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, January 9, 2024 - 9:00 AM
Commissioners' Hearing Room, Benton County Administration Building
7122 W. Okanogan Place, Building E, 3rd Floor, Suite E-303
Kennewick, 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: December 19, 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. Payroll ~ Check Posting List for 12/15/2023
b. Accounts Payable ~ Check Posting List for 12/18/2023
c. Accounts Payable ~ Check Posting List for 12/22/2023
d. Accounts Payable ~ Check Posting List for 12/27/2023
e. Accounts Payable ~ Check Posting List for 12/29/2023 A
f. Accounts Payable – Check Posting List for 12/29/2023 B

Cares Act/Coronavirus Response & Relief Supplemental Appropriation Act

g. Line Item Transfer, Fund No. 0010, Dept. 139 for Equipment @ the Event Center

Commissioners

h. Organization of Benton County Commissioners for 2024

Human Resources

i. Updating Benton County Personnel Policies and Procedures for Elected Officials & Non-Bargaining Employees, Amending Resolution 2014-306

Information Technology

j. Purchase of Seven Apple IPad Tablets for ER&R Department From Strictly Technology LLC

k. Agreement w/United Training Commercial LLC for Online Professional Training
l. Purchase of One Cisco WebEx Room Kit Mini for Public Works From Brahma Enterprises
m. Installation & Programming of WebEx Conferencing Equipment for the New Jury/Training Room @ the Justice Center
n. Purchase of Two Laptops, One Dock & Two Monitors for the Coroner's Office From Dell, Inc.

Office of Public Defense

o. Agreement w/Shawnna Morris, dba Harrington Investigations, PC for Public Defense Investigative Services
p. Agreement w/Abel Campos, dba Premier Investigations, LLC for Public Defense Investigation Services
q. Agreement w/Shane Morlan, dba Exhibit A Investigations for Public Defense Investigation Services
r. Agreement w/Shane Harrington, dba Harrington Investigations, PC for Public Defense Investigative Services
s. Amending Superior Court Public Defense Services Agreement w/Dawn Hickman to Include District Court Drug Court
t. District Court Public Defense Agreement w/Adam Pechtel
u. District Court Public Defense Agreement w/Gregory Halvorsen
v. Termination of Superior Court Public Defense Services Agreement w/Brian Hultgrenn
w. Termination of Superior Court Public Defense Services Agreement w/Deric Orr
x. Termination of Superior Court Public Defense Services Agreement w/Michael Vander Sys
y. Termination of Juvenile Court Public Defense Services Agreement w/Hayden Sebald
z. Termination of Juvenile Court Public Defense Services Agreement w/Jared Hanson

Planning

aa. Appointment of Kelly Hanson to the Benton County Planning Commission

Public Safety Tax

bb. Line Item Transfer, Fund No. 1480, Dept. 122

Public Works

cc. Ratification of Network Agreement w/City of Seattle for Access of WA State Reference Network Accounts
dd. Line Item Transfer, Fund No. 5010, Dept. 650 for Correction of Account for Charges in Prior Years
ee. Adoption of ER&R Vehicle Rates/Assessments for Department Vehicles
ff. Adoption of ER&R Department Shop Rate

Purchasing

gg. First Amended Contract w/Meier Enterprises, Inc. for the Moderate Risk Waste Facility Ventilation System Upgrade
hh. First Amended Contract w/Meier Enterprises, Inc. for the Coroner's Autopsy Ventilation System Upgrade
ii. Contract w/DeAtley Crushing Company for 2023 Crushing Project In Public Works Department
jj. Advertise for Selection of Contractor/Engineer for the Justice Center HVAC Upgrade Project
kk. Ratifying Change Order Proposals Nos. 3, 4, 7-9 w/Banlin Construction, LLC for the Justice Center Tenant Improvement Project
ll. Contract w/Banlin Construction for Election Center Remodel Project
mm Agreement w/Paramount Communication, Inc. for Installing Fiber Runs to Elections Center Building
nn. Payment Authorization to Benton REA for Electrical Connection for Red Mountain Emergency Communications Tower
oo. First Contract Amendment w/MMEC Architecture & Interiors, LLC for the Justice Center Campus Wayfinding Project
pp. First Contract Amendment w/MMEC Architecture & Interiors, LLC for the Elections Center Remodel Project
qq. Amended Contract w/Chervenell Construction Company for Phase I of the Juvenile Justice Project

Risk

rr. Amendment to Resolution 23-810 for Business Name Change From PayneWest Insurance to Marsh McLennan Agency

Sustainable Development

ss. Property Tax Exemption Application for Industrial/Manufacturing Uses for Targeted Urban Areas

Public Hearing
Repealing Ordinance 535, Section 9 & BCC.8.12C.090 Relating to Sales & Use Tax-Public Safety Tax Expiration Date/Sunset Clause

Scheduled Business
WA State Military Department State & Local Cybersecurity Grant Program ~ R Heard

Agreement w/City of West Richland for the Revision of Corporate Boundary ~ M Rasmussen & M Mahoney

Discussion of Bylaws & Rules of Procedures for the Board of County Commissioners ~ M Rasmussen

Other Business

Executive Session
Contract Negotiations ~ C Nave

Adjournment

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

Jerrod MacPherson
County Administrator
Matt Rasmussen
Deputy County Administrator

Minutes – Board of County Commissioners

Regular Board Meeting
Benton County Courthouse, Prosser, WA
Tuesday, December 19, 2023, 9:00 a.m.
Meeting provided in-person, by Video Live-Broadcast and Telephonically via/WebEx

Present: Chairman Will McKay
Commissioner Jerome Delvin
Commissioner Michael Alvarez
County Administrator Jerrod MacPherson
Clerk of the Board Amanda Pearson

Benton County Employees Present During All or a Portion of the Meeting: Deputy County Administrator, Matt Rasmussen; Information Technologies Manager, Robert Heard; Human Resources Manager, Carlee Nave; Community Development Director, Greg Wendt; Public Works Manager, Matt Mahoney; Clerk, Josie Delvin; Deputy Prosecuting Attorney, Ryan Brown; Treasurer, Ken Spencer; Administrative Assistant, Nicole Webb; Deputy Prosecuting Attorney, Steve Hallstrom; Planning Manager, Michelle Mercer; Security Program Coordinator, Steve Caughey

Pledge of Allegiance

The Board recited the Pledge of Allegiance.

Approval of Minutes

The Minutes of December 12, 2023 were approved.

Review Agenda

Jerrod MacPherson added the following:

- New Evidence Vehicle for Sheriff's Office

Public Comment

Jim Atkins of Prosser asked the board to extend the public comment period to five minutes. He shared that when looking at expenses regarding homeless housing, he had questions relating to the criteria of individuals staying in these facilities and what is being done to fix the issue. Mr. Atkins also requested names be printed under signature lines to help clarify who signed.

DRAFT

Consent Agenda

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

Assessor

a. Service Agreement with Automatic Funds Transfer Services (AFTS) to Print Change of Value, New Construction, and Personal Property Notices

Auditor

b. Payroll ~ Check Posting List for 12/05/2023
c. Accounts Payable ~ Check Posting List for 12/08/2023 A
d. Accounts Payable ~ Check Posting List for 12/08/2023 B
e. Accounts Payable ~ Check Posting List for 12/15/2023 C

Commissioners

f. Declaration of Surplus Property
g. Re-Appointment of Cynthia Gary to the Benton County Mosquito Control Board
h. Letter of Support for My Friends Place Expansion
i. Setting Salaries for Elected Officials in Benton County and Amending Resolution 2022-298

Coroner

j. Correction of Autopsy Services Agreement with Pacific Northwest Forensic Pathology, LLC

Human Resources

k. Bi-County Non-Bargaining Juvenile Justice and Superior Court General Increase of Wages for 2024
l. Bailiffs Collective Bargaining Agreement Amendment III
m. 2024-2025 Benton-Franklin Juvenile Court Guild Collective Bargaining Agreement

Information Technology

n. Lease Agreement for One IM C300F Copier from Ricoh USA, Inc. for the Benton County Sheriff's Office
o. Lease Agreement for One IM C2510 Copier from Ricoh USA, Inc. for the Benton County Canine Shelter
p. Approval of 1-Year CivicClerk Agenda and Meeting Management, and Meeting Manager Software
q. Approval to Purchase Two Meraki MS350-48FP Switches and Two 1-year Enterprise License and Support from CompuNet Inc.

Juvenile

r. Professional Services Contract with Tri-Cities Chaplaincy dba Chaplaincy Health Care

Office of Public Defense

s. Amendment to Professional Services Agreement with Allyson Dahlhauser for Payee Change

Public Works

t. Line-Item Transfer of Funds within Solid Waste for Services by Meier Engineering

Purchasing

u. Accepting Work Performed by Goodman and Melenbacher Enterprises, Inc. dba GAME, Inc. for the Benton County Shooting Range Expansion Project
v. First Amendment to the Contract with Walla Water, Inc. dba Overhead Door Company of Tri-Cities
w. First Amendment to the Professional Services Contract for the Review and Update of Benton County's Solid Waste Management Plan
x. Authorization to Purchase an Excavator from Western States CAT Utilizing Sourcewell Cooperative Purchasing Contract #032119CAT
y. Ratifying Change Order Proposal No. 1 to Bruce Mechanical, Inc for Canine Control HVAC Project

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z. Ratifying Change Order Proposal No. 1 & 2 to Hummel Construction & Development, LLC for Rattlesnake Mountain Shooting Facility Training Center
aa. Authorization to Pay Fire Systems West for Work Performed After the Expiration of Contract
bb. Second Contract Amendment with Apollo Mechanical Contractors for the Justice Center Boiler Replacement Project
cc. Accepting Work Performed by Intermountain Cleaning Service, Inc. for Janitorial Services
dd. Award of Contract for C.E. 2146-2023 Crushing Project to DeAtley Crushing Company
ee. Award of Contract to Banlin Construction for the Elections Center Remodel Project

Sheriff

ff. Intergovernmental Agreement with Washington State Parks and Recreation Commission for Boating Safety and Education Services
gg. Authorizing Payment to Church for Cops, LLC for Onsite Front-Line Leadership Training and Rescinding Resolution 2023-785

Superior Court

hh. 2024 Bi-County Adoption of Percentage Rates for Superior Court Salaries, Benefits, and Information Technology Assessments

Sustainable Development

ii. Rural County Capital Fund Disbursement Agreement Amendment

Other Business

Sheriff's Office New Evidence Vehicle

The Benton County Sherriff's Department requested Public Safety Sales Tax funds to purchase a crime scene evidence vehicle. On October 4, 2022, the Sheriff's office was approved for $325,000 to purchase a crime scene evidence vehicle.

Braun NW, Inc. of Chehalis, WA currently has a master agreement with Houston-Galveston Area Council (HGAC) Cooperative Purchasing Group and Benton County is a member of H-GAC pursuant to Resolution #2017-255 dated April 4, 2017, account #17-5946. Utilizing this cooperative purchasing contract with H-GAC and Braun NW, Inc. allows the County to purchase a crime scene evidence vehicle that will meet their needs at government discounted rates.

It is requested the Board authorize the purchase of a crime scene evidence vehicle from Braun, NW Inc. in the amount of $304,173.00 excluding WSST.

Commissioner Delvin and Alvarez had questions about other agencies access to this vehicle. Commissioner McKay asked for clarification if the vehicle came fully loaded. Commander Cantu confirmed that the only thing needing to be added would be radios that the Sheriff's Office already has. Commissioner McKay also asked for clarification on the Public Safety Sales Tax (PSST) in relation to its remaining funds. Commissioner Alvarez stated he understood that there is quick turnaround time relating to contracts but requested that in the future, agenda items get submitted as soon as possible to allow for time to review them before making decisions.

MOTION: Commissioner Delvin moved to authorize the purchase of a 2025 North Star Command 227-5 Crime Scene Evidence Vehicle from Braun Northwest, Inc. Utilizing the Houston-Galveston Area Council (H-GAC) Cooperative Purchasing Contract. Commissioner Alvarez seconded and upon vote, the motion carried as presented.

In closing, Commissioner Delvin shared that there is a vacancy on the Board of Equalization and directed potential applicants to the County website.

Executive Session –Potential Litigation

The Board went into executive session at 9:14 a.m. for up to 20 minutes with Deputy Prosecuting Attorneys, Ryan Brown, Steve Hallstrom, and Jeff Aultman; and Human Resources Manager, Carlee Nave. Also present were Jerrod MacPherson, Matt Rasmussen, and Amanda Pearson.

The Board came out at 9:33 a.m. No decisions were made in executive session.

Payroll

Check Date: 12/5/2023

Payroll Checks
Total all funds: $3,573,184.22
Warrant #: 244287-244326
Direct Deposit #: 185120-185761

Payroll Draw Deductions/Transfers
Total All Funds: $2,900,488.16
EFT #: 714-720
ACH #: 1400-1412

Payroll Deduction Warrants
Total All Funds: $126,978.85
Warrant #: 251580-251591

Accounts Payable

Check Date: 12/8/2023

Warrants #: 251621-251776
Total all funds: $1,411,276.78

EFT's #: 721-732
Transfers #: 1392-1395, 1420-1421
Total all funds: $83,784.14

Accounts Payable

Check Date: 12/8/2023
P-Cards #: 1422
Total all funds: $353,188.67

Accounts Payable

Check Date: 12/15/2023

Warrants #: 251908-252145
Total all funds: $1,693,299.78

Transfers #: 1423, 1426-1427, 1431-1432
Total all funds: $26,624.71

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Resolutions

2023-863 Service Agreement with Automatic Funds Transfer Services (AFTS) to Print Change of Value, New Construction, and Personal Property Notices
2023-864 Declaration of Surplus Property
2023-865 Re-Appointment of Cynthia Gary to the Benton County Mosquito Control Board
2023-866 Letter of Support for My Friends Place Expansion
2023-867 Setting Salaries for Elected Officials in Benton County and Amending Resolution 2022-298
2023-868 Correction of Autopsy Services Agreement with Pacific Northwest Forensic Pathology, LLC
2023-869 Bi-County Non-Bargaining Juvenile Justice and Superior Court General Increase of Wages for 2024
2023-870 Bailiffs Collective Bargaining Agreement Amendment III
2023-871 2024-2025 Benton-Franklin Juvenile Court Guild Collective Bargaining Agreement
2023-872 Lease Agreement for One IM C300F Copier from Ricoh USA, Inc. for the Benton County Sheriff's Office
2023-873 Lease Agreement for One IM C2510 Copier from Ricoh USA, Inc. for the Benton County Canine Shelter
2023-874 Approval of 1-Year CivicClerk Agenda and Meeting Management, and Meeting Manager Software
2023-875 Professional Services Contract with Tri-Cities Chaplaincy dba Chaplaincy Health Care
2023-876 Approval to Purchase Two Meraki MS350-48FP Switches and Two 1-year Enterprise License and Support from CompuNet Inc.
2023-877 Amendment to Professional Services Agreement with Allyson Dahlhauser for Payee Change
2023-878 Line-Item Transfer of Funds within Solid Waste for Services by Meier Engineering
2023-879 Accepting Work Performed by Goodman and Melenbacher Enterprises, Inc. dba GAME, Inc. for the Benton County Shooting Range Expansion Project
2023-880 First Amendment to the Contract with Walla Water, Inc. dba Overhead Door Company of Tri-Cities
2023-881 First Amendment to the Professional Services Contract for the Review and Update of Benton County's Solid Waste Management Plan
2023-882 Authorization to Purchase an Excavator from Western States CAT Utilizing Sourcewell Cooperative Purchasing Contract #032119CAT
2023-883 Ratifying Change Order Proposal No. 1 to Bruce Mechanical, Inc for Canine Control HVAC Project
2023-884 Ratifying Change Order Proposal No. 1 & 2 to Hummel Construction & Development, LLC for Rattlesnake Mountain Shooting Facility Training Center
2023-885 Authorization to Pay Fire Systems West for Work Performed After the Expiration of Contract
2023-886 Second Contract Amendment with Apollo Mechanical Contractors for the Justice Center Boiler Replacement Project
2023-887 Accepting Work Performed by Intermountain Cleaning Service, Inc. for Janitorial Services
2023-888 Award of Contract for C.E. 2146-2023 Crushing Project to DeAtley Crushing Company
2023-889 Award of Contract to Banlin Construction for the Elections Center Remodel Project
2023-890 Intergovernmental Agreement with Washington State Parks and Recreation Commission for Boating Safety and Education Services

DRAFT

2023-891 Authorizing Payment to Church for Cops, LLC for Onsite Front-Line Leadership Training and Rescinding Resolution 2023-785

2023-892 2024 Bi-County Adoption of Percentage Rates for Superior Court Salaries, Benefits, and Information Technology Assessments

2023-893 Rural County Capital Fund Disbursement Agreement Amendment

2023-894 Authorizing the Purchase of a 2025 North Star Command 227-5 Crime Scene Evidence Vehicle from Braun Northwest, Inc.

There being no further business before the Board, the meeting adjourned at approximately 9:34 a.m.

_____ _____

Clerk of the Board Chairman

DRAFT

We, the undersigned Board of County Commissioners of Benton County, Washington, do hereby certify that the merchandise of services hereinafter specified by Funds on the Check Posting List and/or AP Cash Disbursements Journals available upon request from the Auditors Office, have been received and are approved for payment.

Check Date 12/15/2023

Payroll Draw Checks
Total All Funds $ 126,546.16
Warrant # 244327-244328
Direct Deposit # 185762-185905

Payroll Draw Deduction Transfers
Total All Funds $ 23,701.12
EFT#
ACH # 1433-1437

Payroll Draw Deduction Warrants
Total All Funds $
Warrant #

Commissioner_____

Commissioner_____

Commissioner_____

Date Signed_____

Payroll Final Check List

BENTON COUNTY

12/01/2023 to 12/15/2023- Type S Cycle bc

Bank: keydd - KEY BANK

Check #	Date	Employee #	Name	Check Amt	Direct Deposit
185762	12/15/2023	03449	CASTILLEJA, JOSHUA ALAN	0.00	702.55
185763	12/15/2023	05411	COOPER, ALEXIA KAYE-MARIE	0.00	875.47
185764	12/15/2023	03899	DAVIS, RIKKI ANNE	0.00	644.60
185765	12/15/2023	05342	FOSTER, DEIDRA ELIZABETH	0.00	893.03
185766	12/15/2023	04596	SAVCHUK, LILIYA VIKTOROVNA	0.00	1,195.03
185767	12/15/2023	05237	SCHULTZ, KIMBERLY CHAR	0.00	924.42
185768	12/15/2023	05347	THOMAS JR, LARRY D	0.00	1,071.47
185769	12/15/2023	03967	BOATRIGHT, MERRY C	0.00	458.98
185770	12/15/2023	04203	CERVANTES, MIRANDA LYNN	0.00	831.15
185771	12/15/2023	05387	DORSEY, ANDREW O	0.00	1,356.62
185772	12/15/2023	05290	MELSON, LIVIAN S	0.00	736.03
185773	12/15/2023	02501	ROE, LORENE FAY	0.00	426.66
185774	12/15/2023	04697	AGUILAR-MALDONADO, MARIA DEL C	0.00	852.84
185775	12/15/2023	05931	BORQUEZ, ALEJANDRA	0.00	984.45
185776	12/15/2023	02339	HUNSAKER, LAURIE ANN	0.00	323.22
185777	12/15/2023	05426	PALOMAREZ, TRACIE LINETTE	0.00	965.06
185778	12/15/2023	02644	ROBERTSON, CYNTHIA JEAN	0.00	184.70
185779	12/15/2023	03887	SAKOTA, LORI ANNE	0.00	415.57
185780	12/15/2023	00601	WAGAR-WEIDNER, SARAH ANN	0.00	392.49
185781	12/15/2023	00067	TANNER, JUDY D	0.00	484.84
185782	12/15/2023	05260	STEELE, SONDRA KAY	0.00	729.56
185783	12/15/2023	05413	PEARSON, AMANDA CHRISTINE	0.00	1,120.91
185784	12/15/2023	03566	HEWITT, EILEEN MARIE HOLMAN	0.00	1,108.20
185785	12/15/2023	03557	ELSTON, JODI LEE	0.00	253.96
185786	12/15/2023	05228	WICKLINE, SCOTLAND ODONNELL	0.00	714.79
185787	12/15/2023	03151	ARMSTRONG, MATTHEW KENNETH	0.00	554.10
185788	12/15/2023	05397	BECKMANN, ZACHARY MARTIN	0.00	1,398.18
185789	12/15/2023	04882	BELL, KEVIN LEE	0.00	1,182.08
185790	12/15/2023	04978	BERGEVIN, IAN JAMES	0.00	1,108.20
185791	12/15/2023	05166	BROWNING, RONALD ALLEN	0.00	1,135.90
185792	12/15/2023	01989	DURY, MONA MEON	0.00	400.80
185793	12/15/2023	04767	ELFERING, JOHN C	0.00	939.20
185794	12/15/2023	03610	FAIRCHILD, KAY L	0.00	470.06
185795	12/15/2023	03475	GRIMM, SHANE O	0.00	369.40
185796	12/15/2023	02500	GUERRERO JR, ROBERT	0.00	490.38
185797	12/15/2023	03559	GUNDERSON, MATTHEW S	0.00	554.10
185798	12/15/2023	05439	HAZEN, MADILYN ROSE	0.00	1,100.33
185799	12/15/2023	05252	HEBERT, ALEXANDRA KAITLIN	0.00	1,116.51

Payroll Final Check List

BENTON COUNTY

12/01/2023 to 12/15/2023- Type S Cycle bc

Bank: keydd - KEY BANK

Check #	Date	Employee #	Name	Check Amt	Direct Deposit
185800	12/15/2023	04658	KNAPP, MELISSA RENAE	0.00	1,276.08
185801	12/15/2023	05429	KOCHEL, KACE REED	0.00	554.10
185802	12/15/2023	02989	MCCANTS, DIANNE LOUISE	0.00	1,015.85
185803	12/15/2023	01936	MCCULLUGH, LORI LYNN	0.00	831.15
185804	12/15/2023	04787	MEYERS, JULIE ANN	0.00	939.20
185805	12/15/2023	03224	MORFIN, SAUL ISAIAS	0.00	461.75
185806	12/15/2023	03669	MURRY JR, DALLAS M	0.00	583.66
185807	12/15/2023	04772	RAY, REGINA ANN	0.00	692.62
185808	12/15/2023	00672	ROLLOSSON, PATRICK A	0.00	1,204.91
185809	12/15/2023	03095	RUIZ, JOSE ANGEL	0.00	661.37
185810	12/15/2023	05302	SANCHEZ NUNEZ, ELIAS ALEJANDRO	0.00	1,172.84
185811	12/15/2023	05407	SAWYER, NOAH CHARLES	0.00	1,100.33
185812	12/15/2023	03213	SHELTON, JOSHUA TRAY	0.00	369.40
185813	12/15/2023	03204	SMALL, LISA MICHELLE	0.00	323.22
185814	12/15/2023	05027	SHELTON, CODY DANIEL	0.00	1,400.08
185815	12/15/2023	04308	GARCIA, MANUEL ALEJANDRO	0.00	782.21
185816	12/15/2023	04278	PETTY, AIMEE M	0.00	415.57
185817	12/15/2023	02164	KUH, PEI-LING C	0.00	507.92
185818	12/15/2023	04287	PHILLIPS, RACHEL JO ANN	0.00	369.40
185819	12/15/2023	03748	SAENZ, VERONICA	0.00	923.50
185820	12/15/2023	04094	WILLIAMS, JOHN S	0.00	494.07
185821	12/15/2023	04605	FLORES, JAIME JAVIER	0.00	1,314.44
185822	12/15/2023	04899	WASHBURN, RYAN LEE	0.00	1,213.48
185823	12/15/2023	04046	WEBB, JENNIFER LYNN	0.00	1,189.46
185824	12/15/2023	00063	ROJAS, ROSA M	0.00	820.73
185825	12/15/2023	03448	HATFIELD, AMANDA M	0.00	461.75
185826	12/15/2023	05265	PEVEY, STEVEN RAY	0.00	1,052.79
185827	12/15/2023	05344	STANLEY, TYSEN SCOTT	0.00	1,002.92
185828	12/15/2023	04529	VAN DEVENTER, JOHN	0.00	944.25
185829	12/15/2023	05259	DIAZ, RUTH YESSICA	0.00	1,413.26
185830	12/15/2023	00284	CALDWELL, GLORIA	0.00	702.55
185831	12/15/2023	05301	CONTRERAS, LUCY ANN	0.00	646.45
185832	12/15/2023	05054	DEROOS, DIANA PATRICIA	0.00	646.45
185833	12/15/2023	03872	ERICKSON, MARIA L	0.00	461.75
185834	12/15/2023	05230	PEDERSON, HAYLIE DEANNE	0.00	646.45
185835	12/15/2023	05160	PEDERSON, PAXTON DONALD	0.00	461.75
185836	12/15/2023	05365	MEDINA, ARACELI	0.00	825.61
185837	12/15/2023	03949	LOCKHAVEN, KIP M	0.00	1,052.79

Payroll Final Check List

BENTON COUNTY

12/01/2023 to 12/15/2023- Type S Cycle bc

Bank: keydd - KEY BANK

Check #	Date	Employee #	Name	Check Amt	Direct Deposit
185838	12/15/2023	05299	ABARCA V, OMAR URIEL	0.00	1,003.85
185839	12/15/2023	02287	BAKER, JOSEPH W	0.00	889.49
185840	12/15/2023	02696	BUECHLER, DANIEL JOSPEH	0.00	1,296.17
185841	12/15/2023	05223	ESPIRITU DE LA MORA, CRISTIAN	0.00	1,003.85
185842	12/15/2023	00483	LATIMER, TAMSEN	0.00	277.05
185843	12/15/2023	02868	MERCADO JR, GERALDO VARA	0.00	788.67
185844	12/15/2023	05224	MORRIS, CREW BRANDT	0.00	1,003.85
185845	12/15/2023	02240	PEREZ, YVONNE RODRIGUEZ	0.00	805.30
185846	12/15/2023	02550	PEYTON, JONATHAN CHARLES	0.00	837.62
185847	12/15/2023	04869	CONE, JACOB STEVEN	0.00	855.16
185848	12/15/2023	00461	GOMEZ JR, RAMIRO A	0.00	916.66
185849	12/15/2023	02308	AYRES, AMY LYNN	0.00	978.91
185850	12/15/2023	05401	HAZELTON, JESSICA TALITHA	0.00	2,151.59
185851	12/15/2023	05282	STONE, BROCK THOMAS	0.00	1,680.07
185852	12/15/2023	05305	SUAREZ LEYVA, DANNA MICHAEL	0.00	1,015.85
185853	12/15/2023	05404	BROWN, ANDREA PAIGE	0.00	909.65
185854	12/15/2023	04662	ROBISON, CARSON KENT	0.00	900.41
185855	12/15/2023	04880	DURAN, BRITTANEE DAWN	0.00	816.61
185856	12/15/2023	05425	BITTON, MAYA GAYLE	0.00	738.80
185857	12/15/2023	01930	BROWN, RYAN KELLY	0.00	736.17
185858	12/15/2023	04128	HALLMAN, TAYLOR RAEANNE	0.00	851.56
185859	12/15/2023	05173	LEAVITT, MELYSSA MAE	0.00	787.74
185860	12/15/2023	04505	LILLY, JOSHUA JAMES	0.00	692.62
185861	12/15/2023	02432	LONG, JULIE ELIZABETH	0.00	394.20
185862	12/15/2023	05357	MORENO, FELICITAS MARGARITA	0.00	893.03
185863	12/15/2023	02687	MURSTIG, MARTHA ELIZABETH	0.00	826.53
185864	12/15/2023	05073	MURSTIG, RACHEL LYNN	0.00	676.92
185865	12/15/2023	03048	PETRA, ANITA ISABELLE	0.00	2,459.63
185866	12/15/2023	02767	SKEELS, TIMOTHY ALLEN	0.00	2,017.85
185867	12/15/2023	04291	REYNOLDS, DESIREE RENEA	0.00	1,652.14
185868	12/15/2023	05089	ARROYO, CORNELIO	0.00	461.75
185869	12/15/2023	04394	GODINEZ, SONIA	0.00	184.70
185870	12/15/2023	04332	BERRY, SHELA JASMINE	0.00	369.40
185871	12/15/2023	04841	KILLMAN, JUSTIN S	0.00	1,200.55
185872	12/15/2023	05003	ROBERTS, JACOB JOSEPH	0.00	877.32
185873	12/15/2023	02021	ROCHLEAU, KEN CRAIG	0.00	531.01
185874	12/15/2023	05343	KRANTZ, DYLAN RYAN	0.00	507.92
185875	12/15/2023	04243	DAVIS, VOLNEY T	0.00	387.87

Payroll Final Check List

BENTON COUNTY

12/01/2023 to 12/15/2023- Type S Cycle bc

Bank: keydd - KEY BANK

Check #	Date	Employee #	Name	Check Amt	Direct Deposit
185876	12/15/2023	01241	DEINES, RUSSELL JAY	0.00	455.50
185877	12/15/2023	02963	SNYDER, JAMES RAY	0.00	1,309.89
185878	12/15/2023	04846	ZUNKER, ZAKERY A	0.00	1,053.71
185879	12/15/2023	02692	BOVEE, ALLAN SCOTT	0.00	620.20
185880	12/15/2023	04520	HATFIELD, TAVIS CRAIG	0.00	461.75
185881	12/15/2023	03925	LINER, JEFFREY ALAN	0.00	1,582.07
185882	12/15/2023	03662	RAWLINGS, CLAYTON L	0.00	1,339.07
185883	12/15/2023	04212	THOMAS, ANDREW CATON	0.00	461.75
185884	12/15/2023	04752	HESTER, JAMES D	0.00	1,303.73
185885	12/15/2023	05249	MENDOZA-ORTIZ, CINDY	0.00	646.45
185886	12/15/2023	05221	VALLADARES, AALIYAH MARYAH	0.00	825.61
185887	12/15/2023	05242	BARRETO BENTO, THIAGO	0.00	1,510.85
185888	12/15/2023	05226	CARDOSO, GUSTAVO	0.00	1,438.81
185889	12/15/2023	05431	COUCH, JENNIFER LEIGH	0.00	1,835.91
185890	12/15/2023	04667	HERNANDEZ, IVAN	0.00	1,214.79
185891	12/15/2023	05315	MCMILLAN, LIAM DARYHA	0.00	1,462.67
185892	12/15/2023	04408	PEREZ, ELIAS	0.00	738.80
185893	12/15/2023	03225	RODRICK, EMAN DAVID	0.00	369.40
185894	12/15/2023	03153	CLARKE, MATHEW DAVID	0.00	559.76
185895	12/15/2023	03880	DONOVAN, ZACHARY ALAN	0.00	619.67
185896	12/15/2023	00615	GONZALEZ, HORACIO R	0.00	2,092.44
185897	12/15/2023	03014	KORTEN, DANIEL WILLIAM	0.00	507.92
185898	12/15/2023	04761	KRAAL, DAVID LESTER	0.00	736.03
185899	12/15/2023	05143	LOPEZ, ROSARIO ALEJANDRA	0.00	646.45
185900	12/15/2023	05409	MASSART, STEPHANIE JANE	0.00	875.47
185901	12/15/2023	03447	ALARCON, SANDRA	0.00	867.25
185902	12/15/2023	05380	ASHCRAFT, PHILLIP DEAN	0.00	919.81
185903	12/15/2023	03243	PICKETT, MARSHALL J	0.00	369.40
185904	12/15/2023	05402	SANCHEZ, ADRIAN M	0.00	1,086.04
185905	12/15/2023	05132	ESPINOSA, KAYLEE MARIE	0.00	600.27
			Employee Check Totals	**0.00**	**124,291.89**
			Bank keydd Totals (144 Forms)	**0.00**	**124,291.89**

Payroll Final Check List

BENTON COUNTY

12/01/2023 to 12/15/2023- Type S Cycle bc

Bank: keypy - Key Bank - Payroll

Check #	Date	Employee #	Name	Check Amt	Direct Deposit
244327	12/15/2023	05406	CHAPMAN II, DAVID CHARLES	1,149.76	0.00
244328	12/15/2023	05438	GUSAR, VIOLETTA ANN	1,104.51	0.00
			Employee Check Totals	**2,254.27**	**0.00**
			Bank keypy Totals (2 Forms)	**2,254.27**	**0.00**
			Grand Total	**2,254.27**	**124,291.89**

Next Step: Account Posting (AP)

Totals Checks and Direct Deposit (146 Forms) **126,546.16**

Pay Period is Open (Locked)

CASH ACCOUNT: 99900000 11124 Federal Tax

CHECK NO	CHK DATE	TYPE	VENDOR	NAME		INV DATE	PO	CHECK	NET
1433	12/15/2023	WIRE	104429	WA ST DEPT OF RET SYS	PERS 3	12/14/2023		PAYROLL	31.50
							CHECK	1433 TOTAL:	31.50
1434	12/15/2023	WIRE	104430	WA ST DEPT OF RET SYS	PERS 2	12/14/2023		PAYROLL	156.82
							CHECK	1434 TOTAL:	156.82
1435	12/15/2023	WIRE	104432	WA ST DEPT OF RET SYS	PSERS	12/14/2023		PAYROLL	492.52
							CHECK	1435 TOTAL:	492.52
1436	12/15/2023	WIRE	104483	WA ST DEPT OF RET SYS	LEOFF 2	12/14/2023		PAYROLL	18.75
							CHECK	1436 TOTAL:	18.75
1437	12/15/2023	WIRE	102850	KEY BANK		12/14/2023		PAYROLL	23,001.53
							CHECK	1437 TOTAL:	23,001.53

NUMBER OF CHECKS 5 *** CASH ACCOUNT TOTAL *** 23,701.12

	COUNT	AMOUNT
TOTAL WIRE TRANSFERS	5	23,701.12

*** GRAND TOTAL *** 23,701.12

JOURNAL ENTRIES TO BE CREATED

CLERK: JCT

YEAR PER JNL / SRC ACCOUNT / EFF DATE	JNL DESC	REF 1	REF 2	REF 3	ACCOUNT DESC / LINE DESC	T	OB	DEBIT	CREDIT
2023 12 2581									
APP GF005000-21340					Vouchers Payable			14,520.71	
12/15/2023	PAYROLL	PAYROL			AP CASH DISBURSEMENTS JOURNAL				
APP 99900000-11124					Federal Tax				23,701.12
12/15/2023	PAYROLL	PAYROL			AP CASH DISBURSEMENTS JOURNAL				
APP IB850000-21340					Vouchers Payable			163.48	
12/15/2023	PAYROLL	PAYROL			AP CASH DISBURSEMENTS JOURNAL				
APP PS850000-21340					Vouchers Payable			2,159.99	
12/15/2023	PAYROLL	PAYROL			AP CASH DISBURSEMENTS JOURNAL				
APP BHF85000-21340					Vouchers Payable			817.22	
12/15/2023	PAYROLL	PAYROL			AP CASH DISBURSEMENTS JOURNAL				
APP ER850000-21340					Vouchers Payable			565.59	
12/15/2023	PAYROLL	PAYROL			AP CASH DISBURSEMENTS JOURNAL				
APP IT850000-21340					Vouchers Payable			477.70	
12/15/2023	PAYROLL	PAYROL			AP CASH DISBURSEMENTS JOURNAL				
APP RD850000-21340					Vouchers Payable			1,725.05	
12/15/2023	PAYROLL	PAYROL			AP CASH DISBURSEMENTS JOURNAL				
APP HS850000-21340					Vouchers Payable			632.95	
12/15/2023	PAYROLL	PAYROL			AP CASH DISBURSEMENTS JOURNAL				
APP EL500000-21340					Vouchers Payable			111.86	
12/15/2023	PAYROLL	PAYROL			AP CASH DISBURSEMENTS JOURNAL				
APP TO850000-21340					Vouchers Payable			64.64	
12/15/2023	PAYROLL	PAYROL			AP CASH DISBURSEMENTS JOURNAL				
APP JC850000-21340					Vouchers Payable			2,049.71	
12/15/2023	PAYROLL	PAYROL			AP CASH DISBURSEMENTS JOURNAL				
APP CV850000-21340					Vouchers Payable			392.14	
12/15/2023	PAYROLL	PAYROL			AP CASH DISBURSEMENTS JOURNAL				
APP CC850000-21340					Vouchers Payable			20.08	
12/15/2023	PAYROLL	PAYROL			AP CASH DISBURSEMENTS JOURNAL				
					GENERAL LEDGER TOTAL			23,701.12	23,701.12
APP 99900000-80010					Due To General Fund			14,520.71	
12/15/2023	PAYROLL	PAYROL							
APP GF001000-11110					Cash Equity				14,520.71
12/15/2023	PAYROLL	PAYROL							
APP 99900000-81160					Due To Inmate Benevolence Fund			163.48	
12/15/2023	PAYROLL	PAYROL							
APP IB810000-11110					Cash Equity				163.48
12/15/2023	PAYROLL	PAYROL							
APP 99900000-81480					Due To Public Safety Tax Fund			2,159.99	
12/15/2023	PAYROLL	PAYROL							
APP PS810000-11110					Cash Equity				2,159.99
12/15/2023	PAYROLL	PAYROL							
APP 99900000-81600					Due To Behavioral Health			817.22	
12/15/2023	PAYROLL	PAYROL							
APP BHF81000-11110					Cash Equity				817.22

JOURNAL ENTRIES TO BE CREATED

YEAR PER JNL SRC ACCOUNT	EFF DATE	JNL DESC	REF 1	REF 2	REF 3	ACCOUNT DESC / LINE DESC	T	OB	DEBIT	CREDIT
	12/15/2023	PAYROLL	PAYROL							
APP 99900000-85010	12/15/2023	PAYROLL	PAYROL			Due To Equipment Rental & Rev			565.59	
APP ER810000-11110	12/15/2023	PAYROLL	PAYROL			Cash Equity				565.59
APP 99900000-85020	12/15/2023	PAYROLL	PAYROL			Due To Central Services			477.70	
APP IT810000-11110	12/15/2023	PAYROLL	PAYROL			Cash Equity				477.70
APP 99900000-81010	12/15/2023	PAYROLL	PAYROL			Due To County Road			1,725.05	
APP RD810000-11110	12/15/2023	PAYROLL	PAYROL			Cash Equity				1,725.05
APP 99900000-81080	12/15/2023	PAYROLL	PAYROL			Due To Human Services			632.95	
APP HS810000-11110	12/15/2023	PAYROLL	PAYROL			Cash Equity				632.95
APP 99900000-81110	12/15/2023	PAYROLL	PAYROL			Due To Election Reserve			111.86	
APP EL100000-11110	12/15/2023	PAYROLL	PAYROL			Cash Equity				111.86
APP 99900000-81120	12/15/2023	PAYROLL	PAYROL			Due To Treasurers O & M			64.64	
APP TO810000-11110	12/15/2023	PAYROLL	PAYROL			Cash Equity				64.64
APP 99900000-81150	12/15/2023	PAYROLL	PAYROL			Due To Juvenile Center			2,049.71	
APP JC810000-11110	12/15/2023	PAYROLL	PAYROL			Cash Equity				2,049.71
APP 99900000-81200	12/15/2023	PAYROLL	PAYROL			Due To Crime Victim Comp			392.14	
APP CV810000-11110	12/15/2023	PAYROLL	PAYROL			Cash Equity				392.14
APP 99900000-81460	12/15/2023	PAYROLL	PAYROL			Due To Clerks Collection Fund			20.08	
APP CC810000-11110	12/15/2023	PAYROLL	PAYROL			Cash Equity				20.08
						SYSTEM GENERATED ENTRIES TOTAL			23,701.12	23,701.12
						JOURNAL 2023/12/2581 TOTAL			47,402.24	47,402.24

JOURNAL ENTRIES TO BE CREATED

FUND / ACCOUNT	YEAR PER	JNL	EFF DATE / ACCOUNT DESCRIPTION		DEBIT	CREDIT
0010 General Fund	2023 12	2581	12/15/2023			
GF001000-11110			Cash Equity			14,520.71
GF005000-21340			Vouchers Payable		14,520.71	
				FUND TOTAL	14,520.71	14,520.71
1010 County Road	2023 12	2581	12/15/2023			
RD810000-11110			Cash Equity			1,725.05
RD850000-21340			Vouchers Payable		1,725.05	
				FUND TOTAL	1,725.05	1,725.05
1080 Human Services	2023 12	2581	12/15/2023			
HS810000-11110			Cash Equity			632.95
HS850000-21340			Vouchers Payable		632.95	
				FUND TOTAL	632.95	632.95
1110 Election Reserve	2023 12	2581	12/15/2023			
EL100000-11110			Cash Equity			111.86
EL500000-21340			Vouchers Payable		111.86	
				FUND TOTAL	111.86	111.86
1120 Treasurers O & M	2023 12	2581	12/15/2023			
TO810000-11110			Cash Equity			64.64
TO850000-21340			Vouchers Payable		64.64	
				FUND TOTAL	64.64	64.64
1150 Juvenile Center	2023 12	2581	12/15/2023			
JC810000-11110			Cash Equity			2,049.71
JC850000-21340			Vouchers Payable		2,049.71	
				FUND TOTAL	2,049.71	2,049.71
1160 Inmate Benevolence Fund	2023 12	2581	12/15/2023			
IB810000-11110			Cash Equity			163.48
IB850000-21340			Vouchers Payable		163.48	
				FUND TOTAL	163.48	163.48
1200 Crime Victim Comp	2023 12	2581	12/15/2023			
CV810000-11110			Cash Equity			392.14
CV850000-21340			Vouchers Payable		392.14	
				FUND TOTAL	392.14	392.14
1460 Clerks Collection Fund	2023 12	2581	12/15/2023			

JOURNAL ENTRIES TO BE CREATED

FUND / ACCOUNT	YEAR PER	JNL	EFF DATE	ACCOUNT DESCRIPTION		DEBIT	CREDIT
CC810000-11110				Cash Equity			20.08
CC850000-21340				Vouchers Payable		20.08	
					FUND TOTAL	20.08	20.08
1480 Public Safety Tax Fund	2023 12	2581	12/15/2023				
PS810000-11110				Cash Equity			2,159.99
PS850000-21340				Vouchers Payable		2,159.99	
					FUND TOTAL	2,159.99	2,159.99
1600 Behavioral Health	2023 12	2581	12/15/2023				
BHF81000-11110				Cash Equity			817.22
BHF85000-21340				Vouchers Payable		817.22	
					FUND TOTAL	817.22	817.22
5010 Equipment Rental & Revolving	2023 12	2581	12/15/2023				
ER810000-11110				Cash Equity			565.59
ER850000-21340				Vouchers Payable		565.59	
					FUND TOTAL	565.59	565.59
5020 Central Services	2023 12	2581	12/15/2023				
IT810000-11110				Cash Equity			477.70
IT850000-21340				Vouchers Payable		477.70	
					FUND TOTAL	477.70	477.70
9999 Treasurers Pooled Cash	2023 12	2581	12/15/2023				
99900000-11124				Federal Tax			23,701.12
99900000-80010				Due To General Fund		14,520.71	
99900000-81010				Due To County Road		1,725.05	
99900000-81080				Due To Human Services		632.95	
99900000-81110				Due To Election Reserve		111.86	
99900000-81120				Due To Treasurers O & M		64.64	
99900000-81150				Due To Juvenile Center		2,049.71	
99900000-81160				Due To Inmate Benevolence Fund		163.48	
99900000-81200				Due To Crime Victim Comp		392.14	
99900000-81460				Due To Clerks Collection Fund		20.08	
99900000-81480				Due To Public Safety Tax Fund		2,159.99	
99900000-81600				Due To Behavioral Health		817.22	
99900000-85010				Due To Equipment Rental & Rev		565.59	
99900000-85020				Due To Central Services		477.70	
					FUND TOTAL	23,701.12	23,701.12

JOURNAL ENTRIES TO BE CREATED

FUND		DUE TO	DUE FR
0010	General Fund		14,520.71
1010	County Road		1,725.05
1080	Human Services		632.95
1110	Election Reserve		111.86
1120	Treasurers O & M		64.64
1150	Juvenile Center		2,049.71
1160	Inmate Benevolence Fund		163.48
1200	Crime Victim Comp		392.14
1460	Clerks Collection Fund		20.08
1480	Public Safety Tax Fund		2,159.99
1600	Behavioral Health		817.22
5010	Equipment Rental & Revolving		565.59
5020	Central Services		477.70
9999	Treasurers Pooled Cash	23,701.12	
	TOTAL	23,701.12	23,701.12

** END OF REPORT - Generated by Jury Torres **

We, the undersigned Board of County Commissioners of Benton County, Washington, do hereby certify that the merchandise of services hereinafter specified by Funds on the attached Check Posting List, have been received and are approved for payment.

Accounts Payable

Check Date: 12/18/2023

Warrants # 252146
Total of all Funds: $75.00

Commissioner_____

Commissioner_____

Commissioner_____

Date Signed_____

CASH ACCOUNT: 99900000 11120 AP Check Claims Clearing

CHECK NO	CHK DATE	TYPE	VENDOR	NAME	INV DATE	PO	CHECK	NET
252146	12/18/2023	PRTD	104454	WA ST DEPT OF AGRICULTURE	12/18/2023		121823	75.00
						CHECK	252146 TOTAL:	75.00

NUMBER OF CHECKS 1 *** CASH ACCOUNT TOTAL *** 75.00

	COUNT	AMOUNT
TOTAL PRINTED CHECKS	1	75.00

*** GRAND TOTAL *** 75.00

JOURNAL ENTRIES TO BE CREATED

CLERK: MCN

YEAR PER JNL / SRC ACCOUNT / EFF DATE	JNL DESC	REF 1	REF 2	REF 3	ACCOUNT DESC / LINE DESC	T	OB	DEBIT	CREDIT
2023 12 2808									
APP GF005000-21340					Vouchers Payable			75.00	
12/18/2023	121823	121823			AP CASH DISBURSEMENTS JOURNAL				
APP 99900000-11120					AP Check Claims Clearing				75.00
12/18/2023	121823	121823			AP CASH DISBURSEMENTS JOURNAL				
					GENERAL LEDGER TOTAL			75.00	75.00
APP 99900000-80010					Due To General Fund			75.00	
12/18/2023	121823	121823							
APP GF001000-11110					Cash Equity				75.00
12/18/2023	121823	121823							
					SYSTEM GENERATED ENTRIES TOTAL			75.00	75.00
					JOURNAL 2023/12/2808 TOTAL			150.00	150.00

JOURNAL ENTRIES TO BE CREATED

FUND / ACCOUNT	YEAR PER	JNL	EFF DATE / ACCOUNT DESCRIPTION	DEBIT	CREDIT
0010 General Fund	2023 12	2808	12/18/2023		
GF001000-11110			Cash Equity		75.00
GF005000-21340			Vouchers Payable	75.00	
			FUND TOTAL	75.00	75.00
9999 Treasurers Pooled Cash	2023 12	2808	12/18/2023		
99900000-11120			AP Check Claims Clearing		75.00
99900000-80010			Due To General Fund	75.00	
			FUND TOTAL	75.00	75.00

JOURNAL ENTRIES TO BE CREATED

FUND	DUE TO	DUE FR
0010 General Fund		75.00
9999 Treasurers Pooled Cash	75.00	
TOTAL	75.00	75.00

** END OF REPORT - Generated by Monika Nakic **

We, the undersigned Board of County Commissioners of Benton County, Washington, do hereby certify that the merchandise of services hereinafter specified by Funds on the attached Check Posting List, have been received and are approved for payment.

Accounts Payable

Check Date: 12/22/2023

Warrants # 252299-252442
Total of all Funds: $2,340,975.06

EFT # 733
Transfer # 1438, 1449
Total of all Funds: $19,391.68

Commissioner_____

Commissioner_____

Commissioner_____

Date Signed_____

CASH ACCOUNT: 99900000 11120 AP Check Claims Clearing

CHECK NO	CHK DATE	TYPE	VENDOR	NAME	INV DATE	PO	CHECK	NET
252299	12/22/2023	PRTD	105818	ACTENVIRO	12/12/2023		122223	4,967.46
					CHECK		252299 TOTAL:	4,967.46
252300	12/22/2023	PRTD	100067	ADKINS, GARY	12/14/2023		122223	600.44
				ADKINS, GARY	12/14/2023		122223	2,190.00
					CHECK		252300 TOTAL:	2,790.44
252301	12/22/2023	PRTD	100067	ADKINS, GARY	12/14/2023		122223	2,190.00
					CHECK		252301 TOTAL:	2,190.00
252302	12/22/2023	PRTD	100034	AGATE PROPERTIES LLC	12/19/2023		122223	785.00
				AGATE PROPERTIES LLC	12/19/2023		122223	52.43
				AGATE PROPERTIES LLC	12/19/2023		122223	785.00
				AGATE PROPERTIES LLC	12/19/2023		122223	52.19
				AGATE PROPERTIES LLC	12/19/2023		122223	785.00
				AGATE PROPERTIES LLC	12/19/2023		122223	57.15
				AGATE PROPERTIES LLC	12/19/2023		122223	785.00
				AGATE PROPERTIES LLC	12/19/2023		122223	58.42
				AGATE PROPERTIES LLC	12/19/2023		122223	785.00
				AGATE PROPERTIES LLC	12/19/2023		122223	54.43
					CHECK		252302 TOTAL:	4,199.62
252303	12/22/2023	PRTD	105681	AHMED N PHIPPS	12/08/2023		122223	270.00
					CHECK		252303 TOTAL:	270.00
252304	12/22/2023	PRTD	105357	ALISHA VICTORINE	12/13/2023		122223	300.00
					CHECK		252304 TOTAL:	300.00

CASH ACCOUNT: 99900000 11120 AP Check Claims Clearing

CHECK NO	CHK DATE	TYPE	VENDOR	NAME	INV DATE	PO	CHECK	NET
252305	12/22/2023	PRTD	103354	AOC/JUDICIAL CONFERENCE	12/14/2023		122223	585.00
						CHECK	252305 TOTAL:	585.00
252306	12/22/2023	PRTD	105878	APPLIED RESEARCH ASSOCIATES INC	12/12/2023		122223	78,571.00
						CHECK	252306 TOTAL:	78,571.00
252307	12/22/2023	PRTD	101377	ARAMARK CORRECTIONAL SVCS LLC	12/13/2023		122223	24,615.19
						CHECK	252307 TOTAL:	24,615.19
252308	12/22/2023	PRTD	105618	ARG INDUSTRIAL	12/12/2023		122223	506.54
						CHECK	252308 TOTAL:	506.54
252309	12/22/2023	PRTD	101417	AUTOZONE, INC.	12/12/2023		122223	134.78
						CHECK	252309 TOTAL:	134.78
252310	12/22/2023	PRTD	101443	BANLIN CONSTRUCTION, LLC	11/29/2023		122223	47,182.46
				BANLIN CONSTRUCTION, LLC	12/11/2023		122223	668,774.78
						CHECK	252310 TOTAL:	715,957.24
252311	12/22/2023	PRTD	101555	BENTON CONSERVATION DISTRICT	10/31/2023		122223	6,814.85
						CHECK	252311 TOTAL:	6,814.85
252312	12/22/2023	PRTD	101551	BENTON FRANKLIN HEALTH DIST. , EXP	12/07/2023		122223	125.00
						CHECK	252312 TOTAL:	125.00
252313	12/22/2023	PRTD	100650	BIG MAPLE PROPERTIES LLC	12/13/2023		122223	1,225.00
				BIG MAPLE PROPERTIES LLC	12/13/2023		122223	1,225.00
						CHECK	252313 TOTAL:	2,450.00

CASH ACCOUNT: 99900000 11120 AP Check Claims Clearing

CHECK NO	CHK DATE	TYPE	VENDOR	NAME	INV DATE	PO	CHECK	NET
252314	12/22/2023	PRTD	101632	BOYS AND GIRLS CLUB, OF BENTON & FR	11/30/2023		122223	22,093.44
				BOYS AND GIRLS CLUB, OF BENTON & FR	11/30/2023		122223	25,623.54
						CHECK	252314 TOTAL:	47,716.98
252315	12/22/2023	PRTD	101662	BRUCE HEATING & AIR, CONDITIONING I	11/22/2023		122223	65,685.65
						CHECK	252315 TOTAL:	65,685.65
252316	12/22/2023	PRTD	101675	BUILDERS' HARDWARE & SUPPLY CO, INC	12/05/2023		122223	461.81
						CHECK	252316 TOTAL:	461.81
252317	12/22/2023	PRTD	105732	BUSINESS INTERIORS OF IDAHO INC	12/13/2023		122223	50,781.58
				BUSINESS INTERIORS OF IDAHO INC	11/28/2023		122223	35.87
						CHECK	252317 TOTAL:	50,817.45
252318	12/22/2023	PRTD	101895	C I INFORMATION MANAGEMENT	11/30/2023		122223	32.74
						CHECK	252318 TOTAL:	32.74
252319	12/22/2023	PRTD	105800	CARL BAKER	12/13/2023		122223	200.00
						CHECK	252319 TOTAL:	200.00
252320	12/22/2023	PRTD	105560	CARLA ANN CHIOTTI	12/13/2023		122223	150.00
						CHECK	252320 TOTAL:	150.00
252321	12/22/2023	PRTD	101750	CASCADE NATURAL GAS CORP	12/08/2023		122223	7,901.09
				CASCADE NATURAL GAS CORP	12/08/2023		122223	1,460.25
						CHECK	252321 TOTAL:	9,361.34
252322	12/22/2023	PRTD	101768	CELSKI & ASSOCIATES INC	11/15/2023		122223	100.00
				CELSKI & ASSOCIATES INC	11/15/2023		122223	1,550.00
				CELSKI & ASSOCIATES INC	11/15/2023		122223	1,550.00

CASH ACCOUNT: 99900000 11120 AP Check Claims Clearing

CHECK NO	CHK DATE	TYPE	VENDOR	NAME	INV DATE	PO	CHECK	NET
						CHECK	252322 TOTAL:	3,200.00
252323	12/22/2023	PRTD	105879	CHANDLER A JONES	12/18/2023		122223	1,128.50
						CHECK	252323 TOTAL:	1,128.50
252324	12/22/2023	PRTD	105364	CHARLES A LOPRESTI	12/13/2023		122223	75.00
						CHECK	252324 TOTAL:	75.00
252325	12/22/2023	PRTD	105597	CHRISTINE GRANTHAM	12/13/2023		122223	200.00
						CHECK	252325 TOTAL:	200.00
252326	12/22/2023	PRTD	105807	CINDY TRUMAN BLUEMEL	12/13/2023		122223	125.00
						CHECK	252326 TOTAL:	125.00
252327	12/22/2023	PRTD	101814	CINTAS CORPORATION	12/12/2023		122223	193.28
				CINTAS CORPORATION	12/19/2023		122223	186.76
						CHECK	252327 TOTAL:	380.04
252328	12/22/2023	PRTD	101824	CITY OF RICHLAND LANDFILL	12/05/2023		122223	41.04
				CITY OF RICHLAND LANDFILL	12/06/2023		122223	35.34
				CITY OF RICHLAND LANDFILL	12/07/2023		122223	64.41
				CITY OF RICHLAND LANDFILL	12/08/2023		122223	21.09
						CHECK	252328 TOTAL:	161.88
252329	12/22/2023	PRTD	101825	CITY OF RICHLAND, C/O FINANCE DEPT	12/15/2023		122223	318.84
						CHECK	252329 TOTAL:	318.84
252330	12/22/2023	PRTD	101860	COLEMAN OIL COMPANY	12/15/2023		122223	35.25
				COLEMAN OIL COMPANY	12/15/2023		122223	155.60

CASH ACCOUNT: 99900000 11120 AP Check Claims Clearing

CHECK NO	CHK DATE	TYPE	VENDOR	NAME	INV DATE	PO	CHECK	NET
						CHECK	252330 TOTAL:	190.85
252331	12/22/2023	PRTD	101888	COLUMBIA RIGGING CORP	11/24/2023		122223	35.12
						CHECK	252331 TOTAL:	35.12
252332	12/22/2023	PRTD	101784	COMPREHENSIVE HEALTHCARE	12/06/2023		122223	2,400.00
						CHECK	252332 TOTAL:	2,400.00
252333	12/22/2023	PRTD	101913	COMPUNET, INC	12/08/2023		122223	787.50
				COMPUNET, INC	12/10/2023		122223	12,896.17
				COMPUNET, INC	11/01/2023		122223	321,663.54
				COMPUNET, INC	11/01/2023		122223	-413.06
				COMPUNET, INC	11/10/2023		122223	350.00
						CHECK	252333 TOTAL:	335,284.15
252334	12/22/2023	PRTD	101918	CONNELL OIL INC	12/18/2023		122223	100.45
				CONNELL OIL INC	12/15/2023		122223	297.14
				CONNELL OIL INC	12/15/2023		122223	95.51
						CHECK	252334 TOTAL:	493.10
252335	12/22/2023	PRTD	101927	CONSOLIDATED SUPPLY CO	12/04/2023		122223	33.95
				CONSOLIDATED SUPPLY CO	12/05/2023		122223	168.66
						CHECK	252335 TOTAL:	202.61
252336	12/22/2023	PRTD	101950	CORWIN FORD - TRI-CITIES	12/13/2023		122223	11.01
				CORWIN FORD - TRI-CITIES	12/07/2023		122223	256.10
				CORWIN FORD - TRI-CITIES	12/11/2023		122223	70.05
						CHECK	252336 TOTAL:	337.16

CASH ACCOUNT: 99900000 11120 AP Check Claims Clearing

CHECK NO	CHK DATE	TYPE	VENDOR	NAME	INV DATE	PO	CHECK	NET
252337	12/22/2023	PRTD	105943	COUNTY OF GRANT	11/21/2023		122223	200.00
						CHECK	252337 TOTAL:	200.00
252338	12/22/2023	PRTD	101981	CREST COUNSELING SERVICES, PS	11/08/2023		122223	510.00
						CHECK	252338 TOTAL:	510.00
252339	12/22/2023	PRTD	101995	CROWN PAPER & JANITORIAL, SUPPLY	12/12/2023		122223	65.22
						CHECK	252339 TOTAL:	65.22
252340	12/22/2023	PRTD	100175	CROWN VILLAGE KENNEWICK LLC	12/13/2023		122223	214.00
				CROWN VILLAGE KENNEWICK LLC	12/13/2023		122223	608.00
				CROWN VILLAGE KENNEWICK LLC	12/13/2023		122223	1,281.00
				CROWN VILLAGE KENNEWICK LLC	12/13/2023		122223	1,281.00
				CROWN VILLAGE KENNEWICK LLC	12/13/2023		122223	55.01
				CROWN VILLAGE KENNEWICK LLC	12/13/2023		122223	108.63
				CROWN VILLAGE KENNEWICK LLC	12/13/2023		122223	116.53
						CHECK	252340 TOTAL:	3,664.17
252341	12/22/2023	PRTD	102040	DAY WIRELESS SYSTEMS	09/25/2023		122223	14,043.64
						CHECK	252341 TOTAL:	14,043.64
252342	12/22/2023	PRTD	100801	DHIJ RENTALS	12/14/2023		122223	323.76
						CHECK	252342 TOTAL:	323.76
252343	12/22/2023	PRTD	105942	EMERALD PROPERTY MANAGEMENT LLC	12/18/2023		122223	650.00
				EMERALD PROPERTY MANAGEMENT LLC	12/18/2023		122223	650.00
				EMERALD PROPERTY MANAGEMENT LLC	12/18/2023		122223	650.00
				EMERALD PROPERTY MANAGEMENT LLC	12/18/2023		122223	650.00
				EMERALD PROPERTY MANAGEMENT LLC	12/18/2023		122223	650.00

CASH ACCOUNT: 99900000 11120 AP Check Claims Clearing

CHECK NO	CHK DATE	TYPE	VENDOR	NAME	INV DATE	PO	CHECK	NET
					CHECK		252343 TOTAL:	3,250.00
252344	12/22/2023	PRTD	102218	ENVIROTECH SERVICES, INC	12/06/2023		122223	8,771.72
				ENVIROTECH SERVICES, INC	11/03/2023		122223	7,797.62
				ENVIROTECH SERVICES, INC	11/03/2023		122223	7,224.86
				ENVIROTECH SERVICES, INC	11/03/2023		122223	7,815.30
				ENVIROTECH SERVICES, INC	11/03/2023		122223	8,218.20
					CHECK		252344 TOTAL:	39,827.70
252345	12/22/2023	PRTD	100674	ESPINOZA, HUGO MORENO	12/13/2023		122223	1,450.00
				ESPINOZA, HUGO MORENO	12/13/2023		122223	1,450.00
				ESPINOZA, HUGO MORENO	12/13/2023		122223	1,450.00
					CHECK		252345 TOTAL:	4,350.00
252346	12/22/2023	PRTD	100674	ESPINOZA, HUGO MORENO	12/13/2023		122223	1,450.00
					CHECK		252346 TOTAL:	1,450.00
252347	12/22/2023	PRTD	105620	EVERHEALTH LLC	12/07/2023		122223	34,909.96
				EVERHEALTH LLC	12/07/2023		122223	17,713.20
				EVERHEALTH LLC	12/11/2023		122223	12,063.62
					CHECK		252347 TOTAL:	64,686.78
252348	12/22/2023	PRTD	102269	FARMERS EXCHANGE	03/24/2023		122223	-39.62
				FARMERS EXCHANGE	12/15/2023		122223	99.43
					CHECK		252348 TOTAL:	59.81
252349	12/22/2023	PRTD	102275	FASTSIGNS	12/04/2023		122223	255.70
					CHECK		252349 TOTAL:	255.70

CASH ACCOUNT: 99900000 11120 AP Check Claims Clearing

CHECK NO	CHK DATE	TYPE	VENDOR	NAME	INV DATE	PO	CHECK	NET
252350	12/22/2023	PRTD	102290	FERGUSON ENTERPRISES, INC	12/07/2023		122223	486.65
					CHECK		252350 TOTAL:	486.65
252351	12/22/2023	PRTD	102346	FOLTZ, JOHN	12/19/2023		122223	75.00
					CHECK		252351 TOTAL:	75.00
252352	12/22/2023	PRTD	102400	GALLS, LLC	11/29/2023		122223	287.62
				GALLS, LLC	12/04/2023		122223	1,271.79
					CHECK		252352 TOTAL:	1,559.41
252353	12/22/2023	PRTD	104924	GIESZLER KELLY PLLC	12/06/2023		122223	578.00
					CHECK		252353 TOTAL:	578.00
252354	12/22/2023	PRTD	105441	GLATZER LAW OFFICE PLLC	12/29/2023		122223	12,116.67
					CHECK		252354 TOTAL:	12,116.67
252355	12/22/2023	PRTD	100741	GLEASON LAW OFFICE LLC	12/29/2023		122223	11,400.00
					CHECK		252355 TOTAL:	11,400.00
252356	12/22/2023	PRTD	102458	GOODMAN & MEHLENBACHER ENT., INC	12/21/2023		122223	30,428.49
					CHECK		252356 TOTAL:	30,428.49
252357	12/22/2023	PRTD	102458	GOODMAN & MEHLENBACHER ENT., INC	12/14/2023		122223	173,780.29
					CHECK		252357 TOTAL:	173,780.29
252358	12/22/2023	PRTD	102460	GOODWILL INDUSTRIES OF THE, COLUMBI	12/13/2023		122223	16,727.00
					CHECK		252358 TOTAL:	16,727.00
252359	12/22/2023	PRTD	105281	GPS INSIGHT LLC	11/01/2023		122223	53.94
				GPS INSIGHT LLC	12/01/2023		122223	53.94

CASH ACCOUNT: 99900000 11120 AP Check Claims Clearing

CHECK NO	CHK DATE	TYPE	VENDOR	NAME	INV DATE	PO	CHECK	NET
						CHECK	252359 TOTAL:	107.88
252360	12/22/2023	PRTD	105659	GROWING FORWARD SERVICES LLC	12/02/2023		122223	2,375.00
						CHECK	252360 TOTAL:	2,375.00
252361	12/22/2023	PRTD	105599	H&L AUTO GLASS LLC	12/11/2023		122223	232.42
				H&L AUTO GLASS LLC	12/12/2023		122223	404.20
						CHECK	252361 TOTAL:	636.62
252362	12/22/2023	PRTD	102546	HARRIS GOVERN	11/27/2023		122223	24,025.42
				HARRIS GOVERN	11/27/2023		122223	18,998.58
				HARRIS GOVERN	11/30/2023		122223	34,101.40
				HARRIS GOVERN	11/30/2023		122223	15,164.73
						CHECK	252362 TOTAL:	92,290.13
252363	12/22/2023	PRTD	100791	HEATHERSTONE PRESERVATION LP	12/05/2023		122223	1,016.00
				HEATHERSTONE PRESERVATION LP	12/14/2023		122223	1,257.00
				HEATHERSTONE PRESERVATION LP	12/14/2023		122223	1,257.00
				HEATHERSTONE PRESERVATION LP	12/14/2023		122223	1,257.00
				HEATHERSTONE PRESERVATION LP	12/14/2023		122223	757.00
				HEATHERSTONE PRESERVATION LP	12/15/2023		122223	1,074.00
				HEATHERSTONE PRESERVATION LP	12/18/2023		122223	1,262.00
				HEATHERSTONE PRESERVATION LP	12/18/2023		122223	1,262.00
				HEATHERSTONE PRESERVATION LP	12/18/2023		122223	1,193.00
				HEATHERSTONE PRESERVATION LP	12/18/2023		122223	1,193.00
				HEATHERSTONE PRESERVATION LP	12/18/2023		122223	793.00
						CHECK	252363 TOTAL:	12,321.00

CASH ACCOUNT: 99900000 11120 AP Check Claims Clearing

CHECK NO	CHK DATE	TYPE	VENDOR	NAME	INV DATE	PO	CHECK	NET
252364	12/22/2023	PRTD	102624	HOME BUILDERS ASSOCIATION OF	11/08/2023		122223	1,500.00
						CHECK	252364 TOTAL:	1,500.00
252365	12/22/2023	PRTD	102646	HOUSING AUTHORITY OF THE CITY	12/13/2023		122223	408.00
				HOUSING AUTHORITY OF THE CITY	12/13/2023		122223	472.00
				HOUSING AUTHORITY OF THE CITY	12/13/2023		122223	498.00
				HOUSING AUTHORITY OF THE CITY	12/13/2023		122223	725.00
						CHECK	252365 TOTAL:	2,103.00
252366	12/22/2023	PRTD	102644	HOUSING AUTHORITY, CITY OF KENNEWIC	12/13/2023		122223	555.00
				HOUSING AUTHORITY, CITY OF KENNEWIC	12/13/2023		122223	555.00
				HOUSING AUTHORITY, CITY OF KENNEWIC	12/13/2023		122223	555.00
				HOUSING AUTHORITY, CITY OF KENNEWIC	12/13/2023		122223	214.00
				HOUSING AUTHORITY, CITY OF KENNEWIC	12/13/2023		122223	24.32
						CHECK	252366 TOTAL:	1,903.32
252367	12/22/2023	PRTD	102679	IDEAL OPTION PLLC	12/06/2023		122223	25,261.50
						CHECK	252367 TOTAL:	25,261.50
252368	12/22/2023	PRTD	105898	INNOVATIVE SYSTEMS	12/06/2023		122223	15,975.51
						CHECK	252368 TOTAL:	15,975.51
252369	12/22/2023	PRTD	102712	INTERMOUNTAIN CLEANING SERVICE, INC	12/15/2023		122223	42,360.50
						CHECK	252369 TOTAL:	42,360.50
252370	12/22/2023	PRTD	105561	JAMES L CONCA	12/13/2023		122223	100.00
						CHECK	252370 TOTAL:	100.00

CASH ACCOUNT: 99900000 11120 AP Check Claims Clearing

CHECK NO	CHK DATE	TYPE	VENDOR	NAME	INV DATE	PO	CHECK	NET
252371	12/22/2023	PRTD	105366	JEROME B MARTIN	12/13/2023		122223	50.00
						CHECK	252371 TOTAL:	50.00
252372	12/22/2023	PRTD	102778	JIM'S PACIFIC GARAGES, INC	12/12/2023		122223	29.07
						CHECK	252372 TOTAL:	29.07
252373	12/22/2023	PRTD	105808	JOHN CHRISTENSON	12/13/2023		122223	175.00
						CHECK	252373 TOTAL:	175.00
252374	12/22/2023	PRTD	102793	JOHNSON & ORR PLLC	12/29/2023		122223	6,314.00
						CHECK	252374 TOTAL:	6,314.00
252375	12/22/2023	PRTD	102803	JUBILEE FOUNDATION	12/12/2023		122223	1,015.00
				JUBILEE FOUNDATION	12/12/2023		122223	30.00
				JUBILEE FOUNDATION	12/12/2023		122223	1,065.00
				JUBILEE FOUNDATION	12/12/2023		122223	1,170.00
				JUBILEE FOUNDATION	12/12/2023		122223	30.00
						CHECK	252375 TOTAL:	3,310.00
252376	12/22/2023	PRTD	105888	JUDITH K GOLBERG	12/13/2023		122223	100.00
						CHECK	252376 TOTAL:	100.00
252377	12/22/2023	PRTD	105505	JUST APPRAISED INC	09/27/2023		122223	24,000.00
						CHECK	252377 TOTAL:	24,000.00
252378	12/22/2023	PRTD	102826	KEEFE COMMISSARY NETWORK, LLC	12/04/2023		122223	-21.78
				KEEFE COMMISSARY NETWORK, LLC	12/06/2023		122223	6,017.18
				KEEFE COMMISSARY NETWORK, LLC	12/06/2023		122223	-128.84
				KEEFE COMMISSARY NETWORK, LLC	12/11/2023		122223	-3.97

CASH ACCOUNT: 99900000 11120 AP Check Claims Clearing

CHECK NO	CHK DATE	TYPE	VENDOR	NAME	INV DATE	PO	CHECK	NET
				KEEFE COMMISSARY NETWORK, LLC	12/13/2023		122223	5,357.68
					CHECK		252378 TOTAL:	11,220.27
252379	12/22/2023	PRTD	105362	KELLEEN LYNN DOYLE	12/13/2023		122223	375.00
					CHECK		252379 TOTAL:	375.00
252380	12/22/2023	PRTD	102836	KENNEWICK IRRIGATION DISTRICT	12/07/2023		122223	230.55
					CHECK		252380 TOTAL:	230.55
252381	12/22/2023	PRTD	100738	KNUTZEN ENGINEERING	12/12/2023		122223	1,000.00
					CHECK		252381 TOTAL:	1,000.00
252382	12/22/2023	PRTD	100562	LAKEVIEW LIMITED	12/12/2023		122223	25.00
				LAKEVIEW LIMITED	12/12/2023		122223	570.00
				LAKEVIEW LIMITED	12/12/2023		122223	570.00
				LAKEVIEW LIMITED	12/12/2023		122223	570.00
				LAKEVIEW LIMITED	12/12/2023		122223	610.00
					CHECK		252382 TOTAL:	2,345.00
252383	12/22/2023	PRTD	102968	LES SCHWAB TIRE CENTER	11/03/2023		122223	99.96
					CHECK		252383 TOTAL:	99.96
252384	12/22/2023	PRTD	102988	LIFEPOINT CORPORATE SERVICES , GEN	12/18/2023		122223	171.00
					CHECK		252384 TOTAL:	171.00
252385	12/22/2023	PRTD	104585	MARQUINA INVESTMENTS LLC	12/12/2023		122223	1,200.00
				MARQUINA INVESTMENTS LLC	12/12/2023		122223	1,275.00
				MARQUINA INVESTMENTS LLC	12/12/2023		122223	1,350.00
					CHECK		252385 TOTAL:	3,825.00

CASH ACCOUNT: 99900000 11120 AP Check Claims Clearing

CHECK NO	CHK DATE	TYPE	VENDOR	NAME	INV DATE	PO	CHECK	NET
252386	12/22/2023	PRTD	101774	MARQUINA PROPERTIES, LLC	12/13/2023		122223	1,700.00
					CHECK		252386 TOTAL:	1,700.00
252387	12/22/2023	PRTD	103131	MEIER ARCHITECTURE ENGINEERING	11/08/2023		122223	3,060.00
				MEIER ARCHITECTURE ENGINEERING	12/07/2023		122223	1,000.00
					CHECK		252387 TOTAL:	4,060.00
252388	12/22/2023	PRTD	103140	MENDOZA, RAMIRO	12/14/2023		122223	1,206.00
				MENDOZA, RAMIRO	12/14/2023		122223	1,206.00
				MENDOZA, RAMIRO	12/14/2023		122223	1,206.00
					CHECK		252388 TOTAL:	3,618.00
252389	12/22/2023	PRTD	103158	MID COLUMBIA FORKLIFT INC	11/30/2023		122223	5,360.21
					CHECK		252389 TOTAL:	5,360.21
252390	12/22/2023	PRTD	105358	MIRIAM ANNE KERZNER	12/13/2023		122223	50.00
					CHECK		252390 TOTAL:	50.00
252391	12/22/2023	PRTD	999999	Everardo Nava	12/15/2023		122223	100.00
					CHECK		252391 TOTAL:	100.00
252392	12/22/2023	PRTD	999999	Greg Frichette	12/08/2023		122223	100.00
					CHECK		252392 TOTAL:	100.00
252393	12/22/2023	PRTD	103393	ORCHARD HILLS APARTMENTS LLC	12/07/2023		122223	853.00
				ORCHARD HILLS APARTMENTS LLC	12/12/2023		122223	831.00
					CHECK		252393 TOTAL:	1,684.00
252394	12/22/2023	PRTD	103452	OXFORD HOUSE DELYNN	12/13/2023		122223	400.00
				OXFORD HOUSE DELYNN	12/13/2023		122223	39.99

CASH ACCOUNT: 99900000 11120 AP Check Claims Clearing

CHECK NO	CHK DATE	TYPE	VENDOR	NAME	INV DATE	PO	CHECK	NET
						CHECK	252394 TOTAL:	439.99
252395	12/22/2023	PRTD	103452	OXFORD HOUSE DELYNN	12/13/2023		122223	150.00
						CHECK	252395 TOTAL:	150.00
252396	12/22/2023	PRTD	105871	PACIFIC NW FORENSIC PATHOLOGY PLLC	12/07/2023		122223	4,200.00
				PACIFIC NW FORENSIC PATHOLOGY PLLC	12/07/2023		122223	4,200.00
						CHECK	252396 TOTAL:	8,400.00
252397	12/22/2023	PRTD	103469	PACIFIC OFFICE AUTOMATION, INC	12/13/2023		122223	171.12
				PACIFIC OFFICE AUTOMATION, INC	12/13/2023		122223	340.01
						CHECK	252397 TOTAL:	511.13
252398	12/22/2023	PRTD	103483	PAPE' MACHINERY, INC	12/07/2023		122223	351.75
				PAPE' MACHINERY, INC	12/07/2023		122223	402.14
				PAPE' MACHINERY, INC	12/08/2023		122223	126.39
				PAPE' MACHINERY, INC	12/11/2023		122223	25.87
						CHECK	252398 TOTAL:	906.15
252399	12/22/2023	PRTD	105297	PARC 48 APARTMENTS	12/04/2023		122223	95.00
				PARC 48 APARTMENTS	12/12/2023		122223	840.00
				PARC 48 APARTMENTS	12/12/2023		122223	1,270.00
						CHECK	252399 TOTAL:	2,205.00
252400	12/22/2023	PRTD	103492	PARTNERS FOR EARLY LEARNING	11/30/2023		122223	13,217.13
						CHECK	252400 TOTAL:	13,217.13
252401	12/22/2023	PRTD	105801	PATRICIA HUBBARD	12/13/2023		122223	25.00

CASH ACCOUNT: 99900000 11120 AP Check Claims Clearing

CHECK NO	CHK DATE	TYPE	VENDOR	NAME	INV DATE	PO	CHECK	NET
					CHECK		252401 TOTAL:	25.00
252402	12/22/2023	PRTD	103524	PELLETIER, CHERYL	12/18/2023		122223	297.00
					CHECK		252402 TOTAL:	297.00
252403	12/22/2023	PRTD	103526	PENSER NORTHAMERICA, INC.	12/19/2023		122223	2,590.00
					CHECK		252403 TOTAL:	2,590.00
252404	12/22/2023	PRTD	100824	PPC SOLUTIONS INC	11/30/2023		122223	1,183.46
				PPC SOLUTIONS INC	11/30/2023		122223	70.68
				PPC SOLUTIONS INC	11/30/2023		122223	24,776.44
					CHECK		252404 TOTAL:	26,030.58
252405	12/22/2023	PRTD	105509	PRE SALES INC	12/07/2023		122223	14,153.02
					CHECK		252405 TOTAL:	14,153.02
252406	12/22/2023	PRTD	100835	PRONTO PROCESS SERVICE	11/29/2023		122223	25.00
				PRONTO PROCESS SERVICE	11/28/2023		122223	30.00
				PRONTO PROCESS SERVICE	11/14/2023		122223	30.00
				PRONTO PROCESS SERVICE	11/09/2023		122223	30.00
				PRONTO PROCESS SERVICE	11/13/2023		122223	30.00
				PRONTO PROCESS SERVICE	11/09/2023		122223	30.00
				PRONTO PROCESS SERVICE	11/09/2023		122223	30.00
				PRONTO PROCESS SERVICE	11/14/2023		122223	30.00
				PRONTO PROCESS SERVICE	11/21/2023		122223	45.00
				PRONTO PROCESS SERVICE	11/29/2023		122223	45.00
					CHECK		252406 TOTAL:	325.00

CASH ACCOUNT: 99900000 11120 AP Check Claims Clearing

CHECK NO	CHK DATE	TYPE	VENDOR	NAME	INV DATE	PO	CHECK	NET
252407	12/22/2023	PRTD	103632	PROSSER OPPORTUNITY HOUSING, LLC	12/13/2023		122223	395.00
				PROSSER OPPORTUNITY HOUSING, LLC	12/13/2023		122223	1,125.00
				PROSSER OPPORTUNITY HOUSING, LLC	12/13/2023		122223	1,125.00
				PROSSER OPPORTUNITY HOUSING, LLC	12/13/2023		122223	37.61
				PROSSER OPPORTUNITY HOUSING, LLC	12/13/2023		122223	542.00
				PROSSER OPPORTUNITY HOUSING, LLC	12/13/2023		122223	542.00
				PROSSER OPPORTUNITY HOUSING, LLC	12/13/2023		122223	542.00
				PROSSER OPPORTUNITY HOUSING, LLC	12/13/2023		122223	542.00
				PROSSER OPPORTUNITY HOUSING, LLC	12/13/2023		122223	542.00
				PROSSER OPPORTUNITY HOUSING, LLC	12/13/2023		122223	542.00
				PROSSER OPPORTUNITY HOUSING, LLC	12/13/2023		122223	106.00
						CHECK	252407 TOTAL:	6,582.61
252408	12/22/2023	PRTD	101235	QUAIL SPRINGS WEST RICHLAND, TRADE	12/19/2023		122223	1,795.39
				QUAIL SPRINGS WEST RICHLAND, TRADE	12/19/2023		122223	169.23
				QUAIL SPRINGS WEST RICHLAND, TRADE	12/19/2023		122223	1,884.00
				QUAIL SPRINGS WEST RICHLAND, TRADE	12/19/2023		122223	155.16
				QUAIL SPRINGS WEST RICHLAND, TRADE	12/19/2023		122223	1,879.00
				QUAIL SPRINGS WEST RICHLAND, TRADE	12/19/2023		122223	153.54
						CHECK	252408 TOTAL:	6,036.32
252409	12/22/2023	PRTD	105271	QUANTUM LEGAL PLLC	12/29/2023		122223	7,600.05
						CHECK	252409 TOTAL:	7,600.05
252410	12/22/2023	PRTD	103686	RAMON, BERTHA	12/29/2023		122223	1,500.00

CASH ACCOUNT: 99900000 11120 AP Check Claims Clearing

CHECK NO	CHK DATE	TYPE	VENDOR	NAME	INV DATE	PO	CHECK	NET
					CHECK		252410 TOTAL:	1,500.00
252411	12/22/2023	PRTD	105180	RANDALL JOBS	12/13/2023		122223	1,881.70
					CHECK		252411 TOTAL:	1,881.70
252412	12/22/2023	PRTD	102821	RBJK VENTURE, LLC	12/07/2023		122223	1,125.00
				RBJK VENTURE, LLC	12/07/2023		122223	50.00
				RBJK VENTURE, LLC	12/07/2023		122223	1,200.00
				RBJK VENTURE, LLC	12/07/2023		122223	25.00
				RBJK VENTURE, LLC	12/07/2023		122223	50.00
				RBJK VENTURE, LLC	12/07/2023		122223	180.00
				RBJK VENTURE, LLC	12/04/2023		122223	85.00
				RBJK VENTURE, LLC	12/04/2023		122223	1,200.00
				RBJK VENTURE, LLC	12/04/2023		122223	1,300.00
				RBJK VENTURE, LLC	12/04/2023		122223	50.00
				RBJK VENTURE, LLC	12/04/2023		122223	50.00
					CHECK		252412 TOTAL:	5,315.00
252413	12/22/2023	PRTD	103671	RDO TRUST #80-6130	12/07/2023		122223	129.40
				RDO TRUST #80-6130	12/07/2023		122223	344.24
					CHECK		252413 TOTAL:	473.64
252414	12/22/2023	PRTD	103755	RICOH USA, INC	12/01/2023		122223	1,026.52
				RICOH USA, INC	11/01/2023		122223	931.56
				RICOH USA, INC	11/29/2023		122223	68.07
				RICOH USA, INC	12/13/2023		122223	335.42
				RICOH USA, INC	12/13/2023		122223	124.56
				RICOH USA, INC	12/13/2023		122223	1,090.99

CASH ACCOUNT: 99900000 11120 AP Check Claims Clearing

CHECK NO	CHK DATE	TYPE	VENDOR	NAME	INV DATE	PO	CHECK	NET
				RICOH USA, INC	12/01/2023		122223	16.07
				RICOH USA, INC	12/15/2023		122223	53.12
				RICOH USA, INC	12/15/2023		122223	1,624.68
						CHECK	252414 TOTAL:	5,270.99
252415	12/22/2023	PRTD	103816	RUNBECK ELECTION SERVICES, INC	12/14/2023		122223	4,674.59
						CHECK	252415 TOTAL:	4,674.59
252416	12/22/2023	PRTD	103833	SAFE HARBOR CRISIS NURSERY	12/10/2023		122223	17,916.67
						CHECK	252416 TOTAL:	17,916.67
252417	12/22/2023	PRTD	103852	SAN DIEGO POLICE EQUIPMENT CO	11/20/2023		122223	30,444.70
						CHECK	252417 TOTAL:	30,444.70
252418	12/22/2023	PRTD	102304	SECRETARY OF STATE	12/14/2023		122223	45,704.52
						CHECK	252418 TOTAL:	45,704.52
252419	12/22/2023	PRTD	103912	SHI INTERNATIONAL CORP	12/08/2023		122223	700.79
				SHI INTERNATIONAL CORP	12/06/2023		122223	43.80
						CHECK	252419 TOTAL:	744.59
252420	12/22/2023	PRTD	103930	SINCLAIR, IAN	12/29/2023		122223	12,666.67
						CHECK	252420 TOTAL:	12,666.67
252421	12/22/2023	PRTD	103979	SOUTHERN COMPUTER WAREHOUSE, INC	12/09/2023		122223	573.27
						CHECK	252421 TOTAL:	573.27
252422	12/22/2023	PRTD	104027	STAPLES	12/09/2023		122223	487.95
						CHECK	252422 TOTAL:	487.95

CASH ACCOUNT: 99900000 11120 AP Check Claims Clearing

CHECK NO	CHK DATE	TYPE	VENDOR	NAME	INV DATE	PO	CHECK	NET
252423	12/22/2023	PRTD	103909	STARLITE MOTEL	12/14/2023		122223	975.00
						CHECK	252423 TOTAL:	975.00
252424	12/22/2023	PRTD	104038	STATE AUDITOR, LEGISLATIVE BUILDING	12/11/2023		122223	26,273.31
						CHECK	252424 TOTAL:	26,273.31
252425	12/22/2023	PRTD	104059	STONEGATE APARTMENTS	12/14/2023		122223	1,633.60
						CHECK	252425 TOTAL:	1,633.60
252426	12/22/2023	PRTD	105880	SUMURI	10/18/2023		122223	18,308.00
						CHECK	252426 TOTAL:	18,308.00
252427	12/22/2023	PRTD	104077	SUNBELT RENTALS INC	11/27/2023		122223	108.95
						CHECK	252427 TOTAL:	108.95
252428	12/22/2023	PRTD	104093	SUPPORT, ADVOCACY AND	11/29/2023		122223	797.09
				SUPPORT, ADVOCACY AND	11/29/2023		122223	6,524.13
						CHECK	252428 TOTAL:	7,321.22
252429	12/22/2023	PRTD	105751	TANGLEWOOD APARTMENTS	12/13/2023		122223	1,281.00
				TANGLEWOOD APARTMENTS	12/13/2023		122223	1,281.00
				TANGLEWOOD APARTMENTS	12/13/2023		122223	1,281.00
				TANGLEWOOD APARTMENTS	12/13/2023		122223	1,281.00
				TANGLEWOOD APARTMENTS	12/13/2023		122223	111.38
				TANGLEWOOD APARTMENTS	12/13/2023		122223	126.21
				TANGLEWOOD APARTMENTS	12/13/2023		122223	127.21
				TANGLEWOOD APARTMENTS	12/13/2023		122223	144.81
				TANGLEWOOD APARTMENTS	12/13/2023		122223	10.75

CASH ACCOUNT: 99900000 11120 AP Check Claims Clearing

CHECK NO	CHK DATE	TYPE	VENDOR	NAME	INV DATE	PO	CHECK	NET
						CHECK	252429 TOTAL:	5,644.36
252430	12/22/2023	PRTD	105802	TERESA CARSON	12/13/2023		122223	350.00
						CHECK	252430 TOTAL:	350.00
252431	12/22/2023	PRTD	103390	THE PRINT GUYS, INC	07/21/2023		122223	182.94
						CHECK	252431 TOTAL:	182.94
252432	12/22/2023	PRTD	103390	THE PRINT GUYS, INC	12/04/2023		122223	139.59
						CHECK	252432 TOTAL:	139.59
252433	12/22/2023	PRTD	105803	TINA GREGORY	12/13/2023		122223	150.00
						CHECK	252433 TOTAL:	150.00
252434	12/22/2023	PRTD	105910	TRANS UNION LLC	11/28/2023		122223	105.51
						CHECK	252434 TOTAL:	105.51
252435	12/22/2023	PRTD	104213	TRI-CITIES CHAPLAINCY	12/07/2023		122223	1,122.68
						CHECK	252435 TOTAL:	1,122.68
252436	12/22/2023	PRTD	100684	TRI-CITIES RV RESORT LLC	12/13/2023		122223	700.00
				TRI-CITIES RV RESORT LLC	12/13/2023		122223	100.00
						CHECK	252436 TOTAL:	800.00
252437	12/22/2023	PRTD	104257	TYLER TECHNOLOGIES, INC	05/10/2023		122223	5,180.00
				TYLER TECHNOLOGIES, INC	06/14/2023		122223	4,440.00
				TYLER TECHNOLOGIES, INC	08/16/2023		122223	1,480.00
				TYLER TECHNOLOGIES, INC	12/13/2023		122223	2,220.00
				TYLER TECHNOLOGIES, INC	11/01/2023		122223	6,286.23

CASH ACCOUNT: 99900000 11120 AP Check Claims Clearing

CHECK NO	CHK DATE	TYPE	VENDOR	NAME	INV DATE	PO	CHECK	NET
					CHECK		252437 TOTAL:	19,606.23
252438	12/22/2023	PRTD	101271	VICS AUTO AND SUPPLY, NAPA	12/13/2023		122223	225.69
				VICS AUTO AND SUPPLY, NAPA	12/13/2023		122223	-19.44
					CHECK		252438 TOTAL:	206.25
252439	12/22/2023	PRTD	104481	W S A C A	12/15/2023		122223	3,087.00
					CHECK		252439 TOTAL:	3,087.00
252440	12/22/2023	PRTD	104425	WA ST BAR ASSN	12/19/2023		122223	12,534.00
					CHECK		252440 TOTAL:	12,534.00
252441	12/22/2023	PRTD	101122	WESTOVER, KYLE BRENT	12/15/2023		122223	1,200.00
				WESTOVER, KYLE BRENT	12/15/2023		122223	1,200.00
				WESTOVER, KYLE BRENT	12/15/2023		122223	1,200.00
				WESTOVER, KYLE BRENT	12/15/2023		122223	1,200.00
				WESTOVER, KYLE BRENT	12/15/2023		122223	1,200.00
				WESTOVER, KYLE BRENT	12/15/2023		122223	1,200.00
				WESTOVER, KYLE BRENT	12/15/2023		122223	1,200.00
				WESTOVER, KYLE BRENT	12/15/2023		122223	1,200.00
				WESTOVER, KYLE BRENT	12/15/2023		122223	1,200.00
					CHECK		252441 TOTAL:	10,800.00
252442	12/22/2023	PRTD	105427	ZACHARY GERALD DEAN	12/18/2023		122223	1,456.00
				ZACHARY GERALD DEAN	12/18/2023		122223	1,456.00
				ZACHARY GERALD DEAN	12/18/2023		122223	1,466.00
					CHECK		252442 TOTAL:	4,378.00

NUMBER OF CHECKS 144 *** CASH ACCOUNT TOTAL *** 2,340,975.06

	COUNT	AMOUNT
TOTAL PRINTED CHECKS	144	2,340,975.06

*** GRAND TOTAL *** 2,340,975.06

JOURNAL ENTRIES TO BE CREATED

CLERK: MCN

YEAR PER JNL / SRC ACCOUNT / EFF DATE	JNL DESC	REF 1	REF 2	REF 3	ACCOUNT DESC / LINE DESC	T	OB	DEBIT	CREDIT
2023 12 3668									
APP SW850000-21340					Vouchers Payable			13,780.76	
12/22/2023 122223	122223				AP CASH DISBURSEMENTS JOURNAL				
APP 99900000-11120					AP Check Claims Clearing				2,340,975.06
12/22/2023 122223	122223				AP CASH DISBURSEMENTS JOURNAL				
APP HS850000-21340					Vouchers Payable			107,508.41	
12/22/2023 122223	122223				AP CASH DISBURSEMENTS JOURNAL				
APP GF005000-21340					Vouchers Payable			348,204.34	
12/22/2023 122223	122223				AP CASH DISBURSEMENTS JOURNAL				
APP EL500000-21340					Vouchers Payable			53,799.61	
12/22/2023 122223	122223				AP CASH DISBURSEMENTS JOURNAL				
APP RD850000-21340					Vouchers Payable			292,627.39	
12/22/2023 122223	122223				AP CASH DISBURSEMENTS JOURNAL				
APP ER850000-21340					Vouchers Payable			19,705.61	
12/22/2023 122223	122223				AP CASH DISBURSEMENTS JOURNAL				
APP CP850000-21340					Vouchers Payable			793,742.89	
12/22/2023 122223	122223				AP CASH DISBURSEMENTS JOURNAL				
APP JC850000-21340					Vouchers Payable			37,485.45	
12/22/2023 122223	122223				AP CASH DISBURSEMENTS JOURNAL				
APP PS850000-21340					Vouchers Payable			133,804.18	
12/22/2023 122223	122223				AP CASH DISBURSEMENTS JOURNAL				
APP IT850000-21340					Vouchers Payable			117,048.35	
12/22/2023 122223	122223				AP CASH DISBURSEMENTS JOURNAL				
APP CS850000-21340					Vouchers Payable			340,131.75	
12/22/2023 122223	122223				AP CASH DISBURSEMENTS JOURNAL				
APP BU850000-21340					Vouchers Payable			514.16	
12/22/2023 122223	122223				AP CASH DISBURSEMENTS JOURNAL				
APP VA850000-21340					Vouchers Payable			554.31	
12/22/2023 122223	122223				AP CASH DISBURSEMENTS JOURNAL				
APP HH850000-21340					Vouchers Payable			16,727.00	
12/22/2023 122223	122223				AP CASH DISBURSEMENTS JOURNAL				
APP PB850000-21340					Vouchers Payable			1,500.00	
12/22/2023 122223	122223				AP CASH DISBURSEMENTS JOURNAL				
APP RT850000-21340					Vouchers Payable			24,000.00	
12/22/2023 122223	122223				AP CASH DISBURSEMENTS JOURNAL				
APP IB850000-21340					Vouchers Payable			11,220.27	
12/22/2023 122223	122223				AP CASH DISBURSEMENTS JOURNAL				
APP WC850000-21340					Vouchers Payable			2,590.00	
12/22/2023 122223	122223				AP CASH DISBURSEMENTS JOURNAL				
APP IM850000-21340					Vouchers Payable			26,030.58	
12/22/2023 122223	122223				AP CASH DISBURSEMENTS JOURNAL				
					GENERAL LEDGER TOTAL			2,340,975.06	2,340,975.06
APP 99900000-81550					Due To Solid Waste Collection			13,780.76	
12/22/2023 122223	122223								
APP SW810000-11110					Cash Equity				13,780.76

JOURNAL ENTRIES TO BE CREATED

YEAR PER JNL SRC ACCOUNT	EFF DATE	JNL DESC	REF 1	REF 2	REF 3	ACCOUNT DESC / LINE DESC	T	OB	DEBIT	CREDIT
	12/22/2023	122223	122223							
APP 99900000-81080						Due To Human Services			107,508.41	
	12/22/2023	122223	122223							
APP HS810000-11110						Cash Equity				107,508.41
	12/22/2023	122223	122223							
APP 99900000-80010						Due To General Fund			348,204.34	
	12/22/2023	122223	122223							
APP GF001000-11110						Cash Equity				348,204.34
	12/22/2023	122223	122223							
APP 99900000-81110						Due To Election Reserve			53,799.61	
	12/22/2023	122223	122223							
APP EL100000-11110						Cash Equity				53,799.61
	12/22/2023	122223	122223							
APP 99900000-81010						Due To County Road			292,627.39	
	12/22/2023	122223	122223							
APP RD810000-11110						Cash Equity				292,627.39
	12/22/2023	122223	122223							
APP 99900000-85010						Due To Equipment Rental & Rev			19,705.61	
	12/22/2023	122223	122223							
APP ER810000-11110						Cash Equity				19,705.61
	12/22/2023	122223	122223							
APP 99900000-83050						Due To Capital Projects			793,742.89	
	12/22/2023	122223	122223							
APP CP810000-11110						Cash Equity				793,742.89
	12/22/2023	122223	122223							
APP 99900000-81150						Due To Juvenile Center			37,485.45	
	12/22/2023	122223	122223							
APP JC810000-11110						Cash Equity				37,485.45
	12/22/2023	122223	122223							
APP 99900000-81480						Due To Public Safety Tax Fund			133,804.18	
	12/22/2023	122223	122223							
APP PS810000-11110						Cash Equity				133,804.18
	12/22/2023	122223	122223							
APP 99900000-85020						Due To Central Services			117,048.35	
	12/22/2023	122223	122223							
APP IT810000-11110						Cash Equity				117,048.35
	12/22/2023	122223	122223							
APP 99900000-81320						Due To Central Services Replac			340,131.75	
	12/22/2023	122223	122223							
APP CS810000-11110						Cash Equity				340,131.75
	12/22/2023	122223	122223							
APP 99900000-81490						Due To Protective Insp Srvs Fd			514.16	
	12/22/2023	122223	122223							
APP BU810000-11110						Cash Equity				514.16
	12/22/2023	122223	122223							
APP 99900000-81040						Due To Veterans Assistance Fnd			554.31	
	12/22/2023	122223	122223							
APP VA810000-11110						Cash Equity				554.31
	12/22/2023	122223	122223							

JOURNAL ENTRIES TO BE CREATED

YEAR PER JNL SRC ACCOUNT EFF DATE	JNL DESC	REF 1	REF 2	REF 3	ACCOUNT DESC LINE DESC	T	OB	DEBIT	CREDIT
APP 99900000-81540 12/22/2023	122223	122223			Due To Homeless Hsng & Assistn			16,727.00	
APP HH810000-11110 12/22/2023	122223	122223			Cash Equity				16,727.00
APP 99900000-81500 12/22/2023	122223	122223			Due To Pest Board			1,500.00	
APP PB810000-11110 12/22/2023	122223	122223			Cash Equity				1,500.00
APP 99900000-81290 12/22/2023	122223	122223			Due To Reet Technology			24,000.00	
APP RT810000-11110 12/22/2023	122223	122223			Cash Equity				24,000.00
APP 99900000-81160 12/22/2023	122223	122223			Due To Inmate Benevolence Fund			11,220.27	
APP IB810000-11110 12/22/2023	122223	122223			Cash Equity				11,220.27
APP 99900000-85030 12/22/2023	122223	122223			Due To Workmens Compensation			2,590.00	
APP WC810000-11110 12/22/2023	122223	122223			Cash Equity				2,590.00
APP 99900000-85040 12/22/2023	122223	122223			Due To Insurance Management			26,030.58	
APP IM810000-11110 12/22/2023	122223	122223			Cash Equity				26,030.58
					SYSTEM GENERATED ENTRIES TOTAL			2,340,975.06	2,340,975.06
					JOURNAL 2023/12/3668 TOTAL			4,681,950.12	4,681,950.12

JOURNAL ENTRIES TO BE CREATED

FUND / ACCOUNT	YEAR PER	JNL	EFF DATE / ACCOUNT DESCRIPTION		DEBIT	CREDIT
0010 General Fund	2023 12	3668	12/22/2023			
GF001000-11110			Cash Equity			348,204.34
GF005000-21340			Vouchers Payable		348,204.34	
				FUND TOTAL	348,204.34	348,204.34
1010 County Road	2023 12	3668	12/22/2023			
RD810000-11110			Cash Equity			292,627.39
RD850000-21340			Vouchers Payable		292,627.39	
				FUND TOTAL	292,627.39	292,627.39
1040 Veterans Assistance Fund	2023 12	3668	12/22/2023			
VA810000-11110			Cash Equity			554.31
VA850000-21340			Vouchers Payable		554.31	
				FUND TOTAL	554.31	554.31
1080 Human Services	2023 12	3668	12/22/2023			
HS810000-11110			Cash Equity			107,508.41
HS850000-21340			Vouchers Payable		107,508.41	
				FUND TOTAL	107,508.41	107,508.41
1110 Election Reserve	2023 12	3668	12/22/2023			
EL100000-11110			Cash Equity			53,799.61
EL500000-21340			Vouchers Payable		53,799.61	
				FUND TOTAL	53,799.61	53,799.61
1150 Juvenile Center	2023 12	3668	12/22/2023			
JC810000-11110			Cash Equity			37,485.45
JC850000-21340			Vouchers Payable		37,485.45	
				FUND TOTAL	37,485.45	37,485.45
1160 Inmate Benevolence Fund	2023 12	3668	12/22/2023			
IB810000-11110			Cash Equity			11,220.27
IB850000-21340			Vouchers Payable		11,220.27	
				FUND TOTAL	11,220.27	11,220.27
1290 Reet Technology	2023 12	3668	12/22/2023			
RT810000-11110			Cash Equity			24,000.00
RT850000-21340			Vouchers Payable		24,000.00	
				FUND TOTAL	24,000.00	24,000.00
1320 Central Services Replacement	2023 12	3668	12/22/2023			

FUND / ACCOUNT	YEAR PER	JNL	EFF DATE / ACCOUNT DESCRIPTION		DEBIT	CREDIT
CS810000-11110			12/22/2023 Cash Equity			340,131.75
CS850000-21340			Vouchers Payable		340,131.75	
				FUND TOTAL	340,131.75	340,131.75
1480 Public Safety Tax Fund	2023 12	3668	12/22/2023			
PS810000-11110			Cash Equity			133,804.18
PS850000-21340			Vouchers Payable		133,804.18	
				FUND TOTAL	133,804.18	133,804.18
1490 Protective Inspection Srvs Fnd	2023 12	3668	12/22/2023			
BU810000-11110			Cash Equity			514.16
BU850000-21340			Vouchers Payable		514.16	
				FUND TOTAL	514.16	514.16
1500 Pest Board	2023 12	3668	12/22/2023			
PB810000-11110			Cash Equity			1,500.00
PB850000-21340			Vouchers Payable		1,500.00	
				FUND TOTAL	1,500.00	1,500.00
1540 Homeless Housing And Assistnce	2023 12	3668	12/22/2023			
HH810000-11110			Cash Equity			16,727.00
HH850000-21340			Vouchers Payable		16,727.00	
				FUND TOTAL	16,727.00	16,727.00
1550 Solid Waste Collection Fund	2023 12	3668	12/22/2023			
SW810000-11110			Cash Equity			13,780.76
SW850000-21340			Vouchers Payable		13,780.76	
				FUND TOTAL	13,780.76	13,780.76
3050 Capital Projects	2023 12	3668	12/22/2023			
CP810000-11110			Cash Equity			793,742.89
CP850000-21340			Vouchers Payable		793,742.89	
				FUND TOTAL	793,742.89	793,742.89
5010 Equipment Rental & Revolving	2023 12	3668	12/22/2023			
ER810000-11110			Cash Equity			19,705.61
ER850000-21340			Vouchers Payable		19,705.61	
				FUND TOTAL	19,705.61	19,705.61
5020 Central Services	2023 12	3668	12/22/2023			
IT810000-11110			Cash Equity			117,048.35

JOURNAL ENTRIES TO BE CREATED

FUND / ACCOUNT	YEAR PER	JNL	EFF DATE	ACCOUNT DESCRIPTION	DEBIT	CREDIT
IT850000-21340				Vouchers Payable	117,048.35	
				FUND TOTAL	117,048.35	117,048.35
5030 Workmens Compensation	2023 12	3668	12/22/2023			
WC810000-11110				Cash Equity		2,590.00
WC850000-21340				Vouchers Payable	2,590.00	
				FUND TOTAL	2,590.00	2,590.00
5040 Insurance Management	2023 12	3668	12/22/2023			
IM810000-11110				Cash Equity		26,030.58
IM850000-21340				Vouchers Payable	26,030.58	
				FUND TOTAL	26,030.58	26,030.58
9999 Treasurers Pooled Cash	2023 12	3668	12/22/2023			
99900000-11120				AP Check Claims Clearing		2,340,975.06
99900000-80010				Due To General Fund	348,204.34	
99900000-81010				Due To County Road	292,627.39	
99900000-81040				Due To Veterans Assistance Fnd	554.31	
99900000-81080				Due To Human Services	107,508.41	
99900000-81110				Due To Election Reserve	53,799.61	
99900000-81150				Due To Juvenile Center	37,485.45	
99900000-81160				Due To Inmate Benevolence Fund	11,220.27	
99900000-81290				Due To Reet Technology	24,000.00	
99900000-81320				Due To Central Services Replac	340,131.75	
99900000-81480				Due To Public Safety Tax Fund	133,804.18	
99900000-81490				Due To Protective Insp Srvs Fd	514.16	
99900000-81500				Due To Pest Board	1,500.00	
99900000-81540				Due To Homeless Hsng & Assistn	16,727.00	
99900000-81550				Due To Solid Waste Collection	13,780.76	
99900000-83050				Due To Capital Projects	793,742.89	
99900000-85010				Due To Equipment Rental & Rev	19,705.61	
99900000-85020				Due To Central Services	117,048.35	
99900000-85030				Due To Workmens Compensation	2,590.00	
99900000-85040				Due To Insurance Management	26,030.58	
				FUND TOTAL	2,340,975.06	2,340,975.06

JOURNAL ENTRIES TO BE CREATED

FUND		DUE TO	DUE FR
0010	General Fund		348,204.34
1010	County Road		292,627.39
1040	Veterans Assistance Fund		554.31
1080	Human Services		107,508.41
1110	Election Reserve		53,799.61
1150	Juvenile Center		37,485.45
1160	Inmate Benevolence Fund		11,220.27
1290	Reet Technology		24,000.00
1320	Central Services Replacement		340,131.75
1480	Public Safety Tax Fund		133,804.18
1490	Protective Inspection Srvs Fnd		514.16
1500	Pest Board		1,500.00
1540	Homeless Housing And Assistnce		16,727.00
1550	Solid Waste Collection Fund		13,780.76
3050	Capital Projects		793,742.89
5010	Equipment Rental & Revolving		19,705.61
5020	Central Services		117,048.35
5030	Workmens Compensation		2,590.00
5040	Insurance Management		26,030.58
9999	Treasurers Pooled Cash	2,340,975.06	
	TOTAL	2,340,975.06	2,340,975.06

** END OF REPORT - Generated by Monika Nakic **

CASH ACCOUNT: 99900000 11121 AP Wire Clearing

CHECK NO	CHK DATE	TYPE	VENDOR	NAME	INV DATE	PO	CHECK	NET
733	12/22/2023	EFT	102812	K & H INTEGRATED PRINT, SOLUTIONS	12/18/2023		122223E	2,908.28
						CHECK	733 TOTAL:	2,908.28

NUMBER OF CHECKS 1 *** CASH ACCOUNT TOTAL *** 2,908.28

	COUNT	AMOUNT
TOTAL EFT'S	1	2,908.28

*** GRAND TOTAL *** 2,908.28

JOURNAL ENTRIES TO BE CREATED

CLERK: MCN

YEAR PER JNL / SRC ACCOUNT / EFF DATE	JNL DESC	REF 1	REF 2	REF 3	ACCOUNT DESC / LINE DESC	T	OB	DEBIT	CREDIT
2023 12 3670									
APP EL500000-21340					Vouchers Payable			2,908.28	
12/22/2023	122223E	122223			AP CASH DISBURSEMENTS JOURNAL				
APP 99900000-11121					AP Wire Clearing				2,908.28
12/22/2023	122223E	122223			AP CASH DISBURSEMENTS JOURNAL				
					GENERAL LEDGER TOTAL			2,908.28	2,908.28
APP 99900000-81110					Due To Election Reserve			2,908.28	
12/22/2023	122223E	122223							
APP EL100000-11110					Cash Equity				2,908.28
12/22/2023	122223E	122223							
					SYSTEM GENERATED ENTRIES TOTAL			2,908.28	2,908.28
					JOURNAL 2023/12/3670 TOTAL			5,816.56	5,816.56

JOURNAL ENTRIES TO BE CREATED

FUND / ACCOUNT	YEAR PER	JNL	EFF DATE / ACCOUNT DESCRIPTION		DEBIT	CREDIT
1110 Election Reserve	2023 12	3670	12/22/2023			
EL100000-11110			Cash Equity			2,908.28
EL500000-21340			Vouchers Payable		2,908.28	
				FUND TOTAL	2,908.28	2,908.28
9999 Treasurers Pooled Cash	2023 12	3670	12/22/2023			
99900000-11121			AP Wire Clearing			2,908.28
99900000-81110			Due To Election Reserve		2,908.28	
				FUND TOTAL	2,908.28	2,908.28

JOURNAL ENTRIES TO BE CREATED

FUND	DUE TO	DUE FR
1110 Election Reserve		2,908.28
9999 Treasurers Pooled Cash	2,908.28	
TOTAL	2,908.28	2,908.28

** END OF REPORT - Generated by Monika Nakic **

CASH ACCOUNT: 99900000 11100 Main Checking

CHECK NO	CHK DATE	TYPE	VENDOR	NAME	INV DATE	PO	CHECK	NET
1438	12/22/2023	WIRE	101529	B C WORKMANS COMP	12/15/2023			9,235.37
						CHECK	1438 TOTAL:	9,235.37
1449	12/22/2023	WIRE	105532	B C JURY PAY	12/18/2023			7,248.03
						CHECK	1449 TOTAL:	7,248.03
				NUMBER OF CHECKS 2			*** CASH ACCOUNT TOTAL ***	16,483.40

	COUNT	AMOUNT
TOTAL WIRE TRANSFERS	2	16,483.40

*** GRAND TOTAL *** 16,483.40

JOURNAL ENTRIES TO BE CREATED

CLERK: MCN

YEAR PER JNL / SRC ACCOUNT / EFF DATE	JNL DESC	REF 1	REF 2	REF 3	ACCOUNT DESC / LINE DESC	T	OB	DEBIT	CREDIT
2023 12 3669									
APP WC850000-21340					Vouchers Payable			9,235.37	
12/22/2023	CASH DISB	122223			AP CASH DISBURSEMENTS JOURNAL				
APP 99900000-11100					Main Checking				16,483.40
12/22/2023	CASH DISB	122223			AP CASH DISBURSEMENTS JOURNAL				
APP GF005000-21340					Vouchers Payable			7,248.03	
12/22/2023	CASH DISB	122223			AP CASH DISBURSEMENTS JOURNAL				
					GENERAL LEDGER TOTAL			16,483.40	16,483.40
APP 99900000-85030					Due To Workmens Compensation			9,235.37	
12/22/2023	CASH DISB	122223							
APP WC810000-11110					Cash Equity				9,235.37
12/22/2023	CASH DISB	122223							
APP 99900000-80010					Due To General Fund			7,248.03	
12/22/2023	CASH DISB	122223							
APP GF001000-11110					Cash Equity				7,248.03
12/22/2023	CASH DISB	122223							
					SYSTEM GENERATED ENTRIES TOTAL			16,483.40	16,483.40
					JOURNAL 2023/12/3669 TOTAL			32,966.80	32,966.80

JOURNAL ENTRIES TO BE CREATED

FUND / ACCOUNT	YEAR PER	JNL	EFF DATE / ACCOUNT DESCRIPTION		DEBIT	CREDIT
0010 General Fund	2023 12	3669	12/22/2023			
GF001000-11110			Cash Equity			7,248.03
GF005000-21340			Vouchers Payable		7,248.03	
				FUND TOTAL	7,248.03	7,248.03
5030 Workmens Compensation	2023 12	3669	12/22/2023			
WC810000-11110			Cash Equity			9,235.37
WC850000-21340			Vouchers Payable		9,235.37	
				FUND TOTAL	9,235.37	9,235.37
9999 Treasurers Pooled Cash	2023 12	3669	12/22/2023			
99900000-11100			Main Checking			16,483.40
99900000-80010			Due To General Fund		7,248.03	
99900000-85030			Due To Workmens Compensation		9,235.37	
				FUND TOTAL	16,483.40	16,483.40

JOURNAL ENTRIES TO BE CREATED

FUND	DUE TO	DUE FR
0010 General Fund		7,248.03
5030 Workmens Compensation		9,235.37
9999 Treasurers Pooled Cash	16,483.40	
TOTAL	16,483.40	16,483.40

** END OF REPORT - Generated by Monika Nakic **

We, the undersigned Board of County Commissioners of Benton County, Washington, do hereby certify that the merchandise of services hereinafter specified by Funds on the attached Check Posting List, have been received and are approved for payment.

Accounts Payable

Check Date: 12/27/2023

Warrants # 252443
Total of all Funds: $4,166.00

Commissioner_____

Commissioner_____

Commissioner_____

Date Signed_____

CASH ACCOUNT: 99900000 11120 AP Check Claims Clearing

CHECK NO	CHK DATE	TYPE	VENDOR	NAME	INV DATE	PO	CHECK	NET
252443	12/27/2023	PRTD	105271	QUANTUM LEGAL PLLC	12/30/2023		122723	4,166.00
						CHECK	252443 TOTAL:	4,166.00
				NUMBER OF CHECKS 1		*** CASH ACCOUNT TOTAL ***		4,166.00

	COUNT	AMOUNT
TOTAL PRINTED CHECKS	1	4,166.00

*** GRAND TOTAL *** 4,166.00

JOURNAL ENTRIES TO BE CREATED

CLERK: MCN

YEAR PER JNL / SRC ACCOUNT / EFF DATE	JNL DESC	REF 1	REF 2	REF 3	ACCOUNT DESC / LINE DESC	T	OB	DEBIT	CREDIT
2023 12 3904									
APP BHF85000-21340					Vouchers Payable			4,166.00	
12/27/2023 122723		122723			AP CASH DISBURSEMENTS JOURNAL				
APP 99900000-11120					AP Check Claims Clearing				4,166.00
12/27/2023 122723		122723			AP CASH DISBURSEMENTS JOURNAL				
					GENERAL LEDGER TOTAL			4,166.00	4,166.00
APP 99900000-81600					Due To Behavioral Health			4,166.00	
12/27/2023 122723		122723							
APP BHF81000-11110					Cash Equity				4,166.00
12/27/2023 122723		122723							
					SYSTEM GENERATED ENTRIES TOTAL			4,166.00	4,166.00
					JOURNAL 2023/12/3904 TOTAL			8,332.00	8,332.00

JOURNAL ENTRIES TO BE CREATED

FUND / ACCOUNT	YEAR PER	JNL	EFF DATE / ACCOUNT DESCRIPTION	DEBIT	CREDIT
1600 Behavioral Health	2023 12	3904	12/27/2023		
BHF81000-11110			Cash Equity		4,166.00
BHF85000-21340			Vouchers Payable	4,166.00	
			FUND TOTAL	4,166.00	4,166.00
9999 Treasurers Pooled Cash	2023 12	3904	12/27/2023		
99900000-11120			AP Check Claims Clearing		4,166.00
99900000-81600			Due To Behavioral Health	4,166.00	
			FUND TOTAL	4,166.00	4,166.00

JOURNAL ENTRIES TO BE CREATED

FUND	DUE TO	DUE FR
1600 Behavioral Health		4,166.00
9999 Treasurers Pooled Cash	4,166.00	
TOTAL	4,166.00	4,166.00

** END OF REPORT - Generated by Monika Nakic **

We, the undersigned Board of County Commissioners of Benton County, Washington, do hereby certify that the merchandise of services hereinafter specified by Funds on the attached Check Posting List, have been received and are approved for payment.

Accounts Payable

Check Date: 12/29/2023

EFT # 734-753
Total of all Funds: $183,710.53

Commissioner_____

Commissioner_____

Commissioner_____

Date Signed_____

CASH ACCOUNT: 99900000 11121 AP Wire Clearing

CHECK NO	CHK DATE	TYPE	VENDOR	NAME	INV DATE	PO	CHECK	NET
734	12/29/2023	EFT	100088	AJAX LAW FIRM	12/30/2023		122923E	11,400.00
					CHECK		734 TOTAL:	11,400.00
735	12/29/2023	EFT	101581	BETANCOURT LAW, PLLC	12/30/2023		122923E	12,116.67
					CHECK		735 TOTAL:	12,116.67
736	12/29/2023	EFT	101721	CANO LAW, PLLC	12/30/2023		122923E	7,300.00
					CHECK		736 TOTAL:	7,300.00
737	12/29/2023	EFT	101729	CARLSON, HEATHER M	12/30/2023		122923E	11,400.00
					CHECK		737 TOTAL:	11,400.00
738	12/29/2023	EFT	105868	ELLERD, HULTGRENN, & DAHLHAUSER LLP	12/30/2023		122923E	9,952.44
					CHECK		738 TOTAL:	9,952.44
739	12/29/2023	EFT	105600	FELSTED LAW FIRM LLC	12/30/2023		122923E	11,400.00
					CHECK		739 TOTAL:	11,400.00
740	12/29/2023	EFT	105755	FORTITUDE LAW PLLC	12/30/2023		122923E	12,666.67
					CHECK		740 TOTAL:	12,666.67
741	12/29/2023	EFT	102394	H CHANG LAW OFFICE PLLC	12/30/2023		122923E	2,391.40
					CHECK		741 TOTAL:	2,391.40
742	12/29/2023	EFT	102595	HICKMAN LAW, PLLC	12/30/2023		122923E	6,500.00
					CHECK		742 TOTAL:	6,500.00
743	12/29/2023	EFT	105573	HILDE LAW OFFICE	12/30/2023		122923E	12,666.67
					CHECK		743 TOTAL:	12,666.67

CASH ACCOUNT: 99900000 11121 AP Wire Clearing

CHECK NO	CHK DATE	TYPE	VENDOR	NAME	INV DATE	PO	CHECK	NET
744	12/29/2023	EFT	102656	HUI LAW LLC, RAYMOND HUI	12/30/2023		122923E	7,300.00
					CHECK		744 TOTAL:	7,300.00
745	12/29/2023	EFT	102817	KANE LAW PLLC	12/30/2023		122923E	12,666.67
					CHECK		745 TOTAL:	12,666.67
746	12/29/2023	EFT	105456	LANDON LAW PLLC	12/30/2023		122923E	12,116.67
					CHECK		746 TOTAL:	12,116.67
747	12/29/2023	EFT	105758	LAW OFFICE OF KATHERINE BOHNET PLLC	12/30/2023		122923E	12,666.67
					CHECK		747 TOTAL:	12,666.67
748	12/29/2023	EFT	102941	LAW OFFICE OF NICHOLAS BLOUNT , PLL	12/30/2023		122923E	12,666.67
					CHECK		748 TOTAL:	12,666.67
749	12/29/2023	EFT	103207	MOSER, ROBERT	12/30/2023		122923E	11,400.00
					CHECK		749 TOTAL:	11,400.00
750	12/29/2023	EFT	103235	NACCARATO, SCOTT	12/30/2023		122923E	7,300.00
					CHECK		750 TOTAL:	7,300.00
751	12/29/2023	EFT	103379	OLDFIELD, KARYN K	12/30/2023		122923E	2,200.00
					CHECK		751 TOTAL:	2,200.00
752	12/29/2023	EFT	103875	SCOTT, ERIC	12/30/2023		122923E	3,600.00
					CHECK		752 TOTAL:	3,600.00
753	12/29/2023	EFT	104172	TINDELL, ALAN	12/30/2023		122923E	4,000.00
					CHECK		753 TOTAL:	4,000.00

NUMBER OF CHECKS 20 *** CASH ACCOUNT TOTAL *** 183,710.53

	COUNT	AMOUNT
TOTAL EFT'S	20	183,710.53

*** GRAND TOTAL *** 183,710.53

JOURNAL ENTRIES TO BE CREATED

CLERK: MCN

YEAR PER JNL SRC ACCOUNT EFF DATE JNL DESC	REF 1	REF 2	REF 3	ACCOUNT DESC LINE DESC	T	OB	DEBIT	CREDIT
2023 12 4227								
APP GF005000-21340				Vouchers Payable			175,010.53	
12/29/2023 122923E	122923			AP CASH DISBURSEMENTS JOURNAL				
APP 99900000-11121				AP Wire Clearing				183,710.53
12/29/2023 122923E	122923			AP CASH DISBURSEMENTS JOURNAL				
APP BHF85000-21340				Vouchers Payable			6,500.00	
12/29/2023 122923E	122923			AP CASH DISBURSEMENTS JOURNAL				
APP PS850000-21340				Vouchers Payable			2,200.00	
12/29/2023 122923E	122923			AP CASH DISBURSEMENTS JOURNAL				
				GENERAL LEDGER TOTAL			183,710.53	183,710.53
APP 99900000-80010				Due To General Fund			175,010.53	
12/29/2023 122923E	122923							
APP GF001000-11110				Cash Equity				175,010.53
12/29/2023 122923E	122923							
APP 99900000-81600				Due To Behavioral Health			6,500.00	
12/29/2023 122923E	122923							
APP BHF81000-11110				Cash Equity				6,500.00
12/29/2023 122923E	122923							
APP 99900000-81480				Due To Public Safety Tax Fund			2,200.00	
12/29/2023 122923E	122923							
APP PS810000-11110				Cash Equity				2,200.00
12/29/2023 122923E	122923							
				SYSTEM GENERATED ENTRIES TOTAL			183,710.53	183,710.53
				JOURNAL 2023/12/4227 TOTAL			367,421.06	367,421.06

JOURNAL ENTRIES TO BE CREATED

FUND / ACCOUNT	YEAR PER	JNL	EFF DATE / ACCOUNT DESCRIPTION		DEBIT	CREDIT
0010 General Fund	2023 12	4227	12/29/2023			
GF001000-11110			Cash Equity			175,010.53
GF005000-21340			Vouchers Payable		175,010.53	
				FUND TOTAL	175,010.53	175,010.53
1480 Public Safety Tax Fund	2023 12	4227	12/29/2023			
PS810000-11110			Cash Equity			2,200.00
PS850000-21340			Vouchers Payable		2,200.00	
				FUND TOTAL	2,200.00	2,200.00
1600 Behavioral Health	2023 12	4227	12/29/2023			
BHF81000-11110			Cash Equity			6,500.00
BHF85000-21340			Vouchers Payable		6,500.00	
				FUND TOTAL	6,500.00	6,500.00
9999 Treasurers Pooled Cash	2023 12	4227	12/29/2023			
99900000-11121			AP Wire Clearing			183,710.53
99900000-80010			Due To General Fund		175,010.53	
99900000-81480			Due To Public Safety Tax Fund		2,200.00	
99900000-81600			Due To Behavioral Health		6,500.00	
				FUND TOTAL	183,710.53	183,710.53

JOURNAL ENTRIES TO BE CREATED

FUND		DUE TO	DUE FR
0010 General Fund			175,010.53
1480 Public Safety Tax Fund			2,200.00
1600 Behavioral Health			6,500.00
9999 Treasurers Pooled Cash		183,710.53	
	TOTAL	183,710.53	183,710.53

** END OF REPORT - Generated by Monika Nakic **

We, the undersigned Board of County Commissioners of Benton County, Washington, do hereby certify that the merchandise of services hereinafter specified by Funds on the attached Check Posting List, have been received and are approved for payment.

Accounts Payable

Check Date: 12/29/2023

Warrants # 25244-252512
Total of all Funds: $655,543.61

EFT # 754-759
Transfers # 1450-1454, 1457
Total of a Funds: $64,354.87

Commissioner_____

Commissioner_____

Commissioner_____

Date Signed_____

CASH ACCOUNT: 99900000 11120 AP Check Claims Clearing

CHECK NO	CHK DATE	TYPE	VENDOR	NAME	INV DATE	PO	CHECK	NET
252444	12/29/2023	PRTD	100869	911 SUPPLY INC	12/13/2023		122923	81.51
				911 SUPPLY INC	12/13/2023		122923	131.48
				911 SUPPLY INC	12/13/2023		122923	155.42
				911 SUPPLY INC	12/13/2023		122923	155.42
						CHECK	252444 TOTAL:	523.83
252445	12/29/2023	PRTD	101401	AAW AUTOPARTS	12/11/2023		122923	58.57
				AAW AUTOPARTS	12/12/2023		122923	15.60
						CHECK	252445 TOTAL:	74.17
252446	12/29/2023	PRTD	105925	AMY MICHELLE BRITTINGHAM	11/14/2023		122923	801.00
				AMY MICHELLE BRITTINGHAM	11/16/2023		122923	292.50
						CHECK	252446 TOTAL:	1,093.50
252447	12/29/2023	PRTD	101364	APOLLO MECHANICAL CONTRACTORS	12/14/2023		122923	520.27
						CHECK	252447 TOTAL:	520.27
252448	12/29/2023	PRTD	101377	ARAMARK CORRECTIONAL SVCS LLC	12/20/2023		122923	24,421.49
						CHECK	252448 TOTAL:	24,421.49
252449	12/29/2023	PRTD	105837	ATLAS TECHNICAL CONSULTANTS LLC	11/30/2023		122923	1,135.00
						CHECK	252449 TOTAL:	1,135.00
252450	12/29/2023	PRTD	101059	AUTO RESCUE LLC	11/19/2023		122923	129.24
						CHECK	252450 TOTAL:	129.24
252451	12/29/2023	PRTD	101550	B-F HEALTH DISTRICT CENTER	12/18/2023		122923	33,048.50
				B-F HEALTH DISTRICT CENTER	12/18/2023		122923	3,906.25
						CHECK	252451 TOTAL:	36,954.75

CASH ACCOUNT: 99900000 11120 AP Check Claims Clearing

CHECK NO	CHK DATE	TYPE	VENDOR	NAME	INV DATE	PO	CHECK	NET
252452	12/29/2023	PRTD	101458	BASIN DISPOSAL INC	11/30/2023		122923	199.77
					CHECK		252452 TOTAL:	199.77
252453	12/29/2023	PRTD	101555	BENTON CONSERVATION DISTRICT	11/07/2023		122923	3,960.96
				BENTON CONSERVATION DISTRICT	12/04/2023		122923	5,224.72
					CHECK		252453 TOTAL:	9,185.68
252454	12/29/2023	PRTD	101535	BENTON PUD	12/21/2023		122923	6,706.82
					CHECK		252454 TOTAL:	6,706.82
252455	12/29/2023	PRTD	101677	BUNKER, THE	12/12/2023		122923	311.61
				BUNKER, THE	12/12/2023		122923	1,431.58
				BUNKER, THE	12/11/2023		122923	110.07
				BUNKER, THE	12/11/2023		122923	191.36
				BUNKER, THE	12/11/2023		122923	122.37
				BUNKER, THE	12/18/2023		122923	156.09
				BUNKER, THE	12/18/2023		122923	166.16
				BUNKER, THE	12/18/2023		122923	161.81
				BUNKER, THE	12/18/2023		122923	119.85
				BUNKER, THE	10/20/2023		122923	313.06
				BUNKER, THE	10/20/2023		122923	843.49
				BUNKER, THE	10/20/2023		122923	183.56
				BUNKER, THE	10/20/2023		122923	1,504.41
				BUNKER, THE	10/23/2023		122923	170.00
				BUNKER, THE	11/01/2023		122923	1,389.53
				BUNKER, THE	11/01/2023		122923	1,389.53
				BUNKER, THE	11/01/2023		122923	1,431.58

CASH ACCOUNT: 99900000 11120 AP Check Claims Clearing

CHECK NO	CHK DATE	TYPE	VENDOR	NAME	INV DATE	PO	CHECK	NET
				BUNKER, THE	11/01/2023		122923	311.61
				BUNKER, THE	11/01/2023		122923	359.54
						CHECK	252455 TOTAL:	10,667.21
252456	12/29/2023	PRTD	105463	CLAUDIA A'ZAR	11/30/2023		122923	4,180.00
						CHECK	252456 TOTAL:	4,180.00
252457	12/29/2023	PRTD	101860	COLEMAN OIL COMPANY	12/15/2023		122923	153.34
				COLEMAN OIL COMPANY	12/15/2023		122923	13,546.45
				COLEMAN OIL COMPANY	12/15/2023		122923	775.01
				COLEMAN OIL COMPANY	12/15/2023		122923	301.23
						CHECK	252457 TOTAL:	14,776.03
252458	12/29/2023	PRTD	101784	COMPREHENSIVE HEALTHCARE	09/27/2023		122923	38,536.79
				COMPREHENSIVE HEALTHCARE	11/27/2023		122923	38,536.79
						CHECK	252458 TOTAL:	77,073.58
252459	12/29/2023	PRTD	101918	CONNELL OIL INC	12/15/2023		122923	2,430.75
						CHECK	252459 TOTAL:	2,430.75
252460	12/29/2023	PRTD	101950	CORWIN FORD - TRI-CITIES	12/19/2023		122923	80.86
				CORWIN FORD - TRI-CITIES	12/19/2023		122923	16.00
						CHECK	252460 TOTAL:	96.86
252461	12/29/2023	PRTD	101995	CROWN PAPER & JANITORIAL, SUPPLY	12/12/2023		122923	99.30
						CHECK	252461 TOTAL:	99.30
252462	12/29/2023	PRTD	102002	CULLIGAN WATER CONDITION	12/18/2023		122923	59.74
				CULLIGAN WATER CONDITION	12/18/2023		122923	32.61

CASH ACCOUNT: 99900000 11120 AP Check Claims Clearing

CHECK NO	CHK DATE	TYPE	VENDOR	NAME	INV DATE	PO	CHECK	NET
						CHECK	252462 TOTAL:	92.35
252463	12/29/2023	PRTD	105896	DARREN JON DINWOODLE	12/20/2023		122923	600.00
						CHECK	252463 TOTAL:	600.00
252464	12/29/2023	PRTD	105787	DATA FORENSICS LAB	10/16/2023		122923	438.05
						CHECK	252464 TOTAL:	438.05
252465	12/29/2023	PRTD	102102	DIRECT AUTOMOTIVE DISTRIBUTING	12/04/2023		122923	346.49
				DIRECT AUTOMOTIVE DISTRIBUTING	12/07/2023		122923	200.05
				DIRECT AUTOMOTIVE DISTRIBUTING	12/08/2023		122923	108.53
				DIRECT AUTOMOTIVE DISTRIBUTING	12/13/2023		122923	60.75
				DIRECT AUTOMOTIVE DISTRIBUTING	12/15/2023		122923	198.51
						CHECK	252465 TOTAL:	914.33
252466	12/29/2023	PRTD	105497	EXHIBIT A INVESTIGATIONS	12/14/2023		122923	825.00
				EXHIBIT A INVESTIGATIONS	12/14/2023		122923	620.40
				EXHIBIT A INVESTIGATIONS	12/14/2023		122923	191.40
				EXHIBIT A INVESTIGATIONS	12/14/2023		122923	742.20
				EXHIBIT A INVESTIGATIONS	12/08/2023		122923	746.00
				EXHIBIT A INVESTIGATIONS	12/08/2023		122923	679.80
						CHECK	252466 TOTAL:	3,804.80
252467	12/29/2023	PRTD	102321	FIRE SYSTEMS WEST, INC.	09/22/2023		122923	4,285.50
				FIRE SYSTEMS WEST, INC.	09/01/2023		122923	815.25
				FIRE SYSTEMS WEST, INC.	10/27/2023		122923	9,377.55
						CHECK	252467 TOTAL:	14,478.30

CASH ACCOUNT: 99900000 11120 AP Check Claims Clearing

CHECK NO	CHK DATE	TYPE	VENDOR	NAME	INV DATE	PO	CHECK	NET
252468	12/29/2023	PRTD	102400	GALLS, LLC	12/06/2023		122923	470.03
				GALLS, LLC	12/03/2023		122923	-205.44
				GALLS, LLC	12/07/2023		122923	106.57
				GALLS, LLC	12/09/2023		122923	21.52
				GALLS, LLC	12/11/2023		122923	63.59
				GALLS, LLC	12/11/2023		122923	388.06
						CHECK	252468 TOTAL:	844.33
252469	12/29/2023	PRTD	102474	GRAINGER	12/13/2023		122923	53.65
						CHECK	252469 TOTAL:	53.65
252470	12/29/2023	PRTD	105248	HILL INTERNATIONAL INC	12/12/2023		122923	3,101.48
						CHECK	252470 TOTAL:	3,101.48
252471	12/29/2023	PRTD	102661	HUNZIKER, KRISTI L	12/27/2023		122923	297.50
				HUNZIKER, KRISTI L	12/27/2023		122923	255.00
				HUNZIKER, KRISTI L	12/27/2023		122923	800.00
				HUNZIKER, KRISTI L	12/27/2023		122923	658.75
						CHECK	252471 TOTAL:	2,011.25
252472	12/29/2023	PRTD	102712	INTERMOUNTAIN CLEANING SERVICE, INC	12/21/2023		122923	66,658.40
				INTERMOUNTAIN CLEANING SERVICE, INC	11/15/2023		122923	42,360.50
						CHECK	252472 TOTAL:	109,018.90
252473	12/29/2023	PRTD	102778	JIM'S PACIFIC GARAGES, INC	12/08/2023		122923	45.38
				JIM'S PACIFIC GARAGES, INC	12/13/2023		122923	217.24
				JIM'S PACIFIC GARAGES, INC	12/15/2023		122923	265.52

CASH ACCOUNT: 99900000 11120 AP Check Claims Clearing

CHECK NO	CHK DATE	TYPE	VENDOR	NAME	INV DATE	PO	CHECK	NET
						CHECK	252473 TOTAL:	528.14
252474	12/29/2023	PRTD	105514	JUB ENGINEERS INC	12/21/2023		122923	2,459.40
						CHECK	252474 TOTAL:	2,459.40
252475	12/29/2023	PRTD	102826	KEEFE COMMISSARY NETWORK, LLC	11/01/2023		122923	48.00
				KEEFE COMMISSARY NETWORK, LLC	11/01/2023		122923	42.72
						CHECK	252475 TOTAL:	90.72
252476	12/29/2023	PRTD	102879	KOONTZ, NICHOLAS	12/22/2023		122923	90.75
						CHECK	252476 TOTAL:	90.75
252477	12/29/2023	PRTD	102897	L N CURTIS AND SONS	11/29/2023		122923	4,874.17
						CHECK	252477 TOTAL:	4,874.17
252478	12/29/2023	PRTD	103004	LITHIA CHRYSLER JEEP, DODGE OF TRI-	12/14/2023		122923	321.75
						CHECK	252478 TOTAL:	321.75
252479	12/29/2023	PRTD	105617	MACKAY & SPOSITO INC	12/11/2023		122923	1,022.79
						CHECK	252479 TOTAL:	1,022.79
252480	12/29/2023	PRTD	103131	MEIER ARCHITECTURE ENGINEERING	11/30/2023		122923	7,956.00
						CHECK	252480 TOTAL:	7,956.00
252481	12/29/2023	PRTD	105565	MENKE JACKSON BEYER LLP	11/30/2023		122923	473.25
						CHECK	252481 TOTAL:	473.25
252482	12/29/2023	PRTD	103161	MIGHTY JOHNS PORTABLE TOILET , & S	12/18/2023		122923	125.00
				MIGHTY JOHNS PORTABLE TOILET , & S	12/18/2023		122923	95.00
				MIGHTY JOHNS PORTABLE TOILET , & S	12/18/2023		122923	98.00
				MIGHTY JOHNS PORTABLE TOILET , & S	12/18/2023		122923	95.00

CASH ACCOUNT: 99900000 11120 AP Check Claims Clearing

CHECK NO	CHK DATE	TYPE	VENDOR	NAME	INV DATE	PO	CHECK	NET
				MIGHTY JOHNS PORTABLE TOILET , & S	12/18/2023		122923	62.50
				MIGHTY JOHNS PORTABLE TOILET , & S	12/18/2023		122923	62.50
					CHECK		252482 TOTAL:	538.00
252483	12/29/2023	PRTD	104963	MR ROOTER PLUMBING	12/14/2023		122923	297.48
					CHECK		252483 TOTAL:	297.48
252484	12/29/2023	PRTD	103225	MUSTANG SIGNS	12/27/2023		122923	44.57
					CHECK		252484 TOTAL:	44.57
252485	12/29/2023	PRTD	103241	NAEGELI REPORTING CORP	10/11/2023		122923	1,194.15
					CHECK		252485 TOTAL:	1,194.15
252486	12/29/2023	PRTD	103248	NAPA-PROSSER	12/15/2023		122923	36.46
				NAPA-PROSSER	12/18/2023		122923	16.05
				NAPA-PROSSER	12/11/2023		122923	27.18
				NAPA-PROSSER	12/11/2023		122923	3.13
					CHECK		252486 TOTAL:	82.82
252487	12/29/2023	PRTD	999996	BRITT LOGSDON	12/27/2023		122923	1,425.00
					CHECK		252487 TOTAL:	1,425.00
252488	12/29/2023	PRTD	999996	MELISSA J COOPER	12/27/2023		122923	1,945.00
					CHECK		252488 TOTAL:	1,945.00
252489	12/29/2023	PRTD	999997	BRYNNIA GEORGE	12/27/2023		122923	.42
					CHECK		252489 TOTAL:	.42
252490	12/29/2023	PRTD	999997	JASON HARRINGTON	12/27/2023		122923	50.06

CASH ACCOUNT: 99900000 11120 AP Check Claims Clearing

CHECK NO	CHK DATE	TYPE	VENDOR	NAME	INV DATE	PO	CHECK	NET
						CHECK	252490 TOTAL:	50.06
252491	12/29/2023	PRTD	999997	MI'KEL SETON	12/27/2023		122923	14.71
						CHECK	252491 TOTAL:	14.71
252492	12/29/2023	PRTD	103414	OVERHEAD DOOR CO OF TRI-CITIES	12/15/2023		122923	5,609.05
						CHECK	252492 TOTAL:	5,609.05
252493	12/29/2023	PRTD	103427	OXARC INC	11/29/2023		122923	522.00
						CHECK	252493 TOTAL:	522.00
252494	12/29/2023	PRTD	103469	PACIFIC OFFICE AUTOMATION, INC	12/15/2023		122923	7.14
						CHECK	252494 TOTAL:	7.14
252495	12/29/2023	PRTD	103500	PASCO TIRE FACTORY, INC	12/08/2023		122923	2,038.45
				PASCO TIRE FACTORY, INC	12/12/2023		122923	348.70
				PASCO TIRE FACTORY, INC	12/15/2023		122923	137.27
						CHECK	252495 TOTAL:	2,524.42
252496	12/29/2023	PRTD	103548	PHASE 2 ELECTRIC, INC	12/18/2023		122923	267,549.11
						CHECK	252496 TOTAL:	267,549.11
252497	12/29/2023	PRTD	103648	PUBLIC SAFETY TESTING, INC	12/28/2023		122923	893.00
						CHECK	252497 TOTAL:	893.00
252498	12/29/2023	PRTD	103686	RAMON, BERTHA	12/15/2023		122923	7,950.00
						CHECK	252498 TOTAL:	7,950.00
252499	12/29/2023	PRTD	105931	RICHARD J OFSHE INC	12/05/2023		122923	3,150.00
						CHECK	252499 TOTAL:	3,150.00

CASH ACCOUNT: 99900000 11120 AP Check Claims Clearing

CHECK NO	CHK DATE	TYPE	VENDOR	NAME	INV DATE	PO	CHECK	NET
252500	12/29/2023	PRTD	103755	RICOH USA, INC	12/05/2023		122923	79.10
				RICOH USA, INC	12/01/2023		122923	118.17
					CHECK		252500 TOTAL:	197.27
252501	12/29/2023	PRTD	103818	RWC INTERNATIONAL, LTD	12/08/2023		122923	2,032.83
					CHECK		252501 TOTAL:	2,032.83
252502	12/29/2023	PRTD	105783	SPECIAL WASTE ASSOCIATES	12/21/2023		122923	3,350.00
					CHECK		252502 TOTAL:	3,350.00
252503	12/29/2023	PRTD	104051	STEPHENSON COMPUTER CONSULTING, INC	12/14/2023		122923	480.00
					CHECK		252503 TOTAL:	480.00
252504	12/29/2023	PRTD	101359	SUSAN E ANDERSON, REGISTERED PROFES	11/16/2023		122923	126.00
					CHECK		252504 TOTAL:	126.00
252505	12/29/2023	PRTD	101142	TOM DENCHEL FORD COUNTRY, OF PROSSE	11/20/2023		122923	169.95
					CHECK		252505 TOTAL:	169.95
252506	12/29/2023	PRTD	104212	TRI-CITIES BATTERY INC	12/11/2023		122923	81.39
					CHECK		252506 TOTAL:	81.39
252507	12/29/2023	PRTD	104257	TYLER TECHNOLOGIES, INC	12/20/2023		122923	1,480.00
				TYLER TECHNOLOGIES, INC	12/27/2023		122923	4,440.00
					CHECK		252507 TOTAL:	5,920.00
252508	12/29/2023	PRTD	104272	UNITED STATES POSTAL SERVICE , CMR	12/22/2023		122923	5,000.00
					CHECK		252508 TOTAL:	5,000.00

CASH ACCOUNT: 99900000 11120 AP Check Claims Clearing

CHECK NO	CHK DATE	TYPE	VENDOR	NAME	INV DATE	PO	CHECK	NET
252509	12/29/2023	PRTD	101271	VICS AUTO AND SUPPLY, NAPA	12/01/2023		122923	94.24
				VICS AUTO AND SUPPLY, NAPA	12/15/2023		122923	19.36
				VICS AUTO AND SUPPLY, NAPA	12/20/2023		122923	10.90
				VICS AUTO AND SUPPLY, NAPA	12/20/2023		122923	8.86
				VICS AUTO AND SUPPLY, NAPA	12/12/2023		122923	46.97
						CHECK	252509 TOTAL:	180.33
252510	12/29/2023	PRTD	104455	WA ST DEPT OF HEALTH	12/18/2023		122923	185.00
						CHECK	252510 TOTAL:	185.00
252511	12/29/2023	PRTD	104470	WASHINGTON STATE PATROL, BUDGET AND	12/01/2023		122923	171.25
				WASHINGTON STATE PATROL, BUDGET AND	12/14/2023		122923	200.00
				WASHINGTON STATE PATROL, BUDGET AND	12/14/2023		122923	200.00
						CHECK	252511 TOTAL:	571.25

NUMBER OF CHECKS 68 *** CASH ACCOUNT TOTAL *** 655,533.61

	COUNT	AMOUNT
TOTAL PRINTED CHECKS	68	655,533.61

*** GRAND TOTAL *** 655,533.61

JOURNAL ENTRIES TO BE CREATED

CLERK: MCN

YEAR PER JNL SRC ACCOUNT EFF DATE	JNL DESC	REF 1	REF 2	REF 3	ACCOUNT DESC / LINE DESC	T	OB	DEBIT	CREDIT
2023 12 4428									
APP GF005000-21340					Vouchers Payable			251,217.82	
12/29/2023	122923	122923			AP CASH DISBURSEMENTS JOURNAL				
APP 99900000-11120					AP Check Claims Clearing				655,533.61
12/29/2023	122923	122923			AP CASH DISBURSEMENTS JOURNAL				
APP ER850000-21340					Vouchers Payable			16,320.29	
12/29/2023	122923	122923			AP CASH DISBURSEMENTS JOURNAL				
APP RD850000-21340					Vouchers Payable			3,594.40	
12/29/2023	122923	122923			AP CASH DISBURSEMENTS JOURNAL				
APP BHF85000-21340					Vouchers Payable			6,706.82	
12/29/2023	122923	122923			AP CASH DISBURSEMENTS JOURNAL				
APP PS850000-21340					Vouchers Payable			8,543.11	
12/29/2023	122923	122923			AP CASH DISBURSEMENTS JOURNAL				
APP SE850000-21340					Vouchers Payable			4,210.64	
12/29/2023	122923	122923			AP CASH DISBURSEMENTS JOURNAL				
APP BH850000-21340					Vouchers Payable			77,073.58	
12/29/2023	122923	122923			AP CASH DISBURSEMENTS JOURNAL				
APP JC850000-21340					Vouchers Payable			2,786.80	
12/29/2023	122923	122923			AP CASH DISBURSEMENTS JOURNAL				
APP CP850000-21340					Vouchers Payable			272,130.59	
12/29/2023	122923	122923			AP CASH DISBURSEMENTS JOURNAL				
APP EL500000-21340					Vouchers Payable			530.05	
12/29/2023	122923	122923			AP CASH DISBURSEMENTS JOURNAL				
APP IB850000-21340					Vouchers Payable			90.72	
12/29/2023	122923	122923			AP CASH DISBURSEMENTS JOURNAL				
APP RE850000-21340					Vouchers Payable			1,022.79	
12/29/2023	122923	122923			AP CASH DISBURSEMENTS JOURNAL				
APP SW850000-21340					Vouchers Payable			11,306.00	
12/29/2023	122923	122923			AP CASH DISBURSEMENTS JOURNAL				
					GENERAL LEDGER TOTAL			655,533.61	655,533.61
APP 99900000-80010					Due To General Fund			251,217.82	
12/29/2023	122923	122923							
APP GF001000-11110					Cash Equity				251,217.82
12/29/2023	122923	122923							
APP 99900000-85010					Due To Equipment Rental & Rev			16,320.29	
12/29/2023	122923	122923							
APP ER810000-11110					Cash Equity				16,320.29
12/29/2023	122923	122923							
APP 99900000-81010					Due To County Road			3,594.40	
12/29/2023	122923	122923							
APP RD810000-11110					Cash Equity				3,594.40
12/29/2023	122923	122923							
APP 99900000-81600					Due To Behavioral Health			6,706.82	
12/29/2023	122923	122923							
APP BHF81000-11110					Cash Equity				6,706.82

JOURNAL ENTRIES TO BE CREATED

YEAR PER JNL SRC ACCOUNT / EFF DATE	JNL DESC	REF 1	REF 2	REF 3	ACCOUNT DESC / LINE DESC	T	OB	DEBIT	CREDIT
12/29/2023	122923	122923							
APP 99900000-81480					Due To Public Safety Tax Fund			8,543.11	
12/29/2023	122923	122923							
APP PS810000-11110					Cash Equity				8,543.11
12/29/2023	122923	122923							
APP 99900000-81410					Due To Sheriffs Eqp Prch & Rep			4,210.64	
12/29/2023	122923	122923							
APP SE810000-11110					Cash Equity				4,210.64
12/29/2023	122923	122923							
APP 99900000-81070					Due To Benton County Human Srv			77,073.58	
12/29/2023	122923	122923							
APP BH810000-11110					Cash Equity				77,073.58
12/29/2023	122923	122923							
APP 99900000-81150					Due To Juvenile Center			2,786.80	
12/29/2023	122923	122923							
APP JC810000-11110					Cash Equity				2,786.80
12/29/2023	122923	122923							
APP 99900000-83050					Due To Capital Projects			272,130.59	
12/29/2023	122923	122923							
APP CP810000-11110					Cash Equity				272,130.59
12/29/2023	122923	122923							
APP 99900000-81110					Due To Election Reserve			530.05	
12/29/2023	122923	122923							
APP EL100000-11110					Cash Equity				530.05
12/29/2023	122923	122923							
APP 99900000-81160					Due To Inmate Benevolence Fund			90.72	
12/29/2023	122923	122923							
APP IB810000-11110					Cash Equity				90.72
12/29/2023	122923	122923							
APP 99900000-81300					Due To Real Estate Excise Tax			1,022.79	
12/29/2023	122923	122923							
APP RE810000-11110					Cash Equity				1,022.79
12/29/2023	122923	122923							
APP 99900000-81550					Due To Solid Waste Collection			11,306.00	
12/29/2023	122923	122923							
APP SW810000-11110					Cash Equity				11,306.00
12/29/2023	122923	122923							
					SYSTEM GENERATED ENTRIES TOTAL			655,533.61	655,533.61
					JOURNAL 2023/12/4428 TOTAL			1,311,067.22	1,311,067.22

JOURNAL ENTRIES TO BE CREATED

FUND / ACCOUNT	YEAR PER	JNL	EFF DATE / ACCOUNT DESCRIPTION		DEBIT	CREDIT
0010 General Fund	2023 12	4428	12/29/2023			
GF001000-11110			Cash Equity			251,217.82
GF005000-21340			Vouchers Payable		251,217.82	
				FUND TOTAL	251,217.82	251,217.82
1010 County Road	2023 12	4428	12/29/2023			
RD810000-11110			Cash Equity			3,594.40
RD850000-21340			Vouchers Payable		3,594.40	
				FUND TOTAL	3,594.40	3,594.40
1070 Benton County Human Services	2023 12	4428	12/29/2023			
BH810000-11110			Cash Equity			77,073.58
BH850000-21340			Vouchers Payable		77,073.58	
				FUND TOTAL	77,073.58	77,073.58
1110 Election Reserve	2023 12	4428	12/29/2023			
EL100000-11110			Cash Equity			530.05
EL500000-21340			Vouchers Payable		530.05	
				FUND TOTAL	530.05	530.05
1150 Juvenile Center	2023 12	4428	12/29/2023			
JC810000-11110			Cash Equity			2,786.80
JC850000-21340			Vouchers Payable		2,786.80	
				FUND TOTAL	2,786.80	2,786.80
1160 Inmate Benevolence Fund	2023 12	4428	12/29/2023			
IB810000-11110			Cash Equity			90.72
IB850000-21340			Vouchers Payable		90.72	
				FUND TOTAL	90.72	90.72
1300 Real Estate Excise Tax	2023 12	4428	12/29/2023			
RE810000-11110			Cash Equity			1,022.79
RE850000-21340			Vouchers Payable		1,022.79	
				FUND TOTAL	1,022.79	1,022.79
1410 Sheriffs Equip Purchase & Rep	2023 12	4428	12/29/2023			
SE810000-11110			Cash Equity			4,210.64
SE850000-21340			Vouchers Payable		4,210.64	
				FUND TOTAL	4,210.64	4,210.64
1480 Public Safety Tax Fund	2023 12	4428	12/29/2023			

JOURNAL ENTRIES TO BE CREATED

FUND / ACCOUNT	YEAR PER	JNL	EFF DATE / ACCOUNT DESCRIPTION		DEBIT	CREDIT
PS810000-11110			Cash Equity			8,543.11
PS850000-21340			Vouchers Payable		8,543.11	
				FUND TOTAL	8,543.11	8,543.11
1550 Solid Waste Collection Fund	2023 12	4428	12/29/2023			
SW810000-11110			Cash Equity			11,306.00
SW850000-21340			Vouchers Payable		11,306.00	
				FUND TOTAL	11,306.00	11,306.00
1600 Behavioral Health	2023 12	4428	12/29/2023			
BHF81000-11110			Cash Equity			6,706.82
BHF85000-21340			Vouchers Payable		6,706.82	
				FUND TOTAL	6,706.82	6,706.82
3050 Capital Projects	2023 12	4428	12/29/2023			
CP810000-11110			Cash Equity			272,130.59
CP850000-21340			Vouchers Payable		272,130.59	
				FUND TOTAL	272,130.59	272,130.59
5010 Equipment Rental & Revolving	2023 12	4428	12/29/2023			
ER810000-11110			Cash Equity			16,320.29
ER850000-21340			Vouchers Payable		16,320.29	
				FUND TOTAL	16,320.29	16,320.29
9999 Treasurers Pooled Cash	2023 12	4428	12/29/2023			
99900000-11120			AP Check Claims Clearing			655,533.61
99900000-80010			Due To General Fund		251,217.82	
99900000-81010			Due To County Road		3,594.40	
99900000-81070			Due To Benton County Human Srv		77,073.58	
99900000-81110			Due To Election Reserve		530.05	
99900000-81150			Due To Juvenile Center		2,786.80	
99900000-81160			Due To Inmate Benevolence Fund		90.72	
99900000-81300			Due To Real Estate Excise Tax		1,022.79	
99900000-81410			Due To Sheriffs Eqp Prch & Rep		4,210.64	
99900000-81480			Due To Public Safety Tax Fund		8,543.11	
99900000-81550			Due To Solid Waste Collection		11,306.00	
99900000-81600			Due To Behavioral Health		6,706.82	
99900000-83050			Due To Capital Projects		272,130.59	
99900000-85010			Due To Equipment Rental & Rev		16,320.29	
				FUND TOTAL	655,533.61	655,533.61

JOURNAL ENTRIES TO BE CREATED

FUND		DUE TO	DUE FR
0010	General Fund		251,217.82
1010	County Road		3,594.40
1070	Benton County Human Services		77,073.58
1110	Election Reserve		530.05
1150	Juvenile Center		2,786.80
1160	Inmate Benevolence Fund		90.72
1300	Real Estate Excise Tax		1,022.79
1410	Sheriffs Equip Purchase & Rep		4,210.64
1480	Public Safety Tax Fund		8,543.11
1550	Solid Waste Collection Fund		11,306.00
1600	Behavioral Health		6,706.82
3050	Capital Projects		272,130.59
5010	Equipment Rental & Revolving		16,320.29
9999	Treasurers Pooled Cash	655,533.61	
	TOTAL	655,533.61	655,533.61

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CASH ACCOUNT: 99900000 11120 AP Check Claims Clearing

CHECK NO	CHK DATE	TYPE	VENDOR NAME	INV DATE	PO	CHECK	NET
252512	12/29/2023	PRTD	101513 B C TREASURER	12/29/2023		122923C2	10.00
					CHECK	252512 TOTAL:	10.00

NUMBER OF CHECKS 1 *** CASH ACCOUNT TOTAL *** 10.00

	COUNT	AMOUNT
TOTAL PRINTED CHECKS	1	10.00

*** GRAND TOTAL *** 10.00

JOURNAL ENTRIES TO BE CREATED

CLERK: MCN

YEAR PER JNL / SRC ACCOUNT / EFF DATE	JNL DESC	REF 1	REF 2	REF 3	ACCOUNT DESC / LINE DESC	T	OB	DEBIT	CREDIT
2023 12 4470									
APP CP850000-21340					Vouchers Payable			10.00	
12/29/2023	122923C2	122923			AP CASH DISBURSEMENTS JOURNAL				
APP 99900000-11120					AP Check Claims Clearing				10.00
12/29/2023	122923C2	122923			AP CASH DISBURSEMENTS JOURNAL				
					GENERAL LEDGER TOTAL			10.00	10.00
APP 99900000-83050					Due To Capital Projects			10.00	
12/29/2023	122923C2	122923							
APP CP810000-11110					Cash Equity				10.00
12/29/2023	122923C2	122923							
					SYSTEM GENERATED ENTRIES TOTAL			10.00	10.00
					JOURNAL 2023/12/4470 TOTAL			20.00	20.00

JOURNAL ENTRIES TO BE CREATED

FUND / ACCOUNT	YEAR PER	JNL	EFF DATE / ACCOUNT DESCRIPTION	DEBIT	CREDIT
3050 Capital Projects	2023 12	4470	12/29/2023		
CP810000-11110			Cash Equity		10.00
CP850000-21340			Vouchers Payable	10.00	
			FUND TOTAL	10.00	10.00
9999 Treasurers Pooled Cash	2023 12	4470	12/29/2023		
99900000-11120			AP Check Claims Clearing		10.00
99900000-83050			Due To Capital Projects	10.00	
			FUND TOTAL	10.00	10.00

JOURNAL ENTRIES TO BE CREATED

FUND	DUE TO	DUE FR
3050 Capital Projects		10.00
9999 Treasurers Pooled Cash	10.00	
TOTAL	10.00	10.00

** END OF REPORT - Generated by Monika Nakic **

CASH ACCOUNT: 99900000 11121 AP Wire Clearing

CHECK NO	CHK DATE	TYPE	VENDOR	NAME	INV DATE	PO	CHECK	NET
754	12/29/2023	EFT	101382	ARMIJO, ANA	11/28/2023		122923E2	725.00
						CHECK	754 TOTAL:	725.00
755	12/29/2023	EFT	101382	ARMIJO, ANA	12/01/2023		122923E2	6,275.00
						CHECK	755 TOTAL:	6,275.00
756	12/29/2023	EFT	101872	COLUMBIA BASIN INTERPRETING, TRANSL	12/01/2023		122923E2	4,425.00
						CHECK	756 TOTAL:	4,425.00
757	12/29/2023	EFT	101896	COLUMBIA PRIVATE INVESTIGATION, LLC	12/12/2023		122923E2	356.40
				COLUMBIA PRIVATE INVESTIGATION, LLC	12/12/2023		122923E2	270.60
						CHECK	757 TOTAL:	627.00
758	12/29/2023	EFT	105758	LAW OFFICE OF KATHERINE BOHNET PLLC	12/11/2023		122923E2	2,875.00
						CHECK	758 TOTAL:	2,875.00
759	12/29/2023	EFT	103600	PREMIER INVESTIGATIONS LLC	06/14/2023		122923E2	99.00
						CHECK	759 TOTAL:	99.00

NUMBER OF CHECKS 6 *** CASH ACCOUNT TOTAL *** 15,026.00

	COUNT	AMOUNT
TOTAL EFT'S	6	15,026.00

*** GRAND TOTAL *** 15,026.00

JOURNAL ENTRIES TO BE CREATED

CLERK: MCN

YEAR PER JNL / SRC ACCOUNT / EFF DATE JNL DESC REF 1 REF 2 REF 3	ACCOUNT DESC / LINE DESC	T	OB	DEBIT	CREDIT
2023 12 4430					
APP GF005000-21340	Vouchers Payable			15,026.00	
12/29/2023 122923E2 122923	AP CASH DISBURSEMENTS JOURNAL				
APP 99900000-11121	AP Wire Clearing				15,026.00
12/29/2023 122923E2 122923	AP CASH DISBURSEMENTS JOURNAL				
	GENERAL LEDGER TOTAL			15,026.00	15,026.00
APP 99900000-80010	Due To General Fund			15,026.00	
12/29/2023 122923E2 122923					
APP GF001000-11110	Cash Equity				15,026.00
12/29/2023 122923E2 122923					
	SYSTEM GENERATED ENTRIES TOTAL			15,026.00	15,026.00
	JOURNAL 2023/12/4430 TOTAL			30,052.00	30,052.00

JOURNAL ENTRIES TO BE CREATED

FUND / ACCOUNT	YEAR PER	JNL	EFF DATE / ACCOUNT DESCRIPTION		DEBIT	CREDIT
0010 General Fund	2023 12	4430	12/29/2023			
GF001000-11110			Cash Equity			15,026.00
GF005000-21340			Vouchers Payable		15,026.00	
				FUND TOTAL	15,026.00	15,026.00
9999 Treasurers Pooled Cash	2023 12	4430	12/29/2023			
99900000-11121			AP Wire Clearing			15,026.00
99900000-80010			Due To General Fund		15,026.00	
				FUND TOTAL	15,026.00	15,026.00

JOURNAL ENTRIES TO BE CREATED

FUND	DUE TO	DUE FR
0010 General Fund		15,026.00
9999 Treasurers Pooled Cash	15,026.00	
TOTAL	15,026.00	15,026.00

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CASH ACCOUNT: 99900000 11124 Federal Tax

CHECK NO	CHK DATE	TYPE	VENDOR	NAME	INV DATE	PO	CHECK	NET
1450	12/29/2023	WIRE	104460	WA ST DEPT OF REVENUE, #035000971	12/21/2023			67.56
							CHECK 1450 TOTAL:	67.56
1455	12/29/2023	WIRE	102850	KEY BANK	12/29/2023			61.20
							CHECK 1455 TOTAL:	61.20
				NUMBER OF CHECKS 2			*** CASH ACCOUNT TOTAL ***	128.76

	COUNT	AMOUNT
TOTAL WIRE TRANSFERS	2	128.76

*** GRAND TOTAL *** 128.76

JOURNAL ENTRIES TO BE CREATED

CLERK: MCN

YEAR PER JNL SRC ACCOUNT EFF DATE JNL DESC REF 1 REF 2 REF 3	ACCOUNT DESC LINE DESC	T	OB	DEBIT	CREDIT
2023 12 4391					
APP GF005000-21340	Vouchers Payable			128.76	
12/29/2023 CASH DISB PAYROL	AP CASH DISBURSEMENTS JOURNAL				
APP 99900000-11124	Federal Tax				128.76
12/29/2023 CASH DISB PAYROL	AP CASH DISBURSEMENTS JOURNAL				
	GENERAL LEDGER TOTAL			128.76	128.76
APP 99900000-80010	Due To General Fund			128.76	
12/29/2023 CASH DISB PAYROL					
APP GF001000-11110	Cash Equity				128.76
12/29/2023 CASH DISB PAYROL					
	SYSTEM GENERATED ENTRIES TOTAL			128.76	128.76
	JOURNAL 2023/12/4391 TOTAL			257.52	257.52

JOURNAL ENTRIES TO BE CREATED

FUND / ACCOUNT	YEAR PER	JNL	EFF DATE / ACCOUNT DESCRIPTION		DEBIT	CREDIT
0010 General Fund	2023 12	4391	12/29/2023			
GF001000-11110			Cash Equity			128.76
GF005000-21340			Vouchers Payable		128.76	
				FUND TOTAL	128.76	128.76
9999 Treasurers Pooled Cash	2023 12	4391	12/29/2023			
99900000-11124			Federal Tax			128.76
99900000-80010			Due To General Fund		128.76	
				FUND TOTAL	128.76	128.76

JOURNAL ENTRIES TO BE CREATED

FUND	DUE TO	DUE FR
0010 General Fund		128.76
9999 Treasurers Pooled Cash	128.76	
TOTAL	128.76	128.76

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CASH ACCOUNT: 99900000 11100 Main Checking

CHECK NO	CHK DATE	TYPE	VENDOR NAME	INV DATE	PO	CHECK	NET
1451	12/29/2023	WIRE	101529 B C WORKMANS COMP	12/22/2023			20,407.59
					CHECK	1451 TOTAL:	20,407.59
1452	12/29/2023	WIRE	105532 B C JURY PAY	12/20/2023			423.16
					CHECK	1452 TOTAL:	423.16
1453	12/29/2023	WIRE	105532 B C JURY PAY	12/21/2023			5,102.18
					CHECK	1453 TOTAL:	5,102.18
1454	12/29/2023	WIRE	105532 B C JURY PAY	12/26/2023			6,613.97
					CHECK	1454 TOTAL:	6,613.97
1456	12/29/2023	WIRE	101529 B C WORKMANS COMP	12/28/2023			9,653.30
					CHECK	1456 TOTAL:	9,653.30
			NUMBER OF CHECKS 5			*** CASH ACCOUNT TOTAL ***	42,200.20

	COUNT	AMOUNT
TOTAL WIRE TRANSFERS	5	42,200.20

*** GRAND TOTAL *** 42,200.20

JOURNAL ENTRIES TO BE CREATED

CLERK: MCN

YEAR PER JNL / SRC ACCOUNT / EFF DATE	JNL DESC	REF 1	REF 2	REF 3	ACCOUNT DESC / LINE DESC	T	OB	DEBIT	CREDIT
2023 12 4429									
APP WC850000-21340					Vouchers Payable			30,060.89	
12/29/2023	CASH DISB	122923			AP CASH DISBURSEMENTS JOURNAL				
APP 99900000-11100					Main Checking				42,200.20
12/29/2023	CASH DISB	122923			AP CASH DISBURSEMENTS JOURNAL				
APP GF005000-21340					Vouchers Payable			12,139.31	
12/29/2023	CASH DISB	122923			AP CASH DISBURSEMENTS JOURNAL				
					GENERAL LEDGER TOTAL			42,200.20	42,200.20
APP 99900000-85030					Due To Workmens Compensation			30,060.89	
12/29/2023	CASH DISB	122923							
APP WC810000-11110					Cash Equity				30,060.89
12/29/2023	CASH DISB	122923							
APP 99900000-80010					Due To General Fund			12,139.31	
12/29/2023	CASH DISB	122923							
APP GF001000-11110					Cash Equity				12,139.31
12/29/2023	CASH DISB	122923							
					SYSTEM GENERATED ENTRIES TOTAL			42,200.20	42,200.20
					JOURNAL 2023/12/4429 TOTAL			84,400.40	84,400.40

JOURNAL ENTRIES TO BE CREATED

FUND / ACCOUNT	YEAR PER	JNL	EFF DATE / ACCOUNT DESCRIPTION		DEBIT	CREDIT
0010 General Fund	2023 12	4429	12/29/2023			
GF001000-11110			Cash Equity			12,139.31
GF005000-21340			Vouchers Payable		12,139.31	
				FUND TOTAL	12,139.31	12,139.31
5030 Workmens Compensation	2023 12	4429	12/29/2023			
WC810000-11110			Cash Equity			30,060.89
WC850000-21340			Vouchers Payable		30,060.89	
				FUND TOTAL	30,060.89	30,060.89
9999 Treasurers Pooled Cash	2023 12	4429	12/29/2023			
99900000-11100			Main Checking			42,200.20
99900000-80010			Due To General Fund		12,139.31	
99900000-85030			Due To Workmens Compensation		30,060.89	
				FUND TOTAL	42,200.20	42,200.20

JOURNAL ENTRIES TO BE CREATED

FUND		DUE TO	DUE FR
0010 General Fund			12,139.31
5030 Workmens Compensation			30,060.89
9999 Treasurers Pooled Cash		42,200.20	
	TOTAL	42,200.20	42,200.20

** END OF REPORT - Generated by Monika Nakic **

CASH ACCOUNT: 99900000 11124 Federal Tax

CHECK NO	CHK DATE	TYPE	VENDOR NAME	INV DATE	PO	CHECK	NET
1457	12/29/2023	WIRE	104460 WA ST DEPT OF REVENUE, #035000971	12/29/2023		WIRE_001	7,061.11
					CHECK	1457 TOTAL:	7,061.11
				NUMBER OF CHECKS 1		*** CASH ACCOUNT TOTAL ***	7,061.11

	COUNT	AMOUNT
TOTAL WIRE TRANSFERS	1	7,061.11

*** GRAND TOTAL *** 7,061.11

JOURNAL ENTRIES TO BE CREATED

CLERK: MCN

YEAR PER JNL / SRC ACCOUNT / EFF DATE	JNL DESC	REF 1	REF 2	REF 3	ACCOUNT DESC / LINE DESC	T	OB	DEBIT	CREDIT
2023 12 4433									
APP BHF85000-21340					Vouchers Payable			114.62	
12/29/2023	WIRE_001	WIRE_0			AP CASH DISBURSEMENTS JOURNAL				
APP 99900000-11124					Federal Tax				7,061.11
12/29/2023	WIRE_001	WIRE_0			AP CASH DISBURSEMENTS JOURNAL				
APP CS850000-21340					Vouchers Payable			1,592.80	
12/29/2023	WIRE_001	WIRE_0			AP CASH DISBURSEMENTS JOURNAL				
APP EL500000-21340					Vouchers Payable			30.58	
12/29/2023	WIRE_001	WIRE_0			AP CASH DISBURSEMENTS JOURNAL				
APP ER850000-21340					Vouchers Payable			16.47	
12/29/2023	WIRE_001	WIRE_0			AP CASH DISBURSEMENTS JOURNAL				
APP GF005000-21340					Vouchers Payable			4,587.03	
12/29/2023	WIRE_001	WIRE_0			AP CASH DISBURSEMENTS JOURNAL				
APP IT850000-21340					Vouchers Payable			238.45	
12/29/2023	WIRE_001	WIRE_0			AP CASH DISBURSEMENTS JOURNAL				
APP PD850000-21340					Vouchers Payable			82.39	
12/29/2023	WIRE_001	WIRE_0			AP CASH DISBURSEMENTS JOURNAL				
APP PS850000-21340					Vouchers Payable			398.77	
12/29/2023	WIRE_001	WIRE_0			AP CASH DISBURSEMENTS JOURNAL				
					GENERAL LEDGER TOTAL			7,061.11	7,061.11
APP 99900000-81600					Due To Behavioral Health			114.62	
12/29/2023	WIRE_001	WIRE_0							
APP BHF81000-11110					Cash Equity				114.62
12/29/2023	WIRE_001	WIRE_0							
APP 99900000-81320					Due To Central Services Replac			1,592.80	
12/29/2023	WIRE_001	WIRE_0							
APP CS810000-11110					Cash Equity				1,592.80
12/29/2023	WIRE_001	WIRE_0							
APP 99900000-81110					Due To Election Reserve			30.58	
12/29/2023	WIRE_001	WIRE_0							
APP EL100000-11110					Cash Equity				30.58
12/29/2023	WIRE_001	WIRE_0							
APP 99900000-85010					Due To Equipment Rental & Rev			16.47	
12/29/2023	WIRE_001	WIRE_0							
APP ER810000-11110					Cash Equity				16.47
12/29/2023	WIRE_001	WIRE_0							
APP 99900000-80010					Due To General Fund			4,587.03	
12/29/2023	WIRE_001	WIRE_0							
APP GF001000-11110					Cash Equity				4,587.03
12/29/2023	WIRE_001	WIRE_0							
APP 99900000-85020					Due To Central Services			238.45	
12/29/2023	WIRE_001	WIRE_0							
APP IT810000-11110					Cash Equity				238.45
12/29/2023	WIRE_001	WIRE_0							
APP 99900000-81100					Due To Park Development			82.39	

JOURNAL ENTRIES TO BE CREATED

YEAR PER JNL SRC ACCOUNT / EFF DATE	JNL DESC	REF 1	REF 2	REF 3	ACCOUNT DESC / LINE DESC	T	OB	DEBIT	CREDIT
12/29/2023	WIRE_001	WIRE_0							
APP PD810000-11110					Cash Equity				82.39
12/29/2023	WIRE_001	WIRE_0							
APP 99900000-81480					Due To Public Safety Tax Fund			398.77	
12/29/2023	WIRE_001	WIRE_0							
APP PS810000-11110					Cash Equity				398.77
12/29/2023	WIRE_001	WIRE_0							
					SYSTEM GENERATED ENTRIES TOTAL			7,061.11	7,061.11
					JOURNAL 2023/12/4433 TOTAL			14,122.22	14,122.22

JOURNAL ENTRIES TO BE CREATED

FUND / ACCOUNT	YEAR PER	JNL	EFF DATE / ACCOUNT DESCRIPTION		DEBIT	CREDIT
0010 General Fund	2023 12	4433	12/29/2023			
GF001000-11110			Cash Equity			4,587.03
GF005000-21340			Vouchers Payable		4,587.03	
				FUND TOTAL	4,587.03	4,587.03
1100 Park Development	2023 12	4433	12/29/2023			
PD810000-11110			Cash Equity			82.39
PD850000-21340			Vouchers Payable		82.39	
				FUND TOTAL	82.39	82.39
1110 Election Reserve	2023 12	4433	12/29/2023			
EL100000-11110			Cash Equity			30.58
EL500000-21340			Vouchers Payable		30.58	
				FUND TOTAL	30.58	30.58
1320 Central Services Replacement	2023 12	4433	12/29/2023			
CS810000-11110			Cash Equity			1,592.80
CS850000-21340			Vouchers Payable		1,592.80	
				FUND TOTAL	1,592.80	1,592.80
1480 Public Safety Tax Fund	2023 12	4433	12/29/2023			
PS810000-11110			Cash Equity			398.77
PS850000-21340			Vouchers Payable		398.77	
				FUND TOTAL	398.77	398.77
1600 Behavioral Health	2023 12	4433	12/29/2023			
BHF81000-11110			Cash Equity			114.62
BHF85000-21340			Vouchers Payable		114.62	
				FUND TOTAL	114.62	114.62
5010 Equipment Rental & Revolving	2023 12	4433	12/29/2023			
ER810000-11110			Cash Equity			16.47
ER850000-21340			Vouchers Payable		16.47	
				FUND TOTAL	16.47	16.47
5020 Central Services	2023 12	4433	12/29/2023			
IT810000-11110			Cash Equity			238.45
IT850000-21340			Vouchers Payable		238.45	
				FUND TOTAL	238.45	238.45
9999 Treasurers Pooled Cash	2023 12	4433	12/29/2023			

JOURNAL ENTRIES TO BE CREATED

FUND / ACCOUNT	YEAR PER	JNL	EFF DATE	ACCOUNT DESCRIPTION	DEBIT	CREDIT
99900000-11124				Federal Tax		7,061.11
99900000-80010				Due To General Fund	4,587.03	
99900000-81100				Due To Park Development	82.39	
99900000-81110				Due To Election Reserve	30.58	
99900000-81320				Due To Central Services Replac	1,592.80	
99900000-81480				Due To Public Safety Tax Fund	398.77	
99900000-81600				Due To Behavioral Health	114.62	
99900000-85010				Due To Equipment Rental & Rev	16.47	
99900000-85020				Due To Central Services	238.45	
				FUND TOTAL	7,061.11	7,061.11

JOURNAL ENTRIES TO BE CREATED

FUND		DUE TO	DUE FR
0010	General Fund		4,587.03
1100	Park Development		82.39
1110	Election Reserve		30.58
1320	Central Services Replacement		1,592.80
1480	Public Safety Tax Fund		398.77
1600	Behavioral Health		114.62
5010	Equipment Rental & Revolving		16.47
5020	Central Services		238.45
9999	Treasurers Pooled Cash	7,061.11	
	TOTAL	7,061.11	7,061.11

** END OF REPORT - Generated by Monika Nakic **

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY FUNDS RE: TRANSFER OF FUNDS WITHIN GENERAL FUND, FUND NUMBER 0010, DEPARTMENT NUMBER 139.

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

_____
Commissioner

_____
Commissioner

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

Attest: _____
Clerk of the Board

cc: Dept., Auditor

L. Ivey

EXHIBIT "A"

BENTON COUNTY BUDGET ADJUSTMENT/LINE ITEM TRANSFER

Dept Name: CARES/CRRSAA Dept Nbr: 139

Fund Name: General Fund Fund Nbr: 0010

TRANSFER FROM: TRANSFER TO:

BASE SUB (7 digit)	LINE ITEM (5 digit)	LINE ITEM NAME	AMOUNT	BASE SUB (7 digit)	LINE ITEM (5 digit)	LINE ITEM NAME	AMOUNT
5754000	53501	Minor Equipment & Small Tools	$84,000	5947510	56401	Capital Outlay	$84,000
TOTAL			$84,000	TOTAL			$84,000

Explanation:

To appropriate budget for the LATCF (Local Assistance & Tribal Consistency Fund) Grant for equipment for the Event Center.

Prepared by: Linda Ivey Date: 21-Dec-2023

Approved ❑ Denied ❑ Date: _____

_____
Chairman

_____
Commissioner

_____
Commissioner

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF ORGANIZATION OF BENTON COUNTY COMMISSIONERS FOR THE YEAR 2024; RESCINDING RESOLUTION 2023-658

NOW, THEREFORE, BE IT HEREBY RESOLVED that the following constitutes the organization of the Benton County Commissioners and staff for the Year 2024 effective upon execution of this resolution.

CHAIRMAN OF THE BOARD ..... Jerome Delvin

CHAIRMAN PRO TEM .....Michael Alvarez

COUNTY ADMINISTRATOR ..... Jerrod MacPherson

CLERK OF THE BOARD ..... Amanda Pearson
..... Marilu Flores, Alt.

BENTON COUNTY ENGINEER .....Matt Rasmussen

BENTON COUNTY PEST BOARD SUPERINTENDENT .....Frank Wolf

BENTON COUNTY PURCHASING AGENT .....Robert Blain

BENTON COUNTY WSU EXTENSION DIRECTOR..... Gwen-Alyn Hoheisel

ACCESSIBLE COMMUNITIES ADVISORY COMMITTEE.....Brenda Chilton
..... Glenn Vaagan

BI-PIN ..... Jerrod MacPherson
Matt Rasmussen, Alt.

BENTON-FRANKLIN REGIONAL REVOLVING LOAN FUND BOARD..... Will McKay
.....Jerome Delvin, Alt.

BEN FRANKLIN TRANSIT BOARD..... Will McKay
..... Michael Alvarez, Alt.

