Jerome Delvin
District 1
Shon Small
District 2
Will McKay
District 3

Board of County Commissioners

Jerrod MacPherson
County Administrator

Matt Rasmussen
Deputy County Administrator

To view items in detail, click on highlighted areas.



Notice: Meeting provided in-person, by live-broadcast and telephonically via WebEx as follows:

Live-Broadcast @ link below:
https://www.co.benton.wa.us/agenda/commissioners

AGENDA
BOARD OF BENTON COUNTY COMMISSIONERS
Regular Board Meeting
Tuesday, December 21, 2021
Benton County Courthouse, Prosser, WA

9:00 AM **Call to Order**

Pledge of Allegiance

Approval of Minutes
- **December 14, 2021**

Review Agenda

Consent Agenda

Auditor
a. Appointments to the Benton County Accessible Community Advisory Committee

Commissioners
b. First Amended Historic Preservation Grant Agreement w/Benton City Revitalization Organization

District Court
c. Agreement w/WA Administrative Office of the Courts for Reimbursement of Interpreter Costs

Human Resources

d. Establishing Insurance Benefits Contribution for Non-Bargaining Employees & Elected Officials
e. Establishing Insurance Benefits Contribution for Bi-County Non-Bargaining Employees

Information Technologies

f. Three-Year Subscription Renewal for LegalServer From PS Technologies
g. Annual Subscription for NextRequest Public Records Management From SHI International Corp.

Office of Public Defense

h. Superior & District Court Public Defense Interpreting Services Agreement w/Sylvia Garza
i. Superior & District Court Public Defense Interpreting Services Agreement w/Bertha Ramon-Arteaga

Public Works

j. Maintenance & Upgrade Fees to Cascade Software Systems for Cost Accounting Software
k. Approving A Public Hearing for the Amendment of the 2022-2027 Six-Year Road Program

Purchasing

l. Contract w/FastSigns 280501 for Installing Window Film @ The Administration Building
m. 2nd Amended Contract w/Wave Design Group for Redesign of the Justice Center Front Entrance
n. Contract w/On Scene Medical Services for Pre-Hire Physicals & Drug/Alcohol Testing
o. Consultant Agreement for On-Call Surveying Services w/HLA Engineering & Land Surveying
p. Purchase of Thermoplastic Markings From Traffic Safety Supply for Public Works
q. First Amended Contract w/Public Safety Psychological Services for Evaluations in the Sheriff's Office
r. Interlocal Agreement w/City of West Richland for General Equipment and/or Services
s. First Amendment to Contract w/Continental Door Company for Repairs on Garage Doors
t. Moorage Agreement w/Port of Kennewick & Sheriff's Office to a Maintain Boat Slip @ Clover Island
u. Grant Award & Contract w/WA State Health Care Authority for Opioid Treatment Network @ the Jail

Superior Court

v. Agreement w/WA State Administrative Office of the Courts for Reimbursement of Interpreter Services

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

Public Hearing

Short Plat Vacation; SPV 2021-005 ~ M Cooke

Ordinance Amendment OA 2021-004 ~ G Wendt & M Cooke

Scheduled Business

Request to Extend Temporary Housing Program Navigators in Human Services ~ Tammy McKeirnan

Request to Change Assistant Planning Manager to Planning Manager ~ G Wendt

Other Business

Executive Session

Review Qualifications of Applicant for Public Employment ~ K Ainsworth & J Shelton

Draft

MINUTES

BOARD OF BENTON COUNTY COMMISSIONERS

Regular Board Meeting
Tuesday, December 14, 2021 9:00 a.m.
Commissioners' Conference Room
Benton County Courthouse, Prosser, WA

Present: Chairman Pro Tem Shon Small
Commissioner Will McKay
Deputy County Administrator Matt Rasmussen
Alt. Clerk of the Board Marilu Flores

Absent: Chairman Jerome Delvin (vacation)
County Administrator Jerrod MacPherson (excused)

Benton County Employees Present During All or a Portion of the Meeting: Adam Fyall, Sustainable Development Manager; County Engineer Doug D'Hondt; Shela Berry, Public Works CFO; Chief Deputy Clerk Elaine Osborne; Community Development Director Greg Wendt; Treasurer Ken Spencer; Robert Heard, IT Manager

Pledge of Allegiance

The Board recited the Pledge of Allegiance.

Approval of Minutes

The Minutes of December 7, 2021 were approved.

Consent Agenda

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

Human Services

a. Agreement w/Benton-Franklin Community Action Committee for WA State Community Development Block Grant Services
b. First Amended to Agreement w/Goodwill Industries for the Treasury Rent Assistance Program
c. Contract w/Benton-Franklin Health District for Quarantine & Isolation Services
d. Agreement w/MRJN Associates for Employment Services

Information Technology

e. Equipment/Product Change Amendment w/Ricoh for Corrections Department
f. Approval of Work Order Quote From Municipal One to Add Judicial Services Section on Website
g. Purchase of Two PCs, Four Monitors & 2 Laptops For Human Services From Dell Inc.

h. Purchase of One PC, One Docking Station & Two Monitors for the Prosecuting Attorney's Office From Dell, Inc.
i. Purchase of One PC, One Docking Station & Two Monitors for the Sheriff's Office From Dell, Inc.

Juvenile

j. Franklin County Flat Monthly Payments for 2022 Juvenile Operations and Facilities
k. Contract w/Kathleen Moreno for Becca Docket Attorney Representation

Public Safety

l. Coding Correction of Funds From Current Expense, 0000-101, Dept. 121 to Public Safety Fund, 0148-101, Dept. 121
m. Coding Correction of Funds From Current Expense, 0000-101, Dept. 121 to Public Safety Fund, 0148-101, Dept. 122

Public Works

n. Ratifying Change Order Nos. 1, 2 & 3 to Granite Construction Company's Contract for Dallas Road Bike Path Project
o. Ratifying Change Order Nos. 1 & 2 to C & E Trenching's Contract for the Dallas Rd/Arena Rd Traffic Improvements Project
p. Employment Offer for Operations Manager Position

Purchasing

q. Contract w/Iron Horse Vac for CatchBasin & Drywell Cleaning Services
r. Contract w/Mel's Inter-City Collision for As Needed Automobile Body Repair Services
s. Agreement w/DOT for Inspection of County Owned Bridges
t. Non-Renewal Notice to ICSolutions for Inmate Telephone Services

Risk Management

u. Contract w/Bock Consulting for Occupational Health Consultations

Sheriff

v. Contract w/Bluepearl Washington Practice Entity for Canine Surgical Veterinarian Services

Superior Court

w. Adoption of 2022 Percentage Rates for Salaries, Benefits, and Information Technology Assessments
x. Adoption of 2022 Participant Position Allocation for Adult & Juvenile Drug Court Programs

Unscheduled Visitors

None.

Line Item Transfer in Roads Department for Administrative Assistant

Shela Berry, Public Works Chief Financial Officer, and County Engineer Doug D'Hondt indicated that the Board approved the Administrative Assistant position in Public Works on November 30, 2021. Before the Board was a line item transfer that was not done previously approving the funds.

MOTION: Commissioner McKay moved to approve the Benton County Public Works Department line item transfer authorizing the funds be moved from the Assistant Operations Manager, non-bargaining grade 19, to the Administrative Assistant, non-bargaining grade 15. Commissioner Small seconded and upon vote, the motion carried.

2022 1-Year Road Program

County Engineer Doug D'Hondt prepared and presented the 1-Year Road Program which included expenditures of maintenance, administration, capital projects and equipment purchases.

MOTION: Commissioner McKay moved to approve the Resolution approving the Benton County 2022 Annual Road Program. Commissioner Small seconded and upon vote, the motion carried.

Sponsorship Agreement With Visit Tri-Cities for the Travel Bloggers Exchange North America Conference

Adam Fyall came before the Board to speak about an event coming to the Tri-Cities in April 2022. Mr. Fyall briefed the Board regarding a sponsorship proposal from Visit Tri-Cities (VTC) who was the lead organization hosting the Travel Bloggers Exchange North America (TBEX) conference. The conference will be a network of travel and lifestyle writers/bloggers. Mr. Fyall introduced Mr. Michael Novakovich and Lara Watkins with VTC who spoke in more detail about the Travel Bloggers Exchange. Mr. Novakovich & Ms. Watkins spoke on the highlights that the Tri Cities has to offer to include Red Mountain, stem opportunities, culinary, outdoor recreation and reception at three different cities with TBEX expected to bring over 300 travel and media professionals from around the world to the Tri-Cities. The direct economic impact will be substantial in regard to hotels and food with the timing being right coming out of the pandemic for this type of event. Visit Tri-Cities has reached out to Benton County for a $50,000 sponsorship for the upcoming event.

Discussion: Commissioner Small commended all involved on the level of professionalism moving this event forward. Commissioner McKay indicated that he already saw the presentation and was excited.

MOTION: Commissioner McKay moved to pass the resolution authorizing Benton County's sponsorship of the TBEX North America event at the $50,000 level and directing the County Administrator to sign the Sponsorship Agreement with Visit Tri-Cities to put the sponsorship into effect. Commissioner Small seconded and upon vote, the motion carried.

Other Business

Commissioner McKay met with the Veterans' Advisory Board and with Kyle Sullivan, Human Services Manager, last week. He indicated that they were looking into a joint bi-county meeting in January 2022 for a presentation.

Commissioner Small recognized the Sheriff's Office and their push to get more staff and looked forward to the team building relationship being created.

Vouchers

Check Date: 12/03/2021
Payroll Checks
Total All Funds $2,906,444.00

Warrant #243415-243446
Direct Deposit #167022 - 167612
Payroll Deduction Transfers
Total All Funds: $2,409,771.06
Taxes 101211201 - 101211211
ACH #2058-2064

Payroll Deduction Warrants
Total All Funds $128,083.22
Warrant #224683 - 224691

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

Resolutions

2021 870	Agreement w/Benton-Franklin Community Action Committee for WA State Community Development Block Grant Services
2021 871	First Amended to Agreement w/Goodwill Industries for the Treasury Rent Assistance Program
2021 872	Contract w/Benton-Franklin Health District for Quarantine & Isolation Services
2021 873	Agreement w/MRJN Associates for Employment Services
2021 874	Equipment/Product Change Amendment w/Ricoh for Corrections Department
2021 875	Approval of Work Order Quote From Municipal One to Add Judicial Services Section on Website
2021 876	Purchase of Two PCs, Four Monitors & 2 Laptops For Human Services From Dell Inc.
2021 877	Purchase of One PC, One Docking Station & Two Monitors for the Prosecuting Attorney's Office From Dell, Inc.
2021 878	Purchase of One PC, One Docking Station & Two Monitors for the Sheriff's Office From Dell, Inc.
2021 879	Franklin County Flat Monthly Payments for 2022 Juvenile Operations and Facilities
2021 880	Contract w/Kathleen Moreno for Becca Docket Attorney Representation
2021 881	Coding Correction of Funds From Current Expense, 0000-101, Dept. 121 to Public Safety Fund, 0148-101, Dept. 121
2021 882	Ratifying Change Order Nos. 1, 2 & 3 to Granite Construction Company's Contract for Dallas Road Bike Path Project
2021 883	Ratifying Change Order Nos. 1 & 2 to C & E Trenching's Contract for the Dallas Rd/Arena Rd Traffic Improvements Project
2021 884	Employment Offer for Operations Manager Position
2021 885	Contract w/Iron Horse Vac for CatchBasin & Drywell Cleaning Services
2021 886	Contract w/Mel's Inter-City Collision for As Needed Automobile Body Repair Services
2021 887	Agreement w/DOT for Inspection of County Owned Bridges
2021 888	Contract w/Bock Consulting for Occupational Health Consultations
2021 889	Contract w/Bluepearl Washington Practice Entity for Canine Surgical Veterinarian Services

2021 890	Adoption of 2022 Percentage Rates for Salaries, Benefits, and Information Technology Assessments
2021 891	Adoption of 2022 Participant Position Allocation for Adult & Juvenile Drug Court Programs
2021 892	Line Item Transfer, Fund No. 0101101, Dept. 500
2021 893	Approving the Benton County 2022 Annual Road Program
2021 894	Sponsorship Agreement w/Visit Tri-Cities for the Travel Bloggers Exchange North America Conference
2021 895	Coding Correction of Funds From Current Expense, 0000-101, Dept. 121 to Public Safety Fund, 0148-101, Dept. 122

There being no further business before the Board, the meeting adjourned at approximately 9:17 a.m.

_____ _____

Clerk of the Board Chairman

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	December 21, 2021
Subject:	Appointment of ACAC Committee Members
Presenter:	
Prepared By:	Deidra Beck
Reviewed By:	L. Roe; M. Nash, A. Hatfield

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

Resolution 2017-109 established an Accessible Community Advisory Committee (ACAC). Due to term expirations in five member positions there will be five vacant positions as of 12/31/21. Three of the member positions with expiring terms have resigned from the committee. In addition, due to lack of participation, per ACAC bylaws, the committee is recommending the removal of one member. While the resolution provides for appointments to the two returning members whose expiring termed positions will serve through the end of a two-year term, there will be four vacant positions remaining.

Fiscal Impact

Recommendation

It is requested that the Board pass the resolution appointing the positions set forth, approve the removal of one member due to lack of participation, and approve the reduction of the committee membership size from ten members to seven members.

Suggested Motion

Approve as part of consent agenda.

M. Nash, A. Hatfield, L. Roe D. Beck

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF APPOINTMENTS TO THE BENTON COUNTY ACCESSIBLE COMMUNITY ADVISORY COMMITTEE (ACAC), IN ACCORDANCE WITH RESOLUTION 2017-109

WHEREAS, the Benton County Accessible Community Advisory Committee (ACAC) was established by the Board of Commissioners on February 7, 2017, by Resolution No. 2017-109; and

WHEREAS, due to five term expirations and one resignation there are six vacancies on the committee; and

WHEREAS, it is the recommendation of the Auditor, as current chair of the committee, that the individuals listed below be appointed to the ACAC vacancies for the terms as set forth; **NOW, THEREFORE,**

BE IT RESOLVED, that the Board of County Commissioners hereby appoints the individuals listed, for the identified terms to the Benton County Accessible Community Advisory Committee (ACAC).

Committee Member	Term
Amanda Hatfield, Elections Manager	01/01/2022-12/31/2023
Corporal Dallas Murry, BC Corrections	01/01/2022-12/31/2023

BE IT FURTHER RESOLVED that the Board of County Commissioners hereby removes the individual listed from the Benton County Accessible Community Advisory Committee (ACAC) due to lack of participation.

Committee Member	Term
Kyle Bosley, Citizen	01/01/2021-12/31/2022

BE IT FURTHER RESOLVED that the Board of County Commissioners hereby approves the reduction in membership size of the Benton County Accessible Advisory Committee from ten members to seven members to perform duties pursuant to RCW 36.01.310.

For a point of affirmation, the following committee members are currently serving:

Judith Davis, Citizen	01/01/2021-12/31/2022
Gretchen Hormel, Citizen	01/01/2021-12/31/2022
Shyanne Palmus, Commissioners' Office	01/01/2021-12/31/2022
Teresa Payne, Citizen	01/01/2021-12/31/2022

M. Nash, A. Hatfield, L. Roe D. Beck

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

M. Nash, A. Hatfield, L. Roe D. Beck

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	December 21, 2021
Subject:	First Amendment to Historic Preservation Grant Agreement Between Benton County and Benton City Revitalization Organization
Presenter:	N/A
Prepared By:	Shyanne Palmus
Reviewed By:	Adam Fyall

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 January 26, 2021, the County entered into a Historic Preservation Grant Agreement with Benton City Revitalization Organization (the "Grantee") per Resolution 2021-061 (the "Agreement") regarding funds awarded pursuant to RCW 36.22.170(1)(a) for the promotion of historical preservation and/or historical programs in Benton County.

This First Amendment to the Agreement is necessary to revise the Agreement termination date to allow additional time for the Grantee to complete the awarded project, due to unforeseen project delays combined with ongoing COVID-19 impacts, as described in the attached memo from the Grantee.

Both parties have agreed to amend the Agreement termination date by one year (to December 31, 2022) and that all other terms and conditions of the Agreement will remain the same.

Fiscal Impact

There is no fiscal impact to this grant agreement amendment. The grant funds have already been disbursed to the Grantee from the Historic Preservation Fund (0157-101).

Recommendation

Staff recommends approval of the grant agreement amendment and to authorize the Chairman to sign.

Suggested Motion

N/A

Shyanne Palmus

From: Sarah Funk <sarahfunkcpa@gmail.com>
Sent: Wednesday, November 17, 2021 8:54 PM
To: Historic Preservation
Subject: [EXTERNAL] 2021 Grant extension request – Benton City Revitalization Organization

Follow Up Flag: Follow up
Flag Status: Flagged

EXTERNAL EMAIL WARNING!!!: This email originated from outside of Benton County. DO NOT click links or open attachments unless you recognize the sender and know the content is safe.

Shyanne,

Benton City Revitalization Organization (BCRO) 2021 Kiosk plan included install kiosks along the City Walking Trail. While progress is advancing, based on various delays combined with the ongoing impact of COVID-19 we are seeking a one year extension to use the 2021 grant funds.

These kiosk locations are on properties owned by Fish & Wildlife and leased to the City of Benton City. Part of the process to install the kiosks included having a cultural survey completed prior to installation. BCRO actively began working with Fish & Wildlife in January 2021. The cultural surveys were completed in August 2021. At the same time we determined the ground was too rocky to secure the kiosk posts. We pivoted to pouring concrete and building the kiosks from the concrete bases.

If I can provide additional information, please let me know. Thank you for your assistance and support.

Best regards,

Sarah Funk
Benton City Revitalization Organization
Secretary-Treasurer
425-985-5760

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF FIRST AMENDMENT TO HISTORIC PRESERVATION GRANT AGREEMENT BETWEEN BENTON COUNTY AND BENTON CITY REVITALIZATION ORGANIZATION

WHEREAS, COUNTY and GRANTEE entered into a Historic Preservation Grant Agreement per Resolution 2021-061 dated January 26, 2021 (the "Agreement") regarding funds awarded pursuant to RCW 36.22.170(1)(a) for the promotion of historical preservation and/or historical programs in Benton County; and

WHEREAS, this First Amendment to the Agreement is necessary to revise the Agreement termination date to allow additional time for the GRANTEE to complete the awarded project, due to unforeseen project delays combined with ongoing COVID-19 impacts; and

WHEREAS, both parties have agreed to amend the Agreement termination date and that all other terms and conditions of the Agreement will remain the same; **NOW, THEREFORE**

BE IT RESOLVED, the Board of Benton County Commissioners hereby authorizes the Chairman of the Board to sign the attached first grant agreement amendment; and

BE IT FURTHER RESOLVED, this agreement shall begin January 1, 2021 and expire December 31, 2022.

Dated this 21st day of December, 2021.

_____
Chairman of the Board

_____
Member

_____
Member

Constituting the Board of Commissioners
of Benton County, Washington

Attest .....
Clerk of the Board

Cc: Auditor; Treasurer; PA – Contract Compliance; Benton City Revitalization Organization S Palmus

FIRST AMENDMENT TO HISTORIC PRESERVATION GRANT AGREEMENT BETWEEN BENTON COUNTY AND BENTON CITY REVITALIZATION ORGANIZATION

This Grant Agreement Amendment, made and entered into this 14th day of December, 2021 by and between **BENTON COUNTY,** a political subdivision of the State of Washington, with its principal offices at 620 Market Street, Prosser, WA 99350 (hereinafter "COUNTY"), and **BENTON CITY REVITALIZATION ORGANIZATION** a Washington nonprofit corporation, with its principal offices at 901 Angeline Blvd, Benton City, WA 99320-5587 (hereinafter "GRANTEE").

RECITALS

WHEREAS, COUNTY and GRANTEE entered into a Historic Preservation Grant Agreement per Resolution 2021-061 dated January 26, 2021 (the "Agreement") regarding funds awarded pursuant to RCW 36.22.170(1)(a) for the promotion of historical preservation and/or historical programs in Benton County; and

WHEREAS, this First Amendment to the Agreement is necessary to revise the Agreement termination date to allow additional time for the GRANTEE to complete the awarded project, due to unforeseen project delays combined with ongoing COVID-19 impacts; and

WHEREAS, both parties have agreed to amend the Agreement termination date; and

WHEREAS, all other terms and conditions of the Agreement will remain the same; and

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

a) Section 8. TERMINATION – Unless otherwise terminated, this Agreement shall begin January 1, 2021 and shall expire December 31, 2022. If either party hereto fails to comply with the terms and conditions of this Agreement, which includes compliance with the proposal set forth by GRANTEE in the application materials attached hereto, the other party may pursue such remedies as are legally available including, but not limited to the termination of the Agreement in the manner specified herein.

IN WITNESS WHEREOF, the Parties to this Agreement Amendment have executed this Amendment to take effect upon the last date signed.

Dated: _____

Benton County Board of Commissioners

_____
Chairman

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

Attest: _____
Clerk of the Board

Approved as to Form:

_____
Civil Deputy Prosecuting Attorney

Dated: 12/10/2021

Benton City Revitalization Organization

Sarah Funk
Signature

Secretary-Treasurer
Title

Sarah Funk
Printed Name

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	December 21, 2021
Subject:	Approving Interagency Agreement with AOC For Interpreter Cost Reimbursement
Presenter:	
Prepared By:	Ela Selga
Reviewed By:	

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

Annually the AOC offers reimbursement for interpreter expenses incurred by the courts for the purpose of improving and making available interpreters in compliance with RCW 2.42 and/or RCW 2.43. For the period commencing July 1, 2021 to June 30, 2022, the maximum reimbursable amount that BCDC can request is $48,180. BCDC is requesting approval of Interagency Agreement IAA22449.

The Benton County Board of Commissioners approved the previous agreement between the Benton County District Court and the Washington State Administrative Offices of the Court (AOC) . The expired agreement was contained in Res 2020-817.

Fiscal Impact

None

Recommendation

We recommend the Board of County Commissioners approve and sign the interagency agreement IAA22449.

Suggested Motion

Motion to approve as part of consent agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF REQUEST FOR SIGNATURE FROM THE BOARD OF BENTON COUNTY COMMISSIONERS ON THE INTERAGENCY AGREEMENT #IAA22449 BETWEEN BENTON COUNTY, BENTON COUNTY DISTRICT COURT AND THE WASHINGTON ADMINISTRATIVE OFFICE OF THE COURTS

WHEREAS, the Washington State Administrative Office of the Courts (AOC) will provide reimbursement of interpreter costs up to $48,180 from the dates commencing July 1, 2021 and terminating on June 30, 2022; and

WHEREAS, Rafaela Selga, District Court Administrator, believes it is the best interest of the District Court that the Agreement between the State of Washington Administrative Office of the Courts and Benton County be approved as presented for the term commencing July 1, 2021 and terminating on June 30,2022; **NOW THEREFORE**,

BE IT RESOLVED that the Board of Benton County Commissioners hereby accepts the proposed interpreter reimbursement agreement in the amount of $48,180 for the term commencing July 1, 2021 and terminating June 30, 2022; and

BE IT FURTHER RESOLVED, that the Chairman of the Board of County Commissioners is authorized to sign lnteragency Agreement #IAA22449 between Benton County and the State of Washington Administrative Offices of the Courts.

DATED this _____ day of _____, 2021.

_____
Chairman of the Board

_____
Chairman Pro-Tem

_____
Member

Attest: _____
Clerk of the Board

Constituting the Board of County Commissioners
Of Benton County, WA

Cc: Auditor
Treasurer

RSelga

INTERAGENCY AGREEMENT IAA22449
BETWEEN
WASHINGTON STATE ADMINISTRATIVE OFFICE OF THE COURTS
AND
BENTON COUNTY DISTRICT COURT

THIS AGREEMENT (Agreement) is entered into by and between the Administrative Office of the Courts (AOC) and Benton County District Court, for the purpose of distributing funds for court interpreter and language access service expenses to the Benton County District Court (Court).

1. DEFINITIONS

For purposes of this contract, the following definitions shall apply:

a) "Credentialed Interpreter" means an interpreter who is certified or registered by the Administrative Office of the Courts, as defined in RCW 2.43.020 (4) and RCW 2.43.020 (6), or an interpreter certified by the Office of the Deaf and Hard of Hearing (ODHH) pursuant to WAC 388-818-500, *et seq.*

The names and contact information of AOC-certified interpreters are found, and incorporated herein by reference, at http://www.courts.wa.gov/programs_orgs/pos_interpret/

The names and contact information of ODHH-certified interpreters are found, and incorporated herein by reference, at: https://fortress.wa.gov/dshs/odhhapps/Interpreters/CourtInterpreter.aspx

b) "Qualified Interpreter" means a spoken language interpreter as defined in RCW 2.43.020 (2), or sign language interpreter as defined in RCW 2.42.110 (2).

c) "Qualifying Event" means a proceeding or event for which an interpreter is appointed by an appointing officer pursuant to RCW 2.42 and/or RCW 2.43.

2. PURPOSE

The purpose of this Agreement is to partner with individual local courts in improving access to the Court for Limited English Proficient (LEP), deaf, and hard of hearing persons in accordance with RCW Chapters 2.42 and 2.43.

These funds are intended to address each court's following needs:

- Financial Need

  For example, the gap between the court's available financial resources and the costs to meet its need for credentialed interpreters and the implementation of the Court's language access plan.

- Need for Court Interpreters

  For example, the public's right to access the court, and the court's responsibility to provide credentialed interpreters as required by RCW Chapters 2.42 and 2.43.

- Need for Language Access in General

  For example, translations for websites, translated forms, interpreting equipment, technology enabling remote interpreting, and other things that are necessary for courts to provide fair and equitable access for people who are LEP, deaf, and hard of hearing.

3. GENERAL REQUIREMENTS

a) The Court shall provide the AOC with a mailing address, vendor identification number, and contact information for the person identified as the main contact, and their email address.

b) The Court will ensure that the funding is used only for language access purposes and for reimbursement of costs paid to credentialed and qualified interpreters for Qualifying Events pursuant to Exhibit A, which is incorporated herein by reference.

c) The Court agrees to track and provide interpreter cost and usage data using a web-based application provided by the AOC Language Access Reimbursement Program, reflecting information about the Court's interpreter and language access costs and services.

d) The Court agrees to work with the AOC Language Access Reimbursement Program, the Interpreter Commission, and neighboring courts to identify and implement best and promising practices for providing language access and interpreter services.

e) The Court agrees to encourage its staff overseeing interpreter services at the court to attend trainings, in person and/or online, provided by the AOC Interpreter Commission and Interpreter Program.

f) The Court may elect to pay for interpreter services that are not in accordance with the provisions of Exhibit A as set forth; however, such payments will not be reimbursed.

4. LANGUAGE ACCESS PLAN REQUIREMENT

a) The Court is required to have a Language Access Plan (LAP) to be a part of the Language Access Reimbursement Program.

b) All Courts participating in the Language Access Reimbursement Program must submit either an updated or new Language Access Plan (LAP).

c) Language Access Plan must be received for review and approval by the AOC, pursuant to the schedule below. The AOC can refuse payment if the LAP is submitted after the deadlines listed below.

Language Access Plan Documents	Language Access Plan Documents Due Dates
Draft 1	January 31, 2022
Draft 2	March 31, 2022
Final	May 1, 2022

d) Staff from the Washington State Supreme Court Interpreter Commission will work with courts to develop and implement their LAPs, and will provide technical assistance and training when needed.

5. TECHNICAL REQUIREMENTS

a) The Court shall use the Language Access Reimbursement Web Application created by the AOC to electronically submit quarterly data and A-19 voucher invoices for reimbursements.

b) Courts submitting quarterly data and A-19 vouchers shall use one of the following supported web browsers:

- MS Edge
- Chrome
- Firefox

c) Network access to the Inter-Governmental Network (IGN) or VPN access to the IGN will be required to use the Language Access Reimbursement Web Application.

d) JIS Court Credentials (RACF) will be required to authenticate and gain access to the Language Access Reimbursement Program Web Application.

6. PERIOD OF PERFORMANCE

The beginning date of performance under this Agreement is **July 1, 2021**, regardless of the date of execution and which shall end on **June 30, 2022,** Fiscal Year 2022 (FY22).

7. COMPENSATION AND COMPENSATION PROCEDURES

a) The Court shall be reimbursed a maximum of **$48,180** for interpreter and language access services costs incurred during the period of July 1, 2021 to June 30, 2022, FY22.

b) No reimbursement shall be made under this Agreement for language access services provided after June 30, 2022.

c) The Court shall receive payment for its costs for language access services as set forth in Exhibit A, and incorporated herein.

d) The Court shall only receive payment after properly submitting A-19 voucher invoices and corresponding data (*See subsection 3b).*

e) The Court shall submit requests for reimbursements to the AOC quarterly according to the schedule below (see chart below). The AOC will not accept monthly requests for reimbursements.

f) Requests for reimbursement must be received for review and approval by the AOC, pursuant to the schedule below. The AOC can refuse payment if requests for reimbursement are submitted after the deadlines listed below.

Fiscal Quarter:	For qualifying and non-qualifying events, goods and services, and staff interpreter costs incurred between:	Deadlines – reimbursements must be received by the AOC no later than:
Quarter 1:	July 1, 2021 – September 30, 2021	January 31, 2022
Quarter 2:	October 1, 2021 – December 31, 2021	March 31, 2022
Quarter 3:	January 1, 2022 – March 31, 2022	May 31, 2022
Quarter 4:	April 1, 2022 – June 30, 2022	July 10, 2022

g) If this this agreement is terminated, the Court shall only receive payment for performance rendered or costs incurred in accordance with the terms of this agreement prior to the effective date of termination.

h) The Court shall submit its quarterly data and A-19 invoice vouchers using the Language Access Reimbursement Web Application.

i) Payment to the Court for approved and completed work will be made by warrant or account transfer by AOC within 30 days of receipt of a properly-completed invoice and the completed data report.

j) The Court shall maintain sufficient backup documentation of expenses under this Agreement.

k) The AOC, in its sole discretion and upon notice, may initiate revenue sharing and reallocate funding among courts. If it appears the Court may not expend the maximum Agreement amount, the AOC may reduce the maximum Agreement amount. The AOC may increase the maximum Agreement amount if additional funds become available through these revenue sharing provisions.

8. TREATMENT OF ASSETS AND PROPERTY

The AOC shall be the owner of any and all fixed assets or personal property jointly or cooperatively, acquired, held, used, or disposed of pursuant to this Agreement.

9. RIGHTS IN DATA

Unless otherwise provided, data which originates from this Agreement shall be “works for hire” as defined by the U.S. Copyright Act of 1976 and shall be owned by the AOC. Data shall include, but not be limited to, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and video and/or sound reproductions. Ownership includes the right to copyright, patent, register, and the ability to transfer these rights. In the event that any of the deliverables under this Agreement include material not included within the definition of “works for hire,” the Court hereby assigns such rights to the AOC as consideration for this Agreement.

Data which is delivered under this Agreement, but which does not originate therefrom, shall be transferred to the AOC with a nonexclusive, royalty-free, irrevocable license to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others to do so; provided, that such license shall be limited to the extent which the Court has a right to

grant such a license. The Court shall advise the AOC, at the time of delivery of data furnished under this Agreement, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this Agreement. The AOC shall receive prompt written notice of each notice or claim of copyright infringement received by the Court with respect to any data delivered under this Agreement. The AOC shall have the right to modify or remove any restrictive markings placed upon the data by the Court.

10. INDEPENDENT CAPACITY

The employees or agents of each party who are engaged in the performance of this Agreement shall continue to be employees or agents of that party and shall not be considered for any purpose to be employees or agents of the other party.

11. AGREEMENT ALTERATIONS AND AMENDMENTS

This Agreement may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

12. RECORDS, DOCUMENTS, AND REPORTS

The Court shall maintain books, records, documents and other evidence of accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement. These records shall be subject at all reasonable times to inspection, review, or audit by personnel duly authorized by the AOC, the Office of the State Auditor, and federal officials so authorized by law, rule, regulation, or Agreement. The Court will retain all books, records, documents, and other material relevant to this Agreement for six years after settlement, and make them available for inspection by persons authorized under this provision.

13. RIGHT OF INSPECTION

The Court shall provide right of access to its facilities to the AOC, or any of its officers, or to any other authorized agent or official of the state of Washington of the federal government at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Agreement.

14. DISPUTES

Disputes arising under this Agreement shall be resolved by a panel consisting of one representative from the AOC, one representative from the Court, and a mutually agreed upon third party. The dispute panel shall thereafter decide the dispute with the majority prevailing. Neither party shall have recourse to the courts unless there is a showing of noncompliance or waiver of this section.

15. TERMINATION

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

16. GOVERNANCE

This Agreement is entered into pursuant to and under the authority granted by the laws of the state of Washington and any applicable federal laws. The provisions of this Agreement shall be construed to conform to those laws.

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

- Applicable state and federal statutes and rules;
- This Agreement; and
- Any other provisions of the agreement, including materials incorporated by reference.

17. ASSIGNMENT

The work to be provided under this Agreement, and any claim arising hereunder, is not assignable or delegable by either party in whole or in part, without the express prior written consent of the other party, which consent shall not be unreasonably withheld.

18. WAIVER

A failure by either party to exercise its rights under this Agreement shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in a writing signed by an authorized representative of the party and attached to the original Agreement.

19. 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.

20. AGREEMENT MANAGEMENT

The program managers noted below shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Agreement:

AOC Program Manager	Court Program Manager
Michelle Bellmer PO Box 41170 Olympia, WA 98504-1170 michelle.bellmer@courts.wa.gov (360) 350-5373	**Rafaela Selga** Court Administrator 7122 W Okanogan Pl, Bldg A, Kennewick, WA 99336-2359 rafaela.selga@co.benton.wa.us (509) 735-8476

ENTIRE AGREEMENT

This Agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be considered to exist or to bind any of the parties to this agreement unless otherwise stated in this Agreement.

AGREED:

Administrative Office of the Courts

Signature *Date*

Dawn Marie Rubio
Name

State Court Administrator
Title

Benton County

Signature *Date*

Name

Benton County Commissioner
Title

Approved as to form:

Ryan K Brown

Ryan Brown, DPA

EXHIBIT A

WASHINGTON STATE LANGUAGE ACCESS INTERPRETER REIMBURSEMENT PROGRM FUNDING

FUNDING CONDITIONS AND PAYMENT STRUCTURE

The Language Access Reimbursement Program funding conditions and payment structure shall be as follows:

1. GENERAL FUNDING CONDITIONS

The Administrative Office of the Courts (AOC), will reimburse courts under this Agreement for the cost of spoken language interpretation and sign language interpretation and other goods and services that improve language access in the courts for Limited English Proficient (LEP), deaf, and hard of hearing persons. This includes interpreters credentialed by AOC (certified or registered), or otherwise court-qualified interpreters appointed pursuant to RCW 2.42 and RCW 2.43 under the following conditions listed under Section 2 “Qualifying Interpreter Events.”

It also includes goods and services that improve language access, listed under Section 3 “Language Access Items,” and services listed under Section 4 “Language Access Services”.

Courts shall work with AOC staff in determining whether an expense that is not explicitly mentioned below, qualifies as a reimbursable expense under the Agreement.

2. QUALIFYING INTERPRETING EVENTS

A. Spoken Language Interpreters Qualifying Events

AOC will reimburse courts under this Agreement for the cost of appointing AOC-credentialed or otherwise court-qualified interpreters pursuant to RCW 2.43 that meet one of the following conditions:

a) If there is at least one AOC credentialed interpreter in the language being used then reimbursement will only be provided for using an AOC credentialed interpreter who is credentialed in that language.

b) Compensation for interpreters for languages for which neither a certified interpreter nor registered interpreter is offered will be reimbursed where the interpreter has been qualified on the record pursuant to RCW 2.43.

c) Courts will not be reimbursed for events using non-AOC credentialed interpreters if there is one or more AOC credentialed interpreter listed for the language being used.

B. Sign Language Interpreters Qualifying Events

AOC will reimburse courts for 50% of the actual expenses for services of American Sign Language (ASL) interpreters and Certified Deaf Interpreters (CDI) pursuant to RCW 2.42 when the interpreter is listed with the Department of Social and Health Services, Office of Deaf and Hard of Hearing (DSHS, ODHH) as a court-certified interpreter.

The Office of Deaf and Hard of Hearing (ODHH) at the Department of Social and Health Services (DSHS) maintains a list of Certified Court Sign Language Interpreters. This list includes American Sign Language (ASL) interpreters and Certified Deaf Interpreters (CDI). To qualify for reimbursement, and event using an ASL and/or CDI interpreter from this list must be used.

Certified interpreters are listed under three categories:

- Specialist Certificate: Legal – SC: L
- RID Certification with SC: L written test
- Intermediary Interpreters (Deaf Interpreter)

The most up to date list can be found here:
https://fortress.wa.gov/dshs/odhhapps/Interpreters/CourtInterpreter.aspx

C. Staff Interpreters (Salaried Staff)

Reimbursement will be provided for salaried staff meeting the Qualifying Event conditions for the payment of credentialed spoken and sign language interpreters, as referenced in subsections 2.A and 2.B above.

D. Telephonic and Video Remote Interpreting and Services Outside of the Courtroom

AOC will reimburse local jurisdictions for using certified, registered, or otherwise qualified interpreters operating by telephone or video for court proceedings and other services provided to the public by the Court. The services must meet the Qualifying Event conditions for the payment of credentialed spoken and sign language interpreters, as referenced in subsections 2.A and 2.B above.

3. LANGUAGE ACCESS GOODS AND SERVICES

Courts can request reimbursement for the cost of goods and services that will help increase language access in the Court.

The items listed below are common goods and services that courts have used to increase language access and will be improved for reimbursement.

- Interpreter scheduling software or services
- Document translation
- Portable video device(s) for video remote interpreting
- Equipment used for simultaneous interpretation
- Printed signage for language assistance purposes
- Staff training on language access, interpreting, or bilingual skills improvement, for example:
    - Interpreters skills training for bilingual staff who want to become certified
    - Training for staff who are partly bilingual to improve their skills
    - General training on addressing language access issues.

Other examples can be found here:

https://www.nmcenterforlanguageaccess.org/cms/en/courts- agencies/about-language-access-basic-training

Items or services not listed above must be pre-approved (via email) by Language Access Interpreter Reimbursement Program staff prior to purchase or they may not qualify for reimbursement under the Program.

4. SCOPE OF REIMBURSEMENT FUNDING

Reimbursement payment under this Agreement will only be made to the Court when the cost is paid out of the budget or budgets, in the case of multi-court collaborative applicants of the Court responsible for full payment.

5. PAYMENT STRUCTURE

A. Reimbursement Rate

a) **Spoken Language Interpreters**

AOC will reimburse the Court for 50% of the cost of AOC certified, registered, or otherwise court-qualified interpreters providing services under this Agreement.

b) **Sign Language Interpreters**

AOC will reimburse the Court for 50% of the cost of certified and court-qualified interpreters providing services under this Agreement.

c) **Staff Interpreters (Salaried Staff)**

AOC will reimburse the Court for 50% of the cost of staff interpreters.

d) **Contracted Interpreters**

The cost of contract interpreters who are paid other than on an hourly basis, for example, on a half-day of flat rate basis, will be reimbursed at 50%.

e) **Remote Interpreting**

AOC will reimburse the Court for 50% of the cost of using certified, registered, or otherwise qualified interpreters providing interpretation by telephone or video.

f) **Cancellation Fees**

AOC will reimburse the Court for 50% of cancellation fees paid to interpreter.

B. Travel Time and Mileage

AOC will reimburse the Court at 50% of the cost of interpreter travel time and mileage.

Interpreter travel time is reimbursable if a required party fails to appear. “Failure to appear” means a non-appearance by the LEP or deaf or hard of hearing client, attorneys, witnesses, or any necessary party to a hearing, thereby necessitating a cancellation or continuance of the hearing. The Court can be reimbursed for 50% of the cancellation fees paid to the interpreter.

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	12/21/2021
Subject:	Establishing the Contribution for Non-Bargaining Employees and Elected Officials for 2021
Presenter:	
Prepared By:	L. Wingfield
Reviewed By:	

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

Due to a decrease in UEBT premiums, the 2022 county contribution for Benton County Non-Bargaining Employees and Elected Officials, to cover 100% of the composite rate medical, dental, vision, and employee life insurance is recommended to be $1,119.60.

Fiscal Impact

No supplement required

Recommendation

Recommend the Board of Benton County Commissioners sign the Resolution to approve the 2022 Benton County Non-Bargaining Employees and Elected Officials County Contribution.

Suggested Motion

cc: Payroll & HR

Prepared by: L. Wingfield

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF ESTABLISHING A BENTON COUNTY NON-BARGAINING EMPLOYEES AND ELECTED OFFICIAL CONTRIBUTION TO INSURANCE BENEFITS FOR THE YEAR 2022.

WHEREAS, the Board of Benton County Commissioners has determined that the Benton County Non-Bargaining employees and Elected Officials monthly contribution for 2022 will be $1,119.60; **THEREFORE**,

BE IT RESOLVED, that the Board of Benton County Commissioners has determined that the monthly contribution for Benton County Non-Bargaining employees and Elected Officials insurance benefits will be $1,119.60 per month effective January 1, 2022; and

BE IT FURTHER RESOLVED, that it is mandatory that Benton County non-bargaining employees and Elected Officials be enrolled in the offered medical, dental, vision, and $24,000 life insurance plan, to receive the monthly County contribution; and

BE IT FURTHER RESOLVED, that any unused portion of the County contribution available above for the mandated County's medical, dental, vision, and life insurance premiums may be applied to the purchase of supplemental group insurance, dependent coverage, and with any remainder deposited into the employee's or Elected Official's VEBA account; and

BE IT FURTHER RESOLVED, that provisions in any prior resolution on this subject are superseded by similar provisions in this Resolution and this Resolution may be rescinded or modified, at the sole discretion of the Board of Benton County Commissioners without notification; and

BE IT FURTHER RESOLVED, that this Resolution is not intended nor shall be interpreted as limiting or compromising the County's "at will" employer status; and

BE IT FURTHER RESOLVED, in the event of a conflict with prevailing law, law shall prevail.

Dated this_____ day of _____, 2021.

_____

Chairman of the Board

_____

Member

_____

Member

Constituting the Board of Commissioners

of Benton County, Washington

Attest.....

Clerk of the Board

cc: Payroll & HR

Prepared by: L. Wingfield

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	12/21/2021
Subject:	Establishing the Contribution for Bi-County Non-Bargaining Employees for 2022
Presenter:	
Prepared By:	L. Wingfield
Reviewed By:	

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 2022 county contribution for Bi-County Non-Bargaining Employees, to cover 100% of the employee only cost for medical, dental, vision, and life insurance is recommended to be $1,047.79.

Fiscal Impact

No supplement required

Recommendation

Recommend the Board of Benton County Commissioners sign the Resolution to approve the 2022 Bi-County Non-Bargaining Employees County Contribution.

Suggested Motion

cc: BC Payroll, BC HR, FC Human Resources

Prepared by: L. Wingfield

JOINT RESOLUTION

BENTON COUNTY RESOLUTION NO. _____

FRANKLIN COUNTY RESOLUTION NO. _____

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

IN THE MATTER OF ESTABLISHING A BI-COUNTY NON-BARGAINING CONTRIBUTION TO INSURANCE BENEFITS FOR THE YEAR 2022.

WHEREAS, the Board of Benton County Commissioners and the Board of Franklin County Commissioners has determined that the Bi-County Non-Bargaining, comprised of non-bargaining employees in Superior Court and Juvenile Justice, monthly contribution for 2022 will be $1,047.79; **THEREFORE**,

BE IT RESOLVED, that the Board of Benton County Commissioners and Board of Franklin County Commissioners have determined that the monthly contribution for Bi-County Non-Bargaining insurance benefits will be $1,047.79 per month effective January 1, 2022; and

BE IT FURTHER RESOLVED, that it is mandatory that Bi-County non-bargaining employees be enrolled in the offered medical, dental, vision, and $24,000 life insurance plan, to receive the monthly County contribution; and

BE IT FURTHER RESOLVED, that any unused portion of the County contribution available above for the mandated medical, dental, vision, and life insurance premiums may be applied to the purchase of supplemental group insurance, dependent coverage, and with any remainder deposited into the employee's VEBA account; and

BE IT FURTHER RESOLVED, that provisions in any prior resolution on this subject are superseded by similar provisions in this Resolution and this Resolution may be rescinded or modified, at the sole discretion of the Board of Benton County Commissioners and Board of Franklin County Commissioners without notification; and

BE IT FURTHER RESOLVED, that this Resolution is not intended nor shall be interpreted as limiting or compromising the County's "at will" employer status; and

BE IT FURTHER RESOLVED, in the event of a conflict with prevailing law, law shall prevail.

Dated this_____ day of December, 2021.

Board of Benton County Commissioners

_____
Chairman of the Board

_____
Member

_____
Member

Attest.....
Clerk of the Board

Dated this_____ day of December, 2021.

Board of Benton County Commissioners

_____
Chairman of the Board

_____
Member

_____
Member

Attest.....
Clerk of the Board

cc: BC Payroll, BC HR, FC Human Resources

Prepared by: L. Wingfield

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	December 21, 2021
Subject:	Approval to Renew a Three-Year Subscription to Use LegalServer a Web-Based Case Management and Reporting System from PS Technologies, Inc.
Presenter:	
Prepared By:	Robert Heard
Reviewed By:	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 December 17, 2019, per Resolution 2019-943, the Board approved an initial subscription to use LegalServer for three years. LegalServer is still providing high quality services to the Office of Public Defense (OPD). Information Technology recommends renewing a three-year subscription with LegalServer extending OPD's use of LegalServer's public defender case management and reporting system.

Fiscal Impact

Amount: **$1,000 excluding WSST annually.**

Fund: **Approved 2021-2022 Information Technology budgeted funds.**

Recommendation

Information Technology recommends that the Board approve a three-year subscription to use LegalServer a web-based case management and reporting system from PS Technologies, Inc.

Suggested Motion

Consent Agenda

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF APPROVING A THREE-YEAR SUBSCRIPTION RENEWAL TO USE LEGALSERVER A WEB-BASED CASE MANAGEMENT AND REPORTING SYSTEM FROM PS TECHNOLOGIES, INC.

WHEREAS, on December 17, 2019, per Resolution 2019-943, the Board approved the initial subscription to use LegalServer for three-years; and

WHEREAS, LegalServer is still providing high quality services to the Office of Public Defense (OPD); and

WHEREAS, Information Technology recommends renewing a three-year subscription with LegalServer extending OPD's use of LegalServer public defender case management and reporting system; and

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

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington, hereby concurs with Information Technology's recommendation and approves a three-year subscription for LegalServer a web-based case management and reporting system from PS Technologies, Inc.; and

BE IT FURTHER RESOLVED, the Board approves the Chairman of the Board to sign the attached PS Technologies, Inc. Quote; and

BE IT FURTHER RESOLVED, upon Chairman of the Board signature, LegalServer costs will not exceed $1,000 per year excluding Washington State Sales Tax (WSST) during the approved three-year term.

Dated this 21 day of December , 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, Office of Public Defense

Prepared by: R. Heard

Quote

Date of Request: December 9, 2021	Agency Making Request: Benton County

Description of Change Request:

LegalServer subscription fees for the public defenders office:

2022...$850.00
2023...$875.50
2024...$902.00

Approval - Benton County	Approval - PS Technologies, Inc.
Signed: _____	**By:** Aaron Krause
Name: Jerome Delvin	**Name:** Aaron Krause
Position: Chairman, Board of Benton County Commissioners	**Position:** Director of Legal Solutions
Date: December 21, 2021	**Date:** 12/9/2021

Notes:

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	December 21, 2021
Subject:	Annual Subscription NextRequest Public Records Management System from SHI International Corp.
Presenter:	
Prepared By:	Robert Heard
Reviewed By:	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 July 28, 2020, the Board signed Resolution 2020-504 authorizing the Director of Operations and Capital Programs to register Benton County as a member of Sourcewell, granting the County the ability to purchase goods and services from Sourcewell – Technology Catalog Solutions. SHI International Corp. is a Sourcewell authorized vendor under contract number 081419-SHI.

Per Resolution 2020-876, on November 24, 2020, the Board approved the initial subscription to use NextRequest for twelve months.

NextRequest provides the County with a centralized, more efficient means to provide public records to the public. NextRequest has been successfully implemented and used by every Benton County Public Records Officer.

To better assist the County's public records officers and public citizens and reduce risk, IT recommends renewing an annual subscription for the NextRequest public records management system.

Fiscal Impact

Amount: **Not to exceed $35,000.00 excluding WSST per year**

Fund: **Fund # 0502-101 Information Technology Fund**

Recommendation

Information Technology recommends that the Board approve an annual subscription to use NextRequest Public Records Management System from SHI International Corp. in the amount not to exceed $35,000.00 excluding WSST per year.

Suggested Motion

Consent Agenda

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF APPROVING AN ANNUAL SUBSCRIPTION FOR NEXTREQUEST PUBLIC RECORDS MANAGEMENT SYSTEM FROM SHI INTERNATIONAL CORP.

WHEREAS, on July 28, 2020, Resolution 2020-504 authorized the Chairman of the Board to execute an agreement with Sourcewell a cooperative purchasing contract that helps local agencies reduce costs when purchasing goods and services; and

WHEREAS, SHI International Corp. is a Sourcewell authorized vendor under contract number 081419-SHI; and

WHEREAS, RCW 42.56, Public Records Act requires that all public records maintained by Benton County be made available to all members of the public; and

WHEREAS, on November 24, 2020, the Board approved the initial subscription to use NextRequest for twelve months; and

WHEREAS, this past year, Benton County has fully implemented NextRequest and is now being used by every Benton County Public Records Officer; and

WHEREAS, to continue to better assist the County's public records officers, public citizens and reduce risk, Information Technology recommends renewing the annual subscription for NextRequest public records management system, 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, Benton County, Washington, hereby concurs with Information Technology's recommendation and approves the annual subscription for NextRequest public records management system from SHI International Corp. until October 30, 2023, in an amount not to exceed $35,000 per year excluding Washington State Sales Tax (WSST).

Dated this 21 day of December , 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, Risk Management

Prepared by: R. Heard

Pricing Proposal
Quotation #: 21350667
Created On: 12/7/2021
Valid Until: 12/31/2021

Benton County

Robert Heard
620 Market St
PO Box 608
Prosser, WA 99350
United States
Phone:
Fax:
Email: robert.heard@co.benton.wa.us

Inside Account Manager

Michaela Knoblock
290 Davidson Avenue
Somerset, NJ 08873
Phone: 732-652-6427
Fax: 732-652-3004
Email: michaela_knoblock@shi.com

All Prices are in US Dollar (USD)

	Product	Qty	Your Price	Total
1	NextRequest Pro Annual License NextRequest Co. - Part#: Contract Name: Sourcewell- Technology Catalog Solutions Contract #: 081419-SHI Coverage Term: 12/1/2021 – 11/30/2022	1	$11,686.50	$11,686.50
2	RapidReview NextRequest Co. - Part#: Contract Name: Sourcewell- Technology Catalog Solutions Contract #: 081419-SHI Coverage Term: 12/1/2021 – 11/30/2022	1	$6,956.25	$6,956.25
3	Additional NextRequest Portal NextRequest Co. - Part#: Contract Name: Sourcewell- Technology Catalog Solutions Contract #: 081419-SHI Coverage Term: 12/1/2021 – 11/30/2022	1	$3,478.12	$3,478.12
4	RapidReview for 2nd NextRequest Portal NextRequest Co. - Part#: Contract Name: Sourcewell- Technology Catalog Solutions Contract #: 081419-SHI Coverage Term: 12/1/2021 – 11/30/2022	1	$1,739.06	$1,739.06
5	CJIS Compliance Package NextRequest Co. - Part#: Contract Name: Sourcewell- Technology Catalog Solutions Contract #: 081419-SHI Coverage Term: 12/1/2021 – 11/30/2022	1	$4,452.00	$4,452.00

Subtotal	$28,311.93
*Tax	$2,434.83
Total	$30,746.76

*Tax is estimated. Invoice will include the full and final tax due.

Additional Comments

Hardware items on this quote may be updated to reflect changes due to industry wide constraints and fluctuations.

Thank you for choosing SHI International Corp! The pricing offered on this quote proposal is valid through the expiration date listed above. To ensure the best level of service, please provide End User Name, Phone Number, Email Address and applicable Contract Number when submitting a Purchase Order. For any additional information including Hardware, Software and Services Contracts, please contact an SHI Inside Sales Representative at (888) 744-4084. SHI International Corp. is 100% Minority Owned, Woman Owned Business. TAX ID# 22-3009648; DUNS# 61-1429481; CCR# 61-243957G; CAGE 1HTF0

The products offered under this proposal are resold in accordance with the terms and conditions of the Contract referenced under that applicable line item.

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	12/21/21
Subject:	Award of public defense interpreter agreement to Sylvia Garza
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

Benton County is legally obligated to provide public defense services in Benton County Superior and District Courts and, in the course of such services, need to interact with mono-lingual, Spanish-speaking clients and witnesses ("Spanish Speakers"). In order to interact with Spanish Speakers, Benton County needs to procure the services of court certified interpreters ("PD Interpreting"). Given the low availability and high cost of such interpreters, it is in the best interests of the County to enter into an agreement with a specific interpreter to provide PD Interpreting.

Sylvia Garza ("Interpreter") is court-certified and qualified to provide PD Interpreting services and interested in contracting with Benton County do so. The proposed agreement and resolution effectuate a contract with Interpreter for the provision of such Services on the terms contained therein, for the period from 01/01/22 to 12/31/23 for a flat fee of $1,400 per month for up to 20 hours of services and $70 per hour for hours beyond that maximum.

Fiscal Impact

Estimated impact of $1,200 for remainder of biennial budget cycle.

Recommendation

Execute agreement with interpreter Sylvia Garza for Spanish language public defense interpreting services for Benton County Superior and District Court public defense cases. Approve associated resolution as presented.

Suggested Motion

Approve with consent agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF AWARDING A PUBLIC DEFENSE INTERPRETING SERVICES AGREEMENT WITH INTERPRETER SYLVIA GARZA, dba COLUMBIA BASIN INTERPRETING/TRANSLATION SERVICES, LLC FOR BENTON COUNTY SUPERIOR AND DISTRICT COURT PUBLIC DEFENSE CASES

WHEREAS, Benton County ("County") is obligated by law to provide indigent defense services in Benton County Superior and District Courts ("Services"); and

WHEREAS, in the course of providing Services, County's public defense attorneys sometimes have a need to interact with mono-lingual, Spanish-speaking clients and witnesses and therefore require the assistance of court-certified interpreters in the Spanish language ("PD Interpreting"); and

WHEREAS, interpreter Sylvia Garza ("Interpreter") is qualified to provide PD Interpreting services and interested in entering into a contract with County for same; and

WHEREAS, a proposed PD Interpreting agreement with interpreter Sylvia Garza for Services is presented for execution by the Board of Commissioners; **NOW, THEREFORE**

BE IT RESOLVED that the proposed agreement with interpreter Sylvia Garza, dba Columbia Basin Interpreting/Translation Services, LLC to provide PD Interpreting services to support public defenders with cases in Benton County Superior and District Courts, designated BCINT2223SG001, commencing 01/01/22 to 12/31/23, for a flat fee of $1400 per month for up to 20 hours of services and $70 per hour for hours beyond that maximum, plus other allowable expenses, premiums, and fees as detailed, is hereby approved and executed on behalf of Benton County.

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 – OPD, Sylvia Garza
Copy – Auditor, S Godinez

E. Hsu

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PROFESSIONAL SERVICES AGREEMENT TO PROVIDE INTERPRETER SERVICES FOR INDIGENT PERSONS CHARGED WITH CRIMES IN BENTON COUNTY SUPERIOR AND DISTRICT COURTS BCINT2223SG001

CONTRACT SUMMARY			
Contract Type	Interpreter services – monthly flat fee		
Contract Number	BCINT2223SG001	**Contract Holder**	Sylvia Garza
Compensation	$1,400 per month for up to 20 hours $70/hr for excess	**Effective Dates**	January 1, 2022 – December 31, 2023

THIS AGREEMENT is entered into by and between **Sylvia Garza,** ("Interpreter"), **dba Columbia Basin Interpreting/Translation Services, LLC.** and **THE COUNTY OF BENTON,** a State of Washington political subdivision ("County"), for and on behalf of the Benton County Superior Court and Benton County District Court ("Courts").

THIS AGREEMENT IS ENTERED INTO BASED UPON THE FOLLOWING FACTS AND CIRCUMSTANCES:

A. County has the legal responsibility to provide services in support of the publicly-provided legal defense of indigent persons charged with criminal offenses alleged to have been committed within the jurisdictional boundaries of County.

B. From time to time, such necessary support services include the services of a court-certified interpreter ("Interpreter").

C. Interpreter is qualified court-certified to provide interpreter services to County's Office of Public Defense ("OPD") in support of publicly provided legal defense of indigent persons charged with criminal offenses.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein, the County and Interpreter hereby agree as follows:

1. **AGREEMENT TERM.** This Agreement shall be deemed effective for all purposes as of **January 1, 2022**, and shall continue thereafter through and including **December 31, 2023**, unless earlier terminated pursuant to the applicable terms and provisions of this Agreement.

2. **INTERPRETER'S OFFICE LOCATION.** Interpreter's mailing address, phone number, and email address are, respectively: **2104 N Road 40, Pasco, WA 99301; (509) 948-0679; sylgarza06@yahoo.com.** The work contemplated by this Agreement shall be performed at various locations including Benton County Superior and District Courts, office of Benton County OPD, offices of the various attorneys who contract with

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OPD for public defense services, and at various locations in the field as necessary for individual cases and witnesses. Nothing stated by County, within, or outside of this Agreement, shall be interpreted as the County expressing any preference as to Interpreter's office location or directing that work be done in any particular place.

3. INTERPRETER'S QUALIFICATIONS. Interpreter acknowledges and agrees that the County has an obligation to provide competent and effective legal defense services to indigent persons subject to criminal proceedings in the Courts. Interpreter shall perform all services hereunder in strict accordance with the usual skills and professional ethical standards exercised by Interpreters engaged in providing interpreting services for use in official court proceedings and legal proceedings, acknowledges and agrees that Interpreter has a fundamental duty and responsibility to effectively promote and protect the best interests and rights of all persons whom Interpreter is assigned to assist under this Agreement.

a. As of the date of this Agreement, Interpreter represents and warrants that Interpreter is court certified for interpreting in the Spanish language by Washington State Administrative Office of the Courts, has had at least one (1) year of direct experience in providing interpreting services for use in legal proceedings; has not been a party to an agreement to provide criminal defense-related Interpreter services that was terminated due to Interpreter's conduct, errors, or omissions; has not been censured, admonished, or otherwise formally disciplined for past conduct or behavior as a Interpreter that would negatively reflect on Interpreter's duty and ability to effectively and competently render services hereunder; and does not have any complaints or lawsuits filed and/or pending against him/her relating to, or arising from, Interpreter's past conduct or behavior as a Interpreter.

b. To comply with the provisions of RCW 72.05.440, WAC 388-700-0010, and RCW 13.40.570, Interpreter acknowledges and agrees that the County may conduct criminal history background check(s) on Interpreter. Interpreter acknowledges and agrees that this Agreement shall be deemed immediately and automatically terminated upon the County receiving a non-complying or otherwise unsatisfactory criminal history background check report.

c. Interpreter represents and warrants that, throughout the entire term of this Agreement, Interpreter's client caseload on matters outside of this Agreement; Interpreter's schedule; and Interpreter's office resources, equipment, and support staff (if applicable); will allow Interpreter to competently undertake and effectively perform all services required under this Agreement.

4. RESERVED. This section is not applicable but has been retained for numbering consistency.

5. CASE ASSIGNMENTS. During the term of this Agreement, Interpreter agrees to and shall accept assignments to provide Interpreting Services for indigent persons (regardless of their race, color, national origin, age, sex, marital status, sexual

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orientation, handicap/disability, personal background, creed, or political or religious affiliation) on any matter in the Courts in which publicly-provided legal defense services are furnished or required by law. For each case assigned hereunder, Interpreter shall provide interpreting services as directed by the attorney of record or designee. Specifically, Interpreter shall provide criminal defense interpreting services of the same quality as Interpreter provides to private clients. Interpreting Services shall be defined as: a) assisting public defense attorneys with communicating with/interviewing their clients or witnesses in criminal defense cases; or b) providing interpreting services to facilitate a mental health evaluation under RCW 10.77, any other mental health evaluation to assist in the defense of a public defense case, or any other type of evaluations (for instance sex offender evaluations) to assist in the defense of a public defense case; c) assisting public defense investigators with investigative interviews in support of a public defense case.

Interpreter shall accept assignments for Interpreting Services, pursuant to this Agreement, in the following manner:

a) Contract and staff public defenders ("Requesting Attorney") or assigned public defense investigators ("Investigators") shall contact Interpreter directly, via phone, text message, or email, requesting interpreting services. The Requesting Attorney or Investigator shall coordinate with Interpreter regarding scheduling of needed interpreting services.

b) Requesting Attorneys and Investigators shall provide Interpreter with the following information about each interpreting engagement:

    a. Case name

    b. Case number

    c. Nature of engagement

c) Interpreter shall keep a record of all interpreting engagements including, at least the following:

    a. Case name

    b. Case number

    c. Date of service

    d. Length of service (rounded up to the nearest 30 minute increment)

    e. Nature of service

    f. General location (eg. In the jail, in the courthouse, at attorney's office, etc)

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d) No later than 15 days after the end of each month, Interpreter shall provide a report to the County's Office of Public Defense, in a form prescribed by said Office, of all cases, including all the details required in Section 5c), for all interpreting engagements for the prior month that falls under the Flat Fee Compensation limit (i.e. up to 20 hours of interpreting services for the month)

e) Interpreter shall be expected to be generally available pursuant to the following schedule though occasional conflicting obligations are to be expected:

- Mondays from 4-7 pm
- Tuesdays from 3-7 pm
- Wednesdays from 11 am to 1 PM
- Thursdays from 3-7 pm
- Fridays from 10am to 12 pm and from 3-7 pm
- Saturdays from 8 am to noon
- Interpreter generally will not be available on any federal holidays

County shall communicate this availability schedule to its public defense attorneys and public defense investigators. Interpreter may modify this schedule with advance written notice to County but shall not significantly reduce her amount of weekly availability without conferring with the PDM.

6. **RESERVED. -** This section is not applicable but has been retained for numbering consistency.

7. **CLIENT ELIGIBILITY.** The Courts (or designee), consistent with applicable laws, rules and standards, shall determine the eligibility of any particular person for assistance by Interpreter under this Agreement. Interpreter shall have no obligation to inquire into, or question, the status or eligibility of a client in any public defense case to which she has been assigned.

8. **RESERVED** This section is not applicable but has been retained for numbering consistency.

9. **COMPENSATION AND REIMBURSEMENT.**

Interpreter's compensation shall consist of the following:

a) **Monthly Flat Fee.** A monthly flat fee of $1,400 for up to 20 hours of interpreting services rendered.

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b) **Excess Hours.** If Interpreter provides in excess of 20 hours of interpreting services in any given month, then Interpreter may claim excess compensation in the amount of $70 per hour.

The following additional terms shall apply to Interpreter's compensation:

i) The calculation of hours for purposes of Interpreter's flat fee maximum monthly hours, shall be in increments of 30 minutes, rounded up to the next increment.

ii) Interpreter shall be paid the monthly flat fee each month this agreement is in effect, regardless of whether or not Interpreter's total hours of interpreting services rendered in any given month actually reaches the maximum of 20 hours.

iii) Billing for interpreting services hours beyond 20 in any given month shall be subject to a one-hour minimum and then billed in 30-minute increments thereafter.

iv) Payment of the monthly flat fee shall be made to Interpreter on the last business day of each month without a need for Interpreter to invoice said amount. Provided, however, that payment is conditioned upon Interpreter being current in providing caseload reporting as required by Section 5c) and, if such reporting is not made as required, compensation may be withheld until it is so provided.

v) Compensation for Excess Hours shall not be due and payable until Interpreter submits a Claim for Compensation and detailed invoice, listing the date, case name, case number, public defender, hours, and nature of interpreting services provided, for each interpreting engagement. County will compensate Interpreter for Excess Hours within 30 days of invoice.

vi) If Interpreter is required to travel outside of the tri-cities metropolitan area, then Interpreter shall be entitled to mileage at the then-current GSA rate, starting at the Benton County courthouse and the travel time may be considered either as time toward Interpreter's 20 hours per month (for the Flat Fee portion of Interpreter's compensation) or as Excess Hours that may be billed separately. Travel within the tri-cities metropolitan area shall not be compensable for mileage but may be billable as interpreting time as appropriate.

10. **INDEMNIFICATIONS AND HOLD HARMLESS.** Interpreter agrees to and shall fully indemnify the County and its elected/appointed representatives, officers, employees, and agents; and to hold the County and its elected/appointed representatives, officers, employees, and agents fully harmless; from and for any and all losses, damages, costs, charges, claims, demands, suits, or actions of whatsoever nature directly or indirectly arising out of or by reason of Interpreter's (or any person, employee, agent, contractor, or entity acting for or on behalf of Interpreter or at Interpreter's request or direction) acts, defaults, errors and/or omissions of whatsoever nature in the performance of interpreting services for any person under this Agreement. In the event any suit or legal proceeding is brought against the County or any of its elected/appointed

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representatives, officers, employees or agents at any time on account of or by reason of any such acts, defaults, errors and/or omissions, Interpreter hereby covenants and agrees to assume the defense thereof (through counsel acceptable to the County) and to defend the same at Interpreter's sole cost and expense and to pay any and all costs, charges, attorneys' fees, and other expenses as well as any and all judgments or awards that may be incurred by or entered against the County or any of its elected/appointed representatives, officers, employees or agents in such suits or other legal proceedings. Without limiting the intended broad scope and application of the indemnification and hold harmless provisions of this paragraph, for purposes of this paragraph, Interpreter waives, with respect to the County only, any immunity that would otherwise be available to Interpreter under the Industrial Insurance Act provisions of Title 51 RCW or any other similar workers/employee disability or benefit law. The indemnification and hold harmless provisions of this paragraph shall survive the termination or expiration of this Agreement.

11. INSURANCE.

a. Interpreter shall obtain and maintain, at Interpreter's sole cost and expense, a policy of professional liability or errors and omissions insurance suitable for Interpreter's profession, in the amount of no less than $250,000 per claim nor less than $250,000 in the aggregate during the policy term and with a maximum deductible of not more than $10,000.00.

(i) Said policy shall include coverage as an additional insured for any other person(s) acting for or on behalf of Interpreter in the performance of this Agreement; shall provide professional liability insurance coverage for any acts, errors and/or omissions by Interpreter (and/or such additional insureds) during the course of performing services under this Agreement; shall require that the insurance company provide the County with no less than thirty (30) days prior written notice in the event the policy is cancelled or materially altered; shall comply with all applicable state of Washington insurance requirements; and shall be issued by an insurance company rated A- or better by A.M. Best authorized to conduct business and issue insurance in the state of Washington.

(iii) Interpreter shall continuously maintain the professional liability insurance coverage required by this paragraph throughout the entire term of this Agreement, throughout any other longer time period during which Interpreter is obligated to continue performing services and duties hereunder, and for a period of no less than thirty-six (36) consecutive months after Interpreter has fully completed all services and duties required hereunder.

c. Contemporaneously with Interpreter's execution of this Agreement, Interpreter shall provide the County and its designated Risk Manager(s) with copies or certificates of the insurance policies and coverage (including any endorsements) required under this paragraph 11, and Interpreter shall annually provide the Risk Manager(s) with the same type of documented proof and

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confirmation that such insurance policies and coverage continue to exist no later than thirty (30) days after the policies' annual renewal date(s).

12. TERMINATION.

a. In addition to any automatic termination provisions set forth in this Agreement, the County may elect to terminate this Agreement in the event Interpreter fails for whatever reason to comply with any provision of this Agreement after giving Interpreter ten (10) business days advance written notice to cure, which notice shall specify the reason(s) for the notice, the act(s) necessary to cure Interpreter's failure(s), and the consequence (i.e., termination without further notice) if the failure(s) is/are not cured within the ten (10) day period. The County's right to terminate this Agreement in such regard shall be in addition to any other rights and remedies available to the County.

b. In addition to the foregoing provisions regarding termination, either Interpreter or the County may elect to terminate this Agreement with or without cause or reason by providing the other party with ninety (90) days advance written notice of such election. Without limiting/waiving other provisions of this Agreement relating to Interpreter's obligation and duty to accept and complete cases assigned to Interpreter, Interpreter shall not be assigned to any new cases during the last thirty (30) calendar days of said ninety (90) day notice period.

13. INDEPENDENT CONTRACTOR. Interpreter fully understands, acknowledges, and agrees that Interpreter shall not be an agent, representative, or employee of the County or the Courts for any type of purpose or situation whatsoever (including, without limitation, for purposes of any type of wage, hours/overtime, workers/industrial insurance compensation, unemployment, fair labor, and/or employee benefit/leave laws, disability act coverage or rules, and/or regulations) and that Interpreter, as of the date of this Agreement and throughout its entire term, is and will always be acting and operating as a fully independent contractor. In that regard, strictly subject to Interpreter's duties, responsibilities and obligations imposed under this Agreement, Interpreter shall have sole and absolute discretion using Interpreter's best professional judgment to determine the manner and means of providing the interpreting services required under this Agreement; and neither the County, the PDM, nor the Courts shall have any authority or duty to directly control the actual performance of Interpreter's services hereunder.

14. NON-ASSIGNMENT; MILITARY LEAVE. Interpreter may sub-contract with another interpreter who is court-certified by Washington administrative office of the courts in the Spanish language on an occasional and infrequent basis to provide coverage in case of illness, unavailability, conflicting schedules, or vacation. If Interpreter sub-contracts with another interpreter, Interpreter remains fully responsible for the services being provided. In the event Interpreter is called up for active military duty or for direct civilian support of active military operations, Interpreter shall provide the County and the PDM with written notice of such event within five (5) business days of Interpreter being called up so that the PDM and Interpreter can coordinate and arrange for an appropriate

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substitute to handle Interpreter's duties under this Agreement while Interpreter is on military leave and any reasonable back-to-civilian-life transition time requested by Interpreter upon return. Interpreter shall receive no compensation under this Agreement while on leave or during any such transition time.

15. **VACANCY AND REPLACEMENT.** In the event this Agreement is terminated by either party prior to the termination date specified in paragraph 1 above, the County may initiate, implement and pursue any actions or process deemed appropriate/necessary to seek, select, and contract with another qualified Interpreter to replace and succeed Interpreter in providing interpreting services to indigent persons in the Courts.

16. **ENTIRE AGREEMENT.** This Agreement constitutes the entire integrated agreement and understanding of the undersigned parties. No amendment, modification or other type of change to this Agreement shall be valid or enforceable unless reduced to writing and signed by the parties.

17. **CAPTIONS; TIME COMPUTATION.**

a. The captions and headings herein are for convenience only and shall not be relied upon or used to interpret or construe this Agreement or any portion thereof.

b. Unless otherwise expressly specified herein, any period of time specified in this Agreement shall expire at 5:00 p.m. (PST) of the last calendar day of the specified period of time, unless the last day is Saturday, Sunday, or a legal holiday, as prescribed in RCW 1.16.050, in which event the specified period of time shall expire at 5:00 p.m. (PST) of the next business day. Unless otherwise expressly specified herein as being business days only, any period of time specified in this Agreement shall mean and be calculated to include calendar days.

18. **GOVERNING LAW.** This Agreement shall be exclusively construed under and interpreted consistent with the laws of the state of Washington.

19. **BINDING EFFECT.** Strictly subject to the above restrictions against assignment, subcontracting, or delegation, this Agreement shall be binding upon Interpreter's heirs, legal/personal representatives, successors, and assigns.

20. **SEVERABILITY.** In the event that any one or more provisions contained in this Agreement shall, for whatever reason, be held by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such invalid, illegal or unenforceable provision(s) shall not affect any other provision hereof, and this Agreement shall nevertheless be construed and enforced as if such invalid, illegal or unenforceable provision(s) were not contained herein.

21. **NON-WAIVER.** A party's express or implied consent to or waiver of any breach or default by the other party in the performance of such other party's obligations hereunder shall not be deemed or construed to be a consent to or waiver of any other

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breach or default in the performance by such other party of the same obligations or any other obligation(s) of such other party hereunder.

22. DISPUTE RESOLUTION.

a. In the event any type of dispute arises between the parties involving the performance or interpretation of this Agreement, and assuming that the parties are unable to resolve such dispute within a reasonable time after it arises, the parties agree that the dispute shall be submitted to mediation through the assistance of an experienced mediator chosen by mutual agreement between the parties. The County shall pay one-half of the mediator's fees and expenses, and Interpreter shall pay the other one-half of such fees and expenses.

b. In the event that mediation proves unsuccessful in resolving the dispute, the parties shall submit the dispute for resolution via binding arbitration pursuant to RCW Chapter 7.04A. A single arbitrator shall be selected by agreement of the parties or, in the absence of agreement, each party shall select one (1) arbitrator and those two (2) so selected arbitrators shall mutually select a third arbitrator. The County shall pay one-half of the fees and expenses of the arbitrator(s), and Interpreter shall pay the other one-half of such fees and expenses. The provisions of RCW Chapter 7.04A and applicable Mandatory Arbitration Rules as adopted and implemented in Superior Court shall be binding as to procedure, except as to the right of appeal, which shall not be applicable. Within ten (10) business days of notice of arbitration, the arbitrator(s) shall be selected and designated and the hearing shall be held within thirty (30) business days thereafter. The arbitrator(s) shall render a written decision and award within ten (10) business days of such hearing. Without limitation, the arbitrator(s) may award damages, specific performance, and/or injunctive relief, and may register a judgment in Benton County Superior Court, including judgment by default. The most prevailing party shall be entitled to recover such party's reasonable attorneys' fees, costs and expenses from the other party as a part of the arbitration decision and award. In the event of suit or action to enforce an arbitration award, venue shall lie exclusively in Benton County Superior Court, and the most prevailing party in such suit or action shall be entitled to recover such party's reasonable attorneys' fees, costs and expenses from the other party.

23. NOTICES.

a. Any notices required or permitted to be given by Interpreter to Benton County under this Agreement shall be in writing and shall be personally delivered to the Benton County Board of Commissioners or mailed to the Benton County Board of Commissioners via certified U.S. mail, postage prepaid, at the Board's following address:

Benton County Board of Commissioners
620 Market St.
Prosser, WA 99350

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With a mandatory complete copy of any such notices to also be provided to:

Eric Hsu
Public Defense Manager
Benton Office of Public Defense
7122 W. Okanogan Place, Bldg. A
Kennewick, WA 99336

b. Any notices required or permitted to be given by the County to Interpreter under this Agreement shall be in writing and shall be personally delivered to Interpreter or mailed to Interpreter via certified U.S. mail, postage prepaid, at Interpreter's office address specified and set forth in paragraph 2.a above.

c. Any notices under this Agreement shall be deemed to have been duly given, made and received when personally delivered against receipt or when duly deposited in the U.S. mail in compliance with the provisions of this paragraph. A party may change the address(es) to which notices or copies thereof are to be sent by giving notice of such change of address in conformity with the provisions of this paragraph for the giving of notice.

d. For purposes of clarity, whenever the terms of this Agreement require Interpreter to provide "the County" with certain information or notice, such information or notice shall be provided to the County's Board of Commissioners or the Board's designee unless this Agreement expressly mandates that such information or notice also be provided to some other person/entity.

24. LEGAL COMPLIANCE. Interpreter agrees to and shall strictly follow and comply with any and all federal, state, local, and administrative laws, rules, and regulations applicable to Interpreter's pursuit and performance of activities and services under this Agreement. Without limitation in that regard, Interpreter shall timely and fully pay all applicable taxes, fees, licenses, and other payments required by law; and Interpreter shall fully comply with any and all anti-discrimination laws and policies including, without limitation, the County's policies that no person will be subjected to discrimination by the County or its contractors based on race, color, national origin, age, sex, marital status, sexual orientation, handicap/disability, personal background, creed, or political or religious affiliation.

IN WITNESS WHEREOF, the parties hereto have entered into and executed this Agreement on the date set forth below.

[**SIGNATURES APPEAR ON FOLLOWING PAGE**]

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IN WITNESS WHEREOF, the parties hereto have entered into and executed this Agreement on the date set forth below.

Interpreter	**Benton County Office of Public Defense – Approved as to Form and Content**
DocuSigned by: 76B4066E5EE248E... 11/24/2021	DocuSigned by: Eric Hsu F80F38017789473... 11/24/2021
Sylvia Garza **Date**	Eric Hsu Date
BENTON COUNTY APPROVAL By: _____ Title: Chairman, Board of Commissioner By: _____ Title: Member, Board of Commissioner By: _____ Title: Member, Board of Commissioner Date: _____ Attest: Clerk of the Board: _____	

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	12/21/21
Subject:	Award of public defense interpreter agreement to Bertha Ramon-Arteaga
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

Benton County is legally obligated to provide public defense services in Benton County Superior and District Courts and, in the course of such services, the County's public defenders have the need to interview alleged victims ("Victim Interviews"), including a significant volume of monolingual Spanish-speaking alleged victims. Historically, the Benton County PA's Office has provided, as a courtesy, the services of their bilingual staff to facilitate these interviews. However, because of a number of reasons, including the growing volume of such Victim Interviews and legal concerns with using Prosecutor's Office staff to assist a critical defense function, it is more appropriate to procure the services of court-certified interpreters to provide interpreting services ("PD Interpreting") at these interviews instead. Given the low availability and high cost of such interpreters, it is in the best interests of the County to enter into an agreement with a specific interpreter to provide PD Interpreting.

Bertha Ramon-Arteaga ("Interpreter") is court-certified and qualified to provide PD Interpreting services for Victim Interviews, and is interested in contracting with Benton County do so. The proposed agreement and resolution effectuate a contract with Interpreter for the provision of such Services on the terms contained therein, for the period from 12/01/21 to 12/31/23 with a flat fee of $1,050 per month for up to 15 hours of services and $70 per hour for hours beyond that maximum.

Fiscal Impact

Estimated impact of $13,650 for remainder of biennial budget cycle.

Recommendation

Execute agreement with interpreter Bertha Ramon-Arteaga for Spanish language public defense interpreting services for Benton County Superior and District Court public defense cases. Approve associated resolution as presented.

Suggested Motion

Approve with consent agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF AWARDING A PUBLIC DEFENSE INTERPRETING SERVICES AGREEMENT WITH INTERPRETER BERTHA RAMON-ARTEAGA FOR VICTIM INTERVIEWS IN BENTON COUNTY SUPERIOR AND DISTRICT COURT PUBLIC DEFENSE CASES

WHEREAS, Benton County ("County") is obligated by law to provide indigent defense services in Benton County Superior and District Courts ("Services"); and

WHEREAS, in the course of providing Services, County's public defense attorneys sometimes have a need to interview mono-lingual, Spanish-speaking victims ("Victim Interviews") and therefore require the assistance of court-certified interpreters in the Spanish language ("PD Interpreting"); and

WHEREAS, interpreter Bertha Ramon-Arteaga ("Interpreter") is qualified to provide PD Interpreting services and interested in entering into an agreement with County for same; and

WHEREAS, a proposed PD Interpreting agreement with interpreter Bertha Ramon-Arteaga is presented for execution by the Board of Commissioners; **NOW, THEREFORE**

BE IT RESOLVED that the proposed agreement with interpreter Bertha Ramon-Arteaga, to provide PD Interpreting services during Victim Interviews to support public defenders with cases in Benton County Superior and District Courts, designated BCINT2223BR001, commencing 12/01/21 to 12/31/23, with a flat fee of $1,050 per month for up to 15 hours of services and $70 per hour for hours beyond that maximum, plus other allowable expenses, premiums, and fees as detailed, is hereby approved and executed on behalf of Benton County.

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 – OPD, Bertha Ramon-Arteaga
Copy – Auditor, S Godinez

E. Hsu

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PROFESSIONAL SERVICES AGREEMENT TO PROVIDE VICTIM INTERVIEW INTERPRETER SERVICES FOR INDIGENT PERSONS CHARGED WITH CRIMES IN BENTON COUNTY SUPERIOR AND DISTRICT COURTS BCINT2223BR001

CONTRACT SUMMARY			
Contract Type	Interpreter services victim interviews – monthly flat fee		
Contract Number	BCINT2223BR001	**Contract Holder**	Bertha Ramon-Arteaga
Compensation	$1,050 per month for up to 15 hours $70/hr for excess	**Effective Dates**	December 1, 2021 – December 31, 2023

THIS AGREEMENT is entered into by and between **Bertha D. Ramon-Arteaga,** ("Interpreter") and **THE COUNTY OF BENTON,** a State of Washington political subdivision ("County"), for and on behalf of the Benton County Superior Court and Benton County District Court ("Courts").

