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 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, March 29, 2022, 9:00 a.m.
Benton County Courthouse, Prosser, WA

9:00 AM **Call to Order**

Pledge of Allegiance

Approval of Minutes
- **March 22, 2022**

Review Agenda

Consent Agenda

Auditor
a. Surplus & Disposition of Personal Property ~ Corrections Weapons

Commissioners
b. Notification to the Governor's Committee on Disability Issues & Employment of Appointed Members of the Benton County Accessible Community Advisory Committee
c. Amending the Benton County Accessible Community Advisory Committee; Rescinding Resolutions 2017-109, 2018-545, 2019-588, 2020-259, 2021-054, 2021-352 & 2021-896

Human Resources
d. Agreement w/Fraternal Order of Police, Representing the Corrections Lieutenants

Human Services
e. Contract w/Tanya Logston for the Community Prevention Coordinator Services
f. First Amended Contract w/Columbia Industries for Employment Services

g. Agreement w/Washington State Department of Commerce for Eviction Rent Assistance Program
h. Amendment A to Agreement w/WA State Dept of Commerce for Shelter Program Grant
i. Amendment B to Contract w/WA State Dept of Commerce for Consolidated Homeless Grant

Information Technology

j. Purchase of a 12-Month Graykey Mobile Devise Forensic Software License From Grayshift for the Sheriff's Office
k. Purchase of HP Printer from Southern Computer Warehouse for the Prosecuting Attorney's Office
l. Purchase of Two Cisco Meraki Wireless Access Points from CompuNet for Juvenile Justice

Purchasing

m. First Amended Contract w/Superior Tree Service for Tree Trimming Services at the Fairgrounds & Prosser Courthouse
n. Contract w/Safe Boats International for Refurbishment Repairs & Services on the 23' TT Hull #1165 for the Sheriff's Office
o. Contract w/Budget Blinds for Window Roller Shades at the Courthouse & Administration Building
p. Agreement w/Linebarger Goggan Blair & Sampson for Collection Services
q. Contract w/EnviroTech Services for Furnishing Magnesium Chloride Used by Public Works

Risk Management

r. Authorization and Release of Claims for Benton Fire Protection District #2 and Enduris

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

Public Hearing

Wholesail Networks, LLC Franchise for Telecommunications Network ~ C Woods

Zayo Group, LLC for a Fiber Optic Telecommunications Facility ~ C Woods

Scheduled Business

Setting Salaries for Elected Officials for Years 2025 & 2026 ~ M Rasmussen

Other Business

Executive Session

Evaluate Qualifications of Applicant for Public Employment ~ Comndr Clarke & Undersheriff Law

MINUTES

BOARD OF BENTON COUNTY COMMISSIONERS

Draft

Regular Board Meeting
Benton County Courthouse, Prosser, WA
Tuesday, March 22, 2022, 9:00 a.m.
Meeting provided in-person, by Video Live-Broadcast and Telephonically via/WebEx

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

Benton County Employees Present During All or a Portion of the Meeting: Deputy County Administrator Matt Rasmussen; Robert Heard, IT Manager; Greg Wendt, Community Development Director; Ken Spencer, Treasurer; Adam Morasch, Risk Manager; Linda Ivey, Finance Manager; HR Manager Lexi Wingfield; Stephen Hallstrom, DPA; Robert Blain, Operations & Capital Programs; Chief Robert Guerrero.

Pledge of Allegiance

The Board recited the Pledge of Allegiance.

Approval of Minutes

The Minutes of March 15, 2022 were approved.

Agenda Review

The following items were added to the agenda:

- Contracts with Hill International
- Booking Restrictions
- Executive Session - County's position and strategy on union negotiations
- Executive Session - Potential Litigation

Consent Agenda

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

Auditor

a. Canvassing Board Appointment

Commissioners

b. Minimal Purchase & Sale Agreement with Mutual Finance Group for Surplus Property

Human Services

c. Agreement with Tri-City Hispanic Chamber of Commerce
d. 1st Amendment to Agreement with Domestic Violence Services
e. 1st Amended Contract w/Benton-Franklin Health District for Quarantine/Isolation Program
f. Agreement w/Columbia Industries for Quarantine/Isolation Program
g. Community Behavioral Health Rental Assistance Contract w/Greater Columbia Behavioral Health

Information Technology

h. Three-Year Subscription with CompuNet to Purchase Cisco DUO Access

Juvenile

i. Amended Contract No. 2 w/Ideal Option for Medical Services
j. Agreement w/Columbia/Walla Walla Counties to Provide Access to Juvenile Detention Facilities

Public Works

k. Certification of Road Fund Expenditures for Submittal to County Road Administration Board
l. Permission to Advertise 2022 BST Area 6 & Edge Repair Contract

Purchasing

m. Second Amended Contract w/ICSolutions for Inmate Phone Services & Video Visitation System for Corrections Dept.
n. Contract w/Frontier Fence for Voting Center Fencing Project
o. Rental of Vactor Truck by Public Works from AAA Equipment Company
p. Purchase Agreement with Smith & Greene Co. of Refrigerator and Freezers for Sheriff's Office
q. First Amendment to Agreement Between District Court and Washington Collectors Tri-Cities for Collection Services

Public Comment

None.

Public Hearing - Determination of Inactive Special Purpose District – Drainage Improvement District 9/9A

Greg Wendt and Matt Rasmussen presented information on Special Purpose District DID 9/9A so the Board could determine whether DID 9/9A met the criteria as being inactive. If the Board determined it met the criteria for being inactive, it was recommended that a second public hearing be held to consider the dissolution of the district.

Per RCW 36.96.010 (3), a special purpose district (drainage improvement district) is characterized as 'inactive' when any of the following exist:

(a) The special purpose district has not carried out any of the special purposes or functions for which it was formed within the preceding consecutive five-year period;
(b) No election has been held for the purpose of electing a member of the governing body within the preceding consecutive seven-year period or, in those instances where members of the governing body are appointed and not elected, where no member of the governing body has been appointed within the preceding seven-year period; or
(c) The special purpose district has been determined to be unauditable by the state auditor;

DID 9/9A met the criteria for a, b, and c and staff recommended approval of the resolution and to schedule a public hearing to consider dissolution. They received notice from the Auditor that it appeared to be inactive, the last election was held in 2012, and they have made multiple attempts to contact them with no response. Additionally, there have not been any complaints about water. If the Board wanted to move forward, they would schedule a second public hearing.

In response to Commissioner McKay's questions about the district, Mr. Rasmussen said the County would vacate any rights of way, materials and equipment would be returned, all assets would be dissolved, and it would cease to exist. He said this was not irrigation, but groundwater and had not been functioning as an active district. Residents would be left on their own to resolve any issues. He said the County stopped assessing in 2015/2016 and there should not be any financial impact.

Public Testimony

Mr. Peterson, Prosser, said he lived in the middle of the district since 1965 and was on the Board since 1984 up until 2017. He said there was an uplift pump on the property, and he had maintained it and been paying the electrical bill. He requested the Board consider taking over and keeping the district as active so it could continue to operate.

Mr. Rasmussen stated the District had to act on its own as it was not a subset of the county, and the county did not operate Drainage Improvements Districts. He said they could potentially create a flood control district, but they would have to take a hard look at whether that was appropriate, and it would probably be a more expensive assessment.

The Board discussed the best-case scenario would be to get it reactivated and run it as designed, by finding people to serve on the Board that were willing to do the reporting requirements.

Ken Spencer, Treasurer, indicated his office had tried to contact Board members, but never received any information back.

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

The Board discussed continuing the public hearing to allow additional time to see if there were others in the district that might be willing to serve on the board.

MOTION: Commissioner Delvin moved to continue this public hearing to June 7, 2022 at 9:00 a.m. Commissioner McKay seconded and upon vote, the motion carried.

Public Hearing – Determination of Inactive Special Purpose District – Drainage Improvement District 10

Greg Wendt and Matt Rasmussen presented information on Special Purpose District DID 10 so the Board could determine whether DID 10 met the criteria as being inactive. If the Board determined it met the criteria for being inactive, it was recommended that a second public hearing be held to consider the dissolution of the district.

DID 10 met the criteria for a and b as being inactive. The District appeared to be mostly natural ditches, with no infrastructure, and they resolved the issue with the pond because it was causing a problem with the road.

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

MOTION: Commissioner Delvin moved to adopt the Resolution as presented, in the determination of Drainage Improvement District 10 as being "inactive" as provided in Chapter 36.96 RCW. Commissioner Small seconded.

The Board said it also wanted to reach out and see if anyone was interested in reactivating this Board. If there was no interest, the Board could decide it was inactive and then dissolve it at the next scheduled public hearing.

Upon vote, the motion carried.

Other Business

Contracts with Hill International

Robert Blain said they had been working on contracts with Hill International for assistance with projects using the progressive design build method of procurement and construction management for the Justice Center Campus project and Recovery Center project. They were not yet finalized and being reviewed by the PA's office. The costs were as follows:

- Justice Center Campus Project - $614,108.00
- Recovery Center Project - $304,381.00

He said they were trying to meet deadlines because they had to meet with a state review committee regarding these projects. He asked if the Board was willing to have the County Administrator sign, once approved by the PA's office, and then bring it back to the Board for ratification.

Mr. Blain also discussed whether it made sense to move forward with hiring a temporary person on staff to assist with these projects. The Board agreed to look at that proposal.

MOTION: Commissioner Delvin moved to approve the County Administrator to sign the contract with Hill International, so the process could continue. Commissioner McKay seconded and upon vote, the motion carried.

Booking Restrictions

Robert Guerrero, Chief of Corrections presented the Board with a proposed implementation of booking restrictions for the Benton County Jail. District Court has rescinded Administrative Order 22-001, which lifted the booking restrictions that were previously put in place during a COVID outbreak in January and created a hardship for the jail. With the booking restrictions lifted, the jail population would increase and there would be a need to open another housing unit. They were currently averaging 401 inmates and once they had 425 inmates, they would need to open more housing.

The jail currently had five vacant Corrections Officer positions, with three applicants in the background phases of applying. Along with the vacancies, nine officers were on light duty or not at work due to medical issues. To open a housing unit with current staffing levels would result in requiring officers to fill positions and result in an additional cost in overtime pay of approximately $290,000 over the next nine months. Staff requested the Board approve the implementation of booking restrictions and authorize the Corrections Department to send a letter to local agencies outlining the booking restrictions. These restrictions would be reevaluated within the next six months (per the letter through June 31, 2022).

MOTION: Commissioner Delvin moved to authorize the Chief of Corrections to approve booking restrictions and to send out the letter regarding booking restrictions to the affected agencies. Commissioner McKay seconded.

Discussion

Judge Ziobro, via/WebEx, said it was important to manage expectations of local law enforcement or have exceptions. He said there needed to be a policy and procedure with exceptions in place on who would be booked and not booked, and they be notified of their court dates, so no one was slipping through the cracks. He said procedure was important and he would work with legal and/or jail staff to make sure law enforcement was notified.

After discussion, the Board requested Chief Guerrero work with District Court on a policy and procedure to manage expectations of local law enforcement.

Upon vote, the motion carried.

The Board briefly recessed at 10:02 a.m., reconvening at 10:08 a.m.

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

The Board went into executive session at 10:08 a.m. for up to 15 minutes with Lexi Wingfield and Stephen Hallstrom to discuss the County's position or strategy on union negotiations. Also present were Jerrod MacPherson, Matt Rasmussen, Cami McKenzie, and Linda Ivey.

The Board came out at 10:24 a.m. No decisions were made in executive session.

Executive Session – Potential Litigation

The Board went into executive session at 10:24 am. for up to 10 minutes with DPA Ryan Brown via/WebEx to discuss potential litigation. Also present were Adam Morasch, Jerrod MacPherson, Matt Rasmussen, Cami McKenzie, and Linda Ivey.

Due to technical difficulties, the Board came out at 10:36 a.m. No decisions were made in executive session.

MOTION: Commissioner Delvin moved to authorize the Risk Manager to pay claim CC 2021-25 presented. Commissioner McKay seconded and upon vote, the motion carried.

Tort Claims

CC 2022-09: Received March 22, 2022 from Ziply Fiber

Payroll

Check Date: 03/15/2022

Payroll Draw Checks
Total all funds: $111,341.49
Warrant #: 243577
Direct Deposit #: 169827-169972

Payroll Draw Deductions/Transfers
Total all funds: $20,459.90
Taxes #: 101220313

Accounts Payable

Check Date: 03/11/2022

PCards #: 0322
Total all funds: $310,240.21

Check Date: 03/18/2022

Warrants #: 229093-229571
Total all funds: $3,373,068.57

EFT's #: 2193-2199
Transfers #: 03182201-03182209
Total all funds: $467,309.87

Resolutions

2022-205: Minimal Purchase & Sale Agreement with Mutual Finance Group for Surplus Property
2022-206: Agreement with Tri-City Hispanic Chamber of Commerce
2022-207: 1st Amendment to Agreement with Domestic Violence Services
2022-208: 1st Amended Contract w/Benton-Franklin Health District for Quarantine/Isolation Program
2022-209: Agreement w/Columbia Industries for Quarantine/Isolation Program
2022-210: Community Behavioral Health Rental Assistance Contract w/Greater Columbia Behavioral Health
2022-211: Three-Year Subscription with CompuNet to Purchase Cisco DUO Access
2022-212: Amended Contract No. 2 w/Ideal Option for Medical Services
2022-213: Agreement w/Columbia/Walla Walla Counties to Provide Access to Juvenile Detention Facilities
2022-214: Certification of Road Fund Expenditures for Submittal to County Road Administration Board
2022-215: Permission to Advertise 2022 BST Area 6 & Edge Repair Contract
2022-216: Second Amended Contract w/ICSolutions for Inmate Phone Services & Video Visitation System for Corrections Dept.
2022-217: Contract w/Frontier Fence for Voting Center Fencing Project
2022-218: Rental of Vactor Truck by Public Works from AAA Equipment Company
2022-219: Purchase Agreement with Smith & Greene Co. of Refrigerator and Freezers for Sheriff's Office
2022-220: First Amendment to Agreement Between District Court and Washington Collectors Tri-Cities for Collection Services
2022-221: Determination of Drainage Improvement District 10 - DID10 as Inactive As Provided In Chapter 36.96 RCW – A Public Hearing be Scheduled to Consider the Dissolution of DID 10

There being no further business before the Board, the meeting adjourned at approximately 10:37 a.m.

_____ _____

Clerk of the Board Chairman

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	March 29, 2022
Subject:	Surplus Resolution
Presenter:	
Prepared By:	Lorene Roe
Reviewed By:	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

As outlined in Resolution 07-752, County departments request personal property items be declared surplus and be disposed of as submitted.

Per Resolution 2021-732, the Board of Commissioners awarded the purchase and trade-in of fifty-four (54) Benton County Corrections weapons, with a trade-in value of $8,100.00 plus WSST.

It was later determined, there are an additional seven (7) weapons that Corrections can add to the surplus list, increasing the trade-in value to $8,875.00 plus WSST.

Fiscal Impact

N/A

Recommendation

The Personal Property Manager recommends the personal property on the attached list be declared surplus and disposed of as submitted.

Suggested Motion

Approve as part of the Consent Agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF SURPLUS AND DISPOSITION OF PERSONAL PROPERTY IN ACCORDANCE WITH RESOLUTION 07-752

WHEREAS, per Resolution 07-752, the County's Personal Property Management Policy sets forth the policies and procedures for surplus and disposition of personal property; and

WHEREAS, pursuant to the policy, the Benton County Auditor is the Personal Property Manager for the County; and

WHEREAS, per Resolution 2021-732, the Board of Commissioners awarded the purchase and trade-in of fifty-four (54) Benton County Corrections weapons to Gunarama Wholesales, Inc., with a trade-in value of $8,100.00 plus WSST.

WHEREAS, it was later determined there are an additional seven (7) weapons that Corrections can add to the surplus list, increasing the trade-in value to $8,875.00 plus WSST; and

WHEREAS, the Personal Property Manager has determined that no other department desires such property and recommends the listed property be declared surplus; **NOW, THEREFORE**

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington concurs with the Personal Property Manager's recommendation and hereby approves the attached list of weapons to be surplus and disposed of through the trade-in process with Gunarama Wholesales, Inc.

Dated this _____ day of _____, 2022.

_____
Chairman of the Board

_____
Chairman Pro-Tem

Attest.....
Clerk of the Board

_____
Member

Constituting the Board of Commissioners
of Benton County, Washington

Auditor;Lisa Small

L. Roe

[redacted]					
S&W	HANDGUN	M&P 40L 5	DWP2975	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5	DWP2963	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5	DWP2970	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5	DWP2968	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5	DWP2955	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5	DWU0172	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5	DWU0177	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5	DWP2957	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5	DWP2953	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5	DWP2961	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5	DWU0196	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5	DWP2972	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5	DWP2962	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5	DWU0080	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5	DWU0178	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5	DWU0192	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40	DWJ8614	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40	DWJ8613	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5	DWP2967	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5	DWD9531	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5	DWU0098	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5	DWP2952	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5	DWP2969	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5	DWP2971	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5	DWU0189	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5	DWP2958	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5	DWD9535	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5	DWU0181	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5	DWU1094	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5	DWU1091	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5	DWP2950	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5	DWU1098	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5	DWP3504	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5	DWU0104	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5	DWU0101	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5	DWU1076	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5	DWU1077	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5	DWU1101	Custody	**UNASSIGNED**

Auditor;Lisa Small

S&W	HANDGUN	M&P 40L 5	DWD9528	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5	DWP2951	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5		Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5	DWP2959	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5	DWP2966	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5	DWU0182	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5	DWU0190	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5	DWP2947	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5	DWU1103	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5	DWU1095	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5	DWU0078	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5	DWU0188	Custody	**UNASSIGNED**
S&W	HANDGUN	M&P 40L 5	DWP2960	Custody	**UNASSIGNED**

13

Auditor;Lisa Small

Benton County Sheriff

human resource management system

- Employees
- Contracts
- Contacts
- Inventory
- Ledgers
- Reports & Forms
- Restitution
- Administration
- Test Area
- User Options
- Logout jts

New System Events (17)

Employee Search

Search

Equipment Inventory » Firearms

Add Firearm | Search Firearms | Print All | Print Active | Print Inactive

Department: Custody

Active (69) | Inactive (111)

Brand	Type	Model	Serial Number	Department	Location
[redacted]	[redacted]		[redacted]	[redacted]	[redacted]
[redacted]	[redacted]		[redacted]	[redacted]	[redacted]
[redacted]	[redacted]		[redacted]	[redacted]	[redacted]
BERETTA	HANDGUN	92FS	BER419298Z	Custody	UNASSIGNED
BERETTA	HANDGUN	92FS	BER042984	Custody	UNASSIGNED
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
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[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
S&W	HANDGUN	M&P 40L 5	DWU0100	Custody	[redacted]
S&W	HANDGUN	M&P .22 LR	MP058186	Custody	[redacted]
S&W	HANDGUN	M&P 40L 5	DWD9536	Custody	[redacted]
S&W	HANDGUN	M&P 40L 5	DWU0197	Custody	[redacted]
S&W	HANDGUN	M&P .22 LR	MP058153	Custody	[redacted]
S&W	HANDGUN	M&P .22 LR	MP059515	Custody	[redacted]
S&W	HANDGUN	M&P 40L 5	DWU0186	Custody	[redacted]
S&W	HANDGUN	M&P .22 LR	MP058173	Custody	[redacted]
S&W	HANDGUN	M&P .22 LR	MP058170	Custody	[redacted]

Auditor;Lisa Small

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	March 29, 2022
Subject:	Authorizing Notification to the Governor's Committee on Disability Issues and Employment of Appointed Members of the Benton County Accessible Community Advisory Committee (ACAC)
Presenter:	N/A
Prepared By:	Shyanne Palmus, Communications Coordinator
Reviewed By:	Amanda Hatfield, Elections Manager & Brenda Chilton, Auditor

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 required to notify the Governor's Committee on Disability Issues and Employment of the members that will be serving on the Benton County Accessible Community Advisory Committee (ACAC), and to assure that there is a diverse range and knowledge of disabilities throughout the membership. The County Auditor has reviewed this letter and recommends Board approval.

Fiscal Impact

N/A

Recommendation

Staff recommends approval of the attached resolution and signature on the included Letter of Assurance to the Governor's Committee on Disability Issues and Employment.

Suggested Motion

N/A

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF AUTHORIZING NOTIFICATION TO THE GOVERNOR'S COMMITTEE ON DISABILITY ISSUES AND EMPLOYMENT OF APPOINTED MEMBERS OF THE BENTON COUNTY ACCESSIBLE COMMUNITY ADVISORY COMMITTEE ("ACAC")

WHEREAS, the Benton County Accessible Community Advisory Committee ("ACAC") was established by the Board of Benton County Commissioners on February 7, 2017 by Resolution 2017-109; and

WHEREAS, founding members of the Benton County ACAC were appointed on August 21, 2018 by Resolution 2018-545; and

WHEREAS, Benton County is required to notify the Governor's Committee on Disability Issues and Employment of the members that will be serving on the ACAC, and to assure that there is a diverse range and knowledge of disabilities throughout the members; and

WHEREAS, the Benton County Auditor recommends the Board sign the letter of assurance to the Governor's Committee on Disability Issues and Employment; **NOW, THEREFORE,**

BE IT RESOLVED, the Board of Benton County Commissioners is hereby authorized to sign the attached letter of assurance for the Benton County Accessible Community Advisory Committee ("ACAC") to the Governor's Committee on Disability Issues and Employment.

Dated this 29th day of March, 2022.

_____
Chairman of the Board

_____
Member

_____
Member

Constituting the Board of Commissioners
of Benton County, Washington.

Attest.....
Clerk of the Board

Orig Commissioners S. Palmus
Cc: Auditor, ACAC

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

Jerrod MacPherson
County Administrator
Matt Rasmussen
Deputy County Administrator

Board of County Commissioners

March 29, 2022

Elaine Stefanowicz
Governor's Committee on Disability Issues & Employment
PO Box 9046
Olympia, WA 98507

Re: Renewal of Letter of Assurance for the Accessible Communities Act

Dear Ms. Stefanowicz:

In accordance with the Accessible Communities Act (Chapter 215, Laws of 2010), the Benton County Board of Commissioners assures the Governor's Committee on Disability Issues and Employment that it has established an active cross-disability Accessible Community Advisory Committee (ACAC).

It assures that the members of the ACAC include persons with a diverse range of disabilities who are knowledgeable in identifying and eliminating attitudinal, programmatic, communication, and physical barriers encountered by persons with disabilities. It further assures the committee is actively involved in the following activities:

- Advising policy makers on the needs of persons with disabilities in emergency plans.
- Advising the county and other local governments within the county on access to programs, services, and activities, new construction or renovation projects, sidewalks, other pedestrian routes of travel, and disability parking enforcement.
- Developing local initiatives and activities to promote greater awareness of disability issues, and acceptance, involvement and access for persons with disabilities within the community.

Included with this letter is a list of current ACAC members and their qualifications. The undersigned certifies the above assurances have been met.

_____
Chairman of the Board

_____
Member

_____
Member

Attest.....
Clerk of the Board

The Benton County Accessible Community Advisory Committee Members are as follows, as of March 29, 2022:

Gretchen Hormel – Citizen Member

Teresa Payne – Citizen Member

Judith Davis – Citizen Member

Dallas Murry – Corporal, Benton County Corrections Department

Vacant Position

Staff liaisons to the Benton County ACAC are:

Brenda Chilton – Benton County Auditor, 509-736-2707

Amanda Hatfield – Elections Manager, 509-736-3085

Shyanne Palmus – Communications Coordinator, 509-222-3760

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	March 29, 2022
Subject:	Amending the Benton County Accessible Community Advisory Committee (ACAC) Membership and Terms, and Rescinding Resolutions 2017-109, 2018-545, 2019-588, 2020-259, 2021-054, 2021-352, and 2021-896
Presenter:	N/A
Prepared By:	Shyanne Palmus, Communications Coordinator
Reviewed By:	Amanda Hatfield, Elections Manager & Brenda Chilton, Auditor

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 February 7, 2017, the Board of Commissioners passed Resolution 2017-109, whereby the Board and the County Auditor agreed to expand the scope of the Benton County Disability Access Voting Committee as established and maintained under RCW 29A.46.260 to that of an Accessible Community Advisory Committee ("ACAC").

The subsequent resolutions listed were passed to update the membership of the ACAC (appoint and/or remove members). These resolutions are now outdated and need to be rescinded, for clarity.

A revision to the ACAC is proposed, changing the committee membership from a total of 10 members to a total of 5 members, and eliminating the formal term lengths for members. The ACAC has struggled, as many local agency committees have, to maintain consistent membership and attendance, and proposes to reduce the number of members and to remove term limits to ensure continuity and greater attendance.

As always, these meetings are open and available for the public or other interested parties to attend.

Fiscal Impact

N/A

Recommendation

Staff recommends approval of the attached resolution to revise the membership and terms of the Benton County ACAC.

Suggested Motion

N/A

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF AMENDING THE BENTON COUNTY ACCESSIBLE COMMUNITY ADVISORY COMMITTEE (ACAC) MEMBERSHIP AND TERMS, AND RESCINDING RESOLUTIONS 2017-109, 2018-545, 2019-588, 2020-259, 2021-054, 2021-352, AND 2021-896

WHEREAS, pursuant to the provisions of RCW 36.32.120(6), the Board of Benton County Commissioners ("the Board") has the care of county property and the management of county funds and business; and

WHEREAS, pursuant to the provisions of RCW 36.01.310, counties have the legal ability to create an Accessible Community Advisory Committee ("ACAC") to (i) advise on addressing the needs of persons with disabilities in emergency plans; (ii) advise the county and other local governments within the county on access to programs, services, and activities, new construction or renovation projects, sidewalks, other pedestrian routes of travel, and disability parking enforcement; and (iii) develop local initiatives and activities to promote greater awareness of disability issues, and acceptance, involvement, and access of persons with disabilities within the community; and

WHEREAS, pursuant to the provisions of RCW 36.01.310 and Resolution 2017-109, the Board of Benton County Commissioners and the Benton County Auditor's Office agreed to expand the scope of the Benton County Disability Access Voting Committee as established and maintained under RCW 29A.46.260 to that of an Accessible Community Advisory Committee ("ACAC"); and

WHEREAS, the Legislature of the State of Washington ("the Legislature") has found that when people who have disabilities are welcomed and included as members of our communities and provided with equal access to the opportunities available to others, their participation enriches those communities, enhances the strength of those communities' diversity, and contributes toward the economic vitality of those communities; and

WHEREAS, the Legislature further found that more than nine hundred thousand (900,000) Washington state residents with disabilities continue to face barriers to full participation that could be easily eliminated; and

WHEREAS, focusing on removing barriers to inclusion empowers people with disabilities by giving them an equal chance to contribute to their communities; and

WHEREAS, pursuant to the provisions of RCW 36.01.310, the Board has opted to create an Accessible Community Advisory Committee with members that include persons with a diverse range of disabilities who are knowledgeable in identifying and eliminating attitudinal, programmatic, communication, and physical barriers encountered by persons with disabilities; and

WHEREAS, the Board desires to revise the membership and terms of the Benton County Accessible Community Advisory Committee ("ACAC"), to be administered by the Auditor or an authorized representative, and composed of members as provided for in RCW 36.01.310; and

WHEREAS, the Benton County Accessible Community Advisory Committee ("ACAC") shall continue to meet no less than once per quarter; **NOW, THEREFORE,**

BE IT RESOLVED, by the Board of Benton County Commissioners, pursuant to the provisions of RCW 36.32.120(6) and RCW 36.01.310, that the Board does hereby revise the Benton County Accessible Community Advisory Committee ("ACAC") to a five-member committee with no formal term limits on membership, to perform duties pursuant to RCW 36.01.310; and

BE IT FURTHER RESOLVED, by the Board of Benton County Commissioners that Resolutions 2017-109, 2018-545, 2019-588, 2020-259, 2021-054, 2021-352, and 2021-896 are hereby rescinded; and

BE IT FURTHER RESOLVED, by the Board that the Benton County Auditor or his/her duly authorized designee is hereby authorized to submit the appropriate documents as provided for in WAC Chapter 192-50 to obtain grants and reimbursement of travel, per diem, and reasonable accommodation for the Benton County Accessible Community Advisory Committee meeting and committee sponsored activities (RCW 50.40.071-.072).

Dated this 29th day of March, 2022.

_____
Chairman of the Board

_____
Member

_____
Member

Constituting the Board of Commissioners
of Benton County, Washington.

Attest.....
Clerk of the Board

Orig Commissioners S. Palmus
Cc: Auditor, ACAC

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	3/29/2022
Subject:	Corrections Lieutenants 2022-2024 CBA
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 Benton County negotiating team has successfully negotiated the 2022-2024 Agreement Between Benton County and the Corrections Lieutenants.

Fiscal Impact

No supplement required

Recommendation

Recommend the Board of Benton County Commissioners sign the Resolution and the 2022-2024 Agreement between Benton County and Fraternal Order of Police, representing the Corrections Lieutenants.

Suggested Motion

On consent agenda

cc: HR, Auditor, Hallstrom, Corrections

Prepared by: L. Wingfield

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF THE 2022-2024 AGREEMENT BETWEEN BENTON COUNTY AND FRATERNAL ORDER OF POLICE, REPRESENTING THE CORRECTIONS LIEUTENANTS.

WHEREAS, negotiators for Benton County have negotiated and reached an agreement with Fraternal Order of Police, representing the Corrections Lieutenants, for the 2022-2024 Collective Bargaining Agreement; **NOW THEREFORE**,

BE IT RESOLVED, the Benton County Commissioners approve the 2022-2024 Collective Bargaining Agreement between Benton County and Fraternal Order of Police, representing the Corrections Lieutenants as negotiated and are authorized to sign the same; and

BE IT FURTHER RESOLVED, that the Collective Bargaining Agreement is effective January 1, 2022, except as otherwise provided, and shall remain in effect until December 31, 2024.

Dated this_____ day of _____, 2022.

_____

Chairman of the Board

_____

Member

_____

Member

Constituting the Board of Commissioners

of Benton County, Washington

Attest.....

Clerk of the Board

cc: HR, Auditor, Hallstrom, Corrections

Prepared by: L. Wingfield

2022-2024 AGREEMENT

Between

BENTON COUNTY

and

FRATERNAL ORDER OF POLICE
Representing the

CORRECTIONS LIEUTENANTS

c: FOP
Benton County Commissioners
PA's Office
Human Resources
Payroll

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THIS AGREEMENT is entered into by and between Benton County, hereinafter referred to as County or Employer, and Fraternal Order of Police, herein referred to as FOP representing the Correction Lieutenants, excluding nonsupervisory employees, employees holding the rank of Corporal and Sergeant, confidential employees, and all other employees.

WITNESSETH:

WHEREAS, the parties wish to establish a collective bargaining agreement covering rates of pay, hours of work, and conditions of employment in accordance with chapter 41.56 RCW; and

WHEREAS, it is intended that the following agreement shall be an implementation of the provisions of law consistent with the legislative authority that evolves from the statutes; and,

WHEREAS, it is intended by the provisions of this Agreement that there be no abrogation of the duties, obligations or responsibilities of any agency of county government which is expressly provided for respectively by state statutes and county ordinances and resolutions except as expressly limited herein.

ARTICLE 1 – CONSIDERATION

The consideration for the execution of this binding agreement is the covenants mutually expressed herein and arrived at by the parties hereto.

ARTICLE 2 – CONDITIONS AND DURATION OF AGREEMENT

This Agreement shall be in full force and effect for the period commencing on January 1, 2022, except as otherwise provided, and terminating on the 31st day of December, 2024.

ARTICLE 3 – NEGOTIATIONS

Either party to this Agreement may select for itself such negotiator or negotiators for purposes of carrying on conferences and negotiations under the provisions of law, as such party may determine. No consent from either party shall be required in order to name such negotiator or negotiators.

ARTICLE 4 – TIME TABLE

The parties agree that a target schedule for conferences and negotiations to be carried on by the parties with respect to extending this Agreement, is as follows:

4.1 Negotiations, if required, to begin by September 1st, or as soon thereafter as the parties agree.

4.2 Submission of FOP proposal, if required, to the Employer one (1) month prior to the first scheduled session.

4.3 Submission of Employer's counter proposal, if required, to FOP one (1) week prior to the

first scheduled session.

ARTICLE 5 – SUBORDINATE TO STATUTES

This Agreement shall in all respects, wherever the same may be applicable herein, be subject and subordinate to the ordinances of the Employer, Corrections Department, regulations within its statutory jurisdiction and shall further be subject to the statutes of the State of Washington.

ARTICLE 6 – RECOGNITION

The Employer recognizes the FOP as the certified bargaining agent for the purposes of negotiating and establishing salaries, wages, hours and working conditions of employment for all full-time and regular part-time Corrections Lieutenants, of the Benton County Corrections Department; excluding, Jail Records Clerks, Supervisors, Confidential Employees, Correction Officers, Corrections Corporals, Corrections Sergeants, and all other employees.

ARTICLE 7 – LIMITATIONS UPON FOP ACTIVITY

No FOP meetings shall be held on Employer time.

ARTICLE 8 – DISBURSEMENTS FROM SALARIES

Pay Day: The salaries and wages of employees shall be paid monthly through direct deposit, including the final paycheck at the discretion of the Auditor's office. Draw-pay provisions exist which permit partial payment at mid-month on request. Any change to the payroll date will be preceded by a sixty (60) day notice to the FOP and the employees.

The Employer shall have the right to implement a different payroll framework, for example bi-weekly payroll, based on the implementation of a new payroll system when it becomes administratively possible for the Employer to do so. The Employer will provide sixty (60) days written notice to the FOP and affected employees of the date when the new payroll system would begin.

Pay increases, whether by percentage cost of living provisions or by pay plan progressions are subject to satisfactory performance reviews and are applicable only to employees who are employed with Benton County at the time of ratification of this contract by the Board of County Commissioners and/or the time when the increase is applicable as set forth in the contract, whichever is later.

ARTICLE 9 – MANAGEMENT RIGHTS

9.1 The FOP recognizes the prerogative of the Employer to operate and manage its affairs in all respects in accordance with its responsibilities, lawful powers and legal authority except as limited by the terms of this Agreement. All matters not expressly or clearly covered by the language of this Agreement and other written agreements between the parties shall be administered for the duration of this Agreement by the Employer as the Employer from time-to-time may determine. Affairs of the Employer concerning such prerogative

includes, but is not limited to, the following matters:

A. The right to establish reasonable lawful work rules and procedures.

B. The right to schedule work and overtime work, and the methods and processes by which said work is to be performed in a manner most advantageous to the Employer and consistent with the requirements of the public interest.

C. The right to hire, transfer, suspend, discharge for just cause, layoff, recall, promote, or discipline employees as provided by this Agreement.

D. The right to determine the size and composition of the work force and to assign employees to work locations and shifts.

E. The right to determine what law enforcement duties shall be performed by various Corrections Department personnel.

F. The parties understand that incidental duties connected with operations, not enumerated in job descriptions, shall nevertheless be performed by the employee when requested by a superior officer.

G. The right to take any and all types of actions as may be determined by Management to be necessary in the event of emergencies. The Employer shall determine whether or not an emergency exists. An emergency shall be a sudden or unexpected happening or situation that calls for action without delay.

9.2 Nothing in this Agreement shall be interpreted to detract or circumscribe the trust placed in the elected officials, in this case, the Board of Benton County Commissioners, and the rights and obligations owed thereby to the electorate.

9.3 Employer shall not be held liable or responsible to the Union, nor deemed to have defaulted under or breached this Agreement for failure or delay in fulfilling or performing any obligation under this Agreement when such failure or delay is caused by, due to, or as a result of, causes beyond the reasonable control of Employer, from causes beyond the reasonable control of Employer, including but not limited to pandemics or acts of God and/or related governmental shutdown: provided however, that the Employer shall use reasonable efforts to avoid or remove such causes of nonperformance, and shall continue performance hereunder with reasonable dispatch whenever such causes are removed. Employer shall provide the Union with prompt written notice of any delay or failure to perform that occurs by reason of *force majeure*.

ARTICLE 10 – EMPLOYEE RIGHTS

10.1 An employee shall have the right upon request to inspect their personnel file in accordance with the Corrections Department's Personnel Records Policy, policy 213.

10.2 The off-duty activities of an employee shall not be cause for disciplinary action unless said activity is detrimental to the employee's work performance.

10.3 Bulletin Boards: The Employer agrees to furnish reasonable bulletin board space to be used by the FOP. The FOP agrees to maintain said bulletin board in a presentable condition. If the bulletin board fails to be maintained appropriately and becomes an eyesore, the Employer shall have the right to discontinue the availability of said FOP bulletin board.

10.4 Employees may report what they believe to be an unsafe or unhealthy working condition to Management for investigation. Management will respond to such reports within thirty (30) days.

10.5 Work Rules: Work rules and policies shall be uniformly applied. When existing work rules or policy procedures are changed or new rules or procedures established, employees whose work assignment is affected shall be notified by circulating memorandum, and the new rule or procedure shall be posted prominently on appropriate bulletin boards prior to the effective date. Employees shall comply with all existing reasonable rules that are not in conflict with the express terms of this Agreement, provided the rules are uniformly applied and uniformly enforced. Any unresolved complaint as to the reasonableness of any new or existing rule, or any complaint involving discrimination in the application of new or existing rules shall be resolved through the grievance procedure.

10.6 Up to two (2) FOP stewards serving on the negotiating team during contract negotiations shall be excused from work in order to attend negotiations and shall not suffer a loss in wages as a result. Upon written request, FOP stewards may be excused, on unpaid status, to attend training provided by the FOP, provided that adequate staffing levels are maintained at no additional cost to the Employer, as determined by the Employer.

ARTICLE 11 – FOP SECURITY

11.1 Fee Processing: The Employer agrees to deduct and forward to the FOP, on a monthly basis, the amount of dues designated by the FOP and certified by the FOP. The FOP agrees to notify the Employer at least thirty (30) days in advance of any increase in FOP dues.

If an employee's employment terminates on or before the 15th day of the month, dues will not be deducted for that month; if the termination is after the 15th day of the month, dues will be deducted.

If an improper deduction is made, the FOP shall refund an over-deduction within thirty (3) days, directly to said employee. If a less than required deduction occurs, then the Employer will deduct the appropriate amount from the next paycheck.

11.2 Maintenance of Membership: New employees will be enrolled on the first day of the calendar month following their new hire date or appointment to a position in the bargaining unit, if they voluntarily elect in writing to be a dues paying member.

11.3 Revocation: An employee may revoke their authorization for payroll deduction of payments to the FOP by written notice to the FOP, and to the Employer by delivery to Human Resources. Every effort will be made to end the deduction effective on the first payroll, but not later than the second payroll, after the Employer's receipt of the employee's written notice.

11.4 Indemnification: The FOP agrees to indemnify and save the Employer harmless against any liability which may arise by reason of any action taken by the Employer to comply with the provisions of this Article, including reimbursement for any legal fees, costs and/or expenses incurred in connection with such action. The Employer will promptly notify the FOP in writing of any claim, demand, suit or other form of liability asserted against it relating to its implementation of this Article.

ARTICLE 12 – NO STRIKE AND NO LOCKOUT

12.1 Neither the FOP nor the employees shall cause, condone or participate in any strike or work stoppage, slow-down or other interference with Employer functions by employees under this Agreement, and should same occur, the FOP agrees to take appropriate steps to end such interference. Employer employees who engage in any of the above-referenced activities shall not be entitled to any pay and/or benefits during the period in which they are engaged in such activity. Employees covered by this Agreement who engaged in any of the foregoing actions shall be subject to disciplinary action as may be determined by the Employer.

12.2 The Employer agrees there will be no lockouts during the term of this Agreement.

12.3 The Employer may seek relief in Superior Court inclusive of injunctive relief and/or damages.

ARTICLE 13 – SAVINGS CLAUSE

If any Article or Section of this Agreement or any addendum thereto should be held invalid by operation of law or by any tribunal of competent jurisdiction, or if compliance with or enforcement of any Article or Section should be restrained by such tribunal, the remainder of this Agreement and Addendum shall not be affected thereby.

ARTICLE 14 – ENTIRE AGREEMENT

This Agreement, including Appendices A and B, constitutes an entire agreement between the parties and no verbal statements shall supersede any of its provisions.

ARTICLE 15 – VACATIONS

15.1 Vacation leave with pay is earned at the following monthly rates depending on the employee's length of service with Benton County:

Years of Service or	Working Hours Leave

Major Portion Thereof	
1 through 5	10 hours
6 through 10	12 hours
11 through 15	15 hours
16 through 19	16.5 hours
20 and over	18 hours

15.2 Vacation leave credit may be accumulated during the first six (6) months of regular full-time service with the Employer, however, said vacation leave credit may not be used. During the seventh month, or any subsequent month, vacation leave may be allowed up to the limit of the amount earned. Vacation leave credited for any month of service beyond the first six (6) months of service may be allowed during the month earned or any subsequent month. Vacation leave may be accumulated during the first one thousand and forty (1,040) hours of regular part-time service with the County; however, said vacation leave credit may not be used. After the first one thousand and forty hours (1,040), or any subsequent month, vacation leave may be allowed up to the limits of the amount earned. Vacation leave credited for any month of service beyond the first one thousand and forty hours (1,040) of service may be allowed during the month earned or any subsequent month. The employee must request and receive prior approval from the Employer before the employee can utilize said accrued vacation leave.

An employee is eligible to cash out forty (40) hours of vacation leave if the employee has used a minimum of eighty (80) hours of vacation leave since December 1st of the previous calendar year, through November of the current year. This cash out will be paid in December, with the November payroll. Vacation donated under leave sharing will be included in the eighty (80) hours used to qualify for a cash out.

NOTE: Monthly accrual shall commence at the completion of a major portion of a month of continuous service.

Employees with less than twenty (20) years of service shall be allowed to accrue vacation leave up to a maximum of two hundred and forty (240) hours. Employees with twenty (20) or more years of service shall be allowed to accrue vacation leave up to a maximum of two hundred and eighty (280) hours.

Only regular full-time employees who have completed six (6) months of service or regular part-time employees who have completed one thousand and forty (1,040) hours of service shall upon separation from Benton County for any reason, be allowed to cash out the employee's accumulated vacation leave but not to exceed two hundred and forty (240) hours.

15.4 The Chief or designee will grant as many requests for leave as can be accommodated, in the order of receipt of each request, without compromising the operational and safety needs of the jail. Previously authorized leave may be modified or canceled if there is a necessity to do so to protect public safety, meet facility emergency requirements, and/or due to unanticipated personal emergency, as determined by the Chief or designee.

15.5 In accordance with the Part-Time Employee's Article, regular part-time employees will be credited with vacation leave in an amount equal to the number of hours worked divided by one hundred, seventy-three and one-third (173-1/3) and multiplied by the applicable accrual rate to the nearest one-half hour. For example, an employee with two (2) years of service works one hundred and sixty (160) hours during July. Vacation leave credit for July would be one hundred and sixty divided by one hundred and seventy-three and one-third (160/173-1/3) or ninety-two percent (92%) of ten (10) hours which would be nine (9) hours.

ARTICLE 16 – SICK LEAVE

16.1 Eligibility for sick leave use shall begin after the completion of one (1) month of continuous service, but the earning of credit shall start with date of employment, per the application of RCW 49.46 and authority interpreting same.

16.2 Regular full-time employees shall earn credit at the rate of eight (8) hours of sick leave with pay per month of continuous service (ninety-six (96) hours per year). In accordance with Part-Time Employees Article, regular part-time employees will be credited with sick leave in an amount equal to the number of hours worked divided by one hundred, seventy-three and one-third (173 1/3) and multiplied by eight (8) hours to the nearest one-half hour. For example, an employee works one hundred and sixty (160) hours during July. Sick leave credit for July would be one hundred and sixty divided by one hundred, seventy-three and one-third (160/173 1/3) or ninety-two percent (92%) of eight (8) hours, which is seven and one-half (7 1/2) hours.

Per the application of RCW 49.46 and authority interpreting same, every January 1st, all employees maximum accrual will be up to one thousand and forty (1,040) working hours of sick leave as earned per the CBA. Monthly accrual shall credit to the employee's account at the completion of a major portion of a month of continuous service. "Continuous service" shall include employees on paid leave status.