BENTON CITY LIBRARY CAPITAL FACILITIES AREA BOARD.....Jerome Delvin
.....Michael Alvarez
..... Will McKay

BENTON CLEAN AIR AGENCY ..... Will McKay
.....Jerome Delvin, Alt.

BENTON COUNTY EMERGENCY SERVICES BOARD.....Michael Alvarez
.....Matt Rasmussen, Alt.

BENTON COUNTY FINANCE COMMITTEE (rotate w/chair) ..... Jerome Delvin

BENTON COUNTY HISTORICAL PRESERVATION COMMITTEE..... Glenn Vaagan

BENTON COUNTY LEOFF DISABILITY BOARD.....Michael Alvarez

BENTON-FRANKLIN COUNCIL OF GOVERNMENTS .....Michael Alvarez
..... Will McKay, Alt.

BENTON-FRANKLIN LAW LIBRARY BOARD.....Jerome Delvin

BI-COUNTY HEALTH BOARD ..... Will McKay
.....Michael Alvarez
..... Jerome Delvin, Alt

COLUMBIA REGIONAL ECONOMIC DEVELOPMENT TRUST (CREDIT) ..... Will McKay

ENERGY COMMUNITIES ALLIANCE.....Jerome Delvin
.....Michael Alvarez
..... Adam Fyall, Alt.

GREATER COLUMBIA BEHAVIORAL HEALTH (ASO).....Michael Alvarez
Kyle Sullivan, Alt.

HANFORD ADVISORY BOARD .....Bob Suyama
..... Pam Larsen, Alt.

HANFORD AREA ECONOMIC INVESTMENT FUND COMMITTEE…. ..... Will McKay

HANFORD COMMUNITIES..... Governing Board – Jerome Delvin
.....Administrative Board – Adam Fyall

HOMELESS HOUSING..... Kyle Sullivan

HUMAN SERVICES ADMINISTRATOR ..... Kyle Sullivan

METRO .....Michael Alvarez
.....Matt Rasmussen, Alt.

NATIONAL ASSOCIATION OF COUNTIES (NACo).....Jerome Delvin

PARK BOARD ..... Adam Fyall

PROSSER ECONOMIC DEVELOPMENT ASSOCIATION (ex-officio).....Michael Alvarez

SOLID WASTE ADVISORY COMMITTEE ..... Will McKay
Matt Mahoney, Alt.

TRI-CITIES RIVERSHORE ENHANCEMENT COMMITTEE (TREC)
..... Strategic Committee – Adam Fyall
.....Technical Committee – Adam Fyall

TRI-CITY REGIONAL CHAMBER OF COMMERCE (ex-officio) ..... Will McKay

TRI-CITY VISITOR & CONVENTION BUREAU..... Will McKay

TRIDEC..... Will McKay
Jerome Delvin, Alt.

WASHINGTON COUNTIES INSURANCE FUND.....Jerome Delvin
Carlee Nave, Alt.

WASHINGTON STATE ASSOCIATION OF COUNTIES (WSAC)
Legislative Steering Committee (LSC) TRANSPORTATION ASSOCIATION..Michael Alvarez
Board of Directors ..... Will McKay
..... Michael Alvarez, Alt.
Columbia River Caucus.....Jerome Delvin

WEST RICHLAND AREA CHAMBER OF COMMERCE.....Jerome Delvin

WORKFORCE DEVELOPMENT COUNCIL..... Will McKay
Michael Alverez, Alt.

YAKIMA FISH & WILDLIFE RECOVERY BOARD .....Michael Alvarez
Adam Fyall, Alt.

YAKIMA BASIN INTEGRATED PLAN.....Michael Alvarez
Adam Fyall, Alt.

Dated this 9th day of January 2024.

_____
Chairman

ATTEST:

_____
Chairman Pro Tem

_____
Clerk of the Board

_____
Commissioner
Constituting the Board of
Benton County Commissioners

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	1/9/2024
Subject:	Updating Benton County Personnel Policy Section 10 – Military Leave, Jury Duty
Presenter:	C Nave
Prepared By:	C Nave
Reviewed By:	E Wyant, J Aultman, Elected Officials and Department Heads, Payroll

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

Current Benton County policy requires employees to turn over any stipend received for jury duty to the County, in exchange for their full wages for the day of jury service. For employees serving in Benton County, this process has been done via direct payroll deduction. To determine the deduction amount, the Clerk's Office has manually culled the juror list and sent the information to payroll for processing when a Benton County employee has served on a jury. For employees serving outside of Benton County, they are required to turn over their jury pay, less mileage reimbursement, which is then manually processed through the accounts payable and payroll systems. Both manual processes are administratively burdensome and, as with any manual process, present a heightened opportunity for error in processing.

HR has worked with the Auditor to explore options to alleviate the administrative cost of this process and evaluate the cost/benefit of the current policy. In a survey of other counties, there are several counties that allow employees to keep their jury stipend and still receive their full wages for days of approved jury service, eliminating the need for administration of withholding or recovering the jury stipend. We are recommending that the Board approve a change to Benton County policy, allowing employees to keep their modest jury stipend, saving the County the cost of administering the current policy.

Today's action regarding jury duty updates the Personnel Policy for non-bargaining employees, and we have approached the unions with similar proposed Collective Bargaining Agreement (CBA) Amendments to be brought to the Board for approval as we reach agreements.

We have also included the Military Leave sub-section of the Personnel Policy so that we have a complete update of Section 10 of the Personnel Policy. The changes to the Military Leave sub-section are mainly cleanup to better align the language with applicable statutes.

The proposed changes have been circulated to all elected officials and department heads for review. Responses received indicated support for the update.

Fiscal Impact

Minimal direct fiscal impact – from January 2021 – November 2023, the County paid a total of 60 days of jury pay for 38 employees.

Recommendation

Approve the resolution amending Section 10 of the Personnel Policy.

Suggested Motion

I move to approve the update to Section 10 of the Benton County Personnel Policies and Procedures for Elected Officials and Non-Bargaining Employees, amending Resolution 2014-306.

Legislative Draft of Proposed Changes:

SECTION 10 – MILITARY LEAVE, JURY DUTY

10.1 Military Leave. Employees who are members of the Military Reserve or National Guard are granted leave for a period not exceeding ~~twenty one~~21 days during each year beginning October 1st and ending the following September 30th. Such leave is granted in order that the person may report ~~for active duty,~~ for required military duty, training, or drills,~~when called, or take part in active training duty in such manner and at such time as he or she may be ordered to active duty or active training duty~~ without loss of privileges or pay. During the period of military leave, the employee receives ~~his or her~~their normal pay and benefits, including leave accruals, subject to applicable state and federal laws.

~~-~~Additional unpaid leave for service in the military will be provided as required by state or federal law. ~~This provision is subject to applicable State and Federal laws.~~

10.2 Jury Duty. ~~An employee~~Employees receiving a summons to report for jury duty are~~is~~ to notify ~~his/her~~their supervisor the next working day after receiving the summons. Employees will receive their full regular pay during the term of approved jury service. ~~Employees residing in Benton County on leave for jury duty receive their regular pay and are not paid jury pay. Employees living in other counties on leave for jury duty are paid the difference between their regular pay and the jury pay for the time he/she is absent on jury duty.~~ To be eligible for regular pay during the time of jury service, ~~T~~the employee must provide satisfactory evidence that jury duty was served, such as ~~-~~documentation from the court citing the location and duration of jury service.

Employees shall report to work during all hours they are released from jury duty.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

UPDATING SECTION 10 OF THE BENTON COUNTY PERSONNEL POLICIES AND PROCEDURES FOR ELECTED OFFICIALS AND NON-BARGAINING EMPLOYEES, AMENDING RESOLUTION 2014-306

WHEREAS, the Benton County Personnel Policies and Procedures for Elected Officials and Non-Bargaining Employees (Personnel Policy) were adopted by resolution 2014-306; and

WHEREAS, Section 10 of the Personnel Policy addresses Military Leave and leave for Jury Duty; and

WHEREAS, administrative burdens associated with the processing of jury pay for employees has motivated the County to revisit the policy of withholding jury pay from those employees who serve on a jury; and

WHEREAS, the Board of Benton County Commissioners finds it is in the best interest of the County to modify Section 10 of the Personnel Policy to alleviate administrative burdens and associated administrative costs to the County; **NOW THEREFORE**,

BE IT RESOLVED, the Board of Benton County Commissioners hereby amends resolution 2014-306, Section 10 as reflected in Attachment A; and

BE IT FURTHER RESOLVED this resolution shall not modify the terms of any Collective Bargaining Agreement for bargaining unit positions.

Dated this_____ day of _____, 2024.

_____

Chair of the Board

_____

Chair Pro Tem

_____

Commissioner

Attest.....
Clerk of the Board

Constituting the Board of Commissioners
of Benton County, Washington

cc: HR, Elected Officials, Managers, Payroll

Prepared by: C Nave

ATTACHMENT A

SECTION 10 – MILITARY LEAVE, JURY DUTY

10.1 Military Leave. Employees who are members of the Military Reserve or National Guard are granted leave for a period not exceeding 21 days during each year beginning October 1st and ending the following September 30th. Such leave is granted in order that the person may report for required military duty, training, or drills, without loss of privileges or pay. During the period of military leave, the employee receives their normal pay and benefits, including leave accruals, subject to applicable state and federal laws.

Additional unpaid leave for service in the military will be provided as required by state or federal law.

10.2 Jury Duty. Employees receiving a summons to report for jury duty are to notify their supervisor the next working day after receiving the summons. Employees will receive their full regular pay during the term of approved jury service. To be eligible for regular pay during the time of jury service, the employee must provide satisfactory evidence that jury duty was served in order to be eligible for jury pay, such as documentation from the court citing the location and duration of jury service.

Employees shall report to work during all hours they are released from jury duty.

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	January 9, 2024
Subject:	Approving the Purchase of Seven (7) Apple 10.2-inch iPad tablets for the Equipment Rental and Revolving (ER&R) Department from Strictly Technology LLC
Presenter:	
Prepared By:	Alex Garcia
Reviewed By:	Procurement Department, Michael McGhan

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 Equipment Rental and Revoloving (ER&R) Department has requested to purchase seven (7) iPad Pro 10.2" tablets for office and field use. 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. IT received quotes from three vendors. After reviewing each quote, these tablets will be purchased from Strictly Technology LLC.

Southern Computer Warehouse	7 – 10.2-inch Tablets	MK2K3LL/A	$2,176.16
CDW, Government	7 – 10.2-inch Tablets	MK2K3LL/A	$2,291.45
Strictly Technology LLC	**7 – 10.2-inch Tablets**	**MK2K3LL/A**	**$2,160.62**

Fiscal Impact

Amount: **$2,160.62 excluding WSST.**

Fund: **Approved ER&R 2023-2024 budgeted funds.**

Recommendation

Information Technology recommends that the Board approve the purchase of seven (7) 10.2" iPad tablets in an amount not to exceed $2,160.62 excluding WSST from Strictly Technology LLC. 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 APPROVING THE PURCHASE OF SEVEN (7) APPLE 10.2-INCH IPAD TABLETS FOR THE EQUIPMENT RENTAL AND REVOLVING (ER&R) DEPARTMENT FROM STRICTLY TECHNOLOGY LLC.

WHEREAS, the Fleet Superintendent has requested to purchase seven (7) Apple 10.2-inch iPad tablets for office and field use; and

WHEREAS, Information Technology (IT) recommends purchasing Apple 10.2-inch iPad tablets to meet Fleet staff needs; and

WHEREAS, IT has reviewed quotes from three vendors and recommends that the Apple tablets be purchased from Strictly Technology LLC; and

Southern Computer Warehouse	7 – 10.2-inch Tablets	MK2K3LL/A	$2,176.16
CDW, Government	7 – 10.2-inch Tablets	MK2K3LL/A	$2,291.45
Strictly Technology LLC	**7 – 10.2-inch Tablets**	**MK2K3LL/A**	**$2,160.62**

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 seven (7) Apple 10.2-inch iPad Tablets in an amount not to exceed $2,160.62 excluding Washington State Sales Tax; and

BE IT FURTHER RESOLVED, newly purchased tablets will be enrolled into Central Services Replacement Fund (1320).

Dated this 9th day of January , 2024

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, ER&R

Prepared by: A. Garcia

StrictlyTech
we make IT happen
2300 NW 55th Court, Suite 110,
Fort Lauderdale, FL 33309
Phone: 954-606-5440 Fax: 954-606-5441

Fujitsu

Number: **24291**

Date: **12/20/2023**

Quote prepared for: **Robert Heard**

Bill To:
Benton County WA (1530)
Robert Heard
PO Box 608
Prosser, WA 99350
Phone: (509)786-5710
Email: Robert.Heard@co.benton.wa.us

Ship To:
Benton County WA (1530)
Robert Heard
PO Box 608
Prosser, WA 99350
Phone: (509)786-5710
Email: Robert.Heard@co.benton.wa.us

Item #	Mfr. Part	Product Image	Description	Price	Qty.	Extended
1	MK2K3LL/A		Apple iPad (9th Generation) A2602 Tablet - 10.2" - Hexa-core (Lightning Dual-core (2 Core) 2.65 GHz + Thunder Quad-core (4 Core) 1.80 GHz) - 64 GB Storage - iPadOS 15 - Space Gray - Apple A13 Bionic SoC - 2160 x 1620 - Retina Display, True Tone Technology, In-plane Switching (IPS) Technology Display - 12 Megapixel Front Camera - 10 Hours Maximum Battery Run Time - TAA Compliance **Mfr: APPLE, INC** **UNSPSC : 43211509**	$ 308.66	7	**$ 2,160.62**
1 item(s)					**Sub-Total**	**$ 2,160.62**
					Tax @ 8.7%	**$ 187.97**
					Freight	**$ 0.00**
					Total	**$ 2,348.59**

Quote Valid Until: 01/19/2024

Payment Details

Pay by: Company PO
Payment Term: Net 30

Shipping and Delivery Details

Shipping via: FEDEX Ground
(DropShip)

CAGE: 70BA0
DUNS: 078817964
FEIN: 46-2619818
Woman-Owned Small Business (WOSB)
Primary NAICS: 423430
Unique Entity ID (SAM): DEGDRGZ32898

Terms and Conditions

Prepared by: **Brandon Cullen** Email: **brandonc@strictlytech.com** Phone: **954-606-5440** Mobile: **304-240-9918**

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

Hardware Software Services IT Solutions Brands Research Hub

QUOTE CONFIRMATION

CENTRAL SERVICES,

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
NRMH543	12/20/2023	IPAD 10.2	0335522	$2,490.81

QUOTE DETAILS

ITEM	QTY	CDW#	UNIT PRICE	EXT. PRICE
Apple 10.2-inch iPad Wi-Fi - 9th generation - tablet - 64 GB - 10.2" Mfg. Part#: MK2K3LL/A Contract: National IPA Technology Solutions (2018011)	7	6698840	$327.35	$2,291.45

SUBTOTAL	$2,291.45
SHIPPING	$0.00
SALES TAX	$199.36
GRAND TOTAL	**$2,490.81**

PURCHASER BILLING INFO	DELIVER TO
Billing Address: BENTON COUNTY ACCTS PAYABLE PO BOX 608 PROSSER, WA 99350-0608 **Phone:** (509) 786-5603 **Payment Terms:** VISA	**Shipping Address:** BENTON COUNTY CENTRAL SERVICES 620 MARKET ST PROSSER, WA 99350-1300 **Shipping Method:** UPS 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

Need Help?

My Account | Support | Call 800.800.4239

Southern Computer Warehouse
1395 S. Marietta Parkway
Building 300
Marietta, Georgia 30067
United States
http://www.scw.com
(P) 877-GOTOSCW
(F) 770.579.8937

Quote (Open)

Date
Dec 20, 2023 01:21 PM EST

Modified Date
Dec 20, 2023 01:27 PM EST

Quote #
1807324 - rev 1 of 1

Description
iPad quote

SalesRep
Ortiz, Andres
(P) 877-GOTOSCW ext. 320

Customer Contact
Garcia, Alex
Alex.Garcia@co.benton.wa.us

Customer
Benton County WA (A11627)
Garcia, Alex
620 Market Street
Prosser, WA 99350
United States
(P) 509-786-5603

Bill To
Benton County WA
Services, Central
620 Market Street
Prosser, WA 99350
United States
(P) 509-786-5603
teri.holmes@co.benton.wa.us

Ship To
Benton County WA
REF#, ATTN
620 Market Street
Prosser, WA 99350
United States

Customer PO:	**Terms:** Undefined	**Ship Via:** GROUND
Special Instructions:		**Carrier Account #:**

#	Image	Description	Part #	Tax	Qty	Unit Price	Total
1		Apple - Apple 10.2-inch iPad Wi-Fi 9th generation - tablet - 64 GB - 10.2" IPS (2160 x 1620) - space gray	MK2K3LL/A	Yes	7	$310.88	$2,176.16

Note: In stock and ready to ship

Contract
Open Market - Open Market

Quote valid for 30 days unless formal bid provides different term. Promotional pricing is valid only during term of promotion and while supplies last. All returns must be authorized and clearly marked with a valid RMA number. RMA's are subject to restock fees when applicable.

These prices may not include applicable taxes, insurance, shipping, delivery, setup fees, or any cables or cabling services or material unless specifically listed above. Please note that expedited shipping charges are estimated, and could decrease or increase when invoiced. All prices are subject to change without notice. Supply subject to availability.

Subtotal:	**$2,176.16**
Tax (8.7000%):	$189.33
Shipping:	$0.00
Total:	**$2,365.49**

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	January 9th, 2024
Subject:	An agreement between Benton County and United Training Commercial LLC for online professional training
Presenter:	
Prepared By:	Alex Garcia
Reviewed By:	LeeAnn Holt

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

United Training offers online training solutions and professional development to Information Technology staff. The range of courses offered allow IT staff to enhance and refresh current skills. IT has received a quote from United Training to continue using its services for professional development that concludes at the end of December 2024.

All funds used to purchase training will come from Information Technology's approved budget.

Fiscal Impact

Amount: **$5,000**

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

Recommendation

Information Technology recommends that the Board approve the Chairman of the Board or Chairman Pro Tem to sign the agreement between Benton County and United Training Commercial LLC for online professional training ending in December 31, 2024.

Suggested Motion

Consent Agenda

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

APPROVING THE CHAIRMAN OF THE BOARD OR CHAIRMAN PRO TEM TO SIGN AN AGREEMENT BETWEEN BENTON COUNTY AND UNITED TRAINING COMMERCIAL LLC FOR ONLINE PROFESSIONAL TRAINING

WHEREAS, Benton County Information Technology has been working with United Training Commercial LLC for several years enrolling in live courses as well as online professional training; and

WHEREAS, United Training provides a range of courses for professional development to IT staff; and

WHEREAS, Information Technology has received a quote for one year from United Training Commercial LLC and sees it as best fit for the County; and

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

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

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington, hereby concurs with Information Technology's recommendation and authorizes the Chairman of the Board or Chairman Pro Tem to sign the agreement between Benton County and United Training Commercial LLC for online professional training; and

BE IT FURTHER RESOLVED, upon signature, a payment in an amount not to exceed $5,000 excluding Washington State Sales Tax will be made to United Training Commercial LLC; and

BE IT FURTHER RESOLVED, the agreement between the County and United Training Commercial LLC will terminate on December 31, 2024.

Dated this 9th day of January , 2024

_____
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

Prepared by: A. Garcia

Learning Credits Proposal & Order Acknowledgement

Created For:

Benton County

Created By:
Spirit Dorris
Major Account Manager Title
(509) 215-4300
Spirit.Dorris@NewHorizons.com

Proposal and Order Acknowledgement

Customer Information	
Customer Name:	Benton County
Address:	620 Market Street
City, State & Zip:	Prosser, WA 99350
Contact Name:	Alex Garcia
Phone:	(509) 222-3742
Email:	alex.garcia@co.benton.wa.us
Pricing Expiration Date:	12/15/23

Learning Credit Pool Investment and United Training Subsidy	
Number of Learning Credits Purchased	5000
United Training Subsidy %	10%
Number of United Training Subsidy Credits Provided	500 - plus carryover of 3670 credits (ORD-UTC-0113871)
Total Learning Credits on Account	9170
Total Invoice Amount	$5000

Program Details and Terms:

- For every one dollar invested by the customer, the customer purchases one Learning Credit.
- Each subsidy Learning Credit provided by United Training is also worth one Learning Credit.
- Customer Learning Credits will be utilized prior to utilizing any subsidy credits.
- Learning Credits can be used for enrollments into our public schedule, private delivery of our courses for your team, e-learning libraries, and exam vouchers.
- All solutions are deducted from Learning Credits at retail rates for all eligible classes and products.
- A complete list of eligible products can be found on our website at www.unitedtraining.com/eligible. Note that some courses listed are only available for private delivery.
- Private Events are deducted at the per-student retail price found on our website with a minimum deduction of 8 students.
- Products found on our website, but not listed as eligible, can also be funded with Learning Credits. These products will be deducted at retail, plus an amount equal to the percentage of subsidy provided above.
- All Learning Credits expire one year from the date of invoice.
- In the event there are Learning Credits remaining at the time of expiration, an investment of equal or greater value of the remaining customer purchased credits can be made to renew the expired credits. Subsidy credits are not renewable.
- Travel for in-person private events will be deducted from the Learning Credit Account at our cost, plus an amount equal to the percentage of subsidy provided above.
- Additional Learning Credits can be purchased within 6 months of this agreement and will be subsidized at the same percentage. Excludes Promotional Pricing.
- Learning Credits cannot be used for managed learning services projects such as Curriculum Design, Consulting, or Staff Augmentation.
- Invoices are sent at the time of signature of this agreement and payment terms are Net-30.
- All terms of this agreement are listed within and no other terms outside of this agreement are valid.
- All sales are final. If you need to cancel any part of this training engagement, we will collaborate to apply the value of the investment as a credit on your account for future use.

- Sales tax will be added to the invoice, where required by law.
- Any exam vouchers purchased must be requested within 12 months of the invoice date.
- Cancellation and No-Show Policy
    - Public Enrollments: Should you need to cancel or reschedule, please notify United Training more than (10) business days in advance of your scheduled class. If a customer cancels less than (10) business days prior to the scheduled training date, the Learning Credits will be deducted for the total amount due. If available, a customer may utilize our complimentary retake policy to reschedule.
    - Private Events: The cancellation policy for private events varies by event type. Most of the courses we offer as private events can be cancelled (10) or more business days in advance of the event without incurring any costs. Some of our courses require a notice of (35) or more days to cancel. These courses include Project Management, Business Analysis, Leadership, Six Sigma, Agile, Scrum and Business Process. Cancellation of private events in fewer days as described here will result in a full deduction of Learning Credits.
- This agreement confirms that the signer has read and agrees to comply with the policies and terms information located on all pages of this document and is authorized to sign on behalf of the Customer.

Customer Completes this Section

Accounts Payable Contact

Contact Name	Phone Number	Email Address
Billing Address	**Billing Suite**	**Billing City, State, Zip Code**

Method of Payment

	Credit Card Payment, you will receive an email with a link to pay via credit card.
	Due Upon Receipt Invoice (Attach Purchase Order if Applicable)

Payment Remit to Address: United Training | PO BOX 679244 | Dallas TX, 75267-9083

Customer Acceptance and Approval

Authorized Signature:		**Title:**	
Printed Name:		**Date:**	

Internal United Training Use Only

Approved By Signature:	David Visser Digitally signed by David Visser DN: cn=David Visser, o=United Training, ou=Sales, email=david.visser@unitedtraining.com, c=US Date: 2023.12.14 14:11:10 -06'00'	**Date:**	

Alex Garcia

From: LeeAnn Holt
Sent: Friday, December 15, 2023 3:34 PM
To: Alex Garcia
Cc: Robert Heard
Subject: RE: 2024 Learning Credits

Alex,

This should be fine. Thank you.

Sincerely,

LeeAnn Holt

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

From: Alex Garcia <Alex.Garcia@co.benton.wa.us>
Sent: Friday, December 15, 2023 9:37 AM
To: LeeAnn Holt <leeann.holt@co.benton.wa.us>
Cc: Robert Heard <Robert.Heard@co.benton.wa.us>
Subject: FW: 2024 Learning Credits

Hi LeeAnn,

Can you take a look at attached agreement? We have done continued business with Untied Training.

Thanks,

Alex Garcia

Assistant Manager
Benton County Information Technology
Ext 3742

From: Spirit Dorris <Spirit.Dorris@unitedtraining.com>
Sent: Thursday, December 14, 2023 12:21 PM
To: Alex Garcia <Alex.Garcia@co.benton.wa.us>
Cc: Robert Heard <Robert.Heard@co.benton.wa.us>
Subject: 2024 Learning Credits

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	January 9, 2024
Subject:	Approving the purchase of one Cisco WebEx Mini from Brahma Enterprises
Presenter:	
	Alex Garcia
Prepared By:	
Reviewed By:	Procurement Department, Jackie Mayfield

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

Public Works has requested to purchase one audio and video conferencing device for their Waste Management Department. Cisco WebEx conferencing equipment is used throughout the County and is the audio and video standard. Resolution 2023-714 requires that all non-budgeted devices purchased over $500 be coded to the department's 3508 expenditure code and be approved by the Board of Benton County Commissioners.

Fiscal Impact

Amount: **$1,640 excluding WSST.**

Fund: **Approved Public Works 2023-2024 budgeted funds.**

Recommendation

Information Technology recommends that the Board approve the purchase of one Cisco WebEx Mini kit in an amount not to exceed $1,640 excluding WSST from Brahma Enterprises. 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 APPROVING THE PURCHASE OF ONE CISCO WEBEX ROOM KIT MINI FOR PUBLIC WORKS DEPARTMENT FROM BRAHMA ENTERPRISES

WHEREAS, the Public Works Department has made a request to purchase one audio video conferencing device for their department; and

WHEREAS, Cisco WebEx is the County's preferred audio and video conferencing solution; and

WHEREAS, Information Technology recommends purchasing one Cisco WebEx Room Kit Mini from Brahma Enterprises; and

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

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

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington, hereby concurs with Information Technology's recommendation and approves the purchase of one Cisco WebEx Room Kit Mini for the Public Works Department in an amount not to exceed $1,640 excluding Washington State Sales Tax, to be paid for using approved 2023-2024 Public Works Department funds; and

BE IT FURTHER RESOLVED, the newly purchased Cisco WebEx Room Kit mini will be enrolled into Central Services Replacement Fund (0132101).

Dated this 9th day of January , 2024

_____
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, Public Works

Prepared by: A. Garcia

Brahma Enterprises

3014 NW Julia St	530-575-0786	bram@goldengatenetworksinc.com
Camas, Wa, 98607	Quote	bram@brahmaenterprises.net

Benton County Information Technology
7122 W. Okanogan Plaza
Kennewick, WA 99336

Alex.garcia@co.benton.wa.us

12142023
12/14/2023

Item #	Description	Qty	Unit Price	Discount	Price
CS-KIT-MINI-K9	Webex Room Kit Mini w/ touch 10 controller & hardware	1	$ 1,600.00		$ 1,600.00
Shipping	UPS Shipping Cost	1	$ 40.00		$ 40.00
					$ -
				Invoice Subtotal	$ 1,640.00
				Tax Rate	8.60%
				Sales Tax	$ 141.04
				TOTAL	$ 1,781.04

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	January 9th, 2024
Subject:	Approving the Installation and Programming of WebEx Conferencing Equipment for the new Jury/Training Room at the Justice Center
Presenter:	
Prepared By:	Alex Garcia
Reviewed By:	Robert Heard, Robert Blain

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

Type of Agenda Item:	**Type of Action Needed:** *(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 2022-80 and part of the tenant improvement project, a new jury/training room is being built at the Justice Center to be used for conferences and meetings when not being used by Superior Court Clerks for jury selection.

Information Technology received a quote from CompuNet to mount and install WebEx equipment and program audio/video services to make room functional for WebEx meetings similar to other conference rooms throughout the County.

Fiscal Impact

Amount: **$52,832.34 excluding WSST**

Fund: **Capital Projects approved 2023-2024 budgeted funds.**

Recommendation

Information Technology recommends that the Board approve the purchasing of WebEx equipment and installation and programming of audio/videos services from CompuNet, Inc. as presented.

Suggested Motion

Consent Agenda

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF APPROVING THE INSTALLATION AND PROGRAMMING OF WEBEX CONFERENCING EQUIPMENT FOR THE NEW JURY/TRAINING ROOM AT THE JUSTICE CENTER

WHEREAS, on January 25, 2022, the Board signed Resolution 2022-80 approving a professional services contract with CKJT Architects, PLLC for a tenant improvement project at the Justice Center; and

WHEREAS, part of the tenant improvement project is a new jury room to be built to accommodate training sessions and be available when not in use by Superior Court Clerks for jury selection; and

WHEREAS, to complement the same equipment used throughout the County for WebEx meetings and conferences, a Cisco WebEx Plus or similar is recommended by Information Technology to be installed in new Jury/Training room; and

WHEREAS, Information Technology has received a quote from CompuNet, Inc. to install WebEx Equipment and program audio/video services to meet Benton County conferencing meeting requirements; and

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

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

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington, hereby concurs with Information Technology's recommendation and approves the purchase equipment, installation and programming services of WebEx conferencing equipment and audio/video services from CompuNet, Inc. in an amount not to exceed $52,832.34 annually, excluding Washington State Sales Tax; and

BE IT FURTHER RESOLVED, the Board approves the Chairman of the Board or Chairman Pro Tem to sign Quote #: DH226866.

Dated this 9th day of January , 2024

_____
Chairman of the Board

_____
Chairman Pro-Tem

_____
Commissioner

Constituting the Board of County Commissioners
of Benton County, Washington

Attest: _____

Orig: Information Technology
cc: Auditor

Prepared by: A. Garcia

Derek Hibdon
2084887229
dhibdon@compunet.biz
Quote #: DH226866

Jury Room

Contract Information
All, NCPA, 01-107

Quote Information:

Quote #: DH226866

Version: 2
Quote Date: 01/02/2024
Expiration Date: 01/11/2024

Prepared for:

Benton County

Tim Brown
5097363065
tim.brown@co.benton.wa.us

Bill To:

Benton County

Accounts Payable
P.O. Box 608

Prosser, WA 99350
Central.Services@co.benton.wa.us

Ship To:

Benton County

Tim Brown
Courthouse 2nd Floor
620 Market Street
Prosser, WA 99350

Jury Room

Manufacturer Part Number	Product Description	Quantity	Price	Ext. Price
Parle TCM-X-W	Low profile Beamtracking ceiling microphone- White	4	$1,475.61	$5,902.44
Parle TCM-XEX-W	Low profile expansion Beamtracking ceiling microphone- White	4	$940.24	$3,760.96
TesiraFORTÉ X 1600	Meeting Room DSP with 4 integrated PoE+ ports. AVB & Dante, 2x2 analog I/O, Stereo USB and 16 channels of AEC. Includes Biamp Launch automatic discovery and tuning	1	$4,360.98	$4,360.98
TesiraCONNECT TC-5	5-port expansion device	2	$906.10	$1,812.20
HD-TXC-101-C-E	DM Lite® Transmitter for HDMI®, IR, and RS-232 Signal Extension over CATx Cable	4	$268.29	$1,073.16
HD-RX-101-C-E	DM Lite – HDMI® over CATx Receiver, Surface Mount	1	$221.95	$221.95
HD-DA4-4KZ-E	1:4 HDMI® Distribution Amplifier w/4K60 4:4:4 & HDR Support	1	$424.39	$424.39
HD-RXC-4KZ-101	DM Lite® 4K60 4:4:4 Receiver for HDMI®, RS-232, and IR Signal Extension over CATx Cable	4	$286.59	$1,146.36
CP4N	4-Series™ Control System	1	$1,878.05	$1,878.05
HD-PS401	4x1 4K60 4:4:4 HDR Presentation System	1	$2,146.34	$2,146.34
AMP-X500	X-Series Amplifier, 500 W	1	$914.63	$914.63

Derek Hibdon
2084887229
dhibdon@compunet.biz
Quote #: DH226866

Jury Room

Manufacturer Part Number	Product Description	Quantity	Price	Ext. Price
1376	PX-10E DOCUMENT CAMERA 2K UHD	1	$1,875.34	$1,875.34
MXW1/O=-Z10	Bodypack Transmitter with Integrated Omnidirectional Microphone and 4-Pin Mini Connector	2	$506.28	$1,012.56
MXW2/SM58	Handheld Transmitter with SM58® Microphone	2	$494.70	$989.40
MXWAPT8=-Z10	8-CH ACCESS POINT TRANSCEIVER	1	$3,089.82	$3,089.82
MXWNCS8	8-CH NETWORKED CHARGING STATION	1	$1,610.37	$1,610.37
UL4B/C-MTQG-A	Directional Subminiature Lavalier, Black	2	$242.13	$484.26
BDP-S3700	Blu-ray Disc player with in-built Wi-Fi	1	$85.37	$85.37
999-9660-000	ONELINK BRIDGE FOR PRECISION 60	1	$3,148.77	$3,148.77
CNet FF - Installation	CompuNet Installation Services	1	$6,400.00	$6,400.00
CNet FF - Installation	CompuNet Installation Services-Programming	1	$1,600.00	$1,600.00
CNET - PM Services	CompuNet Project Management Professional Services	1	$820.00	$820.00
CNet FF Project Materials	Project Materials	1	$175.00	$175.00
			Subtotal:	**$44,932.35**

Lecturn

Manufacturer Part Number	Product Description	Quantity	Price	Ext. Price
L5-SPNL-33	33" Un-cut Presenter's Panel	1	$0.00	$0.00
L5-TURFR-33LDW	L5 Series Turret Frame 33 Inches Wide, 1.5 Bays	1	$2,495.73	$2,495.73
L5KBB2SEHA5ZP002	L5 Lectern - 33" Wide Turret Top Sota Style Woodkit in Wilsonart® Black with Modern Aluminum (Silver) Hardware	1	$2,213.41	$2,213.41
L5-SD7	Storage Drawer - 7" Deep (Right Position)	1	$118.90	$118.90

Derek Hibdon
2084887229
dhibdon@compunet.biz
Quote #: DH226866

Lecturn

Manufacturer Part Number	Product Description	Quantity	Price	Ext. Price
L5-DCD23	Document Camera Drawer (Left Position)	1	$171.95	$171.95
			Subtotal:	**$4,999.99**

Travel & Expenses

Product Details		Qty	Price	Ext. Price
CNet Travel & Expenses - Install	Travel & Expenses	1	$2,900.00	$2,900.00
			Subtotal:	**$2,900.00**

Shipping

Product Description	Quantity	Price	Ext. Price
Ground Shipping To Be Determined, Billed As Actual	1	$0.00	$0.00

Quote Summary

Description	Amount
Jury Room	$44,932.35
Lecturn	$4,999.99
Travel & Expenses	$2,900.00
Total:	$52,832.34

Taxes, shipping, handling and other fees may apply. We reserve the right to cancel any order arising from pricing or other errors. If Customer is purchasing a subscription-based product, Customer agrees to pay all charges for the complete term of the subscription. By signing below or issuing a Purchase Order, Customer agrees to CompuNet's standard terms and conditions attached, provided, that if Customer and CompuNet are parties to a currently effective Master Product Purchase and Services Agreement (MSA), the terms and conditions of such MSA shall control and shall supersede these standard terms and conditions. Your electronic signature, per the Electronic Signature Act, is considered equivalent to your signed and faxed signature, and allows you to accept and place your order. This Quote becomes binding and noncancelable upon Customer's return to CompuNet of acceptance. A copy of this acceptance and the attached proposal document will be sent to your email address to complete your order acceptance. You are NOT required to electronically sign your order, you may fax or email your signed proposal to your Account Executive.

Derek Hibdon
2084887229
dhibdon@compunet.biz
Quote #: DH226866

Benton County

Signature: _____

Name: _____

Title: _____

Date: _____

PO Number: _____

Terms and Conditions – Quotes, Purchases and Agreements

By signing this quote, statement of work, or by issuing an order with CompuNet which references this document or a document which references this document, Customer agrees to the following terms and conditions:

1. License. The Purchase Order or Statement of Work (in either case, as applicable, "Quote") provided by CompuNet, Inc. ("CompuNet") with these terms and conditions ("Terms") is for products ("Products") provided by the third party identified in the Quote ("Provider") or through CompuNet, or for services ("Services") provided by CompuNet, its contractor, or a third party. Certain of the Products or related Provider or CompuNet materials provided with Products ("Documentation") may be provided pursuant to a license ("License") granted to Customer. In that case, subject to the License, Customer has no ownership interest in the licensed Products or Documentation, and Provider or CompuNet, as applicable, will own all right, title, and interest in such licensed Products and Documentation. Certain documentation, materials or tangible items (collectively, "Deliverables") may be provided with the Services pursuant to a License. In that case, subject to the License, Customer has no ownership interest in the licensed Deliverables, and CompuNet or a third party licensor, as applicable, will own all right, title and interest in such licensed Deliverables. By signing a Quote or issuing a purchase order in response to it, Customer agrees to review any end user license agreement (EULA) or Subscription Agreement (SA) applicable to any Product included in the Quote, and agrees to be bound by any applicable EULA or SA.

2. Payment. Customer will promptly pay the amounts set forth in the Quote. For (a) Products or Services which are purchased on a subscription basis, where Customer extends the subscription on a self-service basis beyond the term set forth in the Quote, or (b) Products or Services which are purchased by Customer on a self-service basis beyond the quantities set forth in the Quote, using an account number associated with the purchases initially made pursuant to the Quote, including through an OEM or distributor online portal, Customer shall be invoiced by Provider and shall be subject to any price increases imposed on Provider by the OEM or distributor. All amounts are due and payable upon receipt of invoice from CompuNet, and shall be paid in no event later than 30 days from invoice date. Customer agrees to timely make all payments for the duration of any subscription period set forth in the Quote. For any Products or Services purchased on a subscription basis and subject to automatic renewal under the terms of the Quote or the OEM's or distributor's terms and conditions, Customer agrees to make all payments for the duration of any renewal subscription period, unless Customer provides written notice of non-renewal to CompuNet the earlier of (a) 30 days before the expiration of the current subscription term, or (b) as required in the Quote or in the OEM's or distributor's terms and conditions. Any amounts not timely paid will bear interest at the rate of 1.5% per month. Customer will pay to CompuNet the reasonable costs, including attorney fees, incurred by CompuNet in collecting any unpaid and overdue amount. Unless specified in the Quote, customer will be responsible for all shipping, handling, taxes, and import fees and costs. CompuNet reserves the right to cancel any Quote arising from incorrect pricing or other errors in information relied upon by CompuNet.

3. Acceptance. "Acceptance" shall occur (a) for Products, upon the passage of three (3) business days after the date of delivery if written notice by Customer of rejection is not earlier received by CompuNet; and (b) for Services and Deliverables, upon the passage of three (3) business days after CompuNet's notice to test and accept or reject, without written notice of rejection by Customer detailing the Services rejected and the alleged deficiencies. In the case of timely rejection of Products, Customer's sole remedy is repair or replacement of rightfully rejected Products by CompuNet within a reasonable time. In the case of timely rejection of Services, CompuNet shall correct the noticed deficiencies and renotice Customer, and the acceptance procedure will be repeated to a maximum of thirty (30) days from the original rejection notice. If uncorrected deficiencies then remain, Customer may, as its sole remedy as to those Services that it has not Accepted, (a) terminate the applicable Statement of Work, and (b) obtain a refund for the rejected Services. Customer shall remain responsible for the value of those Services not rejected and shall timely pay all undisputed invoiced amounts. Title to the Products and risk of loss shall pass at delivery.

4. Use. With respect to licensed Products, Documentation or Deliverables, Customer shall not directly or indirectly: (a) use, copy or reproduce them except as permitted under the applicable License; (b) exceed the subscribed quantities, users or other entitlement measures of the Products or Deliverables as provided in the applicable License; (c) assign, sell, sublicense, rent, lease, time-share, or otherwise transfer the rights granted to Customer under any License; (d) modify or reverse engineer the Products or Deliverables; (e) decompile, attempt to derive the source code or underlying algorithms of any part of, or attempt to recreate the Products or Deliverables; (f) use them for any purpose competitive with CompuNet or Provider; (g) create derivative works based to any extent upon them; (h) interfere with the integrity or performance of the Products or Deliverables; (i) attempt to gain unauthorized access to the Products or Deliverables their related systems or networks, circumvent any related security measures, or perform unauthorized penetrating testing on the Products or Deliverables; (j) use them to infringe on the intellectual property rights or privacy rights of any third party, or to store or transfer unlawful data; or (k) send, store or process in the Products or Deliverables any personal health data, personal financial data or other such sensitive regulated data not required by the Documentation or permitted by the License, or any data that is subject to the International Traffic in Arms Regulations maintained by the United States Department of State. Customer's authorized use of the Products is limited to the purchased quantities and features set forth in the Quote.

5. Suspension of Service. Without limiting any other remedies available to it, CompuNet may suspend Customer's access to Products or request that Provider suspend such access, without liability if: (a) CompuNet reasonably believes that the Products are being used in violation of these Terms or applicable law; (b) requested by a law enforcement or government agency or otherwise to comply with applicable law; (c) Customer fails to timely pay any invoice for the Products; or (d) Customer ceases doing business, seeks bankruptcy protection, is placed in receivership, or makes an assignment for the benefit of creditors. Information on Provider's servers may be unavailable to Customer during any such suspension of access. CompuNet will use commercially reasonable efforts to give Customer at least 24 hours' notice of a suspension unless it determines in its sole judgment that a suspension on shorter or no notice is necessary to protect CompuNet or Provider.

6. Indemnity. Customer will defend, indemnify, and hold CompuNet and its officers, directors, employees, contractors and agents harmless from and against any and all damages, costs, liabilities, expenses (including, without limitation, reasonable attorneys' fees), and settlement amounts incurred in connection with any claim arising from or relating to Customer's: (a) breach of any obligation under any License; (b) breach of any obligation under these Terms; (c) actual or alleged use of the Products or Deliverables in violation of law by Customer or any authorized users; or (d) actual or alleged infringement or misappropriation of third party intellectual property rights arising from data used with the Products or Deliverables.

7. Warranty. CompuNet warrants to Customer that it will (a) perform the Services in a timely, competent, professional and workmanlike manner, using qualified personnel, consistent with commercially reasonable industry practices and in compliance with applicable laws, and (b) perform the services in accordance with policies and procedures provided by Customer in writing regarding on-site security and Customer workplace rules. Except for the foregoing, CompuNet makes no warranty, express, implied or statutory, and disclaims all such warranties, regarding the Products and Services, including but not limited to warranty of fitness for a particular purpose, merchantability, or noninfringement, or arising from a course of dealing, performance, usage, trade practice, or custom. CompuNet shall pass through to Customer any warranty by Provider to CompuNet regarding the Products. Customer acknowledges that CompuNet is a reseller of products and not the OEM. Customer shall seek redress or recovery under any such warranty, or any warranty by Provider to Customer under a License, directly from Provider.

8. Limitation of Damages. CompuNet shall not be liable to Customer for any loss of profits, revenue, or goodwill, or for any indirect, special, incidental, consequential or punitive damages arising out of, or in connection with these Terms or the Products or Services, however caused, whether in contract, tort, warranty, indemnity or any other legal theory, and whether or not Customer has been advised of the possibility of such damages. In no event shall CompuNet's aggregate liability to Customer be more than the lesser of (a) the total amount paid by Customer to CompuNet under the Quote for the Products or Services as to which a claim or claims by Customer relates; or (b) Provider's liability to CompuNet for the same claim or claims. This limitation applies notwithstanding any claim that it deprives a party of an adequate remedy or causes any remedy to fail of its essential purpose.

9. No Changes. A Quote becomes a binding contract on the terms set forth in it (including these Terms) when it is accepted by Customer either by acknowledgment or by commencement of performance by CompuNet pursuant to the Quote. CompuNet objects to and rejects any conflicting or additional terms contained in a purchase order, acceptance, acknowledgement, or other documents issued or delivered by Customer in response to the Quote. A Quote cannot be modified except by written agreement signed by an authorized representative of CompuNet.

10. Miscellaneous: Customer may not assign these Terms without the prior written consent of CompuNet. Any other purported assignment of these Terms will be void. CompuNet may assign its rights and obligations hereunder without limitation. In the event of CompuNet's assignment to a third party, Customer reserves the right to terminate the agreement. These Terms together with the Quote constitute the entire agreement between the parties regarding their subject matter and supersede all prior discussions and writings between the parties with respect to the same, except to the extent Customer and CompuNet are parties to a Master Product Purchase and Services Agreement or similar master agreement ("Agreement"), in which case the terms of such Agreement shall control to the extent they directly conflict with these Terms. These Terms shall supplement such Agreement to the extent they do not directly conflict and are not voided by Sections 5(a) or 6(a) of the Agreement or any similar provision voiding non-conflicting terms in adding to the Agreement's terms. Customer warrants that it has the right to enter into these Terms and that the Quote has been executed by an authorized representative of Customer. No failure or delay in enforcing any right or exercising any remedy will be deemed a waiver of any right or remedy. If any provision of these Terms becomes unenforceable or illegal, it will be reformed to the minimum extent necessary for these Terms to otherwise remain in effect. CompuNet is not an agent, partner, or joint venturer of Customer. The laws of the State of Washington, USA govern the interpretation of these Terms, regardless of conflict of laws principles. The United Nations Convention on Contracts for the International Sale of Goods is excluded in its entirety from application to these Terms. Customer consents to the exclusive jurisdiction of the federal and state courts in Benton County, Washington, USA for any dispute arising under or relating to these Terms. TO THE EXTENT NOT PROHIBITED BY LAW, EACH PARTY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO A TRIAL BY JURY IN ANY CLAIM OR COUNTERCLAIM ON ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THESE TERMS. Customer's obligations under these Terms will survive the expiration or other termination of any License or Customer's subscription for any Products.

Alex Garcia

From: LeeAnn Holt
Sent: Wednesday, December 27, 2023 11:44 AM
To: Alex Garcia
Subject: RE: Jury Room Conference Equipment
Attachments: Sample- BentonCounty ThetaLake Renewal 3yr.MF212304v2 (002).pdf

Alex,

I have the same concerns to the hyperlinked terms and conditions as I did with the Theta Lake renewal. On that contract I believe Compunet declined to make some of the proposed revisions (removing the attorney fee provision in Section 6 and the limiting language in Section 8 re aggregate liability), but did agree to alterations in Section 10 of the linked terms and conditions as follows:

- CompuNet may assign its rights and obligations hereunder without limitation. In the event of CompuNet's assignment to a third party, Customer reserves the right to terminate the agreement.
- Customer consents to the exclusive jurisdiction of the federal and state courts in ~~Ada County, Idaho~~ Benton County, Washington, USA…

The strikethrough indicating removed language and the red indicating added language.

If they are willing to make the same changes and add the altered terms and conditions as an attachment to the quote, then I approve. Attached is a copy of the Theta Lake agreement with the relevant changes in highlight for reference.

Please let me know if you have any questions.

Sincerely,

LeeAnn Holt

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

From: Alex Garcia <Alex.Garcia@co.benton.wa.us>
Sent: Wednesday, December 27, 2023 7:57 AM
To: LeeAnn Holt <leeann.holt@co.benton.wa.us>
Subject: Jury Room Conference Equipment

Hi LeeAnn,

I'd like to add this to January 9th board meeting. This is quote for installing and programming conferencing equipment in new jury room once completed.

Thanks,

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	January 9, 2024
Subject:	Approving the Purchase of Two Latitude 5540 or Comparable Model Laptops, One Thunderbolt Dock, and Two 27-inch Monitors for the Coroner's Office from Dell Inc.
Presenter:	
Prepared By:	Robert Heard
Reviewed By:	Procurement Department, William Leach

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 Coroner's Office has requested to purchase new laptops, a dock, and monitors for Office use. 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. Laptops and docks will be purchased from Dell Inc., an authorized Washington State vendor under Dell NASPO ValuePoint's Computer Equipment PA – Washington Contract Code C000000010849, NASPO MNWNC-108/05815-003.

Fiscal Impact

Amount: **$4,500 excluding WSST.**

Fund: **Approved Coroner 2023-2024 Public Safety Funds.**

Recommendation

Information Technology recommends that the Board approve the purchase of two Latitude 5540 or comparable model laptops, one Thunderbolt dock, and two 27-inch monitors in an amount not to exceed $4,500 excluding WSST from Dell Inc. All equipment purchased will be added to Central Services Replacement Fund (1320).

Suggested Motion

Approve as part of the Consent Agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF APPROVING THE PURCHASE OF TWO LATITUDE 5540 OR COMPARABLE LAPTOPS, ONE THUNDERBOLT DOCK, AND TWO 27-INCH MONITORS FOR THE CORONER'S OFFICE FROM DELL INC.

WHEREAS, the Coroner's Office has made a request to purchase two laptops, one dock, and two monitors for office use; and

WHEREAS, Information Technology recommends purchasing two Latitude 5540 or comparable model laptops, one Thunderbolt dock, and two 27-inch monitors 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 two Latitude 5540 or comparable model laptops, one Thunderbolt dock, and two 27-inch monitors for the Coroner's Office from Dell Inc. in an amount not to exceed $4,500 excluding Washington State Sales Tax; and

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

Dated this 9th day of January, 2024

Chairman of the Board

Chairman Pro-Tem

Commissioner

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

Constituting the Board of County Commissioners of Benton County, Washington

Orig: Auditor
cc: IT, Coroner

R.Heard

Savings	$1,535.06
Subtotal (1)	**$1,802.02**
Estimated Shipping	$0.00
Estimated Tax	$156.77
Total	**$1,958.79**

Details

CR Laptop Only
Quote number # 3000170456350

Created December 27, 2023
Expires January 26, 2024
Created by
robert.heard@co.benton.wa.us
Authorized buyer Robert Heard

Billing

Order contact
Robert Heard Benton County IT
Contract Code: C000000010849
Customer agreement number:
NASPO MNWNC-108/05815-003
Phone number: (509) 786-5603
Additional::
robert.heard@co.benton.wa.us

Tax exemption
I am not tax exempt

Shipping

Shipping information
Information Technology Dept
Benton County
7122 W Okanogan Pl, Kennewick,
WA, 99336-2359
Phone number: (509) 786-5603
Additional::
CENTRAL.SERVICES@CO.BENTON.WA.US

Delivery method
FREE Standard Delivery

Trade compliance
No, I will not be exporting

Payment method

Items	Quantity	Unit Price	Item total
Latitude 5540	1	$3,337.08	$3,337.08

Discounted unit price: $1,802.02
Contract Code: C000000010849
Estimated Delivery
FREE Standard Delivery to 99336-2359 by
Wednesday, January 3, 2024

Catalog Number: 84 / s119l5540usr

Category	Description	Code	SKU	ID
Base	Dell Latitude 5540 BTX Base	GJKB31H	[210-BGBJ]	1
Processor	13th Gen Intel® Core™ i7-1370P, vPro® (24 MB cache, 14 cores, 20 threads, up to 5.20 GHz Turbo)	GYKHRM0	[379-BFBY]	146
Operating System	Windows 11 Pro, English, Brazilian Portuguese, French, Spanish	G01OVWE	[619-ARSB]	11
Office Productivity Software	No Microsoft Office License Included - 30 day Trial Offer Only	GC7OFJV	[658-BCSB]	1002
Intel Responsiveness Technologies	Intel® Rapid Storage Technology Driver	GYXD2VA	[409-BCWS]	707
Systems Management	Intel vPro Enterprise Technology Enabled	G4J7US8	[631-ADPV]	49
Memory	16 GB, 2 x 8GB, DDR5, 5200MT/s, Non-ECC, dual-channel	G3AQY87	[370-BBNX]	3
Storage	512 GB, M.2 2230, PCIe NVMe, SSD, Class 35	GXVZO8K	[400-BOVY]	8
Additional Storage	No Additional Hard Drive	GNTOSJ7	[401-AADF]	637
Display	15.6" FHD (1920x1080) Non-Touch, AG, IPS, 250 nits, FHD IR Cam, WLAN/WWAN(4G)	GAI9G1J	[391-BHEM]	760
Keyboard	English US backlit keyboard with numeric keypad, 99-key	GA6KDNO	[583-BHBG]	4
Mouse	No Mouse	G8043UZ	[570-AADK]	12
Wireless Driver	Intel® AX211, 2x2, 802.11ax, MU-MIMO Driver, Bluetooth	GJMHPT7	[555-BJDC]	7
Wireless	Intel® Wi-Fi 6E AX211, 2x2, 802.11ax, Bluetooth® wireless card	GL03PXW	[555-BHHU]	19
Mobile Broadband	No Mobile Broadband Card	GR957IY	[556-BBCD]	114

Category	Description	Code	SKU	ID
Primary Battery	3 Cell, 54 Wh, ExpressCharge™, ExpressCharge™ Boost capable	GFB63PN	[451-BDBL]	112
AC Adapter	65W AC adapter, USB Type-C, TCO Gen 9 compliant	GI417VR	[492-BDHS]	1015
PalmRest	Single Pointing, Smart Card Reader, Finger Print Reader (w/ControlVault 3)	GLA0G37	[346-BINO]	55
Security Software and PC Protection	No anti-virus software	GD4K19S	[650-AAAM]	1014
Operating System Recovery Options	OS-Windows Media Not Included	GLA9OQ1	[620-AALW]	200013
Power Cord	E4 Power Cord 1M for US	GC90V4B	[537-BBDO]	20
Setup and Features Guides	Latitude 5540 Quick Start Guide	G4DLOCA	[340-DDHL]	60
Resource Media	No Resource USB Media	G5KFAU6	[430-XXYG]	50
Documentation	Safety/Environment and Regulatory Guide (English/French Multi-language)	G7RB0GY	[340-AGIK]	21
ENERGY STAR	ENERGY STAR Qualified	GFSJ2Q8	[387-BBPC]	122
FGA Module	5540_2HFY24_035/US/BTS	FG0039	[998-GQMD]	572
Non-Microsoft Application Software	Dell Additional Software	GX3QS7G	[658-BFQB]	1003
Packaging	Packaging BTS 65W Adapter (WHN)	GGITE9Z	[340-DJVJ]	465
Processor Label	Intel® Core™ i7 vPro Enterprise Label	GYT8X1V	[340-CYNX]	749
Transportation from ODM to region	BTS/BTP Shipment	GR1YQZE	[800-BBGW]	200080
EAN POD Label	POD Label	GAX83SM	[389-EDJB]	292
Base Options	Intel 13th Generation i7-1370P vPro, Intel Integrated Graphics, TBT4	G0TFCRN	[338-CHGG] [338-CHGQ]	149
Chassis Options	Latitude 5540 Bottom Door, Intel 13th Gen P-Series CPU, Intel Integrated Graphics	G2VNQT9	[321-BJTM]	116
Windows AutoPilot	No AutoPilot	GYEO2AP	[340-CKSZ]	291
Camera	FHD/IR Camera, Temporal Noise Reduction, Camera Shutter, Mic	GFPAL0Z	[319-BBIE]	379
Additional Opticals	No Removable CD/DVD Drive	GDCPVR0	[429-AATO]	105
EPEAT 2018	EPEAT 2018 Registered (Gold)	GBU8CHM	[379-BDZB]	200331
Service	4Y ProSupport Plus with ProSupport and AD and KYHD and Service Account Mgr	PPN4	[975-3461] [997-8317] [997-8366] [997-8367] [997-8388] [997-8389] [997-8390] [997-8391]	29

Premier discount -$1,535.06

Item total: $1,802.02

Savings: $1,535.06

Subtotal (1): $1,802.02

Savings	$1,535.06
Subtotal (1)	**$1,802.02**
Estimated Shipping	$0.00
Estimated Tax	$156.77
Total	**$1,958.79**

Dell Contacts

Address Book

Your Products Your Products

Quotes

Sales Quotes

Systems

Peripherals

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Accessibility Anti-Slavery & Human Trafficking

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*Based on Dell analysis of storage software deployable on AWS, Azure, and Google Cloud, May 2023. 90-day evaluation: Applies to Dell licenses only for APEX Block Storage for AWS and APEX Navigator for Multicloud Storage. Subject to availability. Terms and conditions apply: For Dell APEX Navigator for Multicloud Storage view the Dell Cloud Service Offering Agreement or Dell APEX Navigator for Multicloud Service Offering Description.
For Dell APEX Block Storage for AWS, view Dell's Software Evaluation Agreement.

ALL ORDERS ARE SUBJECT TO APPROVAL AND ACCEPTANCE BY DELL. Pricing, availability and other terms of offer may be withdrawn or changed without notice. Dell cannot be held responsible for errors in typography or photography.

Savings	$1,775.16
Subtotal (4)	**$2,286.89**
Estimated Shipping	$0.00
Estimated Tax	$198.96
Total	**$2,485.85**

Details

CR Laptop Setup
Quote number # 3000170456237

Created December 27, 2023
Expires January 26, 2024
Created by
robert.heard@co.benton.wa.us
Authorized buyer Robert Heard

Billing

Order contact
Robert Heard Benton County IT
Contract Code: C000000010849
Customer agreement number:
NASPO MNWNC-108/05815-003
Phone number: (509) 786-5603
Additional::
robert.heard@co.benton.wa.us

Tax exemption
I am not tax exempt

Shipping

Shipping information
Information Technology Dept
Benton County
7122 W Okanogan Pl, Kennewick,
WA, 99336-2359
Phone number: (509) 786-5603
Additional::
CENTRAL.SERVICES@CO.BENTON.WA.US

Delivery method
FREE Standard Delivery

Trade compliance
No, I will not be exporting

Payment method

Items	Quantity	Unit Price	Item total
Latitude 5540	1	$3,337.08	$3,337.08

Discounted unit price: $1,802.02
Contract Code: C000000010849
Estimated Delivery
FREE Standard Delivery to 99336-2359 by
Wednesday, January 3, 2024

Catalog Number: 84 / s119l5540usr

Category	Description	Code	SKU	ID
Base	Dell Latitude 5540 BTX Base	GJKB31H	[210-BGBJ]	1
Processor	13th Gen Intel® Core™ i7-1370P, vPro® (24 MB cache, 14 cores, 20 threads, up to 5.20 GHz Turbo)	GYKHRM0	[379-BFBY]	146
Operating System	Windows 11 Pro, English, Brazilian Portuguese, French, Spanish	G01OVWE	[619-ARSB]	11
Office Productivity Software	No Microsoft Office License Included - 30 day Trial Offer Only	GC7OFJV	[658-BCSB]	1002
Intel Responsiveness Technologies	Intel® Rapid Storage Technology Driver	GYXD2VA	[409-BCWS]	707
Systems Management	Intel vPro Enterprise Technology Enabled	G4J7US8	[631-ADPV]	49
Memory	16 GB, 2 x 8GB, DDR5, 5200MT/s, Non-ECC, dual-channel	G3AQY87	[370-BBNX]	3
Storage	512 GB, M.2 2230, PCIe NVMe, SSD, Class 35	GXVZO8K	[400-BOVY]	8
Additional Storage	No Additional Hard Drive	GNTOSJ7	[401-AADF]	637
Display	15.6" FHD (1920x1080) Non-Touch, AG, IPS, 250 nits, FHD IR Cam, WLAN/WWAN(4G)	GAI9G1J	[391-BHEM]	760
Keyboard	English US backlit keyboard with numeric keypad, 99-key	GA6KDNO	[583-BHBG]	4
Mouse	No Mouse	G8043UZ	[570-AADK]	12
Wireless Driver	Intel® AX211, 2x2, 802.11ax, MU-MIMO Driver, Bluetooth	GJMHPT7	[555-BJDC]	7
Wireless	Intel® Wi-Fi 6E AX211, 2x2, 802.11ax, Bluetooth® wireless card	GL03PXW	[555-BHHU]	19
Mobile Broadband	No Mobile Broadband Card	GR957IY	[556-BBCD]	114

Category	Description	Code	SKU	ID
Primary Battery	3 Cell, 54 Wh, ExpressCharge™, ExpressCharge™ Boost capable	GFB63PN	[451-BDBL]	112
AC Adapter	65W AC adapter, USB Type-C, TCO Gen 9 compliant	GI417VR	[492-BDHS]	1015
PalmRest	Single Pointing, Smart Card Reader, Finger Print Reader (w/ControlVault 3)	GLA0G37	[346-BINO]	55
Security Software and PC Protection	No anti-virus software	GD4K19S	[650-AAAM]	1014
Operating System Recovery Options	OS-Windows Media Not Included	GLA9OQ1	[620-AALW]	200013
Power Cord	E4 Power Cord 1M for US	GC90V4B	[537-BBDO]	20
Setup and Features Guides	Latitude 5540 Quick Start Guide	G4DLOCA	[340-DDHL]	60
Resource Media	No Resource USB Media	G5KFAU6	[430-XXYG]	50
Documentation	Safety/Environment and Regulatory Guide (English/French Multi-language)	G7RB0GY	[340-AGIK]	21
ENERGY STAR	ENERGY STAR Qualified	GFSJ2Q8	[387-BBPC]	122
FGA Module	5540_2HFY24_035/US/BTS	FG0039	[998-GQMD]	572
Non-Microsoft Application Software	Dell Additional Software	GX3QS7G	[658-BFQB]	1003
Packaging	Packaging BTS 65W Adapter (WHN)	GGITE9Z	[340-DJVJ]	465
Processor Label	Intel® Core™ i7 vPro Enterprise Label	GYT8X1V	[340-CYNX]	749
Transportation from ODM to region	BTS/BTP Shipment	GR1YQZE	[800-BBGW]	200080
EAN POD Label	POD Label	GAX83SM	[389-EDJB]	292
Base Options	Intel 13th Generation i7-1370P vPro, Intel Integrated Graphics, TBT4	G0TFCRN	[338-CHGG] [338-CHGQ]	149
Chassis Options	Latitude 5540 Bottom Door, Intel 13th Gen P-Series CPU, Intel Integrated Graphics	G2VNQT9	[321-BJTM]	116
Windows AutoPilot	No AutoPilot	GYEO2AP	[340-CKSZ]	291
Camera	FHD/IR Camera, Temporal Noise Reduction, Camera Shutter, Mic	GFPAL0Z	[319-BBIE]	379
Additional Opticals	No Removable CD/DVD Drive	GDCPVR0	[429-AATO]	105
EPEAT 2018	EPEAT 2018 Registered (Gold)	GBU8CHM	[379-BDZB]	200331
Service	4Y ProSupport Plus with ProSupport and AD and KYHD and Service Account Mgr	PPN4	[975-3461] [997-8317] [997-8366] [997-8367] [997-8388] [997-8389] [997-8390] [997-8391]	29

Premier discount -$1,535.06

Item total: $1,802.02

Dell 27 Monitor - P2722H

1 $289.99 $289.99

Discounted unit price: $188.49
Contract Code: C000000010849
Estimated Delivery
FREE Standard Delivery to 99336-2359 by Monday, January 1, 2024

Catalog Number: 84 / p2722hsap

Category	Description	Code	SKU	ID
Dell 27 Monitor - P2722H, 68.6cm (27")	Dell 27 Monitor - P2722H, 68.6cm (27")	GI3JWRV	[210-BBCK]	1
Hardware Support Services	3Y Basic Hardware Service with Advanced Exchange after remote diagnosis	G0AP4EM	[814-5380] [814-5381]	29

Premier discount -$101.50

Item total: $188.49

Dell Thunderbolt Dock – WD22TB4

1 $374.99 $374.99

Discounted unit price: $239.99
Contract Code: C000000010849
Estimated Delivery
FREE Standard Delivery to 99336-2359 by
Tuesday, January 2, 2024

Catalog Number: 84 / wd22tb4sap

Category	Description	Code	SKU	ID
BASE,DS,WD22TB4 US 180W	Dell Thunderbolt 4 Dock - WD22TB4	GBNM2HY	[210-BDQH]	1
Services:Hardware Support	3Y Basic Hardware Service with Advanced Exchange after Remote Diagnosis	G9OGYFH	[872-8550] [872-8557]	29

Premier discount -$135.00

Item total: $239.99

Logitech MK550 Wave Wireless Keyboard and Mouse Combo - Black

1 $59.99 $59.99

Discounted unit price: $56.39
Contract Code: C000000010849
Manufacturer Part# : 920-002555
Dell Part# : A4051228

Estimated Delivery
FREE Standard Delivery to 99336-2359 by
Tuesday, January 2, 2024

Catalog Number: 84 / A4051228

Category	Description	Code	SKU	ID
Logitech MK550 Wave Wireless Keyboard and Mouse Combo - Black			[A4051228]	

Premier discount -$3.60

Item total: $56.39

Savings: $1,775.16

Subtotal (4): $2,286.89

Savings	$1,775.16
Subtotal (4)	**$2,286.89**
Estimated Shipping	$0.00
Estimated Tax	$198.96
Total	**$2,485.85**

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Smart Selection. Limited quantities. Only available for orders placed by 5:59 p.m. CT Mon.–Thurs. Systems shipped the next business day after an order is placed. Subject to order approval. Software and accessories not part of the configuration will be shipped separately and may arrive after your system. Please note that Smart Selection Configuration pricing cannot be combined with other pricing offers or discounts provided or agreed to by Dell. Orders with Custom Factory Integration might require additional processing time.

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*Based on Dell analysis of storage software deployable on AWS, Azure, and Google Cloud, May 2023. 90-day evaluation: Applies to Dell licenses only for APEX Block Storage for AWS and APEX Navigator for Multicloud Storage. Subject to availability. Terms and conditions apply: For Dell APEX Navigator for Multicloud Storage view the Dell Cloud Service Offering Agreement or Dell APEX Navigator for Multicloud Service Offering Description.
For Dell APEX Block Storage for AWS, view Dell's Software Evaluation Agreement.

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COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	1/9/24
Subject:	Professional Services Agreement with Shawnna Morris, dba Harrington Investigations, PC, contract #BCINV2425SM001
Presenter:	NA
Prepared By:	Denise Gerry
Reviewed By:	Charlie Dow

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

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

Summary / Background Information

Benton County OPD provides legally mandated public defense investigative services by way of professional service agreements with local private investigators. The current agreement with investigator Shawnna Morris is scheduled to expire on December 31, 2023.

Fiscal Impact

General Fund - $70 per hour, plus other allowable expenses, premiums and fees as detailed in the professional services agreement.

Recommendation

Execute resolution approving the professional service agreement with investigator Shawnna Morris.

Suggested Motion

Approve with consent agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF AWARDING A PROFESSIONAL SERVICES AGREEMENT WITH INVESTIGATOR SHAWNNA MORRIS, DBA HARRINGTON INVESTIGATIONS, PC, CONTRACT #BCINV2425SM001, TO PROVIDE PUBLIC DEFENSE INVESTIGATION SERVICES IN BENTON COUNTY SUPERIOR AND DISTRICT COURT FOR PUBLIC DEFENSE CASES

WHEREAS, Benton County ("County") is obligated by law to provide defense investigation services to support public defense cases in Benton County Superior and District Court cases ("Services"); and

WHEREAS, County currently contracts with, among others, investigator Shawnna Morris, dba Harrington Investigations, PC ("Investigator") to provide Services and the agreement with Investigator is set to expire on December 31, 2023; and

WHEREAS, County is generally satisfied with the Services as rendered by Investigator and therefore is offering Investigator a renewal contract for Services; and

WHEREAS, a proposed public defense investigation contract with investigator Shawnna Morris for Services is presented for execution by the Board of Commissioners; **NOW, THEREFORE**

BE IT RESOLVED that the Board of Benton County Commissioners, Benton County, Washington hereby approves the professional services agreement with investigator Shawnna Morris, dba Harrington Investigations, PC, contract #BCINV2425SM001, to provide public defense investigation services in Benton County Superior and District Court for criminal public defense cases, for the time period from 01/01/24 through 12/31/25, for compensation not to exceed $70 per hour, plus other allowable expenses, premiums, and fees as detailed in the professional services agreement.

Dated this _____ day of _____ 20 _____

_____
Chairman of the Board

_____
Chairman Pro Tem

_____
Commissioner

Constituting the Board of Commissioners
of Benton County, Washington

Attest: _____
Clerk of the Board

cc: Originals – OPD, Shanna Morris, dba Harrington Investigations, PC C Dow
Copy – Auditor, S Godinez

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PROFESSIONAL SERVICES AGREEMENT TO PROVIDE INVESTIGATIVE SERVICES FOR INDIGENT PERSONS CHARGED WITH CRIMES IN BENTON COUNTY DISTRICT AND SUPERIOR COURTS BCINV2425SM001

CONTRACT SUMMARY			
Contract Type	**Investigator**		
Contract Number	**BCINV2425SM001**	**Contract Holder**	**Shawnna Morris**
License #	**4828**	**Effective Dates**	**January 1, 2024 – December 31, 2025**
Compensation	**$70 per hour base** **See Exhibit "B" for other itemized rates**		
Compensation Payable To:	**Harrington Investigations, P.C.**		

THIS AGREEMENT is entered into by and between **Shawnna Morris,** Washington State Investigator's License **#4828** ("Investigator"), **dba Harrington Investigations, P.C.,** and **BENTON COUNTY,** a Washington political subdivision ("County"), for and on behalf of the Benton County Superior Court and Benton County District Court ("Courts").

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

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

B. Investigator is licensed in the state of Washington to engage in the business of providing private investigative services, has direct experience in investigating cases involving persons charged with criminal offenses, and desires to contract with the County to provide such services to indigent persons subject to criminal charges in the State and local Courts of County.

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

1. **AGREEMENT TERM.** This Agreement shall be deemed effective for all purposes as of **January 1, 2024**, and shall continue thereafter through and including **December 31, 2025**, unless earlier terminated pursuant to the applicable terms and provisions of this Agreement.

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2. **INVESTIGATOR'S OFFICE LOCATION.**

a. Investigator presently and regularly maintains an office adequate and appropriate for the business of providing private investigative services at **4204 W 32nd Ave., Kennewick, WA 99337.** Investigator's current local office telephone is **509-378-1337;** and Investigator's current office/work e-mail address is **shawnnamorris@outlook.com. This is and shall be the official email for Investigator (until changed as provided by the terms of this Agreement) to receive any and all communications from County and County's Office of Public Defense, including, but not limited to the following:**

a) Case assignments and related matters

b) Contract compliance notifications and reminders

c) Official contract related notices

b. Throughout the entire term of this Agreement, Investigator shall continue to maintain such an office, such telephone and fax numbers, and such e-mail address; provided that, however, Investigator may relocate Investigator's office to another location within the greater Tri-Cities, Washington, area and/or Investigator may change Investigator's telephone/fax number to another greater Tri-Cities-area local telephone/fax number, and/or Investigator may change Investigator's e-mail address, provided that Investigator must provide immediate written notice of such change(s) to the Benton County Public Defense Manager ("PDM").

c. The County prefers that Investigator locate and maintain Investigator's office in a commercial/professional building. However, regardless of the location Investigator decides to maintain his/her office, the office must be capable of accommodating confidential face-to-face meetings between Investigator and persons whom Investigator is assigned to assist under this Agreement, must be capable of regularly receiving mail, and must have adequate telephone service to facilitate and ensure prompt response to contact with or from such persons Investigator is assigned to assist hereunder.

3. **INVESTIGATOR'S QUALIFICATIONS.** Investigator acknowledges and agrees that the County has an obligation to provide competent and effective legal defense services to indigent persons subject to criminal proceedings in the Courts. Investigator shall perform all services hereunder in strict accordance with the usual skills and professional ethical standards exercised by investigators engaged in providing investigative services for persons accused of crimes in the state of Washington. Investigator acknowledges and agrees that Investigator has a fundamental duty and responsibility to effectively promote and protect the best interests and rights of all persons whom Investigator is assigned to assist under this Agreement.

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a. As of the date of this Agreement, Investigator represents and warrants that Investigator is unconditionally licensed to provide private investigative services either as a "Private Investigator" (RCW 18.165.010(11), or as a "Private Investigator Agency" (RCW 18.165.010(12)) within the state of Washington; has had at least one (1) year of direct experience in providing investigation services in criminal defense or criminal prosecution matters; has not been a party to an agreement to provide criminal defense-related investigative services that was terminated due to Investigator's conduct, errors, or omissions; has not been censured, admonished, or otherwise formally disciplined for past conduct or behavior as an investigator that would negatively reflect on Investigator's duty and ability to effectively and competently render services hereunder; and does not have any complaints or lawsuits filed and/or pending against him/her relating to, or arising from, Investigator's past conduct or behavior as an investigator. **If Investigator is not licensed as a Private investigator Agency as defined in RCW 18.165.010(12), then Investigator shall be employed by a Private Investigator Agency, licensed and in good standing in the State of Washington, and a principal from said Private Investigator Agency shall execute the certificate on the signature page of this Agreement, confirming such employment and supervision, and ratifying this Agreement on behalf of the Agency.**

(i) This Agreement will be subject to review and, if applicable and/or necessary, further action pursuant to paragraph 12 below in the event that Investigator's license to provide investigative services in Washington is revoked or otherwise limited or restricted in any manner.

(ii) Investigator shall notify the County and the PDM within three (3) business days if any event specified in paragraph 3.a.(i) above occurs.

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

c. During each calendar year of the term of this Agreement Investigator shall be required to pursue and participate in such training, education, and/or other applicable actions required to maintain Investigator's license to provide investigative services within Washington in full force and effect; and Investigator shall provide the PDM with written proof and confirmation that such requirements have been met no later than December 31st of each calendar year.

d. Investigator represents and warrants that, throughout the entire term of this Agreement, Investigator's client caseload on matters outside of this Agreement; Investigator's schedule; and Investigator's office resources, equipment, and support staff; will allow Investigator to competently undertake and

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effectively perform all services required under this Agreement. Investigator represents and warrants that Investigator's client caseload and schedule outside this Agreement will not interfere with Investigator's ability to timely and efficiently perform services under this Agreement.

4. **OTHER INVESTIGATIVE SERVICES AGREEMENTS.** On or about the date of this Agreement, the County contemplates entering into separate and independent investigative services agreements with other licensed investigators to provide investigative services to persons accused of crimes in the Courts. Investigator agrees to fully cooperate and coordinate with such other investigators, the Courts, and the PDM to establish a process to effectuate the efficient and equitable distribution of clients and cases requiring investigative services. The PDM shall have the inherent discretion and authority to monitor and control (and reasonably modify/change) such process.

5. **CASE ASSIGNMENTS.** During the term of this Agreement, Investigator agrees to and shall accept assignments from the PDM to provide investigative services for indigent persons (regardless of their race, color, national origin, age, sex, marital status, sexual orientation, handicap/disability, personal background, creed, or political or religious affiliation) on any matter in the Courts in which publicly-provided legal defense services are furnished or required by law. For each case assigned hereunder, Investigator shall provide investigative services as further described in **"Exhibit A"** to this Agreement. Specifically, Investigator shall provide criminal defense investigative services of the same quality as Investigator provides to private clients.

Optional: Investigator may accept subpoena-service assignments by public defenders employed or contracted with the Benton County Office of Public Defense at the rate stated in Exhibit B and on the terms contained in Section 5 d. if Investigator indicates the following availability to serve subpoenas:

- **Investigator is available to service subpoenas:** Yes

a. Individual case assignments for cases other than Class A felonies, persistent offender cases, or homicide cases, shall be made by the PDM utilizing the following procedure:

(i) Upon determining that a case needs an investigator assigned, the public defense attorney of record will contact the PDM, request an investigator, advise of the nature of the investigation, and request a particular investigative cost expenditure limit. The public defense attorney of record may also make a specific request for a particular investigator to be assigned.

(ii) Upon approval of the request for an investigator, if a specific request for a particular investigator has been made, then absent a conflict of interest or inability of that investigator to accept the appointment for any other reason (including vacation or other plans or workload issues) then the PDM will honor the request and assign the requested investigator.

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(iii) Upon approval of the request for an investigator, if a specific request for a particular investigator has not been made, the PDM will assign an investigator in his absolute and sole discretion, taking into consideration considerations including, but not limited to, workload equality, investigator skill, case complexity, investigator availability, economies of scale and efficiency.

b. Once an investigator has been assigned to a case, the PDM will provide written notice of the assignment to both the investigator and the public defense attorney of record. Investigator shall not commence any work until written notice of assignment has been received. Such written notice will contain an Funding Approval Code as well as an applicable maximum funding limit which shall constitute the maximum compensation and cost reimbursement payable to Investigator on the particular case unless additional expenditures are requested as provided in paragraph 9(d)(iv).The Funding Approval Code shall indicate the half-year to which it is assigned (for example second half of 2022) and, unless the Funding Approval is extended to another half-year period, (for example, in this case, to the first half of 2023), the work must be completed within the designated half-year period and billed within that half year or within 30 days of the end thereof.

c. Individual case assignments for Class A felonies, persistent offender cases, and homicide cases, shall be made by the PDM in consultation with the public defense attorney of record.

d. Individual subpoena service assignments or "stand-alone" subpoena service (i.e., service of subpoenas separate from investigative services on a case) will be made by the PDM utilizing the following procedure:

(i) Upon determining that subpoenas need to be served, the public defense attorney of record will contact the PDM and request approval to serve such subpoenas.

(ii) Upon approval of the request, the PDM will assign the service of the subpoenas to a server from a list of approved subpoena servers on a rotating basis. **Investigator may elect not to be on this list. As stated above, this Agreement does not obligate Investigator to accept "stand-alone" subpoena service assignments.**

(iii) Once the subpoena service has been assigned to a particular investigator, both the investigator and the public defense attorney of record will receive written notification of the assignment from the PDM, which notice shall constitute authorization for the investigator to proceed.

e. Service of subpoenas in conjunction with an assigned investigation does not need prior approval or authorization. However, compensation is limited to the amount stated in Exhibit B to this Agreement.

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f. In any case when Investigator has been assigned to a matter of any sort as provided herein, unless expressly excused by the public defense attorney of record, Investigator shall notify the PDM and decline the assignment if Investigator is unable, for any reason, to commence work on the case (which shall mean, at a minimum, meeting with the public defense attorney of record for a case briefing and reviewing discovery as necessary) within 72 hours of the assignment, not including weekends and official holidays recognized by the State of Washington.

6. **CONTINUED SERVICES.**

a. Investigator shall have a duty to timely and fully complete all cases assigned to Investigator under this Agreement. Without limitation in that regard, Investigator shall continue to provide investigative services for those persons whom Investigator was assigned to assist and whose case was not concluded prior to the effective date of termination of this Agreement for up to ninety (90) days following the effective date of termination. Investigator's obligation to continue providing post-termination services shall not in any way entitle Investigator to receive any additional compensation beyond the maximum investigative cost expenditure limit expressly specified in the written notice from the PDM authorizing Investigator's assignment to the case.

b. Investigator will be assigned to no new cases under this Agreement during the thirty (30) day period prior to its expiration date specified in paragraph 1 above if Investigator provides written notice to the County at least sixty (60) days prior to such termination date of Investigator's desire and intent to not pursue contracting with the County again to provide investigative services in the Courts after such expiration date. Investigator may belatedly provide such written notice at any time within said sixty (60) day time period, but the assignment of new cases to Investigator will not stop until thirty (30) days after the date such notice has been received by the County.

7. **CLIENT ELIGIBILITY.** The Courts (or their designee), consistent with applicable laws, rules and standards, shall determine the eligibility of any particular person for assistance by Investigator under this Agreement. Investigator is under no obligation to determine a person's eligibility or continuing eligibility to receive publicly-provided assistance. However, if Investigator is assigned to provide services to a person and subsequently discovers that such person may not be eligible to receive publicly-provided assistance under applicable laws, rules and standards, Investigator, if able to do so within the bounds of ethical rules and professional standards applicable to investigators, shall promptly provide the public defense attorney(s) representing the person with such information.

8. **CONFLICTS.** Notwithstanding any other terms or provisions contained in this Agreement to the contrary, Investigator shall not be required to accept, and Investigator shall decline to accept, an assignment under this Agreement if the particular assignment would create a true and bona fide conflict of interest for Investigator or would

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otherwise cause or constitute an actual violation of any generally recognized ethical or professional standards common and applicable to investigators in the state of Washington. Furthermore, in the event a true and bona fide conflict of interest arises subsequent to Investigator receiving an assignment under this Agreement (or in the event Investigator's continued involvement in a pending assigned case would cause or constitute an actual violation of any such ethical or professional standards), Investigator shall immediately make the public defense attorney(s) representing the affected indigent person aware of such development for purposes of the attorney(s) taking immediate action to pursue the assignment of another investigator.

9. **COMPENSATION AND REIMBURSEMENT.**

a. As full and exclusive compensation for Investigator's performance and rendering of independent professional investigative services hereunder, Investigator shall be compensated as provided in Exhibit B.

b. Payment of such compensation is based on time expended on the case by Investigator only. Time expended by other persons (including, without limitation, Investigator's support staff or associate investigators) on a case at Investigator's request or direction shall be part of Investigator's business overhead and shall not be billable to the County.

c. Investigator acknowledges and agrees that Investigator shall not be entitled to claim or receive any reimbursement/payment from the County for any business or office-related overhead costs or expenses incurred by Investigator during the course of rendering services under this Agreement (including, without limitation, costs and expenses associated with Investigator's office, office staff, office equipment/facilities, and/or other office-related resources). The County recognizes, however, that in certain circumstances the need may arise for Investigator to incur certain types of out-of-pocket expenses directly related to an indigent person's case such as costs of out-of-area travel, meals and lodging.

(i) Investigator shall be entitled to receive reimbursement for the actual cost of such out-of-pocket expenditures provided that, however, Investigator shall not incur any such expense nor shall Investigator be entitled to be reimbursed for any such expense unless such expense has been pre-approved as necessary and reasonable by the PDM in accordance with applicable rules, procedures, and standards. Such authorization shall state and provide a specific dollar amount for the requested and authorized expenditure; provided that, in the event it is not reasonably possible to state and provide a specific dollar amount for a particular requested expenditure, such authorization may nevertheless provide approval for the expenditure but shall establish and set forth a maximum dollar expenditure amount. In regard to any reimbursement to Investigator for any approved expenditures and costs pertaining to case-related out-of-area travel, meals, and lodging, any reimbursement to Investigator for such expenditures and costs shall not exceed the amounts

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that are set forth in the Federal General Services Administration ("GSA") reimbursement schedule existing for the locality (if applicable) and period of time when the costs are accrued.

(ii) Without limiting or expanding the preceding provisions of this paragraph 9, Investigator shall be reimbursed only for Investigator's vehicle mileage outside of the Tri-Cities (i.e., outside of the city limits of the Cities of Kennewick, Richland, West Richland and Pasco) accrued while directly engaged in investigations under this Agreement. The rate of such reimbursement shall be equivalent to the rate published by the GSA for the locality (if applicable) and period of time when the mileage is accrued. Such vehicle mileage shall be reimbursed only one time to Investigator, and Investigator shall not attempt to seek duplicative or excessive reimbursement for mileage accrued while simultaneously rendering services on more than one case (e.g., if Investigator accrues 10 miles to travel to a particular location to interview witnesses involved in two separate cases assigned to Investigator hereunder, Investigator shall only be reimbursed for that 10 miles, and not for 20 miles by attempting to claim reimbursement of 10 miles for each case). For such reimbursable case assignment travel, mileage shall be calculated beginning from the Benton County Justice Center in Kennewick to the location where the investigative services are actually rendered (e.g., witness's residence) utilizing and based on the most direct route over public roadways.

d. As a precondition to Investigator being paid the above-mentioned compensation and reimbursements for costs and expenses hereunder, Investigator shall submit a "Claim for Compensation" in such form as is prescribed by the PDM, including with such submission an invoice that descriptively sets forth and details the total number of hours (documented and stated in one-tenth ($1/10^{th}$) hour intervals) expended by Investigator on the case and that further describes and details the particular actions taken by Investigator on such case that correspond to such expended and billed hours including the date when such actions were taken (exercising appropriate discretion to protect client confidentiality given that such documents are matters of public record unless sealed by the court at the request of the defense attorney representing the client). **For purposes of these invoices, the subject of any field witnesses shall only be identified by their initials and city where the interview took place (no full names and no addresses). Provided, however, that Investigator shall retain information related to the full names of witnesses and addresses where interviews took place, in case an audit requires such information.**

(i) Investigator's administrative time expended to prepare, submit, and process Claims for Compensation shall not be billable to the County.

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(ii) All Claims for Compensation under this Agreement shall be subject to the PDM's review and approval for payment.

(iii) Investigator shall timely submit such Claims for Compensation within the half of the year designated by the Funding Approval Code unless another Funding Approval Code, designating another half-year, has been issued.

(iv) The cumulative sum of compensation and reimbursements being claimed shall be limited to the unclaimed expenditure limit stated in the written notice of assignment unless authorization for additional expenditure is requested and granted **prior to** providing the additional services that incur such additional expenditure. Investigator shall request Funding Approval for such additional expenditures by submitting a request using the on-line secure form provided by Benton County, and may proceed with the work once an additional Funding Approval Code has been received.

(v) Investigator should expect processing time for requests for authorization for additional expenditures of 2-3 business days. It is Investigator's responsibility to plan investigations and the submission of requests for authorization for additional expenditure in a manner that takes into account this anticipated processing lead time.

(vi) In situations of bona fide emergency, requests for authorization for additional expenditures may be submitted after additional services have been provided. However, the amount of services provided shall be limited to that amount which is essential to address the emergency, and a request for authorization for additional expenditure shall be submitted within 2 business days detailing and specifically describing the circumstances of the emergency. For purposes of this paragraph, the term "emergency" shall be defined as any situation where critically necessary investigative work, beyond what has already been authorized, must be completed within such a short timeframe that it is not possible to obtain authorization from the PDM in advance and the inability to complete such investigative work is reasonably likely to prejudice the rights of the indigent defendant whose criminal case Investigator is assigned to provide investigative services for.

(vii) If Investigator or Investigator's staff wish to make billing inquiries, such inquiries shall be made by email directed to such email address as the PDM designates for such purpose. Investigator should expect such emailed inquiries to be responded to within 3 business days. Repeated telephone contact with the PDM or the PDM's staff, for the sole purpose of making billing inquiries, shall constitute a breach of this Agreement.

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e. Claims for Compensation may be submitted throughout any given month. Properly submitted claims will be processed pursuant to existing OPD and County vendor invoice processing systems and paid accordingly. **All Claims for Compensation must be submitted electronically and sent to OPDClaims@co.benton.wa.us.**

f. The above-stated compensation to Investigator will immediately cease upon the termination of this Agreement on, or for any reason prior to, the termination date specified in paragraph 1 above. For example, if this Agreement is terminated effective May 31, 2022, the above referenced compensation to Investigator also would terminate as of such date, and Investigator would not be entitled to receive any further compensation from the County; provided that, Investigator would be entitled to receive any then-accrued and unpaid compensation for services rendered hereunder prior to such termination date; and further provided that Investigator may be entitled to receive compensation for continuing post-termination services provided pursuant to paragraph 6.a. above.

10. **INDEMNIFICATIONS AND HOLD HARMLESS.** Investigator agrees to and shall fully indemnify the County and their elected/appointed representatives, officers, employees, and agents; and to hold the County and their elected/appointed representatives, officers, employees, and agents fully harmless; from and for any and all losses, damages, costs, charges, claims, demands, suits, or actions of whatsoever nature directly or indirectly arising out of or by reason of Investigator's (or any person, employee, agent, contractor, or entity acting for or on behalf of Investigator or at Investigator's request or direction) acts, defaults, errors and/or omissions of whatsoever nature in the performance of investigative services for any person under this Agreement. In the event any suit or legal proceeding is brought against the County or any of their elected/appointed representatives, officers, employees or agents at any time on account of or by reason of any such acts, defaults, errors and/or omissions, Investigator hereby covenants and agrees to assume the defense thereof (through counsel acceptable to the County) and to defend the same at Investigator's sole cost and expense and to pay any and all costs, charges, attorneys' fees, and other expenses as well as any and all judgments or awards that may be incurred by or entered against the County or any of its elected/appointed representatives, officers, employees or agents in such suits or other legal proceedings. Without limiting the intended broad scope and application of the indemnification and hold harmless provisions of this paragraph, for purposes of this paragraph, Investigator waives, with respect to the County only, any immunity that would otherwise be available to Investigator under the Industrial Insurance Act provisions of Title 51 RCW or any other similar workers/employee disability or benefit law. The indemnification and hold harmless provisions of this paragraph shall survive the termination or expiration of this Agreement.

11. **INSURANCE.**

a. Investigator shall obtain and maintain, at Investigator's sole cost and expense, a policy of Commercial General Liability insurance (including

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Endorsement Form CG2011 and Contractual Liability coverage) in the amount of not less than $1,000,000.00 per occurrence nor less than $2,000,000.00 in the aggregate during the policy term. Additionally, if Investigator is an employer, Investigator shall obtain and maintain, at Investigator's sole cost and expense, a policy of Statutory Workers Compensation and Employers Liability/Stop Gap insurance in the amount of not less than $1,000,000.00.

(i) The policy of Commercial General Liability insurance shall be written on an occurrence basis; shall name the County, the Courts, and the County's elected/appointed representatives, officers, employees and agents as additional insureds; shall be primary coverage for both defense and indemnity and non-contributory with any insurance coverage maintained by the County; and shall provide for waiver of subrogation rights as to the County.

(ii) The insurance policies required by this paragraph 11.a shall require that the insurance company provide the County with no less than thirty (30) days prior written notice in the event the policy is cancelled or materially altered; shall comply with all applicable state of Washington insurance requirements; and shall be issued by an insurance company rated A- or better by A.M. Best authorized to conduct business and issue insurance in the state of Washington.

(iii) Investigator shall continuously maintain the insurance coverage required by this paragraph 11.a throughout the entire term of this Agreement and throughout any other longer time period during which Investigator is obligated to continue performing services and duties hereunder.

b. Investigator shall also obtain and maintain, at Investigator's sole cost and expense, a policy of professional liability or errors and omissions insurance suitable for Investigator's profession, in the amount of no less than $1,000,000.00 per claim nor less than $2,000,000.00 in the aggregate during the policy term and with a maximum deductible of not more than $10,000.00.

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

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(iii) Investigator shall continuously maintain the professional liability insurance coverage required by this paragraph 11.b throughout the entire term of this Agreement, throughout any other longer time period during which Investigator is obligated to continue performing services and duties hereunder, and for a period of no less than thirty-six (36) consecutive months after Investigator has fully completed all services and duties required hereunder.

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

12. **TERMINATION.**

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

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

13. **INDEPENDENT CONTRACTOR.** Investigator fully understands, acknowledges, and agrees that Investigator shall not be an agent, representative, or employee of the County or the Courts for any type of purpose or situation whatsoever (including, without limitation, for purposes of any type of wage, hours/overtime, workers/industrial insurance compensation, unemployment, fair labor, and/or employee benefit/leave laws, disability act coverage or rules, and/or regulations) and that Investigator, as of the date of this Agreement and throughout its entire term, is and will always be acting and operating as a fully independent contractor. In that regard, strictly subject to Investigator's duties, responsibilities and obligations imposed under this Agreement, Investigator shall have sole and absolute discretion using Investigator's best professional judgment to determine the manner and means of providing the investigative

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services required under this Agreement; and neither the County, the PDM, nor the Courts shall have any authority or duty to directly control the actual performance of Investigator's services hereunder.

14. **NON-ASSIGNMENT; MILITARY LEAVE.** Investigator shall not allow or arrange for any other person to perform any of the services required by this Agreement, nor shall Investigator assign, subcontract out, or otherwise delegate any of Investigator's rights, responsibilities, or obligations under this Agreement. In the event Investigator is called up for active military duty or for direct civilian support of active military operations, Investigator shall provide the County and the PDM with written notice of such event within five (5) business days of Investigator being called up so that the PDM and Investigator can coordinate and arrange for an appropriate substitute to handle Investigator's duties under this Agreement while Investigator is on military leave and any reasonable back-to-civilian-life transition time requested by Investigator upon return. Investigator shall receive no compensation under this Agreement while on leave or during any such transition time.

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

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

17. **CAPTIONS; TIME COMPUTATION.**

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

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

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

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

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

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

22. **DISPUTE RESOLUTION.**

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

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

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prevailing party in such suit or action shall be entitled to recover such party's reasonable attorneys' fees, costs and expenses from the other party.

23. **NOTICES.**

a. Any notices required or permitted to be given by Investigator to the County under this Agreement shall be in writing and shall be either personally delivered to the County's PDM at his below-stated office address; mailed to the County's PDM at his below-stated office address via certified U.S. mail, postage prepaid; or emailed to the County's PDM at the below-stated official email address for notices:

Public Defense Manager
Benton Office of Public Defense
7122 West Okanogan Place, Ste #A220
Kennewick, WA 99336

opd@co.benton.wa.us

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

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

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

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

BENTON COUNTY

Date_____

Chairman of the Board

Chairman Pro Tem

Commissioner

Constituting the Board of County Commissioners for Benton County Washington

Attest:

Clerk of the Board

Approved as to Form and Content

DocuSigned by:
Charlie Dow
D3E112CD3A594A6...

Charles Dow
Public Defense Manager

ATTORNEY

Date 12/19/2023

DocuSigned by:
S. Morris
255367FD21D8405...

Shawnna Morris, PI# 4828

SIGNING AUTHORITY FOR INVESTIGATOR AGENCY (required if Investigator is **not licensed as an Investigator Agency**)

DocuSigned by:
Shane Harrington
0BD5E52EAE49478...

Agency Principal Signature
Agency Principal Name:
Shane Harrington, Agency Principal

I am a principal with signing authority for Harrington Investigations. I acknowledge and understand that the above-referenced Investigator, who is employed by my firm as a licensed private investigator, is about to enter into a public defense investigation agreement with Benton County. I consent to this agreement, represent that my firm has sufficient resources to assist Investigator in faithfully carrying out his/her obligations pursuant to this Agreement.

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EXHIBIT A - SCOPE OF SERVICES

Investigator shall provide, as assigned and approved on a case-by-case basis, professional quality criminal defense investigation services to defense attorneys assigned to represent indigent defendants with criminal cases pending in Benton County Superior Court (including its Juvenile Division) and Benton County District Court.

The services to be provided under this agreement may include, but are not limited to:

- Attempting to locate witnesses
- Interviewing witnesses
- Interviewing victims
- Researching the criminal history or backgrounds of witnesses or victims
- Conducting surveillance of witnesses
- Diagramming crime scenes or other locations associated with a criminal case
- Photographing items, locations, persons or anything else relevant to defense of a criminal case
- Cataloging and tracking evidence (only permitted in cases with large amounts of evidence)
- Serving subpoenas

Investigator may provide, as assigned, and only if Investigator elects to do so, subpoena service. Provided, however, that the maximum compensation for such subpoena services shall be as stated in Exhibit B – Compensation.

Absent **specific written instruction to do so from BCOPD**, Investigator shall not be compensated for any of the following services:

(e) "Evaluating" any legal document including search warrants
(f) Reviewing police reports or any other discovery for purposes of evaluating their sufficiency or for the purposes of determining what, if any, investigation needs to be done
(g) Spending time at any hearing or trial except when appearing for the purpose of testifying as a witness
(h) Appearing at or waiting during any criminal pre-trial docket

Furthermore, Investigator shall not arrange for or bill for, the services of third-party experts since these experts are to be coordinated through the attorney of record with authorization from BCOPD. Experts include, but are not limited to:

- Polygraph examiners
- DNA, fingerprint, firearms experts

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- Experts on the identification of substances including controlled substances
- Handwriting or document analysis experts
- Arson experts

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EXHIBIT B – COMPENSATION

Service	Rate	Comments
Investigator time	$70 per hour	Must be billed in increments of 1/10th of an hour together with date and description of services rendered.
Mileage	Published US GSA rate	Only for investigations outside of Tri-Cities area. Starts from the Benton County Courthouse.
Standard locate	$75 per locate	For locating addresses using subscription database services
Background investigation	$50 each	Only for background investigations that involve more than a WATCH inquiry. WATCH inquiry cases are compensated on a reimbursement basis only
Case Agent/Expert Witness	$400 full day, $200 for any partial day	Contractors are not required to act as Case Agent to assist at trial as directed by assigned counsel, by may elect to do so if requested by assigned counsel and approved by OPD
Subpoena service	$50 each service for up to four attempts. Any additional attempts for same service shall collectively qualify for additional $50.	Contractors are not required to accept subpoenas for service, if Contractors do serve subpoenas, this is the maximum compensation for doing so. When the Contractor has been approved and appointed as Case Agent, the Contractor shall be the individual performing service of those subpoenas, which shall be compensated as indicated.
Video and photo DVD	$35 each, $10 for extra copies	With menu, ready for trial format.

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Photo CD	$10 each	
Photocopies	$0.18 per page	
Notary public services	$10 (or statutory maximum, whichever is higher) for each document, record, or instrument	
Interview Cancellation Fee	$70 per hour of scheduled interview(s) cancelled by the State, or for any part of an hour thereof	To claim this fee, investigator is to provide written notification of State's cancellation, and to provide at least 15 minutes grace to the State's witness scheduled to be interviewed

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EXHIBIT C – PRIOR AUTHORIZATIONS

Investigator shall seek prior authorization for expenditure and compensation as detailed in Paragraph 9(c)(i) of the Agreement.

However, in the interest of Investigators initiating assignments as quickly as possible, the following amounts shall be presumed authorized by the OPD Manager according to the most serve charge represented in the initial charging document (Compliant/Information) filed in the pending case. Assigned Investigator, and/or Attorney of Record, shall provide notice electronically to the OPD Manager of their engagement/assignment on every case at the following address:

OPDauthorizations@co.benton.wa.us.

Investigator and/or Attorney of Record shall provide the following case details for these prior authorizations to be valid:

- Defendant Name
- Attorney Name
- Investigator Name
- Cause Number
- Most Severe Charge Level

If all case details have been provided, Investigator does not need confirmation from the OPD Manager to initiate the assignment. Claims for compensation under these prior authorizations shall be submitted as outlined in the Agreement, and shall include the notification associated with that claim. Any notifications lacking these details may subject the claim to be denied at the discretion of the OPD Manager.

These prior authorizations apply to pending charges only, and do not apply in post-conviction/acquittal or appeal cases. Any expected expenditure above these prior authorized levels shall otherwise comply with the provisions in Paragraph 9(c)(i) and subject to prior authorization by the OPD Manager.

Misdemeanor (Non-DV)	$150
Gross Misdemeanor (Non-DV)	$200
Misdemeanor/Gross Misdemeanor (DV)	$300
Class C Felony (Non-DV/Sex Offense)	$400
Class C Felony (DV/Sex Offense)	$500
Class B Felony (Non DV/Sex Offense)	$1,000
Class B Felony (DV/Sex Offense)	$2,000
Class A Felony	$3,000

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	1/9/24
Subject:	Professional Services Agreement with Abel Campos, dba Premier Investigations, LLC, contract #BCINV2425AC001
Presenter:	NA
Prepared By:	Denise Gerry
Reviewed By:	Charlie Dow

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

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

Summary / Background Information

Benton County OPD provides legally mandated public defense investigative services by way of professional service agreements with local private investigators. The current agreement with investigator Abel Campos is scheduled to expire on December 31, 2023.

Fiscal Impact

General Fund - $70 per hour, plus other allowable expenses, premiums and fees as detailed in the professional services agreement.

Recommendation

Execute resolution approving the professional service agreement with investigator Abel Campos.

Suggested Motion

Approve with consent agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF AWARDING A PROFESSIONAL SERVICES AGREEMENT WITH INVESTIGATOR ABEL CAMPOS, DBA PREMIER INVESTIGATIONS, LLC, CONTRACT #BCINV2425AC001 TO PROVIDE PUBLIC DEFENSE INVESTIGATION SERVICES IN BENTON COUNTY SUPERIOR AND DISTRICT COURT FOR PUBLIC DEFENSE CASES

WHEREAS, Benton County ("County") is obligated by law to provide defense investigation services to support public defense cases in Benton County Superior and District Court cases ("Services"); and

WHEREAS, County currently contracts with, among others, investigator Abel Campos, dba Premier Investigations, LLC ("Investigator") to provide Services and the agreement with Investigator is set to expire on December 31, 2023; and

WHEREAS, County is generally satisfied with the Services as rendered by Investigator and therefore is offering Investigator a renewal contract for Services; and

WHEREAS, a proposed public defense investigation contract with investigator Abel Campos for Services is presented for execution by the Board of Commissioners; **NOW, THEREFORE**

BE IT RESOLVED that the Board of Benton County Commissioners, Benton County, Washington hereby approves the professional services agreement with investigator Abel Campos, dba Premier Investigations, LLC, contract #BCINV2425AC001, to provide public defense investigation services in Benton County Superior and District Court for criminal public defense cases, for the time period from 01/01/24 through 12/31/25, for compensation not to exceed $70 per hour, plus other allowable expenses, premiums, and fees as detailed in the professional services agreement.

Dated this _____ day of _____ 20 _____

_____
Chairman of the Board

_____
Chairman Pro Tem

_____
Commissioner

Constituting the Board of Commissioners
of Benton County, Washington

Attest: _____
Clerk of the Board

cc: Originals – OPD, Abel Campos, dba Premier Investigations, LLC C Dow
Copy – Auditor, S Godinez

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PROFESSIONAL SERVICES AGREEMENT TO PROVIDE INVESTIGATIVE SERVICES FOR INDIGENT PERSONS CHARGED WITH CRIMES IN BENTON COUNTY DISTRICT AND SUPERIOR COURTS BCINV2425AC001

CONTRACT SUMMARY			
Contract Type	**Investigator**		
Contract Number	**BCINV2425AC001**	**Contract Holder**	**Abel Campos**
License #	**3697**	**Effective Dates**	**January 1, 2024 – December 31, 2025**
Compensation	**$70 per hour base** **See Exhibit "B" for other itemized rates**		
Compensation Payable To:	**Premier Investigations, LLC**		

THIS AGREEMENT is entered into by and between **Abel Campos,** Washington State Investigator's License **#3697** ("Investigator"), **dba Premier Investigations, LLC,** and **BENTON COUNTY,** a Washington political subdivision ("County"), for and on behalf of the Benton County Superior Court and Benton County District Court ("Courts").

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

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

B. Investigator is licensed in the state of Washington to engage in the business of providing private investigative services, has direct experience in investigating cases involving persons charged with criminal offenses, and desires to contract with the County to provide such services to indigent persons subject to criminal charges in the State and local Courts of County.

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

1. **AGREEMENT TERM.** This Agreement shall be deemed effective for all purposes as of **January 1, 2024**, and shall continue thereafter through and including **December 31, 2025**, unless earlier terminated pursuant to the applicable terms and provisions of this Agreement.

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2. **INVESTIGATOR'S OFFICE LOCATION.**

a. Investigator presently and regularly maintains an office adequate and appropriate for the business of providing private investigative services at **206 Greenview Dr, Richland, WA 99352.** Investigator's current local office telephone is **509-438-0361;** and Investigator's current office/work e-mail address is **info@premierdetective.com. This is and shall be the official email for Investigator (until changed as provided by the terms of this Agreement) to receive any and all communications from County and County's Office of Public Defense, including, but not limited to the following:**

a) Case assignments and related matters

b) Contract compliance notifications and reminders

c) Official contract related notices

b. Throughout the entire term of this Agreement, Investigator shall continue to maintain such an office, such telephone and fax numbers, and such e-mail address; provided that, however, Investigator may relocate Investigator's office to another location within the greater Tri-Cities, Washington, area and/or Investigator may change Investigator's telephone/fax number to another greater Tri-Cities-area local telephone/fax number, and/or Investigator may change Investigator's e-mail address, provided that Investigator must provide immediate written notice of such change(s) to the Benton County Public Defense Manager ("PDM").

c. The County prefers that Investigator locate and maintain Investigator's office in a commercial/professional building. However, regardless of the location Investigator decides to maintain his/her office, the office must be capable of accommodating confidential face-to-face meetings between Investigator and persons whom Investigator is assigned to assist under this Agreement, must be capable of regularly receiving mail, and must have adequate telephone service to facilitate and ensure prompt response to contact with or from such persons Investigator is assigned to assist hereunder.

3. **INVESTIGATOR'S QUALIFICATIONS.** Investigator acknowledges and agrees that the County has an obligation to provide competent and effective legal defense services to indigent persons subject to criminal proceedings in the Courts. Investigator shall perform all services hereunder in strict accordance with the usual skills and professional ethical standards exercised by investigators engaged in providing investigative services for persons accused of crimes in the state of Washington. Investigator acknowledges and agrees that Investigator has a fundamental duty and responsibility to effectively promote and protect the best interests and rights of all persons whom Investigator is assigned to assist under this Agreement.

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a. As of the date of this Agreement, Investigator represents and warrants that Investigator is unconditionally licensed to provide private investigative services either as a "Private Investigator" (RCW 18.165.010(11), or as a "Private Investigator Agency" (RCW 18.165.010(12)) within the state of Washington; has had at least one (1) year of direct experience in providing investigation services in criminal defense or criminal prosecution matters; has not been a party to an agreement to provide criminal defense-related investigative services that was terminated due to Investigator's conduct, errors, or omissions; has not been censured, admonished, or otherwise formally disciplined for past conduct or behavior as an investigator that would negatively reflect on Investigator's duty and ability to effectively and competently render services hereunder; and does not have any complaints or lawsuits filed and/or pending against him/her relating to, or arising from, Investigator's past conduct or behavior as an investigator. **If Investigator is not licensed as a Private investigator Agency as defined in RCW 18.165.010(12), then Investigator shall be employed by a Private Investigator Agency, licensed and in good standing in the State of Washington, and a principal from said Private Investigator Agency shall execute the certificate on the signature page of this Agreement, confirming such employment and supervision, and ratifying this Agreement on behalf of the Agency.**

(i) This Agreement will be subject to review and, if applicable and/or necessary, further action pursuant to paragraph 12 below in the event that Investigator's license to provide investigative services in Washington is revoked or otherwise limited or restricted in any manner.

(ii) Investigator shall notify the County and the PDM within three (3) business days if any event specified in paragraph 3.a.(i) above occurs.

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

c. During each calendar year of the term of this Agreement Investigator shall be required to pursue and participate in such training, education, and/or other applicable actions required to maintain Investigator's license to provide investigative services within Washington in full force and effect; and Investigator shall provide the PDM with written proof and confirmation that such requirements have been met no later than December 31st of each calendar year.

d. Investigator represents and warrants that, throughout the entire term of this Agreement, Investigator's client caseload on matters outside of this Agreement; Investigator's schedule; and Investigator's office resources, equipment, and support staff; will allow Investigator to competently undertake and

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effectively perform all services required under this Agreement. Investigator represents and warrants that Investigator's client caseload and schedule outside this Agreement will not interfere with Investigator's ability to timely and efficiently perform services under this Agreement.

4. **OTHER INVESTIGATIVE SERVICES AGREEMENTS.** On or about the date of this Agreement, the County contemplates entering into separate and independent investigative services agreements with other licensed investigators to provide investigative services to persons accused of crimes in the Courts. Investigator agrees to fully cooperate and coordinate with such other investigators, the Courts, and the PDM to establish a process to effectuate the efficient and equitable distribution of clients and cases requiring investigative services. The PDM shall have the inherent discretion and authority to monitor and control (and reasonably modify/change) such process.

5. **CASE ASSIGNMENTS.** During the term of this Agreement, Investigator agrees to and shall accept assignments from the PDM to provide investigative services for indigent persons (regardless of their race, color, national origin, age, sex, marital status, sexual orientation, handicap/disability, personal background, creed, or political or religious affiliation) on any matter in the Courts in which publicly-provided legal defense services are furnished or required by law. For each case assigned hereunder, Investigator shall provide investigative services as further described in **"Exhibit A"** to this Agreement. Specifically, Investigator shall provide criminal defense investigative services of the same quality as Investigator provides to private clients.

Optional: Investigator may accept subpoena-service assignments by public defenders employed or contracted with the Benton County Office of Public Defense at the rate stated in Exhibit B and on the terms contained in Section 5 d. if Investigator indicates the following availability to serve subpoenas:

- **Investigator is available to service subpoenas:** NO

a. Individual case assignments for cases other than Class A felonies, persistent offender cases, or homicide cases, shall be made by the PDM utilizing the following procedure:

(i) Upon determining that a case needs an investigator assigned, the public defense attorney of record will contact the PDM, request an investigator, advise of the nature of the investigation, and request a particular investigative cost expenditure limit. The public defense attorney of record may also make a specific request for a particular investigator to be assigned.

(ii) Upon approval of the request for an investigator, if a specific request for a particular investigator has been made, then absent a conflict of interest or inability of that investigator to accept the appointment for any other reason (including vacation or other plans or workload issues) then the PDM will honor the request and assign the requested investigator.

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(iii) Upon approval of the request for an investigator, if a specific request for a particular investigator has not been made, the PDM will assign an investigator in his absolute and sole discretion, taking into consideration considerations including, but not limited to, workload equality, investigator skill, case complexity, investigator availability, economies of scale and efficiency.

b. Once an investigator has been assigned to a case, the PDM will provide written notice of the assignment to both the investigator and the public defense attorney of record. Investigator shall not commence any work until written notice of assignment has been received. Such written notice will contain an Funding Approval Code as well as an applicable maximum funding limit which shall constitute the maximum compensation and cost reimbursement payable to Investigator on the particular case unless additional expenditures are requested as provided in paragraph 9(d)(iv).The Funding Approval Code shall indicate the half-year to which it is assigned (for example second half of 2022) and, unless the Funding Approval is extended to another half-year period, (for example, in this case, to the first half of 2023), the work must be completed within the designated half-year period and billed within that half year or within 30 days of the end thereof.

c. Individual case assignments for Class A felonies, persistent offender cases, and homicide cases, shall be made by the PDM in consultation with the public defense attorney of record.

d. Individual subpoena service assignments or “stand-alone” subpoena service (i.e., service of subpoenas separate from investigative services on a case) will be made by the PDM utilizing the following procedure:

(i) Upon determining that subpoenas need to be served, the public defense attorney of record will contact the PDM and request approval to serve such subpoenas.

(ii) Upon approval of the request, the PDM will assign the service of the subpoenas to a server from a list of approved subpoena servers on a rotating basis. **Investigator may elect not to be on this list. As stated above, this Agreement does not obligate Investigator to accept “stand-alone” subpoena service assignments.**

(iii) Once the subpoena service has been assigned to a particular investigator, both the investigator and the public defense attorney of record will receive written notification of the assignment from the PDM, which notice shall constitute authorization for the investigator to proceed.

e. Service of subpoenas in conjunction with an assigned investigation does not need prior approval or authorization. However, compensation is limited to the amount stated in Exhibit B to this Agreement.

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f. In any case when Investigator has been assigned to a matter of any sort as provided herein, unless expressly excused by the public defense attorney of record, Investigator shall notify the PDM and decline the assignment if Investigator is unable, for any reason, to commence work on the case (which shall mean, at a minimum, meeting with the public defense attorney of record for a case briefing and reviewing discovery as necessary) within 72 hours of the assignment, not including weekends and official holidays recognized by the State of Washington.

6. **CONTINUED SERVICES.**

a. Investigator shall have a duty to timely and fully complete all cases assigned to Investigator under this Agreement. Without limitation in that regard, Investigator shall continue to provide investigative services for those persons whom Investigator was assigned to assist and whose case was not concluded prior to the effective date of termination of this Agreement for up to ninety (90) days following the effective date of termination. Investigator's obligation to continue providing post-termination services shall not in any way entitle Investigator to receive any additional compensation beyond the maximum investigative cost expenditure limit expressly specified in the written notice from the PDM authorizing Investigator's assignment to the case.

b. Investigator will be assigned to no new cases under this Agreement during the thirty (30) day period prior to its expiration date specified in paragraph 1 above if Investigator provides written notice to the County at least sixty (60) days prior to such termination date of Investigator's desire and intent to not pursue contracting with the County again to provide investigative services in the Courts after such expiration date. Investigator may belatedly provide such written notice at any time within said sixty (60) day time period, but the assignment of new cases to Investigator will not stop until thirty (30) days after the date such notice has been received by the County.

7. **CLIENT ELIGIBILITY.** The Courts (or their designee), consistent with applicable laws, rules and standards, shall determine the eligibility of any particular person for assistance by Investigator under this Agreement. Investigator is under no obligation to determine a person's eligibility or continuing eligibility to receive publicly-provided assistance. However, if Investigator is assigned to provide services to a person and subsequently discovers that such person may not be eligible to receive publicly-provided assistance under applicable laws, rules and standards, Investigator, if able to do so within the bounds of ethical rules and professional standards applicable to investigators, shall promptly provide the public defense attorney(s) representing the person with such information.

8. **CONFLICTS.** Notwithstanding any other terms or provisions contained in this Agreement to the contrary, Investigator shall not be required to accept, and Investigator shall decline to accept, an assignment under this Agreement if the particular assignment would create a true and bona fide conflict of interest for Investigator or would

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otherwise cause or constitute an actual violation of any generally recognized ethical or professional standards common and applicable to investigators in the state of Washington. Furthermore, in the event a true and bona fide conflict of interest arises subsequent to Investigator receiving an assignment under this Agreement (or in the event Investigator's continued involvement in a pending assigned case would cause or constitute an actual violation of any such ethical or professional standards), Investigator shall immediately make the public defense attorney(s) representing the affected indigent person aware of such development for purposes of the attorney(s) taking immediate action to pursue the assignment of another investigator.

9. **COMPENSATION AND REIMBURSEMENT.**

a. As full and exclusive compensation for Investigator's performance and rendering of independent professional investigative services hereunder, Investigator shall be compensated as provided in Exhibit B.

b. Payment of such compensation is based on time expended on the case by Investigator only. Time expended by other persons (including, without limitation, Investigator's support staff or associate investigators) on a case at Investigator's request or direction shall be part of Investigator's business overhead and shall not be billable to the County.

c. Investigator acknowledges and agrees that Investigator shall not be entitled to claim or receive any reimbursement/payment from the County for any business or office-related overhead costs or expenses incurred by Investigator during the course of rendering services under this Agreement (including, without limitation, costs and expenses associated with Investigator's office, office staff, office equipment/facilities, and/or other office-related resources). The County recognizes, however, that in certain circumstances the need may arise for Investigator to incur certain types of out-of-pocket expenses directly related to an indigent person's case such as costs of out-of-area travel, meals and lodging.

(i) Investigator shall be entitled to receive reimbursement for the actual cost of such out-of-pocket expenditures provided that, however, Investigator shall not incur any such expense nor shall Investigator be entitled to be reimbursed for any such expense unless such expense has been pre-approved as necessary and reasonable by the PDM in accordance with applicable rules, procedures, and standards. Such authorization shall state and provide a specific dollar amount for the requested and authorized expenditure; provided that, in the event it is not reasonably possible to state and provide a specific dollar amount for a particular requested expenditure, such authorization may nevertheless provide approval for the expenditure but shall establish and set forth a maximum dollar expenditure amount. In regard to any reimbursement to Investigator for any approved expenditures and costs pertaining to case-related out-of-area travel, meals, and lodging, any reimbursement to Investigator for such expenditures and costs shall not exceed the amounts

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that are set forth in the Federal General Services Administration ("GSA") reimbursement schedule existing for the locality (if applicable) and period of time when the costs are accrued.

(ii) Without limiting or expanding the preceding provisions of this paragraph 9, Investigator shall be reimbursed only for Investigator's vehicle mileage outside of the Tri-Cities (i.e., outside of the city limits of the Cities of Kennewick, Richland, West Richland and Pasco) accrued while directly engaged in investigations under this Agreement. The rate of such reimbursement shall be equivalent to the rate published by the GSA for the locality (if applicable) and period of time when the mileage is accrued. Such vehicle mileage shall be reimbursed only one time to Investigator, and Investigator shall not attempt to seek duplicative or excessive reimbursement for mileage accrued while simultaneously rendering services on more than one case (e.g., if Investigator accrues 10 miles to travel to a particular location to interview witnesses involved in two separate cases assigned to Investigator hereunder, Investigator shall only be reimbursed for that 10 miles, and not for 20 miles by attempting to claim reimbursement of 10 miles for each case). For such reimbursable case assignment travel, mileage shall be calculated beginning from the Benton County Justice Center in Kennewick to the location where the investigative services are actually rendered (e.g., witness's residence) utilizing and based on the most direct route over public roadways.

d. As a precondition to Investigator being paid the above-mentioned compensation and reimbursements for costs and expenses hereunder, Investigator shall submit a "Claim for Compensation" in such form as is prescribed by the PDM, including with such submission an invoice that descriptively sets forth and details the total number of hours (documented and stated in one-tenth ($1/10^{th}$) hour intervals) expended by Investigator on the case and that further describes and details the particular actions taken by Investigator on such case that correspond to such expended and billed hours including the date when such actions were taken (exercising appropriate discretion to protect client confidentiality given that such documents are matters of public record unless sealed by the court at the request of the defense attorney representing the client). **For purposes of these invoices, the subject of any field witnesses shall only be identified by their initials and city where the interview took place (no full names and no addresses). Provided, however, that Investigator shall retain information related to the full names of witnesses and addresses where interviews took place, in case an audit requires such information.**

(i) Investigator's administrative time expended to prepare, submit, and process Claims for Compensation shall not be billable to the County.

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(ii) All Claims for Compensation under this Agreement shall be subject to the PDM's review and approval for payment.

(iii) Investigator shall timely submit such Claims for Compensation within the half of the year designated by the Funding Approval Code unless another Funding Approval Code, designating another half-year, has been issued.

(iv) The cumulative sum of compensation and reimbursements being claimed shall be limited to the unclaimed expenditure limit stated in the written notice of assignment unless authorization for additional expenditure is requested and granted **prior to** providing the additional services that incur such additional expenditure. Investigator shall request Funding Approval for such additional expenditures by submitting a request using the on-line secure form provided by Benton County, and may proceed with the work once an additional Funding Approval Code has been received.

(v) Investigator should expect processing time for requests for authorization for additional expenditures of 2-3 business days. It is Investigator's responsibility to plan investigations and the submission of requests for authorization for additional expenditure in a manner that takes into account this anticipated processing lead time.

(vi) In situations of bona fide emergency, requests for authorization for additional expenditures may be submitted after additional services have been provided. However, the amount of services provided shall be limited to that amount which is essential to address the emergency, and a request for authorization for additional expenditure shall be submitted within 2 business days detailing and specifically describing the circumstances of the emergency. For purposes of this paragraph, the term "emergency" shall be defined as any situation where critically necessary investigative work, beyond what has already been authorized, must be completed within such a short timeframe that it is not possible to obtain authorization from the PDM in advance and the inability to complete such investigative work is reasonably likely to prejudice the rights of the indigent defendant whose criminal case Investigator is assigned to provide investigative services for.

(vii) If Investigator or Investigator's staff wish to make billing inquiries, such inquiries shall be made by email directed to such email address as the PDM designates for such purpose. Investigator should expect such emailed inquiries to be responded to within 3 business days. Repeated telephone contact with the PDM or the PDM's staff, for the sole purpose of making billing inquiries, shall constitute a breach of this Agreement.

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e. Claims for Compensation may be submitted throughout any given month. Properly submitted claims will be processed pursuant to existing OPD and County vendor invoice processing systems and paid accordingly. **All Claims for Compensation must be submitted electronically and sent to OPDClaims@co.benton.wa.us.**

f. The above-stated compensation to Investigator will immediately cease upon the termination of this Agreement on, or for any reason prior to, the termination date specified in paragraph 1 above. For example, if this Agreement is terminated effective May 31, 2022, the above referenced compensation to Investigator also would terminate as of such date, and Investigator would not be entitled to receive any further compensation from the County; provided that, Investigator would be entitled to receive any then-accrued and unpaid compensation for services rendered hereunder prior to such termination date; and further provided that Investigator may be entitled to receive compensation for continuing post-termination services provided pursuant to paragraph 6.a. above.

10. **INDEMNIFICATIONS AND HOLD HARMLESS.** Investigator agrees to and shall fully indemnify the County and their elected/appointed representatives, officers, employees, and agents; and to hold the County and their elected/appointed representatives, officers, employees, and agents fully harmless; from and for any and all losses, damages, costs, charges, claims, demands, suits, or actions of whatsoever nature directly or indirectly arising out of or by reason of Investigator's (or any person, employee, agent, contractor, or entity acting for or on behalf of Investigator or at Investigator's request or direction) acts, defaults, errors and/or omissions of whatsoever nature in the performance of investigative services for any person under this Agreement. In the event any suit or legal proceeding is brought against the County or any of their elected/appointed representatives, officers, employees or agents at any time on account of or by reason of any such acts, defaults, errors and/or omissions, Investigator hereby covenants and agrees to assume the defense thereof (through counsel acceptable to the County) and to defend the same at Investigator's sole cost and expense and to pay any and all costs, charges, attorneys' fees, and other expenses as well as any and all judgments or awards that may be incurred by or entered against the County or any of its elected/appointed representatives, officers, employees or agents in such suits or other legal proceedings. Without limiting the intended broad scope and application of the indemnification and hold harmless provisions of this paragraph, for purposes of this paragraph, Investigator waives, with respect to the County only, any immunity that would otherwise be available to Investigator under the Industrial Insurance Act provisions of Title 51 RCW or any other similar workers/employee disability or benefit law. The indemnification and hold harmless provisions of this paragraph shall survive the termination or expiration of this Agreement.

11. **INSURANCE.**

a. Investigator shall obtain and maintain, at Investigator's sole cost and expense, a policy of Commercial General Liability insurance (including

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Endorsement Form CG2011 and Contractual Liability coverage) in the amount of not less than $1,000,000.00 per occurrence nor less than $2,000,000.00 in the aggregate during the policy term. Additionally, if Investigator is an employer, Investigator shall obtain and maintain, at Investigator's sole cost and expense, a policy of Statutory Workers Compensation and Employers Liability/Stop Gap insurance in the amount of not less than $1,000,000.00.

(i) The policy of Commercial General Liability insurance shall be written on an occurrence basis; shall name the County, the Courts, and the County's elected/appointed representatives, officers, employees and agents as additional insureds; shall be primary coverage for both defense and indemnity and non-contributory with any insurance coverage maintained by the County; and shall provide for waiver of subrogation rights as to the County.

(ii) The insurance policies required by this paragraph 11.a shall require that the insurance company provide the County with no less than thirty (30) days prior written notice in the event the policy is cancelled or materially altered; shall comply with all applicable state of Washington insurance requirements; and shall be issued by an insurance company rated A- or better by A.M. Best authorized to conduct business and issue insurance in the state of Washington.

(iii) Investigator shall continuously maintain the insurance coverage required by this paragraph 11.a throughout the entire term of this Agreement and throughout any other longer time period during which Investigator is obligated to continue performing services and duties hereunder.

b. Investigator shall also obtain and maintain, at Investigator's sole cost and expense, a policy of professional liability or errors and omissions insurance suitable for Investigator's profession, in the amount of no less than $1,000,000.00 per claim nor less than $2,000,000.00 in the aggregate during the policy term and with a maximum deductible of not more than $10,000.00.

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

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(iii) Investigator shall continuously maintain the professional liability insurance coverage required by this paragraph 11.b throughout the entire term of this Agreement, throughout any other longer time period during which Investigator is obligated to continue performing services and duties hereunder, and for a period of no less than thirty-six (36) consecutive months after Investigator has fully completed all services and duties required hereunder.

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

12. **TERMINATION.**

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

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

13. **INDEPENDENT CONTRACTOR.** Investigator fully understands, acknowledges, and agrees that Investigator shall not be an agent, representative, or employee of the County or the Courts for any type of purpose or situation whatsoever (including, without limitation, for purposes of any type of wage, hours/overtime, workers/industrial insurance compensation, unemployment, fair labor, and/or employee benefit/leave laws, disability act coverage or rules, and/or regulations) and that Investigator, as of the date of this Agreement and throughout its entire term, is and will always be acting and operating as a fully independent contractor. In that regard, strictly subject to Investigator's duties, responsibilities and obligations imposed under this Agreement, Investigator shall have sole and absolute discretion using Investigator's best professional judgment to determine the manner and means of providing the investigative

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services required under this Agreement; and neither the County, the PDM, nor the Courts shall have any authority or duty to directly control the actual performance of Investigator's services hereunder.

14. **NON-ASSIGNMENT; MILITARY LEAVE.** Investigator shall not allow or arrange for any other person to perform any of the services required by this Agreement, nor shall Investigator assign, subcontract out, or otherwise delegate any of Investigator's rights, responsibilities, or obligations under this Agreement. In the event Investigator is called up for active military duty or for direct civilian support of active military operations, Investigator shall provide the County and the PDM with written notice of such event within five (5) business days of Investigator being called up so that the PDM and Investigator can coordinate and arrange for an appropriate substitute to handle Investigator's duties under this Agreement while Investigator is on military leave and any reasonable back-to-civilian-life transition time requested by Investigator upon return. Investigator shall receive no compensation under this Agreement while on leave or during any such transition time.

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

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

17. **CAPTIONS; TIME COMPUTATION.**

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

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

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

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

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

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

22. **DISPUTE RESOLUTION.**

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

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

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prevailing party in such suit or action shall be entitled to recover such party's reasonable attorneys' fees, costs and expenses from the other party.

23. **NOTICES.**

a. Any notices required or permitted to be given by Investigator to the County under this Agreement shall be in writing and shall be either personally delivered to the County's PDM at his below-stated office address; mailed to the County's PDM at his below-stated office address via certified U.S. mail, postage prepaid; or emailed to the County's PDM at the below-stated official email address for notices:

Public Defense Manager
Benton Office of Public Defense
7122 West Okanogan Place, Ste #A220
Kennewick, WA 99336

opd@co.benton.wa.us

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

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

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

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

BENTON COUNTY

Date_____

Chairman of the Board

Chair Pro Tem

Commissioner

Constituting the Board of County Commissioners for Benton County Washington

Attest:

Clerk of the Board

Approved as to Form and Content

DocuSigned by:
Charlie Dow
D3E112CD2A594A6...

Charles Dow
Public Defense Manager

ATTORNEY

Date 12/19/2023

DocuSigned by:
Abel Campos
25F81EB99E7C498...

Abel Campos, PI #3697

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EXHIBIT A - SCOPE OF SERVICES

Investigator shall provide, as assigned and approved on a case-by-case basis, professional quality criminal defense investigation services to defense attorneys assigned to represent indigent defendants with criminal cases pending in Benton County Superior Court (including its Juvenile Division) and Benton County District Court.

The services to be provided under this agreement may include, but are not limited to:

- Attempting to locate witnesses
- Interviewing witnesses
- Interviewing victims
- Researching the criminal history or backgrounds of witnesses or victims
- Conducting surveillance of witnesses
- Diagramming crime scenes or other locations associated with a criminal case
- Photographing items, locations, persons or anything else relevant to defense of a criminal case
- Cataloging and tracking evidence (only permitted in cases with large amounts of evidence)
- Serving subpoenas

Investigator may provide, as assigned, and only if Investigator elects to do so, subpoena service. Provided, however, that the maximum compensation for such subpoena services shall be as stated in Exhibit B – Compensation.

Absent **specific written instruction to do so from BCOPD**, Investigator shall not be compensated for any of the following services:

(e) “Evaluating” any legal document including search warrants
(f) Reviewing police reports or any other discovery for purposes of evaluating their sufficiency or for the purposes of determining what, if any, investigation needs to be done
(g) Spending time at any hearing or trial except when appearing for the purpose of testifying as a witness
(h) Appearing at or waiting during any criminal pre-trial docket

Furthermore, Investigator shall not arrange for or bill for, the services of third-party experts since these experts are to be coordinated through the attorney of record with authorization from BCOPD. Experts include, but are not limited to:

- Polygraph examiners
- DNA, fingerprint, firearms experts

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- Experts on the identification of substances including controlled substances
- Handwriting or document analysis experts
- Arson experts

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EXHIBIT B – COMPENSATION

Service	Rate	Comments
Investigator time	$70 per hour	Must be billed in increments of 1/10th of an hour together with date and description of services rendered.
Mileage	Published US GSA rate	Only for investigations outside of Tri-Cities area. Starts from the Benton County Courthouse.
Standard locate	$75 per locate	For locating addresses using subscription database services
Background investigation	$50 each	Only for background investigations that involve more than a WATCH inquiry. WATCH inquiry cases are compensated on a reimbursement basis only
Case Agent/Expert Witness	$400 full day, $200 for any partial day	Contractors are not required to act as Case Agent to assist at trial as directed by assigned counsel, by may elect to do so if requested by assigned counsel and approved by OPD
Subpoena service	$50 each service for up to four attempts. Any additional attempts for same service shall collectively qualify for additional $50.	Contractors are not required to accept subpoenas for service, if Contractors do serve subpoenas, this is the maximum compensation for doing so. When the Contractor has been approved and appointed as Case Agent, the Contractor shall be the individual performing service of those subpoenas, which shall be compensated as indicated.
Video and photo DVD	$35 each, $10 for extra copies	With menu, ready for trial format.

DocuSign Envelope ID: 6957C6F7-5C43-49AD-839A-C3645423FACB

Photo CD	$10 each	
Photocopies	$0.18 per page	
Notary public services	$10 (or statutory maximum, whichever is higher) for each document, record, or instrument	
Interview Cancellation Fee	$70 per hour of scheduled interview(s) cancelled by the State, or for any part of an hour thereof	To claim this fee, investigator is to provide written notification of State's cancellation, and to provide at least 15 minutes grace to the State's witness scheduled to be interviewed

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EXHIBIT C – PRIOR AUTHORIZATIONS

Investigator shall seek prior authorization for expenditure and compensation as detailed in Paragraph 9(c)(i) of the Agreement.

However, in the interest of Investigators initiating assignments as quickly as possible, the following amounts shall be presumed authorized by the OPD Manager according to the most serve charge represented in the initial charging document (Compliant/Information) filed in the pending case. Assigned Investigator, and/or Attorney of Record, shall provide notice electronically to the OPD Manager of their engagement/assignment on every case at the following address:

OPDauthorizations@co.benton.wa.us.

Investigator and/or Attorney of Record shall provide the following case details for these prior authorizations to be valid:

- Defendant Name
- Attorney Name
- Investigator Name
- Cause Number
- Most Severe Charge Level

If all case details have been provided, Investigator does not need confirmation from the OPD Manager to initiate the assignment. Claims for compensation under these prior authorizations shall be submitted as outlined in the Agreement, and shall include the notification associated with that claim. Any notifications lacking these details may subject the claim to be denied at the discretion of the OPD Manager.

These prior authorizations apply to pending charges only, and do not apply in post-conviction/acquittal or appeal cases. Any expected expenditure above these prior authorized levels shall otherwise comply with the provisions in Paragraph 9(c)(i) and subject to prior authorization by the OPD Manager.

Misdemeanor (Non-DV)	$150
Gross Misdemeanor (Non-DV)	$200
Misdemeanor/Gross Misdemeanor (DV)	$300
Class C Felony (Non-DV/Sex Offense)	$400
Class C Felony (DV/Sex Offense)	$500
Class B Felony (Non DV/Sex Offense)	$1,000
Class B Felony (DV/Sex Offense)	$2,000
Class A Felony	$3,000

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	1/9/24
Subject:	Professional Services Agreement with Shane Morlan, dba Exhibit A Investigations, contract #BCINV2425SRM001
Presenter:	NA
Prepared By:	Denise Gerry
Reviewed By:	Charlie Dow

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

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

Summary / Background Information

Benton County OPD provides legally mandated public defense investigative services by way of professional service agreements with local private investigators. The current agreement with investigator Shane Morlan is scheduled to expire on December 31, 2023.

Fiscal Impact

General Fund - $70 per hour, plus other allowable expenses, premiums and fees as detailed in the professional services agreement.

Recommendation

Execute resolution approving the professional service agreement with investigator Shane Morlan.

Suggested Motion

Approve with consent agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF AWARDING A PROFESSIONAL SERVICES AGREEMENT WITH INVESTIGATOR SHANE MORLAN, DBA EXHIBIT A INVESTIGATIONS, CONTRACT #BCINV2425SRM001, TO PROVIDE PUBLIC DEFENSE INVESTIGATION SERVICES IN BENTON COUNTY SUPERIOR AND DISTRICT COURT FOR PUBLIC DEFENSE CASES

WHEREAS, Benton County ("County") is obligated by law to provide defense investigation services to support public defense cases in Benton County Superior and District Court cases ("Services"); and

WHEREAS, County currently contracts with, among others, investigator Shane Morlan, dba Exhibit A Investigations ("Investigator") to provide Services and the agreement with Investigator is set to expire on December 31, 2023; and

WHEREAS, County is generally satisfied with the Services as rendered by Investigator and therefore is offering Investigator a renewal contract for Services; and

WHEREAS, a proposed public defense investigation contract with investigator Shane Morlan for Services is presented for execution by the Board of Commissioners; **NOW, THEREFORE**

BE IT RESOLVED that the Board of Benton County Commissioners, Benton County, Washington hereby approves the professional services agreement with investigator Shane Morlan, dba Exhibit A Investigations, contract #BCINV2425SRM001, to provide public defense investigation services in Benton County Superior and District Court for criminal public defense cases, for the time period from 01/01/24 through 12/31/25, for compensation not to exceed $70 per hour, plus other allowable expenses, premiums, and fees as detailed in the professional services agreement.

Dated this _____ day of _____ 20 _____

_____
Chairman of the Board

_____
Chairman Pro Tem

_____
Commissioner

Constituting the Board of Commissioners
of Benton County, Washington

Attest: _____
Clerk of the Board

cc: Originals – OPD, Shane Morlan, dba Exhibit A Investigations C Dow
Copy – Auditor, S Godinez

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PROFESSIONAL SERVICES AGREEMENT TO PROVIDE INVESTIGATIVE SERVICES FOR INDIGENT PERSONS CHARGED WITH CRIMES IN BENTON COUNTY DISTRICT AND SUPERIOR COURTS BCINV2425SRM001

CONTRACT SUMMARY			
Contract Type	**Investigator**		
Contract Number	**BCINV2425SRM001**	**Contract Holder**	**Shane R Morlan**
License #	**4731**	**Effective Dates**	**January 1, 2024 – December 31, 2025**
Compensation	**$70 per hour base** **See Exhibit "B" for other itemized rates**		
Compensation Payable To:	**Exhibit A Investigations**		

THIS AGREEMENT is entered into by and between **Shane R Morlan,** Washington State Investigator's License **#4731** ("Investigator") **dba Exhibit A Investigations,** and **BENTON COUNTY,** a Washington political subdivision ("County"), for and on behalf of the Benton County Superior Court and Benton County District Court ("Courts").

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

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

B. Investigator is licensed in the state of Washington to engage in the business of providing private investigative services, has direct experience in investigating cases involving persons charged with criminal offenses, and desires to contract with the County to provide such services to indigent persons subject to criminal charges in the State and local Courts of County.

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

1. **AGREEMENT TERM.** This Agreement shall be deemed effective for all purposes as of **January 1, 2024**, and shall continue thereafter through and including **December 31, 2025**, unless earlier terminated pursuant to the applicable terms and provisions of this Agreement.

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2. **INVESTIGATOR'S OFFICE LOCATION.**

a. Investigator presently and regularly maintains an office adequate and appropriate for the business of providing private investigative services at **6 E Alder St, Ste 418, Walla Walla, WA 99362.** Investigator's current local office telephone is **509-855-8271;** and Investigator's current office/work e-mail address is **shane@harringtonpi.com. This is and shall be the official email for Investigator (until changed as provided by the terms of this Agreement) to receive any and all communications from County and County's Office of Public Defense, including, but not limited to the following:**

a) Case assignments and related matters

b) Contract compliance notifications and reminders

c) Official contract related notices

b. Throughout the entire term of this Agreement, Investigator shall continue to maintain such an office, such telephone and fax numbers, and such e-mail address; provided that, however, Investigator may relocate Investigator's office to another location within the greater Tri-Cities, Washington, area and/or Investigator may change Investigator's telephone/fax number to another greater Tri-Cities-area local telephone/fax number, and/or Investigator may change Investigator's e-mail address, provided that Investigator must provide immediate written notice of such change(s) to the Benton County Public Defense Manager ("PDM").

c. The County prefers that Investigator locate and maintain Investigator's office in a commercial/professional building. However, regardless of the location Investigator decides to maintain his/her office, the office must be capable of accommodating confidential face-to-face meetings between Investigator and persons whom Investigator is assigned to assist under this Agreement, must be capable of regularly receiving mail, and must have adequate telephone service to facilitate and ensure prompt response to contact with or from such persons Investigator is assigned to assist hereunder.

3. **INVESTIGATOR'S QUALIFICATIONS.** Investigator acknowledges and agrees that the County has an obligation to provide competent and effective legal defense services to indigent persons subject to criminal proceedings in the Courts. Investigator shall perform all services hereunder in strict accordance with the usual skills and professional ethical standards exercised by investigators engaged in providing investigative services for persons accused of crimes in the state of Washington. Investigator acknowledges and agrees that Investigator has a fundamental duty and responsibility to effectively promote and protect the best interests and rights of all persons whom Investigator is assigned to assist under this Agreement.

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a. As of the date of this Agreement, Investigator represents and warrants that Investigator is unconditionally licensed to provide private investigative services either as a "Private Investigator" (RCW 18.165.010(11), or as a "Private Investigator Agency" (RCW 18.165.010(12)) within the state of Washington; has had at least one (1) year of direct experience in providing investigation services in criminal defense or criminal prosecution matters; has not been a party to an agreement to provide criminal defense-related investigative services that was terminated due to Investigator's conduct, errors, or omissions; has not been censured, admonished, or otherwise formally disciplined for past conduct or behavior as an investigator that would negatively reflect on Investigator's duty and ability to effectively and competently render services hereunder; and does not have any complaints or lawsuits filed and/or pending against him/her relating to, or arising from, Investigator's past conduct or behavior as an investigator. **If Investigator is not licensed as a Private investigator Agency as defined in RCW 18.165.010(12), then Investigator shall be employed by a Private Investigator Agency, licensed and in good standing in the State of Washington, and a principal from said Private Investigator Agency shall execute the certificate on the signature page of this Agreement, confirming such employment and supervision, and ratifying this Agreement on behalf of the Agency.**

(i) This Agreement will be subject to review and, if applicable and/or necessary, further action pursuant to paragraph 12 below in the event that Investigator's license to provide investigative services in Washington is revoked or otherwise limited or restricted in any manner.

(ii) Investigator shall notify the County and the PDM within three (3) business days if any event specified in paragraph 3.a.(i) above occurs.

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

c. During each calendar year of the term of this Agreement Investigator shall be required to pursue and participate in such training, education, and/or other applicable actions required to maintain Investigator's license to provide investigative services within Washington in full force and effect; and Investigator shall provide the PDM with written proof and confirmation that such requirements have been met no later than December 31st of each calendar year.

d. Investigator represents and warrants that, throughout the entire term of this Agreement, Investigator's client caseload on matters outside of this Agreement; Investigator's schedule; and Investigator's office resources, equipment, and support staff; will allow Investigator to competently undertake and

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effectively perform all services required under this Agreement. Investigator represents and warrants that Investigator's client caseload and schedule outside this Agreement will not interfere with Investigator's ability to timely and efficiently perform services under this Agreement.

4. **OTHER INVESTIGATIVE SERVICES AGREEMENTS.** On or about the date of this Agreement, the County contemplates entering into separate and independent investigative services agreements with other licensed investigators to provide investigative services to persons accused of crimes in the Courts. Investigator agrees to fully cooperate and coordinate with such other investigators, the Courts, and the PDM to establish a process to effectuate the efficient and equitable distribution of clients and cases requiring investigative services. The PDM shall have the inherent discretion and authority to monitor and control (and reasonably modify/change) such process.

5. **CASE ASSIGNMENTS.** During the term of this Agreement, Investigator agrees to and shall accept assignments from the PDM to provide investigative services for indigent persons (regardless of their race, color, national origin, age, sex, marital status, sexual orientation, handicap/disability, personal background, creed, or political or religious affiliation) on any matter in the Courts in which publicly-provided legal defense services are furnished or required by law. For each case assigned hereunder, Investigator shall provide investigative services as further described in **"Exhibit A"** to this Agreement. Specifically, Investigator shall provide criminal defense investigative services of the same quality as Investigator provides to private clients.

Optional: Investigator may accept subpoena-service assignments by public defenders employed or contracted with the Benton County Office of Public Defense at the rate stated in Exhibit B and on the terms contained in Section 5 d. if Investigator indicates the following availability to serve subpoenas:

- **Investigator is available to service subpoenas:** Yes

a. Individual case assignments for cases other than Class A felonies, persistent offender cases, or homicide cases, shall be made by the PDM utilizing the following procedure:

(i) Upon determining that a case needs an investigator assigned, the public defense attorney of record will contact the PDM, request an investigator, advise of the nature of the investigation, and request a particular investigative cost expenditure limit. The public defense attorney of record may also make a specific request for a particular investigator to be assigned.

(ii) Upon approval of the request for an investigator, if a specific request for a particular investigator has been made, then absent a conflict of interest or inability of that investigator to accept the appointment for any other reason (including vacation or other plans or workload issues) then the PDM will honor the request and assign the requested investigator.

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(iii) Upon approval of the request for an investigator, if a specific request for a particular investigator has not been made, the PDM will assign an investigator in his absolute and sole discretion, taking into consideration considerations including, but not limited to, workload equality, investigator skill, case complexity, investigator availability, economies of scale and efficiency.

b. Once an investigator has been assigned to a case, the PDM will provide written notice of the assignment to both the investigator and the public defense attorney of record. Investigator shall not commence any work until written notice of assignment has been received. Such written notice will contain an Funding Approval Code as well as an applicable maximum funding limit which shall constitute the maximum compensation and cost reimbursement payable to Investigator on the particular case unless additional expenditures are requested as provided in paragraph 9(d)(iv).The Funding Approval Code shall indicate the half-year to which it is assigned (for example second half of 2022) and, unless the Funding Approval is extended to another half-year period, (for example, in this case, to the first half of 2023), the work must be completed within the designated half-year period and billed within that half year or within 30 days of the end thereof.

c. Individual case assignments for Class A felonies, persistent offender cases, and homicide cases, shall be made by the PDM in consultation with the public defense attorney of record.

d. Individual subpoena service assignments or “stand-alone” subpoena service (i.e., service of subpoenas separate from investigative services on a case) will be made by the PDM utilizing the following procedure:

(i) Upon determining that subpoenas need to be served, the public defense attorney of record will contact the PDM and request approval to serve such subpoenas.

(ii) Upon approval of the request, the PDM will assign the service of the subpoenas to a server from a list of approved subpoena servers on a rotating basis. **Investigator may elect not to be on this list. As stated above, this Agreement does not obligate Investigator to accept “stand-alone” subpoena service assignments.**

(iii) Once the subpoena service has been assigned to a particular investigator, both the investigator and the public defense attorney of record will receive written notification of the assignment from the PDM, which notice shall constitute authorization for the investigator to proceed.

e. Service of subpoenas in conjunction with an assigned investigation does not need prior approval or authorization. However, compensation is limited to the amount stated in Exhibit B to this Agreement.

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f. In any case when Investigator has been assigned to a matter of any sort as provided herein, unless expressly excused by the public defense attorney of record, Investigator shall notify the PDM and decline the assignment if Investigator is unable, for any reason, to commence work on the case (which shall mean, at a minimum, meeting with the public defense attorney of record for a case briefing and reviewing discovery as necessary) within 72 hours of the assignment, not including weekends and official holidays recognized by the State of Washington.

6. **CONTINUED SERVICES.**

a. Investigator shall have a duty to timely and fully complete all cases assigned to Investigator under this Agreement. Without limitation in that regard, Investigator shall continue to provide investigative services for those persons whom Investigator was assigned to assist and whose case was not concluded prior to the effective date of termination of this Agreement for up to ninety (90) days following the effective date of termination. Investigator's obligation to continue providing post-termination services shall not in any way entitle Investigator to receive any additional compensation beyond the maximum investigative cost expenditure limit expressly specified in the written notice from the PDM authorizing Investigator's assignment to the case.

b. Investigator will be assigned to no new cases under this Agreement during the thirty (30) day period prior to its expiration date specified in paragraph 1 above if Investigator provides written notice to the County at least sixty (60) days prior to such termination date of Investigator's desire and intent to not pursue contracting with the County again to provide investigative services in the Courts after such expiration date. Investigator may belatedly provide such written notice at any time within said sixty (60) day time period, but the assignment of new cases to Investigator will not stop until thirty (30) days after the date such notice has been received by the County.

7. **CLIENT ELIGIBILITY.** The Courts (or their designee), consistent with applicable laws, rules and standards, shall determine the eligibility of any particular person for assistance by Investigator under this Agreement. Investigator is under no obligation to determine a person's eligibility or continuing eligibility to receive publicly-provided assistance. However, if Investigator is assigned to provide services to a person and subsequently discovers that such person may not be eligible to receive publicly-provided assistance under applicable laws, rules and standards, Investigator, if able to do so within the bounds of ethical rules and professional standards applicable to investigators, shall promptly provide the public defense attorney(s) representing the person with such information.

8. **CONFLICTS.** Notwithstanding any other terms or provisions contained in this Agreement to the contrary, Investigator shall not be required to accept, and Investigator shall decline to accept, an assignment under this Agreement if the particular assignment would create a true and bona fide conflict of interest for Investigator or would

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otherwise cause or constitute an actual violation of any generally recognized ethical or professional standards common and applicable to investigators in the state of Washington. Furthermore, in the event a true and bona fide conflict of interest arises subsequent to Investigator receiving an assignment under this Agreement (or in the event Investigator's continued involvement in a pending assigned case would cause or constitute an actual violation of any such ethical or professional standards), Investigator shall immediately make the public defense attorney(s) representing the affected indigent person aware of such development for purposes of the attorney(s) taking immediate action to pursue the assignment of another investigator.

9. **COMPENSATION AND REIMBURSEMENT.**

a. As full and exclusive compensation for Investigator's performance and rendering of independent professional investigative services hereunder, Investigator shall be compensated as provided in Exhibit B.

b. Payment of such compensation is based on time expended on the case by Investigator only. Time expended by other persons (including, without limitation, Investigator's support staff or associate investigators) on a case at Investigator's request or direction shall be part of Investigator's business overhead and shall not be billable to the County.

c. Investigator acknowledges and agrees that Investigator shall not be entitled to claim or receive any reimbursement/payment from the County for any business or office-related overhead costs or expenses incurred by Investigator during the course of rendering services under this Agreement (including, without limitation, costs and expenses associated with Investigator's office, office staff, office equipment/facilities, and/or other office-related resources). The County recognizes, however, that in certain circumstances the need may arise for Investigator to incur certain types of out-of-pocket expenses directly related to an indigent person's case such as costs of out-of-area travel, meals and lodging.

(i) Investigator shall be entitled to receive reimbursement for the actual cost of such out-of-pocket expenditures provided that, however, Investigator shall not incur any such expense nor shall Investigator be entitled to be reimbursed for any such expense unless such expense has been pre-approved as necessary and reasonable by the PDM in accordance with applicable rules, procedures, and standards. Such authorization shall state and provide a specific dollar amount for the requested and authorized expenditure; provided that, in the event it is not reasonably possible to state and provide a specific dollar amount for a particular requested expenditure, such authorization may nevertheless provide approval for the expenditure but shall establish and set forth a maximum dollar expenditure amount. In regard to any reimbursement to Investigator for any approved expenditures and costs pertaining to case-related out-of-area travel, meals, and lodging, any reimbursement to Investigator for such expenditures and costs shall not exceed the amounts

DocuSign Envelope ID: F0778F33-FDDB-4A31-A546-77316020FFA3

that are set forth in the Federal General Services Administration ("GSA") reimbursement schedule existing for the locality (if applicable) and period of time when the costs are accrued.

(ii) Without limiting or expanding the preceding provisions of this paragraph 9, Investigator shall be reimbursed only for Investigator's vehicle mileage outside of the Tri-Cities (i.e., outside of the city limits of the Cities of Kennewick, Richland, West Richland and Pasco) accrued while directly engaged in investigations under this Agreement. The rate of such reimbursement shall be equivalent to the rate published by the GSA for the locality (if applicable) and period of time when the mileage is accrued. Such vehicle mileage shall be reimbursed only one time to Investigator, and Investigator shall not attempt to seek duplicative or excessive reimbursement for mileage accrued while simultaneously rendering services on more than one case (e.g., if Investigator accrues 10 miles to travel to a particular location to interview witnesses involved in two separate cases assigned to Investigator hereunder, Investigator shall only be reimbursed for that 10 miles, and not for 20 miles by attempting to claim reimbursement of 10 miles for each case). For such reimbursable case assignment travel, mileage shall be calculated beginning from the Benton County Justice Center in Kennewick to the location where the investigative services are actually rendered (e.g., witness's residence) utilizing and based on the most direct route over public roadways.

d. As a precondition to Investigator being paid the above-mentioned compensation and reimbursements for costs and expenses hereunder, Investigator shall submit a "Claim for Compensation" in such form as is prescribed by the PDM, including with such submission an invoice that descriptively sets forth and details the total number of hours (documented and stated in one-tenth ($1/10^{th}$) hour intervals) expended by Investigator on the case and that further describes and details the particular actions taken by Investigator on such case that correspond to such expended and billed hours including the date when such actions were taken (exercising appropriate discretion to protect client confidentiality given that such documents are matters of public record unless sealed by the court at the request of the defense attorney representing the client). **For purposes of these invoices, the subject of any field witnesses shall only be identified by their initials and city where the interview took place (no full names and no addresses). Provided, however, that Investigator shall retain information related to the full names of witnesses and addresses where interviews took place, in case an audit requires such information.**

(i) Investigator's administrative time expended to prepare, submit, and process Claims for Compensation shall not be billable to the County.

DocuSign Envelope ID: F0778F33-FDDB-4A31-A546-77316020FFA3

(ii) All Claims for Compensation under this Agreement shall be subject to the PDM's review and approval for payment.

(iii) Investigator shall timely submit such Claims for Compensation within the half of the year designated by the Funding Approval Code unless another Funding Approval Code, designating another half-year, has been issued.

(iv) The cumulative sum of compensation and reimbursements being claimed shall be limited to the unclaimed expenditure limit stated in the written notice of assignment unless authorization for additional expenditure is requested and granted **prior to** providing the additional services that incur such additional expenditure. Investigator shall request Funding Approval for such additional expenditures by submitting a request using the on-line secure form provided by Benton County, and may proceed with the work once an additional Funding Approval Code has been received.

(v) Investigator should expect processing time for requests for authorization for additional expenditures of 2-3 business days. It is Investigator's responsibility to plan investigations and the submission of requests for authorization for additional expenditure in a manner that takes into account this anticipated processing lead time.

(vi) In situations of bona fide emergency, requests for authorization for additional expenditures may be submitted after additional services have been provided. However, the amount of services provided shall be limited to that amount which is essential to address the emergency, and a request for authorization for additional expenditure shall be submitted within 2 business days detailing and specifically describing the circumstances of the emergency. For purposes of this paragraph, the term "emergency" shall be defined as any situation where critically necessary investigative work, beyond what has already been authorized, must be completed within such a short timeframe that it is not possible to obtain authorization from the PDM in advance and the inability to complete such investigative work is reasonably likely to prejudice the rights of the indigent defendant whose criminal case Investigator is assigned to provide investigative services for.

(vii) If Investigator or Investigator's staff wish to make billing inquiries, such inquiries shall be made by email directed to such email address as the PDM designates for such purpose. Investigator should expect such emailed inquiries to be responded to within 3 business days. Repeated telephone contact with the PDM or the PDM's staff, for the sole purpose of making billing inquiries, shall constitute a breach of this Agreement.

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e. Claims for Compensation may be submitted throughout any given month. Properly submitted claims will be processed pursuant to existing OPD and County vendor invoice processing systems and paid accordingly. **All Claims for Compensation must be submitted electronically and sent to OPDClaims@co.benton.wa.us.**

f. The above-stated compensation to Investigator will immediately cease upon the termination of this Agreement on, or for any reason prior to, the termination date specified in paragraph 1 above. For example, if this Agreement is terminated effective May 31, 2022, the above referenced compensation to Investigator also would terminate as of such date, and Investigator would not be entitled to receive any further compensation from the County; provided that, Investigator would be entitled to receive any then-accrued and unpaid compensation for services rendered hereunder prior to such termination date; and further provided that Investigator may be entitled to receive compensation for continuing post-termination services provided pursuant to paragraph 6.a. above.

10. **INDEMNIFICATIONS AND HOLD HARMLESS.** Investigator agrees to and shall fully indemnify the County and their elected/appointed representatives, officers, employees, and agents; and to hold the County and their elected/appointed representatives, officers, employees, and agents fully harmless; from and for any and all losses, damages, costs, charges, claims, demands, suits, or actions of whatsoever nature directly or indirectly arising out of or by reason of Investigator's (or any person, employee, agent, contractor, or entity acting for or on behalf of Investigator or at Investigator's request or direction) acts, defaults, errors and/or omissions of whatsoever nature in the performance of investigative services for any person under this Agreement. In the event any suit or legal proceeding is brought against the County or any of their elected/appointed representatives, officers, employees or agents at any time on account of or by reason of any such acts, defaults, errors and/or omissions, Investigator hereby covenants and agrees to assume the defense thereof (through counsel acceptable to the County) and to defend the same at Investigator's sole cost and expense and to pay any and all costs, charges, attorneys' fees, and other expenses as well as any and all judgments or awards that may be incurred by or entered against the County or any of its elected/appointed representatives, officers, employees or agents in such suits or other legal proceedings. Without limiting the intended broad scope and application of the indemnification and hold harmless provisions of this paragraph, for purposes of this paragraph, Investigator waives, with respect to the County only, any immunity that would otherwise be available to Investigator under the Industrial Insurance Act provisions of Title 51 RCW or any other similar workers/employee disability or benefit law. The indemnification and hold harmless provisions of this paragraph shall survive the termination or expiration of this Agreement.

11. **INSURANCE.**

a. Investigator shall obtain and maintain, at Investigator's sole cost and expense, a policy of Commercial General Liability insurance (including

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Endorsement Form CG2011 and Contractual Liability coverage) in the amount of not less than $1,000,000.00 per occurrence nor less than $2,000,000.00 in the aggregate during the policy term. Additionally, if Investigator is an employer, Investigator shall obtain and maintain, at Investigator's sole cost and expense, a policy of Statutory Workers Compensation and Employers Liability/Stop Gap insurance in the amount of not less than $1,000,000.00.

(i) The policy of Commercial General Liability insurance shall be written on an occurrence basis; shall name the County, the Courts, and the County's elected/appointed representatives, officers, employees and agents as additional insureds; shall be primary coverage for both defense and indemnity and non-contributory with any insurance coverage maintained by the County; and shall provide for waiver of subrogation rights as to the County.

(ii) The insurance policies required by this paragraph 11.a shall require that the insurance company provide the County with no less than thirty (30) days prior written notice in the event the policy is cancelled or materially altered; shall comply with all applicable state of Washington insurance requirements; and shall be issued by an insurance company rated A- or better by A.M. Best authorized to conduct business and issue insurance in the state of Washington.

(iii) Investigator shall continuously maintain the insurance coverage required by this paragraph 11.a throughout the entire term of this Agreement and throughout any other longer time period during which Investigator is obligated to continue performing services and duties hereunder.

b. Investigator shall also obtain and maintain, at Investigator's sole cost and expense, a policy of professional liability or errors and omissions insurance suitable for Investigator's profession, in the amount of no less than $1,000,000.00 per claim nor less than $2,000,000.00 in the aggregate during the policy term and with a maximum deductible of not more than $10,000.00.

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

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(iii) Investigator shall continuously maintain the professional liability insurance coverage required by this paragraph 11.b throughout the entire term of this Agreement, throughout any other longer time period during which Investigator is obligated to continue performing services and duties hereunder, and for a period of no less than thirty-six (36) consecutive months after Investigator has fully completed all services and duties required hereunder.

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

12. **TERMINATION.**

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

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

13. **INDEPENDENT CONTRACTOR.** Investigator fully understands, acknowledges, and agrees that Investigator shall not be an agent, representative, or employee of the County or the Courts for any type of purpose or situation whatsoever (including, without limitation, for purposes of any type of wage, hours/overtime, workers/industrial insurance compensation, unemployment, fair labor, and/or employee benefit/leave laws, disability act coverage or rules, and/or regulations) and that Investigator, as of the date of this Agreement and throughout its entire term, is and will always be acting and operating as a fully independent contractor. In that regard, strictly subject to Investigator's duties, responsibilities and obligations imposed under this Agreement, Investigator shall have sole and absolute discretion using Investigator's best professional judgment to determine the manner and means of providing the investigative

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services required under this Agreement; and neither the County, the PDM, nor the Courts shall have any authority or duty to directly control the actual performance of Investigator's services hereunder.

14. **NON-ASSIGNMENT; MILITARY LEAVE.** Investigator shall not allow or arrange for any other person to perform any of the services required by this Agreement, nor shall Investigator assign, subcontract out, or otherwise delegate any of Investigator's rights, responsibilities, or obligations under this Agreement. In the event Investigator is called up for active military duty or for direct civilian support of active military operations, Investigator shall provide the County and the PDM with written notice of such event within five (5) business days of Investigator being called up so that the PDM and Investigator can coordinate and arrange for an appropriate substitute to handle Investigator's duties under this Agreement while Investigator is on military leave and any reasonable back-to-civilian-life transition time requested by Investigator upon return. Investigator shall receive no compensation under this Agreement while on leave or during any such transition time.

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

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

17. **CAPTIONS; TIME COMPUTATION.**

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

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

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

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

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

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

22. **DISPUTE RESOLUTION.**

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

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

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prevailing party in such suit or action shall be entitled to recover such party's reasonable attorneys' fees, costs and expenses from the other party.

23. **NOTICES.**

a. Any notices required or permitted to be given by Investigator to the County under this Agreement shall be in writing and shall be either personally delivered to the County's PDM at his below-stated office address; mailed to the County's PDM at his below-stated office address via certified U.S. mail, postage prepaid; or emailed to the County's PDM at the below-stated official email address for notices:

Public Defense Manager
Benton Office of Public Defense
7122 West Okanogan Place, Ste #A220
Kennewick, WA 99336

opd@co.benton.wa.us

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

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

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

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

BENTON COUNTY

Date_____

Chairman of the Board

Chair Pro Tem

Commissioner

Constituting the Board of County Commissioners for Benton County Washington

Attest:

Clerk of the Board

ATTORNEY

Date 12/19/2023

DocuSigned by:

C08A0806D665438...

Shane R Morlan, PI #4731

Approved as to Form and Content

DocuSigned by:

Charlie Dow

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Charles Dow
Public Defense Manager

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EXHIBIT A - SCOPE OF SERVICES

Investigator shall provide, as assigned and approved on a case-by-case basis, professional quality criminal defense investigation services to defense attorneys assigned to represent indigent defendants with criminal cases pending in Benton County Superior Court (including its Juvenile Division) and Benton County District Court.

The services to be provided under this agreement may include, but are not limited to:

- Attempting to locate witnesses
- Interviewing witnesses
- Interviewing victims
- Researching the criminal history or backgrounds of witnesses or victims
- Conducting surveillance of witnesses
- Diagramming crime scenes or other locations associated with a criminal case
- Photographing items, locations, persons or anything else relevant to defense of a criminal case
- Cataloging and tracking evidence (only permitted in cases with large amounts of evidence)
- Serving subpoenas

Investigator may provide, as assigned, and only if Investigator elects to do so, subpoena service. Provided, however, that the maximum compensation for such subpoena services shall be as stated in Exhibit B – Compensation.

Absent **specific written instruction to do so from BCOPD**, Investigator shall not be compensated for any of the following services:

(e) “Evaluating” any legal document including search warrants
(f) Reviewing police reports or any other discovery for purposes of evaluating their sufficiency or for the purposes of determining what, if any, investigation needs to be done
(g) Spending time at any hearing or trial except when appearing for the purpose of testifying as a witness
(h) Appearing at or waiting during any criminal pre-trial docket

Furthermore, Investigator shall not arrange for or bill for, the services of third-party experts since these experts are to be coordinated through the attorney of record with authorization from BCOPD. Experts include, but are not limited to:

- Polygraph examiners
- DNA, fingerprint, firearms experts

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- Experts on the identification of substances including controlled substances
- Handwriting or document analysis experts
- Arson experts

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EXHIBIT B – COMPENSATION

Service	Rate	Comments
Investigator time	$70 per hour	Must be billed in increments of 1/10th of an hour together with date and description of services rendered.
Mileage	Published US GSA rate	Only for investigations outside of Tri-Cities area. Starts from the Benton County Courthouse.
Standard locate	$75 per locate	For locating addresses using subscription database services
Background investigation	$50 each	Only for background investigations that involve more than a WATCH inquiry. WATCH inquiry cases are compensated on a reimbursement basis only
Case Agent/Expert Witness	$400 full day, $200 for any partial day	Contractors are not required to act as Case Agent to assist at trial as directed by assigned counsel, by may elect to do so if requested by assigned counsel and approved by OPD
Subpoena service	$50 each service for up to four attempts. Any additional attempts for same service shall collectively qualify for additional $50.	Contractors are not required to accept subpoenas for service, if Contractors do serve subpoenas, this is the maximum compensation for doing so. When the Contractor has been approved and appointed as Case Agent, the Contractor shall be the individual performing service of those subpoenas, which shall be compensated as indicated.
Video and photo DVD	$35 each, $10 for extra copies	With menu, ready for trial format.

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Photo CD	$10 each	
Photocopies	$0.18 per page	
Notary public services	$10 (or statutory maximum, whichever is higher) for each document, record, or instrument	
Interview Cancellation Fee	$70 per hour of scheduled interview(s) cancelled by the State, or for any part of an hour thereof	To claim this fee, investigator is to provide written notification of State's cancellation, and to provide at least 15 minutes grace to the State's witness scheduled to be interviewed

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EXHIBIT C – PRIOR AUTHORIZATIONS

Investigator shall seek prior authorization for expenditure and compensation as detailed in Paragraph 9(c)(i) of the Agreement.

However, in the interest of Investigators initiating assignments as quickly as possible, the following amounts shall be presumed authorized by the OPD Manager according to the most serve charge represented in the initial charging document (Compliant/Information) filed in the pending case. Assigned Investigator, and/or Attorney of Record, shall provide notice electronically to the OPD Manager of their engagement/assignment on every case at the following address:

OPDauthorizations@co.benton.wa.us.

Investigator and/or Attorney of Record shall provide the following case details for these prior authorizations to be valid:

- Defendant Name
- Attorney Name
- Investigator Name
- Cause Number
- Most Severe Charge Level

If all case details have been provided, Investigator does not need confirmation from the OPD Manager to initiate the assignment. Claims for compensation under these prior authorizations shall be submitted as outlined in the Agreement, and shall include the notification associated with that claim. Any notifications lacking these details may subject the claim to be denied at the discretion of the OPD Manager.

These prior authorizations apply to pending charges only, and do not apply in post-conviction/acquittal or appeal cases. Any expected expenditure above these prior authorized levels shall otherwise comply with the provisions in Paragraph 9(c)(i) and subject to prior authorization by the OPD Manager.

Misdemeanor (Non-DV)	$150
Gross Misdemeanor (Non-DV)	$200
Misdemeanor/Gross Misdemeanor (DV)	$300
Class C Felony (Non-DV/Sex Offense)	$400
Class C Felony (DV/Sex Offense)	$500
Class B Felony (Non DV/Sex Offense)	$1,000
Class B Felony (DV/Sex Offense)	$2,000
Class A Felony	$3,000

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	1/9/24
Subject:	Professional Services Agreement with Shane Harrington, dba Harrington Investigations, PC, contract #BCINV2425SH001
Presenter:	NA
Prepared By:	Denise Gerry
Reviewed By:	Charlie Dow

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

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

Summary / Background Information

Benton County OPD provides legally mandated public defense investigative services by way of professional service agreements with local private investigators. The current agreement with investigator Shane Harrington is scheduled to expire on December 31, 2023.

Fiscal Impact

General Fund - $70 per hour, plus other allowable expenses, premiums and fees as detailed in the professional services agreement.

Recommendation

Execute resolution approving the professional service agreement with investigator Shane Harrington.

Suggested Motion

Approve with consent agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF AWARDING A PROFESSIONAL SERVICES AGREEMENT WITH INVESTIGATOR SHANE HARRINGTON, DBA HARRINGTON INVESTIGATIONS, PC, CONTRACT #BCINV2425SH001,TO PROVIDE PUBLIC DEFENSE INVESTIGATION SERVICES IN BENTON COUNTY SUPERIOR AND DISTRICT COURT FOR PUBLIC DEFENSE CASES

WHEREAS, Benton County ("County") is obligated by law to provide defense investigation services to support public defense cases in Benton County Superior and District Court cases ("Services"); and

WHEREAS, County currently contracts with, among others, investigator Shane Harrington, dba Harrington Investigations, PC ("Investigator") to provide Services and the agreement with Investigator is set to expire on December 31, 2023; and

WHEREAS, County is generally satisfied with the Services as rendered by Investigator and therefore is offering Investigator a renewal contract for Services; and

WHEREAS, a proposed public defense investigation contract with investigator Shane Harrington for Services is presented for execution by the Board of Commissioners; **NOW, THEREFORE**

BE IT RESOLVED that the Board of Benton County Commissioners, Benton County, Washington hereby approves the professional services agreement with investigator Shane Harrington, dba Harrington Investigations, PC, contract #BCINV2425SH001,to provide public defense investigation services in Benton County Superior and District Court for criminal public defense cases, for the time period from 01/01/24 through 12/31/25, for compensation not to exceed $70 per Hour, plus other allowable expenses, premiums, and fees as detailed in the professional services agreement.

Dated this _____ day of _____ 20 _____

_____
Chairman of the Board

_____
Chairman Pro Tem

_____
Commisioner

Constituting the Board of Commissioners
of Benton County, Washington

Attest: _____
Clerk of the Board

cc: Originals – OPD, Shane Harrington, dba Harrington Investigations, PC C Dow
Copy – Auditor, S Godinez

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PROFESSIONAL SERVICES AGREEMENT TO PROVIDE INVESTIGATIVE SERVICES FOR INDIGENT PERSONS CHARGED WITH CRIMES IN BENTON COUNTY DISTRICT AND SUPERIOR COURTS BCINV2425SH001

CONTRACT SUMMARY			
Contract Type	**Investigator**		
Contract Number	**BCINV2425SH001**	**Contract Holder**	**Shane Harrington**
License #	**3828**	**Effective Dates**	**January 1, 2024 – December 31, 2025**
Compensation	**$70 per hour base** **See Exhibit "B" for other itemized rates**		
Compensation Payable To:	**Harrington Investigations, PC**		

THIS AGREEMENT is entered into by and between **Shane Harrington,** Washington State Investigator's License **#3828** ("Investigator"), **dba Harrington Investigations, PC,** and **BENTON COUNTY,** a Washington political subdivision ("County"), for and on behalf of the Benton County Superior Court and Benton County District Court ("Courts").

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

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

B. Investigator is licensed in the state of Washington to engage in the business of providing private investigative services, has direct experience in investigating cases involving persons charged with criminal offenses, and desires to contract with the County to provide such services to indigent persons subject to criminal charges in the State and local Courts of County.

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

1. **AGREEMENT TERM.** This Agreement shall be deemed effective for all purposes as of **January 1, 2024**, and shall continue thereafter through and including **December 31, 2025**, unless earlier terminated pursuant to the applicable terms and provisions of this Agreement.

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2. **INVESTIGATOR'S OFFICE LOCATION.**

a. Investigator presently and regularly maintains an office adequate and appropriate for the business of providing private investigative services at **8350 W Grandridge Blvd., Ste 200, Kennewick, WA 993336.** Investigator's current local office telephone is **509-316-0852;** and Investigator's current office/work e-mail address is **shane@harringtonpi.com. This is and shall be the official email for Investigator (until changed as provided by the terms of this Agreement) to receive any and all communications from County and County's Office of Public Defense, including, but not limited to the following:**

a) Case assignments and related matters

b) Contract compliance notifications and reminders

c) Official contract related notices

b. Throughout the entire term of this Agreement, Investigator shall continue to maintain such an office, such telephone and fax numbers, and such e-mail address; provided that, however, Investigator may relocate Investigator's office to another location within the greater Tri-Cities, Washington, area and/or Investigator may change Investigator's telephone/fax number to another greater Tri-Cities-area local telephone/fax number, and/or Investigator may change Investigator's e-mail address, provided that Investigator must provide immediate written notice of such change(s) to the Benton County Public Defense Manager ("PDM").

c. The County prefers that Investigator locate and maintain Investigator's office in a commercial/professional building. However, regardless of the location Investigator decides to maintain his/her office, the office must be capable of accommodating confidential face-to-face meetings between Investigator and persons whom Investigator is assigned to assist under this Agreement, must be capable of regularly receiving mail, and must have adequate telephone service to facilitate and ensure prompt response to contact with or from such persons Investigator is assigned to assist hereunder.

3. **INVESTIGATOR'S QUALIFICATIONS.** Investigator acknowledges and agrees that the County has an obligation to provide competent and effective legal defense services to indigent persons subject to criminal proceedings in the Courts. Investigator shall perform all services hereunder in strict accordance with the usual skills and professional ethical standards exercised by investigators engaged in providing investigative services for persons accused of crimes in the state of Washington. Investigator acknowledges and agrees that Investigator has a fundamental duty and responsibility to effectively promote and protect the best interests and rights of all persons whom Investigator is assigned to assist under this Agreement.

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a. As of the date of this Agreement, Investigator represents and warrants that Investigator is unconditionally licensed to provide private investigative services either as a "Private Investigator" (RCW 18.165.010(11), or as a "Private Investigator Agency" (RCW 18.165.010(12)) within the state of Washington; has had at least one (1) year of direct experience in providing investigation services in criminal defense or criminal prosecution matters; has not been a party to an agreement to provide criminal defense-related investigative services that was terminated due to Investigator's conduct, errors, or omissions; has not been censured, admonished, or otherwise formally disciplined for past conduct or behavior as an investigator that would negatively reflect on Investigator's duty and ability to effectively and competently render services hereunder; and does not have any complaints or lawsuits filed and/or pending against him/her relating to, or arising from, Investigator's past conduct or behavior as an investigator. **If Investigator is not licensed as a Private investigator Agency as defined in RCW 18.165.010(12), then Investigator shall be employed by a Private Investigator Agency, licensed and in good standing in the State of Washington, and a principal from said Private Investigator Agency shall execute the certificate on the signature page of this Agreement, confirming such employment and supervision, and ratifying this Agreement on behalf of the Agency.**

(i) This Agreement will be subject to review and, if applicable and/or necessary, further action pursuant to paragraph 12 below in the event that Investigator's license to provide investigative services in Washington is revoked or otherwise limited or restricted in any manner.

(ii) Investigator shall notify the County and the PDM within three (3) business days if any event specified in paragraph 3.a.(i) above occurs.

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

c. During each calendar year of the term of this Agreement Investigator shall be required to pursue and participate in such training, education, and/or other applicable actions required to maintain Investigator's license to provide investigative services within Washington in full force and effect; and Investigator shall provide the PDM with written proof and confirmation that such requirements have been met no later than December 31st of each calendar year.

d. Investigator represents and warrants that, throughout the entire term of this Agreement, Investigator's client caseload on matters outside of this Agreement; Investigator's schedule; and Investigator's office resources, equipment, and support staff; will allow Investigator to competently undertake and

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effectively perform all services required under this Agreement. Investigator represents and warrants that Investigator's client caseload and schedule outside this Agreement will not interfere with Investigator's ability to timely and efficiently perform services under this Agreement.

4. **OTHER INVESTIGATIVE SERVICES AGREEMENTS.** On or about the date of this Agreement, the County contemplates entering into separate and independent investigative services agreements with other licensed investigators to provide investigative services to persons accused of crimes in the Courts. Investigator agrees to fully cooperate and coordinate with such other investigators, the Courts, and the PDM to establish a process to effectuate the efficient and equitable distribution of clients and cases requiring investigative services. The PDM shall have the inherent discretion and authority to monitor and control (and reasonably modify/change) such process.

5. **CASE ASSIGNMENTS.** During the term of this Agreement, Investigator agrees to and shall accept assignments from the PDM to provide investigative services for indigent persons (regardless of their race, color, national origin, age, sex, marital status, sexual orientation, handicap/disability, personal background, creed, or political or religious affiliation) on any matter in the Courts in which publicly-provided legal defense services are furnished or required by law. For each case assigned hereunder, Investigator shall provide investigative services as further described in **"Exhibit A"** to this Agreement. Specifically, Investigator shall provide criminal defense investigative services of the same quality as Investigator provides to private clients.

Optional: Investigator may accept subpoena-service assignments by public defenders employed or contracted with the Benton County Office of Public Defense at the rate stated in Exhibit B and on the terms contained in Section 5 d. if Investigator indicates the following availability to serve subpoenas:

- **Investigator is available to service subpoenas:** Yes

a. Individual case assignments for cases other than Class A felonies, persistent offender cases, or homicide cases, shall be made by the PDM utilizing the following procedure:

(i) Upon determining that a case needs an investigator assigned, the public defense attorney of record will contact the PDM, request an investigator, advise of the nature of the investigation, and request a particular investigative cost expenditure limit. The public defense attorney of record may also make a specific request for a particular investigator to be assigned.

(ii) Upon approval of the request for an investigator, if a specific request for a particular investigator has been made, then absent a conflict of interest or inability of that investigator to accept the appointment for any other reason (including vacation or other plans or workload issues) then the PDM will honor the request and assign the requested investigator.

