: ☒ Yes ☐ No ☐ N/A *(If no, include reasoning for no approval)*

Type of Agenda Item:	**Type of Action Needed:** *(Multiple boxes can be checked, if necessary)*	
☒ Consent Agenda	☐ Discussion Only	☐ Pass Motion
☐ Public Hearing	☐ Decision / Direction	☒ Pass Resolution
☐ Scheduled Business	☐ Sign Letter / Document	☐ Pass Ordinance
		☐ Execute Contract

Summary / Background Information

It is the intention of the Board of County Commissioners to preserve the County road infrastructure by cleaning and maintaining drainage systems. A bid packet (CB NO. 21-18) for C.E. 2125 SMP – 2021 Catch Basin and Drywell Cleaning was prepared by Benton County Public Works Department staff and submitted to the Benton County Prosecuting Attorney's office for review and was approved as to form.

Staff needs Board approval to advertise and proceed with the bid process for this project.

Fiscal Impact

Estimated $50,000-$60,000 from the road fund for maintenance.

Recommendation

The Board authorize the County Engineer to proceed with the advertisement and bid process for Bid No. CB 21 -18 – C.E. 2125 SMP – 2021 Catch Basin and Drywell Cleaning.

Suggested Motion

Approve as part of the Consent Agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF REQUESTING PERMISSION TO PROCEED WITH THE ADVERTISEMENT AND BID PROCESS FOR BID NO. CB 21 –18

WHEREAS, it is the intention of the Board of County Commissioners to preserve the County road infrastructure by cleaning and maintaining drainage systems; and

WHEREAS, a bid packet (CB NO. 21-18) for C.E. 2125 SMP – 2021 Catch Basin and Drywell Cleaning was prepared by Benton County Public Works Department staff and submitted to the Benton County Prosecuting Attorney's office for review; and

WHEREAS, our departmental assigned Deputy Prosecuting Attorney from the Civil Division has reviewed and approved as to form Bid No. CB 21 -18; **NOW, THEREFORE,**

BE IT RESOLVED, that the County Engineer is authorized to proceed with the advertisement and bid process for Bid No. CB 21 -18 - C.E. 2125 SMP – 2021 Catch Basin and Drywell Cleaning.

Dated this 19th day of October 2021.

_____
Chairman

_____
Chairman Pro-Tem

_____
Member

Attest:_____
Clerk of the Board

Constituting the Board of County Commissioners of Benton County, Washington

Orig.: Road Dept.

R. Skeen

CONTRACT PROVISIONS AND PLANS

For Construction of:

2021 Catch Basin and Drywell Cleaning

CE 2125 SMP

PUBLIC WORKS DEPARTMENT

COUNTY OF BENTON WASHINGTON

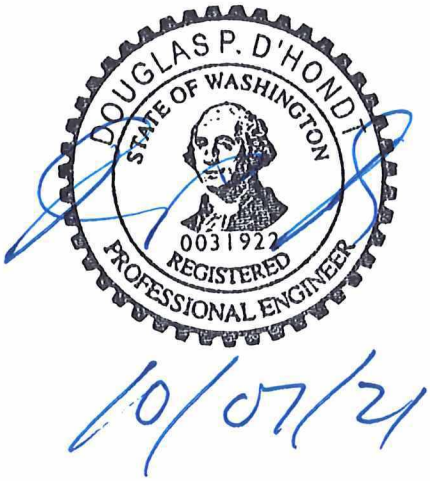
Bid No: 21-18

CERTIFICATIONS

CE 2125 SMP
2021 Catch Basin and Drywell Cleaning
Bid No. CB 21-18

ENGINEER'S CERTIFICATION:

As the Engineer in direct responsible charge of developing these contract provisions, I certify these provisions have been developed or incorporated into this project under my supervision or as a result of certified specifications provided by other licensed professionals.



10/07/21

APPROVED AS TO FORM:

The Call for Bids and Contract Provisions for the construction of CE 2021 SMP – 2021 Catch Basin and Drywell Cleaning have been reviewed and approved as to form:

Deputy Prosecuting Attorney

10/7/21
Date

OFFICE OF THE COUNTY ENGINEER
BENTON COUNTY
(CB NO. 21-18)

CALL FOR BIDS:

Sealed bids for CE 2125 SMP – 2021 Catch Basin and Drywell Cleaning, shall be received by the Benton County Engineer, 102206 E Wiser PKWY Kennewick, WA 99338 until **11:00 a.m.**, Local Time, **Thursday, 11/04/2021**. NO BIDS WILL BE ACCEPTED AFTER THAT DATE AND TIME. Bids are to be opened on Thursday, 11/04/2021 at 11:00 a.m., Local Time, in the Public Works Conference Room, Public Services Building located at 102206 E Wiser Parkway Kennewick, WA 99338. Contractor's Bid Proposal shall include the complete Proposal, consisting of five (5) pages and the proposal bond is to be enclosed in a sealed envelope marked, "BID FOR 2021 Catch Basin and Drywell Cleaning– CE 2125 SMP".

All bid proposals shall be accompanied by a bid proposal deposit as certified check, cashier check or proposal bond in an amount equal to five percent (5%) of the amount of such bid proposal. Should the successful bidder fail to enter into such contract and furnish satisfactory performance bond within the time stated in the specifications, the bid proposal deposit shall be forfeited to Benton County. The Board reserves the right to reject any or all bids and to waive informalities in the bidding. The award of contract, if made, will be approved by the Board of Benton County Commissioners, Benton County, Washington.

"NOTE: This document and the materials enclosed herewith constitute an invitation to submit bid proposals only and do not represent an offer by Benton County or the Benton County Engineer. Bid proposals submitted in response hereto shall constitute offers to contract with Benton County, and only upon the County's acceptance of such offer by bid award as provided herein, shall any contractual relations be created."

Complete digital project bidding documents are available at www.questcdn.com. Interested bidders may view the plans and specifications at no charge by signing up for an account and inputting Quest Project # 8044475 on the website's Projects Search Page. Firms who intend to submit a bid may download the digital plan documents, specifications, contract documents and bid proposal for fifteen dollars ($15.00). Please contact QuestCDN.com at 952-233-1632 or info@questcdn.com for assistance in free membership, registration, downloading, and working with this digital project information.

The following is applicable to all Benton County projects:

"Benton County, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 USC 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises as defined at 49 CFR Part 26 will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, national origin, or sex in consideration for an award."

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PROPOSAL (5 PAGES)

CONTRACT

CONTRACT (informational)
PERFORMANCE BOND (informational)
PAYMENT BOND (informational)

SPECIAL PROVISIONS

INTRODUCTION TO THE SPECIAL PROVISIONS

(August 14, 2013 APWA GSP)

The work on this project shall be accomplished in accordance with the *Standard Specifications for Road, Bridge and Municipal Construction*, 2022, as issued by the Washington State Department of Transportation (WSDOT) and the American Public Works Association (APWA), Washington State Chapter (hereafter "Standard Specifications"). The Standard Specifications, as modified or supplemented by the Amendments to the Standard Specifications and these Special Provisions, all of which are made a part of the Contract Documents, shall govern all of the Work.

These Special Provisions are made up of both General Special Provisions (GSPs) from various sources, which may have project-specific fill-ins; and project-specific Special Provisions. Each Provision either supplements, modifies, or replaces the comparable Standard Specification, or is a new Provision. The deletion, amendment, alteration, or addition to any subsection or portion of the Standard Specifications is meant to pertain only to that particular portion of the section, and in no way should it be interpreted that the balance of the section does not apply.

The project-specific Special Provisions are labeled as shown below. The GSPs are labeled under the headers of each GSP, with the effective date of the GSP and its source. For example:

(March 8, 2013 APWA GSP)
(April 1, 2013 WSDOT GSP)
(March 12, 2014 Benton County GSP)
(******) Project Specific Special Provision

Also incorporated into the Contract Documents by reference are:

- *Manual on Uniform Traffic Control Devices for Streets and Highways*, currently adopted edition, with Washington State modifications, if any
- *Standard Plans for Road, Bridge and Municipal Construction*, WSDOT/APWA, current edition

Contractor shall obtain copies of these publications, at Contractor's own expense.

DIVISION 1

GENERAL REQUIREMENTS

DESCRIPTION OF WORK

(March 13, 1995 WSDOT GSP)

This contract provides for the cleaning of catch basins and drywells and other work, all in accordance with the attached Contract Plans, these Contract Provisions, and the Standard Specifications.

SECTION 1-01, DEFINITIONS AND TERMS

1-01.3, Definitions

(January 4, 2016 APWA GSP)

Delete the heading **Completion Dates** and the three paragraphs that follow it, and replace them with the following:

Dates

Bid Opening Date

The date on which the Contracting Agency publicly opens and reads the Bids.

Award Date

The date of the formal decision of the Contracting Agency to accept the lowest responsible and responsive Bidder for the Work.

Contract Execution Date

The date the Contracting Agency officially binds the Agency to the Contract.

Notice to Proceed Date

The date stated in the Notice to Proceed on which the Contract time begins.

Substantial Completion Date

The day the Engineer determines the Contracting Agency has full and unrestricted use and benefit of the facilities, both from the operational and safety standpoint, any remaining traffic disruptions will be rare and brief, and only minor incidental work, replacement of temporary substitute facilities, plant establishment periods, or correction or repair remains for the Physical Completion of the total Contract.

Physical Completion Date

The day all of the Work is physically completed on the project. All documentation required by the Contract and required by law does not necessarily need to be furnished by the Contractor by this date.

Completion Date

The day all the Work specified in the Contract is completed and all the obligations of the Contractor under the contract are fulfilled by the Contractor. All documentation required by the Contract and required by law must be furnished by the Contractor before establishment of this date.

Final Acceptance Date

The date on which the Contracting Agency accepts the Work as complete.

Supplement this Section with the following:

All references in the Standard Specifications, Amendments, or WSDOT General Special Provisions, to the terms “Department of Transportation”, “Washington State Transportation Commission”, “Commission”, “Secretary of Transportation”, “Secretary”, “Headquarters”, and “State Treasurer” shall be revised to read “Contracting Agency”.

All references to the terms “State” or “state” shall be revised to read “Contracting Agency” unless the reference is to an administrative agency of the State of Washington, a State statute or regulation, or the context reasonably indicates otherwise.

All references to “State Materials Laboratory” shall be revised to read “Contracting Agency designated location”.

All references to “final contract voucher certification” shall be interpreted to mean the Contracting Agency form(s) by which final payment is authorized, and final completion and acceptance granted.

Additive
A supplemental unit of work or group of bid items, identified separately in the Bid Proposal, which may, at the discretion of the Contracting Agency, be awarded in addition to the base bid.

Alternate
One of two or more units of work or groups of bid items, identified separately in the Bid Proposal, from which the Contracting Agency may make a choice between different methods or material of construction for performing the same work.

Business Day
A business day is any day from Monday through Friday except holidays as listed in Section 1-08.5.

Contract Bond
The definition in the Standard Specifications for “Contract Bond” applies to whatever bond form(s) are required by the Contract Documents, which may be a combination of a Payment Bond and a Performance Bond.

Contract Documents
See definition for “Contract”.

Contract Time
The period of time established by the terms and conditions of the Contract within which the Work must be physically completed.

Notice of Award
The written notice from the Contracting Agency to the successful Bidder signifying the Contracting Agency’s acceptance of the Bid Proposal.

Notice to Proceed
The written notice from the Contracting Agency or Engineer to the Contractor authorizing and directing the Contractor to proceed with the Work and establishing the date on which the Contract time begins.

Traffic
Both vehicular and non-vehicular traffic, such as pedestrians, bicyclists, wheelchairs, and equestrian traffic.

SECTION 1-02, BID PROCEDURES AND CONDITIONS

1-02.1, Prequalification of Bidders

Delete this Section and replace it with the following:

1-02.1, Qualifications of Bidder
(January 24, 2011 APWA GSP)

Before award of a public works contract, a bidder must meet at least the minimum qualifications of RCW 39.04.350(1) to be considered a responsible bidder and qualified to be awarded a public works project.

1-02.2, Plans and Specifications
(June 27, 2011 APWA GSP)

Delete this section and replace it with the following:

Information as to where Bid Documents can be obtained or reviewed can be found in the Call for Bids (Advertisement for Bids) for the work.

After award of the contract, plans and specifications will be issued to the Contractor at no cost as detailed below:

To Prime Contractor	No. of Sets	Basis of Distribution
Reduced plans (8.5" x 11")	*** 0 ***	Furnished automatically upon award.
Contract Provisions	*** 2 ***	Furnished automatically upon award.
Large plans (e.g., 22" x 34")	*** 0 ***	Furnished only upon request.

Additional plans and Contract Provisions may be obtained by the Contractor from the source stated in the Call for Bids, at the Contractor's own expense.

1-02.5, Proposal Forms
(July 31, 2017 APWA GSP)

Delete this section and replace it with the following:

The Proposal Form will identify the project and its location and describe the work. It will also list estimated quantities, units of measurement, the items of work, and the materials to be furnished at the unit bid prices. The bidder shall complete spaces on the proposal form that call for, but are not limited to, unit prices; extensions; summations; the total bid amount; signatures; date; and, where applicable, retail sales taxes and acknowledgment of addenda; the bidder's name, address, telephone number, and signature; the bidder's UDBE/DBE/M/WBE commitment, if applicable; a State of Washington Contractor's Registration Number; and a Business License Number, if applicable. Bids shall be completed by typing or shall be printed in ink by hand, preferably in black ink. The required certifications are included as part of the Proposal Form.

The Contracting Agency reserves the right to arrange the proposal forms with alternates and additives, if such be to the advantage of the Contracting Agency. The bidder shall bid on all alternates and additives set forth in the Proposal Form unless otherwise specified.

1-02.6, Preparation of Proposal
(December 10, 2020 APWA GSP, Option B)

Supplement the second paragraph with the following:

4. If a minimum bid amount has been established for any item, the unit or lump sum price must equal or exceed the minimum amount stated.
5. Any correction to a bid made by interlineation, alteration, or erasure, shall be initialed by the signer of the bid.

Delete the last two paragraphs, and replace them with the following:

The Bidder shall submit with their Bid a completed Contractor Certification Wage Law Compliance form, provided by the Contracting Agency. Failure to return this certification as part of the Bid Proposal package will make this Bid Nonresponsive and ineligible for Award. A Contractor Certification of Wage Law Compliance form is included in the Proposal Forms.

The Bidder shall make no stipulation on the Bid Form, nor qualify the bid in any manner.

A bid by a corporation shall be executed in the corporate name, by the president or a vice president (or other corporate officer accompanied by evidence of authority to sign).

A bid by a partnership shall be executed in the partnership name, and signed by a partner. A copy of the partnership agreement shall be submitted with the Bid Form if any UDBE requirements are to be satisfied through such an agreement.

A bid by a joint venture shall be executed in the joint venture name and signed by a member of the joint venture. A copy of the joint venture agreement shall be submitted with the Bid Form if any UDBE requirements are to be satisfied through such an agreement.

1-02.7, Bid Deposit
(March 8, 2013 APWA GSP)

Supplement this section with the following:

Bid bonds shall contain the following:

1. Contracting Agency-assigned number for the project;
2. Name of the project;
3. The Contracting Agency named as obligee;
4. The amount of the bid bond stated either as a dollar figure or as a percentage which represents five percent of the maximum bid amount that could be awarded;
5. Signature of the bidder's officer empowered to sign official statements. The signature of the person authorized to submit the bid should agree with the signature on the bond, and the title of the person must accompany the said signature;
6. The signature of the surety's officer empowered to sign the bond and the power of attorney.

If so stated in the Contract Provisions, bidder must use the bond form included in the Contract Provisions.

If so stated in the Contract Provisions, cash will not be accepted for a bid deposit.

(March 12, 2014 Benton County GSP)
Revise the second sentence of this section to read:

This deposit may be certified check, cashier's check or a proposal bond (Surety bond).

Supplement this section with the following:

Bidders wishing to submit a bid deposit in bond form shall use the Proposal Bond form included as part of the Proposal packet for this project.

1-02.9, Delivery of Proposal
(******)

Delete this section and replace it with the following:

Each Proposal shall be submitted in a sealed envelope, with the Project Name and Project Number as stated in the Call for Bids clearly marked on the outside of the envelope, or as otherwise required in the Bid Documents, to ensure proper handling and delivery.

Proposals that are received as required will be publicly opened and read as specified in Section 1-02.12. The Contracting Agency will not open or consider any Bid Proposal that is received after the time specified in the Call for Bids for receipt of Bid Proposals, or received in a location other than that specified in the Call for Bids.

If an emergency or unanticipated event interrupts normal work processes of the Contracting Agency so that Proposals cannot be received at the office designated for receipt of bids as specified in Section 1-02.12 the time specified for receipt of the Proposal will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which the normal work processes of the Contracting Agency resume.

1-02.10, Withdrawing, Revising, or Supplementing Proposal
(July 23, 2015 APWA GSP)

Delete this section, and replace it with the following:

After submitting a physical Bid Proposal to the Contracting Agency, the Bidder may withdraw, revise, or supplement it if:

1. The Bidder submits a written request signed by an authorized person and physically delivers it to the place designated for receipt of Bid Proposals, and
2. The Contracting Agency receives the request before the time set for receipt of Bid Proposals, and
3. The revised or supplemented Bid Proposal (if any) is received by the Contracting Agency before the time set for receipt of Bid Proposals.

If the Bidder's request to withdraw, revise, or supplement its Bid Proposal is received before the time set for receipt of Bid Proposals, the Contracting Agency will return the unopened Proposal package to the Bidder. The Bidder must then submit the revised or supplemented package in its entirety. If the Bidder does not submit a revised or supplemented package, then its bid shall be considered withdrawn.

Late revised or supplemented Bid Proposals or late withdrawal requests will be date recorded by the Contracting Agency and returned unopened. Mailed, emailed, or faxed requests to withdraw, revise, or supplement a Bid Proposal are not acceptable.

1-02.13, Irregular Proposals
(October 1, 2020 APWA GSP)

Delete this section and replace it with the following:

1. A Proposal will be considered irregular and will be rejected if:
   a. The Bidder is not prequalified when so required;
   b. The authorized Proposal form furnished by the Contracting Agency is not used or is altered;
   c. The completed Proposal form contains any unauthorized additions, deletions, alternate Bids, or conditions;
   d. The Bidder adds provisions reserving the right to reject or accept the award, or enter into the Contract;
   e. A price per unit cannot be determined from the Bid Proposal;
   f. The Proposal form is not properly executed;
   g. The Bidder fails to submit or properly complete a Subcontractor list, if applicable, as required in Section 1-02.6;
   h. The Bidder fails to submit or properly complete a Disadvantaged Business Enterprise Certification, if applicable, as required in Section 1-02.6;
   i. The Bidder fails to submit written confirmation from each DBE firm listed on the Bidder's completed DBE Utilization Certification that they are in agreement with the bidder's DBE participation commitment, if applicable, as required in Section 1-02.6, or if the written confirmation that is submitted fails to meet the requirements of the Special Provisions;
   j The Bidder fails to submit DBE Good Faith Effort documentation, if applicable, as required in Section 1-02.6, or if the documentation that is submitted fails to demonstrate that a Good Faith Effort to meet the Condition of Award was made;
   k. The Bidder fails to submit a DBE Bid Item Breakdown form, if applicable, as required in Section 1-02.6, or if the documentation that is submitted fails to meet the requirements of the Special Provisions;
   l. The Bidder fails to submit DBE Trucking Credit Forms, if applicable, as required in Section 1-02.6, or if the documentation that is submitted fails to meet the requirements of the Special Provisions;
   m. The Bid Proposal does not constitute a definite and unqualified offer to meet the material terms of the Bid invitation; or
   n. More than one Proposal is submitted for the same project from a Bidder under the same or different names.