16.3 Sick leave with pay may be used for only one of the following reasons where the facts are established by the employee's supervisor:

A. Per the application of RCW 49.46 and authority interpreting same; or

B. Death in the immediate family: forty (40) hours maximum per death; for the purposes of this clause only, "immediate family" includes family members identified in Section 16.4 as well as children or grandchildren of any age; or

C. Death of a friend or relative not meeting the definition below of immediate family in Section 16.4: eight (8) hours maximum per death.

Sickness shall be reported to their immediate supervisor at the beginning of any period of sick leave prior to the beginning work hour. Upon return to work, the employee shall submit a written request to their immediate supervisor for approval for the leave so taken.

Any employee who is off work due to illness in excess of three (3) work days, or less if sick leave abuse is an issue as determined by the Employer, may be required to provide a qualified healthcare provider verification of the illness as well as their doctor's approval to return to work.

Employees on sick leave in excess of five (5) workdays are required to call their immediate supervisor weekly (every Monday between the hours of 8:00 a.m. and 10:00 a.m.) and are required to inform the supervisor of the employee's status and anticipated return-to-work date. This Section does not apply to an employee who has already provided a health care provider's written statement confirming the employee's need to be off work for a specified time period.

Prior to being eligible to return to work, an employee on leave due to an injury will be required to provide satisfactory evidence and if determined to be necessary by the Employer, will be required to provide a Job Analysis completed by the employee's qualified healthcare provider, confirming that the employee is capable of performing all job duties contained in the job description and that the employee is capable of performing those duties at normal levels of efficiency.

16.4 "Immediate family" is defined per the application of RCW 49.46 and authority interpreting same.

16.5 Employees employed before July 1, 1992, will be paid for fifty percent (50%) of unused sick leave capped at five hundred and twenty (520) hours at voluntary termination or retirement from Benton County into their HRA-VEBA account. Employees hired on or after July 1, 1992, who voluntarily terminate their employment or regularly retire from Benton County under the County's retirement program, shall receive payment for twenty-five percent (25%) of their unused sick leave capped at two hundred and sixty (260) hours. For voluntary termination, such payment shall be limited to employees with ten (10) or more years of service; for retirement, such payment shall be limited to employees with five (5) or more years of service. Payment at voluntary termination or retirement shall not exceed Three Thousand and No/100 Dollars ($3,000.00). All payments will be made into the employee's HRA-VEBA account.

16.6 The Employer may provide transitional work positions depending on its ability to accommodate employees based on the Chief or designee's determination of the availability of a position and the Chief or designee's determination of the ability of an employee to perform the duties of a transitional work positions.

16.7 Family and Medical Leave: The Employer provides Family and Medical Leave to employees to the extent provided by and in accordance with the Family and Medical Leave Act (FMLA), other applicable laws and regulations, and the Benton County Family and Medical Leave Policy (Benton County Resolution No. 09-503, or subsequent replacement resolutions and policies). In addition, the Employer provides Washington Family Care Leave, Washington Family Leave Act leave, Pregnancy Disability Leave, Domestic Violence Leave, and Military Spouse Leave, in accordance with State law.

16.8 Benton County will follow Washington State's Paid Family and Medical Leave process and procedures as outlined by the governing authority.

ARTICLE 17 – HOLIDAYS

17.1 The following are holidays with pay:

New Year's Day	January 1st
Martin Luther King Day	3rd Monday in January
President's Day	3rd Monday in February
Memorial Day	Last Monday in May
Juneteenth	June 19th
Independence Day	July 4th
Labor Day	1st Monday in September
Veterans Day	November 11th
Thanksgiving Day	4th Thursday in November
The Day after Thanksgiving	
Christmas Eve	December 24th
Christmas Day	December 25th
One (1) Floating Holiday	At employee's choice and upon Supervisor's concurrence

17.2 Each employee is entitled to use the one (1) floating holiday per year after six (6) months of employment. In order for the employee to use said floating holiday, they must give the Employer sufficient notice so that the Employer can properly plan for continuity of service. Employees may be granted the holiday off if manning requirements inclusive of gender and experience on a shift by shift basis are met as determined and at the discretion of the Employer. When such time off is workable it will be granted in order of seniority among those employees who so request the time off and will also depend on priorities of when employees request the time off.

17.3 If a holiday falls on a Saturday, it shall be observed on the preceding Friday. If a holiday falls on a Sunday, it shall be observed on the following Monday.

17.4 An employee scheduled to work on a holiday and who actually works on that holiday will be paid at time and one-half (1.5x) for actual hours worked on the holiday, in addition to eight (8) hours of holiday pay. When the holiday falls on a Saturday or Sunday, for shift employees working rotating shifts, the time and one-half (1.5x) pay is for hours worked on the actual holiday; for other employees (such as Monday-Friday work crew employees), the time and one-half (1.5x) pay is for hours worked on the observed day. No employee is eligible for time and one-half (1.5x) pay on both the observed and actual holiday. There is no pyramiding of overtime and time and one-half (1.5x) holiday pay. If an employee is scheduled to work a holiday and calls in sick, the employee will be charged sick leave and will not receive holiday pay.

17.5 An employee will not receive holiday pay if the employee is absent on their last scheduled

work day prior to or the first scheduled work day following the holiday if the absence is without pay due to insufficient accrued paid leave or if the employee is on a leave of absence without pay.

17.6 The floating holiday may be taken only in full or cashed out in December with the November payroll.

17.7 Deferred Holidays:

A. Employees may elect to defer their holiday pay (eight (8) hours for each holiday) and receive it in the December paycheck. Deferred holidays include the holidays listed in this Agreement, except for Christmas Eve and Christmas Day, which may not be deferred. If an employee elects to defer holidays, they will make the request in writing, on a form provided by the Employer during the month of December for the following year. An employee who elects to defer holidays will have all the holidays (except Christmas Eve and Christmas Day) deferred. If the employee does not elect in writing to defer holidays, the eight (8) hours of holiday pay for each holiday will be included in the monthly pay period in which the holiday occurred.

B. Deferral of Floating Holiday:

If an employee elects to defer holidays but then wishes to take the floating holiday off, they must submit a written leave request for the floating holiday off without pay. Request and approval of a floating holiday off will be in accordance with the above floating holiday section, except that the Employer will provide a written response within two (2) working days.

An employee who defers holidays and then requests and is granted the floating holiday off will have the day off without pay. This day off without pay is an exception to the Leave of Absence Without Pay Article, but employees may use this day off for authorized off-duty employment in accordance with Corrections Department policy.

If an employee elects to defer holidays, requests the floating holiday off with at least ten (10) days advance notice, and is denied the requested floating holiday on two (2) occasions, in two (2) different calendar months, the employee will be paid at time and one-half (1.5x) for actual hours worked on the second denied day off. In addition, the employee will be paid the eight (8) hours of holiday pay for the deferred floating holiday in the December paycheck.

Example: On February 1st, employee requests February 15th off and the request is denied. On February 3rd, employee requests March 15th off and the request is denied. Employee receives time and one-half (1.5x) pay for

hours worked on March 15th.

ARTICLE 18 – PENSIONS AND RETIREMENT

Employees shall participate in the State Employees Retirement Plan as set forth in applicable statutes.

ARTICLE 19 – JURY DUTY, MILITARY LEAVE

19.1 Employees who are members of the Military Reserve or National Guard shall be granted leave for a period not exceeding twenty-one (21) days during each year beginning October 1st and ending the following September 30th. Such leave shall be granted in order that the person may report for active duty, when called, or take part in active training duty in such manner and at such time as he or she may be ordered to active duty or active training duty. During the period of military leave, the employee shall receive their normal pay. This provision shall be subject to applicable State and Federal laws.

19.2 Any necessary leave may be allowed by the Chief or designee to permit an employee to serve as a member of a jury. Each employee who is granted such leave and who, for the performance of the civil duties involved receives any compensation, shall be paid by the Employer for the time the employee is absent only in the amount of the difference between the employee's regular pay and the compensation so received. An employee receiving a summons to report for jury duty shall notify the Chief or designee of such action within three (3) days of service of the summons. The Chief or designee reserves the right to contact the court involved and to seek relief from such summons. Employees working day shift shall report to work during all hours they are released from jury duty. If less than two (2) hours remain from the time of release to the end of the employee's regular shift, the employee will be excused from work for the remainder of the employee's shift. For employees working night shift, the shift following jury duty will be excused. For this excused time off work, the employee will be paid the employee's regular pay, less the amount of jury pay if applicable, as indicated above.

ARTICLE 20 – HOURS OF WORK AND OVERTIME

20.1 The normal workday(s) and shift(s) will be determined, from time to time, by the Chief or designee.

20.2 The normal work week(s) will be Monday through Friday, unless otherwise determined by the Chief or designee.

20.3 The Chief or designee shall have the right to implement work periods consisting of seven (7) days, fourteen (14) days and/or twenty-eight (28) days. The Chief or designee shall also have the right to implement, if deemed in the best interest of the Employer, eight (8), nine (9), ten (10) or twelve (12) hour work shifts. The purpose of this section is to permit the Chief or designee to implement work periods and overtime thresholds in accordance with the provisions of the Fair Labor Standards Act as authorized by 29 USC §207(k) and in order to protect the best interests of the Employer.

If the Employer elects to implement nine (9), ten (10) or twelve (12) hour shifts, this Agreement remains based on an eight (8) hour day, including sick leave accrual, holiday pay, bereavement leave, and disciplinary suspensions.

20.4 Shift hours and assignments will be established by the Chief or designee. Employees assigned to work an eight (8), nine (9), or ten (10) hour work shift will be allowed one-half (1/2) hour for a paid lunch. Employees assigned to work a twelve (12) hour work shift will be allowed a forty-five (45) minute paid lunch, uninterrupted, when feasible, and intermittent, when not feasible. The Chief or designee may require that employees remain in duty status during lunch time.

20.5 Compensatory time shall be administered in accordance with the Fair Labor Standards Act. Employees shall be allowed to accrue no more than thirty-six (36) hours of compensatory time. An employee must use banked compensatory time off prior to using vacation leave, except when an employee has accrued the maximum amount of vacation leave allowed.

Any remaining compensatory time balances will be paid upon transfer to a new office/department, position, or at termination of employment, at the employee's then regular rate of pay.

20.6 If an employee is required to be present in court during their scheduled off work hours, such employee shall receive time and one-half (1.5x) pay for actual court time. If actual court time is less than four (4) hours, the employee also receives pay at the straight time rate up to the four (4) hours. Only the actual time worked will be utilized for purposes of calculating qualification for overtime in accordance with the overtime provisions of this Article.

20.7 Employees who are called in outside of their regular shifts to attend meetings will be paid for such meeting time with a minimum of two (2) hours for each such event at the overtime rate. Only actual time at the meeting will be used for calculation purposes in order to determine qualification for overtime in accordance with provisions of this Article.

20.8 All compensated time will count towards the overtime threshold.

20.9 Hourly Rates: When any situation arises involving compensation based upon hourly rates, the employee's regular hourly rate of pay will be obtained by dividing the sum of the employee's base salary plus all other regular pay by one hundred, seventy-three and one third (173-1/3).

20.10 Safety Release: The Corrections Department will make every reasonable effort to ensure that an employee will not work more than sixteen (16) hours consecutively unless deemed necessary by the Chief or designee.

A. When practical, prior to working sixteen (16) or more hours in any twenty-four (24) hour workday, the employee shall make the Chief or designee aware that the employee believes their current work assignment may result in the employee working

sixteen (16) or more hours in the twenty-four (24) hour workday.

B. Lieutenants assigned to work dayshift who are called back into work overnight or outside of the normally scheduled shift will be allowed nine (9) hours of safety release prior to reporting to dayshift the following day.

ARTICLE 21 – GRIEVANCE PROCEDURE

21.1 The parties hereto recognize the need for fairness and justice in the adjudication of the FOP and Employer grievances and enter into this Agreement in a cooperative spirit to adjust such actions promptly and fairly at the lowest level possible. If, however, a grievance cannot be resolved through normal means, the grievance will be settled as hereinafter provided.

21.2 A grievance is defined as a dispute involving the interpretation, application or alleged violation of any provision of this Agreement, or written agreements between these parties modifying this Agreement.

21.3 Through the procedure as set forth in this Article, a grievance may be presented by an employee or the FOP (but not both) or the Employer. All grievances shall outline the facts and alleged violation(s) of identified contract articles, when filed. A grievance brought by the Employer or the FOP must be initiated at Step 2 of this Article.

21.4 Grievances may be heard at any time where practical and feasible.

21.5 The parties agree that the time limitations provided herein are essential to the prompt and orderly resolution of any grievance, and that each will abide by the time limitations, unless an extension of time is mutually agreed to in writing. The Chief or designee and the FOP may extend the time limits by mutual agreement in writing. The term "working days" means Monday through Friday excluding holidays named in this Agreement.

21.6 No grievances, other than grievances initiated by the Employer or the FOP, shall be valid unless said grievance is submitted at Step 1 within fifteen (15) working days from its occurrence. If a grievance is not presented within fifteen (15) working days from its occurrence, said grievance shall be waived and forever lost. If a grievance is not appealed to the next step within the specified time limit or an agreed extension thereof, it shall be considered waived and forever lost. If the Employer or FOP does not respond within the specified time limits, that party shall lose the grievance.

21.7 The grievance procedure shall be as follows:

Step 1:

The grievance shall be presented in written form to the employee's Jail Commander or designee within fifteen (15) working days from its occurrence. In recognition of, and in the spirit of RCW 41.58.040(2) to resolve disputes as expeditiously as possible, the parties may agree to meet and attempt to settle the grievance within five (5) working days of the

Management receiving the grievance, in which case Management shall respond in writing within ten (10) working days after the conclusion of the meeting, whether or not resolved. If the parties do not meet, Management shall respond in writing to the grievance within fifteen (15) working days after receiving the grievance.

Step 2:

If the grievance is not resolved to the satisfaction of the grievant at Step 1, then within fifteen (15) working days of the response in Step 1, above, the grievance shall be presented in writing to the Chief or designee. Thereafter, the Chief or designee shall respond in writing to the aggrieved employee and FOP within fifteen (15) working days after receipt of the grievance.

A grievance filed by the Employer against the FOP, or by the FOP, must be initiated in writing at Step 2, and submitted to the FOP Labor Specialist or designee, or the Chief or designee, respectively, within fifteen (15) working days after the grieving party knew or reasonably should have known, of the event giving rise to the grievance.

As in Step 1, the parties may agree to meet and attempt to resolve the dispute within five (5) working days of the grievance being filed, in which case the respondent shall respond in writing within ten (10) working days after the meeting. If the parties do not meet, the written response is due within fifteen (15) working days after receiving the grievance.

Step 3:

(a) Final and Binding Arbitration: If the grievance has not been resolved at Step 2, the FOP or the Employer may refer the dispute to final and binding arbitration.

(b) Notice – Time Limitation: The FOP or the Employer shall notify the other in writing by mail, email, or personal service of submission to arbitration within ten (10) calendar days after receipt of the Step 2 response.

(c) Arbitrator – Selection: Arbitrators for disciplinary grievances shall be selected in accordance with State law. For all other arbitrators, after timely notice, the parties will select an arbitrator in the following manner:

(i) The parties shall attempt to select the arbitrator within twenty (20) calendar days after receipt of the written grievance at Step 3. Thereafter, the hearing of the matter shall be at the earliest possible date. If the parties cannot agree upon an arbitrator, the arbitrator will be selected through the procedure as provided for in Step 3 (c)(ii), below.

(ii) In the event either party does not agree on an arbitrator, then and in that event, the party advancing the grievance to arbitration shall

request a panel of eleven (11) arbitrators from the Federal Mediation and Conciliation Service, "copying" the other party with the written request. The list shall be limited to arbitrators who are members of the National Academy of Arbitrators from the nearest sub-region. If the parties cannot mutually agree on an arbitrator from the list of eleven (11), then the two (2) parties shall meet or confer by telephone. The non-grieving party shall elect to either strike one (1) name from the list (or defer the first strike to the grieving party) and communicate that party's choice to the other party. The party not striking first will then strike one (1) name from said list and so on, proceeding in an alternating order until each party has struck five (5) names from the list. The remaining name shall be the arbitrator and shall be so advised by the party advancing the grievance to arbitration, copying the other party with the notice.

(d) Decision – Time Limit: The arbitrator will meet and hear the matter at the earliest possible date after the selection of the arbitrator. After completion of the hearing, a decision shall be entered within thirty (30) calendar days, unless an extension of time is agreed upon as provided for herein.

(e) Limitations, Scope and Power of Arbitrator:

(i) The arbitrator shall not have the authority to add to, subtract from, alter, change or modify the provisions of this Agreement.

(ii) The power of the arbitrator shall be limited to interpretation of or application of the terms of this Agreement or written agreements between the parties modifying, or to determine whether there has been a violation of the terms of this Agreement or written agreements between the parties modifying this Agreement by either the employee or the FOP.

(iii) The arbitrator shall consider and decide only the question or issue raised at Step 1 or Step 2, as determined by the Step where the grievance was first initiated (unless the respondent party in writing agrees to an amendment of the question at the conclusion of Step 2). Said arbitrator shall not have the authority to consider additions, variations and/or subsequent grievances beyond the grievance submitted at Step 1 or Step 2.

(iv) In conducting hearings, the arbitrator shall have the power to administer oaths, issue subpoenas, receive relevant evidence, compel the production of books and papers relevant to the hearing, and question witnesses.

(v) Summary Judgement. The arbitrator will have the power to hear

summary judgement motions as set forth herein. For grievance arbitration matters not involving discipline of a FOP represented employee, a party may submit a summary judgement motion to the arbitrator, who will issue a briefing schedule. The arbitrator may decide the matter and issue an order based upon the summary judgment written record, if the written record shows that there is no genuine issue as to the material facts, and the moving party is entitled to judgment as a matter of law, in which case the arbitrator will issue a detailed, written decisions, order and award.

(f) Arbitration Award – Damages – Expenses:

(i) Arbitration awards shall not be made beyond the date of the occurrence upon which the grievance is based, that date being fifteen (15) working days or less prior to the initial filing of the grievance.

(ii) The arbitrator will retain jurisdiction of the grievance until such time as the award has been complied with in full.

(iii) The arbitrator shall not have authority to award punitive damages.

(iv) In the event that either party evaluates and determines that the arbitration award was made beyond the jurisdiction of the arbitrator, then and in that event, said award may be appealed to Superior Court within thirty (30) days, for a review of the record and not a *de novo* proceeding.

(v) Each party hereto shall pay the expenses of their own representatives, witnesses, and other costs/expenses associated with the presentation of their case, as well as one-half (1/2) the fees/expenses of the arbitrator.

(vi) Either party may request that a stenographic record of the hearing be made. The party requesting such record shall bear the cost thereof, provided, however, if the other party requests a copy, such cost to prepare the stenographic record, including without limitation, hearing costs, shall be shared equally.

ARTICLE 22 – MEDICAL, HOSPITAL AND LIFE INSURANCE

22.1 Effective with the first payroll cycle following the date of last signature on this Agreement, the Employer agrees to pay ninety-five percent (95%) of the premiums for medical, dental, vision, time loss, and life insurance, for the following plans and benefits:

A. United Employees Benefit Trust (UEBT) Medical Plan A-6 (Composite);

B. UEBT Dental Plan;
C. UEBT Vision;
D. UEBT Time Loss Plan; and
E $24,000 Standard Insurance Company Basic Life Plan.

The Employer will pay ninety-five percent (95%) of the premiums for the above listed policies. The employee portion of five percent (5%) will be paid by payroll deduction. Any additional amounts necessary to pay insurance premiums for coverage elected by the employee shall be paid by the employee by payroll deduction (for example, if the employee elected family basic life insurance coverage, the employee will pay the additional monthly premium).

The percentages listed herein and the method for accomplishing the payment of the employee portion shall be the "status quo" during negotiations and mediation for a successor labor agreement; provided, however, neither party is precluded from proposing different percentage formulas and/or different approaches to insurance, and if the parties reach impasse on such insurance proposals in negotiations and mediation, then either party may advocate such position in an interest arbitration proceeding.

22.2 For UEBT coverage, the employee is eligible on the first of the month, if they are a regular full-time employee and had forty (40) or more compensable hours (worked, vacation, sick leave, holiday pay) in the previous calendar month. If the employee is a regular full time employee and elects Kaiser (Washington Counties Insurance Fund or "WCIF") and is hired on the 1st of the month, coverage begins on the 1st of that month; if hired on the 2nd through the 31st, coverage begins the 1st of the following month. If the first falls on a weekend or holiday and the employee reports to work on the first business day following, coverage is retroactive to the first of the month.

The eligibility of an employee for insurance benefits terminates at the end of any month that the employee fails to meet the above eligibility and enrollment requirements. If the employee has benefits with UEBT and had at least forty (40) or more compensable hours during the last calendar month of employment, coverage extends through the end of the month following termination. If the employee has WCIF benefits, coverage ends the last day of the month in which employment terminated.

22.3 If the insurance company or companies or applicable brokers/agents notifies the Employer of changes in the benefits structure, benefit level and/or premium level, the Employer will notify the FOP of said changes. If the changes are mandated on the Employer, then the Employer will so notify the FOP and the parties will meet for informational purposes. Thereafter, the Employer shall implement the mandated changes. If the changes are not mandated and if there are options for changes then the Employer will communicate with the FOP to discuss these options and thereafter will implement the changes taking into consideration the interest of the Employer and the employees.

22.4 The parties agree that this contract does not spell out the coverage of medical insurance afforded the employees and that, therefore, the Employer will not be responsible for claims

denied by carriers.

ARTICLE 23 – COMPENSABLE ON-THE-JOB INJURIES

Employees who may suffer a compensable on-the-job injury requiring their absence from work will be permitted to apply accumulated sick leave to the first three (3) work days of such absence less any State compensation which may be applicable. During the absence of such employee, said employee will be considered as being "on leave of absence - compensable injury" and as such the Employer will continue to pay up to the medical premium contributions for such time as the employee is supplementing their time loss payments with accumulated leave or during the period of Family and Medical Leave Act (FMLA) leave. Time loss payments are not considered compensation, however, while an employee is on time loss, their sick and vacation will continue to accrue, and their anniversary date will not change.

If the employee runs out of accrued leave then the employee will be responsible for paying the premiums directly to the insurance carrier as determined by the Employer; provided, however, the Employer will continue to pay up to the medical premium contributions for three (3) months beyond exhaustion of accumulated leave.

If the employee qualifies for time loss payments, then the employee shall apply their accumulated sick leave and/or vacation leave toward the base wage difference between the time loss payment and the normal base wage for a normal work day. The employee must keep their supervisor informed of their status and prognosis for return to work on a regular basis, as determined by the supervisor.

ARTICLE 24 – DISCIPLINE AND DISCIPLINARY PROCEDURES

24.1 Just cause is not only inclusive of those causes set forth in the Corrections Department policies but is also inclusive of neglect of duty, inefficiency, insubordination, incompetence, insolence, tardiness, absenteeism, conviction of a crime which may affect work performance, malfeasance or misfeasance of job requirements, misconduct, violation of Employer and/or Corrections Department rules and/or regulations, violation of no strike clause, conflict of interest between off-duty activities and job duties, abuse of sick leave and such other causes normally serving as a basis for discipline in labor and personnel relations.

24.2 Disciplinary action or measures shall include only the following:

A. Oral reprimand,
B. Written reprimand,
C. Suspension without pay,
D. Demotion,
E. Discharge.

24.3 The parties agree that progressive and escalating levels of discipline are preferable to provide an employee proper notice of misconduct and the opportunity to improve performance and to allow the Employer to document disciplinary matters. The level or

degree of discipline imposed shall be appropriately based on an employee's prior record of service, length of service, severity of offense and prior record of discipline inclusive of field notes referencing oral warnings relating to misconduct; the order in which these criteria appear is not indicative of their priority. An employee may be suspended without pay when said employee has first received one (1) written warning relating to said employee's previous work or conduct. An employee may be discharged when said employee has first received a suspension relating to said employee's previous work or conduct. All previous disciplinary actions in an employee's file may be evaluated and considered in a disciplinary action. The following illustrates the disciplinary actions and options available to the Chief or designee under this concept:

A. First offense – oral reprimand, written reprimand.

B. Second offense – written reprimand, suspension without pay.

C. Third offense – written reprimand, suspension without pay, demotion, discharge. If the Chief or designee determines that a suspension without pay is the appropriate level of discipline, forfeiture of vacation time for some or all of the period of suspension is available, provided this substitution is mutually agreeable to the parties.

24.4 Notwithstanding the section above, the Chief or designee may immediately suspend without pay or discharge an employee for a serious event which constitutes just cause for discipline inclusive of misconduct pursuant to the CBA.

24.5 The Employer may discipline an employee for just cause, but in no event may the Employer issue a complaint regarding an employee's work or conduct later than thirty (30) calendar days following the work, incident, or conduct which gave rise to the complaint, or later than thirty (30) calendar days of such work, incident or conduct being known to the Employer by way of investigatory proceedings, or later than thirty (30) calendar days from conclusion by the investigating agency of criminal investigatory proceedings, whichever occurs sooner.

24.6 Any employee who is under investigation for disciplinary action which may result in a permanent notation in their personnel file or which may result in suspension without pay, demotion or discharge, shall, before being required to respond or answer questions pertaining thereto, be informed of the existence and nature of the investigation.

24.7 The provisions of this Article shall not apply to newly hired employees serving a probationary period. Probationary employees shall work under the provisions of this Agreement, but shall be only on a trial basis, during which period they may be discharged without just cause and without any recourse.

24.8 Any disciplinary action by a supervisor other than the Chief or designee, except verbal reprimands, shall not be final unless affirmed in writing by the Chief or designee. Notations or copies of any such disciplinary action shall be sent to the FOP at the time it is

given to the employee.

24.9 Unless circumstances exist which warrant immediate suspension or discharge, the employee shall, before the disciplinary action is finalized, have the opportunity to discuss the matter with their immediate supervisor and the Chief, and be informed of the nature of the charges, and the facts supporting them. The employee shall be given an opportunity to respond to the charges, including a reasonable time (not to exceed ten (10) calendar days) to consult a FOP representative.

24.10 An employee has the right to have a disciplinary action against them reviewed through the grievance procedure. The employee must file a grievance within ten (10) calendar days of the disciplinary action. If a grievance is sought, it shall proceed under the terms of this Agreement.

24.11 In the event of imminent dismissal of an employee, and the Employer determines an alternative to said dismissal is the employee's resignation, said employee will be provided up to one (1) business day to confer with the FOP before having to respond to the offer of resignation.

24.12 Informal, private, non-coaching and counseling, discussions, are not disciplinary discussions and not grievable; they cannot be recorded in the employee's personnel file, cannot be cited as an element of a prior, adverse record, and can be relied on only to show that the employee was made aware of their obligations and responsibilities.

ARTICLE 25 – LAYOFF AND RECALL

25.1 The Employer shall be the sole determiner of when layoffs are necessary. The Employer may lay off employees when such action is determined to be necessary by reason of lack of work, lack of funds and/or reorganization.

The Employer agrees to notify the FOP of any and all pending layoffs and agrees to meet with the FOP to inform them of those positions which will be laid off prior to implementation of the layoff. Said notification and meeting shall not constitute an obligation to bargain about the decision nor shall it constitute an obligation to bargain about the effects of the layoff. The purpose of the notification and the meeting is strictly informational in nature.

25.2 The Employer will give fourteen (14) calendar days written notice to designated employees.

25.3 When the Employer determines that a layoff is necessary, then the Employer shall determine the number of employees and the affected classifications to be laid off. The FOP representative will be notified of the number of employees and classifications designated for reduction as soon as said determination is made. When the Employer determines which employee(s) and classification(s) shall be laid off, the Employer will implement a layoff in accordance with the seniority provision of this Agreement.

25.4 Employees laid off will be eligible for reinstatement for a period of one (1) year. No new full-time employees shall be hired by the Employer until the Chief or designee determines that available, qualified employees within the classification placed on layoff have been offered re-employment. It shall be the employee's responsibility to keep the Employer advised of their current mailing address, email address, and telephone number. An offer of re-employment shall be in writing and sent by mail and e-mail to the employee. The employee shall be deemed to have received notice within five (5) days after the Employer mailed and e-mailed said notice. An employee so notified must indicate their acceptance of said re-employment within ten (10) days of receipt of notice and shall be back on the job within ten (10) days of acceptance of said offer or forfeit all call-back rights under this Article.

25.5 Employees recalled from layoff shall not lose previously accumulated time in service, provided all other provisions of this Article are complied with, including that the employees must be re-employed within one (1) year to retain these call-back rights and that the employee has successfully completed their one (1) year probationary period.

25.6 Employees laid off shall be compensated for unused accumulated vacation leave and sick leave in accordance with the terms of this Agreement.

ARTICLE 26 – WAGE RATES AND OTHER COMPENSATIONS

26.1 Effective January 1, 2022, the Salary Schedule is reflected in the attached Appendix B. This calculation and process shall be determined and established by the Benton County Commissioners Office.

A. Effective January 1, 2023, the Appendix C Salary Schedule will reflect a COLA increase of three percent (3.0%). This calculation and process shall be determined and established by the Benton County Commissioners Office.

B. Effective January 1, 2024, the 2023 Salary Schedule will reflect a COLA increase of three percent (3.0%). This calculation and process shall be determined and established by the Benton County Commissioners Office.

The County will match employee contributions up to two percent (2.0%) of the employee's base wage into the County sponsored Mission Square Retirement 457 plan. Effective with the February 2023 pay period commencing January 1, 2023, with the payday on February 5, 2023, the County will match employee contributions up to four percent (4%) of the employee's base wage into the County sponsored Mission Square Retirement plan.

Any retroactive pay increases are applicable only to those employees who are employed in the bargaining unit on the date of last signature on the Agreement. Employees who terminate employment for any reason prior to that date will not receive any pay increases.

26.2 The pay plan shall be administered in accordance with the following provisions:

A. Subsequent Pay Steps: In order to be eligible for subsequent steps from one step to the next, an employee shall serve a minimum of twelve (12) consecutive months within a step, or two thousand and eighty (2,080) hours for regular part-time employees before becoming eligible to move to the next step; and eligibility for movement shall be subject to successful job performance documented in a written performance evaluation.

B. Promotions: Promotions are subject to the determination of the Chief or designee. Employees will receive the starting rate/step of the new classification when promoted and will be given a new anniversary date.

C. Demotions: An employee who moves to a lower pay grade shall move to the step in the lower grade that results in the smallest decrease in pay, except when the demotion is associated with disciplinary action. The employee will be given a new anniversary date.

ARTICLE 27 – LEAVE OF ABSENCE WITHOUT PAY

27.1 An employee may be granted leave of absence without pay not to exceed three (3) months. An employee must request such leave from the Chief or designee. The Chief or designee may approve or disapprove said leave. Such leave requests shall be made thirty (30) days prior to the anticipated start of leave, when applicable. Prior to approval of such leave, the employee and the Chief or designee shall reach a mutually acceptable agreement with regard to the date of return and work position to which the employee will return. Leave of absence without pay shall not be authorized in any case where such leave shall operate to the detriment of the Correction's Department service. Such leave will not be granted for purposes of the employee gaining personal advantage or profit.

27.2 In order to be approved for a leave of absence without pay, an employee must first exhaust all banked vacation time. Employees may not use leave without pay for vacation or other short-term absences resulting from not having sufficient leave banked. If the reason for leave of absence without pay is a qualified sick leave usage, an employee must also exhaust their sick leave prior to being on a leave of absence without pay unless the law provides otherwise. A disciplinary suspension without pay may be granted prior to the utilization of an employee's leave bank(s).

27.3 While on a leave of absence without pay that is not FMLA leave, the Employer's insurance contribution ceases, and the employee is eligible for COBRA benefits. If the employee is on unpaid leave for a major portion of a month, vacation and sick leave do not accrue, and the employee's anniversary date will be adjusted accordingly. An anniversary date will not be adjusted if the leave of absence without pay is covered by FMLA or PFML.

27.4 If the Employer determines that there is a need for such information, the employee shall present satisfactory evidence of capability of resuming job duties at proper levels of efficiency before returning to work.

ARTICLE 28 – ABSENCE WITHOUT DULY AUTHORIZED LEAVE

No leave of absence, whether with or without pay, shall be allowed unless authorized in advance. Absence not on duly authorized leave shall be treated as leave without pay and shall constitute grounds for disciplinary action inclusive of discharge/termination. Unauthorized absences from duty for three (3) consecutive days will constitute a basis for discharge. The Personnel Action Form (PAF) shall be used in applying for any leave.

ARTICLE 29 – SENIORITY PROVISION

"Seniority" as used in this Agreement means all service under this Agreement since the last date of hire. Preference in vacation scheduling, overtime, and layoff shall be determined by seniority, except as provided by the Overtime Procedure. The Employer will provide the FOP with a copy of an up-to-date seniority list when requested.

An employee will lose seniority rights by and/or upon:

A. Resignation;
B. Discharge for just cause;
C. Retirement;
D. Layoff of more than one (1) year; and/or
E. Failure to timely respond to recall of employment.

ARTICLE 30 – TYPES OF EMPLOYMENT

Regular Employee: All employees in the bargaining unit working full-time or part-time.

Full-time Employee: An employee working forty (40) hours per work week.

Part-time Employee: An employee hired in a regular position but working less than forty (40) hours per work week but at least ninety (90) hours per calendar month. A part-time employee is entitled to pro-rated sick leave, vacation, and paid holidays.

Probationary Employee: An employee shall be on probation during the first twelve (12) months of employment as a Lieutenant. The probationary employee may be terminated without cause and without recourse. If the employee is granted a leave of absence during the probationary period, the time equal to the total time on such leave of absence shall be added to the probationary period.

ARTICLE 31 – NON-DISCRIMINATION

The Employer and the FOP agree that they will not discriminate against any employee by reason of age, sex, marital status, sexual orientation, race, creed, religion, color, national origin, honorably discharged veteran or military status, disability, political affiliation, or any other protected status, unless based on a *bona fide* occupational qualification reasonably necessary to the normal operation of the Employer or the FOP. Allegations of violation of these terms shall be processed through the existing Benton County Anti-Discrimination procedures and shall not be grievable under the grievance provisions of this Agreement.

No employee will be required to support or to make a contribution to a political party and/or candidate for political office.

ARTICLE 32 – LEAVE SHARING

32.1 The purpose of the program is to allow an employee to transfer a portion of their vacation leave, as defined in this Article, to another employee in need of such leave due to a family or medical emergency, or a lengthy illness, injuries or a qualifying event/condition under the Family and Medical Leave Act. Leave sharing shall be implemented as provided in this Article and the Benton County policy on Voluntary Transfer of Vacation Leave.

32.2 Policy: Leave sharing shall be implemented as follows:

A. The recipient employee shall exhaust all accrued paid leave or shall be able to demonstrate that all accrued paid leave will soon be exhausted, before becoming eligible to receive any transferred vacation leave.

B. The transferring party must either:

i. Have taken at least forty (40) hours of vacation leave in the previous twelve (12) months; or

ii. Have no less than forty (40) hours of accrued paid leave after the transfer is completed.

C. All requests for transfer of vacation leave shall be submitted on a Voluntary Transfer of Vacation Leave form to the Chief or designee. Each request shall include:

i. The amount of vacation leave to be transferred (in full-hour increments);

ii. The names, signatures, and departments (if applicable) of the employees requesting and receiving the transfer;

iii. A statement that the receiving party has exhausted or will exhaust all accrued paid leave.

D. Approval of the transfer is at the discretion of the Chief or designee. If the transfer is approved, the Chief or designee shall sign the request and the request shall be submitted to the Auditor's Office for processing, with a copy to the Human Resources Department.

E. The Employer shall be responsible for monitoring the use of the transferred leave and for keeping the appropriate records. This includes keeping a copy of the Voluntary Transfer of Vacation Leave Request form on file, monitoring and

approving the amount of leave transferred and used, monitoring when transferred leave is exhausted, and monitoring when the transferee's need for leave ceases. To the extent possible, the Employer will deduct the time used evenly among the donors (*e.g.*, if eight (8) people donate ten (10) hours of leave each and the recipient takes one (1) day off, one (1) hour will be deducted from each donor.

F. An employee may accumulate no more than two hundred (200) hours of transferred leave at one time. An employee may remain eligible to receive transferred leave if necessary once the accumulated balance of transferred leave is less than two hundred (200) hours. In the event the transferred leave is no longer needed, or upon cessation of employment with the Employer by the receiving employee, any and all remaining transferred leave shall be returned, in equal portions if applicable, to the employee(s) who donated the leave.

G. Leave sharing shall not apply to probationary employees.

H. Donation and return of vacation leave is based solely on the number of hours and not on the donating and/or receiving employee's wages. Names of employees donating leave will be kept confidential and will not be released for any reason.

ARTICLE 33 – TERM OF AGREEMENT

33.1 This Agreement shall become effective January 1, 2022, except as otherwise indicated in this Agreement, and shall remain in effect until the 31st of December, 2024.

33.2 If the parties have not reached agreement pursuant to the provisions of the article pertaining to contract negotiations, then either party may request a mediator from the Public Employment Relations Commission (PERC). The determination of the mediator from the PERC shall be advisory only and not binding on either party.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed by their duly constituted and legal representatives and are bound by the terms and conditions of this Agreement.

BENTON COUNTY BOARD OF COMMISSIONERS

Chair

Member

Member

Attest:

Clerk to the Board

Date:

Approved as to Form:

Stephen Hallstrom
Deputy Prosecuting Attorney

FRATERNAL ORDER OF POLICE

Leo Painton, FOP Labor Specialist

Date: 3-17-2022

APPENDIX A

A. SERVICE PAY: Full-time employees shall receive compensation in addition to base salaries, depending on their length of service with the Benton County Correction's Department, the following credit for each year of service. Service pay will be adjusted annually according to the employee's date of hire with the Benton County Correction's Department:

Start of the 10th year – 1.5%
15th year – 2.0%
20th year – 2.5%
25th year – 3.0%

Effective with the February 2023 pay period commencing January 1, 2023, with the payday on February 5, 2023, service pay will be adjusted annually according to the employee's date of hire with the Benton County Correction's Department as follows:

Start of the 10th year – 2.0%
15th year – 2.5%
20th year – 3.0%
25th year – 3.5%

B. UNIFORM ALLOWANCE AND EQUIPMENT PROVISIONS: Uniforms will be of a style determined by the Chief or designee. The Chief or designee may set required standards for uniform style, make-up, components, condition, and appearance. Two (2) uniform cleanings per week will be provided. The brand and type of boot will be determined by the Chief or designee, employees who opt to purchase their own boots will be reimbursed up to Three Hundred Dollars ($300), including Washington State sales tax, every two (2) years or One Hundred and Fifty Dollars ($150), including Washington State sales tax, every year.

C. EDUCATIONAL BONUS: Employees who present to the Chief or designee evidence of satisfactory completion of a two (2) year Associate Degree from an accredited institution, will have the sum of One Percent (1.0%) added to their base monthly salary. Employees who present to the Chief or designee evidence of satisfactory completion of a four (4) year degree from an accredited institution will have the sum of Two Percent (2.0%) added to their base monthly salary. Effective with the February 2024 pay period commencing January 1, 2024, with the payday on February 5, 2024, a two (2) year Associate Degree from an accredited institution, will have the sum of One and a Half Percent (1.5%) added to their base monthly salary and a four (4) year degree from an accredited institution will have the sum of Two and a Half Percent (2.5%) added to their base monthly salary.

C. EMERGENCY PHONE: At the beginning of every year, a schedule will be established, attempting to have each Lieutenant assigned the same amount of days, for the emergency phone call responsibilities. The assigned Lieutenant is not required to remain at home but shall remain within two (2) hours from the Jail. When a call comes in, the assigned Lieutenant is responsible for assessing the situation, determining whether the situation is indeed an emergency, and determining the appropriate course of action. The assigned

Lieutenant will be paid Twenty-Five and No/100 Dollars ($25.00) for assigned number of days. This payment will be included in the assigned Lieutenant's paycheck and subject to all standard payroll deductions.

APPENDIX B

2022 SALARY SCHEDULE

2022
Agreement by and between
Board of Benton County Commissioners
and
Fraternal Order of Police
WA007 - Tri-City Lodge 7

COVERING CORRECTIONAL LIEUTENANTS
FRATERNAL ORDER OF POLICE

GRADE	A	B	C
17	8202	8489	8786

APPENDIX C

2023 SALARY SCHEDULE

2023
Agreement by and between
Board of Benton County Commissioners
and
Fraternal Order of Police
WA007 - Tri-City Lodge 7

COVERING CORRECTIONAL LIEUTENANTS
FRATERNAL ORDER OF POLICE

GRADE	A	B	C
17	8366	8659	8962

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	March 29, 2022
Subject:	Execute #PSC-22-PREV-LOGSTON-00 with Tanya Logston
Presenter:	
Prepared By:	Anthony Contreras, DHS Program Specialist
Reviewed By:	Kyle Sullivan, DHS Manager

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 Department of Human Services would like to enter into a Personal Services Contract with Tanya Logston for the purpose of being the Community Prevention Wellness Coalition Coordinator for the substance abuse prevention coalition, whose goals will be to implement prevention programs and activities designed to prevent the misuse and abuse of alcohol, tobacco, and other drugs among youth up to the age 18 and young adults ages 19-25.

Fiscal Impact

Funding for the services described in this Contract is provided by the Health Care Authority. **There is no impact on the current expense budget.** All revenues and expenditures are from the Fund 0108-101 Human Services Budget, for a consideration amount of $76,498.52.

Recommendation

- Sign the Personal Service Contract #PSC-22-PREV-LOGSTON-00 to execute the Contract
- Sign the Resolution to Personal Service Contract #PSC-22-PREV-LOGSTON-00

Suggested Motion

Consent Agenda

BENTON COUNTY RESOLUTION

BENTON COUNTY RESOLUTION NO. _____

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON;

RE: IN THE MATTER OF EXECUTING A PERSONAL SERVICES CONTRACT #PSC-22-PREV-LOGSTON-00 BETWEEN BENTON COUNTY DEPARTMENT OF HUMAN SERVICES AND TANYA LOGSTON

WHEREAS, Benton County Department of Human Services would like to enter into a Personal Services Contract with Tanya Logston for the purpose of being the Community Prevention Coordinator for the Pasco substance abuse prevention coalition, whose goals will be to implement prevention programs and activities designed to prevent the misuse and abuse of alcohol, tobacco, and other drugs; and

WHEREAS, the purpose of the contract is to coordinate and implement prevention programs designed to prevent the misuse and abuse of alcohol, marijuana, tobacco, and other drugs among youth up to the age 18 and young adults ages 19-25; **NOW, THEREFORE**

BE IT RESOLVED that the Board of Benton County Commissioners hereby accepts the proposed Personal Services Contract #PSC-22-LOGSTON-00; and

BE IT FURTHER RESOLVED that the Chairman of the Board of Benton County Commissioners be, and hereby is, authorized to sign, on behalf of Benton County, Personal Services Contract #PSC-22-LOGSTON-00 between Benton County Department of Human Services and Tanya Logston; and

BE IT FURTHER RESOLVED, the consideration amount is not to exceed $76,498.52; and

BE IT FURTHER RESOLVED, the term of the attached Personal Services Contract commences on February 2, 2022 and shall expire on June 30, 2023.

Dated this.....day of ……., 2022

_____
Chair of Board

_____
Member

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

Attest: _____
Clerk of the Board

Cc: Human Services; Benton County Commissioners Anthony Contreras

BENTON COUNTY
PERSONAL SERVICES CONTRACT
#PSC-22-PREV-LOGSTON-00

TERMS AND CONDITIONS

THIS CONTRACT is made and entered into by and between **BENTON COUNTY**, a political subdivision with its principal offices at 620 Market Street, Prosser, WA 99350 (hereinafter "COUNTY"), and **TANYA LOGSTON**, an individual under the laws of the State of Washington with its principal offices at 4106 RD 104, PASCO, WA 99301 (hereinafter "CONTRACTOR").