THIS AGREEMENT IS ENTERED INTO BASED UPON THE FOLLOWING FACTS AND CIRCUMSTANCES:

A. County has the legal responsibility to provide services in support of the publicly-provided legal defense of indigent persons charged with criminal offenses alleged to have been committed within the jurisdictional boundaries of County.

B. From time to time, such necessary support services include the services of a court-certified interpreter ("Interpreter") to assist the defense attorney and defense team with interviews of alleged victims ("Victim Interviews").

C. Interpreter is qualified court-certified to provide interpreter services to County's Office of Public Defense ("OPD") in support of publicly provided legal defense of indigent persons charged with criminal offenses, specifically Victim Interviews.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein, the County and Interpreter hereby agree as follows:

1. **AGREEMENT TERM.** This Agreement shall be deemed effective for all purposes as of **December 1, 2021**, and shall continue thereafter through and including **December 31, 2023**, unless earlier terminated pursuant to the applicable terms and provisions of this Agreement.

2. **INTERPRETER'S OFFICE LOCATION.** Interpreter's mailing address, phone number, and email address are, respectively: **8901 W. 5th Ave ;**

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Voces2001@gmail.com. The work contemplated by this Agreement shall be performed either in person at the Benton County Prosecutor's Office or virtually by phone or video conference as required by requesting public defenders. Nothing stated by County, within, or outside of this Agreement, shall be interpreted as the County expressing any preference as to Interpreter's office location or directing that work be done in any particular place.

3. INTERPRETER'S QUALIFICATIONS. Interpreter acknowledges and agrees that the County has an obligation to provide competent and effective legal defense services to indigent persons subject to criminal proceedings in the Courts. Interpreter shall perform all services hereunder in strict accordance with the usual skills and professional ethical standards exercised by Interpreters engaged in providing interpreting services for use in official court proceedings and legal proceedings, acknowledges and agrees that Interpreter has a fundamental duty and responsibility to effectively promote and protect the best interests and rights of all persons whom Interpreter is assigned to assist under this Agreement.

a. As of the date of this Agreement, Interpreter represents and warrants that Interpreter is court certified for interpreting in the Spanish language by Washington State Administrative Office of the Courts, has had at least one (1) year of direct experience in providing interpreting services for use in legal proceedings; has not been a party to an agreement to provide criminal defense-related Interpreter services that was terminated due to Interpreter's conduct, errors, or omissions; has not been censured, admonished, or otherwise formally disciplined for past conduct or behavior as a Interpreter that would negatively reflect on Interpreter's duty and ability to effectively and competently render services hereunder; and does not have any complaints or lawsuits filed and/or pending against him/her relating to, or arising from, Interpreter's past conduct or behavior as a Interpreter.

b. To comply with the provisions of RCW 72.05.440, WAC 388-700-0010, and RCW 13.40.570, Interpreter acknowledges and agrees that the County may conduct criminal history background check(s) on Interpreter. Interpreter acknowledges and agrees that this Agreement shall be deemed immediately and automatically terminated upon the County receiving a non-complying or otherwise unsatisfactory criminal history background check report.

c. Interpreter represents and warrants that, throughout the entire term of this Agreement, Interpreter's client caseload on matters outside of this Agreement; Interpreter's schedule; and Interpreter's office resources, equipment, and support staff (if applicable); will allow Interpreter to competently undertake and effectively perform all services required under this Agreement.

4. RESERVED. This section is not applicable but has been retained for numbering consistency.

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5. CASE ASSIGNMENTS. During the term of this Agreement, Interpreter agrees to and shall accept assignments to provide Interpreting Services for indigent persons (regardless of their race, color, national origin, age, sex, marital status, sexual orientation, handicap/disability, personal background, creed, or political or religious affiliation) on any matter in the Courts in which publicly-provided legal defense services are furnished or required by law. For each case assigned hereunder, Interpreter shall provide interpreting services as directed by the attorney of record or designee. Specifically, Interpreter shall provide criminal defense interpreting services of the same quality as Interpreter provides to private clients. Interpreting Services shall be defined as: a) assisting public defense attorneys or other members of defense teams (such as investigators) with communicating with/interviewing alleged victims in cases being prosecuted by the Benton County Prosecutor's Office; and b) accepting, within Interpreter's availability schedule, other interpreting matters that would otherwise been assigned to other interpreters under contract with the County but where such other interpreters have a conflict of interest.

Interpreter shall accept assignments for Interpreting Services, pursuant to this Agreement, in the following manner:

a) Contract and staff public defenders ("Requesting Attorney") or assigned public defense investigators ("Investigators") shall contact Interpreter directly, via phone, text message, or email, requesting interpreting services. The Requesting Attorney or Investigator shall coordinate with Interpreter regarding scheduling of needed interpreting services.

b) Requesting Attorneys and Investigators shall provide Interpreter with the following information about each interpreting engagement:

    a. Case name

    b. Case number

    c. Nature of engagement

c) Interpreter shall keep a record of all interpreting engagements including, at least the following:

    a. Case name

    b. Case number

    c. Date of service

    d. Length of service (rounded up to the nearest 30 minute increment)

    e. Nature of service

    f. General location (eg at the Prosecutor's Office or virtually)

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d) No later than 15 days after the end of each month, Interpreter shall provide a report to the County's Office of Public Defense, in a form prescribed by said Office, of all cases, including all the details required in Section 5c), for all interpreting engagements for the prior month that falls under the Flat Fee Compensation limit (i.e. up to 20 hours of interpreting services for the month)

e) Interpreter shall be expected to be generally available pursuant to the following schedule though occasional conflicting obligations are to be expected:

- Mondays from 11 am to 12:30 pm; anytime after 2 pm
- Tuesdays through Fridays from 11 am to 12:30 pm and anytime after 4 pm

County shall communicate this availability schedule to its public defense attorneys and public defense investigators. Interpreter may modify this schedule with advance written notice to County but shall not significantly reduce her amount of weekly availability without conferring with the PDM.

6. RESERVED. - This section is not applicable but has been retained for numbering consistency.

7. CLIENT ELIGIBILITY. The Courts (or designee), consistent with applicable laws, rules and standards, shall determine the eligibility of any particular person for assistance by Interpreter under this Agreement. Interpreter shall have no obligation to inquire into, or question, the status or eligibility of a client in any public defense case to which she has been assigned.

8. RESERVED This section is not applicable but has been retained for numbering consistency.

9. COMPENSATION AND REIMBURSEMENT.

Interpreter's compensation shall consist of the following:

a) **Monthly Flat Fee.** A monthly flat fee of $1,050 for up to 15 hours of interpreting services rendered.

b) **Excess Hours.** If Interpreter provides in excess of 15 hours of interpreting services in any given month, then Interpreter may claim excess compensation in the amount of $70 per hour.

The following additional terms shall apply to Interpreter's compensation:

i) The calculation of hours for purposes of Interpreter's flat fee maximum monthly hours, shall be in increments of 30 minutes, rounded up to the next increment.

ii) Interpreter shall be paid the monthly flat fee each month this agreement is in effect, regardless of whether or not Interpreter's total hours of interpreting

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services rendered in any given month actually reaches the maximum of 15 hours.

iii) Billing for interpreting services hours beyond 15 in any given month shall be subject to a one-hour minimum and then billed in 30-minute increments thereafter.

iv) Payment of the monthly flat fee shall be made to Interpreter on the last business day of each month without a need for Interpreter to invoice said amount. Provided, however, that payment is conditioned upon Interpreter being current in providing caseload reporting as required by Section 5c) and, if such reporting is not made as required, compensation may be withheld until it is so provided.

v) Compensation for Excess Hours shall not be due and payable until Interpreter submits a Claim for Compensation and detailed invoice, listing the date, case name, case number, public defender, hours, and nature of interpreting services provided, for each interpreting engagement. County will compensate Interpreter for Excess Hours within 30 days of invoice.

vi) If Interpreter is required to travel outside of the tri-cities metropolitan area, then Interpreter shall be entitled to mileage at the then-current GSA rate, starting at the Benton County courthouse and the travel time may be considered either as time toward Interpreter's 20 hours per month (for the Flat Fee portion of Interpreter's compensation) or as Excess Hours that may be billed separately. Travel within the tri-cities metropolitan area shall not be compensable for mileage but may be billable as interpreting time as appropriate.

vii) The parties agree that they will review Interpreter's monthly actual hours every six months during this Agreement. If the actual hours are more than 20% above or below the 15 hours upon which the flat fee is calculated, then the parties agree to adjust the flat fee accordingly to more accurately reflect actual usage and will cooperate in executing an amendment accordingly.

10. INDEMNIFICATIONS AND HOLD HARMLESS. Interpreter agrees to and shall fully indemnify the County and its elected/appointed representatives, officers, employees, and agents; and to hold the County and its elected/appointed representatives, officers, employees, and agents fully harmless; from and for any and all losses, damages, costs, charges, claims, demands, suits, or actions of whatsoever nature directly or indirectly arising out of or by reason of Interpreter's (or any person, employee, agent, contractor, or entity acting for or on behalf of Interpreter or at Interpreter's request or direction) acts, defaults, errors and/or omissions of whatsoever nature in the performance of interpreting services for any person under this Agreement. In the event any suit or legal proceeding is brought against the County or any of its elected/appointed representatives, officers, employees or agents at any time on account of or by reason of any such acts, defaults, errors and/or omissions, Interpreter hereby covenants and agrees to assume the defense thereof (through counsel acceptable to the County) and to defend the same at Interpreter's sole cost and expense and to pay any and all costs,

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charges, attorneys' fees, and other expenses as well as any and all judgments or awards that may be incurred by or entered against the County or any of its elected/appointed representatives, officers, employees or agents in such suits or other legal proceedings. Without limiting the intended broad scope and application of the indemnification and hold harmless provisions of this paragraph, for purposes of this paragraph, Interpreter waives, with respect to the County only, any immunity that would otherwise be available to Interpreter under the Industrial Insurance Act provisions of Title 51 RCW or any other similar workers/employee disability or benefit law. The indemnification and hold harmless provisions of this paragraph shall survive the termination or expiration of this Agreement.

11. INSURANCE.

a. Interpreter shall obtain and maintain, at Interpreter's sole cost and expense, a policy of professional liability or errors and omissions insurance suitable for Interpreter's profession, in the amount of no less than $250,000 per claim nor less than $250,000 in the aggregate during the policy term and with a maximum deductible of not more than $10,000.00.

(i) Said policy shall include coverage as an additional insured for any other person(s) acting for or on behalf of Interpreter in the performance of this Agreement; shall provide professional liability insurance coverage for any acts, errors and/or omissions by Interpreter (and/or such additional insureds) during the course of performing services under this Agreement; shall require that the insurance company provide the County with no less than thirty (30) days prior written notice in the event the policy is cancelled or materially altered; shall comply with all applicable state of Washington insurance requirements; and shall be issued by an insurance company rated A- or better by A.M. Best authorized to conduct business and issue insurance in the state of Washington.

(iii) Interpreter shall continuously maintain the professional liability insurance coverage required by this paragraph throughout the entire term of this Agreement, throughout any other longer time period during which Interpreter is obligated to continue performing services and duties hereunder, and for a period of no less than thirty-six (36) consecutive months after Interpreter has fully completed all services and duties required hereunder.

c. Contemporaneously with Interpreter's execution of this Agreement, Interpreter shall provide the County and its designated Risk Manager(s) with copies or certificates of the insurance policies and coverage (including any endorsements) required under this paragraph 11, and Interpreter shall annually provide the Risk Manager(s) with the same type of documented proof and confirmation that such insurance policies and coverage continue to exist no later than thirty (30) days after the policies' annual renewal date(s).

12. TERMINATION.

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a. In addition to any automatic termination provisions set forth in this Agreement, the County may elect to terminate this Agreement in the event Interpreter fails for whatever reason to comply with any provision of this Agreement after giving Interpreter ten (10) business days advance written notice to cure, which notice shall specify the reason(s) for the notice, the act(s) necessary to cure Interpreter's failure(s), and the consequence (i.e., termination without further notice) if the failure(s) is/are not cured within the ten (10) day period. The County's right to terminate this Agreement in such regard shall be in addition to any other rights and remedies available to the County.

b. In addition to the foregoing provisions regarding termination, either Interpreter or the County may elect to terminate this Agreement with or without cause or reason by providing the other party with ninety (90) days advance written notice of such election. Without limiting/waiving other provisions of this Agreement relating to Interpreter's obligation and duty to accept and complete cases assigned to Interpreter, Interpreter shall not be assigned to any new cases during the last thirty (30) calendar days of said ninety (90) day notice period.

13. INDEPENDENT CONTRACTOR. Interpreter fully understands, acknowledges, and agrees that Interpreter shall not be an agent, representative, or employee of the County or the Courts for any type of purpose or situation whatsoever (including, without limitation, for purposes of any type of wage, hours/overtime, workers/industrial insurance compensation, unemployment, fair labor, and/or employee benefit/leave laws, disability act coverage or rules, and/or regulations) and that Interpreter, as of the date of this Agreement and throughout its entire term, is and will always be acting and operating as a fully independent contractor. In that regard, strictly subject to Interpreter's duties, responsibilities and obligations imposed under this Agreement, Interpreter shall have sole and absolute discretion using Interpreter's best professional judgment to determine the manner and means of providing the interpreting services required under this Agreement; and neither the County, the PDM, nor the Courts shall have any authority or duty to directly control the actual performance of Interpreter's services hereunder.

14. NON-ASSIGNMENT; MILITARY LEAVE. Interpreter may sub-contract with another interpreter who is court-certified by Washington administrative office of the courts in the Spanish language on an occasional and infrequent basis to provide coverage in case of illness, unavailability, conflicting schedules, or vacation. If Interpreter sub-contracts with another interpreter, Interpreter remains fully responsible for the services being provided. In the event Interpreter is called up for active military duty or for direct civilian support of active military operations, Interpreter shall provide the County and the PDM with written notice of such event within five (5) business days of Interpreter being called up so that the PDM and Interpreter can coordinate and arrange for an appropriate substitute to handle Interpreter's duties under this Agreement while Interpreter is on military leave and any reasonable back-to-civilian-life transition time requested by Interpreter upon return. Interpreter shall receive no compensation under this Agreement while on leave or during any such transition time.

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15. **VACANCY AND REPLACEMENT.** In the event this Agreement is terminated by either party prior to the termination date specified in paragraph 1 above, the County may initiate, implement and pursue any actions or process deemed appropriate/necessary to seek, select, and contract with another qualified Interpreter to replace and succeed Interpreter in providing interpreting services to indigent persons in the Courts.

16. **ENTIRE AGREEMENT.** This Agreement constitutes the entire integrated agreement and understanding of the undersigned parties. No amendment, modification or other type of change to this Agreement shall be valid or enforceable unless reduced to writing and signed by the parties.

17. **CAPTIONS; TIME COMPUTATION.**

a. The captions and headings herein are for convenience only and shall not be relied upon or used to interpret or construe this Agreement or any portion thereof.

b. Unless otherwise expressly specified herein, any period of time specified in this Agreement shall expire at 5:00 p.m. (PST) of the last calendar day of the specified period of time, unless the last day is Saturday, Sunday, or a legal holiday, as prescribed in RCW 1.16.050, in which event the specified period of time shall expire at 5:00 p.m. (PST) of the next business day. Unless otherwise expressly specified herein as being business days only, any period of time specified in this Agreement shall mean and be calculated to include calendar days.

18. **GOVERNING LAW.** This Agreement shall be exclusively construed under and interpreted consistent with the laws of the state of Washington.

19. **BINDING EFFECT.** Strictly subject to the above restrictions against assignment, subcontracting, or delegation, this Agreement shall be binding upon Interpreter's heirs, legal/personal representatives, successors, and assigns.

20. **SEVERABILITY.** In the event that any one or more provisions contained in this Agreement shall, for whatever reason, be held by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such invalid, illegal or unenforceable provision(s) shall not affect any other provision hereof, and this Agreement shall nevertheless be construed and enforced as if such invalid, illegal or unenforceable provision(s) were not contained herein.

21. **NON-WAIVER.** A party's express or implied consent to or waiver of any breach or default by the other party in the performance of such other party's obligations hereunder shall not be deemed or construed to be a consent to or waiver of any other breach or default in the performance by such other party of the same obligations or any other obligation(s) of such other party hereunder.

22. **DISPUTE RESOLUTION.**

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a. In the event any type of dispute arises between the parties involving the performance or interpretation of this Agreement, and assuming that the parties are unable to resolve such dispute within a reasonable time after it arises, the parties agree that the dispute shall be submitted to mediation through the assistance of an experienced mediator chosen by mutual agreement between the parties. The County shall pay one-half of the mediator's fees and expenses, and Interpreter shall pay the other one-half of such fees and expenses.

b. In the event that mediation proves unsuccessful in resolving the dispute, the parties shall submit the dispute for resolution via binding arbitration pursuant to RCW Chapter 7.04A. A single arbitrator shall be selected by agreement of the parties or, in the absence of agreement, each party shall select one (1) arbitrator and those two (2) so selected arbitrators shall mutually select a third arbitrator. The County shall pay one-half of the fees and expenses of the arbitrator(s), and Interpreter shall pay the other one-half of such fees and expenses. The provisions of RCW Chapter 7.04A and applicable Mandatory Arbitration Rules as adopted and implemented in Superior Court shall be binding as to procedure, except as to the right of appeal, which shall not be applicable. Within ten (10) business days of notice of arbitration, the arbitrator(s) shall be selected and designated and the hearing shall be held within thirty (30) business days thereafter. The arbitrator(s) shall render a written decision and award within ten (10) business days of such hearing. Without limitation, the arbitrator(s) may award damages, specific performance, and/or injunctive relief, and may register a judgment in Benton County Superior Court, including judgment by default. The most prevailing party shall be entitled to recover such party's reasonable attorneys' fees, costs and expenses from the other party as a part of the arbitration decision and award. In the event of suit or action to enforce an arbitration award, venue shall lie exclusively in Benton County Superior Court, and the most prevailing party in such suit or action shall be entitled to recover such party's reasonable attorneys' fees, costs and expenses from the other party.

23. NOTICES.

a. Any notices required or permitted to be given by Interpreter to Benton County under this Agreement shall be in writing and shall be personally delivered to the Benton County Board of Commissioners or mailed to the Benton County Board of Commissioners via certified U.S. mail, postage prepaid, at the Board's following address:

Benton County Board of Commissioners
620 Market St.
Prosser, WA 99350

With a mandatory complete copy of any such notices to also be provided to:

Eric Hsu
Public Defense Manager

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Benton Office of Public Defense
7122 W. Okanogan Place, Bldg. A
Kennewick, WA 99336

b. Any notices required or permitted to be given by the County to Interpreter under this Agreement shall be in writing and shall be personally delivered to Interpreter or mailed to Interpreter via certified U.S. mail, postage prepaid, at Interpreter's office address specified and set forth in paragraph 2.a above.

c. Any notices under this Agreement shall be deemed to have been duly given, made and received when personally delivered against receipt or when duly deposited in the U.S. mail in compliance with the provisions of this paragraph. A party may change the address(es) to which notices or copies thereof are to be sent by giving notice of such change of address in conformity with the provisions of this paragraph for the giving of notice.

d. For purposes of clarity, whenever the terms of this Agreement require Interpreter to provide "the County" with certain information or notice, such information or notice shall be provided to the County's Board of Commissioners or the Board's designee unless this Agreement expressly mandates that such information or notice also be provided to some other person/entity.

24. LEGAL COMPLIANCE. Interpreter agrees to and shall strictly follow and comply with any and all federal, state, local, and administrative laws, rules, and regulations applicable to Interpreter's pursuit and performance of activities and services under this Agreement. Without limitation in that regard, Interpreter shall timely and fully pay all applicable taxes, fees, licenses, and other payments required by law; and Interpreter shall fully comply with any and all anti-discrimination laws and policies including, without limitation, the County's policies that no person will be subjected to discrimination by the County or its contractors based on race, color, national origin, age, sex, marital status, sexual orientation, handicap/disability, personal background, creed, or political or religious affiliation.

IN WITNESS WHEREOF, the parties hereto have entered into and executed this Agreement on the date set forth below.

[**SIGNATURES APPEAR ON FOLLOWING PAGE**]

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IN WITNESS WHEREOF, the parties hereto have entered into and executed this Agreement on the date set forth below.

Interpreter	**Benton County Office of Public Defense – Approved as to Form and Content**
DocuSigned by: Bertha Ramon-Arteaga 440D21A045754DF... 11/30/2021	DocuSigned by: Eric Hsu F80F38017789473... 11/30/2021
Bertha D. Ramon-Arteaga Date	Eric Hsu Date
BENTON COUNTY APPROVAL By: _____ Title: Chairman, Board of Commissioner By: _____ Title: Member, Board of Commissioner By: _____ Title: Member, Board of Commissioner Date: _____ Attest: Clerk of the Board: _____	

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	December 21, 2021
Subject:	Authorization to pay Cascade Software Systems, Inc. for fees and services
Presenter:	N/A
Prepared By:	Aimee Oropeza
Reviewed By:	Deborah Calhoun

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 September 29, 2003, Resolution 03-546 authorized the purchase of cost accounting software from Cascade Software Systems, Inc. On January 9, 2004, the County Engineer entered into an Agreement for Maintenance and System Services to be automatically renewed annually on the anniversary date unless terminated by either party within thirty days of said date.

The newest rates for maintenance and system services were received by the Benton County Public Works department on November 10, 2021 for FY 2022. Board approval is required to pay for said services.

Fiscal Impact

$15,332.08 for maintenance and upgrade fees split equally between Roads 0101101.500 & ER&R 0501101.650 and $7,500.00 for as needed billable programming hours and on-site services.

Recommendation

Approve the resolution authorizing payment to Cascade Software Systems, Inc. for maintenance and upgrade fees and hourly rates for programming and SQL/DBE and on-site services.

Suggested Motion

Approve as part of the Consent Agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY ROADS, RE: AUTHORIZATION TO PAY MAINTENANCE AND UPGRADE FEES AND HOURLY RATES FOR PROGRAMMING AND SQL/DBE AND ON-SITE SERVICES TO CASCADE SOFTWARE SYSTEMS, INC., EUGENE, OREGON

WHEREAS, on September 29, 2003, Resolution 03-546 authorized the purchase of cost accounting software from Cascade Software Systems Inc.; and

WHEREAS, Appendix B of said contract stated an Annual Maintenance Agreement would be submitted at a later date; and

WHEREAS, on January 9, 2004, the County Engineer entered into an Agreement for Maintenance and System Services which stated it shall be automatically renewed annually on the anniversary date unless terminated by either party within thirty days of said date; and

WHEREAS, in addition to the maintenance fee, Benton County will pay hourly rates for programming and SQL/DBE services above and beyond the scope of normal maintenance; and

WHEREAS, a written renewal notice with updated maintenance and upgrade fees and hourly programming rates is to be submitted to Benton County no later than 60 days prior to the anniversary date; and

WHEREAS, Cascade Software Systems, Inc. in accordance with the agreement, submitted the maintenance and upgrade fee for 2022 in the amount of $15,332.08 and hourly billable rates of $160.00 per hour for programming, $175.00 per hour for SQL/DBE and Project Management services, and $180.00 for on-site time services; **NOW, THEREFORE,**

BE IT RESOLVED that the Board of County Commissioners authorizes payment to Cascade Software Systems, Inc., Eugene, Oregon for the maintenance and upgrade fee for 2022 in an amount not to exceed $15,332.08; and

BE IT FURTHER RESOLVED that the Board authorizes payment for billable programming hours and on-site services for 2022 in an amount not to exceed $7,500.00.

Dated this 21st day of December 2021.

_____
Chairman

_____
Chairman Pro-Tem

_____
Member

Attest:_____
Clerk of the Board

Constituting the Board of County Commissioners of Benton County, Washington

Orig.: ER&R
c: Auditor

A. Oropeza

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	December 21, 2021
Subject:	Setting Public Hearing to Amend the 2022-2027 Six Year Road Program
Presenter:	
Prepared By:	Jeff Liner
Reviewed By:	Douglas D'Hondt , Shannon Christen

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

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

Summary / Background Information

Benton County Public Works has secured funding for a Countywide Safety Improvements Project. The County Engineer has recommended that this project be amended to the 2022-2027 Six-Year Road Program. The proposed resolution will set a public hearing for consideration of the amendment on January 4th, 2022 at 9:00 a.m.

Fiscal Impact

Amount: None
Fund:

Recommendation

Setting a Public Hearing

Suggested Motion

Approve as part of the Consent Agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY ROADS RE: APPROVING A PUBLIC HEARING FOR THE AMENDMENT OF THE 2022 - 2027 SIX-YEAR ROAD PROGRAM TO INCLUDE COUNTYWIDE SAFETY IMPROVEMENTS PROJECT

WHEREAS, RCW 36.81.121 requires development of perpetual advanced six-year plans for coordinated transportation; and

WHEREAS, the updated six-year plan, describing the road maintenance and improvement program for the period of 2022 through 2027 was adopted on August 10, 2021; and

WHEREAS, the Highway Safety Improvement Program (HSIP) put out a call for projects after the 2022 – 2027 Six-Year Road Program was approved; and

WHEREAS, Public Works has now secured HSIP funding for the aforementioned project; and

WHEREAS, the County Engineer recommends an amendment to the 2022 – 2027 Six-Year Road Program to include Countywide Safety Improvements project; **NOW, THEREFORE,**

BE IT RESOLVED that a Public Hearing on the Amendment of the 2022 – 2027 Six-Year Road Program be held on Tuesday, January 4, 2022 at 9:00 a.m., Local Time, in the Board of County Commissioners' Meeting Room, Benton County Courthouse, 620 Market Street, Prosser, Washington.

Dated this 21st day of December, 2021.

_____
Chairman of the Board.

_____
Chairman Pro-Tem.

_____
Member.

Attest_____
Clerk of the Board

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

Orig.: Public Works J. Liner

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	December 21, 2021
Subject:	Award & execute contract with His Dime LLC dba FastSigns 280501 for Supplying and Installing Window Film at the Administration Building
Presenter:	
Prepared By:	S. Christen
Reviewed By:	R. Blain

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

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

Summary / Background Information

After moving into the Administration Building, it was desirous to have opaque film put on 38 office door windows to add a level of privacy. A call for bids was advertised on the MRSC Small Works Roster under Facility Construction, Repair, and Maintenance, sub-category Window Coverings/Venetian Blinds Installation. On November 18, 2021 one bid, from His Dime LLC dba FastSigns 280501 in the amount of $94.32 per window, was received and opened.

A contract to supply and install the window film has been prepared; and reviewed and approved as to form by our departmental assigned Deputy Prosecuting Attorney from the Civil Division; and has been executed by FastSigns.

Fiscal Impact

Amount: $94.32 per window for a total not to exceed $4,000.00 excluding WSST

Fund: Capital Projects Fund

Recommendation

It is recommended by the Director of Operations and Capital Programs that the Board concur and award the contract to His Dime LLC dba FastSigns 280501 and authorize the Chairman to sign the contract.

Suggested Motion

Approve as part of the Consent Agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AWARDING A CONTRACT TO HIS DIME LLC dba FASTSIGNS 280501, KENNEWICK, WASHINGTON FOR SUPPLYING AND INSTALLING WINDOW FILM AT THE ADMINISTRATION BUILDING AND AUTHORIZING THE CHAIRMAN TO SIGN SAID CONTRACT

WHEREAS, per Resolution 2021-233, the Board of Benton County Commissioners approved a County-Wide Procurement, Leasing and Contracting Policy; and

WHEREAS, per Section 4.3.2, for contracts less than $350,000, County departments can solicit bids from contractors from the small works roster and award to the lowest responsible bidder. Such award is to be approved by the Board of Benton County Commissioners by Resolution; and

WHEREAS, quotes for Supplying and Installing Window Film at the Administration Building on 38 windows were solicited from 39 contractors on the Small Public Works Roster; and

WHEREAS, the following quote was received:

His Dime LLC dba FastSigns 280501, Kennewick, WA	$ 94.32 per window

WHEREAS, the Director of Operations and Capital Programs reviewed the quote for completeness and recommends awarding said project to His Dime LLC dba FastSigns 280501, Kennewick, WA (FASTS2*802NG) as the lowest bidder; and

WHEREAS, a contract has been prepared, and reviewed and approved as to form by our departmental assigned Deputy Prosecuting Attorney from the Civil Division, and has been executed by FastSigns 280501; and

WHEREAS, the Director of Operations and Capital Programs recommends the Chairman sign said contract; **NOW, THEREFORE**

BE IT RESOLVED, the Board of Benton County Commissioners concurs with the Director of Operations and Capital Program's recommendation and awards the bid for Supplying and Installing Window Film at the Administration Building to His Dime LLC dba FastSigns 280501, Kennewick, Washington in the amount of $94.32 per window excluding Washington State Sales Tax; and

BE IT FURTHER RESOLVED, the Board hereby authorizes the Chairman of the Board of County Commissioners to sign on behalf of Benton County said contract to FastSigns 280501 in an amount not to exceed $4,000.00 excluding Washington State Sales Tax; and

BE IT FURTHER RESOLVED, the Director of Operations and Capital Programs is hereby authorized to proceed with the window film project according to the terms of the contract; and

BE IT FURTHER RESOLVED, the window film project shall be completed in its entirety within thirty (30) calendar days as described in the contract documents.

Dated this 21st day of December 2021.

_____
Chairman

_____
Chairman Pro-Tem

_____
Member

Attest:_____
Clerk of the Board

Constituting the Board of County Commissioners of Benton County, Washington

Orig.: Purchasing Dept. S. Christen
c: Auditor, Procurement

BENTON COUNTY
PUBLIC WORKS CONTRACT

TERMS AND CONDITIONS

THIS Contract is made and entered into by and between **BENTON COUNTY**, a political subdivision with its principal offices at 620 Market Street, Prosser, WA 99350 (hereinafter "COUNTY"), and **HIS DIME LLC dba FASTSIGNS 280501**, a corporation organized under the laws of the State of Washington with its principal offices at 1409 N. Pittsburgh St., Suite A, Kennewick, WA 99336 (hereinafter "CONTRACTOR").

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

1. CONTRACT DOCUMENTS

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

a. Exhibit A – Bid Form
b. Exhibit B – Washington State Prevailing Wage Rates for Public Works Contracts
c. Exhibit C – Avery Dennison SC5861 Etchmark Etched Glass Film Specs

2. DURATION OF CONTRACT

The initial term of this Contract shall begin upon signature of both parties and shall terminate Thirty (30) calendar days after execution. 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 agrees to supply and install film on 38 office door windows, approximately 23 inches by 35 inches, at the Benton County Administration Building. Window film will be in accordance with the Specifications, attached hereto as Exhibit C, respectively, and incorporated herein by reference.

b. The CONTRACTOR agrees to comply with all COVID-19 safety precautions, according to the guidance in the Benton County Reopening Plan, in place at the time of installation.

c. In the event that the requested work encompasses work that is legally required to be completed by another type of contractor, CONTRACTOR shall inform COUNTY of that fact and shall coordinate with COUNTY to complete the work in conjunction with the other contractor. In the event that the requested work requires, under State or local law, the issuance of a building or other permit, CONTRACTOR shall be responsible for procuring such permit and arranging for inspection and certification of the work. CONTRACTOR may bill COUNTY for the full cost of the permit and any labor time for any of its employees involved in the permitting process but may not charge any additional processing or other fees that it does not actually incur.

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

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

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

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

4. CONTRACT REPRESENTATIVES

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

a. For CONTRACTOR:

Name:	Brad Sanders
Address:	1409 N. Pittsburgh St. Kennewick, WA 99336
Phone:	509-735-0708
Email:	brad.sanders@fastsigns.com

b. For COUNTY:

Name:	Robert Blain, Director of Operations and Capital Programs
Address:	7122 W. Okanogan Pl., Bldg. A Kennewick, WA 99336
Phone:	509-736-2704
Email:	procurement@co.benton.wa.us

5. COMPENSATION

a. For the services performed under this Contract, the CONTRACTOR shall be paid ninety-four dollars and thirty-two cents per window ($94.32 per window), excluding W.S.S.T., in accordance with Exhibit A, "Bid Form", which is attached hereto and incorporated herein by reference.

b. The maximum total amount payable by the COUNTY to the CONTRACTOR under this Contract shall not exceed four thousand dollars and zero cents ($4,000.00) excluding W.S.S.T.

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

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

6. INVOICING

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

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

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

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

7. AMENDMENTS AND CHANGES IN WORK

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

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

8. HOLD HARMLESS AND INDEMNIFICATION

a. The CONTRACTOR shall hold harmless, indemnify, and defend the COUNTY and its officers, officials, employees, and agents from and against any and all claims, actions, suits, liabilities,

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

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

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

9. INSURANCE

The CONTRACTOR shall obtain and maintain continuously the following insurance:

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

If CONTRACTOR, subcontractor, or sub-subcontractor fails to comply with all State of Washington workers compensation statutes and regulations and COUNTY incurs fines or is required by law to

provide benefits to or obtain coverage for such employees, CONTRACTOR shall indemnify the COUNTY. Indemnity shall include all fines, payment of benefits to CONTRACTOR or subcontractor employees, or their heirs or legal representatives, and the cost of effecting coverage on behalf of such employees. Any amount owed to COUNTY by CONTRACTOR pursuant to the indemnity agreement may be deducted from any payments owed by COUNTY to CONTRACTOR for performance of this Contract.

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

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

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

The CONTRACTOR must provide commercial general liability coverage that does not exclude any activity to be performed in fulfillment of this Contract and does not exclude liability pursuant to the indemnification requirement under Section 8. CONTRACTOR'S commercial general liability policy shall provide cross liability coverage, indicating essentially that except with respect to the limits of insurance and any rights or duties specifically assigned in this coverage part to the first named insured, this insurance applies as if each named insured were the only named insured, and separately to each insured against whom claims are made or suit is brought.

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

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

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

d. **Other Insurance Provisions**:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10. PERFORMANCE AND PAYMENT BONDS

The CONTRACTOR shall furnish Benton County with a Performance Bond and Labor and Materials Payment Bond with sufficient sureties acceptable to Benton County, in an amount equal to one hundred percent (100%) of the contract sum as security for the performance by the contractor of this Contract and payment of all the persons performing labor and supplying materials pursuant to this Contract. PROVIDED that the CONTRACTOR may elect, in lieu of the bonds, to allow the COUNTY to retain ten percent (10%) of the contract amount either for a period of thirty (30) days after the date of final acceptance, or until all necessary releases from the Washington State Department of Revenue, the Washington State Department of Labor and Industries, and the Employment Security Department have been received and any liens filed under chapter 60.28 RCW have been settled, whichever is later. Proof of the performance and payment bonds, or written notification of the CONTRACTOR'S desire to elect the alternative to the bonds (described above), must be received by COUNTY within ten (10) days following the execution of this Contract.

11. NON-WAIVER OF RIGHTS

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

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

12. INDEPENDENT CONTRACTOR

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

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

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

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

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

13. INSPECTION OF BOOKS AND RECORDS

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

14. CHOICE OF LAW AND JURISDICTION

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

15. SUCCESSORS AND ASSIGNS

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

16. TERMINATION

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

17. COMPLIANCE WITH LAWS AND PREVAILING WAGES

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

18. NONDISCRIMINATION

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

19. DISPUTES

Disputes over the CONTRACTOR's performance shall be promptly addressed in writing by the aggrieved party in order that such matters may be settled, or other appropriate action promptly taken. Any dispute relating to the quality or acceptability of performance and/or compensation due the CONTRACTOR shall be decided by the COUNTY'S Contract Representative or designee. All rulings, orders, instructions, and decisions of the COUNTY'S Contract Representative shall be final and conclusive, subject to CONTRACTOR'S right to seek judicial relief.

20. ASSIGNMENT, DELEGATION, AND SUBCONTRACTING

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

21. VERIFICATION OF SUBCONTRACTOR RESPONSIBILITY CRITERIA

A public works contractor must verify responsibility criteria for each first tier subcontractor, and a subcontractor of any tier that hires other subcontractors must verify responsibility criteria for each of its subcontractors. Verification shall include that each subcontractor, at the time of subcontract execution, meets the responsibility criteria listed in RCW 39.04.350(1) and possesses a contractor license, if required by chapter 70.87 RCW. This verification requirement, as well as the responsibility criteria, must be included in every public works contract and subcontract of every tier.

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 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.

24. 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.

25. LITIGATION HOLD NOTICE

In the event the COUNTY learns of circumstances leading to an increased likelihood of litigation regarding any matter where the records kept by CONTRACTOR 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.

26. PUBLIC RECORDS ACT

The CONTRACTOR hereby acknowledges that the COUNTY is a governmental entity and as such is subject to the requirements of the Public Records Act, Chapter 42.56 RCW. Accordingly, CONTRACTOR understands that to the extent a proper request is made the COUNTY may be required by virtue of that

Act to disclose any records related to this Contract actually in its possession or in CONTRACTOR'S possession. This may include records that CONTRACTOR regards as confidential or proprietary. To the extent that CONTRACTOR provides any records to the COUNTY that it regards as confidential or proprietary, CONTRACTOR agrees to conspicuously mark the records as such. The CONTRACTOR also hereby waives any and all claims or causes of action for any injury it may suffer by virtue of COUNTY'S release of records covered under the Public Records Act. The COUNTY agrees to take all reasonable steps to notify CONTRACTOR in a timely fashion of any request made under the Public Records Act 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.

27. 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.

28. CONFIDENTIALITY

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

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

Date:_____

BENTON COUNTY

_____
Chairman
Benton County Commissioners

Approved as to Form:

_____
Eric Andrews, Civil DPA

Date: 11 Dec21

HIS DIME LLC dba FASTSIGNS 280501

Brad Sanders
Signature

Owner
Title

Brad Sanders
PRINTED NAME

BID FORM

Supplying and Installing Window Film
Benton County Administration Building

Company Name His Dime LLC dba Fastsigns 280501

ACKNOWLEDGEMENT OF ADDENDA:
The undersigned Bidder acknowledges receipt of and use of the following Addenda in the preparation of this Bid:

Addendum No. 1, dated 17 NOV 21 Addendum No. 2, dated _____

BID AMOUNT:

LUMP SUM price **per window** (23" x 35") (excluding Washington State Sales Tax $ 94.32

LUMP SUM price **per window** (23" x 35") (excluding Washington State Sales Tax), in words

Ninety four dollars and thirty two cents

GENERAL ACKNOWLEDGEMENT:
The undersigned hereby certifies that they have examined the location of the work outlined in the request for proposal, and has read and thoroughly understands the plans, specifications and contract governing the work embraced in this project, and the method by which payment will be made for said work, and hereby proposes to undertake and complete the work embraced in this project in accordance with the said plans, specifications and contract, and the above lump sum price.

BID BOND:
The undersigned hereby certifies that a proposal guaranty in an amount of five percent (5%) of the total bid, and in one of the forms as indicated below, is attached hereby:

Cashier's Check	X	In the Amount of $179.21
Certified Check	_____	($_____) Payable to the County Treasurer of Benton County, Washington.
Bid Bond	_____	In the amount of 5% of the Bid.

CONTRACTOR'S LICENSE:
The undersigned states that it is a duly licensed contractor, for the type of work proposed, in the State of Washington, and that all fees, permits, etc., pursuant to submitting this bid have been paid in full.

PUBLIC WORKS TRAINING:
The undersigned hereby certifies that the contractor has received L & I training, per RCW 39.04.350, or has completed three or more public works projects and has had a valid business license in Washington for three or more years and therefore are exempt from training.

ASSURANCE OF NON-DISCRIMINATION
The undersigned hereby agrees that he shall comply with Benton County's Non-Discrimination Policy and

Plan, which is consistent with Titles VI and VII of the 1964 Civil Rights Act as amended in 1972; Executive Order 11246 as amended by Executive Order 11375; Sections 503 and 504 of the Rehabilitation Act of 1975 and the Age Discrimination in Employment Act of 1967; the 1974 Vietnam Era Veteran Readjustment Assistance Act; and the Washington State Laws Against Discrimination, Chapter 49.60 RCW. The policy reads as follows:

It is the policy of Benton County that no person shall be subjected to discrimination in the County or by its subcontractors because of race, color, national origin, sex, age, religion, creed, marital status, disabled or Vietnam era veteran status, or the presence of any physical, mental or sensory handicap.

NON-COLLUSION DECLARATION
I hereby declare, under penalty of perjury under the laws of the United States that the following statement is true and correct:

That the undersigned person(s), firm, association or corporation has (have) not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the project for which this proposal is submitted.

CERTIFICATION OF COMPLIANCE WITH WAGE PAYMENT STATUTES
The bidder hereby certifies that, within the three-year period immediately preceding the bid solicitation date 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 judgement entered by a court of limited or general jurisdiction.

SUBMISSION OF BID

Respectfully submitted this 18th day of November 2021.

COMPANY NAME: His Dime LLC dba Fastsigns 280501

AUTHORIZED SIGNATURE: Brad Sanders

TYPE OR PRINT NAME: Brad Sanders

TITLE: Owner

STREET ADDRESS: 1409 N. Pittsburgh St. STE A

CITY, STATE, ZIP: Kennewick, WA 99336

TELEPHONE NO.: (509) 735-0708

EMAIL: brad.sanders@fastsigns.com

CONTRACTOR'S LICENSE NO.: FASTS2*802NG

UBI NO.: 604521694

WASHINGTON STATE EMPLOYMENT SECURITY NO.: 000-842268-00-0

EXHIBIT B

State of Washington
Department of Labor & Industries
Prevailing Wage Section
PO Box 44540, Olympia, WA 98504-4540
360-902-5335

Public contract awarding agencies are required by RCW 39.12.030 to include a provision stating the required prevailing rate(s) of wage in the bid and contract specifications for public works. Historically, this has required inclusion of a list of such rates in the specifications. Labor & Industries looked at how to allow an additional option within the law and rule.

Bid specifications may provide the required prevailing wage rate information in this alternate format:

The Department of Labor & Industries prevailing wage rate website is http://wsdot.wa.gov/Design/ProjectDev/WageRates/default.htm

The publication date to use is November 18, 2021.

The public works project is located in Benton County.

A copy of the prevailing wage rates, the benefit code key and the supplement are available for viewing at the Public Works Department, 620 Market Street, Prosser, WA Monday through Friday, between 8:00 a.m. & noon and between 1:00 p.m. & 5:00 p.m. except holidays.

The Public Works Department will mail a hard copy of the wage rates upon request. We can be reached at (509)786-5611 or (509)736-3084 or by email at publicworks@co.benton.wa.us

Avery *Dennison*® SC 900 Super Cast Series

Specialty Window Effect Films – Permanent - Kraft

(formerly: A5000 Series – Kraft)
Revision: 5 Dated: 11/26/2013

Uses:

Avery *Dennison* SC 900 Specialty Effect films are specialty cast vinyl film that provides the look of real etched glass at a fraction of the cost by eliminating the need for sandblasting.



Face: 2.1 mil (53 microns)high gloss cast film

Adhesive: Clear Permanent Acrylic

Liner: 78# Bleached Kraft

Durability: Up to 5years

Application Surfaces: Flat, Flat with Rivets

Features:

- Outstanding durability and outdoor performance
- Dimensionally stable liner for easy converting
- Excellent conversion on CAD plotters
- Easy cutting & weeding
- Excellent dimensional stability
- Excellent UV, temperature, humidity, and salt-spray resistance
- Special etched window effects

Conversion:

- Thermal Die-Cutting
- Flat Bed Sign-Cut
- Drum Roller Sign-Cut
- Steel Rule Die-Cutting
- Cold Overlaminating

Common Applications:

- Marine
- Architectural Signage
- Directional Signage
- Privacy Windows
- Etched glass effects

Product Data Sheet

AVERY DENNISON | Graphics and Reflective Solutions

averygraphics.com
AnswerLine: 800-231-4654

Avery *Dennison*® SC 900 Super Cast Series

Specialty Window Effect Films – Permanent - Kraft

(formerly: A5000 Series – Kraft)
Revision: 5 Dated: 11/26/2013

Physical Characteristics:

Property		Value
Caliper, face		2.1 mil (53 53µm)
Caliper, adhesive		1.0mil (25 µm)
Dimensional stability		<0.015"(0.4mm)
Tensile at Yield		4.0 –9.0 lb/in (0.7–1.6 kg/cm)
Elongation		100% min.
Gloss		15-30
Adhesion:		
15 min.		2.5 lbs/in (438 N/m)
24 hr.		3.6 lbs/in (630 N/m)
Flammability		Self Extinguishing
Shelf-Life		*2 years from date on label (up to 2 years unprocessed, OR process within one year and apply within 1 year of processing)*
Durability	Vertical Exposure	*Up to5 years*
Light Transmission Values	900-861 Etchmark	>70%
	900-862 Frosted Sparkle	~65%
Min. Application Temperature		40° F (4° C)
Service Temperature		-50° - 180°F (-45° - 82° C) (Reasonable range of temperatures which would be expected under normal environmental conditions).
Chemical resistance		Resistant to most mild acids, alkalis, and salt solutions.

Important:
Information on physical and chemical characteristics are based on tests believed to be reliable. The values are intended only as a source of information. This information is given without guaranty and do not constitute a warranty. The purchaser should independently determine, prior to use, the suitability of any material for their specific purpose. (Data represents average values where applicable, and is not intended for specification purposes)

Warranty:
All statements, technical information and recommendations about Avery Dennison products are based upon tests believed to be reliable but do not constitute a guarantee or warranty. All Avery Dennison products are sold with the understanding that Purchaser has independently determined the suitability of such products for its purposes. Avery Dennison products are warranted to be free from defects in material and workmanship for either two years (or the period stated on the specific product information literature in effect at time of delivery, if longer) from date of shipment if said product is properly stored and applied. It is expressly agreed and understood that Avery Dennison's sole obligation and Purchaser's exclusive remedy under this warranty, under any other warranty, express or implied, or otherwise, shall be limited to repair or replacement of defective product without charge at Avery Dennison's plant or at the location of product (at Avery Dennison's election), or in the event replacement or repairs is not commercially practical, to Avery Dennison's issuing Purchaser a credit reasonable in light of the defect in the product.

Avery Dennison's liability for defective products shall not exceed the purchase price paid therefore by Purchaser and in no event shall Avery Dennison be responsible for any incidental or consequential damages whether foreseeable or not, caused by defects in such product, whether such damage occurs or is discovered before or after replacement or credit, and whether or not such damage is caused by Avery Dennison's negligence.

NO EXPRESS WARRANTIES AND NO IMPLIED WARRANTIES, WHETHER OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR USE, OR OTHERWISE (EXCEPT AS TO TITLE), OTHER THAN THOSE EXPRESSLY SET FORTH ABOVE WHICH ARE MADE EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, SHALL APPLY TO PRODUCTS SOLD BY AVERY DENNISON. AVERY DENNISON SPECIFICALLY DISCLAIMS AND EXCLUDES ALL OTHER SUCH WARRANTIES. NO WAIVER, ALTERATION, ADDITION OR MODIFICATION OF THE FOREGOING CONDITIONS SHALL BE VALID UNLESS MADE IN WRITING AND MANUALLY SIGNED BY AN OFFICER OF AVERY DENNISON.

Avery *Dennison*® SC 900 Super Cast Series

Specialty Window Effect Films – Permanent - Kraft
(formerly: A5000 Series – Kraft)
Revision: 5 Dated: 11/26/2013

Colors: Cross Reference

SPECIALTY SERIES - 78#	AVERY *Dennison* 100 SPECIALTY FILMS PERMANENT KRAFT	SPECIALTY SERIES - 78#	AVERY *Dennison* 100 SPECIALTY FILMS PERMANENT KRAFT
A5861-S Etchmark	SC 900-861-W Etchmark	A5862-S Frosted Sparkle	SC 900-862-W Frosted Sparkle

COMMENTS: When paneling material, keep the machine direction of the panels in the same direction to maintain appearance continuity.
NOTE: Some color fade may occur in severe environmental areas. Reference IB 1.30 for durability guidelines.

Dimensional stability:

Is measured on a 6" x 6" (150 x 150 mm)aluminum panel to which a specimen has been applied; 72 hours after application the panel is scored in a cross pattern, exposed for 48 hours to 150°F (65°C), after which the shrinkage is measured.

Adhesion:

(FTM-1, FINAT) is measured by peeling a specimen at a 180° angle from a stainless steel panel, 24 hours after the specimen has been applied under standardized conditions. Initial adhesion is measured 15 minutes after application of the specimen.

Flammability:

A specimen applied to aluminum is subjected to the flame of a gas burner for 15 seconds. The film should stop burning within 15 seconds after removal from the flame.

Temperature range:

A specimen applied to stainless steel is exposed at high and low temperatures and brought back to room temperature. 1 hour after exposure the specimen is examined for any deterioration. Note: Prolonged exposure to high and low temperatures in the presence of chemicals such as solvents, acids, dyes, etc. may eventually cause deterioration.

Chemical Resistance:

All chemical tests are conducted with test panels to which a specimen has been applied. 72 hours after application the panels are immersed in the test fluid for the given test period. 1 hour after removing the panel from the fluid, the specimen is examined for any deterioration.

Revisions are italicized

Avery Dennison is a registered trademark of Avery Dennison Corp.

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	December 21, 2021
Subject:	Executing the Second Amendment to the contract with Wave Design Group for the Design of the Front Entrance Renovation Project
Presenter:	
Prepared By:	P. Schut
Reviewed By:	R. Blain

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

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

Summary / Background Information

Per Resolution No. 2021-297, Benton County entered into a Professional Service Contract, beginning April 6, 2021, and expiring December 31, 2021, with Wave Design Group to provide architectural & engineering services for the redesign of the front entrance of the Benton County Justice Center.

Per Resolution No. 2021-470, Benton County agreed to the first contract amendment with Wave Design Group to expand the design scope to include a raised semi-secured security booth on the wall opposite the main entrance.

The second contact amendment is needed to extend the contract termination date to September 30, 2022.

Our departmental Deputy Prosecuting Attorney has reviewed and approved the amendment, and it has been signed by Wave Design Group.

Fiscal Impact

Amount: No additional dollars added

Fund: N/A

Recommendation

The Director of Operations and Capital Programs recommends the Board approve the Second Amendment and authorize the Chairman to sign said amendment.

Suggested Motion

Approve as part of the consent agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF THE SECOND AMENDMENT TO THE PROFESSIONAL SERVICES CONTRACT WITH WAVE DESIGN GROUP, LLC FOR THE REDESIGN OF THE JUSTICE CENTER FRONT ENTRANCE

WHEREAS, per Resolution 2021-297, the Board of Benton County Commissioners entered into a contract with Wave Design Group, LLC to provide architectural and engineering services for the redesign of the front entrance of the Benton County Justice Center; and

WHEREAS, Per Resolution No. 2021-470, the Board of Benton County Commissioners agreed to the First Contract Amendment with Wave Design Group to expand the design scope to include raised semi-secured security booth on the wall opposite of the main entrance; and

WHEREAS, the attached amendment extends the contract termination date from December 31, 2021 to September 30, 2022; **NOW, THEREFORE,**

BE IT RESOLVED, the Board of Benton County Commissioners hereby concurs with the attached second amendment to the professional services contract with Wave Design Group, LLC, to extend the contract termination date to September 30, 2022; and

BE IT FURTHER RESOLVED, the Board of Benton County Commissioners hereby authorizes the Chairman of the Board to sign the second amendment to the professional services contract attached hereto.

Dated this . . . . . day of . . . . . , 2021.

Chairman of the Board

Chairman Pro-Tem

Member

Constituting the Board of County Commissioners of Benton County, Washington

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

Orig.: File – Purchasing Department
cc: Auditors; S. Araiza; Procurement

P. Schut

SECOND CONTRACT AMENDMENT
PROFESSIONAL SERVICES CONTRACT

THIS SECOND CONTRACT AMENDMENT (hereinafter "First Amendment") is made and entered into by and between **BENTON COUNTY**, a political subdivision with its principal offices at 620 Market Street, Prosser, WA 99350 (hereinafter "COUNTY"), and **WAVE DESIGN GROUP, LLC**, a corporation organized under the laws of the State of Washington, with its principal offices at 418 N Kellogg Street, Ste B, Kennewick, WA 99336 (hereinafter "CONTRACTOR").

WHEREAS, per Benton County Resolution No. 2021-297, the parties entered into a Professional Services Contract (hereinafter the "CONTRACT"), whereby CONTRACTOR agreed to redesign the front entrance of the Justice Center; and

WHEREAS, per Benton County Resolution No. 2021-470, the parties agreed to the First Contract Amendment, whereby CONTRACTOR & COUNTY agreed to expand design scope to include raised semi-secured security booth on the wall opposite of main entrance; and

WHEREAS, this Second Amendment is to extend the contract termination date from December 31, 2021 to September 30, 2022; and

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

2. DURATION OF CONTRACT

The term of this Contract shall begin on the last date signed and shall expire on September 30, 2022. The CONTRACTOR shall complete all work by the time(s) specified herein, or if no such time is otherwise specified, no later than the expiration date.

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

FOR BENTON COUNTY

_____
Chairman Date

_____
Attest: Clerk of the Board

WAVE DESIGN GROUP, LLC

_____ 12/13/21
Signature Date

HARVEY PRICKETT
Name

PRESIDENT
Title

APPROVED AS TO FORM:

_____
Benton County Deputy Prosecuting Attorney, Civil

12/8/21
Date

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	December 21, 2021
Subject:	Professional Services Contract with On Scene Medical Services
Presenter:	
Prepared By:	Lisa Small
Reviewed By:	Ryan Lukson; Purchasing 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

Some County Departments are in need of a contract for "as needed" medical services for pre-hire physicals, DOT Drug & BAT testing, CDL/DOT physicals, etc.

The Benton County Risk Manager recommends entering into a contract with On Scene Medical Services for above said services for a contract commencing upon signature of both parties and expiring December 31, 2022.

Fiscal Impact

Expenditure shall be paid from the budget of each department that utilizes the attached contract in accordance with the rates outlined in Exhibit A.

Recommendation

Approve the attached Resolution and Professional Services Contract between Benton County and On Scene Medical Services for "as needed" medical service for departments countywide.

Suggested Motion

Approve as part of the Consent Agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF A PROFESSIONAL SERVICE CONTRACT BETWEEN BENTON COUNTY AND ON SCENE MEDICAL SERVICES FOR ALL COUNTY DEPARTMENTS

WHEREAS, per Resolution 2021-233, Section 5.3.2 General Services "the County need not advertise or follow a formal competitive bidding procedure for service contracts, but rather the county may instead evaluate and utilize the procedures it deems best under the individual circumstances in order to obtain services of the highest quality at the lowest cost; and

WHEREAS, there are departments within Benton County that require pre-employment physicals, drug and alcohol testing, CDL/DOT physicals, etc.; and

WHEREAS, On Scene Medical Services is a local medical clinic who can provide "as needed" medical services that are required for different departments throughout Benton County; and

WHEREAS, the Benton County Risk Manager recommends entering into a Professional Service Contract with On Scene Medical Services for "as needed" medical services for the services performed under the attached Contract and paid in accordance with the rates set forth in Exhibit A – "Services and Fee Schedule"; **NOW, THEREFORE**

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington, concurs with the recommendation and hereby awards the Professional Services Contract to On Scene Medical Services for "as needed" medical services as further outlined in the attached Professional Services Contract; and

BE IT FURTHER RESOLVED, the term of the attached contract shall commence upon signature of both parties and shall expire on December 31, 2022; and

BE IT FURTHER RESOLVED, the Board hereby authorizes payment to On Scene Medical Services for any services provided prior to execution of the attached Contract; and

BE IT FURTHER RESOLVED, the Board hereby authorizes the Chairman to sign the attached Professional Service Contract between Benton County and On Scene Medical Services.

Dated this _____day of_____, 2021

_____
Chairman of the Board

_____
Chairman Pro-Tem

Attest: _____
Clerk of the Board

_____
Member

Orig: Risk Management
cc: Auditor, S. Godinez, Procurement

Prepared by: L. Small

BENTON COUNTY
PROFESSIONAL SERVICES CONTRACT

TERMS AND CONDITIONS

THIS CONTRACT is made and entered into by and between **BENTON COUNTY**, a political subdivision with its principal offices at 620 Market Street, Prosser, WA 99350 (hereinafter "COUNTY"), and **ON SCENE MEDICAL SERVICES**, a corporation organized under the laws of the State of Washington with its principal offices at 7511 West Arrowhead Ave. Suite G, 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. Terms and Conditions - this document.
b. Exhibit A - Services and Fee Schedule

2. DURATION OF CONTRACT

The term of this Contract shall begin upon signature of both parties and shall expire December 31, 2022. The CONTRACTOR shall complete all work by the time(s) specified herein, or if no such time is otherwise specified, no later than the expiration date.

3. SERVICES PROVIDED

a. The CONTRACTOR shall provide **"as needed"** medical services as set forth, and in accordance with, Exhibit A.

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

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

d. The CONTRACTOR shall complete its work in a timely manner and

in accordance with the schedule agreed by the parties.

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

4. CONTRACT REPRESENTATIVES

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

a. For CONTRACTOR:

Name:	Shelby Mohr
Address:	7511 W Arrowhead Ave, Suite G Kennewick, WA 99336
Phone:	(509) 420-5225
Email:	shelby@onscenemed.com

b. For COUNTY:

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

5. COMPENSATION

a. For the services performed under this Contract, the CONTRACTOR shall be paid in accordance with the services and rates set forth in Exhibit A, "Services and Fee Schedule", which is attached hereto and incorporated herein by reference.

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

c. The CONTRACTOR may, in accordance with Exhibit A, submit invoices to the COUNTY not more than once per month during the progress of the work for partial payment of the work completed to date. Invoices shall cover the time CONTRACTOR

performed work for the COUNTY during the billing period. The COUNTY shall pay the CONTRACTOR for services rendered in the month following the actual delivery of work and will remit payment within thirty (30) days from the date of receipt of the invoice.

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

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. HOLD HARMLESS AND INDEMNIFICATION

a. The CONTRACTOR shall hold harmless, indemnify, and defend the

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

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

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

8. INSURANCE

The CONTRACTOR shall obtain and maintain continuously the

following insurance:

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

The coverage shall apply to liability for a professional error, act, or omission arising out of the scope of the CONTRACTOR'S services defined in this Contract. Coverage shall not exclude hazards related to the work rendered as part of the Contract or within the scope of the CONTRACTOR'S services as defined by this Contract. If the policy is claims made, the retroactive date shall be prior to or coincident with the effective date of this Contract. CONTRACTOR is required to maintain claims made professional liability insurance for a minimum of 36 months after the effective date of termination or completion of this Contract. If coverage is canceled or non-renewed and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the CONTRACTOR must purchase "extended reporting" coverage for a minimum of 36 months after the completion of work. The CONTRACTOR shall annually provide the COUNTY with proof of all such insurance.

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

If CONTRACTOR, subcontractor, or sub-subcontractor fails to comply with all State of Washington workers compensation statutes and regulations and COUNTY incurs fines or is

required by law to provide benefits to or obtain coverage for such employees, CONTRACTOR shall indemnify the COUNTY. Indemnity shall include all fines, payment of benefits to CONTRACTOR or subcontractor employees, or their heirs or legal representatives, and the cost of effecting coverage on behalf of such employees. Any amount owed to COUNTY by CONTRACTOR pursuant to the indemnity agreement may be deducted from any payments owed by COUNTY to CONTRACTOR for performance of this Contract.

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

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

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

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

CONTRACTOR shall also provide Stop Gap Employer's Liability

Insurance coverage with minimum limits as follows:

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

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

e. **Other Insurance Provisions:**

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

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

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

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

5. The CONTRACTOR shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All

coverage for subcontractors shall be subject to all of the requirements stated herein.

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

7. The CONTRACTOR shall maintain all required policies in force from the time services commence until services are completed. Certificates, policies, and endorsements expiring before completion of services shall be promptly replaced. CONTRACTOR is required to maintain claims made professional liability insurance for a minimum of 36 months after the effective date of termination or completion of this Contract. All liability insurance required under this Contract, except for professional liability under Section 8(a), shall be written on an Occurrence Policy form.

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

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

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

All insurance required under this Contract shall be issued by companies authorized to do business under the laws of the

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

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

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

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

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

9. TERMINATION

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

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

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

10. ASSIGNMENT, DELEGATION, AND SUBCONTRACTING

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

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

11. NON-WAIVER OF RIGHTS

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

action or inaction shall be construed to be such a waiver.

12. INDEPENDENT CONTRACTOR

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

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

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

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

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

13. COMPLIANCE WITH LAWS

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

14. INSPECTION OF BOOKS AND RECORDS

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

15. NONDISCRIMINATION

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

16. OWNERSHIP OF MATERIALS/WORKS PRODUCED

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

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

17. PATENT/COPYRIGHT INFRINGEMENT

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

18. DISPUTES

Disputes between the CONTRACTOR and the COUNTY, arising under and by virtue of this Contract, shall be brought to the attention of the COUNTY at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Any dispute relating to the quality or acceptability of performance

and/or compensation due the CONTRACTOR shall be decided by the COUNTY'S Contract Representative or designee. All rulings, orders, instructions, and decisions of the COUNTY'S Contract Representative shall be final and conclusive, subject to CONTRACTOR'S right to seek judicial relief.

19. CONFIDENTIALITY

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

20. CHOICE OF LAW, JURISDICTION, AND VENUE

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

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

21. SUCCESSORS AND ASSIGNS

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

22. SEVERABILITY

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

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

23. ENTIRE AGREEMENT

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

24. NOTICES

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

25. SURVIVABILITY

All Contract terms, which by their context are clearly intended to survive the termination and/or expiration of this Contract, shall so survive. These terms include, but are not limited to: indemnification provisions (Sections 7 and 17); extended reporting period requirements for professional liability insurance (Section 8(a)); inspection and keeping of records and books (Section 14); litigation hold notice (Section 26); Public Records Act (Section 27); and confidentiality (Section 19).

26. LITIGATION HOLD NOTICE

In the event the COUNTY learns of circumstances leading to an increased likelihood of litigation regarding any matter where the records kept by CONTRACTOR pursuant to Section 14 of this Contract may be of evidentiary value, the COUNTY may issue written notice to CONTRACTOR of such circumstances and direct the CONTRACTOR to "hold" such records. In the event that CONTRACTOR receives such written notice, CONTRACTOR shall abide by all directions therein

whether or not such written notice is received at a time when a Contract between CONTRACTOR and the COUNTY is in force. Such directions will include, but will not be limited to, instructions to suspend the six (6) year purge schedule required by Section 14 of this Contract.

27. PUBLIC RECORDS ACT

The CONTRACTOR hereby acknowledges that the COUNTY is a governmental entity and as such is subject to the requirements of the Public Records Act, Chapter 42.56 RCW. Accordingly, CONTRACTOR understands that to the extent a proper request is made, the COUNTY may be required by virtue of that Act to disclose any records related to this Contract actually in its possession or in CONTRACTOR'S possession. This may include records that CONTRACTOR regards as confidential or proprietary. To the extent that CONTRACTOR provides any records to the COUNTY that it regards as confidential or proprietary, CONTRACTOR agrees to conspicuously mark the records as such. The CONTRACTOR also hereby waives any and all claims or causes of action for any injury it may suffer by virtue of COUNTY'S release of records covered under the Public Records Act. The COUNTY agrees to take all reasonable steps to notify CONTRACTOR in a timely fashion of any request made under the Public Records Act that will require disclosure of any records marked by CONTRACTOR as confidential or proprietary, so that CONTRACTOR may seek a judicial order of protection if necessary.

- This section left blank intentionally -

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

Dated: _____

BENTON COUNTY, WASHINGTON

Shon Small, Chairman

Benton County Commissioner

Dated: 12/10/2021

ON SCENE MEDICAL SERVICES

Signature

Physician Assistant/Founder/CEO
Title:

Andreas Bitterlich, MS, PA-C
Print Name

Approved as to Form:

Ryan Lukson

Ryan Lukson, Civil DPA

Service and Fee Schedule

Service	Rate	
Physical	$ 90.00	
Kraus Weber Back Evaluation	$ 25.00	
-Lift Test	Included	
Hearing/Audiogram Testing	$ 40.00	
Blood Draw		
-Blood Type	$ 30.00	
-CBC with Differentials	$ 35.00	
-CMP with Lipids	$ 105.00	
Simple UA	$ 15.00	
Vision	$ 35.00	
Drug Screen	$ 40.00	10 panel non-DOT drug screen under the house account.
Venipuncture fee	$ 17.00	
Total for pre-employment physical:	$ 432.00	The above list is included in the physical for the pre-employment candidates for Corrections and Sheriff's Office.

Additional Services:	
DOT Drug & BAT Alcohol Testing:	$40 with house account.
-Pre-Employment	
-Random	
-Post-Accident	
CDL/DOT Physicals for Medical Certificates:	$ 110.00
L&I Claims:	Self-insured Workers Comp Insurance.
Respirator Certification Program:	
-Quantitative Mask fits	$ 35.00
-Respiratory Questionnaire	$ 30.00
Vaccinations:	
-Hep B Vaccine	$50 + $10 injection/sharps disposal
-Flu Vaccine	Billed through employee's insurance
-COVID-19 Vaccine	COVID Vaccines will be billed through insurance with no out of pocket cost. Government will be billed for those without insurance. If an employee comes for two vaccines, there is only (1) one $10 injection/sharps disposal fee.

After Hours Line - Contractor is able to provide an afterhour line that is typically answered 24 hours a day. However, cannot 100% guarantee the afterhours service will be available if there is an issue with full staffing.

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	December 21, 2021
Subject:	Execution of A & E Professional Services Cost Plus Fixed Fee Consultant Agreement for On-Call Surveying Services with HLA Engineering and Land Surveying, Inc.
Presenter:	
Prepared By:	Shannon Christen
Reviewed By:	Doug D'Hondt, 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:**	
☒ Consent Agenda	☐ Discussion Only (1st)	☐ Pass Motion
☐ Public Hearing	☐ Discussion Only (2nd)	☒ Pass Resolution
☐ Scheduled Business	☐ Decision/Direction	☐ Pass Ordinance
	☐ Sign Letter/Document	☒ Execute Contract

Summary / Background Information

The Public Works Department anticipates a need for surveying services and wishes to obtain the on-call services of a consultant. A Request for Qualifications was solicited with four firms responding. After staff reviewed the qualifications HLA Engineering and Land Surveying, Inc. from Yakima, WA was selected. A one-year contract, expiring November 30, 2022, has been negotiated by the County Engineer; reviewed and approved by our deputy prosecuting attorney; and signed by HLA.

Per RCW 36.32.235, on-call contracts can be executed for a contract term not to exceed one year, with the County having the option of extending the contract for one additional year without advertising.

Fiscal Impact

Amount: Not to exceed $100,000.00

Fund: Road Fund (0101-101) The contract is between Benton County and HLA so other departments could use the services and would be paid for out of their respective budgets.

Recommendation

The County Engineer recommends that the Professional Services Contract be approved and signed by the Board.

Suggested Motion

Approve as part of the Consent Agenda.

RESOLUTION

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY WASHINGTON:

IN THE MATTER OF EXECUTING A CONSULTANT AGREEMENT FOR ON-CALL SURVEYING SERVICES WITH HLA ENGINEERING AND LAND SURVEYING, INC. OF YAKIMA, WASHINGTON

WHEREAS, the Public Works Department anticipates a need for additional surveying work and wishes to obtain the on-call services of a surveying firm; and

WHEREAS, the Department advertised the need for services, received statements of qualifications from four firms, and after reviewing the qualifications submitted, has selected HLA Engineering and Land Surveying, Inc. as being able to best provide the services needed; and

WHEREAS, the Department has negotiated with HLA Engineering and Land Surveying, Inc. of Yakima, Washington to provide on-call surveying services; and

WHEREAS, a Local Agency A & E Professional Services Cost Plus Fixed Fee Consultant Agreement has been prepared and reviewed as to form by the Benton County Deputy Prosecuting Attorney; and

WHEREAS, the County Engineer recommends that this Consultant Agreement be approved; **NOW THEREFORE,**

BE IT RESOLVED that the Local Agency A & E Professional Services Cost Plus Fixed Fee Consultant Agreement with HLA Engineering and Land Surveying, Inc. of Yakima, Washington to provide on-call surveying services is hereby approved in an amount not to exceed $100,000.00, including applicable taxes; and the Chairman of the Board is hereby authorized to sign said Agreement on behalf of Benton County; and

BE IT FURTHER RESOLVED the Agreement will expire November 30, 2022 with the County reserving the right to renew the Agreement for an additional year without advertising.

Dated this 21st day of December 2021.

_____
Chairman

_____
Chairman Pro-Tem

_____
Member

Attest:_____
Clerk of the Board

Constituting the Board of County Commissioners of Benton County, Washington

Orig.: Purchasing Dept. S. Christen
c: Auditor, Procurement

Public Works Department

PO Box 1001
Prosser, WA 99350
PHONE (509) 786-5611
www.co.benton.wa.us

APPROVED AS TO FORM:

The Local Agency A & E Professional Services Cost Plus Fixed Fee Consultant Agreement Number BC2021SURV with HLA Engineering and Land Surveying, Inc. for 2021-2022 On Call Land Surveying Professional Services has been reviewed and approved as to form:

Reid Hay, Deputy Prosecuting Attorney

10/21/21

Date

Local Agency A&E Professional Services
Cost Plus Fixed Fee Consultant Agreement

Agreement Number: BC2021SURV

Firm/Organization Legal Name (do not use dba's): HLA Engineering and Land Surveying, Inc.	
Address 2803 River Road, Yakima, WA 98902	Federal Aid Number
UBI Number 600-165-054	Federal TIN or SSN Number 91-127188
Execution Date	Completion Date November 30, 2022
1099 Form Required ☑ Yes ☐ No	Federal Participation ☐ Yes ☑ No
Project Title 2021-2022 On-Call Land Surveying	
Description of Work Provide Land Surveying services for a variety of tasks and projects in order to supplement Benton County staff. Each task will include a specific scope of work and will be negotiated through an individual task assignment and appended to this contract.	
☐ Yes ☑ No DBE Participation ☐ Yes ☑ No MBE Participation ☐ Yes ☑ No WBE Participation ☐ Yes ☑ No SBE Participation	Total Amount Authorized: $100,000.00 Management Reserve Fund: $0 Maximum Amount Payable: $100,000.00

Index of Exhibits

Exhibit A Scope of Work
Exhibit B DBE Participation
Exhibit C Preparation and Delivery of Electronic Engineering and Other Data
Exhibit D Prime Consultant Cost Computations
Exhibit E Sub-consultant Cost Computations
Exhibit F Title VI Assurances
Exhibit G Certification Documents
~~Exhibit H Liability Insurance Increase~~
Exhibit I Alleged Consultant Design Error Procedures
Exhibit J Consultant Claim Procedures

THIS AGREEMENT, made and entered into as shown in the "Execution Date" box on page one (1) of this AGREEMENT, between the Benton County
hereinafter called the "AGENCY," and the "Firm / Organization Name" referenced on page one (1) of this AGREEMENT, hereinafter called the "CONSULTANT."

WHEREAS, the AGENCY desires to accomplish the work referenced in "Description of Work" on page one (1) of this AGREEMENT and hereafter called the "SERVICES;" and does not have sufficient staff to meet the required commitment and therefore deems it advisable and desirable to engage the assistance of a CONSULTANT to provide the necessary SERVICES; and

WHEREAS, the CONSULTANT represents that they comply with the Washington State Statutes relating to professional registration, if applicable, and has signified a willingness to furnish consulting services to the AGENCY.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performance contained herein, or attached and incorporated and made a part hereof, the parties hereto agree as follows:

I. General Description of Work

The work under this AGREEMENT shall consist of the above-described SERVICES as herein defined, and necessary to accomplish the completed work for this project. The CONSULTANT shall furnish all services, labor, and related equipment and, if applicable, sub-consultants and subcontractors necessary to conduct and complete the SERVICES as designated elsewhere in this AGREEMENT.

II. General Scope of Work

The Scope of Work and projected level of effort required for these SERVICES is described in Exhibit "A" attached hereto and by this reference made a part of this AGREEMENT. The General Scope of Work was developed utilizing performance based contracting methodologies.

III. General Requirements

All aspects of coordination of the work of this AGREEMENT with outside agencies, groups, or individuals shall receive advance approval by the AGENCY. Necessary contacts and meetings with agencies, groups, and/or individuals shall be coordinated through the AGENCY. The CONSULTANT shall attend coordination, progress, and presentation meetings with the AGENCY and/or such State, Federal, Community, City, or County officials, groups or individuals as may be requested by the AGENCY. The AGENCY will provide the CONSULTANT sufficient notice prior to meetings requiring CONSULTANT participation. The minimum required hours or days' notice shall be agreed to between the AGENCY and the CONSULTANT and shown in Exhibit "A."

The CONSULTANT shall prepare a monthly progress report, in a form approved by the AGENCY, which will outline in written and graphical form the various phases and the order of performance of the SERVICES in sufficient detail so that the progress of the SERVICES can easily be evaluated.

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations, and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

Participation for Disadvantaged Business Enterprises (DBE) or Small Business Enterprises (SBE), if required, per 49 CFR Part 26, shall be shown on the heading of this AGREEMENT. If DBE firms are utilized at the commencement of this AGREEMENT, the amounts authorized to each firm and their certification number will be shown on Exhibit "B" attached hereto and by this reference made part of this AGREEMENT. If the Prime CONSULTANT is a DBE certified firm they must comply with the Commercial Useful Function (CUF) regulation outlined in the AGENCY's "DBE Program Participation Plan" and perform a minimum of 30% of the total amount of this AGREEMENT. It is recommended, but not required, that non-DBE Prime CONSULTANTS perform a minimum of 30% of the total amount of this AGREEMENT.

In the absents of a mandatory DBE goal, a voluntary SBE goal amount of ten percent of the Consultant Agreement is established. The Consultant shall develop a SBE Participation Plan prior to commencing work. Although the goal is voluntary, the outreach efforts to provide SBE maximum practicable opportunities are not.

The CONSULTANT, on a monthly basis, shall enter the amounts paid to all firms (including Prime) involved with this AGREEMENT into the wsdot.diversitycompliance.com program. Payment information shall identify any DBE Participation.

All Reports, PS&E materials, and other data furnished to the CONSULTANT by the AGENCY shall be returned. All electronic files, prepared by the CONSULTANT, must meet the requirements as outlined in Exhibit "C – Preparation and Delivery of Electronic Engineering and other Data."

All designs, drawings, specifications, documents, and other work products, including all electronic files, prepared by the CONSULTANT prior to completion or termination of this AGREEMENT are instruments of service for these SERVICES, and are the property of the AGENCY. Reuse by the AGENCY or by others, acting through or on behalf of the AGENCY of any such instruments of service, not occurring as a part of this SERVICE, shall be without liability or legal exposure to the CONSULTANT.

Any and all notices or requests required under this AGREEMENT shall be made in writing and sent to the other party by (i) certified mail, return receipt requested, or (ii) by email or facsimile, to the address set forth below:

If to AGENCY:
Name: Douglas D'Hondt, County Engineer
Agency: Benton County
Address: P. O. Box 1001
City: Prosser State: WA Zip: 99350
Email: douglas.dhondt@co.benton.wa.us
Phone: (509)786-5611
Facsimile: (509)786-5627

If to CONSULTANT:
Name: Eric T. Herzog, Vice President
Agency: HLA Engineering and Land Surveying, Inc
Address: 2803 River Road
City: Yakima State: WA Zip: 98902
Email:
Phone: (509)966-7000
Facsimile: (509)965-3800

IV. Time for Beginning and Completion

The CONSULTANT shall not begin any work under the terms of this AGREEMENT until authorized in writing by the AGENCY. All work under this AGREEMENT shall be completed by the date shown in the heading of this AGREEMENT titled "Completion Date."

The established completion time shall not be extended because of any delays attributable to the CONSULTANT, but may be extended by the AGENCY in the event of a delay attributable to the AGENCY, or because of unavoidable delays caused by an act of GOD, governmental actions, or other conditions beyond the control of the CONSULTANT. A prior supplemental AGREEMENT issued by the AGENCY is required to extend the established completion time.

V. Payment Provisions

The CONSULTANT shall be paid by the AGENCY for completed SERVICES rendered under this AGREEMENT as provided hereinafter. Such payment shall be full compensation for SERVICES performed or SERVICES rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete SERVICES, specified in Section II, "Scope of Work". The CONSULTANT shall conform to all applicable portions of 48 CFR Part 31 (www.ecfr.gov). The estimate in support of the Cost Plus Fixed Fee amount is attached hereto as Exhibits "D" and "E" and by this reference made part of this AGREEMENT.

A. Actual Costs: Payment for all consulting services for this PROJECT shall be on the basis of the CONSULTANT'S actual cost plus a fixed fee. The actual cost shall include direct salary cost, indirect cost rate, and direct non-salary costs.

1. Direct (RAW) Labor Costs: The Direct (RAW) Labor Cost is the direct salary paid to principals, professional, technical, and clerical personnel for the time they are productively engaged in work necessary to fulfill the terms of this AGREEMENT. The CONSULTANT shall maintain support data to verify the direct salary costs billed to the AGENCY.

2. Indirect Cost Rate (ICR) Costs: ICR Costs are those costs, other than direct costs, which are included as such on the books of the CONSULTANT in the normal everyday keeping of its books. Progress payments shall be made at the ICR rates shown in attached Exhibits "D" and "E" of this AGREEMENT. Total ICR payment shall be based on Actual Costs. The AGENCY agrees to reimburse the CONSULTANT the actual ICR costs verified by audit, up to the Maximum Total Amount Payable, authorized under this AGREEMENT, when accumulated with all other Actual Costs.
   A summary of the CONSULTANT'S cost estimate and the ICR percentage is shown in Exhibits "D" and "E", attached hereto and by this reference made part of this AGREEMENT. The CONSULTANT (prime and all A&E sub-consultants) will submit to the AGENCY within six (6) months after the end of each firm's fiscal year, an ICR schedule in the format required by the AGENCY (cost category, dollar expenditures, etc.) for the purpose of adjusting the ICR rate for billings received and paid during the fiscal year represented by the ICR schedule. It shall also be used for the computation of progress payments during the following year and for retroactively adjusting the previous year's ICR cost to reflect the actual rate. The ICR schedule will be sent to Email: ConsultantRates@wsdot.wa.gov.
   Failure to supply this information by either the prime CONSULTANT or any of their A&E sub-consultants shall cause the AGENCY to withhold payment of the billed ICR costs until such time as the required information is received and an overhead rate for billing purposes is approved.
   The AGENCY's Project Manager and/or the Federal Government may perform an audit of the CONSULTANT'S books and records at any time during regular business hours to determine the actual ICR rate, if they so desire.

3. Direct Non-Salary Costs: Direct Non-Salary Costs will be reimbursed at the Actual Cost to the CONSULTANT. (excluding Meals, which are reimbursed at the per diem rates identified in this section) These charges may include, but are not limited to, the following items: travel, printing, long distance telephone, supplies, computer charges and fees of sub-consultants. Air or train travel will be reimbursed only to economy class levels unless otherwise approved by the AGENCY. The CONSULTANT shall comply with the rules and regulations regarding travel costs (excluding air, train, and rental car costs) in accordance with WSDOT's Accounting Manual M 13-82, Chapter 10 – Travel Rules and Procedures, and revisions thereto. Air, train, and rental car costs shall be reimbursed in accordance with 48 Code of Federal Regulations (CFR) Part 31.205-46 "Travel Costs." The billing for Direct Non-Salary Costs shall include an itemized listing of the charges directly identifiable with the PROJECT. The CONSULTANT shall maintain the original supporting documents in their office. Copies of the original supporting documents shall be supplied to the AGENCY upon request. All above charges must be necessary for the services provided under this AGREEMENT.

4. Fixed Fee: The Fixed Fee, which represents the CONSULTANT'S profit, is shown in attached Exhibits "D" and "E" of this AGREEMENT. This fee is based on the Scope of Work defined in this AGREEMENT and the estimated person-hours required to perform the stated Scope of Work. In the event the CONSULTANT enters into a supplemental AGREEMENT for additional work, the supplemental AGREEMENT may include provisions for the added costs and an appropriate additional fee. The Fixed Fee will be prorated and paid monthly in proportion to the percentage of work completed by the CONSULTANT and reported in the Monthly Progress Reports accompanying the billings. Any portion of the Fixed Fee earned but not previously paid in the progress payments will be covered in the final payment, subject to the provisions of Section IX entitled "Termination of Agreement."