2. A Proposal may be considered irregular and may be rejected if:
   a. The Proposal does not include a unit price for every Bid item;
   b. Any of the unit prices are excessively unbalanced (either above or below the amount of a reasonable Bid) to the potential detriment of the Contracting Agency;
   c. Receipt of Addenda is not acknowledged;
   d. A member of a joint venture or partnership and the joint venture or partnership submit Proposals for the same project (in such an instance, both Bids may be rejected); or
   e. If Proposal form entries are not made in ink.

1-02.14, Disqualification of Bidders
(May 17, 2018 APWA GSP, Option A)

Delete this section and replace it with the following:

A Bidder will be deemed not responsible if the Bidder does not meet the mandatory bidder responsibility criteria in RCW 39.04.350(1), as amended.

The Contracting Agency will verify that the Bidder meets the mandatory bidder responsibility criteria in RCW 39.04.350(1). To assess bidder responsibility, the Contracting Agency reserves the right to request documentation as needed from the Bidder and third parties concerning the Bidder's compliance with the mandatory bidder responsibility criteria.

If the Contracting Agency determines the Bidder does not meet the mandatory bidder responsibility criteria in RCW 39.04.350(1) and is therefore not a responsible Bidder, the Contracting Agency shall notify the Bidder in writing, with the reasons for its determination. If the Bidder disagrees with this determination, it may appeal the determination within two (2) business days of the Contracting Agency's determination by presenting its appeal and any additional information to the Contracting Agency. The Contracting Agency will consider the appeal and any additional information before issuing its final determination. If the final determination affirms that the Bidder is not responsible, the Contracting Agency will not execute a contract with any other Bidder until at least two business days after the Bidder determined to be not responsible has received the Contracting Agency's final determination.

1-02.15, Pre Award Information
(August 14, 2013 APWA GSP)

Revise this section to read:

Before awarding any contract, the Contracting Agency may require one or more of these items or actions of the apparent lowest responsible bidder:

1. A complete statement of the origin, composition, and manufacture of any or all materials to be used,
2. Samples of these materials for quality and fitness tests,
3. A progress schedule (in a form the Contracting Agency requires) showing the order of and time required for the various phases of the work,
4. A breakdown of costs assigned to any bid item,
5. Attendance at a conference with the Engineer or representatives of the Engineer,
6. Obtain, and furnish a copy of, a business license to do business in the city or county where the work is located.
7. Any other information or action taken that is deemed necessary to ensure that the bidder is the lowest responsible bidder.

SECTION 1-03, AWARD AND EXECUTION OF CONTRACT

1-03.1, Consideration of Bids
(January 23, 2006 APWA GSP)

Revise the first paragraph to read:

After opening and reading proposals, the Contracting Agency will check them for correctness of extensions of the prices per unit and the total price. If a discrepancy exists between the price per unit and the extended amount of any bid item, the price per unit will control. If a minimum bid amount has been established for any item and the bidder's unit or lump sum price is less than the

minimum specified amount, the Contracting Agency will unilaterally revise the unit or lump sum price, to the minimum specified amount and recalculate the extension. The total of extensions, corrected where necessary, including sales taxes where applicable and such additives and/or alternates as selected by the Contracting Agency, will be used by the Contracting Agency for award purposes and to fix the Awarded Contract Price amount and the amount of the contract bond.

1-03.1(1), Identical Bid Totals
(January 4, 2016 APWA GSP)

Revise this section to read:

After opening Bids, if two or more lowest responsive Bid totals are exactly equal, then the tie-breaker will be the Bidder with an equal lowest bid, that proposed to use the highest percentage of recycled materials in the Project, per the form submitted with the Bid Proposal. If those percentages are also exactly equal, then the tie-breaker will be determined by drawing as follows: Two or more slips of paper will be marked as follows: one marked "Winner" and the other(s) marked "unsuccessful". The slips will be folded to make the marking unseen. The slips will be placed inside a box. One authorized representative of each Bidder shall draw a slip from the box. Bidders shall draw in alphabetic order by the name of the firm as registered with the Washington State Department of Licensing. The slips shall be unfolded and the firm with the slip marked "Winner" will be determined to be the successful Bidder and eligible for Award of the Contract. Only those Bidders who submitted a Bid total that is exactly equal to the lowest responsive Bid, and with a proposed recycled materials percentage that is exactly equal to the highest proposed recycled materials amount, are eligible to draw.

1-03.3, Execution of Contract
(October 1, 2005 APWA GSP)

Revise this section to read:

Copies of the Contract Provisions, including the unsigned Form of Contract, will be available for signature by the successful bidder on the first business day following award. The number of copies to be executed by the Contractor will be determined by the Contracting Agency.

Within 10 calendar days after the award date, the successful bidder shall return the signed Contracting Agency-prepared contract, an insurance certification as required by Section 1-07.18, and a satisfactory bond as required by law and Section 1-03.4. Before execution of the contract by the Contracting Agency, the successful bidder shall provide any pre-award information the Contracting Agency may require under Section 1-02.15.

Until the Contracting Agency executes a contract, no proposal shall bind the Contracting Agency nor shall any work begin within the project limits or within Contracting Agency-furnished sites. The Contractor shall bear all risks for any work begun outside such areas and for any materials ordered before the contract is executed by the Contracting Agency.

If the bidder experiences circumstances beyond their control that prevents return of the contract documents within the calendar days after award, the Contracting Agency may grant up to a maximum of 10 additional calendar days for return of the documents, provided the Contracting Agency deems the circumstances warrant it.

1-03.4, Contract Bond
(July 23, 2015 APWA GSP)

Delete the first paragraph and replace it with the following:

The successful bidder shall provide executed payment and performance bond(s) for the full contract amount. The bond may be a combined payment and performance bond; or be separate payment and performance bonds. In the case of separate payment and performance bonds, each shall be for the full contract amount. The bond(s) shall:

1. Be on Contracting Agency-furnished form(s);
2. Be signed by an approved surety (or sureties) that:
    a. Is registered with the Washington State Insurance Commissioner, and
    b. Appears on the current Authorized Insurance List in the State of Washington published by the Office of the Insurance Commissioner,
3. Guarantee that the Contractor will perform and comply with all obligations, duties, and conditions under the Contract, including but not limited to the duty and obligation to indemnify, defend, and protect the Contracting Agency against all losses and claims related directly or indirectly from any failure:
    a. Of the Contractor (or any of the employees, subcontractors, or lower tier subcontractors of the Contractor) to faithfully perform and comply with all contract obligations, conditions, and duties, or
    b. Of the Contractor (or the subcontractors or lower tier subcontractors of the Contractor) to pay all laborers, mechanics, subcontractors, lower tier subcontractors, material person, or any other person who provides supplies or provisions for carrying out the work;
4. Be conditioned upon the payment of taxes, increases, and penalties incurred on the project under titles 50, 51, and 82 RCW; and
5. Be accompanied by a power of attorney for the Surety's officer empowered to sign the bond; and
6. Be signed by an officer of the Contractor empowered to sign official statements (sole proprietor or partner). If the Contractor is a corporation, the bond(s) must be signed by the president or vice president, unless accompanied by written proof of the authority of the individual signing the bond(s) to bind the corporation (i.e., corporate resolution, power of attorney, or a letter to such effect signed by the president or vice president).

Add the following new section:

1-03.4(1), Retainage in Lieu of Contract Bond
(May 17, 2018 APWA GSP)

For contracts of up to $150,000.00 or less, the Contractor may, at the Contractor's option, authorize the Contracting Agency to retain up to 10% of the contract amount in lieu of furnishing a performance and/or payment bond. If the Contractor elects this option, the retainage shall be held for a period of thirty (30) days after the date of final acceptance, or until receipt of all necessary releases from the Departments of Revenue and of Labor and Industries and settlement of any liens filed under RCW 60.28, whichever is later. The Contractor must advise the Contracting Agency in writing of the Contractor's election to authorize retainage in lieu of a bond, at the time of execution of the Contract.

In choosing this option, the Contractor agrees that if the Contractor, its heirs, executors, administrators, successors, or assigns, shall in all things stand to and abide by, and well and truly

keep and perform the covenants, conditions and agreements in the Contract, and shall faithfully perform all the provisions of such contract and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions and agreements of any and all duly authorized modifications of the Contract that may hereafter be made, at the time and in the manner therein specified, and shall pay all laborers, mechanics, subcontractors, and material suppliers, and all persons who shall supply such person or persons, or subcontractors, with provisions and supplies for the carrying on of such work, on his or her part, and shall indemnify and save harmless the Contracting Agency, its officers and agents from any claim for such payment, then the funds retained in lieu of a performance bond shall be released at the time provided above; otherwise, the funds shall be retained until the Contractor fulfills the said obligations.

1-03.7, Judicial Review
(November 30, 2018 APWA GSP)

Revise this section to read:

Any decision made by the Contracting Agency regarding the Award and execution of the Contract or Bid rejection shall be conclusive subject to the scope of judicial review permitted under Washington Law. Such review, if any, shall be timely filed in the Superior Court of the county where the Contracting Agency headquarters is located, provided that where an action is asserted against a county, RCW 36.01.050 shall control venue and jurisdiction.

SECTION 1-04, SCOPE OF WORK

1-04.2, Coordination of Contract Documents, Plans, Special Provisions, Specifications, and Addenda
(December 10, 2020 APWA GSP)

Revise the second paragraph to read:

Any inconsistency in the parts of the contract shall be resolved by following this order of precedence (e.g., 1 presiding over 2, 2 over 3, 3 over 4, and so forth):

1. Addenda,
2. Proposal Form,
3. Special Provisions,
4. Contract Plans,
5. Standard Specifications,
6. Contracting Agency's Standard Plans or Details (if any), and
7. WSDOT Standard Plans for Road, Bridge, and Municipal Construction.

SECTION 1-05, CONTROL OF WORK

1-05.7, Removal of Defective and Unauthorized Work
(October 1, 2005 APWA GSP)
Supplement this section with the following:

If the Contractor fails to remedy defective or unauthorized work within the time specified in a written notice from the Engineer, or fails to perform any part of the work required by the Contract Documents, the Engineer may correct and remedy such work as may be identified in the written notice, with Contracting Agency forces or by such other means as the Contracting Agency may deem necessary.

If the Contractor fails to comply with a written order to remedy what the Engineer determines to be an

emergency situation, the Engineer may have the defective and unauthorized work corrected immediately, have the rejected work removed and replaced, or have work the Contractor refuses to perform completed by using Contracting Agency or other forces. An emergency situation is any situation when, in the opinion of the Engineer, a delay in its remedy could be potentially unsafe, or might cause serious risk of loss or damage to the public.

Direct or indirect costs incurred by the Contracting Agency attributable to correcting and remedying defective or unauthorized work, or work the Contractor failed or refused to perform, shall be paid by the Contractor. Payment will be deducted by the Engineer from monies due, or to become due, the Contractor. Such direct and indirect costs shall include in particular, but without limitation, compensation for additional professional services required, and costs for repair and replacement of work of others destroyed or damaged by correction, removal, or replacement of the Contractor's unauthorized work.

No adjustment in contract time or compensation will be allowed because of the delay in the performance of the work attributable to the exercise of the Contracting Agency's rights provided by this Section.

The rights exercised under the provisions of this section shall not diminish the Contracting Agency's right to pursue any other avenue for additional remedy or damages with respect to the Contractor's failure to perform the work as required.

1-05.11, Final Inspection
Delete this section and replace it with the following:

1-05.11, Final Inspections and Operational Testing
(******)

1-05.11(2),Final Inspection and Physical Completion Date

When the Contractor considers the work physically complete and ready for final inspection, the Contractor by written notice, shall request the Engineer to schedule a final inspection. The Engineer will set a date for final inspection. The Engineer and the Contractor will then make a final inspection and the Engineer will notify the Contractor in writing of all particulars in which the final inspection reveals the work incomplete or unacceptable. The Contractor shall immediately take such corrective measures as are necessary to remedy the listed deficiencies. Corrective work shall be pursued vigorously, diligently, and without interruption until physical completion of the listed deficiencies. This process will continue until the Engineer is satisfied the listed deficiencies have been corrected.

If action to correct the listed deficiencies is not initiated within 7 days after receipt of the written notice listing the deficiencies, the Engineer may, upon written notice to the Contractor, take whatever steps are necessary to correct those deficiencies pursuant to Section 1-05.7.
The Contractor will not be allowed an extension of contract time because of a delay in the performance of the work attributable to the exercise of the Engineer's right hereunder.

Upon correction of all deficiencies, the Engineer will notify the Contractor and the Contracting Agency, in writing, of the date upon which the work was considered physically complete. That date shall constitute the Physical Completion Date of the contract, but shall not imply acceptance of the work or that all the obligations of the Contractor under the contract have been fulfilled.

1-05.13, Superintendents, Labor and Equipment of Contractor
(August 14, 2013 APWA GSP)

Delete the sixth and seventh paragraphs of this section.

1-05.15, Method of Serving Notices
(March 25, 2009 APWA GSP)

Revise the second paragraph to read:

All correspondence from the Contractor shall be directed to the Project Engineer. All correspondence from the Contractor constituting any notification, notice of protest, notice of dispute, or other correspondence constituting notification required to be furnished under the Contract, must be in paper format, hand delivered or sent via mail delivery service to the Project Engineer's office. Electronic copies such as e-mails or electronically delivered copies of correspondence will not constitute such notice and will not comply with the requirements of the Contract.

1-05.16, Water and Power
(October 1, 2005 APWA GSP)`

The Contractor shall make necessary arrangements, and shall bear the costs for power and water necessary for the performance of the work, unless the contract includes power and water as a pay item.

SECTION 1-07, LEGAL RELATIONS AND RESPONSIBILITIES TO THE PUBLIC

1-07.1, Laws to be Observed
(October 1, 2005 APWA GSP)

Supplement this section with the following:

In cases of conflict between different safety regulations, the more stringent regulation shall apply.
The Washington State Department of Labor and Industries shall be the sole and paramount administrative agency responsible for the administration of the provisions of the Washington Industrial Safety and Health Act of 1973 (WISHA).

The Contractor shall maintain at the project site office, or other well-known place at the project site, all articles necessary for providing first aid to the injured. The Contractor shall establish, publish, and make known to all employees, procedures for ensuring immediate removal to a hospital, or doctor's care, persons, including employees, who may have been injured on the project site. Employees should not be permitted to work on the project site before the Contractor has established and made known procedures for removal of injured persons to a hospital or a doctor's care.

The Contractor shall have sole responsibility for the safety, efficiency, and adequacy of the Contractor's plant, appliances, and methods, and for any damage or injury resulting from their failure, or improper maintenance, use, or operation. The Contractor shall be solely and completely responsible for the conditions of the project site, including safety for all persons and property in the performance of the work. This requirement shall apply continuously, and not be limited to normal working hours. The required or implied duty of the Engineer to conduct construction review of the Contractor's performance does not, and shall not, be intended to include review and adequacy of the Contractor's safety measures in, on, or near the project site.

1-07.2, Sales Tax

Delete this section, including its sub-sections, in its entirety and replace it with the following:

1-07.2, State Sales Tax
(June 27, 2011 APWA GSP)

The Washington State Department of Revenue has issued special rules on the State sales tax. Sections 1-07.2(1) through 1-07.2(3) are meant to clarify those rules. The Contractor should contact the Washington State Department of Revenue for answers to questions in this area. The Contracting Agency will not adjust its payment if the Contractor bases a bid on a misunderstood tax liability.

The Contractor shall include all Contractor-paid taxes in the unit bid prices or other contract amounts. In some cases, however, state retail sales tax will not be included. Section 1-07.2(2) describes this exception.

The Contracting Agency will pay the retained percentage (or release the Contract Bond if a FHWA-funded Project) only if the Contractor has obtained from the Washington State Department of Revenue a certificate showing that all contract-related taxes have been paid (RCW 60.28.051). The Contracting Agency may deduct from its payments to the Contractor any amount the Contractor may owe the Washington State Department of Revenue, whether the amount owed relates to this contract or not. Any amount so deducted will be paid into the proper State fund.

1-07.2(1), State Sales Tax — Rule 171

WAC 458-20-171, and its related rules, apply to building, repairing, or improving streets, roads, etc., which are owned by a municipal corporation, or political subdivision of the state, or by the United States, and which are used primarily for foot or vehicular traffic. This includes storm or combined sewer systems within and included as a part of the street or road drainage system and power lines when such are part of the roadway lighting system. For work performed in such cases, the Contractor shall include Washington State Retail Sales Taxes in the various unit bid item prices, or other contract amounts, including those that the Contractor pays on the purchase of the materials, equipment, or supplies used or consumed in doing the work.

1-07.2(2), State Sales Tax — Rule 170

WAC 458-20-170, and its related rules, apply to the constructing and repairing of new or existing buildings, or other structures, upon real property. This includes, but is not limited to, the construction of streets, roads, highways, etc., owned by the state of Washington; water mains and their appurtenances; sanitary sewers and sewage disposal systems unless such sewers and disposal systems are within, and a part of, a street or road drainage system; telephone, telegraph, electrical power distribution lines, or other conduits or lines in or above streets or roads, unless such power lines become a part of a street or road lighting system; and installing or attaching of any article of tangible personal property in or to real property, whether or not such personal property becomes a part of the realty by virtue of installation.

For work performed in such cases, the Contractor shall collect from the Contracting Agency, retail sales tax on the full contract price. The Contracting Agency will automatically add this sales tax to each payment to the Contractor. For this reason, the Contractor shall not include the retail sales tax in the unit bid item prices, or in any other contract amount subject to Rule 170, with the following exception.

Exception: The Contracting Agency will not add in sales tax for a payment the Contractor or a subcontractor makes on the purchase or rental of tools, machinery, equipment, or consumable supplies not integrated into the project. Such sales taxes shall be included in the unit bid item prices or in any other contract amount.

1-07.2(3), Services

The Contractor shall not collect retail sales tax from the Contracting Agency on any contract wholly for professional or other services (as defined in Washington State Department of Revenue Rules 138 and 244).

1-07.13, Contractor's Responsibility of Work
(August 6, 2001 WSDOT GSP)

Section 1-07.13(4), Repair of Damage

Revise to read:

The Contractor shall promptly repair all damage to either temporary or permanent work as directed by the Engineer. For damage qualifying for relief under Sections 1-07.13(1), 1-07.13(2) or 1-07.13(3), payment will be made in accordance with Section 1-04.4. Payment will be limited to repair of damaged work only. No payment will be made for delay or disruption of work.

1-07.18, Public Liability and Property Damage Insurance
Delete this section in its entirety, and replace it with the following:

1-07.18, Insurance
(January 4, 2016 APWA GSP)

1-07.18(1), General Requirements
A. The Contractor shall procure and maintain the insurance described in all subsections of section 1-07.18 of these Special Provisions, from insurers with a current A. M. Best rating of not less than A-: VII and licensed to do business in the State of Washington. The Contracting Agency reserves the right to approve or reject the insurance provided, based on the insurer's financial condition.