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(iii) Upon approval of the request for an investigator, if a specific request for a particular investigator has not been made, the PDM will assign an investigator in his absolute and sole discretion, taking into consideration considerations including, but not limited to, workload equality, investigator skill, case complexity, investigator availability, economies of scale and efficiency.

b. Once an investigator has been assigned to a case, the PDM will provide written notice of the assignment to both the investigator and the public defense attorney of record. Investigator shall not commence any work until written notice of assignment has been received. Such written notice will contain an Funding Approval Code as well as an applicable maximum funding limit which shall constitute the maximum compensation and cost reimbursement payable to Investigator on the particular case unless additional expenditures are requested as provided in paragraph 9(d)(iv).The Funding Approval Code shall indicate the half-year to which it is assigned (for example second half of 2022) and, unless the Funding Approval is extended to another half-year period, (for example, in this case, to the first half of 2023), the work must be completed within the designated half-year period and billed within that half year or within 30 days of the end thereof.

c. Individual case assignments for Class A felonies, persistent offender cases, and homicide cases, shall be made by the PDM in consultation with the public defense attorney of record.

d. Individual subpoena service assignments or “stand-alone” subpoena service (i.e., service of subpoenas separate from investigative services on a case) will be made by the PDM utilizing the following procedure:

(i) Upon determining that subpoenas need to be served, the public defense attorney of record will contact the PDM and request approval to serve such subpoenas.

(ii) Upon approval of the request, the PDM will assign the service of the subpoenas to a server from a list of approved subpoena servers on a rotating basis. **Investigator may elect not to be on this list. As stated above, this Agreement does not obligate Investigator to accept “stand-alone” subpoena service assignments.**

(iii) Once the subpoena service has been assigned to a particular investigator, both the investigator and the public defense attorney of record will receive written notification of the assignment from the PDM, which notice shall constitute authorization for the investigator to proceed.

e. Service of subpoenas in conjunction with an assigned investigation does not need prior approval or authorization. However, compensation is limited to the amount stated in Exhibit B to this Agreement.

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f. In any case when Investigator has been assigned to a matter of any sort as provided herein, unless expressly excused by the public defense attorney of record, Investigator shall notify the PDM and decline the assignment if Investigator is unable, for any reason, to commence work on the case (which shall mean, at a minimum, meeting with the public defense attorney of record for a case briefing and reviewing discovery as necessary) within 72 hours of the assignment, not including weekends and official holidays recognized by the State of Washington.

6. **CONTINUED SERVICES.**

a. Investigator shall have a duty to timely and fully complete all cases assigned to Investigator under this Agreement. Without limitation in that regard, Investigator shall continue to provide investigative services for those persons whom Investigator was assigned to assist and whose case was not concluded prior to the effective date of termination of this Agreement for up to ninety (90) days following the effective date of termination. Investigator's obligation to continue providing post-termination services shall not in any way entitle Investigator to receive any additional compensation beyond the maximum investigative cost expenditure limit expressly specified in the written notice from the PDM authorizing Investigator's assignment to the case.

b. Investigator will be assigned to no new cases under this Agreement during the thirty (30) day period prior to its expiration date specified in paragraph 1 above if Investigator provides written notice to the County at least sixty (60) days prior to such termination date of Investigator's desire and intent to not pursue contracting with the County again to provide investigative services in the Courts after such expiration date. Investigator may belatedly provide such written notice at any time within said sixty (60) day time period, but the assignment of new cases to Investigator will not stop until thirty (30) days after the date such notice has been received by the County.

7. **CLIENT ELIGIBILITY.** The Courts (or their designee), consistent with applicable laws, rules and standards, shall determine the eligibility of any particular person for assistance by Investigator under this Agreement. Investigator is under no obligation to determine a person's eligibility or continuing eligibility to receive publicly-provided assistance. However, if Investigator is assigned to provide services to a person and subsequently discovers that such person may not be eligible to receive publicly-provided assistance under applicable laws, rules and standards, Investigator, if able to do so within the bounds of ethical rules and professional standards applicable to investigators, shall promptly provide the public defense attorney(s) representing the person with such information.

8. **CONFLICTS.** Notwithstanding any other terms or provisions contained in this Agreement to the contrary, Investigator shall not be required to accept, and Investigator shall decline to accept, an assignment under this Agreement if the particular assignment would create a true and bona fide conflict of interest for Investigator or would

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otherwise cause or constitute an actual violation of any generally recognized ethical or professional standards common and applicable to investigators in the state of Washington. Furthermore, in the event a true and bona fide conflict of interest arises subsequent to Investigator receiving an assignment under this Agreement (or in the event Investigator's continued involvement in a pending assigned case would cause or constitute an actual violation of any such ethical or professional standards), Investigator shall immediately make the public defense attorney(s) representing the affected indigent person aware of such development for purposes of the attorney(s) taking immediate action to pursue the assignment of another investigator.

9. **COMPENSATION AND REIMBURSEMENT.**

a. As full and exclusive compensation for Investigator's performance and rendering of independent professional investigative services hereunder, Investigator shall be compensated as provided in Exhibit B.

b. Payment of such compensation is based on time expended on the case by Investigator only. Time expended by other persons (including, without limitation, Investigator's support staff or associate investigators) on a case at Investigator's request or direction shall be part of Investigator's business overhead and shall not be billable to the County.

c. Investigator acknowledges and agrees that Investigator shall not be entitled to claim or receive any reimbursement/payment from the County for any business or office-related overhead costs or expenses incurred by Investigator during the course of rendering services under this Agreement (including, without limitation, costs and expenses associated with Investigator's office, office staff, office equipment/facilities, and/or other office-related resources). The County recognizes, however, that in certain circumstances the need may arise for Investigator to incur certain types of out-of-pocket expenses directly related to an indigent person's case such as costs of out-of-area travel, meals and lodging.

(i) Investigator shall be entitled to receive reimbursement for the actual cost of such out-of-pocket expenditures provided that, however, Investigator shall not incur any such expense nor shall Investigator be entitled to be reimbursed for any such expense unless such expense has been pre-approved as necessary and reasonable by the PDM in accordance with applicable rules, procedures, and standards. Such authorization shall state and provide a specific dollar amount for the requested and authorized expenditure; provided that, in the event it is not reasonably possible to state and provide a specific dollar amount for a particular requested expenditure, such authorization may nevertheless provide approval for the expenditure but shall establish and set forth a maximum dollar expenditure amount. In regard to any reimbursement to Investigator for any approved expenditures and costs pertaining to case-related out-of-area travel, meals, and lodging, any reimbursement to Investigator for such expenditures and costs shall not exceed the amounts

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that are set forth in the Federal General Services Administration ("GSA") reimbursement schedule existing for the locality (if applicable) and period of time when the costs are accrued.

(ii) Without limiting or expanding the preceding provisions of this paragraph 9, Investigator shall be reimbursed only for Investigator's vehicle mileage outside of the Tri-Cities (i.e., outside of the city limits of the Cities of Kennewick, Richland, West Richland and Pasco) accrued while directly engaged in investigations under this Agreement. The rate of such reimbursement shall be equivalent to the rate published by the GSA for the locality (if applicable) and period of time when the mileage is accrued. Such vehicle mileage shall be reimbursed only one time to Investigator, and Investigator shall not attempt to seek duplicative or excessive reimbursement for mileage accrued while simultaneously rendering services on more than one case (e.g., if Investigator accrues 10 miles to travel to a particular location to interview witnesses involved in two separate cases assigned to Investigator hereunder, Investigator shall only be reimbursed for that 10 miles, and not for 20 miles by attempting to claim reimbursement of 10 miles for each case). For such reimbursable case assignment travel, mileage shall be calculated beginning from the Benton County Justice Center in Kennewick to the location where the investigative services are actually rendered (e.g., witness's residence) utilizing and based on the most direct route over public roadways.

d. As a precondition to Investigator being paid the above-mentioned compensation and reimbursements for costs and expenses hereunder, Investigator shall submit a "Claim for Compensation" in such form as is prescribed by the PDM, including with such submission an invoice that descriptively sets forth and details the total number of hours (documented and stated in one-tenth ($1/10^{th}$) hour intervals) expended by Investigator on the case and that further describes and details the particular actions taken by Investigator on such case that correspond to such expended and billed hours including the date when such actions were taken (exercising appropriate discretion to protect client confidentiality given that such documents are matters of public record unless sealed by the court at the request of the defense attorney representing the client). **For purposes of these invoices, the subject of any field witnesses shall only be identified by their initials and city where the interview took place (no full names and no addresses). Provided, however, that Investigator shall retain information related to the full names of witnesses and addresses where interviews took place, in case an audit requires such information.**

(i) Investigator's administrative time expended to prepare, submit, and process Claims for Compensation shall not be billable to the County.

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(ii) All Claims for Compensation under this Agreement shall be subject to the PDM's review and approval for payment.

(iii) Investigator shall timely submit such Claims for Compensation within the half of the year designated by the Funding Approval Code unless another Funding Approval Code, designating another half-year, has been issued.

(iv) The cumulative sum of compensation and reimbursements being claimed shall be limited to the unclaimed expenditure limit stated in the written notice of assignment unless authorization for additional expenditure is requested and granted **prior to** providing the additional services that incur such additional expenditure. Investigator shall request Funding Approval for such additional expenditures by submitting a request using the on-line secure form provided by Benton County, and may proceed with the work once an additional Funding Approval Code has been received.

(v) Investigator should expect processing time for requests for authorization for additional expenditures of 2-3 business days. It is Investigator's responsibility to plan investigations and the submission of requests for authorization for additional expenditure in a manner that takes into account this anticipated processing lead time.

(vi) In situations of bona fide emergency, requests for authorization for additional expenditures may be submitted after additional services have been provided. However, the amount of services provided shall be limited to that amount which is essential to address the emergency, and a request for authorization for additional expenditure shall be submitted within 2 business days detailing and specifically describing the circumstances of the emergency. For purposes of this paragraph, the term "emergency" shall be defined as any situation where critically necessary investigative work, beyond what has already been authorized, must be completed within such a short timeframe that it is not possible to obtain authorization from the PDM in advance and the inability to complete such investigative work is reasonably likely to prejudice the rights of the indigent defendant whose criminal case Investigator is assigned to provide investigative services for.

(vii) If Investigator or Investigator's staff wish to make billing inquiries, such inquiries shall be made by email directed to such email address as the PDM designates for such purpose. Investigator should expect such emailed inquiries to be responded to within 3 business days. Repeated telephone contact with the PDM or the PDM's staff, for the sole purpose of making billing inquiries, shall constitute a breach of this Agreement.

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e. Claims for Compensation may be submitted throughout any given month. Properly submitted claims will be processed pursuant to existing OPD and County vendor invoice processing systems and paid accordingly. **All Claims for Compensation must be submitted electronically and sent to OPDClaims@co.benton.wa.us.**

f. The above-stated compensation to Investigator will immediately cease upon the termination of this Agreement on, or for any reason prior to, the termination date specified in paragraph 1 above. For example, if this Agreement is terminated effective May 31, 2022, the above referenced compensation to Investigator also would terminate as of such date, and Investigator would not be entitled to receive any further compensation from the County; provided that, Investigator would be entitled to receive any then-accrued and unpaid compensation for services rendered hereunder prior to such termination date; and further provided that Investigator may be entitled to receive compensation for continuing post-termination services provided pursuant to paragraph 6.a. above.

10. **INDEMNIFICATIONS AND HOLD HARMLESS.** Investigator agrees to and shall fully indemnify the County and their elected/appointed representatives, officers, employees, and agents; and to hold the County and their elected/appointed representatives, officers, employees, and agents fully harmless; from and for any and all losses, damages, costs, charges, claims, demands, suits, or actions of whatsoever nature directly or indirectly arising out of or by reason of Investigator's (or any person, employee, agent, contractor, or entity acting for or on behalf of Investigator or at Investigator's request or direction) acts, defaults, errors and/or omissions of whatsoever nature in the performance of investigative services for any person under this Agreement. In the event any suit or legal proceeding is brought against the County or any of their elected/appointed representatives, officers, employees or agents at any time on account of or by reason of any such acts, defaults, errors and/or omissions, Investigator hereby covenants and agrees to assume the defense thereof (through counsel acceptable to the County) and to defend the same at Investigator's sole cost and expense and to pay any and all costs, charges, attorneys' fees, and other expenses as well as any and all judgments or awards that may be incurred by or entered against the County or any of its elected/appointed representatives, officers, employees or agents in such suits or other legal proceedings. Without limiting the intended broad scope and application of the indemnification and hold harmless provisions of this paragraph, for purposes of this paragraph, Investigator waives, with respect to the County only, any immunity that would otherwise be available to Investigator under the Industrial Insurance Act provisions of Title 51 RCW or any other similar workers/employee disability or benefit law. The indemnification and hold harmless provisions of this paragraph shall survive the termination or expiration of this Agreement.

11. **INSURANCE.**

a. Investigator shall obtain and maintain, at Investigator's sole cost and expense, a policy of Commercial General Liability insurance (including

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Endorsement Form CG2011 and Contractual Liability coverage) in the amount of not less than $1,000,000.00 per occurrence nor less than $2,000,000.00 in the aggregate during the policy term. Additionally, if Investigator is an employer, Investigator shall obtain and maintain, at Investigator's sole cost and expense, a policy of Statutory Workers Compensation and Employers Liability/Stop Gap insurance in the amount of not less than $1,000,000.00.

(i) The policy of Commercial General Liability insurance shall be written on an occurrence basis; shall name the County, the Courts, and the County's elected/appointed representatives, officers, employees and agents as additional insureds; shall be primary coverage for both defense and indemnity and non-contributory with any insurance coverage maintained by the County; and shall provide for waiver of subrogation rights as to the County.

(ii) The insurance policies required by this paragraph 11.a shall require that the insurance company provide the County with no less than thirty (30) days prior written notice in the event the policy is cancelled or materially altered; shall comply with all applicable state of Washington insurance requirements; and shall be issued by an insurance company rated A- or better by A.M. Best authorized to conduct business and issue insurance in the state of Washington.

(iii) Investigator shall continuously maintain the insurance coverage required by this paragraph 11.a throughout the entire term of this Agreement and throughout any other longer time period during which Investigator is obligated to continue performing services and duties hereunder.

b. Investigator shall also obtain and maintain, at Investigator's sole cost and expense, a policy of professional liability or errors and omissions insurance suitable for Investigator's profession, in the amount of no less than $1,000,000.00 per claim nor less than $2,000,000.00 in the aggregate during the policy term and with a maximum deductible of not more than $10,000.00.

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

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(iii) Investigator shall continuously maintain the professional liability insurance coverage required by this paragraph 11.b throughout the entire term of this Agreement, throughout any other longer time period during which Investigator is obligated to continue performing services and duties hereunder, and for a period of no less than thirty-six (36) consecutive months after Investigator has fully completed all services and duties required hereunder.

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

12. **TERMINATION.**

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

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

13. **INDEPENDENT CONTRACTOR.** Investigator fully understands, acknowledges, and agrees that Investigator shall not be an agent, representative, or employee of the County or the Courts for any type of purpose or situation whatsoever (including, without limitation, for purposes of any type of wage, hours/overtime, workers/industrial insurance compensation, unemployment, fair labor, and/or employee benefit/leave laws, disability act coverage or rules, and/or regulations) and that Investigator, as of the date of this Agreement and throughout its entire term, is and will always be acting and operating as a fully independent contractor. In that regard, strictly subject to Investigator's duties, responsibilities and obligations imposed under this Agreement, Investigator shall have sole and absolute discretion using Investigator's best professional judgment to determine the manner and means of providing the investigative

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services required under this Agreement; and neither the County, the PDM, nor the Courts shall have any authority or duty to directly control the actual performance of Investigator's services hereunder.

14. **NON-ASSIGNMENT; MILITARY LEAVE.** Investigator shall not allow or arrange for any other person to perform any of the services required by this Agreement, nor shall Investigator assign, subcontract out, or otherwise delegate any of Investigator's rights, responsibilities, or obligations under this Agreement. In the event Investigator is called up for active military duty or for direct civilian support of active military operations, Investigator shall provide the County and the PDM with written notice of such event within five (5) business days of Investigator being called up so that the PDM and Investigator can coordinate and arrange for an appropriate substitute to handle Investigator's duties under this Agreement while Investigator is on military leave and any reasonable back-to-civilian-life transition time requested by Investigator upon return. Investigator shall receive no compensation under this Agreement while on leave or during any such transition time.

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

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

17. **CAPTIONS; TIME COMPUTATION.**

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

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

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

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

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

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

22. **DISPUTE RESOLUTION.**

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

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

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prevailing party in such suit or action shall be entitled to recover such party's reasonable attorneys' fees, costs and expenses from the other party.

23. **NOTICES.**

a. Any notices required or permitted to be given by Investigator to the County under this Agreement shall be in writing and shall be either personally delivered to the County's PDM at his below-stated office address; mailed to the County's PDM at his below-stated office address via certified U.S. mail, postage prepaid; or emailed to the County's PDM at the below-stated official email address for notices:

Public Defense Manager
Benton Office of Public Defense
7122 West Okanogan Place, Ste #A220
Kennewick, WA 99336

opd@co.benton.wa.us

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

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

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

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

BENTON COUNTY

Date_____

Chairman of the Board

Chair Pro Tem

Commissioner

Constituting the Board of County Commissioners for Benton County Washington

Attest:

Clerk of the Board

Approved as to Form and Content

Charles Dow
Public Defense Manager

ATTORNEY

Date 12/19/2023

DocuSigned by:
Shane Harrington
0BD5E52EAF454F8...

Shane Harrington, PI #3828

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EXHIBIT A - SCOPE OF SERVICES

Investigator shall provide, as assigned and approved on a case-by-case basis, professional quality criminal defense investigation services to defense attorneys assigned to represent indigent defendants with criminal cases pending in Benton County Superior Court (including its Juvenile Division) and Benton County District Court.

The services to be provided under this agreement may include, but are not limited to:

- Attempting to locate witnesses
- Interviewing witnesses
- Interviewing victims
- Researching the criminal history or backgrounds of witnesses or victims
- Conducting surveillance of witnesses
- Diagramming crime scenes or other locations associated with a criminal case
- Photographing items, locations, persons or anything else relevant to defense of a criminal case
- Cataloging and tracking evidence (only permitted in cases with large amounts of evidence)
- Serving subpoenas

Investigator may provide, as assigned, and only if Investigator elects to do so, subpoena service. Provided, however, that the maximum compensation for such subpoena services shall be as stated in Exhibit B – Compensation.

Absent **specific written instruction to do so from BCOPD**, Investigator shall not be compensated for any of the following services:

(e) “Evaluating” any legal document including search warrants
(f) Reviewing police reports or any other discovery for purposes of evaluating their sufficiency or for the purposes of determining what, if any, investigation needs to be done
(g) Spending time at any hearing or trial except when appearing for the purpose of testifying as a witness
(h) Appearing at or waiting during any criminal pre-trial docket

Furthermore, Investigator shall not arrange for or bill for, the services of third-party experts since these experts are to be coordinated through the attorney of record with authorization from BCOPD. Experts include, but are not limited to:

- Polygraph examiners
- DNA, fingerprint, firearms experts

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- Experts on the identification of substances including controlled substances
- Handwriting or document analysis experts
- Arson experts

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EXHIBIT B – COMPENSATION

Service	Rate	Comments
Investigator time	$70 per hour	Must be billed in increments of 1/10th of an hour together with date and description of services rendered.
Mileage	Published US GSA rate	Only for investigations outside of Tri-Cities area. Starts from the Benton County Courthouse.
Standard locate	$75 per locate	For locating addresses using subscription database services
Background investigation	$50 each	Only for background investigations that involve more than a WATCH inquiry. WATCH inquiry cases are compensated on a reimbursement basis only
Case Agent/Expert Witness	$400 full day, $200 for any partial day	Contractors are not required to act as Case Agent to assist at trial as directed by assigned counsel, by may elect to do so if requested by assigned counsel and approved by OPD
Subpoena service	$50 each service for up to four attempts. Any additional attempts for same service shall collectively qualify for additional $50.	Contractors are not required to accept subpoenas for service, if Contractors do serve subpoenas, this is the maximum compensation for doing so. When the Contractor has been approved and appointed as Case Agent, the Contractor shall be the individual performing service of those subpoenas, which shall be compensated as indicated.
Video and photo DVD	$35 each, $10 for extra copies	With menu, ready for trial format.

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Photo CD	$10 each	
Photocopies	$0.18 per page	
Notary public services	$10 (or statutory maximum, whichever is higher) for each document, record, or instrument	
Interview Cancellation Fee	$70 per hour of scheduled interview(s) cancelled by the State, or for any part of an hour thereof	To claim this fee, investigator is to provide written notification of State's cancellation, and to provide at least 15 minutes grace to the State's witness scheduled to be interviewed

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EXHIBIT C – PRIOR AUTHORIZATIONS

Investigator shall seek prior authorization for expenditure and compensation as detailed in Paragraph 9(c)(i) of the Agreement.

However, in the interest of Investigators initiating assignments as quickly as possible, the following amounts shall be presumed authorized by the OPD Manager according to the most serve charge represented in the initial charging document (Compliant/Information) filed in the pending case. Assigned Investigator, and/or Attorney of Record, shall provide notice electronically to the OPD Manager of their engagement/assignment on every case at the following address:

OPDauthorizations@co.benton.wa.us.

Investigator and/or Attorney of Record shall provide the following case details for these prior authorizations to be valid:

- Defendant Name
- Attorney Name
- Investigator Name
- Cause Number
- Most Severe Charge Level

If all case details have been provided, Investigator does not need confirmation from the OPD Manager to initiate the assignment. Claims for compensation under these prior authorizations shall be submitted as outlined in the Agreement, and shall include the notification associated with that claim. Any notifications lacking these details may subject the claim to be denied at the discretion of the OPD Manager.

These prior authorizations apply to pending charges only, and do not apply in post-conviction/acquittal or appeal cases. Any expected expenditure above these prior authorized levels shall otherwise comply with the provisions in Paragraph 9(c)(i) and subject to prior authorization by the OPD Manager.

Misdemeanor (Non-DV)	$150
Gross Misdemeanor (Non-DV)	$200
Misdemeanor/Gross Misdemeanor (DV)	$300
Class C Felony (Non-DV/Sex Offense)	$400
Class C Felony (DV/Sex Offense)	$500
Class B Felony (Non DV/Sex Offense)	$1,000
Class B Felony (DV/Sex Offense)	$2,000
Class A Felony	$3,000

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	1/9/24
Subject:	Amendment of Superior Court Professional Service Agreement with Dawn Hickman, contract #2022-863 adding District Court Drug Court
Presenter:	
Prepared By:	Denise Gerry
Reviewed By:	Charlie Dow

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

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

Summary / Background Information

Benton County is legally obligated to provide public defense services in Benton County District Court for Recovery Court.

Due to attorney Michelle Alexander terminating her District Court contract and being hired on as an OPD staff attorney, there was a need for an attorney to cover District Court Recovery Court. Since attorney Dawn Hickman has direct experience with Benton County District Court's Mental Health Court, she has agreed to provide coverage for the Recovery Court.

Fiscal Impact

General Fund – $3,300.00 per month

Recommendation

Execute resolution approving amendment of district court professional services agreement with Dawn Hickman adding District Court Recovery Court.

Suggested Motion

Approve with consent agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF AMENDING THE PROFESSIONAL SERVICES AGREEMENT WITH DAWN HICKMAN, RESOLUTION 2022-863, FOR PUBLIC DEFENSE SERVICES IN BENTON COUNTY DISTRICT COURT TO INCLUDE COVERAGE FOR THE RECOVERY COURT PROGRAM

WHEREAS, Benton County is obligated by law to provide indigent defense services in Benton County District Court for defendants participating in, or contemplating participating in the Benton County Mental Health Court and Recovery Court program; and

WHEREAS, Benton County presently provides representation in Mental Health Court by way of a contract with attorney Dawn Hickman; and

WHEREAS, it has become necessary to modify the agreement with attorney Dawn Hickman to include the Benton County District Court Recovery program due to the present attorney, Michelle Alexander, terminating her contract; and

WHEREAS, it is therefore in the best interests of Benton County to amend the professional services agreement with attorney Dawn Hickman, per resolution #2022-863; **NOW, THEREFORE**

BE IT RESOLVED that the Board of Benton County Commissioners, Benton County, Washington hereby approves the amended professional services agreement with attorney Dawn Hickman, previously executed through resolution #2022-863, is hereby amended and approved, to include coverage of the District Court Recovery Court program, effective December 1, 2023 through December 31, 2024, and monthly compensation in the amount of $3,300.00 per month.

Dated this _____ day of _____ 20 _____

_____
Chairman of the Board

_____
Commissioner

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

Attest: _____
Clerk of the Board

cc: Originals – OPD, Dawn Hickman
Copy – Auditor, District Court, S. Godinez

C Dow

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AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT TO PROVIDE LEGAL REPRESENTATION TO INDIGENT PERSONS IN BENTON COUNTY DISTRICT COURT MENTAL HEALTH CONTRACT # BCDC2324DH001MHC

THIS AGREEMENT, previously entered into by and between **Dawn Hickman,** attorney at law, Washington State Bar Association **#32597** ("Attorney"), **dba Hickman Law, PLLC,** and **Benton County,** a State of Washington political subdivision ("County"), for and on behalf of the Benton County Superior Court, executed by and through Resolution 2022-863 is hereby amended as follows:

Paragraph B amended as follows:

B. Attorney is engaged in the private practice of law, has direct experience in litigating case involving persons charged with criminal offenses, has specific experience working with and representing indigent defendants participating in Benton County District Court's Mental Health Court and Recovery Court, and desires to contract with the County to provide legal services to indigent persons contemplating, or actively participating in, Benton County's Mental Health and Recovery Courts.

Paragraph 5.1 added as follows:

5.1. **RECOVERY COURT APPOINTMENTS.** During the term of this Agreement, Attorney agrees to and shall accept appointments hereunder to represent all persons participating in the Recovery Court program (by and through cases filed in Benton County) solely with regard to matters relating to their participation in Recovery Court: With the exception of those persons participating in the Mental Health Court Program also represented by Attorney, Attorney shall not represent Recovery Court participants in any underlying criminal matters without specific approval from, or at the direction of, the Public Defense Manager. Attorney's representation of participants in the Recovery Court program by and through cases filed in Franklin County, shall be a matter of direct contract between Attorney and Franklin County, and shall be completely and totally outside of the scope of this Agreement.

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Paragraph 12 amended as follows:

12. **MONTHLY COMPENSATION.**

a. Attorney shall be compensated in the amount of $6,500 per month for Mental Health Court representation.

b. Attorney shall be compensated in the amount of $3,300 per month for Recovery Court representation starting 12/1/23.

All compensation shall be payable to **Hickman Law, PLLC** since Attorney is a principal with that law firm.

This amendment shall take effect December 1, 2023.

In the event of any conflict between the provisions of this Amendment and those of the underlying Agreement, or any other previous Amendments, this Amendment shall control.

SIGNATURES APPEAR ON THE FOLLOWING PAGE*

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

BENTON COUNTY

Date _____

_____
Chairman of the Board

_____
Chairman Pro Tem

_____
Commissioner

Constituting the Board of County
Commissioners of Benton County, Washington

ATTORNEY

Date 12/14/2023

DocuSigned by:
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Dawn Hickman, WSBA #**32597**

Approved as to Form and Content

DocuSigned by:
Charlie Dow
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Charles Dow
Public Defense Manager

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	1/9/24
Subject:	Awarding professional services agreement for District Court criminal cases to Adam Pechtel, contract #BCDC2425AP001
Presenter:	n/a
Prepared By:	Denise Gerry
Reviewed By:	Charlie Dow

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 caseload in Benton County District Court is significantly higher than expected and as well as the lack of qualified attorneys. It is necessary to contract with additional attorneys to ensure caseload standards are not breached.

Attorney Adam Pechtel is qualified to provide public defense services and interested in contracting with Benton County to do so. The proposed professional services agreement and resolution effectuate a contract with him for the provision of such services on the terms contained therein, for the period from January 1, 2024 through December 31, 2025 at the rate of $350.77 per case.

Fiscal Impact

General Fund - $350.77 per case for 360 cases, and other allowable case premiums, reimbursements, and other fees as provided in the professional services agreement.

Recommendation

Approve resolution as proposed, execute proposed professional services agreement with Adam Pechtel.

Suggested Motion

Approve with consent agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF AWARDING AND EXECUTING A PROFESSIONAL SERVICES AGREEMENT WITH ADAM PECHTEL, CONTACT #BCDC2425AP001, TO PROVIDE PUBLIC DEFENSE SERVICES IN BENTON COUNTY DISTRICT COURT TO DEFENDANTS CHARGED WITH CRIMINAL OFFENSES

WHEREAS, Benton County is obligated by law to provide indigent defense services in Benton County District Court for defendants charged with criminal offenses ("Criminal Cases"); and

WHEREAS, Benton County provides for representation on Criminal Cases by a combination of staff trial attorneys and contract attorneys; and

WHEREAS, it is therefore necessary to seek Statements of Qualifications from interested attorneys in order to award new agreements; and

WHEREAS, after a Request for Qualifications ("RFQ") was held and applications reviewed, it was deemed appropriate to award an agreement to attorney Adam Pechtel for public defense services on Criminal Cases in Benton County District Court; **NOW, THEREFORE**

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington hereby approves as proposed the professional services agreement with attorney Adam Pechtel, designated BCDC2425AP001, for services to be provided in Benton County District Court to defendants charged with criminal offenses, commencing January 1, 2024 and expiring December 31, 2025, with a per case compensation in the amount of $350.77 per case for up to 360 cases (plus other allowable case premiums, reimbursements, and other fees as provided in the professional services agreement).

Dated this _____ day of _____ 20 _____

_____
Chairman of the Board

_____
Chairman Pro Tem

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

Attest: _____
Clerk of the Board

cc: Originals – OPD, A Pechtel
Copy – Auditor, S Godinez

C Dow

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PROFESSIONAL SERVICES AGREEMENT TO PROVIDE LEGAL REPRESENTATION TO INDIGENT PERSONS IN BENTON COUNTY DISTRICT COURT

CONTRACT # BCDC2425AP001

CONTRACT SUMMARY			
Contract Type	**Full Caseload**		
Contract Number	**BCDC2425AP001**	**Contract Holder**	**Adam Pechtel**
WSBA #	**43743**	**Effective Dates**	**January 1, 2024 – December 31, 2025**
Caseload Cap	**360**	**Compensation**	**$10,523.10 per month**
Assigned Court	**District Court**	**Compensation Structure**	**☐ By the case** **☐ Monthly** **☐ Hourly** **☒ By the case but paid monthly**
Compensation Payable To:	**Pechtel Law PLLC**		

THIS AGREEMENT is entered into by and between **Adam Pechtel,** attorney at law, Washington State Bar Association **# 43743** ("Attorney"), **dba Pechtel Law PLLC** and **BENTON COUNTY,** a State of Washington political subdivision ("County"), for and on behalf of the Benton County District Court.

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

A. The County has the legal responsibility to provide legal defense services to indigent persons charged with misdemeanor (and gross misdemeanor) criminal offenses alleged to have been committed within the County's jurisdictional boundaries ("County Defendants").

B. County has also entered into interlocal agreements with the municipalities within its jurisdictional boundaries ("Cities") to provide public defense services to those municipalities in fulfillment of their legal duties to criminal defendants being prosecuted for misdemeanor (and gross misdemeanor) criminal offenses within their jurisdictional boundaries ("City Defendants").

C. Attorney is engaged in the private practice of law, has direct experience in litigating cases involving persons charged with criminal offenses, and desires to contract

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with the County to provide legal services to County Defendants and/or City Defendants.

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

1. **AGREEMENT TERM.** This Agreement shall be deemed effective for all purposes as of **January 1, 2024** and shall continue thereafter through and including **December 31, 2025**, unless earlier terminated pursuant to the applicable terms and provisions of this Agreement. Upon expiration of this Agreement, depending on County's staffing needs, County may elect to utilize any legally appropriate means (including, but not limited, a Request for Qualifications) to select contract awardees. Thereupon, depending on factors including, but not limited to, County's staffing needs, number of qualified applicants, and Attorney's performance during the term of this Agreement, County may choose to re-award a contract to Attorney, to other attorneys, or to no-one, at its sole and exclusive discretion.

2. **ATTORNEY'S OFFICE LOCATION.**

a. Attorney presently and regularly maintains an office adequate and appropriate for the practice of law at **21 N Cascade St, Kennewick, WA 99336.** Attorney's current local office telephone is **509-586-3091**; and Attorney's current office/work e-mail address is **adam@pechtellaw.com**.

b. Throughout the entire term of this Agreement, Attorney shall continue to maintain (or have access to) such an office, such telephone and fax numbers, and such e-mail address; provided that, however, Attorney may relocate Attorney's office to another location within the greater Tri-Cities, Washington, and/or Attorney may change Attorney's telephone/fax number to another greater Tri-Cities local telephone/fax number, and/or Attorney may change Attorney's e-mail address, provided that Attorney must provide immediate written notice of such change(s) to the Benton County Public Defense Manager ("PDM"), the Benton County Prosecuting Attorney, and the Benton County District Court Administrator ("District Court Administrator").

c. Regardless of the location or manner in which Attorney decides to maintain an office, throughout the entire term of this Agreement the office facility must comply with any and all applicable public defense standards adopted by the Washington Supreme Court.

3. **ATTORNEY'S QUALIFICATIONS.** Attorney acknowledges and agrees that the County has an obligation to provide competent and effective legal counsel to indigent persons subject to proceedings in the Benton County District Court. Attorney shall perform all services hereunder in strict accordance with the usual skills and professional ethical standards exercised by attorneys engaged in the defense of persons accused of misdemeanor crimes in the state of Washington and generally exercised by members of the Washington State Bar Association (WSBA). Without limitation in that regard, Attorney acknowledges and agrees that Attorney has a fundamental duty and responsibility to effectively promote and protect the best interests and rights of all persons whom Attorney is appointed to represent under this Agreement. Attorney acknowledges and agrees that he or she independently, solely, and exclusively bears professional responsibility for decisions, actions, and omissions, made in the course of providing professional legal services pursuant to this Agreement. None of the actions or omissions of County or its

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agents (specifically including County's Public Defense Manager) shall be interpreted as supervising, directing, or otherwise controlling Attorney's exercise of professional discretion.

a. As of the date of this Agreement, Attorney represents and warrants that Attorney is unconditionally licensed to practice law within the state of Washington; has had at least one (1) year of direct trial experience in criminal defense or criminal prosecution matters (or will be part of an intensive and closely supervised mentorship program sponsored by the County's Office of Public Defense); otherwise meets applicable requirements of the Washington Standards for Indigent Defense ("SID") applicable to misdemeanor and gross misdemeanor cases; has not been subject to a termination proceeding involving a previous personal service agreement for indigent defense services; has not been censured, admonished, or otherwise formally disciplined for past conduct or behavior that would negatively reflect on Attorney's duty and ability to effectively and competently render legal services hereunder; has not been suspended or disbarred from the practice of law in any state or jurisdiction at any time in the past; and does not have any bar association complaints filed and pending against him/her.

(i) This Agreement may be subject to review and, if applicable and/or necessary, further action pursuant to paragraph 17 below in the event that Attorney's license to practice law in Washington is revoked or otherwise limited or restricted; in the event that a court of competent jurisdiction formally determines and expressly finds that Attorney has rendered ineffective assistance of counsel to any person; in the event that Attorney is censured, admonished, or otherwise formally disciplined for conduct or behavior that negatively reflects on Attorney's duty and ability to effectively and competently render legal services hereunder; or in the event that Attorney is suspended or disbarred from the practice of law in any other state or jurisdiction.

(ii) Attorney shall notify the County in writing within three (3) business days if any event specified in paragraph 3.a.(i) above occurs or if any bar association complaint is filed against Attorney. Failure to do so shall constitute a substantial and incurable breach of this Agreement and shall subject this Agreement, at the election of County, to immediate termination.

b. Attorney acknowledges and agrees that the County may conduct criminal history background check(s) on Attorney including any such recurring checks as Counties may deem appropriate, in their sole discretion, even at a time after execution of this Agreement. Attorney acknowledges and agrees that this Agreement shall be deemed immediately and automatically terminated upon the County receiving a non-complying or otherwise unsatisfactory criminal history background check report.

c. Attorney represents, warrants, and certifies that Attorney has read and fully understands the requirements of RCW 13.40.570 (sexual misconduct by state employees, contractors) and all sex offense crimes included in RCW Chapter 9A.44. Attorney shall comply with any and all applicable legal and/or administrative requirements relating to the documentation/reporting of sexual misconduct.

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d. During each calendar year of the term of this Agreement Attorney shall obtain at least seven (7) hours of WSBA-accredited Continuing Legal Education (CLE) credits in courses directly relating to Attorney's public defense practice under this Agreement. Attorney shall provide the Public Defense Manager with written proof and confirmation that such CLE credits have been obtained no later than by December 31st of each calendar year. Additionally, during each calendar year during the term of this Agreement, in addition to participating in any specialized training-related activity specified in RCW 10.101.060(1)(a)(iii) or otherwise specifically required by other applicable law or court rule, Attorney shall attend at least one (1) public defense services-related training seminar sponsored and/or approved by the Washington State Office of Public Defense ("WSOPD"), and any CLE credit earned by Attorney by attending such training seminar(s) may be applied towards the above-mentioned minimum seven (7) hours. The County may provide Attorney's name and address to the WSOPD for purposes of the WSOPD notifying Attorney of any such upcoming training seminars. Attorney shall provide the PDM with written proof and confirmation that such required training seminar has been attended by Attorney no later than by December 31st of each calendar year.

Specific training regarding legal financial obligation ("LFO") issues. At least once every 24 months (or more frequently as required in writing by the County due to changes in applicable law) Attorney shall attend training approved and presented/sponsored by County on the subject matter of LFO issues in public defense cases. Attendance may be live or by video replay and Attorney shall provide proof of attendance to County by any means reasonably required by County. If Attorney is a new contract public defender, then County will provide Attorney with basic LFO training material in the first week following the date when Attorney starts with County's public defender training program or first becomes eligible for case appointments, whichever is earlier, and Attorney shall provide proof of viewing of LFO training material to County as a specific condition of this contract within the week by any means reasonably required by County.

In addition to specific training regarding LFO issues, from time to time, County may, but is not obligated to, offer additional training to Attorney on subjects of relevance to Attorney's provision of public defense services pursuant to this Agreement. Attorney acknowledges that such additional training is completely optional and is offered for Attorney's convenience only. None of this additional optional training shall be regarded as County's right to train Attorney in any way. Attorney may choose not to attend any additional training offered and such a choice will not be detrimental to Attorney's contract, or opportunity to continue to contract in the future, in any way whatsoever.

e. Attorney represents and warrants that, throughout the entire term of this Agreement, Attorney's private law practice caseload; Attorney's schedule; and Attorney's office resources, equipment, and support staff will allow Attorney to competently undertake and effectively perform all services required under this Agreement. Attorney represents and warrants that Attorney's private law practice and schedule will not interfere with Attorney's ability to timely and efficiently perform such services including, without limitation, Attorney's ability to prepare for and attend regularly scheduled trials and dockets or Attorney's ability to schedule and conduct face-to-face meetings with the persons Attorney is appointed to represent under this Agreement for purposes of discussing, preparing, and pursuing the most viable defense(s) and/or resolution available and keeping such persons reasonably apprised as to the status of their case.

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f. Pursuant to RCW 10.101.050, no later than 15 calendar days after the end of each calendar year during the term of this Agreement, Attorney shall provide the PDM with a written report showing the total number and specific types of private practice cases (which for purposes of this Agreement shall include pro bono cases, retained-fee cases, and any cases handled by Attorney under any other professional/personal services agreement) in which Attorney provided legal services during the preceding year.

Additionally, in the event that the public defense reporting requirements under RCW 10.101.050, other applicable statute or relevant case law are later amended/modified (or, in the case of case law, reasonably required as a best practice) Attorney shall correspondingly comply with any such amended/modified reporting requirements without added compensation upon written notice from the County to do so.

g. Attorney recognizes and acknowledges that Attorney is required by Washington Supreme Court Order to meet certain Supreme Court-adopted Standards for Indigent Defense ("Defense Standards") to provide quality representation to indigent criminal defendants, and to periodically file certain certifications attesting to Attorney's compliance with such Defense Standards. Attorney understands and acknowledges that Attorney's compliance with such Defense Standards and periodic certification filing requirements is a direct professional and ethical obligation between Attorney and any Court in which Attorney appears while performing services under this Agreement. Attorney further acknowledges and understands that, though Attorney's compliance with such Defense Standards and such periodic certification filing requirements is not an express term of this Agreement and therefore not subject to the County's monitoring or control, Attorney's noncompliance with such Defense Standards and/or such filing requirements would directly impair Attorney's ability to perform and fulfill Attorney's basic obligations under this Agreement. Accordingly, if the County is notified by any Court in which Attorney appears to perform services under this Agreement that Attorney has failed to comply with such Defense Standards or such periodic certification filing requirements, Attorney shall then be considered to be in substantive breach of this Agreement and this Agreement shall then become subject to potential termination under the provisions of paragraph 17.b. below.

h. Attorney understands and acknowledges that Attorney is solely and personally responsible to obtain and maintain all necessary state and local government business licenses and/or other approvals necessary to operate Attorney's private legal services business.

4. **OTHER INDIGENT DEFENSE AGREEMENTS.** The County has entered into separate and independent professional services agreements with other licensed attorneys, and also employs in-house staff attorneys to primarily provide criminal defense services to persons accused of misdemeanor crimes in Benton County District Court. Attorney agrees to fully cooperate and coordinate with said other attorneys, the Benton County District Court, the District Court Administrator and the PDM to establish a process to effectuate the efficient and equitable distribution of case appointments between Attorney and said other attorneys (collectively the "Benton County District Court Criminal Defense Panel"). The District Court Administrator and/or the PDM shall have the inherent discretion and authority to monitor and control (and reasonably modify/change) such process. Attorney shall accept all case assignments made by the District Court or PDM even if the case does not originate from the docket to which attorney is assigned.

5. **CONTRACT DUTIES.** During the term of this Agreement, Attorney agrees to and shall accept appointments to represent indigent persons (regardless of their race, color, national origin, age, sex, marital status, sexual orientation, handicap/disability, personal background, creed, or political or religious affiliation) on any matter in the Benton County District Court in which publicly provided counsel is furnished or required by law. More specifically, Attorney shall accept court appointments to represent indigent persons on any of the following types of matters:

- Any misdemeanor matter filed or otherwise pending under the applicable Washington criminal statutes and/or under any other applicable Washington law including the municipal codes of the cities located within Benton County, in the Benton County District Court.

- Any post-disposition probation violation, revocation, modification, and/or contempt-of-court proceeding relating to any underlying criminal case.

- Any material witness matter relating to a case or matter filed in Benton County District Court.

- Any case or matter returned to the Benton County District Court from any higher court.

- Any other type of Benton County District Court case or matter in which another Benton County District Court Criminal Defense Panel member and/or any other attorney who is under a professional services agreement to provide legal representation in Benton County District Court is unable to handle due to a conflict of interest.

- Any case or matter transferred from the Juvenile Court through declination or other court proceedings.

- Any civil contempt of court proceeding, not including non-contempt matters such as non-criminal custody or paternity matters.

- Any post conviction matters where court appointed counsel is mandated by law including, but not limited to: furlough orders, motions to withdraw pleas, and sentence reviews. These post conviction matters do not include appeals to Superior Court pursuant to RALJ, since these are separately addressed herein.

- Any appeals to Superior Court pursuant to the Rules of Appeal for Courts of Limited Jurisdiction ("RALJ")

    a) **Assignment to specific docket:** County intends to assign Attorney to a specific criminal docket, representing cases primarily filed by either County (further divided into law enforcement agency that made the arrest: Washington State Patrol or Benton County Sheriff's Office), or by one of the Cities ("Assigned Docket"). As such, the vast majority of Attorney's responsibilities will be to cases filed on Attorney's Assigned Docket. However, from time to time, whether because of conflict of interest of other public defense attorneys or because of caseload overflow reasons, Attorney may be assigned cases from dockets other than Assigned Docket and Attorney's acceptance of such cases (with allowance for Attorney's bona fide conflicts of interest) are a specific condition of this Agreement even though such cases may require Attorney to attend multiple dockets or even attend court multiple days a week for short periods of time.

b) **Changes to court schedule:** The parties acknowledge that i) the criminal Docket days are set by Benton County District Court and not by County and therefore they may be subject to temporary or permanent modification at the discretion of Benton County District Court; ii) emergency court operations (including emergency court operations necessitated by the COVID-19 pandemic) may necessitate to modification of Docket scheduling including the splitting of dockets into multiple days a week or otherwise modifying weekly docket responsibilities; (the preceding 5b.i) – ii) shall collectively be referred to as "Docket Scheduling Irregularities").

As to the Docket Scheduling Irregularities described in the preceding paragraph, the parties agree that:

- Docket Scheduling Irregularities do not constitute a breach of this Agreement or such change in circumstances that the Agreement needs to be renegotiated;
- Docket Scheduling Irregularities do not, in themselves, entitle Attorney to additional compensation;
- County agrees to provide Attorney with as much advance notice as reasonably possible as to any anticipated and known Docket Scheduling Irregularities, respectful of the fact that Attorney likely has obligations to private practice or other clients (together with case scheduling obligations) outside of clients assigned through this Agreement.

c) ***In-Custody Team*** **assignment**: Upon written direction from the PDM, Attorney shall be assigned to the *In-Custody Team* provided that the PDM, to the extent possible and practicable, should not make such an assignment against an attorney's expressed desires, and shall only do so if necessary to maintain adequate representation or continuation of representation. This written notification shall be made on or before the commencement of this Agreement term if the Agreement is intended to be for *In-Custody Team* assignment, and may be made at any time after commencement of the Agreement if the assignment to the *In-Custody Team* occurs after commencement. Attorneys assigned to the *In-Custody Team* shall not receive any newly filed misdemeanor matters, material witness matters, matters returned to Benton County District Court from any higher court, any matters transferred from the Juvenile Court through declination or other court proceedings, any conflict cases or any civil contempt cases, any post conviction cases, and will not be expected to handle RALJ appeals (unless they request to be assigned such cases). Instead, *In-Custody Team* attorneys shall be responsible, as a team, for providing representation for the following:

- In-custody initial appearances in Benton County District Court. Such representation shall be provisional only and shall not continue beyond the initial appearance hearing. The purpose of such in-custody representation shall be to resolve compliance or failure to pay fine cases as possible, to make release decision arguments on new criminal charges, and, when possible (usually when plea agreements may be reached with prosecutors) to resolve new criminal charges.
- Providing representation to defendants during all regularly scheduled District Court probation, compliance, or sentence violation dockets and failure to pay fine dockets (if held) except the compliance dockets associated with District

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Court felonies, and with compliance/fail to pay fine cases docketed in Benton County District Court in Prosser.

d) Arraignment Counsel assignment: On a rotating basis with the schedule established and maintained by the PDM, Attorney shall provide provisional representation to defendants on arraignment dockets. At assigned arraignment dockets, Attorney shall be responsible for remaining available during the entire docket for provisional consultation by any defendant who wishes to have the benefit of legal advice before or during otherwise *pro se* negotiations with prosecuting authorities for the resolution of their case(s) at time of arraignment. During arraignment docket assignments, Attorney shall not be responsible for providing any advice to defendants who are not seeking to resolve their case(s) at time of arraignment, even in the case of defendants whose cases are assigned to them by the Court. If Attorney is not available for an assigned arraignment docket, then Attorney is personally responsible for arranging for coverage by any other attorney who has a current contract with County. In any case where another contract attorney provides coverage, then that attorney, instead of assigned attorney, shall be entitled to the compensation for the assignment.

e) On-call cell phone assignment. On a rotating basis with the schedule established and maintained by the PDM, Attorney shall provide 24-hour "on-call" limited and provisional representation to defendants who are in custody. This assignment will be made for a week (7 consecutive days) at a time during which time Attorney shall carry and answer a cell phone provided to Attorney for such purpose by the PDM (or appropriately forward calls from the provided cell phone to another phone as long as they are answered by Attorney). The PDM shall reasonably ensure that the phone calls being made to the on-call Attorney are only being made by arrestees who wish to speak with an attorney prior to being questioned, providing a breath test sample, or for some other appropriate pre-arraignment purpose. Attorney is specifically permitted to accept people with whom they speak during this assignment as paying private clients and is permitted, to the extent otherwise lawful and not in violation of the Rules of Professional Conduct, to discuss the prospect or terms of such private retainer during the telephone conversation. *From time to time, at the request of an attorney holding a District Court public defense agreement, County may assign the on-call cell phone to such an attorney exclusively for an agreed-upon time (or indefinitely). Such temporary exclusive assignment to an attorney does not negate the provisions of this section 5e) when and if the time comes when the exclusive assignment arrangements terminates and it becomes necessary to assign the on-call cell phone to other attorneys, including Attorney, once again.*

6. **CONTINUED REPRESENTATION.**

Attorney has a duty to timely and fully complete all cases appointed to Attorney under this Agreement. "Timely and fully complete" means, for each case, continuing to represent the defendant up to and including the time of final disposition of their case whether by way of conviction, dismissal of all charges (as a result of a finding of not guilty or as a result of an empaneled jury being unable to reach a verdict), or a change of plea and entering of a sentencing. Provided, however, that if a particular case must be re-tried for any reason whatsoever, including declaration of a mistrial or a hung jury, Attorney shall be entitled to an additional trial per diem for the additional trial but shall not be eligible for any additional credit. However, if restitution is not agreed upon at time of sentencing and a separate restitution hearing is necessitated, then Attorney shall represent the defendant at such restitution hearing in order to have "timely and fully completed" the case. In cases where a defendant is placed on a deferred prosecution or stipulated

order of continuance program, then Attorney shall be responsible for providing legal representation to such a defendant in the event the defendant is accused of a violation of the terms of such a program and is ordered to show cause why their participation in such a program should not be terminated unless other arrangements for appointment of counsel have been made by the Office of Public Defense. The determination of case credit entitlement at such subsequent representation shall be governed by the provisions of Article 8(b) herein.

Attorney's responsibility to provide continuing legal representation to clients upon expiration or termination of this Agreement shall be as stated in Section 17 Termination.

7. **NUMBER OF APPOINTMENTS.**

During each calendar year of the term of this Agreement, Attorney may be appointed any number of case appointments up to **360** total cases equivalents as calculated pursuant to Article 8 herein per calendar year (proratable for any partial calendar year). The maximum number of appointments stated above shall be calculated exclusive of appointments to RALJ appeals and exclusive of cases handled by Attorney while assigned to the compliance unit. Provided, however, that if Attorney is assigned, during any full calendar year to the compliance unit for less than that full calendar year, then for purposes of calculating case equivalent totals for the year, Attorney shall be credited with the greater of thirty-two (32) cases equivalents for each month when Attorney is assigned to the compliance unit.

8. **CASE EQUIVALENTS.**

a. For purposes of calculating Attorney's above-referenced "case equivalents" under this Agreement only and expressly not for purposes of any "weighting system" as allowed by SID, the following provisions shall apply:

- A misdemeanor appointment shall be counted as one (1) case equivalent.

- A probation violation appointment shall be counted as one-third (1/3) case equivalent unless the probation violation appointment requires appearance on the Prosser docket of Benton County District Court or Attorney is assigned to the *compliance unit*. Probation violation appointments requiring appearance on the Prosser docket of Benton County District Court shall be counted as one-half (1/2) case equivalent. During any period of time Attorney is assigned to the *compliance unit*, probation violation appointments shall not count as a case equivalent of any sort.

- An appointment on a mental or substance-abuse commitment, generally to be appointed only when necessary for conflict reasons, shall count as one (1) case equivalent.

- An appointment on a post-conviction review matter including furloughs shall be counted as one-third (1/3) case equivalent unless the matter requires substantial briefing in which case the matter may qualify for additional credit up to a full case equivalent.

- An appointment to represent a person in a material witness matter in a case pending in Benton County District Court shall count as one half (1/2) of a case equivalent.

- An appointment to a case or matter returned to Benton County District Court from a higher court shall be counted as determined by the PDM following consultation.

- If Attorney is appointed to a case and withdraws prior to the second pre-trial hearing for any reason, including the substitution of retained counsel or a conflict of interest, that appointment shall not count as any case equivalent; provided that the PDM shall retain discretion to award a case equivalent value (or fractional portion thereof) if deemed appropriate following consultation. If Attorney is appointed to a case and withdraws after the second pre-trial hearing but before trial readiness, for any reason including substitution of retained counsel or a conflict of interest, then Attorney shall be entitled to one-half (1/2) of a case equivalent.

- Case equivalent value assigned is based on cases, not charges, and is determined by the classification of the most serious offense charged.

- Any civil contempt of court proceeding shall count as one-half (1/2) of a case equivalent.

- Provisional client contact during *arraignment counsel* assignment, and provisional client contact during *on-call-phone* assignment, shall not count as a case equivalent of any sort.

- RALJ appeals shall count as four (4) case equivalents. If, after a client prevails in Superior Court, the prosecution chooses to appeal to the Court of Appeals and Attorney is required to file an Answer to the appeal, then Attorney shall be entitled to a further one (1) case equivalent.

b. An appointment to any matter in which Attorney was previously appointed shall not be further counted as any type of case equivalent if such matter was not fully concluded and subsequently arises again before the Benton County District Court and Attorney continues representing the same person in such matter within a 12-month period (e.g., if Attorney was appointed to represent a person on a criminal charge who fails to appear for trial but is back before the court within 12 months, Attorney's continued representation of such person following his later arrest shall be deemed as being a prior and ongoing representation and shall not count as any type of further or additional case equivalent). Provided that, however, if Attorney was appointed to represent a person who is duly tried, convicted, and sentenced, Attorney's subsequent representation of such person during subsequent proceedings for alleged violations of sentence conditions shall be deemed as being an independent and unrelated matter.

c. Except as may be otherwise specifically and expressly provided in this Agreement, an appointment to any matter involving multiple charges arising out of a single incident or series of substantially related incidents shall be considered as being one (1) case equivalent. Similarly, except as may be otherwise expressly provided in this

Agreement, an appointment to any matter involving multiple charges brought/filed under a single cause number and/or which are properly joined for purposes of trial shall be considered as being one (1) case equivalent. Provided, however, the PDM may in his discretion adjust the case equivalent total earned under this paragraph upon written request from, and after review and consultation with, Attorney.

d. In any case where Attorney is appointed contemporaneously on multiple compliance and/or failure to pay fine cases, or any combination thereof, involving the same defendant, all of which are resolved on the same docket during the same court appearance(s), such combination of multiple cases shall be considered one case for purposes of case credits, and shall, collectively, be considered either a one-third (1/3) case equivalent or one-half (1/2) case equivalent as specified in 8(a) above.

e. Throughout the term of this Agreement, Attorney shall maintain case appointment records sufficient to provide the following information about each case assigned to Attorney through this Agreement: case name, client name, case number, date of assignment, and charges and date of resolution. On a monthly basis, prior to the 15th day of the month, Attorney shall provide such records to the PDM in a format acceptable by the PDM, including an electronic format if required, for all cases assigned during the preceding month. Within a reasonable time not to exceed 30 days after receipt of Attorney's caseload submission, the PDM or designee shall provide Attorney with a reconciliation report either agreeing to Attorney's reported numbers if they correspond with caseload numbers generated by PDM records, or asking Attorney for additional documentation to substantiate eligibility for individual case credits if Attorney's reported numbers conflict with caseload numbers generated by PDM records. In any case where Attorney is required to provide additional documentation to substantial eligibility for individual case credits (and Attorney will only be requested to do so if JIS records do not support Attorney's claim for credit) Attorney shall provide such substantiation in the form of a copy of the court issued "notice of appointment" or equivalent form, within 30 calendar days from the request. If Attorney does not so provide, then Attorney shall not be eligible to count such disputed cases in Attorney's caseload total and hereby waives all contractual and common law rights (including the doctrine of *unjust enrichment*) as pertaining to the disputed cases. Furthermore, if Attorney neglects to claim credit for any case or cases in any given caseload report and does not send a revised caseload report claiming such credit within 60 days of the original submission thereof, then Attorney similarly shall not be entitled to credit for such case or cases, and hereby waives all contractual and common law rights (including the doctrine of *unjust enrichment*) as pertaining to such omitted case or cases.

Specific reporting of LFO cases In addition to the other reporting required by this section, if Attorney is appointed by the Benton County District Court to represent clients on LFO matters, then Attorney shall report: 1) the number of LFO failure to pay cases appointed; and 2) the number of LFO failure to appear cases appointed. It is recognized that some cases may involve allegations of both failure to pay and failure to appear and that they therefore should be reported under both categories of cases.

9. **CLIENT ELIGIBILITY.** The Benton County District Court (or its designee), consistent with applicable laws, rules and standards, shall determine the eligibility of any particular person for representation by Attorney under this Agreement. Attorney is under no obligation to determine a person's eligibility or continuing eligibility to receive publicly provided representation. If Attorney is appointed to represent a person and subsequently discovers that the client's

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circumstances have changed such that the client is no longer entitled to court appointed counsel, or that the client may have obtained appointed counsel initially by fraud, misrepresentation or omission, assuming that clear standards for financial eligibility have been communicated to the client by the court, then pursuant to RPC 4.1(b) Attorney should, unless prohibited by another Rule of Professional Conduct, advise the court of the circumstances. If the Benton County District Court (or its designee) nevertheless determines that such person is not eligible for publicly provided representation, the appointment of Attorney to represent such person shall be rescinded and such person shall be required to retain their own legal counsel. Attorney shall not thereafter represent such person in such matter on a retained-fee basis unless such person applies for and receives the Benton County District Court's permission allowing such representation. Nothing contained herein shall prevent Attorney from representing a person on a retained-fee basis in an action in which Attorney has not been appointed by the Benton County District Court to represent such person, or from representing a person on a retained-fee basis whom Attorney has been appointed by the Benton County District Court to represent provided that the matter(s) involving the retained representation are wholly independent and unrelated to the matter for which Attorney was appointed.

10. **CONFLICTS.** Notwithstanding any other terms or provisions contained in this Agreement to the contrary, Attorney shall not be required to accept, and Attorney shall decline to accept, an appointment under this Agreement if the particular appointment would create a true and bona fide conflict of interest for Attorney or would otherwise cause or constitute an actual violation of any generally recognized ethical or professional standards common and applicable to attorneys in the state of Washington. Furthermore, in the event a true and bona fide conflict of interest arises subsequent to Attorney receiving an appointment under this Agreement (or in the event Attorney's continued involvement in a pending case would cause or constitute an actual violation of any such ethical or professional standards), Attorney shall immediately arrange for substitute counsel by: a) contacting the Benton County Office of Public Defense and requesting substitute counsel unless a court appearance on the matter is imminent; or b) appearing in court and requesting that Benton County District Court assign substitute counsel if the time between discovery of the conflict of interest and the next court appearance is very short. Attorney shall not wait for more than two business days to request substitute counsel under 10a) or 10b) since doing so will have the risk of impairing the rights and quality of representation afforded to the affected client. Under no circumstance shall Attorney ever be required to bear the cost of seeking or compensating conflict counsel.

11. **SCOPE OF REPRESENTATION; FILE RETENTION.** Attorney agrees to and shall represent all persons whom Attorney is appointed to represent hereunder with the same skill and commitment as Attorney exercises and expends when representing persons on a private and/or retained-fee basis. Without limitation in that regard, such representation should include the investigation of the underlying facts, the research of all relevant law, interviewing of potential witnesses, retention and use of investigators and/or experts when warranted and necessary, appropriate communication with the client, review of potential plea alternatives, review of potential collateral consequences associated with a plea/conviction (e.g., potential immigration or civil commitment consequences), and the preparation for and appearance on behalf of the client in all stages of District Court proceedings including, without limitation, arraignments, pre-trial hearings, motions, trials, sentencing/disposition proceedings, contempt proceedings, appeals (limited to the preparation and filing of any and all pleadings necessary and appropriate to perfect any appeal or statutory writ to a higher court, including the appointment of publicly-provided counsel, if and when applicable), and post-conviction reviews.

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a. Without limiting Attorney's duty to initially meet with an indigent person to discuss their case as soon as reasonably possible following Attorney's appointment to the case, when Attorney is appointed to an "in custody" case (i.e., a case in which the person is confined/incarcerated), Attorney should use best efforts to meet face-to-face within three (3) business days of Attorney receiving the appointment (unless the circumstances of a particular case reasonably require that Attorney make earlier initial contact with the person), otherwise, as soon thereafter as is reasonably feasible.

b. Additionally, throughout Attorney's representation of any person under this Agreement, Attorney shall maintain reasonably appropriate contact/communications with the person so as to keep them fully apprised as to the status of their case (with the specific manner and frequency of such contact/communications left entirely to Attorney's professional judgment); and Attorney should use best efforts to apprise the person of any new development in his/her case within three (3) business days of Attorney learning of such development (unless the circumstances of a particular case reasonably require that Attorney make earlier contact with the person), otherwise, as soon thereafter as is reasonably feasible. Without limiting any of the foregoing provisions of this paragraph, with regard to any court hearing involving a represented person, Attorney should contact such person (preferably in person or at least via telephone) to discuss their case and the purpose of the hearing no later than one (1) business day prior to the hearing date.

c. Attorney shall compile and maintain appropriate case records for each person whom Attorney is appointed to represent hereunder. The manner of storage, the portion or portions of case records that must be stored, and the required period of storage, shall comply with any and all applicable Rule of Professional Conduct, Washington State Bar Ethics Opinion, case law, and court rule.

d. Upon Attorney pleading guilty or being convicted of any of the following-described offenses, Attorney shall notify the PDM of such plea/conviction within seven (7) calendar days thereafter, and Attorney's failure to timely report within such timeframe shall constitute misconduct and a serious and incurable breach of this agreement that shall result in the immediate and automatic termination of this Agreement. Even if County is timely notified, County may elect, at its sole discretion, to terminate Agreement and if it elects to do so, may do so with ten (10) days written notice to Attorney:

(i) Any felony offense as defined in RCW 9.94A.030 and RCW 9A.44.130;under the laws of the State of Washington, any other State, or Federal law, or any misdemeanor sex offense.

(ii) Any crime specified in RCW Chapter 9A.44 when the victim was a juvenile in the custody of, or under the jurisdiction of, the Juvenile Rehabilitation Administration, Washington Department of Social and Health Services; and/or

(iii) Any violent offense as defined in RCW 9.94A.030 or its equivalent in any other State or Federal Statute

(iv) Any crime of dishonesty or deception.

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12. **COMPENSATION.**

a. Attorney shall be compensated **$350.77 per case** as a flat fee.

For the mutual convenience of the parties, the flat fee shall be payable as a monthly flat fee of **$10,523.10.** Compensation shall be payable in this amount even in years when Attorney's annual caseload falls short of the anticipated caseload maximum as stated in this Agreement.

All compensation shall be payable to **Pechtel Law PLLC** since Attorney is a principal with that firm.

b. **Payment of compensation shall be contingent on Attorney complying with case reporting provisions stated herein, including in Articles 8(e) and 3(f). Failure by attorney to comply with case reporting provisions shall be cause to delay payment of compensation until such failure is remedied.**

c. In addition to the stated monthly compensation, Attorney shall receive **$350 per day for each full day of trial** and **$175 for each partial day of trial**, not to include pre-trial motions, separate sentencing proceedings or time waiting for disposition. A full day of trial is defined as actual in-session trial proceedings going beyond four (4) total hours for that trial day. Attorney shall also receive the sum of **$150 for each arraignment docket** to which Attorney is assigned pursuant to Section 5(b) herein.

d. The above-stated payments to Attorney will immediately cease upon the termination of this Agreement on, or for any reason prior to, the termination date specified in paragraph 1 above. For example, if this Agreement is terminated effective October 31, 2021, the above referenced monthly payments to Attorney would also terminate as of such date, and Attorney would not be entitled to receive any further monthly payments from the County; provided that, Attorney would be entitled to receive any then-accrued and unpaid amounts for services rendered hereunder prior to such termination date. By way of further example, if this Agreement is terminated effective November 15, 2021, the above-stated monthly payments to Attorney would also terminate as of such date, and Attorney would not be entitled to receive any further monthly payments from the County; provided that, Attorney would be entitled to receive on a prorata basis any then-accrued and unpaid amounts for services rendered hereunder prior to such termination date (i.e., 50% of the above-stated monthly payment amount). Attorney acknowledges and agrees that the above-stated compensation to Attorney shall constitute Attorney's full and exclusive compensation hereunder for all cases handled by Attorney under this Agreement up to the above-stated annual maximum total case equivalents.

e. Compensation for trial per diems and arraignment docket assignment (12.e) and RALJ appeals (12.f) shall be claimed by Attorney within 60 days of the event giving rise to entitlement to compensation (the completed appeal in the case of RALJ appeals) in writing utilizing such form as may be reasonably required by the PDM. Legal entitlement to compensation shall not accrue until such a claim is properly filed. Failure to file such a claim for compensation within 60 days shall constitute a waiver by the Attorney of the right to compensation and shall further waive Attorney's rights under any common law scheme such as unjust enrichment as to the compensation that was not timely claimed.

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13. **COSTS AND EXPENSES.**

a. Attorney acknowledges and agrees that Attorney shall not be entitled to claim or receive any reimbursement/payment from the County for any law practice-related overhead costs or expenses incurred by Attorney during the course of rendering legal services under this Agreement (including, without limitation, costs and expenses associated with Attorney's office, office staff, office equipment/facilities, and/or other office or law practice-related resources).

b. The County recognizes, however, that in certain circumstances the need may arise for Attorney to incur certain types of out-of-pocket expenses or otherwise retain professional services directly related to an indigent person's case such as private investigator fees, psychological or psychiatric evaluations, interpreter fees, scientific test fees, expert witness fees, and costs of out-of-area travel, meals and lodging.

(i) Attorney shall be entitled to receive reimbursement for the actual cost of such out-of-pocket expenditures provided that, however, Attorney shall not incur any such expense nor shall Attorney be entitled to be reimbursed for any such expense unless such expense has been pre-approved pursuant to ex-parte motion and court order (or other court-designated or delegated process) that expressly determines and finds that such expense is necessary and reasonable in accordance with applicable court rules, procedures, and standards. Such court order (or other court-designated or delegated process) shall state and provide a specific dollar amount for the requested and authorized expenditure; provided that, in the event it is not reasonably possible to state and provide a specific dollar amount for a particular requested expenditure, such order may nevertheless provide authorization for the expenditure but shall establish and set forth a maximum dollar expenditure amount. In regard to any reimbursement to Attorney for any court-approved expenditures and costs pertaining to case-related travel, meals, and lodging, any reimbursement to Attorney for such expenditures and costs shall not exceed the locally adjusted amounts that are established and published by the Federal General Services Administration.

(ii) In addition to any other prerequisites imposed by court rules, procedures, or standards, as a precondition to Attorney being reimbursed for an expenditure under this paragraph, Attorney shall be required to submit a vendor warrant payment voucher to the County that identifies the specific expenditure(s) for which reimbursement is sought (exercising appropriate discretion to protect client confidentiality given that such vouchers are matters of public record unless sealed by the court at Attorney's request) and that has attached thereto a copy of the court order(s) that specifically pre-approved and authorized such expenditure(s) (unless sealed by the court at Attorney's request) together with attached copies of all written payment receipts relating to such incurred expenditure(s) (unless sealed by the court at Attorney's request). Attorney's administrative time expended to prepare, submit, and process vouchers shall not be billable to the County. All payment vouchers and requests for reimbursement under this paragraph shall be subject to the court's review and final approval for payment. Attorney shall submit such payment vouchers to the District Court Administrator within sixty (60) days of Attorney incurring the expense(s) for which reimbursement is sought, and the County shall have the right to deny payment of any voucher that is not timely submitted within said requisite sixty (60) day period.

14. **INDEMNIFICATIONS AND HOLD HARMLESS.** Attorney agrees to and shall fully indemnify the County and its elected/appointed representatives, officers, employees, and agents; and to hold the County and its elected/appointed representatives, officers, employees, and agents fully harmless; from and for any and all losses, damages, costs, charges, claims, demands, suits, or actions of whatsoever nature directly or indirectly arising out of or by reason of Attorney's (or any person, employee, agent, contractor, or entity acting for or on behalf of Attorney or at Attorney's request or direction) acts, defaults, errors and/or omissions of whatsoever nature in the performance of legal services to any person under this Agreement. In the event any suit or legal proceeding is brought against the County or any of its elected/appointed representatives, officers, employees or agents at any time on account of or by reason of any such acts, defaults, errors and/or omissions, Attorney hereby covenants and agrees to assume the defense thereof (through counsel acceptable to the County) and to defend the same at Attorney's sole cost and expense and to pay any and all costs, charges, attorneys' fees, and other expenses as well as any and all judgments or awards that may be incurred by or entered against the County or any of its elected/appointed representatives, officers, employees or agents in such suits or other legal proceedings. Without limiting the intended broad scope and application of the indemnification and hold harmless provisions of this paragraph, for purposes of this paragraph, Attorney waives, with respect to the County only, any immunity that would otherwise be available to Attorney under the Industrial Insurance Act provisions of Title 51 RCW or any other similar workers/employee disability or benefit law. The indemnification and hold harmless provisions of this paragraph shall survive the termination or expiration of this Agreement.

15. **INSURANCE.**

a. Attorney shall obtain and maintain, at Attorney's sole cost and expense, a policy of professional liability insurance in an amount of not less than $1,000,000.00 per claim nor less than $1,000,000.00 in the aggregate during the policy term and with a maximum deductible of not more than $10,000.00.

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

(ii) Attorney shall continuously maintain the professional liability insurance coverage required by this paragraph 15.a. throughout the entire term of this Agreement, throughout any other longer time period during which Attorney is obligated to continue performing services and duties hereunder, and for a period of no less than thirty-six (36) consecutive months after Attorney has fully completed all services and duties required hereunder.

b. Attorney shall also obtain and maintain, at Attorney's sole cost and expense, a policy of Commercial General Liability insurance (including Endorsement Form CG2011 or direct equivalent insurance industry additional insured endorsement

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form and including Contractual Liability coverage) in the amount of not less than $1,000,000.00 per occurrence nor less than $2,000,000.00 in the aggregate during the policy term. Additionally, if Attorney is an employer, Attorney shall obtain and maintain, at Attorney's sole cost and expense, a policy of Statutory Workers Compensation and Employers Liability/Stop Gap insurance in the amount of not less than $1,000,000.00.

(i) The policy of Commercial General Liability insurance shall be written on an occurrence basis; shall name the County, the Benton County Superior Court, and their elected/appointed representatives, officers, employees and agents as additional insureds; shall be primary coverage for both defense and indemnity and non-contributory with any insurance coverage maintained by the County; and shall provide for waiver of subrogation rights as to the County.

(ii) The insurance policies required by this paragraph 15.b shall require that the insurance company provide the County with no less than thirty (30) days prior written notice in the event the policy is cancelled or materially altered; shall comply with all applicable state of Washington insurance requirements; and shall be issued by an insurance company rated A- or better by A.M. Best authorized to conduct business and issue insurance in the state of Washington.

(iii) Attorney shall continuously maintain the insurance coverage required by this paragraph 15.b. throughout the entire term of this Agreement and throughout any other longer time period during which Attorney is obligated to continue performing services and duties hereunder.

c. Contemporaneously with Attorney's execution of this Agreement, Attorney shall provide the County with copies or certificates of the insurance policies and coverage (including any endorsements) required under this paragraph 15, and Attorney shall annually provide the County with the same type of documented proof and confirmation that such insurance policies and coverage continue to exist no later than thirty (30) days after the policies' annual renewal date(s).

16. **COMPLAINTS; PERFORMANCE MONITORING.** In the event that the PDM, another employee/representative of the County's Office of Public Defense, or the Benton County District Court receives an oral/written communication from a person represented by Attorney under this Agreement that in substance asserts an unresolved complaint about the legal services rendered to such person by Attorney and such complaint is not amenable to resolution by simply facilitating the communication between the client and attorney, the employee/representative receiving such communication shall promptly request and obtain a written, dated, and signed statement from the complainant describing and detailing the relevant facts and circumstances underlying and alleged in the complaint, copies of which shall promptly be provided to the County, the Benton County Court Administrator and the PDM.

a. Upon receiving such complaint, the PDM, without limitation to any other action the County may deem necessary/appropriate to pursue under this Agreement, shall promptly forward a copy of the complaint to Attorney and request and obtain Attorney's written, dated, and signed response thereto (which Attorney shall prepare and provide to the County and the PDM within five (5) business days, who then shall provide the represented person with a copy of the response within five (5) business days thereafter). The PDM shall review the complaint and Attorney's response and take any action deemed

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necessary with Attorney and/or the represented person to address and resolve the complaint, and the disposition of the complaint shall be communicated to the represented person as soon as reasonably possible. The PDM then may follow-up with the Benton County District Court within five (5) business days thereafter to confirm or advise that the complaint has been, or is in the process of being, addressed and disposed of. This stated procedure does not interfere with or otherwise impair the Benton County District Court's ability and/or duty to monitor the performance of attorneys appearing before the court.

b. Additionally, during the term of this Agreement, in order to help ensure that indigent persons are consistently provided effective legal representation, and without limitation to any other means or methods of performance monitoring/evaluation the County may deem necessary/appropriate, Attorney acknowledges that the County and/or the PDM have the right to periodically ask, without limitation, the Benton County District Court and/or the District Court Administrator and/or other attorneys and/or persons previously represented by Attorney to provide the County with an evaluation/assessment of the quality and effectiveness of Attorney's performance of legal services and related duties and obligations under this Agreement, provided that such inquiry shall not be made of any person represented, absent a complaint from such person, during the course of representation.

17. **TERMINATION.**

Cause for Termination and Notice

a. In addition to any other automatic or discretionary termination provisions set forth in this Agreement, this Agreement shall automatically terminate in the event that Attorney is suspended/disbarred from the practice of law in Washington, effective without notice as of the date of suspension/disbarment. In the event of automatic termination or termination pursuant to suspension or disbarment, Attorney shall be liable up to $5,000.00 for any additional costs or expenses incurred by the County and/or the Benton County District Court relating to the appointment of substitute legal counsel for any person(s) whom Attorney was appointed to represent hereunder; and the County shall be entitled and authorized to setoff and deduct any such additional costs or expenses from any unpaid compensation owing to Attorney hereunder.

Further, in the event that the Benton County District Court enters an order that prohibits or disqualifies Attorney from receiving any further appointments hereunder for any reason whatsoever, this Agreement shall automatically terminate without further notice as of the date such order is entered by the court. In the event that the court enters such an order because of unethical/unprofessional conduct by Attorney and/or because of Attorney's breach of this Agreement and the court determines at that time that the circumstances justify or require a substitution of appointed counsel for any person(s) whom Attorney was appointed to represent hereunder, Attorney shall be liable up to $5,000.00 for any additional costs or expenses incurred by the County relating to such substitute appointment(s); and the County shall be entitled and authorized to setoff and deduct any such additional costs or expenses from any unpaid compensation owing to Attorney hereunder.

b. In addition to the above-referenced automatic termination provisions, the County may elect to terminate this Agreement in the event Attorney fails for whatever reason to comply with any provision of this Agreement after giving Attorney ten (10)

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business days advance written notice to cure, which notice shall specify the reason(s) for the notice, the act(s) necessary to cure Attorney's failure(s), and the consequence (i.e., termination without further notice) if the failure(s) is/are not cured within the ten (10) day period. The County's right to terminate this Agreement in such regard shall be in addition to any other rights and remedies available to the County.

c. In addition to the foregoing provisions regarding termination, either party may elect to terminate this Agreement with or without cause or reason by providing the other party with ninety (90) days advance written notice of such election ("Early Termination"). Without limiting/waiving other provisions of this Agreement relating to Attorney's obligation and duty to accept and complete cases appointed to Attorney, Attorney's continuing obligation to accept case appointments shall be governed by the provisions of Section 17.f herein.. A ninety (90) day notice of termination given by either party under this paragraph 17.c. shall be fully and immediately effective when received by the recipient party pursuant to the provisions of below paragraph 30 (notwithstanding the inclusion of any contrary terms or language in the notice) without any need for formal or informal acceptance or any other response by the recipient party, and such notice may not thereafter be rescinded/revoked by the party giving such notice unless such rescission/revocation is expressly acknowledged and agreed to by the recipient party in writing in the recipient party's sole discretion.

d. In any event, consistent with the provisions of paragraph 12.e. above and regardless of the manner in which this Agreement is terminated, Attorney acknowledges and agrees that Attorney shall not be entitled to receive any further compensation from the County in the event this Agreement is terminated; provided that, however, Attorney shall be entitled to be paid for all services duly performed by Attorney under this Agreement up to the date of termination (including trial per diems. Additionally, as required by paragraph 6 above, the termination of this Agreement, regardless of the manner of termination, shall not relieve Attorney from the obligation and duty to continue representing all persons whom Attorney was appointed to represent prior to the termination unless Attorney is expressly barred or prohibited from doing so by court order and/or the suspension/disbarment of Attorney from the practice of law in Washington.

e. At the sole and exclusive discretion of County, Attorney may terminate this Agreement with less than 90 days notice with conditions of such Early Termination to be as set out in the next subsection below.

f. The parties agree that in the event of Early Termination of this Agreement with or without cause pursuant to Section 17.c, then:

1) If the Early Termination is initiated by County, then Attorney shall receive compensation for the entirety of the 90 day notice period, shall continue receiving case assignments during the first 30 of the 90 day notice period only, and shall not be responsible for any unresolved cases at the end of the 90 day notice period ("Residual Caseload").

2) If the Early Termination is initiated by Attorney, then the following provisions shall apply:

Notice	Appointments	Compensation	Legal Responsibility for Cases	Cost of Reassignment	Cap on Expenses
Days of Notice Required	Number of Days After Notice Attorney shall Continue to Accept Cases	Number of Days After Notice Attorney shall Continue to Receive Compensation	Number of Days After Notice Contractor is Responsible for Cases	Financial Responsibility for Reassignment of Residual Caseload	Cap on Attorney's Financial Responsibility for Residual Caseload
Less than 30	0	0	0	100% by Attorney	1 month of compensation
30-60 days	0	30	60	50% by each party	1 month of compensation
90 days	60	90	120	25% by Attorney	½ month of compensation

3) If, after termination, Attorney is then required to repay any compensation as constituting his/her share of financial responsibility for reassignment of Residual Caseload ("Repayment Obligation"), then Attorney may make such repayment in one lump sum or, at his/her election, in the amount of $500 per month with the first payment being due on the first of the month immediately after the effective date of termination, and subsequent payments being due on the first of each subsequent month. Furthermore, County shall be entitled to offset any such Repayment Obligation by withholding any sums that are due and payable to Attorney on or after the effective date of termination.

4) Pursuant to Section 19.d of this Agreement, Attorney may arrange with another attorney ("Substitute Attorney") to assume Attorney's Residual Caseload upon departure to avoid any Repayment Obligation. If Attorney chooses to do so, then any payment arrangements for the services by Substitute Attorney shall be a matter to be arranged between Attorney and Substitute and shall not affect this Agreement or Attorney's obligation hereunder in any way except that Attorney shall not be responsible for any Repayment Obligation as to cases that are handled by Substitute Attorney and therefore not considered to be Residual Caseload cases.

18. **INDEPENDENT CONTRACTOR.** Attorney fully understands, acknowledges, and agrees that Attorney shall not be an agent, representative, or employee of the County or the Benton County District Court for any type of purpose or situation whatsoever (including, without limitation, for purposes of any type of wage, hours/overtime, workers/industrial insurance compensation, unemployment, fair labor, and/or employee benefit/leave laws, disability act

coverage or rules, and/or regulations) and that Attorney, as of the date of this Agreement and throughout its entire term, is and will always be acting and operating as a fully independent contractor. In that regard, strictly subject to Attorney's duties, responsibilities and obligations imposed under this Agreement, Attorney shall have sole and absolute discretion using Attorney's best professional legal judgment to determine the manner and means of providing the legal representation services required under this Agreement; and neither the County, the County's PDM, nor the Benton County District Court shall have any authority or duty to directly control the actual performance of Attorney's professional services hereunder.

19. **NON-ASSIGNMENT AND TEMPORARY SUBSTITUTIONS.** Except as otherwise expressly provided in paragraphs 19.a-d below, Attorney shall not allow or arrange for any other person to perform any of the services required by this Agreement, nor shall Attorney assign, subcontract out, or otherwise delegate any of Attorney's rights, responsibilities, or obligations under this Agreement.

a. Attorney and any of the other Benton County District Court Criminal Defense Panel members or staff attorneys employed by Benton County may mutually agree to make temporary, substitute appearances for each other on routine docket matters and routine court hearings on an as-needed basis as approved by the court and by the person being represented (if that person has previously discussed the case with his/her appointed attorney). Any compensation or consideration (if any) to be paid or given by Attorney to the other Benton County District Court Criminal Defense Panel members for such substitution(s) shall be a matter of direct negotiation and agreement between Attorney and said other panel members, and said other members shall not be entitled to receive any additional compensation from the County for such substitution(s). Provided, however, that substitution arrangements made by and between any contracted Defense Panel member and a staff attorney employed by Benton County shall not involve monetary compensation paid either way, and shall only be on a *quid pro quo* or "mutual coverage" basis.

b. In the event Attorney needs or desires to take up to a maximum of four (4) consecutive weeks (or such longer requested period of time as may be expressly pre-approved in writing by the PDM on a case-by-case basis, in his/her sole and absolute discretion) leave of absence from the practice of law and/or the requirements of representation under this Agreement during the term of this Agreement and is unable to obtain the assistance of the other Benton County District Court Criminal Defense Panel members during such temporary absence, Attorney may seek and obtain the assistance of another Washington-licensed attorney to make temporary, substitute appearances for Attorney during such absence on routine docket matters and routine court hearings on an as-needed basis provided that Attorney and such other attorney jointly prepare, sign and file a written certification with the court (with a copy to be provided to the District Court Administrator and the PDM) in all such matters and hearings that expressly certifies that such other attorney has reviewed this Agreement and fully meets all criteria, qualifications, and requirements under this Agreement to render legal services to indigent persons and provided further that such temporary substitution is expressly authorized on the court record by the court and the particular person(s) being represented by Attorney who is/are affected by such substitution of legal counsel.

(i) Any compensation or consideration (if any) to be paid or given by Attorney to such other attorney for such substitution(s) shall be a matter of direct negotiation and agreement between Attorney and such other attorney, and such

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other attorney shall not be entitled to receive any compensation from the County for such substitution(s).

(ii) Unless called to active military duty, Attorney shall be responsible to ensure that such other attorney fully complies with all terms and conditions of this Agreement during such temporary absence period (including, without limitation, the requirement to maintain the insurance coverage specified in paragraph 15 above), and Attorney shall be liable for any damages or losses sustained as a result of such other attorney's non-compliance with the terms and conditions of this Agreement.

c. In the event Attorney is called up for active military duty or for direct civilian support of active military operations, Attorney shall provide the County and the PDM with written notice of such event within five (5) business days of Attorney being called up so that the PDM and Attorney can coordinate and arrange for an appropriate substitute attorney to handle Attorney's duties under this Agreement while Attorney is on military leave and any reasonable back-to-civilian-life transition time requested by Attorney upon return. Attorney shall receive no compensation under this Agreement while on leave or during any such transition time.

d. Attorney may sub-contract substantially all of the duties to be provided pursuant to this Agreement provided that all of the following conditions are met:

(i) The proposed sub-contractor meets all the criteria set out in Section 3 of this Agreement; and

(ii) County agrees to the selection of the sub-contractor in its sole and exclusive discretion; and

(iii) Sub-contractor signs an acknowledgement and agreement to abide by all the terms and conditions of this Agreement (in such form as may be required by County); and

(iv) Attorney agrees to continue to be professionally responsible for any sub-contracted work.

Even in the event that Attorney sub-contracts substantially all of the duties to be provided pursuant to this Agreement, Attorney agrees to continue to be professionally responsible for all of the work performed pursuant to this Agreement (even if the work is actually performed by the sub-contractor), and agrees that Attorney's obligations in Section 14. Indemnification and Hold Harmless, continue to apply to any work that is performed by a sub-contractor.

20. **VACANCY AND REPLACEMENT.** In the event this Agreement is terminated by either party prior to the termination date specified in paragraph 1 above, the County may initiate, implement and pursue any actions or process deemed appropriate/necessary to seek, select, and contract with another qualified attorney to replace and succeed Attorney in representing indigent persons in Benton County District Court.

21. **OTHER APPOINTMENTS.**

Attorney shall not enter into any contract/arrangement to perform criminal prosecution services in any court or jurisdiction. Subject to, and without limiting/waiving, Attorney's duties and obligations under this Agreement, Attorney may enter into a part-time contract/arrangement to receive public defense appointments in another court or jurisdiction, provided that, and on the

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indispensable condition that, Attorney's duties and obligations under said part-time contract/arrangement will not conflict with or interfere with Attorney's ability to timely and effectively perform Attorney's duties and obligations under this Agreement. Consistent with Attorney's status as an independent contractor, Attorney shall have sole and personal professional responsibility for ensuring that Attorney's obligations on other contracts or arrangements to receive public defense appointments, when combined with this Agreement, are fully in compliance with Washington State Standards for Indigent Defense including, but not limited to, the caseload standards contained therein.

22. **TEMPORARY JUDICIAL SERVICE.** Subject to, and without limiting/waiving, Attorney's duties and obligations under this Agreement, Attorney may temporarily serve as a judge pro tem in any capacity and under any circumstances except on any criminal cases pending before the Benton County District Court, provided that, and on the indispensable condition that, it would not conflict with or interfere with Attorney's ability to timely and effectively perform Attorney's duties and obligations under this Agreement. Any potential exceptions to the foregoing limitation on Attorney serving as a judge pro tem would be strictly on a case-by-case basis and would be strictly subject to Attorney obtaining the PDM's prior express approval and authorization, which decision shall be decided on a case-by-case basis in the PDM's sole and absolute discretion.

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

24. **CAPTIONS; TIME COMPUTATION.**

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

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

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

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

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

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

29. **DISPUTE RESOLUTION.**

a. The parties hereby specifically waive, release, and irrevocably relinquish any and all right to file a court lawsuit of any type to address any claims or dispute between the parties involving the performance or interpretation of this Agreement or that in any other way relate to, or arise from, this Agreement, and regardless of whether money damages, equitable relief, or any other type of relief is being sought. Provided, however, if necessary due to a party's disregard of and failure to abide by the non-judicial Dispute Resolution provisions contained in this paragraph 31, the other party may pursue court action to seek and obtain an order compelling and enforcing such Dispute Resolution provisions, and as part of such action and court order, the court shall order the party not complying with the requirements of such Dispute Resolution provisions to pay the other party's incurred attorney fees and costs.

b. Accordingly, in furtherance of the parties' above-stated agreement to submit any and all claims and disputes to non-judicial resolution, in the event any type of dispute arises between the parties involving the performance or interpretation of this Agreement, or that in any other way relates to, or arises from, this Agreement, either party may then make written demand on the other party to submit the dispute to mediation through the assistance of an experienced mediator chosen by mutual agreement of the parties who must be a Washington-licensed attorney experienced in contract disputes. The mediation shall occur within thirty (30) days of the mediation demand, unless the parties mutually agree otherwise. The County shall pay one-half of the mediator's fees and expenses, and Attorney shall pay the other one-half of such fees and expenses.

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

party as a part of the arbitration decision and award. In the event of suit or action to enforce an arbitration award, venue shall lie exclusively in Benton County Superior Court, and the most prevailing party in such suit or action shall be entitled to recover such party's reasonable attorneys' fees, costs and expenses from the other party.

30. **NOTICES.**

a. Any notices required or permitted to be given by Attorney to the County under this Agreement shall be in writing and shall be either personally delivered to the County's PDM at their below-stated office address; mailed to the County's PDM at their below-stated office address via certified U.S. mail, postage prepaid; or emailed to the County's PDM at their official email address.

Public Defense Manager
Benton County Office of Public Defense
7122 West Okanogan Place, Ste #A220
Kennewick, WA 99336

b. Any notices required or permitted to be given by the County to Attorney under this Agreement shall be in writing and shall be either personally delivered to Attorney at their below-stated business address; mailed to Attorney at their business address set forth in paragraph 2.a above, via certified U.S. mail, postage prepaid; or emailed to Attorney at their business email address.

c. Any such notices under this Agreement shall be deemed to have been duly given, made, and received when either personally delivered to the notice recipient in the manner described above; when duly deposited in the U.S. mail addressed to the recipient in the manner described above; or when emailed to the recipient in the manner described above. A party may change the address(es) to which notices are to be sent by giving notice of such change of address(es) in conformity with the above provisions of this paragraph for the giving of notice.

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

32. **PUBLIC DEFENSE MANAGER** Attorney acknowledges that the County has employed the PDM to coordinate, monitor, and evaluate the performances and compliance of independent contractor attorneys (like Attorney) under public defense agreements with the County. Attorney further acknowledges that the County has the right and discretion to direct the PDM to assume and fulfill various roles and functions under this Agreement. Though the PDM will not have or attempt to exercise direct control over the manner and means in which Attorney provides legal services under this Agreement, Attorney agrees to reasonably cooperate with the PDM (and his/her designees), and to promptly comply with reasonable requests from the PDM

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(and/or their designees), to allow for the effective monitoring and evaluation of Attorney's performance under this Agreement.

33. **PERFORMANCE STANDARDS MONITORING**. The parties agree and acknowledge that the County, pursuant to its legal duty to provide effective and competent public defense representation, and needing a reasonable, effective and relatively objective way to gauge the effectiveness of contract public defenders, will, by and through its Office of Public Defense, monitor the effectiveness and competence of contract public defenders, including Attorney, by Performance Standards Monitoring ("Monitoring"). Attorney understands that Attorney's performance and eligibility for future contracts will be evaluated based on data collected through Monitoring and the County Office of Public Defense may, but is not obligated to, from time to time make known to Attorney any opportunities for improvement as observed through Monitoring efforts and/or issues that need to be addressed. Attorney further agrees to reasonably cooperate with County, its Office of Public Defense, and any staff from that office that are engaged in Monitoring efforts so that data collected through such efforts are accurate and timely. The actual Performance Standards to be monitored are contained in the Performance Standards Monitoring section, attached as Exhibit "A" to this Agreement, the acknowledgement of which, by Attorney's affirmative signature, is required to fully execute this Agreement.

SIGNATURES APPEAR ON FOLLOWING PAGE

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

BENTON COUNTY

Date_____

Chairman of the Board

Chairman Pro Tem

Commissioner

Constituting the Board of County Commissioners for Benton County

Attest:

Clerk of the Board

Approved as to Form and Content

DocuSigned by:
Charlie Dow
D2E112CD2A504A6...

Charles Dow
Public Defense Manager

ATTORNEY

Date 12/11/2023

DocuSigned by:
Adam R Pechtel
723BE4A2FF1445D...

Adam Pechtel, WSBA **#43743**
Not valid unless Performance Standards Monitoring Acknowledgment on following page is also signed.

SIGNING AUTHORITY FOR FIRM (required if attorney is an associate with a law firm)

, WSBA

I am a principal with signing authority for . I acknowledge and understand that the above-referenced Attorney, who is an associate with my firm, is about to enter into a public defense agreement with Benton County. I consent to this agreement, represent that my firm has sufficient resources to assist Attorney in faithfully carrying out their obligations pursuant to this Agreement and in complying with Washington State public defense laws, rules, and standards.

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EXHIBIT A

PERFORMANCE STANDARDS MONITORING

Attorney acknowledges that County will be engaging in Performance Standards Monitoring as more fully described in Section 33 of this Agreement and that said Monitoring will comprise of the following:

a. Metrics Monitoring will entail the collection of the following metrics specific to Attorney:

- Trials held
- 3.5, 3.6 and other significant motions filed
- Motions filed under RCW 10.77 for competency evaluations
- Number of cases disposed of at trial readiness with dismissal or other comparable favorable result
- Number of cases where investigative services were requested
- Number of visits to incarcerated clients in Benton County Jail
- Number of client complaints
- Amount of time spent per case

b. Court Observation Monitoring will also entail direct observation of Attorney's performance in court (including, but not limited to pre-trial dockets, motion dockets and trials) by Benton County Office of Public Defense Supervisory Staff to evaluate, among other things:

- Attorney's preparedness and readiness
- Attorney's interactions with clients
- Attorney's ability and willingness to advocate to the court on behalf of clients

Attorney acknowledgment:

DocuSigned by:
Adam R Pechtel
725BE4A27F144B2...

I understand and acknowledge that Benton County will utilize the Performance Standards Monitoring as set out in this Exhibit to my public defense contract to evaluate my effectiveness as a public defender and that contract decisions, such as renewals, extensions, caseload increases, or assignment to other public defense duties will be made with reference to the results of such Performance Standards Monitoring.

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	1//9/24
Subject:	Awarding professional services agreement for District Court criminal cases to Gregory Halvorsen, contract #BCDC2224GH001
Presenter:	n/a
Prepared By:	Denise Gerry
Reviewed By:	Charlie Dow

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 caseload in Benton County District Court is significantly higher than expected and as well as the lack of qualified attorneys. It is necessary to contract with additional attorneys to ensure caseload standards are not breached.

Attorney Gregory Halvorsen is qualified to provide public defense services and interested in contracting with Benton County to do so. The proposed professional services agreement and resolution effectuate a contract with him for the provision of such services on the terms contained therein, for the period from December 1, 2023 through December 31, 2024 at the rate of $350.77 per case.

Fiscal Impact

General Fund - $350.77 per case for 292 cases, and other allowable case premiums, reimbursements, and other fees as provided in the professional services agreement.

Recommendation

Approve resolution as proposed, execute proposed professional services agreement with Gregory Halvorsen.

Suggested Motion

Approve with consent agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF AWARDING AND EXECUTING A PROFESSIONAL SERVICES AGREEMENT WITH GREGORY HALVORSEN, CONTACT #BCDC2324GH001, TO PROVIDE PUBLIC DEFENSE SERVICES IN BENTON COUNTY DISTRICT COURT TO DEFENDANTS CHARGED WITH CRIMINAL OFFENSES

WHEREAS, Benton County is obligated by law to provide indigent defense services in Benton County District Court for defendants charged with criminal offenses ("Criminal Cases"); and

WHEREAS, Benton County provides for representation on Criminal Cases by a combination of staff trial attorneys and contract attorneys; and

WHEREAS, it is therefore necessary to seek Statements of Qualifications from interested attorneys in order to award new agreements; and

WHEREAS, after a Request for Qualifications ("RFQ") was held and applications reviewed, it was deemed appropriate to award an agreement to attorney Gregory Halvorsen for public defense services on Criminal Cases in Benton County District Court; **NOW, THEREFORE**

BE IT RESOLVED the Board of Benton County Commissioners, Benton County, Washington, hereby approve as proposed the professional services agreement with attorney Gregory Halvorsen, designated BCDC2324GH001, for services to be provided in Benton County District Court to defendants charged with criminal offenses, commencing December 1, 2023 and expiring December 31, 2024, with a per case compensation in the amount of $350.77 per case for up to 292 cases (plus other allowable case premiums, reimbursements, and other fees as provided in the professional services agreement).

Dated this _____ day of _____ 20 _____

_____
Chairman of the Board

_____
Chairman Pro Tem

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

Attest: _____
Clerk of the Board

cc: Originals – OPD, G Halvorsen
Copy – Auditor, S Godinez

C Dow

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PROFESSIONAL SERVICES AGREEMENT TO PROVIDE LEGAL REPRESENTATION TO INDIGENT PERSONS IN BENTON COUNTY DISTRICT COURT

CONTRACT # BCDC2324GH001

CONTRACT SUMMARY			
Contract Type	**Partial Caseload**		
Contract Number	**BCDC2324GH001**	**Contract Holder**	**Gregory P. Halvorsen**
WSBA #	**61468**	**Effective Dates**	**December 1, 2023 – December 31, 2024**
Caseload Cap	**292**	**Compensation**	**$8,535.40 per month**
Assigned Court	**District Court**	**Compensation Structure**	**☐ By the case** **☐ Monthly** **☐ Hourly** **☒ By the case but paid monthly**
Compensation Payable To:	**G.P. Halvorsen Law, P.L.L.C.**		

THIS AGREEMENT is entered into by and between **Gregory P. Halvorsen,** attorney at law, Washington State Bar Association # **61468** ("Attorney"), **dba G.P. Halvorsen Law, P.L.L.C.** and **BENTON COUNTY,** a State of Washington political subdivision ("County"), for and on behalf of the Benton County District Court.

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

A. The County has the legal responsibility to provide legal defense services to indigent persons charged with misdemeanor (and gross misdemeanor) criminal offenses alleged to have been committed within the County's jurisdictional boundaries ("County Defendants").

B. County has also entered into interlocal agreements with the municipalities within its jurisdictional boundaries ("Cities") to provide public defense services to those municipalities in fulfillment of their legal duties to criminal defendants being prosecuted for misdemeanor (and gross misdemeanor) criminal offenses within their jurisdictional boundaries ("City Defendants").

C. Attorney is engaged in the private practice of law, has direct experience in litigating cases involving persons charged with criminal offenses, and desires to contract

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with the County to provide legal services to County Defendants and/or City Defendants.

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

1. **AGREEMENT TERM.** This Agreement shall be deemed effective for all purposes as of **December 1, 2023** and shall continue thereafter through and including **December 31, 2024**, unless earlier terminated pursuant to the applicable terms and provisions of this Agreement. Upon expiration of this Agreement, depending on County's staffing needs, County may elect to utilize any legally appropriate means (including, but not limited, a Request for Qualifications) to select contract awardees. Thereupon, depending on factors including, but not limited to, County's staffing needs, number of qualified applicants, and Attorney's performance during the term of this Agreement, County may choose to re-award a contract to Attorney, to other attorneys, or to no-one, at its sole and exclusive discretion.

2. **ATTORNEY'S OFFICE LOCATION.**

a. Attorney presently and regularly maintains an office adequate and appropriate for the practice of law at **1030 N Center Pkwy, #N273, Kennewick, WA 99336.** Attorney's current local office telephone is **509-802-3510**; and Attorney's current office/work e-mail address is **greg.halvorsen@gphalvorsenlawpllc.com**.

b. Throughout the entire term of this Agreement, Attorney shall continue to maintain (or have access to) such an office, such telephone and fax numbers, and such e-mail address; provided that, however, Attorney may relocate Attorney's office to another location within the greater Tri-Cities, Washington, and/or Attorney may change Attorney's telephone/fax number to another greater Tri-Cities local telephone/fax number, and/or Attorney may change Attorney's e-mail address, provided that Attorney must provide immediate written notice of such change(s) to the Benton County Public Defense Manager ("PDM"), the Benton County Prosecuting Attorney, and the Benton County District Court Administrator ("District Court Administrator").

c. Regardless of the location or manner in which Attorney decides to maintain an office, throughout the entire term of this Agreement the office facility must comply with any and all applicable public defense standards adopted by the Washington Supreme Court.

3. **ATTORNEY'S QUALIFICATIONS.** Attorney acknowledges and agrees that the County has an obligation to provide competent and effective legal counsel to indigent persons subject to proceedings in the Benton County District Court. Attorney shall perform all services hereunder in strict accordance with the usual skills and professional ethical standards exercised by attorneys engaged in the defense of persons accused of misdemeanor crimes in the state of Washington and generally exercised by members of the Washington State Bar Association (WSBA). Without limitation in that regard, Attorney acknowledges and agrees that Attorney has a fundamental duty and responsibility to effectively promote and protect the best interests and rights of all persons whom Attorney is appointed to represent under this Agreement. Attorney acknowledges and agrees that he or she independently, solely, and exclusively bears professional responsibility for decisions, actions, and omissions, made in the course of providing professional legal services pursuant to this Agreement. None of the actions or omissions of County or its

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agents (specifically including County's Public Defense Manager) shall be interpreted as supervising, directing, or otherwise controlling Attorney's exercise of professional discretion.

a. As of the date of this Agreement, Attorney represents and warrants that Attorney is unconditionally licensed to practice law within the state of Washington; has had at least one (1) year of direct trial experience in criminal defense or criminal prosecution matters (or will be part of an intensive and closely supervised mentorship program sponsored by the County's Office of Public Defense); otherwise meets applicable requirements of the Washington Standards for Indigent Defense ("SID") applicable to misdemeanor and gross misdemeanor cases; has not been subject to a termination proceeding involving a previous personal service agreement for indigent defense services; has not been censured, admonished, or otherwise formally disciplined for past conduct or behavior that would negatively reflect on Attorney's duty and ability to effectively and competently render legal services hereunder; has not been suspended or disbarred from the practice of law in any state or jurisdiction at any time in the past; and does not have any bar association complaints filed and pending against him/her.

(i) This Agreement may be subject to review and, if applicable and/or necessary, further action pursuant to paragraph 17 below in the event that Attorney's license to practice law in Washington is revoked or otherwise limited or restricted; in the event that a court of competent jurisdiction formally determines and expressly finds that Attorney has rendered ineffective assistance of counsel to any person; in the event that Attorney is censured, admonished, or otherwise formally disciplined for conduct or behavior that negatively reflects on Attorney's duty and ability to effectively and competently render legal services hereunder; or in the event that Attorney is suspended or disbarred from the practice of law in any other state or jurisdiction.

(ii) Attorney shall notify the County in writing within three (3) business days if any event specified in paragraph 3.a.(i) above occurs or if any bar association complaint is filed against Attorney. Failure to do so shall constitute a substantial and incurable breach of this Agreement and shall subject this Agreement, at the election of County, to immediate termination.

b. Attorney acknowledges and agrees that the County may conduct criminal history background check(s) on Attorney including any such recurring checks as Counties may deem appropriate, in their sole discretion, even at a time after execution of this Agreement. Attorney acknowledges and agrees that this Agreement shall be deemed immediately and automatically terminated upon the County receiving a non-complying or otherwise unsatisfactory criminal history background check report.

c. Attorney represents, warrants, and certifies that Attorney has read and fully understands the requirements of RCW 13.40.570 (sexual misconduct by state employees, contractors) and all sex offense crimes included in RCW Chapter 9A.44. Attorney shall comply with any and all applicable legal and/or administrative requirements relating to the documentation/reporting of sexual misconduct.

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d. During each calendar year of the term of this Agreement Attorney shall obtain at least seven (7) hours of WSBA-accredited Continuing Legal Education (CLE) credits in courses directly relating to Attorney's public defense practice under this Agreement. Attorney shall provide the Public Defense Manager with written proof and confirmation that such CLE credits have been obtained no later than by December 31st of each calendar year. Additionally, during each calendar year during the term of this Agreement, in addition to participating in any specialized training-related activity specified in RCW 10.101.060(1)(a)(iii) or otherwise specifically required by other applicable law or court rule, Attorney shall attend at least one (1) public defense services-related training seminar sponsored and/or approved by the Washington State Office of Public Defense ("WSOPD"), and any CLE credit earned by Attorney by attending such training seminar(s) may be applied towards the above-mentioned minimum seven (7) hours. The County may provide Attorney's name and address to the WSOPD for purposes of the WSOPD notifying Attorney of any such upcoming training seminars. Attorney shall provide the PDM with written proof and confirmation that such required training seminar has been attended by Attorney no later than by December 31st of each calendar year.

Specific training regarding legal financial obligation ("LFO") issues. At least once every 24 months (or more frequently as required in writing by the County due to changes in applicable law) Attorney shall attend training approved and presented/sponsored by County on the subject matter of LFO issues in public defense cases. Attendance may be live or by video replay and Attorney shall provide proof of attendance to County by any means reasonably required by County. If Attorney is a new contract public defender, then County will provide Attorney with basic LFO training material in the first week following the date when Attorney starts with County's public defender training program or first becomes eligible for case appointments, whichever is earlier, and Attorney shall provide proof of viewing of LFO training material to County as a specific condition of this contract within the week by any means reasonably required by County.

In addition to specific training regarding LFO issues, from time to time, County may, but is not obligated to, offer additional training to Attorney on subjects of relevance to Attorney's provision of public defense services pursuant to this Agreement. Attorney acknowledges that such additional training is completely optional and is offered for Attorney's convenience only. None of this additional optional training shall be regarded as County's right to train Attorney in any way. Attorney may choose not to attend any additional training offered and such a choice will not be detrimental to Attorney's contract, or opportunity to continue to contract in the future, in any way whatsoever.

e. Attorney represents and warrants that, throughout the entire term of this Agreement, Attorney's private law practice caseload; Attorney's schedule; and Attorney's office resources, equipment, and support staff will allow Attorney to competently undertake and effectively perform all services required under this Agreement. Attorney represents and warrants that Attorney's private law practice and schedule will not interfere with Attorney's ability to timely and efficiently perform such services including, without limitation, Attorney's ability to prepare for and attend regularly scheduled trials and dockets or Attorney's ability to schedule and conduct face-to-face meetings with the persons Attorney is appointed to represent under this Agreement for purposes of discussing, preparing, and pursuing the most viable defense(s) and/or resolution available and keeping such persons reasonably apprised as to the status of their case.

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f. Pursuant to RCW 10.101.050, no later than 15 calendar days after the end of each calendar year during the term of this Agreement, Attorney shall provide the PDM with a written report showing the total number and specific types of private practice cases (which for purposes of this Agreement shall include pro bono cases, retained-fee cases, and any cases handled by Attorney under any other professional/personal services agreement) in which Attorney provided legal services during the preceding year.

Additionally, in the event that the public defense reporting requirements under RCW 10.101.050, other applicable statute or relevant case law are later amended/modified (or, in the case of case law, reasonably required as a best practice) Attorney shall correspondingly comply with any such amended/modified reporting requirements without added compensation upon written notice from the County to do so.

g. Attorney recognizes and acknowledges that Attorney is required by Washington Supreme Court Order to meet certain Supreme Court-adopted Standards for Indigent Defense ("Defense Standards") to provide quality representation to indigent criminal defendants, and to periodically file certain certifications attesting to Attorney's compliance with such Defense Standards. Attorney understands and acknowledges that Attorney's compliance with such Defense Standards and periodic certification filing requirements is a direct professional and ethical obligation between Attorney and any Court in which Attorney appears while performing services under this Agreement. Attorney further acknowledges and understands that, though Attorney's compliance with such Defense Standards and such periodic certification filing requirements is not an express term of this Agreement and therefore not subject to the County's monitoring or control, Attorney's noncompliance with such Defense Standards and/or such filing requirements would directly impair Attorney's ability to perform and fulfill Attorney's basic obligations under this Agreement. Accordingly, if the County is notified by any Court in which Attorney appears to perform services under this Agreement that Attorney has failed to comply with such Defense Standards or such periodic certification filing requirements, Attorney shall then be considered to be in substantive breach of this Agreement and this Agreement shall then become subject to potential termination under the provisions of paragraph 17.b. below.

h. Attorney understands and acknowledges that Attorney is solely and personally responsible to obtain and maintain all necessary state and local government business licenses and/or other approvals necessary to operate Attorney's private legal services business.

4. **OTHER INDIGENT DEFENSE AGREEMENTS.** The County has entered into separate and independent professional services agreements with other licensed attorneys, and also employs in-house staff attorneys to primarily provide criminal defense services to persons accused of misdemeanor crimes in Benton County District Court. Attorney agrees to fully cooperate and coordinate with said other attorneys, the Benton County District Court, the District Court Administrator and the PDM to establish a process to effectuate the efficient and equitable distribution of case appointments between Attorney and said other attorneys (collectively the "Benton County District Court Criminal Defense Panel"). The District Court Administrator and/or the PDM shall have the inherent discretion and authority to monitor and control (and reasonably modify/change) such process. Attorney shall accept all case assignments made by the District Court or PDM even if the case does not originate from the docket to which attorney is assigned.

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5. **CONTRACT DUTIES.** During the term of this Agreement, Attorney agrees to and shall accept appointments to represent indigent persons (regardless of their race, color, national origin, age, sex, marital status, sexual orientation, handicap/disability, personal background, creed, or political or religious affiliation) on any matter in the Benton County District Court in which publicly provided counsel is furnished or required by law. More specifically, Attorney shall accept court appointments to represent indigent persons on any of the following types of matters:

- Any misdemeanor matter filed or otherwise pending under the applicable Washington criminal statutes and/or under any other applicable Washington law including the municipal codes of the cities located within Benton County, in the Benton County District Court.

- Any post-disposition probation violation, revocation, modification, and/or contempt-of-court proceeding relating to any underlying criminal case.

- Any material witness matter relating to a case or matter filed in Benton County District Court.

- Any case or matter returned to the Benton County District Court from any higher court.

- Any other type of Benton County District Court case or matter in which another Benton County District Court Criminal Defense Panel member and/or any other attorney who is under a professional services agreement to provide legal representation in Benton County District Court is unable to handle due to a conflict of interest.

- Any case or matter transferred from the Juvenile Court through declination or other court proceedings.

- Any civil contempt of court proceeding, not including non-contempt matters such as non-criminal custody or paternity matters.

- Any post conviction matters where court appointed counsel is mandated by law including, but not limited to: furlough orders, motions to withdraw pleas, and sentence reviews. These post conviction matters do not include appeals to Superior Court pursuant to RALJ, since these are separately addressed herein.

- Any appeals to Superior Court pursuant to the Rules of Appeal for Courts of Limited Jurisdiction ("RALJ")

    a) **Assignment to specific docket:** County intends to assign Attorney to a specific criminal docket, representing cases primarily filed by either County (further divided into law enforcement agency that made the arrest: Washington State Patrol or Benton County Sheriff's Office), or by one of the Cities ("Assigned Docket"). As such, the vast majority of Attorney's responsibilities will be to cases filed on Attorney's Assigned Docket. However, from time to time, whether because of conflict of interest of other public defense attorneys or because of caseload overflow reasons, Attorney may be assigned cases from dockets other than Assigned Docket and Attorney's acceptance of such cases (with allowance for Attorney's bona fide conflicts of interest) are a specific condition of this Agreement even though such cases may require Attorney to attend multiple dockets or even attend court multiple days a week for short periods of time.

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b) **Changes to court schedule:** The parties acknowledge that i) the criminal Docket days are set by Benton County District Court and not by County and therefore they may be subject to temporary or permanent modification at the discretion of Benton County District Court; ii) emergency court operations (including emergency court operations necessitated by the COVID-19 pandemic) may necessitate to modification of Docket scheduling including the splitting of dockets into multiple days a week or otherwise modifying weekly docket responsibilities; (the preceding 5b.i) – ii) shall collectively be referred to as "Docket Scheduling Irregularities").

As to the Docket Scheduling Irregularities described in the preceding paragraph, the parties agree that:

- Docket Scheduling Irregularities do not constitute a breach of this Agreement or such change in circumstances that the Agreement needs to be renegotiated;

- Docket Scheduling Irregularities do not, in themselves, entitle Attorney to additional compensation;

- County agrees to provide Attorney with as much advance notice as reasonably possible as to any anticipated and known Docket Scheduling Irregularities, respectful of the fact that Attorney likely has obligations to private practice or other clients (together with case scheduling obligations) outside of clients assigned through this Agreement.

c) ***In-Custody Team*** **assignment**: Upon written direction from the PDM, Attorney shall be assigned to the *In-Custody Team* provided that the PDM, to the extent possible and practicable, should not make such an assignment against an attorney's expressed desires, and shall only do so if necessary to maintain adequate representation or continuation of representation. This written notification shall be made on or before the commencement of this Agreement term if the Agreement is intended to be for *In-Custody Team* assignment, and may be made at any time after commencement of the Agreement if the assignment to the *In-Custody Team* occurs after commencement. Attorneys assigned to the *In-Custody Team* shall not receive any newly filed misdemeanor matters, material witness matters, matters returned to Benton County District Court from any higher court, any matters transferred from the Juvenile Court through declination or other court proceedings, any conflict cases or any civil contempt cases, any post conviction cases, and will not be expected to handle RALJ appeals (unless they request to be assigned such cases). Instead, *In-Custody Team* attorneys shall be responsible, as a team, for providing representation for the following:

- In-custody initial appearances in Benton County District Court. Such representation shall be provisional only and shall not continue beyond the initial appearance hearing. The purpose of such in-custody representation shall be to resolve compliance or failure to pay fine cases as possible, to make release decision arguments on new criminal charges, and, when possible (usually when plea agreements may be reached with prosecutors) to resolve new criminal charges.

- Providing representation to defendants during all regularly scheduled District Court probation, compliance, or sentence violation dockets and failure to pay fine dockets (if held) except the compliance dockets associated with District

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Court felonies, and with compliance/fail to pay fine cases docketed in Benton County District Court in Prosser.

d) Arraignment Counsel assignment: On a rotating basis with the schedule established and maintained by the PDM, Attorney shall provide provisional representation to defendants on arraignment dockets. At assigned arraignment dockets, Attorney shall be responsible for remaining available during the entire docket for provisional consultation by any defendant who wishes to have the benefit of legal advice before or during otherwise *pro se* negotiations with prosecuting authorities for the resolution of their case(s) at time of arraignment. During arraignment docket assignments, Attorney shall not be responsible for providing any advice to defendants who are not seeking to resolve their case(s) at time of arraignment, even in the case of defendants whose cases are assigned to them by the Court. If Attorney is not available for an assigned arraignment docket, then Attorney is personally responsible for arranging for coverage by any other attorney who has a current contract with County. In any case where another contract attorney provides coverage, then that attorney, instead of assigned attorney, shall be entitled to the compensation for the assignment.

e) On-call cell phone assignment. On a rotating basis with the schedule established and maintained by the PDM, Attorney shall provide 24-hour "on-call" limited and provisional representation to defendants who are in custody. This assignment will be made for a week (7 consecutive days) at a time during which time Attorney shall carry and answer a cell phone provided to Attorney for such purpose by the PDM (or appropriately forward calls from the provided cell phone to another phone as long as they are answered by Attorney). The PDM shall reasonably ensure that the phone calls being made to the on-call Attorney are only being made by arrestees who wish to speak with an attorney prior to being questioned, providing a breath test sample, or for some other appropriate pre-arraignment purpose. Attorney is specifically permitted to accept people with whom they speak during this assignment as paying private clients and is permitted, to the extent otherwise lawful and not in violation of the Rules of Professional Conduct, to discuss the prospect or terms of such private retainer during the telephone conversation. *From time to time, at the request of an attorney holding a District Court public defense agreement, County may assign the on-call cell phone to such an attorney exclusively for an agreed-upon time (or indefinitely). Such temporary exclusive assignment to an attorney does not negate the provisions of this section 5e) when and if the time comes when the exclusive assignment arrangements terminates and it becomes necessary to assign the on-call cell phone to other attorneys, including Attorney, once again.*

6. **CONTINUED REPRESENTATION.**

Attorney has a duty to timely and fully complete all cases appointed to Attorney under this Agreement. "Timely and fully complete" means, for each case, continuing to represent the defendant up to and including the time of final disposition of their case whether by way of conviction, dismissal of all charges (as a result of a finding of not guilty or as a result of an empaneled jury being unable to reach a verdict), or a change of plea and entering of a sentencing. Provided, however, that if a particular case must be re-tried for any reason whatsoever, including declaration of a mistrial or a hung jury, Attorney shall be entitled to an additional trial per diem for the additional trial but shall not be eligible for any additional credit. However, if restitution is not agreed upon at time of sentencing and a separate restitution hearing is necessitated, then Attorney shall represent the defendant at such restitution hearing in order to have "timely and fully completed" the case. In cases where a defendant is placed on a deferred prosecution or stipulated

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order of continuance program, then Attorney shall be responsible for providing legal representation to such a defendant in the event the defendant is accused of a violation of the terms of such a program and is ordered to show cause why their participation in such a program should not be terminated unless other arrangements for appointment of counsel have been made by the Office of Public Defense. The determination of case credit entitlement at such subsequent representation shall be governed by the provisions of Article 8(b) herein.

Attorney's responsibility to provide continuing legal representation to clients upon expiration or termination of this Agreement shall be as stated in Section 17 Termination.

7. **NUMBER OF APPOINTMENTS.**

During each calendar year of the term of this Agreement, Attorney may be appointed any number of case appointments up to **292** total cases equivalents as calculated pursuant to Article 8 herein per calendar year (proratable for any partial calendar year). The maximum number of appointments stated above shall be calculated exclusive of appointments to RALJ appeals and exclusive of cases handled by Attorney while assigned to the compliance unit. Provided, however, that if Attorney is assigned, during any full calendar year to the compliance unit for less than that full calendar year, then for purposes of calculating case equivalent totals for the year, Attorney shall be credited with the greater of thirty-two (32) cases equivalents for each month when Attorney is assigned to the compliance unit.

8. **CASE EQUIVALENTS.**

a. For purposes of calculating Attorney's above-referenced "case equivalents" under this Agreement only and expressly not for purposes of any "weighting system" as allowed by SID, the following provisions shall apply:

- A misdemeanor appointment shall be counted as one (1) case equivalent.

- A probation violation appointment shall be counted as one-third (1/3) case equivalent unless the probation violation appointment requires appearance on the Prosser docket of Benton County District Court or Attorney is assigned to the *compliance unit*. Probation violation appointments requiring appearance on the Prosser docket of Benton County District Court shall be counted as one-half (1/2) case equivalent. During any period of time Attorney is assigned to the *compliance unit*, probation violation appointments shall not count as a case equivalent of any sort.

- An appointment on a mental or substance-abuse commitment, generally to be appointed only when necessary for conflict reasons, shall count as one (1) case equivalent.

- An appointment on a post-conviction review matter including furloughs shall be counted as one-third (1/3) case equivalent unless the matter requires substantial briefing in which case the matter may qualify for additional credit up to a full case equivalent.

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- An appointment to represent a person in a material witness matter in a case pending in Benton County District Court shall count as one half (1/2) of a case equivalent.

- An appointment to a case or matter returned to Benton County District Court from a higher court shall be counted as determined by the PDM following consultation.

- If Attorney is appointed to a case and withdraws prior to the second pre-trial hearing for any reason, including the substitution of retained counsel or a conflict of interest, that appointment shall not count as any case equivalent; provided that the PDM shall retain discretion to award a case equivalent value (or fractional portion thereof) if deemed appropriate following consultation. If Attorney is appointed to a case and withdraws after the second pre-trial hearing but before trial readiness, for any reason including substitution of retained counsel or a conflict of interest, then Attorney shall be entitled to one-half (1/2) of a case equivalent.

- Case equivalent value assigned is based on cases, not charges, and is determined by the classification of the most serious offense charged.

- Any civil contempt of court proceeding shall count as one-half (1/2) of a case equivalent.

- Provisional client contact during *arraignment counsel* assignment, and provisional client contact during *on-call-phone* assignment, shall not count as a case equivalent of any sort.

- RALJ appeals shall count as four (4) case equivalents. If, after a client prevails in Superior Court, the prosecution chooses to appeal to the Court of Appeals and Attorney is required to file an Answer to the appeal, then Attorney shall be entitled to a further one (1) case equivalent.

b. An appointment to any matter in which Attorney was previously appointed shall not be further counted as any type of case equivalent if such matter was not fully concluded and subsequently arises again before the Benton County District Court and Attorney continues representing the same person in such matter within a 12-month period (e.g., if Attorney was appointed to represent a person on a criminal charge who fails to appear for trial but is back before the court within 12 months, Attorney's continued representation of such person following his later arrest shall be deemed as being a prior and ongoing representation and shall not count as any type of further or additional case equivalent). Provided that, however, if Attorney was appointed to represent a person who is duly tried, convicted, and sentenced, Attorney's subsequent representation of such person during subsequent proceedings for alleged violations of sentence conditions shall be deemed as being an independent and unrelated matter.

c. Except as may be otherwise specifically and expressly provided in this Agreement, an appointment to any matter involving multiple charges arising out of a single incident or series of substantially related incidents shall be considered as being one (1) case equivalent. Similarly, except as may be otherwise expressly provided in this

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Agreement, an appointment to any matter involving multiple charges brought/filed under a single cause number and/or which are properly joined for purposes of trial shall be considered as being one (1) case equivalent. Provided, however, the PDM may in his discretion adjust the case equivalent total earned under this paragraph upon written request from, and after review and consultation with, Attorney.

d. In any case where Attorney is appointed contemporaneously on multiple compliance and/or failure to pay fine cases, or any combination thereof, involving the same defendant, all of which are resolved on the same docket during the same court appearance(s), such combination of multiple cases shall be considered one case for purposes of case credits, and shall, collectively, be considered either a one-third (1/3) case equivalent or one-half (1/2) case equivalent as specified in 8(a) above.

e. Throughout the term of this Agreement, Attorney shall maintain case appointment records sufficient to provide the following information about each case assigned to Attorney through this Agreement: case name, client name, case number, date of assignment, and charges and date of resolution. On a monthly basis, prior to the 15th day of the month, Attorney shall provide such records to the PDM in a format acceptable by the PDM, including an electronic format if required, for all cases assigned during the preceding month. Within a reasonable time not to exceed 30 days after receipt of Attorney's caseload submission, the PDM or designee shall provide Attorney with a reconciliation report either agreeing to Attorney's reported numbers if they correspond with caseload numbers generated by PDM records, or asking Attorney for additional documentation to substantiate eligibility for individual case credits if Attorney's reported numbers conflict with caseload numbers generated by PDM records. In any case where Attorney is required to provide additional documentation to substantial eligibility for individual case credits (and Attorney will only be requested to do so if JIS records do not support Attorney's claim for credit) Attorney shall provide such substantiation in the form of a copy of the court issued "notice of appointment" or equivalent form, within 30 calendar days from the request. If Attorney does not so provide, then Attorney shall not be eligible to count such disputed cases in Attorney's caseload total and hereby waives all contractual and common law rights (including the doctrine of *unjust enrichment*) as pertaining to the disputed cases. Furthermore, if Attorney neglects to claim credit for any case or cases in any given caseload report and does not send a revised caseload report claiming such credit within 60 days of the original submission thereof, then Attorney similarly shall not be entitled to credit for such case or cases, and hereby waives all contractual and common law rights (including the doctrine of *unjust enrichment*) as pertaining to such omitted case or cases.

Specific reporting of LFO cases In addition to the other reporting required by this section, if Attorney is appointed by the Benton County District Court to represent clients on LFO matters, then Attorney shall report: 1) the number of LFO failure to pay cases appointed; and 2) the number of LFO failure to appear cases appointed. It is recognized that some cases may involve allegations of both failure to pay and failure to appear and that they therefore should be reported under both categories of cases.

9. **CLIENT ELIGIBILITY.** The Benton County District Court (or its designee), consistent with applicable laws, rules and standards, shall determine the eligibility of any particular person for representation by Attorney under this Agreement. Attorney is under no obligation to determine a person's eligibility or continuing eligibility to receive publicly provided representation. If Attorney is appointed to represent a person and subsequently discovers that the client's

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circumstances have changed such that the client is no longer entitled to court appointed counsel, or that the client may have obtained appointed counsel initially by fraud, misrepresentation or omission, assuming that clear standards for financial eligibility have been communicated to the client by the court, then pursuant to RPC 4.1(b) Attorney should, unless prohibited by another Rule of Professional Conduct, advise the court of the circumstances. If the Benton County District Court (or its designee) nevertheless determines that such person is not eligible for publicly provided representation, the appointment of Attorney to represent such person shall be rescinded and such person shall be required to retain their own legal counsel. Attorney shall not thereafter represent such person in such matter on a retained-fee basis unless such person applies for and receives the Benton County District Court's permission allowing such representation. Nothing contained herein shall prevent Attorney from representing a person on a retained-fee basis in an action in which Attorney has not been appointed by the Benton County District Court to represent such person, or from representing a person on a retained-fee basis whom Attorney has been appointed by the Benton County District Court to represent provided that the matter(s) involving the retained representation are wholly independent and unrelated to the matter for which Attorney was appointed.

10. **CONFLICTS.** Notwithstanding any other terms or provisions contained in this Agreement to the contrary, Attorney shall not be required to accept, and Attorney shall decline to accept, an appointment under this Agreement if the particular appointment would create a true and bona fide conflict of interest for Attorney or would otherwise cause or constitute an actual violation of any generally recognized ethical or professional standards common and applicable to attorneys in the state of Washington. Furthermore, in the event a true and bona fide conflict of interest arises subsequent to Attorney receiving an appointment under this Agreement (or in the event Attorney's continued involvement in a pending case would cause or constitute an actual violation of any such ethical or professional standards), Attorney shall immediately arrange for substitute counsel by: a) contacting the Benton County Office of Public Defense and requesting substitute counsel unless a court appearance on the matter is imminent; or b) appearing in court and requesting that Benton County District Court assign substitute counsel if the time between discovery of the conflict of interest and the next court appearance is very short. Attorney shall not wait for more than two business days to request substitute counsel under 10a) or 10b) since doing so will have the risk of impairing the rights and quality of representation afforded to the affected client. Under no circumstance shall Attorney ever be required to bear the cost of seeking or compensating conflict counsel.

11. **SCOPE OF REPRESENTATION; FILE RETENTION.** Attorney agrees to and shall represent all persons whom Attorney is appointed to represent hereunder with the same skill and commitment as Attorney exercises and expends when representing persons on a private and/or retained-fee basis. Without limitation in that regard, such representation should include the investigation of the underlying facts, the research of all relevant law, interviewing of potential witnesses, retention and use of investigators and/or experts when warranted and necessary, appropriate communication with the client, review of potential plea alternatives, review of potential collateral consequences associated with a plea/conviction (e.g., potential immigration or civil commitment consequences), and the preparation for and appearance on behalf of the client in all stages of District Court proceedings including, without limitation, arraignments, pre-trial hearings, motions, trials, sentencing/disposition proceedings, contempt proceedings, appeals (limited to the preparation and filing of any and all pleadings necessary and appropriate to perfect any appeal or statutory writ to a higher court, including the appointment of publicly-provided counsel, if and when applicable), and post-conviction reviews.

DocuSign Envelope ID: E233FF7A-22EC-429B-88B7-29DB8A1695BC

a. Without limiting Attorney's duty to initially meet with an indigent person to discuss their case as soon as reasonably possible following Attorney's appointment to the case, when Attorney is appointed to an "in custody" case (i.e., a case in which the person is confined/incarcerated), Attorney should use best efforts to meet face-to-face within three (3) business days of Attorney receiving the appointment (unless the circumstances of a particular case reasonably require that Attorney make earlier initial contact with the person), otherwise, as soon thereafter as is reasonably feasible.

b. Additionally, throughout Attorney's representation of any person under this Agreement, Attorney shall maintain reasonably appropriate contact/communications with the person so as to keep them fully apprised as to the status of their case (with the specific manner and frequency of such contact/communications left entirely to Attorney's professional judgment); and Attorney should use best efforts to apprise the person of any new development in his/her case within three (3) business days of Attorney learning of such development (unless the circumstances of a particular case reasonably require that Attorney make earlier contact with the person), otherwise, as soon thereafter as is reasonably feasible. Without limiting any of the foregoing provisions of this paragraph, with regard to any court hearing involving a represented person, Attorney should contact such person (preferably in person or at least via telephone) to discuss their case and the purpose of the hearing no later than one (1) business day prior to the hearing date.

c. Attorney shall compile and maintain appropriate case records for each person whom Attorney is appointed to represent hereunder. The manner of storage, the portion or portions of case records that must be stored, and the required period of storage, shall comply with any and all applicable Rule of Professional Conduct, Washington State Bar Ethics Opinion, case law, and court rule.

d. Upon Attorney pleading guilty or being convicted of any of the following-described offenses, Attorney shall notify the PDM of such plea/conviction within seven (7) calendar days thereafter, and Attorney's failure to timely report within such timeframe shall constitute misconduct and a serious and incurable breach of this agreement that shall result in the immediate and automatic termination of this Agreement. Even if County is timely notified, County may elect, at its sole discretion, to terminate Agreement and if it elects to do so, may do so with ten (10) days written notice to Attorney:

(i) Any felony offense as defined in RCW 9.94A.030 and RCW 9A.44.130;under the laws of the State of Washington, any other State, or Federal law, or any misdemeanor sex offense.

(ii) Any crime specified in RCW Chapter 9A.44 when the victim was a juvenile in the custody of, or under the jurisdiction of, the Juvenile Rehabilitation Administration, Washington Department of Social and Health Services; and/or

(iii) Any violent offense as defined in RCW 9.94A.030 or its equivalent in any other State or Federal Statute

(iv) Any crime of dishonesty or deception.

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12. **COMPENSATION.**

a. Attorney shall be compensated **$350.77 per case** as a flat fee.

For the mutual convenience of the parties, the flat fee shall be payable as a monthly flat fee of **$8,535.40.** Compensation shall be payable in this amount even in years when Attorney's annual caseload falls short of the anticipated caseload maximum as stated in this Agreement.

All compensation shall be payable to **G.P. Halvorsen Law, P.** since Attorney is a principal with that firm.

b. **Payment of compensation shall be contingent on Attorney complying with case reporting provisions stated herein, including in Articles 8(e) and 3(f). Failure by attorney to comply with case reporting provisions shall be cause to delay payment of compensation until such failure is remedied.**

c. In addition to the stated monthly compensation, Attorney shall receive **$350 per day for each full day of trial** and **$175 for each partial day of trial**, not to include pre-trial motions, separate sentencing proceedings or time waiting for disposition. A full day of trial is defined as actual in-session trial proceedings going beyond four (4) total hours for that trial day. Attorney shall also receive the sum of **$150 for each arraignment docket** to which Attorney is assigned pursuant to Section 5(b) herein.

d. The above-stated payments to Attorney will immediately cease upon the termination of this Agreement on, or for any reason prior to, the termination date specified in paragraph 1 above. For example, if this Agreement is terminated effective October 31, 2021, the above referenced monthly payments to Attorney would also terminate as of such date, and Attorney would not be entitled to receive any further monthly payments from the County; provided that, Attorney would be entitled to receive any then-accrued and unpaid amounts for services rendered hereunder prior to such termination date. By way of further example, if this Agreement is terminated effective November 15, 2021, the above-stated monthly payments to Attorney would also terminate as of such date, and Attorney would not be entitled to receive any further monthly payments from the County; provided that, Attorney would be entitled to receive on a prorata basis any then-accrued and unpaid amounts for services rendered hereunder prior to such termination date (i.e., 50% of the above-stated monthly payment amount). Attorney acknowledges and agrees that the above-stated compensation to Attorney shall constitute Attorney's full and exclusive compensation hereunder for all cases handled by Attorney under this Agreement up to the above-stated annual maximum total case equivalents.

e. Compensation for trial per diems and arraignment docket assignment (12.e) and RALJ appeals (12.f) shall be claimed by Attorney within 60 days of the event giving rise to entitlement to compensation (the completed appeal in the case of RALJ appeals) in writing utilizing such form as may be reasonably required by the PDM. Legal entitlement to compensation shall not accrue until such a claim is properly filed. Failure to file such a claim for compensation within 60 days shall constitute a waiver by the Attorney of the right to compensation and shall further waive Attorney's rights under any common law scheme such as unjust enrichment as to the compensation that was not timely claimed.

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13. **COSTS AND EXPENSES.**

a. Attorney acknowledges and agrees that Attorney shall not be entitled to claim or receive any reimbursement/payment from the County for any law practice-related overhead costs or expenses incurred by Attorney during the course of rendering legal services under this Agreement (including, without limitation, costs and expenses associated with Attorney's office, office staff, office equipment/facilities, and/or other office or law practice-related resources).

b. The County recognizes, however, that in certain circumstances the need may arise for Attorney to incur certain types of out-of-pocket expenses or otherwise retain professional services directly related to an indigent person's case such as private investigator fees, psychological or psychiatric evaluations, interpreter fees, scientific test fees, expert witness fees, and costs of out-of-area travel, meals and lodging.

(i) Attorney shall be entitled to receive reimbursement for the actual cost of such out-of-pocket expenditures provided that, however, Attorney shall not incur any such expense nor shall Attorney be entitled to be reimbursed for any such expense unless such expense has been pre-approved pursuant to ex-parte motion and court order (or other court-designated or delegated process) that expressly determines and finds that such expense is necessary and reasonable in accordance with applicable court rules, procedures, and standards. Such court order (or other court-designated or delegated process) shall state and provide a specific dollar amount for the requested and authorized expenditure; provided that, in the event it is not reasonably possible to state and provide a specific dollar amount for a particular requested expenditure, such order may nevertheless provide authorization for the expenditure but shall establish and set forth a maximum dollar expenditure amount. In regard to any reimbursement to Attorney for any court-approved expenditures and costs pertaining to case-related travel, meals, and lodging, any reimbursement to Attorney for such expenditures and costs shall not exceed the locally adjusted amounts that are established and published by the Federal General Services Administration.

(ii) In addition to any other prerequisites imposed by court rules, procedures, or standards, as a precondition to Attorney being reimbursed for an expenditure under this paragraph, Attorney shall be required to submit a vendor warrant payment voucher to the County that identifies the specific expenditure(s) for which reimbursement is sought (exercising appropriate discretion to protect client confidentiality given that such vouchers are matters of public record unless sealed by the court at Attorney's request) and that has attached thereto a copy of the court order(s) that specifically pre-approved and authorized such expenditure(s) (unless sealed by the court at Attorney's request) together with attached copies of all written payment receipts relating to such incurred expenditure(s) (unless sealed by the court at Attorney's request). Attorney's administrative time expended to prepare, submit, and process vouchers shall not be billable to the County. All payment vouchers and requests for reimbursement under this paragraph shall be subject to the court's review and final approval for payment. Attorney shall submit such payment vouchers to the District Court Administrator within sixty (60) days of Attorney incurring the expense(s) for which reimbursement is sought, and the County shall have the right to deny payment of any voucher that is not timely submitted within said requisite sixty (60) day period.

DocuSign Envelope ID: E233FF7A-22EC-429B-88B7-29DB8A1695BC

14. **INDEMNIFICATIONS AND HOLD HARMLESS.** Attorney agrees to and shall fully indemnify the County and its elected/appointed representatives, officers, employees, and agents; and to hold the County and its elected/appointed representatives, officers, employees, and agents fully harmless; from and for any and all losses, damages, costs, charges, claims, demands, suits, or actions of whatsoever nature directly or indirectly arising out of or by reason of Attorney's (or any person, employee, agent, contractor, or entity acting for or on behalf of Attorney or at Attorney's request or direction) acts, defaults, errors and/or omissions of whatsoever nature in the performance of legal services to any person under this Agreement. In the event any suit or legal proceeding is brought against the County or any of its elected/appointed representatives, officers, employees or agents at any time on account of or by reason of any such acts, defaults, errors and/or omissions, Attorney hereby covenants and agrees to assume the defense thereof (through counsel acceptable to the County) and to defend the same at Attorney's sole cost and expense and to pay any and all costs, charges, attorneys' fees, and other expenses as well as any and all judgments or awards that may be incurred by or entered against the County or any of its elected/appointed representatives, officers, employees or agents in such suits or other legal proceedings. Without limiting the intended broad scope and application of the indemnification and hold harmless provisions of this paragraph, for purposes of this paragraph, Attorney waives, with respect to the County only, any immunity that would otherwise be available to Attorney under the Industrial Insurance Act provisions of Title 51 RCW or any other similar workers/employee disability or benefit law. The indemnification and hold harmless provisions of this paragraph shall survive the termination or expiration of this Agreement.

15. **INSURANCE.**

a. Attorney shall obtain and maintain, at Attorney's sole cost and expense, a policy of professional liability insurance in an amount of not less than $1,000,000.00 per claim nor less than $1,000,000.00 in the aggregate during the policy term and with a maximum deductible of not more than $10,000.00.

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

(ii) Attorney shall continuously maintain the professional liability insurance coverage required by this paragraph 15.a. throughout the entire term of this Agreement, throughout any other longer time period during which Attorney is obligated to continue performing services and duties hereunder, and for a period of no less than thirty-six (36) consecutive months after Attorney has fully completed all services and duties required hereunder.

b. Attorney shall also obtain and maintain, at Attorney's sole cost and expense, a policy of Commercial General Liability insurance (including Endorsement Form CG2011 or direct equivalent insurance industry additional insured endorsement

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form and including Contractual Liability coverage) in the amount of not less than $1,000,000.00 per occurrence nor less than $2,000,000.00 in the aggregate during the policy term. Additionally, if Attorney is an employer, Attorney shall obtain and maintain, at Attorney's sole cost and expense, a policy of Statutory Workers Compensation and Employers Liability/Stop Gap insurance in the amount of not less than $1,000,000.00.

(i) The policy of Commercial General Liability insurance shall be written on an occurrence basis; shall name the County, the Benton County Superior Court, and their elected/appointed representatives, officers, employees and agents as additional insureds; shall be primary coverage for both defense and indemnity and non-contributory with any insurance coverage maintained by the County; and shall provide for waiver of subrogation rights as to the County.

(ii) The insurance policies required by this paragraph 15.b shall require that the insurance company provide the County with no less than thirty (30) days prior written notice in the event the policy is cancelled or materially altered; shall comply with all applicable state of Washington insurance requirements; and shall be issued by an insurance company rated A- or better by A.M. Best authorized to conduct business and issue insurance in the state of Washington.

(iii) Attorney shall continuously maintain the insurance coverage required by this paragraph 15.b. throughout the entire term of this Agreement and throughout any other longer time period during which Attorney is obligated to continue performing services and duties hereunder.

c. Contemporaneously with Attorney's execution of this Agreement, Attorney shall provide the County with copies or certificates of the insurance policies and coverage (including any endorsements) required under this paragraph 15, and Attorney shall annually provide the County with the same type of documented proof and confirmation that such insurance policies and coverage continue to exist no later than thirty (30) days after the policies' annual renewal date(s).

16. **COMPLAINTS; PERFORMANCE MONITORING.** In the event that the PDM, another employee/representative of the County's Office of Public Defense, or the Benton County District Court receives an oral/written communication from a person represented by Attorney under this Agreement that in substance asserts an unresolved complaint about the legal services rendered to such person by Attorney and such complaint is not amenable to resolution by simply facilitating the communication between the client and attorney, the employee/representative receiving such communication shall promptly request and obtain a written, dated, and signed statement from the complainant describing and detailing the relevant facts and circumstances underlying and alleged in the complaint, copies of which shall promptly be provided to the County, the Benton County Court Administrator and the PDM.

a. Upon receiving such complaint, the PDM, without limitation to any other action the County may deem necessary/appropriate to pursue under this Agreement, shall promptly forward a copy of the complaint to Attorney and request and obtain Attorney's written, dated, and signed response thereto (which Attorney shall prepare and provide to the County and the PDM within five (5) business days, who then shall provide the represented person with a copy of the response within five (5) business days thereafter). The PDM shall review the complaint and Attorney's response and take any action deemed

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necessary with Attorney and/or the represented person to address and resolve the complaint, and the disposition of the complaint shall be communicated to the represented person as soon as reasonably possible. The PDM then may follow-up with the Benton County District Court within five (5) business days thereafter to confirm or advise that the complaint has been, or is in the process of being, addressed and disposed of. This stated procedure does not interfere with or otherwise impair the Benton County District Court's ability and/or duty to monitor the performance of attorneys appearing before the court.

b. Additionally, during the term of this Agreement, in order to help ensure that indigent persons are consistently provided effective legal representation, and without limitation to any other means or methods of performance monitoring/evaluation the County may deem necessary/appropriate, Attorney acknowledges that the County and/or the PDM have the right to periodically ask, without limitation, the Benton County District Court and/or the District Court Administrator and/or other attorneys and/or persons previously represented by Attorney to provide the County with an evaluation/assessment of the quality and effectiveness of Attorney's performance of legal services and related duties and obligations under this Agreement, provided that such inquiry shall not be made of any person represented, absent a complaint from such person, during the course of representation.

17. **TERMINATION.**

Cause for Termination and Notice

a. In addition to any other automatic or discretionary termination provisions set forth in this Agreement, this Agreement shall automatically terminate in the event that Attorney is suspended/disbarred from the practice of law in Washington, effective without notice as of the date of suspension/disbarment. In the event of automatic termination or termination pursuant to suspension or disbarment, Attorney shall be liable up to $5,000.00 for any additional costs or expenses incurred by the County and/or the Benton County District Court relating to the appointment of substitute legal counsel for any person(s) whom Attorney was appointed to represent hereunder; and the County shall be entitled and authorized to setoff and deduct any such additional costs or expenses from any unpaid compensation owing to Attorney hereunder.

Further, in the event that the Benton County District Court enters an order that prohibits or disqualifies Attorney from receiving any further appointments hereunder for any reason whatsoever, this Agreement shall automatically terminate without further notice as of the date such order is entered by the court. In the event that the court enters such an order because of unethical/unprofessional conduct by Attorney and/or because of Attorney's breach of this Agreement and the court determines at that time that the circumstances justify or require a substitution of appointed counsel for any person(s) whom Attorney was appointed to represent hereunder, Attorney shall be liable up to $5,000.00 for any additional costs or expenses incurred by the County relating to such substitute appointment(s); and the County shall be entitled and authorized to setoff and deduct any such additional costs or expenses from any unpaid compensation owing to Attorney hereunder.

b. In addition to the above-referenced automatic termination provisions, the County may elect to terminate this Agreement in the event Attorney fails for whatever reason to comply with any provision of this Agreement after giving Attorney ten (10)

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business days advance written notice to cure, which notice shall specify the reason(s) for the notice, the act(s) necessary to cure Attorney's failure(s), and the consequence (i.e., termination without further notice) if the failure(s) is/are not cured within the ten (10) day period. The County's right to terminate this Agreement in such regard shall be in addition to any other rights and remedies available to the County.

c. In addition to the foregoing provisions regarding termination, either party may elect to terminate this Agreement with or without cause or reason by providing the other party with ninety (90) days advance written notice of such election ("Early Termination"). Without limiting/waiving other provisions of this Agreement relating to Attorney's obligation and duty to accept and complete cases appointed to Attorney, Attorney's continuing obligation to accept case appointments shall be governed by the provisions of Section 17.f herein.. A ninety (90) day notice of termination given by either party under this paragraph 17.c. shall be fully and immediately effective when received by the recipient party pursuant to the provisions of below paragraph 30 (notwithstanding the inclusion of any contrary terms or language in the notice) without any need for formal or informal acceptance or any other response by the recipient party, and such notice may not thereafter be rescinded/revoked by the party giving such notice unless such rescission/revocation is expressly acknowledged and agreed to by the recipient party in writing in the recipient party's sole discretion.

d. In any event, consistent with the provisions of paragraph 12.e. above and regardless of the manner in which this Agreement is terminated, Attorney acknowledges and agrees that Attorney shall not be entitled to receive any further compensation from the County in the event this Agreement is terminated; provided that, however, Attorney shall be entitled to be paid for all services duly performed by Attorney under this Agreement up to the date of termination (including trial per diems. Additionally, as required by paragraph 6 above, the termination of this Agreement, regardless of the manner of termination, shall not relieve Attorney from the obligation and duty to continue representing all persons whom Attorney was appointed to represent prior to the termination unless Attorney is expressly barred or prohibited from doing so by court order and/or the suspension/disbarment of Attorney from the practice of law in Washington.

e. At the sole and exclusive discretion of County, Attorney may terminate this Agreement with less than 90 days notice with conditions of such Early Termination to be as set out in the next subsection below.

f. The parties agree that in the event of Early Termination of this Agreement with or without cause pursuant to Section 17.c, then:

1) If the Early Termination is initiated by County, then Attorney shall receive compensation for the entirety of the 90 day notice period, shall continue receiving case assignments during the first 30 of the 90 day notice period only, and shall not be responsible for any unresolved cases at the end of the 90 day notice period ("Residual Caseload").

2) If the Early Termination is initiated by Attorney, then the following provisions shall apply:

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Notice	Appointments	Compensation	Legal Responsibility for Cases	Cost of Reassignment	Cap on Expenses
Days of Notice Required	Number of Days After Notice Attorney shall Continue to Accept Cases	Number of Days After Notice Attorney shall Continue to Receive Compensation	Number of Days After Notice Contractor is Responsible for Cases	Financial Responsibility for Reassignment of Residual Caseload	Cap on Attorney's Financial Responsibility for Residual Caseload
Less than 30	0	0	0	100% by Attorney	1 month of compensation
30-60 days	0	30	60	50% by each party	1 month of compensation
90 days	60	90	120	25% by Attorney	½ month of compensation

3) If, after termination, Attorney is then required to repay any compensation as constituting his/her share of financial responsibility for reassignment of Residual Caseload ("Repayment Obligation"), then Attorney may make such repayment in one lump sum or, at his/her election, in the amount of $500 per month with the first payment being due on the first of the month immediately after the effective date of termination, and subsequent payments being due on the first of each subsequent month. Furthermore, County shall be entitled to offset any such Repayment Obligation by withholding any sums that are due and payable to Attorney on or after the effective date of termination.

4) Pursuant to Section 19.d of this Agreement, Attorney may arrange with another attorney ("Substitute Attorney") to assume Attorney's Residual Caseload upon departure to avoid any Repayment Obligation. If Attorney chooses to do so, then any payment arrangements for the services by Substitute Attorney shall be a matter to be arranged between Attorney and Substitute and shall not affect this Agreement or Attorney's obligation hereunder in any way except that Attorney shall not be responsible for any Repayment Obligation as to cases that are handled by Substitute Attorney and therefore not considered to be Residual Caseload cases.

18. **INDEPENDENT CONTRACTOR.** Attorney fully understands, acknowledges, and agrees that Attorney shall not be an agent, representative, or employee of the County or the Benton County District Court for any type of purpose or situation whatsoever (including, without limitation, for purposes of any type of wage, hours/overtime, workers/industrial insurance compensation, unemployment, fair labor, and/or employee benefit/leave laws, disability act

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coverage or rules, and/or regulations) and that Attorney, as of the date of this Agreement and throughout its entire term, is and will always be acting and operating as a fully independent contractor. In that regard, strictly subject to Attorney's duties, responsibilities and obligations imposed under this Agreement, Attorney shall have sole and absolute discretion using Attorney's best professional legal judgment to determine the manner and means of providing the legal representation services required under this Agreement; and neither the County, the County's PDM, nor the Benton County District Court shall have any authority or duty to directly control the actual performance of Attorney's professional services hereunder.

19. **NON-ASSIGNMENT AND TEMPORARY SUBSTITUTIONS.** Except as otherwise expressly provided in paragraphs 19.a-d below, Attorney shall not allow or arrange for any other person to perform any of the services required by this Agreement, nor shall Attorney assign, subcontract out, or otherwise delegate any of Attorney's rights, responsibilities, or obligations under this Agreement.

a. Attorney and any of the other Benton County District Court Criminal Defense Panel members or staff attorneys employed by Benton County may mutually agree to make temporary, substitute appearances for each other on routine docket matters and routine court hearings on an as-needed basis as approved by the court and by the person being represented (if that person has previously discussed the case with his/her appointed attorney). Any compensation or consideration (if any) to be paid or given by Attorney to the other Benton County District Court Criminal Defense Panel members for such substitution(s) shall be a matter of direct negotiation and agreement between Attorney and said other panel members, and said other members shall not be entitled to receive any additional compensation from the County for such substitution(s). Provided, however, that substitution arrangements made by and between any contracted Defense Panel member and a staff attorney employed by Benton County shall not involve monetary compensation paid either way, and shall only be on a *quid pro quo* or "mutual coverage" basis.

b. In the event Attorney needs or desires to take up to a maximum of four (4) consecutive weeks (or such longer requested period of time as may be expressly pre-approved in writing by the PDM on a case-by-case basis, in his/her sole and absolute discretion) leave of absence from the practice of law and/or the requirements of representation under this Agreement during the term of this Agreement and is unable to obtain the assistance of the other Benton County District Court Criminal Defense Panel members during such temporary absence, Attorney may seek and obtain the assistance of another Washington-licensed attorney to make temporary, substitute appearances for Attorney during such absence on routine docket matters and routine court hearings on an as-needed basis provided that Attorney and such other attorney jointly prepare, sign and file a written certification with the court (with a copy to be provided to the District Court Administrator and the PDM) in all such matters and hearings that expressly certifies that such other attorney has reviewed this Agreement and fully meets all criteria, qualifications, and requirements under this Agreement to render legal services to indigent persons and provided further that such temporary substitution is expressly authorized on the court record by the court and the particular person(s) being represented by Attorney who is/are affected by such substitution of legal counsel.

(i) Any compensation or consideration (if any) to be paid or given by Attorney to such other attorney for such substitution(s) shall be a matter of direct negotiation and agreement between Attorney and such other attorney, and such

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other attorney shall not be entitled to receive any compensation from the County for such substitution(s).

(ii) Unless called to active military duty, Attorney shall be responsible to ensure that such other attorney fully complies with all terms and conditions of this Agreement during such temporary absence period (including, without limitation, the requirement to maintain the insurance coverage specified in paragraph 15 above), and Attorney shall be liable for any damages or losses sustained as a result of such other attorney's non-compliance with the terms and conditions of this Agreement.

c. In the event Attorney is called up for active military duty or for direct civilian support of active military operations, Attorney shall provide the County and the PDM with written notice of such event within five (5) business days of Attorney being called up so that the PDM and Attorney can coordinate and arrange for an appropriate substitute attorney to handle Attorney's duties under this Agreement while Attorney is on military leave and any reasonable back-to-civilian-life transition time requested by Attorney upon return. Attorney shall receive no compensation under this Agreement while on leave or during any such transition time.

d. Attorney may sub-contract substantially all of the duties to be provided pursuant to this Agreement provided that all of the following conditions are met:

(i) The proposed sub-contractor meets all the criteria set out in Section 3 of this Agreement; and

(ii) County agrees to the selection of the sub-contractor in its sole and exclusive discretion; and

(iii) Sub-contractor signs an acknowledgement and agreement to abide by all the terms and conditions of this Agreement (in such form as may be required by County); and

(iv) Attorney agrees to continue to be professionally responsible for any sub-contracted work.

Even in the event that Attorney sub-contracts substantially all of the duties to be provided pursuant to this Agreement, Attorney agrees to continue to be professionally responsible for all of the work performed pursuant to this Agreement (even if the work is actually performed by the sub-contractor), and agrees that Attorney's obligations in Section 14. Indemnification and Hold Harmless, continue to apply to any work that is performed by a sub-contractor.

20. **VACANCY AND REPLACEMENT.** In the event this Agreement is terminated by either party prior to the termination date specified in paragraph 1 above, the County may initiate, implement and pursue any actions or process deemed appropriate/necessary to seek, select, and contract with another qualified attorney to replace and succeed Attorney in representing indigent persons in Benton County District Court.

21. **OTHER APPOINTMENTS.**

Attorney shall not enter into any contract/arrangement to perform criminal prosecution services in any court or jurisdiction. Subject to, and without limiting/waiving, Attorney's duties and obligations under this Agreement, Attorney may enter into a part-time contract/arrangement to receive public defense appointments in another court or jurisdiction, provided that, and on the

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indispensable condition that, Attorney's duties and obligations under said part-time contract/arrangement will not conflict with or interfere with Attorney's ability to timely and effectively perform Attorney's duties and obligations under this Agreement. Consistent with Attorney's status as an independent contractor, Attorney shall have sole and personal professional responsibility for ensuring that Attorney's obligations on other contracts or arrangements to receive public defense appointments, when combined with this Agreement, are fully in compliance with Washington State Standards for Indigent Defense including, but not limited to, the caseload standards contained therein.

22. **TEMPORARY JUDICIAL SERVICE.** Subject to, and without limiting/waiving, Attorney's duties and obligations under this Agreement, Attorney may temporarily serve as a judge pro tem in any capacity and under any circumstances except on any criminal cases pending before the Benton County District Court, provided that, and on the indispensable condition that, it would not conflict with or interfere with Attorney's ability to timely and effectively perform Attorney's duties and obligations under this Agreement. Any potential exceptions to the foregoing limitation on Attorney serving as a judge pro tem would be strictly on a case-by-case basis and would be strictly subject to Attorney obtaining the PDM's prior express approval and authorization, which decision shall be decided on a case-by-case basis in the PDM's sole and absolute discretion.

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

24. **CAPTIONS; TIME COMPUTATION.**

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

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

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

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

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

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

29. **DISPUTE RESOLUTION.**

a. The parties hereby specifically waive, release, and irrevocably relinquish any and all right to file a court lawsuit of any type to address any claims or dispute between the parties involving the performance or interpretation of this Agreement or that in any other way relate to, or arise from, this Agreement, and regardless of whether money damages, equitable relief, or any other type of relief is being sought. Provided, however, if necessary due to a party's disregard of and failure to abide by the non-judicial Dispute Resolution provisions contained in this paragraph 31, the other party may pursue court action to seek and obtain an order compelling and enforcing such Dispute Resolution provisions, and as part of such action and court order, the court shall order the party not complying with the requirements of such Dispute Resolution provisions to pay the other party's incurred attorney fees and costs.

b. Accordingly, in furtherance of the parties' above-stated agreement to submit any and all claims and disputes to non-judicial resolution, in the event any type of dispute arises between the parties involving the performance or interpretation of this Agreement, or that in any other way relates to, or arises from, this Agreement, either party may then make written demand on the other party to submit the dispute to mediation through the assistance of an experienced mediator chosen by mutual agreement of the parties who must be a Washington-licensed attorney experienced in contract disputes. The mediation shall occur within thirty (30) days of the mediation demand, unless the parties mutually agree otherwise. The County shall pay one-half of the mediator's fees and expenses, and Attorney shall pay the other one-half of such fees and expenses.

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

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party as a part of the arbitration decision and award. In the event of suit or action to enforce an arbitration award, venue shall lie exclusively in Benton County Superior Court, and the most prevailing party in such suit or action shall be entitled to recover such party's reasonable attorneys' fees, costs and expenses from the other party.

30. **NOTICES.**

a. Any notices required or permitted to be given by Attorney to the County under this Agreement shall be in writing and shall be either personally delivered to the County's PDM at their below-stated office address; mailed to the County's PDM at their below-stated office address via certified U.S. mail, postage prepaid; or emailed to the County's PDM at their official email address.

Public Defense Manager
Benton County Office of Public Defense
7122 West Okanogan Place, Ste #A220
Kennewick, WA 99336

b. Any notices required or permitted to be given by the County to Attorney under this Agreement shall be in writing and shall be either personally delivered to Attorney at their below-stated business address; mailed to Attorney at their business address set forth in paragraph 2.a above, via certified U.S. mail, postage prepaid; or emailed to Attorney at their business email address.

c. Any such notices under this Agreement shall be deemed to have been duly given, made, and received when either personally delivered to the notice recipient in the manner described above; when duly deposited in the U.S. mail addressed to the recipient in the manner described above; or when emailed to the recipient in the manner described above. A party may change the address(es) to which notices are to be sent by giving notice of such change of address(es) in conformity with the above provisions of this paragraph for the giving of notice.

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

32. **PUBLIC DEFENSE MANAGER** Attorney acknowledges that the County has employed the PDM to coordinate, monitor, and evaluate the performances and compliance of independent contractor attorneys (like Attorney) under public defense agreements with the County. Attorney further acknowledges that the County has the right and discretion to direct the PDM to assume and fulfill various roles and functions under this Agreement. Though the PDM will not have or attempt to exercise direct control over the manner and means in which Attorney provides legal services under this Agreement, Attorney agrees to reasonably cooperate with the PDM (and his/her designees), and to promptly comply with reasonable requests from the PDM

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(and/or their designees), to allow for the effective monitoring and evaluation of Attorney's performance under this Agreement.

33. **PERFORMANCE STANDARDS MONITORING**. The parties agree and acknowledge that the County, pursuant to its legal duty to provide effective and competent public defense representation, and needing a reasonable, effective and relatively objective way to gauge the effectiveness of contract public defenders, will, by and through its Office of Public Defense, monitor the effectiveness and competence of contract public defenders, including Attorney, by Performance Standards Monitoring ("Monitoring"). Attorney understands that Attorney's performance and eligibility for future contracts will be evaluated based on data collected through Monitoring and the County Office of Public Defense may, but is not obligated to, from time to time make known to Attorney any opportunities for improvement as observed through Monitoring efforts and/or issues that need to be addressed. Attorney further agrees to reasonably cooperate with County, its Office of Public Defense, and any staff from that office that are engaged in Monitoring efforts so that data collected through such efforts are accurate and timely. The actual Performance Standards to be monitored are contained in the Performance Standards Monitoring section, attached as Exhibit "A" to this Agreement, the acknowledgement of which, by Attorney's affirmative signature, is required to fully execute this Agreement.

SIGNATURES APPEAR ON FOLLOWING PAGE

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

BENTON COUNTY

Date_____

Chairman of the Board

Commissioner

Commissioner

Constituting the Board of County Commissioners for Benton County

Attest:

Clerk of the Board

Approved as to Form and Content

DocuSigned by:
Charlie Dow
D3E112CD2A594A6...

Charles Dow
Public Defense Manager

ATTORNEY

Date 12/8/2023

DocuSigned by:
Gregory Halvorsen
EF0BDE5290C04F5...

Gregory P. Halvorsen, WSBA **#61468**
Not valid unless Performance Standards Monitoring Acknowledgment on following page is also signed.

SIGNING AUTHORITY FOR FIRM (required if attorney is an associate with a law firm)

, WSBA

I am a principal with signing authority for . I acknowledge and understand that the above-referenced Attorney, who is an associate with my firm, is about to enter into a public defense agreement with Benton County. I consent to this agreement, represent that my firm has sufficient resources to assist Attorney in faithfully carrying out their obligations pursuant to this Agreement and in complying with Washington State public defense laws, rules, and standards.

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EXHIBIT A

PERFORMANCE STANDARDS MONITORING

Attorney acknowledges that County will be engaging in Performance Standards Monitoring as more fully described in Section 33 of this Agreement and that said Monitoring will comprise of the following:

a. Metrics Monitoring will entail the collection of the following metrics specific to Attorney:

- Trials held
- 3.5, 3.6 and other significant motions filed
- Motions filed under RCW 10.77 for competency evaluations
- Number of cases disposed of at trial readiness with dismissal or other comparable favorable result
- Number of cases where investigative services were requested
- Number of visits to incarcerated clients in Benton County Jail
- Number of client complaints
- Amount of time spent per case

b. Court Observation Monitoring will also entail direct observation of Attorney's performance in court (including, but not limited to pre-trial dockets, motion dockets and trials) by Benton County Office of Public Defense Supervisory Staff to evaluate, among other things:

- Attorney's preparedness and readiness
- Attorney's interactions with clients
- Attorney's ability and willingness to advocate to the court on behalf of clients

Attorney acknowledgment:

DocuSigned by:
Gregory Halvorson
EF6BDE5290C04F5...

I understand and acknowledge that Benton County will utilize the Performance Standards Monitoring as set out in this Exhibit to my public defense contract to evaluate my effectiveness as a public defender and that contract decisions, such as renewals, extensions, caseload increases, or assignment to other public defense duties will be made with reference to the results of such Performance Standards Monitoring.

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	1/9/24
Subject:	Termination of professional services agreement with Brian Hultgrenn, contract #2022-856
Presenter:	n/a
Prepared By:	Denise Gerry
Reviewed By:	Charlie Dow

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

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

Summary / Background Information

Benton County currently contracts with attorney Brian Hultgrenn for public defense services in Benton County Superior Court (executed through Resolution #2022-856). The agreement provides that either party may terminate the agreement early, with or without cause, simply by written notice with a requisite notice period.

Attorney Brian Hultgrenn has provided such notice of early termination, by way of electronic notice dated 10/16/23. The proposed resolution acknowledges this notice and sets 12/31/23 as the final effective date of the early termination, pursuant to the provisions of the agreement.

Fiscal Impact

None

Recommendation

Recommend approving proposed resolution which acknowledges the agreement termination notice tendered by attorney Brian Hultgrenn on 12/31/23, as the final effective date of the termination.

Suggested Motion

Approve with consent agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF ACKNOWLEDGING THE TERMINATION NOTICE OF BRIAN HULTGRENN, AN ATTORNEY HOLDING A PROFESSIONAL SERVICES AGREEMENT, RESOLUTION 2022-856 IN BENTON COUNTY SUPERIOR COURT

WHEREAS, Benton County is obligated by law to provide indigent defense services in Benton County Superior Court; and

WHEREAS, attorney Brian Hultgrenn has been providing public defense services in Benton County Superior Court pursuant to a professional services agreement with Benton County; and

WHEREAS, the said professional services agreement provides for either party to provide notice of agreement termination; and

WHEREAS, the attorney has, in fact, provided notice of agreement termination dated 10/16/23 (attached as Exhibit "A"); and

WHEREAS, pursuant to attorney Brian Hultgrenn's professional services agreement, the notice, as provided, will result in a final effective date of 12/31/23, pursuant to the provisions of the agreement; **NOW, THEREFORE**

BE IT RESOLVED the Board of Benton County Commissioners, Benton County, Washington hereby accepts termination of the Superior Court professional services agreement with attorney Brian Hultgrenn, executed by and through Resolution #2022-856, is hereby terminated at the request of Attorney, pursuant to Attorney's Notice of Early Termination dated 12/31/23 with a final effective termination date of 12/31/23.

Dated this _____ day of _____ 20 _____

_____
Chairman of the Board

_____
Chairman Pro Tem

_____
Commissioner

Constituting the Board of Commissioners
of Benton County, Washington

Attest: _____
Clerk of the Board

cc: Originals – OPD, Brian Hultgrenn
Copy – Auditor, S Godinez

C. Dow

Denise Gerry

From: Charlie Dow
Sent: Friday, December 15, 2023 9:54 AM
To: Denise Gerry
Subject: FW: Notice of expiring contract 2023

Regards,
Charlie Dow
Public Defense Manager
Benton County Office of Public Defense

From: Brian Hultgrenn <bhultgrenn@ehdlawyers.com>
Sent: Monday, October 16, 2023 7:03 PM
To: Charlie Dow <C.Dow@co.benton.wa.us>; Denise Gerry <Denise.Gerry@co.benton.wa.us>; Jennifer Moore <Jennifer.Moore@co.benton.wa.us>
Subject: Notice of expiring contract 2023

Charlie,

Just giving my formal notice I will not be renewing my contract at the end of the year. I want to thank you, and Denise and Jennifer for all your help in the last 16 months. Although the caseload was challenging and not very pleasant sometimes, it was a pleasure to work with you all. I definitely felt supported, and they made a big difference in my first year of private practice.

I have three homicide cases. Hector Pantoja, Jacquez Young, and Antoine Surge. I assume I am continuing those in 2024. Let me know if that is not the case.

List of pending cases per the contract:

State v. Anibal Arreola, 23-1-00019-03, pending PT on 1/10/24 (will likely accept the offer of 13 months, TMVWOP 2, made by the State) in custody.

State. v. Domic Battles, 23-1-00257-03, BW status.

State v. Casey Bockman, 20-1-00101-03, pending ARR on 10/25/23 (he has been indicted federally and they are just waiting for that to finish before dismissing).

State v. Melvin Brown, 23-1-00496-03, pending PT on 11/1/2023, in custody.

State v. Joseph Bunch, 22-1-01032-03, pending PT on 1/10/2023, out of custody.

State v. Alfredo Ceja, 23-1-00217-03, pending PT on 10/18/2023, out of custody.

State v. Jeremy Davis-Long, 22-1-00659-03, pending PT on 11/15/2023, out of custody.

State v. Mekayla Delaney, 22-1-00674-03, pending dismissal on SOC on 1/10/2024, out of custody.

State v. Tina Escamilla, 22-1-00674-03, pending PT on 11/29/2023, out of custody.

State v. Ryan Fannin, 23-1-00686-03, pending PT on 10/25/2023, in custody.

State v. Sonia Flores Medero, 23-1-00520-03, pending PT on 11/29/2024, out of custody.

State v. Jose Flores Ramirez, 22-1-00650-03 pending PT 12/6/2023, out of custody.

State v. Jesse Gonzalez, 22-1-00680-03, pending PT on 11/8/2023, out of custody (has been to trial once already).

State v. Justin Lee Greenamyer, 23-1-00026-03, pending PT on 11/1/2023, in custody.

State v. Victor Gutierrez, 23-1-00026-03, pending PT 11/1/2023, out of custody.

State v. Jeffrey Hearn, 23-1-00436-03, pending 3.6 hearing on 12/1, out of custody.

State v. Austin Holeman, 23-1-00702-03, pending COP on 10/25, in custody.

State v. Baridi Jackson, 22-1-00825-03, pending dismissal on SOC on 11/8/2023.

State v. Paul Julson, 22-1-00825-03, this was closed but may need a motion to withdraw guilty plea.

State v. Alexander Lathim, 23-1-00343-03, this is on for comp. review on 1/17/24.

State v. Aaron Lighthall, 23-1-00625-03, this is on pending PT on 11/15/2023.

State v. Rodolfo Mancilla, 23-1-00683-03, pending PT 10/25/2023.

State v. Anthony Martinez Mata, 22-1-00876-03, pending PT 11/1/2023.

State v. Anthony Martinez Mata, 23-1-00079-03, pending PT 11/1/2023.

State v. Anthony Martinez Mata, 23-1-00096-03, pending PT 11/1/2023.

State v. Joseph McCabe, 23-1-00423-03, pending PT on 11/8/2023.

State v. Christian Meraz, 23-1-00122-03, pending COP 10/25/2023.

State v. Shady Montoya, 23-1-00618-03, pending PT 10/25/2023.

State v. John Moore, 23-1-00441-03, pending PT 11/29/2023.

State v. Zakary Neasham, 22-1-01031-03, pending PT 11/29/2023.

State v. Gerald Nott, 23-1-00293-03, pending PT 11/8/2023 (this is pending indictment in federal court will probably be dismissed shortly).

State v. Adrian Olivarez, 22-1-01061-03, pending PT 11/15/2023.

State v. Cameron Ono, 23-1-00202-03, pending PT 10/26/2023.

State v. Larry Rangel, 23-1-00541-03, pending PT 10/18/2023.

State v. Melissa Salazar, 23-1-00458-03, pending PT 11/8/2023.

State v. Cameron Salinas, 23-1-00233-03, in drug court.

State v. Guadalupe Sanchez, 22-1-00969-03, COP 10/25/2023.

State v. Randall Sledge, 23-1-00402-03, on for PT 11/08/2023.

State v. Correy Tallman, 22-1-01148-03, on for PT 11/29/2023.

State v. Lacey Thompson, 23-1-00169-03, Readiness 10/23/2023.

State v. Kathryn York, 23-1-00284-03, on BW status.

State v. Lester Warriner, 22-1-00920-03, in Veteren's Court.

Please let me know if you have any questions.

Thanks,

Brian Hultgrenn
Ellerd, Hultgrenn & Dahlhauser
1915 Sun Willows Blvd. Ste. A
Pasco, WA 99301
bhultgrenn@ehdlawyers.com
Phone: 509-545-8531
Fax: 509-545-3019

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	1/9/24
Subject:	Termination of professional services agreement with Deric Orr, contract #2022-861
Presenter:	n/a
Prepared By:	Denise Gerry
Reviewed By:	Charlie Dow

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

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

Summary / Background Information

Benton County currently contracts with attorney Deric Orr for public defense services in Benton County Superior Court Drug Court (executed through Resolution #2022-861). The agreement provides that either party may terminate the agreement early, with or without cause, simply by written notice with a requisite notice period.

Attorney Deric Orr has provided such notice of early termination, by way of electronic notice dated 12/21/23. The proposed resolution acknowledges this notice and sets 2/1/24 as the final effective date of the early termination, pursuant to the provisions of the agreement.

Fiscal Impact

None

Recommendation

Recommend approving proposed resolution which acknowledges the agreement termination notice tendered by attorney Deric Orr on 12/21/23 and sets 2/1/24 as the final effective date of the termination.

Suggested Motion

Approve with consent agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF ACKNOWLEDGING THE TERMINATION NOTICE OF DERIC ORR, AN ATTORNEY HOLDING A PROFESSIONAL SERVICES AGREEMENT, RESOLUTION 2022-861 IN BENTON COUNTY SUPERIOR COURT

WHEREAS, Benton County is obligated by law to provide indigent defense services in Benton County Superior Court; and

WHEREAS, attorney Deric Orr has been providing public defense services in Benton County Superior Court Drug Court pursuant to a professional services agreement with Benton County; and

WHEREAS, the said professional services agreement provides for either party to provide notice of agreement termination; and

WHEREAS, the attorney has, in fact, provided notice of agreement termination dated 12/21/23 (attached as Exhibit "A"); and

WHEREAS, pursuant to attorney Deric Orr's professional services agreement, the notice, as provided, will result in a final effective date of 2/1/24, pursuant to the provisions of the agreement; **NOW, THEREFORE**

BE IT RESOLVED the Board of Benton County Commissioners, Benton County, Washington hereby accepts termination of the Superior Court professional services agreement with attorney Deric Orr, executed by and through Resolution #2022-861, and is hereby terminated at the request of Attorney, pursuant to Attorney's Notice of Early Termination dated 12/21/23 with a final effective termination date of 2/1/24.

Dated this _____ day of _____ 20 _____

_____
Chairman of the Board

_____
Chairman Pro Tem

_____
Commissioner

Constituting the Board of Commissioners
of Benton County, Washington

Attest: _____
Clerk of the Board

cc: Originals – OPD, Deric Orr
Copy – Auditor, S Godinez

C. Dow

JOHNSON & ORR

(509) 579-0080
www.johnsonorr.com
1038 Jadwin Avenue, Richland, WA 99352

"Exhibit A"

December 21st, 2023

RE: Termination of Adult Drug Court Public Defense Contract BENTON COUNTY

Charlie,

This letter is formal written notice of my intention to terminate my adult drug court contract. My intended final day is February 1st, 2024. If you have any questions, let me know.

Sincerely,

Deric J. Orr
JOHNSON & ORR, PLLC
DericOrr@Johnsonorr.com
Phone: (509) 579-0080
Fax: (888)826-5904

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	1/9/24
Subject:	Termination of professional services agreement with Michael Vander Sys, contract #2023-380
Presenter:	n/a
Prepared By:	Denise Gerry
Reviewed By:	Charlie Dow

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

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

Summary / Background Information

Benton County currently contracts with attorney Michael Vander Sys for public defense services in Benton County Superior Court (executed through Resolution #2023-380). The agreement provides that either party may terminate the agreement early, with or without cause, simply by written notice with a requisite notice period.

Attorney Michael Vander Sys has provided such notice of early termination, by way of electronic notice dated 12/20/23. The proposed resolution acknowledges this notice and sets 4/29/24 as the final effective date of the early termination, pursuant to the provisions of the agreement.

Fiscal Impact

None

Recommendation

Recommend approving proposed resolution which acknowledges the agreement termination notice tendered by attorney Michael Vander Sys on 12/20/23 and sets 4/29/24 as the final effective date of the termination.

Suggested Motion

Approve with consent agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF ACKNOWLEDGING THE TERMINATION NOTICE OF MICHAEL VANDER SYS, AN ATTORNEY HOLDING A PROFESSIONAL SERVICES AGREEMENT, RESOLUTION 2023-380 IN BENTON COUNTY SUPERIOR COURT

WHEREAS, Benton County is obligated by law to provide indigent defense services in Benton County Superior Court; and

WHEREAS, attorney Michael Vander Sys has been providing public defense services in Benton County Superior Court pursuant to a professional services agreement with Benton County; and

WHEREAS, the said professional services agreement provides for either party to provide notice of agreement termination; and

WHEREAS, the attorney has, in fact, provided notice of agreement termination dated 12/20/23 (attached as Exhibit “A”); and

WHEREAS, pursuant to attorney Michael Vander Sys’s professional services agreement, the notice, as provided, will result in a final effective date of 4/29/24, pursuant to the provisions of the agreement; **NOW, THEREFORE**

BE IT RESOLVED the Board of Benton County Commissioners, Benton County, Washington hereby accepts termination of the Superior Court professional services agreement with attorney Michael Vander Sys, executed by and through Resolution #2023-380, is hereby terminated at the request of Attorney, pursuant to Attorney’s Notice of Early Termination dated 12/20/23 and

with a final effective termination date of 4/29/24.

Dated this _____ day of _____ 20 _____

_____
Chairman of the Board

_____
Chairman Pro Tem

_____
Commissioner

Constituting the Board of Commissioners
of Benton County, Washington

Attest: _____
Clerk of the Board

cc: Originals – OPD, Michael Vander Sys
Copy – Auditor, S Godinez

C. Dow

"Exhibit A"

Denise Gerry

From: mike@fortitudelawpllc.com
Sent: Wednesday, December 20, 2023 3:48 PM
To: Charlie Dow
Cc: Denise Gerry; Jennifer Moore
Subject: [EXTERNAL] Notice of Termination
Attachments: BC Caseload Report.xls

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

Hi Charlie,

I wish to terminate my contract, BCSC2324MV001, with the Benton County Office of Public Defense. Pursuant to section 6(a) of the professional services agreement, please regard this notice as my 60 days' notice of desire to terminate. However, because I understand your office is short of attorneys, I'm willing to extend my effective date of termination to February 29, 2024. I understand that pursuant to the contract I will be responsible to provide representation for a period of 60 days following the effective date of termination, which would be April 29, 2024.

I have attached my open caseload report as required by paragraph 6(a). I am willing to keep my homicide cases that do not resolve before April 29, 2024, if you would like me to do so. I understand this will likely require a new homicide contract for which I am amenable.

Please let me know if I can assist in the transition in anyway. It has been a pleasure working with your office.

Mike Vander Sys
Fortitude Law PLLC
7105 W. Hood Pl. Ste. A101
Kennewick, WA 99336
(509)416-6041
www.fortitudelawpllc.com

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	1/9/2024
Subject:	Early termination of professional services agreement with Hayden Sebald, Contract #2022-850
Presenter:	n/a
Prepared By:	Denise Gerry
Reviewed By:	Charlie Dow

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

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

Summary / Background Information

Benton County currently contracts with attorney Hayden Sebald for public defense services in Benton County Juvenile Court (executed through Resolution #2022-850). The agreement provides that either party may terminate the agreement early, with or without cause, simply by written notice with a requisite notice period.

Due to extremely low caseload numbers for 2023 (highlighted in "Exhibit A"), Public Defense Manager Charlie Dow has elected to terminate the agreement with attorney Hayden Sebald effective 12/6/23 to Hayden Sebald with a final compensation date of 3/5/24.

Fiscal Impact

None

Recommendation

Recommend approving proposed resolution which acknowledges the termination notice tendered by Public Defense Manager Charlie Dow on 12/6/23 ("Exhibit A") with a final compensation date of 3/5/24.

