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, December 13, 2022, 9:00 a.m.
Benton County Courthouse, Prosser, WA

9:00 AM **Call to Order**

Pledge of Allegiance

Approval of Minutes
- ❖ **December 6, 2022**

Review Agenda

Consent Agenda

Canine Shelter
a. Contract w/Vista Veterinary Hospital for Spay and Neuter Services
b. Contract w/Vista Veterinary Hospital for As Needed Veterinarian Services

Commissioner
c. Surplus & Disposition of Personal Property

Facilities
d. Payment to Young's Servicemaster, Inc. for Emergency Work @ the Old Kennewick General Hospital Property

Human Resources
e. 2023 Bi-County Non-Bargaining Increase of Wages for Juvenile Justice & Superior Court
f. 2023 Bi-County Non-Bargaining Benefits Contribution
g. Contract w/ProClaim for Unemployment Third Party Administrator Services

h. Contract w/Penser North America for Worker's Compensation Claims Management Services

Juvenile

i. Contract w/Sierra Electric Inc. for As Needed Electrical Repair
j. Adopting Benton County Flat Monthly Payment for Operations & Facilities Budget
k. Contract w/City of Benton City for the Graffiti Abatement Program

Planning

l. Short Plat Vacation Resolution – SPV 2022-002

Purchasing

m. Placement of New Facilities Lawn Mower into the ER&R Replacement Fund
n. Contract w/CI Information Management for Document Destruction Services
o. Contract w/Meier Architecture & Engineering for the Justice Center Boiler Replacement Project
p. Contract w/Meier Architecture & Engineering for the Design of the Canine Control Cooling Upgrade
q. Contract w/Meier Architecture & Engineering for the Design of Rattlesnake Shooting Facility Training Center
r. Agreement w/US Marshals Service for Housing Federal Detainees
s. First Amended Agreement w/Ideal Options for Opioid Treatment Networks

Risk Management

t. Contract w/Mid-Columbia Forklift, Inc. for Employee Forklift Training & Certification
u. Contract w/Columbia Safety LLC for Employee First Aid, CRP & AED Training
v. Ending Benton County Emergency Declaration; Rescinding Resolutions 2020-258, 2020-272 & 2020-290

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

Scheduled Business

Setting the 2022 Salary for Exempt Employee in the Prosecuting Attorney's Office ~ C Nave

Business Resource Initiative Update ~ A Fyall

Memorandum of Understanding w/Benton Franklin Recovery Coalition for On-Going Support ~ M Rasmussen

Other Business

MINUTES

BOARD OF BENTON COUNTY COMMISSIONERS

Draft

Regular Board Meeting
Benton County Courthouse, Prosser, WA
Tuesday, December 6, 2022, 9:00 a.m.
Meeting provided in-person, by Video Live-Broadcast and Telephonically via/WebEx

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

Absent: Chairman Shon Small (Excused)

Benton County Employees Present During All or a Portion of the Meeting: Deputy County Administrator Matt Rasmussen; Robert Heard, IT Manager; Carlee Nave HR Manager; Clerk Josie Delvin; DPA Ryan Brown; Greg Wendt, Community Development Coordinator; Shyanne Palmus, Communications Coordinator.

Pledge of Allegiance

The Board recited the Pledge of Allegiance.

Approval of Minutes

The Minutes of November 29, 2022 were approved.

Agenda Review

The following item was pulled from scheduled business:

- Purchase of Seven Licenses From Axon Enterprises for Sheriff's Office

Consent Agenda

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

Assessor

a. Contract w/Automatic Funds Transfer Services for Printing and Mailing of Property Notices

Human Resources

b. Establishing Non-Bargaining Employees & Elected Official Contribution to Insurance Benefits

Human Services

c. Contract w/Lourdes Hospital for Prosecutorial Diversion Services

Information Technology

d. Upgrading Subscription for Veeam Software w/CompuNet, Inc.

Juvenile

e. Contract w/City of Kennewick for Graffiti Abatement Program

Office of Public Defense

f. Agreement w/Washington State Office of Public Defense for Public Defense Grant Funding
g. Amended District Court Public Defense Agreement w/Robert Moser
h. Superior Court Appointed Counsel Services w/Katherine Sierra-Kelly for Uniform Guardianship Act Cases
i. Superior Court Appointed Counsel Services w/Eric Scott for Uniform Guardianship Act Cases
j. Superior Court Appointed Counsel Services w/Asa Lamusga for Uniform Guardianship Act Cases
k. Superior Court Appointed Counsel Services w/Allyson Dahlhauser for Uniform Guardianship Act Cases
l. District Court Public Defense Agreement w/Raymond Hui
m. District Court Public Defense Agreement w/Megan Killgore
n. District Court Public Defense Agreement w/Mark Cano
o. District Court Public Defense Agreement w/John Gleason
p. District Court Public Defense Agreement w/Heather Carlson
q. District Court Public Defense Agreement w/Eric Scott
r. District Court Public Defense Agreement w/Adrienne Farabee
s. District Court Public Defense Agreement w/Scott Naccarato

Public Works

t. Authorization to Pay Cascade Software Systems for Fees and Services
u. Ratifying Change Order No. 4 w/C & E Trenching for the Dallas Rd/Arena Rd. Traffic Safety Project
v. Award of Contract w/Superior Tree Services for County Wide Brush Cutting

Purchasing

w. Interlocal Agreement w/Energy Northwest for Law Enforcement Services for Sheriff's Office
x. Purchase of Herbicides From Wilbur-Ellis Co. for Public Works Dept.
y. Contract w/J-U-B Engineers for On-Call Engineering Services

Risk Management

z. Contract w/Pacific MicroRem for X-Ray & Metal Detector Machines

Public Comment

None.

Benton County 2023 State Legislative Agenda

Shyanne Palmus presented the proposed Benton County 2023 State Legislative Agenda for Board approval. Additionally, she said they would be meeting with legislators and lobbyists the following week.

Commissioner McKay discussed the WSAC Board and Legislative Steering Committee assignments. Mr. MacPherson said he would be meeting with Mr. Alverez on Wednesday and would talk to him about board assignments.

MOTION: Commissioner Delvin moved to approve the Resolution Adopting the Benton County 2023 State Legislative Agenda as presented. Commissioner McKay seconded and upon vote, the motion carried.

Other Business

Manhattan Project Update

Adam Fyall, via/videoconference, said there were three main Manhattan Project sites: Hanford, Oakridge, and Las Alamos that were designated official World War II historic cities and had joined a few other key cities in that designation.

Executive Session – Potential Litigation

The Board went into executive session at 9:09 a.m. for up to 15 minutes with DPA Ryan Brown to discuss potential litigation. Also present were Jerrod MacPherson, Matt Rasmussen, Greg Wendt, and Cami McKenzie.

The Board came out at 9:25 a.m. No decisions were made in executive session.

Tort Claims

2022-40: Received from Ricardo Soloria on December 6, 2022

Accounts Payable

Check Date: 12/02/2022

Warrants #: 240399-240598
Total all funds: $762,027.79

Wire Transfers #: 313-318, 321, 323-325
EFT #: 200-202
Total all funds: $5,854.10

Resolutions

2022-886: Contract w/Automatic Funds Transfer Services for Printing and Mailing of Property Notices
2022-887: Establishing Non-Bargaining Employees & Elected Official Contribution to Insurance Benefits
2022-888: Contract w/Lourdes Hospital for Prosecutorial Diversion Services
2022-889: Upgrading Subscription for Veeam Software w/CompuNet, Inc.
2022-890: Contract w/City of Kennewick for Graffiti Abatement Program
2022-891: Agreement w/Washington State Office of Public Defense for Public Defense Grant Funding
2022-892: Amended District Court Public Defense Agreement w/Robert Moser
2022-893: Superior Court Appointed Counsel Services w/Katherine Sierra-Kelly for Uniform Guardianship Act Cases
2022-894: Superior Court Appointed Counsel Services w/Eric Scott for Uniform Guardianship Act Cases
2022-895: Superior Court Appointed Counsel Services w/Asa Lamusga for Uniform Guardianship Act Cases
2022-896: Superior Court Appointed Counsel Services w/Allyson Dahlhauser for Uniform Guardianship Act Cases
2022-897: District Court Public Defense Agreement w/Raymond Hui
2022-898: District Court Public Defense Agreement w/Megan Killgore
2022-899: District Court Public Defense Agreement w/Mark Cano
2022-900: District Court Public Defense Agreement w/John Gleason
2022-901: District Court Public Defense Agreement w/Heather Carlson
2022-902: District Court Public Defense Agreement w/Eric Scott
2022-903: District Court Public Defense Agreement w/Adrienne Farabee
2022-904: District Court Public Defense Agreement w/Scott Naccarato
2022-905: Authorization to Pay Cascade Software Systems for Fees and Services
2022-906: Ratifying Change Order No. 4 w/C & E Trenching for the Dallas Rd/Arena Rd. Traffic Safety Project
2022-907: Award of Contract w/Superior Tree Services for County Wide Brush Cutting
2022-908: Interlocal Agreement w/Energy Northwest for Law Enforcement Services for Sheriff's Office
2022-909: Purchase of Herbicides From Wilbur-Ellis Co. for Public Works Dept.
2022-910: Contract w/J-U-B Engineers for On-Call Engineering Services
2022-911: Contract w/Pacific MicroRem for X-Ray & Metal Detector Machines
2022-912: Adopting The Benton County 2023 State Legislative Agenda

There being no further business before the Board, the meeting adjourned at approximately 9:25 a.m.

_____ _____

Clerk of the Board Chairman

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	December 13, 2022
Subject:	*Contract with Vista Veterinary Hospital for Spay/Neuter Services*
Presenter:	N/A
Prepared By:	Joshua Castilleja
Reviewed By:	Eric Andrews

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

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

Summary / Background Information

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

Fiscal Impact

Amount not to exceed $15,000 to be paid out of current expense (0010) department 137 Canine Shelter's Budget. No supplement required.

Recommendation

Pass the resolution approving the contract w/Vista Veterinary Hospital for as needed spay & neutering services for animals housed in the Benton County Animal Control Facility

Suggested Motion

N/A consent agenda

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

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

WHEREAS, per Benton County resolution 2020-810, "The County need not advertise or follow a formal competitive bidding procedure for service contracts (except for architectural, engineering, or design services), but rather the County may instead evaluate and utilize the procedures it deems best under the individual circumstances in order to obtain services of the highest quality at the lowest cost..."; and

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

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

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

Dated this _____ day of _____, _____

_____
Chairman of the Board

_____
Member

_____
Member

Constituting the Board of Commissioners
of Benton County, Washington

Attest_____
Clerk of the Board

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

Prepared by: J. Castilleja

PROFESSIONAL SERVICES CONTRACT
TERMS AND CONDITIONS

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

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

1. **CONTRACT DOCUMENTS**

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

2. **DURATION OF CONTRACT**

The term of this Contract shall commence on January 1, 2023.

and shall terminate on December 31, 2023, unless terminated earlier pursuant to Section 11 of this Contract.

3. **VETERINARIAN SERVICES TO BE PROVIDED:**

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

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

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

4. CONTRACT REPRESENTATIVES

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

For CONTRACTOR:

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

For COUNTY:

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

5. COMPENSATION

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

a. Spay Rates:
   i. $150.00 per animal that is less than 50lbs
   ii. $225.00 per animal that is greater that

50lbs

iii. $275.00 per animal that is in heat or that is pregnant

b. Neuter Rates:

i. $115.00 per animal that is less than 50lbs

ii. $175.00 per animal that is greater than 50lbs

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

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

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

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

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

6. **AMENDMENTS AND CHANGES IN WORK**

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

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

7. QUALIFICATIONS OF CONTRACTOR'S VETERINARIANS AND STAFF

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

8. ASSIGNMENT, DELEGATION AND SUBCONTRACTING

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

b. The CONTRACTOR warrants that it has not paid nor has it agreed to pay any company, person, partnership, or firm, other than a bona fide employee working exclusively for CONTRACTOR, any fee, commission, percentage, brokerage fee,

gift, or other consideration contingent upon or resulting from the award or making of this Contract.

9. PERMITS AND LICENSES

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

10. HOLD HARMLESS AND INDEMNIFICATION

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

In any and all claims against Benton County and its officers, officials, representatives, employees, and agents by CONTRACTOR, any subcontractor, anyone directly or indirectly employed by CONTRACTOR, or anyone for whose acts CONTRACTOR may be liable, the indemnification obligation under this Section shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for CONTRACTOR or any subcontractor under Workers Compensation acts,

disability benefits acts, or other employee benefit acts, it being agreed and understood by the parties hereto that CONTRACTOR expressly waives any immunity CONTRACTOR might have had under such laws, including but not limited to Title 51 of the Revised Code of Washington. **By executing this Contract, CONTRACTOR acknowledges that the foregoing waiver has been mutually negotiated by the parties and that the provisions of this Section shall be incorporated, as relevant, into any contract CONTRACTOR makes with any other person or agent performing work hereunder. CONTRACTOR'S obligations under this Section 10 shall survive termination and expiration of this Contract.**

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

11. TERMINATION

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

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

c. If the CONTRACTOR breaches any of its obligations hereunder, and fails to cure the breach within ten (10)

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

12. INSURANCE

a. **Professional Liability Insurance:** Prior to the start of work under this Contract, the CONTRACTOR shall secure and maintain at its own expense Professional Liability Insurance appropriate to the CONTRACTOR'S profession, which must be written subject to limits of not less than one million dollars ($1,000,000) each claim and two million dollars ($2,000,000) in the aggregate. Such insurance must be provided by an insurance carrier with a Best's Rating of not less than A-VII.

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

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

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

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

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

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

The CONTRACTOR must obtain commercial general liability coverage that does not exclude any activity to be performed in fulfillment of this Contract and does not exclude liability pursuant to the indemnification requirement under Section 10 of this Contract. CONTRACTOR'S commercial general liability policy shall provide cross liability coverage, indicating essentially that except with respect to the limits of insurance and any rights or duties specifically assigned in this coverage part to the first named insured, this insurance applies as if each named insured were the only named insured, and separately to each insured against whom claims are made or suit is brought.

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

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

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

e. **Other Insurance Provisions**

1. The CONTRACTOR'S liability insurance provisions shall

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

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

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

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

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

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

7. The CONTRACTOR shall maintain all required policies in force from the time services commence until services are completed. Certificates, policies, and endorsements expiring before completion of services shall be promptly replaced. All liability insurance

required under this Contract, except for professional liability under Section 12(a), shall be written on an Occurrence Policy form.

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

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

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

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

1. All insurance to be maintained by the CONTRACTOR, other than Professional Liability, Auto Liability, and Workers' Compensation, shall specifically include the COUNTY and its elected officials, employees, and volunteers as an "Additional Insured" by way of

endorsement and shall not be reduced or canceled without thirty (30) days prior written notice to the COUNTY. Any insurance or self-insurance maintained by the COUNTY and its elected and appointed officials, employees, and agents shall be excess of the CONTRACTOR'S insurance and shall not contribute to it.

2. Certificates of Liability Insurance with endorsements attached must be provided to the COUNTY'S Contract Representative set forth in Section 4.

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

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

13. NON-WAIVER OF RIGHTS

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

14. INDEPENDENT CONTRACTOR

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

b. The CONTRACTOR acknowledges that the entire compensation for this Contract is set forth in Section 5 of this Contract, and the CONTRACTOR is not entitled to any COUNTY

benefits, including, but not limited to: vacation pay; holiday pay; sick leave pay; medical, dental, or other insurance benefits; fringe benefits; or any other rights or privileges afforded to COUNTY employees.

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

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

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

15. COMPLIANCE WITH LAWS

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

16. INSPECTION OF BOOKS AND RECORDS

The COUNTY may, at reasonable times, inspect the books and records of the CONTRACTOR relating to the performance of this Contract. The CONTRACTOR shall keep all records required by this Contract or created in the performance of this contract for six (6) years after termination of this Contract for audit purposes.

17. NONDISCRIMINATION

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

presence of any disability.

18. DISPUTES

Differences between the CONTRACTOR and the COUNTY, arising under and by virtue of this Contract, shall be brought to the attention of the COUNTY at the earliest possible time in order that such matters may be settled, or other appropriate action promptly taken. Any dispute relating to the quality or acceptability of performance and/or compensation due the CONTRACTOR shall be decided by the COUNTY'S Contract Representative, or designee. All rulings, orders, instructions and decisions of the COUNTY'S Contract Representative, or designee, shall be final and conclusive, subject to CONTRACTOR'S right to seek judicial relief.

19. CONFIDENTIALITY

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

20. CHOICE OF LAW, JURISDICTION, AND VENUE

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

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

21. SUCCESSORS AND ASSIGNS

The COUNTY, to the extent permitted by law, and the CONTRACTOR each bind themselves and their partners, successors, executors, administrators, and assigns to the other party to

this Contract and to the partners, successors, administrators, and assigns of such other party in respect to all covenants to this Contract.

22. SEVERABILITY

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

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

23. ENTIRE CONTRACT

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

24. NOTICES

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

25. SURVIVABILITY

All Contract terms, which by their context are clearly intended to survive the termination and/or expiration of this

Contract, shall so survive. These terms include but are not limited to the following provisions: indemnification; insurance; non-waiver, inspection of books and records; choice of law; compliance with laws; litigation hold; and the Public Records Act.

26. LITIGATION HOLD NOTICE

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

27. PUBLIC RECORDS ACT

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

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

Date: _____

Benton County

Chairman
Benton County Commissioner

Date: 11/16/22

Vista Veterinary Hospital, Inc. PC

Dr. Michelle Meyer
Vice President

Approved as to Form:

Eric Andrews
Civil Deputy Prosecuting Attorney

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	December 13, 2022
Subject:	*Contract with Vista Veterinary Hospital for as needed services*
Presenter:	N/A
Prepared By:	Joshua Castilleja
Reviewed By:	Eric Andrews

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

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

Summary / Background Information

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

Fiscal Impact

Amount not to exceed $20,000 to be paid out to Current Expense (0010) Department 137 Canine Shelter's Budget (Sheriff's Office will pay the medical bills for the K9 dog out of their budget). No supplement required.

Recommendation

Pass the resolution approving the contract w/Vista Veterinary Hospital for as needed veterinarian medical services for animals housed in the Benton County Animal Control Facility & animals owned by the Benton County Sheriff's Office.

Suggested Motion

N/A consent agenda

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

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

WHEREAS, per Benton County resolution 2021-001, "The County need not advertise or follow a formal competitive bidding procedure for service contracts (except for architectural, engineering, or design services), but rather the County may instead evaluate and utilize the procedures it deems best under the individual circumstances in order to obtain services of the highest quality at the lowest cost..."; and

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

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

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

Dated this _____ day of _____ , _____

_____
Chairman of the Board

_____
Member

_____
Member

Constituting the Board of County Commissioners of Benton County, Washington

Attest: _____
Clerk of the Board

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

Prepared by: J. Castilleja

PROFESSIONAL SERVICES CONTRACT
TERMS AND CONDITIONS

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

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

1. CONTRACT DOCUMENTS

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

2. DURATION OF CONTRACT

The term of this Contract shall commence on the January 1, 2023 and shall terminate on December 31, 2023, unless terminated earlier pursuant to Section 11 of this Contract.

3. VETERINARIAN SERVICES TO BE PROVIDED

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

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

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

4. CONTRACT REPRESENTATIVES

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

For CONTRACTOR:

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

For COUNTY:

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

5. COMPENSATION

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

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

b. The maximum total amount payable by the COUNTY to the CONTRACTOR for the performance of services set forth in

Section 3 of this Contract shall not exceed Twenty Thousand Dollars and Zero Cents ($20,000.00), including W.S.S.T. Payment of any dollar amount above the maximum payable amount will only be approved with a Contract Amendment executed in accordance with Section 6 of this Contract.

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

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

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

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

6. AMENDMENTS AND CHANGES IN WORK

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

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

7. QUALIFICATIONS OF CONTRACTOR'S VETERINARIANS AND STAFF

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

8. ASSIGNMENT, DELEGATION AND SUBCONTRACTING

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

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

9. PERMITS AND LICENSES

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

10. HOLD HARMLESS AND INDEMNIFICATION

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

In any and all claims against the COUNTY and its officers, officials, employees, and agents by any employee of the CONTRACTOR, any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under this Section shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the CONTRACTOR or subcontractor under Workers Compensation acts, disability benefit acts, or other employee benefit acts, it being clearly agreed and understood by the parties hereto that the CONTRACTOR expressly waives any immunity the CONTRACTOR might have had under such laws, including but not limited to Title 51 of the Revised Code of Washington. **By executing this Contract, the CONTRACTOR acknowledges that the foregoing waiver has been mutually negotiated by the parties and that the provisions of this Section shall be incorporated, as relevant, into any contract the CONTRACTOR makes with any subcontractor or agent performing work hereunder. CONTRACTOR'S obligations under this Section 10 shall survive termination and expiration of this Contract.**

The CONTRACTOR'S obligations hereunder shall include, but are not limited to, investigating, adjusting, and defending all claims alleging loss from action, error, or omission, or breach

of any common law, statutory, or other delegated duty by the CONTRACTOR or the CONTRACTOR'S employees, agents, or subcontractors.

11. TERMINATION

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

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

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

12. INSURANCE

a. **Professional Liability Insurance:** Prior to the start of work under this Contract, the CONTRACTOR shall secure and maintain at its own expense Professional Liability Insurance appropriate to the CONTRACTOR'S profession, which

must be written subject to limits of not less than one million dollars ($1,000,000) each claim and two million dollars ($2,000,000) in the aggregate. Such insurance must be provided by an insurance carrier with a Best's Rating of not less than A-VII.

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

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

If CONTRACTOR or any subcontractor or sub-subcontractor fails to comply with all State of Washington workers compensation statutes and regulations and COUNTY incurs fines or is required by law to provide benefits to or obtain coverage for such employees, CONTRACTOR shall

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

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

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

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

The CONTRACTOR must obtain commercial general liability coverage that does not exclude any activity to be performed in fulfillment of this Contract and does not exclude liability pursuant to the indemnification requirement under Section 10 of this Contract. The CONTRACTOR'S commercial general liability policy shall provide cross liability coverage, indicating essentially that except with respect to the limits of insurance and any rights or duties specifically assigned in this coverage part to the first named insured, this insurance applies as if each named insured were the only named insured, and separately to each insured against whom claims are made or suit is brought.

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

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

d. Other Insurance Provisions

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

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

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

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

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

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

for the higher limits maintained by the CONTRACTOR.

7. The CONTRACTOR shall maintain all required policies in force from the time services commence until services are completed. Certificates, policies, and endorsements expiring before completion of services shall be promptly replaced. All liability insurance required under this Contract, except for professional liability under Section 12(a), shall be written on an Occurrence Policy form.

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

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

e. Verification of Coverage and Acceptability of Insurers

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

1. All insurance to be maintained by the CONTRACTOR,

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

2. Certificates of Liability Insurance with endorsements attached must be provided to the COUNTY'S Contract Representative set forth in Section 4.

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

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

13. NON-WAIVER OF RIGHTS

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

14. INDEPENDENT CONTRACTOR

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

b. The CONTRACTOR acknowledges that the entire compensation

for this Contract is set forth in Section 5 of this Contract, and the CONTRACTOR is not entitled to any COUNTY benefits, including, but not limited to: vacation pay; holiday pay; sick leave pay; medical, dental, or other insurance benefits; fringe benefits; or any other rights or privileges afforded to COUNTY employees.

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

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

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

15. COMPLIANCE WITH LAWS

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

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The COUNTY may, at reasonable times, inspect the books and records of the CONTRACTOR relating to the performance of this Contract. The CONTRACTOR shall keep all records required by this Contract or created in the performance of this contract for six (6) years after termination of this Contract for audit purposes.

17. NONDISCRIMINATION

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

presence of any disability.

18. DISPUTES

Differences between the CONTRACTOR and the COUNTY, arising under and by virtue of this Contract, shall be brought to the attention of the COUNTY at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Any dispute relating to the quality or acceptability of performance and/or compensation due the CONTRACTOR shall be decided by the COUNTY'S Contract Representative, or designee. All rulings, orders, instructions, and decisions of the COUNTY'S Contract Representative, or designee, shall be final and conclusive, subject to CONTRACTOR'S right to seek judicial relief.

19. CONFIDENTIALITY

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

20. CHOICE OF LAW, JURISDICTION, AND VENUE

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

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

21. SUCCESSORS AND ASSIGNS

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

this Contract.

22. SEVERABILITY

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

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

23. ENTIRE CONTRACT

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

24. NOTICES

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

25. SURVIVABILITY

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

Act.

26. LITIGATION HOLD NOTICE

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

27. PUBLIC RECORDS ACT

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

- This section is intentionally left blank -

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

Date: _____

BENTON COUNTY

_____
Chairman
Benton County Commissioner

Date: 11/16/22

VISTA VETERINARY HOSPITAL, INC. PC

_____
Dr. Michelle Meyer
Vice President

Approved as to Form:

_____
Eric Andrews
Civil Deputy Prosecuting Attorney

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	December 13, 2022
Subject:	Declaration of Surplus Property
Presenter:	N/A
Prepared By:	Shyanne Palmus, Communications Coordinator
Reviewed By:	N/A

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

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

Summary / Background Information

As outlined in Resolution 07-752, County departments may request personal property items be declared surplus and accordingly disposed of. A list of items for the current surplus is provided as an attachment.

Fiscal Impact

None.

Recommendation

The Personal Property Manager has determined that the personal property on the attached exhibit(s) can 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, the County's Personal Property Management Policy, Resolution No. 07-752, sets forth the policies and procedures for surplus and disposition of personal property; and

WHEREAS, various departments have identified items of personal property for which they are no longer in need; and

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

WHEREAS, the Board finds it to be in the best interest of the citizens of Benton County to surplus the property and the Personal Property Manager may dispose of such in accordance with the Personal Property Management Policy; **NOW, THEREFORE,**

BE IT RESOLVED, that based on the recommendation of the Personal Property Manager and as supported by the various departments, the listed property in Attachment A is hereby determined to be surplus and will be disposed of in one of the following manners, as may be determined by the Personal Property Manager depending on final condition assessment: public online auction, sealed bid, private negotiation with another governmental agency, surplus sale, waste disposal, donation to the poor and infirm, or recycled.

Dated this 13th day of December, 2022.

_____
Chairman of the Board

_____
Chairman Pro-Tem

_____
Member

Attest: …….
Clerk of the Board

Constituting the Board of County Commissioners of Benton County, Washington

S. Palmus

Attachment A: Surplus

Information Technology (Public Surplus Online Auction)

- Lot 1 – 10 Dell Computer Monitors
- Lot 2 – 10 Dell Computer Monitors
- Lot 3 – 10 Dell Computer Monitors
- Lot 4 – 10 Dell Computer Monitors
- Lot 5 – 1 Dell Precision Tower 5810 and 4 Monitors
- Lot 6 – 5 HP Printers
- Lot 7 – 7 Dell OptiPlex Computers
- Lot 8 – 7 Dell OptiPlex Computers
- Lot 9 – 7 Dell OptiPlex Computers
- Lot 10 – 7 All-in-One Computers
- Lot 11 – 7 Mixed Tablets
- Lot 12 – 8 Microsoft Surface Books
- Lot 13 – 5 iPhones with Cases
- Lot 14 – 5 iPhones with Cases
- Lot 15 – 4 iPhones with Cases
- Lot 16 – 5 iPhones
- Lot 17 – Mixer, Headphones, and Speakers
- Lot 18 – 12 E-Port Docking Stations
- Lot 19 – Assorted Computer Mice (Wired and Wireless) and Mouse Pads
- Lot 20 – Kodak PIXPRO F243 Camera
- Lot 21 – Media Player
- Lot 22 – 2 Digital Display Clocks
- Lot 23 – HP ProCurve Networking Switch
- Lot 24 – 10 Computer Keyboards (Assorted – Wired and Wireless)
- Lot 25 – Cross Match Technologies Guardian 900412 Fingerprinting Station
- Lot 26 – 2 Scanners
- Lot 27 – HP Laser Printer
- Lot 28 – Short Server Rack
- Lot 29 – Large Server Rack

S. Palmus

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	December 13, 2022
Subject:	Payment to Young's Servicemaster, Inc.
Presenter:	
Prepared By:	Cami McKenzie
Reviewed By:	Matt Rasmussen

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 November 1, 2022 Benton County closed escrow on the purchase of the old Kennewick General Hospital property and associated buildings and since taking possession of the facility it has been subject to numerous break-ins and vandalism, which have been increasing in frequency and severity. As a direct result of this vandalism, Benton County has experienced flood damage, requiring the emergency services of Young's Servicemaster, Inc. to extract water after business hours, on two separate occasions, in the amount of $12,439.52, including WSST.

Fiscal Impact

$12,439.52 – General Fund – Dept. 115

Recommendation

Recommend the Board approve the invoice in the amount of $12,439.52 payable to Young's Servicemaster, Inc., as presented.

Suggested Motion

Approve as part of consent agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AUTHORIZING PAYMENT TO YOUNG'S SERVICEMASTER, INC. FOR EMERGENCY WORK AT THE OLD KENNEWICK GENERAL HOSPITAL PROPERTY

WHEREAS, on November 1, 2022 Benton County closed escrow on the purchase of the old Kennewick General Hospital property and associated buildings; and

WHEREAS, since taking possession of the facility it has been subject to numerous break-ins and vandalism, which have been increasing in frequency and severity; and

WHEREAS, as a direct result of this vandalism, Benton County has experienced flood damage, requiring the emergency services of Young's Servicemaster, Inc. to extract water after business hours, on two separate occasions, in the amount of $12,439.52, including WSST; and

WHEREAS, payment of this invoice requires Board approval since there is not currently a contract in place with Young's Servicemaster, Inc.; **NOW, THEREFORE,**

BE IT RESOLVED the Board of Benton County Commissioners hereby authorizes payment to Young's Servicemaster, Inc. for emergency work performed at the Old Kennewick General Hospital Property in the amount of $12,439.52 including WSST.

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

Chairman of the Board

Chairman Pro Tem

Member

Constituting the Board of County Commissioners of Benton County, Washington

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

cc: Auditor, Facilities C. McKenzie

COMMISSIONERS' AGENDA ACTIONSHEET

Meeting Date:	12/13/2022
Subject:	Providing a Bi-County Non-Bargaining Juvenile Justice and Superior Court general increase of wages for the year 2023
Presenter:	
Prepared By:	C. Nave
Reviewed By:	E. Wyant

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

Providing a 3% general wage increase for Bi-County Non-Bargaining employees effective January 1, 2023.

Fiscal Impact

No supplement required

Recommendation

Recommend the Board of Benton County Commissioners sign the Resolution to approve a 3% general wage increase on the Bi-County Non-Bargaining Salary Schedule effective January 1, 2023.

Suggested Motion

Approve as part of the consent agenda.

cc: BC Auditor, BC HR, Superior Court, Juvenile, FC Human Resources

Prepared by: C. Nave

JOINT RESOLUTION

BENTON COUNTY RESOLUTION NO._____

FRANKLIN COUNTY RESOLUTION NO._____

BEFORE THE BOARDS OF COMMISSIONERS OF BENTON AND FRANKLIN COUNTIES WASHINGTON

IN THE MATTER OF PROVIDING A GENERAL WAGE INCREASE FOR THE BI-COUNTY NON-BARGAINING SALARY SCHEDULE FOR THE YEAR 2023

WHEREAS, the Board of Benton County Commissioners and Board of Franklin County Commissioners has determined it is in the best interest of the Counties to increase the Bi-County Non-Bargaining Salary Schedule by 3% effective January 1, 2023; **NOW THEREFORE,**

BE IT RESOLVED, that the Board of Benton County Commissioners and the Board of Franklin County Commissioners have determined it appropriate to grant a general wage increase of 3% on the Bi- County Non-Bargaining Salary Schedule effective January 1, 2023, as reflected on the 2023 Salary Schedule for Bi-County Non-Bargaining positions attached hereto, and

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

BE IT FURTHER RESOLVED, that this resolution is not intended nor shall it be interpreted as limiting, compromising, or otherwise affecting the employees' "at will" status; and

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

Dated this_____ day of _____, 2022.

Board of Benton County Commissioners

_____
Chair of the Board

_____
Member

_____
Member

Attest.....
Clerk of the Board

Dated this_____ day of _____, 2022.

Board of Franklin County Commissioners

_____
Chair of the Board

_____
Member

_____
Member

Attest.....
Clerk of the Board

cc: BC Auditor, BC HR, Superior Court, Juvenile, FC Human Resources

Prepared by: C. Nave

2023 SALARY SCHEDULE

ALL BI-COUNTY NON-BARGAINING

GRADE	STEPS in $….. A	B	C	D	E	F	G	H	I
19	9133	9316	9642	9979	10328	10689	11063	11450	11851
18	8697	8871	9182	9503	9836	10180	10536	10905	11287
17	8283	8449	8745	9051	9368	9696	10035	10386	10750
16	7889	8047	8329	8620	8922	9234	9557	9891	10237
15	7514	7664	7932	8210	8497	8794	9102	9421	9751
14	7156	7299	7554	7818	8092	8375	8668	8971	9285
13	6815	6951	7194	7446	7707	7977	8256	8545	8844
12	6490	6620	6852	7092	7340	7597	7863	8138	8423
11	6181	6305	6526	6754	6990	7235	7488	7750	8021
10	5886	6004	6214	6432	6657	6890	7131	7381	7639
9	5607	5719	5919	6126	6340	6562	6792	7030	7276
8	5339	5446	5637	5834	6038	6249	6468	6694	6928
7	5084	5186	5368	5556	5750	5951	6159	6375	6598
6	4842	4939	5112	5291	5476	5668	5866	6071	6283
5	4612	4704	4869	5039	5215	5398	5587	5783	5985
4	4392	4480	4637	4799	4967	5141	5321	5507	5700
3	4182	4266	4415	4570	4730	4896	5067	5244	5428
2	3984	4064	4206	4353	4505	4663	4826	4995	5170
1	3794	3870	4005	4145	4290	4440	4595	4756	4922

cc: Superior Court, Juvenile Justice
Payroll, HR, and Stephen Hallstrom

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	12/13/2022
Subject:	Establishing the Benefits Contribution for Bi-County Non-Bargaining Employees for 2023
Presenter:	
Prepared By:	C. Nave
Reviewed By:	E. Wyant, J. Hoover

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

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

Summary / Background Information

Due to an increase in UEBT premiums, the 2023 county contribution for Bi-County Non-Bargaining Employees, to cover 100% of the employee only cost for medical, dental, vision, and life insurance is recommended to be $1,071.79. The premium increase is made up of a 2.5% increase in medical premiums.

Fiscal Impact

No supplement required

Recommendation

Recommend the Board of Benton County Commissioners sign the Resolution to approve the 2023 Bi-County Non-Bargaining Employees County Contribution.

Suggested Motion

Approve as part of the consent agenda.

cc: BC Payroll, BC HR, FC Human Resources

Prepared by: C. Nave

JOINT RESOLUTION

BENTON COUNTY RESOLUTION NO. _____

FRANKLIN COUNTY RESOLUTION NO. _____

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

IN THE MATTER OF ESTABLISHING A BI-COUNTY NON-BARGAINING CONTRIBUTION TO INSURANCE BENEFITS FOR THE YEAR 2023

WHEREAS, the Board of Benton County Commissioners and the Board of Franklin County Commissioners has determined that the Bi-County Non-Bargaining, comprised of non-bargaining employees in Superior Court and Juvenile Justice, monthly contribution for 2023 will be $1,071.79; **NOW THEREFORE**,

BE IT RESOLVED, that the Board of Benton County Commissioners and Board of Franklin County Commissioners have determined that the monthly contribution for Bi-County Non-Bargaining insurance benefits will be $1,071.79 per month effective January 1, 2023; and

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

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

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

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

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

Dated this_____ day of _____, 2022.