B. The Contractor shall keep this insurance in force without interruption from the commencement of the Contractor's Work through the term of the Contract and for thirty (30) days after the Physical Completion date, unless otherwise indicated below.

C. If any insurance policy is written on a claims made form, its retroactive date, and that of all subsequent renewals, shall be no later than the effective date of this Contract. The policy shall state that coverage is claims made, and state the retroactive date. Claims-made form coverage shall be maintained by the Contractor for a minimum of 36 months following the Completion Date or earlier termination of this Contract, and the Contractor shall annually provide the Contracting Agency with proof of renewal. If renewal of the claims made form of coverage becomes unavailable, or economically prohibitive, the Contractor shall purchase an extended reporting period ("tail") or execute another form of guarantee acceptable to the Contracting Agency to assure financial responsibility for liability for services performed.

D. The Contractor's Automobile Liability, Commercial General Liability and Excess or Umbrella Liability insurance policies shall be primary and non-contributory insurance as respects the Contracting Agency's insurance, self-insurance, or self-insured pool coverage. Any insurance,

self-insurance, or self-insured pool coverage maintained by the Contracting Agency shall be excess of the Contractor's insurance and shall not contribute with it.

E.The Contractor shall provide the Contracting Agency and all additional insureds with written notice of any policy cancellation, within two business days of their receipt of such notice.

F. The Contractor shall not begin work under the Contract until the required insurance has been obtained and approved by the Contracting Agency

G. Failure on the part of the Contractor to maintain the insurance as required shall constitute a material breach of contract, upon which the Contracting Agency may, after giving five business days' notice to the Contractor to correct the breach, immediately terminate the Contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the Contracting Agency on demand, or at the sole discretion of the Contracting Agency, offset against funds due the Contractor from the Contracting Agency.

H. All costs for insurance shall be incidental to and included in the unit or lump sum prices of the Contract and no additional payment will be made.

1-07.18(2), Additional Insured
All insurance policies, with the exception of Workers Compensation, and of Professional Liability and Builder's Risk (if required by this Contract) shall name the following listed entities as additional insured(s) using the forms or endorsements required herein:

- the Contracting Agency and its officers, elected officials, employees, agents, and volunteers

The above-listed entities shall be additional insured(s) for the full available limits of liability maintained by the Contractor, irrespective of whether such limits maintained by the Contractor are greater than those required by this Contract, and irrespective of whether the Certificate of Insurance provided by the Contractor pursuant to 1-07.18(4) describes limits lower than those maintained by the Contractor.

For Commercial General Liability insurance coverage, the required additional insured endorsements shall be at least as broad as ISO forms CG 20 10 10 01 for ongoing operations and CG 20 37 10 01 for completed operations.

1-07.18(3), Subcontractors
The Contractor shall cause each Subcontractor of every tier to provide insurance coverage that complies with all applicable requirements of the Contractor-provided insurance as set forth herein, except the Contractor shall have sole responsibility for determining the limits of coverage required to be obtained by Subcontractors.

The Contractor shall ensure that all Subcontractors of every tier add all entities listed in 1-07.18(2) as additional insureds, and provide proof of such on the policies as required by that section as detailed in 1-07.18(2) using an endorsement as least as broad as ISO CG 20 10 10 01 for ongoing operations and CG 20 37 10 01 for completed operations.

Upon request by the Contracting Agency, the Contractor shall forward to the Contracting Agency evidence of insurance and copies of the additional insured endorsements of each Subcontractor of every tier as required in 1-07.18(4) Verification of Coverage.

1-07.18(4), Verification of Coverage
The Contractor shall deliver to the Contracting Agency a Certificate(s) of Insurance and endorsements for each policy of insurance meeting the requirements set forth herein when the Contractor delivers the signed Contract for the work. Failure of Contracting Agency to demand such verification of coverage with these insurance requirements or failure of Contracting Agency to identify a deficiency from the insurance documentation provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance.

Verification of coverage shall include:

1. An ACORD certificate or a form determined by the Contracting Agency to be equivalent.

2. Copies of all endorsements naming Contracting Agency and all other entities listed in 1-07.18(2) as additional insured(s), showing the policy number. The Contractor may submit a copy of any blanket additional insured clause from its policies instead of a separate endorsement.

3. Any other amendatory endorsements to show the coverage required herein.

4. A notation of coverage enhancements on the Certificate of Insurance shall not satisfy these requirements – actual endorsements must be submitted.

Upon request by the Contracting Agency, the Contractor shall forward to the Contracting Agency a full and certified copy of the insurance policy(s). If Builders Risk insurance is required on this Project, a full and certified copy of that policy is required when the Contractor delivers the signed Contract for the work.

1-07.18(5), Coverages and Limits
The insurance shall provide the minimum coverages and limits set forth below. Contractor's maintenance of insurance, its scope of coverage, and limits as required herein shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the Contracting Agency's recourse to any remedy available at law or in equity.

All deductibles and self-insured retentions must be disclosed and are subject to approval by the Contracting Agency. The cost of any claim payments falling within the deductible or self-insured retention shall be the responsibility of the Contractor. In the event an additional insured incurs a liability subject to any policy's deductibles or self-insured retention, said deductibles or self-insured retention shall be the responsibility of the Contractor.

1-07.18(5)A, Commercial General Liability
Commercial General Liability insurance shall be written on coverage forms at least as broad as ISO occurrence form CG 00 01, including but not limited to liability arising from premises, operations, stop gap liability, independent contractors, products-completed operations, personal and advertising injury, and liability assumed under an insured contract. There shall be no exclusion for liability arising from explosion, collapse or underground property damage.

The Commercial General Liability insurance shall be endorsed to provide a per project general aggregate limit, using ISO form CG 25 03 05 09 or an equivalent endorsement.

Contractor shall maintain Commercial General Liability Insurance arising out of the Contractor's completed operations for at least three years following Substantial Completion of the Work.

Such policy must provide the following minimum limits:

$1,000,000	Each Occurrence
$2,000,000	General Aggregate
$2,000,000	Products & Completed Operations Aggregate

$1,000,000 Personal & Advertising Injury each offence
$1,000,000 Stop Gap / Employers' Liability each accident

1-07.18(5)B, Automobile Liability
Automobile Liability shall cover owned, non-owned, hired, and leased vehicles; and shall be written on a coverage form at least as broad as ISO form CA 00 01. If the work involves the transport of pollutants, the automobile liability policy shall include MCS 90 and CA 99 48 endorsements.

Such policy must provide the following minimum limit:
$1,000,000 Combined single limit each accident

1-07.18(5)C, Workers' Compensation
The Contractor shall comply with Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

Section 1-08, PROSECUTION AND PROGRESS

Add the following new section:

1-08.0, Preliminary Matters
(May 25, 2006 APWA GSP)

Add the following new section:

1-08.0(1), Preconstruction Conference
(October 10, 2008 APWA GSP)

Prior to the Contractor beginning the work, a preconstruction conference will be held between the Contractor, the Engineer and such other interested parties as may be invited. The purpose of the preconstruction conference will be:

1. To review the initial progress schedule;
2. To establish a working understanding among the various parties associated or affected by the work;
3. To establish and review procedures for progress payment, notifications, approvals, submittals, etc.;
4. To establish normal working hours for the work;
5. To review safety standards and traffic control; and
6. To discuss such other related items as may be pertinent to the work.

The Contractor shall prepare and submit at the preconstruction conference the following:

1. A breakdown of all lump sum items;
2. A preliminary schedule of working drawing submittals; and
3. A list of material sources for approval if applicable.

Add the following new section:

1-08.0(2), Hours of Work
(December 8, 2014 APWA GSP)

Except in the case of emergency or unless otherwise approved by the Engineer, the normal working hours for the Contract shall be any consecutive 8-hour period between 7:00 a.m. and 6:00 p.m. Monday through Friday, exclusive of a lunch break. If the Contractor desires different than the normal working hours stated above, the request must be submitted in writing prior to the preconstruction conference, subject to the provisions below. The working hours for the Contract shall be established at or prior to the preconstruction conference.

All working hours and days are also subject to local permit and ordinance conditions (such as noise ordinances).

If the Contractor wishes to deviate from the established working hours, the Contractor shall submit a written request to the Engineer for consideration. This request shall state what hours are being requested, and why. Requests shall be submitted for review no later than 48 hours prior to the day(s) the Contractor is requesting to change the hours.

If the Contracting Agency approves such a deviation, such approval may be subject to certain other conditions, which will be detailed in writing. For example:

1. On non-Federal aid projects, requiring the Contractor to reimburse the Contracting Agency for the costs in excess of straight-time costs for Contracting Agency representatives who worked during such times. (The Engineer may require designated representatives to be present during the work. Representatives who may be deemed necessary by the Engineer include, but are not limited to: survey crews; personnel from the Contracting Agency's material testing lab; inspectors; and other Contracting Agency employees or third party consultants when, in the opinion of the Engineer, such work necessitates their presence.)
2. Considering the work performed on Saturdays, Sundays, and holidays as working days with regard to the contract time.
3. Considering multiple work shifts as multiple working days with respect to contract time even though the multiple shifts occur in a single 24-hour period.
4. If a 4-10 work schedule is requested and approved the non working day for the week will be charged as a working day.
5. If Davis Bacon wage rates apply to this Contract, all requirements must be met and recorded properly on certified payroll

1-08.3, General Requirements

1-08.3(2)A, Type A Progress Schedule
(March 13, 2012 APWA GSP)

Revise this section to read:

The Contractor shall submit ***1*** copies of a Type A Progress Schedule no later than at the preconstruction conference, or some other mutually agreed upon submittal time. The schedule may be a critical path method (CPM) schedule, bar chart, or other standard schedule format. Regardless of which format used, the schedule shall identify the critical path. The Engineer will evaluate the Type A Progress Schedule and approve or return the schedule for corrections within 15 calendar days of receiving the submittal.

1-08.4, Prosecution of Work
Delete this section in its entirety, and replace it with the following:

1-08.4, Notice to Proceed and Prosecution of Work
(July 23, 2015 APWA GSP)

Notice to Proceed will be given after the contract has been executed and the contract bond and evidence of insurance have been approved and filed by the Contracting Agency. The Contractor shall not commence with the work until the Notice to Proceed has been given by the Engineer. The Contractor shall commence construction activities on the project site within ten days of the Notice to Proceed Date, unless otherwise approved in writing. The Contractor shall diligently pursue the work to the physical completion date within the time specified in the contract. Voluntary shutdown or slowing of operations by the Contractor shall not relieve the Contractor of the responsibility to complete the work within the time(s) specified in the contract.

When shown in the Plans, the first order of work shall be the installation of high visibility fencing to delineate all areas for protection or restoration, as described in the Contract. Installation of high visibility fencing adjacent to the roadway shall occur after the placement of all necessary signs and traffic control devices in accordance with 1-10.1(2). Upon construction of the fencing, the Contractor shall request the Engineer to inspect the fence. No other work shall be performed on the site until the Contracting Agency has accepted the installation of high visibility fencing, as described in the Contract.

1-08.5, Time for Completion
(November 30, 2018 APWA GSP, Option A)

Revise the third and fourth paragraphs to read:

Contract time shall begin on the first working day following the Notice to Proceed Date.

Each working day shall be charged to the contract as it occurs, until the contract work is physically complete. If substantial completion has been granted and all the authorized working days have been used, charging of working days will cease. Each week the Engineer will provide the Contractor a statement that shows the number of working days: (1) charged to the contract the week before; (2) specified for the physical completion of the contract; and (3) remaining for the physical completion of the contract. The statement will also show the nonworking days and any partial or whole day the Engineer declares as unworkable. Within 10 calendar days after the date of each statement, the Contractor shall file a written protest of any alleged discrepancies in it. To be considered by the Engineer, the protest shall be in sufficient detail to enable the Engineer to ascertain the basis and amount of time disputed. By not filing such detailed protest in that period, the Contractor shall be deemed as having accepted the statement as correct. If the Contractor is approved to work 10 hours a day and 4 days a week (a 4-10 schedule) and the fifth day of the week in which a 4-10 shift is worked would ordinarily be charged as a working day then the fifth day of that week will be charged as a working day whether or not the Contractor works on that day.

Revise the sixth paragraph to read:

The Engineer will give the Contractor written notice of the completion date of the contract after all the Contractor's obligations under the contract have been performed by the Contractor. The following events must occur before the Completion Date can be established:

1. The physical work on the project must be complete; and

2. The Contractor must furnish all documentation required by the contract and required by law, to allow the Contracting Agency to process final acceptance of the contract. The following documents must be received by the Project Engineer prior to establishing a completion date:
    a. Certified Payrolls (per Section 1-07.9(5)).
    b. Material Acceptance Certification Documents
    c. Monthly Reports of Amounts Credited as DBE Participation, as required by the Contract Provisions.
    d. Final Contract Voucher Certification
    e. Copies of the approved "Affidavit of Prevailing Wages Paid" for the Contractor and all Subcontractors
    f. A copy of the Notice of Termination sent to the Washington State Department of Ecology (Ecology); the elapse of 30 calendar days from the date of receipt of the Notice of Termination by Ecology; and no rejection of the Notice of Termination by Ecology. This requirement will not apply if the Construction Stormwater General Permit is transferred back to the Contracting Agency in accordance with Section 8-01.3(16).
    g. Property owner releases per Section 1-07.24

(******)

Supplement this section with the following:

This project shall be physically completed within *** **45** *** working days.

(******)

Supplement this section with the following:

Once notice to proceed has been given, working days shall commence. Individual deliveries and application of material shall be coordinated between the Contractor and the County's Road Superintendents. Scheduled deliveries may be canceled by either party with 24 hours of advanced notice. Operations may be canceled with less than 24 hours of advanced notice due to unfavorable environmental conditions, as approved by the County. If operations are canceled due to unfavorable environmental conditions, no working days will be charged against the Contractor. If operations are canceled by the Contractor with less than 24 hours of advanced notice when no unfavorable environmental conditions exist, a working day will be counted towards the Contract total.

1-08.9, Liquidated Damages
(March 3, 2021 APWA GSP, Option B)

Revise the second and third paragraphs to read:

Accordingly, the Contractor agrees:

1. To pay (according to the following formula) liquidated damages for each working day beyond the number of working days established for Physical Completion, and

2. To authorize the Engineer to deduct these liquidated damages from any money due or coming due to the Contractor.

Liquidated Damages Formula

LD=0.15C/T

Where:

LD = liquidated damages per working day (rounded to the nearest dollar)
C = original Contract amount
T = original time for Physical Completion

When the Contract Work has progressed to Substantial Completion as defined in the Contract, the Engineer may determine the Contract Work is Substantially Complete. The Engineer will notify the Contractor in writing of the Substantial Completion Date. For overruns in Contract time occurring after the date so established, the formula for liquidated damages shown above will not apply. For overruns in Contract time occurring after the Substantial Completion Date, liquidated damages shall be assessed on the basis of direct engineering and related costs assignable to the project until the actual Physical Completion Date of all the Contract Work. The Contractor shall complete the remaining Work as promptly as possible. Upon request by the Project Engineer, the Contractor shall furnish a written schedule for completing the physical Work on the Contract.

SECTION 1-09, MEASUREMENT AND PAYMENT

1-09.9, Payments
(March 13, 2012 APWA GSP)

Delete the first four paragraphs and replace them with the following:

The basis of payment will be the actual quantities of Work performed according to the Contract and as specified for payment.

The Contractor shall submit a breakdown of the cost of lump sum bid items at the Preconstruction Conference, to enable the Project Engineer to determine the Work performed on a monthly basis. A breakdown is not required for lump sum items that include a basis for incremental payments as part of the respective Specification. Absent a lump sum breakdown, the Project Engineer will make a determination based on information available. The Project Engineer's determination of the cost of work shall be final.

Progress payments for completed work and material on hand will be based upon progress estimates prepared by the Engineer. A progress estimate cutoff date will be established at the preconstruction conference.

The initial progress estimate will be made not later than 30 days after the Contractor commences the work, and successive progress estimates will be made every month thereafter until the Completion Date. Progress estimates made during progress of the work are tentative, and made only for the purpose of determining progress payments. The progress estimates are subject to change at any time prior to the calculation of the final payment.

The value of the progress estimate will be the sum of the following:

1. Unit Price Items in the Bid Form — the approximate quantity of acceptable units of work completed multiplied by the unit price.

2. Lump Sum Items in the Bid Form — based on the approved Contractor's lump sum breakdown for that item, or absent such a breakdown, based on the Engineer's determination.

3. Materials on Hand — 100 percent of invoiced cost of material delivered to Job site or other storage area approved by the Engineer.

4. Change Orders — entitlement for approved extra cost or completed extra work as determined by the Engineer.

Progress payments will be made in accordance with the progress estimate less:

1. Retainage per Section 1-09.9(1), on non FHWA-funded projects;

2. The amount of progress payments previously made; and

3. Funds withheld by the Contracting Agency for disbursement in accordance with the Contract Documents.

Progress payments for work performed shall not be evidence of acceptable performance or an admission by the Contracting Agency that any work has been satisfactorily completed. The determination of payments under the contract will be final in accordance with Section 1-05.1.

1-09.11(3), Time Limitation and Jurisdiction
(November 30, 2018 APWA GSP)

Revise this section to read*:*

For the convenience of the parties to the Contract it is mutually agreed by the parties that any claims or causes of action which the Contractor has against the Contracting Agency arising from the Contract shall be brought within 180 calendar days from the date of final acceptance (Section 1-05.12) of the Contract by the Contracting Agency; and it is further agreed that any such claims or causes of action shall be brought only in the Superior Court of the county where the Contracting Agency headquarters is located, provided that where an action is asserted against a county, RCW 36.01.050 shall control venue and jurisdiction. The parties understand and agree that the Contractor's failure to bring suit within the time period provided, shall be a complete bar to any such claims or causes of action. It is further mutually agreed by the parties that when any claims or causes of action which the Contractor asserts against the Contracting Agency arising from the Contract are filed with the Contracting Agency or initiated in court, the Contractor shall permit the Contracting Agency to have timely access to any records deemed necessary by the Contracting Agency to assist in evaluating the claims or action.

1-09.13, Claims Resolution

1-09.13(3), Claims $250,000 or Less
(October 1, 2005 APWA GSP)

Delete this Section and replace it with the following:

The Contractor and the Contracting Agency mutually agree that those claims that total $250,000 or less, submitted in accordance with Section 1-09.11 and not resolved by nonbinding ADR processes, shall be resolved through litigation unless the parties mutually agree in writing to resolve the claim through binding arbitration.

1-09.13(3)A, Administration of Arbitration
(November 30, 2018 APWA GSP)

Revise the third paragraph to read:

The Contracting Agency and the Contractor mutually agree to be bound by the decision of the arbitrator, and judgment upon the award rendered by the arbitrator may be entered in the Superior Court of the county in which the Contracting Agency's headquarters is located, provided that where claims subject to arbitration are asserted against a county, RCW 36.01.050 shall control venue and jurisdiction of the Superior Court. The decision of the arbitrator and the specific basis for the decision shall be in writing. The arbitrator shall use the Contract as a basis for decisions.