Suggested Motion

Approve with consent agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF ACKNOWLEDGING THE TERMINATION NOTICE OF HAYDEN SEBALD, AN ATTORNEY HOLDING A PROFESSIONAL SERVICES AGREEMENT, RESOLUTION 2022-850, IN BENTON COUNTY JUVENILE COURT

WHEREAS, Benton County is obligated by law to provide indigent defense services in Benton County Juvenile Court; and

WHEREAS, attorney Hayden Sebald has been providing public defense services in Benton County Juvenile Court pursuant to a professional services agreement with Benton County; and

WHEREAS, the said professional services agreement provides for either party to provide notice of agreement termination; and

WHEREAS, Public Defense Manager Charlie Dow has, in fact, provided notice of agreement termination dated 12/6/23 to Hayden Sebald (attached as Exhibit "A"); and

WHEREAS, pursuant to Hayden Sebald's professional services agreement, the notice, as provided, will result in a final effective date of 3/5/24 responsibility as detailed in said professional services agreement; **NOW, THEREFORE**

BE IT RESOLVED the Board of Benton County Commissioners, Benton County, Washington hereby accepts termination of the Juvenile Court professional services agreement with attorney Hayden Sebald, executed by and through Resolution #2022-850, and is hereby terminated at the request of Public Defense Manager Charlie Dow, pursuant to his Notice of Early Termination dated 12/6/23, with a final compensation date of 3/5/24.

Dated this _____ day of _____ 20 _____

_____
Chairman of the Board

_____
Chairman Pro Tem

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

Attest: _____
Clerk of the Board

cc: Originals – OPD, Hayden Sebald C. Dow
Copy – Auditor, S Godinez

Denise Gerry

From: Charlie Dow
Sent: Wednesday, December 6, 2023 4:45 PM
To: Hayden Sebald
Cc: Denise Gerry; Megan Killgore
Subject: Notice of Termination of Juvenile Court Contract
Attachments: Sebald, Hayden - 2022-850.pdf; Nov 23 BC Report.pdf

Hayden Sebald,

Attached you should find a copy of the present contract agreement between yourself and Benton County regarding the Juvenile Court public defense services. Also attached, you will find the November 2023 report of the total cases assigned to you as part of the contract you were awarded.

As of December 1, 2023, a total of 83 cases were assigned for this year. The contract as it presently exists contemplates compensation for a full caseload, 235 cases. In my review of similar reports for all the contractors assigned by the Benton County Office of Public Defense to that docket, it appears that there is roughly 35-38% caseload carried by each of the three contractors presently, as well as a small number of cases assigned to conflict/ad hoc appointments as necessary.

These numbers do no support a business case for this contract to remain in place. For this reason, our Office is electing to terminate your present contract. Paragraph 19(c) allows either party to terminate the contract with or without cause once providing a 90 day written notice of that election. This is that notice, and for the financial reasons outline above, this contract will be terminated effective **Tuesday, March 5, 2024.** Compensation under the contract will continue as arranged until that termination date.

The contract outlines that case assignments shall continue for 60 days form the receipt of this notice. However, if you would prefer, on January 1, 2024, the Office of Public Defense will stop further case assignments to your caseload in order to assist your ability to focus on the timely resolution of your still pending cases prior to March 2024.

Termination of the contract does not relieve you from the obligation and duty to continue representing all persons whom you have been appointed to represent prior to the termination date (March 5, 2024). Please review Paragraph 6 of the agreement which outlines the continued representation of individuals appointed to your caseload prior to termination of the agreement.

If you would like to discuss this decision, or would like to discuss a transition to a different contract through the Benton County Office of Public Defense, please feel free to reach out anytime.

Regards,
Charlie Dow
Public Defense Manager
Benton County Office of Public Defense

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	1/9/24
Subject:	Early termination of professional services agreement with Jared Hanson, Contract #2022-849
Presenter:	n/a
Prepared By:	Denise Gerry
Reviewed By:	Charlie Dow

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

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

Summary / Background Information

Benton County currently contracts with attorney Jared Hanson for public defense services in Benton County Juvenile Court (executed through Resolution #2022-849). The agreement provides that either party may terminate the agreement early, with or without cause, simply by written notice with a requisite notice period.

Due to extremely low caseload numbers for 2023 (highlighted in "Exhibit A"), Public Defense Manager Charlie Dow has elected to terminate the agreement with attorney Jared Hanson effective 12/6/23 with a final compensation date of 3/5/24.

Fiscal Impact

None

Recommendation

Recommend approving proposed resolution which acknowledges the termination notice tendered by Public Defense Manager Charlie Dow on 12/6/23 to Jared Hanson ("Exhibit A") with a final compensation date of 3/5/24.

Suggested Motion

Approve with consent agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF ACKNOWLEDGING THE TERMINATION NOTICE OF JARED HANSON, AN ATTORNEY HOLDING A PROFESSIONAL SERVICES AGREEMENT, RESOLUTION 2022-849, IN BENTON COUNTY JUVENILE COURT

WHEREAS, Benton County is obligated by law to provide indigent defense services in Benton County Juvenile Court; and

WHEREAS, attorney Jared Hanson has been providing public defense services in Benton County Juvenile Court pursuant to a professional services agreement with Benton County; and

WHEREAS, the said professional services agreement provides for either party to provide notice of agreement termination; and

WHEREAS, Public Defense Manager Charlie Dow has, in fact, provided notice of agreement termination dated 12/6/23 to Jared Hanson (attached as Exhibit "A"); and

WHEREAS, pursuant to Jared Hanson's professional services agreement, the notice, as provided, will result in a final effective date of 3/5/24 responsibility as detailed in said professional services agreement; **NOW, THEREFORE**

BE IT RESOLVED the Board of Benton County Commissioners, Benton County, Washington hereby accepts termination of the Juvenile Court professional services agreement with attorney Jared Hanson, executed by and through Resolution #2022-849, and is hereby terminated at the request of Public Defense Manager Charlie Dow, pursuant to his Notice of Early Termination dated 12/6/23, with a final compensation date of 3/5/24.

Dated this _____ day of _____ 20 _____

_____
Chairman of the Board

_____
Chairman Pro Tem

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

Attest: _____
Clerk of the Board

cc: Originals – OPD, Jared Hanson
Copy – Auditor, S Godinez

C. Dow

Denise Gerry

From: Charlie Dow
Sent: Wednesday, December 6, 2023 4:45 PM
To: Jared Hanson; angel@betancourtlawpllc.com
Cc: Denise Gerry; Megan Killgore
Subject: Notice of Termination of Juvenile Court Contract
Attachments: Hanson, Jared - 2022-849.pdf; Nov 23 BC Report.pdf

Jared Hanson,

Attached you should find a copy of the present contract agreement between yourself and Benton County regarding the Juvenile Court public defense services. Also attached, you will find the November 2023 report of the total cases assigned to you as part of the contract you were awarded.

As of December 1, 2023, a total of 82 cases were assigned for this year. The contract as it presently exists contemplates compensation for a full caseload, 235 cases. In my review of similar reports for all the contractors assigned by the Benton County Office of Public Defense to that docket, it appears that there is roughly 35-38% caseload carried by each of the three contractors presently, as well as a small number of cases assigned to conflict/ad hoc appointments as necessary.

These numbers do not support a business case for this contract to in place. For this reason, our Office is electing to terminate your present contract. Paragraph 19(c) allows either party to terminate the contract with or without cause once providing a 90 day written notice of that election. This is that notice, and for the financial reasons outline above, this contract will be terminated effective **Tuesday, March 5, 2024.** Compensation under the contract will continue as arranged until that termination date.

The contract outlines that case assignments shall continue for 60 days form the receipt of this notice. However, if you would prefer, on January 1, 2024, the Office of Public Defense will stop further case assignments to your caseload in order to assist your ability to focus on the timely resolution of your still pending cases prior to March 2024.

Termination of the contract does not relieve you from the obligation and duty to continue representing all persons whom you have been appointed to represent. Please review Paragraph 6 of the agreement which outlines the continued representation of individuals appointed to your caseload prior to termination of the agreement.

If you would like to discuss this decision, or would like to discuss a transition to a different contract through the Benton County Office of Public Defense, please feel free to reach out anytime.

Regards,
Charlie Dow
Public Defense Manager
Benton County Office of Public Defense

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	January 9, 2024	**Memo Date:**	December 11, 2023
Subject:	Appointment of Kelly Hanson to the Planning Commission		
Presenter:			
Prepared By:	Donna Hutchinson		
Reviewed By:	Michelle Mercer		

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

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

Summary / Background Information

The Planning Commission has a vacancy as of July 1, 2023 for the "At Large" position which can be filled from any Commissioner District. Kelly Hanson is from District 2 and has indicated his desire to serve the County by appointment to the Planning Commission. His application was reviewed and interviews were conducted by members of the Planning Division, along with the Commissioners' Office, and they are recommending his appointment to the Benton County Planning Commission. He would be appointed to fill the vacancy with his term expiring on July 1, 2027.

Fiscal Impact

None

Recommendation

Approved as part of the Consent Agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF COUNTY PLANNING RE: APPOINTMENT OF KELLY HANSON TO THE AT LARGE VACANCY ON THE BENTON COUNTY PLANNING COMMISSION

WHEREAS, Benton County Ordinance No. 86 (as amended by Ordinance No. 181), adopted pursuant to RCW 36.70, provides for a seven-member County Planning Commission; and,

WHEREAS, RCW 36.70.080 provides for appointment of Planning Commission members by the Chairman of the Board of County Commissioners, upon approval of a majority of the Board, from nominations by individual board members, said appointment to result in equal representation among the Commissioner Districts; and,

WHEREAS, there is an at large vacancy on the Benton County Planning Commission; and,

WHEREAS, Kelly Hanson from Commissioner District 2 has agreed to accept an appointment to the Planning Commission to fill the vacancy; **NOW, THEREFORE,**

BE IT RESOLVED that the Chairman of the Board of Benton County Commissioners appoints Kelly Hanson to the Benton County Planning Commission, with his term expiring July 1, 2027.

Dated this 9th day of January, 2024.

_____
Chairman of the Board

_____
Chairman Pro-Tem

_____
Commissioner

Attest _____
Clerk of the Board

Constituting the Board of
County Commissioners of
Benton County Washington

MLM/djh

Appt List/PLN

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY FUNDS RE: TRANSFER OF FUNDS WITHIN PUBLIC SAFETY TAX FUND FUND NUMBER 1480 DEPARTMENT NUMBER 122 TO 121

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 _____, 2024

_____
Chairman of the Board

_____
Commissioner

_____
Commissioner

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

Attest: _____
Clerk of the Board

cc: Dept, Auditor, File

prepared by: Katie Gillies

EXHIBIT "A"

BENTON COUNTY BUDGET ADJUSTMENT

Dept Name: Metro Drug Task Force to Sheriff Patrol Dept Nbr: 122 to 121

Fund Name: Public Safety Tax Fund Fund Nbr: 1480

TRANSFER FROM: **Dept. 122** TRANSFER TO: **Dept.** 121

BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT	BASE SUB (6 digit)	LINE ITEM (4 digit)	LINE ITEM NAME	AMOUNT
5212100	54738	City of Kennewick	$27,000	5942100	56410	Capital Outlay - Vehicles	$27,000
TOTAL			$27,000	TOTAL			$27,000

Explanation:

Moving funds to Capital Outlay to cover an upfitting of Ford F350 to accommodate second South Deputy position

Prepared by: Katie Gillies Date: 1/9/24

Approved ❑ Denied ❑ Date: _____

_____
Chairman

_____
Commissioner

_____
Commissioner

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	January 9th, 2024
Subject:	Ratification of Network Agreement with City of Seattle
Presenter:	n/a
Prepared By:	J. Mayfield
Reviewed By:	Matt Rasmussen

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

Type of Agenda Item:	**Type of Action Needed:**	
☒ 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 has been a participating agency in the Washington State Reference Network (WSRN) for more than 10 years. WSRN provides a permanent base station for use with our GSP surveying activities and saves considerable time and money for our survey crews. The County does not pay a fee for membership, instead we provide local technical support and repairs on one of the many base stations throughout the state. WSRN provides replacement parts, we provide labor to install them when they are needed. The total cost of time spent is small in comparison to the value we receive for membership.

Recently WSRN received notice during an audit that even though the County did not pay for membership it was good practice to have us complete a membership form. Pursuant to RCW 36.115.020 local governments can enter into service agreements that will establish which jurisdictions should provide various local government services.

An agreement was completed between Benton County and the City of Seattle. The network agreement was signed by Richard Elledge, Survey Party Chief, on behalf of the County on December 11th, 2023. The Board should ratify that action in order for the agreement to be valid.

The Public Works Manager recommends that the Board of County Commissioners ratify the network agreement attached hereto between Benton County and the City of Seattle.

Fiscal Impact

Amount: only cost to Benton County will be crew time and fuel, varies year to year based on need.

Fund: Road Fund

Recommendation

The Public Works Manager recommends the Board ratify the network agreement, signed by Richard Elledge, with the City of Seattle.

Suggested Motion

Approve as part of the Consent Agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF RATIFYING THE NETWORK AGREEMENT BETWEEN BENTON COUNTY AND THE CITY OF SEATTLE FOR FULL ACCESS OF WASHINGTON STATE REFERENCE NETWORK ACCOUNTS FOR THE PUBLIC WORKS DEPARTMENT

WHEREAS, pursuant to RCW 36.115.020 local governments can enter into service agreements that will establish which jurisdictions should provide various local government services; and

WHEREAS, an agreement was completed between Benton County and the City of Seattle; and

WHEREAS, Benton County shall provide assistance where needed for Continuously Operating Reference Station upgrades and maintenance in the South-Central Region of Washington State; and

WHEREAS, Benton County shall have unlimited access to up to 5 WSRN accounts with full rights in exchange for sponsorship and hosting of these Continuously Operating Reference Stations; and

WHEREAS, Richard Elledge signed a network agreement on December 11th, 2023; **NOW, THEREFORE**

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington, hereby ratifies the agreement, signed by Richard Elledge on December 11th, 2023. This agreement will expire 5 years from date of execution.

Dated this 9th day of January 2024.

_____
Chairman

_____
Chairman Pro-Tem

_____
Commissioner

Constituting the Board of Commissioners
of Benton County, Washington

Attest_____
Clerk of the Board

Original: Public Works
cc: Auditor, City of Seattle

J. Mayfield

WASHINGTON STATE REFERENCE NETWORK

Partnership Agreement Checklist

WSRN Partner: Company/Entity Name: BENTON COUNTY

Partnership Type:
(Check all that apply)

- Station Infrastructure: ___
- Station Comms: ___
- Site Host: ___
- Service in-kind ☑
- One-Time Investment ___
- Other (specify) ___

Summary Already providing custodial duties for stations in that area.

Invoicing by SPU A/R?
No ☑ Yes ___ Annual amount (if applicable) ____

Agreement Drafted by:
Name Gavin Schrock Date 12/12/2023 Initials GS

Agreement Reviewed
Name Dean Huber Date 12/12/2023 Initials DH

Signed by Engineering and Technical Services Director
Name Tanya Treat Date 12/12/2023 Initials TT

Signed by Partner
Date of Signature 12/12/2023 Date Received/Filed 12/12/2023 Initials GS

WSRN Logins:
Creation Date 12/12/2023 # of Logins 1 Initials GS

WASHINGTON STATE REFERENCE NETWORK AGREEMENT BETWEEN BENTON COUNTY AND THE CITY OF SEATTLE

This Washington State Reference Network Agreement (the "AGREEMENT") is made and entered into by and between **BENTON COUNTY**, herein referred to as ["BENTON"] and the City of Seattle, acting as the Central Processing Center for the Washington State Reference Network by and through Seattle Public Utilities, herein referred to as (the "SPU"). BENTON and SPU are sometimes referred to individually as the "PARTY" and collectively as the "PARTIES."

RECITALS

A. Using data from satellites owned by the United States of America, global positioning systems ("GPS") could provide efficient methods for surveying and mapping activities related to utility, transportation and other public capital improvement projects. The speed and accuracy of such technology can be enhanced by linking GPS continuously operating reference stations ("CORS") to a central processing center ("CPC") in a real time GPS network ("Washington State Reference Network" or "WSRN"). Each CORS will transmit live GPS satellite data to the CPC for processing, distribution of real time positioning corrections to members of the WSRN and other authorized users, archiving, and posting on a web page application.

B. The WSRN was created by SPU as a cooperative effort with other governmental agencies that will operate CORS within the State of Washington and selected reference stations in adjacent states and provinces wherein data from such stations can provide seamless coverage to the borders of Washington State. The WSRN eliminates duplication of equipment, software and operational expenditures, while providing greater coverage and accuracy of real time positioning solutions and data from each CORS. Entities that operate CORS under this Agreement with the SPU are known as "members" of the WSRN.

C. Each PARTY has determined that cost savings and other public benefits can be achieved if entities, such as BENTON, become a member of the WSRN.

D. For purposes of the development of a sub-network of the WSRN in and around the various regions of Washington State, SPU, WSRN Partners, and other entities in the regions are entering into individual agreements with SPU for connection of each of their respective CORS, and/or CORS that they support.

E. Many of the WSRN members serve solely as sites hosts, otherwise providing a suitable site on which the WSRN members may construct and operate a suitable GPS sensor, offer a site for an installation, provide power, installation materials and/or labor, or as in this case of this agreement providing the site, power, communications, receiver and antenna.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the PARTIES agree as follows:

AGREEMENT

1. CENTRAL PROCESSING CENTER (CPC)

1.1. The SPU shall own and be responsible, at its expense, for all aspects of the operation and maintenance of the CPC, including without limitation servers, PIVOT and other software necessary for the CPC to accomplish its tasks as set forth in this section 1.

1.2. Based on received data streams from a grid of CORS, the CPC will send system information and real-time corrections via cellular connections to WSRN Partners and agents of the academic community via FTP, mobile devices for positioning, locating and navigating with satellites of the GPS. The CPC also shall make data files available for static GPS post processing. All digital products will be made available to BENTON if requested. BENTON is NOT responsible for the equipment, configuration thereof of any other WSRN user equipment nor any aspect of use of any of the digital products derived with any data from the GPS sensor mounted at the CORS site referenced in section 2.1.

1.3. SPU shall operate and maintain a web application to display the system status, data generated by PIVOT software for notification of system status, availability, component quality, static data files, and general information.

1.4. SPU will provide telephonic Help Desk services, from Monday through Friday, 9:00 a.m. to 3:00 p.m., but only to troubleshoot connections to the CPC servers. The Help Desk will not answer questions concerning individual user hardware or software, surveying or other field data collection methods, commercial cellular connections, system status or monitoring report data that is available from the web application.

1.5. The SPU shall provide centralized data logging and archiving, access to CORS logged data files, access to real time corrections via wireless technology, and system monitoring for the WSRN.

1.6. The services to be provided by the SPU and described in this section 1 are referred to as the "WSRN Services."

2. CONTINUOUSLY OPERATING REFERENCE STATIONS (CORS)

2.1. For the duration of this Agreement, BENTON shall provide assistance where needed for reference station (CORS) upgrades and maintenance in the South-Central Region of Washington State as further described in section 2.1.3

2.1.1. Such assistance is "services-in-kind" and may include BENTON employees going to CORS sites to power cycle equipment or swapping out WSRN provided CORS equipment.

2.1.2. Such assistance tasks are non-technical in nature, but where applicable, and per safety requirements of BENTON or any CORS sites visited, only properly qualified personnel may do these tasks.

2.1.3. For purposes of the agreement, The South-Central Region of the WSRN network shall mean any CORS extending to Kennewick to the east, Paterson to the south, Othello to the north, and Toppenish to the west.

2.1.4. Requests for assistance shall be responded to within 3 business days, unless other circumstances prevent timely completion.

2.2. For the duration of this Agreement, BENTON may participate with other members of the WSRN in a technical advisory committee to be staffed and administered by the members. This committee may identify solutions, upgrades and other desired enhancements to the WSRN.

3. CPC ACCESS

3.1. For the duration of this Agreement, BENTON, if requested, shall have unlimited access via up to [5] specified BENTON accounts for full WSRN services in exchange for sponsorship and hosting of said CORS specified in this Agreement.

4. MANAGEMENT; COMPENSATION

4.1. There are no additional costs to BENTON, other than their own crew time incurred responding to assistance requests, and their own vehicle fuel.

4.1.1. In exchange for the services as described in section 2, BENTON will have full rights to network service accounts as specified in section 3.1.

4.1.2. In the event that no services are requested in any given year of this agreement, BENTON will be eligible for accounts for being on standby.

5. DURATION

The initial term of this Agreement shall be 5 years, commencing upon the date of its execution by BENTON, unless terminated earlier pursuant to this Section 5. The term may be extended by mutual agreement of the parties.

If BENTON determines during the term of this Agreement that the costs it incurs or expects to incur in providing assistance pursuant to Section 2 above exceeds, or is reasonably expected to exceed, the cost to BENTON of membership in the WSRN, then BENTON may terminate this Agreement, and upon such termination become of a member of the WSRN, with all the rights and obligations attendant thereto. Such termination shall take effect no sooner than sixty (60) days after BENTON provides written notice of such termination to the City of Seattle, acting by and through SPU.

Upon termination of this Agreement, BENTON shall have no further liability or responsibility to any Party or member of WSRN.

6. NO WARRANTIES; LIMITATION OF LIABILITY

6.1. Use of these WSRN services, if requested, is at BENTON's sole risk. The SPU provides WSRN Services on an "as is" basis. Neither other WSRN members, nor the SPU, its officers, employees, vendors, or third-party service providers (collectively as used in this section 6, "SPU") makes any express or implied representation or warranty of any kind with respect to WSRN Services. By way of example and not of limitation, there is no representation or warranty (a) that WSRN Services will be uninterrupted or error free, (b) that the results obtained from using WSRN Services will be accurate, reliable, complete or current, or (c) of merchantability or fitness for

a particular purpose. WSRN Services and information related thereto are subject to change without prior notice.

6.2. Neither the SPU nor BENTON, any third parties BENTON may have entered into an agreement with for the purposes of establishment, operations and maintenance of a CORS, or other WSRN members, is liable for any damages arising out of or in connection with WSRN Services, including without limitation mistakes, omissions, interruptions, deletion of files, errors, defects, viruses, delays in operation or transmission, or failures of the CORS. This is a comprehensive limitation of liability that applies to all damages of any kind, including compensatory, direct, indirect or consequential damages, loss of data, income or profit, loss of or damage to property and claims of third parties.

7. DISPUTE RESOLUTION

In the event that a dispute arises under this Agreement which can not be resolved between the Parties, the dispute shall be settled in the following manner: Each Party to this Agreement shall appoint a member to a dispute board. The members so appointed shall jointly appoint a third member to the dispute board who is not employed by or affiliated in any manner with the two Parties to this Agreement. The dispute board shall evaluate the facts, contract terms, and applicable statutes and rules and make a determination of the dispute. The determination of the dispute board shall be final and binding on the Parties hereto.

8. NOTICES

All notices and invoices required in connection with this Agreement shall be in writing and deemed to have been duly given if personally delivered or sent by; mail, fax, United States mail or overnight delivery service, each with proof of receipt, as indicated below or as otherwise indicated in writing by one party to the other.

CITY OF SEATTLE
Seattle Public Utilities
Engineering and Technical
Services Division
PO Box 34018
Seattle, WA 98124-4018
Fax: 206-684-7396
E-mail:
gavin.schrock@seattle.gov

BENTON COUNTY
PUBLIC WORKS
620 MARKET STREET
PROSSER WA. 99350
OFFICE 509 786-5611
FAX 509 786-5627
EMAIL
RICHARD.ELLEDGE@CO.BENTON.WA.US

Signature: Gavin Schrock (Dec 12, 2023 15:31 PST)
Email: Gavin.Schrock@seattle.gov

Signature: Dean Huber (Dec 12, 2023 15:38 PST)
Email: Dean.Huber@seattle.gov

9. OTHER PROVISIONS

9.1. Nothing contained herein is intended to, nor shall be construed to; create any rights in any party not a signatory to this Agreement, or to form the basis for any liability on the part of the SPU, BENTON, or their officials, employees, agents, or representatives, to any party not a signatory to this Agreement.

9.2. Waiver of breach of any provision of this Agreement shall not be deemed to be a waiver of any prior or subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

9.3. If any provision of this Agreement shall be held invalid, the remainder of the Agreement shall not be affected thereby if such remainder would then continue to serve the purposes and objectives of the PARTIES.

9.4. The captions in this Agreement are for convenience only and do not in any way limit or amplify the provision of this Agreement.

9.5. This Agreement, including Recitals (which by this reference are incorporated herein) contains the entire agreement of the parties and any representations or understandings, whether oral, written or not incorporated herein are excluded.

9.6. The provisions of this Agreement shall be construed as a whole according to their common meaning and consistent with the other provisions herein contained in order to achieve the objectives and purposes of this Agreement. Each PARTY and its counsel (if the PARTY so desires) has reviewed and revised this Agreement. Each PARTY agrees that the usual rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

9.7. Only an instrument in writing, duly executed by both PARTIES, may amend this Agreement.

9.8. This Agreement shall be governed and construed in accordance with the laws of the State of Washington.

IN WITNESS WHEREOF, the parties have entered into this Agreement effective as of the date last written below.

CITY OF SEATTLE
[Sign]
Tanya Treat
Director
Engineering and Technical Services Division
Seattle Public Utilities
Date: 12/12/2023

BENTON COUNTY
[Sign]
[Print Name] RICHARD S. ELLERGE
[Title] SURVEY CHIEF
PUBLIC WORKS
Date: 12-11-23

R E S O L U T I O N

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY FUNDS, RE: TRANSFER OF FUNDS WITHIN EQUIPMENT RENTAL AND REVOLVING FUND 5010, DEPARTMENT NUMBER 650

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 _____, 20___

Chairman of the Board

Chairman Pro Tem

Commissioner

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

Constituting the Board of County Commissioners of Benton County, Washington

D Calhoun

BENTON COUNTY LINE ITEM TRANSFER

Dept Name: Equipment Rental and Revolving

Dept Nbr: 650

Fund Name: Equipment Rental and Revolving

Fund Nbr: 5010

TRANSFER FROM:

BARS (7 digit)	LINE ITEM (5 digit)	LINE ITEM NAME	AMOUNT
5881000	54900	Miscellaneous	150,000
TOTAL			$150,000

TRANSFER TO:

BARS (7 digit)	LINE ITEM (5 digit)	LINE ITEM NAME	AMOUNT
5881000	50080	Prior Period Adjustments	150,000
TOTAL			$150,000

Explanation:

Move funds to correct account for recording overcollection of equipment charges in prior years.

Prepared by: Debbie Calhoun

Date: 27-Dec-2023

Approved ❑

Denied ❑

Date: _____

_____

Chairman of the Board

_____

Chairman Pro Tem

_____

Commissioner

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	January 09, 2024
Subject:	ER&R Rates for Department Vehicles
Presenter:	
Prepared By:	Debbie Calhoun & Michael McGhan
Reviewed By:	Michael McGhan & Robert Blain

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

Summary / Background Information

The Benton County ER&R Department operates the Equipment Rental and Revolving (ER&R) Fund, through which vehicles and equipment are purchased, maintained, and replaced. The Board of County Commissioners adopted the current iteration of the ER&R Fund policy on November 3, 2020. The Benton County ER&R Department, in accordance with the current iteration of the ER&R Fund policy, calculated 2024 rates/assessments for Department vehicles and equipment. Per the adopted policy, vehicle and equipment rates/assessments are to be adopted by the Board of County Commissioners.

Fiscal Impact

Adoption of these vehicle rates/assessments will have no direct fiscal impact. The vehicle rates/assessments were used as a basis for the Departments 2023/2024 budgets.

Amount: None

Fund: All County Funds

Recommendation

Approve as part of the consent agenda.

Suggested Motion

Move to approve the Adoption of Equipment Rental and Revolving (ER&R) Fund Vehicle Rates/Assessments for Department Vehicles

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY FUNDS, RE: ADOPTION OF EQUIPMENT RENTAL AND REVOLVING (ER&R) FUND VEHICLE RATES/ASSESSMENTS FOR DEPARTMENT VEHICLES

WHEREAS, the Benton County ER&R Department operates the Equipment Rental and Revolving (ER&R) Fund, through which vehicles and equipment are purchased, maintained, and replaced; and

WHEREAS, the Board of County Commissioners adopted the current policy that governs the operation of the ER&R Fund on November 03, 2020; and

WHEREAS, through said policy, the ER&R Department calculated rates/assessments for Department vehicles and equipment for the 2024 calendar year; and

WHEREAS, per said policy, vehicle rates/assessments must be adopted by the Board of County Commissioners; and

WHEREAS, the Fleet Manager recommends the Board of County Commissioners adopt the proposed vehicle and equipment rates/assessments; **NOW, THEREFORE,**

BE IT RESOLVED, the Board of County Commissioners hereby adopts the proposed 2024 vehicle and equipment rates/assessments, per the ER&R Fund policy.

Dated this 9th day of January, 2024.

_____
Chairman of the Board

_____
Chairman Pro-Tem

_____
Commissioner

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

Attest:_____
Clerk of the Board

M McGhan

Road and Solid Waste 2024 Equipment Rates

Vehicle No.	Description	Rate Group	Purchase Year	Lifespan (yrs)	Annual Rental Rate
0390	TOWABLE TRASH PUMP	I	1991	35	$ 9,708
0418	HEAVY HAUL TRAILER (lowboy)	HT	1994	40	$ 9,276
0419	20 YD-TRAILER (belly dump)	HT	1994	45	$ 7,020
0420	HYDRAULIC TRUCK CONVEYOR ATT	CO	1994	35	$ 6,132
0424	ROCK RAKE	RR	1995	35	$ 5,016
0425	ROCK RAKE	RR	1995	35	$ 5,496
0432	WATER TANK TRAILER	HT	1996	30	$ 16,044
0442	2 AXLE TILT TRAILER	FT	1997	35	$ 12,168
0459	TRUCK CONVEYOR BOX	CO	1999	30	$ 4,836
0474	Fifth Wheel Tractor	I	2015	15	$ 19,152
0477	TAILGATE ROCK SPREADER	SP	2001	30	$ 1,860
0478	TAILGATE ROCK SPREADER	SP	2001	30	$ 1,176
0479	TAILGATE ROCK SPREADER	SP	2001	30	$ 2,184
0480	500 GAL. DE-ICER TANK	DI	2001	25	$ 13,920
0481	500 GAL.DE-ICER TANK-Kennewick-	DI	2001	25	$ 10,128
0484A	FRONT LOADER	LO	2018	10	$ 44,268
0489	ROCK RAKE - Kennewick	RR	2003	30	$ 11,916
0495	DOUBLE DRUM ROLLER	RL	2004	30	$ 5,316
0502	200 GALLON-DE ICER TANK-Kennewick	DI	2005	20	$ 3,312
0506	CHIPPER	I	2006	25	$ 8,664
0509/0462	SPRAY TRUCK CHASSIS/Weed Sp	ST	2006	19	$ 15,720
0518/0447	SPRAY TRUCK CHASSIS/Weed Sp	ST	2008	17	$ 17,472
0520	1 TON DUMP BOX	DT	2008	20	$ 9,864
0534	5YD DUMP-KENNEWICK CREW	SD	2011	13	$ 48,372
0535	5YD DUMP-KENNEWICK CREW	SD	2011	13	$ 41,148
0541	ROCK RAKE PU A-2	DT	2012	20	$ 12,696
0542	ROCK RAKE PU A-2	DT	2012	20	$ 14,376
0543	2012 FORD F450 XL SUPER DUTY (KENN)	FB	2012	20	$ 7,164
0544	772G MOTOR GRADER PROSSER	MG	2012	15	$ 78,624
0545	420E Tractor-Loader-Backhoe-Kennwck	BH	2013	20	$ 32,232
0546	420E Tractor-Loader-Backhoe-Prosser	BH	2013	20	$ 15,744
0549	2013 White Ford F250-Kennewick Crew	RO	2013	15	$ 9,960
0550	'13 White Ford F250-Kennewick Crew	RO	2013	15	$ 10,716
0551	OM12-2E FLATBED TILT TRLR12K LB	FT	2013	20	$ 2,088
0552	30TDT-3SC FLATBED TILT TRLR 50K LB	FT	2013	20	$ 8,184
0553	2013 John Deere 624K AWD Loader A-2	LO	2013	15	$ 42,288
0554	2013 Ford 450 Flatbed Truck-Prosser	FB	2013	15	$ 12,036
0555	Side Cast Broom- Prosser	BR	2013	12	$ 29,652
0556	Side Cast Broom- Kennewick	BR	2013	12	$ 42,144
0557	Water Truck-Kennewick	WT	2014	15	$ 70,344
0561	6 YD Dump Truck	SD	2014	15	$ 28,140
0562	6 YD Dump Truck	SD	2014	15	$ 37,920
0563	12 YD Dump Truck	LD	2014	11	$ 102,780
0565	12 YD Dump Truck	LD	2014	11	$ 93,432
0566	10 YD Pup trailer	PT	2014	20	$ 7,572

Road and Solid Waste 2024 Equipment Rates

Vehicle No.	Description	Rate Group	Purchase Year	Lifespan (yrs)	Annual Rental Rate
0567	10 YD Pup trailer	PT	2014	20	$ 8,424
0568	10 YD Pup trailer	PT	2014	20	$ 8,376
0570	12 YD Dump Truck	LD	2015	12	$ 69,804
0571	12 YD Dump Truck	LD	2015	12	$ 78,624
0572	12 YD Dump Truck	LD	2015	12	$ 77,652
0573	10 YD Pup trailer-Prosser	PT	2015	20	$ 8,172
0574	10 YD Pup trailer-Prosser	PT	2015	20	$ 11,088
0575	10 YD Pup trailer-Prosser	PT	2015	20	$ 7,128
0580	Articulated wheel compactor attach	WC	2015	20	$ 1,008
0581	Articulated wheel compactor attach	WC	2015	20	$ 4,152
0582	Ford F350 1 Ton Rock Rake PU	DT	2015	15	$ 8,724
0583	'06 Frtlnr w/new Etnyre Oil Distrib	I	2015	20	$ 19,320
0584	Shop made rock rake	RR	2017	20	$ 6,996
0585	HEAVY HAUL TRACTOR	I	2017	15	$ 33,132
0586	Ford 4WD, Crew Cab	EN	2017	15	$ 10,200
0587	Ford 4WD, Crew Cab	EN	2017	15	$ 11,028
0588	Ford F250 3/4 Ton, 4WD, X-cab Kenn.	RO	2017	15	$ 14,316
0589	Ford F350 1 Ton, 4 WD, Crew Cab	RO	2017	15	$ 15,384
0590	2 AXLE TILT DECK TRAILER	FT	2017	20	$ 2,412
0591	2017 John Deere Motor Grader Area 2	MG	2017	15	$ 87,612
0592	2017 John Deere Motor Grader Area 1	MG	2017	15	$ 83,904
0593	Articulated wheel compactor attach.	WC	2018	20	$ 5,184
0594	Articulated wheel compactor attach.	WC	2018	20	$ 1,236
0595	Freightliner Asphalt Patch Truck	PA	2018	15	$ 42,828
0596	Volvo pneumatic roller	RL	2018	20	$ 14,244
0597	John Deere Wheel Loader	LO	2018	15	$ 36,864
0598	Ford F150 Ext Cab, 4WD	DD	2018	10	$ 24,552
0700	Ford F150 Ext. Cab, 4WD	DD	2018	15	$ 10,884
0701	RPM Tech LM220 Snow Blower	I	2017	20	$ 18,324
0702	2019 Ford F150 Crew Cab PW-ENG	DD	2019	20	$ 8,268
0703	2019 Ford F150 EXTCAB M-III	DD	2019	20	$ 17,196
0704	2019 Ford F150 Crew Cab 4WD-Survey	DD	2019	20	$ 12,972
0705	Freightliner cab & chassis with water tank	WT	2020	15	$ 62,172
0706	2019 Ford Escape - Engineering	EN	2019	15	$ 7,464
0707	1969 Butler 6500-gallon water tank trailer	HT	2019	20	$ 14,616
0708	Hopper Sander, pre-wet, dual 100 gal tanks	I	2020	10	$ 9,096
0709	DynaPac Single Drum Roller	RL	2020	15	$ 23,304
0710	Cross conveyor (shouldering) belt	CO	2020	15	$ 4,188
0711	Cross conveyor (shouldering) belt	CO	2020	15	$ 2,256
0712	Freightliner cab & chassis with water tank	WT	2021	15	$ 61,128
0713	John Deere 872G Motor Grader	MG	2021	15	$ 92,076
0714	2020 Freightliner Cab & Chassis w/dump body	LD	2021	15	$ 57,804
0715	Walk and roll with Articulator	WC	2021	15	$ 6,252
0716	Sign Truck	I	2021	15	$ 25,824
0717	F250 CC 4X4 Kennewick	RO	2021	15	$ 12,228
0718	F250 SC 4X4 Prosser	RO	2021	15	$ 11,616

Road and Solid Waste 2024 Equipment Rates

Vehicle No.	Description	Rate Group	Purchase Year	Lifespan (yrs)	Annual Rental Rate
0719	2021 Ford Explorer	EN	2021	15	$ 10,800
0720	2021 Ford Escape	EN	2021	15	$ 5,208
0721	2021 Ford Explorer	EN	2021	15	$ 6,840
0722	Shouldering mower- Prosser	TM	2021	10	$ 51,156
0723	Crack seal machine with compressed air	I	2022	15	$ 26,220
0724	Shouldering Mower- Kennewick	TM	2022	10	$ 83,640
0725	Cat AWD Road grader	TM	2023	15	$ 121,668
0726	Reader board trailer	0	2023	15	$ 3,492
0727	Reader board trailer	0	2023	15	$ 3,492
0729	Escape for Roads Admin Staff	0	2023	15	$ 6,312
0730	Reader board trailer	0	2023	15	$ 3,492
0731	Reader board trailer	0	2023	15	$ 3,492
NEW-V	Vactor	I	2024	15	$ 122,328
532N	F350	0	2024	15	$ 13,644
534N	114SD Freightliner	0	2024	10	$ 74,784
535N	114SD Freightliner	0	2024	10	$ 74,784
NewM1	Ford Mavrick	0	2024	15	$ 5,748
NewM2	Ford Mavrick	0	2024	15	$ 5,748
EXNEW	Cat Excavator	0	2023	15	$ 38,196
1140	Solid Waste	0	2023	15	$ 5,760

2024 Non-Road Annual Vehicle Maintenance Rates by Department

Department	Vehicle No.	Description	Annual Maintenance by Department
ASSESSOR			$ 6,948
	1091	2010 Impala	
	1110	2016 Escape	
	1111	2016 Escape	
	1123	2019 Escape	
	1124	2019 F150	
	1132	2021 Ford Escape	
AUDITOR			$ 2,766
	1115	2017 Escape	
	1131	2020 Cargo Van	
BUILDING			$ 6,894
	1116	2018 Escape	
	1130	2019 Escape	
	1133	2021 Ford Escape	
	1135	2021 Ford Escape- Building	
	1139	2022 Ford Escape	
IT			$ 210
	1117	2018 Grd Caravan	
CLERK			$ 1,914
	1099	2013 Impala	
	1114	2016 Escape	
COMMISSIONER			$ 9,732
	0512	POOL CAR A-1	
	0513	POOL CAR A-1	
	0521	POOL CAR A-2	
	1107	2015 Escape	
	1108	2015 Escape	
	1113	2016 Escape	
	1118	Pool Car	
	1119	2017 Escape	
	1125	2018 Explorer	
CORONER			$ 9,330
	1090	2010 Express Van	
	1103	2014 Transit Van	
	1105	2015 Grd Caravan	
	C15-15	Transit Van	
PLANNING			$ 5,568
	1095	2012 Escape	
	1106	2015 Escape	
	1120	2018 Escape	
PROSECUTOR			$ 5,958
	1100	2013 Impala	
	1112	2016 Escape	

2024 Non-Road Annual Vehicle Maintenance Rates by Department

Department	Vehicle No.	Description	Annual Maintenance by Department
FACILITIES			$ 27,696
	1067	2004 Silverado	
	1082	2008 F350	
	1096	2013 F250	
	1109	2015 Escape	
	1121	2018 Polaris	
	1129	Jacobsen Mower	
	1136	Landscaping trailer for facilities	
	1137	Zero turn mower 60in	
	61-01	3/4 Ton 4X4 PU Facilities	
	61-02	4X4 PICKUP Facilities	
	61-03	Facilities - Utility Trailer	
	61-04	48" Zero turn mower	
TREASURER			$ 1,512
	1134	2021 Ford Escape	
	0533A	2010 Escape	
PARKS			$ 15,396
	1097	2013 F250	
	1098	2013 F250	
	1126	2019 Polaris	
	1127	2019 Polaris	
	1138	6 YD dump for pickup bed	
	74-02	TRAILER-PARKS/FACILITIES	
	74-03	Parks - Utility Trailer	
	74-07	Zero turn 72" deck	
	74-10	Tandem Axle Trailer	
FAIRGROUNDS			$ 21,102
	1094	2011 F250	
	1122	2017 Golf Cart	
	1128	2019 Polaris	
	110-9	4000 Gallon Water Truck	
	110-10	TELEHANDLER	
	110-11	SKIDSTEER - Fairgrounds	
	110-15	FAIRGROUNDS 105	
	110-23	Tractor with front loader	
ANIMAL CONTROL			$ 1,818
	137-1	2010 EXPRESS VAN	
	137-2	2006 EXPEDITION	
HUMAN SERVICES			$ 600
	HS-03	2010 Fusion	
	HS-04	2010 Fusion	
HORTICULTURAL PEST & DISEASE			$ 540
	9703	2008 COLORADO	

2024 Non-Road Annual Vehicle Maintenance Rates by Department

Department	Vehicle No.	Description	Annual Maintenance by Department
CORRECTIONS			$ 14,130
	S97-11	WCII TRLR	
	C03-01	TRAILER- Work Crew#4	
	C07-13	CHEV VAN- Work Crew#6	
	C07-14	TRAILER- Work Crew#2	
	C12-09	Ford Van- Work Crew#2	
	C17-03	Custody - Van	
	C18-10	Prisoner transport vehicle	
	C19-14	Hyd dump trailer 14K	
	C20-51	2020 Interceptor	
	C20-52	2020 Interceptor	
	C21-51	2021 Escape	
	C21-53	2021 Explorer	
	C22-51	2022 Transit	
	S02-10	TRAILER-spare	
	S06-15	TRAILER- Work Crew#5	
JUVENILE			$ 12,532
	42-27	2008 MALIBU	
	42-28	2008 MALIBU	
	42-31A	2005 COLORADO	
	42-34	2004 CVPI	
	42-37	1999 TAURUS S/W	
	42-39	2014 Impala	
	42-41	2014 E250	
	42-46	2010 CVPI	
	42-49	MALIBU- Juvy	
	42-51	2019 Escape SE 4WD	
	42-52	2020 INTERCEPTOR SUV	
	42-53	2021 Ford Escape	
	42-54	2021 Ford Escape	
	42-55	2022 Ford Escape	
	42-56	2022 Ford Escape	
SHERIFF			$ 258,180
	S93-1A/OR	SHFF TRAILER	
	S02-09	Quad Runner-at Paterson Township	
	S02-13	Quad Runner-at Paterson Township	
	S06-18	Undercover Dodge 1500	
	S08-14MCU	MCU	
	S08-1B	JET RIVER PATROL BOAT	
	S08-1T	TRAILER FOR 08-1B JET BOAT	
	S08-2B	RIVER PATROL BOAT (OUTBOARDS)	
	S08-2T	TRAILER FOR 08-2B	
	S11-13	SWAT VEHICLE	
	S12-15	6.7POWER STROKE/ BOAT PATROL	

2024 Non-Road Annual Vehicle Maintenance Rates by Department

Department	Vehicle No.	Description	Annual Maintenance by Department
SHERIFF			
	S14-01	PATROL	
	S14-02	PATROL	
	S14-03	PATROL	
	S14-04	SHERIFF-DETECTIVE-McCARY	
	S14-08	PATROL	
	S14-09	PATROL	
	S14-10	INTERCEPTOR	
	S14-11	PATROL	
	S14-12	PATROL	
	S14-14	PATROL	
	S15-02	PATROL	
	S15-04	PATROL	
	S15-06	PATROL	
	S15-07	PATROL	
	S15-09	PATROL	
	S15-12	PATROL	
	S15-13	SIDE BY SIDE - PATROL	
	S15-14	FORD VAN - WC #5	
	S15-16	PATROL	
	S15-18	TRAFFIC	
	S15-20	PATROL	
	S16-01	PATROL	
	S16-02	PATROL	
	S16-05	PATROL	
	S16-06	PATROL	
	S16-07	ADMINISTRATION	
	S16-08	ADMINISTRATION	
	S16-09T	PATROL TRAILER	
	S16-10	Undercover mini-van	
	S16-11	2015 300	
	S17-01	PATROL	
	S17-02	PATROL SUV	
	S17-04	SHERIFF PATROL	
	S17-05	SHERIFF PATROL	
	S17-06	SHERIFF PATROL	
	S17-09	SHERIFF PATROL	
	S17-10	SHERIFF PATROL	
	S18-01	4 DR SILVER	
	S18-02	Patrol	
	S18-03	Patrol	
	S18-05	Patrol	
	S18-06	Patrol	
	S18-07	Patrol	

2024 Non-Road Annual Vehicle Maintenance Rates by Department

Department	Vehicle No.	Description	Annual Maintenance by Department
SHERIFF			
	S18-08	Patrol	
	S18-09	Patrol	
	S18-11	4 wheeler	
	S18-12	4 wheeler	
	S18-13	Dodge Caravan	
	S18-14T	6 x 19 2 Axle trailer 5000 GVWR	
	S19-01	Interceptor Patrol	
	S19-02	Interceptor Patrol	
	S19-03	F150 Sheriff Patrol	
	S19-04	F150 Sheriff Patrol	
	S19-05	Patrol	
	S19-06	Patrol	
	S19-07	Patrol	
	S19-08	Patrol	
	S19-09	Patrol	
	S19-10	Admin	
	S19-11	Patrol	
	S19-12	PATROL, SUV	
	S19-13	PATROL SUV	
	S19-15	4 Seat Side by Side	
	S19-16	2020 Interceptor Uti	
	S19-17	SHERIFF PATROL SUV	
	S19-19B	SHERIFF SAFEBOAT	
	S19-20T	EZ LOADER TRLR FOR 2019 SAFEBOAT	
	S20-01	Police Utility AWD	
	S20-02	Police Utility AWD	
	S20-03	Police Utility AWD	
	S20-04	Police Utility AWD	
	S20-05	Police Utility AWD	
	S20-06	Police Utility AWD	
	S20-07	Policy Utility AWD	
	S20-08	Police Utility AWD	
	S20-09	Police Utility AWD	
	S20-10	Police Utility AWD	
	S20-11	Police Utility AWD	
	S20-12	Police Utility AWD	
	S20-13	Police Utility AWD	
	S20-14	Police Utility AWD	
	S20-15	Police Utility AWD	
	S20-16	Armored personel carrier	
	S22-01	Ford Utility AWD	
	S22-02	Ford Utility AWD	
	S22-03	Ford Utility AWD	

2024 Non-Road Annual Vehicle Maintenance Rates by Department

Department	Vehicle No.	Description	Annual Maintenance by Department
SHERIFF			
	S22-04	Ford Utility AWD Admin	
	S22-05	Ford Utility AWD	
	S22-06	Ford Utility AWD	
	S22-07	F350 for Boat / UTV Patrol	
	S22-08	Interceptor / Admin	
	S22-09	Interceptor / Admin	
	S23-01	Ford utility AWD	
	S23-02	Ford utility AWD	
	S23-03	Ford utility AWD	
	S23-04	Ford utility AWD	
	S23-05	Ford utility AWD	
	S23-06	Ford utility AWD Detective	
	S23-07	Ford utility AWD Admin	
	S23-08	Ford utility AWD Admin	
	S23-09	Dodge charger / Admin car	
	S23-10	Sheriff Patrol	
	S23-11	Ford utility AWD	
	S23-12	Ford utility AWD	
	S23-13	Ford utility AWD	
	S23-14	Ford utility AWD	

2024 Non-Road Annual Vehicle Replacement Rates

Department	Vehicle No.	Description	Lifespan (yrs)	Annual Replacement
ASSESSOR				
	1110	2016 Escape	15	$ 2,892
	1111	2016 Escape	15	$ 1,896
	1123	2019 Escape	15	$ 2,664
	1124	2019 F150	15	$ 3,348
	1132	2021 Ford Escape	15	$ 2,616
AUDITOR				
	1115	2017 Escape	15	$ 1,908
	1131	2020 Cargo Van	10	$ 1,800
BUILDING				
	1116	2018 Escape	12	$ 1,932
	1130	2019 Escape	15	$ 2,472
	1133	2021 Ford Escape	15	$ 2,616
	1135	2021 Ford Escape- Building	15	$ 2,388
	1139	2022 Ford Escape	10	$ 3,936
	New	New Escape	10	$ 3,936
IT				
	1117	2018 Grd Caravan	15	$ 2,064
CLERK				
	1099	2013 Impala	15	$ 1,068
	1114	2016 Escape	15	$ 2,028
COMMISSIONER				
	1107	2015 Escape	15	$ 1,680
	1108	2015 Escape	15	$ 1,860
	1113	2016 Escape	15	$ 1,920
	1118	Pool Car	15	$ 5,280
	1119	2017 Escape	15	$ 2,472
	1125	2018 Explorer	15	$ 3,480
	New	Pool Car #2	15	$ 2,880
CORONER				
	1090	2010 Express Van	15	$ 8,496
	1105	2015 Grd Caravan	10	$ 5,328
	1103R	1103 Replacement	10	$ 6,060
PLANNING				
	1095	2012 Escape	15	$ 696
	1106	2015 Escape	10	$ 2,976
	1120	2018 Escape	15	$ 2,664
PROSECUTOR				
	1100	2013 Impala	15	$ 1,344
	1112	2016 Escape	10	$ 1,632
PARKS				
	1097	2013 F250	15	$ 1,608
	1098	2013 F250	15	$ 1,740
	1126	2019 Polaris	10	$ 3,420
	1127	2019 Polaris	10	$ 3,408

2024 Non-Road Annual Vehicle Replacement Rates

Department	Vehicle No.	Description	Lifespan (yrs)	Annual Replacement
FACILITIES				
	1082	2008 F350	20	$ 1,068
	1096	2013 F250	15	$ 1,392
	1109	2015 Escape	15	$ 1,980
	1121	2018 Polaris	10	$ 3,696
	1129	Jacobsen Mower	10	$ 15,036
	1067R	1067 Replacement	15	$ 4,656
TREASURER				
	1134	2021 Ford Escape	15	$ 2,784
FAIRGROUNDS				
	1094	2011 F250	15	$ 2,400
	1122	2017 Golf Cart	10	$ 2,412
	1128	2019 Polaris	10	$ 3,408
CORRECTIONS				
	C20-51	2020 Interceptor	10	$ 4,332
	C20-52	2020 Interceptor	10	$ 4,332
	C21-51	2021 Escape	10	$ 3,060
	C21-53	2021 Explorer	10	$ 2,172
	C22-51	2022 Transit	10	$ 4,704
JUVENILE				
	42-51	2019 Escape SE 4WD	15	$ 2,436
	42-52	2020 INTERCEPTOR SUV	15	$ 3,648
	42-53	2021 Ford Escape	15	$ 2,916
	42-54	2021 Ford Escape	15	$ 2,916
	42-55	2022 Ford Escape	15	$ 2,700
	42-56	2022 Ford Escape	15	$ 2,700

2024 Non-Road Annual Vehicle Replacement Rates

Department	Vehicle No.	Description	Lifespan (yrs)	Annual Replacement
SHERIFF				
	S20-01	Police Utility AWD	6	$ 10,584
	S20-02	Police Utility AWD	6	$ 10,680
	S20-03	Police Utility AWD	6	$ 10,668
	S20-04	Police Utility AWD	6	$ 10,656
	S20-05	Police Utility AWD	6	$ 10,584
	S20-06	Police Utility AWD	6	$ 10,512
	S20-07	Policy Utility AWD	6	$ 10,584
	S20-08	Police Utility AWD	6	$ 10,512
	S20-09	Police Utility AWD	6	$ 10,512
	S20-10	Police Utility AWD	6	$ 10,932
	S20-11	Police Utility AWD	6	$ 10,500
	S20-12	Police Utility AWD	6	$ 10,512
	S20-13	Police Utility AWD	6	$ 10,608
	S20-14	Police Utility AWD	6	$ 10,512
	S20-15	Police Utility AWD	6	$ 10,500
	S22-01	Ford Utility AWD	6	$ 12,384
	S22-02	Ford Utility AWD	6	$ 12,384
	S22-03	Ford Utility AWD	6	$ 12,384
	S22-04	Ford Utility AWD Admin	6	$ 12,276
	S22-05	Ford Utility AWD	6	$ 12,384
	S22-06	Ford Utility AWD	6	$ 12,384
	S22-07	F350 for Boat / UTV Patrol	6	$ 14,868
	S22-08	Interceptor / Admin	6	$ 14,868
	S22-09	Interceptor / Admin	6	$ 14,868
	S23-01	Ford utility AWD	6	$ 12,948
	S23-02	Ford utility AWD	6	$ 12,948
	S23-03	Ford utility AWD	6	$ 12,948
	S23-04	Ford utility AWD	6	$ 12,948
	S23-05	Ford utility AWD	6	$ 12,948
	S23-06	Ford utility AWD Detective	6	$ 12,948
	S23-07	Ford utility AWD Admin	6	$ 14,868
	S23-08	Ford utility AWD Admin	6	$ 14,868
	S23-09	Dodge charger / Admin car	6	$ 14,868
	S23-10	Sheriff Patrol	6	$ 14,868
	S23-11	Ford utility AWD	6	$ 14,868
	S23-12	Ford utility AWD	6	$ 13,500
	S23-13	Ford utility AWD	6	$ 13,500
	S23-14	Ford utility AWD	6	$ 13,500
	S24-01	Ford utility AWD	6	$ 13,500
	S24-02	Ford utility AWD	6	$ 13,500
	S24-03	Ford utility AWD	6	$ 13,500

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	January 09, 2024
Subject:	ER&R Shop Rate
Presenter:	Michael McGhan
Prepared By:	Michael McGhan
Reviewed By:	Michael McGhan & Robert Blain

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

Summary / Background Information

The Benton County ER&R Department operates the Equipment Rental and Revolving (ER&R) Fund, through which vehicles and equipment are purchased, maintained, and replaced. The Board of Benton County Commissioners adopted the current iteration of the ER&R Fund policy in November 2020. The Benton County ER&R Department has prepared the 2024 shop rate, to be used in billing hours for work done on equipment and vehicles. Per the current resolution, this rate must be adopted by the Board of Benton County Commissioners.

The Fleet Manager has continued to increase efficiencies by managing billable hours and management of overhead costs and actualize utility savings through projects like LED conversion in Prosser and converting to natural gas heating in Kennewick. Shop rates in our area have increased to $150 to $205 per hour for automotive facilities and heavy equipment. Inflationary increases in overhead costs are driving the ER&R shop rate higher. The Fleet Manager has calculated a shop rate for 2024 of $140 per hour.

The new shop rate will not change the 2023-2024 ER&R assessment amounts set in the budget. However, billable work, which is outside of the assessment, will increase $10 per hour. Depending on the number of billable hours in the 2-year budget cycle, it is estimated the increase in costs for the largest departments will be approximately $2,500 or approximately $1,250 per year.

Fiscal Impact

Adoption of the shop rate will not have any fiscal impact unto itself. It will be used by the Benton County ER&R Department for calculating maintenance costs for equipment and vehicles.

Amount: None

Fund: All County Funds

Recommendation

Approve as part of the consent agenda.

Suggested Motion

Move to approve the Adoption of ER&R Department Shop Rate

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY FUNDS, RE: ADOPTION OF ER&R DEPARTMENT SHOP RATE

WHEREAS, the Benton County ER&R Department operates the Equipment Rental and Revolving (ER&R) Fund, through which vehicles and equipment are purchased, maintained, and replaced; and

WHEREAS, the Board of County Commissioners adopted the current policy that governs the operation of the ER&R Fund on November 03, 2020 and is effective January 1, 2021; and

WHEREAS, through said policy, the ER&R Department calculated a shop rate of $140.00 per hour for the 2024 calendar year, which is used by the ER&R Department for consideration of the cost of equipment and vehicle maintenance; and

WHEREAS, per said policy, the rate must be adopted by the Board of County Commissioners; and

WHEREAS, the Fleet Manager recommends that the Board of County Commissioners adopt the proposed rate; **NOW, THEREFORE,**

BE IT RESOLVED, that the Board of County Commissioners hereby adopts the proposed 2024 ER&R Department shop rate of $140.00 per hour, per the ER&R Fund policy.

Dated this _____ day of _____, 2024

_____
Chairman of the Board

_____
Chairman Pro-Tem

_____
Commissioner

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

Attest:_____
Clerk of the Board

M McGhan

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	January 9, 2024
Subject:	Executing the First Amendment to the professional services contract with Meier Enterprises, Inc. for the Moderate Risk Waste Facility Ventilation System Upgrade
Presenter:	
Prepared By:	D. Hope
Reviewed By:	Procurement & LeeAnn Holt

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

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

Summary / Background Information

Per Resolution 2023-667 dated September 26, 2023, the Board of Benton County Commissioners entered into a professional services contract with Meier Enterprises, Inc., of Kennewick, WA. for Architectural and Engineering Services for the Moderate Risk Waste Facility Ventilation System Upgrade Project.

During the design process, it was determined that additional structural and electrical design would be needed to complete the design of the ventilation system. The total cost of the additional scope of work will be $13,200.00 which will increase the overall contract amount to $29,500.00 plus $4,000.00 for as needed construction support for a total amount of $33,500.00.

The Director of Operations and Capital Assets recommends the Board execute the First Contract Amendment as presented. The First Amendment to the contract has been reviewed, approved, and signed by our departmental Deputy Prosecuting Attorney and Meier Enterprises, Inc.

Fiscal Impact

Amount: **$13,200.00** excluding WSST

Total contract amount of $33,500.00, $29,500.00 for design and $4,000.00 for as needed construction support

Fund: **Solid Waste Fund 1550**

Recommendation

The Director of Operations and Capital Assets recommends approving the First Amendment to the professional services contract with Meier Enterprises, Inc. to increase the scope of work and compensation amount to a not to exceed of $33,500.00 ($29,500.00 for design and $4,000 for as needed construction support).

Suggested Motion

Approve as part of the Consent Agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF THE FIRST AMENDMENT TO THE PROFESSIONAL SERVICES CONTRACT WITH MEIER ENTERPRISES, INC. FOR ARCHITECTURAL AND ENGINEERING SERVICES FOR THE MODERATE RISK WASTE FACILITY VENTILATION SYSTEM UPGRADE PROJECT

WHEREAS, per Resolution 2023-667 dated September 26, 2023, the Board of Benton County Commissioners entered into a contract with Meier Enterprises, Inc. for Architectural and Engineering Services for the Moderate Risk Waste Facility ventilation system upgrade project; and

WHEREAS, during the design process, it was determined that additional structural and electrical engineering would be needed to complete the design; and

WHEREAS, the First Amendment is necessary to add the additional scope of work and increase the contract amount; and

WHEREAS, the total cost of the additional scope of work is $13,200.00 for a new total contract amount of $29,500.00 excluding WSST; and

WHEREAS, the Director of Operations and Capital Assets recommends the Board execute the First Contract Amendment adding the additional scope of work and additional compensation amount; and

WHEREAS, the First Amendment has been reviewed, approved as to form and signed by the Civil Deputy Prosecuting Attorney and Meier Enterprises Inc.; **NOW THEREFORE,**

BE IT RESOLVED, the Board of Benton County Commissioners hereby approves the attached First Amendment to the Professional Services Contract between Benton County and Meier Enterprises, Inc. to add the additional scope of work in the amount of $13,200.00 for a new contract amount of not to exceed $29,500.00 plus an additional $4,000 for as need construction support for a total contract amount of $33,500.00 excluding WSST; and

BE IT FURTHER RESOLVED, all other terms and conditions of said Contract remain the same.

Dated this 9th day of January 2024.

_____
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: Auditors; PA; Meier

DocuSign Envelope ID: A39B7C12-F09D-46C5-8177-0371378B51E6

FIRST CONTRACT AMENDMENT
to the
PROFESSIONAL SERVICES CONTRACT

THIS FIRST CONTRACT AMENDMENT is made and entered into this 9 day of January, 2024 by and between **BENTON COUNTY**, a political subdivision with its principal offices at 620 Market Street, Prosser, WA 99350 (hereinafter "COUNTY"), and **MEIER ENTERPRISES, INC.**, a corporation organized under the laws of the State of Washington with its principal offices at 12 W. Kennewick Ave., Kennewick, WA 99336 (hereinafter "CONTRACTOR").

WHEREAS, the parties entered into a Professional Services Contract dated September 26th, 2023 (the "CONTRACT") to provide mechanical engineering services to modify the existing exhaust systems at the Benton County Moderate Risk Waste Facility.

WHEREAS, during the initial phase of the project it was determined by the parties that alternate and additional equipment and structural materials are needed to complete the ventilation system upgrade in a safe and functional manner – requiring an amendment to the scope of work and an increase in the maximum total amount payable by the COUNTY to the CONTRACTOR.

WHEREAS, this First Amendment is permitted under Section 6 of the CONTRACT and is necessary to expand the scope of work to include electrical and structural engineering and to increase the compensation amount.

NOW THEREFORE, the parties agree that all provisions of the contract remain in effect except for the following amendments:

1. CONTRACT DOCUMENTS

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

a. Exhibit A – Scope of Work & Fees.
b. Exhibit B – Scope of work & Fees for electrical & structural engineering

5. COMPENSATION

a. For the services performed under this Contract, the CONTRACTOR shall be paid at the rates set forth in Exhibit A and Exhibit B 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 twenty-nine thousand five hundred dollars ($29,500.00), excluding W.S.S.T. PLUS any "as needed" Construction Support in accordance with rates set in Exhibit A for an amount not exceed four thousand dollars ($4,000.00) excluding WSST.

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

Dated:_____

FOR: BENTON COUNTY

Chairman or Chairman Pro-Tem

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

Attest:_____
Clerk of the Board

Approved as to Form:

DocuSigned by:
D9A9308B67BB475...
12/27/2023
LeeAnn Holt, Civil Deputy Prosecuting Attorney

Dated: 12/27/2023

FOR: MEIER ENTERPRISES, INC.

DocuSigned by:
Bobbi A Keen
E8B1700FD56748F...
Signature

Controller/Operations Manager
Title:

Bobbi A. Keen
Print Name

DocuSign Envelope ID: A39B7C12-F09D-46C5-8177-0371378B51E6

Meier
ARCHITECTURE • ENGINEERING
Celebrating 40 years of Service

EXHIBIT B

ADDENDUM 1 TO AGREEMENT FOR SERVICES

CLIENT: Robert Blain
Benton County
620 Market Street
Prosser, WA 99350

PROJECT: BENTON COUNTY MODERATE RISK WASTE FACILITY EXHAUST

The following changes, modifications, additions, and clarifications shall be made to the Agreement for Services Contract between Benton County (Client) and Meier Architecture • Engineering (Meier), dated September 18, 2023, for the Benton County Moderate Risk Waste Facility located in Kennewick, WA. This Addendum shall be bound to the Agreement for Services.

TASK 2 – ADDITION OF STRUCTURAL AND ELECTRICAL DESIGN SERVICES:

SCOPE OF WORK:
Meier will provide the following services:

1. Conduct a site visit to obtain information on the existing conditions and assess the capacity of the structure and electrical service.
2. Structural Assessment: Provide written assessment of the existing structure and the ability to support the new HVAC equipment.
3. Pending the results of the structural assessment, Meier will provide structural drawings and details to support the HVAC equipment on the roof if necessary.
4. Provide electrical engineering services to power the new HVAC equipment.
    a. Coordinate with the local utility to verify adequacy of the existing electrical service.
    b. Electrical drawings will include notes and legends, plan views, details and diagrams, and panel schedules.
5. Drawings will be developed in AutoCAD and delivered electronically in PDF format. CAD files will be available upon request.
6. Drawings will be stamped by a Registered Professional Engineer licensed in the State of Washington.

CLIENT RESPONSIBILITIES:

1. Provide access to the facility including the roof and electrical room with access to the existing electrical panels.

DELIVERABLES:

1. 90% construction documents: Transmitted in electronic PDF format.
2. 100% stamped construction documents: Transmitted in electronic PDF format.

12 W. Kennewick Ave. | Kennewick, WA 99336 | M 509.735.1589 | F 509.783.5075 | www.meierinc.com

DocuSign Envelope ID: A39B7C12-F09D-46C5-8177-0371378B51E6

ASSUMPTIONS:

1. It is assumed the existing electrical service is adequate to power the new HVAC equipment and only modification to the existing panels or the addition of a new panel is required.
2. Lighting design is not required and is excluded from the scope of work.
3. Washington State Energy Code (WSEC) compliance forms are not required.

COMPENSATION:

Meier will perform these services for a firm fixed fee as follows:

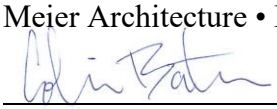
Structural Assessment	$ 2,000
Structural Construction Documents (if needed)	$ 2,500
Electrical Construction Documents	$ 8,700
Total	$13,200

Invoices will be submitted monthly. A 1.5% interest charge will be added for late payment beyond the normal 30-day billing period. Agreement to provide services, as stated, is valid if approved within 30 days of date submitted. Approvals beyond 30 days are subject to re-negotiation of scope and fee.

Thank you for the opportunity to submit this Addendum to our Agreement. We look forward to continuing work with you on this part of the Project. If the scope of work above does not adequately reflect your expectations, please let us know. It is our goal to meet your needs and budget on this Project. If you have any other questions, please feel free to contact Colin Bates directly at 509-737-6962 or cmbates@meierinc.com.

SUBMITTED BY:

Meier Architecture • Engineering



Signature

Colin Bates

Print

November 22, 2023

Date

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	January 9, 2024
Subject:	Executing the First Amendment to the professional services contract with Meier Enterprises, Inc. for the Benton County Coroner's Autopsy Ventilation System Upgrade
Presenter:	
Prepared By:	D. Hope
Reviewed By:	Procurement & LeeAnn Holt

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

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

Summary / Background Information

Per Resolution 2022-658 dated September 13, 2022, the Board of Benton County Commissioners entered into a professional services contract with Meier Enterprises, Inc. of Kennewick, WA. for Architectural and Engineering Services for Benton County Coroner's Autopsy Ventilation System Upgrade.

The contract expired on March 30, 2023, before a contract amendment could be executed. Per Resolution 2023-654 dated September 19, 2023, an Agreement of Substitution was executed to complete the work on the project.

The Agreement of Substitution expires on February 28, 2024. The First Amendment is necessary to extend the Agreement of Substitution expiration date to August 31, 2024.

The Director of Operations and Capital Assets recommends the Board execute the First Contract Amendment as presented. The First Amendment to the contract has been reviewed, approved, and signed by our departmental Deputy Prosecuting Attorney and Meier Enterprises, Inc.

Fiscal Impact

No additional funds are being added to the contract.

Recommendation

The Director of Operations and Capital Assets recommends approving the First Amendment to the professional services contract with Meier Enterprises, Inc. to extend the expiration date to August 31, 2024.

Suggested Motion

Approve as part of the Consent Agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF THE FIRST AMENDMENT TO THE PROFESSIONAL SERVICES CONTRACT WITH MEIER ENTERPRISES INC. FOR ARCHITECTURAL AND ENGINEERING SERVICES FOR BENTON COUNTY CORONER'S AUTOPSY VENTILATION SYSTEM UPGRADE

WHEREAS, per resolution 2022-658 dated September 13, 2022, the Board of Benton County Commissioners entered into a professional services contract with Meier Enterprises, Inc. of Kennewick, WA. for Architectural and Engineering Services for Benton County Coroner's Autopsy Ventilation System Upgrade; and

WHEREAS, the contract expired March 30, 2023, before a contract amendment could be executed; and

WHEREAS, per resolution 2023-654 dated September 19, 2023, an Agreement of Substitution was executed to complete the work on the project; and

WHEREAS, the Agreement of Substitution expires on February 28, 2024; and

WHEREAS, the First Amendment is necessary to extend the contract expiration date to August 31, 2024; and

WHEREAS, the Director of Operations and Capital Assets recommends the Board execute the First Contract Amendment extending the expiration date to August 31, 2024; and

WHEREAS, the First Amendment has been reviewed, approved as to form and signed by the Civil Deputy Prosecuting Attorney and Meier Enterprises, Inc.; **NOW THEREFORE,**

BE IT RESOLVED, the Board of Benton County Commissioners hereby approves the attached First Amendment to the Professional Services Contract between Benton County and Meier Enterprises, Inc. to extend the expiration date to August 31, 2024; and

BE IT FURTHER RESOLVED, all other terms and conditions of said Contract remain the same.

Dated this 9th day of January 2024.

_____
Chairman

_____
Chairman Pro-Tem

_____
Commissioner

Attest:_____
Clerk of the Board

Constituting the Board of County Commissioners of Benton County, Washington

Orig.: Purchasing Dept.
cc: Auditors; PA; Meier

D. Hope

DocuSign Envelope ID: 16F0A2C1-8308-4BD7-A272-C7565A814C83

FIRST CONTRACT AMENDMENT
to the
AGREEMENT OF SUBSTITUTION OF BENTON COUNTY
PROFESSIONAL SERVICES CONTRACT

THIS FIRST CONTRACT AMENDMENT made and entered into this 9 day of January, 2024 is made and entered into by and between **BENTON COUNTY**, a political subdivision with its principal offices at 620 Market Street, Prosser, WA 99350 (hereinafter "COUNTY"), and **MEIER ENTERPRISES, INC.** a corporation organized under the laws of the State of Washington with its principal offices at 12 W. Kennewick Ave., Kennewick, WA 99336 (hereinafter "CONTRACTOR").

WHEREAS, the parties entered into an Agreement of Substitution of Benton County Professional Services Contract dated September 19, 2023 (the "CONTRACT") for Architectural and Engineering Services for the Coroner's Office Autopsy Ventilation System Upgrade.

WHEREAS, this First Amendment is permitted under Section 6 of the CONTRACT and is necessary to extend the contract expiration date to August 31, 2024.

NOW THEREFORE, the parties agree that all provisions of the contract remain in effect except for the following amendments:

2. DURATION OF CONTRACT

The term of this SUBSTITUTED CONTRACT shall begin on September 9, 2022 and shall expire on August 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.

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

Dated:_____

FOR: BENTON COUNTY

_____
Chairman or Chairman Pro-Tem

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

Attest:_____
Clerk of the Board

Approved as to Form:
DocuSigned by:
LeeAnn Holt 12/27/2023
D9A9308B67BB475...
LeeAnn Holt, Civil Deputy Prosecuting Attorney

Dated: 12/27/2023

FOR: MEIER ENTERPRISES, INC.

DocuSigned by:
Bobbi A Keen
E8B1700FD50748F...
Signature

Controller/Operations Manager
Title:

Bobbi A. Keen
Print Name

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	January 9, 2024
Subject:	Execute contract with DeAtley Crushing Company for CE 2146 – 2023 Crushing Project
Presenter:	
Prepared By:	D. Hope
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:**	
☒ 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

By Resolution 2023-888 dated December 19, 2023, an award was made to DeAtley Crushing Company for CE 2146 – 2023 Crushing Project. As directed a contract has been prepared; and reviewed and approved as to form by our departmental assigned Deputy Prosecuting Attorney from the Civil Division; and has been executed by DeAtley Crushing Company.

Fiscal Impact

Amount: $1,384,878.15 excluding WSST

Fund: Road Fund

Recommendation

It is recommended by the Public Works Manager that the Board authorize the Chairman to sign the contract with DeAtley Crushing Company for the 2023 Crushing Project.

Suggested Motion

Approve as part of the Consent Agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY ROADS RE: AUTHORIZING THE CHAIRMAN OR CHAIRMAN PRO-TEM TO SIGN THE CONTRACT WITH DEATLEY CRUSHING COMPANY OF LEWISTON, IDAHO FOR THE C.E. 2146 CRP – 2023 CRUSHING PROJECT

WHEREAS, by Resolution 2023-888 dated December 19, 2023, an award was made to DeAtley Crushing Company, Lewiston, Idaho and as directed, staff has prepared a contract for Board approval; and

WHEREAS, our departmental assigned Deputy Prosecuting Attorney from the Civil Division has reviewed and approved as to form said contract; and

WHEREAS, the contract in the amount of $1,384,878.15 has been executed by DeAtley Crushing Company; **NOW, THEREFORE**

BE IT RESOLVED, that the Board of Benton County Commissioners hereby authorizes the Chairman or Chairman Pro-Tem of the Board of County Commissioners to sign on behalf of Benton County said contract awarded December 19, 2023 to DeAtley Crushing Company, in the amount of $1,384,878.15 excluding WSST; and

BE IT FURTHER RESOLVED, the County Engineer is hereby authorized to proceed with the 2023 Crushing Project according to the terms of the contract; and

BE IT FURTHER RESOLVED, the project shall be completed in its entirety within sixty (60) working days as described in the contract documents.

Dated this 9th day of January 2024.

_____
Chairman

_____
Chairman Pro-Tem

_____
Commissioner

Attest:_____
Clerk of the Board

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

Orig.: Procurement D. Hope
cc: Auditor, PA, DeAtley

DocuSign Envelope ID: E7E52524-272A-4CDD-B429-5A06579BE013

CONTRACT

THIS CONTRACT, made and entered into this 9 day of January, **2024**, between the COUNTY OF BENTON, STATE OF WASHINGTON, (hereinafter "the County") acting through the Board of County Commissioners, under and by virtue of RCW 36, as amended, and **DEATLEY CRUSHING COMPANY**, a Washington Corporation (hereinafter "the Contractor").

WITNESSETH:

That in consideration of the terms and conditions contained herein and in the Contract Documents attached hereto and made a part of this agreement, the parties hereto covenant and agree as follows:

I. The Contractor shall furnish all tools, materials, and equipment, and shall do all work described in and in accordance with the attached plans and specifications entitled "**Contract Provisions and Plans, CE 2146 CRP – 2023 Crushing Project**," and as described in and in accordance with the State of Washington **2023** Standard Specifications for Road, Bridge, and Municipal Construction adopted by the County, (hereinafter collectively referred to as "the Contract Documents") which are by this reference incorporated herein and made part hereof, and shall perform any changes to the work in accord with the Contract Documents.

The Contractor shall provide and bear the expense of all equipment, work, and labor, of any sort whatsoever that may be required for the transfer of materials and for constructing and completing the work provided for in these Contract Documents except those items mentioned therein to be furnished by the County.

II. The County hereby promises and agrees with the Contractor to employ, and does employ the Contractor to provide the materials and to do and cause to be done the above described work and to complete and finish the same in accord with the attached plans and specifications and the terms and conditions herein contained, and hereby contracts to pay for the same according to the attached specifications and the schedule of unit or itemized prices at the time and in the manner and upon the conditions provided for in this contract. The County further agrees to employ the Contractor to perform any alterations in or additions to the work covered by this contract and every part thereof and any force account work that may be ordered and to pay for the same under the terms of this contract and the attached plans and specifications.

III. The Contractor, for itself, and for its administrators, successors, and assigns, does hereby agree to the full performance of all the covenants herein contained upon the part of the Contractor.

IV. The County agrees to pay to the Contractor, as full and complete compensation for materials and work provided in accordance with the Contract Documents, the sum of $1,384,878.15, payable as provided in the Contract Documents.

V. It is further provided that no liability shall attach to the County by reason of entering into this contract, except as expressly provided herein.

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

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VII. The Contractor specifically waives the Contractor's immunity under Title 51 RCW (Industrial Insurance statute) and acknowledges that his waiver of immunity was mutually and expressly negotiated by the parties, and expressly agrees that Contractor's promise to indemnify and hold harmless applies to all claims filed by and/or injuries to the Contractor's own employees.

IN WITNESS WHEREOF, the said Contractor has executed this instrument, and the Board of County Commissioners of Benton County, Washington has caused this instrument to be executed by and in the name of the said Board of County Commissioners the day and year first above written.

Executed by the Contractor:
DeAtley Crushing Company

DocuSigned by:
Aaron Fitting
1BFE6D631CE241C...
Signature

VP
Title

12/27/2023
Date

COUNTY OF BENTON

Chairman, Board of Commissioners

Attest:
Clerk of the Board

Date

APPROVED AS TO FORM:

DocuSigned by:
LeeAnn Holt
D9A9308B67DB475...
LeeAnn Holt
Benton County Deputy Prosecuting Attorney

12/27/2023
Date

DocuSign Envelope ID: E7E52524-272A-4CDD-B429-5A06579BE013

CONTRACT PROVISIONS AND PLANS

For Construction of:

2023 CRUSHING

CE 2146 CRP

PUBLIC WORKS DEPARTMENT

COUNTY OF BENTON WASHINGTON

Bid No: 23-23

DocuSign Envelope ID: E7E52524-272A-4CDD-B429-5A06579BE013

OFFICE OF THE COUNTY ENGINEER
BENTON COUNTY
(CB NO. 23-23)

CALL FOR BIDS:

Sealed bids for CE 2146 CRP – 2023 CRUSHING, shall be received by the Benton County Engineer, Benton County Public Services Building, 102206 E. Wiser Parkway, Kennewick, Washington 99336–99338 until **11:00 a.m**., Local Time, **Wednesday, December 13, 2023**. NO BIDS WILL BE ACCEPTED AFTER THAT DATE AND TIME. Bids are to be opened on **Wednesday, December 13, 2023, at 11:00 a.m**., Local Time, in the Public Works Conference Room, Benton County Courthouse, Prosser, Washington. Contractor's Bid Proposal shall include the complete Proposal, consisting of seven (7) pages and the proposal bond is to be enclosed in a sealed envelope marked, "BID FOR 2023 CRUSHING – CE 2146 CRP".

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

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

Complete digital project bidding documents are available at www.questcdn.com. Interested bidders may view the plans and specifications at no charge by signing up for an account and inputting Quest Project # 8803461 on the website's Projects Search Page. Firms who intend to submit a bid must download the digital plan documents, specifications, contract documents and bid proposal for twenty-two dollars ($22.00). Please contact QuestCDN.com at 952-233-1632 or info@questcdn.com for assistance in free membership, registration, downloading, and working with this digital project information.

The following is applicable to all Benton County projects:

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

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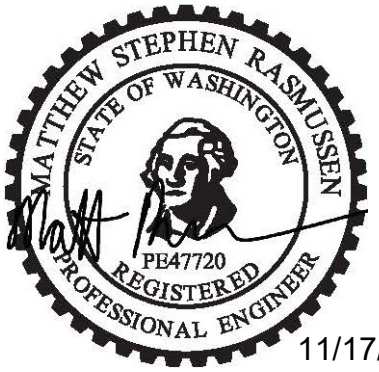
CERTIFICATIONS

CE 2146 CRP
2023 CRUSHING
Bid No. CB 23-23

ENGINEER'S CERTIFICATION:

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



11/17/2023

APPROVED AS TO FORM:

The Call for Bids and Contract Provisions for the construction of CE 2146 CRP – 2023 Crushing have been reviewed and approved as to form:

DocuSigned by:
LeeAnn Holt
D9A9308B67BB475...

LeeAnn Holt, Deputy Prosecuting Attorney

11/17/2023

Date

DocuSign Envelope ID: E7E52524-272A-4CDD-B429-5A06579BE013

CONTENTS

INTRODUCTION 1

AMENDMENTS TO THE STANDARD SPECIFICATIONS. 1

SPECIAL PROVISIONS

INTRODUCTION TO THE SPECIAL PROVISIONS 1

DIVISION 1
GENERAL REQUIREMENTS

DESCRIPTION OF WORK 1

SECTION 1-01 DEFINITIONS AND TERMS
1-01.3 DEFINITIONS 2

SECTION 1-02 BID PROCEDURES AND CONDITIONS
1-02.1 PREQUALIFICATION OF BIDDERS 4
1-02.2 PLANS AND SPECIFICATIONS 4
1-02.5 PROPOSAL FORMS 4
1-02.6 PREPARATION OF PROPOSAL 5
1-02.7 BID DEPOSIT 5
1-02.9 DELIVERY OF PROPOSAL 6
1-02.10 WITHDRAWING, REVISING, OR SUPPLEMENTING PROPOSAL 7
1-02.13 IRREGULAR PROPOSALS 8
1-02.14 DISQUALIFICATION OF BIDDERS 8
1-02.15 PRE-AWARD INFORMATION 9

SECTION 1-03 AWARD AND EXECUTION OF CONTRACT
1-03.1 CONSIDERATION OF BIDS 9
1-03.1(1) IDENTICAL BID TOTALS 10
1-03.3 EXECUTION OF CONTRACT 10
1-03.4 CONTRACT BOND 11
1-03.7 JUDICIAL REVIEW 11

SECTION 1-04 SCOPE OF WORK
1-04.2 COORDINATION OF CONTRACT DOCUMENTS, PLANS, SPECIAL PROVISIONS, SPECIFICATIONS, AND ADDENDA 12
1-04.4 CHANGES 12
1-04.4(1) MINOR CHANGES 12
1-04.6 VARIATION IN ESTIMATED QUANTITIES 12

SECTION 1-05 CONTROL OF WORK
1-05.7 REMOVAL OF DEFECTIVE AND UNAUTHORIZED WORK 13
1-05.11 FINAL INSPECTION 13
1-05.11(1) SUBSTANTIAL COMPLETION DATE 13
1-05.11(2) FINAL INSPECTION AND PHYSICAL COMPLETION 14
1-05.11(3) OPERATIONAL TESTING 14
1-05.13 SUPERINTENDENTS, LABOR AND EQUIPMENT OF CONTRACTOR 16
1-05.12(1) ONE YEAR GUARANTEE PERIOD 15
1-05.13 SUPERINTENDENTS, LABOR AND EQUIPMENT OF CONTRACTOR 15
1-05.15 METHOD OF SERVING NOTICES 15
1-05.16 WATER AND POWER 15

DocuSign Envelope ID: E7E52524-272A-4CDD-B429-5A06579BE013

SECTION 1-07 LEGAL RELATIONS AND RESPONSIBILITIES TO THE PUBLIC
1-07.1 LAWS TO BE OBSERVED....16
1-07.2 STATE TAXES....16
1-07.2 STATE SALES TAX....16
1-07.2(1) STATE SALES TAX RULE 171....17
1-07.2(2) STATE SALES TAX RULE 170....17
1-07.2(3) SERVICES....17
1-07.7 LOAD LIMITS....18
1-07.18 INSURANCE....18
1-07.24 RIGHTS OF WAY....21

SECTION 1-08 PROSECUTION AND PROGRESS
1-08.0 PRELIMINARY MATTERS....22
1-08.0(1) PRECONSTRUCTION CONFERENCE....22
1-08.0(2) HOURS OF WORK....23
1-08.3 GENERAL REQUIREMENTS....24
1-08.3(2) TYPE A PROGRESS SCHEDULE....24
1-08.4 PROSECUTION OF WORK....24
1-08.5 TIME FOR COMPLETION....25
1-08.9 LIQUIDATED DAMAGES....26

SECTION 1-09 MEASUREMENT AND PAYMENT
1-09.2(5) MEASUREMENT....27
1-09.7 MOBILIZATION....27
1-09.9 PAYMENTS....27
1-09.11(3) TIME LIMITATION AND JURISDICTION....29
1-09.13(1) GENERAL....29
1-09.13 CLAIMS RESOLUTION....30

SECTION 2-02 WATERING
2-07.1 DESCRIPTION....30
2-07.4 MEASUREMENT....31
2-07.5 PAYMENT....31

SECTION 3-01 PRODUCTION FROM QUARRY AND PIT SITES
3-01.2 MATERIAL SOURCES GENERAL REQUIREMENTS....31
3-01.2(1) APPROVAL OF SOURCE....31
3-01.2(2) PREPARATION OF SITE....31
3-01.2(4) PRODUCTION REQUIREMENTS....31
3-01.3(3) REJECT MATERIALS....32
3-01.6 PAYMENT....32

SECTION 3-02 STOCKPILING OF AGGREGATES
3-02.2 GENERAL REQUIREMENTS....32
3-02.2(3) STOCKPILING AGGREGATES FOR FUTURE USE....32

SECTION 3-03 SITE RECLAMATION
3-02.2 GENERAL REQUIREMENTS....32
3-03.2(1) CONTRACTING AGENCY PROVIDED SITES....32
3-05.5 PAYMENT....33
3-05.5(1) CONTRACTING AGENCY PROVIDED SITES....33

SECTION 8-01 EROSION CONTROL AND WATER POLLUTION CONTROL
8-01.2 MATERIALS....33
8-01.3 CONSTRUCTION REQUIREMENTS....34

DocuSign Envelope ID: E7E52524-272A-4CDD-B429-5A06579BE013

8-01.3(1)A SUBMITTALS……...34
8-01.3(2) SEEDING FERTILIZING AND MULCHING……34
8-01.3(2)D MULCHING……..35
8-01.4 MEASUREMENT…….35
8-01.5 PAYMENT…….....35

SECTION 9-03 AGGREGATES
9-03.9 AGGREGATES FOR BALLAST AND CRUSHING SURFACING……..36

APPENDICES

A. WAGE RATES – WASHINGTON STATE.....46

PROPOSAL, ETC.

PROPOSAL FOR BIDDING PURPOSES COVER PAGE
PROPOSAL (6 PAGES)

CONTRACT

CONTRACT COVER PAGE
CONTRACT (informational)
PERFORMANCE BOND (informational)
PAYMENT BOND (informational)

DocuSign Envelope ID: E7E52524-272A-4CDD-B429-5A06579BE013

SPECIAL PROVISIONS

INTRODUCTION TO THE SPECIAL PROVISIONS

(December 10, 2020 APWA GSP)

The work on this project shall be accomplished in accordance with the *Standard Specifications for Road, Bridge and Municipal Construction*, 2023 edition, as issued by the Washington State Department of Transportation (WSDOT) and the American Public Works Association (APWA), Washington State Chapter (hereafter "Standard Specifications"). The Standard Specifications, as modified or supplemented by these Special Provisions, all of which are made a part of the Contract Documents, shall govern all of the Work.

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

The project-specific Special Provisions are not labeled as such. The GSPs are labeled under the headers of each GSP, with the effective date of the GSP and its source. For example:

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

Also incorporated into the Contract Documents by reference are:

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

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

DIVISION 1
GENERAL REQUIREMENTS

DESCRIPTION OF WORK

(March 13, 1995 WSDOT GSP)

This Contract provides for ***the stripping, drilling, blasting, crushing, and stockpiling of surfacing materials for future County road and maintenance projects,*** and other work, all in accordance with the attached Contract Plans, these Contract Provisions, the Standard Specifications, and the Standard Plans.

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SECTION 1-01, DEFINITIONS AND TERMS

1-01.3 Definitions

(January 19, 2022 APWA GSP)

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

Dates

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

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

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

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

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

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

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

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

Supplement this Section with the following:

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

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

All references in the Standard Specifications or WSDOT General Special Provisions, to the terms “Department of Transportation”, “Washington State Transportation Commission”, “Commission”,

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"Secretary of Transportation", "Secretary", "Headquarters", and "State Treasurer" shall be revised to read "Contracting Agency".

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

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

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

Additive

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

Alternate

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

Business Day

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

Contract Bond

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

Contract Documents

See definition for "Contract".

Contract Time

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

Notice of Award

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

Notice to Proceed

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

Traffic

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

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SECTION 1-02, BID PROCEDURES AND CONDITIONS

1-02.1, Prequalification of Bidders

Delete this Section and replace it with the following:

1-02.1, Qualifications of Bidder

(January 24, 2011 APWA GSP)

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

1-02.2, Plans and Specifications

(June 27, 2011 APWA GSP)

Delete this section and replace it with the following:

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

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

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

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

1-02.5 Proposal Forms

(July 31, 2017 APWA GSP)

Delete this section and replace it with the following:

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

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applicable. Bids shall be completed by typing or shall be printed in ink by hand, preferably in black ink. The required certifications are included as part of the Proposal Form.

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

1-02.6 Preparation of Proposal

(December 10, 2020 APWA GSP, Option B)

Supplement the second paragraph with the following:

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

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

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

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

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

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

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

1-02.7 Bid Deposit

(March 8, 2013 APWA GSP)

Supplement this section with the following:

Bid bonds shall contain the following:

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

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6. The signature of the surety's officer empowered to sign the bond and the power of attorney.

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

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

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

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

Supplement this section with the following:

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

1-02.9 Delivery of Proposal
(January 19, 2022 APWA GSP, Option A)

Delete this section and replace it with the following:

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

To be considered responsive on a FHWA-funded project, the Bidder may be required to submit the following items, as required by Section 1-02.6:

- DBE Utilization Certification (WSDOT 272-056)
- DBE Written Confirmation Document (WSDOT 422-031) from each DBE firm listed on the Bidder's completed DBE Utilization Certification
- Good Faith Effort (GFE) Documentation
- DBE Bid Item Breakdown (WSDOT 272-054)
- DBE Trucking Credit Form (WSDOT 272-058)

DBE Utilization Certification
The DBE Utilization Certification shall be received at the same location and no later than the time required for delivery of the Proposal. The Contracting Agency will not open or consider any Proposal when the DBE Utilization Certification is received after the time specified for receipt of Proposals or received in a location other than that specified for receipt of Proposals. The DBE Utilization Certification may be submitted in the same envelope as the Bid deposit.

DBE Written Confirmation and/or GFE Documentation
The DBE Written Confirmation Documents and/or GFE Documents are not required to be submitted with the Proposal. The DBE Written Confirmation Document(s) and/or GFE (if any) shall be received either with the Bid Proposal or as a Supplement to the Bid. The documents shall be received no later than 48 hours (not including Saturdays, Sundays and Holidays) after the time for delivery of the Proposal. To be considered responsive, Bidders shall submit Written Confirmation Documentation from each DBE firm listed on the Bidder's completed DBE Utilization Certification and/or the GFE as required by Section 1-02.6.

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DBE Bid Item Breakdown and DBE Trucking Credit Form

The DBE Bid Item Breakdown and the DBE Trucking Credit Forms (if applicable) shall be received either with the Bid Proposal or as a Supplement to the Bid. The documents shall be received no later than 48 hours (not including Saturdays, Sundays and Holidays) after the time for delivery of the Proposal. To be considered responsive, Bidders shall submit a completed DBE Bid Item Breakdown and a DBE Trucking Credit Form for each DBE Trucking firm listed on the DBE Utilization Certification, however, minor errors and corrections to DBE Bid Item Breakdown or DBE Trucking Credit Forms will be returned for correction for a period up to five calendar days (not including Saturdays, Sundays and Holidays) after the time for delivery of the Proposal. A DBE Bid Item Breakdown or DBE Trucking Credit Forms that are still incorrect after the correction period will be determined to be non-responsive.

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

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

1-02.10 Withdrawing, Revising, or Supplementing Proposal

(July 23, 2015 APWA GSP)

Delete this section, and replace it with the following:

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

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

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

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

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1-02.13 Irregular Proposals

(December 30, 2022 APWA GSP)

Delete this section and replace it with the following:

1. A Proposal will be considered irregular and will be rejected if:
   a. The Bidder is not prequalified when so required;
   b. The authorized Proposal form furnished by the Contracting Agency is not used or is altered;
   c. The completed Proposal form contains any unauthorized additions, deletions, alternate Bids, or conditions;
   d. The Bidder adds provisions reserving the right to reject or accept the award, or enter into the Contract;
   e. A price per unit cannot be determined from the Bid Proposal;
   f. The Proposal form is not properly executed;
   g. The Bidder fails to submit or properly complete a subcontractor list (WSDOT Form 271-015), if applicable, as required in Section 1-02.6;
   h. The Bidder fails to submit or properly complete a Disadvantaged Business Enterprise Certification (WSDOT Form 272-056), if applicable, as required in Section 1-02.6;
   i. The Bidder fails to submit Written Confirmations (WSDOT Form 422-031) from each DBE firm listed on the Bidder's completed DBE Utilization Certification that they are in agreement with the bidder's DBE participation commitment, if applicable, as required in Section 1-02.6, or if the written confirmation that is submitted fails to meet the requirements of the Special Provisions;
   j. The Bidder fails to submit DBE Good Faith Effort documentation, if applicable, as required in Section 1-02.6, or if the documentation that is submitted fails to demonstrate that a Good Faith Effort to meet the Condition of Award was made;
   k. The Bidder fails to submit a DBE Bid Item Breakdown (WSDOT Form 272-054), if applicable, as required in Section 1-02.6, or if the documentation that is submitted fails to meet the requirements of the Special Provisions;
   l. The Bidder fails to submit DBE Trucking Credit Forms (WSDOT Form 272-058), if applicable, as required in Section 1-02.6, or if the documentation that is submitted fails to meet the requirements of the Special Provisions;
   m. The Bid Proposal does not constitute a definite and unqualified offer to meet the material terms of the Bid invitation; or
   n. More than one Proposal is submitted for the same project from a Bidder under the same or different names.

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

1-02.14 Disqualification of Bidders

(May 17, 2018 APWA GSP, Option A)

Delete this section and replace it with the following:

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

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

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

1-02.15 Pre Award Information

(December 30, 2022 APWA GSP)

Revise this section to read:

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

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

SECTION 1-03, AWARD AND EXECUTION OF CONTRACT

1-03.1 Consideration of Bids

(December 30, 2022 APWA GSP)

Revise the first paragraph to read:

After opening and reading proposals, the Contracting Agency will check them for correctness of extensions of the prices per unit and the total price. If a discrepancy exists between the price per unit and the extended amount of any bid item, the price per unit will control. If a minimum bid amount has been established for any item and the bidder's unit or lump sum price is less than the minimum specified amount, the Contracting Agency will unilaterally revise the unit or lump sum price, to the minimum specified amount and recalculate the extension. The total of extensions, corrected where necessary, including sales taxes where applicable and such additives and/or alternates as selected by the Contracting Agency, will be used by the Contracting Agency for award purposes and to fix the Awarded Contract Price amount and the amount of the contract bond.

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1-03.1(1) Identical Bid Totals
(December 30, 2022 APWA GSP)

Revise this section to read:

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

1-03.3, Execution of Contract
(January 19, 2022 APWA GSP)

Revise this section to read:

Within 3 calendar days of Award date (not including Saturdays, Sundays and Holidays), the successful Bidder shall provide the information necessary to execute the Contract to the Contracting Agency. The Bidder shall send the contact information, including the full name, email address, and phone number, for the authorized signer and bonding agent to the Contracting Agency.

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

Within 10 calendar days after the award date, the successful bidder shall return the signed Contracting Agency-prepared contract, an insurance certification as required by Section 1-07.18, a satisfactory bond as required by law and Section 1-03.4, the Transfer of Coverage form for the Construction Stormwater General Permit with sections I, III, and VIII completed when provided. Before execution of the contract by the Contracting Agency, the successful bidder shall provide any pre-award information the Contracting Agency may require under Section 1-02.15.

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

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

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1-03.4 Contract Bond

(July 23, 2015 APWA GSP)

Delete the first paragraph and replace it with the following:

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

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

Add the following new section:

1-03.7 Judicial Review

(December 30, 2022 APWA GSP)

Revise this section to read:

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

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SECTION 1-04, SCOPE OF WORK

1-04.2, Coordination of Contract Documents, Plans, Special Provisions, Specifications, and Addenda *(December 30, 2022 APWA GSP)*

Revise the second paragraph to read:

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

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

1-04.4 Changes

(January 19, 2022 APWA GSP)

The first two sentences of the last paragraph of Section 1-04.4 are deleted.

1-04.4(1) Minor Changes

(May 30, 2019 APWA GSP)

Delete the first paragraph and replace it with the following:

Payments or credits for changes amounting to $$1$$ or less may be made under the Bid item "Minor Change". At the discretion of the Contracting Agency, this procedure for Minor Changes may be used in lieu of the more formal procedure as outlined in Section 1-04.4, Changes. All "Minor Change" work will be within the scope of the Contract Work and will not change Contract Time.

1-04.6 Variation in Estimated Quantities

(December 30, 2022 APWA GSP, Option B)

Revise the first paragraph to read:

Payment to the Contractor will be made only for the actual quantities of Work performed and accepted in conformance with the Contract. When the accepted quantity of Work performed under a unit item varies from the original Proposal quantity, payment will be at the unit Contract price for all Work unless the total accepted quantity of the Contract item, adjusted to exclude added or deleted amounts included in change orders accepted by both parties, increases or decreases by more than 25 percent from the original Proposal quantity, and if the total extended bid price for that item at time of award is equal to or greater than 10 percent of the total contract price at time of award. In that case, payment for contract work may be adjusted as described herein:

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SECTION 1-05, CONTROL OF WORK

1-05.7, Removal of Defective and Unauthorized Work

(October 1, 2005 APWA GSP)

Supplement this section with the following:

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

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

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

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

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

1-05.11, Final Inspection

Delete this section and replace it with the following:

1-05.11, Final Inspections and Operational Testing

(October 1, 2005 APWA GSP)

1-05.11(1), Substantial Completion Date

When the Contractor considers the work to be substantially complete, the Contractor shall so notify the Engineer and request the Engineer establish the Substantial Completion Date. The Contractor's request shall list the specific items of work that remain to be completed in order to reach physical completion. The Engineer will schedule an inspection of the work with the Contractor to determine the status of completion. The Engineer may also establish the Substantial Completion Date unilaterally.

If, after this inspection, the Engineer concurs with the Contractor that the work is substantially complete and ready for its intended use, the Engineer, by written notice to the Contractor, will set the Substantial Completion Date. If, after this inspection the Engineer does not consider the work substantially complete and ready for its intended use, the Engineer will, by written notice, so notify the Contractor giving the reasons therefore. Upon receipt of written notice concurring in or denying substantial

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completion, whichever is applicable, the Contractor shall pursue vigorously, diligently and without unauthorized interruption, the work necessary to reach Substantial and Physical Completion. The Contractor shall provide the Engineer with a revised schedule indicating when the Contractor expects to reach substantial and physical completion of the work.

The above process shall be repeated until the Engineer establishes the Substantial Completion Date and the Contractor considers the work physically complete and ready for final inspection.

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

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

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

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

1-05.11(3), Operational Testing

It is the intent of the Contracting Agency to have at the Physical Completion Date a complete and operable system. Therefore when the work involves the installation of machinery or other mechanical equipment; street lighting, electrical distribution or signal systems; irrigation systems; buildings; or other similar work it may be desirable for the Engineer to have the Contractor operate and test the work for a period of time after final inspection but prior to the physical completion date. Whenever items of work are listed in the Contract Provisions for operational testing they shall be fully tested under operating conditions for the time period specified to ensure their acceptability prior to the Physical Completion Date. During and following the test period, the Contractor shall correct any items of workmanship, materials, or equipment which prove faulty, or that are not in first class operating condition. Equipment, electrical controls, meters, or other devices and equipment to be tested during this period shall be tested under the observation of the Engineer, so that the Engineer may determine their suitability for the purpose for which they were installed. The Physical Completion Date cannot be established until testing and corrections have been completed to the satisfaction of the Engineer.

The costs for power, gas, labor, material, supplies, and everything else needed to successfully complete operational testing, shall be included in the unit contract prices related to the system being tested, unless specifically set forth otherwise in the proposal.

Operational and test periods, when required by the Engineer, shall not affect a manufacturer's guaranties or warranties furnished under the terms of the contract.

DocuSign Envelope ID: E7E52524-272A-4CDD-B429-5A06579BE013

1-05.12(1) One-Year Guarantee Period
(March 8, 2013 APWA GSP)

The Contractor shall return to the project and repair or replace all defects in workmanship and material discovered within one year after Final Acceptance of the Work. The Contractor shall start work to remedy any such defects within 7 calendar days of receiving Contracting Agency's written notice of a defect, and shall complete such work within the time stated in the Contracting Agency's notice. In case of an emergency, where damage may result from delay or where loss of services may result, such corrections may be made by the Contracting Agency's own forces or another contractor, in which case the cost of corrections shall be paid by the Contractor. In the event the Contractor does not accomplish corrections within the time specified, the work will be otherwise accomplished and the cost of same shall be paid by the Contractor.

When corrections of defects are made, the Contractor shall then be responsible for correcting all defects in workmanship and materials in the corrected work for one year after acceptance of the corrections by Contracting Agency.

This guarantee is supplemental to and does not limit or affect the requirements that the Contractor's work comply with the requirements of the Contract or any other legal rights or remedies of the Contracting Agency.

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

Delete the sixth and seventh paragraphs of this section.

1-05.15, Method of Serving Notices
(December 30, 2022 APWA GSP)

Revise the second paragraph to read:

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

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

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

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

1-07.1 Laws to be Observed

(October 1, 2005 APWA GSP)

Supplement this section with the following:

In cases of conflict between different safety regulations, the more stringent regulation shall apply.

The Washington State Department of Labor and Industries shall be the sole and paramount administrative agency responsible for the administration of the provisions of the Washington Industrial Safety and Health Act of 1973 (WISHA).

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

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

March 12, 2014 Benton County GSP)

Supplement this section with the following:

(******)

Dust Control

The Contractor shall, at all times during the operation, maintain proper dust control in accordance with the requirements of the Benton County Clean Air Authority. The Contractor is required to have a designated person, responsible for dust control, on the project site at all times during construction hours. In addition, one person shall be available during non-working hours and shall have equipment and manpower available to control dust. Any problems caused by dust from the construction site will be cause for immediate shutdown of all operations except dust control.

1-07.2, Sales Tax

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

1-07.2 State Sales Tax

(June 27, 2011 APWA GSP)

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

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

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

1-07.2(1), State Sales Tax — Rule 171

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

1-07.2(2), State Sales Tax — Rule 170

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

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

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

1-07.2(3), Services

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

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1-07.7 Load Limits

(March 13, 1995 WSDOT GSP)
Supplement this section with the following:

Except for the load limit restrictions specified in Section 1-07.7(2), the Contractor may operate vehicles which exceed the legal gross weight limitations without special permits or payment of additional fees provided such vehicles are employed in the construction and within the limits of this project.

Subparagraph 1 of the second paragraph of Section 1-07.7(1) is deleted.

(November 13, 2017 BENTON COUNTY GSP)
Supplement this section with the following:

Whenever the Contractor obtains materials from a source other than that provided by the Contracting Agency, or provides a source for materials not designated to come from a source provided by the Contracting Agency and the location of the source necessitates hauling over roads other than Benton County Roads, the Contractor shall, at the Contractor's expense, make all arrangements for the use of the haul routes.

1-07.18 Public Liability and Property Damage Insurance

Delete this section in its entirety, and replace it with the following:

1-07.18 Insurance
(December 30, 2022 APWA GSP)

1-07.18(1) General Requirements

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

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

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

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

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Contracting Agency shall be excess of the Contractor's insurance and shall not contribute with it.

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

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

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

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

1-07.18(2) Additional Insured

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

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

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

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

1-07.18(3) Subcontractors

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

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

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

1-07.18(4) Verification of Coverage

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

Verification of coverage shall include:

1. An ACORD certificate or a form determined by the Contracting Agency to be equivalent.
2. Copies of all endorsements naming Contracting Agency and all other entities listed in 1-07.18(2) as additional insured(s), showing the policy number. The Contractor may submit a copy of any blanket additional insured clause from its policies instead of a separate endorsement.
3. Any other amendatory endorsements to show the coverage required herein.
4. A notation of coverage enhancements on the Certificate of Insurance shall not satisfy these requirements – actual endorsements must be submitted.

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

1-07.18(5) Coverages and Limits

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

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

1-07.18(5)A Commercial General Liability

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

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

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

Such policy must provide the following minimum limits:

$1,000,000	Each Occurrence
$2,000,000	General Aggregate
$2,000,000	Products & Completed Operations Aggregate
$1,000,000	Personal & Advertising Injury each offence

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$1,000,000 Stop Gap / Employers' Liability each accident

1-07.18(5)B Automobile Liability

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

Such policy must provide the following minimum limit:

$1,000,000 Combined single limit each accident

1-07.18(5)C Workers' Compensation

The Contractor shall comply with Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

Repair of Damage

Section 1-07.13(4) is revised to read:

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

1-07.24, Rights of Way

(July 23, 2015 APWA GSP)

Delete this section in its entirety, and replace it with the following:

Street Right of Way lines, limits of easements, and limits of construction permits are indicated in the Plans. The Contractor's construction activities shall be confined within these limits, unless arrangements for use of private property are made.

Generally, the Contracting Agency will have obtained, prior to bid opening, all rights of way and easements, both permanent and temporary, necessary for carrying out the work. Exceptions to this are noted in the Bid Documents or will be brought to the Contractor's attention by a duly issued Addendum.

Whenever any of the work is accomplished on or through property other than public Right of Way, the Contractor shall meet and fulfill all covenants and stipulations of any easement agreement obtained by the Contracting Agency from the owner of the private property. Copies of the easement agreements may be included in the Contract Provisions or made available to the Contractor as soon as practical after they have been obtained by the Engineer.

Whenever easements or rights of entry have not been acquired prior to advertising, these areas are so noted in the Plans. The Contractor shall not proceed with any portion of the work in areas where right of way, easements or rights of entry have not been acquired until the Engineer certifies to the Contractor that the right of way or easement is available or that the right of entry has been received. If the Contractor is delayed due to acts of omission on the part of the Contracting Agency in obtaining easements, rights of entry or right of way, the Contractor will be entitled to an extension of time. The Contractor agrees that such delay shall not be a breach of contract.

Each property owner shall be given 48 hours notice prior to entry by the Contractor. This includes entry onto easements and private property where private improvements must be adjusted.

DocuSign Envelope ID: E7E52524-272A-4CDD-B429-5A06579BE013

The Contractor shall be responsible for providing, without expense or liability to the Contracting Agency, any additional land and access thereto that the Contractor may desire for temporary construction facilities, storage of materials, or other Contractor needs. However, before using any private property, whether adjoining the work or not, the Contractor shall file with the Engineer a written permission of the private property owner, and, upon vacating the premises, a written release from the property owner of each property disturbed or otherwise interfered with by reasons of construction pursued under this contract. The statement shall be signed by the private property owner, or proper authority acting for the owner of the private property affected, stating that permission has been granted to use the property and all necessary permits have been obtained or, in the case of a release, that the restoration of the property has been satisfactorily accomplished. The statement shall include the parcel number, address, and date of signature. Written releases must be filed with the Engineer before the Completion Date will be established.

The Contractor shall be responsible for providing, without expense or liability to the Contracting Agency, any additional land and access thereto that the Contractor may desire for temporary construction facilities, storage of materials, or other Contractor needs. However, before using any private property, whether adjoining the work or not, the Contractor shall file with the Engineer a written permission of the private property owner, and, upon vacating the premises, a written release from the property owner of each property disturbed or otherwise interfered with by reasons of construction pursued under this contract. The statement shall be signed by the private property owner, or proper authority acting for the owner of the private property affected, stating that permission has been granted to use the property and all necessary permits have been obtained or, in the case of a release, that the restoration of the property has been satisfactorily accomplished. The statement shall include the parcel number, address, and date of signature. Written releases must be filed with the Engineer before the Completion Date will be established.

SECTION 1-08, PROSECUTION AND PROGRESS

Add the following new section:

1-08.0, Preliminary Matters

(May 25, 2006 APWA GSP)

Add the following new section:

1-08.0(1), Preconstruction Conference

(October 10, 2008 APWA GSP)

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

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

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

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

Add the following new section:

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

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

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

If the Contractor wishes to deviate from the established working hours, the Contractor shall submit a written request to the Engineer for consideration. This request shall state what hours are being requested, and why. Requests shall be submitted for review no later than ***3 working days*** prior to the day(s) the Contractor is requesting to change the hours.

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

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

1-08.1(7)A Payment Certification
(December 30, 2022 APWA GSP)

Delete this section.

DocuSign Envelope ID: E7E52524-272A-4CDD-B429-5A06579BE013

1-08.3, General Requirements

1-08.3(2)A, Type A Progress Schedule

(December 30, 2022 APWA GSP)

Revise this section to read:

The Contractor shall submit **2** copies of a Type A Progress Schedule no later than at the preconstruction conference, or some other mutually agreed upon submittal time. The schedule may be a critical path method (CPM) schedule, bar chart, or other standard schedule format. Regardless of which format used, the schedule shall identify the critical path. The Engineer will evaluate the Type A Progress Schedule and approve or return the schedule for corrections within 15 calendar days of receiving the submittal.

1-08.4 Prosecution of Work

Delete this section in its entirety, and replace it with the following:

1-08.4 Notice to Proceed and Prosecution of Work

(July 23, 2015 APWA GSP)

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

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

(******)

Notice to Proceed Date

A Notice to Proceed Date for this project shall be given on or after **January 10, 2024**

1-08.5 Time for Completion

(December 30, 2022 APWA GSP, Option A)

Revise the third and fourth paragraphs to read:

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

Each working day shall be charged to the contract as it occurs, until the contract work is physically complete. If substantial completion has been granted and all the authorized working days have been used, charging of working days will cease. Each week the Engineer will provide the

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Contractor a statement that shows the number of working days: (1) charged to the contract the week before; (2) specified for the physical completion of the contract; and (3) remaining for the physical completion of the contract. The statement will also show the nonworking days and all partial or whole days the Engineer declares as unworkable The statement will be identified as a Written Determination by the Engineer. If the Contractor does not agree with the Written Determination of working days, the Contractor shall pursue the protest procedures in accordance with Section 1-04.5. By failing to follow the procedures of Section 1-04.5, the Contractor shall be deemed as having accepted the statement as correct. If the Contractor is approved to work 10 hours a day and 4 days a week (a 4-10 schedule) and the fifth day of the week in which a 4-10 shift is worked would ordinarily be charged as a working day then the fifth day of that week will be charged as a working day whether or not the Contractor works on that day.

Revise the sixth paragraph to read:

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

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

(******)

Supplement this section with the following:

This project shall be physically completed within ***60*** working days.

(******)

Supplement this section with the following:

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

DocuSign Envelope ID: E7E52524-272A-4CDD-B429-5A06579BE013

1-08.9 Liquidated Damages

(March 3, 2021 APWA GSP, Option A)

Replace Section 1-08.9 with the following:

Time is of the essence of the Contract. Delays inconvenience the traveling public, obstruct traffic, interfere with and delay commerce, and increase risk to Highway users. Delays also cost taxpayers undue sums of money, adding time needed for administration, engineering, inspection, and supervision.

Accordingly, the Contractor agrees:

1. To pay liquidated damages in the amount of *** 1,200.00*** for each working day beyond the number of working days established for Physical Completion, and

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

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

Liquidated damages will not be assessed for any days for which an extension of time is granted. No deduction or payment of liquidated damages will, in any degree, release the Contractor from further obligations and liabilities to complete the entire Contract.

SECTION 1-09, MEASUREMENT AND PAYMENT

1-09.2(5) Measurement

(December 30, 2022 APWA GSP)

Revise the first paragraph to read:

Scale Verification Checks – At the Engineer's discretion, the Engineer may perform verification checks on the accuracy of each batch, hopper, or platform scale used in weighing contract items of Work.

1-09.7 Mobilization

(December 30, 2022 APWA GSP)

Delete this Section and replace it with the following:

Mobilization consists of preconstruction expenses and the costs of preparatory Work and operations performed by the Contractor typically occurring before 10 percent of the total original

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amount of an individual Bid Schedule is earned from other Contract items on that Bid Schedule. Items which are not to be included in the item of Mobilization include but are not limited to:

1. Portions of the Work covered by the specific Contract item or incidental Work which is to be included in a Contract item or items.
2. Profit, interest on borrowed money, overhead, or management costs.
3. Costs incurred for mobilizing equipment for force account Work.

Based on the lump sum Contract price for "Mobilization", partial payments will be made as follows:

1. When 5 percent of the total original Bid Schedule amount is earned from other Contract items on that original Bid Schedule, excluding amounts paid for materials on hand, 50 percent of the Bid Item for mobilization on that original Bid Schedule, 5 percent of the total of that original Bid Schedule, or 5 percent of the total original Contract amount, whichever is the least, will be paid.
2. When 10 percent of the total original Bid Schedule amount is earned from other Contract items on that original Bid Schedule, excluding amounts paid for materials on hand, 100 percent of the Bid Item for mobilization on that original Bid Schedule, 10 percent of the total of that original Bid Schedule, or 10 percent of the total original Contract amount, whichever is the least, will be paid.
3. When the Substantial Completion Date has been established for the project, payment of any remaining amount Bid for mobilization will be paid.

Nothing herein shall be construed to limit or preclude partial payments otherwise provided by the Contract.

1-09.9, Payments
(December 30, 2022 APWA GSP)

Section 1-09.9 is revised to read:

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

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

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

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

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

1. Unit Price Items in the Bid Form — the approximate quantity of acceptable units of work completed multiplied by the unit price.
2. Lump Sum Items in the Bid Form — based on the approved Contractor's lump sum breakdown for that item, or absent such a breakdown, based on the Engineer's determination.
3. Materials on Hand — 100 percent of invoiced cost of material delivered to Job site or other storage area approved by the Engineer.
4. Change Orders — entitlement for approved extra cost or completed extra work as determined by the Engineer.

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

1. Retainage per Section 1-09.9(1), on non FHWA-funded projects;
2. The amount of progress payments previously made; and
3. Funds withheld by the Contracting Agency for disbursement in accordance with the Contract Documents.

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

Failure to perform obligations under the Contract by the Contractor may be decreed by the Contracting Agency to be adequate reason for withholding any payments until compliance is achieved.

Upon completion of all Work and after final inspection (Section 1-05.11), the amount due the Contractor under the Contract will be paid based upon the final estimate made by the Engineer and presentation of a Final Contract Voucher Certification to be signed by the Contractor. The Contractor's signature on such voucher shall be deemed a release of all claims of the Contractor unless a Certified Claim is filed in accordance with the requirements of Section 1-09.11 and is expressly excepted from the Contractor's certification on the Final Contract Voucher Certification. The date the Contracting Agency signs the Final Contract Voucher Certification constitutes the final acceptance date (Section 1-05.12).

If the Contractor fails, refuses, or is unable to sign and return the Final Contract Voucher Certification or any other documentation required for completion and final acceptance of the Contract, the Contracting Agency reserves the right to establish a Completion Date (for the purpose of meeting the requirements of RCW 60.28) and unilaterally accept the Contract. Unilateral final acceptance will occur only after the Contractor has been provided the opportunity, by written request from the Engineer, to voluntarily submit such documents. If voluntary compliance is not achieved, formal notification of the impending establishment of a Completion Date and unilateral final acceptance will be provided by email with delivery confirmation from the Contracting Agency to the Contractor, which will provide 30 calendar days for the Contractor to submit the necessary documents. The 30 calendar day period will begin on the date the email with delivery confirmation is received by the Contractor. The date the Contracting Agency unilaterally signs the Final Contract Voucher Certification shall constitute the Completion Date and the final acceptance date (Section 1-05.12). The reservation by the Contracting Agency to unilaterally accept the Contract will apply to Contracts that are Physically Completed in accordance with Section 1-08.5, or for Contracts that are terminated in accordance with Section 1-08.10. Unilateral final acceptance of the Contract by the Contracting Agency does not in any way relieve the Contractor of their responsibility to comply with all Federal, State, tribal, or local laws, ordinances, and regulations that affect the Work under the Contract.

Payment to the Contractor of partial estimates, final estimates, and retained percentages shall be subject to controlling laws.

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1-09.11(3) Time Limitation and Jurisdiction
(December 30, 2022 APWA GSP)

Revise this section to read*:*

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

1-09.13(1) General
(January 19, 2022 APWA GSP)

Revise this section to read:

Prior to seeking claims resolution through arbitration or litigation, the Contractor shall proceed in accordance with Sections 1-04.5 and 1-09.11. The provisions of Sections 1-04.5 and 1-09.11 must be complied with in full as a condition precedent to the Contractor's right to seek claim resolution through binding arbitration or litigation.

Any claims or causes of action which the Contractor has against the Contracting Agency arising from the Contract shall be resolved, as prescribed herein, through binding arbitration or litigation.

The Contractor and the Contracting Agency mutually agree that those claims or causes of action which total $1,000,000 or less, which are not resolved by mediation, shall be resolved through litigation unless the parties mutually agree in writing to resolve the claim through binding arbitration.

The Contractor and the Contracting Agency mutually agree that those claims or causes of action in excess of $1,000,000, which are not resolved by mediation, shall be resolved through litigation unless the parties mutually agree in writing to resolve the claim through binding arbitration.

1-09.13, Claims Resolution

1-09.13(3)A Arbitration General
(January 19, 2022 APWA GSP)

Revise the third paragraph to read:

The Contracting Agency and the Contractor mutually agree to be bound by the decision of the arbitrator, and judgment upon the award rendered by the arbitrator may be entered in the Superior Court of the county in which the Contracting Agency's headquarters is located, provided

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that where claims subject to arbitration are asserted against a county, RCW 36.01.050 shall control venue and jurisdiction of the Superior Court. The decision of the arbitrator and the specific basis for the decision shall be in writing. The arbitrator shall use the Contract as a basis for decisions.

1-09.13(4) Venue for Litigation

(December 30, 2022 APWA GSP)

Revise this section to read:

Litigation shall be brought in the Superior Court of the county in which the Contracting Agency's headquarters is located, provided that where claims are asserted against a county, RCW 36.01.050 shall control venue and jurisdiction of the Superior Court. It is mutually agreed by the parties that when litigation occurs, the Contractor shall permit the Contracting Agency to have timely access to all records deemed necessary by the Contracting Agency to assist in evaluating the claims or action.

DIVISION 2
EARTHWORK

SECTION 2-02, REMOVAL OF STRUCTURES AND OBSTRUCTIONS

SECTION 2-07, WATERING

2-07.1, Description

(******)

Supplement this section with the following:

The Contractor shall keep haul roads within the quarry and stockpile area wetted down during crushing/stockpiling operations.

2-07.4, Measurement

(******)

Section 2-07.4 is revised to read:

Water will not be measured.

2-07.5, Payment

(******)

Supplement this section with the following:

All equipment, water, and labor necessary to complete the work described shall be considered incidental to the various bid items in the Contract.

DIVISION 3
AGGREGATE PRODUCTION AND ACCEPTANCE

DocuSign Envelope ID: E7E52524-272A-4CDD-B429-5A06579BE013

SECTION 3-01, PRODUCTION FROM QUARRY AND PIT SITES

3-01.2, Material Sources, General Requirements

3-01.2(1) Approval of Source

(******)

Supplement this section with the following:

Horrigan Quarry Site R-126, Cherry Lane Quarry Site R-52 . will be the sources for the production of all crushed surfacing material and Crushed screenings.

3-01.2(2) Preparation of Site

(******)

Supplement this section with the following:

The Contractor shall confine their operations to the portions of the quarry site as shown on the plans or as directed by the Engineer. The portions of the quarry site to be used shall be cleared, grubbed, and stripped to the rock surface. The material from clearing, grubbing, and stripping shall be stockpiled and used for reclamation.

After the stockpile areas, identified in Section 3-02.2(3), are prepared, the Contractor shall coordinate with the Contracting Agency to have the stockpile areas surveyed by prior to crushing operations. Days agreed upon by the Contractor and Contracting Agency to be used for surveying pursuant to this Section will not be counted as working days unless the Contractor resumes crushing operation on the same day.

3-01.2(4) Production Requirements

(******)

Supplement this section with the following:

The Contractor shall scalp the materials over a one-half inch screen with a minimum surface area of 32 square feet after primary crushing, unless otherwise determined by the Engineer.

The County's inspector will collect independent samples of the material for testing. The Contractor shall work with the inspector to collect the samples, including indicating the location of the produced material.

The Contractor shall provide their own test results to the Engineer, upon request therefrom.

3-01.3(3) Reject Materials

(******)

Supplement this section with the following:

All reject materials at all Pit locations shall be deposited in the area staked by the Engineer prior to crushing operations.

3-01.6, Payment

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(******)

Supplement this section with the following:

All equipment, tools, and labor necessary for clearing, grubbing, stripping, and the electrical hookup to provide power to the Contracting Agency's laboratory trailer shall be considered incidental to the various bid items in the Contract.

SECTION 3-02, STOCKPILING OF AGGREGATES

3-02.2, General Requirements

3-02.2(3), Stockpiling Aggregates for Future Use

(******)

Supplement this section with the following:

Locations for the following materials will be shown on the stockpiling plan and will be staked by the Engineer prior to crushing operations:

- 3/8" - #10 – Horrigan pit
- Crushed Base Course – Horrigan pit
- 3/8" - #10 – cherry lane pit
- Crushed Base Course – Cherry Lane

SECTION 3-03, SITE RECLAMATION

3-03.2, General Requirements

3-03.2(1), Contracting Agency – Provided Sites

(******)

Supplement this section with the following:

Benton County has been granted operating permits by the Department of Natural Resources for surface mining and the Contractor shall conduct his operations in accordance with the conditions and requirements of the permit. The Contractor shall perform interim reclamation measures on the mined portions of the quarry. The Contractor shall reclaim slopes in these locations as shown on the respective Operational Plans.

UNITED STATES DEPARTMENT OF THE INTERIOR – MINING ENFORCEMENT AND SAFETY ADMINISTRATION

The Contractor shall file the Metal-Non-Metal Quarterly Employment Reports and Metal-Non-Metal Mine Injury and Illness Reports as operator of the Coats Quarry and Cherry Lane sites. These reports are to be filed with U.S. Bureau of Mines, Safety Analysis Center, Building 20, Denver Federal Center, Denver, Colorado 80225, with one copy of each report to be filed with the Benton County Road Department. Instructions and forms are available by writing to:

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Bellevue Sub-District Office
U.S. Department of Interior
Mining and Enforcement and Safety Administration
Room 100
117-107th N.E.
Bellevue, WA 98004

3-03.5, Payment

3-03.5(1), Contracting Agency – Provided Sites
(******)

Supplement this section with the following:

All equipment, labor, and tools necessary to perform the interim reclamation measures shall be considered incidental to the various bid items in the Contract.

DIVISION 8
MISCELLANEOUS CONSTRUCTION

SECTION 8-01 EROSION CONTROL AND WATER POLLUTION CONTROL

8-01.2 Materials
(******)
Supplement this section with the following:

Fertilizer
Section 9-14.3 is revised to read as follows:

Fertilizer must be organic and must be a pelleted or granular form and shall be one of the following products:

Fertilizer

Products	Guaranteed Chemical Analysis (N-P-K) (%)	Company
Biosol Forte ™	7-2-1	Rocky Mountain Bioproducts Edwards, CO
Grow| Nutri Base ™ (formerly Fertil-Fibers)	6-4-1	Quattro Environmental Coronado, CA
Phyta-Grow Leafy Green Special ™	7-1-2	California Organic Fertilizers Inc. Fresno, CA
Approved Equal *	N: 6 to 7 P: 1 to 4 K: 1 to 2	

*Approved equal must be within the ranges shown for N-P-K. The cumulative N release rate must be no more than 70 percent the first 70 days after incubation (86° F) with 100 percent at 350 days or more.

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All fertilizers shall be furnished in standard unopened containers with weight, name of plant nutrients, and manufactures' guaranteed statement of analysis clearly marked, all in accordance with State and Federal laws.

Fertilizer shall be applied at the rate of 1800 pounds per acre. The fertilizer formulation shall be approved by the Engineer before use.

8-01.3 Construction Requirements

8-01.3(1)A Submittals

(******)

Supplement this section with the following:

The Contractor shall prepare and submit a project temporary erosion control and sediment control (TESC) plan. The TESC plan shall be prepared by a person having a current Certificate of Training in Construction Site Erosion and Sediment Control from a course approved by WSDOT's Statewide Erosion Control Coordinator.

8-01.3(2) Seeding, Fertilizing, and Mulching

8-01.3(2)B Seeding and Fertilizing

(August 4, 2014 WSDOT GSP)

Supplement this section with the following:

Seed of the following mix, rate, and analysis shall be applied at the rates shown below on all areas requiring ***roadside seeding*** seeding within the project:

Seed by Common Name, (Botanical Name), and "Source Identification"	Pounds Pure Live Seed (PLS) Per Acre
*** Bluebunch Wheatgrass "Wahluke" or from Rattlesnake Hills or Hanford vicinity (Pseudoroegneria spicata)	11.55
Thickspike Wheatgrass "Schwindemar" (Elymus lanceolatus ssp. Lanceolatus)	10.56
Indian Ricegrass "Nezpar" or from Rattlesnake Hills (Achnatherum hymenoides)	6.71
Idaho Fescue "Winchester," "Duffy Creek" or from Rattlesnake Hills (Festuca idahoensis)	3.44
Sandberg Bluegrass "Hanford," "Duffy Creek" or from Rattlesnake Hills (Poa sandbergii)	1.72
Prairie Junegrass "Hanford", "La Grande" or from Rattlesnake Hills (Koeleria cristata) (Koeleria macrantha)	0.70

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Sand Dropseed "Imnaha" or "Snake River" (Sporobolus cryptandrus)	0.32
Total Pounds PLS per Acre	35.00 ***

Source Identified seed shall be generation four or less. Non-Source Identified seed shall meet or exceed Washington State Department of Agriculture Certified Seed Standards and be from within the appropriate genetic zones of the *** Columbia Plateau, North Cascades, or Northern Rockies *** Ecoregion(s) as defined by the US Environmental Protection Agency (EPA).

The seed certification class shall be Certified (blue tag) in accordance with WAC 16-302 and meet the following requirements:

Prohibited Weed	0% max.
Noxious Weed	0% max.
Other Weed	0.20% max.
Other Crop	0.40% max.

The Contractor shall document all Source Identified seed by providing the Association of Official Seed Certifying Agents (AOSCA) yellow seed label for each species in the mix. Site Identification Logs can be supplied for collections where the AOSCA yellow label is not available.

8-01.3(2)D Mulching

(January 5, 2015 WSDOT GSP)

Supplement this section with the following:

*** HECP Type I Long Term Mulch *** shall be applied at a rate of *** 3500 *** pounds per acre with no more than *** 2000 *** pounds per acre applied in a single lift.

8-01.4 Measurement

(******)

Supplement this section with the following:

A separate measurement will not be made for any application of mulch.

8-01.5 Payment

(******)

Supplement this section with the following:

All costs for providing the TESC plan shall be included in the unit contract prices of the various bid items involved.

The unit contract price for "Seeding, Fertilizing, and Mulching", per acre, shall be full payment for all costs, including tracer, tacking agent, water, all applications of mulch and all other costs necessary to complete the work as described.

DIVISION 9
MATERIALS

SECTION 9-03, AGGREGATES

9-03.9, Aggregates for Ballast and Crushed Surfacing

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(******)

3/8" - #10

The grading requirements for 3/8" - #10 are as follows:

Sieve Size	**Percent Passing**
1 ¼ " square	100
5/8" square	90-100
U.S. No. 4	30-56
U.S. No. 10	0-10
U.S. No. 200	0-1.5
% Fracture	75 min.
Sand Equivalent	40 min.

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2023 CRUSHING AND STOCKPILING

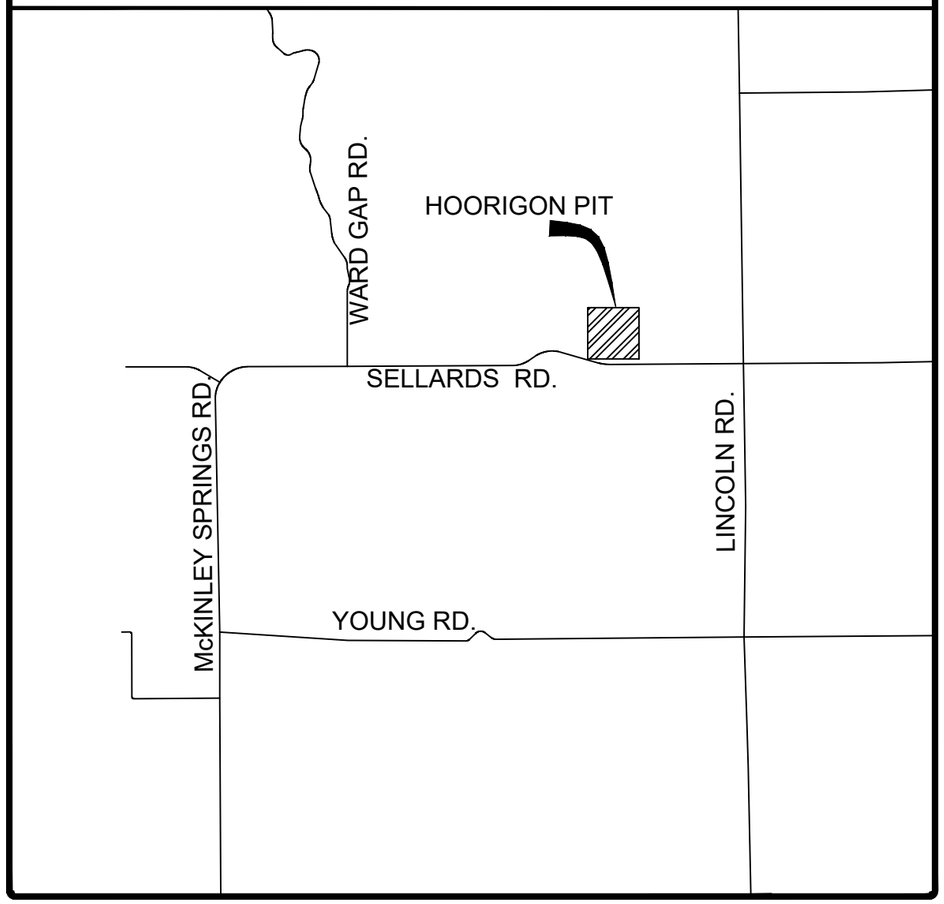
BENTON COUNTY, WASHINGTON

INDEX

SHEET TITLE SHEET NUMBER

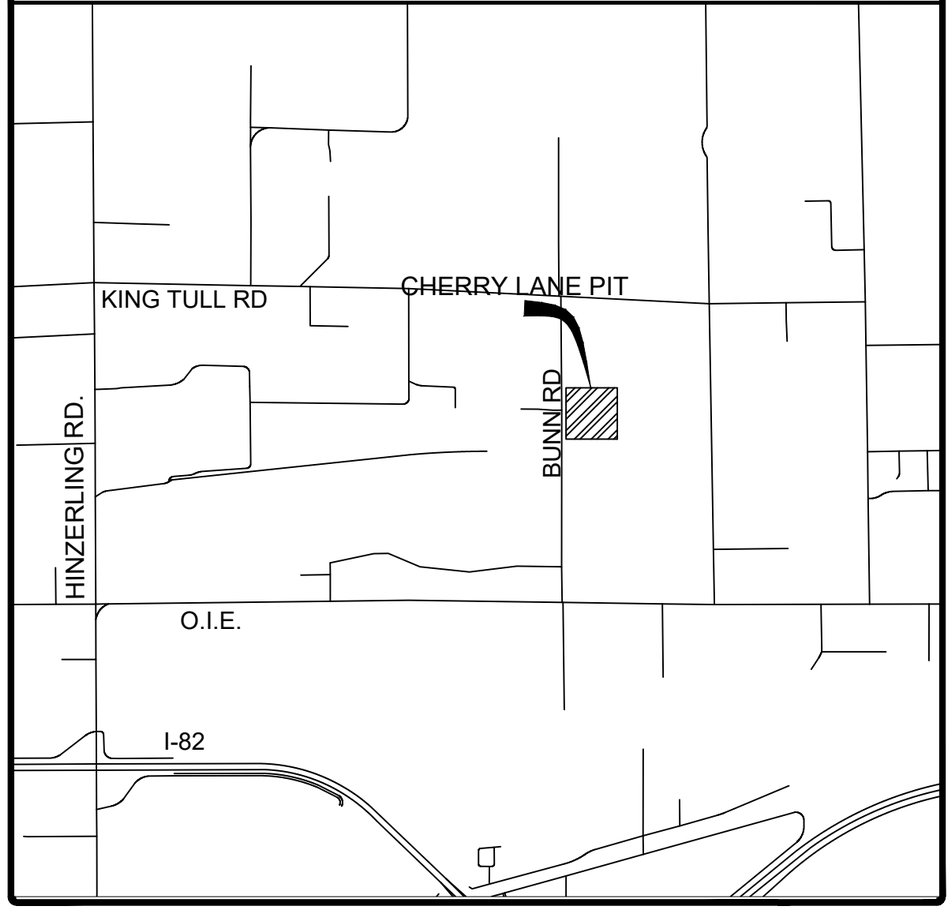
COVER SHEET 1
CHERRY LANE QUARRY PLAN 2
HORRIGAN QUARRY PLAN 3

VICINITY MAP: HORRIGAN QUARRY



SEC. 34, T. 8N., R. 24E., W.M.
BENTON COUNTY, WASHINGTON

VICINITY MAP: CHERRY LANE QUARRY



SEC. 30, T. 9N., R. 25E., W.M.
BENTON COUNTY, WASHINGTON

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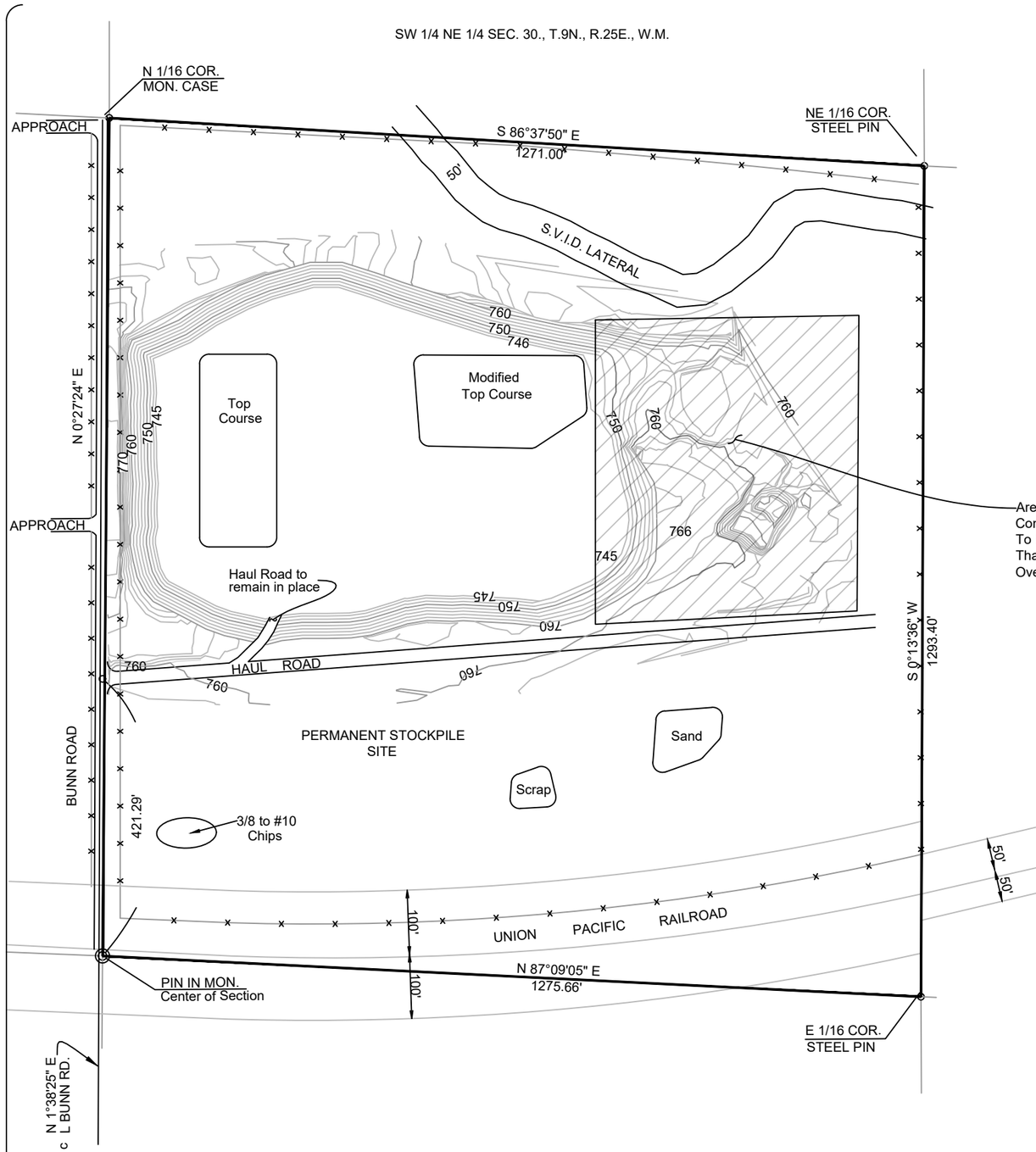


Area To Be Worked. Upon Completion of Crushing, Area To Be Reclaimed To No Steeper Than 2 : 1 Slope. Use Available Overburden Stockpiled on South Slope.

GENERAL NOTES:

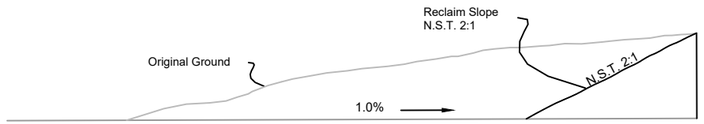
(1) Cherry Lane Quarry Site QS-R-52 is located 3 miles NorthEast of Prosser, WA. The quarry site is at the top of the hill on the East side of Bunn Rd and North of U.P.R.R the quarry is owned by Benton county

(2) Cherry Lane Quarry has been the source for the production of surfacing materials, for construction and maintenance for county road projects. Approx. 30,100 Tons of Crushed Screening 3/8 - #10 and 120,400 Tons of Crushed Surfacing Base Course will be crushed at this time.

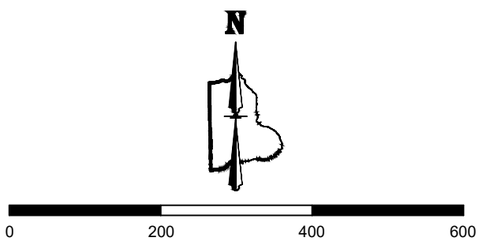
(3) Materials from stripping operations shall be salvaged and stockpiled for reclamation of slopes.

(4) On completion of crushing, interim reclamation will take place on the area or areas being worked on. Slopes will be left no steeper than 2:1, which will consist of blending the segments into the surrounding area with stockpiled strippings.

(5) Subsequent use for this site will be a permanent stockpile site for county maintenance materials. Aggregate produced will be stockpiled in the designated stockpile area.



SECTION A-A
Area To Be Worked



Scale In Feet

COUNTY OF BENTON EST. 1905 WASHINGTON

PREPARED UNDER THE DIRECTION OF & APPROVED BY:

MATTHEW STEPHEN RASMUSSEN
STATE OF WASHINGTON
PE47720
REGISTERED PROFESSIONAL ENGINEER

BENTON COUNTY ENGINEER
DATE:

DATE	BY	DESCRIPTION	REV.

CRUSHING & STOCKPILING 2023
CHERRY LANE QUARRY R-52

CALL TWO WORKING DAYS BEFORE YOU DIG 1-800-454-5566

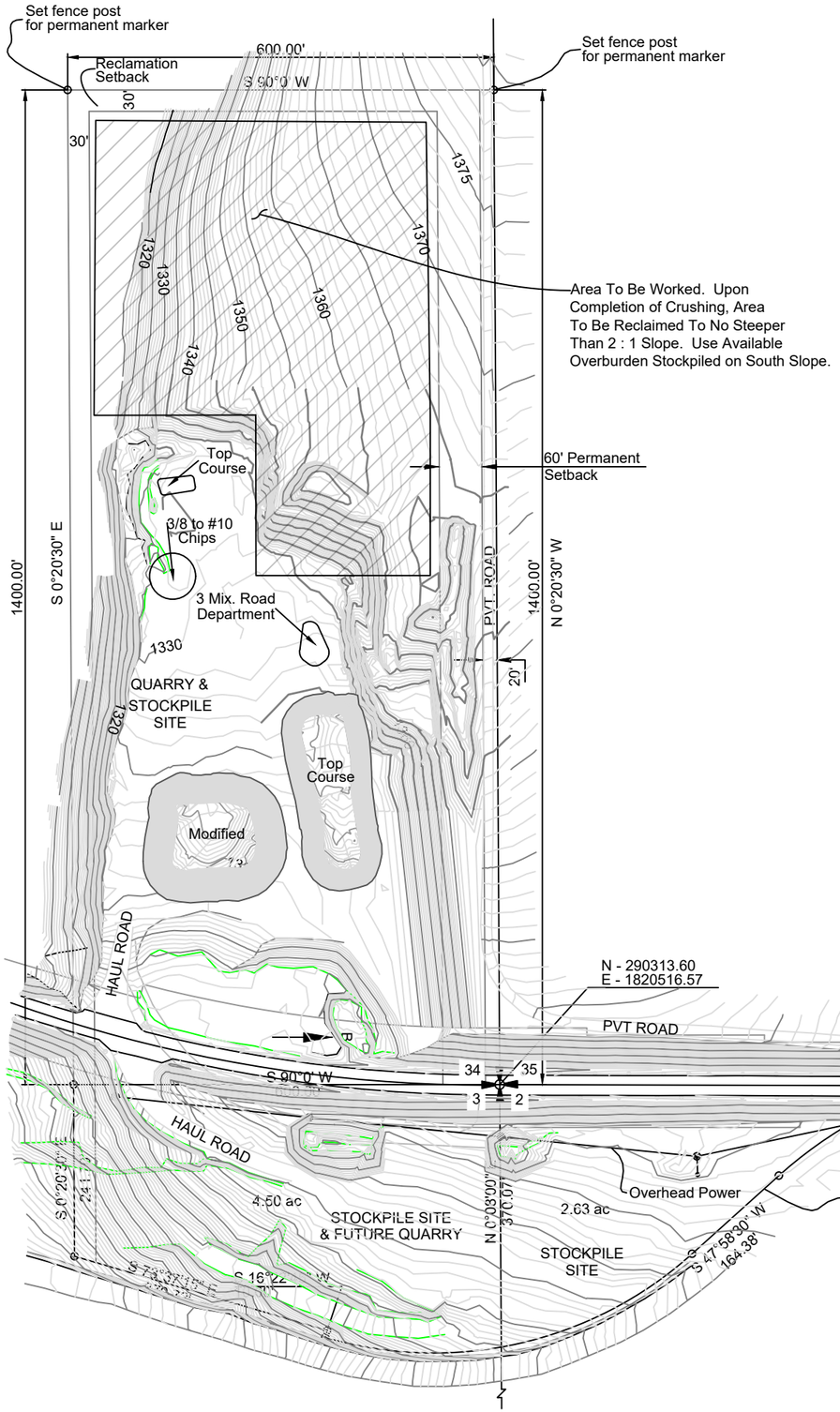
ALL UNDERGROUND UTILITIES AND STRUCTURES ARE NOT SHOWN ON THE PLANS. IF THOSE SHOWN ARE APPROXIMATE, THE CONTRACTOR IS RESPONSIBLE TO FIELD VERIFY BOTH UNDERGROUND & ABOVE GROUND EXISTING CONDITIONS. NOTIFY ENGINEER FOR RESOLUTION OF CONFLICTS.

DR'N: DRK	CH'D:
HORIZ. SCALE:	1" = 200'
VERT. SCALE:	
REVISION:	

OPERATIONAL PLAN

SHEET 2 OF 3

DocuSign Envelope ID: E7E52524-272A-4CDD-B429-5A06579BE013



General Notes:

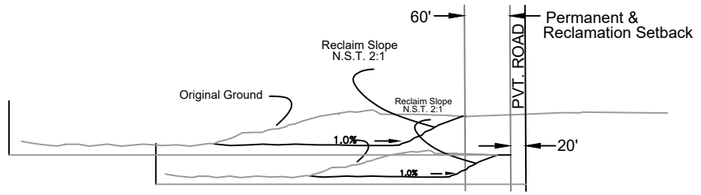
(1) Horrigan Quarry is located approx. 6 miles South of Prosser, Washington in the Horse Heaven Hills. The entrance to the quarry & stockpile is off Sellards Road.

(2) Horrigan Quarry is the source for the production of surfacing materials for the construction and maintenance of surrounding County roads. Approx. 11,200 tons Crushed Screenings 3/8 - #10 Chips and Approx. 44,800 tons of Crushed Surfacing Base Course will be crushed at this time.

(3) Material from stripping operations shall be salvaged and stockpiled for reclamation of slopes.

(4) On completion of crushing, interim reclamation will take place on the area or areas being worked. Slopes will be left no steeper than 2:1, which will consist of blending the segments into the surrounding area with stockpiled strippings.

(5) Permanent stockpiles are located along the west side of the property. Aggregate produced will be stockpiled in the designated stockpile area.



SECTION A-A
Area To Be Worked

COUNTY OF BENTON EST. 1905 WASHINGTON

PREPARED UNDER
THE DIRECTION OF
& APPROVED BY:

MATTHEW STEPHEN RASMUSSEN
STATE OF WASHINGTON
PE47720
REGISTERED
PROFESSIONAL ENGINEER

BENTON COUNTY
ENGINEER
DATE:

DATE	BY	DESCRIPTION	REV.

CRUSHING & STOCKPILING 2023
HORRIGAN QUARRY R-126

CALL TWO WORKING DAYS
BEFORE YOU DIG
1-800-424-5555
ALL UNDERGROUND UTILITIES AND STRUCTURES ARE NOT SHOWN. IT IS THE LOCATION OF SUCH, AND ANY UNKNOWN, THAT THE CONTRACTOR IS RESPONSIBLE TO FIELD VERIFY BOTH UNDERGROUND & ABOVE GROUND EXISTING CONDITIONS. NOTIFY ENGINEER FOR RESOLUTION OF CONFLICTS.

DR'N: DRK	CH'D:
HORIZ. SCALE:	1" = 200'
VERT. SCALE:	
REVISION:	

OPERATIONAL
PLAN

SHEET 3 OF 3

DocuSign Envelope ID: E7E52524-272A-4CDD-B429-5A06579BE013

WAGE RATES

APPENDIX A:

STATE WAGE RATES

For Construction of:

2023 CRUSHING

CE 2146 CRP

PUBLIC WORKS DEPARTMENT

COUNTY OF BENTON WASHINGTON

Bid No: 23-23

DocuSign Envelope ID: E7E52524-272A-4CDD-B429-5A06579BE013

APPENDIX A

REQUIRED CONTRACT PROVISIONS - STATE DEPARTMENT OF LABOR AND INDUSTRIES

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

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

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

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

The publication date to use is the bid submittal date.

The public works project is located in Benton County.

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

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

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PROPOSAL
FOR BIDDING PURPOSES

For Construction of:

2023 CRUSHING

CE 2146 CRP

INCLUDES:
PROPOSAL
- **ASSURANCE OF NON-DISCRIMINATION**
- **NON-COLLUSION DECLARATION**

PROPOSAL BOND
PROPOSAL FOR INCORPORATING RECYCLED MATERIALS
CERTIFICATION OF COMPLIANCE WITH WAGE PAYMENT STATUTES

PUBLIC WORKS DEPARTMENT

COUNTY OF BENTON WASHINGTON

Bid No: 23-23

DocuSign Envelope ID: E7E52524-272A-4CDD-B429-5A06579BE013

P R O P O S A L

TO: THE BOARD OF COUNTY COMMISSIONERS
BENTON COUNTY
PROSSER, WASHINGTON 99350

Gentlemen:

The undersigned, (insert name of company) _____ hereby certifies that they have examined the location of the public works project outlined in these attached special provisions, specifications and plans, and has read and thoroughly understands the plans, specifications and contract governing the work embraced in this improvement, and the method by which payment will be made for said work, and hereby proposes to undertake and complete the work embraced in this improvement, or as much thereof as can be completed with the money available, in accordance with the said plans, specifications and contract, and the following schedule of rates and prices:

CE 2146 CRP – 2023 CRUSHING

(NOTE: Unit prices for all items, all extensions, and total amount of bid, shall be shown.)

ITEM NO.	QTY.	UNIT	ITEM DESCRIPTION	PRICE PER UNIT		AMOUNT	
				Dollars	Cts.	Dollars	Cts.
1	1	L.S	MOBILIZATION				
2	11200	TONS	CRUSHED SCREENINGS 3/8-#10 HORRIGAN PIT R-126				
3	44800	TONS	CRUSHED SURFACING BASE COURSE. HORRIGAN PIT R-126				
4	30100	TONS	CRUSHED SCREENINGS 3/8-#10 CHERRY LANE PIT R-52				
5	120400	TONS	CRUSHED SURFACING BASE COURSE CHERRY LANE PIT R-52				
6	10	L.F	REMOVING FENCE				
7	1	ACER	SEEDING FERTILIZING AND MULCHING				
8	1400	TONS	RESCREEN MODIFIED BASE COURSE TO 3/8-#10				
9	1	L.S	SPCC PLAN				
10	1	L.S	MINOR CHANGES	$10,000	00	$10,000	00
	TOTAL						

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The undersigned hereby agrees to pay to labor not less than the hourly minimum rates of wages as set forth in these special provisions.

A proposal guaranty in an amount of five percent (5%) of the total bid, based upon the approximate estimate of quantities at the above prices and in the form as indicated below, is attached hereby:

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

Receipt is hereby acknowledged of Addendum No(s). _____, _____, & _____.

PUBLIC WORKS TRAINING

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

ASSURANCE OF NON-DISCRIMINATION

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

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

NON-COLLUSION DECLARATION

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

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

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NOTICE TO ALL BIDDERS

To report bid rigging activities call:

1-800-424-9071

The U. S. Department of Transportation (USDOT) operates the above toll-free "hotline" Monday through Friday, 8:00 a.m. to 5:00 p.m., Eastern time. Anyone with knowledge of possible bid rigging, bidder collusion, or other fraudulent activities should use the "hotline" to report such activities.

The "hotline" is part of USDOT's continuing effort to identify and investigate highway construction control fraud and abuse and is operated under the direction of the USDOT Inspector General. All information will be treated confidentially, and caller anonymity will be respected.

CONTRACTOR'S REGISTRATION NO. _____

CONTRACTOR'S EMPLOYMENT SECURITY DEPARTMENT NO. _____

FIRM NAME: _____

_____ _____
SIGNATURE OF AUTHORIZED OFFICIAL (PRINT NAME AND TITLE)

_____ _____
SIGNATURE OF AUTHORIZED OFFICIAL (PRINT NAME AND TITLE)

PROPOSAL MUST BE SIGNED

DATED this _____ day of _____, 20_____.

ADDRESS OF BIDDER: _____

PRINCIPAL PLACE OF BUSINESS: _____

TELEPHONE NO.: (____)_____ EMAIL:_____

NOTE: (1) This proposal form is not transferable, and any alteration of the firm name entered hereon without prior permission from the Board of County Commissioners will be sufficient cause for considering the proposal irregular and consequent rejection of the bid.

(2) Should it be necessary to modify this proposal in writing, please make reference to the project number.

DocuSign Envelope ID: E7E52524-272A-4CDD-B429-5A06579BE013

PROPOSAL BOND

KNOW ALL MEN BY THESE PRESENTS, That we, _____

_____ of _____

as principal, and the _____, a corporation

duly organized under the laws of the State of _____, and authorized

to do business in the State of Washington, as surety, are held and firmly bound unto Benton County in the full and penal sum of five (5) percent of the total amount of the bid proposal of said principal for the work hereinafter described, for the payment of which, well and truly to be made, we bind our heirs, executors, administrators and assigns, and successors and assigns, firmly by these presents.

The condition of this bond is such, that whereas the principal herein is herewith submitting his or its sealed proposal for the following highway construction, to wit:

CE 2146 CRP – 2023 CRUSHING

said bid and proposal, by reference thereto, being made a part hereof.

NOW, THEREFORE, If the said proposal bid by said principal be accepted, and the contract be awarded to said principal, and if said principal shall duly make and enter into and execute said contract and shall furnish bond as required by Benton County within a period of **ten (10) days** from and after said award, exclusive of the day of such award, then this obligation shall be null and void, otherwise it shall remain and be in full force and effect.

IN TESTIMONY WHEREOF, The principal and surety have caused these presents to be

signed and sealed this _____ day of _____, _____.

_____
(Principal)

_____
(Surety)

_____
(Attorney-in-fact)

DocuSign Envelope ID: E7E52524-272A-4CDD-B429-5A06579BE013

Certification of Compliance with Wage Payment Statutes

The bidder hereby certifies that, within the three-year period immediately preceding the bid solicitation date, **December 13, 2023**, the bidder is not a "willful" violator, as defined in RCW 49.48.082, of any provision of chapters 49.46, 49.48, or 49.52 RCW, as determined by a final and binding citation and notice of assessment issued by the Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction.

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

_____
Bidder's Business Name

_____
Signature of Authorized Official*

_____
Printed Name

_____
Title

_____ _____ _____
Date City (where signed) State

Check One:
Sole Proprietorship ☐ Partnership ☐ Joint Venture ☐ Corporation ☐

State of Incorporation, or if not a corporation, State where business entity was formed:

_____

If a co-partnership, give firm name under which business is transacted:

_____

** If a corporation, proposal must be executed in the corporate name by the president or vice-president (or any other corporate officer accompanied by evidence of authority to sign). If a co-partnership, proposal must be executed by a partner.*

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CERTIFICATIONS

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.

CONTRACTOR'S REGISTRATION NO. _____

CONTRACTOR'S EMPLOYMENT SECURITY DEPARTMENT NO. _____

FIRM NAME: _____

_____ _____

SIGNATURE OF AUTHORIZED OFFICIAL (PRINT NAME AND TITLE)

DATED this _____ day of _____, 20_____.

ADDRESS OF BIDDER: _____

TELEPHONE NO.: (____)_____ EMAIL:_____

DocuSign Envelope ID: E7E52524-272A-4CDD-B429-5A06579BE013

CONTRACT

INFORMATION FOR THE CONTRACTOR THAT IS AWARDED THE CONTRACT

For Construction of:

2023 CRUSHING

CE 2146 CRP

PUBLIC WORKS DEPARTMENT

COUNTY OF BENTON WASHINGTON

Bid No: 23-23

DocuSign Envelope ID: E7E52524-272A-4CDD-B429-5A06579BE013

CONTRACT

THIS CONTRACT, made and entered into this _____ day of _____, **YEAR**, between the COUNTY OF BENTON, STATE OF WASHINGTON, (hereinafter "the County") acting through the Board of County Commissioners, under and by virtue of RCW 36, as amended, and _____, (hereinafter "the Contractor").

WITNESSETH:

That in consideration of the terms and conditions contained herein and in the Contract Documents attached hereto and made a part of this agreement, the parties hereto covenant and agree as follows:

I. The Contractor shall furnish all tools, materials, and equipment, and shall do all work described in and in accordance with the attached plans and specifications entitled "**Contract Provisions and Plans, CE 2146 CRP – 2023 Crushing Project**," and as described in and in accordance with the State of Washington **2023** Standard Specifications for Road, Bridge, and Municipal Construction adopted by the County, (hereinafter collectively referred to as "the Contract Documents") which are by this reference incorporated herein and made part hereof, and shall perform any changes to the work in accord with the Contract Documents.

The Contractor shall provide and bear the expense of all equipment, work and labor, of any sort whatsoever that may be required for the transfer of materials and for constructing and completing the work provided for in these Contract Documents except those items mentioned therein to be furnished by the County.

II. The County hereby promises and agrees with the Contractor to employ, and does employ the Contractor to provide the materials and to do and cause to be done the above described work and to complete and finish the same in accord with the attached plans and specifications and the terms and conditions herein contained, and hereby contracts to pay for the same according to the attached specifications and the schedule of unit or itemized prices at the time and in the manner and upon the conditions provided for in this contract. The County further agrees to employ the Contractor to perform any alterations in or additions to the work covered by this contract and every part thereof and any force account work that may be ordered and to pay for the same under the terms of this contract and the attached plans and specifications.

III. The Contractor, for himself, and for his heirs, executors, administrators, successors, and assigns, does hereby agree to the full performance of all the covenants herein contained upon the part of the Contractor.

IV. The County agrees to pay to the Contractor, as full and complete compensation for materials and work provided in accordance with the Contract Documents, the sum of $_____, payable as provided in the Contract Documents.

V. It is further provided that no liability shall attach to the County by reason of entering into this contract, except as expressly provided herein.

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

Informational Copy

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VII. The Contractor specifically waives the Contractor's immunity under Title 51 RCW (Industrial Insurance statute), and acknowledges that his waiver of immunity was mutually and expressly negotiated by the parties, and expressly agrees that Contractor's promise to indemnify and hold harmless applies to all claims filed by and/or injuries to the Contractor's own employees.

IN WITNESS WHEREOF, the said Contractor has executed this instrument, and the Board of County Commissioners of Benton County, Washington has caused this instrument to be executed by and in the name of the said Board of County Commissioners the day and year first above written.

Executed by the Contractor:

_____
Signature

_____
Title

_____
Date

COUNTY OF BENTON

_____
Chairman, Board of Commissioners

Attest:_____
Clerk of the Board

_____
Date

APPROVED AS TO FORM:

_____
LeeAnn Holt
Benton County Deputy Prosecuting Attorney

_____
Date

Informational Copy

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PUBLIC WORKS PAYMENT BOND

to BENTON COUNTY, WA

Bond No. _____

Benton County, Washington (County) has awarded to _____ (Principal), a contract for the construction of the project designated as **2023 CRUSHING, Project No.: CE 2146 CRP,** in Benton County, Washington (Contract), and said Principal is required, under the terms of that Contract, to furnish a payment bond in accord with Title 39.08 Revised Code of Washington (RCW) and (where applicable) 60.28 RCW.

The Principal, and _____ (Surety), a corporation, organized under the laws of the State of _____ and licensed to do business in the State of Washington as surety and named in the current list of "Surety Companies Acceptable in Federal Bonds" as published in the Federal Register by the Audit Staff Bureau of Accounts, U.S. Treasury Dept., are jointly and severally held and firmly bound to the County, in the sum of _____ US Dollars ($ _____) Total Contract Amount, subject to the provisions herein.

This statutory payment bond shall become null and void, if and when the Principal, its heirs, executors, administrators, successors, or assigns shall pay all persons in accordance with RCW 39.08, 39.12, and 60.28 including all workers, laborers, mechanics, subcontractors, and materialmen, and all person who shall supply such contractor or subcontractor with provisions and supplies for the carrying on of such work, and all taxes incurred on said Contract under Titles 50 and 51 RCW and all taxes imposed on the Principal under Title 82 RCW; and if such payment obligations have not been fulfilled, this bond shall remain in full force and effect.

The Surety for value received agrees that no change, extension of time, alteration or addition to the terms of the Contract, the specifications accompanying the Contract, or to the work to be performed under the Contract shall in any way affect its obligation on this bond, and waives notice of any change, extension of time, alteration or addition to the terms of the Contract or the work performed. The Surety agrees that modifications and changes to the terms and conditions of the Contract that increase the total amount to be paid the Principal shall automatically increase the obligation of the Surety on this bond and notice to Surety is not required for such increased obligation.

This bond may be executed in two (2) original counterparts, and shall be signed by the parties' duly authorized officers. This bond will only be accepted if it is accompanied by a fully executed and original power of attorney for the office executing on behalf of the surety.

PRINCIPAL		SURETY	
_____		_____	
Principal Signature	Date	Surety Signature	Date
_____		_____	
Printed Name		Printed Name	
_____		_____	
Title		Title	

Name, address, and telephone of local office/agent of Surety Company is:

Informational Copy

DocuSign Envelope ID: E7E52524-272A-4CDD-B429-5A06579BE013

PUBLIC WORKS PERFORMANCE BOND

to BENTON COUNTY, WA

Bond No. _____

Benton County, Washington (County) has awarded to _____ (Principal), a contract for the construction of the project designated as **2023 CRUSHING, Project No.: CE 2146 CRP,** in Benton County, Washington (Contract), and said Principal is required to furnish a bond for performance of all obligations under the Contract.

The Principal, and _____ (Surety), a corporation, organized under the laws of the State of _____ and licensed to do business in the State of Washington as surety and named in the current list of "Surety Companies Acceptable in Federal Bonds" as published in the Federal Register by the Audit Staff Bureau of Accounts, U.S. Treasury Dept., are jointly and severally held and firmly bound to the County, in the sum of _____ US Dollars ($ _____) Total Contract Amount, subject to the provisions herein.

This statutory performance bond shall become null and void, if and when the Principal, its heirs, executors, administrators, successors, or assigns shall well and faithfully perform all of the Principal's obligations under the Contract and fulfill all terms and conditions of all duly authorized modifications, additions, and changes to said Contract that may hereafter be made, at the time and in the manner therein specified; and if such performance obligations have not been fulfilled, this bond shall remain in force and effect.

The Surety for value received agrees that no change, extension of time, alteration or addition to the terms of the Contract, the specifications accompanying the Contract, or to the work to be performed under the Contract shall in any way affect its obligation on this bond, and waives notice of any change, extension of time, alteration or addition to the terms of the Contract or the work performed. The Surety agrees that modifications and changes to the terms and conditions of the Contract that increase the total amount to be paid the Principal shall automatically increase the obligation of the Surety on this bond and notice to Surety is not required for such increased obligation.

This bond may be executed in two (2) original counterparts, and shall be signed by the parties' duly authorized officers. This bond will only be accepted if it is accompanied by a fully executed and original power of attorney for the office executing on behalf of the surety.

PRINCIPAL	SURETY
_____	_____
Principal Signature Date	Surety Signature Date
_____	_____
Printed Name	Printed Name
_____	_____
Title	Title

Name, address, and telephone of local office/agent of Surety Company is:

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DocuSign Envelope ID: E7E52524-272A-4CDD-B429-5A06579BE013

DocuSign Envelope ID: 9B7DF25C-E878-412E-A0CA-5C8AE4DD125A

PROPOSAL

TO: THE BOARD OF COUNTY COMMISSIONERS
BENTON COUNTY
PROSSER, WASHINGTON 99350

Gentlemen:

The undersigned, (insert name of company) _____ hereby certifies that they have examined the location of the public works project outlined in these attached special provisions, specifications and plans, and has read and thoroughly understands the plans, specifications and contract governing the work embraced in this improvement, and the method by which payment will be made for said work, and hereby proposes to undertake and complete the work embraced in this improvement, or as much thereof as can be completed with the money available, in accordance with the said plans, specifications and contract, and the following schedule of rates and prices:

CE 2146 CRP – 2023 CRUSHING

(NOTE: Unit prices for all items, all extensions, and total amount of bid, shall be shown.)

ITEM NO.	QTY.	UNIT	ITEM DESCRIPTION	PRICE PER UNIT		AMOUNT	
				Dollars	Cts.	Dollars	Cts.
1	1	L.S	MOBILIZATION	$59,500	00	$59,500	00
2	11200	TONS	CRUSHED SCREENINGS 3/8-#10 HORRIGAN PIT R-126	$6	67	$74,704	00
3	44800	TONS	CRUSHED SURFACING BASE COURSE. HORRIGAN PIT R-126	$6	15	$275,520	00
4	30100	TONS	CRUSHED SCREENINGS 3/8-#10 CHERRY LANE PIT R-52	$6	72	$202,272	00
5	120400	TONS	CRUSHED SURFACING BASE COURSE CHERRY LANE PIT R-52	$6	21	$747,684	00
6	10	L.F	REMOVING FENCE	$0	00	$0	00
7	1	ACER	SEEDING FERTILIZING AND MULCHING	$8,098	15	$8,098	15
8	1400	TONS	RESCREEN MODIFIED BASE COURSE TO 3/8-#10	$5	00	$7,000	00
9	1	L.S	SPCC PLAN	$100	00	$100	00
10	1	L.S	MINOR CHANGES	$10,000	00	$10,000	00
	TOTAL					$1,384,878	15

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PROPOSAL
(Cont.')

The undersigned hereby agrees to pay to labor not less than the hourly minimum rates of wages as set forth in these special provisions.

A proposal guaranty in an amount of five percent (5%) of the total bid, based upon the approximate estimate of quantities at the above prices and in the form as indicated below, is attached hereby:

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

Receipt is hereby acknowledged of Addendum No(s). 1, _____, & _____.

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

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PROPOSAL
(Cont.')

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The U. S. Department of Transportation (USDOT) operates the above toll-free "hotline" Monday through Friday, 8:00 a.m. to 5:00 p.m., Eastern time. Anyone with knowledge of possible bid rigging, bidder collusion, or other fraudulent activities should use the "hotline" to report such activities.

The "hotline" is part of USDOT's continuing effort to identify and investigate highway construction control fraud and abuse and is operated under the direction of the USDOT Inspector General. All information will be treated confidentially, and caller anonymity will be respected.

CONTRACTOR'S REGISTRATION NO. DEATLCC013L3

CONTRACTOR'S EMPLOYMENT SECURITY DEPARTMENT NO. 063733-03

FIRM NAME: DeAtley Crushing Company

SIGNATURE OF AUTHORIZED OFFICIAL — Matt DeAtley, Vice-President (PRINT NAME AND TITLE)

SIGNATURE OF AUTHORIZED OFFICIAL — Aaron Fitting, Vice-President (PRINT NAME AND TITLE)

PROPOSAL MUST BE SIGNED

DATED this 13 day of December, 20 23.

ADDRESS OF BIDDER: 4307 Snake River Ave Lewiston, ID 83501

PRINCIPAL PLACE OF BUSINESS: Lewiston, ID

TELEPHONE NO.: (208) 743-6550 EMAIL: aaron@deatleycrushing.com, greg@deatleycrushing.com

NOTE: (1) This proposal form is not transferable, and any alteration of the firm name entered hereon without prior permission from the Board of County Commissioners will be sufficient cause for considering the proposal irregular and consequent rejection of the bid.

(2) Should it be necessary to modify this proposal in writing, please make reference to the project number.

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PROPOSAL BOND

KNOW ALL MEN BY THESE PRESENTS, That we, DeAtley Crushing Company, Inc.

of Lewiston, Idaho

as principal, and the Travelers Casualty and Surety Company of America, a corporation

duly organized under the laws of the State of Connecticut, and authorized

to do business in the State of Washington, as surety, are held and firmly bound unto Benton County in the full and penal sum of five (5) percent of the total amount of the bid proposal of said principal for the work hereinafter described, for the payment of which, well and truly to be made, we bind our heirs, executors, administrators and assigns, and successors and assigns, firmly by these presents.

The condition of this bond is such, that whereas the principal herein is herewith submitting his or its sealed proposal for the following highway construction, to wit:

CE 2146 CRP – 2023 CRUSHING

said bid and proposal, by reference thereto, being made a part hereof.

NOW, THEREFORE, If the said proposal bid by said principal be accepted, and the contract be awarded to said principal, and if said principal shall duly make and enter into and execute said contract and shall furnish bond as required by Benton County within a period of **ten (10) days** from and after said award, exclusive of the day of such award, then this obligation shall be null and void, otherwise it shall remain and be in full force and effect.

IN TESTIMONY WHEREOF, The principal and surety have caused these presents to be

signed and sealed this 13th day of December, 2023.

DeAtley Crushing Company, Inc.

(Principal)

Travelers Casualty and Surety Company of America

(Surety)

(Attorney-in-fact) Kirsten K Jordan

DocuSign Envelope ID: E7E52524-272A-4CDD-B429-5A06579BE013

TRAVELERS

Travelers Casualty and Surety Company of America
Travelers Casualty and Surety Company
St. Paul Fire and Marine Insurance Company

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company are corporations duly organized under the laws of the State of Connecticut (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint **Kirsten K Jordan** of **PASCO**, **Washington**, their true and lawful Attorney(s)-in-Fact to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed, and their corporate seals to be hereto affixed, this **21st** day of **April**, **2021**.

HARTFORD, CONN. — TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA
HARTFORD, CONN. — TRAVELERS CASUALTY AND SURETY COMPANY
CORPORATE SEAL — ST. PAUL FIRE AND MARINE INSURANCE COMPANY

State of Connecticut

City of Hartford ss.

By: _____
Robert L. Raney, Senior Vice President

On this the **21st** day of **April**, **2021**, before me personally appeared **Robert L. Raney**, who acknowledged himself to be the Senior Vice President of each of the Companies, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of said Companies by himself as a duly authorized officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission expires the **30th** day of **June**, **2026**

ANNA P NOWIK NOTARY PUBLIC CONNECTICUT

_____
Anna P. Nowik, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of each of the Companies, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, **Kevin E. Hughes**, the undersigned, Assistant Secretary of each of the Companies, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which remains in full force and effect.

Dated this **13th** day of **December**, **2023**.

HARTFORD, CONN. — TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA
HARTFORD, CONN. — TRAVELERS CASUALTY AND SURETY COMPANY
CORPORATE SEAL — ST. PAUL FIRE AND MARINE INSURANCE COMPANY

_____
Kevin E. Hughes, Assistant Secretary

To verify the authenticity of this Power of Attorney, please call us at 1-800-421-3880.
Please refer to the above-named Attorney(s)-in-Fact and the details of the bond to which this Power of Attorney is attached.

DocuSign Envelope ID: E7E52524-272A-4CDD-B429-5A06579BE013

DocuSign Envelope ID: 9B7DF25C-E878-412E-A0CA-5C8AE4DD125A

BENTON COUNTY WASHINGTON

Certification of Compliance with Wage Payment Statutes

The bidder hereby certifies that, within the three-year period immediately preceding the bid solicitation date, **December 13, 2023**, the bidder is not a "willful" violator, as defined in RCW 49.48.082, of any provision of chapters 49.46, 49.48, or 49.52 RCW, as determined by a final and binding citation and notice of assessment issued by the Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction.

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DeAtley Crushing Company

Bidder's Business Name

Signature of Authorized Official*

Aaron Fitting

Printed Name

Vice-President

Title

12/13/23	Lewiston	Idaho
Date	City (where signed)	State

Check One:

Sole Proprietorship ☐ Partnership ☐ Joint Venture ☐ Corporation ☑

State of Incorporation, or if not a corporation, State where business entity was formed:

Idaho

If a co-partnership, give firm name under which business is transacted:

** If a corporation, proposal must be executed in the corporate name by the president or vice-president (or any other corporate officer accompanied by evidence of authority to sign). If a co-partnership, proposal must be executed by a partner.*

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DocuSign Envelope ID: 9B7DF25C-E878-412E-A0CA-5C8AE4DD125A

CERTIFICATIONS

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.

CONTRACTOR'S REGISTRATION NO. DEATLCC03L3

CONTRACTOR'S EMPLOYMENT SECURITY DEPARTMENT NO. 063733-003

FIRM NAME: DeAtley Crushing Company

_____ Aaron Fitting, Vice-President

SIGNATURE OF AUTHORIZED OFFICIAL (PRINT NAME AND TITLE)

DATED this 13 day of December 23, 20____.

ADDRESS OF BIDDER: 4307 Snake River Ave Lewiston, ID 83501

TELEPHONE NO.: (208) 743-6550 EMAIL: aaron@deatleycrushing.com

DocuSign Envelope ID: E7E52524-272A-4CDD-B429-5A06579BE013

Public Works Department

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

ADDENDUM #1

December 7, 2023

Call for Bids – Replace the first paragraph with the following:

Sealed bids for CE 2146 CRP – 2023 CRUSHING, shall be received by the Benton County Engineer, Benton County Public Services Building, 102206 E. Wiser Parkway, Kennewick, Washington 99338 until **11:00 a.m.**, Local Time, **Wednesday, December 13, 2023**. NO BIDS WILL BE ACCEPTED AFTER THAT DATE AND TIME. Bids are to be opened on **Wednesday, December 13, 2023, at 11:00 a.m.**, Local Time, in the Public Works Conference Room, Benton County Public Services Building, Kennewick, Washington. Contractor's Bid Proposal shall include the complete Proposal, consisting of seven (7) pages and the proposal bond is to be enclosed in a sealed envelope marked, "BID FOR 2023 CRUSHING – CE 2146 CRP".

Section 3-01.2(4) Production Requirements is further supplemented with the following:

This is the sieve analysis for the modified base course, Bid Item #8

Sieve Size	Percent Passing
1 ¼ " square	100
5/8" square	75-90
U.S. No. 4	40-55
U.S. No. 40	8-24
U.S. No. 200	10.0 max.
% Fracture	75 min.
Sand Equivalent	40 min.

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PROPOSAL
FOR BIDDING PURPOSES

For Construction of:

2023 CRUSHING

CE 2146 CRP

INCLUDES:
PROPOSAL
- **ASSURANCE OF NON-DISCRIMINATION**
- **NON-COLLUSION DECLARATION**

PROPOSAL BOND
PROPOSAL FOR INCORPORATING RECYCLED MATERIALS
CERTIFICATION OF COMPLIANCE WITH WAGE PAYMENT STATUTES

PUBLIC WORKS DEPARTMENT

COUNTY OF BENTON WASHINGTON

Bid No: 23-23

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	December 19, 2023
Subject:	Permission to Advertise & Proceed with the Justice Center HVAC Upgrade Project
Presenter:	
Prepared By:	P. Schut
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:**	
☒ 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:
On May 7, 2019, the Clean Buildings bill (HB 1257, 2019) was signed into law. The objective is to lower costs and pollution from fossil fuel consumption in the State's existing buildings, especially large commercial buildings. The law requires the Washington State Department of Commerce to develop and implement an energy performance standard for these buildings and provide incentives to encourage efficiency improvements.