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

1. CONTRACT DOCUMENTS

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

a. Statement of Work
b. Budget
c. Business Associate Agreement
d. Confidential Information Security Requirement
e. Data Security Requirements
f. Federal Compliance, Certifications, and Assurances
g. SAMHSA Award Terms
h. Standards for Reimbursement
i. Travel Policy

2. DURATION OF CONTRACT

The term of this Contract shall begin on February 2, 2022 and shall expire on June 30, 2023. The CONTRACTOR shall complete all work by the time(s) specified herein, or if no such time is otherwise specified, no later than the expiration date.

3. SERVICES PROVIDED

a. The CONTRACTOR shall provide coordination and implementation of prevention programs and strategies designed to prevent or delay the misuse and abuse of alcohol, marijuana, tobacco, opioids, and other drugs, increase mental health promotion and prevent suicide in support of the CPWI Prevention Services

Project.

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:	Tanya Logston
Address:	4106 Rd 104 Pasco, WA 99301
Phone:	509-380-2476
Email:	tanyalogston@gmail.com

b. For COUNTY:

Name:	Kyle Sullivan
Address:	7102 W. Okanogan Pl., Ste. 201 Kennewick, WA 99336
Phone:	509-737-3909
Email:	kyle.sullivan@co.benton.wa.us

5. COMPENSATION

a. For the services performed under this Contract, the CONTRACTOR shall be paid $30.00/hr based on 30-40 hours per week and travel reimbursement at the rates set forth in Exhibit B, "Budget" and Exhibit C "Travel Policy 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 fifty-eight thousand seven hundred five dollars and fifty-two cents ($58,705.52) from the Substance Abuse Block Grant (SABG), CFDA 93.959., seventeen thousand seven hundred ninety three dollars and zero cents ($17,793.00) from the Dedicated Marijuana Account (DMA), Fund 315 State; including W.S.S.T. for a total consideration of seventy six thousand, four hundred ninety eight dollars and fifty-two cents ($76,498.52).

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

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

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

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

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

6. AMENDMENTS AND CHANGES IN WORK

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

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

7. HOLD HARMLESS AND INDEMNIFICATION

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

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

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

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

8. INSURANCE

The CONTRACTOR shall obtain and maintain continuously the following insurance:

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

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

completion of work. The CONTRACTOR shall annually provide the COUNTY with proof of all such insurance.

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

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

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

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

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

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

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

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

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

e. **Other Insurance Provisions:**

1. The CONTRACTOR'S liability insurance provisions shall be primary with respect to any insurance or self-insurance programs covering the COUNTY or its elected and appointed officers, officials, employees, or agents. CONTRACTOR'S liability insurance policies must be endorsed to show this

primary coverage. Any insurance, self-insured retention, deductible, or risk retention maintained or participated in by the COUNTY shall be excess and not contributory to CONTRACTOR'S insurance policies.

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

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

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

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

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

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

8. CONTRACTOR hereby agrees to waive subrogation with respect to each insurance policy maintained under this Contract. When required by an insurer, or if a policy condition does

not permit CONTRACTOR to enter into a pre-loss agreement to waive subrogation without an endorsement, then CONTRACTOR agrees to notify the insurer and obtain such endorsement. This requirement shall not apply to any policy which includes a condition expressly prohibiting waiver of subrogation by the insured or which voids coverage should the CONTRACTOR enter into such a waiver of subrogation on a pre-loss basis.

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

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

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

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

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

3. All written notices under this Section 8 and notice of

cancellation or change of required insurance coverages shall be mailed to the COUNTY's Contract Representative referenced in Section 4.

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

9. TERMINATION

a. The COUNTY may terminate this Contract in whole or in part whenever the COUNTY determines in its sole discretion that such termination is in the best interests of the COUNTY. The COUNTY may terminate this Contract upon giving thirty (30) days written notice by certified mail to the CONTRACTOR. In that event, the COUNTY shall pay the CONTRACTOR for all costs incurred by the CONTRACTOR in performing the Contract up to the date of such notice. Payment shall be made in accordance with the Compensation Section of this Contract.

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

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

10. ASSIGNMENT, DELEGATION, AND SUBCONTRACTING

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

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

11. DEBARMENT

The CONTRACTOR certifies by signing these General Terms and Conditions that to the best of its knowledge and belief that they:

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily exclude from covered transactions by any Federal department or agency.

b. Have not within a three-year period preceding this Agreement, 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 or private agreement or transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;

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 federal Executive Order 12549; and

d. Have not within a three-year period preceding the signing of this Agreement had one or more public transactions (Federal, State, or local) terminated for cause of default.

12. 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.

13. INDEPENDENT CONTRACTOR

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

14. COMPLIANCE WITH LAWS

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

15. INSPECTION OF BOOKS AND RECORDS

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

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

16. NONDISCRIMINATION

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

17. OWNERSHIP OF MATERIALS/WORKS PRODUCED

a. All reports, drawings, plans, specifications, forms of electronic media, data, and documents produced in the performance of the work under this Contract shall be "works for hire" as defined by the U.S. Copyright Act of 1976 and shall be owned by the 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.

18. 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.

19. 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.

20. 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.

21. CHOICE OF LAW, JURISDICTION, AND VENUE

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

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

22. 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.

23. SEVERABILITY

a. If a court of competent jurisdiction holds any part, term, or provision of this Contract to be illegal or invalid, in whole or in part, the validity of the remaining provisions shall

not be affected, and the parties' rights and obligations shall be construed and enforced as if this Contract did not contain the particular provision held to be invalid.

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

24. ENTIRE AGREEMENT

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

25. NOTICES

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

26. SURVIVABILITY

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

27. LITIGATION HOLD NOTICE

In the event the 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.

28. PUBLIC RECORDS ACT

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

- This section left blank intentionally -

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

Dated: _____

FOR: BENTON COUNTY

_____
Chairman

_____
Member

_____
Member

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

Attest: _____
Clerk of the Board

Approved as to Form

_____
Civil Deputy Prosecuting Attorney

Dated: 2/16/2023

FOR: TANYA LOGSTON

Tanya J. Logston
Signature

owner
Title:

Tanya J. Logston
Print Name

Exhibit A

1. Statement of Work

The Contractor shall ensure services and all things necessary for or incidental to the performance of work, as set forth below. Prevention programs and services include, but are not limited to:

1. Coordination of Prevention Services

The Contractor shall ensure:

a. The provision of CPWI services in accordance with the CPWI Community Coalition Guide located on the Athena Forum website:

Https://www.theathenaforum.org/cpwi-community-coalition-guide which outlines the minimal standards to participate in the CPWI. Contractor shall plan to reach the ideal benchmarks related to the community coalition's efforts and staffing to include"

(1) At minimum be one part-time (0.5 FTE) staff member to serve as the qualified Community Coalition Coordinator. Full-time (1.0 FTE) for the Community Coalition Coordinator is allowable and strongly recommended in order to meet the scope of the project.
   a. Coordinator shall meet required position qualifications and workstation requirements found in the CPWI Community Coalition Guide.
   b. Coordinator shall confirm an office space in the designated community for the community Coalition Coordinator.
   c. Contractor shall submit a completed Community Coalition Coordinator Qualification Checklist.

(2) Coordinator shall be a Certified Prevention Professional (CPP).
   a. Current certified Community Coalition Coordinator shall maintain CPP credential status, and
   b. Non-certified Coordinators shall be a Certified Prevention Professional (CPP) within eighteen (18) months of new Community Coalition Coordinator start date.
   c. If Coordinator does not meet the required qualifications the COUNTY AND/OR HCA reserve the right to require to develop a Community Coalition Coordinator training plan.
   d. Contractor shall attend annual contractor training that will be scheduled for four (4) hours in duration. Date and location will be announced by DBHR at least 30 days prior to the training.
   e. Contractor shall ensure that a regular annual schedule of direct prevention services for public dissemination is established.
      i. Regular annual schedule shall take into account items including, but not limited to: implementation times that maximize participation and service outcomes; local needs and gaps;

leveraged resources; and, other locally identified factors that influence service delivery throughout the year.

ii. Regular annual schedule and community dissemination plan shall be identified as part of the CPWI Action Plan and Budget Update and submitted to the Agreement Manager or designee for HCA review annually in accordance with the timeline in the CPWI Community coalition Guide.

1. Coordinator shall submit an annual Action Plan and Budget with projected expenditures, including salary and benefits for HCA funded prevention staff, program costs, training and travel to HCA and COUNTY by June 15, 2020 and June 15, 2021 according to the CPWI Community Coalition Guide, or within thirty (30) days upon request.

f. Budget adjustments that are ten percent (10%) or more of the total of the approved Contractor and/or CPWI coalition budget shall submit a bedget revision for approval to HCA and COUNTY at least fifteen (15) days prior to expending adjusted budget items. Approval must be granted prior to expending funds.

g. Contractor shall enter approved programs, based on the priorities, goals and objectives described in the approved Strategic Plan, into Minerva within thirty (30) days of Action Plan approval or as directed by PSM.

h. Ensure sixty percent (60%) of programs supported by HCA funds will be replications or adaptations of "Evidence-based Practice" substance abuse prevention programs as identified in the list provided by DBHR. Ensure that all the programs supported by HCA meet the Center for Substance Abuse Prevention's (CSAP) Principles of Substance Abuse Prevention, found on the Athena Forum Website: www.TheAthenaForum.org/CSAPprinciples.

i. Food costs are generally unallowable during program implementation except within the following parameters:

i. Light refreshment costs for training events and meetings lasting longer than two (2) hours in duration are allowable.

ii. Ensure that light refreshment costs do not exceed $3.00 per person.

iii. Meals may be provided for participants using SABG and DMA funds only if:

1. The training is four (4) hours or more in duration; or
2. The program is a recurring, direct service in the family domain, lasting two (2) hours or more in duration and must be approved in the strategic plan.

iv. Meals are not allowable costs with either the PFS, STR, or SOR funds.

v. Contractor shall adhere to current state per-diem rates for meals accessible at www.ofm.wa.gov/policy/10.90.htm.

vi. Nor more than a total of $1,000 may be spent on food or light refreshments per CPWI Coalition per year.

j. Dedicated Marijuana Account Funds (DMA) shall be used for program and strategy training and implementation.
    i. All programs planned and implemented with DMA shall be programs selected from the current DBHR provided youth marijuana use prevention and reduction program list. www.theathenaforum.org/EBP.
        1. No less than eighty-five (85%) of DMA funds shall be expended on evidence-based or research-based programs on the identified program list.
        2. Up to fifteen percent (15%) of DMA funds may be expended on Promising Programs on the identified program list.
k. Contractor shall collaborate and partner with community-based organizations that operate within or serve the CPWI community.

2. Prevention Training

a. Contractor shall participate in all required training events identified by HCA and listed in the CPWI Community Coalition Guide.
b. Non-Required Training in CPWI
    i. In the absence of trainings identified in the approved strategic plan, all additional (non-required) training paid for by HCA and COUNTY prior to training and meet the approved goals and objectives in approved Strategic Plan.
    ii. Contractor shall ensure any requests for training in addition to the approved training in the Strategic plan are requested in writing and sent directly to the COUNTY a minimum of ten (10) working days before the date of the proposed training. Trainings shall relate to one (1) of the following four (4) categories:
        1. Coalition building and community organization.
        2. Capacity building regarding prevention theory and practice.
        3. Capacity building for Evidence-based Practice and environmental strategy implementation, related to the goals and objectives of the coalitions approved strategic plan.
        4. Capacity building in non-CPWI communities to expand CPWI efforts and meets overall goals and objectives of CPWI may be approved by HCA and COUNTY upon request.
    iii. Contractor shall ensure training paid for by COUNTY that requires travel follows the COUNTY travel policy (Exhibit B) and follows the state travel reimbursement guidelines and rates for out of state travel at www.ofm.wa.gov/policy/10.90.htm.
    iv. Contractor shall bill for training events on provided billing sheet and record training events in the HCA Minerva system in accordance with the monthly reporting requirements described the Prevention Report Schedule/Due Dates section of this Agreement.

1. Contractor shall submit the following items for reimbursement of trainings:
    a. Agenda of training
    b. Receipts for all expenses (refer to Travel Policy)

3. Media Materials

a. HCA must be cited as the funding source in news releases, publications, and advertising messages created with or about HCA funding. The funding source shall be cited as: Washington State Health Care Authority. The HCA logo may also be used in place of the above citation.

b. Media materials and publications developed with HCA funds, including messaging specifically directed to youth, shall be submitted to HCA and COUNTY for approval prior to publication. (HCA will respond within five (5) working days).

i. Exceptions: The Contractor does not need to submit the following items to HCA or COUNTY:

1. Newsletters and fact sheets.
2. News coverage resulting from interviews with reporters. This includes online news coverage.
3. Newspaper editorials or letters to the editor.
4. Posts on Facebook, YouTube, Tumblr, Twitter, Instagram, Snapchat, and other social media sites.
5. When a statewide media message is developed by HCA, is localized and if the only change is the local coalition information and funding source acknowledgment from coalition or public health entities.
6. When a national prevention media campaign is developed by SAMHSA, is localized, and if the only change is the local coalition information and funding source acknowledgement from coalition or public health entities.

4. Secure Prescription Take-Back and Lock Box Project

a. Secure Prescription Take-Back and/or Lock Box project must align with the community needs assessment and will increase local capacity to address prescription drug misuse and abuse by reducing social availability of prescriptions in the community.

b. Contractor shall provide the services and staff, and otherwise do all things necessary for or incidental to the Secure Prescription Take-Back and/or Lock Box Project as set forth below:

i. Enhance community capacity to practice safe disposal of medication sby promoting permanent secure drip box in the location where community readiness has been established. (Installation and disposal must follow all DEA rules and all federal and stat laws and regulations).

ii. Collaborate with community partners to maintain and/or enhance policies and procedures necessary to maintain a permanent secure medicine take-back drop box.

iii. Overtime wages for law enforcement officers and staff as outlined in strategic plan and outside of normal duties and other real costs (including

mileage reimbursement) associated with transporting and properly disposing of collected medicines at EPA approved locations may be permitted depending upon source of funds and must be approved by the COUNTY and HCA in advance.

iv. Create, utilize and disseminate public education information materials to increase awareness of the secure medicine take-back project, local treatment resources, naloxone information and medical response (Good Samaritan law) cards.

v. Disseminate public information including information on local treatment resources, naloxone information and medical response cards and posters. (Print ready materials are available online at www.stopoverdose.org).

vi. Utilize publications already available through HCA/DBHR and other websites. (i.e., SAMHSA Opioid Overdose Toolkit, and downloadable/printable materials on www.stopoverdose.org and www.takebackyourmeds.org.

vii. Submit locally-developed educational and informational materials to HCA/DBHR for approval at least ten (10) business days prior to publication.

viii. Prior to purchasing home medication lock boxes or bags the Contractor will submit to HCA and COUNTY in writing a plan for the purchase and distribution of home medication storage device including the cost and source of the home storage devices, the number of devices to be purchased, a clear plan for distribution, and method for tracking the use of the devices. Contractor must also demonstrate how the distributed home medication devices will be altered (by engraving, indelible ink, or other means) to have no cash value.

ix. Create and submit Secure Medicine Take-Back and/or Lock Box project in Minerva reporting system within 30 days of approval of this project.

x. Track and report in Minerva:
    1. The number of new policies developed and adopted to support a sustained drop box.
    2. The number of educational and/or informational materials developed.
    3. The number of outreach materials developed and distributed including news publications.
    4. The number of pharmacies involved in information dissemination efforts.
    5. The number of health care providers involved in information dissemination efforts.
    6. Pounds of medicine collected monthly once a secure medicine take-back box is in place.
    7. The number of home medication storage devise purchased and distributed including a pre/post survey for those that received the home storage devices to be approved by HCA/DBHR.
    8. Coalition coordinator time spent on the project in the “direct” and “indirect” staff time related to the project.

5. **Reporting Requirements**
    a. Prevention Reporting Requirements: Contractor shall report on all requirements as identified in the HCA Minerva system. HCA and COUNTY reserves the right to add reporting requirements based on requirements of grants.
        i. Contractor shall maintain all records and make them available to the COUNTY and HCA upon request.
    b. Prevention Activity Data Reports: Contractor shall
        i. Ensure that monthly prevention activities are reported in the HCA Minerva system in accordance with the requirements and timelines set forth.
        ii. Ensure accurate and reported information is unduplicated.
        iii. Ensure proper training of staff and designated staff for back-up Minerva data entry to meet report due dates.
        iv. If special circumstances arise and Contractor is unable to enter the data by the reporting deadline(s), the contractor shall ensure any requests for extensions to reporting deadlines are requested in writing and sent directly to the HCA PSM and COUNTY via email five (5) working days before the report due date.
        v. The maximum extension request permitted is ten (10) working days.
        vi. Monthly invoices submitted with active data entry extensions will be denied and may be re-submitted by Contractor once data for the month(s) in question is complete.
        vii. Contractors with three (3) or more consecutive months of data entry extensions or late reporting or four (4) or more program data entry extensions or late reporting within a six (6) month period shall be required to submit a Corrective Action Plan to HCA and COUNTY.
            1. Extensions granted due to Minerva technical issues will be excluded from this count.
        viii. Ensure all required demographic information is provided for individual participant; population reach; aggregate; environmental and mentoring or 1-to1 services in Minerva.
        ix. Report Community Coalition Coordination Staff Hours in Minerva for each month of the calendar year.
        x. Complete prevention reporting, according to the Schedule/Due Dates below:

Reporting Period	Report(s)	Report Due Dates	Reporting System
Annually	Enter programs listed on approved Strategic Action Plan by HCA into Minerva	Within 30 days of Strategic Action Plan approval	Minerva
As Requested	GPRA Measures	As requested	Minerva
Monthly	Prevention activity data input for all active services including community coalition coordination staff hours and efforts, services, participant information, training, evaluation tools and assessments.	15th of each month for activities from previous month	Minerva
Quarterly	CPWI Quarterly Reporting	October 15, January 15, April 15, July 15	Minerva
As Requested	As required by SAMHSA	As requested	Minerva or as required

c. Outcome Measures
    i. The Contractor shall report on all required evaluation tools (i.e., pre/post-tests) identified in Minerva that measure primary program objective.
        1. Pre/Post test are required for all recurring direct service programs.
        2. The Coalition Assessment Tool is required to be completed by coalition members.
        3. Specific surveys for information Dissemination or Environmental strategies/programs based on specific program to be determined and approved in Action Plan.
    ii. Special situations and exceptions regarding evaluation tools identified in Minerva include, but are not limited to, the following:
        1. Contractor may negotiate with the Agreement Manager or designee to reduce multiple administrations of surveys to individual participants.
        2. Participants in recurring program groups in which the majority of participants are younger than ten (10) years old on the date of that group's first service.

d. Performance Work Statement/Evaluation
    i. The Contractor shall ensure program results show positive outcomes for at least half of the participants in each program group as determined by Activity Log with individual participant sessions.

1. "Positive outcomes" means that at least half of the participants in a group report positive improvement or maintenance as determined by the program measurable objective between pre and post-tests.
2. Positive outcomes will be determined using the pre-test and post-test data reported in Minerva.
3. Evaluation of Minerva data will occur on the 15th of the month following the final date of service for each group.

ii. HCA shall use the following protocol for evaluation:
1. Matched pre-test and post-test pairs will be used in the analysis.
2. To allow for normal attendance drop-off, a 20% leeway will be given for missing post-tests.
3. If there are missing post-tests for entered pre-tests in excess of 20% of pre-tests, missing post-test will be counted as a negative outcome.
   Example: there are ten (10) pre-tests and seven (7) post-tests. The denominator would be eight (8) and the maximum numerator would be seven (7).

iii. Different groups, as determined by Activity Logs, receiving the same program will be clustered by school district.
1. In cases where multiple providers are serving the same school district, groups will be clustered by school district.
2. The results of one (1) provider in a given school district will not impact another provider in the same district.
   a. In cases where the survey instrument selected for a given program includes more than one scale, the scale that is most closely aligned with the measurable objective linked to the program in Minerva will be used.
   b. Results for groups, as determined by Activity Logs, with services that span two (2) contracting periods will be analyzed in the contracting period that the post-test was administered.
3. If fewer than half of the participants in a group, as determined by Activity Log, within a given school district, report positive change in the intended outcome:
   a. The Contractor shall submit a Performance Improvement Plan (PIP) for the non-compliant program to the COUNTY and HCA PSM within forty-five (45) days of notice by HCA.
4. Reimbursement for the CSAP Category row on the A-19 for that program will be held until the PIP is approved by the HCA PSM.
5. If a second group, as determined by Activity Log, within that same school district has fewer than half of the participants report positive change in the intended outcome, then the following steps will be taken:
   a. In cases where there is no active non-compliant program, the Contractor shall discontinue implementation of that program within the specified geography.

b. In cases where the same programs as the non-compliant program are active and continuing in the same school district, those groups, as determined by Activity Logs, will be allowed to complete the expected number of sessions. No new groups, as determined by Activity Logs, will be started.
c. Following the conclusion of all groups, as determined by Activity Logs, completing the program, results will be reviewed for those groups.
d. If the results do not show positive change for each group, as determined by Activity Logs, the Contractor shall take the following action:
    i. In cases where the program is being delivered by a single provider in the specified geography, the Contractor shall discontinue implementation of that program in the specified geography.
    ii. In cases where the program is being delivered by multiple providers in the specified geography, the contractor shall discontinue implementation of that program by the underperforming provider in the specified geography.

6. A program that resulted in the need for a Performance Improvement Plan and Plan during this contract period will not carry that record forward into the July 1, 2021-June 30, 2023 contract period.
7. Implement and monitor prevention programs and reporting to assure compliance with these guidelines.

iv. The Counties shall conduct a prevention on-site visit at minimum, annually in order to monitor fiscal and programmatic compliance with performance criteria. The purpose of the on-site monitor is to document that the contractor is reasonably fulfilling the requirements of the Agreement. Written documentation of each on-site shall be forwarded by the Counties to HCA upon request.

6. **Requirements**
    a. Background Checks
        i. The Contractor shall ensure a criminal background check is conducted for all staff members, case managers, outreach staff members, etc. or volunteers who have unsupervised access to children, adolescents, vulnerable adults, and persons who have developmental disabilities.
        ii. When providing services to youth, the Contractor shall ensure that requirements of WAS 388-06-0170 are met.
    b. Services and Activities to Ethnic Minorities and Diverse Populations
        i. Contractor shall ensure all services and activities provided under this Contract shall be designed and delivered in a manner sensitive to the needs of all diverse populations.
        ii. Contractor shall initiate actions to ensure or improve access, retention, and cultural relevance of prevention or other appropriate services, for

ethnic minorities and other diverse populations in need of prevention services as identified in their needs assessment.

iii. Contractor shall take the initiative to strengthen working relationships with other agencies serving these populations.

c. Continuing Education

Ensure that continuing education is provided for employees of any entity providing prevention activities in accordance with 42 USC 300x-28(b) and 45 CFR 96.132(b).

d. Single Source Funding

i. Contractor shall ensure Single Source Funding means that only one source of funds can be used at any given time.

ii. Each cost reimbursement Prevention service provided must be billed only one (1) time through the source selected for funding this expense. At no time may the same expense be billed through more than one (1) funding source.

Tanya Logston **Exhibit B**
PSC-22-PREV-LOGSTON-00
Benton County
February 2, 2022-June 30, 2023

Prevention Grants	SFY22	SFY23
SABG Prevention (7.1.19-6.30.21)		
SABG Prevention (7.1.19-6.30.21) Admin		
GF-State-Admin (for SABG Grant)		
Substance Abuse Block Grant (SABG) CFDA 93.959 Rollover		
DMA-Fund 315 State Direct Costs		
DMA-Fund-315-State Admin		
Total	$ -	$ -

SABG Prevention (7.1.21-6.30.23)	$ 58,705.52	$ 99,307.00
SABG Prevention (7.1.21-6.30.23) Admin	$ 1,600.00	$ 1,600.00
GF-State-Admin (for SABG Grant)	$ 7,035.00	$ 7,035.00
DMA-Fund 315 State Direct Costs	$ 17,793.00	$ 20,293.00
DMA-Fund-315-State Admin	$ 1,765.00	$ 1,765.00
Total	$ 86,898.52	$ 130,000.00

Business Associate Agreement

THIS BUSINESS ASSOCIATE AGREEMENT is made between Benton County and the Contractor. This agreement does not expire or automatically terminate except as stated in Section 5.

Business Associate is or may be a "Business Associate" of Benton County as defined in the HIPAA Rules. If there is a conflict between the provisions of this Agreement and provisions of other contracts, this Agreement controls; otherwise, the provisions in this Agreement do not replace any provisions of any other contracts. If the other Agreement is terminated, this Agreement nonetheless continues in effect.

1. Definitions

a. "Access Attempts" means information systems are the frequent target of probes, scans, "pings", and other activities that may or may not indicate threats, whose sources may be difficult or impossible to identify, and whose motives are unknown, and which do not result in access or risk to any information system or PHI. Those activities are "access attempts."
b. "Day" means business days observed by Washington State government unless otherwise specified.
c. "Catch-all Definitions" means the following terms used in the Agreement have the same meaning as those terms in the HIPAA Rules: Breach, Business Associate, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Secretary, Security Incident, Unsecured Protected Health Information (PHI), and Use.
d. "Clients or Individuals" means people who have health or other coverage or benefits from or through HCA. They include Medicaid clients, Public Employees Benefits Board subscribers and enrollees, and others.
e. "Contract or Underlying Contract" means all agreements between Business Associate and HCA under which Business Associate is a "business associate" as defined in the Security or Privacy Rules. The terms apply whether there is one such agreement or more than one, and if there is more than one the terms include them all even though a singular form is used except as otherwise specified. The terms include agreements now in effect and agreements that become effective after the effective date of this Agreement.
f. "Effective Date" means the date of the signature with the latest date affixed to the Agreement.
g. "HIPAA Rules; Security, Breach Notification, and Privacy Rules – "HIPAA Rules" means the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164, as now in effect and as modified from time to time. In part 164 of title 45 CFR, the "Security Rule" is subpart C (beginning with 164.302), the "Breach Notification Rule" is subpart D (beginning with 164.400), and the "Privacy Rule" is supart E (beginning with 164.500).

h. "Protected Health Information or PHI" has the same meaning as in the HIPAA Rules except that in this Agreement the term includes only information created by Business Associate or any of its contractors, or received from or on behalf of HCA, and relating to Clients. "PHI" means Protected Health Information.

2. Obligations and Activities of Business Associate

a. Limits

Business Associate will not use or disclose PHI other than as permitted or required by the Contract or this Agreement or as required by law. Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI on behalf of, or as necessary for purposes of the underlying contract, if such use or disclosure of PHI would not violate the Privacy Rule if done by a Covered Entity and is the minimum necessary.

b. Safeguards

Business Associate will use appropriate safeguards, and will comply with the Security Rule with respect to electronic PHI, to prevent use or disclosure of PHI other than as provided for by the Agreement. Business Associate will store and transfer PHI in encrypted form.

c. Reporting Security Incidents

Business Associate will report security incidents that materially interfere with an information system used in connection with PHI. Business Associate will report those security incidents to HCA and County within five (5) days of their discovery by Business Associate. If such an incident is also a Breach or may be a Breach, subsection 3 applies instead of this provision.

Access Attempts shall be recorded in Business Associates system logs. Access Attempts are not categorically considered unauthorized Use or Disclosure, but Access Attempts do fall under the definition of Security Incident and Business Associate is required to report them to HCA and County.

Since Business Associate's reporting and HCA's review of all records of Access Attempts would be materially burdensome to both parties without necessarily reducing risks to information systems or PHI, the parties agree that Business Associates will review logs and other records of Access Attempts, will investigate events where it is not clear whether or not an apparent Access Attempt was successful, and determine whether an Access Attempt:

i. Was in fact a "successful" unauthorized Access to, or unauthorized Use, Disclosure, modification, or destruction of PHI subject to this Agreement, or
ii. Resulted in material interference with Business Associate's information system used with respect to PHI Subject to this Agreement, or
iii. Causes unauthorized Use or Disclosure.

Subject to Business Associate's performance as described herein. This provision shall serve as Business Associate's notice HCA that Access Attempts will occur and are anticipated to continue occurring with respect to Business Associate's information systems. HCA acknowledges this notification, and Business Associate is not required to provide further notification of Access Attempts unless they are successful as described in this Section 2 in which case Business Associate will report them in accordance with this Section 2.

3. Breach Notification

a. "Breach is defined in the Breach Notification Rule. The time when a Breach is considered to have been discovered is explained in that Rule. HCA, or its designee, is responsible for determining whether an unauthorized Use or Disclosure constitutes a Breach under the Breach Notification Rule, RCW 42.56.590 or RCW 19.255.010, or other law or rule, and for any notification under the Breach Notification Rule, RCW 42.56.590 or RCW 19.255.010, or other law or rule.

b. Business Associate will notify HCA and County of any unauthorized use or disclosure and any other possible Breach within five (5) business days of discovery. If Business Associate does not have full details at the time, it will report what information it has, and provide full details within fifteen business (15) days after discovery. The initial report may be oral. Business Associate will give a written report to HCA and County, however, as soon as possible. To the extend possible, these reports must include the following:
    i. The identification of each individual whose PHI has been or may have been accessed, acquired, or disclosed;
    ii. The nature of the unauthorized Use or Disclosure, including a brief description of what happened, the date of the event(s), and the date of discovery;
    iii. A description of the types of PHI involved;
    iv. The investigative and remedial actions the Business Associates or its subcontractor took or will take to prevent and mitigate harmful effects, and protect against recurrence;
    v. Any details necessary for a determination of the potential harm to Individuals whose PHI is believed to have been Used or Disclosed and the steps such Individuals should take to protect themselves; and
    vi. Such other information as HCA and County my reasonably request.

c. If Business Associate determines that it has or may have an independent notification obligation under any state breach notification laws, Business Associate will promptly notify HCA and County. In any event, Business Associate will notify HCA and County of its intent to give any notification under a state breach notification law no fewer than ten (1)) business days before giving such notification.

d. If Business Associate or any subcontractor or agent of Business Associate actually makes or causes, or fails to prevent, a use or disclosure constituting a Breach within the meaning of the Breach Notification Rule, and if notification of that use or disclosure must (in the judgment of HCA) be made under the Breach Notification Rule, or RCW 42.56.590 or RCW 19.255.010, or other law or rule, then:
    i. HCA may choose to make any notifications to the individuals, to the Secretary, and to the media, or direct Business Associate to make them or any of them.
    ii. In any case, Business Associate will pay the reasonable costs of notification to individuals, media, and governmental agencies and of other actions HCA reasonably considers appropriate to protect clients (such as paying for regular credit watches in some cases), and
    iii. Business Associate will compensate HCA clients for harms caused to them by the Breach or possible Breach described above.

e. Business Associate's obligations regarding breach notification survive the termination of this Agreement and continue for as long as Business Associate maintains the PHI and for any breach or possible breach at any time.

4. **Subcontractors**
Business Associate will ensure that any subcontractors or agents that create, receive, maintain, or transmit PHI on behalf of the Business Associate agree to protective restrictions, conditions, and requirements at least as strict as those that apply to the Business Associate with respect to that information. Upon request by HCA and County, Business Associate will identify to HCA and County all its subcontractors and provide copies of its agreements (including business associate agreements or contracts) with them. The fact that Business Associate subcontracted or otherwise delegated any responsibility to a subcontractor or anyone else does not relieve Business Associate of its responsibilities.

5. **Access**
Business Associate will make available PHI in a designated record set to the HCA as necessary to satisfy HCA's obligations under 45 CFR 164.524. Business Associate will give the information to HCA within five (5) business days of the request from the individual or HCA, whichever is earlier. If HCA requests, Business Associate will make that information available directly to the individual. If Business Associate receives a request for access directly from the individual, Business Associate will inform HCA of the request within three (3) business days, and if requested by HCA it will provide the access in accordance with the HIPAA rules.

6. **Amending PHI**
Business Associate will make any amendments to PHI in a designated record set as directed or agreed to by the HCA pursuant to 45 CFR 164.526, or take other measure requested by HCA to satisfy HCA's obligations under that provision. If Business Associate receives a request for amendment directly from an individual, Business Associate will both acknowledge it and infrom HCA within three (3) business days, and if HCA so requests act on it within ten (10) business days and inform HCA of its actions.

7. **Accounting**
Business Associate will maintain and make available to HCA the information required to provide an accounting of disclosures as necessary to satisfy HCA's obligations under 45 CFR 164.528. If Business Associate receives an individual's request for an accounting, it will either provide the accounting as required by the Privacy Rule or, at its option, pass the request on to HCA within ten (10) business days after receiving it.

8. **Obligations**
To the extent the Business Associate is to carry out one or more of HCA's obligations under the Privacy Rule, it will comply with the requirements of that rule that apply to HCA in the performance of such obligations.

9. **Books, etc.**
Business Associate will make its internal practices, books, and records available to the Secretary for purposes of determining compliance with the HIPAA Rules.

10. **Mitigation**

Business Associate will mitigate, to the extent practicable, any harmful effect of use or disclosure of PHI by Business Associate or any of its agents or subcontractors in violation of the requirements of any of the HIPAA Rules, this Agreement.

11. **Indemnification**
    To the fullest extent permitted by law, Business Associate will indemnify, defend, and hold harmless the County, State of Washington, HCA, and all officials, agents and employees of the State from and against all claims of any kind arising out of or resulting from the performance of this Agreement, including Breach or violation of HIPAA Rules.

12. **Permitted Uses and Disclosures by Business Associate**
    a. Limited Use and Disclosure
       Except as provided in this Section 3, Business Associate may use or disclose PHI only as necessary to perform the services set forth in the Agreement.

    b. General Limitation
       Business Associate will not use or disclose PHI in a manner that would violate the Privacy Rule if done by HCA.

    c. Required by Law
       Business Associate may use or disclose PHI as required by law.

    d. De-identifying
       Business Associate may de-identified PHI in accordance with 45 CFR 164.514(a)-(c).

    e. Minimum Necessary
       Business Associate will make uses and disclosures of only the minimum necessary PHI, and will request only the minimum necessary PHI.

13. **Disclosure for Management and Administration of Business Associate**
    a. Subject to Section 3, Business Associate may disclose PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of the Business Associate.

    b. The disclosures mentioned in Section 3 above are permitted only if either:
        i. The disclosures are required by law, or
        ii. Business Associate obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and that the person will notify Business Associate of any instance of which it is aware in which the confidentiality of the information has been breached.

    c. Aggregation
       Business Associate may use PHI to provide data aggregation services relating to the health care operations of the HCA, if those services are part of the Agreement.

14. **Activities of HCA**

a. Notice of Privacy Practices
HCA will provide a copy of its current notice of privacy practices under the Privacy Rule to Business Associate on request. HCA will also provide any revised versions of that notice by posting on its website, and will send it on request.

b. Changes in Permissions
HCA will notify Business Associate of any changes in, or revocation of, the permission by an individual to use or disclose his or her PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.

c. Restrictions
HCA will notify Business Associate of any restriction on the use or disclosure of PHI that HCA has agreed to or is required to abide by under 45 CFR 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI. Business Associate will comply with any such restriction.

15. **Term and Termination**

a. Term
This Agreement is effective as the earliest of:

i. The first date on which Business Associate receives or creates PHI subject to this Agreement, or
ii. The effective date of the Agreement, or if there is more than one Agreement then the effective date of the first one to be signed by both parties.

This Agreement continues in effect until the earlier of:

i. Termination of the provision of Services under the Agreement or, if there is more than one Agreement, under the last of the Agreements under which services are terminated.
ii. The termination of this Agreement as provided below, or
iii. The written agreement of the parties.

b. Termination for Cause
HCA or County may terminate this Agreement, if HCA and/or County determines Business Associate has violated a material term of the Agreement. The termination will be effective as of the date stated in the notice of termination.

c. Obligations of Business Associate Upon Termination
The obligations of the Business Associate under subsection 5 survive the termination of the Agreement. Upon termination of this Agreement for any reason, Business Associate will:

i. Retain only that PHI that is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities;
ii. Return to HCA or, if agreed to by HCA, destroy the PHI that the Business Associate and any subcontractor of Business Associate still has in any form (for purposes of Section 5, to destroy PHI is to render it unusable, unreadable, or indecipherable to the extent necessary to establish it is not Unsecured PHI< and Business Associate will provide HCA with appropriate evidence of destruction within ten (10) business days of the destruction);
iii. Continue to use appropriate safeguards and comply with the Security Rule with respect to electronic PHI to prevent use or disclosure of the PHI, other than as

provided for in this Agreement, for as long as Business Associate retains any of the PHI (for purposes of Section 5, if the PHI is destroyed it shall be rendered unusable or indecipherable to the extent necessary to establish it is not Unsecured PHI. Business Associate will prvide HCA with appropriate evidence of destruction);

iv. Not use or disclose any PHI retained by Business Associate other than for the purposed for which the PHI was retained and subject to the same conditions that applied before termination;

v. Return to HCA, or, if agreed to by HCA, destroy, the PHI retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities; and

vi. Business Associate's obligations relating to providing information to the Secretary and other government survive the termination of this Agreement for any reason.

d. Successor
Nothing in this Agreement limits the obligations of Business Associate under the Contract regarding giving data to HCA or to a successor Business Associate after termination of the Agreement.

16. **Miscellaneous**

a. Amendment
The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for compliance with the requirements of the HIPAA Rules and any other applicable law.

b. Interpretation
Any ambiguity in this Agreement shall be interpreted to permit compliance with the HIPAA Rules.

c. HCA Contact for Reporting and Notification Requirements
Business Associate will address all reporting and notification communications required in this Agreement to:

HCA Privacy Officer
Washington State Health Care Authority
626 8th Avenue SE
PO BOX 42704
Olympia, WA 98504-2700
Telephone: 360-725-2108
E-mail: PrivacyOfficer@hca.wa.gov

Confidential Information Security Requirements

1. **Definitions.**
   a. "Hardened Password" means a string of characters containing at least three of the following 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 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.
   c. "Secured Area" means an area to which only Authorized Users have access. Secured Areas may include buildings, rooms. Or locked storage containers (such as filing cabinet) within a room, as long as access to the Confidential Information is not available to unauthorized personnel.
   d. "Transmitting" means the transferring of data electronically, such as via email, SFTP, web services, AWS Snowball, etc.
   e. "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; 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 Governmental Network (SGN) is a Trusted System for communications within that Network.
   f. "Unique User ID" means a string of characters that identifies a specific user and which, in conjunctions 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.

b. Data Stored on Portable/Removable Media or Devices:
    i. 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.
    ii. HCA's data msut not be stored by the Receiving Party of Portable Devices or Media unless specifically authorized within the Data Share Agreement. If so authorized, the Receiving Party must protect the Date by:
        - Encrypting with NIST 800-series approved algorithms. Encryption keys will be stored and protected independently of the data;
        - Control access to the devices with a Unique User ID and Hardened Password or stronger authentication method such as physical token or biometrics;
        - Keeping devices in locked storage when not in use;
        - Using check-in/check-out procedures when devices are shared;
        - Maintain an inventory or devices; and
        - Ensure that when being transported outside of a Secured Area, all devices with Data are under the physical control of an Authorized User.

c. 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

a. HCA Confidential Information received under this Agreement 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.

b. 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 of fields within database records; or

v. When stored as physical paper documents, physically segregated 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 Agreement is to be shared with a Subcontractor, the contract with the Subcontractor must include all the Confidential Information Security Requirements.

6. **Confidential Information Disposition**
   a. 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 with NIST 800-88 (http://csrc.nist.gov/publications/PubsSPs.html).
      i. 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 4: Confidential Information Segregation, 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.

Data Use, Security and Confidentiality

1. **Definitions.** The words and phrases listed below, as used in this Exhibit, shall each have the following definitions:

   a. "Authorized User(s)" means an individual or individuals with an authorized business requirement to access HCA Confidential Information.
   b. "Client" means an individual who is eligible for or receiving services.
   c. "Data" means the information that is disclosed or exchanged as described by this Agreement. For purposes of this Agreement, Data means the same as "Confidential Information."
   d. "Disclosure" means the release, transfer, provision of, access to, or divulging in any other manner of information outside the entity holding the information.
   e. "Personal Information" means information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use, or receipt of governmental services or other activities, address, telephone numbers, social security numbers, driver's license numbers, credit card numbers, any other identifying numbers, and any financial identifiers.
   f. "Regulation" means any federal, state, or local regulation, rule, or ordinance.
   g. "Use" includes the sharing, employment, application, utilization, examination, or analysis of Data.

2. **Description of Data**

   a. Contractors collect various data elements associated with prevention programming and service delivery. The Data will be provided by contractors on a monthly and a quarterly basis and entered into Minerva.
   b. Data Use Purpose (if more detail from purpose of overarching agreement is needed (i.e., more restrictions, etc.) The data is used by state and local providers for contract management, program monitoring and to evaluate outcomes.
   c. Data elements associated with prevention programming including but not limited to:
      i. Name of program
      ii. Program length in time and date
      iii. Target service populations
      iv. Target age groups
      v. Location of activity in city, county, and zip code
      vi. Number of participants
      vii. Survey instruments used as well as fidelity plan
      viii. Indirect and direct hours contributed by program staff and community coalition coordinators
      ix. EBP status
      x. CSAP strategy and service code
      xi. IOM category
      xii. Target substance and behavioral health problem

d. The Data may be linked with the following: contract management and cost analysis via PowerBI.

3. Data Classification

The State classifies data into categories based on the sensitivity of the data pursuant to the Security policy and standards promulgated by the Office of the state of Washington Chief Information Officer. (See Section 4, Data Security, of Securing IT Assets Standards No. 141.10 in the State Technology Manual at https://ocio.wa.gov/policy/securing-information-technology-assets. Section 4 is hereby incorporated by reference.)

The Data that is the subject of this Agreement may be in any of the Categories indicated below:

Category 1 – Public Information

Public information is information that can be or currently is released to the public. It does not need protection form unauthorized disclosure but does need integrity and availability protection controls.

Category 2 – Sensitive Information

Sensitive information may not be specifically protected from disclosure by law and is for official use only. Sensitive information is generally not released to the public unless specifically requested.

Category 3 – Confidential Information

Confidential information is information that is specifically protected from disclosure by law. It may include but is not limited to:

- Personal Information about individuals, regardless of how that information is obtained;
- Information concerning employee personnel records;
- Information regarding IT infrastructure and security of computer and telecommunications systems;

Category 4 – Confidential Information Requiring Special Handling

Confidential Information Requiring Special Handling information is specifically protected from disclosure and for which:

- Especially strict handling requirements are dictated, such as by statutes, regulations, or agreements;
- Serious consequences could arise from unauthorized disclosure, such as threats to health and safety, or legal sanctions.

4. Constraints on Use of Data

a. The Data being shared/accessed is owned and belongs to HCA and COUNTY.

b. This Contract does not constitute a release of the Data for the Contractor's discretionary use. Contractor must use the Data received or accessed under this Contract only to carry out the purpose of this Contract. Any analyses, use, or reporting that is not within the Purpose of this Contract is not permitted without HCA's prior written consent.

c. Any disclosure of Data contrary to this Contract is unauthorized and is subject to penalties identified in law.

5. Security of Data

a. Data Protection

The Contractor must protect and maintain all Confidential Information gained by reason of this Agreement, information that is defined as confidential under state or federal law or regulation, or Data that HCA has identified as confidential, against unauthorized use, access, disclosure, modification or loss. This duty requires the Contractor to employ reasonable security measures, which include restricting access to the Confidential Information by:

- Allowing access only to staff that have an authorized business requirement to view the Confidential Information; and
- Physically securing any computer, documents, or other media containing the Confidential Information.

b. Data Security Standards

Contractor must comply with the Data Security Requirements set out in Confidential Information Security Requirements, and the Washington OCIO Security Standard 141.10, which will include any successor, amended, or replacement regulation (http://ocio.wa.gov/policy/securing-information-technology-assets.) The Security Standard 141.10 is hereby reference into this Contract.

c. Data Disposition

For the purposes of this section "fiscal year" is from July 1 to June 30.

Upon request by HCA, at the end of the Agreement term, when no longer needed, or 6 years after the end of the fiscal year in which the Data is received, Confidential Information/Data must be returned to HCA or disposed of as set out in Confidential Information Security Requirements, except as required to be maintained for compliance or accounting purposes.