Section 1-10, TEMPORARY TRAFFIC CONTROL

1-10.2, Traffic Control Management
(January 8, 2016 WSDOT GSP)

Supplement this section with the following:

1-10.2(1), General

Only training with WSDOT TCS card and WSDOT training curriculum is recognized in the State of Washington. The Traffic Control Supervisor shall be certified by one of the following:

The Northwest Laborers-Employers Training Trust
27055 Ohio Ave.
Kingston, WA 98346
(360) 297-3035

Evergreen Safety Council
12545 135th Ave. NE
Kirkland, WA 98034-8709
1-800-521-0778 or
(425) 814-3930

The American Traffic Safety Services Association
15 Riverside Parkway, Suite 100
Fredericksburg, Virginia 22406-1022
Training Dept. Toll Free (877) 642-4637
Phone: (540) 368-1701

1-10.2(2), Traffic Control Plans
(******)

Supplement this section with the following:

The Contractor shall submit a traffic control plan prior to commencing operations. The plan is to be used as a guide only and each roadway shall be reviewed for placement of applicable signs.

1-10.3, Traffic Control Labor, Procedures, and Devices

1-10.3(1), Traffic Control Labor
(******)

Supplement this section with the following:

Traffic control required for this contract shall include furnishing, installing and maintaining all Class A construction signs, Temporary Class B construction signs, and all associated flagging for Benton County roads.

1-10.4, Measurement

1-10.4(1), Lump Sum Bid for Project (No Unit Items)
(August 2, 2004, WSDOT GSP)

Supplement this section with the following:

The bid proposal contains the item “Project Temporary Traffic Control,” lump sum. The provisions of Section 1-10.4(1) shall apply.

WAGE RATES

APPENDIX A:

STATE WAGE RATES

For Construction of:

2021 Catch Basin and Drywell Cleaning

CE 2125 SMP

PUBLIC WORKS DEPARTMENT

COUNTY OF BENTON WASHINGTON

Bid No: 21-18

APPENDIX A

REQUIRED CONTRACT PROVISIONS - STATE DEPARTMENT OF LABOR AND INDUSTRIES

State of Washington
Department of Labor & Industries
Prevailing Wage Section
PO Box 44540, Olympia, WA 98504-4540
360-902-5335

Public contract awarding agencies are required by RCW 39.12.030 to include a provision stating the required prevailing rate(s) of wage in the bid and contract specifications for public works. Historically, this has required inclusion of a list of such rates in the specifications. Labor & Industries looked at how to allow an additional option within the law and rule.

Bid specifications may provide the required prevailing wage rate information in this alternate format:

The Department of Labor & Industries prevailing wage rate website is http://wsdot.wa.gov/Design/ProjectDev/WageRates/default.htm

The publication date to use is the bid submittal date.

The public works project is located in Benton County.

A copy of the prevailing wage rates, the benefit code key and the supplement are available for viewing at the Public Works Department, 102206 E Wiser Parkway Kennewick WA 99338 Monday through Friday, between 8:00 a.m. & noon and between 1:00 p.m. & 5:00 p.m. except holidays.

The Public Works Department will mail a hard copy of the wage rates upon request. We can be reached at (509)786-5611 or (509)736-3084 or by email at publicworks@co.benton.wa.us

MAPS

APPENDIX B:

VICINITY MAPS AND ROAD LISTINGS

For Construction of:

2021 Catch Basin and Drywell Cleaning

C.E. 2125 SMP

PUBLIC WORKS DEPARTMENT

COUNTY OF BENTON WASHINGTON

Bid No. 21-18

Benton County Fleet

Parcel #: 125942013379001
Address : 14303 N HINZERLING RD PROSSER, WA 99350

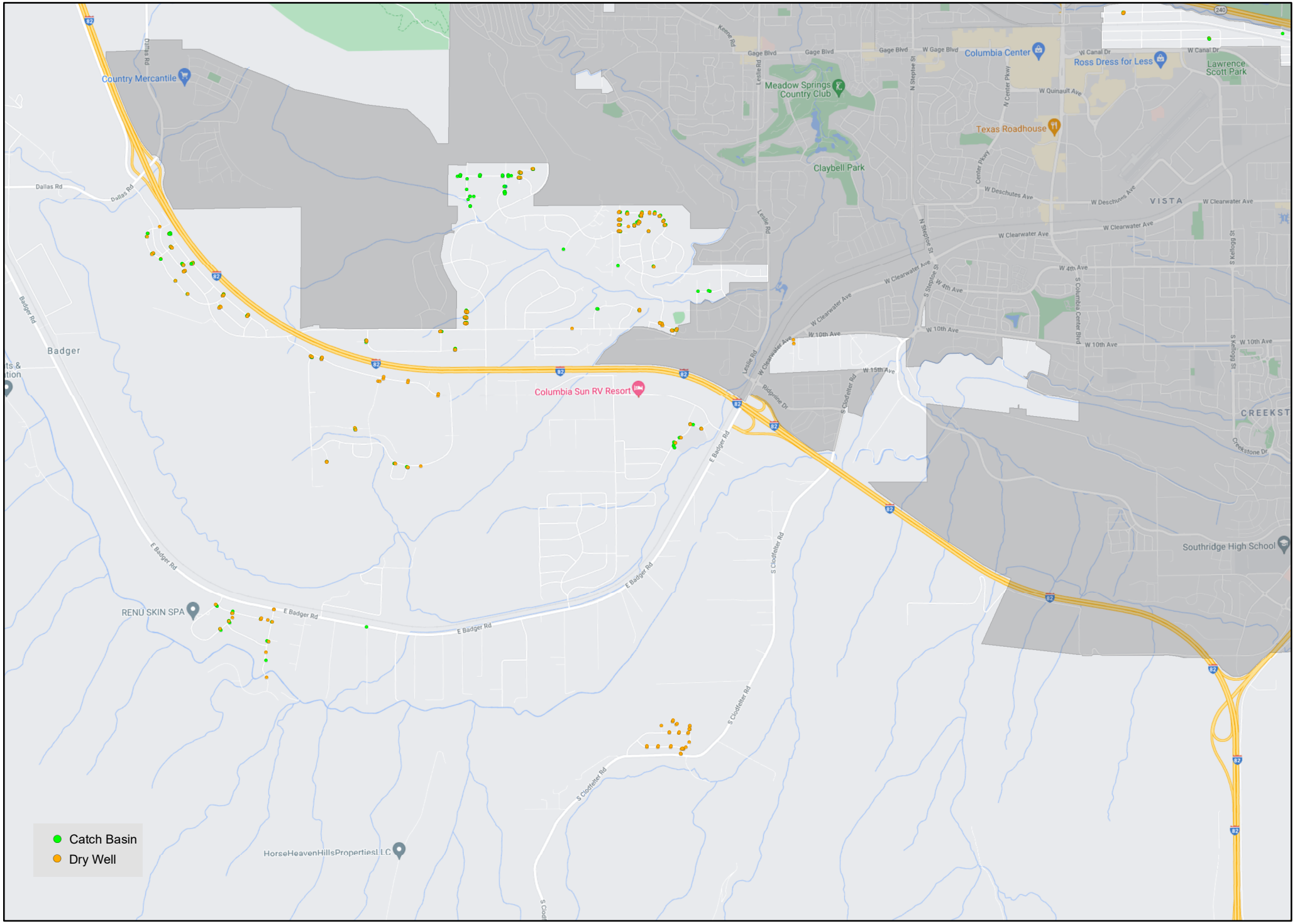


Benton County Fleet

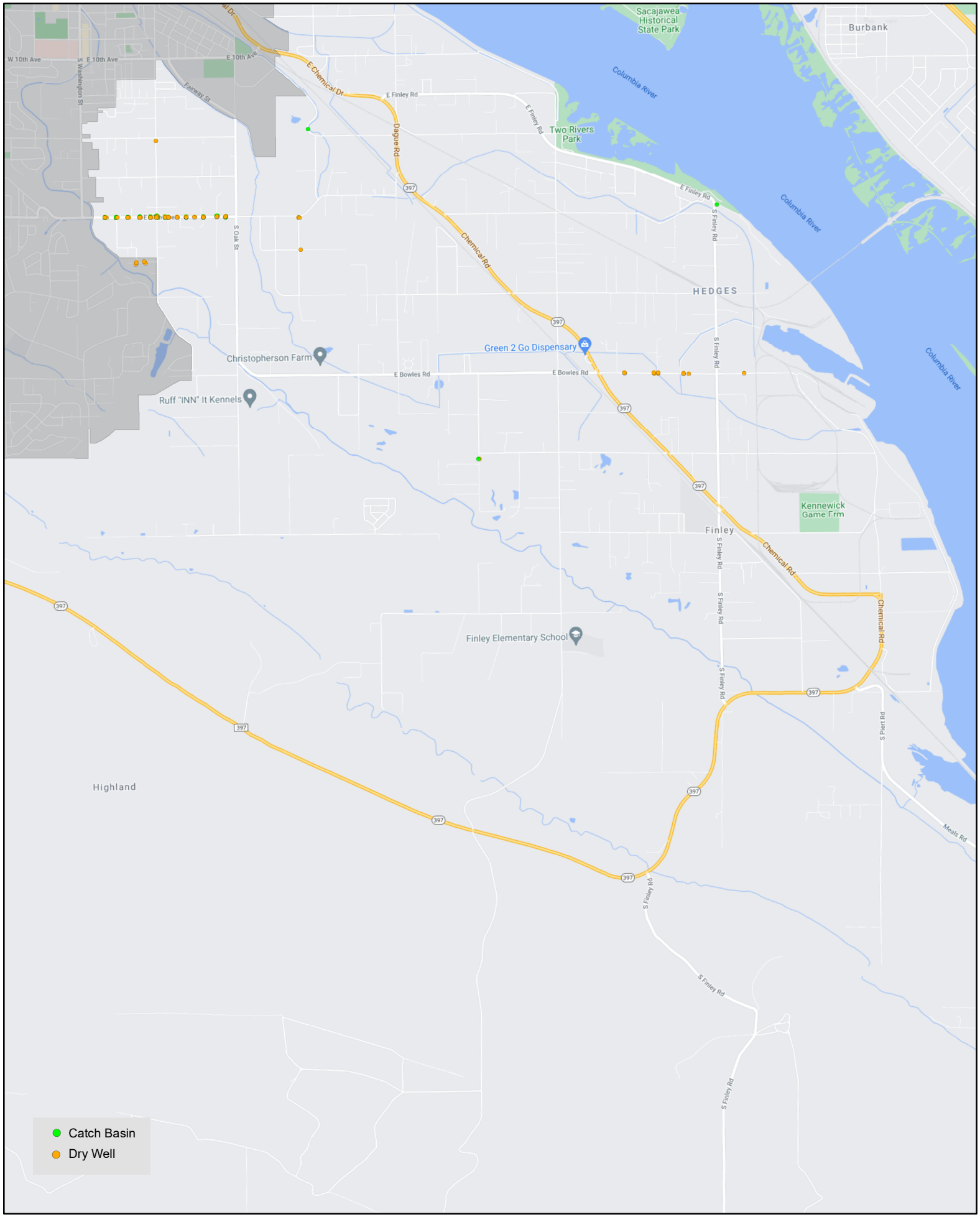
Parcel #: 111882012958003
102206 E WISER PKWY KENNEWICK, WA 99338



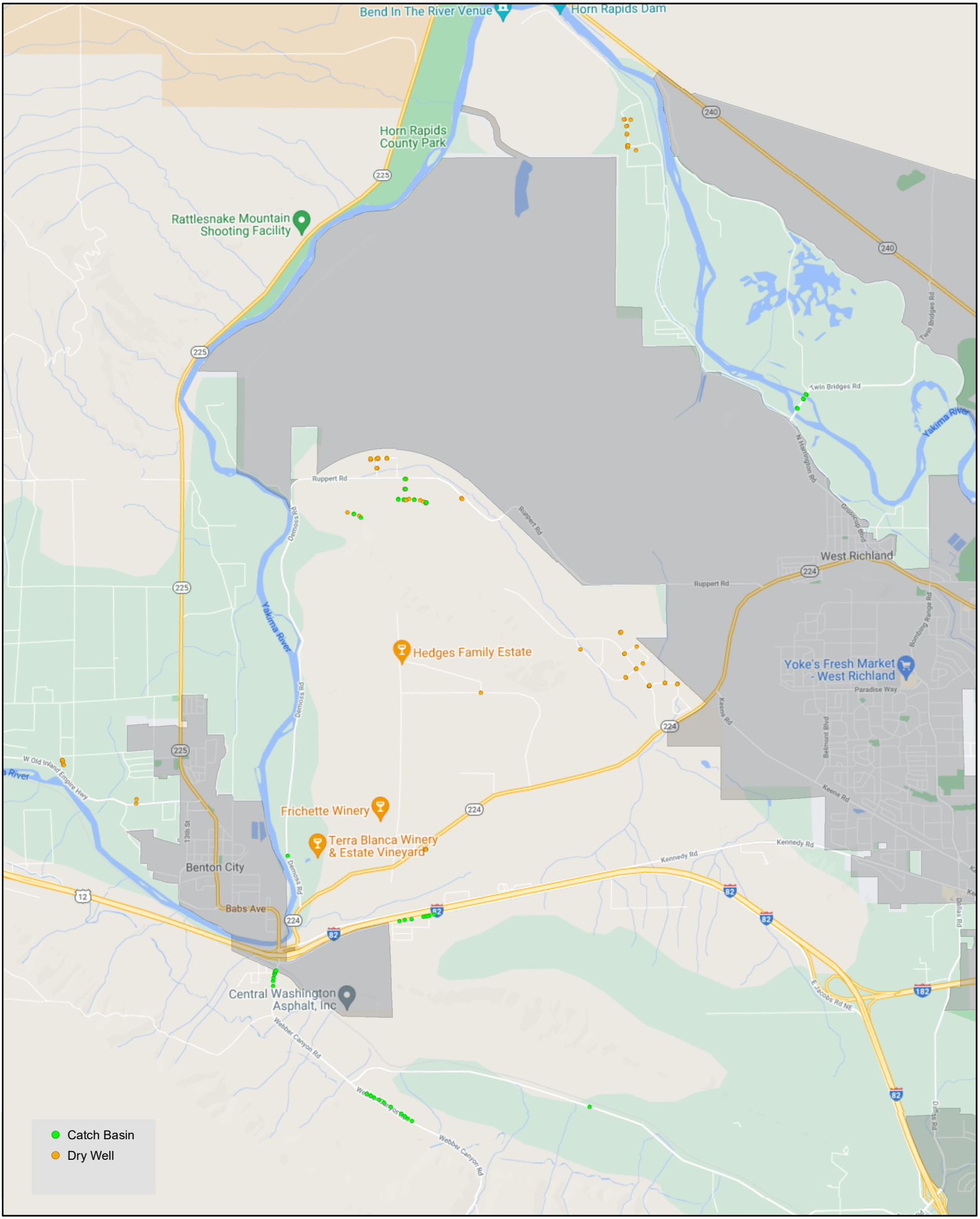
Catch Basins and Drywells - Area 1



Catch Basins and Drywells - Area 2



Catch Basins and Drywells- Area 3



2021 Catch Basin and Drywell Cleaning	
Area	**Parcel No., Address, or Listed Roadway**
Benton County Fleet	Parcel. No. 125942013379002
Benton County Fleet	102206 E Wiser PKWY
Area 1	Holly Rd
	S Bent Rd
	N Clover Rd
	Levi St
	Tyler Ct
	Chelsea Rd
	Ryanick Rd
	Rachel Rd
	Katie Rd
	Cindy Rd
	Lapierre Canyon Dr
	Canterbury Rd
	Mata Rd
	Mata Ct
	E Vaca Rd
	E Reata Rd
	Badger View Dr
	Whitney Ln
	Jenna Ln
	Sagebrush Rd
	Grandview Ln
	S Clearview Ln
	Wallowa Rd
	Mountain Ridge CT
	S Sunnyvale Dr
	Cottonwood Creek Rd
	Wiser Loop
	E Badger Rd
	Country Meadow Ln
	Canyon Meadows Dr
	S Sunset Meadows Loop
	Coulee Vista Dr
	Timothy Ln
	Cameron Ln
	E Grand Bluff Loop
	Landon Ln
	Canrtera St
	Manuel Dr
	E Tripple Vista Dr
	Pico Dr
	Tripple Vista Ct
	E 27th Ave

2021 Catch Basin and Drywell Cleaning	
Area	**Parcel No., Address, or Listed Roadway**
Area 2	S Gum St
	E 30th Ave
	Bowles Rd
	Gerards Rd
	E E Donelson
	S Yew St
Area 3	N Redstone Dr
	Antinori Rd
	Mayo Dr
	Red Mountain Rd
	Ridge Crest Dr
	Hacienda St
	Deerfield Ln
	N Foxhill Dr
	E Tara Rd
	Zwicker Rd
	Bumgerner Dr
	Lob Ln
	Empire Dr
	Inland Rd
	Webber Canyon Rd

PLAN AND OVERVIEW

For Construction of:

2021 Catch Basin and Drywell Cleaning

CE 2125 SMP

INCLUDES:
SCOPE OF WORK
TASKS AND PERTINENT INFORMATION

PUBLIC WORKS DEPARTMENT

COUNTY OF BENTON WASHINGTON

Bid No: 21-18

EXHIBIT A
Plans and Overview
2021 CATCH BASIN AND DRYWELL CLEANING

Introduction

Contract services will consist of all services necessary to provide catch basin and drywell cleaning within County right-of-way in Benton County, Washington, to the satisfaction of the County Engineer.

Scope of Work

The services to be rendered by the Contractor shall be as necessary to perform catch basin and drywell cleaning. Catch basin and drywell cleaning will consist of removal of sediment, rocks, detritus, and other debris in catch basins, drywells, and connecting pipes in the County right-of-way through use of a vactor truck and water flushing. It is the intention of the County to accomplish as much work as possible for the budgeted amount in the time allotted.

This contract will be bid and paid at an hourly rate for a Working Unit and a lump sum rate for Mobilization. A "Working Unit" is defined by one vactor truck with associated labor necessary to preform work. All costs for traffic control for a mobile cleaning operation will be assumed added to the hourly cost of the Working Unit. The hourly rate shall apply only for time performing catch basin and drywell cleaning at the work site; all costs of travel shall be covered under mobilization. Determination of award of bid will be based on the rubric provided on the project proposal.

All work shall be done within County right-of-way. Work shall be completed within forty-five (45) working days of the signature date of the contract. Working days are defined as Monday through Friday, excluding the following holidays: Thanksgivings Day (Nov. 25th), the day after Thanksgiving (Nov. 26th), Christmas Eve (Dec. 24th), New Year's Day (Jan. 1st), and Martin Luther King Jr. Day (Jan. 17th). Acceptance of the work performed shall be subject to the approval of the County Engineer.

The work areas shall be completed by area in the order that is delineated by the maps in Appendix A unless otherwise directed by the County Engineer. If the contractor wishes to change the order in which the areas will be completed it must be done in accordance with the 2022 WSDOT Standard Specifications for Road, Bridge, and Municipal Construction (M41-10).