Clean Buildings Performance Standard:
In 2019, the Legislature directed Commerce to adopt the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Standard 100-2018 as a base, and establish energy use intensity targets (EUI) specific to Washington state for different building occupancy types.
Commerce conducted 15 workshops and comment periods from 2019 through 2020 to establish the new standard and set state-specific targets that are 15% less than 2009-2018 averages. The targets are based on data showing the average energy use for commercial buildings larger than 50,000 square feet as well as the downward trend in energy use resulting from new technology and maintenance or operation practices. Examples include the replacement cycle of lighting to LEDs and trends in building tune-ups and operations.
The new rules filed on October 30, 2020, known as WAC 194-50, implement Washington's landmark Clean Buildings Performance Standard enacted in 2019 (Chapter 285, Laws 2019). The law required Commerce to develop and implement an energy performance standard for commercial buildings greater than 50,000 square feet and provide incentives to encourage energy efficiency improvements. Industrial and agricultural buildings are exempt from the standard.

How to Comply:
The Clean Buildings Performance Standard is mandatory for all covered commercial buildings located in the State of Washington. A covered commercial building is a building where the sum of nonresidential, hotel, motel, and dormitory floor areas exceeds 50,000 gross square feet, excluding the parking garage area.
The building owner of a covered commercial building must report compliance with the standard to the department in accordance with the initial compliance schedule as follows and every five years thereafter.
Compliance dates are by building size

- **June 1, 2026 –** 220,001+ square feet
- **June 1, 2027 –** 90,001- 220,000 square feet
- **June 1, 2028** – 50,000- 90,000 square feet

Building owners will receive a letter with instructions on how to log into the Clean Buildings Portal to verify the accuracy of the building's characteristics and to submit required compliance documentation.

Potential of Fines/Penalties:
The Washington State Department of Commerce will penalize building owners in the case of noncompliance. Penalties of up to $5,000 annually plus a daily fine of up to $1 per year per square foot will be assessed. Fines are not to exceed 18 months of accrued penalty.

How does it apply to Benton County?
Benton County received its notification on October 15, 2021, from the Department of Commerce. The letter listed that Benton County had two buildings under the Health District Building and the Kennewick Justice Center/Jail Facility. After the initial review, it was determined internally that the Health District Building does not meet the 50k sqft threshold. County Staff will work with the State to ensure that Health District Building is removed from the list. The Kennewick Justice Center/Jail does meet the requirement as the entire building is approximately 275k sqft. As the requirements stated above, the County will have to bring the Kennewick Justice Center/Jail Facility into compliance by June 1, 2026, if it doesn't already meet the benchmark performance requirements.

What steps have been taken?
The County has completed the necessary energy audit it was found that the Justice Center Facility does not meet the new clean building performance standards and will need to come into compliance by the June 1, 2026, deadline mentioned above.

Once it was determined that the Justice Center Facility didn't meet the new standards, the Facilities & Capital Programs staff went through a capital planning effort to find out what could be done to meet the new standards. Through the capital planning effort, fifteen projects that would result in energy savings were identified. After a thorough review of the projects, it was determined that only four of those projects were needed to meet the new energy performance standards. The projects are as follows:

- HVAC Controls Modernization
- AHU 1 Modernization & Upgrade
- AHU 2 Replacement
- New Central Chilled Water System

All four of these projects were able to be added to the 2023-2028 Capital Improvement Plan that the Board of County Commissioners approved in November 2022, and staff began researching how best to get these projects completed. We looked at a couple of options, the first being Energy Saving Performance Contracting through Washington State DES and the second being the Progressive Design Build process as allowed by RCW 39.10.300.

Staff ultimately chose to pursue the Progressive Design Build route and presented it to the Project Review Committee on Nov 30, 2023. We were approved to move forward utilizing this alternative delivery method.

What are the next Steps?

The Staff's next step in this process is to go through the RFQ/RFP Process to bring on a Contractor/Engineer who is going to partner with the County to ensure these projects are completed by the deadline.

Once the process is completed, Staff will bring back a contract to the Board of County Commissioners for approval to move forward with the project.

Fiscal Impact

Amount: n/a

Fund: Capital Projects Fund

Recommendation

The Purchasing & Capital Programs Departments recommend that the Board formally grant permission to go to advertisement and proceed with selecting a Contractor/Engineer for the Justice Center HVAC Upgrade Project.

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 FOR SELECTION OF A CONTRACTOR/ENGINEER FOR THE JUSTICE CENTER HVAC UPGRADE PROJECT

WHEREAS, it was found that Kennewick Justice Center does not meet the new clean building performance standard as set forth in the Clean Buildings Act; and

WHEREAS, the Facilities and Capital Programs Departments have identified several projects that bring the Justice Center Facility into compliance; and

WHEREAS, Benton County has received approval from the Washington State Project Review Committee to proceed with the project utilizing the Progressive Design Build Process; **NOW, THEREFORE,**

BE IT RESOLVED the Board of County Commissioners authorize the Purchasing Department to proceed with the advertisement and selection process for the Justice Center HVAC Upgrade Project.

Dated this 9th day of January 2024

_____
Chairman of the Board

_____
Chairman Pro-Tem

_____
Commissioner

Attest:_____
Clerk of the Board

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

Orig: Purchasing Dept. P. Schut
cc:

	REQUEST FOR QUALIFICATIONS (RFQ) **Benton County, Washington**	
RFQ TITLE	**Justice Center HVAC Upgrade Project**	
DATE ISSUED	January 9, 2024	
PURPOSE	Benton County is soliciting statements of qualifications from Design-Build project teams to provide Progressive Design-Build services pursuant to RCW 39.10.300-.320 (“DB Delivery Method") for the proposed TRBHRC	
DEADLINE FOR SUBMISSIONS	January 31, 2024 3:00 P.M. Pacific Local Time Late submittals will not be accepted.	
PRE-SUBMITTAL CONFERENCE	There is no pre-submittal conference for this solicitation.	
LAST DATE TO SUBMIT QUESTIONS	**The last date to submit questions regarding this RFQ is January 24, 2024, at 3:00 p.m. Pacific Local Time.**	
DIRECT ALL INQUIRIES TO	**BUYER**	Robert Blain
	TITLE	Director of Operations & Capital Programs
	EMAIL	**Procurement@co.benton.wa.us**
	PHONE NO.	(509) 736-2704
REQUIRED NO. OF COPIES	**Submit (1) one original electronic submission**	
ELECTRONIC SUBMITTAL	All required documentation shall be submitted to **Procurement@co.benton.wa.us** See section 4.2 Electronic Submittal for detailed instructions.	
RESULTS OF SUBMITTALS RECEIVED	A list of submittals received will be posted to www.co.benton.wa.us under Featured Links-Purchasing (RFP, RFQ) shortly after the due date and time. Submittals will remain confidential until the County makes a decision on an award.	

TABLE OF CONTENTS

1. Introduction 1
1.1 Background and Purpose 1
1.2 Minimum Qualifications 2
1.3 Period of Performance 2
1.4 Definitions 2

2. Project Delivery and Selection Process 3
2.1 Project Delivery 3
2.2 Selection Process 4

3. General Information 6
3.1 RFQ Coordinator 6
3.2 Estimated Schedule of Procurement Activities 6
3.3 Submission of Statement of Qualifications (SOQ) 7
3.4 Proprietary Information/Public Disclosure 7
3.5 Revisions to the RFQ 7
3.6 Minority & Women-Owned Business Participation 8
3.7 Acceptance Period 8
3.8 Responsiveness 8
3.9 Costs to Propose 8
3.10 Rejection of Statement of Qualifications 9

4. Statement of Qualification Contents 9
4.1 Mandatory Qualifications 9
4.2 SOQ Evaluation Criteria 10
43 Letter of Submittal 11
4.4 Statement of Qualifications 11

5. Evaluation 13
5.1 Evaluation Weighting and Scoring 13
5.2 Award of Contract 14
5.3 Debriefing of Unsuccessful Proposers 15
5.4 Protest Procedure 15

6. Contract Terms 16
6.1 Anti-Kickback 16
6.2 Disputes 16
6.3 Nondiscrimination 16
6.4 Insurance Coverage 17

7. Attachments 17

BENTON COUNTY
REQUEST FOR QUALIFICATIONS
RFQ: Justice Center HVAC Upgrade Project
SUBMITTALS DUE: January 31, 2024 3:00 p.m., EXACTLY, Pacific Local Time

Public notice is hereby given that Benton County, Washington has issued the above solicitation for Design-Build (DB) services for the Justice Center HVAC Upgrades Project. The submittal documents are available at www.co.benton.wa.us under Featured Links-Purchasing (RFP, RFQ) under Benton County, Washington designated webpage.

Contact our Purchasing Department directly if unable to access documents online at Procurement@co.benton.wa.us. If unable to reach the Purchasing Department, contact Robert Blain at (509) 736-2704.

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

1. INTRODUCTION

1.1. BACKGROUND AND PURPOSE

1.1.1. Benton County (hereinafter “County”) is located at the confluence of the Columbia and Yakima rivers in Southeastern Washington. The county seat is located in Prosser, and its largest city is Kennewick. Benton County was created on March 8, 1905, and was named after U.S. Senator Thomas Hart Benton. Benton County operates under the plural executive form of government, under the Revised Code of Washington Title 36 (RCW 36), with three commissioners and seven other elected officials.

1.1.2. The County is initiating this Request for Qualifications (RFQ) to solicit Statements of Qualifications (SOQs) from Design-Build Project Teams interested in providing Progressive Design-Build services pursuant to (RCW 39.10.300-.320) for the Justice Center HVAC Upgrade project.

1.1.3. The 275,000 SF Justice Center was constructed in 1983 and expanded in 2001. Facilities include both Court & Detention Operations for the entire County. A Level 2 ASHRAE Energy Audit and capital planning effort identified 15 improvements suggested to improve the overall energy efficiency of the facility, with 3 specific projects being selected as the highest need.

1.1.4. The proposed project will consist of upgrading major HVAC components of the Benton County Justice Center to meet compliance of the Clean Buildings Act. Projects will include, but not limited to, the following:

- Update/Modernize the building automation and controls system (BACS)
- Replace/Modernize at least two air-handling units
- Installation of central chilled water system

1.1.5. The proposed Guaranteed Maximum Price (GMP) for the project is $9 Million.

1.1.6. Schedule. Anticipated Notice to Proceed: April 24, 2024, Substantial Completion Winter 2025 and Closeout Spring of 2026.

1.1.7. Procurement Approach. The County recently received approval from the Capital Project Advisory Review Board Project Committee to use the progressive design-build (DB) delivery method for this project.

1.1.8. The County plans to short list up to three firms to enter the RFP phase. The County’s intent is to limit the DB Team’s efforts required during the RFP phase (including submittal requirements) and select the most qualified team based on criteria described in detail in this RFQ and the subsequently issued RFP.

1.1.9. In response to the subsequently issued Request for Proposals, the DB Teams will be required to submit a Price Proposal with the following elements:

A. A Lump Sum Fee for the project. The Lump Sum Fee will be further explained in the RFP but is anticipated to include the Design-Builder's overhead and profit costs. This Fee Proposal will be delivered in a sealed envelope and not opened until all other evaluation criteria have been scored.

1.1.10. After the DB Team is selected, and as the design/budget progresses, the DB Team will collaborate with and update the County regarding the development of the Basis of Design Documents.

A. The primary project goals are to construct the project with the best value to the County within the stated budget and in the shortest time frame that can reasonably be achieved. The following are related project goals:
- Perform the HVAC upgrades to the existing systems in a continuously active Court and Corrections Facility with the minimum of disruptions to day-to-day operations.
- Establish a collaborative relationship between the County and the Design-Build Team to deliver quality design and construction as quickly as possible.
- Phase the project to minimize disruption and maximize efficiency.
- Manage the procurement of Long Lead items effectively to result in the shortest schedule possible.
- Maximum upgrades to the system while maintaining the project budget and meeting the improved energy and control goals of EUI of 95.2.
- Maintain a safe, injury free work site within a secure facility.

1.2. MINIMUM QUALIFICATIONS

See Section 4 below.

1.3. PERIOD OF PERFORMANCE

The period of performance of any contract resulting from this RFQ and RFP process is tentatively scheduled to begin in April of 2024, and be complete by June of 2026.

1.4. DEFINITIONS

Definitions for the purposes of this RFQ include:

1.4.1. County – The County is Benton County, Washington, a political subdivision that is issuing this RFQ.

1.4.2. Contract Documents – As defined by the Agreement.

1.4.3. Design-Build Team – Individual/s or company/team whose Proposal has been accepted by the County and is awarded a fully executed, written contract.

1.4.4. Design-Build Team Member – A company who is part of the Design Build Team.

1.4.5. Key Team Member – An individual who works for a Design-Build Team that is explicitly named in the request of qualifications as part of the evaluation and qualifications determination.

1.4.6. Projects of Similar Scope and Complexity - The definition of “Projects of Similar Scope and Complexity” are projects that had completion dates within the last ten (10) years and that have two or more of the following characteristics:

A. Projects of a similar size that include design and construction of HVAC upgrades based on the Clean Building Act. (Do not have to be completed to meet this criteria)
B. Projects involving multiple phases where the design and construction were fast tracked and achieved schedule efficiencies.
C. Projects in an operational Secured Facility.
D. Projects that utilize an alternative contracting method like (or specifically) progressive design build. (Alternative contracting where design, construction and pricing were in some way integrated, and included an element of fixed pricing ahead of full design)

1.4.7. Proposal – A formal offer submitted in response to a solicitation.

1.4.8. Proposer -- Individual or company submitting a Proposal to attain a contract with the County.

1.4.9. Finalist – Proposer selected to proceed to the RFP phase.

1.4.10. Request for Qualifications (RFQ) – Formal procurement document in which a service or need is identified. The purpose of an RFQ is to solicit the Design Build community to submit their qualifications and experience for evaluation and short list Design Builders to proceed to the RFP phase.

1.4.11. Request for Proposals (RFP) – Formal procurement document in which a service or need is identified. The purpose of an RFP is to solicit the shortlisted Design Builders to submit their management approach, and pricing component for evaluation and selection of the highest scored proposer.

2. PROJECT DELIVERY AND SELECTION PROCESS

2.1. PROJECT DELIVERY

2.1.1. This Project has been approved by the Washington State Project Review Committee for use of the "Progressive Design-Build" (PDB) delivery system pursuant to RCW

39.10.280. Use of the PDB delivery method provides an economic benefit by providing cost-effective design and construction. The County is also using the PDB delivery method to contract with a single entity for both design and construction. The design and construction services shall be set forth in a Design-Build Agreement, the Draft form of which is provided with this RFQ.

2.2. SELECTION PROCESS

2.2.1. RFQ Phase. Proposers shall submit a Statement of Qualifications “SOQ” pursuant to this RFQ and any addenda. The County shall initially determine whether DB Teams are "Responsive and Responsible" with respect to the submission of the SOQ.

2.2.2. Short List. The County will establish a selection committee and evaluate each Project Team responding to this RFQ solely upon the factors, weighting and process identified in this RFQ and any addenda thereto. Based on the selection committee’s findings, the County intends to short list no more than three responsive and responsible finalists to submit proposals.

2.2.3. The County will notify all Respondents, via the purchasing portal, of the Finalists selected to move to the next phase of the selection process. The procurement process will not proceed to the next phase until at least two (2) business days after all respondents are notified of the committee’s shortlisting and no protests are submitted. The County will provide all Respondents with a scoring summary of all Responses. A Respondent may request a debrief after Award of the Contract.#

2.2.4. RFP Phase. The County will provide the short-listed firms a Request for Proposal ("RFP"), including addenda, that will contain a description of the Project generally as described in this RFQ and any addenda, including the OWNER’s expectations with a detailed description of the project including programmatic, performance, and technical requirements; functional and operational elements; and the target budget for the design-build portion of the project in accordance with the intent of RCW 39.10.330(3). The County will notify all proposers of the Finalists selected to move to the next phase of the selection process. At the written request of a Proposer not selected as a Finalist, the County will provide the requesting Proposer with a scoring summary of the evaluation factors for its SOQ.

2.2.5. Proprietary Site Visit/Meetings. After the release of the RFP, the County will host a site visit and informational meeting with each Finalist. This session will not be scored. The intent of which is to view the project site and existing operations, providing Finalist teams with information on owner goals and expectations of the Project. . Finalist teams are encouraged to take notes that can assist in narrowing down approaches and solutions to the challenges of the Project. Questions regarding the RFP and RFP process must be submitted for official response by the County.

2.2.6. Proposal and Fee. After the Proprietary Site Visit/ Meetings, Teams will submit a proposal responsive to the RFP and any addenda, which is anticipated to require, at a

minimum, a risk mitigation response, a technical approach, a management approach to meet the time and budget requirements and other factors including, but not limited to design management, GMP Development and similar. Finalists will also be required to submit a Fee Proposal.

2.2.6.1. **RFP Scoring.** The RFP, in early draft form, is intending to score and rank each Finalist's proposal around Overall approach to Validation and Management (25%), Approaches to design and upgrades (20%), Project controls approach to budget and schedule (25%), and Approach to working in this secured facility (30%) topics that will be refined with the published RFP. Proposals will also score the proposed Design-Build Fee (10%) that will be applied to each Phase of the Design Build contract as described in the Agreement and the Phase 1_2 Scope of Work. The Owner is *not* anticipating conducting an interview . Proposals are anticipated to be scored good, better, best with weighted priorities around risk management, scope, schedule, and budget.

2.2.7. Final Selection. The selection committee will evaluate the Proposals based solely on the factors, weighting, and process identified in the RFQ, the RFP and in any addenda. The County will then initiate negotiations with the firm submitting the highest scored proposal. If the County is unable to execute a contract with the firm submitting the highest scored proposal, negotiations with that firm may be suspended or terminated, and the County may proceed to negotiate with the next highest scored firm. The County shall continue in accordance with this procedure until a contract agreement is reached or the selection process is terminated. The County shall notify all finalists of the selection decision and make a selection summary of the final proposals available to all proposers within two business days of such notification.

2.2.8. Honorarium. Responsible Finalists who submit responsive Proposals and fully participate in the entire procurement process set forth in this RFP and who are not selected will each receive a $1,000 stipend 60 days after the later of 1) highest-ranking Project Team is selected and confirmed at a meeting of the Board of County Commissioners and 2) successful negotiation and signing of the design-build contract.

2.2.9. Expenses. With the exception of the honorarium set forth herein, the County accepts no liability for the costs and expenses incurred by firms in responding to this Procurement. Each Proposer that enters into the Procurement process shall prepare the required materials, the SOQ and the Proposal at its own expense and with the express understanding that it cannot make any claims whatsoever for reimbursement from the Owner for the costs and expenses associated with the process even in the event the County cancels this Project or rejects all Proposals. Proposers and Finalists will pay their own expenses for travel and participation in the Proprietary Meetings and the Interviews.

3. GENERAL INFORMATION

3.1. RFQ COORDINATOR

3.1.1. The RFQ Coordinator is the sole point of contact in the County for this procurement. All communication between the Proposer and the County upon receipt of this RFQ shall be with the RFQ Coordinator, as follows:

Name	Robert Blain
Phone Number	(509) 736-2704
E-Mail Address	Procurement@co.benton.wa.us

3.1.2. Any other communication will be considered unofficial and non-binding on the County. Proposers are to rely on written statements issued by the RFQ Coordinator through Benton County. Communication directed to parties other than the RFQ Coordinator may result in disqualification of the Proposer.

3.2. ESTIMATED SCHEDULE OF PROCUREMENT ACTIVITIES

ITEM	DATE	TIME	LOCATION
DB RFQ Advertisement	1/9/24		
Last Day to Submit RFQ Questions	1/19/24	**3:00 PM**	Procurement@co.benton.wa.us
RFQ Last Addendum Issued	1/24/24		
Statement of Qualifications Due	**1/31/24**	**3:00 PM**	Procurement@co.benton.wa.us
Short List Announced	2/8/24		
RFP Issued	2/13/24		
Proprietary Site Walks/Meetings	Week of 2/19/24	TBD	
Last Date to Submit RFP Questions or Proposed Changes to Contract	2/26/24		
RFP Last Addendum Issued	2/28/24		
Proposals Due	**3/5/24**	**3:00 PM**	Procurement@co.benton.wa.us
Selection of Design-Build Project Team	3/14/24		
Contract approval	4/23/24		
Anticipate NTP	4/25/24		

***** Substantial and Final Completion dates will be set by the team upon selection.

The County reserves the right to revise the above schedule.

3.3. SUBMISSION OF STATEMENTS OF QUALIFICATIONS (SOQ)

3.3.1. Preparation of Submission

A. Submittals shall be submitted electronically at Procurement@co.benton.wa.us. Submittals delivered by fax, or telephone or any postal carrier will not be accepted.

B. Electronic submittals shall be limited to the documents specified in the RFQ document and shall not include additional brochures, booklets or other sales material that are not specifically requested in the RFQ.

1) It is strongly recommended that you follow up with a phone call to confirm your packet has been received prior to the closing date and time for submittal. You may contact the Purchasing Department at (509) 736-2704.

3.4. PROPRIETARY INFORMATION / PUBLIC DISCLOSURE

3.4.1. Materials submitted in response to this competitive procurement shall become the property of the County.

3.4.2. All received SOQs shall remain confidential until the award of contract recommendation has been approved by the Benton County Board of Commissioners. Thereafter, the SOQs/Proposals shall be deemed public records as defined in RCW 42.56, "Public Records Act."

3.4.3. Any information in the SOQ that the Proposer desires to claim as proprietary and exempt from disclosure under the provisions of state law shall be clearly designated. Each page claimed to be exempt from disclosure must be clearly identified by the word "Confidential" printed on it. Marking the entire SOQ exempt from disclosure will not be honored.

3.4.4. The County will consider a Proposer's request for exemption from disclosure; however, the County will make a decision predicated upon state law and regulations. If any information is marked as proprietary in the SOQ, it will not be made available until the affected Proposer has been given an opportunity to seek a court injunction against the requested disclosure.

3.4.5. All requests for information should be directed to the RFQ Coordinator.

3.5. ADDENDA, REVISIONS TO THE RFQ

3.5.1. Any revisions to the RFQ will be posted on the website and it is the responsibility of any company intending to bid to check the website.

3.5.2. The County also reserves the right to cancel or to reissue the RFQ in whole or in part, prior to final award of a contract.

3.5.3. Should a Respondent find any discrepancies, omissions, or confusion as to the meaning in any procurement document, the Respondent is responsible to seek clarification and notify the County in writing through the question-and-answer process.

3.5.4. A responsive submittal must acknowledge all addenda issued.

3.6. MINORITY & WOMEN-OWNED BUSINESS (DIVERSE) PARTICIPATION

3.6.1. The County is committed to including "diverse" businesses in all County contracts.
3.6.2. Diverse businesses are encouraged to apply.
3.6.3. The Design Builder is expected to make every effort to ensure "diverse" businesses are included on the Project as required by the Contract Documents.
3.6.4. For purposes of this solicitation and Project, "diverse" businesses include, but are not limited to:
- 3.6.4.1. Minority Owned Business Enterprises
- 3.6.4.2. A business that is at least 51% owned, operated, governed, and controlled by a minority person of color and is certified as such.
- 3.6.4.3. Women Owned Business Enterprises
- 3.6.4.4. A business that is at least 51% owned, operated, governed, and controlled by a woman and is certified as such.
- 3.6.4.5. Women-Minority Business Enterprises
- 3.6.4.6. A business that is at least 51% owned, operated, governed, and controlled by a minority, person of color, women and is certified as such.
- 3.6.4.7. Small Business Enterprises
- 3.6.4.8. A business that has a 3-year average gross annual receipts at or below the Small Business Administration (SBA) threshold and is certified as such.
- 3.6.4.9. Veteran Owned Business Enterprises
- 3.6.4.10. A business with diversity registration designated under the Veteran Benefits, Health Care and Information Technology Act of 2006.

3.6.5. The County encourages participation in all of its contracts by entities certified by the Washington State Office of Minority and Women's Business Enterprises (OMWBE). Proposers may contact OMWBE at www.OMWBE.wa.gov to obtain information on certified entities.

3.7. ACCEPTANCE PERIOD

3.7.1. Statement of Qualifications shall remain in effect until Award of the Design Build contract.

3.8. RESPONSIVENESS

The Proposer is specifically notified that failure to comply with any part of the RFQ may result in rejection of the SOQ as non-responsive. The County also reserves the right, however, at its sole discretion to waive minor administrative irregularities. The County reserves the right to contact a Proposer for clarification of its SOQ.

3.9. REJECTION OF STATEMENT OF QUALIFICATIONS

The County reserves the right to cancel at any time for any reason this solicitation and to reject all SOQs. The County shall have no liability to any respondent arising out of such cancellation or rejection. The County reserves the right to waive minor variations in the selection process.

3.10. SUBSTITUTION OF DESIGN-BUILDER AND KEY TEAM MEMBERS

Design-Build Team Members and Key Team Members included by the Design-Builder in the SOQ (collectively "Team Members"), will be used as a basis for selection. Substitution of Team Members at any time during the solicitation process and in the performance of the work will not be allowed without written authorization from the Owner, which shall not be unreasonably withheld. Proposers and Finalists must submit the qualifications information of all proposed substituted Team Members to the Owner. Even with written authorization from the Owner, a change to any submitted Team Member will result in re-evaluation and may result in a change to the evaluation and ranking of the Proposer, which may result in the removal of a Finalist from the short list.

4. STATEMENT OF QUALIFICATION CONTENTS

4.1. MANDATORY QUALIFICATIONS (REQUIREMENTS)

To be eligible to participate in this procurement a potential design build team needs to meet mandatory requirements and qualifications. Those that do not meet the minimum qualifications will not be eligible to participate and will be rejected as not responsible.

The Respondent **team** will be checked by the County to ensure each of the following mandatory requirements are met both at the time of RFQ response and prior to Award. Please note where the lead designer together with builder must meet mandatory requirements. ***Respondents will attest to the requirements using Attachment B.2***:

A. The builder must have a certificate of registration in compliance with chapter 18.27 RCW
B. Both the **designer** and **builder** must have a current state unified business identifier number.
C. Both the designer and builder must have a Unique Entity ID (UEI) registered with the Federal Government at sam.gov
D. If applicable to any team member firm, have industrial insurance coverage for the Design-Builder's employees working in Washington as required in Title 51 RCW.
E. If applicable to any team member firm, have an employment security department number as required in Title 50 RCW.
F. If applicable to any team member firm, have a state excise registration number as required in Title 82 RCW.
G. Designer and Builder cannot be disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065; and the federal government as confirmed by eligibility for award status in SAM.gov.
H. The builder has not been found out of compliance by the Washington State apprenticeship and training council for working apprentices out of ratio, without appropriate supervision, or outside their approved work processes as outlined in their standards of apprenticeship under chapter 49.04 RCW for the one-year period immediately preceding the date of this solicitation.
I. If required, the builder has received training on the requirements related to public works and prevailing wage under this chapter and chapter 39.12 RCW. Proposers that have completed three or more public works projects and have had a valid business license in Washington for three or more years are exempt from this subsection.
J. Within a three-year period immediately preceding the date of this solicitation, not have been determined by a final and binding citation and notice of assessment issued by the department of labor and industries or through a civil judgment entered by a court of limited or general

jurisdiction to have willfully violated, as defined in RCW 49.48.082, any provision of chapter 49.46, 49.48, or 49.52 RCW

K. Provide evidence of capacity, in the form of a letter from your underwriter, of the Design-Builder ability to bond in the amount of the estimated GMP. (An actual bond does not need to be submitted with the SOQ, but inability to provide the required bonding capacity will result in disqualification).

L. Both the designer and the builder provide a copy of certificate(s) of insurance (COI) showing the ***current limits*** of commercial general liability, employer's liability, business automobile liability, and professional liability. If COI is not available a letter from your surety is acceptable. Insurance requirements will be finalized during contract negotiations.

M. Both the designer and the builder can attest to having no OSHA categorized Serious Violations within the last 3 years. (www.osha.gov)

N. Disclose past or current bankruptcies, convictions, debarments, or suspensions involving the lead contractor and the designer-of-record for the OWNER to review. (See Owner Form, Attachment B.3)

O. Disclose litigation/dispute history for the lead contractor and the designer-of-record for the last five years for the County to review. (Attachment B.2)

P. Attest that the designer and builder team members do not have any real, or perceived, conflicts of interests or business dealings with County employees, officers, agents or similar. (See Attachment B.3)

4.2. SOQ ORGANIZATION AND REQUIREMENTS

4.2.1. The SOQ shall be organized in accordance with the Evaluation Criteria.

4.2.2. The SOQ, when printed, shall be limited to a maximum of two (2) A3 (11 x 17) pages plus up to eight (8) single sided 8.5 x 11 pages for resumes of Key Team Members.

a. The only documentation that is not included in the page count is the following:

a. Letter of Submittal.

b. Cover Letter (two-page limit)

c. Statement of Proposer’s Ability to Provide Performance and Payment Bond.

d. Statement of Proposer’s Ability to Meet the District’s Insurance Requirements.

e. Corporate Structure Questionnaire.

b. SOQs that exceed the page limit may be rejected. The County, at its sole discretion, reserves the right to remove pages from the sections of any non-conforming SOQ submittals to bring each non-conforming SOQ submittal within the page count requirement.

c. A “page” shall be defined as one single-sided piece of paper that has words, charts, tables, pictures, or graphics.

d. The font should be no smaller than 11 point and readable.

4.3. LETTER OF SUBMITTAL

4.3.1. The Letter of Submittal shall be signed and dated by a person authorized to legally bind the Design Builder to a contractual relationship, e.g., the president or executive director if a corporation, the managing partner if a partnership, or the proprietor if a sole proprietorship. Along with introductory remarks, the Letter of Submittal is to include the following information about the Design Builder and any proposed subcontractors:

A. Name, address, principal place of business, telephone number, and fax number/e-mail address of legal entity or individual with whom contract would be written.

B. Legal status of the Design Builder (sole proprietorship, partnership, corporation, etc.).

C. Location of the facility from which the Design Builder would operate.

D. Identify any current or former County employees employed by or on the Design Builder's governing board as of the date of the Proposal or during the previous twelve (12) months.

E. Statement of Acknowledgement that the Design Builder will comply with all terms and conditions set forth in the Request for Qualifications, unless otherwise agreed by the County.

4.4. STATEMENT OF QUALIFICATIONS

4.4.1 Cover Letter (Weighting Priority 1: low)

Each Respondent is to provide a cover letter briefly introducing the County to the proposed team and why this team, with their experience and skills is the best team for this Project.

Teams should also use the Cover Letter to provide business information for all identified Key Team Members that are not the identified Design-Builder and the Designer of Record noted on the Cover Form. The County will be conducting responsibility evaluations on all subconsultants on the Team.

4.4.2 Demonstrated history of projects with Similar Scope, Size and Complexity

1. **<u>Renovation (Priority Weighting 3: High)</u>**

Highlight and discuss one (1) successful renovation project the team worked on and its many challenges. After a brief project description and identification of the key team member(s) involved, discuss how you were able to successfully address the challenge without using all the project budget or excessively extending the schedule. Explain why this project might have been successful or how the lessons learned brings value to this Project.

2. **<u>Working in an Occupied Secured Facility (Priority Weighting 3: High)</u>**

Highlight and discuss one (1) successful project the team worked on in an occupied secured facility. After a brief project description, and identification of the key team member(s) involved, discuss how your team approached the work and procedures to ensure the security of the facility. Explain why this project example has prepared your team to be the best team to deliver for this Project.

3. **Alternative delivery, GMP, and/or Target Value Design (Priority Weighting 2: Medium)**

   Highlight, and discuss one (1) project your team was involved in where the project was delivered using an alternative method to "low bid/design-bid-build," and where a guaranteed maximum price/maximum allowable amount was set by your team, and/or where target value design was utilized (not value engineering) and or some combination of pricing and design combination early in the life of the project was used. After a brief description, and identification of the key team member(s) involved, discuss how this project provided you with the skills and experience to working as an integrated team where you felt most successful in setting cost early, designing and building simultaneously, or similar. This project should demonstrate your experience, and possible successful approach to using the important elements of design-build.

4.4.3 Design-Build Team Organization and Responsibilities (Priority Weighting 3: high)

A. **Provide an organization chart** (showing proposed Design-Build Team Members, Key Team Members, and their firm affiliation) for *all phases* of the Project from programming through final acceptance and warranty period.

Provide a description of the Key Team Member's proposed Project role and Why the Design-Build Team proposed in this SOQ will meet or exceed expectations on this Project.
Key Team Members must include, at a minimum, the following individuals:

a. Corporate executive(s) dedicated to the project (demonstration only),
b. **DB Project Manager**
   i. *Phase 1 (design, preconstruction) Lead* (if different from the DB Project Manager)
   ii. *Phase 2 (construction) Lead* (if different from the DB Project Manager)
c. **Lead Estimator**
d. **Superintendent**
e. **Design Manager** (design lead, or similar)
   i. Designer(s) of Record
f. Clearly indicate whether any individuals are proposed to fill multiple roles.

The County reserves the right to reject the inclusion of any individual or subconsultant/subcontractor firm from the Design Build team.

B. **Additional proposed Key Team Members**

The County recognizes the importance of the team members and structure in a design-build project and further acknowledges that a team may be staffed in such a way that makes your approach to design-build stand out from other teams. ***If you would like, please propose additional (beyond the list above) key team members and roles you believe are important to your success. If you are proposing additional members include title, roles, responsibilities, resumes, percentages, and other information as required from other Key Team Members.***

C. **Resumes of Key Team Members (Weighting priority 1: Low)**

Provide a relevant, tailored project resume for all Key Team Members (including additional roles). Resumes should be no longer than one page, single side and should include the following information:

1. Last 10 years of employment, firms, roles, and relevant employment information
2. Identification of specialized experience and competence on at least two (2) Projects of Similar Scope and Complexity.
3. Certifications, licenses, and/or specialized training such as Design Build Institute of America (DBIA) designation, if applicable. (Not required)

4.4.4 Past Utilization of OMWBE Certified Businesses (Weighting Priority 1: low)

In table form, please list your past performance in the utilization of disadvantaged business enterprises for the past five years. This should be included on the A3 (11 x 17) sheets.

5. EVALUATION

5.1. WEIGHTING AND RANKING

5.1.1. In the evaluation and ranking of Respondents, the County will consider the information submitted pursuant to the RFQ with respect to the criteria stated herein. The result of the evaluation will be a comparative ranking of Respondents as Good (1), Better (2), Best (3) in each criterion. A "good" ranking represents acceptable experience, some demonstration of relevant skills, with below average overall comparative qualifications. A "better" ranking represents higher than average experience and skill in the identified categories and skills with average overall comparative qualifications. A "best" ranking representants exceptional experience and demonstration of skills with an excellent overall rating of comparative qualifications.

5.1.2. Each criterion is weighted low (1), medium (2), or high (3) of importance or priority to the County to help focus Responses.

5.1.3. The evaluation criteria will be given the following relative weights. Note, this information is subject to change.

SOQ Item	Weight
Cover Letter	1
Firm(s) Demonstrated History and Relevant Experience	
Renovation Experience (similarity)	3
Working in an Occupied Secured Facility	3
GMP, PDB, Alternative Delivery Experience (skills, practice)	2
Experience of Key Personnel	

Key Personnel (organization and structure, experience in the role)	3
Resumes (relevance, skill)	1
Past Performance: Inclusion of Diverse Businesses	
Past Performance Chart	1

** Scoring for the chosen finalists will be cumulative and include the SOQ, Proposal, Proprietary Site Meeting and Price Proposal.

** The Price Proposal will be delivered by the selected finalists at the time of the Proprietary meeting in a sealed envelope and opened after final scoring has been completed so as to not influence scoring of the Proposal and Proprietary Meeting.

5.2. AWARD OF CONTRACT

5.2.1. This RFQ does not obligate the County to award a contract. The County reserves the right to cancel at any time for any reason this solicitation and to reject all SOQs and/or Proposals. The County shall have no liability to any respondent arising out of such cancellation or rejection. The County reserves the right to waive minor variations in the selection process.

5.2.2. Benton County reserves the option of awarding this contract in any manner most advantageous for the County.

5.2.3. Award of contract, when made, will be to the proposer whose Proposal is the most favorable to the County, taking into consideration the evaluation factors. Benton County shall make the award of contract.

5.2.4. Reservation of Rights

The County reserves without limitation and may exercise at its sole discretion, the following rights and conditions with regard to this Procurement process:

A. To cancel the Procurement process and reject any and all SOQs and/or Proposals.

B. To waive any informality or irregularity.

C. To revise the Procurement Documents and schedule via an addendum.

D. To reject any Proposer that submits an incomplete or inadequate response or is not responsive to the requirements of this RFQ.

E. To require confirmation of information furnished by a Proposer, require additional information from a Proposer concerning its SOQ or Proposal and require additional evidence of qualifications to perform the work described in this RFQ or a subsequent RFP.

F. To provide clarifications or conduct discussions, at any time, with one or more Proposers.

G. To conduct reference checks for all DB Teams. The County may, at its sole discretion, consider the information obtained through this process and adjust the team's scores with respect to the factors identified above.

H. To contact references who are not listed in the Proposer's Proposals and investigate statements on the Proposals and/or qualification of the Proposer and any firms or individuals identified in the SOQ.

I. To consider alternative technical concepts and/or approaches identified by Proposers.

J. To take any action affecting the RFQ process, the RFP process, or the Project that is determined to be in the County's best interests.

K. Approve or disapprove of the use of particular Sub consultants, Subcontractors, or Key Team Members and/or substitutions and/or changes to Sub consultants, Subcontractors, or Key Team Members from those identified in the SOQ or Proposal.

5.3. DEBRIEFING OF UNSUCCESSFUL PROPOSERS

5.3.1. Upon request, a debriefing conference will be scheduled with an unsuccessful Proposer. Discussion will be limited to a critique of the requesting Design Builder's Proposal. Comparisons between Proposals or evaluations of the other Proposals will not be allowed. Debriefing conferences may be conducted by virtual meeting or on the telephone.

5.4. PROTEST PROCEDURE

5.4.1. The following protest procedures shall apply to any protest by any DB Team filing a protest with respect to any decision by the County regarding this procurement.

5.4.2. All protests regarding the form of the RFQ, the form of the RFP, or any actions or activities of the County in conducting the RFQ and/or RFP must be submitted by the date for submittal of the Statement of Qualifications for the RFQ and the Proposal for the RFP, as applicable. For example, any protest based on the RFQ, or any action taken by the County in the RFQ process must be submitted by the date set forth in the RFQ for submittal of the Statement of Qualifications.

5.4.3. Per RCW 39.1.330, the County shall notify all proposers in writing upon selection of the short-listed finalists and shall notify all finalists upon selection of the winning DB Team. The proposers not selected for either the short list or as the selected Design-Builder shall have 4 calendar days from notification to submit a protest. If there is a protest, the County will not advance to the next phase of the procurement (in the case of a Protest at the RFQ phase) or execute the contract with the winning team (in the case of a Protest at the RFP phase) until 2 calendar days after the final Protest decision is transmitted to the protestor.

5.4.4. Form of Protest: Form of Protest: In order to be considered, a protest shall be in writing, addressed to the Purchasing Department. The protest shall include the following:

A. The name, address, and phone number of the proposer protesting, or the authorized representative of the proposer submitting an RFQ or RFP.

B. The Solicitation Number and Title under which the Protest is submitted.

C. A detailed description of the specific grounds for Protest and any supporting documentation. It is the responsibility of the protesting proposer to supplement its Protest with any subsequently discovered documents prior to the Manager's decision: and

D. The specific ruling or relief requested.

5.4.5. Timeliness of Protest. Failure to submit a timely protest shall constitute a waiver of the right to submit a protest.

5.4.6. Determination of Protest. Upon receipt of a timely written Protest, the Purchasing Department shall investigate the Protest and shall respond in writing to the Protest prior to execution of the contract per the RCW's. The decision of the Purchasing Agent shall be final.

6. CONTRACT TERMS

6.1. ANTI KICKBACK

6.1.1. No officer or employee of Benton County, having the power or duty to perform an official act or action related to this contract shall have or acquire any interest in the contract, or have solicited, accepted or granted a present or future gift, favor, service or other thing of value from or to any person involved in the contract.

6.2. DISPUTES

6.2.1. Litigation shall be brought in the Superior Court of the county in which the Contracting Agency's headquarters is located, provided that where claims are asserted against a county, RCW 36.01.050 shall control venue and jurisdiction of the Superior Court.

6.3. NONDISCRIMINATION

6.3.1. No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this Contract because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation including gender expression or gender identity, national origin, honorably discharged veteran or military status, the presence of any sensory, mental or physical disability, or use of a service animal by a person with disabilities. The Contractor agrees to comply with, and to require that all subcontractors comply with, Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, as applicable to the Contractor.

6.4. INSURANCE COVERAGE

6.4.1. Refer to Exhibit B1 Insurance Exhibit for insurance requirements.

7. ATTACHMENTS

Attached to this RFQ and incorporated herein by reference are the following background documents:

7.1.1. ATTACHMENT 1 – Corporate Structure Questionnaire
7.1.2. ATTACHMENT 2 – Statement of Acknowledgement
7.1.3. ATTACHMENT 3 – Draft DBIA 530, Sample Progressive Design-Build Agreement Between Owner and Design-Builder – Cost Plus Fee with a Guaranteed Maximum Price; Insurance Requirements; Payment and Performance Bonds
7.1.4. ATTACHMENT 4 – Draft DBIA 535
7.1.5. ATTACHMENT 5 – Draft Exhibit A Scope of Work and Energy Audit Report by Sazan Group.
7.1.6. ATTACHMENT 6 – Site Map
7.1.7. ATTACHMENT B1 - Insurance Exhibit
7.1.8. ATTACHMENT B2 – Sample Public Works Payment Bond
7.1.9. ATTACHEMENT B3 – Sample Public Works Performance Bond

ATTACHMENT 1
CORPORATE STRUCTURE QUESTIONNAIRE
Benton County
Justice Center HVAC Upgrades Project

1) Proposers shall complete the following information for the Proposed Design-Builder:

Legal Name	
Street Address	
Mailing Address	
Point of Contact	
Position	
Email	
Telephone Number	
Fax Number	
Type of Business	
D-U-N-S Number	
Federal Tax Identification Number	
Washington State Contractor's Registration Number (if applicable)	
Washington State Unified Business Identifier Number	

2) If the Proposed Design-Builder is a Joint Venture, Proposers must:
   a. Submit the above information for the Joint Venture as well as for each member of the Joint Venture; and
   b. Attach a copy of the Joint Venture Agreement to this form.

ATTACHMENT 2

RFQ STATEMENT OF ACKNOWLEDGEMENT

Benton County Justice Center HVAC Upgrade Project

ALL PROPOSERS COMPLETE THIS PAGE AND INCLUDE WITH SUBMITTAL:

1. By submitting a response, the Proposer certifies that the Proposer has fully read and understands this RFQ document and has full knowledge of the scope, nature, quantity, and quality of work to be performed; the detailed requirements of the services to be provided; and the conditions under which the services are to be performed.
2. The Proposer certifies that he or she has read and understands all terms and conditions of this solicitation.
3. By signing this document, the Proposer certifies that they 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. If Benton County determines that collusion has occurred among the Proposers, none of the submittals from the participants of such collusion will be considered. Benton County's determination will be final.
4. The Proposer acknowledges that the person who signs below is fully authorized to sign on behalf of the firm listed and to fully bind the firm to all conditions and provisions thereof.
5. The Proposer acknowledges receipt of the following addenda: _____through _____.

Respectfully submitted this _____day of _____, 2024.

Name of Firm:_____

Address:_____

Signature:_____

Name (Print):_____

Title:_____

Email:_____

Phone:_____

PROGRESSIVE DESIGN-BUILD AGREEMENT BETWEEN OWNER AND DESIGN-BUILDER - COST PLUS FEE WITH A GUARANTEED MAXIMUM PRICE

Proposed Draft

Note: This document has been modified from the DBIA Form. A redlined copy will be provided upon request.

Document No. 530
Second Edition 2010
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Washington, DC

TABLE OF CONTENTS

Article	Name	Page
Article 1	Scope of Work	4
Article 2	Contract Documents	4
Article 3	Interpretation and Intent	4
Article 4	Ownership of Work Product	5
Article 5	Contract Time	6
Article 6	Contract Price	7
Article 7	Procedure for Payment	20
Article 8	Termination for Convenience	21
Article 9	Representatives of the Parties	22
Article 10	Bonds and Insurance	23
Article 11	Other Provisions	23

Proposed Draft

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Progressive Design-Build Agreement Between Owner and Design-Builder – with Cost Plus Fee and a Guaranteed Maximum Price

This document has important legal consequences. Consultation with an attorney is recommended with respect to its completion or modification.

This **AGREEMENT** is made as of the _____ day of _____ in the year of 20_____, by and between the following parties, for services in connection with the Project identified below:

OWNER:
(Name and address)

Benton County, Washington
7122 W. Okanogan Place
Kennewick, WA 99336

DESIGN-BUILDER:
(Name and address)

PROJECT:
(Include Project name and location as it will appear in the Contract Documents)

Justice Center HVAC Project

In consideration of the mutual covenants and obligations contained herein, Owner and Design-Builder agree as set forth herein.

Proposed Draft

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Article 1

Scope of Work

1.1 Design-Builder shall perform all design and construction services, and provide all material, equipment, tools and labor, necessary to complete the Work described in and reasonably inferable from the Contract Documents.

Article 2

Contract Documents

2.1 The Contract Documents are comprised of the following:

2.1.1 All written modifications, amendments, minor changes, and Change Orders to this Agreement issued in accordance with DBIA Document No. 535, *Standard Form of General Conditions of Contract Between Owner and Design-Builder* (2010 Edition, as amended) ("General Conditions of Contract"), including but not limited to the Validation and GMP Amendments in accordance with Section 6.6 herein, provided such Amendments are executed between the parties.

2.1.2 This Agreement, including all exhibits but excluding the GMP Amendment:

.1	Exhibit A:	Initial Basis of Design Documents
.2	Exhibit B1:	Insurance Exhibit – Design-Builder's Insurance Requirements
.3	Exhibit B2:	Form of Payment Bond
.3	Exhibit B3:	Form of Performance Bond
.4	Exhibit C:	Phase 1 and 2 Scope of Services
.5	Exhibit D:	Validation Period Level of Effort
.6	Exhibit E:	Hourly Rates, Unit Prices, and Allowance Items
.6	Exhibit F:	Form GMP Amendment
.7	Exhibit G:	Form Change Orders

2.1.3 The General Conditions of Contract; and

2.1.4 Design Submissions, the Design Log, and the Construction Documents prepared and approved in accordance with Section 2.4 of the General Conditions of Contract, the most recent approved documents governing over previously approved documents.

Article 3

Interpretation and Intent

3.1 Design-Builder and Owner, prior to execution of the Agreement, shall carefully review all the Contract Documents, including but not limited to the various documents in the Initial Basis of Design Documents set forth in Exhibit A, and the Phase 1 and 2 Scope of Services set forth in Exhibit C, for any conflicts or ambiguities. Design-Builder and Owner will discuss and resolve any identified conflicts or ambiguities prior to execution of the Agreement.

3.2 The Contract Documents are intended to be complementary and interpreted in harmony so as to avoid conflict, with words and phrases interpreted in a manner consistent with construction and design

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industry standards. In the event inconsistencies, conflicts, or ambiguities between or among the Contract Documents are discovered after execution of the Agreement or after the parties' execution of the GMP Amendment, Design-Builder and Owner shall attempt to resolve any ambiguity, conflict or inconsistency informally, recognizing that the Contract Documents shall take precedence in the order in which they are listed in Section 2.1 hereof. *(Note, the parties are strongly encouraged to establish in the GMP Exhibit or GMP Proposal (as applicable) the priority of the various documents comprising such exhibit or proposal.)*

3.3 Terms, words and phrases used in the Contract Documents, including this Agreement, shall have the meanings given them in the General Conditions of Contract.

3.4 If the Initial Basis of Design Documents contain design or prescriptive specifications the Design-Builder shall be entitled to reasonably rely on the accuracy of the information represented in such design or prescriptive specifications and their compatibility with other information set forth in Initial Basis of Design Documents, including any performance specifications for the purposes of developing the Scope of Services for the Validation Period, the Phase 1, the Validation Not to Exceed Amount, the Phase 1 Not to Exceed Amount and the Design-Builder's Fee Percentage. However, during Phase 1, Design-Builder is required to perform an independent evaluation of such design or prescriptive specifications to verify the information provided by the Owner. Further, regardless of the inclusion of design or prescriptive specifications or criteria, Design-Builder shall remain responsible for meeting the performance requirements of the Project, including but not limited to the requirements that the Project meet the Initial and Final Basis of Design Documents as well as all applicable Legal Requirements. Provided Design-Builder complies with other requirements set forth in this Agreement such as those regarding notice of claims to Owner and identification of differing site conditions, Design-Builder shall be entitled to an adjustment in the Scope of Services for the Validation Period, the Phase 1, the Validation Period Not to Exceed Amount, the Phase 1 Not to Exceed Amount and/or the Design-Builder's Fee Percentage, but only to the extent Design-Builder's cost and/or time of performance have been adversely impacted by such inaccurate design or prescriptive specifications that are inconsistent with meeting the performance requirements.

3.5 The Contract Documents form the entire agreement between Owner and Design-Builder and by incorporation herein are as fully binding on the parties as if repeated herein. No oral representations or other agreements have been made by the parties except as specifically stated in the Contract Documents.

3.6 Design-Builder was selected based in part on the qualifications of the Key Team Members identified in the Design-Builder's Statement of Qualifications and Proposals. Design-Builder may not substitute the identified Key Team Members without written permission from Owner, such permission shall not be unreasonably withheld. Any substituted Key Team Member must possess the same or better qualifications as the previously approved Key Team Member.

Article 4

Ownership of Work Product

4.1 Work Product. All drawings, specifications and other documents and electronic data, including such documents identified in the General Conditions of Contract, furnished by Design-Builder to Owner under this Agreement ("Work Product") are deemed to be instruments of service and Design-Builder shall retain the ownership and property interests therein, including but not limited to any intellectual property rights, copyrights and/or patents, subject to the provisions set forth in Sections 4.2 through 4.5 below.

4.2 Owner's Limited License upon Project Completion and Payment in Full to Design-Builder. Upon Owner's payment in full for all Work performed under the Contract Documents, Design-Builder shall grant Owner a limited license to use the Work Product in connection with Owner's occupancy of the Project, conditioned on Owner's express understanding that its alteration of the Work Product without the involvement of Design-Builder is at Owner's sole risk and without liability or legal exposure to Design-Builder or anyone working by or through Design-Builder, including Design Consultants of any tier

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(collectively the “Indemnified Parties”), and on the Owner’s obligation to provide the indemnity set forth in Section 4.5 below.

4.3 Owner’s Limited License upon Owner’s Termination for Convenience or Design-Builder’s Election to Terminate. If Owner terminates this Agreement for its convenience as set forth in Article 8 hereof, or if Design-Builder elects to terminate this Agreement in accordance with Section 11.4 of the General Conditions of Contract, Design-Builder shall, upon Owner’s payment in full of the amounts due Design-Builder under the Contract Documents, grant Owner a limited license to use the Work Product to complete the Project and subsequently occupy the Project, and Owner shall thereafter have the same rights as set forth in Section 4.2 above, conditioned on the following:

4.3.1 Use of the Work Product is at Owner’s sole risk without liability or legal exposure to any Indemnified Party, and on the Owner’s obligation to provide the indemnity set forth in Section 4.5 below, and

4.3.2 Owner shall not be required to pay Design-Builder additional compensation for the right to use the Work Product to complete the Project and subsequently use the Work Product in accordance with Section 4.2 if Owner resumes the Project through its employees, agents, or third parties.

4.4 Owner’s Limited License upon Design-Builder's Default. If this Agreement is terminated due to Design-Builder's default pursuant to Section 11.2 of the General Conditions of Contract, then Design-Builder grants Owner a limited license to use the Work Product to complete the Project and subsequently occupy the Project, and Owner shall thereafter have the same rights and obligations as set forth in Section 4.2 above. Notwithstanding the preceding sentence, if it is ultimately determined that Design-Builder was not in default, Owner shall be deemed to have terminated the Agreement for convenience, and Design-Builder shall be entitled to the rights and remedies set forth in Section 4.3 above.

4.5 Owner’s Indemnification for Use of Work Product. If Owner is required to indemnify any Indemnified Parties based on the use or alteration of the Work Product under any of the circumstances identified in this Article 4, Owner shall defend, indemnify and hold harmless such Indemnified Parties from and against any and all claims, damages, liabilities, losses and expenses, including attorneys’ fees, arising out of or resulting from the use or alteration of the Work Product.

Article 5

Contract Time

5.1 Date of Commencement. The Work shall commence within five (5) days of Design-Builder’s receipt of Owner’s Notice to Proceed (“Date of Commencement”) unless the parties mutually agree otherwise in writing.

5.2 Substantial Completion and Final Completion.

5.2.1 The Validation Period shall be completed no later than _____("Validation Period Completion Date"). The parties will establish the completion date for Phase 1 (“Phase 1 Completion Date”) with the Validation Period Amendment and a date for Substantial Completion of the entire Work (“Scheduled Substantial Completion Date”) in the GMP Amendment.

5.2.2 Interim milestones and/or Substantial Completion of identified portions of the Work (“Scheduled Interim Milestone Dates”) shall be determined during Phase 1: *(Insert any interim milestones for portions of the Work with different scheduled dates for Substantial Completion)*

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5.2.3 Final Completion of the Work or identified portions of the Work shall be achieved as expeditiously as reasonably practicable. Final Completion is the date when all Work is complete pursuant to the definition of Final Completion set forth in Section 1.2.14 of the General Conditions of Contract.

5.2.4 All of the dates set forth in this Article 5 (collectively the "Contract Time(s)") shall be subject to adjustment in accordance with the General Conditions of Contract.

5.3 Time is of the Essence. Owner and Design-Builder mutually agree that time is of the essence with respect to the dates and times set forth in the Contract Documents.

5.4 Liquidated Damages. Design-Builder understands that if Substantial Completion of the Project or any Interim Milestone Date is not attained by the Scheduled Interim Milestone Date or Substantial Completion Date, Owner will suffer damages which are difficult to determine and accurately specify. Therefore, provided the parties enter into the GMP Amendment, Design-Builder and Owner will establish a liquidated damage rate for delay in the GMP Amendment for each day that Substantial Completion extends beyond any Scheduled Interim Milestone Date and/or the Substantial Completion Date, as applicable.

5.5 Any liquidated damages assessed pursuant to this Agreement for delay damages shall be in lieu of all liability for any and all extra costs, losses, expenses, claims, penalties and any other damages, whether special or consequential, and of whatsoever nature, incurred by Owner which are occasioned by any delay in achieving the Contract Time(s).

5.6 In addition, the parties may establish liquidated damages as a remedy for other breaches of contract or failure to achieve performance standards. Such liquidated damages provisions may be added in the GMP Amendment or by written Change Order.

Article 6

Contract Price

6.1 Contract Price.

6.1.1 Owner shall pay Design-Builder in accordance with Article 6 of the General Conditions of Contract a contract price ("Contract Price") as set forth herein.

.1 The total Compensation to Design-Builder shall not exceed the Guaranteed Maximum Price ("GMP") of _____dollars ($_____).

.2 Subject to the provisions of the Contract Documents, the Owner shall pay Design Builder for each Phase of the Project in accordance with Section 6.6 of the Agreement. Design Builder's Compensation shall be subject to the Validation NTE, Phase 1 NTE and the GMP, as applicable. The Validation NTE, the Phase 1 NTE, and the GMP, as applicable, shall be the maximum amount that the Design Builder may be compensated for the applicable Contract Phase, as amended pursuant to this Contract. The maximum amount that the Design Builder may be compensated pursuant to this Agreement for any given phase shall also be referred to as the Contract Price ("Contract Price"). The elements of the Design Builder's Compensation, subject to the Contract Price are set forth herein. If the sum of the Design-Builder's Compensation is less than the Validation NTE, the Phase 1 NTE, and/or the GMP, as applicable, the savings shall go to the Owner.

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.3 The parties acknowledge that the scope of work for this Project is not fully developed. The Design-Builder shall develop the Basis of Design Documents and other deliverables in Exhibit C such that the total Compensation to the Design-Builder shall not exceed the GMP set forth herein, unless the parties agree in writing to increase the GMP or the Design-Builder is otherwise entitled to an increase to the GMP pursuant to the terms of the Contract Documents.

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6.2 Design-Builder's Fee Percentage and Lump Sum Fee.

6.2.1 Design-Builder's Fee Percentage shall be:

_____ percent (_____%) of the Cost of the Work, as adjusted in accordance with Section 6.2.2 below.

The Fee Percentage and any Lump Sum Fee shall include the following items, which shall not be charged as a Cost of the Work:

.1 All profit of the Design-Builder for this Project; and

.2 All regional and home office overhead expenses, including labor and materials, phone, facsimile, postage, internet service, and other incidental office expenses attributed to work on this Project.

6.2.2 Prior to the execution of the GMP Amendment, Design-Builder's Fee Percentage will only be adjusted pursuant to Section 3.4 of this Agreement.

6.2.3 If the Parties enter into the GMP Amendment, Design-Builder shall be paid a lump sum fee (the "Lump Sum Fee") determined by multiplying the Fee Percentage by the estimated Cost of the Work included in the GMP Amendment. The estimated Cost of the Work shall include the Lump Sum General Conditions Amount. The Lump Sum Fee will be earned and paid on a monthly basis following execution of the GMP Amendment on a percentage of completion basis, specifically taking into account payments previously made, including during Phase 1. The following costs shall be excluded from the Cost of the Work when calculating the Lump Sum Fee:

.1 Owner Directed Allowances, as defined in Section 6.4.1.6; and

.2 The Design-Builder's Contingency as defined in Section 6.4.4.1.b.

6.2.4 The Lump Sum Fee established in the GMP Amendment shall not be modified unless the GMP varies, either upward or downward, by more than five percent (5%) from the GMP set forth in this Agreement ("Original GMP").

.1 If the GMP increases by more than five percent (5%) above the Original GMP, the Lump Sum Fee shall be increased by the amount of the Fee Percentage multiplied by that portion of the Cost of the Work that is in excess of one hundred five percent (105%) of the Cost of the Work set forth in the Original GMP.

.2 If the GMP decreases by more than five percent (5%) below the Original GMP, the Lump Sum Fee shall be decreased by the amount of the Fee Percentage multiplied by that portion of the Cost of the Work that is less than ninety-five percent (95%) of the Cost of the Work set forth in the Original GMP.

.3 The following costs shall be excluded from the Cost of the Work when calculating adjustments to the Lump Sum Fee:

a. Owner Directed Allowances, as defined in Section 6.4.1.6; and '

b. The Design Builder's Contingency as defined in Section 6.4.4.1.b.

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6.3 Cost of the Work. The term Cost of the Work shall mean costs reasonably and necessarily incurred by Design-Builder in the proper performance of the Work. Unless included in the Lump Sum General Conditions, the Cost of the Work shall include only the following:

6.3.1 Wages of direct labor costs of employees of Design-Builder performing the Work at the Site or, with Owner's agreement, at locations off the Site; provided, however, that the costs for those employees of Design-Builder performing design services shall be calculated on the basis of Prevailing market rates for design professionals performing such services or, if applicable, those rates set forth in an exhibit to this Agreement. Wages for those employees performing construction services shall be paid as follows: Basic wages and fringe benefits: The hourly wage (without markup or labor burden) and fringe benefits paid by the Design-Builder as established by the Washington Department of Labor and Industries or contributed to labor trust funds as itemized fringe benefits. Whichever is applicable, not to exceed that specified in the applicable "Intent to Pay Prevailing Wage" for the laborers, apprentices, journeymen, and foremen performing and/or directly supervising the Work on the site. The premium portion of overtime wages is not included unless pre-approved in writing by the Owner. The Design-Builder shall provide to the Owner copies of payroll records, including certified payroll statements for itself and Subcontractors of any tier for the period upon the Owner's request. Direct labor costs also include direct contributions to the State of Washington as industrial insurance, medical aid, and supplemental pension by class and rates established by the Washington Department of Labor and Industries and contributions required by the Federal Insurance Compensation Act (FICA), the Federal Unemployment Tax Act (FUTA) and the State Unemployment Compensation Act (SUCA).

6.3.2 Wages or salaries of Design-Builder's supervisory and administrative personnel engaged in the performance of the Work and who are located at the Site or working off-Site to assist in the production or transportation of material and equipment necessary for the Work.

6.3.3 Wages or salaries of Design-Builder's personnel stationed at Design-Builder's principal or branch offices, but only to the extent said personnel are approved in advance in writing by the Owner.

6.3.4 Unless included in Lump Sum General Conditions, costs incurred by Design-Builder for employee benefits, premiums, taxes, insurance, contributions and assessments required by law, collective bargaining agreements, or which are customarily paid by Design-Builder, to the extent such costs are based on wages and salaries paid to employees of Design-Builder covered under Sections 6.3.1 through 6.3.3 hereof.

6.3.5 The reasonable portion of the cost of travel, accommodations and meals for Design-Builder's personnel necessarily and directly incurred in connection with the performance of the Work. Such costs must be approved in writing by Owner in advance.

6.3.6 Payments properly made by Design-Builder to Subcontractors and Design Consultants for performance of portions of the Work, including any insurance and bond premiums incurred by Subcontractors and Design Consultants. The costs for those employees performing design services shall be calculated on the basis of prevailing market rates for design professionals performing such services or, if applicable, those Hourly Rates set forth in Exhibit E. Contracts to Subcontractors and Design-Consultants that are paid on the basis of a Lump Sum must be approved in advance by the Owner, such approval shall not be unreasonably withheld.

6.3.7 Costs, including transportation, inspection, testing, storage and handling, of materials, equipment and supplies incorporated or reasonably used in completing the Work. The material costs shall be based upon the net cost after all discounts or rebates, freight costs, express charges, or special delivery costs, when applicable. No lump sum costs will be allowed except when approved in writing in advance by the Owner. Discounts and rebates based on prompt payment need not be included, however, if the Design-Builder offered but the Owner declined the opportunity to take advantage of such discount or rebate.

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6.3.8 Costs (less salvage value) of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by the workers that are not fully consumed in the performance of the Work and which remain the property of Design-Builder, including the costs of transporting, inspecting, testing, handling, installing, maintaining, dismantling and removing such items.

6.3.9 Costs of removal of debris and waste from the Site.

6.3.11 The reasonable costs and expenses incurred in establishing, operating and demobilizing the Site office, including the cost of facsimile transmissions, long-distance telephone calls, postage and express delivery charges, telephone service, photocopying and reasonable petty cash expenses.

6.3.12 Rental charges and the costs of transportation, installation, minor repairs and replacements, dismantling and removal of temporary facilities, machinery, equipment and hand tools not customarily owned by the workers, which are provided by Design-Builder at the Site, whether rented from Design-Builder or others, and incurred in the performance of the Work. The rental charge the applicable rental cost as established by the lower of the local prevailing rate published in the Rental Rate Blue Book by Data Quest. San Jose. California, as modified by the AGC/WSDOT agreement or the actual rate paid to an unrelated third party as evidenced by rental receipts. Rates and quantities of equipment rented that exceed the local fair market rental costs shall be subject to the Owner's prior written approval. Total rental charges for equipment or tools shall not exceed 75% of the fair market purchase value of the equipment or the tool. Actual, reasonable mobilization costs are permitted if the equipment is brought to the site solely for the change in the Work. The rental rates are the maximum rates allowable for equipment of modern design and in good working condition and include full compensation for furnishing all fuel, oil, lubrication, repairs, maintenance, and insurance. When rental rates payable do not include fuel, lubrication, maintenance, and servicing, as defined as operating costs in the Blue Book, such operating costs shall be reimbursed based on actual costs. Equipment not of modern design and/or not in good working condition will have lower rates. Hourly, weekly, and/or monthly rates, as appropriate, will be applied to yield the lowest total cost. The rate for equipment necessarily standing by for future use (and standing by for no longer than two (2) weeks) on the changed Work shall be 50% of the rate established above. The total cost of rental allowed shall not exceed the cost of purchasing the equipment outright. If equipment is required for which a rental rate is not established by The Rental Rate Blue Book, an agreed rental rate shall be established for the equipment, which rate and use must be approved by the Owner prior to performing the Work.

6.3.12 Premiums for insurance and bonds required by this Agreement or the performance of the Work.

6.3.13 All fuel and utility costs incurred in the performance of the Work.

6.3.14 Sales, use or similar taxes, tariffs or duties incurred in the performance of the Work, with the exception of Washington State Sales Tax, which shall be paid outside the Phase 1 NTE or GMP.

6.3.15 Costs for permits, royalties, licenses, tests and inspections incurred by Design-Builder as a requirement of the Contract Documents.

6.3.16 The cost of defending suits or claims for infringement of patent rights arising from the use of a particular design, process, or product required by Owner, paying legal judgments against Design-Builder resulting from such suits or claims, and paying settlements made with Owner's consent.

6.3.17 Costs incurred in preventing damage, injury or loss in case of an emergency affecting the safety of persons and property.

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6.3.19 Accounting and data processing costs related to the Work.

6.3.20 Fees paid by the Design-Builder for the approval of Statements of Intent to Pay Prevailing Wages and certification of Affidavits of Wages Paid by the industrial statistician of the State Department of Labor and Industries. The Design-Builder will remain responsible for the actual submittal of the documents to the industrial statistician. In order to receive this reimbursement the Design-Builder will be required to submit to Owner, a list of its subcontractors at all tiers and have their Statements of Intent to Pay Prevailing Wages on file with the Owner.

6.3.21 Unit Prices established by the parties in Exhibit E.

6.3.22 Other costs reasonably and properly incurred in the performance of the Work to the extent approved in writing by Owner and not included in the Design-Builder's Contingency, Design Builder's Fee Percentage, the Lump Sum Fee, or the Lump Sum General Conditions.

6.4 Other Methods of Compensation

Within the Phase 1 NTE or the GMP, the parties may agree to the following methods of pricing Design-Builder's Compensation

6.4.1 Allowance Items and Allowance Values.

.1 Any and all Allowance Items, as well as their corresponding Allowance Values, are set forth in Exhibit E or the GMP Amendment and are included within any established NTE and the GMP, as applicable.

.2 Design-Builder and Owner have worked together to review the Allowance Items and Allowance Values based on design information then available to determine that the Allowance Values constitute reasonable estimates for the Allowance Items. Design-Builder and Owner will continue working closely together during the preparation of the design to develop Construction Documents consistent with the Allowance Values. Nothing herein is intended in any way to constitute a guarantee by Design-Builder that the Allowance Item in question can be performed for the Allowance Value.

.3 No work shall be performed on any Allowance Item without Design-Builder first obtaining in writing advanced authorization to proceed from Owner. Owner agrees that if Design-Builder is not provided written authorization to proceed on an Allowance Item by the date set forth in the Project schedule, due to no fault of Design-Builder, Design-Builder may be entitled to an adjustment of the Contract Time(s) and Contract Price.

.4 The Allowance Value for an Allowance Item includes the direct cost of labor, materials, equipment, transportation, taxes and insurance directly associated with the applicable Allowance Item. With the exception of Owner Directed Allowances, all other costs, including design fees, Design-Builder's overall project management and fixed general conditions costs, overhead and fee, are deemed to be included in the original Contract Price, and are not subject to adjustment, regardless of the actual amount of the Allowance Item.

.5 Whenever the actual costs for an Allowance Item is more than or less than the stated Allowance Value, the Contract Price shall be adjusted accordingly by Change Order, subject to Section 6.4.1.4; however, Design-Builder must provide written notice of the difference between the actual cost and the Allowance Value pursuant to the Changes provisions in the General Conditions. The amount of the

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Change Order shall reflect the difference between actual costs incurred by Design-Builder for the particular Allowance Item and the Allowance Value.

.6 The Owner and the Design Builder may designate certain Allowances as "Owner Directed Allowances." Design Builder shall be compensated for Owner Directed Allowances for the Cost of the Work associated with such allowances plus the Fee Percentage. Items designated as "Owner Directed Allowances" shall not be included in the calculation to determine the Lump Sum Fee.

6.4.2 Not To Exceed Sums

.1 The Owner and Design Builder may establish Not to Exceed ("NTE") Sums for specific scopes of the Work. Any such NTE Sum will be negotiated between the Owner and Design-Builder. The NTE Sum agreed upon by the Parties shall be incorporated into the GMP Amendment or a Change Order, and the parties shall include the following information:

a. A specific description of the Scope of the Work that is subject to the NTE Sum;

b. An updated Schedule of Values that incorporates the NTE Sum; and

c. Any milestone dates associated with the scope of the Work associated with the NTE Sum.

.2 For each scope of work for which a NTE Sum has been established, the Design-Builder shall be reimbursed for the scope of the Work as a Cost of the Work; however, Design-Builder's compensation shall not exceed the NTE Sum without a written Change Order.

.3 Design-Builder shall not request reimbursement for costs that are within the scope of the NTE Sum unless those costs are identified in the Payment Application as subject to the NTE Sum. Except as allowed in Section 6.4.4.1.b, costs that are within the scope of the NTE Sum that are in excess of the NTE Sum shall be the sole responsibility of the Design-Builder.

.4 NTE Sums may only be modified by Change Order pursuant to the General Conditions.

6.4.3 Lump Sums

.1 The Owner and Design-Builder may establish Lump Sums for specific scopes of the Work. Any such Lump Sum will be negotiated between the Owner and Design-Builder. The Lump Sum agreed upon by the Parties shall be incorporated into the GMP Amendment or a Change Order, and the parties shall include the following information:

a. A specific description of the Scope of the Work that is subject to the Lump Sum;

b. An updated Schedule of Values that incorporates the Lump Sum; and

c. Any milestone dates associated with the scope of the Work associated with the Lump Sum.

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.2 For each scope of work for which a Lump Sum has been established, the Design-Builder shall be compensated pursuant to the Schedule of Values set forth above based on the percentage of the Scope of the Work subject to the Lump Sum that has been completed.

.3 Design-Builder shall not request reimbursement for costs that are within the scope of the Lump Sum unless those costs are identified in the Payment Application as subject to the Lump Sum. Except as allowed in Section 6.4.4.1.b, costs that are within the scope of the Lump Sum that are in excess of the Lump Sum shall be the sole responsibility of the Design-Builder.

.4 Lump Sums may only be modified via Change Order pursuant to the General Conditions

6.4.4 Contingencies

.1 The Parties shall establish, as part of any NTE and the GMP, the following Contingencies which are available for Design-Builder's exclusive use for the below described unanticipated costs it has incurred that are not the basis for a Change Order under the Contract Documents (collectively "Contingency Items"). Continency Items include the costs described below, which are subject to written approval by the Owner. The Owner may, in its discretion, approve other costs that may be reimbursed under a Contingency; however, in no case shall the Design-Builder be entitled to use the Contingency for payment of Liquidated Damages that it may be assessed pursuant to this Agreement.

(a) Cost of the Work Contingency. The Cost of the Work Contingency is reimbursed as a Cost of the Work. The Cost of the Work Contingency is available to the Design-Builder for the following items:

(i) Trade buy-out differentials;

(ii) Escalation of materials; and

(iii) Other direct Costs of the Work that are not included in the Design-Builder's Contingency, but only with the prior written consent of the Owner.

(b) Design-Builder's Contingency. The Design-Builder's Contingency is available to the Design-Builder for items that are not excluded by Section 6.5 hereof and include but are not limited to the following items:

(i) Overtime or acceleration;

(ii) Costs incurred by Design-Builder in repairing or correcting defective, damaged or nonconforming Work (excluding any warranty or corrective Work performed after Substantial Completion), provided that such Work was beyond the reasonable control of Design-Builder, or caused by the ordinary mistakes or inadvertence, and not the negligence, of Design-Builder or those working by or through Design-Builder. If the costs associated with such Work are recoverable from insurance, Subcontractors or Design Consultants, Design-Builder shall exercise its best efforts to obtain recovery from the appropriate source and provide a credit to Owner if recovery is obtained;

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(iii) Legal costs, court costs and costs of mediation and arbitration reasonably arising from Design-Builder's performance of the Work, provided such costs do not arise from disputes between Owner and Design-Builder;

(iv) Subcontractor or other tier defaults to the extent not compensated by any surety or bond; or

(v) Costs that are in excess of an NTE Sum or Lump Sum.

.2 The Design-Builder shall be reimbursed for Contingency Items in the same manner as set forth in Section 6.3 of the Agreement; however, Design-Builder's compensation for Contingency Items shall not cumulatively exceed the amount set forth as the Design-Builder's Contingency in the applicable NTE or GMP without a written Change Order. Design-Builder shall not be entitled to any Fee Percentage for items reimbursed under Section 6.4.4.1.b, the Design-Builder's Contingency. Further, the amounts included in the Design-Builder's Contingency set forth in Section 6.4.4.1.b shall be excluded from the calculation set forth in Section 6.2.3 to establish the Lump Sum Fee and the calculation set forth in Section 6.2.4 to determine whether the GMP has changed.

.3 Prior to the final accounting, the Contingencies are not available to Owner for any reason, including, but not limited to changes in scope or any other item which would enable Design-Builder to increase an NTE or GMP under the Contract Documents.

.4 Design-Builder shall provide Owner notice of all anticipated charges against the Contingencies and shall provide Owner as part of the monthly status report required by the General Conditions of Contract an accounting of the Contingency, including all reasonably foreseen uses or potential uses of the Contingency in the upcoming three (3) months. Design-Builder agrees that with respect to any expenditure from a Contingency relating to a Subcontractor default or an event for which insurance or bond may provide reimbursement, Design-Builder will in good faith exercise reasonable steps to obtain performance from the Subcontractor and/or recovery from any surety or insurance company. Design-Builder agrees that if Design-Builder is subsequently reimbursed for said costs, then said recovery will be credited back to the Contingency.

6.4.5 Lump Sum General Conditions Costs

.1 If the Parties enter into the GMP Amendment, the Parties shall establish an amount for the Lump Sum General Conditions Costs. The parties shall determine the portions of the Cost of the Work set forth in Section 6.3 that are included in the Lump Sum General Conditions Costs, and the parties shall include a description of such costs in the GMP Amendment. Unless the parties agree in writing otherwise, the costs that will be included in the Lump Sum General Conditions Costs are as follows:

a. Wages or salaries of Design-Builder's supervisory and administrative personnel engaged in the performance of the Work and who are located at the Site or working off-Site to assist in the production or transportation of material and equipment necessary for the Work. Specifically, the following personnel are included in the Lump Sum General Conditions Amount:

i. Project Executive

ii. Project Manger

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iii. Superintendent and/or Construction Manager

iv. Quality Control Manager

v. Project Field Engineer and/or Design Manager

vi. Project Controls

vii. Project Scheduler

viii. Safety Manager

b. Wages or salaries of Design Builder's personnel stationed at Design Builder's principal or branch offices, but only to the extent said personnel are approved in advance of the performance of the Work in writing by the Owner.

c. Costs incurred by Design-Builder for employee benefits, premiums, taxes, insurance, contributions and assessments required by law, collective bargaining agreements, or which are customarily paid by Design-Builder, to the extent such costs are based on wages and salaries paid to employees of Design-Builder covered under this Section.

d. The reasonable portion of the cost of travel, accommodations and meals for Design-Builder's personnel necessarily and directly incurred in connection with the performance of the Work and with the written consent of the Owner as set forth below:

i. Meals and Incidental Expenses: Meals and incidental expenses will be limited to the Federal Per Diem rate for meals and incidentals established for the location where lodging is obtained. Federal Per Diem guidelines which includes the meal breakdown and Federal Per Diem rates for other locations can be found at www.gsa.gov.

ii. Lodging: Lodging will be billed at cost, including applicable taxes, not to exceed the Federal Per Diem maximum lodging rate for the location where the work is being performed.

iii. Travel: Air travel (at coach class or equivalent), airport shuttles, etc. billed at cost. Ground transportation by privately owned vehicle, if utilized, billed at the Internal Revenue Service mileage rate for privately owned vehicles in effect at the time of travel. Expenses for a rental car (including fuel), at cost, in the ratio of one mid-size class rental car for each three Contractor's personnel directly engaged in performance of the work at the prevailing rental rates then in effect. Rental car options such as refueling fees, GPS, collision & liability insurance, etc. will not be reimbursed by the Owner unless such options are approved in advance by the Owner's Representative. Appropriate insurance coverage should be included in the Contractor's insurance policies.

e. The reasonable costs and expenses incurred in establishing, operating and demobilizing the Site office, including the cost of facsimile transmissions, long-distance telephone calls, postage and express delivery charges, telephone service, photocopying and reasonable petty cash expenses.

f. Premiums for insurance and bonds required specifically by this Agreement or the performance of the Work by the Design Builder.

g. Accounting and data processing costs related to the Work.

h. Fees paid by the Design-Builder for the approval of Statements of Intent to Pay Prevailing Wages and certification of Affidavits of Wages Paid by the industrial statistician of the State Department of Labor and Industries. The

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Design-Builder will remain responsible for the actual submittal of the documents to the industrial statistician and the determination of the locality of the work to confirm the appropriate classification of work. In order to receive this reimbursement, the Design-Builder will be required to submit to Owner a list of its subcontractors at all tiers and have their Statements of Intent to Pay Prevailing Wages on file with the Owner.

i. General administrative costs not specifically listed in this subsection, including but not limited to the following:

i. Shop Drawing Reproduction
ii. Construction Schedule & Updates
iii. Safety/Security
iv. Field Office Set-up (mobilization/demobilization)
v. Office Supplies
vi. Telephone System
vii. Telephone Service Charge
viii. Computer Network/System Set-up
ix. Courier Service
x. Postage (Fed-X, USPS)
xi. Furniture/Equipment
xii. Office Cleaning
xiii. Project Superintendent Vehicle
xiv. Computers
xv. Copy Machine
xvi. Temporary Electric Hook-up/Removal
xvii. Temporary Electric Material
xviii. Project Signage
xix. Temporary Water Hook-up/Removal
xx. Drinking Water & Supplies
xxi. Chemical Toilets
xxii. O&M Manuals
xxiii. Project Record Documents
xxiv. Field Engineering/Layout Survey

.2 For the Costs of the Work that are included in the Lump Sum General Conditions Costs, the Design-Builder shall no longer be entitled to be reimbursed for such costs as part of the Cost of the Work, and the Design Builder's sole compensation for the costs set forth in the identified General Conditions shall be through the Lump Sum General Conditions Costs.

.3 The Owner shall have the right to examine the back-up documentation establishing the Lump Sum General Conditions Costs, including but not limited to all estimates, proposals, contracts and other financial documentation on a transparent basis.

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.4 The Lump Sum General Conditions Costs shall only be modified if the Design-Builder is entitled to compensation for a delay pursuant to Section 8.2 of the General Conditions. Any modification to the Lump Sum General Conditions Costs shall be calculated as follows:

a. The Design Builder shall be entitled to receive a liquidated daily rate for extended General Conditions Costs ("Design-Builder's Delay Rate") for each day that the Contract Time is extended pursuant to Section 8.2 of the General Conditions.

i. The Design-Builder's Delay Rate shall be calculated by dividing the Lump Sum General Conditions Costs by the number of days in the Contract Time set forth in the GMP Amendment for Phase 2.

ii. Then, the Design-Builder's Delay Rate is multiplied by the number of days that the Contract Time is extended for Design-Builder's Delay, subject to a determination of entitlement pursuant to Article 8 of the General Conditions.

iii. The result from the Design-Builder's Delay Rate multiplied by the number of days is the Extended General Conditions Costs which shall be added to the Lump Sum General Conditions Costs by Change Order and paid to the Design Builder pursuant to the Schedule of Values, subject to a determination of entitlement pursuant to Article 8 of the General Conditions.

b. The Design-Builder's Delay Rate shall not apply to delays occurring after Substantial Completion is achieved.

c. The Parties agree that determining the Design Builder's damages for delay in Phase 2 would be extremely difficult or impracticable to determine and that the Design-Builder's Delay Rate, as calculated in this Section 6.4.5.4, is a reasonable estimate of and reasonable sum for such damages; therefore, the Design-Builder's Delay Rate shall be payable to the Design Builder as liquidated damages and not as a penalty.

6.4.6 Unit Prices and Hourly Rates

.1 Any Unit Prices and Hourly Rates shall be agreed upon in writing and set forth in Exhibit E to the Agreement. Design-Builder shall not charge more than a specified Unit Price or Hourly Rate than the amount set forth in Exhibit E, as modified through the Contract Documents.

.2 Once established, Unit Prices and Hourly Rates shall not be subject to audit and may only be changed by Change Order.

.3 Design-Builder must maintain a record of the number of Unit Prices and Hours billed using Hourly Rates for review by Owner.

6.5 Non-Reimbursable Costs.

6.5.1 The following shall not be deemed as costs of the Work:

.1 Compensation for Design-Builder's personnel stationed at Design-Builder's principal or branch offices, except as expressly provided for in Section 6.3 hereof.

.2 Overhead and general expenses, except as provided for in Section 6.3 hereof.

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.3 The cost of Design-Builder's capital used in the performance of the Work.

.4 Costs that would cause the Phase 1 NTE, the GMP, the Cost of the Work Contingency, or the Design Builder's Contingency as adjusted in accordance with the Contract Documents, to be exceeded.

6.6 Project Phases.

6.6.1 Phase 1

.1 Compensation. During Phase 1, the Design Builder shall be compensated for the following:

a. The Cost of the Work set forth in Section 6.3;

b. Design-Builder's Fee Percentage set forth in Section 6.2.1 multiplied by the Cost of the Work; and

d. Contingency Items charged under Section 6.4.4.1.b.

.2 Validation Period. At the beginning of the Project, Design-Builder shall engage in Validation of the Project information as set forth in Exhibit C, Section 1.03 (the "Validation Period").

a. **Validation Period Not to Exceed Amount.** Design-Builder guarantees that its Compensation during the Validation Period of Phase 1 for the Project shall not exceed the Validation Period Not to Exceed Amount ("Validation Period NTE"). Documents used as a basis for the Validation Period NTE are set forth in Exhibit D. Design-Builder agrees that it will be responsible for paying all costs of completing the Work which exceed the applicable Validation Period NTE, as adjusted in accordance with the Contract Documents.

b. **Development of Phase 1 Commercial Terms.** During the Validation Period for the Project, the parties will collaboratively develop the Phase 1 Not to Exceed Amount ("Phase 1 NTE"), Phase 1 Completion Date, the Phase 1 Scope of Work, a Validated GMP, a Target Schedule, the Initial Project Scope, and other Submittals for the Project as set forth in Exhibit C. At the conclusion of the Validation Period, provided the parties agree on the applicable terms, the parties shall enter into the Validation Amendment to establish the Phase 1 NTE, the Phase 1 Completion Date, the Validated GMP, the Target Schedule, and the Initial Project Scope and to finalize the other Submittals required by Exhibit C.

.3 Design Development Period. Provided the parties enter into the Validation Amendment establishing the Commercial Terms of the Design Development Period, Design-Builder shall engage in the remainder of the Phase 1 activities as set forth in the Contract Documents and the Validation Amendment.

a. **Compensation during the Design Development Period.** Design-Builder shall be compensated during the Design Development Period for the Project in the same manner as the Validation Period set forth in Section 6.2.2.1 above. Design-Builder guarantees that its compensation for the remainder of Phase 1 for the Project shall not exceed the Phase 1 NTE in the Validation Amendment. Documents used as a basis for a Phase 1 NTE shall be identified as an Exhibit to the Validation Amendment. Design-Builder agrees that it will be responsible for paying all costs of completing the Work which exceeds the Phase 1 NTE, as adjusted in accordance with the Contract Documents.

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b. **Development of the GMP Proposal.** During the remainder of Phase 1 for the Project, the parties will collaboratively develop the GMP Proposal pursuant to Exhibit C.

.4 GMP Proposal. At the conclusion of Phase 1, Design-Builder shall submit a GMP Proposal to Owner which shall include the deliverables set forth in Exhibit C, unless the parties mutually agree otherwise.

.5 Submission of the GMP Proposal. Submission of the GMP Proposal constitutes Design-Builder's representation and agreement that it has adequately investigated the site and the project parameters, the Project is adequately defined, the Final Basis of Design Documents are sufficiently defined to provide an accurate GMP and Project Schedule, and subject to the assumptions and clarifications in the GMP Proposal, the Project is sufficiently clear and understandable for the Design-Builder to perform the Work in accordance with the Contract Documents for an amount that will not exceed the Original GMP.

.6 Review and Adjustment to GMP Proposal. After submission of the GMP Proposal, Design-Builder and Owner shall meet to discuss and review the GMP Proposal. If Owner has any comments regarding the GMP Proposal or finds any inconsistencies or inaccuracies in the information presented, it shall promptly give written notice to Design-Builder of such comments or findings. If appropriate, Design-Builder shall, upon receipt of Owner's notice, make appropriate adjustments to the GMP Proposal. To assist in the Owner's review of the GMP Proposal, the Design Builder shall, upon the Owner's Request, provide all information, including but not limited to all data, reports, cost analysis, pricing, designs and specifications on which the Design Builder relied or used as a basis for the GMP Proposal. The Owner shall make its best efforts to review any revised GMP Proposal within thirty (30) days of receipt of the revised GMP Proposal.

.7 Acceptance of GMP Proposal. If Owner accepts the GMP Proposal, as may be amended by Design-Builder, the terms of the GMP Proposal shall be set forth in the GMP Amendment. At the Owner's option, the GMP may be converted into a Lump Sum.

.8 Failure to Accept the GMP Proposal. If Owner rejects the GMP Proposal, the GMP Proposal shall be deemed withdrawn and of no effect. In such event, Owner and Design-Builder shall meet and confer as to how the Project will proceed, with Owner having the following options:

a. Owner may suggest modifications to the GMP Proposal, whereupon, if such modifications are accepted in writing by Design-Builder, the GMP Proposal shall be deemed accepted and the parties shall proceed in accordance with Section 6.6.1.7 above;

b. Owner may terminate this Agreement for convenience in accordance with Article 8 hereof.

.9 Performance of Work After Submission of GMP Proposal. The Design-Builder shall not perform any Work after the submission of the GMP Proposal until the Owner has approved and signed the GMP Amendment unless the Design-Builder obtains the Owner's prior, written consent to perform such Work and only to the extent that such Work is expressly described in writing in such written consent. If Design-Builder performs such Work, Design-Builder shall be compensated pursuant to the written approval.

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6.6.2 Phase 2 Post GMP Period.

.1 Compensation. During Phase 2, the Design Builder shall be compensated for the following, all subject to the GMP:

a. The Cost of the Work set forth in Section 6.3;

b. Design-Builder's Lump Sum Fee established pursuant to Section 6.2.3;

c. Any Lump Sums established pursuant to Section 6.4.3;

d. Contingency Items charged under Section 6.4.4.1.b; and

e. Design-Builder's Lump Sum General Conditions Costs established pursuant to Section 6.4.5.

.2 GMP The total compensation paid to Design-Builder for this Project shall not exceed the GMP, as amended pursuant to this Contract. By agreeing to the GMP Amendment, the Design-Builder understands that if the Work cannot be completed for the agreed GMP, any additional costs shall be the responsibility of the Design-Builder, and Design-Builder hereby assumes liability for such costs without reimbursement by the Owner.

.3 If the parties decide to convert the GMP into a Lump Sum, Design-Builder shall be compensated pursuant to Section 6.4.3 of the Agreement.

6.6.3 Savings.

.1 If the sum of the actual Cost of the Work and Design-Builder's Fee (and, if applicable, any prices established under Section 6.1.2 hereof) is less than the GMP, as such GMP may have been adjusted over the course of the Project, the difference ("Savings") shall go to 100% to the Owner.

Article 7

Procedure for Payment

7.1 Progress Payments.

7.1.1 Design-Builder shall submit to Owner on the twenty fifth (25th) day of each month, beginning with the first month after the Date of Commencement, Design-Builder's Application for Payment in accordance with Article 6 of the General Conditions of Contract.

7.1.2 Owner shall make payment within thirty (30) days after Owner's receipt of each properly submitted and accurate Application for Payment in accordance with Article 6 of the General Conditions of Contract, but in each case less the total of payments previously made, and less amounts properly withheld under Section 6.3 of the General Conditions of Contract.

7.1.3 If Design-Builder's Fee under Section 6.2 hereof is a lump sum amount, the amount of Design-Builder's Fee to be included in Design-Builder's monthly Application for Payment and paid by Owner shall be proportional to the percentage of the Work completed, less payments previously made on account of Design-Builder's Fee.

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7.2 Retainage on Progress Payments.

7.2.1 The Owner will withhold retainage pursuant to RCW Chapter 60.28, and Owner shall release such retainage pursuant to state law. Pursuant to RCW Chapter 60.28, the Design-Builder may submit a bond in lieu of the retainage that the Owner would otherwise keep under the terms of this Contract and pursuant to applicable law. Any such bond submitted in lieu of retainage must be on the form approved by the Owner. In the event the Design-Builder fails at any time to pay persons protected under RCW Chapter 60.28 or the Owner has reason to believe that the Owner or other obligee under the bond has a claim against the retainage or for other good cause, the Owner may, at its option, resume retaining from monies earned by the Design-Builder in such amount as it would otherwise be entitled to retain had the bond not been accepted. Notwithstanding the Owner's resuming such retainage, said bond shall remain in full force and effect to the extent of its penal sum, limited to the amount of retainage released to the Design-Builder. After the Design-Builder has paid protected persons or otherwise cured any default, the Owner may, at its option, again release retainage pursuant to the terms of the bond.

7.3 Final Payment. Design-Builder shall submit its Final Application for Payment to Owner in accordance with Section 6.7 of the General Conditions of Contract. Owner shall make payment on Design-Builder's properly submitted and accurate Final Application for Payment pursuant and subject to RCW Chapter 60.28 and RCW Chapter 39.08 and all applicable laws and regulations, provided that Design-Builder has satisfied the requirements for final payment set forth in Section 6.7.2 of the General Conditions of Contract.

7.4 Interest. Payments due and unpaid by Owner to Design-Builder, whether progress payments or final payment, shall bear interest commencing five (5) days after payment is due at the statutory rate of interest per month until paid.

7.5 Record Keeping and Finance Controls. Design-Builder acknowledges that this Agreement is to be administered on an "open book" arrangement relative to Costs of the Work. Design-Builder shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management, using accounting and control systems in accordance with generally accepted accounting principles and as may be provided in the Contract Documents. During the performance of the Work and for a period of six (6) years after Final Payment, Owner, Owner's accountants, the Washington State Department of Commerce and the Washington State Auditor shall be afforded access to, and the right to audit from time-to-time, upon reasonable notice, Design-Builder's records, books, correspondence, receipts, subcontracts, purchase orders, vouchers, memoranda and other data relating to the Work, all of which Design-Builder shall preserve for a period of six (6) years after Final Payment. Such inspection shall take place at Design-Builder's offices during normal business hours unless another location and time is agreed to by the parties. Any multipliers or markups agreed to by the Owner and Design-Builder as part of this Agreement are only subject to audit to confirm that such multiplier or markup has been charged in accordance with this Agreement, with the composition of such multiplier or markup not being subject to audit.

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Article 8

Termination for Convenience

8.1 Upon ten (10) days' written notice to Design-Builder, Owner may, for its convenience and without cause, elect to terminate all or a portion of this Agreement. In such event, Owner shall pay Design-Builder for allowable costs and subject to any established Not to Exceed Amount or GMP:

8.1.1 All Work executed and for proven loss, cost or expense in connection with the Work;

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8.1.2 The reasonable costs and expenses attributable to such termination, including demobilization costs and amounts due in settlement of terminated contracts with Subcontractors and Design Consultants; and

8.1.3 The fair and reasonable sums for overhead and profit on the sum of items 8.1.1 and 8.1.2 above based on Design-Builder's Fee Percentage, provided, however, if a Lump Sum Fee has been established, then the Lump Sum Fee shall only be modified pursuant to Section 6.2.4 above.

8.2 If Owner terminates this Agreement pursuant to Section 8.1 above and proceeds to design and construct the Project through its employees, agents or third parties, Owner's rights to use the Work Product shall be as set forth in Section 4.3 hereof. Such rights may not be transferred or assigned to others without Design-Builder's express written consent and such third parties' agreement to the terms of Article 4.

Article 9

Representatives of the Parties

9.1 Owner's Representatives.

9.1.1 Owner designates the individual listed below as its Senior Representative ("Owner Senior Representative"), which individual has the authority and responsibility for avoiding and resolving disputes under Section 10.2.3 of the General Conditions of Contract: *(Identify individual's name, title, address and telephone numbers)*

9.1.2 Owner designates the individual listed below as its Owner's Representative, which individual has the authority and responsibility set forth in Section 3.4 of the General Conditions of Contract: *(Identify individual's name, title, address and telephone numbers)*

9.2 Design-Builder's Representatives.

9.2.1 Design-Builder designates the individual listed below as its Senior Representative ("Design-Builder's Senior Representative"), which individual has the authority and responsibility for avoiding and resolving disputes under Section 10.2.3 of the General Conditions of Contract: *(Identify individual's name, title, address and telephone numbers)*

9.2.2 Design-Builder designates the individual listed below as its Design-Builder's Representative, which individual has the authority and responsibility set forth in Section 2.1.1 of the General Conditions of Contract: *(Identify individual's name, title, address and telephone numbers)*

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Article 10

Bonds and Insurance

10.1 Insurance. Design-Builder and Owner shall procure the insurance coverages set forth in the Insurance Exhibit attached hereto and in accordance with Article 5 of the General Conditions of Contract.

10.2 Bonds and Other Performance Security. Upon execution of this Agreement, Design-Builder shall provide a performance and a labor and material bond, pursuant to RCW Chapter 39.08, equal to one hundred percent (100%) of the Validation Period NTE in the form set forth as Exhibit B. Upon execution of the Validation Amendment, Design-Builder shall increase the Performance and Payment bond to an amount equal to 100% of the Phase 1 NTE in the form set forth as Exhibit B. Upon execution of the GMP Amendment, Design-Builder shall increase the Performance and Payment Bond to an amount equal to one hundred percent (100%) of the GMP in the form set forth as Exhibit B.

10.3 All bonds furnished by Design-Builder shall be from a surety that is qualified and registered to conduct business in the state of Washington.

Article 11

Other Provisions

11.1 Other provisions, if any, are as follows: *(Insert any additional provisions)*

11.2 Wages.

11.2.1 The Design-Builder and its Subcontractors, Consultants and Sub-Consultants shall pay all laborers, workmen, or mechanics employed by it or them in the performance of this Contract the applicable state prevailing wage rate required by (RCW Chapter 39.12). The schedule of prevailing wage rates for the locality or localities of the Work is determined by the Industrial Statistician of the Department of Labor and Industries. It is the Design-Builder's responsibility to verify the applicable prevailing wage rate.

11.2.2 Before payment is made by the Owner to the Design-Builder for any Work performed by Design-Builder or any Subcontractor, Consultant or Sub-Consultant whose work is included in the application for payment, the Design-Builder shall submit, or shall have previously submitted, to the Owner a Statement of Intent to Pay Prevailing Wages, approved by the Department of Labor and Industries, certifying the rate of hourly wage paid and to be paid each classification of employees, laborers, workers, or mechanics employed for the Work by Design-Builder, Consultants, Subcontractors and Sub-Consultants. The "Statement of Intent to Pay Prevailing Wages" shall include: (1) the Design-Builder's registration number; and (2) the prevailing wages under RCW 39.12.020 and the number of workers in each classification. Each voucher claim submitted by the Design-Builder for payment on a project estimate shall state that the prevailing wages have been paid in accordance with the prefiled statement or statements of intent to pay prevailing wages on file with the Owner.

11.2.3 Design-Builder and each Subcontractor required to pay the prevailing rate of wages shall post in a location readily visible at the job site: (1) a copy of a "Statement of Intent to Pay Prevailing Wages" approved by the industrial statistician of the Department of Labor and Industries; and (2) the address and telephone number of the industrial statistician of the Department of Labor and Industries where a complaint or inquiry concerning prevailing wages may be made.

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11.2.4 Prior to release of the retainage, the Design-Builder shall submit to the Owner an Affidavit of Wages Paid, approved by the Department of Labor and Industries, for the Design-Builder and every Consultant, Sub-Consultant, and Subcontractor of any tier that performed work on the Project.

11.2.5 Disputes regarding prevailing wage rates shall be referred for arbitration to the Director of the Department of Labor and Industries. The arbitration decision shall be final and conclusive and binding on all parties involved in the dispute as provided for by RCW 39.12.060.

11.2.6 Each Application for Payment submitted by Design-Builder shall state that prevailing wages have been paid in accordance with the prefiled statement(s) of intent, as approved. Copied of the approved intent statements(s) shall be posted on the job site with the address and telephone number of the Industrial Statistician of the Department of Labor and Industries where a complaint or inquiry concerning prevailing wages may be made.

11.2.7 In compliance with WAC Chapter 296-127, Design-Builder shall pay to the Department of Labor and Industries the currently established fee(s) for each statement of intent and/or affidavit of wages paid submitted to the Department of Labor and Industries for certification.

11.2.8 Consistent with WAC 296-127-320, the Design-Builder and all Consultants, Sub-Consultants and Subcontractors shall submit a certified copy of payroll records if requested.

11.3 Hours of Labor

11.3.1 Design-Builder shall comply with applicable provisions of RCW Chapter 49.28, and such provisions are incorporated herein by reference.

11.3.2 RCW 49.28 permits entities performing public works contracts to enter into an agreement where employees work up to ten hours in a calendar day, subject to the provisions of the statute. No such agreement may provide that employees work ten-hour days for more than four calendar days a week. Any such agreement is subject to approval by the employees.

11.4 Off Site Prefabricated Items.

11.4.1 In accordance with RCW 39.04.370, Design-Builder shall submit certain information about off-site, prefabricated, nonstandard, project specific items produced under the terms of the contract and produced outside Washington as a part of the Affidavit of Wages Paid form filed with the Washington State Department of Labor and Industries.

11.5 Nondiscrimination.

11.5.1 No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this contract because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation, national origin, honorably discharged veteran or military status, the presence of any sensory, mental or physical disability, or use of a service animal by a person with disabilities. The Design-Builder agrees to comply with and to require that all subcontractors comply with, Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, as applicable.

11.6 Business Registration Requirement.

11.6.1 Design-Builder represents and warrants that it and all of its subconsultants, subcontractors and suppliers of every tier are properly licensed to perform the work for which they are contracted and have all applicable business licenses, including but not limited to any licenses or registrations required by the State of Washington and any other regulatory authority. Design-Builder shall be solely responsible for contacting the State of Washington Business License Services at http://bls.dor.wa.gov or 1-800-451-7985 to obtain a business registration.

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11.7 Contractor's Registration Requirement.

11.7.1 Design-Builder represents and warrants that it and all of its subconsultants, subcontractors and suppliers performing construction work are properly licensed pursuant to RCW 39.06.010.

11.8 Apprenticeship Program

11.8.1 Design-Builder shall comply with the apprenticeship program set forth in RCW 39.04.320, as applicable.

11.9 Submission of Information to CPARB

Design-Builder and its subcontractors and designers shall submit to Owner project information required by the Washington State Capital Projects Advisory Board pursuant to RCW 39.10. Specifically, and without limitation, Design-Builder must report to Owner its utilization of businesses certified by the Office of Minority and Women Business Enterprises ("OMWBE") and veteran certified businesses.

11.10 Inclusion Plans

Design-Builder shall submit to Owner inclusion plans for underutilized firms as subcontractors and suppliers including, but not limited to, OMWBE certified businesses, veteran certified businesses, and small businesses as required in Exhibit C.

11.11 No Party is Drafter

Each party has had an opportunity to negotiate the provisions of this Agreement and its Exhibits and attachments, and neither party shall be construed as the drafter.

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In executing this Agreement, Owner and Design-Builder each individually represents that it has the necessary financial resources to fulfill its obligations under this Agreement, and each has the necessary corporate approvals to execute this Agreement, and perform the services described herein.

OWNER:	**DESIGN-BUILDER:**
_____	_____
Benton County, Washington	*(Name of Design-Builder)*
_____	_____
(Signature)	*(Signature)*
_____	_____
(Printed Name)	*(Printed Name)*
_____	_____
(Title)	*(Title)*
Date: _____	Date: _____

Caution: An original DBIA document has this caution printed in blue. This is a printable copy and an original assures that changes will not be obscured as may occur when documents are reproduced.

GENERAL CONDITIONS OF PROGRESSIVE DESIGN-BUILD CONTRACT BETWEEN OWNER AND DESIGN-BUILDER

Proposed Draft

Note: This document has been modified from the DBIA Form. A redlined version will be provided upon request.

Document No. 535
Second Edition, 2010

Article 1

General

1.1 Mutual Obligations

1.1.1 Owner and Design-Builder commit at all times to cooperate fully with each other and proceed on the basis of trust and good faith, to permit each party to realize the benefits afforded under the Contract Documents.

1.1.2 **Integrated Delivery:** The Parties wish to fully embrace the principles of collaboration and integrated delivery in the performance of the Work of this Project. Integrated delivery emphasizes a cooperative approach to problem solving involving all key parties to the Project: the Owner, Design-Builder, Designer and principal Subcontractors (electrical, mechanical and others as the Design-Builder and the Owner jointly agree are appropriate). Toward that end, the Parties agree to employ the following techniques to maximize efficiency and minimize waste:

.1 Create a culture of open and honest communication throughout the course of the Project;
.2 Resolve disputes quickly and at the lowest possible level;
.3 Integrate the design and construction team (including key specialty contractors and trade partners) as early as possible into the design process;
.4 Utilize lean construction methods efficiently and effectively;
.5 Establish a collaborative environment based on mutual trust, good faith, and fair dealing where all parties have the opportunity to contribute their best efforts for the benefit of the Project as a whole rather than to the benefit of individual parties; and
.6 Establish equitable business terms for the parties who are members of the Design-Build Team.

1.2 Basic Definitions

1.2.1 *Agreement* refers to the executed contract between Owner and Design-Builder under DBIA Document No. 530, *Progressive Design-Build Agreement Between Owner and Design-Builder – with Cost Plus Fee and a Guaranteed Maximum Price* (2010 Edition, as revised).

1.2.2 *Initial Basis of Design Documents* are those documents developed as a Phase 1 deliverable that outline the scope of the Project and include the DBIA 530 Revised Form of Progressive Design-Build Agreement Between Owner and Design-Builder Cost plus Fee with a Guaranteed Maximum Price (as revised); the DBIA 535 Form of General Conditions of Progressive Design-Build Contract (as revised), and the other documents required as a Phase 1 deliverable.

1.2.3 *Commercial Terms* are any terms that establish a GMP, Not to Exceed, Lump Sum, Hourly Rate or Contract Time.

1.2.4 *Construction Documents* are the documents, consisting of Drawings and Specifications, to be prepared or assembled by the Design-Builder consistent with the Initial and Final Basis of Design Documents unless a deviation from the Initial or Final Basis of Design Documents (as applicable) is specifically set forth in a Change Order executed by both the Owner and Design-Builder, as part of the design review process contemplated by Section 2.4 of these General Conditions of Contract.

1.2.5 *Contingencies* are the amounts available for Design-Builder's use and are defined in Section 6.4.4 of the Agreement. The Cost of the Work Contingency is defined in Section 6.4.4.1.a. The Design-Builder's Contingency is defined in Section 6.4.4.1.b.

1.2.6 *Contract Time* consists of the dates set forth in Article 5 of the Agreement.

1.2.7 *Day* or *Days* shall mean calendar days unless otherwise specifically noted in the Contract

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Documents.

1.2.8 *Design-Build Team* is comprised of the Design-Builder, the Design Consultant, and key Subcontractors identified by the Design-Builder.

1.2.9 *Design Consultant* is a qualified, design professional licensed in the State of Washington who is not an employee of Design-Builder, but is retained by Design-Builder, or employed or retained by anyone under contract with Design-Builder, to furnish design services required under the Contract Documents. A Design Sub-Consultant is a qualified, licensed design professional who is not an employee of the Design Consultant but is retained by the Design Consultant or employed or retained by anyone under contract to Design Consultant, to furnish design services required under the Contract Documents.

1.2.10 *Design Development Period* is the period of Phase 1 after the parties enter into the Validation Amendment and collaboratively develop the Basis of Design Documents, the Project Schedule, and the GMP.

1.2.11 *Design Log* is a log of Reliable Design Decisions agreed upon by the parties. The Design Log supplements the Initial and Final Basis of Design Documents, as applicable.

1.2.12 *Design Submission* means any and all documents, shop drawings, electronic information, including computer programs and computer generated materials, data, plans, drawings, sketches, illustrations, specifications, descriptions, models and other information developed, prepared, furnished, delivered or required to be delivered by, or for, the Design-Builder: (1) to the Owner under the Contract Documents; or (2) developed or prepared by or for the Design-Builder specifically to discharge its duties under the Contract Documents.

1.2.13 *Final Basis of Design Documents* are the documents agreed upon in the GMP Amendment by the Owner and Design-Builder at the conclusion of Phase 1 that comprise the performance and other requirements of the Project.

1.2.14 *Final Completion* is the date on which all Work is complete in accordance with the Contract Documents, including but not limited to, any items identified in the punch list prepared under Section 6.6.1 and the submission and receipt of all documents set forth in Section 6.7.2.

1.2.15 *Force Majeure Events* are those events that are beyond the control of both Design-Builder and Owner, including the events of war, floods, labor disputes, earthquakes, epidemics, adverse weather conditions not reasonably anticipated, and other acts of God.

1.2.16 *General Conditions of Contract* refer to this DBIA Document No. 535, *General Conditions of Contract Between Owner and Design-Builder* (2010 Edition, as revised).

1.2.17 *GMP Amendment* means an amendment to the Agreement entered into the parties at the conclusion of Phase 1 that establishes the Final Basis of Design Documents, the GMP, the Project Schedule and other terms agreed to by the parties.

1.2.18 *Initial Project Scope* is the scope of the project that the parties collaboratively establish at the conclusion of the Validation Period that represents the parties' best determination of an achievable project scope within the Validated GMP

1.2.19 *Phase 1* is the first phase of the Contract when the Design-Builder engages in consultation with the Owner and other stakeholders to develop the design, budget and schedule to a sufficient extent to allow the Design-Builder to submit a GMP Proposal. At the conclusion of Phase 1, the Design-Builder shall submit the deliverables set forth in the Contract Documents.

1.2.20 *GMP Proposal* means that proposal developed by Design-Builder in accordance with Section 6.6 of the Agreement.

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1.2.21 *Hazardous Conditions* are any materials, wastes, substances and chemicals deemed to be hazardous under applicable Legal Requirements, or the handling, storage, remediation, or disposal of which are regulated by applicable Legal Requirements.

1.2.22 *Key Team Members are those individuals who were identified as part of the Design-Builder's Statement of Qualifications and Proposal submitted pursuant to the procurement of this Project.*

1.2.23 *Legal Requirements* are all applicable federal, state and local laws, codes, ordinances, rules, regulations, orders and decrees of any government or quasi-government entity having jurisdiction over the Project or Site, the practices involved in the Project or Site, or any Work.

1.2.24 *Original GMP* is the GMP set forth in the GMP Amendment.

1.2.25 *Owner Directed Allowances* are the amounts defined in Section 6.4.1.6 of the Agreement.

1.2.26 *Owner Provided Information* is all information provided by the Owner to the Design-Builder during the course of the Project.

1.2.27 *Phase 2* is the second phase of the Project that commences after the parties enter into the GMP Amendment. The scope of Phase 2 shall be set forth in the GMP Amendment.

1.2.28 *Project Schedule* is the schedule provided by the Design-Builder and approved by the Owner pursuant to Section 2.1.3 of the General Conditions and Exhibit C.

1.2.29 *Reliable Design Decision* is a decision, development, or election that refines the Initial Basis of Design Documents or Final Basis of Design Documents, that is approved by the Owner and that is set forth in the Design Log. A Reliable Design Decision cannot change the Initial Basis of Design Documents or Final Basis of Design Documents but shall instead constitute a further development or refinement of the design for the Project with which all subsequent design, development and Construction Documents shall be consistent.

1.2.30 *Site* is the land or premises on which the Project is located.

1.2.31 *Subcontractor* is any person or entity retained by Design-Builder as an independent contractor to perform a portion of the Work and shall include Design Consultants, materialmen, and suppliers.

1.2.32 *Sub-Subcontractor* is any person or entity retained by a Subcontractor as an independent contractor to perform any portion of a Subcontractor's Work and shall include Design Sub-Consultants, materialmen, and suppliers.

1.2.33 *Substantial Completion* or *Substantially Complete* means the date on which the Work, or an Interim Milestone Date, is sufficiently complete in accordance with the Contract Documents so that Owner can occupy and use the Project or a portion thereof for its intended purposes without compromising the building operation (including materially increasing operating expenses) or the user's ability to reasonably use all parts of the Project.

1.2.34 *Target Schedule* is the estimated Schedule collaboratively established by the parties at the conclusion of the Validation Period that represents the parties' best determination of an achievable Schedule.

1.2.35 *Trend* is an issue identified in the Trend Log.

1.2.36 *Trend Log* is a log of issues that have been identified by the Design-Builder or the Owner during the design process that may cause any Commercial Term to be modified or cause the Contract Time to be exceeded.

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1.2.37 *Validated GMP* is the GMP that is validated by the Design-Builder during the Validation Period that represents the parties' best determination of an achievable GMP.

1.2.38 *Validation Amendment* is the Contract Amendment entered into after the Validation Period that establishes the Initial Project Scope, the Validated GMP, and the Target Schedule.

1.2.39 *Validation Period* is the time period established in Section 6.6 of the Agreement to accomplish the tasks set forth in Exhibit C, Section 2.02.

1.2.40 *Validation Proposal* is the Proposal provided by the Design-Builder at the time set forth in Exhibit C that establishes the terms of the remainder of Phase 1, including but not limited to the Phase 1 Scope, the Phase 1 Not to Exceed Amount, the Validated GMP, the Target Scope, and the Initial Basis of Design Documents.

1.2.41 *Work* shall mean the services, design and construction to be completed by the Design-Builder under the terms of this Contract. Work specifically includes the furnishing of all services, labor, materials, equipment, and all incidentals necessary to the successful completion of the services, design and construction, whether expressly required by or reasonably inferable from the Contract Documents, whether they are temporary or permanent, and whether they are incorporated into the finished Work or not. Work also includes all other obligations imposed on the Design-Builder by the Contract. The Work is sometimes generally referred to as the "Project."

Article 2

Design-Builder's Services and Responsibilities

2.1 General Services.

2.1.1 Design-Builder's Representative shall be reasonably available to Owner and shall have the necessary expertise and experience required to supervise the Work. Design-Builder's Representative shall communicate regularly with Owner and shall be vested with the authority to act on behalf of Design-Builder. Design-Builder's Representative may be replaced only with the mutual agreement of Owner and Design-Builder.

2.1.2 Design-Builder shall provide Owner status reports detailing the progress of the Work as set forth in Exhibit C, including but not limited to (i) whether the Work is proceeding according to schedule, (ii) whether discrepancies, conflicts, or ambiguities exist in the Contract Documents that require resolution, (iii) whether health and safety issues exist in connection with the Work; (iv) status of the contingency accounts; and (v) other items that require resolution so as not to jeopardize Design-Builder's ability to complete the Work for the Contract Price and within the Contract Time(s). In addition to the frequency set forth in Exhibit C, status reports shall be submitted with the Design-Builder's draft Payment Applications as a pre-requisite to payment.

2.1.3 Design-Builder shall prepare and submit the schedules and deliverables set forth in Exhibit C, including but not limited to the Project Schedule for the execution of Work for Owner's review and response. The Project Schedule shall indicate the dates for the start and completion of the various stages of Work, including the dates when Owner information and approvals are required to enable Design-Builder to achieve the Contract Time(s). The Project Schedule shall be revised as required by Exhibit C and the conditions and progress of the Work, but such revisions shall not relieve Design-Builder of its obligations to complete the Work within the Contract Time(s), as such dates may be adjusted in accordance with the Contract Documents. Owner's review of, and response to, the Project Schedule and other deliverables provided by Design-Builder shall not be construed as relieving Design-Builder of its complete and exclusive control over the means, methods, sequences and techniques for executing the Work.

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2.1.4 The parties will meet within seven (7) days after execution of the Agreement to discuss issues affecting the administration of the Work and to implement any procedures additional to Exhibit C, including those relating to submittals and payment, to facilitate the ability of the parties to perform their obligations under the Contract Documents.

2.1.5 The Design-Build Team, which at a minimum shall consist of the Design-Builder's Representative and a representative from the lead designer and lead constructor, shall meet with the Owner at least on a weekly basis and shall provide to the Owner a written update regarding the status of the Project, including but not limited to the information required in Exhibit C and any issues that may have a material effect on the Project. The Design-Build Team shall issue meeting minutes within three days of meeting.

2.1.6 Design Builder hereby assigns to Owner all its interest in first-tier subcontracts now or hereafter entered into by Design Builder for performance of any part of the Work. The assignment will be effective upon acceptance by Owner in writing and only as to those subcontracts which the Owner designates in writing. The Owner may accept said assignment at any time during the course of the Work and prior to Final Completion in the event of a suspension or termination of Design Builder's rights under the Contract Documents. Such assignment is part of the consideration to the Owner for entering into the Contract with Design Builder and may not be withdrawn prior to Final Completion.

2.2 Design Professional Services.

2.2.1 Design-Builder shall, consistent with applicable state licensing laws, provide through qualified, licensed design professionals employed by Design-Builder, or procured from qualified, independent licensed Design Consultants, the necessary design services, including architectural, engineering and other design professional services, for the preparation of the required drawings, specifications and other design submittals to permit Design-Builder to complete the Work consistent with the Contract Documents. Nothing in the Contract Documents is intended or deemed to create any legal or contractual relationship between Owner and any Design Consultant. Design-Builder shall provide to Owner a list of all Design Consultants and Design Sub-Consultants who will perform material portions of the Work. "Material portions of the Work" shall, at a minimum, include the civil, landscape, architectural, structural, mechanical, electrical, and plumbing design. Design-Builder shall not substitute a listed Design Consultant or Sub-Consultant without obtaining Owner's prior written consent, such consent shall not be unreasonably withheld. The Contract Documents shall not be construed to create a contractual relationship of any kind between Owner and any Design Consultant or Subconsultant of any tier including but not limited to any third-party beneficiary rights. Design-Builder assumes responsibility to Owner for the proper performance of the Work of the Design Consultants and any Sub-Consultant and any acts and omissions in connection with such performance.

2.3 Standard of Performance for Professional Services.

2.3.1 The standard of care for all professional services performed to execute the Work shall be the care and skill ordinarily used by members of the applicable profession practicing under similar conditions at the same time and locality of the Project. The Design-Builder shall also perform the design and construction so that the Work meets or exceeds the performance requirements set forth in the Initial and/or Final Basis of Design Documents.

2.3.2 Design Builder shall perform all activities efficiently and with the requisite expertise, skill and competence to satisfy the requirements of the Contract Documents.

2.4 Design Development Services.

2.4.1 Design-Builder shall provide the Design Submissions set forth in the Contract Documents. Design-Builder and Owner shall, consistent with any applicable provision of the Contract Documents, agree upon any additional interim Design Submissions that Owner may wish to review,

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which interim Design Submissions may include design criteria, drawings, diagrams and specifications setting forth the Project requirements.

.1 Interim and final Design Submissions shall be consistent with the Initial and Final Basis of Design Documents, as the Basis of Design Documents may have been changed through the design process set forth in this Section 2.4.1, as well as the Commercial Terms. By submitting a Design Submission, the Design-Builder represents to the Owner that the Work depicted and otherwise, shown, contained, or reflected in the Design Submission may be constructed for the then current Initial or Final Basis of Design Documents (as applicable) and the Commercial Terms. Notwithstanding the above, Design-Builder may propose designs that may alter the Initial or Final Basis of Design Documents, the Commercial Terms; however, Design-Builder must provide notice thereof in accordance with Article 10 and obtain a Change Order before such proposed designs are incorporated into an approved Design Submission or Construction Documents.

.2 Design-Builder shall provide the Design Submissions set forth in Exhibit C. On or about the time of the scheduled submissions, Design-Builder and Owner shall meet and confer about the submissions, with Design-Builder identifying during such meetings, among other things, the evolution of the design and any changes to the Initial or Final Basis of Design Documents, or, if applicable, previously submitted Design Submissions.

.3 The Owner shall review and comment on such Design Submissions, providing any comments and/or concerns about such Design Submissions. The Owner shall provide all comments on the Design Submissions within the time provided by the Schedule. The Design-Builder shall revise the Design Submissions (and any other deliverables) in response to the Owner's comments and incorporate said responses into the next Design Submission.

.4 If incorporation of the Owner's comments result in a design that is inconsistent with the Initial or Final Basis of Design Documents or otherwise give rise to a change in the Initial or Final Basis of Design Documents or the Commercial Terms, the Design-Builder shall provide notice thereof in accordance with Article 10. Changes to the Initial or Final Basis of Design Documents, including those that are deemed minor changes under Section 9.3.1, shall be processed in accordance with Article 9.

.5 The Design-Builder shall provide an updated cost model for the Project periodically as required in Exhibit C. The Design-Builder shall also schedule and facilitate a one-day review meeting with the Owner to present and summarize changes in the Design Submission, changes to the scheduled Milestone dates and present an overview of cost model.

.6 Design Log. A Design Log, including a full listing of Reliable Design Decisions and all changes to the Initial and Final Basis of Design Documents, will be maintained by the Design-Builder and provided to all attendees for review.

a. Both parties must agree to include a Reliable Design Decision in the Design Log.

b. The Design Log shall be updated after every Design Review Meeting, and in any case, on a weekly basis.

c. Once a Reliable Design Decision in the Design Log is approved in writing by the Owner, it shall be binding on the Design-Builder as if set forth in the Interim or Final Basis of Design Documents.

d. The Design Log is for the sole purpose of tracking the development of the Design Submissions. If a Reliable Design Decision will cause a change in the Interim or Final Basis of Design Decisions, or any of the Commercial Terms, such changes must be processed pursuant to Articles 9 and 10.

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.7 Trend Log. If either party does not know the extent to which a Design Submission or other potential change will alter a Commercial Term, either party may request in writing to identify a Trend in the Trend Log.

a. The request to include a Trend in the Trend Log must include the following information:

i. Identification of the portion of the Design Submission for which the costs are uncertain and may cause any Commercial Term to be exceeded;

ii. The estimated change in the applicable Commercial Term; and

iii. Potential impacts or changes to the Initial or Final Basis of Design Documents as a result of the Trend.

b. Both parties must consent in writing to include the Trend in the Trend Log. The Design-Builder will track the Trend on the Trend Log, and the Trend Log shall be updated with the most recent information on a weekly basis.

c. The parties will work collaboratively to resolve Trends in the Trend Log as quickly as possible. When a Trend in the Log is resolved and the resolution changes the Initial or Final Basis of Design Documents and/or any Commercial Term, the resolution shall be memorialized in a Change Order. If the resolution does not change the Initial or Final Basis of Design Documents and/or any Commercial Term, it shall be removed from the Trend Log.

2.4.2 Design-Builder shall submit to Owner Construction Documents setting forth in detail drawings and specifications describing the requirements for construction of the Work. The Construction Documents shall be consistent with the latest set of interim Design Submissions, as such submissions may have been modified by the parties and recorded as set forth in the Contract Documents. The parties shall have a design review meeting to discuss, and Owner shall review and approve, the Construction Documents in accordance with the procedures set forth in Section 2.4.1 above and Exhibit C. Design-Builder shall proceed with construction in accordance with the approved Construction Documents and shall submit one set of approved Construction Documents to Owner prior to commencement of construction.

2.4.3 Owner's review and approval of Design Submissions, meeting minutes, the Design Log, the Trend Log, and the Construction Documents is for the purpose of mutually establishing a conformed set of Contract Documents compatible with the requirements of the Work. Neither Owner's review nor approval of any Design Submissions, meeting minutes, the Design Log, the Trend Log and Construction Documents shall be deemed to transfer any design liability from Design-Builder to Owner. Design-Builder shall provide Owner with sufficient time in the Project Schedule to review and approve the Design Submissions, such time period shall not be less than ten business days.

2.4.4 To the extent not prohibited by the Contract Documents or Legal Requirements, Design-Builder may prepare Design Submissions and Construction Documents for a portion of the Work to permit construction to proceed on that portion of the Work prior to completion of the Construction Documents for the entire Work.

2.5 Legal Requirements.

2.5.1 Design-Builder shall perform the Work in accordance with all Legal Requirements and shall provide all notices applicable to the Work as required by the Legal Requirements.

2.5.2 The Commercial Terms shall be adjusted to compensate Design-Builder for the effects of any changes in the Legal Requirements enacted after the date the parties agree upon the Commercial Term. Such effects may include, without limitation, revisions Design-Builder is required to make to the Construction Documents because of changes in Legal Requirements.

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2.6 Government Approvals and Permits.

2.6.1 Unless the parties have identified permits in an Owner's Permit List attached as either an exhibit to the Agreement or as part of the Initial or Final Basis of Design Documents, Design-Builder shall obtain and pay for all necessary permits, approvals, licenses, government charges and inspection fees required for the prosecution of the Work by any government or quasi-government entity having jurisdiction over the Project.

2.6.2 Design-Builder shall provide reasonable assistance to Owner in obtaining those permits, approvals and licenses that are Owner's responsibility.

2.7 Design-Builder's Construction Phase Services.

2.7.1 Unless otherwise provided in the Contract Documents to be the responsibility of Owner or a separate contractor, Design-Builder shall provide through itself or Subcontractors the necessary supervision, labor, inspection, testing, start-up, material, equipment, machinery, temporary utilities and other temporary facilities to permit Design-Builder to complete construction of the Project consistent with the Contract Documents.

2.7.2 Design-Builder shall perform all construction activities efficiently and with the requisite expertise, skill and competence to satisfy the requirements of the Contract Documents. Design-Builder shall at all times exercise complete and exclusive control over the means, methods, sequences and techniques of construction.

2.7.3 The Design-Builder shall assemble and install all equipment according to the applicable manufacturer's installation instructions. Work that does not conform to the applicable instructions and/or any resulting errors in assembly or installation shall be corrected by the Design-Builder. If the Owner determines that the Design-Builder has incorrectly assembled, installed and/or damaged any such equipment, the Design-Builder shall, at its own expense, furnish a competent manufacturer's representative to assist, instruct and approve the Design-Builder's corrected work.

2.7.4 If any materials or equipment are stored by Design-Builder, they shall be stored so as to ensure the preservation of their quality and fitness. Materials and equipment shall be placed on platforms or other hard, clean surfaces, and not on the ground, and shall be placed under cover and heated adequately to prevent condensation, oxidation or freezing. Stored materials and equipment shall be located so as to facilitate observation. The Design-Builder shall be responsible for all damage or loss that occurs as a result of its fault or negligence in connection with the care and protection of all materials and equipment until acceptance by the Owner.

2.7.5 Design-Builder is responsible for verifying that any equipment supplied by the Owner is in working order and sufficient for the purposes for which it was intended in the Project. If equipment furnished by Owner is not in working order or is not sufficient for the Project, Design-Builder shall notify Owner immediately, and Owner shall either repair or replace the equipment, at Owner's sole discretion. Design-Builder is responsible for the proper installation of the equipment furnished by Owner.

2.7.6 Design-Builder shall keep the Site reasonably free from debris, trash and construction wastes to permit Design-Builder to perform its construction services efficiently, safely and without interfering with the use of adjacent land areas. Upon Substantial Completion of the Work, or a portion of the Work, Design-Builder shall remove all debris, trash, construction wastes, materials, equipment, machinery and tools arising from the Work or applicable portions thereof to permit Owner to occupy the Project or a portion of the Project for its intended use.

2.7.7 Design-Builder shall not commence any construction services, including but not limited to materials or equipment purchases, prior to the Owner's approval of the Construction Documents, without the prior, written approval from the Owner.

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2.8 Subcontracts

2.8.1 Design-Builder shall employ only Subcontractors who are duly licensed and qualified to perform the Work consistent with the Contract Documents. Design-Builder shall, prior to the start of the Work applicable to each Subcontractor, provide Owner with a list of all Subcontractors performing the work to Owner. To the extent that the Design-Builder has not selected a Subcontractor prior to performing the applicable work, Design-Builder shall inform Owner in writing of the scope of work that has not been subcontracted and provide Owner a list of any subsequently added Subcontractors prior to the Subcontractor performing Work on the Project. Owner may reasonably object to Design-Builder's selection of any Subcontractor, provided that the Contract Price and/or Contract Time(s) shall be adjusted to the extent that Owner's decision impacts Design-Builder's cost and/or time of performance. Design-Builder may not substitute listed Subcontractors without Owner's prior consent; such consent shall not be unreasonably withheld. The Contract Documents shall not be construed to create a contractual relationship of any kind between Owner and any Subcontractor of any tier.

2.8.2 Design-Builder shall submit a Subcontracting Procurement Procedure during Phase 1 as required in Exhibit C, subject to the approval of the Owner. After approval by the Owner, Design-Builder may only modify the Subcontracting Plan upon obtaining written approval from the Owner. Design-Builder may not award any Subcontract on the basis of a lump sum price without obtaining prior written permission from the Owner, such permission shall not be unreasonably withheld.

2.8.3 All subcontracted Work associated with the performance of the construction shall be awarded by Design-Builder in accordance with a Subcontractor Procurement Procedure established during Phase 1. Design-Builder shall identify the scope of subcontracted Work ("Subcontract Package") and shall identify qualified Subcontractors for each Subcontract Package. Unless approved in writing by the Owner, the Subcontractor Procurement Procedure shall comply with the following:

.1 All subcontracted work associated with performance of Construction Packages shall be award by the Design-Builder to Subcontractors in accordance with a best value selection process established between the parties. Unless otherwise agreed in writing by the parties, the best value selection process shall contain mutually acceptable evaluation criteria for the proposal and selection process that is clear and consistent and includes both qualifications and price.

.2 The Design-Builder may only modify the Subcontractor Procurement Procedure after obtaining written approval from the Owner. Any such modification shall be at the sole risk and responsibility of the Design-Builder and without any modification to any applicable Commercial Terms.

.3 The Design-Builder's selection of Subcontractors shall comply with the following requirements, unless modified by the Subcontractor Procurement Procedure approved in writing by the Owner:

a. The Design-Builder shall identify the scope of the Work to be subcontracted and shall identify at least three pre-qualified Subcontractors for such scope for written approval by the Owner.

b. After approval of the pre-qualified Subcontractors by the Owner, the Design-Builder shall select from the three pre-approved Subcontractors for the identified scope of the Work, unless it obtains prior written approval from the Owner to select a different Subcontractor.

c. If the Design-Builder cannot reasonably identify three pre-qualified Subcontractors, it shall inform the Owner in writing as to the reason for the inability to identify the Subcontractors and shall not proceed with the selection of a Subcontractor without the prior written approval of the Owner.

d. The Design-Builder shall select Subcontractors on the basis of the best value to the Project. If in the Design-Builder's determination, the Subcontractor who proposes the

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best value did not propose the lowest cost, the Design-Builder shall i) provide a written justification for the selection of the Subcontractor, and ii) obtain the Owner's written approval prior to Design-Builder entering into the Subcontract.

2.8.4 Design-Builder must obtain prior, written approval from the Owner for the Design-Builder or the lead Constructor (if the lead Constructor is not also the Design-Builder) to self-perform construction Work.

1. For each scope of Work for which Design-Builder proposes self-performance, Design-Builder must submit to the Owner a proposal that contains the following minimum information as well as any other information reasonably requested by the Owner:

a. A detailed description of the scope of Work; and
b. A detailed explanation of the effect of the self-performed construction Work on the Project, including but not limited to cost savings, benefits to the Project, and risks to the Project.

2. Design-Builder will provide the Owner with an estimate of the costs for all self-performed construction Work on an open book basis. In calculating the costs for self-performed construction Work, the following shall apply:

a. The costs for self-performed construction Work shall not include costs that are also included in the Lump Sum General Conditions Costs.

b. Notwithstanding the above, Design-Builder may include in the costs for self-performed construction Work additional general conditions costs that are directly associated with the self-performed construction Work that Design-Builder would not have incurred but for the self-performed construction Work.

2.8.5 Design-Builder assumes responsibility to Owner for the proper performance of the Work of Subcontractors and any acts and omissions in connection with such performance. Nothing in the Contract Documents is intended or deemed to create any legal or contractual relationship between Owner and any Subcontractor or Sub-Subcontractor, including but not limited to any third-party beneficiary rights.

2.8.6 Design-Builder shall coordinate the activities of all Subcontractors. If Owner performs other work on the Project or at the Site with separate contractors under Owner's control, Design-Builder agrees to reasonably cooperate and coordinate its activities with those of such separate contractors so that the Project can be completed in an orderly and coordinated manner without unreasonable disruption.

2.9 Design-Builder's Responsibility for Project Safety.

2.9.1 Design-Builder recognizes the importance of performing the Work in a safe manner so as to prevent damage, injury or loss to (i) all individuals at the Site, whether working or visiting, (ii) the Work, including materials and equipment incorporated into the Work or stored on-Site or off-Site, and (iii) all other property at the Site or adjacent thereto. Design-Builder assumes responsibility for implementing and monitoring all safety precautions and programs related to the performance of the Work. Design-Builder shall, prior to commencing construction, designate a Safety Representative with the necessary qualifications and experience to supervise the implementation and monitoring of all safety precautions and programs related to the Work. Unless otherwise required by the Contract Documents, Design-Builder's Safety Representative shall be an individual stationed at the Site who may have responsibilities on the Project in addition to safety. The Safety Representative shall make routine daily inspections of the Site and shall hold weekly safety meetings with Design-Builder's personnel, Subcontractors and others as applicable.

2.9.2 Design-Builder and Subcontractors shall comply with all Legal Requirements relating to safety, as well as any Owner-specific safety requirements set forth in the Contract Documents, provided that such Owner-specific requirements do not violate any applicable Legal Requirement. Design-Builder will immediately report in writing any safety-related injury, loss, damage or accident

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arising from the Work to Owner's Representative and, to the extent mandated by Legal Requirements, to all government or quasi-government authorities having jurisdiction over safety-related matters involving the Project or the Work.

2.9.3 Design-Builder's responsibility for safety under this Section 2.9 is not intended in any way to relieve Subcontractors and Sub-Subcontractors of their own contractual and legal obligations and responsibility for (i) complying with all Legal Requirements, including those related to health and safety matters, and (ii) taking all necessary measures to implement and monitor all safety precautions and programs to guard against injuries, losses, damages or accidents resulting from their performance of the Work.

2.10 Design-Builder's Warranty.

2.10.1 Design-Builder warrants to Owner that the construction, including all materials and equipment furnished as part of the construction, shall be new unless otherwise specified in the Contract Documents, of good quality, in conformance with the Contract Documents and free of defects in materials and workmanship. Design-Builder's warranty obligation excludes defects caused by abuse, alterations, or failure to maintain the Work in a commercially reasonable manner. Nothing in this warranty is intended to limit any manufacturer's warranty which provides Owner with greater warranty rights than set forth in this Section 2.10 or the Contract Documents. Design-Builder will provide Owner with all manufacturers' warranties upon Substantial Completion.

2.11 Correction of Defective Work.

2.11.1 Design-Builder agrees to correct any Work that is found to not be in conformance with the Contract Documents, including that part of the Work subject to Section 2.10 hereof, within a period of one year from the date of Substantial Completion of the Work or any portion of the Work, or within such longer period to the extent required by any specific warranty included in the Contract Documents.

2.11.2 Design-Builder shall, within seven (7) days of receipt of written notice from Owner that the Work is not in conformance with the Contract Documents, take meaningful steps to commence correction of such nonconforming Work, including the correction, removal or replacement of the nonconforming Work and any damage caused to other parts of the Work affected by the nonconforming Work. If Design-Builder fails to commence the necessary steps within such seven (7) day period, Owner, in addition to any other remedies provided under the Contract Documents, may provide Design-Builder with written notice that Owner will commence correction of such nonconforming Work with its own forces. If Owner does perform such corrective Work, Design-Builder shall be responsible for all reasonable costs incurred by Owner in performing such correction. If the nonconforming Work creates an emergency requiring an immediate response, the seven (7) day period identified herein shall be deemed inapplicable.

2.11.3 The one-year period referenced in Section 2.11.1 above applies only to Design-Builder's obligation to correct nonconforming Work and is not intended to constitute a period of limitations for any other rights or remedies Owner may have regarding Design-Builder's other obligations under the Contract Documents.

2.12 Contract Phases

2.12.1 Phase 1. Phase 1 shall commence upon Notice to Proceed from the Owner and shall end on the Phase 1 Completion Date as set forth in DBIA Document 530, Section 5.2. The services provided by the Design-Builder during Phase 1 shall be established in Exhibit C.

.1 In the Validation Period of Phase 1, the Design-Builder shall carefully and thoroughly examine the information set forth in Exhibit C, the existing site conditions, and any other information provided by the Owner with respect to the Project. Such information includes, but is not limited to, as-built drawings of the existing facilities; necessary testing

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of existing facilities; geotechnical and other site conditions; and legal, permitting and regulatory requirements and restrictions.

.2 The Design-Builder may not rely on information provided by the Owner and must validate all information provided by the Owner during Phase 1 as set forth in Exhibit C. Notwithstanding the above, the parties recognize that the Design-Builder relied on the information set forth in the Request for Proposals to establish the Phase 1 NTE, and if the actual conditions differ materially from the information set forth in the RFP, then the Design-Builder shall provide Notice thereof and may be entitled to an equitable adjustment in the Phase 1 NTE, provided that the Design-Builder meets the requirements in Section 4.2.1 of the General Conditions.

.3 The Design-Builder shall provide the submissions set forth in Exhibit C. In addition, the Design-Builder and the Owner shall, consistent with any applicable provision of the Contract Documents, agree upon the quantity and level of development for Design Submissions that the Owner may wish to review, which Design Submissions may include Milestone Design Submissions, design criteria, drawings, diagrams and specifications setting forth the Project requirements. Design Submissions shall be consistent with the GMP and the information set forth in the RFP, as they may develop through the design process set forth in the Contract Documents.

.4 Design-Builder must verify the information set forth in Exhibit C by the conclusion of the Validation Period. The extent to which such verification will occur in the Validation Period shall be set forth in Exhibit C. If the Design-Builder discovers or should have discovered with reasonable diligence material differences from the actual conditions and the information provided in Exhibit C, Design-Builder shall, at the conclusion of the Validation Period, provide Owner with written notice of any such material differences in the Validation Proposal. A "Material Difference" is defined as one that would either a) impact the Initial Basis of Design Documents or Design-Builder's Fee Percentage or b) be considered a Differing Site Condition pursuant to Section 4.2.1 of the General Conditions. Design-Builder shall not be entitled to a Change Order for Differing Site Conditions pursuant to Section 4.2.1(i) of the General Conditions if the Differing Site Condition could have been discovered, with reasonable diligence, during the Validation Period.

.5 At the time set forth in the Phase 1 Schedule, the Design-Builder will submit a Validation Proposal pursuant to Exhibit C and Section 6.6.1 of the Agreement. The parties will negotiate the Final terms of the Validation Proposal, and if the parties agree, they will enter into the Validation Amendment that will, among other terms, set forth the scope of the remainder of Phase 1, the Phase 1 Not to Exceed Amount, the Validated GMP, the Target Schedule, and the Initial Project Scope. Upon execution of the Validation Amendment, the Design-Builder shall provide a payment and performance bond for the amount of the Phase 1 NTE.

.6 At the conclusion of Phase 1, the Design-Builder will submit a GMP Proposal pursuant to Exhibit C and Section 6.6.1 of the Agreement. The parties will negotiate the Final terms of the GMP Proposal, and if the parties agree, they will enter into the GMP Amendment. Upon execution of the GMP Amendment, the Design-Builder shall provide a payment and performance bond for the amount of the GMP.

.7 If the Design-Builder performs Work after the submission of the GMP Proposal but before the parties enter into the GMP Amendment pursuant to Section 6.6.1 of the Agreement, the Design-Builder shall be entitled to be paid in the same manner as it was paid during Phase 1; however, in no case shall the Design-Builder be entitled to be paid in excess of the Phase 1 NTE.

2.12.2 Phase 2. Phase 2 is the final phase of the Contract where the Design-Builder: (i) completes

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the design services and develops Construction Documents for the Project, (ii) performs the construction, start-up, testing and commissioning and closeout of the Project, (iii) undertakes any necessary warranty services for the Project, and (iv) performs other services as set forth in Exhibit C and the GMP Amendment.

Article 3

Owner's Services and Responsibilities

3.1 Duty to Cooperate.

3.1.1 Owner shall, throughout the performance of the Work, cooperate with Design-Builder and perform its responsibilities, obligations and services in a timely manner to facilitate Design-Builder's timely and efficient performance of the Work and so as not to delay or interfere with Design-Builder's performance of its obligations under the Contract Documents.

3.1.2 Owner shall provide timely reviews and approvals of Design Submissions and Construction Documents consistent with the turnaround times set forth in Design-Builder's schedule.

3.1.3 Owner shall give Design-Builder timely notice of any Work that Owner notices to be defective or not in compliance with the Contract Documents.

3.2 Furnishing of Services and Information.

3.2.1 The Initial Basis of Design Documents sets forth the information provided by the Owner.

3.2.2 Owner is responsible for securing and executing all necessary agreements with adjacent land or property owners that are necessary to enable Design-Builder to perform the Work. Owner is further responsible for all costs, including attorneys' fees, incurred in securing these necessary agreements.

3.3 Financial Information.

3.3.1 If Design-Builder has reasonable belief that Owner will not have sufficient funds to complete the Project, at Design-Builder's written request, Owner shall promptly furnish reasonable evidence satisfactory to Design-Builder that Owner has adequate funds available and committed to fulfill all of Owner's contractual obligations under the Contract Documents. If Owner fails to furnish such financial information in a timely manner, Design-Builder may stop Work under Section 11.3 hereof or exercise any other right permitted under the Contract Documents.

3.3.2 Design-Builder shall cooperate with the reasonable requirements of Owner's lenders or other financial sources. Notwithstanding the preceding sentence, after execution of the Agreement Design-Builder shall have no obligation to execute for Owner or Owner's lenders or other financial sources any documents or agreements that require Design-Builder to assume obligations or responsibilities greater than those existing obligations Design-Builder has under the Contract Documents.

3.4 Owner's Representative.

3.4.1 Owner's Representative shall be responsible for providing Owner-supplied information and approvals in a timely manner to permit Design-Builder to fulfill its obligations under the Contract Documents. Owner's Representative shall also provide Design-Builder with prompt notice if it observes any failure on the part of Design-Builder to fulfill its contractual obligations, including any errors, omissions or defects in the performance of the Work. Owner's Representative shall

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communicate regularly with Design-Builder and shall be vested with the authority to act on behalf of Owner.

3.5 Government Approvals and Permits.

3.5.1 Owner shall obtain and pay for all necessary permits, approvals, licenses, government charges and inspection fees set forth in Section 2.6.1.

3.5.2 Owner shall provide reasonable assistance to Design-Builder in obtaining those permits, approvals and licenses that are Design-Builder's responsibility.

3.6 Owner's Separate Contractors.

3.6.1 Owner is responsible for all work performed on the Project or at the Site by separate contractors under Owner's control. Owner shall contractually require its separate contractors to cooperate with, and coordinate their activities so as not to interfere with, Design-Builder in order to enable Design-Builder to timely complete the Work consistent with the Contract Documents.

Article 4

Hazardous Conditions and Differing Site Conditions

4.1 Hazardous Conditions.

4.1.1 Unless otherwise expressly provided in the Contract Documents to be part of the Work, Design-Builder is not responsible for any Hazardous Conditions encountered at the Site that could have been reasonably discovered during Phase 1. Unless working with Hazardous Condition is part of the scope of the Work, upon encountering any Hazardous Conditions, Design-Builder will stop Work immediately in the affected area and duly notify Owner and, if required by Legal Requirements, all government or quasi-government entities with jurisdiction over the Project or Site.

4.1.2 Upon receiving notice of the presence of suspected Hazardous Conditions that are not set forth as part of the Work or that could not have been reasonably discovered during Phase 1, Owner shall take the necessary measures required to ensure that the Hazardous Conditions are remediated or rendered harmless. Such necessary measures shall include Owner retaining qualified independent experts to (i) ascertain whether Hazardous Conditions have actually been encountered, and, if they have been encountered, (ii) prescribe the remedial measures that Owner must take either to remove the Hazardous Conditions or render the Hazardous Conditions harmless.

4.1.3 Design-Builder shall be obligated to resume Work at the affected area of the Project only after Owner's expert provides it with written certification that (i) the Hazardous Conditions have been removed or rendered harmless and (ii) all necessary approvals have been obtained from all government and quasi-government entities having jurisdiction over the Project or Site.

4.1.4 Unless expressly provided in the Contract Documents to be part of the Work, Design-Builder will be entitled, in accordance with these General Conditions of Contract, to an adjustment in its Contract Price and/or Contract Time(s) to the extent Design-Builder's cost and/or time of performance have been adversely impacted by the presence of Hazardous Conditions.

4.1.5 To the fullest extent permitted by law, Owner shall indemnify, defend and hold harmless Design-Builder, Design Consultants, Subcontractors, anyone employed directly or indirectly by any of them, and their officers, directors, employees and agents, from and against any and all claims,

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losses, damages, liabilities and expenses, including reasonable attorneys' fees and expenses, arising out of or resulting from the presence, removal or remediation of Hazardous Conditions at the Site pursuant to this Section.

4.1.6 Notwithstanding the preceding provisions of this Section 4.1, Owner is not responsible for Hazardous Conditions introduced to the Site by Design-Builder, Subcontractors or anyone for whose acts they may be liable. To the fullest extent permitted by law, Design-Builder shall indemnify, defend and hold harmless Owner and Owner's officers, directors, employees and agents from and against all claims, losses, damages, liabilities and expenses, including attorneys' fees and expenses, arising out of or resulting from those Hazardous Conditions introduced to the Site by Design-Builder, Subcontractors or anyone for whose acts they may be liable.

4.1.7 With respect to Hazardous Conditions that are part of the Work, Design-Builder agrees to comply with all applicable regulatory authorities, including but not limited to any statute, regulation, or regulatory agency regarding such Hazardous Conditions. Design-Builder agrees to work cooperatively with Owner and regulatory agencies with jurisdiction over the Project to properly handle, dispose of, and/or remediate any Hazardous Conditions.

4.2 Differing Site Conditions.

4.2.1 Concealed or latent physical conditions or subsurface conditions at the Site that (i) materially differ from the conditions indicated in the Contract Documents or (ii) are of an unusual nature, differing materially from the conditions ordinarily encountered and generally recognized as inherent in the Work are collectively referred to herein as "Differing Site Conditions." If Design-Builder encounters a Differing Site Condition, Design-Builder will be entitled to an adjustment in the applicable Commercial Term to the extent Design-Builder's cost and/or time of performance are adversely impacted by the Differing Site Condition. Notwithstanding the above, provided the parties sign the GMP Amendment, Design-Builder shall not be entitled to a Change Order for Differing Site Conditions pursuant to Section 4.2.1(i) of the General Conditions if the Differing Site Condition could have been discovered, with reasonable diligence, during Phase 1.

4.2.2 Upon encountering a Differing Site Condition, Design-Builder shall provide prompt written notice to Owner of such condition, which notice shall not be later than fourteen (14) days after such condition has been encountered. Design-Builder shall, to the extent reasonably possible, provide such notice before the Differing Site Condition has been substantially disturbed or altered. Design-Builder and Owner shall work together cooperatively to determine the appropriate course of action regarding any Differing Site Condition.

4.3 Archaeological Resources

4.3.1 In the event the Design-Builder or any of its Subcontractors inadvertently discover archaeological resources at any time during the project, Design-Builder shall immediately notify the Owner and suspend all excavation activities at the site.

4.3.2 "Archaeological Resource" shall mean any material remains of human life or activities which are of interest. This shall include all sites, objects, structures, artifacts, implements, and locations of prehistoric or archaeological interest, whether previously recorded or still unrecognized, including, but not limited to objects pertaining to prehistoric and historic American Indian or aboriginal burials, campsites, dwellings, and their habitation sites, including rock shelters and caves, their artifacts and implements of culture such as projectile points, arrowheads, skeletal remains, grave goods, basketry, pestles, mauls and grinding stones, knives scrapers, rock carvings and paintings, and other implements and artifacts of any material or form.

4.3.3 The disturbance of any cairn or Native Indian grave is prohibited by the Indian Graves and Records Act (RCW 27.44).

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Article 5

Insurance and Bonds

5.1 Design-Builder's Insurance Requirements.

5.1.1 Design-Builder is responsible for procuring and maintaining the insurance for the coverage amounts all as set forth in the Insurance Exhibit to the Agreement. Coverage shall be secured from insurance companies authorized to do business in the state in which the Project is located, and with a minimum rating set forth in the Agreement.

5.1.2 Design-Builder's insurance shall specifically delete any design-build or similar exclusions that could compromise coverages because of the design-build delivery of the Project.

5.1.3 Upon signing and returning the signed Agreement to the Owner, and in any event, prior to performing any Work under this Agreement, Design-Builder shall provide Owner with certificates evidencing that (i) all insurance obligations required by the Contract Documents are in full force and in effect and will remain in effect for the duration required by the Contract Documents and (ii) no insurance coverage will be canceled, renewal refused, or materially changed unless at least thirty (30) days prior written notice is given to Owner. If any of the foregoing insurance coverages are required to remain in force after final payment are reasonably available, an additional certificate evidencing continuation of such coverage shall be submitted with the Final Application for Payment. If any information concerning reduction of coverage is not furnished by the insurer, it shall be furnished by the Design-Builder with reasonable promptness according to the Design-Builder's information and belief.

5.2 Owner's Liability Insurance.

5.2.1 Owner shall procure and maintain from insurance companies authorized to do business in the state in which the Project is located such liability insurance as set forth in the Insurance Exhibit to the Agreement to protect Owner from claims which may arise from the performance of Owner's obligations under the Contract Documents or Owner's conduct during the course of the Project.

5.3 Builder's Risk Insurance.

5.3.1 Design-Builder shall procure and maintain from insurance companies authorized to do business in the state in which the Project is located builder's risk insurance on an "all risk" or equivalent policy form upon the entire Project to the full insurable value of the Project, including professional fees, overtime premiums and all other expenses incurred to replace or repair the insured property. The property insurance obtained by Design-Builder shall be the broadest coverage commercially available and shall include as additional insureds the interests of Owner, Design-Builder, Design Consultants and Subcontractors of any tier. Such insurance shall be on a special perils form and shall include but not be limited to the perils of fire and extended coverage, theft, vandalism, malicious mischief, collapse, flood, earthquake, debris removal and other perils or causes of loss as called for in the Contract Documents. A copy of the builder's risk policy shall be made available to the Owner for its approval at Owner's written request, such approval shall not be unreasonably withheld. The builder's risk insurance shall include physical loss or damage to the Work, including temporary buildings, debris removal, and damage to materials and equipment in transit, at the Site or at another location as may be indicated in Design-Builder's Application for Payment and approved by Owner. The Design-Builder is responsible for the payment of any deductibles under the insurance required by this Section 5.3.1 to the extent that the Design-Builder, or any subcontractor or subconsultant of any tier is responsible for the claim against the builder's risk insurance.

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5.3.3 Not Used.

5.3.4 Any loss covered under the builder's risk insurance shall be adjusted with Owner and Design-Builder and made payable to both of them as trustees for the insureds as their interests may appear, subject to any applicable mortgage clause. All insurance proceeds received as a result of any loss will be placed in a separate account and distributed in accordance with such agreement as the interested parties may reach. Any disagreement concerning the distribution of any proceeds will be resolved in accordance with Article 10 hereof.

5.3.5 Owner and Design-Builder waive against each other and Owner's separate contractors, Design Consultants, Subcontractors, agents and employees of each and all of them, all damages covered by property insurance provided herein, except such rights as they may have to the proceeds of such insurance. Design-Builder and Owner shall, where appropriate, require similar waivers of subrogation from Owner's separate contractors, Design Consultants and Subcontractors and shall require each of them to include similar waivers in their contracts. These waivers of subrogation shall not contain any restriction or limitation that will impair the full and complete extent of its applicability to any person or entity unless agreed to in writing prior to the execution of this Agreement. Such waiver shall be effective whether the person or entity would otherwise have a duty of indemnification, do not pay the insurance premiums, and whether or not the person or entity had an insurable interest in the property damaged.

Article 6

Payment

6.1 Schedule of Values.

6.1.1 Design-Builder shall submit for Owner's review and approval a preliminary schedule of values for all of the Work as set forth in Exhibit C. The Schedule of Values will (i) subdivide the Work into its respective parts, (ii) include values for all items comprising the Work and (iii) serve as the basis for monthly progress payments made to Design-Builder throughout the Work. Design-Builder will furnish, as part of the Schedule of Values, adequate and reliable cost justification and documentation so as to provide both Owner and Design Builder a transparent understanding of the cost data estimates and bids that comprise the initial baseline Schedule of Values as well as any updates thereto. Design-Builder will provide a final Schedule of Values with the GMP Proposal.

6.1.2 The Owner will timely review and approve the Schedule of Values so as not to delay the submission of the Design-Builder's first application for payment. The Owner and Design-Builder shall timely resolve any differences so as not to delay the Design-Builder's submission of its first application for payment.

6.2 Monthly Progress Payments.

6.2.1 On or before the date established in the Agreement, Design-Builder shall submit for Owner's review and approval its Application for Payment requesting payment for all Work performed as of the date of the Application for Payment. The Application for Payment shall be accompanied by all supporting documentation required by the Contract Documents and/or established at the meeting required by Section 2.1.4 hereof.

6.2.2 If authorized by Owner, the Application for Payment may include request for payment for equipment and/or material delivered to the Site and suitably stored, or for completed preparatory work. Payment may similarly be requested for material stored off Site, provided Design-Builder complies with or furnishes satisfactory evidence of the following:

.1 The material will be placed in a warehouse that is structurally sound, dry, lighted and suitable for the materials to be stored;

.2 The warehouse is located within a 10-mile radius of the Project. Other locations may be

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utilized, if approved in writing, by Owner;

.3 Only materials for the Project are stored within the warehouse (or a secure portion of a warehouse set aside for the Project);

.4 Design-Builder furnishes Owner a certificate of insurance extending Design- Builder's insurance coverage for damage, fire, and theft to cover the full value of all materials stored, or in transit;

.5 The warehouse (or secure portion thereof) is continuously under lock and key, and only Design-Builder's authorized personnel shall have access;

.6 Owner shall at all times have the right of access in the company of Design-Builder;

.7 Design-Builder and its surety assume total responsibility for the stored materials;

.8 Design-Builder furnishes to Owner certified lists of materials stored, bills of lading, invoices, and other information as may be required, and shall also furnish notice to Owner when materials are moved from storage to the Site; and

.9 Upon payment, Owner will receive the equipment and materials free and clear of all liens and encumbrances.

6.2.3 All discounts offered by Subcontractor, Sub-Subcontractors and suppliers to Design-Builder for early payment shall accrue one hundred percent to Design-Builder to the extent Design-Builder advances payment. Unless Owner advances payment to Design-Builder specifically to receive the discount, Design-Builder may include in its Application for Payment the full undiscounted cost of the item for which payment is sought.

6.2.4 The Application for Payment shall constitute Design-Builder's representation that the Work described herein has been performed consistent with the Contract Documents, has progressed to the point indicated in the Application for Payment, and that title to all Work will pass to Owner free and clear of all claims, liens, encumbrances, and security interests upon the incorporation of the Work into the Project, or upon Design-Builder's receipt of payment, whichever occurs earlier.

6.3 Withholding of Payments.

6.3.1 On or before the date established in the Agreement, Owner shall pay Design-Builder all amounts properly due. If Owner determines that Design-Builder is not entitled to all or part of an Application for Payment as a result of Design-Builder's failure to meet its obligations hereunder, it will notify Design-Builder in writing at least five (5) days prior to the date payment is due. The notice shall indicate the specific amounts Owner intends to withhold, the reasons and contractual basis for the withholding, and the specific measures Design-Builder must take to rectify Owner's concerns. Design-Builder and Owner will attempt to resolve Owner's concerns prior to the date payment is due. If the parties cannot resolve such concerns, Design-Builder may pursue its rights under the Contract Documents, including those under Article 10 hereof.

6.3.2 Notwithstanding anything to the contrary in the Contract Documents, Owner shall pay Design-Builder all undisputed amounts in an Application for Payment within the times required by the Agreement.

6.4 Right to Stop Work and Interest.

6.4.1 If Owner fails to pay timely Design-Builder any undisputed amount that becomes due, Design-Builder, in addition to all other remedies provided in the Contract Documents, may stop Work pursuant to Section 11.3 hereof, provided Design-Builder gives Owner five business days' written notice of its intent to stop work and an opportunity to cure the late payment. All payments due and unpaid shall bear interest at the rate set forth in the Agreement.

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6.5 Design-Builder's Payment Obligations.

6.5.1 Design-Builder will pay Design Consultants and Subcontractors, in accordance with its contractual obligations to such parties, all the amounts Design-Builder has received from Owner on account of their work. Design-Builder will impose similar requirements on Design Consultants and Subcontractors to pay those parties with whom they have contracted. Design-Builder will indemnify and defend Owner against any claims for payment and mechanic's liens as set forth in Section 7.3 hereof.

6.6 Substantial Completion.

6.6.1 Design-Builder shall notify Owner when it believes the Work, or to the extent permitted in the Contract Documents, a portion of the Work representing an Interim Milestone, has achieved Substantial Completion. Within five (5) days of Owner's receipt of Design-Builder's notice, Owner and Design-Builder will jointly inspect such Work to verify that Design-Builder has achieved Substantial Completion in accordance with the requirements of the Contract Documents. If Design-Builder has achieved Substantial Completion, Owner shall prepare and issue a Certificate of Substantial Completion that will set forth (i) the date of Substantial Completion of the Work or portion thereof, (ii) the remaining items of Work that have to be completed before final payment, (iii) provisions (to the extent not already provided in the Contract Documents) establishing Owner's and Design-Builder's responsibility for the Project's security, maintenance, utilities and insurance pending final payment, and (iv) an acknowledgment that warranties commence to run on the date of Substantial Completion, except as may otherwise be noted in the Certificate of Substantial Completion.

6.6.2 Not Used

6.6.3 Owner, at its option, may use a portion of the Work which has been determined to be Substantially Complete, provided, however, that (i) a Certificate of Substantial Completion has been issued for the portion of Work addressing the items set forth in Section 6.6.1 above, (ii) Design-Builder and Owner have obtained the consent of their sureties and insurers, and to the extent applicable, the appropriate government authorities having jurisdiction over the Project, and (iii) Owner and Design-Builder agree that Owner's use or occupancy will not interfere with Design-Builder's completion of the remaining Work.

6.7 Final Payment.

6.7.1 After receipt of a Final Application for Payment from Design-Builder, Owner shall make final payment by the time required in the Agreement, provided that Design-Builder has achieved Final Completion.

6.7.2 At the time of submission of its Final Application for Payment, Design-Builder shall provide the following information:

.1 An affidavit that there are no claims, obligations or liens outstanding or unsatisfied for labor, services, material, equipment, taxes or other items performed, furnished or incurred for or in connection with the Work which will in any way affect Owner's interests;

.2 A general release executed by Design-Builder waiving, upon receipt of final payment by Design-Builder, all claims, except those claims previously made in writing to Owner and remaining unsettled at the time of final payment;

.3 Consent of Design-Builder's surety, if any, to final payment;

.4 All operating manuals, warranties, record drawings, and other deliverables required by the Contract Documents;

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.5 "As Built" drawings, with any and all implemented changes that constitute a final record set of the Project; and

.6 Certificates of insurance confirming that required coverages will remain in effect consistent with the requirements of the Contract Documents.

6.7.3 Upon making final payment, Owner waives all claims against Design-Builder except claims relating to (i) Design-Builder's failure to satisfy its payment obligations, if such failure affects Owner's interests, (ii) Design-Builder's failure to complete the Work consistent with the Contract Documents, including defects appearing after Substantial Completion and (iii) the terms of any special warranties required by the Contract Documents.

6.7.4 Deficiencies in the Work discovered after Substantial Completion, whether or not such deficiencies would have been included on the Punch List if discovered earlier, shall be deemed warranty Work. Such deficiencies shall be corrected by Design-Builder under Sections 2.9 and 2.10 herein, and shall not be a reason to withhold final payment from Design-Builder, provided, however, that Owner shall be entitled to withhold from the Final Payment the reasonable value of completion of such deficient work until such work is completed.

6.7.5 Owner shall release the Contract Retainage pursuant to RCW 60.28.011.

Article 7

Indemnification

7.1 Patent and Copyright Infringement.

7.1.1 Design-Builder shall defend any action or proceeding brought against Owner based on any claim that the Work, or any part thereof, or the operation or use of the Work or any part thereof, constitutes infringement of any United States patent or copyright, now or hereafter issued. Owner shall give prompt written notice to Design-Builder of any such action or proceeding and will reasonably provide authority, information and assistance in the defense of same. Design-Builder shall indemnify and hold harmless Owner from and against all damages and costs, including but not limited to attorneys' fees and expenses awarded against Owner or Design-Builder in any such action or proceeding. Design-Builder agrees to keep Owner informed of all developments in the defense of such actions.

7.1.2 If Owner is enjoined from the operation or use of the Work, or any part thereof, as the result of any patent or copyright suit, claim, or proceeding, Design-Builder shall at its sole expense take reasonable steps to procure the right to operate or use the Work. If Design-Builder cannot so procure such right within a reasonable time, Design-Builder shall promptly, at Design-Builder's option and at Design-Builder's expense, (i) modify the Work so as to avoid infringement of any such patent or copyright or (ii) replace said Work with Work that does not infringe or violate any such patent or copyright.

7.1.3 Sections 7.1.1 and 7.1.2 above shall not be applicable to any suit, claim or proceeding based on infringement or violation of a patent or copyright (i) relating solely to a particular process or product of a particular manufacturer specified by Owner and not offered or recommended by Design-Builder to Owner or (ii) arising from modifications to the Work by Owner or its agents after acceptance of the Work. If the suit, claim or proceeding is based upon events set forth in the preceding sentence, Owner shall defend, indemnify and hold harmless Design-Builder to the same extent Design-Builder is obligated to defend, indemnify and hold harmless Owner in Section 7.1.1 above.

7.1.4 The obligations set forth in this Section 7.1 shall constitute the sole agreement between the parties relating to liability for infringement of violation of any patent or copyright.

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7.2 Not Used.

7.3 Payment Claim Indemnification.

7.3.1 Provided that Owner is not in breach of its contractual obligation to make payments to Design-Builder for the Work, Design-Builder shall indemnify, defend and hold harmless Owner from any claims or mechanic's liens brought against Owner or against the Project as a result of the failure of Design-Builder, or those for whose acts it is responsible, to pay for any services, materials, labor, equipment, taxes or other items or obligations furnished or incurred for or in connection with the Work. Within three (3) days of receiving written notice from Owner that such a claim or mechanic's lien has been filed, Design-Builder shall commence to take the steps necessary to discharge said claim or lien, including, if necessary, the furnishing of a mechanic's lien bond. If Design-Builder fails to do so, Owner will have the right to discharge the claim or lien and hold Design-Builder liable for costs and expenses incurred, including attorneys' fees.

7.4 Design-Builder's General Indemnification.

7.4.1 Except as set forth in Section 7.4.2 below, Design-Builder, to the fullest extent permitted by law, shall indemnify, hold harmless and defend Owner, its Consultants, and their respective, its officers, directors, and employees (collectively "Indemnitees") from and against claims, losses, damages, liabilities, including attorneys' fees and expenses, for bodily injury, sickness or death, and property damage or destruction (other than to the Work itself) to the extent resulting from the negligent acts or omissions of Design-Builder, Design Consultants, Subcontractors, anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable. Design-Builder's duty to indemnify shall not apply to liability for damages arising out of Design-Builder's services or out of bodily injury to persons or damage to property that are (a) caused by or resulting from the sole negligence of Indemnitee or (b) caused by or resulting from the concurrent negligence of (i) Indemnitee, its agents or employees and (ii) Design-Builder, its agents or employees, with such liability limited only to the extent of the negligence of Design-Builder, it's agents or employees.

7.4.2 For indemnity obligations that arise from professional errors and omissions, Design-Builder, to the fullest extent permitted by law, shall indemnify Owner, its officers, directors, and employees from and against claims, losses, damages, liabilities, including attorneys' fees and expenses, for bodily injury, sickness or death and property damage or destruction (other than to the Work itself) but only to the extent resulting from the negligent acts or omissions of Design-Builder, Design Consultants, Subcontractors, anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable.

7.4.3 If an employee of Design-Builder, Design Consultants, Subcontractors, anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable has a claim against Owner, its officers, directors, employees, or agents, Design-Builder's indemnity obligations set forth in Sections 7.4.1 and 7.4.2 above shall not be limited by any limitation on the amount of damages, compensation or benefits payable by or for Design-Builder, Design Consultants, Subcontractors, or other entity under any employee benefit acts, including workers' compensation or disability acts. Solely for the purposes of the indemnification obligations under this Agreement, Design Builder specifically and expressly waives any immunity that may be granted it under the worker's compensation laws under the Washington State Industrial Insurance Act, Title 51 RCW; provided that such waiver shall be expressly limited to Design-Builder's indemnity obligations herein and shall not be intended as a benefit to any third party. Further, the indemnification obligation under this Agreement shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable to or for any third party under workers compensation acts, disability benefits acts, or other employee benefits acts. This waiver was mutually negotiated.

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7.4.4 THE PARTIES ACKNOWLEDGE THAT THE INDEMNIFICATION OBLIGATIONS IN THIS AGREEMENT AND THE WAIVER OF IMMUNITY UNDER RCW TITLE 51 WERE MUTUALLY NEGOTIATED.

OWNER'S INITIALS: (_____)
DESIGN-BUILDER'S INITIALS: (_____)

7.4.5 The Owner shall not be responsible or be held liable for any damage to person or property consequent upon the use, misuse or failure of any crane, hoist, rigging, blocking, scaffolding or other equipment used by the Design-Builder or any of its Subcontractors, even though the said crane, hoist, rigging, blocking, scaffolding, or other equipment be furnished or loaned to the Design-Builder by the Owner. The acceptance and/or use of any such crane, hoist, rigging, blocking, scaffolding or other equipment by the Design-Builder or its Subcontractors shall be construed to mean that the Design-Builder accepts all responsibility for any claims for damages whatsoever resulting from the use, misuse or failure of such apparatus whether such damages by its own employees or property or to the employees or property of other contractors, the Owner, or otherwise.

7.5 Lower Tier Contractors Indemnification Obligations

7.5.1 Design-Builder shall include in its contracts with all lower tier contractors, including but not limited to its Design Consultant, Subconsultants, and Subcontractors, the indemnification obligations set forth in this Agreement and the General Conditions and shall include Owner as an Indemnitee for all such indemnification provisions.

7.6 Limited Recourse.

7.6.1 None of the obligations set forth in this Agreement (on behalf of any Party) constitute personal obligations of any natural persons who are the officers, shareholders, members, partners, employees or agents of any Party unless the natural person is expressly identified as a contracting party. All Parties to this Agreement shall not seek recourse against any natural person described herein. This provision, however, shall not protect such natural persons from liability for willful misconduct, illegal acts or intentional violation of any duty of corporate loyalty.

Article 8

Time

8.1 Obligation to Achieve the Contract Times.

8.1.1 Design-Builder agrees that it will commence performance of the Work and achieve the Contract Time(s) in accordance with Article 5 of the Agreement and any Amendment to the Agreement.

8.2 Delays to the Work.

8.2.1 If Design-Builder is delayed on the critical path in the performance of the Work due to acts, omissions, conditions, events, or circumstances beyond its control and due to no fault of its own or those for whom Design-Builder is responsible, the Contract Time(s) for performance shall be reasonably extended by Change Order. By way of example, events that will entitle Design-Builder to an extension of the Contract Time(s) include acts or omissions of Owner or anyone under Owner's control (including separate contractors), changes in the Work, Differing Site Conditions, Hazardous Conditions, and Force Majeure Events.

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8.2.2 In addition to Design-Builder's right to a time extension for those events set forth in Section 8.2.1 above, Design-Builder shall also be entitled to an appropriate adjustment of the Contract Price provided, however, that the Contract Price shall not be adjusted for Force Majeure Events unless otherwise provided in the Agreement.

Article 9

Changes to the Contract Price and Time

9.1 Change Orders.

9.1.1 A Change Order is a written instrument issued after execution of the Agreement signed by Owner and Design-Builder, stating their agreement upon all of the following:

.1 The scope of the change in the Work;

.2 The amount of the adjustment to the Contract Price or any Commercial Term; and

.3 The extent of the adjustment to the Contract Time(s) or any Commercial Term.

9.1.2 All changes in the Work authorized by applicable Change Order shall be performed under the applicable conditions of the Contract Documents. Owner and Design-Builder shall negotiate in good faith and as expeditiously as possible the appropriate adjustments for such changes. Unless expressly set forth in the Change Order, Change Orders shall include all costs, including but not limited to all incidental and indirect costs and time extensions associated with the Change. Changes Orders will not be allowed unless there is an actual change to the Work.

9.1.3 If Owner requests a proposal for a change in the Work from Design-Builder and subsequently elects not to proceed with the change, a Change Order shall be issued to reimburse Design-Builder for reasonable costs incurred for estimating services, design services and services involved in the preparation of proposed revisions to the Contract Documents.

9.1.4 Owner may make changes in the Project, including but not limited to adding and/or removing Work from the Project. In such case, Design-Builder shall work with the Owner to adjust the remaining Work to meet as many of Owner's Project changes as reasonably possible within the applicable Commercial Term. At Owner's sole discretion, it may remove Work from the Project rather than increase the applicable Commercial Term to equitably adjust for claims by Design-Builder pursuant to Article 10 or Differing Site Conditions pursuant to Section 4.2.

9.2 Work Change Directives.

9.2.1 A Work Change Directive is a written order prepared and signed by Owner directing a change in the Work prior to agreement on an adjustment in the Contract Price and/or the Contract Time(s).

9.2.2 Owner and Design-Builder shall negotiate in good faith and as expeditiously as possible the appropriate adjustments for the Work Change Directive. Upon reaching an agreement, the parties shall prepare and execute an appropriate Change Order reflecting the terms of the agreement.

9.3 Minor Changes in the Work.

9.3.1 Minor changes in the Work do not involve an adjustment in the Contract Price and/or Contract Time(s) and do not materially and adversely affect the Work, including the design, quality,

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performance and workmanship required by the Contract Documents. Design-Builder may make minor changes in the Work consistent with the intent of the Contract Documents, provided, however, that Design-Builder shall promptly inform Owner, in writing, of any such changes and record such changes on the documents maintained by Design-Builder.

9.4 Contract Price Adjustments.

9.4.1 The increase or decrease in Contract Price resulting from a change in the Work shall be determined by one or more of the following methods:

.1 Unit prices set forth in the Agreement or as subsequently agreed to between the parties;

.2 A mutually accepted lump sum, properly itemized and supported by sufficient substantiating data to permit evaluation by Owner;

.3 The Cost of the Work as set forth in the Agreement; or

.4 If an increase or decrease cannot be agreed to as set forth in items.1 through.3 above and Owner issues a Work Change Directive, the cost of the change of the Work shall be determined by the reasonable expense and savings in the performance of the Work resulting from the change, including the Fee Percentage (if applicable), as set forth in the Agreement.

9.4.2 If unit prices are set forth in the Contract Documents or are subsequently agreed to by the parties, but application of such unit prices will cause substantial inequity to Owner or Design-Builder because of differences in the character or quantity of such unit items as originally contemplated, such unit prices shall be equitably adjusted.

9.4.3 If Owner and Design-Builder disagree upon whether Design-Builder is entitled to be paid for any services required by Owner, or if there are any other disagreements over the scope of Work or proposed changes to the Work, Owner and Design-Builder shall resolve the disagreement pursuant to Article 10 hereof. As part of the negotiation process, Design-Builder shall furnish Owner with a good faith estimate of the costs to perform the disputed services in accordance with Owner's interpretations. If the parties are unable to agree and Owner expects Design-Builder to perform the services in accordance with Owner's interpretations, Design-Builder shall proceed to perform the disputed services, conditioned upon Owner issuing a written order to Design-Builder (i) directing Design-Builder to proceed and (ii) specifying Owner's interpretation of the services that are to be performed. If this occurs, Design-Builder shall be entitled to submit in its Applications for Payment an amount equal to fifty percent (50%) of its reasonable estimated direct cost to perform the services, and Owner agrees to pay such amounts, with the express understanding that (i) such payment by Owner does not prejudice Owner's right to argue that it has no responsibility to pay for such services and (ii) receipt of such payment by Design-Builder does not prejudice Design-Builder's right to seek full payment of the disputed services if Owner's order is deemed to be a change to the Work.

9.5 Emergencies.

9.5.1 In any emergency affecting the safety of persons and/or property, Design-Builder shall act, at its discretion, to prevent threatened damage, injury or loss. Any change in the Contract Price and/or Contract Time(s) on account of emergency work shall be determined as provided in this Article 9.

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Article 10

Contract Adjustments and Disputes

10.1 Requests for Contract Adjustments and Relief.

10.1.1 If either Design-Builder or Owner believes that it is entitled to relief against the other for any event arising out of or related to the Work or Project, such party shall provide written notice to the other party of the basis for its claim for relief. Such notice shall, if possible, be made prior to incurring any cost or expense and in accordance with any specific notice requirements contained in applicable sections of these General Conditions of Contract. In the absence of any specific notice requirement, written notice shall be given within a reasonable time, not to exceed twenty-one (21) days, after the occurrence giving rise to the claim for relief or after the claiming party reasonably should have recognized the event or condition giving rise to the request, whichever is later. Such written notice shall be separate from the Design Log or Trend Log maintained by the Design-Builder, unless the parties specifically agree to allow the Design Log or Trend Log to operate as such written notice of claims. The Design-Builder shall provide more complete information with respect to the claim within fourteen (14) days of the initial notice, the more complete information shall include sufficient information to advise the other party of the circumstances giving rise to the claim for relief, the specific contractual adjustment or relief requested and the basis of such request. The failure to provide timely written notice of any claim shall operate as a waiver of such claim, but only to the extent that the failure to provide timely written notice prejudices the position of the non-claiming party.

10.2 Dispute Avoidance and Resolution.

10.2.1 The parties are fully committed to working with each other throughout the Project and agree to communicate regularly with each other at all times so as to avoid or minimize disputes or disagreements. If disputes or disagreements do arise, Design-Builder and Owner each commit to resolving such disputes or disagreements in an amicable, professional and expeditious manner so as to avoid unnecessary losses, delays and disruptions to the Work.

10.2.2 Design-Builder and Owner will first attempt to resolve disputes or disagreements at the field level through discussions between Design-Builder's Representative and Owner's Representative which shall conclude within fourteen (14) days of the written notice provided for in Section 10.1.1 unless the Owner and Design-Builder mutually agree otherwise.

10.2.3 If a dispute or disagreement cannot be resolved through Design-Builder's Representative and Owner's Representative, Design-Builder's Senior Representative and Owner's Senior Representative, upon the request of either party, shall meet as soon as conveniently possible, but in no case later than thirty (30) days after such a request is made, to attempt to resolve such dispute or disagreement. Five (5) days prior to any meetings between the Senior Representatives, the parties will exchange relevant information that will assist the parties in resolving their dispute or disagreement.

10.2.4 If after meeting the Senior Representatives determine that the dispute or disagreement cannot be resolved on terms satisfactory to both parties, the parties shall submit within thirty (30) days of the conclusion of the meeting of Senior Representatives the dispute or disagreement to non-binding mediation. The mediation shall be conducted by a mutually agreeable impartial mediator, or if the parties cannot so agree, a mediator designated by the American Arbitration Association ("AAA") pursuant to its Construction Industry Mediation Rules. The mediation will be governed by and conducted pursuant to a mediation agreement negotiated by the parties or, if the parties cannot so agree, by procedures established by the mediator. Unless otherwise mutually agreed by the Owner and Design-Builder and consistent with the mediator's schedule, the mediation shall commence within ninety (90) days of the submission of the dispute to mediation. Good faith mediation is a condition precedent to proceeding with arbitration or other binding dispute

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resolution procedure. Representatives of the parties with authority to resolve the dispute shall be present at any mediation.

10.3 Arbitration.

10.3.1 Any claims, disputes or controversies between the parties arising out of or relating to the Agreement, or the breach thereof, which have not been resolved in accordance with the procedures set forth in Section 10.2 above, shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the AAA then in effect, unless the parties mutually agree otherwise.

10.3.2 The award of the arbitrator(s) shall be final and binding upon the parties without the right of appeal to the courts. Judgment may be entered upon it in accordance with applicable law by any court having jurisdiction thereof.

10.3.3 Design-Builder and Owner expressly agree that any arbitration pursuant to this Section 10.3 may be joined or consolidated with any arbitration involving any other person or entity (i) necessary to resolve the claim, dispute or controversy, or (ii) substantially involved in or affected by such claim, dispute or controversy. Both Design-Builder and Owner will include appropriate provisions in all contracts they execute with other parties in connection with the Project to require such joinder or consolidation.

10.3.4 The prevailing party in any arbitration, or any other final, binding dispute proceeding upon which the parties may agree, shall be entitled to recover from the other party reasonable attorneys' fees and expenses incurred by the prevailing party. The prevailing party, if any, shall be determined by the applicable binding dispute tribunal.

10.4 Duty to Continue Performance.

10.4.1 Unless provided to the contrary in the Contract Documents, Design-Builder shall continue to perform the Work and Owner shall continue to satisfy its payment obligations to Design-Builder for undisputed amounts to Design-Builder as well as any further amounts pursuant to Section 9.4.3, pending the final resolution of any dispute or disagreement between Design-Builder and Owner.