6. Data Confidentiality and Non-Disclosure

a. Data Confidentiality

The Contractor will not use, publish, transfer, sell or otherwise disclose any Confidential Information gained by reason of this Agreement for any purpose that is not directly connected with the purpose of the Agreement, except:

- As provided by law; or
- With the prior written consent of the person or personal representative of the person who is the subject of the Confidential Information

b. Penalties for Unauthorized Disclosure of Data

The Contractor must ensure that all employees or Subcontractors who will have access to the Data described in this Agreement (including both employees who will use the Data and IT support staff) are instructed and made aware of the use restrictions and protection requirements of this Agreement before gaining access to the Data identified herein. The Contractor will also instruct and make any new employee aware of the use restrictions and protection requirements of the Agreement before they gain access to the Data.

State laws (including RCW 74.04.060 and RCW 70.02.020) and federal regulations (including HIPAA Privacy and Security Rules, 45 CFR Part 160 and Part 164; Confidentiality of Alcohol and Drug Abuse Patient Records, 42 CFR, Part 2; and Safeguarding Information on Applicants and Beneficiaries, 42 CRF Part 431, Subpart F) prohibit unauthorized access, use or disclosure of Confidential Information. The Contractor must comply with all applicable federal laws and regulations concerning collection, use, and disclosure of Personal Information and PHI. Violation of these laws may result in criminal or civil penalties or fines.

The Contractor accepts full responsibility and liability for any noncompliance by itself, its employees, and its Subcontractors with these laws and any violations of the Agreement.

c. Data Shared with Subcontractors
If Data access is to be provided to a Subcontractor under this Agreement, the contractor must include all of the Data security terms, conditions and requirements set forth in this Agreement in any such Subcontract. However, no subcontract will terminate the Contractor's legal responsibility to HCA for any work performed under this Agreement nor for oversight of any functions and/or responsibilities it delegates to any subcontractor.

7. Data Breach Notification

a. The Breach or potential compromise of Data must be reported to the HCA Privacy Officer at PrivacyOfficer@hca.wa.gov within two (2) business days of discovery. If the Contractor does not have full details, it will report what information it has, and provide full details within fifteen (15) business days of discovery. To the extent possible, these reports must include the following:
    - The identification of each individual whose PHI has been or may have been improperly accessed, acquired, used, or disclosed;
    - The nature of the unauthorized use or disclosure, including a brief description of what happened, the date of the event(s), and the date of discovery;
    - A description of the types of Data involved;
    - The investigative and remedial actions the Contractor or its Subcontractor took wo will take to prevent and mitigate harmful effects, and protect against recurrence;
    - Any details necessary for a determination of the potential harm to individuals whose Data is believed to have been used or disclosed and the steps those individuals should take to protect themselves; and
    - Any other information HCA reasonably requests.

b. The Contractor must take actions to mitigate the risk of loss and comply with any notification or other requirements imposed by law or HCA including but not limited to 45 CFR, Part 164, Subpart D; RCW 42.56.590; RCW 19.255.010; or WAC 284-04-625.

c. If notification of the Breach or possible Breach must, in the judgement 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:
    - HCA may choose to make any required notifications to the individuals, to the U.S. Department of Health and Human Services (DHHS) Secretary, and to the media, or direct Contractor to make them or any of them.

- 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.
- Contractor will compensate HCA clients for harms caused to them by any Breach or possible Breach.

d. Any breach of this clause may result in termination of the Contractor and the demand for return or disposition, as described in the Confidential Information section.

e. Contractor's obligations regarding Breach notification survive the termination of this agreement and continue for as long as Contractor maintains the Confidential Information and for any Breach or possible Breach at any time.

8. **Inspection**

HCA reserves the right to monitor, audit, or investigate compliance with this Agreement in regards to the Personal Information and PHI of Enrollees collected, used, or acquired by Contractor during the term of this Agreement and for six (6) years following termination or expiration of this Agreement. HCA will have access to Contractor's records and place of business for this purpose. All HCA representatives conducting onsite audits of Contractor agree to keep confidential any patient-identifiable information which may be reviewed during the course of any site visit or audit.

9. **Indemnification for Unauthorized Use or Release**

The Contractor must indemnify and hold HCA and its employees harmless from any damages related to the Contractor's or Subcontractor's unauthorized use or release of Personal Information or PHI or Enrollees.

Federal Compliance, Certification and Assurances

1. **Definitions**
   a. "Sub-recipient" means the legal entity to which a sub-award is made and which is accountable to the State for the use of the funds provided in carrying out a portion of the State's programmatic effort under a sponsored project. The term may include institutions of higher education, for-profit corporations or non-U.S. Based entities.
   b. "Sub-award and Sub-grant" are used interchangeably and mean a lower tier award of financial support from a prime awardee (e.g., Washington State Health Care Authority) to a Sub-recipient for the performance of a substantive portion of the program. These requirements do not apply to the procurement of goods and services for the benefit of the Washington State Health Care Authority.
      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.
         1. Source of Funds **SABG**: This agreement is being funded partially or in full with Federal funds that are identified by the Catalog of Federal Domestic Assistance (CFDA) number 93.959. The sub-awardee is responsible for tracking and reporting the cumulative amount expended under HCA Contract K3904 Amendment 2 between the County and HCA and the sub-contract with Contractor.
         2. Period of Availability of Funds SABG: Pursuant to 45 CFR 92.23, Sub-awardee may charge to the award only costs resulting from obligations of the funding period specified, 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 ward must be liquidated no later than the expiration of the Agreement.
         3. Source of Funds **PFS 2018**: Source of Funds **SABG**: This agreement is being funded partially or in full with Federal funds that are identified by the Catalog of Federal Domestic Assistance (CFDA) number 93.243. The sub-awardee is responsible for tracking and reporting the cumulative amount expended under HCA Contract K3904 Amendment 2 between the County and HCA and the sub-contract with Contractor.
         4. Source of Availability of Funds PFS 2018: Pursuant to 45 CFR 92.23, Sub-awardee may charge to the award only costs resulting from obligations of the funding period specified, 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 ward must be liquidated no later than the expiration of the Agreement.
         5. Source of Funds **SOR**: This agreement is being funded partially or in full with Federal funds that are identified by the Catalog of Federal Domestic Assistance (CFDA) number 93.788. The sub-awardee is responsible for tracking and reporting the cumulative amount expended under HCA

Contract K3904 Amendment 2 between the County and HCA and the sub-contract with Contractor.

6. Period of Availability of Funds SOR: Pursuant to 45 CFR 92.23, Sub-awardee may charge to the award only costs resulting from obligations of the funding period specified, 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 ward must be liquidated no later than the expiration of the Agreement.
7. Source of Funds **SOR II**: This agreement is being funded partially or in full with Federal funds that are identified by the Catalog of Federal Domestic Assistance (CFDA) number 93.788. The sub-awardee is responsible for tracking and reporting the cumulative amount expended under HCA Contract K3904 Amendment 2 between the County and HCA and the sub-contract with Contractor.
8. Period of Availability of Funds SOR II: Pursuant to 45 CFR 92.23, Sub-awardee may charge to the award only costs resulting from obligations of the funding period specified, 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 ward must be liquidated no later than the expiration of the Agreement.
9. Modifications: This agreement 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.
    a. Examples of items requiring HCA and County 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 agreement.
        iii. Change in a key person specified in the agreement.
        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 agreement.
    b. No changes are to be implemented by the Sub-awardee until a written notice of approval is received from the HCA.
10. Sub-Contracting: The sub-awardee shall not enter into a sub-contract for any of the work performed under this agreement without obtaining the prior written approval of the HCA. If sub-contracts are approved by the HCA, the subcontract, shall contain, at a minimum, sections of the agreement pertaining to Debarred and Suspended Vendors, Lobbying certification, Audit requirements, and/or any other project Federal, state, and local requirements.
11. Condition for Receipt of Health Care Authority Funds: funds provided by Health Care Authority to the sub-awardee under this agreement may not be used by the sub-awardee as a match or cost-sharing provision to secure

other federal monies without prior written approval by the Health Care Authority.

12. Unallowable Costs: The sub-awardees' 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 agreement.
13. Supplanting Compliance: The SABG 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)).
14. 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.
15. Federal Compliance: The sub-awardee shall comply with all applicable State and Federal statues, laws, rules, and regulations in the performance of this agreement, whether included specifically in this agreement or not.
16. Civil Rights and Non-Discrimination Obligations: During the performance of this agreement, the Contractor shall comply with all current and future federal statues 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 1972 (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 VII 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
PO BOX 42710
Olympia, WA 98504-2710

2. 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 Health Care Authority, as the primary recipient of federal funds and then follow the funds to the County and then to the County Sub-Contractor. The federal Circulars which provide the applicable administrative requirements, cost principles and audit requirements are identified by sub-awardee organization type.

OMB Super Circular 2 CFR 200.501 and CFR 75.501

3. **Standard Federal Certifications and Assurances**
   Following are the Assurances, Certifications, and Special Conditions that apply to all federally funded (in whole or in part) agreements administered by the Washington State Health Care Authority.

4. **Certification Regarding Debarment and Suspension**
   a. The undersigned 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:
      i. 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 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.

   b. Should the contractor not be able to provide this certification, an explanation as to why should be placed after the assurances page in the contract.

   c. The contractor agrees by signing this contract that it will include, without modification, the clause titled "Certification Regarding Debarment, Suspension, In eligibility, and Voluntary Exclusion-Lower Tier Covered Transactions" in all lower tier covered transaction (i.e., transactions with sub-grantees and/or contractors) and in all solicitations for lower tier covered transaction in accordance with 45 CFR Part 76.

5. **Certification Regarding Drug-Free Workplace Requirements**
   The undersigned certifies that the contractor will, or will continue to, provide a drug-free workplace in accordance with 45 CFR Part 76 by:
   a. 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;

b. 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 (a) above.
c. Notifying the employee in the statement required by paragraph (a) 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;
d. Notifying the agency in writing within ten calendar days after receiving notice under paragraph (c)(ii) 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;
e. Taking one of the following actions, within thirty (30) calendar days of receiving notice under paragraph (c)(ii), with respect to any employee who is so convicted.
   i. Takin appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1972, 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;
f. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a) through (e).

For purposes of paragraph (e) regarding agency notification of criminal drug conviction, 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

6. **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 agreements from using Federal (appropriated) funds for lobbying the Executive or legislative Branches of the Federal Government in connection with a SPECIFIC grant or cooperative agreement. Section 1352 also requires that each person who requests or receives a Federal grant or cooperative agreement must disclose lobbying undertaken with non-Federal (unappropriated) funds. These requirements apply to grants and cooperative agreements EXCEEDING $100,000 in total costs (45 CFR Part 93).

a. The undersigned (authorized official signing for the contracting organization) certifies, to the best of his or her knowledge and belief, that:
    i. 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 agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
    ii. 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 or a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard From-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.)
    iii. The undersigned shall require that the language of this certification be included in the award documents for all subcontracts at all tiers (including subcontracts, contracts, and contracts under grants, loans and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.
b. The 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 of 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.

7. **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.

8. **Certification Regarding Environmental Tobacco Smoke**
    a. 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 contracted, 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.

b. 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.

c. 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.

d. 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.

9. **Certification Regarding Debarment, Suspension, and Other Responsibility Matters Instructions for Certification**
   a. By signing and submitting this proposal, the prospective contractor is providing the certification set out below.
   b. 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 a person from participation in this transaction.
   c. 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.
   d. 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.
   e. 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 assigned HCA Program Systems Manager for assistance in obtaining a copy of those regulations.

f. The prospective contractor agrees by submitting this contract that, should the proposed covered transition 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.
g. The prospective contractor further agrees by submitting this contract that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by HHS, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to, check the Non-procurement List (of excluded parties).
i. 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.
j. Except for transactions authorized under section 9 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, Authority may terminate this transaction for cause or default.

10. Certification Regarding Debarment, Suspension, and Other Responsibility Matters-Primary Covered Transactions

a. The prospective contractor certifies to the best of its knowledge and belief, that it and its principals:
    i. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
    ii. Have not within a three-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 or records, making false statements, or receiving stolen property;
    iii. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) terminated for cause or default.
b. Where the prospective contractor is unable to certify to any of the statements in this certification, such prospective contractor shall attach an explanation to this proposal.

CONTRACTOR SIGNATURE REQUIRED

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL: Tanya J. Logston	TITLE: Owner
PLEASE ALSO PRINT OR TYPE NAME: Tanya J. Logston	
ORGANIZATION NAME: Tanya Logston, LLC	DATE: 2/16/2022

Substance Abuse and Mental Health Services Administration (SAMHSA) Award Terms

1. **SAMHSA Award Terms**
   a. This grant is subject to the terms and conditions included directly or incorporated by reference on the Notice of Award (NoA).
   b. Grant funds cannot be used to supplant current funding of existing activities.
   c. By law, none of the funds awarded can be used to pay the salary of an individual at a rate in excess of the Executive Level 1, which is $199,700 annually.
   d. Awardees and sub-recipients must maintain records which adequately identify the source and application of funds provided for financially assisted activities. These records must contain information pertaining to grant or sub-grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income. SAMHSA or its designee may conduct a financial compliance audit and on-site program review of grants with significant amounts of Federal funding.
   e. Per 45 Code of Federal Regulations (CFR) 74.36 and 45 CFR 92.34 and the US Department of Health and Human Services Grants Policy Statement, any copyrighted or copyrightable works developed under this cooperative agreement/grant shall be subject to royalty-free, nonexclusive and irrevocable license to the government to reproduce, publish, or otherwise use them and to authorize others to do so for General Government purposes. Income earned from any copyrightable work developed under this grant must be used as program income.
   f. Program income accrued under this award must be used in accordance with the additional costs alternative described in 45 CFR 74.24(b)(1) or 45 CFR 92.25(g)(2) as applicable. Program income must be used to further the grant objectives and shall only be used for allowable costs as set forth in the applicable Office of Management and Budget circulars A-102 and A-110.
   g. No part of an appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution support or defeat legislation pending before the Congress, except in presentation to the Congress itself or any State legislature.
   h. No part of any appropriation contained in the Act shall be used to pay the salary or expenses of any grant or contract recipient, or agency acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature.
   i. Where a conference is funded by a grant or cooperative agreement the recipient must include the following statement on all conference materials (including promotional materials, agenda, and internet sites): "Funding for this conference was made possible (in part) by Grants, and 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 endorsement by the U.S. Government. "
   j. If federal funds are used by the Contractor to attend a meeting, conference, etc. and meal(s) are provided as part of the program, then the per diem applied to the Federal travel costs (Meals and Incidental Expenses allowance) must be reduced by the allotted meal cost(s).

k. **Marijuana Attestation.** The primary award recipient and all sub-recipients (contractor & sub-awardee) will not use funds, directly or indirectly, to purchase, prescribe, or provide marijuana or treatment using marijuana. Treatment in this context includes the treatment of opioid use disorder. Grant funds also will not be provided to any individual who or organization that provides or permits marijuana use for the purposes of treating substance use or mental disorders (45 CFT 75.300(a); 21 United States Code 812(c)(10) and (8410). This prohibition does not apply to those providing such treatment in the context of clinical research permitted b the Drug Enforcement Administration and under a US Food and Drug Administration-approved investigational new drug application where the article being evaluated is marijuana or a constituent thereof that is otherwise a banned controlled substance under federal law.

l. **SABG Block Grant Attestation:** SABG Block grant funds will not be used to supplant State funding of alcohol and other drug prevention and treatment programs. (45 CFR section 96.123(a)(10)).

Standards for Reimbursable Costs

1. **Guiding Policies**
   The following Standards for Reimbursable Costs represents a compilation of definitions and principles from:
   a. State of Washington Office of Financial Management's State Administrative and Accounting Manual (SAAM)
   b. Federal Office of Management and Budget
      i. Circular A-122 Cost Principles for Non-Profit Organizations
      ii. Circular A-87 Cost Principles for State, Local, and Indian Tribal Governments

   These standards are provided solely as technical assistance and are not intended to circumvent the Contractor's need to follow the referenced rules.

2. **Definitions**
   The following terms and phrases shall have the meanings indicated when used in this exhibit except where the context clearly requires otherwise.
   a. "Acquisition Cost" means the net cost of equipment, including the costs for modifications, attachments, accessories, or auxiliary apparatus necessary to make the equipment useable for the purpose for which it was acquired.
   b. "Arm's Length Transaction" means a transaction resulting from good faith bargaining between a buyer and a seller, where the parties have adverse positions in the marketplace.
   c. "Contractor or Subcontractor Property" means property used in performance of a contract which is not departmental property.
   d. "Cost" means the historical amount of money involved in a transaction which decreases an asset or increases a liability, whether recognized on a cash or accrual basis. Cost shall not include repayments of borrowing, expenditures to acquire assets, distributions to owners, and corrections to prior periods. Corrections to prior periods are included as costs in that prior period.
   e. "Cost Related or Cost Reimbursement" means a contract or subcontract where the amount of payment being made is relate to the actual costs of the subcontractor or a class of subcontractors to perform the contract, subject to ceilings, allowances, limitations and conditions adopted by the Department, but without regard to the method of payment.
   f. "Cost Related Subcontractor" means a subcontractor that has a cost related subcontract.
   g. "Customary Charge" shall mean the average charge for a similar service, activity or procedure for non-departmental clients or purchasers by providers whose training and experience is similar to the contractor or subcontractor and are located in the same area.
   h. "Clients" mean individuals who receive or benefit from services or activities for which the contractor was reimbursed in part or entirely by HCA.
   i. "Funds" mean any funds paid by HCA to a contractor, including funds passed through to subcontractors without regards to the source of those funds. HCA funds include federal funds which pass through HCA.
   j. "Property" means property owned by HCA, and property for which title is vested in HCA.
   k. "Equipment" means an article of non-expendable tangible personal property having a useful life of more than one year and an acquisition cost of $5,000 or more per unit. Items not meeting this definition shall not be classified as equipment. Purchase of equipment must be approved in advance by the contract manager.

l. "Fee for Service" means a contract or subcontract where the amount of reimbursement is a negotiated fixed rate of pay based on performance of defined unit of service such as per treatment, per hour or per session.
m. "Personal Property" means property of any kind except real property, either tangible or intangible.
n. "Price Related" means a contract or subcontract where the amount of reimbursement is related to market prices for services, and without consideration of the contractor's or subcontractor's actual or anticipated costs.
o. "Real Property" means land, land improvements, structures, and appurtenances thereto, but excluding movable machinery and equipment.
p. "Subcontract" means any agreement for compensation between the contractor and a subcontractor, or between a subcontractor and another subcontractor, to provide property, services or construction needed in performance of the contract.
q. "Subcontractor" means any person, partnership, corporation, association or organization, not in the employment of the contractor, who has a subcontractor, to provide property, services or construction needed in performance of the contract.
r. "Supplies" means tangible personal property other than equipment.
s. "Third Party" means an individual or organization other than the Department, the contractor, any subcontractor or any department client.
t. "Usual Charge" means the charge which the contractor or subcontractor most frequently charges non-HCA clients or purchasers for a similar service, activity or procedure.
u. "Working Capital" means a fund balance accumulate and maintained for a period of more than twelve months, or remaining at the termination or expiration of a contract which is not segregated in a reserve account and is used primarily to maintain the entity's cash flow.

3. **Reimbursable Costs**
   a. Reimbursable costs shall include costs which are necessary for the proper and efficient performance of the contract, are reasonable and allocable to the contract and are allowable under the provisions of this exhibit.
   b. Reimbursable costs include costs incurred in paying subcontractors for fulfilling or assisting the contractor to fulfill the contractor's obligations to HCA.
      i. If the subcontract is price relate, the reimbursable cost of the subcontract shall be the share of payments to the subcontractor which equals the usual charge or the customary charge, whichever, is less. If the subcontractor has only departmental clients, the reimbursable cost shall be the share of payments to the subcontractor which equal the customary charge.
      ii. If the subcontractor is cost related, the reimbursable cost of the subcontract shall be the share of payments to the subcontractor for subcontractor costs which are necessary for the proper and efficient performance of the contract, are reasonable and allocable to the subcontract and are allowable under the provisions of this exhibit. If the cost-related subcontractor is a for-profit entity, reimbursable costs may also include payments for ordinary profit, provided such profit is computed on a basis other than a percentage of contract costs.
      iii. If the subcontract is a fee for service, the reimbursable cost of the subcontract shall be the share of the payments based on an established rate structure set by laws, regulation or policy, or may be based on cost information provided by the contractor during a competitive solicitation or contract negotiations.

4. **Reasonableness**
   a. A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent and reasonable person under circumstances prevailing at the time the decision was made to incur the cost.
   b. In determining the reasonableness of a given cost, the following shall be given careful consideration:
      i. Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the contractor or the performance of the contract.
      ii. Whether the cost was incurred after the contractor compiled with sound business practices, including arm's length bargaining.
      iii. Whether the contractor acted with prudence in the circumstances considering its responsibilities to the organization, its members, employees, clients, the public at large, and the Department.
      iv. Whether the contractor deviated from established practices of the contractor, which may unjustifiably increase the cost.

5. **Allocable Costs**
   a. A cost is allocable to the contract if all of the following conditions are met:
      i. It is assignable or chargeable to the contract in accordance with the relative benefit received because either:
         - It was incurred specifically and solely for the performance of the contract; or
         - It benefits both contract and non-contract objectives and can be distributed between them in reasonable proportion to the benefits received; or
         - It is necessary for the overall operation of the contractor even if a direct relationship to the contract cannot be shown.
      ii. It is not allocable to or included as a cost of any other contract, grant, agreement or program in either the present or any prior period, or used as cost-sharing or matching for another contract or grant, except when the contract specifically authorizes such duplicate allocation.
      iii. It is accorded consistent treatment with costs of a similar nature.
   b. Contract-Specific Direct Costs: If a cost is allocable to the contract pursuant to this section, the entire amount may be charged to the contract.
   c. Shared Direct Costs: If a cost is allocable to the contract pursuant to this section, the charge shall be considered to be in reasonable proportion to the benefits received if the charge is based on time distribution records, random moment time samples, equivalent work units, or space utilization. Other equitable methods may be used with the prior approval of the Department. Allocation of charges based on revenue distribution is not an acceptable method.
   d. Admin (also known as Indirect Costs): If a cost is allocable to the contract pursuant to this section, the charge shall be considered to be in proportion to benefits received if it is based on the total distribution of costs allocated pursuant to sections (2) and (3), or if it is based on staff time directly spent in contract and non-contract activities. Other equitable methods may be used with the prior, written approval of the Department.
   e. Contractors and cost-related subcontractors shall maintain a current cost allocation plan describing how costs are allocated.
   f. HCA approvals required in subsection (3) and (4) of this section shall be obtained by submitting a cost allocation plan to the contract manager. The cost allocation plan shall identify the period of time covered by the plan, the cost items to be allocated, the allocation

method, the program areas to which costs are allocated, and the resulting allocations using budgeted costs. Copies of indirect cost allocation plans submitted for federal grant purposed may be used to apply for HCA approval under section (4) of this section.

6. **Allowable Costs**
   A cost is allowable if:
   i. It is authorized or not prohibited by federal, state, or local laws and regulations.
   ii. It conforms to any limitations or exclusions set forth in the contract terms and approved budget, or in applicable state or federal law or regulation.
   iii. It is approved in advance and in writing by HCA, if it is a cost requiring approval.
   iv. It is not an unallowable cost.
   v. It is consistent with policies, regulations, directives, and procedures of the contractor.
   vi. It is accorded consistent treatment through application of generally accepted accounting principles.
   vii. It is adequately documented in source records such as payroll registers and invoices.
   viii. It is the net of all applicable credits, such as purchase discounts, rebates, and allowances.

7. **Costs Allowable with Prior Approval**
   Costs described in this section are allowable only if they are approved in advance by HCA. Approval shall be deemed given if the cost is specifically identified in the contract budget or other clause or attachment to the contract. Approval of costs not specifically identified in the contract shall be made by letter or other document which sets forth the nature and amount of the approved cost and the contract for which it is allowed.
   a. Client cash payments: Any direct cash payments to departmental clients are allowable only with prior written approval of HCA.
   b. Capital expenditures: Cost of acquiring by purchase or capitalized lease land, buildings, or equipment and cost of repair, remodeling, renovation, or improvements which would materially increase the value or useful life of buildings are allowable only with the prior written approval of the Department.
   c. Honorariums for speakers is unallowable.
   d. Incentives: SMHSA discretionary grant funds may be used for non-cash incentives up to $30 in accordance with SAMHSA guidelines: https://www.samhsa.gove/grants/grants-management/policies-regulations/additional-directives.
   e. Training and Education: Cost of training which requires staff to be relieved of regular duties for more than ten (10) business days per training event is allowable only upon prior written approval of the Department.
   f. Purchase of equipment must be approved in advance by the contract manager. Title to equipment shall vest in the HCA unless otherwise determined by the contract manager at the time of purchase.

8. **Interest Expense**
   a. Interest on borrowed funds is treated differently depending on the source of funds reimbursing the cost.
      i. Costs incurred for interest on borrowed capital or temporary use of endowment funds, however represented, are unallowable as reimbursable costs against a federal grant.
      ii. Interest on borrowed funds used to purchase equipment or real property is allowable against state funding with the prior written approval of HCA.

b. Interest on borrowed funds used to purchase equipment or real property is allowable against state funding with the prior written approval of HCA.
c. Interest on borrowed funds used to create, replenish, or maintain working capital is allowable against state funding, if the following conditions are met:
   i. Working capital is depleted due to unusual cash flow, such as abnormally high costs or delays in reimbursement; or working capital has been insufficient for an extended period of time, because the contractor or subcontractor has insufficient eligible income in excess of expenses to accumulate adequate working capital.
   ii. The borrowed funds are not used to supplant funds which otherwise would be available to finance working capital. Borrowed funds shall be considered to supplant contractor working capital if a decision to deplete working capital is evident, whether the working capital is depleted before or after the arrangements to borrow funds are made.
   iii. The working capital in aggregate does not exceed ninety (90) calendar days cash flow.
   iv. The interest expense is approved in advance and in writing by HCA.
d. Approval shall be deemed given if the interest cost is specifically identified in the contract budget or other clause or attachment to the contract. Approval of interest cost not specifically identified in the contract shall be made by letter or other document which sets forth the nature and amount of the approved costs and the contract under which it is allowed.

9. **Unallowable Costs**

The following costa are unallowable, whether incurred directly by the contractor or any cost related subcontractor:

a. Bad Debts: Any losses arising from uncollectible accounts and other claims and related costs are unallowable. In double entry accounting systems, write-offs of client fees deemed uncollectible shall be treated as adjustments to revenue.
b. Chief Executive: The salaries and expenses of the chief executive of a political subdivision are unallowable.
c. Contingencies: Contributions to a contingency reserve or any similar provision for unforeseen events.
d. Contributions and Donations: Costs of a contractor or subcontractor in the form of contributions and donations to other organizations, including costs of donated services and property, are unallowable.
e. Depreciation of State Financed Property: Costs of depreciation of departmental property are unallowable.
f. Entertainment: Costs of amusements, social activities, sporting events, and incidental costs relating thereto such as meals, beverages, lodging, rentals, transportation, and gratuities are unallowable, except for costs of entertainment specifically for departmental clients and necessary expenses of staff who supervise departmental client son contractor or subcontractor sponsored activities.
g. Fines and Penalties: Costs resulting form violations of or failure to comply with federal, state, and local laws and regulations are unallowable.
h. First Class Air Accommodations: The difference in cost between first class air accommodations and less-than-first class air accommodations in unallowable, except when less-than-first class air accommodations are not reasonably available.
i. Fund Raising: Costs of organized fund raising are unallowable.

j. Legal Fees to Bring Suit Against Federal or State Government: The cost of legal expenses for the prosecution or defense of claims by or against the federal or state government is unallowable.
k. Legislative Expenses: The salaries and other expenses of county councilmen or councilwomen, supervisors, commissioners, etc. whether incurred for the purposes of the legislation or executive direction, are unallowable.
l. Lobbying Expenses: The cost of attempting to influence legislation pending before any federal or state legislative body is unallowable except as provided for in RCW 42.17.190.
m. Losses: Costs of actual losses which could have been covered either by insurance or by contributions to self-insurance reserve are unallowable, except for losses not covered under nominal deductible insurance coverage and minor losses not covered by insurance which occur in the ordinary course of operations, such as spoilage and breakage.
n. Memberships:
    i. Cost of the non-Federal entity's membership in business, technical and professional organizations are allowable.
    ii. Costs of the non-Federal entity's subscriptions to business, professional, and technical periodicals are allowable.
    iii. Costs of membership in any civic or community organization are allowable with prior approval by the Federal awarding agency or pass-through entity.
    iv. Costs of membership in any country club or social or dining club or organization are unallowable.
    v. Costs of membership in organizations whose primary purpose is lobbying are unallowable. See also 200.450 Lobbying.
    vi. Under-Recovery of Costs in Other Contract Agreements: Any costs incurred in excess of the federal and state contribution under any other contract agreement is unallowable.

10. **Unallowable Costs; Federal Alcohol, Drug Abuse, and Mental Health Services Block Grant**
    a. Unless an explicit and specific federal waiver is obtained, the following costs are unallowable under any contract which includes federal alcohol, drug abuse and mental health services block grant funds:
        i. Cost of hospital inpatient services;
        ii. Cash payments to departmental clients;
        iii. Cost of purchase or permanent improvement of land or facilities, other than minor remodeling;
        iv. Cost of purchase of major medical equipment, with an acquisition cost in excess of $5,000;
        v. Costs used as cost-sharing or matching for other federal funds requiring nonfederal matching funds;
        vi. Costs of financial assistance to any entity which is not either public or nonprofit; or
        vii. Costs that in effect supplant or otherwise reduce the amount of stat or local funds that would have been used for alcoholism, drug abuse or mental health programs in the absence of federal block grant funding. For the purposes of this section, sup plantation shall be deemed to occur if the amount of state or local funds used is less than the amount expended during federal fiscal year ending September 30, 1981.
        viii. Carry out any program of distributing sterile needles for the hypodermic injection of any illegal drug or distributing bleach for the purpose of cleaning needles for such hypodermic injection.
        ix. Carry out any testing for the etiologic agent for acquired immune deficiency syndrome (AIDS), unless such testing is accompanied by appropriate pre-test counseling and appropriate post-test counseling.

x. EXCESS SALARY: By law, none of the funds awarded can be used to pay salary of an individual at a rate in excess of the Executive Leve 1, which is $181,100 annually.
xi. Youth tobacco enforcement.

b. The use of federal funds to influence or attempt to influence the award of, or amendment to, any federal contract, grant, loan, or cooperative agreement is prohibited.
   i. The use of funds other than federal funds for such purposes shall require the contractor to submit all required federal and state forms disclosing such lobbying activity.
   ii. The contractor must include this language in any contracts resulting form this agreement and that all subrecipients understand and agree to these terms.

c. Costs that are unallowable under section (1) of this section are allowable using state funds if all of the following conditions are met"
   i. The contract includes state funds at least equal to the total amount of all items of cost under consideration;
   ii. If the costs are incurred by a subcontractor, the subcontractor document clearly indicates only state funds are included in the subcontract; and
   iii. The cost is otherwise allowed.

Travel Policy

TRANSPORTATION:
Reasonable necessary parking and toll costs shall be approved with submitted receipts.

Only reasonable necessary taxi, Uber, Lyft or public transportation costs are to be approved.

The mode of transportation shall be by the most economical and safest mode available, and the route most direct or advantageous to the Counties.

The Contractor shall carpool to and from trainings that occur out of Benton and Franklin Counties when such option is available.

Unless less expensive fares are unavailable, the cost of coach class fare for a given mode of travel shall be utilized.

Rental cars are not allowed unless prior permission is granted from the Counties.

MEAL EXPENSES:
"Exclusion Zone" shall mean the area inside the boundaries of Benton and Franklin Counties.

No meal expenses within the "exclusion zone" for the contractor, including meals associated with community functions shall be approved unless a grant or contract approved by signature from the Board of County Commissioners is in place that includes language for the provision of meals or snacks.

A detailed dining receipt for each individual attending a training/conference is required for all approved meal expenses and must list at a minimum: the name of the establishment, date, itemized description of the meal and associated tax and tip(no more than 15%), along with the total amount expanded. No alcohol shall be allowed as an acceptable item on a receipt and will not be paid for by the county.

The approved rate for meal expenses shall be no more than the allowed rate accessible at http://ofm.wa.gov or provided by the Counties.

For meals included in a registration fare, airfare, lodging (e.g. continental breakfast) or other Counties' expense, the Contractor shall not be eligible for the per diem for that particular meal, whether or not the Contractor actually consumes the provided meal or not.

If only a summary receipt is provided, the Counties will reimburse no more than the following amounts per meal:

Breakfast:	$5.50
Lunch:	$7.00
Dinner	$10.50

If no receipt of any kind can be provided, there will not be any reimbursement for the meal.

On either "day travel" or first or last days of overnight travel outside of the exclusion zone, approved eligibility is based on the following times unless otherwise pre-approved by the County authorizing staff:

Breakfast: departure prior to 6:30 AM qualifies the traveler for breakfast
Lunch: during the traveler's lunch period
Dinner: arrival after 6:30 PM qualifies the traveler for dinner

Times listed outside the above section may be approved by the County authorizing staff if supported by a proper cost analysis. Such proper cost analysis should include the following factors:

Traveler's logistics
Distance to and from the event
Relevant medical conditions (if applicable)

LODGING:
In the event the Contractor does not make use of a reserved hotel room, or fails to appear for a conference, training, etc., the Contractor shall be responsible for all costs, except under documented exigent circumstances (e.g. severe illness, death in the family, hazardous weather conditions). The Counties shall be entitled to recoup such costs in any legal manner.

The maximum allowed lodging rate shall be in accordance with the reimbursement guidelines accessible at http://ofm.wa.gov or provided by the Counties.

If lodging at the hotel which is hosting the conference is above the per diem, you may submit a cost analysis for approval, showing the cost of staying at the conference location and the cost to stay somewhere else with travel costs included. Approval before the conference is required for reimbursement.

"Day Travel" shall mean travel to locations outside of the "exclusion zone" when the contractor does not stay in lodging away from their home for one or more nights.

"Exclusion Zone" shall mean the area inside the boundaries of Benton and Franklin Counties.

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	March 29, 2022
Subject:	Execute First Amendment to Agreement #21/22-DD-CI-00 with Columbia Industries
Presenter:	
Prepared By:	Anthony Contreras, DHS Program Specialist
Reviewed By:	Kyle Sullivan, DHS Manager

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

The purpose of this First Amendment is to correct acronym errors and change language in section two of the contract.

Benton County contracts with Columbia Industries to provide employment services for individuals with developmental disabilities.

Fiscal Impact

Amount: $0.00

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

Recommendation

- Sign the Resolution to accept the proposed First Amendment to Agreement #21/22-DD-CI-00
- Execute the proposed First Amendment to Agreement #21/22-DD-CI-00 by signing all the copies where indicated

Suggested Motion

Consent Agenda

RESOLUTION

Benton County Resolution No. _____

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF EXECUTING FIRST AMENDMENT TO GRANT AGREEMENT #21/22-DD-CI-00 BETWEEN BENTON COUNTY DEPARTMENT OF HUMAN SERVICES AND COLUMBIA INDUSTRIES BY AMENDING BENTON COUNTY RESOLUTION 2021 861

WHEREAS, this First Amendment is to correct acronym errors and change language in section two of the contract; and

WHEREAS, Benton County Resolution 2021 861 serves to provide employment services to individuals with intellectual/developmental disabilities; **NOW, THEREFORE**

BE IT RESOLVED, that the Board of Benton County Commissioners hereby accepts the proposed First Amendment to Grant Agreement #21/22-DD-CI-00 with Columbia Industries; and

BE IT RESOLVED, that Benton County Resolution 2021 861 is hereby amended; and

BE IT FURTHER RESOLVED, that the Chairman of the Board of Benton County Commissioners be, and hereby is, authorized to sign on behalf of Benton County, First Amendment to Agreement #21/22-DD-CI-00 with Columbia Industries to provide employment services to individuals with intellectual/developmental disabilities for a consideration amount of Fee-For-Service in accordance with Exhibit B; and

BE IT FURTHER RESOLVED, the term of the attached First Amendment commences on February 2, 2022 and shall expire on June 30, 2022.

Dated this . . .. .day of . . .. , 2022

_____
Chair

_____
Member

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

Attest: _____
Clerk of the Board

cc: Human Services; Benton County Commissioners

Anthony Contreras

Benton County
DEPARTMENT OF HUMAN SERVICES
First Amendment to Agreement #21/22-DD-CI-00

This 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, by and for the **Benton County Department of Human Services**, a County Department, with its principal offices at 7102 West Okanogan Place, Suite 201, Kennewick, WA 99336 (hereinafter collectively referred to as "Counties") and **Columbia Industries**, a Washington State Not-For-Profit Corporation, with its principal offices at 900 S Dayton, Kennewick, WA 99336. (hereinafter "Contractor").

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

Contractor Contact Information:
Marie Lathim, Chief Administrative Officer
Columbia Industries
P O Box 7346
Kennewick, WA 99336
Phone: 509.582.4142 / Fax: 509.586.3825
E-Mail: mariel@columbiaindustries.com

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

Agreement Start Date .....October 1, 2021
Agreement End Date (unless terminated sooner as set forth herein this Agreement).....June 30, 2022
The Contractor shall complete all work by the time(s) specified herein, or if no such time is otherwise specified, no later than the end date.

Consideration..... Fee-For-Service

Attachments incorporated into this Agreement
Exhibit "A" – Data Security Requirements
Exhibit "B" – Fee-For-Service Schedule
Exhibit "C"- Medicaid Disclosure Form
Exhibit "D" – Travel Policy

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

For the Contractor:

Marie Lathim
Title Chief Administrative Officer Date: 2/17/2022

For Benton County:

Benton County Commissioners | Date | Attest: Clerk of the Board

Approved as to Content
Department of Human Services

Approved as to Form
Benton County Prosecutor's Office

1. GENERAL TERMS AND CONDITIONS

a. **Definitions:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Sixty (60) years of age or older who has the functional, mental, or physical inability to care for himself or herself; or is found incapacitated under Chapter 11.88 RCW; or
(b) Who has a developmental disability as defined under RCW 71A.10.020; or
(c) Admitted to licensed facilities, including boarding homes, nursing homes, adult family homes, residential habilitation centers, or any other facility licensed by DSHS; or
(d) Receiving services from home health, hospice or home care agencies licensed or required to be licensed under Chapter 70.127 RCW; or
(e) Receiving services from an individual provider (RCW 74.34.020).

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

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

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

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

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

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

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

d. **Audit Requirement:**

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

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

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

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

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

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

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

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

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

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

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

k. **Hold Harmless and Indemnification:**

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

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

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

l. **Independent Contractor:**

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

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

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

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

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

m. **Insurance:**

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

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

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

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

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

Certain work or services under this Agreement may require insurance coverage for seamen injured during employment resulting from the negligence of the owner, master or fellow crew members as provided in 46

U.S.C. Section 688. Failure to obtain coverage in the amount required by law may result in civil and criminal liabilities. Contractor is fully responsible for ascertaining if such insurance is required and shall maintain insurance in compliance with that Act. Contractor is responsible for all civil and criminal liability that may arise from the failure to maintain coverage.

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

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

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

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

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

(5) **Other Insurance Provisions**:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

o. **Non-Waiver of Rights:** The parties agree that the excuse or forgiveness of performance, or waiver of any provision(s) of this Agreement does not constitute a waiver of such provision(s) or future performance or

prejudice the right of the waiving party to enforce any of the provisions of this Agreement at a later time. All waivers of any provision(s) of this Agreement shall be in writing and in the absence of such, no action or inaction shall be construed to be such a waiver.

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

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

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

(2) Specific Terms and Conditions of this Agreement;

(3) General Terms and Conditions of this Agreement;

(4) Other terms and conditions of this Agreement.

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

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

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

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

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

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

v. **Records Maintenance and Inspection:**

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

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

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

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

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

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

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

z. **Severability:**

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

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

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

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

cc. **Termination:**

(1) The Counties may terminate this Agreement in whole or in part whenever the Counties determine, in their sole discretion, that such termination is in the best interests of the Counties. The Counties may terminate this Agreement upon giving ten (10) days written notice by certified mail to the Contractor. In that event, the Counties shall pay the Contractor for all costs incurred by the Contractor in performing the Agreement up to the date of such notice. Payment shall be made in accordance with the Consideration and Payment Provisions Section of this Agreement.

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

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

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

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

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

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

1. **Definitions Specific to Program Agreement:** The words and phrases listed below, as used in this Program Agreement, shall each have the following definitions:

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

b. "AWA" means ALTSA Web Access.

c. "Additional Consumer Services" refers to indirect Client service types as follows:

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

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

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

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

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

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

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

e. "Client" means a person with a developmental disability as defined in chapter 388-823 WAC who is currently eligible and active with the Developmental Disabilities Administration or is an identified PASRR Client.

f. "Competitive Integrated Employment" means work performed by an individual on a part-time or full-time basis, within an integrated setting within the community that meets HCBS settings requirements. The individual must be compensated at minimum wage or higher, using the higher of the Federal, State, or local rate, and at a rate comparable to the wage paid to non-disabled workers performing the same tasks, including receiving the same benefits and opportunities for advancement.

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

(1) "Community Inclusion" or "CI": services are individualized services provided in typical integrated community settings. Services will promote individualized skill development, independent living and community integration for persons to learn how to actively and independently engage in

their local community. Activities will provide opportunities to develop relationships and to learn, practice and apply skills that result in greater independence and community inclusion. These services may be authorized for individuals age 62 and older. These services may be authorized instead of employment support (Individual Employment or Group Supported Employment) for working age individuals who have received nine months of employment support.

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

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

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

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

h. "County" is the political subdivision of the state of Washington and the county or counties entering into this Program Agreement.

i. "CRM" means the DDA Case Resource Manager.

j. "CSA" means County Service Authorization.

k. "DD" means developmental disabilities.

l. "DDA" means the Developmental Disabilities Administration within DSHS.

m. "DDA Region" means the DDA Regional office.

n. "DVR" means the Division of Vocational Rehabilitation.

o. "Employment Outcome Payment" means a payment to providers for transition students born between specific dates; have high acuity; are authorized for Individual employment; and student obtains a competitive integrated job within a specific time frames. If the job is a minimum of ten hours of work per week an additional amount will be include in the payment.

p. "General Terms and Conditions" means the contractual provisions contained within that agreement, which govern the contractual relationship between DSHS and the county.

q. "HCBS" means the Medicaid Home and Community Based Services.

r. "Job Foundation Report" is a document derived from employment readiness activities performed by students who are between ages 19 through 20 that identifies actionable next step for employment. The employment service providers developing the Job Foundation report will be supporting students with employment activities on average of 35 hours until student moves to Job Development phase of employment activities.

s. "PASRR" means Preadmission Screening and Resident Review.

t. "PCSP" means Person Centered Service Plan, a document that authorizes and identifies the DDA paid services to meet a Client's assessed needs. Formerly referred to as the Individual Support Plan.

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

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

w. "Service Provider" is a qualified Client service vendor who is contracted to provide Employment and Day Program services.

x. "Contractor" is the service provider contracted by the County to provide services.

2. **Purpose:** This Program Agreement is entered into between the County and the Contractor. Its purpose is to advance the state legislative policy to provide a coordinated and comprehensive state and local program of services for persons with developmental disabilities.

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

4. **Credentials and Minimum Requirements:**

a. Administration of the developmental disabilities County program cannot be subcontracted.

b. Qualified DD Program Coordinator: A qualified DD program coordinator has a minimum of five years training and experience in the administration and/or the delivery of developmental disabilities services to a community. For a county where the coordinator administers more than one program area (e.g. Chemical Dependency, Mental Health, Developmental Disabilities), training and experience in administration and/or a related Human or Social service may be considered.

c. Administration Responsibility: The Contractor must demonstrate the ability to administer the program agreement and regular communication with the County.