Tasks

1.) **Catch Basin and Drywell Cleaning**

The planned catch basin and drywell cleaning will occur in defined areas within Benton County. The maps and road listings (See Appendix B) provide the estimated parameters of the project area. There is an estimated total of 124 catch basins and 78 drywells within the sum of the project areas. This number is approximate and is not intended to serve as a limitation on the contract. It is the intention of Benton County to have as much work completed as permitted by the available funds. If additional funding remains after successful completion of work in the project area, the County Engineer may direct the contractor to perform additional work of the same nature outside of the project area.

2.) **Cleaning Standards**

Cleaning of existing structures falls under the requirements of 7-07 of M41-10. Final approval of work will be to the satisfaction of the County Engineer. All sediment contained in catch basins and drywells are believed to be contaminated and fall under section 7-07.3, paragraph 2, bullet point 1 of the 2022 M41-10 which states:

> "Structures specifically noted in the Contract that are suspected to contain contaminated sediment shall be disposed of at a licensed disposal facility."

If the contractor wishes to implement section 7-07.3, paragraph 2, bullet point 3 of the 2022 M41-10, all testing of the material to verify the sediment is free of contamination will be at the sole expense of the contractor.

3.) **Material Disposal**

The Contractor is responsible for the proper, legal disposal of all removed material. Contractor is responsible for all costs associated with the legal disposal of all collected material. Copies of facility records retained under WAC 173-303-380 for material regulated under Chapter 70.105 RCW shall be presented to the County prior to completion of the contract.

4.) **Traffic Control**

The Contractor shall be responsible for providing adequate traffic control while performing catch basin and drywell cleaning within County right-of-way. The Contractor may treat work that shall last less than sixty (60) minutes in a single location as a mobile operation. If traffic control is implemented beyond a mobile operation, the preferred method is closure of one or both shoulders. If obstruction of the travel lanes is necessary, at least one lane allowing traffic in both directions shall be maintained at all times, unless otherwise approved by the County Engineer. A traffic control plan shall be submitted to the County for review.

5.) **Schedule Reporting**

The Contractor shall be responsible for communicating and coordinating the working schedule for the next working day with the County Inspector at the end of the workday prior.

6.) **Maps and Road Listing**

(See Maps Appendix B)

PROPOSAL
FOR BIDDING PURPOSES

For Construction of:

2021 Catch Basin and Drywell Cleaning

CE 2125 SMP

INCLUDES:
PROPOSAL
PROPOSAL BOND
CERTIFICATION OF COMPLIANCE WITH WAGE PAYMENT STATUTES

PUBLIC WORKS DEPARTMENT

COUNTY OF BENTON WASHINGTON

Bid No: 21-18

P R O P O S A L

TO: THE BOARD OF COUNTY COMMISSIONERS
BENTON COUNTY
PROSSER, WASHINGTON 99350

Gentlemen:

The undersigned hereby certifies that he/she has examined the location of the public works project outlined in these attached special provisions, specifications and plans, and has read and thoroughly understands the plans, specifications and contract governing the work embraced in this improvement, and the method by which payment will be made for said work, and hereby proposes to undertake and complete the work embraced in this improvement, or as much thereof as can be completed with the money available, in accordance with the said plans, specifications and contract, and the following schedule of rates and prices:

_____
(Company name)

CE 2125 SMP – 2021 Catch Basin and Drywell Cleaning

(NOTE: Unit prices for all items, all extensions, and total amount of bid, shall be shown.)

ITEM NO.	QTY.	UNIT	ITEM DESCRIPTION	PRICE PER UNIT		AMOUNT	
				Dollars	Cts.	Dollars	Cts.
1	1	LS	Mobilization				
2	320	HR	Working Unit				
3	460	Ton (liquid)	Waste Disposal				
				BASE BID (Used for bid comparison)			

RUBRIC: For the purpose of bid comparison, an estimated contract length of forty (45) working days of eight (8) hours each will be assumed (320 hours total). Also, for bid comparison, it is assumed there will be a total of 460 liquid tons of waste material within the 45-working day period. These assumptions are for **bid comparison only**, and is not a guarantee of actual total contract price or duration. Contract will be paid based on the bid item unit prices above and will last for a period of time determined by the contract entered into by Benton County and the successful bidder. Bidders will be compared only on Bid Item criteria, not the Additive Items.

A "Working Unit" is defined by one vactor truck with associated labor necessary to preform work.

"Traffic Control" is defined as any traffic control needed when the cleaning operation is not considered a "mobile operation." The "mobile operations" cost shall be included in the "Working Unit" cost.

The undersigned hereby agrees to pay to labor not less than the hourly minimum rates of wages as set forth in these special provisions.

A proposal guaranty in an amount of five percent (5%) of the total bid, based upon the approximate estimate of quantities at the above prices and in the form as indicated below, is attached hereby:

Cashier's Check	_____	In the Amount of _____
Certified Check	_____	($_____) Payable to the County Treasurer of Benton County, Washington.
Proposal Bond	_____	In the amount of 5% of the Bid.

Receipt is hereby acknowledged of Addendum No(s). _____, _____, & _____.

PUBLIC WORKS TRAINING

The undersigned hereby certifies that the contractor has received L & I training, per RCW 39.04.350, or has completed three or more public works projects and has had a valid business license in Washington for three or more years and therefore are exempt from training.

ASSURANCE OF NON-DISCRIMINATION

The undersigned hereby agrees that he shall comply with Benton County's Non-Discrimination Policy and Plan, which is consistent with Titles VI and VII of the 1964 Civil Rights Act as amended in 1972; Executive Order 11246 as amended by Executive Order 11375; Sections 503 and 504 of the Rehabilitation Act of 1975 and the Age Discrimination in Employment Act of 1967; the 1974 Vietnam Era Veteran Readjustment Assistance Act; and the Washington State Laws Against Discrimination, Chapter 49.60 RCW. The policy reads as follows:

It is the policy of Benton County that no person shall be subjected to discrimination in the County or by its subcontractors because of race, color, national origin, sex, age, religion, creed, marital status, disabled or Vietnam era veteran status, or the presence of any physical, mental or sensory handicap.

NON-COLLUSION DECLARATION

I, by signing the proposal, hereby declare, under penalty of perjury under the laws of the United States that the following statement is true and correct:

That the undersigned person(s), firm, association or corporation has (have) not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the project for which this proposal is submitted.

NOTICE TO ALL BIDDERS

To report bid rigging activities call:

1-800-424-9071

The U. S. Department of Transportation (USDOT) operates the above toll-free "hotline" Monday through Friday, 8:00 a.m. to 5:00 p.m., Eastern time. Anyone with knowledge of possible bid rigging, bidder collusion, or other fraudulent activities should use the "hotline" to report such activities.

The "hotline" is part of USDOT's continuing effort to identify and investigate highway construction control fraud and abuse and is operated under the direction of the USDOT Inspector General. All information will be treated confidentially, and caller anonymity will be respected.

CONTRACTOR'S REGISTRATION NO. _____

CONTRACTOR'S EMPLOYMENT SECURITY DEPARTMENT NO. _____

FIRM NAME: _____

_____ _____
SIGNATURE OF AUTHORIZED OFFICIAL (PRINT NAME AND TITLE)

_____ _____
SIGNATURE OF AUTHORIZED OFFICIAL (PRINT NAME AND TITLE)

PROPOSAL MUST BE SIGNED

DATED this _____ day of _____, 20_____.

ADDRESS OF BIDDER: _____

PRINCIPAL PLACE OF BUSINESS: _____

TELEPHONE NO.: (____)_____ EMAIL:_____

NOTE: (1) This proposal form is not transferable, and any alteration of the firm name entered hereon without prior permission from the Board of County Commissioners will be sufficient cause for considering the proposal irregular and consequent rejection of the bid.

(2) Should it be necessary to modify this proposal in writing, please make reference to the project number.

PROPOSAL BOND

KNOW ALL MEN BY THESE PRESENTS, That we, _____

_____ of _____

as principal, and the _____, a corporation

duly organized under the laws of the State of _____, and authorized

to do business in the State of Washington, as surety, are held and firmly bound unto Benton County in the full and penal sum of five (5) percent of the total amount of the bid proposal of said principal for the work hereinafter described, for the payment of which, well and truly to be made, we bind our heirs, executors, administrators and assigns, and successors and assigns, firmly by these presents.

The condition of this bond is such, that whereas the principal herein is herewith submitting his or its sealed proposal for the following highway construction, to wit:

CE 2125 SMP – 2021 Catch Basin and Drywell Cleaning

said bid and proposal, by reference thereto, being made a part hereof.

NOW, THEREFORE, If the said proposal bid by said principal be accepted, and the contract be awarded to said principal, and if said principal shall duly make and enter into and execute said contract and shall furnish bond as required by Benton County within a period of **ten (10) days** from and after said award, exclusive of the day of such award, then this obligation shall be null and void, otherwise it shall remain and be in full force and effect.

IN TESTIMONY WHEREOF, The principal and surety have caused these presents to be

signed and sealed this _____ day of _____, _____.

_____
(Principal)

_____
(Surety)

_____
(Attorney-in-fact)

This form must be submitted with the Bid Proposal or as a Supplement to the Bid no later than 24 hours after the time for delivery of the Bid Proposal, as provided for in Section 1-02.9 of the Contract Provisions.

Certification of Compliance with Wage Payment Statutes

The bidder hereby certifies that, within the three-year period immediately preceding the bid solicitation date, 11/04/2021, the bidder is not a "willful" violator, as defined in RCW 49.48.082, of any provision of chapters 49.46, 49.48, or 49.52 RCW, as determined by a final and binding citation and notice of assessment issued by the Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction.

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

_____
Bidder's Business Name

_____
Signature of Authorized Official*

_____
Printed Name

_____
Title

_____ _____ _____
Date City (where signed) State

Check One:
Sole Proprietorship ☐ Partnership ☐ Joint Venture ☐ Corporation ☐

State of Incorporation, or if not a corporation, State where business entity was formed:

_____

If a co-partnership, give firm name under which business is transacted:

_____

** If a corporation, proposal must be executed in the corporate name by the president or vice-president (or any other corporate officer accompanied by evidence of authority to sign). If a co-partnership, proposal must be executed by a partner.*

CONTRACT

INFORMATION FOR THE CONTRACTOR THAT IS AWARDED THE CONTRACT

For Construction of:

2021 Catch Basin and Drywell Cleaning

CE 2125 SMP

PUBLIC WORKS DEPARTMENT

COUNTY OF BENTON WASHINGTON

Bid No: 21-18

CONTRACT

THIS CONTRACT, made and entered into this _____ day of _____, **2021**, between the COUNTY OF BENTON, STATE OF WASHINGTON, (hereinafter "the County") acting through the Board of County Commissioners, under and by virtue of RCW 36, as amended, and _____, (hereinafter "the Contractor").

WITNESSETH:

That in consideration of the terms and conditions contained herein and in the Contract Documents attached hereto and made a part of this agreement, the parties hereto covenant and agree as follows:

I. The Contractor shall furnish all tools, materials, and equipment, and shall do all work described in and in accordance with the attached plans and specifications entitled "**Contract Provisions and Plans, CE 2125 SMP – 2021 Catch Basin and Drywell Cleaning**," and as described in and in accordance with the State of Washington **2022** Standard Specifications for Road, Bridge, and Municipal Construction adopted by the County, (hereinafter collectively referred to as "the Contract Documents") which are by this reference incorporated herein and made part hereof, and shall perform any changes to the work in accord with the Contract Documents.

The Contractor shall provide and bear the expense of all equipment, work and labor, of any sort whatsoever that may be required for the transfer of materials and for constructing and completing the work provided for in these Contract Documents except those items mentioned therein to be furnished by the County.

II. The County hereby promises and agrees with the Contractor to employ, and does employ the Contractor to provide the materials and to do and cause to be done the above described work and to complete and finish the same in accord with the attached plans and specifications and the terms and conditions herein contained, and hereby contracts to pay for the same according to the attached specifications and the schedule of unit or itemized prices at the time and in the manner and upon the conditions provided for in this contract. The County further agrees to employ the Contractor to perform any alterations in or additions to the work covered by this contract and every part thereof and any force account work that may be ordered and to pay for the same under the terms of this contract and the attached plans and specifications.

III. The Contractor, for himself, and for his heirs, executors, administrators, successors, and assigns, does hereby agree to the full performance of all the covenants herein contained upon the part of the Contractor.

IV. The County agrees to pay to the Contractor, as full and complete compensation for materials and work provided in accordance with the Contract Documents, the sum of $_____, payable as provided in the Contract Documents.

V. It is further provided that no liability shall attach to the County by reason of entering into this contract, except as expressly provided herein.

VI. The Contractor shall hold harmless, indemnify and defend the County, its officers, officials, employees and agents, from and against any and all claims, actions, suits, liability, loss, expenses, damages, and judgments of any nature whatsoever, including reasonable costs and attorney fees thereof, for injury, sickness, disability or death to persons or damage to property or business, caused by or arising out of the Contractors acts, errors or omissions in the performance of this Contract. Provided, that the Contractor's obligation hereunder shall not extend to injury, sickness, death or damage caused by or arising out of the sole negligence of the County, its officers, officials, employees, or agents.

Informational Copy

VII. The Contractor specifically waives the Contractor's immunity under Title 51 RCW (Industrial Insurance statute), and acknowledges that his waiver of immunity was mutually and expressly negotiated by the parties, and expressly agrees that Contractor's promise to indemnify and hold harmless applies to all claims filed by and/or injuries to the Contractor's own employees.

IN WITNESS WHEREOF, the said Contractor has executed this instrument, and the Board of County Commissioners of Benton County, Washington has caused this instrument to be executed by and in the name of the said Board of County Commissioners the day and year first above written.

Executed by the Contractor:

_____
Signature

_____
Title

_____
Date

COUNTY OF BENTON

_____
Chairman, Board of Commissioners

Attest:_____
Clerk of the Board

_____
Date

APPROVED AS TO FORM:

_____
Benton County Deputy Prosecuting Attorney

_____
Date

Informational Copy

PUBLIC WORKS PERFORMANCE BOND

to BENTON COUNTY, WA

Bond No. _____

Benton County, Washington (County) has awarded to _____ (Principal), a contract for the construction of the project designated as **2021 Catch Basin and Drywell Cleaning, Project No.: CE 2125 SMP,** in Benton County, Washington (Contract), and said Principal is required to furnish a bond for performance of all obligations under the Contract.

The Principal, and _____ (Surety), a corporation, organized under the laws of the State of _____ and licensed to do business in the State of Washington as surety and named in the current list of "Surety Companies Acceptable in Federal Bonds" as published in the Federal Register by the Audit Staff Bureau of Accounts, U.S. Treasury Dept., are jointly and severally held and firmly bound to the County, in the sum of _____ US Dollars ($ _____) Total Contract Amount, subject to the provisions herein.

This statutory performance bond shall become null and void, if and when the Principal, its heirs, executors, administrators, successors, or assigns shall well and faithfully perform all of the Principal's obligations under the Contract and fulfill all terms and conditions of all duly authorized modifications, additions, and changes to said Contract that may hereafter be made, at the time and in the manner therein specified; and if such performance obligations have not been fulfilled, this bond shall remain in force and effect.

The Surety for value received agrees that no change, extension of time, alteration or addition to the terms of the Contract, the specifications accompanying the Contract, or to the work to be performed under the Contract shall in any way affect its obligation on this bond, and waives notice of any change, extension of time, alteration or addition to the terms of the Contract or the work performed. The Surety agrees that modifications and changes to the terms and conditions of the Contract that increase the total amount to be paid the Principal shall automatically increase the obligation of the Surety on this bond and notice to Surety is not required for such increased obligation.

This bond may be executed in two (2) original counterparts, and shall be signed by the parties' duly authorized officers. This bond will only be accepted if it is accompanied by a fully executed and original power of attorney for the office executing on behalf of the surety.

PRINCIPAL	SURETY
_____	_____
Principal Signature Date	Surety Signature Date
_____	_____
Printed Name	Printed Name
_____	_____
Title	Title

Name, address, and telephone of local office/agent of Surety Company is:

Informational Copy

PUBLIC WORKS PAYMENT BOND

to BENTON COUNTY, WA

Bond No. _____

Benton County, Washington (County) has awarded to _____ (Principal), a contract for the construction of the project designated as **2021 Catch Bain and Drywell Cleaning, Project No.: CE 2125 SMP,** in Benton County, Washington (Contract), and said Principal is required, under the terms of that Contract, to furnish a payment bond in accord with Title 39.08 Revised Code of Washington (RCW) and (where applicable) 60.28 RCW.

The Principal, and _____ (Surety), a corporation, organized under the laws of the State of _____ and licensed to do business in the State of Washington as surety and named in the current list of "Surety Companies Acceptable in Federal Bonds" as published in the Federal Register by the Audit Staff Bureau of Accounts, U.S. Treasury Dept., are jointly and severally held and firmly bound to the County, in the sum of _____ US Dollars ($ _____) Total Contract Amount, subject to the provisions herein.

This statutory payment bond shall become null and void, if and when the Principal, its heirs, executors, administrators, successors, or assigns shall pay all persons in accordance with RCW 39.08, 39.12, and 60.28 including all workers, laborers, mechanics, subcontractors, and materialmen, and all person who shall supply such contractor or subcontractor with provisions and supplies for the carrying on of such work, and all taxes incurred on said Contract under Titles 50 and 51 RCW and all taxes imposed on the Principal under Title 82 RCW; and if such payment obligations have not been fulfilled, this bond shall remain in full force and effect.

The Surety for value received agrees that no change, extension of time, alteration or addition to the terms of the Contract, the specifications accompanying the Contract, or to the work to be performed under the Contract shall in any way affect its obligation on this bond, and waives notice of any change, extension of time, alteration or addition to the terms of the Contract or the work performed. The Surety agrees that modifications and changes to the terms and conditions of the Contract that increase the total amount to be paid the Principal shall automatically increase the obligation of the Surety on this bond and notice to Surety is not required for such increased obligation.

This bond may be executed in two (2) original counterparts, and shall be signed by the parties' duly authorized officers. This bond will only be accepted if it is accompanied by a fully executed and original power of attorney for the office executing on behalf of the surety.

PRINCIPAL		SURETY	
_____		_____	
Principal Signature	Date	Surety Signature	Date
_____		_____	
Printed Name		Printed Name	
_____		_____	
Title		Title	

Name, address, and telephone of local office/agent of Surety Company is:

Informational Copy

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	October 19, 2021
Subject:	Authorizing the Chairman of the Board to sign the Statement of Work No. 21716 between i3 ImageSoft, LLC and Benton County for the Benton County District Court
Presenter:	
Prepared By:	P. Schut/ L. Small
Reviewed By:	Purchasing Dept; Eric Andrews; IT Dept.

PA Review, Approval to Form: ☒ Yes ☐ No ☐ N/A *(If no, include reasoning for no approval)*

Type of Agenda Item:	**Type of Action Needed:** *(Multiple boxes can be checked, if necessary)*	
☒ Consent Agenda	☐ Discussion Only	☐ Pass Motion
☐ Public Hearing	☐ Decision / Direction	☒ Pass Resolution
☐ Scheduled Business	☐ Sign Letter / Document	☐ Pass Ordinance
		☒ Execute SOW

Summary / Background Information

On December 3, 2019, the Board of Benton County Commissioners approved Resolution 2019-875 executing a Master Agreement with ImageSoft, Inc. (ImageSoft) for the annual OnBase Document Management System. ImageSoft provided notification they are now doing business as i3 ImageSoft, LLC.