10.5 CONSEQUENTIAL DAMAGES.

10.5.1 NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY (EXCEPT AS SET FORTH IN SECTIONS 10.5.2 AND 10.5.3 BELOW), NEITHER DESIGN-BUILDER NOR OWNER SHALL BE LIABLE TO THE OTHER FOR ANY CONSEQUENTIAL LOSSES OR DAMAGES, WHETHER ARISING IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO LOSSES OF USE, PROFITS, BUSINESS, REPUTATION OR FINANCING.

10.5.2 The consequential damages limitation set forth in Section 10.5.1 above is not intended to affect the payment of liquidated damages or lost early completion bonus, if any, set forth in Article 5 of the Agreement, which both parties recognize has been established, in part, to reimburse Owner or reward Design-Builder for some damages that might otherwise be deemed to be consequential.

10.5.3 The consequential damages limitation set forth in Section 10.5.1 above does not affect the ability of any party to recover consequential damages that are covered by insurance.

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Article 11

Stop Work and Termination for Cause

11.1 Owner's Right to Stop Work.

11.1.1 Owner may, without cause and for its convenience, order Design-Builder in writing to stop and suspend the Work. Such suspension shall not exceed sixty (60) consecutive days or aggregate more than ninety (90) days during the duration of the Project.

11.1.2 Design-Builder is entitled to seek an adjustment of the Contract Price and/or Contract Time(s) if i) its cost or time to perform the Work has been materially and adversely impacted by any suspension of stoppage of the Work by Owner, ii) the Design-Builder is entitled to the adjustment pursuant to the other provisions of the Contract Documents, and iii) the Design-Builder complies with all provisions of the Contract Documents regarding an adjustment to the Contract Price and/or Contract Time.

11.2 Owner's Right to Perform and Terminate for Cause.

11.2.1 If Design-Builder persistently fails to (i) provide a sufficient number of skilled workers, (ii) supply the materials required by the Contract Documents, (iii) comply with applicable Legal Requirements, (iv) timely pay, without cause, Design Consultants or Subcontractors, (v) prosecute the Work with promptness and diligence to ensure that the Work is completed by the Contract Time(s), as such times may be adjusted, (vi) perform material obligations under the Contract Documents, or (vii) comply with the requirements regarding safety, then Owner, in addition to any other rights and remedies provided in the Contract Documents or by law, shall have the rights set forth in Sections 11.2.2 and 11.2.3 below.

11.2.2 Upon the occurrence of an event set forth in Section 11.2.1 above, Owner may provide written notice to Design-Builder that it intends to terminate the Agreement unless the problem cited is cured, or commenced to be cured, within seven (7) days of Design-Builder's receipt of such notice. If Design-Builder fails to cure, or reasonably commence to cure, such problem, then Owner may give a second written notice to Design-Builder of its intent to terminate within an additional seven (7) day period. If Design-Builder, within such second seven (7) day period, fails to cure, or reasonably commence to cure, such problem, then Owner may declare the Agreement terminated for default by providing written notice to Design-Builder of such declaration.

11.2.3 Upon declaring the Agreement terminated pursuant to Section 11.2.2 above, Owner may enter upon the premises and take possession, for the purpose of completing the Work, of all materials, equipment, scaffolds, tools, appliances and other items thereon, which have been purchased or provided for the performance of the Work, all of which Design-Builder hereby transfers, assigns and sets over to Owner for such purpose, and to employ any person or persons to complete the Work and provide all of the required labor, services, materials, equipment and other items. In the event of such termination, Design-Builder shall not be entitled to receive any further payments under the Contract Documents until the Work shall be finally completed in accordance with the Contract Documents. Design-Builder will only be entitled to be paid for Work performed prior to its default. If Owner's cost and expense of completing the Work exceeds the unpaid balance of any Commercial Term, then Design-Builder shall be obligated to pay the difference to Owner. Such costs and expense shall include not only the cost of completing the Work, but also losses, damages, costs and expense, including attorneys' fees and expenses, incurred by Owner in connection with the reprocurement and defense of claims arising from Design-Builder's default, subject to the waiver of consequential damages set forth in Section 10.5 hereof.

11.2.4 If Owner improperly terminates the Agreement for cause, the termination for cause will be converted to a termination for convenience in accordance with the provisions of Article 8 of the Agreement.

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11.3 Design-Builder's Right to Stop Work.

11.3.1 Design-Builder may, in addition to any other rights afforded under the Contract Documents or at law, stop the Work for the following reasons:

.1 Owner's failure to provide financial assurances as required under Section 3.3 hereof; or

.2 Owner's failure to pay amounts properly due under Design-Builder's Application for Payment.

11.3.2 Should any of the events set forth in Section 11.3.1 above occur, Design-Builder has the right to provide Owner with written notice that Design-Builder will stop the Work unless said event is cured within seven (7) days from Owner's receipt of Design-Builder's notice. Design-Builder may not stop work unless it provides such written notice. If Owner does not cure the problem within such seven (7) day period, Design-Builder may stop the Work. In such case, Design-Builder shall be entitled to make a claim for adjustment to the Contract Price and Contract Time(s) to the extent it has been adversely impacted by such stoppage.

11.4 Design-Builder's Right to Terminate for Cause.

11.4.1 Design-Builder, in addition to any other rights and remedies provided in the Contract Documents or by law, may terminate the Agreement for cause for the following reasons:

.1 The Work has been stopped for sixty (60) consecutive days, or more than ninety (90) days during the duration of the Project, because of court order, any government authority having jurisdiction over the Work, or orders by Owner under Section 11.1.1 hereof, provided that such stoppages are not due to the acts or omissions of Design-Builder or anyone for whose acts Design-Builder may be responsible.

.2 Owner's failure to provide Design-Builder with any information, permits or approvals that are Owner's responsibility under the Contract Documents which result in the Work being stopped for sixty (60) consecutive days, or more than ninety (90) days during the duration of the Project, even though Owner has not ordered Design-Builder in writing to stop and suspend the Work pursuant to Section 11.1.1 hereof.

.3 Owner's failure to cure the problems set forth in Section 11.3.1 above after Design-Builder has stopped the Work.

11.4.2 Upon the occurrence of an event set forth in Section 11.4.1 above, Design-Builder may provide written notice to Owner that it intends to terminate the Agreement unless the problem cited is cured, or commenced to be cured, within seven (7) days of Owner's receipt of such notice. If Owner fails to cure, or reasonably commence to cure, such problem, then Design-Builder may give a second written notice to Owner of its intent to terminate within an additional seven (7) day period. If Owner, within such second seven (7) day period, fails to cure, or reasonably commence to cure, such problem, then Design-Builder may declare the Agreement terminated for default by providing written notice to Owner of such declaration. In such case, Design-Builder shall be entitled to recover in the same manner as if Owner had terminated the Agreement for its convenience under Article 8 of the Agreement.

11.5 Bankruptcy of Owner or Design-Builder.

11.5.1 If either Owner or Design-Builder institutes or has instituted against it a case under the United States Bankruptcy Code (such party being referred to as the "Bankrupt Party"), such event may impair or frustrate the Bankrupt Party's ability to perform its obligations under the Contract Documents. Accordingly, should such event occur:

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.1 The Bankrupt Party, its trustee or other successor, shall furnish, upon request of the non-Bankrupt Party, adequate assurance of the ability of the Bankrupt Party to perform all future material obligations under the Contract Documents, which assurances shall be provided within ten (10) days after receiving notice of the request; and

.2 The Bankrupt Party shall file an appropriate action within the bankruptcy court to seek assumption or rejection of the Agreement within sixty (60) days of the institution of the bankruptcy filing and shall diligently prosecute such action.

If the Bankrupt Party fails to comply with its foregoing obligations, the non-Bankrupt Party shall be entitled to request the bankruptcy court to reject the Agreement, declare the Agreement terminated and pursue any other recourse available to the non-Bankrupt Party under this Article 11.

11.5.2 The rights and remedies under Section 11.5.1 above shall not be deemed to limit the ability of the non-Bankrupt Party to seek any other rights and remedies provided by the Contract Documents or by law, including its ability to seek relief from any automatic stays under the United States Bankruptcy Code or the right of Design-Builder to stop Work under any applicable provision of these General Conditions of Contract.

Article 12

Electronic Data

12.1 Electronic Data.

12.1.1 The parties recognize that Contract Documents, including drawings, specifications and three-dimensional modeling (such as Building Information Models) and other Work Product may be transmitted among Owner, Design-Builder and others in electronic media as an alternative to paper hard copies (collectively "Electronic Data").

12.2 Transmission of Electronic Data.

12.2.1 Owner and Design-Builder shall agree upon the software and the format for the transmission of Electronic Data. Each party shall be responsible for securing the legal rights to access the agreed-upon format, including, if necessary, obtaining appropriately licensed copies of the applicable software or electronic program to display, interpret and/or generate the Electronic Data.

12.2.2 Neither party makes any representations or warranties to the other with respect to the functionality of the software or computer program associated with the electronic transmission of Work Product. Unless specifically set forth in the Agreement, ownership of the Electronic Data does not include ownership of the software or computer program with which it is associated, transmitted, generated or interpreted.

12.2.3 By transmitting Work Product in electronic form, the transmitting party does not transfer or assign its rights in the Work Product. The rights in the Electronic Data shall be as set forth in Article 4 of the Agreement. Under no circumstances shall the transfer of ownership of Electronic Data be deemed to be a sale by the transmitting party of tangible goods.

12.3 Electronic Data Protocol.

12.3.1 The parties acknowledge that Electronic Data may be altered or corrupted, intentionally or otherwise, due to occurrences beyond their reasonable control or knowledge, including but not limited to compatibility issues with user software, manipulation by the recipient, errors in transcription or transmission, machine error, environmental factors, and operator error.

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Consequently, the parties understand that there is some level of increased risk in the use of Electronic Data for the communication of design and construction information and, in consideration of this, agree, and shall require their independent contractors, Subcontractors and Design Consultants to agree, to the following protocols, terms and conditions set forth in this Section 12.3.

12.3.2 Electronic Data will be transmitted in the format agreed upon in Section 12.2.1 above, including file conventions and document properties, unless prior arrangements are made in advance in writing.

12.3.3 The Electronic Data represents the information at a particular point in time and is subject to change. Therefore, the parties shall agree upon protocols for notification by the author to the recipient of any changes which may thereafter be made to the Electronic Data, which protocol shall also address the duty, if any, to update such information, data or other information contained in the electronic media if such information changes prior to Final Completion of the Project.

12.3.4 The transmitting party specifically disclaims all warranties, expressed or implied, including, but not limited to, implied warranties of merchantability and fitness for a particular purpose, with respect to the media transmitting the Electronic Data. However, transmission of the Electronic Data via electronic means shall not invalidate or negate any duties pursuant to the applicable standard of care with respect to the creation of the Electronic Data, unless such data is materially changed or altered after it is transmitted to the receiving party, and the transmitting party did not participate in such change or alteration.

Article 13

Miscellaneous

13.1 Confidential Information.

13.1.1 Confidential Information is defined as information which is determined by the transmitting party to be of a confidential or proprietary nature and: (i) the transmitting party identifies as either confidential or proprietary; (ii) the transmitting party takes steps to maintain the confidential or proprietary nature of the information; and (iii) the document is not otherwise available in or considered to be in the public domain. The receiving party agrees to maintain the confidentiality of the Confidential Information and agrees to use the Confidential Information solely in connection with the Project.

13.2 Assignment.

13.2.1 Neither Design-Builder nor Owner shall, without the written consent of the other assign, transfer or sublet any portion or part of the Work or the obligations required by the Contract Documents.

13.3 Successorship.

13.3.1 Design-Builder and Owner intend that the provisions of the Contract Documents are binding upon the parties, their employees, agents, heirs, successors and assigns.

13.4 Governing Law.

13.4.1 The Agreement and all Contract Documents shall be governed by the laws of the place of the Project, without giving effect to its conflict of law principles.

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13.5 Severability.

13.5.1 If any provision or any part of a provision of the Contract Documents shall be finally determined to be superseded, invalid, illegal, or otherwise unenforceable pursuant to any applicable Legal Requirements, such determination shall not impair or otherwise affect the validity, legality, or enforceability of the remaining provision or parts of the provision of the Contract Documents, which shall remain in full force and effect as if the unenforceable provision or part were deleted.

13.6 No Waiver.

13.6.1 The failure of either Design-Builder or Owner to insist, in any one or more instances, on the performance of any of the obligations required by the other under the Contract Documents shall not be construed as a waiver or relinquishment of such obligation or right with respect to future performance.

13.7 Headings.

13.7.1 The headings used in these General Conditions of Contract, or any other Contract Document, are for ease of reference only and shall not in any way be construed to limit or alter the meaning of any provision.

13.8 Notice.

13.8.1 Whenever the Contract Documents require that notice be provided to the other party, notice will be deemed to have been validly given (i) if delivered in person to the individual intended to receive such notice, (ii) four (4) days after being sent by registered or certified mail, postage prepaid to the address indicated in the Agreement, (iii) if transmitted by facsimile, by the time stated in a machine generated confirmation that notice was received at the facsimile number of the intended recipient, or (iv) by electronic mail, by the time frame stated in the email generated confirmation that notice was received by the email of the intended recipient.

13.9 Amendments, Work Directives and Change Orders.

13.9.1 The Contract Documents may not be changed, altered, or amended in any way except in writing signed by a duly authorized representative of each party.

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1. INTRODUCTION

Benton County (hereinafter "County") is seeking to work collaboratively with the selected Design-Builder to achieve the most cost effective, creative, operationally efficient and programmatically-balanced project possible. The goal is upgrade the existing HVAC system of the Justice Center to meet the new energy requirements.

2. FUNDING/AUTHORITY

This procurement is being conducted pursuant to RCW 39.10.330 after approval from the Capital Projects Advisory Review Board Project Review Committee, obtained on November 30, 2023. PROJECT has been approved by the Council.

3. JUSTICE CENTER HVAC UPGRADE PROJECT

As part of the Clean Buildings Act (HB1257, 2019), buildings greater than 220,000 square feet must meet clean building performance standards by June 2026. The Benton County Justice Center was first constructed in 1983 and expanded to 275,058 square feet in 2001. The County performed, with the assistance of an Energy Audit Consultant, a level 2 ASHRAE energy audit and found the Justice Center did not meet those performance standards set by the Clean Buildings Act. The same consultant worked with the County to come up with a strategic plan to help the County meet those standards within the Justice Center Facility.

4. SCOPE

The proposed project will consist of upgrading major HVAC components of the Benton County Justice Center to meet compliance with the Clean Buildings Act with a target EUI goal of 95.2. Projects will include, but not limited to, the following:

Benton County Justice Center

- Upgrade the existing Johnson N2 controls system with a modern Johnson Controls BACnet DDC system. Evaluate control systems and standardize them across the campus.
- Provide a single chilled water plant within the Old Court and Jail mechanical penthouse. Provide multiple variable speed mag-lev water-cooled chillers with an energy usage of 0.4 KW/Ton. Provide primary/secondary pumping system with each building having its own secondary loop with associated pumps. Consider heat recovery chiller section to provide heat recovery.
    - Benton County wishes to utilize water-cooled mag-lev chillers, not air-cooled chillers if possible. The final manufacturer shall be approved by the County team.

Benton County Justice Center – Old Courts/Jail

- Replace/Modernize at least two air-handling units, possibly including:
    - Modernize AHU-1 with new VFDs, sensors, and updated DDC controls and sequence. Investigate replacing the existing Joy Fans with fan array type AHUS for maintenance and energy savings.

- Replace existing AHU-2 multi-zone with one modern VAV AHU with vertical VAV boxes.
  - The County prefers to recirculate airflow from dayrooms, Hallways, Offices, and multi-purpose rooms within the jail where possible. Cells, Restrooms, and showers should be 100% exhaust.
- See attached Sazan Group Report* - Information in the report is for information only – see above scope for preferences.

5. FULLY OPERATIONAL SECURED FACILITY

- It is critical that the entire facility remain active for the life of the project with minimal effect on the daily operations of the departments within it. Phasing, procedures and staging will need to be reviewed throughout the project with the Owner to keep the facility secure and operational.

6. EXISTING INFORMATION

See attached Sazan Group Report for the energy audit and its recommendations.

Central Chilled Water System Refinement Phase Report

Benton County Justice Center

Kennewick, WA

Prepared for
Benton County

November 2023

Prepared by
Säzän Group

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Table of Contents

1 Executive Summary 2
2 Project Goal/Overview 3
2.1 Project Description 3
2.2 Building Information 3
2.3 Goals 4
3 Scope Definition 4
3.1 Existing System 4
3.2 Proposed System Description 5
4 Execution Strategy 11
5 Cost Estimate 13
6 Risk Assessment 13
7 Appendix 15
7.1 AACE Cost Estimation Calculations (Separate File) 15
7.2 Concept Drawings and Documentation 15

1 Executive Summary

Säzän Group (Säzän) performed an energy audit for the Benton County Jail to identify Energy Efficiency Measures (EEMs) to improve building operation efficiency and assist the County with compliance with the Clean Buildings Act (CBA). Of the original twenty EEMs five were selected for the refine phase for further feasibility analysis. The intent of the reports is to provide background and scope information on the proposed project to assist Benton County during facilitation of the design and bidding process.

This report focuses on EEM #9 for the relocation of the chilled water systems serving the Benton County Jail facility to a central location onsite. Currently, the site has three separate cooling plants located in and serving three different buildings. The cooling plant and systems in each facility are approaching the end of their useful life and will require replacement in the next 5 to 10 years.

The refine phase investigated two options for a phased implementation of the chiller plant. This would allow the County to phase in the work as the existing plants become obsolete or require replacement. The options include an analysis of an all air cooled plant and a hybrid plant comprised of a water cooled and air cooled system. All options place the plant on the old courthouse roof structure. The team performed a limited structural analysis to verify weight-carrying capability. The proposed implementation is for the project to occur in multiple phases: Phase 1 includes the replacement of the Old Court/Old Jail chilled water plant, Phase 2 includes the replacement of the New Jail plant, and Phase 3 includes the replacement of the existing direct expansion cooling systems on the Mammoth air handling units serving the New Court.

The report provides an overview of the project objective and scope, execution strategies for project procurement, an AACE cost estimate, and a risk assessment. The appendices provide the AACE cost estimation calculations and schematic drawings for the recommended equipment and proposed layouts for the proposed systems.

The cost of the construction work is estimated at $2,604,000 including general conditions, overhead, insurance, bonding, and escalation to FY 2024 with a tolerance of +/- 20%.

2 Project Goal/Overview

2.1 Project Description

This refine phase study provides a preliminary evaluation for the relocation of the chilled water systems serving the Benton County Jail facility to the Old Court roof.

2.2 Building Information

The existing Benton County Justice Complex has three separate cooling plants located on individual buildings. Approximately 25 years ago, a central chilled water plant was proposed and installed to serve the Old Court/Old Jail building and the New Jail complex. Unfortunately, the system proved non-functional. As such a new air cooled chiller plant was installed on the New Jail and the interconnected chilled water piping was demolished and removed. The existing water cooled chiller and cooling tower remains in the Old Court/Old Jail first floor mechanical room with the addition of an air cooled pony chiller. This system takes up valuable space in the adjacent parking lot and sally port and is oversized. The New Court has two existing direct expansion systems with water cooled condensing coils located in the existing Mammoth air handling units.

2.3 Goals

The overarching goal of the central chilled water plant is to centralize the chilled water plant, reduce life cycle costs, reduce maintenance, reduce energy, and free up space in the old court sally port and parking lot. Metrics of success include:

- Reduce site wide EUI by a minimum of 5.9 KBTU/SF.YR
- Provide infrastructure for a phased central chilled water plant starting with the Old Court/Old Jail.
- Return parking space to County currently utilized by mechanical equipment.
- Minimize or eliminate chilled water outages and construction impact.
- Provide a plant that can be expanded upon in future phases.

3 Scope Definition

3.1 Existing System

3.1.1 Existing System Description

The site has three separate cooling plants serving the Old Court & Jail, New Court, and New Jail buildings, respectively. The total current tonnage is approximately 768 tons. The proposed new chilled water plant would provide 780 tons. Additional chillers to increase resiliency can be added but will increase project costs. The cooling plant and systems in each building are approaching the end of their useful life and will require replacement in the next 5 to 10 years.

Old Court & Jail

The Old Court & Jail building has two chillers in a constant primary, variable secondary configuration including a 280-ton water cooled chiller served by a 330-ton cooling tower with constant volume pumps and a standalone 100-ton air-cooled pony chiller with dedicated circulation pumps.

The air-cooled chiller is constantly tripping out and a pump retrofit is recommended for this piece of equipment. Currently, the water cooled portion of the chilled water system is oversized due to a change in use; the original calculated chilled water requirement was 180 tons for serving the Old Court/Old Jail. The system has operational and reliability issues, and the cooling tower structure takes up valuable space in the sally port that the County wishes to reutilize.

New Court

The New Court does not have a chilled water system, but instead has two evaporatively cooled DX coils serving AHU-1 and AHU-2, with cooling capacities rated at 107 and 92 tons, respectively.

While the system is well maintained and functional, there are no known drop-in replacement cooling equipment options due to changes to refrigerants and the size and weight impact this will have on the new equipment. The chilled water system provides an opportunity to reutilize the existing high

quality air handling units and provide centralized cooling. The total New Court chilled water system tonnage was calculated at 208 Tons.

New Jail

The New Jail has three chillers configured in constant primary, variable secondary manner with two 93.5-ton and one 70-ton air-cooled chillers. The secondary loop is equipped with one pump with a VFD set at 100%. While the plants are well cared for, each plant is at or approaching the end of its useful life (per ASHRAE life cycle estimates), and replacement systems should be planned for in the next 5 years. The total New Jail chilled water system tonnage was calculated at 308 Tons.

3.1.2 Existing System Challenges

The existing courthouse/existing jail chilled water system is short cycling with non-optimum design and chiller staging.

3.1.3 Existing Documentation

1. Each building has drawings that indicate the chilled water infrastructure and connections. These drawings can be requested from the County.
2. Minimal controls information and trending are available to validate performance.
3. Included in the appendix are sample flow diagrams to guide future design efforts.

3.2 Proposed System Description

3.2.1 Design Criteria

- Renovate the system to adhere to the 2021 Washington State Energy Code and 2018 International Mechanical Code as best as possible within the constraints of existing system dynamics.
- Modeling of the building to establish design standards is based on *2021 ASHRAE Fundamentals* data for 99.6% winter design and 0.4% summer in Pasco Tri-Cities, WA, USA (WMO: 727845).
    - Summer Outside Conditions: 99.2° F DB, 69.1° F WB
    - Winter Outside Conditions: 11.2° F
    - The interior design temperatures used for heating and cooling load calculations shall be a maximum of 70°F for heating, and a minimum of 75°F for cooling, with a 5-degree dead band as required by code.
- All equipment capacities noted herein are estimates and subject to revision as the design progresses.

3.2.2 Design Standards

Provide magnetic levitation bearing chillers for improved efficiency and reduced sound levels to obtain the lowest life cycle cost and kilowatt per ton of cooling. Ensure there is adequate turndown and low temperature freeze protection.

Leverage existing Benton County standards for selecting controllers, VFDs, valves, actuators, and other equipment to standardize across the project site. All controls trending, monitoring, and energy dashboard interfacing should be determined prior to the project. Utilize control vendors familiar with the Benton County controls system and standards.

3.2.3 Project Scope of Work

Provide a complete and usable new central chilled water plant system for the Benton County Justice complex. The project has three phases to expand the plants to additional buildings beginning with the old court/old jail, the new jail, then the new courthouse. There are two proposed design options, with the baseline system being a water cooled chilled water plant for higher efficiency and longevity, and an air cooled option. While the air cooled plant may have a lower first cost, the system will be less efficient, which can impact Clean Buildings Act compliance. Work will include but is not limited to the following items:

3.2.3.1 MECHANICAL

General

1. Provide a mixture indoor water cooled an air cooled chillers to serve the justice complex. The system will be installed in three phases as funding becomes available and existing chilled water systems require replacement.
2. Verify chilled water plant sizing, electrical capacity, structural, and seismic requirements to include infrastructure for all three phases of the chilled water plant installation.
3. Installation will need to be phased and scheduled to minimize impact to the existing chilled water and cooling systems.
4. Provide a full design and controls sequence of operations. Develop simplified systems diagrams with the as-built sequence of operations. Print out, frame, and wall mount systems diagram in a suitable location.
5. Ensure equipment selection is made to maximize system longevity, reduce energy usage, reduce sound levels, meet structural concerns, simplify maintenance, and ensure compliance with future refrigerant phase outs.
6. Conduct a site evaluation prior to design development.
7. Develop energy model of justice complex and verify chiller plant sizing and redundancy requirements.
8. Install a new primary chilled water piping system to serve the central chilled water plant. Size piping to provide maximum cooling capacity with all three installation phases with appropriate

valved stub outs. Ensure enough system volume is included to minimize the short cycling of chillers. The piping installation will be welded steel construction in a primary/variable secondary loop chilled water loop configuration with redundant pumps with freeze protection using glycol and/or heat trace where appropriate.

9. Install chilled water piping to each building in line with the phasing plan.
    a. Phase 1 – Provide chilled water to Old Court/ Old Jail HVAC system
    b. Phase 2 – Provide chilled water service to New Jail
    c. Phase 3- Provide chilled water service to the New Court AHUs

Base Scope – Combination Water and Air Source Chilled Water Plant

1. **Phase 1 – Old Court/Old Jail Chilled Water System**. Install a mixture of indoor water cooled chillers and outdoor air cooled chiller(s) to serve the Justice Complex. Installation will occur in three phases with a total installed tonnage of 780 tons when all phases are complete. Note that this option is operating at the current level of plant redundancy. Additional redundancy can be achieved by installing additional air cooled chillers.
2. Install three new 120 ton, 360 ton total, modular water cooled magnetic levitation chillers such as those from Multistack or other approved vendor in the Old Court/Old Jail penthouse. Coordinate with the AHU-2 replacement project to verify location for chillers. Ideal installation is where AHU-2 is currently located due to structural limitations of the Old Court penthouse.
    a. Provide multiple variable speed mag-lev water cooled chillers with a target energy usage of 0.4 KW/Ton. Consider heat recovery chiller section, during the design process, to provide heat recovery to Old Court/Old Jail hydronic system.
    b. Provide electrical service and controls infrastructure to support the central plant.
    c. Demolish and remove the existing cooling tower located in the mechanical well.
    d. Install two new 300 ton cooling towers in the existing mechanical well with redundant pumps sized in a lead/standby configuration. Provide new electrical service and disconnects. Provide new structural reinforcements to existing column support structure. Ensure adequate maintenance clearance is provided. Utilize closed loop adiabatic towers if space allows. Note that two towers are installed simultaneously in Phase 1 for redundancy and due to space constraints.
    e. Provide a new variable primary/variable secondary pumping system for system. Provide a dedicated lead/standby pump with differential pressure control to serve the chiller array. Size pumps and piping to account for flow needs for both phase 2 and phase 3 and include stub outs for future expansion.
    f. Provide new insulated chilled water piping, control valves, and ancillary equipment to AHU-1, AHU-2, and AHU-3 serving the Old court/Old Jail.
    g. Provide new housekeeping pads for chillers and major mechanical equipment.

h. Demolish and remove existing chilled water system including outdoor air cooled chiller, indoor water cooled chiller, existing chilled water piping serving prior system, pumps, and electrical infrastructure. Do not abandon equipment.
i. Demolish and remove the existing cooling tower located on the Sally port. Demolish and remove pipes, condenser pumps, and ancillary equipment, and structural supports.
j. Provide complete and usable DDC controls following Benton County standards including flow monitoring, BTU monitoring, and make-up water metering. Provide electricity monitoring and an energy dashboard.
k. Commission the new chilled water system and the reconfigured AHUs. Perform 30 day and 6 month follow-up tests.

3. **Phase 2 – New Jail Chilled Water System.** Install two additional 120 ton modular magnetic levitation water cooled chillers onto the existing chiller array. Provide required electrical connections, piping, and equipment for a complete and usable chilled water system. The total tonnage shall be 600 tons of combined cooling capacity.
    a. Provide variable speed primary/standby chilled water pumping system and piping to serve the New Jail. Provide insulation, supports and anchors, and connect to New Jail chilled water system.
    b. Reconfigure the existing chilled water system with new secondary pumps with differential control to serve existing chilled water piping.
    c. Replace the existing differential pressure sensor to eliminate the current chilled water flow issues that exist with AHU-5.
    d. Provide DDC integration of expanded central plant into the system.
    e. Provide flow monitoring and BTU control.
    f. Commission the new chilled water system and reconfigured AHUs. Perform a 30 day and a 6 month follow-up test.
    g. Demolish and remove the existing air cooled chillers, primary and secondary pumps, controls, electrical service, piping, and ancillary equipment.
4. **Phase 3 – New Court Chilled Water System.** Install one new air cooled 180 ton cooled chiller located on the Old Court roof, coordinate with structural for placement along structural members. The total tonnage for all phases is 780 tons of cooling.
    a. Provide insulated chilled water piping and dedicated primary loop pump(s) in a lead/standby configuration.
    b. Provide all needed rooftop modifications and structural supports to elevate the chiller above existing ballast roof along existing support structure.
    c. Sequence chiller to sequence on/off as the last stage of cooling during summer and the first stage of cooling during winter conditions when the chilled water tower is winterized.
    d. Provide electrical and BTU metering.

e. Provide rooftop chilled water piping with support structure, anchors, and expansion to serve New Jail air handling units.
f. Demolish and remove existing direct expansion cooling coils in the existing Mammoth air handlers and associated infrastructure. Demolish or abandon existing evaporative cooling coil and compressor. Vacuum out refrigerant and return to owner.
g. Install new chilled water coils and control valves in the existing Mammoth Air handling units.
h. Phase project to minimize downtime and impact to client.
i. Update DDC control graphics to include chilled water coils and modify the sequence of operations to optimize performance.
j. Commission the new chilled water system and reconfigured AHUs. Perform 30 day and 6 month follow-up tests.

Alternative Solution – Air Source Chilled Water Plant

5. **Phase 1 – Old Court/Old Jail Chilled Water System**. Install outdoor air cooled chillers to serve the Justice Complex. Installation will occur in three phases with a total installed tonnage of 780 tons when all phases are complete. Note that this option is operating at the current level of plant redundancy. Additional redundancy can be achieved by installing additional air cooled chillers.
6. Install two new 140-ton (280 ton total) air cooled chillers from an approved vendor on the Old Court roof. Locate units elevated on ballasted roof area above building structural supports.
    a. Provide variable speed air-cooled chillers with an energy usage with optimum energy usage, reliability, and efficiency. Consider an adiabatic condenser cooling section and variable speed screw compressor option if available. Select chillers and design plant to achieve EUI reduction and reliability goals.
    b. Provide electrical service and controls infrastructure to support the central plant.
    c. Provide a new primary/variable secondary pumping system for the system. Provide dedicated lead pump to serve each chiller on the primary loop. Provide variable secondary chilled water loop to serve building with lead/standby pump configuration controlled with differential pressure. Size pump and piping to account for flow needs for both phase 2 and phase 3 and include stub outs for future expansion. Provide buffer tank to achieve minimum volume requirements on the primary loop.
    d. Provide new insulated chilled water piping, control valves, and ancillary equipment to AHU-1, AHU-2, and AHU-3 serving the Old Court/Old Jail.
    e. Demolish and remove existing chilled water system including outdoor air cooled chiller, indoor water cooled chiller, existing chilled water piping serving prior system, pumps, and electrical infrastructure. Do not abandon equipment.
    f. Demolish and remove the existing cooling tower located on the sally port. Demolish and remove pipes, condenser pumps, and ancillary equipment and structural supports.

g. Provide complete and usable DDC controls following Benton County standards including flow monitoring, BTU monitoring, and make-up water metering. Provide electricity monitoring and an energy dashboard.
h. Commission the new chilled water system and the reconfigured AHUs. Perform a 30 day and a 6 month follow-up test.

7. **Phase 2 – New Jail Chilled Water System**. Install two additional air cooled chillers including one 140 ton air cooled and one 180 ton air cooled chiller. Install units on Old Court roof, coordinate with structural for exact placement. Select units to match the manufacturer and model installed in Phase 1. Provide required electrical connections, piping, and equipment for a complete and usable chilled water system. The total tonnage shall be 600 tons of combined cooling capacity.
    a. Provide variable speed primary/standby chilled water pumping system and piping to serve the New Jail. Provide insulation, supports and anchors, and connect to New Jail chilled water system.
    b. Reconfigure the existing chilled water system with new secondary pumps with differential control to serve existing chilled water piping.
    c. Replace the existing differential pressure sensor to eliminate the current chilled water flow issues that exist with AHU-5.
    d. Provide DDC integration of expanded central plant into the system.
    e. Provide flow monitoring and BTU control.
    f. Commission the new chilled water system and reconfigured AHUs. Perform 30 day and 6 month follow-up tests.
    g. Demolish and remove the existing air cooled chillers, primary and secondary pumps, controls, electrical service, and piping.
8. **Phase 3 – New Court Chilled Water System**. Install new air cooled 180 ton cooled chiller located on the penthouse roof along structural members. The total tonnage for all phases is 780 tons of cooling.
    a. Provide insulated chilled water piping with a dedicated primary loop with pump(s) in a lead/standby configuration serving the chillers.
    b. Provide all needed rooftop modifications and structural supports to elevate the chiller above existing ballast roof along existing support structure.
    c. Sequence chiller to sequence on/off as the last stage of cooling during summer and the first stage of cooling during winter conditions when the chilled water tower is winterized.
    d. Provide electrical and BTU metering.
    e. Provide rooftop chilled water piping with support structure, anchors, and expansion to serve New Jail air handling units.
    f. Demolish and remove existing direct expansion cooling coils in the existing Mammoth air handlers and associated infrastructure. Demolish or abandon existing evaporative cooling coil and compressor. Vacuum out refrigerant and return to owner.

g. Install new chilled water coils and control valves in the existing Mammoth air handling units. Provide 1/3 and 2/3 control valves for enhanced control.
h. Phase project to minimize downtime and impact to client.
i. Update DDC control graphics to include chilled water coils and modify sequence of operations to optimize performance.
j. Commission the new chilled water system and reconfigured AHUs. Perform a 30 day and 6 month follow-up test.

3.2.3.2 ARCHITECTURAL

1. Provide pipe penetrations at exterior walls. Provide screening as required by AHJ.
2. Modify existing roof as needed to allow for pipe support and facilitate a waterproof installation.

3.2.3.3 STRUCTURAL

1. Provide structural analysis of the existing penthouse and roof structure.
2. Locate unit above existing load bearing structural items.
3. Modify support structure at the existing cooling tower to facilitate the installation of the new cooling towers.
4. Seismically brace all piping per AHJ requirements.
5. Conduct a structural assessment of the roof of the Old Court & Jail building to determine whether structural requirements are met, and the roof can handle the structural load of the proposed chiller system.

3.2.4 Recommended Vendors

The following vendors are recommended for equipment procurement. The equipment described was used in developing the Basis of Design (BOD). Manufacturer cutsheets are provided in the Appendices for the recommended equipment for this project.

1. Trane Sinstesis Air Cooled Chillers RTAF
2. Trane Ascend Air Cooled Chillers
3. York YCAL Air Cooled Scroll Chiller.
4. York YVAA Air Cooled Variable Speed Screw Chiller
5. Multistack MSS-M Water cooled MagLev Modular chiller
6. Multistack ACF_M Air-Cooled MagLev Chiller

4 Execution Strategy

4.1.1 Procurement Strategy

The recommended procurement strategy uses an alternative delivery methodology with oversight by the County . This could be a General Contractor/ Construction Manager (GC/CM), Mechanical Contractor/Construction Manager (MC/CM), or a progressive design-build methodology using

appropriate project controls structure and an integrated approach with the design team, commissioning agent, and County. Of paramount importance is the ability of the county to obtain a high quality design that will work across all phases.

1. The DBB methodology will provide a first cost advantage; however, the County should retain an appropriate contingency to cover unforeseen conditions. It is recommended that a third party constructability review and commissioning be included to increase bid quality and a third-party cost estimate and reconciliation.
2. GC/CM or a General Contractor/Construction Manager model can be utilized. This model will allow contractor input into the design and increase coordination. This will reduce risk and allow Washington County to retain control of the design documents. It is recommended that a third-party constructability review and commissioning be included to increase bid quality. The Guaranteed Maximum Price (GMP) should be set at the 90% Construction Documents phase to obtain price certainty and reduced contingency. Utilize a shared savings methodology to incentivize the contractor to return unutilized contingency. Historically speaking, GC/CM results in a higher first cost.
3. Design-Build (DB) or Progressive Design-Build (PDB), This procurement methodology limits the County's ability to oversee and steer design and an appropriate "off ramp" should be built into the contract documents. The selected contractor must have a high familiarity with mechanical systems and associated risk tolerance. The DB methodology could result in a higher project cost with reduced quality depending on the selected DB contractor's familiarity with mechanical systems.

4.1.2 Execution Strategy

1. Implement the central chilled water plant upgrade in three phases as described in the scope of work.
2. Schedule and phase work so that the impact on building operations is minimized.
3. Review redundancy needs with the County and provide additional chillers and infrastructure as budget and program requirements allocate.
4. Coordinate water source chiller option with AHU-2 replacement. Place the new chiller array where existing AHU-2 unit is located. Review equipment placement with structural as the weightbearing capacity is limited in the penthouse area.
5. Integrate commissioning and review energy reduction goals during design and closeout to ensure the target efficiency is met.
6. Consider a heat recovery chiller module for the water source chilled water system to further improve facility efficiency.
7. Involve facility team in design, equipment selection, and controls development and commissioning.

4.1.3 Constructability and Coordination

1. Coordinate with structural to ensure equipment locations can be properly supported.
2. Phase project to limit impact on facility operations.
3. Provide detailed controls review and optimization in a series of collaborative meetings with facility team, commissioning, design team, and contractor(s).

4.1.4 Quality Control

1. Integrate value analysis into the design kick-off and design charette.
2. Perform constructability review at the 80 to 95% Construction Document (CD) phase
3. Engage the commissioning agent and perform design review at design development and 90% CD.
4. Perform a series of control optimization workshops with the control's contactor, engineer, commissioning, and building operator teams.
5. Commission facility and perform 30 day and 6 month commissioning follow ups.
6. Implement a maintenance turnover workgroup to assist with preventive maintenance planning.

5 Cost Estimate

Cost estimations were developed for the EEM using the *Association for the Advancement of Cost Engineering* (AACE) guidelines. Cost estimates include initial investment costs and associated costs for each component of the proposed system. See Appendix for the cost estimate.

6 Risk Assessment

A constructability assessment was conducted to identify potential risk factors with the implementation of this EEM and mitigate unforeseen project costs:

1. **Design** The final design must be of high quality work. It is recommended that the County provide extreme oversight and third-party reviews of the project documents. The design must be complete to account for phasing.
2. **Existing Building Chilled Water Connections** The chilled water connections to each building and the associated pumping strategy should be further investigated as part of the design. The final building CHW connection and whether there is a tertiary pump(s) should also be evaluated.
3. **Chiller Short Cycling.** Appropriate chilled water volume and equipment turndown must be included in the primary loop to minimize chiller short cycling. In addition, the loops to each building should not be on a single dedicated pump as it could complicate balancing.
4. **Cost escalation** is a potential risk on future projects. A method for mitigation is to opt for an open system during procurement for the controls, such as the proposed Tridium Niagara Framework. As this type of system is typically supported by most major vendors, this will keep an even field of contractors for bidding on future projects.

5. **Project schedule delays** can be mitigated by establishing standards for controls and manufacturers before the design phase. The current chiller lead time is around 6 months to 1 year.
6. **Structural Concerns** The existing penthouse was a design-build with some documentation. The exact load bearing capacities of all areas are unknown. As such, locating equipment in areas originally designated for load bearing will be important. The adjacent upper roof area is a hollow core concrete slab with minimal load bearing capability. The lower courthouse area was designed for a third story and can support significant weight if equipment is located above structural members.
7. **Exterior Piping** Securing the exterior piping to the building will require additional structural analysis and can impact aesthetics.
8. **Phasing** Phasing the constriction work may cost increase costs. It was assumed that the work can be coordinated around existing occupant schedule during normal working hours.
9. **Turnover** The large, chilled water plant and controls will add complexity to the Justice Complex. An Operations and Maintenance (O&M) turnover process and operator involvement should be employed to minimize the risk associated with turnover.
10. **Electrical Capacity** The total electrical capacity in the Old Court/Old Jail was not reviewed as part of this study. As such, the additional chillers and phasing could put an additional load on the building requiring a service upgrade. The county should further study this during programming and design.
11. **Redundancy** The proposed chiller plant provides the current level of redundancy in the justice complex. If additional redundancy is required, then this could result in an associated cost increase.

7 Appendix

7.1 AACE Cost Estimation Calculations (Separate File)

7.2 Concept Drawings and Documentation

AHU-2 Replacement
Refinement Phase Report

Benton County Justice Center

Kennewick, WA

Prepared for
Benton County

November 2023

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Table of Contents

1 Executive Summary 2
2 Project Goal/Overview 3
Project Description 3
Building Information 3
Goal 3
2.1 3 Scope Definition 3
2.2 Existing System 3
2.3 3.1.1 Existing System Description 3
3.1 3.1.2 Existing Documentation 3
Proposed System Description 4
3.2 3.2.1 Design Criteria 4
3.2.2 Design Standards 4
3.2.3 Project Scope of Work 4
3.2.4 Recommended Vendors 9
4 Execution Strategy 9
4.1.1 Procurement Strategy 9
4.1.2 Execution Strategy 9
4.1.3 Constructability and Coordination 10
4.1.4 Quality Control 10
5 Cost Estimate 10
7.1 6 Risk Assessment 11
7.2 7 Appendix 12
AACE Level 4 Opinion of Probable Cost (Separate File) 12
Concept Drawings and Documentation 12

1 Executive Summary

Säzän Group (Säzän) performed an energy audit for the Benton County Jail to identify Energy Efficiency Measures (EEMs) to improve building operation efficiency and assist the County with compliance with the Clean Buildings Act (CBA). Of the original twenty EEMs, five were selected for the refine phase for further feasibility analysis. The intent of the report is to provide background and scope information on the proposed project to assist Benton County during facilitation of the design and bidding process.

This report focuses on EEM #14 for the replacement of air handling unit, AHU-2 serving the Old Court/Jail building. The equipment is from the original building construction and was observed to be in poor condition. The system is challenged with an antiquated design and energy inefficiencies due to simultaneous heating and cooling issues, leakage issues from the worn-out casing, and older pneumatic controls.

The proposed design outlined in this report is for the replacement of AHU-2 with one, possibly two, modern variable flow Dedicated Outdoor Air Systems/Air Handling Unit(s) with preheat and cooling coils. The proposed unit would leverage either dual coil VAV boxes for heating and cooling control to minimize reheat. Alternatively, a dual AHU or custom multizone AHU solution would provide added redundancy. his work and the replacement of the existing pneumatic controls with a Direct Digital Control (DDC) system will modernize the air handling system, which is at end of life, and reduce energy consumption.

The cost of the construction work is estimated at $2,514,000 including general conditions, overhead, insurance, bonding, and escalation to FY 2024 with a tolerance of +/- 20%.

2 Project Goal/Overview

Project Description

The project is for the replacement of the air handling unit, AHU-2 serving the Old Court/Jail.

Building Information

2.1 The existing AHU-2 is a multizone constant volume air handling unit serving various terminal boxes within nine zones located in the Old Court/Jail.

2.2

Goal

The overarching goal of the retrofit is to convert the constant volume dual duct air handler and

2.3 terminal units into dual duct variable volume units. Metrics of success include:

- Optimize the system to reduce energy, with a minimum site-wide EUI reduction of 7.27kBTU/Sf.yr or 6% of the total facility energy usage.
- Produce a minimum annual energy cost savings of $11,345 per year.
- Construct unit to increase redundancy.
- Reduce or eliminate simultaneous heating and cooling.
- Minimize construction impact on operations through phasing and cutover of systems.

3 Scope Definition

3.1

Existing System

3.1.1 Existing System Description

The current air handler serving the Old Jail is a 34,000 CFM multi-zone constant volume unit installed in 1984 as part of the original building construction. The unit is located in the mechanical penthouse and provides 940MBH cooling and 725MBH heating and serves nine zones. However, the unit is obsolete and in poor condition due to age, with leakage and wear around the unit casing observed. The system is controlled by an older generation Johnson controller and has a mix of pneumatic and DDC controls. The unit operates 24/7/365. Heating Hot Water (HHW) and Chilled Water (CHW) are provided by the building heating and cooling systems.

3.1.2 Existing Documentation

The existing documentation for the site consists only of scanned images of the original construction documents; there are no electronic formats of the construction documents in Computer-aided Design (CAD) programs such as AutoCAD or Revit. The existing sequence of operations does not appear to be documented in previous drawings or specifications.

3.2 Proposed System Description

3.2.1 Design Criteria

- Renovate the system to adhere to the 2021 Washington State Energy Code and 2018 International Mechanical Code as best as possible within the constraints of existing system dynamics.
- Modeling of the building to establish design standards is based on *2021 ASHRAE Fundamentals* data for 99.6% winter design and 0.4% summer in Pasco Tri-Cities, WA, USA (WMO: 727845).
    - Summer Outside Conditions: 99.2° F DB, 69.1° F WB
    - Winter Outside Conditions: 11.2° F
    - The interior design temperatures used for heating and cooling load calculations shall be a maximum of 70°F for heating, and a minimum of 75°F for cooling, with a 5-degree dead band as required by code.
- All equipment capacities noted herein are estimates and subject to revision as the design progresses.
- Installed equipment shall be of high quality, rebuildable, and suitable for usage in a continuously occupied facility.
- System shall increase redundancy of jail operations and maintain airflow and conditioning of air.

3.2.2 Design Standards

Leverage existing Benton County standards for selecting controllers, VFDs, valves, actuators, and other equipment to standardize across the project site. All controls trending, monitoring, and energy dashboard interfacing should be determined prior to the project. Utilize control vendors familiar with and aligned with Benton County's controls standards.

3.2.3 Project Scope of Work

The project will provide for a complete replacement and energy efficiency upgrade for the existing AHU-2 system serving the old jail. This includes the replacement of the air handling unit with a Dedicated Outdoor Air System (DOAS) variable volume unit with energy recovery, preheat and cooling coils; adding and optimizing a new controls system to integrate with the facility; and the addition of terminal units located in the penthouse to reduce reheat and facilitate better temperature control and reduction of energy. The proposed scope of work includes a baseline scope of work and design alternatives for consideration. The exact design strategy should be further investigated as part of a schematic design process. This report is intended to provide programming-level options and a concept for further exploration. The scope of work shall include but is not limited to the following items:

Base Scope of Work:

1. Provide new Air Handling Unit (s) (AHU)/Dedicated Outdoor Air Unit(s) (DOAS), to serve the Old Court/Old Jail. Install new AHU(s) and maintain operations of the existing AHU-2 unit during construction. Install AHU(s), power, ductwork, and phase cutover to existing duct drops to minimize service outages. Coordinate with end users to minimize health and safety risks to building occupants.
2. Install unit on roof adjacent to the mechanical penthouse. Coordinate with structural and install above structural members. Remove roof ballast and provide new roof curb and necessary structural supports.
3. Provide exterior ductwork for both supply and return to mechanical penthouse. Provide double-wall ductwork with insulation. Provide peaked exterior ductwork to allow water shed and eliminate pooling on duct connections. Seal ductwork and pressure test to class A leakage rates. Penetrate and seal wall penetrations. Route ducting to existing duct drops and seal penetrations. Verify requirement for fire/smoke dampers at roof penetrations.
4. Provide power to new rooftop AHU(s). Verify existing electrical capacity during design effort with electrical metering.

Basis of Design: Single DOAS with Four Pipe VAV

5. Provide new 36,000 CFM Variable Air Volume (VAV) Dedicated Outdoor Air System (DOAS) through a semi-custom rooftop unit with energy recovery.
    a. Provide heavy-duty unit suitable for exterior usage with continuous mission-critical usage in an extreme environment.
    b. Provide fan array for redundancy for both supply and return fans.
    c. Provide prefilters and final filters with MERV-13 final filtration with differential pressure sensor to allow remote monitoring of filter status.
    d. Provide low leakage energy recovery wheel for heat recovery. Configure unit and exhaust fan so that no return air can be recirculated to the supply air from jail areas.
    e. Provide hydronic hot water preheating coil in air handling unit, and chilled water tempering coil. Locate valves and equipment within AHU and provide measures for freeze protection.
    f. Unit shall be variable speed with duct static pressure control. Size pre-heat coil for full airflow with non-functional energy recovery wheel with 1/3-2/3 control valve configuration. Size coils and design unit to minimize the static pressure drop through unit for long-term energy savings.

g. Design unit to facilitate simplified maintenance and ensure components are rebuildable or replaceable with locally available commercial parts.

h. Configure unit for third-party controls integration and control in line with Benton County standards.

i. Provide airflow monitoring station and filter differential pressure monitoring.

6. Provide rack-mounted four pipe terminal units with VAV control for heating and cooling of airflow to each of the zones. Install units to facilitate maintenance.

   a. Each VAV terminal unit shall have two coils, one for heating and one for cooling. Rack boxes horizontally and duct to individual duct drops. Phase final installation to minimize impact on operations.

   b. Modify hydronic heating and cooling lines to serve each terminal unit. Provide properly sized DDC control valves for each zone.

   c. Route condensate from each box to the nearest drain.

   d. Install in mechanical room to facilitate maintenance.

7. Provide controls to modulate airflow and temperature to spaces based on heating and cooling needs of zones. Verify required airflows to ensure code minimum airflows are met during low loads and heating mode.

8. Investigate and provide secondary purge fan on the return air system as required by operations for emergency usage. Integrate into DDC system to shut down AHU during purge fan operation.

9. Develop AHU sequence of operations for heating and cooling with end users and commissioning. Review life safety temperature requirements to minimize reheat where possible.

10. Modify existing heating hot water and chilled water service to provide heating and cooling to DOAS.

11. Clean existing supply air ductwork and registers.

12. Conduct Testing, Adjusting, and Balancing (TAB) on new HVAC system

Design Alternative 1 – Two Pipe Reheat VAV Boxes

1. In lieu of four pipe terminal units with VAV, provide vertical reheat-only VAV boxes to serve zone.
2. Size DOAS chilled water coil to provide full cooling needs of each space.

Design Alternative 2 – Dual Units for Redundancy

1. Provided two new 36,000 CFM rooftop semi-custom DOAS units with heat recovery wheel. One unit shall be optimized for heating and the other for cooling with each unit providing 100% airflow and conditioning of air in the event of an AHU failure for redundancy. Each unit shall be

designed to provide full heating or cooling to meet facility demand loads. With VAV dual duct mixing boxes serving the existing jail areas.

a. Provide heavy-duty unit(s) suitable for exterior usage with continuous mission-critical usage in an extreme environment.

b. Provide fan array for redundancy for both supply and return fans.

c. Provide prefilters and final filters with MERV 13 final filtration with differential pressure sensor to allow remote monitoring of filter status.

d. Provide low leakage energy recovery wheel for heat recovery. Configure unit and exhaust fan so that no return air can be recirculated to the supply air from jail areas.

e. Provide hydronic hot water preheating coil in AHU, and chilled water tempering coil. Locate valves and equipment within AHU and provide measures for freeze protection.

f. Unit shall be variable speed with duct static pressure control. Size pre-heat coil for full airflow with non-functional energy recovery wheel with 1/3-2/3 control valve configuration. Size coils and design unit to minimize the static pressure drop through unit for long-term energy savings.

g. Design unit to facilitate simplified maintenance and ensure components are rebuildable or replaceable with locally available commercial parts.

h. Configure unit for third-party controls integration and control in line with Benton County standards.

i. Provide airflow monitoring station and filter differential pressure monitoring.

2. Provide VAV dual duct mixing boxes to serve each zone. Control AHUs to minimize the simultaneous heating and cooling of the airflow and provide redundancy.

Design Alternative 3 – Custom Dual Flow AHU

1. Provide new fully custom 36,000 CFM rooftop Energy Recovery Ventilator (ERV). Unit shall have dual heating and cooling streams with dedicated supply and return fan arrays for redundancy and efficient hot deck/cold deck operation. Each airflow stream shall be sized for 100% airflow and conditioning of air in the event of a fan or coil failure for redundancy.

a. Provide heavy-duty unit suitable for exterior usage with continuous mission-critical usage in an extreme environment.

b. Provide aluminum construction to reduce unit weight, coordinate with structural.

c. Provide structural reinforcement as necessary. Elevate unit above roof and mount to steel support structure.

d. Provide fan array for redundancy for both supply and return fans.

e. Provide pre-filters and final filters with MERV 13 final filtration with differential pressure sensor to allow remote monitoring of filter status.

f. Provide low leakage energy recovery wheel for heat recovery. Configure unit and return fan so that no return air can be recirculated to the supply air from jail areas.

g. Provide hydronic hot water preheating coil in AHU, and chilled water tempering coil. Locate valves and equipment within AHU for freeze protection.

h. Size pre-heat coil for full airflow with non-functional energy recovery wheel with 1/3-2/3 control valve configuration. Size coils and design unit to minimize the static pressure drop through unit for long-term energy savings.

i. Unit shall be variable speed with duct static pressure control and sequenced to minimize simultaneous heating and cooling.

j. Design unit to facilitate simplified maintenance and ensure components are rebuildable or replaceable with locally available commercial parts.

k. Configure unit for third-party controls integration and control in line with Benton County standards.

l. Provide static pressure control in supply air ductwork to control fan speed.

2. Provide VAV dual duct mixing boxes to serve each zone. Control AHUs to minimize the simultaneous heating and cooling of the airflow and provide redundancy.

3. Provide VAV dual duct mixing boxes serving the existing zones.

Controls upgrade

1. Design and install the controls network prior to cutover.
2. Provide a replacement controls system with a new Direct Digital Control (DDC) controller equipped with electronic actuators, sensors, and valves. The system shall run at constant volume until controls system upgrade is complete.
3. Provide programming for interconnections between the air handling unit and new controls system, including a sequence of operations, setpoints, and trending.
4. Provide controls infrastructure to modulate fan performance based on duct static pressure to minimize simultaneous heating and cooling and fan energy based on space temperature and ventilation requirements.
5. Provide new controls for terminal units with hard wired thermostats and CO2 sensors.
6. Provide graphics on the operator workstation with trends.
7. Controls must adhere to Benton County controls standards.

Demolition

1. Once new AHU is installed, functional, and providing air to the zones, demolish and remove AHU-2 supply fan, mixing boxes, supply ductwork, dampers, return air fan, ductwork, and ancillary equipment. Remove electrical connections back to panel and demolish all conduit.
2. Demolish and remove existing pneumatic/electronic controls and cap off lines as needed.

3.2.4 Recommended Vendors

The following vendors are recommended for equipment procurement. The equipment outlined in this section were used in developing the Basis of Design (BOD).

Manufacturer cutsheets are provided in the Appendices for the recommended equipment for this project.

AHU

1. Mammoth/Nortek
2. Xnrgy
3. Swegon
4. Renewaire
5. Petra
6. Klimor

Controls

1. Johnson Controls or Distech Controllers, if approved by County.
2. Provide Danfoss VFDs
3. Provide Belimo valves and actuators.

4 Execution Strategy

4.1.1 Procurement Strategy

The recommended procurement strategy uses an alternative delivery methodology with oversight by the County. This could be a General Contractor/ Construction Manager (GC/CM), Mechanical Contractor/Construction Manager (MC/CM), or a progressive design-build methodology using appropriate project controls structure and an integrated approach with the design team, commissioning agent, and County.

4.1.2 Execution Strategy

Implement the replacement of AHU-2 and terminal units as follows:

1. Maintain AHU-2 operations throughout design and construction. Retain operations of unit until cutover to new unit(s) is complete.

2. Install new DOAS/AHU and start-up unit. Provide temporary ductwork to existing duct drops. Demolish existing AHU-2, ductwork, and return fan. Install new four pipe VAV terminal units in newly available space and provide rigid ductwork connections to each ductwork drop.
3. Conduct pre-TAB work on existing AHU to validate existing airflow rates, static pressure, and terminal airflows within occupied areas.
4. Provide active risk management during the design process to forecast and manage project contingency.
5. Obtain a third-party cost estimator to provide check estimates and assist with negotiations for the Guaranteed Maximum Price (GMP). Obtain GMP and negotiate between 50% to 90% completion during the construction phase, depending on procurement strategy.
6. Perform structural analysis of existing facility; coordinate with mechanical for unit selections; and determine if weight requirements will require seismic upgrades and provide as necessary.
7. Phase work to minimize impact to occupants. Coordinate with end users.
8. Perform 30 day electrical metering on existing panels. Verify capacity during design process. Implement phased replacement of terminal units and replacement of the fans with a fan array.
9. Demo any associated pneumatic controls and tubing.

4.1.3 Constructability and Coordination

1. Coordinate work with end users to minimize impact.
2. Perform daily air quality monitoring during construction to monitor the air quality going to occupants. Provide records onsite.
3. The project will require work within confined spaces that may be difficult to manage without proper planning. Providing updated drawings and requiring contractors to conduct site evaluations to verify logistical requirements for equipment mobilization can mitigate risks in this area.

4.1.4 Quality Control

1. Provide a design phase pre-TAB report to document pre-project airflow rates, static pressures, voltage, and amperage at the AHU. Provide airflow measurements at each terminal unit as needed to determine the proper flowrate.
2. Third-party Commissioning (Cx) is recommended to provide quality assurance and verification of proper integration between the retrofitted parts and new controls system.
3. Provide final TAB report.

5 Cost Estimate

Cost estimations were developed for the EEM using the *Association for the Advancement of Cost Engineering* (AACE) guidelines. Cost estimates include initial investment costs and associated costs for each component of the proposed system. See Appendix for the cost estimate.

6 Risk Assessment

A constructability assessment was conducted to identify potential risk factors associated with the implementation of this EEM and mitigate unforeseen project costs:

1. **Construction work requiring access to occupied spaces**, especially the jail areas, will require significant planning and prefabrication of ductwork and equipment to expedite construction and minimize the health and safety risks associated with reduced airflows. Provide air quality monitoring throughout construction for areas typically occupied by inmates.
2. **Structural concerns.** The existing mechanical room floor was originally constructed as a design-build deferred submittal. As such, the mechanical room has limited weight bearing capability. The areas adjacent to the penthouse are hollow core slab with extremely limited weight bearing capabilities. The existing old court with the ballasted roof has the largest weight bearing capability and was originally designed for an additional story. Locate units over structural members and position to minimize the exterior duct runs where possible.
3. **Cost escalation** is a potential risk on future projects. A method for mitigation is to opt for an open system during procurement, such as the proposed Tridium Niagara Framework. As this type of system is typically supported by most major vendors, this will keep an even field of contractors for bidding on future projects.
4. **Project schedule delays** can be mitigated by establishing standards for controls and manufacturers before the design phase.
5. **Supply chain issues** are currently causing equipment procurement delays which should be accounted for when developing the project schedule.
6. **Ancillary Architectural Work.** Replacement of ceiling tiles and cutting into walls to replace thermostats may impact building aesthetics and increase project costs.
7. **Existing Ductwork.** Existing ductwork may have latent design issues, leakage, and corrosion issues that require additional funding to repair. The County is recommended to retain some contingency to address these items as needed.
8. **Matching Ceilings.** The work will require the removal of T-Bar ceiling tiles. If the ceiling tiles get damaged, finding identical tiles for replacement may prove challenging.
9. **Unforeseen Conditions.** There may be additional items required to refurbish the unit that are not accounted for in the estimate. As such, it is recommended that a robust allowance be maintained to fund unforeseen conditions and scope items.
10. **Dual Duct VAV Boxes.** There are relatively few manufacturers of dual duct VAV retrofit kits. A few recommended manufacturers to investigate further would be Carnes, Train, and Price.
11. **Phasing** the construction work may increase costs. The assumption is that the work can be coordinated around existing client schedule during normal working hours.
12. **Coordination with Central Plant.** The central chilled water plant project and AHU-2 project should occur at separate times or be completed by the same contractor for cost savings.

7 Appendix

AACE Level 4 Opinion of Probable Cost (Separate File)

Concept Drawings and Documentation

7.1

7.2

AHU-1 Modernization & Controls Upgrade Refinement Phase Report

Benton County Justice Center

Kennewick, WA

Prepared for
Benton County

November 2023

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Table of Contents

1 Executive Summary 2
2 Project Goal/Overview 3
2.1 Project Description 3
2.2 Building Information 3
2.3 Goal 3
3 Scope Definition 3
3.1 Existing System 3
3.1.1 Existing System Description 3
3.1.2 Existing System Challenges 3
3.1.3 Existing Documentation 4
3.2 Proposed System Description 4
3.2.1 Design Criteria 4
3.2.2 Design Standards 4
3.2.3 Project Scope of Work 4
3.2.4 Recommended Vendors 6
4 Execution Strategy 7
4.1.1 Procurement Strategy 7
4.1.2 Execution Strategy 7
4.1.3 Constructability and Coordination 8
4.1.4 Quality Control 8
5 Cost Estimate 8
6 Assessment 9
7 Appendix 10
7.1 AACE Level 4 Opinion of Probable Cost 10

1 Executive Summary

Säzän Group (Säzän) performed an energy audit for the Benton County Jail to identify Energy Efficiency Measures (EEMs) to improve building operation efficiency and assist the County with compliance with the Clean Buildings Act (CBA). Of the original twenty EEMs five were selected for the refine phase for further feasibility analysis. The intent of the reports is to provide background and scope information on the proposed project to assist Benton County during facilitation of the design and bidding process.

This report focuses on EEM #13 for the modernization and controls upgrade for air handling unit, AHU-01 serving the existing court building. The equipment is from the original building construction and while aged, has been well maintained. The system is challenged with an antiquated design and energy inefficiencies due to having older pneumatic controls.

The proposed design outlined in this report is for the modernization of the equipment serving E-AHU-01. This will include refurbishment or replacement of the existing fans, replacement of the VFDs, and installing new dual duct VAV terminal units. This work, and the replacement of the existing pneumatic controls with a Direct Digital Control (DDC) system will modernize the unit and reduce energy consumption.

The cost of the construction work is estimated at $2,249,000 including general conditions, overhead, insurance, bonding, and escalation to FY 2024 with a tolerance of +/- 20%.

2 Project Goal/Overview

2.1 Project Description

The project is for the modernization of the air handling unit, E-AHU-1, known as the Submarine Unit serving the existing court building.

2.2 Building Information

The existing E-AHU-1 is a built up dual-duct, dual fan, constant volume air handling unit. E-AHU-1 serves dual-duct terminal units in the court and administrative portion of the existing building.

2.3 Goal

The overarching goal of the retrofit is to convert the constant volume dual duct air handler and terminal units into dual duct variable volume units. Metrics of success include:

- Optimize the system to reduce energy, with a minimum site wide EUI reduction of 8.1 kBTU/Sf.yr or 7% of the total facility energy usage.
- Produce a minimum annual energy cost savings of $11,345.
- Retrofit the system to extend service life of the AHU another 30 years.
- Minimize occupant discomfort and incontinence during the retrofit process.
- Provide improved temperature and CO2 control for terminal units.

3 Scope Definition

3.1 Existing System

3.1.1 Existing System Description

E-AHU-1, known as the “submarine unit”, is a 40,000 CFM constant volume, dual-duct, and dual-fan air handling unit that was part of the original 1984 construction and currently serves the existing court and office areas. The unit has approximately 110 HP of combined fan energy using vane-axial Joy fans. The system provides 1,060 MBH of cooling and 425 MBH of heating from the building central plant. The fans serving the unit are equipped with older ABB branded VFDs and have the variable pitch locked in place.

While the system has had some upgrades over the years to optimize performance, the energy efficiency is limited by the older controls on the constant volume terminal boxes. The damper and valve controls are still a hybrid of electronic/pneumatic with Electric-to-Pneumatic (EOP) converters and the Johnson Controls controller are out of date.

3.1.2 Existing System Challenges

There are no observed challenges or potential issues that would interfere with implementation.

3.1.3 Existing Documentation

The existing documentation for the site consists only of scanned images of the original construction documents; there are no electronic formats of the construction documents in Computer-aided Design (CAD) programs such as AutoCAD or Revit. The existing sequence of operations do not appear to be documented in previous drawings or specifications.

3.2 Proposed System Description

3.2.1 Design Criteria

- Renovate the system to adhere to the 2021 Washington State Energy Code and 2018 International Mechanical Code as best as possible within the constraints of existing system dynamics.
- Modeling of the building to establish design standards is based off *2021 ASHRAE Fundamentals* data for 99.6% winter design and 0.4% summer in Pasco Tri-Cities, WA, USA (WMO: 727845).
    - Summer Outside Conditions: 99.2° F DB, 69.1° F WB
    - Winter Outside Conditions: 11.2° F
    - The interior design temperatures used for heating and cooling load calculations shall be a maximum of 70°F for heating, and a minimum of 75°F for cooling, with a 5-degree dead band as required by code.
- The maximum Noise Criteria (NC) target Levels in office or similar non-process spaces shall be equal to or less than NC 35 when measured anywhere in the space.
- All equipment capacities noted herein are estimates and subject to revision as the design progresses.

3.2.2 Design Standards

Leverage existing Benton County standards for selecting controllers, VFDs, valves, actuators, and other equipment to standardize across the project site. All controls trending, monitoring and energy dashboard interfacing should be determined prior to the project. Utilize control vendors familiar with the Benton County control's system and standards.

3.2.3 Project Scope of Work

<u>General</u>

1. Provide a complete retrofit and energy efficiency upgrade for the existing AHU-1 system. This includes replacement or refurbishment of the existing Joy fans, replacement of the VFDs, adding and optimizing a new controls system to integrate with the facility, refurbishing the AHU, cleaning coils, and adding new VAV retrofit dual duct terminal unit boxes.

1. Work will need to be coordinated in and around an operational facility. Coordinate, phase, and perform work after hours or during working hours (with approval) so as to minimize the impact to County staff.

Fan Refurbishment

1. Refurbish the existing vane-axial Joy fans located within AHU-1. Field verify fan performance and flow rate prior to and after the refurbishment process using balancer. Provide new VFDs and controls to control the fans based on discharge duct static pressure. Contract a balancer to conduct Testing, Adjusting, and Balancing (TAB) on the unit upon completion of the project to verify the new equipment is providing the required airflow per the design intent.

Fan Replacement

2. Design and install a new fan array to replace the existing vane-axial fans manufactured by Joy Fans. Center the fans in the array and include built in blank-off dampers and airflow monitoring stations to measure airflow. Existing fan static pressure and capacity must be field verified during the design process. Size fan performance based on load calcs and expected static pressure loss in system. Existing bases of design values are listed as:
    a. SF-1 (hot deck) design is 40,000cfm with a static pressure of 6.35"W.C.
    b. SF-1A (cold deck) design is 30,000cfm with a static pressure of 5.1"W.C.
    c. RF-1 design is 36,000cfm with a static pressure of 2.3"W.C.
3. Provide a Fan Wall with AC motors and VFDs.
2. Remove the vane axial fans inside of E-AHU-01.
3. Remove fan VFDs and wiring connections.
4. Provide new replacement fans and VFDs.
5. Contract a balancer to conduct Testing, Adjusting, and Balancing (TAB) on the unit upon completion of the project to verify the new equipment is providing the required airflow per the design intent.
6. Phase installation during seasons by working on hot/cold deck one at a time to limit down time to occupants.

Controls upgrade

The following scope is for the contracted controls programmer on the project:

1. Design and install the controls network prior to cutover.
2. Provide a replacement controls system with a new Direct Digital Control (DDC) controller equipped with electronic actuators, sensors, and valves. System will run as constant volume until system is complete.
3. Provide programming for interconnections between the air handling unit and new controls system, including a sequence of operations, setpoints, and trending.

4. Provide controls infrastructure to modulate fan performance based on duct static pressure for both hot and cold decks.
5. Provide sequence of operation such as to minimize or eliminate simultaneous heating and cooling.
6. Remove the existing pneumatic/electronic controls
7. Provide new controls for terminal units with hard wired thermostats and CO2 sensors.
8. Provide graphics on the operator workstation with trends.
9. Controls must adhere to Benton County controls standards.

Mixing Box and Terminal Unit Replacements

1. Demolish and remove all existing dual duct terminal boxes.
2. Install new DDC controlled dual duct VAV terminal boxes., such as those from Carnes or approved equivalent. Provide new thermostat and controls in the zones.
3. Provide CO2 sensor for monitoring and control of the OSA damper.
4. Retrofitting the existing mixing boxes with VAV damper actuators will not be allowed, with the exception of providing a life cycle calculation and explicit acceptance from the County.

Duct Fitting Replacement

1. Provide replacement duct fittings that meet the requirements set forth by SMACNA.
2. Clean existing supply air (hot deck and cold deck) ductwork.

AHU Refurbishment

1. Refurbish the existing air handling units. This includes sealing and repairing any airflow leaks or damaged metal work, coil cleaning, coating the interior of the units, cleaning coils and louvers, and replacing or refurbishing the condensate pans, actuators, and linkage. Replace the filters.
3. Reconfigure AHU to duct connections with turning vanes to minimize the pressure loss at the fan discharge. Remove existing duct fittings between the fans or any fittings that are not compliant with the *Sheet Metal and Air Conditioning Contractors' National Association* (SMACNA) requirements to minimize duct air pressure losses.

3.2.4 Recommended Vendors

The following vendors are recommended for equipment procurement. The equipment outlined in this section were used in developing the Basis of Design (BOD).

Manufacturer cutsheets are provided in the Appendices for the recommended equipment for this project.

Fan Array

1. Xyrgy Fan Array Systems
2. Huntair/Nortek Air Solutions
3. Greenheck Fan Array

Fan VFDs

1. Provide new Danfoss VFDs. Danfoss is recommended for the VFDs as the site already utilizes VFDs from the same manufacturer. This will provide consistency and streamline the maintenance process. Integrate VFDs into the control system and provide power monitoring.

Controls

1. Johnson Controls or Distech Controllers, if approved by County.
2. Provide Danfoss VFDs, Belimo Valves & Actuators

Architectural Services

1. Repair or replace ceiling tiles as needed.
2. Paint and patch walls and repair drywall as needed.
3. Coordinate work with end users to minimize impact to building occupants.

4 Execution Strategy

4.1.1 Procurement Strategy

The recommended procurement strategy uses an alternative delivery methodology with oversight by the County . This could be a General Contractor/ Construction Manager (GC/CM), Mechanical Contractor/Construction Manager (MC/CM), or a progressive design-build methodology using appropriate project controls structure and an integrated approach with the design team, commissioning agent, and County. Due to the high complexity of retrofit projects, an alternative delivery method can provide added flexibility and higher levels of coordination to overcome design, scheduling, and mobilization challenges that typically arise during the construction process.

4.1.2 Execution Strategy

Implement the replacement of E-AHU-01 equipment and terminal units as follows:

1. Design engineer and DB contractor on board to engineer and provide new fan array and terminal units/terminal unit retrofit. Engineering team should perform a detailed site assessment with a minimum of three site visits during the design process to clarify unknowns.
2. IF GC/CM used, bring GC/CM or MC/CM on board during schematic design phase to provide pre-design services. This should include pricing, involvement with the design process, and risk identification.
3. Provide active risk management during the design process in order to forecast and manage project contingency.

4. Obtain a third-party cost estimator to provide check estimates and assist with negotiations for the Guaranteed Maximum Price (GMP). Obtain GMP and negotiate between 50% to 90% completion during the construction phase.
5. Determine if weight requirements will require seismic upgrades and provide as necessary.
6. Bring the controls vendor on board and install the network prior to mechanical work. Implement all controls standards as detailed in the Controls Modernization Refine Phase report, or as determined by the County.
7. Implement phased replacement of terminal units and replacement of the fans with a fan array.
8. Cut over controls from constant volume to variable volume once all of the work is done.
9. Demo any associated pneumatic controls and tubing.
10. Phase work to minimize impact to the occupants.

4.1.3 Constructability and Coordination

- Construction work will need to revolve around scheduled occupied hours to avoid occupant discomfort and interfering with daytime operations with staff and occupants. Coordinate with General Contractor (GC) to have work conducted around building occupancy schedule.
- The project will require work within confined spaces that may be difficult to manage without proper planning. Providing updated drawings and requiring contractors to conduct site evaluations to verify logistical requirements for equipment mobilization can mitigate risks in this area.

4.1.4 Quality Control

1. Provide a design phase pre-TAB report to document pre-project airflow rates, static pressures, voltage, and amperage at the AHU. Provide airflow measurements at each terminal unit as needed to determine the proper flowrate.
2. Third-party Retrofit Commissioning (RCx) is recommended to provide quality assurance and verification of proper integration between the retrofitted parts and new controls system.
3. Contracting a balancer to conduct test, balancing, and adjustments on the equipment is recommended to balance out airflows and duct static pressures to ensure the unit is providing adequate airflow to the areas served.

5 Cost Estimate

Cost estimations were developed for the EEM using the *Association for the Advancement of Cost Engineering* (AACE) guidelines. Cost estimates include initial investment costs and associated costs for each component of the proposed system. See Appendix for the cost estimate.

6 Assessment

A constructability assessment was conducted to identify potential risk factors with the implementation of this EEM and mitigate unforeseen project costs:

1. **Construction work requiring access to occupied spaces**, especially the jail areas, will require a lot of planning to mitigate risk associated with occupant discomfort and safety. Areas occupied with inmates may not be accessible at any time and will require additional coordination with the County and contractors to determine what is feasible.
2. **Cost escalation** is a potential risk on future projects. A method for mitigation is to opt for an open system during procurement, such as the proposed Tridium Niagara Framework. As this type of system is typically supported by most major vendors, this will keep an even field of contractors for bidding on future projects.
3. **Project schedule delays** can be mitigated by establishing standards for controls and manufacturers before the design phase.
4. **Supply chain issues** are currently causing equipment procurement delays which should be accounted for when developing the project schedule.
5. **Ancillary Architectural Work.** Replacement of ceiling tiles and cutting into walls to replace thermostats may impact building aesthetics and increase project costs.
6. **Existing Ductwork** Existing ductwork may have latent design issues, leakage, and corrosion issues that require additional funding to repair. It is recommended the County retain some contingency to address these items as needed.
7. **Matching Ceilings** The work will require the removal of T-Bar ceiling tiles. If these ceiling tiles break, matching them will be challenging if not impossible.
8. **Unforeseen Conditions** There may be additional items required to refurbish the unit that accounted for in the estimate. As such, it is recommended that a robust allowance be maintained to fund unforeseen conditions and scope items.
9. **Dual Duct VAV Boxes** There are relatively few manufacturers of dual duct VAV retrofit kits. We have recommended Carnes and also seen units from Train. Utilizing the train terminal units may require utilization of their controls, which is not recommended.
10. **Phasing** Phasing the constriction work may cost increase costs. IT was assumed that the work can be coordinated around existing client schedule during normal working hours.

7 Appendix

7.1 AACE Level 4 Opinion of Probable Cost

Controls Modernization
Refinement Phase Report

Benton County Justice Center

Kennewick, WA

Prepared for
Benton County

November 2023

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Table of Contents

1 Executive Summary 2
2 Project Goal/Overview 3
2.1 Project Description 3
2.2 Building Information 3
2.3 Project Goal 3
3 Scope Definition 4
3.1 Existing System 4
3.1.1 Existing System Description 4
3.1.2 Existing System Challenges 4
3.1.3 Existing Documentation 4
3.2 Proposed System Description 4
3.2.1 Design Criteria 4
3.2.2 Design Standards 4
3.2.3 Project Scope of Work 6
3.2.4 Recommended Vendors 10
4 Execution Strategy 10
4.1.1 Procurement Strategy 10
4.1.2 Execution Strategy 11
4.1.3 Constructability and Coordination 12
4.1.4 Quality Control 12
5 Cost Estimate 12
6 Risk Assessment 12
7 Appendix 14
7.1 AACE Level 4 Opinion of Probable Cost (Separate File) 14

1 Executive Summary

Säzän Group (Säzän) performed an energy audit for the Benton County Jail to identify Energy Efficiency Measures (EEMs) to improve building operation efficiency and assist the County with compliance with the Clean Buildings Act (CBA). Of the original twenty EEMs five were selected for the refine phase for further feasibility analysis. The intent of the reports is to provide background and scope information on the proposed project to assist Benton County during facilitation of the design and bidding process. This report focuses on the 2022 CBA **Energy Audit EEM #11 for the modernization and controls upgrade for the entire Benton County Jail site.**

The existing Johnson N2 Metasys building controls is comprised of a combination of Direct Digital Control (DDC) and pneumatic controls that are outdated. The manufacturer no longer supports the product line and obtaining replacement parts is difficult.

The proposed design outlined in this report is for the replacement of the existing controls serving the entire site with a new Energy Management Control System (EMCS) with Direct Digital Control (DDC). The recommended system is a modern Johnson Controls Metasys system. The new system, when coupled with a robust design and commissioning process, will improve equipment operational efficiencies and maintenance by providing better control and monitoring of the HVAC system.

The total cost of project cost of work is estimated to be $2,706,000 with a tolerance of +/- 20%.

2 Project Goal/Overview

2.1 Project Description

This project will focus on the modernization of the Building Management System (BMS) for the entire Benton County Jail facility. This report provides a controls retrofit implementation strategy for the campus that will lead to energy savings and more fine-tuned control of the HVAC equipment. This report outlines the technical requirements, provides a summary of how the scope could be executed, and provides an opinion of probable cost.

2.2 Building Information

The facility currently has an antiquated yet functional Johnson N2 building controls system. The manufacturer no longer supports the product line and obtaining replacement parts is difficult. There is inadequate server space for equipment monitoring and trending. See energy audit reports for additional information.

2.3 Project Goal

The controls retrofit will provide Benton County with a modern controls system that will reduce energy usage and allow for a more fine-tuned view of the HVAC system through increased monitoring and trending of all equipment. The goal for this project includes:

1. Install a modern Johnson Controls BACnet DDC system across the campus.
2. Reduce annual utility costs by approximately $57k per year through an optimized Sequence of Operations (SOO).
3. Reduce the site Energy Utilization Index (EUI) by a minimum of 14.25 KBTU/SF per year, or 12% of the site annual energy usage.
4. Provide a controls platform that allows for expansion and upgrades in the future.
5. Optimize the sequence of operations for each piece of equipment utilizing an integrated design and commissioning approach.

The key to achieving these goals is leveraging a collaborative implementation approach outlined in the execution section of this report. This includes leveraging the collective knowledge of the contractor, design engineer, and commissioning agent in a collaborative design and implementation process to optimize each system. This is complemented by standards to ensure consistency across the campus prior to replacement.

3 Scope Definition

3.1 Existing System

3.1.1 Existing System Description

The current controls system is a Johnson N2 Metasys system. The server space allocated to the system does not allow for adequate trending of data and there is control and monitoring of the equipment. The system has older control sequences that can benefit from re-tuning to eliminate some of the simultaneous heating and cooling issues for the AHUs. The front-end graphical interface and BACnet integration for most of the equipment is limited resulting in limited controllability of the system.

3.1.2 Existing System Challenges

The existing system has few opportunities for continuous commissioning. The system also poses potential cyber security concerns due to lack of new security updates for unsupported products. Due to the age of the existing system, integration with modern equipment will be challenging.

3.1.3 Existing Documentation

The existing documentation for the site consists of scanned images of the original construction documents; there are some old electronic formats of the construction documents in AutoCAD. The existing sequence of operations is not well documented in previous drawings or specifications and are not consistent with the current controls graphics. Field observations performed during the audit indicate that there are opportunities to reduce energy usage through optimization of the sequence of operations.

3.2 Proposed System Description

3.2.1 Design Criteria

- Modeling of the building to establish design standards is based off *2021 ASHRAE Fundamentals* data for 99.6% winter design and 0.4% summer in Pasco Tri-Cities, WA, USA (WMO: 727845).
    - Summer Outside Conditions: 99.2° F DB, 69.1° F WB
    - Winter Outside Conditions: 11.2° F
    - The interior design temperatures used for heating and cooling load calculations shall be a maximum of 70°F for heating, and a minimum of 75°F for cooling, with a 5-degree dead band as required by code.

3.2.2 Design Standards

The below recommended controls standards should be considered by Benton County:

1. Control Manufacturer
    a. A standardized control system should be implemented for the entire campus.

   b. For ease of transition, Johnson Controls presents the easiest learning curve for maintenance staff, as it is the system that is currently being utilized on campus.
   c. Other controls systems can be considered, with input from the County, if there is a desire for more options when selecting a controls contractor to complete the work.

2. Recommended Communication Protocol
   a. BACnet IP is recommended for the standard communication protocol. It will provide expedited communication rates between the controls equipment and is widely supported by controllers from various manufacturers.
   b. Coordinate with the County IT department for a separate virtual network with subnet, gateway, and IP addresses prior to installation of the new controls system. The IT department should be consulted on what type of switches they typically use and rapid spanning tree protocol switches selected.

3. Requirements for Trending
   a. Provide 15-minute trending for all DDC points.
   b. Provide metering trends for energy usage for each piece of major equipment and calculated energy for each terminal unit. Provide daily, monthly, and yearly data on an energy dashboard.
   c. Provide occupancy trends for all spaces with occupancy sensors.
   d. Provide standard trending for future retro-commissioning. For all air handlers, include trends for runtimes, outside air flow, outside air temperature, supply air flow, supply air temperature, return air flow, and return air temperature. For the central plant, include trends for chiller flow, boiler flow, heating/cooling loop outputs, and temperature setpoints.
   e. For the boilers and chillers, internal points should be trended to monitor unit operation to determine unit degradation. These points include items such as firing rate, compressor pressures, and temperatures.
4. Consider analytics software to provide a dashboard with energy reports and building analytics.
   a. Reports will provide data that is segregated into types of loads for individual areas (Equipment/HVAC/Light/Plug) and give the facilities team data that helps identify problems in individual areas faster, reducing investigative work.
   b. The dashboard could also provide public facing data on energy savings and building usage via an energy dashboard in a public serving space.
5. Cloud storage capacity for trends and analytics
   a. Provide flexible cloud storage or on-site server storage for all trends and analytics to be kept for at least 5 years.
6. Provide a front-end graphical interface design standard to be implemented in Requests for Proposals (RFPs) or Owner's Project Requirements (OPR) for future projects. The County needs to

work with the control's contractor for the first project to develop a graphical interface design standard to their liking.

3.2.3 Project Scope of Work

DDC Upgrade

Contractor shall replace the existing Johnson N2 system with a modern controls system. Contractor shall field verify all unit capacities and building information. Work shall include but not be limited to the following items:

1. Provide new DDC controls system.
    a. Provide new front-end graphics.
    b. Provide updated facility floorplans, including previous tenant improvements, to ensure the accuracy of the front-end graphics. The intent is to provide the County with a single electronic file set of the floorplans for reference.
    c. Develop floor plans and control screens for major equipment.
    d. Develop graphic design standards for future jobs for integration with the proposed system.
    e. Provide dashboards made for exterior public and governance facing transparency that integrate into the analytics system.
    f. Develop standards for user interface for remote operations with tablets or laptops; this can centralize maintenance and reduce requirements to be onsite for maintenance.
2. Engage a contractor to provide an updated CAD model of the floorplans for incorporation into the controls front-end graphics.

E-AHU-1

1. Demolish and remove the existing pneumatic controls and provide new replacement controllers, VFDs, and actuators. Remove the pneumatic preheat heating and cooling coil valves on AHU-1 and replace with electronic globe valves; the valves should be sized for less than 5psi pressure drop across the valves. The cooling coil is 176 gpm, preheat coil is 24 gpm, and the heating coil is 70 gpm.
2. Provide new controllers that can integrate with the zone terminal units. The units should be tied to an occupancy sensor status output to implement demand control ventilation sequences when areas are vacant.
3. Provide analytics and programming that incorporate supply air temperature resets based on zone heating loop output, cooling loop output, and outside air temperature. Integration of the terminal units into an analytics program will allow the system to determine the most efficient method of operation.

4. Implement duct static pressure reset. The duct static pressure reset should increase or decrease the duct static pressure setpoint to maintain a percentage of the terminal unit damper positions at greater than 95% open but less than 100%. Include a graphical interface with a list of the terminal units and zones served. Assign each zone with an adjustable zone weighting number that will establish how much a zone influences the resets.
5. Provide graphical interfacing with the associated terminal units with check boxes allowing specific units to be taken offline for maintenance.
6. Add occupancy sensors to the terminal units. Program the terminal units to have an optimal start sequence using the occupancy sensor controls to bring zone temperatures to the occupied setpoints.

E-AHU-2

1. Provide a new controller, damper actuators, and valves for the existing multi-zone unit, E-AHU-2. The existing unit controls are due for replacement.

Pneumatics

1. Replace or integrate the AHU-1 and AHU-2 controls as part of the upgrade and replacement projects. This includes replacement of the existing pneumatic dual duct boxes with DDC controlled variable volume units.
2. Demo the compressor and remove the tubing. As a result, an electrical circuit feeding the system will be made available and any maintenance requirements associated with the old pneumatics system will be removed.

E-AHU-3

1. Provide a new controller for E-AHU-3. Replace the actuators, heating, and cooling coil as needed to match the new controls. Replace either the supply or return fan VFDs with similar manufacturers, depending on what is required by the standard, to provide consistency for maintenance.
2. Provide occupancy sensor status tie-in to zones that are not continuously occupied (i.e., 24/7 operation) to implement demand control ventilation sequences. For any zones that are continuously occupied (i.e., 24/7 operation) add duct static pressure sensors and air flow measuring stations to ensure these areas are receiving the required minimum outside air flow. Provide engineering for these system calculations.
3. Implement resets similar to E-AHU-1.

E-AHU-5

1. Replace the controller associated with the electric heat air handling unit serving Room 1238 and provide integration into the new controls system.

2. Provide occupancy sensor integration for the spaces and implement temperature and airflow resets accordingly.
3. Integrate EF-9 into the new controller. Provide EF-9 with programming for variable speed capabilities and occupancy sensor control.
4. Provide the supply and exhaust fans with VFDs and occupancy sensor control to reduce fan speeds and overall fan energy usage. Provide engineering for space minimum outside airflow requirements.

Central Plant

1. Provide a new controls interface to the existing chiller plant controls system. The existing chiller plant is currently under evaluation for replacement and a new interface would provide better integration between a newer controls system.
2. Integrate loop temperature resets into the program to maximize energy efficiency; resets are to be determined by comparing the compressor loads, pump speeds and pressure, AHU loads, and terminal unit loads.
3. Provide a new controller for the domestic hot water heaters in the existing mechanical spaces. Control of the domestic water heaters should be added to remove the short cycling of the units.
4. If solar preheat or a heat recovery chiller is added to preheat the domestic water, the domestic hot water system should be upgraded to be part of the new central plant and controls upgrade.

Lighting Controls

1. Provide separate occupancy status output for the occupancy sensors provided in zones served by terminal units. This will allow the HVAC system to monitor occupancy status and control outside air flow accordingly.
2. Provide either a northern exposure photocell or astrological timeclock control for the exterior lighting to control it based on daylighting conditions.
3. Provide dual technology occupancy sensors with ultrasonic and Passive Infrared (PIR) technology for interior spaces. Sensors shall be set to either vacancy mode (manual on, auto off) or occupancy mode (auto on, auto off). If occupancy mode is selected the lights must come on at 50% light level per Washington State Energy Code.
4. Provide daylighting control in spaces where natural light is available for use.

C-AHU-1 & C-AHU-2

1. Replace the existing controller and VFDs.
2. Replace the heating coil valve actuator to match the new controls, as needed.
3. Integrate into the lighting controls to provide demand ventilation control based on zone occupancy. A separate occupancy status output will need to be provided with the occupancy sensors.

4. Supply air temperature and duct static pressure resets should be implemented similar to E-AHU-1.
5. Provide retro-commissioning of the damper actuator operations and verify outside air flow meets code requirements.

J-AHU-1 through J-AHU-7

1. Replace the controllers and VFDs to comply with standardized components.
2. Replace the terminal unit controllers.
3. Upgrade heating and cooling plant to be variable volume and replace valves.
4. Add occupancy sensors to areas that are not continuously occupied, such as the office and storage spaces. Provide occupancy sensor control to enable a reduction in outside air intake upon vacancy status.
5. Implement resets similar to E-AHU-1.
6. Provide programing for a new sequence of operations to mitigate simultaneous heating and cooling.

J-MAU-1

1. Upgrade the Make-Up Air Unit (MAU) serving the jail kitchen with a variable volume unit with pressure control.
2. Provide a new controller with integration into the cooking equipment.
3. Provide VFDs for integration with the MAU and associated exhaust fans.
4. Provide a differential pressure sensor for pressure control sequencing.

Miscellaneous

1. Provide metering for domestic water, domestic heating water, make-up water, and electrical equipment. Larger equipment, such as air handling units, chillers, and boilers should be sub metered to analyze individual energy usage.
2. Implement trending and monitoring to provide insight into energy usage to help identify maintenance issues sooner and help prevent equipment failures.
3. Provide a dashboard displaying energy monitoring and usage to give the County and public insight into energy usage and savings for the campus.
4. Integrate typical resets such as duct static pressure reset, supply air temperature reset, schedule shortening, reduced primary air flow, larger dead band range for space control, minimum outdoor air fraction during unoccupied hours, chilled water differential pressure reset, chilled water temperature reset, heating water differential pressure reset, heating water temperature reset, and condenser water temperature reset.

3.2.4 Recommended Vendors

Front-end

A Johnson Controls is recommended for installation. Alternatively, a Tridium Niagara system could be implemented for the front-end Energy Management Controls System (EMCS). Advantages and disadvantages of each system type are outlined in the table below for consideration.

	Johnson Controls (Current Vendor)	**Tridium (Alternative System)**
Front End integration	Can integrate other BACnet controllers as 3rd party, but always better if JCI controller. Data Tagging abilities are additional add on programs.	Open front end available and known by most control systems. Native Data tagging abilities are built in.
Contractor Flexibility	Single source contractor. Getting service can be easier with the entire system being a single source.	Provides flexibility in changing control vendor/contractor.
Graphics and trends	Single source provides consistency with less oversight of contractor.	Requires more oversight to get consistent graphics, programs, and trends if you switch vendors frequently.
Controller sourcing	Limited to one or two service vendors and controls providers. Service provider is consistent, this may be good or bad.	Can get multiple controller types requiring different service vendors. Allows switching vendors if one is not performing well.
Future vendor and controller selection.	Limited flexibility once the installed model line is obsolete.	Upgrading the front-end integration allows for any new product to be used without a site wide upgrade.
Training	New version of current system. May be able to utilize existing service contractor.	New system requiring extensive training.

4 Execution Strategy

4.1.1 Procurement Strategy

The recommended procurement strategy uses an alternative delivery methodology with oversight by the County . This could be a General Contractor/ Construction Manager (GC/CM), Mechanical Contractor/Construction Manager (MC/CM), or a progressive design-build methodology using

appropriate project controls structure and an integrated approach with the design team, commissioning agent, and County.

4.1.2 Execution Strategy

The controls project should utilize an integrated project delivery approach.

1. The County should hire an experienced, trusted, and collaborative design team and commissioning agent. The design team should be well versed with retrofit projects, and it is recommended that the design team be mechanically led, for cost savings. The commissioning agent should have retro-commissioning and system diagnostic capabilities. The design and commissioning entities can be separate professional services contracts or be the same firm if ASHRAE 90.1 commissioning guidance is followed requiring separate Cx and design teams.
2. During the schematic design phase, the team must develop site wide standards for controls, VFDs, control valves, and other various standards. The intent is to standardize equipment across the jail complex for this project and future projects, and these standards are what the specifications should be based upon. Factors which recommended vendors should be based upon include preferred vendor pricing, availability of parts, quality, and location of manufacture (US made).
3. The commissioning team will develop the Owner's Project Requirements (OPR). The design team will develop the Basis of Design (BOD).
4. A GC/CM or MC/CM should be procured early in the design phase with a healthy pre-design budget.
5. During design development, the design team, commissioning agent, GC/CM, and County should have a series of controls integration meetings to jointly develop the sequence of operations for each system. The intent is to collaboratively develop and optimize the controls sequence with all parties.

   A sample agenda for these controls integration workshops can include:

   a. System overview.
   b. Review of system reliability and energy performance.
   c. Design team presents controls strategy.
   d. Team discusses and optimizes the Sequence of Operations (SOO).
   e. Determine required points for trending and monitoring.
   f. Next steps
6. A third-party cost estimator should be utilized to develop cost estimates and assist with price negotiations.
7. The County should utilize a risk-based contingency fund to identify, mitigate, and redistribute contingency funding to minimize risk and improve program.

4.1.3 Constructability and Coordination

- Construction work can be completed during normal working hours for any non-occupied spaces excluding the Jail and Sheriff's office.
- For occupied spaces, work will need to be completed outside of occupied hours or coordinated with the client to minimize occupant impact.
- Close coordination of the work, and how it will be executed with the end users will be a key metric of project success.
- Construction should start in the shoulder seasons to mitigate occupant discomfort.

4.1.4 Quality Control

1. The County should engage the current controls maintenance vendor during the construction phase in a quality assurance role.
2. Provide commissioning throughout the design and construction phases to test systems and ensure proper integration between the retrofitted parts and new controls system.

5 Cost Estimate

Cost estimations were developed for the EEM using the *Association for the Advancement of Cost Engineering* (AACE) guidelines. Cost estimates include initial investment costs and associated costs for each component of the proposed system. See Appendix for the cost estimate.

6 Risk Assessment

A constructability assessment was conducted to identify potential risk factors with the implementation of this EEM and mitigate unforeseen project costs:

1. **Phasing work.** The work will need to be phased out such that critical building areas will have minimal to no downtime.
2. **Coordination with other projects.** The controls contractor will need to coordinate controls upgrade with other capital upgrade projects including the AHU-1 and AHU-2 replacement, and chilled water central plant for the old courts/old jail. Coordinate the infrastructure requirements with future controls upgrades to avoid duplicate work and replacing newer equipment.
3. **Integration with existing equipment.** The controls upgrade will need to integrate with existing equipment. While there are potential cost savings associated with re-using the existing controls wiring and sensors, there is risk to the longevity of the system; these components may need to be replaced due to early degradation.
4. **Construction work requiring access to occupied spaces**, especially the jail areas, will require planning to mitigate risk associated with occupant discomfort and safety. Areas occupied with inmates may not be accessible at any time and require additional coordination with the County and contractors to determine what is feasible.

5. **Cost escalation** is a potential risk on all projects. Tridium can be sourced from multiple vendors providing more competitive pricing for components.
6. **Serviceability.** The chosen control system must have a vendor that is able to assist the County in maintaining the DDC system.

7 Appendix

7.1 AACE Level 4 Opinion of Probable Cost (Separate File)

BENTON COUNTY
WASHINGTON

KENNEWICK CAMPUS

Justice Center/ Jail HVAC Upgrade

EXHIBIT B1
INSURANCE REQUIREMENTS
BENTON COUNTY
PROGRESSIVE DESIGN-BUILD AGREEMENT

Insurance Exhibit

1.1 Insurance Types and Limits.

1.1.1 Design-Builder shall purchase and maintain insurance of the types, with limits of liability, containing such endorsements and subject to such terms and conditions as follows, as well as Article 5 of DBIA Document No. 535, *Standard Form of General Conditions of Contract Between Owner and Design-Builder* (2010 Edition):

(Specify each type of insurance as applicable, minimum ratings of the carriers, applicable limits and deductible amounts, required endorsements, and other terms and conditions, as applicable.)

Type of Insurance [Insert Rating of Carrier]	Minimum Limits Required *Per Claim/Occurrence*	Minimum Limits Required *Aggregate Policy Limits*	Maximum Deductible
1. Worker's Compensation	Statutory Limits	Statutory Limits	All deductibles shall be commercially reasonable and acceptable to the Owner
2. Employer's Liability (Bodily Injury by Accident)	$1,000,000	$1,000,000	See above
3. Commercial General Liability	$10,000,000	$10,000,000	See above
4. Contractor's Protective Liability (if applicable)	$1,000,000	$1,000,000	See above
5. Commercial Automobile Liability	$2,000,000	$2,000,000	See above
6. Professional Errors and Omissions pursuant to Section 1.3 (A) and 1.3 (B) below (per claim/aggregate) providing coverage for services performed by the named insured and any person or entity for whom the named insured is responsible	$3,000,000	$3,000,000	See above
7. Contractor's Pollution Liability including coverage for microbial matter (if applicable)	$1,000,000	$1,000,000	See above
8. Umbrella Excess Liability Insurance	$3,000,000	$3,000,000	See above
Builder's Risk	Full amount of contract		$50,000

1.1.2 The insurance required by this Section 1.1.1 shall be written for not less than limits of liability specified in the table above or required by law, whichever coverage is greater. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from date of commencement of the Work until date of Final Payment.

1.1.3 PROFESSIONAL LIABILITY INSURANCE.

1.1.3(A) Professional Liability Insurance To Be Provided By Design Consultant. Such policies must provide coverage for the scope of professional services to be provided by or on behalf of the Design Consultant. ***[Note: Even if this coverage part is selected, the Design-Builder should consider obtaining its own professional liability coverage.]***

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☑ The requirement for professional liability coverage on this Project shall be the standard form practice policy provided by Design Consultant.

Design-Builder shall provide Owner with prior written notice of any cancellation or non-renewal of the Design Consultant's practice policy and shall include in the Design Consultant Agreement a provision requiring the Design Consultant to give the Design-Builder 30 Days written notice of any cancellation or non-renewal.

1.1.3(A).1 The only permissible exclusion, limitation or restriction with respect to construction means, methods and techniques is one that applies to the implementation of such construction means, methods, techniques, sequences, or procedures by the Design Consultant or any person or entity providing design or other professional services as its Sub-Consultant. This exclusion is permissible only if such entities are not performing any construction activities. Notwithstanding the above, a Design Consultant's professional liability policy also cannot contain any restriction, limitation or exclusion pertaining to the design of construction means, methods, techniques, sequences or procedures.

1.1.3(A).2 Any exclusion, limitation or restriction related to Products or Product Design must be modified so as to provide coverage for goods or products installed.

1.1.3(A).3 Faulty Work exclusion, limitation or restriction can only be applicable to the work self-performed by the Design Consultant.

1.1.3(A).4 The policy must provide coverage for damages resulting from delays, including delays in project completion and cost overruns that result from the rendering or failure to render professional services.

1.1.3(A).5 If any portion of the design or other professional service is to be performed by any person or entity other than Design Consultant then it is the responsibility of Design Consultant to ensure that such person or entity provide Design-Builder and Design Consultant with evidence of insurance to comport with this Exhibit.

1.1.3(A).6 Waiver of subrogation is to be provided in favor of Design-Builder and its officers, directors and employees, and (if commercially available) Owner and its officers, directors and employees.

1.1.3(B) Professional Liability Insurance To Be Provided By Design-Builder. Such policies must provide coverage for the scope of professional services to be provided by or on behalf of the Design-Builder.

☑ The requirement for professional liability coverage on this Project shall be the standard form practice policy provided by Design-Builder.

Design-Builder shall provide Owner with prior written notice of any cancellation or non-renewal of the Design-Builder's practice policy.

1.1.3(B).1 The Design-Builder's policy cannot contain any restriction, limitation or exclusion pertaining to construction means, methods, techniques, sequences or procedures except that the professional liability policy can exclude, limit or restrict coverage for claims, but only to the same extent that such coverage is provided by the Design-Builder's valid and collectible commercial general liability/umbrella excess liability policies. Notwithstanding the above, a Design-Builder's professional liability policy also cannot contain any restriction, limitation or exclusion pertaining to the design of construction means, methods, techniques, sequences, or procedures.

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1.1.3(B).2 Any exclusion, limitation or restriction related to Products or Product Design must be modified so as to provide coverage for goods or products installed.

1.1.3(B).3 Faulty Work exclusion, limitation or restriction can only be applicable to the work self-performed by the Design-Builder.

1.1.3(B).4 The policy must provide coverage for damages resulting from delays, including delays in project completion, and cost overruns that result from the rendering or failure to render professional services.

1.1.3(B).5 If any portion of the design or other professional service is to be performed by any person or entity other than Design-Builder then it is the responsibility of Design-Builder to ensure that person or entity provide Design-Builder with evidence of insurance to comport with this Exhibit.

1.1.3(B).6 Waiver of subrogation is to be provided in favor of Design-Builder and Owner (if commercially available) and their respective officers, directors and employees.

1.1.4 Any coverage required to be maintained after Final Payment shall be identified below. *(List here any coverages required to be maintained after Final Payment is made)*

General Liability, including completed operations coverage
Worker's Compensation
Professional Liability, including Contractor's Protective Liability, if applicable.
Umbrella Coverage

Such coverage shall remain in place for six (6) years after Substantial Completion.

2.1 Coverage Parameters and Endorsements.

2.1.1 Commercial General Liability Insurance shall be written on an occurrence basis, utilizing standard ISO unmodified coverage form (December 2004 Edition) or equivalent. Endorsements excluding, restricting, or limiting coverage may be acceptable under certain circumstances provided the same are agreed upon by Owner and Design-Builder.

2.1.1.1 Acceptable professional liability exclusions to the Design-Builder's commercial general liability insurance are limited to ISO endorsements CG 2280 or CG 2279 or their equivalent.

2.1.2 General Liability, Automobile Liability, Worker's Compensation/Employers Liability and Umbrella Excess Liability policies shall each include the following endorsements:

2.1.2.1 Unintentional Errors and Omissions Endorsement

2.1.2.2 Notice of Occurrence Endorsement

2.1.2.3 Knowledge of Occurrence Endorsement

2.1.3 Commercial Automobile Liability coverage shall be provided by standard ISO Commercial Automobile or Truckers Policy covering all Owned, Non-Owned and Hired Vehicles.

2.1.4 Umbrella/Excess Liability must schedule Commercial General Liability, Automobile/Truckers Liability and Employers Liability as underlying policies. The Umbrella/Excess Liability policies shall be written in accordance with the scheduled underlying policies and must be as broad as the underlying policies.

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2.1.5 Contractors Pollution Liability shall either be written on an occurrence or claims-made basis. If written on a claims-made basis, the policy must comport to Section 4.1.5.

2.1.5.1 The policy is to provide coverage for off-site transportation by all applicable modes of conveyance. When required, coverage is also to be provided for claims involving materials removed from the site and brought to off-site disposal, treatment and storage facilities.

2.1.5.2 Any restriction, limitation, or exclusion related to Naturally Occurring Substances must be modified so as not to apply to microbial matter and the release of such Naturally Occurring Substances as a result of the performance of Operations.

2.1.6 Industrial Insurance Waiver

2.1.6.1 Title 51 Waiver of Immunity with respect to the performance of this CONTRACT and as to claims against COUNTY, its officers, agents and employees, CONTRACTOR expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, for injuries to its employees and agrees that the obligations to indemnify, defend and hold harmless provided in this CONTRACT extend to any claim brought by or on behalf of any employee of CONTRACTOR. This waiver is mutually negotiated by the parties to this CONTRACT.

3.1 Additional Insureds

3.1.1 Owner and Owner's officers, directors and employees shall be included as an additional insured on general liability, umbrella and automobile liability policies of insurance of the Design-Builder and its Subcontractors and Design Consultants at any tier. If required, as set forth above, Owner shall also be included as an additional insured on the Design-Builder's Contractor's Pollution Liability policy of insurance. No person shall be named as an additional insured on any professional liability policy. Any coverage granted to an additional insured shall be primary and that coverage independently carried by an additional insured shall not contribute. Design-Builder shall furnish to Owner a copy of all Certificates of Insurance showing the Owner as additional insured as set forth above. Design-Builder shall require Subcontractors and Design Consultants of any tier to furnish such certificates, and upon request of the same will furnish them to the Owner. Owner shall not be an additional insured on any other of Design-Builder's policies except for those which are specifically listed below: *(List here any other policies for which the Owner will be an additional insured, as well as other entities who are to be named an additional insured.)*

3.1.2 Each of the policies designated in section 3.1 is to provide a waiver of subrogation in favor of those persons or entities included as additional insureds. A waiver of subrogation is also to be provided to such entities under Worker's Compensation/Employer's Liability policies.

3.1.3 Additional Insured coverage provided under the Commercial General Liability/Umbrella/Excess and, if applicable, Design-Builder's Contractor's Pollution Liability policies, shall cover both the premises/operations and completed operations hazards.

4.1 Terms and Effective Dates.

4.1.1 If the General Liability coverages are provided by a Commercial General Liability Policy on a claims-made basis, the policy date or Retroactive Date shall predate the Agreement. The termination date of the policy or applicable extended reporting period shall be no earlier than the termination date of coverages required to be maintained after Final Payment is made.

4.1.2 If the Contractor's Pollution Policy is made on a claims-made basis, the policy date or Retroactive Date shall predate the Agreement. The termination date of the policy or applicable

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extended reporting period shall be no earlier than the termination date of coverages required to be maintained after Final Payment is made.

4.1.3 Professional Liability coverage shall be retroactive to the date that professional services first commenced.

4.1.4 RESERVED

4.1.5 All Claims-Made Policies must: (a) permit reporting of circumstances that could give rise to a claim; and (b) provide coverage for post-expiration claims resulting from such circumstances.

4.1.6 List here any coverage required to be maintained after Final Payment:

General Liability, including completed operations coverage
Worker's Compensation
Professional Liability, including Contractor's Protective Liability, if applicable.
Umbrella Coverage

Such coverage shall remain in place for six (6) years after Substantial Completion.

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PUBLIC WORKS PAYMENT BOND

to BENTON COUNTY, WA

Bond No. _____

Benton County, Washington (County) has awarded to _____ (Principal), a contract for the construction of the project designated as **PROJECT NAME, Project No.,** in Benton County, Washington (Contract), and said Principal is required, under the terms of that Contract, to furnish a payment bond in accord with Title 39.08 Revised Code of Washington (RCW) and (where applicable) 60.28 RCW.

The Principal, and _____ (Surety), a corporation, organized under the laws of the State of _____ and licensed to do business in the State of Washington as surety and named in the current list of "Surety Companies Acceptable in Federal Bonds" as published in the Federal Register by the Audit Staff Bureau of Accounts, U.S. Treasury Dept., are jointly and severally held and firmly bound to the County, in the sum of _____ US Dollars ($ _____) Total Contract Amount, subject to the provisions herein.

This statutory payment bond shall become null and void, if and when the Principal, its heirs, executors, administrators, successors, or assigns shall pay all persons in accordance with RCW 39.08, 39.12, and 60.28 including all workers, laborers, mechanics, subcontractors, and materialmen, and all person who shall supply such contractor or subcontractor with provisions and supplies for the carrying on of such work, and all taxes incurred on said Contract under Titles 50 and 51 RCW and all taxes imposed on the Principal under Title 82 RCW; and if such payment obligations have not been fulfilled, this bond shall remain in full force and effect.

The Surety for value received agrees that no change, extension of time, alteration or addition to the terms of the Contract, the specifications accompanying the Contract, or to the work to be performed under the Contract shall in any way affect its obligation on this bond, and waives notice of any change, extension of time, alteration or addition to the terms of the Contract or the work performed. The Surety agrees that modifications and changes to the terms and conditions of the Contract that increase the total amount to be paid the Principal shall automatically increase the obligation of the Surety on this bond and notice to Surety is not required for such increased obligation.

This bond may be executed in two (2) original counterparts, and shall be signed by the parties' duly authorized officers. This bond will only be accepted if it is accompanied by a fully executed and original power of attorney for the office executing on behalf of the surety.

PRINCIPAL		SURETY	
_____		_____	
Principal Signature	Date	Surety Signature	Date
_____		_____	
Printed Name		Printed Name	
_____		_____	
Title		Title	

Name, address, and telephone of local office/agent of Surety Company is:

Informational Copy

PUBLIC WORKS PERFORMANCE BOND

to BENTON COUNTY, WA

Bond No. _____

Benton County, Washington (County) has awarded to _____ (Principal), a contract for the construction of the project designated as **PROJECT NAME, Project No.,** in Benton County, Washington (Contract), and said Principal is required to furnish a bond for performance of all obligations under the Contract.

The Principal, and _____ (Surety), a corporation, organized under the laws of the State of _____ and licensed to do business in the State of Washington as surety and named in the current list of "Surety Companies Acceptable in Federal Bonds" as published in the Federal Register by the Audit Staff Bureau of Accounts, U.S. Treasury Dept., are jointly and severally held and firmly bound to the County, in the sum of _____ US Dollars ($ _____) Total Contract Amount, subject to the provisions herein.

This statutory performance bond shall become null and void, if and when the Principal, its heirs, executors, administrators, successors, or assigns shall well and faithfully perform all of the Principal's obligations under the Contract and fulfill all terms and conditions of all duly authorized modifications, additions, and changes to said Contract that may hereafter be made, at the time and in the manner therein specified; and if such performance obligations have not been fulfilled, this bond shall remain in force and effect.

The Surety for value received agrees that no change, extension of time, alteration or addition to the terms of the Contract, the specifications accompanying the Contract, or to the work to be performed under the Contract shall in any way affect its obligation on this bond, and waives notice of any change, extension of time, alteration or addition to the terms of the Contract or the work performed. The Surety agrees that modifications and changes to the terms and conditions of the Contract that increase the total amount to be paid the Principal shall automatically increase the obligation of the Surety on this bond and notice to Surety is not required for such increased obligation.

This bond may be executed in two (2) original counterparts, and shall be signed by the parties' duly authorized officers. This bond will only be accepted if it is accompanied by a fully executed and original power of attorney for the office executing on behalf of the surety.

PRINCIPAL		SURETY	
_____		_____	
Principal Signature	Date	Surety Signature	Date
_____		_____	
Printed Name		Printed Name	
_____		_____	
Title		Title	

Name, address, and telephone of local office/agent of Surety Company is:

Informational Copy

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	January 9, 2024
Subject:	Ratifying Change Order Proposals No. 3, 4, 7-9 to Banlin Construction, LLC contract for the Justice Center Tenant Improvement Project
Presenter:	
Prepared By:	P. Schut
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:**	
☒ 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 July 18, 2023, the Board of Benton County Commissioners, via resolution 2023-517, executed the contract with Banlin Construction, LLC for the construction of the Justice Center TI Project in the amount of $1,865,128.00.

On September 19, 2023, the Board of Benton County Commissioners, via resolution 2023-648, approved Change Order Proposal No. 2 in the amount of $10,998.66.

The contractor has identified additional unforeseen circumstances facilitating the need for change orders.

Change Order Proposal No. 3 keeps the existing door frame 42R and the associated rework of the opening. It also adds the removal/disposal of office furniture in the amount of $1,335.35, excluding WSST.

Change Order Proposal No. 4 is for additional gypsum board to infill around door 44E in the amount of $1,077.55 excluding WSST.

Change Order Proposal No. 7 is to remove the scope of Indicator and EMC from Door Hardware in the amount of -$1,260.00 excluding WSST.

Change Order Proposal No. 8 is for the relocation of power and data for the furniture in the amount of $6,931.88 excluding WSST.

Change Order Proposal No. 9 is needed to move some work to be performed on Saturdays to minimize disruptions to court proceedings in the amount of $3,329.58 excluding WSST.

Change Order Proposals No. 3, 4, 7-9 increase the contract a total of $11,414.36 for a new contract amount of $1,887,541.02 excluding WSST.

The Director of Operations and Capital Programs has reviewed the proposed change orders and the Deputy County Administrator has signed the same. Pursuant to the Benton County Procurement, Leasing and Contracting Policy (Resolution 2021-233) the Board of County Commissioners needs to ratify the Change Orders.

Fiscal Impact

Amount: $11,414.36

Fund: Capital Projects Fund

Recommendation

Ratify Change Order Proposal No. 3, 4, 7-9 to Banlin Construction, LLC's contract for Justice Center Tenant Improvement Project in the amount of $11,414.36, excluding WSST for a new contract amount of $1,887,541.02.

Suggested Motion

Approve as part of the consent agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF RATIFYING CHANGE ORDER PROPOSALS NO. 3, 4, 7-9 TO BANLIN CONSTRUCTION, LLC's CONTRACT FOR JUSTICE CENTER TENANT IMPROVEMENT PROJECT

WHEREAS, on July 18, 2023, the Board of Benton County Commissioners, via resolution 2023-517, executed the contract with Banlin Construction, LLC for the construction of the Justice Center TI Project in the amount of $1,865,128.00; and

WHEREAS, on September 19, 2023, the Board of Benton County Commissioners, via resolution 2023-648, approved Change Order Proposal No. 2 in the amount of $10,998.66; and

WHEREAS, the contractor identified additional unforeseen circumstances facilitating the need for change orders; and

WHEREAS, Change Order Proposal No. 3 kept the existing door frame 42R and the associated rework of the opening and added the removal/disposal of office furniture in the amount of $1,335.35, excluding WSST; and

WHEREAS, Change Order Proposal No. 4 was for additional gypsum board to infill around door 44E in the amount of $1,077.55 excluding WSST; and

WHEREAS, Change Order Proposal No. 7 removed the scope of Indicator and EMC from Door Hardware in the amount of -$1,260.00 excluding WSST; and

WHEREAS, Change Order Proposal No. 8 relocated of power and data for the furniture in the amount of $6,931.88 excluding WSST; and

WHEREAS, Change Order Proposal No. 9 moved some work to be performed on Saturdays to minimize disruptions to court proceedings in the amount of $3,329.58 excluding WSST

WHEREAS, the Director of Operations and Capital Programs reviewed the proposed change orders and the Deputy County Administrator signed the same; and

WHEREAS, the Benton County Procurement, Leasing and Contracting Policy (Resolution 2021-233) requires that the Board of County Commissioners ratify change orders; **NOW THEREFORE,**

BE IT RESOLVED, the Board of Benton County Commissioners hereby ratifies Change Order Proposals No. 3, 4, 7-9, attached hereto, to the contract executed by Resolution 2023-517 with Banlin Construction, LLC contract for the Justice Center Tenant Improvement Project in the amount of $11,414.36; and

Orig.: Procurement P. Schut
cc: Auditor, Banlin

BE IT FURTHER RESOLVED, the total contract amount will increase $11,414.36, excluding WSST for a new contract amount not to exceed $1,887,541.02, excluding WSST.

Dated this 9th day of January 2024.

_____
Chairman

_____
Chairman Pro-Tem

_____
Commissioner

Attest:_____
Clerk of the Board

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

Orig.: Procurement
cc: Auditor, Banlin

P. Schut

BANLIN CONSTRUCTION

BANLIN Construction

CHANGE PROPOSAL (CP) NO: 003

TO: CKJT Architects
128 Vista Way
Kennewick, WA 99336

ATTN: Melissa McCoy

PROJECT NAME: Benton County Justice Center - Interior Remodel

CONTRACT #:

PROJECT NO:

DATE: 10/10/2023
VIA: Email
FROM: Jasen Banta

CP DESCRIPTION

Keep existing door frame 42R and associated rework of the opening. Remove and dispose of existing office furniture.

This Change Proposal, consisting of an estimate, responds to your Request for Proposal No.	003
The total additional cost for this COP	$2,868.36
The total credit for this COP	-$1,533.01
COP Grand Total	$1,335.35
This Change Proposal is good through:	
The schedule effect of this change is:	0 Calendar Day

Enclosures in support of this proposal includes:

1) BANLIN Construction's Estimate for Change
2)

QUALIFICATIONS

- This proposal covers only the specific items that have been priced as listed on the attached cost breakdown.
- Our pricing is based on the quotes of our subcontractors and suppliers and includes any clarifications, qualifications, and exclusions contained in their quotes

Jasen Banta — Digitally signed by Jasen Banta, DN: C=US, E=Jasen@Banlinconstruction.com, O=Banlin Construction, CN=Jasen Banta, Date: 2023.10.10 14:10:13-07'00' — 10-10-23

SUBMITTED BY: Jasen Banta; Project Manager — DATE

Melissa McCoy — 10/11/2023

APPROVED BY: Melissa McCoy, CKJT Architects — DATE

~~APPROVED BY: Will McKay, Benton County~~
Matt Rasmussen ; Benton County — 10/13/2023

DATE

BANLIN CONSTRUCTION
320 COLUMBIA DRIVE
KENNEWICK, WA. 99336
PHONE: (509) 586-2000
FAX: (509) 586-7777

CONTRACTOR'S ESTIMATE FOR CHANGE

CHANGE PROPOSAL #: 3 DATE: 10/10/2023

Project: Benton County Justice Center - Interior Remodel
Job No: 2023-015
Contractor BANLIN CONSTRUCTION

RC Nos	RFI NO	BULLETIN NO	OTHER

Description

Schedule Effect: Calendar Day

Cost Code	Description	Quantity	Unit	Rate	Total Labor	Material Cost	Subcontract Proposal	Other	Total
	General Conditions								
	Direct GC Field Costs (See page 4)	0	Day	$ 187.39	$ -				$ -
Subtotal					$ -				$ -
	Direct Labor	4							
	Project Manager	0	Hrs.	$ 95.00	$ -				$ -
	Superintendent	0	Hrs.	$ 85.00	$ -				$ -
	Project Engineer/QC	0	Hrs.	$ 60.00	$ -				$ -
	Site Foreman	0	Hrs.	$ 74.95	$ -				$ -
	Carpenter	0	Hrs.	$ 69.95	$ -				$ -
	Laborers (Furniture removal)	5	Hrs.	$ 61.29	$ 306.45				$ 306.45
Subtotal									$ 306.45
	Materials								
	Misc. Materials/Insulation	0	LS	$ -		$ -			$ -
	Disposal (75% of the first dumpster)	1	LS	$ -		$ -		$ 569.48	$ 569.48
Subtotal									$ 569.48
	Subcontractors and Supplies								
	All Safe (4 guys 5 hrs)	20	Hrs.	$ 87.00			$ 1,740.00		$ 1,740.00
		1	LS	$ -			$ -		$ -
		1	LS	$ -			$ -		$ -
		1	LS	$ -			$ -		$ -
		1	LS	$ -			$ -		$ -
		1	LS	$ -			$ -		$ -
Subtotal								**$ 569.48**	**$ 1,740.00**
TOTAL					**$ 306.45**	**$ -**	**$ 1,740.00**	**$ 569.48**	**$ 2,615.93**

OVERHEAD: Banlin Self Perform Work	**5%**	$ 43.80
PROFIT: Banlin Self Perform Work	**5%**	$ 43.80
OVERHEAD: Subcontractors	**2.5%**	$ 43.50
PROFIT: Subcontractors	**2.5%**	$ 43.50
Small tools/Expendables	**2.0%**	$ 6.13
Safety	**2.0%**	$ 6.13
Sub Total:		$ 2,802.78
B&O TAX	**0.471%**	$ 13.20
INSURANCE	**0.5%**	$ 14.08
BOND	**1.360%**	$ 38.30
SUBTOTAL		$ 2,868.36
WSST - Included on Progress Payment Sheet		
TOTAL FOR CHANGE ORDER		**$ 2,868.36**

BANLIN CONSTRUCTION
320 COLUMBIA DRIVE
KENNEWICK, WA. 99336
PHONE: (509) 586-2000
FAX: (509) 586-7777

CONTRACTOR'S ESTIMATE FOR CHANGE

CHANGE PROPOSAL #: 3 DATE: 10/10/2023

Project: Benton County Justice Center - Interior Remodel
Job No: 2023-015
Contractor: BANLIN CONSTRUCTION

Reference:

RC Nos	RFI NO	BULLETIN NO	OTHER
0			0

Description: **Credit given by Banlin and/or subcontractors**

Schedule Effect: 0 **Working Days**

Cost Code	Description	Quantity	Unit	Rate	Total Labor	Material Cost	Subcontract Proposal	Other Cost	Total
	Door Frame	1	LS			$ (443.61)			$ (443.61)
	Door Frame - Labor	2	hrs	$ (69.95)	$ (139.90)				$ (139.90)
	Framing/Drywall - Labor	5	hrs	$ (69.95)	$ (349.75)	$ (200.00)			$ (549.75)
	Paint	4	hrs	$ (69.95)	$ (279.80)	$ (25.00)			$ (304.80)
	Flooring	1	hrs	$ (69.95)	$ (69.95)	$ (25.00)			$ (94.95)
									$ -
									$ -
									$ -
									$ -
									$ -
									$ -
									$ -
									$ -
									$ -
									$ -
TOTALS					**$ (839.40)**	**$ (693.61)**	**$ -**	**$ -**	**$ (1,533.01)**

INVOICE

Customer ID:	**29-09212-93005**
Customer Name:	BANLIN CONSTRUCTION
Service Period:	08/01/23-08/31/23
Invoice Date:	09/01/2023
Invoice Number:	2888796-1819-8

How to Contact Us	Your Payment is Due	Your Total Due
Visit wm.com/MyWM Create a My WM profile for easy access to your pickup schedule, service alerts and online tools for billing and more. Have a question? Check our support center or start a chat. **Customer Service: (509) 582-5121**	**10/01/2023** If full payment of the invoiced amount is not received on or before the delinquent date, you will be charged a monthly late charge of 1% of the unpaid amount, with a minimum monthly charge of $1, or such lesser late charge allowed under applicable law, regulation or contract.	**$623.80**

Previous Balance		Payments		Adjustments		Current Invoice Charges		Total Account Balance Due
135.51	+	(135.51)	+	0.00	+	623.80	=	**623.80**

IMPORTANT MESSAGES

Service is provided on all holidays except Christmas and New Years Day. When the holiday falls on a weekday, collection will be delayed one day for the remainder of the week. Weather Delay Updates: wmnorthwest.com

Invoice mailed on 09/02/2023. Account delinquent if payment is not posted by 10/01/2023.

Please detach and send the lower portion with payment --- (no cash or staples) -

Phone	Email	Fax
509-967-1475	Shane@mccdoor.com	509-967-1473

Mid-Columbia Commercial Door, Inc.

6174 West Van Giesen, West Richland, WA 99353

2022 Hours 7:00-4:00 M-Th & 7:00-1:00 Friday

QUOTE

Date:	8/22/2023
To:	Banlin Const.
Attention:	Jasen
Job Name:	Justice Center
Job #:	2306-285
Addendums:	

**********Submittals must be approved before final pricing and ordering.**********
******Contractor must send notice to proceed and expected delivery on Frames******

Quoting Fleming, Stiles and or DCI HM products

Material	Subtotal	Estimated Lead Time
Hollow Metal Frames (1 frame)	-$443.61	
Hollow Metal Doors	$	
Wood Doors	$	
Hardware	$	
Other:	$	
Hollow Metal Window Frames	$	
No Alum. Doors/Frames/Hardware Quoted		
TOTAL	-$443.61	
FOB Our Shop W. Richland Wash.		

If sales tax applies to this order you will need to add the Washington State Sales Tax (8.7%) to the total.

Price is good for 30 Days

QUOTE PRICE **DOES NOT INCLUDE DELIVERY** TO THE JOB SITE. IF DELIVERY IS REQUIRED FEES MAY APPLY.

Exclude: Grouting, Insulation & Bituminous Coating to Frames & Glazing

**********Division 28 Not Quoted**********

Thank You,

Shane Fast

Shane Fast
Mid-Columbia Commercial Doors, Inc.

All special order items are non-refundable once the item(s) have been ordered by Mid-Columbia Commercial Doors, Inc. Also, the customer will be required to pay for the special order item(s) whether they pick up the item(s) or not. If the special item(s) are not picked up within 30 days of our receiving the item(s), an invoice will be generated and sent to the customer, with payment due based on account terms.

BANLIN Construction

CHANGE PROPOSAL (CP) NO: 004

TO: CKJT Architects
128 Vista Way
Kennewick, WA 99336

ATTN: Melissa McCoy

PROJECT NAME: Benton County Justice Center - Interior Remodel

CONTRACT #:

PROJECT NO:

DATE: 10/30/2023

VIA: Email

FROM: Jaden Green

CP DESCRIPTION

Provide additional gypsum board infill around Door 44E.

This Change Proposal, consisting of an estimate, responds to your Request for Proposal No.	004
The total additional cost for this COP	$1,077.55
The total credit for this COP	$0.00
COP Grand Total	$1,077.55
This Change Proposal is good through:	
The schedule effect of this change is:	Calendar Day

Enclosures in support of this proposal includes:

1) BANLIN Construction's Estimate for Change
2)

QUALIFICATIONS

- This proposal covers only the specific items that have been priced as listed on the attached cost breakdown.
- Our pricing is based on the quotes of our subcontractors and suppliers and includes any clarifications, qualifications, and exclusions contained in their quotes

Jaden Green — 10/30/23
SUBMITTED BY: Jaden Green; Project Engineer — DATE

Melissa McCoy — 11/13/2023
APPROVED BY: Melissa McCoy, CKJT Architects — DATE

Matt — 11/20/2023
APPROVED BY: ~~Will McKay, Benton County~~
Matt Rasmussen, Benton County — DATE

BANLIN CONSTRUCTION
320 COLUMBIA DRIVE
KENNEWICK, WA. 99336
PHONE: (509) 586-2000
FAX: (509) 586-7777

CONTRACTOR'S ESTIMATE FOR CHANGE

CHANGE PROPOSAL #: 4 DATE: 10/30/2023

Project: Benton County Justice Center - Interior Remodel
Job No: 2023-015
Contractor: BANLIN CONSTRUCTION

RC Nos	RFI NO	BULLETIN NO	OTHER

Description:

Schedule Effect: **Calendar Day**

Cost Code	Description	Quantity	Unit	Rate	Total Labor	Material Cost	Subcontract Proposal	Other	Total
	General Conditions								
	Direct GC Field Costs (See page 4)	0	LS	$ 231.39	$ -				$ -
Subtotal					$ -				$ -
	Direct Labor								
	Project Manager	1	Hrs.	$ 95.00	$ 95.00				$ 95.00
	Superintendent	1	Hrs.	$ 85.00	$ 85.00				$ 85.00
	Project Engineer/QC	0	Hrs.	$ 60.00	$ -				$ -
	Site Foreman	0	Hrs.	$ 74.95	$ -				$ -
	Carpenter	0	Hrs.	$ 69.95	$ -				$ -
	Laborers	1	Hrs.	$ 61.29	$ 61.29				$ 61.29
Subtotal									$ 241.29
	Materials								
	Material	0	LS	$ -		$ -			$ -
	Equipment	0	LS	$ -		$ -			$ -
Subtotal									$ -
	Subcontractors and Supplies								
	Castillo Interiors	1	LS	$ -			$ 750.00		$ 750.00
		0	LS	$ -			$ -		$ -
		0	LS	$ -			$ -		$ -
		0	LS	$ -			$ -		$ -
		0	LS	$ -			$ -		$ -
Subtotal								$ -	$ 750.00
TOTAL					$ 241.29	$ -	$ 750.00	$ -	$ 991.29

OVERHEAD: Banlin Self Perform Work	**5%**	$ 12.06
PROFIT: Banlin Self Perform Work	**5%**	$ 12.06
OVERHEAD: Subcontractors	**2.5%**	$ 18.75
PROFIT: Subcontractors	**2.5%**	$ 18.75
Small tools/Expendables	**0.0%**	$ -
Safety	**0.0%**	$ -
Sub Total:		$ 1,052.92
B&O TAX	**0.471%**	$ 4.96
INSURANCE	**0.5%**	$ 5.29
BOND	**1.360%**	$ 14.39
SUBTOTAL		$ 1,077.55
WSST - Included on Progress Payment Sheet		
TOTAL FOR CHANGE ORDER		$ 1,077.55

Jaden Green

From: Noe Castillo <ncastillo@castillointeriors.org>
Sent: Monday, October 30, 2023 8:53 AM
To: Jaden Green
Subject: Re: Benton County Justice Center COP

Materials $250.00
Labor $500.00

On Fri, Oct 27, 2023 at 2:42 PM Jaden Green <Jaden@banlinconstruction.com> wrote:

> Noe,
>
> Following up on this. We need the change order broke out between labor and materials for it to get approved.
>
> Thanks,
>
> Jaden Green
>
> Project Engineer
>
> jaden@banlinconstruction.com
>
> (o) 509-586-2000 (c) 509-551-1852
>
> BANLIN CONSTRUCTION
>
> **From:** Jaden Green
> **Sent:** Monday, October 23, 2023 12:05 PM
> **To:** Noe Castillo/ Drywall (ncastillo@castillointeriors.org) <ncastillo@castillointeriors.org>

BANLIN CONSTRUCTION

BANLIN Construction

CHANGE PROPOSAL (CP) NO: 007

TO: CKJT Architects
128 Vista Way
Kennewick, WA 99336

ATTN: Melissa McCoy

PROJECT NAME: Benton County Justice Center - Interior Remodel

CONTRACT #:

PROJECT NO:

DATE: 11/3/2023

VIA: Email

FROM: Jaden Green

CP DESCRIPTION

Remove indicator and EMC from door hardware

This Change Proposal, consisting of an estimate, responds to your Request for Proposal No.	007
The total additional cost for this COP	$0.00
The total credit for this COP	-$1,260.00
COP Grand Total	-$1,260.00
This Change Proposal is good through:	
The schedule effect of this change is:	Calendar Day

Enclosures in support of this proposal includes:

1) BANLIN Construction's Estimate for Change
2)

QUALIFICATIONS

- This proposal covers only the specific items that have been priced as listed on the attached cost breakdown.
- Our pricing is based on the quotes of our subcontractors and suppliers and includes any clarifications, qualifications, and exclusions contained in their quotes

Jaden Green — 11/3/23

SUBMITTED BY: Jaden Green; Project Engineer — DATE

APPROVED BY: Melissa McCoy, CKJT Architects — DATE

APPROVED BY: ~~Will McKay, Benton County~~ Matt Rasmussen, Deputy Administrator — 11/9/2023 — DATE

BANLIN CONSTRUCTION
320 COLUMBIA DRIVE
KENNEWICK, WA. 99336
PHONE: (509) 586-2000
FAX: (509) 586-7777

CONTRACTOR'S ESTIMATE FOR CHANGE

CHANGE PROPOSAL #: 7 DATE: 11/3/2023

Project: Benton County Justice Center - Interior Remodel
Job No: 2023-015
Contractor: BANLIN CONSTRUCTION

Reference:

RC Nos	RFI NO	BULLETIN NO	OTHER
0			0

Description: **Credit given by Banlin and/or subcontractors**

Schedule Effect: 0 **Working Days**

Cost Code	Description	Quantity	Unit	Rate	Total Labor	Material Cost	Subcontract Proposal	Other Cost	Total
	MCCD Backup	1	LS		$ -		$ (1,260.00)		$ (1,260.00)
									$ -
									$ -
									$ -
									$ -
									$ -
									$ -
									$ -
									$ -
									$ -
									$ -
									$ -
									$ -
									$ -
									$ -
TOTALS					$ -	$ -	$ (1,260.00)	$ -	$ (1,260.00)

BANLIN CONSTRUCTION

BANLIN Construction

CHANGE PROPOSAL (CP) NO: 009

TO: CKJT Architects
128 Vista Way
Kennewick, WA 99336

ATTN: Melissa McCoy

PROJECT NAME: Benton County Justice Center - Interior Remodel

CONTRACT #:

PROJECT NO:

DATE: 12/14/2023

VIA: Email

FROM: Jasen Banta

CP DESCRIPTION

Due to the noise of the sacutting operations this cost is to commence the activities on Saturday. This will allievate interrupting the court room business.

This Change Proposal, consisting of an estimate, responds to your Request for Proposal No.	009
The total additional cost for this COP	$3,329.58
The total credit for this COP	$0.00
COP Grand Total	$3,329.58
This Change Proposal is good through:	
The schedule effect of this change is:	3 Calendar Day

Enclosures in support of this proposal includes:

1) BANLIN Construction's Estimate for Change
2)

QUALIFICATIONS

- This proposal covers only the specific items that have been priced as listed on the attached cost breakdown.
- Our pricing is based on the quotes of our subcontractors and suppliers and includes any clarifications, qualifications, and exclusions contained in their quotes

Jasen Banta Digitally signed by Jasen Banta DN: C=US, E=Jasen@Banlinconstruction.com, O=Banlin Construction, CN=Jasen Banta Date: 2023.12.14 14:37:49-08'00'

12-14-23

SUBMITTED BY: Jasen Banta; Project Manager — DATE

APPROVED BY: Melissa McCoy, CKJT Architects — DATE

APPROVED BY: ~~Will McKay~~, Benton County
Matt Rasmussen — DATE

BANLIN CONSTRUCTION
320 COLUMBIA DRIVE
KENNEWICK, WA. 99336
PHONE: (509) 586-2000
FAX: (509) 586-7777

CONTRACTOR'S ESTIMATE FOR CHANGE

CHANGE PROPOSAL #: 9 **DATE:** 12/14/2023

Project: Benton County Justice Center - Interior Remodel
Job No: 2023-015
Contractor: BANLIN CONSTRUCTION

RC Nos	RFI NO	BULLETIN NO	OTHER

Description

Schedule Effect: **Calendar Day**

Cost Code	Description	Quantity	Unit	Rate	Total Labor	Material Cost	Subcontract Proposal	Other	Total
	General Conditions								
		0	LS	$ -	$ -				$ -
Subtotal					$ -			TBD	$ -
	Direct Labor								
	Project Manager	1	Hrs.	$ 95.00	$ 95.00				$ 95.00
	Superintendent	1	Hrs.	$ 85.00	$ 85.00				$ 85.00
	Project Engineer/QC	0	Hrs.	$ 60.00	$ -				$ -
	Site Foreman	0	Hrs.	$ 74.95	$ -				$ -
	Carpenter	8	Hrs.	$ 104.93	$ 839.44				$ 839.44
	Laborers	8	Hrs.	$ 91.94	$ 735.52				$ 735.52
Subtotal									$ 1,754.96
	Materials								
	Material	0	LS	$ -		$ -			$ -
	Equipment	0	LS	$ -		$ -			$ -
Subtotal									$ -
	Subcontractors and Supplies								
	Drilling ans Sawing Services	1	LS	$ -			$ 1,260.00		$ 1,260.00
		0	LS	$ -			$ -		$ -
		0	LS	$ -			$ -		$ -
		0	LS	$ -			$ -		$ -
		0	LS	$ -			$ -		$ -
Subtotal								$ -	$ 1,260.00
TOTAL					$ 1,754.96	$ -	$ 1,260.00	$ -	$ 3,014.96

OVERHEAD: Banlin Self Perform Work	5%	$ 87.75
PROFIT: Banlin Self Perform Work	5%	$ 87.75
OVERHEAD: Subcontractors	2.5%	$ 31.50
PROFIT: Subcontractors	2.5%	$ 31.50
Small tools/Expendables	0.0%	$ -
Safety	0.0%	$ -
Sub Total:		$ 3,253.46
B&O TAX	0.471%	$ 15.32
INSURANCE	0.5%	$ 16.34
BOND	1.360%	$ 44.46
SUBTOTAL		$ 3,329.58
WSST - Included on Progress Payment Sheet		
TOTAL FOR CHANGE ORDER		**$ 3,329.58**

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	January 9, 2024
Subject:	Execution of contract w/ Banlin Construction, LLC for the Benton County Election Center Remodel Project
Presenter:	
Prepared By:	P. Schut
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:**	
☒ Consent Agenda	☐ Discussion Only (1st)	☐ Pass Motion
☐ Public Hearing	☐ Discussion Only (2nd)	☒ Pass Resolution
☐ Scheduled Business	☐ Decision/Direction	☐ Pass Ordinance
	☐ Sign Letter/Document	☒ Execute Contract

Summary / Background Information

Per Resolution 2023-889, the Board of Benton County Commissioners awarded the Election Center Remodel Project to Banlin Construction, LLC, and directed staff to prepare a contract to be brought back at a later time.

The Purchasing Department has put together the contract, and the Prosecuting Attorney's Office has reviewed and approved to form.

The contract in the amount of $2,648,678.00 plus Washington State Sales Tax (WSST) has been signed by Banlin Construction, LLC.

Fiscal Impact

Amount: $26,648,678.00 excluding W.S.S.T.

Fund: Capital Projects Fund

Recommendation

It is recommended by the Director of Operations and Capital Programs that the Board authorize the execution of the contract with Banlin Construction, LLC for the Benton County Election Center Remodel Project.

Suggested Motion

Approve as part of the Consent Agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AUTHORIZING THE CHAIRMAN OR CHAIRMAN PRO-TEM TO SIGN THE CONTRACT WITH BANLIN CONSTRUCTION, LLC, FOR THE ELECTIONS CENTER REMODEL PROJECT

WHEREAS, per Resolution 2023-889, the Board of Benton County Commissioners awarded the Election Center Remodel Project to Banlin Construction, LLC, and directed staff to prepare a contract to be brought back at a later time; and

WHEREAS, the Purchasing Department has put together the contract, and the Prosecuting Attorney's Office has reviewed and approved to form; and

WHEREAS, the contract in the amount of $2,648,678.00 plus Washington State Sales Tax (WSST) has been signed by Banlin Construction, LLC; **NOW, THEREFORE,**

BE IT RESOLVED, the Board of County Commissioners hereby authorizes the Chairman or Chairman Pro-Tem of the Board of Benton County Commissioners to sign on behalf of Benton County said contract with Banlin Construction, LLC in the amount of $2,648,678.00 plus WSST; and

BE IT FURTHER RESOLVED, that the Director of Operations and Capital Programs is hereby authorized to proceed with the Elections Center Remodel Project according to the terms of the Contract; and

BE IT FURTHER RESOLVED, the Project shall begin on the date of Notice to Proceed, and the Contractor shall obtain substantial completion by September 13, 2024 with Project Closeout being no later than September 13, 2025.

Dated this 9th day of January, 2024.

_____
Chairman

_____
Chairman Pro-Tem

_____
Commissioner

Attest:_____
Clerk of the Board

Constituting the Board of County
Commissioners of Benton County, Washington

Orig.: Procurement P. Schut
cc: Banlin Construction, LLC

DocuSign Envelope ID: 992BF67E-CA01-41FA-AC39-C0BC63ECA474

AIA® Document A101® – 2017

Standard Form of Agreement Between Owner and Contractor *where the basis of payment is a Stipulated Sum*

AGREEMENT made as of the 9th day of January in the year 2024
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

Benton County
7122 W Okanogan Place
Kennewick, WA 99336
509-737-3943

and the Contractor:
(Name, legal status, address and other information)

Banlin Construction
320 W Columbia Drive
Kennewick, WA 99336
509-586-2000

for the following Project:
(Name, location and detailed description)

Benton County Elections Center Remodel
7400 W. Quinault Ave.
Kennewick, WA 99336

The Architect:
(Name, legal status, address and other information)

MMEC Architecture & Interiors, LLC
7601 W Clearwater Ave #450
Kennewick, WA 99336
509-396-7278

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

The parties should complete A101®–2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201®–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Init.
/

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TABLE OF ARTICLES

1 THE CONTRACT DOCUMENTS

2 THE WORK OF THIS CONTRACT

3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

4 CONTRACT SUM

5 PAYMENTS

6 DISPUTE RESOLUTION

7 TERMINATION OR SUSPENSION

8 MISCELLANEOUS PROVISIONS

9 ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:
(Check one of the following boxes.)

[ ] The date of this Agreement.

[X] A date set forth in a notice to proceed issued by the Owner.

[ ] Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial Completion

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:
(Check one of the following boxes and complete the necessary information.)

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[ ] Not later than ( ) calendar days from the date of commencement of the Work.

[X] By the following date: September 13, 2024

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be Two Million Six Hundred Forty-Five Thousand Five Hundred Dollars and Zero Centers ($ 2,645,500.00), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Alternates

§ 4.2.1 Alternates, if any, included in the Contract Sum:

Item	Price
Alternate #1 – Lighting	$3,178.00

§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.
(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance

§ 4.3 Allowances, if any, included in the Contract Sum:
(Identify each allowance.)

Item	Price

§ 4.4 Unit prices, if any:
(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit ($0.00)

§ 4.5 Liquidated damages, if any:
(Insert terms and conditions for liquidated damages, if any.)

Liquidated damages shall be assessed on Contractor at the rate of $500 per consecutive calendar day beyond date of Substantial Completion; **and** $500 per consecutive calendar day beyond the date of Final Completion

§ 4.6 Other:
(Insert provisions for bonus or other incentives, if any, that might result in a change to the Contract Sum.)

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ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 Provided that an Application for Payment is received by the Architect not later than the fifth day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the fiftteenth day of the same month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than thirty (30) days after the Architect receives the Application for Payment.
(Federal, state or local laws may require payment within a certain period of time.)

§ 5.1.3 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.4 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.5 In accordance with AIA Document A201™–2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.5.1 The amount of each progress payment shall first include:

- **.1** That portion of the Contract Sum properly allocable to completed Work;
- **.2** That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
- **.3** That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.5.2 The amount of each progress payment shall then be reduced by:

- **.1** The aggregate of any amounts previously paid by the Owner;
- **.2** The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- **.3** Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- **.4** For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017; and
- **.5** Retainage withheld pursuant to Section 5.1.7.

§ 5.1.6 Retainage

§ 5.1.6.1
(Paragraphs deleted)
For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:
(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

Five Percent (5%)

§ 5.1.6.2 The following items are not subject to retainage:
(Paragraphs deleted)

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(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

§ 5.1.6.3 Reduction or limitation of retainage, if any, shall be as follows:
*(If the retainage established in Section 5.1.6.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section 3.3.2, insert provisions for such modifications.)*Shall not be permitted without prior written approval from the Owner.

§ 5.1.6.4 Except as set forth in this Section 5.1.6.4, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.6.4. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:
(Insert any other conditions for release of retainage upon Substantial Completion.)

Retainage will only be released in accordance with RCW 60.28 on completion of the work and once all required forms and reports have been filed with the Owner, Architect, Department of Labor and Industries, Department of Revenue and the Employment Securities Department.

§ 5.1.7 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201–2017.

(Paragraphs deleted)
§ 5.1.8 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

(Paragraph deleted)

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment; and

.2 a final Certificate for Payment has been issued by the Architect.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

§ 5.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.
(Insert rate of interest agreed upon, if any.)

1 % per month per RCW 39.76.011

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017, unless the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker.
(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

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§ 6.2 Binding Dispute Resolution
For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:
(Check the appropriate box.)

[ ] Arbitration pursuant to Section 15.4 of AIA Document A201–2017

[X] Litigation in a court of competent jurisdiction unless arbitration pursuant to Section 15.4 of AIA Document A201-2017 is elected by the Owner.

[ ] Other *(Specify)*

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 7 TERMINATION OR SUSPENSION
§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2017.

§ 7.1.1 If the Contract is terminated for the Owner's convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Contractor a termination fee as follows:
(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)

No termination fee

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017.

ARTICLE 8 MISCELLANEOUS PROVISIONS
§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner's representative:
(Name, address, email address, and other information)

Robert Blain
7122 W Okanogan Pl; STE E330
Kennewick, WA 99336
Robert.Blain@co.benton.wa.us
509-736-2704

§ 8.3 The Contractor's representative:
(Name, address, email address, and other information)

Jasen Banta
320 W. Columbia Drive
Kennewick, WA 99336
509-586-2000
jasen@banlinconstruction.com

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§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™–2017 Exhibit A, and elsewhere in the Contract Documents.

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:
(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

The parties shall endeavor to establish necessary protocols governing transmission of Instruments of Service or any other information or documentation in digital form.

§ 8.7 Other provisions:

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

.1 AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor
(Paragraph deleted)
.

.2 AIA Document A201™–2017, General Conditions of the Contract for Construction

.3 Drawings

Number	Title	Date
Refer to Exhibit A for Drawing Index	Benton County Electiosn Center	November 13, 2023

.4 Specifications

Section	Title	Date	Pages
Refer to Exhibit B for Specifications Index	Benton County Elections Center	November 13, 2023	

.5 Addenda, if any:

Number	Date	Pages

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

.6 Other Exhibits:

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(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

[ ] AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this Agreement.)

[ ] The Sustainability Plan:

Title	Date	Pages

[ ] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

.7 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201™–2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

This Agreement entered into as of the day and year first written above.

	DocuSigned by: Jasen Banta 99E09917B0574AC...
OWNER *(Signature)*	**CONTRACTOR** *(Signature)*
Jerome Delvin Chairman	Jasen BantaOwner
(Printed name and title)	*(Printed name and title)*

Approved as to Form:

DocuSigned by:
Leelynn Holt
D9A9308B67BB475...
Deputy Prosecuting Attorney

12/20/2023
Date

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General Conditions of the Contract for Construction

for the following PROJECT:
(Name and location or address)

Benton County Elections Center Remodel
7400 W. Quinault, Ave
Kennewick WA 99336

THE OWNER:
(Name, legal status and address)

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

THE ARCHITECT:
(Name, legal status and address)

MMEC Architecture & Interiors, LLC
7601 W Clearwater Ave #450,
Kennewick, WA 99336

TABLE OF ARTICLES

1 GENERAL PROVISIONS

2 OWNER

3 CONTRACTOR

4 ARCHITECT

5 SUBCONTRACTORS

6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

7 CHANGES IN THE WORK

8 TIME

9 PAYMENTS AND COMPLETION

10 PROTECTION OF PERSONS AND PROPERTY

11 INSURANCE AND BONDS

12 UNCOVERING AND CORRECTION OF WORK

13 MISCELLANEOUS PROVISIONS

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

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For guidance in modifying this document to include supplementary conditions, see AIA Document A503™, Guide for Supplementary Conditions.

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14 TERMINATION OR SUSPENSION OF THE CONTRACT

15 CLAIMS AND DISPUTES

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INDEX
(Topics and numbers in bold are Section headings.)

Acceptance of Nonconforming Work
9.6.6, 9.9.3, **12.3**
Acceptance of Work
9.6.6, 9.8.2, 9.9.3, 9.10.1, 9.10.3, 12.3
Access to Work
3.16, 6.2.1, 12.1
Accident Prevention
10
Acts and Omissions
3.2, 3.3.2, 3.12.8, 3.18, 4.2.3, 8.3.1, 9.5.1, 10.2.5, 10.2.8, 13.3.2, 14.1, 15.1.2, 15.2
Addenda
1.1.1
Additional Costs, Claims for
3.7.4, 3.7.5, 10.3.2, 15.1.5
Additional Inspections and Testing
9.4.2, 9.8.3, 12.2.1, **13.4**
Additional Time, Claims for
3.2.4, 3.7.4, 3.7.5, 3.10.2, 8.3.2, **15.1.6**
Administration of the Contract
3.1.3, **4.2**, 9.4, 9.5
Advertisement or Invitation to Bid
1.1.1
Aesthetic Effect
4.2.13
Allowances
3.8
Applications for Payment
4.2.5, 7.3.9, 9.2, **9.3**, 9.4, 9.5.1, 9.5.4, 9.6.3, 9.7, 9.10
Approvals
2.1.1, 2.3.1, 2.5, 3.1.3, 3.10.2, 3.12.8, 3.12.9, 3.12.10.1, 4.2.7, 9.3.2, 13.4.1
Arbitration
8.3.1, 15.3.2, **15.4**
ARCHITECT
4
Architect, Definition of
4.1.1
Architect, Extent of Authority
2.5, 3.12.7, 4.1.2, 4.2, 5.2, 6.3, 7.1.2, 7.3.4, 7.4, 9.2, 9.3.1, 9.4, 9.5, 9.6.3, 9.8, 9.10.1, 9.10.3, 12.1, 12.2.1, 13.4.1, 13.4.2, 14.2.2, 14.2.4, 15.1.4, 15.2.1
Architect, Limitations of Authority and Responsibility
2.1.1, 3.12.4, 3.12.8, 3.12.10, 4.1.2, 4.2.1, 4.2.2, 4.2.3, 4.2.6, 4.2.7, 4.2.10, 4.2.12, 4.2.13, 5.2.1, 7.4, 9.4.2, 9.5.4, 9.6.4, 15.1.4, 15.2
Architect's Additional Services and Expenses
2.5, 12.2.1, 13.4.2, 13.4.3, 14.2.4
Architect's Administration of the Contract
3.1.3, 3.7.4, 15.2, 9.4.1, 9.5
Architect's Approvals
2.5, 3.1.3, 3.5, 3.10.2, 4.2.7
Architect's Authority to Reject Work
3.5, 4.2.6, 12.1.2, 12.2.1
Architect's Copyright
1.1.7, 1.5
Architect's Decisions
3.7.4, 4.2.6, 4.2.7, 4.2.11, 4.2.12, 4.2.13, 4.2.14, 6.3, 7.3.4, 7.3.9, 8.1.3, 8.3.1, 9.2, 9.4.1, 9.5, 9.8.4, 9.9.1, 13.4.2, 15.2
Architect's Inspections
3.7.4, 4.2.2, 4.2.9, 9.4.2, 9.8.3, 9.9.2, 9.10.1, 13.4
Architect's Instructions
3.2.4, 3.3.1, 4.2.6, 4.2.7, 13.4.2
Architect's Interpretations
4.2.11, 4.2.12
Architect's Project Representative
4.2.10
Architect's Relationship with Contractor
1.1.2, 1.5, 2.3.3, 3.1.3, 3.2.2, 3.2.3, 3.2.4, 3.3.1, 3.4.2, 3.5, 3.7.4, 3.7.5, 3.9.2, 3.9.3, 3.10, 3.11, 3.12, 3.16, 3.18, 4.1.2, 4.2, 5.2, 6.2.2, 7, 8.3.1, 9.2, 9.3, 9.4, 9.5, 9.7, 9.8, 9.9, 10.2.6, 10.3, 11.3, 12, 13.3.2, 13.4, 15.2
Architect's Relationship with Subcontractors
1.1.2, 4.2.3, 4.2.4, 4.2.6, 9.6.3, 9.6.4, 11.3
Architect's Representations
9.4.2, 9.5.1, 9.10.1
Architect's Site Visits
3.7.4, 4.2.2, 4.2.9, 9.4.2, 9.5.1, 9.9.2, 9.10.1, 13.4
Asbestos
10.3.1
Attorneys' Fees
3.18.1, 9.6.8, 9.10.2, 10.3.3
Award of Separate Contracts
6.1.1, 6.1.2
Award of Subcontracts and Other Contracts for Portions of the Work
5.2
Basic Definitions
1.1
Bidding Requirements
1.1.1
Binding Dispute Resolution
8.3.1, 9.7, 11.5, 13.1, 15.1.2, 15.1.3, 15.2.1, 15.2.5, 15.2.6.1, 15.3.1, 15.3.2, 15.3.3, 15.4.1
Bonds, Lien
7.3.4.4, 9.6.8, 9.10.2, 9.10.3
Bonds, Performance, and Payment
7.3.4.4, 9.6.7, 9.10.3, **11.1.2**, 11.1.3, **11.5**
Building Information Models Use and Reliance
1.8
Building Permit
3.7.1
Capitalization
1.3
Certificate of Substantial Completion
9.8.3, 9.8.4, 9.8.5

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Certificates for Payment
4.2.1, 4.2.5, 4.2.9, 9.3.3, **9.4**, 9.5, 9.6.1, 9.6.6, 9.7, 9.10.1, 9.10.3, 14.1.1.3, 14.2.4, 15.1.4
Certificates of Inspection, Testing or Approval
13.4.4
Certificates of Insurance
9.10.2
Change Orders
1.1.1, 3.4.2, 3.7.4, 3.8.2.3, 3.11, 3.12.8, 4.2.8, 5.2.3, 7.1.2, 7.1.3, **7.2**, 7.3.2, 7.3.7, 7.3.9, 7.3.10, 8.3.1, 9.3.1.1, 9.10.3, 10.3.2, 11.2, 11.5, 12.1.2
Change Orders, Definition of
7.2.1
CHANGES IN THE WORK
2.2.2, 3.11, 4.2.8, **7**, 7.2.1, 7.3.1, 7.4, 8.3.1, 9.3.1.1, 11.5
Claims, Definition of
15.1.1
Claims, Notice of
1.6.2, 15.1.3
CLAIMS AND DISPUTES
3.2.4, 6.1.1, 6.3, 7.3.9, 9.3.3, 9.10.4, 10.3.3, **15**, 15.4
Claims and Timely Assertion of Claims
15.4.1
Claims for Additional Cost
3.2.4, 3.3.1, 3.7.4, 7.3.9, 9.5.2, 10.2.5, 10.3.2, **15.1.5**
Claims for Additional Time
3.2.4, 3.3.1, 3.7.4, 6.1.1, 8.3.2, 9.5.2, 10.3.2, **15.1.6**
Concealed or Unknown Conditions, Claims for
3.7.4
Claims for Damages
3.2.4, 3.18, 8.3.3, 9.5.1, 9.6.7, 10.2.5, 10.3.3, 11.3, 11.3.2, 14.2.4, 15.1.7
Claims Subject to Arbitration
15.4.1
Cleaning Up
3.15, 6.3
Commencement of the Work, Conditions Relating to
2.2.1, 3.2.2, 3.4.1, 3.7.1, 3.10.1, 3.12.6, 5.2.1, 5.2.3, 6.2.2, 8.1.2, 8.2.2, 8.3.1, 11.1, 11.2, **15.1.5**
Commencement of the Work, Definition of
8.1.2
Communications
3.9.1, **4.2.4**
Completion, Conditions Relating to
3.4.1, 3.11, 3.15, 4.2.2, 4.2.9, 8.2, 9.4.2, 9.8, 9.9.1, 9.10, 12.2, 14.1.2, 15.1.2
COMPLETION, PAYMENTS AND
9
Completion, Substantial
3.10.1, 4.2.9, 8.1.1, 8.1.3, 8.2.3, 9.4.2, 9.8, 9.9.1, 9.10.3, 12.2, 15.1.2
Compliance with Laws
2.3.2, 3.2.3, 3.6, 3.7, 3.12.10, 3.13, 9.6.4, 10.2.2, 13.1, 13.3, 13.4.1, 13.4.2, 13.5, 14.1.1, 14.2.1.3, 15.2.8, 15.4.2, 15.4.3
Concealed or Unknown Conditions
3.7.4, 4.2.8, 8.3.1, 10.3
Conditions of the Contract
1.1.1, 6.1.1, 6.1.4
Consent, Written
3.4.2, 3.14.2, 4.1.2, 9.8.5, 9.9.1, 9.10.2, 9.10.3, 13.2, 15.4.4.2
Consolidation or Joinder
15.4.4
CONSTRUCTION BY OWNER OR BY
SEPARATE CONTRACTORS
1.1.4, **6**
Construction Change Directive, Definition of
7.3.1
Construction Change Directives
1.1.1, 3.4.2, 3.11, 3.12.8, 4.2.8, 7.1.1, 7.1.2, 7.1.3, **7.3**, 9.3.1.1
Construction Schedules, Contractor's
3.10, 3.11, 3.12.1, 3.12.2, 6.1.3, 15.1.6.2
Contingent Assignment of Subcontracts
5.4, 14.2.2.2
Continuing Contract Performance
15.1.4
Contract, Definition of
1.1.2
CONTRACT, TERMINATION OR
SUSPENSION OF THE
5.4.1.1, 5.4.2, 11.5, **14**
Contract Administration
3.1.3, 4, 9.4, 9.5
Contract Award and Execution, Conditions Relating to
3.7.1, 3.10, 5.2, 6.1
Contract Documents, Copies Furnished and Use of
1.5.2, 2.3.6, 5.3
Contract Documents, Definition of
1.1.1
Contract Sum
2.2.2, 2.2.4, 3.7.4, 3.7.5, 3.8, 3.10.2, 5.2.3, 7.3, 7.4, **9.1**, 9.2, 9.4.2, 9.5.1.4, 9.6.7, 9.7, 10.3.2, 11.5, 12.1.2, 12.3, 14.2.4, 14.3.2, 15.1.4.2, **15.1.5, 15.2.5**
Contract Sum, Definition of
9.1
Contract Time
1.1.4, 2.2.1, 2.2.2, 3.7.4, 3.7.5, 3.10.2, 5.2.3, 6.1.5, 7.2.1.3, 7.3.1, 7.3.5, 7.3.6, 7, 7, 7.3.10, 7.4, 8.1.1, 8.2.1, 8.2.3, 8.3.1, 9.5.1, 9.7, 10.3.2, 12.1.1, 12.1.2, 14.3.2, 15.1.4.2, 15.1.6.1, 15.2.5
Contract Time, Definition of
8.1.1
CONTRACTOR
3
Contractor, Definition of
3.1, 6.1.2
Contractor's Construction and Submittal
Schedules
3.10, 3.12.1, 3.12.2, 4.2.3, 6.1.3, 15.1.6.2

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Contractor's Employees
2.2.4, 3.3.2, 3.4.3, 3.8.1, 3.9, 3.18.2, 4.2.3, 4.2.6, 10.2, 10.3, 11.3, 14.1, 14.2.1.1
Contractor's Liability Insurance
11.1
Contractor's Relationship with Separate Contractors and Owner's Forces
3.12.5, 3.14.2, 4.2.4, 6, 11.3, 12.2.4
Contractor's Relationship with Subcontractors
1.2.2, 2.2.4, 3.3.2, 3.18.1, 3.18.2, 4.2.4, 5, 9.6.2, 9.6.7, 9.10.2, 11.2, 11.3, 11.4
Contractor's Relationship with the Architect
1.1.2, 1.5, 2.3.3, 3.1.3, 3.2.2, 3.2.3, 3.2.4, 3.3.1, 3.4.2, 3.5.1, 3.7.4, 3.10, 3.11, 3.12, 3.16, 3.18, 4.2, 5.2, 6.2.2, 7, 8.3.1, 9.2, 9.3, 9.4, 9.5, 9.7, 9.8, 9.9, 10.2.6, 10.3, 11.3, 12, 13.4, 15.1.3, 15.2.1
Contractor's Representations
3.2.1, 3.2.2, 3.5, 3.12.6, 6.2.2, 8.2.1, 9.3.3, 9.8.2
Contractor's Responsibility for Those Performing the Work
3.3.2, 3.18, 5.3, 6.1.3, 6.2, 9.5.1, 10.2.8
Contractor's Review of Contract Documents
3.2
Contractor's Right to Stop the Work
2.2.2, 9.7
Contractor's Right to Terminate the Contract
14.1
Contractor's Submittals
3.10, 3.11, 3.12, 4.2.7, 5.2.1, 5.2.3, 9.2, 9.3, 9.8.2, 9.8.3, 9.9.1, 9.10.2, 9.10.3
Contractor's Superintendent
3.9, 10.2.6
Contractor's Supervision and Construction Procedures
1.2.2, 3.3, 3.4, 3.12.10, 4.2.2, 4.2.7, 6.1.3, 6.2.4, 7.1.3, 7.3.4, 7.3.6, 8.2, 10, 12, 14, 15.1.4
Coordination and Correlation
1.2, 3.2.1, 3.3.1, 3.10, 3.12.6, 6.1.3, 6.2.1
Copies Furnished of Drawings and Specifications
1.5, 2.3.6, 3.11
Copyrights
1.5, **3.17**
Correction of Work
2.5, 3.7.3, 9.4.2, 9.8.2, 9.8.3, 9.9.1, 12.1.2, **12.2**, 12.3, 15.1.3.1, 15.1.3.2, 15.2.1
Correlation and Intent of the Contract Documents
1.2
Cost, Definition of
7.3.4
Costs
2.5, 3.2.4, 3.7.3, 3.8.2, 3.15.2, 5.4.2, 6.1.1, 6.2.3, 7.3.3.3, 7.3.4, 7.3.8, 7.3.9, 9.10.2, 10.3.2, 10.3.6, 11.2, 12.1.2, 12.2.1, 12.2.4, 13.4, 14
Cutting and Patching
3.14, 6.2.5
Damage to Construction of Owner or Separate Contractors
3.14.2, 6.2.4, 10.2.1.2, 10.2.5, 10.4, 12.2.4
Damage to the Work
3.14.2, 9.9.1, 10.2.1.2, 10.2.5, 10.4, 12.2.4
Damages, Claims for
3.2.4, 3.18, 6.1.1, 8.3.3, 9.5.1, 9.6.7, 10.3.3, 11.3.2, 11.3, 14.2.4, 15.1.7
Damages for Delay
6.2.3, 8.3.3, 9.5.1.6, 9.7, 10.3.2, 14.3.2
Date of Commencement of the Work, Definition of
8.1.2
Date of Substantial Completion, Definition of
8.1.3
Day, Definition of
8.1.4
Decisions of the Architect
3.7.4, 4.2.6, 4.2.7, 4.2.11, 4.2.12, 4.2.13, 6.3, 7.3.4, 7.3.9, 8.1.3, 8.3.1, 9.2, 9.4, 9.5.1, 9.8.4, 9.9.1, 13.4.2, 14.2.2, 14.2.4, 15.1, 15.2
Decisions to Withhold Certification
9.4.1, **9.5**, 9.7, 14.1.1.3
Defective or Nonconforming Work, Acceptance, Rejection and Correction of
2.5, 3.5, 4.2.6, 6.2.3, 9.5.1, 9.5.3, 9.6.6, 9.8.2, 9.9.3, 9.10.4, 12.2.1
Definitions
1.1, 2.1.1, 3.1.1, 3.5, 3.12.1, 3.12.2, 3.12.3, 4.1.1, 5.1, 6.1.2, 7.2.1, 7.3.1, 8.1, 9.1, 9.8.1, 15.1.1
Delays and Extensions of Time
3.2, **3.7.4**, 5.2.3, 7.2.1, 7.3.1, **7.4**, **8.3**, 9.5.1, **9.7**, 10.3.2, **10.4**, 14.3.2, **15.1.6**, 15.2.5
Digital Data Use and Transmission
1.7
Disputes
6.3, 7.3.9, 15.1, 15.2
Documents and Samples at the Site
3.11
Drawings, Definition of
1.1.5
Drawings and Specifications, Use and Ownership of
3.11
Effective Date of Insurance
8.2.2
Emergencies
10.4, 14.1.1.2, **15.1.5**
Employees, Contractor's
3.3.2, 3.4.3, 3.8.1, 3.9, 3.18.2, 4.2.3, 4.2.6, 10.2, 10.3.3, 11.3, 14.1, 14.2.1.1
Equipment, Labor, or Materials
1.1.3, 1.1.6, 3.4, 3.5, 3.8.2, 3.8.3, 3.12, 3.13, 3.15.1, 4.2.6, 4.2.7, 5.2.1, 6.2.1, 7.3.4, 9.3.2, 9.3.3, 9.5.1.3, 9.10.2, 10.2.1, 10.2.4, 14.2.1.1, 14.2.1.2
Execution and Progress of the Work
1.1.3, 1.2.1, 1.2.2, 2.3.4, 2.3.6, 3.1, 3.3.1, 3.4.1, 3.7.1, 3.10.1, 3.12, 3.14, 4.2, 6.2.2, 7.1.3, 7.3.6, 8.2, 9.5.1, 9.9.1, 10.2, 10.3, 12.1, 12.2, 14.2, 14.3.1, 15.1.4

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Extensions of Time
3.2.4, 3.7.4, 5.2.3, 7.2.1, 7.3, 7.4, 9.5.1, 9.7, 10.3.2, 10.4, 14.3, 15.1.6, **15.2.5**
Failure of Payment
9.5.1.3, **9.7**, 9.10.2, 13.5, 14.1.1.3, 14.2.1.2
Faulty Work
(See Defective or Nonconforming Work)
Final Completion and Final Payment
4.2.1, 4.2.9, 9.8.2, **9.10**, 12.3, 14.2.4, 14.4.3
Financial Arrangements, Owner's
2.2.1, 13.2.2, 14.1.1.4
GENERAL PROVISIONS
1
Governing Law
13.1
Guarantees (See Warranty)
Hazardous Materials and Substances
10.2.4, **10.3**
Identification of Subcontractors and Suppliers
5.2.1
Indemnification
3.17, **3.18**, 9.6.8, 9.10.2, 10.3.3, 11.3
Information and Services Required of the Owner
2.1.2, **2.2**, 2.3, 3.2.2, 3.12.10.1, 6.1.3, 6.1.4, 6.2.5, 9.6.1, 9.9.2, 9.10.3, 10.3.3, 11.2, 13.4.1, 13.4.2, 14.1.1.4, 14.1.4, 15.1.4
Initial Decision
15.2
Initial Decision Maker, Definition of
1.1.8
Initial Decision Maker, Decisions
14.2.4, 15.1.4.2, 15.2.1, 15.2.2, 15.2.3, 15.2.4, 15.2.5
Initial Decision Maker, Extent of Authority
14.2.4, 15.1.4.2, 15.2.1, 15.2.2, 15.2.3, 15.2.4, 15.2.5
Injury or Damage to Person or Property
10.2.8, 10.4
Inspections
3.1.3, 3.3.3, 3.7.1, 4.2.2, 4.2.6, 4.2.9, 9.4.2, 9.8.3, 9.9.2, 9.10.1, 12.2.1, 13.4
Instructions to Bidders
1.1.1
Instructions to the Contractor
3.2.4, 3.3.1, 3.8.1, 5.2.1, 7, 8.2.2, 12, 13.4.2
Instruments of Service, Definition of
1.1.7
Insurance
6.1.1, 7.3.4, 8.2.2, 9.3.2, 9.8.4, 9.9.1, 9.10.2, 10.2.5, **11**
Insurance, Notice of Cancellation or Expiration
11.1.4, 11.2.3
Insurance, Contractor's Liability
11.1
Insurance, Effective Date of
8.2.2, 14.4.2
Insurance, Owner's Liability
11.2
Insurance, Property
10.2.5, 11.2, 11.4, 11.5
Insurance, Stored Materials
9.3.2
INSURANCE AND BONDS
11
Insurance Companies, Consent to Partial Occupancy
9.9.1
Insured loss, Adjustment and Settlement of
11.5
Intent of the Contract Documents
1.2.1, 4.2.7, 4.2.12, 4.2.13
Interest
13.5
Interpretation
1.1.8, 1.2.3, **1.4**, 4.1.1, 5.1, 6.1.2, 15.1.1
Interpretations, Written
4.2.11, 4.2.12
Judgment on Final Award
15.4.2
Labor and Materials, Equipment
1.1.3, 1.1.6, **3.4**, 3.5, 3.8.2, 3.8.3, 3.12, 3.13, 3.15.1, 5.2.1, 6.2.1, 7.3.4, 9.3.2, 9.3.3, 9.5.1.3, 9.10.2, 10.2.1, 10.2.4, 14.2.1.1, 14.2.1.2
Labor Disputes
8.3.1
Laws and Regulations
1.5, 2.3.2, 3.2.3, 3.2.4, 3.6, 3.7, 3.12.10, 3.13, 9.6.4, 9.9.1, 10.2.2, 13.1, 13.3.1, 13.4.2, 13.5, 14, 15.2.8, 15.4
Liens
2.1.2, 9.3.1, 9.3.3, 9.6.8, 9.10.2, 9.10.4, 15.2.8
Limitations, Statutes of
12.2.5, 15.1.2, 15.4.1.1
Limitations of Liability
3.2.2, 3.5, 3.12.10, 3.12.10.1, 3.17, 3.18.1, 4.2.6, 4.2.7, 6.2.2, 9.4.2, 9.6.4, 9.6.7, 9.6.8, 10.2.5, 10.3.3, 11.3, 12.2.5, 13.3.1
Limitations of Time
2.1.2, 2.2, 2.5, 3.2.2, 3.10, 3.11, 3.12.5, 3.15.1, 4.2.7, 5.2, 5.3, 5.4.1, 6.2.4, 7.3, 7.4, 8.2, 9.2, 9.3.1, 9.3.3, 9.4.1, 9.5, 9.6, 9.7, 9.8, 9.9, 9.10, 12.2, 13.4, 14, 15, 15.1.2, 15.1.3, 15.1.5
Materials, Hazardous
10.2.4, **10.3**
Materials, Labor, Equipment and
1.1.3, 1.1.6, 3.4.1, 3.5, 3.8.2, 3.8.3, 3.12, 3.13, 3.15.1, 5.2.1, 6.2.1, 7.3.4, 9.3.2, 9.3.3, 9.5.1.3, 9.10.2, 10.2.1.2, 10.2.4, 14.2.1.1, 14.2.1.2
Means, Methods, Techniques, Sequences and Procedures of Construction
3.3.1, 3.12.10, 4.2.2, 4.2.7, 9.4.2
Mechanic's Lien
2.1.2, 9.3.1, 9.3.3, 9.6.8, 9.10.2, 9.10.4, 15.2.8
Mediation
8.3.1, 15.1.3.2, 15.2.1, 15.2.5, 15.2.6, **15.3**, 15.4.1, 15.4.1.1
Minor Changes in the Work
1.1.1, 3.4.2, 3.12.8, 4.2.8, 7.1, **7.4**

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MISCELLANEOUS PROVISIONS
13
Modifications, Definition of
1.1.1
Modifications to the Contract
1.1.1, 1.1.2, 2.5, 3.11, 4.1.2, 4.2.1, 5.2.3, 7, 8.3.1, 9.7, 10.3.2
Mutual Responsibility
6.2
Nonconforming Work, Acceptance of
9.6.6, 9.9.3, **12.3**
Nonconforming Work, Rejection and Correction of
2.4, 2.5, 3.5, 4.2.6, 6.2.4, 9.5.1, 9.8.2, 9.9.3, 9.10.4, 12.2
Notice
1.6, 1.6.1, 1.6.2, 2.1.2, 2.2.2., 2.2.3, 2.2.4, 2.5, 3.2.4, 3.3.1, 3.7.4, 3.7.5, 3.9.2, 3.12.9, 3.12.10, 5.2.1, 7.4, 8.2.2 9.6.8, 9.7, 9.10.1, 10.2.8, 10.3.2, 11.5, 12.2.2.1, 13.4.1, 13.4.2, 14.1, 14.2.2, 14.4.2, 15.1.3, 15.1.5, 15.1.6, 15.4.1
Notice of Cancellation or Expiration of Insurance
11.1.4, 11.2.3
Notice of Claims
1.6.2, 2.1.2, 3.7.4, 9.6.8, 10.2.8, **15.1.3**, 15.1.5, 15.1.6, 15.2.8, 15.3.2, 15.4.1
Notice of Testing and Inspections
13.4.1, 13.4.2
Observations, Contractor's
3.2, 3.7.4
Occupancy
2.3.1, 9.6.6, 9.8
Orders, Written
1.1.1, 2.4, 3.9.2, 7, 8.2.2, 11.5, 12.1, 12.2.2.1, 13.4.2, 14.3.1
OWNER
2
Owner, Definition of
2.1.1
Owner, Evidence of Financial Arrangements
2.2, 13.2.2, 14.1.1.4
Owner, Information and Services Required of the
2.1.2, **2.2**, 2.3, 3.2.2, 3.12.10, 6.1.3, 6.1.4, 6.2.5, 9.3.2, 9.6.1, 9.6.4, 9.9.2, 9.10.3, 10.3.3, 11.2, 13.4.1, 13.4.2, 14.1.1.4, 14.1.4, 15.1.4
Owner's Authority
1.5, 2.1.1, 2.3.32.4, 2.5, 3.4.2, 3.8.1, 3.12.10, 3.14.2, 4.1.2, 4.2.4, 4.2.9, 5.2.1, 5.2.4, 5.4.1, 6.1, 6.3, 7.2.1, 7.3.1, 8.2.2, 8.3.1, 9.3.2, 9.5.1, 9.6.4, 9.9.1, 9.10.2, 10.3.2, 11.4, 11.5, 12.2.2, 12.3, 13.2.2, 14.3, 14.4, 15.2.7
Owner's Insurance
11.2
Owner's Relationship with Subcontractors
1.1.2, 5.2, 5.3, 5.4, 9.6.4, 9.10.2, 14.2.2
Owner's Right to Carry Out the Work
2.5, 14.2.2
Owner's Right to Clean Up
6.3
Owner's Right to Perform Construction and to Award Separate Contracts
6.1
Owner's Right to Stop the Work
2.4
Owner's Right to Suspend the Work
14.3
Owner's Right to Terminate the Contract
14.2, 14.4
Ownership and Use of Drawings, Specifications and Other Instruments of Service
1.1.1, 1.1.6, 1.1.7, **1.5**, 2.3.6, 3.2.2, 3.11, 3.17, 4.2.12, 5.3
Partial Occupancy or Use
9.6.6, **9.9**
Patching, Cutting and
3.14, 6.2.5
Patents
3.17
Payment, Applications for
4.2.5, 7.3.9, 9.2, **9.3**, 9.4, 9.5, 9.6.3, 9.7, 9.8.5, 9.10.1, 14.2.3, 14.2.4, 14.4.3
Payment, Certificates for
4.2.5, 4.2.9, 9.3.3, **9.4**, 9.5, 9.6.1, 9.6.6, 9.7, 9.10.1, 9.10.3, 14.1.1.3, 14.2.4
Payment, Failure of
9.5.1.3, **9.7**, 9.10.2, 13.5, 14.1.1.3, 14.2.1.2
Payment, Final
4.2.1, 4.2.9, **9.10**, 12.3, 14.2.4, 14.4.3
Payment Bond, Performance Bond and
7.3.4.4, 9.6.7, 9.10.3, **11.1.2**
Payments, Progress
9.3, **9.6**, 9.8.5, 9.10.3, 14.2.3, 15.1.4
PAYMENTS AND COMPLETION
9
Payments to Subcontractors
5.4.2, 9.5.1.3, 9.6.2, 9.6.3, 9.6.4, 9.6.7, 14.2.1.2
PCB
10.3.1
Performance Bond and Payment Bond
7.3.4.4, 9.6.7, 9.10.3, **11.1.2**
Permits, Fees, Notices and Compliance with Laws
2.3.1, **3.7**, 3.13, 7.3.4.4, 10.2.2
PERSONS AND PROPERTY, PROTECTION OF
10
Polychlorinated Biphenyl
10.3.1
Product Data, Definition of
3.12.2
Product Data and Samples, Shop Drawings
3.11, **3.12**, 4.2.7
Progress and Completion
4.2.2, **8.2**, 9.8, 9.9.1, 14.1.4, 15.1.4
Progress Payments
9.3, **9.6**, 9.8.5, 9.10.3, 14.2.3, 15.1.4

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Project, Definition of
1.1.4
Project Representatives
4.2.10
Property Insurance
10.2.5, **11.2**
Proposal Requirements
1.1.1
PROTECTION OF PERSONS AND PROPERTY
10
Regulations and Laws
1.5, 2.3.2, 3.2.3, 3.6, 3.7, 3.12.10, 3.13, 9.6.4, 9.9.1, 10.2.2, 13.1, 13.3, 13.4.1, 13.4.2, 13.5, 14, 15.2.8, 15.4
Rejection of Work
4.2.6, 12.2.1
Releases and Waivers of Liens
9.3.1, 9.10.2
Representations
3.2.1, 3.5, 3.12.6, 8.2.1, 9.3.3, 9.4.2, 9.5.1, 9.10.1
Representatives
2.1.1, 3.1.1, 3.9, 4.1.1, 4.2.10, 13.2.1
Responsibility for Those Performing the Work
3.3.2, 3.18, 4.2.2, 4.2.3, 5.3, 6.1.3, 6.2, 6.3, 9.5.1, 10
Retainage
9.3.1, 9.6.2, 9.8.5, 9.9.1, 9.10.2, 9.10.3
Review of Contract Documents and Field Conditions by Contractor
3.2, 3.12.7, 6.1.3
Review of Contractor's Submittals by Owner and Architect
3.10.1, 3.10.2, 3.11, 3.12, 4.2, 5.2, 6.1.3, 9.2, 9.8.2
Review of Shop Drawings, Product Data and Samples by Contractor
3.12
Rights and Remedies
1.1.2, 2.4, 2.5, 3.5, 3.7.4, 3.15.2, 4.2.6, 5.3, 5.4, 6.1, 6.3, 7.3.1, 8.3, 9.5.1, 9.7, 10.2.5, 10.3, 12.2.1, 12.2.2, 12.2.4, **13.3**, 14, 15.4
Royalties, Patents and Copyrights
3.17
Rules and Notices for Arbitration
15.4.1
Safety of Persons and Property
10.2, 10.4
Safety Precautions and Programs
3.3.1, 4.2.2, 4.2.7, 5.3, **10.1**, 10.2, 10.4
Samples, Definition of
3.12.3
Samples, Shop Drawings, Product Data and
3.11, **3.12**, 4.2.7
Samples at the Site, Documents and
3.11
Schedule of Values
9.2, 9.3.1
Schedules, Construction
3.10, 3.12.1, 3.12.2, 6.1.3, 15.1.6.2
Separate Contracts and Contractors
1.1.4, 3.12.5, 3.14.2, 4.2.4, 4.2.7, 6, 8.3.1, 12.1.2
Separate Contractors, Definition of
6.1.1
Shop Drawings, Definition of
3.12.1
Shop Drawings, Product Data and Samples
3.11, **3.12**, 4.2.7
Site, Use of
3.13, 6.1.1, 6.2.1
Site Inspections
3.2.2, 3.3.3, 3.7.1, 3.7.4, 4.2, 9.9.2, 9.4.2, 9.10.1, 13.4
Site Visits, Architect's
3.7.4, 4.2.2, 4.2.9, 9.4.2, 9.5.1, 9.9.2, 9.10.1, 13.4
Special Inspections and Testing
4.2.6, 12.2.1, 13.4
Specifications, Definition of
1.1.6
Specifications
1.1.1, **1.1.6**, 1.2.2, 1.5, 3.12.10, 3.17, 4.2.14
Statute of Limitations
15.1.2, 15.4.1.1
Stopping the Work
2.2.2, 2.4, 9.7, 10.3, 14.1
Stored Materials
6.2.1, 9.3.2, 10.2.1.2, 10.2.4
Subcontractor, Definition of
5.1.1
SUBCONTRACTORS
5
Subcontractors, Work by
1.2.2, 3.3.2, 3.12.1, 3.18, 4.2.3, 5.2.3, 5.3, 5.4, 9.3.1.2, 9.6.7
Subcontractual Relations
5.3, 5.4, 9.3.1.2, 9.6, 9.10, 10.2.1, 14.1, 14.2.1
Submittals
3.10, 3.11, 3.12, 4.2.7, 5.2.1, 5.2.3, 7.3.4, 9.2, 9.3, 9.8, 9.9.1, 9.10.2, 9.10.3
Submittal Schedule
3.10.2, 3.12.5, 4.2.7
Subrogation, Waivers of
6.1.1, **11.3**
Substances, Hazardous
10.3
Substantial Completion
4.2.9, 8.1.1, 8.1.3, 8.2.3, 9.4.2, **9.8**, 9.9.1, 9.10.3, 12.2, 15.1.2
Substantial Completion, Definition of
9.8.1
Substitution of Subcontractors
5.2.3, 5.2.4
Substitution of Architect
2.3.3
Substitutions of Materials
3.4.2, 3.5, 7.3.8
Sub-subcontractor, Definition of
5.1.2

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Subsurface Conditions
3.7.4
Successors and Assigns
13.2
Superintendent
3.9, 10.2.6
Supervision and Construction Procedures
1.2.2, **3.3**, 3.4, 3.12.10, 4.2.2, 4.2.7, 6.1.3, 6.2.4, 7.1.3, 7.3.4, 8.2, 8.3.1, 9.4.2, 10, 12, 14, 15.1.4
Suppliers
1.5, 3.12.1, 4.2.4, 4.2.6, 5.2.1, 9.3, 9.4.2, 9.5.4, 9.6, 9.10.5, 14.2.1
Surety
5.4.1.2, 9.6.8, 9.8.5, 9.10.2, 9.10.3, 11.1.2, 14.2.2, 15.2.7
Surety, Consent of
9.8.5, 9.10.2, 9.10.3
Surveys
1.1.7, 2.3.4
Suspension by the Owner for Convenience
14.3
Suspension of the Work
3.7.5, 5.4.2, 14.3
Suspension or Termination of the Contract
5.4.1.1, 14
Taxes
3.6, 3.8.2.1, 7.3.4.4
Termination by the Contractor
14.1, 15.1.7
Termination by the Owner for Cause
5.4.1.1, **14.2,** 15.1.7
Termination by the Owner for Convenience
14.4
Termination of the Architect
2.3.3
Termination of the Contractor Employment
14.2.2

TERMINATION OR SUSPENSION OF THE CONTRACT
14
Tests and Inspections
3.1.3, 3.3.3, 3.7.1, 4.2.2, 4.2.6, 4.2.9, 9.4.2, 9.8.3, 9.9.2, 9.10.1, 10.3.2, 12.2.1, **13.4**
TIME
8
Time, Delays and Extensions of
3.2.4, 3.7.4, 5.2.3, 7.2.1, 7.3.1, 7.4, **8.3**, 9.5.1, 9.7, 10.3.2, 10.4, 14.3.2, 15.1.6, 15.2.5
Time Limits
2.1.2, 2.2, 2.5, 3.2.2, 3.10, 3.11, 3.12.5, 3.15.1, 4.2, 5.2, 5.3, 5.4, 6.2.4, 7.3, 7.4, 8.2, 9.2, 9.3.1, 9.3.3, 9.4.1, 9.5, 9.6, 9.7, 9.8, 9.9, 9.10, 12.2, 13.4, 14, 15.1.2, 15.1.3, 15.4
Time Limits on Claims
3.7.4, 10.2.8, 15.1.2, 15.1.3
Title to Work
9.3.2, 9.3.3
UNCOVERING AND CORRECTION OF WORK
12
Uncovering of Work
12.1
Unforeseen Conditions, Concealed or Unknown
3.7.4, 8.3.1, 10.3
Unit Prices
7.3.3.2, 9.1.2
Use of Documents
1.1.1, 1.5, 2.3.6, 3.12.6, 5.3
Use of Site
3.13, 6.1.1, 6.2.1
Values, Schedule of
9.2, 9.3.1
Waiver of Claims by the Architect
13.3.2
Waiver of Claims by the Contractor
9.10.5, 13.3.2, **15.1.7**
Waiver of Claims by the Owner
9.9.3, 9.10.3, 9.10.4, 12.2.2.1, 13.3.2, 14.2.4, **15.1.7**
Waiver of Consequential Damages
14.2.4, 15.1.7
Waiver of Liens
9.3, 9.10.2, 9.10.4
Waivers of Subrogation
6.1.1, **11.3**
Warranty
3.5, 4.2.9, 9.3.3, 9.8.4, 9.9.1, 9.10.2, 9.10.4, 12.2.2, 15.1.2
Weather Delays
8.3, 15.1.6.2
Work, Definition of
1.1.3
Written Consent
1.5.2, 3.4.2, 3.7.4, 3.12.8, 3.14.2, 4.1.2, 9.3.2, 9.10.3, 13.2, 13.3.2, 15.4.4.2
Written Interpretations
4.2.11, 4.2.12
Written Orders
1.1.1, 2.4, 3.9, 7, 8.2.2, 12.1, 12.2, 13.4.2, 14.3.1

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (AIA Document A101-2017 as modified therein) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement otherwise, the Contract documents do include bidding requirements (Advertisements or Invitation to Bid, Instruction to Bidders, Supplementary Instructions to Bidders, sample forms, the Contractors bid and portions of addenda relating to bidding requirements).