Board of Benton County Commissioners

_____
Chair of the Board

_____
Member

_____
Member

Attest.....
Clerk of the Board

Dated this_____ day of _____, 2022.

Board of Franklin County Commissioners

_____
Chair of the Board

_____
Member

_____
Member

Attest.....
Clerk of the Board

cc: BC Payroll, BC HR, FC Human Resources

Prepared by: C. Nave

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	12/13/2022
Subject:	Personal Services Contract with ProClaim, Inc.
Presenter:	
Prepared By:	C. Nave
Reviewed By:	S. Hallstrom, E. Wyant

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

Benton County's contract for Unemployment Third Party Administrator Services with ProClaim, Inc. will expire on 12/31/2022. Benton County Human Resources recommends continuing to utilize ProClaim, Inc. for the unemployment third-party administrator services. ProClaim, Inc. has not changed their fee amounts or structure for the renewal.

Fiscal Impact

$18,700 included in the 2023-2024 budget.

Recommendation

Approve as part of the consent agenda.

Original: HR
CC: Auditor, ProClaim Inc.

Prepared By: C. Nave

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF AUTHORIZING THE PERSONAL SERVICES CONTRACT BETWEEN BENTON COUNTY AND PROCLAIM, INC FOR UNEMPLOYMENT THIRD PARTY ADMINISTRATOR SERVICES

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

WHEREAS, Benton County has the need to have a third-party administrator that oversees all the County's unemployment claims; and

WHEREAS, ProClaim, Inc. has been our third-party administrator for the last several years and the County has been very pleased with their services; and

WHEREAS, Human Resources recommends continuing utilizing ProClaim, Inc. for unemployment third-party administrator services; **NOW THEREFORE**,

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington hereby concurs with the recommendation and agrees to sign the attached agreement between Benton County and ProClaim, Inc for a contract amount not to exceed $18,720.00 including Washington State Sales Tax; and

BE IT FURTHER RESOLVED, the contract shall begin January 1, 2023 through December 31, 2024.

Dated this_____ day of _____, 2022.

_____

Chair of the Board

_____

Member

_____

Member

Constituting the Board of Commissioners

of Benton County, Washington

Attest.....

Clerk of the Board

Original: HR

CC: Auditor, ProClaim Inc.

Prepared By: C. Nave

BENTON COUNTY
PERSONAL SERVICES CONTRACT

TERMS AND CONDITIONS

THIS CONTRACT is made and entered into by and between **BENTON COUNTY**, a political subdivision with its principal offices at 620 Market Street, Prosser, WA 99350 (hereinafter "COUNTY"), and Proclaim, Inc., with its Office at PO Box 11939, Olympia, WA 98508, (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 - Unemployment Management Proposal

2. DURATION OF CONTRACT

The term of this Contract shall begin on January 1, 2023 and shall expire on December 31, 2024. 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 will Administer the County's Unemployment Claims filed with the Washington State Department of Employment Security. A detailed description of the services to be performed by the CONTRACTOR is set forth in Exhibit A, 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 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:	Tracy Workman, Chief Executive Officer
Address:	PO Box 11939 Olympia, WA 98508
Phone:	360-866-5202
Email:	tworkman@proclaim-inc.com

b. For COUNTY:

Name:	Carlee Nave, HR Manager
Address:	7122 W. Okanogan Pl Bldg E, Ste E310 Kennewick, WA 99336
Phone:	509-737-2777
Email:	Carlee.nave@co.benton.wa.us

5. COMPENSATION

For the services performed under this Contract, the CONTRACTOR shall be paid as follows:

a. The maximum total amount payable by the COUNTY to the CONTRACTOR under this Contract shall not exceed $9,360.00 per year, payable in monthly installments of $780.00.

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

a. The CONTRACTOR may 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.

b. 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.

c. 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.

d. 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 Human Resources to the following address: Benton County Human Resources, 7122 W. Okanogan Place, Bldg. A, Kennewick, WA 99336.

9. TERMINATION

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

b. In the event that funding for this project is withdrawn, reduced, or limited in any way after the effective date of this Contract, the COUNTY may summarily terminate this

Contract notwithstanding any other termination provision in this Contract. Termination under this subsection shall be effective upon the date specified in the written notice of termination sent by COUNTY to the CONTRACTOR. After the effective date, no charges incurred under this Contract shall be allowed.

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

10. ASSIGNMENT, DELEGATION, AND SUBCONTRACTING

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

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

11. NON-WAIVER OF RIGHTS

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

12. INDEPENDENT CONTRACTOR

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

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

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

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

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

13. COMPLIANCE WITH LAWS

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

14. INSPECTION OF BOOKS AND RECORDS

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

15. NONDISCRIMINATION

The CONTRACTOR and its assignees, delegates, and subcontractors

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

16. OWNERSHIP OF MATERIALS/WORKS PRODUCED

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

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

17. PATENT/COPYRIGHT INFRINGEMENT

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

18. DISPUTES

Disputes between the CONTRACTOR and the COUNTY, arising under and by virtue of this Contract, shall be brought to the attention of the COUNTY at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Any dispute relating to the quality or acceptability of performance and/or compensation due the CONTRACTOR shall be decided by the COUNTY'S Contract Representative or designee. All rulings, orders, instructions, and decisions of the COUNTY'S Contract Representative shall be final and conclusive, subject to

CONTRACTOR'S right to seek judicial relief.

19. CONFIDENTIALITY

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

20. CHOICE OF LAW, JURISDICTION, AND VENUE

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

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

21. SUCCESSORS AND ASSIGNS

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

22. SEVERABILITY

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

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

in conflict therewith, and shall be deemed modified to conform to such statutory provision.

23. ENTIRE AGREEMENT

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

24. NOTICES

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

25. SURVIVABILITY

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

26. LITIGATION HOLD NOTICE

In the event the COUNTY learns of circumstances leading to an increased likelihood of litigation regarding any matter where the records kept by CONTRACTOR pursuant to Section 14 of this Contract may be of evidentiary value, the COUNTY may issue written notice to CONTRACTOR of such circumstances and direct the CONTRACTOR to "hold" such records. In the event that CONTRACTOR receives such written notice, CONTRACTOR shall abide by all directions therein whether or not such written notice is received at a time when a Contract between CONTRACTOR and the COUNTY is in force. Such directions will include, but will not be limited to, instructions to suspend the six (6) year purge schedule required by Section 14

of this Contract.

27. PUBLIC RECORDS ACT

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

- This section left blank intentionally -

IN WITNESS WHEREOF, the parties have caused this Contract to be signed by their duly constituted legal representatives, and it is effective on January 1, 2023.

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: 12/1/22

FOR: PROCLAIM, INC.

_____
Signature

CEO
Title:

Tracy Workman
Print Name

Benton County

ProClaim Unemployment Management

BENTON COUNTY UNEMPLOYMENT MANAGEMENT CONTRACT

WORKING AS YOUR STRATEGIC PARTNER

At ProClaim, Inc., we pride ourselves on being far more than simply another Third Party Administrator. As your unemployment service provider we will ensure substantial financial implications that reach far beyond your day-to-day operations. Our personal, proactive approach to unemployment claims administration will minimize your risk and costs with measurable documented results.

COST

Monthly Fee

$780

A Power of Attorney for Unemployment is currently on file with the Employment Security designating ProClaim, Inc. as Benton County's representative. The new service contract will begin December 1, 2018.

Benton County's personal claims representative will:

- Manage all unemployment claims filed.
- Ensure all claims responses are submitted in a thorough and timely manner.
- Carefully review determinations and file the appropriate appeals if needed.
- Field all phone calls and correspondence from Employment Security and Office of Administrative Hearings.
- Provide representation and prepare witnesses for unemployment hearings. Our broad expertise on the nuances of state laws and requirements give us substantial leverage in planning and preparation.
- Send out formal job offers, upon request, to employees (who were previously laid off) and report to Employment Security when a job offer is refused or an employee fails to show for work after accepting a job offer thus potentially terminating their receipt of unemployment benefits.
- Ensure benefit charges are accurate.
- Draft needed policies and procedures.
- Provide employee documentation forms.
- Provide detailed reporting of unemployment claims activity. To properly manage your unemployment costs, staying informed is essential and our reporting system makes it easy.

ProClaim has a service that sets us apart from other Third Party Administrators and with some of the lowest fees in the industry our ROI is still second to none.

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	12/13/2022
Subject:	Personal Services Contract with Penser North America, Inc.
Presenter:	
Prepared By:	C. Nave
Reviewed By:	S. Hallstrom, E. Wyant

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

Benton County's contract for Worker's Compensation Claims Management Services with Penser North America, Inc. will expire on 12/31/2022. Benton County Human Resources recommends continuing to utilize Penser North America, Inc. for Worker's Compensation Claims Management Services. The 2023-2024 contract amount of $62,160 represents a 10.7% increase over the 2021-2022 contract rate.

Fiscal Impact

No supplement required.

Recommendation

Approve as part of the consent agenda.

CC: HR, Auditor, Penser North America, Inc.

Prepared By: C. Nave

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF AUTHORIZING THE PERSONAL SERVICES CONTRACT BETWEEN BENTON COUNTY AND PENSER NORTH AMERICA, INC. FOR WORKER'S COMPENSATION CLAIMS MANAGEMENT SERVICES

WHEREAS, per Benton County resolution 2012-677, "The County need not advertise or follow a formal competitive bidding procedure for services contracts (except for architectural, engineering, or design services), but rather the County may instead evaluate and utilize the procedures it deems best under the individual circumstances in order to obtain services of the highest quality at the lowest cost..."; and

WHEREAS, Benton County has the need to have a third-party administrator that oversees all the County's worker's compensation claims; and

WHEREAS, Penser North America, Inc. has been our third-party administrator for the last several years and the County has been very pleased with their services; and

WHEREAS, Human Resources recommends continuing utilizing Penser North America, Inc. for Worker's Compensation Claims Management Services; **NOW THEREFORE**,

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington hereby concurs with the recommendation and agrees to sign the attached agreement between Benton County and Penser North America, Inc. for a contract amount not to exceed $62,160.00 including Washington State Sales Tax; and

BE IT FURTHER RESOLVED, the term of the contract shall be January 1, 2023 through December 31, 2024.

Dated this_____ day of _____, 2022.

_____

Chair of the Board

_____

Member

_____

Member

Constituting the Board of Commissioners

of Benton County, Washington

Attest.....

Clerk of the Board

CC: HR, Auditor, Penser North America, Inc.

Prepared By: C. Nave

BENTON COUNTY
PERSONAL SERVICES CONTRACT

TERMS AND CONDITIONS

THIS CONTRACT is made and entered into by and between **BENTON COUNTY**, a political subdivision with its principal offices at 620 Market Street, Prosser, WA 99350 (hereinafter "COUNTY"), and Penser North America, Inc., a corporation organized under the laws of the State of Washington with its Corporate Offices at 700 Sleater-Kinney Rad SE, STE. B, #170, Lacey, WA 98503, (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 - Claims Management Services

2. DURATION OF CONTRACT

The term of this Contract shall begin on January 1, 2023 and shall expire on December 31, 2024. 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 administer the Benton Count Self-Insured Worker's Compensation program. A detailed description of the services to be performed by the CONTRACTOR is set forth in Exhibit A, "Claims Management Services", 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 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:	Phil Valdens, President
Address:	700 Sleater-Kinney Rd SE, STE B, #170 Lacey, WA 98503
Phone:	360-455-4128
Email:	philv@penserna.com

b. For COUNTY:

Name:	Carlee Nave, HR Manager
Address:	7122 W. Okanogan Pl Bldg E, Ste E310 Kennewick, WA 99336
Phone:	509-737-2777
Email:	carlee.nave@co.benton.wa.us

5. COMPENSATION

a. For the services performed under this Contract, the CONTRACTOR shall be paid a flat fee of $31,080 per year, including Washington State sales tax, payable in monthly installments of $2,590.00.

b. The maximum total amount payable by the COUNTY to the CONTRACTOR under this Contract shall not exceed Thirty one thousand, eighty dollars ($31,080.00) per year including Washington State sales tax.

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

Contract.

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

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

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

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

6. AMENDMENTS AND CHANGES IN WORK

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

b. No amendment or modification shall be made to this Contract, unless set forth in a written Contract Amendment signed by both parties. Work under a Contract Amendment shall not

proceed until the Contract Amendment is duly executed by the COUNTY.

7. HOLD HARMLESS AND INDEMNIFICATION

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

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

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

by the CONTRACTOR, or the CONTRACTOR'S employees, agents, or subcontractors.

8. INSURANCE

The CONTRACTOR shall obtain and maintain continuously the following insurance:

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

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

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

COUNTY for recovery of damages to the extent they are covered by workers compensation and employers liability.

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

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

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

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

The CONTRACTOR must provide commercial general liability coverage that does not exclude activities to be performed in fulfillment of this Contract and does not exclude liability pursuant to the indemnification requirement under Section 7. CONTRACTOR'S commercial general liability policy shall provide cross liability coverage, indicating essentially that except with respect to the limits of insurance and any rights

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

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

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

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

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

f. **Other Insurance Provisions:**

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

CONTRACTOR'S insurance policies.

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

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

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

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

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

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

8. CONTRACTOR hereby agrees to waive subrogation with respect to each insurance policy maintained under this Contract. When required by an insurer, or if a policy condition does not permit CONTRACTOR to enter into a pre-loss agreement to waive subrogation without an endorsement, then CONTRACTOR agrees to notify the insurer and obtain such

endorsement. This requirement shall not apply to any policy which includes a condition expressly prohibiting waiver of subrogation by the insured or which voids coverage should the CONTRACTOR enter into such a waiver of subrogation on a pre-loss basis.

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

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

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

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

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

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

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

9. TERMINATION

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

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

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

10. ASSIGNMENT, DELEGATION, AND SUBCONTRACTING

a. The CONTRACTOR shall perform the terms of this Contract using only its bona fide employees or agents, and the obligations and duties of the CONTRACTOR under this Contract shall not be

assigned, delegated, or subcontracted to any other person or firm without the prior express written consent of the COUNTY.

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

11. NON-WAIVER OF RIGHTS

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

12. INDEPENDENT CONTRACTOR

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

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

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

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

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

13. COMPLIANCE WITH LAWS

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

14. INSPECTION OF BOOKS AND RECORDS

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

15. NONDISCRIMINATION

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

16. OWNERSHIP OF MATERIALS/WORKS PRODUCED

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

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

17. PATENT/COPYRIGHT INFRINGEMENT

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

18. DISPUTES

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

19. CONFIDENTIALITY

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

20. CHOICE OF LAW, JURISDICTION, AND VENUE

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

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

21. SUCCESSORS AND ASSIGNS

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

22. SEVERABILITY

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

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

23. ENTIRE AGREEMENT

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

24. NOTICES

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

25. SURVIVABILITY

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

26. LITIGATION HOLD NOTICE

In the event the COUNTY learns of circumstances leading to an increased likelihood of litigation regarding any matter where the records kept by CONTRACTOR pursuant to Section 14 of this Contract may be of evidentiary value, the COUNTY may issue written notice to CONTRACTOR of such circumstances and direct the CONTRACTOR to "hold" such records. In the event that CONTRACTOR receives such written notice, CONTRACTOR shall abide by all directions therein whether or not such written notice is received at a time when a Contract between CONTRACTOR and the COUNTY is in force. Such directions will include, but will not be limited to, instructions to suspend the six (6) year purge schedule required by Section 14 of this Contract.

27. PUBLIC RECORDS ACT

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

- This section left blank intentionally -

IN WITNESS WHEREOF, the parties have caused this Contract to be signed by their duly constituted legal representatives, and it is effective on January 1, 2023.

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: 11/29/2022

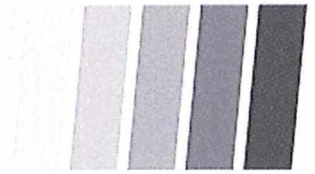
FOR: PENSER NORTH AMERICA INC.

Phil Valdens
_____
Signature

President
_____
Title:

Phil Valdens
_____
Print Name

Claims Management Services



Workers' Compensation Philosophy

Our workers' compensation administration philosophy and goals are very simple. We want to minimize overall claim program costs and, at the same time, provide an efficient and timely benefit delivery to injured workers. Over the years, we have been very successful in accomplishing these goals.

This success is largely attributed to our commitment of:

- Working closely with our customers and developing programs designed specifically to their needs.
- Hiring, training, and retaining the best people in the industry.

Workers' Compensation Service Program

By utilizing the elements mentioned above, we have executed our four-pronged Workers' Compensation Service Program. The four components of this program are:

- Claim management services
- Loss control services (not included in proposal)
- Information management
- Client services

Penser recognizes that your specific claim handling requirements are unique. During the implementation phase, appropriate management staff from your organization will be asked to join forces with the Penser team to discuss and agree upon claim handling requirements. This will establish solid communication lines to develop a positive working relationship between Penser personnel and Pierce County personnel. It is essential that each party understand their responsibilities to achieve the optimum results.

The following is a sample of our "claim standards", which represent our normal claim handling practices. Penser will customize these benchmarks to meet your specific program objectives.

Claim Management Services and Philosophy

Penser has developed a systematic, aggressive, hands-on claim management philosophy. Our claim representatives are given the necessary tools, caseloads, and training to carry out their jobs in a very proactive manner.

This philosophy can be broken down into four primary components:

- Early intervention
- Initial file workup
- Ongoing claim management
- Claim status meetings

Early Intervention

Receiving a claim and aggressively managing it from day one is key to controlling claim costs. Early intervention is a process that requires a collective effort between the Third- Party Administrator (TPA) and the employer. We work with your organization and the appropriate individuals to ensure they are thoroughly trained on how to report claims in a timely manner. Penser will work with you to develop convenient and efficient means of reporting, whether it is via phone, fax, email, or U.S. Mail.

Upon receipt of the claim form, Penser initiates the following early intervention steps:

- Timely claim entry
- Supervisory review of all new claims upon receipt
- Identify "red flag" problem claims
- Develop plan of action
- Need for investigation determined
- Evaluate return-to-work
- Reserve recommendations
- Assignment of file to claim representative

Priority contact within 24 hours of receipt of claim and communication with the following:

- Employer
- Employee (when there is lost time)
- Attending physician

Initial File Workup

After the supervisor has reviewed the file, made recommendations, and the initial "three-point" contact has been made, the claim representative proceeds with the following steps:

Claim Investigation

Claim investigation is an integral part of Pensers' claim management service. Our claim representatives do an internal investigation on all claims. The depth of each claim investigation is case specific. When appropriate, our claims adjusters request recorded statements from injured workers and witnesses, do on-site inspections, and gather photographs. If the possibility of third- party involvement exists, claim investigation is vital to the subrogation process and recovery of applicable claim expenses. Surveillance, when appropriate and client-approved, is conducted by an outside expert.

Early Return to Work Addressed
Returning injured workers back to regular or modified duty as quickly as possible is one of the most effective elements in controlling costs. Through our initial "three point" contact, and subsequent medical and job offer documentation (when appropriate), Penser quickly assists workers back into the workplace whenever possible. We work very closely with our clients to assist in the creation and utilization of modified duty work.

Plan of Action Development
Once the file is reviewed, and the initial contacts made, the claim representative formulates their plan to bring the claim to closure. This plan is a step-by-step outline of the issues that need to be addressed and the action necessary to address the issues to bring the claim to a successful resolution.

Initial File Reserve Established
Reserves are established and input into our computer system within 72 hours of receipt of the first report of injury. These reserves reflect exposures commensurate with the injury, degree of disability, and any appropriate subjective factors. Each file contains a reserve calculation sheet and/or comments in the computer system. Benton County will play an integral part in the reserve philosophy and establishment of the ongoing review of reserves.

Initial Claim Action Taken
Once a claim is analyzed, the initial calls made, reserves set, and the plan of action formulated, the claim representative takes the necessary steps to move the claim forward to the next step of resolution. Whether it be a custom letter to the attending physician, scheduling an early second opinion, or a vendor assignment, action is taken early in the claim process and then documented in the system.

Diary Set for Next Action Step
Once the initial workup is complete, a diary is set for the next review. Adherence to the diary system is critical for success in claim management. The length of time before the next review depends on the individual claim. The diary maybe set for 30 days or it may be within 24 hours. The length of diary is set by the claim representative in conjunction with the input of the claim supervisor. Our claim management software alerts the claim representative on a daily basis of what files are due to be reviewed. This tracking system along with supervisory reviews ensures that all claims are kept up to date and reviewed appropriately.

Ongoing Claim Management

After the initial workup of the file, the claim representative works within the diary system. The claim representative is also prepared to take action prior to the scheduled diary date, if necessary. This phase of the claim process can be characterized by the following elements:

Medical Management
Penser's claim representatives are qualified to manage almost all medical aspects of a claim. Because of this experience we do not have to send each file out for a nurse review or an Independent Medical Examination (IME). We aggressively work with the attending physicians on return to work, treatment, and rating issues. We use nurse consultants in very serious cases, or cases where a particular specialty is needed. IMEs are also used, but we are careful not to overuse this resource. When our claim representatives schedule IMEs they do so with thoughtful consideration, and often they schedule directly with a physician's office and not an IME panel. This saves thousands of dollars for our clients over the course of a policy year. Penser uses Genex Corporation for bill review, utilization review/reduction and PPO medical reductions.

Litigation Management
Our claim staff works very closely with the injured workers to respond to their needs and provide timely benefits. However, despite our best efforts, occasionally workers seek legal counsel to assist them through the claim and/or appeal process. When this occurs, we may advise the employer to obtain legal counsel, or in some instances we can work with your organization to provide a defense. If a case requires legal counsel, we assign the case to an attorney (with the client's approval) and actively monitor and manage the legal process to resolution.

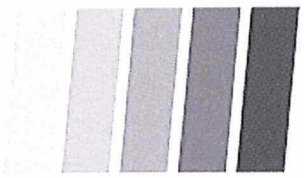
Vocational Rehabilitation Management
Penser works aggressively in the modified duty return-to-work process. We do not assign vocational consultants to assist us; we take extra steps to eliminate the need for an outside vendor. However, when return to work is not possible with the employer of injury, our claim representatives work closely with qualified vocational consultants. Our experience and understanding of the vocational process has enabled us to be successful in limiting the dollars and time spent in this very expensive aspect of claim management.

Claim Management
We write custom letters to doctors' offices when appropriate, communicate with physicians' offices for light duty release, and communicate with the injured worker to ensure treatment is progressing. Penser gets immediate, same-day response from most attending physicians. We proactively manage the entire claim from the time we receive it to closure. Our claim representatives maintain a strict diary system to ensure every claim is moving toward closure.

Claim Status Meetings

A critical part of ensuring all claims are progressing toward closure is to have monthly and/or quarterly status meetings with the employer. These meetings maintain the focus of the program and are brainstorming sessions on difficult cases. Also, by having regular status meetings, there are no surprises on claim costs or outstanding reserves.

Proposed Service Team



Proposed Service Team

Our claims and management team are one of the most experienced, trained and dedicated in the industry. Penser has a strong record with the Department of Labor and Industries and we are active participants in the WSIA and continuing education.

We provide our customers with a multi-disciplinary approach to claims management which is unique in the industry. Our pro-active coordination of claims professionals, doctors, therapists, and vocational rehab specialists aid the injured worker through the difficult claim, treatment and rehabilitation process. By implementing this approach we are able to achieve "Win/Win" results for our employers and injured workers.

Our Proposed claims team, and company as a whole, have extensive experience and expertise in working with public entities, and specifically with Benton County Risk Management. In addition, our claims team is familiar with the local medical and legal communities.

We propose the following "Service team" to work on the Benton County program:

Phil Valdens, *President*

EXPERIENCE

- Penser North America Inc., Vice President,
  1998 – Present
- Gallagher Bassett Services, Branch Manager,
  1995 – 1998
- Johnston and Culberson, Inc., Claims Examiner, 1989 - 1995

RESPONSIBILITIES

Phil will serve as your account executive. He will work with your organization to coordinate claims, information services, reporting and banking. Phil is available to answer any questions or concerns that your representatives might have.

Patty Hicks, Claims Supervisor

***State of Washington Certified

EXPERIENCE

- Penser North America, Inc., Supervisor 2008 – Present
- Sedgwick CMS, Supervisor 2005-2008
- Nordstrom, Sr. Claims Examiner, 2000 – 2005
- Johnston & Culberson, Claims Examiner, 1990 – 2000

RESPONSIBILITIES

Patty will supervise all Benton County claims assigned to the claim representative. She will assist the team with technical, legal, investigative, and vocational issues. She will also conduct performance reviews and audit files to ensure they are in compliance with "Best Practice", Department of Labor and Industries, and customer service guidelines. Patty is also available to provide consulting to the employer on circumstances, scenarios, and general questions regarding claims, the claim process and workers' compensation statutes, laws and regulations.

J. Desiree Rust, Senior Claims Examiner

***State of Washington Certified

EXPERIENCE

- Penser North America, Sr. Claims Examiner, 2011 – present
- A Place Called Hope, Case Worker, 2008-2011
- OSC Vocational Systems, Vocational Rehabilitation Counselor, 2008-20011

RESPONSIBILITIES

Desiree will be your day-to-day contact. She will adjust all aspects of your claims, including-but not limited to early intervention, investigation, plan of action development, claim reserving and litigation management. Regular contact with all parties will occur to ensure a positive progress of each claim in order to move the claim toward resolution and closure. Your claim representative is also available to provide consulting to the employer on circumstances, scenarios and general questions regarding claims, the claim process and workers' compensation statutes, laws & regulations.

Herb Sherburne, Loss Control / Safety Consultant

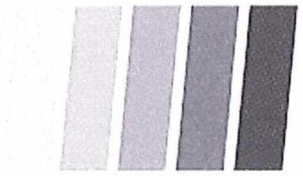
EXPERIENCE

- Penser North America, Specialty Safety Services, 2007 – present
- WA Self Insured Association Trainer, 2001-2007
- Seattle Times, Safety Manager, 1979-2001

RESPONSIBILITIES

Herb is also available to assist with any of your loss control or safety service needs. Herb is a proficient and effective trainer and has a vast knowledge in a wide range of loss control areas.

Information Management



Information Management

Penser utilizes a state-of-the-art claim management computer system. This system is not only user friendly for our claim adjusters and clients, it provides a complete analysis of an employer's losses and consequently allows for a unique tool in which to analyze workers' compensation claims and to develop programs for reducing associated expenses.

Highlights of Penser M.I.S.

- Standard reports
- Custom reports
- On-line capabilities
- System upgrades

Standard Reports

Standard to Penser's service is a variety of customer reports, including weekly check lists, monthly check registers, and a monthly loss analysis. The standard report package will detail the most current information on your account's activity and the status of each open claim. Injuries and costs are summarized for all specific locations, and cumulative totals for the entire company are also summarized. These reports include medical and indemnity payments and estimated future costs, thus, allowing for an accurate accounting of your workers' compensation program.

Custom Reports

Our computer system provides flexibility on the information reported. As a result, we can run reports on almost any type of information in the database. For example, we can run multiple claim lists, injury specific reports, over dollar amount (claims that exceed a set dollar amount), claim logs, and many more.

On-line Capabilities

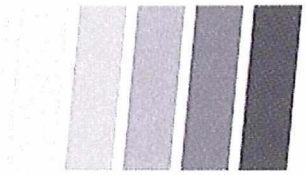
With our on-line capability our clients have access to all of their claim information in real time. The on-line access allows you to view the same information the adjuster is viewing. This includes claim notes, payment detail, reserve history, etc.

System Up Grades – NAVRISK Vision

Our system is continuously moving forward with technology and adding new features. We are currently upgrading to the NAVRISK Vision platform. This platform will allow our clients to run, and view additional reports, dashboards and analytics.

Some of the highlights of the NAVRISK Vision platform can be viewed on the following pages.

Client Services



Client Services

Penser recognizes there are additional services important to operating a self-insurance program that were not mentioned previously. Our client services program compiles these additional needs to ensure your program is unique to your organization. Some of these additional services may include:

* Technical support
* Training and program orientation
* Audit assistance
* Excess insurance reporting
* Accounting services

Technical Support
Penser provides technical support to incorporate your account into our computer system. We will work together to decipher reports and develop tracking systems that work for you. We provide assistance and special reports that help with the completion of quarterly and annual reports. Penser also provides customized claim forms.

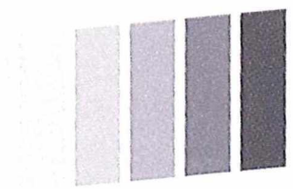
Training and Program Orientation
Orienting your management and supervisory personnel is vital to the success of your workers' compensation program. Penser is absolutely committed to getting our relationship off to a great start.

We provide training seminars explaining claim form processing, filing procedures, and reporting requirements. We also keep you apprised and provide counsel on governmental issues and concerns. Our assistance also includes working with you through the takeover process.

Audit Assistance
Compliance with L & I guidelines is extremely important. Our staff has years of experience in the audit process. We work with you to ensure the program is in compliance and ready for inspection at any time.

Excess Insurance Reporting
Penser works with you and your insurance carrier to assist in the renewal of your policy. We provide the reports to assist in the underwriting process. Also, we monitor our claim department to guarantee we meet each carrier's claim reporting requirements.

Loss Control Services



Loss Control Services

Penser uses a two-pronged approach to minimize workers' compensation costs. Our loss control services are available to assist your organization in preventing accidents while our claim department works to contain the cost of injuries. When utilized, the mission of our loss control service is to aid in preventing accidents, meeting safety regulations, and assisting with special problems. We accomplish these goals through a consultant-type approach to loss control. We begin by meeting with management, examining types and frequency of accidents, and reviewing safety programs; then we customize our service to your organization.

Elements of Loss Control Service Program

- *Safety Program Management*
- *Program Compliance Audits*
- *Regulatory Compliance*
- *Education and Training*
- *Safety Inspections*
- *Accident Investigations*
- *Troubleshooting*
- *Claim Analysis*
- *Industrial Hygiene*
- *Ergonomics*

Program Compliance Audits

The Department of Labor and industries (L & I) audits self-insured employers on a random basis. These audits include a review of your safety program to ensure compliance with state regulations. Our loss control consultant is experienced with these audits and will provide you with the latest compliance information and L & I's current focus to help prepare for a successful audit.

Regulatory Compliance

Our consultant can assist with meeting the myriad of L & I's safety regulations and other safety program needs. Some of the safety programs and topics that we provide consultation for include:

- Accident investigations
- Back injury prevention
- New employee orientation
- Effective safety committees
- Job safety analysis
- Accident repeater programs
- Behavior based safety
- Hearing conservation
- Lockout-tag out
- Electrical safety
- Forklift driver safety
- Fleet safety

Education and Training

Ongoing safety education is an important element to any successful safety program. Our loss control consultant is an experienced educator and trainer. His experience and depth of resources make it possible to customize training and educational programs for staff, trainers, supervisors, and key employees. The topics of training are diverse to meet your general and specific needs.

Safety Inspections

Our loss control consultant stays abreast of pertinent regulatory developments and will provide updates on changes. We follow proposed regulations closely and are able to add regulatory input and attend important public hearings.

If your facilities are subjected to a WISHA inspection, we may be able to protect your interests during the inspection process, review the citation for validity, suggest abatement strategies, and guide your organization through the appeal process before the Board of Industrial Insurance Appeals.

Accident Investigations

We assist in the investigation of serious accidents, including the following very important areas:

- Follow up accident guidance
- Reporting requirements
- Assistance during WISHA investigations
- Conduct interviews and gather statements
- Determine contributing causes
- Safeguards to prevent reoccurrences

Troubleshooting

Recognizing that every organization has special and sometimes unpredictable safety needs, we developed our loss control service program to specialize in addressing unique safety concerns. Our consultant possesses extensive knowledge in occupational safety and health. We also have working relationships with established laboratories and specialty consultants, if the need arises.

Claim Analysis

The monthly loss analysis report we provide contains useful statistical information that will help you focus your accident prevention resources. The loss analysis breaks down your claims by location, department, length of service, month, day of the week, hour of the day, activity, injury type, and body type. Your designated loss control consultant will review the loss analysis to track costs per claim, loss trends, and other information that will assist you in targeting accident prevention efforts.

Industrial Hygiene

Unlike physical safety hazards, industrial health exposures may be especially difficult to discover. Our consultant is trained in industrial hygiene. We offer our clients a wide variety of bulk, air and liquid sampling services to determine occupational exposure to hazardous chemicals. Your designated consultant will provide ideas to help you prevent noise induced hearing loss and evaluate compliance with state hearing conservation program requirements.

Ergonomics

Cumulative trauma disorders are increasingly found in the workplace. Ergonomic hazards can be found in the office or in the field environment. Our staff can evaluate workstation ergonomic exposures and assist in developing solutions to prevent these costly injuries.

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	BC 12/13/22 FC 1/3/23
Subject:	Public Works Contract with Sierra Electric, Inc.
Presenter:	N/A
Prepared By:	Rosa Garcia
Reviewed By:	David Wheeler

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

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

Summary / Background Information

The Benton-Franklin Counties Juvenile Justice Center solicited quotes for "as-needed" electrical repair at the Benton-Franklin Counties Juvenile Justice Center.

The quotes are as follows:

- Sierra Electric, Inc., Pasco, WA – SIERREI021CZ, Bid Amount $39,921.00 not including WSST
- Columbia Controls and Power, LLC, Richland, WA - COLUMCP781P1, Bid Amount $28,663.71 not including WSST
- MCC Electric, Pasco, WA - MCC****796P7, Bid Amount $49,500.00 not including WSST
- Silverline Electric, LLC, Kennewick, WA – SILVEEL94144, Bid Amount $39,962.50 not including WSST

The Juvenile Administrator determined that Sierra Electric, Inc. was the lowest responsive bidder with appropriate Bid Bond.

Fiscal Impact

Amount not to exceed $40,000.00 not including W.S.S.T to be paid out of Current Expense Dept. 172 Facilities Budget. No supplemental required.

Recommendation

The Juvenile Administrator recommends contracting with Sierra Electric, Inc.

Suggested Motion

Approved as part of consent agenda.

JOINT RESOLUTION

BENTON COUNTY RESOLUTION NO. _____

FRANKLIN COUNTY RESOLUTION NO. _____

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

IN THE MATTER OF AWARDING SIERRA ELECTRIC, INC. THE PUBLIC WORKS CONTRACT FOR "AS NEEDED" ELECTRICAL REPAIR AT THE BENTON-FRANKLIN COUNTIES JUVENILE JUSTICE CENTER, KENNEWICK, WA

WHEREAS, the following quotes were solicited for "as-needed" electrical repair:

- Sierra Electric, Inc., Pasco, WA – SIERREI021CZ, Bid Amount $39,921.00 not including WSST
- Columbia Controls and Power, LLC, Richland, WA - COLUMCP781P1, Bid Amount $28,663.71 not including WSST
- MCC Electric, Pasco, WA - MCC****796P7, Bid Amount $49,500.00 not including WSST
- Silverline Electric, LLC, Kennewick, WA – SILVEEL94144, Bid Amount $39,962.50 not including WSST

WHEREAS, the Juvenile Administrator determined that Sierra Electric, Inc. was the lowest responsive bidder with the appropriate Bid Bond; and

WHEREAS, the Juvenile Administrator recommends awarding the Public Works Contract to Sierra Electric, Inc.; **NOW, THEREFORE**

BE IT RESOLVED, by the Board of Benton County Commissioners, Benton County, Washington and by the Board of Franklin County Commissioners, Franklin County, Washington the Boards concur with the Juvenile Administrator's recommendation and hereby award the Public Works Contract to Sierra Electric, Inc. in an amount not to exceed $40,000.00 not including W.S.S.T; and

BE IT FURTHER RESOLVED, that the Chairs are authorized to sign the attached Public Works Contract; and

BE IT FURTHER RESOLVED, the term of the attached contract shall commence January 1, 2023 and shall expire on December 31, 2023.