5. Management Reserve Fund (MRF): The AGENCY may desire to establish MRF to provide the Agreement Administrator with the flexibility to authorize additional funds to the AGREEMENT for allowable unforeseen costs, or reimbursing the CONSULTANT for additional work beyond that already defined in this AGREEMENT. Such authorization(s) shall be in writing and shall not exceed the lesser of $100,000 or 10% of the Total Amount Authorized as shown in the heading of this AGREEMENT. The amount included for the MRF is shown in the heading of this AGREEMENT. This fund may not be replenished. Any changes requiring additional costs in excess of the MRF shall be made in accordance with Section XIII, "Extra Work."

6. Maximum Total Amount Payable: The Maximum Total Amount Payable by the AGENCY to the CONSULTANT under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT. The Maximum Total Amount Payable is comprised of the Total Amount Authorized, and the MRF. The Maximum Total Amount Payable does not include payment for Extra Work as stipulated in Section XIII, "Extra Work." No minimum amount payable is guaranteed under this AGREEMENT.

B. Monthly Progress Payments: The CONSULTANT may submit billings to the AGENCY for reimbursement of Actual Costs plus the ICR and calculated fee on a monthly basis during the progress of the work. Such billings shall be in a format approved by the AGENCY and accompanied by the monthly progress reports required under Section III, "General Requirements" of this AGREEMENT. The billings will be supported by an itemized listing for each item including Direct (RAW) Labor, Direct Non-Salary, and allowable ICR Costs to which will be added the prorated Fixed Fee. To provide a means of verifying the billed Direct (RAW) Labor costs for CONSULTANT employees, the AGENCY may conduct employee interviews. These interviews may consist of recording the names, titles, Direct (RAW) Labor rates, and present duties of those employees performing work on the PROJECT at the time of the interview.

C. Final Payment: Final Payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the AGENCY after the completion of the work under this AGREEMENT, contingent, if applicable, upon receipt of all PS&E, plans, maps, notes, reports, electronic data and other related documents which are required to be furnished under this AGREEMENT. Acceptance of such Final Payment by the CONSULTANT shall constitute a release of all claims for payment, which the CONSULTANT may have against the AGENCY unless such claims are specifically reserved in writing and transmitted to the AGENCY by the CONSULTANT prior to its acceptance. Said Final Payment shall not, however, be a bar to any claims that the AGENCY may have against the CONSULTANT or to any remedies the AGENCY may pursue with respect to such claims.

   The payment of any billing will not constitute agreement as to the appropriateness of any item and at the time of final audit; all required adjustments will be made and reflected in a final payment. In the event that such final audit reveals an overpayment to the CONSULTANT, the CONSULTANT will refund such overpayment to the AGENCY within thirty (30) calendar days of notice of the overpayment. Such refund shall not constitute a waiver by the CONSULTANT for any claims relating to the validity of a finding by the AGENCY of overpayment. The CONSULTANT has twenty (20) working days after receipt of the final POST AUDIT to begin the appeal process to the AGENCY for audit findings.

D. Inspection of Cost Records: The CONSULTANT and their sub-consultants shall keep available for inspection by representatives of the AGENCY and the United States, for a period of six (6) years after receipt of final payment, the cost records and accounts pertaining to this AGREEMENT and all items related to or bearing upon these records with the following exception: if any litigation, claim or audit arising out of, in connection with, or related to this AGREEMENT is initiated before the expiration of the six (6) year period, the cost records and accounts shall be retained until such litigation, claim, or audit involving the records is completed.

An interim or post audit may be performed on this AGREEMENT. The audit, if any, will be performed by the State Auditor, WSDOT's Internal Audit Office and/or at the request of the AGENCY's Project Manager.

VI. Sub-Contracting

The AGENCY permits subcontracts for those items of SERVICES as shown in Exhibit "A" attached hereto and by this reference made part of this AGREEMENT.

The CONSULTANT shall not subcontract for the performance of any SERVICE under this AGREEMENT without prior written permission of the AGENCY. No permission for subcontracting shall create, between the AGENCY and sub-consultant, any contract or any other relationship.

Compensation for this sub-consultant SERVICES shall be based on the cost factors shown on Exhibit "E" attached hereto and by this reference made part of this AGREEMENT.

The SERVICES of the sub-consultant shall not exceed its maximum amount payable identified in each sub-consultant cost estimate unless a prior written approval has been issued by the AGENCY.

All reimbursable direct labor, indirect cost rate, direct non-salary costs and fixed fee costs for the sub-consultant shall be negotiated and substantiated in accordance with section V "Payment Provisions" herein and shall be memorialized in a final written acknowledgement between the parties.

All subcontracts shall contain all applicable provisions of this AGREEMENT, and the CONSULTANT shall require each sub-consultant or subcontractor, of any tier, to abide by the terms and conditions of this AGREEMENT. With respect to sub-consultant payment, the CONSULTANT shall comply with all applicable sections of the STATE's Prompt Payment laws as set forth in RCW 39.04.250 and RCW 39.76.011.

The CONSULTANT, sub-recipient, or sub-consultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this AGREEMENT. The CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy as the recipient deems appropriate.

VII. Employment and Organizational Conflict of Interest

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warrant, the AGENCY shall have the right to annul this AGREEMENT without liability or, in its discretion, to deduct from this AGREEMENT price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Any and all employees of the CONSULTANT or other persons while engaged in the performance of any work or services required of the CONSULTANT under this AGREEMENT, shall be considered employees of the CONSULTANT only and not of the AGENCY, and any and all claims that may arise under any Workmen's

Compensation Act on behalf of said employees or other persons while so engaged, and any and all claims made by a third party as a consequence of any act or omission on the part of the CONSULTANT's employees or other persons while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the CONSULTANT.

The CONSULTANT shall not engage, on a full- or part-time basis, or other basis, during the period of this AGREEMENT, any professional or technical personnel who are, or have been, at any time during the period of this AGREEMENT, in the employ of the United States Department of Transportation or the AGENCY, except regularly retired employees, without written consent of the public employer of such person if he/she will be working on this AGREEMENT for the CONSULTANT.

VIII. Nondiscrimination

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees, sub-consultants, subcontractors and successors in interest, agrees to comply with the following laws and regulations:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. Chapter 21 Subchapter V § 2000d through 2000d-4a)
- Federal-aid Highway Act of 1973 (23 U.S.C. Chapter 3 § 324)
- Rehabilitation Act of 1973 (29 U.S.C. Chapter 16 Subchapter V § 794)
- Age Discrimination Act of 1975 (42 U.S.C. Chapter 76 § 6101 *et. seq.*)
- Civil Rights Restoration Act of 1987 (Public Law 100-259)
- American with Disabilities Act of 1990 (42 U.S.C. Chapter 126 § 12101 *et. seq.*)
- 23 CFR Part 200
- 49 CFR Part 21
- 49 CFR Part 26
- RCW 49.60.180

In relation to Title VI of the Civil Rights Act of 1964, the CONSULTANT is bound by the provisions of Exhibit "F" attached hereto and by this reference made part of this AGREEMENT, and shall include the attached Exhibit "F" in every sub-contract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

IX. Termination of Agreement

The right is reserved by the AGENCY to terminate this AGREEMENT at any time with or without cause upon ten (10) days written notice to the CONSULTANT.

In the event this AGREEMENT is terminated by the AGENCY, other than for default on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT for actual hours charged and any appropriate fixed fee percentage at the time of termination of this AGREEMENT, plus any direct non-salary costs incurred up to the time of termination of this AGREEMENT.

No payment shall be made for any SERVICES completed after ten (10) days following receipt by the CONSULTANT of the notice to terminate. If the accumulated payment made to the CONSULTANT prior to Notice of Termination exceeds the total amount that would be due when computed as set forth in paragraph two (2) of this section, then no final payment shall be due and the CONSULTANT shall immediately reimburse the AGENCY for any excess paid.

If the services of the CONSULTANT are terminated by the AGENCY for default on the part of the CONSULTANT, the above formula for payment shall not apply.

In the event of a termination for default, the amount to be paid to the CONSULTANT shall be determined by the AGENCY with consideration given to the actual costs incurred by the CONSULTANT in performing SERVICES to the date of termination, the amount of SERVICES originally required which was satisfactorily completed to

date of termination, whether that SERVICE is in a form or a type which is usable to the AGENCY at the time of termination, the cost to the AGENCY of employing another firm to complete the SERVICES required and the time which may be required to do so, and other factors which affect the value to the AGENCY of the SERVICES performed at the time of termination. Under no circumstances shall payment made under this subsection exceed the amount, which would have been made using the formula set forth in paragraph two (2) of this section.

If it is determined for any reason that the CONSULTANT was not in default or that the CONSULTANT's failure to perform is without the CONSULTANT's or its employee's fault or negligence, the termination shall be deemed to be a termination for the convenience of the AGENCY. In such an event, the CONSULTANT would be reimbursed for actual costs and appropriate fixed fee percentage in accordance with the termination for other than default clauses listed previously.

The CONSULTANT shall, within 15 days, notify the AGENCY in writing, in the event of the death of any member, partner, or officer of the CONSULTANT or the death or change of any of the CONSULTANT's supervisory and/or other key personnel assigned to the project or disaffiliation of any principally involved CONSULTANT employee. The CONSULTANT shall also notify the AGENCY, in writing, in the event of the sale or transfer of 50% or more of the beneficial ownership of the CONSULTANT within 15 days of such sale or transfer occurring. The CONSULTANT shall continue to be obligated to complete the SERVICES under the terms of this AGREEMENT unless the AGENCY chooses to terminate this AGREEMENT for convenience or chooses to renegotiate any term(s) of this AGREEMENT. If termination for convenience occurs, final payment will be made to the CONSULTANT as set forth in the second and third paragraphs of this section.

Payment for any part of the SERVICES by the AGENCY shall not constitute a waiver by the AGENCY of any remedies of any type it may have against the CONSULTANT for any breach of this AGREEMENT by the CONSULTANT, or for failure of the CONSULTANT to perform SERVICES required of it by the AGENCY. Forbearance of any rights under the AGREEMENT will not constitute waiver of entitlement to exercise those rights with respect to any future act or omission by the CONSULTANT.

X. Changes of Work

The CONSULTANT shall make such changes and revisions in the completed work of this AGREEMENT as necessary to correct errors appearing therein, without additional compensation thereof. Should the AGENCY find it desirable for its own purposes to have previously satisfactorily completed SERVICES or parts thereof changed or revised, the CONSULTANT shall make such revisions as directed by the AGENCY. This work shall be considered as Extra Work and will be paid for as herein provided under section XIII "Extra Work."

XI. Disputes

Any disputed issue not resolved pursuant to the terms of this AGREEMENT shall be submitted in writing within 10 days to the Director of Public Works or AGENCY Engineer, whose decision in the matter shall be final and binding on the parties of this AGREEMENT; provided however, that if an action is brought challenging the Director of Public Works or AGENCY Engineer's decision, that decision shall be subject to judicial review. If the parties to this AGREEMENT mutually agree, disputes concerning alleged design errors will be conducted under the procedures found in Exhibit "J". In the event that either party deem it necessary to institute legal action or proceeding to enforce any right or obligation under this AGREEMENT, this action shall be initiated in the Superior Court of the State of Washington, situated in the county in which the AGENCY is located. The parties hereto agree that all questions shall be resolved by application of Washington law and that the parties have the right of appeal from such decisions of the Superior Court in accordance with the laws of the State of Washington. The CONSULTANT hereby consents to the personal jurisdiction of the Superior Court of the State of Washington, situated in the county in which the AGENCY is located.

XII. Legal Relations

The CONSULTANT, any sub-consultants, and the AGENCY shall comply with all Federal, State, and local laws, rules, codes, regulations and all AGENCY policies and directives, applicable to the work to be performed under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accordance with the laws of the State of Washington.

The CONSULTANT shall defend, indemnify, and hold The State of Washington (STATE) and the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the negligence of, or the breach of any obligation under this AGREEMENT by, the CONSULTANT or the CONSULTANT's agents, employees, sub consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable; provided that nothing herein shall require a CONSULTANT to defend or indemnify the STATE and the AGENCY and their officers and employees against and hold harmless the STATE and the AGENCY and their officers and employees from claims, demands or suits based solely upon the negligence of, or breach of any obligation under this AGREEMENT by the STATE and the AGENCY, their agents, officers, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the STATE and/or the AGENCY may be legally liable; and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT is legally liable, and (b) the STATE and/or AGENCY, their agents, officers, employees, sub-consultants, subcontractors and or vendors, of any tier, or any other persons for whom the STATE and or AGENCY may be legally liable, the defense and indemnity obligation shall be valid and enforceable only to the extent of the CONSULTANT's negligence or the negligence of the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable. This provision shall be included in any AGREEMENT between CONSULTANT and any sub-consultant, subcontractor and vendor, of any tier.

The CONSULTANT shall also defend, indemnify, and hold the STATE and the AGENCY and their officers and employees harmless from all claims, demands, or suits at law or equity arising in whole or in part from the alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions by the CONSULTANT or the CONSULTANT's agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable, in performance of the Work under this AGREEMENT or arising out of any use in connection with the AGREEMENT of methods, processes, designs, information or other items furnished or communicated to STATE and/or the AGENCY, their agents, officers and employees pursuant to the AGREEMENT; provided that this indemnity shall not apply to any alleged patent or copyright infringement or other allegedly improper appropriation or use of trade secrets, patents, proprietary information, know-how, copyright rights or inventions resulting from STATE and/or AGENCY's, their agents', officers' and employees' failure to comply with specific written instructions regarding use provided to STATE and/or AGENCY, their agents, officers and employees by the CONSULTANT, its agents, employees, sub-consultants, subcontractors or vendors, of any tier, or any other persons for whom the CONSULTANT may be legally liable.

The CONSULTANT's relation to the AGENCY shall be at all times as an independent contractor.

Notwithstanding any determination by the Executive Ethics Board or other tribunal, the AGENCY may, in its sole discretion, by written notice to the CONSULTANT terminate this AGREEMENT if it is found after due notice and examination by the AGENCY that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW; or any similar statute involving the CONSULTANT in the procurement of, or performance under, this AGREEMENT.

The CONSULTANT specifically assumes potential liability for actions brought by the CONSULTANT's own employees or its agents against the STATE and /or the AGENCY and, solely for the purpose of this indemnification and defense, the CONSULTANT specifically waives any immunity under the state industrial insurance law, Title 51 RCW. This waiver has been mutually negotiated between the Parties.

Unless otherwise specified in this AGREEMENT, the AGENCY shall be responsible for administration of construction contracts, if any, on the project. Subject to the processing of a new sole source, or an acceptable supplemental AGREEMENT, the CONSULTANT shall provide On-Call assistance to the AGENCY during contract administration. By providing such assistance, the CONSULTANT shall assume no responsibility for: proper construction techniques, job site safety, or any construction contractor's failure to perform its work in accordance with the contract documents.

The CONSULTANT shall obtain and keep in force during the terms of this AGREEMENT, or as otherwise required, the following insurance with companies or through sources approved by the State Insurance Commissioner pursuant to Title 48 RCW.

Insurance Coverage

A. Worker's compensation and employer's liability insurance as required by the STATE.

B. Commercial general liability insurance written under ISO Form CG 00 01 12 04 or its equivalent with minimum limits of one million dollars ($1,000,000.00) per occurrence and two million dollars ($2,000,000.00) in the aggregate for each policy period.

C. Business auto liability insurance written under ISO Form CG 00 01 10 01 or equivalent providing coverage for any "Auto" (Symbol 1) used in an amount not less than a one million dollar ($1,000,000.00) combined single limit for each occurrence.

Excepting the Worker's Compensation Insurance and any Professional Liability Insurance, the STATE and AGENCY, their officers, employees, and agents will be named on all policies of CONSULTANT and any sub-consultant and/or subcontractor as an additional insured (the "AIs"), with no restrictions or limitations concerning products and completed operations coverage. This coverage shall be primary coverage and non-contributory and any coverage maintained by the AIs shall be excess over, and shall not contribute with, the additional insured coverage required hereunder. The CONSULTANT's and the sub-consultant's and/or subcontractor's insurer shall waive any and all rights of subrogation against the AIs. The CONSULTANT shall furnish the AGENCY with verification of insurance and endorsements required by this AGREEMENT. The AGENCY reserves the right to require complete, certified copies of all required insurance policies at any time.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. The CONSULTANT shall submit a verification of insurance as outlined above within fourteen (14) days of the execution of this AGREEMENT to:

Name: Shannon Christen, Contract Coordinator
Agency: Benton County
Address: P. O. Box 1001
City: Prosser State: WA Zip: 99350
Email: procurement@co.benton.wa.us
Phone: (509)786-5611
Facsimile: (509)786-5627

No cancellation of the foregoing policies shall be effective without thirty (30) days prior notice to the AGENCY.

The CONSULTANT's professional liability to the AGENCY, including that which may arise in reference to section IX "Termination of Agreement" of this AGREEMENT, shall be limited to the accumulative amount of the authorized AGREEMENT amount or one million dollars ($1,000,000.00), whichever is greater, unless the limit of liability is increased by the AGENCY pursuant to Exhibit H. In no case shall the CONSULTANT's professional liability to third parties be limited in any way.

The parties enter into this AGREEMENT for the sole benefit of the parties, and to the exclusion of any third party, and no third party beneficiary is intended or created by the execution of this AGREEMENT.

The AGENCY will pay no progress payments under section V "Payment Provisions" until the CONSULTANT has fully complied with this section. This remedy is not exclusive; and the AGENCY may take such other action as is available to it under other provisions of this AGREEMENT, or otherwise in law.

XIII. Extra Work

A. The AGENCY may at any time, by written order, make changes within the general scope of this AGREEMENT in the SERVICES to be performed.

B. If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the SERVICES under this AGREEMENT, whether or not changed by the order, or otherwise affects any other terms and conditions of this AGREEMENT, the AGENCY shall make an equitable adjustment in the: (1) maximum amount payable; (2) delivery or completion schedule, or both; and (3) other affected terms and shall modify this AGREEMENT accordingly.

C. The CONSULTANT must submit any "request for equitable adjustment," hereafter referred to as "CLAIM," under this clause within thirty (30) days from the date of receipt of the written order. However, if the AGENCY decides that the facts justify it, the AGENCY may receive and act upon a CLAIM submitted before final payment of this AGREEMENT.

D. Failure to agree to any adjustment shall be a dispute under the section XI "Disputes" clause. However, nothing in this clause shall excuse the CONSULTANT from proceeding with the AGREEMENT as changed.

E. Notwithstanding the terms and conditions of paragraphs (A.) and (B.) above, the maximum amount payable for this AGREEMENT, shall not be increased or considered to be increased except by specific written supplement to this AGREEMENT.

XIV. Endorsement of Plans

If applicable, the CONSULTANT shall place their endorsement on all plans, estimates, or any other engineering data furnished by them.

XV. Federal Review

The Federal Highway Administration shall have the right to participate in the review or examination of the SERVICES in progress.

XVI. Certification of the Consultant and the Agency

Attached hereto as Exhibit "G-1(a and b)" are the Certifications of the CONSULTANT and the AGENCY, Exhibit "G-2" Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions, Exhibit "G-3" Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying and Exhibit "G-4" Certificate of Current Cost or Pricing Data. Exhibit "G-3" is required only in AGREEMENT's over one hundred thousand dollars ($100,000.00) and Exhibit "G-4" is required only in AGREEMENT's over five hundred thousand dollars ($500,000.00.) These Exhibits must be executed by the CONSULTANT, and submitted with the master AGREEMENT, and returned to the AGENCY at the address listed in section III "General Requirements" prior to its performance of any SERVICES under this AGREEMENT.

XVII. Complete Agreement

This document and referenced attachments contain all covenants, stipulations, and provisions agreed upon by the parties. No agent, or representative of either party has authority to make, and the parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein. No changes, amendments, or modifications of the terms hereof shall be valid unless reduced to writing and signed by the parties as a supplement to this AGREEMENT.

XVIII. Execution and Acceptance

This AGREEMENT may be simultaneously executed in several counterparts, each of which shall be deemed to be an original having identical legal effect. The CONSULTANT does hereby ratify and adopt all statements, representations, warranties, covenants, and AGREEMENT's contained in the proposal, and the supporting material submitted by the CONSULTANT, and does hereby accept this AGREEMENT and agrees to all of the terms and conditions thereof.

XIX. Protection of Confidential Information

The CONSULTANT acknowledges that some of the material and information that may come into its possession or knowledge in connection with this AGREEMENT or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either chapter 42.56 RCW or other local, state or federal statutes ("State's Confidential Information"). The "State's Confidential Information" includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver's license numbers, medical data, law enforcement records (or any other information identifiable to an individual), STATE and AGENCY source code or object code, STATE and AGENCY security data, non-public Specifications, STATE and AGENCY non-publicly available data, proprietary software, State security data, or information which may jeopardize any part of the project that relates to any of these types of information. The CONSULTANT agrees to hold the State's Confidential Information in strictest confidence and not to make use of the State's Confidential Information for any purpose other than the performance of this AGREEMENT, to release it only to authorized employees, sub-consultants or subcontractors requiring such information for the purposes of carrying out this AGREEMENT, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make it known to any other party without the AGENCY's express written consent or as provided by law. The CONSULTANT agrees to release such information or material only to employees, sub-consultants or subcontractors who have signed a nondisclosure AGREEMENT, the terms of which have been previously approved by the AGENCY. The CONSULTANT agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to the State's Confidential Information.

Immediately upon expiration or termination of this AGREEMENT, the CONSULTANT shall, at the AGENCY's option: (i) certify to the AGENCY that the CONSULTANT has destroyed all of the State's Confidential Information; or (ii) returned all of the State's Confidential Information to the AGENCY; or (iii) take whatever other steps the AGENCY requires of the CONSULTANT to protect the State's Confidential Information.

As required under Executive Order 00-03, the CONSULTANT shall maintain a log documenting the following: the State's Confidential Information received in the performance of this AGREEMENT; the purpose(s) for which the State's Confidential Information was received; who received, maintained and used the State's Confidential Information; and the final disposition of the State's Confidential Information. The CONSULTANT's records shall be subject to inspection, review, or audit upon reasonable notice from the AGENCY.

The AGENCY reserves the right to monitor, audit, or investigate the use of the State's Confidential Information collected, used, or acquired by the CONSULTANT through this AGREEMENT. The monitoring, auditing, or investigating may include, but is not limited to, salting databases.

Violation of this section by the CONSULTANT or its sub-consultants or subcontractors may result in termination of this AGREEMENT and demand for return of all State's Confidential Information, monetary damages, or penalties.

It is understood and acknowledged that the CONSULTANT may provide the AGENCY with information which is proprietary and/or confidential during the term of this AGREEMENT. The parties agree to maintain the confidentiality of such information during the term of this AGREEMENT and afterwards. All materials containing such proprietary and/or confidential information shall be clearly identified and marked as "Confidential" and shall be returned to the disclosing party at the conclusion of the SERVICES under this AGREEMENT.

The CONSULTANT shall provide the AGENCY with a list of all information and materials it considers confidential and/or proprietary in nature: (a) at the commencement of the term of this AGREEMENT; or (b) as soon as such confidential or proprietary material is developed. "Proprietary and/or confidential information" is not meant to include any information which, at the time of its disclosure: (i) is already known to the other party; (ii) is rightfully disclosed to one of the parties by a third party that is not acting as an agent or representative for the other party; (iii) is independently developed by or for the other party; (iv) is publicly known; or (v) is generally utilized by unaffiliated third parties engaged in the same business or businesses as the CONSULTANT.

The parties also acknowledge that the AGENCY is subject to Washington State and federal public disclosure laws. As such, the AGENCY shall maintain the confidentiality of all such information marked proprietary and/ or confidential or otherwise exempt, unless such disclosure is required under applicable state or federal law. If a public disclosure request is made to view materials identified as "Proprietary and/or confidential information" or otherwise exempt information, the AGENCY will notify the CONSULTANT of the request and of the date that such records will be released to the requester unless the CONSULTANT obtains a court order from a court of competent jurisdiction enjoining that disclosure. If the CONSULTANT fails to obtain the court order enjoining disclosure, the AGENCY will release the requested information on the date specified.

The CONSULTANT agrees to notify the sub-consultant of any AGENCY communication regarding disclosure that may include a sub-consultant's proprietary and/or confidential information. The CONSULTANT notification to the sub-consultant will include the date that such records will be released by the AGENCY to the requester and state that unless the sub-consultant obtains a court order from a court of competent jurisdiction enjoining that disclosure the AGENCY will release the requested information. If the CONSULTANT and/or sub-consultant fail to obtain a court order or other judicial relief enjoining the AGENCY by the release date, the CONSULTANT shall waive and release and shall hold harmless and indemnify the AGENCY from all claims of actual or alleged damages, liabilities, or costs associated with the AGENCY's said disclosure of sub-consultants' information.

XX. Records Maintenance

During the progress of the Work and SERVICES provided hereunder and for a period of not less than six (6) years from the date of final payment to the CONSULTANT, the CONSULTANT shall keep, retain and maintain all "documents" pertaining to the SERVICES provided pursuant to this AGREEMENT. Copies of all "documents" pertaining to the SERVICES provided hereunder shall be made available for review at the CONSULTANT's place of business during normal working hours. If any litigation, claim or audit is commenced, the CONSULTANT shall cooperate with AGENCY and assist in the production of all such documents. "Documents" shall be retained until all litigation, claims or audit findings have been resolved even though such litigation, claim or audit continues past the six (6) year retention period.

For purposes of this AGREEMENT, "documents" means every writing or record of every type and description, including electronically stored information ("ESI"), that is in the possession, control, or custody of the CONSULTANT, including, without limitation, any and all correspondences, contracts, AGREEMENT 's, appraisals, plans, designs, data, surveys, maps, spreadsheets, memoranda, stenographic or handwritten notes, reports, records, telegrams, schedules, diaries, notebooks, logbooks, invoices, accounting records, work sheets, charts, notes, drafts, scribblings, recordings, visual displays, photographs, minutes of meetings,

tabulations, computations, summaries, inventories, and writings regarding conferences, conversations or telephone conversations, and any and all other taped, recorded, written, printed or typed matters of any kind or description; every copy of the foregoing whether or not the original is in the possession, custody, or control of the CONSULTANT, and every copy of any of the foregoing, whether or not such copy is a copy identical to an original, or whether or not such copy contains any commentary or notation whatsoever that does not appear on the original.

For purposes of this AGREEMENT, "ESI" means any and all computer data or electronic recorded media of any kind, including "Native Files", that are stored in any medium from which it can be retrieved and examined, either directly or after translation into a reasonably useable form. ESI may include information and/or documentation stored in various software programs such as: Email, Outlook, Word, Excel, Access, Publisher, PowerPoint, Adobe Acrobat, SQL databases, or any other software or electronic communication programs or databases that the CONSULTANT may use in the performance of its operations. ESI may be located on network servers, backup tapes, smart phones, thumb drives, CDs, DVDs, floppy disks, work computers, cell phones, laptops or any other electronic device that CONSULTANT uses in the performance of its Work or SERVICES hereunder, including any personal devices used by the CONSULTANT or any sub-consultant at home.

"Native files" are a subset of ESI and refer to the electronic format of the application in which such ESI is normally created, viewed, and /or modified.

The CONSULTANT shall include this section XX "Records Maintenance" in every subcontract it enters into in relation to this AGREEMENT and bind the sub-consultant to its terms, unless expressly agreed to otherwise in writing by the AGENCY prior to the execution of such subcontract.

In witness whereof, the parties hereto have executed this AGREEMENT as of the day and year shown in the "Execution Date" box on page one (1) of this AGREEMENT.

Signature Michael T. Battle, ~~President~~
HLA Engineering and Land Surveying, Inc.

12/10/2021
Date

Signature Jerome Delvin, Chairman
Benton County Board of Commissioners

Date

Any modification, change, or reformation of this AGREEMENT shall require approval as to form by the Office of the Attorney General.

Agreement Number: BC2021SURV

Exhibit A
Scope of Work

Project No.

Each individual task will be negotiated by separate task assignment and appended to this Agreement.

Agreement Number: BC2021SURV

Exhibit B
DBE Participation

Not applicable to this contract.

Exhibit C
Preparation and Delivery of Electronic Engineering and Other Data

In this Exhibit the agency, as applicable, is to provide a description of the format and standards the consultant is to use in preparing electronic files for transmission to the agency. The format and standards to be provided may include, but are not limited to, the following:

I. Surveying, Roadway Design & Plans Preparation Section

A. Survey Data

Provide all electronic data in AutoCad Civil 3D 2019 or newer. Text, CSV and/or XML files may also be required.

Copies of surveys, plats and other documents may be provided in PDF format for initial review. Final copies of survey documents and right of way plans will be provided on printed mylar measuring 22 inches by 34 inches or other size as required by law.

Printed copies of topographic surveys shall be on paper measuring 22 inches by 34 inches with a scale not to exceed 1 inch equals 40 feet.

B. Roadway Design Files

AutoCad Civil 3D 2019 or newer. Text, CSV and/or XML files may also be required.

C. Computer Aided Drafting Files

AutoCad Civil 3D 2019 or newer

Agreement Number: BC2021SURV

D. Specify the Agency's Right to Review Product with the Consultant

Agency shall be provided an opportunity to review all product prior to final submittal. Consultant shall allow a minimum of 10 working days for any such review. The agency may require additional review time depending on the complexity of the project and will notify consultant of such once review materials have been received.

E. Specify the Electronic Deliverables to Be Provided to the Agency

Deliverables will vary by task and will be specified in each task assignment.

F. Specify What Agency Furnished Services and Information Is to Be Provided

Varies by task and will be specified in each task assignment.

II. Any Other Electronic Files to Be Provided

Varies by task and will be specified in each task assignment.

III. Methods to Electronically Exchange Data

Email electronic data to project manager and/or senior engineer whenever possible. Files too large to be emailed may be placed on an FTP site agreeable to Agency and Consultant or copied to solid state media and delivered.

A. Agency Software Suite

AutoCad Civil 3D 2019 or newer.

B. Electronic Messaging System

Microsoft Outlook

C. File Transfers Format

.dwg, .doc, .xls, .pdf, .xlm, .txt, .csv

Exhibit D
Consultant Cost Computations - Summary Sheet

Project: Benton County 2021-2022 On-Call Land Surveying Services

Direct Salary Cost (DSC):

Classification	Rate
Senior Principal Engineer	$91.00
Licensed Principal Engineer	$69.00
Licensed Principal Land Surveyor	$75.00
Licensed Professional Land Surveyor	$45.00
Project Engineer	$34.00
Contract Administrator III	$34.00
CAD Technician	$31.00
Resident Engineer	$40.00
Surveyor	$31.00
Engineering Technician	$22.00
Administrative/Clerical	$28.00

Note: Rates are subject to change annually or from time to time based on market conditions and/or merit adjustments.

Overhead (OH Cost - including Salary Additives):
OH Rate x DSC 123.36%
Note:Due to PPP, 123.36% rate is valid thru 6/30/2022
at which time will adjust to 131.97%

Fixed Fee (FF):
FF Rate x DSC 35.00%

Reimbursables:

Mileage is reimbursed at the IRS rate applicable at the time.
Postage/shipping based on receipts submitted as part of task.
Drone use pending survey need and terrain conditions.

Prepared by: Michael T. Battle, PE Date: 10/20/2021

Agreement Number: BC2021SURV

Exhibit E
Sub-consultant Cost Computations

If no sub-consultant participation at this time. The CONSULTANT shall not sub-contract for the performance of any work under this AGREEMENT without prior written permission of the AGENCY. Refer to section VI "Sub-Contracting" of this AGREEMENT.

Agreement Number: BC2021SURV

Exhibit F - Title VI Assurances Appendix A & E

APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, ***(Title of Modal Operating Administration)***, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21. ***[Include Modal Operating Administration specific program requirements.]***

3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin. ***[Include Modal Operating Administration specific program requirements.]***

4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the ***(Title of Modal Operating Administration)*** to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the ***(Title of Modal Operating Administration)***, as appropriate, and will set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non- discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the ***(Title of Modal Operating Administration)*** may determine to be appropriate, including, but not limited to:

    a. withholding payments to the contractor under the contract until the contractor complies; and/or
    b. cancelling, terminating, or suspending a contract, in whole or in part.

6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the ***(Title of Modal Operating Administration)*** may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

Exhibit G
Certification Documents

Exhibit G-1(a)	Certification of Consultant
Exhibit G-1(b)	Certification of Non-Collusion
Exhibit G-2	Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions
Exhibit G-3	Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying
Exhibit G-4	Certificate of Current Cost or Pricing Data

Agreement Number: BC2021SURV

Exhibit G-1(a) Certification of Consultant

I hereby certify that I am the and duly authorized representative of the firm of
HLA Engineering and Land Surveying, Inc.
whose address is
2803 River Road, Yakima, Washington 98902
and that neither the above firm nor I have:

a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above CONSULTANT) to solicit or secure this AGREEMENT;

b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this AGREEMENT; or

c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above CONSULTANT) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this AGREEMENT; except as hereby expressly stated (if any);

I acknowledge that this certificate is to be furnished to the Benton County Public Works Department and the Federal Highway Administration, U.S. Department of Transportation in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

HLA Engineering and Land Surveying, Inc.

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

12/10/2021

Date

Michael T. Battle, President
HLA Engineering and Land Surveying, Inc.

Agreement Number: BC2021SURV

Exhibit G-1(b) Certification of Non-Collusion

I hereby certify that I am the:

[X] President

[ ] Other

of the HLA Engineering and Land Surveying, Inc. , and HLA Engineering and Land Surveying, Inc. or its representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this AGREEMENT to:

a) Employ or retain, or agree to employ to retain, any firm or person; or

b) Pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind; except as hereby expressly stated (if any):

I acknowledge that this certificate is to be furnished to the Benton County Public Works Department and the Federal Highway Administration, U.S. Department of Transportation, in connection with this AGREEMENT involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

Signature Michael T. Battle, President
HLA Engineering and Land Surveying, Inc.

Date 12/10/2021

Exhibit G-2 Certification Regarding Debarment, Suspension and Other Responsibility Matters - Primary Covered Transactions

I. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

B. Have not within a three (3) year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State anti-trust statues or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

D. Have not within a three (3) year period preceding this application / proposal had one or more public transactions (Federal, State and local) terminated for cause or default.

II. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

HLA Engineering and Land Surveying, Inc.

Consultant (Firm Name)

Signature (Authorized Official of Consultant)

12/10/2021

Date

Michael T. Battle, President
HLA Engineering and Land Surveying, Inc.

Exhibit G-3 Certification Regarding the Restrictions of the Use of Federal Funds for Lobbying

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative AGREEMENT, and the extension, continuation, renewal, amendment, or modification of Federal contract, grant, loan or cooperative AGREEMENT.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative AGREEMENT, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

   This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000.00, and not more than $100,000.00, for each such failure.

   The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier sub-contracts, which exceed $100,000, and that all such sub-recipients shall certify and disclose accordingly.

HLA Engineering and Land Survey, Inc.

Consultant (Firm Name)



Signature (Authorized Official of Consultant)

12/10/2021

Date

Michael T. Battle, President
HLA Engineering and Land Surveying, Inc.

Exhibit I
Alleged Consultant Design Error Procedures

The purpose of this exhibit is to establish a procedure to determine if a consultant's alleged design error is of a nature that exceeds the accepted standard of care. In addition, it will establish a uniform method for the resolution and/or cost recovery procedures in those instances where the agency believes it has suffered some material damage due to the alleged error by the consultant.

Step 1 Potential Consultant Design Error(s) is Identified by Agency's Project Manager
At the first indication of potential consultant design error(s), the first step in the process is for the Agency's project manager to notify the Director of Public Works or Agency Engineer regarding the potential design error(s). For federally funded projects, the Region Local Programs Engineer should be informed and involved in these procedures. (Note: The Director of Public Works or Agency Engineer may appoint an agency staff person other than the project manager, who has not been as directly involved in the project, to be responsible for the remaining steps in these procedures.)

Step 2 Project Manager Documents the Alleged Consultant Design Error(s)
After discussion of the alleged design error(s) and the magnitude of the alleged error(s), and with the Director of Public Works or Agency Engineer's concurrence, the project manager obtains more detailed documentation than is normally required on the project. Examples include: all decisions and descriptions of work; photographs, records of labor, materials and equipment.

Step 3 Contact the Consultant Regarding the Alleged Design Error(s)
If it is determined that there is a need to proceed further, the next step in the process is for the project manager to contact the consultant regarding the alleged design error(s) and the magnitude of the alleged error(s). The project manager and other appropriate agency staff should represent the agency and the consultant should be represented by their project manager and any personnel (including sub-consultants) deemed appropriate for the alleged design error(s) issue.

Step 4 Attempt to Resolve Alleged Design Error with Consultant
After the meeting(s) with the consultant have been completed regarding the consultant's alleged design error(s), there are three possible scenarios:

- It is determined via mutual agreement that there is not a consultant design error(s). If this is the case, then the process will not proceed beyond this point.
- It is determined via mutual agreement that a consultant design error(s) occurred. If this is the case, then the Director of Public Works or Agency Engineer, or their representatives, negotiate a settlement with the consultant. The settlement would be paid to the agency or the amount would be reduced from the consultant's agreement with the agency for the services on the project in which the design error took place. The agency is to provide LP, through the Region Local Programs Engineer, a summary of the settlement for review and to make adjustments, if any, as to how the settlement affects federal reimbursements. No further action is required.
- There is not a mutual agreement regarding the alleged consultant design error(s). The consultant may request that the alleged design error(s) issue be forwarded to the Director of Public Works or Agency Engineer for review. If the Director of Public Works or Agency Engineer, after review with their legal counsel, is not able to reach mutual agreement with the consultant, proceed to Step 5.

Step 5 Forward Documents to Local Programs

For federally funded projects all available information, including costs, should be forwarded through the Region Local Programs Engineer to LP for their review and consultation with the FHWA. LP will meet with representatives of the agency and the consultant to review the alleged design error(s), and attempt to find a resolution to the issue. If necessary, LP will request assistance from the Attorney General's Office for legal interpretation. LP will also identify how the alleged error(s) affects eligibility of project costs for federal reimbursement.

- If mutual agreement is reached, the agency and consultant adjust the scope of work and costs to reflect the agreed upon resolution. LP, in consultation with FHWA, will identify the amount of federal participation in the agreed upon resolution of the issue.
- If mutual agreement is not reached, the agency and consultant may seek settlement by arbitration or by litigation.

Exhibit J
Consultant Claim Procedures

The purpose of this exhibit is to describe a procedure regarding claim(s) on a consultant agreement. The following procedures should only be utilized on consultant claims greater than $1,000. If the consultant's claim(s) are a total of $1,000 or less, it would not be cost effective to proceed through the outlined steps. It is suggested that the Director of Public Works or Agency Engineer negotiate a fair and reasonable price for the consultant's claim(s) that total $1,000 or less.

This exhibit will outline the procedures to be followed by the consultant and the agency to consider a potential claim by the consultant.

Step 1 Consultant Files a Claim with the Agency Project Manager

If the consultant determines that they were requested to perform additional services that were outside of the agreement's scope of work, they may be entitled to a claim. The first step that must be completed is the request for consideration of the claim to the Agency's project manager.

The consultant's claim must outline the following:

- Summation of hours by classification for each firm that is included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Timeframe of the additional work that was outside of the project scope;
- Summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work; and
- Explanation as to why the consultant believes the additional work was outside of the agreement scope of work.

Step 2 Review by Agency Personnel Regarding the Consultant's Claim for Additional Compensation

After the consultant has completed step 1, the next step in the process is to forward the request to the Agency's project manager. The project manager will review the consultant's claim and will met with the Director of Public Works or Agency Engineer to determine if the Agency agrees with the claim. If the FHWA is participating in the project's funding, forward a copy of the consultant's claim and the Agency's recommendation for federal participation in the claim to the WSDOT Local Programs through the Region Local Programs Engineer. If the claim is not eligible for federal participation, payment will need to be from agency funds.

If the Agency project manager, Director of Public Works or Agency Engineer, WSDOT Local Programs (if applicable), and FHWA (if applicable) agree with the consultant's claim, send a request memo, including backup documentation to the consultant to either supplement the agreement, or create a new agreement for the claim. After the request has been approved, the Agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit. No further action in needed regarding the claim procedures.

If the Agency does not agree with the consultant's claim, proceed to step 3 of the procedures.

Step 3 Preparation of Support Documentation Regarding Consultant's Claim(s)

If the Agency does not agree with the consultant's claim, the project manager shall prepare a summary for the Director of Public Works or Agency Engineer that included the following:

- Copy of information supplied by the consultant regarding the claim;
- Agency's summation of hours by classification for each firm that should be included in the claim;
- Any correspondence that directed the consultant to perform the additional work;
- Agency's summary of direct labor dollars, overhead costs, profit and reimbursable costs associated with the additional work;
- Explanation regarding those areas in which the Agency does/does not agree with the consultant's claim(s);
- Explanation to describe what has been instituted to preclude future consultant claim(s); and
- Recommendations to resolve the claim.

Step 4 Director of Public Works or Agency Engineer Reviews Consultant Claim and Agency Documentation

The Director of Public Works or Agency Engineer shall review and administratively approve or disapprove the claim, or portions thereof, which may include getting Agency Council or Commission approval (as appropriate to agency dispute resolution procedures). If the project involves federal participation, obtain concurrence from WSDOT Local Programs and FHWA regarding final settlement of the claim. If the claim is not eligible for federal participation, payment will need to be from agency funds.

Step 5 Informing Consultant of Decision Regarding the Claim

The Director of Public Works or Agency Engineer shall notify (in writing) the consultant of their final decision regarding the consultant's claim(s). Include the final dollar amount of the accepted claim(s) and rationale utilized for the decision.

Step 6 Preparation of Supplement or New Agreement for the Consultant's Claim(s)

The agency shall write the supplement and/or new agreement and pay the consultant the amount of the claim. Inform the consultant that the final payment for the agreement is subject to audit.

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	December 21, 2021
Subject:	Authorization to purchase thermoplastic markings from Traffic Safety Supply
Presenter:	
Prepared By:	slc
Reviewed By:	D. D'Hondt, Clayton Rawlings

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

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

Summary / Background Information

The Public Works Department uses thermoplastic markings on our roads to mark crosswalks, railroad crossings, etc. These markings are replaced after the Bituminous Surface Treatment project is complete. The Road Maintenance Manager prepared a list of the markings needed to replace the markings in the upcoming BST area. There are only 2 vendors in the United States that supply thermoplastic markings. Both of these vendors were solicited, and the quotes provided are as follows:

Traffic Safety Supply - Portland, OR	$35,857.50 plus WSST
Ennis-Flint - Greensboro, NC	$40,638.50 plus WSST

Fiscal Impact

Amount: $35,857.50 plus WSST

Fund: Road Fund (0101-101)

Recommendation

Approve the purchase of thermoplastic markings for use by the Benton County Public Works Department from Traffic Safety Supply in the amount of $35,857.50 plus WSST.

Suggested Motion

Approve as part of the Consent Agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AUTHORIZATION TO PURCHASE THERMOPLASTIC MARKINGS FOR USE BY THE BENTON COUNTY PUBLIC WORKS DEPARTMENT FROM TRAFFIC SAFETY SUPPLY, PASCO, WA

WHEREAS, per the Benton County Procurement, Leasing and Contracting Policy county departments are required to obtain quotes for purchases under $50,000.00 from at least three (3) vendors on the vendor list unless the product is such that it is not reasonable to obtain 3 quotes and such purchase is to be approved by the Board of Benton County Commissioners by Resolution; and

WHEREAS, the Public Works Department uses thermoplastic markings on County roads and need to replace the markings after the upcoming Bituminous Surface Treatment project is complete; and

WHEREAS, there are only two vendors in the United States that supply thermoplastic markings. Both of these vendors were solicited, and the quotes are as follows:

Traffic Safety Supply - Portland, OR	$35,857.50 plus WSST
Ennis-Flint - Greensboro, NC	$40,638.50 plus WSST

WHEREAS, the County Engineer reviewed the quotes for completeness and recommends the purchase of thermoplastic markings from Traffic Safety Supply, Portland, OR; **NOW, THEREFORE,**

BE IT RESOLVED the Board of Benton County Commissioners hereby approves the purchase of thermoplastic markings for use by the Benton County Public Works Department from Traffic Safety Supply, Portland, OR in the amount of $35,857.50 plus WSST.

Dated this 21st day of December 2021.

_____
Chairman

_____
Chairman Pro-Tem

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

Attest:_____
Clerk of the Board

Orig.: Purchasing Dept. S. Christen
c: Auditor

Traffic Safety Supply
2324 SE Umatilla Street
Portland, OR 97202
Phone: (503) 235-8531
Fax: (503) 235-5112

CSR: Susan Gerkin

SALES QUOTE

Quote Number	Date	Customer Number
SQN00036366	12-09-21	C000232
Quote valid for 30 days.		

Bill To:

Benton County - Engineer
PO Box 1001
Prosser, WA 99350

Ship To:

Benton County - Engineer
102808 Wiser Pkwy
Kennewick, WA 99338

Contact Name: Clayton Rawlings
Phone Number: (509) 786-5611

Project: Premark Materials

Freight Terms: Prepaid

Product	*Description*	*Quantity*	*Price*	*Extended Price*
DP02363	PREMARK, R X R KIT, WHITE, 20' X 8', 125 MIL	40.00 PK	$402.30	$16,092.00
DP00040	PREMARK, WHITE, VIZIGRIP, 24" X 3', 15'/PK, 125 MIL	120.00 PK	$140.25	$16,830.00
DP02533	PREMARK, ARROW, LEFT, WHITE, 8' X 6' 4", 125 MIL **2/Box**	8.00 PKG	$293.55	$2,348.40
DP02534	PREMARK, ARROW, RIGHT, WHITE, 8' X 6' 4", 125 MIL **2/Box**	2.00 PKG	$293.55	$587.10

Traffic Safety Supply
2324 SE Umatilla Street
Portland, OR 97202
Phone: (503) 235-8531
Fax: (503) 235-5112

CSR: Susan Gerkin

SALES QUOTE

Quote Number	Date	Customer Number
SQN00036366	12-09-21	C000232
Quote valid for 30 days.		

Total Before Tax	$35,857.50
Tax	$2,868.60
Order Total	$38,726.10

To: Fax or Email:

Ennis-Flint, Inc.
Flint Trading Division
4161 Piedmont Parkway, Suite 370
Greensboro, NC 27410
United States of America
(800) 331-8118

<< QUOTE >>

PAGE 1

QUOTE DATE 12/9/2021
QUOTE NO 00258055
CURRENCY ID USD

SOLD TO
50036
COUNTY OF BENTON / WA
P O BOX 1001
PROSSER, WA 99350-0954

SHIP TO
50036-1
BENTON COUNTY
CLAYTON RAWLING
102808 WISER PKWY
General Delivery
KENNEWICK, WA 99338

CONTRACT NUMBER

TOTAL DUE 43,889.57

CSSR	SLS1	SLS2	DUE DATE	DISC DUE DATE	ORDER NO	ORDER DATE	SHIP DATE	SHIP NO
KRR	09		1/8/2022	12/9/2021	00258055	12/9/2021		

TERMS DESCRIPTION	CUSTOMER PO NO	SHIP VIA	INCOTERMS
Net 30 Days	QUOTE		DAP

ITEM ID	LOCATION	QUANTITY	UOM	DISC UNIT PRICE	QUOTE PRICE	EXT QUOTE PRICE
8430566 PM125WH Q15' BD 24" WHITE LINE	FLINT01	120.000000	PACK	158.95	158.950000	19,074.00
PMK8130103A PM125WH Q1 BD 20'x8' RXR KIT	FLINT01	40.000000	EACH	455.94	455.940000	18,237.60
8330241L PM125WH Q2 BD 8' LFT TURN ARW	FLINT01	8.000000	PACK	332.69	332.690000	2,661.52
8330241R PM125WH Q2 BD 8' RGT TURN ARW	FLINT01	2.000000	PACK	332.69	332.690000	665.38
D	FLINT01	1.000000	NA	0.00	0.000000	0.00

Order Notes
QUOTE ONLY
PREPARED BY KRISTIN RUNKEL
336-477-8353
KRUNKEL@ENNISFLINT.COM

POC CLAYTON RAWLINGS 509-222-2307
EMAIL CLAYTON.RAWLINGS@CO.BENTON.WA.US

TAXABLE	NONTAXABLE	FREIGHT	SALES TAX	CC Fee	TOTAL
40,638.50	0.00	0.00	3,251.07	0.00	43,889.57

All sales are subject to Ennis-Flint, Inc.'s (dba Flint Trading) Standard Terms and Conditions of Sale. A copy can be found on the Ennis-Flint website. For Remittance by Credit Card, a 3% transaction fee will be assessed.

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	December 21, 2021
Subject:	First Contract Amendment with Public Safety Psychological Services
Presenter:	
Prepared By:	Lisa Small
Reviewed By:	Ryan Lukson; BCSO; Purchasing 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

Per Resolution 2020-982, the Board of Benton County Commissioners awarded a Professional Services Contract to LEPS-PSS, PLLC dba/ Public Safety Psychological Services for "as needed" psychological evaluations for the Benton County Sheriff's Office.

The attached First Amendment is necessary as both parties wish to extend the term of the Contract, add Contract Representative information, and amend Exhibit B, while maintaining the rest of the Contract in full force and effect, as further outlined in the attached First Amendment.

Fiscal Impact

Amount: $30,000 including WSST – Original Contract Amount

Fund: Said expenditures are included in the 2021-2022 Sheriff's Office Budgets

Recommendation

Approve the attached Resolution and First Contract Amendment and authorize the Chairman or Chairman Pro-Tem to sign said amendment.

Suggested Motion

Approve as part of the Consent Agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF THE FIRST AMENDMENT TO THE PROFESSIONAL SERVICES CONTRACT BETWEEN BENTON COUNTY AND LEPS-PSS, PLLC DBA/ PUBLIC SAFETY PSYCHOLOGICAL SERVICES FOR "AS NEEDED" PSYCHOLOGICAL EVALUATIONS FOR THE BENTON COUNTY SHERIFF'S OFFICE

WHEREAS, per Resolution 2020-982, the Board of Benton County Commissioners awarded a Professional Services Contract to LEPS-PSS, PLLC dba/ Public Safety Psychological Services for "as needed" psychological evaluations for the Benton County Sheriff's Office; and

WHEREAS, the attached First Amendment is necessary as both parties wish to extend the term of the Contract, add Contract Representative information, and amend Exhibit B, while maintaining the rest of the Contract in full force and effect, as further outlined in the attached First Amendment; **NOW, THEREFORE**

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington, hereby approves the attached First Amendment; and

BE IT FURTHER RESOLVED, the term of the Contract shall be effective January 1, 2021 and shall expire December 31, 2022; and

BE IT FURTHER RESOLVED, the Board hereby authorizes the Chairman or the Chairman Pro-Tem to sign the attached First Amendment to the Professional Services Contract between Benton County and LEPS-PSS, PLLC dba/ Public Safety Psychological Services for "as needed" psychological evaluations for the Benton County Sheriff's Office.

Dated this _____ day of _____, 2021

_____
Chairman of the Board

_____
Chairman Pro-Tem

_____
Member

Attest _____
Clerk of the Board

Original: BCSO
cc: Auditor; PA; Procurement; Public Safety Psychological Services

L. Small

First Amendment to the

Professional Services Contract

between

Benton County and Public Safety Psychological Services, PLLC

This Contract Amendment, made and entered into this 10 day of December, 2021 by and between **BENTON COUNTY**, a political subdivision with its principal offices at 620 Market Street, Prosser, WA 99350 (hereinafter "COUNTY"), and LEPS-PSS, PLLC (**DBA, PUBLIC SAFETY PSYCHOLOGICAL SERVICES),** a professional service corporation organized under the laws of the State of Washington with its principal offices at 20818 44th Ave. West, Suite 150, Lynwood, WA 98036 (hereinafter "CONTRACTOR").

Recitals

Whereas, COUNTY and CONTRACTOR entered into a Professional Services Contract dated December 15, 2020 whereby the CONTRACTOR agreed to perform pre-employment psychological screening and services consisting of testing and an interview to assess applicant suitability, psychological stability, and strengths vis-à-vis the COUNTY'S desire to employ individuals capable of performing the job.

Whereas, both parties wish to extend the term of the Contract, add CONTRACTOR Contract Representative information, and amend Exhibit B, while maintaining the rest of the Contract in full force and effect.

Now, therefore, in consideration of the provisions and agreement set forth herein, the parties agree that all provisions of their original Contract shall remain in effect except the below sections which are amended as follows:

a) Section 2**.** **DURATION OF CONTRACT:** - is hereby deleted and replaced in its entirety with the following:

The term of this Contract shall be effective January 1, 2021 and shall expire on December 31, 2022. The CONTRACTOR shall complete all work by the time(s) specified herein, or if no such time is otherwise specified, no later than the expiration date.

b) Section 4. **CONTRACT REPRESENTATIVES:** - is hereby amended by adding CONTRACTOR'S contact information.

a. For CONTRACTOR: Cerise M. Vablais, MBA, PhD, ABPP
Public Safety Psychological Services, PLLC
20818 44th Ave. West, Suite 150
Lynwood, WA 98036

c) Exhibit B. **Method of Compensation: -** is hereby deleted and replaced in its entirety with the attached Exhibit B.

IN WITNESS WHEREOF, the parties to this First Contract Amendment have executed this Amendment to take effect upon the signature of both parties.

Dated: _____

BENTON COUNTY

_____
Shon Small, Chairman

Title: Benton County Commissioner

Date: _____

Dated: 12/10/2021

LEPS-PSS, (DBA, PUBLIC SAFETY PSYCHOLOGICAL SERVICES

_____
Cerise Vablais, COO

Date: 12/10/2021

Approved as to form:

_____
Ryan J. Lukson
Civil Deputy Prosecuting Attorney

EXHIBIT "B"

Method of Compensation

The COUNTY shall compensate the CONTRACTOR for the services and deliverables performed under this contract according to the following rate(s):

- **Bifurcated, Pre-Offer Suitability Assessment Report** (SAR) $125 per applicant.
- **Post-Offer Assessment and recommendation** (Classic), including testing, a facet-to-face interview with the screening psychologist and the report and recommendation of job suitability: $410
- **Test Materials –** for applicants whose written testing is completed but who are dropped from the applicant pool prior to the interview, the only fee is a material use charge of $45, Mailing material to the agency via Federal Express Ground (or similar service) is included in the assessment rate. Special mailing (e.g. Priority Express) is invoiced to the department at the cost to PSPS.
- **No Show Fee -** $150 will be charged in the event that BCSO cancels an appointment less than three (3) business days before a scheduled interview or in the event the applicant does not appear for their scheduled appointment.
- **Fitness for Duty Evaluations -** $410 for initial testing and psychological interview. $275 an hour for report writing. 2 hours consultation included at no charge. PSPS will give BCSO an estimate of the hours required prior to the appointment.
- **Critical Incident Debriefings -** $200 (includes follow-ups at the 4 month, 6 month and 1 year anniversary of the incident)

- **Training:** All PSPS clients receive two hours of training annually on a topic of their choice. Training beyond two hours annually is $250 an hour or $1500 for an 8-hour workshop.
- **Other Consulting -** appearance at proceedings to address challenged findings, management consultation, research (outside adverse impact reports), will be billed hourly at a rate of $200/per hour/per psychologist.

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	December 21, 2021
Subject:	Executing an Interlocal Cooperative Agreement with the City of West Richland for General Equipment and/or Services
Presenter:	N/A
Prepared By:	S. Christen
Reviewed By:	D. 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:**	
☒ Consent Agenda	☐ Discussion Only (1st)	☐ Pass Motion
☐ Public Hearing	☐ Discussion Only (2nd)	☒ Pass Resolution
☐ Scheduled Business	☐ Decision/Direction	☐ Pass Ordinance
	☐ Sign Letter/Document	☒ Execute Contract

Summary / Background Information

There is a desire to be able to share equipment and services with other public agencies when the need arises. Chapter 39.34 RCW allows public agencies in Washington State to enter into interlocal cooperative agreements for the joint use of services, personnel, materials, and equipment. Such an Interlocal has been prepared with the City of West Richland, has been reviewed and approved as to form by our Departmental Deputy Prosecuting Attorney, and signed by the Mayor of West Richland.

Fiscal Impact

Amount: N/A

Fund: N/A

Recommendation

The County Engineer recommends the Board approve the proposed Interlocal Agreement for General Equipment and/or Services with the City of West Richland.

Suggested Motion

Approve as part of the Consent Agenda.

RESOLUTION

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY WASHINGTON:

IN THE MATTER OF APPROVING AN INTERLOCAL COOPERATIVE AGREEMENT BETWEEN THE CITY OF WEST RICHLAND AND BENTON COUNTY FOR GENERAL EQUIPMENT AND/OR SERVICES

WHEREAS, Chapters 36.01 and 36.32 RCW allows the Board to enter into agreements on behalf of Benton County; and

WHEREAS, Chapter 39.34 RCW allows public agencies in Washington State to enter into interlocal cooperative agreements for the joint use of services, personnel, materials, and equipment; and

WHEREAS, the City of West Richland and Benton County desire to enter into an agreement for the sharing of services and equipment; and

WHEREAS, a proposed Interlocal, reviewed and approved as to form by the Benton County Prosecuting Attorney's Office, was signed by the Mayor of West Richland on December 7, 2021; and

WHEREAS, the County Engineer recommends that the Board approve of and sign the proposed Agreement with the City of West Richland, finding such to be beneficial to Benton County; **NOW THEREFORE,**

BE IT RESOLVED that the Board of County Commissioners concurs with the recommendation of the County Engineer and hereby approves of the proposed Interlocal Cooperative Agreement Between City of West Richland and Benton County for General Equipment and/or Services; and

BE IT FURTHER RESOLVED that the Board of County Commissioners hereby authorizes the Chairman to sign said Agreement with the City of West Richland on behalf of Benton County; and

BE IT FURTHER RESOLVED the Interlocal shall be effective on January 1, 2022 and shall continue through December 31, 2026.

Dated this 21st day of December 2021.

_____
Chairman of the Board

_____
Chairman ProTem

_____
Member

Constituting the Board of Commissioners
of Benton County, Washington

Attest._____
Clerk of the Board

Original: Public Works S. Christen
c: Procurement

INTERLOCAL COOPERATIVE AGREEMENT
BETWEEN CITY OF WEST RICHLAND AND BENTON COUNTY
FOR GENERAL EQUIPMENT AND/OR SERVICES
THROUGH THE PUBLIC WORKS DEPARTMENT

This agreement is made and entered into by and between City of West Richland and Benton County, pursuant to the authority granted by Chapter 39.34 RCW, INTERLOCAL COOPERATION ACT.

ARTICLE I
PURPOSE

1.01 **PURPOSE.** The purpose of this Agreement is to set forth the terms and conditions under which Benton County, through its Public Works Department, and City of West Richland, through its Public Works Department, will temporarily provide equipment and/or services to the other party. Neither Benton County nor City of West Richland are required under this Agreement to provide equipment or services to the other party in the event that the party from whom the equipment or services are sought does not have the equipment or services available, or determines, in its sole discretion, that providing the requested equipment or services would not be in its best interest. No new or separate legal or administrative entity is created by this Agreement.

ARTICLE II
ADMINISTRATION

2.01 **ADMINISTRATOR.** The following individuals are designated as representatives of the respective parties. The representatives shall be responsible for administration of this Agreement and for coordinating and monitoring performance under this Agreement. In the event such representatives are changed, the party making the change shall notify the other party.

2.02 City of West Richland's representative shall be the Public Works Director, or designee.

2.03 Benton County's representative shall be the County Engineer, or designee.

2.04 Requests for rental of equipment or performance of work shall be submitted by the requesting agency to the agency providing the equipment or work in writing in the form of a Task Letter. Written requests shall be submitted prior to rental of equipment or performance of work. In the event that circumstances do not permit a written request to be submitted, the representative for the agency providing equipment or work may waive this requirement, providing that a written request, along with an explanation of the circumstances for the waiver, be provided as soon as is practical.

ARTICLE III
DURATION AND RENEWAL OF AGREEMENT

3.01 **DURATION AND RENEWAL.** This Agreement shall be effective January 1, 2022 and shall continue through December 31, 2026. The obligation to provide compensation for the use of equipment or service provided during the term of this Agreement shall survive this Agreement's termination or expiration.

ARTICLE IV
COMPENSATION

4.01 **COMPENSATION.** Both parties hereby agree to reimburse the other for the costs of the work performed or equipment rented, as requested by one agency herein to the other agency herein and shall be based on the actual cost of labor, equipment, plus all costs for fringe benefits to labor, including but not limited to, Social Security, retirement, industrial and medical aid costs, prorated sick leave, holidays and vacation time, and group medical insurance. Also, an additional five percent (5%) of the total costs shall be added for overhead expenses for accounting, billing, and administrative services, after a certified statement of the costs is provided within thirty (30) days of the service or equipment rental. The amount shall be paid within thirty (30) days after billing.

ARTICLE V
PERFORMANCE OF AGREEMENT

5.01 **COMPLIANCE WITH ALL LAWS.** Each party shall comply with all federal, state, and local laws, rules, regulations, and ordinances applicable to the performance of this Agreement, including without limitation, all those pertaining to wages and hours, confidentiality, disabilities, and discrimination.

5.02 **MAINTENANCE AND AUDIT OF RECORDS.** Each party shall maintain books, records, documents, and other materials relevant to its performance under this Agreement. These records shall be subject to inspection, review, and audit by either party or its designee, and the Washington State Auditor's Office. Each party shall retain all such books, records documents, and other material for the applicable retention period under federal and Washington law.

5.03 **ON-SITE INSPECTIONS.** Either party or its designee may evaluate the performance of this Agreement through on-site inspection to determine whether performance is in compliance with the standards set forth in this Agreement and in compliance with federal, state, and local laws, rules, regulations, and ordinances.

5.04 **TREATMENT OF ASSETS AND PROPERTY.** No fixed assets or personal or real property will be jointly or cooperatively acquired, held, used, or disposed of pursuant to this Agreement.

5.05 **IMPROPER INFLUENCE.** Each party agrees, warrants, and represents that it did not and will not employ, retain, or contract with any person or entity on a contingent compensation basis for the purpose of seeking, obtaining, maintaining, or extending this Agreement. Each party agrees, warrants, and represents that no gratuity whatsoever has been or will be offered or conferred with a view towards obtaining, maintaining, or extending this Agreement.

5.06 **CONFLICT OF INTEREST.** The elected and appointed officials and employees of the parties shall not have any personal interest, direct or indirect, which gives rise to a conflict of interest.

5.07 **ASSIGNMENT AND SUBCONTRACTING.** No portion of this Agreement may be assigned or subcontracted to any other individual, firm, or entity without the express and prior written approval of both parties authorized representatives.

5.08 **NOTICE.** Except as set forth elsewhere in the Agreement, for all purposes under this Agreement, except service of process, notice to Benton County shall be to the County Engineer, P.O. Box 1001, Prosser, Washington 99350; and to the Benton County Commissioners, P.O. Box 190, Prosser, Washington 99350. Notice to City of West Richland for all purposes under this Agreement shall be to City of West Richland, Public Works Director, 3100 Belmont Blvd., Suite 102, West Richland, Washington 99353 and the West Richland City Council, 3801 W. Van Giesen St., West Richland, Washington 99353.

ARTICLE VI
INDEMNIFICATION

6.01 **MUTUAL INDEMNITY**. To the extent of its comparative liability, each party agrees to indemnify, defend and hold the other party, its elected and appointed officials, employees, agents and volunteers, harmless from and against any and all claims, damages, losses and expenses, including but not limited to court costs, attorney's fees and alternative dispute resolution costs, for any personal injury, for any bodily injury, sickness, disease or death and for any damage to or destruction of any property (including the loss of use resulting therefrom) which are alleged or proven to be caused by an act or omission, negligent or otherwise, of its elected and appointed officials, employees, agents or volunteers.

A Party shall not be required to indemnify, defend, or hold the other Party harmless if the claim, damage, loss or expense for personal injury, for any bodily injury, sickness, disease or death or for any damage to or destruction of any property (including the loss of use resulting therefrom) is caused by the sole act or omission of the other Party.

In the event of any concurrent act or omission of the parties, negligent or otherwise, each party shall pay its proportionate share of any damages awarded based upon comparative liability. The parties agree to maintain a consolidated defense to claims made against them and to reserve all indemnity claims against each other until after liability to the claimant and damages, if any, are adjudicated. If any claim is resolved by voluntary settlement and the parties cannot agree upon apportionment of damages and defense costs, they shall submit apportionment to binding arbitration.

In any and all claims against City of West Richland or its officers, officials, employees, or agents by any employee of Benton County, 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 Section 6.01 of this Agreement shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Benton County 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 Benton County expressly waives any

immunity Benton County might have had under such laws, including but not limited to Title 51 of the Revised Code of Washington.

In any and all claims against Benton County or its officers, officials, employees, or agents by any employee of City of West Richland, 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 Section 6.01 of this Agreement shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for City of West Richland 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 City of West Richland expressly waives any immunity City of West Richland might have had under such laws, including but not limited to Title 51 of the Revised Code of Washington.

6.02 **SURVIVAL OF INDEMNITY OBLIGATIONS.** The parties agree all indemnity obligations shall survive the completion, expiration or termination of this Agreement.

ARTICLE VII
DISPUTES

7.01 **DISPUTE RESOLUTION; GOVERNING LAW; VENUE.** In the event of a dispute regarding the enforcement, breach or interpretation of this Agreement, the parties shall first meet in a good faith effort to resolve such dispute. Any judicial proceeding arising out of this contract shall be governed by the laws of the State of Washington, and suit may be instituted and maintained only in the courts of competent jurisdiction in Benton County, Washington.

ARTICLE VIII
TERMINATION

8.01 **TERMINATION.** Any party hereto may terminate this Agreement upon thirty (30) days' notice in writing either personally delivered or mailed postage-prepaid by certified mail, return receipt requested, to the party's last known address for the purposes of giving notice under this paragraph. 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.

ARTICLE IX
GENERAL PROVISIONS

9.01 **CHANGES, MODIFICATIONS, AMENDMENTS AND WAIVERS.** The Agreement may be changed, modified, amended or waived only by written agreement signed by the parties' authorized representatives and adopted by resolution of each party's legislative authority. Any waiver of a term or condition of this Agreement shall apply only to the specific act, occurrence or omission and shall not constitute a waiver as to any other term or condition or future act, occurrence or omission. Waiver or breach of any term or condition of this Agreement shall not be considered a waiver of any prior or subsequent breach.

9.02 **ASSIGNMENT.** Neither party may assign its rights or delegate its duties under this Agreement, whether by assignment, further subcontract or other means. Any such attempted assignment or delegation shall be void and shall constitute a material breach of this Agreement.

9.03 **SEVERABILITY.** In the event any term or condition of this Agreement or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions or application of this Agreement which can be given effect without the invalid term, condition or application. To this end the terms and conditions of this Agreement are declared severable.

9.04 **ENTIRE AGREEMENT.** This Agreement contains all the terms and conditions agreed upon by the parties. All items incorporated herein by reference are attached. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parities hereto.

9.05 **INTERLOCAL COOPERATION ACT PROVISIONS.** All vehicles, equipment, inventory and any improvement thereon or fixtures purchased by City of West Richland, shall remain the sole property of City of West Richland. All vehicles, equipment, inventory and any improvements thereon or fixtures purchased by Benton County, shall remain the sole property of Benton County.

No independent special budget or funds are anticipated, nor shall be created without the prior written agreement of the parties. It is not intended that a separate legal entity be established to conduct this cooperative undertaking, nor is the acquiring, holding, or disposing of real or personal property other than as specifically provided within the terms of this Agreement.

A copy of this Agreement shall be filed with the Benton County Auditor's office or posted on City of West Richland's or Benton County's website as required by RCW 39.34.040.

9.06 **EVIDENCE OF AUTHORITY.** Upon execution of this Agreement, City of West Richland shall provide Benton County and Benton County shall provide City of West Richland with a copy of the resolution, ordinance, or other authority to execute this Agreement pursuant to RCW 39.34.030(2), and said documents shall be attached hereto and incorporated herein as Exhibit A (City of West Richland) and Exhibit B (Benton County).

This section intentionally left blank.

IN WITNESS WHEREOF said parties have caused this Agreement to be signed by the duly authorized officials on the day and year first written above.

CITY OF WEST RICHLAND

By: _____
Brent Gerry
Mayor

Date: 12/7/21

BENTON COUNTY, WASHINGTON

By: _____
Jerome Delvin, Chairman
Board of County Commissioners

Attest:

_____
Clerk of the Board

Date: _____

Approved as to form:

_____
Attorney, City of West Richland

Date: 12/7/21

Approved as to form:

_____
Reid Hay, Benton County Prosecuting Attorney

Date: 11/12/21

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	December 21, 2021
Subject:	Executing the First Amendment to the contract with Continental Door Company for on-call maintenance and repair work on garage doors.
Presenter:	
Prepared By:	S. Christen
Reviewed By:	R. Blain

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

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

Summary / Background Information

Per Resolution No. 2021-038 Benton County entered into a Public Works Contract, beginning January 1, 2021 and expiring December 31, 2021, with Continental Door Company to provide on-call maintenance and repair work on all garage doors at Benton County owned facilities. The contract states the County has the right to renew the contract for an additional year without advertising.

The First Contact Amendment is needed to extend the contract termination date to December 31, 2022.

Our departmental Deputy Prosecuting Attorney has reviewed and approved the Amendment and it has been signed by Continental Door Company.

Fiscal Impact

Amount: No additional dollars added

Fund: N/A

Recommendation

The Director of Operations and Capital Programs recommends the Board approve the First Amendment and authorize the Chairman to sign said Amendment.

Suggested Motion

Approve as part of the consent agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF ENTERING INTO A FIRST AMENDMENT TO THE PUBLIC WORKS CONTRACT BETWEEN BENTON COUNTY AND CONTINENTAL DOOR COMPANY

WHEREAS, per Resolution No. 2021-038 Benton County entered into a Public Works Contract, beginning January 1, 2021 and expiring December 31, 2021, with Continental Door Company to provide on-call maintenance and repair work on all garage doors at Benton County owned facilities; and

WHEREAS, the contract states the County has the right to renew the contract for an additional year without advertising; and

WHEREAS, the Director of Operations and Capital Programs recommends approval of the First Contact Amendment to extend the contract termination date to December 31, 2022; and

WHEREAS, our departmental Deputy Prosecuting Attorney has reviewed and approved the Amendment and it has been signed by Continental Door Company; **NOW, THEREFORE,**

BE IT RESOLVED the Board of County Commissioners concurs with the Director of Operations and Capital Programs and approves the attached First Amendment to the Public Works Contract between Benton County and Continental Door Company, extending the expiration date to December 31, 2022, and the Chairman is hereby authorized to sign said Amendment; and

BE IT FURTHER RESOLVED all other provisions of the contract remain in full force and effect.

Dated this 21st day of December 2021.

_____
Chairman

_____
Chairman Pro-Tem

_____
Member

Attest:_____
Clerk of the Board

Constituting the Board of County Commissioners of Benton County, Washington

Original: Purchasing Dept. S. Christen
c: Auditor, Procurement

FIRST CONTRACT AMENDMENT
PUBLIC WORKS CONTRACT

THIS FIRST CONTRACT AMENDMENT (hereinafter "First Amendment") is made and entered into by and between **BENTON COUNTY**, a political subdivision with its principal offices at 620 Market Street, Prosser, WA 99350 (hereinafter "COUNTY"), and **CONTINENTAL DOOR COMPANY**, a corporation organized under the laws of the State of Washington, with its principal offices at 12718 E. Indiana Ave., Spokane Valley, WA 99216 (hereinafter "CONTRACTOR").

WHEREAS, per Benton County Resolution No. 2021-038, the parties entered into a Public Works Contract, beginning January 1, 2021 and ending December 31, 2021 (hereinafter the "CONTRACT"), whereby CONTRACTOR agreed to provide on-call maintenance and repair work on all garage doors on an as needed basis. The CONTRACT states the COUNTY has the right to renew the contract for an additional one year without advertising; and

WHEREAS, this First Amendment is necessary to extend the duration of the CONTRACT to December 31, 2022;

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

DURATION OF CONTRACT - Section 2. of the CONTRACT, "DURATION OF CONTRACT" is amended to read as follows:

The term of this Contract shall begin on January 1, 2021 and shall expire on December 31, 2022. The CONTRACTOR shall complete all work by the time(s) specified herein, or if no such time is otherwise specified, no later than the expiration date.

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

FOR BENTON COUNTY

_____
Chairman Date

_____
Attest: Clerk of the Board

APPROVED AS TO FORM:

_____
Benton County Deputy Prosecuting Attorney, Civil

12/9/21
Date

FOR CONTINENTAL DOOR COMPANY

N.V. Morse 12/07/2021
Signature Date

NORM MORSE
Name

PRESIDENT
Title

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	December 21, 2021
Subject:	Contract with Port of Kennewick for Safeboat Moorage
Presenter:	
Prepared By:	Lisa Small
Reviewed By:	BCSO; Ryan Lukson; Purchasing Department

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

Type of Agenda Item:

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

Type of Action Needed: *(Multiple boxes can be checked, if necessary)*

- ☐ Discussion Only
- ☐ Decision / Direction
- ☐ Sign Letter / Document
- ☐ Pass Motion
- ☒ Pass Resolution
- ☐ Pass Ordinance
- ☒ Execute Contract

Summary / Background Information

Per Resolution 2021-266, the Benton County Sheriff's Office leased a moorage slip from the Port of Kennewick to store the Safeboat in 2021.

The Port of Kennewick has offered to lease the same vessel moorage slip to the Benton County Sheriff's Office in 2022 but has increased the rate to $307.44 annually. This moorage agreement will continue to reduce emergency response times and place our vessel in a safe and secure location and increase public safety.

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

Fiscal Impact

Amount: Not to exceed $307.44 plus any applicable WSST

Fund: 0127101 Boating Safety & Patrol Fund

Recommendation

The Benton County Sheriff's Office recommends entering a contract with the Port of Kennewick for said services that commences January 1, 2022 and terminates December 31, 2022 for an amount not to exceed $307.44 plus any applicable WSST.

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

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

WHEREAS, per Resolution 2021-266, the Benton County Sheriff's Office leased a moorage slip from the Port of Kennewick to store the Safeboat in 2021; and

WHEREAS, the Port of Kennewick has offered to lease the same vessel moorage slip to the Benton County Sheriff's Office in 2022 but has increased the rate to $307.44 annually. This moorage agreement will continue to reduce emergency response times and place our vessel in a safe and secure location and increase public safety; and

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

WHEREAS, the Benton County Sheriff's Office recommends entering into another contract with the Port of Kennewick for said services with a termination date of December 31, 2022; **NOW, THEREFORE**

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington, hereby concurs with the recommendation and hereby authorizes the Chairman or Chairman Pro-Tem to sign the attached Moorage Agreement between Benton County and the Port of Kennewick for an annual amount not to exceed $307.44 plus any applicable WSST; and

BE IT FURTHER RESOLVED the term of the attached contract commences January 1, 2022 and expires on December 31, 2022.

Dated this _____ day of _____, 2021.

_____
Chairman of the Board

Attest.....
Clerk of the Board

_____
Member

_____
Member

Constituting the Board of Commissioners
of Benton County, Washington.

Orig: Sheriff's Office
cc: Auditor, PA, Port of Kennewick

Prepared by: L. Small

DocuSign Envelope ID: 8248CA79-6D11-4274-A126-C586DE08F64D

PORT OF KENNEWICK MOORAGE AGREEMENT

This Moorage License Agreement ("Agreement") is made on the 1 day of January, 2022 by and between Port of Kennewick, a Washington municipal corporation ("Port"), and the undersigned Vessel owner ("Owner") under the following terms and conditions:

Basic Moorage Agreement Provisions

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

A.	Owner Name(s):	Benton County Sheriff's Office
.	Vessel Owner Mailing Address:	7122 W. Okanagan Place #B Kennewick WA 99336
B.	Vessel Owner Home Address:	
C.	Vessel Owner Phone Contact:	Cell: Home: 509-736-3079 Work: 509-736-3079
D.	Vessel Owner E-Mail:	Jon.law@co.benton.wa.us
E.	Vessel Owner Employer:	Benton County Sheriff's Office
F.	Emergency Contact:	Jon Law – 509-736-3079
G.	Vessel Description:	Make: Safeboat Model: 29 Year: 2019 Color: Grey Length: 29
		WN: Exempt
H.	Dock /BH Dock:	Slip #: B-78 Boathouse: Boathouse Width:
I.	Term: This Agreement supersedes and replaces all previous moorage agreements between the parties. This Agreement will commence on January 1, 2022 and end on December 31, 2022.	
		Initials
J.	Yearly License Fee Total Per Year (Moorage Rate)	$ 307.44

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

2. Yearly License Fee. Owner shall pay Port within 30 days of execution of this agreement the license fee set forth above. Payment shall be made payable to Port and delivered to the Port's address, or at such other address as Port may hereafter designate. Payments by check or cash only. Credit/debit cards are not accepted at this time.

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

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

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

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

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

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

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

9. **Insurance.** At all times during the term of this Agreement, Owner shall carry in full force and effect, with insurance companies authorized to do business in the State of Washington, **bodily injury and property damage liability insurance** with limits of a least $1,000,000 per occurrence and vessel pollution coverage in compliance with the Oil Protection Act of 1990. A Certificate of Insurance or copy of Owner's insurance policy showing **evidence of insurance** will be delivered to the Port annually and the Port will be notified thirty (30) days in advance of any cancellation either by an endorsement to Owners policy or personally by written notice by owner. The foregoing insurance shall cover damage done to the dock, the port, and any other boats or equipment (including fishing boats and equipment) in the vicinity of the dock. Owner shall not be entitled to moor any vessels at the moorage space until evidence of insurance satisfactory to port has been provided by owner. At all times during the term of this agreement, owner shall also carry in full force and effect with insurance companies authorized to do business in the state of Washington **comprehensive watercraft liability insurance** for each vessel owned or operated by owner and located at the dock with limits of at least $1,000,000 per occurrence for property damage and bodily injury and death, and which shall protect against damage done to the dock and other boats and equipment in the vicinity of the dock. The issuing insurer will provide port with not less than thirty (30) days' prior written notice of any material change or cancellation. _____ **Initials**

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

11. **Damage, Destruction, or Condemnation.** If the Dock or any portion thereof is at any time destroyed or damaged by a casualty, or if any portion of

the Dock or adjacent parcels are taken pursuant to the exercise or threatened exercise of the power of eminent domain (including a conveyance in lieu thereof), Port may elect to terminate this Agreement.

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

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

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

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

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

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

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

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

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

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

22. **Port's Right to Relocate.** During the term of this Agreement, Port shall have the right, for any reason, to relocate the Owner's Moorage Space to another location at the Dock. In the event Port so elects to relocate Owner, Port shall notify Owner and propose the new moorage space location to Owner. Owner shall have fifteen (15) days from the receipt of said notice to elect to accept said relocation. In the event that the relocation proposal is accepted by Owner, Port and Owner shall revise this Agreement to reflect the new moorage space. Upon such relocation, such new space shall be deemed the "Moorage Space" hereunder for all purposes and the Agreement shall be deemed amended to that effect without further formality.

Early License Fee rates for the new space shall be the same as those agreed to in the original Agreement, subject to adjustment for additional or less moorage space, as applicable. All other terms and conditions of the original Agreement shall remain in full force and effect. In the event that Owner elects not to accept the relocation of its Moorage Space, Owner shall so notify Port in writing. Port shall then have the option for thirty (30) days to terminate Owner's Agreement or to allow Owner to remain in its present Moorage Space. In the event that Port elects to terminate the Agreement, Owner shall be given thirty (30) days' notice.

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

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

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

Port of Kennewick 350 Clover Island Drive, Suite 200 Kennewick, WA 99336	Owner Mailing Address Set Forth in Basic Provisions Above

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

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

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

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

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

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

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

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

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective January 1, 2022.

PORT

DocuSigned by:
By: Tana Bader Inglima
1F18F98CFC1C410...
Tana Bader-Inglima, Deputy CEO

BENTON COUNTY, WASHINGTON

Signature

Printed Name

Approved as to form:

Ryan Lukson

Ryan J Lukson, Civil DPA

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	December 21, 2021
Subject:	Professional Service Contract No. K5680 with Washington State Health Care Authority for Opioid Treatment Network
Presenter:	
Prepared By:	Lisa Small
Reviewed By:	Ryan Lukson; Chief Souza; Purchasing Depart.