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

e. Sufficient Policies and Procedures for establishment and maintenance of adequate internal control systems: The S will maintain written policy procedural manuals for information systems, personnel, and accounting/finance in sufficient detail such that operations can continue should staffing change or absences occur.

f. Background/Criminal History Check: A background/criminal history clearance is required every three years for all employees (including DD program County staff), Contractor, and/or volunteers who may have unsupervised access to vulnerable DSHS Clients, in accordance with RCW 43.43.830-845, RCW 74.15.030, and chapter 388 WAC. If the entity reviewing the applicationelects to hire or retain an individual after receiving notice that the applicant has a conviction for an offense that would disqualify the applicant from having unsupervised access to vulnerable adults asdefined in chapter 74.34 RCW, then DDA shall deny payment for any subsequent services rendered by the disqualified individual provider. The DSHS Background Check Central Unit (BCCU)must be utilized to obtain background clearance.

g. Qualified Advisory Board Members: A Developmental Disabilities advisory board shall include members knowledgeable about developmental disabilities. No board member shall have a contract with the County to provide Training, Community Information Activities, and Consumer Support as defined in this Program Agreement, and shall not be a board member, officer, or employee of an agency subcontracting with the County to provide such services.

h. Qualified Service Providers: The County assures that all service providers meet qualifications as outlined in the DDA Policy 6.13, ***Program Provider Qualifications.***

i. Home and Community Based Waiver Services Assignment of Medicaid Billing Rights: The Contractor has agreed to assign to DDA its Medicaid billing rights for servicesto DDA Clients eligible under Title XIX programs in this Program Agreement. Written documentation shall be available to DSHS on request.

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

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

l. The County staff who perform evaluations of subcontractor work sites will promptly report to DSHS per DDA Policy 5.13, *Protection from Abuse: Mandatory Reporting,* if:

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

   (2) If they have reason to suspect that sexual or physical assault of such a person has occurred,

they shall also immediately report to the appropriate law enforcement agency.

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

n. Order of Precedence: In the event of any inconsistency in this Program Agreement and any attached exhibits, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence, in the following order, to:

(1) County Program Agreement;

(2) Attached Exhibits.

5. **Duty to Disclose:** Under 42 CFR §455.104, the Administration must obtain certain disclosures and complete required screenings to ensure the State does not pay federal funds to excluded person or entities. The Contractor is required to provide disclosures from managing employees, specifically the persons in the positions of Developmental Disabilities Director and Fiscal/Budget Director, i.e. the person who authorizes expenditures. A completed Medicaid Provider Disclosure Statement, DSHS Form 27-094, should be submitted to the County to complete the required screenings. Disclosures must be provided at contract renewal and within thirty-five (35) days whenever there is achange in the staff holding these management positions [42 CFR 455.104 (c)(1)]. Exhibit C

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

a. The Contractor shall:

b. Compliance with BARS Policies: The Contractor shall take any necessary and reasonable steps to comply with BARS Policies.

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

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

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

(2) Criteria for Evaluation;

(3) DDA Guiding Values;

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

(5) DDA Guidelines for Community Assessments within Employment and Vocational Programs; and

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

d. Qualified Providers: Contractor must meet the requirements of policy 6.13.

e. Technical Assistance: DDA contracts with Technical Assistance providers that may be utilized by Counties with prior written approval. Contractor will request Technical Assistance through the County.

f. The County will pass on all applicable contractual requirements that are between DDA and the County to the Contractor. The County shall immediately notify the DDA Region of the County's intent to terminate a Contractor who is serving a DDA referral. Individuals or agencies contracted with a County or DDA may not subcontract for Employment or Community Inclusion services.

g. The Contractor shall provide qualified Employment and Day Program Service Providers for consumer support services that include the following program outcomes:

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

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

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

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

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

(2) Clients in an employment program will be supported to work towards a living wage. A living wage is the amount needed to enable an individual to meet or exceed his/her living expenses. Clients should be supported to average twenty (20) hours of community work per week or eighty-six (86) hours per month; however, each person's preferred hours of employment should be taken into consideration. The amount of service a Client receives will be based on his/her demonstrated need, acuity level and work history per WAC 388-828.

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

(4) All Clients will have an Individualized Employment or Community Inclusion plan to identify Client's preferences. Minimum plan elements are outlined in the reference document "Criteria for an Evaluation." A copy of the Client's individualized plan will be provided to the Client, their CRM, guardian and others as appropriate. The Contractor will use the DDA Employment or Community Inclusion plan form and the accompanying evaluation tool from the DDA website. Contractor will ensure the form is appropriately marked either "Initial Plan" or "Annual Plan".

(5) Semi-annual progress reports that describe the outcomes of activities will be provided by the Contractor to the client, their CRM, guardian, County and others as appropriate. The report will summarize the **progress** made towards the Client's individualized goals. The Contractor will use the DDA Employment or Community Inclusion plan form and the accompanying evaluation tool from the DDA website. The Contractor will ensure that the form is marked as the "6-month Progress Report".

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

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

(a) Review the progress toward employment goals;

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

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

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

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

(10) Individual Employment staff hours must be attributed to the "Individual Employment and Billable Activity Phase(s)".

(11) For Group Supported Employment (GSE), Clients must have paid work. The total number of direct service staff hours provided to the group should be equal to or greater than the group's

collective amount of individual support monthly base hours. If the direct service staff hours are less than the collective amount, then the provider will be reimbursed only for the number of hours staff actually provided. (a) The collective group's individual hours should be the minimum staff hours delivered to support the group.

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

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

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

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

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

(f) Individual time in the community working towards the individual employment goal, separate from the group time, must include phase information (refer to Employment Phases and Billable Activities - see Phases 1 - 4 for element/ activity description).

(12) Employment and day services must adhere to the Home and Community Based settings (HCBS) requirements of 42CFR 441 530(a)(1), including that:

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

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

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

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

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

m. Evaluation: The County shall evaluate, and review services delivered to reasonably assure compliance and quality. The County shall conduct at least one visit to each subcontractor during the biennium. The County shall maintain written documentation of all evaluations, recommendations and corrective action plans for each subcontractor. Copies of such documentation will be provided to the DDA upon request.

n. The Contractor shall work with local developmental disability advisory groups to plan for and coordinateservices.

o. The Contractor shall participate in regularly scheduled meetings between County DD staff and County Contractors to remain updated and current.

p. Assure the integrity of data submitted to the County. When data is submitted and rejected due to errors or an error is later identified, the Contractor will correct and resubmit the data within the time given by the County.

q. Employment Outcome Payment. - Providers, with transition students born between 9/1/00 through 8/31/01, high acuity and authorized for Individual employment, may receive one outcome payment if student obtains a competitive integrated job approved by the County within timeframes described in the chart below. If the County is also the service provider DDA will provide the job approval. If the job is at a minimum of ten hours of work per week an additional amount will be include in the payment.

7. Consideration:

a. Fees:

(1) Approval of fees is the responsibility of the DDA. The DDA Region reserves the right to approve fees/rates for the services being provided. The County will submit a fee/rate schedule with the initial Program Agreement. The County will submit updated fee/rate schedules to the DDA Regional Employment Specialist for approval as changes occur. The rate schedule will include the following information:

(2) Fee Limitations: The DDA Billing Instructions found on the County Best Practices site provides limitations on the Hourly Rate for each direct service. Hourly rates must be divisible by four.

b. Fee Schedule **Exhibit B:**

(1) Hourly rates are set forth in Exhibit B. The Contractor will not be reimbursed at a higher rate than what is identified in Exhibit B. If needed, due to budget limitations, the Fee Schedule can be modified by the County when needed. The Contractor will be notified, and an amendment will be issued for the new rates.

8. Billing and Payment:

a. Program Agreement Budget: County shall pay the Contractor all allowable costs, which are defined by DDA as cost incurred by the program for:

(1) Additional Consumer Services: Additional Consumer Services must be approved by the County before costs are incurred.

(a) Training:

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

(2) Consumer Support.

(a) Adult Day Care services are available to Clients who were served between December 1996 and December 2003 in Adult Day Health agencies and were subsequently determined ineligible for Level II or III services (Adult Day Health). Level II and III services are licensed rehabilitation and skilled nursing services along with socialization. Level I services (Adult Day Care) are supervised day programs where frail and disabled adults can participate in social, educational, and recreational programs without the need for skilled nursing.

(b) Community Inclusion services are individualized services provided in typical integrated community settings for individuals in retirement. Services will promote individualized skill development, independent living and community integration for persons to learn how to actively and independently engage in their local community. Activities will provide opportunities to develop relationships and to learn, practice and apply skills that result in greater independence and community inclusion (per the Community Inclusion Billable Activities). These services may be authorized instead of employment support (Individual Employment or Group Supported Employment) for working age individuals who have received nine (9) months of employment support.

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

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

(e) Individualized Technical Assistance services are a part of an individual's pathway to employment. This service provides assessment and consultation to the employment

provider to identify and address existing barriers to employment. This is in addition to supports received through supported employment services for individuals who have not yet achieved their employment goal.

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

b. Reimbursement for the state Fiscal Year shall not exceed the rate listed in **Exhibit B** to this Program Agreement. However, with a Program Agreement amendment, the parties may increase or decrease the Program Agreement amount.

c. Monthly Invoice with Signed Documentation: All requests for reimbursement amounts must be submitted securely/encrypted to the County. Monthly invoices shall be submitted to the County by the tenth (10) of the month following the month the services were provided. If the tenth of the month falls on a weekend, Contractor will have the invoice submitted on the Friday before the 10th.

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

e. Reimbursement of Client Services: A claim for each individual is made on the AWA system by indicating the number of service units delivered to each individual listed and the fee per unit. Units are defined as:

(1) An "Hour" is at least fifty (50) minutes of direct service. Partial hour to the quarter may be recorded.

(2) A "Day" is at least four (4) hours of direct service and will only be used in connection with Adult Day Care reimbursement.

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

f. The Individual Employment Phases & Billable Activities document defines the individual Client services that DDA reimburses. That document is located on the DSHS DDA County Best Practices Web site at https://www.dshs.wa.gov/dda/county-best-practices.

g. The Community Inclusion Billable Activities document defines the individual Client services DDA reimburses. That document is located on the DSHS DDA County Best Practices Web site at https://www.dshs.wa.gov/dda/county-best-practices.

h. Timeliness of and Modification to Billings: All initial invoices with signed documentation must be received by the County by the tenth (10) of the month following the last day of the month in which the service is provided. Corrected invoices will be accepted throughout the fiscal year as long as they are received within thirty (30)calendar days unless an extension is approved by the County.

i. Recovery of Fees: If the Contractor bills and is paid fees for services that the County later finds

were (a) not delivered or (b) not delivered in accordance with Program Agreement standards or (c) paid at an incorrect rate or non-approved hours, the County shall recover the fees for those services and the Contractor shall fully cooperate during the recovery.

8. **Intermediate Care Facilities for Intellectual Disabilities (ICF/1D) Agreement.** If applicable per 42 CFR 483.410, the Contractor shall assure that all county subcontracted programs serving persons living in ICF/ID facilities develop a plan and coordinate their services with the facility on behalf of the ICF/ID resident. County will supply to the Contractor a list of ICF/ID residents who attend a day program.

9. **Single State Medicaid Agency-Health Care Authority (HCA):** HCA, as the single state Medicaid Agency, has administrative authority for Title XIX coverage per 42 CFR 431.10. DSHS is the operating agency for the Home and Community Based Waivers for services for people with developmental disabilities. The Contractor only has responsibility for services covered in this agreement.

10. DSHS/DRW Access Agreement: The DRW February 27, 2001 Access Agreement with DDA is incorporated by reference. The Contractor assures that it has reviewed theAccess Agreement. The agreement covers DRWs access to individuals with developmental disabilities, Clients, programs and records, outreach activities, authority to investigate allegations of abuse and neglect, and other miscellaneous matters and is binding for all providers of DDA contractedservices.

11. Confidential Information. Contractors must:

a. Ensure the security of Confidential Information, and

b. When transporting client records containing Confidential Information outside a Secure Area, one or more of the following as appropriate:

(1) Using a Trusted Network; or

(2) Encrypting the Confidential Information, including:

(a) Email and/or email attachments

(b) Confidential Information when it is stored on portable devices or media including but not limited to laptop computers and flash memory devices.

12. **Data Security Requirements.** Exhibit A shall only apply to the Contractor if the Contractor possesses 150 or more DSHS records across all programs or services throughout their organization or transmits more than 5 records at one time.

Exhibit A - Data Security Requirements

1. **Definitions.** The words and phrases listed below, as used in this Exhibit, shall each have the following definitions:

a. "AES" means the Advanced Encryption Standard, a specification of Federal Information Processing Standards Publications for the encryption of electronic data issued by the National Institute of Standards and Technology (http://nvlpubs.nist.gov/nistpubs/FIPS/NIST.FIPS.197.pdf).

b. "Authorized Users(s)" means an individual or individuals with a business need to access DSHS Confidential Information, and who has or have been authorized to do so.

c. "Category 4 Data" is data that is confidential and requires special handling due to statutes or regulations that require especially strict protection of the data and from which especially serious consequences may arise in the event of any compromise of such data. For purposes of this contract, data classified as Category 4 refers to data protected by: the Health Insurance Portability and Accountability Act (HIPAA).

d. "Cloud" means data storage on servers hosted by an entity other than the Contractor and on a network outside the control of the Contractor. Physical storage of data in the cloud typically spans multiple servers and often multiple locations. Cloud storage can be divided between consumer grade storage for personal files and enterprise grade for companies and governmental entities. Examples of consumer grade storage would include iCloud, Dropbox, Box.com, and many other entities. Enterprise cloud vendors include Microsoft Azure, Amazon Web Services, 0365, and Rackspace.

e. "Encrypt" means to encode Confidential Information into a format that can only be read by those possessing a "key"; a password, digital certificate or other mechanism available only to authorized users. Encryption must use a key length of at least 128 bits (256 preferred) for symmetric keys, or 2048 bits for asymmetric keys. When a symmetric key is used, the Advanced Encryption Standard (AES) must be used if available.

f. "Hardened Password" means a string of at least eight characters containing at least three of the following four character classes: Uppercase alphabetic, lowercase alphabetic, numeral, and special characters such as an asterisk, ampersand, or exclamation point.

g. "Mobile Device" means a computing device, typically smaller than a notebook, which runs a mobile operating system, such as iOS, Android, or Windows Phone. Mobile Devices include smart phones, most tablets, and other form factors.

h. "Multi-factor Authentication" means controlling access to computers and other IT resources by requiring two or more pieces of evidence that the user is who they claim to be. These pieces of evidence consist of something the user knows, such as a password or PIN; something the user has such as a key card, smart card, or physical token; and something the user is, a biometric identifier such as a fingerprint, facial scan, or retinal scan. "PIN" means a personal identification number, a series of numbers which act as a password for a device. Since PINs are typically only four to six characters, PINs are usually used in conjunction with another factor of authentication, such as a fingerprint.

i. "Portable Device" means any computing device with a small form factor, designed to be transported from place to place. Portable devices are primarily battery powered devices with base computing resources in the form of a processor, memory, storage, and network access. Examples include, but

are not limited to, mobile phones, tablets, and laptops. Mobile Device is a subset of Portable Device.

j. "Portable Media" means any machine-readable media that may routinely be stored or moved independently of computing devices. Examples include magnetic tapes, optical discs (CDs or DVDs), flash memory (thumb drive) devices, external hard drives, and internal hard drives that have been removed from a computing device.

k. "Secure Area" means an area to which only authorized representatives of the entity possessing the Confidential Information have access, and access is controlled through use of a key, card key, combination lock, or comparable mechanism. Secure Areas may include buildings, rooms or locked storage containers (such as a filing cabinet or desk drawer) within a room, as long as access to the Confidential Information is not available to unauthorized personnel. In otherwise Secure Areas, such as an office with restricted access, the Data must be secured in such a way as to prevent access by non-authorized staff such as janitorial or facility security staff, when authorized Contractor staff are not present to ensure that non-authorized staff cannot access it.

l. "Trusted Network" means a network operated and maintained by the Contractor, which includes security controls sufficient to protect DSHS Data on that network. Controls would include a firewall between any other networks, access control lists on networking devices such as routers and switches, and other such mechanisms which protect the confidentiality, integrity, and availability of the Data.

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

2. **Authority.** The security requirements described in this document reflect the applicable requirements of Standard 141.10 (https://ocio.wa.qov/policies) of the Office of the Chief Information Officer for the state of Washington, and of the DSHS Information Security Policy and Standards Manual. Reference material related to these requirements can be found here: https://www.dshs.wa.gov/ffa/keeping-dshs-client-information-private-and-secure, which is a site developed by the DSHS Information Security Office and hosted by DSHS Central Contracts and Legal Services.

3. **Administrative Controls.** The Contractor must have the following controls in place:

a. A documented security policy governing the secure use of its computer network and systems, and which defines sanctions that may be applied to Contractor staff for violating that policy.

b. If the Data shared under this agreement is classified as Category 4 data, the Contractor must be aware of and compliant with the applicable legal or regulatory requirements for that Category 4 Data.

c. If Confidential Information shared under this agreement is classified as Category 4 data, the Contractor must have a documented risk assessment for the system(s) housing the Category 4 Data.

4. **Authorization, Authentication, and Access.** In order to ensure that access to the Data is limited to authorized staff, the Contractor must:

a. Have documented policies and procedures governing access to systems with the shared Data

b. Restrict access through administrative, physical, and technical controls to authorized staff.

c. Ensure that user accounts are unique and that any given user account logon ID and password combination is known only to the one employee to whom that account is assigned. For purposes of non-repudiation, it must always be possible to determine which employee performed a given action on a system housing the Data based solely on the logon ID used to perform the action

d. Ensure that only authorized users are capable of accessing the Data.

e. Ensure that an employee's access to the Data is removed immediately:

(1) Upon suspected compromise of the user credentials.

(2) When their employment, or the contract under which the Data is made available to them, is terminated.

(3) When they no longer need access to the Data to fulfill the requirements of the contract.

f. Have a process to periodically review and verify that only authorized users have access to systems containing DSHS Confidential Information

g. When accessing the Data from within the Contractor's network (the Data stays within the Contractor's network at all times), enforce password and logon requirements for users within the Contractor's network, including:

(1) A minimum length of 8 characters and containing at least three of the following character classes: uppercase letters, lowercase letters, numerals, and special characters such as an asterisk, ampersand, or exclamation point.

(2) That a password does not contain a user's name, logon ID, or any form of their full name.

(3) That a password does not consist of a single dictionary word. A password may be formed as a passphrase which consists of multiple dictionary words.

(4) That passwords are significantly different from the previous four passwords. Passwords that increment by simply adding a number are not considered significantly different.

h. When accessing Confidential Information from an external location (the Data will traverse the Internet or otherwise travel outside the Contractor's network), mitigate risk and enforce password and logon requirements for users by employing measures including:

(1) Ensuring mitigations applied to the system don't allow end-user modification.

(2) Not allowing the use of dial-up connections.

(3) Using industry standard protocols and solutions for remote access. Examples would include RADIUS and Citrix.

(4) Encrypting all remote access traffic from the external workstation to Trusted Network or to a component within the Trusted Network. The traffic must be encrypted at all times while traversing any network, including the Internet, which is not a Trusted Network.

(5) Ensuring that the remote access system prompts for re-authentication or performs automated session termination after no more than 30 minutes of inactivity.

(6) Ensuring use of Multi-factor Authentication to connect from the external end point to the internal end point.

i. Passwords or PIN codes may meet a lesser standard if used in conjunction with another authentication mechanism, such as a biometric (fingerprint, face recognition, iris scan) or token (software, hardware, smart card, etc.) in that case:

(1) The PIN or password must be at least 5 letters or numbers when used in conjunction with at least one other authentication factor

(2) Must not be comprised of all the same letter or number (11111, 22222, aaaaa, would not be acceptable)

(3) Must not contain a "run" of three or more consecutive numbers (12398, 98743 would not be acceptable)

j. If the contract specifically allows for the storage of Confidential Information on a Mobile Device, passcodes used on the device must:

(1) Be a minimum of six alphanumeric characters.

(2) Contain at least three unique character classes (upper case, lower case, letter, number).

(3) Not contain more than a three consecutive character run. Passcodes consisting of 12345, or abcd12 would not be acceptable.

k. Render the device unusable after a maximum of 10 failed logon attempts.

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

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

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

For DSHS Confidential Information stored on these disks, deleting unneeded Data is sufficient as long as the disks remain in a Secure Area and otherwise meet the requirements listed in the above paragraph. Destruction of the Data, as outlined below in Section 8 Data Disposition, may be deferred until the disks are retired, replaced, or otherwise taken out of the Secure Area.

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

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

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

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

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

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

(a) Encrypt the Data.

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

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

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

i. Keeping them in a Secure Area when not in use,

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

iii. Taking frequent inventories.

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

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

(1) DSHS Confidential Information may be stored on Portable Media as part of a Contractor's existing, documented backup process for business continuity or disaster recovery purposes. Such storage is authorized until such time as that media would be reused during the course of normal backup operations. If backup media is retired while DSHS Confidential Information stillexists upon it, such media will be destroyed at that time in accordance with the disposition requirements below in Section 8 Data Disposition.

(2) Data may be stored on non-portable media (e.g. Storage Area Network drives, virtual media, etc.) as part of a Contractor's existing, documented backup process for business continuity or disaster recovery purposes. If so, such media will be protected as otherwise described in this exhibit. If this media is retired while DSHS Confidential Information still exists upon it, the data will be destroyed at that time in accordance with the disposition requirements below in Section 8Data Disposition

i. **Cloud storage.** DSHS Confidential Information requires protections equal to or greater than thosespecified elsewhere within this exhibit. Cloud storage of Data is problematic as neither DSHS nor the Contractor has control of the environment in which the Data is stored. For this reason:

(1) DSHS Data will not be stored in any consumer grade Cloud solution, unless all of the followingconditions are met:

(a) Contractor has written procedures in place governing use of the Cloud storage and Contractor attest to the contact listed in the contract and keep a copy of that attestation foryour records in writing that all such procedures will be uniformly followed.

(b) The Data will be Encrypted while within the Contractor network.

(c) The Data will remain Encrypted during transmission to the Cloud.

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

(e) The Contractor will possess a decryption key for the Data, and the decryption key will bepossessed only by the Contractor.

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

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

(2) Data will not be stored on an Enterprise Cloud storage solution unless either:

(a) The Cloud storage provider is treated as any other Sub-Contractor, and agrees in writing toall of the requirements within this exhibit; or,

(b) The Cloud storage solution used is HIPAA compliant.

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

6. **System Protection.** To prevent compromise of systems which contain DSHS Data or through which that Data passes:

a. Systems containing DSHS Data must have all security patches or hotfixes applied within 3 months of being made available.

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

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

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

7. **Data Segregation.**

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

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

(2) DSHS Data will be stored in a logical container on electronic media, such as a partition or folder dedicated to DSHS Data.

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

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

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

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

8. **Data Disposition.** When the contracted work has been completed or when the Data is no longer needed, except as noted above in Section 5.b, Data shall be returned to DSHS or destroyed. Media on which Data may be stored and associated acceptable methods of destruction are as follows:

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

9. **Notification of Compromise or Potential Compromise.** The compromise or potential compromise of DSHS shared Data must be reported to the DSHS Contact designated in the Contract within one (1) business day of discovery. If no DSHS Contact is designated in the Contract, then the notification must be reported to the DSHS Privacy Officer at dshsprivacyofficer@dshs.wa.gov. Contractor must also take actions to mitigate the risk of loss and comply with any notification or other requirements imposed by law or DSHS.

10. **Data shared with Subcontractors.** If DSHS Data provided under this Contract is to be shared with a subcontractor, the Contract with the subcontractor must include all of the data security provisions within this Contract and within any amendments, attachments, or exhibits within this Contract. If the Contractor cannot protect the Data as articulated within this Contract, then the contract with the sub-Contractor must be submitted to the DSHS Contact specified for this contract for review and approval.

Benton County
Department of Human Services
EXHIBIT B FEE FOR SERVICES SCHEDULE
July 1, 2021 – June 30, 2022

1. **Clients Authorized for Services:**

Service Description	Rate Per Unit		Unit Rate
.61 Child Development Services	$100.00		Month
.62 Group Supported Employment	Group Site Training	$72.00	Hour
	Community Integrated Individual Activity	$72.00	
.64 Individual Employment	Individual Employment Activities	$84.00	Hour
.67 Community Inclusion	$39.00		

2. **Clients Authorized for Medicaid Funds:** Reimbursement shall be at the rates set forth above up to the maximum limit established by DDA and authorized by the Counties.

3. **Service Unit Definitions:**

Reimbursement of client services: A claim for each individual is made on the CMIS system by indicating the number of service units delivered to each individual listed and the fee per unit. A unit is defined as:

a. An "Hour" is at least fifty (50) minutes of direct service. Partial hour to the quarter may be recorded; or

b. A "Day" is at least four hours of direct service and will only be used in connection with Adult Day Care (ADC) reimbursement.

c. A "Month" represents a minimum of 1 service visit which is at least fifty (50) minutes of direct service for Child Development Services (CDS) reimbursement.

EXHIBIT C EXCLUDED DUE TO PERSONAL CLIENT INFORMATION

Exhibit D Travel Policy

TRANSPORTATION:
Reasonable necessary parking and toll costs shall be approved with submitted receipts.

Only reasonable necessary taxi, Uber, Lyft or public transportation costs are to be approved.

The mode of transportation shall be by the most economical and safest mode available, and the route most direct or advantageous to the Counties.

The Contractor shall carpool to and from trainings that occur out of Benton and Franklin Counties when such option is available.

Unless less expensive fares are unavailable, the cost of coach class fare for a given mode of travel shall be utilized.

Rental cars are not allowed unless prior permission is granted from the Counties.

MEAL EXPENSES:
"Exclusion Zone" shall mean the area inside the boundaries of Benton and Franklin Counties.

No meal expenses within the "exclusion zone" for the contractor, including meals associated with community functions shall be approved unless a grant or contract approved by signature from the Board of County Commissioners is in place that includes language for the provision of meals or snacks.

A detailed dining receipt for each individual attending a training/conference is required for all approved meal expenses and must list at a minimum: the name of the establishment, date, itemized description of the meal and associated tax and tip(no more than 15%), along with the total amount expanded. No alcohol shall be allowed as an acceptable item on a receipt and will not be paid for by the county.

The approved rate for meal expenses shall be no more than the allowed rate accessible at http://ofm.wa.gov or provided by the Counties.

For meals included in a registration fare, airfare, lodging (e.g. continental breakfast) or other Counties' expense, the Contractor shall not be eligible for the per diem for that particular meal, whether or not the Contractor actually consumes the provided meal or not.

If only a summary receipt is provided, the Counties will reimburse no more than the following amounts per meal:

Breakfast:	$5.50
Lunch:	$7.00
Dinner	$10.50

If no receipt of any kind can be provided, there will not be any reimbursement for the meal.

On either "day travel" or first or last days of overnight travel outside of the exclusion zone, approved eligibility is based on the following times unless otherwise pre-approved by the County authorizing staff:

Breakfast: departure prior to 6:30 AM qualifies the traveler for breakfast
Lunch: during the traveler's lunch period
Dinner: arrival after 6:30 PM qualifies the traveler for dinner

Times listed outside the above section may be approved by the County authorizing staff if supported by a proper cost analysis. Such proper cost analysis should include the following factors:

Traveler's logistics
Distance to and from the event
Relevant medical conditions (if applicable)

LODGING:
In the event the Contractor does not make use of a reserved hotel room, or fails to appear for a conference, training, etc., the Contractor shall be responsible for all costs, except under documented exigent circumstances (e.g. severe illness, death in the family, hazardous weather conditions). The Counties shall be entitled to recoup such costs in any legal manner.

The maximum allowed lodging rate shall be in accordance with the reimbursement guidelines accessible at http://ofm.wa.gov or provided by the Counties.

If lodging at the hotel which is hosting the conference is above the per diem, you may submit a cost analysis for approval, showing the cost of staying at the conference location and the cost to stay somewhere else with travel costs included. Approval before the conference is required for reimbursement.

"Day Travel" shall mean travel to locations outside of the "exclusion zone" when the contractor does not stay in lodging away from their home for one or more nights.

"Exclusion Zone" shall mean the area inside the boundaries of Benton and Franklin Counties.

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	March 29, 2022
Subject:	Agreement #21-4619C-102 Washington State Department of Commerce (ERAP)
Presenter:	
Prepared By:	Deena Horton, Program Specialist
Reviewed By:	Kyle Sullivan, DHS Manager

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

This agreement is intended to prevent evictions by paying past due and future rent, targeting limited resources to those with the greatest needs while working to distribute funds equitably.

Fiscal Impact

Amount: $7,664,001.00

Fund: There is no impact on the current expense budget. All revenues and expenditures are from the Fund 0108-101 Human Services Budget for a grant amount of $7,664,001.00.

Recommendation

Sign the Contract Agreement #21-4619C-102 with Washington State Department of Commerce.

Suggested Motion

Approve as part of the consent agenda.

RESOLUTION

BENTON COUNTY RESOLUTION NO. _____

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON;

RE: IN THE MATTER OF APPROVING THE AGREEMENT #21-4619C-102 BETWEEN BENTON COUNTY DEPARTMENT OF HUMAN SERVICES AND WASHINGTON STATE DEPARTMENT OF COMMERCE COMMUNITY SERVICES AND HOUSING ASSISTANCE UNIT.

WHEREAS, the purpose of this Agreement is intended to prevent evictions by paying past due and future rent, targeting limited resources to those with the greatest needs while working to distribute funds equitably; **NOW, THEREFORE,**

BE IT RESOLVED, that the Board of County Commissioners hereby approves agreement #21-4619C-102, between Washington State Department of Commerce Community Services and Housing Assistance Unit and Benton County Department of Human Services for a grant amount of $7,664,001.00.00 from the Eviction Rent Assistance Program (ERAP) Grant; and

BE IT FURTHER RESOLVED, that Benton County Department of Human Services is authorized to voucher the County Auditor's office to make such payments, necessary for the disbursement of the Washington State Department of Commerce Eviction Rent Assistance Program (ERAP); and

BE IT FURTHER RESOLVED, the term of the attached agreement commences on February 1, 2022 and ends on June 30, 2023.

Dated this.....day of ....., 2022

_____
Chair

_____
Member

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

Attest: _____
Clerk of the Board

Washington State Department of Commerce

Interagency Agreement with

Benton County Department of Human Services

through

Community Services and Housing Division
Housing Assistance Unit

For

Eviction Rent Assistance Program 2.0 (ERAP 2.0)

Start date: February 1, 2022

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Attachment A, Scope of Work
Attachment B, Budget
Attachment C, Department of Commerce Eviction Rent Assistance Program 2.0 Guidelines

FACE SHEET

Contract Number: 21-4619C-102

Washington State Department of Commerce
Community Services and Housing Division
Housing Assistance Unit
Eviction Rent Assistance Program 2.0

1. Contractor	**2. Contractor Doing Business As (optional)**
Benton County Department of Human Services 7102 E Okanogan Pl Ste 201 Kennewick, Washington 99336	
3. Contractor Representative	**4. COMMERCE Representative**
Kyle Sullivan, Manager Benton County Department of Human Services (509) 737-3909 Kyle.Sullivan@co.benton.wa.us	Mary Baldwin Grant Coordinator mary.baldwin@commerce.wa.gov P.O. Box 42525 1011 Plum Street SE Olympia, WA 98504-2525

5. Contract Amount	**6. Funding Source**	**7. Start Date**	**8. End Date**
$7,664,001.00	**Federal:** ☒ **State:** ☐ **Other:** ☐ **N/A:** ☐	February 1, 2022	June 30, 2023

9. Federal Funds (as applicable)	**Federal Agency:**	**CFDA Number:**	**Indirect Rate (if applicable):**
$7,664,001.00	US Dept. of Treasury	21.027	10%

10. Tax ID #	**11. SWV #**	**12. UBI #**	**13. DUNS #**
91-6001296	SWV0000322-02	350000971	602-898-884

14. Contract Purpose

The Eviction Rent Assistance Program 2.0 Grant is intended to prevent evictions by paying past due and future rent and utilities while distributing funds equitably.

15. Signing Statement

COMMERCE, defined as the Department of Commerce, and the Contractor, as defined above, acknowledge and accept the terms of this Contract and Attachments and have executed this Contract on the date below and warrant they are authorized to bind their respective agencies. The rights and obligations of both parties to this Contract are governed by this Contract and the following documents hereby incorporated by reference: Attachment "A" – Scope of Work, Attachment "B" – Budget, Attachment "C" – Department of Commerce Eviction Rent Assistance Program 2.0 Guidelines.

FOR CONTRACTOR	**FOR COMMERCE**
_____ Kyle Sullivan, Manager _____ Date	_____ Diane Klontz, Assistant Director Community Services and Housing Division _____ Date **APPROVED AS TO FORM ONLY BY ASSISTANT ATTORNEY GENERAL 07/17/2019. APPROVAL ON FILE.**

SPECIAL TERMS AND CONDITIONS
GENERAL GRANT
FEDERAL FUNDS

1. AUTHORITY

COMMERCE and Contractor enter into this Contract pursuant to the authority granted by the Interlocal Cooperation Act, Chapter 39.34 RCW.

2. ACKNOWLEDGMENT OF FEDERAL FUNDS

Federal Award Date: 5/14/2021
Federal Award Identification Number (FAIN): SLFRP0002
Total amount of the federal award: $403,000,000
Awarding official: U.S. Dept. of Treasury

Recipient understands and agrees that the funds disbursed under this award may only be used for the purposes set forth in American Rescue Plan Act of 2021, Coronavirus State Fiscal Recovery Fund.

The Contractor agrees that any publications (written, visual, or sound) but excluding press releases, newsletters, and issue analyses, issued by the Contractor describing programs or projects funded in whole or in part with federal funds under this Contract, shall contain the following statements:

"This project was supported by a grant awarded by US Department of the Treasury. Points of view in this document are those of the author and do not necessarily represent the official position or policies of the US Department of the Treasury. Grant funds are administered by the Coronavirus State Fiscal Recovery Fund thru the Washington State Department of Commerce."

3. CONTRACT MANAGEMENT

The Representative for each of the parties shall be responsible for and shall be the contact person for all communications and billings regarding the performance of this Contract.

The Representative for COMMERCE and their contact information are identified on the Face Sheet of this Contract.

The Representative for the Contractor and their contact information are identified on the Face Sheet of this Contract.

4. COMPENSATION

COMMERCE shall pay an amount not to exceed the Grant amount listed on the Face Sheet for the performance of all things necessary for or incidental to the performance of work under this Grant as set forth in the Scope of Work (Attachment A).

5. INDIRECT COSTS

Contractor shall provide their indirect cost rate that has been negotiated between their entity and the federal government. If no such rate exists a *de minimis* indirect cost rate of 10% of modified total direct costs (MTDC) will be used.

6. BILLING PROCEDURES AND PAYMENT

COMMERCE will pay Contractor upon acceptance of services provided and receipt of properly completed invoices, which shall be submitted to the Representative for COMMERCE.

The invoices shall describe and document, to COMMERCE's satisfaction, a description of the work performed, the progress of the project, and fees. The invoice shall include the Contract Number. If expenses are invoiced, provide a detailed breakdown of each type. A receipt must accompany any single expenses in the amount of $50.00 or more in order to receive reimbursement.

Payment shall be considered timely if made by COMMERCE within thirty (30) calendar days after receipt of properly completed invoices. Payment shall be sent to the address designated by the Contractor.

COMMERCE may, in its sole discretion, terminate the Contract or withhold payments claimed by the Contractor for services rendered if the Contractor fails to satisfactorily comply with any term or condition of this Contract.

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by COMMERCE.

Invoices and End of Fiscal Year

Invoices are due on the 20th of the month following the provision of services.

Final invoices for a state fiscal year may be due sooner than the 20th and Commerce will provide notification of the end of fiscal year due date.

The grantee must invoice for all expenses from the beginning of the contract through June 30, regardless of the contract start and end date.

Duplication of Billed Costs

The Contractor shall not bill COMMERCE for services performed under this Agreement, and COMMERCE shall not pay the Contractor, if the Contractor is entitled to payment or has been or will be paid by any other source, including grants, for that service.

Disallowed Costs

The Contractor is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

7. SUBCONTRACTOR DATA COLLECTION

Contractor will submit reports, in a form and format to be provided by Commerce and at intervals as agreed by the parties, regarding work under this Agreement performed by subcontractors and the portion of funds expended for work performed by subcontractors, including but not necessarily limited to minority-owned, woman-owned, and veteran-owned business subcontractors. "Subcontractors" shall mean subcontractors of any tier.

8. AUDIT

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 Grantee shall procure and pay for a single audit or a program-specific audit for that fiscal year. Upon completion of each audit, the Grantee shall:

A. Submit to COMMERCE the reporting package specified in OMB Super Circular 2 CFR 200.501, reports required by the program-specific audit guide (if applicable), and a copy of any management letters issued by the auditor.
B. Submit to COMMERCE follow-up and developed corrective action plans for all audit findings.

If the Grantee is a subrecipient and expends less than $750,000 in federal awards from any and/or all sources in any fiscal year, the Grantee shall notify COMMERCE they did not meet the single audit requirement.

The Grantee shall send all single audit documentation to auditreview@commerce.wa.gov.

9. DEBARMENT

A. Grantee, defined as the primary participant and it principals, certifies by signing these General Terms and Conditions that to the best of its knowledge and belief that they:

i. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.

ii. Have not within a three-year period preceding this Grant, 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 or private agreement or transaction, violation of Federal or State antitrust statutes or commission of

embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;

iii. 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 federal Executive Order 12549; and

iv. Have not within a three-year period preceding the signing of this Grant had one or more public transactions (Federal, State, or local) terminated for cause of default.

B. Where the Grantee is unable to certify to any of the statements in this Grant, the Grantee shall attach an explanation to this Grant.

C. The Grantee agrees by signing this Grant that 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 COMMERCE.

D. The Grantee further agrees by signing this Grant that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," as follows, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions:

LOWER TIER COVERED TRANSACTIONS

i. The lower tier Grantee certifies, by signing this Grant that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

ii. Where the lower tier Grantee is unable to certify to any of the statements in this Grant, such contractor shall attach an explanation to this Grant.

E. The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, person, primary covered transaction, principal, and voluntarily excluded**, as used in this section, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact COMMERCE for assistance in obtaining a copy of these regulations.

10. INSURANCE

Each party certifies that it is self-insured under the State's or local government self-insurance liability program, and shall be responsible for losses for which it is found liable.

11. ORDER OF PRECEDENCE

In the event of an inconsistency in this Contract, the inconsistency shall be resolved by giving precedence in the following order:

- Applicable federal and state of Washington statutes and regulations
- Special Terms and Conditions
- General Terms and Conditions
- Attachment A – Scope of Work
- Attachment B – Budget
- Attachment C – Department of Commerce Eviction Rent Assistance Program 2.0 Guidelines

GENERAL TERMS AND CONDITIONS
GENERAL GRANT
FEDERAL FUNDS

1. DEFINITIONS

As used throughout this Contract, the following terms shall have the meaning set forth below:

A. "Authorized Representative" shall mean the Director and/or the designee authorized in writing to act on the Director's behalf.

B. "COMMERCE" shall mean the Department of Commerce.

C. "Contract" or "Agreement" means the entire written agreement between COMMERCE and the Contractor, including any attachments, documents, or materials incorporated by reference. E-mail or facsimile transmission of a signed copy of this contract shall be the same as delivery of an original.

D. "Contractor" shall mean the entity identified on the face sheet performing service(s) under this Contract, and shall include all employees and agents of the Contractor.

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

F. "State" shall mean the state of Washington.

G. "Subcontractor" shall mean one not in the employment of the Contractor, who is performing all or part of those services under this Contract under a separate contract with the Contractor. The terms "subcontractor" and "subcontractors" mean subcontractor(s) in any tier.

2. ALL WRITINGS CONTAINED HEREIN

This Contract contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind any of the parties hereto.

3. AMENDMENTS

This Contract 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.

4. ASSIGNMENT

Neither this Contract, work thereunder, nor any claim arising under this Contract, shall be transferred or assigned by the Contractor without prior written consent of COMMERCE.

5. CONFIDENTIALITY AND SAFEGUARDING OF INFORMATION

A. "Confidential Information" as used in this section includes:

i. All material provided to the Contractor by COMMERCE that is designated as "confidential" by COMMERCE;

ii. All material produced by the Contractor that is designated as "confidential" by COMMERCE; and

iii. All personal information in the possession of the Contractor that may not be disclosed under state or federal law.

B. The Contractor shall comply with all state and federal laws related to the use, sharing, transfer, sale, or disclosure of Confidential Information. The Contractor shall use Confidential Information solely for the purposes of this Contract and shall not use, share, transfer, sell or disclose any

Confidential Information to any third party except with the prior written consent of COMMERCE or as may be required by law. The Contractor shall take all necessary steps to assure that Confidential Information is safeguarded to prevent unauthorized use, sharing, transfer, sale or disclosure of Confidential Information or violation of any state or federal laws related thereto. Upon request, the Contractor shall provide COMMERCE with its policies and procedures on confidentiality. COMMERCE may require changes to such policies and procedures as they apply to this Contract whenever COMMERCE reasonably determines that changes are necessary to prevent unauthorized disclosures. The Contractor shall make the changes within the time period specified by COMMERCE. Upon request, the Contractor shall immediately return to COMMERCE any Confidential Information that COMMERCE reasonably determines has not been adequately protected by the Contractor against unauthorized disclosure.

C. Unauthorized Use or Disclosure. The Contractor shall notify COMMERCE within five (5) working days of any unauthorized use or disclosure of any confidential information, and shall take necessary steps to mitigate the harmful effects of such use or disclosure.

6. COPYRIGHT

Unless otherwise provided, all Materials produced under this Contract shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by COMMERCE. COMMERCE shall be considered the author of such Materials. In the event the Materials are not considered "works for hire" under the U.S. Copyright laws, the Contractor hereby irrevocably assigns all right, title, and interest in all Materials, including all intellectual property rights, moral rights, and rights of publicity to COMMERCE effective from the moment of creation of such Materials.

"Materials" means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. "Ownership" includes the right to copyright, patent, register and the ability to transfer these rights.

For Materials that are delivered under the Contract, but that incorporate pre-existing materials not produced under the Contract, the Contractor hereby grants to COMMERCE a nonexclusive, royalty-free, irrevocable license (with rights to sublicense to others) in such Materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The Contractor warrants and represents that the Contractor has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to COMMERCE.

The Contractor shall exert all reasonable effort to advise COMMERCE, at the time of delivery of Materials furnished under this Contract, 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 Contract. The Contractor shall provide COMMERCE with prompt written notice of each notice or claim of infringement received by the Contractor with respect to any Materials delivered under this Contract. COMMERCE shall have the right to modify or remove any restrictive markings placed upon the Materials by the Contractor.

7. DISPUTES

In the event that a dispute arises under this Agreement, it shall be determined by a Dispute Board in the following manner: Each party to this Agreement shall appoint one member to the Dispute Board. The members so appointed shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall review the facts, Agreement terms and applicable statutes and rules and make a determination of the dispute. The Dispute Board shall thereafter decide the dispute with the majority prevailing. The determination of the Dispute Board shall be final and binding on the parties hereto. As an alternative to this process, either of the parties may request intervention by the Governor, as provided by RCW 43.17.330, in which event the Governor's process will control.

8. GOVERNING LAW AND VENUE

This Contract shall be construed and interpreted in accordance with the laws of the state of Washington, and any applicable federal laws, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

9. INDEMNIFICATION

Each party shall be solely responsible for the acts of its employees, officers, and agents.

10. LICENSING, ACCREDITATION AND REGISTRATION

The Contractor shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements or standards necessary for the performance of this Contract.

11. RECAPTURE

In the event that the Contractor fails to perform this Contract in accordance with state laws, federal laws, and/or the provisions of this Contract, COMMERCE reserves the right to recapture funds in an amount to compensate COMMERCE for the noncompliance in addition to any other remedies available at law or in equity.

Repayment by the Contractor of funds under this recapture provision shall occur within the time period specified by COMMERCE. In the alternative, COMMERCE may recapture such funds from payments due under this Contract.

12. RECORDS MAINTENANCE

The Contractor shall maintain books, records, documents, data and other evidence relating to this contract and performance of the services described herein, including but not limited to accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this contract.