DATED this ___ day of _____ 2022
BENTON COUNTY BOARD OF COMMISSIONERS

_____
Chair of the Board

_____
Chair Pro Tem

_____
Member

Constituting the Board of
County Commissioners,
Benton County, Washington

Attest: Clerk of the Board

_____

DATED this ___ day of _____ 2022
FRANKLIN COUNTY BOARD OF COMMISSIONERS

_____
Chair of the Board

_____
Chair Pro Tem

_____
Member

Constituting the Board of
County Commissioners,
Franklin County, Washington

Attest: Clerk of the Board

_____

Opened October 17, 2022, 3:44 p.m.: Electrical Maintenance & "As Needed" Services				
Documents Received	**Sierra Electric, Inc.**	**MCC Electric**	**Columbia Controls and Power LLC**	**Silverline Electric LLC**
	Bidder 1	**Bidder 2**	**Bidder 3**	**Bidder 4**
Bid Proposal	X	X	X	X
Addendums Acknowledged	X	X	X	X
Cerification Attachment				
Bid Bond	X	X	**None Received**	X
Bid Amount	**Bidder 1**	**Bidder 2**	**Bidder 3**	**Bidder 4**
Bid Amount	$39,921.00	$49,500.00	$28,663.71	$39,962.50

Note: This bid comparison form represents to the best of our knowledge the items specified and approved. These tabulations do not constitute an award to the low bidder, an award letter will be emailed along with a contract, before November 2, 2022.

BENTON and FRANKLIN COUNTIES
PUBLIC WORKS CONTRACT

TERMS AND CONDITIONS

THIS CONTRACT is made and entered into by and between Benton County, a political subdivision with its principal offices at 620 Market Street, Prosser, WA 99350 and Franklin County, a political subdivision with its principal offices at 1016 North Fourth Avenue, Pasco, WA 99301, by and for the **Benton-Franklin Counties Juvenile Justice Center**, a bi-county agency located at 5606 W. Canal Place, Suite 106, Kennewick, WA 99336 (hereinafter "COUNTIES"), and **Sierra Electric, Inc.**, a corporation organized under the laws of the State of Washington with its principal offices at 4120 N Swallow Avenue, 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. Exhibit A - Bid Form Proposed Labor Rates dated October 25, 2022;
b. Exhibit B - Washington State Prevailing Wage Rates for Public Works Contracts.

2. DURATION OF CONTRACT

The term of this Contract shall begin on January 1, 2023 and shall expire on December 31, 2023. The CONTRACTOR shall complete all work by the time(s) specified herein, or if no such time is otherwise specified, no later than the expiration date. Upon mutual agreement of both parties, this Contract may be extended by written amendment for a maximum of one additional 12-month period.

3. SERVICES PROVIDED

a. The CONTRACTOR shall provide "as needed" electrical repair services for the Benton-Franklin Counties Juvenile Justice Center location in accordance with the Proposed Labor Rates attached hereto as Exhibit A, which is attached hereto and incorporated herein by reference.

b. In the event that the requested work encompasses work that is legally required to be completed by another type of contractor, CONTRACTOR shall inform COUNTIES of that fact and shall coordinate with COUNTIES to complete the work in conjunction with the other contractor. 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 COUNTIES for the full cost of the permit and any labor time for any of its employees involved in the permitting process, but may not charge any additional processing or other fees that it does not actually incur.

c. Upon completion of services, CONTRACTOR shall ensure that a completed work order, detailing the work done, the time expended, and the parts used, is remitted to the COUNTIES' Contract Representative, or his or her designee, prior to the CONTRACTOR leaving the work site.

d. With respect to as-needed repair and maintenance services provided by the CONTRACTOR under this contract, the COUNTIES does not guarantee utilization of this contract. The COUNTIES may award contracts to other vendors for similar products or services. Actual utilization will be based on availability, proximity of vendor facilities, frequency of deliveries, or any other factor deemed important to the COUNTIES.

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

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

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

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

4. CONTRACT REPRESENTATIVES

Each party to this Contract shall have a Contract Representative.

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

a. For CONTRACTOR:

Name:	Josh Murpphy
Address:	4120 N Swallow Avenue Pasco, WA 99301
Phone:	509-542-8682
Email:	jmurphy@sierraelec.net

b. For COUNTIES:

Name:	David Wheeler, Administrator
Address:	5606 W. Canal Place, Suite 106 Kennewick, WA 99336
Phone:	(509) 737-2745
Email:	David.Wheeler@co.benton.wa.us

5. COMPENSATION

a. For the services performed under this Contract, the CONTRACTOR shall be paid for "as needed" electrical repair services in accordance with the price rates provided in Exhibit A, which is attached hereto and incorporated herein.

b. The maximum total amount payable for the As-Needed Repairs by the COUNTIES to the CONTRACTOR under this Contract shall not exceed Forty Thousand Dollars and Zero Cents 40,000.00), not including W.S.S.T. The CONTRACTOR shall monitor its cumulative total accounts receivables to ensure that it will not do work in excess of the maximum total amount payable set forth in this section and that its total billings will not exceed the maximum total amount payable. The CONTRACTOR shall inform the COUNTIES promptly in writing if the CONTRACTOR'S cumulative accounts receivable attributable to the COUNTIES, pursuant to this Contract, reaches eighty percent (80%) of the maximum total amount payable so that budgeting and approval of additional amounts may be obtained (if appropriate). Any dollar amount above the maximum total amount payable will only be approved with an amendment to this Contract.

c. The CONTRACTOR shall have received training on the requirements related to public works and prevailing wage or, have completed three (3) or more public works projects

and have had a valid business license in Washington for three (3) or more years and exempt from required training in RCW 39.04.350.

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

e. The CONTRACTOR may invoice the COUNTIES for filing fees paid to the Washington State Department of Labor and Industries for filing one Statement of Intent to Pay Prevailing Wages per year and one Affidavit of Wages Paid per site visit when billable work is performed.

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

6. INVOICING

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

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

c. The CONTRACTOR shall not be paid for work rendered under this Contract until all required parties have executed and

submitted a Statement of Intent to Pay Prevailing Wages in accordance with this section and the work has been performed to the satisfaction of the COUNTIES. The COUNTIES shall only be liable to pay for invoiced amounts that are detailed and supported as described in this section. The COUNTIES shall authorize payment when the work billed is accepted by the COUNTIES and will remit payment for the accepted work, less any retainage or other legally withheld funds, within thirty (30) days after receiving the invoice.

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

7. AMENDMENTS AND CHANGES IN WORK

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

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

8. HOLD HARMLESS AND INDEMNIFICATION

a. The CONTRACTOR shall hold harmless, indemnify, and defend the COUNTIES and its officers, officials, employees, and agents from and against any and all claims, actions, suits, liabilities, losses, expenses, damages, and judgments of any

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

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

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

into this Contract, are reflected in the CONTRACTOR'S compensation, and have been mutually negotiated by the parties.

9. INSURANCE

The CONTRACTOR shall obtain and maintain continuously the following insurance:

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

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

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

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

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

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

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

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

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

d. **Other Insurance Provisions**:

1. The CONTRACTOR'S liability insurance provisions shall be

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

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

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

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

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

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

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

8. CONTRACTOR hereby agrees to waive subrogation with

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

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

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

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

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

2. Certificates of Liability Insurance, with endorsements attached, must be provided to the COUNTIES' Contract

Representative referenced in Section 4.

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

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

10. PERFORMANCE AND PAYMENT BONDS

The CONTRACTOR shall furnish Benton and Franklin COUNTIES with a Performance Bond and Labor and Materials Payment Bond with sufficient sureties acceptable to Benton and Franklin Counties, in an amount equal to one hundred percent (100%) of the contract sum as security for the performance by the contractor of this Contract and payment of all the persons performing labor and supplying materials pursuant to this Contract. PROVIDED that the CONTRACTOR may elect, in lieu of the bonds, to allow the COUNTIES 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 COUNTIES within ten (10) days following the execution of this Contract.

11. NON-WAIVER OF RIGHTS

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

12. INDEPENDENT CONTRACTOR

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

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

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

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

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

13. INSPECTION OF BOOKS AND RECORDS

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

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

16. TERMINATION

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

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

17. COMPLIANCE WITH LAWS AND PREVAILING WAGES

The CONTRACTOR shall comply with all applicable federal, state, and local laws, rules, and regulations in performing this Contract, including, but not limited to, prevailing wage laws. Specifically, at a minimum, the prevailing wages set out in Exhibit <<B>>, which is attached hereto and incorporated herein by reference, shall be paid to all employees, agents, subcontractors, and sub-

subcontractors who do any work for the CONTRACTOR on this project. The CONTRACTOR shall ensure that all subcontractors or sub-subcontractors sign an agreement to pay these same wages and that the signed agreement is submitted to the COUNTIES prior to subcontractor commencing any work on the project. This schedule of prevailing wages is duplicated from the Washington State Department of Labor and Industries website, it is provided for informational purposes only, and the COUNTIES takes no responsibility for any inaccuracies or ambiguities contained therein. If CONTRACTOR believes the schedule contains any such ambiguities or inaccuracies, then the CONTRACTOR is responsible for contacting the Washington State Department of Labor and Industries directly to resolve them. Perceived inaccuracies or ambiguities in the schedule shall not relieve CONTRACTOR from its obligation pursuant to this Contract and relevant law to pay prevailing wages.

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 COUNTIES' Contract Representative or designee. All rulings, orders, instructions, and decisions of the COUNTIES' Contract Representative shall be final and conclusive, subject to CONTRACTOR'S right to seek judicial relief.

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 COUNTIES.

21. ENTIRE AGREEMENT

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

22. NOTICES

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

23. SEVERABILITY

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

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

24. LITIGATION HOLD NOTICE

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

in force. Such directions will include, but will not be limited to, instructions to suspend any regularly scheduled purge schedule.

25. PUBLIC RECORDS ACT

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

26. SURVIVABILITY

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

27. CONFIDENTIALITY

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

- This section was intentionally left blank -

IN WITNESS WHEREOF, the parties have caused this Contract to be signed by their duly constituted legal representatives and it is effective on **January 1, 2023.**

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

Sierra Electric, Inc.	**Benton-Franklin Counties Juvenile Justice Center**
Josh Murphy 11/10/2022	11/16/2022
Josh Murphy **Date** **Project Manager**	**David Wheeler** **Date** **Juvenile Court Administrator**
BENTON COUNTY APPROVAL Approved as to Form: Stephen Hallstrom, Deputy Prosecuting Attorney Date	**FRANKLIN COUNTY APPROVAL** Approved as to Form: 11/15/22 Jennifer Johnson, Civil Deputy Prosecuting Attorney Date
By: Name: Title: Date:	By: Name: Title: Date:
Attest: Clerk of the Board: _____	Attest: Clerk of the Board: _____

BID FORM

Electrical Maintenance and Repair

Company Name SIERRA ELECTRIC, INC.

Fill in all blank fields in the "For Bid Comparison Only" table. Hours and parts shown are for bidding purposes only. Benton-Franklin Counties will pay actual hours worked and actual parts used during the duration of the contract.

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

FOR BID COMPARISON ONLY – Year #1 RATES				
Bid Item	**Qty.**	**Unit**	**Unit Price**	**Total Cost**
Labor (Regular Hourly Rate)	75	hr.	$ 101.00	$ 7,575.00
Labor (Overtime Hourly Rate)	3	hr.	$ 138.00	$ 414.00
Labor (Double-time Hourly Rate)	2	hr.	$ 174.00	$ 348.00
Parts Markup	$10,000.00	ea.	15 %	$ 11,500.00
			Subtotal A = Year #1 Total Bid	$ 19,837.00
FOR BID COMPARISON ONLY – Year #2 RATES (if contract is renewed)				
Bid Item	**Qty.**	**Unit**	**Unit Price**	**Total Cost**
Labor (Regular Hourly Rate)	75	hr.	$ 104.00	$ 7,800.00
Labor (Overtime Hourly Rate)	3	hr.	$ 142.00	$ 426.00
Labor (Double-time Hourly Rate)	2	hr.	$ 179.00	$ 358.00
Parts Markup	$10,000.00	ea.	15 %	$ 11,500.00
			Subtotal B = Year #2 Total Bid	$ 20,084.00
			Subtotal A + Subtotal B = Grand Total (Used for bid comparison only.)	$ 39,921.00

The undersigned hereby certifies that they have examined the location of the work outlined in the request for bids, and has read and thoroughly understands the plans, specifications and contract governing the work embraced in this improvement, and the method by which payment will be made for said work, and hereby proposes to undertake and complete the work embraced in this improvement in accordance with the said plans, specifications and contract, and the above schedule of rates and prices. **(NOTE: Unit prices for all items, all extensions, and total amount of bid shall be shown. Show unit price and total amounts in figures only.)**

A proposal guaranty in an amount of five percent (5%) of the total bid, and in the form as indicated below, is attached hereby:

Cashier's Check	_____	In the Amount of _____
Certified Check	_____	($_____) Payable to the County Treasurer of Benton County, Washington.
Proposal Bond	X	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-Franklin Counties 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-Franklin Counties 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 25th day of October 2022.

FIRM NAME: SIERRA ELECTRIC, INC.

AUTHORIZED SIGNATURE: _____

TYPE OR PRINT NAME: Josh Murphy

TITLE: Project Manager

STREET ADDRESS: 4120 N. Swallow Ave

CITY, STATE, ZIP: Pasco, WA 99301

TELEPHONE NO.: 509-542-8682

EMAIL: jmurphy@sierraelec.net

CONTRACTOR'S LICENSE NO.: SIERREI021CZ

UBI NO.: 601 845 435

WASHINGTON STATE EMPLOYMENT SECURITY NO.: 034606 00 6

Exhibit B

State of Washington
Department of Labor & Industries

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

Washington State Prevailing Wage

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

Journey Level Prevailing Wage Rates for the Effective Date: 10/25/2022

County	Trade	Job Classification	Wage	Holiday	Overtime	Note	*Risk Class
Benton	Electricians - Inside	Cable Splicer	$79.12	5A	11F		View
Benton	Electricians - Inside	Journey Level	$76.43	5A	11F		View
Benton	Electricians - Inside	Welder	$81.81	5A	11F		View

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	12/13/2022
Subject:	Resolution approving Flat Monthly Payment for the 2023-2024 Juvenile Budget
Presenter:	N/A
Prepared By:	Crystal Garcia
Reviewed By:	David Wheeler

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 2023-2024 Juvenile Center Operations Budget was submitted in the amount of $13,714,721. Based upon the preliminary juvenile population provided by the Office of Financial Management data tables, Benton County is responsible for 64.08% or $8,788,393. The 2023-2024 Juvenile Facilities Budget was submitted in the amount of $366,927. Based upon the funding formula of 72% for Benton County, Benton County is responsible for $264,187. Benton County is responsible for a combined total of $9,052,580 for the 2023-2024 Juvenile Operations and Juvenile Facilities Budget.

Fiscal Impact

Starting January 1, 2023, Benton County is responsible for flat monthly payments in the amount of $377,191 into the Juvenile Fund 1150.

Recommendation

I recommend that the Board of Commissioners of Benton County sign the Resolution for flat monthly payments by Benton County.

Suggested Motion

Approve as part of consent agenda.

RESOLUTION

BENTON COUNTY RESOLUTION NO. _____

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

IN THE MATTER OF ADOPTING BENTON COUNTY FLAT MONTHLY PAYMENTS FOR THE 2023-2024 BENTON AND FRANKLIN JUVENILE JUSTICE CENTER OPERATIONS AND FACILITIES BUDGET

WHEREAS, the Boards of Benton and Franklin County Commissioners approved Joint Resolution Benton County 2016-942 and Franklin County 2016-436 a Memorandum of Understanding regarding the allocation of Juvenile Justice Center operations and facilities costs; and

WHEREAS, the 2023-2024 Benton and Franklin Juvenile Center Operations Budget was submitted in the amount of $13,714,721. Based upon the ration of each county's juvenile population averaged over five-year periods per the Office of Financial Management, data tables attached, Benton County is now responsible for $8,788,393 or 64.08% effective January 1, 2023; and

WHEREAS, the 2023-2024 Benton and Franklin Juvenile Center Facilities Budget was submitted in the amount of $366,927. Based upon Joint Resolution Benton County 2016-942 and Franklin County 2016-436, Benton County is now responsible for $264,187 or 72% effective January 1, 2023; and

WHEREAS, the combined total for the 2023-2024 Benton and Franklin Juvenile Center Operations and Facilities Budget is $14,081,648. Benton County is responsible for a total of $9,052,580; **NOW, THEREFORE,**

BE IT RESOLVED, to maintain adequate cash flow in the Benton and Franklin Juvenile Center Fund, starting January 1, 2023, Benton County will be responsible for a flat monthly payment in the amount of $377,191 for the 2023-2024 Benton and Franklin Juvenile Center Operations and Facilities Budget; and

BE IT FURTHER RESOLVED, by the Board of Commissioners of Benton County that the first flat monthly operating transfer to the 2023-2024 Benton and Franklin Juvenile Center Fund Budget shall occur no later than January 20, 2023 for January, and no later than the 1st working day of each month thereafter in the amount of $377,191 is approved; and

BE IT FURTHER RESOLVED, no later than April 2024, the Benton County Commissioners will receive a final invoice itemizing actual 2023-2024 expenditures and any adjustments necessary based on actual expenditures.

DATED this_____day of_____2022

BENTON COUNTY BOARD OF COMMISSIONERS

Chairman of the Board

Member

Member

Constituting the Board of
County Commissioners,
Benton County, Washington

Attest:

Clerk of the Board

Originals: 1-BC Commissioners
Electronic: Juvenile, Auditor, Treasurer

C.Garcia

Attachment A - County Split 2023

2023 Population Split For Benton & Franklin County Juvenile Justice Center

Juvenile Center Calculation Per Joint Resolution BC 2016-942 and FC 2016-436

Source: Year 2016 forward established via Juvenile Youth-At-Risk Population 12-17 per Joint Resolution BC 2017-807 and FC 2017-332

Years 2012 through 2015 established via Juvenile Youth-At-Risk Population 10-17 per Joint Resolution BC 2016-942 and FC 2016-436

	2021	2020	2019	2018	2017
Benton County	18171	17907	17483	17,102	16,819
Franklin County	10003	10081	9883	9,646	9,430
	28174	27988	27,366	26,748	26,249

Rolling Average Benton County		17,496
Rolling Average Franklin County		9,809
		27,305
Benton County	64.08%	
Franklin County	35.92%	

Source: WWW.OFM.WA.GOV

https://www.ofm.wa.gov/washington-data-research/population-demographics/population-estimates/estimates-april-1-population-age-sex-race-and-hispanic-origin

County (Special age groups): 2010-2020, 2021 Preliminary Data as proper 2020 Decennial Census isn't available per OFM

Preliminary data provided by OFM on: 7/29/2022

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	FC 11/29/22 BC 12/13/22
Subject:	Fee for Services Rendered Contract with the City of Benton City
Presenter:	N/A
Prepared By:	Rosa Garcia
Reviewed By:	David Wheeler

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

Attached for Board review and approval is the Fee for Services Rendered Contract between the Benton-Franklin Counties Juvenile Justice Center (BFJJC) and the City of Benton City. BFJJC has been providing the Graffiti Abatement Program (GAP) to the City of Benton City for several years. The purpose of GAP is the removal of graffiti caused by vandalism with juveniles sentenced to work crew for the term of January 1, 2023, through December 31, 2024.

Fiscal Impact

There is no fiscal impact to the Counties. The maximum amount payable by the City of Benton City to the Benton-Franklin Counties Juvenile Justice Center shall not exceed $3,100.00.

Recommendation

We recommend that the Boards of County Commissioners authorize their Chairs to sign the Fee for Services Rendered Contract between the City of Benton City and Benton-Franklin Counties Juvenile Justice Center.

Suggested Motion

Approved as part of consent agenda.

JOINT RESOLUTION

BENTON COUNTY RESOLUTION NO. _____

FRANKLIN COUNTY RESOLUTION NO. _____

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

IN THE MATTER OF CONTRACTING WITH THE CITY OF BENTON CITY FOR THE FEE FOR SERVICES RENDERED CONTRACT FOR THE GRAFFITI ABATEMENT PROGRAM

WHEREAS, Benton Franklin Counties Juvenile Justice Center had a Fee for Services Rendered Contract with the City of Benton City for the Graffiti Abatement Program for 2021-2022 via Benton County Resolution 2020 931 and Franklin County Resolution 2022 258; and

WHEREAS, David Wheeler, Administrator of the Juvenile Court, believes it is in the best interest of the Juvenile Justice Center that the Fee for Services Rendered Contract between the City of Benton City and Benton-Franklin Counties Juvenile Justice Center be approved as presented; **NOW, THEREFORE**,

BE IT RESOLVED, by the Board of Benton County Commissioners, Benton County, Washington and by the Board of Franklin County Commissioners, Franklin County, Washington the Boards concur with the Administrator of the Juvenile Court and award the Fee for Services Rendered Contract between the City of Benton City and the Benton-Franklin Counties Juvenile Justice Center; and

BE IT FURTHER RESOLVED, the maximum amount payable by the City of Benton City to the Benton-Franklin Counties Juvenile Justice Center is not to exceed $3,100.00; and

BE IT FURTHER RESOLVED, the term of the attached contract commences on January 1, 2023 and expires on December 31, 2024; and

BE IT FURTHER RESOLVED, the Boards hereby authorize the Chairs to sign the attached Fee for Services Contact.

DATED this _____ day of _____ 2022

BENTON COUNTY BOARD OF COMMISSIONERS

_____
Chair of the Board

_____
Chair Pro Tem

_____
Member

Constituting the Board of
County Commissioners,
Benton County, Washington

Attest:

_____
Clerk of the Board

DATED this _____ day of _____ 2022

FRANKLIN COUNTY BOARD OF COMMISSIONERS

_____
Chair of the Board

_____
Chair Pro Tem

_____
Member

Constituting the Board of
County Commissioners,
Franklin County, Washington

Attest:

_____
Clerk of the Board

Originals (2): 1-BC Commissioners, 1-FC Commissioners; Electronic (2): 1-City of Benton City, 1-BFJJC R. Garcia

JUDGES
Hon. Jacqueline Shea-Brown
Hon. Joseph M. Burrowes
Hon. Samuel P. Swanberg
Hon. David L. Petersen
Hon. Jacqueline I. Stam
Hon. Norma Rodriguez
Hon. Diana N. Ruff

BENTON-FRANKLIN COUNTIES
JUVENILE JUSTICE CENTER



DAVID WHEELER, Administrator
Juvenile Court Services

SUPERIOR COURT OF THE STATE OF WASHINGTON

5606 W CANAL PLACE, SUITE 106 • KENNEWICK, WASHINGTON 99336-1388
PHONE (509) 783-2151 • FAX (509) 736-2728

DARIN R. CAMPBELL
ARTHUR D. KLYM
BRANDON P. HOLT
Court Commissioners

FEE FOR SERVICES RENDERED CONTRACT FOR THE GRAFFITI ABATEMENT PROGRAM TERMS AND CONDITIONS

This Contract is made and entered into by and between Benton County, a political subdivision of the State of Washington, with its principal offices at 620 Market Street, Prosser, WA 99350, and Franklin County, a political subdivision of the State of Washington, with its principal offices at 1016 North Fourth Avenue, Pasco, WA 99301, by and for the Benton-Franklin Counties Juvenile Justice Center, a bi-county agency located at 5606 W. Canal Place STE 106, Kennewick, WA 99336 (hereinafter collectively referred to as "Counties"), and the City of Benton City, a municipal corporation, with its principal offices at 708 Ninth St., PO Box 70, Benton City, WA, 99320-0070 (hereinafter "City").

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

1. DURATION OF CONTRACT

The term of this Contract shall begin January 1, 2023, and shall expire on December 31, 2024 unless terminated soon as set forth herein.

2. SERVICES PROVIDED

The Counties agree to provide the following services to the City:

A. The Counties Work Crew Supervisor will coordinate and oversee all Graffiti Abatement Program (GAP) activities in a professional and responsible manner; keeping in mind that his/her actions reflect on both the Counties and City.

B. The City will inform the Counties of the locations that need to be surveyed for graffiti and/or graffiti removal. The Counties will locate the sites, survey for graffiti, schedule the GAP crew to paint over and/or remove graffiti as needed, and complete its work in a timely manner.

C. To the extent possible, in providing services under this Contract, the Counties will use donated materials. If those materials are not satisfactory to the City, the Counties

agree to purchase materials it deems necessary for graffiti abatement, to the extent there are funds available to do so from the monies it receives from the City under the terms of this Contract.

D. The Counties will ensure that GAP has a sufficient juvenile work force to accomplish the mission of GAP.

E. The Counties shall provide transportation for the GAP work crew.

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

3. 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 City:

Linda Lehman, Mayor
City of Benton City
PO Box 70
1007 Dale Ave Ste A
Benton City WA 99320-0070
llehman@ci.benton-city.wa.us

B. For Counties:

David Wheeler, Administrator
Benton-Franklin Juvenile Justice Center
5606 W Canal Pl Ste 106
Kennewick WA 99336
Phone: (509) 737-2745
David.Wheeler@co.benton.wa.us

4. COMPENSATION

For the services performed hereunder, the City agrees to pay the Counties as follows:

A. The City agrees to pay the Counties eight (8) equal payments of Three Hundred and Eighty Seven dollars and Fifty cents ($387.50) per quarter for services provided under this Contract.

B. The maximum total amount payable by the City to the Counties for the entire Contract period shall not exceed Three Thousand and One Hundred dollars ($3,100.00).

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

D. The Counties will submit invoices to the City on a quarterly basis during the progress of the work. Invoices shall cover the time Counties performed work for the City during

the billing period. The City shall pay the Counties for services rendered and will remit payment within thirty (30) days from the date of receipt.

5. AMENDMENTS AND CHANGES IN WORK

No amendment or modification shall be made to this Contract, 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 Administrator of Benton-Franklin Juvenile Justice Center and both Benton and Franklin Counties' Boards of County Commissioners and shall not be binding until so approved.

6. HOLD HARMLESS AND INDEMNIFICATION

A. The City 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 City's negligent acts, errors or omissions in the performance of this Contract. Provided, that the City's obligation hereunder shall not extend to injury, sickness, death or damage caused by or arising out of the sole negligence of the Counties, its officers, officials, employees or agents.

B. The County shall hold harmless, indemnify and defend the City, 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 County's negligent acts, errors or omissions in the performance of this Contract. Provided, that the County's obligation hereunder shall not extend to injury, sickness, death or damage caused by or arising out of the sole negligence of the City, its officers, officials, employees or agents.

7. TERMINATION

A. The Counties may terminate this Contract in whole or in part whenever the Counties determine, in its sole discretion that such termination is in the best interests of the Counties. The Counties may terminate this Contract upon giving ten (10) days written notice by certified mail to the City.

B. If either party breaches any of its obligations hereunder, including but not limited to timely payment of compensation to the Counties in accordance with Section 4 of this Contract, and fails to cure the breach within ten (10) days of written notice to do so, the other party may immediately terminate this Contract by providing written notice by certified mail to the breaching party.

C. In the event this Contract is terminated by either party prior to December 31, 2024, the City shall pay the Counties on a pro-rated basis for services performed up to the termination date.

8. ASSIGNMENT, DELEGATION AND SUBCONTRACTING

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

B. The Counties warrant 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 Counties, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award or making of this Contract.

9. 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.

10. COMPLIANCE WITH LAWS

Both parties agree to comply with all applicable federal, state and local laws, rules and regulations in performing this Contract.

11. NONDISCRIMINATION

The parties, their 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.

12. DISPUTES

Differences between the City and the Counties, arising under and by virtue of this Contract, 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 Counties 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 City's right to seek judicial relief.

13. 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 and Franklin Counties, Washington.

14. SUCCESSORS AND ASSIGNS

The Counties, to the extent permitted by law, and the City 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.

15. 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.

16. 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.

17. 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.

The parties have caused this Contract to be signed as follows:

City of Benton City

L. Lehman 11/14/22

Linda Lehman **Date**
Mayor

Benton Franklin Counties
Juvenile Justice Center

11/16/2022

David Wheeler **Date**
Juvenile Court Administrator

BENTON COUNTY APPROVAL

Approved as to Form:

Stephen Hallstrom, Deputy Prosecuting Attorney Date

By: _____
Name: _____
Title: Chair, Board of Commissioner
Date: _____

Attest:

Clerk of the Board: _____

FRANKLIN COUNTY APPROVAL

Approved as to Form:

11/15/22

Civil Deputy Prosecuting Attorney Date

By: _____
Name: _____
Title: Chair, Board of Commissioner
Date: _____

Attest:

Clerk of the Board: _____

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	December 13, 2022 **Memo Date:** December 2, 2022
Subject:	Short Plat Vacation Resolution – SPV 2022-002 Knutzen Engineering
Presenter:	
Prepared By:	Donna Hutchinson
Reviewed By:	Michelle Cooke
PA Review, Approval to Form:	☐ Yes ☐ No ☒ N/A *(If no, include reasoning for no approval)*

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

Summary / Background Information

On November 1, 2022, the Board of County Commissioners held a public hearing on the vacation of the 10 foot utility easement on the east boundary of Lot 2 of Short Plat 2932. The approval was conditioned upon the applicants recording a new utility easement to replace the portion to be vacated. The applicant has provided the Benton County Planning Division with a copy of the new utility easement which was recorded under Auditor's File Number 2022-03565. Therefore, the resolution is now ready for signature by the Board.

Fiscal Impact

Amount: **None**

Fund: **None**

Recommendation

It is the recommendation of the Planning Division that the Board of County Commissioners sign the resolution vacating the above-mentioned easement as the applicant has complied with the condition of approval as set forth by the Board.

Suggested Motion

Approved with the Consent Agenda

Return to
Benton County Commissioners
P.O. Box 190
Prosser WA 99350

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF COUNTY PLANNING REGARDING THE PROPOSED VACATION OF THE TEN (10) FOOT UTILITY EASEMENT RUNNING PARALLEL TO THE EAST BOUNDARY OF LOT 2 OF SHORT PLAT 2932 IN SECTION 12, TOWNSHIP 8 NORTH, RANGE 28 EAST, W.M. APPLICANT: PAUL KNUTZEN OF KNUTZEN ENGINEERING FOR SUMMIT STORAGE , PARCEL NUMBER 1-1288-101-2932-004, FILE NUMBER SPV 2022-002

WHEREAS, the Board of County Commissioners did conduct a public hearing on Tuesday, November 1, 2022, at 9:00 a.m. in the Commissioners Meeting Room, Third Floor, Courthouse, Prosser, Washington; and,

WHEREAS, the signature of the property owners of said application includes all properties affected by these easements; and,

WHEREAS, upon due notice as provided in RCW 58.17.080 and 58.17.090, the hearing before the Board of County Commissioners was held on such petition as indicated above; and,

WHEREAS, the Board of County Commissioners agrees with the summary report from the Benton County Planning Division retained in File No. SPV 2022-002; and,

WHEREAS, the 10-foot utility easement running parallel to the east boundary of Lot 2 was recorded on the face of Short Plat 2932; and,

WHEREAS, it further appears that the vacation of the above-mentioned easements would not unduly jeopardize the health, safety, welfare and public good; **NOW THEREFORE**,

BE IT RESOLVED, that the vacation of the 10-foot utility easement running parallel to the east boundary of Lot 2 of Short Plat 2932 in Section 12, Township 8 North, Range 28 East, W.M. is hereby approved.

Dated this 13 day of December 2022.

_____
Chairman of the Board

_____
Member

_____
Member

Constituting the Board of County Commissioners of Benton County Washington.

Attest.....
Clerk of the Board

MLC:djh

EXCISE TAX NOT REQUIRED
BENTON CO EXCISE TAX DEPT
BY _____ DEPUTY
EASEMENT 11/15/2022

2022-035654 EAS
11/15/2022 04:10:05 PM Pages: 6 Fee: $208.50
Miller Mertens Comfort Wagar & Kreutz
Benton County, Benton County Auditor's Office

FILED FOR RECORD AT THE REQUEST OF:

LeeAnn M. Holt
Miller, Mertens & Comfort, PLLC
1020 N Center Parkway, Suite B
Kennewick, WA 99336

AFTER RECORDING RETURN ORIGINAL TO:

LeeAnn M. Holt
Miller, Mertens & Comfort, PLLC
1020 N Center Parkway, Suite B
Kennewick, WA 99336

Reference number of related document(s):

Grantor: MATSON STORAGE, LLC, a Washington limited liability company

Grantees: COUNTY OF BENTON, a Washington municipal corporation

Abbreviated Legal Description: Lots 1 and 2, Short Plat 2932, records of Benton County, WA

Additional Legal Description: *See* below included legal description on page 1.

Assessor's Property Tax Parcel No.: 1-1288-101-2932-004

UTILITY EASEMENT AGREEMENT

THIS UTILITY EASEMENT AGREEMENT ("Agreement") is hereby made and declared by Matson Storage, LLC, a Washington limited liability company ("Grantor") as the owner of certain real property known commonly as 9501 W. 10th Avenue, Kennewick, Benton County, Washington, legally described as:

> Lots 1 and 2, Short Plat No. 2932, according to the Survey thereof recorded under Auditor's File No. 2006-006201, records of Benton County, Washington.

the ("Subject Property").

WHEREAS, the intent of Grantor is to create and grant, an easement for utilities over, under, and across the Subject Property for the benefit of the County of Benton, a Washington municipal corporation and to its successors or assigns, ("Grantee"), for use by itself and the utility licensees who provide utility services to the Subject Property.

Unofficial Copy

NOW, THEREFORE, in consideration of the foregoing recitals, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, Grantor agrees as follows:

1. **Grant of Easement:** Grantor hereby grants and conveys to the Grantee, for use by itself and the utility licensees who provide utility services to the Subject Property, an easement for utilities over, under, and across the property more particularly described and depicted in Exhibit A attached hereto (the "Easement Area").

2. **Purpose of Easement.** Grantee, individually and through its utility licensees, shall have the right to use the Easement Area to design, construct, install, access, operate, inspect, maintain, repair, replace, or remove utility systems and all related appurtenances for electrical power, telephone, cable and other defined utilities, as will not unreasonably interfere with the Grantor's surface usage. Grantee, individually and through the utility licensees, shall have the right of access, including ingress and egress, over, under, and across the Easement Area. Grantee, individually and through the utility licensees, has the right, but not the obligation to trim trees, bushes, or other vegetation within or immediately adjacent to the Easement Area which interfere with the Grantee's use under this Agreement.

3. **Grantor's Use.** Grantor may use the Subject Property for any purpose provided that such use does not materially interfere with the rights granted herein.