The agreement with ImageSoft requires the County to only use an appointed vendor for maintenance and support for OnBase. ImageSoft is Benton County's appointed vendor for maintenance and support for OnBase.

Benton County District Court mandates the e-filing of documents by attorneys, and to increase efficiency and eliminate errors, there is a need to automate the importing and routing of electronic documents for the review and signature of a judicial officer.

The Trial Court Improvement Fund will be utilized to pay for these professional services, as contained in Resolution 2021-608.

ImageSoft is requesting that Benton County sign the SOW first and they will return a fully executed copy for our records.

Fiscal Impact

Amount: $35,875.00 excluding W.S.S.T.
Fund: Trial Court Improvement Fund (0504-101)

Recommendation

We recommend the Board of County Commissioners approve and sign the Statement of Work No. 21716.

Suggested Motion

Approve as part of the consent agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AUTHORIZING THE CHAIRMAN OF THE BOARD TO SIGN THE STATEMENT OF WORK NO. 21716 BETWEEN i3 IMAGESOFT, LLC AND BENTON COUNTY FOR THE BENTON COUNTY DISTRICT COURT

WHEREAS, on December 3, 2019, the Board of Benton County Commissioners approved Resolution 2019-875 executing a Master Agreement with ImageSoft, Inc. (ImageSoft) for the annual OnBase Document Management System (OnBase); and

WHEREAS, ImageSoft provided notice to Benton County that they are now doing business as i3 ImageSoft, LLC (ImageSoft); and

WHEREAS, the agreement with ImageSoft requires the County to only use an appointed vendor for maintenance and support for OnBase; and

WHEREAS, ImageSoft is Benton County's appointed vendor for maintenance and support for OnBase; and

WHEREAS, Benton County District Court mandates the e-filing of documents by attorneys; and

WHEREAS, to increase efficiency and eliminate errors, there is a need to automate the import of electronic documents and routing documents for the review and signature of a judicial officer; and

WHEREAS, the Trial Court Improvement Fund will be utilized to pay for these professional services, as contained in Resolution 2021-608; and

WHEREAS, the Purchasing Department has reviewed this purchase and finds it complies with the Procurement, Leasing, and Contracting Policy; and

WHEREAS, the Benton County District Court recommends the attached Statement of Work No. 21716 be approved in the amount of $35,875.00, excluding WSST; **NOW, THEREFORE**

BE IT RESOLVED, the Chairman of the Board of Benton County Commissioners is hereby authorized to sign the attached Statement of Work No. 21716 with i3 ImageSoft, LLC for professional services; and

BE IT FURTHER RESOLVED, that the Board of Benton County Commissioners authorizes the Benton County District Court to expend $35,875.00 excluding WSST from the Trial Court Improvement Fund.

Dated this 12th day of October , 2021

Chairman of the Board

Member

Member

Constituting the Board of County Commissioners
of Benton County, Washington

Attest:

Clerk of the Board

Org: District Court
Cc: Auditor, IT, Procurement

L. Small

Statement of Work

Statement of Work No.	21716
Revision No.	0
Customer Name:	Benton County
Project Name:	FTP Import and Judicial Signature Workflow
ImageSoft Contact:	Steve Dale
Contract Type:	Time and Material
Submitted Date:	9/9/2021

This Statement of Work ("SOW") is made and entered into by and between i3-ImageSoft, LLC., a Delaware limited liability company with its principal offices at 25900 West 11 Mile Rd, Suite 100, Southfield, MI 48034 ("ImageSoft"), and Benton County with its principal offices at 7122 West Okanogan Place, Bldg. A, Benton, WA 99336 ("Customer"):

This SOW is to be attached to and is hereby made a part of Master Agreement ("Master") entered into by and between Customer and ImageSoft dated 12/12/2019.

Unless otherwise specified, the products and services provided within this SOW are hereby added to and covered for the duration and under the terms of the System Maintenance Agreement ("SMA") entered into by and between Customer and ImageSoft dated 12/12/2019.

To the extent that any terms and conditions contained in the related Master or SMA are in conflict with, or in addition to the terms and conditions of this SOW, the terms and conditions of this SOW shall control.

Introduction

Benton County has requested ImageSoft Professional Services to implement a new Import Process and Judicial Signature Workflow. The Import process will be configured to parse incoming e-filed documents from an existing FTP Location and import them into Customer's existing OnBase Environment. After import, specific documents will be automatically routed to a Clerk workflow queue for court staff to process. Documents will be imported into the Clerk Review as a static document type, court staff will be required to manually apply the appropriate document type and indexing information. Staff will have the option of routing documents to a Judicial Signing queue. Judges will be able to access the signing queue to review the documents, view related documents for reference, and to electronically sign documents. Completed documents will then be returned to the Clerk queue for additional or final processing.

See Appendix A for Customer Provided Draft Statement of Work.

Scope and Deliverables

To implement the proposed services, ImageSoft will undertake the following tasks:

- Conduct up to one-half (0.5) day remote Discovery
- Creation and delivery of Solution Requirements Document ("SRD")
- Conduct Customer review of SRD
- Configure DIP Process with preprocessor

- Configure TrueSign service bus listener and workflow webservice calls
- Configure Judge Signature workflow
- Perform OnBase system and integration testing
- Provide standard OnBase Workflow User Training Manuals with Customer specific modification
- Provide one (1) OnBase Business Automation (Workflow) Training session for up to ten (10) people
- Provide one (1) System Administrator Knowledge Transfer
- Assist with User Acceptance Testing ("UAT"), Training, and Issue Correction for up to one (1) week
- Promote solution to Production system
- Go-Live support
- Project Management

Investment

ImageSoft will provide the hardware and/or software and assistance up to the number of hours listed in *Service Fees* below. Work performed beyond the hours specified in the *Service Fees* must be authorized by signing a Project Change Request.

Service Fees			
	Unit Cost	**# Units**	**Cost**
Professional Services			
Professional Services	$205	175	$35,875
Service Fees Subtotal			**$35,875**
Total			
			Cost
Grand Total			**$35,875**

Out-of-Pocket Expenses

Customer shall reimburse ImageSoft for all reasonable out-of-pocket expenses that ImageSoft incurs while performing the work described herein. Out-of-pocket expenses shall include travel costs, meals, and lodging expenses and must be supported by proper invoices or other appropriate documentation.

Customer shall reimburse ImageSoft for project related travel time to a Customer facility at the hourly resource rate equal to 50% of the provided Hourly Rates.

Payment Schedule

ImageSoft has provided an estimate of the required services hours to complete the tasks described herein and will provide services on a time and materials basis. ImageSoft will only bill for the actual hours expended on behalf of the Customer and has made a best-estimate based on current available information. Customer will be invoiced upon signature for hardware and/or software and monthly for Service Fees. All payments will be due on a Net-30 day basis.

A purchase order or signed agreement is required to be in place to cover all ImageSoft hours and expenses.

Key Assumptions

The following assumptions were made when estimating pricing for this SOW:

- Existing OnBase user and workflow licenses will be leveraged for this project.
- An active TrueSign subscription will be required to be purchased by Customer prior to the start of this project. TrueSign subscription is not included within this SOW.
- Internet access will be required for all signers.

- FTP location already exists and is accessible.
- Customer has a current and functioning autofill process in existence.
- Customer has an active EDM Services module.
- The ImageSoft professional services team often requires eight to ten (8-10) lead time to start a new Engagement. Please check with your ImageSoft Account Representative for details on current project lead time. ImageSoft will provide the services to this contract according to a mutually defined schedule.
- Customer will designate a central point of contact for the engagement.
- An ImageSoft Project Manager will be assigned to track progress and hold bi-weekly status calls. No status reports will be delivered. Estimated effort per week is 4-5 hours over 6 weeks.
- Services will be provided remotely.
- Customer will provide VPN access to implementation team to facilitate remote development. Additional security requests prior to providing access may be requested by customer.
- Customer is responsible for maintaining adequate data backups, at all times, to protect against loss of data.

Project Change Authorization Procedure

A Project Change Request ("PCR") will be the vehicle for communicating change and will describe the change and the effect the change will have on the project.

The following process will be followed if a change to this SOW is required:

- A change is proposed by either party's Project Manager and discussed.
- The Project Team will investigate scope, schedule, and cost impacts of the proposed change.
- A PCR will be created by ImageSoft Project Manager and submitted for internal review and approval.
- The Account Executive and/or ImageSoft Project Manager will submit the PCR to the Customer Project Manager for review.
- A PCR must be signed by authorized representatives from both parties to authorize investigation of the recommended changes. ImageSoft will invoice Customer for any such charges when incurred as per the PCR deliverables.

Until a change is agreed in writing, both parties will continue to act in accordance with the latest agreed version of the SOW.

Approval

Signature is required to accept this SOW. By signing below each party agrees to the proposed project scope and authorizes work to begin.

Agreed to:	*Agreed to:*
Benton County **7122 West Okanogan Place, Bldg. A, Benton, WA 99336**	**i3-ImageSoft, LLC.** **25900 West 11 Mile Road, Suite 100, Southfield, MI 48034**
By: _____ Authorized Signature	By: _____ Authorized Signature
Date: _____	Date: _____
Name (Type or Print): _____	Name (Type or Print): _____
Title (Type or Print): _____	Title: (Type or Print): _____
Project Name: FTP Import and Judicial Signature Workflow	

Internal Use:	Opportunity #:	21716
	Sales Order #:	
	Doc Control #:	20201223

Appendix A: Customer Provided Draft Statement of Work

Draft Statement of Work

Name of Company: Benton County District Court
Project Name: Import From FTP
Project Manager:
Prepared by: Ela Selga
Date:

PROBLEM STATEMENT

Manual process of checking each folder on FTP site to import each document into OnBase. Signing of electronic Orders is a very cumbersome process, where the document have to be signed outside of OnBase utility, then re-imported into OnBase.

PROJECT BACKGROUND AND DESCRIPTION STATEMENT

Currently documents are e-filed using FTP site. To check if there are documents filed, staff have to manually go through each folder to check for filing. Attorneys are trained to name their document according to the pleading title. Staff then move these documents according to case type and day of the week, to folders in the department's shared drive. Staff then go to these folders to import these documents. On import, the document is indexed according to pleading name and linked to the JIS case. If there are orders that need to be signed by the judge, these orders along with supporting documents are moved to folders in the shared drive. The judge is emailed that there are documents that need to be reviewed and signed. Judge uses his Adobe Acrobat signature tool to sign the documents. When the judge is done, he emails the staff to let them know.

If an order needs to be created for the judge after he/she reviewed the request of a litigant, staff prepares an order in a PDF format. This document is then moved to a shared folder and an email is sent to the judge letting him/her know the order is awaiting the judge's signature. After the judge is done, he emails staff that the order is signed.

The staff then imports the court orders into OnBase, indexing, linking and sending a conformed copy to the parties via email.

PROJECT GOALS

GOAL
Automate import of documents from FTP site

HOW GOAL WILL BE ACHIEVED
Automate checking individual folder in FTP site every hour. Import all documents in the FTP folders to a staging folder in OnBase where staff reviews and process as needed.. Upon import, the document is deleted from the FTP folder. The document is also indexed using the file name as the document description.

GOAL
Court Forms are integrated within OnBase
HOW GOAL WILL BE ACHIEVED
Activate Forms and signature module. Create a workflow where the document is sent to the judge for review and signature, then back to the staff for processing.

GOAL
Associated Pleadings are linked to the Order
HOW GOAL WILL BE ACHIEVED
Supportive documents for an order are automatically pulled when an order is being presented to the judge for his review and signature.

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	October 19, 2021
Subject:	Agreement between Benton County and Washington State Department of Ecology for the Community Litter Cleanup Program
Presenter:	Commander Joshua Shelton
Prepared By:	Lisa Small
Reviewed By:	Chief Souza; Cindi Kane; Ryan Lukson; Purchasing Dept.

PA Review, Approval to Form: ☒ Yes ☐ No ☐ N/A *(If no, include reasoning for no approval)*

Type of Agenda Item:	**Type of Action Needed:** *(Multiple boxes can be checked, if necessary)*	
☐ Consent Agenda	☐ Discussion Only	☐ Pass Motion
☐ Public Hearing	☐ Decision / Direction	☒ Pass Resolution
☒ Scheduled Business	☐ Sign Letter / Document	☐ Pass Ordinance
		☒ Execute Contract

Summary / Background Information

For several years the Benton County Corrections Department has received grant funding from the Department of Ecology to offset costs related to their work crew programs through the Community Litter Cleanup Program.

Benton County Corrections Department completed the grant application for the 2021-2023 Community Litter Cleanup Program from the Department of Ecology to be used towards the cost of operating an existing work crew.

The Benton County Corrections Department was notified on September 13, 2021 by the Department of Ecology that they were awarded the grant in the amount not to exceed $57,762 for Litter Pickup and Illegal Dump Cleanup and $40,000 for the cleanup of 15 state highway ramps in the Benton County jurisdiction.

The Benton County Corrections Department wishes to utilize the Washington State Department of Ecology Community Litter Grant Program for the period of July 1, 2021 to June 30, 2023.

The Department of Ecology requires Benton County to sign the document prior to their signature.

Fiscal Impact

The grant will provide revenue up to $97,762.00 of funding from the Department of Ecology to help offset work crew cost.

Recommendation

Approve the attached Resolution and authorize the Chairman to sign the attached Agreement No. SWMCLCP-2123-BeCoSO-00065 between the Washington State Department of Ecology and Benton County.

Suggested Motion

Approve as part of the Consent Agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF A GRANT AWARDED BY THE WASHINGTON STATE DEPARTMENT OF ECOLOGY TO BENTON COUNTY FOR THE PURPOSE OF SHARING THE COSTS OF OPERATION OF THE BENTON COUNTY CORRECTIONS DEPARTMENT WORK CREW PROGRAM

WHEREAS, the Benton County Corrections Department completed a grant application for the 2021-2023 Community Litter Cleanup Program from the Washington State Department of Ecology with a requested eligible amount of $57,762 to be used toward the cost of operating an existing Work Crew; and

WHEREAS, the Benton County Corrections Department also completed a grant application for the 2021-2023 SB5040 Cleanup to clean 15 state highway ramps in their jurisdiction in the amount of $40,000; and

WHEREAS, the Benton County Corrections Department was notified in an email dated September 13, 2021 that they were awarded the grant in the amount not to exceed $97,762.00 for Litter Pickup and Illegal Dump Cleanup and the SB5040 Cleanup of 15 state highway ramps located in Benton County jurisdiction; and

WHEREAS, the Benton County Corrections Department wishes to utilize the funding provided by the Washington State Department of Ecology to help offset the cost of said programs for the period of July 1, 2021 to June 30, 2023; **NOW, THEREFORE**

BE IT RESOLVED, by the Board of Benton County Commissioners, Benton County, Washington, the Board hereby accepts the grant award from the Department of Ecology in the amount not to exceed $57,762 to be applied towards the Litter and Illegal Dump Cleanup and Prevention Project and $40,000 to be applied towards the SB5040 Cleanup of 15 state highway ramps located in Benton County jurisdiction; and

BE IT FURTHER RESOLVED, the Board hereby authorizes the Chairman to sign the attached Community Litter Cleanup Program Agreement No. SWMCLCP-2123-BeCoSO-00065; and

BE IT FURTHER RESOLVED that the term of the attached Agreement commences July 1, 2021 and expires on June 30, 2023.

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, Dept of Ecology; Procurement

Prepared by: L. Small

Agreement No. SWMCLCP-2123-BeCoSO-00065

OLID WASTE MANAGEMENT COMMUNITY LITTER CLEANUP PROGRAM AGREEMENT

BETWEEN

THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY

AND

BENTON COUNTY

This is a binding Agreement entered into by and between the state of Washington, Department of Ecology, hereinafter referred to as "ECOLOGY," and Benton County, hereinafter referred to as the "RECIPIENT," to carry out with the provided funds activities described herein.

GENERAL INFORMATION

Project Title:	Benton County CLCP-2021-2023 GRANT
Total Cost:	$97,762.00
Total Eligible Cost:	$97,762.00
Ecology Share:	$97,762.00
Recipient Share:	$0.00
The Effective Date of this Agreement is:	07/01/2021
The Expiration Date of this Agreement is no later than:	06/30/2023
Project Type:	CLCP Grant

Project Short Description:
Litter and Illegal Dump Cleanup and Prevention Project

Project Long Description:
To remove litter and illegally dumped material from public lands and/or provide litter and illegal dump prevention education to citizens and other organizations. The recipient shall furnish the necessary personnel, equipment, material and/or services, and/or otherwise do all things necessary for or incidental to the performance of the scope of work set forth herein.

Overall Goal:
To remove litter and illegally dumped material from roadways and other public lands in Benton County.

RECIPIENT INFORMATION

Organization Name: Benton County

Federal Tax ID: 91-6001296
DUNS Number: 083738997

Mailing Address: 7122 W Okanogan Pl, Bldg. B
Kennewick, WA 99336

Physical Address: 7122 W Okanogan Pl, Bldg. B
Kennewick, Washington 99336

Contacts

Project Manager	Josh Shelton Commander 7122 W. Okanagan Place Building B Kennewick, Washington 99336 Email: joshua.shelton@co.benton.wa.us Phone: (509) 222-3789
Billing Contact	Cindi Kane Budget & Finance Analyst 7122 W Okanogan Pl, Bldg. B Kennewick, Washington 99336 Email: cindi.kane@co.benton.wa.us Phone: (509) 783-1451
Authorized Signatory	Jerome Delvin Benton County Commissioner 620 Market Street Prosser, Washington 99350 Email: shon.small@co.benton.wa.us Phone: (509) 786-5600

ECOLOGY INFORMATION

Mailing Address: Department of Ecology
Solid Waste Management
PO BOX 47600
Olympia, WA 98504-7600

Physical Address: Solid Waste Management
300 Desmond Drive SE
Lacey, WA 98503

Contacts

Project Manager	Rod Hankinson 1250 W Alder St. Union Gap, Washington 98903-0009 Email: rhan461@ecy.wa.gov Phone: (509) 406-3999
Financial Manager	Rod Hankinson 1250 W Alder St. Union Gap, Washington 98903-0009 Email: rhan461@ecy.wa.gov Phone: (509) 406-3999
Technical Advisor	Rod Hankinson 1250 W Alder St. Union Gap, Washington 98903-0009 Email: rhan461@ecy.wa.gov Phone: (509) 406-3999

AUTHORIZING SIGNATURES

RECIPIENT agrees to furnish the necessary personnel, equipment, materials, services, and otherwise do all things necessary for or incidental to the performance of work as set forth in this Agreement.

RECIPIENT acknowledges that they had the opportunity to review the entire Agreement, including all the terms and conditions of this Agreement, Scope of Work, attachments, and incorporated or referenced documents, as well as all applicable laws, statutes, rules, regulations, and guidelines mentioned in this Agreement. Furthermore, the RECIPIENT has read, understood, and accepts all requirements contained within this Agreement.

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

No subsequent modifications or amendments to this agreement will be of any force or effect unless in writing, signed by authorized representatives of the RECIPIENT and ECOLOGY and made a part of this agreement. ECOLOGY and RECIPIENT may change their respective staff contacts without the concurrence of either party.