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 Washington State Health Care Authority (HCA) provided notice of award to Benton County Corrections Department (BCCD) along with the attached Professional Services Contract for Opioid Treatment Networks with a maximum amount of $649,208.00 to be paid to Benton County for Opioid Use Disorder (MOUD) services provided to inmates within the Benton County jail.

The Chief of Corrections recommends accepting the grant funding to keep this important program going within the jail.

HCA is requesting Benton County to sign the Contract first and they will return a fully executed copy to us for our records.

Fiscal Impact

This grant was included in the 2021-2022 budget process for both revenue and expenditures.

Recommendation

Approve the attached Resolution accepting the grant award from Washington State Health Care Authority for a maximum amount of $649,208.00 and authorizing the Chairman or Chairman Pro-Tem to sign Contract No. K5680 between Benton County and Washington State Health Care Authority for Opioid Treatment Network.

Suggested Motion

Board of Benton County Commissioners hereby accepts the grant award from Washington State Health Care Authority for a maximum amount of $649,208.00 for the performance of work as further outlined in the attached Professional Service Contract No. K5680 between Benton County and Washington State Health Care Authority.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF A GRANT AWARD AND PROFESSIONAL SERVICES CONTRACT NO. K5680 BETWEEN WASHINGTON STATE HEALTH CARE AUTHORITY AND BENTON COUNTY FOR THE PURPOSE OF OPIOID TREATMENT NETWORK WITHIN THE BENTON COUNTY JAIL

WHEREAS, per Resolution 2020-1002 the Board of Benton County Commissioners accepted the grant award from Washington State Health Care Authority (HCA) for a maximum amount of $615,875 for the Medication for Opioid Use Disorder (MOUD) services provided to inmates within the Benton County Jail, with a term commencing September 30, 2020 and continuing through September 29, 2021; and

WHEREAS, HCA provided notice of award to Benton County Corrections Department (BCCD) along with the attached Professional Services Contract No. K5680 for MOUD services with a maximum amount of $649,208 to be paid to Benton County; and

WHEREAS, the Chief of Corrections recommends accepting the grant funding to keep this important program going within the jail; **NOW, THEREFORE**

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington, hereby accepts the grant award from Washington State Health Care Authority for a maximum amount of $649,208 for the performance of work as further outlined in the attached Professional Service Contract between Benton County and Health Care Authority; and

BE IT FURTHER RESOLVED, the Board hereby authorizes the Chairman or Chairman Pro-Tem to sign the attached Professional Service Contract No. K5680 between Benton County and Washington State Health Care Authority; and

BE IT FURTHER RESOLVED, the term of the attached contract commences September 29, 2021 and shall continue through September 29, 2022.

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, S. Godinez, Purchasing Dept., HCA

Prepared by: L. Small

Washington State Health Care Authority	**PROFESSIONAL SERVICES CONTRACT for Opioid Treatment Network**	HCA Contract Number: K5680 Resulting from Solicitation Number (If applicable: NA Contractor/Vendor Contract Number:

THIS CONTRACT is made by and between Washington State Health Care Authority, (HCA) and **County of Benton**, (Contractor).

CONTRACTOR NAME		CONTRACTOR DOING BUSINESS AS (DBA)		
County of Benton		**Benton County Corrections Department**		
CONTRACTOR ADDRESS Street		City	State	Zip Code
620 Market Street		**Prosser**	**WA**	**99350-1300**
CONTRACTOR CONTACT	CONTRACTOR TELEPHONE	CONTRACTOR E-MAIL ADDRESS		
Scott Souza, Chief of Corrections	**(509) 786-5600**	**Scott.Souza@co.benton.wa.us**		
Is Contractor a Subrecipient under this Contract? ☒YES ☐NO	CFDA NUMBER(S): 93.788	FFATA Form Required ☒YES ☐NO		

HCA PROGRAM	HCA DIVISION/SECTION
State Opioid Response	DBHR/SUD Treatment
HCA CONTACT NAME AND TITLE Megan Fowler, State Opioid Response Treatment Manager	HCA CONTACT ADDRESS Health Care Authority 626 8th Avenue SE Olympia, WA 98504
HCA CONTACT TELEPHONE (360) 725-2019	HCA CONTACT E-MAIL ADDRESS Megan.fowler@hca.wa.gov

CONTRACT START DATE	CONTRACT END DATE	TOTAL MAXIMUM CONTRACT AMOUNT
September 30, 2021	September 29, 2022	$649,208.00
PURPOSE OF CONTRACT: To create a strong treatment and recovery support referral network and increase access to and utilization of MOUD care.		

The parties signing below warrant that they have read and understand this Contract, and have authority to execute this Contract. This Contract will be binding on HCA only upon signature by both parties.

CONTRACTOR SIGNATURE	PRINTED NAME AND TITLE	DATE SIGNED
	Jerome Delvin, Chairman Benton County Commissioner	12/21/2021
HCA SIGNATURE	PRINTED NAME AND TITLE	DATE SIGNED

Approved as to Form

Ryan J Lukson, Civil DPA

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Exhibit A: Definitions Specific to Special Terms

Exhibit B: 15 Principal CLAS Standard

Contract #K5680 for Opioid Treatment Services

The state of Washington, acting by and through the Health Care Authority (HCA), seeks client services for a strong treatment and recovery support referral network and increase access to and utilization of MOUD Services; and

WHEREAS, client services are exempt from competitive solicitation (RCW 39.26.125(6)) and **County of Benton** (Contractor) seeks to provide such services.

HCA has determined that entering into a Contract with **County of Benton** will meet HCA's needs and will be in the State's best interest.

NOW THEREFORE, HCA awards to **County of Benton** this Contract, the terms and conditions of which will govern Contractor's providing to HCA a strong treatment and recovery support referral network and increase access to and utilization of MOUD Services.

IN CONSIDERATION of the mutual promises as set forth in this Contract, the parties agree as follows:

1. **STATEMENT OF WORK (SOW)**

   The Contractor will provide the services and staff as described in Schedule A: *Statement of Work*.

2. **DEFINITIONS**

   "Authorized Representative" means a person to whom signature authority has been delegated in writing acting within the limits of his/her authority.

   "Breach" means the unauthorized acquisition, access, use, or disclosure of Confidential Information that compromises the security, confidentiality, or integrity of the Confidential Information.

   "Business Associate" means a Business Associate as defined in 45 CFR 160.103, who performs or assists in the performance of an activity for or on behalf of HCA, a Covered Entity, that involves the use or disclosure of protected health information (PHI). Any reference to Business Associate in this DSA includes Business Associate's employees, agents, officers, Subcontractors, third party contractors, volunteers, or directors.

   "Business Days and Hours" means Monday through Friday, 8:00 a.m. to 5:00 p.m., Pacific Time, except for holidays observed by the state of Washington.

   "Centers for Medicare and Medicaid Services" or **"CMS"** means the federal office under the Secretary of the United States Department of Health and Human Services, responsible for the Medicare and Medicaid programs.

"CFR" means the Code of Federal Regulations. All references in this Contract to CFR chapters or sections include any successor, amended, or replacement regulation. The CFR may be accessed at http://www.ecfr.gov/cgi-bin/ECFR?page=browse.

"**Community**" means an approved geographic area within school district boundaries, or within High School Attendance Areas (HSAA) and their feeder schools.

"Confidential Information" means information that may be exempt from disclosure to the public or other unauthorized persons under chapter 42.56 RCW or chapter 70.02 RCW or other state or federal statutes or regulations. Confidential Information includes, but is not limited to, any information identifiable to an individual that relates to a natural person's health, (see also Protected Health Information); finances, education, business, use or receipt of governmental services, names, addresses, telephone numbers, social security numbers, driver license numbers, financial profiles, credit card numbers, financial identifiers and any other identifying numbers, law enforcement records, HCA source code or object code, or HCA or State security information.

"Contract" means this Contract document and all schedules, exhibits, attachments, incorporated documents and amendments.

"**Contractor"** means County of Benton, its employees and agents. Contractor includes any firm, provider, organization, individual or other entity performing services under this Contract. It also includes any Subcontractor retained by Contractor as permitted under the terms of this Contract.

"Covered entity" means a health plan, a health care clearinghouse or a health care provider who transmits any health information in electronic form to carry out financial or administrative activities related to health care, as defined in 45 CFR 160.103.

"Data" means information produced, furnished, acquired, or used by Contractor in meeting requirements under this Contract.

"Effective Date" means the first date this Contract is in full force and effect. It may be a specific date agreed to by the parties; or, if not so specified, the date of the last signature of a party to this Contract.

"**Encrypt**" means to encode confidential information into a format that can only be read by those possessing a "key"; a password, digital certificate or other mechanism available only to authorized users. Encryption must use a key length of at least 128 bits.

"Fiscal/Program Requirements" means the Supplementary Instructions and Fiscal Policy Standards for Reimbursable Costs as used by HCA, located at: https://www.hca.wa.gov/billers-providers-partners/prior-authorization-claims-and-billing/provider-billing-guides-and-fee-schedules#t.

“HCA Contract Manager” means the individual identified on the cover page of this Contract who will provide oversight of the Contractor’s activities conducted under this Contract.

“Health Care Authority” or **“HCA”** means the Washington State Health Care Authority, any division, section, office, unit or other entity of HCA, or any of the officers or other officials lawfully representing HCA.

“OMB” means the Office of Management and Budget of the executive office of the president of the United States.

"Overpayment" means any payment or benefit to the Contractor in excess of that to which the Contractor is entitled by law, rule, or this Contract, including amounts in dispute.

“Proprietary Information” means information owned by Contractor to which Contractor claims a protectable interest under law. Proprietary Information includes, but is not limited to, information protected by copyright, patent, trademark, or trade secret laws.

“**Protected Health Information**” or **“PHI”** means individually identifiable information that relates to the provision of health care to an individual; the past, present, or future physical or mental health or condition of an individual; or past, present, or future payment for provision of health care to an individual, as defined in 45 CFR 160.103. Individually identifiable information is information that identifies the individual or about which there is a reasonable basis to believe it can be used to identify the individual, and includes demographic information. PHI is information transmitted, maintained, or stored in any form or medium. 45 CFR 164.501. PHI does not include education records covered by the Family Educational Rights and Privacy Act, as amended, 20 USC 1232g(a)(4)(b)(iv).

“RCW” means the Revised Code of Washington. All references in this Contract to RCW chapters or sections include any successor, amended, or replacement statute. Pertinent RCW chapters can be accessed at: http://apps.leg.wa.gov/rcw/.

“Statement of Work” or **“SOW”** means a detailed description of the work activities the Contractor is required to perform under the terms and conditions of this Contract, including the deliverables and timeline, and is Schedule A hereto.

“Subcontractor” means a person or entity that is not in the employment of the Contractor, who is performing all or part of the business activities under this Contract under a separate contract with Contractor. The term “Subcontractor” means subcontractor(s) of any tier.

“Subrecipient” means a non-federal entity that expends federal awards received from a pass-through entity to carry out a federal program, but does not include an individual that is a beneficiary of such a program. A sub-recipient may also be a recipient of other federal awards directly from a federal awarding agency. As in 45 C.F.R. 75.2, or any successor or replacement to such definition, for any federal award from HHS; or 2 C.F.R. 200.93, or any successor or replacement to such definition, for any other federal award. See OMB circular a-133 for additional details.

"USC" means the United States Code. All references in this Contract to USC chapters or sections will include any successor, amended, or replacement statute. The USC may be accessed at http://uscode.house.gov/

"WAC" means the Washington Administrative Code. All references to WAC chapters or sections will include any successor, amended, or replacement regulation. Pertinent WACs may be accessed at: http://app.leg.wa.gov/wac/.

3. SPECIAL TERMS AND CONDITIONS

3.1 PERFORMANCE EXPECTATIONS

Expected performance under this Contract includes, but is not limited to, the following:

3.1.1 Knowledge of applicable state and federal laws and regulations pertaining to subject of contract;

3.1.2 Use of professional judgment;

3.1.3 Collaboration with HCA staff in Contractor's conduct of the services;

3.1.4 Conformance with HCA directions regarding the delivery of the services;

3.1.5 Timely, accurate and informed communications;

3.1.6 Regular completion and updating of project plans, reports, documentation and communications;

3.1.7 Regular, punctual attendance at all meetings; and

3.1.8 Provision of high quality services.

Prior to payment of invoices, HCA will review and evaluate the performance of Contractor in accordance with Contract and these performance expectations and may withhold payment if expectations are not met or Contractor's performance is unsatisfactory.

3.2 TERM

3.2.1 The initial term of the Contract will commence on September 30, 2021 and continue through September 29, 2022, unless terminated sooner as provided herein.

3.2.2 This Contract may be extended in whatever time increments HCA deems appropriate. No change in terms and conditions will be permitted during these extensions unless specifically agreed to in writing.

3.2.3 Work performed without a contract or amendment signed by the authorized representatives of both parties will be at the sole risk of the Contractor. HCA will not

pay any costs incurred before a contract or any subsequent amendment(s) is fully executed.

3.3 COMPENSATION

3.3.1 The Maximum Compensation payable to Contractor for the performance of all things necessary for or incidental to the performance of work as set forth in Schedule A: *Statement of Work* is $649,208.00, and includes any allowable expenses.

3.3.2 Federal funds disbursed through this Contract were received by HCA through OMB Catalogue of Federal Domestic Assistance (CFDA) Number: 93.788, SAMHSA Center for Substance Abuse Treatment, 1H79TI083286-01, Washington State Opioid Response II (SOR II) Grant. Contractor agrees to comply with applicable rules and regulations associated with these federal funds and has signed Attachment 2: *Federal Compliance, Certification and Assurances*, attached.

3.4 INVOICE AND PAYMENT

3.4.1 Invoice System

a. The Contractor must submit invoices using State Form A-19 Invoice Voucher, or such other form as designated by HCA. Consideration for services rendered will be payable upon receipt of properly completed invoices submitted to megan.fowler@hca.wa.gov.

b. Invoices must be submitted only once per month and must include the HCA Contract number in the subject line of the email

c. Submit invoices for costs due and payable under this Contract that were incurred prior to the expiration date within ninety (90) days of the date services were provided

d. Additional requirements as outlined in Schedule A: Statement of Work

3.5 CONTRACTOR AND HCA CONTRACT MANAGERS

3.5.1 Contractor's Contract Manager will have prime responsibility and final authority for the services provided under this Contract and be the principal point of contact for the HCA Contract Manager for all business matters, performance matters, and administrative activities.

3.5.2 HCA's Contract Manager is responsible for monitoring the Contractor's performance and will be the contact person for all communications regarding contract performance and deliverables. The HCA Contract Manager has the authority to

accept or reject the services provided and must approve Contractor's invoices prior to payment.

3.5.3 The contact information provided below may be changed by written notice of the change (email acceptable) to the other party.

CONTRACTOR Contract Manager Information		**Health Care Authority Contract Manager Information**	
Name:	Scott Souza	Name:	Megan Fowler
Title:	Chief of Corrections	Title:	State Opioid Response Treatment Manager
Address:	7122 W Okanogan Pl. Bldg. B, Kennewick, WA 99336	Address:	Health Care Authority 626 8th Avenue SE Olympia, WA 98504
Phone:	(509) 222-3787	Phone:	(360) 725-2019
Email:	Scott.souza@co.benton.wa.us	Email:	Megan.fowler@hca.wa.gov

3.6 LEGAL NOTICES

Any notice or demand or other communication required or permitted to be given under this Contract or applicable law is effective only if it is in writing and signed by the applicable party, properly addressed, and delivered in person,via email, or by a recognized courier service, or deposited with the United States Postal Service as first-class mail, postage prepaid certified mail, return receipt requested, to the parties at the addresses provided in this section.

3.6.1 In the case of notice to the Contractor:

Scott Souza, Chief of Corrections
Benton County Corrections Department
7122 W Okanogan Place, Bldg. B
Kennewick, WA 99336

3.6.2 In the case of notice to HCA:

Attention: Contracts Administrator
Health Care Authority
Division of Legal Services
Post Office Box 42702
Olympia, WA 98504-2702
CONTRACTS@hca.wa.gov

3.6.3 Notices are effective upon receipt or four (4) Business Days after mailing, whichever is earlier.

3.6.4 The notice address and information provided above may be changed by written notice of the change given as provided above.

3.7 INCORPORATION OF DOCUMENTS AND ORDER OF PRECEDENCE

Each of the documents listed below is by this reference incorporated into this Contract. In the event of an inconsistency, the inconsistency will be resolved in the following order of precedence:

3.7.1 Applicable Federal and State of Washington statutes and regulations;

3.7.2 Recitals

3.7.3 Special Terms and Conditions;

3.7.4 General Terms and Conditions;

3.7.5 Attachment 1: Confidential Information Security Requirements;

3.7.6 Attachment 2: *Federal Compliance, Certifications and Assurances;*

3.7.7 Attachment 3: Federal Funding Accountability and Transparency Act Data Collection Form*;*

3.7.8 Attachment 4: SAMHSA Award Terms*;*

3.7.9 Schedule A(s): Statement(s) of Work;

3.7.10 Exhibit A: Definitions Specific to Special Terms;

3.7.11 Exhibit B: 15 CLAS Principals; and

3.7.12 Any other provision, term or material incorporated herein by reference or otherwise incorporated.

3.8 INSURANCE

Contractor must provide insurance coverage as set out in this section. The intent of the required insurance is to protect the State should there be any claims, suits, actions, costs, damages or expenses arising from any negligent or intentional act or omission of Contractor or Subcontractor, or agents of either, while performing under the terms of this Contract. Contractor must provide insurance coverage that is maintained in full force and effect during the term of this Contract, as follows:

3.8.1 Commercial General Liability Insurance Policy - Provide a Commercial General Liability Insurance Policy, including contractual liability, in adequate quantity to protect against legal liability arising out of contract activity but no less than $1 million per occurrence/$2 million general aggregate. Additionally, Contractor is responsible for ensuring that any Subcontractors provide adequate insurance coverage for the activities arising out of subcontracts.

3.8.2 Business Automobile Liability. In the event that services delivered pursuant to this Contract involve the use of vehicles, either owned, hired, or non-owned by the Contractor, automobile liability insurance is required covering the risks of bodily injury (including death) and property damage, including coverage for contractual liability. The minimum limit for automobile liability is $1,000,000 per occurrence, using a Combined Single Limit for bodily injury and property damage.

3.8.3 Professional Liability Errors and Omissions – Provide a policy with coverage of not less than $1 million per claim/$2 million general aggregate.

3.8.4 The insurance required must be issued by an insurance company/ies authorized to do business within the state of Washington, and must name HCA and the state of Washington, its agents and employees as additional insured's under any Commercial General and/or Business Automobile Liability policy/ies. All policies must be primary to any other valid and collectable insurance. In the event of cancellation, non-renewal, revocation or other termination of any insurance coverage required by this Contract, Contractor must provide written notice of such to HCA within one (1) Business Day of Contractor's receipt of such notice. Failure to buy and maintain the required insurance may, at HCA's sole option, result in this Contract's termination.

Upon request, Contractor must submit to HCA a certificate of insurance that outlines the coverage and limits defined in the Insurance section. If a certificate of insurance is requested, Contractor must submit renewal certificates as appropriate during the term of the contract.

3.8.5 The Contractor certifies that it is self-insured, is a member of a risk pool, or maintains the types and amounts of insurance identified above and will provde certificates of insurance to that effect to HCA upon request.

Upon request, Contractor must submit to HCA a certificate of insurance that outlines the coverage and limits defined in the Insurance section. If a certificate of insurance is requested, Contractor must submit renewal certificates as appropriate during the term of the contract.

3.8.6 Privacy Breach Response Coverage. Contractor must maintain insurance to cover costs incurred in connection with a Breach, or potential Breach, including:

3.8.6.1 Computer forensics assistance to assess the impact of the Breach or potential Breach, determine root cause, and help determine whether and the extent to which notification must be provided to comply with Breach notification laws.

3.8.6.2 Notification and call center services for individuals affected by a Breach.

3.8.6.3 Breach resolution and mitigation services for individuals affected by a Breach, including fraud prevention, credit monitoring and identity theft assistance.

3.8.6.4 Regulatory defense, fines and penalties from any claim in the form of a regulatory proceeding resulting from a violation of any applicable privacy or security law(s) or regulation(s).

The policy must be maintained for the term of this Agreement and three (3) years following its termination.

4. GENERAL TERMS AND CONDITIONS

4.1 ACCESS TO DATA

In compliance with RCW 39.26.180 (2) and federal rules, the Contractor must provide access to any data generated under this Contract to HCA, the Joint Legislative Audit and Review Committee, the State Auditor, and any other state or federal officials so authorized by law, rule, regulation, or agreement at no additional cost. This includes access to all information that supports the findings, conclusions, and recommendations of the Contractor's reports, including computer models and methodology for those models.

4.2 ADVANCE PAYMENT PROHIBITED

No advance payment will be made for services furnished by the Contractor pursuant to this Contract.

4.3 AMENDMENTS

This Contract may be amended by mutual agreement of the parties. Such amendments will not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

4.4 ASSIGNMENT

4.4.1 Contractor may not assign or transfer all or any portion of this Contract or any of its rights hereunder, or delegate any of its duties hereunder, except delegations as set forth in Section 4.36, *Subcontracting*, without the prior written consent of HCA. Any permitted assignment will not operate to relieve Contractor of any of its duties and obligations hereunder, nor will such assignment affect any remedies available to HCA that may arise from any breach of the provisions of this Contract or warranties made herein, including but not limited to, rights of setoff. Any attempted assignment,

transfer or delegation in contravention of this Subsection 4.4.1 of the Contract will be null and void.

4.4.2 HCA may assign this Contract to any public agency, commission, board, or the like, within the political boundaries of the State of Washington, with written notice of thirty (30) calendar days to Contractor.

4.4.3 This Contract will inure to the benefit of and be binding on the parties hereto and their permitted successors and assigns.

4.5 ATTORNEYS' FEES

In the event of litigation or other action brought to enforce the terms of this Contract, each party agrees to bear its own attorneys' fees and costs.

4.6 CHANGE IN STATUS

In the event of any substantive change in its legal status, organizational structure, or fiscal reporting responsibility, Contractor will notify HCA of the change. Contractor must provide notice as soon as practicable, but no later than thirty (30) calendar days after such a change takes effect.

4.7 CONFIDENTIAL INFORMATION PROTECTION

4.7.1 Contractor acknowledges that some of the material and information that may come into its possession or knowledge in connection with this Contract or its performance may consist of Confidential Information. Contractor agrees to hold Confidential Information in strictest confidence and not to make use of Confidential Information for any purpose other than the performance of this Contract, to release it only to authorized employees or Subcontractors requiring such information for the purposes of carrying out this Contract, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make the information known to any other party without HCA's express written consent or as provided by law. Contractor agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to Confidential Information (See Attachment 1: *Confidential Information Security Requirements*).

4.7.2 Contractors that come into contact with Protected Health Information may be required to enter into a Business Associate Agreement with HCA in compliance with the requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, as modified by the American Recovery and Reinvestment Act of 2009 ("ARRA"), Sec. 13400 – 13424, H.R. 1 (2009) (HITECH Act) (HIPAA).

4.7.3 HCA reserves the right to monitor, audit, or investigate the use of Confidential Information collected, used, or acquired by Contractor through this Contract. Violation of this section by Contractor or its Subcontractors may result in termination

of this Contract and demand for return of all Confidential Information, monetary damages, or penalties.

4.7.4 The obligations set forth in this Section will survive completion, cancellation, expiration, or termination of this Contract.

4.8 CONFIDENTIAL INFORMATION SECURITY

The federal government, including the Centers for Medicare and Medicaid Services (CMS), and the State of Washington all maintain security requirements regarding privacy, data access, and other areas. Contractor is required to comply with the Confidential Information Security Requirements set out in Attachment 1 to this Contract and appropriate portions of the Washington OCIO Security Standard, 141.10 (https://ocio.wa.gov/policies/141-securing-information-technology-assets/14110-securing-information-technology-assets).

4.9 CONFIDENTIAL INFORMATION BREACH – REQUIRED NOTIFICATION

4.9.1 Contractor must notify the HCA Privacy Officer (PrivacyOfficer@hca.wa.gov) within five Business Days of discovery of any Breach or suspected Breach of Confidential Information.

4.9.2 Contractor will take steps necessary to mitigate any known harmful effects of such unauthorized access including, but not limited to, sanctioning employees and taking steps necessary to stop further unauthorized access. Contractor agrees to indemnify and hold HCA harmless for any damages related to unauthorized use or disclosure of Confidential Information by Contractor, its officers, directors, employees, Subcontractors or agents.

4.9.3 If notification of the Breach or possible Breach must (in the judgment of HCA) be made under the HIPAA Breach Notification Rule, or RCW 42.56.590 or RCW 19.255.010, or other law or rule, then:

4.9.3.1 HCA may choose to make any required notifications to the individuals, to the U.S. Department of Health and Human Services Secretary (DHHS) Secretary, and to the media, or direct Contractor to make them or any of them.

4.9.3.2 In any case, Contractor will pay the reasonable costs of notification to individuals, media, and governmental agencies and of other actions HCA

reasonably considers appropriate to protect HCA clients (such as paying for regular credit watches in some cases).

4.9.3.3 Contractor will compensate HCA clients for harms caused to them by any Breach or possible Breach.

4.9.4 Any breach of this clause may result in termination of the Contract and the demand for return or disposition (Attachment 1, Section 6) of all Confidential Information.

4.9.5 Contractor's obligations regarding Breach notification survive the termination of this Contract and continue for as long as Contractor maintains the Confidential Information and for any breach or possible breach at any time.

4.10 CONTRACTOR'S PROPRIETARY INFORMATION

Contractor acknowledges that HCA is subject to chapter 42.56 RCW, the Public Records Act, and that this Contract will be a public record as defined in chapter 42.56 RCW. Any specific information that is claimed by Contractor to be Proprietary Information must be clearly identified as such by Contractor. To the extent consistent with chapter 42.56 RCW, HCA will maintain the confidentiality of Contractor's information in its possession that is marked Proprietary. If a public disclosure request is made to view Contractor's Proprietary Information, HCA will notify Contractor of the request and of the date that such records will be released to the requester unless Contractor obtains a court order from a court of competent jurisdiction enjoining that disclosure. If Contractor fails to obtain the court order enjoining disclosure, HCA will release the requested information on the date specified.

4.11 COVENANT AGAINST CONTINGENT FEES

Contractor warrants that no person or selling agent has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the Contractor for the purpose of securing business. HCA will have the right, in the event of breach of this clause by the Contractor, to annul this Contract without liability or, in its discretion, to deduct from the contract price or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

4.12 DEBARMENT

By signing this Contract, Contractor certifies that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded in any Washington State or Federal department or agency from participating in transactions (debarred). Contractor agrees to include the above requirement in any and all subcontracts into which it enters, and also agrees that it will not employ debarred individuals. Contractor must immediately notify HCA if, during the term of this Contract, Contractor becomes debarred. HCA may immediately terminate this Contract by providing Contractor written notice, if Contractor becomes debarred during the term hereof.

4.13 DISPUTES

The parties will use their best, good faith efforts to cooperatively resolve disputes and problems that arise in connection with this Contract. Both parties will continue without delay to carry out their respective responsibilities under this Contract while attempting to resolve any dispute. When a genuine dispute arises between HCA and the Contractor regarding the terms of this Contract or the responsibilities imposed herein and it cannot be resolved between the parties' Contract Managers, either party may initiate the following dispute resolution process.

4.13.1 The initiating party will reduce its description of the dispute to writing and deliver it to the responding party (email acceptable). The responding party will respond in writing within five (5) Business Days (email acceptable). If the initiating party is not satisfied with the response of the responding party, then the initiating party may request that the HCA Director review the dispute. Any such request from the initiating party must be submitted in writing to the HCA Director within five (5) Business Days after receiving the response of the responding party. The HCA Director will have sole discretion in determining the procedural manner in which he or she will review the dispute. The HCA Director will inform the parties in writing within five (5) Business Days of the procedural manner in which he or she will review the dispute, including a timeframe in which he or she will issue a written decision.

4.13.2 A party's request for a dispute resolution must:

4.13.2.1 Be in writing;

4.13.2.2 Include a written description of the dispute;

4.13.2.3 State the relative positions of the parties and the remedy sought;

4.13.2.4 State the Contract Number and the names and contact information for the parties;

4.13.3 This dispute resolution process constitutes the sole administrative remedy available under this Contract. The parties agree that this resolution process will precede any action in a judicial or quasi-judicial tribunal.

4.14 ENTIRE AGREEMENT

HCA and Contractor agree that the Contract is the complete and exclusive statement of the agreement between the parties relating to the subject matter of the Contract and supersedes all letters of intent or prior contracts, oral or written, between the parties relating to the subject matter of the Contract, except as provided in Section 4.43 *Warranties*.

4.15 FEDERAL FUNDING ACCOUNTABILITY & TRANSPARENCY ACT (FFATA)

4.15.1 This Contract is supported by federal funds that require compliance with the Federal Funding Accountability and Transparency Act (FFATA or the Transparency Act). The purpose of the Transparency Act is to make information available online so the public can see how federal funds are spent.

4.15.2 To comply with the act and be eligible to enter into this Contract, Contractor must have a Data Universal Numbering System (DUNS®) number. A DUNS® number provides a method to verify data about your organization. If Contractor does not already have one, a DUNS® number is available free of charge by contacting Dun and Bradstreet at www.dnb.com.

4.15.3 Information about Contractor and this Contract will be made available on www.uscontractorregistration.com by HCA as required by P.L. 109-282. HCA's Attachment 3: *Federal Funding Accountability and Transparency Act Data Collection Form*, is considered part of this Contract and must be completed and returned along with the Contract.

4.16 FORCE MAJEURE

A party will not be liable for any failure of or delay in the performance of this Contract for the period that such failure or delay is due to causes beyond its reasonable control, including but not limited to acts of God, war, strikes or labor disputes, embargoes, government orders or any other force majeure event.

4.17 FUNDING WITHDRAWN, REDUCED OR LIMITED

If HCA determines in its sole discretion that the funds it relied upon to establish this Contract have been withdrawn, reduced or limited, or if additional or modified conditions are placed on such funding after the effective date of this contract but prior to the normal completion of this Contract, then HCA, at its sole discretion, may:

4.17.1 Terminate this Contract pursuant to Section 4.40.3, *Termination for Non-Allocation of Funds*;

4.17.2 Renegotiate the Contract under the revised funding conditions; or

4.17.3 Suspend Contractor's performance under the Contract upon five (5) Business Days' advance written notice to Contractor. HCA will use this option only when HCA determines that there is reasonable likelihood that the funding insufficiency may be resolved in a timeframe that would allow Contractor's performance to be resumed prior to the normal completion date of this Contract.

4.17.3.1 During the period of suspension of performance, each party will inform the other of any conditions that may reasonably affect the potential for resumption of performance.

4.17.3.2 When HCA determines in its sole discretion that the funding insufficiency is resolved, it will give Contractor written notice to resume performance. Upon the receipt of this notice, Contractor will provide written notice to HCA informing HCA whether it can resume performance and, if so, the date of resumption. For purposes of this subsection, "written notice" may include email.

4.17.3.3 If the Contractor's proposed resumption date is not acceptable to HCA and an acceptable date cannot be negotiated, HCA may terminate the contract by giving written notice to Contractor. The parties agree that the Contract will be terminated retroactive to the date of the notice of suspension. HCA will be liable only for payment in accordance with the terms of this Contract for services rendered prior to the retroactive date of termination.

4.18 GOVERNING LAW

This Contract is governed in all respects by the laws of the state of Washington, without reference to conflict of law principles. The jurisdiction for any action hereunder is exclusively in the Superior Court for the state of Washington, and the venue of any action hereunder is in the Superior Court for Thurston County, Washington. Nothing in this Contract will be construed as a waiver by HCA of the State's immunity under the 11th Amendment to the United States Constitution.

4.19 INDEMNIFICATION

Contractor must defend, indemnify, and save HCA harmless from and against all claims, including reasonable attorneys' fees resulting from such claims, for any or all injuries to persons or damage to property, or Breach of its confidentiality and notification obligations under Section 4.7 *Confidential Information Protection* and Section 4.9 *Confidentiality Breach-Required Notification*, arising from intentional or negligent acts or omissions of Contractor, its officers, employees, or agents, or Subcontractors, their officers, employees, or agents, in the performance of this Contract.

4.20 INDEPENDENT CAPACITY OF THE CONTRACTOR

The parties intend that an independent contractor relationship will be created by this Contract. Contractor and its employees or agents performing under this Contract are not employees or agents of HCA. Contractor will not hold itself out as or claim to be an officer or employee of HCA or of the State of Washington by reason hereof, nor will Contractor make any claim of right, privilege or benefit that would accrue to such employee under law. Conduct and control of the work will be solely with Contractor.

4.21 INDUSTRIAL INSURANCE COVERAGE

Prior to performing work under this Contract, Contractor must provide or purchase industrial insurance coverage for the Contractor's employees, as may be required of an "employer" as defined in Title 51 RCW, and must maintain full compliance with Title 51 RCW during the course of this Contract.

4.22 LEGAL AND REGULATORY COMPLIANCE

4.22.1 During the term of this Contract, Contractor must comply with all local, state, and federal licensing, accreditation and registration requirements/standards, necessary for the performance of this Contract and all other applicable federal, state and local laws, rules, and regulations.

4.22.2 While on the HCA premises, Contractor must comply with HCA operations and process standards and policies (e.g., ethics, Internet / email usage, data, network and building security, harassment, as applicable). HCA will make an electronic copy of all such policies available to Contractor.

4.22.3 Failure to comply with any provisions of this section may result in Contract termination.

4.23 LIMITATION OF AUTHORITY

Only the HCA Authorized Representative has the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Contract. Furthermore, any alteration, amendment, modification, or waiver or any clause or condition of this Contract is not effective or binding unless made in writing and signed by the HCA Authorized Representative.

4.24 NO THIRD-PARTY BENEFICIARIES

HCA and Contractor are the only parties to this contract. Nothing in this Contract gives or is intended to give any benefit of this Contract to any third parties.

4.25 NONDISCRIMINATION

During the performance of this Contract, the Contractor must comply with all federal and state nondiscrimination laws, regulations and policies, including but not limited to: Title VII of the Civil Rights Act, 42 U.S.C. §12101 et seq.; the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §12101 et seq., 28 CFR Part 35; and Title 49.60 RCW, Washington Law Against Discrimination. In the event of Contractor's noncompliance or refusal to comply with any nondiscrimination law, regulation or policy, this Contract may be rescinded, canceled, or terminated in whole or in part under the Termination for Default sections, and Contractor may be declared ineligible for further contracts with HCA.

4.26 OVERPAYMENTS TO CONTRACTOR

In the event that overpayments or erroneous payments have been made to the Contractor under this Contract, HCA will provide written notice to Contractor and Contractor will refund the full amount to HCA within thirty (30) calendar days of the notice. If Contractor fails to make timely refund, HCA may charge Contractor one percent (1%) per month on the amount due, until paid in full. If the Contractor disagrees with HCA's actions under this section, then it may invoke the dispute resolution provisions of Section 4.13 *Disputes*.

4.27 PAY EQUITY

4.27.1 Contractor represents and warrants that, as required by Washington state law (Engrossed House Bill 1109, Sec. 211), during the term of this Contract, it agrees to equality among its workers by ensuring similarly employed individuals are compensated as equals. For purposes of this provision, employees are similarly employed if (i) the individuals work for Contractor, (ii) the performance of the job requires comparable skill, effort, and responsibility, and (iii) the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed.

4.27.2 Contractor may allow differentials in compensation for its workers based in good faith on any of the following: (i) a seniority system; (ii) a merit system; (iii) a system that measures earnings by quantity or quality of production; (iv) bona fide job-related factor(s); or (v) a bona fide regional difference in compensation levels.

4.27.3 Bona fide job-related factor(s)" may include, but not be limited to, education, training, or experience, that is: (i) consistent with business necessity; (ii) not based on or derived from a gender-based differential; and (iii) accounts for the entire differential.

4.27.4 A "bona fide regional difference in compensation level" must be (i) consistent with business necessity; (ii) not based on or derived from a gender-based differential; and (iii) account for the entire differential.

4.27.5 Notwithstanding any provision to the contrary, upon breach of warranty and Contractor's failure to provide satisfactory evidence of compliance within thirty (30) Days of HCA's request for such evidence, HCA may suspend or terminate this Contract.

4.28 PUBLICITY

4.28.1 The award of this Contract to Contractor is not in any way an endorsement of Contractor or Contractor's Services by HCA and must not be so construed by Contractor in any advertising or other publicity materials.

4.28.2 Contractor agrees to submit to HCA, all advertising, sales promotion, and other publicity materials relating to this Contract or any Service furnished by Contractor in which HCA's name is mentioned, language is used, or Internet links are provided from which the connection of HCA's name with Contractor's Services may, in HCA's judgment, be inferred or implied. Contractor further agrees not to publish or use such advertising, marketing, sales promotion materials, publicity or the like through print, voice, the Web, and other communication media in existence or hereinafter developed without the express written consent of HCA prior to such use.

4.29 RECORDS AND DOCUMENTS REVIEW

4.29.1 The Contractor must maintain books, records, documents, magnetic media, receipts, invoices or other evidence relating to this Contract and the performance of the services rendered, along with accounting procedures and practices, all of which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Contract. At no additional cost, these records, including materials generated under this Contract, are subject at all reasonable times to inspection, review, or audit by HCA, the Office of the State Auditor, and state and federal officials so authorized by law, rule, regulation, or agreement [See 42 USC 1396a(a)(27)(B); 42 USC 1396a(a)(37)(B); 42 USC 1396a(a)(42(A); 42 CFR 431, Subpart Q; and 42 CFR 447.202].

4.29.2 The Contractor must retain such records for a period of six (6) years after the date of final payment under this Contract.

4.29.3 If any litigation, claim or audit is started before the expiration of the six (6) year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved.

4.30 REMEDIES NON-EXCLUSIVE

The remedies provided in this Contract are not exclusive, but are in addition to all other remedies available under law.

4.31 RIGHT OF INSPECTION

The Contractor must provide right of access to its facilities to HCA, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Contract.

4.32 RIGHTS IN DATA/OWNERSHIP

4.32.1 HCA and Contractor agree that all data and work products (collectively "Work Product") produced pursuant to this Contract will be considered a *work for hire* under the U.S. Copyright Act, 17 U.S.C. §101 *et seq*, and will be owned by HCA.

Contractor is hereby commissioned to create the Work Product. Work Product includes, but is not limited to, discoveries, formulae, ideas, improvements, inventions, methods, models, processes, techniques, findings, conclusions, recommendations, reports, designs, plans, diagrams, drawings, Software, databases, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions, to the extent provided by law. Ownership includes the right to copyright, patent, register and the ability to transfer these rights and all information used to formulate such Work Product.

4.32.2 If for any reason the Work Product would not be considered a *work for hire* under applicable law, Contractor assigns and transfers to HCA, the entire right, title and interest in and to all rights in the Work Product and any registrations and copyright applications relating thereto and any renewals and extensions thereof.

4.32.3 Contractor will execute all documents and perform such other proper acts as HCA may deem necessary to secure for HCA the rights pursuant to this section.

4.32.4 Contractor will not use or in any manner disseminate any Work Product to any third party, or represent in any way Contractor ownership of any Work Product, without the prior written permission of HCA. Contractor will take all reasonable steps necessary to ensure that its agents, employees, or Subcontractors will not copy or disclose, transmit or perform any Work Product or any portion thereof, in any form, to any third party.

4.32.5 Material that is delivered under this Contract, but that does not originate therefrom ("Preexisting Material"), must be transferred to HCA with a nonexclusive, royalty-free, irrevocable license to publish, translate, reproduce, deliver, perform, display, and dispose of such Preexisting Material, and to authorize others to do so. Contractor agrees to obtain, at its own expense, express written consent of the copyright holder for the inclusion of Preexisting Material. HCA will have the right to modify or remove any restrictive markings placed upon the Preexisting Material by Contractor.

4.32.6 Contractor must identify all Preexisting Material when it is delivered under this Contract and must advise HCA of any and all known or potential infringements of publicity, privacy or of intellectual property affecting any Preexisting Material at the time of delivery of such Preexisting Material. Contractor must provide HCA with prompt written notice of each notice or claim of copyright infringement or infringement of other intellectual property right worldwide received by Contractor with respect to any Preexisting Material delivered under this Contract.

4.33 RIGHTS OF STATE AND FEDERAL GOVERNMENTS

In accordance with 45 C.F.R. 95.617, all appropriate state and federal agencies, including but not limited to the Centers for Medicare and Medicaid Services (CMS), will have a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, translate, or otherwise use, and to authorize others to use for Federal Government purposes: (i) software, modifications, and documentation designed, developed or installed with Federal Financial Participation (FFP) under 45 CFR Part 95, subpart F; (ii) the Custom Software and modifications of the Custom Software, and associated Documentation designed, developed, or installed with FFP under this Contract; (iii) the copyright in any work developed under this Contract; and (iv) any rights of copyright to which Contractor purchases ownership under this Contract.

4.34 SEVERABILITY

If any provision of this Contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity will not affect the other provisions or applications of this Contract that can be given effect without the invalid provision, and to this end the provisions or application of this Contract are declared severable.

4.35 SITE SECURITY

While on HCA premises, Contractor, its agents, employees, or Subcontractors must conform in all respects with physical, fire or other security policies or regulations. Failure to comply with these regulations may be grounds for revoking or suspending security access to these facilities. HCA reserves the right and authority to immediately revoke security access to Contractor staff for any real or threatened breach of this provision. Upon reassignment or termination of any Contractor staff, Contractor agrees to promptly notify HCA.

4.36 SUBCONTRACTING

4.36.1 Neither Contractor, nor any Subcontractors, may enter into subcontracts for any of the work contemplated under this Contract without prior written approval of HCA. HCA has sole discretion to determine whether or not to approve any such subcontract. In no event will the existence of the subcontract operate to release or reduce the liability of Contractor to HCA for any breach in the performance of Contractor's duties.

4.36.2 Contractor is responsible for ensuring that all terms, conditions, assurances and certifications set forth in this Contract are included in any subcontracts.

4.36.3 If at any time during the progress of the work HCA determines in its sole judgment that any Subcontractor is incompetent or undesirable, HCA will notify Contractor, and Contractor must take immediate steps to terminate the Subcontractor's involvement in the work.

4.36.4 The rejection or approval by the HCA of any Subcontractor or the termination of a Subcontractor will not relieve Contractor of any of its responsibilities under the Contract, nor be the basis for additional charges to HCA.

4.36.5 HCA has no contractual obligations to any Subcontractor or vendor under contract to the Contractor. Contractor is fully responsible for all contractual obligations, financial or otherwise, to its Subcontractors.

4.37 SUBRECIPIENT

4.37.1 General

If the Contractor is a subrecipient (as defined in 45 CFR 75.2 and 2 CFR 200.93) of federal awards, then the Contractor, in accordance with 2 CFR 200.501 and 45 CFR 75.501, shall:

4.37.1.1 Maintain records that identify, in its accounts, all federal awards received and expended and the federal programs under which they were received, by Catalog of Federal Domestic Assistance (CFDA) title and number, award number and year, name of the federal agency, and name of the pass-through entity;

4.37.1.2 Maintain internal controls that provide reasonable assurance that the Contractor is managing federal awards in compliance with laws, regulations, and provisions of contracts or grant agreements that could have a material effect on each of its federal programs;

4.37.1.3 Prepare appropriate financial statements, including a schedule of expenditures of federal awards;

4.37.1.4 Incorporate OMB Super Circular 2 CFR 200.501 and 45 CFR 75.501 audit requirements into all agreements between the Contractor and its Subcontractors who are subrecipients;

4.37.1.5 Comply with any future amendments to OMB Super Circular 2 CFR 200.501 and 45 CFR 75.501 and any successor or replacement Circular or regulation;

4.37.1.6 Comply with the applicable requirements of OMB Super Circular 2 CFR 200.501 and 45 CFR 75.501 and any future amendments to OMB Super Circular 2 CFR 200.501 and 45 CFR 75.501, and any successor or replacement Circular or regulation; and

4.37.1.7 Comply with the Omnibus Crime Control and Safe streets Act of 1968, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, Title IX of the Education Amendments of 1972, The Age Discrimination Act of 1975, and The Department of Justice Non-Discrimination Regulations, 28 C.F.R. Part 42, Subparts C.D.E. and G, and 28 C.F.R. Part 35 and 39. (Go

to http://ojp.gov/about/offices/ocr.htm for additional information and access to the aforementioned Federal laws and regulations.)

4.37.2 Single Audit Act Compliance

If the Contractor is a subrecipient and expends $750,000 or more in federal awards from any and/or all sources in any fiscal year, the Contractor will procure and pay for a single audit or a program-specific audit for that fiscal year. Upon completion of each audit, the Contractor will:

4.37.2.1 Submit to the Authority contact person the data collection form and reporting package specified in OMB Super Circular 2 CFR 200.501 and 45 CFR 75.501, reports required by the program-specific audit guide (if applicable), and a copy of any management letters issued by the auditor;

4.37.2.2 Follow-up and develop corrective action for all audit findings; in accordance with OMB Super Circular 2 CFR 200.501 and 45 CFR 75.501, prepare a "Summary Schedule of Prior Audit Findings."

4.37.3 Overpayments

4.37.3.1 If it is determined by HCA, or during the course of a required audit, that Contractor has been paid unallowable costs under this or any Program Agreement, Contractor will refund the full amount to HCA as provided in Section 4.26 *Overpayments to Contractors*.

4.38 SURVIVAL

The terms and conditions contained in this Contract that, by their sense and context, are intended to survive the completion, cancellation, termination, or expiration of the Contract will survive. In addition, the terms of the sections titled *Confidential Information Protection, Confidential Information Breach – Required Notification, Contractor's Proprietary Information, Disputes, Overpayments to Contractor, Publicity, Records and Documents Review, Rights in Data/Ownership, and Rights of State and Federal Governments* will survive the termination of this Contract. The right of HCA to recover any overpayments will also survive the termination of this Contract.

4.39 TAXES

HCA will pay sales or use taxes, if any, imposed on the services acquired hereunder. Contractor must pay all other taxes including, but not limited to, Washington Business and Occupation Tax, other taxes based on Contractor's income or gross receipts, or personal property taxes levied or assessed on Contractor's personal property. HCA, as an agency of Washington State government, is exempt from property tax.

Contractor must complete registration with the Washington State Department of Revenue and be responsible for payment of all taxes due on payments made under this Contract.

4.40 TERMINATION

4.40.1 TERMINATION FOR DEFAULT

In the event HCA determines that Contractor has failed to comply with the terms and conditions of this Contract, HCA has the right to suspend or terminate this Contract. HCA will notify Contractor in writing of the need to take corrective action. If corrective action is not taken within five (5) Business Days, or other time period agreed to in writing by both parties, the Contract may be terminated. HCA reserves the right to suspend all or part of the Contract, withhold further payments, or prohibit Contractor from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by Contractor or a decision by HCA to terminate the Contract.

In the event of termination for default, Contractor will be liable for damages as authorized by law including, but not limited to, any cost difference between the original Contract and the replacement or cover Contract and all administrative costs directly related to the replacement Contract, e.g., cost of the competitive bidding, mailing, advertising, and staff time.

If it is determined that Contractor: (i) was not in default, or (ii) its failure to perform was outside of its control, fault or negligence, the termination will be deemed a "Termination for Convenience."

4.40.2 TERMINATION FOR CONVENIENCE

When, at HCA's sole discretion, it is in the best interest of the State, HCA may terminate this Contract in whole or in part by providing ten (10) calendar days' written notice. If this Contract is so terminated, HCA will be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination. No penalty will accrue to HCA in the event the termination option in this section is exercised.

4.40.3 TERMINATION FOR NONALLOCATION OF FUNDS

If funds are not allocated to continue this Contract in any future period, HCA may immediately terminate this Contract by providing written notice to the Contractor. The termination will be effective on the date specified in the termination notice. HCA will be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination. HCA agrees to notify Contractor of such nonallocation at the earliest possible time. No penalty will accrue to HCA in the event the termination option in this section is exercised.

4.40.4 TERMINATION FOR WITHDRAWAL OF AUTHORITY

In the event that the authority of HCA to perform any of its duties is withdrawn, reduced, or limited in any way after the commencement of this Contract and prior to normal completion, HCA may immediately terminate this Contract by providing written notice to the Contractor. The termination will be effective on the date specified in the termination notice. HCA will be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination. HCA agrees to notify Contractor of such withdrawal of authority at the earliest possible time. No penalty will accrue to HCA in the event the termination option in this section is exercised.

4.40.5 TERMINATION FOR CONFLICT OF INTEREST

HCA may terminate this Contract by written notice to the Contractor if HCA determines, after due notice and examination, that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW, or any other laws regarding ethics in public acquisitions and procurement and performance of contracts. In the event this Contract is so terminated, HCA will be entitled to pursue the same remedies against the Contractor as it could pursue in the event Contractor breaches the contract.

4.41 TERMINATION PROCEDURES

4.41.1 Upon termination of this Contract, HCA, in addition to any other rights provided in this Contract, may require Contractor to deliver to HCA any property specifically produced or acquired for the performance of such part of this Contract as has been terminated.

4.41.2 HCA will pay Contractor the agreed-upon price, if separately stated, for completed work and services accepted by HCA and the amount agreed upon by the Contractor and HCA for (i) completed work and services for which no separate price is stated; (ii) partially completed work and services; (iii) other property or services that are accepted by HCA; and (iv) the protection and preservation of property, unless the termination is for default, in which case HCA will determine the extent of the liability. Failure to agree with such determination will be a dispute within the meaning of Section 4.13 *Disputes*. HCA may withhold from any amounts due the Contractor such sum as HCA determines to be necessary to protect HCA against potential loss or liability.

4.41.3 After receipt of notice of termination, and except as otherwise directed by HCA, Contractor must:

4.41.3.1 Stop work under the Contract on the date of, and to the extent specified in, the notice;

4.41.3.2 Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the Contract that is not terminated;

4.41.3.3 Assign to HCA, in the manner, at the times, and to the extent directed by HCA, all the rights, title, and interest of the Contractor under the orders and subcontracts so terminated; in which case HCA has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;

4.41.3.4 Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of HCA to the extent HCA may require, which approval or ratification will be final for all the purposes of this clause;

4.41.3.5 Transfer title to and deliver as directed by HCA any property required to be furnished to HCA;

4.41.3.6 Complete performance of any part of the work that was not terminated by HCA; and

4.41.3.7 Take such action as may be necessary, or as HCA may direct, for the protection and preservation of the records related to this Contract that are in the possession of the Contractor and in which HCA has or may acquire an interest.

4.42 WAIVER

Waiver of any breach of any term or condition of this Contract will not be deemed a waiver of any prior or subsequent breach or default. No term or condition of this Contract will be held to be waived, modified, or deleted except by a written instrument signed by the parties. Only the HCA Authorized Representative has the authority to waive any term or condition of this Contract on behalf of HCA.

4.43 WARRANTIES

4.43.1 Contractor represents and warrants that it will perform all services pursuant to this Contract in a professional manner and with high quality and will immediately re-perform any services that are not in compliance with this representation and warranty at no cost to HCA.

4.43.2 Contractor represents and warrants that it will comply with all applicable local, State, and federal licensing, accreditation and registration requirements and standards necessary in the performance of the Services.

4.43.3 Any written commitment by Contractor within the scope of this Contract will be binding upon Contractor. Failure of Contractor to fulfill such a commitment may constitute breach and will render Contractor liable for damages under the terms of this Contract. For purposes of this section, a commitment by Contractor includes: (i) Prices, discounts, and options committed to remain in force over a specified period of time; and (ii) any warranty or representation made by Contractor to HCA or contained in any Contractor publications, or descriptions of services in written or other communication medium, used to influence HCA to enter into this Contract.

Attachment 1

Confidential Information Security Requirements

1. Definitions

In addition to the definitions set out in Section 2 of this Contract K5680 for Opioid Treatment Network Services, the definitions below apply to this Attachment.

a. "Hardened Password" means a string of characters containing at least three of the following character classes: upper case letters; lower case letters; numerals; and special characters, such as an asterisk, ampersand or exclamation point.

   i. Passwords for external authentication must be a minimum of 10 characters long.

   ii. Passwords for internal authentication must be a minimum of 8 characters long.

   iii. Passwords used for system service or service accounts must be a minimum of 20 characters long.

b. "Portable/Removable Media" means any Data storage device that can be detached or removed from a computer and transported, including but not limited to: optical media (e.g. CDs, DVDs); USB drives; or flash media (e.g. CompactFlash, SD, MMC).

c. "Portable/Removable Devices" means any small computing device that can be transported, including but not limited to: handhelds/PDAs/Smartphones; Ultramobile PC's, flash memory devices (e.g. USB flash drives, personal media players); and laptops/notebook/tablet computers. If used to store Confidential Information, devices should be Federal Information Processing Standards (FIPS) Level 2 compliant.

d. "Secured Area" means an area to which only Authorized Users have access. Secured Areas may include buildings, rooms, or locked storage containers (such as a filing cabinet) within a room, as long as access to the Confidential Information is not available to unauthorized personnel.

e. "Transmitting" means the transferring of data electronically, such as via email, SFTP, webservices, AWS Snowball, etc.

f. "Trusted System(s)" means the following methods of physical delivery: (1) hand-delivery by a person authorized to have access to the Confidential Information with written acknowledgement of receipt; (2) United States Postal Service ("USPS") first class mail, or USPS delivery services that include Tracking, such as Certified Mail, Express Mail or Registered Mail; (3) commercial delivery services (e.g. FedEx, UPS, DHL) which offer tracking and receipt confirmation; and (4) the Washington State Campus mail system. For electronic transmission, the Washington State Governmental Network (SGN) is a Trusted System for communications within that Network.

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

2. Confidential Information Transmitting

a. When transmitting HCA’s Confidential Information electronically, including via email, the Data must be encrypted using NIST 800-series approved algorithms (http://csrc.nist.gov/publications/PubsSPs.html). This includes transmission over the public internet.

b. When transmitting HCA’s Confidential Information via paper documents, the Receiving Party must use a Trusted System.

3. Protection of Confidential Information

The Contractor agrees to store Confidential Information as described:

a. Data at Rest:

i. Data will be encrypted with NIST 800-series approved algorithms. Encryption keys will be stored and protected independently of the data. Access to the Data will be restricted to Authorized Users through the use of access control lists, a Unique User ID, and a Hardened Password, or other authentication mechanisms which provide equal or greater security, such as biometrics or smart cards. Systems which contain or provide access to Confidential Information must be located in an area that is accessible only to authorized personnel, with access controlled through use of a key, card key, combination lock, or comparable mechanism.

ii. Data stored on Portable/Removable Media or Devices:

- Confidential Information provided by HCA on Removable Media will be encrypted with NIST 800-series approved algorithms. Encryption keys will be stored and protected independently of the Data.

- HCA’s data must not be stored by the Receiving Party on Portable Devices or Media unless specifically authorized within the Data Share Agreement. If so authorized, the Receiving Party must protect the Data by:

1. Encrypting with NIST 800-series approved algorithms. Encryption keys will be stored and protected independently of the data;

2. Control access to the devices with a Unique User ID and Hardened Password or stronger authentication method such as a physical token or biometrics;

3. Keeping devices in locked storage when not in use;

4. Using check-in/check-out procedures when devices are shared;

5. Maintain an inventory of devices; and

6. Ensure that when being transported outside of a Secured Area, all devices with Data are under the physical control of an Authorized User.

b. Paper documents. Any paper records containing Confidential Information must be protected by storing the records in a Secured Area that is accessible only to authorized personnel. When not in use, such records must be stored in a locked container, such as a file cabinet, locking drawer, or safe, to which only authorized persons have access.

4. Confidential Information Segregation

HCA Confidential Information received under this Contract must be segregated or otherwise distinguishable from non-HCA data. This is to ensure that when no longer needed by the Contractor, all HCA Confidential Information can be identified for return or destruction. It also aids in determining whether HCA Confidential Information has or may have been compromised in the event of a security Breach.

a. The HCA Confidential Information must be kept in one of the following ways:

   i. on media (e.g. hard disk, optical disc, tape, etc.) which will contain only HCA Data; or

   ii. in a logical container on electronic media, such as a partition or folder dedicated to HCA's Data; or

   iii. in a database that will contain only HCA Data; or

   iv. within a database and will be distinguishable from non-HCA Data by the value of a specific field or fields within database records; or

   v. when stored as physical paper documents, physically segregated from non-HCA Data in a drawer, folder, or other container.

b. When it is not feasible or practical to segregate HCA Confidential Information from non-HCA data, then both the HCA Confidential Information and the non-HCA data with which it is commingled must be protected as described in this Attachment.

5. Confidential Information Shared with Subcontractors

If HCA Confidential Information provided under this Contract is to be shared with a Subcontractor, the contract with the Subcontractor must include all of the Confidential Information Security Requirements.

6. Confidential Information Disposition

When the Confidential Information is no longer needed, except as noted below, the Confidential Information must be returned to HCA or destroyed. Media are to be destroyed using a method documented within NIST 800-88 (http://csrc.nist.gov/publications/PubsSPs.html).

a. For HCA's Confidential Information stored on network disks, deleting unneeded Confidential Information is sufficient as long as the disks remain in a Secured Area and otherwise meet the requirements listed in Section 3, above. Destruction of the Confidential Information as outlined in this section of this Attachment may be deferred until the disks are retired, replaced, or otherwise taken out of the Secured Area.

ATTACHMENT 2
Federal Compliance, Certifications, and Assurances

I. **FEDERAL COMPLIANCE** - The use of federal funds requires additional compliance and control mechanisms to be in place. The following represents the majority of compliance elements that may apply to any federal funds provided under this contract. For clarification regarding any of these elements or details specific to the federal funds in this contract, contact: **Megan Fowler**.

a. *Source of Funds* **SOR II**: This Contract is being funded partially or in full through Cooperative Contract number **1H79TI083286-01**, the full and complete terms and provisions of which are hereby incorporated into this Contract. Federal funds to support this Contract are identified by the Catalog of Federal Domestic Assistance (CFDA) number 93.788 in the amount of **$649,208.00** The Contractor or Subrecipient is responsible for tracking and reporting the cumulative amount expended under HCA Contract **K5680.**

b. *Period of Availability of Funds **SOR II***: Pursuant to 45 CFR 92.23, Contractor or Subrecipient may charge to the award only costs resulting from obligations of the funding period specified in **1H79TI083286-01** unless carryover of unobligated balances is permitted, in which case the carryover balances may be charged for costs resulting from obligations of the subsequent funding period. All obligations incurred under the award must be liquidated no later than 90 days after the end of the funding period.

c. *Single Audit Act:* This section applies to subrecipients only. Subrecipient (including private, for-profit hospitals and non-profit institutions) shall adhere to the federal Office of Management and Budget (OMB) Super Circular 2 CFR 200.501 and 45 CFR 75.501. A Subrecipient who expends $750,000 or more in federal awards during a given fiscal year shall have a single or program-specific audit for that year in accordance with the provisions of OMB Super Circular 2 CFR 200.501 and 45 CFR 75.501.

d. *Modifications:* This Contract may not be modified or amended, nor may any term or provision be waived or discharged, including this particular Paragraph, except in writing, signed upon by both parties.

1. Examples of items requiring Health Care Authority prior written approval include, but are not limited to, the following:
    i. Deviations from the budget and Project plan.
    ii. Change in scope or objective of the Contract.
    iii. Change in a key person specified in the Contract.
    iv. The absence for more than one (1) months or a 25% reduction in time by the Project Manager/Director.
    v. Need for additional funding.
    vi. Inclusion of costs that require prior approvals as outlined in the appropriate cost principles.
    vii. Any changes in budget line item(s) of greater than twenty percent (20%) of the total budget in this Contract.
2. No changes are to be implemented by the Sub-awardee until a written notice of approval is received from the Health Care Authority.

e. *Sub-Contracting:* The Contractor or Subrecipient shall not enter into a sub-contract for any

of the work performed under this Contract without obtaining the prior written approval of the Health Care Authority. If sub-contractors are approved by the Health Care Authority, the subcontract, shall contain, at a minimum, sections of the Contract pertaining to Debarred and Suspended Vendors, Lobbying certification, Audit requirements, and/or any other project Federal, state, and local requirements.

f. *Condition for Receipt of Health Care Authority Funds:* Funds provided by Health Care Authority to the Contractor or Subrecipient under this Contract may not be used by the Contractor or Subrecipient as a match or cost-sharing provision to secure other federal monies without prior written approval by the Health Care Authority.

g. Unallowable Costs: The Contractor or Subrecipient's expenditures shall be subject to reduction for amounts included in any invoice or prior payment made which determined by HCA not to constitute allowable costs on the basis of audits, reviews, or monitoring of this Contract.

h. Supplanting Compliance: SABG: If SABG funds support this Contract, the Block Grant will not be used to supplant State funding of alcohol and other drug prevention and treatment programs. (45 CFR section 96.123(a)(10)).

i. Citizenship/Alien Verification/Determination: The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 (PL 104-193) states that federal public benefits should be made available only to U.S. citizens and qualified aliens. Entities that offer a service defined as a "federal public benefit" must make a citizenship/qualified alien determination/ verification of applicants at the time of application as part of the eligibility criteria. Non-US citizens and unqualified aliens are not eligible to receive the services. PL 104-193 also includes specific reporting requirements.

j. *Federal Compliance:* The Contractor or Subrecipient shall comply with all applicable State and Federal statutes, laws, rules, and regulations in the performance of this Contract, whether included specifically in this Contract or not.

k. Civil Rights and Non-Discrimination Obligations: During the performance of this Contract, the Contractor or Subrecipient shall comply with all current and future federal statutes relating to nondiscrimination. These include but are not limited to: Title VI of the Civil Rights Act of 1964 (PL 88-352), Title IX of the Education Amendments of 1972 (20 U.S.C. §§ 1681-1683 and 1685-1686), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101- 6107), the Drug Abuse Office and Treatment Act of 1972 (PL 92-255), the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (PL 91-616), §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290dd-3 and 290ee-3), Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), and the Americans with Disability Act (42 U.S.C., Section 12101 et seq.) http://www.hhs.gov/ocr/civilrights.

HCA Federal Compliance Contact Information

Federal Grants and Budget Specialist Health Care Policy

Washington State Health Care Authority

Post Office Box 42710

Olympia, Washington 98504-2710

II. **CIRCULARS 'COMPLIANCE MATRIX' -** The following compliance matrix identifies the OMB Circulars that contain the requirements which govern expenditure of federal funds. These requirements apply to the Washington State Health Care Authority (HCA), as the primary

recipient of federal funds and then follow the funds to the sub-awardee, **County of Benton**. The federal Circulars which provide the applicable administrative requirements, cost principles and audit requirements are identified by sub-awardee organization type.

	OMB CIRCULAR		
ENTITY TYPE	**ADMINISTRATIVE REQUIREMENTS**	**COST PRINCIPLES**	**AUDIT REQUIREMENTS**
State. Local and Indian Tribal Governments and Governmental Hospitals	OMB Super Circular 2 CFR 200.501 and 45 CFR 75.501		
Non-Profit Organizations and Non-Profit Hospitals			
Colleges or Universities and Affiliated Hospitals			
For-Profit Organizations			

III. **STANDARD FEDERAL CERTIFICATIONS AND ASSURANCES -** Following are the Assurances, Certifications, and Special Conditions that apply to all federally funded (in whole or in part) Contracts administered by the Washington State Health Care Authority.

1. **CERTIFICATION REGARDING DEBARMENT AND SUSPENSION :** The undersigned (authorized official signing for the contracting organization) certifies to the best of his or her knowledge and belief, that the contractor, defined as the primary participant in accordance with 45 CFR Part 76, and its principals: are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency have not within a 3-year period preceding this contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in Section 2 of this certification; and have not within a 3-year period preceding this contract had one or more public transactions (Federal, State, or local) terminated for cause or default.

Should the Contractor or Subrecipient not be able to provide this certification, an explanation as to why should be placed after the assurances page in the contract.

The contractor agrees by signing this contract that it will include, without modification, the clause above certification in all lower tier covered transactions (i.e., transactions with sub-grantees and/or contractors) and in all solicitations for lower tier covered transactions in accordance with 45 CFR Part 76.

2. **CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS:** The undersigned (authorized official signing for the contracting organization) certifies that the contractor will, or will continue to, provide a drug-free workplace in accordance with 45 CFR Part 76 by:

    1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition; Establishing an ongoing drug-free awareness program to inform employees about

        i. The dangers of drug abuse in the workplace;

        ii. The contractor's policy of maintaining a drug-free workplace;

        iii. Any available drug counseling, rehabilitation, and employee assistance programs; and

        iv. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

    2. Making it a requirement that each employee to be engaged in the performance of the contract be given a copy of the statement required by paragraph (I) above;

    3. Notifying the employee in the statement required by paragraph (I), above, that, as a condition of employment under the contract, the employee will—

        i. Abide by the terms of the statement; and

        ii. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction;

    4. Notifying the agency in writing within ten calendar days after receiving notice under paragraph (III)(b) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every contract officer or other designee on whose contract activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

    5. Taking one of the following actions, within thirty (30) calendar days of receiving notice under paragraph (III) (b), with respect to any employee who is so convicted—

i. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

ii. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

6. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (I) through (V).

For purposes of paragraph (V) regarding agency notification of criminal drug convictions, Authority has designated the following central point for receipt of such notices:

Legal Services Manager
WA State Health Care Authority
PO Box 42700
Olympia, WA 98504-2700

3. **CERTIFICATION REGARDING LOBBYING:** Title 31, United States Code, Section 1352, entitled "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," generally prohibits recipients of Federal grants and cooperative Contracts from using Federal (appropriated) funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a SPECIFIC grant or cooperative Contract. Section 1352 also requires that each person who requests or receives a Federal grant or cooperative Contract must disclose lobbying undertaken with non-Federal (nonappropriated) funds. These requirements apply to grants and cooperative Contracts EXCEEDING $100,000 in total costs (45 CFR Part 93).

   The undersigned (authorized official signing for the contracting organization) certifies, to the best of his or her knowledge and belief, that:

   1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative Contract, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative Contract.

   2. If any funds other than Federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative Contract, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. (If needed, Standard Form-LLL, "Disclosure of Lobbying Activities," its instructions, and continuation sheet are included at the end of this application form.)

3. The undersigned shall require that the language of this certification be included in the award documents for all subcontracts at all tiers (including subcontracts, subcontracts, and contracts under grants, loans and cooperative Contracts) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

4. **CERTIFICATION REGARDING PROGRAM FRAUD CIVIL REMEDIES ACT (PFCRA):** The undersigned (authorized official signing for the contracting organization) certifies that the statements herein are true, complete, and accurate to the best of his or her knowledge, and that he or she is aware that any false, fictitious, or fraudulent statements or claims may subject him or her to criminal, civil, or administrative penalties. The undersigned agrees that the contracting organization will comply with the Public Health Service terms and conditions of award if a contract is awarded.

5. **CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE:** Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such Federal funds. The law does not apply to children's services provided in private residence, portions of facilities used for inpatient drug or alcohol treatment, service providers whose sole source of applicable Federal funds is Medicare or Medicaid, or facilities where WIC coupons are redeemed.

   Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1,000 for each violation and/or the imposition of an administrative compliance order on the responsible entity.

   By signing the certification, the undersigned certifies that the contracting organization will comply with the requirements of the Act and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act.

   The contracting organization agrees that it will require that the language of this certification be included in any subcontracts which contain provisions for children's services and that all sub-recipients shall certify accordingly.

   The Public Health Services strongly encourages all recipients to provide a smoke-free workplace and promote the non-use of tobacco products. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

6. **CERTIFICATION REGARDING OTHER RESPONSIBILITY MATTERS**

   1. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective contractor

shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective contractor to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

2. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective contractor knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.
3. The prospective contractor shall provide immediate written notice to the department or agency to whom this contract is submitted if at any time the prospective contractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. 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 meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the person to whom this contract is submitted for assistance in obtaining a copy of those regulations.
5. The prospective contractor agrees by submitting this contract that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by Authority.
6. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
7. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, HCA may terminate this transaction for cause or default.

CONTRACTOR SIGNATURE REQUIRED

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
Please also print or type name: Jerome Delvin, Chairman	Benton County Commissioner
ORGANIZATION NAME: (if applicable)	DATE

Attachment 3
Federal Funding Accountability and Transparency Act (FFATA) Data Collection Form

This Contract is supported by federal funds that require compliance with the Federal Funding Accountability and Transparency Act (FFATA or the Transparency Act). The purpose of the Transparency Act is to make information available online so the public can see how federal funds are spent.

To comply with the act and be eligible to enter into this contract, your organization must have a Data Universal Numbering System (DUNS®) number. A DUNS® number provides a method to verify data about your organization. If you do not already have one, you may receive a DUNS® number free of charge by contacting Dun and Bradstreet at www.dnb.com.

Required Information about your organization and this contract will be made available on USASpending.gov by HCA as required by P.L. 109-282. As a tool to provide the information, HCA encourages registration with the Central Contractor Registry (CCR) because less data entry and re-entry is required by both HCA and your organization. You may register with CCR on-line at https://www.uscontractorregistration.com/.

CONTRACTOR

Legal Name County of Benton, Washington	DUNS Number 083738997
Principle Place of Performance 7122 W Okanogan Place, Bldg. B	Congressional District 4
3b. City Kennewick	State WA
3d. Zip+4 99336	Country USA

Are you registered in CCR (https://www.uscontractorregistration.com/)? ☐YES (skip to page 2. Sign, date and return) ☐NO

In the preceding fiscal year did your organization:

Receive 80% or more of annual gross revenue from procurement federal contracts, Subcontracts, grants, loans, sub-grants, and/or cooperative agreements; **and**
$25,000,000 or more in annual gross revenues from federal procurement contracts, Subcontracts, grants, loans, subgrants, and/or cooperative agreements; **and**
The public does not have access to information about the compensation of the executives through periodic reports filed with the IRS or the Security and Exchange Commission per 2 CFR Part 170.330

☐ NO (skip the remainder of this section - Sign, date and return)
☒ YES (You must report the names and total compensation of the top 5 highly compensated officials of your organization).

Name Of Official	Total Compensation

1.	
2.	
3.	
4.	
5.	

Note: "Total compensation" means the cash and noncash dollar value earned by the executive during the sub-recipient's past fiscal year of the following (for more information see 17 CFR 229.402 (c) (2))

By signing this document, the Contractor Authorized Representative attests to the information.

HCA will not endorse the Contractor's sub-award until this form is completed and returned.

FOR HEALTH CARE AUTHORITY USE ONLY

HCA Contract Number: **K5680**
Sub-award Project Description (see instructions and examples below)

Instructions for Sub-award Project Description:

In the first line of the description provide a title for the sub-award that captures the main purpose of the Subrecipients work. Then, indicate the name of the Subrecipient and provide a brief

Signature of Contractor Authorized Representative	Date

description that captures the overall purpose of the sub-award, how the funds will be used, and what will be accomplished.

Example of a Sub-award Project Description:

Increase Healthy Behaviors: Educational Services District XYZ will provide training and technical assistance to chemical dependency centers to assist the centers to integrate tobacco use into their existing addiction treatment programs. Funds will also be used to assist centers in creating tobacco free treatment environment

Attachment 4

Substance Abuse and Mental Health Services Administration (SAMHSA) Award Terms

By drawing or otherwise obtaining funds as a subawardee or contractor of a non-federal entity drawing or otherwise obtaining funds from SAMHSA, a branch of the United States Department of Health and Human Services (HHS), you agree to the following pass-through terms and conditions.

Name	Language
Acceptance of the Terms of an Award	This Subaward is subject to the SAMHSA Fiscal Year 2021 – Award Standard Terms, included directly, or incorporated by reference on the Notice of Award (NoA) support the grant.
Non-Supplanting	Federal award funds must supplement, not supplant, nonfederal funds. All recipients who receive awards under programs that prohibit supplanting by law must ensure that federal funds do not supplant funds that have been budgeted for the same purpose through non-federal sources. Applicants or award recipients may be required to demonstrate and document that a reduction in non-federal resources occurred for reasons other than the receipt of expected receipt of federal funds. Block grant funds (SABG and MHBG) will not be used to supplant state funding of alcohol and other drug prevention programs. See 45 CFR § 98.123
Unallowable Costs	All costs incurred prior to the award issue date and costs not consistent with the funding opportunity, 45 CFR Part 75, and the HHS Grants Policy Statement, are not allowable under this subaward.
Marijuana Restrictions	Grant funds may not be used, directly or indirectly, to purchase, prescribe, or provide marijuana treatment using marijuana. Treatment in this context includes the treatment or opioid use disorder. Grant funds also cannot be provided to any individual who or organization that provides or permits marijuana use for the purposes of treating substance use or mental disorders. *See, e.g.,* 45 CFR 75.300(a); 21 USC 812(c)(10) and 841. This prohibition does not apply to those providing such treatment in the context of clinical research permitted by the DEA and under an FDA-approved investigational new drug application where the article being evaluated is marijuana or a constituent thereof that is otherwise a banned controlled substances under the federal law.
Executive Pay	The Consolidated Appropriations Act, 2021 (Public Law 116-260), signed into law on December 27, 2020 restricts the amount of direct salary to Executive Level II of the Federal Executive Pay scale.

	Effective January 3, 2021, the salary limitation for Executive Level II is **$199,300**.
Promotional Items	SAMHSA grant funds may not be used for Promotional Items. Promotional Items include but are not limited to: Clothing and commemorative items such as pens, mugs/cups, folders/folios, lanyards, and conference bags.
Acknowledgment of Federal Funding at Conferences and Meetings	When a conference is funded by a grant or cooperative agreement, the recipient must include the following statement in all conference materials (including promotional materials, agenda, and internet sites): *Funding for this conference was made possible 9in part) by (insert grant or cooperative agreement award number) from SAMHSA. The views expressed in written conference materials or publications and by speakers and moderators do not necessarily reflect the official policies of the Department of Health and Human Services; nor does mention of trade names, commercial practices, or organizations imply endorsements by the U.S. Government.*
Rights in Data and Publications	As applicable, recipients agree to the requirements for intellectual property, rights in data, access to research data, publications, and sharing research tools, and intangible property and copyrights as described in 45 CFR 75.322 and the HHS Grants Policy Statement. HCA may copyright any work that is subject to copyright and was developed, or for which ownership was acquired, under a Federal Award. SAMHSA reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so.
Mandatory Disclosures	Consistent with 45 CFR 75.113, Subrecipients must disclose, in a timely manner, in writing to HCA and the HHS Office of Inspector General (OIG), all information related to violations, or suspected violations, of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Disclosures must be sent in writing to HCA and the HHS OIG at the following addresses: U.S. Department of Health and Human Services Office of Inspector General ATTN: Mandatory Grant Disclosures, Intake Coordinator 330 Independence Avenue, SW, Cohen Building Room 5527

	Washington DC 20201 Fax: (202) 205-0604 (include “Mandatory Grant Disclosures” in subject line or email) MandatoryGranteeDisclosures@oig.hhs.gov Failure to make required disclosures can result in any of the remedies described in 45 CFR 75.371 remedies for noncompliance, including suspension or debarment (See 2 CFR parts 180 & 376 and 31 USC 3321)
Lobbying Restrictions	Per 45 CFR §75.215, Subrecipients are subject to the restrictions on lobbying as set forth in 45 CFR part 93. U.S.C. > Title 18 > Part I > Chapter 93 > Section 1913, No part of the money appropriated by any enactment of Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, a jurisdiction, or an official of any government, to favor, adopt, or oppose, by vote or otherwise, any legislation, law, ratification, policy, or appropriation, whether before or after the introduction of any bill, measure, or resolution proposing such legislation, law, ratification, policy, or appropriation; but this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to any such Member or official, at his/her request, or to Congress or such official, through the proper official channels, requests for any legislation, law, ratification, policy, or appropriations which they deem necessary for the efficient conduct of the public business, or from making any communication whose prohibition by this section might, in the opinion of the Attorney General, violate the Constitution or interfere with the conduct of foreign policy, counter-intelligence, intelligence, or national security activities. Violations of this section shall constitute as a violation of section 1352 (a) of Title 31.
Drug Free Workplace	The Drug-Free Workplace Act of 1988 (41 U.S.C. § 701 et seq.) requires that all organizations receiving grants from any Federal agency agree to maintain a drug-free workplace. By signing this Contract, you agree that the grantee will provide a drug-free workplace and will comply with the requirement to notify NIH if an employee is convicted of violating a criminal drug statute. Failure to comply with these requirements may be cause for debarment. Government wide requirements for Drug-Free Workplace for Financial Assistance are

	found in 2 CFR part 182; HHS implementing regulations are set forth in 2 CFR part 382.400. All recipients of NIH grant funds must comply with the requirements in Subpart B (or Subpart C if the recipient is an individual) of part 382.
Trafficking Victims Protection Act of 2000 (22 USC 7104(G)), as amended, and 2 CFR Part 175	The Trafficking Victims Protection Act of 2000 authorizes termination of financial assistance provided to a private entity, without penalty to the Federal government, if the recipient or subrecipient engages in certain activities related to trafficking in persons. SAMHSA or HCA may unilaterally terminate this award, without penalty, if a private entity recipient, or a private entity subrecipient, or their employees: a) Engage in severe forms of trafficking in persons during the period of time that the award is in effect; b) Procure a commercial sex act during the period of time that the award is in effect; or, c) Use forced labor in the performance of the award or subawards under the award. The text of the full award term is available at 2 C.F.R. § 175.15(b). See http://www.gpo.gov/fdsys/pkg/CFR-2012-title2-vol1/pdf/CFR-2012-title2-vol1-sec175-15.pdf
Confidentiality of Alcohol and Drug Abuse Patient Records	The regulations (42 CFR 2) are applicable to any information about alcohol and other drug abuse patients obtained by a "program" (42 CFR 2.11), if the program is federally assisted in any manner (42 CFR 2.12b). Accordingly, all project patient records are confidential and may be disclosed and used only in accordance with 42 CFR Part 2. The Subrecipient is responsible for assuring compliance with these regulations and principles, including responsibility for assuring the security and confidentiality of all electronically transmitted patient material.
Healthy People 2020	Healthy People 2020 is a national initiative led by HHS that set priorities for all SAMHSA programs. The initiative has two major goals: (1) increase the quality and years of a healthy life; and (2) eliminate our country's health disparities. The program consists of 28 focus areas and 467 objectives. SAMHSA has actively participated in the work groups of all the focus areas and is committed to the achievement of the Healthy People 2020 goals. Healthy People 2010 and the conceptual framework for the forthcoming Healthy People 2020 process can be found online at: http://www.healthypeople.gov/
Accessibility Provisions	Recipients of Federal financial assistance (FFA) from HHS must administer their programs in compliance with Federal civil rights law. This means that recipients of HHS funds must ensure equal access to their programs without regard to a person's race, color, national origin,

	disability, age, and in some circumstances, sex and religion. This includes ensuring your programs are accessible to persons with limited English proficiency. The HHS Office for Civil Rights also provides guidance on complying with civil rights laws enforced by HHS. Please see: http://www.hhs.gov/ocr/civilrights/understanding/section1557/index.html. Recipients of FFA also have specific legal obligations for serving qualified individuals with disabilities. Please see- http://www.hhs.gov/ocr/civilrights/understanding/disability/index.html. Please contact the HHS Office for Civil Rights for more information about obligations and prohibitions under Federal civil rights laws at https://www.hhs.gov/civil- rights/index.html or call 1-800-368-1019 or TDD 1-800- 537-7697. Also note that it is an HHS Departmental goal to ensure access to quality, culturally competent care, including long-term services and supports, for vulnerable populations. For further guidance on providing culturally and linguistically appropriate services, recipients should review the National Standards for Culturally and Linguistically Appropriate Services in Health and Health Care at https://minorityhealth.hhs.gov/omh/browse.aspx?lvl=1&lvlid=6.
Legislative Mandates	Certain statutory provisions under P.L. 115-245, Department of Defense and Labor, Health and Human Services, and Education Appropriations Act, 2019, Division B, Title V, Title II, General Provisions limit the use of funds on SAMHSA grants, cooperative agreements, and contract awards. Such provisions are subject to change annually based on specific appropriation language that restricts the use of grant funds. The full text of P.L. 115-245 is available at https://www.congress.gov/bill/115th-congress/housebill/6157/text?Format=txt.
Ad Hoc Submissions	Throughout the project period, SAMHSA may determine that a grant requires submission of additional information beyond the standard deliverables. This information may include, but is not limited to, the following: • Payroll • Purchase orders • Contract documentation • Proof of project implementation

Schedule A: Statement of Work

September 30, 2021 – September 29, 2022

1. The Contractor shall serve as the Initiation Site and be responsible for:

    1.1. Providing MOUD initiation, referral, and retention to an individual prior to his or her transfer to the Local MOUD Treatment Site, ensuring MOUD capacity is maintained at both the Initiation and Local MOUD Treatment Site(s).