4. **Covenant Running with the Land.** This Agreement, and the rights created herein, shall touch, and concern the Subject Property and all restrictions, covenants, and easements established herein shall run with the land for the benefit of the Grantee, and be binding upon all present and future owners and those occupying the Subject Property, their heirs, executives, successors, and assigns, unless modified, amended, or terminated as provided herein.

5. **Indemnification.** The Grantee agrees to indemnify and hold the Grantor harmless from all claims, suits, or causes of action for personal injury, death, or property damage by itself and its employees, agents, licensees, and invitees arising out of their use of Grantor's property as permitted by this Agreement and howsoever caused, including, but not limited to the negligence of the indemnitee. The duty to indemnify includes the duty to pay for all attorney fees and costs of litigation incurred in defense of all such claims or suits.

6. **Severability.** The partial or complete invalidity of any one or more provisions of this Agreement shall not affect the validity or continuing force and effect of any other provision. If any provision is invalid, in whole or in part, the balance of the provisions shall be considered reformed to reflect the intent of the parties to the greatest extent possible, consistent with any applicable laws.

7. **Damage.** In the event the Grantee, its employees, agents, licensees, or invitees, intentionally or negligently damage any part of the Subject Property in the course of using the easement granted under this Agreement, then that party shall restore the Subject Property to

Unofficial

its previous condition and be responsible for all costs of repair. All repairs shall be completed as soon as reasonably practical. All materials used for repairs shall be of the same standard, type, and quality as the damaged materials. In the event a culpable party, or its agents, licensees, or invitees, fails or refuses to repair the damage they caused, the other party may, after fourteen (14) days' notice written notice sent via first class mail, cause such repairs to be completed and assess the costs of such repairs to the culpable party with interest at the rate of twelve percent (12%) per annum.

8. Miscellaneous Provisions:

8.1 This Agreement fully incorporates all prior or contemporaneous written or oral agreements or understandings between the parties and shall not be varied, altered, or modified except by written agreement signed by each.

8.2 This Agreement shall be binding upon the heirs, executors, administrators, successors, or assigns of the parties.

8.3 No party may erect or maintain any structure, curbing, barricade, fence, gate, obstruction, or signage which would materially interfere with the easement described herein or created hereby, except that Grantor and its successors, and assigns, may erect fencing, curbing, or gates on the Subject Property, provided the Grantees are provided access the Easement Area via key, code, or other reasonable means.

8.4 In the event a party breaches this Agreement, a non-defaulting party shall be entitled to all remedies available at law or in equity. If a party initiates suit to enforce this Agreement, venue shall be properly placed in Benton County, Washington and the prevailing party in such action shall be entitled to an award of their litigation costs and attorneys' fees incurred therein.

8.5 No failure or delay by a party to insist upon strict performance of any of the terms, conditions, or covenants set forth herein shall be deemed a waiver of any such terms, conditions, or covenants, and not withstanding any such delay or failure, a party shall have the right to insist upon the strict performance by the non-performing party.

8.6 This Agreement or a memorandum thereof shall be recorded in the office of the Benton County Auditor.

MATSON STORAGE, LLC

By: _____ Date: 11/10/2022
Print Name: Travis Matson Title: Owner

Unofficial Copy

STATE OF WASHINGTON)
) ss.
COUNTY OF BENTON)

On this 10 day of November, 2022, before me personally appeared Travis Matson [signatory's name], to me known to be the owner [title] of MATSON STORAGE, LLC, the Washington limited liability company that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of the company, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year first above written.

DIANE K MATSON NOTARY PUBLIC STATE OF WASHINGTON COMMISSION EXPIRES 22004321 3-12-26

Diane K Matson
NOTARY PUBLIC in and for the State of Washington, residing at
Kennewick WA
My Commission Expires: 3/12/2026

Unofficial Copy

EXHIBIT A

EASEMENT AREA

STRATTON SURVEYING & MAPPING, PC

313 NORTH MORAIN STREET
KENNEWICK, WA 99336
PHONE: (509) 735-7364
FAX: (509) 735-6560
E-MAIL: stratton@strattonsurvey.com

DATE: 2022-11-02
DRAWING: 5567SK2.DWG
SITE: SUMMIT STORAGE

PARCEL NO. 112881012932004

DESCRIPTION
AN EASEMENT 10.00 FEET IN WIDTH AFFECTING THAT PORTION OF LOT 2 OF THE SHORT PLAT RECORDED IN VOLUME 1 OF SHORT PLATS AT PAGE 2932, RECORDS OF BENTON COUNTY, WASHINGTON, LYING 5.00 FEET ON EACH SIDE OF THE CENTERLINE DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 2 THENCE NORTH 83°52'15" WEST ALONG THE NORTHERLY LINE THEREOF 55.39 FEET TO THE TRUE POINT OF BEGINNING;

THENCE SOUTH 00°42'52" EAST 298.94 FEET;
THENCE SOUTH 45°42'52" EAST 73.26 FEET TO THE SOUTHERLY LINE OF SAID LOT AND THE POINT OF TERMINUS.

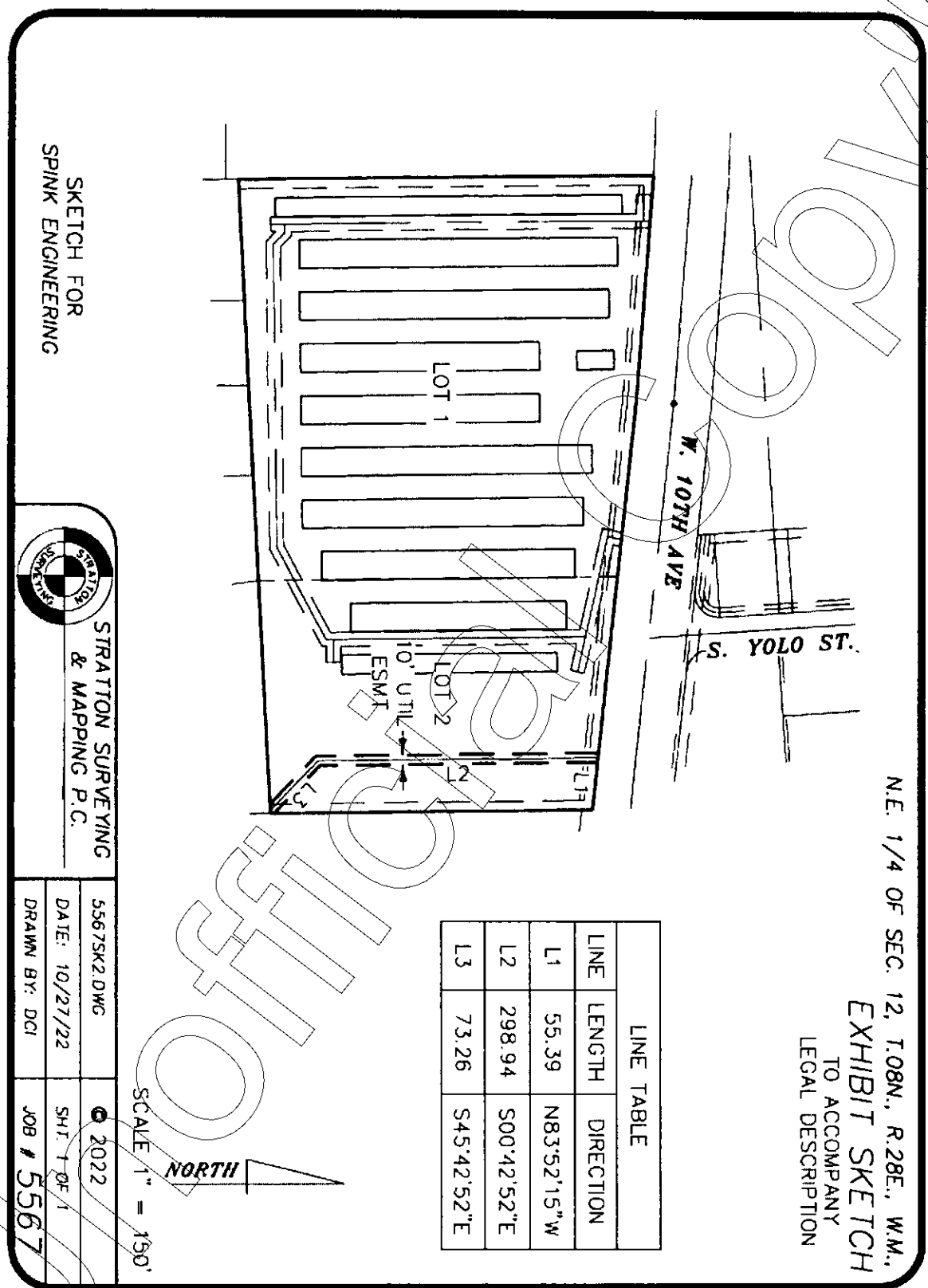
EDGES OF SAID EASEMENT ARE TO BE LENGTHENED OR SHORTENED TO TERMINATE ON THE SAID NORTHERLY, SAID SOUTHERLY LINE, AND THE EASTERLY LINE OF SAID LOT

SEE ATTACHED EXHIBIT SKETCH TO ACCOMPANY
THIS LEGAL DESCRIPTION.

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

DEREK C. INGALSBE
STATE OF WASHINGTON
46886
REGISTERED
PROFESSIONAL LAND SURVEYOR
11/2/22

Unofficial Copy


EXHIBIT SKETCH
TO ACCOMPANY
LEGAL DESCRIPTION
N.E. 1/4 OF SEC. 12, T.08N., R.28E., W.M.,
SKETCH FOR
SPINK ENGINEERING
STRATTON SURVEYING
& MAPPING P.C.
LOT 1
LOT 2
10' UTIL ESMT
W. 10TH AVE
S. YOLO ST.
L1
L2
L3
NORTH
SCALE 1" = 150'
LINE TABLE
LINE | LENGTH | DIRECTION
L1 | 55.39 | N83°52'15"W
L2 | 298.94 | S00°42'52"E
L3 | 73.26 | S45°42'52"E
5567SK2.DWG
DATE: 10/27/22
DRAWN BY: DCI
© 2022
SHT. 1 OF 1
JOB # 5567

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	December 13, 2022
Subject:	Authorize the Placement of the New Facilities Lawn Mower into the ER&R Replacement Program
Presenter:	
Prepared By:	P. Schut
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:**	
☒ 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

On November 1, 2022, via Resolution 2022-796, the Board of County Commissioners approved the purchase of a new lawn mower for the Facilities Department. After further discussion, staff have determined that it would be best if the lawn mower was placed in the ER&R Replacement Program.

Fiscal Impact

Amount: N/A

Fund: N/A

Recommendation

It is recommended that the new facilities lawn mower be placed in the ER&R Replacement Program.

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 NEW FACILITIES LAWN MOWER TO BE PLACED IN THE ER&R REPLACEMENT PROGRAM

WHEREAS, on November 1, 2022, via Resolution 2022-796, the Board of County Commissioners approved the purchase of a new lawn mower for the Facilities Department; and

WHEREAS, after further discussion, staff have determined that it would be best if the lawn mower was placed in the ER&R Replacement Program; **NOW, THEREFORE**

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington, hereby authorizes the new Facilities lawn mower to be placed in the ER&R Replacement Program.

Dated this _____ day of December 2022.

_____
Chairman of the Board

_____
Chairman ProTem

_____
Member

Constituting the Board of Commissioners
of Benton County, Washington

Attest:_____
Clerk of the Board

Original: Purchasing Dept.
cc: M. McGhan

P. Schut

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	December 13, 2022
Subject:	Approval of a service contract with CI Information Management for document destruction services
Presenter:	N/A
Prepared By:	P. Schut
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:**	
☒ 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 majority of the County departments need document destruction services on a recurring basis.

CI Support, LLC dba CI Information Management is the current service provider, and most departments have been pleased with their services.

A Service Contract has been prepared, reviewed, and approved as to form by our departmental Deputy Prosecuting Attorney and signed by CI Information Management.

Fiscal Impact

Amount: Not to exceed $75,000.00

Fund: Various funds – all County departments are allowed to use the Contract

Recommendation

The Purchasing Department recommends approval of the Contract for document destruction services to CI Information Management in an amount not to exceed $75,000.00.

Suggested Motion

Approved as part of the Consent Agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF APPROVING A PERSONAL SERVICE CONTRACT BETWEEN BENTON COUNTY AND CI SUPPORT, LLC DBA CI INFORMATION MANAGEMENT FOR LOCAL DOCUMENT DESTRUCTION SERVICES FOR ALL BENTON COUNTY DEPARTMENTS

WHEREAS, a majority of the departments in Benton County need document destruction services on a recurring basis; and

WHEREAS, CI Support, LLC dba CI Information Management is the current service provider, and most departments have been pleased with their services; and

WHEREAS, the Director of Operations & Capital Programs recommends executing a contract with CI Support, LLC dba CI Information Management; and

WHEREAS, a Personal Services Contract has been prepared, reviewed, and approved as to form by our departmental Deputy Prosecuting Attorney and signed by CI Support, LLC, dba CI Information Management; **NOW, THEREFORE,**

BE IT RESOLVED, that the Board of Benton County Commissioners concurs with the Director of Operations & Capital Programs' recommendation and hereby authorizes the Chairman to sign the Personal Services Contract for document destruction services for all Benton County Departments with CI Support, LLC dba CI Information Management for a total amount not to exceed $75,000.00 excluding WSST; and

BE IT FURTHER RESOLVED, the term of the Personal Services Contract commences on January 1, 2023, and expires on December 31, 2024.

Dated this 13th day of December 2022.

_____
Chairman.

_____
Chairman Pro-Tem.

_____
Member.

Attest:_____
Clerk of the Board

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

Orig.: Procurement P. Schut
cc: Auditor, PA, CI Information Management

DocuSign Envelope ID: 34BAFDCF-23C1-47C2-A596-8A2093F02F54

BENTON COUNTY
PERSONAL SERVICES CONTRACT

TERMS AND CONDITIONS

THIS CONTRACT is made and entered into by and between **BENTON COUNTY**, a political subdivision with its principal offices at 620 Market Street, Prosser, WA 99350 (hereinafter "COUNTY"), and **CI SUPPORT, LLC dba** CI INFORMATION MANAGEMENT, a corporation organized under the laws of the State of Washington with its principal offices at 900 South Dayton, Kennewick, WA 99336 (hereinafter "CONTRACTOR").

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

1. CONTRACT DOCUMENTS

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

a. Exhibit A – CI Information Management's Proposal.

In the event of any conflict, contradiction, or ambiguity between the terms and conditions of this Contract and any exhibits to this Contract, the terms and conditions of this Contract shall prevail.

2. DURATION OF CONTRACT

The term of this Contract shall begin on January 1, 2023 and shall expire on December 31, 2024. 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 provide local document destruction services to all participating COUNTY facilities as set forth in Exhibit A 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 requested by the COUNTY.

DocuSign Envelope ID: 34BAFDCF-23C1-47C2-A596-8A2093F02F54

f. The COUNTY does not guarantee utilization of this Contract. The County may award contracts to other vendors for similar services. Actual utilization will be based on availability, proximity of vendor facilities, pricing, or any other factors deemed important to 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:	Miracle Lewis, Shred Division Mgr.
Address:	900 South Dayton
	P.O. Box 7346
	Kennewick, WA 99336
Phone:	509-586-6090
Email:	miraclel@ci-infomanagement.com

b. For COUNTY:

Name:	Paul Schut, Procurement & Contract Coordinator
Address:	7122 W. Okanogan Pl., Bldg. A
	Kennewick, WA 99336
Phone:	509-786-5600
Email:	procurement@co.benton.wa.us

5. COMPENSATION

a. For the services performed under this Contract, the CONTRACTOR shall be paid at the rates set forth in Exhibit A, which is attached hereto and incorporated herein by.

b. The maximum total amount payable by the COUNTY to the CONTRACTOR under this Contract shall not exceed Seventy-Five Thousand Dollars ($75,000.00), including W.S.S.T.

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

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

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

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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. MUTUAL INDEMNITY. To the extent of its comparative liability, each party agrees to indemnify, defend and hold the other party, its elected and appointed officials, employees, agents and volunteers, harmless from and against any and all claims, damages, losses and expenses, including but not limited to court costs, attorney's fees and alternative dispute resolution costs, for any personal injury, for any bodily injury, sickness, disease or death and for any damage to or destruction of any property (including the loss of use resulting therefrom) which are alleged or proven to be caused by an act or omission, negligent or otherwise, of its elected and appointed officials, employees, agents or volunteers.

b. A Party shall not be required to indemnify, defend, or hold the other Party harmless if the claim, damage, loss or expense for personal injury, for any bodily injury, sickness, disease or death or for any damage to or destruction of any property (including the loss of use resulting therefrom) is caused by the sole act or omission of the other Party.

c. In the event of any concurrent act or omission of the parties, negligent or otherwise, each party shall pay its proportionate share of any damages awarded based upon comparative liability. The parties agree to maintain a consolidated defense to claims made against them and to reserve all indemnity claims against each other until after liability to the claimant and damages, if any, are adjudicated. If any claim is resolved by voluntary settlement and the parties cannot agree upon apportionment of damages and defense costs, they shall submit apportionment to binding arbitration.

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d. In any and all claims against CONTRACTOR or its officers, officials, employees, or agents by any employee of COUNTY, subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under Section 7 of this Contract shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for COUNTY or subcontractor under workers compensation acts, disability benefit acts, or other employee benefit acts, it being clearly agreed and understood by the parties hereto that COUNTY expressly waives any immunity COUNTY might have had under such laws, including but not limited to Title 51 of the Revised Code of Washington.

e. In any and all claims against COUNTY or its officers, officials, employees, or agents by any employee of 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 Section 7 of this Contract shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for CONTRACTOR or subcontractor under workers compensation acts, disability benefit acts, or other employee benefit acts, it being clearly agreed and understood by the parties hereto that CONTRACTOR expressly waives any immunity CONTRACTOR might have had under such laws, including but not limited to Title 51 of the Revised Code of Washington.

f. SURVIVAL OF INDEMNITY OBLIGATIONS. The parties agree all indemnity obligations shall survive the completion, expiration or termination of this Contract.

8. 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,

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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

c. **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.

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 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.

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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

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cancelled without thirty (30) days prior written notice to the COUNTY. Any insurance or self-insurance maintained by the COUNTY and its elected or appointed officials, employees, and agents shall be excess of the CONTRACTOR's insurance and shall not contribute to it.

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

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

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

9. TERMINATION

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

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

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

10. ASSIGNMENT, DELEGATION, AND SUBCONTRACTING

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

b. The CONTRACTOR warrants that it has not paid, nor has it agreed to pay, any company, person, partnership, or firm, other than a bona fide employee working exclusively for the CONTRACTOR,

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

11. NON-WAIVER OF RIGHTS

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

12. INDEPENDENT CONTRACTOR

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

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

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

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

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

13. COMPLIANCE WITH LAWS

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

14. INSPECTION OF BOOKS AND RECORDS

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

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15. NONDISCRIMINATION

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

16. OWNERSHIP OF MATERIALS/WORKS PRODUCED

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

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

17. PATENT/COPYRIGHT INFRINGEMENT

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

18. DISPUTES

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

19. CONFIDENTIALITY

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

20. CHOICE OF LAW, JURISDICTION, AND VENUE

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

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

21. SUCCESSORS AND ASSIGNS

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

22. SEVERABILITY

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

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

23. ENTIRE AGREEMENT

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

24. NOTICES

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

25. SURVIVABILITY

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

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26. LITIGATION HOLD NOTICE

In the event the COUNTY learns of circumstances leading to an increased likelihood of litigation regarding any matter where the records kept by CONTRACTOR pursuant to Section 14 of this Contract may be of evidentiary value, the COUNTY may issue written notice to CONTRACTOR of such circumstances and direct the CONTRACTOR to "hold" such records. In the event that CONTRACTOR receives such written notice, CONTRACTOR shall abide by all directions therein whether or not such written notice is received at a time when a Contract between CONTRACTOR and the COUNTY is in force. Such directions will include, but will not be limited to, instructions to suspend the six (6) year purge schedule required by Section 14 of this Contract.

27. PUBLIC RECORDS ACT

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

28. LIMIT OF LIABILITY

Both parties' maximum liability under this Contract for any and all claims brought by either party involving data breaches shall not exceed the aggregate amounts paid by the COUNTY with respect to services provided under the Contract during the twelve (12) months preceding the event which gives rise to the claim. In no event shall either party be liable for any consequential, incidental, special, punitive or similar types of damages brought by either party associated with any data breach claim, regardless of whether the action is brought in tort, contract or any other theory.

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IN WITNESS WHEREOF, the parties have caused this Contract to be signed by their duly constituted legal representatives, and it is effective on January 1, 2023.

Dated:_____

FOR: BENTON COUNTY

Chairman

Attest:_____
Clerk of the Board

Approved as to Form

DocuSigned by:
Eric Andrews
B4F7673BB8A1486...

Eric Andrews, Civil Deputy Prosecuting Attorney

11/16/2022
Dated:_____

FOR: CI SUPPORT, LLC dba CI INFORMATION MANAGEMENT

DocuSigned by:
Miracle Lewis
87ZDA5A505994F3...

Signature

Shred Division Manager

Title:

Miracle Lewis

Print Name

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Exhibit A
Service & Pricing Summary

900 South Dayton St
PO Box 7346
Kennewick, WA 99336
Phone: (509)586-6090
Fax: (509)585-1443
CI-InfoManagement.com

Date: Oct 18, 2022
Prepared by: MiracleLewis
Email: Miraclel@ci-infomanagement.com
Phone: (509) 586-6090 x 1150

Paul Schut 509-786-5600 paul.schut@co.benton.wa.us	**Benton County** 7122 W Okanogan Pl Kennewick, WA, 99336

Description of Services & Pricing	Price	QTY	Subtotal
64g Recurring Service 64 Gallon Container Recurring Service (priced "per bin"). **For the complete list of County's service locations, bin quantities and frequencies, refer to Exhibit A "Service Locations & Schedules".**	$25.20	46	$1,159.20
32g Recurring Service 32 Gallon Container Recurring Service (priced "per bin").	$25.20	2	$50.40
20g Recurring Service 20 Gallon Console Recurring Service (priced "per bin").	$25.20	1	$25.20
One-Time Purge Service One-Time Purge Project (in increments of 64 Gallon Containers).	$18.90	1	$18.90
Hard Drive Destruction Serialization and Destruction of Hard Drives, Solid State Drives or Mobile Devices.	$7.00	1	$7.00
Device Dismantling Service Disassembly of Hard Drives or enclosures larger than 6" W x 2" H or removal of batteries from Mobile Devices. HD's must be removed from PC's prior to Transfer of Custody.	$5.00	1	$5.00
Tech Destruction Destruction of Misc. Tech material via Disintegration. Measured as "per lb." or "per unit".	$2.00	1	$2.00
Micro Media Destruction Destruction of Microfilm/fiche & other Micro Media via Disintegration. Rate is "per lb."	$3.00	1	$3.00
X-Ray Destruction & Recycle Destruction of X-ray Media via Shredding, Disintegration or Certified 3rd Party recycle. Rate is "per lb."	$1.50	1	$1.50
Temporary Container Delivery Delivery of a Container for a One-time or Short Term Project (charged "per bin").	$25.00	1	$25.00
Mailed Invoice Surcharge Convenience fee incurred for Post Mailed invoices. Emailed Invoices are at no cost.	$3.00	1	$3.00
All services to incur an additional Fuel & Environmental surcharge (F & E), not to exceed 18% for term of Agreement.			

CI Information Management is a division of Columbia Industries (CI). By utilizing CI Information Management services, your dollars support Columbia Industries, a mission-based organization committed to supporting and empowering individuals with disabilities and other challenges in order to help them achieve personal success and community engagement. Columbia Industries is a nonprofit organization established in 1963.

CI Information Management
A Columbia Industries Company

Exhibit A
Service & Pricing Summary

Services & Performance of Work

• CI Information Management (Contractor) shall furnish containers to Benton County (County) for the exclusive purpose of depositing into such containers; confidential wastepaper and other materials of which the Contractor agrees to accept for shredding ("Shred Materials").
• The Contractor will provide the services for secure destruction of media and/or other materials that are considered reasonably within the Contractor's written and published guidelines, of which are governed by AAA NAID Certification standards, provided that the County acknowledges that the Contractor may dispose of the Shred Materials by shredding (pierce & tear), disintegration, incineration or any other means that are generally accepted within the industry for disposing of similar materials ("Services"). References herein to “shredding" shall be understood to include all such methods of disposal.
• The County acknowledges that the County's Shred Materials may be commingled with the shred materials of others and that The County's Shred Materials may be recycled after shredding and/or destruction has been completed.
• The Services may be performed as part of a regular schedule, as set forth on Page 3. Exhibit A "Service Locations & Schedules", or pursuant to specific requests from The County.
• The County agrees to provide the Contractor with a minimum of thirty (30) days advance written notice of any material change in the County's service requirements or volumes.

Additional Terms

• The County acknowledges that it is aware of its obligation to properly dispose of "consumer information", “personally identifiable information" known as “PHI”, and any other information in which disposal is regulated by laws or regulations governing disposal of information, including and without limitation, those commonly known as; "FACTA” and “Red Flags Rule”, “SOX”, "GLBA", "HIPAA" and "HITECH" or similar State and Federal "Privacy Laws".
• The County is solely responsible for reviewing Privacy Laws to determine if shredding is adequate under the Privacy Laws to which the Shred Material may be subject. The Contractor makes no representation, warranty, certification, or agreement as to the compliance of shredding or the services in respect to Privacy Laws.
• The County agrees that all bins, consoles, and other items supplied by the Contractor for the County to utilize in connection with the services, are the sole property of the Contractor. If the County fails to return all such items in working condition, upon the completion of services, or if any such items are damaged or lost, the County agrees to reimburse the Contractor for their replacement cost.
• The County agrees that it is the Owner, Legal Custodian, Data Controller or otherwise has the right to deliver for shredding any and all materials the County provides The Contractor hereunder. The County acknowledges Transfer of Custody and authorizes the destruction of any material given to or gathered by a representative of the Contractor.
• The County acknowledges that it has irrevocably authorized the Contractor to dispose of Shred Materials by shredding and that Shred Materials cannot be returned to the County or the Data Subject. Any Data Subject Inquiries or other requests regarding material collected for destruction will be responded to as such.
• Pursuant to this Agreement, the County shall not deliver to the Contractor anything other than Shred Materials, including without limitation, any of the following materials:

- Non-paper products, including; corrugated cardboard, metal, plastics or other office refuse (food, clothing or garbage)
- Any material considered toxic, dangerous or is regulated under any Federal, State, or local laws and/or regulations relating to "Hazardous Materials"
- Any negotiable instruments

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Information Management
A Columbia Industries Company

Exhibit A

Service Locations & Schedules

SERVICE AT THE TIME OF THE AGREEMENT
Exhibit A "Service Locations & Schedules" outlines all active service locations, schedules and bin quantities, at the time of the agreement between CIIM (the Contractor) and Benton County (the County). Upon mutual agreement, the County and the Contractor may adjust service at any point during the term, without reissuing or adjusting the agreement.

64 Gal	32 Gal	20 Gal	CUST #	Location/Department Name	Location Address	Frequency
1	1		0094	Benton County Auditor	7122 Okanogan Pl. STE E120, Kennewick, WA	Every 4 Weeks
1			0094	Benton County Auditor	2618 N Columbia Center Blvd, Kennewick, WA	Every 4 Weeks
1			0094	Benton County Auditor	620 Market St. Prosser, WA	Every 4 Weeks
1			0095	Benton County Commissioner	620 Market St. Prosser, WA	Every 12 Weeks
1			1237	Benton County Fairgrounds	1500 S Oak St. Bldg. #20 Kennewick, WA	On-Call
1			0098	Benton County Human Services	7102 W Okanogan Pl. STE 201 Kennewick, WA	Every 4 Weeks
1			0099	Benton County Admin Services	7122 W Okanogan Pl. STE E330 Kennewick, WA	Every 4 Weeks
3			0100	Benton County Prosecutor	7122 W Okanogan Pl. STE A230 Kennewick, WA	Every 2 Weeks
		1	0100	Benton County Prosecutor/Child Svc.	7122 W Okanogan Pl. STE A230 Kennewick, WA	Every 4 Weeks
7			0102	Benton County Sherriff	7122 W Okanogan Pl. STE A120 Kennewick, WA	Every 2 Weeks
9			0102	Benton County Corrections	7122 W Okanogan Pl. STE B110 Kennewick, WA	Every 2 Weeks
1			0102	Benton County Sherriff	620 Market St. Prosser, WA	Every 12 Weeks
1			0104	Benton County Public Defense	7122 W Okanogan Pl. STE A220 Kennewick, WA	Every 12 Weeks
2			2085	Benton County Clerk	7122 W Okanogan Pl. STE A210 Kennewick, WA	Every 2 Weeks
	1		2085	Benton County Clerk/Juvenile	5600 W Canal Dr. Kennewick, WA	Every 4 Weeks
1			2085	Benton County Clerk	620 Market St. Prosser, WA	Every 4 Weeks
4			2360	Benton County District Court	7122 W Okanogan Pl. STE A110 Kennewick, WA	Every 2 Weeks
1			2360	Benton County District Court	620 Market St. Prosser, WA	Every 4 Weeks
1			2361	Benton County District Probation	7122 W Okanogan Pl. STE A110 Kennewick, WA	Every 4 Weeks
1			2759	Benton County Building Dept.	102206 E Wiser Pkwy. Kennewick, WA	On-Call
1			2992	Benton County Planning Dept.	620 Market St. Prosser, WA	On-Call
1			4269	Benton County Road Dept.	102206 E Wiser Pkwy. Kennewick, WA	Every 8 Weeks
5			0110	Benton Franklin Counties Juvenile Dept.	5606 W Canal Dr. STE 106 Kennewick, WA	Every 4 Weeks
2			3211	Benton County Superior Court Admin.	7122 W Okanogan Pl. STE A130 Kennewick, WA	Every 2 Weeks
Non-Scheduled Service (Purge Locations)						
			0092	Benton County Assessor	7122 W Okanogan Place; STE E130 Kennewick, WA	As-needed

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Information Management
A Columbia Industries Company

Exhibit A

Service Locations & Schedules

64 Gal	32 Gal	20 Gal	CUST #	Location/Department Name	Location Address	Frequency
			0093	Benton County Assessor	620 Market St. Prosser, WA	As-needed
			0096	Benton County Coroner	7122 W Okanogan Place; STE C110 Kennewick, WA	As-needed
			2405	Benton County Treasurer	14303 N Hinzerling Rd. Kennewick, WA	As-needed
			2675	Benton County IT Services	620 Market St. Prosser, WA	As-needed
			2940	Benton County Facilities	7122 W Okanogan Place; STE D110 Kennewick, WA	As-needed
			4016	Benton County IT Services	620 Market St. Prosser, WA	As-needed
			0094	Benton County Auditor	14303 N Hinzerling Rd. Kennewick, WA	As-needed
			0094	Benton County Auditor	7122 W Okanogan Place; STE E120 Kennewick, WA	As-needed

SUBCONTRACTORS
CIIM (the Contractor) shall be entitled to utilize the services of NAID Certified subcontractors selected by the Contractor upon written notice to Benton County (the County). The Contractor will require that all of the subcontractors and agents to which it provides PHI, pursuant to the terms of this Agreement, agree to all of the same laws, restrictions and conditions to which the Contractor is also bound.

CIIM Subcontractor/s Utilized: Commodity Resource & Environmental, Inc.
Subcontracted Services: Destruction & Recycle of X-rays, Micro Media and other Electronic Media

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	December 13, 2022
Subject:	Execute Contract with Meier Architecture & Engineering, Inc. for the Justice Center Boiler Replacement project
Presenter:	
Prepared By:	P. Schut
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:**	
☒ 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

Over the last four years, four of the six heating boilers in the Justice Center/Jail Building have been replaced with more energy-efficient heating boilers, and the last two are about to reach the end of their useful life and need to be replaced.

Pursuant to Resolution #2021-233, the Benton County Procurement, Leasing, and Contracting Policy, Section 5.4, the County has entered into an agreement with MRSC to create and maintain Benton County's consulting Roster. The County utilized the MRSC Consulting Roster and chose Meier Architecture & Engineering, Inc. as the most qualified consultant as they have previously worked on HVAC systems at the Justice Center and are familiar with the facilities.

The Director of Operations & Capital Programs recommends executing a contract with Meier Architecture & Engineering, Inc. A Professional Services Contract has been prepared, reviewed, and approved as to form by our departmental Deputy Prosecuting Attorney and signed by Meier Architecture & Engineering, Inc.

The Contract will commence on the last date signed and will expire on December 31, 2023.

Fiscal Impact

Amount: $10,000.00 excluding WSST

Fund: Capital Projects Fund

Recommendation

It is recommended by the Director of Operations and Capital Programs that the Board approve and sign the Contract with Meier Architecture & Engineering, Inc. for the Justice Center Boiler Replacement project.

Suggested Motion

Approve as part of the Consent Agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AUTHORIZING THE CHAIRMAN TO SIGN THE CONTRACT WITH MEIER ARCHITECTURE & ENGINEERING, INC, KENNEWICK, WASHINGTON, FOR THE DESIGN OF THE JUSTICE CENTER BOILER REPLACEMENT PROJECT

WHEREAS, over the last four years, four of the six heating boilers in the Justice Center/Jail Building have been replaced with more energy-efficient heating boilers, and the last two are about to reach the end of their useful life and need to be replaced; and

WHEREAS, pursuant to Resolution #2021-233, the Benton County Procurement, Leasing and Contracting Policy, Section 5.4, the County has entered into an agreement with MRSC to create and maintain Benton County's consulting Roster; and

WHEREAS, the County utilized the MRSC Consulting Roster and chose Meier Architecture & Engineering, Inc. as the most qualified consultant as they have previously worked on the HVAC systems at the Justice Center and are familiar with the facilities; and

WHEREAS, the Director of Operations & Capital Programs recommends executing a contract with Meier Architecture & Engineering, Inc.; and

WHEREAS, a Professional Services Contract has been prepared, reviewed, and approved as to form by our departmental Deputy Prosecuting Attorney and signed by Meier Architecture & Engineering, Inc.; and

WHEREAS, the contract in the amount of $10,000.00, excluding Washington State Sales Tax, has been executed by Meier Architecture & Engineering, Inc.; **NOW, THEREFORE,**

BE IT RESOLVED, that the Board of Benton County Commissioners concurs with the Director of Operations & Capital Programs and hereby authorizes the Chairman to sign the Professional Services Contract for the design of the Justice Center Boiler Replacement project with Meier Architecture & Engineering, Inc. of Kennewick, Washington, for a total amount not to exceed $10,000.00 excluding WSST; and

BE IT FURTHER RESOLVED, the Director of Operations and Capital Programs is hereby authorized to proceed with the Justice Center Boiler Replacement project according to the terms of the contract; and

BE IT FURTHER RESOLVED, the term of the Consultant Agreement commences on the last date signed and expires on December 31, 2023.

Dated this 13th day of December 2022.

_____
Chairman.

_____
Chairman Pro-Tem.

_____
Member.

Attest:_____
Clerk of the Board

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

Orig.: Procurement
cc: Auditor, PA, Meier

P. Schut

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BENTON COUNTY
PROFESSIONAL SERVICES CONTRACT

TERMS AND CONDITIONS

THIS CONTRACT is made and entered into by and between **BENTON COUNTY**, a political subdivision with its principal offices at 620 Market Street, Prosser, WA 99350 (hereinafter "COUNTY"), and **MEIER ARCHITECTURE & ENGINEERING ,INC.**, a corporation organized under the laws of the State of Washington with its principal offices at 12 W Kennewick, Ave, Kennewick, WA 99336(hereinafter "CONTRACTOR").