This Agreement shall be subject to the written approval of Ecology's authorized representative and shall not be binding until so approved.

The signatories to this Agreement represent that they have the authority to execute this Agreement and bind their respective organizations to this Agreement.

Washington State
Department of Ecology

By: _____

Laurie Davies Date

Solid Waste Management

Program Manager

Template Approved to Form by
Attorney General's Office

Benton County

By: _____

Jerome Delvin Date

Benton County Commissioner

Approved as to form:

Ryan J Lukson, Civil DPA

Jerome Delvin

Chairman, Benton County Commissioner Date

SCOPE OF WORK

Task Number: 1 **Task Cost:** $57,762.00

Task Title: Litter Pickup and Illegal Dump Cleanup

Task Description:
RECIPIENT will provide a full-time work crew from the Benton County Corrections Department for this project. The crew consists of one officer and 6-10 inmates. The crew will work 10 hour shifts 4 days per week. An additional officer is available to supervise the crew and complete the community cleanup efforts if the primary officer is on any long-term absences. The crew will work on State and County roadways or other public lands within Benton County.

RECIPIENT is responsible for the collection of litter and the cleanup of illegal dumpsites throughout Benton County.

RECIPIENT is responsible for the bagging, transportation, and proper disposal of all trash. In addition, they will recycle all materials possible.

RECIPIENT is responsible for supervising the work crew and ensuring all requirements regarding roadside set up procedures and proper equipment to work on State or Benton County roads are met. All required safety equipment for crewmembers is provided by the RECIPIENT. RECIPIENT is responsible for accurate and timely data collection and reporting.

Task Goal Statement:
RECIPIENT'S goal of this project is to safely clean up county roads, state highways and illegal dumps throughout Benton County.

Task Expected Outcome:
- 535 Miles of road, 28 acres, and 41 illegal dumpsites cleaned.
- 21,370 Pounds of litter, 15,340 pounds of illegal dump material, and 8,440 pounds of recycling collected.
- 1,045 Supervisor hours and 6,430 crewmember hours worked.

Recipient Task Coordinator: Josh Shelton

Litter Pickup and Illegal Dump Cleanup

Deliverables

Number	Description	Due Date
1.1	Task Expected Outcomes are the deliverables and achieved incrementally throughout the biennium.	

SCOPE OF WORK

Task Number: 2 **Task Cost:** $40,000.00

Task Title: SB5040 Cleanup

Task Description:
RECIPIENT will clean 15 state highway ramps located in their jurisdiction. Ramps will be cleaned quarterly during the funding period. These ramps include but may not be limited to:

- 15 On/Off Ramps East bound and West bound Milepost 131 to Milepost 76 on Interstate 82 in Benton County.

RECIPIENT will take collected litter to a permitted solid waste facility and recycle materials whenever possible.

RECIPIENT or delegate is responsible for crew safety training and oversight of crewmembers. RECIPIENT will follow all applicable County or State road setup procedures as determined by the appropriate County or State officials while working on those roads. RECIPIENT will provide appropriate Personal Protective Equipment (PPE) for all workers. PPE can include Safety Vests, gloves, eye protection, and any other supplies or equipment necessary to complete the work safely.

RECIPIENT may contract for assistance with cleanup of state highway ramps. Reimbursement for costs incurred by contractors to perform work identified in this Task are subject to the same eligibility and reimbursement requirements as the RECIPIENT, and require ECOLOGY approval.

RECIPIENT is responsible for accurate and timely data collection and reporting. RECIPIENT must submit quarterly Payment Request Progress Reports (PRPRs) in EAGL. RECIPIENT is required to report:

- Hours worked.
- Miles cleaned.*
- Pounds of material collected. (Report litter and recycling separately, if collected.)
- Number of ramps cleaned. (Report the number of ramps cleaned in the comments section of the progress report in EAGL)

* To estimate mileage for ramps, assume each ramp section is ½ mile. In a standard diamond interchange, if you cleaned the on and off ramps in both directions that is equivalent to 4 miles.

Ecology requires that the RECIPIENT report outputs in the comments section of the quarterly PRPR. This allows Ecology to track SB5040 outputs/outcomes separately from regular CLCP work.

Eligible costs for reimbursement with supporting documentation include:

- Contracts, purchased services for cleanup.
- Safety training (with grant manager prior approval).
- Equipment, tools, and supplies needed for safety and cleanup work.
- Staff time, transportation, and disposal of materials cleaned.
- Costs not listed here, but pre-approved in writing by Ecology.

Task Goal Statement:
Clean state highway ramps in Benton County.

Task Expected Outcome:

RECIPIENT will track and report the:

- 15 Ramps cleaned quarterly.
- Cleaned ramps converted to 60 miles cleaned.
- 16,000 Pounds of litter and 1,000 pounds of recycling collected.
- 240 Supervisor total hours worked.

Recipient Task Coordinator: Cindi Kane

SB5040 Cleanup

Deliverables

Number	Description	Due Date
2.1	Task expected outcomes are the deliverables and are achieved incrementally throughout the biennium.	

BUDGET

Funding Distribution EG220073

NOTE: *The above funding distribution number is used to identify this specific agreement and budget on payment remittances and may be referenced on other communications from ECOLOGY. Your agreement may have multiple funding distribution numbers to identify each budget.*

Funding Title: Benton Co SO Litter and Illegal Dump Clean Funding Type: Grant
Funding Effective Date: 07/01/2021 Funding Expiration Date: 06/30/2023

Funding Source:

Title: Waste Reduction, Recycling, and Litter Control Account (WRRLCA) 2123

Fund:
Type: State
Funding Source %: 100%
Description: Community Litter Cleanup Program

Approved Indirect Costs Rate: Approved State Indirect Rate: 0%
Recipient Match %: 0%
InKind Interlocal Allowed: No
InKind Other Allowed: No
Is this Funding Distribution used to match a federal grant? No

Benton Co SO Litter and Illegal Dump Cleanup	**Task Total**
SB5040 Cleanup	$ 40,000.00
Litter Pickup and Illegal Dump Cleanup	$ 57,762.00
	Total: $ 97,762.00

Funding Distribution Summary

Recipient / Ecology Share

Funding Distribution Name	Recipient Match %	Recipient Share	Ecology Share	Total
Benton Co SO Litter and Illegal Dump Cleanup	0.00 %	$ 0.00	$ 97,762.00	$ 97,762.00
Total		**$ 0.00**	**$ 97,762.00**	**$ 97,762.00**

AGREEMENT SPECIFIC TERMS AND CONDITIONS

N/A

SPECIAL TERMS AND CONDITIONS

Grant administrative costs are limited to 10 percent of grant approved expenditures, excluding Tools and Trucks. Administrative costs for Tools and Trucks are not allowed under this grant program.

RECIPIENT must submit within thirty (30) days after the expiration date of this Agreement, all financial (including payment requests), performance, and other reports required by this Agreement. ECOLOGY shall have the right to deny reimbursement of payment requests received after this date.

Ecology will conduct a risk assessment of all Community Litter Cleanup Program recipients. The level of risk determines the level of oversight required by Ecology throughout the biennium. If the recipient's performance or project circumstances change, Ecology may reassess risk and notify the recipient of any changes to administrative requirements.

GENERAL FEDERAL CONDITIONS

If a portion or all of the funds for this agreement are provided through federal funding sources or this agreement is used to match a federal grant award, the following terms and conditions apply to you.

A. CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION:

1. The RECIPIENT/CONTRACTOR, by signing this agreement, certifies that it is not suspended, debarred, proposed for debarment, declared ineligible or otherwise excluded from contracting with the federal government, or from receiving contracts paid for with federal funds. If the RECIPIENT/CONTRACTOR is unable to certify to the statements contained in the certification, they must provide an explanation as to why they cannot.
2. The RECIPIENT/CONTRACTOR shall provide immediate written notice to ECOLOGY if at any time the RECIPIENT/CONTRACTOR learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact ECOLOGY for assistance in obtaining a copy of those regulations.

4. The RECIPIENT/CONTRACTOR agrees it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under the applicable Code of Federal Regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.
5. The RECIPIENT/CONTRACTOR further agrees by signing this agreement, that it will include this clause titled "CERTIFICATION REGARDING SUSPENSION, DEBARMENT, INELIGIBILITY OR VOLUNTARY EXCLUSION" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
6. Pursuant to 2CFR180.330, the RECIPIENT/CONTRACTOR is responsible for ensuring that any lower tier covered transaction complies with certification of suspension and debarment requirements.
7. RECIPIENT/CONTRACTOR acknowledges that failing to disclose the information required in the Code of Federal Regulations may result in the delay or negation of this funding agreement, or pursuance of legal remedies, including suspension and debarment.
8. RECIPIENT/CONTRACTOR agrees to keep proof in its agreement file, that it, and all lower tier recipients or contractors, are not suspended or debarred, and will make this proof available to ECOLOGY before requests for reimbursements will be approved for payment. RECIPIENT/CONTRACTOR must run a search in <http://www.sam.gov> and print a copy of completed searches to document proof of compliance.

B. FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA) REPORTING REQUIREMENTS:

CONTRACTOR/RECIPIENT must complete the FFATA Data Collection Form (ECY 070-395) and return it with the signed agreement to ECOLOGY.

Any CONTRACTOR/RECIPIENT that meets each of the criteria below must report compensation for its five top executives using the FFATA Data Collection Form.

- Receives more than $25,000 in federal funds under this award.
- Receives more than 80 percent of its annual gross revenues from federal funds.
- Receives more than $25,000,000 in annual federal funds.

Ecology will not pay any invoices until it has received a completed and signed FFATA Data Collection Form. Ecology is required to report the FFATA information for federally funded agreements, including the required DUNS number, at www.fsrs.gov <http://www.fsrs.gov/> within 30 days of agreement signature. The FFATA information will be available to the public at www.usaspending.gov <http://www.usaspending.gov/>.

For more details on FFATA requirements, see www.fsrs.gov <http://www.fsrs.gov/>.

C. FEDERAL FUNDING PROHIBITION ON CERTAIN TELECOMMUNICATIONS OR VIDEO SURVEILLANCE SERVICES OR EQUIPMENT:

As required by 2 CFR 200.216, federal grant or loan recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

1. Procure or obtain;
2. Extend or renew a contract to procure or obtain; or
3. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use

covered telecommunications equipment, video surveillance services or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232 <https://www.govinfo.gov/content/pkg/PLAW-115publ232/pdf/PLAW-115publ232.pdf>, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

Recipients, subrecipients, and borrowers also may not use federal funds to purchase certain prohibited equipment, systems, or services, including equipment, systems, or services produced or provided by entities identified in section 889, are recorded in the System for Award Management (SAM) <https://sam.gov/SAM/> exclusion list.

GENERAL TERMS AND CONDITIONS

Pertaining to Grant and Loan Agreements With the state of Washington, Department of Ecology

GENERAL TERMS AND CONDITIONS
For DEPARTMENT OF ECOLOGY GRANTS and LOANS
06/24/2021 Version

1. ADMINISTRATIVE REQUIREMENTS

a) RECIPIENT shall follow the "Administrative Requirements for Recipients of Ecology Grants and Loans – EAGL Edition." (https://fortress.wa.gov/ecy/publications/SummaryPages/1701004.html)

b) RECIPIENT shall complete all activities funded by this Agreement and be fully responsible for the proper management of all funds and resources made available under this Agreement.

c) RECIPIENT agrees to take complete responsibility for all actions taken under this Agreement, including ensuring all subgrantees and contractors comply with the terms and conditions of this Agreement. ECOLOGY reserves the right to request proof of compliance by subgrantees and contractors.

d) RECIPIENT's activities under this Agreement shall be subject to the review and approval by ECOLOGY for the extent and character of all work and services.

2. AMENDMENTS AND MODIFICATIONS

This Agreement may be altered, amended, or waived only by a written amendment executed by both parties. No subsequent modification(s) or amendment(s) of this Agreement will be of any force or effect unless in writing and signed by authorized representatives of both parties. ECOLOGY and the RECIPIENT may change their respective staff contacts and administrative information without the concurrence of either party.

3. ACCESSIBILITY REQUIREMENTS FOR COVERED TECHNOLOGY

The RECIPIENT must comply with the Washington State Office of the Chief Information Officer, OCIO Policy no. 188, Accessibility (https://ocio.wa.gov/policy/accessibility) as it relates to "covered technology." This requirement applies to all products supplied under the Agreement, providing equal access to information technology by individuals with disabilities, including and not limited to web sites/pages, web-based applications, software systems, video and audio content, and electronic documents intended for publishing on Ecology's public web site.

4. ARCHAEOLOGICAL AND CULTURAL RESOURCES

RECIPIENT shall take all reasonable action to avoid, minimize, or mitigate adverse effects to archaeological and historic archaeological sites, historic buildings/structures, traditional cultural places, sacred sites, or other cultural resources, hereby referred to as Cultural Resources.

The RECIPIENT must agree to hold harmless ECOLOGY in relation to any claim related to Cultural Resources discovered, disturbed, or damaged due to the RECIPIENT's project funded under this Agreement.

RECIPIENT shall:

a) Contact the ECOLOGY Program issuing the grant or loan to discuss any Cultural Resources requirements for their project:

• Cultural Resource Consultation and Review should be initiated early in the project planning process and must be completed prior to expenditure of Agreement funds as required by applicable State and Federal requirements.

* For state funded construction, demolition, or land acquisitions, comply with Governor Executive Order 21-02, Archaeological and Cultural Resources.

• For projects with any federal involvement, comply with the National Historic Preservation Act of 1966 (Section 106).

b) If required by the ECOLOGY Program, submit an Inadvertent Discovery Plan (IDP) to ECOLOGY prior to implementing any project that involves field activities. ECOLOGY will provide the IDP form.

RECIPIENT shall:

• Keep the IDP at the project site.
• Make the IDP readily available to anyone working at the project site.
• Discuss the IDP with staff, volunteers, and contractors working at the project site.
• Implement the IDP when Cultural Resources or human remains are found at the project site.

c) If any Cultural Resources are found while conducting work under this Agreement, follow the protocol outlined in the project IDP.

• Immediately stop work and notify the ECOLOGY Program, who will notify the Department of Archaeology and Historic Preservation at (360) 586-3065, any affected Tribe, and the local government.

d) If any human remains are found while conducting work under this Agreement, follow the protocol outlined in the project IDP.

• Immediately stop work and notify the local Law Enforcement Agency or Medical Examiner/Coroner's Office, the Department of Archaeology and Historic Preservation at (360) 790-1633, and then the ECOLOGY Program.

e) Comply with RCW 27.53, RCW 27.44, and RCW 68.50.645, and all other applicable local, state, and federal laws protecting Cultural Resources and human remains.

5. ASSIGNMENT

No right or claim of the RECIPIENT arising under this Agreement shall be transferred or assigned by the RECIPIENT.

6. COMMUNICATION

RECIPIENT shall make every effort to maintain effective communications with the RECIPIENT's designees, ECOLOGY, all affected local, state, or federal jurisdictions, and any interested individuals or groups.

7. COMPENSATION

a) Any work performed prior to effective date of this Agreement will be at the sole expense and risk of the RECIPIENT. ECOLOGY must sign the Agreement before any payment requests can be submitted.

b) Payments will be made on a reimbursable basis for approved and completed work as specified in this Agreement.

c) RECIPIENT is responsible to determine if costs are eligible. Any questions regarding eligibility should be clarified with ECOLOGY prior to incurring costs. Costs that are conditionally eligible require approval by ECOLOGY prior to expenditure.

d) RECIPIENT shall not invoice more than once per month unless agreed on by ECOLOGY.

e) ECOLOGY will not process payment requests without the proper reimbursement forms, Progress Report and supporting documentation. ECOLOGY will provide instructions for submitting payment requests.

f) ECOLOGY will pay the RECIPIENT thirty (30) days after receipt of a properly completed request for payment.

g) RECIPIENT will receive payment through Washington State's Office of Financial Management's Statewide Payee Desk. To receive payment you must register as a statewide vendor by submitting a statewide vendor registration form and an IRS W-9 form at website, https://ofm.wa.gov/it-systems/statewide-vendorpayee-services. If you have questions about the vendor registration process, you can contact Statewide Payee Help Desk at (360) 407-8180 or email PayeeRegistration@ofm.wa.gov.

h) ECOLOGY may, at its sole discretion, withhold payments claimed by the RECIPIENT if the RECIPIENT fails to satisfactorily comply with any term or condition of this Agreement.

i) Monies withheld by ECOLOGY may be paid to the RECIPIENT when the work described herein, or a portion thereof, has been completed if, at ECOLOGY's sole discretion, such payment is reasonable and approved according to this Agreement, as appropriate, or upon completion of an audit as specified herein.

j) RECIPIENT must submit within thirty (30) days after the expiration date of this Agreement, all financial, performance, and other reports required by this Agreement. Failure to comply may result in delayed reimbursement.

8. COMPLIANCE WITH ALL LAWS

RECIPIENT agrees to comply fully with all applicable federal, state and local laws, orders, regulations, and permits related to this Agreement, including but not limited to:

a) RECIPIENT agrees to comply with all applicable laws, regulations, and policies of the United States and the State of Washington which affect wages and job safety.

b) RECIPIENT agrees to be bound by all applicable federal and state laws, regulations, and policies against discrimination.

c) RECIPIENT certifies full compliance with all applicable state industrial insurance requirements.

d) RECIPIENT agrees to secure and provide assurance to ECOLOGY that all the necessary approvals and permits required by authorities having jurisdiction over the project are obtained. RECIPIENT must include time in their project timeline for the permit and approval processes.

ECOLOGY shall have the right to immediately terminate for cause this Agreement as provided herein if the RECIPIENT fails to comply with above requirements.

If any provision of this Agreement violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

9. CONFLICT OF INTEREST

RECIPIENT and ECOLOGY agree that any officer, member, agent, or employee, who exercises any function or responsibility in the review, approval, or carrying out of this Agreement, shall not have any personal or financial interest, direct or indirect, nor affect the interest of any corporation, partnership, or association in which he/she is a part, in this Agreement or the proceeds thereof.

10. CONTRACTING FOR GOODS AND SERVICES

RECIPIENT may contract to buy goods or services related to its performance under this Agreement. RECIPIENT shall award all contracts for construction, purchase of goods, equipment, services, and professional architectural and engineering services through a competitive process, if required by State law. RECIPIENT is required to follow procurement procedures that ensure legal, fair, and open competition.

RECIPIENT must have a standard procurement process or follow current state procurement procedures. RECIPIENT may be required to provide written certification that they have followed their standard procurement procedures and applicable state law in awarding contracts under this Agreement.

ECOLOGY reserves the right to inspect and request copies of all procurement documentation, and review procurement practices related to this Agreement. Any costs incurred as a result of procurement practices not in compliance with state procurement law or the RECIPIENT's normal procedures may be disallowed at ECOLOGY's sole discretion.

11. DISPUTES

When there is a dispute with regard to the extent and character of the work, or any other matter related to this Agreement the determination of ECOLOGY will govern, although the RECIPIENT shall have the right to appeal decisions as provided for below:

a) RECIPIENT notifies the funding program of an appeal request.

b) Appeal request must be in writing and state the disputed issue(s).

c) RECIPIENT has the opportunity to be heard and offer evidence in support of its appeal.

d) ECOLOGY reviews the RECIPIENT's appeal.

e) ECOLOGY sends a written answer within ten (10) business days, unless more time is needed, after concluding the review.