    1.2. Serving as the lead organization and recipient of funding for the development and implementation of an Opioid Treatment Network model for adults with an Opioid Use Disorder who are Medicaid eligible or low income. OTN will give priority to:

        a. Individuals at highest risk of overdose and death.

        b. Tribal members to address their OUD needs.

        c. MOUD services for pregnant and parenting individuals with OUD.

        d. MOUD services for intravenous drug users.

    1.3. Ensuring services at the Initiation Site and Local MOUD Treatment Site(s) begin no later than September 30, 2021.

    1.4. Monitoring and ensuring MOUD is initiated to a minimum of twenty-seven (27) individuals per month for the entirety of the contract period, no later than September 30, 2022 at the Initiation Site.

    1.5. Holding responsibility for oversight of the OTN, and ensuring the Local MOUD Treatment Site(s) are working in coordination (including participation in regularly scheduled leadership meetings and educational and technical assistance opportunities) and meet the terms of the project, contract, goals and project deliverables.

    1.6. Ensuring travel per diem, computers, office supplies, and all other supplies and tools necessary to provide defined duties are provided to staff at the Initiation Site and Local MOUD Treatment Site(s) via a legal written agreement between the two sites.

    1.7. Ensuring a low-barrier medication model as evidence by the Contractor's unique site and functions.

    1.8. Providing both agonist and antagonist MOUD medications (on-site or in relationship with a pharmacy) in order to facilitate initial inductions.

    1.9. Using a coordinated team and processes to provide intensive services by developing a central Initiation Site to provide MOUD, and a warm hand-off to a Local MOUD Treatment Site(s) for continuity of care. Local MOUD Treatment Site(s) will provide referrals for other behavioral health and ancillary services necessary to address the individual's holistic

medical and recovery needs. Build, strengthen, and maintain referral relationships between Initiation Site and Local MOUD Treatment Site(s).

1.10. Hiring and/or contracting up to 4.08 FTEs or an agreed-upon amount with the DBHR Contract Manager to cover the functions listed below at the Initiation Site. Through subcontracting, provide for staffing at Local MOUD Treatment Site(s). Specific staffing arrangements are determined by Initiation Site. The following functions are required (individual staff may perform multiple functions):

a. OTN Nurse Care Manager (NCM): The NCM's primary responsibilities are to provide medical support to the prescribing physicians or other waivered practitioners. Duties of the NCM will include, but are not limited to: individual screening, MOUD education, assisting with MOUD inductions, taking vital signs, drug testing, lab work, medical assessments, charting, care planning, stabilization, observation and maintenance, ongoing coordination of follow-up care, relapse prevention, and support for an individual's self-management.

b. OTN Care Navigator: The Care Navigator expedites enrollment into Medicaid as necessary, conducts screenings, assessments and evaluations, provides education, and coordinates referrals for MOUD. Care Navigators assist with data collection requirements and facilitate referrals for infectious disease screenings, housing, employment services, withdrawal management services, transportation, referral to OUD or behavioral health counseling, and provide a warm hand-off to a MOUD provider upon an individual's transfer from any current treatments.

c. OTN Data Collection Coordinator (Coordinator): The Coordinator is responsible for managing all data collection activities and serves as the liaison between the OTN, DBHR and RDA. The Coordinator must become competent in all aspects of GPRA data collection required for this project (including completion of SAMHSA GRPA training) and be available and responsive to project evaluators.

d. OTN MOUD Prescriber: Continue to employ and or contract at least one prescriber and at least one back-up prescriber with a current DATA-2000 Waiver (in case of primary prescriber absence) at the Initiation Site.

e. Contract Management/Accounting: Submitting invoices for payment, ensuring Releases of Information (ROIs) are in place, certifying that agreements with other community partners are signed and guaranteeing the contract deliverables are met including subcontractor's deliverables.

2. Reporting

2.1. Ensuring specific tools, such as job descriptions and statements of work, are developed to ensure consistent practice throughout the OTN.

2.2. Identifying, collaborating, and subcontracting with Local MOUD Treatment Site(s) that are willing to support and embrace MOUD and are responsible for providing integrated care

that includes therapy, SUD counseling, outreach, MOUD education, case management, and/or referral services.

2.3. Ensuring policies and procedures are in place throughout the OTN to mitigate medication diversion.

2.4. Securing and maintaining Release of Information forms that meet federal confidentiality regulations and allow the release of patient identifying information between Initiation Site and Local MOUD Treatment Site(s) and to DSHS RDA for the purpose of program monitoring and performance evaluation.

2.5. Working collaboratively with ADAI technical assistance staff to identify training needs and participate in peer-to-peer and educational learning opportunities including the utilization of EBPs.

2.6. Attend quarterly meetings with DBHR Contract Manager or SOR Project or Treatment Manager to discuss project contract requirements, compliance, and problem-solving or attending trainings. Additional meetings as required or deemed necessary by the DBHR Contract Manager.

2.7. Site visits will occur one time per year or more often if determined necessary by the DBHR Contract Manager.

2.8. Ensure the use of a certified EHR.

Review of the Prescription Monitoring Drug Program data, when available and appropriate.

2.9. Ensure patient assessments and treatment are consistent with DSM-5 criteria.

2.10. Data Collection Requirements:

2.10.1. OTN staff will collect specified data on every individual inducted (beginning a new episode of grant-funded MOUD treatment) at the Initiation Site. The data collection includes completion of a participant log and three structured interviews. These data collection activities will take place under the supervision of the grant's project evaluator, who will provide the OTN all relevant data collection instruments, training, access to data entry tools, and technical assistance.

2.10.2. OTNs will designate staff (Data Coordinator) responsible for ensuring all data are collected accurately, comprehensively, and in a timely fashion. Any OTN staff with sufficient training may contribute to data collection activities, but the Data Coordinator is responsible for oversite of all aspects of SOR-II data collection at the OTN, including coordination between the Initiation Site and the Local MOUD Treatment Site(s) as individuals move between those locations. The Data Coordinator will be available to the project evaluator, complete necessary training, and attend monthly, 90-minute teleconferences.

2.10.3. OTNs must collect the following data:

a. Participant Information: All individuals inducted at the OTN must be entered onto the relevant section of the RDA data portal. Upon induction onto MOUD, OTN staff will collect and enter client identifiers, demographics, and basic treatment information into the data portal provided by the project evaluator. The data should be updated at least weekly. Alternatively, OTNs may provide electronic extracts if they meet specifications provided by the project evaluator. Contracted targets for the number of individuals served will be measured using data entered into the data portal.

b. GPRA Intake Survey: this interview is required for all individuals who (a) transfer to your local MOUD provider, OR (b) who have a second consecutive appointment for continued MOUD treatment at your initiation site. The interview must be completed within four days of these appointments. Only one GPRA intake survey (the first enrollment) is required per individual. A minimum of 80 percent of eligible intake surveys must be completed.

c. The Intake Survey and the surveys listed below must be completed by OTN staff in person (telephone/virtual interviews are permitted if approved by the project evaluator). The survey is based on the GPRA Client Outcome Measures Tool. However, the project evaluator will provide a modified version of the GPRA tool for use on this project. No later than weekly, OTN staff will enter all surveys into the data portal provided by the project evaluator.

d. GPRA Six-month Follow-up Survey: the follow-up interview must be completed within one month before to two months after the six-month anniversary date of the GPRA Intake Survey, regardless of whether the individual has been discharged. If a GPRA Intake Survey was never competed for an individual, a follow-up is not required. Follow-up surveys are not required after grant funding ends. See “GPRA Intake Survey” regarding data collection and data entry. You are expected to complete 80 percent of your follow-up surveys. Note that only completed surveys, meaning the client answered at least some of the survey questions, count towards your 80% completion rate. The SOR II grant includes funding for incentives that may be used to encourage hard-to-reach individuals to complete a follow up survey.

e. GPRA Discharge Survey: the discharge survey is to be completed for all individuals who discontinue treatment at your OTN. An administrative discharge survey, which may be completed without the individual’s participation, is permitted for discharged individuals you are unable to locate. Individuals still enrolled at the close of the grant will not require a discharge survey. Discharge surveys should be completed within 15 days of discharge. See “GPRA Intake Survey” regarding data collection and data entry.

2.10.4. The Project Evaluator will monitor data collection and provide the OTN Data Coordinator technical assistance when necessary. In the event of prolonged or serious non-compliance, at the request of the Project Evaluator, you must submit a corrective action plan to the DBHR Contract Manager.

2.10.5. Research and Data Analysis (RDA): Maintain and submit monthly through a secure DSHS portal to RDA, a participant data log template (to be provided) from the Initiation Site only that includes, but is not limited to the following for every new MOUD treatment episode:

2.10.5.1 First name, last name and middle initial; date of birth; Social Security Number; gender; race; ethnicity; treatment start date (induction date); MOUD drug prescribed (methadone, Bup-mono, Bup-combo, Naltrexone-Injectable; Naltrexone-Oral), transfers to Local MOUD Provider, discharge date and discharge status (completed, transferred or lost to follow up).

2.10.6. Engagement Measure:

OTN Performance Measures and Definitions:

"MOUD Treatment Engagement" will be estimated using Medicaid claims and encounter data on MOUD prescriptions received by OTN patients. This information will be used to estimate the percentage of individuals receiving any MOUD within 3 months following their month of induction by the OTN. This measure will account for any MOUD received after induction, regardless of where the MOUD was provided. Only individuals enrolled in Medicaid will be used to generate this measure. Your target performance metric will be based on your site's baseline MOUD treatment engagement rate. Your baseline engagement rate will be based on all SOR-funded inductions at your OTN from January 1, 2019, through September 29, 2020.

2.11. Submit a Monthly Report as detailed in the Deliverables Table with the invoice to the DBHR Contract Manager, including, but not limited to: barriers and successes; training and technical assistance needs; staff changes; actions to address diversity; equity and inclusion (DEI); and additional information as needed.

2.12. Contingency Management: Among patients receiving medication for OUD, provide evidence of a screening for stimulant use disorder, and if screened in, a warm hand-off for referral to services to address stimulant use disorder. All efforts must be documented in the patient's record. Use of Contingency Management may be utilized at a rate of no more than $75 per person per year of SOR II grant funds and $225 per person per year from proviso funds for individuals with stimulant use disorder.

2.12.1. SOR II grant funds can be used in the following: noncash gift cards (e.g., transportation vouchers, phone minute cards, and grocery stores/restaurants), entertainment gift cards, prizes for CM activities, and other items as approved by DBHR Contract Manger.

2.12.2. Proviso CM Funds can be used in the following: cash incentives, noncash gift cards (e.g., transportation vouchers, phone minute cards, and grocery stores/restaurants), entertainment gift cards, prizes for CM activities, and other items as approved by DBHR Contract Manager. Up to $10,000 of Proviso Funds

may be spent towards CM resources not listed above. Must be submitted for prior approval by DBHR Contract Manager.

2.13. Transportation Voucher: Among individuals, receiving MOUD, a transportation voucher can be provided to them for reimbursement.

2.14. Referrals to EBPs such as CBT or MI for people who experience Stimulant Use Disorder are encouraged. If a referral is made, documentation is needed.

2.15. Attend a DBHR Contract Manager approved Contingency Management Training. Provide evidence of sending a minimum of two staff persons to the training. Additional staff are allowed to attend beyond the required minimum person.

2.16. Tobacco Training: Participate in a minimum of six (6) Tobacco Treatment phone calls during the contract period provided by the Department of Health.

a. A 40-hour Tobacco Training is available through the Department of Health as needed for sites to access. Submit a request to the DBHR Contract Manager.

b. Funding for NRT is available through the Department of Health as needed to sites. Submit a request to the DBHR Contract Manager.

2.17. Assisting in the preparation of reports (e.g., SAMHSA Annual Report, SAMHSA Bi-annual Report) and other data requested by SAMHSA, their designee, or the DBHR Contract Manager.

2.18. Ensuring the utilization of third party and other revenue realized from provision of services to the extent possible and use SAMHSA grant funds only for services to individuals who are not covered by public or commercial health insurance programs, or for services that are not sufficiently covered by an individual's health insurance plan. Facilitate the health insurance application and enrollment process for eligible uninsured clients.

2.19. Screen and refer HIV and Viral Hepatitis cases through a warm hand-off or treatment. Treatment or referrals are to be included in the monthly report and RDA data sheets. Documentation is required and must be included in the monthly report.

2.20. Sustainability Plan: Provide a written document on site letterhead or by PowerPoint to DBHR Contract Manager. This plan should address the following:

a. What is your site's sustainability plan?

b. What actions steps do you need to take in order to implement your sustainability plan?

c. Address staffing and financial aspects of the project.

d. Consider and address alternative funding sources such as other grants in the plan.

e. Who are your partners in the community and what role do they play in your sustainability plan?

f. Include improvement opportunities or barriers your site has experienced.

g. Include successes of the past year. For example, what is going well and what do you need to keep doing more of?

h. What are your future goals for the SOR II project and how will your site sustain it?

i. Consider the three elements of sustainability. They include impact on people, economics and the environment. List how these will be met.

j. How does your site address diversity, equity and inclusion?

3. Considerations

3.1. Billing and Payment

a. Invoice System. The Contractor shall submit invoices using State Form A-19 Invoice Voucher, or such other form as designated by HCA. Consideration for services rendered shall be payable upon receipt of properly completed invoices which shall be submitted to the DBHR Contact, Megan Fowler at megan.fowler@hca.wa.gov by the Contractor not more often than monthly. The invoices shall describe and document to HCA's satisfaction a description of the work performed, activities accomplished, the progress of the project, and fees. Payments shall be in accordance with delivery and approval of deliverables as outlined in Section 3.2, Deliverables Table.

b. Payment. Payment shall be considered timely if made by HCA within thirty (30) days after receipt and acceptance by HCA of the properly completed invoices. Payment shall be sent to the address designated by the Contractor on page one (1) of this Contract. HCA may, at its sole discretion, withhold payment claimed by the Contractor for services rendered if Contractor fails to satisfactorily comply with any term or condition of this Contract.

c. Claims for payment submitted by the Contractor to HCA for amounts due and payable under this agreement that were incurred prior to the expiration date shall be paid by HCA if received by HCA within 90 days after the expiration date.

d. HCA shall not reimburse the Contractor for any fees and expenses which exceed the maximum consideration of this contract.

3.2. Deliverables Table:

	Deliverable	Due Date	Up to
1	Attend a DBHR Contract Manager approved Contingency Management Training. Provide evidence of sending a minimum of two (2) persons to the training. Listed under section **2.15**.	Prior to September 29, 2022	**$20,000**
2	Monthly Reports to DBHR Contract Manager including the items listed in section **2.11** of this SOW. Monthly report form provided by DBHR Contract Manager and Monthly Reports to RDA, including compiled data of Local MOUD Treatment Site referrals and services including agonists and antagonists (**$18,000** per month x 12 months = **$216,000**).	Due by the second Wednesday of the month following the month in which services were provided	**$216,000**
3	Provision of services to a minimum of **27** individuals per month, starting October 2021 (**$1,000** per month x 12 months = **$27,000**) (Payment will be prorated if minimum numbers are not met). Listed under section **1.4**.	Due by the second Wednesday of the month following the month in which services were provided.	**$324,000**
4	Participant Incentives: a.GPRA follow-up for participants refer to section **2.10.3(d)**. Up to **$1,725.00** through September 29th, 2022. b. Contingency Management refer to section **2.12** up to **$225** per person of proviso funds through June 30th, 2022. c. Contingency Management refer to section **2.12** up to **$10,000** of proviso funds through June 30th, 2022. For b. and c. proviso funds up to **$33,333** d. Contingency Management refer to section **2.12** up to **$75** per person of SOR II funds up to **$17,550** through September 29th, 2022. e. Transportation vouchers refer to section **2.13** up to **$3,600** through September 29th, 2022.	Due by the second Wednesday of the month following the month in which services were provided. Contractor will provide updates on monthly reports.	Up to **$56,208**

5	Participate in a minimum of six (6) Tobacco Treatment phone calls during the contract period. Listed under section **2.16**.	Trainings provided on a monthly basis. Report participation in monthly report.	**$3,000**
6	Sustainability Plan refer to section **2.20**. Provide an updated or revised plan.	September 29, 2022	**$15,000**
7	Engagement Measure refers to section **2.10.6**.	September 29, 2022	**No payment point**
8	Benchmark payment for serving 324 individuals (an average of 27 individuals per month) and meet an overall individual engagement of 50% over the period covered by this Contract. Note: If this benchmark payment is earned, Contractor shall also be entitled to bill, **up to the maximum amount that remains available for payment under Deliverable 3**, a pro rata payment of $1,000 for each individual whom Contractor has served but for whom payment could not be received under the payment terms applicable to Deliverable 3. In no event shall more than a total of **$339,000** be payable under this Deliverable 8 combined with payment under Deliverable 3. Listed under section **3.2**.	September 29, 2022	**$15,000**
	TOTAL		**$649,208**

Federal Award Identification for Subrecipients (reference 2 CFR 200.331)

Washington State Opioid Response II (SOR II) Grant

(i) Subrecipient name (which must match the name associated with its unique entity identifier);	**County of Benton**
(ii) Subrecipient's unique entity identifier; (DUNS)	**083738997**
(iii) Federal Award Identification Number (FAIN);	H79TI083286
(iv) Federal Award Date (see §200.39 Federal award date);	08/9/2021
(v) Subaward Period of Performance Start and End Date;	9/30/2021 – 9/29/2022
(vi) Amount of Federal Funds Obligated by this action;	$649,208
(vii) Total Amount of Federal Funds Obligated to the subrecipient;	$649,208
(xiii) Total Amount of the Federal Award;	$27,173,792
(ix) Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA);	Washington State Opioid Response II (SOR II) Grant
(x) Name of Federal awarding agency, pass-through entity, and contact information for awarding official,	SAMHSA WA State Health Care Authority Keri Waterland, Assistant Director DBHR 626 8th Ave SE; Olympia, WA 98504-5330 Keri.waterland@hca.wa.gov
(xi) CFDA Number and Name; the pass-through entity must identify the dollar amount made available under each Federal award and the CFDA number at time of disbursement;	93.788
(xii) Identification of whether the award is R&D; and	☐ Yes ☒ No
(xiii) Indirect cost rate for the Federal award (including if the de minimis rate is charged per §200.414 Indirect (F&A) costs).	de minimus (10%)

Exhibit A

Definitions Specific to Special Terms

The words and phrases listed below, as used in this Contract, shall each have the following definitions:

a. "ADAI" means the University of Washington's Addictions Drug & Alcohol Institute, and its employees and authorized agents.

b. "Agonist" means an FDA-approved opioid agonist medication (e.g., methadone, buprenorphine products including buprenorphine/naloxone combination formulations and buprenorphine mono-product formulations) for the maintenance treatment of opioid use disorder.

c. "Antagonist" means the FDA-approved opioid antagonist medication (e.g., naltrexone products including extended-release and oral formulations) to prevent relapse to opioid use.

d. "ASAM" means the American Society of Addiction Medicine.

e. "Care Navigator" means the position responsible to provide support to and work collaboratively with the Care Manager. In addition, the Care Navigator will work closely and collaboratively with staff at each Local MOUD Treatment Site to coordinate patient care, keep the patient engaged with services, address issues related to relapse, and communicate together on patient needs. Duties also include conducting screenings, scheduling appointments, following up on missed appointments, medication diversion control, grant data recordkeeping and reporting, and making referrals to the appropriate Local MOUD Treatment Site. The Care Navigator can be a licensed or credentialed Substance Use Disorder Professional (SUDP) or Substance Use Disorder Professional Trainee (SUDPT), behavioral healthcare worker, social worker, primary healthcare worker, or other staff depending on the personnel needs of the Initiation Site.

f. "Cognitive Behavioral Therapy" or "CBT" means an evidence-based treatment that has been demonstrated to be effective for a range of issues including depression, anxiety disorders, alcohol and substance use disorder, marital problems, eating disorders and severe mental illness.

g. "Contingency Management (CM)" means the behavior modification method of providing reinforcement in exchange for objective evidence of a desired behavior.

h. "Culturally and Linguistically Appropriate Services" or "CLAS" means the national standards in health and health care intended to advance health equity, improve quality, and help eliminate health disparities by establishing a blueprint for health and health care organizations

i. "Data Collector Coordinator" means the person responsible for managing all data collection activities and also serves as the liaison between the OTN and the Project Evaluators (RDA). The Coordinator must become competent in all aspects of GPRA data collection (intake, and six-month follow ups and discharge) required for this project (including completion of SAMHSA GRPA training and project data collection systems) and be available and responsive to Project Evaluators (RDA).

j. "Data Universal Numbering System" or "DUNS" means a unique identifier for businesses. DUNS numbers are assigned and maintained by Dun and Bradstreet (D&B) and are used for a variety of purposes, including applying for government contracting opportunities.

k. “DBHR” means the HCA Division of Behavioral Health and Recovery, and its employees and authorized agents.

l. “DEI” means diversity, equity, and inclusion.

m. “Department of Health” or “DOH” means a state agency who works with others to protect and improve the health of all people in Washington State. DOH programs and services help prevent illness and injury, promote healthy places to live and work, provide information to help people make good health decisions and ensure that Washington State is prepared for emergencies.

n. *“Diagnostic and Statistical Manual of Mental Disorders”* or “*DSM–5*” means the product of more than 10 years of effort by hundreds of international experts in all aspects of mental health. Their dedication and hard work have yielded an authoritative volume that defines and classifies mental disorders in order to improve diagnoses, treatment, and research.

o. “DSHS” means the Washington State Department of Social and Health Services, and its employees and authorized agents.

p. “Engagement Measure” means the percentage of individuals receiving any MOUD within 3 months following their OTN induction month. It will be limited to individuals receiving publicly-funded (i.e. Medicaid) MOUD.

q. “Evidence-based Practice” or “EBP” means a prevention or treatment service or practice that has been validated by some form of documented research evidence and is appropriate for use with individuals with an opioid use disorder.

r. “Electronic Health Records” or “EHR” means a certified electronic health record system that has been tested and certified by an approved Office of National Coordinator for Health Information Technology’s (ONC) certifying body.

s. “FDA” means the U.S. Food and Drug Administration.

t. “GPRA” means Government Performance Results and Modernization Act. Grantees must comply with the GPRA Modernization Act of 2010.

u. “HCA” means the Washington State Health Care Authority and its employees and authorized agents.

v. “Human Immunodeficiency Virus” or “HIV” means the virus that may causes AIDS.

w. “Induct” means the medically monitored initiation of treatment medication when a person with an opioid use disorder has abstained from using opioids for the appropriate amount of time in order to tolerate the utilization of MOUD.

x. “Initiation Site Prescriber” or “Waivered Prescriber” means a physician, physician’s assistant (PA), or nurse practitioner (NP) that has obtained and maintained a current DATA 2000 Waiver to prescribe buprenorphine and other medications. A prescriber will also inform individuals regarding the risks and benefits of MOUD, allow for shared-decision making and address other presenting medical needs either directly or by referral.

y. “Integrated Care” means the organized delivery and/or coordination of medical, behavioral or social and recovery support services provided for individuals.

z. “Local MOUD (formerly MAT) Treatment Site” means a facility that will provide Opioid Use Disorder (OUD) treatment medications, behavioral health treatment and/or primary healthcare services, and/or wrap-around services, and referrals. Local MOUD Treatment Site may be federally qualified health center (FQHC), opioid treatment program, outpatient substance use disorder treatment facility, mental health clinic, or integrated behavioral health clinic.

aa. “Medication Assisted Treatment” or “MAT” (now MOUD) means the use of FDA-approved opioid agonist medications (e.g., methadone, buprenorphine products including buprenorphine/naloxone combination formulations and buprenorphine mono-product formulations) for the treatment of opioid use disorder and the use of opioid antagonist medication (e.g. naltrexone products including extended-release and oral formulations) to prevent relapse to opioid use.

bb. “Medication for Opioid Use Disorder” or “MOUD” means the use of FDA-approved opioid agonist medications (e.g., methadone, buprenorphine products including buprenorphine/naloxone combination formulations and buprenorphine mono-product formulations) for the maintenance treatment of opioid use disorder and the use of opioid antagonist medication (e.g., naltrexone products including extended-release and oral formulations) to prevent relapse to opioid use.

cc. “Motivational Interviewing” or “MI” means an evidence-based practice with a focus on resolving ambivalence and centers on motivational processes within the individual that facilitate positive change.

dd. “Nicotine Replacement Therapy” or “NRT” means a treatment that gives you nicotine in the form of gum, patches, sprays, inhalers, or lozenges but not the other harmful chemicals in tobacco.

ee. “Nurse Care Manager” means the nurse or other employee at the Initiation Site who is responsible for providing medical support to the prescribing physician or other waivered prescribers. Duties of the Care Manager include, but are not limited to patient screening, MOUD education, assisting with MOUD inductions, taking vital signs, drug testing, lab work, medical assessments, charting, care planning, stabilization, maintenance, ongoing coordination of follow-up care, relapse prevention, support for patient self-management, and observation of the patient.

ff. “OTN” means an Opioid Treatment Network that includes an Initiation Site and Local MOUD Treatment Site(s).

gg. “Opioid Use Disorder” or OUD is defined by a pattern of problematic use of opioids, whether prescription painkillers, or heroin, or other illicit synthetic opioids. Practitioners use criteria from the Diagnostic and Statistical Manual of Mental Disorders 5 (DSM 5) to diagnose opioid use disorder.

hh. “Prescriber/Administrator” means the position responsible for developing, administering, and overseeing the program and ongoing performance of the OTN. Initiation Sites may use funding to provide oversight and management to an administrator if more appropriate, depending on the business needs of the OTN.

ii. “Prescription Monitoring Drug Program” or “PMDP” means a law that the Washington State Legislature passed in 2007 requiring the Department of Health to create a prescription monitoring program. The law directs the Department to design the program to improve healthcare quality and effectiveness by: Reducing abuse of controlled substances, reducing duplicative prescribing and overprescribing; and improving prescribing practices.

jj. “Report” or “Monthly Report” means and refers to a report that the Contractor will complete and submit to DBHR on a monthly basis prior to monthly reimbursement.

kk. “RDA” means the Department of Social and Health Services, Research and Data Analysis Division, to whom the Contractor will send required patient and program data through a secure data file transfer.

ll. “SAMHSA” means the U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, and its employees and authorized agents.

mm. “Stimulate Use Disorder” means a pattern of amphetamine-type substance, cocaine, or other stimulant use leading to clinically significant impairment or distress (DSM-5).

nn. “Substance Use Disorder Professional” or “SUDP” means an individual certified in substance use disorder counseling by the Washington Department of Health Licensing.

oo. “Substance Use Disorder Professional Trainee” or “SUDPT” means an individual who is in training to become a certified SUDP and is under supervision by a certified SUDP.

pp. “SUD” means substance use disorder. Practitioners use criteria from the Diagnostic and Statistical Manual of Mental Disorders 5 (DSM-5).

qq. “Sustainability Plan” means a roadmap for achieving long-term stability and maintenance through documentation of strategies allowing for the program, activities and partnerships to continue.

rr. “Viral Hepatitis” means is an infection that causes liver inflammation and damage.

ss. “Warm hand-off” means a transfer of care between two members of the health care team, where the handoff occurs in front of the patient explaining why the other team member can better address a specific issue with the patient and emphasizing the other team member’s competence.

Exhibit B

15 Principal CLAS Standard

1. Provide effective, equitable, understandable and respectful quality care and services that are responsive to diverse cultural health beliefs and practices, preferred languages, health literacy and other communication needs.

Governance, Leadership and Workforce

2. Advance and sustain organizational governance and leadership that promotes CLAS and health equity through policy, practices and allocated resources.

3. Recruit, promote and support a culturally and linguistically diverse governance, leadership and workforce that are responsive to the population in the service area.

4. Educate and train governance, leadership and workforce in culturally and linguistically appropriate policies and practices on an ongoing basis.

Communication and Language Assistance

5. Offer language assistance to individuals who have limited English proficiency and/or other communication needs, at no cost to them, to facilitate timely access to all health care and services.

6. Inform all individuals of the availability of language assistance services clearly and in their preferred language, verbally and in writing.

7. Ensure the competence of individuals providing language assistance, recognizing that the use of untrained individuals and/or minors as interpreters should be avoided.

8. Provide easy-to-understand print and multimedia materials and signage in the languages commonly used by the populations in the service area.

Engagement, Continuous Improvement and Accountability

9. Establish culturally and linguistically appropriate goals, policies and management accountability, and infuse them throughout the organizations' planning and operations.

10. Conduct ongoing assessments of the organization's CLAS-related activities and integrate CLAS-related measures into assessment measurement and continuous quality improvement activities.

11. Collect and maintain accurate and reliable demographic data to monitor and evaluate the impact of CLAS on health equity and outcomes and to inform service delivery.

12. Conduct regular assessments of community health assets and needs and use the results to plan and implement services that respond to the cultural and linguistic diversity of populations in the service area.

13. Partner with the community to design, implement and evaluate policies, practices and services to ensure cultural and linguistic appropriateness.

14. Create conflict- and grievance-resolution processes that are culturally and linguistically appropriate to identify, prevent and resolve conflicts or complaints.

15. Communicate the organization's progress in implementing and sustaining CLAS to all stakeholders, constituents and the general public.

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	12/21/2021
Subject:	Interagency Agreement between the WA State AOC & Benton County
Presenter:	N/A
Prepared By:	Tiffany Runge
Reviewed By:	Ryan Brown

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

In 2008 the Superior Court joined all courts within Benton & Franklin Counties in an application to reimburse individual courts for costs related to court interpreters. The regional application was successful in its application and has once again received funding for fiscal year 2021-2022. The Superior Court is requesting Benton County to authorize entering into the 2021-2022 Interagency Agreement with the State Office of Court Administration for reimbursement of qualified costs for interpreter services consistent with the attached agreement.

Fiscal Impact

Benton County will receive up to a maximum of $59,422.00 in qualified reimbursement costs for interpreter expenses through the Superior Court during the period of July 1, 2021 – June 30, 2022.

Recommendation

I recommend that the Board of County Commissioners for Benton County approve the resolution and sign Interagency Agreement #IAA22450 between the Administrative Office of the Courts and Benton County.

Suggested Motion

N/A – Consent Agenda.

BENTON COUNTY RESOLUTION

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

IN THE MATTER OF THE REQUEST FOR SIGNATURE FROM THE BOARD OF BENTON COUNTY COMMISSIONERS ON THE INTERAGENCY AGREEMENT #IAA22450 BETWEEN BENTON COUNTY AND THE STATE OF WASHINGTON ADMINISTRATIVE OFFICE OF THE COURTS FOR REIMBURSEMENT OF INTERPRETER SERVICES

WHEREAS, the Superior Court received notification on November 27, 2021, of available interpreter reimbursement funding to Benton County for the term commencing July 1, 2021 and terminating on June 30, 2022; and

WHEREAS, Tiffany Runge, Superior Court Administrator, believes it is in the best interest of the Superior Court that the Agreement between State of Washington Administrative Office of the Courts and Benton County be approved as presented for a term commencing July 1, 2021 and terminating on June 30, 2022 for a maximum reimbursement amount of $59,422; **NOW, THEREFORE**,

BE IT RESOLVED, that the Board of Benton County Commissioners hereby accepts the proposed interpreter reimbursement agreement for the term commencing July 1, 2021 and terminating on June 30, 2022 with a maximum reimbursement amount of $59,422; and

BE IT FURTHER RESOLVED, that the Chairman of the Board of Benton County Commissioners is hereby authorized to sign interagency agreement #IAA22450 between Benton County and the State of Washington Administrative Offices of the Courts on behalf of Benton County.

DATED this _____ day of _____, 2021.

BENTON COUNTY BOARD OF COMMISSIONERS

_____
Chairman of the Board

_____ ATTEST:
Member

_____ _____
Member Clerk of the Board

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

Prepared by: T. Runge

Originals (1): 1-BC Commissioners

INTERAGENCY AGREEMENT IAA22450
BETWEEN
WASHINGTON STATE ADMINISTRATIVE OFFICE OF THE COURTS
AND
BENTON COUNTY SUPERIOR COURT

THIS AGREEMENT (Agreement) is entered into by and between the Administrative Office of the Courts (AOC) and Benton County Superior Court, for the purpose of distributing funds for court interpreter and language access service expenses to the Benton County Superior Court (Court).

1. DEFINITIONS

For purposes of this contract, the following definitions shall apply:

a) "Credentialed Interpreter" means an interpreter who is certified or registered by the Administrative Office of the Courts, as defined in RCW 2.43.020 (4) and RCW 2.43.020 (6), or an interpreter certified by the Office of the Deaf and Hard of Hearing (ODHH) pursuant to WAC 388-818-500, *et seq.*

The names and contact information of AOC-certified interpreters are found, and incorporated herein by reference, at http://www.courts.wa.gov/programs_orgs/pos_interpret/

The names and contact information of ODHH-certified interpreters are found, and incorporated herein by reference, at: https://fortress.wa.gov/dshs/odhhapps/Interpreters/CourtInterpreter.aspx

b) "Qualified Interpreter" means a spoken language interpreter as defined in RCW 2.43.020 (2), or sign language interpreter as defined in RCW 2.42.110 (2).

c) "Qualifying Event" means a proceeding or event for which an interpreter is appointed by an appointing officer pursuant to RCW 2.42 and/or RCW 2.43.

2. PURPOSE

The purpose of this Agreement is to partner with individual local courts in improving access to the Court for Limited English Proficient (LEP), deaf, and hard of hearing persons in accordance with RCW Chapters 2.42 and 2.43.

These funds are intended to address each court's following needs:

- Financial Need

  For example, the gap between the court's available financial resources and the costs to meet its need for credentialed interpreters and the implementation of the Court's language access plan.

- Need for Court Interpreters

  For example, the public's right to access the court, and the court's responsibility to provide credentialed interpreters as required by RCW Chapters 2.42 and 2.43.

- Need for Language Access in General

  For example, translations for websites, translated forms, interpreting equipment, technology enabling remote interpreting, and other things that are necessary for courts to provide fair and equitable access for people who are LEP, deaf, and hard of hearing.

3. GENERAL REQUIREMENTS

a) The Court shall provide the AOC with a mailing address, vendor identification number, and contact information for the person identified as the main contact, and their email address.

b) The Court will ensure that the funding is used only for language access purposes and for reimbursement of costs paid to credentialed and qualified interpreters for Qualifying Events pursuant to Exhibit A, which is incorporated herein by reference.

c) The Court agrees to track and provide interpreter cost and usage data using a web-based application provided by the AOC Language Access Reimbursement Program, reflecting information about the Court's interpreter and language access costs and services.

d) The Court agrees to work with the AOC Language Access Reimbursement Program, the Interpreter Commission, and neighboring courts to identify and implement best and promising practices for providing language access and interpreter services.

e) The Court agrees to encourage its staff overseeing interpreter services at the court to attend trainings, in person and/or online, provided by the AOC Interpreter Commission and Interpreter Program.

f) The Court may elect to pay for interpreter services that are not in accordance with the provisions of Exhibit A as set forth; however, such payments will not be reimbursed.

4. LANGUAGE ACCESS PLAN REQUIREMENT

a) The Court is required to have a Language Access Plan (LAP) to be a part of the Language Access Reimbursement Program.

b) All Courts participating in the Language Access Reimbursement Program must submit either an updated or new Language Access Plan (LAP).

c) Language Access Plan must be received for review and approval by the AOC, pursuant to the schedule below. The AOC can refuse payment if the LAP is submitted after the deadlines listed below.

Language Access Plan Documents	Language Access Plan Documents Due Dates
Draft 1	January 31, 2022
Draft 2	March 31, 2022
Final	May 1, 2022

d) Staff from the Washington State Supreme Court Interpreter Commission will work with courts to develop and implement their LAPs, and will provide technical assistance and training when needed.

5. TECHNICAL REQUIREMENTS

a) The Court shall use the Language Access Reimbursement Web Application created by the AOC to electronically submit quarterly data and A-19 voucher invoices for reimbursements.

b) Courts submitting quarterly data and A-19 vouchers shall use one of the following supported web browsers:

- MS Edge
- Chrome
- Firefox

c) Network access to the Inter-Governmental Network (IGN) or VPN access to the IGN will be required to use the Language Access Reimbursement Web Application.

d) JIS Court Credentials (RACF) will be required to authenticate and gain access to the Language Access Reimbursement Program Web Application.

6. PERIOD OF PERFORMANCE

The beginning date of performance under this Agreement is **July 1, 2021**, regardless of the date of execution and which shall end on **June 30, 2022,** Fiscal Year 2022 (FY22).

7. COMPENSATION AND COMPENSATION PROCEDURES

a) The Court shall be reimbursed a maximum of **$59,422** for interpreter and language access services costs incurred during the period of July 1, 2021 to June 30, 2022, FY22.

b) No reimbursement shall be made under this Agreement for language access services provided after June 30, 2022.

c) The Court shall receive payment for its costs for language access services as set forth in Exhibit A, and incorporated herein.

d) The Court shall only receive payment after properly submitting A-19 voucher invoices and corresponding data (*See subsection 3b).*

e) The Court shall submit requests for reimbursements to the AOC quarterly according to the schedule below (see chart below). The AOC will not accept monthly requests for reimbursements.

f) Requests for reimbursement must be received for review and approval by the AOC, pursuant to the schedule below. The AOC can refuse payment if requests for reimbursement are submitted after the deadlines listed below.

Fiscal Quarter:	For qualifying and non-qualifying events, goods and services, and staff interpreter costs incurred between:	Deadlines – reimbursements must be received by the AOC no later than:
Quarter 1:	July 1, 2021 – September 30, 2021	January 31, 2022
Quarter 2:	October 1, 2021 – December 31, 2021	March 31, 2022
Quarter 3:	January 1, 2022 – March 31, 2022	May 31, 2022
Quarter 4:	April 1, 2022 – June 30, 2022	July 10, 2022

g) If this this agreement is terminated, the Court shall only receive payment for performance rendered or costs incurred in accordance with the terms of this agreement prior to the effective date of termination.

h) The Court shall submit its quarterly data and A-19 invoice vouchers using the Language Access Reimbursement Web Application.

i) Payment to the Court for approved and completed work will be made by warrant or account transfer by AOC within 30 days of receipt of a properly-completed invoice and the completed data report.

j) The Court shall maintain sufficient backup documentation of expenses under this Agreement.

k) The AOC, in its sole discretion and upon notice, may initiate revenue sharing and reallocate funding among courts. If it appears the Court may not expend the maximum Agreement amount, the AOC may reduce the maximum Agreement amount. The AOC may increase the maximum Agreement amount if additional funds become available through these revenue sharing provisions.

8. TREATMENT OF ASSETS AND PROPERTY

The AOC shall be the owner of any and all fixed assets or personal property jointly or cooperatively, acquired, held, used, or disposed of pursuant to this Agreement.

9. RIGHTS IN DATA

Unless otherwise provided, data which originates from this Agreement shall be “works for hire” as defined by the U.S. Copyright Act of 1976 and shall be owned by the AOC. Data shall include, but not be limited to, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and video and/or sound reproductions. Ownership includes the right to copyright, patent, register, and the ability to transfer these rights. In the event that any of the deliverables under this Agreement include material not included within the definition of “works for hire,” the Court hereby assigns such rights to the AOC as consideration for this Agreement.

Data which is delivered under this Agreement, but which does not originate therefrom, shall be transferred to the AOC with a nonexclusive, royalty-free, irrevocable license to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others to do so; provided, that such license shall be limited to the extent which the Court has a right to

grant such a license. The Court shall advise the AOC, at the time of delivery of data furnished under this Agreement, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this Agreement. The AOC shall receive prompt written notice of each notice or claim of copyright infringement received by the Court with respect to any data delivered under this Agreement. The AOC shall have the right to modify or remove any restrictive markings placed upon the data by the Court.

10. INDEPENDENT CAPACITY

The employees or agents of each party who are engaged in the performance of this Agreement shall continue to be employees or agents of that party and shall not be considered for any purpose to be employees or agents of the other party.

11. AGREEMENT ALTERATIONS AND AMENDMENTS

This Agreement may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

12. RECORDS, DOCUMENTS, AND REPORTS

The Court shall maintain books, records, documents and other evidence of accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement. These records shall be subject at all reasonable times to inspection, review, or audit by personnel duly authorized by the AOC, the Office of the State Auditor, and federal officials so authorized by law, rule, regulation, or Agreement. The Court will retain all books, records, documents, and other material relevant to this Agreement for six years after settlement, and make them available for inspection by persons authorized under this provision.

13. RIGHT OF INSPECTION

The Court shall provide right of access to its facilities to the AOC, or any of its officers, or to any other authorized agent or official of the state of Washington of the federal government at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Agreement.

14. DISPUTES

Disputes arising under this Agreement shall be resolved by a panel consisting of one representative from the AOC, one representative from the Court, and a mutually agreed upon third party. The dispute panel shall thereafter decide the dispute with the majority prevailing. Neither party shall have recourse to the courts unless there is a showing of noncompliance or waiver of this section.

15. TERMINATION

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

16. GOVERNANCE

This Agreement is entered into pursuant to and under the authority granted by the laws of the state of Washington and any applicable federal laws. The provisions of this Agreement shall be construed to conform to those laws.

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

- Applicable state and federal statutes and rules;
- This Agreement; and
- Any other provisions of the agreement, including materials incorporated by reference.

17. ASSIGNMENT

The work to be provided under this Agreement, and any claim arising hereunder, is not assignable or delegable by either party in whole or in part, without the express prior written consent of the other party, which consent shall not be unreasonably withheld.

18. WAIVER

A failure by either party to exercise its rights under this Agreement shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in a writing signed by an authorized representative of the party and attached to the original Agreement.

19. 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.

20. AGREEMENT MANAGEMENT

The program managers noted below shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Agreement:

AOC Program Manager	Court Program Manager
Michelle Bellmer PO Box 41170 Olympia, WA 98504-1170 michelle.bellmer@courts.wa.gov (360) 350-5373	**Tiffany Runge** Court Administrator 7122 W Okanogan Pl, Bldg A, Kennewick, WA 99336-2359 Tiffany.Runge@co.benton.wa.us (509) 736-3071

ENTIRE AGREEMENT

This Agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be considered to exist or to bind any of the parties to this agreement unless otherwise stated in this Agreement.

AGREED:

Administrative Office of the Courts

Signature *Date*

Dawn Marie Rubio
Name

State Court Administrator
Title

Benton County

Signature *Date*

Name

Title

Approved as to form:
Ryan K Brown, DPA

EXHIBIT A

WASHINGTON STATE LANGUAGE ACCESS INTERPRETER REIMBURSEMENT PROGRM FUNDING

FUNDING CONDITIONS AND PAYMENT STRUCTURE

The Language Access Reimbursement Program funding conditions and payment structure shall be as follows:

1. GENERAL FUNDING CONDITIONS

The Administrative Office of the Courts (AOC), will reimburse courts under this Agreement for the cost of spoken language interpretation and sign language interpretation and other goods and services that improve language access in the courts for Limited English Proficient (LEP), deaf, and hard of hearing persons. This includes interpreters credentialed by AOC (certified or registered), or otherwise court-qualified interpreters appointed pursuant to RCW 2.42 and RCW 2.43 under the following conditions listed under Section 2 “Qualifying Interpreter Events.”

It also includes goods and services that improve language access, listed under Section 3 “Language Access Items,” and services listed under Section 4 “Language Access Services”.

Courts shall work with AOC staff in determining whether an expense that is not explicitly mentioned below, qualifies as a reimbursable expense under the Agreement.

2. QUALIFYING INTERPRETING EVENTS

A. Spoken Language Interpreters Qualifying Events

AOC will reimburse courts under this Agreement for the cost of appointing AOC-credentialed or otherwise court-qualified interpreters pursuant to RCW 2.43 that meet one of the following conditions:

a) If there is at least one AOC credentialed interpreter in the language being used then reimbursement will only be provided for using an AOC credentialed interpreter who is credentialed in that language.

b) Compensation for interpreters for languages for which neither a certified interpreter nor registered interpreter is offered will be reimbursed where the interpreter has been qualified on the record pursuant to RCW 2.43.

c) Courts will not be reimbursed for events using non-AOC credentialed interpreters if there is one or more AOC credentialed interpreter listed for the language being used.

B. Sign Language Interpreters Qualifying Events

AOC will reimburse courts for 50% of the actual expenses for services of American Sign Language (ASL) interpreters and Certified Deaf Interpreters (CDI) pursuant to RCW 2.42 when the interpreter is listed with the Department of Social and Health Services, Office of Deaf and Hard of Hearing (DSHS, ODHH) as a court-certified interpreter.

The Office of Deaf and Hard of Hearing (ODHH) at the Department of Social and Health Services (DSHS) maintains a list of Certified Court Sign Language Interpreters. This list includes American Sign Language (ASL) interpreters and Certified Deaf Interpreters (CDI). To qualify for reimbursement, and event using an ASL and/or CDI interpreter from this list must be used.

Certified interpreters are listed under three categories:

- Specialist Certificate: Legal – SC: L
- RID Certification with SC: L written test
- Intermediary Interpreters (Deaf Interpreter)

The most up to date list can be found here:
https://fortress.wa.gov/dshs/odhhapps/Interpreters/CourtInterpreter.aspx

C. Staff Interpreters (Salaried Staff)

Reimbursement will be provided for salaried staff meeting the Qualifying Event conditions for the payment of credentialed spoken and sign language interpreters, as referenced in subsections 2.A and 2.B above.

D. Telephonic and Video Remote Interpreting and Services Outside of the Courtroom

AOC will reimburse local jurisdictions for using certified, registered, or otherwise qualified interpreters operating by telephone or video for court proceedings and other services provided to the public by the Court. The services must meet the Qualifying Event conditions for the payment of credentialed spoken and sign language interpreters, as referenced in subsections 2.A and 2.B above.

3. LANGUAGE ACCESS GOODS AND SERVICES

Courts can request reimbursement for the cost of goods and services that will help increase language access in the Court.

The items listed below are common goods and services that courts have used to increase language access and will be improved for reimbursement.

- Interpreter scheduling software or services
- Document translation
- Portable video device(s) for video remote interpreting
- Equipment used for simultaneous interpretation
- Printed signage for language assistance purposes
- Staff training on language access, interpreting, or bilingual skills improvement, for example:
    - Interpreters skills training for bilingual staff who want to become certified
    - Training for staff who are partly bilingual to improve their skills
    - General training on addressing language access issues.

Other examples can be found here:

https://www.nmcenterforlanguageaccess.org/cms/en/courts- agencies/about-language-access-basic-training

Items or services not listed above must be pre-approved (via email) by Language Access Interpreter Reimbursement Program staff prior to purchase or they may not qualify for reimbursement under the Program.

4. SCOPE OF REIMBURSEMENT FUNDING

Reimbursement payment under this Agreement will only be made to the Court when the cost is paid out of the budget or budgets, in the case of multi-court collaborative applicants of the Court responsible for full payment.

5. PAYMENT STRUCTURE

A. Reimbursement Rate

a) **Spoken Language Interpreters**

AOC will reimburse the Court for 50% of the cost of AOC certified, registered, or otherwise court-qualified interpreters providing services under this Agreement.

b) **Sign Language Interpreters**

AOC will reimburse the Court for 50% of the cost of certified and court-qualified interpreters providing services under this Agreement.

c) **Staff Interpreters (Salaried Staff)**

AOC will reimburse the Court for 50% of the cost of staff interpreters.

d) **Contracted Interpreters**

The cost of contract interpreters who are paid other than on an hourly basis, for example, on a half-day of flat rate basis, will be reimbursed at 50%.

e) **Remote Interpreting**

AOC will reimburse the Court for 50% of the cost of using certified, registered, or otherwise qualified interpreters providing interpretation by telephone or video.

f) **Cancellation Fees**

AOC will reimburse the Court for 50% of cancellation fees paid to interpreter.

B. Travel Time and Mileage

AOC will reimburse the Court at 50% of the cost of interpreter travel time and mileage.

Interpreter travel time is reimbursable if a required party fails to appear. “Failure to appear” means a non-appearance by the LEP or deaf or hard of hearing client, attorneys, witnesses, or any necessary party to a hearing, thereby necessitating a cancellation or continuance of the hearing. The Court can be reimbursed for 50% of the cancellation fees paid to the interpreter.

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	December 21, 2021 **Memo Date:** December 10, 2021
Subject:	Short Plat Vacation– SPV 2021-005 Ryan Hone
Presenter:	Michelle Cooke, Assistant Planning Manager
Prepared By:	Andrea Watts
Reviewed By:	Michelle Cooke

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 August 24, 2004, Short Plat 2831 was recorded under Auditor's File Number 2004-030296, creating two residential lots from Lot 1 of Short Plat 1746 which was recorded under Auditors File Number 1991-012401. With the creation of the two lots, a 20-foot ingress-egress and utility easement was established on the southern 300 feet of the west 10 feet of Lot 1 and the east 10 feet of Lot 2 of Short Plat 2831. The parcels are located approximately 930 feet west of the end of Harrington Road in the West Richland area of unincorporated Benton County.

The applicant, Ryan Hone, is requesting the vacation of the 20-foot ingress-egress and utility easement that is located on the southern 300 feet of the west 10 feet of Lot 1 of Short Plat 2831 and the southern 300 feet of the east 10 feet of Lot 2 of Short Plat 2831. The Benton Rural Electric Association approved the applicant's request with the condition that a separate utility easement be recorded for existing utility facilities on the parcels. Owners of property within 300 feet of the subject parcel and all concerned agencies, including Benton Rural Electric Association, were notified of the proposed vacation and no unresolved objections or concerns have been received to date.

Fiscal Impact

Amount: None

Fund: None

Recommendation

It is the recommendation of the Planning Division that the Board of County Commissioners conduct a public hearing, and based on the testimony received, either approve or deny the request. The Planning Division, based on the information received thus far, is recommending approval of the proposed vacation of the 20-foot ingress-egress and utility easement that is located on the southern 300 feet of the west 10 feet of Lot 1 and the east 10 feet of Lot 2 of Short Plat 2831.

Suggested Motion

I move to approve SPV 2021-005 for the vacation of a 20-foot ingress-egress and utility easement located on the southern 300 feet of the west 10 feet of Lot 1 and the east 10 feet of Lot 2 of Short Plat 2831.

Return to
Benton County Commissioners
P.O. Box 190
Prosser WA 99350

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON
IN THE MATTER OF COUNTY PLANNING REGARDING THE PROPOSED VACATION OF THE TWENTY (20) FOOT INGRESS-EGRESS AND UTILITY EASEMENT ON THE SOUTHERN 300 FEET OF THE WEST 10 FEET OF LOT 1 AND THE EAST 10 FEET OF LOT 2 OF SHORT PLAT 2831, SECTION 04, TOWNSHIP 10 NORTH, RANGE 27 EAST, W.M. APPLICANT: RYAN HONE, PARENT PARCEL NUMBERS 1-0407-401-2831-001, AND 1-0407-401-2831-002, FILE NUMBER - SPV 2021-005

WHEREAS the Board of County Commissioners did conduct a public hearing on Tuesday, December 21, 2021 at 9:00 a.m. in the Commissioners Meeting Room, Benton County Courthouse, Prosser, Washington; and,

WHEREAS the signature of the property owners of said application includes all properties affected by these easements; and,

WHEREAS, upon due notice as provided in RCW 58.17.080 and 58.17.090, the hearing before the Board of County Commissioners was held on such petition as indicated above; and,

WHEREAS the Board of County Commissioners agrees with the summary report from the Benton County Planning Division, retained in File No. SPV 2021-005; and,

WHEREAS the 20-foot ingress-egress and utility easement located on the southern 300 feet of the west 10 feet of Lot 1 and the east 10 feet of Lot 2 of Short Plat 2831 is proposed to be vacated (see Exhibit A attached hereto); and,

WHEREAS it further appears that the vacation of the above-mentioned easement would not unduly jeopardize the health, safety, welfare and public good; NOW THEREFORE,

BE IT RESOLVED that the vacation of a 20-foot ingress-egress and utility easement located on the southern 300 feet of the west 10 feet of Lot 1 and the east 10 feet of Lot 2 of Short Plat 2831 of Section 04, Township 10 North, Range 27 East, W.M., as legally described on Exhibit A attached hereto, is hereby approved.

Dated this 21st day of December 2021.

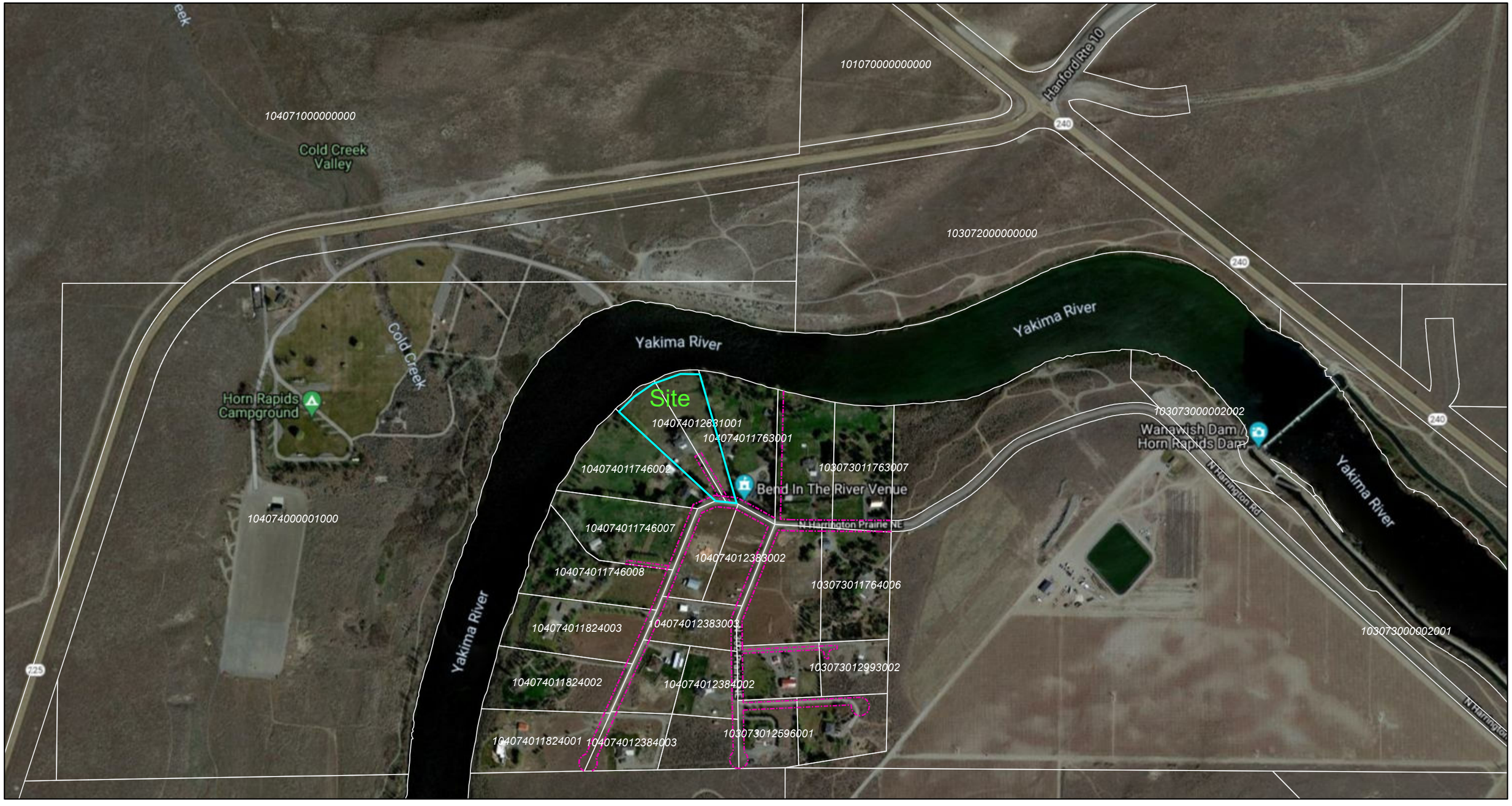
_____
Chairman of the Board

_____
Member

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

Attest.....

SPV 2021-005 Vicinity Map



12/6/2021, 10:31:30 AM

Access_Easement

Parcels_and_Assess

1:9,028

0 0.07 0.15 0.3 mi

0 0.13 0.25 0.5 km

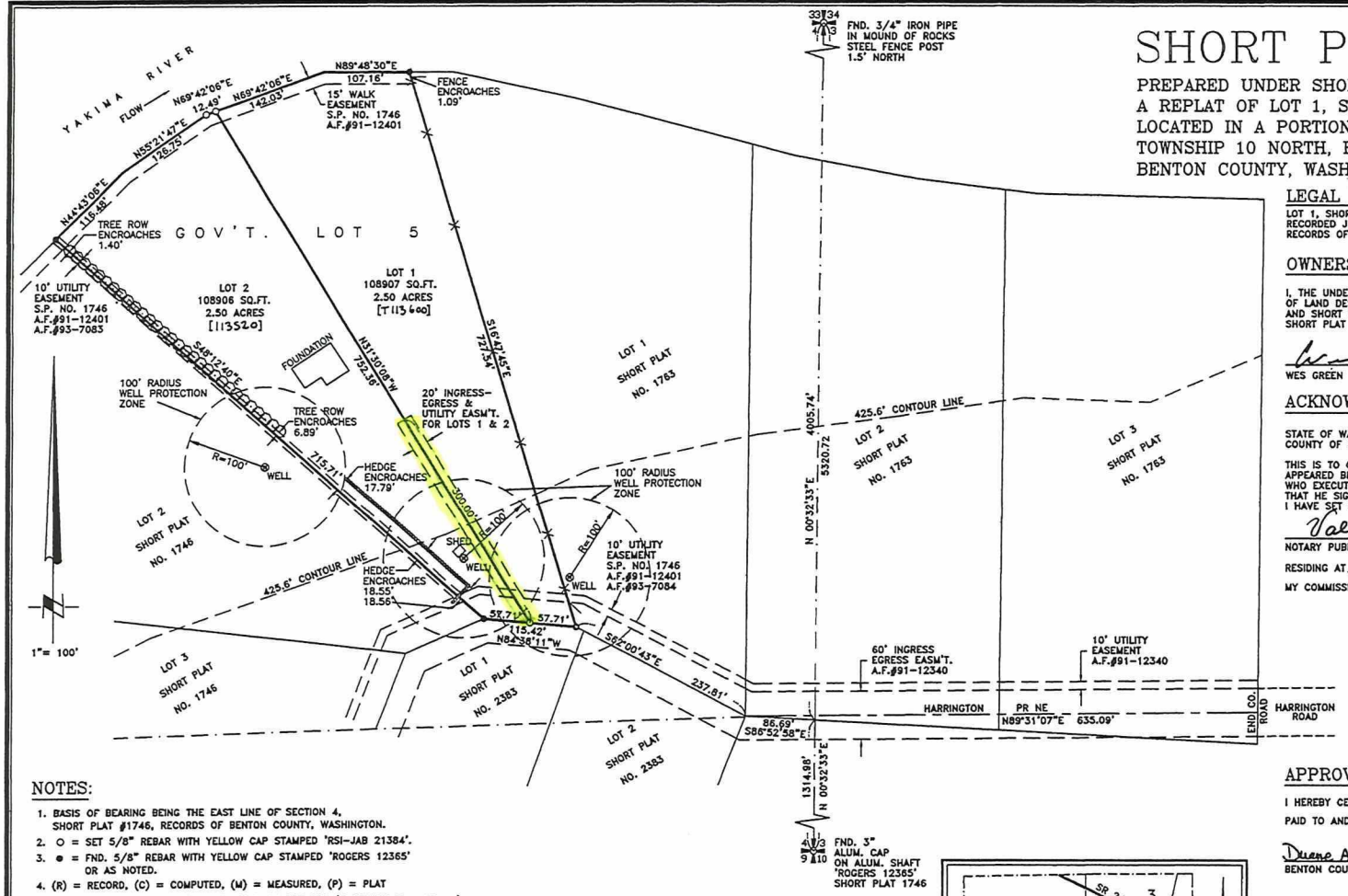
© OpenStreetMap (and) contributors, CC-BY-SA

Benton County Planning
Google Inc |

SHP 04-24 4-10-27

SHORT PLAT NO. 2831

PREPARED UNDER SHORT PLAT ORDINANCE NO.103
A REPLAT OF LOT 1, SHORT PLAT 1746,
LOCATED IN A PORTION OF THE SE 1/4 OF SECTION 4,
TOWNSHIP 10 NORTH, RANGE 27 EAST, W.M.
BENTON COUNTY, WASHINGTON



LEGAL DESCRIPTION

LOT 1, SHORT PLAT NO. 1746, ACCORDING TO THE SURVEY THEREOF RECORDED JULY 17, 1991 UNDER AUDITOR'S FILE NO. 91-12401, RECORDS OF BENTON COUNTY, WASHINGTON.

OWNERS CERTIFICATE

I, THE UNDERSIGNED, HEREBY CERTIFY THAT I AM THE OWNER OF THE TRACT OF LAND DESCRIBED HEREON. THAT I HAVE CAUSED SAID LAND TO BE SURVEYED AND SHORT PLATTED INTO LOTS AS SHOWN AND THAT THE EASEMENTS ON THE SHORT PLAT AND HEREBY GRANTED FOR THE USES SHOWN HEREON.

WES GREEN

ACKNOWLEDGMENT

STATE OF WASHINGTON } S.S.
COUNTY OF BENTON }

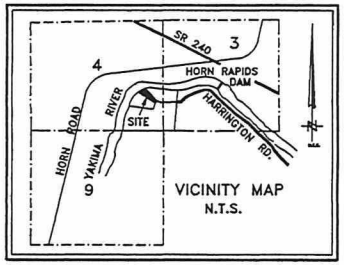
THIS IS TO CERTIFY THAT ON THIS 19th DAY OF Aug, 2004, PERSONALLY APPEARED BEFORE ME, WES GREEN, TO ME KNOWN TO BE THE INDIVIDUAL IN AND WHO EXECUTED THE FOREGOING "OWNERS CERTIFICATE", AND ACKNOWLEDGED TO ME THAT HE SIGNED THE SAME AS HIS VOLUNTARY ACT AND DEED. IN WITNESS THEREOF, I HAVE SET MY HAND AND OFFICIAL SEAL THE DAY AND YEAR FIRST ABOVE WRITTEN.

Valda M. Reynolds
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON
RESIDING AT Benton City
MY COMMISSION EXPIRES: 03-03-06

VALDA M. REYNOLDS NOTARY PUBLIC STATE OF WASHINGTON COMMISSION EXPIRES 3-3-06

NOTES:

1. BASIS OF BEARING BEING THE EAST LINE OF SECTION 4, SHORT PLAT #1746, RECORDS OF BENTON COUNTY, WASHINGTON.
2. O = SET 5/8" REBAR WITH YELLOW CAP STAMPED 'RSI-JAB 21384'.
3. ● = FND. 5/8" REBAR WITH YELLOW CAP STAMPED 'ROGERS 12365' OR AS NOTED.
4. (R) = RECORD, (C) = COMPUTED, (M) = MEASURED, (P) = PLAT
5. EQUIPMENT AND PROCEDURES USED: TOPCON GTS 225 (5 SECOND 2mm+2ppm) CLOSED TRAVERSE AND RADIAL SURVEY METHODS USED.
6. BENTON COUNTY IS NOT RESPONSIBLE FOR THE CONSTRUCTION OR MAINTENANCE OF PRIVATE INGRESS-EGRESS EASEMENTS.
7. NO BUILDING OR FAS OCCUPANCY PERMIT SHALL BE ISSUED UNTIL THE ACCESS EASEMENT HAS BEEN IMPROVED FROM THE COUNTY, CITY OR STATE ROAD TO THE LOT FOR WHICH THE PERMIT IS REQUESTED, TO THE STANDARD PROVIDED IN BCC 3.18.
8. PRIOR TO THE GRANTING OF A BUILDING OR FACTORY ASSEMBLED STRUCTURE PERMIT FOR EACH LOT BY THE COUNTY, THE APPLICANT FOR A BUILDING OR FAS PERMIT MUST COMPLY WITH RCW 90.44.050 REGARDING PUBLIC GROUND WATER. THE APPLICANT FOR A BUILDING OR FAS PERMIT MUST DEMONSTRATE THAT POTABLE WATER IS LEGALLY AVAILABLE BY PRESENTING: (a) EVIDENCE OF A VALID WATER RIGHT PERMIT FROM THE WASHINGTON STATE DEPARTMENT OF ECOLOGY FOR THE PROPOSED WELLS FOR EACH LOT; b) A WATER WELL REPORT FILED AND RECEIVED BY THE WASHINGTON STATE DEPARTMENT OF ECOLOGY FOR AN EXEMPTED WELL THAT COMPLIES WITH THE 5,000 GALLON PER DAY EXEMPTION DESCRIBED IN RCW 90.44.050; OR (c) A WRITTEN APPROVAL OF THE WASHINGTON STATE BOARD OF HEALTH THAT A GROUP A OR GROUP B PUBLIC WATER SUPPLY SYSTEM HAS BEEN INSTALLED AND IS AVAILABLE FOR PROVIDING POTABLE WATER TO THE LOT.
9. ADDRESS NUMBERS [NOTED IN BRACKETS] ARE SUBJECT TO CHANGE UNTIL EXACT LOCATION OF ACCESS ONTO THE SHORT PLAT IS DETERMINED.
10. ALL STRUCTURES MUST BE AT LEAST 25' BACK FROM ALL ACCESS EASEMENTS.
11. THE 425.6 FEET CONTOUR LINE WAS ESTABLISHED FROM THE TOP OF THE CONCRETE FISHWAY ON THE SOUTH SIDE OF HORN RAPIDS DAM USING ELEVATION 420.00 FEET AS A BASIS PER LETTER FROM THE DEPARTMENT OF THE ARMY, DATED MAY 15, 1991.
12. THIS SHORT PLAT IS NOT LOCATED WITHIN AN IRRIGATION DISTRICT.
13. PORTIONS OF THIS PROPERTY ARE LOCATED WITHIN THE 100 YEAR FLOODPLAIN AS DESIGNATED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) AND ARE SUBJECT TO THE CONDITIONS SET FORTH BY THE FEDERAL FLOOD INSURANCE ADMINISTRATION. PLEASE CONTACT THE BENTON COUNTY PLANNING DEPARTMENT FOR FURTHER INFORMATION.
14. ANY ON-SITE SEWAGE DISPOSAL SYSTEM INSTALLED ON THIS PLAT MUST BE SERVED BY AN ALTERNATIVE TYPE SEWAGE DISPOSAL SYSTEM MEETING TREATMENT STANDARD 2 IN ACCORDANCE WITH BENTON-FRANKLIN DISTRICT BOARD OF HEALTH RULES AND REGULATIONS NO. 2.
15. SUBJECT TO COVENANTS OF RECORD. 91-10712
16. RIVERBANK MEASUREMENT IS FOR FOOT TRAFFIC ONLY AND USE IS LIMITED TO PROPERTY OWNERS IN THE TRACT AND THEIR GUESTS.
17. THE UTILITY EASEMENTS SHOWN HEREON ARE HEREBY GRANTED FOR THE USE, ACCESS, AND MAINTENANCE BY THE SHORT PLATTED PROPERTY'S CURRENT UTILITY PROVIDER. SAID UTILITY EASEMENTS ARE FOR THE USE, ACCESS AND MAINTENANCE OF ELECTRIC POWER, TELEPHONE, CABLE, AND ANY OTHER DEFINED UTILITIES, TO AND OR THROUGH SAID TRACT.



APPROVALS

I HEREBY CERTIFY THAT THE TAXES ON THE LAND DESCRIBED HEREON HAVE BEEN PAID TO AND INCLUDING THE YEAR 2004. (PARCEL NUMBER 1-0407-401-1746-001)

Duane A Davidson by Jana Cousins — 8/24/04
BENTON COUNTY TREASURER — DATE

THE ANNEXED SHORT PLAT IS HEREBY APPROVED BY AND FOR THE COUNTY OF BENTON, STATE OF WASHINGTON.

Terry A Marsh — 8/23/04
BENTON COUNTY SHORT PLAT ADMINISTRATOR — DATE

AUDITOR'S CERTIFICATE

FILED FOR RECORD AT THE REQUEST OF WES GREEN AT 11:02 A M., THIS 24 DAY OF AUGUST, 2004 A.D., AND RECORDED IN VOLUME 1 OF SHORT PLATS, AT PAGE 2831, RECORDS OF BENTON COUNTY, WASHINGTON.

Bobbie Gagner — 2004-030296
BENTON COUNTY AUDITOR — FEE NUMBER

Lisa Mains
BY DEPUTY

100 50 0 100 200 300
SCALE IN FEET

REV:08-16-04

SURVEYOR'S CERTIFICATION

I JOHN A. BAALMAN, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF WASHINGTON (REG# 21384) HEREBY CERTIFY THAT THE SHORT PLAT AS SHOWN HEREON IS BASED ON AN ACTUAL FIELD SURVEY OF THE LAND DESCRIBED AND THAT ALL CORNERS AND DIMENSIONS ARE CORRECTLY SHOWN AND THAT SAID SHORT PLAT IS STAKED ON THE GROUND AS INDICATED HEREON.

JOHN A. BAALMAN STATE OF WASHINGTON 21384 REGISTERED PROFESSIONAL LAND SURVEYOR EXPIRES 9-22-05

8-19-04
DATE

RSI ROGERS SURVEYING INC., P.S.
803 COLUMBIA PARK TRAIL
RICHLAND, WA. 99352
PHONE (509) 627-5656
FAX: (509) 627-2994
www.rogerssurveying.com

CLIENT	WES GREEN	JOB 07104
PROJECT	SHORT PLAT OF LOT 1 S.P. NO. 1746 PORTION OF SE1/4, SEC. 4, T.10N., R.27E.,W.M.	
DRN. BY GBW/RPJ	SCALE 1"= 100'	F. B. NO. NONE SDPROJ- 24503 FILE: 07104.DWG
APPROVED JAB	DATE 04-01-04	SHEET 1 OF 1

Community Development Department
Prosser Office: 620 Market Street, 1st Floor
Kennewick Office: 102206 East Wiser Parkway
www.co.benton.wa.us

Planning Division
(509) 786-5612
P.O. Box 910, Prosser, WA 99350
planning.department@co.benton.wa.us

NOTICE OF PUBLIC HEARING

NOTICE OF HEARING BEFORE THE BENTON COUNTY BOARD OF COMMISSIONERS in the matter of County Planning:

SPV 2021-005 - A Short Plat Vacation application by Ryan Hone to vacate a 20-foot ingress-egress and utility easement located on the southern 300 feet of the west 10 feet of Lot 1 of Short Plat 2831 and the southern 300 feet of the east 10 feet of Lot 2 of Short Plat 2831. The property is located approximately 930 feet west of the end of Harrington Road in West Richland in Section 4, Township 10 North, Range 27 East, W.M.

NOTICE IS HEREBY GIVEN that the Board of County Commissioners will hold a public hearing on December 21, 2021 at 9:00 a.m. in the Commissioners Meeting Room, Third Floor, Courthouse, Prosser WA. Due to the ongoing and unprecedented COVID-19 emergency, participation in this meeting will be offered in person and virtually. All concerned persons may attend the meeting in person or virtually appear and present any support for or objection to the application or provide written testimony to the Board of County Commissioners in care of the Planning Division before the date of the hearing. **Written testimony will need to be submitted to the Benton County Planning Division PO Box 910 Prosser, WA 99350 by 3 p.m. Monday December 20, 2021.**

To find information regarding testifying and on virtual attendance options please use this link. https://www.co.benton.wa.us/agendalist.aspx?categoryid=1181

Further information regarding these files and copies of the proposals are available at no cost from the Benton County Planning Division, P.O. Box 910, Prosser, WA 99350. Telephone: Prosser (509) 786-5612; Tri-Cities (509) 736-3086 or on our website at https://tinyurl.com/BCpublicnotice.

BASED ON THE TESTIMONY presented at the public hearing, the Board of County Commissioners may approve, disapprove or they may make changes to the short plat vacation application. Any information submitted to the Benton County Planning Division is subject to public records disclosure law for the State of Washington (RCW Chapter 42.56) and all other applicable law that may require the release of the documents to the public.

DATED this 3rd day of December 2021.

JEROME DELVIN, Chairman
BENTON COUNTY COMMISSIONERS

_____
Michelle Cooke, Assistant Planning Manager
Benton County Planning Division

PUBLISH: December 8, 2021

Planning Department
P.O. Box 910
1002 Dudley Avenue
Prosser, WA 99350

Phone (509) 786-5612
Fax (509) 786-5629
planning.department@co.benton.wa.us
co.benton.wa.us

SHORT PLAT VACATION APPLICATION

RECEIVED
OCT 5 2021
Benton Co. Planning Dept.

Application No. SPV 2021-005

APPLICANT INFORMATION

Please check the box indicating primary contact person for this application

☒ **Applicant/Agent**: Ryan Hone

Mailing Address: 113520 N. Harrington Rd City: West Richland

State: WA ZIP: 99353 Phone: 509-943-7032 Work: _____

Email Address: Seven3charlie@Yahoo.com

Signature: _____ Date: 10/4/21

☐ **Property Owner(s)** *(if different)*: _____

Mailing Address: _____ City: _____

State: _____ ZIP: _____ Phone: _____ Work: _____

Email Address: _____

Signature: _____ Date: _____

Signatures of Persons with Additional Ownership Interest:

Print Name	Signature	Date

If the property is owned by a corporation, trust, partnership or LLC please complete the entity signature block below showing that the person signing has the authority to sign on behalf of the company.

ENTITY SIGNATURE BLOCK

Applicant/Legal Owner: _____

Officer name: _____

Title: _____

Signature: _____ Date: _____

THE ABOVE SIGNED OFFICER OF _____ *(name of entity)* WARRANTS AND REPRESENTS THAT ALL NECESSARY LEGAL AND CORPORATE ACTIONS HAVE BEEN DULY UNDERTAKEN TO PERMIT _____ *(name of applicant)* TO SUBMIT THIS APPLICATION AND THAT THE ABOVE SIGNED OFFICER HAS BEEN DULY AUTHORIZED AND INSTRUCTED TO EXECUTE THIS APPLICATION.

Any information submitted to the Benton County Planning Department is subject to public records disclosure law for the State of Washington (RCW Chapter 42.17) and all other applicable law that may require the release of the documents to the public.

PARCEL INFORMATION

1. **Subject property address:** 113520 N. Harrington Rd.

   City: West Richland **State:** WA **ZIP:** 99353

2. **Parcel number:** 1-0407-401-2831-002 **3. Acreage:** 2.5

4. **Present use of property:** Private Dwelling

5. **Access:** ☐ County Road ☐ State Road/Highway ☒ Private Road

6. **Utilities:** *Power:* ☐ Benton PUD ☒ Benton REA

   Sewer: ☒ Septic Tank ☐ City Sewer: *(Provider)* _____

   Water: ☒ Individual Wells ☐ One well serving 2-4 lots ☐ One well serving 5+ lots

   ☐ Private System *(Provider & Address)* _____

   ☐ City System *(Provider)* _____

   Gas: ☒ No ☐ Yes: *(Provider)* _____

   Cable: ☒ No ☐ Yes: *(Provider)* _____

   Phone: ☒ No ☐ Yes: *(Provider)* _____

   Irrigation: ☐ No ☒ Private ☐ District: *(Provider)* _____

REQUEST DESCRIPTION

7. **Describe the proposed portion of the plat to be vacated:** The ingress/egress easement between 113520 and 113600, both owned by Ryan Horne

8. **List other parcels that may be affected by this request:** 1-0407-401-2831-001 (113600 N. Harrington rd)

9. **Give a detailed explanation for the vacation request:** We want to build a shop and with the easement, the setbacks from said easement will not allow the shop to be placed in the desired area.

(FOR STAFF USE ONLY) *Application Complete:* Y N

Critical Areas: N Y: _____ *Zoning:* _____

Reviewed by: _____ *Date:* _____

Any information submitted to the Benton County Planning Department is subject to public records disclosure law for the State of Washington (RCW Chapter 42.17) and all other applicable law that may require the release of the documents to the public.

Andrea Watts

From: Nick Pryor <NPryor@bentonrea.org>
Sent: Monday, November 29, 2021 1:45 PM
To: Andrea Watts; Chris Cooke; Jason Brown; Danielle Hoglen
Cc: Michelle Cooke; Ryan Hone
Subject: RE: [EXTERNAL] RE: SPV 2021-005 Agency Review

Hello Andrea,

I wanted to follow up on this email regarding an easement vacation for Ryan Hone. We have received the new signed and notarized easements from the landowner and are in the process of having them recorded with Benton County now. As far as Benton REA is concerned, we will sign off on the vacation of the access and utility easement recorded on his parcels now.

Thanks,

Nick Pryor
Distribution Engineer
402 7th Street / PO Box 1150
Prosser, WA 99350

Benton Rural Electric Association
Your Touchstone Energy® Cooperative

(509) 786-8251 (☎ Office)
(509) 492-6723 (Cell)
(509) 786-2231 (Fax)

From: Andrea Watts <Andrea.Watts@co.benton.wa.us>
Sent: Monday, October 11, 2021 11:26 AM
To: Nick Pryor <NPryor@bentonrea.org>; Chris Cooke <ccooke@bentonrea.org>; Jason Brown <jabrown@bentonrea.org>
Subject: RE: [EXTERNAL] RE: SPV 2021-005 Agency Review

Thank you. I will let the applicant know.

Best,

Andrea Watts
Associate Planner
Benton County Community Development Department - Planning Division
Andrea.watts@co.benton.wa.us
(509) 786-5612

From: Nick Pryor <NPryor@bentonrea.org>
Sent: Monday, October 11, 2021 11:21 AM

To: Andrea Watts <Andrea.Watts@co.benton.wa.us>; Chris Cooke <ccooke@bentonrea.org>; Jason Brown <jabrown@bentonrea.org>
Subject: [EXTERNAL] RE: SPV 2021-005 Agency Review

EXTERNAL EMAIL WARNING!!!: This email originated from outside of Benton County. DO NOT click links or open attachments unless you recognize the sender and know the content is safe.

Hi Andrea,

Unfortunately, we cannot sign off on the vacation of this easement since it is an access and utility easement that has Benton REA primary electric facilities currently utilizing that easement. The land owner will need to contact Benton REA and setup an appointment to discuss options on site.

Thanks,

Nick Pryor
Distribution Engineer
402 7th Street / PO Box 1150
Prosser, WA 99350

Benton Rural Electric Association
Your Touchstone Energy® Cooperative

(509) 786-8251 (☎ Office)
(509) 492-6723 (Cell)
(509) 786-2231 (Fax)

From: Andrea Watts <Andrea.Watts@co.benton.wa.us>
Sent: Monday, October 11, 2021 9:05 AM
To: Chris Cooke <ccooke@bentonrea.org>; Jason Brown <jabrown@bentonrea.org>; Nick Pryor <NPryor@bentonrea.org>
Subject: SPV 2021-005 Agency Review

Hello,

Please see attached application for a short plat vacation involving the removal of an access easement off of Harrington PR NE. Please respond with any comments you may have by **Friday October 15th, 2021**.

Best,

Andrea Watts
Associate Planner
Benton County Community Development Department - Planning Division
Andrea.watts@co.benton.wa.us
(509) 786-5612

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	December 21, 2021 **Memo Date:** December 10, 2021
Subject:	**Public Hearing** on File No. OA 2021-004 an amendment relating to BCC Title 11 zoning; amending the sections relating to uses requiring a conditional use permit; amending the sections relating to allowable uses for wind turbines, solar power generator facility; major, and facilities for power generation, other than nuclear fueled, wind or solar fueled.
Presenter:	Greg Wendt and Michelle Cooke
Prepared By:	Greg Wendt
Reviewed By:	N/A

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 Planning Division and the Planning Commission are forwarding an ordinance amendment to the Board of County Commissioners with a recommendation for approval. The proposed ordinance amendment updates the regulations in the Benton County Zoning Ordinance.