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

1. CONTRACT DOCUMENTS

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

a. Exhibit A – Scope of Work & Fees; and

2. DURATION OF CONTRACT

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

3. SERVICES PROVIDED

a. The CONTRACTOR shall provide mechanical engineering services to replace the Justice Center Courts Boilers with new condensing type boilers and integrate them into the existing DDC control system. The Contractor shall also provide mechanical engineering services for the replacement of the Justice Center Courts Water Softener. A detailed description of the services to be performed by the CONTRACTOR is set forth in Exhibit A, "Scope of Work & Fees", 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,

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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 as shown in Exhibit A – "Scope of Work & Fees".

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:	Colin Bates
Address:	12 W Kennewick, Ave. Kennewick, WA 99336
Phone:	509-735-1589
Email:	cmbates@meierinc.com

b. For COUNTY:

Name:	Robert Blain
Address:	7122 W Okanogan Place; STE E330 Kennewick, WA 99336
Phone:	509-736-2704
Email:	Robert.Blain@co.benton.wa.us

5. COMPENSATION

a. For the services performed under this Contract, the CONTRACTOR shall be paid at the rates set forth in Exhibit A, "Scope of Work & Fees", which is attached hereto and incorporated herein by reference.

b. The maximum total amount payable by the COUNTY to the CONTRACTOR under this Contract shall not exceed Ten Thousand

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Dollars and Zero Cents ($10,000.00), excluding W.S.S.T.

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

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

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

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

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

6. AMENDMENTS AND CHANGES IN WORK

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

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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.**

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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.

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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

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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

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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

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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.

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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,

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gift, or other consideration contingent upon or resulting from the award or making of this Contract.

11. NON-WAIVER OF RIGHTS

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

12. INDEPENDENT CONTRACTOR

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

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

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

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

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

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13. COMPLIANCE WITH LAWS

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

14. INSPECTION OF BOOKS AND RECORDS

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

15. NONDISCRIMINATION

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

16. OWNERSHIP OF MATERIALS/WORKS PRODUCED

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

b. All design work done by the CONTRACTOR shall be done on AutoCAD Civil 3D 2015 or higher, or other systems mutually agreed upon, an electronic copy of which shall be submitted to the COUNTY upon request and/or at the expiration of the Contract. Should a construction project result from the work of the CONTRACTOR, the record drawings from the CONTRACTOR shall be transposed onto the electronic design drawings and submitted to the COUNTY.

c. An electronic copy of all word processing documents shall be

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submitted to the COUNTY upon request and/or at the expiration of the Contract, using the word processing program and version specified by the COUNTY.

17. PATENT/COPYRIGHT INFRINGEMENT

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

18. DISPUTES

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

19. CONFIDENTIALITY

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

20. CHOICE OF LAW, JURISDICTION, AND VENUE

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

b. Any action at law, suit in equity, or judicial proceeding

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arising out of this Contract shall be instituted and maintained only in any of the courts of competent jurisdiction in Benton County, Washington.

21. SUCCESSORS AND ASSIGNS

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

22. SEVERABILITY

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

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

23. ENTIRE AGREEMENT

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

24. NOTICES

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

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25. SURVIVABILITY

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

26. LITIGATION HOLD NOTICE

In the event the COUNTY learns of circumstances leading to an increased likelihood of litigation regarding any matter where the records kept by CONTRACTOR pursuant to Section 14 of this Contract may be of evidentiary value, the COUNTY may issue written notice to CONTRACTOR of such circumstances and direct the CONTRACTOR to "hold" such records. In the event that CONTRACTOR receives such written notice, CONTRACTOR shall abide by all directions therein whether or not such written notice is received at a time when a Contract between CONTRACTOR and the COUNTY is in force. Such directions will include, but will not be limited to, instructions to suspend the six (6) year purge schedule required by Section 14 of this Contract.

27. PUBLIC RECORDS ACT

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

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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

Approved as to Form

DocuSigned by:
Eric Andrews
B4F7673DB8A1486...
Civil Deputy Prosecuting Attorney

Dated: 12/1/2022

FOR: MEIER ARCHITECTURE & ENGINEERING, INC.

DocuSigned by:
Bobbi Keen
E042E8733EB0413...
Signature

Controller/Operations Manager
Title:

Bobbi Keen
Print Name

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Meier
ARCHITECTURE • ENGINEERING
Celebrating 40 years of Service

PROPOSAL FOR SERVICES

CLIENT: Robert Blain
Benton County
620 Market Street
Prosser, WA 99350

PROJECT: BENTON COUNTY JUSTICE CENTER BOILER REPLACEMENT

Thank you for the opportunity for Meier Architecture • Engineering (Meier) to offer professional design services. We are confident we have the available staff with the skill set for your Project needs.

Our understanding of the Project is that the boilers at the Benton County Justice Center are nearing the end of their useful life. Meier is proposing to provide mechanical engineering services to replace the boilers with new condensing type boilers and integrate them into the existing DDC control system. The water softener in the boiler room is also to be replaced.

CLIENT RESPONSIBILITIES:
Meier's ability to provide all design services is contingent on the following Client responsibilities:

1. Provide Meier personnel with access to the facility to obtain accurate information on existing conditions and provide ladders or lifts as needed.
2. Provide any available record drawings, surveys, or studies pertaining to the subject property with relevance to the scope of design work described in this Proposal.
3. Provide any standards or specifications the Client intends for Meier to follow or consider in the design process.
4. Review interim and final documents and provide written comments for consideration and incorporation into the final stamped documents.

SCOPE OF SERVICES:
Meier agrees to provide the following services relating to this Project:

1. Conduct a site visit to observe the existing conditions and obtain information pertinent to the Project.
2. Develop mechanical drawings showing the following:
    a. Title sheet.
    b. Notes and legends.
    c. Demolition drawings.
    d. Mechanical plan views.
    e. Mechanical details and diagrams.
    f. Mechanical equipment schedules.
3. Electrical design build notes will be included on the plans for electrical modifications required for the HVAC installation.
4. Drawings will be developed in AutoCAD and published electronically in PDF format.
5. Provide technical specifications in CSI booklet format.

12 W. Kennewick Ave. | Kennewick, WA 99336 | M 509.735.1589 | F 509.783.5075 | www.meierinc.com

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6. Final documents will be stamped by a Registered Professional Engineer licensed in the State of Washington.
7. Provide completed Washington State Energy Code (WSEC) compliance forms for the mechanical systems.
8. Provide bidding assistance in the form of answering Requests for Information (RFI) and preparing addenda as needed.
9. Assist the County in submitting the plans for permitting and responding to comments from the Authority Having Jurisdiction (AHJ) including revisions to the documents if needed.
10. Provide construction support in the form of submittal reviews, RFI resolution, reviewing work in progress, holding regular construction meetings, and assisting with the review and preparation of change orders.
11. Provide a final walk-through to assist in the development of a punch list.
12. Provide "as-built" drawings incorporating the Contractor's redlines at the end of construction.

ASSUMPTIONS:

1. Any design coordination or design review meetings will be held at Benton County's offices or by video or tele-conferencing.
2. All design and drawings will be done in accordance with Meier standards including Meier sheet borders where applicable.
3. The boiler pumps will also be replaced as a part of this Project. The existing base-mount, secondary loop pumps are to remain.
4. It is assumed the existing electrical and gas service will be adequate for the new boilers.

DELIVERABLES:

1. 75% construction documents: Transmitted in electronic PDF format.
2. 100% stamped construction documents: Transmitted in electronic PDF format.
3. Completed WSEC compliance forms for the mechanical systems.
4. "As-built" drawings after the completion of construction.

SCHEDULE:

Design is expected to be complete within 6 weeks of notice to proceed plus any review time by the County.

All services not specifically outlined in the scope of services above shall be considered additional scope and shall be subject to a commensurate adjustment to the agreed compensation. Changes to scope shall be defined by way of a written addendum, signed by the parties, prior to proceeding with the additional work. If Meier is instructed to perform additional services before a written addendum is in place, Meier shall have the right to bill the Client for these additional services on a time and expenses basis at current Meier standard rates.

COMPENSATION:

Meier will perform design services for a firm fixed fee as follows:

Construction Documents:	$7,000
Bidding Support:	$ 800
Construction Support:	$ as-needed
Total	$7,800

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Construction support will be conducted on a time and expense basis at the request of the Client. Meier's standard rates are available upon request.

Invoices will be submitted monthly. A 1.5% interest charge will be added for late payment beyond the normal 30-day billing period. Agreement to provide services, as stated, is valid if approved within 30 days of date submitted. Approvals beyond 30 days are subject to re-negotiation of scope and fee.

Please mail payments to:
12 W. Kennewick Avenue, Kennewick, WA 99336

OTHER TERMS AND CONDITIONS:
We assume that the County's standard agreement between Client and Meier will be provided for these services. If not, Meier's standard terms and conditions will apply.

We look forward to working with you on this Project. If the scope of work above does not adequately reflect your expectations, please let us know. It is our goal to meet your needs and budget on this Project. If you have any questions, please feel free to contact Colin Bates directly at 509.737.6962 or cmbates@meierinc.com.

APPROVED BY:

Meier Architecture • Engineering



Signature

Colin Bates
Print Name

November 21, 2022
Date

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Meier Enterprises Fee Schedule

Effective as of March 14, 2022

Proprietary Information

Classification	Rate
Expert Witness	300.00
Principal Project Manager	210.00
Senior Project Manager	152.00
Project Manager	145.00
Principal Engineer	180.00
Senior Technical Engineer	152.00
Senior Engineer	140.00
Project Engineer	137.00
Mid Level Engineer	120.00
Engineer	115.00
Graduate Engineer	107.00
Estimator	126.00
Principal Architect	180.00
Senior Architect	145.00
Project Architect	123.00
Architect	106.00
Architectural Intern	91.00
Project Designer	115.00
Senior Designer	108.00
Mid Level Designer	97.00
Designer	88.00
Drafter	79.00
Intern	53.00
Operations Manager	180.00
Project Accountant	90.00
IT Support	105.00
Document Controls Clerk	79.00
Administrative Assistant	74.00

1. Direct costs, such as outside consultants, reproduction, photography, etc., incurred will be billed at cost plus 12.5%.

2. Mileage costs and per diem are billed at current published General Services Administration (GSA) rates plus 12.5%.

3. MicroStation/3D/Photo Editing station costs are billed at $10.00 per hour.

4. Notary Services $10.00 per notary.

5. Hourly employees incurring overtime will be billed at the published rate above plus 25%.

6. Project related reproductions requested by the client and completed in-house to be billed at the following rates:

Bond	**8 1/2 x 11**	**$ 0.05/each**	**24 x 36**	**$ 2.00/each**
	11 x 17	**$ 0.10/each**	**30 x 42**	**$ 2.50/each**
Color Plots	**8 1/2 x 11**	**$ 2.00/each**	**24 x 36**	**$ 10.00/each**
	11 x 17	**$ 4.00/each**	**30 x 42**	**$ 15.00/each**
Mylar	**24 x 36**	**$ 10.50/each**	**30 x 42**	**$ 15.30/each**

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	December 13, 2022
Subject:	Execute Contract with Meier Architecture & Engineering, Inc. for the Design of the Canine Control Cooling System Upgrade
Presenter:	
Prepared By:	P. Schut
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:**	
☒ Consent Agenda	☐ Discussion Only (1st)	☐ Pass Motion
☐ Public Hearing	☐ Discussion Only (2nd)	☒ Pass Resolution
☐ Scheduled Business	☐ Decision/Direction	☐ Pass Ordinance
	☐ Sign Letter/Document	☒ Execute Contract

Summary / Background Information

The Canine Control Building was constructed in 2011, with the primary cooling of the kennel area being a swamp cooler. The current cooling system has struggled to keep up with the increasing summer temperatures over the last several years. The Capital Projects Department recommends replacing the current system with a new energy-efficient mini-split system that can keep up with the cooling needs of the kennel area.

Pursuant to Resolution #2021-233, the Benton County Procurement, Leasing, and Contracting Policy, Section 5.4, the County has entered into an agreement with MRSC to create and maintain Benton County's consulting Roster. The County utilized the MRSC Consulting Roster and chose Meier Architecture & Engineering, Inc. as the most qualified consultant, as they have previously and are currently working on the design of HVAC systems for Benton County and are familiar with the facilities.

The Director of Operations & Capital Programs recommends executing a contract with Meier Architecture & Engineering, Inc. A Professional Services Contract has been prepared, reviewed, and approved as to form by our departmental Deputy Prosecuting Attorney and signed by Meier Architecture & Engineering, Inc.

The Contract will commence on the last date signed and will expire on December 31, 2023.

Fiscal Impact

Amount: $12,000.00 excluding WSST

Fund: Capital Projects Fund

Recommendation

It is recommended by the Director of Operations and Capital Programs that the Board approve and sign the Contract with Meier Architecture & Engineering, Inc. for the Canine Control cooling system upgrade.

Suggested Motion

Approve as part of the Consent Agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AUTHORIZING THE CHAIRMAN TO SIGN THE CONTRACT WITH MEIER ARCHITECTURE & ENGINEERING, INC, KENNEWICK, WASHINGTON, FOR THE DESIGN OF THE CANINE CONTROL COOLING SYSTEM UPGRADE

WHEREAS, The Canine Control Building was constructed in 2011, with the primary cooling of the kennel area being a swamp cooler. The current cooling system has struggled to keep up with the increasing summer temperatures over the last several years; and

WHEREAS, the Capital Projects Department recommends replacing the current system with a new energy-efficient mini-split system that can keep up with the cooling needs of the kennel area; and

WHEREAS, pursuant to Resolution #2021-233, the Benton County Procurement, Leasing, and Contracting Policy, Section 5.4, the County has entered into an agreement with MRSC to create and maintain Benton County's consulting Roster; and

WHEREAS, the County utilized the MRSC Consulting Roster and chose Meier Architecture & Engineering, Inc. as the most qualified consultant as they have previously and are currently working on the design of HVAC systems for Benton County and are familiar with the facilities; and

WHEREAS, the Director of Operations & Capital Programs recommends executing a contract with Meier Architecture & Engineering, Inc.; and

WHEREAS, a Professional Services Contract has been prepared, reviewed, and approved as to form by our departmental Deputy Prosecuting Attorney and signed by Meier Architecture & Engineering, Inc.; and

WHEREAS, the contract in the amount of $12,000.00, excluding Washington State Sales Tax, has been executed by Meier Architecture & Engineering, Inc.; **NOW, THEREFORE,**

BE IT RESOLVED, that the Board of Benton County Commissioners concurs with the Director of Operations & Capital Programs and hereby authorizes the Chairman to sign the Professional Services Contract for the design of the Canine Control Cooling System Upgrade with Meier Architecture & Engineering, Inc. of Kennewick, Washington, for a total amount not to exceed $12,000.00 excluding WSST; and

BE IT FURTHER RESOLVED, the Director of Operations and Capital Programs is hereby authorized to proceed with the Canine Control Cooling System Upgrade according to the terms of the contract; and

BE IT FURTHER RESOLVED, the term of the Consultant Agreement commences on the last date signed and expires on December 31, 2023.

Dated this 13th day of December 2022.

_____
Chairman.

_____
Chairman Pro-Tem.

_____
Member.

Attest:_____
Clerk of the Board

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

Orig.: Procurement
cc: Auditor, PA, Meier

P. Schut

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BENTON COUNTY
PROFESSIONAL SERVICES CONTRACT

TERMS AND CONDITIONS

THIS CONTRACT is made and entered into by and between **BENTON COUNTY**, a political subdivision with its principal offices at 620 Market Street, Prosser, WA 99350 (hereinafter "COUNTY"), and **MEIER ARCHITECTURE & ENGINEERING ,INC.**, a corporation organized under the laws of the State of Washington with its principal offices at 12 W Kennewick, Ave, Kennewick, WA 99336(hereinafter "CONTRACTOR").

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

1. CONTRACT DOCUMENTS

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

a. Exhibit A – Scope of Work & Fees; and

2. DURATION OF CONTRACT

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

3. SERVICES PROVIDED

a. The CONTRACTOR shall provide mechanical engineering services to replace the Animal Control Kennel system that has the ability to turn down and utilizes mechanical cooling for more reliable conditioning of the space. A detailed description of the services to be performed by the CONTRACTOR is set forth in Exhibit A, "Scope of Work & Fees", 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.

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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 as shown in Exhibit A – "Scope of Work & Fees".

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:	Colin Bates
Address:	12 W Kennewick, Ave. Kennewick, WA 99336
Phone:	509-735-1589
Email:	cmbates@meierinc.com

b. For COUNTY:

Name:	Robert Blain
Address:	7122 W Okanogan Place; STE E330 Kennewick, WA 99336
Phone:	509-736-2704
Email:	Robert.Blain@co.benton.wa.us

5. COMPENSATION

a. For the services performed under this Contract, the CONTRACTOR shall be paid at the rates set forth in Exhibit A, "Scope of Work & Fees", which is attached hereto and incorporated herein by reference.

b. The maximum total amount payable by the COUNTY to the CONTRACTOR under this Contract shall not exceed Twelve Thousand Dollars and Zero Cents ($12,000.00), excluding W.S.S.T.

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

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

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

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

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

6. AMENDMENTS AND CHANGES IN WORK

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

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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

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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

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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.

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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.

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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

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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.

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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,

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gift, or other consideration contingent upon or resulting from the award or making of this Contract.

11. NON-WAIVER OF RIGHTS

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

12. INDEPENDENT CONTRACTOR

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

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

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

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

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

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13. COMPLIANCE WITH LAWS

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

14. INSPECTION OF BOOKS AND RECORDS

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

15. NONDISCRIMINATION

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

16. OWNERSHIP OF MATERIALS/WORKS PRODUCED

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

b. All design work done by the CONTRACTOR shall be done on AutoCAD Civil 3D 2015 or higher, or other systems mutually agreed upon, an electronic copy of which shall be submitted to the COUNTY upon request and/or at the expiration of the Contract. Should a construction project result from the work of the CONTRACTOR, the record drawings from the CONTRACTOR shall be transposed onto the electronic design drawings and submitted to the COUNTY.

c. An electronic copy of all word processing documents shall be

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submitted to the COUNTY upon request and/or at the expiration of the Contract, using the word processing program and version specified by the COUNTY.

17. PATENT/COPYRIGHT INFRINGEMENT

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

18. DISPUTES

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

19. CONFIDENTIALITY

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

20. CHOICE OF LAW, JURISDICTION, AND VENUE

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

b. Any action at law, suit in equity, or judicial proceeding

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arising out of this Contract shall be instituted and maintained only in any of the courts of competent jurisdiction in Benton County, Washington.

21. SUCCESSORS AND ASSIGNS

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

22. SEVERABILITY

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

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

23. ENTIRE AGREEMENT

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

24. NOTICES

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

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25. SURVIVABILITY

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

26. LITIGATION HOLD NOTICE

In the event the COUNTY learns of circumstances leading to an increased likelihood of litigation regarding any matter where the records kept by CONTRACTOR pursuant to Section 14 of this Contract may be of evidentiary value, the COUNTY may issue written notice to CONTRACTOR of such circumstances and direct the CONTRACTOR to "hold" such records. In the event that CONTRACTOR receives such written notice, CONTRACTOR shall abide by all directions therein whether or not such written notice is received at a time when a Contract between CONTRACTOR and the COUNTY is in force. Such directions will include, but will not be limited to, instructions to suspend the six (6) year purge schedule required by Section 14 of this Contract.

27. PUBLIC RECORDS ACT

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

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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

Approved as to Form

DocuSigned by:
Eric Andrews
B4F7673BB8A1486...

Civil Deputy Prosecuting Attorney

Dated: 12/1/2022

FOR: MEIER ARCHITECTURE & ENGINEERING, INC.

DocuSigned by:
Bobbi Keen
E643E9793EB0413...

Signature

Controller/Operations Manager

Title:

Bobbi Keen

Print Name

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Meier
ARCHITECTURE • ENGINEERING
Celebrating 40 years of Service

PROPOSAL FOR SERVICES

CLIENT: Robert Blain
Benton County
620 Market Street
Prosser, WA 99350

PROJECT: BENTON COUNTY ANIMAL CONTROL HVAC

Thank you for the opportunity for Meier Architecture • Engineering (Meier) to offer professional design services. We are confident we have the available staff with the skill set for your Project needs.

Our understanding of the Project is the kennel area of the Animal Control Facility is currently served by a make-up air unit with evaporative cooling and electric heat, and a series of exhaust fans. The system is constant volume and struggles to keep the space at a reasonable temperature during hot/humid conditions. Meier is proposing to provide mechanical engineering services to replace the system that has the ability to turn down and utilizes mechanical cooling for more reliable conditioning of the space.

CLIENT RESPONSIBILITIES:
Meier's ability to provide all design services is contingent on the following Client responsibilities:

1. Provide Meier personnel with access to the facility to obtain accurate information on existing conditions and provide ladders or lifts as needed.
2. Provide any available record drawings, surveys, or studies pertaining to the subject property with relevance to the scope of design work described in this Proposal.
3. Provide any standards or specifications the Client intends for Meier to follow or consider in the design process.
4. Review interim and final documents and provide written comments for consideration and incorporation into the final stamped documents.

SCOPE OF SERVICES:
Meier agrees to provide the following services relating to this Project:

1. Conduct a site visit to observe the existing conditions and obtain information pertinent to the Project.
2. Conduct heating and cooling load calculations for the kennel area, taking into account the required ventilation levels.
3. Mechanical design will include providing ventilation levels necessary to adequately control odors and meet local code requirements.
4. Develop mechanical drawings showing the following:
    a. Title sheet.
    b. Notes and legends.
    c. Demolition drawings.
    d. Mechanical plan views.

12 W. Kennewick Ave. | Kennewick, WA 99336 | M 509.735.1589 | F 509.783.5075 | www.meierinc.com

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   e. Mechanical details and diagrams.
   f. Mechanical equipment schedules.
5. Electrical design build notes will be included on the plans for electrical modifications required for the HVAC installation.
6. Drawings will be developed in AutoCAD and published electronically in PDF format.
7. Provide technical specifications in CSI booklet format.
8. Final documents will be stamped by a Registered Professional Engineer licensed in the State of Washington.
9. Provide completed Washington State Energy Code (WSEC) compliance forms for the mechanical systems.
10. Provide bidding assistance in the form of answering Requests for Information (RFI) and preparing addenda as needed.
11. Assist Benton Count (County) in submitting the plans for permitting and responding to comments from the Authority Having Jurisdiction (AHJ) including revisions to the documents, if needed.
12. Provide construction support in the form of submittal reviews, RFI resolution, reviewing work in progress, holding regular construction meetings, and assisting with the review and preparation of Change Orders.
13. Provide a final walk-through to assist in the development of a punch list.
14. Provide "as-built" drawings incorporating the Contractor's redlines at the end of construction.

ASSUMPTIONS:

1. Any design coordination or design review meetings will be held at the County's offices or by video or tele-conferencing.
2. All design and drawings will be done in accordance with Meier standards including Meier sheet borders where applicable.
3. It is assumed the existing electrical service will be adequate for the HVAC modifications and a change in service will not be required, and the existing panels will be adequate to provide power to any new HVAC equipment.
4. It is assumed the existing structure is capable of supporting the HVAC equipment.

DELIVERABLES:

1. 60% construction documents: Transmitted in electronic PDF format.
2. 90% construction documents: Transmitted in electronic PDF format.
3. 100% stamped construction documents: Transmitted in electronic PDF format.
4. Completed WSEC compliance forms for the mechanical systems.
5. "As-built" drawings after the completion of construction.

SCHEDULE:

Design is expected to be complete within eight (8) weeks of a Notice to Proceed (NTP), plus any review time by the County.

All services not specifically outlined in the scope of services above shall be considered additional scope and shall be subject to a commensurate adjustment to the agreed compensation. Changes to scope shall be defined by way of a written addendum, signed by the parties, prior to proceeding with the additional work. If Meier is instructed to perform additional services before a written

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addendum is in place, Meier shall have the right to bill the Client for these additional services on a time and expenses basis at current Meier standard rates.

COMPENSATION:
Meier will perform design services for a firm fixed fee as follows:

Construction Documents:	$ 9,000
Bidding Support:	$ 1,000
Construction Support:	$ as-needed
Total	$10,000

Construction support will be conducted on a time and expense basis at the request of the Client. Meier's standard rates are available upon request.

Invoices will be submitted monthly. A 1.5% interest charge will be added for late payment beyond the normal 30-day billing period. Agreement to provide services, as stated, is valid if approved within 30 days of date submitted. Approvals beyond 30 days are subject to re-negotiation of scope and fee.

Please mail payments to:
12 W. Kennewick Avenue, Kennewick, WA 99336

OTHER TERMS AND CONDITIONS:
We assume that the County's standard agreement between the Client and Meier will be provided for these services. If not, Meier's standard terms and conditions will apply.

We look forward to working with you on this Project. If the scope of work above does not adequately reflect your expectations, please let us know. It is our goal to meet your needs and budget on this Project. If you have any questions, please feel free to contact Colin Bates directly at 509.737.6962 or cmbates@meierinc.com.

APPROVED BY:

Meier Architecture • Engineering

Signature

Colin Bates
Print Name

November 21, 2022
Date

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Meier Enterprises Fee Schedule

Effective as of March 14, 2022

Proprietary Information

Classification	Rate
Expert Witness	300.00
Principal Project Manager	210.00
Senior Project Manager	152.00
Project Manager	145.00
Principal Engineer	180.00
Senior Technical Engineer	152.00
Senior Engineer	140.00
Project Engineer	137.00
Mid Level Engineer	120.00
Engineer	115.00
Graduate Engineer	107.00
Estimator	126.00
Principal Architect	180.00
Senior Architect	145.00
Project Architect	123.00
Architect	106.00
Architectural Intern	91.00
Project Designer	115.00
Senior Designer	108.00
Mid Level Designer	97.00
Designer	88.00
Drafter	79.00
Intern	53.00
Operations Manager	180.00
Project Accountant	90.00
IT Support	105.00
Document Controls Clerk	79.00
Administrative Assistant	74.00

1. Direct costs, such as outside consultants, reproduction, photography, etc., incurred will be billed at cost plus 12.5%.

2. Mileage costs and per diem are billed at current published General Services Administration (GSA) rates plus 12.5%.

3. MicroStation/3D/Photo Editing station costs are billed at $10.00 per hour.

4. Notary Services $10.00 per notary.

5. Hourly employees incurring overtime will be billed at the published rate above plus 25%.

6. Project related reproductions requested by the client and completed in-house to be billed at the following rates:

Bond	**8 1/2 x 11**	**$ 0.05/each**	**24 x 36**	**$ 2.00/each**
	11 x 17	**$ 0.10/each**	**30 x 42**	**$ 2.50/each**
Color Plots	**8 1/2 x 11**	**$ 2.00/each**	**24 x 36**	**$ 10.00/each**
	11 x 17	**$ 4.00/each**	**30 x 42**	**$ 15.00/each**
Mylar	**24 x 36**	**$ 10.50/each**	**30 x 42**	**$ 15.30/each**

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	December 13, 2022
Subject:	Execute Contract with Meier Architecture & Engineering, Inc. for the Design of the New Law Enforcement Training Center at the Rattlesnake Shooting Facility
Presenter:	
Prepared By:	P. Schut
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:**	
☒ 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

As part of the 2023-2024 Budget Process, the Board of Benton County Commissioners approved the funding of a new law enforcement training center at the Rattlesnake Shooting Range Facility.

Pursuant to Resolution #2021-233, the Benton County Procurement, Leasing, and Contracting Policy, Section 5.4, the County has entered into an agreement with MRSC to create and maintain Benton County's consulting Roster. The County utilized the MRSC Consulting Roster and chose Meier Architecture & Engineering, Inc. as the most qualified consultant, as they were the design consultant for the recently completed law enforcement shooting range at the Rattlesnake Shooting Range Facility.

The Director of Operations & Capital Programs recommends executing a contract with Meier Architecture & Engineering, Inc. A Professional Services Contract has been prepared, reviewed, and approved as to form by our departmental Deputy Prosecuting Attorney and signed by Meier Architecture & Engineering, Inc.

The Contract will commence on the last date signed and will expire on December 31, 2023.

Fiscal Impact

Amount: $70,000.00 excluding WSST

Fund: Capital Projects Fund

Recommendation

It is recommended by the Director of Operations and Capital Programs that the Board approve and sign the Contract with Meier Architecture & Engineering, Inc. for the design of the law enforcement training center at the Rattlesnake Shooting Range Facility.

Suggested Motion

Approve as part of the Consent Agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AUTHORIZING THE CHAIRMAN TO SIGN THE CONTRACT WITH MEIER ARCHITECTURE & ENGINEERING, INC, KENNEWICK, WASHINGTON, FOR THE DESIGN OF THE LAW ENFORCEMENT TRAINING CENTER AT RATTLESNAKE SHOOTING RANGE FACILITY

WHEREAS, as part of the 2023-2024 Budget Process, the Board of Benton County Commissioners approved the funding of a new law enforcement training center at the Rattlesnake Shooting Range Facility; and

WHEREAS, pursuant to Resolution #2021-233, the Benton County Procurement, Leasing, and Contracting Policy, Section 5.4, the County has entered into an agreement with MRSC to create and maintain Benton County's consulting Roster; and

WHEREAS, the County utilized the MRSC Consulting Roster and chose Meier Architecture & Engineering, Inc. as the most qualified consultant, as they were the design consultant for the recently completed law enforcement shooting range at the Rattlesnake Shooting Range Facility; and

WHEREAS, the Director of Operations & Capital Programs recommends executing a contract with Meier Architecture & Engineering, Inc.; and

WHEREAS, a Professional Services Contract has been prepared, reviewed, and approved as to form by our departmental Deputy Prosecuting Attorney and signed by Meier Architecture & Engineering, Inc.; and

WHEREAS, the contract in the amount of $70,000.00, excluding Washington State Sales Tax, has been executed by Meier Architecture & Engineering, Inc.; **NOW, THEREFORE,**

BE IT RESOLVED, that the Board of Benton County Commissioners concurs with the Director of Operations & Capital Programs and hereby authorizes the Chairman to sign the Professional Services Contract for the design of the law enforcement training center at the Rattlesnake Shooting Range Facility with Meier Architecture & Engineering, Inc. of Kennewick, Washington, for a total amount not to exceed $70,000.00 excluding WSST; and

BE IT FURTHER RESOLVED, the Director of Operations and Capital Programs is hereby authorized to proceed with the Law Enforcement Training Facilty project according to the terms of the contract; and

BE IT FURTHER RESOLVED, the term of the Consultant Agreement commences on the last date signed and expires on December 31, 2023.

Dated this 13th day of December 2022.

_____
Chairman.

_____
Chairman Pro-Tem.

_____
Member.

Attest:_____
Clerk of the Board

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

Orig.: Procurement
cc: Auditor, PA, Meier

P. Schut

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BENTON COUNTY
PROFESSIONAL SERVICES CONTRACT

TERMS AND CONDITIONS

THIS CONTRACT is made and entered into by and between **BENTON COUNTY**, a political subdivision with its principal offices at 620 Market Street, Prosser, WA 99350 (hereinafter "COUNTY"), and **MEIER ARCHITECTURE & ENGINEERING ,INC.**, a corporation organized under the laws of the State of Washington with its principal offices at 12 W Kennewick, Ave, Kennewick, WA 99336(hereinafter "CONTRACTOR").

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

1. CONTRACT DOCUMENTS

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

a. Exhibit A – Scope of Work & Fees; and

2. DURATION OF CONTRACT

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

3. SERVICES PROVIDED

a. The CONTRACTOR shall provide architectural and engineering services for a new 1,600 SF Training Center at the Rattlesnake Mountain Shooting Facility. A detailed description of the services to be performed by the CONTRACTOR is set forth in Exhibit A, "Scope of Work & Fees", 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

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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 as shown in Exhibit A – "Scope of Work & Fees".

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:	Gary Fleming
Address:	12 W Kennewick, Ave. Kennewick, WA 99336
Phone:	509-735-1589
Email:	gdfleming@meierinc.com

b. For COUNTY:

Name:	Robert Blain
Address:	7122 W Okanogan Place; STE E330 Kennewick, WA 99336
Phone:	509-736-2704
Email:	Robert.Blain@co.benton.wa.us

5. COMPENSATION

a. For the services performed under this Contract, the CONTRACTOR shall be paid at the rates set forth in Exhibit A, "Scope of Work & Fees", which is attached hereto and incorporated herein by reference.

b. The maximum total amount payable by the COUNTY to the CONTRACTOR under this Contract shall not exceed Seventy Thousand Dollars and Zero Cents ($70,000.00), excluding W.S.S.T.

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

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

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

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

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

6. AMENDMENTS AND CHANGES IN WORK

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

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

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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

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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

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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

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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.

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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-

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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.

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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,

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gift, or other consideration contingent upon or resulting from the award or making of this Contract.

11. NON-WAIVER OF RIGHTS

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

12. INDEPENDENT CONTRACTOR

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

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

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

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

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

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13. COMPLIANCE WITH LAWS

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

14. INSPECTION OF BOOKS AND RECORDS

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

15. NONDISCRIMINATION

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

16. OWNERSHIP OF MATERIALS/WORKS PRODUCED

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

b. All design work done by the CONTRACTOR shall be done on AutoCAD Civil 3D 2015 or higher, or other systems mutually agreed upon, an electronic copy of which shall be submitted to the COUNTY upon request and/or at the expiration of the Contract. Should a construction project result from the work of the CONTRACTOR, the record drawings from the CONTRACTOR shall be transposed onto the electronic design drawings and submitted to the COUNTY.

c. An electronic copy of all word processing documents shall be

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submitted to the COUNTY upon request and/or at the expiration of the Contract, using the word processing program and version specified by the COUNTY.

17. PATENT/COPYRIGHT INFRINGEMENT

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

18. DISPUTES

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

19. CONFIDENTIALITY

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

20. CHOICE OF LAW, JURISDICTION, AND VENUE

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

b. Any action at law, suit in equity, or judicial proceeding

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arising out of this Contract shall be instituted and maintained only in any of the courts of competent jurisdiction in Benton County, Washington.

21. SUCCESSORS AND ASSIGNS

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

22. SEVERABILITY

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

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

23. ENTIRE AGREEMENT

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

24. NOTICES

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

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25. SURVIVABILITY

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

26. LITIGATION HOLD NOTICE

In the event the COUNTY learns of circumstances leading to an increased likelihood of litigation regarding any matter where the records kept by CONTRACTOR pursuant to Section 14 of this Contract may be of evidentiary value, the COUNTY may issue written notice to CONTRACTOR of such circumstances and direct the CONTRACTOR to "hold" such records. In the event that CONTRACTOR receives such written notice, CONTRACTOR shall abide by all directions therein whether or not such written notice is received at a time when a Contract between CONTRACTOR and the COUNTY is in force. Such directions will include, but will not be limited to, instructions to suspend the six (6) year purge schedule required by Section 14 of this Contract.

27. PUBLIC RECORDS ACT

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

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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

Approved as to Form

DocuSigned by:
Eric Andrews
84F7873BB8A1436...
Civil Deputy Prosecuting Attorney

Dated: 12/1/2022

FOR: MEIER ARCHITECTURE & ENGINEERING, INC.