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

§ 1.1.3 The Work

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

§ 1.1.4. 1 The entire project shall be considered as one "portion" unless separate areas or phases are designated for separate completion times or separate areas of completion and occupancy. This definition is for use in determining release of retainage.

§ 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 Initial Decision Maker

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

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§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.1.2 In the event of conflicts or discrepancies among the contract documents, interpretations will be based on the following priorities:

1. Modifications, with those of later date having precedence over those of earlier date.
2. The Agreement (AIA Document A101 – 2017 as modified by the parties).
3. Addenda, with those of later date having precedence over those of earlier date.
4. General Conditions of the Contract for Construction (AIA Document A201 – 2017 as modified herein by the parties).
5. Division 1 of the specifications.
6. Drawings and Divisions 2 through 33 of the specifications.
7. Other documents specifically enumerated ion the agreement as part of the Contract Documents.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.2.4 The "Section Includes" listing at the beginning of the specification section presents a brief indication of the principal Work included in that section, but does not limit Work to a specific subject.

§ 1.2.5 Anything mentioned in the specifications and not shown on the drawings or shown on the drawings and not mentioned in the specifications, shall be of like effect as if shown or mentioned in both. In case of discrepancy in the figures, in the drawings, or in the specifications, the matter shall be promptly submitted to the Architect for determination.

§ 1.2.6 In the specifications, some words and phrases have been intentionally omitted, where the specifications are supplemented with notes and drawings providing such information by reference.

§ 1.2.7 Where the Contract Documents require approval, direction, selection, or other similar actions, and/or where items are to be submitted, reported, or otherwise directed, unless otherwise specified, it shall be presumed that such action be made by and/or such submissions be made to the Architect. Words like "install", "provide", "furnish", and "supply", shall be construed to include complete furnishings and installing or construction. Words like "shown", "noted", and "scheduled" are used to assist the reader in locating particular items, instructions, directions, and requirements, the meanings therein are adopted by reference, and shall be considered to be followed by the phrase "unless otherwise specified or indicated".

§ 1.2.8 A colon (:) following a material or item shall be used in place of the words, "shall be".

§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

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§ 1.4 Interpretation

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.6 Notice

§ 1.6.1 Except as otherwise required by law or provided in Section 1.6.2, where the Contract Documents require one party to give notice to the other party, such notice shall be provided in writing to the designated representative of the receiving party. Each party is responsible for informing the other party of the name and contact information of their designated representative at or shortly after the kick-off meeting. Notices served in accordance with this Section 1.6 to the last known business, electronic, or facsimile address provided by the receiving party shall be sufficient for service. Each party shall be responsible for informing the other party of any changes to the designation of their representative and/or contact information for the same.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.6.3 All other written notice shall be deemed to have been duly served if given via: (1) personal delivery, (2) an overnight delivery service of recognized standing, (3) certified or registered mail, return receipt requested; properly addressed, with postage or service charges, if any, prepaid, or (4) by electronic or facsimile transmission, with the original notice to immediately follow by regular mail, if a method for electronic or facsimile transmission is designated by the receiving party. Notice personally delivered shall be deemed served at the time of delivery. Notice via overnight delivery service shall be deemed served one (1) business day after deposit thereof with said delivery service. Notice given by certified or registered mail shall be served given three (3) days after the deposit thereof with the United States Postal Service. Notice by electronic or facsimile transmission shall be deemed served effective the beginning of the next working day.

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.7.1 Contractor acknowledges that Instruments of Service or any other information or documentation Contractor receives in digital form may contain transmission or translation errors and are issued for convenience only. If Contractor knows of, should know of, or suspects such transmission or translation error has occurred, the Contractor shall inform the sending party immediately to resolve any discrepancy or shall rely only on hard-copy Instruments of Service.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA

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Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 2.1.2 The Owners Representative as designated in the Agreement shall be the Owners principal contact with the Contractor, and all communications from the Contractor to the Owner shall be made to the Owners representative and to the Architect. The Owner shall promptly notify the Contractor in writing of any replacement of the Owner's Representative

§ 2.1.3 The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce claims pursuant to bonds.

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

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§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

§ 2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1

The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

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§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice, in writing, to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures in writing. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures. If the Contractor is instructed to proceed with the required means, methods, techniques, sequences, or procedures without acceptance of changes proposed by the Contractor in writing, the Contractor shall be fully and solely responsible for performing, and shall proceed to perform, the Work as safely as possible, but the Contractor shall not be liable for any loss or damage directly resulting from the Owner's refusal to accept the particular changes proposed by the Contractor, as opposed to loss or damage resulting from unsafe performance by the Contractor or other causes.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

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§ 3.3.4 The Contractor has the responsibility to ensure all of its employees, Subcontractors, suppliers, and their agents, employees, and other persons or entities performing portions of the Work for or on behalf of the Contractor or any of its Subcontractors adhere to the Contract documents, that they order materials on time, taking into account the current market and delivery conditions, and that they provide materials in sufficient time to comply with the Project Schedule. The Contractor shall be coordinate its work with that of all others in the Project including deliveries, storage, installations, and construction utilities. The Contractor shall be responsible for the space requirements, locations, and routing of its equipment. In areas and locations where the proper and most effective space requirements, locations, and routing cannot be made as indicated, the Contractor shall meet with the Architect and all others involved, before installation, to plan the most effective and efficient method of overall installation.

§ 3.3.5 Without the prior written consent of Owner, Contractor shall not (i) employ any person to perform work hereunder who is a Close Family Member: or (ii) subcontract Work to be performed hereunder to a Close Family Member or to any entity which is controlled by a Close Family Member. For the purposes of this Section, a Close Family Member means any of the following biological, step, half, foster, or by marriage person; parents, grandparents, children, grandchildren, spouses, brothers, sisters, or in-laws of any employee of Owner who is directly or indirectly involved with the administration, supervision, or implementation of this Agreement or the Work to be performed hereunder.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

§ 3.4.2.1 The owner shall be entitled to reimbursement from the Contractor for amounts paid to the Architect for making agreed upon changes in the Drawings and Specifications and for re-submittals and re-approval by authorities.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.4.3.1 Contractor shall use adequate numbers of skilled workmen, thoroughly trained and experienced in the necessary crafts and completely familiar with the specified requirements and methods needed for proper performance of the Work. Owner has the right to require Contractor to remove from its work force assigned to the Work any employee deemed incompetent, careless, or otherwise objectionable, or any personnel whose actions are deemed to be contrary to public interest or inconsistent with the best interest of the Project. Contractor shall promptly furnish qualifications for any employees that in the opinion of Owner are unsatisfactory.

§ 3.4.4 After the Contract has been executed, the owner and the Architect will consider a formal request for the substitution of products in place of those specified only under the following conditions:

1. Required product cannot be supplied in time for compliance with Contract requirements.
2. Required product is not acceptable to Owner, or determined to be non-compatible, or cannot be properly coordinated, warranted, or insured, or has other recognized liability as certified by Contractor.
3. Substantial advantage is offered to owner after deducting off-setting disadvantages including delays, additional compensation, to Architect for redesign, investigation, evaluation, other necessary services, and/or similar considerations.

§ 3.4.5 By making requests for substitutions based on Section 3.4.4 above the Contractor:

1. represents that he has personally investigated the proposed substitute product and determined that it is equivalent or superior in all respects to that specified.
2. represents that he has submitted the proposed substitution to owner and has received approval for said substitution.

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3. represents he will provide the same warranty for the substitution that he would for that specified.
4. certifies that the cost of data presented is complete and includes all related costs under separate contracts, but excludes the Architects redesign costs, and waives all claims for additional costs related to the substitution which became apparent; and
5. will coordinate the installation of the accepted substitute, making such changes as may be required for the Work to be complete in all respects.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 The warranty shall continue for a period of 1 year from the date of Substantial Completion of the work unless otherwise specified, or as provided in 3.5.11.

§ 3.5.3 The Contractor shall remedy, at the Contractor's expense, any failure to conform or any defect with the Work set forth in the Contract Documents. In addition, the Contractor shall remedy, at the Contractor's expense, damage to real or personal property when that damage is the result of:

1. The Contractors failure to conform to Contract requirements; or
2. Any defect of equipment, material, or workmanship.

§ 3.5.4 The Contractor shall restore any work damaged in fulfilling the terms and conditions of this section. The Contractors warranty with respect to work repaired or replaced will run for 1 year from the date of repair or replacement.

§ 3.5.5 The Owner shall notify the Contractor, in writing, within a reasonable time after the discovery of any failure, defect, or damage.

§ 3.5.6 If the Contractor fails to remedy any failure, defect, or damage within a reasonable time after receipt of notice, the Owner shall have the right to replace, repair, or otherwise remedy the failure, defect, or damage at the Contractor's expense.

§ 3.5.7 With respect to all warranties, express or implied, from subcontractors, manufacturers, or suppliers for work performed and materials furnished under this Contract, the Contractor shall:

1. Obtain warranties that would be given in normal commercial practice.
2. Require all warranties to be executed in writing, for the benefit of the Owner, if directed by the Owner, and
3. Enforce all warranties for the benefit of the Owner, if Directed by the Owner.

§ 3.5.8 The Contractor is responsible to enforce any subcontractor's, manufacture's, or supplier's warranty should they extend beyond the period specified.

§ 3.5.9 Unless a defect is caused by the negligence of the Contractor, the Contractor shall not be liable for the repair of any defects of material furnished by the Owner nor for the repair of any damage that results from any defect in Owner-furnished material.

§ 3.5.10 The owner's rights with respect to latent defects, gross mistakes, or fraud shall not be limited by the warranty provisions of these Contract Documents.

§ 3.5.11 In the event that the Contractor is required to make repairs during the warranty period, the provisions of Article II, Insurance and Bonds, shall remain in effect at no additional cost to the Owner.

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§ 3.5.12 Contractor hereby assigns to the Owner, effective upon Substantial Completion, all express and implied warranties made or assigned at any time to the Contractor by any Subcontractor, Sub-subcontractor or material supplier relating to any part of the Work or any product incorporated into the Work. Such warranties shall be in addition to and shall not diminish the warranties of the Contractor under Subparagraph 3.5.2 or other provisions of the Contract Documents.

§ 3.5.13 Contractor represents and warrants to owner that neither Contractor nor any individual entity. Or organization holding any ownership interest or controlling interest in Contractor, including any officer or director, is an individual, entity, or organization with whom any United States law, regulation, or executive order prohibits U.S. companies and individuals from dealing, including without limitation, names appearing on the SDN List. Contractor covenants to Owner that it will not cause Owner to be in violation of any regulation administered by the Office of Foreign Assets Control.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 The Owner will obtain and pay for only the initial building permit and fees. Unless otherwise provided in the Contract Documents, as part of the Contract Sum the Contractor shall secure and pay for all other permits and governmental fees, including without limitation all subcontractor permits and fees including plan check fees for deferred submittals, application fees and review fees for any and all shop drawings or bidder designed systems, and inspections fees not covered by the initial building permit fee, including reinspection fees, mechanical and electrical permits, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are legally required at the time bids are received or negotiations concluded other than any permits or fees that the Specifications explicitly indicate the Owner is providing. The Contractor also will be responsible for any renewals and penalties.

§ 3.7.1 The Owner shall obtain and pay for plan check(s) as required by the State of Washington and City of Kennewick and required building permit fees. The Contractor shall pay for mechanical and electrical permits required by the State of Washington or local Authority. The Contractor shall obtain and pay for all licenses and permits and shall pay all fees and charges for connections to materials, parking, utility services, temporary obstructions, enclosures, opening and patching of streets, etc. off the property of the owner arising from the construction and completion of the work.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall

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promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- **.1** allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- **.2** Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- **.3** whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project. Prepare and submit all required data under the provisions of Section 01 33 00 – Submittals.

§ 3.10.1.1 Contractor shall promptly notify the Owner and the Architect in writing of any proposed changes in the Project Schedule or the Contract Time or of any event which could delay performance of any item of the Work, stating the cause of the delay, expected duration of the delay, the anticipated effect of the delay on the Project Schedule and

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the action being taken to correct the delay. Notification of potential delay does NOT constitute a change in the Contract Time; only a Change Order signed by the Owner can amend the Contract Time.

§ 3.10.1.2 If any Project Schedule submitted sets forth a date for Substantial Completion for the Work or any phase of the Work beyond the Date(s) of Substantial Completion established in the Work Authorization (as the same may be extended as provided in the Contract Documents), the Contractor shall submit to the Architect and the Owner for their review and approval a narrative description of the means and methods which the Contractor proposes to use to expedite the progress of the Work to ensure timely completion of the various phases of the Work and Work as a whole. Regardless of the cause of any delay, the Contractor shall exercise reasonable efforts to bring the Project back into compliance with the Project Schedule.

§ 3.10.1.3 To the extent that the Contractor or any Subcontractor, Sub-subcontractor or material supplier is responsible for the delay, the Contractor shall take all necessary action to bring the Project back into compliance with the Project Schedule, including without limitation increasing the number of personnel on the Project and implementing overtime and double shifts, and in that event, the Contractor shall not be entitled to an adjustment in the Contract Sum, Contract Time or the Project Schedule.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal

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schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

§ 3.13 Use of Site

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

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§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

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§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

§ 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect shall review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

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§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.1.2.1 The term "supplier" includes every supplier of materials or equipment used in the Work, of every tier regardless of how remote.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

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§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.3.1 The Contractor shall first pay out payments received under this Agreement to (and secure the discharge of any liens asserted by) all persons furnishing labor, equipment, materials, or other items in connection with the performance of the Work (including, but not limited to, any Subcontractors, Sub-subcontractors, and suppliers). The Contractor agrees that, provided the Owner has paid the Contractor in accordance with this Agreement, the Owner has the right to a lien-free Project. The Owner may, at its discretion, make joint payments to the Contractor and its creditors. The Owner reserves the right, in the event any claim is made against the Owner arising out of any obligation incurred by the Contractor under this Agreement or in connection with performance of Work, to withhold payments due or to become due, to the Contractor, in such amounts as are necessary to cover the claim(s) and any costs or expenses arising in connection with the legal settlement thereof. The Contractor further agrees that if any lien or claim is filed or made against the Project site, the Project, or the Owner, as a result of the Contractor's failure to meet its obligations, the Owner upon fourteen (14) days prior written notice shall have the right to settle said lien or claim directly and deduct the cost of the settlement from payments due the Contractor (and, if the amount still due the Contractor is insufficient to cover such costs, to recover the shortfall from the Contractor directly), provided that the Contractor within such fourteen (14) day period has not settled such lien or claim or provided a bond against such lien or claim in a manner satisfactory to the Owner.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

.1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and

.2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

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§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

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§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

- **.1** The change in the Work;
- **.2** The amount of the adjustment, if any, in the Contract Sum; and
- **.3** The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 Agreement on any Change Order shall constitute a final settlement of all matters relating to the change in the work which is the subject of the Change Order, including, but not limited to, all direct and indirect costs associated with such change and any and all adjustments to the Contract Sum and the construction schedule. Such agreement shall not affect settlement of issues related to the Work itself. In the event a Change Order increases the Contract Sum, the Contractor shall include the work covered by such Change Order in Application for Payment as if such work were originally part of the Project and Contract Documents.

§ 7.2.3 The allowances outlined in 7.3.11 shall also apply to Change Orders.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- **.1** Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- **.2** Unit prices stated in the Contract Documents or subsequently agreed upon;
- **.3** Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- **.4** As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and

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profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

.1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;

.2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;

.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;

.4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and

.5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work. The time stated for final completion shall include final cleanup of the premises and completion of all documentation required by the Contract Documents.

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§ 8.1.1.1 The Contractor shall substantially complete the work as defined by paragraph 9.8.1, no later than **September 13, 2024**.

§ 8.1.2 The date of commencement of the Work is the date established in the Notice to Proceed.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.1.4.1 When computing any period of time, the day of the event from which the period of time begins to run shall not be counted. The last day is counted unless it falls on a weekend or legal holiday, in which event the period runs until the end of the next day which is not a weekend or holiday. When the period of time allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays are excluded from the computation.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.2.4 It is the Contractor's option to complete the project earlier than the date specified in the Contract Documents, thus any claim based on delay shall be evaluated based upon the dates specified in the Contract Documents, not an earlier projected completion that the Contractor may propose.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 The Contractor agrees to make no claim for damages for delay in the performance of this Contract occasioned by any act or omission to act of Owner, its Architect, its agents or employees or any other Contractor, and agrees that any such claim shall be fully compensated for by an extension of time to complete performance of the work.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to

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substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment. The schedule of values shall include a separate and distinct line item for "Project Closeout "activities in the amount of 0.5% of the contract value or $10,000 whichever is greater. This project closeout amount is different than project retainage, and shall cover expenses related to final corrections, cleaning, submittal of closeout documentation, and related work/value. Prepare and submit Schedule of Values under the provisions of Section 01 29 00 - Contract Considerations.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, and included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.1.3 The form of application for payment shall be AIA Form G702 - Application and Certificate for Payment, supported by AIA Form G703 - Application and Certification for Payment Continuation Sheet. Submit one original and 2 copies.

§ 9.3.1.4 The Contractor shall not withhold from a subcontractor or supplier more than the percentage of retainage held from processed payment certificates for their portion of the work.

§ 9.3.1.5 Until conditions set forth in Paragraph 9.10 are met, the Owner shall pay ninety-five (95) percent of the amount due the Contractor on account of progress payments.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site. Offsite storage will not be approved at locations more than 10 miles from the project site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in

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Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- **.1** defective Work not remedied;
- **.2** third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- **.3** failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
- **.4** reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- **.5** damage to the Owner or a Separate Contractor;
- **.6** reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- **.7** repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.1.1 Progress Payments shall fall due on or about the 25th of each month (30 days after receipt of the application for Payment by the Architect.)

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§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not

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included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled. The final retainage shall become due and payable to the Contractor in not more than thirty (30) days after issuance of the final Certificate for Payment by the Architect, provided that the conditions of paragraph 9.10.2 are fully satisfied.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or

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satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

.1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
.2 failure of the Work to comply with the requirements of the Contract Documents;
.3 terms of special warranties required by the Contract Documents; or
.4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

§ 9.11.1 Liquidated Damages: The owner will suffer financial loss if the Project is not Substantially Complete on the date set forth in the Contract Documents. The Contractor (and his Surety) shall be liable for and shall pay to the Owner the sums hereinafter stipulated as liquidated damages for each calendar day of delay until the Work is substantially completed:

§ 9.11.2 The work of this Contract shall be commenced on a date to be specified in the Notice to Proceed and shall be completed within the time limits stipulated in the Contract Documents. The Contractor shall reimburse the Owner for any loss suffered through failure to meet the schedule.

§ 9.11.3 If an extension of Contract time is granted to the Contractor by Change Order, the Contractor shall indemnify and hold harmless the Owner and Architect from any loss to any other Contractor or Subcontractor caused by such extension of time. Liquidated damages will not be assessed for any days for which an extension of time is granted. No deduction or payment of liquidated damages will, in any degree, release the Contractor from further obligations and liabilities to complete the entire contract.

§ 9.11.4 It is further agreed that time is of the essence of each and every portion of this Contract and of the specifications wherein a definite and certain length of time is fixed for the performance of any act; and where under the Contract a time extension is allowed pursuant to Paragraph 8.3, Delays and Extensions of Time, the new time limit fixed by such extension shall be of the essence of this Contract.

§ 9.11.5 Notwithstanding Section 8.1.1.1 above, when the Contract work is substantially complete, the Architect will notify the Contractor in writing of a substantial completion date. If the Work is not substantially complete by the date established in the Contract Documents, the Contractor shall pay the dollar amount, as defined in the provisions of Paragraph 9.11.1, as liquidated damages for each and every calendar day that the Contractor is in default until the Work is substantially complete. Said amount is fixed and agreed upon by and between the Contractor and the Owner because of the impracticability and extreme difficult of fixing and ascertaining the actual damages the Owner would in such event sustain, and said amount shall be deducted from the Contract amount and not paid by the Owner.

§ 9.11.6 For overruns in contract time occurring after substantial completion, damages shall be assessed on the basis

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of direct architectural, administrative, and related costs assignable to the project until the date of actual completion of all the contract work. The Owner may offset these costs against any payment due the Contractor. The Contractor shall complete the remaining work as promptly as possible. Upon request by the Architect, the Contractor shall furnish a written schedule for completing the Contract.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- **.1** employees on the Work and other persons who may be affected thereby;
- **.2** the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
- **.3** other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

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§ 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The

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Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.1.2 The insurance required by Subparagraph 11.1.1 shall be written for not less than the following limits and as follows:

Commercial General Liability insurance for the Project written on an occurrence form with policy limits of not less than two million dollars ($2,000,000) each occurrence, two million dollars ($2,000,000) general aggregate, and two million dollars ($2,000,000) aggregate for products-completed operations hazard, providing coverage for claims including

- **.1** damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
- **.2** personal and advertising injury;
- **.3** damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
- **.4** bodily injury or property damage arising out of completed operations; and
- **.5** the Contractor's indemnity obligations under Section 9.15.

Automobile Liability covering vehicles owned by the Contractor and non-owned vehicles used by the Contractor, with policy limits of not less than one million dollars ($1,000,000) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance, and use of those motor vehicles along with any other statutorily required automobile coverage

§ 11.1.1.3 The owner, owner's employees, architect, and their consultants shall be named as an Additional Insured on the insurance required in 11.1.2.1.2 and 11.1.2.2 above, with a 30 days' notice to cancel any coverage, and the insurance shall contain the severability of interest clause as follows: "The insurance afforded herein applies separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the company's 'liability'."

§ 11.1.1.4 All coverage shall be placed with an insurance company duly admitted in the State of Washington and shall be reasonable acceptable to Owner.

§ 11.1.1.5 Certificates of insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance. These certificates and the insurance policies required by this Section 11.1 shall contain a provision that coverages afforded under the policies will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment as required by Section 9.10.2 and thereafter upon renewal or replacement of such coverage until the expiration of the time required by Section 11.1.2. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the Contractor with reasonable promptness. For insurance written on a Commercial General Liability policy form, an ACORD form 25S will be acceptable. All insurance Certificates of Liability Insurance must name Owner's Project Number, Project Title and Project Address.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 Insurance During Warranty Period - In the event the Contractor is required to make corrections on the premises in accordance with the warranty provisions of this Contract, the above insurance requirements shall remain applicable at no additional cost to the Owner.

§ 11.1.5 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by

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the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

§ 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

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§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

§11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

§ 11.6 Performance Bond and Payment Bond

§ 11.4.1 The Contractor shall furnish Owner with a Performance Bond and Labor and Materials Payment Bond with sufficient sureties acceptable to Owner, in an amount equal to 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.

§ 11.4.2 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.4.3 The Bond shall include maintenance provisions covering workmanship and materials for a period of one year or for longer periods where so specified, from and after the Date of Substantial Completion. The Contractor shall include the cost of the Bond as part of the Contract Price.

§ 11.4.4 The Contractor shall promptly furnish additional security required to protect the Owner and persons supplying labor or materials under this Contract if:

.1 Any surety upon any bond furnished with this Contract becomes unacceptable to the Owner;

.2 Any surety fails to furnish reports on its financial condition if requested by the Owner.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the

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Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.1.1 Contractor shall comply with applicable provisions of Revised Codes of Washington (RCW) and the

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Washington Administrative Code (WAC), including but not limited to the following (this listing is not intended to limit applicable RCWs and WACs but to emphasize the following):

.1 Prevailing Wage Rates, RCW 39.12 and Certified Payroll Records WAC 296-127-320
.2 Nondiscrimination, RCW 49.60
.3 Hours of Labor, RCW 49.28
.4 Contractor's Bond, RCW 39.08
.5 Contractor's Regulations, RCW 18.27
.6 Handicapped Provisions, RCW 70.92

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

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§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

.1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;

.2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;

.3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or

.4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract, in whole or in part, if the Contractor

.1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;

.2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;

.3 fails to cure a violation of or repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority;

.4 otherwise is guilty of substantial breach of a provision of the Contract Documents; or

.5 becomes insolvent or is declared bankrupt or commits any acts of bankruptcy or insolvency or makes an assignment for the benefit of creditors without the previous written consent of the Owner, except to a financial institutional authorized to do business in the State of Washington; then, the Owner may, after serving seven (7) days' notice to the Contractor and surety, either:

.1 Transfer the performance of work from the Contractor to the surety or;

.2 Terminate the Contract and, at the Owner's option, provide such labor or materials as required to complete the work or delete the remaining work. Any extra costs or damages to the owner shall be deducted from any money due or coming due to the Contractor under the Contract.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the

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Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

.1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;

.2 Accept assignment of subcontracts pursuant to Section 5.4; and

.3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 The Contractor and the surety shall bear any extra expenses incurred by the Owner in completing the work, including all increased costs for completing the work, and all damages sustained, or which may be sustained, by the Owner by reason of such refusal, neglect, failure, or discontinuance of work by the contractor. After all the Work contemplated under the Contract has been completed, the Owner will calculate the total expenses and damages for the completed work. If the total expenses and damages are less than any unpaid balance to the Contractor, the excess will be paid by the Owner to the Contractor. If the total expenses and damages exceed the unpaid balance, the Contractor and the surety shall be jointly and severally liable to the Owner and pay the difference to the Owner on demand.

§ 14.2.5 Upon receipt of a notice that the work is being transferred to the surety, the surety shall enter upon the premises and take possession of all materials, tools, and appliances for the purpose of completing the work included under the Contract and employ by Contract or otherwise any person or persons satisfactory to the Owner to finish the work and provide the materials without termination of the Contract. Such employment shall not relieve the surety of its obligations under the Contract and the bond. If there is a transfer to the surety, payments on estimates covering work subsequent to the transfer shall be made to the extent permitted under law to the surety or its agents without any right of the Contractor to make any claim.

§ 14.2.6 The Contractor and its surety shall be liable for any damage to the Owner resulting from the Contractor's refusal or failure to complete the work within the specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Owner in the work.

§ 14.2.7 If the termination for default has been issued and it is later determined for any reason that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been pursuant to Sections 14.3, Suspension by the Owner for Convenience and 14.4 Termination by the Owner for Convenience.

§ 14.2.8 The rights and remedies of the Owner in this clause are in addition to any other rights and remedies provided by law or under this Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

.1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or

.2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

.1 cease operations as directed by the Owner in the notice;

.2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and

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.3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1

If the Contractor asserts there is cause for a claim, the Contractor shall:

1. Immediately give a signed written notice of claim to the Architect and the Owner before doing the Work;
2. Supplement the written claim notice within 7-calendar days with a written statement and supporting documents providing the following:
   a. The date and nature of the claim;
   b. A full discussion of the circumstances which caused the claim, including names of persons involved, time, duration and nature of the Work involved, and a review of the Plans and Contract Provisions referenced to support the claim;
   c. The estimated dollar cost, if any, of the Work related to the claim and a detailed breakdown showing how that estimate was determined; and
   d. An analysis of the progress schedule showing the schedule change or disruption if the Contractor is asserting a schedule change or disruption; and
   e. If the claim is continuing, the information required above shall be supplemented upon request by the Architect until the claim is resolved.

Once such Claim is identified, the claimant shall cooperate with the Architect and the other party against whom the Claim is made in an effort to mitigate the alleged or potential damages, delay or other adverse consequences arising out of the condition which is the cause of such a Claim. The claim resolution procedure defined in Section 15.2 shall be followed upon receipt of Contractor's claim.

Throughout any Work related to a claim, the Contractor shall keep complete records of extra costs and time incurred. The Contractor shall permit the Architect and Owner access to these and any other records related to the Work as determined by the Architect and Owner. The records for disputed work shall be in accordance with section 7.3.7.

By failing to follow the procedures of this Section, the Contractor completely waives any right for compensation or extended duration claims for protested Work. An additional Claim made after the initial Claim has been implemented by Change Order will not be allowed.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

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§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.5.1 No adjustment in the Contract Sum shall be permitted, however, in connection with a concealed or unknown condition which does not differ materially from those conditions disclosed or which reasonably should have been disclosed by the Contractor's (1) prior inspections, tests, reviews and preconstruction services for the Project, or (2) inspections, tests, reviews, and preconstruction services which the Contractor had the opportunity to make or should have performed in connection with the Project. No adjustment in the Contract Time or Contract Sum shall be permitted, however, in connection with a concealed or unknown condition which does not differ materially from those conditions disclosed or which reasonably should have been disclosed by the Contractor's (1) prior inspections, tests, reviews and preconstruction services for the Project, or (2) inspections, tests, reviews, and preconstruction services which the Contractor had the opportunity to make or should have performed in connection with the Project.

§ 15.1.5.2 The parties agree that an integral part of this Contract is the ability to resolve claims and disputes in a timely manner. To achieve this timely resolution, the parties agree to establish a set cost allowance for delays and time extensions. There will be no additional allowance for equitable adjustment for any general conditions, costs or mobilization, demobilization, layout, temporary facilities, equipment, home office, or field overhead costs (extended overhead) or other costs of supervision herein relating to change orders, time extensions, or delays, other than as set forth in this paragraph. The Owner will pay only for the following verifiable costs associated with the time extension or delay: 1) the actual labor costs, fringe benefits, employment taxes and insurance related to the Project Superintendent; 2) the cost associated with the fair rental value of the Project Superintendent's vehicle directly related to the time extension; 3) the direct costs attributable to the extension for the field office facility including telephone line, utilities, power, lights, water, and sewer (toilets). Mark-up on these costs will not be allowed.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make claim for an increase in the Contract time, as stated in the Contract Documents, written notice, as provided herein, shall be given. The Contractor's claim shall include an estimate of cost and of probable effect of delay on progress of the Work based on contract time as stated in the Contract Documents. In case of a continuing delay, only one claim is necessary. All claims for costs related to claims for additional time shall be pursuant to Section 4.3.5. No adjustment in the Contract Time shall be permitted, however, in connection with a concealed or unknown condition which does not differ materially from those conditions disclosed or which reasonably should have been disclosed by the Contractor's (1) prior inspections, tests, reviews and preconstruction services for the Project, or (2) inspections, tests, reviews, and preconstruction services which the Contractor had the opportunity to make or should have performed in connection with the Project

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

§ 15.1.7 Waiver of Claims for Consequential Damages

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

.1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and

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.2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

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§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

§ 15.3.4 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 15.4 Arbitration

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 15.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

§ 15.4.4 Consolidation or Joinder

§ 15.4.4.1 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

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§ 15.4.4.2 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.

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COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	January 9, 2024
Subject:	Executing an agreement with Paramount Communication, Inc for installing fiber runs to the new Elections Center Building
Presenter:	N/A
Prepared By:	P. Schut
Reviewed By:	R. Blain

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

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

Summary / Background Information

With the upcoming remodel of the Elections Center, the need to run dedicated fiber lines from the Administration Building to the new Elections Center has arisen.

Paramount Communications, Inc. is on the state contract to provide those services, has experience working on the Kennewick Campus, and can perform the work immediately.

An agreement has been prepared, reviewed, and approved as to form by our departmental Deputy Prosecuting Attorney from the Civil Division; and has been executed by Paramount Communications, Inc.

Fiscal Impact

Amount: $17,782.00 excluding W.S.S.T.

Fund: Capital Projects Fund

Recommendation

Approve the agreement with Paramount Communications, Inc. for the installation of a new fiber run to new Election Center on the Kennewick Campus and authorize the Chairman or Chairman Pro-Tem to sign said agreement.

Suggested Motion

Approve as part of the Consent Agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF EXECUTING THE AGREEMENT FOR THE INSTALLATION OF A NEW FIBER RUN TO THE NEW ELECTIONS CENTER ON THE KENNEWICK CAMPUS WITH PARAMOUNT COMMUNICATIONS, INC. AND AUTHORIZING THE CHAIRMAN OR CHAIRMAN PRO-TEM TO SIGN SAID AGREEMENT

WHEREAS, with the upcoming remodel of the Elections Center, the need to run dedicated fiber lines from the Administration Building to the new Elections Center has arisen; and

WHEREAS, Paramount Communications, Inc. is on the state contract to provide those services, has experience working on the Kennewick Campus, and can perform work immediately; and

WHEREAS, an agreement has been prepared, reviewed, and approved as to form by our departmental Deputy Prosecuting Attorney from the Civil Division; and has been executed by Paramount Communications; **NOW, THEREFORE,**

BE IT RESOLVED, the Board of Benton County Commissioners hereby agrees to execute the agreement with Paramount Communication, Inc. in an amount not to exceed $17,782.00, excluding Washington State Sales Tax; and

BE IT FURTHER RESOLVED, the Board hereby authorizes the Chairman or Chairman Pro-Tem of the Board of County Commissioners to sign on behalf of Benton County the said agreement with Paramount Communications, Inc.

Dated this 9th day of January, 2024

_____
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

DocuSign Envelope ID: 0C18A64C-AB1B-42EE-84C8-0C2F29964E1E

PURCHASE AGREEMENT
Benton County, Washington

Benton County is a political subdivision, with its principal offices located at 620 Market Street, Prosser, WA 99350

RESOLUTION No: _____

Resolution number must appear on all invoices, packing slips, packages, correspondence, etc.

Vendor: Paramount Communications Inc.
Vendor Code: w7472
Vendor Contact: Aric Ellison
Vendor Contact Phone: 509-736-5477
Vendor Principal Place of Business: 1236 Columbia Park Trail, Richland, WA 99352

Ship To:

Bill To:
Benton County Purchasing Department
7122 W. Okanogan Pl. Bldg. A
Kennewick, WA 99336

AGREEMENT:
The Vendor agrees to make available and provide the goods and services described in Exhibit A to Benton County under the terms described herein.

Line	Description	Qty	
	*** Contractor agrees to provide the following services. Also detailed in the attached Exhibit A.**	1	17,782.00
	Trench/directional drill new conduit from Fire Station out past the gate then utilize existing conduit into Admin building. New handhole, asphalt R&R (cold mix), 12 fiber, patch panel, & terminations included.		
		Subtotal	17,782.00
		Sale Tax	1,529.25
		Grand Total	19,311.25

The term of this Agreement shall commence upon signature of both parties and shall expire 11/11/2024

Vendor signature on this Purchase Agreement certifies acceptance of this agreement and all terms and conditions, and supersedes any conflicting terms and/or previous contracts.

In case of conflict, the order of precedence is:
1. Washington State Contract #: 05620-13
2. This Purchase Agreement

Questions and Clarifications should be Addressed to Buyer Contact:

Contact: Riley Ollero
Address: 7122 W. Okanogan Place; STE E330
Kennewick, WA 99336
Phone:
Email: Riley.Ollero@co.benton.wa.us

Approved as to Form
(Deputy Prosecutor): DocuSigned by: LeeAnn Holt D9A9308B67BB475... LeeAnn Holt, Civil DPA

By signing in the space provided, the parties hereby acknowledge the following:

1) The person executing the Agreement is authorized to enter into and undertake contractual financial obligations on behalf of his/her party;
2) The person executing this Agreement is authorized to do so by his/her party;
3) The parties agree that they shall be bound by facsimile or electronic copies of Agreements (including purchase orders) and further agree that such copies shall constitute the original agreement(s) for all purposes.

Vendor Name (Print): Aric Ellison Title: President Date: 12/21/2023

Vendor Signature: DocuSigned by: Aric Ellison 5F3941DA16F44D4...

Chairman
Benton County
Board of Commissioners: _____ Date:_____
Jerome Delvin, Chairman

DocuSign Envelope ID: 0C18A64C-AB1B-42EE-84C8-0C2F29964E1E

PARAMOUNT COMMUNICATIONS INC.

December 21, 2023

Paul Schut
Benton County Information Technology
paul.schut@co.benton.wa.us

Paul:

Thank you for allowing Paramount Communications, Inc. the opportunity to provide the following quotation to install fiber to the old Kennewick Fire Station. **Terms & conditions of this quotation & subsequent billing will be in accordance with Washington State Dept. of Enterprise Services Contract #05620**

SCOPE OF WORK:

- Trench/directional drill new conduit from Fire Station out past the gate then utilize existing conduit into Admin building. New handhole, asphalt R&R (cold mix), 12 fiber, patch panel, & terminations included.

PRICING:

- Total Cost - $17,782.00 – including the Attached Cost Breakdown

ASSUMPTION OF SCOPE:

- All work will be performed in accordance with standards in effect at the time of the bid and state and local codes. **Paramount will test all newly installed wiring and mark in accordance with standard procedures.**

EXEMPT FROM SCOPE:

- **Washington State Sales Tax**
- Unforeseen circumstances or conditions not readily apparent.

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PARAMOUNT COMMUNICATIONS INC.

TERMS AND CONDITIONS:

- Payment Terms: material and installation will be invoiced monthly or upon completion and approval, whichever occurs first.
- Warranty: Paramount Communications Inc. warrants each installation performed by PCI against defects in materials and workmanship for a period of 1 year from the date of completion, provided a Paramount technician performs all adds, moves, and changes to the original project.

DocuSign Envelope ID: 0C18A64C-AB1B-42EE-84C8-0C2F29964E1E

Elections Center Fiber - Cost Breakdown

Materials cost		**Labor cost**		
muletape	$162.00	Groundman	100hrs @ 44.01	$4,401.00
locate wire	$178.00	Lineman	50hrs @ 62.54	$3,127.00
fiber	$336.00	Project Manager	30hrs @ 85.00	$2,550.00
connectors	$528.00	**Total**		**$10,078.00**
duct wye	$192.00			
fittings	$34.00	**Equipment cost**		
fiber panel	$382.00			
cold mix	$312.00	Mini excavator-	$2,095.42	
subtotal	**$2,124.00**	Skid Steer-	$1,418.16	
22% mu	$467.28	Dump truck-	$786.14	
Total	**$2,591.28**	Utility truck-	$813.00	
		Total	**$5,112.72**	

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	January 9, 2024
Subject:	Authorizing Payment to Benton Rurual Electric Association (REA) for the New Electrical Connection for the Red Mountain Emergency Communications Tower
Presenter:	N/A
Prepared By:	Paul Schut
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

With the eventual construction of the new emergency communications tower beginning in late spring 2024, there is a need to establish a new electrical connection with Benton REA's electrical grid.

Benton County Staff has been working with Benton REA to ensure the proper connection is made to the electrical grid.

Benton REA has provided the County with the attached quote to make the connection in the amount of $93,607.00 excluding Washington State Sales Tax (WSST).

Fiscal Impact

Amount: $93,607.00 excluding WSST

Fund: Public Safety Sales Tax Fund

Recommendation

Approve the payment to Benton REA for the new electrical grid connection for the new Red Mountain Emergency Communications Tower.

Suggested Motion

Approve as part of the Consent Agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AUTHORIZING PAYMENT TO BENTON RURAL ELECTIC ASSOCIATION (REA) FOR NEW ELECTRICAL CONNECTION FOR THE RED MOUNTAIN EMERGENCY COMMUNICATIONS TOWER

WHEREAS with the eventual construction of the new emergency communications tower beginning in late spring 2024, there is a need to establish a new electrical connection with Benton REA's electrical grid; and

WHEREAS, Benton County Staff has been working with Benton REA to ensure the proper connection is made to the electrical grid; and

WHEREAS, Benton REA has provided the County with the attached quote to make the connection in the amount of $93,607.00 excluding Washington State Sales Tax (WSST); **NOW, THEREFORE,**

BE IT RESOLVED, the Board of Benton County Commissioners authorizes the payment to Benton REA in the amount of $93,607.00, excluding WSST, for the new electrical grid connection for the new Red Mountain Emergency Communications Tower.

Dated this 9th day of January 2024.

_____
Chairman

_____
Chairman Pro-Tem

_____
Commissioner

Attest:_____
Clerk of the Board

Constituting the Board of County Commissioners of Benton County, Washington

Orig.: Purchasing Department
C: Auditors, Procurement

P. Schut

Benton REA
The Cooperative Way!

BENTON RURAL ELECTRIC ASSOCIATION

402 7TH Street • P.O. BOX 1150 • PROSSER, WASHINGTON 99350 • 509/786-2913 • Fax: 509/786-0291

A Touchstone Energy® Cooperative

December 13, 2023

Service Cost - Member Action Needed to Proceed

Payment Due Within 30 Days

Benton County
Attn: Robert Blain
7122 W Okanogan Pl. Bldg A
Kennewick, WA 99336

RE: WO# 23189

Dear Robert Blain:

On July 03, 2023 I visited the site located on Red Mountain in Section 33 Township 10 North, Range 27 East, W.M. in response to your electric service inquiry.

I have determined the costs required for this service are as follows:

Member's Cost (Payment Required):	**$93,607.00**
Includes:	
[107.2] Advance on Construction:	$91,997.00
[408.52] B & O Charge on Advance on Construction:	$1,610.00

Enclosed are copies of the proposed design, a current Rate Schedule, Agreement for Electrical Service (if needed) and Easements (if needed).

Our estimate is only applicable for **30 Days**. Payment of the fees as totaled above **(Member's Cost)** is required in order to proceed. When we receive payment **along with any enclosed signed/notarized agreement(s) and requisite easement(s)**, our Operations Department will contact you within a week to schedule construction.

11/06/23 - DLC - Member is filling easements

If you have any questions, please call **509-205-9379** or **509-786-8252**.

Sincerely,

Dan Cochran
Staking Engineer

BREA Use Only	
	Contract
	Membership Card
	Easement

Benton Rural Electric Association

- **SCHEDULE 10**

GENERAL SERVICE - COMMERCIAL

AVAILABILITY:

Available to all qualifying members for commercial use including lighting, heating and other electrical requirements, except as otherwise provided for under other approved rate schedules, subject to the established rules and regulations of the Association covering this type of service.

TYPE OF SERVICE:

Single or three-phase at available secondary voltages, 60 hertz.

MONTHLY RATE:

Base Rate: **$13.00** plus **$0.15** times the highest monthly demand during the past twelve (12) months, over 50 KW. This charge will appear under the Demand Charge portion of the bill, and will be computed using the following formula:

$0.15 x [highest past twelve (12) month KW demand - 50 KW]

Energy Charge:

First 20,000 kWh's per month **$.0726** per kWh

All excess kWh's per month **$.0400** per kWh

Bonneville Power Administration (BPA) Power Cost Adjustment Charge

$.00 per kWh on all kWh's

Subject to change based upon the application of the BPA Cost Recovery Adjustment Charge to the Association.

DEMAND CHARGE:

A meter with the capability of measuring demand shall be required on all accounts that at the discretion of the Association are anticipated to exceed 50kW.

First 50 kW per month - no charge

Over 50 kW per month:

$4.91 per kW of billing demand per billing month.

(The billing demand will be the highest thirty-minute measured demand for the billing period, adjusted for power factor.)

Benton Rural Electric Association

GENERAL SERVICE - COMMERCIAL

MINIMUM BILLING:

Any reconnected account which was disconnected for a period of less than thirteen (13) months shall be required to pay the Base Rate as defined above from the last month for which the account was in service to the date of reconnection, or for twelve (12) months, whichever is less.

Minimum annual charge - as established in individual contracts, if applicable.

POWER FACTOR:

The member agrees to maintain unity power factor as nearly as practicable. The Association reserves the right to measure such power factor at any time. Should such measurements indicate that the average power factor is less than 97%, at the discretion of the Association the demand if available shall be increased 1.2% for each 1.0% or major fraction thereof by which the average power factor is less than 97% lagging. In the event that demand is not billed, the corresponding energy charge for billing purposes shall be increased .00684% for each 1.0% or major fraction thereof by which the average power factor is less than 97% lagging.

DELIVERY POINT:

The above rates are based upon the supply of service through a single metering point at one voltage.

TAXES:

All state, municipal and other assessed taxes, in areas where applicable, will be charged to the affected members.

STRANDED COST RECOVERY:

In the event that the member is legally able to purchase energy and demand from another supplier including self-supply, or the member disconnects from the Association electrical facilities for any reason, the member recognizes that they shall be subject to stranded cost recovery, which may include wholesale power costs and stranded electrical facilities, the costs of which cannot be avoided or mitigated. These stranded costs shall be calculated by the Association at the time of diversification or disconnection.

GENERAL TERMS AND CONDITIONS:

This rate schedule is subject to change as directed by the Board of Trustees and is subject to the established rules and regulations of the Association.

Issued: July 29, 2015 Effective: March 1, 2016

Issued by: Benton Rural Electric Association Board of Trustees

By: Michael Simpson Title: President

07/29/15

NET LINE FEET (+/-)			
PRI OH:	0	SEC OH:	0
PRI UG:	3913	SEC UG:	19
LATITUDE:	46.302981		
LONGITUDE:	-119.450490		

SYSTEM INFORMATION			
SUB:	Ruppert	FDR:	612
SCADA DEVICE:	**RP612**		
LINE SECTION:	34326920		
740c:	101	LOAN: BE8	YR: 2023

LOCATION INFORMATION			
MAP LOC:	**003433XXXX**		
SITE:	**Red Mountain**		
CITY:	**Benton City**		
TWN:	10	RNG: 27	SEC: 33

MEMBER INFORMATION		
OWNER:	**Benton County**	**509-736-2704**
CONTACT:	Robert Blain	509-736-2704
CONTRACTOR:	Doug de Graaf	509-628-1552
ELECTRICIAN:		

WORK ORDER # : 23189

TITLE: **34-33-XXXX_23189 BENTON COUNTY EOC**

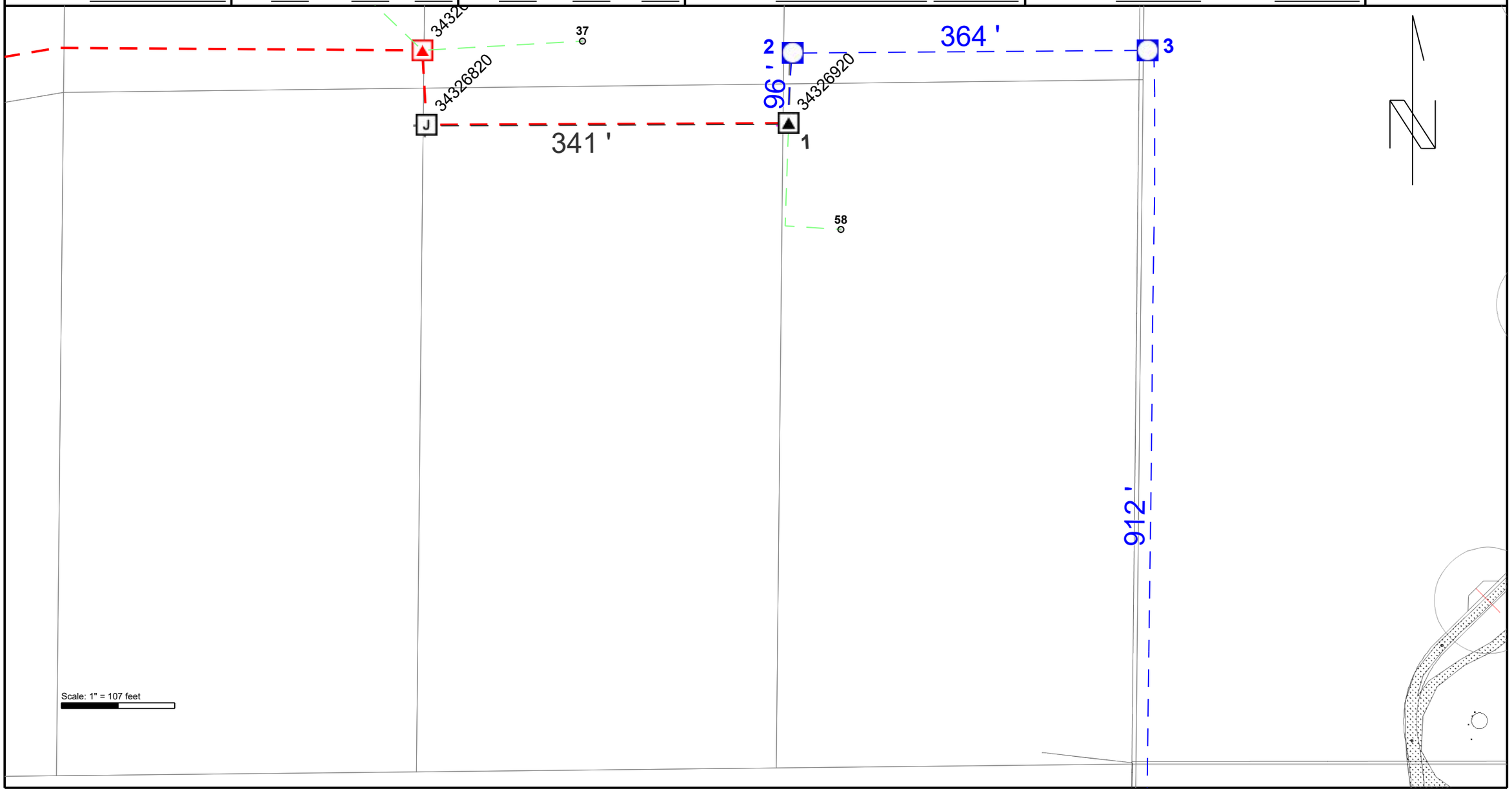
DESCRIPTION: **COM - RADIO TOWER (200A)**

DESIGNED BY: **DLC** PHONE: **509.205.9379**

PRINTED: 12/8/2023 SHEET: -1 of 3

Benton Rural Electric

WASHINGTON 8 BENTON



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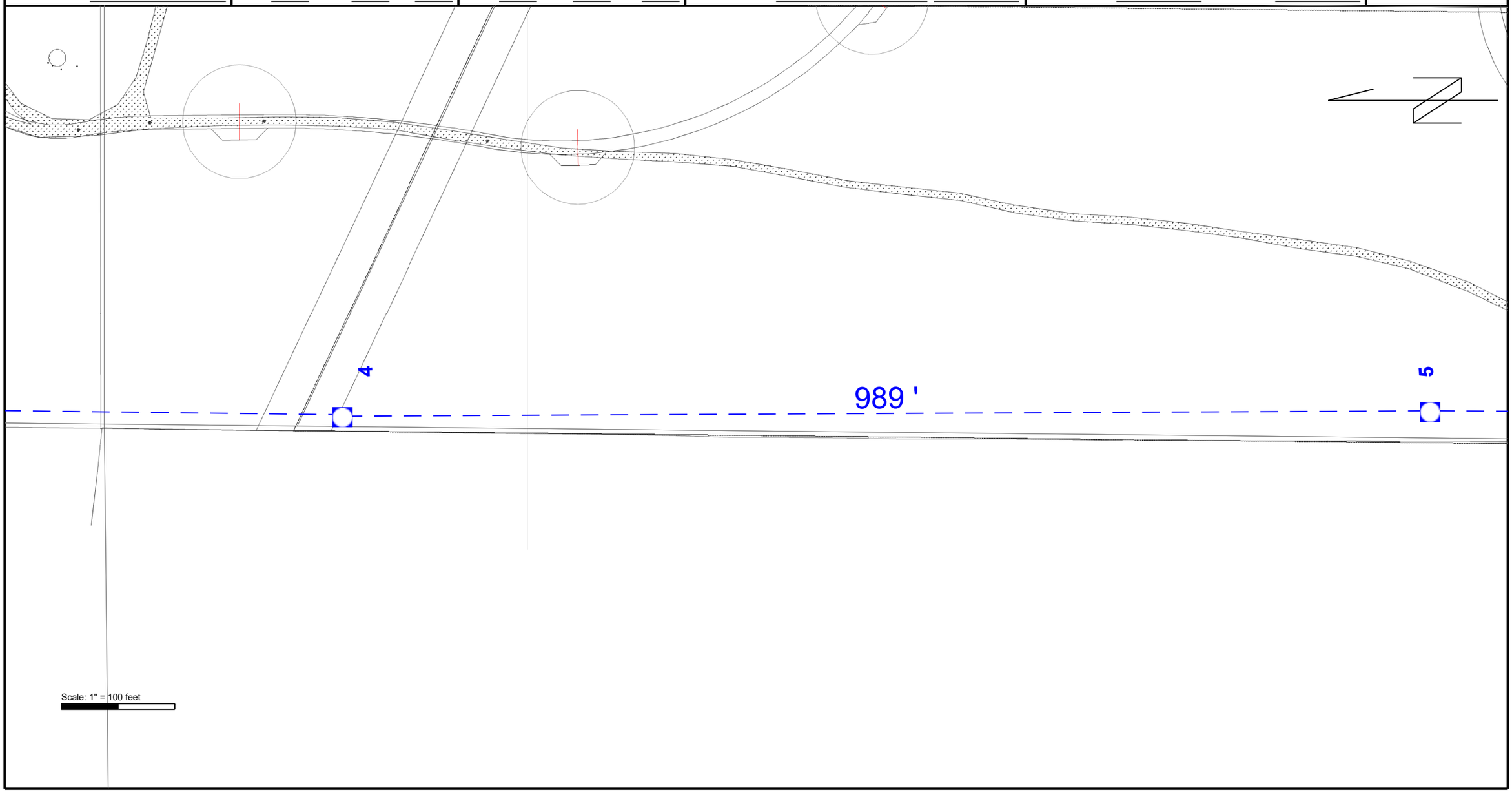

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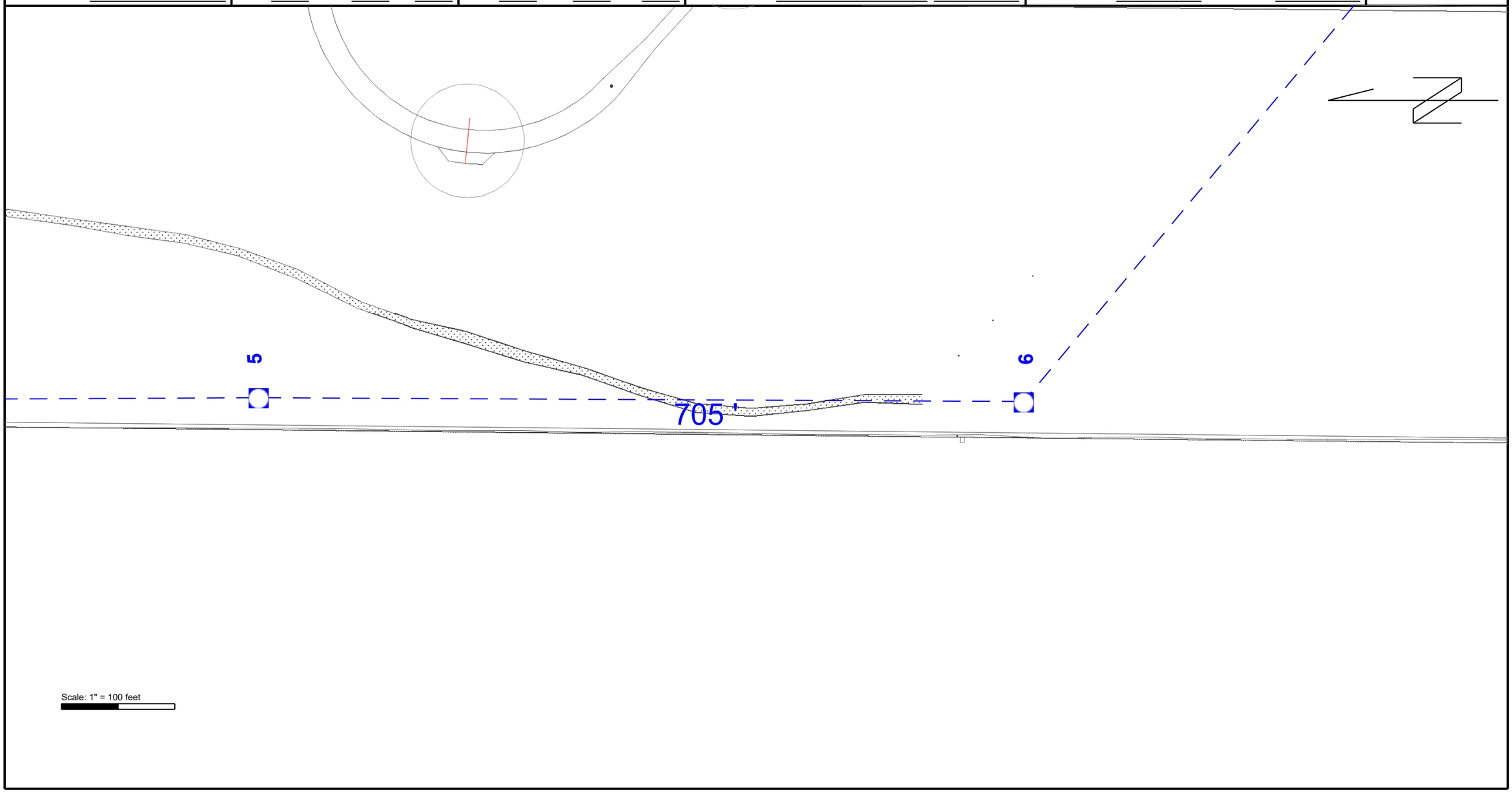
DESCRIPTION: **COM - RADIO TOWER (200A)**

DESIGNED BY: **DLC** PHONE: **509.205.9379**

PRINTED: 12/8/2023 SHEET: 1 of 3

Benton Rural Electric

WASHINGTON 8 BENTON



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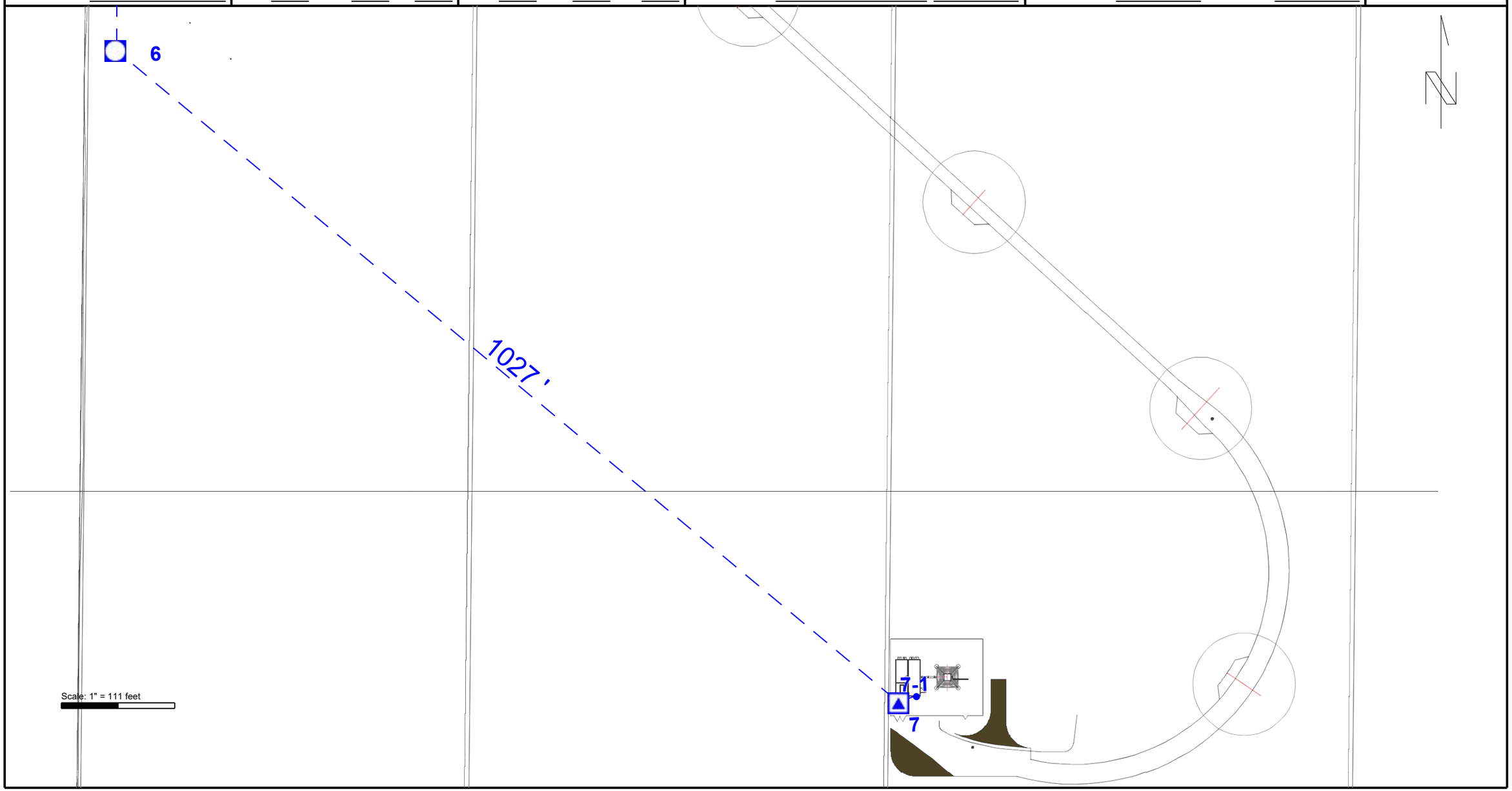
DESIGNED BY:	**DLC**	PHONE:	**509.205.9379**
PRINTED:	12/8/2023	SHEET:	2 of 3

Benton Rural Electric
WASHINGTON 8 BENTON



COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	January 9th, 2024
Subject:	Executing the First Amendment to the professional services contract with MMEC Architecture & Interiors, LLC for the Justice Center Campus Wayfinding Project
Presenter:	
Prepared By:	D. Hope
Reviewed By:	Procurement & LeeAnn Holt

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

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

Summary / Background Information

Per Resolution 2022-964 dated December 20, 2022 the Board of Benton county Commissioners entered into a professional services contract with MMEC Architecture & Interiors, LLC of Kennewick, WA. for Architectural and Engineering Services for Benton County Justice Center campus wayfinding design.

The contract expires on January 31, 2024. The First Amendment is necessary to extend the contract expiration date to December 31, 2024.

The Director of Operations and Capital Assets recommends the Board execute the First Contract Amendment as presented. The First Amendment to the contract has been reviewed, approved, and signed by our departmental Deputy Prosecuting Attorney and MMEC Architecture & Interiors, LLC.

Fiscal Impact

No additional funds are being added to the contract.

Recommendation

The Director of Operations and Capital Assets recommends approving the First Amendment to the professional services contract with MMEC Architecture & Interiors, LLC to extend the expiration date to December 31, 2024.

Suggested Motion

Approve as part of the Consent Agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF THE FIRST AMENDMENT TO THE PROFESSIONAL SERVICES CONTRACT WITH MMEC ARCHITECTURE & INTERIORS, LLC FOR ARCHITECTURAL AND ENGINEERING SERVICES FOR BENTON COUNTY JUSTICE CENTER CAMPUS WAYFINDING DESIGN

WHEREAS, per Resolution 2022-964 dated December 20, 2022, the Board of Benton County Commissioners entered into a contract with MMEC Architecture & Interiors, LLC for Architectural and Engineering Services for Benton County Justice Center campus wayfinding design; and

WHEREAS, the contract expires January 31, 2024; and

WHEREAS, the First Amendment is necessary to extend the contract expiration date to December 31, 2024; and

WHEREAS, the Director of Operations and Capital Assets recommends the Board execute the First Contract Amendment extending the expiration date to December 31, 2024; and

WHEREAS, the First Amendment has been reviewed, approved as to form and signed by the Civil Deputy Prosecuting Attorney and MMEC Architecture & Interiors, LLC; **NOW THEREFORE,**

BE IT RESOLVED, the Board of Benton County Commissioners hereby approves the attached First Amendment to the Professional Services Contract between Benton County and MMEC Architecture & Interiors, LLC to extend the expiration date to December 31, 2024; and

BE IT FURTHER RESOLVED, all other terms and conditions of said Contract remain the same.

Dated this 9th day of January 2024.

_____
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: Auditors; PA; MMEC

DocuSign Envelope ID: 97246FE3-CD30-43C7-BFF2-DFEF18998A4F

FIRST CONTRACT AMENDMENT
to the
PROFESSIONAL SERVICES CONTRACT

THIS FIRST CONTRACT AMENDMENT made and entered into this __9__ day of _____January_____, 2024 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").

WHEREAS, the parties entered into a Professional Services Contract dated December 20th, 2022 (the "CONTRACT") to provide Architectural and Engineering Services for Benton County Justice Center campus wayfinding design.

WHEREAS, this First Amendment is permitted under Section 6 of the CONTRACT and is necessary to extend the contract expiration date to December 31, 2024.

NOW THEREFORE, the parties agree that all provisions of the contract remain in effect except for the following amendments:

2. DURATION OF CONTRACT: is hereby deleted and replaced in its entirety with the following:

The term of this Contract shall begin on the date last signed and shall expire on December 31, 2024. The CONTRACTOR shall complete all work by the time(s) specified herein, or if no such time is otherwise specified, no later than the expiration date.

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

Dated:_____

FOR: BENTON COUNTY

_____
Chairman or Chairman Pro-Tem

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

Attest:_____
Clerk of the Board

Approved as to Form:
DocuSigned by:
LeeAnn Holt
D9A9308B67BB475...
LeeAnn Holt, Civil Deputy Prosecuting Attorney

Dated: 12/20/2023

FOR: MMEC ARCHITECTURE & INTERIORS, LLC

DocuSigned by:
Heidi Pierce
85051E8C79884B4...
Signature

Principal Architect
Title:

Heidi Pierce
Print Name

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	January 9, 2024
Subject:	Executing the First Amendment to the professional services contract with MMEC Architecture & Interiors, LLC for the Elections Center Remodel Project
Presenter:	
Prepared By:	P. Schut
Reviewed By:	Procurement & LeeAnn Holt

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

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

Summary / Background Information

Per Resolution 2023-333 dated April 25, 2023, the Board of Benton County Commissioners entered into a professional services contract with MMEC Architecture & Interiors, LLC., of Kennewick, WA. for Architectural and Engineering Services for the Elections Center Remodel Project.

During the design process, it was determined that additional parking spaces will need to be added to the Kennewick Campus site. The total cost of the additional scope of work will be $17,138.00, which will increase the overall contract amount to $404,613.00.

The Director of Operations and Capital Programs recommends the Board execute the First Contract Amendment as presented. The First Amendment to the contract has been reviewed, approved, and signed by our departmental Deputy Prosecuting Attorney and MMEC Architecture & Interiors LLC.

Fiscal Impact

Amount: $17,138.00 excluding WSST

Total contract amount of $404,613.00.

Fund: Capital Projects Fund

Recommendation

The Director of Operations and Capital Programs recommends approving the First Amendment to the professional services contract with MMEC Architecture & Engineering, LLC to increase the scope of work and compensation amount to a not to exceed of $404,613.00.

Suggested Motion

Approve as part of the Consent Agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF THE FIRST AMENDMENT TO THE PROFESSIONAL SERVICES CONTRACT WITH MMEC ARCHITECTURE & INTERIORS FOR ARCHITECTURAL AND ENGINEERING SERVICES FOR THE ELECTIONS CENTER REMODEL PROJECT

WHEREAS, per Resolution 2023-333 dated April 25, 2023, the Board of Benton County Commissioners entered into a contract with MMEC Architecture & Interiors, LLC for Architectural and Engineering Services for the Elections Center Remodel project; and

WHEREAS, during the design process, it was determined that additional parking spaces will need to be added to the Kennewick Campus site; and

WHEREAS, the First Amendment is necessary to add the additional scope of work and increase the contract amount; and

WHEREAS, the total cost of the additional scope of work is $17,138.00 for a new total contract amount of $404,613.00 excluding WSST; and

WHEREAS, the Director of Operations and Capital Programs recommends the Board execute the First Contract Amendment adding the additional scope of work and additional compensation amount; and

WHEREAS, the First Amendment has been reviewed, approved as to form and signed by the Civil Deputy Prosecuting Attorney and MMEC Architecture & Interiors, LLC.; **NOW THEREFORE,**

BE IT RESOLVED, the Board of Benton County Commissioners hereby approves the attached First Amendment to the Professional Services Contract between Benton County and MMEC Architecture & Interiors, LLC to add the additional scope of work in the amount of $17,138.00 for a new contract amount of not to exceed $404,613.00 excluding WSST; and

BE IT FURTHER RESOLVED, all other terms and conditions of said Contract remain the same.

Dated this 9th day of January 2024.

_____
Chairman

_____
Chairman Pro-Tem

_____
Commissioner

Attest:_____
Clerk of the Board

Constituting the Board of County Commissioners of Benton County, Washington

Orig.: Purchasing Dept.
cc: Auditors; PA; MMEC

P. Schut

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FIRST CONTRACT AMENDMENT
to the
PROFESSIONAL SERVICES CONTRACT

THIS FIRST CONTRACT AMENDMENT is made and entered into this _____ day of January, 2024 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 corporation 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").

WHEREAS, the parties entered into a Professional Services Contract dated April 25th, 2023 (the "CONTRACT") to provide Architecture & Engineering Services for the New Elections Center on the Kennewick Campus.

WHEREAS, the need for additional parking on the Kennewick Campus has arisen and CONTRACTOR has provided a proposal for the design of the additional parking– requiring an amendment to the scope of work and an increase in the maximum total amount payable by the COUNTY to the CONTRACTOR.

WHEREAS, this First Amendment is permitted under Section 6 of the CONTRACT and is necessary to expand the scope of work to include electrical and structural engineering and to increase the compensation amount.

NOW THEREFORE, the parties agree that all provisions of the contract remain in effect except for the following amendments:

1. CONTRACT DOCUMENTS

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

a. Exhibit A – Scope of Work & Fee Schedule
b. Exhibit B – Scope of Work & Fees for Additional Parking Lot Design

5. COMPENSATION

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

b. The maximum total amount payable by the COUNTY to the CONTRACTOR under this Contract shall not exceed Four Hundred and Four Thousand, Six Hundred Thirteen dollars, and Zero Cents ($404,613.00), excluding W.S.S.T.

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

Dated:_____

FOR: BENTON COUNTY

Chairman or Chairman Pro-Tem

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

Approved as to Form:

DocuSigned by:
LeeAnn Holt
D9A9308B67BB475...

LeeAnn Holt, Civil Deputy Prosecuting Attorney

Dated: 1/3/2024

FOR: MMEC ARCHITECTURE & INTERIORS, LLC

DocuSigned by:
Heidi Pierce
85651E8C7068494...

Signature

Principal Architect

Title:

Heidi Pierce

Print Name

DocuSign Envelope ID: 8A22DF68-2DD0-4A20-BBA3-7006CAAF1FD0

MMEC
ARCHITECTURE ▪ INTERIORS

December 22, 2023

Robert Blain
Director of Operations & Capital Programs
7122 W. Okanogan Place
Kennewick, WA 99336

RE: Benton County – Additional Parking

Delivery via email: Robert.blain@co.benton.wa.us

Dear Robert,

Please accept our proposal for additional parking (approximately 48 spaces) to the north side of the Elections Center is as follows:

Basic Services

- Civil, Landscape and Electrical Engineering Services
- Site Plan submittals/permitting changes to City of Kennewick

Civil	$7,150
Landscape	$3,850
Electrical	$4,950
Architectural Coordination	$1,188
Total Fee	**$17,138.00**

Basic Services do not include the following:

Topographic Surveys	(owner provided)
Jurisdictional Fees	(owner provided)
Geotechnical Infiltration Test	(owner provided)

We are looking forward to continuing work on the Benton County campus.

Sincerely,

Heidi Pierce

Heidi Pierce, AIA

1 North Monroe, Suite 200 ▪ Spokane, Washington 99201 ▪ 509-624-6800 ▪ mmecarchitecture.com

7601 W. Clearwater Ave., Suite 450 ▪ Kennewick, Washington 99336 ▪ 509-396-7278 ▪ mmecarchitecture.com

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	January 9, 2024
Subject:	Contract Amendment w/ Chervenell Construction Company for "Phase I – Design & Early Construction" of the Juvenile Justice 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

Per Resolution 2023-430, on June 6, 2023, the Board of Benton County Commissioners approved the contract for the "Validation Phase" of the Juvenile Justice Project.

The "Validation Phase" has been completed, and the Director of Operations and Capital Programs recommends that the County proceed to the next phase of the Project called "Phase I- Design & Early Procurement".

A contract amendment has been prepared, reviewed, and approved as to form by our Special Deputy Prosecutor, Robynne Thaxton, and has been executed by Chervenell Construction Company.

The contract amendment for "Phase I- Design & Early Procurement" is included in the attached documentation, with the future construction phase to be addressed with a separate contract amendment.

Fiscal Impact

Amount: $1,495,516.25 Phase I – Design & Early Procurement

Fund: Various Funds

Recommendation

Execute the attached contract amendment with Chervenell Construction Company for the "Phase I- Design & Early Procurement" of the Juvenile Justice Project.

Suggested Motion

Approve as part of the Consent Agenda.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF EXECUTING A CONTRACT AMENDMENT WITH CHERVENELL CONSTRUCTION COMPANY FOR THE DESIGN AND CONSTRUCTION OF THE JUVENILE JUSTICE PROGRESSIVE DESIGN PROJECT

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, with the Board directing staff to move forward with the progress design selection process for the project; and

WHEREAS, on April 11, 2023, the Board of Benton County Commissioners awarded the Juvenile Justice Project to Chervenell Construction Company pending the final approval of the MOU between Benton & Franklin Counties; and

WHEREAS, on May 2, 2023, the Board of Benton County Commissioners approved the updated MOU with Franklin County, giving Benton County sole ownership of the Juvenile Justice Facility; and

WHEREAS, per Resolution 2023-430, on June 6, 2023, the Board of Benton County Commissioners approved the contract for the "Validation Phase" of the Juvenile Justice Project; and

WHEREAS, the "Validation Phase" has been completed, and the Director of Operations and Capital Programs recommends that the County proceed to the next phase of the Project called "Phase I - Design & Early Procurement"; and

WHEREAS, a contract amendment has been prepared, reviewed, and approved as to form by our Special Deputy Prosecutor, Robynne Thaxton, and has been executed by Chervenell Construction Company; **NOW THEREFORE,**

BE IT RESOLVED, the Board of County Commissioners concurs with the recommendation and approves the attached contract amendment with Chervenell Construction Company for the initial "Phase I - Design & Early Procurement" in the amount not to exceed $1,495,516.25, excluding W.S.S.T. for this phase of the project with future contract amendments for Phase II - Construction with a guaranteed maximum price (GMP), of the Juvenile Justice Project; and

BE IT FURTHER RESOLVED, the total amount to exceed for the first two phases is $1,598,791.25, excluding W.S.S.T.; and

BE IT FURTHER RESOLVED, the Board hereby authorizes the Chairman of the Board of County Commissioners or Chairman Pro-Tem to sign on behalf of Benton County said contract amendment with Chervenell Construction Company.

Dated this 9th day of January, 2024.

_____
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

Benton County Juvenile Justice Center Validation Proposal - Draft For Review

Table of Contents

Page 2: Form of Validation Amendment
Page 4: Exhibit A/E - Cost Model
Page 6: Exhibit B - Phase 1 Schedule
Page 9: Exhibit C - Phase 1 Scope of Work
Page 14: Exhibit D: Target Schedule
Page 17: Exhibit F: Initial Project Scope
Page 20: Exhibit G: Design Submittal Packages
Page 27: Exhibit I: Subcontractor Procurement Plan
Page 28: Exhibit J: Inclusion Plan
Page 30: Staffing Report

Exhibit H: Safety Plan - Separate Document

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FORM OF VALIDATION AMENDMENT
BENTON COUNTY
PROGRESSIVE DESIGN-BUILD AGREEMENT

Unless the parties agree in writing otherwise, the Validation Amendment shall be in a substantially similar form as follow:

1. Pursuant to Section 6.6.1 of the Agreement, this Validation Amendment incorporates the following terms into the Agreement. To the extent any terms set forth in this Validation Amendment conflict with the Agreement, the terms in this Validation Amendment shall govern.

2. The Design-Builder has submitted to Owner the Validation Proposal pursuant to Section 2.02.H of Exhibit C.

3. The parties have collaboratively developed the terms of this Amendment pursuant to Section 6.6.1 of the Agreement.

4. The Parties agree to enter into this Validation Amendment to continue Phase 1 of the Project pursuant to Section 6.6.1.2.b of the Agreement.

5. The parties hereby establish the following Commercial Terms:

Phase 1 Not to Exceed Amount	$ 1,495,516.25
Phase 1 Completion Date	12/11/2024
Validated GMP	$ 16,500,268.56

6. Other Commercial Terms are set forth in the following Exhibits to this Amendment, which are incorporated as if fully set forth herein:

Exhibit A: Phase 1 Schedule of Values

Exhibit B: Updated Phase 1 Schedule

Exhibit C: Phase 1 Scope of Work

Exhibit D: Target Schedule

Exhibit E: Validated GMP and Updated Cost Model with Phase 2 Schedule of Values

Exhibit F: Initial Project Scope

Exhibit G: Design Submittal Packages

Exhibit H: Project Safety and Job Hazard Analysis for Phase 1

Exhibit I: Subcontract Plan

Exhibit J: Inclusion Plan for Disadvantaged and Small Businesses

Exhibit K: Design Quality Management Plan

[List other agreed submittals here]

7. Pursuant to Section 10.2 of the Agreement, Design-Builder shall provide a Payment and Performance Bond pursuant to RCW Chapter 39.08 equal to one hundred percent (100%) of the amount of the Phase 1 Not to Exceed Amount set forth above.

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EXHIBIT F
FORM OF VALIDATION AMENDMENT
BENTON COUNTY
PROGRESSIVE DESIGN-BUILD AGREEMENT

In executing this Amendment, Owner and Design-Builder each individually represents that it has the necessary financial resources to fulfill its obligations under this Amendment, and each has the necessary corporate approvals to execute this Amendment, and perform the services described herein.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed on the date set forth below.

BENTON COUNTY

By _____

_____

Its _____

Date: _____

DESIGN-BUILDER

_____

Name of Design-Builder - Chervenell

By Brandon Mayfield

Its President

Date: 12/22/23

DESIGN-BUILDER'S ADDRESS AND PHONE:

107422 E Detrick PR SE
Kennewick, WA 99338
509-735-3377

Exhibit A/E: Cost Model

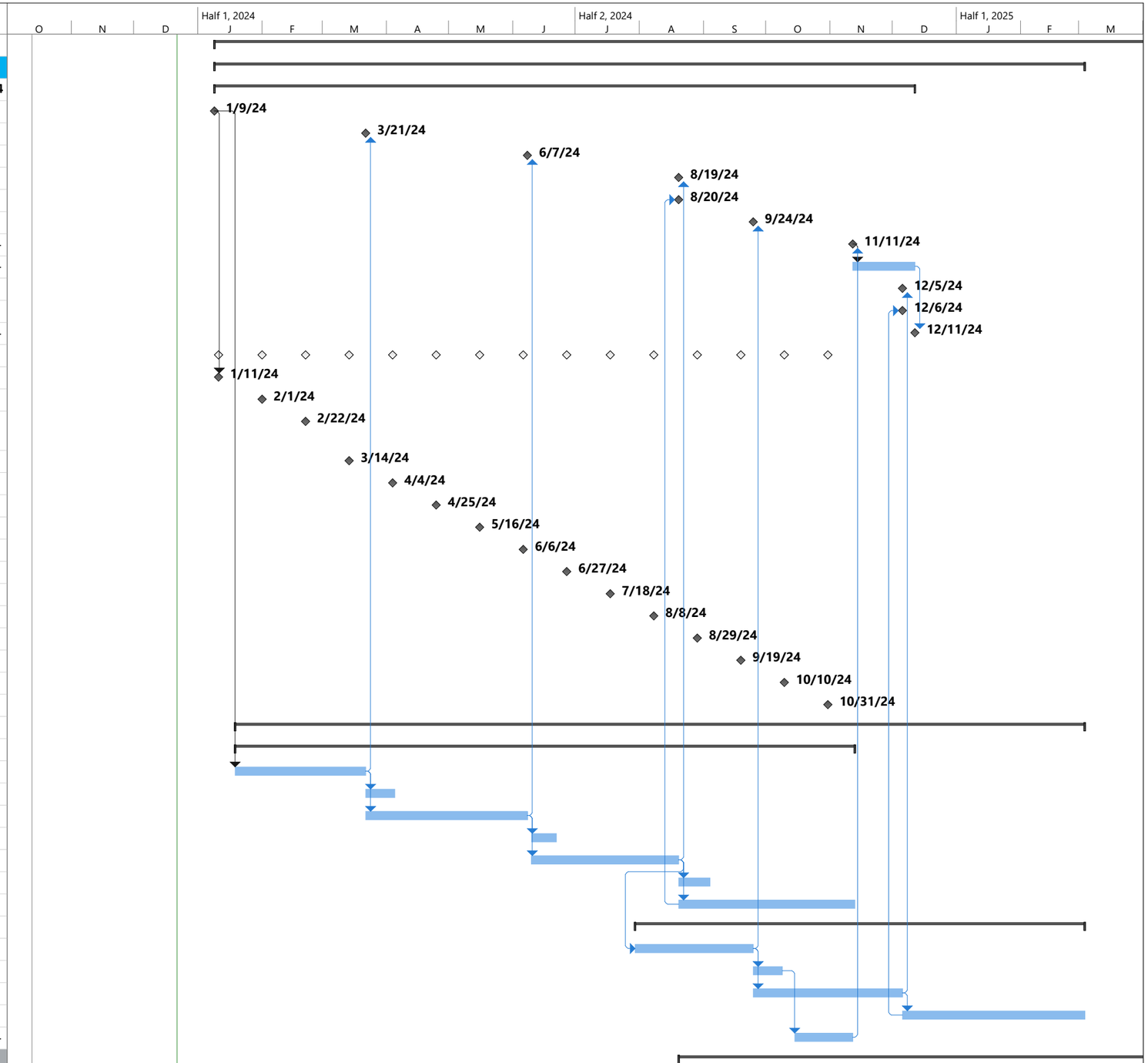
Construction Costs

Overall Costs - Not Areas Specific	SF			
Scope to be Allocated During Design			$675,000.00	
Anticipated Phase 2 Design Costs (CA, Closeout, etc.)			$281,844.00	
Re-Roofing ('97 Building Only)			$600,000.00	
Facility Wide- Secruity/Camera/Access			$1,850,000.00	
Fire Alarm - Existing Building			$333,000.00	
Corridor - Minimal Upgrade/Pathways/Etc.		5800	$377,000.00	
Fire Sprinkler (Partial Reno/Partial New)			$247,100.00	
Sub-Total			**$4,363,944.00**	
Specific Area Scope				
New Housing Construction		12240	$7,221,600.00	
Demo - Existing Housing			$202,500.00	
Program Space Shell/Courtyard		2250	$675,000.00	
Demo Old Program Cells - Create Courtyard		2700	$54,000.00	
Court-Room Renovation		1800	$702,000.00	
Civil/Landscape & Site - Minimum Requirements			$310,000.00	
Sub-Total			**$9,165,100.00**	
Phase 1 General Conditions and Design				
GC Pre-Construction Costs (plus Survey, Geo, etc.)			$151,290.00	
Design Reimbursables			$40,000.00	
Trade Partner Preconstruction			$20,000.00	
Anticipated NTE Design Cost			$1,211,656.00	
Sub-Total			**$1,422,946.00**	
Phase 1 Fee (5.1%)			**$72,570.25**	(Line not included in Totals Below)
Phase 1 NTE			**$1,495,516.25**	(Line not included in Totals Below)
Sub-Total Overall, Specific & Design			**$14,951,990.00**	
Overall Project Contingency (5%)			**$747,599.50**	
Overall Project Fee Including Phase 1 (5.1%)			**$800,679.06**	
Total Above			**$16,500,268.56**	
Wish List - Items we are looking to add if funds are available, if not they drop to future work				
Existing Program Renovation - Gym		4300	$415,500.00	
Existing Program Renovation		5150	$721,000.00	
Convert Storage (Old Cells) to Meeting Rooms		1485	$274,725.00	
Lobby Renovation/Addition		1600	$560,000.00	
Admin Area - Elevator & ADA Upgrades - Only	LS		$300,000.00	
Civil/Sitework - Additional Improvements			$240,000.00	
Sub-Total Wish List			**$2,511,225.00**	
Overall Project Contingency (5%)			**$125,561.25**	
Project Fee (5.1%)			**$134,476.10**	
Total Above			**$2,771,262.35**	
Future Project Phases or Other Monies				
Other Discussed Items				
New Elements (Likely Future Phases)				
3rd Housing Unit		6120	$3,672,000.00	
New Intake		3300	$1,815,000.00	
Kitchen - Mechanical			$75,000.00	
Ti/Finishes in Admin & Court Areas		10000	$1,500,000.00	
TI - New Program Space		2250	$450,000.00	
Renovate Intake/Visit Into Classrooms		5300	$662,500.00	
New Courtroom		1800	$810,000.00	
Secure Staff Parking (Requires input)			$750,000.00	
Kitchen - Revised Vestibule/Dumpster Enlcosure			$200,000.00	
Sub-Total			**$9,934,500.00**	
Overall Project Contingency (5%)			**$496,725.00**	
Project Fee			**$531,992.48**	
Total Above			**$10,963,217.48**	
Total with Others			**$27,463,486.04**	

Notes:
All Pricing Above Excludes WSST, Design Fees U.N.O, and FFE/Softcost
Potential Phasing Gain of Not relocating Housing during construction

Exhibit B: Phase 1 Schedule

ID	Task Mode	Task Name	Duration	Start	Finish
1		**Overall Project Scope**	**662 days**	**Tue 1/9/24**	**Fri 8/7/26**
2		**Phase 1**	**293 days**	**Tue 1/9/24**	**Mon 3/3/25**
19		**Milestones**	**237 days**	**Tue 1/9/24**	**Wed 12/11/24**
20		Complete Phase 1 Amendment	0 days	Tue 1/9/24	Tue 1/9/24
21		SD Design Complete (Permit Package #1)	0 days	Thu 3/21/24	Thu 3/21/24
22		DD Design Complete (Permit Package #1)	0 days	Fri 6/7/24	Fri 6/7/24
23		CD Design Complete (Permit Package #1)	0 days	Mon 8/19/24	Mon 8/19/24
27		Submit for AHJ Review (Permit Package #1)	0 days	Tue 8/20/24	Tue 8/20/24
28		DD Design Complete (Permit Package #2)	0 days	Tue 9/24/24	Tue 9/24/24
25		Submit GMP Propsal	0 days	Mon 11/11/24	Mon 11/11/24
30		Owner GMP Review/Approval	20 days	Tue 11/12/24	Wed 12/11/24
24		CD Design Complete (Permit Package #2)	0 days	Thu 12/5/24	Thu 12/5/24
29		Submit for AHJ Review (Permit Package #2)	0 days	Fri 12/6/24	Fri 12/6/24
26		Set GMP/Phase 1 Complete	0 days	Wed 12/11/24	Wed 12/11/24
3		**Group Coordination Meeting**	**207 days**	**Thu 1/11/24**	**Thu 10/31/24**
4		Design Kickoff Meeting	0 days	Thu 1/11/24	Thu 1/11/24
5		Group Coordination Meeting	0 days	Thu 2/1/24	Thu 2/1/24
6		Exterior Envelope Coordination Meeting / MEP Trade Parner RFP Review	0 days	Thu 2/22/24	Thu 2/22/24
7		MEP Trade Partner Kickoff/Early Procurement	0 days	Thu 3/14/24	Thu 3/14/24
8		Group Coordination Meeting	0 days	Thu 4/4/24	Thu 4/4/24
9		MEP/Systems Group Coordination Meeting	0 days	Thu 4/25/24	Thu 4/25/24
10		Group Coordination Meeting	0 days	Thu 5/16/24	Thu 5/16/24
11		MEP/Systems Group Coordination Meeting	0 days	Thu 6/6/24	Thu 6/6/24
12		Group Coordination Meeting	0 days	Thu 6/27/24	Thu 6/27/24
13		MEP/Systems Group Coordination Meeting	0 days	Thu 7/18/24	Thu 7/18/24
14		Group Coordination Meeting	0 days	Thu 8/8/24	Thu 8/8/24
15		MEP/Systems Group Coordination Meeting	0 days	Thu 8/29/24	Thu 8/29/24
16		Group Coordination Meeting	0 days	Thu 9/19/24	Thu 9/19/24
17		MEP/Systems Group Coordination Meeting	0 days	Thu 10/10/24	Thu 10/10/24
18		Group Coordination Meeting	0 days	Thu 10/31/24	Thu 10/31/24
31		**Design Schedule**	**285 days**	**Fri 1/19/24**	**Mon 3/3/25**
37		**Permit Package #1**	**210 days**	**Fri 1/19/24**	**Tue 11/12/24**
38		SD Design	45 days	Fri 1/19/24	Thu 3/21/24
39		SD Budget/Budget Update	10 days	Fri 3/22/24	Thu 4/4/24
40		DD Design	55 days	Fri 3/22/24	Fri 6/7/24
41		DD Budget/Budget Update	10 days	Mon 6/10/24	Fri 6/21/24
42		CD Design	50 days	Mon 6/10/24	Mon 8/19/24
43		CD Budget/Budget Update	10 days	Tue 8/20/24	Tue 9/3/24
44		AHJ Review	60 days	Tue 8/20/24	Tue 11/12/24
32		**Permit Package #2**	**150 days**	**Tue 7/30/24**	**Mon 3/3/25**
33		DD Design	40 days	Tue 7/30/24	Tue 9/24/24
34		DD Budget/Budget Udpate	10 days	Wed 9/25/24	Tue 10/8/24
35		CD Design	50 days	Wed 9/25/24	Thu 12/5/24
36		AHJ Review	60 days	Fri 12/6/24	Mon 3/3/25
45		GMP Final Project Estimate	20 days	Tue 10/15/24	Mon 11/11/24
46		**Phase 2**	**504 days**	**Tue 8/20/24**	**Fri 8/7/26**



Project: Benton County Juvenile
Date: Fri 12/22/23

Task
Split
Milestone
Summary
Project Summary
Inactive Task
Inactive Milestone
Inactive Summary
Manual Task
Duration-only
Manual Summary Rollup
Manual Summary
Start-only
Finish-only
External Tasks
External Milestone
Deadline
Progress
Manual Progress

Exhibit B: Meeting Staff Requirements

The following staff is requested to be present at Phase 1 meetings as outlined in Exhibit B:

- Group Coordination Meetings
    - Benton County Lead Representatives
    - Chervenell Project Management
    - Design West/ TreanorHL lead representatives.
    - Hill Representative

- MEP/Systems Coordination Meetings
    - Benton County Lead Representatives
    - Benton County Lead Maintenance Staff
    - Chervenell Project Management
    - MEP Trade Consultant Representatives
    - Design West/ TreanorHL lead representatives.
    - Hill Representative

- Exterior Envelope Coordination Meeting
    - Benton County Lead Representatives
    - Benton County Lead Maintenance Staff
    - Chervenell Project Management
    - Design West/ TreanorHL lead representatives.
    - Hill Representative

- Scope/Budget Review Meetings
    - Benton County Lead Representatives
    - Chervenell Project Management
    - Design West/ TreanorHL lead representatives.
    - Hill Representative

Exhibit C:
Phase 1
Scope of Work

Juvenile Justice Center - Benton County

EXHIBIT A

October 24, 2023

Basic A/E Services[1]		Juvenile Justice Center 72,000 square feet		
Basic A/E Services - All Phases			**$ 1,250,200**	
- Schematic Design (SD) Phase		$225,036	NTE	Permit 1
- Design Development (DD) Phase		$275,044	NTE	Permit 1
- Construction Documents A (CD) Phase		$225,036	NTE	Permit 1
- Construction Documents B (CD) Phase		$225,036	NTE	Permit 2
- Bidding (BID) Phase		$25,004	NTE	Permit 2
- Construction Administration (CA) Phase		$264,542	NTE	Cnst Adn
- Closeout (WA) Phase		$8,502	NTE	Cnst Adn
Specialty A/E Services				
Project Validation Time and Material Basis		COMPLETE		
Facility Operations Study TreanorHL		COMPLETE		Permit 1
Energy Conservation Report (LCCA or ELCCA) RCW 39.35		n/a		Permit 1
Civil Engineering / Landscape Design: On-Site Improvements On-Site	8 Acres	$67,200	NTE	Permit 1
LEED Management / Documentation All Disciplines		n/a		
Law Enforcement Design Consultant TreanorHL		incl.		
A/E VE & CR Participation All Disciplines		n/a		Cnst Adn
Commissioning Assistance All Disciplines		$8,800	NTE	Cnst Adn
Civil Engineering - Off-Site Improvements Improvements beond Property Lines		TBD		
SWPPP/NOI Permit Civil Lead		incl.		
Early Bid Package Site Improvements		TBD		
As-Built Measure and Create CAD drawings of Existing Facility		$42,000	NTE	Permit 1
Security Consultant (if required) Specialty Consultant for High-Security and Lock-Down System		$105,000	NTE	Permit 1
Solar Design (if required) KWR		$12,800	NTE	Permit 1
Selective Demolition Coordination All Disciplines		$9,500	NTE	Permit 1
Allowances / TBD Project Scope				
Acoustical Consulting If Requested		TBD		
Record Drawings to CAD If Requested		TBD		
Multiple / Separate Bid Packages If Requested		TBD		
FF&E Procurement Services If Requested		TBD		
SUB-TOTAL - Specialty A/E + Allowances				**$245,300**
TOTAL FEE: Permit 1 and Permit 2		**$**		**1,211,656**

Permit 1 Design Fee	$	961,616
Permit 2 Design Fee	$	250,040
Const Admin Design Fee	$	281,844
	$	1,493,500

Standard Hourly Rates (if hourly services are requested):

Principal Architect	$225
Project Architect	$160
Project Manager	$140
CADD Production	$100
Clerical	$90

Reimurseable Summary

Deliverables (reproduction, shipping and materials), travel, and meals per Washington State per diem rates with 15% mark-up NTE - $40,000

1. Basic A/E Services include services as described in Washington State A/E Guildlines for Public Work projects. Services include architectural, structural engineering, plumbing design/engineering, HVAC design/engineering, electrical design/engineering and fire protection/fire alarm.

Juvenile Justice Center - Benton County

October 5, 2023

Project Team

Engineering / Consultant Team for Design West Architects

Structural	*Civil*
LSB Consulting Engineers 523 East Third Avenue Spokane, WA 99202	JUB Engineers Inc. 3611 S Zintel Way Kennewick, WA 99337
Mechanical	*Landscape*
Kartchner Engineering 101 South Stevens Street, Suite 201 Spokane, WA 99201	JUB Engineers Inc. 3611 S Zintel Way Kennewick, WA 99337
Electrical / Telecomm	*Law Enforcement Design*
KWR Electrical 5915 South Regal Street Spokane, WA 992223	TreanorHL 719 SW Van Buren Street Topeka, KS 66603

Benton County JJC - Design Staff Matrix of Time (estimated)

	Tasks Per Phase	CONTRACTOR			ARCHITECT			JUSTICE DESIGNER			CIVIL / LANDSCAPE			STRUCTURAL			MECHANICAL			ELECTRICAL			ESTIMATED TIME 46 Weeks (hours)	
		Admin	PM	PE	Principal	PM	Admin	Principal	PM	Admin	Principal	PM	Admin	Principal	PM	Admin	Principal	PM	Admin	Principal	PM	Admin	Week	Phase
Schematic Design 10 Weeks	As Built / Verification	0	1	0	2	6	1	2	2	1	1	2	0	1	2	0	1	2	0	1	2	0	27	270
	Design and CAD Drawings	0	1	0	2	4	1	1	8	1	2	5	1	2	5	1	2	5	1	2	4	1	49	490
	Program Refinement	0	0	0	2	2	0	4	4	1	1	2	1	1	2	1	1	2	1	1	2	1	29	290
	MEP System Coord	1	4	0	2	4	1	2	6	1	1	2	1	1	2	1	1	2	1	3	2	1	39	390
	Narratives, Cost, City, Site, Mtgs	2	3	0	2	3	1	2	5	1	1	2	1	1	2	1	2	2	1	2	2	1	37	370
	Subtotal	3	9	0	10	19	4	11	25	5	6	13	4	6	13	4	7	13	4	9	12	4		
Design Development 12 Weeks	As Built / Verification	0	1	0	2	4	1	1	1	0	2	2	0	2	2	0	2	2	0	2	2	0	26	312
	Design and CAD Drawings	0	0	0	1	6	1	2	4	1	2	4	1	1	3	1	2	3	1	2	5	1	41	492
	Materials, Cladding, Finishes	1	2	0	4	3	1	2	2	0	1	1	0	2	1	0	2	2	0	2	2	0	28	336
	MEP System Coord, NREC	0.5	3	0	2	6	1	2	3	1	2	2	0	1	4	0	2	1	0	4	3	0	37.5	450
	Specs, City, Site, Mtgs	2	3	1	2	8	1	2	3	1	1	6	1	1	1	1	2	2	1	2	2	1	44	528
	Subtotal	3.5	9	1	11	27	5	9	13	3	8	15	2	7	11	2	10	10	2	12	14	2		
Construction Documents Part A 12 Weeks	As Built / Verification	0	1	0	2	2	0	0	0	0	1	2	0	1	2	0	1	2	0	1	2	0	17	204
	Const Docs and CAD Drawings	0	1	0	4	5	3	2	5	1	4	2	2	2	5	2	2	5	2	4	5	2	58	696
	Materials, Cladding, Finishes	1	2	1	2	3	1	1	2	0	1	2	0	1	1	0	1	2	0	1	2	0	24	288
	MEP System Final Design	1	3	0	2	3	0	1	2	0	2	1	2	3	3	2	3	3	2	3	3	2	41	492
	Specs, Schedules, Mtgs, Site, Permits	2	3	0	4	5	2	2	3	0	2	5	2	1	3	2	3	2	2	3	2	2	50	600
	Subtotal	4	10	1	14	18	6	6	12	1	10	12	6	8	14	6	10	14	6	12	14	6		
Construction Documents Part B 12 Weeks	As Built / Verification	0	1	0	2	2	0	0	0	0	1	2	0	1	2	0	1	2	0	1	2	0	17	204
	Const Docs and CAD Drawings	0	0	0	1	5	1	2	3	1	1	3	2	2	2	2	3	2	2	3	3	2	40	480
	Materials, Cladding, Finishes	1	2	1	2	2	1	1	2	0	1	2	0	1	2	0	1	2	0	1	1	0	23	276
	MEP System Final Design	1	3	0	2	3	0	1	2	0	2	2	2	2	2	2	3	3	1	3	3	2	39	468
	Specs, Schedules, Mtgs, Site, Permits	2	3	0	4	3	2	1	3	0	1	3	2	3	1	2	3	3	1	2	3	2	43.9133	526.9596
	Subtotal	4	9	1	11	15	4	5	10	1	6	12	6	9	9	6	11	12	4	10	12	6	Subtotals - Above	
	Average Hours Per Week	0.725	1.85	0.15	2.3	3.95	0.95	1.55	3	0.5	1.5	2.6	0.9	1.5	2.35	0.9	1.9	2.45	0.8	2.15	2.6	0.9	710	8163

Estimated D/B Team Hours Per Week:	177.5
Estimated Each Discipline Hours per Week:	25.4

Billing Rates				
Chervenell (Contractor)		**Rate**	**Total Projected Hours**	**Total Labor**
Admin (Brandon Mayfield/Manny Torrez)		$185	168	$31,080
Project Manager (Macoy Goulet)		$165	426	$70,290
Project Engineer (TBD)		$120	36	$4,320
Total			**630**	**$105,690**
Design Teams				
Principal		$225	2,517	$566,316
Project Manager		$140	3,878	$542,920
Admin (Clerical)		$90	1,138	$102,420
Total			**7,533**	**$1,211,656**

Exhibit D: Target Schedule

ID	Task Mode	Task Name	Duration	Start	Finish
1		**Overall Project Scope**	**662 days**	**Tue 1/9/24**	**Fri 8/7/26**
2		**Phase 1**	**293 days**	**Tue 1/9/24**	**Mon 3/3/25**
19		**Milestones**	**237 days**	**Tue 1/9/24**	**Wed 12/11/24**
20		Complete Phase 1 Amendment	0 days	Tue 1/9/24	Tue 1/9/24
21		SD Design Complete (Permit Package #1)	0 days	Thu 3/21/24	Thu 3/21/24
22		DD Design Complete (Permit Package #1)	0 days	Fri 6/7/24	Fri 6/7/24
23		CD Design Complete (Permit Package #1)	0 days	Mon 8/19/24	Mon 8/19/24
27		Submit for AHJ Review (Permit Package #1)	0 days	Tue 8/20/24	Tue 8/20/24
28		DD Design Complete (Permit Package #2)	0 days	Tue 9/24/24	Tue 9/24/24
25		Submit GMP Propsal	0 days	Mon 11/11/24	Mon 11/11/24
30		Owner GMP Review/Approval	20 days	Tue 11/12/24	Wed 12/11/24
24		CD Design Complete (Permit Package #2)	0 days	Thu 12/5/24	Thu 12/5/24
29		Submit for AHJ Review (Permit Package #2)	0 days	Fri 12/6/24	Fri 12/6/24
26		Set GMP/Phase 1 Complete	0 days	Wed 12/11/24	Wed 12/11/24
3		**Group Coordination Meeting**	**207 days**	**Thu 1/11/24**	**Thu 10/31/24**
4		Design Kickoff Meeting	0 days	Thu 1/11/24	Thu 1/11/24
5		Group Coordination Meeting	0 days	Thu 2/1/24	Thu 2/1/24
6		Exterior Envelope Coordination Meeting / MEP Trade Parner RFP Review	0 days	Thu 2/22/24	Thu 2/22/24
7		MEP Trade Partner Kickoff/Early Procurement	0 days	Thu 3/14/24	Thu 3/14/24
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9		MEP/Systems Group Coordination Meeting	0 days	Thu 4/25/24	Thu 4/25/24
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11		MEP/Systems Group Coordination Meeting	0 days	Thu 6/6/24	Thu 6/6/24
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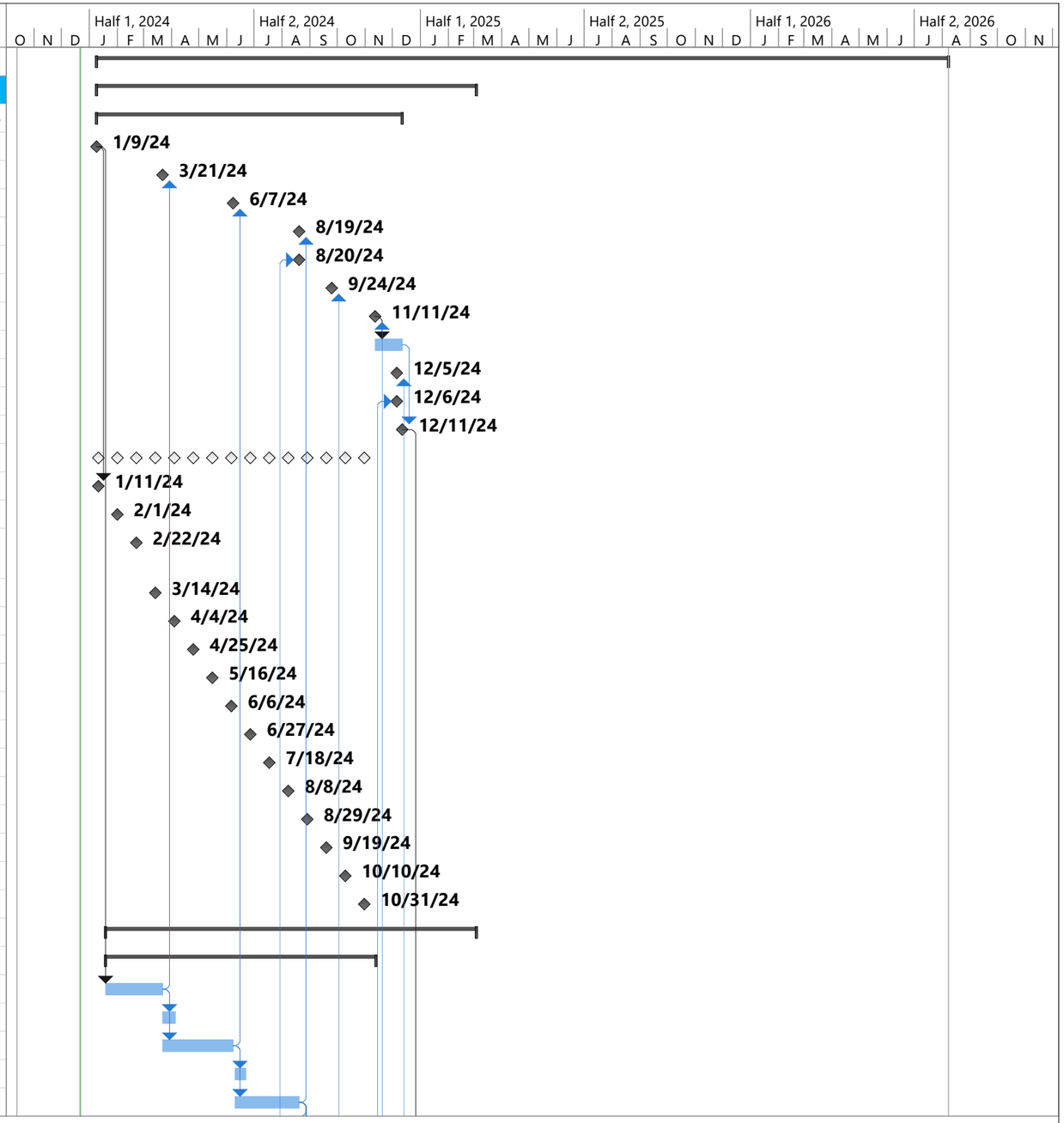
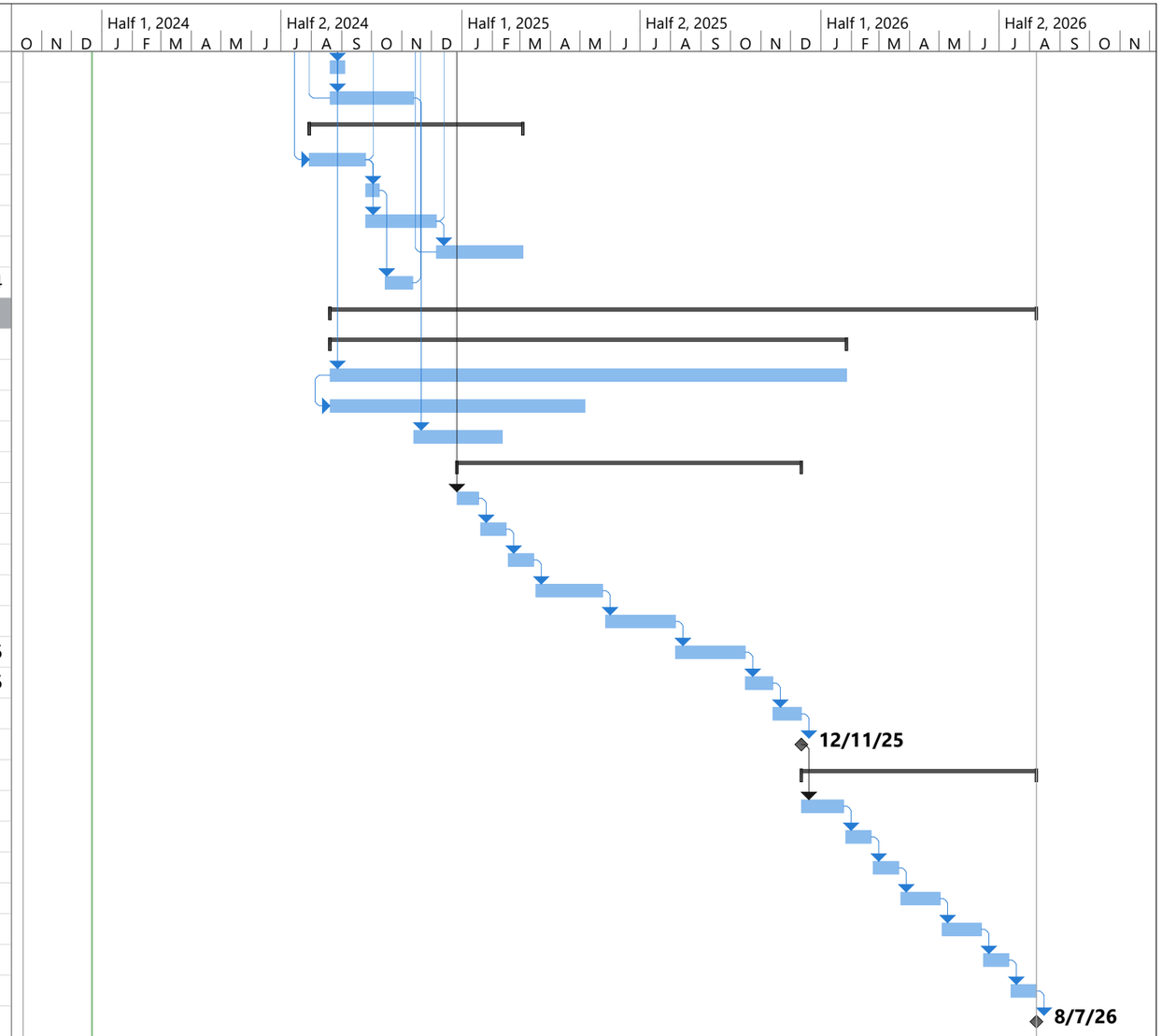
16		Group Coordination Meeting	0 days	Thu 9/19/24	Thu 9/19/24
17		MEP/Systems Group Coordination Meeting	0 days	Thu 10/10/24	Thu 10/10/24
18		Group Coordination Meeting	0 days	Thu 10/31/24	Thu 10/31/24
31		**Design Schedule**	**285 days**	**Fri 1/19/24**	**Mon 3/3/25**
37		**Permit Package #1**	**210 days**	**Fri 1/19/24**	**Tue 11/12/24**
38		SD Design	45 days	Fri 1/19/24	Thu 3/21/24
39		SD Budget/Budget Update	10 days	Fri 3/22/24	Thu 4/4/24
40		DD Design	55 days	Fri 3/22/24	Fri 6/7/24
41		DD Budget/Budget Update	10 days	Mon 6/10/24	Fri 6/21/24
42		CD Design	50 days	Mon 6/10/24	Mon 8/19/24



Project: Benton County Juvenile
Date: Fri 12/22/23

Task	Project Summary	Manual Task	Start-only	Deadline
Split	Inactive Task	Duration-only	Finish-only	Progress
Milestone	Inactive Milestone	Manual Summary Rollup	External Tasks	Manual Progress
Summary	Inactive Summary	Manual Summary	External Milestone	

ID	Task Mode	Task Name	Duration	Start	Finish
43		CD Budget/Budget Update	10 days	Tue 8/20/24	Tue 9/3/24
44		AHJ Review	60 days	Tue 8/20/24	Tue 11/12/24
32		**Permit Package #2**	**150 days**	**Tue 7/30/24**	**Mon 3/3/25**
33		DD Design	40 days	Tue 7/30/24	Tue 9/24/24
34		DD Budget/Budget Udpate	10 days	Wed 9/25/24	Tue 10/8/24
35		CD Design	50 days	Wed 9/25/24	Thu 12/5/24
36		AHJ Review	60 days	Fri 12/6/24	Mon 3/3/25
45		GMP Final Project Estimate	20 days	Tue 10/15/24	Mon 11/11/24
46		**Phase 2**	**504 days**	**Tue 8/20/24**	**Fri 8/7/26**
47		**Procurment**	**365 days**	**Tue 8/20/24**	**Mon 1/26/26**
48		Electrical Gear	365 days	Tue 8/20/24	Mon 1/26/26
49		HVAC Equipment	180 days	Tue 8/20/24	Mon 5/5/25
50		Structural Package	60 days	Wed 11/13/24	Mon 2/10/25
60		**Permit Package #1 Construction**	**245 days**	**Fri 12/27/24**	**Thu 12/11/25**
61		Selective Demo	15 days	Fri 12/27/24	Fri 1/17/25
62		Footings and Foundations	20 days	Mon 1/20/25	Fri 2/14/25
64		MEP Underground	20 days	Mon 2/17/25	Fri 3/14/25
63		Addition Structure	50 days	Mon 3/17/25	Fri 5/23/25
65		MEP Rough-in	50 days	Tue 5/27/25	Tue 8/5/25
66		Interior Finishings	50 days	Wed 8/6/25	Wed 10/15/25
67		MEP Trim	20 days	Thu 10/16/25	Wed 11/12/25
68		TAB/Punchlist/Commissioning	20 days	Thu 11/13/25	Thu 12/11/25
69		Substantial Completion	0 days	Thu 12/11/25	Thu 12/11/25
51		**Permit Package #2 Construction**	**170 days**	**Fri 12/12/25**	**Fri 8/7/26**
52		Selective Demo	30 days	Fri 12/12/25	Fri 1/23/26
53		MEP Underground	20 days	Mon 1/26/26	Fri 2/20/26
54		Structural Upgrades	20 days	Mon 2/23/26	Fri 3/20/26
55		MEP Rough-in	30 days	Mon 3/23/26	Fri 5/1/26
56		Interior Finishes	30 days	Mon 5/4/26	Fri 6/12/26
57		MEP Trim	20 days	Mon 6/15/26	Fri 7/10/26
58		TAB/Punchlist/Commissioning	20 days	Mon 7/13/26	Fri 8/7/26
59		Substantial Completion	0 days	Fri 8/7/26	Fri 8/7/26



Project: Benton County Juvenile
Date: Fri 12/22/23

Task	Project Summary	Manual Task	Start-only	Deadline
Split	Inactive Task	Duration-only	Finish-only	Progress
Milestone	Inactive Milestone	Manual Summary Rollup	External Tasks	Manual Progress
Summary	Inactive Summary	Manual Summary	External Milestone	

Exhibit F: Initial Project Scope

The initial project scope of work as identified in Exhibit A is as follows:

Overall Scope:

- Remove and replace roof of 1997 portion of the facility entirely.
- Provide security upgrades of the entire facility including camera systems, access control systems, security/alarm systems, etc.
- Provide new fire alarm system complete.
- Minor upgrades at existing corridors including new pathway, patching finishes, paint, etc.
- Upgrade fire sprinkler system. Areas of system determined to be in good condition shall be reused. All other areas with existing fire sprinkler systems to be removed/replaced. Areas of new construction to receive new code compliant system.

Specific Area Scope:

- New Housing: Complete 12,240 SF housing addition including all earthwork, foundations, slabs, steel, framing, drywall, finishes, MEP, etc.
- Demo existing housing units complete. Patch back as required to facilitate the scope of work.
- Program Space Shell/Courtyard: After removal of the existing housing unit, we will create a hallway/a shell for program space and thus enclose an open to air courtyard.
- Demo Old Cells/Current Program Space to Expand and open Courtyard.
- Provide complete renovation of existing Court-Room including finishes, lighting, electrical/technology/security upgrades, and HVAC upgrades.
- Civil/Landscape: Provide the minimum extents required to facilitate other scopes of work listed here-in.

Permit Package Logic:

In our previous experience, we had difficulty getting the AHJ on board with starting work during permit review, which we need to do to get the maximum benefit out of Design/Build. Our strategy for breaking the project into two separate submissions is to allow us to get a permit for the longer timeline work (The new housing unit) while we complete the design and permitting process of the remainder of the work.

EXISTING HOUSING (DEMO)

NEW HOUSING UNIT

NEW HOUSING UNIT

NEW HOUSING UNIT

NEW HOUSING UNIT

COURTYARD

CONTROL

DEMO

GYM - EXIST

STO - EXIST

ADMIN - EXIST

LIBRARY EXIST

EDUCATION - EXIST

EDUCATION - EXIST

COURT - EXIST

LOBBY - EXIST

LOBBY ADDITION

ADMIN - EXIST

KITCHEN - EXIST

MEDICAL- EXIS

VISIT & PROGRAM - EXIST

RE-ROOFING AREA

INTAKE - EXIST

PERMIT PACKAGE #1

PERMIT PACKAGE #2

BENTON COUNTY JUVENILE CENTER

SCOPE OF WORK - FLOOR PLAN

1/16" = 1'-0"

12/22/23

TREANORHL

ADD ALTERNATES

FUTURE ADDITION

FUTURE HOUSING UNIT

FUTURE HOUSING UNIT

NEW HOUSING EXPANSION

NEW HOUSING EXPANSION

NEW HOUSING EXPANSION

NEW HOUSING EXPANSION

FUTURE INTAKE

CONTROL

COURTYARD

LIBRARY - EXIST

GYM - EXIST

STO - EXIST

ADMIN - EXIST

LOBBY - EXIST

EDUCATION - EXIST

EDUCATION - EXIST

COURT

COURT - EXIST

LOBBY ADDITION

FUTURE - COURT

ADMIN - EXIST

KITCHEN - EXIST

MEDICAL- EXIST

VISIT & PROGRAM - EXIST

PLAZA

INTAKE - EXIST

BENTON COUNTY JUVENILE CENTER

FUTURE SCOPE OF WORK - FLOOR PLAN

0 8' 16' 32'

1/16" = 1'-0"

09/15/23

TREANORHL

Exhibit G: Design Submittal Packages

Benton County Juvenile Justice Center

PROJECT DELIVERABLE LIST

Schematic Design Documents

Civil/Landscape:

1. Preliminary concept site plan showing building location, proposed features, paving, access points, parking, circulation, setbacks, property lines, etc.
2. AHJ requirements, including jurisdictional requirements such as walking paths, bike paths, well depth, irrigation crossings, etc.
3. Environmental impact study (if needed)
4. Verify available fire flow and pressure and provide to fire protection system designer

Architectural:

1. Conceptual floor plan showing spatial relationships, room location, overall building dimensions, circulation paths, etc.
2. Conceptual exterior elevations showing building massing and proposed materials
3. Conceptual building sections showing spatial relationships, etc.
4. Overall project schedule.
5. Provide a simple written narrative of proposed materials, systems and functions

Mechanical:

1. Conceptual HVAC plan showing main equipment locations and types, etc.
2. Identify location for fire riser.
3. Provide a simple written narrative of proposed materials, systems and functions

Electrical:

1. Identify service locations for Data and Cable feeds to the building.
2. Review electrical room requirements and main switch gear for the facility.
3. Provide a simple written narrative of proposed materials, systems and functions

Other:

1. Schematic design cost estimate by Design-Builder

Design Development Documents

Civil:

1. Utility plans & enlarged areas showing setbacks, surface water, infiltration systems, and drainage system.
2. Grading, drainage, storm water plans and enlarged areas
3. Site plan showing surface water, parking (including required parking spaces), setbacks, street improvements, site access & circulation, existing fixtures & construction, new features or improvements, and any other code/zoning or land use issues
4. Provisions for trash disposal and removal by truck dock, compactor, etc.

Landscape:

1. Planting and hardscape plans & enlarged areas as needed with plant/tree recommendations
2. Irrigation system point of connection, pump station location if applicable, control system location and main line routing

Architectural:

1. Floor plans showing room locations, dimensions, casework, equipment, openings, etc.
2. Code review and occupancy plan
3. Exterior elevations showing materials, openings, etc.
4. Building & wall sections showing dimensions, materials, etc.
5. Reflected ceiling plans showing material type (Sat, Gyp, etc.), specialty detailing
6. Floor finish plans showing material types
7. Roof plan showing slope, drainage systems and materials
8. Typical drawn details including wall sections

Structural:

1. Foundation, floor & roof framing plans showing typical and major structural members, sizes and spacing
2. Footing, beam, column, and connection schedules
3. Identification of foundation system design type based on allowable loads and soil types identified in the geotechnical report
4. Identify all design loads and seismic zone

Mechanical:

1. HVAC floor plans showing vent fan, diffuser, and return air grille locations, etc.
2. HVAC roof plans showing unit and equipment locations, etc.
3. Outline of HVAC requirements and heating/cooling load calculations. Clearly define the “basis of design”
4. Identify fire protection system design requirements, water supply adequacy and potential impacts on other building and site systems (fire riser plan and details)

Plumbing:

1. Plumbing floor plans showing restroom and kitchen equipment
2. Draft of riser diagram

Electrical:

1. Light Fixture layout
2. Power floor plan showing panels and switch gear
3. Special systems plan showing locations of outlets, equipment, cabling runs, camera locations, etc.
4. Electrical site plan showing lighting and electrical service equipment locations, etc.
5. Fire alarm plan indicating pull stations, horn strobes and panel location
6. Transformer location and service trench location
7. Develop a Technology Component System Matrix document

Other:

1. Design Development cost estimate by Design-Builder
2. List of project equipment and furnishings (Owner and Design-Builder furnished)
3. Security Consultant – System narrative and equipment cut-sheets

50% Construction Documents

Civil:

1. Site utility & drainage plans showing setbacks, surface water, infiltration systems, drainage system
2. Layout plan showing locations of and dimensioning to site features
3. Grading plans showing existing & new topography, slopes, etc.
4. Materials plan showing surface water, parking, street improvements, site access & circulation, parking, existing fixtures & construction, new features or improvements
5. General notes and requirements
6. Typical drawn details
7. Draft specifications

Landscape:

1. Planting & hardscape plans showing locations of vegetation, trees, landscaping features, boulders, mulch, sod, details, etc.
2. Irrigation plans & supply lines
3. Typical drawn details
4. Draft specifications

Architectural:

1. Floor plans & enlarged plans showing room locations, dimensions, casework, equipment, fixtures, openings, schedules, special conditions, materials, etc.
2. Code review & occupancy plan showing room sizes, occupant loads, egress pathways, fixture counts & requirements, area separation requirements, pertinent rated construction, etc.
3. Major floor finish plans showing finish materials
4. Major ceiling plan, showing materials, general lighting & visible HVAC locations, special conditions, etc.
5. Major roof plan, showing materials, equipment, slopes, dimensions, etc.
6. Major exterior elevations showing materials, dimensions, openings, special conditions, etc.
7. Major building & wall sections showing dimensions, materials, special conditions, equipment, etc.
8. All required interior elevations, showing materials, casework, equipment, fixtures, dimensions, select furnishings, openings, etc.
9. Draft specifications

Structural:

1. Foundation, floor & roof framing plans showing structural member locations, sizes, materials, reinforcement, special conditions, etc.
2. Final footing, beam, column, wall, reinforcing, sheathing, header, and connection schedules
3. Typical drawn details
4. Structural calculations
5. Draft specifications

Mechanical:

1. HVAC floor plan showing vent fan, damper, diffuser, ducting, and return air grille locations, sizes, thermostat locations, etc.
2. HVAC roof plan showing unit and equipment locations, sizes, etc.
3. Typical drawn details
4. Draft specifications / equipment cut sheets

Plumbing:

1. Waste & vent floor plan showing drain pipe routing, vents, floor drain locations, line sizes, equipment, etc.
2. Water & gas floor plan showing supply line routing, sizes, fixtures, connections, etc.
3. Roof plumbing plan showing roof drain locations & sizes, supply line routing & sizing, equipment locations, connections, fixtures, etc.
4. Final fire sprinkler plan showing connection locations, system requirements and notes, etc.
5. Final riser diagrams
6. Draft specifications / equipment cut sheets for all fixtures
7. Typical drawn details

Electrical:

1. Power floor plan showing receptacles, transformers, switch gear, circuiting, special requirements, equipment, etc.
2. Lighting plan showing fixture types & locations, circuiting, panels, switches, etc.
3. Mechanical power plan showing equipment locations, power requirements, circuiting, thermostat locations, etc.
4. 100% Special systems plan showing locations of receptacles, equipment, cabling runs, camera locations, special conditions, panels, controls, etc.
5. Electrical site plan showing fixtures and electrical service equipment locations, conduit routing & sizes, connection locations, etc.
6. Fire alarm plan showing fixture locations & sizes, system requirements, panel locations, etc.
7. One-line diagrams
8. Draft specifications
9. Typical drawn details

Other:

1. Construction document project cost estimate
2. Security Consultant – Plans & details

95% Construction Documents

Construction Manager or Architect:

1. Final probable project cost estimate
2. Final list of owner-furnished items and items not in the contract

Civil:

1. Storm water pollution prevention plan showing prevention & remediation methods and details
2. Final specifications
3. Typical drawn details
4. Complete project specific details including roadway profiles, drainage, signage, etc.

Landscape:

1. Irrigation details showing locations of fixtures, schedules
2. Final specifications
3. Typical drawn details
4. Complete project specific details

Architectural:

1. Floor finish plans showing schedules, signage, etc.
2. Typical drawn details including additional wall sections
3. Complete project specific details showing casework, doors/windows, special conditions, materials
4. Final specifications with NREC forms

Structural:

1. Final structural calculations
2. Final specifications and notes
3. Complete project specific details showing connections, materials, fastening, etc.

Mechanical:

1. Final energy code compliance summary
2. Final heating/cooling load calculations and zoning summary
3. Final schedules for louvers, conditioned air, heaters, exhaust, diffusers, supply, returns, etc.
4. Final specifications with NREC forms
5. Complete project specific details as required

Plumbing:

1. Final riser diagrams
2. Final fixture and equipment schedules
3. Final specifications
4. Complete project specific details as required

Electrical:

1. Final code compliance summary
2. Final one-line diagrams
3. Final light fixture and equipment schedules
4. Final load calculations
5. Final panel schedules
6. Final specifications with NREC forms
7. Complete project specific details as required

Other:

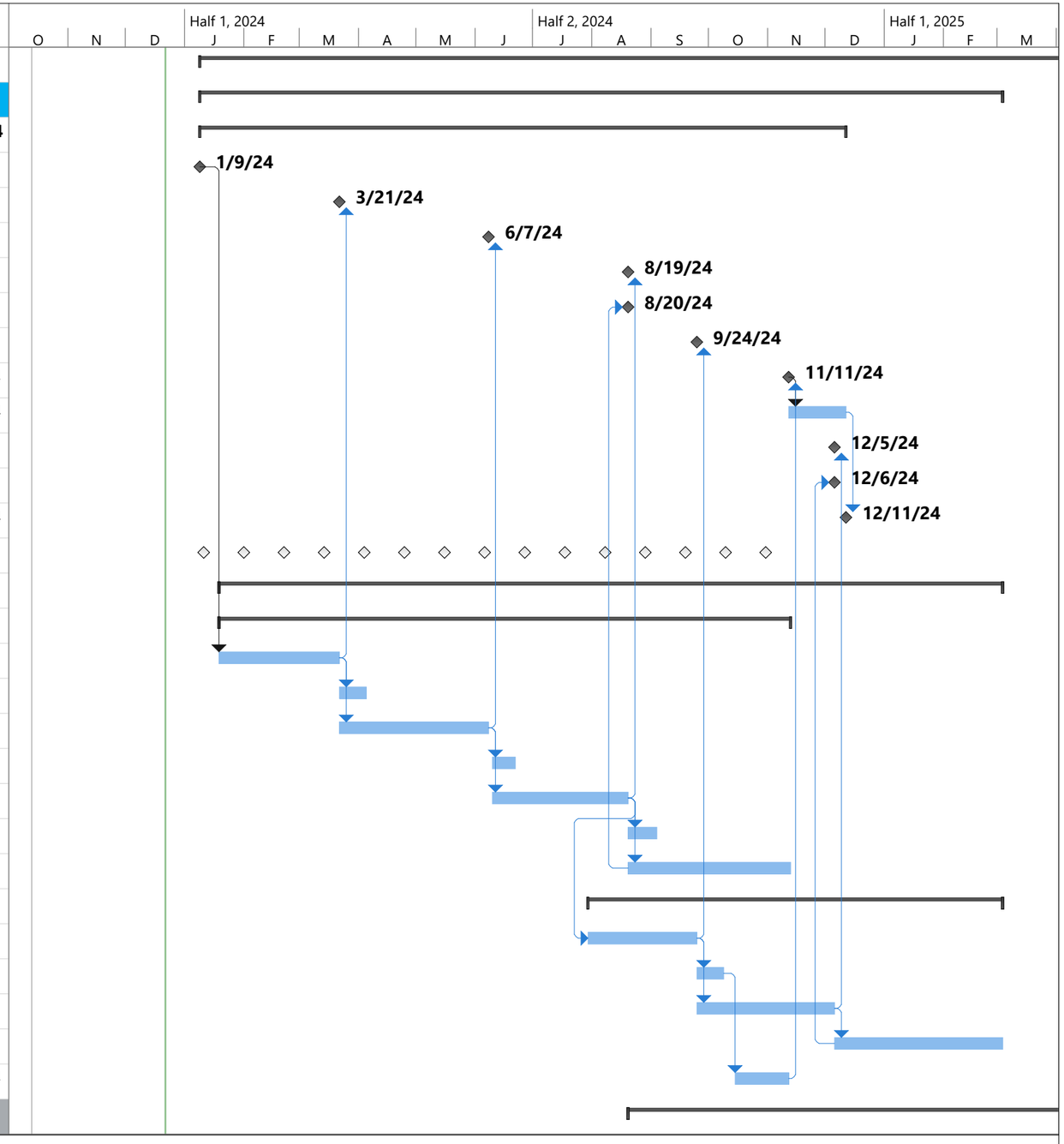
1. Final list of owner-furnished items and items not in the contract

100% Construction Documents

All Disciplines:

1. Final Quality Control review and coordination
2. Incorporation of final AHJ review comments

ID	Task Mode	Task Name	Duration	Start	Finish
1		**Overall Project Scope**	**662 days**	**Tue 1/9/24**	**Fri 8/7/26**
2		**Phase 1**	**293 days**	**Tue 1/9/24**	**Mon 3/3/25**
19		**Milestones**	**237 days**	**Tue 1/9/24**	**Wed 12/11/24**
20		Complete Phase 1 Amendment	0 days	Tue 1/9/24	Tue 1/9/24
21		SD Design Complete (Permit Package #1)	0 days	Thu 3/21/24	Thu 3/21/24
22		DD Design Complete (Permit Package #1)	0 days	Fri 6/7/24	Fri 6/7/24
23		CD Design Complete (Permit Package #1)	0 days	Mon 8/19/24	Mon 8/19/24
27		Submit for AHJ Review (Permit Package #1)	0 days	Tue 8/20/24	Tue 8/20/24
28		DD Design Complete (Permit Package #2)	0 days	Tue 9/24/24	Tue 9/24/24
25		Submit GMP Propsal	0 days	Mon 11/11/24	Mon 11/11/24
30		Owner GMP Review/Approval	20 days	Tue 11/12/24	Wed 12/11/24
24		CD Design Complete (Permit Package #2)	0 days	Thu 12/5/24	Thu 12/5/24
29		Submit for AHJ Review (Permit Package #2)	0 days	Fri 12/6/24	Fri 12/6/24
26		Set GMP/Phase 1 Complete	0 days	Wed 12/11/24	Wed 12/11/24
3		**Group Coordination Meeting**	**207 days**	**Thu 1/11/24**	**Thu 10/31/24**
31		**Design Schedule**	**285 days**	**Fri 1/19/24**	**Mon 3/3/25**
37		**Permit Package #1**	**210 days**	**Fri 1/19/24**	**Tue 11/12/24**
38		SD Design	45 days	Fri 1/19/24	Thu 3/21/24
39		SD Budget/Budget Update	10 days	Fri 3/22/24	Thu 4/4/24
40		DD Design	55 days	Fri 3/22/24	Fri 6/7/24
41		DD Budget/Budget Update	10 days	Mon 6/10/24	Fri 6/21/24
42		CD Design	50 days	Mon 6/10/24	Mon 8/19/24
43		CD Budget/Budget Update	10 days	Tue 8/20/24	Tue 9/3/24
44		AHJ Review	60 days	Tue 8/20/24	Tue 11/12/24
32		**Permit Package #2**	**150 days**	**Tue 7/30/24**	**Mon 3/3/25**
33		DD Design	40 days	Tue 7/30/24	Tue 9/24/24
34		DD Budget/Budget Udpate	10 days	Wed 9/25/24	Tue 10/8/24
35		CD Design	50 days	Wed 9/25/24	Thu 12/5/24
36		AHJ Review	60 days	Fri 12/6/24	Mon 3/3/25
45		GMP Final Project Estimate	20 days	Tue 10/15/24	Mon 11/11/24
46		**Phase 2**	**504 days**	**Tue 8/20/24**	**Fri 8/7/26**



Project: Benton County Juvenile
Date: Fri 12/22/23

Task	Project Summary	Manual Task	Start-only	Deadline	
Split	Inactive Task	Duration-only	Finish-only	Progress	
Milestone	Inactive Milestone	Manual Summary Rollup	External Tasks	Manual Progress	
Summary	Inactive Summary	Manual Summary	External Milestone		

Exhibit I: Subcontractor Procurement Plan

We would like to propose the following steps for the procurement of Subcontractor Firms throughout the project:

1. Chervenell will distribute a list of proposed subcontractors to invite to participate in an RFP process to Benton County. The following scopes will be selected subs – Electrical, Plumbing, HVAC, Security/Detention Hardware, Fire Alarm, Surveillance/CCTV/Access Control.
2. Benton County and Chervenell shall confirm RFP invite list and Chervenell shall distribute Requests For Proposal's to the preferred list of subcontractors for the required scopes of work.
3. Chervenell shall compile and submit such proposals to the Owner for review, accompanied by a recommendation for the preferred Subcontractor Firm. Chervenell will also make recommendations based on the submissions.
4. Upon approval of the selected Subcontractor by the Design-Build team, Chervenell shall notify the subcontractor of their selection and begin the process of executing a subcontract agreement for the required scope of work.

Subcontractor selection will be complete for the following trades – HVAC, Plumbing, Electrical, Detention Equipment, Security, Cameras, and Data/Low Voltage. Subcontractors will be asked to respond to an RFP. The RFP will require subs to provide a response that includes related project experience, a description of their team, including resumes, the outline of their project approach, and a fee for overhead and profit. The award will be made on a best-value basis based on the sub-responses to each section.

Self-Performance – Chervenell intends to self-perform the following trades but will still obtain subcontractor quotes to confirm value:

- Demolition
- Door and Hardware installation (non-detention doors)
- Division 10 specialties
- Site Furnishings

Exhibit J: Inclusion Plan

Office of Minority and Women Business Enterprises

Our team is committed to helping Minority-Owned Business Enterprises (MBE), Women-Owned Business Enterprises (WBE) and Emerging Small Business Enterprises (ESB) grow and mature can be traced to our firm's earliest years through relationships formed and nurtured with the other construction firms in the area.

This spirit of partnership has permeated Chervenell culture throughout our 45 years of business and includes an appreciation of diversity at our own practice. It has also helped us to successfully meet the goals of our public clients for OMWBE firm project participation.

Methods for providing opportunities to OMWBE and veteran-owned firms to help facilitate the selection of consultants for our projects include:

- Encourage employees to be open and to seek out MBE, WBE, ESB opportunities weekly
- Clearly communicate our outreach efforts to the supportive organizations, OMWBE, MBE, WBE, VBE, and SBE
- Be available for meetings to assist potential consultants in understanding project needs & selection process
- Be accessible to OMWBE firms by participating in programs and organizations focused on MWBE firms & networking
- Pro-actively identify potential contracting opportunities for OMWBE and veteran-owned firms
- Always treat consultants fairly & ethically
- Ensure prompt payment of consultants and subcontractors
- Provide monthly OMWBE utilization reports when invoicing clients
- Seek MBE, WBE, and veteran-owned firms through state agency listings & other organizations promoting them
- Periodically review progress on individual projects with OMWBE and MWESB goals throughout the year
- Issue Request for Proposals to subcontractors with consideration towards OMWBE firms

Outreach and inclusion of OMWBE certified firms occurs for each project by carefully evaluating the abilities and merits of each additional company to ensure our clients are receiving the highest level and service and expertise. We support the growth of and recognize the importance of OMWBE firms in our growing economy.

Chervenell Construction Company has worked with the following OMWBE recognized companies:

- Construction Ahead Inc, Kennewick, DBE, Curbs & Gutters, Asphalt, Striping and Sandblasting
- Custom Welding & Ornamental LLC, Kennewick, MBE, Steel Fabrication, Misc Metals
- Elite Construction & Development LLC, Pasco, DBE, Roofing, Siding & Painting
- Garrett Electric, Richland, SBE, Electric
- Padilla Masonry Inc., Kennewick, CBE, Masonry

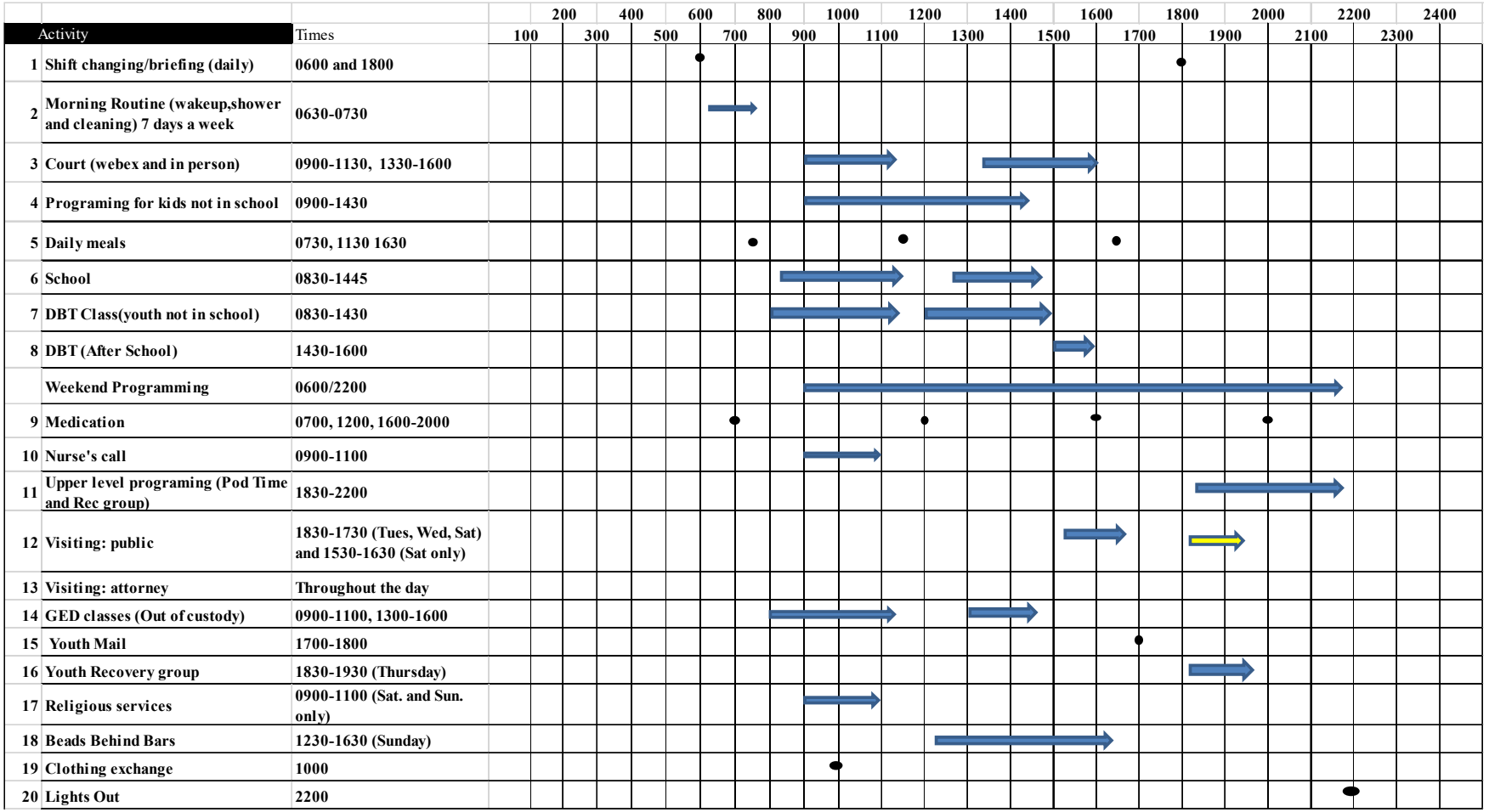
While this project does not contain requirements or goals for DBIA contractors, we understand the value and future benefits of a diverse sub-base. We will initiate an advertisement effort to solicit qualified firms. For this project, we will initiate a tracking and reporting program that will track critical information for making future projects successful. We will track the number of firms solicited, a number that bid on the project, and finally, the number of contract awards. Additionally, we will provide a narrative if a subcontractor was not selected and the reasoning to allow future projects more insight into the process.

Staffing Report

Benton County Staffing Study

Activities Schedule

	Activity	Times
1	Shift changing/briefing (daily)	0600 and 1800
2	Morning Routine (wakeup,shower and cleaning) 7 days a week	0630-0730
3	Court (webex and in person)	0900-1130, 1330-1600
4	Programing for kids not in school	0900-1430
5	Daily meals	0730, 1130 1630
6	School	0830-1445
7	DBT Class(youth not in school)	0830-1430
8	DBT (After School)	1430-1600
	Weekend Programming	0600/2200
9	Medication	0700, 1200, 1600-2000
10	Nurse's call	0900-1100
11	Upper level programing (Pod Time and Rec group)	1830-2200
12	Visiting: public	1830-1730 (Tues, Wed, Sat) and 1530-1630 (Sat only)
13	Visiting: attorney	Throughout the day
14	GED classes (Out of custody)	0900-1100, 1300-1600
15	Youth Mail	1700-1800
16	Youth Recovery group	1830-1930 (Thursday)
17	Religious services	0900-1100 (Sat. and Sun. only)
18	Beads Behind Bars	1230-1630 (Sunday)
19	Clothing exchange	1000
20	Lights Out	2200

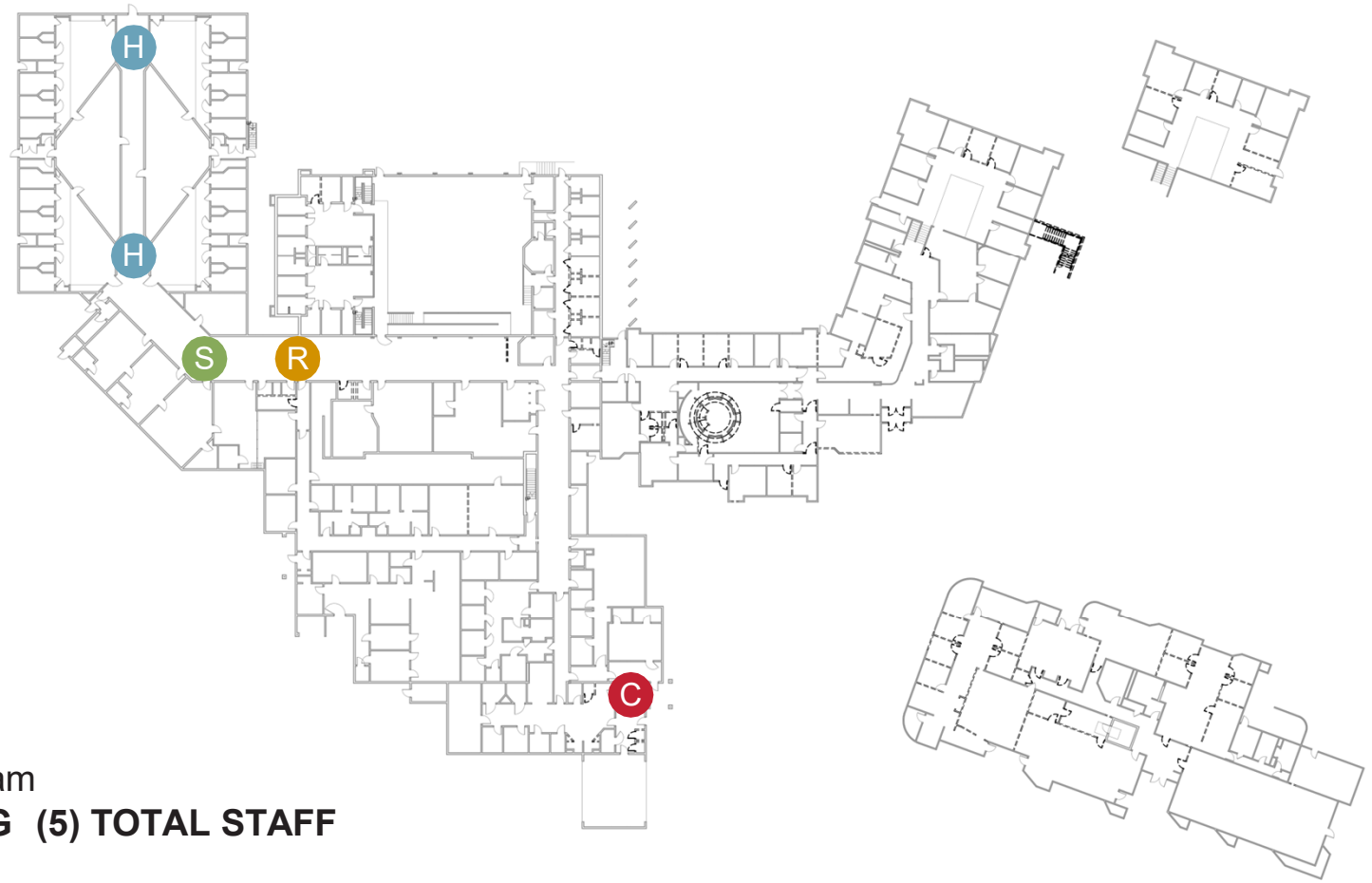


Benton County Staffing Study

Existing Facility

- 10:00 pm – 8:00 am (5) 4 detention + 1 supervisor
- 8:00 am – 10:00 am (6) 5 detention + 1 supervisor
- 10:00 am – 8:00 pm (7) 6 detention + 1 supervisor
- 8:00 pm – 10:00 pm (6) 5 detention + 1 supervisor

Existing Facility – 10pm–8am

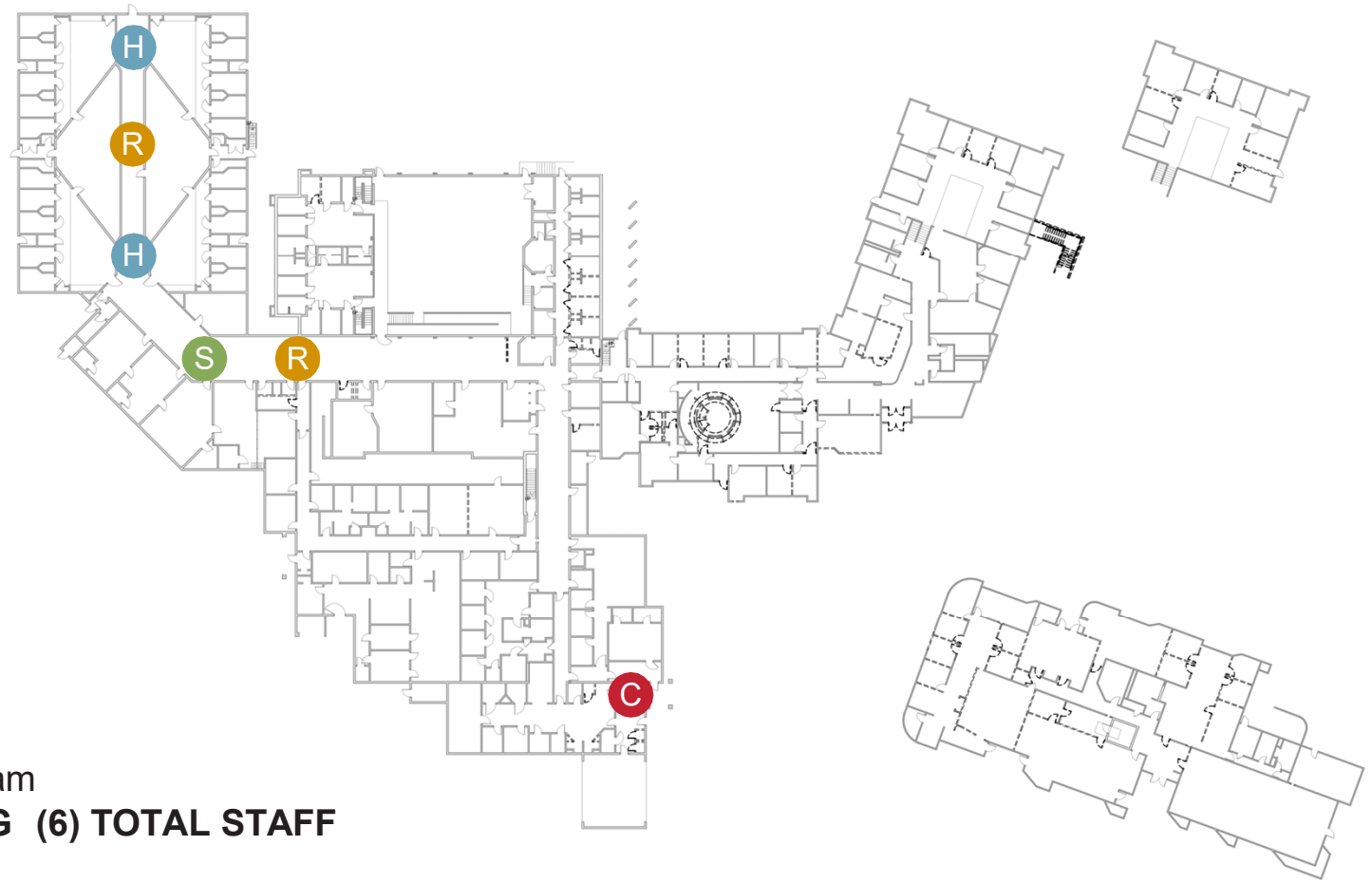


- R Rover
- H Housing
- S Supervisor
- C Control

10pm – 8am

STAFFING (5) TOTAL STAFF

Existing Facility – 8am–10am

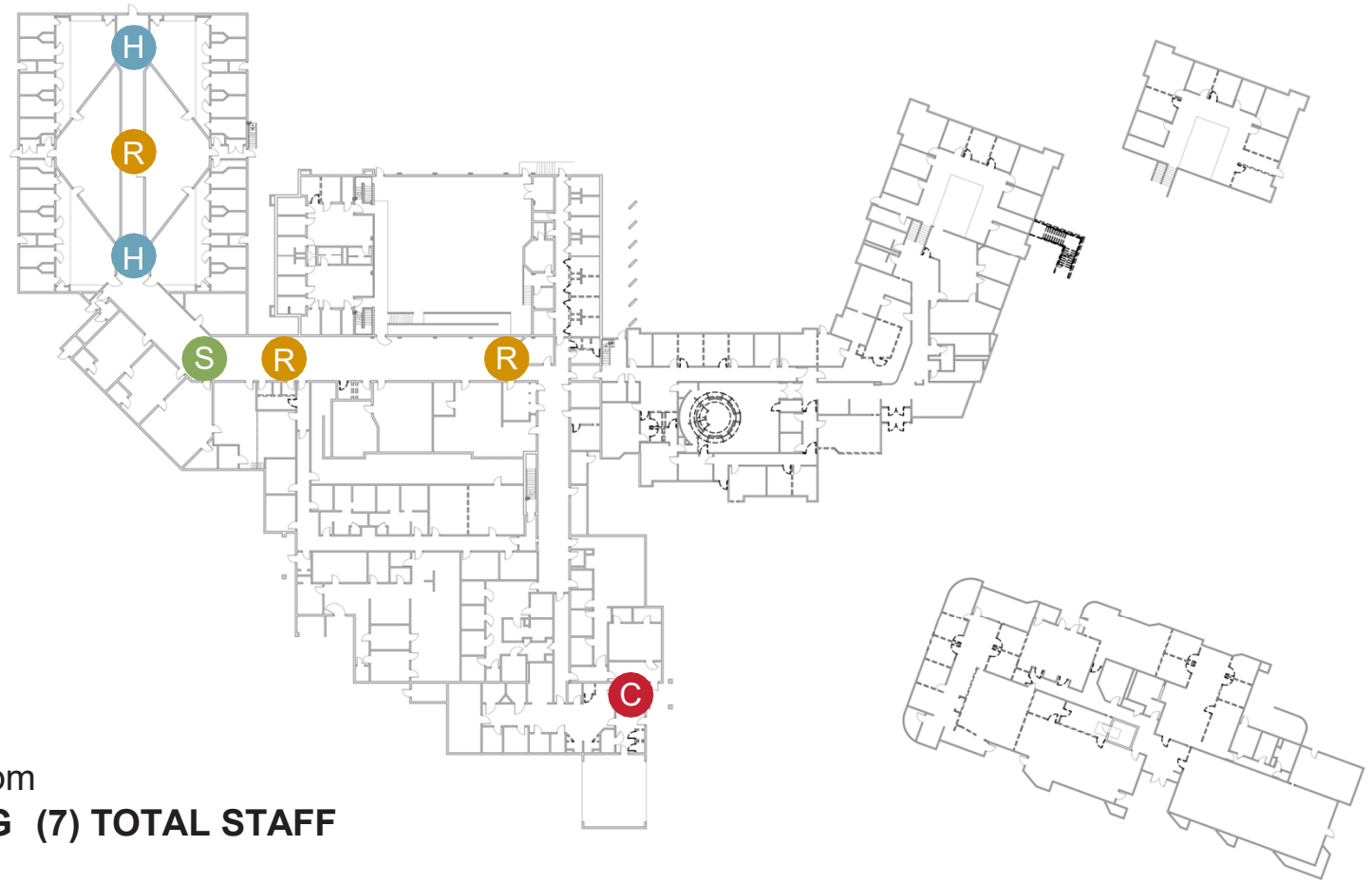


- R Rover
- H Housing
- S Supervisor
- C Control

8am – 10am

STAFFING (6) TOTAL STAFF

Existing Facility – 10am–8pm

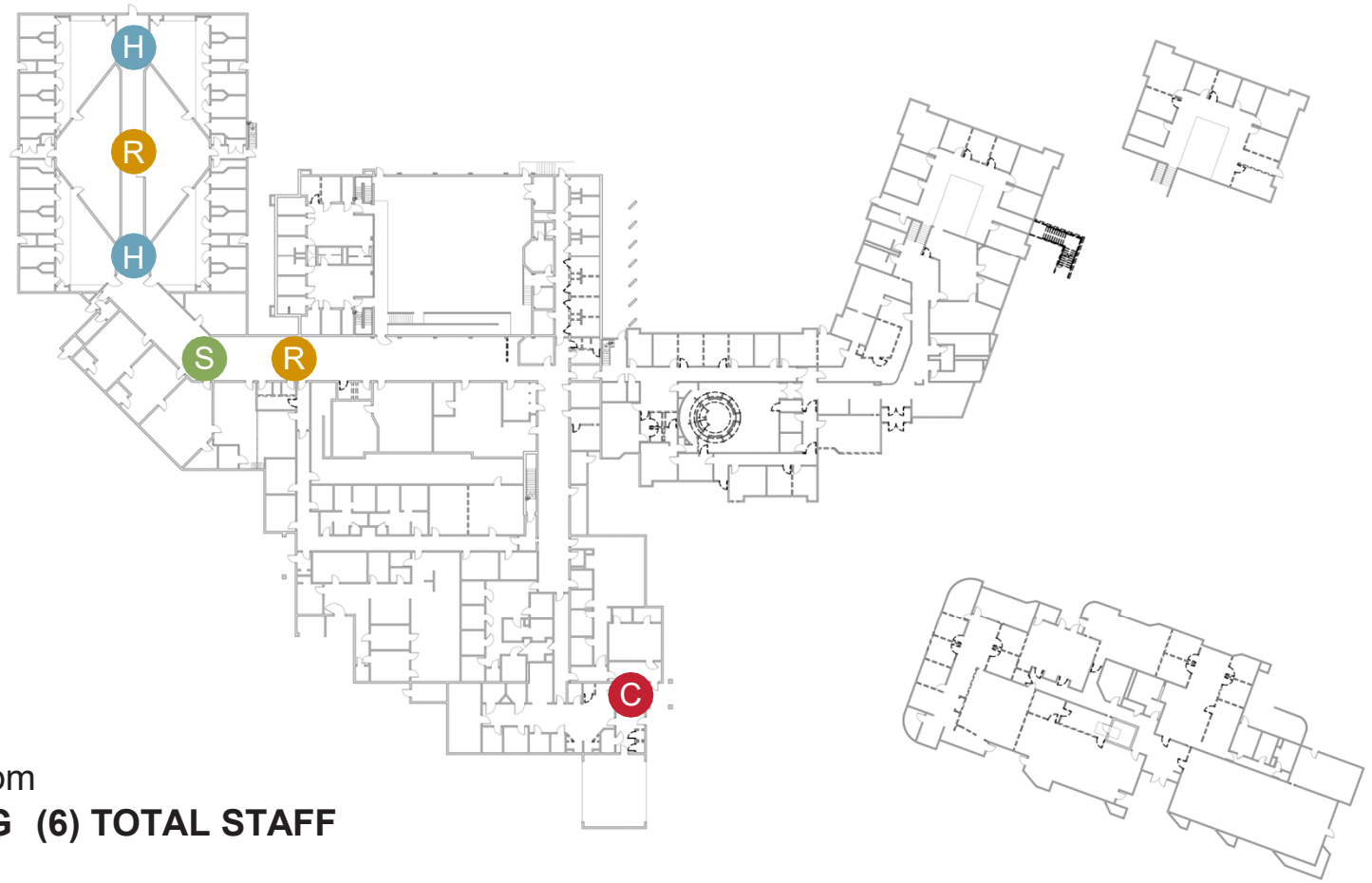


R Rover
H Housing
S Supervisor
C Control

10am – 8pm

STAFFING (7) TOTAL STAFF

Existing Facility – 8pm–10pm

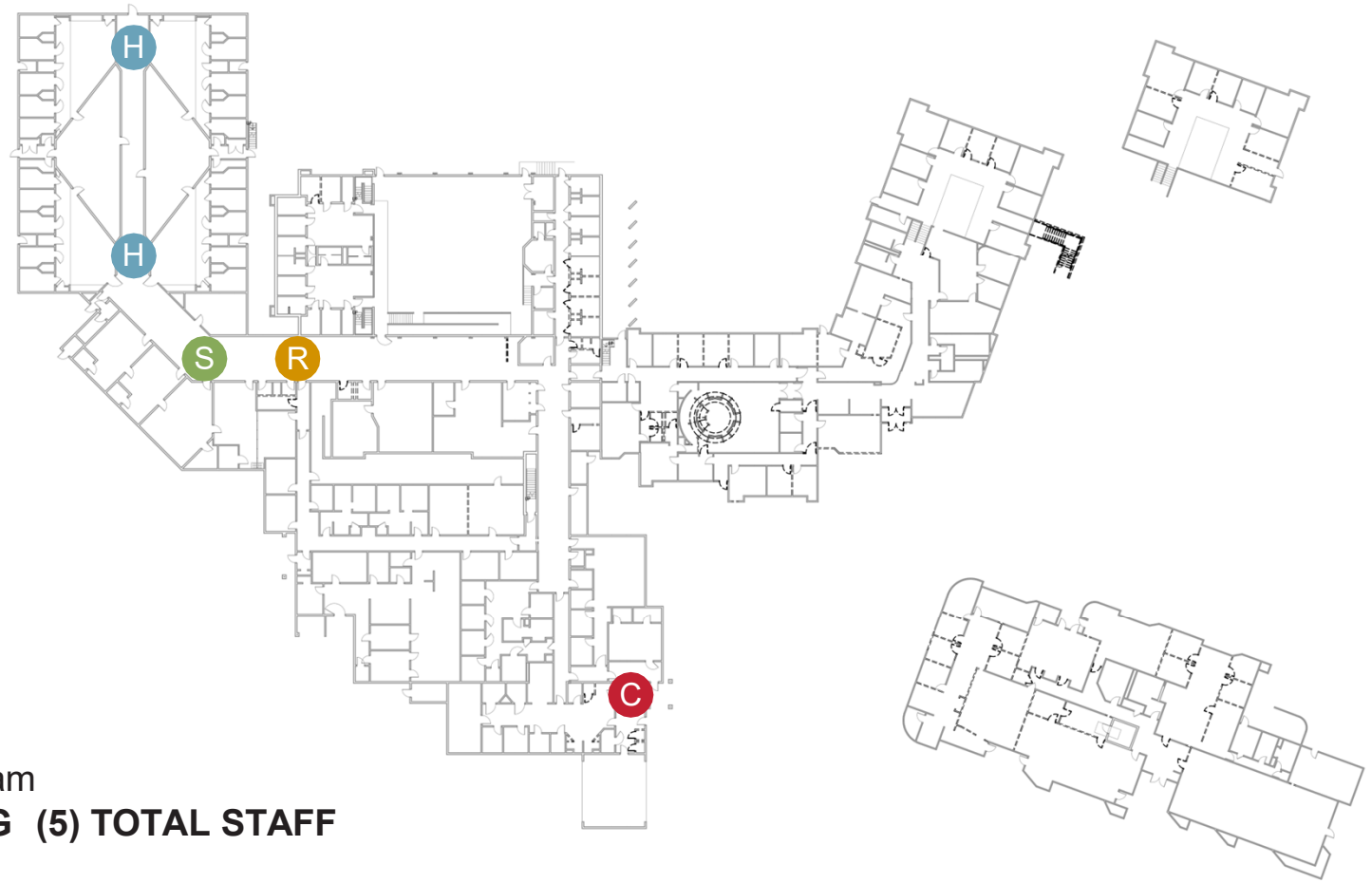


- R Rover
- H Housing
- S Supervisor
- C Control

8pm – 10pm

STAFFING (6) TOTAL STAFF

Existing Facility – 10pm–8am



- R Rover
- H Housing
- S Supervisor
- C Control

10pm – 8am

STAFFING (5) TOTAL STAFF

Benton County Staffing Study

Existing Facility

- 10:00 pm – 8:00 am (5) staff x 10 hours
- 8:00 am – 10:00 am (6) staff x 2 hours
- 10:00 am – 8:00 pm (7) staff x 10 hours
- 8:00 pm – 10:00 pm (6) staff x 2 hours

24 hours

Benton County Staffing Study

Existing Facility

- 10:00 pm – 8:00 am (5) staff x 10 hours = 50 shift hours
- 8:00 am – 10:00 am (6) staff x 2 hours = 12 shift hours
- 10:00 am – 8:00 pm (7) staff x 10 hours = 70 shift hours
- 8:00 pm – 10:00 pm (6) staff x 2 hours = 12 shift hours

24 hours = 144 shift hours per day

Benton County Staffing Study

Understanding Shift Coverage

- How is this difference addressed:

  "Kelly Time" – To accommodate a 12-hour shift rotation schedule and to manage a 40-hour average work week, each person works (6) 12-hour shifts and one 8-hour shift every 2 weeks (12 hours x 6 shifts = 72 hours + 8 hours = 80 hours to average 40 hours/week)

  This "Kelly Time" results in a post left unattended for 4 hours and are never covered, resulting in one post unoccupied on each shift for 4 hours each day of a 12-hour shift.

  Overtime and temporary relief workers are used to cover time off for vacation, sick leave and other non post time, but are NOT used to cover the 4 hours that posts are vacated due to Kelly Time. Last year overtime and relief accounted for 6,715 hours, or an average of 280 hours for each of the 24 staff.

  A Supervisor or another post position covers the duties for 4 hours each shift for the Kelly Time employee, but the Supervisor is not assigned to a stationary post. The shift simply runs one person down for those 4 hours each shift.

Benton County Staffing Study

Kelly Time

Days	Nights
0600- 5 Staff	1800-7 Staff
0700- 5 Staff	1900- 7 Staff
0800-6 Staff	2000- Staff
0900- 6 Staff	2100- 6 Staff
1000-7 Staff	2200- 5 Staff
1100-7 Staff	2300- 5 Staff
1200-7 Staff	2400- 5 Staff
1300-7 Staff	0100- 5 Staff
1400-7 Staff	0200- 5 Staff
1500-7 Staff	0300- 5 Staff
1600-7 Staff	0400- 5 Staff
1700-7 Staff	0500- 5 Staff
1800-7 Staff	0600- 5 Staff

Days	Nights
0600- 5 Staff	1800-7 Staff
0700- 5 Staff	1900- 7 Staff
0800-6 Staff	2000- Staff
0900- 6 Staff	2100- 6 Staff
1000-7 Staff	2200- 5 Staff
1100-7 Staff	2300- 5 Staff
1200-7 Staff	2400- 5 Staff
1300-7 Staff	0100- 5 Staff
1400-7 Staff	0200- 5 Staff
1500-7 Staff	0300- 5 Staff
1600-7 Staff	0400- 5 Staff
1700-7 Staff	0500- 5 Staff
1800-7 Staff	0600- 5 Staff

Note: Above is a snapshot of a single day schedule that reflect time where staff would be off due to "Kelly time" (8-hour day per CBA).

5 staff (including supervisor) that would take their Kelley time either at the beginning of shift or at the end of shift. 0600-1000 or 1800-2200

Powershift 1- 0800/2000 hours. They split their Kelly time a different way. When they take their Kelley time it is broken into 2 different time slots. 0800/1000 and 1800/2000 hours (Equaling 4 hours). This is done so that their Kelly time does not affect both the day shift and night shift, allowing a core shift person to still take their time from 1400/1800.

Power shift 2- 1000/2200 hours- This shift only can take their Kelley time at the end of their shift1800/2200

Benton County Staffing Study

Existing Facility

- 10:00 pm – 8:00 am (5) staff x 10 hours = 50 shift hours
- 8:00 am – 10:00 am (6) staff x 2 hours = 12 shift hours
- 10:00 am – 8:00 pm (7) staff x 10 hours = 70 shift hours
- 8:00 pm – 10:00 pm (6) staff x 2 hours = 12 shift hours

24 hours = 144 shift hours per day

Kelly Time: 24 staff x 4 hours every 2 weeks = 96 hours divided by 14 days reduces by

= 6.8 shift hours per day

= 137.2 shift hours per day total

x 365 days

50,078 total shift hours covered per year

Benton County Staffing Study

Existing Facility

- 10:00 pm – 8:00 am (5) staff x 10 hours = 50 shift hours
- 8:00 am – 10:00 am (6) staff x 2 hours = 12 shift hours
- 10:00 am – 8:00 pm (7) staff x 10 hours = 70 shift hours
- 8:00 pm – 10:00 pm (6) staff x 2 hours = 12 shift hours

24 hours = 144 shift hours per day

Kelly Time: 24 staff x 4 hours every 2 weeks = 96 hours divided by 14 days reduces by

= 6.8 shift hours per day

= 137.2 shift hours per day total

x 365 days

50,078 total shift hours covered per year

div by 24 staff

= 2086 hours per person per year

Benton County Staffing Study

Net Annual Work Hours (NAWH):

Total hours contracted per employee per year (40 X 52.14 weeks)		**2,086 hrs**
Avg number of vacation hours per employee per year	168 hrs	
Avg number of holiday hours off per employee per year	104 hrs	
Avg number of compensatory hours off per employee per year	33 hrs	
Avg number of sick leave hours off per employee per year	62 hrs	
Avg number of training hours off per employee per year	7 hrs	
Job injury/Workers Compensation leave (excl sick leave)	14 hrs	
Avg number of hours of leave without pay	10 hrs	
Total non-shift hours	398 hours	
Net Annual Work Hours (Total hours less total non-shift hours)		**1,688 hours**

Benton County Staffing Study

Overtime and Relief

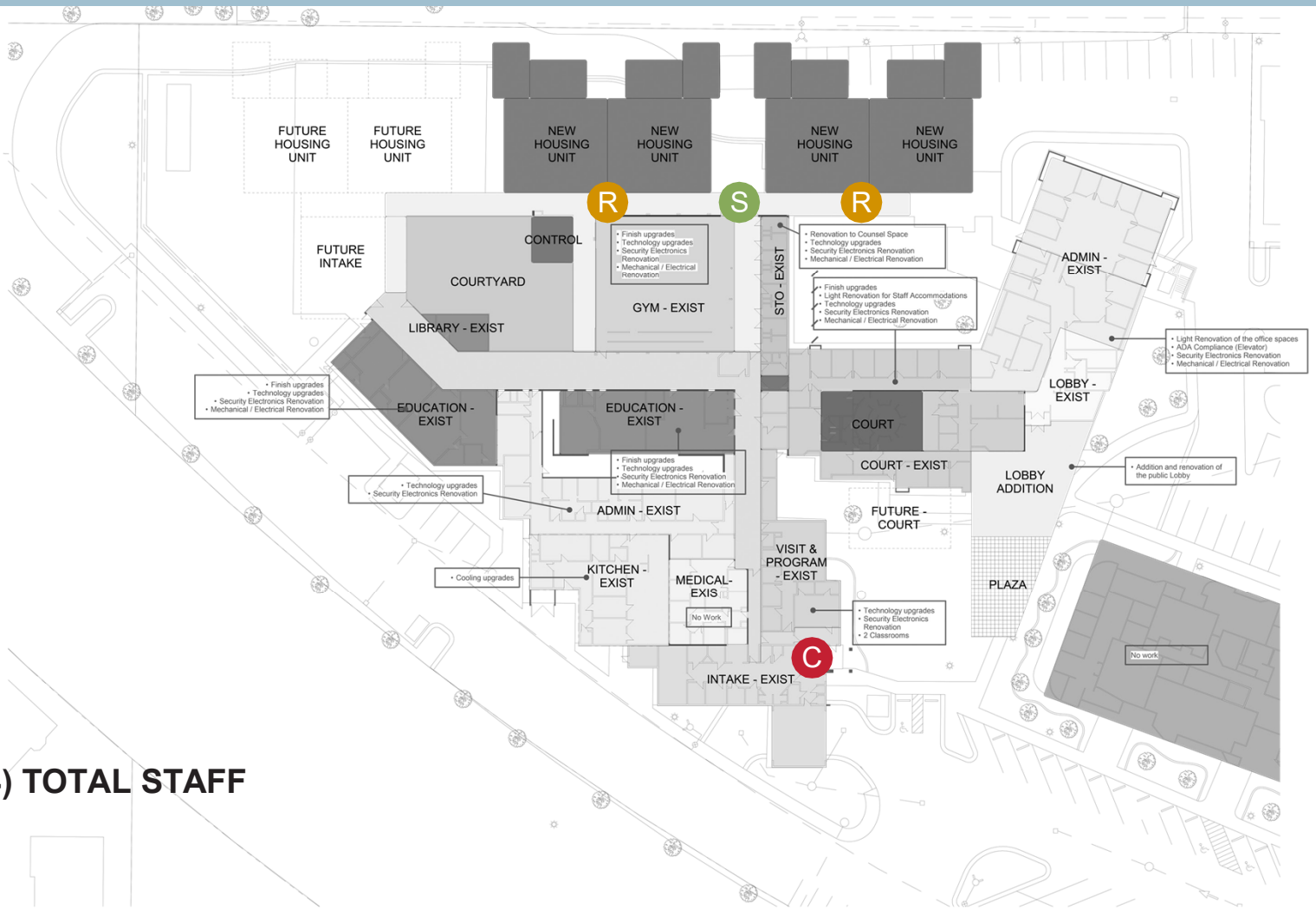
TOTAL OT & RELIEF	2017	2018	2019	2020	2021	2022	2023
JAN.	$14,750.00	$14,286.00	$17,559.00	$25,357.62	$21,114.46	13,903.48	12,285.02
FEB.	$7,875.00	$12,129.00	$14,256.00	$20,440.83	$17,693.71	11,238.19	9,265.50
MAR.	$11,284.00	$12,861.00	$13,878.19	$14,557.40	$19,182.56	8,249.59	23,162.55
APRIL	$19,747.00	$11,385.00	$19,066.76	$17,378.95	$18,915.75	15,854.35	32,298.04
MAY	$10,344.00	$14,913.00	$23,275.14	$14,330.67	$12,476.40	10,717.56	22,521.00
JUNE	$14,625.00	$18,296.00	$25,456.85	$9,495.79	$11,695.39	14,835.81	21,838.29
JULY	$17,126.00	$20,450.00	$22,573.82	$17,434.62	$15,049.33	20,996.34	32,217.06
AUG.	$18,100.00	$21,607.00	$16,470.60	$13,139.94	$13,660.82	18,376.12	34,763.69
SEPT.	$17,171.00	$21,694.00	$19,557.07	$11,172.71	$5,730.79	23,147.06	0.00
OCT.	$16,512.00	$22,442.00	$19,226.95	$16,290.50	$8,917.50	28,327.51	0.00
NOV.	$15,736.00	$14,182.00	$26,681.16	$8,421.86	$4,417.00	13,906.95	0.00
DEC.	$17,963.00	$17,414.00	$21,990.13	$22,936.32	14,344.83	22,550.74	0.00
YEARLY OT & RELIEF TOTALS	$181,233.00	$201,659.00	$239,991.67	$190,957.21	$163,198.54	$202,103.70	$188,351.15

Benton County Staffing Study

Proposed Hybrid Supervision Model

- Create observation positions outside each pair of housing units so indirect supervision can be employed when necessary
- Change staff allocations and shift schedules to allow a direct supervision model primarily when juveniles are in the housing unit during waking hours

Proposed Hybrid Supervision Model – 10pm–6am



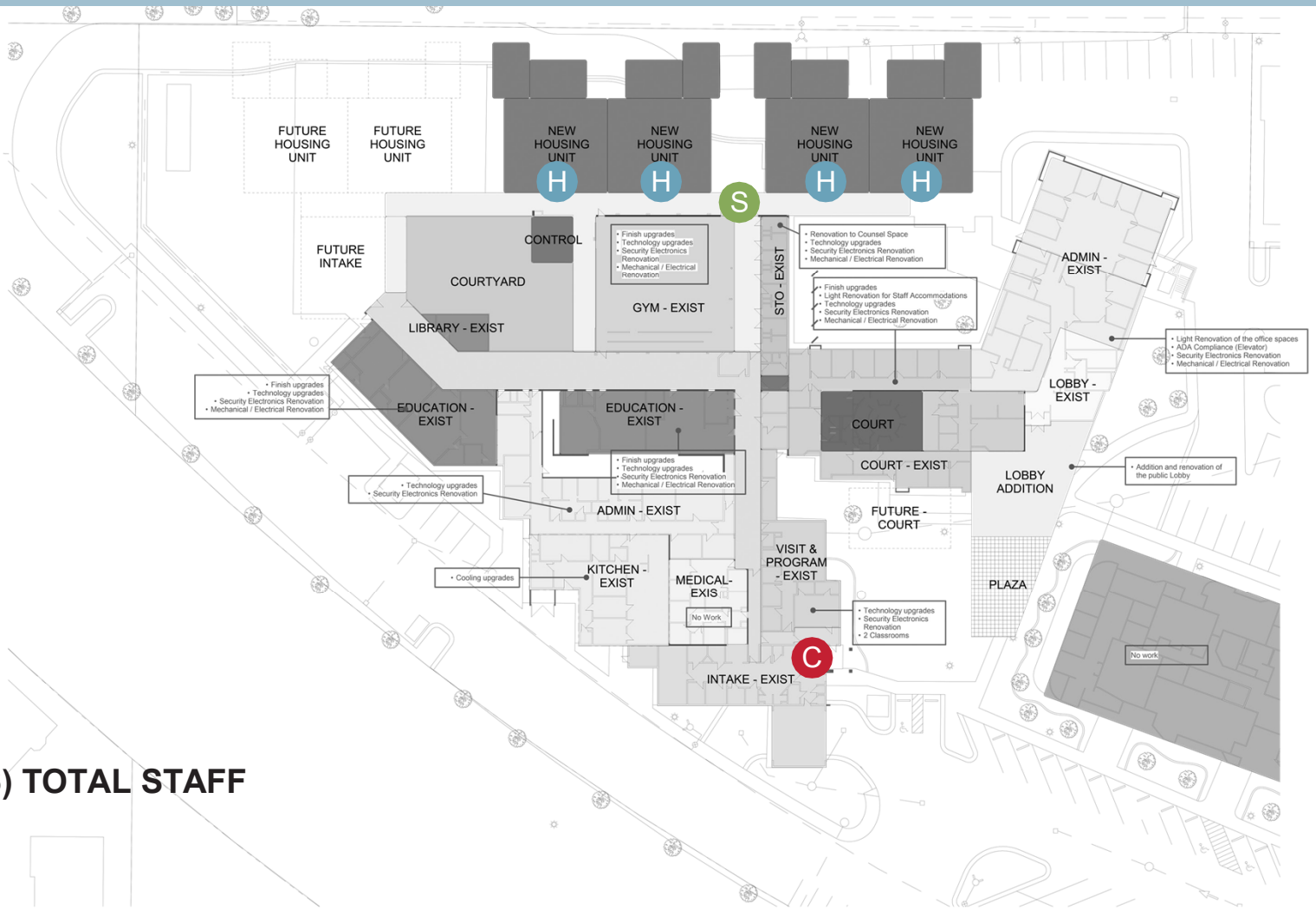
R Rover
H Housing
S Supervisor
C Control

10pm – 6am

STAFFING (4) TOTAL STAFF

TREANORHL

Proposed Hybrid Supervision Model – 6am–8am



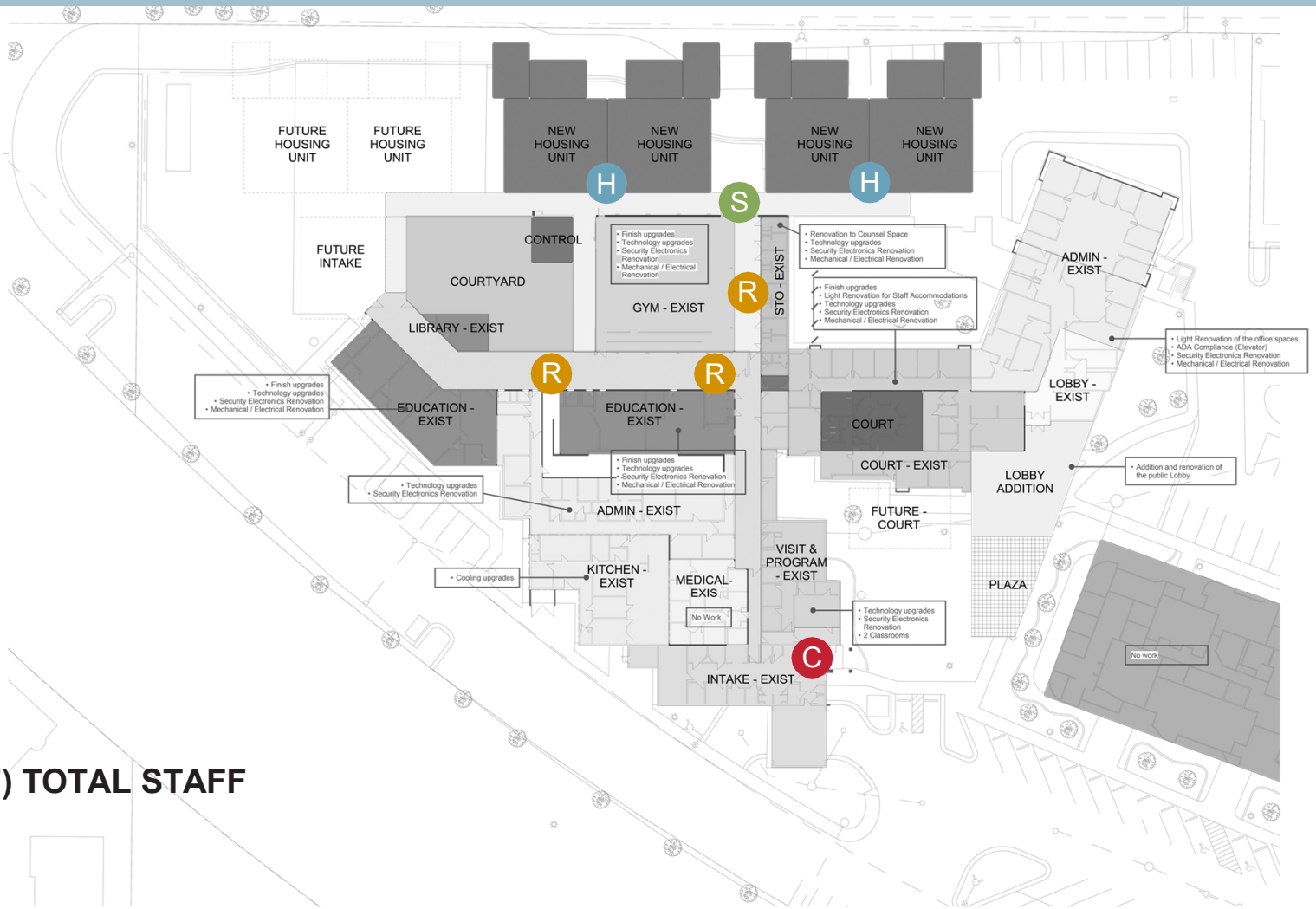
- R Rover
- H Housing
- S Supervisor
- C Control

6am – 8am

STAFFING (6) TOTAL STAFF

TREANORHL

Proposed Hybrid Supervision Model – 8am–8pm

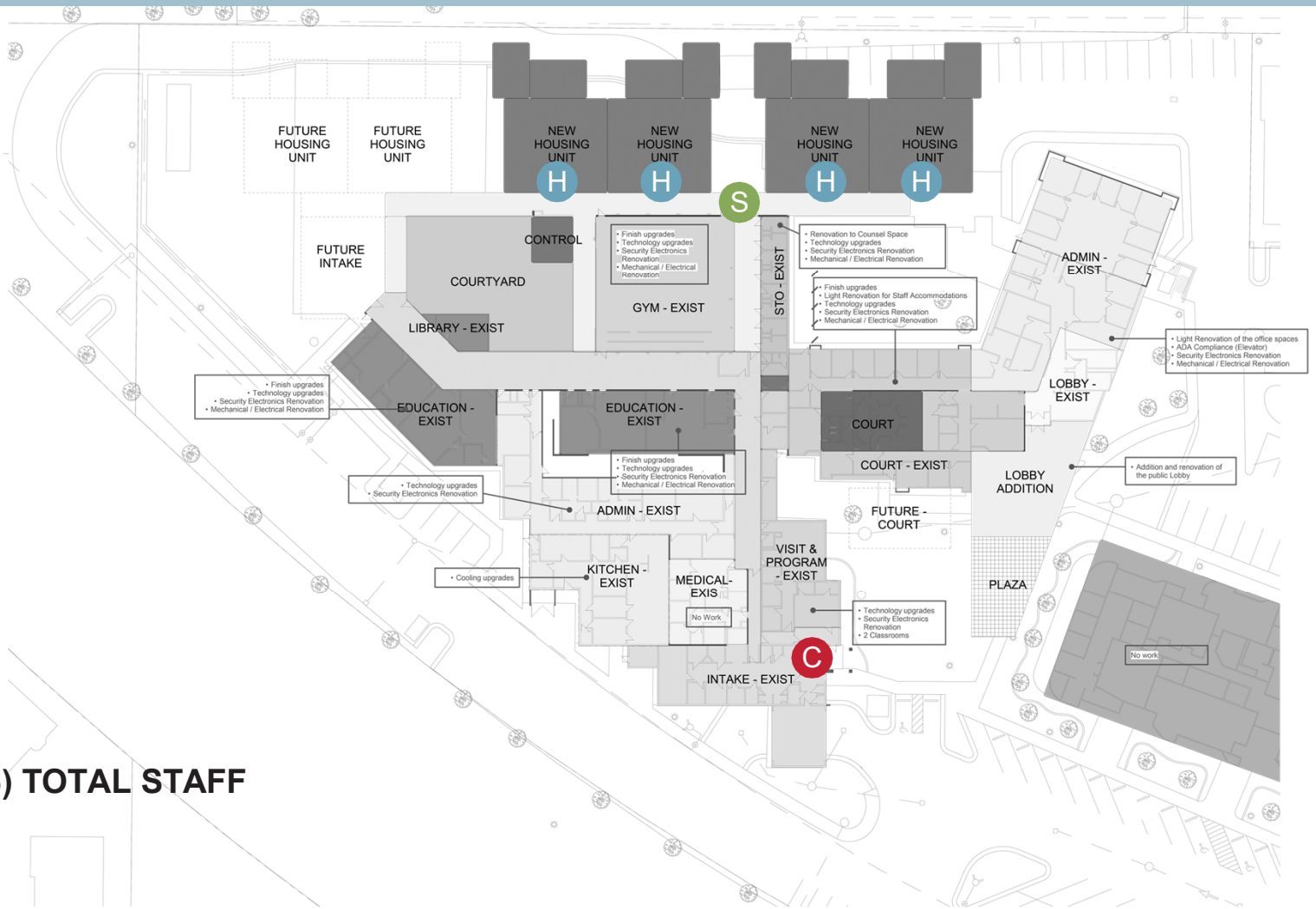


R Rover
H Housing
S Supervisor
C Control

8am – 8pm
STAFFING (7) TOTAL STAFF

TREANORHL

Proposed Hybrid Supervision Model – 8pm–10pm



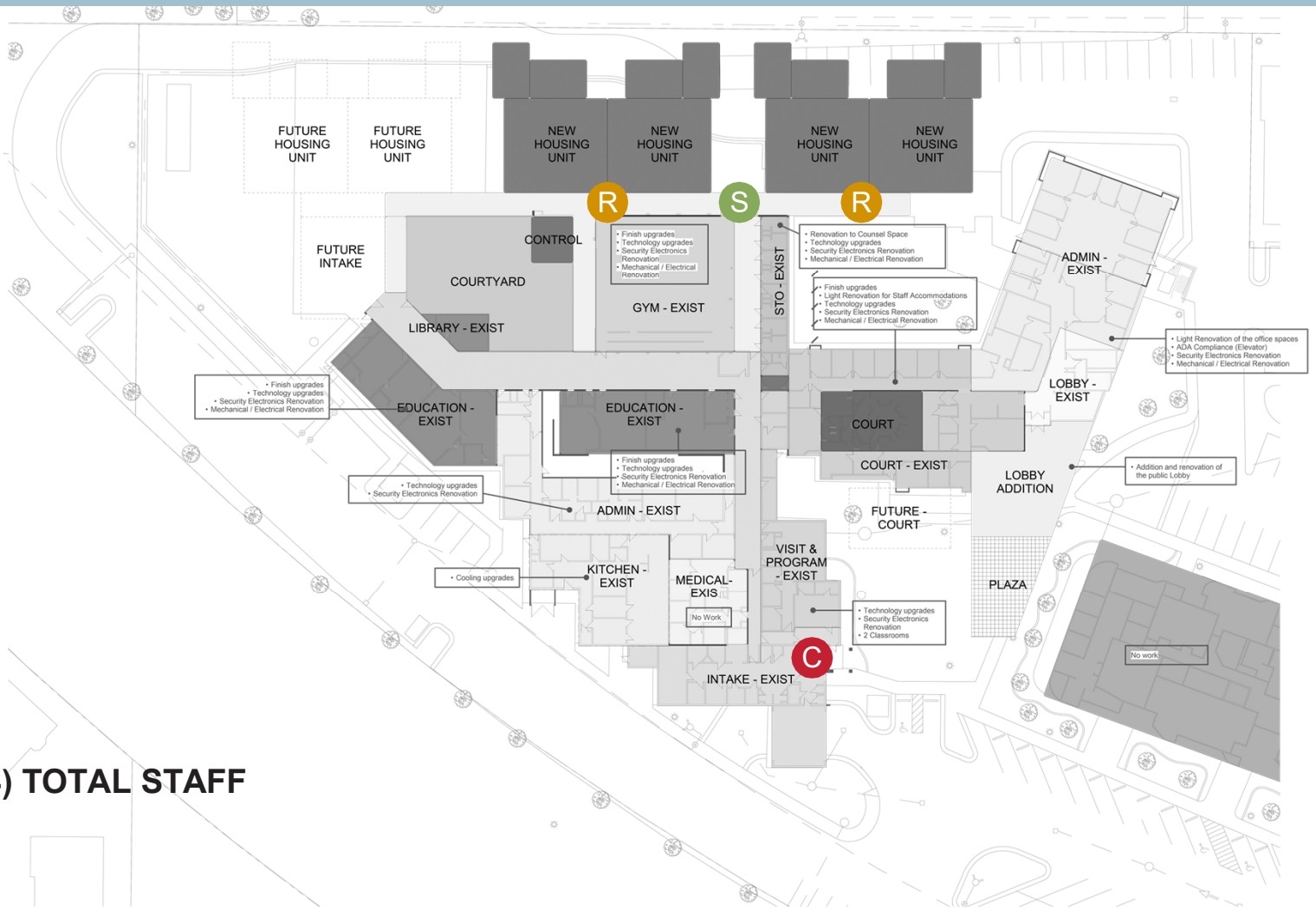
- R Rover
- H Housing
- S Supervisor
- C Control

8pm – 10pm

STAFFING (6) TOTAL STAFF

TREANORHL

Proposed Hybrid Supervision Model – 10pm–6am



R Rover
H Housing
S Supervisor
C Control

10pm – 6am

STAFFING (4) TOTAL STAFF

TREANORHL

Benton County Staffing Study

Proposed Hybrid Direct Supervision Facility

- 10:00 pm – 6:00 am (4) staff x 8 hours = 32 shift hours
- 6:00 am – 8:00 am (6) staff x 2 hours = 12 shift hours
- 8:00 am – 8:00 pm (7) staff x 12 hours = 84 shift hours
- 8:00 pm – 10:00 pm (6) staff x 2 hours = 12 shift hours

24 hours = 140 shift hours per day

Kelly Time: 24 staff x 4 hours every 2 weeks = 96 hours divided by 14 days reduces by

= 6.8 shift hours per day

= 133.2 shift hours per day total

x 365 days

48,618 total shift hours covered per year

div by 24 staff

= 2025 hours per person per year

Difference of 60 hours less per year of relief time per employee

Benton County Staffing Study

Conclusions

- The New Facility housing should be designed to allow a hybrid of direct and indirect supervision to allow the facility to maximize the use of direct supervision during the times when juveniles are present in the housing unit.
- The new facility should be able to operate with the same number of staff in a similar staffing pattern to the existing facility; the primary difference would be a shift to one less on nights allowing one more during the day.
- The “Kelly Time” process that currently leaves one post uncovered for periods of time each day will continue to be employed in the new configuration.
- Relief and overtime currently used to support the 24 staff members will continue to be needed in the new configuration.

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	January 9, 2024
Subject:	PayneWest Insurance Name Change to Marsh McLennan Agency Broker/Agent
Presenter:	N/A
Prepared By:	Adam Morasch, Risk Manager
Reviewed By:	Mary Christen, Administrative Assistant

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

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

Summary / Background Information

On November 28, 2023, the Board of County Commissioners passed Resolution 23-810 to appoint PayneWest Insurance as Benton County's agent and/or broker for insurance policies and/or bonds for 2024. PayneWest Insurance officially changed their name to Marsh McLennan Agency on September 5, 2023. This amendment is necessary to recognize the business name change.

Fiscal Impact

None, other than budgeted

Recommendation

Approve the attached Resolution to use Marsh McLennan as our agent/broker for insurance policies and bonds.

Suggested Motion

Consent Agenda

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AUTHORIZING AN AMENDMENT TO RESOLUTION 23-810 FOR BUSINESS NAME CHANGE FROM PAYNEWEST INSURANCE TO MARSH MCLENNAN AGENCY

WHEREAS, on November 28, 2023, the Board of County Commissioners passed Resolution 23-810 to appoint PayneWest Insurance as Benton County's agent and/or broker for insurance policies and/or bonds for 2024; and

WHEREAS, PayneWest Insurance joined Marsh McLennan Agency on April 1, 2021; and

WHEREAS, PayneWest Insurance officially changed their name to Marsh McLennan Agency on September 5, 2023; and

WHEREAS, this amendment is necessary to recognize the name change of the business from PayneWest Insurance to Marsh McLennan Agency; **NOW, THEREFORE,**

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington hereby concurs with the amendment to Resolution 23-810, to recognize the business name change to Marsh McLennan Agency; and

BE IT FURTHER RESOLVED, all other terms and conditions of said Resolution remain the same.

Dated this _____ day of_____ , 2024.

_____
Chairman of the Board

_____
Chairman Pro-Tem

_____
Commissioner

Constituting the Board of County

Commissioners of Benton County, Washington

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

cc: Risk Management, Auditor's Office A. Morasch

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	9 January 2023
Subject:	Targeted Urban Areas – Approving the Application of ATI Incorporated
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

For Board consideration is adoption of a resolution accepting ATI Inc's Targeted Urban Area application offering ATI a ten-year property tax abatement for Benton County's portion of property taxes on new construction in a form allowed under and consistent with Chapter 84.25 RCW.

Background

This action deals with Benton County's specific and first use of the "Targeted Urban Area" (TUA) economic development tool that aims to help communities in Washington recruit and retain industrial and manufacturing employers that provide "family living wage" jobs as defined by the State. Commissioners were first briefed on this topic by County, City of Richland, and TRIDEC staff on May 2, 2023. On December 5, 2023, commissioners received a second briefing, then acted to recognize Richland's "Horn Rapids Triangle" TUA as the first designated place in Benton County from where the County would accept TUA applications. Commissioners further directed staff to set-up an initial application process, work with the City to develop a City-County integrated and seamless application/review/approval process longer term, and to accept an application from ATI, from which Richland, -- as the "governing authority" – had already approved a similar application.

About TUAs & Tax Exemptions

The TUA tool is relatively new, and Richland's Horn Rapids Triangle TUA is the first in the state with ATI being the first recipient of the tax abatement. A property tax exemption is available to businesses undertaking new construction within a designated TUA operating specific manufacturing & industrial uses as defined in the Standard Industrial Class (SIC) List D (Manufacturing) or List E (transportation). These codes are determined by the Interdepartmental Committee on Industrial Statistics of the Central Statistical Board of the United States. *The exemption applies to new building improvements made upon undeveloped or underdeveloped property with a minimum improvement valuation of $800,000 and that will create at least 25 "family living wage" jobs. The exemption does not apply to land value, pre-existing improvements, or any other sales taxes, income taxes, business and occupation taxes, and so on.* The abatement can be offered for up to ten years. Richland has

chosen to offer the abatement for the full ten years, and staff recommends Benton County do the same in order to marry-up these two separate but symbiotic exemptions more seamlessly.

About ATI in North Richland

ATI (originally known as Allegheny Technologies, Incorporated) is a producer of specialty materials headquartered in Dallas, Texas. ATI's Richland plant, which came online in 1996, smelts titanium and other metals for the aerospace, defense, medical, and electronics industries. The company reports to have approximately $1.2 billion in secured business commitments from aerospace and defense clients. ATI's project in the Horn Rapids Triangle would include the construction of three new buildings on its 100-acre property, adding 49,000-square feet to the operation and creating 93 new jobs. The project is valued at $111 million.

Today's Action

The resolution before the Board approves ATI's application for the ten-year property tax exemption on Benton County's portion of the value of new construction at ATI's site, and further authorizes County staff to finalize any other paperwork necessary to put this action into force, including issuance of a certificate of property tax exemption.

Today's action applies only to the ATI application. However, staff is aware that another application from a separate existing operator within the Horn Rapids Triangle TUA who is looking at a major expansion may be forthcoming in the new future. Each future application would be handled individually.

Why?

Tax incentives can be controversial. Employers like the ones TUAs are designed for can be few and far between. Many communities are looking for these companies – to land them, retain them, and get them to expand. Companies like ATI make massive, long-term capital investments, and they typically have a high number and inordinate ratio of highly-skilled employees that make very good wages, often in jobs that don't require a college degree. ATI projects over 90 such new positions being added in Richland. These will be jobs on which someone can support a family and spin disposable income off into other places in the Tri-Cities economy. These can be difficult employers to attract and retain. The TUA option is allowing North Richland to compete nationally with other communities to attract these new manufacturing and industrial jobs to the area. In this particular case, Benton County was competing with a site in Union County, North Carolina. ATI has stated that but for this program, their expansion would not be happening in Richland.

Fiscal Impact

The fiscal impacts for the City and the County come in the form of certain unrealized property tax revenues on high-value construction in the future that may not happen at all but for the incentive. The County will not "lose" anything or have to pay anything.

For Richland, the estimated impact over the ten years is about $2,563,000 in waived property tax revenue.

For Benton County, the estimated impact over the ten years is about $1,000,000 in waived property tax revenue.

Recommendation

Staff recommends offering the ten-year TUA tax abatement to ATI Inc and signing the attached resolution.

# # #

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF APPROVING AN APPLICATION FROM ATI, INCORPORATED FOR A PROPERTY TAX EXEMPTION UNDER THE BENTON COUNTY'S TARGETED URBAN AREA PROGRAM

WHEREAS, Benton County is committed to the recruitment and retention of industrial and manufacturing enterprises in the County, and encourages the construction of new industrial and manufacturing facilities on appropriately-zoned undeveloped or underutilized properties within the County that will provide family living wage job creation; and,

WHEREAS, the City of Richland, as the "governing authority" pursuant to Chapter 84.25 RCW, established a *Targeted Urban Area* (TUA) for undeveloped and underutilized industrial lands in the 'Horn Rapids Triangle' area of the city (January 17, 2023 – Resolution 2023-10); and,

WHEREAS, Benton County, pursuant to Chapter 84.25 RCW, recognized Richland's Horn Rapids Triangle TUA as a zone from which the County would also consider the granting of certain TUA-specific property tax abatement incentives (December 12, 2023 – Resolution 2023-861); and,

WHEREAS, as a part of its December 12, 2023 action, the Benton County Board of Commissioners authorized a program whereby industrial property owners may qualify for a *'Certificate of Property Tax Exemption for Industrial Manufacturing Uses'*, certifying to the Benton County Assessor and Benton County Treasurer that the applicant is eligible to receive certain property tax exemptions for new industrial facilities constructed on undeveloped or underutilized lands; and directed staff to develop a program for implementation of this program; and,

WHEREAS, ATI Incorporated (ATI) applied for (June 21, 2023) and was granted (July 18, 2023) a property tax exemption for the value of it construction of new industrial manufacturing facilities on undeveloped property that it owns located at 3101 Kingsgate Way within Richland's Horn Rapids Triangle TUA by the City of Richland; and,

WHEREAS, on December 22, 2023 ATI submitted a similar application for property tax exemption to Benton County, outlining the development of new industrial facilities, including size and cost, and the intended number of permanent new positions that will be created onsite as a result of the new construction that will be paid a minimum "family living wage" of $23.00 per hour; and,

WHEREAS, the new industrial facilities to be built on ATI's property satisfy the requirements for a TUA Property Tax Exemption Certificate pursuant to Chapter 84.25 RCW, and as such Benton County concludes that the application from ATI is fully-qualified; and,

WHEREAS, pursuant to Chapter 84.25.040(4) RCW, Benton County, by resolution, may allow for ATI's requested property tax exemption within the City of Richland's Horn Rapids Triangle Targeted Urban Area; **NOW THEREFORE**,

BE IT RESOLVED, by the Board of County Commissioners that the Property Tax Exemption Application for Industrial/Manufacturing Uses submitted by ATI Incorporated and attached hereto as **Exhibit A**, is hereby approved.

BE IT FURTHER RESOLVED, that the Chairman or Chairman Pro Tem of the Board of Commissioners are authorized to sign and execute a Certificate of Tax Exemption Agreement and any additional accompanying or applicable paperwork with ATI Incorporated, consistent with the requirements of Chapter 84.25 RCW, granting a ten-year property tax abatement for Benton County's portion of property tax on new construction.

Dated this 9th day of January 2024.

_____
Chairman of the Board

_____
Chairman Pro Tem

_____
Commissioner

Constituting the Board of County
Commissioners of Benton County
Washington.

Attest.....
Clerk of the Board

cc: Benton County Assessor, Auditor, Treasurer, & Prosecutor (Godinez)
City of Richland, Tri-Cities Development Council, Benton-Franklin Council of Governments, ATI Inc

Prepared by: A.J. Fyall

EXHIBIT A

PROPERTY TAX EXEMPTION APPLICATION FOR INDUSTRIAL/MANUFACTURING USES (CHAPTER 84.25 RCW)

Version 1
Oct 2023

ALL SECTIONS MUST BE COMPLETED

FOR AGENCY USE	Date:	Application #	

PROPERTY INFORMATION			
Project Name	**Titanium Metals Expansion Supporting the Aerospace Industry**		
Ownership Company	**ATI**		
Site Address	**3101 Kingsgate Way, Richland WA**	**Tax Parcel ID**	**1-608-300-0001-003**

MAIN CONTACT			
Applicant Name	**Doug Hosie**		
Address	**1600 Old Salem Rd, NE**		
City, State, Zip	**Albany, OR 97321**		
Work Phone	**541-961-9332**	**Mobile Phone**	**541-961-9332**
Email	**doug.hosie@atimaterials.com**		

PROJECT INFORMATION		
Standard Industrial Class (SIC) Division D within Major Group 33	**SIC – D: Manufacturing #** Code 3341 – Secondary Smelting & Refining of Nonferrous	**SIC – E: Transportation #**
Project Description (Attach additional pages, if needed)	Potential expansion of Titanium melt operation supporting aerospace industry to include an additional electron beam furnace, vacuum arc furnace, maintenance & tolling facility, and an analytical laboratory. In total the expansion would add 49K sq. feet of buildings to our Richland operation. Total project would be ~$111M with approximately ½ of this done by local skilled trade workers for land and building construction and improvements.	
Project Cost $ 111,095,000	**Industrial/Manufacturing Uses Only** $ 111,095,000	**Total Building Costs** $ 46,073,492
Square Footage of Existing Building 100,000	**Proposed Exemption Square Footage (new buildings only)** 49,000	**Total Building Square Footage (upon completion)** 149,000

EMPLOYEE INFORMATION

1. Will the business offer healthcare benefits? ☒ Yes ☐ No
2. How many permanent, full-time (2,080 hours/year) positions will be created? 93
3. How many of the new positions created will be paid a minimum living wage of $23/hour or more? 87
4. Will the business compensate workers at prevailing wage rates? ☐ Yes ☒ No
5. Will the business procure from/ contract with women-owned, minority-owned, or veteran-owned businesses? ☐ Yes ☒ No
6. Will the business procure from/contract with entities with a history of federal and state wage and hour law and regulation compliance? ☒ Yes ☐ No
7. Will the business use apprenticeships from state-regulated apprenticeship programs? ☐ Yes ☒ No
8. Will the business provide for preferred entry for workers living in the area where the project is constructed? ☒ Yes ☐ No
9. Will the business maintain certain labor standards for workers employed primarily at the facility after construction is complete, including production, maintenance, and operational employees? ☒ Yes ☐ No
10. Is the subject parcel located within the boundary of the established City/County Targeted Urban Area? ☒ Yes ☐ No

EXEMPTION CERTIFICATIONS	
☒	I understand the potential tax liability involved when the property ceases to be eligible for the incentive provided under Chapter 84.25 RCW.
☒	The project meets the industrial/manufacturing requirements described in Chapter 84.25 RCW.
☒	There are no existing building improvements on the portion of the property targeted for the tax exemption.
☒	I understand that the new construction of industrial/manufacturing facilities must meet all of the City of Richland's construction and development regulations.
☒	I understand that this waiver pertains only to the County's portion of property taxes related to the building improvements. The improved valuation of the land and the taxing authority of other jurisdictions is not a part of this tax incentive program.
☒	I understand that I will be required to enter into and abide by an agreement with Benton County to implement the program requirements of Chapter 84.25 RCW.
☒	I understand that construction of the industrial/manufacturing facility must be completed in three (3) years from the date the application is approved.
☒	I understand that the value of new construction of industrial/manufacturing facilities is exempt under RCW 84.25 for ten (10) consecutive years beginning January 1st of the year immediately following the calendar year of issuance of a certificate of tax exemption. I further understand there are no extensions of this 10-year timeframe.
☒	I understand that Benton County's decision regarding the tax exemption is final.
☒	I understand that Benton County will require certification of project completion.
☒	I understand the requirement to annually report, for the duration of the exemption, the number of jobs created.
☒	I certify that this project would not have been built in Richland and Benton County but for the availability of the tax exemption.

ACKNOWLEDGEMENT

My signature below certifies that I am the property owner or legal agent of the property owner with lawful authority to submit this application. My acknowledgment of the Exemption Certifications above indicates my understanding thereof.

I declare under penalty of perjury under the law of the state of Washington that the foregoing is true and correct.

Signed this __22___ day of _December___, 2023___ in _Albany_____, _OR___.
(city) (state)

Printed Name: _Doug Hosie_____

Signature: _____

If your application is approved, the County will issue a conditional certificate of acceptance of the tax exemption within ninety (90) days after receipt of the application. The certificate will contain a statement by a duly authorized administrative official of Benton County that the property has complied with the requirements of Chapter 84.25 RCW. This exemption would completely separate from though possibly in addition to any exemption accepted and authorized by the City of Richland.

Denied applications may be appealed to the Benton County Board of Commissioners within thirty (30) days of the denial. The appeal must be based on the existing record. The applicant bears the burden to prove that the County's decision was not supported by substantial evidence. Benton County's decision on appeal is final.

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	1/9/2024
Subject:	Repealing Ordinance 535, Section 9, and BCC.8.12C.090
Presenter:	
Prepared By:	Amanda Pearson
Reviewed By:	Jerrod MacPherson

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

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

Summary / Background Information

With the recent passage of the Public Safety Sales Tax, the Prosecuting Attorney's Office suggested the county take action to repeal Ordinance 535, Section 9, and Benton County Code 8.12C.090 in their entirety due to the section stating the tax expires on 12/31/2024.

Public Hearing:

- Email sent to the Prosser Bulletin requesting publication, on 12/4/2023.
- To be published in Prosser Bulletin on December 27th, 2023

Fiscal Impact

N/A

Recommendation

Move to approve a Resolution and Ordinance repealing Ordinance 535, Section 9, BCC 8.12C.090 relating to Sales and Use Tax-Public Safety Tax Expiration Date/Sunset Clause.

Suggested Motion

As a result of the Public Hearing, move to approve the Resolution and Ordinance Repealing Local Sales & Use Tax.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

AUTHORIZING THE ADOPTION OF ORDINANCE NO. _____ RELATING TO LOCAL SALES AND USE TAX-PUBLIC SAFETY TAX AND REPEALING ORDINANCE 535, SECTION 9, AND BENTON COUNTY CODE (BCC) 8.12C.090 SETTING EXPIRATION DATE/SUNSET CLAUSE

WHEREAS, the Board of County Commissioners adopted Ordinance No. 535 on September 16, 2014, and was set to expire December, 31 2024; and

WHEREAS, the Board of County Commissioners signed Resolution No. 2023-685 expressing their support for Benton County Proposition 1-Continued Local Sales and Use Tax for Public Safety Needs on the November 7, 2023, general election ballot; and

WHEREAS, Proposition 1 passed and as a result, the expiration date of December 31, 2024, set in Ordinance 535, Section 9, and BCC 8.12C.090 needs to be repealed; and

WHEREAS, a Public Notice was placed in the county newspaper, the Prosser Bulletin, and on the county website on December 27, 2023, to advertise the Public Hearing regarding the proposed repeal of Ordinance 535, Section 9, and BCC 8.12C.090; and

WHEREAS, a Public Hearing was held on January 9, 2023, and after hearing the testimony, the board determined it is in the public's interest to pass the ordinance; and **NOW, THEREFORE,**

BE IT RESOLVED, by adopting the attached, Ordinance No. _____, the Board of Benton County Commissioners, Benton County, Washington hereby repeals Ordinance 535, Section 9, and BCC 8.12.C.090 in its entirety.

Dated this 9th day of January, 2024

Chairman of the Board

Chairman Pro-Tem

Commissioner

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

Constituting the Board of County Commissioners of Benton County, Washington

BOCC
PA

A. Pearson

ORDINANCE NO._____

AN ORDINANCE relating to local sales and use tax-public safety tax; relating to the expiration date and sunset clause and repealing Ordinance 535, Section 9 and BCC 8.12C.090.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

SECTION 1. SECTION REPEAL. Ordinance 535, Section 9 and BCC 8.12C.090 are hereby repealed in their entirety.

SECTION 2. Severability. If any provision of this ordinance is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the ordinance and the applicability thereof to other persons and circumstances shall not be affected thereby.

SECTION 3. Effective Date. This ordinance shall take effect and be in full force upon its passage and adoption.

ADOPTED AND PASSED this _____ day of _____, _____.

_____
Chairman of the Board

_____
Chairman Pro-Tem

_____
Commissioner

Approved as to Form:

_____
Deputy Prosecuting Attorney

Constituting the Board of
County Commissioners of
Benton County, Washington

Attest: _____
Clerk of the Board

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	January 9, 2024
Subject:	Approving the Board of Benton County Commissioners to sign Washington State Military Department State and Local Cybersecurity Grant Program Federal Funding Contract, Forms, and Reporting Documents
Presenter:	Robert Heard
Prepared By:	Robert Heard
Reviewed By:	LeeAnn Holt, Rayce Miller

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

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

Summary / Background Information

On July 11, 2023, the Information Technology Department (IT) during Schedule Business asked the Board for permission to pursue Washington State Military Department's competitive State and Local Cybersecurity Grant Program (SLCGP) passthrough funding for local agencies. The Board approved IT's request. Proposals were due by July 18, 2023. IT turned in three projects.

Firewall Replacement	$179,093	Project approved for 2023 Federal Funding. Total per year estimated project cost is $29,182.
DotGov Domain Name Space (DNS) Hosting	$16,688	Project approved for 2022 Federal Funding.
Storage Area Network Increase	$85,000	Project was not approved for federal funding. The County may be able to review and adjust for future grant money.

For fiscal year 2022, the Military Department approved $16,688 in federal funding for the County's DotGov project with the Firewall Replacement project approved for 2023 federal funding. The Military will be working with IT to review the total Firewall Replacement costs and provide the County with recommendations for acceptable project expenses. The SAN Increase project was not approved this year. The Military has asked IT to review and adjust our SAN project scope and costs for resubmittal in 2024. Approved SLCGP projects will be automatically rolled into the next fiscal year projected WA State federal fund allocation and projects will be reviewed again by the Military before funds are approved for release.

To receive federal funds from the Military, the County has been asked to sign several contract documents. These documents have been reviewed by the Prosecuting Attorney's Office, Civil Division. The Auditor's Office has reviewed the Audit Certification and FFATA Reporting form and provided State Auditor report numbers and dates of previous County federal funding audits. In addition to the Board contract signatures, the Treasurer and Deputy Treasurer will be asked to sign the Signature Authorization Form.

Projected SLCGP Fund Allocations:

		WA State Allocation	State 20%	Local 80%
	FY22	$3,667,735	$733,547	$2,934,188
PROJECTION	*FY23*	*$7,077,000*	*$1,415,400*	*$5,661,600*
	FY24	*$5,308,000*	*$1,061,600*	*$4,246,400*
	FY25	*$1,769,000*	*$353,800*	*$1,415,200*
		$17,692,000	$3,564,347	$14,257,388

Fiscal Impact

Amount: **$16,688 excluding WSST. In IT's 2023-2024 budget, the Board approved department funds for cybersecurity services in an amount of $18,000 a year.**

Fund: **Information Technology Fund 5020.**

Recommendation

IT recommends that the Board of Benton County Commissioners sign Washington State Military State Local Cybersecurity Grant Program's Federal Funding Contract, Forms, and Reporting Documents allowing the County to receive federal funds.

Suggested Motion

I move to approve the Board of Benton County Commissioners to sign Washington State Military Department State and Local Cybersecurity Grant Program's federal funding Contract, Forms, and Reporting Documents as presented.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF APPROVING THE BOARD OF BENTON COUNTY COMMISSIONERS TO SIGN WASHINGTON STATE MILITARY DEPARTMENT STATE AND LOCAL CYBERSECURITY GRANT PROGRAM FEDERAL FUNDING CONTRACT, FORMS, AND REPORTING DOCUMENTS

WHEREAS, on July 11, 2023, during the Board of Benton County Commissioners' Schedule Business, the Information Technology Department was approved to pursue federal funds via Washington State Military Department's State and Local Cybersecurity Grant Program (SLCGP); and

WHEREAS, the Information Technology Department turned in three projects to the SLCGP that were due by July 18, 2023; and

Project Name	Total Cost	Conclusions
Firewall Replacement	$176,093	Project approved for 2023 Federal Funding. Total per year estimated project cost is $29,182.
DotGov Domain Name Space (DNS) Hosting	$16,688	Project approved for 2022 Federal Funding.
Storage Area Network Increase	$85,000	Project was not approved for federal funding. The County may be able to review and adjust for future grant money.

WHEREAS, Benton County's DotGov Domain Name Space Hosting project was selected and approved to receive $16,688 for the fiscal year 2022; and

WHEREAS, in addition to the DotGov project, the Washington State Military approved Benton County's Firewall Replacement project for fiscal year 2023; and

WHEREAS, the Washington State Military Department has provided federal funding contract documents for the Board of Commissioners to sign to receive federal funding from approved SLCGP projects; and

WHEREAS, by signing federal funding contract documents, the County will be able to accept Washington State Military Department current and future SLCGP grant funds through projected fiscal year 2025; and

WHEREAS, the Prosecuting Attorney's Office, Civil Division has reviewed contracted documents and approved as to form; **NOW, THEREFORE**

Orig: Auditor
cc: IT R.Heard

BE IT RESOLVED, the Board of Benton County Commissioners, Benton County, Washington, hereby approves the Board to sign Washington State Military Department State and Local Cybersecurity Grant Program federal funding E24-181 Benton County 22SLCGP Agreement Face Sheet and Signature Authorization Form; and

BE IT FURTHER RESOLVED, the Board approves the Chairman of the Board or Chairman Pro-Tem to sign Debarment, Suspension, Ineligibility or Voluntary Exclusion Certification and Audit Certification and FFATA Reporting Forms for Contract Number E24-181.

Dated this 9th day of January, 2024

Chairman of the Board

Chairman Pro-Tem

Commissioner

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

Constituting the Board of County Commissioners of Benton County, Washington

Orig: Auditor
cc: IT R.Heard

Washington Military Department
STATE AND LOCAL CYBERSECURITY GRANT PROGRAM AGREEMENT FACE SHEET

1. Subrecipient Name and Address: **Benton, County of** **620 Market Street** **Prosser, WA 99350**	2. Grant Agreement Amount: **$16,688**	3. Grant Agreement Number: **E24-181**
4. Subrecipient Contact, phone/email: **Robert Heard, 509-737-3529** **robert.heard@co.benton.wa.us**	5. Grant Agreement Start Date: **December 1, 2022**	6. Grant Agreement End Date: **April 30, 2024**
7. Department Contact, phone/email: **Courtney Bemus, 253-512-7141** **courtney.bemus@mil.wa.gov**	8. Unique Entity Identifier (UEI): **HG29NCPLDG56**	9. UBI # (state revenue): **035-000-971**

10. Funding Authority:
Washington Military Department (the Department) and the **U.S. Department of Homeland Security** (DHS)

11. Federal Funding Identification #: **EMW-2022-CY-00017**	12. Federal Award Date: **12/21/2022**	13. Assistance Listings # & Title: **97.137 – 22SLCGP**

14. Total Federal Award Amount: **$3,666,530**	15. Program Index # & OBJ/SUB-OBJ: **725C3 (State), 725C4 (Local-Rural), 725C5 (Local-Not Rural) / NZ**	16. EIN **91-6001296**

17. Service Districts: BY LEGISLATIVE DISTRICTS: **16** BY CONGRESSIONAL DISTRICTS: **4**	18. Service Area by County(ies): **Benton**	19. Women/Minority-Owned, State Certified: ☒ N/A ☐ NO ☐ YES, OMWBE #_____

20. Agreement Classification ☐ Personal Services ☐ Client Services ☒ Public/Local Gov't ☐ Research/Development ☐ A/E ☐ Other_____	21. Contract Type (check all that apply): ☐ Contract ☒ Grant ☒ Agreement ☐ Intergovernmental (RCW 39.34) ☐ Interagency
22. Subrecipient Selection Process: ☒ "To all who apply & qualify" ☐ Competitive Bidding ☐ Sole Source ☐ A/E RCW ☐ N/A ☐ Filed w/OFM? ☐ Advertised? ☐ YES ☐ NO	23. Subrecipient Type (check all that apply) ☐ Private Organization/Individual ☐ For-Profit ☒ Public Organization/Jurisdiction ☐ Non-Profit ☐ CONTRACTOR ☒ SUBRECIPIENT ☐ OTHER

24. PURPOSE & DESCRIPTION:

The goal of the Federal Fiscal Year (FFY) 2022 State and Local Cybersecurity Grant Program (22SLCGP) is to assist state, local, and territorial (SLT) governments with managing and reducing systemic cyber risk. Strengthening cybersecurity practices and resilience of SLT governments is an important homeland security mission and the primary focus of the SLCGP. Through funding from the Infrastructure Investment and Jobs Act (IIJA), also known as the Bipartisan Infrastructure Law (BIL), the SLCGP enables DHS to make targeted cybersecurity investments in SLT government agencies, thus improving the security of critical infrastructure and improving the resilience of the services.

The Department is the Recipient and Pass-through Entity of the 22SLCGP DHS Award Letter for Grant No. EMW-2022-CY-00017 ("Grant"), which is incorporated in and attached hereto as Attachment C and has made a subaward of funds to the Subrecipient pursuant to this Agreement. The Subrecipient is accountable to the Department for use of Federal award funds provided under this Agreement.

IN WITNESS WHEREOF, the Department and Subrecipient acknowledge and accept the terms of this Agreement, including all referenced attachments which are hereby incorporated, and have executed this Agreement as of the date below. This Agreement Face Sheet; Special Terms & Conditions (Attachment A); General Terms and Conditions (Attachment B); DHS Award Letter (Attachment C), Work Plan (Attachments D), Budget (Attachment E), Timeline (Attachment F); and all other documents and attachments expressly referenced and incorporated herein contain all the terms and conditions agreed upon by the parties and govern the rights and obligations of the parties to this Agreement. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties.

In the event of an inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order:

1. **Applicable federal and state statutes and regulations**
2. **DHS/FEMA Award and program documents**
3. **Work Plan, Timeline, and Budget**
4. **Special Terms and Conditions**
5. **General Terms and Conditions, and,**
6. **Other provisions of the Agreement incorporated by reference.**

WHEREAS, the parties have executed this Agreement on the day and year last specified below.

FOR THE DEPARTMENT:

_____
Signature Date
Regan Anne Hesse, Chief Financial Officer
Washington Military Department

BOILERPLATE APPROVED TO FORM:
Alex Staub 10/25/2023
Assistant Attorney General

FOR THE SUBRECIPIENT:

_____
Signature Date
Jerome Delvin, Chairman
Board of Benton County Commissioners

_____
Signature Date
Michael Alvarez, Pro-Tem
Board of Benton County Commissioners

APPROVED AS TO FORM (if applicable):

_____
Signature: Date
LeeAnn Holt, Deputy Attorney
Civil Division

SPECIAL TERMS AND CONDITIONS

ARTICLE I. KEY PERSONNEL

The individuals listed below shall be considered key personnel for point of contact under this Agreement. Any substitution of key personnel by either party shall be made by written notification to the current key personnel.

	SUBRECIPIENT		DEPARTMENT
Name	**Robert Heard**	Name	**Courtney Bemus**
Title	**Information Technology Manager**	Title	**Program Coordinator**
Email	**robert.heard@co.benton.wa.us**	Email	**courtney.bemus@mil.wa.gov**
Phone	**509-737-3529**	Phone	**253-512-7141**
Name	**Alex Garcia**	Name	**Sierra Wardell**
Title	**Information Technology Assistant Manager**	Title	**Financial Operations Section Manager**
Email	**alex.garcia@co.benton.wa.us**	Email	**sierra.wardell@mil.wa.gov**
Phone	**509-786-5603**	Phone	**253-512-7121**
Name	**Benton County Information Technology Department**	Name	**Grant Miller**
		Title	**Program Assistant**
Email	**securityalrert@co.benton.wa.us**	Email	**grant.miller@mil.wa.gov**
Phone	**509-786-5603**	Phone	**253-512-7145**

ARTICLE II. ADMINISTRATIVE AND/OR FINANCIAL REQUIREMENTS

The Subrecipient shall comply with all applicable state and federal laws, rules, regulations, requirements and program guidance identified or referenced in this Agreement and the informational documents published by DHS/FEMA applicable to the 22SLCGP, including, but not limited to, all criteria, restrictions, and requirements of "*The Department of Homeland Security Notice of Funding Opportunity Fiscal Year 2022 State and Local Cybersecurity Grant Program*" (hereafter "the NOFO") document, the DHS Award Letter for the Grant, and the federal regulations commonly applicable to DHS/FEMA grants, all of which are incorporated herein by reference. The *DHS Award Letter* is incorporated in this Agreement as Attachment C.

The Subrecipient acknowledges that since this Agreement involves federal award funding, the period of performance may begin prior to the availability of appropriated federal funds. The Subrecipient agrees that it will not hold the Department, the State of Washington, or the United States liable for any damages, claim for reimbursement, or any type of payment whatsoever for services performed under this Agreement prior to distribution of appropriated federal funds, or if federal funds are not appropriated or in a particular amount.

A. STATE AND FEDERAL REQUIREMENTS FOR DHS/FEMA PREPAREDNESS GRANTS:

The following requirements apply to all DHS/FEMA Preparedness Grants administered by the Department.

1. SUBAWARDS & CONTRACTS BY SUBRECIPIENTS

a. The Subrecipient must make a case-by-case determination whether each agreement it makes for the disbursement of 22SLCGP funds received under this Agreement casts the party receiving the funds in the role of a subrecipient or contractor in accordance with 2 CFR 200.331.

b. If the Subrecipient also becomes a pass-through entity by making a subaward to a non-federal entity as its subrecipient, the Subrecipient must make a case-by-case determination whether each agreement it makes for the disbursement of 22SLCGP funds received under this Agreement casts the party receiving the funds in the role of a subrecipient or contractor in accordance with 2 CFR 200.330.

i. The Subrecipient must comply with all federal laws and regulations applicable to pass-through entities of 22SLCGP funds, including, but not limited to, those contained in 2 CFR 200.

ii. The Subrecipient shall require its subrecipient(s) to comply with all applicable state and federal laws, rules, regulations, requirements and program guidance identified or referenced in this Agreement and the informational documents published by DHS/FEMA applicable to the 22SLCGP Program, including, but not limited to, all criteria, restrictions, and

requirements of the NOFO , the DHS Award Letter for the Grant in Attachment C, and the federal regulations commonly applicable to DHS/FEMA grants.

iii. The Subrecipient shall be responsible to the Department for ensuring that all 22SLCGP federal award funds provided to its subrecipients are used in accordance with applicable federal and state statutes and regulations, and the terms and conditions of the federal award set forth in Attachment C of this Agreement.

2. BUDGET, REIMBURSEMENT, AND TIMELINE

a. Within the total Grant Agreement Amount, travel, subcontracts, salaries, benefits, printing, equipment, and other goods and services or other budget categories will be reimbursed on an actual cost basis upon completion unless otherwise provided in this Agreement.

b. The maximum amount of all reimbursement requests permitted to be submitted under this Agreement, including the final reimbursement request, is limited to and shall not exceed the total Grant Agreement Amount.

c. If the Subrecipient chooses to include indirect costs within the Budget (Attachment E), additional documentation is required based on the applicable situation. As described in 2 CFR 200.414 and Appendix VII to 2 CFR 200:

i. If the Subrecipient receives direct funding from any Federal agency(ies), documentation of the rate must be submitted to the Department Key Personnel per the following:

A. More than $35 million, the approved indirect cost rate agreement negotiated with its federal cognizant agency.

B. Less than $35 million, the indirect cost proposal developed in accordance with Appendix VII of 2 CFR 200 requirements.

ii. If the Subrecipient does not receive direct federal funds (i.e., only receives funds as a subrecipient), the Subrecipient must either elect to charge a de minimis rate of ten percent (10%) or 10% of modified total direct costs or choose to negotiate a higher rate with the Department. If the latter is preferred, the Subrecipient must contact Department Key Personnel for approval steps.

d. For travel costs, the Subrecipient shall comply with 2 CFR 200.475 and should consult their internal policies, state rates set pursuant to RCW 43.03.050 and RCW 43.03.060 as now existing or amended, and federal maximum rates set forth at https://www.gsa.gov, and follow the most restrictive. If travel costs exceed set state or federal limits, travel costs shall not be reimbursed without prior written approval by Department Key Personnel.

e. Reimbursement requests will include a properly completed State A-19 Invoice Form and Reimbursement Spreadsheet (in the format provided by the Department) detailing the expenditures for which reimbursement is sought. Reimbursement requests must be submitted to Reimbursements@mil.wa.gov no later than the due dates listed within the Timeline (Attachment F).

Reimbursement request totals should be commensurate to the time spent processing by the Subrecipient and the Department.

f. Receipts and/or backup documentation for any approved items that are authorized under this Agreement must be maintained by the Subrecipient consistent with record retention requirements of this Agreement and be made available upon request by the Department, and federal, state, and local auditors.

g. The Subrecipient must request **prior** written approval from Department Key Personnel to waive or extend a due date in the Timeline (Attachment F). For waived or extended reimbursement due dates, all allowable costs should be submitted on the next scheduled reimbursement due date contained in the Timeline. Waiving or missing deadlines serves as an indicator for assessing an agency's level of risk of noncompliance with the regulations, requirements, and the terms and conditions of the Agreement and may increase required monitoring activities. Any request for a waiver or extension of a due date in the Timeline will be treated as a request for Amendment of

the Agreement. This request must be submitted to the Department Key Personnel sufficiently in advance of the due date to provide adequate time for Department review and consideration and may be granted or denied within the Department's sole discretion.

h. All work under this Agreement must end on or before the Grant Agreement End Date, and the final reimbursement request must be submitted to the Department within the time period notated in the Timeline (Attachment F), except as otherwise authorized by either (1) written amendment of this Agreement or (2) written notification from the Department to the Subrecipient to provide additional time for completion of the Subrecipient's subproject(s).

i. No costs for purchases of equipment/supplies will be reimbursed until the related equipment/supplies have been received by the Subrecipient, its contractor, or any non-federal entity to which the Subrecipient makes a subaward and is invoiced by the vendor.

j. Failure to submit timely, accurate, and complete reports and reimbursement requests as required by this Agreement (including, but not limited to, those reports in the Timeline [Attachment F]) will prohibit the Subrecipient from being reimbursed until such reports are submitted and the Department has had reasonable time to conduct its review.

k. Final reimbursement requests will not be approved for payment until the Subrecipient is current with all reporting requirements contained in this Agreement.

l. A written amendment will be required if the Subrecipient expects cumulative transfers among solution area totals, as identified in the Budget (Attachment E), to exceed ten percent (10%) of the Grant Agreement Amount. Any changes to solution area totals not in compliance with this paragraph will not be reimbursed without approval from the Department.

m. Subrecipients shall only use federal award funds under this Agreement to supplement existing funds and will not use them to replace (supplant) non-federal funds that have been budgeted for the same purpose. The Subrecipient may be required to demonstrate and document that the reduction in non-federal resources occurred for reasons other than the receipt or expected receipt of federal funds.

3. REPORTING

a. With each reimbursement request, the Subrecipient shall report how the expenditures, for which reimbursement is sought, relate to the Work Plan (Attachments D) activities in the format provided by the Department.

b. With the final reimbursement request, the Subrecipient shall submit to the Department Key Personnel a final report (in the format provided by the Department) describing all completed activities under this Agreement.

c. The Subrecipient shall comply with the Federal Funding Accountability and Transparency Act (FFATA) and related OMB Guidance consistent with Public Law 109-282 as amended by section 6202(a) of Public Law 110-252 (see 31 U.S.C. 6101 note) and complete and return to the *Department an Audit Certification/FFATA* Form. This form is required to be completed once per calendar year, per Subrecipient, and not per agreement. The Department's Contracts Office will request the Subrecipient submit an updated form at the beginning of each calendar year in which the Subrecipient has an active agreement.

4. EQUIPMENT AND SUPPLY MANAGEMENT

a. The Subrecipient and any non-federal entity to which the Subrecipient makes a subaward shall comply with 2 CFR 200.317 through 200.327 when procuring any equipment or supplies under this Agreement, 2 CFR 200.313 for management of equipment, and 2 CFR 200.314 for management of supplies, to include, but not limited to:

   i. Upon successful completion of the terms of this Agreement, all equipment and supplies purchased through this Agreement will be owned by the Subrecipient, or a recognized non-federal entity to which the Subrecipient has made a subaward, for which a contract, subrecipient grant agreement, or other means of legal transfer of ownership is in place.

   ii. All equipment, and supplies as applicable, purchased under this Agreement will be recorded and maintained in the Subrecipient's inventory system.

iii. Inventory system records shall include:

A. Description of the property;

B. Manufacturer's serial number, model number, or other identification number;

C. Funding source for the property, including the Federal Award Identification Number (FAIN) (Face Sheet, Box 11);

D. Assistance Listings Number (Face Sheet, Box 13);

E. Who holds the title;

F. Acquisition date;

G. Cost of the property and the percentage of federal participation in the cost;

H. Location, use and condition of the property at the date the information was reported;

I. Disposition data including the date of disposal and sale price of the property.

iv. The Subrecipient shall take a physical inventory of the equipment, and supplies as applicable, and reconcile the results with the property records at least once every two years. Any differences between quantities determined by the physical inspection and those shown in the records shall be investigated by the Subrecipient to determine the cause of the difference. The Subrecipient shall, in connection with the inventory, verify the existence, current utilization, and continued need for the equipment.

v. The Subrecipient shall be responsible for any and all operational and maintenance expenses and for the safe operation of the equipment and supplies including all questions of liability. The Subrecipient shall develop appropriate maintenance schedules and procedures to ensure the equipment, and supplies as applicable, are well-maintained and kept in good operating condition.

vi. The Subrecipient shall develop a control system to ensure adequate safeguards to prevent loss, damage, and theft of the property. Any loss, damage, or theft shall be investigated, and a report generated and sent to the Department's Key Personnel.

vii. The Subrecipient must obtain and maintain all necessary certifications and licenses for the equipment.

viii. If the Subrecipient is authorized or required to sell the property, proper sales procedures must be established and followed to ensure the highest possible return. For disposition, if upon termination or at the Grant Agreement End Date, when original or replacement supplies or equipment acquired under a federal award are no longer needed for the original project or program or for other activities currently or previously supported by a federal awarding agency, the Subrecipient must comply with the following procedures:

A. For Supplies: If there is a residual inventory of unused supplies exceeding $5,000 in total aggregate value upon termination or completion of the project or program and the supplies are not needed for any other federal award, the Subrecipient must retain the supplies for use on other activities or sell them, but must, in either case, compensate the federal government for its share. The amount of compensation must be computed in the same manner as for equipment.

B. For Equipment:

1) Items with a current per-unit fair-market value of five thousand dollars ($5,000) or less may be retained, sold, transferred, or otherwise disposed of with no further obligation to the federal awarding agency.

2) Items with a current per-unit fair-market value in excess of five thousand dollars ($5,000) may be retained or sold. The Subrecipient shall compensate the federal awarding agency in accordance with the requirements of 2 CFR 200.313 (e) (2).

ix. Records for equipment shall be retained by the Subrecipient for a period of six (6) years from the date of the disposition, replacement, or transfer. If any litigation, claim, or audit is started before the expiration of the six- (6-) year period, the records shall be retained by the Subrecipient until all litigation, claims, or audit findings involving the records have been resolved.

b. The Subrecipient shall comply with the Department's Purchase Review Process, which is incorporated by reference and made part of this Agreement. No reimbursement will be provided unless the appropriate approval has been received.

c. Unless expressly provided otherwise, all equipment must meet all mandatory regulatory and/or DHS/FEMA adopted standards to be eligible for purchase using federal award funds.

d. If funding is allocated to support emergency communications activities, the Subrecipient must ensure that all projects comply with SAFECOM Guidance on Emergency Communications Grants, located at https://www.cisa.gov/safecom/funding, including provisions on technical standards that ensure and enhance interoperable communications.

e. Effective August 13, 2020, FEMA recipients and subrecipients, as well as their contractors and subcontractors, may not obligate or expend any FEMA award funds to:

i. Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;

ii. Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system; or

iii. Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

This prohibition regarding certain telecommunications and video surveillance services or equipment is mandated by section 889 of the *John S. McCain National Defense Authorization Act for Fiscal Year 2019 (FY 2019 NDAA), Pub. L. No. 115-232 (2018) and 2 CFR 200.216, 200.327, 200.471, and Appendix II to 2CFR200.* Recipients and subrecipients may use DHS/FEMA grant funding to procure replacement equipment and services impacted by this prohibition, provided the costs are otherwise consistent with the requirements of the NOFO.

Per subsections 889(f)(2)-(3) of the FY 2019 NDAA, and 2 CFR 200.216, covered telecommunications equipment or services means:

i. Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation, (or any subsidiary or affiliate of such entities);

ii. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);

iii. Telecommunications or video surveillance services provided by such entities or using such equipment; or

iv. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

f. The Subrecipient must pass through equipment and supply management requirements that meet or exceed the requirements outlined above to any non-federal entity to which the Subrecipient makes a subaward of federal award funds under this Agreement.

5. ENVIRONMENTAL AND HISTORICAL PRESERVATION

a. The Subrecipient shall ensure full compliance with the DHS/FEMA Environmental Planning and Historic Preservation (EHP) Program. EHP program information can be found at https://www.fema.gov/grants/guidance-tools/environmental-historic all of which are incorporated in and made a part of this Agreement.

b. Projects that have historical impacts or the potential to impact the environment, **including, but not limited to**, construction of communication towers; modification or renovation of existing buildings, structures, and facilities; or new construction, including replacement of facilities, must participate in the DHS/FEMA EHP review process prior to project initiation. Modification of existing buildings, including minimally invasive improvements such as attaching monitors to interior walls, and training or exercises occurring outside in areas not considered previously disturbed also require a DHS/FEMA EHP review before project initiation.

c. The EHP review process involves the submission of a detailed project description that includes the entire scope of work, including any alternatives that may be under consideration, along with supporting documentation so FEMA may determine whether the proposed project has the potential to impact environmental resources and/or historic properties.

d. The Subrecipient agrees that, to receive any federal preparedness funding, all EHP compliance requirements outlined in applicable guidance must be met. The EHP review process **must be completed and FEMA approval must be received by the Subrecipient before any work is started** for which reimbursement will be later requested. Expenditures for projects started before completion of the EHP review process and receipt of approval by the Subrecipient may not be reimbursed.

6. PROCUREMENT

The Subrecipient shall comply with all procurement requirements of 2 CFR 200.317 through 200.327 and as specified in the General Terms and Conditions (Attachment B, A.10).

a. For all contracts expected to exceed the simplified acquisition threshold, per 2CFR200.1, the Subrecipient must notify the Department. The Department may request pre-procurement documents, such as request for proposals, invitations for bids and independent cost estimates. This requirement must be passed on to any non-federal entity to which the Subrecipient makes a subaward, at which point the Subrecipient will be responsible for reviewing and approving sole source justifications to any non-federal entity to which Subrecipient makes any award.

b. For all sole source contracts expected to exceed the micro-purchase threshold per 2 CFR 200.1, the Subrecipient must submit justification to the Department for review and approval. This requirement must be passed on to any non-federal entity to which the Subrecipient makes a subaward, at which point the Subrecipient will be responsible for reviewing and approving sole source justifications to any non-federal entity to which Subrecipient makes any award..

7. SUBRECIPIENT MONITORING

a. The Department will monitor the activities of the Subrecipient from award to closeout. The goal of the Department's monitoring activities will be to ensure that subrecipients receiving federal pass-through funds are in compliance with this Agreement, federal and state audit requirements, federal grant guidance, and applicable federal and state financial regulations, as well as 2 CFR Part 200 Subpart F.

b. To document compliance with 2 CFR Part 200 Subpart F requirements, the Subrecipient shall complete and return to the Department an Audit Certification/FFATA form. Reporting requirements are referenced in section 3.c.

c. Monitoring activities may include, but are not limited to:

i. Review of financial and performance reports;

ii. Monitoring and documenting the completion of Agreement deliverables;

iii. Documentation of phone calls, meetings (e.g., agendas, sign-in sheets, meeting minutes), e-mails, and correspondence;

iv. Review of reimbursement requests and supporting documentation to ensure allowability and consistency with Agreement Work Plan (Attachments D-1, D-2, D-3), Budget (Attachment E), and federal requirements;

v. Observation and documentation of Agreement-related activities, such as exercises, training, events, and equipment demonstrations; and

vi. On-site visits to review equipment records and inventories, to verify source documentation for reimbursement requests and performance reports, and to verify completion of deliverables.

d. The Subrecipient is required to meet or exceed the monitoring activities, as outlined above, for any non-federal entity to which the Subrecipient makes a subaward as a pass-through entity under this Agreement.

e. Compliance will be monitored throughout the performance period to assess risk. Concerns will be addressed through a corrective action plan.

8. LIMITED ENGLISH PROFICIENCY (CIVIL RIGHTS ACT OF 1964 TITLE VI)

The Subrecipient must comply with the Title VI of the Civil Rights Act of 1964 (Title VI) prohibition against discrimination on the basis of national origin, which requires that subrecipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services. Providing meaningful access for persons with LEP may entail providing language assistance services, including oral interpretation and written translation. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency (August 11, 2000), requires federal agencies to issue guidance to recipients, assisting such organizations and entities in understanding their language access obligations. DHS published the required recipient guidance in April 2011, DHS Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons, 76 Fed. Reg. 21755-21768, (April 18, 2011). The Guidance provides helpful information such as how a recipient can determine the extent of its obligation to provide language services, selecting language services, and elements of an effective plan on language assistance for LEP persons. For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance at https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-access-people-limited and additional resources on https://www.lep.gov.

B. SLCGP SPECIFIC REQUIREMENTS

1. The Subrecipient must use SLCGP funds only to perform tasks as described in the Work Plan (Attachments D) and the Subrecipient's approved application for funding incorporated into this Agreement.

2. Subrecipients are required to complete the Nationwide Cybersecurity Review (NCSR) https://www.cisecurity.org/ms-isac/services/ncsr, a free, anonymous, annual self-assessment designed to measure gaps and capabilities of a SLT's cybersecurity programs by December 1, 2023, to benchmark and measure progress of improvement in their cybersecurity posture. Completion should continue annually per the Timeline (Attachment F). For more information, visit Nationwide Cybersecurity Review (NCSR) (cisecurity.org).

3. Subrecipients are required to participate in free cyber hygiene services, specifically vulnerability scanning and web application scanning. To register for these services, email vulnerability@cisa.dhs.gov with the subject line "Requesting Cyber Hygiene Services – SLCGP" to get started. Indicate in the body of your email that you are requesting this service as part of the SLCGP. For more information, visit CISA's Cyber Hygiene Information Page.

4. Subrecipients may retain a maximum of up to five percent of the Grant agreement Amount for management and administration (M&A) activities, directly relating to the management and administration of SLCGP funds, such as financial management and monitoring.

C. DHS TERMS AND CONDITIONS

As a subrecipient of 22SLCGP funding, the Subrecipient shall comply with all applicable DHS terms and conditions of the 22SLCGP Award Letter and its incorporated documents, which are incorporated in and made a part of this Agreement as Attachment C.

Washington Military Department
GENERAL TERMS AND CONDITIONS
Department of Homeland Security (DHS)/
Federal Emergency Management Agency (FEMA)
Grants

A.1 DEFINITIONS

As used throughout this Agreement, the terms will have the same meaning as defined in 2 CFR 200 Subpart A (which is incorporated herein by reference), except as otherwise set forth below:

a. "**Agreement**" means this Grant Agreement.

b. "**Department**" means the Washington Military Department, as a state agency, any division, section, office, unit or other entity of the Department, or any of the officers or other officials lawfully representing that Department. The Department is a recipient of a federal award directly from a federal awarding agency and is the pass-through entity making a subaward to a Subrecipient under this Agreement.

c. "**Investment**" means the grant application submitted by the Subrecipient describing the project(s) for which federal funding is sought and provided under this this Agreement. Such grant application is hereby incorporated into this Agreement by reference.

d. "**Monitoring Activities**" means all administrative, financial, or other review activities that are conducted to ensure compliance with all state and federal laws, rules, regulations, authorities and policies.

e. "**Subrecipient**" when capitalized is primarily used throughout this Agreement in reference to the non-federal entity identified on the Face Sheet of this Agreement that has received a subaward from the Department. However, the definition of "Subrecipient" is the same as in 2 CFR 200.1 for all other purposes.

A.2 ADVANCE PAYMENTS PROHIBITED

The Department shall make no payments in advance or in anticipation of goods or services to be provided under this Agreement. Subrecipient shall not invoice the Department in advance of delivery and invoicing of such goods or services.

A.3 AMENDMENTS AND MODIFICATIONS

The Subrecipient or the Department may request, in writing, an amendment or modification of this Agreement. However, such amendment or modification shall not be binding, take effect or be incorporated herein until made in writing and signed by the authorized representatives of the Department and the Subrecipient. No other understandings or agreements, written or oral, shall be binding on the parties.

The Agreement performance period shall only be extended by (1) written notification of DHS/FEMA approval of the Award performance period, followed up with a mutually agreed written amendment, or (2) written notification from the Department to the Subrecipient to provide additional time for completion of the Subrecipient's project(s).

A.4 AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, 42 U.S.C. 12101 ET SEQ. AND ITS IMPLEMENTING REGULATIONS ALSO REFERRED TO AS THE "ADA" 28 CFR Part 35.

The Subrecipient must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunication.

A.5 ASSURANCES

The Department and Subrecipient agree that all activity pursuant to this Agreement will be in accordance with all the applicable current federal, state and local laws, rules, and regulations.

A.6 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, OR INELIGIBILITY

As federal funds are a basis for this Agreement, the Subrecipient certifies that the Subrecipient is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this Agreement by any federal department or agency.

The Subrecipient shall complete, sign, and return a *Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion* form located at http://mil.wa.gov/emergency-management-division/grants/requiredgrantforms. Any such form completed by the Subrecipient for this Agreement shall be incorporated into this Agreement by reference.

Further, the Subrecipient agrees to comply with all applicable federal regulations concerning the federal debarment and suspension system, including 2 CFR Part 180. The Subrecipient certifies that it will ensure that potential contractors or subrecipients or any of their principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in "covered transactions" by any federal department or agency. "Covered transactions" include procurement contracts for goods or services awarded under a non-procurement transaction (e.g., grant or cooperative agreement) that are expected to equal or exceed $25,000, and subawards to subrecipients for any amount. With respect to covered transactions, the Subrecipient may comply with this provision by obtaining a certification statement from the potential contractor or subrecipient or by checking the System for Award Management (https://sam.gov/SAM/) maintained by the federal government. The Subrecipient also agrees not to enter into any arrangements or contracts with any party on the Washington State Department of Labor and Industries' "*Debarred Contractor List*" (https://secure.lni.wa.gov/debarandstrike/ContractorDebarList.aspx). The Subrecipient also agrees not to enter into any agreements or contracts for the purchase of goods and services with any party on the Department of Enterprise Services' *"Debarred Vendor List"* (http://www.des.wa.gov/services/ContractingPurchasing/Business/Pages/Vendor-Debarment.aspx).

A.7 CERTIFICATION REGARDING RESTRICTIONS ON LOBBYING

As required by 44 CFR Part 18, the Subrecipient hereby certifies that to the best of its knowledge and belief: (1) no federally appropriated funds have been paid or will be paid by or on behalf of the Subrecipient to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement; (2) that if any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Agreement, grant, loan, or cooperative agreement, the Subrecipient will complete and submit Standard Form-LLL, "*Disclosure Form to Report Lobbying*," in accordance with its instructions; (3) and that, as applicable, the Subrecipient will require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352.

A.8 COMPLIANCE WITH APPLICABLE STATUTES, RULES AND DEPARTMENT POLICIES

The Subrecipient and all its contractors and subrecipients shall comply with, and the Department is not responsible for determining compliance with, any and all applicable federal, state, and local laws, regulations, executive orders, OMB Circulars, and/or policies. This obligation includes, but is not limited to: nondiscrimination laws and/or policies, Energy Policy and Conservation Act (PL 94-163, as amended), the Americans with Disabilities Act (ADA), Age Discrimination Act of 1975, Title VI of the Civil Rights Act of 1964, Civil Rights Act of 1968, the Robert T. Stafford Disaster Relief and Emergency Assistance Act, (PL 93-288, as amended), Ethics in Public Service (RCW 42.52), Covenant Against Contingent Fees (48 CFR Section 52.203-5), Public Records Act (RCW 42.56), Prevailing Wages on Public Works (RCW 39.12), State Environmental Policy Act (RCW 43.21C), Shoreline Management Act of 1971 (RCW 90.58), State Building Code (RCW 19.27), Energy Related Building Standards (RCW 19.27A), Provisions in Buildings for Aged and Handicapped Persons (RCW 70.92), and safety and health regulations.

In the event of noncompliance or refusal to comply with any applicable law, regulation, executive order, OMB Circular or policy by the Subrecipient, its contractors or subrecipients, the Department may rescind, cancel, or terminate the Agreement in whole or in part in its sole discretion. The Subrecipient is

responsible for all costs or liability arising from its failure, and that of its contractors and subrecipients, to comply with applicable laws, regulations, executive orders, OMB Circulars or policies.

A.9 CONFLICT OF INTEREST

No officer or employee of the Department; no member, officer, or employee of the Subrecipient or its designees or agents; no member of the governing body of the jurisdiction in which the project is undertaken or located; and no other official of the Subrecipient who exercises any functions or responsibilities with respect to the project during his or her tenure, shall have any personal or pecuniary gain or interest, direct or indirect, in any contract, subcontract, or the proceeds thereof, for work to be performed in connection with the project assisted under this Agreement.

The Subrecipient shall incorporate, or cause to incorporate, in all such contracts or subawards, a provision prohibiting such interest pursuant to this provision.

A.10 CONTRACTING & PROCUREMENT

a. The Subrecipient shall use a competitive procurement process in the procurement and award of any contracts with contractors or subcontractors that are entered into under the original agreement award. The procurement process followed shall be in accordance with 2 CFR Part 200.318, General procurement standards, through 200.327, Contract provisions.

As required by Appendix II to 2 CFR Part 200, all contracts entered into by the Subrecipient under this Agreement must include the following provisions, as applicable:

1) Contracts for more than the simplified acquisition threshold currently set at $250,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

2) All contracts in excess of $10,000 must address termination for cause and for convenience by the non-federal entity including the manner by which it will be affected and the basis for settlement.

3) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "*Equal Employment Opportunity*" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "*Amending Executive Order 11246 Relating to Equal Employment Opportunity*," and implementing regulations at 41 CFR part 60, "*Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor*."

4) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of $2,000 awarded by non-federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "*Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction*"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-federal entity must report all suspected or reported violations to the federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or Subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or

she is otherwise entitled. The non-federal entity must report all suspected or reported violations to the federal awarding agency.

5) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-federal entity in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

6) Rights to Inventions Made Under a Contract or Agreement. If the federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or Subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or Subrecipient must comply with the requirements of 37 CFR Part 401, "*Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements*," and any implementing regulations issued by the awarding agency.

7) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non-federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

8) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "*Debarment and Suspension*." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

9) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding $100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award.

10) Procurement of recovered materials – As required by 2 CFR 200.323, a non-federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy

and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

11) Notice of federal awarding agency requirements and regulations pertaining to reporting.

12) Federal awarding agency requirements and regulations pertaining to copyrights and rights in data.

13) Access by the Department, the Subrecipient, the federal awarding agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

14) Retention of all required records for six years after the Subrecipient has made final payments and all other pending matters are closed.

15) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94–163, 89 Stat. 871).

16) Pursuant to Executive Order 13858 "*Strengthening Buy-American Preferences for Infrastructure Projects*," and as appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States, as required in 2 CFR Part 200.322, in every contract, subcontract, purchase order, or sub-award that is chargeable against federal financial assistance awards.

17) Per 2 C.F.R. § 200.216, prohibitions regarding certain telecommunications and video surveillance services or equipment are mandated by *section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (FY 2019 NDAA), Pub. L. No. 115-232 (2018)*.

b. The Department reserves the right to review the Subrecipient's procurement plans and documents and require the Subrecipient to make changes to bring its plans and documents into compliance with the requirements of 2 CFR Part 200.317 through 200.327. The Subrecipient must ensure that its procurement process requires contractors and subcontractors to provide adequate documentation with sufficient detail to support the costs of the project and to allow both the Subrecipient and Department to make a determination on eligibility of project costs.

c. All contracting agreements entered into pursuant to this Agreement shall incorporate this Agreement by reference.

A.11 DISCLOSURE

The use or disclosure by any party of any information concerning the Department for any purpose not directly connected with the administration of the Department's or the Subrecipient's responsibilities with respect to services provided under this Agreement is prohibited except by prior written consent of the Department or as required to comply with the state Public Records Act, other law or court order.

A.12 DISPUTES

Except as otherwise provided in this Agreement, when a bona fide dispute arises between the parties and it cannot be resolved through discussion and negotiation, either party may request a dispute resolution board to resolve the dispute. A request for a dispute resolution board shall be in writing, state the disputed issues, state the relative positions of the parties, and be sent to all parties. The board shall consist of a representative appointed by the Department, a representative appointed by the Subrecipient, and a third party mutually agreed upon by both parties. The determination of the dispute resolution board shall be final and binding on the parties hereto. Each party shall bear the cost for its member of the dispute resolution board and its attorney fees and costs and share equally the cost of the third board member.

A.13 LEGAL RELATIONS

It is understood and agreed that this Agreement is solely for the benefit of the parties to the Agreement and gives no right to any other party. No joint venture or partnership is formed as a result of this Agreement.

To the extent allowed by law, the Subrecipient, its successors or assigns, will protect, save and hold harmless the Department, the state of Washington, and the United States Government and their authorized agents and employees, from all claims, actions, costs, damages or expenses of any nature whatsoever by reason of the acts or omissions of the Subrecipient, its subcontractors, subrecipients, assigns, agents, contractors, consultants, licensees, invitees, employees or any person whomsoever arising out of or in connection with any acts or activities authorized by this Agreement.

To the extent allowed by law, the Subrecipient further agrees to defend the Department and the state of Washington and their authorized agents and employees in any litigation; including payment of any costs or attorneys' fees for any claims or action commenced thereon arising out of or in connection with acts or activities authorized by this Agreement.

This obligation shall not include such claims, costs, damages or expenses which may be caused by the sole negligence of the Department; provided, that if the claims or damages are caused by or result from the concurrent negligence of (1) the Department, and (2) the Subrecipient, its agents, or employees, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Subrecipient, or the Subrecipient's agents or employees.

Insofar as the funding source, FEMA, is an agency of the Federal government, the following shall apply:

44 CFR 206.9 Non-liability. The Federal government shall not be liable for any claim based upon the exercise or performance of, or the failure to exercise or perform a discretionary function or duty on the part of a federal agency or an employee of the Federal government in carrying out the provisions of the Stafford Act.

A.14 LIMITATION OF AUTHORITY – AUTHORIZED SIGNATURE

The signatories to this Agreement represent that they have the authority to bind their respective organizations to this Agreement. Only the Department's Authorized Signature representative and the Authorized Signature representative of the Subrecipient or Alternate for the Subrecipient, formally designated in writing, shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Agreement. Any alteration, amendment, modification, or waiver of any clause or condition of this Agreement is not effective or binding unless made in writing and signed by both parties' Authorized Signature representatives, except as provided for time extensions in Article A.3.

Further, only the Authorized Signature representative or Alternate for the Subrecipient shall have signature authority to sign reimbursement requests, time extension requests, amendment and modification requests, requests for changes to projects or work plans, and other requests, certifications and documents authorized by or required under this Agreement.

A.15 LOSS OR REDUCTION OF FUNDING

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement and prior to normal completion or end date, the Department may unilaterally reduce the work plan and budget or unilaterally terminate all or part of the Agreement as a "Termination for Cause" without providing the Subrecipient an opportunity to cure. Alternatively, the parties may renegotiate the terms of this Agreement under "Amendments and Modifications" to comply with new funding limitations and conditions, although the Department has no obligation to do so.

A.16 NONASSIGNABILITY

Neither this Agreement, nor any claim arising under this Agreement, shall be transferred or assigned by the Subrecipient.

A.17 NONDISCRIMINATION

During the performance of this agreement, the Subrecipient shall comply with all federal and state nondiscrimination statutes and regulations. These requirements include, but are not limited to:

a. Nondiscrimination in Employment: The Subrecipient shall not discriminate against any employee or applicant for employment because of race, color, sex, sexual orientation, religion, national origin, creed, marital status, age, Vietnam era or disabled veteran status, or the presence of any sensory, mental, or physical handicap. This requirement does not apply, however, to a religious corporation, association, educational institution or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution or society of its activities.

b. The Subrecipient shall take action to ensure that employees are employed and treated during employment without discrimination because of their race, color, sex, sexual orientation religion, national origin, creed, marital status, age, Vietnam era or disabled veteran status, or the presence of any sensory, mental, or physical handicap. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment selection for training, including apprenticeships and volunteers.

A.18 NOTICES

The Subrecipient shall comply with all public notices or notices to individuals required by applicable local, state and federal laws and regulations and shall maintain a record of this compliance.

A.19 OCCUPATIONAL SAFETY/HEALTH ACT and WASHINGTON INDUSTRIAL SAFETY/HEALTH ACT (OSHA/WISHA)

The Subrecipient represents and warrants that its workplace does now or will meet all applicable federal and state safety and health regulations that are in effect during the Subrecipient's performance under this Agreement. To the extent allowed by law, the Subrecipient further agrees to indemnify and hold harmless the Department and its employees and agents from all liability, damages and costs of any nature, including, but not limited to, costs of suits and attorneys' fees assessed against the Department, as a result of the failure of the Subrecipient to so comply.

A.20 OWNERSHIP OF PROJECT/CAPITAL FACILITIES

The Department makes no claim to any capital facilities or real property improved or constructed with funds under this Agreement, and by this subaward of funds does not and will not acquire any ownership interest or title to such property of the Subrecipient. The Subrecipient shall assume all liabilities and responsibilities arising from the ownership and operation of the project and agrees to defend, indemnify, and hold the Department, the state of Washington, and the United States government harmless from any and all causes of action arising from the ownership and operation of the project.

A.21 POLITICAL ACTIVITY

No portion of the funds provided herein shall be used for any partisan political activity or to further the election or defeat of any candidate for public office or influence the approval or defeat of any ballot issue.

A.22 PROHIBITION AGAINST PAYMENT OF BONUS OR COMMISSION

The assistance provided under this Agreement shall not be used in payment of any bonus or commission for the purpose of obtaining approval of the application for such assistance or any other approval or concurrence under this Agreement provided, however, that reasonable fees or bona fide technical consultant, managerial, or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as project costs.

A.23 PUBLICITY

The Subrecipient agrees to submit to the Department prior to issuance all advertising and publicity matters relating to this Agreement wherein the Department’s name is mentioned, or language used from which the connection of the Department’s name may, in the Department’s judgment, be inferred or implied. The Subrecipient agrees not to publish or use such advertising and publicity matters without the prior written consent of the Department. The Subrecipient may copyright original work it develops in the course of or under this Agreement; however, pursuant to 2 CFR Part 200.315, FEMA reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use the work for government purposes.

Publication resulting from work performed under this Agreement shall include an acknowledgement of FEMA’s financial support, by the Assistance Listings Number (formerly CFDA Number), and a statement that the publication does not constitute an endorsement by FEMA or reflect FEMA’s views.

A.24 RECAPTURE PROVISION

In the event the Subrecipient fails to expend funds under this Agreement in accordance with applicable federal, state, and local laws, regulations, and/or the provisions of the Agreement, the Department reserves the right to recapture funds in an amount equivalent to the extent of noncompliance. Such right of recapture shall exist for the life of the project following Agreement termination. Repayment by the Subrecipient of funds under this recapture provision shall occur within 30 days of demand. In the event the Department is required to institute legal proceedings to enforce the recapture provision, the

Department shall be entitled to its costs and expenses thereof, including attorney fees from the Subrecipient.

A.25 RECORDS

a. The Subrecipient agrees to maintain all books, records, documents, receipts, invoices and all other electronic or written records necessary to sufficiently and properly reflect the Subrecipient's contracts, subawards, grant administration, and payments, including all direct and indirect charges, and expenditures in the performance of this Agreement (the "records").

b. The Subrecipient's records related to this Agreement and the projects funded may be inspected and audited by the Department or its designee, by the Office of the State Auditor, DHS, FEMA or their designees, by the Comptroller General of the United States or its designees, or by other state or federal officials authorized by law, for the purposes of determining compliance by the Subrecipient with the terms of this Agreement and to determine the appropriate level of funding to be paid under the Agreement.

c. The records shall be made available by the Subrecipient for such inspection and audit, together with suitable space for such purpose, at any and all times during the Subrecipient's normal working day.

d. The Subrecipient shall retain and allow access to all records related to this Agreement and the funded project(s) for a period of at least six (6) years following final payment and closure of the grant under this Agreement. Despite the minimum federal retention requirement of three (3) years, the more stringent State requirement of six (6) years must be followed.

A.26 RESPONSIBILITY FOR PROJECT/STATEMENT OF WORK/WORK PLAN

While the Department undertakes to assist the Subrecipient with the project/statement of work/work plan (project) by providing federal award funds pursuant to this Agreement, the project itself remains the sole responsibility of the Subrecipient. The Department undertakes no responsibility to the Subrecipient, or to any third party, other than as is expressly set out in this Agreement.

The responsibility for the design, development, construction, implementation, operation and maintenance of the project, as these phrases are applicable to this project, is solely that of the Subrecipient, as is responsibility for any claim or suit of any nature by any third party related in any way to the project.

Prior to the start of any construction activity, the Subrecipient shall ensure that all applicable federal, state, and local permits and clearances are obtained, including, but not limited to, FEMA compliance with the National Environmental Policy Act, the National Historic Preservation Act, the Endangered Species Act, and all other environmental laws, regulations, and executive orders.

The Subrecipient shall defend, at its own cost, any and all claims or suits at law or in equity, which may be brought against the Subrecipient in connection with the project. The Subrecipient shall not look to the Department, or to any state or federal agency, or to any of their employees or agents, for any performance, assistance, or any payment or indemnity, including, but not limited to, cost of defense and/or attorneys' fees, in connection with any claim or lawsuit brought by any third party related to any design, development, construction, implementation, operation and/or maintenance of a project.

A.27 SEVERABILITY

If any court of rightful jurisdiction holds any provision or condition under this Agreement or its application to any person or circumstances invalid, this invalidity does not affect other provisions, terms or conditions of the Agreement, which can be given effect without the invalid provision. To this end, the terms and conditions of this Agreement are declared severable.

A.28 SINGLE AUDIT ACT REQUIREMENTS (including all AMENDMENTS)

The Subrecipient shall comply with and include the following audit requirements in any subawards.

Non-federal entities, as Subrecipients of a federal award, that expend **$750,000** or more in one fiscal year of federal funds from all sources, direct and indirect, are required to have a single or a program-specific audit conducted in accordance with 2 CFR Part 200 Subpart F. Non-federal entities that spend less than **$750,000** a year in federal awards are exempt from federal audit requirements for that year, except as noted in 2 CFR Part 200 Subpart F. As defined in 2 CFR Part 200, the term "non-federal entity" means a state, local government, Indian tribe, institution of higher education, or nonprofit organization that carries out a federal award as a recipient or subrecipient.

Subrecipients that are required to have an audit must ensure the audit is performed in accordance with Generally Accepted Government Auditing Standards (GAGAS) as found in the Government Auditing Standards (the Revised Yellow Book) developed by the United States Comptroller General and the OMB Compliance Supplement. The Subrecipient has the responsibility of notifying its auditor and requesting an audit in compliance with 2 CFR Part 200 Subpart F, to include the Washington State Auditor's Office, a federal auditor, or a public accountant performing work using GAGAS, as appropriate. Costs of the audit may be an allowable grant expenditure as authorized by 2 CFR Part 200.425.

The Subrecipient shall maintain auditable records and accounts so as to facilitate the audit requirement and shall ensure that any subcontractors also maintain auditable records. The Subrecipient is responsible for any audit exceptions incurred by its own organization or that of its subcontractors. Responses to any unresolved management findings and disallowed or questioned costs shall be included with the audit report. The Subrecipient must respond to Department requests for information or corrective action concerning audit issues or findings within 30 days of the date of request. The Department reserves the right to recover from the Subrecipient all disallowed costs resulting from the audit.

After the single audit has been completed, and if it includes any audit findings, the Subrecipient must send a full copy of the audit and its Corrective Action Plan to the Department at the following address no later than nine (9) months after the end of the Subrecipient's fiscal year(s):

Contracts Office
Washington Military Department
Finance Division, Building #1 TA-20
Camp Murray, WA 98430-5032

OR

Contracts.Office@mil.wa.gov

The Department retains the sole discretion to determine whether a valid claim for an exemption from the audit requirements of this provision has been established.

Conducting a single or program-specific audit in compliance with 2 CFR Part 200 Subpart F is a material requirement of this Agreement. In the absence of a valid claim of exemption from the audit requirements of 2 CFR Part 200 Subpart F, the Subrecipient's failure to comply with said audit requirements may result in one or more of the following actions in the Department's sole discretion: a percentage of federal awards being withheld until the audit is completed in accordance with 2 CFR Part 200 Subpart F; the withholding or disallowing of overhead costs; the suspension of federal awards until the audit is conducted and submitted; or termination of the federal award.

A.29 SUBRECIPIENT NOT EMPLOYEE

The Subrecipient, and/or employees or agents performing under this Agreement, are not employees or agents of the Department in any manner whatsoever. The Subrecipient will not be presented as nor claim to be an officer or employee of the Department or of the State of Washington by reason hereof, nor will the Subrecipient make any claim, demand, or application to or for any right, privilege or benefit applicable to an officer or employee of the Department or of the State of Washington, including, but not limited to, Workers' Compensation coverage, unemployment insurance benefits, social security benefits, retirement membership or credit, or privilege or benefit which would accrue to a civil service employee under Chapter 41.06 RCW; OFM Reg. 4.3.1.1.8.

It is understood that if the Subrecipient is another state department, state agency, state university, state college, state community college, state board, or state commission, that the officers and employees are employed by the State of Washington in their own right.

If the Subrecipient is an individual currently employed by a Washington State agency, the Department shall obtain proper approval from the employing agency or institution before entering into this contract. A statement of "no conflict of interest" shall be submitted to the Department.

A.30 TAXES, FEES AND LICENSES

Unless otherwise provided in this Agreement, the Subrecipient shall be responsible for, pay and maintain in current status all taxes, unemployment contributions, fees, licenses, assessments, permit charges and expenses of any other kind for the Subrecipient or its staff required by statute or regulation that are applicable to Agreement performance.

A.31 TERMINATION FOR CONVENIENCE

Notwithstanding any provisions of this Agreement, the Subrecipient may terminate this Agreement by providing written notice of such termination to the Department Key Personnel identified in the Agreement, specifying the effective date thereof, at least thirty (30) days prior to such date.

Except as otherwise provided in this Agreement, the Department, in its sole discretion and in the best interests of the state of Washington, may terminate this Agreement in whole or in part ten (10) business days after emailing notice to the Subrecipient. Upon notice of termination for convenience, the Department reserves the right to suspend all or part of the Agreement, withhold further payments, or prohibit the Subrecipient from incurring additional obligations of funds. In the event of termination, the Subrecipient shall be liable for all damages as authorized by law. The rights and remedies of the Department provided for in this section shall not be exclusive and are in addition to any other rights and remedies provided by law.

A.32 TERMINATION OR SUSPENSION FOR LOSS OF FUNDING

The Department may unilaterally terminate or suspend all or part of this Grant Agreement, or may reduce its scope of work and budget, if there is a reduction in funds by the source of those funds, and if such funds are the basis for this Grant Agreement. The Department will email the Subrecipient ten (10) business days prior to termination.

A.33 TERMINATION OR SUSPENSION FOR CAUSE

In the event the Department, in its sole discretion, determines the Subrecipient has failed to fulfill in a timely and proper manner its obligations under this Agreement, is in an unsound financial condition so as to endanger performance hereunder, is in violation of any laws or regulations that render the Subrecipient unable to perform any aspect of the Agreement, or has violated any of the covenants, agreements or stipulations of this Agreement, the Department has the right to immediately suspend or terminate this Agreement in whole or in part.

The Department may notify the Subrecipient in writing of the need to take corrective action and provide a period of time in which to cure. The Department is not required to allow the Subrecipient an opportunity to cure if it is not feasible as determined solely within the Department's discretion. Any time allowed for cure shall not diminish or eliminate the Subrecipient's liability for damages or otherwise affect any other remedies available to the Department. If the Department allows the Subrecipient an opportunity to cure, the Department shall notify the Subrecipient in writing of the need to take corrective action. If the corrective action is not taken within ten (10) calendar days or as otherwise specified by the Department, or if such corrective action is deemed by the Department to be insufficient, the Agreement may be terminated in whole or in part.

The Department reserves the right to suspend all or part of the Agreement, withhold further payments, or prohibit the Subrecipient from incurring additional obligations of funds during investigation of the alleged compliance breach, pending corrective action by the Subrecipient, if allowed, or pending a decision by the Department to terminate the Agreement in whole or in part.

In the event of termination, the Subrecipient shall be liable for all damages as authorized by law, including, but not limited to, any cost difference between the original Agreement and the replacement or cover Agreement and all administrative costs directly related to the replacement Agreement, e.g., cost of administering the competitive solicitation process, mailing, advertising and other associated staff time. The rights and remedies of the Department provided for in this section shall not be exclusive and are in addition to any other rights and remedies provided by law.

If it is determined that the Subrecipient: (1) was not in default or material breach, or (2) failure to perform was outside of the Subrecipient's control, fault or negligence, the termination shall be deemed to be a termination for convenience.

A.34 TERMINATION PROCEDURES

In addition to the procedures set forth below, if the Department terminates this Agreement, the Subrecipient shall follow any procedures specified in the termination notice. Upon termination of this Agreement and in addition to any other rights provided in this Agreement, the Department may require the Subrecipient to deliver to the Department any property specifically produced or acquired for the performance of such part of this Agreement as has been terminated.

If the termination is for convenience, the Department shall pay to the Subrecipient as an agreed upon price, if separately stated, for properly authorized and completed work and services rendered or goods

delivered to and accepted by the Department prior to the effective date of Agreement termination, the amount agreed upon by the Subrecipient and the Department for (i) completed work and services and/or equipment or supplies provided for which no separate price is stated, (ii) partially completed work and services and/or equipment or supplies provided which are accepted by the Department, (iii) other work, services and/or equipment or supplies which are accepted by the Department, and (iv) the protection and preservation of property.

Failure to agree with such amounts shall be a dispute within the meaning of the "Disputes" clause of this Agreement. If the termination is for cause, the Department shall determine the extent of the liability of the Department. The Department shall have no other obligation to the Subrecipient for termination. The Department may withhold from any amounts due the Subrecipient such sum as the Department determines to be necessary to protect the Department against potential loss or liability.

The rights and remedies of the Department provided in this Agreement shall not be exclusive and are in addition to any other rights and remedies provided by law.

After receipt of a notice of termination, and except as otherwise directed by the Department in writing, the Subrecipient shall:

a. Stop work under the Agreement on the date, and to the extent specified, in the notice;

b. Place no further orders or contracts for materials, services, supplies, equipment and/or facilities in relation to this Agreement except as may be necessary for completion of such portion of the work under the Agreement as is not terminated;

c. Assign to the Department, in the manner, at the times, and to the extent directed by the Department, all of the rights, title, and interest of the Subrecipient under the orders and contracts so terminated, in which case the Department has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and contracts;

d. Settle all outstanding liabilities and all claims arising out of such termination of orders and contracts, with the approval or ratification of the Department to the extent the Department may require, which approval or ratification shall be final for all the purposes of this clause;

e. Transfer title to the Department and deliver in the manner, at the times, and to the extent directed by the Department any property which, if the Agreement had been completed, would have been required to be furnished to the Department;

f. Complete performance of such part of the work as shall not have been terminated by the Department in compliance with all contractual requirements; and

g. Take such action as may be necessary, or as the Department may require, for the protection and preservation of the property related to this Agreement which is in the possession of the Subrecipient and in which the Department has or may acquire an interest.

A.35 MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES

In accordance with the legislative findings and policies set forth in Chapter 39.19 RCW, the State of Washington encourages participation in all its contracts by MWBE firms certified by the Office of Minority and Women's Business Enterprises (OMWBE). To the extent possible, the Subrecipient will solicit and encourage minority-owned and women-owned business enterprises who are certified by the OMWBE under the state of Washington certification program to apply and compete for work under this contract. Voluntary numerical MWBE participation goals have been established and are indicated herein: Minority Business Enterprises: (MBE's): 10% and Woman's Business Enterprises (WBE's): 6%.

A.36 VENUE

This Agreement shall be construed and enforced in accordance with, and the validity and performance shall be governed by, the laws of the state of Washington. Venue of any suit between the parties arising out of this Agreement shall be the Superior Court of Thurston County, Washington. The Subrecipient, by execution of this Agreement, acknowledges the jurisdiction of the courts of the state of Washington.

A.37 WAIVERS

No conditions or provisions of this Agreement can be waived unless approved in advance by the Department in writing. The Department's failure to insist upon strict performance of any provision of the Agreement or to exercise any right based upon a breach thereof, or the acceptance of any performance during such breach, shall not constitute a waiver of any right under this Agreement.

22SLCGP Award Letter
EMW-2022-CY-00017

U.S. Department of Homeland Security
Washington, D.C. 20472

Bret Daugherty
Washington Military Department
Building 20
Camp Murray, WA 98430 - 5122

Re: Grant No.EMW-2022-CY-00017

Dear Bret Daugherty:

Congratulations, on behalf of the Department of Homeland Security, your application for financial assistance submitted under the Fiscal Year (FY) 2022 State and Local Cybersecurity Grant Program has been approved in the amount of $3,666,530.00. As a condition of this award, you are required to contribute a cost match in the amount of $407,393.00 of non-Federal funds, or 10 percent of the total approved project costs of $4,073,923.00.

Before you request and receive any of the Federal funds awarded to you, you must establish acceptance of the award. By accepting this award, you acknowledge that the terms of the following documents are incorporated into the terms of your award:

- Agreement Articles (attached to this Award Letter)
- Obligating Document (attached to this Award Letter)
- FY 2022 State and Local Cybersecurity Grant Program Notice of Funding Opportunity
- Information Bulletin 479: Updated Fiscal Year 2022 State and Local Cybersecurity Grant Program Allocation Amounts

Please make sure you read, understand, and maintain a copy of these documents in your official file for this award.

In order to establish acceptance of the award and its terms, please follow these instructions:

Step 1: Please log in to the ND Grants system at https://portal.fema.gov.

Step 2: After logging in, you will see the Home page with a Pending Tasks menu. Click on the Pending Tasks menu, select the Application sub-menu, and then click the link for "Award Offer Review" tasks. This link will navigate you to Award Packages that are pending review.

Step 3: Click the Review Award Package icon (wrench) to review the Award Package and accept or decline the award. Please save or print the Award Package for your records.

System for Award Management (SAM): Grant recipients are to keep all of their information up to date in SAM, in particular, your organization's name, address, Unique Entity Identifier (UEI) number, EIN and banking information. Please ensure that the UEI number used in SAM is the same one used to apply for all FEMA awards. Future payments will be contingent on the information provided in the SAM; therefore, it is imperative that the information is correct. The System for Award Management is located at http://www.sam.gov.

If you have any questions or have updated your information in SAM, please let your Grants Management Specialist (GMS) know as soon as possible. This will help us to make the necessary updates and avoid any interruptions in the payment process.

PAMELA SUSAN WILLIAMS

U.S. Department of Homeland Security
Washington, D.C. 20472

AGREEMENT ARTICLES
State and Local Cybersecurity Grant Program

GRANTEE:	Washington Military Department
PROGRAM:	State and Local Cybersecurity Grant Program
AGREEMENT NUMBER:	EMW-2022-CY-00017-S01

TABLE OF CONTENTS

Article I	Summary Description of Award
Article II	SLCGP Performance Goal
Article III	Cybersecurity Plan Pending Submission and Approval
Article IV	Committee Membership List Pending Submission or Approval
Article V	DHS Standard Terms and Conditions Generally
Article VI	Assurances, Administrative Requirements, Cost Principles, Representations and Certifications
Article VII	General Acknowledgements and Assurances
Article VIII	Acknowledgement of Federal Funding from DHS
Article IX	Activities Conducted Abroad
Article X	Age Discrimination Act of 1975
Article XI	Americans with Disabilities Act of 1990
Article XII	Best Practices for Collection and Use of Personally Identifiable Information
Article XIII	Civil Rights Act of 1964 - Title VI
Article XIV	Civil Rights Act of 1968
Article XV	Copyright
Article XVI	Debarment and Suspension

Article XVII	Drug-Free Workplace Regulations
Article XVIII	Duplication of Benefits
Article XIX	Education Amendments of 1972 (Equal Opportunity in Education Act) - Title IX
Article XX	Energy Policy and Conservation Act
Article XXI	False Claims Act and Program Fraud Civil Remedies
Article XXII	Federal Debt Status
Article XXIII	Federal Leadership on Reducing Text Messaging while Driving
Article XXIV	Fly America Act of 1974
Article XXV	Hotel and Motel Fire Safety Act of 1990
Article XXVI	John S. McCain National Defense Authorization Act of Fiscal Year 2019
Article XXVII	Limited English Proficiency (Civil Rights Act of 1964 - Title VI)
Article XXVIII	Lobbying Prohibitions
Article XXIX	National Environmental Policy Act
Article XXX	Nondiscrimination in Matters Pertaining to Faith-Based Organizations
Article XXXI	Non-Supplanting Requirement
Article XXXII	Notice of Funding Opportunity Requirements
Article XXXIII	Patents and Intellectual Property Rights
Article XXXIV	Procurement of Recovered Materials
Article XXXV	Rehabilitation Act of 1973
Article XXXVI	Reporting of Matters Related to Recipient Integrity and Performance
Article XXXVII	Reporting Subawards and Executive Compensation
Article XXXVIII	Required Use of American Iron, Steel, Manufactured Products, and Construction Materials

Article XXXIX	SAFECOM
Article XL	Terrorist Financing
Article XLI	Trafficking Victims Protection Act of 2000 (TVPA)
Article XLII	Universal Identifier and System of Award Management
Article XLIII	USA PATRIOT Act of 2001
Article XLIV	Use of DHS Seal, Logo and Flags
Article XLV	Whistleblower Protection Act
Article XLVI	Environmental Planning and Historic Preservation (EHP) Review
Article XLVII	Applicability of DHS Standard Terms and Conditions to Tribes
Article XLVIII	Acceptance of Post Award Changes
Article XLIX	Disposition of Equipment Acquired Under the Federal Award
Article L	Prior Approval for Modification of Approved Budget
Article LI	Indirect Cost Rate

Article I - Summary Description of Award

The purpose of the Fiscal Year 2022 State and Local Cybersecurity Grant Program (SLCGP) is to assist state, local, and territorial (SLT) governments with managing and reducing systemic cyber risk. Through funding from the Infrastructure Investment and Jobs Act, also known as the Bipartisan Infrastructure Law, the SLCGP enables DHS to make targeted cybersecurity investments in SLT government agencies, thus improving the security of critical infrastructure and improving the resilience of the services SLT governments provide their community. This SLCGP award provides funding in the amount of: $3,666,530 for the state of Washington. Of this amount, up to $183,326 can be retained by the State Administrative Agency (SAA) for management and administrative expenses, and a total of $407,393 is the required cost share.

The terms of the approved Investment Justification(s) and Budget Detail Worksheet(s) submitted by the recipient are incorporated into the terms of this Federal award, subject to the additional description and limitations stated in this Agreement Article and the limitations stated in subsequent reviews by FEMA and CISA of the award budget. Post-award documents uploaded into ND Grants for this award are also incorporated into the terms and conditions of this award, subject to any limitations stated in subsequent approvals by FEMA and CISA of changes to the award. Investments not listed in this Agreement Article are not approved for funding under this award.

Article II - SLCGP Performance Goal

In addition to the Performance Progress Report (PPR) submission requirements due January 30, outlined in NOFO Appendix A-11, recipients must demonstrate how the grant-funded projects address the capability gaps identified in their Cybersecurity Plan or other relevant documentation or sustains existing capabilities per the CISA-approved Investment Justification. The capability gap reduction or capability sustainment must be addressed in the PPR, Section 10. Performance Narrative.

Article III - Cybersecurity Plan Pending Submission and Approval

FEMA has placed a funding hold on $3,486,554 in the FEMA financial systems. The recipient is prohibited from obligating, expending, or drawing down these funds.

To release this hold, the recipient is required to submit a Cybersecurity Plan for approval by CISA. Please contact CISA at SLCGPInfo@cisa.dhs.gov to receive further guidance on the steps required for Cybersecurity Plan approval.

If you have questions about this funding hold or believe it was placed in error, please contact your FEMA GPD Headquarters Preparedness Officer, Essence Cleveland at Essence.Cleveland@fema.dhs.gov.

Article IV - Committee Membership List Pending Submission or Approval

FEMA has placed a funding hold on this award, and the amount of $3,486,554 is on hold in the FEMA financial systems. The recipient is prohibited from obligating, expending, or drawing down funds until the Committee Membership List is submitted and approved.

To release this hold, the recipient is required to submit the Committee Membership List, and receive approval of the Membership List from CISA. Please contact CISA at SLCGPInfo@cisa.dhs.gov to receive further guidance on the steps required to release this hold.

If you have questions about this funding hold or believe it was placed in error, please contact your FEMA GPD Headquarters Preparedness Officer, Essence Cleveland at Essence.Cleveland@fema.dhs.gov.

Article V - DHS Standard Terms and Conditions Generally

The Fiscal Year (FY) 2022 DHS Standard Terms and Conditions apply to all new federal financial assistance awards funded in FY 2022. These terms and conditions flow down to subrecipients unless an award term or condition specifically indicates otherwise. The United States has the right to seek judicial enforcement of these obligations.

All legislation and digital resources are referenced with no digital links. The FY 2022 DHS Standard Terms and Conditions will be housed on dhs.gov at www.dhs.gov/publication/fy15-dhs-standard-terms-and-conditions.

Article VI - Assurances, Administrative Requirements, Cost Principles, Representations and Certifications

I. DHS financial assistance recipients must complete either the Office of Management and Budget (OMB) Standard Form 424B Assurances - Non-Construction Programs, or OMB Standard Form 424D Assurances - Construction Programs, as applicable. Certain assurances in these documents may not be applicable to your program, and the DHS financial assistance office (DHS FAO) may require applicants to certify additional assurances. Applicants are required to fill out the assurances as instructed by the awarding agency.

II. DHS financial assistance recipients are required to follow the applicable provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards located at Title 2, Code of Federal Regulations (C.F.R.) Part 200 and adopted by DHS at 2 C.F.R. Part 3002.

III. By accepting this agreement,recipients,andtheirexecutives,as defined in 2 C.F.R.section170.315, certifythat their policies are in accordance with OMB's guidance located at 2 C.F.R. Part 200, all applicable federal laws, and relevant Executive guidance.

Article VII - General Acknowledgements and Assurances

All recipients, subrecipients, successors, transferees, and assignees must acknowledge and agree to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff.

I. Recipients must cooperate with any DHS compliance reviews or compliance investigations conducted by DHS.

II. Recipients must give DHS access to examine and copy records, accounts, and other documents and sources of information related to the federal financial assistance award and permit access to facilities or personnel.

III. Recipients must submit timely, complete, and accurate reports to the appropriate DHS officials and maintain appropriate backup documentation to support the reports.

IV. Recipients must comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law, or detailed in program guidance.

V. Recipients (as defined in 2 C.F.R. Part 200 and including recipients acting as pass-through entities) of federal financial assistance from DHS or one of its awarding component agencies must complete the DHS Civil Rights Evaluation Tool within thirty (30) days of receipt of the Notice of Award for the first award under which this term applies. Recipients of multiple awards of DHS financial assistance should only submit one completed tool for their organization, not per award. After the initial submission, recipients are required to complete the tool once every two (2) years if they have an active award, not every time an award is made. Recipients should submit the completed tool, including supporting materials, to CivilRightsEvaluation@hq.dhs.gov. This tool clarifies the civil rights obligations and related reporting requirements contained in the DHS Standard Terms and Conditions. Subrecipients are not required to complete and submit this tool to DHS. The evaluation tool can be found at https://www.dhs.gov/publication/dhs-civil-rights-evaluation-tool.

The DHS Office for Civil Rights and Civil Liberties will consider, in its discretion, granting an extension if the recipient identifies steps and a timeline for completing the tool. Recipients should request extensions by emailing the request to CivilRightsEvaluation@hq.dhs.gov prior to expiration of the 30-day deadline.

Article VIII - Acknowledgement of Federal Funding from DHS

Recipients must acknowledge their use of federal funding when issuing statements, press releases, requests for proposal, bid invitations, and other documents describing projects or programs funded in whole or in part with federal funds.

Article IX - Activities Conducted Abroad

Recipients must ensure that project activities performed outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.

Article X - Age Discrimination Act of 1975

Recipients must comply with the requirements of the Age Discrimination Act of 1975, Public Law 94-135 (1975) (codified as amended at Title 42, U.S. Code, section 6101 et seq.), which prohibits discrimination on the basis of age in any program or activity receiving federal financial assistance.

Article XI - Americans with Disabilities Act of 1990

Recipients must comply with the requirements of Titles I, II, and III of the Americans with Disabilities Act, Pub. L. 101-336 (1990) (codified as amended at 42 U.S.C. sections 12101 - 12213), which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities.

Article XII - Best Practices for Collection and Use of Personally Identifiable Information

Recipients who collect personally identifiable information (PII) are required to have a publicly available privacy policy that describes standards on the usage and maintenance of the PII they collect. DHS defines PII as any information that permits the identity of an individual to be directly or indirectly inferred, including any information that is linked or linkable to that individual. Recipients may also find the DHS Privacy Impact Assessments: Privacy Guidance and Privacy Template as useful resources respectively.

Article XIII - Civil Rights Act of 1964 - Title VI

Recipients must comply with the requirements of Title VI of the Civil Rights Act of 1964 (codified as amended at 42 U.S.C. section 2000d et seq.), which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. DHS implementing regulations for the Act are found at 6 C.F.R. Part 21 and 44 C.F.R. Part 7.

Article XIV - Civil Rights Act of 1968

Recipients must comply with Title VIII of the Civil Rights Act of 1968, Pub. L. 90-284, as amended through Pub. L. 113-4, which prohibits recipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex (see 42 U.S.C. section 3601 et seq.), as implemented by the U.S. Department of Housing and Urban Development at 24 C.F.R. Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units - i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and

ground-floor units in buildings without elevators) - be designed and constructed with certain accessible features. (See 24 C.F.R. Part 100, Subpart D.)

Article XV - Copyright

Recipients must affix the applicable copyright notices of 17 U.S.C. sections 401 or 402 and an acknowledgement of U.S. Government sponsorship (including the award number) to any work first produced under federal financial assistance awards.

Article XVI - Debarment and Suspension

Recipients are subject to the non-procurement debarment and suspension regulations implementing Executive Orders (E.O.) 12549 and 12689, which are at 2 C.F.R. Part 180 as adopted by DHS at 2 C.F.R. Part 3002. These regulations restrict federal financial assistance awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities.

Article XVII - Drug-Free Workplace Regulations

Recipients must comply with drug-free workplace requirements in Subpart B (or Subpart C, if the recipient is an individual) of 2 C.F.R. Part 3001, which adopts the Government-wide implementation (2 C.F.R. Part 182) of Sec. 5152-5158 of the Drug-Free Workplace Act of 1988 (41 U.S.C. sections 8101-8106).

Article XVIII - Duplication of Benefits

Any cost allocable to a particular federal financial assistance award provided for in 2 C.F.R. Part 200, Subpart E may not be charged to other federal financial assistance awards to overcome fund deficiencies; to avoid restrictions imposed by federal statutes, regulations, or federal financial assistance award terms and conditions; or for other reasons. However, these prohibitions would not preclude recipients from shifting costs that are allowable under two or more awards in accordance with existing federal statutes, regulations, or the federal financial assistance award terms and conditions.

Article XIX - Education Amendments of 1972 (Equal Opportunity in Education Act) - Title IX

Recipients must comply with the requirements of Title IX of the Education Amendments of 1972, Pub. L. 92-318 (1972) (codified as amended at 20 U.S.C. section 1681 et seq.), which provide that no person in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance. DHS implementing regulations are codified at 6 C.F.R. Part 17 and 44 C.F.R. Part 19.

Article XX - Energy Policy and Conservation Act

Recipients must comply with the requirements of the Energy Policy and Conservation Act, Pub. L. 94- 163 (1975) (codified as amended at 42 U.S.C. section 6201 et seq.), which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.

Article XXI - False Claims Act and Program Fraud Civil Remedies

Recipients must comply with the requirements of the False Claims Act, 31 U.S.C. sections 3729- 3733, which prohibit the submission of false or fraudulent claims for payment to the Federal Government. (See 31 U.S.C. sections 3801-3812, which details the administrative remedies for false claims and statements made.)

Article XXII - Federal Debt Status

All recipients are required to be non-delinquent in their repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. (See OMB Circular A-129.)

Article XXIII - Federal Leadership on Reducing Text Messaging while Driving

Recipients are encouraged to adopt and enforce policies that ban text messaging while driving as described in E.O. 13513, including conducting initiatives described in Section 3(a) of the Order when on official government business or when performing any work for or on behalf of the Federal Government.

Article XXIV - Fly America Act of 1974

Recipients must comply with Preference for U.S. Flag Air Carriers (air carriers holding certificates under 49 U.S.C.) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974, 49 U.S.C. section 40118, and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B-138942.

Article XXV - Hotel and Motel Fire Safety Act of 1990

Recipients must ensure that all conference, meeting, convention, or training space funded in whole or in part with federal funds complies with the fire prevention and control guidelines of Section 6 of the Hotel and Motel Fire Safety Act of 1990, 15 U.S.C. section 2225a.

Article XXVI - John S. McCain National Defense Authorization Act of Fiscal Year 2019

Recipients, subrecipients, and their contractors and subcontractors are subject to the prohibitions described in section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232 (2018) and 2 C.F.R. sections 200.216, 200.327, 200.471, and Appendix II to 2 C.F.R. Part 200. Beginning August 13, 2020, the statute - as it applies to DHS recipients, subrecipients, and their contractors and subcontractors - prohibits obligating or expending federal award funds on certain telecommunications and video surveillance products and contracting with certain entities for national security reasons.

Article XXVII - Limited English Proficiency (Civil Rights Act of 1964 - Title VI)

Recipients must comply with Title VI of the Civil Rights Act of 1964, (42 U.S.C. section 2000d et seq.) prohibition against discrimination on the basis of national origin, which requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services. For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance: https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-access-people-limited and additional resources on http://www.lep.gov.

Article XXVIII - Lobbying Prohibitions

Recipients must comply with 31 U.S.C. section 1352, which provides that none of the funds provided under a federal financial assistance award may be expended by the recipient to pay any person to influence, or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal action related to a federal award or contract, including any extension, continuation, renewal, amendment, or modification.

Article XXIX - National Environmental Policy Act

Recipients must comply with the requirements of the National Environmental Policy Act of 1969, (NEPA) Pub. L. 91-190 (1970) (codified as amended at 42 U.S.C. section 4321 et seq.) and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA, which require recipients to use all practicable means within their authority, and consistent with other essential considerations of national policy, to create and maintain conditions under which people and nature can exist in productive harmony and fulfill the social, economic, and other needs of present and future generations of Americans.

Article XXX - Nondiscrimination in Matters Pertaining to Faith-Based Organizations

It is DHS policy to ensure the equal treatment of faith-based organizations in social service programs administered or supported by DHS or its component agencies, enabling those organizations to participate in providing important social services to beneficiaries. Recipients must comply with the equal treatment policies and requirements contained in 6 C.F.R. Part 19 and other applicable statues, regulations, and guidance governing the participations of faith-based organizations in individual DHS programs.

Article XXXI - Non-Supplanting Requirement

Recipients receiving federal financial assistance awards made under programs that prohibit supplanting by law must ensure that federal funds do not replace (supplant) funds that have been budgeted for the same purpose through non-federal sources.

Article XXXII - Notice of Funding Opportunity Requirements

All the instructions, guidance, limitations, and other conditions set forth in the Notice of Funding Opportunity (NOFO) for this program are incorporated here by reference in the award terms and conditions. All recipients must comply with any such requirements set forth in the program NOFO.

Article XXXIII - Patents and Intellectual Property Rights

Recipients are subject to the Bayh-Dole Act, 35 U.S.C. section 200 et seq, unless otherwise provided by law. Recipients are subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from federal financial assistance awards located at 37 C.F.R. Part 401 and the standard patent rights clause located at 37 C.F.R. section 401.14.

Article XXXIV - Procurement of Recovered Materials

States, political subdivisions of states, and their contractors must comply with Section 6002 of the Solid Waste Disposal Act, Pub. L. 89-272 (1965), (codified as amended by the Resource Conservation and Recovery Act, 42 U.S.C. section 6962.) The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

Article XXXV - Rehabilitation Act of 1973

Recipients must comply with the requirements of Section 504 of the Rehabilitation Act of 1973, Pub. L. 93-112 (1973) (codified as amended at 29 U.S.C. section 794), which provides that no otherwise qualified handicapped individuals in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

Article XXXVI - Reporting of Matters Related to Recipient Integrity and Performance

General Reporting Requirements:

If the total value of any currently active grants, cooperative agreements, and procurement contracts from all federal awarding agencies exceeds $10,000,000 for any period of time during the period of performance of this federal award, then the recipients must comply with the requirements set forth in the government-wide Award Term and Condition for Recipient Integrity and Performance Matters located at 2 C.F.R. Part 200, Appendix XII, the full text of which is incorporated here by reference in the award terms and conditions.

Article XXXVII - Reporting Subawards and Executive Compensation

Reporting of first tier subawards:

Recipients are required to comply with the requirements set forth in the government-wide award term on Reporting Subawards and Executive Compensation located at 2 C.F.R. Part 170, Appendix A, the full text of which is incorporated here by reference in the award terms and conditions.

Article XXXVIII - Required Use of American Iron, Steel, Manufactured Products, and Construction Materials

Recipients and subrecipients must comply with the Build America, Buy America Act (BABAA), which was enacted as part of the Infrastructure Investment and Jobs Act Sections 70901-70927, Pub. L. No. 117-58 (2021); and Executive Order 14005, Ensuring the Future is Made in All of America by All of America's Workers. *See also* Office of Management and Budget (OMB), Memorandum M-22-11, Initial Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure.

Recipients and subrecipients of federal financial assistance programs for infrastructure are hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless:

(1) all iron and steel used in the project are produced in the United States--this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
(2) all manufactured products used in the project are produced in the United States--this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and

(3) all construction materials are manufactured in the United States--this means that all manufacturing processes for the construction material occurred in the United States.

The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project, but are not an integral part of the structure or permanently affixed to the infrastructure project.

Waivers

When necessary, recipients may apply for, and the agency may grant, a waiver from these requirements.

(a) When the federal agency has made a determination that one of the following exceptions applies, the awarding official may waive the application of the domestic content procurement preference in any case in which the agency determines that:
(1) applying the domestic content procurement preference would be inconsistent with the public interest;
(2) the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
(3) the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

A request to waive the application of the domestic content procurement preference must be in writing. The agency will provide instructions on the format, contents, and supporting materials required for any waiver request. Waiver requests are subject to public comment periods of no less than 15 days and must be reviewed by the OMB Made in America Office.
There may be instances where an award qualifies, in whole or in part, for an existing waiver described. For awards by the Federal Emergency Management Agency (FEMA), existing waivers are available and the waiver process is described at "Buy America" Preference in FEMA Financial Assistance Programs for Infrastructure | FEMA.gov. For awards by other DHS components, please contact the applicable DHS FAO.

To see whether a particular DHS federal financial assistance program is considered an infrastructure program and thus required to include a Buy America preference, please either contact the applicable DHS FAO, or for FEMA awards, please see Programs and Definitions: Build America, Buy America Act | FEMA.gov.

Article XXXIX - SAFECOM

Recipients receiving federal financial assistance awards made under programs that provide emergency communication equipment and its related activities must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.

Article XL - Terrorist Financing

Recipients must comply with E.O. 13224 and U.S. laws that prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. Recipients are legally responsible to ensure compliance with the Order and laws.

Article XLI - Trafficking Victims Protection Act of 2000 (TVPA)

Trafficking in Persons:

Recipients must comply with the requirements of the government-wide financial assistance award term which implements Section 106 (g) of the Trafficking Victims Protection Act of 2000 (TVPA), codified as amended at 22 U.S.C. section 7104. The award term is located at 2 C.F.R. section 175.15, the full text of which is incorporated here by reference.

Article XLII - Universal Identifier and System of Award Management

Requirements for System for Award Management and Unique Entity Identifier Recipients are required to comply with the requirements set forth in the government-wide financial assistance award term regarding the System for Award Management and Universal Identifier Requirements located at 2 C.F.R. Part 25, Appendix A, the full text of which is incorporated here by reference.

Article XLIII - USA PATRIOT Act of 2001

Recipients must comply with requirements of Section 817 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), which amends 18 U.S.C. sections 175-175c.

Article XLIV - Use of DHS Seal, Logo and Flags

Recipients must obtain permission from their DHS FAO prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.

Article XLV - Whistleblower Protection Act

Recipients must comply with the statutory requirements for whistleblower protections (if applicable) at 10 U.S.C section 2409, 41 U.S.C. section 4712, and 10 U.S.C. section 2324, 41 U.S.C. sections 4304 and 4310.

Article XLVI - Environmental Planning and Historic Preservation (EHP) Review

DHS/FEMA funded activities that may require an Environmental Planning and Historic Preservation (EHP) review are subject to the FEMA EHP review process. This review does not address all federal, state, and local requirements. Acceptance of federal funding requires the recipient to comply with all federal, state, and local laws.

DHS/FEMA is required to consider the potential impacts to natural and cultural resources of all projects funded by DHS/ FEMA grant funds, through its EHP review process, as mandated by the National Environmental Policy Act; National Historic Preservation Act of 1966, as amended; National Flood Insurance Program regulations; and any other applicable laws and executive orders. In order to initiate EHP review of your project(s), you must submit a detailed project description along with supporting documentation. The EHP review process must be completed before funds are released to carry out the proposed project; otherwise, DHS/FEMA may not be able to fund the project due to noncompliance with EHP laws, executive orders, regulations, and policies.

If ground disturbing activities occur during construction, applicant will monitor ground disturbance, and if any potential archeological resources are discovered the applicant will immediately cease work in that area and notify the pass-through entity, if applicable, and DHS/FEMA.

Article XLVII - Applicability of DHS Standard Terms and Conditions to Tribes

The DHS Standard Terms and Conditions are a restatement of general requirements imposed upon recipients and flow down to subrecipients as a matter of law, regulation, or executive order. If the requirement does not apply to Indian tribes or there is a federal law or regulation exempting its application to Indian tribes, then the acceptance by Tribes of, or acquiescence to, DHS Standard Terms and Conditions does not change or alter its inapplicability to an Indian tribe. The execution of grant documents is not intended to change, alter, amend, or impose additional liability or responsibility upon the Tribe where it does not already exist.

Article XLVIII - Acceptance of Post Award Changes

In the event FEMA determines that changes are necessary to the award document after an award has been made, including changes to period of performance or terms and conditions, recipients will be notified of the changes in writing. Once notification has been made, any subsequent request for funds will indicate recipient acceptance of the changes to the award. Please call the FEMA/GMD Call Center at (866) 927-5646 or via e-mail to ASK-GMD@fema.dhs.gov if you have any questions.

Article XLIX - Disposition of Equipment Acquired Under the Federal Award

For purposes of original or replacement equipment acquired under this award by a non-state recipient or non-state subrecipients, when that equipment is no longer needed for the original project or program or for other activities currently or previously supported by a federal awarding agency, you must request instructions from FEMA to make proper disposition of the equipment pursuant to 2 C.F.R. section 200.313. State recipients and state subrecipients must follow the disposition requirements in accordance with state laws and procedures.

Article L - Prior Approval for Modification of Approved Budget

Before making any change to the FEMA approved budget for this award, you must request prior written approval from FEMA where required by 2 C.F.R. section 200.308.

For purposes of non-construction projects, FEMA is utilizing its discretion to impose an additional restriction under 2 C.F.R. section 200.308(f) regarding the transfer of funds among direct cost categories, programs, functions, or activities. Therefore, for awards with an approved budget where the federal share is greater than the simplified acquisition threshold (currently $250,000), you may not transfer funds among direct cost categories, programs, functions, or activities without prior written approval from FEMA where the cumulative amount of such transfers exceeds or is expected to exceed ten percent (10%) of the total budget FEMA last approved.

For purposes of awards that support both construction and non-construction work, FEMA is utilizing its discretion under 2 C.F.R. section 200.308(h)(5) to require the recipient to obtain prior written approval from FEMA before making any fund or budget transfers between the two types of work.

You must report any deviations from your FEMA approved budget in the first Federal Financial Report (SF-425) you submit following any budget deviation, regardless of whether the budget deviation requires prior written approval.

Article LI - Indirect Cost Rate

2 C.F.R. section 200.211(b)(15) requires the terms of the award to include the indirect cost rate for the federal award. If applicable, the indirect cost rate for this award is stated in the budget documents or other materials approved by FEMA and included in the award file.

BUDGET COST CATEGORIES

Personnel	$165,066.00
Fringe Benefits	$62,724.00
Travel	$10,210.00
Equipment	$0.00
Supplies	$946.00
Contractual	$3,806,028.00
Construction	$0.00
Indirect Charges	$28,949.00
Other	$0.00

Obligating Document for Award/Amendment				
1a. AGREEMENT NO. EMW-2022-CY-00017-S01	2. AMENDMENT NO. ***	3. RECIPIENT NO. 916001095G	4. TYPE OF ACTION AWARD	5. CONTROL NO. WX00743N2023T
6. RECIPIENT NAME AND ADDRESS Washington Military Department Building 20 Camp Murray, WA, 98430 - 5122	7. ISSUING FEMA OFFICE AND ADDRESS FEMA-GPD 400 C Street, SW, 3rd floor Washington, DC 20472-3645 POC: 866-927-5646		8. PAYMENT OFFICE AND ADDRESS FEMA Finance Center 430 Market Street Winchester, VA 22603	
9. NAME OF RECIPIENT PROJECT OFFICER Sierra Wardell	PHONE NO. 2535127121	10. NAME OF FEMA PROJECT COORDINATOR Central Scheduling and Information Desk Phone: 800-368-6498 Email: Askcsid@dhs.gov		
11. EFFECTIVE DATE OF THIS ACTION 12/21/2022	12. METHOD OF PAYMENT PARS	13. ASSISTANCE ARRANGEMENT Cost Reimbursement	14. PERFORMANCE PERIOD **From:** 12/01/2022 **To:** 11/30/2026 **Budget Period** 12/01/2022 11/30/2026	

1 5. DESCRIPTION OF ACTION
a. (Indicate funding data for awards or financial changes)

PROGRAM NAME ACRONYM	CFDA NO.	ACCOUNTING DATA (ACCS CODE) XXXX-XXX-XXXXXX-XXXXX-XXXX-XXXX-X	PRIOR TOTAL AWARD	AMOUNT AWARDED THIS ACTION + OR (-)	CURRENT TOTAL AWARD	CUMULATIVE NON-FEDERAL COMMITMENT
State and Local Cybersecurity Grant Program	97.137	2023-IF-PA11-P410- -4101-D	$0.00	$3,666,530.00	$3,666,530.00	See Totals
			$0.00	**$3,666,530.00**	**$3,666,530.00**	**$407,393.00**

b. To describe changes other than funding data or financial changes, attach schedule and check here.
N/A

16 a. FOR NON-DISASTER PROGRAMS: RECIPIENT IS REQUIRED TO SIGN AND RETURN THREE (3) COPIES OF THIS DOCUMENT TO FEMA (See Block 7 for address)
State and Local Cybersecurity Grant Program recipients are not required to sign and return copies of this document. However, recipients should print and keep a copy of this document for their records.
16b. FOR DISASTER PROGRAMS: RECIPIENT IS NOT REQUIRED TO SIGN
This assistance is subject to terms and conditions attached to this award notice or by incorporated reference in program legislation cited above.

17. RECIPIENT SIGNATORY OFFICIAL (Name and Title) Sierra Wardell, Preparedness Grants Section Section Supervisor	DATE Thu Dec 22 16:08:53 UTC 2022
18. FEMA SIGNATORY OFFICIAL (Name and Title) PAMELA SUSAN WILLIAMS,	DATE Wed Dec 21 20:58:37 UTC 2022

WORK PLAN

FY 2022 State and Local Cybersecurity Grant Program

PROJECT #1 TITLE	***DotGov Domain Name Online Management Service***

PROJECT DESCRIPTION

One of the recommendations CISA provided the County during our Elections Infrastructure audit on March 9, 2023, was requesting a .gov domain name for Benton County, Element 6. Benton County has since been approved and received the domain name bentoncountywa.gov. With the new domain name, we decided to review our current DNS host, WaTech and see what other DNS hosting solutions we could use to help improve management, access, and security. After reviewing WaTech, GoDaddy, and Cloudflare, we have elected to discuss hosting the county's .gov domain name with Cloudflare.

Cloudflare will assist county IT with implementing our .gov domain name and provide the resources needed that include but not limited to managing the county's domain name, SSL certificates, remote workforce, website security, application security, and network security, Elements 1, 2, 3, and 6.

GAP BEING ADDRESSED

Improving the county's public delivery of safe, recognizable, and trustworthy online services by using a .gov domain name is highly recommended by CISA. The first to fill this gap was requesting the bentoncountywa.gov domain name which we received July 6, 2023. Now that we have our .gov domain name, we need an online security first solution to start managing our new domain name, Cloudflare. Before we start using Cloudflare, training has been added and will be completed before implementation.

IMPACT

Delivering safe, recognizable, and trustworthy online services to the public is our first goal. Elections will be the primary focus as the .gov domain name needs to be in use before January 2024 elections. The focus will be on understanding Cloudflare's online solution hosting bentoncountywa.gov. Once the Elections Office is using the .gov namespace, IT will have an environment that other county offices can use when transitioning to their .gov namespace. Future funding will depend Elected Offices needs and Board of Commissioners budget approval processes.

OUTCOME

Moving to a bentoncountywa.gov domain name protects government online communications especially elections services and infrastructure. In the future, IT can improve .gov usage by adding other Cloudflare services like DDoS/brute force protection, secure remote workforce, internet browsing protection, web application firewall, and SSL certificate management. IT wants to manage the new domain name with Cloudflare knowing this solution can protect elections services and other county internal/external services too.

BUDGET

FY 2022 State and Local Cybersecurity Grant Program

Benton County, WA

AGREEMENT AMOUNT $16,688

		SOLUTION AREA						
		PLANNING	ORGANIZATION	EQUIPMENT	TRAINING	EXERCISE	M&A	**TOTAL**
PROJECT #1	Salaries & Benefits	$0	$0		$0	$0	$0	**$0**
	Supplies	$0	$0		$0	$0	$0	**$0**
	Travel/Per Diem	$0	$0		$0	$0	$0	**$0**
	Contractor/Consultant	$0	$0		$0	$0	$0	**$0**
	Passthrough	$0	$0	$15,893	$0	$0		**$15,893**
	Other	$0	$0	$0	$0	$0	$795	**$795**
	Equipment			$0				**$0**
	SUBTOTAL	$0	$0	$15,893	$0	$0	$795	$16,688
	Indirect							**$0**
	TOTAL	**$0**	**$0**	**$15,893**	**$0**	**$0**	**$795**	**$16,688**

TIMELINE

FY 2022 State and Local Cybersecurity Grant Program

DATE	*TASK*
December 1, 2022	Grant Agreement start date
NLT December 1, 2023	Complete NCSR
January 5, 2024	Submit Progress Report ** time period 12/1/2022 - 12/31/2023*
April 30, 2024	Grant Agreement end date
June 14, 2024	Submit Final Reimbursement Request and Closeout Report

October 1st annually	*Nationwide Cybersecurity Review (NCSR) opens for input* *https://www.cisecurity.org/ms-isac/services/ncsr*

SIGNATURE AUTHORIZATION FORM

WASHINGTON STATE MILITAR DEPARTMENT
Camp Murra Washington 98430-5122

Please read instructions on reverse side before completing this form.

NAME OF ORGANIZATION	DATE SUBMITTED
County of Benton, Washington State	July 18, 2023
PROJECT DESCRIPTION DotGov Domain Name Space (DNS) Hosting	CONTRACT NUMBER E24-181

1 AUTHORIZING AUTHORIT

SIGNATURE	PRINT OR T PE NAME	TITLE/TERM OF OFFICE
	Jerome Delvin	Chairman of the Board, District 1
	Michael Alvarez	Pro-Tem, District 2
	Will McKay	Commissioner, District 3

2 AUTHORIZED TO SIGN CONTRACTS/CONTRACT AMENDMENTS

SIGNATURE	PRINT OR T PE NAME	TITLE
	Jerome Delvin	Chairman of the Board, District 1
	Michael Alvarez	Pro-Tem, District 2
	Will McKay	Commissioner, District 3

3 AUTHORIZED TO SIGN RE UESTS FOR REIMBURSEMENT

SIGNATURE	PRINT OR T PE NAME	TITLE
	Ken Spencer	Benton County Treasurer
	Kirsten Yniguez	Deputy Treasurer

INSTRUCTIONS FOR SIGNATURE AUTHORIZATION FORM

This form identifies the persons who have the authorit to sign contracts amendments and re uests for reimbursement It is re uired for the management of our contract with the Militar Department (MD) Please complete all sections One cop with original signatures is to be sent to MD with the signed contract and the other should be kept with our cop of the contract

When a re uest for reimbursement is received the signature is checked to verif that it matches the signature on file **The payment can be delayed if the request is presented without the proper signature.** It is important that the signatures in MD's files are current Changes in staffing or responsibilities will re uire a new signature authori ation form

1 **Authorizing Authority.** Generall the person(s) signing in this box heads the governing bod of the organi ation such as the board chair or ma or In some cases the chief executive officer ma have been delegated this authorit

2 **Authorized to Sign Contracts/Contract Amendments.** The person(s) with this authorit should sign in this space Usuall it is the count commissioner ma or executive director cit clerk etc

3 **Authorized to Sign Requests for Reimbursement.** Often the executive director cit clerk treasurer or administrative assistant have this authorit It is advisable to have more than one person authori ed to sign reimbursement re uests **This will help prevent delays in processing a request if one person is temporarily unavailable.**

If ou have an uestions regarding this form or to re uest new forms please call our MD Program Manager

Washington Military Department Contract Number: E24-181

Debarment, Suspension, Ineligibility or Voluntary Exclusion Certification Form

NAME County of Benton, Washington State		Doing business as (DBA)	
ADDRESS 620 Market Street Prosser, WA 99350	**Applicable Procurement or Solicitation #, if any:**	WA Uniform Business Identifier (UBI) 035-000-971	Federal Employer Tax Identification #: 91-6001296
This certification is submitted as part of a request to contract.			

Instructions For Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions

READ CAREFULLY BEFORE SIGNING THE CERTIFICATION. Federal regulations require contractors and bidders to sign and abide by the terms of this certification, without modification, in order to participate in certain transactions directly or indirectly involving federal funds.

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the department, institution or office to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under the applicable CFR, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled ``Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,'' without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under applicable CFR, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business activity.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under applicable CFR, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions

The prospective lower tier participant certifies, by submission of this proposal or contract, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this form.

Bidder or Contractor Signature: _____ Date: 01/09/2023

Print Name and Title: Jerome Delvin, Chairman of the Board

FEDERAL DEBARMENT, SUSPENSION INELIGIBILITY and VOLUNTARY EXCLUSION

(FREQUENTLY ASKED QUESTIONS)

What is "Debarment, Suspension, Ineligibility, and Voluntary Exclusion"?
These terms refer to the status of a person or company that cannot contract with or receive grants from a federal agency.

In order to be debarred, suspended, ineligible, or voluntarily excluded, you must have:

- had a contract or grant with a federal agency, and
- gone through some process where the federal agency notified or attempted to notify you that you could not contract with the federal agency.
- Generally, this process occurs where you, the contractor, are not qualified or are not adequately performing under a contract, or have violated a regulation or law pertaining to the contract.

Why am I required to sign this certification?
You are requesting a contract or grant with the Washington Military Department. Federal law (Executive Order 12549) requires Washington Military Department ensure that persons or companies that contract with Washington Military Department are not prohibited from having federal contracts.

What is Executive Order 12549?
Executive Order 12549 refers to Federal Executive Order Number 12549. The executive order was signed by the President and directed federal agencies to ensure that federal agencies, and any state or other agency receiving federal funds were not contracting or awarding grants to persons, organizations, or companies who have been excluded from participating in federal contracts or grants. Federal agencies have codified this requirement in their individual agency Code of Federal Regulations (CFRs).

What is the purpose of this certification?
The purpose of the certification is for you to tell Washington Military Department in writing that you have not been prohibited by federal agencies from entering into a federal contract.

What does the word "proposal" mean when referred to in this certification?
Proposal means a solicited or unsolicited bid, application, request, invitation to consider or similar communication from you to Washington Military Department.

What or who is a "lower tier participant"?
Lower tier participants means a person or organization that submits a proposal, enters into contracts with, or receives a grant from Washington Military Department, OR any subcontractor of a contract with Washington Military Department. If you hire subcontractors, you should require them to sign a certification and keep it with your subcontract.

What is a covered transaction when referred to in this certification?
Covered Transaction means a contract, oral or written agreement, grant, or any other arrangement where you contract with or receive money from Washington Military Department. Covered Transaction does not include mandatory entitlements and individual benefits.

Sample Debarment, Suspension, Ineligibility, Voluntary Exclusion Contract Provision

Debarment Certification. The Contractor certifies that the Contractor is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this Contract by any Federal department or agency. If requested by Washington Military Department, the Contractor shall complete a Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion form. Any such form completed by the Contractor for this Contract shall be incorporated into this Contract by reference.

WASHINGTON MILITARY DEPARTMENT

Audit Certification and FFATA Reporting Form

CONTACT INFORMATION	
Subrecipient Name (Agency, Local Government, or Organization): County of Benton	
Subrecipient Unique Entity Identifier (UEI) Number: HG29NCPLDG56	
Authorized Financial Representative (Name and Title): Jerome Delvin, Chairman of the Board	
Address: 620 Market Street, Prosser, WA 99350	
Email: Central.Services@co.benton.wa.us	Phone Number: 509-786-5603

Directions: As required by 2 CFR Part 200 Subpart F, non-federal entities that expend $750,000 in federal awards in a fiscal year shall have a single or program-specific audit conducted for that year.

- If your entity ***is not*** subject to these requirements, you must complete **Section A** of this Form.
- If your entity ***is*** subject to these requirements, you must complete **Section B** of this form.
- **All subrecipients** must complete **Section C** (FFATA) of this form.

Failure to return this completed Form to contracts.office@mil.wa.gov may result in delay of grant agreement processing, withholding of federal awards or disallowance of costs, and suspension or termination of federal awards.

SECTION A: Entities NOT subject to the audit requirements of 2 CFR Part 200 Subpart F (check all that apply)
☐ We did not expend $750,000 or more of total federal awards during the preceding fiscal year.
☐ We are a for-profit organization.
☐ We are exempt for other reasons (describe):
However, by signing below, I agree that we are still subject to the audit requirements, laws, and regulations governing the program(s) in which we participate; that we are required to maintain records of federal funding and to provide access to such records by federal and state agencies and their designees; and that WMD may request and be provided access to additional information and/or documentation to ensure proper stewardship of federal funds.

SECTION B: Entities that ARE subject to the audit requirements of 2 CFR Part 200 Subpart F (Check the appropriate box and complete the information below)
☐ We completed our last 2 CFR Part 200 Subpart F Audit on [enter date] for fiscal year [enter date]. There were no findings related to federal awards or internal controls.
☒ We completed our last 2 CFR Part 200 Subpart F Audit on [05/04/2023] for fiscal year [12/31/2021] and there were findings related to federal awards and/or internal controls.
☐ Our completed 2 CFR Part 200 Subpart F Audit will be available on [enter date] for fiscal year [enter date].
Provide a complete copy of the audit report electronically to contracts.office@mil.wa.gov or provide the state audit number [1032418].

SECTION C: Federal Funding Accountability and Transparency Act (check the corresponding answer)
In your preceding fiscal year, did your organization receive 80% or more of its gross revenues from federal funding? ☐ Yes ☒ No
In your preceding fiscal year, did your organization receive $25,000,000 or more in federal funding? ☒ Yes ☐ No
If you answered *yes* to the previous questions, WMD Contracts staff will request additional information to comply with FFATA reporting.

I hereby certify that I am an individual authorized by the above identified entity (subrecipient) to complete this form. Further, I certify that the above information is true and correct, and all material findings contained in the audit report/statement have been disclosed. Additionally, I understand this form is to be submitted every fiscal year for which this entity is a subrecipient of federal award funds from the Department until the grant agreement is closed.

_____

Signature of Authorized Financial Representative: Date: Click or tap to enter a date.

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	January 9, 2024
Subject:	Agreement between Benton County and the City of West Richland for the revision of corporate boundary for the City of West Richland
Presenter:	Matt Rasmussen and Matt Mahoney
Prepared By:	Matt Mahoney
Reviewed By:	Matt Rasmussen and LeeAnn Holt

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

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

Summary / Background Information

RCW 35A.21.210 authorizes code cities and counties to revise any part of a corporate boundary of a city which "coincides with the centerline, edge, or any portion of a public street, road or highway right of way by substituting therefor a right of way line of the same public street, road or highway so as fully to include or fully to exclude that segment of the public street, road or highway from the corporate limits of the city".

The City of West Richland seeks to revise a portion of the corporate boundary of the city to include the West right-of-way line of Webster Avenue in coordination with Benton County.

The City of West Richland desires to design and maintain this segment of Webster Avenue under City urban standards.

Fiscal Impact

Minimal loss of revenue due to Benton County's calculation for gas tax revenue.

Recommendation

The Public Works Department recommends approval of the agreement between Benton County and the City of West Richland for the revision of corporate boundary for the City of West Richland.

Suggested Motion

I move to approve the agreement between Benton County and the City of West Richland for the revision of corporate boundary for the City of West Richland, and authorize the Chairman or Chairman Pro Tem to sign the agreement on behalf of Benton County.

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RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AN AGREEMENT BETWEEN BENTON COUNTY AND THE CITY OF WEST RICHLAND FOR THE REVISION OF CORPORATE BOUNDARY FOR THE CITY OF WEST RICHLAND

WHEREAS, RCW 35A.21.210 authorizes code cities and counties to revise any part of a corporate boundary of a city which "coincides with the centerline, edge, or any portion of a public street, road or highway right of way by substituting therefor a right of way line of the same public street, road or highway so as fully to include or fully to exclude that segment of the public street, road or highway from the corporate limits of the city"; and

WHEREAS, the City of West Richland seeks to revise a portion of the corporate boundary of the city to include the west right-of-way line of Webster Avenue in coordination with Benton County; and

WHEREAS, the City of West Richland desires to design and maintain this segment of Webster Avenue under City urban standards; and

WHEREAS, pursuant to RCW 36.01.010 and RCW 36.32.120 the legislative authority of each county is authorized to enter into contracts on behalf of the County and have the care of County property and management of County funds and business; and

WHEREAS, the Board of Benton County Commissioners constitutes the legislative authority of Benton County and desires to enter into the attached agreement as being in the best interest of Benton County; **NOW THEREFORE**,

BE IT RESOLVED that the Board of Benton County Commissioners, hereby approves the attached agreement between Benton County and the City of West Richland for the revision of corporate boundary for the City of West Richland; and

BE IT FURTHER RESOLVED that the Chairman or the Chairman Pro Tem of the Board of Benton County Commissioners be, and hereby is, authorized to sign the attached agreement on behalf of Benton County.

APPROVED this 9th day of January 2024.

Chairman

Attest:

Chairman Pro Tem

Clerk of the Board

Commissioner

Constituting the Board of County Commissioners
Benton County, Washington

Original: Clerk of the Board
Copy: City of West Richland via Benton County Public Works
Auditor

M. Mahoney

DocuSign Envelope ID: E6A7D8ED-61BC-4097-841D-4BBFB8B768D5

AGREEMENT
CITY OF WEST RICHLAND ----- COUNTY OF BENTON
REVISION OF CORPORATE BOUNDARY

WHEREAS, RCW 35A.21.210 authorizes code cities and counties to revise any part of a corporate boundary of a city which "coincides with the centerline, edge, or any portion of a public street, road or highway right of way by substituting therefor a right of way line of the same public street, road or highway so as fully to include or fully to exclude that segment of the public street, road or highway from the corporate limits of the city"; and

WHEREAS, the City of West Richland (City) was granted a right of way along Webster Avenue as described in the Right-of-Way Dedication Deed recorded December 18, 2017, under Benton County Auditor's File No 2017-037047; and

WHEREAS, however, the westerly most right of way along Webster Avenue is outside of the City limits along the frontage of parcels 118981120000013, 118981120000012, 118981120000011 and 118981120000010 which are within City limits; and

WHEREAS, the City seeks to revise that portion of the corporate boundary of the City to include the west right of way line of Webster Avenue in coordination with Benton County (County); and

WHEREAS, the City desires to design and maintain this segment of the Webster Avenue roadway under City urban standards; and

WHEREAS, Webster Avenue within the City limits is maintained by the City; and

WHEREAS, the area for corporate boundary adjustment is legally described on exhibit "A" and depicted on exhibit "B" attached hereto and incorporated herein by reference (hereafter right of way); and

WHEREAS, the right of way was not included with previous annexations; and

WHEREAS, the City and the County have the authority to enter into this agreement pursuant to RCW 35A.21.210;

NOW THEREFORE, City and County agree as follows:

1. City shall pass an Ordinance in the form attached hereto as exhibit "C" revising the City's corporate boundary by authority of this agreement to include the real property described on exhibit "A" and depicted on exhibit "B".

2. County shall pass a Resolution in the form attached hereto as exhibit "D" approving the City's Ordinance revising its corporate limits to include the property listed on exhibit "A"

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and depicted on exhibit "B".

3. The revision of the City's corporate boundary will not become effective until the County's Resolution is passed by the Benton County Commissioners.

4. The Public Works Director of City and the County Engineer of County are jointly designated as responsible for implementing and administering this agreement.

5. The City and County will not acquire any joint property pursuant to this agreement.

6. Should a dispute arise regarding this agreement, the parties hereto shall first meet and attempt in good faith to resolve their differences. In the event a mutually agreed resolution is not reached, then the parties shall submit this matter to binding arbitration in accordance with the rules of the American Arbitration Association.

7. The parties agree that the revision to City's corporate boundary is not subject to review by the Benton County Boundary Review Board pursuant to RCW 35A.21.210(2) and RCW 36.93.105(2).

8. This agreement may be amended or modified only by written agreement duly executed by the parties hereto. This agreement is executed in duplicate originals. One original shall go to each party. The City shall record this agreement with the Benton County Auditor after it has been approved by City and County.

DATED:

COUNTY BY:

CHAIR OF THE BENTON COUNTY BOARD OF COMMISSIONERS

ATTEST:

CLERK OF THE BOARD

APPROVED AS TO FORM:

DocuSigned by:
Leelinn Holt
D9A8308B67BB475...

DEPUTY PROSECUTING ATTORNEY

CITY BY:

BRENT GERRY, MAYOR

ATTEST:

STEPHANIE HAUG, CITY CLERK

APPROVED AS TO FORM:

JESSICA FOLTZ, CITY ATTORNEY

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EXHIBIT "A"

DESCRIPTION OF RIGHT OF WAY TO BE INCORPORATED

A PARCEL OF LAND LOCATED WITHIN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER SECTION 18 IN TOWNSHIP 9 NORTH IN RANGE 28 EAST, W.M., BENTON COUNTY, WASHINGTON, DESCRIBED MORE PARTICULARLY AS FOLLOWS:

COMMENCING AT A FOUND 3" BOR BRASS CAP MARKING THE CENTER OF SAID SECTION 18; THENCE N89°54'53"E ALONG THE SOUTH LINE OF SAID NORTHEAST QUARTER OF SECTION 18, A DISTANCE OF 440.77 FEET; THENCE N00°39'26"W, A DISTANCE OF 30.00' TO THE NORTHERLY RIGHT-OF-WAY LINE OF LATTIN ROAD SAID POINT ALSO BEING THE SOUTHEAST CORNER OF LOT 4 AS SHOWN ON SHORT PLAT RECORDED IN VOLUME 1 OF SHORT PLATS AT PAGE 1277 RECORDS OF BENTON COUNTY UNDER AUDITOR'S FILE NUMBER 868350 ALSO BEING THE **TRUE POINT OF BEGINNING**; THENCE LEAVING SAID RIGHT-OF-WAY LINE AND CONTINUING ALONG THE EAST LINE OF SAID LOT 4 N00°39'26"W, A DISTANCE OF 330.01 FEET TO A ¾" IRON PIPE W/ YELLOW PLASTIC CAP, STAMPED "12624", SAID POINT ALSO BEING THE NORTHEAST CORNER OF SAID LOT 4 AND ALSO THE SOUTHEAST CORNER OF SAID LOT 1 AS SHOWN ON SHORT PLAT RECORDED IN VOLUME 1 OF SHORT PLATS AT PAGE 1277 RECORDS OF BENTON COUNTY UNDER AUDITOR'S FILE NUMBER 868350; THENCE S89°54'53"W ALONG THE NORTHERN LINE OF SAID LOT 4, A DISTANCE OF 25.00 FEET; THENCE S00°39'26"E LEAVING THE NORTHLINE OF SAID LOT 4 AND RUNNING PARALLEL TO THE EAST LINE OF SAID LOT 4, A DISTANCE OF 309.81 FEET TO A POINT OF CURVATURE WITH A TANGENT CURVE TURNING TO THE RIGHT, HAVING A RADIUS OF 20.00 FEET; THENCE ALONG SAID CURVE, HAVING AN ARC LENGTH OF 31.62 FEET, WITH A DELTA ANAGLE OF 90°34'19", A CHORD BEARING OF SOUTH 44°37'44" WEST, AND A CHORD LENGTH OF 28.43 FEET; TO A POINT IN THE NORTHERLY RIGHT-OF-WAY OF LATTIN ROAD SAID POINT ALSO BEING ON THE SOUTHERLY LINE OF SAID LOT 4; THENCE N89°54'53"E ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 45.21' TO THE **TRUE POINT OF BEGINNING**.

HAVING AN AREA OF 8339 SQUARE FEET, 0.19 ACRES.

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EXHIBIT “B”

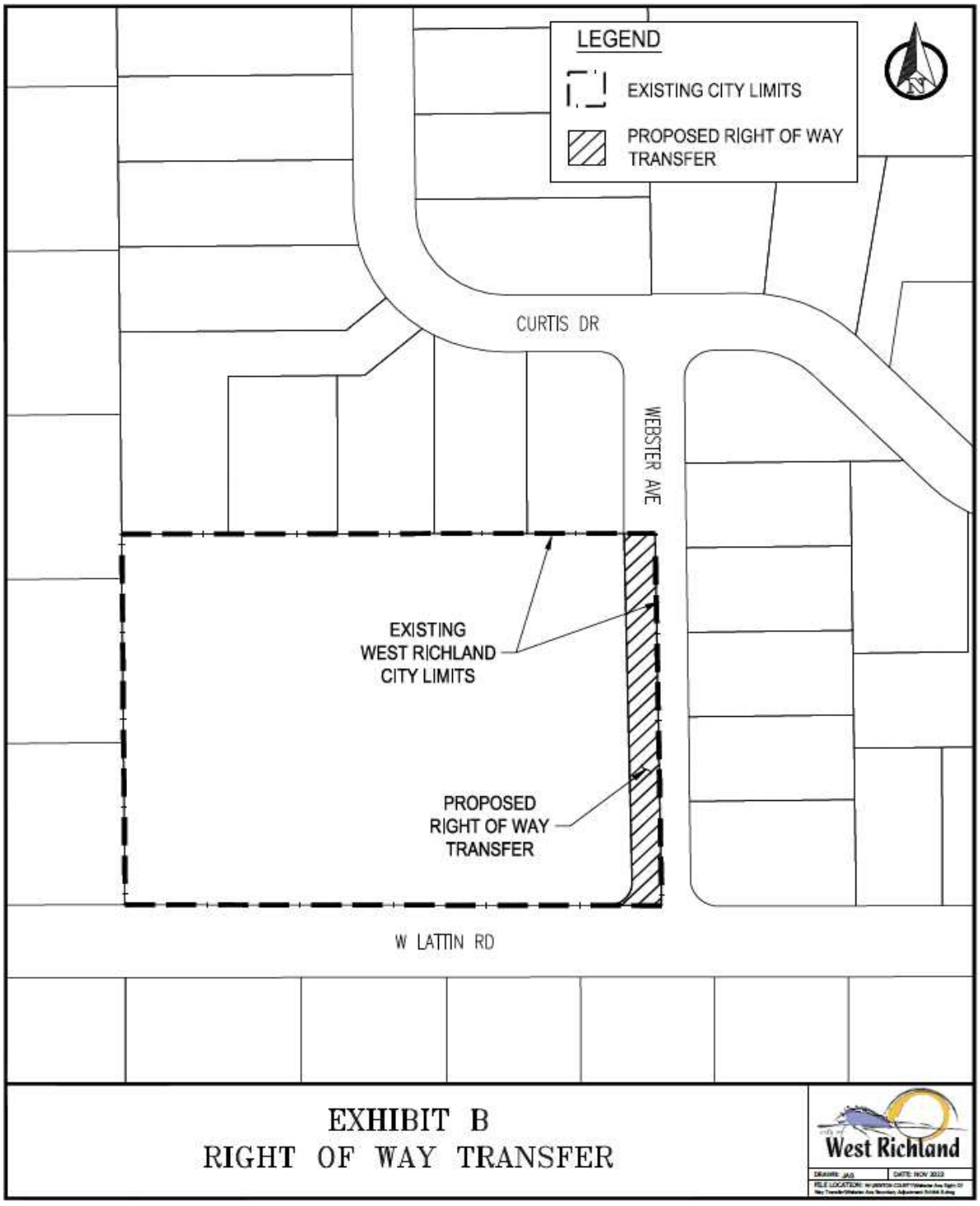

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EXHIBIT "C"

CITY OF WEST RICHLAND, WASHINGTON

ORDINANCE NO. __-24

AN ORDINANCE REVISING THE CORPORATE BOUNDARY OF THE CITY OF WEST RICHLAND TO INCLUDE A PORTION OF WEBSTER AVENUE. THE ORDINANCE ALSO DECLARES THAT THE PROVISIONS OF THE ORDINANCE ARE SEVERABLE FROM ONE ANOTHER AND SETS FORTH THE EFFECTIVE DATE OF THE ORDINANCE AND PROVIDES FOR PUBLICATION BY SUMMARY.

THE CITY COUNCIL OF THE CITY OF WEST RICHLAND, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Recitals

WHEREAS, The City of West Richland and the County of Benton have entered into an Agreement for the revision of the corporate boundary of the City of West Richland (hereinafter Agreement) pursuant to RCW 35A.21.210; and

WHEREAS, the City of West Richland must pass an Ordinance to revise its corporate limits in compliance with the Agreement; and

WHEREAS, this action is exempt from review under the State Environmental Policy Act (RCW 43.21C.222) and is exempt from review by the Benton County Boundary Review Board pursuant to RCW 35A.21.210(2) and RCW 36.93.105(2); and

WHEREAS, the revision of the corporate boundary of the City of West Richland to include the property described below is consistent with the City's Comprehensive Plan since the adjusted area is adjacent to existing properties within the City limits.

Section 2. The corporate limits of the City of West Richland are hereby revised to include the following described real property which consists of roadway and road right-of-way:

A PARCEL OF LAND LOCATED WITHIN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER SECTION 18 IN TOWNSHIP 9 NORTH IN RANGE 28 EAST, W.M., BENTON COUNTY, WASHINGTON, DESCRIBED MORE PARTICULARLY AS FOLLOWS:
COMMENCING AT A FOUND 3" BOR BRASS CAP MARKING THE CENTER OF SAID SECTION

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18; THENCE N89°54'53"E ALONG THE SOUTH LINE OF SAID NORTHEAST QUARTER OF SECTION 18, A DISTANCE OF 440.77 FEET; THENCE N00°39'26"W, A DISTANCE OF 30.00' TO THE NORTHERLY RIGHT-OF-WAY LINE OF LATTIN ROAD SAID POINT ALSO BEING THE SOUTHEAST CORNER OF LOT 4 AS SHOWN ON SHORT PLAT RECORDED IN VOLUME 1 OF SHORT PLATS AT PAGE 1277 RECORDS OF BENTON COUNTY UNDER AUDITOR'S FILE NUMBER 868350 ALSO BEING THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID RIGHT-OF-WAY LINE AND CONTINUING ALONG THE EAST LINE OF SAID LOT 4 N00°39'26"W, A DISTANCE OF 330.01 FEET TO A ¾" IRON PIPE W/ YELLOW PLASTIC CAP, STAMPED "12624", SAID POINT ALSO BEING THE NORTHEAST CORNER OF SAID LOT 4 AND ALSO THE SOUTHEAST CORNER OF SAID LOT 1 AS SHOWN ON SHORT PLAT RECORDED IN VOLUME 1 OF SHORT PLATS AT PAGE 1277 RECORDS OF BENTON COUNTY UNDER AUDITOR'S FILE NUMBER 868350; THENCE S89°54'53"W ALONG THE NORTHERN LINE OF SAID LOT 4, A DISTANCE OF 25.00 FEET; THENCE S00°39'26"E LEAVING THE NORTHLINE OF SAID LOT 4 AND RUNNING PARALLEL TO THE EAST LINE OF SAID LOT 4, A DISTANCE OF 309.81 FEET TO A POINT OF CURVATURE WITH A TANGENT CURVE TURNING TO THE RIGHT, HAVING A RADIUS OF 20.00 FEET; THENCE ALONG SAID CURVE, HAVING AN ARC LENGTH OF 31.62 FEET, WITH A DELTA ANAGLE OF 90°34'19", A CHORD BEARING OF SOUTH 44°37'44" WEST, AND A CHORD LENGTH OF 28.43 FEET; TO A POINT IN THE NORTHERLY RIGHT-OF-WAY OF LATTIN ROAD SAID POINT ALSO BEING ON THE SOUTHERLY LINE OF SAID LOT 4; THENCE N89°54'53"E ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 45.21' TO THE TRUE POINT OF BEGINNING.

HAVING AN AREA OF 8339 SQUARE FEET, 0.19 ACRES

Together with the current City Limits.

Section 3. All property within the revised corporate boundary shall be assessed and taxed at the same rate and on the same basis as property within the City, including assessments for taxes and payment of any bonds issued or debts contracted prior to or existing as of the date of annexation and be further subject to the indebtedness of the City of West Richland.

Section 4. From and after the effective date of this ordinance, the above described property shall be subject to all of the laws and ordinances then and thereafter in force and effect of the City of West Richland.

Section 5. SEVERABILITY. The provisions of this ordinance are hereby declared to be severable. If any section, subsection, sentence, clause, or phrase of this ordinance or its application to any person or circumstance is for any reason held to be invalid or unconstitutional, the remainder of this ordinance shall not, as a result of said section, subsection, sentence, clause, or phrase, be held

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unconstitutional or invalid.

Section 6. This ordinance shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title.

PASSED by the City Council and **APPROVED** by the Mayor, this _____day of _____, 2024.

_____
BRENT GERRY, MAYOR

ATTEST:

_____
STEPHANIE HAUG, CITY CLERK

Approved as to form:

_____
JESSICA FOLTZ, CITY ATTORNEY

Date of Publication: _____

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EXHIBIT "D"

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF COUNTY ROADS, RE: CITY OF WEST RICHLAND - COUNTY OF BENTON, REVISION OF CORPORATE BOUNDARY

WHEREAS, Benton County is the owner of a right of way located on Webster Avenue, adjacent to the City limits; and

WHEREAS, the City desires to have the corporate boundary line adjusted to include the right of way within City limts; and

WHEREAS, an Agreement was entered into by the City of West Richland and Benton County describing the process for said boundary line adjustment on _____ ____, 2024; and

WHEREAS, pursuant to said agreement the City of West Richland passed an Ordinance on _____ ___, 2024 initiating said adjustment; **NOW, THEREFORE,**

BE IT RESOLVED that the City of West Richland's Ordinance Number __-24 is hereby approved; and

BE IT FURTHER RESOLVED that the corporate boundary of the City of West Richland is revised to include the real property described as follows:

A PARCEL OF LAND LOCATED WITHIN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER SECTION 18 IN TOWNSHIP 9 NORTH IN RANGE 28 EAST, W.M., BENTON COUNTY, WASHINGTON, DESCRIBED MORE PARTICULARLY AS FOLLOWS:

COMMENCING AT A FOUND 3" BOR BRASS CAP MARKING THE CENTER OF SAID SECTION 18; THENCE N89°54'53"E ALONG THE SOUTH LINE OF SAID NORTHEAST QUARTER OF SECTION 18, A DISTANCE OF 440.77 FEET; THENCE N00°39'26"W, A DISTANCE OF 30.00' TO THE NORTHERLY RIGHT-OF-WAY LINE OF LATTIN ROAD SAID POINT ALSO BEING THE SOUTHEAST CORNER OF LOT 4 AS SHOWN ON SHORT PLAT RECORDED IN VOLUME 1 OF SHORT PLATS AT PAGE 1277 RECORDS OF BENTON COUNTY UNDER AUDITOR'S FILE NUMBER 868350 ALSO BEING THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID RIGHT-OF-WAY LINE AND CONTINUING ALONG THE EAST LINE OF SAID LOT 4 N00°39'26"W, A DISTANCE OF 330.01 FEET TO A ¾" IRON PIPE W/ YELLOW PLASTIC CAP, STAMPED "12624", SAID POINT ALSO BEING THE NORTHEAST CORNER OF SAID LOT 4 AND ALSO THE SOUTHEAST CORNER OF SAID LOT 1 AS SHOWN ON SHORT PLAT RECORDED IN VOLUME 1 OF SHORT PLATS AT PAGE 1277 RECORDS OF BENTON COUNTY UNDER AUDITOR'S FILE NUMBER 868350; THENCE S89°54'53"W ALONG THE NORTHERN LINE OF SAID LOT 4, A DISTANCE OF 25.00 FEET; THENCE S00°39'26"E LEAVING THE NORTHLINE OF SAID LOT 4 AND RUNNING PARALLEL TO THE EAST LINE OF SAID LOT 4, A DISTANCE OF 309.81 FEET TO A POINT OF CURVATURE WITH A TANGENT CURVE TURNING TO THE RIGHT, HAVING A RADIUS OF 20.00 FEET; THENCE ALONG SAID CURVE, HAVING AN ARC LENGTH OF 31.62 FEET, WITH A DELTA ANAGLE OF 90°34'19", A CHORD BEARING OF SOUTH 44°37'44" WEST, AND A CHORD LENGTH OF 28.43 FEET; TO A POINT IN THE NORTHERLY RIGHT-OF-WAY OF LATTIN ROAD SAID POINT ALSO BEING ON THE

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SOUTHERLY LINE OF SAID LOT 4; THENCE N89°54'53"E ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 45.21' TO THE TRUE POINT OF BEGINNING.

HAVING AN AREA OF 8339 SQUARE FEET, 0.19 ACRES

Together with the current City Limits.

APPROVED this ___ day of _____ 2024.

_____
Chairman

Attest:

_____
Chairman Pro Tem

_____
Clerk of the Board

_____
Commissioner

Constituting the Board of County Commissioners
Benton County, Washington

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	January 9, 2024
Subject:	Update to Bylaws and Rules of Procedure
Presenter:	Matt Rasmussen, Ryan Brown
Prepared By:	Matt Rasmussen
Reviewed By:	Jerrod MacPherson

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

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

Summary / Background Information

Recently a trend has been developing in which the public comment period of open public meetings is being used by persons to make racist and other offensive comments. This has been occurring in multiple states and has reached several city meetings in Washington State. The commentors engaged in this activity are most often doing so through remote participation, which Benton County allows.

Benton County has some rules on public comments but those are fairly limited and essentially allow a person to speak about any topic they like within the time allotted. While it may be tempting to create rules prohibiting hate speech or other offensive comments, such a rule could run afoul of first amendment rights and in certain situations could be difficult to apply. However, the Board can and should take one or more measures to allow it to handle such situations more easily should it be confronted with members of the public engaging in hate speech or other racist and offensive comments. Some options to consider are:

1. Limit comments to items only listed on the agenda. While this may be appealing, it is also very limiting to persons who want to speak about a matter that is relevant, but may not actually appear on the current meeting agenda.
2. Limit comments to items relevant to, and within the purview and authority of, the Board of County Commissioners. This option allows for a broad array of topics but still gives the Board the authority to stop a commentor if they engage in comments outside of the Board's statutory authority. This option would likely allow the Board to terminate the type of problematic speech that other jurisdictions have recently encountered. However, the Board would need to consistently apply this rule so as to avoid claims of First Amendment violations. In other words, the Board would not have the discretion to shut down hate speech utilizing this rule but then allow others to discuss some less offensive topic that also was outside the Board's statutory authority. The Board cannot discriminate based on the content of the speech.
3. Remove the ability for remote public comment. Current state law does not require that remote participation in meetings be offered to all persons, but it is encouraged. However, this option has its own perils. RCW 42.30.240(2) would require you make an exception and allow public comment by persons remotely if needed due to disability, limited mobility or any other reason that would make physical attendance at the meeting difficult for someone. Applying this exception may be difficult for the Board. Also, not allowing remote comment in general could be appeared as favoring commentors who

are in person versus appearing remotely and also would limit public participation for those who cannot appear in person and do not articulate why it would be difficult for them to attend in person..

Addition insight can be found in a recent article from the Municipal Research and Services Center (MRSC) at the following link: https://mrsc.org/stay-informed/mrsc-insight/november-2023/addressing-hate-speech-at-meetings

Fiscal Impact

There is no fiscal impact.

Recommendation

Staff recommends that the Board implement some changes to the Bylaws and Rules of Procedure, specifically surrounding public comments. Of the three options listed, staff feels option 2 is a good first step and additional measures can be considered if problems arise.

Suggested Motion

No motion proposed. Staff is seeking direction on making an amendment to the Bylaws which will be brought back to the Board for approval at a future meeting.