The Contractor shall retain such records for a period of six (6) years following the date of final payment. At no additional cost, these records, including materials generated under the contract, shall be subject at all reasonable times to inspection, review or audit by COMMERCE, personnel duly authorized by COMMERCE, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

13. SAVINGS

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Contract and prior to normal completion, COMMERCE may suspend or terminate the Contract under the "Termination for Convenience" clause, without the ten calendar day notice requirement. In lieu of termination, the Contract may be amended to reflect the new funding limitations and conditions.

14. SEVERABILITY

The provisions of this contract are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the contract.

15. SUBCONTRACTING

The Contractor may only subcontract work contemplated under this Contract if it obtains the prior written approval of COMMERCE.

If COMMERCE approves subcontracting, the Contractor shall maintain written procedures related to subcontracting, as well as copies of all subcontracts and records related to subcontracts. For cause, COMMERCE in writing may: (a) require the Contractor to amend its subcontracting procedures as they relate to this Contract; (b) prohibit the Contractor from subcontracting with a particular person or entity; or (c) require the Contractor to rescind or amend a subcontract.

Every subcontract shall bind the Subcontractor to follow all applicable terms of this Contract. The Contractor is responsible to COMMERCE if the Subcontractor fails to comply with any applicable term or condition of this Contract. The Contractor shall appropriately monitor the activities of the Subcontractor to assure fiscal conditions of this Contract. In no event shall the existence of a subcontract operate to release or reduce the liability of the Contractor to COMMERCE for any breach in the performance of the Contractor's duties.

Every subcontract shall include a term that COMMERCE and the State of Washington are not liable for claims or damages arising from a Subcontractor's performance of the subcontract.

16. SURVIVAL

The terms, conditions, and warranties contained in this Contract that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Contract shall so survive.

17. TERMINATION FOR CAUSE

In the event COMMERCE determines the Contractor has failed to comply with the conditions of this contract in a timely manner, COMMERCE has the right to suspend or terminate this contract. Before suspending or terminating the contract, COMMERCE shall notify the Contractor in writing of the need to take corrective action. If corrective action is not taken within 30 calendar days, the contract may be terminated or suspended.

In the event of termination or suspension, the Contractor shall 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.

COMMERCE reserves the right to suspend all or part of the contract, withhold further payments, or prohibit the Contractor from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the Contractor or a decision by COMMERCE to terminate the contract. A termination shall be deemed a "Termination for Convenience" if it is determined that the Contractor: (1) was not in default; or (2) failure to perform was outside of his or her control, fault or negligence.

The rights and remedies of COMMERCE provided in this contract are not exclusive and are in addition to any other rights and remedies provided by law.

18. TERMINATION FOR CONVENIENCE

Except as otherwise provided in this Contract, COMMERCE may, by ten (10) business days written notice, beginning on the second day after the mailing, terminate this Contract, in whole or in part. If this Contract is so terminated, COMMERCE shall be liable only for payment required under the terms of this Contract for services rendered or goods delivered prior to the effective date of termination.

19. TERMINATION PROCEDURES

Upon termination of this contract, COMMERCE, in addition to any other rights provided in this contract, may require the Contractor to deliver to COMMERCE any property specifically produced or acquired for the performance of such part of this contract as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

COMMERCE shall pay to the Contractor the agreed upon price, if separately stated, for completed work and services accepted by COMMERCE, and the amount agreed upon by the Contractor and COMMERCE 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 COMMERCE, and

(iv) the protection and preservation of property, unless the termination is for default, in which case the Authorized Representative shall determine the extent of the liability of COMMERCE. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this contract. COMMERCE may withhold from any amounts due the Contractor such sum as the Authorized Representative determines to be necessary to protect COMMERCE against potential loss or liability.

The rights and remedies of COMMERCE provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

After receipt of a notice of termination, and except as otherwise directed by the Authorized Representative, the Contractor shall:

A. Stop work under the contract on the date, and to the extent specified, in the notice;

B. 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;

C. Assign to COMMERCE, in the manner, at the times, and to the extent directed by the Authorized Representative, all of the rights, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case COMMERCE has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;

D. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Authorized Representative to the extent the Authorized Representative may require, which approval or ratification shall be final for all the purposes of this clause;

E. Transfer title to COMMERCE and deliver in the manner, at the times, and to the extent directed by the Authorized Representative any property which, if the contract had been completed, would have been required to be furnished to COMMERCE;

F. Complete performance of such part of the work as shall not have been terminated by the Authorized Representative; and

G. Take such action as may be necessary, or as the Authorized Representative may direct, for the protection and preservation of the property related to this contract, which is in the possession of the Contractor and in which the Authorized Representative has or may acquire an interest.

20. TREATMENT OF ASSETS

Title to all property furnished by COMMERCE shall remain in COMMERCE. Title to all property furnished by the Contractor, for the cost of which the Contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in COMMERCE upon delivery of such property by the Contractor. Title to other property, the cost of which is reimbursable to the Contractor under this contract, shall pass to and vest in COMMERCE upon (i) issuance for use of such property in the performance of this contract, or (ii) commencement of use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by COMMERCE in whole or in part, whichever first occurs.

A. Any property of COMMERCE furnished to the Contractor shall, unless otherwise provided herein or approved by COMMERCE, be used only for the performance of this contract.

B. The Contractor shall be responsible for any loss or damage to property of COMMERCE that results from the negligence of the Contractor or which results from the failure on the part of the Contractor to maintain and administer that property in accordance with sound management practices.

C. If any COMMERCE property is lost, destroyed or damaged, the Contractor shall immediately notify COMMERCE and shall take all reasonable steps to protect the property from further damage.

D. The Contractor shall surrender to COMMERCE all property of COMMERCE prior to settlement upon completion, termination or cancellation of this contract

All reference to the Contractor under this clause shall also include Contractor's employees, agents or Subcontractors.

21. WAIVER

Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Contract unless stated to be such in writing and signed by Authorized Representative of COMMERCE.

Contract Number: 20-4619C-102

Washington State Department of Commerce
Community Services and Housing Division
Housing Assistance Unit
Emergency Solutions Grant (ESG-CV)

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

For Benton County:

Chair Date

Attest:

Clerk of the Board

Approved as to form:	**Approved as to form:**
Dept. of Human Services	Benton Co Prosecutor's Office

Scope of Work

The Eviction Rent Assistance Program 2.0 Grant is intended to prevent evictions by paying past due and future rent and utilities while distributing funds equitably.

Eligibility and Prioritization
The purpose of eligibility screening criteria is to target those most likely to become homeless but for this assistance.

Households must meet both screening criteria:

- ✓ Income at or below 80% of Area Median Income (AMI).
- ✓ Have a missed/past due rent payment not paid or partially unpaid since March 1, 2020 and still occupying the residence.

Grantee can determine whether or not to implement additional eligibility or prioritization criteria. Grantees must consult with their grant coordinator if considering implementing additional criteria

Performance Measurement
Grantees must ensure equitable access to ERAP 2.0.

Equitable access means that the race and ethnicity of people entering ERAP 2.0 are similar to the community demographics. Equitable access is measured by comparing the percent of people in poverty by race and ethnicity to the percent of people entering ERAP 2.0 by race and ethnicity.

The percentage of head of households provided rent assistance must at least be equal the proportion to the population living in poverty in the county for each of the following groups:

- ✓ People of Color (includes Black or African American, American Indian and Alaska Native, Native Hawaiian or other Pacific Islander, Hispanic/Latinx, Asian, Other/Multi-Racial)
- ✓ Black or African American
- ✓ American Indian and Alaska Native
- ✓ Hispanic/Latinx

Data from all ERAP 2.0 grantees in the county will be combined for the purpose of performance measurement and performance monitoring.

Additional performance target includes:
- ✓ Ten percent of households served must be youth or young adults age 18-24, *this includes emancipated 16 and 17 year olds.*

By and For Subgrants
Grantees must actively work to partner with By and For organizations in their communities that assist and serve marginalized populations. It is incumbent on the grantee to identify By and For service providers that can best support their community members in accessing assistance.

By and For organizations are operated by and for the community they serve. Their primary mission and history is serving a specific community and they are culturally based, directed, and substantially controlled by individuals from the population they serve. At the core of their programs, the organizations embody the community's central cultural values. These communities may include ethnic and racial minorities; immigrants and refugees; individuals who identify as LGBTQ+, individuals with disabilities or who are deaf; and Native Americans.

Partner with Dispute Resolution Centers and Civil Legal Aid Organizations

Grantees must coordinate with their local Dispute Resolution Centers (DRC) if one exists within their service area. DRCs can be an important pathway to prevent evictions, and providing rent assistance can be critical to settling disputes. Civil legal aid services continue to be a crucial support in helping households maintain housing. Grantees should partner with these providers if one exists within their service area.

Payments

If Grantee requires funds to facilitate payments to eligible recipients on behalf of eligible households and Grantee has committed internal resources needed to make payments directly, Commerce will pay funds to Grantee up to a quarterly amount upon receipt of evidence satisfactory to Commerce.

Attachment B

Budget

February 1, 2022 – June 30, 2023

Budget Category	
Administration	$ 1,149,600.00
Operations	$ 2,000,000.00
Rent and Utilities	$ 4,129,401.00
By and For Subcontracting	$ 385,000.00
Total	$ 7,664,001.00

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	March 29, 2022
Subject:	Execute Contract # 21-4610C-101 Amendment A with Washington State Department of Commerce Community Services and Housing Division Housing Assistance Unit Shelter Program Grant
Presenter:	
Prepared By:	Deena Horton, Program Specialist
Reviewed By:	Kyle Sullivan, DHS Manager

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

The Office of Family and Adult Homelessness in the Housing Assistance Unit at the Department of Commerce administers state and federal funds to support homeless crisis response systems in WA State. The Shelter Program Grant is a critical resource in the crisis response system. This program provides shelter to those experiencing homelessness, while working to find permanent housing for the household. This amendment will add four beds to the existing shelter.

Fiscal Impact

Total Agreement Amount: $0.00

There is no impact on the current expense budget. All revenues and expenditures are from the Fund 0108-101 Human Services Budget.

Recommendation

- Sign the Resolution executing the Agreement #21-4610C-101 Amendment A with Washington State Department of Commerce Community Services and Housing Division Housing Assistance Unit Shelter Program Grant adding 4 beds to the existing shelter.

Suggested Motion

Approve as part of the consent agenda.

RESOLUTION

Benton County Resolution No. _____

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF EXECUTING GRANT AGREEMENT #21-4610C-101 AMENDMENT A BETWEEN BENTON COUNTY DEPARTMENT OF HUMAN SERVICES AND WASHINGTON STATE DEPARTMENT OF COMMERCE COMMUNITY SERVICES AND HOUSING DIVISION HOUSING ASSISTANCE UNIT SHELTER PROGRAM GRANT.

WHEREAS, the purpose of this Agreement is to support the homeless crisis response systems in Washington State; and

WHEREAS, to provide shelter for households experiencing a homeless crisis by increasing capacity at current shelters and providing additional shelter with a local hotel; and

WHEREAS, the Board of Benton County Commissioners hereby accepts the proposed Amendment A of the Grant Agreement; **NOW, THEREFORE,**

BE IT RESOLVED, that the Chairman of the Board of Benton County Commissioners be, and hereby is, authorized to sign on behalf of Benton County, Grant Agreement #21-4610C-101 Amendment A between Benton County Human Services and Washington State Department of Commerce Community Services and Housing Division Housing Assistance Unit Shelter Program Grant for; to increase current shelter capacity to four; and

BE IT FURTHER RESOLVED, that Benton County Department of Human Services is authorized to voucher the County Auditor's office to make such payment, necessary for the disbursement of the Washington State Department of Commerce Community Services and Housing Division Housing Assistance Unit Shelter Program Grant; and

BE IT FURTHER RESOLVED, the term of the attached Grant Agreement commences on February 1, 2022 and ends on June 30, 2023.

Dated this . . . .day of . . . . . , 2022

_____
Chair

_____
Member

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

Attest: _____
Clerk of the Board

cc: Human Services; Benton County Commissioners D.Horton

DocuSign Envelope ID: 42454197-2A84-4761-9930-875FB5942B5F

Amendment

Contract Number: 21-4610C-101
Amendment Number: A

Washington State Department of Commerce
Community Services and Housing Division
Housing Assistance Unit
Shelter Program Grant

1. Contractor	2. Contractor Doing Business As (optional)
Benton County Department of Human Services 7102 W Okanogan Place, Suite 201 Kennewick, WA 99336	
3. Contractor Representative (only if updated) Kyle Sullivan Manager, Dept. of Human Services 506-737-3909 kyle.sullivan@co.benton.wa.us	**4. COMMERCE Representative (only if updated)** Megan Kendig Grant Manager 360-401-5149 megan.kendig@commerce.wa.gov PO Box 42525 1011 Plum St SE Olympia, WA 98504-2525

5. Original Contract Amount (and any previous amendments)	6. Amendment Amount	7. New Contract Amount
$1,571,502	$0	$1,571,502

8. Amendment Funding Source	9. Amendment Start Date	10. Amendment End Date
Federal: **State: X Other:** **N/A:**	February 1, 2022	June 30, 2023

11. Federal Funds (as applicable):	Federal Agency:	CFDA Number:

12. Amendment Purpose: Updates Scope of Work bed inventory.

COMMERCE, defined as the Department of Commerce, and the Contractor, as defined above, acknowledge and accept the terms of this Contract As Amended and attachments and have executed this Contract Amendment on the date below to start as of the date and year referenced above. The rights and obligations of both parties to this Contract As Amended are governed by this Contract Amendment and the following other documents incorporated by reference: Contractor Terms and Conditions including Attachment "A" – Scope of Work, Attachment "B" – Budget and Shelter Program Grant Guidelines. A copy of this Contract Amendment shall be attached to and made a part of the original Contract between COMMERCE and the Contractor. Any reference in the original Contract to the "Contract" shall mean the "Contract as Amended".

FOR CONTRACTOR

DocuSigned by:
Kyle Sullivan
6DA479869D02451...

Kyle Sullivan, Manager

2/16/2022 | 12:14 PM PST

Date

FOR COMMERCE

Diane Klontz, Assistant Director
Community Services and Housing Division

Date

APPROVED AS TO FORM ONLY

Sandra Adix
Assistant Attorney General

3/20/2014
Date

DocuSign Envelope ID: 42454197-2A84-4761-9930-875FB5942B5F

Amendment

This Contract is **amended** as follows:

Attachment A Scope of Work is hereby revised:

1. **Safe Harbor Support Center (SHSC)**

    a. Overview

        i. Shelter program will serve will serve youth ages 13 to 18 targeting at-risk youth including a high proportion of People of Color and teens from the LGBTQQI community.

        ii. Shelter program will add 4 beds by December 31, 2020.

        iii. Shelter program will operate as continuous stay.

ALL OTHER TERMS AND CONDITIONS OF THIS CONTRACT REMAIN IN FULL FORCE AND EFFECT.

Grant Number: Agreement #21-4610C-101
Amendment A

Washington State Department of Commerce
Community Services and Housing Division
Housing Assistance Unit
Shelter Program Grant

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

For Benton County:

Chair Date

Attest:

Clerk of the Board

Approved as to form:	**Approved as to form:**
Dept. of Human Services	Benton Co Prosecutor's Office

DocuSign

Certificate Of Completion

Envelope Id: 424541972A8447619930875FB5942B5F
Status: Sent
Subject: Please DocuSign: Benton Franklin Shelter Program Grant Amendment A.pdf
Division:
Community Services and Housing
Program: Shelter Program
ContractNumber: 21-4610C-101
DocumentType:
Contract Amendment
Source Envelope:
Document Pages: 2
Signatures: 1
Certificate Pages: 6
Initials: 0
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-08:00) Pacific Time (US & Canada)

Envelope Originator:
Megan Kendig
1011 Plum Street SE
MS 42525
Olympia, WA 98504-2525
megan.kendig@commerce.wa.gov
IP Address: 198.239.10.205

Record Tracking

Status: Original
2/7/2022 4:52:45 PM
Security Appliance Status: Connected
Storage Appliance Status: Connected

Holder: Megan Kendig
megan.kendig@commerce.wa.gov
Pool: StateLocal
Pool: Washington State Department of Commerce

Location: DocuSign

Location: DocuSign

Signer Events	Signature	Timestamp
Kyle Sullivan kyle.sullivan@co.benton.wa.us Security Level: Email, Account Authentication (None)	DocuSigned by: Kyle Sullivan 6DA479969D02451...	Sent: 2/14/2022 10:18:10 AM Viewed: 2/16/2022 12:13:46 PM Signed: 2/16/2022 12:14:02 PM
	Signature Adoption: Pre-selected Style Using IP Address: 47.44.184.221	
Electronic Record and Signature Disclosure: Accepted: 2/16/2022 12:13:46 PM ID: c1072336-9da1-4e1f-99f0-034e1d12f86a		
Diane Klontz diane.klontz@commerce.wa.gov Assistant Director Washington State Department of Commerce Security Level: Email, Account Authentication (None)		Sent: 2/16/2022 12:14:04 PM
Electronic Record and Signature Disclosure: Not Offered via DocuSign		

In Person Signer Events	Signature	Timestamp
Editor Delivery Events	**Status**	**Timestamp**
Agent Delivery Events	**Status**	**Timestamp**
Intermediary Delivery Events	**Status**	**Timestamp**
Certified Delivery Events	**Status**	**Timestamp**

Certified Delivery Events	Status	Timestamp
Kathy Kinard Kathy.Kinard@commerce.wa.gov Security Level: Email, Account Authentication (None)	VIEWED Using IP Address: 147.55.134.102	Sent: 2/7/2022 4:59:26 PM Viewed: 2/10/2022 7:36:39 AM
Electronic Record and Signature Disclosure: Not Offered via DocuSign		
Tedd Kelleher tedd.kelleher@commerce.wa.gov Senior Managing Director Washington State Department of Commerce Security Level: Email, Account Authentication (None)	VIEWED Using IP Address: 147.55.149.195	Sent: 2/10/2022 7:36:39 AM Viewed: 2/11/2022 11:37:08 AM
Electronic Record and Signature Disclosure: Not Offered via DocuSign		
Tammy McKeirnan tammy.mckeirnan@co.benton.wa.us Security Level: Email, Account Authentication (None)	VIEWED Using IP Address: 47.44.184.221	Sent: 2/11/2022 11:37:08 AM Viewed: 2/14/2022 8:43:50 AM
Electronic Record and Signature Disclosure: Accepted: 2/14/2022 8:43:50 AM ID: 1eefb832-7af5-49f7-96b7-6b4ba468d484		
Deena Horton deena.horton@co.benton.wa.us Security Level: Email, Account Authentication (None)	VIEWED Using IP Address: 47.44.184.221	Sent: 2/14/2022 8:43:51 AM Viewed: 2/14/2022 10:18:09 AM
Electronic Record and Signature Disclosure: Accepted: 2/14/2022 10:18:09 AM ID: f13c8e06-173c-4b52-a2b1-d04f184b3055		

Carbon Copy Events	Status	Timestamp
Tammy McKeirnan tammy.mckeirnan@co.benton.wa.us Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Accepted: 2/14/2022 8:44:39 AM ID: ea6fed09-3ec6-4a9f-9291-6371852253eb		
Deena Horton deena.horton@co.benton.wa.us Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Accepted: 2/14/2022 10:18:09 AM ID: f13c8e06-173c-4b52-a2b1-d04f184b3055		
Kyle Sullivan kyle.sullivan@co.benton.wa.us Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Accepted: 2/16/2022 12:13:46 PM ID: c1072336-9da1-4e1f-99f0-034e1d12f86a		

Carbon Copy Events	Status	Timestamp
Sarah Harrison sarah.harrison@commerce.wa.gov Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign		

Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp

Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	2/7/2022 4:59:26 PM

Payment Events	Status	Timestamps

Electronic Record and Signature Disclosure

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	March 29, 2022
Subject:	Amendment B to Consolidated Homeless Grant 22-46108-03 between Washington State Department of Commerce and Benton County Department of Human Services
Presenter:	
Prepared By:	Deena Horton, Program Specialist
Reviewed By:	Kyle Sullivan, DHS Manager

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

Washington State Department of Commerce would like to amend the contract with Benton County Department of Human Services (BCDHS) for the Consolidated Homeless Grant (CHG) to add CHG standard funding and amend the hotel leasing and Rapid re-housing scope of work.

Fiscal Impact

Amendment Amount is $305,999.00

Fund: Funding for the services described in this contract is provided by Washington State Department of Commerce. **There is no impact on the current expense budget.** All revenues and expenditures are from the Fund 0108-101 Human Services Budget: for a total grant amount of **$4,245,303.00.**

Recommendation

- Approve the Resolution to accept the proposed contract amendment.

Suggested Motion

Move to approve the Amendment B to Contract 2246108-03 with Washington State Department of Commerce.

RESOLUTION

BENTON COUNTY RESOLUTION NO. _____

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON;

RE: IN THE MATTER OF EXECUTING THE AMENDMENT B to CONTRACT NUMBER: 22-46108-03 CONSOLIDATED HOMELESS GRANT BETWEEN WASHINGTON STATE DEPARTMENT OF COMMERCE, COMMUNITY SERVICES AND HOUSING DIVISION, HOUSING ASSISTANCE UNIT, AND BENTON COUNTY DEPARTMENT OF HUMAN SERVICES

WHEREAS, Washington State Department of Commerce would like to amend the contract with Benton County Department of Human Services (BCDHS) for the Consolidated Homeless Grant (CHG); and

WHEREAS, the Consolidated Homeless Grant (CHG) hotel leasing, and rapid rehousing will provide an additional 8 households per month for a total of 20 hotel/motel rooms/units, as well as, up to 8 households a month for the rapid rehousing funding which will include case management and outreach to people who are experiencing homelessness; and

WHEREAS the grant is for services in both Benton and Franklin Counties. Benton County provides services under this grant to Franklin County through an interlocal agreement; and

WHEREAS, the contract must be submitted digitally and requires an established account and digital signature; NOW, THEREFORE,

BE IT RESOLVED that the Board of County Commissioners approves the Amendment Number B contract between Benton County and the Washington State Department of Commerce for the Consolidated Homeless Grant in the amount of $305,999.00, for a grand total of $4,245,303.00; and

BE IT FURTHER RESOLVED, that the Benton County Department of Human Services Manager be, and hereby is, authorized to digitally sign, on behalf of Benton County, the Consolidated Homeless Grant (CHG) Amendment, between Washington State Department of Commerce and Benton and Franklin Counties; and

BE IT FURTHER RESOLVED, that the Benton County Department of Human Services is authorized to voucher the County Auditor's office to make such payments necessary for the disbursement of the Consolidated Homeless Grant; and

BE IT FURTHER RESOLVED, the term of the attached Amendment B to the Contract commences on February 1, 2022 and ends on June 30, 2023.

Dated this.....day of ....., 2022

_____
Chairman of Board

_____
Member

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

Attest: _____
Clerk of the Board

Originals: Benton Commissioners, Human Services

D.Horton

DocuSign Envelope ID: 1918163C-457B-4EF4-B61A-862A36D0295D

Amendment

Contract Number: 22-46108-03
Amendment Number: B

Washington State Department of Commerce
Community Services and Housing Division
Housing Assistance Unit
Consolidated Homeless Grant (CHG)

1. Contractor Benton County Department of Human Services 7102 W Okanogan Pl., Ste. 201 Kennewick, WA 99336	**2. Contractor Doing Business As (optional)**	
3. Contractor Representative Kyle Sullivan Manager (509) 737-3909 kyle.sullivan@co.benton.wa.u	**4. COMMERCE Representative** Sarah Harrison Grant Manager (360) 463-0216 Sarah.harrison@commerce.wa.gov	PO Box 42525 1011 Plum St SE Olympia, WA 98504-2525
5. Original Contract Amount (and any previous amendments) $3,939,304	**6. Amendment Amount** $305,999.00	**7. New Contract Amount** $4,245,303.00
8. Amendment Funding Source **Federal:** **State:** X **Other:** **N/A:**	**9. Amendment Start Date** February 1, 2022	**10. Amendment End Date** June 30, 2023
11. Federal Funds (as applicable): N/A	**Federal Agency:** N/A	**CFDA Number:** N/A
12. Amendment Purpose: Adds CHG standard funding and amends Hotel Leasing and RRH scope of work.		

COMMERCE, defined as the Department of Commerce, and the Contractor, as defined above, acknowledge and accept the terms of this Contract As Amended and attachments and have executed this Contract Amendment on the date below to start as of the date and year referenced above. The rights and obligations of both parties to this Contract As Amended are governed by this Contract Amendment and the following other documents incorporated by reference: CHG Guidelines (as they may be revised from time to time), and Contract Terms and Conditions including Attachment "A" – Scope of Work, Attachment "B" – Budget. A copy of this Contract Amendment shall be attached to and made a part of the original Contract between COMMERCE and the Contractor. Any reference in the original Contract to the "Contract" shall mean the "Contract as Amended".

FOR GRANTEE

DocuSigned by:
Kyle Sullivan
5DA470989D02451...
Signature

Kyle Sullivan
Kyle Sullivan, Manager

2/16/2022 | 12:16 PM PST
Date

FOR COMMERCE

Diane Klontz, Assistant Director
Community Services and Housing Division

Date

APPROVED AS TO FORM ONLY

Sandra Adix
Assistant Attorney General

3/20/2014
Date

Grant Number: 22-46108-03
Amendment Number: B

Washington State Department of Commerce
Community Services and Housing Division
Housing Assistance Unit
Consolidated Homeless Grant (CHG)

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

For Benton County:

Chair Date

Attest:

Clerk of the Board

Approved as to form:	**Approved as to form:**
Dept. of Human Services	Benton Co Prosecutor's Office

DocuSign Envelope ID: 1918163C-457B-4EF4-B61A-862A36D0295D

Amendment

This Contract is **amended** as follows:

Attachment A

Scope of Work is hereby revised to include additional activities:

F. Hotel Leasing and Rapid Re-Housing funding will be used for:

a. Hotel Leasing/Emergency Shelter for up to 20 hotel rooms/units month

b. Rapid Re-Housing for up to 8 households per month

c. Case management and outreach

Activities this funding is supporting will be operationalized by February 2022.

DocuSign Envelope ID: 1918163C-457B-4EF4-B61A-862A36D0295D

Attachment B

Budget

Budget Categories	Current Contract Amount (and any previous amendments and revisions)	Amendment A	New Total
CHG Standard			
Admin	$184,600.00	$45,900.00	$230,500.00
Rent/Fac Support Lease	$601,270.00	$184,099.00	$785,369.00
Other Rent/Fac Support Lease and Housing Costs	$19,000.00	$	$19,000.00
Operations	$384,078.00	$76,000.00	$460,078.00
PSH CHF			
PSH CHF Rent/Fac Support Lease	$36,600.00	$0	$36,600.00
PSH CHF Other Rent/Fac Support Lease and Housing Costs	$2,000.00	$0	$2,000.00
PSH CHF Operations	$10,800.00	$0	$10,800.00
HEN SFY 2022 (July 2021-June 2022)			
HEN Admin 2022	$43,331.00	$0	$43,331.00
HEN Rent/Fac Support and Housing Costs 2022	$411,064.00	$0	$411,064.00
HEN Operations 2022	$164,625.00	$0	$164,625.00
HEN SFY 2023 (July 2022-June 2023)			
HEN Admin 2023	$43,331.00	$0	$43,331.00
HEN Rent/Fac Support and Housing Costs 2023	$411,064.00	$0	$411,064.00
HEN Operations 2023	$164,632.00	$0	$164,625.00
Hotel Leasing and Rapid Re-Housing			
Admin for Hotel Leasing/RRH	$219,437.00	$0	$219,437.00
Hotel Leasing/RRH/Operations	$1,243,479.00	$0	$1,243,479.00
Total	$3,939,304.00	$305,999.00	$4,245,303.00

ALL OTHER TERMS AND CONDITIONS OF THIS CONTRACT REMAIN IN FULL FORCE AND EFFECT.

DocuSign

Certificate Of Completion

Envelope Id: 1918163C457B4EF4B61A862A36D0295D — Status: Sent
Subject: Please DocuSign: CHG Amendment and HLRRH Amendment B .pdf, CHG Amendment and HLRRH Amendment B ...
Division:
Community Services and Housing
Program: CHG
ContractNumber: 22-46108-03
DocumentType:
Contract Amendment
Source Envelope:
Document Pages: 4 — Signatures: 1
Certificate Pages: 6 — Initials: 2
AutoNav: Enabled
EnvelopeId Stamping: Enabled
Time Zone: (UTC-08:00) Pacific Time (US & Canada)

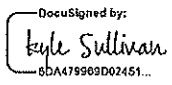
Envelope Originator:
Sarah Harrison
1011 Plum Street SE
MS 42525
Olympia, WA 98504-2525
sarah.harrison@commerce.wa.gov
IP Address: 198.239.10.172

Record Tracking

Status: Original
2/8/2022 7:49:40 AM
Security Appliance Status: Connected
Storage Appliance Status: Connected

Holder: Sarah Harrison
sarah.harrison@commerce.wa.gov
Pool: StateLocal
Pool: Washington State Department of Commerce

Location: DocuSign
Location: DocuSign

Signer Events	Signature	Timestamp
Tammy McKeirnan Tammy.McKeirnan@co.benton.wa.us Security Level: Email, Account Authentication (None)	DS Signature Adoption: Pre-selected Style Using IP Address: 47.44.184.221	Sent: 2/11/2022 11:40:29 AM Viewed: 2/14/2022 8:44:39 AM Signed: 2/14/2022 8:44:47 AM
Electronic Record and Signature Disclosure: Accepted: 2/14/2022 8:44:39 AM ID: ea6fed09-3ec6-4a9f-9291-6371852253eb		
Deena Horton Deena.Horton@co.benton.wa.us Security Level: Email, Account Authentication (None)	DS Signature Adoption: Pre-selected Style Using IP Address: 47.44.184.221	Sent: 2/14/2022 8:44:49 AM Viewed: 2/14/2022 10:16:45 AM Signed: 2/14/2022 10:16:59 AM
Electronic Record and Signature Disclosure: Accepted: 2/14/2022 10:16:45 AM ID: 21aa3f8b-5346-4a01-9aa9-16b12f4b76e8		
Kyle Sullivan Kyle.Sullivan@co.benton.wa.us Security Level: Email, Account Authentication (None)	DocuSigned by:  6DA479969D02451... Signature Adoption: Pre-selected Style Using IP Address: 47.44.184.221	Sent: 2/14/2022 10:17:01 AM Viewed: 2/16/2022 12:15:48 PM Signed: 2/16/2022 12:16:05 PM
Electronic Record and Signature Disclosure: Accepted: 2/16/2022 12:15:48 PM ID: 29f2b761-bba4-485a-b032-ddb03925dd64		

Signer Events	Signature	Timestamp
Diane Klontz diane.klontz@commerce.wa.gov Assistant Director Washington State Department of Commerce Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign		Sent: 2/16/2022 12:16:08 PM
In Person Signer Events	**Signature**	**Timestamp**
Editor Delivery Events	**Status**	**Timestamp**
Agent Delivery Events	**Status**	**Timestamp**
Intermediary Delivery Events	**Status**	**Timestamp**
Certified Delivery Events	**Status**	**Timestamp**
Kathy Kinard Kathy.Kinard@commerce.wa.gov Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	VIEWED Using IP Address: 147.55.134.102	Sent: 2/8/2022 7:55:10 AM Viewed: 2/10/2022 7:32:03 AM
Tedd Kelleher tedd.kelleher@commerce.wa.gov Senior Managing Director Washington State Department of Commerce Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Not Offered via DocuSign	VIEWED Using IP Address: 147.55.149.195	Sent: 2/10/2022 7:32:03 AM Viewed: 2/11/2022 11:40:28 AM
Carbon Copy Events	**Status**	**Timestamp**
Deena Horton Deena.Horton@co.benton.wa.us Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 2/14/2022 10:18:09 AM ID: f13c8e06-173c-4b52-a2b1-d04f184b3055		
Tammy McKeirnan Tammy.McKeirnan@co.benton.wa.us Security Level: Email, Account Authentication (None) **Electronic Record and Signature Disclosure:** Accepted: 2/14/2022 8:44:39 AM ID: ea6fed09-3ec6-4a9f-9291-6371852253eb		
Witness Events	**Signature**	**Timestamp**
Notary Events	**Signature**	**Timestamp**
Envelope Summary Events	**Status**	**Timestamps**
Envelope Sent	Hashed/Encrypted	2/8/2022 7:55:10 AM

DocuSign Envelope ID: 1918163C-457B-4EF4-B61A-862A36D0295D

Consolidated Homeless Grant (CHG)

Contract Number: 22-46108- 03
Contract Dates: July 1, 2021-June 30, 2023

Grantee Name: Benton County

Review by:
(Before Executive signature)

Name:	Date:	Initials:
Deena Horton	2/14/2022 | 10:16 AM PST	DS DH
Tammy McKeirnan	2/14/2022 | 8:44 AM PST	DS TM

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	March 29, 2022
Subject:	Approving the Purchase of a Twelve-Month Graykey Mobile Device Forensic Software License from Grayshift for the Sheriff's Office
Presenter:	
Prepared By:	Robert Heard
Reviewed By:	Procurement

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 February 9, 2022, the Board signed Resolution 2021-144 approving the purchase of Graykey mobile device forensic software for iOS devices for two years ending in 2023. Upon renewing Graykey in February 2022, Grayshift changed its licensing model for Graykey to include both iOS and Droid functionality. Graykey's extra Droid feature set increased the total cost for this license from $18,075 to $27,995. This extra cost was not captured in the Sheriff's Public Safety Tax request, nor does IT have approval to spend the extra $9,920 for the license renewal. The Sheriff's Office has identified Public Safety Tax funds and asked IT to present this to the Board for purchase approval.

Grayshift is a leader in forensic software and is the sole reseller of Graykey mobile device forensic software. Extracting evidence from mobile devices is a key component in gathering evidence. Graykey has been recommended by the Federal Bureau of Investigation (FBI) Forensics Officers.

Fiscal Impact

Amount: **$27,995 excluding WSST. This is a $9,920 increase excluding WSST.**

Fund: **Public Safety Tax Fund.**

Recommendation

Recommend the Board of Benton County Commissioners approve the purchase of a twelve-month Graykey mobile device forensic software license for the Sheriff's Office in an amount not to exceed $27,995 excluding Washington State Sales Tax.

Suggested Motion

Consent Agenda

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF APPROVING THE PURCHASE OF A TWELVE-MONTH GRAYKEY MOBILE DEVICE FORENSIC SOFTWARE LICENSE FROM GRAYSHIFT, LLC FOR THE SHERIFF'S OFFICE

WHEREAS, on February 9, 2022, the Board signed Resolution 2021-144 approving the purchase of Graykey mobile device forensic software for iOS devices for two-years; and

WHEREAS, the license was to auto-renew every twelve months ending February 28, 2023; and

WHEREAS, during the process of renewing Graykey in February 2022, Grayshift, LLC increased the renewal cost for Graykey from $18,075 to $27,995; and

WHEREAS, the extra licensing cost is due to Grayshift changing their licensing model to include iOS and Droid forensic functionality to Graykey; and

WHEREAS, Information Technology has reviewed Grayshift's renewal quote and recommends the purchase of Graykey from Grayshift, LLC; 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 hereby concurs with Information Technology's recommendation and approves the purchase of a twelve-month Graykey mobile device forensic software license from Grayshift, LLC for the Sheriff's Office in an amount not to exceed $27,995.00 excluding Washington State Sales Tax to be paid for with Sheriff approved Public Safety Tax Funds; and

BE IT FURTHER RESOLVED, the Chairman of the Board is approved to sign the Grayshift quote for Greykey, and the software license will end on February 28, 2023, as originally stated in Resolution 2021-144.

Dated this 29 day of March , 2022

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, Sheriff

Prepared by: R Heard

GRAYSHIFT

Grayshift LLC
931 Monroe Drive NE Suite A102-340
Atlanta, GA 30308
USA
Phone: (833) 472-9539

Quote Number: Q-10880-1
Created Date: 3/7/2022
Expiration Date: 4/6/2022
Contract Start Date: 3/25/2022

CAGE Code: 7R0W9
DUNS Number: 081045174
NAICS: 511210

Ship To
Scott Runge

This license will be digitally delivered.

Bill To
Robert Heard
Benton County Information Technology
PO Box 608
Prosser, Washington 99350
United States
scott.runge@co.benton.wa.us

SALESPERSON	EMAIL	DELIVERY METHOD	PAYMENT TERMS
Stephen Murray	smurray@grayshift.com	Digital	Net 30

All prices below are in U.S. Dollar

PRODUCT NAME	START	END	PART	QTY	PRICE	EXTENDED
GrayKey License - Advanced Unlimited Consent and BFU Extractions. 225 AFU, Instant Unlock or Brute Force Advanced actions Action Credits Included: 225 Renewal for Serial Numbers: 68059dead4391f0d	3/25/2022	3/24/2023	GKL-ONF-AD	1.00	27,995.00	27,995.00

TOTAL: USD 27,995.00

Quote Terms

- Delivery of GrayKey requires the end-user's prior acceptance of Grayshift's End User License Terms Agreement ("EULA")
- Your acceptance of this quotation will indicate your acceptance of the terms of Grayshift's EULA, without exception or reservation.The EULA is available at https://grayshift.com/terms
- License Term = 12 months
- The final invoice may include tax if applicable
- Your contract will start on 3/25/2022 and will end after license term
- Please reference quote number on payment method

Payment Terms

- Non-payment thirty days after issuance of your invoice may result in a suspended license
- Credit Cards: Major credit cards accepted including Visa, Mastercard, and American Express
- Additional Information: Fees under this Agreement are exclusive of all taxes, including national, state or provincial and local income, use, sales, value-added, property and similar taxes, if any. Customer agrees to pay such taxes (excluding US taxes based on Grayshift's net income). In the case of any withholding requirements, Customer will pay any required withholding itself and will not reduce the amount paid to Grayshift on account thereof. As an example, if the price to be paid is $100 but there is, for example, 10% withholding, Grayshift will still directly be paid $100. The payor may need to "gross up" the overall payment so the amount due Grayshift after any withholding is $100

Terms & Conditions

For online licenses only (not acceptable for the purchase of expansion packs), a signed quote is acceptable in lieu of a purchase order to execute this order under the following conditions:

a. The intended licensor identified in the quote does not require the issuance of a Purchase Order, and
and

b. The above quote is of a total value less than $50,000 USD

By signing this quote, you certify that the above is accurate and that you are an authorized representative of the intended licensor identified in this quote with the authority to enter into this agreement.

Signature: _____ **Effective Date:** 03 / 29 / 2020

Name (Print): Shon Small **Title:** Chairman, Board of Benton County Commissioners

Please sign and email to Stephen Murray at smurray@grayshift.com

Grayshift LLC
THANK YOU FOR YOUR BUSINESS!

RESOLUTION 2021 144

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF APPROVING THE PURCHASE OF A TWELVE-MONTH GRAYKEY MOBILE DEVICE FORENSIC SOFTWARE LICENSE FROM GRAYSHIFT, LLC

WHEREAS, the Sheriff presented and was approved by the Board to purchase Graykey mobile device forensic software during 2021-2022 budget; and

WHEREAS, Grayshift is a leader in forensic software and is the sole reseller of Graykey forensic software; and

WHEREAS, extracting information from mobile devices is an essential part of collecting evidence in today's digital age; and

WHEREAS, Graykey has been recommended by the Federal Bureau of Investigation (FBI); and

WHEREAS, the Sheriff obtained a letter from Grayshift notifying Benton County that Grayshift, LLC is the sole source reseller of Graykey as Grayshift owns the unique and proprietary Graykey technology; and

WHEREAS, Information Technology has reviewed Grayshift's sole source letter and recommends the purchase of Graykey from Grayshift, LLC; NOW THEREFORE,

BE IT RESOLVED, the Board of Benton County Commissioners hereby concurs with Information Technology's recommendation and approves the purchase of a twelve-month Graykey mobile device forensic software license from Grayshift, LLC in the amount not to exceed $18,075 excluding Washington State Sales Tax to be paid for with Sheriff approved Public Safety Tax Funds; and

BE IT FURTHER RESOLVED, Graykey twelve-month licensing shall auto-renew every twelve-months starting February 9, 2021 ending February 28, 2023.

Dated this 9 day of February , 2021

Chairman of the Board

Member

Member

Constituting the Board of County Commissioners of Benton County, Washington

Attest: _____
Clerk of the Board

Orig: Information Technology
cc: Auditor.

Prepared by: R Heard

GRAYSHIFT

Company Address	931 Monroe Drive NE Suite A102-340 Atlanta, Georgia 30308 United States
Prepared By	Jonathan Oszust
Phone	(833) 472-9539
Email	jonathan@grayshift.com
Contact Name	Scott Runge
Account Name	Benton County Sheriff's Office (WA)
Phone	(509) 786-5710
Email	scott.runge@co.benton.wa.us

Quote Number	00000697
Created Date	11/6/2020
Expiration Date	12/6/2020
DUNS Number	081045174
CAGE Code	7R0W9

Product	List Price	Sales Price	Quantity	Total Price
First Year License Discount	USD -500.00	USD -500.00	1.00	USD -500.00
GrayKey License - Online Fixed	USD 18,000.00	USD 18,000.00	1.00	USD 18,000.00
GrayKey Unit	USD 500.00	USD 500.00	1.00	USD 500.00
Shipping & Handling	USD 75.00	USD 75.00	1.00	USD 75.00

Subtotal	USD 18,075.00
Grand Total	USD 18,075.00

Quote Terms

- Delivery of GrayKey requires the end-user's prior acceptance of Grayshift's End User License Terms Agreement ("EULA"). Your acceptance of this quotation will indicate your acceptance of the terms of Grayshift's EULA, without exception or reservation. The EULA is available at https://grayshift.com/terms
- License Term = 12 months (includes unlimited extractions and software updates during the license term)
- The final invoice may include tax if applicable
- Upon receipt of your GrayKey unit, please follow the setup steps to activate it as soon as possible. It is ready for use immediately following activation. Your term license will auto-activate 28 days after fulfillment if not activated prior.

Payment Terms

- **Purchase Orders:** Net 30 - Payments received after 30 days will be assessed a 2% late fee, per month. Non-payment after 30 days will result in a suspended license. License will be reactivated after full payment is received.
- **Credit Cards:** Major credit cards accepted including Visa, Mastercard, and American Express.
- **Additional Information:** Fees under this Agreement are exclusive of all taxes, including national, state or provincial and local income, use, sales, value-added, property and similar taxes, if any. Customer agrees to pay such taxes (excluding US taxes based on Grayshift's net income). In the case of any withholding requirements, Customer will pay any required withholding itself and will not reduce the amount paid to Grayshift on account thereof. As an example, if the price to be paid is 100 but there is, for example, 10% withholding, Grayshift will still directly be paid 100. The payor may need to "gross up" the overall payment so the amount due Grayshift after any withholding is 100.

GRAYSHIFT

Grayshift, LLC
931 Monroe Dr NESuite A102-340
Atlanta, GA 30308

July 31, 2020

Sole Source Letter

To Whom It May Concern:

This letter is to provide notification that Grayshift, LLC ("Grayshift") is the sole source provider of GrayKey. GrayKey is internally developed and distributed only by Grayshift, and Grayshift owns exclusive distribution and marketing rights. Due to the unique proprietary nature of the technology, GrayKey is sold only as a direct transaction between Grayshift and its end customers. There are no agents or dealers authorized to represent this product.

If you desire additional information, please contact me at the email address or phone number below.

Sincerely,

David Miles
Managing Member

Phone: 833-472-9539
Email: sales@grayshift.com

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	March 29, 2022
Subject:	Approving the Purchase of One HP LaserJet Enterprise M507dn Printer for the Prosecuting Attorney Department from Southern Computer Warehouse
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

Washington State Patrol (WSP) has approved the Prosecuting Attorney's (PA) Office access to their Omnixx application. Omnixx allows specific PA support staff the ability to investigate individuals using WSP's Federal Bureau of Investigation (FBI) Criminal Justice Information Services (CJIS) nationwide database. The PA's office has requested to purchase one printer for support staff so that Omnixx printing can stay confidential and secure. Resolution 2019-753 requires that all non-budgeted devices purchased over $500 be coded to the department's 3508 expenditure code and be approved by the Board of Benton County Commissioners.