DocuSigned by:
Bobbi Keen
E9B1799FD667485...
Signature

Controller/Operations Manager
Title:

Bobbi Keen
Print Name

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Meier
ARCHITECTURE • ENGINEERING
Celebrating 40 years of Service

PROPOSAL FOR SERVICES

CLIENT: Robert Blain
Benton County
PO Box 190
Prosser, WA 99350

PROJECT: RATTLESNAKE MOUNTAIN SHOOTING FACILITY TRAINING CENTER

Thank you for the opportunity for Meier Architecture • Engineering (Meier) to offer professional design services. Our understanding of the Project is to provide all architectural and engineering services for a new 1,600 SF Training Center at the Rattlesnake Mountain Shooting Facility. The Center will be a single-story wood framed structure with an open training room with two (2) individual restrooms and a kitchenette. The new Center will be connected to the shooting range structure with a covered walkway. This Project will include a new on-site water well and septic field. The services will include the development of construction documents for permitting, bidding, and construction of the Training Center.

CLIENT RESPONSIBILITIES:

1. Provide any available record drawings, surveys, or studies pertaining to the subject property with relevance to the scope of design work described in this Proposal.
2. Provide location of existing water well and septic system for the current shooting range building. These systems will not be used, but locations are needed to coordinate new well and septic system.
3. Provide any standards or specifications the Client intends for Meier to follow or consider in the design process.
4. Review interim and final documents and provide comments.
5. Pay for any needed permits or fees.

SCOPE OF SERVICES:

1. Develop a preliminary site plan and floor plan for review and approval. We anticipate using the previous shooting range project drawings as the basis of the site plans.
2. Based on the approved preliminary plans, develop complete construction documents including drawings and separate CSI format specifications. Drawings to include, but are not limited to, the following:
    a. Civil site plan, grading plan, utility plan, water well, and septic field plans.
    b. Architectural life safety plan, floor plan, roof plan, and finish schedule.
    c. Structural foundation plan and roof framing plan.
    d. Mechanical and plumbing plans, details, and schedules.
    e. Electrical site plan, lighting plan, power plan, and light fixture schedule.
3. Provide an opinion of construction costs based on the 60% completed drawings to confirm compliance with the construction budget.
4. Provide complete contract and bidding documents.

12 W. Kennewick Ave. | Kennewick, WA 99336 | M 509.735.1589 | F 509.783.5075 | www.meierinc.com

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5. Provide bidding assistance to Benton County (County) in the form of answering Requests for Information (RFI) and preparing addenda as needed.
6. Provide support to obtain building and other permits by answering questions about the plans and specifications, and making corrections, as required, by the permitting agency.
7. Provide construction support, as needed, including review of submittals, responding to RFIs, and assisting with the review and preparation of Change Orders.
8. Attend a final walkthrough and prepare a punch list.
9. Prepare record drawings based on Contractor redlines.

ASSUMPTIONS:

1. All design and drawings will be done in accordance with Meier standards including Meier sheet borders where applicable.
2. The site drawings will be developed using the current shooting range expansion drawings.
3. The County will prepare and issue the State Environmental Policy Act (SEPA) and any other environmental permits and applications.
4. The water well and septic system for the existing shooting range facility will not be used but locations are needed to coordinate new well and septic system.
5. We have not included fees for attending weekly or monthly construction meetings and have assumed this to be done by County personnel.

DELIVERABLES:

1. Preliminary plans: Transmitted in electronic PDF format.
2. 60% and 90% construction documents: Transmitted in electronic PDF format.
3. 100% final stamped construction documents: Transmitted in electronic PDF format.
4. Stamped structural calculations: Transmitted in electronic PDF format.

SCHEDULE:

1. We anticipate being completed with the design portion of this Project within 60 working days of receiving a Notice to Proceed.

All services not specifically outlined in the scope of services above shall be considered additional scope and shall be subject to a commensurate adjustment to the agreed compensation. Changes to scope shall be defined by way of a written addendum, signed by the parties, prior to proceeding with the additional work. If Meier is instructed to perform additional services before a written addendum is in place, Meier shall have the right to bill the Client for these additional services on a time and expense basis at current Meier standard rates.

COMPENSATION:
Meier will perform design, bid, and construction support services for a fixed fee of $70,000.

Invoices will be submitted monthly. A 1.5% interest charge will be added for late payment beyond the normal 30-day billing period. Agreement to provide services, as stated, is valid if approved within 30 days of date submitted. Approvals beyond 30 days are subject to re-negotiation of scope and fee.

Please mail payments to:
12 W. Kennewick Avenue, Kennewick, WA 99336

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OTHER TERMS AND CONDITIONS:
We assume that a Standard Form of Agreement between the Client and Meier will be provided for these services. If not, Meier's standard terms and conditions will apply.

We look forward to working with you on this Project. If the scope of work above does not adequately reflect your expectations, please let us know. It is our goal to meet your needs and budget on this Project. If you have any questions, please feel free to contact Gary Fleming directly at 509.737.6934 or by email at gdfleming@meierinc.com.

APPROVED BY:

Meier Architecture • Engineering

Bobbi Kea
Signature

Bobbi Kea
Print Name

11/30/2022
Date

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	December 13, 2022
Subject:	Intergovernmental Agreement between Benton County and United States Marshals Service for Housing Federal Detainees
Presenter:	
Prepared By:	Lisa Small
Reviewed By:	Ryan Lukson; Chief Guerrero; 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

The Benton County Corrections Department (BCCD) has a current Intergovernmental Agreement with the United States Marshals Service (USMS) to house federal detainees per Resolutions 2014-756, 2015-255, 2016-629, 2017-076, 2018-212, and 2022-250.

The BCCD applied for an Agreement Renewal Application for the purpose of increasing the federal detainees bed day rate from $85.00 per inmate per day to $120.00 per inmate per day.

The parties negotiated a final rate and the Chief of Corrections recommends entering into an Intergovernmental Agreement with the USMS for the housing of federal detainees at the Benton County Jail Facility at a new rate of $118.00 per inmate per day.

USMS is requiring the County to sign the agreement first. They will return a fully executed copy of the Agreement for our records.

Fiscal Impact

Bed Day Rate: $118.00 per inmate per day.

Recommendation

Approve the attached Resolution authorizing the Chairman of the Board to sign the attached Intergovernmental Agreement between Benton County and the United States Marshals Service for the housing of federal detainees at the Benton County Jail. The attached Agreement supersedes all previous inmate housing agreements between the parties and Resolutions 2014-756, 2015-255, 2016-629, 2017-076, 2018-212, and 2022-250 are hereby rescinded.

Suggested Motion

Approve as part of the Consent Agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF AUTHORIZING THE CHAIRMAN OF THE BOARD TO SIGN THE INTERGOVERNMENTAL AGREEMENT BETWEEN BENTON COUNTY AND THE UNITED STATES MARSHALS SERVICE FOR THE HOUSING OF FEDERAL DETAINEES AT THE BENTON COUNTY JAIL FACILITY; RESCINDING RESOLUTIONS 2014-756, 2015-255, 2016-629, 2017-076, 2018-212 and 2022-250

WHEREAS, the Benton County Corrections Department (BCCD) has a current Intergovernmental Agreement with the United States Marshals Service to house federal detainees per Resolutions 2014-756, 2015-255, 2016-629, 2017-076, 2018-212, and 2022-250; and

WHEREAS, the BCCD applied for an Agreement Renewal Application for the purpose of increasing the federal detainees bed day rate from $85.00 per inmate per day to $120.00 per inmate per day; and

WHEREAS, the parties negotiated a final rate and the Chief of Corrections recommends entering into an Intergovernmental Agreement with the United States Marshals Service for the housing of federal detainees at the Benton County Jail Facility at a new rate of $118.00 per inmate per day; **NOW, THEREFORE**

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington hereby authorizes the Chairman of the Board to sign the attached Intergovernmental Agreement between Benton County and United States Marshals Service for the housing of federal detainees at the Benton County Jail Facility; and

BE IT FURTHER RESOLVED, the term of the Intergovernmental Agreement is effective upon the date of signature of both parties and remains in effect unless terminated by either party with written notice; and

BE IT FURTHER RESOLVED, the new rate of $118.00 per inmate per day shall be fixed for a period from the effective date of the Intergovernmental Agreement forward for thirty-six (36) months; and

BE IT FURTHER RESOLVED, the attached Intergovernmental Agreement supersedes all previous inmate housing agreements between the parties and Resolutions 2014-756, 2015-255, 2016-629, 2017-076, 2018-212, and 2022-250 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: BCCD L. Small
Auditor; PA; Procurement; USMS

U.S. Department of Justice
United States Marshals Service
Prisoner Operations Division

Office of Detention Services
Intergovernmental Agreement

1. Agreement Number 85-03-0031	2. Effective Date	3. Facility Code(s) 0KC	4. DUNS Number HG29NCPLDG56
5. Issuing Federal Agency United States Marshals Service Prisoner Operations Division Office of Detention Services CG-3, 3rd Floor Washington, DC 20530-0001		6. Local Government Benton County Jail 7122 W. Okanogan Place Kennewick, Washington 99336 **Tax ID#: 91-6001296**	
7. Appropriation Data 15-1020/XD		8. Local Contact Person: E-mail: Telephone:	Joshua Shelton, Lieutenant joshua.shelton@co.benton.wa.us (509) 783-1451

9. Services	**10. Estimated Number of Federal Beds**	**11. Per Diem Rate**	**12. Period of Performance**
This agreement is for the housing, safekeeping, subsistence, and care of Federal prisoners, in accordance with content set forth herein. This agreement supersedes all previous inmate housing agreements between the parties.	Male: 150 Female: 10 Juvenile: **Total: 160**	$118.00	Perpetual

13. Guard/Transportation Hourly Rate	**14. Optional Guard/Transportation Services**
Guard/Transportation Hourly Rate: $0.00 **(encompassed in per diem)** Mileage shall be reimbursed by the Federal Government at the current General Services Administration (GSA) Federal Travel Regulation Mileage Rate.	☒ Medical ☒ U.S. Courthouse ☐ JPATS ☐ Encompassed _____ ☐ Video Teleconferencing (VTC) Hearings ☒ Other **Jail to Jail**
15. Department of Labor Wage Determination	
☐ Wages Incorporated _____	

16. Local Government Certification	17. Signature of Person Authorized to Sign (Local)
To the best of my knowledge and belief, information submitted in support of this agreement is true and correct. This document has been duly authorized by the governing authorities of their applying Department or Agency State or County Government and therefore agree to comply with all provisions set forth herein this document.	Signature Shon Small Print Name Chairman Benton County Commissioner Title Date

18.Federal Prisoner Type Authorized	19. Other Authorized Agency User	20. Signature of Person Authorized to Sign (Federal)
☒ Adult Male ☒ Adult Female ☐ Juvenile Male ☐ Juvenile Female ☐ Transgender	☒ BOP ☐ ICE ☐ Other _____	Signature Tiffani Eason Print Name Assistant Chief Title Date

Approved as to Form:

_____
Ryan J Lukson, Civil DPA

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Local Government (initial): _____
Federal Government (initial): _____

1. Authority

Pursuant to the authority, 106th Congress Public Law 553, Section 119 of the "Department of Justice Appropriations Act, 2001", this Intergovernmental Agreement (hereinafter referred to as "agreement") is entered into between the United States Marshals Service (USMS) (hereinafter referred to as the "Federal Government") and ***Benton County Jail*** (hereinafter referred to as "Local Government"), who hereby agree as described in this document.

2. Purpose

The Federal Government and the Local Government establish this agreement allowing the USMS or other authorized agency user as noted in block #19, page one (1) of this agreement to house individuals detained on federal charges or federal court orders (hereinafter referred to as "Federal prisoners") with the Local Government at the ***Benton County Jail, 7122 W. Okanogan Place, Kennewick, WA 99336*** (hereinafter referred to as "the Facility") designated in block #6 on page one (1) of this agreement.

3. Administration (October 2021)

The Local Government shall provide for the secure custody, safekeeping, housing, subsistence, and care of Federal prisoners in accordance with all state, local, and federal laws, standards, regulations, policies, and court orders applicable to the operation of the Facility. Federal prisoners shall be housed in a manner consistent with the Federal Performance Based Detention Standards (FPBDS) subset utilized by the USMS Detention Facility Review Program. These standards are set forth in Form USM-218 (provided as an attachment to this agreement). Facilities shall follow the current standards summarized in Form USM-218 and any other standards required by an authorized agency whose prisoners are housed by the Local Government pursuant to this agreement. Full text of the FPBDS can be found at: http://www.usmarshals.gov/prisoner/detention-standards.htm as an additional reference source for best practices.

Benton County Jail shall comply with Congressional mandates, federal laws, Executive Orders and all existing ***Benton County Jail*** policies. ***Benton County Jail*** shall provide a means for verification of any state inspections, accreditation, and, if applicable, any alternative correctional facility accreditations such as an accreditation from the American Correctional Association accreditation.

The USMS ensures the secure custody, care, and safekeeping of USMS prisoners. Accordingly, all housing or work assignments, and recreation or other activities for USMS prisoners are permitted only within secure areas of the building or within the secure external recreational/exercise areas. All work assignments for unsentenced Federal prisoners must be voluntary.

Local Government (initial): _____
Federal Government (initial): _____

The Local Government shall conduct initial and periodic background and reference checks of applicants, employees, contractors, and volunteers. All allegations of staff misconduct shall be investigated and reported to law enforcement as appropriate. Staff misconduct involving or affecting USMS prisoners shall be reported to the local district United States Marshal (USM), Chief, or their designee and to the USMS Prisoner Operations Division (POD) at PODCoCInquiries@usdoj.gov.

At all times, the Federal Government shall have access to the Facility and to the Federal prisoners, and to all records pertaining to this agreement, including financial records, for a retention period of three (3) years from the date of request by the Federal Government.

The Local Government shall maintain written policies and procedures that describe all facets of facility operations, maintenance, and administration. The Local Government shall maintain written contingency and emergency plans for situations including but not limited to riots, hunger strikes, disturbances, escapes, hostage situations, and mass prisoner relocation.

The Local Government shall maintain records of annual fire safety inspections. The Local Government shall maintain dangerous materials in accordance with government regulations.

The Local Government shall maintain an objective review, classification, and housing process. Federal prisoners shall be clearly identified as USMS prisoners in the classification system.

The Local Government shall ensure Federal prisoners under the age of 18 receive an age-appropriate diet, exercise, and education.

The Local Government shall ensure Federal prisoners under the age of 18 or charged as a juvenile shall be separated by sight and sound and out of regular contact with adult prisoners, except in emergency situations or approval from the court.

The Local Government shall keep the Facility clean and in good repair. Food service equipment shall meet established health and safety codes. The Local Government shall provide a minimum of three (3) meals per day that are varied and nutritionally adequate. The Local Government shall provide safe and clean space and items for proper prisoner hygiene.

The Local Government will provide clean and serviceable bedding and clothing. Clothing and shoes shall be properly sized and temperature and weather appropriate. The Local government shall provide appropriate attire upon release.

The Local Government shall properly inventory, store, and return prisoner property upon release.

Local Government (initial): _____
Federal Government (initial): _____

The Local Government shall provide adequate accommodations for prisoners with disabilities once accepted by the Local Government.
The Local Government shall prohibit discrimination on the basis of disability, race, gender, sexual orientation, religion, and national origin in the provision of services, programs, and activities.

The Local Government shall provide prisoners with reasonable opportunities to participate in religious practices, exercise, and access to mail, telephones, personal legal materials and legal reference materials or confidential counsel.

The Local Government shall maintain a grievance program with at least one level of appeal. The grievance procedures shall be made available to prisoners.

(End of Provision)

4. Place of Performance (May 2021)

The principal place of performance for this agreement shall be:

Benton County Jail
7122 W. Okanogan Place
Kennewick, Washington 99336

(End of Provision)

5. Agreements Specialist (November 2021)

The Contracting Officer (KO) may designate in writing one or more government employees, by name and position title, to act for the KO under this agreement. Each designee shall be identified as an Agreements Specialist. Such designation(s) shall specify the scope and limitations of the authority so delegated; provided, that the designee(s) shall not change the terms or conditions of the agreement, unless the Agreements Specialist is a warranted KO, and this authority is delegated in the designation.

The Agreements Specialist is:

Name: **Mary Horsey**
Title: **IAB Specialist**
Contact Information: **(703) 740-8455**

(End of Provision)

Local Government (initial): _____
Federal Government (initial): _____

6. Termination (May 2021)

The agreement can be terminated by either party for any reason. The requesting party, requester, seeking to terminate this agreement may do so by providing a written notice to the receiving party, requestee, at least thirty (30) calendar days in advance of the proposed termination date. An exception is made when an emergency situation requires the immediate relocation of Federal prisoners.

In order for the Local Government to initiate a termination of this agreement, the Local Government must:

a. As noted in this section, paragraph one above, the Local Government shall provide the Federal Government via the KO or designee a written notification by email at least thirty (30) calendar days in advance of the potential termination date unless an emergency situation requires the immediate relocation of Federal prisoners.
b. The Local Government shall provide adequate time, if applicable, for the Federal Government to transport and relocate Federal prisoners. Based on the number of Federal prisoners at the facility, a thirty (30) day notice may not be adequate to vacate the premises; thus, the Local Government shall agree to provide the Federal Government a reasonable time frame to exit the facility.
c. The Local Government shall work with the Federal Government to locate alternative housing solutions for the Federal prisoners.
d. The Local Government may not request rate or per-diem increases once the Local Government has provided a termination notice to the Federal Government and the Federal Government has acknowledged the receipt of before mentioned notice.

Where the Local Government has received a cooperative agreement through the POD's Cooperative Agreement Program, the cooperative agreement termination and other applicable provisions shall:

a. be incorporated into this agreement;
b. survive after the expiration of the cooperative agreement; and
c. supersede the termination provisions of this agreement.

(End of Provision)

7. Assignment and Outsourcing of Jail Operations (May 2021)

The overall management and operation of the Facility housing Federal prisoners shall not be contracted out without the prior written notification of the Federal Government.

(End of Provision)

Local Government (initial): _____
Federal Government (initial): _____

8. Medical Services (May 2021)

The Local Government shall maintain written procedures that describe actions taken in the event of a prisoner's death, assault, or medical emergency to include notification to the USMS.

The Local Government shall provide a medical and mental health screening upon admission to the Facility. The Local Government shall inform prisoners how to access health services.

The Local Government shall notify the local USMS district office of any infectious disease outbreak.

The Local Government shall provide Federal prisoners with the same level and range of care **inside** the Facility as that provided to state and local prisoners. The Local Government is financially responsible for all medical care provided **inside** the Facility to Federal prisoners. This includes the cost of all medical, dental, and mental health care as well as the cost of medical supplies, over-the-counter medications and any prescription medications routinely stocked by the Facility. The Facility is encouraged to purchase non-OTC medications for USMS prisoners through the USMS' National Managed Care Contract (NMCC) Discount Pharmacy Program. When possible, generic medications should be prescribed. The cost of all of the above-referenced medical care is covered by the Federal per-diem rate. The Federal Government will pay for the cost of specialized medical services not routinely provided within the Facility, such as dialysis.

The Federal Government is financially responsible for all medical care provided **outside** the Facility to Federal prisoners. The Federal Government must be billed directly by outside medical care providers pursuant to arrangements made by the Local Government for outside medical care. The Local Government shall utilize outside medical care providers that are covered by the USMS' NMCC Preferred Provider Network to the maximum extent practicable. The Local Government can obtain information about NMCC covered providers from the local USMS District Office. The Federal Government will be billed directly by the medical care provider **not** the Local Government. To ensure that Medicare rates are properly applied, medical claims for Federal prisoners must be on Centers for Medicare and Medicaid Services (CMS) Forms so that they can be re-priced to Medicare rates in accordance with the provisions of Title 18 U.S.C. Section 4006. The USMS will not reimburse the detention facility for medical payments made on behalf of USMS prisoners in the absence of a specific arrangement approved in writing by the USMS.

All **outside** medical care provided to Federal prisoners must be pre-approved by the Federal Government except in a medical emergency. In the event of an emergency, the Local Government shall proceed immediately with necessary medical treatment. The Local Government shall notify the Federal Government immediately regarding the nature of the Federal prisoner's illness or injury as well as the types of treatment provided.

Local Government (initial): _____
Federal Government (initial): _____

The Facility shall have in place an adequate infectious disease control program which includes testing of all Federal prisoners for Tuberculosis (TB) in accordance with *National Commission on Correctional Health Care (NCCHC) Standards for Health Services in Jails.* TB testing shall occur with 14 days of intake (unless current TB tests results are available), be promptly documented in the Federal prisoner's medical record and the results forwarded to the local USMS District within thirty (30) days of intake. Special requests for expedited TB testing and clearance (to include time sensitive moves) shall be accomplished through advance coordination by the Federal Government and Local Government.

The Local Government shall immediately notify the Federal Government to include the local district office of any cases of suspected or active TB or any other highly communicable diseases such as but not limited to Coronavirus Disease (COVID), severe acute respiratory syndrome (SARS), Avian Flu, Methicillin-Resistant Staphylococcus Aureus (MRSA), Chicken Pox, etc., which might affect scheduled transports or productions.

When a federal prisoner is being transferred or released from the Facility, they will be provided with a minimum of seven (7) days of prescription medications and any medications already dispensed to the prisoner. Medical records and Form USM-553, *Prisoner in Transit Medical Summary* must travel with the Federal prisoner. If the records are maintained at a medical contractor's facility, it is the Local Government's responsibility to obtain them before a federal prisoner is transferred.

Federal prisoners may be charged a medical co-payment by the Local Government in accordance with the provisions of Title 18 U.S.C. Section 4013(d). The Federal Government is not responsible for medical co-payments and shall not be billed if the federal prisoner is indigent and cannot make the co-payment. Indigent Federal prisoners shall not be denied medical evaluation and treatment for failure to provide a co-payment.

(End of Provision)

9. Affordable Care Act (ACA) (May 2021)

Upon release of a Federal prisoner, the Local Government shall provide information regarding the Affordable Care Act (ACA). The ACA website is located at: http://www.hhs.gov/healthcare/about-the-aca/index.html.

(End of Provision)

10. Receiving and Discharging of Federal Prisoners (May 2021)

The Local Government agrees to accept Federal prisoners only upon presentation by a Law Enforcement Officer (LEO), USMS Task Force Officer (TFO) or a USMS designee with proper credentials.

Local Government (initial): _____
Federal Government (initial): _____

The Local Government shall not relocate a Federal prisoner from one facility under its control to another facility not described in this agreement without permission of the Federal Government. Additional facilities within the same agreement shall be identified in a modification.

The Local Government agrees to release Federal prisoners only to LEOs of the authorized Federal Government agency initially committing the Federal prisoner (e.g., Drug Enforcement Administration (DEA), Immigration and Customs Enforcement (ICE)) or to a Deputy United States Marshal (DUSM) or USMS designee with proper credentials. Those Federal prisoners who are remanded to custody by the USMS may only be released to the USMS or an individual specified by the USMS in the Judicial District.

USMS Federal prisoners sought for a state or local court proceeding must be acquired through a Writ of Habeas Corpus or the Interstate Agreement on Detainers and then only with the concurrence of the jurisdictional United States Marshal (USM).

(End of Provision)

11. Prisoner Work Program (November 2021)

Federal prisoner labor shall be used in accordance with the Federal prisoner work plan developed by the Local Government and approved by the USMS. The Federal prisoner work plan must be voluntary, and may include work or program assignments for industrial, maintenance, custodial, service, or other jobs. Federal prisoners may not be required to work. Federal prisoners may volunteer to work within the secure confines of the facility if they sign a waiver of their right not to work. A Federal prisoner with suicidal tendencies, attempted escapes or escape history, violent history, gang affiliations or with retainers for pending charges with other local, state, or federal agencies will not be considered for the volunteer program. Federal prisoners are not permitted to act as trustees and may not work in positions that permit unsupervised contact with segregated prisoners or Federal prisoners of the opposite sex.

The Federal prisoners are restricted from operating equipment that may expose the Federal prisoners to grave bodily harm or any work assignment requiring security risk items and controlled tools which could be used to facilitate an escape or used as a weapon that could endanger staff, citizens, or other inmates. Federal prisoners will not have access to prisoner or employee records. The Local Government will ensure that prisoners who volunteer to work are prohibited Keep on Person medications while at the worksite.

Federal prisoners must obtain required medical clearances before working in the food service areas. The Federal prisoner work program shall not conflict with any other requirements of the agreement and must comply with all applicable laws and regulations. Federal prisoners shall not be used to perform the responsibilities or duties of an employee of the Local Government. Appropriate safety/protective clothing and equipment shall be

provided to Federal prisoner workers as appropriate. Federal prisoners shall not be assigned work that is considered hazardous or dangerous. This includes, but is not limited to, areas or assignments requiring great heights, extreme temperatures, use of toxic substances and unusual physical demands. Federal prisoner workers can be paid the identical rates of pay as other facility prisoners.

Federal prisoners shall be required to participate in normal housekeeping duties which help ensure the cleanliness of their housing area. Increases and reductions in privileges may be used as incentives to ensure that Federal prisoners keep their living areas clean.

(End of Provision)

12. Guard/Transportation Services to/from Medical Facility (May 2021)

When Medical Facility in block #14 on page one (1) of this agreement is checked, the Local Government agrees, subject to the availability of its personnel, to provide transportation and guard services for Federal prisoners housed at the Facility to and from a medical facility for outpatient care, and transportation and stationary guard services for Federal prisoners admitted to a medical facility.

These services shall be performed by at least two (2) armed and qualified LEOs or Correctional Officers (CO) according to the criteria specified by the County Entity running the facility. In all cases, these are part of a fulltime LEO or CO that have met the minimum training requirements.

The Local Government agrees to provide additional personnel if requested by the USMS to enhance specific requirements for security, prisoner monitoring, and contraband control. Federal prisoners are not permitted to use the telephone, internet or WIFI enabled devices, or to receive outside food, drinks, or deliveries (including flowers) without consent from the USMS. The Local Government shall restrain Federal prisoners by attaching at least one extremity to the hospital bed, stretcher, or chair at all times when medically possible. Pregnant or postpartum prisoners should not be restrained. Postpartum is the twelve-week period following childbirth, miscarriage, or abortion. See First Step Act provision for more information.

The reimbursable hourly rate, if agreed upon, will be shown in block #13 on page one (1) of this agreement.

Mileage shall be reimbursed in accordance with the current GSA mileage rate.

(End of Provision)

Local Government (initial): _____
Federal Government (initial): _____

13. Guard/Transportation Services to/from U.S. Courthouse (May 2021)

When U.S. Courthouse in block #14 on page one (1) of this agreement is checked, the Local Government agrees, subject to the availability of its personnel, to provide transportation and guard services for Federal prisoners housed at its facility to and from the U.S. Courthouse. These services shall be performed by at least two (2) armed and qualified LEOs or COs.

The Local Government agrees to provide additional personnel if requested by the USMS to enhance specific requirements for security, prisoner monitoring, and contraband control.

Upon arrival at the courthouse, the Local Government's transportation guard will turn Federal prisoners over to the USMS only upon presentation of proper law enforcement credentials.

The Local Government will not transport Federal prisoners to any U.S. Courthouse without a specific request from the USMS who will provide the prisoner's name, the U.S. Courthouse, and the date the prisoner is to be transported.

Each prisoner will be fully restrained in handcuffs, waist chain, and leg restraints during transportation unless otherwise authorized by the USMS. Deviations from full restraints must be documented and reported monthly to the local district USM, Chief, or their designee and to the USMS POD at PODCoCInquiries@usdoj.gov.

The reimbursable hourly rate, if agreed upon, will be shown in block #13 on page one (1) of this agreement.

Mileage shall be reimbursed in accordance with the current GSA mileage rate.

(End of Provision)

14. Guard/Transportation Services to Justice Prisoner & Alien Transportation System (JPATS) or Other (May 2021)

When JPATS, Other or both in block #14 on page one (1) of this agreement is checked, the Local Government agrees, subject to the availability of its personnel, to provide transportation and escort guard services for Federal prisoners housed at its facility to and from the JPATS or other locations designated by the Federal Government.

These services shall be performed by at least two (2) armed and qualified LEOs or COs.

Local Government (initial): _____
Federal Government (initial): _____

The Local Government agrees to provide additional personnel if requested by the USMS to enhance specific requirements for security, prisoner monitoring, and contraband control.

The Local Government shall not transport Federal prisoners to the airlift or any other location without a specific request from the USMS who will provide the prisoner's name, location (district), and the date the prisoner is to be transported.

The Local Government shall turn Federal prisoners over to the USMS or an officer specified by the USMS only upon presentation of proper credentials.

Each prisoner will be fully restrained in handcuffs, waist chain, and leg restraints during transportation unless otherwise authorized by the USMS. Deviations from full restraints must be documented and reported monthly to the local district USM, Chief, or their designee and to the USMS POD at PODCoCInquiries@usdoj.gov.

The reimbursable hourly rate, if agreed upon, will be shown in block #13 on page one (1) of this agreement.

Mileage shall be reimbursed in accordance with the current GSA mileage rate.

(End of Provision)

15. Video Teleconference Hearings within the Facility (October 2021)

If available, the facility shall furnish, as applicable to this agreement, all things necessary for, or incident to, providing Video Teleconference (VTC) hearings within the facility. When VTC equipment is not available at the facility, the Federal Government, in coordination with the Courts, may assist with providing VTC equipment and ancillary items to the facility.

(End of Provision)

16. Optional Guard Services to Video Teleconference Hearings within Facility (May 2021)

When Video Teleconferencing (VTC) Hearings in block #14 on page one (1) of this agreement is checked, the Local Government agrees, subject to the availability of its personnel, to provide escort guard services for Federal prisoners housed at its facility to monitor, on a case-by-case basis, court hearings conducted via VTC within its facility per instruction of the Federal Judiciary.

Local Government (initial): _____
Federal Government (initial): _____

The reimbursable hourly rate, if agreed upon, will be shown in block #13 on page one (1) of this agreement.

(End of Provision)

17. Special Notifications (May 2021)

The Local Government shall notify the Federal Government of any activity by a Federal prisoner, which would likely result in litigation or alleged criminal activity.

The Local Government shall immediately notify the Federal Government of an escape of a Federal prisoner. The Local Government shall use all reasonable means to apprehend the escaped Federal prisoner and all reasonable costs in connection therewith shall be borne by the Local Government. The Federal Government shall have primary responsibility and authority to direct the pursuit and capture of such escaped Federal prisoners. Additionally, the Local Government shall notify the Federal Government as soon as possible when a Federal prisoner is involved in an attempted escape or conspiracy to escape from the Facility.

In the event of a medical emergency, death, or assault on or by a Federal prisoner, the Local Government shall immediately notify the Federal Government.

(End of Provision)

18. Body Worn Camera Information Requests (November 2021)

If the Local Government adopts a Body Worn Camera (BWC) use policy that mandates use of BWC for transport or other activities covered under the IGA, the agency shall, upon request by USMS, provide USMS with the audio/video footage and any metadata captured by the BWC pertaining to USMS prisoner incidents. The audio/video footage and any metadata may be requested by the USMS Body Worn Camera Program and the USMS Office of General Counsel. The agency agrees that no BWC footage depicting a USMS prisoner will be released without advance written notification to the USMS.

(End of Provision)

19. Restrictive Housing and Suicide Prevention (May 2021)

For the purposes of this agreement, "restrictive housing" means any type of detention that involves all of the following elements:

a. Removal from the general population, whether voluntary or involuntary;
b. Placement in a locked room or cell, whether alone or with another prisoner; and

Local Government (initial): _____
Federal Government (initial): _____

c. Inability to leave the room or cell for the vast majority of the day, typically 22 hours or more.

For the purposes of this agreement, "vulnerable population" refers to prisoners who are more likely to be victimized in confinement settings, including but not limited to: juveniles; young adults (age 18-24 at time of admission through conviction); prisoners with serious mental illness; lesbian, gay, bisexual, transgender, intersex, and gender nonconforming prisoners; pregnant and postpartum prisoners; and prisoners with medical needs.

The Local Government shall have written policies, procedures, and practices requiring that all prisoners in restrictive housing are personally observed by a CO at least twice per hour, but no more than thirty (30) minutes apart, on an irregular schedule. Prisoners who are violent or mentally ill or who demonstrate unusual or bizarre behavior shall receive more frequent observation; suicidal prisoners shall be under constant observation.

The Local Government shall immediately notify the appropriate Chief Deputy U.S. Marshal (CDUSM), or designee, and POD at rhinquiries@usdoj.gov when a member of a vulnerable population is placed in restrictive housing or their restrictive housing status changes.

The Local Government shall also provide reports to the USMS on a monthly basis listing all USMS prisoners who were detained in restrictive housing, and the reasons for their assignment to restrictive housing. When no USMS prisoners have been placed in restrictive housing during the reporting month, the Local Government shall notify USMS that there are no USMS prisoners to report. The report or a notification of no USMS prisoners in restrictive housing ` shall be submitted to the CDUSM or his or her designee and POD at rhinquiries@usdoj.gov, no later than the tenth day of each month in a standard format established by the USMS.

The Local Government shall have a comprehensive suicide-prevention program in place incorporating all aspects of identification, assessment, evaluation, treatment, preventive intervention, and annual training of all medical, mental health, and correctional staff.

Additional prisoner suicide prevention resources can be found at: https://www.usmarshals.gov/prisoner/suicide_prevention.htm and https://nicic.gov/.

(End of Provision)

20. Prison Rape Elimination Act (PREA) (November 2021)

The Facility must post Prison Rape Elimination Act (PREA) brochure/bulletins in each housing unit of the Facility. The Facility must abide by all relevant PREA regulations at: (https://www.prearesourcecenter.org/about/prison-rape-elimination-act-prea).

Local Government (initial): _____
Federal Government (initial): _____

All sexual harassment and sexual assaults of or by a USMS prisoner must be reported to the district CDUSM or designee and the POD at: PREAinquiries@usdoj.gov.

In accordance with PREA, the Facility must arrange for a PREA audit every three (3) years. The Facility must maintain PREA compliance or be actively working towards compliance. Additional resources can be found at: https://www.prearesourcecenter.org/.

Templates for PREA posters and brochures can be found at:
https://www.prearesourcecenter.org/library/search?keys=poster&cat=All

(End of Provision)

21. PREA Prisoner Incident Reporting (November 2021)

PREA posters shall contain information on how to report a sexual assault by using one of the following methods:

- Speaking with a staff member;
- Writing a letter reporting the alleged sexual misconduct to the person in charge or the USMS. To ensure confidentiality, use special (Legal) mail procedures;
- Filing an Emergency Prisoner Grievance - If you decide your complaint is too sensitive to file with the Officer in Charge, you can file your Grievance directly with the CDUSM. You can get the forms from your housing unit officer, or a Facility supervisor;
- Writing to the Office of Inspector General (OIG), which investigates allegations of staff misconduct. The address is: Office of Inspector General, U.S. Department of Justice, 950 Pennsylvania Ave. Room 4706, Washington, DC. 20530; or
- Calling, **at no expense to the victim,** the OIG. The phone number is 1-800-869-4499.

All allegations of sexual abuse reported to Facility staff must be reported and will be investigated. Information concerning the identity of a prisoner victim reporting a sexual assault, and the facts of the report itself, shall be limited to those who have the need to know in order to make decisions concerning the prisoner-victim's welfare and for law enforcement investigative purposes.