The amendment includes updates to the following:

a. Chapter 11.15 Rural Lands Twenty Acre District (RL-20), amending BCC 11.15.060(i) and (k) to remove wind turbine farm and solar power generator facility, major requirements;

b. Chapter 11.17 Growth Management Act Agricultural Zoning District (GMAAD), amending BCC 11.17.070(j)(q) and (z) facilities for power generation other than nuclear fueled, wind turbine farms, and solar power generator facility, major uses from requiring a conditional use permit;

c. Chapter 11.33 Light Industrial District (LI), amending BCC 11.33.030(q) to add a single wind turbine less than 60' and related support structures to allowable use requirements;

d. Chapter 11.33 Light Industrial District (LI), amending BCC 11.33.060(l) to add a single wind turbine exceeding 60' or a wind turbine farm as uses requiring a conditional use permit;

e. Chapter 11.35 Heavy Industrial District (HI), amending BCC 11.35.030(r) to add a single wind turbine less than 60' and related support structures to allowable use requirements; and

f. Chapter 11.35 Heavy Industrial District (HI), amending BCC 11.35.060(j) to add a single wind turbine exceeding 60' or a wind turbine farm as uses requiring a conditional use permit.

The Planning Commission held a public hearing on November 30, 2021. The Planning Commission, after taking testimony and discussion among the Commission members, voted 3-1 in favor of forwarding a recommendation for approval of the proposed amendments subject to nine (9) findings of fact.

Fiscal Impact

None known at this time.

Recommendation

It is the recommendation of the Benton County Planning Division and the Planning Commission that Planning casefile application OA 2021-004, be approved with the suggested nine (9) Findings of Fact.

Suggested Motion

I move that the Board of County Commissioners adopt the Planning Commission's Findings and Conclusions as their own and approve the proposed amendments relating to renewable energy uses requiring a conditional use permit and amending the sections relating to allowable of Ordinance 611, Ordinance 617, and Ordinance 634 as noted in Planning casefile OA 2021-004.

EXHIBIT LIST FOR OA 2021-004/EA 2021-026
ORDINANCE AMENDMENT TO BCC 11.15, 11.17, 11.33 AND 11.35

Planning Commission Memo Exhibit List - November 30, 2021			
PCM 1 Includes:	PCM 1.1	Staff Report	November 4, 2021
	PCM 1.2	Draft Ordinance	
	PCM 1.3	Notice of Public Hearing	November 17, 2021
	PCM 1.4	Zoning for Wind & Solar Benton County PowerPoint	November 4, 2021
		SEPA INFORMATION	
	PCM 1.5	Environmental Checklist EA 2021-004	October 18, 2021
	PCM 1.6	Determination of Non Significance	October 19, 2021
	PCM 1.7	Notice of Intent to Adopt Ordinance	October 19, 2021
	PCM 1.8	Approval of Expediated Review	November 16, 2021
		COMMENTS	
	PCM 1.9	Benton County PUD	October 28, 2021
	PCM 1.10	Dept. of Natural Resources	October 29, 2021
Planning Commission Hearing Exhibit List - November 30, 2021			
PCH 1 Includes:	PCH 1.1	Stacy Smith Comments	November 28, 2021
	PCH 1.2	David Robert Comments	November 29, 2021
	PCH 1.3	Denise Christensen Comments	November 29, 2021
	PCH 1.4	Doug Robert Comments	November 29, 2021
	PCH 1.5	Jim Atkins Comments	November 29, 2021
	PCH 1.6	Marilyn Ford Comments	November 29, 2021
	PCH 1.7	Randy Robert Comments	November 29, 2021
	PCH 1.8	Robin Robert Comments	November 29, 2021
	PCH 1.9	Jean Robert Comments	November 29, 2021
	PCH 1.10	David Robert Comments	November 29, 2021
	PCH 1.11	Robert/Angela Andrews Comments	November 30, 2021
	PCH 1.12	Greg Hammer Comments	November 30, 2021
	PCH 1.13	Jill Hedgpeth Comments	November 30, 2021
	PCH 1.14	Cassandra Macy Comments	November 30, 2021
	PCH 1.15	Rich Nall Comments	November 30, 2021
	PCH 1.16	Chris Wissel-Tyson Comments	November 30, 2021
	PCH 1.17	Beverly Brewer Heaverlo Comments	November 30, 2021
Board of County Commissioners Memo Exhibits December 21, 2021			
BCCM	BCCM 1.1	Board of County Commissioners Agenda Sheet	December 10, 2021
	BCCM 1.2	Board of County Commissioners Resolution	December 10, 2022
	BCCM 1.3	Draft Ordinance	
	BCCM 1.4	Planning Commission Recommendation & Findings of Fact	December 6, 2021
	BCCM 1.5	Planning Commission Audio Recording	December 7, 2021
	BCCM 1.6	Board of County Commissioners Legal Notice	December 3, 2021
	BCCM 1.7	D. Brent Strecker Comments	November 30, 2021
	BCCM 1.8	Doug Robert Comments	December 13, 2021
	BCCM 1.9	Marilyn Ford Comments	December 13, 2021
	BCCM 1.10	Allison Keeler Comments	December 13, 2021
Board of County Commissioners Hearing Exhibits December 21, 2021			
	BCCH 1.1		
	BCCH 1.2		
	BCCH 1.3		
	BCCH 1.4		
	BCCH 1.5		
	BCCH 1.6		
	BCCH 1.7		

The Exhibit Numbers are found in the Top Right Hand Corner of each document.
PCM = Planning Commission Memo Exhibits
BCCM = County Commissioner Memo Exhibits
PCH= Planning Commission Hearing Exhibits
BCCH= County Commissioner Hearing Exhibits

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF COUNTY PLANNING AN ORDINANCE RELATING TO ZONING, AMENDING THE SECTIONS RELATING TO USES REQUIRING A CONDITIONAL USE PERMIT; AMENDING THE SECTIONS RELATING TO ALLOWABLE USES; AMENDING ORDINANCE 611, SECTION 53, ORDINANCE 617, SECTION 5, ORDINANCE 634, SECTION 1 AND BCC 11.15.060; AMENDING ORDINANCE 611, SECTION 63, ORDINANCE 617, SECTION 7, ORDINANCE 634, SECTION 3, ORDINANCE 636, SECTION 2 AND BCC 11.17.070; AMENDING ORDINANCE 611, SECTION 126 AND BCC 11.33.030; AMENDING ORDINANCE 611, SECTION 129 AND BCC 11.33.060; AMENDING ORDINANCE 611, SECTION 134 AND BCC 11.35.030 AND AMENDING ORDINANCE 611, SECTION 137 AND BCC 11.35.060.

WHEREAS, the Benton County Planning Commission after conducting an open record hearing and review on November 30, 2021 has forwarded the proposed amendment(s) to the Board of County Commissioners with a positive recommendation; and,

WHEREAS, the Board did review the Planning Commission record, and staff recommendations, the testimony and the proposed ordinance; and,

WHEREAS, the Planning Commission recommendation of approval is set forth in the Planning Commission's Recommendation, Findings of Fact and Conclusions that are found in File # OA 2021-004 in the Planning Division; and,

WHEREAS, Notice of Open Record Hearing before the Board of County Commissioners was published in the Prosser Record Bulletin on December 8, 2021; and,

WHEREAS, the Board of County Commissioners did conduct an open record hearing on Tuesday, December 21, 2021, at 9.00 a.m. in the Commissioners Meeting Room, Benton County Courthouse, Prosser Washington to consider the above proposed ordinance amendment to Ordinance 611, Ordinance 617, and Ordinance 634 as noted in Planning casefile OA 2021-004; and,

WHEREAS, the Board of County Commissioners did adopt the Planning Commission's Findings of Fact and Conditions of Approval as their own (which are kept in File No. OA 2021-004 in the Planning Division records); and,

WHEREAS, after consideration of the above-mentioned request and review of the Planning Commission record, staff analysis and memos, and all written and oral comments submitted at the public hearing, the Board of County Commissioners are satisfied that it appears to be in the best interest of the public to adopt Planning Application OA 2020-004, amendment to Ordinance 611, Ordinance 617, and Ordinance 634 as noted in Planning casefile OA 2021-004; NOW THEREFORE,

BE IT RESOLVED that Ordinance No._____ an ordinance relating to zoning, amending the sections relating to uses requiring a conditional use permit; amending the sections relating to allowable uses; amending Ordinance 611, Section 53, Ordinance 617, Section 5, Ordinance 634, Section 1 and BCC 11.15.060; amending Ordinance 611, Section 63, Ordinance 617, Section 7, Ordinance 634, Section 3, Ordinance 636, Section 2 and BCC 11.17.070; amending Ordinance 611, Section 126 and BCC 11.33.030; amending Ordinance 611, Section 129 and BCC 11.33.060; amending Ordinance 611, Section 134 and BCC 11.35.030 and amending Ordinance 611, Section 137 and BCC 11.35.060 is hereby adopted and will take effect and be in full force immediately upon its passage and adoption.

Dated this 21st day of December 2021.

_____
Chairman of the Board

_____
Member

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

Attest.....
Clerk of the Board

MLC

ORDINANCE NO._____

AN ORDINANCE relating to zoning, amending the sections relating to uses requiring a conditional use permit; amending the sections relating to allowable uses; amending Ordinance 611, Section 53, Ordinance 617, Section 5, Ordinance 634, Section 1 and BCC 11.15.060; amending Ordinance 611, Section 63, Ordinance 617, Section 7, Ordinance 634, Section 3, Ordinance 636, Section 2 and BCC 11.17.070; amending Ordinance 611, Section 126 and BCC 11.33.030; amending Ordinance 611, Section 129 and BCC 11.33.060; amending Ordinance 611, Section 134 and BCC 11.35.030 and amending Ordinance 611, Section 137 and BCC 11.35.060.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

SECTION 1. Ordinance 611, Section 53, Ordinance 617, Section 5, Ordinance 634, Section 1 and BCC 11.15.060 are hereby amended to read as follows:

USES REQUIRING A CONDITIONAL USE PERMIT. The following uses may be permitted on a single parcel of record within the Rural Lands Twenty Acre District (RL-20) if a conditional use permit is issued by the Hearings Examiner after notice and public hearing as provided by BCC 11.50.040.

(a) A sand or gravel pit, stone quarry and similar use for the development of natural resources extracted on-site.

(b) Kennel, commercial.

(c) Child Day Care Facility, Type B, subject to the provisions of BCC 11.42.060.

(d) A Park.

(e) Bed and Breakfast Facility, subject to the provisions in BCC 11.42.030.

(f) Agricultural Market.

(g) Business activities, other than those set forth above, that are compatible with the principal uses and purpose of the underlying zone and the surrounding land uses may be conducted from within an approved accessory building detached from all dwelling units if the following criteria as well as any other conditions required by the Hearings Examiner are satisfied:

(1) The business activity must take place on a parcel of land that is 2.0 acres or greater in size.

(2) There must be a residence on site, and at least one (1) of the proprietors of the business must be the owner or lessee of the property where the business and the residence are located and must reside in said residence.

(3) No more than four (4) non-resident persons, whether they work on site or not, may be employed by or be partners in the business.

(4) The business activity, including all storage space, shall not occupy more than two thousand (2,000) square feet of total floor area within the detached accessory building.

(5) Only one (1) approved detached accessory building on a parcel may be used for business activities. If more than one (1) business will be conducted within an approved detached accessory building, then a separate application must be submitted for each business activity, provided that the total area used by all business activities shall not exceed that permitted by BCC 11.15.060(g)(4).

(6) No more than two (2) non-illuminating signs, with a maximum area of four (4) square feet each, shall be permitted in connection with the business activity. The posting of such signs is limited to the parcel on which the approved detached accessory building is located. On-street (inside the road right-of-way) sign posting and sign posting which interferes with the line-of-site for road intersections are prohibited.

(7) Not more than three (3) vehicles marked to identify the business may be on the parcel at any one time. No other on-site outside storage of vehicles, equipment and/or supplies is allowed in connection with the business activity. This prohibition applies to, but is not limited to: lumber, plasterboard, pipe, paint, inoperable vehicles, and heavy equipment that are related to the business.

(8) The property owner and the proprietor(s) of the business shall comply with all requirements of the Benton County Building Department, the Benton County Fire Marshal, the Benton-Franklin Health District, and all other local, state and federal regulations pertinent to the business activity pursued. The requirements of or permission granted by the Hearings Examiner shall not be construed as an exemption from such regulations.

(9) Adequate off-street parking, as determined by the Hearings Examiner, must be provided.

(10) Any waste created as a result of the business activity must be disposed of off-site in compliance with all local, state and/or federal regulations.

(11) The presence of customers/clients and non-resident employees at the location of the business activity shall be limited to the days and hours of operation as determined by the Hearings Examiner.

(12) The business activity does not require a marijuana retail outlet license from the Washington State Liquor and Cannabis Board.

(h) Shooting range facility.

((~~(i) One (1) wind turbine with a wind turbine height of sixty (60) feet or more or a wind turbine farm and related support structures and other improvements under the following conditions:~~

~~(1) The lowest point on all rotor blades must be at least thirty (30) feet above ground level;~~

~~(2) All wind turbine tower bases must be set back from all dwellings not located on the same parcel at least one thousand six hundred and forty (1,640) feet;~~

~~(3) All wind turbine tower bases must be set back from all property lines a distance equal to the associated wind turbine height plus 50% of that height, except that, where contiguous properties are leased for an identical duration for development of a wind farm, the tower bases set back from the property lines common with such leased properties may be eliminated so long as no part of any wind turbine extends past any such interior property lines and the above-required setbacks are maintained from the property lines comprising the exterior boundaries of the wind farm;~~

~~(4) All wind turbine tower bases must be set back from the closest edge of a state, county, or city road right-of-way distance equal to the wind turbine height plus 50% of that height;~~

~~(5) All wind turbine tower bases must be set back a distance equal to the wind turbine height from all borders of the GMA Agricultural District, except for GMA Agricultural District borders adjacent to the Hanford Reservation owned by the Department of Energy or adjacent to another zoning district adopted by another county that contains a general minimum parcel size of at least twenty (20) acres per parcel;~~

~~(6) For wind turbine(s) proposed to be located within four (4) miles of the nearest point of the nearest runway of the nearest airport available for public use, the applicant for a building permit must comply with all the requirements imposed by the Federal Aviation Administration (FAA) and provide a written statement from the FAA that sets forth the FAA's comments and requirements, if any, for the proposal;~~

~~(7) All wind turbine(s) must comply with the Federal Aviation Regulations Part 77, Objects Affecting Navigable Airspace, as currently in effect or as hereafter amended, including but not limited to, providing such notices to the FAA as required thereunder and compliance with all requirements or prohibitions imposed by the FAA on the applicant's proposal;~~

~~(8) Conditional use permit applications for the placement and operation of wind turbines under this section shall be made available for review by the United States Department of Defense (USDOD) in accordance with RCW 36.01.320, as in effect now or hereafter amended. The notice and processing of wind turbine permit applications will be in accordance with Benton County Code chapter 17.10. Pursuant to BCC 11.50.040 (d), the applicant is required to provide sufficient evidence to persuade the Hearings Examiner that the proposed wind turbine is compatible with other uses in the surrounding area, including any military training activities, or is no more incompatible than are any other outright permitted uses in the applicable zoning district, as well as provide all other evidence required by BCC 11.50.040;~~

~~(9) All wind turbine tower bases shall be located at least forty (40) feet for every one (1) foot of tower height or one mile, whichever is greater, from the ends of and at least five thousand (5,000) feet from the sides of all runways which are available solely for private use and identified on the most current edition of the Sectional Aeronautical Charts produced by the National Aeronautical Charting Office (NACO);~~

~~(10) If the use of any wind turbine or wind turbine farm is discontinued for a period of one (1) year or more, the owner of such facility shall remove the facility within ninety (90) days of written notification by the Planning Department. If such facility is not removed within said ninety (90) days, the County may refer the issue to the code enforcement officer for appropriate action pursuant to Chapter 11.43 BCC; and~~

~~(11) The wind turbine(s) and all associated service roads may not displace more than five (5) percent of the area of that parcel(s) on which they are located.~~))

((~~(j)~~)) (i) Agri-tourism accommodations.

(((~~k) Solar Power Generator Facility, Major.~~))

SECTION 2. Ordinance 611, Section 63, Ordinance 617, Section 7, Ordinance 634, Section 3, Ordinance 636, Section 2 and BCC 11.17.070 are hereby amended to read as follows:

USES REQUIRING A CONDITIONAL USE PERMIT. The following uses may be permitted within the GMA Agricultural District if a conditional use permit is issued by the Hearings Examiner after notice and public hearing as provided by BCC 11.50.040:

(a) Slaughterhouses, commercial meat-packing plants, animal feedlots; provided, that they are not located in the floodway and floodplain as shown on the FEMA maps, or within two hundred (200) feet of a naturally occurring body of water, or a well-used for domestic or municipal purposes and shall be designed to prevent infiltration or other movement of livestock wastes into the aquifer, or directly into surface waters.

(b) Commercial dairy, hog, poultry, and rabbit operations, propagation of fur bearing species for commercial purposes, or livestock auction yard; provided, that at least the following setbacks are met as well as all other conditions imposed in connection with the issuance of the conditional use permit: one hundred (100) foot setbacks from any lot line to any animal enclosure, except for fenced pasture; and a five hundred (500) foot setback from any existing residential structure on adjacent property not under applicant's ownership.

(c) Commercial establishments for the transportation of agricultural products other than those produced on the premises, or agricultural supplies or equipment, together with the maintenance, storage, repair and servicing of the necessary trucks and equipment.

(d) The following agriculturally based recreational and sales facilities: covered arenas, rodeo events, livestock sales rings, and working animal events. The following accessory uses may be permitted during one or more of the above events: veterinary service, food concessions, RV parking area, and event related novelty/accessory sales.

(e) Airstrips (commercial crop dusting).

(f) Facilities for treatment of industrial solid wastes with associated spray fields related to the on-site processing of agricultural products.

(g) Solid waste disposal site; except on lands designated as having less than 160 acre minimum parcel size.

(h) Off-site hazardous waste treatment and storage facilities may be allowed by conditional use permit issued by the Benton County Hearings Examiner after notice and public hearing as provided in BCC 11.50.040 provided, that such facilities must comply with the state siting criteria adopted in accordance with RCW 70.105.210, as currently in effect or as hereafter amended.

(i) Asphalt manufacture in conjunction with rock, sand and gravel mining.

((~~(j) Facilities for power generation, other than nuclear fueled, wind fueled or solar fueled.~~))

((~~(k)~~)) (j) Child Day Care Facility, Type B, subject to the provisions of BCC 11.42.060.

((~~(l)~~)) (k) Off-premise directional signs.

((~~(m)~~)) (l) The production of bio-diesel and alcohol fuels from agricultural products.

((~~(n)~~)) (m) The commercial maintenance, repair, servicing, and storage of agricultural machinery, implements, and equipment for use off the premises.

((~~(o)~~)) (n) Commercial establishments for the storage, sale and off-site application of agricultural chemicals, including but not limited to herbicides, fertilizers, insecticides, and pesticides.

((~~(p)~~)) (o) Underground natural gas storage facilities.

((~~(q) One (1) wind turbine with a wind turbine height of sixty (60) feet or more or a wind turbine farm and related support structures and other improvements under the following conditions:~~

~~(1) The lowest point on all rotor blades must be at least thirty (30) feet above ground level;~~

~~(2) All wind turbine tower bases must be set back from all dwellings not located on the same parcel at least one thousand six hundred and forty (1,640) feet;~~

~~(3) All wind turbine tower bases must be set back from all property lines a distance equal to the associated wind turbine height plus 50% of that height, except that, where contiguous properties are leased for an identical duration for development of a wind farm, the tower bases set back from the property lines common with such leased properties may be eliminated so long as no part of any wind turbine extends past any such interior property lines and the above-required setbacks are maintained from the property lines comprising the exterior boundaries of the wind farm;~~

~~(4) All wind turbine tower bases must be set back from the closest edge of a state, county, or city road right-of-way distance equal to the wind turbine height plus 50% of that height;~~

~~(5) All wind turbine tower bases must be set back a distance equal to the wind turbine height from all borders of the GMA~~

~~Agricultural District, except for GMA Agricultural District borders adjacent to the Hanford Reservation owned by the Department of Energy or adjacent to another zoning district adopted by another county that contains a general minimum parcel size of at least twenty (20) acres per parcel;~~

~~(6) For wind turbine(s) proposed to be located within four (4) miles of the nearest point of the nearest runway of the nearest airport available for public use, the applicant for a building permit must comply with all the requirements imposed by the Federal Aviation Administration (FAA) and provide a written statement from the FAA that sets forth the FAA's comments and requirements, if any, for the proposal;~~

~~(7) All wind turbine(s) must comply with the Federal Aviation Regulations Part 77, Objects Affecting Navigable Airspace, as currently in effect or as hereafter amended, including but not limited to, providing such notices to the FAA as required thereunder and compliance with all requirements or prohibitions imposed by the FAA on the applicant's proposal;~~

~~(8) Conditional use permit applications for the placement and operation of wind turbines under this section shall be made available for review by the United States Department of Defense (USDOD) in accordance with RCW 36.01.320, as in effect now or hereafter amended. The notice and processing of wind turbine permit applications will be in accordance with Benton County Code chapter 17.10. Pursuant to BCC 11.50.040 (d), the applicant is required to provide sufficient evidence to persuade the Hearings Examiner that the proposed wind turbine is compatible with other uses in the surrounding area, including any military training activities, or is no more incompatible than are any other outright permitted uses in the applicable zoning district, as well as provide all other evidence required by BCC 11.50.040;~~

~~(9) All wind turbine tower bases shall be located at least forty (40) feet for every one (1) foot of tower height or one mile, whichever is greater, from the ends of and at least five thousand (5,000) feet from the sides of all runways which are available solely for private use and identified on the most current edition of the Sectional Aeronautical Charts produced by the National Aeronautical Charting Office (NACO);~~

~~(10) If the use of any wind turbine or wind turbine farm is discontinued for a period of one (1) year or more, the owner of such facility shall remove the facility within ninety (90) days of written notification by the Planning Department. If such facility is not removed within said ninety (90) days, the County may refer the issue to the code enforcement officer for appropriate action pursuant to Chapter 11.43 BCC; and~~

~~(11) The wind turbine(s) and all associated service roads may not displace more than five (5) percent of the area of that parcel(s) on which they are located.~~))

((~~(r)~~)) (p) Non-agricultural accessory uses that promote or sustain the continuation of the agricultural uses of a parcel if the accessory uses meet the following criteria as well as any other conditions required by the Hearings Examiner:

(1) The non-agricultural accessory use shall be located, designed, and operated so as to not interfere with, and to support the continuation of, the overall agricultural use of the parcel;

(2) The non-agricultural accessory use must be consistent with the size, scale, and intensity of the existing agricultural use of the parcel and the existing buildings thereon;

(3) The parcel on which the non-agricultural accessory use is located meets one of the following:

(i) the parcel is no less than twenty (20) acres in size with eighty (80) percent of the acreage primarily committed to agricultural use and has produced gross income equivalent to two hundred (200) dollars or more per acre each year for three (3) of the five (5) calendar years preceding the date of application;

(ii) the parcel is currently enrolled in the County's Agricultural Open Space program pursuant to Chapter 84.34 RCW, as currently in effect or as hereafter amended;

(iii) the parcel is not less than one hundred (100) contiguous acres that has been in agricultural use for three (3) of the last five (5) years.

(4) The non-agricultural accessory use, including any new buildings, parking or supportive uses associated therewith, shall be located within one thousand (1000) feet of the nearest existing buildings or residential structures and shall not otherwise convert more than one (1) acre of agricultural land to non-agricultural uses;

(5) The non-agricultural accessory uses, including any storage space associated therewith, shall not collectively occupy more than fifteen thousand (15,000) square feet of building space;

(6) No more than three (3) vehicles marked to identify the non-agricultural accessory use(s) may be on the parcel at any time. No other on-site outside storage of vehicles, equipment and/or supplies is allowed in connection with the non-agricultural accessory use;

(7) No person may possess more than one valid permit at a time under this section and all non-agricultural accessory use permits issued under this section for any given parcel must be authorized in one permit;

(8) No more than two (2) signs of a size determined by the Hearings Examiner shall be permitted in connection with the non-agricultural accessory use. Illumination of a sign shall be only by hooded directional lighting so that only the sign surface is illuminated. The posting of such sign is limited to the parcel on which the non-agricultural accessory use is located. On-street (inside the road right-of-way) sign posting is prohibited, and no sign outside of a road right-of-way may interfere with the line of sight for road intersection;

(9) The parcel and non-agricultural accessory use owner shall comply with all requirements of the Benton County Building Department, the Benton County Fire Marshal, the Benton-Franklin Health District, and all other local, state, and federal regulations pertinent to the non-agricultural accessory use being pursued. The requirements of or the permission granted by the Hearings Examiner shall not be construed as an exemption from such regulations;

(10) Adequate off road parking, as determined by the Hearings Examiner, must be provided;

(11) Any waste created as a result of the non-agricultural accessory use must be disposed of off-site in compliance with all local, state, and/or federal regulations;

(12) The days and hours of operation shall be determined by the Hearings Examiner with the granting of a Conditional Use Permit; and

(13) The non-agricultural accessory use shall not require a marijuana retail outlet license from the Washington State Liquor and Cannabis Board.

((~~(s)~~)) (q) Overnight lodging within a structure primarily used for processing of beer, wine, or spirits that meets the following criteria:

(1) The number of guest rooms may not exceed two (2); and,

(2) The area used for the guest rooms and associated with overnight lodging shall not exceed eight hundred square feet (800); and,

(3) The overnight lodging guest rooms shall meet Benton-Franklin Health District requirements for septic systems and domestic water usage shall be demonstrated; and,

(4) The overnight lodging guest rooms shall comply with all the applicable building code requirements.

((~~(t)~~)) (r) Events Facility on the same or adjoining parcel as a Winery/Brewery/Distillery, but not related to the operational and marketing of the business, such as weddings, receptions, and meetings/retreats shall be limited to not more than two hundred (200) guest or less, meet the following criteria as well as any other conditions required by the Hearings Examiner:

(1) The events facility shall be located, designed, and operated so as to not interfere with, and to support the continuation of, the overall agricultural use of the parcel;

(2) The events facility must be consistent with the size, scale, and intensity of the existing agricultural use of the parcel and the existing buildings thereon;

(3) The events facility, including any new buildings, parking or supportive uses associated therewith, shall be located within one thousand (1000) feet of the existing Winery/Brewery/Distillery structures and shall not otherwise convert more than one (1) acre of agricultural land to the use;

4) The parcel and events facility shall comply with all requirements of the Benton County Building Department, the Benton County Fire Marshal, the Benton-Franklin Health District, and all other local, state, and federal regulations pertinent to the events facility being pursued. The requirements of or the permission granted by the Hearings Examiner shall not be construed as an exemption from such regulations;

(5) Adequate off-road parking, as determined by the Hearings Examiner, must be provided; and

(6) Any waste created as a result of the event facility must be disposed of off-site in compliance with all local, state, and/or federal regulations.

((~~(u)~~)) (s) Bed and Breakfast Facility, subject to the provisions in BCC 11.42.030.

((~~(v)~~)) (t) Recreation and entertainment activities centered on an agricultural theme. This may include activities such as field mazes, hayrides, sleigh rides, animal rides, petting zoos and other similar uses.

((~~(w)~~)) (u) Commercial sand and gravel pits, stone quarries, other mineral extraction, asphalt and/or concrete batching plants.

((~~(x)~~)) (v) Veterinarian Clinics.

((~~(y)~~)) (w) Shooting Range Facility.

((~~(z) Solar power generator facility, major.~~))

((~~(aa)~~)) (x) Agri-tourism accommodations.

((~~(bb)~~)) (y) Agricultural research facility which conducts basic, applied, and/or developmental research of regional, national, or international concerns in the field of agriculture.

((~~(cc)~~)) (z) Commercial agricultural establishments that primarily provide
storage, repair, or sale of irrigation, mechanical, and excavation service activities for use off premise.

((~~(dd)~~)) (aa) Winery/Brewery/Distillery facility, including sampling, tasting, and sales of the product, may occur on an adjacent parcel from the site where the fruit or other products are processed, if both parcels are under the same ownership.

SECTION 3. Ordinance 611, Section 126 and BCC 11.33.030 are hereby amended to read as follows:

ALLOWABLE USES. The following uses are allowed within the Light Industrial District (LI) on a single parcel of record:

(a) Fire department facility, law enforcement facility, and/or medical facility.

(b) Research and development facility, computer component manufacturing, laboratory, and/or electronic data processing facility.

(c) Agricultural uses.

(d) Lumber yard and/or custom milling of logs into dimensional lumber.

(e) Nursery and/or landscaping business.

(f) Warehouse.

(g) Utility substation facility.

(h) Rental storage facility.

(i) Food processing and/or cannery.

(j) Metal fabrication and/or welding.

(k) Sales of on-site manufactured goods.

(l) Sales, service and repair of machinery equipment, automobiles, and/or trucks.

(m) Wineries/Breweries/Distilleries.

(n) Hiking and non-motorized biking trails.

(o) Hazardous waste treatment and/or hazardous waste storage facilities as an accessory use to an allowed or conditionally permitted use; provided, that such facilities must comply with the state siting criteria adopted in RCW 70.105.210, as it now exists or is hereafter amended, and only treat waste generated on the same parcel or a contiguous parcel.

(p) Rapid Charging Station.

(q) No more than one (1) wind turbine and related support structures and other improvements per parcel for private use; provided, the wind turbine height must be less than sixty (60) feet and the wind turbine must be set back from all property lines a distance equal to one (1) foot for every foot in height of the wind turbine.

SECTION 4. Ordinance 611, Section 129 and BCC 11.33.060 are hereby amended to read as follows:

USES REQUIRING A CONDITIONAL USE PERMIT. The following uses may be permitted on a single parcel of record within the Light Industrial District (LI) if a conditional use permit is issued by the Hearings Examiner after notice and public hearing as provided by BCC 11.50.040.

(a) Racetrack facility for automotive, motocross, or horse racing.

(b) Agricultural recreational facility.

(c) Sand and/or gravel pit, stone quarry, mining, crushing, stockpiling of mineral resources and similar uses for the development of natural resources extracted on-site.

(d) Solid waste transfer station.

(e) Airport/Heliport.

(f) Asphalt plant.

(g) Concrete plant.

(h) Sewage treatment plant for industrial and/or domestic waste.

(i) Wrecking yard.

(j) Indoor shooting range.

(k) Solar Power Generator Facility, Major.

(l) One (1) wind turbine with a wind turbine height of sixty (60) feet or more or a wind turbine farm and related support structures and other improvements under the following conditions:

(1) The lowest point on all rotor blades must be at least thirty (30) feet above ground level;

(2) All wind turbine tower bases must be set back from all dwellings not located on the same parcel at least one thousand six hundred and forty (1,640) feet;

(3) All wind turbine tower bases must be set back from all property lines a distance equal to the associated wind turbine height plus 50% of that height, except that, where contiguous properties are leased for an identical duration for development of a wind farm, the tower bases set back from the property lines common with such leased properties may be eliminated so long as no part of any wind turbine extends past any such interior property lines and the above-required setbacks are maintained from the property lines comprising the exterior boundaries of the wind farm;

(4) All wind turbine tower bases must be set back from the closest edge of a state, county, or city road right-of-way distance equal to the wind turbine height plus 50% of that height;

(5) All wind turbine tower bases must be set back a distance equal to the wind turbine height from all borders of the Light Industrial Zoning District, except for Light Industrial Zoning District borders adjacent to the Hanford Reservation owned by the Department of Energy or adjacent to another zoning district adopted by another county that contains a general minimum parcel size of at least twenty (20) acres per parcel;

(6) For wind turbine(s) proposed to be located within four (4) miles of the nearest point of the nearest runway of the nearest airport available for public use, the applicant for a building permit must comply with all the requirements imposed by the Federal Aviation Administration (FAA) and provide a written statement from the FAA that sets forth the FAA's comments and requirements, if any, for the proposal;

(7) All wind turbine(s) must comply with the Federal Aviation Regulations Part 77, Objects Affecting Navigable Airspace, as currently in effect or as hereafter amended, including but not limited to, providing such notices to the FAA as required thereunder and compliance with all requirements or prohibitions imposed by the FAA on the applicant's proposal;

(8) Conditional use permit applications for the placement and operation of wind turbines under this section shall be

made available for review by the United States Department of Defense (USDOD) in accordance with RCW 36.01.320, as in effect now or hereafter amended. The notice and processing of wind turbine permit applications will be in accordance with Benton County Code chapter 17.10. Pursuant to BCC 11.50.040 (d), the applicant is required to provide sufficient evidence to persuade the Hearings Examiner that the proposed wind turbine is compatible with other uses in the surrounding area, including any military training activities, or is no more incompatible than are any other outright permitted uses in the applicable zoning district, as well as provide all other evidence required by BCC 11.50.040;

(9) All wind turbine tower bases shall be located at least forty (40) feet for every one (1) foot of tower height or one mile, whichever is greater, from the ends of and at least five thousand (5,000) feet from the sides of all runways which are available solely for private use and identified on the most current edition of the Sectional Aeronautical Charts produced by the National Aeronautical Charting Office (NACO);

(10) If the use of any wind turbine or wind turbine farm is discontinued for a period of one (1) year or more, the owner of such facility shall remove the facility within ninety (90) days of written notification by the Planning Department. If such facility is not removed within said ninety (90) days, the County may refer the issue to the code enforcement officer for appropriate action pursuant to Chapter 11.43 BCC; and

(11) The wind turbine(s) and all associated service roads may not displace more than five (5) percent of the area of that parcel(s) on which they are located.

SECTION 5. Ordinance 611, Section 134 and BCC 11.35.030 are hereby amended to read as follows:

ALLOWABLE USES. The following uses are allowed within the Heavy Industrial District (HI) on a single parcel of record:

(a) The processing, assembly and/or manufacturing of raw materials, semi-finished materials, and/or finished materials, except for the manufacturing reprocessing and/or storage of radioactive waste.

(b) Ironwork, drop forge industry, and/or metal fabrication.

(c) Repair of machinery equipment, automobiles and/or trucks.

(d) Food processing facility, cannery and/or cold storage facility.

(e) Agricultural uses.

(f) Retail sales of goods manufactured on the premises; provided, that the floor space devoted to such use does not exceed ten (10) percent of the gross floor area of all buildings on the parcel.

(g) Wholesale sales of products.

(h) Transportation facilities for handling cargo and/or passengers, including mooring facilities, grain elevator, or barge terminal.

(i) Warehouse.

(j) Utility substation facility.

(k) Production of alcohol fuels, biodiesel, or ethanol.

(l) Hiking and non-motorized biking trails.

(m) Sewage treatment plant for industrial and/or domestic waste.

(n) Solid waste transfer station and/or recycling center.

(o) Wrecking yard.

(p) Hazardous waste treatment and/or hazardous waste storage facilities as an accessory use to an allowed or conditionally permitted use; provided, that such facilities must comply with the state siting criteria adopted in RCW 70.105.210, as currently in effect or as hereafter amended, and only treat waste generated on the same parcel or a contiguous parcel.

(q) Rapid Charging Station.

(r) No more than one (1) wind turbine and related support structures and other improvements per parcel for private use; provided, the wind turbine height must be less than sixty (60) feet and the wind turbine must be set back from all property lines a distance equal to one (1) foot for every foot in height of the wind turbine.

SECTION 6. Ordinance 611, Section 137 and BCC 11.35.060 are hereby amended to read as follows:

USES REQUIRING A CONDITIONAL USE PERMIT. The following uses may be permitted on a single parcel of record within the Heavy Industrial District (HI) if a conditional use permit is issued by the Hearings Examiner after notice and public hearing as provided by BCC 11.50.040.

(a) Facilities for generating power for sale to the public, including solar power generators; provided, that such power cannot be nuclear fueled.

(b) Hazardous waste treatment and/or hazardous waste storage facility treating waste not generated on the same or a contiguous parcel; provided, that such facility must comply with Washington State siting criteria set forth in RCW 70.105.210, as currently in effect or as hereafter amended.

(c) Sand and/or gravel pit, stone quarry, mining, crushing, stockpiling of mineral resources and similar uses for the development of natural resources extracted on-site.

(d) Asphalt plant.

(e) Concrete plant.

(f) Airport/Heliport.

(g) Railroad switch yards, maintenance and/or repair facilities.

(h) State and/or local correctional facility, and/or Secure Community Transition Facility as described by RCW 36.70A.200, as currently in effect or as hereafter amended.

(i) Solar Power Generator Facility, Major.

(j) One (1) wind turbine with a wind turbine height of sixty (60) feet or more or a wind turbine farm and related support structures and other improvements under the following conditions:

(1) The lowest point on all rotor blades must be at least thirty (30) feet above ground level;

(2) All wind turbine tower bases must be set back from all dwellings not located on the same parcel at least one thousand six hundred and forty (1,640) feet;

(3) All wind turbine tower bases must be set back from all property lines a distance equal to the associated wind turbine height plus 50% of that height, except that, where contiguous properties are leased for an identical duration for development of a wind farm, the tower bases set back from the property lines common with such leased properties may be eliminated so long as no part of any wind turbine extends past any such interior property lines and the above-required setbacks are maintained from the property lines comprising the exterior boundaries of the wind farm;

(4) All wind turbine tower bases must be set back from the closest edge of a state, county, or city road right-of-way distance equal to the wind turbine height plus 50% of that height;

(5) All wind turbine tower bases must be set back a distance equal to the wind turbine height from all borders of the Heavy Industrial Zoning District, except for Heavy Industrial Zoning District borders adjacent to the Hanford Reservation owned by the Department of Energy or adjacent to another zoning district adopted by another county that contains a general minimum parcel size of at least twenty (20) acres per parcel;

(6) For wind turbine(s) proposed to be located within four (4) miles of the nearest point of the nearest runway of the nearest airport available for public use, the applicant for a building permit must comply with all the requirements imposed by the Federal Aviation Administration (FAA) and provide a written statement from the FAA that sets forth the FAA's comments and requirements, if any, for the proposal;

(7) All wind turbine(s) must comply with the Federal Aviation Regulations Part 77, Objects Affecting Navigable Airspace, as currently in effect or as hereafter amended, including but not limited to, providing such notices to the FAA as required thereunder and compliance with all requirements or prohibitions imposed by the FAA on the applicant's proposal;

(8) Conditional use permit applications for the placement and operation of wind turbines under this section shall be made available for review by the United States Department of Defense (USDOD) in accordance with RCW 36.01.320, as in effect now or hereafter amended. The notice and processing of wind

turbine permit applications will be in accordance with Benton County Code chapter 17.10. Pursuant to BCC 11.50.040 (d), the applicant is required to provide sufficient evidence to persuade the Hearings Examiner that the proposed wind turbine is compatible with other uses in the surrounding area, including any military training activities, or is no more incompatible than are any other outright permitted uses in the applicable zoning district, as well as provide all other evidence required by BCC 11.50.040;

(9) All wind turbine tower bases shall be located at least forty (40) feet for every one (1) foot of tower height or one mile, whichever is greater, from the ends of and at least five thousand (5,000) feet from the sides of all runways which are available solely for private use and identified on the most current edition of the Sectional Aeronautical Charts produced by the National Aeronautical Charting Office (NACO);

(10) If the use of any wind turbine or wind turbine farm is discontinued for a period of one (1) year or more, the owner of such facility shall remove the facility within ninety (90) days of written notification by the Planning Department. If such facility is not removed within said ninety (90) days, the County may refer the issue to the code enforcement officer for appropriate action pursuant to Chapter 11.43 BCC; and

(11) The wind turbine(s) and all associated service roads may not displace more than five (5) percent of the area of that parcel(s) on which they are located.

SECTION 7. Severability. If any provision of this Ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the Ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 8. Effective Date. This Ordinance shall take effect and be in full force upon its passage and adoption.

ADOPTED AND PASSED this _____ day of _____.

_____
Chairman of the Board.

_____
Chairman Pro-Tem.

_____
Member.

Approved as to Form:

Ryan Brown
_____
Deputy Prosecuting Attorney

Constituting the Board of
County Commissioners of
Benton County, Washington

Attest: _____
Clerk of the Board

RECOMMENDATION OF THE BENTON COUNTY PLANNING COMMISSION

RE: In the Matter of County Planning: relating to an Ordinance Amendment to Benton County Zoning Regulations- Regarding Wind Turbines, Wind Farms, And Solar Power Generator Facilities.

Planning File #OA-2020-004
RECOMMENDATION, FINDINGS OF FACT AND CONCLUSIONS

RECOMMENDATION

AN ORDINANCE AN ORDINANCE relating to zoning, amending the sections relating to uses requiring a conditional use permit; amending the sections relating to allowable uses; amending Ordinance 611, Section 53, Ordinance 617, Section 5, Ordinance 634, Section 1 and BCC 11.15.060; amending Ordinance 611, Section 63, Ordinance 617, Section 7, Ordinance 634, Section 3, Ordinance 636, Section 2 and BCC 11.17.070; amending Ordinance 611, Section 126 and BCC 11.33.030; amending Ordinance 611, Section 129 and BCC 11.33.060; amending Ordinance 611, Section 134 and BCC 11.35.030 and amending Ordinance 611, Section 137 and BCC 11.35.060.

RESOLUTION

WHEREAS, the legal notification for the open record public hearing was given pursuant to RCW 36.70.590 on November 17, 2021; and,

WHEREAS, an open record public hearing was held on November 30, 2021 at 6:00 p.m., in the Planning Hearing Room, First Floor, Courthouse, 620 Market St., Prosser, WA 99350;

WHEREAS, the Planning Commission was available to receive public testimony, exhibits, and answer questions in the public portion of the hearing with the public being able to attend and comment through video and telephonic access to the meeting. The meeting was also broadcast through streaming video to allow the public to view the meeting; and,

WHEREAS, the following members attended the meeting, including, Lloyd Coughlin, Brian Skeels, Marjorie Kaspar, Tammy McKeirnan, and Martin Sheeran; and,

WHEREAS, all those who testified and those public hearing exhibits that were received into evidence are identified in the minutes for the hearing on November 30, 2021; and,

WHEREAS, the Planning Commission at the open record public hearing considered the evidence submitted and voted to recommend approval with the findings of fact as outlined

in the staff memo dated November 4, 2021; and,

WHEREAS, the Planning Commission is entering its written findings of fact, conclusions and recommendations concerning this matter, and is forwarding the same to the Board of County Commissioners.

FINDINGS OF FACT

1. Benton County is proposing a text amendment to the County Zoning Regulations, **Ordinance 611, 617, 634, and 636** with a focus on the following:

    a. Chapter 11.15 Rural Lands Twenty Acre District (RL-20), amending BCC 11.15.060(i) and (k) to remove wind turbine farm and solar power generator facility, major requirements;

    b. Chapter 11.17 Growth Management Act Agricultural Zoning District (GMAAD), amending BCC 11.17.070(j)(q) and (z) facilities for power generation other than nuclear fueled, wind turbine farms, and solar power generator facility, major uses from requiring a conditional use permit;

    c. Chapter 11.33 Light Industrial District (LI), amending BCC 11.33.030(q) to add a single wind turbine less than 60' and related support structures to allowable use requirements;

    d. Chapter 11.33 Light Industrial District (LI), amending BCC 11.33.060(l) to add a single wind turbine exceeding 60' or a wind turbine farm as uses requiring a conditional use permit;

    e. Chapter 11.35 Heavy Industrial District (HI), amending BCC 11.35.030(r) to add a single wind turbine less than 60' and related support structures to allowable use requirements; and

    f. Chapter 11.35 Heavy Industrial District (HI), amending BCC 11.35.060(j) to add a single wind turbine exceeding 60' or a wind turbine farm as uses requiring a conditional use permit.

2. Planning Case File Application OA 2021-004 is found to be in conformance with the intent of **Ordinance 611, 617, 634, and 636** for zoning text amendments.

3. Planning Case File Application OA 2021-004 is found to be in conformance with the intent of the Benton County Comprehensive Plan.

4. Planning Case File Application OA 2021-004 is found to be in conformance with the intent and goals of the R.C.W. 36.70A, the Growth Management Act.

5. Removal of solar power generator facility, major and wind farms as a conditional use option in the RL-20 Zoning District assists with the enhancement and preservation of the County's rural character and open space while further protecting the County's ridges,

slopes, bluffs, and wildlife habitat.

6. Removal of solar power generator facility, major and wind farms as a conditional use option in the GMA AG Zoning District assists the County with protecting long term commercially significant agricultural lands, the conservation of critical areas and habitat, visual resources, and the County rural character while limiting incompatible and non-agricultural uses in the agricultural zoning district.

7. Adding a single wind turbine less than 60' and related support structures to allowable use requirements and solar power generator facility, major and wind farms as a conditional use option in both the Light and Heavy Industrial Zoning Districts, allows these facilities to be located in areas with similar industrial uses, whether it is an electrical substation, transportation facility, or processing/manufacturing facility.

8. Planning Case File Application OA 2021-004 was submitted by email to the State of Washington's Department of Commerce on October 19, 2021 for review in compliance with WAC 365-196-630 (6) and was granted expedited review on November 16, 2021.

9. The legal notification for Planning Casefile Application OA 2021-004 was given on November 17, 2021, pursuant to RCW 36.70.590.

N**OW, THEREFORE BE IT RESOLVED BY THE BENTON COUNTY PLANNING COMMISSION**, through its chairman as authorized by motion of the Board, that these findings of fact for the aforementioned Ordinance Amendment Application OA-2021-004 to amend the sections relating to uses requiring a conditional use permit and allowable uses; AN ORDINANCE relating to zoning, amending the sections relating to uses requiring a conditional use permit; amending the sections relating to allowable uses; amending Ordinance 611, Section 53, Ordinance 617, Section 5, Ordinance 634, Section 1 and BCC 11.15.060; amending Ordinance 611, Section 63, Ordinance 617, Section 7, Ordinance 634, Section 3, Ordinance 636, Section 2 and BCC 11.17.070; amending Ordinance 611, Section 126 and BCC 11.33.030; amending Ordinance 611, Section 129 and BCC 11.33.060; amending Ordinance 611, Section 134 and BCC 11.35.030 and amending Ordinance 611, Section 137 and BCC 11.35.060 be approved for transmittal to the Board of County Commissioners, with a recommendation to adopt the amendments.

12/6/21

Martin Sheeran, Chairman DATE
BENTON COUNTY PLANNING COMMISSION

The Audio for the Planning Commission meeting on November 30, 2021 can be found on the County website under the Meeting Agendas page at https://www.co.benton.wa.us/agendalist.aspx?categoryid=1204

Community Development Department
Prosser Office: 620 Market Street, 1st Floor
Kennewick Office: 102206 East Wiser Parkway
www.co.benton.wa.us

Planning Division
(509) 786-5612
P.O. Box 910, Prosser, WA 99350
planning.department@co.benton.wa.us

Notice of Open Record Hearings

NOTICE IS GIVEN that Board of County Commissioners will be holding Public Hearings on Benton County's Shoreline Master Program Periodic Review and on an Ordinance amendment to BCC 15-Environment (Critical Areas) on June 22, 2021 at 9:00 a.m., in the Commissioners Meeting Room, Third Floor, Courthouse, Prosser, **in person and via a virtual meeting format** (see below for more information). Benton County is accepting comments on the periodic review of the County's Shoreline Master Program and on the ordinance amendment to BCC 15.02 and 15.14.

Shoreline Master Plan - The county has prepared draft SMP amendments to keep the SMP current with changes in state law, changes in other county plans and regulations, and other changed local circumstances.

The proposed amendments within the Plan consist of housekeeping edits to reflect updated code sections, dates, etc. Deleting the definition for Board of Adjustment and adding text for Hearing Examiner, adding text to the definition for "Development", amending the definition for "Substantial development" by updating the dollar amount for exceeding the fair market value, adding text to Section 15.04.120 regarding "Developments not required to obtain shoreline permits or local reviews", adding text to 15.06.030 for external or internal retrofitting of an existing structure for compliance with ADA, amending 15.07.030 by adding language to Substantial Development Permit exception applying to dock construction, and amending 15.07.150 to add a language regarding County permit review time

OA 2021-002 -AN ORDINANCE relating to critical areas,· general provisions and fish and wildlife habitat conservation areas; amending the sections relating to applicability and performance standards-general requirements;·amending Ordinance 609, Section 13 and BCC 15.02.120; amending Ordinance 609, Section 54 and BCC 15.14.040; and amending Ordinance 609, Section 56. This amendment updates references within the Applicability portion of the ordinance; amends the buffer requirements; and amends and changes the title to Section 56 to read "Appendix A - General References and Best Available Science" and adds the words "general references" when referring to the list of data and best available science.

Proposed amendments to the county shoreline master program are available for review at https://tinyurl.com/SMPUpdate2021 and at the County Planning Division Office within the Public Services Building at 102206 E. Wiser Parkway, Kennewick WA 99338. The Ordinance amendments will also be available for review at https://tinyurl.com/pubnotice.

NOTICE IS FURTHER GIVEN that the Shoreline Master Plan and the proposed ordinance amendment have been reviewed under the requirements of the State Environmental Policy Act and Determinations of Non-Significance (DNS) for both proposals were issued on February 24, 2021 and accordingly Environmental Impact Statements were not required. Any comments regarding these determinations and the environmental impacts of the proposals can be made at the Board of County Commissioners Hearing or in writing to the Benton County Planning Division by 3 p.m. on Monday June 21, 2021.

To continue to provide citizens access to public meetings, Benton County **in addition to in person attendance**, will also be providing telephonic and video access for the public to view and provide testimony at public meetings. If you choose to join the meeting telephonically, we ask that you please limit background noise or mute your line to prevent any unnecessary interruption to the meeting. To find information on virtual attendance options, including streaming video, WebEx video conferencing and telephone, please visit https://www.co.benton.wa.us/agendalist.aspx?categoryid=1181.

Comments regarding the proposed ordinance amendment, Shoreline Master Plan or SEPA determinations of the proposals may also be submitted in writing to the Benton County Planning Division; P.O. Box 910, Prosser, WA 99350 or via email to planning.department@co.benton.wa.us by 3 p.m. Monday, June 21, 2021. No individual with a disability shall be denied the benefit of participating in such meetings. If you wish to use auxiliary aids or require assistance to comment at a public meeting, please contact the Benton County Planning Division at least ten days prior to the meeting date to make arrangements for special needs.

At this hearing, the Board of County Commissioners may approve, or disapprove the amendments. Information concerning the applications can be obtained at the Benton County Planning Division, by calling 736-3086 (Tri-Cities) or 786-5612 (Prosser).

Dated at Prosser, Washington on this 4th day of June 2021.

JEROME DELVIN, Chairman
BENTON COUNTY
Board of County Commissioners

Greg Wendt, Director
COMMUNITY DEVELOPMENT DEPT.

PUBLISH ON: June 9, 2021

Donna Hutchinson

From: Michelle Cooke
Sent: Wednesday, December 1, 2021 8:23 AM
To: Donna Hutchinson
Subject: FW: [EXTERNAL] Solar and wind is bad for Benton county

FYI

Michelle Cooke • *Assistant Planning Manager*
Benton County Community Development Department - Planning Division
Benton County Courthouse, 620 Market Street, Prosser, WA 99350
Benton County Public Services Office, 102206 E Wiser Parkway, Kennewick, WA 99338
Michelle.Cooke@co.benton.wa.us
(509) 786-5612

NOTICE OF PUBLIC DISCLOSURE: This e-mail account is public domain. Any correspondence from or to this email account may be a public record. Accordingly, this email, in whole or in part, may be subject to disclosure pursuant to RCW 42.56, regardless of any claim of confidentiality or privilege asserted by an external party.

From: COMMISSIONERS <Commissioners@co.benton.wa.us>
Sent: Wednesday, December 1, 2021 8:20 AM
To: Jerome Delvin <Jerome.Delvin@co.benton.wa.us>; Jerrod MacPherson <Jerrod.MacPherson@co.benton.wa.us>; Matt Rasmussen <Matt.Rasmussen@co.benton.wa.us>; Shon Small <Shon.Small@co.benton.wa.us>; Will McKay <Will.McKay@co.benton.wa.us>
Cc: Planning Department <Planning.Department@co.benton.wa.us>; Greg Wendt <Greg.Wendt@co.benton.wa.us>; Michelle Cooke <Michelle.Cooke@co.benton.wa.us>
Subject: FW: [EXTERNAL] Solar and wind is bad for Benton county

---

From: Brent Strecker <brentstrecker@gmail.com>
Sent: Tuesday, November 30, 2021 7:01 PM
To: COMMISSIONERS <Commissioners@co.benton.wa.us>
Subject: [EXTERNAL] Solar and wind is bad for Benton county

EXTERNAL EMAIL WARNING!!!: This email originated from outside of Benton County. DO NOT click links or open attachments unless you recognize the sender and know the content is safe.

Benton county commissioners,
Please proceed in the best interest of the community and don't cater to greedy power developers and land owners. It seems clear to me they don't care at all about what is best for the environment and folks that live in Benton County.

D. Brent Strecker
35401 S. Valley Vista PRSE
Kennewick Wa 99338

RECEIVED
DEC 13 2021
Benton Co. Planning Division

December 7, 2021

Jerome Delvin, Chair
Benton County Planning Division
PO Box 910
Prosser, WA 99350

RE: Opposition to Zoning Amendment Related to Deletion of Wind and Solar Facilities

Dear Mr. Delvin,

My name is Doug Robert and I am a landowner in Benton County. It was recently brought to my attention that there is a proposed amendment that aims to remove solar power generating facilities as a conditional use option in Benton County's GMA AG Zoning District. **I am opposed to this amendment. I am disappointed with the Benton County Planning Commission's recommendation to proceed with this amendment, as written, despite the overwhelming support from Benton County landowners for solar projects sited responsibly on agricultural lands.**

My family owns several thousands of acres in a remote part of Benton County. Our land currently has mixed farm uses, including some crops and livestock. The land is also under a solar lease with Innergex Renewable Development USA, LLC. We and our neighbors are working with Innergex on the proposed Wautoma Solar Project. Should this amendment come into effect, it means that we and our neighbors are left unable to determine what we, as landowners, are able to do with our property. What is worse, it allows those people, who may never even see our land, decide what we can or cannot do with our land.

We want the County to conserve critical areas. We also want to see our land and our community thrive. As you know, income from farming can vary year to year based on weather, harvest, and the price of commodities. The only way these things will be achieved is by diversifying how we use the land. The proposed solar project on our lands will allow us to supplement our farming income with a fixed income stream for many years to come, as well as provide other benefits to the local community.

We strongly ask that you reconsider the amendment. We as landowners have the right to determine how our property should be used. The proposed solar project on our lands provides reliable energy that is consistent with Washington's renewable energy goals. **We encourage you to continue to allow proposed projects to be reviewed on a case-by-case basis, versus precluding all renewable development, especially when there are local landowners who are supportive and interested in using their land to transition to renewable energy.**

We hope that you continue to support property rights and thoughtful economic development in our community.

Sincerely,

Doug Robert

cc Jerome Delvin – jerome.delvin@co.benton.wa.us
Shon Small - shon.small@co.benton.wa.us
Will McKay - will.mckay@co.benton.wa.us

BCCM 1.9

RECEIVED
DEC 13 2021
Benton Co. Planning Division

December 7, 2021

Jerome Delvin, Chair
Benton County Planning Division
PO Box 910
Prosser, WA 99350

RE: Opposition to Zoning Amendment Related to Deletion of Wind and Solar Facilities

Dear Mr. Delvin,

My name is Marilyn Ford and I am a landowner in Benton County. It was recently brought to my attention that there is a proposed amendment that aims to remove solar power generating facilities as a conditional use option in Benton County's GMA AG Zoning District. **I am opposed to this amendment. I am disappointed with the Benton County Planning Commission's recommendation to proceed with this amendment, as written, despite the overwhelming support from Benton County landowners for solar projects sited responsibly on agricultural lands.**

My family owns several thousands of acres in a remote part of Benton County. Our land currently has mixed farm uses, including some crops and livestock. The land is also under a solar lease with Innergex Renewable Development USA, LLC. We and our neighbors are working with Innergex on the proposed Wautoma Solar Project. Should this amendment come into effect, it means that we and our neighbors are left unable to determine what we, as landowners, are able to do with our property. What is worse, it allows those people, who may never even see our land, decide what we can or cannot do with our land.

We want the County to conserve critical areas. We also want to see our land and our community thrive. As you know, income from farming can vary year to year based on weather, harvest, and the price of commodities. The only way these things will be achieved is by diversifying how we use the land. The proposed solar project on our lands will allow us to supplement our farming income with a fixed income stream for many years to come, as well as provide other benefits to the local community.

We strongly ask that you reconsider the amendment. We as landowners have the right to determine how our property should be used. The proposed solar project on our lands provides reliable energy that is consistent with Washington's renewable energy goals. **We encourage you to continue to allow proposed projects to be reviewed on a case-by-case basis, versus precluding all renewable development, especially when there are local landowners who are supportive and interested in using their land to transition to renewable energy.**

We hope that you continue to support property rights and thoughtful economic development in our community.

Sincerely,

Marilyn Ford

Marilyn Ford

cc Jerome Delvin – jerome.delvin@co.benton.wa.us
Shon Small - shon.small@co.benton.wa.us
Will McKay - will.mckay@co.benton.wa.us

RECEIVED
DEC 13 2021
Benton Co. Planning Division

December 9, 2021

Jerome Delvin, Chair
Benton County Planning Division
PO Box 910
Prosser, WA 99350

RE: Opposition to Zoning Amendment Related to Deletion of Wind and Solar Facilities

Dear Mr. Delvin,

Our company is called Wautoma Energy , LLC. We are a family-owned business and landowner in Benton County. It was recently brought to our attention that there is a proposed amendment that aims to remove solar power generating facilities as a conditional use option in Benton County's GMA AG Zoning District. **We are opposed to this amendment. We are disappointed with the Benton County Planning Commission's recommendation to proceed with this amendment, as written, despite the overwhelming support from Benton County landowners for solar projects sited responsibly on agricultural lands.**

Our family owns just shy of 2,000 acres in a remote part of Benton County. Our land currently has mixed farm uses, including some crops and livestock. The land is also under a solar lease with Innergex Renewable Development USA, LLC. We and our neighbors are working with Innergex on the proposed Wautoma Solar Project. Should this amendment come into effect, it means that we and our neighbors are left unable to determine what we, as landowners, are able to do with our property. What is worse, it allows those people, who may never even see our land, decide what we can or cannot do with our land.

We want the County to conserve critical areas. We also want to see our land and our community thrive. As you know, income from farming can vary year to year based on weather, harvest and the price of commodities. The only way these things will be achieved is by diversifying how we use the land. The proposed solar project on our lands will allow us to supplement our farming income with a fixed income stream for many years to come, as well as provide other benefits to the local community.

We strongly ask that you reconsider the amendment. We as landowners have the right to determine how our property should be used. The proposed solar project on our lands provides reliable energy that is consistent with Washington's renewable energy goals. **We encourage you to continue to allow proposed projects to be reviewed on a case-by-case basis, versus precluding all renewable development, especially when there are local landowners who are supportive and interested in using their land to transition to renewable energy.**

We hope that you continue to support property rights and thoughtful economic development in our community.

Sincerely,

Allison Keeler
Manager

cc Jerome Delvin – jerome.delvin@co.benton.wa.us
Shon Small - shon.small@co.benton.wa.us
Will McKay - will.mckay@co.benton.wa.us

Community Development Department
Prosser Office: 620 Market Street, 1st Floor
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Planning Division
(509) 786-5612
P.O. Box 910, Prosser, WA 99350
planning.department@co.benton.wa.us

STAFF REPORT TO THE
BENTON COUNTY PLANNING COMMISSION

FILE NO:	**OA 2021-004** (Ordinance Amendment to Zoning Regulations)
MEMO DATE:	November 4, 2021
HEARING DATE:	November 30, 2021
APPLICANT:	Benton County Planning Department
OWNER:	N/A
LOCATION:	Unincorporated Benton County
PROPERTY SIZE:	N/A
AREA TO BE USED:	N/A
LAND USE:	N/A
COMP. PLAN:	N/A
ZONING:	N/A
SUGGESTED STAFF RECOMMENDATION:	Positive recommendation subject to five findings of fact.

APPLICATION DESCRIPTION

Benton County is proposing a text amendment to the County Zoning Regulations relating to zoning, amending the sections relating to uses requiring a conditional use permit; amending the sections relating to allowable uses for wind turbines, solar power generator facility; major, and facilities for power generation, other than nuclear fueled, wind or solar fueled. The amendment involves the following:

1. **Chapter 11.15 Rural Lands Twenty Acre District (RL-20)**. The proposed amendment removes wind turbines and solar power generation facilities uses from requiring a conditional use permit in the RL-20 Zoning District.

   The changes impact BCC 11.15.060(i) and (k) as shown:

   ~~One (1) wind turbine with a wind turbine height of sixty (60) feet or more or a wind turbine farm and related support structures and other improvements under the following conditions:~~

   ~~(1) The lowest point on all rotor blades must be at least thirty (30) feet above ground level;~~

~~(2) All wind turbine tower bases must be set back from all dwellings not located on the same parcel at least one thousand six hundred and forty (1,640) feet;~~

~~(3) All wind turbine tower bases must be set back from all property lines a distance equal to the associated wind turbine height plus 50% of that height, except that, where contiguous properties are leased for an identical duration for development of a wind farm, the tower bases set back from the property lines common with such leased properties may be eliminated so long as no part of any wind turbine extends past any such interior property lines and the above-required setbacks are maintained from the property lines comprising the exterior boundaries of the wind farm;~~

~~(4) All wind turbine tower bases must be set back from the closest edge of a state, county, or city road right-of-way distance equal to the wind turbine height plus 50% of that height;~~

~~(5) All wind turbine tower bases must be set back a distance equal to the wind turbine height from all borders of the GMA Agricultural District, except for GMA Agricultural District borders adjacent to the Hanford Reservation owned by the Department of Energy or adjacent to another zoning district adopted by another county that contains a general minimum parcel size of at least twenty (20) acres per parcel;~~

~~(6) For wind turbine(s) proposed to be located within four (4) miles of the nearest point of the nearest runway of the nearest airport available for public use, the applicant for a building permit must comply with all the requirements imposed by the Federal Aviation Administration (FAA) and provide a written statement from the FAA that sets forth the FAA's comments and requirements, if any, for the proposal;~~

~~(7) All wind turbine(s) must comply with the Federal Aviation Regulations Part 77, Objects Affecting Navigable Airspace, as currently in effect or as hereafter amended, including but not limited to, providing such notices to the FAA as required thereunder and compliance with all requirements or prohibitions imposed by the FAA on the applicant's proposal;~~

~~(8) Conditional use permit applications for the placement and operation of wind turbines under this section shall be made available for review by the United States Department of Defense (USDOD) in accordance with RCW 36.01.320, as in effect now or hereafter amended. The notice and processing of wind turbine permit applications will be in accordance with Benton County Code chapter 17.10. Pursuant to BCC 11.50.040 (d), the applicant is required to provide sufficient evidence to persuade the Hearings Examiner that the proposed wind turbine is compatible with other uses in the~~

~~surrounding area, including any military training activities, or is no more incompatible than are any other outright permitted uses in the applicable zoning district, as well as provide all other evidence required by BCC 11.50.040;~~

~~(9) All wind turbine tower bases shall be located at least forty (40) feet for every one (1) foot of tower height or one mile, whichever is greater, from the ends of and at least five thousand (5,000) feet from the sides of all runways which are available solely for private use and identified on the most current edition of the Sectional Aeronautical Charts produced by the National Aeronautical Charting Office (NACO);~~

~~(10) If the use of any wind turbine or wind turbine farm is discontinued for a period of one (1) year or more, the owner of such facility shall remove the facility within ninety (90) days of written notification by the Planning Department. If such facility is not removed within said ninety (90) days, the County may refer the issue to the code enforcement officer for appropriate action pursuant to Chapter 11.43 BCC; and~~

~~(11) The wind turbine(s) and all associated service roads may not displace more than five (5) percent of the area of that parcel(s) on which they are located.))~~

~~(((k) Solar Power Generator Facility, Major.))~~

2. **Chapter 11.17 Growth Management Act Agricultural Zoning District (GMAAD).** The proposed amendment removes facilities for power generation other than nuclear fueled, wind turbines, and solar power generator facility uses from requiring a conditional use permit in the GMAAD Zoning District.

   <u>The changes impact BCC 11.17.070(j)(q) and (z) as shown</u>:

   ~~(((j) Facilities for power generation, other than nuclear fueled, wind fueled or solar fueled.))~~

   ~~(((q) One (1) wind turbine with a wind turbine height of sixty (60) feet or more or a wind turbine farm and related support structures and other improvements under the following conditions:~~

   ~~(1) The lowest point on all rotor blades must be at least thirty (30) feet above ground level;~~

   ~~(2) All wind turbine tower bases must be set back from all dwellings not located on the same parcel at least one thousand six hundred and forty (1,640) feet;~~

   ~~(3) All wind turbine tower bases must be set back from all property lines a distance equal to the associated wind turbine~~

~~height plus 50% of that height, except that, where contiguous properties are leased for an identical duration for development of a wind farm, the tower bases set back from the property lines common with such leased properties may be eliminated so long as no part of any wind turbine extends past any such interior property lines and the above-required setbacks are maintained from the property lines comprising the exterior boundaries of the wind farm;~~

~~(4) All wind turbine tower bases must be set back from the closest edge of a state, county, or city road right-of-way distance equal to the wind turbine height plus 50% of that height;~~

~~(5) All wind turbine tower bases must be set back a distance equal to the wind turbine height from all borders of the GMA Agricultural District, except for GMA Agricultural District borders adjacent to the Hanford Reservation owned by the Department of Energy or adjacent to another zoning district adopted by another county that contains a general minimum parcel size of at least twenty (20) acres per parcel;~~

~~(6) For wind turbine(s) proposed to be located within four (4) miles of the nearest point of the nearest runway of the nearest airport available for public use, the applicant for a building permit must comply with all the requirements imposed by the Federal Aviation Administration (FAA) and provide a written statement from the FAA that sets forth the FAA's comments and requirements, if any, for the proposal;~~

~~(7) All wind turbine(s) must comply with the Federal Aviation Regulations Part 77, Objects Affecting Navigable Airspace, as currently in effect or as hereafter amended, including but not limited to, providing such notices to the FAA as required thereunder and compliance with all requirements or prohibitions imposed by the FAA on the applicant's proposal;~~

~~(8) Conditional use permit applications for the placement and operation of wind turbines under this section shall be made available for review by the United States Department of Defense (USDOD) in accordance with RCW 36.01.320, as in effect now or hereafter amended. The notice and processing of wind turbine permit applications will be in accordance with Benton County Code chapter 17.10. Pursuant to BCC 11.50.040 (d), the applicant is required to provide sufficient evidence to persuade the Hearings Examiner that the proposed wind turbine is compatible with other uses in the surrounding area, including any military training activities, or is no more incompatible than are any other outright permitted uses in the applicable zoning district, as well as provide all other evidence required by BCC 11.50.040;~~

~~(9) All wind turbine tower bases shall be located at least forty (40) feet for every one (1) foot of tower height or one mile,~~

~~whichever is greater, from the ends of and at least five thousand (5,000) feet from the sides of all runways which are available solely for private use and identified on the most current edition of the Sectional Aeronautical Charts produced by the National Aeronautical Charting Office (NACO);~~

~~(10) If the use of any wind turbine or wind turbine farm is discontinued for a period of one (1) year or more, the owner of such facility shall remove the facility within ninety (90) days of written notification by the Planning Department. If such facility is not removed within said ninety (90) days, the County may refer the issue to the code enforcement officer for appropriate action pursuant to Chapter 11.43 BCC; and~~

~~(11) The wind turbine(s) and all associated service roads may not displace more than five (5) percent of the area of that parcel(s) on which they are located.))~~

~~(((z) Solar power generator facility, major.))~~

3. **Chapter 11.33 Light Industrial Zoning District (LI).** The proposed amendment adds a single wind turbine less than 60' and related support structures to allowable uses and adds a single wind turbine exceeding 60' or a wind turbine farm as uses requiring a conditional use permit in the LI Zoning District.

   The changes impact BCC 11.33.030(q) as shown:

   (q) No more than one (1) wind turbine and related support structures and other improvements per parcel for private use; provided, the wind turbine height must be less than sixty (60) feet and the wind turbine must be set back from all property lines a distance equal to one (1) foot for every foot in height of the wind turbine.

   The changes impact BCC 11.33.060(l) as shown:

   (l) One (1) wind turbine with a wind turbine height of sixty (60) feet or more or a wind turbine farm and related support structures and other improvements under the following conditions:

   (1) The lowest point on all rotor blades must be at least thirty (30) feet above ground level;

   (2) All wind turbine tower bases must be set back from all dwellings not located on the same parcel at least one thousand six hundred and forty (1,640) feet;

   (3) All wind turbine tower bases must be set back from all property lines a distance equal to the associated wind turbine height plus 50% of that height, except that, where contiguous properties are leased for an identical duration for development of

a wind farm, the tower bases set back from the property lines common with such leased properties may be eliminated so long as no part of any wind turbine extends past any such interior property lines and the above-required setbacks are maintained from the property lines comprising the exterior boundaries of the wind farm;

(4) All wind turbine tower bases must be set back from the closest edge of a state, county, or city road right-of-way distance equal to the wind turbine height plus 50% of that height;

(5) All wind turbine tower bases must be set back a distance equal to the wind turbine height from all borders of the Light Industrial Zoning District, except for Light Industrial Zoning District borders adjacent to the Hanford Reservation owned by the Department of Energy or adjacent to another zoning district adopted by another county that contains a general minimum parcel size of at least twenty (20) acres per parcel;

(6) For wind turbine(s) proposed to be located within four (4) miles of the nearest point of the nearest runway of the nearest airport available for public use, the applicant for a building permit must comply with all the requirements imposed by the Federal Aviation Administration (FAA) and provide a written statement from the FAA that sets forth the FAA's comments and requirements, if any, for the proposal;

(7) All wind turbine(s) must comply with the Federal Aviation Regulations Part 77, Objects Affecting Navigable Airspace, as currently in effect or as hereafter amended, including but not limited to, providing such notices to the FAA as required thereunder and compliance with all requirements or prohibitions imposed by the FAA on the applicant's proposal;

(8) Conditional use permit applications for the placement and operation of wind turbines under this section shall be made available for review by the United States Department of Defense (USDOD) in accordance with RCW 36.01.320, as in effect now or hereafter amended. The notice and processing of wind turbine permit applications will be in accordance with Benton County Code chapter 17.10. Pursuant to BCC 11.50.040 (d), the applicant is required to provide sufficient evidence to persuade the Hearings Examiner that the proposed wind turbine is compatible with other uses in the surrounding area, including any military training activities, or is no more incompatible than are any other outright permitted uses in the applicable zoning district, as well as provide all other evidence required by BCC 11.50.040;

(9) All wind turbine tower bases shall be located at least forty (40) feet for every one (1) foot of tower height or one mile, whichever is greater, from the ends of and at least five thousand (5,000) feet from the sides of all runways which are available

solely for private use and identified on the most current edition of the Sectional Aeronautical Charts produced by the National Aeronautical Charting Office (NACO);

(10) If the use of any wind turbine or wind turbine farm is discontinued for a period of one (1) year or more, the owner of such facility shall remove the facility within ninety (90) days of written notification by the Planning Department. If such facility is not removed within said ninety (90) days, the County may refer the issue to the code enforcement officer for appropriate action pursuant to Chapter 11.43 BCC; and

(11) The wind turbine(s) and all associated service roads may not displace more than five (5) percent of the area of that parcel(s) on which they are located.

4. **Chapter 11.35 Heavy Industrial Zoning District (HI).** The proposed amendment adds a single wind turbine less than 60' and related support structures to allowable uses and adds a single wind turbine exceeding 60' or a wind turbine farm as uses requiring a conditional use permit in the HI Zoning District.

The changes impact BCC 11.35.030(r) as shown:

(r) No more than one (1) wind turbine and related support structures and other improvements per parcel for private use; provided, the wind turbine height must be less than sixty (60) feet and the wind turbine must be set back from all property lines a distance equal to one (1) foot for every foot in height of the wind turbine.

The changes impact BCC 11.35.060(j) as shown:

(j) One (1) wind turbine with a wind turbine height of sixty (60) feet or more or a wind turbine farm and related support structures and other improvements under the following conditions:

(1) The lowest point on all rotor blades must be at least thirty (30) feet above ground level;

(2) All wind turbine tower bases must be set back from all dwellings not located on the same parcel at least one thousand six hundred and forty (1,640) feet;

(3) All wind turbine tower bases must be set back from all property lines a distance equal to the associated wind turbine height plus 50% of that height, except that, where contiguous properties are leased for an identical duration for development of a wind farm, the tower bases set back from the property lines common with such leased properties may be eliminated so long as no part of any wind turbine extends past any such interior property lines and the above-required setbacks are maintained from the

property lines comprising the exterior boundaries of the wind farm;

(4) All wind turbine tower bases must be set back from the closest edge of a state, county, or city road right-of-way distance equal to the wind turbine height plus 50% of that height;

(5) All wind turbine tower bases must be set back a distance equal to the wind turbine height from all borders of the Heavy Industrial Zoning District, except for Heavy Industrial Zoning District borders adjacent to the Hanford Reservation owned by the Department of Energy or adjacent to another zoning district adopted by another county that contains a general minimum parcel size of at least twenty (20) acres per parcel;

(6) For wind turbine(s) proposed to be located within four (4) miles of the nearest point of the nearest runway of the nearest airport available for public use, the applicant for a building permit must comply with all the requirements imposed by the Federal Aviation Administration (FAA) and provide a written statement from the FAA that sets forth the FAA's comments and requirements, if any, for the proposal;

(7) All wind turbine(s) must comply with the Federal Aviation Regulations Part 77, Objects Affecting Navigable Airspace, as currently in effect or as hereafter amended, including but not limited to, providing such notices to the FAA as required thereunder and compliance with all requirements or prohibitions imposed by the FAA on the applicant's proposal;

(8) Conditional use permit applications for the placement and operation of wind turbines under this section shall be made available for review by the United States Department of Defense (USDOD) in accordance with RCW 36.01.320, as in effect now or hereafter amended. The notice and processing of wind turbine permit applications will be in accordance with Benton County Code chapter 17.10. Pursuant to BCC 11.50.040 (d), the applicant is required to provide sufficient evidence to persuade the Hearings Examiner that the proposed wind turbine is compatible with other uses in the surrounding area, including any military training activities, or is no more incompatible than are any other outright permitted uses in the applicable zoning district, as well as provide all other evidence required by BCC 11.50.040;

(9) All wind turbine tower bases shall be located at least forty (40) feet for every one (1) foot of tower height or one mile, whichever is greater, from the ends of and at least five thousand (5,000) feet from the sides of all runways which are available solely for private use and identified on the most current edition of the Sectional Aeronautical Charts produced by the National Aeronautical Charting Office (NACO);

(10) If the use of any wind turbine or wind turbine farm is discontinued for a period of one (1) year or more, the owner of such facility shall remove the facility within ninety (90) days of written notification by the Planning Department. If such facility is not removed within said ninety (90) days, the County may refer the issue to the code enforcement officer for appropriate action pursuant to Chapter 11.43 BCC; and

(11) The wind turbine(s) and all associated service roads may not displace more than five (5) percent of the area of that parcel(s) on which they are located.

PUBLIC NOTICE

1. The Planning Staff mailed out the Determination of Non Significance to reviewing agencies on October 19, 2021 with a 14 day comment period ending on November 2, 2021.

2. The Notice of Intent to Adopt an Ordinance Amendment was sent to the Dept. of Commerce asking for expedited Review on October 19, 2021.

3. On November 16, 2021, the Dept. of Commerce granted the Expedited Review request.

4. The Notice of Public Hearing was published in the Prosser Record Bulletin on November 17, 2021 and was put on the County's website on November 4, 2021.

APPLICABLE STANDARDS/ORDINANCES

1. Zoning Code: Benton County Code, Title 11, Zoning.

AGENCY COMMENTS

1. Washington State Department of Natural Resources. See letter dated October 29, 2021, submitted as part of the SEPA review process.

2. Benton PUD. See email dated October 28 ,2021.

RECOMMENDATION

Benton County Planning Staff will assist the Planning Commission with the determination of findings of fact for File OA 2021-004.

The Benton County Planning Division recommends that the Planning Commission forward a **recommendation of approval** to the Benton County Board of Commissioners for application OA 2021-004 with the following suggested findings of fact and motion.

SUGGESTED FINDINGS OF FACT:

1. Benton County is proposing a text amendment to the County Zoning Regulations, **Ordinance 611, 617, 634, and 636** with a focus on the following:

    a. Chapter 11.15 Rural Lands Twenty Acre District (RL-20), amending BCC 11.15.060(i) and (k) to remove wind turbine farm and solar power generator facility, major requirements;

    b. Chapter 11.17 Growth Management Act Agricultural Zoning District (GMAAD), amending BCC 11.17.070(j)(q) and (z) facilities for power generation other than nuclear fueled, wind turbine farms, and solar power generator facility, major uses from requiring a conditional use permit;

    c. Chapter 11.33 Light Industrial District (LI), amending BCC 11.33.030(q) to add a single wind turbine less than 60' and related support structures to allowable use requirements;

    d. Chapter 11.33 Light Industrial District (LI), amending BCC 11.33.060(l) to add a single wind turbine exceeding 60' or a wind turbine farm as uses requiring a conditional use permit;

    e. Chapter 11.35 Heavy Industrial District (HI), amending BCC 11.35.030(r) to add a single wind turbine less than 60' and related support structures to allowable use requirements; and

    f. Chapter 11.35 Heavy Industrial District (HI), amending BCC 11.35.060(j) to add a single wind turbine exceeding 60' or a wind turbine farm as uses requiring a conditional use permit.

2. Planning Case File Application OA 2021-004 is found to be in conformance with the intent of **Ordinance 611, 617, 634, and 636** for zoning text amendments.

3. Planning Case File Application OA 2021-004 is found to be in conformance with the intent of the Benton County Comprehensive Plan.

4. Planning Case File Application OA 2021-004 is found to be in conformance with the intent and goals of the R.C.W. 36.70A, the Growth Management Act.

5. Removal of solar power generator facility, major and wind farms as a conditional use option in the RL-20 Zoning District assists with the enhancement and preservation of the County's rural character and open space while further protecting the County's ridges, slopes, bluffs, and wildlife habitat.

6. Removal of solar power generator facility, major and wind farms as a conditional use option in the GMA AG Zoning District assists the County with protecting long term commercially significant agricultural lands, the conservation of critical areas and habitat,

visual resources, and the County rural character while limiting incompatible and non-agricultural uses in the agricultural zoning district.

7. Adding a single wind turbine less than 60' and related support structures to the allowable use requirements and solar power generator facility, major and wind farms as a conditional use option in both the Light and Heavy Industrial Zoning Districts, allows these facilities to be located in areas with similar industrial uses, whether it is an electrical substation, transportation facility, or processing/manufacturing facility.

8. A Determination of Non-Significance (DNS) was issued for this application (OA 2021-004 and EA 2021-026) on October 18, 2021, 2021 with a 14 day comment period ending on November 2, 2021.

9. Planning Case File Application OA 2021-004 was submitted by email to the State of Washington's Department of Commerce on October 19, 2021 for review in compliance with WAC 365-196-630 (6).

10. The legal notification for Planning Casefile Application OA 2021-004 was given on November 17, 2021, pursuant to RCW 36.70.590.

SUGGESTED MOTION-
I move that the Chairman, in conjunction with the Secretary of the Planning Commission, prepare and adopt written findings and conclusions reflecting the Commission's recommendation for approval of the proposed zoning amendment, amending Ordinance 611, 617, 634, and 636, Chapter 11.15.060, 11.17.070, 11.33.030, 11.33.060, 11.35.030, and 11.35.060 as noted in Casefile OA 2021-004, that articulate and are consistent with the findings, conclusions and recommendations made by the Planning Commission tonight.

ORDINANCE NO._____

AN ORDINANCE relating to zoning, amending the sections relating to uses requiring a conditional use permit; amending the sections relating to allowable uses; amending Ordinance 611, Section 53, Ordinance 617, Section 5, Ordinance 634, Section 1 and BCC 11.15.060; amending Ordinance 611, Section 63, Ordinance 617, Section 7, Ordinance 634, Section 3, Ordinance 636, Section 2 and BCC 11.17.070; amending Ordinance 611, Section 126 and BCC 11.33.030; amending Ordinance 611, Section 129 and BCC 11.33.060; amending Ordinance 611, Section 134 and BCC 11.35.030 and amending Ordinance 611, Section 137 and BCC 11.35.060.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

SECTION 1. Ordinance 611, Section 53, Ordinance 617, Section 5, Ordinance 634, Section 1 and BCC 11.15.060 are hereby amended to read as follows:

USES REQUIRING A CONDITIONAL USE PERMIT. The following uses may be permitted on a single parcel of record within the Rural Lands Twenty Acre District (RL-20) if a conditional use permit is issued by the Hearings Examiner after notice and public hearing as provided by BCC 11.50.040.