The decision of ECOLOGY from an appeal will be final and conclusive, unless within thirty (30) days from the date of such decision, the RECIPIENT furnishes to the Director of ECOLOGY a written appeal. The decision of the Director or duly authorized representative will be final and conclusive.
The parties agree that this dispute process will precede any action in a judicial or quasi-judicial tribunal.
Appeals of the Director's decision will be brought in the Superior Court of Thurston County. Review of the Director's decision will not be taken to Environmental and Land Use Hearings Office.
Pending final decision of a dispute, the RECIPIENT agrees to proceed diligently with the performance of this Agreement and in accordance with the decision rendered.
Nothing in this Agreement will be construed to limit the parties' choice of another mutually acceptable method, in addition to the dispute resolution procedure outlined above.

12. ENVIRONMENTAL DATA STANDARDS

a) RECIPIENT shall prepare a Quality Assurance Project Plan (QAPP) for a project that collects or uses environmental measurement data. RECIPIENTS unsure about whether a QAPP is required for their project shall contact the ECOLOGY Program issuing the grant or loan. If a QAPP is required, the RECIPIENT shall:

- Use ECOLOGY's QAPP Template/Checklist provided by the ECOLOGY, unless ECOLOGY Quality Assurance (QA) officer or the Program QA coordinator instructs otherwise.
- Follow ECOLOGY's Guidelines for Preparing Quality Assurance Project Plans for Environmental Studies, July 2004 (Ecology Publication No. 04-03-030).
- Submit the QAPP to ECOLOGY for review and approval before the start of the work.

b) RECIPIENT shall submit environmental data that was collected on a project to ECOLOGY using the Environmental Information Management system (EIM), unless the ECOLOGY Program instructs otherwise. The RECIPIENT must confirm with ECOLOGY that complete and correct data was successfully loaded into EIM, find instructions at: http://www.ecy.wa.gov/eim.
c) RECIPIENT shall follow ECOLOGY's data standards when Geographic Information System (GIS) data is collected and processed. Guidelines for Creating and Accessing GIS Data are available at: https://ecology.wa.gov/Research-Data/Data-resources/Geographic-Information-Systems-GIS/Standards. RECIPIENT, when requested by ECOLOGY, shall provide copies to ECOLOGY of all final GIS data layers, imagery, related tables, raw data collection files, map products, and all metadata and project documentation.

13. GOVERNING LAW

This Agreement will be governed by the laws of the State of Washington, and the venue of any action brought hereunder will be in the Superior Court of Thurston County.

14. INDEMNIFICATION

ECOLOGY will in no way be held responsible for payment of salaries, consultant's fees, and other costs related to the project described herein, except as provided in the Scope of Work.
To the extent that the Constitution and laws of the State of Washington permit, each party will indemnify and hold the other harmless from and against any liability for any or all injuries to persons or property arising from the negligent act or omission of that party or that party's agents or employees arising out of this Agreement.

15. INDEPENDENT STATUS

The employees, volunteers, or agents of each party who are engaged in the performance of this Agreement will continue to be employees, volunteers, or agents of that party and will not for any purpose be employees, volunteers, or agents of the other party.

16. KICKBACKS

RECIPIENT is prohibited from inducing by any means any person employed or otherwise involved in this Agreement to give up any part of the compensation to which he/she is otherwise entitled to or receive any fee, commission, or gift in return for award of a subcontract hereunder.

17. MINORITY AND WOMEN'S BUSINESS ENTERPRISES (MWBE)

RECIPIENT is encouraged to solicit and recruit, to the extent possible, certified minority-owned (MBE) and women-owned (WBE) businesses in purchases and contracts initiated under this Agreement.

Contract awards or rejections cannot be made based on MWBE participation; however, the RECIPIENT is encouraged to take the following actions, when possible, in any procurement under this Agreement:

a) Include qualified minority and women's businesses on solicitation lists whenever they are potential sources of goods or services.

b) Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.

c) Establish delivery schedules, where work requirements permit, which will encourage participation of qualified minority and women's businesses.

d) Use the services and assistance of the Washington State Office of Minority and Women's Business Enterprises (OMWBE) (866-208-1064) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.

18. ORDER OF PRECEDENCE

In the event of inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: (a) applicable federal and state statutes and regulations; (b) The Agreement; (c) Scope of Work; (d) Special Terms and Conditions; (e) Any provisions or terms incorporated herein by reference, including the "Administrative Requirements for Recipients of Ecology Grants and Loans"; (f) Ecology Funding Program Guidelines; and (g) General Terms and Conditions.

19. PRESENTATION AND PROMOTIONAL MATERIALS

ECOLOGY reserves the right to approve RECIPIENT's communication documents and materials related to the fulfillment of this Agreement:

a) If requested, RECIPIENT shall provide a draft copy to ECOLOGY for review and approval ten (10) business days prior to production and distribution.

b) RECIPIENT shall include time for ECOLOGY's review and approval process in their project timeline.

c) If requested, RECIPIENT shall provide ECOLOGY two (2) final copies and an electronic copy of any tangible products developed.

Copies include any printed materials, and all tangible products developed such as brochures, manuals, pamphlets, videos, audio tapes, CDs, curriculum, posters, media announcements, or gadgets with a message, such as a refrigerator magnet, and any online communications, such as web pages, blogs, and twitter campaigns. If it is not practical to provide a copy, then the RECIPIENT shall provide a description (photographs, drawings, printouts, etc.) that best represents the item.

Any communications intended for public distribution that uses ECOLOGY's logo shall comply with ECOLOGY's graphic requirements and any additional requirements specified in this Agreement. Before the use of ECOLOGY's logo contact ECOLOGY for guidelines.

RECIPIENT shall acknowledge in the communications that funding was provided by ECOLOGY.

20. PROGRESS REPORTING

a) RECIPIENT must satisfactorily demonstrate the timely use of funds by submitting payment requests and progress reports to ECOLOGY. ECOLOGY reserves the right to amend or terminate this Agreement if the RECIPIENT does not document timely use of funds.
b) RECIPIENT must submit a progress report with each payment request. Payment requests will not be processed without a progress report. ECOLOGY will define the elements and frequency of progress reports.
c) RECIPIENT shall use ECOLOGY's provided progress report format.
d) Quarterly progress reports will cover the periods from January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31. Reports shall be submitted within thirty (30) days after the end of the quarter being reported.
e) RECIPIENT must submit within thirty (30) days of the expiration date of the project, unless an extension has been approved by ECOLOGY, all financial, performance, and other reports required by the Agreement and funding program guidelines. RECIPIENT shall use the ECOLOGY provided closeout report format.

21. PROPERTY RIGHTS

a) Copyrights and Patents. When the RECIPIENT creates any copyrightable materials or invents any patentable property under this Agreement, the RECIPIENT may copyright or patent the same but ECOLOGY retains a royalty free, nonexclusive, and irrevocable license to reproduce, publish, recover, or otherwise use the material(s) or property, and to authorize others to use the same for federal, state, or local government purposes.
b) Publications. When the RECIPIENT or persons employed by the RECIPIENT use or publish ECOLOGY information; present papers, lectures, or seminars involving information supplied by ECOLOGY; or use logos, reports, maps, or other data in printed reports, signs, brochures, pamphlets, etc., appropriate credit shall be given to ECOLOGY.
c) Presentation and Promotional Materials. ECOLOGY shall have the right to use or reproduce any printed or graphic materials produced in fulfillment of this Agreement, in any manner ECOLOGY deems appropriate. ECOLOGY shall acknowledge the RECIPIENT as the sole copyright owner in every use or reproduction of the materials.
d) Tangible Property Rights. ECOLOGY's current edition of "Administrative Requirements for Recipients of Ecology Grants and Loans," shall control the use and disposition of all real and personal property purchased wholly or in part with funds furnished by ECOLOGY in the absence of state and federal statutes, regulations, or policies to the contrary, or upon specific instructions with respect thereto in this Agreement.
e) Personal Property Furnished by ECOLOGY. When ECOLOGY provides personal property directly to the RECIPIENT for use in performance of the project, it shall be returned to ECOLOGY prior to final payment by ECOLOGY. If said property is lost, stolen, or damaged while in the RECIPIENT's possession, then ECOLOGY shall be reimbursed in cash or by setoff by the RECIPIENT for the fair market value of such property.
f) Acquisition Projects. The following provisions shall apply if the project covered by this Agreement includes funds for the acquisition of land or facilities:
1. RECIPIENT shall establish that the cost is fair value and reasonable prior to disbursement of funds provided for in this Agreement.
2. RECIPIENT shall provide satisfactory evidence of title or ability to acquire title for each parcel prior to disbursement of funds provided by this Agreement. Such evidence may include title insurance policies, Torrens certificates, or abstracts, and attorney's opinions establishing that the land is free from any impediment, lien, or claim which would impair the uses intended by this Agreement.
g) Conversions. Regardless of the Agreement expiration date, the RECIPIENT shall not at any time convert any equipment, property, or facility acquired or developed under this Agreement to uses other than those for which assistance was originally approved without prior written approval of ECOLOGY. Such approval may be conditioned upon payment to ECOLOGY of that portion of the proceeds of the sale, lease, or other conversion or encumbrance which monies granted pursuant to this Agreement bear to the total acquisition, purchase, or construction costs of such property.

22. RECORDS, AUDITS, AND INSPECTIONS

RECIPIENT shall maintain complete program and financial records relating to this Agreement, including any engineering documentation and field inspection reports of all construction work accomplished.

All records shall:

a) Be kept in a manner which provides an audit trail for all expenditures.

b) Be kept in a common file to facilitate audits and inspections.

c) Clearly indicate total receipts and expenditures related to this Agreement.

d) Be open for audit or inspection by ECOLOGY, or by any duly authorized audit representative of the State of Washington, for a period of at least three (3) years after the final grant payment or loan repayment, or any dispute resolution hereunder.

RECIPIENT shall provide clarification and make necessary adjustments if any audits or inspections identify discrepancies in the records.

ECOLOGY reserves the right to audit, or have a designated third party audit, applicable records to ensure that the state has been properly invoiced. Any remedies and penalties allowed by law to recover monies determined owed will be enforced. Repetitive instances of incorrect invoicing or inadequate records may be considered cause for termination.

All work performed under this Agreement and any property and equipment purchased shall be made available to ECOLOGY and to any authorized state, federal or local representative for inspection at any time during the course of this Agreement and for at least three (3) years following grant or loan termination or dispute resolution hereunder.

RECIPIENT shall provide right of access to ECOLOGY, or any other authorized representative, at all reasonable times, in order to monitor and evaluate performance, compliance, and any other conditions under this Agreement.

23. RECOVERY OF FUNDS

The right of the RECIPIENT to retain monies received as reimbursement payments is contingent upon satisfactory performance of this Agreement and completion of the work described in the Scope of Work.

All payments to the RECIPIENT are subject to approval and audit by ECOLOGY, and any unauthorized expenditure(s) or unallowable cost charged to this Agreement shall be refunded to ECOLOGY by the RECIPIENT.

RECIPIENT shall refund to ECOLOGY the full amount of any erroneous payment or overpayment under this Agreement.

RECIPIENT shall refund by check payable to ECOLOGY the amount of any such reduction of payments or repayments within thirty (30) days of a written notice. Interest will accrue at the rate of twelve percent (12%) per year from the time ECOLOGY demands repayment of funds.

Any property acquired under this Agreement, at the option of ECOLOGY, may become ECOLOGY's property and the RECIPIENT's liability to repay monies will be reduced by an amount reflecting the fair value of such property.

24. SEVERABILITY

If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, and to this end the provisions of this Agreement are declared to be severable.

25. STATE ENVIRONMENTAL POLICY ACT (SEPA)

RECIPIENT must demonstrate to ECOLOGY's satisfaction that compliance with the requirements of the State Environmental Policy Act (Chapter 43.21C RCW and Chapter 197-11 WAC) have been or will be met. Any reimbursements are subject to this provision.

26. SUSPENSION

When in the best interest of ECOLOGY, ECOLOGY may at any time, and without cause, suspend this Agreement or any portion thereof for a temporary period by written notice from ECOLOGY to the RECIPIENT. RECIPIENT shall resume performance on the next business day following the suspension period unless another day is specified by ECOLOGY.

27. SUSTAINABLE PRACTICES

In order to sustain Washington's natural resources and ecosystems, the RECIPIENT is fully encouraged to implement sustainable practices and to purchase environmentally preferable products under this Agreement.

a) Sustainable practices may include such activities as: use of clean energy, use of double-sided printing, hosting low impact meetings, and setting up recycling and composting programs.

b) Purchasing may include such items as: sustainably produced products and services, EPEAT registered computers and imaging equipment, independently certified green cleaning products, remanufactured toner cartridges, products with reduced packaging, office products that are refillable, rechargeable, and recyclable, 100% post-consumer recycled paper, and toxic free products.

For more suggestions visit ECOLOGY's web page, Green Purchasing, https://ecology.wa.gov/Regulations-Permits/Guidance-technical-assistance/Sustainable-purchasing.

28. TERMINATION

a) For Cause

ECOLOGY may terminate for cause this Agreement with a seven (7) calendar days prior written notification to the RECIPIENT, at the sole discretion of ECOLOGY, for failing to perform an Agreement requirement or for a material breach of any term or condition. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

Failure to Commence Work. ECOLOGY reserves the right to terminate this Agreement if RECIPIENT fails to commence work on the project funded within four (4) months after the effective date of this Agreement, or by any date mutually agreed upon in writing for commencement of work, or the time period defined within the Scope of Work.

Non-Performance. The obligation of ECOLOGY to the RECIPIENT is contingent upon satisfactory performance by the RECIPIENT of all of its obligations under this Agreement. In the event the RECIPIENT unjustifiably fails, in the opinion of ECOLOGY, to perform any obligation required of it by this Agreement, ECOLOGY may refuse to pay any further funds, terminate in whole or in part this Agreement, and exercise any other rights under this Agreement.

Despite the above, the RECIPIENT shall not be relieved of any liability to ECOLOGY for damages sustained by ECOLOGY and the State of Washington because of any breach of this Agreement by the RECIPIENT. ECOLOGY may withhold payments for the purpose of setoff until such time as the exact amount of damages due ECOLOGY from the RECIPIENT is determined.

b) For Convenience

ECOLOGY may terminate for convenience this Agreement, in whole or in part, for any reason when it is the best interest of ECOLOGY, with a thirty (30) calendar days prior written notification to the RECIPIENT, except as noted below. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

Non-Allocation of Funds. ECOLOGY's ability to make payments is contingent on availability of funding. In the event funding from state, federal or other sources is withdrawn, reduced, or limited in any way after the effective date and prior to the completion or expiration date of this Agreement, ECOLOGY, at its sole discretion, may elect to terminate the Agreement, in whole or part, or renegotiate the Agreement, subject to new funding limitations or conditions. ECOLOGY may also elect to suspend performance of the Agreement until ECOLOGY determines the funding insufficiency is resolved. ECOLOGY may exercise any of these options with no notification or restrictions, although ECOLOGY will make a reasonable attempt to provide notice.

In the event of termination or suspension, ECOLOGY will reimburse eligible costs incurred by the RECIPIENT through the effective date of termination or suspension. Reimbursed costs must be agreed to by ECOLOGY and the RECIPIENT. In no

event shall ECOLOGY's reimbursement exceed ECOLOGY's total responsibility under the Agreement and any amendments. If payments have been discontinued by ECOLOGY due to unavailable funds, the RECIPIENT shall not be obligated to repay monies which had been paid to the RECIPIENT prior to such termination.
RECIPIENT's obligation to continue or complete the work described in this Agreement shall be contingent upon availability of funds by the RECIPIENT's governing body.

c) By Mutual Agreement
ECOLOGY and the RECIPIENT may terminate this Agreement, in whole or in part, at any time, by mutual written agreement.

d) In Event of Termination
All finished or unfinished documents, data studies, surveys, drawings, maps, models, photographs, reports or other materials prepared by the RECIPIENT under this Agreement, at the option of ECOLOGY, will become property of ECOLOGY and the RECIPIENT shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.
Nothing contained herein shall preclude ECOLOGY from demanding repayment of all funds paid to the RECIPIENT in accordance with Recovery of Funds, identified herein.

29. THIRD PARTY BENEFICIARY
RECIPIENT shall ensure that in all subcontracts entered into by the RECIPIENT pursuant to this Agreement, the state of Washington is named as an express third party beneficiary of such subcontracts with full rights as such.

30. WAIVER
Waiver of a default or breach of any provision of this Agreement is not a waiver of any subsequent default or breach, and will not be construed as a modification of the terms of this Agreement unless stated as such in writing by the authorized representative of ECOLOGY.

End of General Terms and Conditions

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 138

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

EXHIBIT "A"

BENTON COUNTY LINE ITEM TRANSFER

Dept Name: Non-Departmental to Adult & Juvenile Drug Court

Dept Nbr: 115 to Department Number 138

Fund Name: Current Expense

Fund Nbr: 0000101

TRANSFER FROM: Dept 115

TRANSFER TO: Dept 138

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT	BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
511.600	4931	Fenced Item Contingency	$10,000	512.430	4103	Professional Services	$10,000
TOTAL			$10,000	TOTAL			$10,000

Explanation:

To appropriate funding in Department 138 for Veterans Court. This expense will be reimbursed by Franklin County and is a one-time expense.

Prepared by: Linda Ivey

Date: 05-Oct-2021

Approved ❑

Denied ❑

Date: _____

_____
Chairman

_____
Member

_____
Member

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY FUNDS RE: CODING CORRECTION OF FUNDS FROM PUBLIC SAFETY TAX FUND 0148101 DEPARTMENT 112 TO CURRENT EXPENSE FUND 0000101, DEPARTMENT NUMBER 138.

BE IT RESOLVED, by the Board of Benton County Commissioners, that funds shall be code corrected 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, Linda Ivey

Exhibit A

BENTON COUNTY
EXPENDITURE CODING CORRECTIONS

FUND NUMBER: 0148101 to 0000101
DEPARTMENT NUMBER: 0148101.112 to 0000101.138
FUND NAME: Public Safety Tax, Therapeutic Courts to Current Expense, Adult & Juvenile Drug Court

TRANSFER FROM:	**148101.112**	**PST Therapeutic Courts**		**TRANSFER TO:**	**0000101.138**	**Current Expense - Adult & Juv Drug Ct**	
BASE SUB 6 digit	**LINE ITEM** 4digit	**LINE ITEM Name**	**AMOUNT**	**BASE SUB** 6 digit	**LINE ITEM** 4digit	**LINE ITEM** Name	**AMOUNT**
512.430.	4103	Professional Services	10,000.00	512.430.	4103	Professional Services	10,000.00
		TOTAL	**$ 10,000.00**			**TOTAL**	**$ 10,000.00**

EXPLANATION: Code expenditures from PST Dept 112 Veterans Court to Current Expense Dept 138 Veterans Court.

RETURN TO: Auditor's Office, Accounting Department

Prepared By: DATE:

Linda Ivey **10/5/2021**

Approved:

Chairman

Member

Member

AUDITOR'S USE ONLY:

Keyed:

Date:

Initials: