Jerome Delvin, *District 1*
Michael Alvarez, *District 2*
Will McKay, *District 3*

Jerrod MacPherson
County Administrator
Matt Rasmussen
Deputy County Administrator

Agenda – Board of County Commissioners

To view items in detail, click highlighted areas.

Regular Board of Commissioners Meeting
Tuesday, April 11, 2023 9:00 AM
Benton County Courthouse, Prosser, WA

Notice: Meeting provided in-person, by live-broadcast and telephonically via WebEx (linked below):
https://www.co.benton.wa.us/agenda/commissioners

Call to Order

Pledge of Allegiance

Approval of Minutes: April 4, 2023

Review Agenda

Public Comment

To provide public comment, please come forward (if in-person), call 509-460-4941, or raise your hand in WebEx. Once called upon by the Chairman, state your name and address for the record and keep comments to 3 minutes or less.

Consent Agenda

Auditor

a. Changing Precinct Boundaries in Conjunction with Redistricting Pursuant to RCW 29A.76 & 29A.16

Corrections

b. Agreement w/LexisNexis for Law Library Within the Jail; Rescinding Resolution 2022-714
c. Termination Subscriber Agreement w/Public Safety Testing, Inc. for Entry Level Corrections Testing

Human Resources

d. Inclement Weather Closure Grievance Settlement Agreement & Release w/the Benton-Franklin Juvenile Court Guild, Representing Juvenile Court Employees

Information Technology

e. Amending Resolution 2023-177 for the Purchase of Three Laptops & Docks for Superior Court Administration from Dell Inc.
f. Approving One-Year EProsecutor Annual License, Maintenance & Support Fee for the Prosecuting Attorney's Office From Journal Technologies, Inc.
g. Purchase of One Dual Side Printer From CDW-G for the Sheriff's Office

Juvenile

h. Amended Interagency Agreement No. 1 w/Administrative Office of the Courts for Interpreter Funding

Public Works

i. Memorandum of Understanding w/County Road Administration Board for ESRI Editor Term License

Purchasing

j. Rejecting Bids for the Sidewalk Repair Project @ the Kennewick Justice Center
k. Contract w/MMEC Architecture & Interiors, LLC for the Design of the Administration Office Remodel
l. Contract w/Frontier Fence, Inc. for the Prosser Courthouse and Voting Center Fencing Project
m. Authorization for Advertisement & Bid Process for Furnishing Road Surfacing Materials in the Public Works Department

Sheriff

n. License Agreement w/Permitium, LLC for Online Weapons Permit Applications
o. Disposition of Forfeited Firearms

Treasurer

p. Line Item Transfer, Fund No. 1290, Dept. 000

Scheduled Business

Award of Juvenile Justice Center Progressive Design Project to Chervenell Construction Company ~ R Blain

Designation of an Associate Development Organization for WA State Dept. of Commerce ~ A Fyall

TRIDEC 2023 Services Contract ~ A Fyall

Other Business

Executive Session

Review Qualifications of An Applicant for Public Employment ~ M Mahoney

1st Quarter Litigation Update ~ R Brown

Review the Performance of a Public Employee ~ J MacPherson

Adjournment

MINUTES

BOARD OF BENTON COUNTY COMMISSIONERS

Draft

Regular Board Meeting
Benton County Courthouse, Prosser, WA
Tuesday, April 4, 2023, 9:00 a.m.
Meeting provided in-person, by Video Live-Broadcast and Telephonically via/WebEx

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

Absent: Chairman Will McKay (Excused - Vacation)

Benton County Employees Present During All or a Portion of the Meeting: Deputy County Administrator Matt Rasmussen; Robert Heard, IT Manager; Adam Fyall, Sustainable Development Manager; Treasurer Ken Spencer; Clerk Josie Delvin; Glenn Vaagen, Communications Coordinator; Carlee Nave, HR Manager; Greg Wendt, Community Development Director; Robert Blain, Capital Projects Manager; Tom French, Fairgrounds/Event Center Manager; DPA Ryan Brown; Public Works Manager Matt Mahoney; Cristina Woods, Public Works; DPA Jeff Aultman.

Pledge of Allegiance

The Board recited the Pledge of Allegiance.

Approval of Minutes

The Minutes of March 28, 2023 were approved.

Public Comment

Sherry Elizabeth Becker discussed her concern regarding multiple RCW violations, including official misconduct by the Assessor and Treasurer. Additionally, she discussed her property and that legally there were not any tax parcels on her property.

Jim Adkins asked why there was an architectural approval contract for design of the New Event Center and Parking Lot with El Dorado on the agenda for the Fairgrounds when the feasibility study was not yet complete.

Chairman Delvin said he would talk to staff to get further answers.

Nicole Carby, via/videoconference, Kennewick, said she sent an email to the Commissioners and had not yet heard anything back. She discussed her concern regarding illegal activities in the County and encouraged the Board to follow up with the Chief of Corrections about crimes against her. Additionally, she discussed her book that would be published (911 Commissioners Report).

Tina Gregory, via/videoconference, Kennewick, expressed her concern about local government and taking action.

Consent Agenda

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

Information Technology

a. Request Letter to DotGov. Domain Registration to Create the Internet Domain Name

Juvenile Justice

b. Contract w/Sandy Bonilla dba Essence Therapy, PLLC for Family Counseling Services

Office of Public Defense

c. Superior Court Public Defense Services w/Dale Braunger

Pest Board

d. Appointment of Matt Eddie to the Horticultural Pest & Disease Board
e. Appointment of Kevin Christensen to the Horticultural Pest & Disease Board
f. Appointment of David Murray to the Horticultural Pest & Disease Board

Public Works

g. Ratifying Change Order No. 1 for Contract w/Superior Tree for Countywide Brush Cutting Project

Purchasing

h. Contract w/El Dorado Architects for the Design of the New Event Center & Parking Lot @ the Fairgrounds/Event Property

Public Hearing - Adding a New Chapter to Title 6 of the Benton County Code Relating to Compost Adoption

Robert Blain and Matt Mahoney presented the proposed ordinance relating to compost procurement. In 2022, the Washington State Legislature adopted HB 1799 requiring the diversion of organic materials away from landfill disposal and towards food rescue programs and organics management facilities and also required the County to adopt compost procurement ordinances. Mr. Blain said there was an educational piece to it and during construction, they were required to consider compost. Additionally, the required reports would be filed bi-annually.

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

MOTION: Commissioner Alvarez moved to approve the new composting ordinance adding a new chapter to BCC Title 6, as presented. Chairman Pro Tem Delvin seconded and upon vote, the motion carried.

Public Hearing - BC Water Company LLC Franchise

Cristina Woods presented the franchise application by BC Water Company LLC for a water line system and facilities in Benton County Road Rights of Way. Based upon the information received, Public Works recommended the Commissioners approve the Franchise Order and Agreement as presented.

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

MOTION: Commissioner Alvarez moved to approve the Franchise Order and Agreement with BC Water Company, LLC as presented. Chairman Pro Tem Delvin seconded and upon vote, the motion carried.

Scheduled Business

Rural County Capital Fund Discussion

Adam Fyall and Ryan Brown presented an update on the Benton County's Rural County Sales and Use Tax Ordinance as follows:

- Fund Balance currently allotted for each entity
- Economic Development Plan will be updated in May and all projects have to be accounted for
- Policy Summit scheduled with all partners in June – might have recommendations to change policy
- SHB 1267 – they have been working to get this extended through the state legislature and it passed through the House and currently was making its way through Senate committees. They were told the chances were good and if approved, would extend the life of the program well into the 2050's
- Ordinance will sunset on June 30, 2023 of this year and staff recommends revising the sunset date to July 31, 2032 and hold a public hearing on April 25 to adopt the ordinance. It has been determined that the County is eligible to receive .09 funds until 2032
- The State actually collects the tax, but this allows the County to receive it in a rebate

Official County Newspaper Bid Opening

Matt Rasmussen said every year the County was required to go out to bid for the official county newspaper. The notice of bid call was advertised in the current legal newspaper and the Commissioners' office provided notice (via email) to both known newspapers in Benton County – the Tri-City Herald and the Prosser Record Bulletin, as well as posted the notice on the county's website and bulletin boards. Additionally, the Tri-City Herald provided a copy of their bid by email dated March 16, 2023, to the Clerk of the Board, and asked if it should also be placed in the mail. Ms. McKenzie responded with a copy of the Notice of Bid Call as advertised, requesting they read the instructions as it was a "sealed bid" and required to be delivered per the Notice. Additionally, she did not read the attachment that was sent.

Mr. Rasmussen opened the following bids:

- Valley Publishing – Prosser Record Bulletin
  - Column inch rate, first insertion - $18.25
  - Column inch rate, subsequent insertion - $26.25
  - Published weekly

- McClatchy - Tri-City Herald

	Mon-Fri	Sun
o Column inch rate, first insertion, including online:	$18.00	$18.00
o Column inch rate, additional insertions:	$18.00	$18.00

Mr. Rasmussen said that staff would review the bids and bring back a recommendation.

Other Business

Introductions – New Employees

DPA Ryan Brown introduced their newest attorney, Jeff Aultman, Civil Division, who was taking over primarily for Ryan Lukson.

Adam Fyall introduced Glenn Vaagen, new Communications Coordinator, who came from KONA Radio.

Fairgrounds/Event Center - Feasibility Study

Chairman Pro Tem asked for an update regarding the feasibility study and the El Dorado contract.

Tom French and Adam Fyall briefly discussed the following:

- The Master Plan was an overarching look at the property, to be phased out over many years
- The Feasibility study was more detailed and included the economics piece. They were close to completion, but it had extended longer than expected
- The El Dorado contract was for design of the new Event Center and Parking Lot. The parking lot was part of the Master Plan and was to allow users easier access to get to the buildings and bring the community in and connect with the buildings

Meetings Outside County Seat Bill - Once Per Month

Chairman Pro Tem Delvin said the bill to allow once per month meetings outside the County Seat had passed and was waiting for the Governor's signature.

Inpatient Residential Treatment Facility

Chairman Pro Tem Delvin stated that $5 million was allocated to be used for an inpatient residential treatment facility.

Accounts Payable

Check Date: 03/31/2023

Warrants #: 244165-244346
Total all funds: $1,471,084.25

Transfers #: 616-618, 620, 623-624, 628-630, 637-641
EFT's #: 349-372
Total all funds: $217,159.13

Resolutions

2023-281: Request Letter to DotGov. Domain Registration to Create the Internet Domain Name
2023-282: Contract w/Sandy Bonilla dba Essence Therapy, PLLC for Family Counseling Services
2023-283: Superior Court Public Defense Services w/Dale Braunger
2023-284: Appointment of Matt Eddie to the Horticultural Pest & Disease Board
2023-285: Appointment of Kevin Christensen to the Horticultural Pest & Disease Board
2023-286: Appointment of David Murray to the Horticultural Pest & Disease Board
2023-287: Ratifying Change Order No. 1 for Contract w/Superior Tree for Countywide Brush Cutting Project
2023-288: Contract w/El Dorado Architects for the Design of the New Event Center & Parking Lot @ the Fairgrounds/Event Property
2023-289: Adopting Ordinance No. 647 Relating Adoption of Legislation Requiring the use of Compost Materials to Divert Organic Materials Away From Landfill Disposal and Towards Food Rescue Programs and Organics Management Facilities and Adding a New Chapter to Title 6 of the Benton County Code
2023-290: Granting a Franchise to BC Water Company LLC to Place a Water Line System and Facilities in County Road Rights of Way

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

_____ _____

Clerk of the Board Chairman

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	May 3, 2022
Subject:	CHANGING PRECINCT BOUNDARIES IN CONJUNCTION WITH REDISTRICTING
Presenter:	
Prepared By:	Amanda Hatfield
Reviewed By:	Brenda Chilton

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

Following completion of the 2020 census; Washington State, Benton County, and the Benton County Public Utility District submitted to the Benton County Auditor redistricting plans for their respective districts pursuant to 29A.76.010. Upon completion of the 2020 Redistricting process, a new Legislative District was incorporated into Benton County, Legislative District #15.

Fiscal Impact

0

Recommendation

As a result of the completion of the 2020 Redistricting process, a new Legislative District was incorporated into Benton County, Legislative District #15. The Benton County Auditor-Election Division and GIS have worked to identify precincts that need modification pursuant to RCW 29A.16 and updates to the Benton County voting precincts have been submitted;

Suggested Motion

Approve as part of consent agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF CHANGING PRECINCT BOUNDARIES IN CONJUNCTION WITH REDISTRICTING PURSUANT TO RCW 29A.76 AND 29A.16

WHEREAS, Washington State, Benton County, and the Benton County Public Utility District submitted to the Benton County Auditor redistricting plans for their respective districts pursuant to 29A.76.010; and

WHEREAS, upon the completion of the 2020 Redistricting process, a new Legislative District was incorporated into Benton County, Legislative District #15; and

WHEREAS, the Benton County Auditor-Election Division and GIS worked to identify precincts that need modification pursuant to RCW 29A.16; **NOW, THEREFORE,**

BE IT RESOLVED the following precinct updates in Benton County are modified and updated as listed in the attached Exhibit A; and

BE IT RESOLVED the precinct updates in Benton County will be effective May 3, 2022.

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

A. Hatfield

EXHIBIT A

State of Washington Legislative District Precinct Changes

Precincts that were in Legislative District #8 – Will now be in Legislative District #16
4010, 4009, 3520, 2570, 3535, 2575, 4011, 4004, 3510, 2585, 3545, 2580, 4016, 4101, 3505, 2600, 3555, 2601, 4009, 4014, 3500, 2626, 3560, 2620, 4012, 4003, 3515, 1645, 3557, 1408, 3558, 2574, 3525, 2590, 4019, 4008, 3559, 2610, 3530, 2605, 4013, 1407, 3556, 2615, 2560, 2625, 4001, 4102, 3550, 5631, 2565, 1646, 4002, 1404, 3540, 4007, 2595, 4017, 4005.

Precincts that were in Legislative District #16 – Will now be in Legislative District #8
2632, 5627, 1692, 5625, 6311, 1406.

Precincts that were in Legislative District #16 – Will now be in Legislative District #15
96, 97, 98, 99, 1061, 1292, 1290, 2407, 3101, 2409, 2408, 1291.

Precincts that were in Legislative District #8 – Will now be in Legislative District #15
1060, 3104

Commissioner District Precinct Changes

Precincts that were in Commissioner District #1 – Will now be in Commissioner District #2
1060, 1061, 4103, 6285, 6293, 6295

Precincts that were in Commissioner District #2 – Will now be in Commissioner District #1
97, 98, 1669, 3104, 4010

Precincts that were in Commissioner District #2 – Will now be in Commissioner District #3
1420, 1645, 1655, 1656, 1657, 2600, 2601, 2605, 2615, 2620, 2625, 2626, 2632, 5631

Precincts that were in Commissioner District #3 – Will now be in Commissioner District #2
1681, 1686, 1240, 1683, 1674, 1690, 1675, 1685, 1240.

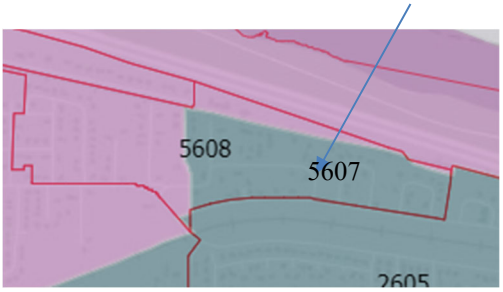
Benton County Public Utility District (PUD) Precinct Changes

Precincts that are now part of PUD Commissioner District #1
1645, 1646, 1660, 1664, 1667, 1668, 1669, 1670, 2560, 2565, 2570, 2580, 2585, 2590, 2600, 2601, 2605, 2610, 2615, 2625, 2626, 3500, 3505, 3510, 3511, 3515, 3520, 3525, 3530, 3535, 5608, 5615, 5619, 5621, 5622, 5623, 5624, 5628.

Precincts that are now part of PUD Commissioner District #2
1020, 1021, 1022, 1023, 1060 ,1061, 1090, 1091, 1240, 1241, 1290, 1291, 1292, 1360, 1362, 1363, 1364, 1365, 1400, 1402, 1403, 1404, 1412, 1413, 1420, 1422, 1690, 1691, 2401, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2632, 2633, 2636, 2641, 3001, 3002, 3003, 3101, 3102, 3104, 3105, 3106, 3107, 3553, 3557, 3558, 3559, 4103, 450, 455, 460 ,465, 470, 5602, 5606, 5609, 5626, 5629, 5632, 5638, 96, 97, 98, 99.

Precincts that are now part of PUD Commissioner District #3
1406, 1406, 1409, 1414, 1650, 1651, 1655, 1656, 1657, 1663, 1665, 1674, 1675, 1676, 1680, 1681, 1682, 1683, 1685, 1686, 2574, 2575, 2595, 2620, 2630, 2634, 2635, 2637, 2638, 2639, 2640, 3516, 3540, 3545, 350, 3551, 3552, 3555, 3556, 3560, 5613, 5625, 5627, 5630, 5631, 5636, 5637, 5639, 6311, 6313, 6320.

New precincts numbers based off Legislative splits or Commissioner District splits:



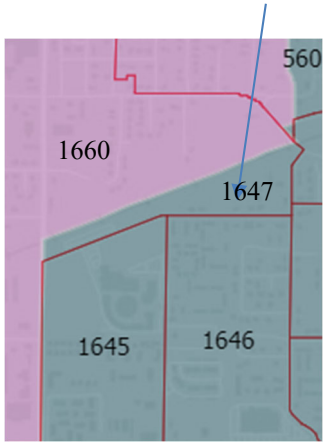
5607 (Former portion of 5608)

Legislative District #16 (5608 piece will remain in Legislative District #8), Commissioner District #2

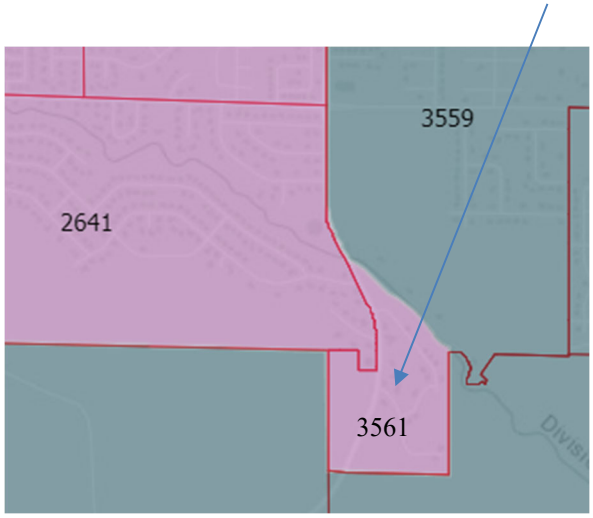


1661 (Former portion of 5608 – Is not within the City of Kennewick Boundaries)

Legislative District #8, Commissioner Dist #2, Unincorporated Benton County

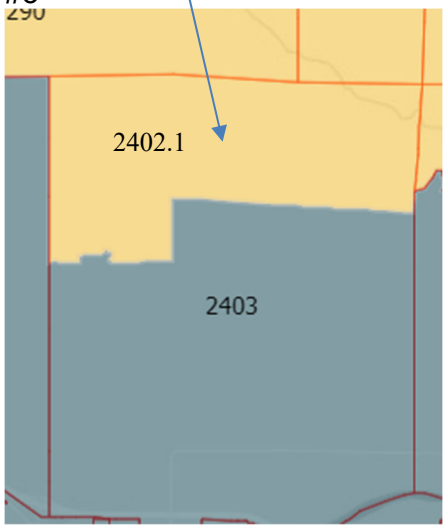


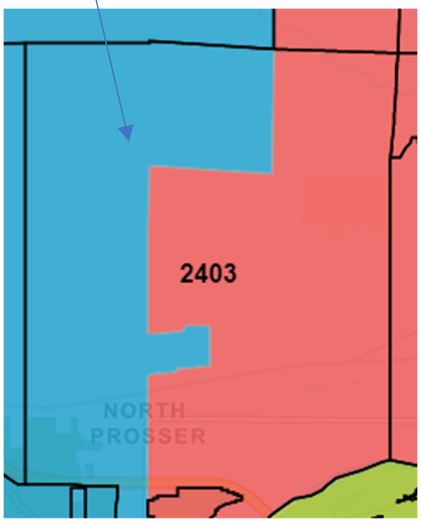
1647 (Former portion of 1660 – Legislative split between Legislative Dist. #8 & #16)
Legislative District #16 (1660 Piece will remain in Leg #8), Commissioner District #2



3561 (Former portion of 3559 – Legislative split between Legislative Dist. #8 & #16)

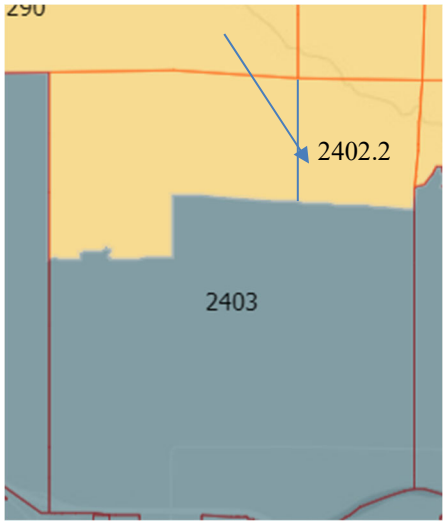
Legislative District #8 (3559 piece will remain in Legislative District #16), Commissioner District #3

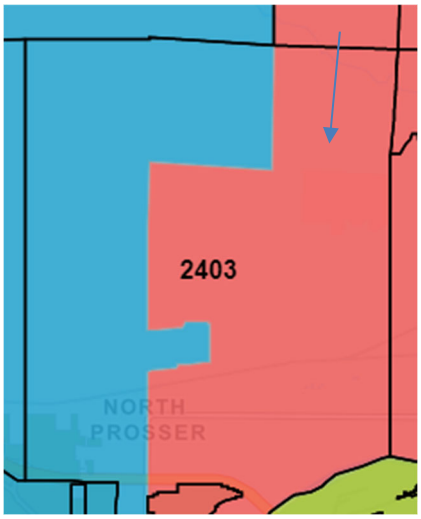




2402.1 (Former portion of 2403 – Legislative split between Legislative Dist. #15 & #16 and split between Prosser School District Directors)

Legislative District #15, Commissioner District #2, Prosser Consolidated School District #116, Prosser School Director District #2

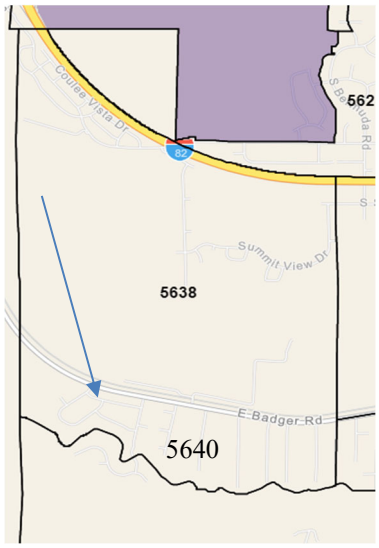




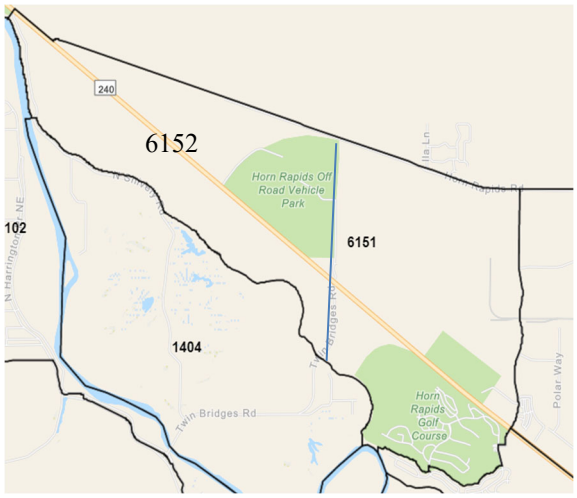
2402.2
Legislative District #15, Commissioner District #2, Prosser Consolidated School District #116, Prosser School Director District #1

New Precincts based on registered voter total being over the 1,500 limit required by State statute:

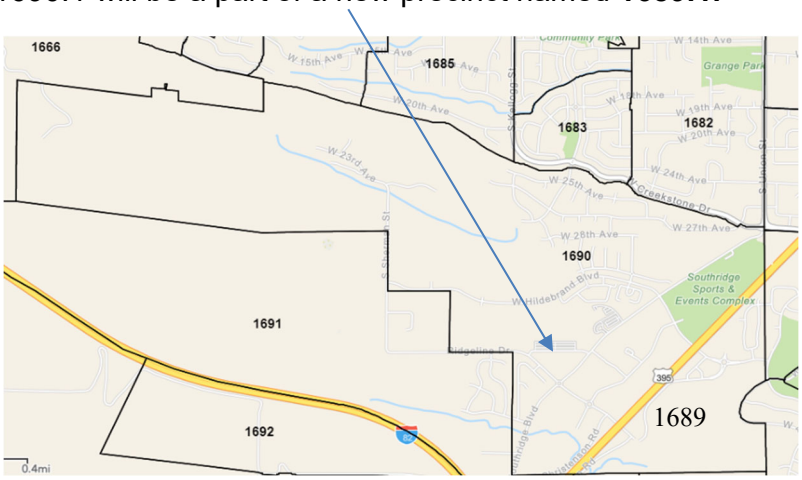
Precinct **5638** Will create a southern boundary from the existing West boundary of 5638 following E. Badger Rd. extending to the existing East boundary of 5638. All area south of E. Badger Rd that is currently a part of 5638 will now be part of the new precinct named **5640.**



Precinct **6151** Will create a new boundary running North and South along Twin Bridges Rd. extending from the existing North boundary to the existing South boundary. All area to the West of Twin Bridges Rd. will be a part of the new precinct named **6152**.



Precinct **1690.1** – Will create a new boundary running Northeast from the existing West boundary to the existing East boundary. All area to the South of Southridge Blvd. that is currently a part of 1690.1 will be a part of a new precinct named **1689.1.**



COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	April 11, 2023
Subject:	Service Agreement with LexisNexis for Law Library within the Benton County Jail; Rescinding Resolution 2022-714
Presenter:	
Prepared By:	Lisa Small
Reviewed By:	Jeff Aultman; Chief Guerrero; Purchasing Dept.

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

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

Summary / Background Information

Per Resolution 2022-714 dated October 4, 2022, the Board of Benton County Commissioners entered into a service agreement with LexisNexis for the External Hard Drive (EHD) systems that meets the requirements to provide case law and revised codes for Washington State to inmates within the Benton County Jail for a service agreement amount of $637.00 plus WSST per month, with a term expiring December 31, 2023.

Benton County Jail has recently switched to tablets for inmate communications, which provides LexisNexis services to all inmates. LexisNexis offered to lower the fee to $150.00 plus WSST per month for a two year commitment with a term commencing April 1, 2023 and terminating March 31, 2025.

The Chief of Corrections believes this revised agreement rate is in the best interest of the County and hereby recommends the Board approve the attached agreement between Benton County and LexisNexis and rescind Resolution 2022-714.

Fiscal Impact

Amount: Not to exceed $3,600.00 plus WSST (savings of $11,688).

Fund: Said expenditures shall be paid out of 1160 - Inmate Benevolence Fund.

Recommendation

Approve the attached Resolution and agreement between Benton County and LexisNexis for an amount not to exceed $3,600 plus WSST commencing April 1, 2023 and terminating March 31, 2025; authorizing the Chairman of the Board to sign said agreement. Resolution 2022-714 is hereby rescinded and all previous agreements with LexisNexis is hereby superseded with the attached agreement.

Suggested Motion

Approved as part of the Consent Agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF RENEWING THE SERVICE AGREEMENT BETWEEN BENTON COUNTY AND LEXISNEXIS FOR AN EXTERNAL HARD DRIVE PRISON SOLUTIONS FOR CASE LAW AND REVISED CODES OF WASHINGTON STATE TO BE PROVIDED TO INMATES WITHIN THE BENTON COUNTY JAIL; RESCINDING RESOLUTION 2022-714

WHEREAS, per Resolution 2022-714 dated October 4, 2022, the Board of Benton County Commissioners entered into a service agreement with LexisNexis for the External Hard Drive (EHD) systems that meets the requirements to provide case law and revised codes for Washington State to inmates within the Benton County Jail for a service agreement amount of $637.00 plus WSST per month, with a term expiring December 31, 2023; and

WHEREAS, Benton County Jail has recently switched to tablets for inmate communications, which provides LexisNexis services to all inmates and LexisNexis has offered to lower the fee to $150.00 plus WSST per month for a two year commitment with a term commencing April 1, 2023 and terminating March 31, 2025; and

WHEREAS, the Chief of Corrections believes this revised agreement rate is in the best interest of the County and hereby recommends the Board approve the attached agreement between Benton County and LexisNexis and rescind Resolution 2022-714; **NOW, THEREFORE**

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington hereby approves the attached agreement between Benton County and LexisNexis, a division of RELX, Inc. for the External Hard Drive (EHD) system for an agreement amount of $150.00 plus WSST per month, with an overall agreement amount not to exceed $3,600.00 plus WSST; and

BE IT FURTHER RESOLVED, the Board hereby authorizes the Chairman of the Board to sign the attached agreement between LexisNexis and Benton County; and

BE IT FURTHER RESOLVED, said Agreement shall begin April 1, 2023 and shall terminate March 31, 2025; and

BE IT FURTHER RESOLVED, Resolution 2022-714 is hereby rescinded and all previous agreements with LexisNexis is hereby superseded with the attached agreement.

Dated this _____ day of _____, 2023.

_____
Chairman of the Board

_____
Chairman Pro-Tem

_____
Commissioner

Attest……
Clerk of the Board

Constituting the Board of Commissioners
of Benton County, Washington

Orig: BCSO
cc: Auditor; PA; Procurement; LexisNexis

L. Small

LexisNexis®

Prison Solutions

RENEW YOUR LEXISNEXIS® PRISON SOLUTION ORDER NOW BY SIGNING THIS LETTER AGREEMENT

Thank you for using LexisNexis, a division of RELX Inc. as your provider of legal research materials for correctional facilities.

Currently you are using the LexisNexis services pursuant to the Prison Solution Agreement or Order (the "Order") that allows you to use selected information relevant to your needs in exchange for a fixed monthly commitment. The Order offers you access to comprehensive content and ease-of-use. However, your LexisNexis service under this Order will expire soon.

By signing below, you may extend the term for the following period at the monthly commitment rate indicated below:

Customer Name:	Benton County	**Account Number:**	0099706902

	Extension Period			**Monthly Commitment**	
Beginning	**4/1/2023**	**to**	**3/31/2024**	**$**	**150.00**
Beginning	**4/1/2024**	**to**	**3/31/2025**	**$**	**150.00**
Beginning		**to**		**$**	

Customer hereby certifies that they have _____number of inmates

These changes will be effective on 4/1/2023. Except as expressly stated above, all other terms of the Order will remain unchanged and unaffected by this letter agreement.

If you have any questions about your new rate or would like to see a comparison of other pricing options, please contact me, your account representative, at:

Chris Conner
Client Mgr--Corrections
C: 937-344-8496
Toll Free:866-293-4261
F: 866-960-2944
chris.conner@lexisnexis.com

If you agree with the new monthly commitment and extended term, then please print this message, provide the information requested for the total number of terminals/licenses/locations then sign and date. Upon completion, return the signed letter agreement to me at the fax number listed above. In order for these changes to be effective on the date listed above, please sign and return this letter agreement no later than the of .

If you do not respond to this letter, please be advised that the Order will expire at the end of the current commitment period and you will no longer receive updated materials.

Customer Name: Benton County

Authorized Signature:

Print Name: Will McKay, Chairman

Title: Benton County Commissioner

Date:

Approved as to Form:

Jeffrey Aultman, DPA

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	April 11, 2023
Subject:	Notice of Termination of Subscriber Agreement between Benton County and Public Safety Testing, Inc.
Presenter:	
Prepared By:	Lisa Small
Reviewed By:	Stephen Hallstrom; Robert Guerrero

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

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

Summary / Background Information

Per Resolution 2021-441 the Board of Benton County Commissioners approved the Subscriber Agreement between Benton County and Public Safety Testing, Inc. for entry level corrections testing with an agreement commencing January 1, 2021 through December 31, 2024.

The Benton County Corrections Department would like to go in a different direction for pre-employment testing and exercise the option to terminate the Subscriber Agreement between Benton County and Public Safety Testing, Inc. as allowed per Section 7 of the Agreement.

Fiscal Impact

By terminating this agreement, the County will save the annual cost of $5,520.46 for 2024.

Recommendation

Approve the attached Resolution and authorize the Chairman of the Board to sign the attached Notice of Termination of Subscriber Agreement between Benton County and Public Safety Testing, Inc., and hereby rescind Resolution 2021-441.

Suggested Motion

Approve as part of the Consent Agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF TERMINATING THE SUBSCRIBER AGREEMENT BETWEEN BENTON COUNTY AND PUBLIC SAFETY TESTING FOR ENTRY LEVEL CORRECTIONS TESTING; RESCINDING RESOLUTION 2021-441

WHEREAS, per Resolution 2021-441 the Board of Benton County Commissioners approved the Subscriber Agreement between Benton County and Public Safety Testing, Inc. for entry level corrections testing with a contract commencing June 1, 2021 through December 31, 2024; and

WHEREAS, the Benton County Corrections Department would like to exercise the option to terminate the Subscriber Agreement between Benton County and Public Safety Testing, Inc. by providing 60 days written notice per Section 7 of the Subscriber Agreement; **NOW, THEREFORE**

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington, concurs with the Benton County Corrections Department and hereby approves the attached Notice of Termination of Subscriber Agreement between Benton County and Public Safety Testing, Inc.; and

BE IT FURTHER RESOLVED, the Board hereby authorizes the Chairman to sign the attached Notice of Termination letter; and

BE IT FURTHER RESOLVED, said Subscriber Agreement will be terminated effective Saturday, June 10, 2023; and

BE IT FURTHER RESOLVED, Resolution 2021-441 is hereby rescinded.

Dated this 11th day of April, 2023.

_____
Chairman of the Board

_____
Chairman Pro-Tem

_____
Commissioner

Attest: _____
Clerk of the Board

Constituting the Board of County Commissioners
of Benton County, Washington

Orig: BCCD
Auditor; PA Office, HR, Public Safety Testing L. Small

Jerome Delvin, *District 1*
Michael Alvarez, *District 2*
Will McKay, *District 3*

Jerrod MacPherson
County Administrator
Matt Rasmussen
Deputy County Administrator

Board of County Commissioners

April 11, 2023

Mr. Jon Walters, Jr., President
Public Safety Testing, Inc.
20818 – 44th Ave. W., Suite 160
Lynnwood, WA 98036
jon@publicsafetytesting.com

RE: Notice of Termination of Subscriber Agreement between Benton County and Public Safety Testing, Inc. per Resolution 2021-441

Mr. Jon Walters:

The purpose of this letter is to inform you that Benton County is exercising the option to terminate the Subscriber Agreement between Benton County and Public Safety Testing, Inc. per Section 7 of the Agreement.

Please be advised that said Agreement will be terminated effective 11:59pm PST on Saturday, June 10, 2023 per the following section:

7. Termination. This agreement terminates as noted in the *Termination* section on Page 1 of this Agreement. The Contractor and/or the Subscriber may also withdraw from this Agreement at any time for any reason with 60 days written notice, provided, however, that the provisions of paragraphs 1.3, 4, 5 and 6 shall remain in full force and effect following the termination of this Agreement with respect to, and continuing for so long as any applicant tested by the Contractor remains on the eligibility list of the Subscriber.

Thank you for your service to Benton County.

Sincerely,

BOARD OF BENTON COUNTY COMMISSIONERS

Will McKay, Chairman
Benton County Commissioner

cc: Board of Benton County Commissioners
Jerrod McPherson, County Administrator
Matt Rasmussen, Deputy County Administrator
Robert Guerrero, Chief of Corrections
Tammy Dufault, HR Assistant

Lisa Small

From: Stephen Hallstrom
Sent: Wednesday, March 22, 2023 15:27
To: Lisa Small
Cc: Joshua Combs; Robert Guerrero; Jeffrey Aultman; Stephen Hallstrom
Subject: PST Subscriber Agreement - Notice of Termination Ltr.

Lisa,

Proposed Notice Of Termination for PST Subscriber Agreement should work. No recommended changes.

Contact me questions.

Stephen Hallstrom
Senior Deputy Prosecuting Attorney
Benton County Prosecutor's Office, Civil Division
7122 W. Okanogan Place, STE A230
Kennewick WA 99336
Phone: (509) 735-3591
Fax: (509) 222-3705

CONFIDENTIALITY NOTICE: This email, and 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, any wire, oral or electronic communication.

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	Franklin County: 4/4/2023; Benton County: 4/11/2023
Subject:	Inclement Weather Closure Grievance Settlement Agreement and Release with Juvenile Court Guild
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

On December 28, 2022, the Juvenile Court Guild filed a grievance stemming from inclement weather closures prior to the adoption of the Benton County Inclement Weather and Emergency Closure Policy. While closure pay was not authorized at the time of the closure because Benton County Commissioners did not authorize the closure, the parties have entered into settlement discussions and have reached a mutually agreeable resolution to avoid further grievance proceedings as reflected in the attached settlement agreement.

Fiscal Impact

$101.00 plus the value of 86.75 vacation hours – no supplement required.

Recommendation

Recommend the Board of Benton County Commissioners sign the Resolution and the attached Settlement Agreement and Release.

Suggested Motion

Approve as part of the consent agenda.

cc: BC Auditor, BC HR, Juvenile, FC HR

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 AN INCLEMENT WEATHER CLOSURE GRIEVANCE SETTLEMENT AGREEMENT AND RELEASE WITH THE BENTON-FRANKLIN JUVENILE COURT GUILD, REPRESENTING JUVENILE COURT EMPLOYEES

WHEREAS, an agreement has been reached to settle the inclement weather closure grievance with the Juvenile Court Guild; **NOW THEREFORE**,

BE IT RESOLVED, the Benton and Franklin Counties Boards of Commissioners approve and sign the attached Inclement Weather Closure Grievance Settlement Agreement and Release with the Benton-Franklin Juvenile Court Guild.

Dated this ____ day of _____, 2023.

BENTON COUNTY BOARD OF COMMISSIONERS

_____
Chair of the Board

_____
Commissioner

_____
Commissioner

Constituting the Board of Commissioners of Benton County, Washington

Attest.....
Clerk of the Board

Dated this ____ day of _____, 2023.

FRANKLIN COUNTY BOARD OF COMMISSIONERS

_____
Chair of the Board

_____
Commissioner

_____
Commissioner

Constituting the Board of Commissioners of Franklin County, Washington

Attest.....
Clerk of the Board

cc: BC Auditor, BC HR, Juvenile, FC HR

Prepared by: C Nave

INCLEMENT WEATHER CLOSURE GRIEVANCE SETTLEMENT AGREEMENT AND RELEASE

THIS SETTLEMENT AGREEMENT AND RELEASE (Agreement) is effective upon signature by all parties and is made by and between the Benton-Franklin Juvenile Court Guild (GUILD), representing the Juvenile Court Unit and, the Benton-Franklin Counties Juvenile Department, the Board of Benton County Commissioners, and the Board of Franklin County Commissioners, (collectively EMPLOYER).

WHEREAS, on December 28, 2022, the GUILD grieved inclement weather pay impacts for hours on December 5, 2022, and December 9, 2022, when an operations closure was authorized by the Benton-Franklin Counties Superior Court Presiding Judge, but not authorized by the Board of Benton County Commissioners; and

WHEREAS, the parties hereto desire to fully resolve, compromise, relinquish and forever settle, any and all demands, disputes, grievances, claims and/or allegations, by and between the parties, arising out of, or related to, inclement weather pay impacts on identified GUILD members, from the December 5, 2022 and December 9, 2022, operations closure, the GUILD'S grievance filed December 28, 2022, and intended advancement by the GUILD to grievance arbitration pursuant to the controlling collective bargaining agreement, resulting in the successful culmination of settlement negotiations in connection with the above-referenced grievance and any and all related issues.

NOW THEREFORE, the parties do hereby agree as follows:

1. PAYMENTS TO EMPLOYEE: On the payroll following final signature on this Agreement, identified employees will be credited as reflected in Appendix A attached to this Agreement.

2. NO PRECEDENCE: The terms and conditions of this Agreement shall not be considered to set a precedent, including without limitation, the application and interpretation of the existing collective bargaining agreement and successor collective bargaining agreements, including the grievance process and related procedures, and settling emergency closure disputes.

3. FULL AND COMPLETE RESOLUTION: The terms and conditions of this Agreement constitute full and complete settlement, resolution and release, of any and all claims, disputes, grievances and/or allegations by and between the parties, arising out of and/or related to, GUILD unit members' inclement weather pay for December 5, 2022, and December 9, 2022, the GUILD'S related grievance filed December 28, 2022, and any and all related issues, in any and all forums.

4. DISPUTES: This Agreement shall be governed by and construed in accordance with, the laws of the State of Washington, and any disputes concerning this Agreement shall be resolved through the grievance procedure of the controlling collective bargaining agreement between EMPLOYER and GUILD.

5. The signatories to this release acknowledge that in consideration of this Agreement, and payment referenced herein to Releasing GUILD and GUILD members as identified herein, shall be contingent on the execution of this release. Accordingly, upon execution of this release, Releasing GUILD claims in this matter will be satisfied in full without costs, and both parties will therefore bear their own attorney fees, costs, and all other expenses, including but not limited to, expert witness fees, and any other expenses or costs arising out of or in any way associated with, this claim, and any and all related issues.

6. Effective upon implementation of this Agreement, all parties hereto absolutely further release and discharge each other, their agencies, appointed and elected officials, departments, agents, employees, representatives, assigns, insurers, attorneys and successors, subsidiaries, if any, divisions, officers, directors, controlling persons, or joint ventures from any and all past, present, or future claims, civil or otherwise, demands, liability, damages, costs, expenses, actions, causes of actions, or suits of any kind whatsoever on account of, or in any way related to, the incident involved in, or forming the basis for this claim.

7. The undersigned parties acknowledge, represent, and agree that they have read this Agreement and fully understand the terms thereof. All parties have had an opportunity to participate in the drafting of this Agreement. The parties therefore waive the general rule of construction that an agreement shall be construed against its drafter.

8. Releasing GUILD has had the opportunity to be advised as to the benefits and consequences of settlement, and the execution of this Agreement is the result of the Releasing GUILD'S own choosing as to the propriety and legal effect of executing it, and neither the Agreement nor the compromise and settlement recited in it were induced by fraud, coercion, compulsion or mistake, nor is this Agreement nor the compromise and settlement made in reliance upon any statement or representation of any of the parties released by this Agreement, or their representatives, agents or attorneys.

9. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

10. This Agreement embodies the entire agreement and understanding between the parties with respect to the subject matter hereof, and supersedes all agreements, commitments, arrangements, negotiations, representations, or undertakings, whether oral or written, between the parties, and there are no other agreements, covenants, undertakings, representations, or warranties with respect to the subject matter of this Agreement other than those expressly set forth and referred to herein.

11. Each term and provision of this Agreement constitutes a separate undertaking, covenant, or promise. In the event that any term or provision hereof is determined to be unenforceable, invalid, or illegal in any respect, the remaining terms and provisions shall continue to be enforceable and valid. If any term or provision hereof shall, for any reason, be held to be excessively broad as to time, duration, activity, scope, or subject, it shall be construed by limiting and reducing it so as to be enforceable to the extent permitted by applicable law of the State of Washington.

IN WITNESS WHEREOF, the parties caused this Agreement to be signed by their duly constituted and legal representatives and consider themselves to be bound by the terms and conditions of this Agreement, and in agreement to the above terms and conditions of this Agreement.

BENTON-FRANKLIN COUNTIES JUVENILE DEPARTMENT

Jacqueline Stam
Presiding Superior Court Judge
Date: 3-28-2023

David Wheeler, Administrator
Date: 3/28/2023

BENTON-FRANKLIN JUVENILE GUILD
Representing Juvenile Court Unit

Brittney Roske
Brittney Roske, President
Date: 3/27/2023

BOARD OF BENTON COUNTY COMMISSIONERS

Chair

Commissioner

Commissioner

Constituting the Board of
Benton County Commissioners

Attest:

Clerk to the Board

Date:

Approved as to form:

Stephen Hallstrom, DPA

BOARD OF FRANKLIN COUNTY COMMISSIONERS

Chair

Commissioner

Commissioner

Constituting the Board of
Franklin County Commissioners

Attest:

Clerk to the Board

Date:

Appendix A

EMPLOYEE NAME	12/5/2022	12/9/2022	TOTAL
ADAMS, CHRISTINE P	2 Vacation	2 Vacation	**4 VACATION**
AGUILAR, NATALY IZABEL	2 Vacation	2 Vacation	**4 VACATION**
ALVARES GARCIA, MARIBEL	2 LWOP	2 LWOP	**$85.40** (4 LWOP x $21.35/HR)
ARDAMICA, KAREN ANN	2 Vacation	n/a	**2 VACATION**
AYRES, AMY LYNN	2 Vacation	n/a	**2 VACATION**
BROWN, LINDA MAE	2 Vacation	2 Vacation	**4 VACATION**
BUECHLER, DANIEL JOSPEH	2 Vacation	2 Vacation	**4 VACATION**
CALLIES, ERIN MARIE	2 Vacation	2 Vacation	**4 VACATION**
COATES-TRAVER, KAYLIE DAWN	2 Vacation	2 Vacation	**4 VACATION**
GOMEZ JR, RAMIRO A	2 Vacation	n/a	**2 VACATION**
GRALL, TROY A	2 Vacation	2 Vacation	**4 VACATION**
GRAY, JILL LIBBY	2 Vacation	2 Vacation	**4 VACATION**
GUAJARDO, SHAWN MICHAEL	2 Vacation	n/a	**2 VACATION**
KLESHCHOVA, TETIANA	2 Vacation	2 Vacation	**4 VACATION**
LOPEZ, JORGE	2 Vacation	2 Vacation	**4 VACATION**
LUCE, PATRICK N	n/a	2 Vacation	**2 VACATION**
MILLER, LORRAINE LOUISE	2 Vacation	2 Vacation	**4 VACATION**
MORENO, RICK	2 Vacation	2 Vacation	**4 VACATION**
MUAI, MICHAEL AARON	2 Vacation	2 Vacation	**4 VACATION**
NOYOLA JR, NAT	2 Vacation	2 Vacation	**4 VACATION**
OVERVOLD, KRISTIN JOY	2 Vacation	2 Vacation	**4 VACATION**
PECK, CALEB B	2 Vacation	n/a	**2 VACATION**
PEREZ, YVONNE RODRIGUEZ	2 Vacation	2 Vacation	**4 VACATION**
REYNOLDS, HEATHER D	2 Vacation	2 Vacation	**4 VACATION**
ROSALES, DARBY MARIA ESCALERA	2 Vacation	2 Vacation	**4 VACATION**
ROSKE, BRITTNEY	2 Vacation	.75 Vacation	**2.75 VACATION**

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	April 18, 2023
Subject:	Amending Resolution 2023-177 in Approving the Purchase of Three Precision 3571 or Comparable Model Laptops and Three Thunderbolt Docks for Superior Court Administration personnel from Dell Inc.
Presenter:	
Prepared By:	Alex Garcia
Reviewed By:	Robert Heard

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

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

Summary / Background Information

IT would like to amend resolution 2023-177 approved on February 28th since the order was cancelled by Dell Inc due to a shortage in hardware parts on March 22nd. IT had to wait a few weeks for new models of Dell laptops to become available for ordering. Since docking stations were already delivered and the price of new laptops came out to be more than the original resolution, the contract doesn't match what was originally approved. The difference is $40.65 for the new line of laptops with already delivered docking stations.

Fiscal Impact

Amount: **$7,300 excluding WSST.**

Fund: **Approved Superior Court Administration 2023-2024 budgeted funds.**

Recommendation

Information Technology recommends that the Board amend the resolution 2023-177 for the purchase of three Precision 3571 laptops or comparable model laptops and three Thunderbolt docks in an amount not to exceed $7,300 excluding WSST from Dell Inc. All equipment purchased will be added to Central Services Replacement Fund (1320).

Suggested Motion

Consent Agenda

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AMENDING RESOLUTION 2023-177 APPROVING THE PURCHASE OF THREE PRECISION 3571 OR COMPARABLE MODEL LAPTOPS AND THREE THUNDERBOLT DOCKS FOR THE SUPERIOR COURT ADMINISTRATION FROM DELL INC.

WHEREAS, the Board approved resolution 2023-177 in approving the purchase of three precision 3571 or comparable laptops and three thunderbolt docks for Superior Court Administration from Dell Inc; and

WHEREAS, the order was cancelled by Dell Inc. on March 22nd due to hardware parts shortage; and

WHEREAS, Information Technology (IT) had to wait a few weeks for Dell's new line of laptops to be quoted and ordered; and

WHEREAS, new laptops and docking stations already delivered are more than the amount approved on resolution 2023-177; and

WHEREAS, the difference in new price is $40.65; **NOW, THEREFORE**

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington, hereby approves to amend resolution 2023-177 for the purchase of three Precision 3571 or comparable model laptops and three Thunderbolt docks for Superior Court Administration personnel from Dell Inc. in an amount not to exceed $7,300 excluding Washington State Sales Tax; and

BE IT FURTHER RESOLVED, newly purchased laptops and docking stations will be enrolled into Central Services Replacement Fund (1320).

Dated this 18 day of April , 2023

Chairman of the Board

Chairman Pro-Tem

Commissioner

Constituting the Board of County Commissioners
of Benton County, Washington

Attest: _____
Clerk of the Board

Orig: Information Technology
cc: Auditor, Superior Court Admin

Prepared by: A. Garcia

A quote for your consideration

Based on your business needs, we put the following quote together to help with your purchase decision. Below is a detailed summary of the quote we've created to help you with your purchase decision.

To proceed with this quote, you may respond to this email, order online through your **Premier page**, or, if you do not have Premier, use this **Quote to Order**.

Quote No.	**3000149295649.1**	Sales Rep	Charles Anglin
Total	**$6,935.15**	Phone	(800) 456-3355, 6180469
Customer #	1710002	Email	Charles_Anglin@Dell.com
Quoted On	Mar. 31, 2023	**Billing To**	ACCOUNTS PAYABLE BENTON COUNTY CENTRAL SERVICES 620 MARKET ST PROSSER, WA 99350-1300
Expires by	Apr. 30, 2023		
Contract Name	Dell NASPO Computer Equipment PA - Washington		
Contract Code	C000000010849		
Customer Agreement #	MNWNC-108 / 05815-003		
Deal ID	24388801		

Message from your Sales Rep

Please contact your Dell sales representative if you have any questions or when you are ready to place an order. Thank you for shopping with Dell!

Regards,
Charles Anglin

Shipping Group

Shipping To

ALEX GARCIA
BENTON COUNTY CENTRAL SERVICES
620 MARKET ST
PROSSER, WA 99350-1300
(509) 222-3742

Shipping Method

Standard Delivery

Product	Unit Price	Quantity	Subtotal
Mobile Precision 3581	**$2,126.69**	**3**	**$6,380.07**

Subtotal:	**$6,380.07**
Shipping:	**$0.00**
Estimated Tax:	**$555.08**
Total:	**$6,935.15**

Dell Marketing LP. U.S. only. Dell Marketing LP. is located at One Dell Way, Mail Stop 8129, Round Rock, TX 78682

Shipping Group Details

Shipping To

ALEX GARCIA
BENTON COUNTY CENTRAL SERVICES
620 MARKET ST
PROSSER, WA 99350-1300
(509) 222-3742

Shipping Method

Standard Delivery

		Quantity	Subtotal
Mobile Precision 3581 Estimated delivery if purchased today: Apr. 26, 2023 Contract # C000000010849 Customer Agreement # MNWNC-108 / 05815-003	**$2,126.69**	**3**	**$6,380.07**

Description	SKU	Unit Price	Quantity	Subtotal
Mobile Precision Workstation 3581 CTO	210-BGDR	-	3	-
Intel Core i7-13700H, vPro Essentials (24MB Cache, 14 Cores, 20 Threads, 2.4 - 5.0 GHz Turbo, 45W)	379-BFDQ	-	3	-
Windows 10 Pro (Includes Windows 11 Pro License), English, Spanish, French, Brazilian Portuguese	619-ARSD	-	3	-
No Microsoft Office License Included	658-BCSB	-	3	-
Intel Core i7-13700H Processor with Integrated graphics	329-BHXT	-	3	-
Intel® Integrated Graphics	490-BIGI	-	3	-
15.6" FHD 1920 x 1080, 60 Hz, 250 nits, non-touch, IR FHD EMZA Camera and Mic with WLAN + 4G WWAN	391-BHKV	-	3	-
FHD/IR Camera with ExpressSign-In + Intelligent Privacy,Temporal Noise Reduction,Camera Shutter,Mic	319-BBJD	-	3	-
16 GB, 1 x 16, 4800MHz, DDR5, Non-ECC SoDIMM	370-AGZI	-	3	-
512GB, M.2 2230, Gen 4 PCIe NVMe SSD, Class 35	400-BOVQ	-	3	-
No Additional Hard Drive	401-AAGM	-	3	-
No RAID	780-BBFE	-	3	-
English US backlit keyboard with numeric keypad, 99-key	583-BHBG	-	3	-
Single Pointing, FingerPrint Reader (w/CV3)	346-BJVN	-	3	-
Intel AX211 Wi-Fi 6/6E (up to 6GHz where available) 2x2 with Bluetooth Wireless	555-BHLT	-	3	-
6 Cell Battery Cable	451-BDDJ	-	3	-
6 Cell, 97WHr, Standard Battery	451-BDDL	-	3	-
130W Type C Power Adapter	492-BDGH	-	3	-
Intel vPro Essentials Technology Enabled	631-BBHX	-	3	-
ENERGY STAR Qualified	387-BBLW	-	3	-
EPEAT 2018 Registered (Gold)	379-BDZB	-	3	-
Power Cord 1M US	470-AFGV	-	3	-
Wireless Intel AX211 WLAN Driver MOD-SRV	555-BJML	-	3	-
Mix Packaging for 130W Adapter	340-DKFX	-	3	-
Custom Configuration	817-BBBB	-	3	-
Intel Core i7 vPro Essentials Label	389-ECWK	-	3	-

Dell Marketing LP. U.S. only. Dell Marketing LP. is located at One Dell Way, Mail Stop 8129, Round Rock, TX 78682

Dell Additional Software	658-BFPP	-	3	-
Quick Setup Guide for Mobile Precision 3581	340-DJXT	-	3	-
Bottom Door	354-BBHG	-	3	-
Intel(R) Rapid Storage Technology Driver	409-BCWS	-	3	-
Thank you choosing Dell ProSupport. For tech support, visit //support.dell.com/ProSupport	989-3449	-	3	-
ProSupport: 7x24 Technical Support, 4 Years	997-1106	-	3	-
Dell Limited Hardware Warranty Plus Service	997-1129	-	3	-
ProSupport: Next Business Day Onsite, 4 Years	997-6029	-	3	-
Extended Battery Service for Years 2 and 3 of System Life	815-2815	-	3	-

Subtotal:	**$6,380.07**
Shipping:	**$0.00**
Estimated Tax:	**$555.08**
Total:	**$6,935.15**

Dell Marketing LP. U.S. only. Dell Marketing LP. is located at One Dell Way, Mail Stop 8129, Round Rock, TX 78682

Important Notes

Terms of Sale

This Quote will, if Customer issues a purchase order for the quoted items that is accepted by Supplier, constitute a contract between the entity issuing this Quote ("Supplier") and the entity to whom this Quote was issued ("Customer"). Unless otherwise stated herein, pricing is valid for thirty days from the date of this Quote. All product, pricing and other information is based on the latest information available and is subject to change. Supplier reserves the right to cancel this Quote and Customer purchase orders arising from pricing errors. Taxes and/or freight charges listed on this Quote are only estimates. The final amounts shall be stated on the relevant invoice. Additional freight charges will be applied if Customer requests expedited shipping. Please indicate any tax exemption status on your purchase order and send your tax exemption certificate to Tax_Department@dell.com or ARSalesTax@emc.com, as applicable.

Governing Terms: This Quote is subject to: (a) a separate written agreement between Customer or Customer's affiliate and Supplier or a Supplier´s affiliate to the extent that it expressly applies to the products and/or services in this Quote or, to the extent there is no such agreement, to the applicable set of Dell's Terms of Sale (available at www.dell.com/terms or www.dell.com/oemterms), or for cloud/as-a-Service offerings, the applicable cloud terms of service (identified on the Offer Specific Terms referenced below); and (b) the terms referenced herein (collectively, the "Governing Terms"). Different Governing Terms may apply to different products and services on this Quote. The Governing Terms apply to the exclusion of all terms and conditions incorporated in or referred to in any documentation submitted by Customer to Supplier.

Supplier Software Licenses and Services Descriptions: Customer's use of any Supplier software is subject to the license terms accompanying the software, or in the absence of accompanying terms, the applicable terms posted on www.Dell.com/eula. Descriptions and terms for Supplier-branded standard services are stated at www.dell.com/servicecontracts/global or for certain infrastructure products at www.dellemc.com/en-us/customer-services/product-warranty-and-service-descriptions.htm.

Offer-Specific, Third Party and Program Specific Terms: Customer's use of third-party software is subject to the license terms that accompany the software. Certain Supplier-branded and third-party products and services listed on this Quote are subject to additional, specific terms stated on www.dell.com/offeringspecificterms ("Offer Specific Terms").

In case of Resale only: Should Customer procure any products or services for resale, whether on standalone basis or as part of a solution, Customer shall include the applicable software license terms, services terms, and/or offer-specific terms in a written agreement with the end-user and provide written evidence of doing so upon receipt of request from Supplier.

In case of Financing only: If Customer intends to enter into a financing arrangement ("Financing Agreement") for the products and/or services on this Quote with Dell Financial Services LLC or other funding source pre-approved by Supplier ("FS"), Customer may issue its purchase order to Supplier or to FS. If issued to FS, Supplier will fulfill and invoice FS upon confirmation that: (a) FS intends to enter into a Financing Agreement with Customer for this order; and (b) FS agrees to procure these items from Supplier. Notwithstanding the Financing Agreement, Customer's use (and Customer's resale of and the end-user's use) of these items in the order is subject to the applicable governing agreement between Customer and Supplier, except that title shall transfer from Supplier to FS instead of to Customer. If FS notifies Supplier after shipment that Customer is no longer pursuing a Financing Agreement for these items, or if Customer fails to enter into such Financing Agreement within 120 days after shipment by Supplier, Customer shall promptly pay the Supplier invoice amounts directly to Supplier.

Customer represents that this transaction does not involve: (a) use of U.S. Government funds; (b) use by or resale to the U.S. Government; or (c) maintenance and support of the product(s) listed in this document within classified spaces. Customer further represents that this transaction does not require Supplier's compliance with any statute, regulation or information technology standard applicable to a U.S. Government procurement.

For certain products shipped to end users in California, a State Environmental Fee will be applied to Customer's invoice. Supplier encourages customers to dispose of electronic equipment properly.

Electronically linked terms and descriptions are available in hard copy upon request.

^DELL BUSINESS CREDIT (DBC): Offered to business customers by WebBank, who determines qualifications for and terms of credit. Taxes, shipping and other charges are extra and vary. The Total Minimum Payment Due is the greater of either $20 or 3% of the New Balance shown on the statement rounded up to the next dollar, plus all past due amounts. Dell and the Dell logo are trademarks of Dell Inc.

RESOLUTION 2023 177

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF APPROVING THE PURCHASE OF THREE PRECISION 3571 OR COMPARABLE MODEL LAPTOPS AND THREE THUNDERBOLT DOCKS FOR THE SUPERIOR COURT ADMINISTRATION FROM DELL INC.

WHEREAS, the Superior Court Administration Office has made a request to purchase three laptops and three docks for new personnel; and

WHEREAS, Information Technology recommends purchasing three Precision 3571 or comparable model laptops and three Thunderbolt docks from Dell Inc.; and

WHEREAS, per Resolution 2013-431, the Board approved Master Contract Usage Agreement between the State of Washington and Benton County authorizing the purchase of goods and services through the Department of Enterprise Services (DES) an agency of the State; and

WHEREAS, Dell is an authorized Washington State vendor under NASPO ValuePoint's Computer Equipment PA – Washington Contract Code C000000010849, NASPO MNWNC-108 /05815-003; and

WHEREAS, per Resolution 2019-753, the Computer Replacement Policy requires all new computer equipment over $500 receive approval by the Board of Benton County Commissioners before purchasing; **NOW, THEREFORE**

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington, hereby approves the purchase of three Precision 3571 or comparable model laptops and three Thunderbolt docks for Superior Court Administration personnel from Dell Inc. in an amount not to exceed $7,227.84 excluding Washington State Sales Tax; and

BE IT FURTHER RESOLVED, newly purchased laptops and docking stations will be enrolled into Central Services Replacement Fund (1320).

Dated this 28 day of February , 2023

Chairman of the Board

Jerome Delvin
Approved Telephonically
Chairman Pro-Tem

Commissioner

Constituting the Board of County Commissioners
of Benton County, Washington

Attest: Marie Flores
Clerk of the Board

Orig: Information Technology
cc: Auditor, Superior Court Admin

Prepared by: A. Garcia

DELL Technologies

A quote for your consideration

Based on your business needs, we put the following quote together to help with your purchase decision. Below is a detailed summary of the quote we've created to help you with your purchase decision.

To proceed with this quote, you may respond to this email, order online through your **Premier page**, or, if you do not have Premier, use this **Quote to Order**.

Quote No.	**3000143905112.1**	Sales Rep	Charles Anglin
Total	**$7,856.66**	Phone	(800) 456-3355, 6180469
Customer #	1710002	Email	Charles_Anglin@Dell.com
Quoted On	Feb. 08, 2023	**Billing To**	ACCOUNTS PAYABLE BENTON COUNTY CENTRAL SERVICES 620 MARKET ST PROSSER, WA 99350-1300
Expires by	Mar. 10, 2023		
Contract Name	Dell NASPO Computer Equipment PA - Washington		
Contract Code	C000000010849		
Customer Agreement #	MNWNC-108 / 05815-003		
Deal ID	24388801		

Message from your Sales Rep

Please contact your Dell sales representative if you have any questions or when you are ready to place an order.
Thank you for shopping with Dell!

Regards,
Charles Anglin

Shipping Group

Shipping To

ALEX GARCIA
BENTON COUNTY CENTRAL
SERVICES
620 MARKET ST
PROSSER, WA 99350-1300
(509) 222-3742

Shipping Method

Standard Delivery

Product	Unit Price	Quantity	Subtotal
Mobile Precision 3571	**$2,113.14**	**3**	**$6,339.42**
Dell Thunderbolt 4 Dock- WD22TB4	**$296.14**	**3**	**$888.42**

Dell Marketing LP. U.S. only. Dell Marketing LP. is located at One Dell Way, Mail Stop 8129, Round Rock, TX 78682

Subtotal:	**$7,227.84**
Shipping:	**$0.00**
Environmental Fee:	**$0.00**
Non-Taxable Amount:	**$0.00**
Taxable Amount:	**$7,227.84**
Estimated Tax:	**$628.82**
Total:	**$7,856.66**

Shipping Group Details

Shipping To

ALEX GARCIA
BENTON COUNTY CENTRAL SERVICES
620 MARKET ST
PROSSER, WA 99350-1300
(509) 222-3742

Shipping Method

Standard Delivery

		Quantity	Subtotal
Mobile Precision 3571 Estimated delivery if purchased today: Mar. 16, 2023 Contract # C000000010849 Customer Agreement # MNWNC-108 / 05815-003	$2,113.14	3	$6,339.42

Description	SKU	Unit Price	Quantity	Subtotal
Dell Mobile Precision Workstation 3571 CTO	210-BDTJ	-	3	-
Intel Core i7-12800H vPro (24 MB cache, 14 cores, 20 threads, 2.40 GHz to 4.80 GHz, 45W)	379-BEUW	-	3	-
Windows 10 Pro (Includes Windows 11 Pro License) English, French, Spanish	619-AQMP	-	3	-
No Microsoft Office License Included	658-BCSB	-	3	-
Intel Core i7-12800H vPro with NVIDIA T600 4GB, GDDR6 graphics	329-BGSE	-	3	-
NVIDIA T600, 4 GB, GDDR6	490-BHMO	-	3	-
15.6" FHD 1920 x 1080, 60 Hz, 250 nit, non-touch, IR FHD Camera and Mic with WLAN + 4G WWAN	391-BGOO	-	3	-
FHD/IR Camera, Temporal Noise Reduction, Camera Shutter, Mic	319-BBJG	-	3	-
16 GB, 1 x 16, 4800MHz, DDR5, Non-ECC SoDIMM	370-AGZI	-	3	-
M.2 2230 256 GB, PCIe x4 NVMe, Class 35 Solid State Drive	400-BNNC	-	3	-
No Additional Hard Drive	401-AAGM	-	3	-
English US backlit keyboard with numeric keypad, 99-key	583-BHBG	-	3	-
Single Pointing, Finger Print Reader, Smart card reader, NFC	346-BHZT	-	3	-
Intel AX211 Wi-Fi 6/6E (up to 6GHz where available) 2x2 with Bluetooth Wireless	555-BHLT	-	3	-
6 cell, 97 WHr standard lifecycle battery	451-BCXJ	-	3	-
130W Type C Power Adapter	492-BDGH	-	3	-
Intel vPro Technology Disabled	631-ADIE	-	3	-
ENERGY STAR Qualified	387-BBLW	-	3	-
EPEAT 2018 Registered (Gold)	379-BDZB	-	3	-
Quick Setup Guide for Mobile Precision 3571	340-CZKO	-	3	-
Custom Configuration	817-BBBB	-	3	-
Wireless Intel AX211 WLAN Driver	555-BHOS	-	3	-
Power Cord 1M US	470-AFGV	-	3	-
Bottom cover	354-BBER	-	3	-
Packaging (DSC + 130W Adapter)	340-DBDC	-	3	-
Intel Core i7 Processor Label	340-CUEQ	-	3	-

SupportAssist	525-BBCL	-	3	-
Dell(TM) Digital Delivery Cirrus Client	640-BBLW	-	3	-
Dell Optimizer for Precision	640-BBSC	-	3	-
Dell Client System Update (Updates latest Dell Recommended BIOS, Drivers, Firmware and Apps)	658-BBMR	-	3	-
Waves Maxx Audio	658-BBRB	-	3	-
Dell Power Manager	658-BDVK	-	3	-
Dell SupportAssist OS Recovery Tool	658-BEOK	-	3	-
No RAID	780-BBFE	-	3	-
BTO Standard Shipment (M)	800-BBGS	-	3	-
ProSupport Plus: Accidental Damage Service, 4 Years	997-1069	-	3	-
ProSupport Plus: Keep Your Hard Drive, 4 Years	997-1091	-	3	-
Dell Limited Hardware Warranty Plus Service	997-1129	-	3	-
ProSupport Plus: 7x24 Technical Support, 4 Years	997-1137	-	3	-
ProSupport Plus: Next Business Day Onsite, 4 Years	997-6067	-	3	-
Thank you for choosing Dell ProSupport Plus. For tech support, visit www.dell.com/contactdell or call 1-866-516-3115	997-8367	-	3	-
Extended Battery Service for Years 2 and 3 of System Life	988-5552	-	3	-
			Quantity	**Subtotal**
Dell Thunderbolt 4 Dock- WD22TB4		**$296.14**	**3**	**$888.42**

Estimated delivery if purchased today:
Feb. 13, 2023
Contract # C000000010849
Customer Agreement # MNWNC-108 / 05815-003

Description	**SKU**	**Unit Price**	**Quantity**	**Subtotal**
BASE,DS,WD22TB4 US 180W	210-BDQH	-	3	-
Dell Limited Hardware Warranty	872-8557	-	3	-
ProSupport Advanced Exchange Service 4 Years	872-8568	-	3	-
ProSupport 7x24 Technical Support and Assistance 4 Years	872-8576	-	3	-
Thank you choosing Dell ProSupport. For tech support, visit //support.dell.com/ProSupport	989-3449	-	3	-

Subtotal:	**$7,227.84**
Shipping:	**$0.00**
Environmental Fee:	**$0.00**
Estimated Tax:	**$628.82**
Total:	**$7,856.66**

Important Notes

Terms of Sale

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Supplier Software Licenses and Services Descriptions: Customer's use of any Supplier software is subject to the license terms accompanying the software, or in the absence of accompanying terms, the applicable terms posted on www.Dell.com/eula. Descriptions and terms for Supplier-branded standard services are stated at www.dell.com/servicecontracts/global or for certain infrastructure products at www.dellemc.com/en-us/customer-services/product-warranty-and-service-descriptions.htm.

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COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	April 11, 2023
Subject:	Approving a One-Year eProsecutor Annual License, Maintenance & Support Fee for the Prosecuting Attorney's Office from Journal Technologies, Inc. using Board Approved Information Technology Department 2023-2024 Budgeted Funds
Presenter:	
Prepared By:	Robert Heard
Reviewed By:	Procurement

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

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

Summary / Background Information

On August 7, 2018, per Resolution 2018-526, the Board approved the purchase of a case management system, eProsecutor for the Prosecuting Attorney's (PA) Office from Journal Technologies, Inc. By April of 2019, the Prosecuting Attorney's Office was using eProsecutor without court and law enforcement integrations; iLeads (New World) and Odyssey/JIS. Since the PA's Office starting using eProsecutor in April of 2019, Journal Technologies started billing the County for annual license, maintenance & support. Today, eProsecutor continues to meet and exceed the needs of the PA's Office.

Fiscal Impact

Amount: **$78,745.85 during the one-year agreement excluding WSST.**

Fund: **Information Technology approved 2023-2024 budgeted funds.**

Recommendation

The Information Technology Manager recommends that the Board approve a one-year eProsecutor annual license maintenance and support fee for the Prosecuting Attorney's Office from Journal Technologies, Inc. using Board approved IT Department 2023-2024 budgeted funds.

IT is also recommending that the Board authorize the IT Manager to approve and pay next year's eProsecutor one-year license, maintenance & support fees with Board approved IT 2023-2024 budgeted funds.

Suggested Motion

Consent Agenda

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF APPROVING A ONE-YEAR EPROSECUTOR ANNUAL LICENSE, MAINTENANCE & SUPPORT FEE FOR THE PROSECUTING ATTORNEY'S OFFICE FROM JOURNAL TECHNOLOGIES, INC. USING BOARD APPROVED INFORMATION TECHNOLOGY DEPARTMENT 2023-2024 BUDGETED FUNDS

WHEREAS, on August 7, 2018, per Resolution 2018-526, the Board approved the purchase of prosecuting attorney case management software eProsecutor from Journal Technologies, Inc.; and

WHEREAS, Journal Technologies has issued the Prosecuting Attorney's Office a new annual license, maintenance & support fee renewal for eProsecutor; and

WHEREAS, eProsecutor continues to meet and exceed the needs set forth by the Prosecuting Attorney's Office and the people this office serves; and

WHEREAS, the Information Technology Department (IT) has included eProsecutor license, maintenance & support fee renewals in IT's 2023-2024 biennium budget; **NOW, THEREFORE,**

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington hereby approves the one-year eProsecutor annual license, maintenance & support fee starting May 1, 2023, and ending April 30, 2024, for the Prosecuting Attorney's Office from Journal Technologies in an amount not to exceed $78,745.85 excluding WSST; and

BE IT FURTHER RESOLVED, the Board authorizes the Information Technology Manager to approve and pay next year's eProsecutor annual license, maintenance & support fee starting May 1, 2024, and ending on April 30, 2025, with Board approved IT Department 2023-2024 budgeted funds.

Dated this 11 day of April , 2023

Chairman of the Board

Chairman Pro-Tem

Commissioner

Constituting the Board of County Commissioners
of Benton County, Washington

Attest: _____
Clerk of the Board

Orig: Information Technology
cc: Auditor, PA

Prepared by: R Heard

Invoice

JOURNAL TECHNOLOGIES, INC.
915 E 1st Street
Los Angeles, CA 90012 USA
accounting@journaltech.com
Phone: 213-229-5300

RECEIVED
MAR 28 2023
Benton Co. Prosecutor

Number: JI2573
Date: 3/20/2023
Salesperson:
Customer: 3507

Please make check payable to: Journal Technologies, Inc., 915 E. 1st Street, Los Angeles, CA 90012

Sold To	Ship To
COUNTY OF BENTON PROSECUTOR'S OFFICE Attn: Teri Holmes/Robert Heard 620 Market Street Prosser. WA 99350 USA	COUNTY OF BENTON PROSECUTOR'S OFFICE Attn: Teri Holmes/Robert Heard 620 Market Street Prosser, WA 99350 USA

Customer P.O.	Ship Via	F.O.B	Terms
			Net 30 days

Description	Qty Shipped	Price	Amount
Yr 5-Annual License, maint & support fee $68,993.60 x 1.05 CPI Increase = $72,443.28	1.00	72,443.28	72,443.28
Sales tax @ 8.7 % $72,443.28 x 0.087 = $6,302.57	1.00	6,302.57	6,302.57
LAST ITEM			

Annual Lic Maint & support fees-5/1/2023-4/30/2024

Subtotal	78,745.85
Freight	0.00
Sales Tax	0.00
Trade Discount	0.00
Payment/Credit Amount	0.00
Balance	78,745.85

RESOLUTION 2018 526

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AUTHORIZING THE PURCHASE OF PROSECUTING ATTORNEY CASE MANAGEMENT SOFTWARE EPROSECUTOR FROM JOURNAL TECHNOLOGIES INC.

WHEREAS, the Benton County Prosecuting Attorney's office and Benton County Information Technology (IT) began researching case management software to replace an aging software application, Crimes; and

WHEREAS, over the past two years, Prosecuting Attorney staff and IT have been reviewing case management solutions with Snohomish County, Spokane Municipal, Yakima County, Franklin County, Walla Walla County, and City of Federal Way to find a modernized case management software solution; and

WHEREAS, on March 20, 2018, IT solicitated an RFP for Prosecuting Attorney Case Management Software; and

WHEREAS, proposals were accepted until April 9, 2018 in which IT only received one proposal from Journal Technologies Inc. which owns case management application eProsecutor; and

WHEREAS, on May 22, 2018, the Board of Benton County Commissioners passed a motion authorizing Eric Andrews of the Prosecuting Attorney's office and Robert Heard of IT to proceed with contract negotiations with Journal Technologies Inc.; and

WHEREAS, the Prosecuting Attorney's office and IT have concluded contract negotiations with an approved agreement and statement of work to purchase case management software eProsecutor; and

WHEREAS, the cost for eProsecutor will be in the amount of $390,000 excluding WSST which includes professional services, licenses, support, maintenance, IT equipment, and Microsoft licensing; and

Professional Services Payment	$280,000
One License, Support and Maintenance Payment	$62,000
Dell eProsecutor Servers	$28,000
Dell PA Backup Laptops	$3,600
Barracuda Load Balancer	$8,500
Microsoft Server and SQL Licenses	$7,900
Total	$390,000

WHEREAS, Benton County Prosecuting Attorney's office and Benton County Information Technology recommends purchasing Prosecuting Attorney Case Management Software eProsecutor from Journal Technologies Inc.; NOW, THEREFORE,

Orig: Information Technology
cc: Auditor,

Prepared by: RHeard

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington, hereby concurs and authorizes the purchase of Prosecuting Attorney Case Management Software eProsecutor from Journal Technologies Inc. in an amount not to exceed $390,000 excluding WSST; and

BE IT FURTHER RESOLVED, the Board approves costs for purchasing eProsecutor will be taken out of the Public Safety Tax Fund; and

BE IT FURTHER RESOLVED, the Board hereby authorizes the Chairman of the Board to sign the attached agreements between Benton County and Journal Technologies Inc.

Dated this 7 day of Aug, 2018

JEROME DELVIN - ABSENT

Chairman of the Board

Member

Member

Attest: _____
Clerk of the Board

Constituting the Board of County Commissioners
of Benton County, Washington

Orig: Information Technology
cc: Auditor,

Prepared by: RHeard

Journal Technologies, Inc.

SOFTWARE LICENSE, MAINTENANCE AND SUPPORT AGREEMENT

This SOFTWARE LICENSE, MAINTENANCE AND SUPPORT AGREEMENT (this "**Agreement**"), by and between Journal Technologies, Inc., a Utah corporation (hereinafter "**Licensor**"), and The County of Benton Prosecutor's office (hereinafter "**Licensee**"), is made as of the date executed by both Licensor and Licensee (the "**Effective Date**"). In consideration for the representations and agreements contained herein, the parties hereby covenant and agree as follows:

1. DEFINITIONS

1.1 **Application Administrator** is a designated employee or contractor of Licensee responsible for managing the case management system. This role includes communicating with Licensor staff for support, troubleshooting problems, and coordinating maintenance tasks.

1.2 **Customer Data** means all non-configuration, case-related data entered into, contained in, modified in, or deleted from the Licensed Software, but not the Licensed Software itself.

1.3 **Documentation** includes user, administrative and technical electronic guides which facilitate the use of and relate to the Licensed Software, together with any written product information, instructions, specifications or use guidelines made available by Licensor.

1.4 **Go Live** means that the Licensed Software is being Used (as defined below) in an operational capacity with operational data in Licensee's production environment.

1.5 **Licensed Software** means the proprietary computer software program or programs identified in Exhibit A ("LICENSE, MAINTENANCE AND SUPPORT FEES"), together with all related Documentation.

1.6 **License, Maintenance and Support Fees** means the fees to be paid by Licensee to Licensor annually in advance of each year of the License Term pursuant to Section 2.2.2 ("License, Maintenance and Support Fees").

1.7 **Loss Event Expenses** means all losses, liabilities, damages, causes of action, claims, demands, expenses, professional services (including fees and costs for attorneys, crisis management, public relations, investigation, and remediation), and breach notification costs arising from, in connection with, or related to any of the following:

(1) a data security breach involving Customer Data;

(2) a violation of any law, statute, or regulation related to data security or data privacy involving Customer Data;

(3) unauthorized access to or acquisition of Customer Data;

(4) a loss of Customer Data;

(5) a ransom or cyber extortion demand involving Customer Data;

(6) misuse of Customer Data; or

(7) an actual or alleged failure to:

(a) provide adequate notice, choice, consent, access, or security regarding Customer Data;

(b) take appropriate steps to ensure the accuracy of Customer Data;

(c) adequately minimize the collection, processing, use, or retention of Customer Data; or

(d) comply with cross-border data transfer laws and regulations regarding Customer Data.

1.8 **Maintenance** means enhancements, upgrades and new releases of the Licensed Software, which includes only those additions and/or modifications to the Licensed Software which (A) enhance functionality and/or performance without fundamentally altering the nature or manner in which the Licensed Software operates, and (B) are made generally available without additional or increased charges to other persons entitled to receive maintenance from Licensor.

1.9 **Professional Services Agreement** means that certain Professional Services Agreement between Licensor and Licensee, of even date herewith.

1.10 **Support** means access to technical assistance for the Licensed Software, including support for questions about functionality, the resolution of error messages, bug fixes and troubleshooting.

1.11 **Use** or **Using** means (i) transferring any portion of the Licensed Software from storage units or media into computer or terminal equipment for utilization or processing; (ii) accessing any portion of the Licensed Software for any purpose (including, without limitation, viewing information already in the Licensed Software); or (iii) merging any Licensed Software in machine readable form into another program.

1.12 **User** means (a) any individual person, computer terminal or computer system (including, without limitation, any workstation, pc/cpu, laptop and wireless or network node) that has been authorized by the Licensee (through a username and password) to use the Licensed Software, (b) any other non-court government employees

and contractors who are performing their jobs, or a computer terminal or computer system used by such a person, in each case, interfacing with or accessing the Licensed Software through an interface or its public portal or (c) any individual person who is a member of the general public (including litigants and their attorneys, reporters and interested citizens, but not government employees or contractors who are performing their jobs), or a computer terminal or computer system used by such a person, accessing the Licensed Software at any given time for any reason through its public portal (including to file documents electronically or to view information already in or accessible through the Licensed Software).

2. LICENSE

2.1 Grant of License. Upon commencement of the License Term, Licensor grants to Licensee and Licensee hereby accepts from Licensor a non-exclusive, non-transferable, personal license to install and Use the Licensed Software; provided, however, that Licensee's rights with respect to the Licensed Software are at all times and in all respects subject to the terms and conditions of this Agreement. Licensee's authorized Users may Use the Licensed Software only during the License Term and only so long as Licensee has paid the required License, Maintenance and Support Fees for such Users and is not otherwise in default under this Agreement. This license includes the right to make one copy of the Licensed Software in machine-readable form solely for Licensee's back-up purposes. The Licensed Software is the proprietary information and a trade secret of Licensor and this Agreement grants Licensee no title or rights of ownership in the Licensed Software. The Licensed Software is being licensed and not sold to the Licensee. The Licensed Software is protected by United States copyright laws and international copyright treaties, as well as other intellectual property laws.

2.2 License Term and License, Maintenance and Support Fees.

2.2.1 License Term. The License Term shall commence on the date of initial Go Live; provided that the License, Maintenance and Support Fees for the first year of the License Term for any Users that will Use the Licensed Software as of or immediately following such Go Live must have been received prior to such date (and the license file shall not be delivered, and the License Term shall not begin, until such License, Maintenance and Support Fees have been received by Licensor). The License Term shall continue until the fifth anniversary of the date of final Go Live, and shall thereafter automatically renew for successive one-year periods (the "**License Term**"), unless Licensee elects to not renew the License Term upon written notice to Licensor given not less than ninety (90) days prior to the end of the then-current License Term.

2.2.2 License, Maintenance and Support Fees. Licensee shall make payment of the License, Maintenance and Support Fees to Licensor based on the number of Users and calculated in accordance with Exhibit A, in advance of each applicable year of the License Term, including each year of the original License Term and each one-year extension; provided that the License, Maintenance and Support Fees for the first year of the License Term must be paid prior to initial Go Live in accordance with the proviso set forth in Section 2.2.1. Annual License, Maintenance and Support Fees are subject to

increase in accordance with Exhibit A. Licensee may increase the number of Users at any time upon written notice to Licensor, which shall be promptly followed by payment reflecting the increased License, Maintenance and Support Fees, calculated according to Exhibit A, and pro-rated for any partial year of the License Term. Licensee may also reduce the number of Users of the Licensed Software, and the commensurate fee payable, but such reduction shall only become effective at the beginning of the following year of the License Term, and the written reduction notice must be given at least sixty (60) days before the next anniversary of the start of the License Term. All sales taxes or similar fees levied on account of payments to Licensor are the responsibility of Licensee.

2.2.3 Certain Specific Limitations. Licensee shall not, nor shall Licensee permit any User or other party to, (a) copy or otherwise reproduce, reverse engineer or decompile all or any part of the Licensed Software, (b) make alterations to or modify the Licensed Software, (c) grant sublicenses, leases or other rights in or to the Licensed Software, or (d) permit any party access to the Licensed Software for purposes of programming against it. Licensee shall be solely responsible for preventing improper, unauthorized, accidental, or unlawful (1) misuse of User accounts for the Licensed Software; (2) changes by the Licensee to the Licensed Software or its database; or (3) software scripts from being added to the Licensed Software or its database by the Licensee. Licensee is also solely responsible for, and shall indemnify, defend, and hold harmless Licensor regarding, any Loss Event Expenses that arise from unlawful or accidental access or disclosure of Customer Data that is stored on a computer system, network, server, workstation, PC, desktop, notebook, or mobile device of the Licensee or one of its agents or contractors (other than Licensor or one of its agents or contractors). Section 6.2 ("Licensor's Responsibilities") shall apply to Customer Data stored on computer systems of Licensor or one of its agents or contractors.

2.2.4 E-Commerce Functionality Fees. If Public Portal is included in the Licensed Software and the e-commerce functionality of Public Portal is utilized, Licensor shall provide a PCI compliant payment gateway and payment processing functionality. A merchant services agreement will be provided to Licensee upon request. If Licensee requires an alternate payment processor provider, Licensee is responsible for all additional development costs to connect Public Portal with the payment processor provider.

2.2.5 Source Code Escrow. Licensee shall have the opportunity to be added as a beneficiary under the Software Source Code Agreement between Licensor and InnovaSafe, Inc., as it may be amended from time to time, a copy of which is attached as Exhibit B ("SOURCE CODE ESCROW AGREEMENT"). Licensee shall complete the beneficiary enrollment form and pay the required fees directly to InnovaSafe.

2.2.6 Hosted Services. If Licensee desires for Licensor to provide hosted services for the Licensed Software, Licensor can provide such services subject to the terms and conditions set forth in Exhibit D ("HOSTED SERVICES") and to the payment of the requisite hosting fees set forth therein. Notwithstanding the foregoing, Licensor shall not provide hosted services unless Licensor has attached Exhibit D to this

Agreement upon Licensee's request therefor, or Licensee and Licensor have entered into a separate written agreement for such services.

3. MAINTENANCE AND SUPPORT

3.1 Maintenance. Maintenance will be provided for the Licensed Software provided that Licensee has paid the applicable License, Maintenance and Support Fees described in Section 2.2.2, and subject to all of the terms and conditions of this Agreement. Maintenance for the Licensed Software will be available when the applicable enhancement, upgrade or release is first made generally available to persons entitled to receive maintenance from Licensor.

3.2 Support. Support for the Licensed Software and its Public Portal is available by telephone, e-mail, or internet support forum from 5:00 am to 6:00 pm Mountain time, Monday through Friday, except for federal holidays. Support for interfaces provided by Licensor using the Licensed Software's application programming interface (API) is available by the same contact methods and during the same times for ninety (90) days following Go Live. Licensor shall generally provide an initial response within four (4) hours of first contact. Licensor shall use all reasonable diligence in correcting verifiable and reproducible errors reported to Licensor. Licensor shall, after verifying that such an error is present, initiate work in a diligent manner toward development of a solution. If the error is categorized as "Critical" (meaning an error for which there is no workaround and which causes data loss, affects a mission critical task or poses a possible security risk that could compromise the system), Licensor shall provide a solution through a service release as soon as possible. Licensor shall not be responsible for correcting errors in any version of the Licensed Software other than the current version, with the exception of Critical errors, for which a service release will be provided for the most recent previous version as well. Licensor shall not be responsible for errors caused by hardware limitations or failures, network infrastructure, operating system problems, operator errors or any errors related to processes, interfaces or other software.

3.3 Conditions to Receive Support.

3.3.1 Licensee must designate one or more Application Administrators, each of whom shall be an employee or contractor of Licensee. Only a designated Application Administrator may request Support. It is the responsibility of Licensee to instruct Users to route Support requests through the Application Administrator.

3.3.2 Licensee must maintain a dedicated connection, approved by Licensor, to the Licensed Software's database and/or application server, with full screen access to the server and full administrative rights to publish information and make changes.

3.3.3 Licensee must maintain all related hardware and software systems required for the operation of the Licensed Software. Minimum System requirements are attached as Exhibit C ("SYSTEM REQUIREMENTS"). Licensor shall have no

responsibility for configuring, maintaining or upgrading Licensee's operating system, hardware, network, or any other software not provided by Licensor. Licensor is not responsible for creating or maintaining database or storage backup files.

3.3.4 Licensee must keep current and have installed the latest generally available version of the Licensed Software or the most recent previous version.

3.3.5 Licensee must provide Licensor's support personnel with accurate configuration information, screen shots, or other files and documentation as required for each support request.

3.4 Other Support. Services that go beyond routine Support may be provided under the terms of a professional services agreement upon agreement of the parties.

4. WARRANTY

4.1 Licensed Software Warranty. Licensor warrants that the Licensed Software will perform in all material respects during the License Term in accordance with the applicable user, administrative, and technical electronic guides. Notwithstanding the foregoing, this warranty shall not apply and Licensor will incur no liability whatsoever if there is or has been (a) the use of any non-current version (or the most recent previous version) of the Licensed Software, (b) the combination of the Licensed Software with any other software not recommended, provided or authorized by Licensor, (c) modification of the Licensed Software, (d) any use of the Licensed Software in breach of this Agreement or (e) any failure to satisfy the conditions to receive Support under Section 3.3 ("Conditions to Receive Support") above. If at any time during the License Term the Licensed Software fails to perform according to this warranty, Licensee shall promptly notify Licensor in writing of such alleged nonconformance, and Licensor shall provide bug fixes and other Support, but only so long as the alleged nonconformance is not caused by an act of Licensee or any third party not under the control of or authorized by Licensor. After the bug fixes and Support have been provided, if any such non-performance materially impairs the ability of Licensee to utilize the Licensed Software, Licensee shall have the right, on thirty (30) days' notice, to terminate the license and this Agreement (with a credit for License, Maintenance and Support Fees paid with respect to the period in which utilization was materially impaired).

4.2 Warranty of Law. Licensor represents and warrants that to the best of Licensor's knowledge: (i) there is no claim, litigation or proceeding pending or threatened against Licensor with respect to the Licensed Software or any component thereof alleging infringement of any patent or copyright or any trade secret or any proprietary right of any person; (ii) the Licensed Software complies in all material respects with applicable laws, rules and regulations; (iii) Licensor has full authority to enter into this Agreement and to consummate the transactions contemplated hereby; and (iv) this Agreement is not prohibited by any other agreement to which Licensor is a party or by which it may be bound (the "**Legal Warranty**"). In the event of a breach of the Legal Warranty, Licensor shall indemnify and hold harmless Licensee from and against any and all losses, liabilities, damages, causes of action, claims, demands, and expenses

(including reasonable legal fees and expenses) incurred by Licensee, arising out of or resulting from said breach.

4.3 Warranty of Title. Licensor further warrants that (i) it has good title to the Licensed Software; (ii) it has the absolute right to license the Licensed Software; (iii) as long as Licensee is not in material default hereunder, Licensee shall be able to quietly and peacefully possess and Use the Licensed Software provided hereunder subject to and in accordance with the provisions of this Agreement; and (iv) Licensor shall be responsible for and have full authority to license all proprietary and/or third party software modules, algorithms and protocols that are incorporated into the Licensed Software (the "**Title Warranty**"). In the event of a breach of the Title Warranty, Licensor shall indemnify and hold harmless Licensee from and against any and all losses, liabilities, damages, causes of action, claims, demands, and expenses (including reasonable legal fees and expenses) incurred by Licensee, arising out of or resulting from said breach.

4.4 No Other Warranties. THE WARRANTIES AND REPRESENTATIONS STATED WITHIN THIS AGREEMENT ARE EXCLUSIVE, AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

5. LIMITATIONS ON LIABILITY

NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES OR LOSS OF ANTICIPATED REVENUES (OR LIKE AMOUNTS) IN CONNECTION WITH OR ARISING OUT OF THE SUBJECT MATTER OF THIS AGREEMENT. FURTHERMORE, LICENSEE'S TOTAL LIABILITY WITH RESPECT TO CLAIMS ARISING OUT OF THE SUBJECT MATTER OF THIS AGREEMENT SHALL NOT EXCEED, IN THE AGGREGATE, THE TOTAL AMOUNT OF FEES PAYABLE HEREUNDER TO LICENSOR. IN NO EVENT SHALL LICENSOR'S TOTAL LIABILITY WITH RESPECT TO CLAIMS ARISING OUT OF THE SUBJECT MATTER OF THIS AGREEMENT EXCEED, IN THE AGGREGATE, THE TOTAL AMOUNT OF FEES PAID HEREUNDER TO LICENSOR FOR THE FIRST FIVE-YEARS OF THE LICENSE TERM. MOREOVER, IN NO EVENT SHALL LICENSOR'S TOTAL LIABILITY WITH RESPECT TO CLAIMS ARISING OUT OF THE SUBJECT MATTER OF EXHIBIT D OR THE HOSTED SERVICE PROVIDED FOR THEREIN EXCEED, IN THE AGGREGATE, THE TOTAL AMOUNT OF HOSTING FEES PAID HEREUNDER TO LICENSOR FOR THE PRIOR TWELVE MONTHS OF THE HOSTING TERM.

6. CONFIDENTIALITY

6.1 Licensee's Responsibilities. Licensee shall implement reasonable and appropriate measures designed to help secure the Licensed Software and other materials received from Licensor under this Agreement from accidental or unlawful access or

unauthorized or improper disclosure. Except as permitted by the terms of Section 2.1 ("Grant of License") or as required by law, Licensee shall not voluntarily and affirmatively disclose the Licensed Software or any of such materials to any third party, in whole or in part, without the prior written consent of Licensor, which may be granted or withheld in its sole discretion. If Licensee becomes aware of any accidental or unlawful access to or unauthorized or improper disclosure of the Licensed Software or any of such materials, it shall notify Licensor promptly, within 5 business days. Licensee shall also reasonably assist Licensor with preventing the recurrence of such accidental or unlawful access or unauthorized or improper disclosure and with any litigation against the third parties deemed necessary by Licensor to protect its proprietary rights.

6.2 Licensor's Responsibilities. Licensor shall implement reasonable and appropriate measures designed to help secure confidential Customer Data of Licensee that Licensor obtains from Licensee in the course of the performance of this Agreement from accidental or unlawful access or unauthorized or improper disclosure. Except as required by law, Licensor shall not voluntarily and affirmatively disclose to any third party confidential Customer Data that Licensor obtains from Licensee without the prior written consent of Licensee, which may be granted or withheld in its sole discretion. If Licensor becomes aware of any accidental or unlawful access to or unauthorized or improper disclosure of confidential Customer Data, it shall notify Licensee promptly, and in any event within 5 business days. Licensor shall also reasonably assist Licensee with preventing the recurrence of such accidental or unlawful access or unauthorized or improper disclosure and with any litigation against third parties deemed necessary by Licensee to protect its confidential Customer Data. For the avoidance of doubt, this Section is not intended to prevent Licensor's support personnel from accessing Licensee's Customer Data for purposes of investigating or resolving a Support request.

6.3 Confidentiality Breach. In the event a party breaches any of its obligations under this Section 6 ("Confidentiality"), the breaching party shall indemnify, defend and hold harmless the non-breaching party from and against any and all losses, liabilities, damages, causes of action, claims, demands, and expenses (including reasonable legal fees and expenses) incurred by the non-breaching party arising out of such breach. In addition, the non-breaching party will be entitled to obtain injunctive relief against the breaching party.

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

under the Public Records Act that will require disclosure of any records marked by Journal Technologies as confidential or proprietary, so that Journal Technologies may seek a judicial order of protection if necessary.

6.5 Exclusions. The provisions of this Section 6 ("Confidentiality") shall not apply to any information (a) that is in the public domain prior to the disclosure or that that becomes part of the public domain other than by way of a breach of this Agreement, (b) that was in the lawful possession of the Licensor or Licensee, as the case may be, prior to the disclosure without a confidentiality obligation to any person, (c) that was disclosed to the Licensor or Licensee, as the case may be, by a third party who was in lawful possession of the information without a confidentiality obligation to any person, (d) that was independently developed by Licensor or Licensee, as the case may be, outside the scope of this Agreement or (v) that Licensor or Licensee, as the case may be, is required to disclose by law or legal process.

7. TERM AND TERMINATION

7.1 Term. The term of this Agreement shall expire at the end of the License Term or, if earlier, upon termination of this Agreement in accordance with the terms of this Section 7 ("Term and Termination").

7.2 Termination by Licensor.

7.2.1 Payment Default. Licensor shall have the right to terminate the license granted in Section 2.2 ("License Term and License, Maintenance and Support Fees"), and this Agreement (but reserving cumulatively all other rights and remedies under this Agreement, the Professional Services Agreement, in law and/or in equity), for any failure of Licensee to make payments of amounts due to Licensor when the same are due (including, without limitation, any fees or other amounts due and payable to Licensor for implementation services under the Professional Services Agreement), and such failure continues for a period of thirty (30) days after written notice thereof by Licensor to Licensee.

7.2.2 Other Licensee Defaults. Licensor may terminate the license granted in Section 2.2 ("License Term and License, Maintenance and Support Fees"), and this Agreement (but reserving cumulatively all other rights and remedies under this Agreement, the Professional Services Agreement, in law and/or in equity), for any other material breach by Licensee which breach continues for a period of thirty (30) days after written notice thereof by Licensor to Licensee.

7.3 Termination by Licensee. Licensee shall have the right to terminate this Agreement (reserving cumulatively all other rights and remedies under this Agreement, the Professional Services Agreement, in law and/or in equity) without further obligation or liability to Licensor (except as specified herein and/or in the Professional Services Agreement) if Licensor commits any material violation or breach of this Agreement and fails to remedy such breach within thirty (30) days after written notice by Licensee to Licensor of such breach. Licensee shall have the right to terminate this Agreement

effective immediately and without prior notice if Licensor goes into liquidation or bankruptcy, or if Licensor permanently discontinues Maintenance and Support for the Licensed Software.

7.4 Actions Upon and Following Termination. Termination of this Agreement shall not affect any rights and/or obligations of the parties which arose prior to any such termination and such rights and/or obligations shall survive any such termination. Licensee must cease use of the Licensed Software immediately upon termination, and must remove and return the Licensed Software and all other products and information received by Licensee from Licensor within thirty (30) days after termination. If not removed and returned within such thirty (30) day period, Licensee hereby grants Licensor the right to remove the Licensed Software. In addition, the confidentiality obligations of the parties in Section 6 ("Confidentiality") shall survive the termination of this Agreement.

8. GENERAL

8.1 Waiver, Amendment or Modification. The waiver, amendment or modification of any provision of this Agreement or any right, power or remedy hereunder shall not be effective unless made in writing and signed by both parties. No failure or delay by either party in exercising any right, power or remedy with respect to any of its rights hereunder shall operate as a waiver thereof.

8.2 Notice. All notices under this Agreement shall be in writing and shall be deemed to have been duly given if delivered in person, by commercial overnight courier or by registered or certified mail, postage prepaid, return receipt requested, and addressed as follows:

To Licensor: Journal Technologies, Inc.
915 East First Street
Los Angeles, CA 90012
Attention: President

and

To Licensee: County of Benton Prosecutor's Office
7122 W. Okanogan Place, Bldg A
Kennewick, WA 99336 Attention: Robert Heard

8.3 No Third Party Beneficiaries. This Agreement is not intended to create any right in or for the public, or any member of the public, any subcontractor, supplier or any other third party, or to authorize anyone not a party to this Agreement to maintain a suit to enforce or take advantage of its terms.

8.4 Successors and Assigns. Neither party may assign this Agreement in whole or part without the prior written consent of the other party; provided that Licensor

may assign this Agreement to another subsidiary of Daily Journal Corporation, directly or by operation of law, without the prior written consent of Licensee. Any attempt to assign this Agreement without the prior written consent of the other party is void and without legal effect, and such an attempt constitutes grounds for termination by the other party. Subject to the foregoing, all of the terms, conditions, covenants, and agreements contained herein shall inure to the benefit of, and be binding upon, any successor and any permitted assignees of the respective parties hereto. It is further understood and agreed that consent by either party to such assignment in one instance shall not constitute consent by the party to any other assignment. A transfer of corporate control, merger, sale of substantially all of a party's assets and the like, even though including this Agreement as an assigned asset or contract, shall not be considered an assignment for these purposes.

8.5 Dispute Resolution. Any dispute arising under or related to this Agreement shall be resolved exclusively as follows, with the costs of any mediation and arbitration to be shared equally by both parties:

8.5.1 Initial Resolution by Meeting. The parties shall first attempt to resolve amicably the dispute by meeting with each other, by telephone or in person at a mutually convenient time and location, within thirty (30) days after written notice of a dispute is delivered from one party to the other. Subsequent meetings may be held upon mutual agreement of the parties.

8.5.2 Mediation. If the dispute is not resolved within sixty (60) days of the first meeting, the parties shall submit the dispute to mediation by an organization or company specializing in providing neutral, third-party mediators. Licensee shall be entitled to select either (i) the location of the mediation or (ii) the organization or company, and Licensor shall select the other. The mediation shall be conducted within sixty (60) days of the date the dispute is submitted to mediation, unless the parties mutually agree on a later date.

8.5.3 Arbitration. Any dispute that is not otherwise resolved by meeting or mediation shall be exclusively resolved by arbitration between the parties in accordance with the Comprehensive Arbitration Rules & Procedures of JAMS, with the arbitration to be conducted in Los Angeles, California, or another location mutually agreed by the parties. The results of such arbitration shall be binding on the parties, and judgment may be entered in any court having jurisdiction. Notwithstanding the foregoing, either party may seek interim injunctive relief from any court of competent jurisdiction.

8.6 Control of Defense. All indemnification obligations under this Agreement are conditioned upon (i) written notice by the indemnified party to the indemnifying party within thirty (30) days of the indemnified party's receipt of any claim for which indemnification is sought, (ii) tender of control over the defense and settlement to the indemnifying party and (iii) such reasonable cooperation by the indemnified party in the defense as the indemnifying party may request; provided, however, the indemnifying party shall not, without the prior written consent of the indemnified party, settle, compromise or consent to the entry of any judgment with respect to any pending or

threatened claim unless the settlement, compromise or consent provides for and includes an express, unconditional release of such claim against the indemnified party.

8.7 Force Majeure. Neither party will be liable for any delay or failure to perform any obligation under this Agreement (except for any obligations to make payments) where the delay or failure results from any cause beyond such party's reasonable control including, without limitation, acts of God, labor disputes or other industrial disturbances, electrical or power outages, utilities or other telecommunications failures, internet service provider failures or delays, denial of service attacks, earthquake, storms or other elements of nature, blockages, embargoes, riots, acts or orders of government, acts of terrorism, or war.

8.8 Governing Law. The validity, construction and performance of this Agreement and the legal relations among the parties to this Agreement shall be governed by and construed in accordance with the laws of the State of Washington without giving effect to its conflict of law principles.

8.9 Severability. In the event any one or more of the provisions of the Agreement shall for any reason be held to be invalid, illegal or unenforceable, the remaining provisions of this Agreement shall be unimpaired, and the invalid, illegal or unenforceable provision shall be replaced by a provision, which, being valid, legal and enforceable, comes closest to the intention of the parties underlying the invalid, illegal or unenforceable provision.

8.10 Counterparts. This Agreement may be executed in counterparts and by the exchange of signatures by facsimile or PDF.

[Continued on Next Page]

IN WITNESS WHEREOF, the parties have caused this instrument to be duly executed as of the date last written below.

JOURNAL TECHNOLOGIES, INC:

By: Gerald L. Salzman Date: 7/24/18

Printed Name and Title: Gerald L. Salzman, President

_____:

By: _____ Date: _____

Printed Name and Title: _____

BENTON COUNTY WA:

By: Shon Small Date: 8-7-2018

Printed Name: _____

Chairman: Benton County Board of County Commissioners
Pro-Tem

Approved as to Form:

_____

Eric Andrews Civil Deputy Prosecuting Attorney

EXHIBIT A
LICENSE, MAINTENANCE AND SUPPORT FEES

Annual License, Maintenance and Support Fees for first year of License Term:
$62,000, which includes licenses for 50 agency users and a total of 65 User licenses, as calculated below.

The License, Maintenance and Support Fee for users identified in clauses (a) (i.e., agency Users), (b) (i.e., other governmental agency Users), and (c) (i.e., public Users) of Section 1.10 of the Agreement are determined in accordance with the chart set forth below.

Other Governmental Agency Users
The additional License, Maintenance and Support Fee for unlimited use of the Licensed Software by non-court governmental employees accessing the Licensed Software via interfaces or the public portal, and the ongoing use of the Enterprise Service Bus (ESB), shall be computed based on 20% of the total number of agency Users (i.e., 20% of 50 = 10 User licenses).

Public Users
The additional License, Maintenance and Support Fee for unlimited use of the Licensed Software by members of the general public accessing the Licensed Software via the public portal shall be computed based on the 10% of the total agency Users (i.e., 10% of 50 = 5 User licenses.)

Calculation: 50 User licenses + 10 other governmental agency User licenses + 5 public User licenses = 65 User licenses.

Pricing Table for System User Licenses for Centralized System

User Groups*	Licenses	Annual License and Maintenance Fees	
		Per License	For Group
1-50	50	$ 1,000	$ 50,000
51-100	50	800	40,000

*The actual number of User licenses will be used to determine the annual fee, with 50 licenses being the minimum. The Annual License, Maintenance and Support Fee is governed by a five-year agreement with an annual CPI adjustment that will automatically be applied to the fees for each year of the License Term after the first year.

EXHIBIT B
SOURCE CODE ESCROW AGREEMENT

INNOVASAFE, INC.®
Intellectual Property Risk Management

IS2ex

Software Escrow Agreement

This Agreement is between the Depositor and InnovaSafe.
Licensees are enrolled as a Beneficiary.

Use This Agreement if:

- Multiple Licensees will be added and management of single or multiple deposits are needed.
- Beneficiary specific terms and conditions may be required.
- Modifiable Agreement is required
- Services include:
  - Complete client service
  - Fees Locked For the Initial Term
  - Physical or Electronic Deposits
  - Quarterly Deposits Included
  - No Additional Storage Fee
  - Toll Free Telephone Support (800) 239-3989

Questions? Please call (800) 239-3989 or
Live Online Support at www.innovasafe.com

This Software Source Code Escrow Agreement ("Agreement"), number 2738, effective as of the date signed by the Depositor ("Effective Date"), is made and entered into by InnovaSafe, Inc. ("InnovaSafe"), a California corporation, located at 28502 Constellation Road, Valencia, California, 91355-5082, and Sustain Technologies, Inc. ("Depositor"), located at 915 East First Street, Los Angeles, California 90012 and each additional person or entity subscribed hereto as a Beneficiary or Designated Beneficiary in accordance with the requirements of this Agreement. In consideration of the covenants, conditions, warranties and restrictions contained in this Agreement, the parties agree as follows:

1. DEFINITIONS

For purposes of this Agreement, the following capitalized terms shall have the meanings set forth below, unless expressly defined otherwise in this Agreement:

"*Beneficiary*" means and includes a person or entity that has subscribed hereto as a Beneficiary in accordance with the requirements of Paragraphs 3.1 and 3.2(a) of this Agreement and each Designated Beneficiary.

"*Beneficiary Enrollment Form*" means the form used by InnovaSafe for the addition of a Beneficiary or Beneficiaries to this Agreement in accordance with the requirements of Paragraph 3 hereof, as such form may be modified or replaced by InnovaSafe in its sole discretion from time to time during the term of this Agreement. A copy of the current Beneficiary Enrollment Form is attached hereto as Exhibit B and incorporated herein.

"*Designated Beneficiary*" means and includes any person or entity that has not subscribed hereto as a Beneficiary pursuant to Paragraph 3.2(a), but has been designated by Depositor as a Beneficiary hereof in accordance with the requirements of Paragraphs 3.1 and 3.2(b) of this Agreement. Each Designated Beneficiary shall have the rights and obligations of a Beneficiary under this Agreement, including but not limited to the conditional rights set forth in Paragraph 4 of this Agreement.

"*Description of Escrow Deposit*" means a general description of the Software and the Escrow Deposit as set forth on Exhibit A attached hereto and incorporated herein.

"*Escrow Deposit*" or "*Deposit*" means the copies of the Source Code, drawings, computer intellectual property, documentation, web site content, trade secrets, and other related material, deposited with InnovaSafe by the Depositor, or otherwise held by InnovaSafe pursuant to the terms of this Agreement.

"*License Agreement*" means any agreement pursuant to which Depositor licenses the Software to a Beneficiary in object code form.

"*Replacement*" means a Deposit relating to any complete change, modification, enhancement or alteration of the Source Code since the last Deposit which completely replaces all of the previous Deposits.

"*Software*" means the software that as of the date hereof is licensed by the Depositor to a Beneficiary pursuant to a License Agreement, and which is generally described in the Description of Escrow Deposit.

"*Source Code*" means the Software in source code form, including all documentation and instructions necessary to maintain, duplicate, compile, interpret and install the source code for the Software.

"*Update*" means any modification, update or revision of any Software that is subject of the Escrow Deposits currently being held by InnovaSafe.

2. DEPOSIT PROCEDURES

2.1 Initial, Additional, and Duplicate Deposits: (a) Within thirty (30) days of the Effective Date of this Agreement, Depositor agrees to deposit with InnovaSafe, copies of the Source Code for the version of the Software as licensed under a License Agreement. With such delivery, Depositor agrees to provide InnovaSafe with a completed Description of Deposit (Exhibit A). (b) Depositor also agrees to deposit with InnovaSafe the Deposit for each Update or Replacement within thirty (30) days after its release, distribution, or other publication by Depositor in the ordinary course of business. With each such delivery, Depositor agrees to provide InnovaSafe with a completed Description of Deposit (Exhibit A). (c) Depositor shall deliver a duplicate Deposit (including all Updates) within five (5) days of receipt of a written request from an authorized representative of InnovaSafe. Without limiting the foregoing, Depositor shall deliver a duplicate Deposit (including all Updates) to replace any previous Deposit that is impaired due to a defect in or natural degeneration of the recorded medium. All duplicate Deposits may not be encrypted, except for an Update or Replacement Deposit that is transmitted to InnovaSafe in accordance with Paragraph 2.2. (d) Notwithstanding any other provision of this Agreement, InnovaSafe shall have no obligation to return to Depositor any Deposit.

2.2 Encrypted Electronic Deliveries: Subject to the prior agreement of InnovaSafe and Depositor regarding delivery and decryption protocols, Depositor shall have the option but not the obligation to encrypt and transmit the encrypted Deposit for each Deposit over the Internet using InnovaSafe's SafeDeposit services. InnovaSafe shall not be liable to Depositor or Beneficiary for any encrypted Deposit, or any part thereof that is transmitted over the Internet..

2.3 Deposit Receipt Notification: For each Deposit, InnovaSafe will issue a receipt to Depositor, accompanied by a general list or description of the materials deposited. InnovaSafe shall notify Depositor and Beneficiary of receipt of each Deposit by electronic mail ("email") to the email address described in Paragraph 10 of this Agreement or the Beneficiary Enrollment Form, as applicable, within thirty (30) days following receipt by InnovaSafe of the Deposit.

2.4 Technical Verification of Deposit: Any party may request that InnovaSafe perform a deposit verification of the Deposit. Any charges and expenses incurred by InnovaSafe in carrying out a deposit verification will be paid by the party requesting the deposit verification, unless otherwise agreed to in writing. Limitations: Except solely in connection with the performance by InnovaSafe of a deposit verification or another technical verification that has been requested and agreed to by the parties in accordance with this Agreement, InnovaSafe shall have no obligation to determine the physical condition, accuracy, completeness, functionality, performance or non-performance of any Deposit or whether the Deposit contains Source Code.

2.5 Failed Deliveries, Duty of Care and Sub-Contractors: (a) InnovaSafe will not be responsible for procuring the delivery of any Deposit. (b) InnovaSafe shall perform all of the duties required by this Agreement diligently and in good faith. Except as expressly stated in Section 2 of this Agreement, InnovaSafe shall have no duty of care, inquiry or disclosure, whether express or implied. (c) Any and all sub-contractors performing verification or other services on behalf of InnovaSafe shall be subject to the same duty of care as InnovaSafe.

3. BENEFICIARY ENROLLMENT PROCEDURES

3.1 Enrollment of Beneficiaries: After InnovaSafe's acceptance of the initial Deposit, Depositor may join additional Beneficiaries, or name Designated Beneficiaries to this Agreement at any time and from time to time, in its sole and absolute discretion, provided that (a) at the time of entering into this Agreement the Depositor and the proposed Beneficiary or Designated Beneficiary are parties to a License Agreement; (b) Depositor is not in breach of this Agreement; (c) all fees and costs required to be paid to InnovaSafe under this Agreement have been paid; and (d) the proposed Beneficiary completes, signs and delivers the Beneficiary Enrollment Form as required hereunder or Depositor provides a written execution and delivery of the Exhibit Bns, Beneficiary Enrollment Form for a Designated Beneficiary, as applicable.

3.2 Beneficiary Enrollment Forms: (a) Each person or entity that subscribes as a Beneficiary to this Agreement shall be required to agree to the terms hereof and indicate such agreement by delivering to Depositor and InnovaSafe the completed Beneficiary Enrollment Form (Exhibit B) that has been signed by an authorized representative of Beneficiary. A person or entity that has not subscribed hereto as a Beneficiary in accordance with the requirements of this Agreement, including but not limited to, any other licensees of the Software, shall not have any rights hereunder and InnovaSafe shall have no duties to any such persons or entities, except as expressly provided in clause (b) of this Paragraph 3.2. (b) Subject to Paragraph 3.1 above, Depositor may name Designated Beneficiaries to this Agreement at any time and from time to time, in its sole and absolute discretion, upon execution and delivery of the Exhibit Bns, Beneficiary Enrollment Form for a Designated Beneficiary. InnovaSafe shall issue an enrollment letter and a copy of the Agreement, and any other applicable document required hereunder to the Designated Beneficiary upon receipt of the Exhibit Bns. All rights and obligations of a Designated Beneficiary expressly provided for hereunder, may be modified, supplemented, extended, terminated or assigned by Depositor and InnovaSafe at any time, and from time to time, by amendment of this Agreement as further provided herein. Unless otherwise expressly set forth in an amendment to this Agreement as provided for in this Agreement, the rights and obligations of a Designated Beneficiary interests established hereunder shall not be modified by (i) any waiver for the benefit of such Designated Beneficiary that is entirely conditioned upon the complete and continuous satisfaction of each of the performance of and obligation required under this Agreement, or (ii) any failure to enforce any following the execution of the form of acknowledgement attached hereto as Exhibit D in which Beneficiary accept and agrees to be bound by the terms, conditions and obligations set forth in this Agreement, including, but not limited to, all obligations of Beneficiary set forth in Paragraph 4.4 of this Agreement, and all obligations of Designated Beneficiary set forth in Sections 9, 10 and 11 of this Agreement. No Deposit shall be released to any Designated Beneficiary until the Designated Beneficiary accepts and agrees to be bound by the terms, conditions and obligations in accordance with the requirements of this Agreement.

4. DEPOSIT RELEASE PROCEDURES

4.1 Conditions to Enforcement: Each Beneficiary shall have the right to enforce the Release Procedures described in this Paragraph 4 only if at the time of the requested release: (a) the License Agreement between Depositor and Beneficiary is in full force and effect, and Beneficiary is not in breach thereof; (b) the Beneficiary is not in breach of this Agreement; and (c) all fees and costs then due and owing to InnovaSafe shall have been paid in full.

4.2 Release Conditions: The release by InnovaSafe of the Deposit to Beneficiary as further provided in this Paragraph 4, shall be subject to the occurrence of one or more of the following conditions (each a "Release Condition"): (a) Depositor requests in writing that InnovaSafe release the Deposit to Beneficiary; (b) Depositor takes any action under any state corporation or similar law that will cause both the dissolution of the corporate existence of Depositor and the liquidation by Depositor of its assets; (c) Depositor has breached a material obligation under the License Agreement for which the License Agreement provides for the release of the Deposit to Beneficiary as a remedy, and such breach has not been cured by Depositor as provided in the License Agreement; (d) Depositor's duly appointed trustee in a bankruptcy or dissolution proceeding of Depositor requests in writing that InnovaSafe release the Deposit to Beneficiary; or (e) A court of

competent jurisdiction, or an arbitrator, if applicable, issues an order or judgment directing InnovaSafe to release the Deposit to Beneficiary.

4.3 Release Procedures: InnovaSafe will release the Deposit to a Beneficiary subject to and in accordance with each of the following conditions: (a) Depositor may provide InnovaSafe with a written release request at any time, and a Beneficiary may provide InnovaSafe with a written release request following the occurrence of a Release Condition; (b) Provided that InnovaSafe has been paid all fees and costs then due and owing, InnovaSafe shall promptly deliver a copy of the release request to Depositor or such Beneficiary, as applicable (the "Notice of Release Request"); (c) If Depositor or Beneficiary objects to the requested release, then within thirty (30) days of the receipt of the Notice of Release Request, such party agrees to provide InnovaSafe with written notice of such objection, and to provide a copy of such notice to the party requesting the release, stating that a Release Condition has not occurred or has been cured, and instructing InnovaSafe not to release the Deposit as requested (the "Contrary Instructions"); (d) If InnovaSafe does not receive Contrary Instructions within the time and in the manner required above, then InnovaSafe shall deliver a copy of the Deposit to such Beneficiary; (e) If InnovaSafe does receive Contrary Instructions within the time and in the manner required above, then InnovaSafe shall not deliver a copy of the Deposit to such Beneficiary, but shall continue to hold the Deposit until the first to occur of the following: (i) InnovaSafe receives joint written release instructions from Depositor and such Beneficiary; or (ii) InnovaSafe receives a copy of an order or judgment of a court of competent jurisdiction, or the decision of an arbitrator, if applicable, directing InnovaSafe to act with regard to disposition of the Deposit.

4.4 Rights in Bankruptcy and Effect of Release: (a) The parties agree that this Agreement, as it may be modified, supplemented, or replaced from time to time, is not intended and shall not be construed to constitute an election of remedies by any Beneficiary, or otherwise to supersede or foreclose any rights to which Beneficiary otherwise would be entitled under Title 11 United States Bankruptcy Code §365(n), as a licensee of intellectual property. (b) Upon receipt of the Deposit, and subject to the covenants, conditions, warranties and restrictions of this Agreement and the License Agreement, each Beneficiary shall have the right and hereby agrees to use the Deposit, including copying and modification thereof, only as reasonably necessary for the sole purpose of enabling such Beneficiary to use the Software for its intended purpose (unless otherwise authorized by the express terms of the License Agreement). Each Beneficiary shall use commercially reasonable measures to protect the integrity, security and confidentiality of the Deposit. The foregoing does not grant, sell, assign or otherwise transfer to any Beneficiary any title to or ownership of all or any part of the Deposit or Software, or related documentation, or any other property of Depositor, and without limiting the foregoing, does not grant to any Beneficiary any right to publish, perform, adapt, create derivative works from, or distribute the Software or any part thereof.

5. FEES AND PAYMENTS

5.1 Fee Schedule, Payments and Suspension of Performance: (a) The fees and charges of InnovaSafe are set forth on the fee schedule attached hereto as Exhibit C and incorporated herein. After the expiration of the initial term, InnovaSafe may increase its fees and costs on an annual basis by providing written notice of such increase at least sixty (60) days prior to the commencement of the next renewal term. (b) All fees, costs and any other amounts due and payable to InnovaSafe for annual service fees as provided hereunder, shall be paid by Depositor. Initial and annual fees must be paid to InnovaSafe within 30 days of the Effective Date and on each anniversary thereof. All other amounts payable to InnovaSafe shall be paid within thirty (30) days from the date of invoice to Depositor or Beneficiary, as applicable. Any release fee under this Agreement shall be paid by the Beneficiary requesting release of the Deposit. Neither Depositor nor any Beneficiary shall be entitled to any refunds, withholds, offsets, reductions in, or deductions from, any payments due to InnovaSafe hereunder. (c) In addition to and without limiting any other right or remedy to which InnovaSafe may be entitled, InnovaSafe shall have the right, in its sole discretion, to suspend the

performance of any or all of its obligations hereunder for so long as any amount due hereunder remains unpaid in whole or in part.

6. TERM AND TERMINATION

6.1 Term: This Agreement shall have an initial term of _____ from the date hereof unless earlier terminated as provided herein. At the expiration of the initial term, this Agreement shall automatically renew from year to year thereafter until this Agreement is terminated in accordance with the terms hereof.

6.2 Termination for Cause: (a) Notwithstanding the foregoing, this Agreement shall terminate as to each specific Beneficiary immediately and automatically upon either the expiration of the applicable License Agreement between such Beneficiary and Depositor, or the earlier termination of the applicable License Agreement between such Beneficiary and Depositor, whichever is applicable, provided, however, that in the case of termination (as distinguished from the expiration) of the applicable License Agreement between such Beneficiary and Depositor, such termination has been effected by Depositor in accordance with the requirements of the applicable License Agreement. (b) InnovaSafe shall have the right to terminate this Agreement as to all parties or as to any Beneficiary, in the event of non-payment of any fees or other amounts due and payable to InnovaSafe or its designee, or if Depositor otherwise breaches any material term of this Agreement, provided, however, that written notice of such breach is given to all applicable parties. If Depositor or the applicable Beneficiary fails to cure such breach within five (5) business days of the date such notice is delivered, then InnovaSafe shall have the right to terminate this Agreement by sending written notice of termination to Depositor and all applicable Beneficiaries, and further provided, however that if payment is due from a Beneficiary and not from Depositor, then InnovaSafe may terminate this Agreement only as to that Beneficiary. InnovaSafe shall have no obligation to perform any obligations under this Agreement so long as such breach remains uncured, including but not limited to, the receipt or release of any Deposit as required under this Agreement. Any party may cure amounts past due, whether or not such party is obligated under this Agreement.

6.3 Termination Without Cause: (a) After the expiration of the initial term of this Agreement, Depositor shall have the right to terminate this Agreement without cause, in its sole discretion, by giving each Beneficiary and InnovaSafe written notice of its intent to terminate this Agreement at least forty-five (45) business days prior to the expiration of the initial term or the next renewal term, whichever is applicable; (b) Notwithstanding any other provision hereof, at any time during the term of this Agreement, InnovaSafe shall have the right to terminate this Agreement without cause, in its sole discretion, by giving Depositor and each Beneficiary written notice of its intent to terminate this Agreement at least ninety (90) days prior to the date set for termination. During such 90 day period Depositor shall have the right to provide InnovaSafe with written instructions authorizing InnovaSafe to return the Deposit, and if InnovaSafe does not receive such written instructions from Depositor within the foregoing 90 day period, then InnovaSafe will use good faith in an attempt to return any Deposit in its possession to Depositor, or if InnovaSafe is not able to locate the Depositor after such attempts, then InnovaSafe may destroy the Deposit. InnovaSafe shall continue to be entitled to payment at its then current fees and charges (notwithstanding the termination date specified in its notice) until the Deposits are returned or destroyed. Notwithstanding anything to the contrary herein, InnovaSafe shall refund all fees paid hereunder in the prorated amount attributable to the time period after termination of the is Agreement pursuant to this provision; (c) A Beneficiary may not terminate this Agreement; (d) This Agreement shall terminate automatically, in the event that copies of the Deposit are released to all qualified Beneficiaries as provided by this Agreement.

6.4 Disposition of Deposit: Upon the termination of this Agreement, the following shall apply: (a) all amounts then due and owing to InnovaSafe hereunder shall be paid in full; (b) if the termination is as to all Beneficiaries, then InnovaSafe will return any Deposit in its possession to Depositor, and (c) if InnovaSafe does not receive written instructions from Depositor authorizing

InnovaSafe to return all Deposits, or if InnovaSafe is not able to locate Depositor after reasonable attempts, then InnovaSafe shall destroy the Deposit.

6.5 Survival of Certain Obligations: Upon the termination of this Agreement, all future and continuing rights and obligations established hereunder will terminate, except: (a) the obligations of each party to maintain confidentiality, as defined herein; (b) the obligations of the parties under Paragraphs 6.4, 8.3 and 9.4 of the Agreement; and (c) any claim or cause of action for breach of this Agreement, or for indemnity or contribution under Paragraph 9.3 of the Agreement, existing as of the date of termination, which claim or cause of action will remain in full force and effect until such rights and obligations are fully discharged.

7. REPRESENTATIONS AND WARRANTIES OF DEPOSITOR

7.1 No Conflicts: Depositor represents and warrants to each Beneficiary and to InnovaSafe that the grant by Depositor to Beneficiary of the rights granted hereunder, the Deposits made pursuant hereto, and the implementation of this Agreement in accordance with its terms, do not and will not conflict with, violate or infringe upon (a) any rights or interests of any person or entity not a party to this Agreement, (b) any terms of any express or implied contract between Depositor and any other person or entity, or (c) any judicial or administrative order, award, judgment or decree of any state or country applicable to Depositor, or (d) any laws, rules or regulations of any country from or to which any Deposit may be delivered in accordance with the provisions of this Agreement, including but not limited to, customs laws, import, export, and re-export laws.

7.2 Usability of Source Code: Depositor represents and warrants that the Deposits made to InnovaSafe will, at all times, (a) be the version of the current release of the Software, as offered by Depositor to the Beneficiaries or other licensees in the ordinary course of business from time to time during the term of this Agreement, (b) be understandable and useable by a reasonably skilled programmer or other professional to understand, maintain, and correct the Software without assistance of any other person, (c) contains sufficient documentation to enable such a skilled programmer or other professional to understand and use any proprietary languages or programming components that such a skilled programmer or other professional could not reasonably be expected to understand, and (d) includes all the devices, programming, and documentation necessary for the maintenance of the Software by the Beneficiary upon release of the Deposit pursuant to this Agreement, except for devices, programming, and documentation commercially available to the Beneficiaries on reasonable terms through readily known sources other than the Depositor.

8. RECORDS, REPORTS, ADMINISTRATION

8.1 Records of Deposits: InnovaSafe will maintain written records of all Deposits made by Depositor pursuant to this Agreement. InnovaSafe shall be entitled to rely on the completeness and accuracy of all information, documents and materials provided to InnovaSafe by Depositor, Beneficiary or any other person or entity, in connection with this Agreement. Depositor shall be entitled at reasonable times during normal InnovaSafe business hours and upon reasonable notice to InnovaSafe to inspect the records of Deposits maintained by InnovaSafe pursuant to this Agreement. Beneficiary shall be entitled at reasonable times during normal InnovaSafe business hours and upon reasonable notice to both Depositor and InnovaSafe, to inspect the records of Deposits maintained by InnovaSafe pursuant to this Agreement, provided, however, the right of each Beneficiary to inspect such records of Deposit shall be limited to only those records that pertain to the requesting Beneficiary.

8.2 Intentionally Omitted

8.3 Confidentiality and Storage of Deposits: (a) InnovaSafe will protect the confidentiality of the Deposit and all proprietary information of Depositor incorporated therein. Except as otherwise required to carry out its duties under this Agreement, InnovaSafe will not permit any unauthorized person access to the Deposit. If InnovaSafe receives any order from a court or other judicial or arbitral tribunal pertaining to the disclosure or release of the Deposit, InnovaSafe

will immediately notify the parties to this Agreement unless prohibited by law. Challenge of any such disclosure or release order shall be the sole responsibility of Depositor and Beneficiary. InnovaSafe does not waive its rights to present its position with respect to any such order. No party has the right to require InnovaSafe to disobey any order from a court or other judicial or arbitral tribunal. (b) InnovaSafe shall implement measures to maintain the security of all Deposits including, but not limited to, the storage of all Deposits in secured locked facilities.

9. DISPUTE RESOLUTION AND CLAIMS

9.1 Reliance and Suspension of Performance: (a) InnovaSafe shall have no responsibility for determining the genuineness or validity of any instruction, document or other item given to or deposited with it, and in the performance of its obligations under this Agreement shall be entitled to rely upon any email or written notice, instruction or request furnished to InnovaSafe by any of the parties hereto if such instructions are believed by InnovaSafe to have been given by a designated representative ("Designated Representative") identified by the applicable party. With respect to the Depositor, the initial Designated Representative shall be Gerald Salzman. Each Beneficiary shall identify its Designated Representatives on Exhibit B or Exhibit Bns, as applicable. If no Designated Representatives are identified, all employees of Depositor and any Beneficiary, respectively, are conclusively deemed to have proper authority to act on behalf of such party hereunder. InnovaSafe shall have no responsibility with respect to the Deposit other than to follow such instructions as may be provided herein. (b) If any controversy exists between or among the Depositor and any of the Beneficiaries hereto, or with any other person or entity with respect to the Deposit or the subject matter of this Agreement, InnovaSafe shall not be required to determine the same or take any action with respect thereto, but in addition to and without limiting any other right or remedy to which InnovaSafe may be entitled, InnovaSafe shall have the right, in its sole discretion, to suspend the performance of any or all of its obligations hereunder for so long as any such conflict or controversy may exist hereunder.

9.2 Intentionally Omitted

9.3 Indemnification :

Depositor, on the one hand, and each Beneficiary on the other hand, jointly and severally, agree to indemnify, defend and hold harmless InnovaSafe and its directors, officers, agents and employees (collectively "InnovaSafe") from and against any losses, claims, damages, judgments, assessments, costs and other liabilities (collectively "Liabilities"), and will reimburse InnovaSafe for all reasonable fees and expenses (including the reasonable fees and expenses of counsel) (collectively, "Expenses") as they are incurred in investigating, preparing, pursuing or defending any claim, action, proceeding or investigation, whether or not in connection with pending or threatened litigation or arbitration and whether or not InnovaSafe is a party (collectively, "Actions"), relating to this Agreement or arising out of or in connection with the services rendered or to be rendered by InnovaSafe pursuant to this Agreement, or any actions or inactions of InnovaSafe in connection with any such services or this Agreement; provided that Depositor and Beneficiary will not be responsible for any Liabilities or Expenses of InnovaSafe that are determined to have resulted from the gross negligence or willful misconduct of InnovaSafe in connection with any of the services, actions, or inactions referred to above.

9.4 Mediation and Arbitration: (a) In the event of any controversy, dispute or claim between InnovaSafe and any other party hereto that arises under or otherwise relates to this Agreement, the parties agree that the dispute shall be submitted to mediation facilitated by a mediator as mutually approved by the parties, which approval shall not be unreasonably withheld or delayed by either party ("Mediator"). The parties agree to participate in good faith in the mediation conferences. Each party shall bear one-half (or its proportionate share if there are more than two parties) of the costs of the mediation, including the Mediator's fees. (b) If the parties are unable to resolve the claim, controversy or dispute through mediation, then it shall be decided by arbitration in Los Angeles County, California, in front of a single retired judge through the Judicial

Arbitration and Mediation Service or, in its absence, any similar organization providing the arbitration services of retired judges ("JAMS"). If for any reason within 30 days of an arbitration demand, any other party to the Agreement fails to state in writing that it will cooperate in selecting the sole arbitrator, then the remaining party shall select the arbitrator. If for any reason the sole arbitrator is not selected within 45 days of the written arbitration demand, then JAMS shall have sole authority to assign one of its retired judges as the arbitrator that has experience with intellectual property law. The parties shall be entitled to discovery to the full extent provided in civil actions pending in the Superior Court for Los Angeles County, with the arbitrator deciding any controversies arising during and with respect to discovery. The decision of the arbitrator with respect to any issues submitted for determination shall be final and binding on all of the parties to this Agreement, provided, however that the arbitrator shall not have the power to award punitive or exemplary damages. Not less than 21 days before the first scheduled session of the arbitration hearing, each party shall deliver to the other: (i) a complete list of the names of the witnesses that the party will call to testify at the hearing; and (ii) a complete and accurate copy of each document the party will offer in evidence at the hearing, excluding witnesses and documents that are used for impeachment.

9.5 (a) Disclaimer of Warranties: InnovaSafe expressly disclaims any and all warranties, express or implied, in connection with this Agreement, or its implementation, or arising out of a course of performance, dealing, or trade usage, including, without limitation, any warranties of title, non infringement, merchantability, fitness for a particular purpose, defect, workmanship or uninterrupted or error-free use or operation. (b) Limitations of Claims and Consequential Damages Limitation: (i) No action or claim against InnovaSafe arising out of or in any way relating to this Agreement may be instituted after the first to occur of the following: (a) the expiration of the period of limitation required by applicable law; (b) the expiration of two (2) years after the event giving rise to such action or claim, or (iii) the expiration of one (1) year after the date upon which the claiming party discovers, or reasonably should have discovered, the facts giving rise to such action or claim. (ii) In no event shall any party, its affiliates, or any of its or their representatives be responsible or liable for any indirect, incidental, consequential, special, exemplary, or punitive damages (including, but not limited to, loss of data, savings, revenue or profits), even if such party, its affiliates, or any of its or their representatives has been advised of the possibility of such damages, including but not limited to, any damages from the use of, interruption of use, or inability to use any software or any data related thereto. (c) Limitation of Liability: In no event shall the total collective liability of InnovaSafe, its affiliates, and any of its or their representatives arising out of or relating in any way to this Agreement or it implementation exceed the total amounts paid or payable by the depositor or Beneficiary to InnovaSafe hereunder, provided, however, that the foregoing limitation does not apply to damages (excluding damage to the Deposit media) that are determined by a judgment of a court of competent jurisdiction which is no longer subject to appeal or further review to have resulted from the gross negligence or willful misconduct of InnovaSafe.. (d) Proceedings: If InnovaSafe is threatened to be made a party, required, compelled to be a party to, assist in, otherwise participate, or otherwise becomes involved in, whether as a witness or in any other capacity, in any investigation, audit, action or proceeding, whether judicial, arbitral or administrative, instituted by Depositor, Beneficiary, or any third party (collectively, a "Proceeding") then in any such case Depositor and Beneficiary each agree to pay in advance, upon receipt of written demand therefor from InnovaSafe, any and all reasonable expenses that may be incurred by InnovaSafe in connection therewith, which shall include, without limitation, reasonable attorneys' fees, disbursements and retainers, court costs, transcript costs, fees of accountants, experts and witnesses, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees, and all other expenses of the types customarily incurred in connection with prosecuting, defending, preparing to prosecute or defend, investigating, or being or preparing to be a witness or other participant in a Proceeding.

10. NOTICES

10.1 Notices and Notice Address: Except as otherwise provided herein for Deposits or notices of Updates and Replacements, all notices, requests, demands, or other communications

required or permitted under this Agreement shall be in writing. Notice shall be sufficiently given for all purposes if done by personal delivery, or electronic mail, or First Class Mail, or Certified Mail, or commercial overnight delivery service (DHL, FedEx, UPS), or facsimile transmission. Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified shall be deemed effective as of the first date that said notice was refused, unclaimed, or deemed undeliverable by the postal authorities, messenger, or overnight delivery service. Any party may change its contact information by giving the other party notice of the change in any manner permitted by this Agreement. Any party has the option to update their contact information with InnovaSafe using the "Change of Status" form on our website, http://www.innovasafe.com/update.html.

DEPOSITOR:

Contact Name:	Gerald Salzman
Title:	President
Street address:	915 E. 1st. St.
City, State, Postal Code	Los Angeles, CA 90012
Country:	USA
Phone:	213-229-5300
Facsimile:	213-229-5481
Email:	c/o claudia_nading@dailyjournal.com
Purchase Order (if applicable):	NA

INNOVASAFE, INC.

Corporate Address:	28502 Constellation Road, Valencia, California, 91355-5082 USA
Mailing Address:	PO Box 800256, Valencia, California 91380-0256 USA
Phone:	USA Direct: 1-800-239-3989
	International Direct: 1-661-310-1810
Facsimile:	1-661-295-5515
eMail:	clientservices@innovasafe.com

BENEFICIARY: As set forth in Exhibit B or Exhibit Bns.

11. MISCELLANEOUS PROVISIONS

11.1 Independent Contractors: The parties are independent contractors, and no party shall be held to be a fiduciary or trustee, or to have any fiduciary obligation, to any other party, or shall be considered, by entering into or performing any obligation under this Agreement, to assume or become liable for any special duty, or any existing or future obligations, liabilities or debts of the other party. No employee or agent of one party shall be considered to be an employee or agent of any other party.

11.2 Complete Statement, Interpretation and Modification of Agreement: The parties hereto acknowledge that each has read this Agreement, understands it, and agrees to be bound by its terms. The parties further agree that this Agreement is the complete and exclusive statement of their agreement with respect to the subject matter hereof, and supersedes all oral or written proposals,

understandings, representations, warranties, covenants, and communications between the parties relating hereto. InnovaSafe is not a party to any License Agreement and no provision of any License Agreement shall be construed to apply to InnovaSafe or otherwise give rise to any obligation of InnovaSafe. Each party and its counsel have participated fully in the review and approval of this Agreement. Any statute or rule of law to the effect that ambiguities are to be resolved against the drafting party shall not apply in interpreting this Agreement. No supplement, amendment, or modification of this Agreement shall be binding unless it is in writing and signed by Depositor and InnovaSafe, and by each Beneficiary if it affects any material right or obligation of such Beneficiary provided hereunder. No course of performance by the parties hereunder shall be deemed to constitute an amendment of this Agreement.

11.3 Waiver: No waiver of a breach, failure of a condition, or any right or remedy contained in or granted by the provisions of this Agreement shall be effective unless it is in writing and signed by the waiving party. No waiver of any breach, failure, right, or remedy shall be deemed a waiver of any other breach, failure, right or remedy, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies.

11.4 Attorneys' Fees: In any litigation, arbitration or other proceeding by which one party either seeks to enforce its rights under this Agreement (whether in contract, tort, or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing party shall be awarded reasonable attorneys' fees, together with any costs and expenses, to resolve the dispute and to enforce the final judgment.

11.5 Force Majeure: Except for obligations to make payment as indicated herein, no party shall be held responsible for any act, failure, event, or circumstance addressed herein if such act, failure, event, or circumstance is caused by conditions beyond such party's reasonable control.

11.6 Due Authorization, No Third Party Rights, Partial Invalidity, Headings: (a) Each party represents and warrants that the execution, delivery and performance of this Agreement has been duly authorized by all necessary corporate, partnership, or limited liability company action. (b) This Agreement is made solely for the benefit of the parties to this Agreement, the Designated Beneficiaries, and their respective permitted, authorized and acknowledged successors and assigns, and no other person or entity shall have or acquire any right by virtue of this Agreement. (c) If any provision of this Agreement is held illegal, unenforceable, or in conflict with any law of any federal, state or local government having jurisdiction over this Agreement, the validity of the remaining provisions hereof shall not be affected thereby. (d) The headings in this Agreement are included for convenience only and shall neither effect the construction or interpretation of any provision in this Agreement nor affect any of the rights or obligations of the parties to this Agreement.

11.7 Governing Law: The validity of this agreement and any of its terms or provisions, as well the rights and duties of the parties under this agreement, shall be construed pursuant to and in accordance with the laws of the State of California, and each party to this agreement specifically agrees to submit to the jurisdiction of the courts of the State of California.

11.8 Instructions to InnovaSafe: This Agreement shall constitute instructions to InnovaSafe as escrow agent. In addition, Depositor and each Beneficiary agrees to execute, deliver and be bound by any supplemental or general policies or procedures of InnovaSafe or such other instruments as may be reasonably required by InnovaSafe in order to perform its obligations as contemplated by this Agreement. In the event of any conflict or any inconsistency between such policies or procedures and any provision of this Agreement, the provision of this Agreement shall control.

11.9 Authorization to Copy: Depositor authorizes InnovaSafe to use and copy the Deposit as determined by InnovaSafe in its sole discretion as necessary for the performance of its obligations hereunder, including but not limited to, performing any Deposit verification testing as authorized hereunder, provided, however, that the foregoing authorization does not grant, sell,

assign or otherwise transfer to InnovaSafe any title to or ownership of any part of the Deposit or Software, or related documentation, or any other property of Depositor, except for the media upon which the Deposit is recorded, title to and ownership of which shall pass to InnovaSafe as provided herein.

11.10 Counterparts, Facsimile and Scanned Copy: This Agreement may be signed in one or more counterparts, by facsimile or scanned copy each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date below the signatures.

DEPOSITOR	**INNOVASAFE.**
BY: _____	**BY:** _____
Signature	**Signature**
Name:	**Name**:
Title:	**Title**:
Date:	**Date**:

EXHIBIT A
DESCRIPTION OF DEPOSIT
INNOVASAFE ACCOUNT # 2738

THIS FORM MUST ACCOMPANY EACH DEPOSIT TO INNOVASAFE. PLEASE SEND ALL DEPOSITS TO THE INNOVASAFE CORPORATE OFFICES LOCATED AT: 28502 CONSTELLATION ROAD, VALENCIA, CA, 91355 USA

The Ex. A can also be completed online at: http://www.innovasafe.com/exhibitA.html

DEPOSITOR CONTACT INFORMATION:

Company:	Contact:
Title:	Email:
St. Address:	City/State:
Postal Code:	Country:
Tel #:	Fax #:

Deposit Details			
Media Type (CD, DVD, DAT etc...):		**Indicate hardware used to create deposit:**	
Number of Media:		**Indicate operating systems used:**	
Copies (1 or 2):		**Indicate backup command/software used:**	
Product(s) Name:		**Indicate software compression used:**	
Product Version:		**Indicate whether encryption/password protection was used:**	
		What computer language was the source written:	
		Approximate size of the data on the media: (MB/GB)	

TYPE OF DEPOSIT (REQUIRED): *Please Check Only One Box

☐ Initial Deposit ☐ Update Deposit ☐ Replacement Deposit

IF THIS IS A REPLACEMENT DEPOSIT, PLEASE INDICATE WHETHER WE SHOULD RETURN OR DESTROY THE PREVIOUS DEPOSIT(S):

☐ **Return OR** ☐ **Destroy (Checking this box authorizes InnovaSafe to Destroy the previous deposit(s))** If this deposit is to be returned or destroyed, please indicate in the space below the name and version of the previous deposit(s) you would like to replace. If you would like to replace all previous deposits select "All":

☐ All or Specific Deposits (list here):

_____

EXHIBIT B
BENEFICIARY ENROLLMENT FORM
INNOVASAFE ACCOUNT # 2738

This form can be completed online. Go to http://www.InnovaSafe.com/ExhibitB.html

The undersigned Beneficiary hereby acknowledges, accepts, and agrees to be bound by the terms of the above-referenced Software Source Code Escrow Agreement by and between InnovaSafe, Inc., a California corporation, as intellectual property Escrow Agent and Sustain Technologies, Inc. as Depositor, on this ____ _____ day of _____, 20 _____ (the "Agreement").

BENEFICIARY INFORMATION:

*This contact person will receive ALL deposit and update deposit notifications.

☐ Check here if there is an alternate contact person or additional Designated Representatives and list them on the back of this form.

Company:	Designated Representative:
Title:	Email:
St. Address:	City/State:
Postal Code:	Country:
Tel #:	Fax #:

Signature (**Required**): _____

DEPOSITOR INFORMATION:

Company:	Contact:
Title:	Email:
St. Address:	City/State:
Postal Code:	Country:
Tel #:	Fax #:

PLEASE LIST WHICH SOFTWARE PACKAGE(S) THIS BENEFICIARY IS ENTITLED:

See Ex. "C" Schedule of Fees	**Party responsible for:** Annual Deposit fee:	☐ Depositor ☐ Beneficiary	**Party responsible for:** Annual Beneficiary fee:	☐ Depositor ☐ Beneficiary

Invoicing Contact (Required):

Depositor:	**Beneficiary**:
Contact Name:	Contact Name:
Address:	Address:
Phone:	Phone
Fax:	Fax:
eMail:	eMail:
PO#:	PO#:
Please return this form to:	InnovaSafe, Inc.

	PO Box 800256 Valencia, CA 91380-0256 USA

EXHIBIT BNS
BENEFICIARY ENROLLMENT FORM
INNOVASAFE ACCOUNT # 2738

Pursuant to this Software Escrow Agreement, Depositor hereby enrolls the following as a Beneficiary.

BENEFICIARY INFORMATION:

*This contact person will receive the Beneficiary enrollment notification.

☐ Check here if there is an alternate contact person or additional Designated Representatives and list them on the back of this form.

Company:	Contact:
Title:	Email:
St. Address:	City/State:
Postal Code:	Country:
Tel #:	Fax #:

PLEASE LIST WHICH SOFTWARE PACKAGE(S) THIS BENEFICIARY IS ENTITLED:

DEPOSITOR INFORMATION:

Company:	Contact:
Title:	Email:
St. Address:	City/State:
Postal Code:	Country:
Tel #:	Fax #:

Signature (**Required**): _____

Date: _____

See Ex. "C" Schedule of Fees	**Party responsible for:** Annual Deposit fee:	☐ Depositor ☐ Beneficiary	**Party responsible for:** Annual Beneficiary fee:	☐ Depositor ☐ Beneficiary

Invoicing Contact (Required):

Depositor:	**Beneficiary**:
Contact Name:	Contact Name:
Address:	Address:
Phone:	Phone
Fax:	Fax:

eMail:	eMail:
PO#:	PO#:
Please return this form to:	InnovaSafe, Inc. PO Box 800256 Valencia, CA 91380-0256 USA

EXHIBIT C

SCHEDULE OF FEES

INNOVASAFE ACCOUNT #2738

Set Up Fee	**No Fee**	
Traditional Escrow Annual Deposit Fee*		
▪ **1st Product**	**$675**	
▪ **Additional Products** – per product	**$350**	
▪ **Included Benefits and Services**		
○ 4 Free Updates/Replacements ○ Physical or Electronic Deposits ○ Deposit Notification – all parties		
Annual Beneficiary Fee	**$200**	
Dynamic Escrow Option		
▪ Annual Fee – Per Vault	**$995**	☐ **Yes** ☒ **No**
▪ Basic Report	**No Fee**	☐ **Yes** ☒ **No**
▪ Detailed Report	**$95 per report**	☐ **Yes** ☒ **No**
Optional Benefits and Services (annual fee)		
▪ Unlimited Updates	**$200**	☐ **Yes** ☒ **No**
▪ Dual Vaulting	**$200**	☐ **Yes** ☒ **No**
▪ Account Status Reports - Quarterly	**$200**	☐ **Yes** ☒ **No**
▪ Deposit Tracking - Quarterly	**$200**	☐ **Yes** ☒ **No**
▪ SafeAccess (24/7) Online Deposit History Only	**$200**	☐ **Yes** ☒ **No**
▪ FullAccess (24/7) Online Comprehensive	**$200**	☐ **Yes** ☒ **No**
▪ L1 Deposit Verification – Limited Only	**$200**	☐ **Yes** ☒ **No**
Additional Optional Services		
▪ L2 Verification – File Analysis – per check	**Quote Only**	
▪ L3 Verification – Comprehensive – per check	**Quote Only**	
Release Request Fee – per request	**$200**	

One product deposit and one beneficiary fee will always be invoiced

All Fees Are Payable in US Dollars unless otherwise agreed to in writing

EXHIBIT D
BENEFICIARY ACKNOWLEDGEMENT FORM
INNOVASAFE ACCOUNT # 2738

The undersigned Designated Beneficiary hereby acknowledges, accepts, and agrees to be bound by the terms of the above referenced intellectual property Escrow Agreement by and between InnovaSafe, Inc., a California corporation, as intellectual property Escrow Agent and Sustain Technologies, Inc._as Depositor, on this _____ day of _____, 20_____ (the "Agreement"). Beneficiary further agrees to pay InnovaSafe a release request fee of $_____ per request for release of the Deposit Material listed on the Ex Bns due immediately at the same time that the release condition notice is submitted to InnovaSafe pursuant to Paragraph 4.3 Release Procedures.

BENEFICIARY INFORMATION:

☐ Check here if there is an alternate contact person and list them on the back of this form.

Company:	Contact:
Title:	Email:
St. Address:	City/State:
Postal Code:	Country:
Tel #:	Fax #:

Signature (**Required**): _____

PLEASE RETURN THIS FORM COMPLETED AND SIGNED TO:

BY FIRST CLASS MAIL:

INNOVASAFE, INC.
PO BOX 800256
VALENCIA, CA 91380-0256 USA

BY COMMERCIAL COURIER

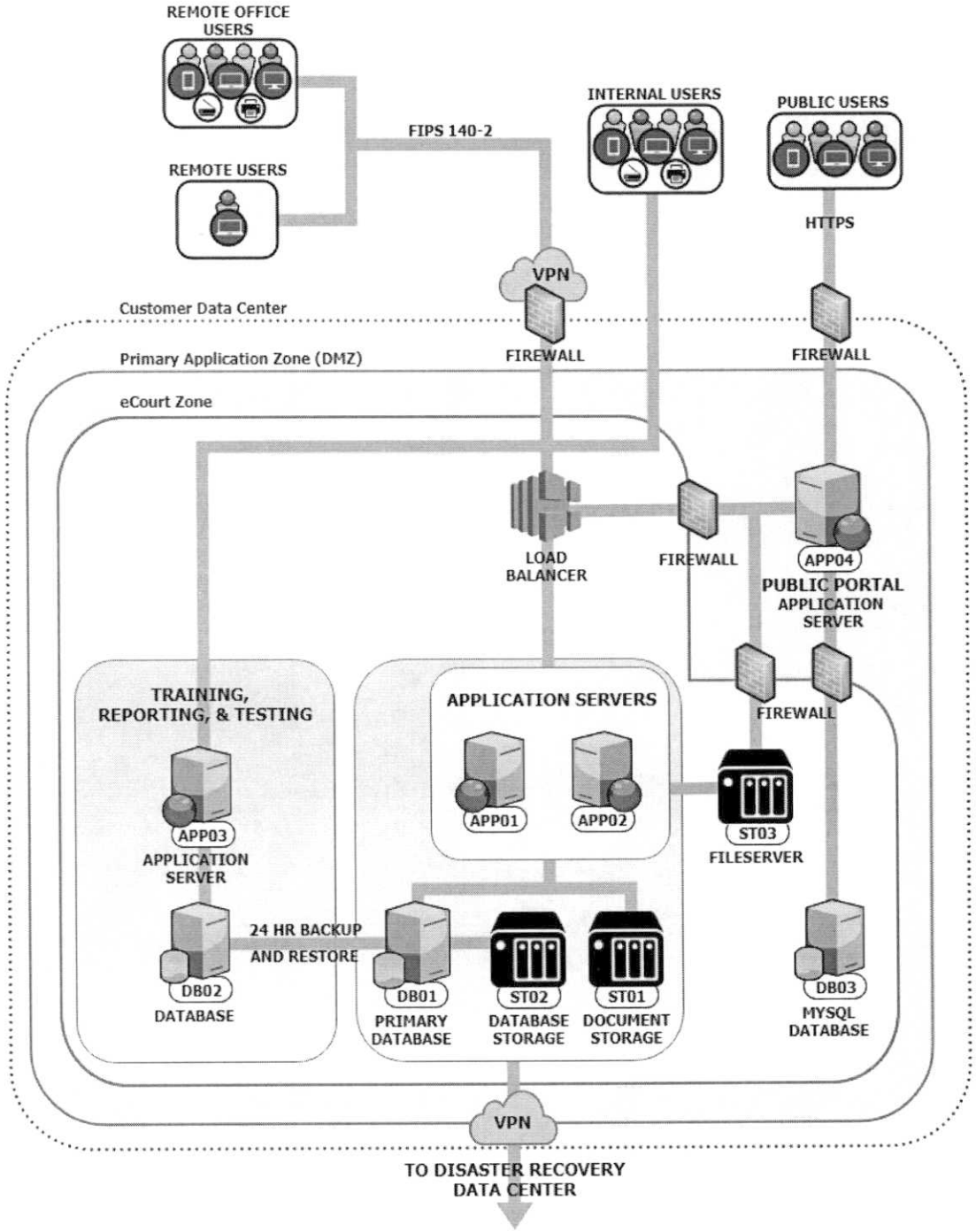
INNOVASAFE, INC.
28502 CONSTELLATION ROAD
VALENCIA, CA 91355

BY FACSIMILE:

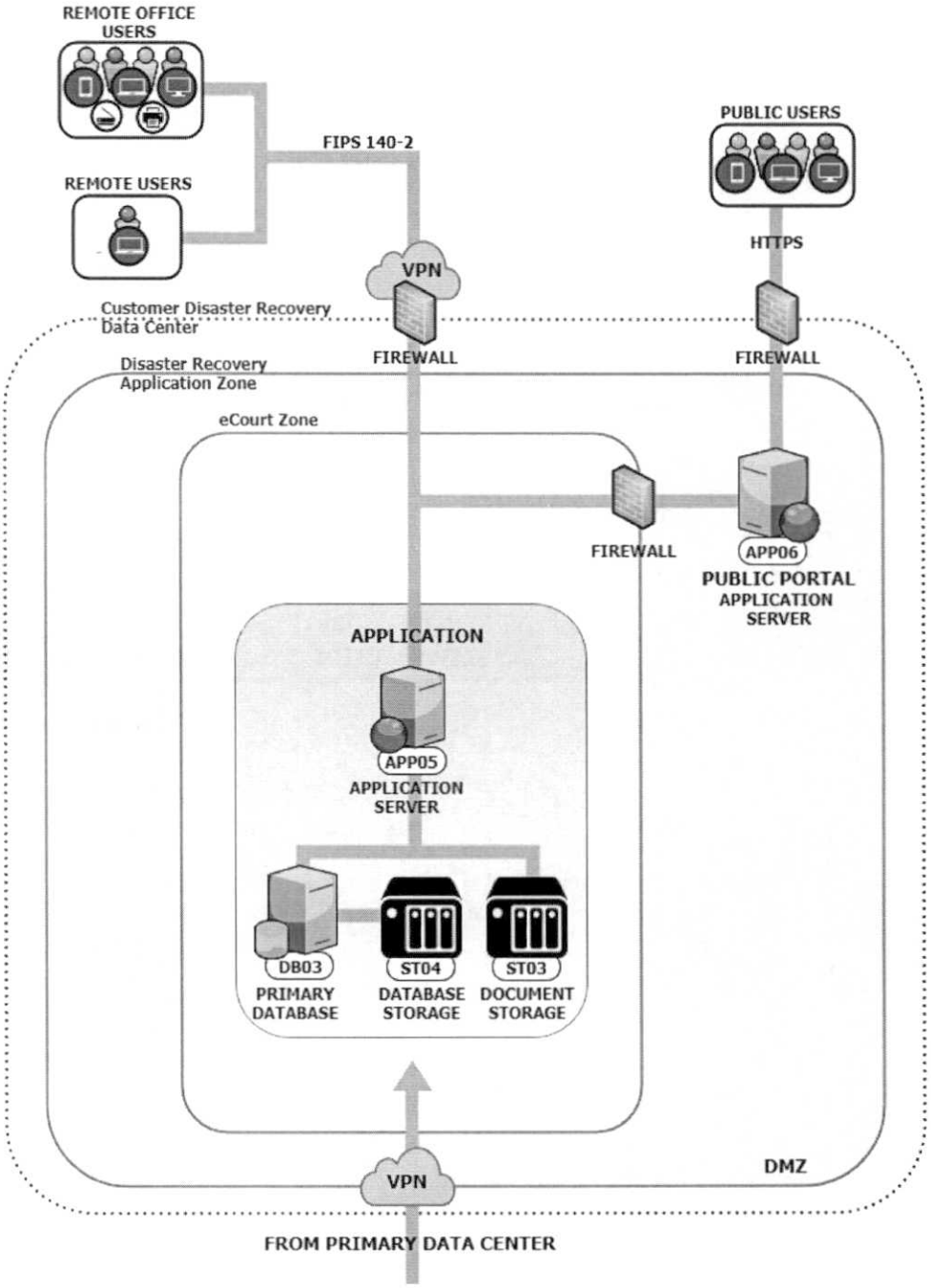
1-661-295-5515

EXHIBIT C
MINIMUM SYSTEM REQUIREMENTS

Customer On-Premise - Primary (51-500 user)



Customer On-Premise - Disaster Recovery (Off-site)



Data Centers

Hardware/Software Manifest

- *APP01 - app server (4 CPU / 16 GB RAM / 100 GB HDD / 1Gb NET)
  - Ubuntu Linux or Windows
  - Tomcat 8
  - Java 8
  - Hazelcast
- *APP02 - app server (4 CPU / 16 GB RAM / 100 GB HDD / 1Gb NET)
  - Ubuntu Linux or Windows
  - Tomcat 8
  - Java 8
  - Hazelcast
- APP03 - report/testing/training server (4 CPU / 16 GB RAM / 500 GB HDD / 1Gb NET)
  - Ubuntu Linux or Windows
  - Tomcat 8
  - Java 8
  - Jasper
- APP04 - portal server (2 CPU / 8 GB RAM / 100 GB HDD / 1Gb NET)
  - Ubuntu Linux or Windows
  - Apache or Nginx
- APP05 - app server (4 CPU / 16 GB RAM / 100 GB HDD / 1Gb NET)
  - Ubuntu Linux or Windows
  - Tomcat 8
  - Java 8
- APP06 - portal server (2 CPU / 8 GB RAM / 100 GB HDD / 1Gb NET)
  - Ubuntu Linux or Windows
  - Apache or Nginx
- DB01 - db server (8 CPU / 64 GB RAM / 100 GB HDD / 1Gb NET)
  - MS Windows Server 2016
  - MS SQL Server 2016 Enterprise edition
- DB02 - db server (8 CPU / 64 GB RAM / 100 GB HDD / 1Gb NET)
  - MS Windows Server 2016
  - MS SQL Server 2016 Enterprise edition
- ST01 - Document/app server storage device with
  - 1 TB for Documents
  - 500 GB for app server data
  - 100 GB for config mgmt data
  - 500 GB for report server data
- ST02 - Database storage device with
  - 1 TB for DB
- ST03 - Document/app server storage device with
  - 1 TB for Documents

    - 500 GB for app server data
    - 100 GB for config mgmt data
    - 500 GB for report server data
- ST04 - Database storage device with
    - 1 TB for DB
- Load balancer
- Firewalls and VPN devices as required

*Additional application and database servers may be added to scale up the solution.

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	April 11, 2023
Subject:	Approving the Purchase of One HID Fargo HDP6600 Dual Side Printer for the Sheriff's Office from CDW-G
Presenter:	
Prepared By:	Robert Heard
Reviewed By:	Procurement Department

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

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

Summary / Background Information

The Sheriff's Office has requested to purchase a replacement ID printer for their office. The existing ID printer was not in IT's replacement fund, but the Sheriff's Office has requested that the new ID printer be added to the replacement fund. IT requested quotes from three vendors. CDW-G had the lowest price. Resolution 2019-753 requires that all non-budgeted devices purchased over $500 be coded to the department's 3508 expenditure code and be approved by the Board of Benton County Commissioners.

Evergreen ID, Security, & Fire	HID Fargo HDP6600 Dual-sided	$7,200.00
CDW-G	**HID Fargo HDP6600 Dual-sided**	**$6,000.00**
Strictly Technology LLC	No bid	N/A

Fiscal Impact

Amount: **$6,000 excluding WSST.**

Fund: **Approved Sheriff 2023-2024 budgeted funds.**

Recommendation

Information Technology recommends that the Board approves the purchase of one HID Fargo HDP6600 Dual Side Printer in an amount not to exceed $6,000 excluding WSST. All equipment purchased will be added to Central Services Replacement Fund (3201).

Suggested Motion

Consent Agenda

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF APPROVING THE PURCHASE OF ONE HID FARGO HDP6600 DUAL SIDE PRINTER FOR THE SHERIFF'S OFFICE FROM CDW-G

WHEREAS, the Sheriff's Office has made a request to purchase a replacement ID printer for their office and add the printer to the Central Services Replacement Fund; and

WHEREAS, Information Technology solicited three quotes from three vendors in Evergreen ID, Security, & Fire, CDW-G, and Strictly Technology LLC; and

Evergreen ID, Security, & Fire	HID Fargo HDP6600 Dual-sided	$7,200.00
CDW-G	**HID Fargo HDP6600 Dual-sided**	**$6,000.00**
Strictly Technology LLC	No bid	N/A

WHEREAS, Information Technology recommends purchasing one HID Fargo HDP6600 dual side printer from CDW-G; and

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

WHEREAS, per Resolution 2019-753 of the Computer Replacement Policy requires all new computer equipment over $500 receive approval by the Board of Benton County Commissioners before purchasing; **NOW THEREFORE**

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington, hereby concurs with Information Technology's recommendation and approves the purchase of HID Fargo HDP6600 dual side printer from CDW-G for the Sheriff's Office in an amount not to exceed $6,000.00 excluding Washington State Sales Tax; and

BE IT FURTHER RESOLVED, newly purchased printer will be enrolled into Central Services Replacement Fund (3201).

Dated this 11 day of April , 2023

_____
Chairman of the Board

_____
Chairman Pro-Tem

_____
Commissioner

Constituting the Board of County Commissioners
of Benton County, Washington

Attest: _____
Clerk of the Board

Orig: Information Technology
cc: Auditor, Sheriff

Prepared by: R. Heard

Thank you for choosing CDW. We have received your quote.

Hardware Software Services IT Solutions Brands Research Hub

Review and Complete Purchase

ROBERT HEARD,

Thank you for considering CDW•G for your technology needs. The details of your quote are below. **If you are an eProcurement or single sign on customer, please log into your system to access the CDW site.** You can search for your quote to retrieve and transfer back into your system for processing.

For all other customers, click below to convert your quote to an order.

Convert Quote to Order

QUOTE #	QUOTE DATE	QUOTE REFERENCE	CUSTOMER #	GRAND TOTAL
NGPL152	3/6/2023	FARONICS HDP6600	12775051	$6,522.00

QUOTE DETAILS

ITEM	QTY	CDW#	UNIT PRICE	EXT. PRICE
HID Fargo HDP6600 Dual Side Printer Mfg. Part#: 094660 Contract: National IPA Technology Solutions (2018011-01)	1	6880674	$6,000.00	$6,000.00

SUBTOTAL	$6,000.00
SHIPPING	$0.00
SALES TAX	$522.00
GRAND TOTAL	**$6,522.00**

PURCHASER BILLING INFO	DELIVER TO
Billing Address: BENTON COUNTY INFORMATION TECH ACCOUNTS PAYABLE PO BOX 608 PROSSER, WA 99350-0608 **Phone:** (509) 786-5603 **Payment Terms:** VISA	**Shipping Address:** BENTON COUNTY INFORMATION TECH 620 MARKET ST PROSSER, WA 99350-1300 **Shipping Method:** DROP SHIP-GROUND
	Please remit payments to:
	CDW Government 75 Remittance Drive Suite 1515 Chicago, IL 60675-1515



Sales Contact Info

Dan Ferner | (866) 465-9919 | danfern@cdw.com

LEASE OPTIONS			
FMV TOTAL	FMV LEASE OPTION	BO TOTAL	BO LEASE OPTION

$6,000.00	**$168.54/Month**	**$6,000.00**	**$192.54/Month**

Monthly payment based on 36 month lease. Other terms and options are available. Contact your Account Manager for details. Payment quoted is subject to change.

Why finance?

• Lower Upfront Costs. Get the products you need without impacting cash flow. Preserve your working capital and existing credit line.

• Flexible Payment Terms. 100% financing with no money down, payment deferrals and payment schedules that match your company's business cycles.

• Predictable, Low Monthly Payments. Pay over time. Lease payments are fixed and can be tailored to your budget levels or revenue streams.

• Technology Refresh. Keep current technology with minimal financial impact or risk. Add-on or upgrade during the lease term and choose to return or purchase the equipment at end of lease.

• Bundle Costs. You can combine hardware, software, and services into a single transaction and pay for your software licenses over time! We know your challenges and understand the need for flexibility.

General Terms and Conditions:

This quote is not legally binding and is for discussion purposes only. The rates are estimate only and are based on a collection of industry data from numerous sources. All rates and financial quotes are subject to final review, approval, and documentation by our leasing partners. Payments above exclude all applicable taxes. Financing is subject to credit approval and review of final equipment and services configuration. Fair Market Value leases are structured with the assumption that the equipment has a residual value at the end of the lease term.

Need Help?

 My Account

 Support

 Call 800.800.4239

About Us | Privacy Policy | Terms and Conditions

This order is subject to CDW's Terms and Conditions of Sales and Service Projects at
http://www.cdwg.com/content/terms-conditions/product-sales.aspx
For more information, contact a CDW account manager

© 2023 CDW•G LLC, 200 N. Milwaukee Avenue, Vernon Hills, IL 60061 | 800.808.4239

Evergreen ID, Security, & Fire
10512 NE 68TH ST, Ste 103
KIRKLAND, WA 98033
+1 4258897400
Sales@evergreenidsf.com
www.evergreenidsf.com

Estimate

ADDRESS
Jason Erickson
Benton County Sheriff's Office
7122 W Okanogan Pl, Bldg B
Kennewick, WA 99336

SHIP TO
Jason Erickson
Benton County Sheriff's Office
7122 W Okanogan Pl, Bldg B
Kennewick, WA 99336

ESTIMATE #
1256

DATE
02/17/2023

DATE	PRODUCT/SERVICE	DESCRIPTION	QTY	RATE	AMOUNT
	HDP6600 Dual-Sided with 1M Lam	HDP6600 Retransfer Printer, Dual-Sided, with 1 material instant-on laminator	1	7,200.00	7,200.00T

We look forward to working with you!

SUBTOTAL	7,200.00
TAX	626.40
TOTAL	**$7,826.40**

Accepted By

Accepted Date

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	FC 03/28/23 BC 04/11/23
Subject:	Amendment No. 1 to the Interagency Agreement IAA23087 with Administrative Office of the Courts for Court Interpreter Funding
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 State of Washington, Administrative Office of the Courts (AOC) is providing funds to the Benton-Franklin Counties Juvenile Justice Center (BFJJC) to improve the quality and availability of court interpreter services for Limited English Proficient (LEP), deaf and hard of hearing persons in accordance with RCW 2.242 and 2.43. The interpreter funding is targeted to reimburse Certified, Registered and Qualified Interpreters for interpreter services in accordance with the Interpreter Services Funding Requirements.

The purpose of Amendment No. 1 is to increase reimbursement amount by $2,000. The period of performance for this agreement is from July 1, 2022 through June 30, 2023. The Amendment No. 1 Interagency Agreement IAA23087 is backdated to July 1, 2022 so that services are not interrupted, and the Juvenile Justice Center can maximize the use of available funds effective on July 1, 2022.

Fiscal Impact

The reimbursed compensation from the Administrative Office of the Courts (AOC) is amended to a maximum of $32,122.55.

Recommendation

We recommend that the Board of Commissioners of Benton County and the Board of Commissioners of Franklin County sign Amendment No. 1 to the Interagency Agreement No. IAA23087 between the Benton-Franklin Counties Juvenile Justice Center and the State of Washington Administrative Office of the Courts.

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 APPROVING AMENDMENT NO. 1 TO THE INTERAGENCY AGREEMENT IAA23087 BETWEEN THE JUVENILE JUSTICE CENTER AND STATE OF WASHINGTON, ADMINISTRATIVE OFFICE OF THE COURTS

WHEREAS, David Wheeler, Administrator of the Juvenile Court, believes it is in the best interest of the Juvenile Justice Center that Amendment No. 1 to the Interagency Agreement IAA23087 between the State of Washington, Administrative Office of the Courts, and Benton-Franklin Counties Juvenile Justice Center be approved as presented; and

WHEREAS, Amendment No. 1 was not received until March 8, 2023 and is backdated to July 1, 2022 so that services are not disrupted and so that the Juvenile Justice Center can maximize the use of available funds effective July 1, 2022; and

BE IT RESOLVED, by the Board of Benton County Commissioners, Benton County, Washington and by the Board of Franklin County Commissioners, Franklin County, Washington, that the boards hereby concur with the Administrator and approve Amendment No. 1 to the Interagency Agreement IAA23087 between the Juvenile Justice Center and the State of Washington, Administrative Office of the Courts; and

BE IT FURTHER RESOLVED, the Juvenile Justice Center will be reimbursed a maximum of $32,122.55 for costs incurred during the period of performance; and

BE IT FURTHER RESOLVED, that the chairs are authorized to sign the attached Amendment No. 1 to the Interagency Agreement IAA23087; and

BE IT FURTHER RESOLVED, the agreement is effective July 1, 2022 and expires on June 30, 2023.

DATED this _____ day of _____ 2023

BENTON COUNTY BOARD OF COMMISSIONERS

_____
Chairman of the Board

_____
Commissioner

_____
Commissioner

Constituting the Board of
County Commissioners,
Benton County, Washington

Attest:

_____
Clerk of the Board

DATED this _____ day of _____ 2023

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-AOC Interpreter IAA23087 Amend #1, 1-BFJJC R. Garcia

AMENDMENT 1 – IAA23087

WASHINGTON STATE ADMINISTRATIVE OFFICE OF THE COURTS

AND

BENTON/FRANKLIN COUNTIES JUVENILE COURT

THIS Amendment to the Agreement is made by and between, **Washington State Administrative Office of the Courts** (AOC) and**Benton/Franklin Counties Juvenile Court**

PURPOSE This Amendment amount adds reimbursement for distributing funds for court interpreter and language access service expenses. The Amendment One Amount is $2,000.00

COMPENSATION

a) The Court shall be reimbursed a maximum of $32,122.55 for interpreter and language access services costs incurred during the period of July 1, 2022 to June 30, 2023. No reimbursement shall be made under this Agreement for interpreting services provided after June 30, 2023.

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

c) The Court shall not be reimbursed for interpreter services costs for Qualifying Events or other goods and services set forth in **Exhibit A** until properly-completed A-19 invoices, and corresponding data, are received and approved by AOC, pursuant to the following schedule:

   1) Reflecting Qualifying and non-qualifying Events, and any goods or services purchased, occurring between July 1, 2022 and September 30, 2022, must be received by the AOC no later than December 31, 2022.
   2) Reflecting Qualifying and non-qualifying Events, and any goods or services, purchased occurring between October 1, 2022 and December 31, 2022, must be received by the AOC no later than January 31, 2023.
   3) Reflecting Qualifying and non-qualifying Events, and any goods or services, occurring between January 1, 2023 and March 31, 2023, must be received by the AOC no later than April 30, 2023.
   4) Reflecting Qualifying and non-qualifying Events, and any goods or services, occurring between April 1, 2023 and June 30, 2023, must be received by the AOC no later than July 15, 2023.

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

e) The Court shall submit its A-19 invoices quarterly through the web application. The Data shall be submitted electronically to the AOC as described in Section c, above, and in conjunction with the quarterly invoice.

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

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

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

All other provisions of the original agreement stand as written and amended.

THIS AMENDMENT is executed by the persons signing below who warrant that they have the authority to execute it.

Administrative Office of the Courts

Signature *Date*	*Signature* 3/15/2023 *Date*
Dawn Marie Rubio	David Wheeler
Name	*Name*
State Court Administrator	Juvenile Court Administrator
Title	*Title*

NAMES AND TITLES OF AUTHORIZED OFFICER (PERSON WITH LEGAL AUTHORITY: COUNTY COMMISSIONERS' CHAIR OF THE BOARD, MAYOR, CITY/TOWN MANAGER, AGENCY DIRECTOR)

BENTON-FRANKLIN COUNTIES JUVENILE JUSTICE CENTER

3/15/2023

David Wheeler, Juvenile Court Administrator **Date**

BENTON COUNTY APPROVAL

Approved as to Form:

03/4/23

Deputy Prosecuting Attorney Date

By: _____

Name: _____

Title: Chairman, Board of Commissioners

Date: _____

Attest:

Clerk of the Board: _____

FRANKLIN COUNTY APPROVAL

Approved as to Form:

_____ _____

Jennifer Johnson, Date
Civil Deputy Prosecuting Attorney

By: _____

Name: _____

Title: Chair, Board of Commissioners

Date: _____

Attest:

Clerk of the Board: _____

EXHIBIT A

WASHINGTON STATE LANGUAGE ACCESS INTERPRETER REIMBURSEMENT PROGRM FUNDING

FUNDING CONDITIONS AND PAYMENT STRUCTURE

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

1. **GENERAL FUNDING CONDITIONS**

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

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

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

2. **QUALIFYING INTERPRETING EVENTS**

   A. Spoken Language Interpreters Qualifying Events

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

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

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

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

   B. Sign Language Interpreters Qualifying Events

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

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

Certified interpreters are listed under three categories:

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

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

C. Staff Interpreters (Salaried Staff)

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

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

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

3. LANGUAGE ACCESS GOODS AND SERVICES

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

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

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

Other examples can be found here:

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

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

4. SCOPE OF REIMBURSEMENT FUNDING

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

5. PAYMENT STRUCTURE

A. Reimbursement Rate

a) **Spoken Language Interpreters**

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

b) **Sign Language Interpreters**

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

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

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

d) **Contracted Interpreters**

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

e) **Remote Interpreting**

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

f) **Cancellation Fees**

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

B. Travel Time and Mileage

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

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

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	April 11, 2023
Subject:	Executing a Memorandum of Understanding (MOU) between CRAB and Benton County
Presenter:	N/A
Prepared By:	S. Berry
Reviewed By:	M. Mahoney

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 County Road Administration Board (CRAB) will be purchasing ESRI Editor Term License to be used on the GIS-MO systems and invoice the Public Works annually. Public Works works closely with CRAB and needs the license to perform required reporting, tracking, and recording actions pertaining to county infrastructure. In order for CRAB to purchase the license an MOU must be signed.

Fiscal Impact

Amount: $250.00 (estimated) Annually

Fund: County Roads 0101101

Recommendation

The County Engineer recommends the Board approve the proposed Memorandum of Understanding with CRAB and Public Works.

Suggested Motion

Approve as part of the Consent Agenda.

R E S O L U T I O N

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY WASHINGTON:

IN THE MATTER OF APPROVING A MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN BENTON COUNTY PUBLIC WORKS AND COUNTY ROAD ADMINISTRATION BOARD (CRAB) FOR THE ANNUAL LICENSE FEE FOR ESRI TO BE USED ON THE GIS-MO SYSTEMS

WHEREAS, The County Road Administration Board (CRAB) requires an MOU to be signed for the purchase of an annual license for ESRI Editor Term License to be used on the GIS-Mo systems that Public Works employees use in conjunction with CRAB for reporting, tracking, and recording county infrastructure; and

WHEREAS, CRAB passes the annual cost of the license down to Benton County Public Works; and

WHEREAS, the County Engineer recommends the Board of County Commissioners' Chair sign the MOU so CRAB can purchase and assign the license to the designated County employee; **NOW, THEREFORE,**

BE IT RESOLVED that the Board of County Commissioners approve the MOU between Benton County Public Works and CRAB allowing CRAB to pass down the cost of an annual ESRI license to Benton County Public Works; and

BE IT FURTHER RESOLVED that the Board of County Commissioners authorizes Chair signature on the MOU.

Dated this ____ day of _____ 2023.

_____
Chairman

_____
Chairman Pro-Tem

_____
Commissioner

Attest:_____
Clerk of the Board

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

Orig.: Public Works S. Berry

Washington State
County Road Administration Board
2404 Chandler Court SW, Suite 240 Olympia, WA 98502

MEMORANDUM OF UNDERSTANDING
BETWEEN

WASHINGTON STATE COUNTY ROAD ADMINISTRATION BOARD AND

Benton County

FOR THE ADDITIONAL ESRI EDITOR TERM LICENSE(S) FOR GIS-MO

1. **Parties**

This Memorandum of Understanding (hereinafter referred to as "MOU") is made and entered into by and between Benton County (Hereinafter referred to as "COUNTY"), whose address is 102206 Wiser PKWY, Kennewick, WA 99338

and the Washington State County Road Administration Board (hereinafter referred to as "CRAB"), whose address is 2404 Chandler Ct SW, Olympia, WA 98502.

2. **Purpose**

The purpose of this MOU is to establish the terms and conditions under which CRAB will procure ESRI Editor Term License(s) on behalf of the COUNTY for use in the GIS-Mo system.

3. **Term of MOU**

This MOU is effective upon the day and date last signed and executed by the duly authorized representatives of the parties to this MOU and the governing bodies of the parties' respective counties or municipalities and shall remain in full force and effect for not longer than Annually till the month of May.

4. **Responsibilities of COUNTY**

COUNTY will be responsible for the cost of a number of ESRI Editor Term License(s) by COUNTY in this agreement. Cost of ESRI Editor Term License(s) will be invoiced by CRAB in Annually in June. This invoice will be processed within 30-days of receipt within the processes set forth by the county's accounts payable process.

5. **Responsibilities of CRAB**

CRAB will procure ESRI Editor Term License(s) for COUNTY to use in the GIS-Mo system, including CRAB GIS Portal, CRAB Roads and Highways, and CRAB ESRI Collector Apps. CRAB will invoice the COUNTY ***Annually in the month of June*** for the cost of ESRI Editor Term Licenses listed below in section 8 plus sales tax.

6. General Provisions

A. Amendments

Either party may request changes to this MOU. Any changes, modifications, revisions, or amendments to this MOU which are mutually agreed upon by and between the COUNTY and CRAB to this MOU shall be incorporated by written instrument, and effective when executed and signed by all parties to this MOU.