(a) A sand or gravel pit, stone quarry and similar use for the development of natural resources extracted on-site.

(b) Kennel, commercial.

(c) Child Day Care Facility, Type B, subject to the provisions of BCC 11.42.060.

(d) A Park.

(e) Bed and Breakfast Facility, subject to the provisions in BCC 11.42.030.

(f) Agricultural Market.

(g) Business activities, other than those set forth above, that are compatible with the principal uses and purpose of the underlying zone and the surrounding land uses may be conducted from within an approved accessory building detached from all dwelling units if the following criteria as well as any other conditions required by the Hearings Examiner are satisfied:

(1) The business activity must take place on a parcel of land that is 2.0 acres or greater in size.

(2) There must be a residence on site, and at least one (1) of the proprietors of the business must be the owner or lessee of the property where the business and the residence are located and must reside in said residence.

(3) No more than four (4) non-resident persons, whether they work on site or not, may be employed by or be partners in the business.

(4) The business activity, including all storage space, shall not occupy more than two thousand (2,000) square feet of total floor area within the detached accessory building.

(5) Only one (1) approved detached accessory building on a parcel may be used for business activities. If more than one (1) business will be conducted within an approved detached accessory building, then a separate application must be submitted for each business activity, provided that the total area used by all business activities shall not exceed that permitted by BCC 11.15.060(g)(4).

(6) No more than two (2) non-illuminating signs, with a maximum area of four (4) square feet each, shall be permitted in connection with the business activity. The posting of such signs is limited to the parcel on which the approved detached accessory building is located. On-street (inside the road right-of-way) sign posting and sign posting which interferes with the line-of-site for road intersections are prohibited.

(7) Not more than three (3) vehicles marked to identify the business may be on the parcel at any one time. No other on-site outside storage of vehicles, equipment and/or supplies is allowed in connection with the business activity. This prohibition applies to, but is not limited to: lumber, plasterboard, pipe, paint, inoperable vehicles, and heavy equipment that are related to the business.

(8) The property owner and the proprietor(s) of the business shall comply with all requirements of the Benton County Building Department, the Benton County Fire Marshal, the Benton-Franklin Health District, and all other local, state and federal regulations pertinent to the business activity pursued. The requirements of or permission granted by the Hearings Examiner shall not be construed as an exemption from such regulations.

(9) Adequate off-street parking, as determined by the Hearings Examiner, must be provided.

(10) Any waste created as a result of the business activity must be disposed of off-site in compliance with all local, state and/or federal regulations.

(11) The presence of customers/clients and non-resident employees at the location of the business activity shall be limited to the days and hours of operation as determined by the Hearings Examiner.

(12) The business activity does not require a marijuana retail outlet license from the Washington State Liquor and Cannabis Board.

(h) Shooting range facility.

((~~(i) One (1) wind turbine with a wind turbine height of sixty (60) feet or more or a wind turbine farm and related support structures and other improvements under the following conditions:~~

~~(1) The lowest point on all rotor blades must be at least thirty (30) feet above ground level;~~

~~(2) All wind turbine tower bases must be set back from all dwellings not located on the same parcel at least one thousand six hundred and forty (1,640) feet;~~

~~(3) All wind turbine tower bases must be set back from all property lines a distance equal to the associated wind turbine height plus 50% of that height, except that, where contiguous properties are leased for an identical duration for development of a wind farm, the tower bases set back from the property lines common with such leased properties may be eliminated so long as no part of any wind turbine extends past any such interior property lines and the above-required setbacks are maintained from the property lines comprising the exterior boundaries of the wind farm;~~

~~(4) All wind turbine tower bases must be set back from the closest edge of a state, county, or city road right-of-way distance equal to the wind turbine height plus 50% of that height;~~

~~(5) All wind turbine tower bases must be set back a distance equal to the wind turbine height from all borders of the GMA Agricultural District, except for GMA Agricultural District borders adjacent to the Hanford Reservation owned by the Department of Energy or adjacent to another zoning district adopted by another county that contains a general minimum parcel size of at least twenty (20) acres per parcel;~~

~~(6) For wind turbine(s) proposed to be located within four (4) miles of the nearest point of the nearest runway of the nearest airport available for public use, the applicant for a building permit must comply with all the requirements imposed by the Federal Aviation Administration (FAA) and provide a written statement from the FAA that sets forth the FAA's comments and requirements, if any, for the proposal;~~

~~(7) All wind turbine(s) must comply with the Federal Aviation Regulations Part 77, Objects Affecting Navigable Airspace, as currently in effect or as hereafter amended, including but not limited to, providing such notices to the FAA as required thereunder and compliance with all requirements or prohibitions imposed by the FAA on the applicant's proposal;~~

~~(8) Conditional use permit applications for the placement and operation of wind turbines under this section shall be made available for review by the United States Department of Defense (USDOD) in accordance with RCW 36.01.320, as in effect now or hereafter amended. The notice and processing of wind turbine permit applications will be in accordance with Benton County Code chapter 17.10. Pursuant to BCC 11.50.040 (d), the applicant is required to provide sufficient evidence to persuade the Hearings Examiner that the proposed wind turbine is compatible with other uses in the surrounding area, including any military training activities, or is no more incompatible than are any other outright permitted uses in the applicable zoning district, as well as provide all other evidence required by BCC 11.50.040;~~

~~(9) All wind turbine tower bases shall be located at least forty (40) feet for every one (1) foot of tower height or one mile, whichever is greater, from the ends of and at least five thousand (5,000) feet from the sides of all runways which are available solely for private use and identified on the most current edition of the Sectional Aeronautical Charts produced by the National Aeronautical Charting Office (NACO);~~

~~(10) If the use of any wind turbine or wind turbine farm is discontinued for a period of one (1) year or more, the owner of such facility shall remove the facility within ninety (90) days of written notification by the Planning Department. If such facility is not removed within said ninety (90) days, the County may refer the issue to the code enforcement officer for appropriate action pursuant to Chapter 11.43 BCC; and~~

~~(11) The wind turbine(s) and all associated service roads may not displace more than five (5) percent of the area of that parcel(s) on which they are located.~~))

((~~(j)~~)) (i) Agri-tourism accommodations.

(((~~k) Solar Power Generator Facility, Major.~~))

SECTION 2. Ordinance 611, Section 63, Ordinance 617, Section 7, Ordinance 634, Section 3, Ordinance 636, Section 2 and BCC 11.17.070 are hereby amended to read as follows:

USES REQUIRING A CONDITIONAL USE PERMIT. The following uses may be permitted within the GMA Agricultural District if a conditional use permit is issued by the Hearings Examiner after notice and public hearing as provided by BCC 11.50.040:

(a) Slaughterhouses, commercial meat-packing plants, animal feedlots; provided, that they are not located in the floodway and floodplain as shown on the FEMA maps, or within two hundred (200) feet of a naturally occurring body of water, or a well-used for domestic or municipal purposes and shall be designed to prevent infiltration or other movement of livestock wastes into the aquifer, or directly into surface waters.

(b) Commercial dairy, hog, poultry, and rabbit operations, propagation of fur bearing species for commercial purposes, or livestock auction yard; provided, that at least the following setbacks are met as well as all other conditions imposed in connection with the issuance of the conditional use permit: one hundred (100) foot setbacks from any lot line to any animal enclosure, except for fenced pasture; and a five hundred (500) foot setback from any existing residential structure on adjacent property not under applicant's ownership.

(c) Commercial establishments for the transportation of agricultural products other than those produced on the premises, or agricultural supplies or equipment, together with the maintenance, storage, repair and servicing of the necessary trucks and equipment.

(d) The following agriculturally based recreational and sales facilities: covered arenas, rodeo events, livestock sales rings, and working animal events. The following accessory uses may be permitted during one or more of the above events: veterinary service, food concessions, RV parking area, and event related novelty/accessory sales.

(e) Airstrips (commercial crop dusting).

(f) Facilities for treatment of industrial solid wastes with associated spray fields related to the on-site processing of agricultural products.

(g) Solid waste disposal site; except on lands designated as having less than 160 acre minimum parcel size.

(h) Off-site hazardous waste treatment and storage facilities may be allowed by conditional use permit issued by the Benton County Hearings Examiner after notice and public hearing as provided in BCC 11.50.040 provided, that such facilities must comply with the state siting criteria adopted in accordance with RCW 70.105.210, as currently in effect or as hereafter amended.

(i) Asphalt manufacture in conjunction with rock, sand and gravel mining.

((~~(j) Facilities for power generation, other than nuclear fueled, wind fueled or solar fueled.~~))

((~~(k)~~)) (j) Child Day Care Facility, Type B, subject to the provisions of BCC 11.42.060.

((~~(l)~~)) (k) Off-premise directional signs.

((~~(m)~~)) (l) The production of bio-diesel and alcohol fuels from agricultural products.

((~~(n)~~)) (m) The commercial maintenance, repair, servicing, and storage of agricultural machinery, implements, and equipment for use off the premises.

((~~(o)~~)) (n) Commercial establishments for the storage, sale and off-site application of agricultural chemicals, including but not limited to herbicides, fertilizers, insecticides, and pesticides.

((~~(p)~~)) (o) Underground natural gas storage facilities.

((~~(q) One (1) wind turbine with a wind turbine height of sixty (60) feet or more or a wind turbine farm and related support structures and other improvements under the following conditions:~~

~~(1) The lowest point on all rotor blades must be at least thirty (30) feet above ground level;~~

~~(2) All wind turbine tower bases must be set back from all dwellings not located on the same parcel at least one thousand six hundred and forty (1,640) feet;~~

~~(3) All wind turbine tower bases must be set back from all property lines a distance equal to the associated wind turbine height plus 50% of that height, except that, where contiguous properties are leased for an identical duration for development of a wind farm, the tower bases set back from the property lines common with such leased properties may be eliminated so long as no part of any wind turbine extends past any such interior property lines and the above-required setbacks are maintained from the property lines comprising the exterior boundaries of the wind farm;~~

~~(4) All wind turbine tower bases must be set back from the closest edge of a state, county, or city road right-of-way distance equal to the wind turbine height plus 50% of that height;~~

~~(5) All wind turbine tower bases must be set back a distance equal to the wind turbine height from all borders of the GMA~~

~~Agricultural District, except for CMA Agricultural District borders adjacent to the Hanford Reservation owned by the Department of Energy or adjacent to another zoning district adopted by another county that contains a general minimum parcel size of at least twenty (20) acres per parcel;~~

~~(6) For wind turbine(s) proposed to be located within four (4) miles of the nearest point of the nearest runway of the nearest airport available for public use, the applicant for a building permit must comply with all the requirements imposed by the Federal Aviation Administration (FAA) and provide a written statement from the FAA that sets forth the FAA's comments and requirements, if any, for the proposal;~~

~~(7) All wind turbine(s) must comply with the Federal Aviation Regulations Part 77, Objects Affecting Navigable Airspace, as currently in effect or as hereafter amended, including but not limited to, providing such notices to the FAA as required thereunder and compliance with all requirements or prohibitions imposed by the FAA on the applicant's proposal;~~

~~(8) Conditional use permit applications for the placement and operation of wind turbines under this section shall be made available for review by the United States Department of Defense (USDOD) in accordance with RCW 36.01.320, as in effect now or hereafter amended. The notice and processing of wind turbine permit applications will be in accordance with Benton County Code chapter 17.10. Pursuant to BCC 11.50.040 (d), the applicant is required to provide sufficient evidence to persuade the Hearings Examiner that the proposed wind turbine is compatible with other uses in the surrounding area, including any military training activities, or is no more incompatible than are any other outright permitted uses in the applicable zoning district, as well as provide all other evidence required by BCC 11.50.040;~~

~~(9) All wind turbine tower bases shall be located at least forty (40) feet for every one (1) foot of tower height or one mile, whichever is greater, from the ends of and at least five thousand (5,000) feet from the sides of all runways which are available solely for private use and identified on the most current edition of the Sectional Aeronautical Charts produced by the National Aeronautical Charting Office (NACO);~~

~~(10) If the use of any wind turbine or wind turbine farm is discontinued for a period of one (1) year or more, the owner of such facility shall remove the facility within ninety (90) days of written notification by the Planning Department. If such facility is not removed within said ninety (90) days, the County may refer the issue to the code enforcement officer for appropriate action pursuant to Chapter 11.43 BCC; and~~

~~(11) The wind turbine(s) and all associated service roads may not displace more than five (5) percent of the area of that parcel(s) on which they are located.~~))

((~~(r)~~)) (p) Non-agricultural accessory uses that promote or sustain the continuation of the agricultural uses of a parcel if the accessory uses meet the following criteria as well as any other conditions required by the Hearings Examiner:

(1) The non-agricultural accessory use shall be located, designed, and operated so as to not interfere with, and to support the continuation of, the overall agricultural use of the parcel;

(2) The non-agricultural accessory use must be consistent with the size, scale, and intensity of the existing agricultural use of the parcel and the existing buildings thereon;

(3) The parcel on which the non-agricultural accessory use is located meets one of the following:

(i) the parcel is no less than twenty (20) acres in size with eighty (80) percent of the acreage primarily committed to agricultural use and has produced gross income equivalent to two hundred (200) dollars or more per acre each year for three (3) of the five (5) calendar years preceding the date of application;

(ii) the parcel is currently enrolled in the County's Agricultural Open Space program pursuant to Chapter 84.34 RCW, as currently in effect or as hereafter amended;

(iii) the parcel is not less than one hundred (100) contiguous acres that has been in agricultural use for three (3) of the last five (5) years.

(4) The non-agricultural accessory use, including any new buildings, parking or supportive uses associated therewith, shall be located within one thousand (1000) feet of the nearest existing buildings or residential structures and shall not otherwise convert more than one (1) acre of agricultural land to non-agricultural uses;

(5) The non-agricultural accessory uses, including any storage space associated therewith, shall not collectively occupy more than fifteen thousand (15,000) square feet of building space;

(6) No more than three (3) vehicles marked to identify the non-agricultural accessory use(s) may be on the parcel at any time. No other on-site outside storage of vehicles, equipment and/or supplies is allowed in connection with the non-agricultural accessory use;

(7) No person may possess more than one valid permit at a time under this section and all non-agricultural accessory use permits issued under this section for any given parcel must be authorized in one permit;

(8) No more than two (2) signs of a size determined by the Hearings Examiner shall be permitted in connection with the non-agricultural accessory use. Illumination of a sign shall be only by hooded directional lighting so that only the sign surface is illuminated. The posting of such sign is limited to the parcel on which the non-agricultural accessory use is located. On-street (inside the road right-of-way) sign posting is prohibited, and no sign outside of a road right-of-way may interfere with the line of sight for road intersection;

(9) The parcel and non-agricultural accessory use owner shall comply with all requirements of the Benton County Building Department, the Benton County Fire Marshal, the Benton-Franklin Health District, and all other local, state, and federal regulations pertinent to the non-agricultural accessory use being pursued. The requirements of or the permission granted by the Hearings Examiner shall not be construed as an exemption from such regulations;

(10) Adequate off road parking, as determined by the Hearings Examiner, must be provided;

(11) Any waste created as a result of the non-agricultural accessory use must be disposed of off-site in compliance with all local, state, and/or federal regulations;

(12) The days and hours of operation shall be determined by the Hearings Examiner with the granting of a Conditional Use Permit; and

(13) The non-agricultural accessory use shall not require a marijuana retail outlet license from the Washington State Liquor and Cannabis Board.

((~~(s)~~)) (q) Overnight lodging within a structure primarily used for processing of beer, wine, or spirits that meets the following criteria:

(1) The number of guest rooms may not exceed two (2); and,

(2) The area used for the guest rooms and associated with overnight lodging shall not exceed eight hundred square feet (800); and,

(3) The overnight lodging guest rooms shall meet Benton-Franklin Health District requirements for septic systems and domestic water usage shall be demonstrated; and,

(4) The overnight lodging guest rooms shall comply with all the applicable building code requirements.

((~~(t)~~)) (r) Events Facility on the same or adjoining parcel as a Winery/Brewery/Distillery, but not related to the operational and marketing of the business, such as weddings, receptions, and meetings/retreats shall be limited to not more than two hundred (200) guest or less, meet the following criteria as well as any other conditions required by the Hearings Examiner:

(1) The events facility shall be located, designed, and operated so as to not interfere with, and to support the continuation of, the overall agricultural use of the parcel;

(2) The events facility must be consistent with the size, scale, and intensity of the existing agricultural use of the parcel and the existing buildings thereon;

(3) The events facility, including any new buildings, parking or supportive uses associated therewith, shall be located within one thousand (1000) feet of the existing Winery/Brewery/Distillery structures and shall not otherwise convert more than one (1) acre of agricultural land to the use;

4) The parcel and events facility shall comply with all requirements of the Benton County Building Department, the Benton County Fire Marshal, the Benton-Franklin Health District, and all other local, state, and federal regulations pertinent to the events facility being pursued. The requirements of or the permission granted by the Hearings Examiner shall not be construed as an exemption from such regulations;

(5) Adequate off-road parking, as determined by the Hearings Examiner, must be provided; and

(6) Any waste created as a result of the event facility must be disposed of off-site in compliance with all local, state, and/or federal regulations.

((~~(u)~~)) (s) Bed and Breakfast Facility, subject to the provisions in BCC 11.42.030.

((~~(v)~~)) (t) Recreation and entertainment activities centered on an agricultural theme. This may include activities such as field mazes, hayrides, sleigh rides, animal rides, petting zoos and other similar uses.

((~~(w)~~)) (u) Commercial sand and gravel pits, stone quarries, other mineral extraction, asphalt and/or concrete batching plants.

((~~(x)~~)) (v) Veterinarian Clinics.

((~~(y)~~)) (w) Shooting Range Facility.

((~~(z) Solar power generator facility, major.~~))

((~~(aa)~~)) (x) Agri-tourism accommodations.

((~~(bb)~~)) (y) Agricultural research facility which conducts basic, applied, and/or developmental research of regional, national, or international concerns in the field of agriculture.

((~~(cc)~~)) (z) Commercial agricultural establishments that primarily provide
storage, repair, or sale of irrigation, mechanical, and excavation service activities for use off premise.

((~~(dd)~~)) (aa) Winery/Brewery/Distillery facility, including sampling, tasting, and sales of the product, may occur on an adjacent parcel from the site where the fruit or other products are processed, if both parcels are under the same ownership.

SECTION 3. Ordinance 611, Section 126 and BCC 11.33.030 are hereby amended to read as follows:

ALLOWABLE USES. The following uses are allowed within the Light Industrial District (LI) on a single parcel of record:

(a) Fire department facility, law enforcement facility, and/or medical facility.

(b) Research and development facility, computer component manufacturing, laboratory, and/or electronic data processing facility.

(c) Agricultural uses.

(d) Lumber yard and/or custom milling of logs into dimensional lumber.

(e) Nursery and/or landscaping business.

(f) Warehouse.

(g) Utility substation facility.

(h) Rental storage facility.

(i) Food processing and/or cannery.

(j) Metal fabrication and/or welding.

(k) Sales of on-site manufactured goods.

(l) Sales, service and repair of machinery equipment, automobiles, and/or trucks.

(m) Wineries/Breweries/Distilleries.

(n) Hiking and non-motorized biking trails.

(o) Hazardous waste treatment and/or hazardous waste storage facilities as an accessory use to an allowed or conditionally permitted use; provided, that such facilities must comply with the state siting criteria adopted in RCW 70.105.210, as it now exists or is hereafter amended, and only treat waste generated on the same parcel or a contiguous parcel.

(p) Rapid Charging Station.

(q) No more than one (1) wind turbine and related support structures and other improvements per parcel for private use; provided, the wind turbine height must be less than sixty (60) feet and the wind turbine must be set back from all property lines a distance equal to one (1) foot for every foot in height of the wind turbine.

SECTION 4. Ordinance 611, Section 129 and BCC 11.33.060 are hereby amended to read as follows:

USES REQUIRING A CONDITIONAL USE PERMIT. The following uses may be permitted on a single parcel of record within the Light Industrial District (LI) if a conditional use permit is issued by the Hearings Examiner after notice and public hearing as provided by BCC 11.50.040.

(a) Racetrack facility for automotive, motocross, or horse racing.

(b) Agricultural recreational facility.

(c) Sand and/or gravel pit, stone quarry, mining, crushing, stockpiling of mineral resources and similar uses for the development of natural resources extracted on-site.

(d) Solid waste transfer station.

(e) Airport/Heliport.

(f) Asphalt plant.

(g) Concrete plant.

(h) Sewage treatment plant for industrial and/or domestic waste.

(i) Wrecking yard.

(j) Indoor shooting range.

(k) Solar Power Generator Facility, Major.

(l) One (1) wind turbine with a wind turbine height of sixty (60) feet or more or a wind turbine farm and related support structures and other improvements under the following conditions:

(1) The lowest point on all rotor blades must be at least thirty (30) feet above ground level;

(2) All wind turbine tower bases must be set back from all dwellings not located on the same parcel at least one thousand six hundred and forty (1,640) feet;

(3) All wind turbine tower bases must be set back from all property lines a distance equal to the associated wind turbine height plus 50% of that height, except that, where contiguous properties are leased for an identical duration for development of a wind farm, the tower bases set back from the property lines common with such leased properties may be eliminated so long as no part of any wind turbine extends past any such interior property lines and the above-required setbacks are maintained from the property lines comprising the exterior boundaries of the wind farm;

(4) All wind turbine tower bases must be set back from the closest edge of a state, county, or city road right-of-way distance equal to the wind turbine height plus 50% of that height;

(5) All wind turbine tower bases must be set back a distance equal to the wind turbine height from all borders of the Light Industrial Zoning District, except for Light Industrial Zoning District borders adjacent to the Hanford Reservation owned by the Department of Energy or adjacent to another zoning district adopted by another county that contains a general minimum parcel size of at least twenty (20) acres per parcel;

(6) For wind turbine(s) proposed to be located within four (4) miles of the nearest point of the nearest runway of the nearest airport available for public use, the applicant for a building permit must comply with all the requirements imposed by the Federal Aviation Administration (FAA) and provide a written statement from the FAA that sets forth the FAA's comments and requirements, if any, for the proposal;

(7) All wind turbine(s) must comply with the Federal Aviation Regulations Part 77, Objects Affecting Navigable Airspace, as currently in effect or as hereafter amended, including but not limited to, providing such notices to the FAA as required thereunder and compliance with all requirements or prohibitions imposed by the FAA on the applicant's proposal;

(8) Conditional use permit applications for the placement and operation of wind turbines under this section shall be

made available for review by the United States Department of Defense (USDOD) in accordance with RCW 36.01.320, as in effect now or hereafter amended. The notice and processing of wind turbine permit applications will be in accordance with Benton County Code chapter 17.10. Pursuant to BCC 11.50.040 (d), the applicant is required to provide sufficient evidence to persuade the Hearings Examiner that the proposed wind turbine is compatible with other uses in the surrounding area, including any military training activities, or is no more incompatible than are any other outright permitted uses in the applicable zoning district, as well as provide all other evidence required by BCC 11.50.040;

(9) All wind turbine tower bases shall be located at least forty (40) feet for every one (1) foot of tower height or one mile, whichever is greater, from the ends of and at least five thousand (5,000) feet from the sides of all runways which are available solely for private use and identified on the most current edition of the Sectional Aeronautical Charts produced by the National Aeronautical Charting Office (NACO);

(10) If the use of any wind turbine or wind turbine farm is discontinued for a period of one (1) year or more, the owner of such facility shall remove the facility within ninety (90) days of written notification by the Planning Department. If such facility is not removed within said ninety (90) days, the County may refer the issue to the code enforcement officer for appropriate action pursuant to Chapter 11.43 BCC; and

(11) The wind turbine(s) and all associated service roads may not displace more than five (5) percent of the area of that parcel(s) on which they are located.

SECTION 5. Ordinance 611, Section 134 and BCC 11.35.030 are hereby amended to read as follows:

ALLOWABLE USES. The following uses are allowed within the Heavy Industrial District (HI) on a single parcel of record:

(a) The processing, assembly and/or manufacturing of raw materials, semi-finished materials, and/or finished materials, except for the manufacturing reprocessing and/or storage of radioactive waste.

(b) Ironwork, drop forge industry, and/or metal fabrication.

(c) Repair of machinery equipment, automobiles and/or trucks.

(d) Food processing facility, cannery and/or cold storage facility.

(e) Agricultural uses.

(f) Retail sales of goods manufactured on the premises; provided, that the floor space devoted to such use does not exceed ten (10) percent of the gross floor area of all buildings on the parcel.

(g) Wholesale sales of products.

(h) Transportation facilities for handling cargo and/or passengers, including mooring facilities, grain elevator, or barge terminal.

(i) Warehouse.

(j) Utility substation facility.

(k) Production of alcohol fuels, biodiesel, or ethanol.

(l) Hiking and non-motorized biking trails.

(m) Sewage treatment plant for industrial and/or domestic waste.

(n) Solid waste transfer station and/or recycling center.

(o) Wrecking yard.

(p) Hazardous waste treatment and/or hazardous waste storage facilities as an accessory use to an allowed or conditionally permitted use; provided, that such facilities must comply with the state siting criteria adopted in RCW 70.105.210, as currently in effect or as hereafter amended, and only treat waste generated on the same parcel or a contiguous parcel.

(q) Rapid Charging Station.

(r) No more than one (1) wind turbine and related support structures and other improvements per parcel for private use; provided, the wind turbine height must be less than sixty (60) feet and the wind turbine must be set back from all property lines a distance equal to one (1) foot for every foot in height of the wind turbine.

SECTION 6. Ordinance 611, Section 137 and BCC 11.35.060 are hereby amended to read as follows:

USES REQUIRING A CONDITIONAL USE PERMIT. The following uses may be permitted on a single parcel of record within the Heavy Industrial District (HI) if a conditional use permit is issued by the Hearings Examiner after notice and public hearing as provided by BCC 11.50.040.

(a) Facilities for generating power for sale to the public, including solar power generators; provided, that such power cannot be nuclear fueled.

(b) Hazardous waste treatment and/or hazardous waste storage facility treating waste not generated on the same or a contiguous parcel; provided, that such facility must comply with Washington State siting criteria set forth in RCW 70.105.210, as currently in effect or as hereafter amended.

(c) Sand and/or gravel pit, stone quarry, mining, crushing, stockpiling of mineral resources and similar uses for the development of natural resources extracted on-site.

(d) Asphalt plant.

(e) Concrete plant.

(f) Airport/Heliport.

(g) Railroad switch yards, maintenance and/or repair facilities.

(h) State and/or local correctional facility, and/or Secure Community Transition Facility as described by RCW 36.70A.200, as currently in effect or as hereafter amended.

(i) Solar Power Generator Facility, Major.

(j) One (1) wind turbine with a wind turbine height of sixty (60) feet or more or a wind turbine farm and related support structures and other improvements under the following conditions:

(1) The lowest point on all rotor blades must be at least thirty (30) feet above ground level;

(2) All wind turbine tower bases must be set back from all dwellings not located on the same parcel at least one thousand six hundred and forty (1,640) feet;

(3) All wind turbine tower bases must be set back from all property lines a distance equal to the associated wind turbine height plus 50% of that height, except that, where contiguous properties are leased for an identical duration for development of a wind farm, the tower bases set back from the property lines common with such leased properties may be eliminated so long as no part of any wind turbine extends past any such interior property lines and the above-required setbacks are maintained from the property lines comprising the exterior boundaries of the wind farm;

(4) All wind turbine tower bases must be set back from the closest edge of a state, county, or city road right-of-way distance equal to the wind turbine height plus 50% of that height;

(5) All wind turbine tower bases must be set back a distance equal to the wind turbine height from all borders of the Heavy Industrial Zoning District, except for Heavy Industrial Zoning District borders adjacent to the Hanford Reservation owned by the Department of Energy or adjacent to another zoning district adopted by another county that contains a general minimum parcel size of at least twenty (20) acres per parcel;

(6) For wind turbine(s) proposed to be located within four (4) miles of the nearest point of the nearest runway of the nearest airport available for public use, the applicant for a building permit must comply with all the requirements imposed by the Federal Aviation Administration (FAA) and provide a written statement from the FAA that sets forth the FAA's comments and requirements, if any, for the proposal;

(7) All wind turbine(s) must comply with the Federal Aviation Regulations Part 77, Objects Affecting Navigable Airspace, as currently in effect or as hereafter amended, including but not limited to, providing such notices to the FAA as required thereunder and compliance with all requirements or prohibitions imposed by the FAA on the applicant's proposal;

(8) Conditional use permit applications for the placement and operation of wind turbines under this section shall be made available for review by the United States Department of Defense (USDOD) in accordance with RCW 36.01.320, as in effect now or hereafter amended. The notice and processing of wind

turbine permit applications will be in accordance with Benton County Code chapter 17.10. Pursuant to BCC 11.50.040 (d), the applicant is required to provide sufficient evidence to persuade the Hearings Examiner that the proposed wind turbine is compatible with other uses in the surrounding area, including any military training activities, or is no more incompatible than are any other outright permitted uses in the applicable zoning district, as well as provide all other evidence required by BCC 11.50.040;

(9) All wind turbine tower bases shall be located at least forty (40) feet for every one (1) foot of tower height or one mile, whichever is greater, from the ends of and at least five thousand (5,000) feet from the sides of all runways which are available solely for private use and identified on the most current edition of the Sectional Aeronautical Charts produced by the National Aeronautical Charting Office (NACO);

(10) If the use of any wind turbine or wind turbine farm is discontinued for a period of one (1) year or more, the owner of such facility shall remove the facility within ninety (90) days of written notification by the Planning Department. If such facility is not removed within said ninety (90) days, the County may refer the issue to the code enforcement officer for appropriate action pursuant to Chapter 11.43 BCC; and

(11) The wind turbine(s) and all associated service roads may not displace more than five (5) percent of the area of that parcel(s) on which they are located.

SECTION 7. Severability. If any provision of this Ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the Ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 8. Effective Date. This Ordinance shall take effect and be in full force upon its passage and adoption.

ADOPTED AND PASSED this _____ day of _____.

_____
Chairman of the Board.

_____
Chairman Pro-Tem.

_____
Member.

Approved as to Form:

Constituting the Board of
County Commissioners of
Benton County, Washington

_____
Deputy Prosecuting Attorney

Attest:_____
Clerk of the Board

ZONING FOR WIND AND SOLAR IN BENTON COUNTY

DEFINITIONS-ALLOWED USES-ACCESSORY USES-& CONDITIONAL USES

DEFINITIONS

- "Wind Turbine" means a machine with turbine apparatus (rotor blades, nacelle and tower) capable of producing electricity by converting the kinetic energy of wind into rotational, mechanical and electrical energy; provided, the term does not include electrical distribution or transmission lines, or electrical substations.

- "Wind Turbine Farms" means two or more wind turbines on one parcel.

- "Solar Power Generator Facility, Minor" means the use of solar panels to convert sunlight directly or indirectly into electricity. Solar power generators consist of solar panels, charge controllers, inverters, working fluid system, and storage batteries. Minor facilities are sited on the power beneficiary premises, are intended primarily to offset part or all of the beneficiary's requirements for electricity/gas, and are secondary or accessory to the beneficiary's use of the premises.

- "Solar Power Generator Facility, Major" means the use of solar panels to convert sunlight directly or indirectly into electricity. Solar power generators consist of solar panels, charge controllers, inverters, working fluid system, and storage batteries. Major facilities are developed as the primary land use for a parcel on which it is located and does not meet the siting criteria for a minor facility in BCC 11.03.010(168).

ALLOWED USES

Wind Turbine:

No more than one (1) wind turbine and related support structures and other improvements per parcel for private use; provided, the wind turbine height must be less than sixty (60) feet and the wind turbine must be set back from all property lines a distance equal to one (1) foot for every foot in height of the wind turbine.

Zoning District:

Currently allowed in the RL-5, RL-20, GMA AG, Red Mountain AG Zones.

Proposal is to add Wind Turbine to the Light Industrial and Heavy Industrial Zoning Districts.

ACCESSORY USES

Solar Power Generator Facility, Minor

Solar Power Generator Facility, Minor" means the use of solar panels to convert sunlight directly or indirectly into electricity. Solar power generators consist of solar panels, charge controllers, inverters, working fluid system, and storage batteries. Minor facilities are sited on the power beneficiary premises, are intended primarily to offset part or all of the beneficiary's requirements for electricity/gas, and are secondary or accessory to the beneficiary's use of the premises.

Zoning District:

Currently allowed in all zoning districts that allow a dwelling unit and the commercial and industrial districts. No changes proposed.

CONDITIONAL USES

Solar Power Generator Facility, Major

Solar Power Generator Facility, Major" means the use of solar panels to convert sunlight directly or indirectly into electricity. Solar power generators consist of solar panels, charge controllers, inverters, working fluid system, and storage batteries. Major facilities are developed as the primary land use for a parcel on which it is located and does not meet the siting criteria for a minor facility in BCC 11.03.010(168).

Zoning District:

Currently allowed in the GMA AG, RL-20, Light Industrial and Heavy Industrial Districts.

Proposal is to remove Solar Power Generator Facility, Major from the ~~GMA AG and RL-20 Zoning Districts~~.

CONDITIONAL USES

Wind Turbine Farms

Wind Turbine Farms" means two or more wind turbines on one parcel.

Zoning District:

Allowed in the GMA AG, and RL-20 Zoning Districts.

Proposal is to remove Wind Turbine Farms from the ~~GMA AG and RL-20 Zoning Districts~~.

&

Add Wind Turbine Farms to the Light Industrial and Heavy Industrial Zoning Districts.

Community Development Department
Prosser Office: 620 Market Street, 1st Floor
Kennewick Office: 102206 East Wiser Parkway
www.co.benton.wa.us

Planning Division
(509) 786-5612
P.O. Box 910, Prosser, WA 99350
planning.department@co.benton.wa.us

PCM 1.3

NOTICE OF OPEN RECORD HEARING

NOTICE IS GIVEN that the following application will be considered by the Benton County Planning Commission at a in person and virtual public hearing on Tuesday, November 30, 2021, at **6 p.m** in the Planning Hearing Room, First Floor, Courthouse Prosser WA, 620 Market Street, Prosser, WA.

In an effort to continue to provide public access to the Planning Commission meetings, Benton County will be **providing both in person, telephonic and video access for the public** to view and provide testimony at the Planning Commission meetings. **A map to the meeting room will be posted on our website at the link below.** If you choose to join the meeting telephonically, we ask that you please limit background noise or mute your line to prevent any unnecessary interruption to the meeting. To find information on virtual attendance options, including streaming video, WebEx video conferencing and telephone, please visit www.tinyurl.com/BCPublicNotice.

OA 2021-004 - AN ORDINANCE relating to zoning, amending the sections relating to uses requiring a conditional use permit; amending the sections relating to allowable uses; amending Ordinance 611, Section 53, Ordinance 617, Section 5, Ordinance 634, Section 1 and BCC 11.15.060; amending Ordinance 611, Section 63, Ordinance 617, Section 7, Ordinance 634, Section 3, Ordinance 636, Section 2 and BCC 11.17.070; amending Ordinance 611, Section 126 and BCC 11.33.030; amending Ordinance 611, Section 129 and BCC 11.33.060; amending Ordinance 611, Section 134 and BCC 11.35.030 and amending Ordinance 611, Section 137 and BCC 11.35.060. The purpose of this amendment is to delete wind turbines and wind turbine farms over 60 feet in height and solar powered generator facility, major from uses requiring a conditional use permit in the Rural Lands 20 Acre District; and deleting facilities for power generation, other than nuclear, wind, or solar fueled, wind turbines and wind turbines farms over 60 feet in height, and solar powered generator facility, major from uses requiring a conditional use permit in the GMA Agriculture District. Adding wind turbines and wind turbine farms as a use requiring a conditional use permit in the Light Industrial and Heavy Industrial Districts and also adding as an allowable use one (1) wind turbine (less than 60 feet in height) and related support structures and other improvements per parcel for private use in the Light Industrial and Heavy Industrial Districts.

NOTICE IS FURTHER GIVEN that the proposed ordinance amendment has been reviewed under the requirements of the State Environmental Policy Act and a Determination of Non-Significance (DNS) was issued on October 18, 2021 and accordingly an Environmental Impact Statement was not required. Any comments regarding this determination and the environmental impacts of the proposal can be made at the Planning Commission Hearing as using the method noted below or in writing to the Benton County Planning Department by 5 p.m. on Monday November 29, 2021.

At this hearing, the Planning Commission may recommend approval, conditional approval, or disapproval of the applications to the Benton County Board of Commissioners. All parties concerned may present any support or objections for the application per the phone in instructions above. Information concerning the applications can be obtained at the Benton County Planning Department, by calling 736-3086 (Tri-Cities) or 786-5612 (Prosser).

Dated at Prosser, Washington on this 9th day of November 2021.

Martin Sheeran, Chairman
BENTON COUNTY PLANNING COMMISSION

Greg Wendt, Director
COMMUNITY DEVELOPMENT DEPT.

PUBLISH ON: November 17, 2021

Community Development Department
Prosser Office: 620 Market Street, 1st Floor
Kennewick Office: 102206 East Wiser Parkway
www.co.benton.wa.us

Planning Division
(509) 786-5612
P.O. Box 910, Prosser, WA 99350
planning.department@co.benton.wa.us

PCM 1.6

DETERMINATION OF NON-SIGNIFICANCE

Proponent: Benton County Community Development
Dept. - Planning Division
P.O. Box 910, Prosser WA 99350

File No. EA 2021-026

Project Description: Benton County is amending its development regulations relating to zoning, amending the sections relating to uses requiring a conditional use permit; amending the sections relating to allowable uses for wind turbines, solar power generator facility; major, and facilities for power generation, other than nuclear fueled, wind or solar fueled; amending Ordinance 611, Section 53, Ordinance 617, Section 5, Ordinance 634, Section 1 and BCC 11.15.060; amending Ordinance 611, Section 63, Ordinance 617, Section 7, Ordinance 634, Section 3, Ordinance 636, Section 2 and BCC 11.17.070; amending Ordinance 611, Section 126 and BCC 11.33.030; amending Ordinance 611, Section 129 and BCC 11.33.060; amending Ordinance 611, Section 134 and BCC 11.35.030 and amending Ordinance 611, Section 137 and BCC 11.35.060.

Project Location: Countywide
Jurisdiction: Benton County, Washington
Lead Agency: Benton County Community Development Dept. - Planning Division

Threshold Determination: The lead agency for this proposal has determined that it will not have a probable significant adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). The decision was made after review of a completed environmental checklist and other information on file with the lead agency. The environment threshold determination is based on an analysis of information contained in the following documents or the applicable regulations and restrictions of various agencies:

1. Benton County, BCC Title 6.35 Environmental Policy (SEPA);
2. Benton County, BCC Title 11, Zoning;
3. Benton County, BCC Title 9, Subdivisions;
4. Benton County Comprehensive Plan;
5. Benton County, BCC Title 15 Critical Area Ordinance;
6. Benton County, BCC Title 3 Building Code, Fire Code, and Road Standards;
7. Regulations of the Benton Clean Air;
8. Regulations of the Washington State Department of Fish and Wildlife, Department of Transportation, Department of Ecology, Department of

Natural Resources and Department of Archaeology and Historic Preservation; and

This DNS is issued under WAC197-11-340(2); the lead agency will not act on this proposal for 14 days from the date below. Comments must be submitted by **November 2, 2021.**

SEPA Responsible Official: Jerrod MacPherson
Position/Title: Benton County Administrator
Mailing Address: P.O. Box 910, Prosser WA 99350

Date**: October 18, 2021** Signature

Jerrod MacPherson

DISTRIBUTION:

News Media (Encl. map or plot plan)
Benton County Building Office
Dept. of Natural Resources
Benton Clean Air
Bureau of Reclamation
Benton County Public Works
City of Kennewick
City of Richland
City of Benton City
City of Prosser
City of West Richland
Benton-Franklin Dist. Health Dept.
Kennewick Irrigation District
Kiona Irrigation District
Benton Irrigation District
Badger Mountain Irrigation District
Columbia Irrigation District
Sunnyside Valley Irrigation District
Roza Irrigation District
Department of Transportation
Dept. of Transportation-Aviation Division
Port of Benton
Port of Kennewick
Washington State Department of Health
Department of Ecology
Corps of Engineers
Yakama Indian Nation
Confederated Tribes of the Umatilla Indian Reservation
Fire District 1
Fire District 2
Fire District 3
Fire District 4
Fire District 5
Fire District 6
Fire Marshal
Tom Price, Environmental Review Inc.
Dept. of Agriculture
Conf. Tribes of the Umatilla Indian Res.
Bureau of Land Management
Department of Fish and Wildlife
Office of Arch. & Historic Preservation
Futurewise
Dept. of Commerce
Bonneville Power Admin.
Dept. of the Navy
FFA

SEPA Environmental Checklist
File No. EA 2021-026

A. Background

1. Name of proposed project, if applicable: *A proposal by Benton County regarding an ordinance amendment relating to zoning, amending the sections relating to uses requiring a conditional use permit; amending the sections relating to allowable uses for wind turbines, solar power generator facility; major, and facilities for power generation, other than nuclear fueled, wind or solar fueled; amending Ordinance 611, Section 53, Ordinance 617, Section 5, Ordinance 634, Section 1 and BCC 11.15.060; amending Ordinance 611, Section 63, Ordinance 617, Section 7, Ordinance 634, Section 3, Ordinance 636, Section 2 and BCC 11.17.070; amending Ordinance 611, Section 126 and BCC 11.33.030; amending Ordinance 611, Section 129 and BCC 11.33.060; amending Ordinance 611, Section 134 and BCC 11.35.030 and amending Ordinance 611, Section 137 and BCC 11.35.060..*

2. Name of applicant:
   Community Development Department
   Benton County Planning Division
   P.O. Box 910
   Prosser WA 99350

3. Address and phone number of applicant and contact person:
   Greg Wendt, Director
   509-786-5612

4. Date checklist prepared: *October 20, 2021*

5. Agency requesting checklist: *Benton County*

6. Proposed timing or schedule (including phasing, if applicable):
   Planning Commission public hearing in November/December 2021, Board of County Commissioners in December 2021.

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.
   No

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

None

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.

None know or immediately anticipated.

10. List any government approvals or permits that will be needed for your proposal, if known.

The approval of the proposed ordinance amendment is required by the Board of County Commissioners.

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page.

(Lead agencies may modify this form to include additional specific information on project description.)

The purpose of this zoning ordinance is to delete wind turbines and wind turbines farms, solar powered generator facility, major and facilities for power generation, other than nuclear, wind, or solar fueled from allowable uses in the RL 20 Acre District and the GMA Agriculture District. Adding wind turbines and wind turbine farms as a use requiring a conditional use permit in the Light Industrial and Heavy Industrial Districts and also adding as an allowable use one (1) wind turbine (less than 60 feet in height) and related support structures and other improvements per parcel for private use in the Light Industrial and Heavy Industrial Districts.

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known.If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

The proposed amendments are regulations that will affect those parcels within the Rural Lands 20 Acre District, GMA Agricultural District, and the Light and Heavy Industrial Districts.

B. Environmental Elements

1. *Earth*

a. General description of the site: (circle one): Flat, rolling, hilly, steep slopes, mountainous, other _____

General topographic characteristics vary greatly within Benton County and environmental evaluations for future site-specific projects will need to be conducted if a site-specific project is proposed.

b. What is the steepest slope on the site (approximate percent slope)?
Not applicable, this is not a site-specific project.

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils.
Not applicable, this is not a site-specific project

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.
Not applicable, this is not a site-specific project.

e. Describe the purpose, type, total area, and approximate quantities and total affected area of any filling, excavation, and grading proposed. Indicate source of fill.
Not applicable, this is not a site-specific project.

f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.
Not applicable, this is not a site-specific project.

g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?
Not applicable, this is not a site-specific project.

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:
Not applicable, this is not a site-specific project.

2. Air

a. What types of emissions to the air would result from the proposal during construction, operation, and maintenance when the project is completed? If any, generally describe and give approximate quantities if known.
Not applicable, this is not a site-specific project.

b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.
Not applicable, this is not a site-specific project.

c. Proposed measures to reduce or control emissions or other impacts to air, if any:
Not applicable, this is not a site-specific project.

3. Water

a. Surface Water:

1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.

Not applicable, this is not a site-specific project.

2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.

Not applicable, this is not a site-specific project.

3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.

Not applicable, this is not a site-specific project.

4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known.

Not applicable, this is not a site-specific project.

5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.

Not applicable, this is not a site-specific project.

6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.

Not applicable, this is not a site-specific project.

b. Ground Water:

1) Will groundwater be withdrawn from a well for drinking water or other purposes? If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well. Will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known.

Not applicable, this is not a site-specific project.

2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals. . . ; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.

Not applicable, this is not a site-specific project.

c. Water runoff (including stormwater):

1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.

Not applicable, this is not a site-specific project.

2) Could waste materials enter ground or surface waters? If so, generally describe.
Not applicable, this is not a site-specific project.

3) Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site? If so, describe.
Not applicable, this is not a site-specific project.

d. Proposed measures to reduce or control surface, ground, and runoff water, and drainage pattern impacts, if any:
Not applicable, this is not a site-specific project.

4. Plants

a. Check the types of vegetation found on the site:

____deciduous tree: alder, maple, aspen, other
____evergreen tree: fir, cedar, pine, other
____shrubs
____grass
____pasture
____crop or grain
____ Orchards, vineyards or other permanent crops.
____ wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other
____water plants: water lily, eelgrass, milfoil, other
____other types of vegetation

Not applicable, this is not a site-specific project.

b. What kind and amount of vegetation will be removed or altered?
Not applicable, this is not a site-specific project.

c. List threatened and endangered species known to be on or near the site.
Not applicable, this is not a site-specific project.

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any:
Not applicable, this is not a site-specific project.

e. List all noxious weeds and invasive species known to be on or near the site.
Not applicable, this is not a site-specific project.

5. Animals

a. List any birds and other animals which have been observed on or near the site or are known to be on or near the site. Examples include:

birds: hawk, heron, eagle, songbirds, other:
mammals: deer, bear, elk, beaver, other:
fish: bass, salmon, trout, herring, shellfish, other _____
If any threatened or endangered species are found for site-specific projects, compliance with Benton County Code Title 15 (Protection of Critical Areas and Resources) will be required.

b. List any threatened and endangered species known to be on or near the site.
Not applicable, this is not a site-specific project.

c. Is the site part of a migration route? If so, explain.
Not applicable, this is not a site-specific project.

d. Proposed measures to preserve or enhance wildlife, if any:
Not applicable, this is not a site-specific project.

e. List any invasive animal species known to be on or near the site.
Not applicable, this is not a site-specific project.

6. Energy and Natural Resources

a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.
Not applicable, this is not a site-specific project.

b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.
Not applicable, this is not a site-specific project.

c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any:
Not applicable, this is not a site-specific project.

7. Environmental Health

a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal? If so, describe.

1) Describe any known or possible contamination at the site from present or past uses.
Not applicable, this is not a site-specific project.

2) Describe existing hazardous chemicals/conditions that might affect project development

and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity.

Not applicable, this is not a site-specific project.

3) Describe any toxic or hazardous chemicals that might be stored, used, or produced during the project's development or construction, or at any time during the operating life of the project.

Not applicable, this is not a site-specific project.

4) Describe special emergency services that might be required.

Not applicable, this is not a site-specific project.

5) Proposed measures to reduce or control environmental health hazards, if any:

Not applicable, this is not a site-specific project.

b. Noise

1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?

Not applicable, this is not a site-specific project.

2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site.

Not applicable, this is not a site-specific project.

3) Proposed measures to reduce or control noise impacts, if any:

Not applicable, this is not a site-specific project.

8. Land and Shoreline Use

a. What is the current use of the site and adjacent properties? Will the proposal affect current land uses on nearby or adjacent properties? If so, describe.

Not applicable, this is not a site-specific project.

b. Has the project site been used as working farmlands or working forest lands? If so, describe. How much agricultural or forest land of long-term commercial significance will be converted to other uses as a result of the proposal, if any? If resource lands have not been designated, how many acres in farmland or forest land tax status will be converted to nonfarm or nonforest use?

Not applicable, this is not a site-specific project.

1) Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling, and harvesting? If so, how:

Not applicable, this is not a site-specific project.

c. Describe any structures on the site.
Not applicable, this is not a site-specific project.

d. Will any structures be demolished? If so, what?
Not applicable, this is not a site-specific project.

e. What is the current zoning classification of the site?
Not applicable, this is not a site-specific project.

f. What is the current comprehensive plan designation of the site?
Not applicable, this is not a site-specific project.

g. If applicable, what is the current shoreline master program designation of the site?
Not applicable, this is not a site-specific project.

h. Has any part of the site been classified as a critical area by the city or county? If so, specify.
Not applicable, this is not a site-specific project.

i. Approximately how many people would reside or work in the completed project?
Not applicable, this is not a site-specific project.

j. Approximately how many people would the completed project displace?
Not applicable, this is not a site-specific project.

k. Proposed measures to avoid or reduce displacement impacts, if any:
Not applicable, this is not a site-specific project.

L. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any:
Not applicable, this is not a site-specific project.

m. Proposed measures to reduce or control impacts to agricultural and forest lands of long-term commercial significance, if any:
The regulations must be consistent with the Benton County Comprehensive Plan policies and guidelines.

9. Housing

a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.
None

b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.
None

c. Proposed measures to reduce or control housing impacts, if any:
None

10. Aesthetics

a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?
None

b. What views in the immediate vicinity would be altered or obstructed?
None

c. Proposed measures to reduce or control aesthetic impacts, if any:
None

11. Light and Glare

a. What type of light or glare will the proposal produce? What time of day would it mainly occur?
Not applicable, this is not a site-specific project.

b. Could light or glare from the finished project be a safety hazard or interfere with views?
Not applicable, this is not a site-specific project.

c. What existing off-site sources of light or glare may affect your proposal?
Not applicable, this is not a site-specific project.

d. Proposed measures to reduce or control light and glare impacts, if any:
Not applicable, this is not a site-specific project.

12. Recreation

a. What designated and informal recreational opportunities are in the immediate vicinity?
Not applicable, this is not a site-specific project.

b. Would the proposed project displace any existing recreational uses? If so, describe.
Not applicable, this is not a site-specific project.

c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:

Not applicable, this is not a site-specific project.

13. Historic and cultural preservation

a. Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers ? If so, specifically describe.

Not applicable, this is not a site-specific project.

b. Are there any landmarks, features, or other evidence of Indian or historic use or occupation? This may include human burials or old cemeteries. Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Please list any professional studies conducted at the site to identify such resources.

Not applicable, this is not a site-specific project.

c. Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples include consultation with tribes and the department of archeology and historic preservation, archaeological surveys, historic maps, GIS data, etc.

Not applicable, this is not a site-specific project.

d. Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required.

Not applicable, this is not a site-specific project.

14. Transportation

a. Identify public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system. Show on site plans, if any.

Not applicable, this is not a site-specific project.

b. Is the site or affected geographic area currently served by public transit? If so, generally describe. If not, what is the approximate distance to the nearest transit stop?

Not applicable, this is not a site-specific project.

c. How many additional parking spaces would the completed project or non-project proposal have? How many would the project or proposal eliminate?

Not applicable, this is not a site-specific project.

d. Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle or state transportation facilities, not including driveways? If so, generally describe (indicate whether public or private).

C. Signature

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Signature: Jerrod MacPherson

Name of signee: Jerrod MacPherson, County Administrator

Agency/Organization Benton County Community Development Department, Planning Division

Date Submitted: October 18, 2020

D. Supplemental sheet for nonproject actions

(**IT IS NOT NECESSARY** to use this sheet for project actions)

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?
Not applicable, this is not a site-specific project.

Proposed measures to avoid or reduce such increases are:
Not applicable, this is not a site-specific project.

2. How would the proposal be likely to affect plants, animals, fish, or marine life?
Not applicable, this is not a site-specific project. However, if any threatened or endangered species are found during the review of a site-specific project, compliance with Benton County Code Title 15 (Protection of Critical Areas and Resources) is required.

Proposed measures to protect or conserve plants, animals, fish, or marine life are:
Not applicable, this is not a site-specific project.

3. How would the proposal be likely to deplete energy or natural resources?
Not applicable, this is not a site-specific project.

Proposed measures to protect or conserve energy and natural resources are:
Not applicable, this is not a site-specific project.

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?
Not applicable, this is not a site-specific project. However, environmental evaluations for future site-specific projects will need to be conducted at the time a project is proposed.

Proposed measures to protect such resources or to avoid or reduce impacts are:
Not applicable, this is not a site-specific project. However, mitigation measures may be required as condition of approval for a site-specific project through the SEPA review process if determined necessary.

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

Not applicable, this is not a site-specific project.

Proposed measures to avoid or reduce shoreline and land use impacts are:

Not applicable, this is not a site-specific project.

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

Not applicable, this is not a site-specific project.

Proposed measures to reduce or respond to such demand(s) are:

Not applicable, this is not a site-specific project.

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.

Not applicable, this is not a site-specific project.

ESA LISTED SALMONIDS/FLOODPLAINS CHECKLIST

This worksheet was designed to help project proponents and government agencies identify when a project in the floodplain will cause adverse effects on ESA (Endangered Species Act) listed salmonids or floodplain features of salmon habitat. Listed salmonids include salmon, trout and chars, e.g. bull trout.

1. Will the proposed project occur landward of a levee?

Yes___ No X

If yes, please indicate the level of flood protection the levee provides (e.g., 30 year flood)

Not applicable, this is not a site-specific project. However, environmental evaluations for future site-specific projects will need to be conducted at the time a project is proposed.

2. Does floodwater ever carry fish behind the levee through overtopping or by flooding from upstream or downstream of the levee?

Yes___ No X

Not applicable, this is not a site-specific project. However, environmental evaluations for future site-specific projects will need to be conducted at the time a project is proposed.

If you answered yes, and "100 year" to question 1, and no to question 2, you do not need to complete the remainder of this checklist.

HABITAT SPECIFICS: The questions in this section are specific to the project site and vicinity.

1. Name of nearest waterbody: _____
   Not applicable, this is not a site-specific project. However, environmental evaluations for future site-specific projects will need to be conducted at the time a project is proposed.

2. What is the distance from this project to the nearest body of water?
   Not applicable, this is not a site-specific project. However, environmental evaluations for future site-specific projects will need to be conducted at the time a project is proposed.

(Often a buffer between the project and a stream can reduce the chance of a negative impact to fish or habitat)

3. Is the project above a full or partial barrier to fish?
   Yes___ No X
   Not applicable, this is not a site-specific project. However, environmental evaluations for future site-specific projects will need to be conducted at the time a project is proposed.

If yes, check the type of barrier

- natural permanent barrier (waterfall) ___
- natural temporary barrier (beaver pond) ___
- man-made barrier (culvert, dam) ___
- other (explain): _____

4. If "yes" to question 3 above, are there any salmonids ever, swimming, spawning, or rearing above the barrier? Yes___ No___ Don't know___
   Not applicable, this is not a site-specific project. However, environmental evaluations for future site-specific projects will need to be conducted at the time a project is proposed.

IF you answer "yes" to question 3, and "no" to question 4, you can skip to question 16. Please complete questions 16-21 of this form.

5. Is the project site in the floodway, the channel migration zone, or the riparian buffer zone? Yes ___ No ___

6. What is the current condition and land use on the project site, and the land between the site and the potentially affected water body? (eg, "site is cleared but not paved parking lot, land between site and river is farmland")

PROJECT SPECIFICS: The following questions will help determine if this project could interfere with migration or rearing of listed fish.

(Both increases and decreases in water flows can affect fish migration.)

7. Does the project require the withdrawal of:
   i. Surface water? Yes___ No____
   Amount _____
   Name of surface water body _____

   ii. Ground water? Yes___ No___
   Amount _____
   From where _____
   Depth of well _____

8. Will any water be rerouted? Yes___ No___
   If yes, will this require a channel change?

9. Will there be retention or detention ponds? Yes___ No___
If yes, will this be an infiltration pond or a surface discharge to either a municipal storm water system or a surface water body?

If to a surface water discharge, please give the name of the waterbody.

10. Will this project require the building of new roads?
Yes___ No___ (Increased road mileage may affect the timing of water reaching a stream and may impact fish habitat.)

11. Are culverts proposed as part of this project? Yes___ No___

12. Will topography changes affect the duration/direction of runoff flows? Yes___ No___
If yes, describe the changes.

13. Will the project involve any reduction of the floodway or floodplain by filling or other partial blockage of flows?
Yes ___ No ___ (Juvenile fish rely on inundated floodplains to seek refuge from high volume and high velocity water during floods. Floodplain refuge increases juvenile fish survival.)

If yes, how will the loss of flood storage be mitigated by your project?

PROJECT SPECIFICS: The following questions are designed to determine if the project will affect riparian vegetation.
(Streambank vegetation provides shade that keeps water cool, provides prey base through insects that fall into the water, and helps stabilize streambanks, reducing erosion)

14. Will the project involve the removal of any vegetation from the stream banks? Yes___ No___

If yes, please describe the existing conditions, and the amount and type of vegetation to be removed.

15. If any vegetation is removed, do you plan to re-plant?
Yes___ No___ If yes, what types of plants will you use?

PROJECT SPECIFICS: The following questions will help determine if this project could adversely impact water quality.

(Water quality can be made worse by runoff from impervious surfaces, altering water temperature, discharging contaminants, etc. Such impacts can reduce survival among listed species.)

16. Do you know of any problems with water quality in any of the streams within this watershed? Yes___ No____
If yes, describe.

17.
What percent of the project will be impervious surface
(including pavement & roof area)?

18. Will your project either reduce or increase shade along or over a waterbody? Yes___ No___
(e.g., removal of streambank vegetation, or the building of structures such as docks or floats, often results in a change in shade.)

19. Will the project increase nutrient loading or have the potential to increase nutrient loading or contaminants (fertilizers, other waste discharges, or runoff) to the waterbody?
Yes___ No___

20. Will turbidity be increased because of construction of the project or during operation of the project? Yes___ No___
(In-water or near water work will often increase turbidity during and after construction).

21. Will your project require long term maintenance activities? (i.e. bridge cleaning, roadway salting, chemical sprays for vegetation management, clearing of parking lots?)
Yes___ No ___ If yes, please describe.

Not applicable, this is not a site-specific project.

e. Will the project or proposal use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe. *Not applicable, this is not a site-specific project.*

f. How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and nonpassenger vehicles). What data or transportation models were used to make these estimates?
Not applicable, this is not a site-specific project.

g. Will the proposal interfere with, affect or be affected by the movement of agricultural and forest products on roads or streets in the area? If so, generally describe.
Not applicable, this is not a site-specific project.

h. Proposed measures to reduce or control transportation impacts, if any:
Not applicable, this is not a site-specific project.

15. Public Services

a. Would the project result in an increased need for public services (for example: fire protection, police protection, public transit, health care, schools, other)? If so, generally describe.
Not applicable, this is not a site-specific project.

b. Proposed measures to reduce or control direct impacts on public services, if any.
Not applicable, this is not a site-specific project.

16. Utilities

a. Circle utilities currently available at the site:
electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other _____
Not applicable, this is not a site-specific project.

b. Describe the utilities that are proposed for the project, the utility providing the service,
and the general construction activities on the site or in the immediate vicinity which might be needed.
Not applicable, this is not a site-specific project.

Department of Commerce

THANK YOU

We have received your amendment submission. Please allow 1-3 business days for review. Please keep the Submittal ID as your receipt and for any future questions. We will also send an email receipt to all contacts listed in the submittal.

Submittal ID: 2021-S-3296

Submittal Date Time: 10/19/2021

Submittal Information

Jurisdiction	Benton County
Submittal Type	Request for Expedited Review / Notice of Intent to Adopt Amendment
Amendment Type	Development Regulation Amendment

Amendment Information

Brief Description
Proposed Ordinance amendment relating to zoning, amending the sections relating to uses requiring a conditional use permit; amending the sections relating to allowable uses for wind turbines, solar power generator facility; major, and facilities for power generation, other than nuclear fueled, wind or solar fueled.

☐ **Yes, this is a part of the 8-year periodic update schedule, required under RCW 36.70A.130.**

Anticipated/Proposed Date of Adoption 12/29/2021

Attachments

Attachment Type	File Name	Upload Date
Development Regulation Amendment - Draft	Solar-Wind ORD BCC 11.15 BCC 11.17 BCC 11.33 BCC 11.35 10-8-2021.pdf	10/19/2021 09:57 AM
Development Regulation Amendment - Draft	EA 2021-026 Signed Checklist.pdf	10/19/2021 09:57 AM
Development Regulation Amendment - Draft	EA 2021-026 Signed DNS.pdf	10/19/2021 09:57 AM

Contact Information

Prefix	Mr.
First Name	Greg
Last Name	Wendt
Title	Director

Work	(509) 786-5612
Cell	
Email	greg.wendt@co.benton.wa.us

☐ **Yes, I would like to be contacted for Technical Assistance.**

Certification

■ **I certify that I am authorized to submit this Amendment for the Jurisdiction identified in this Submittal and all information provided is true and accurate to the best of my knowledge.**

Full Name	Donna Hutchinson
Email	donna.hutchinson@co.benton.wa.us

11/16/2021

PCM 1.8

Mail To: greg.wendt@co.benton.wa.us
Subject: Benton County - Expedited Review Request Granted for Submittal ID: 2021-S-3296

Dear Mr. Wendt,

Your request for an Expedited Review has been granted for: Proposed Ordinance amendment relating to zoning, amending the sections relating to uses requiring a conditional use permit; amending the sections relating to allowable uses for wind turbines, solar power generator facility; major, and facilities for power generation, other than nuclear fueled, wind or solar fueled.

As of receipt of this email, you have met the Growth Management notice to state agency requirements in RCW36.70A.106 for this submittal. Please keep this email as confirmation.

If you have any questions, please contact William Simpson at (509) 280-3602 or by email at william.simpson@commerce.wa.gov.

Sincerely,

Review Team
Growth Management Services

~~~ ONLINE TRACKING SYSTEM AVAILABLE ~~~~

Log into our new PlanView system at https://secureaccess.wa.gov/com/planview where you can keep up with this submittal status, reprint communications and update your contact information.

Don't have a user account? Reply to this email to request one and attach a completed PlanView User Request Form.

Have questions about using PlanView? Use the PlanView User Manual for assistance at https://www.commerce.wa.gov/serving-communities/growth-management/washington-department-of-commerce-growth-management-submitting-materials/.
~~~

Donna Hutchinson

From: Chad Brooks <brooksc@bentonpud.org>
Sent: Thursday, October 28, 2021 1:51 PM
To: Donna Hutchinson
Subject: [EXTERNAL] RE: [E] EA 2021-026 - Ordinance Amendment

Follow Up Flag: Follow up
Flag Status: Flagged

EXTERNAL EMAIL WARNING!!!: This email originated from outside of Benton County. DO NOT click links or open attachments unless you recognize the sender and know the content is safe.

No comments on environmental impact.

Chad Brooks
Distribution Design Tech I
Benton PUD
Email: brooksc@bentonpud.org
Main # (509)582-2175
Direct # (509)582-1233

From: Donna Hutchinson <Donna.Hutchinson@co.benton.wa.us>
Sent: Tuesday, October 19, 2021 9:34 AM
To: MEDIA - KAPP/KVEW-TV <kappnews@kapptv.com>; KEPR General Newsroom <newsroom@keprtv.com>; MEDIA KOLU-FM - Martin Gibbs <kolu@kolu.com>; kvewnews@kvewtv.com; editor@recordbulletin.com; MEDIA - Tri-City Herald - Sarah Schilling <sschilling@tricityherald.com>; Badger Mountain Irrig. District (bmidmanager@badgermountainirrigation.com) <bmidmanager@badgermountainirrigation.com>; john.lyle@bentoncleanair.org; Benton Clean Air-Priddy <robin.priddy@bentoncleanair.org>; Benton Clean Air-Rodger <rob.rodger@bentoncleanair.org>; Benton Clean Air-Tyler Thompson <tyler.thompson@bentoncleanair.org>; Benton Irrigation District <benton.irrigation@frontier.com>; Benton Irrigation District-Ed Mitchell <bidmitchell@frontier.com>; Benton-Franklin Dist. Health Dept. <rickd@bfhd.wa.gov>; Bureau of Land Management - Kevin Devitt District Manager (BLM_OR_SP_Mail@blm.gov) <BLM_OR_SP_Mail@blm.gov>; City of Benton City-Jeni S. Zuniga <jzuniga@ci.benton-city.wa.us>; City of Kennewick <cedinfo@ci.kennewick.wa.us>; City of Kennewick - Scott Szendre (Scott.Szendre@ci.kennewick.wa.us) <Scott.Szendre@ci.kennewick.wa.us>; City of Kennewick -Martin Nelson <Martin.Nelson@ci.kennewick.wa.us>; City of Kennewick-Joe Seet <Joe.Seet@ci.kennewick.wa.us>; City of Prosser <szetz@cityofprosser.com>; City of Richland-Kerwin Jensen (kjensen@ci.richland.wa.us) <kjensen@ci.richland.wa.us>; City of Richland-Mike Stevens (mstevens@ci.richland.wa.us) <mstevens@ci.richland.wa.us>; City of West Richland-Eric Mendenhall (emendenhall@westrichland.org) <emendenhall@westrichland.org>; Columbia Irrigation District (CID@columbiairrigation.com) <CID@columbiairrigation.com>; sydney.hanson@dahp.wa.gov; Dept. of Archaeology and Historic Preservation - SEPA Review (sepa@dahp.wa.gov) <sepa@dahp.wa.gov>; Dept. of Fish and Wildlife-Mark Teske <Mark.Teske@dfw.wa.gov>; Dept. of Fish and Wildlife, Eric Bartrand <bartrelb@dfw.wa.gov>; Dept. of Fish and Wildlife, Michael W. Ritter <rittemwr@dfw.wa.gov>; Dept. of Fish and Wildlife-SEPA Review (SEPADesk@dfw.wa.gov) <SEPADesk@dfw.wa.gov>; Dept. of Natural Resources (sepacenter@dnr.wa.gov) <sepacenter@dnr.wa.gov>; Dept. of

Natural Resources <dnrmisepacenter@dnr.wa.gov>; Dept. of Natural Resources-Shafer (ana.shafer@dnr.wa.gov) <ana.shafer@dnr.wa.gov>; Dept. of Transportation (scplanning@wsdot.wa.gov) <scplanning@wsdot.wa.gov>; Dept. of Transportation- Aviation Division (plattst@wsdot.wa.gov) <plattst@wsdot.wa.gov>; Dept. of Transportation- Paul G <Gonsetp@wsdot.wa.gov>; Dept. of Transportation-Jacob Prilucik <PrilucJ@wsdot.wa.gov>; FAA - Joseph Jackson <joseph.a.jackson@faa.gov>; Fire District #1-Billie <billie@bentonone.org>; Fire District #1-Staff <staff@bentonone.org>; Fire District #2 Ron Ducan <rduncan@bcfpd2.org>; Fire District #3 (sjohnson@westbentonfirerescue.org) <sjohnson@westbentonfirerescue.org>; wwhealan@bcfd4.org; Fire District #4-Paul Carlyle <PCarlyle@bcfd4.org>; Fire District #5 <brian@newhouseassociates.com>; chiefwatt@bcfd6.com; Alison@futurewise.org; Futurewise <tim@futurewise.org>; Kennewick Irrig. Dist.-Seth Defoe <sdefoe@kid.org>; Kennewick Irrigation District - Ben Woodard <bwoodard@kid.org>; Kennewick Irrigation District-Development (development@kid.org) <development@kid.org>; Kimberly Peacher-US NAVY (kimberly.peacher@navy.mil) <kimberly.peacher@navy.mil>; Kiona Irrigation District <kiid@owt.com>; Patricia Iolavera-US Navy <patricia.iolavera@navy.mil>; Port of Benton <budzeck@portofbenton.com>; Port of Kennewick <lpeterson@portofkennewick.org>; Cristina Woods <Cristina.Woods@co.benton.wa.us>; Roza Irrigation District (Shayman@roza.org) <Shayman@roza.org>; Tom Price-Environmental Review Inc. (envreview@gmail.com) <envreview@gmail.com>; US Corps of Engineers <cenww-re@usace.army.mil>; US Corps of Engineers-David Moore <david.j.moore@usace.army.mil>; rodney.c.huffman@usace.army.mil; US Corps of Engineers-Tim Erkel <tim.r.erkel@usace.army.mil>; WA Dept of Health - Kelly Cooper - WA Dept of Health - Kelly Cooper (SEPA.reviewteam@doh.wa.gov) <SEPA.reviewteam@doh.wa.gov>; Yakama Indian Nation SEPA Review <enviroreview@yakama.com>; Jessica_Lally@Yakama.com; Yakima Indian Nation-John Marvin <john_marvin@yakama.com>; Confederated Tribes of the Umatilla Indian Reservation - Ashley M. Morton <AshleyMorton@ctuir.org>; BPA <almarshall@bpa.gov>; Chad Brooks <brooksc@bentonpud.org>; Mike Irving <irvingm@bentonpud.org>; Shanna Everson <eversons@bentonpud.org>; Tina Glines <glinest@bentonpud.org>; Brad O'Brien <Brad.Obrien@co.benton.wa.us>; Clark Posey <Clark.Posey@co.benton.wa.us>; Jenelle Schadler <Jenelle.Schadler@co.benton.wa.us>; Michelle Johnson <Michelle.Johnson@co.benton.wa.us>; Rod Worthington <Rod.Worthington@co.benton.wa.us>; Troy Taylor <Troy.Taylor@co.benton.wa.us>; Bureau of Reclamation - C. Garner (cgarner@usbr.gov) <cgarner@usbr.gov>; Bureau of Reclamation - L Hendrix - Bureau of Reclamation (lhendrix@usbr.gov) <lhendrix@usbr.gov>; Bureau of Reclamation -McKinley (cmckinley@usbr.gov) <cmckinley@usbr.gov>; Rigo Diosdado (diosdador@svid.org) <diosdador@svid.org>; Sunnyside Valley Irrigation Dist. - Diane Weber <weberd@svid.org>; Sunnyside Valley Irrigation Dist. - Ron Cowin <cowinr@svid.org>
Subject: [E] EA 2021-026 - Ordinance Amendment

The Benton County Planning Department has prepared the attached DNS for EA 2021-026 in accordance with the State Environmental Policy Act regulation. This DNS is being circulated for review by all agencies with jurisdiction. We are circulating it for comments on the **environmental impacts** of this action. Additional background information may be found on the County's Web Site: https://tinyurl.com/SEPADET. The Department of Ecology has created a public-facing SEPA Register, we will be linking our SEPA documents to that page. You can reach the register (filtered for Benton County projects) here: Benton County SEPA Register.

We appreciate your review of the proposal and return of comments no later than **November 2, 2021**. This proposal will not be acted upon before that time.

Donna Hutchinson
Office Assistant IV
Community Development Dept.
Planning Division
PO Box 910 Prosser WA 99350
(509) 786-5612

NOTICE OF PUBLIC DISCLOSURE: This e-mail account is public domain. Any correspondence from or to this email account may be a public record. Accordingly, this email, in whole or in part, may be subject to disclosure pursuant to RCW 42.56, regardless of any claim of confidentiality or privilege asserted by an external party.

Prosser: We are now located within the Road Department/Public Works Office on the first floor of the Benton County Courthouse at 620 Market St, Prosser WA 99350. **Kennewick:** The County has opened a new Public Services Office at 102206 E Wiser Parkway, Kennewick, which houses the Planning, Building and Road Departments.

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DEPARTMENT OF
NATURAL RESOURCES

PRODUCT SALES & LEASING DIVISION
1111 WASHINGTON ST. SE
OLYMPIA, WA 98504-7014

360-902-1059
KARI.FAGERNESS@DNR.WA.GOV
WWW.DNR.WA.GOV

October 29, 2021

Greg Wendt
Community Development Department
Benton County Planning Division
P.O. Box 910
Prosser, Washington 99301

Sent Via e-mail to greg.wendt@co.benton.wa.us
Sent Via e-mail to planning.department@co.benton.wa.us

RE: SEPA Environmental Checklist and DNS File No. 2021-026

Dear Mr. Wendt,

The Department of Natural Resources (DNR) appreciates the opportunity to submit comments toBenton County on this proposed ordinance amendment modifying development regulations pertaining to wind turbines and solar power generation facilities in the RL-20 and GMA Agricultural District. DNR owns approximately 30,000 acres of agriculturally zoned lands within Benton County. This proposed ordinance amendment would prohibit DNR from seeking County approval on a specific subset of DNR's agriculturally zoned land for clean energy projects. This proposal would limit DNR's ability to generate significant revenue for its Common School Trust beneficiaries. In addition to the overarching prohibition of wind and solar projects, the modifications would eliminate the possibility of comingled use, such as agrovoltiacs or wind and cattle which can benefit agricultural users as well as clean energy proponents. Based on these concerns, DNR requests that the ordinance amendment not be approved allowing us to continue to prudently manage DNR land for the benefit of our trust beneficiaries as explained in further detail below.

DNR manages approximately 3 million acres of uplands across the state that are held in trust for named beneficiaries. As such, DNR's fiduciary responsibility is to manage these lands similar to the way a private fiduciary would manage a trust portfolio. In DNR's case, based on RCW 43.30.215 we are directed to "achieve the maximum effective development and use of such lands and resources consistent with laws applicable hereto…". As part of DNR's compliance with RCW 43.30.215, we seek to reposition certain assets to achieve the

highest market return on behalf of the underlying trust beneficiary. Today, these trust lands are an ongoing source of land-based financial support to the various beneficiaries, including public kindergarten through Grade 12 (K-12) schools, state universities, buildings on the capitol campus, and correctional facilities. Revenue generated on these lands helps fund K-12 school construction projects across the state, including public school districts within Benton County.

DNR's ability to comply with local land use regulations is crucial in our efforts to lease for clean energy development as well as continue to lease and manage our valuable agricultural lands. We want to ensure that we have every opportunity to provide value and revenue for our trust beneficiaries, comply with our fiduciary responsibilities, and maintain our local community partnerships as these properties evolve.

DNR understands the concerns and frustration tied to the proposed ordinance amendment, but the County's role in land use planning remains important in order to continue to move the region forward in its management of agricultural lands as well as statewide clean energy goals and initiatives. This change in allowable uses is not in the best interest of our trust beneficiaries and we cannot support the proposed changes as currently written and documented in the Ordinance Amendment.

We look forward to working with the county to resolve these concerns and find a solution that works for us as well as Benton County.

Sincerely,

Kari R. Fagerness

Kari Fagerness
Planning Manager

Cc: Department of Commerce (GMA) – Will Simpson
Department of Commerce – Michael Furze
Benton County – Jerrod MacPherson

Greg Wendt

From: Stacey Smith <staceyjsmith@gmail.com>
Sent: Sunday, November 28, 2021 5:35 PM
To: Greg Wendt; Donna Hutchinson; Planning Department
Subject: [EXTERNAL] Public comment, SEPA/Zoning Changes

EXTERNAL EMAIL WARNING!!!: This email originated from outside of Benton County. DO NOT click links or open attachments unless you recognize the sender and know the content is safe.

Mr. Wendt and the Planning Commission,

I am writing to you regarding the planning commissions SEPA application, request for expedited review, and planned zoning changes.

Upon review of the SEPA application. Background question 9, states: Do you know whether applications are pending for government approval or other proposals directory affecting the property covered in your proposal, and you answered, None know or immediately anticipated.

This is a blatant lie. Your application would not have passed so quickly if the question was answered truthfully. Scout Clean Energy has had a pending government application for almost a year.

The sole reason for these changes is so Scout and all the companies coming after Scout cannot build any projects.

As a Horse Heaven farmer, I oppose these zoning changes. Let the landowners decide what can happen on their land.

Stacey Smith
509 947 4514

Greg Wendt

From: Planning Department
Sent: Monday, November 29, 2021 8:28 AM
To: Greg Wendt; Michelle Cooke
Subject: FW: [EXTERNAL] Solar Farm

From: Mary Elizabeth robert <dlrobert@embarqmail.com>
Sent: Sunday, November 28, 2021 6:55 PM
To: Planning Department <Planning.Department@co.benton.wa.us>
Subject: [EXTERNAL] Solar Farm

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Martin Sheeran, Chairman
Benton County Planning Commission
620 Market St. 1st Floor
Prosser, WA 99350

102206 East Wiser Parkway
Kennewick, WA 99338

RE: Opposition to Zoning Amendment Related to Deletion of Wind and Solar Facilities

Dear Mr. Sheeran,

It has come to our attention that there is a proposed amendment which aims to delete wind and solar farms in our area. Should this amendment come into effect, it means that myself, and my neighbors, are left unable to determine what we, as landowners, are able to do with our property. What is worse, it gives those people, who may never even see our land, the right to decide what we can or cannot do with our land. We are not aware of any other state that does this. If applied broadly, this could fundamentally change zoning laws in Washington and devalue our life savings.

Having owned our land for over 100 years; we did not inherit our land. We purchased it and have been working hard to pay for it. The debt of this land is still an encumbrance. It is all that we have and is our "nest-egg" for retirement.

We strongly ask that you reconsider the amendment. We as landowners have the right to determine how our property is used. This project provides reliable energy for Washington businesses that have sustainability goals. The energy stays right here and helps attract data centers and high-tech jobs to the region. As farmers, we produce commodities that become food for human consumption. By joining with Innergex we are still farmers, however; we will be producing a clean energy commodity ALSO for human consumption.

Sincerely,

David Robert
Robert Ranch 5+1 LLC

Greg Wendt

From: Planning Department
Sent: Monday, November 29, 2021 10:01 AM
To: Greg Wendt; Michelle Cooke
Subject: FW: [EXTERNAL] Public Hearing OA-2021-004 November 30, 2021 Comments
Attachments: OA-2021-004 Wind Farms Public Comments BC Planning 11-29-2021.docx

From: Denise Christensen <cjcfarms@msn.com>
Sent: Monday, November 29, 2021 9:53 AM
To: Planning Department <Planning.Department@co.benton.wa.us>
Cc: John Christensen <cjcfarms@gmail.com>; Denise Christensen <cjcfarms@msn.com>
Subject: [EXTERNAL] Public Hearing OA-2021-004 November 30, 2021 Comments

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Please find attached our comments for the OA_2021-004 Public Hearing on 11/30/2021. THX

Denise
Denise Chistensen
509.222.8844
cjcfarms@msn.com

November 29, 2021

Benton County Planning Commission
Box 910
Prosser, WA 99350-0910

Public Hearing OA-2021-004

Benton County Planning Commission,

We are owners of property within the GMA Agricultural District of Benton County Washington. We strongly support any ordinance proposal which will remove from "allowed use" any Wind Turbine Farms (over 60'), or any Solar Power Generator Facility, Major, from GMA Ag and RL 20 Zoning Districts.

We strongly oppose the granting of any existing "Conditional Use Permits" for any Solar Power Generator Facility, Major, or Wind Turbine Farms (over 60') in the GMA Ag District of Benton County which are still in the permitting process (EIS) and have not begun construction such as the Scout Clean Energy proposal.

John Christensen
509.531.0057
cjcfarms@gmail.com

Denise A Christensen
509.222.8844
cjcfarms@msn.com

Greg Wendt

From: Planning Department
Sent: Monday, November 29, 2021 8:29 AM
To: Greg Wendt; Michelle Cooke
Subject: FW: [EXTERNAL] Opposition to Zoning Amendment Related to Deletion of Wind and Solar Facilities
Attachments: Doug Opposition to Zoning Amendment Related to Deletion of Wind and Solar Facilities.docx

From: Doug Robert <dougrobert0666@yahoo.com>
Sent: Saturday, November 27, 2021 2:09 PM
To: Planning Department <Planning.Department@co.benton.wa.us>
Subject: [EXTERNAL] Opposition to Zoning Amendment Related to Deletion of Wind and Solar Facilities

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Dear Sirs,

Please see attached.

Thanks
Doug Robert

November 27, 2021

Martin Sheeran, Chairman
Benton County Planning Commission
620 Market St. 1st Floor
Prosser, WA 99350

102206 East Wiser Parkway
Kennewick, WA 99338

RE: Opposition to Zoning Amendment Related to Deletion of Wind and Solar Facilities

Dear Mr. Sheeran,

My name is Doug Robert, and our family has owned land in Benton County for many years.