(End of Provision)

22. Federal Acquisition Regulation (FAR) Agreement Provisions (May 2021)

This agreement incorporates the following agreement provisions by reference, with the same force and effect as if it was given in full text. Upon request, the full text will be made

Local Government (initial): _____
Federal Government (initial): _____

available. The full text of this provision may be accessed electronically at: http://www.acquisition.gov.

Agreement Provisions:

FAR 52.222-41 Service Contract Labor Standards. (Aug 2018)

FAR 52.222-42 Statement of Equivalent Rates for Federal Hires (May 2014)

FAR 52.222-43 Fair Labor Standards Act and the Service Contract Labor Standards – Price Adjustment (Multiyear and Option Contracts) (August 2018)

The current Local Government per-diem rates shall be the prevailing wages unless notified by the Federal Government.

If the Department of Labor Wage Determination in block #15 on page one (1) of this Agreement is checked, the Local Government agrees, in accordance with FAR 52.222.43 (f), that it must notify the Federal Government of any increase or decrease in applicable wages and fringe benefits claimed under this clause within thirty (30) days after receiving a new wage determination.

(End of Provision)

23. Guaranteed Minimum Bed Space (September 2021)

This IGA ***does not*** contain a guaranteed minimum for bed space.

(End of Provision)

24. Economic Rate Adjustments (October 2021)

The Federal Government will use various price analysis techniques and procedures to ensure the rates established by this agreement is considered a fair and reasonable price. Examples of such techniques include, but are not limited to, the following:

a. Comparison of the requested rate with the Independent Government Estimate for detention services, otherwise known as the Core Rate;
b. Comparison with rates at other state or local facilities of similar size and economic conditions;
c. Comparison of previously proposed prices and previous Federal Government and commercial contract prices with current proposed prices for the same or similar items; and
d. Evaluation of the provided jail operating expense information.

Local Government (initial): _____
Federal Government (initial): _____

The firm-fixed price per-diem rate for services is stipulated in block #11 on page one (1) of this agreement and shall not be subject to adjustment on the basis of ***Benton County Jail*** actual cost experience in providing the service. The per-diem rate shall be fixed for a period from the effective date of this agreement forward for **thirty-six (36) consecutive months**. The per-diem rate covers the support of one Federal prisoner per "Federal prisoner day", which shall include the day of arrival, but not the day of departure.

The per-diem rate and the guard/transportation hourly rate will remain unchanged during the renewal period(s) unless the Local Government requests an economic rate adjustment. To request a per-diem economic rate adjustment, the Local Government will need to access USMS' Capture system via the Law Enforcement Enterprise Portal (LEEP) at https://portal.cjis.gov/wps/myportal/LEEPNG. The Local Government may contact the Agreements Specialist for more information.

An economic rate adjustment to either rate can be requested by the Local Government after **thirty-six (36) months of continuous performance**. Request for economic rate adjustments prior to the ending of the **thirty-six (36) month period** preceding the most recent rate adjustment shall only be considered if there are extreme circumstances that warrants a review of an out of cycle economic rate adjustment. Granting an out of cycle economic rate adjustment is not guaranteed.

To request an out of cycle per-diem economic rate adjustment, the Local Government will need to follow the same instructions as requesting an economic rate adjustment during the renewal period.

For the request to be considered, the Local Government must demonstrate that its costs have substantially increased during the current **thirty-six (36) month period**. The Local Government shall provide the Agreements Specialist documentation to include cost and pricing data to justify the facility's out of cycle economic rate adjustment request. The request and its supporting documentation are the sole responsibility of the Local Government to provide a complete request package to the Agreements Specialist. Incomplete or missing data may delay the request being processed or causing the request to be denied altogether.

Two (2) or more out of cycle economic rate adjustment requests within the same **thirty-six (36) month period** with an aggregate proposed increase of 25% or more are not permissible under this agreement.

(End of Provision)

Local Government (initial): _____
Federal Government (initial): _____

25. Billing and Financial Provisions (May 2021)

The Local Government shall prepare and submit for certification and payment, original and separate invoices each month to each Federal Government component responsible for Federal prisoners housed at the Facility.

Address(es) for the component(s) is/are:

United States Marshals Service
Eastern District of Washington
920 W. Riverside Ave, Ste. 200
Spokane, Washington 99201
(509) 842-1400

To constitute a proper monthly invoice, the name and address of the Facility, the name of each Federal prisoner, their specific dates of confinement, the total days to be paid, the appropriate per diem rate as approved in the agreement, and the total amount billed (total days multiplied by the per-diem rate per day) shall be listed, along with the name, title, complete address, and telephone number of the Local Government official responsible for invoice preparation. Additional services provided, such as transportation and guard services, shall be listed separately and itemized.

Nothing contained herein shall be construed to obligate the Federal Government to any expenditure or obligation of funds in excess of, or in advance of, appropriations in accordance with the 31 U.S.C Section 1341 – Limitations on expending and obligating amounts.

(End of Provision)

26. Payment Procedures (May 2021)

The Federal Government will make payments to the Local Government at the address listed in block #6 on page one (1) of this agreement. The payments will be made promptly after the district office has received and certified the invoice is correct.

(End of Provision)

27. Hold Harmless (May 2021)

It is understood and agreed that the Local Government shall fully defend, indemnify, and hold harmless the United States of America, its officers, employees, agents, and servants, individually and officially, for any and all liability caused by any act of any member of the Local Government or anyone else arising out of the use, operation, or handling of any

Local Government (initial): _____
Federal Government (initial): _____

property (to include any vehicle, equipment, and supplies) furnished to the Local Government in which legal ownership is retained by the United States of America, and to pay all claims, damages, judgments, legal costs, adjuster fees, and attorney fees related thereto. The Local Government will be solely responsible for all maintenance, storage, and other expenses related to the care and responsibility for all property furnished to the Local Government.

(End of Provision)

28. Disputes (May 2021)

Disputes, questions, or concerns pertaining to this Agreement will be resolved between appropriate officials of each party. Both the parties agree that they will use their best efforts to resolve the dispute in an informal fashion through consultation and communication, or other forms of non-binding alternative dispute resolution mutually acceptable to the parties.

(End of Provision)

29. Review of Services (November 2021)

Review standards for prisoners may differ among authorized agency users. The Local Government agrees to allow periodic unannounced reviews by Federal Government , to include approved Federal contractors, in accordance with the standards required by any or all of the Federal authorized agency users whose prisoners may be housed pursuant to this Agreement. A summary of inspection findings will be shared with the facility administrator in order to promote improvements to facility operations, conditions of confinement, and levels of services. If the Federal Government identifies significant finding(s) during the review, the Local Government will provide the Federal Government with a corrective action plan to address the issue(s).

(End of Provision)

30. IGA Amendments (May 2021)

For all amendments except for full or partial terminations, either party may initiate a request for amendment to this agreement in writing. All amendments negotiated will be effective only upon written approval of both parties.

(End of Provision)

Local Government (initial): _____
Federal Government (initial): _____

31. Litigation (May 2021)

The Federal Government shall be notified, in writing, of all litigation pertaining to this agreement and provided copies of any pleadings filed or said litigation within five (5) business days of the filing.

The Local Government shall cooperate with the Federal Government legal staff and the United States Attorney regarding any requests pertaining to Federal Government or Local Government litigation.

(End of Provision)

32. The First Step Act (May 2021)

This agreement refers the Local Government facility operations and administrations to the following sections of the First Step Act:

a. Section 613 of Public Law 115-391 the FIRST STEP Act of 2018 and 18 USC 5043 with respect to any USMS juveniles in custody.

b. Section 301 of Public Law 115-391 the FIRST STEP Act of 2018 and that pursuant to USMS policy that these requirements have been adopted for all pregnant and postpartum USMS prisoners, regardless of case status. The postpartum period is twelve weeks after childbirth, miscarriage, or abortion.

(End of Provision)

33. Ensuring Access to Voter Registration for Eligible Individuals in Federal Custody (February 2022)

The facility, to the extent practicable and appropriate, will provide federal prisoners educational materials related to voter registration and voting and, upon request by the federal prisoner, facilitate voting by mail by prisoners who are eligible to vote under the laws of the applicable jurisdiction. The facility will work with state and local election officials and, in appropriate circumstances, may also work with other reliable sources of voter information to assist federal prisoners with voter registration, voting by mail, and notification of upcoming elections. This clause does not endorse or advocate in support of or in opposition to any candidate or political party.

(End of Provision)

(End of Agreement)

Local Government (initial): _____
Federal Government (initial): _____

U.S. Department of Justice
United States Marshals Service

Detention Facility Review

Date of Detention Facility Review (DFR)

Name of Detention Facility Inspector Conducting DFR

FACILITY FACTS

FACILITY OVERVIEW

Facility Name

Physical Address

Phone Number

Fax Number

City

State

Zip Code

County

District

Contract/Agreement Number

Contract/Agreement Type (Private, IGA, LUA)

Expiration Date

Closest USMS Office Name

Driving Time from Closest USMS Office

minutes

Driving Distance from Closest USMS Office

miles

Date of Last USMS Detention Facility Review

Points of Contact
(If needed, use "Other Notes Section" on last page to document more than one point of contact.)

Title

Name

Type of Contact

Phone Number

Extension

Email Address

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Prisoner Information (Annotate the number of prisoners per category)

	Adult Male	Adult Female	Juvenile Male	Juvenile Female	Total
Facility Bed Capacity					
Facility Average Daily Population (Last 12 Months)					
USMS Average Daily Population					
Local/Non-Federal Average Daily Population					
Bureau of Prisons Average Daily Population					
ICE Average Daily Population					

Security Staff Information (Annotate number of authorized and filled positions per facility's staffing plan)

	Authorized	Filled
Warden		
Assistant Warden		
Chief of Security		
Shift Supervisors		
Other Supervisors		
Corrections Officers		
Transportation Officers		
Perimeter Security		
Restrictive Housing Security		
Other Security		

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Medical Staff Information (Annotate number of authorized and filled positions per facility's staffing plan)

	Authorized	Filled
Physician		
Physician's Assistant		
Nurse Practitioner		
Registered Nurse		
Licensed Practical Nurse		
Mental Health Professional		
Other Medical Staff		

Contraband

List facility's total number of contraband incidents since last USMS DFR (if applicable).

Drugs or Alcohol	Drugs or Alcohol Paraphernalia	Electronic Devices
Electronic Device Accessory	**Weapon**	**Tool**

Incidents

List facility's total number of incidents since last USMS DFR (if applicable).

Suicides	Suicide Attempts	Escapes
Escape Attempts	**Physical Assaults on Prisoners**	**Physical Assaults on Staff**
Health Care Grievances	**Natural Deaths**	**Sexual Assaults on Prisoners**
Sexual Assaults on Staff	**Homicides**	**Riots/Disturbances**

Overdose Deaths	Overdoses	Use of Force	Excessive Use of Force

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Was the USMS notified of all incidents involving USMS prisoners?

◯ Yes ◯ No

Incidents Not Reported
(If needed, use "Other Notes Section" on last page to document more than one incident.)

Incident Type (Use Incident types listed above)	Incident Subtype (Leave blank)	Date of Incident

Remarks

Court Action
(If needed, use "Other Notes Section" on last page to document more than one action)

Are there any court orders or pending major litigation affecting the facility?

◯ Yes ◯ No

Case Name/Case Number	Functional Area	Date of Court Filing

ADMINISTRATION AND MANAGEMENT

Policy Development and Monitoring

Does the facility maintain policies and procedures that describe facility operations, maintenance and administration?

◯ Yes ◯ No

Do policies have a date documenting the last time the responsible facility manager/administrator reviewed them to ensure they remain current, accurate and relevant to the facility's operation?

◯ Yes ◯ No

If 'Yes', Date of Last Internal Review

Policy Communication and Access

Are policies and procedures communicated to all employees?

◯ Yes ◯ No

Does staff have 24/7 access to policies and procedures?

◯ Yes ◯ No

Prisoner Property and Money

Does the facility properly inventory prisoner property?

◯ Yes ◯ No

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Does the facility properly store prisoner property?

◯ Yes ◯ No

Does the facility properly return prisoner property?

◯ Yes ◯ No

Does the facility properly inventory prisoner money?

◯ Yes ◯ No

Does the facility properly store prisoner money?

◯ Yes ◯ No

Does the facility properly return prisoner money?

◯ Yes ◯ No

Prisoner Release

Has the facility erroneously released ANY prisoner(s) during the review period?

◯ Yes ◯ No

Total number of non-USMS prisoners erroneously released

Total number of USMS prisoners erroneously released

Accommodations for Prisoners with Disabilities

If the facility accepts prisoners with disabilities, are adequate accommodations made available for these prisoners?

◯ Yes ◯ No

Contingency/Emergency Plans

Does the facility have a written emergency plan in place for situations that threaten facility security? (e.g., riots, hunger strikes, disturbances, escapes, and hostage situations.)

◯ Yes ◯ No

Is a hard copy of the emergency plan available for incorporation into the district's detention plan?

◯ Yes ◯ No

Does the emergency plan have a date documenting the last time the responsible facility manager/administrator reviewed the policy to ensure it remains current, and relevant to the facility's operation?

◯ Yes ◯ No

If 'Yes', Date of Last Emergency Plan Review

Does the facility have a written contingency plan in place for situations involving mass prisoner relocation? (e.g., weather, fire, flooding, facility not habitable.)

◯ Yes ◯ No

Is a hard copy of the contingency plan available for incorporation into the district's detention plan?

◯ Yes ◯ No

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Does the contingency plan have a date documenting the last time the responsible facility manager/administrator reviewed the policy to ensure it remains current, and relevant to the facility's operation?

◯ Yes ◯ No

If 'Yes', Date of Last Contingency Plan Review

Does the facility's contingency plan include the USMS prisoners housed at the facility?

◯ Yes ◯ No

Staff Background Checks

Does the facility verify identity of employees, contractors and volunteers prior to hiring via:

Fingerprints ◯ Yes ◯ No Social Security Number ◯ Yes ◯ No Date of Birth ◯ Yes ◯ No

Are initial background checks completed for all employees, contractors, and volunteers prior to hiring?

◯ Yes ◯ No

Does the facility conduct re-investigations of employees, contractors, and volunteers?

◯ Yes ◯ No

If 'Yes', how often? (Every 2 years, every 5 years, every 10 years, or more than 10 years)

Does the background check include verification of:

Employment history for the past five (5) years?	◯ Yes	◯ No
Residency for the past three (3) years?	◯ Yes	◯ No
Credit history to ensure no current delinquency?	◯ Yes	◯ No
Credit history to ensure no unresolved liens?	◯ Yes	◯ No
Credit history to ensure no accounts in collection?	◯ Yes	◯ No
Credit history to ensure no court-ordered judgments ?	◯ Yes	◯ No

Does the background check include verification that there are no:

Felony convictions?	◯ Yes	◯ No
Disqualifying misdemeanor convictions?	◯ Yes	◯ No
Derogatory civil records?	◯ Yes	◯ No
Alcohol dependencies?	◯ Yes	◯ No
Drug dependencies?	◯ Yes	◯ No

Reporting/Investigating Staff Misconduct

How many administrative allegations of staff misconduct were reported since the last USMS DFR (if applicable)?

How many criminal allegations of staff misconduct were reported since the last USMS DFR (if applicable)?

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How many criminal allegations of staff misconduct were reported to law enforcement since the last USMS DFR (if applicable)?

Prisoner Anti-Discrimination

Does the facility have a prisoner anti-discrimination policy that addresses:

Age?	◯ Yes	◯ No
Disability?	◯ Yes	◯ No
Equal Pay/Compensation?	◯ Yes	◯ No
Genetic Information?	◯ Yes	◯ No
Harassment?	◯ Yes	◯ No
National Origin?	◯ Yes	◯ No
Pregnancy?	◯ Yes	◯ No
Race/Color?	◯ Yes	◯ No
Religion?	◯ Yes	◯ No
Retaliation?	◯ Yes	◯ No
Sex?	◯ Yes	◯ No
Gender Identity?	◯ Yes	◯ No
Sexual Preference?	◯ Yes	◯ No
Sexual Harassment?	◯ Yes	◯ No
Are services, programs, and activities provided to all eligible prisoners?	◯ Yes	◯ No

Prison Rape Elimination Act (PREA) Compliance

Does the facility have a PREA compliance program?

◯ Yes ◯ No

Does the program address the following items:

Zero tolerance toward all forms of sexual abuse and sexual harassment?	◯ Yes	◯ No
Prevention and response planning?	◯ Yes	◯ No
Prisoner training and education?	◯ Yes	◯ No
Employee training and education?	◯ Yes	◯ No
Screening for risk of sexual victimization?	◯ Yes	◯ No
Reporting and investigations?	◯ Yes	◯ No
Discipline?	◯ Yes	◯ No
Medical/ mental health care?	◯ Yes	◯ No
Auditing?	◯ Yes	◯ No
Corrective action?	◯ Yes	◯ No
State compliance?	◯ Yes	◯ No

Has the facility had an audit conducted by a DOJ certified PREA auditor within the past 3 years?

◯ Yes ◯ No

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If 'No' to the previous question, has a DOJ PREA audit been scheduled?

◯ Yes ◯ No

Scheduled DOJ PREA Audit Date

Is a hard copy of the PREA audit available?

◯ Yes ◯ No

If 'Yes', Audit Date

What was the name of the Auditor?

Is there a corrective action plan in place?

◯ Yes ◯ No

Has corrective action taken place?

◯ Yes ◯ No

Was the facility re-inspected to ensure the violations were corrected properly?

◯ Yes ◯ No

HEALTH CARE

Intake and Screening

Does the facility have policy or procedures for medical screening during intake?

◯ Yes ◯ No

Do all prisoners undergo medical screening during the initial intake process?

◯ Yes ◯ No

If 'No', how long after intake does the screening occur?

months days

Is a comprehensive health appraisal for each prisoner completed within 14-days after initial intake?

◯ Yes ◯ No

If 'No', how long after intake does the appraisal occur?

months days

Does the facility ensure TB testing during the initial intake process?

◯ Yes ◯ No

If 'No', how long after intake does the TB test occur?

months days

Are TB test results provided to the USMS within 14 days?

◯ Yes ◯ No

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If 'No', when were results provided?

[ ] months [ ] days

Do all prisoners undergo mental health screening during the initial intake process?

◯ Yes ◯ No

If 'No', how long after intake does the mental health screening occur?

[ ] months [ ] days

Do all prisoners undergo dental health screening during the initial intake process?

◯ Yes ◯ No

If 'No', how long after intake does the dental health screening occur?

[ ] months [ ] days

Are all medical screening results reviewed by a physician?

◯ Yes ◯ No

How long after intake does this occur?

[ ] months [ ] days

Are medical screening records maintained for every prisoner?

◯ Yes ◯ No

Medical, Dental, and Mental Health

Does the facility have a medical unit staffed 24/7?

◯ Yes ◯ No

Does the facility employ an on-site mental health professional?

◯ Yes ◯ No

Are prisoners with mental health issues identified as part of the vulnerable population?

◯ Yes ◯ No

Are prisoners with mental health issues referred to qualified mental health professionals?

◯ Yes ◯ No

Routine, Chronic, and Emergency Health Services

Are all prisoners made aware of the process for requesting health care services?

◯ Yes ◯ No

Does the facility have a policy or procedures for identifying medical emergencies?

◯ Yes ◯ No

Does the facility provide access to prescription medication?

◯ Yes ◯ No

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Does the facility participate in the NMCC?

◯ Yes ◯ No

Does the facility have an onsite pharmacy?

◯ Yes ◯ No

Does the facility document prisoner health care grievances?

◯ Yes ◯ No

Response to Medical, Mental and Dental Health Needs

Are all prisoners who require health care beyond the capacity of the facility transferred to a facility where such care is available?

◯ Yes ◯ No

Are facility staff CPR/First Aid certified?

◯ Yes ◯ No

With the exception of emergencies, does the facility use POD Medical Management to request approval for outside medical services?

◯ Yes ◯ No

Does the facility immediately notify the district in the event of a USMS prisoner medical emergency?

◯ Yes ◯ No

Suicide Prevention

Does the facility have a suicide prevention program?

◯ Yes ◯ No

Does the facility document staff training for prisoner suicide prevention?

◯ Yes ◯ No

Does the facility have procedures for identifying prisoners at risk for suicide?

◯ Yes ◯ No

Does the facility have procedures for monitoring prisoners at risk for suicide?

◯ Yes ◯ No

How often are welfare inspections conducted on suicidal prisoners?

Select...

Does the facility report suicidal gestures, remarks, tendencies and attempts to the USMS?

◯ Yes ◯ No

Does the facility provide mental health services to suicidal prisoners?

◯ Yes ◯ No

Does the facility report restrictive housing of suicidal prisoners to the USMS?

◯ Yes ◯ No

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How many suicidal prisoners were placed in restrictive housing during the rating period?

Prisoner Death

Does the facility have procedures to respond to a prisoner's death?

◯ Yes ◯ No

Does the facility immediately notify the USMS in the event of a USMS prisoner death?

◯ Yes ◯ No

Does the facility review each prisoner death?

◯ Yes ◯ No

Infectious Disease

Does the facility have policy or procedures to address the management and reporting of infectious and communicable diseases?

◯ Yes ◯ No

Does the plan include:

HIV?	◯ Yes	◯ No
Tuberculosis?	◯ Yes	◯ No
Hepatitis?	◯ Yes	◯ No
Influenza?	◯ Yes	◯ No
Chlamydia?	◯ Yes	◯ No
COVID?	◯ Yes	◯ No
Ebola?	◯ Yes	◯ No
HPV?	◯ Yes	◯ No
Salmonella?	◯ Yes	◯ No
Scabies?	◯ Yes	◯ No
Zika?	◯ Yes	◯ No
E. coli?	◯ Yes	◯ No
Chicken Pox?	◯ Yes	◯ No

Does the facility have an infectious and communicable disease policy or procedures to:

Include identify prisoners with infectious and communicable diseases?	◯ Yes	◯ No
Treat prisoners with infectious and communicable diseases?	◯ Yes	◯ No
Quarantine prisoners with infectious and communicable diseases?	◯ Yes	◯ No

Does the facility report all cases of infectious and communicable diseases to the USMS?

◯ Yes ◯ No

Does the facility maintain adequate PPE for all staff in the event of a pandemic?

◯ Yes ◯ No

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Does the facility maintain adequate PPE for all prisoners in the event of a pandemic?

◯ Yes ◯ No

SECURITY AND CONTROL

Correctional Supervision

Are correctional officer posts located in, or immediately adjacent to, prisoner living areas so officers can respond promptly to emergency situations?

◯ Yes ◯ No

Are prisoners managed and supervised 24/7?

◯ Yes ◯ No

Security Features

Are weekly inspections of all security devices conducted?

◯ Yes ◯ No

Security Inspections

Does the facility conduct intermittent security sweeps of all areas prisoners occupy?

◯ Yes ◯ No

Searches and Contraband

Does the facility have procedures for searching prisoners for contraband upon arrival to the facility?

◯ Yes ◯ No

Does the facility have procedures for searching prisoners for contraband prior to transporting the prisoner?

◯ Yes ◯ No

Does the facility have procedures for searching prisoners for contraband after prisoner visitation?

◯ Yes ◯ No

Does the facility have procedures for searching prisoners for contraband after work details?

◯ Yes ◯ No

Does the facility notify the USMS if a USMS prisoner is found with contraband?

◯ Yes ◯ No

Prisoner Accountability and Supervision

Does the facility have procedures for physically counting prisoners?

◯ Yes ◯ No

Number of counts per day

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Use of Force

Does the facility have procedures for use of force?

◯ Yes ◯ No

Does the facility document and report use of force?

◯ Yes ◯ No

Does the facility investigate all use of force incidents?

◯ Yes ◯ No

Non-routine Use of Restraints

Does the facility have procedures for use of restraints?

◯ Yes ◯ No

Is the use of restraints on pregnant or postpartum USMS prisoners reported to the USMS?

◯ Yes ◯ No

Number of pregnant USMS prisoners since the last USMS DFR (if applicable).

Number of times pregnant or postpartum USMS prisoners were restrained since the last USMS DFR (if applicable).

Key Control

Is the use of keys controlled and inventoried?

◯ Yes ◯ No

Tools and Culinary Equipment Control

Is the use of tools and culinary equipment controlled and inventoried?

◯ Yes ◯ No

How many missing items during the rating period?

Weapons Control

Does the facility have procedures for the control and use of firearms and less-than-lethal devices?

◯ Yes ◯ No

Prisoner Handbook and Discipline

Do prisoners have 24/7 access to a prisoner rule/handbook in English?

◯ Yes ◯ No

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Does the English prisoner rule/handbook include facility rules and disciplinary procedures for violations?

◯ Yes ◯ No

Do prisoners have 24/7 access to a prisoner rule/handbook in Spanish?

◯ Yes ◯ No

Does the Spanish prisoner rule/handbook include facility rules and disciplinary procedures for violations?

◯ Yes ◯ No

Restrictive Housing

Does the facility have written procedures for restrictive housing?

◯ Yes ◯ No

Does the facility have written procedures for monitoring prisoners in restrictive housing?

◯ Yes ◯ No

Does the facility immediately report restrictive housing of any USMS prisoner in the vulnerable population?

◯ Yes ◯ No

How many USMS prisoners in the vulnerable population were placed in restrictive housing since the last USMS DFR (if applicable)?

Does the facility report restrictive housing of every USMS prisoner, monthly to the USMS?

◯ Yes ◯ No

How many USMS prisoners were placed in restrictive housing since the last USMS DFR (if applicable)?

How does the facility report restrictive housing to the USMS?

☐ Email ☐ Invoices ☐ Restrictive Housing Module

Does the facility have procedures for reintegration of a prisoner from restrictive housing into the general population?

◯ Yes ◯ No

Does the facility notify the prisoner of the reason for restrictive housing?

◯ Yes ◯ No

Criminal Organization

(If needed, use "Other Notes Section" on last page to document more than one organization.)

Does the facility collect criminal organization or security threat group information?

◯ Yes ◯ No

Name of Criminal Organization	Category (Leave blank)	Organization Level (Leave blank)	OID (Leave blank)

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Remarks

FOOD SERVICE

Sanitation Requirements

Has the facility been inspected by an external party within the past 12 months to ensure that the food service and equipment meets established health, sanitation, and safety protocols?

◯ Yes ◯ No

If 'Yes', Date of Inspection

Were any violations identified?

◯ Yes ◯ No

Have those violations been corrected?

◯ Yes ◯ No

Was the facility re-inspected to ensure the violations were corrected properly?

◯ Yes ◯ No

Adequate and Varied Meals

Does the facility provide 3 meals per day?

◯ Yes ◯ No

Does the facility provide a minimum of 2 hot meals per day?

◯ Yes ◯ No

Does the facility provide meals that are nutritionally adequate and varied, as approved by a dietitian?

◯ Yes ◯ No

Does the facility serve meals that match the approved meal menus?

◯ Yes ◯ No

Does the facility provide special meals for prisoner religious or medical needs?

◯ Yes ◯ No

SAFETY AND SANITATION

Fire Safety

Are annual fire safety inspections conducted by state or local fire officials?

◯ Yes ◯ No

If 'Yes', Date of Inspection

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Were any violations identified?

◯ Yes ◯ No

Have those violations been corrected?

◯ Yes ◯ No

Was the facility re-inspected to ensure the violations were corrected properly?

◯ Yes ◯ No

Control of Dangerous Materials

Does the facility have procedures for the maintenance, inventory, and storage of flammable, toxic, and caustic materials and chemicals?

◯ Yes ◯ No

Does the facility have adequate personal protective equipment for the safe handling of chemicals?

◯ Yes ◯ No

Does the facility receive training on the safe use of each chemical?

◯ Yes ◯ No

If yes to the above question, is the training documented?

◯ Yes ◯ No

Clothing, Laundry and Bedding

Are all prisoners issued at least two clean sets of temperature appropriate and properly sized clothing, to include uniforms, socks, underwear, t-shirts, braziers, and shoes?

◯ Yes ◯ No

Do prisoners have access to laundry facilities, or the ability to have their clothing items washed?

◯ Yes ◯ No

Do all prisoners receive adequate bedding, to include blanket, sheets, mattress and pillow?

◯ Yes ◯ No

How often is bedding washed or exchanged? (Weekly, Every 2 weeks, Every 3 weeks, Monthly, Every other month, Never)

Are exceptions to the laundry schedule made when clothes are soiled?

◯ Yes ◯ No

Are exceptions to the linen schedule made when linen and mattresses are soiled?

◯ Yes ◯ No

Are mattresses a minimum of 12 inches from the floor?

◯ Yes ◯ No

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Housing

Are single cells a minimum of 56 square feet?

◯ Yes ◯ No

Are double cells a minimum of 72.5 square feet?

◯ Yes ◯ No

Does the facility triple bunk or use boat beds?

◯ Yes ◯ No

How many times did the facility triple bunk or use boat beds since the last USMS DFR (if applicable)?

Personal Hygiene

Are the following available at no cost:

Soap?	◯ Yes	◯ No
Toothpaste?	◯ Yes	◯ No
Razors?	◯ Yes	◯ No
Shampoo?	◯ Yes	◯ No
Sanitary Napkins?	◯ Yes	◯ No
Tampons?	◯ Yes	◯ No

Do all prisoners have 24/7 access to an operable toilet?

◯ Yes ◯ No

Do all prisoners have 24/7 access to a washbasin with hot and cold running water?

◯ Yes ◯ No

Physical Facility and Equipment

Is the facility kept clean and in good repair?

◯ Yes ◯ No

Is all facility equipment in proper working order?

◯ Yes ◯ No

Is there any evidence or sign of mold?

◯ Yes ◯ No

Is there any evidence or sign of insects?

◯ Yes ◯ No

Is there any evidence or sign of rodents?

◯ Yes ◯ No

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Does the facility have adequate environmental controls to provide for indoor prisoner living conditions with air temperatures maintained between 69 and 76 degrees?

◯ Yes ◯ No

SERVICE AND PROGRAMS

Classification, Review, and Housing

Does the facility have a procedure for prisoner classification, placement, and management?

◯ Yes ◯ No

Does the facility regularly review a prisoner's behavior or circumstances to determine housing placement?

◯ Yes ◯ No

Are all USMS prisoners clearly identified in the facility's classification system?

◯ Yes ◯ No

Copay and Fees

Are prisoners charged a fee for haircuts?

◯ Yes ◯ No

If 'Yes', are all prisoners charged the same fee?

◯ Yes ◯ No

Are prisoners charged a fee for meals?

◯ Yes ◯ No

If 'Yes', are all prisoners charged the same fee?

◯ Yes ◯ No

Are prisoners charged a fee for medical co-pay?

◯ Yes ◯ No

If yes, are all prisoners charged the same fee?

◯ Yes ◯ No

Religious Practices

Do prisoners have the opportunity to participate in the religious practice of their faith?

◯ Yes ◯ No

Volunteer Work Assignments

Does the facility ensure that un-sentenced prisoners are not required to work unless they volunteer to do so?

◯ Yes ◯ No

Does the facility pay prisoners for work?

◯ Yes ◯ No

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Are USMS prisoners assigned to work outside of the secure perimeter of the facility?

◯ Yes ◯ No

Does the facility document all USMS prisoner work assignments?

◯ Yes ◯ No

Prisoner Grievance Program

Is a grievance procedure that includes at least one level of appeal available to all prisoners?

◯ Yes ◯ No

Juveniles

Does the facility house juveniles? If 'No', move to next section.

◯ Yes ◯ No

Does the facility have procedures for housing juveniles?

◯ Yes ◯ No

Does the facility house prisoners between 18-21 who are charged as juveniles?

◯ Yes ◯ No

Does the facility ensure the special diet, exercise, and education needs of juvenile prisoners are met?

◯ Yes ◯ No

Does the facility place prisoners under 21 who are charged as juveniles in restrictive housing?

◯ Yes ◯ No

Does the facility ensure that voluntary and involuntary restrictive housing of prisoners under 21 who are charged as juveniles are removed from restrictive housing every 3 hours?

◯ Yes ◯ No

Does the facility immediately report juvenile segregation or restrictive housing of USMS juvenile prisoners?

◯ Yes ◯ No

Exercise and Out-of-Cell Opportunities

Does the facility provide prisoners with opportunity for exercise and out-of-cell time?

◯ Yes ◯ No

Telephone Access

Do prisoners have adequate access to telephones?

◯ Yes ◯ No

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Access to the Courts and Legal Materials

Do prisoners have access to the courts?

◯ Yes ◯ No

Do prisoners have access to legal material/law library?

◯ Yes ◯ No

Access to Legal Representation

Do the prisoners have confidential access to counsel via telephone?

◯ Yes ◯ No

Do the prisoners have confidential access to counsel via written correspondence?

◯ Yes ◯ No

Do the prisoners have confidential access to counsel via visitation?

◯ Yes ◯ No

Visitation

Does the facility have a prisoner visitation program?

◯ Yes ◯ No

Does the prisoner visiting room have barriers to prevent contact visitation?

◯ Yes ◯ No

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CONCLUSION

Other Notes

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Additional Points of Contact

Title	Name		
Type of Contact	**Phone Number**	**Extension**	**Email Address**

Detention Facility Review (DFR) Certification

I certify that this facility was inspected by an 0082 or 1811 with a current USM-222, Additional Duty Designation designating them as a Detention Facility Inspector and that applicable Corrective Action Recommendations were provided to the facility.

Performed By	Title	Date

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COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	December 13, 2022
Subject:	First Amendment to the Professional Service Agreement between Benton County and Ideal Options for Opioid Treatment Networks
Presenter:	
Prepared By:	Lisa Small
Reviewed By:	Ryan Lukson, Chief Guerrero; Procurement Dept.

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

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

Summary / Background Information

Per Resolution 2022-019 dated January 4, 2022, the Board of Benton County Commissioners approved the Professional Services Agreement between Benton County and Ideal Option, PLLC whereby Ideal Option agreed to provide service and staff and do all things necessary to provided Medicated Assisted Treatment (MAT) services for the Benton County Jail, with a termination date of December 31, 2022.

The attached First Amendment is necessary as both parties wish to amend Section 6. Term; Termination and Exhibit C of the Agreement to extend the current Contract through February 28, 2023 to allow additional time to negotiate new terms and conditions for the Agreement, while maintaining the rest of the Agreement in full force and effect.

Fiscal Impact

As a reminder, these services are funded through the HCA grant. There will not be any fiscal impact to the County by extending this agreement to February 28, 2023.

Recommendation

Approve the attached Resolution and First Amendment to said Agreement and authorize the Chairman to sign the attached First Amendment.

Suggested Motion

Approve as part of the consent agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF THE FIRST AMENDMENT TO THE PROFESSIONAL SERVICE AGREEMENT BETWEEN BENTON COUNTY AND IDEAL OPTION, PLLC FOR THE PURPOSE OF MEDICATED ASSISTED TREATMENT FOR OPIOID TREATMENT NETWORKS WITHIN THE BENTON COUNTY CORRECTIONS DEPARTMENT

WHEREAS, per Resolution 2022-019 dated January 4, 2022, the Board of Benton County Commissioners, Benton County, Washington approved the Professional Services Agreement between Benton County and Ideal Option, PLLC whereby Ideal Option agreed to provide service and staff and do all things necessary to provided Medicated Assisted Treatment (MAT) services for the Benton County Jail, with a termination date of December 31, 2022; and

WHEREAS, the attached First Amendment is necessary as both parties wish to amend Section 6. Term; Termination and Exhibit C of the Agreement to extend the current Agreement through February 28, 2023 to allow additional time to negotiate new terms and conditions for the Agreement, while maintaining the rest of the Agreement in full force and effect; **NOW, THEREFORE**

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington, hereby concurs with the attached First Amendment to the Professional Service Agreement between Benton County and Ideal Option, PLLC and hereby authorizes the Chairman to sign the attached First Amendment; and

BE IT FURTHER RESOLVED, the term of the Agreement shall commence on January 1, 2022 and shall expire on February 28, 2023.