B. Applicable Law

The construction, interpretation, and enforcement of this MOU shall be governed by the laws of the State of Washington. The courts of the State of Washington shall have jurisdiction over any action arising out of this MOU and over the parties, and the venue shall be located in Thurston County, Washington.

C. Entirety of Agreement

This MOU, consisting of four pages, represents the entire and integrated agreement between the COUNTY and CRAB for ESRI licensing to be used on the GIS-Mo systems and supersedes all prior negotiations, representations, and agreements, whether written or oral.

D. Serviceability

Should any portion of this MOU be judicially determined to be illegal or unenforceable, the remainder of the MOU shall continue in full force and effect, and either party may renegotiate the terms affected by the severance.

E. Third-Party Beneficiary Rights

The parties do not intend to create in any other individual or entity the status of a third-party beneficiary, and this MOU shall not be construed so as to create such status. The rights, duties and obligations contained in this MOU shall operate only between the COUNTY and CRAB to this MOU, and shall inure solely to the benefit of the parties to this MOU. The provisions of this MOU are intended only to assist the parties in determining and performing their obligations under this MOU. The parties to this MOU intend and expressly agree that only the party's signatory to this MOU shall have any legal or equitable right to seek to enforce this MOU, to seek any remedy arising out of a party's performance or failure to perform any term or condition of this MOU or to bring an action for the breach of this MOU.

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7. ESRI Licenses

COUNTY does not require any additional ESRI licenses for the upcoming road log audit year. CRAB will remove all additional licenses assigned to COUNTY staff, leaving a single license for designated road log manager.

OR

COUNTY requires additional ESRI licenses beyond the single license CRAB supplies to designated road log manager.

This table indicates the number of ESRI licenses COUNTY authorizes CRAB to purchase on its' behalf:

FIRST NAME	LAST NAME	TITLE	EMAIL	PHONE	SAW Username
Brian	Malley	TPC	brian.malley@co.benton.wa.us	509-786-5611	bmalley

Total # ESRI Editor Term License(s):	
Price Per License:	**$223.00**
Total:	223.00
Sales Tax (9.4%):	20.96
Total Cost:	243.96

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8. Signatures

In witness of whom, the parties to this MOU through their duly authorized representatives have executed this MOU on the days and dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this MOU as set forth herein.

The effective date of this MOU is the date of the signature last affixed to this page.

Signatory Name	Signatory Title	Signatory Signature	Date
Matt Rasmussen	County Engineer		

***Only one Signatory needs to sign this MOU**

County Road Administration Board

Signatory Name	Signatory Title	Signatory Signature	Date

Shela Berry

From: Reid Hay
Sent: Thursday, March 23, 2023 2:43 PM
To: Shela Berry
Cc: Brian Malley
Subject: MOU with CRAB

Shela,

I have reviewed the proposed MOU with CRAB for an ESRI Editor Term License, and it is approved as to form.

-- Reid

Reid Hay
Deputy Prosecuting Attorney
Benton County Prosecuting 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.

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	April 11, 2023
Subject:	Rejecting All Bids for the Justice Center Sidewalk Repair 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

Benton County is responsible for maintaining all the sidewalks within the Kennewick Justice Center Campus. There are certain sections that are in need of repair.

On March 6, 2023, the Purchasing Department solicited bids off the Small Works Roster for the repair of some of the Justice Center sidewalks, with four bids being received as follows:

- Spyder Corp, LLC of Richland, WA - Non- Responsive
- W Business Solutions, LLC DBA Transblue of Monroe, WA – $80,730.00
- Ray Poland & Sons of Kennewick, WA – $86,350.00
- Ellison Earthworks, LLC of Richland, WA – $99,504.38

The Purchasing Department determined the bids to be not in the county's best interest due to the low Bid being significantly higher than the allotted budget for the project.

Fiscal Impact

Amount: N/A

Fund: N/A

Recommendation

The Purchasing Department recommends that the Board of County Commissioners reject all bids as allowed in the bidding documents.

Suggested Motion

Approve as part of the Consent Agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF REJECTING ALL BIDS FOR THE SIDEWALK REPAIR PROJECT AT THE KENNEWICK JUSTICE CENTER

WHEREAS, Benton County is responsible for maintaining all the sidewalks within the Kennewick Justice Center Campus. There are certain sections that are in need of repair; and

WHEREAS, on March 6, 2023, the Purchasing Department solicited bids off the Small Works Roster for the repair of some of the Justice Center sidewalks; and

WHEREAS, four bids were received and opened on March 21, 2023, as follows;

- Spyder Corp, LLC of Richland, WA - Non- Responsive
- W Business Solutions, LLC DBA Transblue of Monroe, WA – $80,730.00
- Ray Poland & Sons of Kennewick, WA – $86,350.00
- Ellison Earthworks, LLC of Richland, WA – $99,504.38

WHEREAS, the Purchasing Department determined the bids to not be in the County's best interest due to the low bid being significantly higher than the allotted budget for the project; and

WHEREAS, the Bid stated, "The Board reserves the right to reject all bids and discontinue the bid process if it determines that such course of action is in the best interest of the County"; and

WHEREAS, the Purchasing Department recommends it to be in the best public interest to reject all bids; **NOW, THEREFORE,**

BE IT RESOLVED, the Board of Benton County Commissioners concurs with the Purchasing Department's recommendation and hereby rejects all bids received for the Justice Center Sidewalk Repair Project.

Dated this 11th day of April 2023.

_____
Chairman

_____
Chairman Pro-Tem

_____
Commissioner

Attest:_____
Clerk of the Board

Constituting the Board of County Commissioners of Benton County, Washington

Orig: Purchasing Department P. Schut

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	April 11, 2023
Subject:	Execute Contract with MMEC Architecture & Interiors, LLC for the Design of the Administration Office Remodel
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

Some modifications of office space in the Administration Building need to be done on both the first and second floors.

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 MMEC Architecture & Interiors, LLC as the most qualified consultant, as they were the design firm for the original Administration Building.

The Director of Operations & Capital Programs recommends executing a contract with MMEC Architecture & Interiors, LLC. A Professional Services Contract has been prepared, reviewed, and approved as to form by our departmental Deputy Prosecuting Attorney and signed by MMEC Architecture & Interiors, LLC.

The Contract will commence on the last date signed and will expire on January 31, 2024.

Fiscal Impact

Amount: $41,750.00 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 MMEC Architecture & Interiors, LLC. for the Administration Office Remodel.

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 MMEC ARCHITECTURE & INTERIORS, LLC, KENNEWICK, WASHINGTON, FOR THE DESIGN OF THE ADMINISTRATION OFFICE REMODEL

WHEREAS, some modifications of office space in the Administration Building need to be done on both the first and second floors; 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 MMEC Architecture & Interiors, LLC as the most qualified consultant as they were the design firm of the original Administration Building; and

WHEREAS, the Director of Operations & Capital Programs recommends executing a contract with MMEC Architecture & Interiors, LLC; and

WHEREAS, a Professional Services Contract has been prepared, reviewed, and approved as to form by our departmental Deputy Prosecuting Attorney and signed by MMEC Architecture & Interiors, LLC; and

WHEREAS, the contract in the amount of $41,750.00, excluding Washington State Sales Tax, has been executed by MMEC Architecture & Interiors, LLC; **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 Administration Office Remodel with MMEC Architecture & Interiors, LLC, of Kennewick, Washington, for a total amount not to exceed $41,750.00 excluding WSST; and

BE IT FURTHER RESOLVED, the Director of Operations and Capital Programs is hereby authorized to proceed with the Administration Office Remodel 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 January 31, 2024.

Dated this 11th day of April 2023.

_____
Chairman

_____
Chairman Pro-Tem

_____
Commissioner

Attest:_____
Clerk of the Board

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

Orig.: Procurement
cc: Auditor, PA, MMEC

P. Schut

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BENTON COUNTY
ARCHITECTURAL/ENGINEERING
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 **MMEC ARCHITECTURE & INTERIORS, LLC**, a Limited Liability Company organized under the laws of the State of Washington with its principal offices at 7601 W. Clearwater Ave., STE 450 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 and Fee Schedule

2. DURATION OF CONTRACT

The term of this Contract shall begin on the last date signed and shall expire on January 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

The COUNTY requires and the CONTRACTOR agrees to perform the following services:

a. Provide Architectural and Engineering Services for Benton County Administration Building Remodel design all in accordance with Exhibit A attached hereto; subject to the following requirements and limitations:

i. The CONTRACTOR agrees to provide its own labor and materials as included costs in the fees payable consistent with Exhibit A and Section 5 below. Unless otherwise provided for in a work order, no materials, labor, or facilities will

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be furnished by the COUNTY.

ii. The CONTRACTOR shall review the COUNTY's scope of work, budget and schedule and reach an understanding with the COUNTY of the project requirements. Based on the approved project requirements, the CONTRACTOR shall develop a design. Upon COUNTY's approval of the design, CONTRACTOR shall prepare construction documents indicating requirements for construction of the project and shall coordinate its services with any consulting services the COUNTY provides. The Contractor shall assist the COUNTY in filing documents required for the approval of government authorities in obtaining proposals and in awarding contracts for construction. During the construction phase, CONTRACTOR shall act as the COUNTY's representative to the extent set forth in this Contract. CONTRACTOR will visit the construction site at intervals appropriate the stage of construction to become generally familiar with the progress and quality of the work. CONTRACTOR will not have control over or charge of, and will not be responsible for, construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the construction work. Based on the CONTRACTOR's observations and evaluations of the construction, CONTRACTOR shall certify amount the amounts due to the construction contractor. CONTRACTOR shall promptly review and approve or take appropriate action upon construction contractor's submittals for the limited purpose of checking with the conformance of information given and the design concept expressed in the contract documents. CONTRACTOR shall be responsible for producing all contract documents and correspondence related to construction or improvement projects for which CONTRACTOR is responsible. CONTRACTOR shall oversee, manage and direct all facets of project in a manner consistent with the standards expected of similarly situated architects on construction or improvement projects within the State of Washington. CONTRACTOR shall generate all necessary documentation and contracts associated with construction or improvement projects for which CONTRACTOR is responsible subject, when appropriate, to review by COUNTY's legal counsel, and shall amend or modify such documents and contracts at the direction of COUNTY's legal counsel or COUNTY's representative. These documents and contracts include, but are not limited to: request for proposals/request for competitive bids to include posting the legal advertisements; Notices to Proceed; AIA standard form contracts; Change Orders; approval of all Progress Payments;

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Letter of Substantial Completion. The CONTRACTOR shall forward all original documents to the COUNTY at COUNTY's request, and shall retain all records related to any given project for the appropriate Washington State Retention Schedule as promulgated by the Washington State Archivist.

iii. The CONTRACTOR shall perform the work consistent with the industry standards in the A&E Profession. Specifically, in instances where project contracts call for the architect to exercise independent discretion in making a decision or resolving a dispute, CONTRACTOR shall do so in an independent fashion.

iv. The CONTRACTOR shall complete each task assigned in a timely manner according to the schedule agreed to by the parties.

b. Information and Reports: The CONTRACTOR'S representative shall meet with the COUNTY'S representative as specified in each work order, and if not stated, no less than one time per week while a work order is in progress. The CONTRACTOR shall prepare and present status reports and other required information as specified in each work order, or as otherwise requested in writing 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:	Heidi Pierce
Address:	7601 W. Clearwater Ave., Suite 450 Kennewick, WA 99336
Phone:	(509) 624-6800
Email:	heidi@mmecarchitecture.com

b. For COUNTY:

Name:	Robert Blain
Address:	7122 W. Okanogan Place #E330 Kennewick, WA 99336
Phone:	(509) 736-2704
Email:	procurement@co.benton.wa.us

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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 and Fee Schedule", 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 forty-one thousand seven hundred fifty dollars and zero cents ($41,750.00), 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.

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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. In the event of the concurrent negligence of the CONTRACTOR or its subcontractors, employees, or agents and the COUNTY or its employees or agents this indemnification obligation of the CONTRACTOR shall be valid and enforceable only to the extent of the negligence of the CONTRACTOR and its subcontractors, employees, and agents.

b. In any and all claims against the COUNTY 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

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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

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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:

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$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:**

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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

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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.

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

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

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

9. TERMINATION

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

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

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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,

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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 its obligations hereunder on the basis of age, sex, marital status, sexual orientation, race, creed, religion, color, national origin, honorably discharged veteran or military status, disability, or any other protected status.

16. OWNERSHIP OF MATERIALS/WORKS PRODUCED

a. 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

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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 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

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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.

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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

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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 -

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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.

Date:_____	Date: 3/28/2023
BENTON COUNTY, WASHINGTON	**MMEC ARCHITECTURE & INTERIORS, LLC**
	DocuSigned by: Heidi Pierce 83631E8C79084B4...
Chairman Benton County Commissioner	Signature Principal Architect
Approved as to Form:	Title:
DocuSigned by: Eric Andrews B4F7673BB8A1406...	Heidi Pierce
Eric Andrews, Civil Deputy Prosecuting Attorney	PRINTED NAME

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March 20, 2023

Robert Blain
Benton County
7122 W. Okanogan Place, Bldg. E
Kennewick, WA 99336

RE: Proposal for A&E Services

Dear Robert,

Thank you for giving us the opportunity to provide a proposal for the 1st floor modification and 2nd floor buildout in Benton County Administration Building at 7122 W. Okanogan Place.

SCOPE OF SERVICES

The proposed services include assisting the owner with the permitting process with the City of Kennewick, and the design and construction drawings for modifications and buildout as follows:

- Provide site investigation of current conditions.
- Coordinate with Benton County on design, to include 3 virtual or in-person meetings.
- Coordinate with Mechanical engineer, Electrical engineer, and Structural engineer (if required) for Construction Documents.
- Provide biddable construction documents to Benton County.
- Assist in submittal of permit applications to the City of Kennewick.
- Assist Benton County with Bidding (substitution request reviews, addenda)

SCHEDULE

The construction documents will take approximately 6-8 weeks to coordinate and execute, excluding the permitting process through the City of Kennewick. The permitting process will take approximately 4-6 weeks.

FEE PROPOSAL

We propose to provide the scope of work as listed below, to be billed hourly at our standard hourly rates with a maximum fee not to exceed $41,750.

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Design Phase:

Architectural:	$23,000
Mechanical:	$6.050
Electrical:	$5,500
Structural:	$2,200 (allowance)
TOTAL Design	**$36,750**

Construction Phase: **$5,000 (allowance)**

Not to Exceed Total **$41,750**

Additional Services (billed hourly):

- Renderings/Graphics

Reimbursable Expenses:

- Out of pocket reimbursable expenses (Examples of these expenses could be bid set printing, plan review fees, permit costs, etc.) – Invoice plus 5%
- Consultant fee – Invoice plus 10%
- Additional services Billing Rates:

Principal Architect/Principal Int. Designer	$225/hr.
Project Manager/Interior Designer III	$135/hr.
Project Manager/Interior Designer II	$110/hr.
Project Manager/Interior Designer I	$85/hr.
Drafting Support/Intern	$60/hr.

If you have any questions or comments regarding this proposal, please don't hesitate to call. We look forward to helping you complete this project.

Sincerely,

Heidi Pierce, AIA
Principal

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	April 11, 2023
Subject:	Awarding and executing a contract with Frontier Fence, Inc. for the Prosser Courthouse & Voting Center Fence
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

Bids were solicited for the installation of new fencing at the Prosser Courthouse & Voting Center utilizing the limited public works processs through the MRSC Small Works Roster, and one bid was received in the amount below:

Frontier Fence, Inc., Pasco, WA (FRONTF*258BH) $ 18,600.00

Fiscal Impact

Amount: $18,600.00 excluding W.S.S.T.

Fund: Capital Projects Fund (Fund # 0305-101)

Recommendation

Award the Contract for Prosser Courthouse & Voting Center Fencing Project in an amount not to exceed $18,600.00 to Frontier Fence, Inc., Pasco, WA, and authorize the Chairman to sign said Contract.

Suggested Motion

Approve as part of the Consent Agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AWARDING THE CONTRACT FOR THE PROSSER COURTHOUSE & VOTING CENTER FENCING PROJECT TO FRONTIER FENCE, INC. OF PASCO, WA AND AUTHORIZING THE CHAIRMAN TO SIGN SAID CONTRACT

WHEREAS, bids were solicited through MRSC Small Works Roster for the Prosser Courthouse & Voting Center fencing project; and

WHEREAS, one bid was received in the amount below:

Frontier Fence, Inc., Pasco, WA (FRONTF*258BH) $ 18,600.00

WHEREAS, the Director of Operations and Capital Programs recommends the award of the bid to Frontier Fence, Inc., Pasco, WA; and

WHEREAS, a contract has been prepared, reviewed, and approved as to form by our departmental Deputy Prosecuting Attorney from the Civil Division; and has been executed by Frontier Fence, Inc., Pasco, WA; and

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

BE IT RESOLVED, the Board of Benton County Commissioners concurs with the Director of Operations and Capital Program's recommendation and awards the bid for the Prosser Courthouse & Voting Center Fencing Project to Frontier Fence, Inc., Pasco, Washington, in a not to exceed the amount of $18,600.00 excluding Washington State Sales Tax; and

BE IT FURTHER RESOLVED, the Board hereby authorizes the Chairman of the Board of County Commissioners to sign on behalf of Benton County said contract to Frontier Fence, Inc., Pasco, WA; and

BE IT FURTHER RESOLVED, said contract expires May 31, 2023.

Dated this 11th day of April, 2023.

_____
Chairman

_____
Chairman Pro-Tem

_____
Commissioner

Attest:_____
Clerk of the Board

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

Orig.: Purchasing P. Schut
c: Auditor, PA, R. Ollero, Procurement

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BENTON COUNTY
PUBLIC WORKS CONTRACT

TERMS AND CONDITIONS

THIS CONTRACT is made and entered into by and between **BENTON COUNTY**, a political subdivision with its principal offices at 620 Market Street, Prosser, WA 99350 (hereinafter "COUNTY"), and **FRONTIER FENCE, INC.**, a corporation organized under the laws of the State of Washington with its principal offices at 2516 N Commerical, Ave, 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; and
b. Exhibit B – Prosser Scope of Work & Drawing; and
c. Exhibit C – Voting Center Scope of Work & Drawing
d. Exhibit D – Washington State Prevailing Wage Rates for Public Works Contracts.

2. DURATION OF CONTRACT

The term of this Contract shall begin on last date signed, and shall expire on May 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 install chainlink fencing for the Prosser Parking Lot & Voting Center in Richland as detailed out in Exhibit B, "Prosser Scope of Work & Drawing," and Exhibit C, "Voting Center Scope of Work & Drawing".

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 COUNTY of that fact and shall coordinate with COUNTY to complete the work in conjunction with the other Contractor. In the event that the

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requested work requires, under State or local law, the issuance of a building or other permit, CONTRACTOR shall be responsible for procuring such permit and arranging for inspection and certification of the work. CONTRACTOR may bill COUNTY for the full cost of the permit and any labor time for any of its employees involved in the permitting process, but may not charge any additional processing or other fees that it does not actually incur.

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 COUNTY's Contract Representative, or his or her designee, prior to the CONTRACTOR leaving the work site.

d. The COUNTY does not guarantee utilization of this Contract. The COUNTY 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 COUNTY.

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 COUNTY.

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

4. CONTRACT REPRESENTATIVES

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

a. For CONTRACTOR:

Name: Brad Snuggs

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Address:	2516 N Commercial Ave Pasco, WA 99301
Phone:	509-545-1801
Email:	bsnuggs@frontierfenceinc.com

b. For COUNTY:

Name:	Riley Ollero Construction Manager
Address:	7122 W Okanogan Place; STE E330 Kennewick, WA, 99336
Phone:	509-736-2704
Email:	Riley.Ollero@co.benton.wa.us

5. COMPENSATION

a. For the services performed under this Contract, the CONTRACTOR shall be paid the flat amount set forth in Exhibit A, "Bid Form" which is attached hereto and incorporated herein by reference

b. The maximum total amount payable by the COUNTY to the CONTRACTOR under this Contract shall not exceed eighteen Thousand Six Hundred Dollars and Zero Cents ($18,600.00), excluding 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 COUNTY promptly in writing if the CONTRACTOR's cumulative accounts receivable attributable to the COUNTY, 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. Prior to any compensation being paid, CONTRACTOR shall submit a Statement of Intent to Pay Prevailing Wages via https://secureaccess.wa.gov/ and then forward a copy of the statement to COUNTY'S Contract Representative. At the end of the contract term the CONTRACTOR shall submit an Affidavit of Wages Paid via https://secureaccess.wa.gov/ and then forward a copy of the affidavit to COUNTY'S Contract Representative. No final payment will be made until the affidavit is provided. COUNTY requires that all Statements of Intent to Pay

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Prevailing Wages and Affidavits of Wages Paid be filed electronically with https://secureaccess.wa.gov/.

d. The CONTRACTOR may invoice the COUNTY for filing fees paid to the Washington State Department of Labor and Industries for filing one Statement of Intent to Pay Prevailing Wages per contract and one Affidavit of Wages Paid per contract.

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

6. INVOICING

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

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

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

d. For each invoiced and approved payment due to the CONTRACTOR under this section, the COUNTY shall withhold from the earned portion of the payment (*i.e.* that portion excluding sales tax or other tax) five percent (5%) as a contract retainage, pursuant to RCW 60.28.011 and in accordance with chapter 60.28 RCW. Within ten (10) days following the execution of this

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Contract, the CONTRACTOR shall submit written notice to the COUNTY stating the method it has elected pursuant to RCW 60.28.011(4) for the holding of moneys retained by the COUNTY. If such written election is not received by the COUNTY, then the COUNTY may choose any method allowed by RCW 60.28.011(4)(a)-(c) for holding the retained moneys.

7. AMENDMENTS AND CHANGES IN WORK

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

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

8. HOLD HARMLESS AND INDEMNIFICATION

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

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

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

9. INSURANCE

The CONTRACTOR shall obtain and maintain continuously the following insurance:

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

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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.

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

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

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

The CONTRACTOR must provide commercial general liability coverage that does not exclude any activity to be performed in fulfillment of this Contract and does not exclude liability

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pursuant to the indemnification requirement under Section 8. CONTRACTOR'S commercial general liability policy shall provide cross liability coverage, indicating essentially that except with respect to the limits of insurance and any rights or duties specifically assigned in this coverage part to the first named insured, this insurance applies as if each named insured were the only named insured, and separately to each insured against whom claims are made or suit is brought.

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

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

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

d. **Other Insurance Provisions:**

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

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

3. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the

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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

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subject to withholding or set-off will be released to CONTRACTOR.

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

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

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

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

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

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

10. PERFORMANCE AND PAYMENT BONDS

The CONTRACTOR shall furnish Benton County with a Performance Bond

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

11. NON-WAIVER OF RIGHTS

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

12. INDEPENDENT CONTRACTOR

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

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

c. The CONTRACTOR shall have and maintain complete responsibility and control over all of its subcontractors,

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employees, agents, and representatives. No subcontractor, employee, agent, or representative of the CONTRACTOR shall be, deem to be, act, or purport to act as an employee, agent, or representative of the COUNTY.

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

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

13. INSPECTION OF BOOKS AND RECORDS

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

14. CHOICE OF LAW AND JURISDICTION

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

15. SUCCESSORS AND ASSIGNS

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

16. TERMINATION

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 actual

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costs incurred by the CONTRACTOR in performing the Contract up to the date of such notice. Payment shall be made in accordance with Section 6, Invoicing. Nothing in this Section shall limit the rights of the COUNTY pursuant to this Contract or by law.

17. COMPLIANCE WITH LAWS AND PREVAILING WAGES

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

18. NONDISCRIMINATION

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

19. DISPUTES

Disputes over the CONTRACTOR’s performance shall be promptly addressed in writing by the aggrieved party in order that such matters may be settled or other appropriate action promptly taken. Any dispute relating to the quality or acceptability of performance and/or compensation due the CONTRACTOR shall be decided by the

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

20. ASSIGNMENT, DELEGATION, AND SUBCONTRACTING

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

21. VERIFICATION OF SUBCONTRACTOR RESPONSIBILITY CRITERIA

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

22. ENTIRE AGREEMENT

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

23. NOTICES

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

24. SEVERABILITY

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

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

25. LITIGATION HOLD NOTICE

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

26. PUBLIC RECORDS ACT

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

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CONTRACTOR may seek a judicial order of protection if necessary.

27. SURVIVABILITY

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

28. CONFIDENTIALITY

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

29. SECURITY BACKGROUND CHECK

The CONTRACTOR, its employees, subcontractors, and their employees who will be working onsite will be required to complete in full the Security Background Check, which can be found at https://bentoncountywa.jotform.com/211997385382974. Successful completion of the background check, as determined by the COUNTY, is required prior to the first day of work or entry into the jail. The COUNTY reserves the right to interview CONTRACTOR employees, or subcontractor employees as part of the security background process. The CONTRACTOR agrees to remove any of its employees, or subcontractor employees, prior to performance hereunder if in the sole discretion of the COUNTY said employees fail the Security Background Check. In addition, CONTRACTOR agrees to provide the COUNTY notice if during the performance of work hereunder any of its' employees, or subcontractors' employees, are charged with or convicted of any crime. Finally, if the CONTRACTOR, its employees, subcontractors, or their employees are working in the jail area and discover that a friend or family member is in the jail's custody they must immediately notify jail staff.

If fingerprints are required, CONTRACTOR, its employees, subcontractors, and their employees who will be working onsite must present themselves, their government issued identification and a check, exact cash, or money order for $34.25 for livescan,

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or $71.25 if required to ink roll the fingerprint, to the records staff at the Benton County Sheriff's Office. Fingerprints will be taken and submitted to Washington State Patrol for verification. A complete fingerprint based criminal history check and local criminal history will be completed by the Records Sergeant. Information regarding any felony or misdemeanor conviction history will be presented to the Risk Manager for a determination if the individual will be allowed UNESCORTED access to the facility. Any felony convictions for a Contractor's employee will be presented to the Washington State Patrol WSP ACCESS section to determine if they will allow unescorted access to locations which have access to the network housing the ACCESS program; which is anything connecting to the COUNTY network and the majority of computers within the facilities.

It will be solely determined by the COUNTY if the CONTRACTOR, its employees, subcontractors, and their employees will be required to complete the CJIS online training. This is a web-based training accessible from any computer.

- This section was intentionally left blank -

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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 last date signed.

Date:_____	Date: 3/31/2023
BENTON COUNTY	**FRONTIER FENCE, INC.**
	DocuSigned by: 1BC6EFA764D7464...
Chairman Benton County Board of County Commissioners	Signature
	Estimator
Approved as to Form:	Title:
DocuSigned by: Eric Andrews B4F7673BB8A1486...	Jose Esquivel
Civil Deputy Prosecuting Attorney	PRINTED NAME

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BID FORM

PROSSER PARKING LOT & VOTING CENTER FENCE PROJECT

Company Name Frontier Fence

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 NA

Addendum No. 2, dated NA

BID AMOUNT:

Project #1 – Prosser Courthouse Parking Lot Fence

LUMP SUM (excluding sales tax) $ 13,825

LUMP SUM (excluding sales tax), in words Thirteen thousand eight hundred twenty five dollers

Project #2 – Voting Center Fence

LUMP SUM (excluding sales tax) $ 4775

LUMP SUM (excluding sales tax), in words Four thousand seven hundied seventy five dollers

Grand Total Amount (Project #1 + Project # 2)

LUMP SUM (excluding sales tax) $ 18,600

LUMP SUM (excluding sales tax), in words Eighteen thousand six hundred dollers

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

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BID BOND:

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

Cashier's Check	✓	In the Amount of nine hundred thirty dollars
Certified Check	_____	($ 930) Payable to the County Treasurer of Benton County, Washington.
Bid Bond	_____	In the amount of 5% of the Bid.

CONTRACTOR'S LICENSE:

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

PUBLIC WORKS TRAINING:

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

ASSURANCE OF NON-DISCRIMINATION

The undersigned hereby agrees that he shall comply with Benton County's Non-Discrimination Policy and Plan, which is consistent with Titles VI and VII of the 1964 Civil Rights Act as amended in 1972; Executive Order 11246 as amended by Executive Order 11375; Sections 503 and 504 of the Rehabilitation Act of 1975 and the Age Discrimination in Employment Act of 1967; the 1974 Vietnam Era Veteran Readjustment Assistance Act; and the Washington State Laws Against Discrimination, Chapter 49.60 RCW. The policy reads as follows:

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

NON-COLLUSION DECLARATION

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

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

CERTIFICATION OF COMPLIANCE WITH WAGE PAYMENT STATUTES

The bidder hereby certifies that, within the three-year period immediately preceding the bid solicitation

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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 2nd day of March 2023.

COMPANY NAME: Frontier Fence Inc

AUTHORIZED SIGNATURE: [signature]

TYPE OR PRINT NAME: Jose Esquivel

TITLE: Manager / Estimator

STREET ADDRESS: 2516 N. Commercial Ave

CITY, STATE, ZIP: Pasco WA 99301

TELEPHONE NO.: (509) 545-1801

EMAIL: Jose@Frontierfenceinc.com

CONTRACTOR'S LICENSE NO.: FRONTF*258BH

UBI NO.: 600-144-110

WASHINGTON STATE EMPLOYMENT SECURITY NO.: 3866030005

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Prosser Gate Replacement - Scope

Estimate: $18,000 - $23,000

Schedule: 45 Calendar Days

Civil:

- Asphalt
  - Clean Saw cut edges
  - Cold patch asphalt as necessary
- Fencing
  - 5’ chain link to match existing
  - Posts; SCHED 40
    - Galvanized finish
    - Provide in accordance with ASTM F1043 and ASTM F1083
    - End/Corner Posts; 2-7/8” OD
    - Line Posts; 2-3/8” OD (10’ OC)
    - Top/Bottom Rail; 1-5/8”
  - Fence Fabric; 9 GA.
    - 2” mesh
    - Zinc-Coated fabric
    - Selvage: knuckled at top, twisted at bottom
  - 12” “Extend-an-Arm”
    - 3-strand non-barbed wire
- Rolling Gate; 12’ Opening
  - Steel Gate
  - Manual Operation
  - Padlock Latch

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Site Plan



General Notes:

1.) Install end posts for fence at new to existing fence locations.

2.) Cold patch asphalt as necessary.

8/16/2022, 7:03:12 AM

Parcels and Assess

1:282

0 0 0 0.01 mi

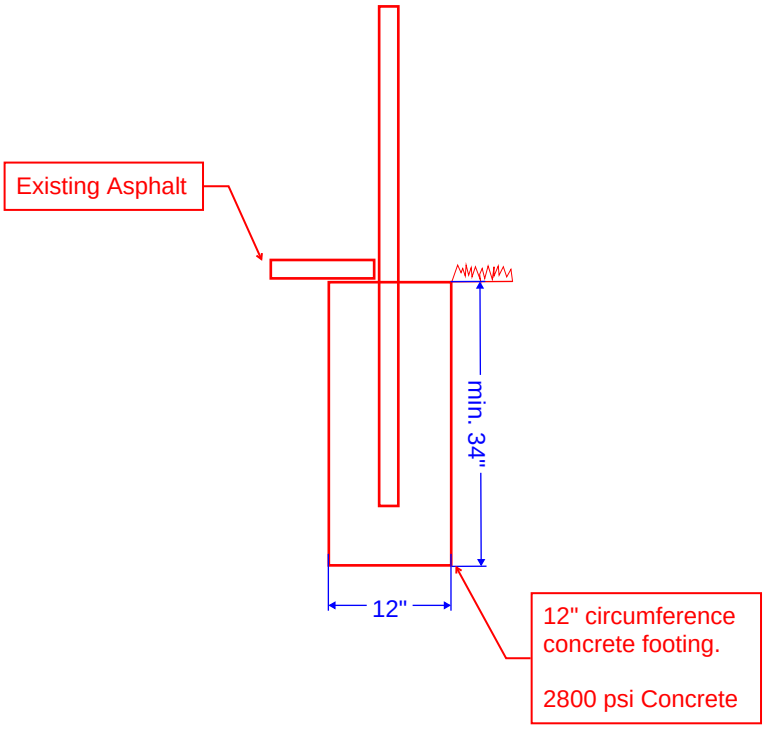
0 0 0.01 0.01 km

Esri Community Maps Contributors, State of Oregon GEO, WA State Parks GIS, © OpenStreetMap, Microsoft, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, Bureau of Land Management, EPA, NPS, US Census Bureau, USDA, Benton County WA, Maxar, Microsoft

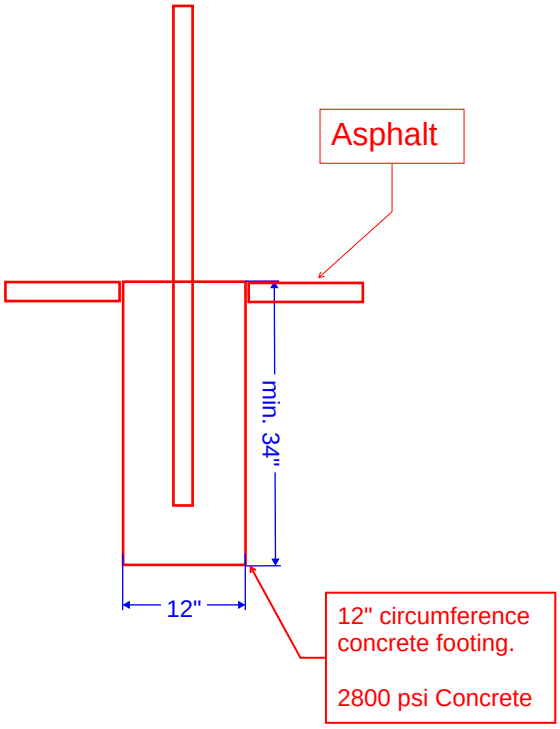
Benton County WA, Maxar, Microsoft | Esri Community Maps Contributors, State of Oregon GEO, WA State Parks GIS, © OpenStreetMap, Microsoft, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, Bureau of Land Management, EPA, NPS, US Census Bureau,

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Standard Details



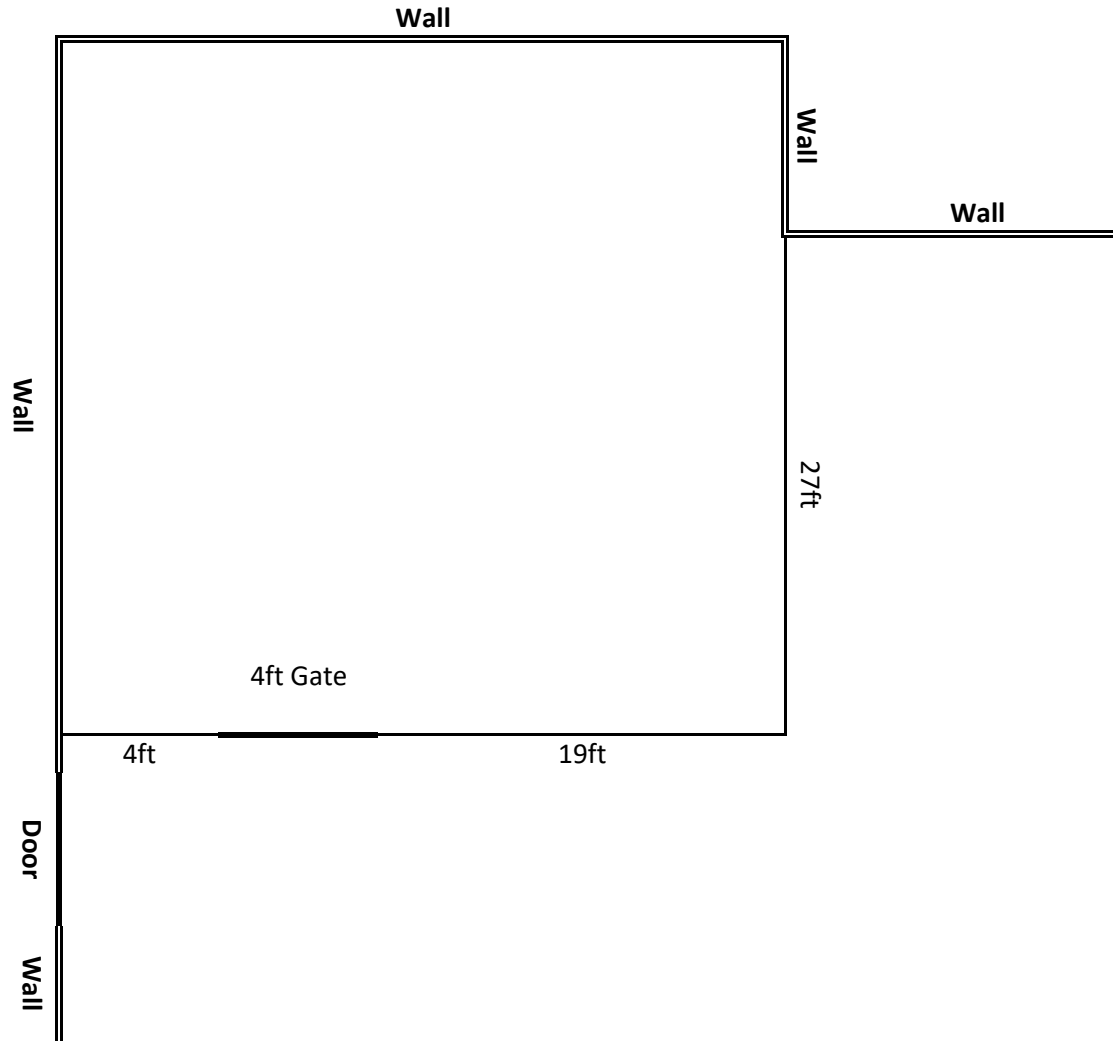
Fence Post Detail - Along Asphalt / Grass



Fence Post Detail - In Asphalt

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Voting Center Fence Drawing



Install approximately 54ft (including gates) of chain-link fence inside Voting Center in Richland, WA as per the attached drawing. The fence will be 8ft tall with an 11-gauge chain-link. Terminal & line posts will be 2-3/8th inch in size and will be secured to the surface of the current concrete floor. The top rail will be 1-5/8th inch in size. Middle brace and truss supports shall be installed as needed. We will need 1 gate w/standard gate latches

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EXHIBIT D

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

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

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

> The Department of Labor & Industries prevailing wage rate website is http://wsdot.wa.gov/Design/ProjectDev/WageRates/default.htm
>
> The publication date to use is December 29, 2022.
>
> The public works project is located in Benton County.