Fiscal Impact

Amount: **$814.32 including WSST.**

Fund: **Approved Prosecuting Attorney 2021-2022 budgeted funds.**

Recommendation

Information Technology recommends that the Board approve the purchase of one HP LaserJet Enterprise M507dn for the Prosecuting Attorney's Office in an amount not to exceed $814.32 excluding WSST from Southern Computer Warehouse. All equipment purchased will be added to Central Services Replacement Fund (0132101).

Suggested Motion

Consent Agenda

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF APPROVING THE PURCHASE OF ONE HP LASERJET ENTERPRISE M507DN PRINTER FOR THE PROSECUTING ATTORNEY'S OFFICE FROM SOUTHERN COMPUTER WAREHOUSE

WHEREAS, Washington State Patrol has approved the PA's Office access to their OMNIXX application that allows the PA's office to investigate individuals using the Federal Bureau Investigation (FBI) Criminal Justice Information Services (CJIS) nationwide database; and

WHEREAS, the Prosecuting Attorney's Office has made a request to purchase a printer for one of their support staff where printing can remain confidential and secure; and

WHEREAS, Information Technology recommends purchasing one HP LaserJet Enterprise M507dn Printer from Southern Computer Warehouse; and

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

WHEREAS, per Resolution 2019-753 of the Computer Replacement Policy requires all new computer equipment over $500 receive approval by the Board of Benton County Commissioners before purchasing; **NOW, THEREFORE**

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington, hereby concurs with Information Technology's recommendation and approves the purchase of one HP LaserJet Enterprise M507dn for the Prosecuting Attorney's Office from Southern Computer Warehouse in an amount not to exceed $814.32 including Washington State Sales Tax, to be paid for using approved 2021-2022 Prosecuting Attorney Office funds; and

BE IT FURTHER RESOLVED, newly purchased printer will be enrolled into Central Services Replacement Fund (0132101).

Dated this 29 day of March , 2022

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, Prosecuting Attorney

Prepared by: R. Heard

Southern Computer Warehouse
1395 S. Marietta Parkway
Building 300
Marietta, Georgia 30067
United States
http://www.scw.com
(P) 877-GOTOSCW
(F) 770.579.8937

Quote (Open)

Date
Mar 15, 2022 01:54 PM EDT

Modified Date
Mar 15, 2022 01:57 PM EDT

Quote #
1712462 - rev 1 of 1

Description
HP M507dn

SalesRep
Ortiz, Andres
(P) 877-GOTOSCW ext. 320

Customer Contact
Heard, Robert
(P) 509-786-5603
Robert.Heard@co.benton.wa.us

Customer
Benton County WA (A11627)
Heard, Robert
620 Market Street
Prosser, WA 99350
United States
(P) 509-786-5603

Bill To
Benton County WA
Services, Central
620 Market Street
Prosser, WA 99350
United States
(P) 509-786-5603
teri.holmes@co.benton.wa.us

Ship To
Benton County WA
REF#, ATTN
620 Market Street
Prosser, WA 99350
United States

Customer PO:	**Terms:** Undefined	**Ship Via:** GROUND
Special Instructions:		**Carrier Account #:**

#	Description	Part #	Tax	Qty	Unit Price	Total
1	HP Inc. - HP LaserJet Enterprise M507dn Printer - B/W - Duplex - laser - A4/Legal - 1200 x 1200 dpi - up to 52 ppm - capacity: 650 sheets - USB 2.0, Gigabit LAN, USB 2.0 host Note: None in stock. 1-3 months estimated delivery lead time	1PV87A#BGJ	Yes	1	$749.83	$749.83

Contract
HP OMNIA / NIPA - HP OMNIA / NIPA R210403

The HP Inc product quoted utilizes the Region 4 ESC/OMNIA Partners Contract Number R210403. Please note this contract number on your PO.

Subtotal:	**$749.83**
Tax (8.6000%):	$64.49
Shipping:	$0.00
Total:	**$814.32**

Quote valid for 30 days unless formal bid provides different term. Promotional pricing is valid only during term of promotion and while supplies last.

All returns must be authorized and clearly marked with a valid RMA number. RMA's are subject to restock fees when applicable.

These prices may not include applicable taxes, insurance, shipping, delivery, setup fees, or any cables or cabling services or material unless specifically listed above.

Please note that expedited shipping charges are estimated, and could decrease or increase when invoiced.

All prices are subject to change without notice. Supply subject to availability.

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	March 29, 2022
Subject:	Approving the Purchase of Two Cisco Meraki MR56 Wireless Access Points from CompuNet, LLC for the Juvenile Justice Center
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

The Juvenile Justice Department has made a request to purchase two wireless access points for their detention staff. Juvenile Justice wireless access will benefit staff and other law enforcement agencies who process juveniles. Resolution 2019-753 requires that all non-budgeted devices purchased over $500 be coded to the department's 3508 expenditure code and be approved by the Board of Benton County Commissioners.

Fiscal Impact

Amount: **$3,030.72 excluding WSST.**

Fund: **Approved 2021-2022 Juvenile Justice Department budgeted funds.**

Recommendation

Information Technology recommends that the Board approve the purchase of two Cisco Meraki MR56 wireless access points in an amount not to exceed $3,030.72 excluding WSST from CompuNet, LLC. All equipment purchased will be added to Central Services Replacement Fund (0132101).

Suggested Motion

Consent Agenda

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF APPROVING THE PURCHASE OF TWO CISCO MERAKI MR56 WIRELESS ACCESS POINTS FOR JUVENILE JUSTICE DEPARTMENT FROM COMPUNET, LLC

WHEREAS, the Juvenile Justice Department has made a request to purchase two wireless access points for their Juvenile Justice Detention Center; and

WHEREAS, Cisco Meraki wireless access points are the County's reliable secure wireless standard; and

WHEREAS, Information Technology recommends purchasing two Cisco Meraki MR56 wireless access points from CompuNet, LLC; and

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

WHEREAS, per Resolution 2019-753 of the Computer Replacement Policy requires all new computer equipment over $500 receive approval by the Board of Benton County Commissioners before purchasing; **NOW, THEREFORE**

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington, hereby concurs with Information Technology's recommendation and approves the purchase of two Cisco Meraki MR56 wireless access points from CompuNet, LLC for the Juvenile Justice Department in an amount not to exceed $3,030.72 excluding Washington State Sales Tax, to be paid for using approved 2021-2022 Juvenile Justice Department funds; and

BE IT FURTHER RESOLVED, the Board approves the Chairman of the Board to sign CompuNet Quote Number: MF185489; and

BE IT FURTHER RESOLVED, newly purchased wireless access points will be enrolled into Central Services Replacement Fund (0132101).

Dated this 29 day of March , 2022

_____
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, Juvenile Justice

Prepared by: R. Heard

CompuNet, Inc.

Mark Friedman
509-795-8276
mfriedman@compunet.biz

Meraki MR56 AP

Quote Information:

Quote #: MF185489

Version: 1
Delivery Date: 03/11/2022
Expiration Date: 04/10/2022

Prepared for:

Benton County

Robert Heard
(509) 737-3529
Robert.Heard@co.benton.wa.us

Bill To:

Benton County

Accounts Payable
P.O. Box 608
Prosser, WA 99350
Central.Services@co.benton.wa.us

Ship To:

Benton County

Robert Heard
Courthouse 2nd Floor 620 Market Street
Prosser, WA 99350

Meraki

Description		Price	Qty	Ext. Price
MR56-HW	**Meraki MR56 Wi-Fi 6 Indoor AP**	$1,297.92	2	$2,595.84
LIC-ENT-1YR	**Meraki MR Enterprise License, 1YR**	$97.44	2	$194.88
			Subtotal:	**$2,790.72**

Shipping

Quantity	Short Description	Price	Ext. Price
1	Ground Shipping To Be Determined, Billed As Actual	$0.00	$0.00

Quote Summary

Description	Amount
Meraki	$2,790.72
Subtotal:	$2,790.72
Estimated Tax:	$240.00
Total:	$3,030.72

Taxes, shipping, handling and other fees may apply. We reserve the right to cancel any order arising from pricing or other errors. If Customer is purchasing a subscription-based product, Customer agrees to pay all charges for the complete term of the subscription. By signing below or issuing a Purchase Order, Customer agrees to CompuNet's standard terms and conditions, which can be reviewed here, provided, that if Customer and CompuNet are parties to a currently effective Master Product Purchase and Services Agreement (MSA), the terms and conditions of such MSA shall control and shall supersede these standard terms and conditions. Your electronic signature, per the Electronic Signature Act, is considered equivalent to your signed and faxed signature, and allows you to accept and place your order. This Quote becomes binding and noncancelable upon Customer's return to CompuNet of acceptance. A copy of this acceptance and the attached proposal document will be sent to your email address to complete your order acceptance. You are NOT required to electronically sign your order, you may fax or email your signed proposal to your Account Executive.

CompuNet, Inc.

Mark Friedman
509-795-8276
mfriedman@compunet.biz

Benton County

Signature: _____

Name: _____

Title: _____

Date: _____

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	March 29, 2022
Subject:	Contract Amendment #1 with Superior Tree Service, LLC for the Fairgrounds & Prosser Courthouse Contract
Presenter:	N/A
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

Resolution 2022-041 authorized the Chairman of the Board of Benton County Commissioners to sign a Public Works Contract with Superior Tree Service, LLC to perform tree trimming services at the Fairgrounds and Prosser Courthouse.

During their time at the Fairgrounds, the Contractor noticed that one of the trees had significant decay and needed to be completely removed.

County Staff worked with the Contractor to develop a Contract Amendment to remove the tree and grind the stump for $895.00.

Fiscal Impact

Amount: $895.00 excluding W.S.S.T.

Fund: Fairgrounds Operatiing Fund (Fund # 0124-101)

Recommendation

Execute Contract Amendment #1 with Superior Tree Service, LLC to remove the tree and grind the stump at the Fairgrounds.

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 THE FIRST AMENDMENT TO THE PUBLIC WORKS CONTRACT BETWEEN BENTON COUNTY AND SUPERIOR TREE SERVICE, LLC

WHEREAS, Resolution 2022-041 authorized the Chairman of the Board of Benton County Commissioners to sign a Public Works Contract with Superior Tree Service, LLC to perform tree trimming services at the Fairgrounds and Prosser Courthouse; and

WHEREAS, during their time at the Fairgrounds, the Contractor noticed that one of the trees had significant decay and needed to be completely removed; and

WHEREAS, County Staff worked with the Contractor to develop a Contract Amendment to remove the tree and grind the stump for $895.00; **NOW, THEREFORE,**

BE IT RESOLVED, that the attached First Amendment to the Public Works Contract between Benton County and Superior Tree Service, LLC is hereby approved, and the Chairman of the Board of Benton County Commissioners is authorized to sign said Amendment; and

BE IT FURTHER RESOLVED, the not to exceed amount has been increased to $34,855.00 excluding W.S.S.T; and

BE IT FURTHER RESOLVED, all other terms and conditions of said Public Works Contract remain the same.

Dated this 29th day of March 2022.

_____
Chairman

_____
Chairman Pro-Tem

_____
Member

Attest:_____
Clerk of the Board

Constituting the Board of County Commissioners of Benton County, Washington

Original: Purchasing Department
c: Auditor, BC Facilities

P. Schut

DocuSign Envelope ID: 3082C94E-DC06-468C-8A19-8F11DAD0EA82

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 **SUPERIOR TREE SERVICE, LLC**, a corporation organized under the laws of the State of Washington, with its principal offices at 2121 N Commercial Ave, Pasco, WA 99301(hereinafter "CONTRACTOR").

WHEREAS, per Benton County Resolution No. 2022-041, the parties entered into a Public Works Contract (hereinafter the "CONTRACT"), whereby CONTRACTOR agreed to complete tree trimming services at the Benton County Fairgrounds and Prosser Courthouse; and

WHEREAS, the CONTRACTOR identified a tree at the Fairgrounds that needed to be removed and quoted $895.00 to remove the tree and grind the stump; and

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

3. **SERVICES PROVIDED** Section 3.a. of the CONTRACT, "SERVICES PROVIDED," is amended and replaced with the following:

a. The CONTRACTOR shall provide tree trimming services at the Benton County Fairgrounds and Prosser Courthouse according to maps detailed in Exhibit B - Maps. The Contractor shall also remove one Maple Tree and grind the stump 6" below grade at the Fairgrounds. All work performed is in accordance with ANSI A300 tree trimming standards.

5. **COMPENSATION** Section 5.a. & b. of the CONTRACT, "COMPENSATION" is amended and replaced with the following:

a. For the services performed under this Contract, the CONTRACTOR shall be paid a flat fee of Thirty-Four Thousand Eight Hundred Eighty-Five Dollars and Zero Cents ($34,885.00), excluding W.S.S.T.; and

b. The maximum total amount payable by the COUNTY to the CONTRACTOR under this Contract shall not exceed Thirty-Four Thousand Eight Hundred Eighty-Five Dollars and Zero Cents ($34,885.00), excluding W.S.S.T. Any dollar amount above the maximum total amount payable will only be approved with an amendment to this Contract.

DocuSign Envelope ID: 3082C94E-DC06-468C-8A19-8F11DAD0EA82

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

SUPERIOR TREE SERVICE, LLC

DocuSigned by:
06C51EE4EA9746B...

Signature Date

John Montero

Name

Manager

Title

APPROVED AS TO FORM:

DocuSigned by:
Eric Andrews
B4F7673BB8A1486...

Benton County Deputy Prosecuting Attorney, Civil

3/4/2022

Date

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	March 29, 2022
Subject:	Personal Service Contract between Benton County and SAFE Boat International, LLC for Refurbishment of BCSO's 23' TT Hull #1165
Presenter:	
Prepared By:	Lisa Small
Reviewed By:	Lt. Clarke; Ryan Lukson

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 2021-387 the Board of Benton County Commissioners, Benton County, Washington approved the Personal Service Contract between Benton County and SAFE Boats International, LLC to perform the refurbishment repairs and services on the Benton County 23' TT Hull #1165, for an amount not to exceed $110,815.46 plus WSST.

Per Resolution 2021-571 dated July 27, 2021 the Board approved the First Amendment to said Contract as SAFE Boats International notified the Benton County Sheriff's Office (BCSO) advising them that the Mercury engines had a lead time of 8 to 12 months, and that Honda and Suzuki motors are an option and can be obtained without delay.

The attached Personal Service Contract is necessary as SAFE Boat has had a hard time getting the parts necessary to complete the project. The original contract terminated before another amendment could get put in place.

The County PA recommends entering into a new contract commencing May 11, 2021 and terminating December 31, 2022, superseding the original contract and the first amendment to said contract.

Fiscal Impact

Amount: Additional $11,746.64, plus WSST at 9.0% (Bremerton, WA sales tax) for a total contract amount of $122,562.10, plus WSST (approx. $11,030.59).

Fund: PST – Capital Outlay/Vehicles.

Recommendation

Approve the attached Personal Service Contract between Benton County and SAFE Boats International, LLC and authorize the Chairman of the Board to sign said contract; rescinding Resolution 2021-387 and Resolution 2021-571.

Suggested Motion

Approve as part of the consent agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF A PERSONAL SERVICE CONTRACT BETWEEN BENTON COUNTY AND SAFE BOATS INTERNATIONAL, LLC FOR THE REFURBISHMENT REPAIRS AND SERVICES ON THE BENTON COUNTY'S 23' TT HULL #1165; RESCINDING RESOLUTIONS 2021-387 & 2021-571

WHEREAS, per Resolution 2021-387 the Board of Benton County Commissioners, Benton County, Washington approved the Personal Service Contract between Benton County and SAFE Boats International, LLC to perform the refurbishment repairs and services on the Benton County 23' TT Hull #1165, for an amount not to exceed $110,815.46 plus WSST; and

WHEREAS, per Resolution 2021-571 dated July 27, 2021 the Board approved the First Amendment to said contract as SAFE Boats International notified the Benton County Sheriff's Office (BCSO) advising them that the Mercury engines had a lead time of 8 to 12 months, and that Honda and Suzuki motors are an option and can be obtained without delay; and

WHEREAS, the attached Personal Service Contract is necessary as SAFE Boat has had a hard time getting the parts necessary to complete the project and the original contract terminated before another amendment could get put in place; and

WHEREAS, the Prosecuting Attorney recommends entering into a new contract commencing May 11, 2021 and terminating December 31, 2022, superseding the original contract and the first amendment to said contract; **NOW, THEREFORE**

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington concurs with the recommendation and hereby authorizes the Chairman of the Board to sign the attached Personal Service Contract between Benton County and SAFE Boat International, LLC to perform the refurbishment repairs and services on the Benton County 23' TT Hull #1165 for an amount not to exceed $122,562.10 plus WSST; and

BE IT FURTHER RESOLVED, the attached contract shall commence May 11, 2021 and shall terminate December 31, 2022; and

BE IT FURTHER RESOLVED, the attached contract supersedes the previous contract per Resolution 2021-387 and the first contract amendment per Resolution 2021-571; and

BE IT FURTHER RESOLVED, Resolution 2021-387 and Resolution 2021-571 are hereby rescinded.

Dated this _____day of _____, 2022.

_____
Chairman of the Board

_____
Pro-Tem

Attest.....
Clerk of the Board

_____
Member

Constituting the Board of Commissioners
of Benton County, Washington

Orig: BCSO
cc: Auditor, PA, Purchasing Dept., SAFE Boat

Prepared by: L. Small

BENTON COUNTY
PERSONAL SERVICES CONTRACT
TERMS AND CONDITIONS

This Contract is made and entered into by and between **BENTON COUNTY**, political subdivision, with its principal offices at 620 Market Street, Prosser, WA 99350 (hereinafter "COUNTY"), and **SAFE BOATS INTERNATIONAL, LLC**, an limited liability corporation authorized to do business in the State of Washington, with its principal offices at 8800 Barney White Road, Bremerton, WA 98312 (hereinafter "CONTRACTOR").

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

1. CONTRACT DOCUMENTS

This Contract consists of the following documents:

a. Terms and Conditions, (this document)
b. Exhibit A – Scope of Work dated March 2021
c. Exhibit B – Service Quote Dated March 25, 2021
d. Exhibit C – Change Order Number 1 dated July 20, 2021

2. DURATION OF CONTRACT

The term of this Contract shall begin May 11, 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.

3. SERVICES PROVIDED

The CONTRACTOR shall perform the following services:

a. The CONTRACTOR shall perform the complete refurbishment repairs on the Benton County 23’ TT (Hull #1165). A detailed description of the services to be performed by the CONTRACTOR is set forth in Exhibit A “Scope of Work”, Exhibit B – “Service Quote”, and Exhibit C – “Change Order Number 1”, which is attached hereto and incorporated herein by reference.

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

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

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

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

a. For CONTRACTOR: Nathan McCarthy, Customer Support Group Director
8800 Barney White Road
Bremerton, WA 98312
(360) 674-7161
nmccarthy@safeboats.com

b. For COUNTY: Mathew Clarke, Patrol Commander
7122 W Okanogan Pl., Suite A120
Kennewick, WA 99336
(509) 735-6555 Ext. 3283
Mathew.Clarke@co.benton.wa.us

5. COMPENSATION

a. For the services described in Section 3, the CONTRACTOR shall be paid in accordance with Exhibit B "Service Quote" and Exhibit C – "Change Order Number 1", which are 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 one hundred twenty-two thousand five hundred sixty-two dollars and ten cents (122,562.10), plus WSST.

c. 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 services and equipment provided, 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.

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

b. In any and all claims against the COUNTY, its officers, officials, employees and agents by any employee of the CONTRACTOR, subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under this Section shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the CONTRACTOR or subcontractor under Workers Compensation acts, disability benefit acts, or other employee benefit acts, it being clearly agreed and understood by the parties hereto that the CONTRACTOR expressly waives any immunity the CONTRACTOR might have had under such laws, including but not limited to Title 51 of the Revised Code of Washington. **By executing this 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, the CONTRACTOR'S employees, agents or subcontractors.

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

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

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

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

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

d. **Garage Liability:** The CONTRACTOR shall maintain, during the life of the Contract, Garage Liability Insurance in the amount of not less than one million dollars ($1,000,000)each occurrence and two million dollars ($2,000,000) general aggregate to protect the CONTRACTOR from claims which may arise from the performance of this Contract, whether such operations be by the CONTRACTOR or by anyone directly or indirectly employed by the CONTRACTOR.

e. **Garagekeepers Liability:** The CONTRACTOR shall maintain, during the life of the Contract, Garagekeepers Liability Insurance with Direct Primary coverage in the amount that the CONTRACTOR deems appropriate to cover the CONTRACTOR'S exposure for the vessel in the CONTRACTOR'S care for repair, service or installing equipment.

f. **On-Hook Towing Coverage:** The CONTRACTOR shall maintain, during the life of the Contract, On-Hook Towing coverage in the amount not less than fifty thousand dollars ($50,000) to over the cost to replace or repair any damages that results from the CONTRACTOR's towing or hauling of customer's vessel.

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

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

All insurance required under this Contract shall be issued by companies authorized to do business under the laws of the State of Washington and have a 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 284-15 WAC.

1. All insurance to be maintained by the CONTRACTOR, other than Auto Liability and Workmen's Compensation, shall specifically include the COUNTY, 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 written prior notice to the COUNTY. Any insurance or self-insurance maintained by the COUNTY, its elected and appointed officials, employees and agents shall be excess of the CONTRACTOR's insurance and shall not contribute to it.

2. Certificates of Liability Insurance, with endorsements attached, are to 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 at the following address: Benton County Risk Manager, 7122 W. Okanogan Pl., Suite E310, 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 cost incurred by the CONTRACTOR in performing the Contract up to the date of such notice. Payment shall be made in accordance with the Compensation Section of this Contract.

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

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

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

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 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 or deem to be or act or purport to act as an employee, agent, or representative of the COUNTY.

d. COUNTY shall pay Washington State Sales Taxes in the amount of 9.0% of the total contract price. CONTRACTOR shall pay for any taxes, fees, licenses, or payments required by federal, state, or local law which are applicable to the CONTRACTOR.

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

16. OWNERSHIP OF MATERIALS/WORKS PRODUCED

a. An electronic copy of all word processing documents shall be submitted to the COUNTY upon request or at the end of the job 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, 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 by the CONTRACTOR shall be determined in line with industry standards by the COUNTY'S Contract Representative or designee. All determinations of the COUNTY'S Contract Representative on these matters shall be final and conclusive, subject to CONTRACTOR'S right to seek judicial relief.

19. CONFIDENTIALITY

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

20. CHOICE OF LAW, JURISDICTION AND VENUE

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

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

21. SUCCESSORS AND ASSIGNS

The COUNTY, to the extent permitted by law, and the CONTRACTOR each bind themselves, 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 its terms and conditions. Any oral or written representations or understandings not incorporated in this Contract are specifically excluded. This Contract supersedes the previous contract entered into between the parties set forth in Resolution 2021-387 executed May 11, 2021, and as amended in Resolution 2021-571 executed July 27, 2021.

24. NOTICES

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

25. CUSTODY OF VESSEL

The parties understand that in order to accomplish the work

required by this agreement, CONTRACTOR will have the need to take temporary custody of marked law enforcement patrol vessel for a period of time. Accordingly, the parties agree that the custody of the patrol vessel will be subject to the following conditions:

a. All vessels that are left in the custody of CONTRACTOR shall not contain firearms or ammunition of any sort – representatives of the Benton County Sheriff's Office have responsibility to ensure that firearms and ammunition are removed from the vessel when left in CONTRACTOR's custody. Additionally, CONTRACTOR shall immediately notify the Benton County Sheriff's Office if it discovers any firearms or ammunition within the vessel while work is being done;

b. CONTRACTOR shall ensure that only those trusted, fulltime employees who are required to do work under this contract shall have access to the patrol vessel or to the keys which access same and shall not permit any third parties or sub-contractors to have access to patrol vessel or keys without prior written permission from COUNTY;

c. During all times when CONTRACTOR is not actively working on the vessel, said vessel shall be fully locked, any available alarm or anti-theft systems shall be activated, and the vessel shall be stored in a secure location protected by, at a minimum, locked fencing, and the keys which access same shall be in a locked, secured location;

d. If CONTRACTOR or any of its employees discovers that the patrol vessel in its custody is missing, it shall immediately notify the Benton County Sheriff's Office On-Duty Patrol Supervisor through contacting SECOMM at (509) 628-0333 and ensuring contact and notification is made;

e. CONTRACTOR and its employees shall not operate the patrol vessel in its custody anywhere outside of CONTRACTOR's property without first obtaining the express permission of the Patrol Commander at (509) 735-6555 Ext. 3283 or his designee. The only exception is for incidental traveling along a portion of a roadway for purposes of moving patrol vessel from one portion of CONTRACTOR's premises to another portion of CONTRACTOR's premises as necessitated by the work being done pursuant to this agreement;

f. If it becomes necessary to test-drive patrol vessel in CONTRACTOR's custody for the purposes of testing or verifying work being done pursuant to this agreement, CONTRACTOR shall first obtain the express permission of the Patrol Commander

at (509) 735-6555 Ext. 3283 or his designee;

g. In the same manner as stated in the indemnification provisions (Section 7) of this agreement, CONTRACTOR shall indemnify COUNTY for any claims, liability, attorney's fees, judgments, expenses or costs whatsoever, related in any way to claims or lawsuits filed as a direct result of CONTRACTOR's use of any patrol vessel.

25. SURVIVABILITY

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

26. LITIGATION HOLD NOTICE

In the event the COUNTY learns of circumstances leading to an increased likelihood of litigation regarding any matter where the records kept by CONTRACTOR pursuant to Section 14 of this agreement 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 as set out above in Section 14.

27. PUBLIC RECORDS ACT

CONTRACTOR hereby acknowledges that the COUNTY is a governmental entity and as such is subject to the requirements of the Public Records Act, RCW 42.56 *et seq*. Accordingly, CONTRACTOR understands that to the extent a proper request is made, the COUNTY may be required by virtue of that Act to disclose any records related to this Contract actually in its possession or in CONTRACTOR'S possession. This may include records that CONTRACTOR might regard as confidential or proprietary. To the extent that CONTRACTOR provides any records to the COUNTY that it regards as confidential or proprietary, it agrees to conspicuously mark the records as such. CONTRACTOR also hereby waives any and all claims or causes of action for any injury it may suffer by virtue of COUNTY'S

release of records covered under the Public Records Act. COUNTY agrees to take all reasonable steps to notify CONTRACTOR in a timely fashion of any request made under the Public Records Act which will require disclosure of any records marked by CONTRACTOR as confidential or proprietary, so that CONTRACTOR may seek a judicial order of protection if necessary.

~ This section was intentionally left blank ~

IN WITNESS WHEREOF, the parties have caused this Contract to be signed by their duly constituted legal representative and is effective May 11, 2021.

DATED: _____

BENTON COUNTY, WASHINGTON

_____
Shon Small, Chairman
Benton County Commissioner

Approved as to Form:

_____,
Ryan J. Lukson
Civil Deputy Prosecuting Attorney

DATED: 3/18/2022

SAFE BOATS INTERNATIONAL, LLC

Nathan McCarthy
Signature

Nathan McCarthy / Customer Service Director
Print Name and Title

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	March 29, 2022
Subject:	Awarding and executing contract to Budget Blinds of Richland
Presenter:	
Prepared By:	D. Hope
Reviewed By:	R. Blain, Purchasing Dept.

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

Type of Agenda Item:	**Type of Action Needed:**	
☒ 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

A decision was made to add window roller shades to the Human Resources reception area in the Administration building and update the window roller shades in the Commissioners offices and hearing rooms at the Benton County Courthouse. Bids were solicited and no bids were received. Budget Blinds of Richland was contacted, and they provided a quote for the same window roller shades that are currently in the Administration Building.

A contract has been prepared, reviewed, and approved as to form by the PA's office and has been signed by Budget Blinds of Richland.

Fiscal Impact

Amount: $8,663.36

Fund: Capital Projects Fund

Recommendation

It is recommended by the Director of Operations and Capital Programs that the Board concur and award the contract for supplying and installing window roller shades to Budget Blinds of Richland.

Suggested Motion

Approve as part of the Consent Agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AWARDING THE CONTRACT FOR SUPPLYING AND INSTALLING WINDOW ROLLER SHADES AT THE BENTON COUNTY COURTHOUSE AND ADMINISTRATION BUILDING TO BUDGET BLINDS OF RICHLAND, WA AND AUTHORIZING THE CHAIRMAN TO SIGN SAID CONTRACT

WHEREAS, bids were solicited, utilizing the MRSC Small Works Roster, for supplying and installing window shades at the Courthouse and the Admistration Building; and

WHEREAS, no bids were received, therefore Budget Blinds of Richland, West Richland, WA (BUDGEBR934DG) was contacted and they provided a quote for the same window shades that are currently in the Administration Building; and

WHEREAS, the Director of Operations and Capital Programs recommends awarding contract to Budget Blinds of Richland, West Richland, WA; and

WHEREAS, a contract has been prepared; reviewed, and approved as to form by our departmental Deputy Prosecuting Attorney from the Civil Division; and has been executed by Budget Blinds of Richland; 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 recommendation and awards the contract for supplying and installing window roller shades at the Benton County Courthouse and Administration Building to Budget Blinds of Richland, West Richland, Washington, for an amount not to exceed $8,663.36 excluding Washington State Sales Tax; and

BE IT FURTHER RESOLVED, the Board hereby authorizes the Chairman of the Board to sign on behalf of Benton County said contract with Budget Blinds of Richland; and

BE IT FURTHER RESOLVED, said contract shall begin upon signature of both parties and shall terminate on October 31, 2022.

Dated this 29th day of March, 2022.

_____
Chairman

_____
Chairman Pro-Tem

_____
Member

Attest:_____
Clerk of the Board

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

Orig.: Purchasing Department D. Hope
c: Auditor, Procurement, PA

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 **BUDGET BLINDS OF RICHLAND**, a corporation organized under the laws of the State of Washington with its principal offices at 3310 Kennedy Rd. West Richland, WA 99353 (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 – Window Listing
c. Exhibit C – Washington State Prevailing Wage Rates for Public Works Contracts

2. DURATION OF CONTRACT

The initial term of this Contract shall begin upon signature of both parties and shall terminate on October 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 agrees to supply and install motorized and manual roller shades on 11 interior windows at the Benton County Courthouse and 3 interior windows at the Benton County Administration Building. The sizes of windows and types of shades are listed in Exhibit B, which is attached and incorporated herein by reference. The shades are to be both Draper Motorized FlexShades with the ability to connect to a Crestron Series 3 control system and Clutch-Operated FlexShades. The shades are to be the Draper Sheerweave Style SW2500 in the color Q21-Beige/Pearl Gray

b. The CONTRACTOR agrees to order the shades no later than 10 calendar days after the execution of this contract and complete installation no later than 30 days from the receipt of shades.

c. 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:	Todd Schuermann, Budget Blinds
Address:	3310 Kennedy Rd. West Richland, WA 99353
Phone:	(509) 396-5151
Email:	tsschuermann@budgetblinds.com

b. For COUNTY:

Name:	Robert Blain, Director of Operations and Capital Programs
Address:	7122 W. Okanogan Pl., Bldg. E 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 a flat fee of eight thousand six hundred sixty three dollars and 36/100 ($8,663.36), excluding W.S.S.T., in accordance with Exhibit A, “Bid Form”, which is attached hereto and incorporated herein by reference.

b. Prior to any compensation being paid, CONTRACTOR shall submit a Statement of Intent to Pay Prevailing Wages via https://secureaccess.wa.gov/ and then forward a copy of the statement to COUNTY’S Contract Representative. At the completion of all work contemplated by this Contract, or at the end of the contract term, whichever comes first, CONTRACTOR shall submit an Affidavit

of Wages Paid via https://secureaccess.wa.gov/ and then forward a copy of the affidavit to COUNTY'S Contract Representative. No final payment will be made until the affidavit is provided. COUNTY requires that all Statements of Intent to Pay Prevailing Wages and Affidavits of Wages Paid be filed electronically with https://secureaccess.wa.gov/.

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

6. INVOICING

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

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

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

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 A, 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.

This area intentionally left blank.

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

Date:_____

BENTON COUNTY

Shon Small, Chairman
Benton County Commissioners

Approved as to Form:

Reid Hay, Civil DPA

Date: 3-17-22

BUDGET BLINDS OF RICHLAND

Signature

Owner
Title

Todd Schuermann
PRINTED NAME

BID FORM

Supplying and Installing Window Roller Shades
Benton County Courthouse, Prosser, Washington
Benton County Administration Building, Kennewick, Washington

Company Name Budget Blinds

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 N/A Addendum No. 2, dated N/A

BID AMOUNT:

LUMP SUM (excluding Washington State Sales Tax $ 8663.36

LUMP SUM (excluding Washington State Sales Tax), in words

eight thousand six hundred sixty/three 36/100

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	_____	In the Amount of _____
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 9th day of March 2022.

COMPANY NAME: Budget Blinds

AUTHORIZED SIGNATURE: _____

TYPE OR PRINT NAME: Todd Schuermann

TITLE: Owner

STREET ADDRESS: 3310 Kennedy rd.

CITY, STATE, ZIP: West Richland WA 99353

TELEPHONE NO.: 509-396-5151

EMAIL: tsschuermann@budgetblinds.com

CONTRACTOR'S LICENSE NO.: BUDGEBR934DG

UBI NO.: 602 70 2089

WASHINGTON STATE EMPLOYMENT SECURITY NO.: 020823-00-8

EXHIBIT B

WINDOW LISTING

Successful vendor must field verify measurements before ordering shades.

Benton County Courthouse
Third Floor
620 Market Street
Prosser, WA 99350

Qty.	Width	Height	Style	Mounted	Location
2	61"	102"	Motorized	Inside mount	Board Room
3	61"	102"	Manual	Inside mount	Office
6	43"	102"	Manual	Inside mount	Office

Benton County Administration Building
Third Floor
7122 W. Okanogan Place
Kennewick, WA 99336

Qty.	Width	Height	Style		Location
2	66"	111"	Manual	Outside mount	Room 310
1	74.5"	111"	Manual	Outside mount	Room 310

EXHIBIT C

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

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

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

> The Department of Labor & Industries prevailing wage rate website is http://wsdot.wa.gov/Design/ProjectDev/WageRates/default.htm
>
> The publication date to use is March 15, 2022.
>
> 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 Purchasing Department, 7122 W. Okanogan Pl Bldg. E, Kennewick WA Monday through Friday, between 8:00 a.m. & noon and between 1:00 p.m. & 5:00 p.m. except holidays.

The Purchasing 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 procurement@co.benton.wa.us

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	March 29, 2022
Subject:	Collection Service Agreement with Linebarger Goggan Blair & Sampson, LLP for Benton County District Court
Presenter:	
Prepared By:	Lisa Small
Reviewed By:	Ryan Brown; 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

RCW 3.02.045 and RCW 19.16.500 authorizes the courts of limited jurisdiction to use collection agencies to collect unpaid court penalties, fines, costs, assessments, civil judgements, or forfeitures that have been imposed by the courts.

The Benton County District Court solicited proposals from professional collection firms with experience in court collection services. A total of five (5) collection firms responded with their statement of qualifications and proposals.

Benton County District Court Administrator and District Court Judges reviewed the proposals and recommend awarding the collection service agreement to Linebarger Goggan Blair & Sampson, LLP, Gig Harbor, WA.

Fiscal Impact

N/A – There are no financial obligations associated with this agreement.

Recommendation

Approve the attached Resolution and Collection Service Agreement between Benton County and Linebarger Goggan Blair & Sampson, LLP for a term commencing April 1, 2022 and terminating on March 31, 2025, and authorize the Chairman of the Board to sign said agreement.

Suggested Motion

Approve as part of the Consent Agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF A COLLECTION SERVICE AGREEMENT BETWEEN BENTON COUNTY AND LINEBARGER GOGGAN BLAIR & SAMPSON, LLP FOR BENTON COUNTY DISTRICT COURT

WHEREAS, RCW 3.02.045 and RCW 19.16.500 authorizes the courts of limited jurisdiction to use collection agencies to collect unpaid court penalties, fines, costs, assessments, civil judgements, or forfeitures that have been imposed by the courts; and

WHEREAS, the Benton County District Court solicited proposals from professional collection firms with experience in court collection services; and

WHEREAS, a total of five (5) collection firms responded with their statement of qualifications and proposals; and

WHEREAS, Benton County District Court Administrator and District Court Judges reviewed the proposals and recommend awarding the collection service agreement to Linebarger Goggan Blair & Sampson, LLP, Gig Harbor, WA; **NOW, THEREFORE**

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington concurs with the recommendation and hereby approves the attached Collection Service Agreement between Benton County and Linebarger Goggan Blair & Sampson, LLP to provide collection services for the Benton County District Court; and

BE IT FURTHER RESOLVED, the Chairman of the Board is hereby authorized to sign said agreement between Benton County and Linebarger Goggan Blair & Sampson, LLP; and

BE IT FURTHER RESOLVED, said agreement shall commence April 1, 2022 and shall terminate on March 31, 2025.

Dated this _____ day of _____, 2022.

_____
Chairman of the Board

_____
Chairman Pro-Tem

Attest.....
Clerk of the Board

_____
Member

Constituting the Board of Commissioners
of Benton County, Washington

Orig: District Court
Cc: Auditor; PA; Procurement, Linebarger L. Small

COLLECTION SERVICES AGREEMENT

THIS AGREEMENT is made and entered into by and between BENTON COUNTY, a political subdivision of the State of Washington ("County") and LINEBARGER GOGGAN BLAIR & SAMPSON, LLP, a Washington Limited Partnership("Collectors").

WITNESSETH:

WHEREAS, the Benton County District Court ("District Court") is a court of limited jurisdiction pursuant to Title 3 RCW; and

WHEREAS, the District Court has criminal jurisdiction to impose fines of up to five thousand dollars ($5,000.00) and to assess court costs and costs of prosecution; and

WHEREAS, some criminal defendants, traffic offenders and persons committing infractions have failed to pay part or all of their fines, costs and assessments, thereby placing a great burden on the administration of the criminal justice system in Benton County; and

WHEREAS, RCW 3.02.045 and RCW 46.63.110(6)(d) authorize the use of collection agencies by courts of limited jurisdiction for purposes of collecting unpaid penalties on infractions, criminal fines, costs, assessments, civil judgments or forfeitures that have been imposed by the courts; and

WHEREAS, District Court has been working with another collection agency for a number of years, but after a request for qualifications process it has elected to start sending new accounts to Collector; and

WHEREAS, the prior agency will continue to be under contract to perform collection cases, particularly for matters already referred to it; and

WHEREAS, District Court wishes to engage LINEBARGER GOGGAN BLAIR & SAMPSON, LLP., a licensed collection agency pursuant to the provisions of Chapter 19.16 RCW, to be available to receive referrals from District Court; and

WHEREAS, the Board of County Commissioners has determined that the public interest of obtaining services of the highest quality at the lowest cost is best served by entering into this Agreement,

NOW THEREFORE, in consideration of the covenants and agreements herein contained and the terms and conditions hereof, the parties agree as follows:

1. **TERM**. This Agreement shall commence April 1, 2022, and terminate on March 31, 2025, unless extended by mutually executed amendment to this Agreement.

2. **SCOPE OF SERVICES**. Upon request, Collectors shall do all work and furnish all equipment, labor and materials necessary to collect unpaid penalties on infractions, criminal fines, costs, assessments, civil judgments or forfeitures that have been imposed by the Benton County District Court as required under this Agreement. Nothing in this

Agreement requires matters to be referred to Collectors or, if a matter is referred, that it be referred to Collectors and not another collection agency.

3. **SERVICES TO BE PERFORMED**. The District Court Administrator or designee shall only refer accounts with unpaid legal financial obligations imposed as part of a criminal sentence to Collectors if the account is at least sixty (60) days past due. Unpaid fines imposed with respect to infraction violations maybe referred to Collectors at discretion of the District Court Administrator at any time such accounts are past due.

   No account with a pending motion seeking relief of some type regarding the payment of legal financial obligations will be referred to Collectors until such motion is finally adjudicated. With respect to accounts referred to Collectors, Collectors shall provide the following services as directed by the District Court Administrator for pre-collection services and collection services:

   a. Collectors shall provide training assistance to District Court staff on how to refer to Collector an electronic list of pre collection matters and information to allow District Court to provide Collectors lists of pre-collect matters and information in electronic format.

   b. By the end of the business day following receipt by Collectors of new pre-collection accounts, Collectors will provide the District Court Administrator with an alphabetized computer printout listing new pre-collection accounts by debtors' names. Such printout will include court case numbers, agency case numbers, amounts owed, and total amounts owed.

   c. Furnish all stationery, forms, envelopes, and postage required to provide pre-collection and collection services.

   d. Prepare and send thirty (30) day notice forms, i.e., pre-collection letters, to all pre-collection debtors. Collectors shall use the address provided by the District Court. Such notices shall inform the judgment debtor that the judgment will be referred by the County for collection on the 30th day after mailing of the notice. The notice shall inform the judgment debtor that collection fees payable under this Agreement between the County and Collectors will be added to the judgment if the judgment is not paid in full. The notice shall also inform judgment debtor that the judgment will bear interest, on infraction and parking tickets, thereafter at the rate set forth in the notice if the judgment is not paid in full.

   e. The pre-collection notice shall direct all payments to District Court. If any pre-collection debtors erroneously submit payment to Collector, Collector will promptly forward all payments received in cases in pre-collection status to District Court.

   f. Any accounts not paid in full within thirty (30) days of mailing of the above referenced notice shall be deemed transferred into regular collection account status. Collectors shall provide to the County an acknowledgment printout

listing, in alphabetical order, by debtors' names and by District Court agency division, with court case numbers, agency case numbers, amounts collected, and balance still owing, by the end of the next business day following the monthly transfer of accounts into collection status.

g. Mail collection notices as well as make direct contacts by trained collections staff in a manner as allowed by Washington law on accounts that are transferred into collection status.

h. Advance legal costs and have such attorneys on retainer as are required to bring necessary garnishment actions against debtors on behalf of the County.

i. Pay District Court as set forth in section 12 of this Agreement and each month submit a complete accounting to the District Court Administrator of the court case numbers, amounts collected, and balances still owing.

j. Submit to the District Court Administrator monthly progress reports which include totals for year-to-date collections. Such progress reports shall include separate accounting lists for all six (6) District Court agency divisions, amounts and numbers of accounts transferred to regular collection, amounts and numbers of cancelled accounts after regular collection, dollar amounts, with case numbers, recovered after regular collection, collections costs and totals.

k. After an account has been referred to Collectors, the District Court retains the authority to recall the account from collections and/or remit the balance of any unpaid legal financial obligations, any unpaid interest and/or collection fee.

l. Collectors shall establish automated receipting of payments in JIS through O'Court.

m. Collectors shall process bankruptcy notices for accounts referred to collection, including but not limited to filing of Notice of Claim.

4. **LICENSE REINSTATEMENT PROGRAM.** Collectors shall provide assistance with District Court's License Reinstatement Program as reflected in attached Exhibit A or as otherwise approved in writing by the presiding District Court Judge. Collector will not charge any additional fee for this service.

5. **COLLECTION CODES**. Collectors shall establish reporting codes for accounts referred to identify which jurisdiction listed below is entitled to the funds and whether the case on which the payment made is a criminal case or an infraction.

Jurisdictions

- Benton County
- City of Kennewick
- City of Prosser
- City of Richland
- City of West Richland

6. **COMPENSATION FOR ORDINARY JUDGMENTS**. Except as otherwise stated in section 32 below, for judgments entered by the District Court Collectors shall pay the County all of the balance of the debt assigned to Collector, including any interest accrued and paid, and may collect from the debtor and keep as remuneration for collection services a fee in an amount not to exceed nineteen percent (19%) of the amount of the outstanding debt assigned for the first time to Collector so long the debt is assigned to Collector less than twelve months from the date the judgment was entered against the debtor. Such fee shall be assessed by District Court as court costs under RCW 46.63.110(6)(d) and/or RCW 3.02.045(5) (or comparable statutes should the cited statutes be amended or repealed). Upon the second or subsequent assignment of a debt to collection or upon an initial assignment made when twelve or more months have passed since the judgment was entered against the debtor, Collector may keep as remuneration for collection services a fee to be assessed by District Court as court costs in an amount equal to 26% of the remaining balance of principal and interest due as of the date of the subsequent referral to collections or the date of initial referral that is twelve months or more since judgment was entered.