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

Orig: BCCD
cc: Auditor, S. Godinez, Ideal Option, Procurement

Prepared by: L. Small

First Amendment to

Professional Service Agreement

Between

Benton County and Ideal Option PLLC

This Professional Service Agreement Amendment, made and entered into this _____ day of _____, 2022 by and between **Benton County, Washington,** a political subdivision with its principal offices at 620 Market Street, Prosser, WA 99350 (hereinafter "County"), and Ideal Option PLLC, a professional limited liability company with its principal offices at 8514 W. Gage Blvd., Suite G, Kennewick, WA 99336 (hereinafter "Ideal Option"). County and Ideal Option are sometimes referred to in the Agreement individually as "Party" or, collectively, as the "Parties".

Recitals

Whereas, County and Ideal Option entered into a Professional Service Agreement dated January 4, 2022 (the "Agreement") whereby Ideal Option has agreed to provide services and staff and do all things necessary to develop an OTN capable of proving MAT services, as set forth more fully in said Agreement.

Whereas, the First Amendment is necessary as both parties wish to amend Section 6. Term; Termination and Exhibit C of the Agreement to extend the current Contract through February 28, 2023 to allow additional time to negotiate new terms and conditions for the Agreement, while maintaining the rest of the Agreement in full force and effect.

Now, therefore, in consideration of the provisions and agreements set forth herein, the parties agree that all provisions of their original Agreement shall remain in effect except the below sections which are amended as follows:

a) **Section 6. Term; Termination** - is hereby deleted in its entirety and replaced with the following:

   6. Term; Termination. The term of this Agreement shall commence on January 1, 2022 (the "Effective Date"), and shall expire on February 28, 2023, unless sooner terminated pursuant to the provisions set out below. This Agreement may be terminated in the following events:

b) **Exhibit C** - is hereby deleted in its entirety and replaced with the attached Exhibit C.

This section intentionally left blank

IN WITNESS WHEREOF, the Parties to this Professional Service Agreement Amendment have executed this Amendment to take effect upon the signature of both parties.

BENTON COUNTY CORRECTIONS

Robert Guerrero, Chief of Corrections

Date: 11/29/22

IDEAL OPTION PLLC

Print Name/Title: Sanford Becker, CFO

Date: Nov 28, 2022

BENTON COUNTY

Shon Small, Chairman

Date: _____

Approved as to form:

Civil Deputy Prosecuting Attorney

EXHIBIT C
COMPENSATION AND FUND ALLOCATION
JANUARY 1, 2022 – February 28, 2023

				Annual		
Personnel	**FTE%**	**Hourly**	**Monthly Salary**	**Salary Only**	**Benefits**	**Total**
Prescriber	0.2	$ 72.11	$ 2,499.81	$ 34,997	$ 8,433	$ 43,430
Nurse Care Manager (RN)	0.5	$ 40	$ 3,466.67	$ 48,533	$ 10,916	$ 59,449
Care Navigators (CN)	1.5	$ 25	$ 6,500.00	$ 91,000	$ 14,619	$ 105,619
Data Collection Coordinators	1.5	$ 25	$ 6,500.00	$ 91,000	$ 14,619	$ 105,619
Intake Coordinator (MA)	1.0	$ 25	$ 4,333.33	$ 60,667	$ 9,746	$ 70,413
Personnel Subtotal						**$ 384,530**
Drug Testing*						**$ 7,000**
Contingency Management Training						$ 3,000
Contingency Management - GPRA						$ 1,725
Contingency Management - Proviso						$ 33,333
Contingency Management - SOR II						$ 1,755
Transportation Vouchers						$ 3,600
Contingency Total						**$ 43,413**
Total Contract Amount						**$434,943.00**

*Drug testing of patients will be completed as ordered by the treating medical provider and will be compensated at $25 per each test up to a total annual compensation of $7,000.

Contingency Management Funding is allocated in accordance with Section 2.10 through 2.13 of Exhibit D – Schedule A: Statement of Work.

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	December 13, 2022
Subject:	Mid-Columbia Forklift, Inc. Personal Services Contract
Presenter:	N/A
Prepared By:	Adam Morasch
Reviewed By:	Mary Christen

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

Type of Agenda Item:	**Type of Action Needed:** *(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 has a contract with Mid-Columbia Forklift, Inc. to provide training and certification to Benton County employees that operate forklifts and said contract expires on December 31, 2022. Benton County wishes to continue offering training and certification for safe forklift operation to employees that operate forklifts.

Fiscal Impact

None, other than budgeted

Recommendation

Approve the attached Resolution and sign the attached Personal Services Contract between Benton County and Mid-Columbia Forklift, Inc.

Suggested Motion

Consent Agenda

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AUTHORIZING THE PERSONAL SERVICES CONTRACT BETWEEN BENTON COUNTY AND MID-COLUMBIA FORKLIFT, INC TO PROVIDE FORKLIFT TRAINING AND CERTIFICATION TO EMPLOYEES OF BENTON COUNTY

WHEREAS, per Resolution 2021-233, Section 4.0 Services "The County need not advertise or follow a formal competitive bidding procedure for service contracts (except for architectural, engineering, or design services), but rather the County may instead evaluate and utilize the procedures it deems best under the individual circumstances in order to obtain services of the highest quality at the lowest cost."; and

WHEREAS, Benton County has a contract with Mid-Columbia Forklift, Inc to provide forklift training and certification to Benton County employees per Resolution 2021-300; and

WHEREAS, said contract expires on December 31, 2022; and

WHEREAS, the Risk Manager recommends entering into a new contract with Mid-Columbia Forklift, Inc upon execution of both parties until December 31, 2024; **NOW, THEREFORE**

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington hereby concurs with the recommendation and agrees to sign the attached agreement between Benton County and Mid-Columbia Forklift, Inc., which will begin January 1, 2023, and expire December 31, 2024, and not exceed $20,000.00 excluding W.S.S.T.

Dated this _____ day of _____ 2022.

_____
Chairman of the Board

_____
Member

_____
Member

Constituting the Board of County Commissioners of Benton County, Washington

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

Org: Risk Management
Cc: Auditor; S Godinez; Contract Management

A. Morasch

BENTON COUNTY
PERSONAL SERVICES CONTRACT

TERMS AND CONDITIONS

THIS CONTRACT is made and entered into by and between **BENTON COUNTY**, a political subdivision with its principal offices at 620 Market Street, Prosser, WA 99350 (hereinafter "COUNTY"), and MID-COLUMBIA FORKLIFT, INC., a corporation organized under the laws of the State of Washington with its principal offices at 2605 North Commercial Avenue, Pasco, Washington 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. Terms and Conditions (this document).

2. DURATION OF CONTRACT

The term of this Contract shall begin January 1, 2023, and shall expire on December 31, 2024. 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 instruction to designated Benton County employees on safe operation of forklifts, and how to properly inspect a forklift prior to operation. All material presented to Benton County employees under this Contract shall meet or exceed minimum safety and health requirements listed under WAC 296-863.

   The parties understand that the instructor will provide classroom instruction and evaluate Benton County employees' performance during the practical demonstration only, and at no time will the instructor operate a forklift while on Benton County property.

b. The CONTRACTOR agrees to provide its own labor and materials. Unless otherwise provided in this Contract, no material or labor 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:	Maria Cuevas
Address:	2605 N Commercial Avenue Pasco, WA 99301
Phone:	(509) 547-7413
Email:	mcuevas@midcoforklift.com

b. For COUNTY:

Name:	Adam Morasch
Address:	7122 W Okanogan Pl #E330 Kennewick, WA 99336
Phone:	509-736-3082
Email:	adam.morasch@co.benton.wa.us

5. COMPENSATION

a. For the services performed under this Contract, the CONTRACTOR shall be paid at the rate of one hundred twenty-five dollars and zero cents ($125.00) per student.

b. The maximum total amount payable by the COUNTY to the

CONTRACTOR under this Contract shall not exceed twenty thousand dollars and zero cents ($20,000.00), excluding W.S.S.T.

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

d. The CONTRACTOR may 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 Pl #E330, Kennewick, WA 99336.

9. TERMINATION

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

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

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

10. ASSIGNMENT, DELEGATION, AND SUBCONTRACTING

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

b. The CONTRACTOR warrants that it has not paid, nor has it agreed to pay, any company, person, partnership, or firm, other than a bona fide employee working exclusively for the CONTRACTOR, any fee, commission, percentage, brokerage fee,

gift, or other consideration contingent upon or resulting from the award or making of this Contract.

11. NON-WAIVER OF RIGHTS

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

12. INDEPENDENT CONTRACTOR

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

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

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

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

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

13. COMPLIANCE WITH LAWS

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

14. INSPECTION OF BOOKS AND RECORDS

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

15. NONDISCRIMINATION

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

16. OWNERSHIP OF MATERIALS/WORKS PRODUCED

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

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

17. PATENT/COPYRIGHT INFRINGEMENT

The CONTRACTOR shall hold harmless, indemnify, and defend the COUNTY and its officers, officials, employees, and agents from and against any claimed action, cause, or demand brought against the COUNTY, where such action is based on the claim that information

supplied by the CONTRACTOR or subcontractor infringes any patent or copyright. The CONTRACTOR shall be notified promptly in writing by the COUNTY of any notice of such claim.

18. DISPUTES

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

19. CONFIDENTIALITY

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

20. CHOICE OF LAW, JURISDICTION, AND VENUE

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

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

21. SUCCESSORS AND ASSIGNS

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

such other party in respect to all covenants to this Contract.

22. SEVERABILITY

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

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

23. ENTIRE AGREEMENT

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

24. NOTICES

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

25. SURVIVABILITY

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

27); and confidentiality (Section 19).

26. LITIGATION HOLD NOTICE

In the event the COUNTY learns of circumstances leading to an increased likelihood of litigation regarding any matter where the records kept by CONTRACTOR pursuant to Section 14 of this Contract may be of evidentiary value, the COUNTY may issue written notice to CONTRACTOR of such circumstances and direct the CONTRACTOR to "hold" such records. In the event that CONTRACTOR receives such written notice, CONTRACTOR shall abide by all directions therein whether or not such written notice is received at a time when a Contract between CONTRACTOR and the COUNTY is in force. Such directions will include, but will not be limited to, instructions to suspend the six (6) year purge schedule required by Section 14 of this Contract.

27. PUBLIC RECORDS ACT

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

- This section left blank intentionally -

IN WITNESS WHEREOF, the parties have caused this Contract to be signed by their duly constituted legal representatives, and it is effective January 1, 2023.

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: 11-23-2022

FOR: MID-COLUMBIA FORKLIFT, INC.

_____
Signature

Branch Manager
Title:

Shawn McQuary
Print Name

Mary Christen

From: Eric Andrews
Sent: Thursday, December 1, 2022 9:27 AM
To: Mary Christen
Cc: Adam Morasch
Subject: RE: For Your Review, Contract with Mid-Columbia Forklift Inc

I approve as to form.

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

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From: Mary Christen <Mary.Christen@co.benton.wa.us>
Sent: Wednesday, November 30, 2022 3:25 PM
To: Eric Andrews <Eric.Andrews@co.benton.wa.us>
Cc: Adam Morasch <Adam.Morasch@co.benton.wa.us>
Subject: For Your Review, Contract with Mid-Columbia Forklift Inc

Eric,

Have you had a chance to review this? You've reviewed the other two that Risk Management had. This is the last one.

Thank you.

Mary Christen
Risk Management
(509)222-2332

mary.christen@co.benton.wa.us
BENTON COUNTY WA
Risk Management

From: Mary Christen
Sent: Wednesday, November 23, 2022 11:25 AM
To: Eric Andrews <Eric.Andrews@co.benton.wa.us>
Cc: Adam Morasch <Adam.Morasch@co.benton.wa.us>
Subject: For Your Review, Contract with Mid-Columbia Forklift Inc

Eric,

Please find attached for your review and approval:

- Mid-Columbia Forklift Training Contract 2023-2024

Thank you.

Mary Christen
Risk Management
(509)222-2332

mary.christen@co.benton.wa.us
BENTON COUNTY WA
Risk Management

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	December 13, 2022
Subject:	Columbia Safety, LLC Personal Service Contract
Presenter:	N/A
Prepared By:	Adam Morasch
Reviewed By:	Mary Christen

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

Type of Agenda Item:	**Type of Action Needed:** *(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 has a contract with Columbia Safety, LLC to provide first aid, CPR, and AED training to Benton County employees and said contract will expire on December 31, 2022. Benton County wishes to continue offering training for life saving skills to employees.

Fiscal Impact

None, other than budgeted

Recommendation

Approve the attached Resolution and sign the attached Personal Service Contract between Benton County and Columbia Safety, LLC.

Suggested Motion

Consent Agenda

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AUTHORIZING THE PERSONAL SERVICES CONTRACT BETWEEN BENTON COUNTY AND COLUMBIA SAFETY, LLC TO PROVIDE FIRST AID, CPR, AND AED TRAINING TO BENTON COUNTY EMPLOYEES

WHEREAS, per Resolution 2021-233, Section 4.0 Services "the County need not advertise or follow a formal competitive bidding procedure for service contracts, but rather the County may instead evaluate and utilize the procedures it deems best under the individual circumstances to obtain services of the highest quality at the lowest cost"; and

WHEREAS, Benton County has a contract with Columbia Safety, LLC to provide first aid, CPR, and AED training to Benton County employees per Resolution 2021-189; and

WHEREAS, said contract expires on December 31, 2022; and

WHEREAS, the Risk Manager recommends entering into a new contract with Columbia Safety, LLC upon execution of both parties until December 31, 2024; **NOW, THEREFORE**

BE IT RESOLVED that the Board of Benton County Commissioners Benton County, Washington hereby concurs with the recommendation and agrees to sign the attached agreement between Benton County and Columbia Safety, LLC, which will begin January 1, 2023 and expire December 31, 2024, and not exceed $30,000.00 excluding W.S.S.T.

Dated this _____ day of _____ 2022.

_____
Chairman of the Board

_____
Chairman Pro Tem

_____
Member

Constituting the Board of County Commissioners of Benton County, Washington

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

Org: Risk Management
Cc: Auditor

A. Morasch

BENTON COUNTY
PERSONAL SERVICES CONTRACT

TERMS AND CONDITIONS

THIS CONTRACT is made and entered into by and between **BENTON COUNTY**, a political subdivision with its principal offices at 620 Market Street, Prosser, WA 99350 (hereinafter "COUNTY"), and **COLUMBIA SAFETY, LLC**, a corporation organized under the laws of the State of Washington with its principal offices at 418 N Kellogg St. STE D, Kennewick, WA 99336 (hereinafter "CONTRACTOR").

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

1. CONTRACT DOCUMENTS

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

a. Exhibit A – Service Agreement; and
b. Exhibit B – Fees.

2. DURATION OF CONTRACT

The term of this Contract shall begin on January 1, 2023, and shall expire on December 31, 2024. 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, through its licensed and qualified employees, as-needed on-site Adult First Aid/CPR/AED Training. A detailed description of the services to be performed by the CONTRACTOR is set forth in Exhibit A, "Service Agreement", 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 COUNTY does not guarantee utilization of this Contract. The COUNTY may award contracts to other vendors for similar services. Actual utilization will be based on availability or any other factor deemed important to the COUNTY.

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:	Michael Hendricks
Address:	418 N Kellogg St STE D Kennewick, WA, 99336
Phone:	509-820-3883
Email:	michael@columbiasafety.net

b. For COUNTY:

Name:	Adam Morasch
Address:	7122 W Okanagan Pl #E330 Kennewick, WA, 99336
Phone:	509-736-3082
Email:	adam.morasch@co.benton.wa.us

5. COMPENSATION

a. For the services performed under this Contract, the CONTRACTOR shall be paid at the rates set forth in Exhibit B, “Fees”, which is attached hereto and incorporated herein by reference excluding W.S.S.T.

b. The maximum total amount payable by the COUNTY to the CONTRACTOR under this Contract shall not exceed Thirty Thousand Dollars ($30,000.00), excluding W.S.S.T.

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

d. The CONTRACTOR may, in accordance with Exhibit 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. **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 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

c. **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.

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 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. 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 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 Pl #E330, Kennewick, WA 99336.

9. TERMINATION

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

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

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

10. ASSIGNMENT, DELEGATION, AND SUBCONTRACTING

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

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

11. NON-WAIVER OF RIGHTS

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

12. INDEPENDENT CONTRACTOR

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

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

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

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

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

13. COMPLIANCE WITH LAWS

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

14. INSPECTION OF BOOKS AND RECORDS

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

15. NONDISCRIMINATION

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

16. OWNERSHIP OF MATERIALS/WORKS PRODUCED

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

b. An electronic copy of all word processing documents shall be

submitted to the COUNTY upon request and/or at the expiration of the Contract, using the word processing program and version specified by the COUNTY.

17. PATENT/COPYRIGHT INFRINGEMENT

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

18. DISPUTES

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

19. CONFIDENTIALITY

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

20. CHOICE OF LAW, JURISDICTION, AND VENUE

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

b. Any action at law, suit in equity, or judicial proceeding

arising out of this Contract shall be instituted and maintained only in any of the courts of competent jurisdiction in Benton County, Washington.

21. SUCCESSORS AND ASSIGNS

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

22. SEVERABILITY

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

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

23. ENTIRE AGREEMENT

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

24. NOTICES

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

25. SURVIVABILITY

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

26. LITIGATION HOLD NOTICE

In the event the COUNTY learns of circumstances leading to an increased likelihood of litigation regarding any matter where the records kept by CONTRACTOR pursuant to Section 14 of this Contract may be of evidentiary value, the COUNTY may issue written notice to CONTRACTOR of such circumstances and direct the CONTRACTOR to "hold" such records. In the event that CONTRACTOR receives such written notice, CONTRACTOR shall abide by all directions therein whether or not such written notice is received at a time when a Contract between CONTRACTOR and the COUNTY is in force. Such directions will include, but will not be limited to, instructions to suspend the six (6) year purge schedule required by Section 14 of this Contract.

27. PUBLIC RECORDS ACT

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

CONTRACTOR may seek a judicial order of protection if necessary.

- This section left blank intentionally -

IN WITNESS WHEREOF, the parties have caused this Contract to be signed by their duly constituted legal representatives, and it is effective January 1, 2023.

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: 11/17/2022

FOR: COLUMBIA SAFETY, LLC

_____
Signature

BUSINESS MANAGER
Title:

MICHAEL HENDRICKS
Print Name

Exhibit A – Service Agreement

1. CONTRACTOR FACILITY

the CONTRACTOR's training facility in Kennewick, Washington is capable of handling up to 30 students at one time. When circumstances require a larger training environment, the CONTRACTOR will obtain a larger training forum and inform participants of the training location.

2. COUNTY FACILITY

The CONTRACTOR will bring the class to the COUNTY's location as long as the following conditions are guaranteed: a) minimum class size of at least 8 students in the Tri city area (Kennewick, Pasco and Richland), outside of the Tri Cities a minimum of 10 students is required; the CONTRACTOR will bill for a minimum of 8 students/ 10 students (respective locations) regardless, due to the extra efforts required to prepare for an off-site class; and b) a training area large enough to support the size of the group being trained; power outlets for a computer, projector, and room for a screen; as well as enough floor space to accommodate the hands-on sessions.

3. Remedial Training

In rare circumstances, a student may not successfully complete the training. When this occurs, the CONTRACTOR will offer the student the opportunity to participate in the next available class and retake the exam (written and/or practical) again without additional charge. If the student fails to successfully complete the training a second time, the COUNTY must pay for any subsequent training class.

4. Certification

The training for CPR/AED, First Aid, BLS Provider, ACLS, and PALS shall be valid for 2 years from the date of successful completion of the training course and examination (written and practical). With the implementation of eCards through AHA, should a replacement card be needed a $30 fee will be charged.

5. Record Keeping

The CONTRACTOR will maintain training records for a minimum of 7 years. Upon a Benton County employee's completion of a training course, the CONTRACTOR will enter the dates of training into our computer system and make it accessible on-line to that employee and the COUNTY's management staff. We will contact the employee before the end of each certification period to remind them to schedule additional training to recertify their card(s). We will make 2 attempts to contact the employee, after which we will contact the COUNTY to notify them that the employee is not able to be reached. If the employee leaves the COUNTY's employment, we ask that the COUNTY contact the CONTRACTOR in a timely manner so that we can remove that employee from the COUNTY's records and into another archival file.

Exhibit B-Fees

Class Type	Client's Price
AHA - Heartsaver CPR/AED only	$47.50 per person
AHA - Heartsaver First-Aid only	$47.50 per person
AHA – Heartsaver CPR/AED & First-Aid	$76.00 per person
AHA – Hearstaver CPR/AED, First-Aid, or BLS eLearning option includes Skills	$85.50 per person
AHA - Bloodborne Pathogens Training Blended	$32.75 per person
Bloodborne Pathogen w/ CPR or First Aid	$29.25 per person
4-Hour HIV / AIDS	$76.00 per person
7-Hour HIV / AIDS	$95.00 per person
Stop the Bleed	$10 Donation request

Mary Christen

From: Eric Andrews
Sent: Tuesday, November 29, 2022 3:24 PM
To: Mary Christen
Cc: Adam Morasch
Subject: RE: For Your Review, Contract with Columbia Safety, LLC

I approve as to form.

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

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

From: Mary Christen <Mary.Christen@co.benton.wa.us>
Sent: Tuesday, November 22, 2022 3:04 PM
To: Eric Andrews <Eric.Andrews@co.benton.wa.us>
Cc: Adam Morasch <Adam.Morasch@co.benton.wa.us>
Subject: For Your Review, Contract with Columbia Safety, LLC

Hi Eric,

We have another contract for your review. Please find attached:

- Columbia Safety - PSC_2023-2024_Signed

Please let us know if you have any questions.

Thank you.

Mary Christen
Risk Management
(509)222-2332

mary.christen@co.benton.wa.us
BENTON COUNTY WA
Risk Management

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	December 13, 2022
Subject:	Rescinding Resolutions 2020-258, 2020-272 and 2020-290 – Declaration of Emergency
Presenter:	N/A
Prepared By:	Adam Morasch, Risk Manager
Reviewed By:	Matt Rasmussen, Shyanne Palmus

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 / Documents	☐ Pass Ordinance
		☐ Execute Contracts

Summary / Background Information

In response to the ongoing COVID-19 pandemic the Board of County Commissioners declared a County wide emergency on March 17, 2020 (Resolution 2020-258). In that Resolution the Board granted authority to individual elected officials and the County Administrator to use tele-commuting and/or paid administrative leave for employees who were deemed to not be essential for working at the County facilities.

The initial authority was granted until April 6, 2020, and was extended until April 12, 2020, or until the end of the Governors "Stay at Home" order. The "Stay at Home" order was extended until May 5, 2020, by the Governor which automatically extended the authority.

On March 31, 2020, Resolution 2020-272 amended two paragraphs in Resolution 2020-258 as follows;

> Effective March 18, 2020, through April 12, 2020, or until the end of the governor's "stay at home" order, whichever is later, the Board of Benton County Commissioners grant authority for each separately and independently elected official, as well as County Administration for those departments under the direction of the Board of Benton County Commissioners, to limit person to person contact with general public and adjust their respective office hours as needed.
>
> For the work period March 23, 2020 through April 12, 2020 or until the end of the governor's "stay at home" order, whichever is later, the Board of Benton County Commissioners grants authority to independent elected officials and the County Administrator to approve tele-commuting options and/or paid administrative leave or other available leave for those employees that are deemed non-essential during the period of time provided that they regularly check their office email and provide a telephone number where they can be reached for work related issues and are available to physically report to work as deemed necessary.

On April 14, 2020, Resolution 2020-290 amended two paragraphs in Resolution 2020-272 as follows;

Effective April 20, 2020, at 6:00AM through May 5, 2020, at 6:00PM or until the end of the governor's "stay at home" order, whichever is later, the Board of Benton County Commissioners grants authority for each separately and independently elected official, as well as County Administration for those departments under the direction of the board of Benton County Commissioners, to limit person to person contact with the general public and adjust their respective office hours as needed.

For the work period April 20, 2020, at 6:00AM through May 5, 2020, at 6:00AM, the Board of Benton County Commissioners grant authority to independent elected officials and the County Administrator to approve tele-commuting options or use of available leave, including FFCVRA leave, for those employees that are deemed non-essential during that time period. For the purposes of this resolution tele-commuting shall mean that the employee is capable of, and actually performing, their regular job functions and/or other special assignments when working outside of the office.

With Governor Jay Inslee ending the State of Emergency and rescinding the remaining proclamations that were still in effect on October 31, 2022, at 11:59PM, Benton County intends to rescind Resolutions 2020-258, 2020-272 and 2020-290, effectively ending the Declaration of Emergency.

Fiscal Impact

N/A

Recommendation

Staff recommends that the Board approve the Resolution Rescinding Resolutions 2020-258, 2020-272 and 2020-290 effective December 13, 2022.

Suggested Motion

Approve as part of the consent agenda

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF RESCINDING RESOLUTIONS 2020-258, 2020-272 AND 2020-290, EFFECTIVELY ENDING THE DECLARATION OF EMERGENCY IN BENTON COUNTY

WHEREAS, on March 17, 2020, the Benton County Board of County Commissioners declared an emergency in response to the developing situation surrounding the COVID-19 which provided authority to reduce direct public contact along with hours and staff levels in all County offices; and

WHEREAS, the emergency declaration was amended two times on March 31, 2020, and April 14, 2020, to reflect on going changes in the response to the COVID-19 pandemic; and

WHEREAS, Governor Jay Inslee ended the state of Emergency for Washington State related to the COVID-19 pandemic on October 31, 2022, at 11:59PM; and

WHEREAS, Benton County believes that the need for an emergency declaration related to the COVID-19 pandemic no longer exists in Benton County and Resolutions 2020-258, 2020-272 and 2020-290, should be rescinded, ending the Declaration of Emergency; **NOW, THEREFORE,**

BE IT RESOLVED the Board of Benton County Commissioners rescinds Resolutions 2020-258, 2020-272 and 2020-290 effective immediately.

Dated this 13th day of December 2022.

Chairman of the Board

Chairman Pro Tem

Member

Constituting the Board of County Commissioners of Benton County, Washington

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

cc: all depts. A. Morasch

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	12/13/2022
Subject:	Setting 2022 Salary for Overtime Exempt Employee Below the Salary Threshold
Presenter:	C. Nave
Prepared By:	C. Nave
Reviewed By:	E. Wyant, J. MacPherson, M. Rasmussen, G. Baddley, A. Miller

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

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

Summary / Background Information

In 2016, Washington voters approved Initiative 1433 which, among other things such as mandating paid sick leave, raised the state's minimum wage to $13.50 by January 1, 2020 after which time the minimum wage would be calculated based on increases to the Consumer Price Index (CPI). In order for an employee to be exempt from the minimum wage and overtime, in accordance with the federal Fair Labor Standards Act (FLSA) and RCW 49.46 (formerly the WA Minimum Wage Act), employees must meet both a salary and job duties test for the exemption to be applied. In both salary and job duties, the WA state tests are more stringent than the federal tests.

RCW 49.46.010(3)(c) grants authority to the Director of Labor and Industries (L&I) to establish rules for the tests for minimum wage exemption in the state. WAC 296-128-545 sets the exempt salary test thresholds as a multiplier of the minimum wage, phased in over a number of years beginning in 2020 at 1.25 times the minimum wage, and increasing to 2.5 times the minimum wage by 2027 for large employers (51+ employees). For 2022, any employee classified as exempt from overtime must be paid a minimum of 1.75 times the minimum wage of $14.49/hour, or $52,743.60 annually as calculated by L&I.

During a review of current salaries by the new Human Resources team it was discovered that one position on the current non-bargaining salary schedule did not meet this salary threshold for 2022. The County must correct the salary of this position to be in compliance with state law.

Fiscal Impact

The change will result in an increase of wages and benefits of approximately $2076 in the Prosecuting Attorney's Office. The funds are available in the current budget, no supplement is required.

Recommendation

Recommend the Board of County Commissioners approve and sign the resolution as presented.

Suggested Motion

I move to approve the 2022 salary for Jaimi Nye as presented.

cc: HR, Auditor

Prepared by: C. Nave

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF SETTING THE 2022 SALARY FOR JAIMI NYE

WHEREAS, RCW 49.46 requires that employees classified as exempt from overtime meet a minimum salary threshold; and

WHEREAS, the exempt salary threshold for 2022 is $52,743.60 annually; and

WHEREAS, Jaimi Nye was promoted into a position classified as exempt from overtime on February 18, 2022 at Grade 11, Step A on the Benton County Non-Bargaining 2022 Salary Schedule; and

WHEREAS, Jaimi Nye received a step increase to Grade 11, Step B on the Benton County Non-Bargaining 2022 Salary Schedule on September 1, 2022; and

WHEREAS, Jaimi Nye's current salary does not meet the 2022 salary threshold for exemption; **NOW THEREFORE**,

BE IT RESOLVED, Jaimi Nye's placement on the Benton County Non-Bargaining 2022 Salary Schedule is Grade 11, Step C, effective February 18, 2022; and

BE IT FURTHER RESOLVED, Jaimi Nye's placement on the Benton County Non-Bargaining 2022 Salary Schedule is Grade 11, Step D, effective September 1, 2022; and

BE IT FURTHER RESOLVED, nothing in this resolution is intended to modify Jaimi Nye's anniversary date or eligibility for future step increases.

Dated this_____ day of _____, 2022.

_____

Chair of the Board

_____

Member

_____

Member

Constituting the Board of Commissioners

of Benton County, Washington

Attest.....

Clerk of the Board

cc: HR, Auditor

Prepared by: C. Nave

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	13 December 2022
Subject:	Business Resource Initiative Update
Presenter:	Lori Mattson & Stephanie Barnard
Prepared By:	Fyall
Reviewed By:	Fyall

PA Review, Approval to Form: ☐ Yes ☐ No ☒ N/A *(see "Background" below)*

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 Agreement

Summary & Background

Lori Mattson, President & CEO of the Tri-Cities Regional Chamber of Commerce, and Stephanie Barnard, Strategic Projects Director for the Chamber as well as State Representative-Elect, will update the Board on the Business Resource Initiative (BRI). Chamber staff last visited with the Board in June and since that time our contract for the ARPA-funded BRI has gone into effect and the first grant round has opened. Presenters will reflect on the first few months of the BRI and be available to answer questions.

Fiscal Impact

Not applicable.

# # #

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	December 13, 2022
Subject:	Memorandum of Understanding between Benton Franklin Recovery Coalition and Benton County
Presenter:	Matt Rasmussen, Michele Gerber
Prepared By:	Matt Rasmussen
Reviewed By:	Jerrod MacPherson

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

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

Summary / Background Information

The Benton Franklin Recovery Coalition (BFRC) is a non-profit entity located in the Tri Cities whose mission is to advocate for recovery and treatment options, educate and destigmatize the disease of addiction and reduce barriers to recovery for people suffering from substance use disorder. BFRC has been at the forefront of the movement in our region to establish a recovery center and has been instrumental in helping the County secure grant funding now being allocated towards the project.

BFRC desires to provide on-going support of the recovery center and substantially related programs. They desire a more formal arrangement with the County to provide their supporters with some guarantee of what their contributions will be dedicated towards. A memorandum of Understanding has been proposed that outlines how BFRC will provide support and what that support can be dedicated towards.

Dr. Michele Gerber, President of the Benton Franklin Recovery Coalition will be present at the meeting to execute the proposed MOU on behalf of the BFRC.

Fiscal Impact

Unknown. However, there will be no costs to the County and entering into this MOU will only benefit the County by providing additional financial resources for the operation of the recovery center.

Recommendation

Staff recommends that the Board enter into the proposed MOU.

Suggested Motion

I move to approve the Memorandum of Understanding between the Benton Franklin Recovery Coalition and Benton County.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF APPROVING THE MEMORANDUM OF UNDERSTANDING BETWEEN BENTON FRANKLIN RECOVERY COALITION AND BENTON COUNTY

WHEREAS, the Benton Franklin Recovery Coalition (BFRC) is a non-profit entity located in the Tri Cities whose mission is to advocate for recovery and treatment options, educate and destigmatize the disease of addiction and reduce barriers to recovery for people suffering from substance use disorder; and

WHEREAS, BFRC has been at the forefront of the movement in our region to establish a recovery center and has been instrumental in helping the County secure grant funding now being allocated towards the project; and

WHEREAS, BFRC desires to provide on-going support of the recovery center and substantially related programs. Additionally, they desire a more formal arrangement with the County to provide their supporters with some guarantee of what their contributions will be dedicated towards; and

WHEREAS, the Board is in agreement with the proposed Memorandum of Understanding outlining how BFRC will provide support and what that support can be dedicated towards; **NOW, THEREFORE,**

BE IT RESOLVED, the Board of Benton County Commissioners hereby authorizes the Chairman or Chairman Pro Tem to execute the attached Memorandum of Understanding between Benton Franklin Recovery Coalition and Benton County with an effective date to commence upon signing by all parties.

Dated this . . . . . day of December 2022

Chairman of the Board

Chairman Pro-Tem

Member

Constituting the Board of County Commissioners of Benton County, Washington

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

Original: Matt Rasmussen
cc: Auditor; PA, BF Recovery Coalition; R. Brown

C. McKenzie

Memorandum of Understanding Between

Benton Franklin Recovery Coalition and Benton County

WHEREAS, the Board of Directors of Benton Franklin Recovery Coalition, a Washington State Nonprofit Corporation, and Benton County of Washington State do hereby enter into this Memorandum of Understanding to provide a framework for collaboration and support of programs and services offered by the Three Rivers Behavioral Health Recovery Center or other programs and services substantially related to the programs and services offered by the Three Rivers Behavioral Health Recovery Center.

WHEREAS, the Benton Franklin Recovery Coalition does hereby agree to provide support for the Three Rivers Behavioral Health Recovery Center through direct giving, support of specific programs or services, acquisition and donation of tangible property, and other methods of supporting the mission of the Three Rivers Behavioral Health Recovery Center, as approved by the Benton Franklin Recovery Coalition's Board of Directors.

WHEREAS, Benton County does hereby agree to work collaboratively with the Benton Franklin Recovery Coalition to identify acceptable methods of support for the Three Rivers Behavioral Health Recovery Center.

WHEREAS, Benton County agrees that any support accepted from Benton Franklin Recovery Coalition shall only be utilized for the intended and stated purposes.

WHEREAS, by entering into this Memorandum of Understanding, Benton Franklin Recovery Coalition is not required to provide support to any particular project or service requested by Benton County.

WHEREAS, Benton County is not required to accept support for any particular project or service offered by Benton Franklin Recovery Coalition by entering into this Memorandum of Understanding.

WHEREAS, any subsequent change to the name of either entity shall not alter or invalidate this Memorandum of Understanding.

_____	_____
Shon Small	Michele Gerber
Chairman, Board of County Commissioners	President, Benton Franklin Recovery Coalition
Date_____	Date_____