A copy of the prevailing wage rates, the benefit code key and the supplement are available for viewing at the Purchasing Department, 7122 W Okanogan Place; Bldg. A, Kennewick, WA Monday through Friday, between 8:00 a.m. & noon and between 1:00 p.m. & 5:00 p.m. except holidays.

The Purchasing Department will mail a hard copy of the wage rates upon request. We can be reached at (509)737-3943 or by email at Procurement@co.benton.wa.us

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	April 11, 2023
Subject:	Authorization to advertise and bid CB23-11 Furnishing Road Surfacing Materials
Presenter:	
Prepared By:	D. Hope
Reviewed By:	Purchasing

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 Benton County Public Works Department uses road surfacing materials in their routine maintenance of County roads. The road surfacing contracts will expire on June 30, 2023 and it is necessary to execute additional contracts to purchase additional road surfacing materials so that the Public Works department can maintain the County roads. A bid packet (No. CB23-11) has been prepared by the Purchasing Department staff, reviewed and approved as to form by the Prosecuting Attorney's office, and is now ready to receive bids.

The Benton County Procurement, Leasing and Contracting Policy (Resolution 2021-233) requires that the Board of County Commissioners authorize the advertisement of solicitation for bids when a formal bidding process is required.

Fiscal Impact

Amount: Not to exceed $200,000.00 for all contracts

Fund: Road Fund

Recommendation

The County Engineer recommends the Board authorize permission to proceed with the advertisement and bid process for Bid No CB23-11 Furnishing Road Surfacing Materials for the Benton County Public Works Department.

Suggested Motion

Approve as part of the consent agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF REQUESTING PERMISSION TO PROCEED WITH THE ADVERTISEMENT AND BID PROCESS FOR CB23-11 FURNISHING ROAD SURFACING MATERIALS FOR THE BENTON COUNTY PUBLIC WORKS DEPARTMENT

WHEREAS, the Benton County Public Works Department uses road surfacing materials in their routine maintenance of County roads; and

WHEREAS, the road surfacing contract that was previously entered into will expire on June 30, 2023 and it is necessary to purchase additional road surfacing materials for the routine maintenance of county roads; and

WHEREAS, a bid packet (No. CB23-11) has been prepared by the Benton County Purchasing Department staff, reviewed and approved as to form by the Benton County Prosecuting Attorney's office, and is now ready to receive bids; and

WHEREAS, the Benton County Procurement, Leasing and Contracting Policy (Resolution 2021-233) requires that the Board of County Commissioners authorize the advertisement of solicitation for bids when a formal bidding process is required; **NOW, THEREFORE**

BE IT RESOLVED, that the County Engineer is authorized to proceed with the advertisement and bid process for Bid No. CB23-11 Furnishing Road Surfacing Materials for the Benton County Public Works Department.

Dated this 11th day of April 2023.

_____
Chairman

_____
Chairman Pro-Tem

_____
Commissioner

Attest:_____
Clerk of the Board

Constituting the Board of County Commissioners of Benton County, Washington

Orig.: Purchasing Dept. D. Hope
cc: PA, Auditor, Procurement

DocuSign Envelope ID: 98F2FC37-0016-4750-9283-4F019B78627E

OFFICE OF THE BENTON COUNTY ENGINEER
BENTON COUNTY, WASHINGTON

REQUEST FOR BIDS

BIDS FOR:	CB23-11 FURNISHING ROAD SURFACING MATERIALS.
BIDS RECEIVED:	THURSDAY, APRIL 27, 2023, AT 11:00 A.M., AT THE BENTON COUNTY PUBLIC SERVICES BUILDING, 102206 E. WISER PARKWAY, KENNEWICK, WASHINGTON 99338. **NO BIDS WILL BE ACCEPTED AFTER THAT DATE AND TIME.**
BIDS OPENED:	THURSDAY, APRIL 27, 2023, AT 11:00 A.M., IN THE PUBLIC SERVICES BUILDING CONFERENCE ROOM, 102206 E. WISER PARKWAY, KENNEWICK, WASHINGTON.

1. INSTRUCTIONS:

Please state hereon, in the columns provided in the Proposal, the lowest price at which you will provide the articles specified. If you cannot supply one of the products requested in the proposal, please put N/A in the bid price line. Unsigned bids will not be considered.

The proposal shall be placed in a sealed envelope marked **"BIDS – ROAD SURFACING MATERIALS"** and delivered to Benton County Public Services Building at the location, date and time stated above. Bids shall be considered final at the time and date for receiving bids. The County will not accept any changes for any reason, including bidding errors. Use of the enclosed bid proposal is required. Only bids submitted on the official form will be considered. The bid shall not contain any unauthorized additions, deletions, alternate bids or conditions.

2. AWARD OF CONTRACT

The right is reserved by the Board of Benton County Commissioners to reject any or all quotes, to waive informalities in the bidding, and to make award of the business based on a fair appraisal of the competitive values offered and delivery time. The Board will not be bound necessarily by the low quote.

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

Should any discrepancies or omissions be found in the bid specifications, or doubt as to its meaning, bidder shall at once notify Danica Hope by telephone (509)783-1310 ext. 5665 or by email at procurement@co.benton.wa.us. Written instructions or addenda as required will be sent to all interested parties. All addenda issued shall be incorporated into the contract. The County shall not be held responsible for oral interpretations. Questions received less than forty-eight (48) hours before bid opening cannot be answered.

3. EXECUTION OF CONTRACT:

Successful bidder will be required to enter into a formal contract substantially similar to Exhibit A attached.

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4. PROPOSED PURCHASE:

Conforming to the requirements of the Washington State Department of Transportation Standard Specifications for Road, Bridge, and Municipal Construction, 2023 edition, the purchase contemplated is set forth as follows:

Furnishing HOT MIX ASPHALT (HMA), ASPHALT FOR TACK COAT, COLD MIX, CRUSHED SURFACING BASE COURSE, CRUSHED SURFACING TOP COURSE and CRUSHER REJECTS (FINES) as required by the Benton County Public Works Department during the period from July 1, 2023, through June 30, 2024.

The prices listed shall be the bidder's current bid prices. If prices increase or decrease during the contract period, the vendor shall notify the Benton County Engineer in writing at least thirty (30) days prior to the effective change date. The notice shall include verifiable justification for price increases.

The County will give the vendors advanced notice of estimated quantities needed and will endeavor to place orders 48 hours prior to required delivery, except in emergencies.

The County may not be able to take continuous production depending on truck availability and travel distance. Every effort will be made to cooperate with vendor's scheduling requirements.

Pursuant to RCW 36.32.256, the County reserves the right to award the contract to more than one bidder, and to purchase material from a vendor other than the lowest bidder based upon the overall cost to the County. To determine the overall cost of a product to the County, the County will take its employees' hourly rate plus the hourly rate of the vehicle used to haul, times the anticipated haul time to and from the project site plus the cost of the material. This calculation shall be used to compare each vendor on each project. The lowest overall cost to the County will determine which vendor to purchase the product from for each project.

Address list of bidder's facilities:

_____

_____

_____

5. TAX PROVISIONS:

Washington State sales taxes will not be considered a part of the unit price. State sales tax will be added as a separate item on the invoice for each purchase.

Approved as to form:

DocuSigned by:
Reid Hay
7D2675FA0905430...

Reid Hay, Deputy Prosecuting Attorney

Date 3/29/2023

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P R O P O S A L

ROAD SURFACING MATERIALS

VENDOR NAME: _____

The undersigned hereby certifies that he/she has read the requirements and thoroughly understands the same and proposes as follows:

ITEM NO.	DESCRIPTION	PRICE PER TON/GAL. F.O.B. AT VENDOR'S PLANT
1	HMA CLASS 3/8”	$_____/Ton
2	HMA CLASS 1/2”	$_____/Ton
3a	ASPHALT FOR TACK COAT (CSS-1)	$_____/Ton
3b	ASPHALT FOR TACK COAT (CSS-1)	$_____/Gal.
4	COLD MIX	$_____/Ton
5	CRUSHED SURFACING BASE COURSE	$_____/Ton
6	CRUSHED SURFACING TOP COURSE	$_____/Ton
7	CRUSHER REJECTS (FINES)	$ _____/Ton

ASSURANCE OF NON-DISCRIMINATION

The undersigned hereby agrees that he shall comply with Benton County's Non-Discrimination Policy and Plan, which is consistent with Titles VI and VII of the 1964 Civil Rights Act as amended in 1972; Executive Order 11246 as amended by Executive Order 11375; Sections 503 and 504 of the Rehabilitation Act of 1975 and the Age Discrimination in Employment Act of 1967; the 1974 Vietnam Era Veteran Readjustment Assistance Act; and the Washington State Laws Against Discrimination, Chapter 49.60 RCW. The policy reads as follows:

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

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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), vendor, 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.

CONTRACTOR'S REGISTRATION NO. _____

CONTRACTOR'S EMPLOYMENT SECURITY DEPARTMENT NO. _____

DATED this _____ day of _____, 2023.

VENDOR NAME: _____

_____ SIGNATURE OF AUTHORIZED OFFICIAL

_____ PRINT NAME AND TITLE

ADDRESS OF BIDDER: _____

TELEPHONE NO.: (____)_____ EMAIL:_____

~PROPOSAL MUST BE SIGNED~

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EXHIBIT A

SUPPLY CONTRACT
ROAD SURFACING MATERIALS

July 1, 2023 to June 30, 2024

THIS AGREEMENT, made and entered into this_____day of_____, 2023, between the COUNTY OF BENTON, State of Washington, acting through the Board of County Commissioners, under and by virtue of RCW 36, hereinafter called "the County", and
_____, hereinafter called "the Vendor".

WITNESSETH:

That, in consideration of the payments, covenants, and agreements hereinafter mentioned and attached, and made a part of this agreement, to be made and performed by the parties hereto; the parties hereto covenant and agree as follows:

I. The Vendor shall provide to the County, and the County shall obtain from the Vendor those surfacing material products described and set forth in the "Request for Bids" and "Proposal", copies of which are attached hereto as Appendix A and by reference incorporated herein.

II. The County shall pay the Vendor for those products obtained pursuant hereto those prices set forth in Vendor's proposal (Appendix A), PROVIDED, however, that should any prices increase or decrease during the contract period, the vendor shall notify the Benton County Engineer in writing at least thirty (30) days prior to the effective change date. The County shall have the right to verify the prices charged to the Vendor for such products at the time of their delivery to the County by contacting the Vendor's major supplier.

III. Orders will be placed based on the location of the job and the location of the vendor's mixing plant facility and/or aggregate stockpiles, which will determine the cost to the County for hauling, in addition to the material cost. A vendor other than the low bidder may be used depending upon the availability of the product required by the County.

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

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

In any and all claims against the County, its officers, officials, employees and agents by any employee of the Vendor, sub-vendor, anyone directly or indirectly employed by any of them, or anyone

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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 Vendor or sub-vendor under Workers Compensation acts, disability benefit acts, or other employee benefit acts, it being clearly agreed and understood by the parties hereto that the Vendor expressly waives any immunity the Vendor might have had under such laws, including but not limited to Title 51 of the Revised Code of Washington. **By executing this Contract, the Vendor 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 Vendor makes with any sub-vendor or agent performing work hereunder. Vendor's obligations under this Section V. shall survive termination and expiration of this Contract.**

The vendor'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 Vendor, the Vendor's employees, agents or sub-vendors.

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

VII. Upon thirty (30) days prior notice in writing to the Vendor, the County may terminate this contract for any reason. Upon termination, the County will make payment in full in accordance with the terms of this contract.

VIII. This agreement begins July 1, 2022 and expires June 30, 2022.

IN WITNESS WHEREOF, the said Vendor has executed this agreement, and the Board of County Commissioners of Benton County, Washington, has caused this instrument to be executed by and in the name of the County the day and year first above written.

INFORMATIONAL COPY

VENDOR:

by:_____

Title:_____

Date:_____

COUNTY OF BENTON:

by:_____
Chairman,
Board of Benton County Commissioners

ATTEST:

_____
Clerk of the Board

Date_____

APPROVED AS TO FORM:

_____
Reid Hay, Deputy Prosecuting Attorney

Date_____

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	4/11/2023
Subject:	User License Renewal Agreement with Permitium, LLC for Online Weapons Permit Applications
Presenter:	N/A
Prepared By:	Katie Gillies
Reviewed By:	Jeffrey Aultman, DPA

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

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

Summary / Background Information

Per Resolution 2020-991, Section 5.0 Services "the County need not advertise or follow a formal competitive bidding procedure for service contracts, but rather the county may instead evaluate and utilize the procedures it deems best under the individual circumstances in order to obtain services of the highest quality at the lowest cost."

Permitium, LLC. is one of the widely used online applications by counties across the state of Washington that allows electronic processing of concealed pistol licenses. The Benton County Sheriff's Office currently processes concealed pistol licenses and fingerprinting manually. Permitium, LLC will transition existing paper-based processes into an online automated solution, which will eliminate the manual scheduling and follow up notifications as well as ensure accurate and auditable reporting of approvals, denials and revocations

Permitium, LLC has provided the Benton County Sheriff's Office with a User License Agreement for Online Weapons Permit Application for the past two years that comes at no cost to the Sheriff's Office. All fees are transferred on to the customer applying for the licenses.

Fiscal Impact

N/A

Recommendation

Approve the attached resolution and sign the User Licenses Agreement with Permitium, LLC. to assist the Benton County Sheriff's with electronic online weapons permit application processes

Suggested Motion

Approve as part of consent agenda

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF SIGNING A NEW USER LICENSE AGREEMENT FOR ONLINE WEAPONS PERMIT APPLICATION FROM PERMITIUM, LLC IN ORDER TO ELECTRONICALLY PROCESS CONCEALED PISTOL LICENSES FOR THE BENTON COUNTY SHERIFF'S OFFICE

WHEREAS, per Resolution 2020-991, Section 5.0 Services "the County need not advertise or follow a formal competitive bidding procedure for service contracts, but rather the county may instead evaluate and utilize the procedures it deems best under the individual circumstances in order to obtain services of the highest quality at the lowest cost; and

WHEREAS, Permitium, LLC. is one of the widely used online applications by counties across the state of Washington that allows electronic processing of concealed pistol licenses; and

WHEREAS, The Benton County Sheriff's Office has been using Permitium, LLC to process online weapons permit applications since 2021 per resolution 2021-110 and has been able to eliminate the manual scheduling and follow up notifications as well as ensure accurate and auditable reporting of approvals, denials, and revocations; and

WHEREAS, Permitium, LLC provided the Benton County Sheriff's Office with a new User License Agreement for Online Weapons Permit Application that comes at no cost to the Sheriff's Office. All fees are transferred on to the customer applying for the licenses; **NOW, THEREFORE**

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington, hereby agrees with the User Licenses Agreement with Permitium, LLC. to assist the Benton County Sheriff's Office with electronic online weapons, permit application processes and authorizes the Chairman of the Board to sign the User License Agreement; and

BE IT FURTHER RESOLVED said subscription agreement shall commence April 11, 2023 and expire December 31, 2023. The term of the agreement shall be automatically renewed for successive one (1) year terms unless either Party provides the other Party with sixty (60) days prior written notice to end the Initial Term or the Renewal Term.

Dated this _____ day of _____, 2023.

_____
Chairman of the Board

_____
Commissioner

_____
Commissioner

Constituting the Board of Commissioners
of Benton County, Washington.

Attest.....
Clerk of the Board

Orig: Sheriff's Office
cc: Auditor, Purchase file

Prepared by: K. Gillies

USER LICENSE AGREEMENT FOR ONLINE WEAPONS PERMIT APPLICATION

This user license agreement for an online weapons permit application (the "User License Agreement") is made and entered into this 11th day of April, by and between the Benton County (the "CLIENT") and Permitium, LLC ("Permitium"), a corporation in good standing authorized to do business in the State of North Carolina with its principal place of business at 10617 Southern Loop Blvd. Pineville, NC 28134.

For and in consideration of the mutual promises set forth in the User License Agreement, the adequacy of which is hereby expressly acknowledged, the parties do mutually agree as follows:

1. **Basic Obligations of Permitium.** Permitium hereby agrees to provide the services described in the attached Statement of Work (attached hereto as Exhibit 1) in accordance with the terms and conditions of this User License Agreement as requested in writing by the CLIENT.

2. **Basic Obligations of the CLIENT.** For any services requested in writing by the CLIENT, the CLIENT agrees to compensate Permitium at the rates set forth in the attached Statement of Work (Exhibit 1).

3. **Term.** Contract will be effective from January 26, 2023, through December 31, 2023. This Agreement shall be automatically renewed for successive one (1) year terms unless either Party provides the other Party with sixty (60) days prior written notice to the end of the Initial Term or the Renewal Term.

4. **Fee Collection and Payment.** Permitium will collect online payments and agrees to deliver the CLIENT a monthly statement by the 25th of each month which will itemized for every transaction submitted the previous month along with a check or ACH for the total amount collected less credit card fees listed on Exhibit 1.

5. **Termination for Cause.** At any time after 30 days of the software deployment, the CLIENT may terminate this User License Agreement immediately and without prior notice if Permitium is unable to meet goals and timetables or if the CLIENT is dissatisfied with the quality of services provided.

6. **Insurance.** Permitium agrees to maintain a minimum of $6,000,000 in general liability, $5,000,000 in cyber liability, and other appropriate insurance, as well as Workers Compensation in the required statutory amount, for all employees participating in the provision of services under this User License Agreement. Certificates of such insurance shall be furnished by the Permitium to the CLIENT and shall contain the provision that the CLIENT is given ten (10) days' written notice of any intent to cancel or terminate by either the Permitium or the insuring company. Failure to furnish such insurance certificates or maintain such insurance shall be deemed a material breach and grounds for immediate termination of this User License Agreement. All Permitium liabilities as defined within this User License Agreement will be capped at the greater of the

compensation received by Permitium, or the above stated insurance liability policy limits.

7. **Taxes.** Permitium shall pay all federal, state and FICA taxes for all of its employees participating in the provision of services under this User License Agreement.

8. **Monitoring and Auditing.** Permitium shall cooperate with the CLIENT, or with any other person or agency acting at the direction of the CLIENT, in their efforts to monitor, audit, or investigate activities related to this User License Agreement. Permitium shall provide any auditors retained by the CLIENT with access to any records and files related to the provision of services under this User License Agreement upon reasonable notice. The CLIENT agrees that its auditors will maintain the confidentiality of any trade secrets of Permitium that may be accessed during an audit conducted under this User License Agreement.

9. **Confidentiality Information.** Permitium agrees that all records, data, personnel records, and/or other confidential information that come within Permitium' possession in the course of providing services to the CLIENT under this User License Agreement (hereinafter, "Confidential Information") shall be subject to the confidentiality and disclosure provisions of all applicable federal and state statutes and regulations, as well as any relevant policies of the CLIENT. All data and/or records provided by the CLIENT to Permitium shall be presumed to be Confidential Information subject to the terms of this section unless the CLIENT specifically indicates in writing that the requirements of this section do not apply to a particular document or group of documents.

   Permitium agrees to receive and hold Confidential Information, whether transmitted orally, in writing or in any other form, and whether prepared by a party or its Representatives, in strict confidence, and to use the Confidential Information solely for the purpose of facilitating CLIENT's use of Permitium' products and services. Except as essential to Permitium' obligations to CLIENT, Permitium shall not copy any of the Confidential Information, nor shall Permitium remove any Confidential Information or proprietary property or documents from CLIENT premises without written authorization of the CLIENT. Permitium acknowledges its understanding that any unauthorized disclosure of Confidential Information may result in penalties and other damages.

10. **Security.** Permitium represents and warrants that all documents and information provided to Permitium by or behalf of the CLIENT, including but not limited to Confidential Records, shall be stored and maintained by Permitium with the utmost care and in conformity with standards generally accepted in Permitium' industry for the types of records being stored and maintained. Permitium further represents and warrants that any online access to the CLIENT's records authorized persons pursuant to this User License Agreement shall be safe, secure, and password-protected and provided with the utmost care and in conformity with standards generally accepted in Permitium' industry for the types of records being stored and maintained, and that no person shall be permitted to obtain unauthorized access to any of the CLIENT's records. Without

limiting the foregoing, Permitium specifically warrants that:

10.1. All servers, computers, and computer equipment used to provide services pursuant to this User License Agreement shall be maintained in good working order in compliance with generally accepted industry standards in light of the confidential nature of the documents in question and shall be located in a safe, controlled, and environmentally stable environment (including moisture and temperature controls) and adequately protected against fires, hurricanes, flooding, or similar occurrences;

10.2. Facilities where services are provided shall be secure and access shall be limited to employees trained in security protocols with a legitimate business need to access such facilities (with access removed immediately upon termination of employment) and shall be protected from unauthorized access by commercially reasonable security systems;

10.3. All websites, FTPs, and any other online electronic system used to provide services pursuant to this User License Agreement shall be protected from security breaches by commercially reasonable firewalls and other intrusion detections systems and antivirus software, which shall be kept updated at all times. Access shall be limited to those agents and employees of Permitium assigned to the project and any individuals identified in writing by the CLIENT or CLIENT's Designee as authorized to obtain access.

10.4. Permitium have technical controls in place that ensure the security, availability and confidentiality of CLIENT data.

10.5. All information provided to Permitium pursuant to this User License Agreement shall be encrypted while in transit over an open network.

11. Standard of Care. Notwithstanding anything in this User License Agreement to the contrary, Permitium represents and warrants that the services provided by Permitium shall be performed by qualified and skilled individuals in a timely and professional manner with the utmost care and in conformity with standards generally accepted in Permitium' industry for the types of services and records governed by this User License Agreement.

12. Indemnification. Permitium shall indemnify the CLIENT, its agents, and employees, from and against all damages directly arising out of Permitium's breach of this Agreement. This provision shall survive the expiration or termination of this Agreement and remain in full force and effect after such expiration or termination. Notwithstanding the foregoing Permitium's maximum indemnification will be limited to the amount of insurance set forth within section 5.

To the extent provided by law, CLIENT shall indemnify Permitium, its agents, and employees from and against all damages directly arising out of CLIENT's breach of this Agreement. This provision shall survive the expiration or termination of this Agreement and remain in full force and effect after such expiration or termination.

13. Relationship of Parties. Permitium shall be an independent User License Agreement of

the CLIENT, and nothing herein shall be construed as creating a partnership or joint venture; nor shall any employee of Permitium be construed as an employee, agent or principal of the CLIENT.

14. **Compliance with Applicable Laws.** Permitium shall comply with all applicable laws and regulations in providing services under this User License Agreement. Without limiting the foregoing, Permitium specifically represents that it is aware of and in compliance with the Immigration Reform and Control Act and that it will collect properly verified I-9 forms from each employee providing services under this User License Agreement. Permitium shall not employ any individuals to provide services to the CLIENT who are not authorized by federal law to work in the United States.

15. **Applicable CLIENT Policies.** Permitium specifically acknowledges that it will comply with all applicable CLIENT policies, all of which are publicly available on the CLIENT's website.

16. **Assignment.** Neither party may transfer, assign, or delegate any rights, duties, interest, or obligations under this Contract to any other person or entity without the other party's prior written consent. Notwithstanding the foregoing, Permitium may (without the CLIENT's consent) assign this agreement and all of its rights, duties, interests and obligations hereunder to any entity into which it merges, has a change in control representing a conveyance of more than 50% of its ownership interests, or to which it sells all or substantially all of its assets. Permitium agrees to notify the client within 10 business days of any assignment.

17. **User License Agreement Modifications.** This User License Agreement may be amended only by written amendments duly executed by and between the CLIENT and Permitium.

18. **Washington Law.** Washington law will govern the interpretation and construction of the User License Agreement. Any litigation arising out of this User License Agreement shall be filed, if at all, in a court or administrative tribunal located in the State of Washington.

19. **Entire Agreement.** This User License Agreement constitutes and expresses the entire agreement and understanding between the parties concerning the subject matter of this User License Agreement and supersedes all prior and contemporaneous discussions, promises, representations, agreements and understandings relative to the subject matter of this User License Agreement.

20. **Severability.** If any provision of this User License Agreement shall be declared invalid or unenforceable, the remainder of the User License Agreement shall continue in full force and effect.

21. **Notices.** Any notice or other communication provided for herein as given to a party hereto shall be in writing, shall refer to this Agreement by parties and date, and shall be delivered by registered mail, return receipt required, postage prepaid to the person listed below or his successor.

If to: Permitium
Permitium, LLC
10617 Southern Loop Blvd.
Pineville, NC 28134
Attn: Paul Blake

If to CLIENT:
Benton County Sheriff
Attn: Sgt. Kayla Mirus
620 Market Street
Prosser, WA 99350

22. **Cooperative Procurement.** As additional consideration for this User License Agreement, and pursuant to state and local laws and procurement rules, Permitium agrees to extend an option to purchase products or services covered under this contract at the same prices, and under the same terms and conditions, to other contracting agencies.

Any such purchases shall be between Permitium and the participating agency and shall not impact Permitium's obligations to the CLIENT under this User License Agreement. Each contracting agency shall execute its own contract with Permitium. Any estimated purchase volumes or user counts listed herein do no include other public agencies and the CLIENT makes no guarantee as to their participation.

23. **Authority of Signatories.** The persons executing this User License Agreement hereby represent and warrant that they have full authority and representative capacity to execute the User License Agreement in the capacities indicated below and this User License Agreement constitutes the binding obligation of the parties on whose behalf they signed.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year indicated above.

Benton County	**PERMITIUM, LLC**
Printed Name:	Printed Name:
Signed:	Signed:
ITS:	ITS: Managing Partner
DATE:	DATE: _____

Approve as to form:

Jeffrey Aultman, DPA

STATEMENT OF WORK – EXHIBIT 1

Implementation Plan

- Configure the initial instance of the new **Permitium** solution based on the Client's current pistol permit process and **Permitium' s** demonstration site
- Refine the new **Permitium** solution through an iterative process based on input received from the Client during the testing phase
- Test the **Permitium** solution, revise as needed and prepare it for production
- Provide training for the Client as needed
- Provide ongoing support, hosting and management of the **Permitium** Solution

Implementation Team

Permitium	Support Team		855-712-PERM	support@permitium.com
Client	Executive Sponsor			
	Project Manager			

Data and Security

All data collected in the Client's instance of **PermitDirector** is the property of the Client.

Permitium does not own and will not distribute data without the written consent of the Client. All passwords placed within the system are encrypted and not accessible by the **Permitium** staff.

Cost of Service

Cost for **PermitDirector** software, implementation services or support – Permitium will charge

__X__$5.00 passed on as a convenience fee back to the applicant for each application submitted.

__X_ Concealed Weapon Applications

__X_ Other Fingerprint Applications

Credit card company fees are passed through to the applicant by Permitium based on our contract rate. The current rate is $.30 per transaction plus 3.3% of the total transaction.

Permitium will charge our convenience fees and applicable credit card fees for all orders processed through Permitium regardless of if payment is received and/or the method of payment.

Any needed Digital Conversion Services by the Client performed by Permitium will be available anytime under this agreement utilizing an existing cooperative purchasing program called the Charlotte Cooperative Purchasing Agreement (CCPA). The CCPA coop government rates can be found at www.charlottealliance.org

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	April 11, 2023
Subject:	Disposition of Forfeited and Unclaimed Firearms
Presenter:	
Prepared By:	Charles Glasscock
Reviewed By:	

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

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

Summary / Background Information

In accordance with RCW 9.41.098 and RCW 63.40.010, the Sheriff's office requests to trade in 9 forfeited firearms to Talos Tactical. In exchange, Talos Tactical will supply 1 rifle silencer and 10 tape switch mounting plates.

Fiscal Impact

N/A

Recommendation

The Sheriff's Department recommends the forfeited firearms on the attached list be disposed of through trade-in as further outlined in the attached Resolution.

Suggested Motion

Approve as part of the Consent Agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF DISPOSITION OF FORFEITED FIREARMS, IN ACCORDANCE WITH RCW 9.41.098 AND RCW 63.40.010

WHEREAS, RCW 9.41.098(2)(a) authorizes firearms forfeited either judicially or due to failure to make a claim under RCW 63.40.010 to be disposed of in any manner determined by the local legislative authority; and

WHEREAS, the Sheriff's Department has one firearm that was judicially forfeited and is no longer needed for evidence and eight firearms that were forfeited due to a failure to make a claim under RCW 63.40.010; and

WHEREAS, RCW 63.40.010(4) further specifies that, in the case of items that are not unsafe or illegal to possess or sell, the county sheriff may offer those items to bona fide dealers in trade for law enforcement equipment; and

WHEREAS, the Sheriff's Department has determined that the nine firearms are not unsafe or illegal to possess or sell; and

WHEREAS, the Sheriff's Department recommends the firearms be disposed of via trade to Talos Tactical, LLC for law enforcement items; and

WHEREAS, the items listed by the Sheriff's Department, which are worth approximately $1050, have been assigned an exchange value equal to (1) Surefire RC2 Silencer and (10) Magpul Tape Switch Mounting Plates as outlined in the attached quote #BCO032923 from Talos Tactical, LLC; **NOW, THEREFORE**

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington concurs with the recommendation and hereby authorizes the Sheriff's Department to dispose of the listed property with an approximate value of $1050 through the trade-in process with Talos Tactical, LLC in exchange for the equipment listed in quote #BCO032923 from Talos Tactical, LLC.

Dated this _____day of _____, 2023.

_____
Chairman of the Board

_____
Chairman Pro-Tem

_____
Commissioner

Constituting the Board of County Commissioners of Benton County, Washington

Attest: _____
Clerk of the Board

Orig: BCSO
Cc: L. Roe, B. Chilton

Make	Model	Caliber	Serial Number	Accessories	Forfeited via
Iver Johnson -	50a "Sidewinder"	.22 LR	E34910	No	Judgment
Mossberg	88 "Maverick"	12 Gauge	MV41709S	No	Failure to claim under RCW 63.40.010
Ruger	LC9s	9mm	329-27741	No	Failure to claim under RCW 63.40.010
S&W	M&P 15-22	.22 LR	HCR1563	1 Magazine, 1 Sling	Failure to claim under RCW 63.40.010
Ruger	LCR	.357	54594464	No	Failure to claim under RCW 63.40.010
Interarms	JW-15	.22 LR	9311509	1 Magazine, 1 Sling	Failure to claim under RCW 63.40.010
Beretta	21A-22LR	.22 LR	BES97617U	1 magazine, 1 case	Failure to claim under RCW 63.40.010
Taurus	G2c	9mm	TMA71755	No	Failure to claim under RCW 63.40.010
Taurus	85	.380	DR26895	No	Failure to claim under RCW 63.40.010

The financial obligations imposed in this judgment shall bear interest from the date of the Judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090. An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW 10.73.160.

Legal financial obligations, including restitution, for an offense committed prior to July 1, 2000, may be enforced at any time during the ten-year period following the defendant's release from total confinement or entry of the judgment and sentence, whichever period ends later. Prior to the expiration of the initial ten-year period, the superior court may extend the criminal judgment an additional ten years for payment of legal financial obligations including crime victims' assessments. Legal financial obligations, including restitution, for an offense committed on or after July 1, 2000, may be enforced at any time the offender remains under the court's jurisdiction. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender until the obligation is completely satisfied, regardless of the statutory maximum for the crime. If the defendant is convicted of Rape of a Child in the First, Second or Third Degree, and the victim became pregnant, the defendant shall remain under the court's jurisdiction until the defendant has satisfied support obligations under the superior court or administrative order, but not longer than a maximum term of twenty-five years following the offender's release from total confinement or twenty-five years subsequent to the entry of the judgment and sentence, whichever period is longer.

[ ] The Department of Corrections (DOC) or the clerk of the court may immediately issue a Notice of Payroll Deduction. RCW 9.94A.7602, RCW 9.94A.760(8)

[ ] All payments shall be made in accordance with the policies of the clerk and on a schedule established by the DOC or the clerk of the court, commencing immediately, unless the court specifically sets forth the rate here: Not less than $_____ per month commencing _____. RCW 9.94A.760

[X] The defendant shall report as directed by the Benton County Clerk, 7122 West Okanogan Place, Kennewick, WA, and provide financial information as requested. RCW 9.94A.760(7)(b)

The financial obligations imposed in this judgment shall bear interest from the date of the Judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090. An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW 10.73.160

4.2 **DNA TESTING.** The defendant shall have a biological sample collected for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43.754

[ ] **HIV TESTING.** The defendant shall submit to HIV testing. RCW 70.24.340

4.3 [ ] **FORFEITURE OF ELECTRONIC DEVICE.** The Court finds that a _____ (*specify computer, cell phone, etc., and law enforcement agency*) was used in the facilitation of the crime. That device is forfeited to the investigating law enforcement agency. However, the law enforcement agency shall make a copy of non-criminal personal information, including family photos and financial information, and provide such copy to non-offending family members, if: *a)* the non-offending family members have provided to the law enforcement agency a hard drive or other device suitable to copy such items, *b)* the non-offending family members have provided to law enforcement agency a specific list of the files where such items are located and *c)* the non-offending family members have requested the copy and complied with a) and b) within 90 days of the Judgment and Sentence.