It has come to our attention that there is a proposed amendment which aims to delete wind and solar farms in our area. Should this amendment come into effect, it means that myself, and my neighbors, are left unable to determine what we, as landowners, are able to do with our property. What is worse, it gives those people, who may never even see our land, the right to decide what we can or cannot do with our land. We are not aware of any other state that does this. If applied broadly, this could fundamentally change zoning laws in Washington and devalue our life savings.

As a longtime farmer and member of the community, I want all the things the amendment claims to protect. I want to see our land and our community thrive. I want Benton County to conserve critical areas and be diverse in both habitat and resources. The only way these things will be achieved is by diversifying how we use the land.

Our family owns several thousands of acres in Benton County and the land has been in our family for over 100 years. We farm crops and raise livestock and we are stewards of the land. We were approached by Innergex Renewable Development, with no strings attached, and decided to work with them on their Wautoma Solar Project. They have never asked us to sign a gag order or limited our rights to speak freely about contract terms.

Our questions about solar land leases were answered and our concerns addressed which led to our participation. As you know, income from farming varies year to year based on weather, harvest, and the price of commodities. This proposed solar project allows us to supplement our farming income with a fixed income stream for many years to come and provide an additional revenue to both our family and the community. If we are fine with this project, why does someone else get to say otherwise?

Having owned our land for many years It is all that we have and is our "nest-egg" for retirement.

If this amendment comes into effect, it means Others, not landowners, will have the final say in what we do with our property. It would directly impact our future which is clearly an infringement on our property rights.

We strongly ask that you reconsider the amendment. We as landowners have the right to determine how our property is used. This project provides reliable energy for Washington businesses that have sustainability goals. The energy stays right here and helps attract data centers and high-tech jobs to the region. As farmers, we produce commodities that become food for human consumption. By joining with Innergex we are still farmers, however; we will be producing a clean energy commodity ALSO for human consumption.

My question for this committee is **"Why would Washington law makers shift land decisions away from us - the land owner- and place the value of my investment and nest-egg with individuals and trustees who reside in other parts of the county - nowhere near my land?"** Imagine if this unfair policy was extended to building a barn or a greenhouse or even parking your vehicles on your property.

Co-locating our farming business with renewable energy gives us security; we are still farmers who work tirelessly every day. Farmers have always been known as the "backbone of this great country". We shoulder all the financial risks, which have always been on the backs of the farmer! This amendment will break our backs, and we need you to support us by opposing this amendment.

We hope that you continue to support property rights and thoughtful economic development in our community.

Sincerely,

Doug Robert

Greg Wendt

From: Planning Department
Sent: Monday, November 29, 2021 8:22 AM
To: Greg Wendt; Michelle Cooke
Subject: FW: [EXTERNAL] Testifying at Planning Hearings

(only sending one of each person's email, but just FYI we got 3 of this same one)

From: FormBuilder@MunicipalNotices.com <FormBuilder@MunicipalNotices.com>
Sent: Sunday, November 28, 2021 9:58 PM
To: Planning Department <Planning.Department@co.benton.wa.us>
Subject: [EXTERNAL] Testifying at Planning Hearings

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Form Information:

Form URL:
https://co.benton.wa.us/forms.aspx?fid=570

Form Name:
Testifying at Planning Hearings
Form Text:

BENTON COUNTY W

Planning Department

Benton County welcomes full participation in public meetings by all citizens. To that end, if you would like to **provide testimony remotely at any of our** public hearings for the Benton County Hearings Examiner or Benton County Planning Commission, simply fill out this form and click submit.

IF YOU ARE ATTENDING THE MEETING REMOTELY, YOU MUST OBSERVE THE FOLLOWING GUIDELINES:

- IF YOU WISH TO TESTIFY: You must submit a **Request To Testify Form** (below) for EACH hearing. (You do NOT need to complete this form to remotely "attend" the hearing.)
  - If you prefer to request to testify by phone, please call our office at (509) 786-5612.
  - You may also offer testimony in writing at any time prior to the hearing date
  - Your request must include the name or file number for the hearing you wish to attend. If you do not know this information, call our office at (509) 786-5612 and we can provide it to you.
  - Your request must include your first and last name, phone number and physical or mailing address for the public record.
- Attendees must follow all rules and guidelines as set forth by the Benton County Planning Department, Benton County Hearings Examiner, Benton County Planning Commission and the Benton County Commissioners.

- Speakers must be courteous to and respect the rights of the parties speaking whether you support or disagree with them.
- Participants, unless actively providing testimony, must mute their device and limit all background noise to prevent any unnecessary interruptions of the meeting/hearing.

No individual with a disability shall be denied the benefit of participating in such meetings. If you wish to use auxiliary aids or require assistance to comment at a public meeting, please contact the Benton County Planning Department at least ten days prior to the meeting date to make arrangements for special needs.

If you have any questions about this form, sending in written comments or participating in or testifying during our hearings, please do not hesitate to contact our office by phone at (509) 786-5612 or by email to the Planning Department.

Hearings Examiner Agenda Page
Planning Commission Agenda Page
Planning Department's Public Notices Page

Planning Department's home page

User Submitted Content:

Your Full Name
James Atkins

Your Address
POB 909 Prosser,Wa

Phone Number
509-521-9407

Email Address
Jimatkins@bentonrea.com

File Number (or name)
Windfarm

Comments/Questions
Clarity on planning changes.

Greg Wendt

From: Planning Department
Sent: Monday, November 29, 2021 8:29 AM
To: Greg Wendt; Michelle Cooke
Subject: FW: [EXTERNAL] Opposition to Solar amendment
Attachments: Marilyn Opposition to Zoning Amendment Related to Deletion of Wind and Solar Facilities.docx

From: Marilyn Ford <mrfdurango52@gmail.com>
Sent: Saturday, November 27, 2021 3:37 PM
To: Planning Department <Planning.Department@co.benton.wa.us>
Subject: [EXTERNAL] Opposition to Solar amendment

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Please see attached

Thanks
Marilyn

November 27, 2021

Martin Sheeran, Chairman
Benton County Planning Commission
620 Market St. 1st Floor
Prosser, WA 99350

102206 East Wiser Parkway
Kennewick, WA 99338

RE: Opposition to Zoning Amendment Related to Deletion of Wind and Solar Facilities

Dear Mr. Sheeran,

My name is Marilyn Ford, and our family has owned land in Benton County for many years.

It has come to our attention that there is a proposed amendment which aims to delete wind and solar farms in our area. Should this amendment come into effect, it means that myself, and my neighbors, are left unable to determine what we, as landowners, are able to do with our property. What is worse, it gives those people, who may never even see our land, the right to decide what we can or cannot do with our land. We are not aware of any other state that does this. If applied broadly, this could fundamentally change zoning laws in Washington and devalue our life savings.

As a longtime farmer and member of the community, I want all the things the amendment claims to protect. I want to see our land and our community thrive. I want Benton County to conserve critical areas and be diverse in both habitat and resources. The only way these things will be achieved is by diversifying how we use the land.

Our family owns several thousands of acres in Benton County and the land has been in our family for over 100 years. We farm crops and raise livestock and we are stewards of the land. We were approached by Innergex Renewable Development, with no strings attached, and decided to work with them on their Wautoma Solar Project. They have never asked us to sign a gag order or limited our rights to speak freely about contract terms.

Our questions about solar land leases were answered and our concerns addressed which led to our participation. As you know, income from farming varies year to year based on weather, harvest, and the price of commodities. This proposed solar project allows us to supplement our farming income with a fixed income stream for many years to come and provide an additional revenue to both our family and the community. If we are fine with this project, why does someone else get to say otherwise?

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If this amendment comes into effect, it means Others, not landowners, will have the final say in what we do with our property. It would directly impact our future which is clearly an infringement on our property rights.

We strongly ask that you reconsider the amendment. We as landowners have the right to determine how our property is used. This project provides reliable energy for Washington businesses that have sustainability goals. The energy stays right here and helps attract data centers and high-tech jobs to the region. As farmers, we produce commodities that become food for human consumption. By joining with Innergex we are still farmers, however; we will be producing a clean energy commodity ALSO for human consumption.

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Co-locating our farming business with renewable energy gives us security; we are still farmers who work tirelessly every day. Farmers have always been known as the "backbone of this great country". We shoulder all the financial risks, which have always been on the backs of the farmer! This amendment will break our backs, and we need you to support us by opposing this amendment.

We hope that you continue to support property rights and thoughtful economic development in our community.

Sincerely,

Marilyn Ford

Greg Wendt

From: Planning Department
Sent: Monday, November 29, 2021 8:23 AM
To: Michelle Cooke; Greg Wendt
Subject: FW: [EXTERNAL] Zoning Amendment
Attachments: Solar Farms 3 (2).docx

(2 of these, one from each spouse)

From: ramhair@aol.com <ramhair@aol.com>
Sent: Sunday, November 28, 2021 7:51 PM
To: Planning Department <Planning.Department@co.benton.wa.us>
Subject: [EXTERNAL] Zoning Amendment

EXTERNAL EMAIL WARNING!!!: This email originated from outside of Benton County. DO NOT click links or open attachments unless you recognize the sender and know the content is safe.

Hello,

I have attached a letter containing my concerns regarding the new zoning amendment for Benton county. Please let me know if you have any questions or concerns regarding the contents of said letter, or if you have any issues accessing it.

Thank you,
Randy Robert

November 29, 2021

Martin Sheeran, Chairman
Benton County Planning Commission
620 Market St. 1st Floor Prosser, WA 99350

102206 East Wiser Parkway
Kennewick, WA 99338

RE: Opposition to Zoning Amendment Related to Deletion of Wind and Solar Facilities

Dear Mr. Sheeran,

It has come to our attention that Conditional use must go through a planning commission public hearing process and mitigated for approval. The idea of stopping solar power in Benton County goes against the goals of Initiative 937 and the governor.
This amendment is detrimental in providing for future state green power generation as voted for by the people in enacted by the clean energy transformation act. **This amendment delays the displacement of coal-fired electricity from state portfolios.** Future green energy proposal cannot even move forward for conditional use consideration if this amendment is approved.

Sincerely
Randy Robert Robert Ranch 5+1 LLC

Greg Wendt

From: Planning Department
Sent: Monday, November 29, 2021 8:28 AM
To: Greg Wendt; Michelle Cooke
Subject: FW: [EXTERNAL] Opposition to Solar Power
Attachments: Benton County .docx

From: Mary Elizabeth robert <dlrobert@embarqmail.com>
Sent: Sunday, November 28, 2021 7:18 PM
To: Planning Department <Planning.Department@co.benton.wa.us>
Subject: [EXTERNAL] Opposition to Solar Power

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Please read attachment...

Thanks,
David Robert
Robert Ranch 5+1 LLC

November 29, 2021

Martin Sheeran, Chairman
Benton County Planning Commission
620 Market St. 1st Floor SEP Prosser, WA 99350

102206 East Wiser Parkway
Kennewick, WA 99338

RE: Opposition to Zoning Amendment Related to Deletion of Wind and Solar Facilities

Dear Mr. Sheeran,

Our names are Robert Ranch 5+1 LLC, and we are longtime landowners in Benton County.

It has come to our attention that there is a proposed amendment which aims to delete wind and solar farms in our area. Should this amendment come into effect, it means that myself, and my neighbors, are left unable to determine what we, as landowners, are able to do with our property. What is worse, it gives those people, who may never even see our land, the right to decide what we can or cannot do with our land. We are not aware of any other state that does this. If applied broadly, this could fundamentally change zoning laws in Washington and devalue our life savings.

As a longtime farmer and member of the community, I want all the things the amendment claims to protect. I want to see our land and our community thrive. I want Benton County to conserve critical areas and be diverse in both habitat and resources. The only way these things will be achieved is by diversifying how we use the land.

Our family owns 6000 acres in Benton County and the land has been in our family for over 100 years. We farm crops and we are stewards of the land. We were approached by Innergex Renewable Development, with no strings attached, and decided to work with them on their Wautoma Solar Project. They have never asked us to sign a gag order or limited our rights to speak freely about contract terms.

Our questions about solar land leases were answered and our concerns addressed which led to our participation. As you know, income from farming varies year to year based on weather, harvest, and the price of commodities. This proposed solar project allows us to supplement our farming income with a fixed income stream for many years to come and provide an additional revenue to both our family and the community. If we are fine with this project, why does someone else get to say otherwise?

Having owned our land for over 100 years; we did not inherit our land. We purchased it and have been working hard to pay for it. The debt of this land is still an encumbrance. It is all that we have and is our "nest-egg" for retirement.

If this amendment comes into effect, it means Others, not landowners, will have the final say in what we do with our property. It would directly impact our future which is clearly an infringement on our property rights.

We strongly ask that you reconsider the amendment. We as landowners have the right to determine how our property is used. This project provides reliable energy for Washington businesses that have sustainability goals. The energy stays right here and helps attract data centers and high-tech jobs to the region. As farmers, we produce commodities that become food for human consumption. By joining with Innergex we are still farmers, however; we will be producing a clean energy commodity ALSO for human consumption.

My question for this committee is **"Why would Washington law makers shift land decisions away from us - the land owner- and place the value of my investment and nest-egg with individuals and trustees who reside in other parts of the county - nowhere near my land?"** Imagine if this unfair policy was extended to building a barn or a greenhouse or even parking your vehicles on your property.

Co-locating our farming business with renewable energy gives us security; we are still farmers who work tirelessly every day. Farmers have always been known as the "backbone of this great country". We shoulder all the financial risks, which have always been on the backs of the farmer! This amendment will break our backs, and we need you to support us by opposing this amendment.

We hope that you continue to support property rights and thoughtful economic development in our community.

Sincerely,

Robin Robert
Robert Ranch 5+1. LLC

Donna Hutchinson

From: ramhair@aol.com
Sent: Sunday, November 28, 2021 7:57 PM
To: Planning Department
Subject: [EXTERNAL] Zoning Amendment
Attachments: Solar Farms 4 (3).docx

EXTERNAL EMAIL WARNING!!!: This email originated from outside of Benton County. DO NOT click links or open attachments unless you recognize the sender and know the content is safe.

Hello,

I have attached a letter containing my concerns regarding the new zoning amendment for Benton county. Please let me know if you have any questions or concerns regarding the contents of said letter, or if you have any issues accessing it.

Thank you,
Jean Robert

November 29, 2021

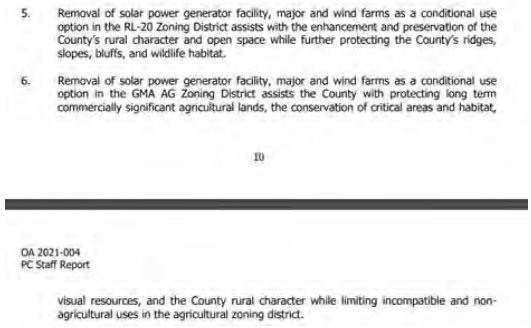
Martin Sheeran, Chairman
Benton County Planning Commission
620 Market St. 1st Floor Prosser, WA 99350

102206 East Wiser Parkway
Kennewick, WA 99338

RE: Opposition to Zoning Amendment Related to Deletion of Wind and Solar Facilities

Dear Mr. Sheeran,

WE STRONGLY OPPOSE THE FOLLOWING CHANGE TO THE COUNTY ZONING REGULATIONS.



5. Removal of solar power generator facility, major and wind farms as a conditional use option in the RL-20 Zoning District assists with the enhancement and preservation of the County's rural character and open space while further protecting the County's ridges, slopes, bluffs, and wildlife habitat.

6. Removal of solar power generator facility, major and wind farms as a conditional use option in the GMA AG Zoning District assists the County with protecting long term commercially significant agricultural lands, the conservation of critical areas and habitat,

10

OA 2021-004
PC Staff Report

visual resources, and the County rural character while limiting incompatible and non-agricultural uses in the agricultural zoning district.

First: Planning staff provides not one scintilla of evidence to support this change. There is not one support letter to this change. DNR one of the largest landowners in the Benton County and the State of Washington opposes the change.

Second: The public process and amendment of the County Zoning Regulations that added the conditional use (s) of solar power generator facility and wind farms is not being respected.

During the previous amendment process consideration was given to the enhancement and preservation of the County's rural character and open space while further protecting the County's ridges, slopes, bluffs, and wildlife habitat, protecting long term commercially significant agricultural lands, the conservation of critical areas and habitat and visual resources.

This record provides not one instance of any concerns with facilities for power generation, other than nuclear fueled, wind or solar fueled. This broad brush change unsupported by any evidence could be used to remove **ANY** conditional use in the County Zoning Regulations. Conditional uses such as sand or gravel pit, Kennel, Child Day Care Facility, Park, Bed and Breakfast Facility, Agricultural Market and Business activities could be removed from the County Zoning Regulations with no supporting evidence.

The record put forth by staff to the Commission is so thin that no evidence is included to support this amendment of the County Zoning Regulations.

Third: The proposal effectively zones out solar power generation of any significance.

Sincerely,

Jean Robert Robert Ranch 5+1 LLC

Donna Hutchinson

From: Mary Elizabeth robert <dlrobert@embarqmail.com>
Sent: Sunday, November 28, 2021 6:53 PM
To: Planning Department
Subject: [EXTERNAL] Solar Farms

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November 29, 2021

Martin Sheeran, Chairman
Benton County Planning Commission
620 Market St. 1st Floor
Prosser, WA 99350

102206 East Wiser Parkway
Kennewick, WA 99338

RE: Opposition to Zoning Amendment Related to Deletion of Wind and Solar Facilities

Dear Mr. Sheeran,

This proposed amendment which aims to delete wind and solar farms in our area. Should this amendment come into effect, it would basically go against goals of Washington State. We had to modified our practices on the family farm because water issues and solar farm would be a great security to our farm. We are are over 30 miles from Tri-Cities and located to the west of the Hanford Reservation. This puts us in a secluded valley with few neighbors.

Sincerely,
David Robert
Robert Ranch 5+1. LLC

Donna Hutchinson

From: FormBuilder@MunicipalNotices.com
Sent: Tuesday, November 30, 2021 10:57 AM
To: Planning Department
Subject: [EXTERNAL] Testifying at Planning Hearings

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https://co.benton.wa.us/forms.aspx?fid=570

Form Name:
Testifying at Planning Hearings
Form Text:

BENTON COUNTY W
Planning Department

Benton County welcomes full participation in public meetings by all citizens. To that end, if you would like to **provide testimony remotely at any of our** public hearings for the Benton County Hearings Examiner or Benton County Planning Commission, simply fill out this form and click submit.

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  - If you prefer to request to testify by phone, please call our office at (509) 786-5612.
  - You may also offer testimony in writing at any time prior to the hearing date
  - Your request must include the name or file number for the hearing you wish to attend. If you do not know this information, call our office at (509) 786-5612 and we can provide it to you.
  - Your request must include your first and last name, phone number and physical or mailing address for the public record.
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User Submitted Content:

Your Full Name
Robert and Angela Andrews

Your Address
1245 Alderdale Rd Prosser, WA 99350

Phone Number
509-830-5607

Email Address
rob@mckinleysprings.com

File Number (or name)
OA2021-004

Comments/Questions
We will not be able to attend, but want our voice heard. We own farm land on Horse Heaven Hills and on the Rattlesnake. We can only grow a few crops on our dryland ground and with input cost sky rocketing this is starting to be unsustainable. With the government going with green power this also raises all our costs. If you restrict us to be able to use OUR LAND for wind or SOLAR this is not right. This could be the only way to be sustainable if everything else is taken from us. So please take out the GMA AG land out of your restrictions. I don't know if any of our land will ever be used for these projects but why restrict the land that is out of most peoples sight. In town you build a tall building and we are all happy, but on our land we try to make a living and everyone wants to tell us what we can do and how we can do it. I read that we need green energy to supply us with power to live, to farm, to survive. But where do we build these projects if you restrict us on Land that is not used for much of anything. You can try to stop these projects, but if this is the future they are going to be build somewhere next to us. Thanks Rob and Angela Andrews

Donna Hutchinson

From: COMMISSIONERS
Sent: Tuesday, November 30, 2021 1:54 PM
To: Jerome Delvin; Jerrod MacPherson; Matt Rasmussen; Shon Small; Will McKay
Cc: Planning Department; Gretchen Allen (gretchen@homesbygretchen.com); Michelle Cooke
Subject: FW: [EXTERNAL] Wind Turbine requirements - Please do not reduce requirements for permitting

---

From: Greg Hammer <greg@inlinecomputer.com>
Sent: Tuesday, November 30, 2021 12:26 PM
To: COMMISSIONERS <Commissioners@co.benton.wa.us>
Subject: [EXTERNAL] Wind Turbine requirements - Please do not reduce requirements for permitting

EXTERNAL EMAIL WARNING!!!: This email originated from outside of Benton County. DO NOT click links or open attachments unless you recognize the sender and know the content is safe.

Hello,

As I understand it, there are changes in the works for the permitting process for wind turbines in Benton County,
ref: Public Hearing on OA 2021-004
I would like to voice my opinion on reducing the requirements for wind turbine permitting. I think that the permitting process should be done at the local level and not changed.
I understand that it would be nice for the builders of these technologies to have lower permitting costs and time, but that does not serve most of the people in Benton county.
We need to keep these decisions at the local level.
Permitting needs to be assessed by the county officials and allowing for local input and comment.

Thank you for your time.

Greg

--
Greg Hammer

President | Inline Computer & Communications
509.783.5450 ext 150 | support@inlinecomputer.com | http://www.inlinecomputer.com

Efficient and Effective – Partner Experience – Technology Done the Right Way

Donna Hutchinson

From: Michelle Cooke
Sent: Tuesday, November 30, 2021 2:20 PM
To: Greg Wendt; Donna Hutchinson
Subject: FW: [EXTERNAL] Nov 30 Planning Commission Special Meeting

FYI

Michelle Cooke • *Assistant Planning Manager*
Benton County Community Development Department - Planning Division
Benton County Courthouse, 620 Market Street, Prosser, WA 99350
Benton County Public Services Office, 102206 E Wiser Parkway, Kennewick, WA 99338
Michelle.Cooke@co.benton.wa.us
(509) 786-5612

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From: Jill Hedgpeth <jill.hedgpeth@gmail.com>
Sent: Tuesday, November 30, 2021 2:11 PM
To: Michelle Cooke <Michelle.Cooke@co.benton.wa.us>
Subject: Re: [EXTERNAL] Nov 30 Planning Commission Special Meeting

Michelle,

Thank you for taking the time to explain OA 2021-004. I did not understand the amendment and would like to change my stance to being in favor of OA 2021-004. Thanks again for taking the time to talk to me. Jill Hedgpeth

On Tue, Nov 30, 2021 at 1:47 PM Michelle Cooke <Michelle.Cooke@co.benton.wa.us> wrote:

> Dear Ms. Hedgpeth,
>
> Thank you for your comment letter, the Planning Division is in receipt of your comment and will include into the record at this evening's hearing.
>
> Based on your comments, I think there may be some confusion regarding the intent of the text amendment which I would be happy to discuss with you. You can reach me directly at: 509-783-1310, extension 5689. I will be in the office until 3:30 this afternoon after which time I will be unavailable in preparation for tonight's meeting.
>
> I would also be happy to speak later in the week if that would work best for you.

Regards,

Michelle Cooke • *Assistant Planning Manager*

Benton County Community Development Department - Planning Division

Benton County Courthouse, 620 Market Street, Prosser, WA 99350

Benton County Public Services Office, 102206 E Wiser Parkway, Kennewick, WA 99338

Michelle.Cooke@co.benton.wa.us

(509) 786-5612

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From: Jill Hedgpeth <jill.hedgpeth@gmail.com>
Sent: Tuesday, November 30, 2021 12:24 PM
To: COMMISSIONERS <Commissioners@co.benton.wa.us>
Subject: [EXTERNAL] Nov 30 Planning Commission Special Meeting

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County Commissioners,

I am unable to attend tonight's meeting, but would like to voice that I am opposed to changing the current Benton County Code in regards to OA 2021-004. If I read this correctly, it removes the CUP that is currently required for wind turbines and wind turbine farms. By removing the CUP it takes away the public's ability to comment on proposed projects that directly affect them. I would like to see that code stay as-is and allow projects to go through the current process allowing public comment. Thank you for your service to Benton County. Sincerely, Jill

Jill Hedgpeth, 28609 S. Clodfelter, Kennewick, WA 99338

Donna Hutchinson

From: Michelle Cooke
Sent: Tuesday, November 30, 2021 1:45 PM
To: COMMISSIONERS; Jerome Delvin; Jerrod MacPherson; Matt Rasmussen; Shon Small; Will McKay
Cc: Planning Department; Greg Wendt
Subject: RE: [EXTERNAL] Nov 30 Planning Commission Special Meeting

Thank you, I will follow up with Ms. Hedgepeth.

Michelle Cooke • *Assistant Planning Manager*
Benton County Community Development Department - Planning Division
Benton County Courthouse, 620 Market Street, Prosser, WA 99350
Benton County Public Services Office, 102206 E Wiser Parkway, Kennewick, WA 99338
Michelle.Cooke@co.benton.wa.us
(509) 786-5612

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From: COMMISSIONERS <Commissioners@co.benton.wa.us>
Sent: Tuesday, November 30, 2021 1:38 PM
To: Jerome Delvin <Jerome.Delvin@co.benton.wa.us>; Jerrod MacPherson <Jerrod.MacPherson@co.benton.wa.us>; Matt Rasmussen <Matt.Rasmussen@co.benton.wa.us>; Shon Small <Shon.Small@co.benton.wa.us>; Will McKay <Will.McKay@co.benton.wa.us>
Cc: Planning Department <Planning.Department@co.benton.wa.us>; Greg Wendt <Greg.Wendt@co.benton.wa.us>; Michelle Cooke <Michelle.Cooke@co.benton.wa.us>
Subject: FW: [EXTERNAL] Nov 30 Planning Commission Special Meeting

---

From: Jill Hedgpeth <jill.hedgpeth@gmail.com>
Sent: Tuesday, November 30, 2021 12:24 PM
To: COMMISSIONERS <Commissioners@co.benton.wa.us>
Subject: [EXTERNAL] Nov 30 Planning Commission Special Meeting

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County Commissioners,

I am unable to attend tonight's meeting, but would like to voice that I am opposed to changing the current Benton County Code in regards to OA 2021-004. If I read this correctly, it removes the CUP that is currently required for wind turbines and wind turbine farms. By removing the CUP it takes away the public's ability to comment on proposed projects that directly affect them. I would like to see that code stay as-is and allow projects to go through the current process allowing public comment. Thank you for your service to Benton County. Sincerely, Jill

Jill Hedgpeth, 28609 S. Clodfelter, Kennewick, WA 99338

Donna Hutchinson

From: Cassandra Macy <cmacy@innergex.com>
Sent: Tuesday, November 30, 2021 1:08 PM
To: Planning Department
Subject: [EXTERNAL] Innergex Letter for Benton COunty Planning Commission
Attachments: Innergex Letter for Benton County Planning Commission (CM-JG)_cgs.docx

EXTERNAL EMAIL WARNING!!!: This email originated from outside of Benton County. DO NOT click links or open attachments unless you recognize the sender and know the content is safe.

Hello,

Please see attached letter on behalf of Innergex Renewable Development. If there are any questions or concerns, please do not hesitate to email me. Thank you.

Best,

Cassandra J. Macy

Legislative Aide

INNERGEX

We have moved! Please note our new address :

3636 Nobel Drive, Suite 260, San Diego, CA 92122
Tel. 858 346-4004 x4126 | Cell. 619 509-6576 | www.innergex.com
Facebook | Twitter | LinkedIn

INNERGEX
Renewable Energy.
Sustainable Development.

November 30, 2021

Honorable Chairman Delvin
Benton County Planning Commission

P.O. Box 910
Prosser, WA 99350

RE: Opposition to Amendments to Sections Related to Allowable Uses Specific to Renewable Energy

Dear Chairman Delvin,

Innergex Renewable Energy USA is in the early stages of developing a solar panel energy facility in the Wautoma Valley, in the northwestern portion of Benton County, Washington. The project will be located south of Highway 24 and east of State Highway 241/Hanford Road. We are currently exploring a project that will generate approximately 400 megawatts (MWac) of electricity, with a four-hour battery energy storage system as an option. The project is in the early stages of development and changes to the project size and configuration are anticipated in consideration of environmental, technical, and community engagement input. **Today, we ask you to protect our project and future business opportunities by maintaining status quo in reviewing proposed projects versus precluding all renewable development.**

Amendments in the ordinance (OA 2021-004) calls for the, "removal of solar power generator facility, major and wind farms as a conditional use option in the GMA AG Zoning District assists the County with protecting long term commercially significant agricultural lands, the conservation of critical areas and habitat, visual resources, and the County rural character while limiting incompatible and nonagricultural uses in the agricultural zoning district." This amendment could adversely affect the booming industry of renewable energy in the state of Washington. More than 20 solar projects covering more than 22,000 acres have been proposed in Washington state as of May 2021, bringing economic profit in state and local property tax revenues, creating thousands of new jobs, and indicating that Washington is open for business for renewable energy development.

Washington has first-hand experience with the devastating effects caused by climate change. These extreme weather patterns will continue to worsen if we continue to ignore the tools we have to mitigate them in favor of our own interests. Renewable energy is a necessary tool to prevent climate catastrophe. Not only will Wautoma and other projects improve our climate, but it will also generate meaningful revenue to Benton County. Renewable energy is a growing industry and projects will continue to provide environmental and economic benefits to the areas in which they are developed. This amendment will set a precedent about how a county dictates

what a landowner chooses to do with their land and signal that Benton County is closed for business and cause future projects to take their business elsewhere.

Innergex prides itself in being a good, long-term partner and neighbor in the communities in which we operate and strive to share the long-term value of our operating facilities with all project stakeholders. We encourage you to maintain status quo in reviewing proposed projects versus precluding all renewable development, especially when there is the support of local landowners who are supportive and interested in using their land to transition to renewable energy.

Our project and other renewable energy projects throughout the state will create a bright spot in Washington's economy and community. We ask for your leadership to provide a certain future for Wautoma and projects that will benefit Benton County and the state. I am happy to answer any questions you may have. Please do not hesitate to call me at (619) 509-6576 or email me at cmacy@innergex.com to discuss further.

Sincerely,

Cassandra Macy

Cassandra Macy
Government Relations

Donna Hutchinson

From: FormBuilder@MunicipalNotices.com
Sent: Tuesday, November 30, 2021 2:29 PM
To: Planning Department
Subject: [EXTERNAL] Testifying at Planning Hearings

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Testifying at Planning Hearings
Form Text:

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Planning Department

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User Submitted Content:

Your Full Name
Rich Nall

Your Address
1221 Plateau Dr Richland, WA 99352

Phone Number
509-438-0000

Email Address
rich.nall@gmail.com

File Number (or name)
OA 2021-004/EA 2021-026 Planning Commission Memo Exhibit List - November 30, 2021 ORDINANCE AMENDMET TO BCC 11.15, 11.17, 11.33 AND 11.35

Comments/Questions
November 30, 2021 Martin Sheeran, Chairman Benton County Planning Commission 620 Market St. 1st Floor Prosser, WA 99350 102206 East Wiser Parkway Kennewick, WA 99338 RE: Opposition to Zoning Amendment Related to Deletion of Wind and Solar Facilities Dear Mr. Sheeran, My name is Rich Nall, and I am a landowner in Benton County. It has come to my attention that there is a proposed amendment which aims to remove solar power generating facilities as a conditional use option in Benton County's GMA AG Zoning District. Should this amendment come into effect, it means that myself, and my neighbors are left unable to determine what we, as landowners, are able to do with our property. We are not aware of any other county that does this. If applied broadly, this could fundamentally change zoning laws in Washington and devalue the value of our ground and not allow us to utilize it for future opportunities. As a longtime member of the community, I want all the things the amendment claims to protect. I want to see our land and our community thrive. I want our County to conserve critical areas and be diverse in both habitat and resources. The only way these things will be achieved is by diversifying how we use the land. If this amendment comes into effect, it means Others, not landowners, will have the final say in what we do with our property, and directly impacts our future which is clearly an infringement on our property rights. We strongly ask that you reconsider the amendment. We as landowners have the right to determine how our property will be used. This project provides reliable energy for Washington businesses that have sustainability goals. The energy stays right here and helps attract high-tech jobs to the region. We hope that you continue to support property rights and thoughtful economic development in our community. Sincerely, Rich Nall, Owner High Valley LLC

Donna Hutchinson

From: FormBuilder@MunicipalNotices.com
Sent: Tuesday, November 30, 2021 12:29 PM
To: Planning Department
Subject: [EXTERNAL] Testifying at Planning Hearings

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Form Information:

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BENTON COUNTY W
Planning Department

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User Submitted Content:

Your Full Name
Chris Wissel-Tyson

Your Address
Seattle, WA

Phone Number
(425) 298-7810

Email Address
chris@brightnightenergy.com

File Number (or name)
OA 2021-004

Comments/Questions
Benton Planning and Community, I am representing BrightNight Power who is a developer, operator, and owner of hybrid renewable generation and storage projects. We have a project in Benton County and strive to work closely with our local stakeholders and communities to develop projects that create jobs, skills training, opportunities, and a significant tax base while minimizing the social, cultural, and environment impacts to the surrounding community. We appreciate and understand the potential impact some generation technologies can have on the viewshed and character of a community, but we believe Ordinance OA 2021-004 is not the right solution for the Benton County community for five main reasons: 1) Technology Non-Specific: This ordinance effectively bans a range of generation technologies that all have vastly different impacts. A wind turbine is a rotating piece of machinery that can stretch 500+ feet tall, a nuclear plant is surrounded by 10- and 50-mile radius emergency planning zones, and a solar facility is on average 5-9 feet tall. In other words, some technologies are completely compatible with existing GMA AG zoning and thus should be treated differently under this ordinance. 2) Lack of Full Stakeholder Engagement: BrightNight would like to be party to this proceeding and understand the process. This notice of public hearing was published on November 17th giving little time for stakeholders like BrightNight who have already made significant investments in the community to work collaboratively with the county to find the best solution for all affected parties. 3) Lack of Evidence: BrightNight has read the ordinance commission packet and finds little evidence for the proposed change. BrightNight would like to work with Benton County to understand the reasons for the proposed change and work together on a new ordinance that benefits all stakeholders. 4) Impact on Economic Development: Well developed renewable generation projects will bring jobs, skills training, tax revenue, and affiliate businesses to Benton County. BrightNight's project alone will create 200+ construction jobs, 5-10 full time jobs, and $80 Million in local property tax revenue in the first 34 years of operations. This type of local economic impact should be considered in the drafting of this ordinance. 5) Landowner Autonomy: BrightNight believes this ordinance removes a landowner's ability to decide how they are going to use their land. We believe a landowner should be able to decide if they are going to use the suns energy to make apples, wheat, wine

grapes, hops, or solar energy. Thank you for your time and we look forward to working further with county and the community to find a solution that strikes a compromise which will benefit all stakeholders in this ordinance. Best, Chris BrightNight Power

PCH 1.17

12 May Initiative 937- Washington Voters Mandate Clean Energy

Posted at 09:52h in News by Reeves Clippard • 0 Likes

In 2006 Washington State voters passed ballot initiative 937 by a 52 to 48 percent margin requiring that electricity providers in the state generate 15 percent of their energy from renewable resources by the year 2020.

The percentage is designed to mirror the anticipated energy use increase in the state of 15 percent by 2020. The bill essentially mandates that all new power will be derived from renewable resources and not fossil fuels. The Union of Concerned Scientists USA (UCSUSA), a group dedicated to environmental solutions, determined that the bill will provide the following benefits for the state of Washington:

- 2.9 percent, or $1.13 billion, in savings on consumer electricity bills
- 2,000 new jobs in manufacturing, construction, operation, maintenance, and other industries
- $138 million in additional income and a $148 million increase in gross state product
- $2.9 billion in new capital investment
- $30 million in income to rural landowners from wind power land leases
- $167 million in new property tax revenues or payment in lieu of taxes for local communities

The bill was the second voter mandated renewable energy bill to pass in the country and is seen by many as another example of Washington State setting itself apart as a leader in the development of renewable energy.

ABOUT A&R SOLAR

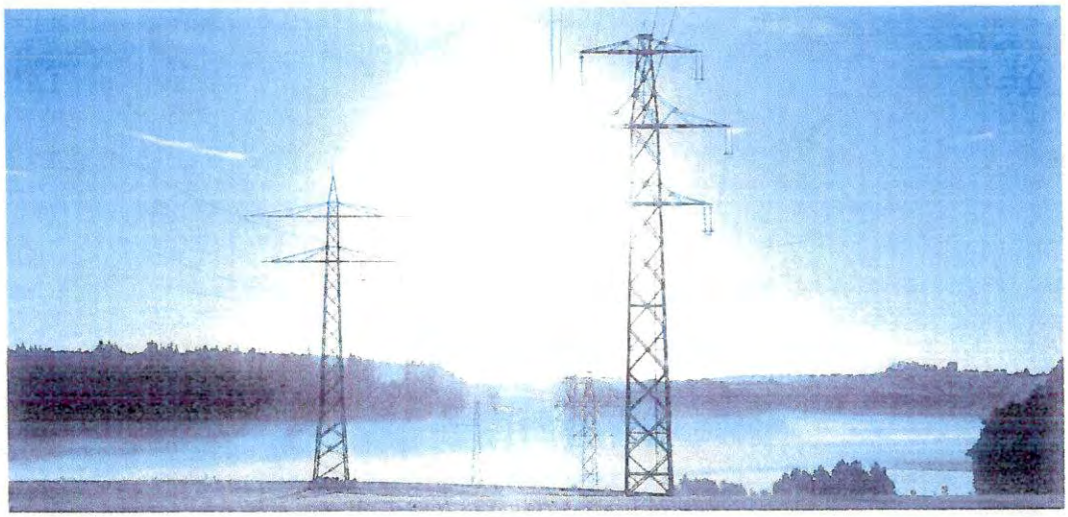
A&R Solar is a leading solar and battery storage installer in the Pacific Northwest. An employee-owned B Corporation, the company is dedicated to craftsmanship and excellent customer service. Read more about us.

WASHINGTON ENACTS STRONGEST CLEAN ELECTRICITY STANDARD IN THE NATION

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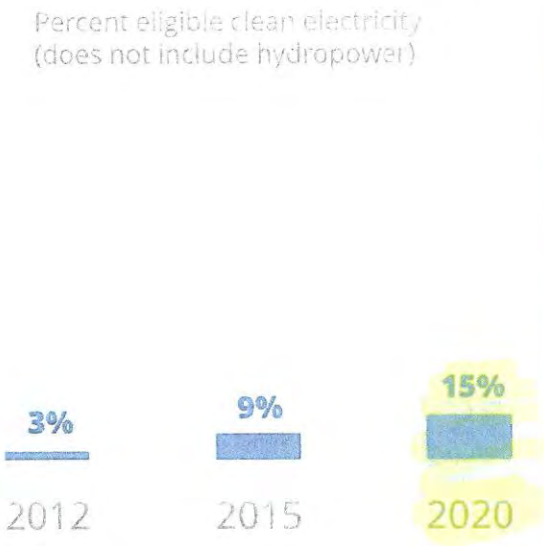
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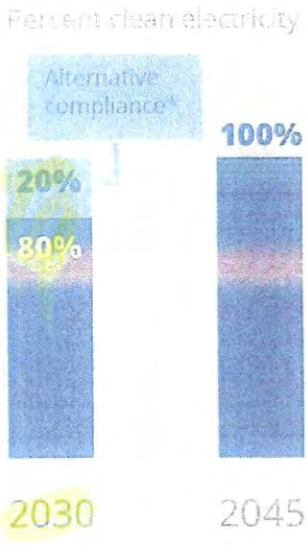


Putting Washington on a path to entirely eliminate fossil fuels from electricity generation by 2045

Clean energy standards under previous law (Initiative 937)



Washington Clean Energy Transformation Act standards



*Alternative compliance options include purchasing renewable energy certificates, investing in energy transformation projects, making payments, etc.

Achieving clean energy standards

To achieve the 2030 standard, utilities must replace coal-based resources with nonemitting and renewable energy resources such as solar and wind power, use hydropower resources more efficiently and effectively, and increase overall energy efficiency. Some parts of the state are already very close to achieving this goal. In other areas, meeting the goal will require a transformation in the energy mix, including incorporating innovative nonemitting technologies such as energy storage, smart grid technologies and electric vehicle charging. By 2045, 100 percent of electricity consumed in Washington will be clean.

Ensuring an equitable transition

The law includes innovative provisions to protect low-income customers and ensure that all customers benefit from the transition to clean energy, including vulnerable populations and communities most highly affected by climate change and environmental pollution. Implementation of the standards will be guided by a cumulative impact analysis of environmental and health disparities performed by the Department of Health. The law also requires utilities to provide energy assistance to low-income customers, and to improve and better target these programs to vulnerable populations and households with high energy burdens.

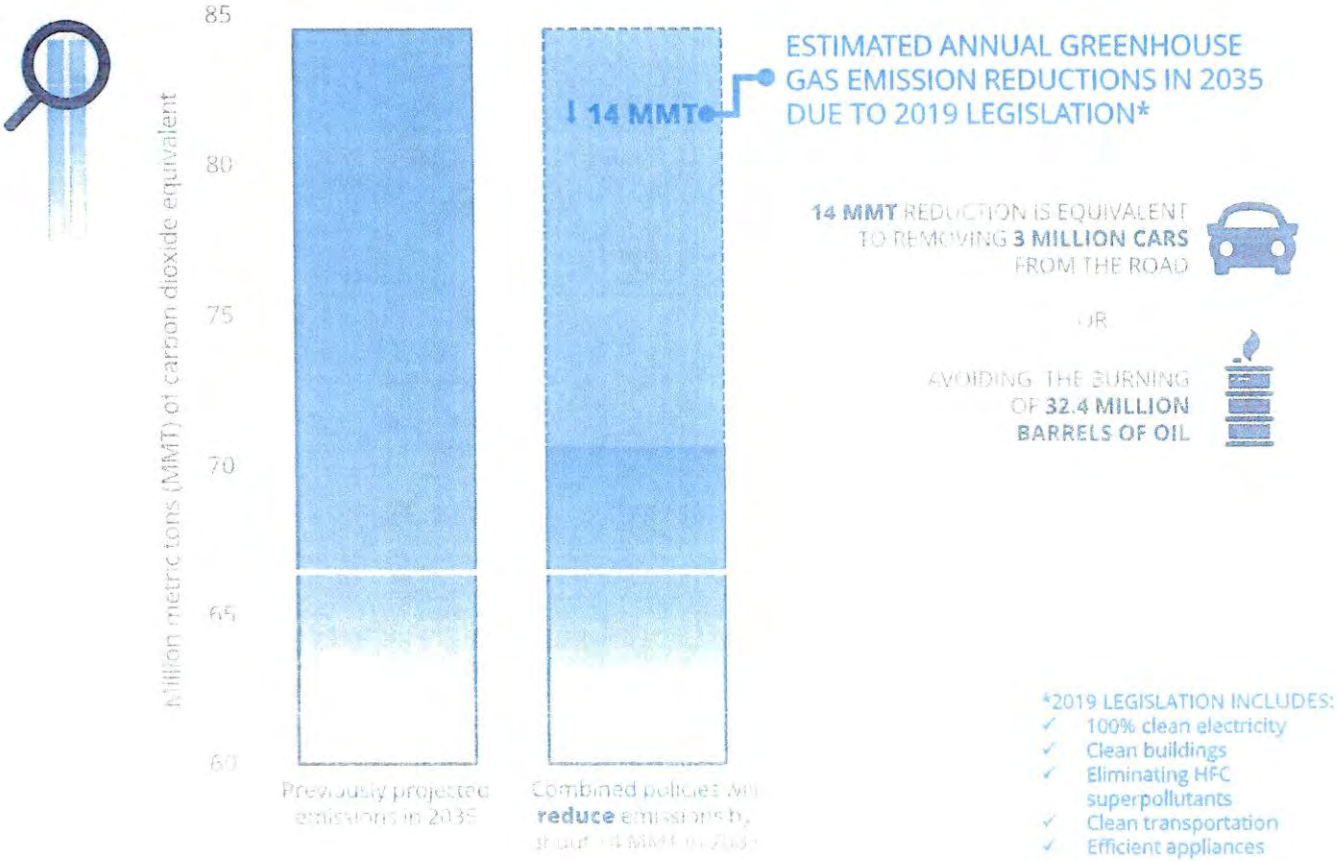
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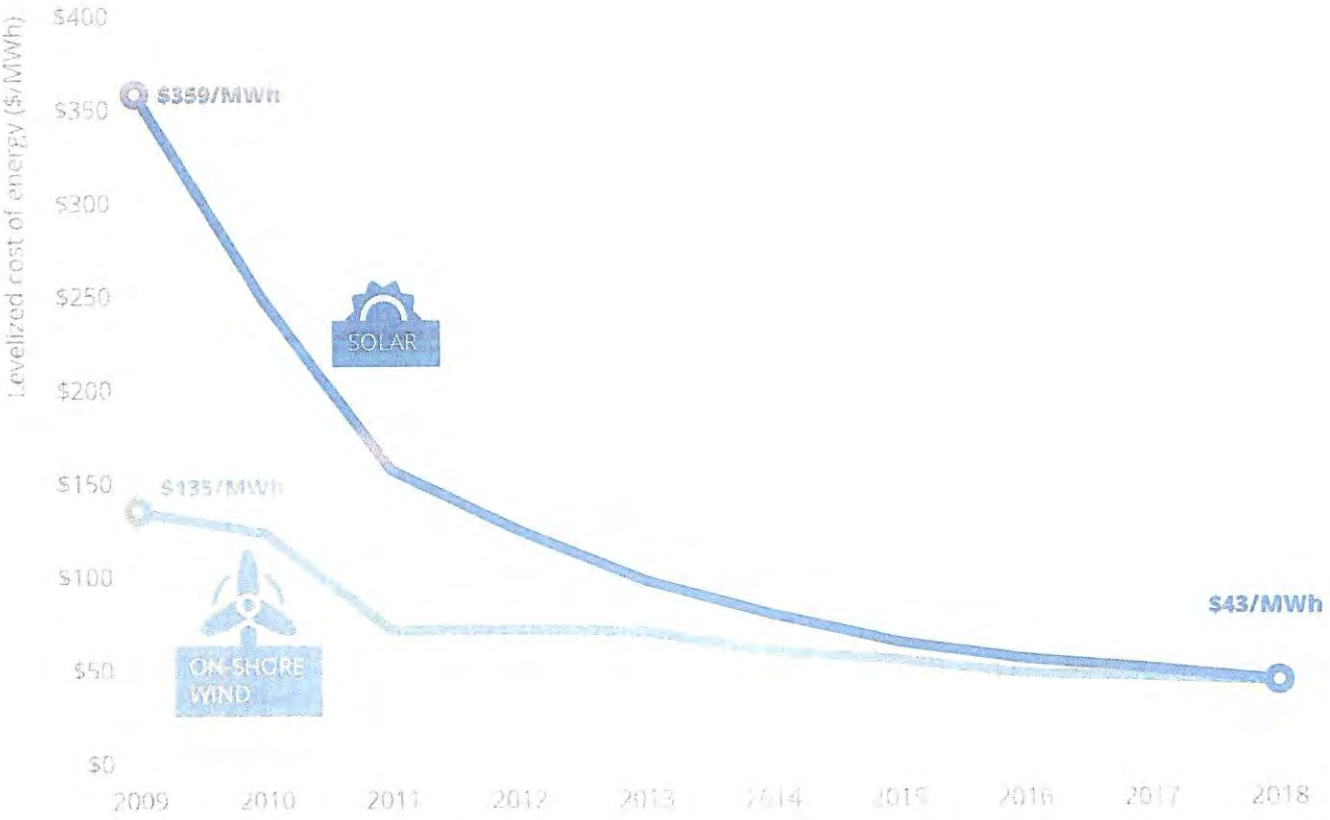
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- The Utilities and Transportation Commission is authorized to use performance-based rate making and other regulatory mechanisms to help utilities achieve legislative goals.

The price of clean energy continues to fall, and in many cases, is already competitive with conventional energy sources. In the past 10 years, wind energy prices have fallen by almost 80 percent and solar energy prices have fallen by almost 90 percent, far exceeding expectations. In the near term, this bill requires utilities to replace retiring coal plants with clean energy, which is already available at competitive prices. Technology advancements will only make achieving the standards even more cost effective in the future.

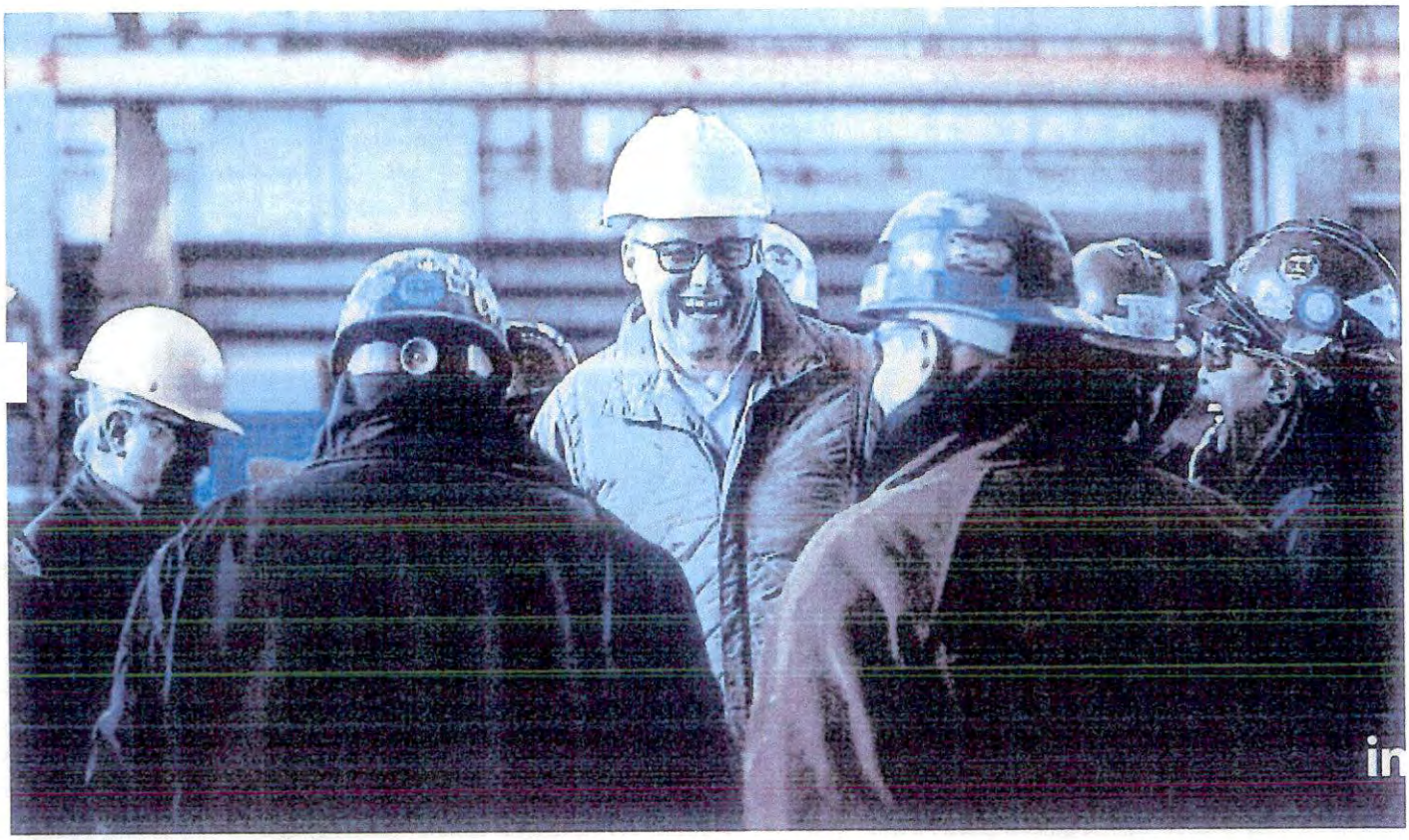
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Washington State Passes Law Requiring 100% Clean Energy by 2045

The Northwestern state joins three others in mandating that all of its electricity comes from carbon-free sources by midcentury, as its governor prepares for a run at the presidency.

EMMA FOEHRINGER MERCHANT

APRIL 23, 2019



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In addition to requiring 100 percent clean energy, Washington's law mandates a coal phaseout by 2025 and requires that utilities ratchet up their clean-energy commitments over time. Coal accounted (https://www.commerce.wa.gov/growing-the-economy/energy/fuel-mix-disclosure/) for 13 percent of the state's mix in 2017.

While electricity sales must be carbon-neutral by 2030, utilities can meet 20 percent of that requirement with renewable energy credits, through an "alternative compliance payment" or by investing in "energy transformation projects" that reduce the generation of electricity like energy efficiency or transportation electrification.

Washington is well on its way to meeting its targets. According to data (https://www.commerce.wa.gov/growing-the-economy/energy/fuel-mix-disclosure/) compiled by the state's Department of Commerce, nearly 68 percent of the state's generation in 2017 came from hydropower. Nuclear accounted for just over 4 percent and wind for nearly 3 percent. Together, coal and natural gas produced about 24 percent of electricity for the state's ilities in 2017.

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This story has been updated.

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WASHINGTON GOVERNOR
JAY INSLEE
POLICY BRIEF
May 2019

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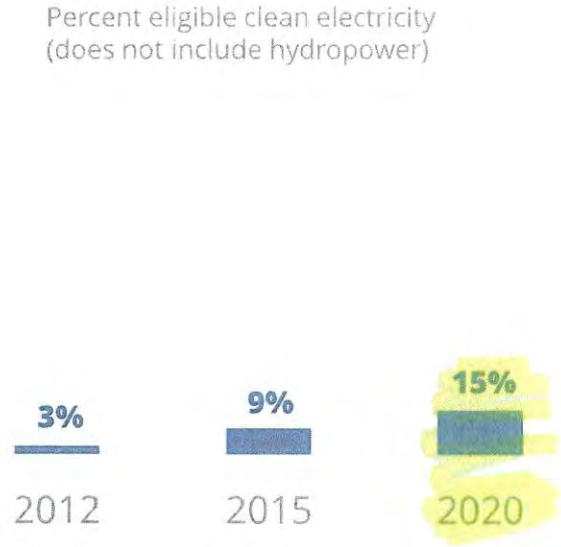
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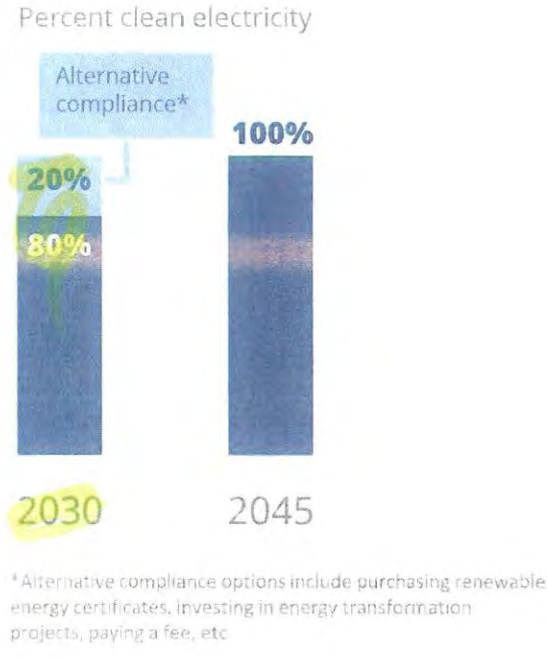


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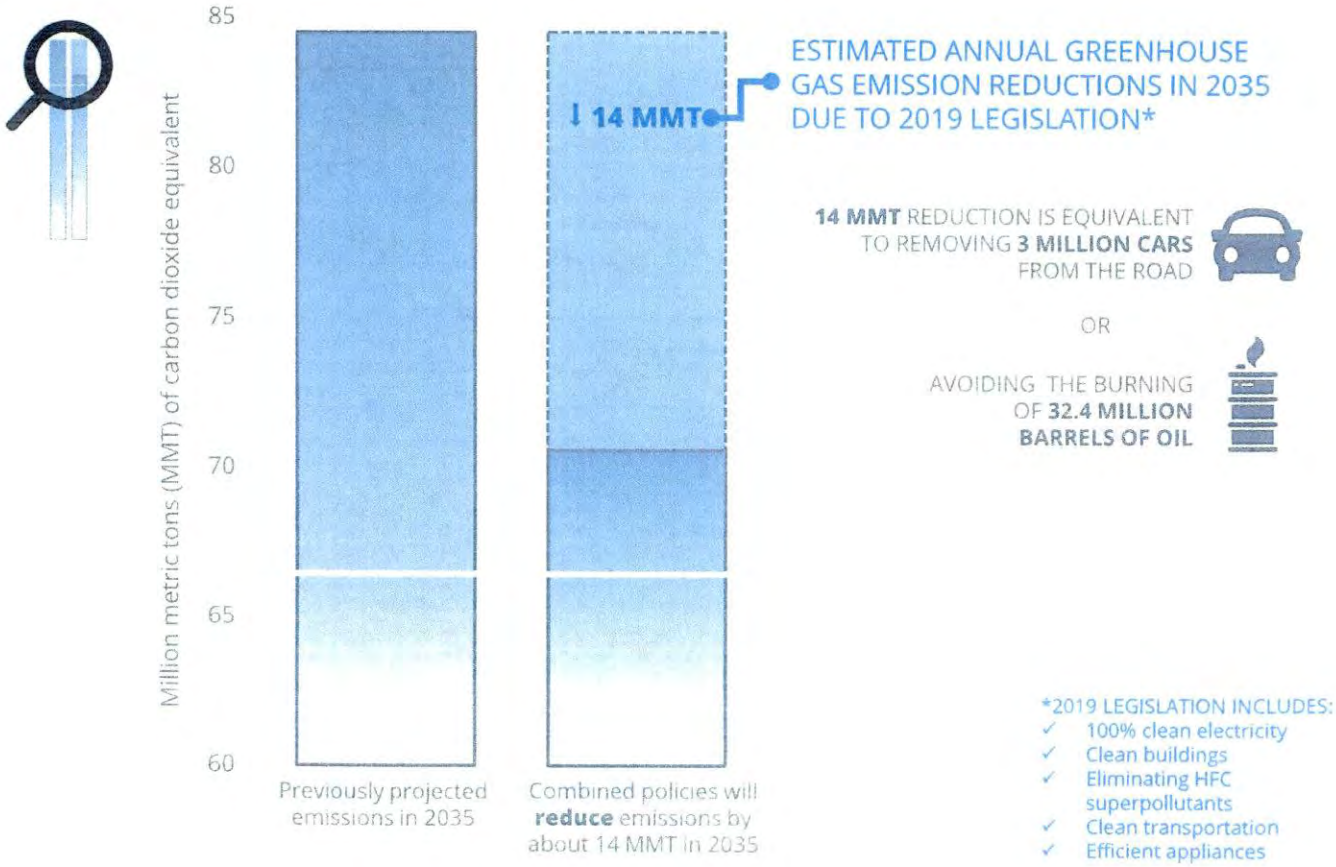
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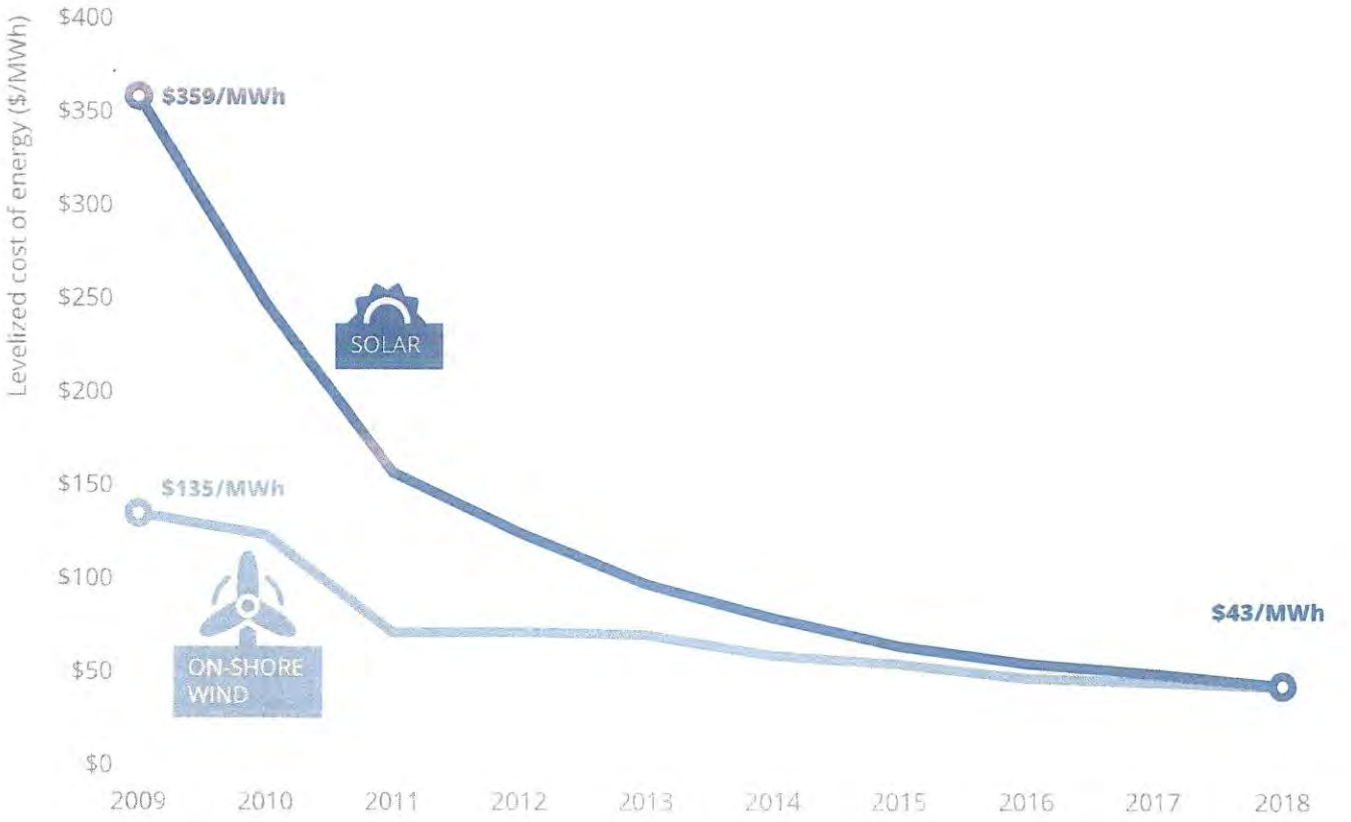
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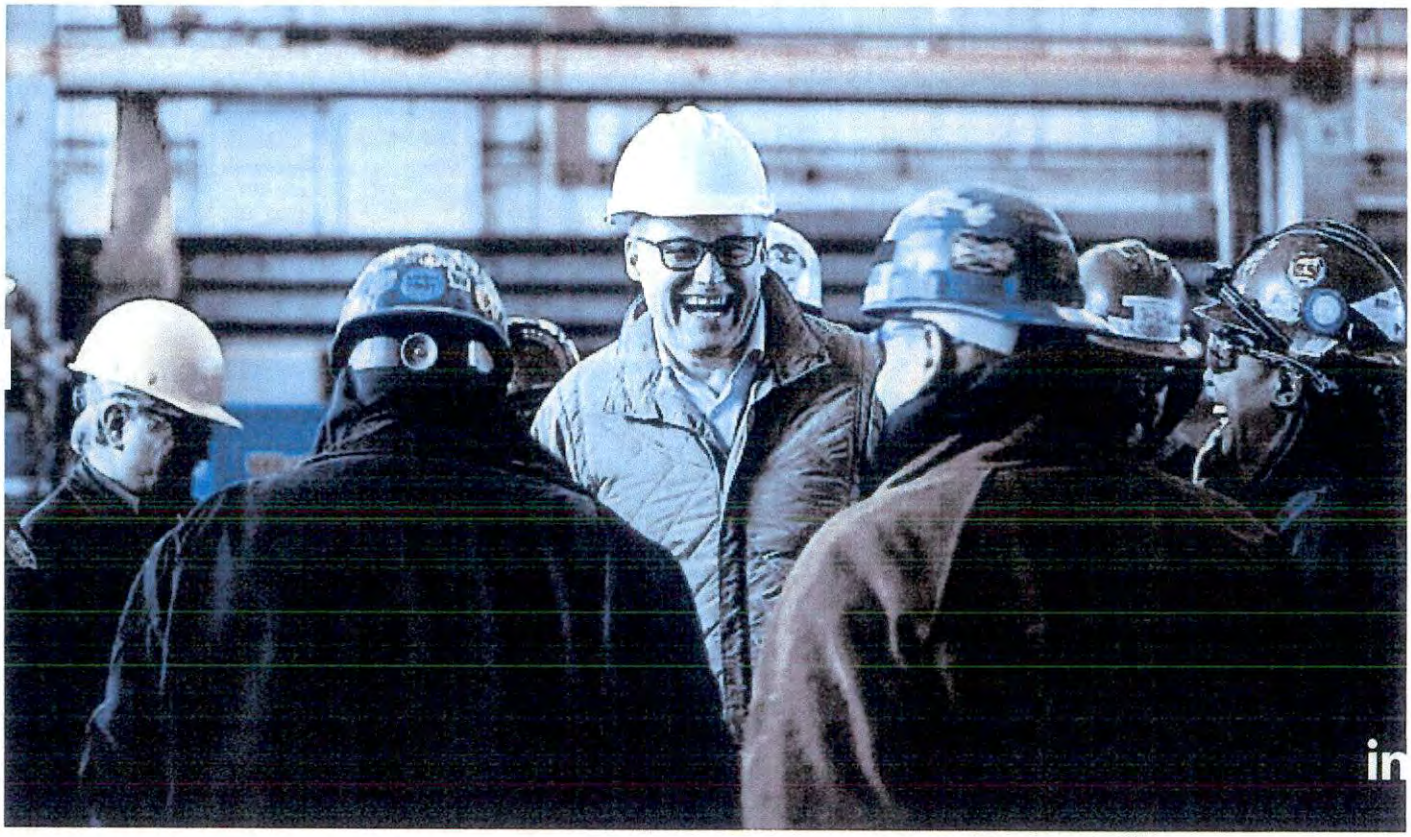
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This story has been updated.

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SITEMAP (/SITEMAP) TERMS & CONDITIONS (/ABOUT/TERMS-OF-USE) PRIVACY POLICY (/ABOUT/PRIVACY-POL

NCSL

State Renewable Portfolio Standards and Goals

8/13/2021



Introduction

Renewable Portfolio Standards (RPS) require that a specified percentage of the electricity utilities sell comes from renewable resources. States have created these standards to diversify their energy resources, promote domestic energy production and encourage economic development.

Renewable energy policies help drive the nation's $64 billion market for wind, solar and other renewable energy sources. These policies can play an integral role in state efforts to diversify their energy mix, promote economic development and reduce emissions. Roughly half of the growth in U.S. renewable energy generation since the beginning of the 2000s can be attributed to state renewable energy requirements.

It's worth noting that several states have expanded their policies to incorporate additional resources n recent years. There is now a distinction between a "Renewable Portfolio Standard" (RPS) and what some states have labeled as a "Clean Energy Standard" (CES). The difference between a RPS and a CES comes down to how a particular state defines what is a "renewable" versus a "clean" source of energy. Clean energy typically refers to sources of energy that have zero carbon emissions.

Some of those "clean" sources may not be considered "renewable." For instance, under some CES policies, nuclear energy is considered a "clean" energy source because it is carbon-free; it is not widely considered "renewable," however. Conversely, biomass, which is an eligible resource under many state RPS policies, is considered "renewable" despite producing carbon emissions.

In most cases, a CES policy will include an RPS as part of the requirement. For example, California enacted its CES in 2018, which requires the state's utilities to generate 100% clean electricity by 2045. As part of the CES, the state RPS was increased to require 60% of electricity must come from renewable sources by 2030. Following that date and benchmark, the remaining 40% of the CES can be met by any qualifying clean energy resource. Most often, these are defined as any resource that is carbon-free or carbon-neutral.

Iowa was the first state to establish an RPS; since then, more than half of states have established renewable energy targets. Thirty states, Washington, D.C., and two territories have active renewable or clean energy requirements, while an additional three states and one territory have set voluntary renewable energy goals. RPS legislation has seen two opposing trends in recent years. On one hand, many states with RPS targets are expanding or renewing those goals. Since 2018, 15 states, two territories, and Washington, D.C., have passed legislation to increase or expand their renewable or clean energy targets. On the other hand, seven states and one territory have allowed their RPS targets to expire; an additional four states have RPS targets that expire in 2021.

State Amendments to RPS/CES Legislation Since 2018

State Amendments to RPS/CES Legislation Since 2018

State	New RPS/CES Target	By Years
California	100%	2045
Colorado	100%	2050
Connecticut	44%	2030
Delaware	40%	2035
Maine	100%	2050
Maryland	50%	2030
Massachusetts	35%	2030
Minnesota	26.5%	2025
Nevada	100%	2050
New Jersey	50%	2030

New Mexico	100%	2045
New York	70%	2030
Oregon	100%	2040
Virginia	100%	2045/2050
Washington	100%	2045
Washington D.C.	100%	2032
Guam	100%	2045
Puerto Rico	100%	2050

Most jurisdictions with a current or recently updated RPS have set targets of at least 40%. However, recent RPS legislation has seen a push toward 100% clean or renewable energy requirements. To date, 10 states, Washington, D.C., Puerto Rico, and Guam have set 100% clean or renewable portfolio requirements with deadlines ranging between 2030 and 2050. An additional three states, plus the U.S. Virgin Islands, have goals of 50% or greater.

State renewable portfolio standard policies vary widely on several elements including RPS targets, the entities they include, the resources eligible to meet requirements and cost caps. In many states, standards are measured by the percentage of retail electric sales. Iowa and Texas, however, require specific amounts of renewable energy capacity rather than percentages and Kansas requires a percentage of peak demand.

Eligible resources under an RPS vary state-by-state but often include wind, solar, biomass, geothermal and some hydroelectric facilities—depending on the size and vintage. States determine eligible resources based on their existing energy generation mix and the potential for renewable energy development in their states.

For instance, qualifying renewable energy resources in Colorado include, solar, wind, geothermal, biomass, certain hydroelectric resources and emissions neutral coal-mine methane. Comparatively, eligible resources under Hawaii's RPS include solar, wind, biomass and geothermal, in addition to energy produced from falling water, ocean water, waves and water currents. Additional eligible resources in several states include landfill gas, animal wastes, combined heat and power, and even energy efficiency.

RPS requirements can apply only to investor-owned utilities (IOUs), although many states also include municipalities and electric cooperatives (Munis and Co-ops), sometimes with a lower target. Utilities that are subject to these mandates must obtain renewable energy credits or certificates (RECs)—

which represent the environmental benefits of one megawatt-hour of renewable energy generation. RECs are created when renewable energy is sent out to the grid and are used to verify that utilities are meeting their targets.

. ıccording to Lawrence Berkeley National Laboratory, 20 states and Washington, D.C., have cost caps in their RPS policies to limit increases to a certain percentage of ratepayers' bills. One state caps RPS gross procurement costs.

To promote a diversified resource mix and encourage deployment of certain technologies, states have established carve-outs and renewable energy credit multipliers within their RPSs for specific energy technologies, such as offshore wind or rooftop solar. Carve-outs require a certain percentage of the overall renewable energy requirement to be met with a specific technology, while credit multipliers award additional renewable energy credits for electricity produced by certain technologies. At least 21 states and Washington, D.C., have credit multipliers, carve-outs, or both for certain energy technologies in their RPS policies.

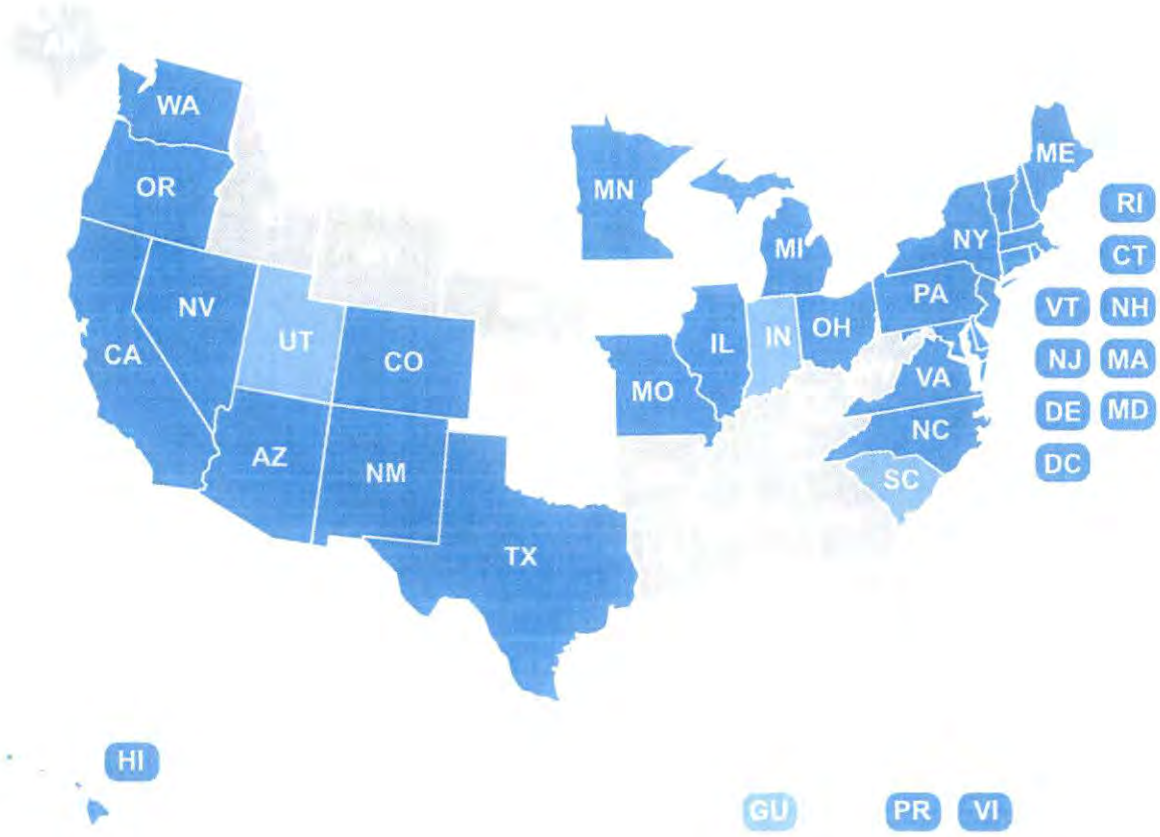
Renewable Portfolio Standards or Voluntary Targets

States and territories with Renewable Portfolio Standards

States and territories with a voluntary renewable energy standard or target

States and territories with expired RPS/CES requirements or goals

States and territories with no standard or target



- **Details:** Distributed Generation: 10% by 2032. Energy Transformation: 12% by 2032 (includes weatherization, thermal energy efficiency and heat pumps).

  Enabling Statute, Code or Order: Vt. Stat. Ann. tit. 30 §8001 et seq.; Standard: House Bill 40.

Virginia

- **Title:** Renewable Portfolio Standard
- **Established:** 2020.
- **Requirement:** 100% renewables by 2045 for Phase II utilities and 2050 for Phase I utilities.
- **Applicable Sectors:** Investor-owned utility.
- **Cost Cap:** None.
- **Details:** In 2020, the state enacted a mandatory 100% renewables target for Phase I and Phase II utilities. The state had previously implemented a voluntary renewables goal of 15% by 2025. Under the new requirements, Phase I utilities are required to achieve a renewables target of 14% by 2025, 30% by 2030, 65% by 2040, and 100% by 2050. Phase II utilities have an accelerated renewables requirement of 26% by 2025, 41% by 2030, and 100% by 2045. The law further requires utilities to procure a certain amount of generation from solar and onshore wind sources that are located within the state by a specific date.
- **Enabling Statute, Code or Order:** Va. Code §56-585.2; Senate Bill 851 (2020).

Washington

- **Title:** Renewable Energy Standard.
- **Established:** 2006.
- **Requirement:** 15% renewable by 2020; 100% greenhouse gas neutral by 2030; 100% renewable or zero-emitting by 2045.
- **Applicable Sectors:** Investor-owned utility, municipal utilities, cooperative utilities.
- **Cost Cap:** Approximately 4%.
- **Details:** Standard is applicable to all utilities that serve more than 25,000 customers. Requirement also includes all cost-effective conservation. The state has a credit multiplier for distributed generation.
- **Enabling Statute, Code or Order:** Wash. Rev. Code §19.285; Wash. Admin. Code §480-109; Wash Admin. Code §194-37; Senate Bill 5116 (2019).

West Virginia

- **Title:** Alternative and Renewable Energy Portfolio Standard- **REPEALED.**
- **Established:** 2009; **Repealed 2015.**

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	12/21/2021
Subject:	Scheduled Business – Extend Temp Housing Program Navigators
Presenter:	T. McKeirnan
Prepared By:	L. Wingfield
Reviewed By:	

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 Board had previously approved 2 Temporary Housing Program Navigators, positions 1267 and 1270 until the end of the Emergency Rental Assistance Grant or December 31, 2021, and 1 additional Temporary Housing Program Navigator, position 1260, until the end of the Emergency Rental Assistance Grant or December 31, 2022. It is recommended that all 3 positions be extended for the duration of the grant which is now June 30, 2025 or if the grant ends sooner, whichever is first.

Fiscal Impact

No supplement required.

Recommendation

Recommend the Board of Benton County Commissioners approve the LIT to extend 3 Temporary Housing Program Navigator positions through June 30, 2025, or until the grant ends, whichever comes first.

Suggested Motion

I move to approve the LIT to extend the funding for 3 Temporary Housing Program Navigators, positions 1267, 1270, and 1260 through June 30, 2025 or until the Emergency Rental Assistance Grant ends, whichever comes first.

cc: HR, Auditor, Human Services

Prepared by: L. Wingfield

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY FUNDS RE: TRANSFER OF FUNDS WITHIN HUMAN SERVICES FUND NUMBER 0108101, DEPARTMENT NUMBER 560

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

Dated this _____ day of _____, _____

_____
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: L Wingfield

EXHIBIT "A"

BENTON COUNTY LINE ITEM TRANSFER

Dept Name: Contract Management Dept Nbr: 560

Fund Name: Human Services Fund Nbr: 0108101

TRANSFER FROM:

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
566.220	4155	Contract Services	$141,526
TOTAL			$141,526

TRANSFER TO:

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
565.110	1267	Temp Housing Program Navigator	$47,950
565.110	1270	Temp Housing Program Navigator	$47,950
565.110	1260	Temp Housing Program Navigator	$23,975
565.110	2102	Social Security	$9,170
565.110	2104	Retirement	$12,288
565.110	2119	Paid Family Leave	$193
TOTAL			$141,526

Explanation:

Position numbers 1267 and 1270 are currently approved through the end of the Emergency Rental Assistance Grant or Dec 31, 2021, whichever comes first. Position 1260 is currently approved through the end of the Emergency Rental Assistance Grant or Dec 31, 2022, whichever comes first. All three positions are grant funded. The duration of the grant has been extended through June 30, 2025. We are requesting approval to extend the duration of positions 1267, 1270, and 1260 through June 30, 2025 or until the grant ends, whichever comes first.

Prepared by: Tammy McKeirnan Date: 06-Dec-2021

Approved ❑ Denied ❑ Date: _____

_____
Chairman

_____
Member

_____
Member

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY FUNDS RE: TRANSFER OF FUNDS WITHIN CURRENT EXPENSE FUND NUMBER 0000101, DEPARTMENT NUMBER 116

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: Linda Ivey

EXHIBIT "A"

BENTON COUNTY LINE ITEM TRANSFER

Dept Name: Planning Dept Nbr: 116

Fund Name: Current Expense Fund Nbr: 0000101

TRANSFER FROM:

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
558.600	1128	Assistant Planning Manager	$137,774
TOTAL			$137,774

TRANSFER TO:

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
558.600	1128	Planning Manager	$137,774
TOTAL			$137,774

Explanation:

Effective January 1, 2022: Position 1128 is changing from Assistant Planning Manager to Planning Manager. Position 1128 has a job classifcation and grade established. Position is a Grade 8, Managers Salary scale

Prepared by: Linda Ivey Date: 23-Nov-2021

Approved ❑ Denied ❑ Date: _____

_____
Chairman

_____
Member

_____
Member