7. By way of example, an offense found committed six months ago that has never been assigned to a collection agency, and with $100 owing to the County, shall be assessed court costs of $19. The total owing is now $119. Upon collection of $119, the sum of $100 shall be returned to the County and $19 retained by the Collectors; Collectors shall retain 15.97% of the total sum collected ($19 is 15.97% of $119), and remit 84.03% to the County. If at some point the collection fee increases to 26% under the terms stated above, Collectors may begin retaining 20.63% of the total sum collected after the date the collection fee increases to 26% (if the outstanding balance as of the date the matter is referred to collections a second time or the referred initially is referred twelve months or more from entry of the judgment is $100, then from that point forward the collection fee due as court costs on that account would be $26, which is 20.63% of $126). Once the collection fee increases to 26%, Collector shall remit 79.37% of the amounts collected on such debt to the County.

8. **COMPENSATION FOR JUDGMENTS INCLUDED IN BANKRUPTCY**. For judgments entered by the District Court and for which collection cost and interest on the judgment have been discharged pursuant to a bankruptcy order, Collectors shall only collect from debtors' unpaid balances of the original judgments and keep as remuneration twenty-five (25%) of the amounts collected from such debtors. The remaining seventy-five (75%) of the amounts collected from such debtors shall be paid to the County. The FTA/FTR fees shall be removed or retained as designated by the bankruptcy chapter filed and/or the disposition of the bankruptcy as directed by the Department of Licensing, or as may be directed by the Federal Bankruptcy Judge.

9. **FEES**.

a. The fees associated with the work performed by Collectors shall remain in effect for the term of the Agreement.

b. Interest shall not accrue on criminal cases after June 7, 2018, but will continue to accrue interest on infraction and parking tickets at the annual rate of 12% interest (APR) or the highest rate lawfully authorized, whichever is less. Collectors may, but is not obligated to, collect interest that accrued prior to June 7, 2018, on criminal cases that has not been waived by court order. All interest collected on all types of cases shall be paid to the County. Interest shall be broken out by Collectors for each Court agency division and remitted on a monthly basis.

c. General Administrative Order. To effectuate the assessment of court costs for collection agency services under RCW 46.63.110(6)(d) and/or RCW 3.02.045(5) (or comparable statutes should the cited statutes be amended or repealed), District Court will issue a General Administrative Order assessing court costs against defendants assigned to collection, or other payment plan, such that no assessment need be made in an individual case file, and addressing any other issues necessary or proper to facilitate the referral of appropriate cases to Collectors for servicing.

10. **RECEIPTING OF PAYMENTS**. If permitted by law, when partial payments are made by a debtor, payments shall be applied as follows:

    Payments will be applied in the following order: first to recoverable legal costs and fees incurred by Collectors in the collection of assigned accounts; next to principal and court costs assessed for collection fees in the ratios outlined in section 7 above; next to accrued interest. For cases subject to apportionment between Collectors' client under section 32 below, that portion of funds to be allocated to District Court's case will be applied as set forth above. If the above allocation is not permitted by law at any time a payment is made, then Collectors and the County shall agree in writing how such payment shall be allocated.

11. **LEGAL FEES AND COSTS**. Where legal action is pursued by Collectors on the County's behalf for garnishments, the Collectors may first apply collection proceeds to the legal fees and costs it advanced in such action, but only to the amount of such fees and costs awarded by the court in the legal action and paid by the debtor. Collectors is not entitled under this Agreement to any legal fees or costs incurred that are not both awarded by a court against a debtor and paid by the debtor.

12. **PAYMENTS TO THE COUNTY**. Funds collected by Collectors shall be paid to the County bi-monthly on the 2nd and 4th Tuesday of each month. Payments to the County shall be for the total amount collected, less any collection fee to which Collector is entitled under this Agreement. Collectors shall supply sufficient documentation with monthly payment to allow independent verification of total amounts collected and calculation of appropriate fees withheld.

13. **REPORTS**. Collectors shall provide County with all reports called for herein. In the event additional reports are deemed necessary in the future for further breakdown purposes, Collectors shall provide the necessary reports.

14. **HOLD HARMLESS AND INDEMNIFICATION**.

a. Collectors shall hold harmless, indemnify and defend the County, its officers, officials, employees and agents, from and against any and all claims, actions, suits, liability, loss, expenses, damages, and judgments of any nature whatsoever, including reasonable costs and attorney's 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 Agreement, or caused or occasioned in whole or in part by reason of the presence of the Collectors or its property upon or in the proximity of the property of the County. PROVIDED, that Collectors' obligation hereunder shall not extend to injury, sickness, death or damage caused by or arising out of the negligence of the County, its officers, officials, employees or agents.

b. The County shall hold harmless, indemnify and defend Collectors, its officers, officials, employees and agents, from and against any and all claims, actions, suits, liability, loss, expenses, damages, and judgments of any nature whatsoever, including reasonable costs and attorney's fees in defense thereof, for injury, sickness, disability or death to persons or damage to property or business, arising in connection with its performance under this Agreement, or caused or occasioned in whole or in part by reason of the presence of the County or its property upon or in the proximity of the property of Collectors. PROVIDED, that the County' obligation hereunder shall not extend to injury, sickness, death or damage caused by or arising out of the negligence of Collectors, its officers, officials, employees or agents.

c. In any and all claims against the County, its officers, officials, employees and agents by any employee of Collectors, its 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 Collectors or its subcontractor under Workers Compensation acts, disability benefit acts, or other employee benefit acts, it being clearly agreed and understood by the parties hereto that Collectors expressly waives any immunity Collectors might have had under such laws, including but not limited to Title 51 of the Revised Code of Washington. **By executing this Agreement, Collectors 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 Collectors makes with any subcontractor or agent performing work hereunder. Collectors' obligations under this Section 14 shall survive termination and expiration of this Agreement.**

d. Collectors' 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 Collectors, its employees, agents or subcontractors.

15. INSURANCE.

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

   If Collectors, its 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, Collectors shall indemnify the County. Indemnity shall include all fines, payment of benefits to Collectors 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 Collectors pursuant to the indemnity agreement may be deducted from any payments owed by County to Collectors for performance of this Agreement.

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

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

   The general commercial liability policy will contain an endorsement naming the County, its elected and appointed officials, employees and agents as additional insured (CG2010) and an endorsement that specifically states that Collectors'

general liability policy shall be primary, and not contributory, with any other insurance maintained by the County.

Collectors will provide commercial general liability coverage that does not exclude any activity to be performed in fulfillment of this Agreement and does not exclude liability pursuant to the indemnification requirement under Section 14. Collector'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.

Collectors 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

16. **ASSIGNMENT**. Neither party shall assign this Agreement, nor any interest, right, or responsibility arising herein, without the written consent of the other party.

17. **NON-DISCRIMINATION POLICY**. Collectors agree to adhere to the non-discrimination policy of the County and execute in writing an assurance of compliance with that policy. Collectors shall provide a copy to the County upon execution of the Agreement.

18. **TERMINATION**. This Agreement may be terminated by either party without cause upon one hundred eighty (180) days advance written notice to the other party. If either party breaches this Agreement, notice of said breach shall be served in writing to the contract representative. If such breach is not cured within fourteen (14) days, then the non-breaching party may terminate this Agreement for cause with thirty (30) days' notice. Waiver of breach by any party shall not be deemed a waiver of any subsequent breach.

19. **CONTRACT REPRESENTATIVES**. Each party to this Agreement shall have a contract representative. Each party may change its representative upon providing written notice to the other party. The parties' representatives are as follows:

a. For Collectors:

Kevin Underwood, Attorney for the Firm
5801 Soundview Drive NW Ste 50B
Gig Harbor WA 98335

With a copy to:
Renee Linnabary, Director of Operations
5801 Soundview Drive NW Suite 50B
Gig Harbor, WA 98335

b. For County: Rafaela Selga, District Court Administrator
7122 W Okanogan, Bldg A
Kennewick, WA 99336

20. **AMENDMENTS**. No amendment or modification shall be made to this Agreement, unless set forth in a written amendment signed by both parties. Work under an amendment shall not proceed until the amendment is dully executed by the County.

21. **COMPLIANCE WITH CHAPTER 19.16 RCW**. Collectors hereby agrees to comply with all provisions of Chapter 19.16 RCW, as currently in effect or as hereafter amended, whether applicable to its collection efforts or not, and all other applicable federal, state or local laws, rules and regulations in performing under this Agreement.

22. **INDEPENDENT CONTRACTOR**.

a. Collectors' services shall be furnished by Collectors as an independent contractor and not as an agent, employee or servant of the County. Collectors specifically have the right to direct and control Collectors own activities in providing the agreed services in accordance with the specifications set out in this Agreement.

b. Collectors acknowledges that the entire compensation for this Agreement is set forth in sections 6 through 10 of this Agreement, and neither Collectors 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. Collectors shall have and maintain complete responsibility and control over all of its subcontractors, employees, agents, and representatives. No subcontractor, employee, agent, or representative of Collectors shall be or deem to be or act or purport to act as an employee, agent, or representative of the County.

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

e. Collectors agrees to immediately remove any of its employees or agents from their assignment to perform services under this Agreement upon receipt of a written request to do so from the County's contract representative or designee.

23. **CHOICE OF LAW, JURISDICTION AND VENUE**.

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

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

24. **SUCCESSORS AND ASSIGNS**. The County, to the extent permitted by law, and Collectors each bind themselves, their partners, successors, executors, administrators, and assigns to the other party to this Agreement and to the partners, successors, administrators, and assigns of such other party in respect to all covenants to this Agreement.

25. **SEVERABILITY**.

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

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

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

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

28. **SURVIVABILITY**. All terms of this Agreement, which by their context are clearly intended to survive the termination and/or expiration of this Agreement, shall so survive. These terms include, but are not limited to Hold Harmless and Indemnification (Section 14); Litigation Hold Notice (Section 29); and Public Records Act (Section 30).

29. **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 Collectors may be of evidentiary value, the County may issue written notice to Collectors of such circumstances and direct Collectors to "hold" such records. In the event the Collectors receives such written notice, Collectors shall abide by all directions therein whether or not such written notice is received at a time when an Agreement between Collectors and the County is in force.

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

31. **AUDITS AND EVALUATIONS.** The records and documents with respect to all matters referred by Benton County District court shall be subject at all times to inspection, review or audit by federal or state officials so authorized by law or regulation or by Benton County District Court during the term of any agreement and for six (6) years after termination. Auditing or monitoring for fund accountability, contract compliance and program performance may be conducted at the discretion of Benton County District Court.

    a. The Collectors shall provide right of access to its facilities, including those of any sub agency, to Benton County District Court, state or federal agencies or officials at all reasonable times in order to monitor and evaluate the services provided under this agreement. Collectors shall make available all information reasonably required by any such evaluation process.

    b. At the County's request, Collectors shall at its costs provide for no more than one independent contractor audit during the term of this agreement that meets general accepted auditing standards.

32. **CONCURRENT REPRESENTATION.**

    a. Collectors have specifically advised the County that Collectors' concurrent representation of the County and other government entities (whether currently represented by Collectors or those governmental entities who may be represented by Collectors in the future) against a common debtor constitutes a potential conflict of interest. Collectors have advised the County that, provided the County and all participating entities consent, Collectors intends to "cross packet" claims owed to all the governmental entities whom Collectors currently represents and whom Collectors may ultimately represent in the future against a common debtor. Although all of the governmental entities represented by, or to be represented by, Collectors have a common interest in the collection of monetary amounts owed by the common debtor, there is a potential conflict regarding the manner in which

any proceeds collected from the common debtor are to be disbursed among the various governmental entities represented by Collectors (present and/or future). Collectors proposes, with the consent of the County and all participating government entities, to disburse all monetary proceeds recovered from a common debtor to each of the government entities on an equal-share basis, provided that the common debtor has not disputed any accounts, in which case, funds will be applied first to non-disputed accounts.

b. Collectors have specifically advised the County that as among the similarly represented governmental entities there is no right to assert the attorney-client privilege as to communications received by Collectors in connection with this joint representation.

c. The County acknowledges that it has been fully informed of the nature of any current and/or prospective conflict of interest which may exist or arise as a result of the common representation of the County and other governmental entities by Collectors against common debtors; that the County has been provided sufficient opportunity to seek the advice of independent counsel of the County's own choosing; and after all due consultations and considerations, the County HEREBY EXPRESSLY WAIVES ANY CURRENT AND/OR PROSPECTIVE CONFLICT OF INTEREST AND SPECIFICALLY CONSENTS TO COLLECTORS' REPRESENTATION OF THE COUNTY and further directs Collectors to disburse any payments received from a common debtor to all of the governmental entities represented by Collectors equally.

33. **THIRD PARTY BENEFICIARIES.** This contract is for the benefit of the County and Collectors. Unless specifically stated, no third-party beneficiaries are intended to be created or are created under this contract.

The parties to this Agreement have executed this Agreement to take effect as of the date written below.

DATED:_____ DATED:_____

BENTON COUNTY BOARD OF COMMISSIONERS

LINEBARGER GOGGAN BLAIR & SAMPSON, LLP.

_____ _____

Chairman

Kevin Underwood, Partner

_____ BENTON COUNTY DISTRICT COURT

Member

Member

Presiding Judge

Constituting the Board of County

Commissioners of Benton County, Washington

Attest:_____

Clerk of the Board

Approved as to form:

Ryan K Brown, Deputy Prosecuting Attorney

Exhibit A

LICENSE RESTORATION PROGRAM

Program Purpose

The License Restoration Program (LRP) is designed to assist people who have had their license suspended or are in danger of being suspended because of unpaid fines. Compliance with this program enables persons who have not paid their fines in full to enter into a payment program with Linebarger, Goggan, Blair & Sampson LLP (LGBS) and have the Benton County District Court (District Court) holds on their license released. Participation in the program is at the discretion of District Court under its inherent powers, and a debtor's obligation to pay fines, costs and/or other amounts under the LRP is imposed by District Court or by statute, and does not arise out of any contract or agreement, express or implied.

Program Parameters

1. LGBS will advise defendants of the availability of a License Reinstatement Program, and will provide a toll free number in all letters (English and Spanish) to defendants. LGBS will provide counter cards (business cards) to District Court with LGBS's contact information, for distribution to defendants.

2. There is no set-up fee nor monthly administration fee required of defendants to participate in the program; the collection fee assessed as court costs will be LGBS's compensation. The down payment will be the first monthly payment.

3. Payments guidelines are established based on income/poverty level below. The below payment guideline table is approved for use by LGBS. Circumstances in a particular case may merit deviation from the guidelines. LGBS may revise the table periodically for its use, in response to changes in the federal poverty level calculations, without amending the Agreement.

4. LGBS will process prospective applicants, and provide relicensing information to defendants, via telephone. LGBS may require documentation of income and residence as the circumstances may indicate, but generally is not required to obtain documentary proof of income and residence. LGBS will send a confirmation notice to the defendant, indicating the monthly payment due date and amount, which can be delivered electronically or otherwise. If accounts are being garnished by LGBS, LGBS may continue with the garnishment until expired, and begin the LRP (if approved) immediately thereafter.

5. LGBS will record telephone calls establishing LRP arrangements, and provide recordings of specific calls to District Court upon request.

6. A defendant's default on an LRP payment arrangement will not necessarily disqualify the defendant from re-establishing a payment arrangement.

7. LGBS will report to District Court defendants who are established on LRP arrangements, as well as those who default on their obligations and are removed from the LRP, and those who successfully complete their LRP arrangements.

8. Payments received will be spread amongst all accounts in the LRP packet.

Payment Guideline Table

	Baseline Yearly income under	150% of Baseline Yearly income under	Over 150% of Baseline Yearly income over
Single Defendant	$ 15,000.00	$ 22,500.00	$ 22,500.00
Family of 2	$ 20,000.00	$ 30,000.00	$ 30,000.00
Family of 3	$ 25,000.00	$ 37,500.00	$ 37,500.00
Family of 4	$ 30,000.00	$ 45,000.00	$ 45,000.00
Family of 5	$ 35,000.00	$ 52,500.00	$ 52,500.00
Family of 6	$ 40,000.00	$ 60,000.00	$ 60,000.00
Family of 7	$ 45,000.00	$ 67,500.00	$ 67,500.00
Family of 8	$ 50,000.00	$ 75,000.00	$ 75,000.00
Suggested down payment: ***Suggested Monthly Payment:*** *Balance under $1000.00* *Balance over $1000.00* *Minimum Monthly Payment*	5% or $10.00, whichever is less 1/36th of the balance 1/72nd of the balance $10.00 per month	7.5% or $25.00, Whichever is less 1/24th of the balance 1/48th of the balance $25.00 per month	10% or $50.00, Whichever is less 1/12th of the balance 1/24th of the balance $50.00 per month
Example 1, Defendant is a family of 3 and has 2 tickets for $600.00. Their yearly income is $30,000.00 per year. (Income is over Baseline limit but under the 150% Baseline limit, so the standard monthly payment is $600.00/24 = $25.00.)		$ 25.00	
Example 2, Defendant is a family of 3 and has 2 tickets for $600.00. Their yearly income is $15,000.00. (Income is below the Baseline limit so the standard monthly payment is $600.00/36 = $16.67.)	$ 16.67		
Example 3, Defendant is a family of 5 and has 2 tickets for $600.00. Their yearly income is $55,000.00. (Income is over the 150% Baseline limit so the standard monthly payment is $600.00/12 = $50.00.)			$50.00
Example 4, Defendant is a family of 5 and has 4 tickets for $1700.00. Their yearly income is $22,000.00. (Income is below the Baseline limit so the standard monthly payment is $1700/72 = $23.61.)	$ 23.61		

Example 5, Defendant is a family of 5 and has 4 tickets for $1700.00. Their yearly income is $60,000.00. (Income is over Baseline level but under the 150% Baseline limit so the standard monthly payment is $1700.00/48 = $35.42.)		$35.42	
Example 6, Defendant is a family of 4 and has 4 tickets for $1700.00. Their yearly income is $53,000.00. (Income is over the 150% Baseline limit so the standard monthly payment is $1700/24 = $70.83.)			70.83

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	March 29, 2022
Subject:	Award & execute contract with EnviroTech Services, Inc. for 2022 Furnishing Magnesium Chloride
Presenter:	
Prepared By:	D. Hope
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

A call for bids was advertised for furnishing approximately 300,000 gallons of Magnesium Chloride (CB21-08). On March 2, 2022, two bids were received and opened in the amounts on the attached tabulation. EnviroTech Services, Inc. was the lowest bidder at $0.785/gallon. The County Engineer recommends award of the bid to EnviroTech Services, Inc.

A contract has been prepared, and reviewed and approved as to form by our departmental assigned Deputy Prosecuting Attorney from the Civil Division, and has been executed by EnviroTech Services, Inc.

Fiscal Impact

Amount: Not to exceed $250,000.00 excluding WSST

Fund: Road Fund

Recommendation

It is recommended by the County Engineer that the Board concur and award the contract for furnishing magnesium chloride to EnviroTech Services, Inc. and authorize the Chairman to sign the contract.

Suggested Motion

Approve as part of the Consent Agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AWARDING AND EXECUTING A CONTRACT FOR FURNISHING APPROXIMATELY 300,000 GALLONS OF MAGNESIUM CHLORIDE FOR USE BY THE BENTON COUNTY PUBLIC WORKS DEPARTMENT FROM ENVIROTECH SERVICES, INC. OF GREELEY, COLORADO

WHEREAS, the Benton County Public Works Department uses magnesium chloride in their routine maintenance of County gravel roads; and

WHEREAS, the County Engineer scheduled a bid call for Furnishing Magnesium Chloride (CB21-08). Two bids were received and opened on March 2, 2022, and are as set forth below and on the attached tabulation;

	Price per gallon delivered
EnviroTech Services, Inc., Greeley, CO	$0.785
GMCO Corporation dba Roadwise, Spokane, WA	$0.860

WHEREAS, the County Engineer reviewed the bids for completeness and recommends the purchase of approximately 300,000 gallons of magnesium chloride from EnviroTech Services, Inc., as the lowest bidder; and

WHEREAS, a supply 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 EnviroTech Services, Inc.; and

WHEREAS, the County Engineer recommends the Chairman sign said contract; **NOW, THEREFORE,**

BE IT RESOLVED the Board of Benton County Commissioners concurs with the County Engineer's recommendation and awards the bid for furnishing approximately 300,000 gallons of magnesium chloride for use by the Benton County Public Works Department to EnviroTech Services, Inc., Greeley, CO in an amount not to exceed $250,000.00 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 supply contract which will expire on September 30, 2022.

Dated this 29th day of March 2022.

_____
Chairman

_____
Chairman Pro-Tem

_____
Member

Attest:_____
Clerk of the Board

Constituting the Board of County Commissioners of Benton County, Washington

Orig.: Purchasing D. Hope
c: Auditor

PRICE QUOTES FOR: FURNISHING MAGNESIUM CHLORIDE 2022 LOCATION: BENTON COUNTY LET BY: BENTON COUNTY DATE: March 2, 2022, 11:00 a.m., Local Time			EnviroTech Services, Inc. 910 54th Ave. #230 Greeley, CO 80634	GMCO Corporation dba Roadwise 4723 N. Rebecca Spokane, WA 99217	
ITEM NO	**ITEM DESCRIPTION**	**UNIT**	**BID AMOUNT**	**BID AMOUNT**	**BID AMOUNT**
1	Magnesium Chloride - delivered	Gallon	$0.785	$0.860	

SUPPLY CONTRACT
MAGNESIUM CHLORIDE

THIS AGREEMENT, made and entered into this____day of_____, 2022, between the COUNTY OF BENTON, State of Washington, acting through the Board of County Commissioners, under and by virtue of RCW 36, hereinafter called "the County", and ENVIROTECH SERVICES, INC., hereinafter called "the Contractor".

WITNESSETH:

That, in consideration of the payments, covenants, and agreements hereinafter mentioned and attached, and made a part of this agreement, to be made and performed by the parties hereto; the parties hereto covenant and agree as follows:

I. The Contractor shall provide to the County, and the County shall obtain from the Contractor the magnesium chloride described and set forth in the "Proposal for Furnishing Magnesium Chloride" to the County of Benton (including Contractor's proposal), a copy of which is attached hereto as Appendix A and by reference incorporated herein.

II. The County shall pay the Contractor for those products obtained pursuant hereto those prices set forth in Contractor's proposal (Appendix A), PROVIDED, however, that any increase or decrease in the price to the Contractor of any such product shall, as soon as such increase or decrease occurs, result in an equivalent increase or decrease in the Contractor's price to the County as set forth in the Contractor's proposal. The County shall have the right to verify the prices charged to the Contractor for such products at the time of their delivery to the County by contacting the Contractor's major supplier.

III. The Contractor agrees to deliver to the County the magnesium chloride product at such locations within the County, at such times and in such quantities as the County may specify.

IV. 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.

V. The Contractor shall hold harmless, indemnify and defend the County, its officers, officials, employees and agents, from and against any and all claims, actions, suits, liability, loss, expenses, damages, and judgments of any nature whatsoever, including reasonable costs and 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, its officers, officials, employees or agents.

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

that the Contractor expressly waives any immunity the Contractor might have had under such laws, including but not limited to Title 51 of the Revised Code of Washington. **By executing this 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 V. shall survive termination and expiration of this Contract.**

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

VI. 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.

VII. Upon thirty (30) days prior notice in writing to the Contractor, the County may terminate this contract for any reason. Upon receipt of the notice of termination, Contractor shall immediately cease magnesium chloride deliveries. Upon termination, the County will make payment in full in accordance with the terms of this contract for any magnesium chloride deliveries made as of either the receipt date of the notice of termination or the third day following the date of notice of termination, whichever is sooner.

VIII. This agreement expires September 30, 2022.

IN WITNESS WHEREOF, the said Contractor has executed this agreement, and the Board of County Commissioners of Benton County, Washington, has caused this instrument to be executed by and in the name of the County the day and year first above written.

ENVIROTECH SERVICES, INC.

by: _____

Title: Terry Grabham, West Region Manager

COUNTY OF BENTON:

by: _____
Shon Small, Chairman,
Board of Benton County Commissioners

ATTEST:

_____
Clerk of the Board

Date _____

APPROVED AS TO FORM:

_____
Reid Hay, Deputy Prosecuting Attorney

Date 3/3/22

OFFICE OF THE BENTON COUNTY ENGINEER
BENTON COUNTY, WASHINGTON

REQUEST FOR BIDS

BIDS FOR: CB22-05 - FURNISHING MAGNESIUM CHLORIDE

BIDS RECEIVED: MARCH 2, 2022, AT 11:00 A.M., in the Office of the Benton County Public Works Department, Benton County Public Services Building, 102206 E. Wiser Parkway, Kennewick, Washington 99338. NO BIDS WILL BE ACCEPTED AFTER THAT DATE AND TIME.

INSTRUCTIONS:

Please state hereon, in the column provided in the Proposal, the lowest price at which you will provide the article specified. Unsigned bids will not be considered.

The proposal shall be placed in a sealed envelope marked "BIDS – MAGNESIUM CHLORIDE" and delivered to Benton County Public Works Department at the location, date and time stated above. Bids shall be considered final at the time and date for receiving bids. The County will not accept any changes for any reason, including bidding errors. Use of the enclosed bid proposal is required. Only bids submitted on the official form will be considered. The bid shall not contain any unauthorized additions, deletions, alternate bids or conditions.

AWARD OF CONTRACT:

The right is reserved by the Board of Benton County Commissioners to reject any or all bids, to waive informalities in the bidding, and to make award of the business based on a fair appraisal of the competitive values offered.

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

Should any discrepancies or omissions be found in the bid specifications, or doubt as to its meaning, bidder shall at once notify Shannon Christen at the Benton County Engineer's Office by telephone (509)786-5611 or (509)736-3084. Written instructions or addenda as required will be sent to all interested parties. All addenda issued shall be incorporated into the contract. The County shall not be held responsible for oral interpretations. Questions received less than forty-eight (48) hours before bids are due cannot be answered.

EXECUTION OF CONTRACT:

Successful bidder will be required to enter into a formal contract substantially similar to Exhibit A attached.

PROPOSED PURCHASE:

Conforming to the requirements of the Washington State Department of Transportation Standard Specifications for Road, Bridge, and Municipal Construction, 2022 edition, the purchase contemplated is set forth as follows:

Furnishing MAGNESIUM CHLORIDE as required by the Benton County Public Works Department beginning approximately May 2, 2022, with further deliveries as needed.

Delivery Trucks must have the ability to provide a sample of each load delivered if requested by the County.

The Vendor must supply a bill of lading or delivery slip showing the weight, in gallons, of each delivered load. The Vendor must also supply a verifiable ticket showing the pounds per gallon of the magnesium chloride, per delivered load.

Physical Properties

Specific Gravity 1.31+/- 0.02
pH (5% Solution) 7 - 9
Weight 10.7 - 11.1 lbs./gallon

Typical Analysis			Typical	Range
Magnesium Chloride	(MgCl 2)	(%)	30.9	27-35
Sulfate	(SO 4)	(%)	2.2	0.6 – 3.7
Water	(H_2O)	(%)	66.9	64 - 72

DELIVERY TIMES, LOCATIONS AND AMOUNTS:

All deliveries shall be made between, 6:30 a.m. and 4:00 p.m., Monday through Thursday, except Holidays, unless otherwise permitted by the County Road Department.

The County has eight (8) tanks at five (5) different locations:

KENNEWICK ROAD MAINTENANCE FACILITY
10,500 gal. and 8,500 gal. tanks
102808 Wiser Parkway
Kennewick, WA 99338

PROSSER ROAD MAINTENANCE FACILITY
10,500 gal. and 6,000 gal. tanks
14303 N. Hinzerling Road
Prosser, WA 99350

TRAVIS STOCKPILE SITE
6,000 gal. tank
NW corner of Sellards Road and Travis Road
Prosser, WA 99350

FINLEY QUARRY SITE
10,500 gal. and 6,000 gal. tanks
60313 S. Finley Road
Kennewick, WA 99337

HORRIGAN QUARRY SITE
10,500 gal. tank
Sellards Road – 1 mile west of Lincoln Road
Prosser, WA 99350

Delivery will be made to all locations. The County will give the vendors advanced notice of estimated quantities needed and will endeavor to place orders 3 business days prior to required delivery. Vendor must be able to deliver product within 3 business days after order is placed.

It is estimated this contract will be for approximately 300,000 gallons, dependent on price. This is offered for internal planning only and should not be considered a guaranteed usage.

The price listed shall be the bidder's current bid price PER GALLON. If price increases or decreases during the contract period, the vendor shall notify the Benton County Engineer in writing at least thirty (30) days prior to the effective change date. The notice shall include verifiable justification for price increases.

The County may not be able to take continuous delivery. Every effort will be made to cooperate with vendor's scheduling requirements.

TAX PROVISIONS:

Washington State Sales Tax (WSST) will not be considered a part of the unit price. State sales tax will be added as a separate item on the invoice for each purchase. The Prosser Road Maintenance Facility location is at 8.6% WSST and the Kennewick Road Maintenance Facility, Finley Quarry, Horrigan Quarry and Travis Stockpile locations are at 8.0% WSST.

Approved as to form:

Reid Hay, Deputy Prosecuting Attorney

Date 2/3/22

PROPOSAL
FOR FURNISHING
MAGNESIUM CHLORIDE

The undersigned hereby certifies that he/she has read the requirements and thoroughly understands the same and proposes as follows:

ITEM NO.	PRODUCT	PRICE PER GAL. DELIVERED
1	Magnesium Chloride – as described in Request for Bids	$ 0.785 Gal.
	Please note: price is to be given per GALLON.	

DATED this 22 day of February, 2022.

FIRM NAME: EnviroTech Services, Inc.

ADDRESS: 910 54th Ave. Suite 230

Greeley, CO 80634

EMAIL ADDRESS: Esibids@envirotechservices.com

TELEPHONE: (970) 349-3900

WASHINGTON STATE UNIFORM BUSINESS IDENTIFIER NO.: 602-140-124

BY: _____ Kevin Whyrick- Chief Financial Officer
Authorized Signature — Print Name and Title

BY: _____ _____
Authorized Signature — Print Name and Title

PROPOSAL MUST BE SIGNED

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	March 29, 2022
Subject:	Sign Authorization and Release of all Claims for Benton FPD #2 and Enduris
Presenter:	N/A
Prepared By:	Adam Morasch, Risk Manager
Reviewed By:	Ryan Lukson, Assistant Chief Deputy Prosecutor

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 3, 2021, Sheriff Deputies were responding to an incident off of North River Road. A Benton County Sheriff's Patrol vehicle was parked with emergency lights on to warn oncoming traffic and a Benton County Fire Protection District #2 fire truck hit and damaged the patrol vehicle.

The Fleet Superintendent worked with the Benton County Fire Protection District #2 and FNS Collision to repair the Benton County Sheriff's patrol vehicle and get it back in service.

Enduris, the claims management company for Benton County Fire Protection District #2, would like to issue final payment in the amount of $16,263.22 directly to FNS Collision, as well as be released of all claims for property damage.

The Risk Manager recommends authorizing the chairman of the board to sign the authorization form for Enduris to make direct payment to FNS Collision, in the amount of $16,263.22 and sign the release of all claims for property damage form, releasing Benton County Fire Protection #2 and Enduris from all claims for property damage.

Fiscal Impact

None.

Recommendation

Sign the Authorization for Direct Pay to FNS Collison in the amount of $16,263.22 as well as sign the release of all claims for property damage against Benton County Fire Protection District #2 and Enduris.

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 DIRECT PAYMENT BY ENDURIS TO FNS COLLISON, AS WELL AS RELEASING BENTON COUNTY FIRE PROTECTION DISTRICT #2 AND ENDURIS FROM ALL CLAIMS FOR PROPERTY DAMAGE TO BENTON COUNTY SHERIFF'S PATROL VEHICLE.

WHEREAS, on August 3, 2021, Sheriff Deputies were responding to an incident off of North River Road. A patrol vehicle was parked with emergency lights on to warn oncoming traffic and a Benton County Fire Protection District #2 fire truck hit and damaged the patrol vehicle; and

WHEREAS, the Fleet Superintendent worked with Benton County Fire District #2 and FNS Collision to repair the patrol vehicle; and

WHEREAS, the patrol vehicle has been repaired and put back into service; and

WHEREAS, Enduris, the claims management company for Benton County Fire Protection District #2, would like to issue final payment in the amount of $16,263.22 directly to FNS Collision, as well as be released of all claims for property damage; and

WHEREAS, the Risk Manager recommends authorizing the chairman of the board to sign the authorization form for Enduris to make direct payment to FNS Collision, in the amount of $16,263.22 and sign the release of all claims for property damage form, releasing Benton County Fire Protection #2 and Enduris from all claims for property damage; **NOW, THEREFORE**,

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington hereby concurs with the recommendation and authorizes the chairman of the board to sign the attached authorization form for direct payment in the amount of $16,263.22 from Enduris to FNS Collison and sign the release of all claims for property damage against Benton County Fire Protection District #2 and Enduris; and

BE IT FURTHER RESOLVED, the authorization and release shall take effect immediately after signing.

Dated this _____ day of _____ , _____

_____
Chairman of the Board

_____
Member

_____
Member

Constituting the Board of County Commissioners of Benton County, Washington

Attest: _____
Clerk of the Board

Orig: A. Morasch
cc: Auditor, Commissioners

Prepared by: A. Morasch

Authorization for Direct Pay

I, Shon Small, the chairman of the Benton County Board of County Commissioners, authorize Enduris to make direct payment to FNS Collision, in the amount of $16,263.22, for services relating to the repairs to the department's 2020 Ford for damages occurring on 8/3/21.

Chairman of the Benton County Board

of County Commissioners

Date

enduris™
WASHINGTON
1610 S Technology | Spokane WA 99224 | T: 800-462-8418 | F: 509-747-3875 | www.enduris.us

RELEASE OF ALL CLAIMS FOR PROPERTY DAMAGE ONLY

That the Undersigned, Benton County (referred to below as Releasor) for the sole consideration of sixteen thousand, two hundred sixty three and 22/100 Dollars ($16,263.22) the receipt and sufficiency of which is hereby acknowledged, does hereby forever release, discharge, and dismiss Benton County FPD #2 and Enduris, and their officers, employees, successors, heirs, and all other persons, corporations, and entities of any kind (referred to below as Releasees) from any and all claims, actions, causes of action, demands, rights, damages, costs, attorney fees, loss of services, expenses, and compensation, either known or unknown to the Releasor, which in anyway relate to any known or unknown property damage resulting from or caused in any way by the accident, casualty, or event that occurred on or about 8/3/2021, at or near 46206 N. River Road, Benton City, WA.

Releasor agrees by signing this Release and Agreement, that the payment of the consideration therefore: (1) does not constitute an admission of any liability by any Releasee, and, in fact, all Releasees dispute the claim and deny liability; and (2) includes full and final settlement of all the Releasor's property claims, both present and future, arising from this event; (3) the Releasor agrees to pay from these settlement proceeds any person, corporation, or entity who has a lawful lien or subrogation claim against these funds for any repair bills, insurance payments, attorney's fees, and/or the claims of any governmental entity. Releasor agrees to defend, indemnify, and hold harmless all Releasees from any such liens, subrogation claims, or other such claims of any person or entity claiming any interest in the settlement funds being paid pursuant to this agreement.

The undersigned further declare(s) and represent(s) that no promise, inducement, or agreement has been made to the Undersigned, and that this Release contains the entire agreement between the parties hereto, and that the terms of this Release are contractual and not a mere recital and that it is intended to be binding on my/our/its heirs, executors, administrators, successors, and assigns.

THE UNDERSIGNED HAS READ THE FOREGOING AND FULLY UNDERSTANDS IT.

DATED this _____ day of _____, 20 ____.

X _____
Chairman of the Benton County Board of County Commissioners

STATE OF _____
COUNTY OF _____

On the _____ day of _____, ____, before me personally appeared _____ _____ to me known to be the person(s) named herein and who executed the foregoing Release and _____ acknowledged to me that _____ voluntarily executed the same.

My term expires _____, ____.

_____
NOTARY PUBLIC

Adam Morasch

From: Ryan Lukson
Sent: Tuesday, March 22, 2022 9:20 PM
To: Adam Morasch
Cc: Mary Christen
Subject: RE: Action Sheet and Resolution

Looks fine to me.

Ryan J. Lukson
Assistant Chief Deputy Prosecutor, Civil
Benton Co. Pros. Attorney's Office
Office: (509) 735-3591
Cell: (206) 915-6386
Fax: (509) 222-3705

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From: Adam Morasch <Adam.Morasch@co.benton.wa.us>
Sent: Tuesday, March 22, 2022 1:08 PM
To: Ryan Lukson <Ryan.Lukson@co.benton.wa.us>
Cc: Mary Christen <Mary.Christen@co.benton.wa.us>
Subject: RE: Action Sheet and Resolution

Good Afternoon Ryan.
Ok, one last look. Please find the following attached pdf.

1. 3-29-2022 – BFD #2 and Enduris Release Resolution

I touched on all the things you mentioned yesterday and I was hoping you could look through one more time.

Appreciate all your help with this Ryan – thank you.
Adam

From: Adam Morasch
Sent: Friday, March 18, 2022 2:44 PM
To: Ryan Lukson <Ryan.Lukson@co.benton.wa.us>
Cc: Mary Christen <Mary.Christen@co.benton.wa.us>
Subject: Action Sheet and Resolution

Good Afternoon Ryan.
Please find the following information for your reference and review.

1. 2022 – Action Sheet_Draft
2. 2022 – Resolution_Draft
3. Authorization for Direct Pay 121-286-2_Final
4. Release of All Claims for Property Damage Only – 121-286-2_Final

Once approved, I will pdf and send to commissioners for review.

Thank you Ryan.
Adam

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	March 29th, 2022
Subject:	Wholesail Networks, LLC
Presenter:	Cristina Woods, Public Works
Prepared By:	Jackie Mayfield, Administrative Assistant
Reviewed By:	Doug D'Hondt, County Engineer

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 received an application for a Franchise Order and Agreement for a Telecommunications network from Wholesail Networks, LLC.

Fiscal Impact

None

Recommendation

Benton County Public Works recommends the Commissioners approve the Franchise Order and Agreement with Wholesail Networks, LLC, subject to the 6 items listed in the report to the Commissioners.

Suggested Motion

Move to approve the Franchise Order and Agreement with Wholesail Networks, LLC, subject to the 6 items listed in the report to the Commissioners.

Public Works Department

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

March 29, 2022

BOARD OF COUNTY COMMISSIONERS
Benton County Courthouse
Prosser, WA 99350

RE: Application for Franchise: Wholesail Networks, LLC.

Commissioners:

Wholesail Networks, LLC filed a petition for a nonexclusive franchise to have a telecommunications network and associated facilities within Benton County road right of way.

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

1. The term of the franchise shall be for a ten (10) year period.

2. The Grantee shall carry liability insurance with Benton County named as an insured with a minimum limit of $1,000,000.00. A copy of the proof of insurance is to be provided to Benton County.

3. Placement of facilities within the right of way shall meet all requirements of Benton County as to location and repair of roads and right of way.

4. Should Benton County require utility relocation work because of road reconstruction, maintenance, or any other reason, said work shall be at the Grantee's expense.

5. The franchise will be nonexclusive.

6. The Grantee will sign the Order and Agreement for Nonexclusive Franchise, which will be prepared based upon the requirements set forth at the public hearing.

If you have any questions, please contact this office.

Sincerely,

Douglas D'Hondt, P.E.
County Engineer

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	March 29th, 2022
Subject:	Zayo Group, LLC
Presenter:	Cristina Woods, Public Works
Prepared By:	Jackie Mayfield, Administrative Assistant
Reviewed By:	Doug D'Hondt, County Engineer

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 received an application to renew a Franchise Order and Agreement for a fiber optic telecommunications facility from Zayo Group, LLC.

Fiscal Impact

None

Recommendation

Benton County Public Works recommends the Commissioners approve the Franchise Order and Agreement with Zayo Group, LLC, subject to the 6 items listed in the report to the Commissioners.

Suggested Motion

Move to approve the Franchise Order and Agreement with Zayo Group, LLC, subject to the 6 items listed in the report to the Commissioners.

Public Works Department

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

March 29, 2022

BOARD OF COUNTY COMMISSIONERS
Benton County Courthouse
Prosser, WA 99350

RE: Application for Franchise: Zayo Group, LLC.

Commissioners:

Zayo Group, LLC filed a petition for a nonexclusive franchise to have fiber optic telecommunications facilities within Benton County road right of way.

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

1. The term of the franchise shall be for a ten (10) year period.

2. The Grantee shall carry liability insurance with Benton County named as an insured with a minimum limit of $1,000,000.00. A copy of the proof of insurance is to be provided to Benton County.

3. Placement of facilities within the right of way shall meet all requirements of Benton County as to location and repair of roads and right of way.

4. Should Benton County require utility relocation work because of road reconstruction, maintenance, or any other reason, said work shall be at the Grantee's expense.

5. The franchise will be nonexclusive.

6. The Grantee will sign the Order and Agreement for Nonexclusive Franchise, which will be prepared based upon the requirements set forth at the public hearing.

If you have any questions, please contact this office.

Sincerely,

Douglas D'Hondt, P.E.
County Engineer

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	March 29, 2022
Subject:	Setting Salaries for Elected Officials for years 2025 & 2026
Presenter:	Matt Rasmussen
Prepared By:	Matt Rasmussen
Reviewed By:	Jerrod MacPherson

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

Summary / Background Information

Approximately every other year the Board of County Commissioners sets the salaries of elected officials. The salaries set generally are for 3 and 4 years in advance of the current year. This is to avoid changes to the salary of any elected official during their current term.

Since 2016, salaries for elected officials have increased each year ranging from a 1.5% increase to a 2.25% increase. The salaries of the County Commissioners, Clerk, Coroner, Treasurer, Assessor and Auditor are set at the same level. The salary of the County Sheriff was set at a higher level because that position used to have oversight of the jail in addition to their regular functions. That salary was reduced to be in line with the other elected officials (effective 2023) when the jail was split to its own department in 2019.

Salaries under consideration are for years 2025 and 2026. Salaries for 2023 and 2024 were set with Resolution 2020-511. These salaries take effect at the beginning of the next term of office for each elected official.

Fiscal Impact

Amount: **Approximately $27,000 annual increase**

Fund: **Various**

Recommendation

The Board should consider what the economic outlook is for years 2025 and 2026 to determine what increase, if any, should be added to elected official salaries. Staff is proposing a 2.25% increase.

Suggested Motion

N/A – After direction staff will bring a Resolution for approval at a future meeting

Elected Official Salary History

Year	Commissioners	% change	Sheriff	% change	Clerk, Coroner, Treasurer Assessor, Auditor	% change	Notes
2015	$ 103,063		$ 118,523		$ 103,063		
2016	$ 104,609	1.50%	$ 120,301	1.50%	$ 104,609	1.50%	
2017	$ 106,178	1.50%	$ 122,103	1.50%	$ 106,178	1.50%	
2018	$ 107,771	1.50%	$ 123,938	1.50%	$ 107,771	1.50%	
2019	$ 109,926	2.00%	$ 126,415	2.00%	$ 109,926	2.00%	Res 2015-679
2020	$ 112,125	2.00%	$ 128,944	2.00%	$ 112,125	2.00%	
2021	$ 114,648	2.25%	$ 131,845	2.25%	$ 114,648	2.25%	Res 2018-477
2022	$ 117,227	2.25%	$ 134,811	2.25%	$ 117,227	2.25%	
2023	$ 119,572	2.00%	$ 119,572	-11.30%	$ 119,572	2.00%	Res 2020-511
2024	$ 121,963	2.00%	$ 121,963	2.00%	$ 121,963	2.00%	
2025	$ 124,708	2.25%	$ 124,708	2.25%	$ 124,708	2.25%	Res 2022-##
2026	$ 127,514	2.25%	$ 127,514	2.25%	$ 127,514	2.25%	