[X] **FORFEITURE OF FIREARMS.** (*Specify firearm and law enforcement*): **IVER JOHNSON .22 CAL REVOLVER SN: E34910**

4.4 **CONFINEMENT - JAIL ONE YEAR OR LESS.** The defendant is sentenced as follows:

(a) **Confinement.** RCW 9.94A.589. The defendant is sentenced to the following term of total confinement in the custody of the county jail:

__1__ Days/months on Count __1__ _____ days/months on Count _____

_____ Days/months on Count _____ days/months on Count

BENTON COUNTY SHERIFF'S OFFICE

7122 W. OKANOGAN PLACE, BLDG. A
KENNEWICK, WA 99336

(509) 735-6555

www.co.benton.wa.us

SHERIFF TOM CROSKREY

COMMITTED TO OUR COMMUNITY

Benton County Sheriff's Office is no longer required to hold below property. Certified Letters were sent to owners and not claimed after 60-day notice and is considered abandon property. Property is being converted for county use as mandated by statute RCW 63.40. Elena Folta-Evidence Technician 03-22-2023

Case 14-14069 Firearm: Mossberg 88 12G Shotgun S/N:MV41709S

Case 16-16692 Firearm: Ruger LC9 9MM Pistol S/N:329-27741
Firearm: S&W M&P .22Cal Rifle S/N:HCR1563

Case 18-09013 Firearm: Ruger 357 Revolver S/N:54594464

Case 18-15463 Firearm: Interarms .22 S/N:9311509

Case 18-16976 Firearm: Beretta .22 S/N:BES97617U

Case 19-08370 Firearm: Taurus 9MM S/N:TMA71755

Case 20-06699 Firearm: Taurus 380 Pistol S/N: DR26895

Talos Tactical, LLC

INVOICE

4034 W Van Giesen, Suite C
West Richland, WA 99353 (509) 967-7200

SOLD TO:
Benton County

SHIPPED TO:
Same

INVOICE NUMBER	BCO032923
INVOICE DATE	March 30, 2023
OUR ORDER NO.	Trade to BCO
YOUR ORDER NO.	
TERMS	
SALES REP	Matt Cieslar
SHIPPED VIA	
F.O.B.	
PREPAID or COLLECT	Trade to BCO

Sales Tax Rate: 0.00%

QUANTITY	DESCRIPTION	UNIT PRICE	AMOUNT
	Trading in these items		
1	Beretta 21A, 22lr Serial # BES97617U		
1	Interarms JW-15, Serial # 9311509		
1	Iver Johnson, 50a, Serial # E34910		
1	Mossberg, Maverick 88, MV41709S		
1	Ruger LC9S, Serial # 329-27741		
1	Ruger LCR, 357, Serial # 54594464		
1	S&W M&P15-22, Serial # HCR1563		
1	Taurus, G2C, Serial # TMA71755		
1	Taurus, 85, Serial # DR26895		
	For These Items		
1	Surefire RC2 Silencer		
10	Magpul Tape Switch Mounting Plates		

SUBTOTAL	
TAX	
FREIGHT	

DIRECT ALL INQUIRIES TO:
Matt Cieslar
(509) 967-7200
email: Matt@TalosTactical.com

MAKE ALL CHECKS PAYABLE TO:
Talos Tactical

THANK YOU FOR YOUR BUSINESS!

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY FUNDS RE: TRANSFER OF FUNDS WITHIN REET TECHNOLOGY, FUND NUMBER 1290, DEPARTMENT NUMBER 000.

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

Dated this _____ day of _____, _____

_____
Chairman of the Board

_____
Commissioner

_____
Commissioner

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

Attest: _____
Clerk of the Board

cc: Dept., Auditor

K Yniguez

EXHIBIT "A"

BENTON COUNTY LINE ITEM TRANSFER

Dept Name: | Dept Nbr: 000

Fund Name: REET Technology | Fund Nbr: 1290

TRANSFER FROM: | TRANSFER TO:

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT	BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
5941400	56430	Capital Software	$7,609	5142400	54103	Professional Services	$7,609
TOTAL			$7,609	TOTAL			$7,609

Explanation:

2023/2024 Budget: To appropriate budget to pay for server upgrade services.

Prepared by: Kirsten Yniguez | Date: 31-Mar-2023

Approved ❑ | Denied ❑ | Date: _____

_____
Chairman

_____
Member

_____
Member

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	April 11, 2023
Subject:	Award of the Juvenile Justice Progressive Design Project to Chervenell Construction Company
Presenter:	Robert Blain
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 May 26, 2022, Benton County received approval from the Capital Projects Advisory Review Board(CPARB) to use the Progressive Design Build process for the Juvenile Justice Project.

On October 4, 2022, DLR Group presented the Juvenile Justice Center Feasibility Study/Space Needs Report to the Board of County Commissioners. The Board directed staff to move forward with the progress design selection process for the project.

With the assistance of our progressive design consultant Hill International, county staff put together the Request for Qualification Package that was eventually advertised on December 14, 2022.

A total of six submittals were received from Contractors from around the region, with three of those six being selected to move on to the RFP phase by the selection committee.

After a long and thorough process by the selection committee, Chervenell Construction Company and their design sub-consultants, Design West & TreanorHL, were selected as the top candidate for the project.

County staff is now looking to award the Juvenile Justice Project to Chervenell Construction Company from the Board of Benton County County Commissioners.

A contract will be brought back to the Board at a later date.

Fiscal Impact

Amount: N/A

Fund: N/A

Recommendation

The selection committee recommends that the Board concur and award the Juvenile Justice Project to Chervenell Construction Company.

Suggested Motion

I move to approve that the Board of Benton County Commissioners hereby awards the Juvenile Justice Project to Chervenell Construction Company, with a contract being brought back at a later date.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AWARDING THE JUVENILE JUSTICE PROGRESSIVE DESIGN PROJECT TO CHERVENELL CONSTRUCTION COMPANY, KENNEWICK, WASHINGTON

WHEREAS, on May 26, 2022, Benton County received approval from the Capital Projects Advisory Review Board(CPARB) to use the Progressive Design Build process for the Juvenile Justice Project; and

WHEREAS, on October 4, 2022, DLR Group presented the Juvenile Justice Center Feasibility Study/Space Needs Report to the Board of County Commissioners. The Board directed staff to move forward with the progress design selection process for the project; and

WHEREAS, with the assistance of our progressive design consultant Hill International, county staff put together the Request for Qualification Package that was eventually advertised on December 14, 2022; and

WHEREAS, a total of six submittals were received from Contractors from around the region, with three of those six being selected to move on to the RFP phase by the selection committee; and

WHEREAS, after a long and thorough process by the selection committee, Chervenell Construction Company and their design sub-consultants, Design West & TreanorHL, were selected as the top candidate for the project; **NOW, THEREFORE,**

BE IT RESOLVED the Board of County Commissioners concurs with the selection committee's recommendation and awards the Juvenile Justice Project to Chervenell Construction Company, Kennewick, Washington; and

BE IT FURTHER RESOLVED the Board of Benton County Commissioners direct staff to prepare a contract with Chervenell Construction Company, Kennewick, Washington, to be brought back to the Board for approval at a later date.

Dated this 11th day of April, 2023.

_____
Chairman

_____
Chairman Pro-Tem

_____
Commissioner

Attest:_____
Clerk of the Board

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

Orig.: Procurement P. Schut
cc: R.Blain Chervenell Construction Company

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	11 April 2023
Subject:	Designation of an Associate Development Organization
Presenters:	Adam J. Fyall
Prepared By:	AJF
Reviewed By:	AJF

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 Contracts

Summary & Background

Every two years, counties in Washington designate an official "Associate Development Organization" (ADO). These are non-profit organizations that are the primary economic development partner for the county. The designation is registered with the Washington Department of Commerce and Commerce works closely with the ADO on various matters. The ADO also gets some annual funding of its own through Commerce. ADOs are discussed at length in the attached paperwork from Commerce. ADOs are reaffirmed each biennium, and the time is again upon us to designate our ADO.

The Tri-Cities Development Council (TRIDEC) has been Benton County's ADO for many years. It has been a good relationship, one made even stronger during the pandemic as the County and TRIDEC worked closely on the development and implementation of the CARES Act Community Support Program grants. We work regularly with TRIDEC on a number of economic development, energy, and Hanford issues. Moreover, no other organization has presented interest or credentials to support consideration of a change in this regard. TRIDEC has confirmed their desire to remain the ADO for Benton County.

Attached is a resolution confirming the designation of TRIDEC as the ADO for the 2023-2025 biennium, and also the requisite form to be signed by the Chairman and returned to Commerce.

Fiscal Impact

There is no fiscal impact to Benton County.

TRIDEC has been the ADO for both Benton and Franklin Counties for many years, and as such does receive some remittances from the State as financial support for being the ADO.

Attachments

Letter of notice from Commerce, ADO background paper, and ADO Certification/Designation Form.

Recommendation

Staff recommends continuing with TRIDEC as Benton County's ADO for the 2023-2025 biennium.

Motion

"I move to approve the resolution designating the Tri-Cities Development Council as Benton County's official Associate Development Organization for the 2023-2025 biennium.

Washington State Department of Commerce

Associate Development Organization Certification/Designation Form

(For use by County officials)

BENTON (Name of County) affirms/ designates the TRI-CITIES DEVELOPMENT COUNCIL (Name of ADO)

as the Associate Development Organization to coordinate economic development services for the county under contract with the Washington State Department of Commerce. Consistent with statutory requirements:

1. ☒ The prospective ADO is a **non-profit** organization.

   OR

   ☐ A **public entity** that has formed an authority or committee with full operating authority to carry out the duties of the ADO. It is important to recognize that this group would have its own authority and budget, not just the power to recommend actions/plans/expenses.

2. Economic development is the **primary mission** of the prospective ADO, and not just a secondary activity. This can be demonstrated with a written mission statement in a brochure, web-page, newsletter, etc. It may also be documented in the organization's by-laws.

3. For economic interests in the county, this organization serves as a networking tool and resource hub for business retention, expansion, and relocation in Washington.

4. This organization has/will have the capacity during the period under contract with Commerce to carryout work activities as detailed in RCW 43.330.080

This designation is effective on the date signed below, and shall remain in effect for the 2023-2025 biennium (07/01/2023-06/30/2025). **Please provide documentation of the County executive or governing body's action designating the above-identified organization as the ADO.**

Signature _____ Print Name _____

Title _____ Date _____

PLEASE SUBMIT THIS FORM AND DOCUMENTATION TO:

Diana Divens, ADO Program Manager at: ✉ diana.divens@commerce.wa.gov
Office of Economic Development and Competitiveness
Washington State Department of Commerce
Post Office Box 42525
Olympia, WA 98504-2525
Cell: (564) 999-3279

RECEIVED
MAR 09 2023
BENTON COUNTY
COMMISSIONERS

Admin.
A Fyall

STATE OF WASHINGTON
DEPARTMENT OF COMMERCE
1011 Plum Street SE • PO Box 42525 • Olympia, Washington 98504-2525 • 360-725-4000
www.commerce.wa.gov

March 3, 2023

The Honorable Will McKay, Chairman
Board of Benton County Commissioners
620 Market Street
Prosser, WA 99350

Dear Commissioner McKay:

Every two years, the Department of Commerce begins the process of contracting with Associate Development Organizations (ADOs) by sending a letter to the Board of County Commissioners or County Executive in each county requesting designation of an ADO.

Commerce is directed by RCW 43.330.080 to contract with county-designated ADOs to increase the support for and coordination of community and economic development services in communities or regional areas.

As part of the contracting process, please complete the enclosed ADO Certification/Designation Form for the 2023-2025 Biennium, returning to Commerce by April 15, 2023. Your county can choose to re-designate the current ADO or make a new designation. Please see the enclosed Eligibility and Designation Guidelines.

Thank you for your consideration in helping to move the contracting process forward in a quick manner. I look forward to working with our ADO partners during the next biennium.

Sincerely,

Chris Green
Assistant Director

Enclosures

cc w/enclosures: Tri-City Development Council (TRIDEC)

Washington State Department of Commerce

Associate Development Organizations

Eligibility & Designation Guidelines March 2023

2023-2025 biennium (07/01/2023-06/30/2025)

Overview

Washington's Department of Commerce (Commerce) maintains a contracted partnership with 34 Associate Development Organizations (ADOs), serving 39 counties, through both technical assistance and funding for local economic development activities. Each county in the state has designated an organization as their ADO to partner with Commerce and serve as the lead on local economic development activities in their county.

This guide is provided to assist county leaders in the process of designating the most effective organization to serve as the ADO for their county. The criteria that Commerce uses to approve and negotiate a contract with a county-designated ADO is also covered.

The origins of ADOs date back to Governor Booth Gardner's Team Washington strategy that was initiated in 1985 to develop public-private, and state-local partnerships across the state. At first the Local Economic Development Assistance Program (LEDA) provided administrative grants to 33 ADOs that served the state's 39 counties. ADOs were to become the principal contact for the department and all county economic development elements (chambers, towns, ports, businesses, etc.) would coordinate their efforts through their local ADO.

Expectations of ADOs

The broad role of an Associate Development Organization is that of advocacy and leadership, serving as the point of contact for local economic activities, recruiting/hosting new businesses, and coordinating business retention and expansion efforts within its service area. The ADO serves as the principal contact for Commerce regarding economic activity in their area. ADOs help Commerce gather data about community profiles, industrial sites, plans for business development and retention, reports on business activities, and proposals for other economic activities in their service areas.

ADOs are described in more detail in RCW 43.330.080, and a copy of that code is provided in the reference section of this guide.

Specific expectations of the ADO, as assessed by Commerce for contracting purposes include:

1) Partner with Commerce: The designated ADO organizations shall partner with Commerce as the lead local economic development organization in their service area to deliver economic development services at the local level. Through a contracted partnership, Commerce determines the scope of services delivered under the ADO grant/contract in collaboration with the ADO. The ADO works closely with Commerce to develop and carry out strategies and show potential for long-term sustainable growth.

2) Contracting Organizations (ADOs) in each Community or Regional Area Must Be "broadly representative of community and economic interests... capable of identifying key problems... and mobilizing broad support for recommended initiatives."

   The code lists key players as:

   - local governments
   - chambers of commerce
   - workforce development councils
   - port districts
   - labor groups
   - institutions of higher education
   - community action programs
   - other appropriate private, public, or nonprofit community and economic development groups.

3) Best Practice Sharing: ADOs must meet and share best practices with other ADOs at least two times a year.

4) Resources and Services Provided to Local Businesses: ADOs shall provide direct assistance, including business planning, to companies throughout the county who need support to stay in business, expand, or relocate to Washington from out of state or other countries. Assistance must comply with business recruitment and retention protocols established in RCW 43.330.062.

5) Regional Planning: Support for regional economic research and regional planning efforts to implement target industry sector strategies and other economic development strategies including cluster-based strategies.

6) Reports to Commerce: ADOs report quarterly on activity outcomes; i.e., Business Retention and Expansion assistance; Business Recruitment, Entrepreneurial Business Start-ups, etc. They also provide information on how they coordinate and collaborate with other organizations and jurisdictions in their counties, as well as other significant accomplishments. Timelines for reporting are in each grant/contract.

7) Formal designation by County: The County's Board of Commissioners must formally designate an organization to serve as its ADO, providing Commerce with a signed statement of designation along with a certification of eligibility.

References

RCW 43.330.080

Coordination of community and economic development services — Contracts with county-designated associate development organizations — Scope of services — Business services training.

(1)(a) The department must contract with county-designated associate development organizations to increase the support for and coordination of community and economic development services in communities or regional areas. The contracting organizations in each community or regional area must:

(i) Be broadly representative of community and economic interests;

(ii) Be capable of identifying key economic and community development problems, developing appropriate solutions, and mobilizing broad support for recommended initiatives;

(iii) Work closely with the department to carry out state-identified economic development priorities;

(iv) Work with and include local governments, local chambers of commerce, workforce development councils, port districts, labor groups, institutions of higher education, community action programs, and other appropriate private, public, or nonprofit community and economic development groups; and

(v) Meet and share best practices with other associate development organizations at least two times each year.

(b) The scope of services delivered under the contracts required in (a) of this subsection must include two broad areas of work:

(i) Direct assistance, including business planning, to companies throughout the county who need support to stay in business, expand, or relocate to Washington from out of state or other countries. Assistance must comply with business recruitment and retention protocols established in RCW 43.330.062, and includes:

(A) Working with the appropriate partners throughout the county including, but not limited to, local governments, workforce development councils, port districts, community and technical colleges and higher education institutions, export assistance providers, impact Washington, the Washington state quality award council, small business assistance programs, innovation partnership zones, and other federal, state, and local programs to facilitate the alignment of planning efforts and the seamless delivery of business support services within the entire county;

(B) Providing information on state and local permitting processes, tax issues, export assistance, and other essential information for operating, expanding, or locating a business in Washington;

(C) Marketing Washington and local areas as excellent locations to expand or relocate a business and positioning Washington as a globally competitive place to grow business, which may include developing and executing regional plans to attract companies from out of state;

(D) Working with businesses on site location and selection assistance;

(E) Providing business retention and expansion services throughout the county. Such services must include, but are not limited to, business outreach and monitoring efforts to identify and address challenges and opportunities faced by businesses, assistance to trade impacted businesses in applying for grants from the

federal trade adjustment assistance for firms program, and the provision of information to businesses on:

(I) Resources available for microenterprise development;

(II) Resources available on the revitalization of commercial districts; and

(III) The opportunity to maintain jobs through shared work programs authorized under chapter 50.60 RCW;

(F) Participating in economic development system-wide discussions regarding gaps in business start-up assistance in Washington;

(G) Providing or facilitating the provision of export assistance through workshops or one-on-one assistance; and

(H) Using a web-based information system to track data on business recruitment, retention, expansion, and trade; and

(ii) Support for regional economic research and regional planning efforts to implement target industry sector strategies and other economic development strategies, including cluster-based strategies. Research and planning efforts should support increased living standards and increased foreign direct investment, and be aligned with the statewide economic development strategy. Regional associate development organizations retain their independence to address local concerns and goals. Activities include:

(A) Participating in regional planning efforts with workforce development councils involving coordinated strategies around workforce development and economic development policies and programs. Coordinated planning efforts must include, but not be limited to, assistance to industry clusters in the region;

(B) Participating with the state board for community and technical colleges as created in RCW 28B.50.050, and any community and technical colleges in the coordination of the job skills training program and the customized training program within its region;

(C) Collecting and reporting data as specified by the contract with the department for statewide systemic analysis. In cooperation with other local, regional, and state planning efforts, contracting organizations may provide insight into the needs of target industry clusters, business expansion plans, early detection of potential relocations or layoffs, training needs, and other appropriate economic information;

(D) In conjunction with other governmental jurisdictions and institutions, participating in the development of a countywide economic development plan.

(2) The department must provide business services training to the contracting organizations, including but not limited to:

(a) Training in the fundamentals of export assistance and the services available from private and public export assistance providers in the state; and

(b) Training in the provision of business retention and expansion services as required by subsection (1)(b)(i)(E) of this section.

[2014 c 112 § 111; 2012 c 195 § 1; 2011 c 286 § 2; 2009 c 151 § 10; 2007 c 249 § 2; 1997 c 60 § 1; 1993 c 280 § 11.]

Notes:

Findings -- Intent -- 2007 c 249: "The legislature finds that economic development success requires coordinated state and local efforts. The legislature further finds that economic development happens at the local level. County-designated associate development organizations serve as a networking tool and resource hub for business retention, expansion, and relocation in Washington. Economic development success requires an adequately funded and coordinated state effort and an adequately funded and coordinated local effort. The legislature intends to bolster the partnership between state and local economic development efforts, provide increased funding for local economic development services, and increase local economic development service effectiveness, efficiency, and outcomes." [2007 c 249 § 1.]

RCW 43.330.082

Contracting associate development organizations — Performance measures and summary of best practices — Remediation plans — Report

1)(a) Contracting associate development organizations must provide the department with measures of their performance and a summary of best practices shared and implemented by the contracting organizations. Annual reports must include the following information to show the contracting organization's impact on employment and overall changes in employment: Current employment and economic information for the community or regional area produced by the employment security department; the net change from the previous year's employment and economic information using data produced by the employment security department; other relevant information on the community or regional area; the amount of funds received by the contracting organization through its contract with the department; the amount of funds received by the contracting organization through all sources; and the contracting organization's impact on employment through all funding sources. Annual reports may include the impact of the contracting organization on wages, exports, tax revenue, small business creation, foreign direct investment, business relocations, expansions, terminations, and capital investment. Data must be input into a common web-based business information system managed by the department. Specific measures, data standards, and data definitions must be developed in the contracting process between the department and the contracting organization every two years. Except as provided in (b) of this subsection, performance measures should be consistent across regions to allow for statewide evaluation.

(b) In addition to the measures required in (a) of this subsection, contracting associate development organizations in counties with a population greater than one million five hundred thousand persons must include the following measures in reports to the department:

(i) The number of small businesses that received retention and expansion services, and the outcome of those services;

(ii) The number of businesses located outside of the boundaries of the largest city within the contracting associate development organization's region that received recruitment, retention, and expansion services, and the outcome of those services.

(2)(a) The department and contracting associate development organizations must agree upon specific target levels for the performance measures in subsection (1) of this section. Comparison of agreed thresholds and actual performance must occur annually.

(b) Contracting organizations that fail to achieve the agreed performance targets in more than one-half of the agreed measures must develop remediation plans to address performance gaps. The remediation plans

must include revised performance thresholds specifically chosen to provide evidence of progress in making the identified service changes.

(c) Contracts and state funding must be terminated for one year for organizations that fail to achieve the agreed upon progress toward improved performance defined under (b) of this subsection. During the year in which termination for nonperformance is in effect, organizations must review alternative delivery strategies to include reorganization of the contracting organization, merging of previous efforts with existing regional partners, and other specific steps toward improved performance. At the end of the period of termination, the department may contract with the associate development organization or its successor as it deems appropriate.

(3) The department must submit a final report to the legislature by December 31st of each even-numbered year on the performance results of the contracts with associate development organizations.

[2014 c 112 § 112; 2012 c 195 § 2; 2011 c 286 § 3; 2009 c 518 § 15; 2007 c 249 § 3.]

Notes:

Findings -- Intent -- 2007 c 249: See note following RCW 43.330.080.

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	11 April 2023
Subject:	TRIDEC 2023 Services Contract
Presenter:	Adam J. Fyall
Prepared By:	AJF
Reviewed By:	AJF

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 Contracts

Summary

Staff seeks execution of the annual standard service agreement with TRIDEC.

Background

The Tri-City Development Council ("TRIDEC") is Benton County's designated "associate development organization", and in that role TRIDEC has had annual economic development services contracts with the County for more than two decades. Through this contract, Benton County also financially supports the Prosser Economic Development Association and the new Benton City Revitalization Organization.

The County and TRIDEC work together frequently on issues affecting our region. Examples include management of CARES Act grants in 2020, the Mid-Columbia Energy Initiative, business and industry recruitment, legislation and appropriations, Hanford issues, and the never ending "PILT wars".

Staff will give a short presentation then seek approval of a 2023 contract. The agreement has been approved for form by counsel and signed by TRIDEC.

Fiscal Impact

$92,000, to be paid from the Rural County Capital Fund (same as 2022).

Recommendation

Staff recommends continuing the beneficial relationship with TRIDEC and for signing the contract.

Motion

"I move for the County to enter into the standard service agreement with TRIDEC, and for the Chairman to be authorized to sign said agreement."

# # #

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF A STANDARD SERVICE AGREEMENT FOR ECONOMIC DEVELOPMENT SERVICES WITH THE TRI-CITY DEVELOPMENT COUNCIL

WHEREAS, RCW 36.01.085 states that "It shall be in the public purpose for all counties to engage in economic development programs. In addition, counties may contract with nonprofit corporations in furtherance of this and other acts relating to economic development"; and,

WHEREAS, the Tri-City Development Council (TRIDEC) is a nonprofit corporation currently operating an economic development program within Benton County that promotes economic development and diversification, business recruitment and retention, and other marketing activities in Benton County and the Tri-Cities metropolitan area; **NOW THEREFORE**,

BE IT RESOLVED, that the Chairman of the Board of Benton County Commissioners is hereby authorized to sign the standard service agreement for economic development services between Benton County and TRIDEC. The term of the contract shall be from the date of its execution by both parties, and terminating December 31, 2023. TRIDEC shall be compensated up to $92,000.00 for completion of the contract, to be paid from the Rural County Capital Fund as allowed by RCW 82.14.370 and County policy.

Dated this 11th day of April, 2023.

_____
Chairman of the Board

_____
Chairman Pro-Tem

_____
Member

Constituting the Board of Commissioners
of Benton County, Washington.

Attest.....
Clerk of the Board

orig: BOCC file
cc: Auditor, Prosecutor (Godinez), Sustainable Development, TRIDEC

Prepared by: A.J. Fyall

STANDARD SERVICE AGREEMENT
TERMS AND CONDITIONS

This Agreement 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, Washington 99350 (hereinafter "COUNTY"), and the TRI-CITY DEVELOPMENT COUNCIL (TRIDEC), a Washington nonprofit corporation, with its principal address at 7130 West Grandridge Boulevard - Suite A, Kennewick, Washington, 99336; (hereinafter "CONTRACTOR").

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

1. CONTRACT DOCUMENTS

This Agreement consists of this Agreement and the following attached exhibits, which are incorporated herein by this reference:

a. 2023 Plan of Work

2. DURATION OF CONTRACT

The term of this Agreement shall begin when executed by both parties, and shall expire on December 31, 2023.

3. SERVICES PROVIDED

a. The CONTRACTOR shall perform economic development programs for the duration of this Agreement, including functions and services detailed in the attached 2023 Plan of Work ("Exhibit A") and made part of this Agreement, and other projects and programs that further promote and market Benton County for purposes of business recruitment, outside investment, tourism, and other related activities.

b. More specifically, the CONTRACTOR shall develop and execute a regional marketing program that will include direct selling site visits to a minimum of three major metropolitan areas and include participation at two industry events focused on key market sectors for Benton County.

c. The CONTRACTOR shall identify a representative to meet with the Benton County Administrator or his designee, a minimum of once per calendar quarter throughout the year to discuss matters addressed in this Agreement and update the COUNTY as to the progress of meeting the economic development goals identified herein.

As the COUNTY'S "associate development organization", as designated by the COUNTY to the Washington State Department of Commerce, CONTRACTOR is eligible to receive certain funds from the COUNTY to finance certain personnel in economic development offices. To this end, all COUNTY funds provided under this Agreement are to be used for the purposes of funding CONTRACTOR personnel working to render the services described in Exhibit A.

4. CONTRACT REPRESENTATIVES

The parties' representatives are as follows:

a. For CONTRACTOR: Laura Warr, Director of Finance
Tri-City Development Council
7130 West Grandridge Boulevard - Suite A
Kennewick, Washington 99336
509-735-1000

b. For COUNTY: Adam J. Fyall, Sustainable Development Manager
Benton County
7122 West Okanogan Place - Suite E330
Kennewick, Washington 99336
509-736-3053

A party may change its representative by providing prompt written notice to the other party.

5. COMPENSATION & INVOICING

The parties acknowledge that COUNTY funding is made available to support CONTRACTOR personnel in their work on economic development services described in this Agreement, but also that the cost of such work is to be funded only partly by the COUNTY. The CONTRACTOR is obligated to obtain whatever funding is required to complete the 2023 Plan of Work. In order to partially fund the CONTRACTOR'S cost to perform the 2023 Plan of Work, the COUNTY agrees to pay the CONTRACTOR the sum of $92,000.00. Four payments shall be made by the COUNTY: The first installment in the amount of $23,000.00 will be for work performed during the first quarter of the year; the second installment in the amount of $23,000.00 will be for

work performed during the second quarter of the year; the third installment in the amount of $23,000.00 will be for work performed during the third quarter of the year; and the fourth installment in the amount of $23,000.00 will be for work performed during the fourth quarter of the year. The CONTRACTOR shall submit an invoice to the COUNTY in the amount of $23,000.00 on or after April 30, 2023; the CONTRACTOR shall submit a second invoice to the COUNTY in the amount of $23,000.00 on or after June 30, 2023; the CONTRACTOR shall submit a third invoice to the COUNTY in the amount of $23,000.00 on or after September 30, 2023; and the CONTRACTOR shall submit a fourth invoice to the COUNTY in the amount of $23,000.00 on or before December 31, 2023. The COUNTY shall make payments within four weeks of receipt of each invoice from CONTRACTOR. Because the COUNTY'S funding source for support of this Agreement is governed by the statutory requirements of RCW 82.14.370, these funds may only be used by CONTRACTOR for personnel costs and may not be used for costs such as capital projects, travel expenses, or contracted consulting personnel.

6. AMENDMENT AND CHANGES IN WORK

No amendment, modification, or renewal of this Agreement shall be effective, unless set forth in a written amendment signed by both parties.

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

a. **Workers Compensation:** CONTRACTOR shall comply with all Washington State Workers Compensation laws. 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, employers liability, commercial liability or commercial umbrella liability insurance.

b. **Commercial General Liability Insurance:** CONTRACTOR shall maintain commercial general liability coverage for bodily injury, personal injury and property damage, subject to limits of not less than five-hundred thousand dollars ($500,000) per occurrence. The general aggregate limit shall apply separately to this Contract and be no less than one million dollars ($1,000,000). CONTRACTOR shall provide certificate of such insurance to COUNTY'S representative prior to start of work, with COUNTY as Certificate Holder.

c. **Verification of Coverage and Acceptability of Insurers:** All insurance required under this CONTRACT shall be issued by companies admitted to do business within the State of

Washington and have a rating of A-, Class VII or better in the most recently published edition of Best's Reports.

9. TERMINATION

The COUNTY may terminate this Contract in whole or in part whenever the COUNTY determines, in its sole discretion, that such termination is in the best interests of the COUNTY. The COUNTY may terminate this Contract upon giving ten (10) days written notice by certified mail to the CONTRACTOR. In that event, the COUNTY shall pay the CONTRACTOR for invoices previously submitted in accordance with this Agreement and a pro-rata payment for the portion of the month for which services were rendered prior to the date any such termination is effective.

10. COMPLIANCE WITH LAWS

The CONTRACTOR shall comply with all applicable federal, state, and local laws, rules, and regulations in performing this Agreement, including, but not limited to, prevailing wage laws.

11. NONDISCRIMINATION

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

12. DISPUTES

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

13. ENTIRE AGREEMENT

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

14. 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 Article 4 above. Notice may also be given by facsimile with the original to follow by regular mail. Notice shall be deemed to be effective three days following the date of mailing or immediately if personally served.

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

Benton County
Board of Commissioners

Will McKay, Chairman

Dated

Tri-City Development Council

Karl Dye, President

3/31/23

Dated

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

Attest:

Clerk of the Board

Approved as to Form

Ryan K Brown

Deputy Prosecuting Attorney

EXHIBIT A

TRI-CITY DEVELOPMENT COUNCIL
2023 PLAN OF WORK

TRIDEC has led regional economic development for 60 years, representing our four cities, three ports, two counties, and hundreds of private businesses as one community. TRIDEC's role in convening, leading and our entire community with one voice has been and will continue to be critical for the Tri-Cities.

MISSION

TRIDEC is a unifying voice that stimulates and sustains a vibrant regional economy by fostering economic growth and prosperity.

STRATEGIC OBJECTIVES

ECONOMIC DIVERSIFICATION

TRIDEC leads economic diversification in the region by attracting companies that provide family wage jobs and generate new wealth in the community.

TRIDEC's recruiting efforts have historically focused on companies that export products or provide services that bring capital to the region. Focusing on the base of our economy creates a multiplier effect that supports the local service and hospitality sectors.

TRIDEC will work to help attract retailers and restaurants as diversifying our choices for shopping, dining, and entertaining will build on the amenities in our community. Increasing the quality of life and highlighting the region's amenities will help the Tri-Cities attract and retain talent for our growing companies and organizations.

Additional base industry sectors targeted for recruitment shall include:

- Advanced and precision agricultural equipment and software manufacturers
- Ag Research & Development
    - Next generation fertilizer/agriculture connection
    - De-carbonized and climate resilient agricultural processes
- Advanced manufacturing
- Energy technologies
- Advanced manufacturing including silicon chips, aerospace and advanced nuclear supply chains

To help attract companies to the Tri-Cities, TRIDEC shall engage in the following:

- Advertising, external communication and recruitment mailings
- Lead Generation utilizing the Whittaker SmartLeads program
- Attend trade shows in targeted industries, including:
  - World Ag Expo
  - ICSC Recon
  - Advanced Nuclear Industry Trade Shows

TRIDEC champions a business climate and quality of place that enables the success of existing businesses.

Retention and Expansion of existing businesses, especially manufacturing, is the economic development engine of a community. TRIDEC's business retention and expansion program will continue to implement new and dynamic programs to grow our existing manufacturers.

To help existing businesses expand, TRIDEC will:

- Continue to visit local manufacturers and businesses and develop relationships.
- Promote accomplishments by area manufacturers in the TRIDEC e-newsletters and social media.
- Support the Washington VERTical effort to build a local supply chain for small, micro and space modular nuclear reactors, equipment and advanced fuels with local businesses and manufacturers.
- Continue to provide office space for Small Business Development Council (SBDC) and SCORE.

TRIDEC supports a Tri-City economy that stimulates new ideas, attracts and retains talent, and supports a thriving entrepreneurial community.

TRIDEC will encourage growth in entrepreneurial activity and the local technology sector, including the transfer of more technology to local partners from the Pacific Northwest National Laboratory (PNNL).

TRIDEC will work to reduce barriers that contribute to local employers' difficulty in growing, attracting, and retaining talent in the community. As part of the efforts, TRIDEC shall:

- Support growth in the local startup community and facilities (e.g. The Fuse Fund).
- Explore ways to connect our business members with local education and training partners to build awareness of local career paths.
- Convene groups of local partners and employers to measure and forecast workforce demand to organize an effort to attract talent to the Tri-Cities.
- Work toward a housing summit focused on the lack of supply and price inflation in the Tri-Cities housing market.

CREATIVE LEADERSHIP

TRIDEC, as the unifying voice, will provide creative leadership for the community on issues of economic importance to the Tri-Cities.

TRIDEC will act as the unifying voice on regional issues such as:

- Hanford cleanup and future use of Hanford land
- Columbia River shoreline reconveyance
- Lower Snake River Dams
- Relationship building and connection to the Confederated Tribes of the Umatilla Indian Reservation (CTUIR, The Yakama Nation and other regional tribal entities)
- Local water discussion
- And other community issues as they arise

TRIDEC will work closely with our regional economic development partners, including cities, counties, ports, area chambers of commerce, Visit Tri-Cities, and higher education institutions to facilitate the greater mission of economic development and the above referenced related topics.

# # #