

# RESOLUTION 05 409

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF AUTHORIZING THE CHAIRMAN OF THE BENTON COUNTY BOARD OF COMMISSIONERS TO SIGN THE INTERLOCAL AGREEMENT FOR COLOCATION OF EQUIPMENT BETWEEN BENTON COUNTY AND PUBLIC UTILITY DISTRICT NO. 1 OF BENTON COUNTY.

WHEREAS, Public Utility District No. 1 of Benton County (Benton PUD) provides fiber optic infrastructure for broadband internet and network connectivity that is available through retail service providers to customers within Benton County; and


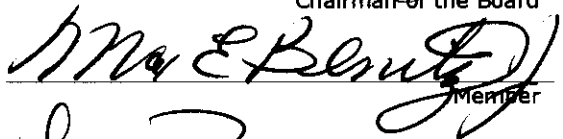
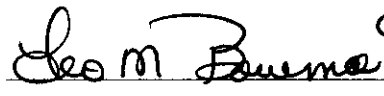
WHEREAS, this infrastructure is being extended by the Benton PUD to the area of Prosser, Washington, and the Benton PUD requires a facility in which to locate its fiber node terminal in Prosser; and

WHEREAS, Benton County plans to use the Benton PUD fiber services and has agreed to allow the Benton PUD to locate its terminal at the Benton County Courthouse in Prosser; and

WHEREAS, Benton County and the Benton PUD agree that this arrangement is beneficial to themselves and to furthering their service to the citizens of Benton County; NOW THEREFORE,

BE IT RESOLVED, by the Board of Benton County Commissioners, that the Chairman of the Board is authorized to sign the Interlocal Agreement for Colocation of Equipment between Benton County and Public Utility District No. 1 of Benton County.

Dated this 11 day of July, 2005

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

Attest:   
Clerk of the Board

CC: R. Reid, Auditor, R. Oguna, PUD  
JH: File

REID

Benton County Commissioners  
PO Box 190  
Prosser, WA 99350



2005-026104  
Pg: 1 of 7  
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Benton County

**PLEASE PRINT OR TYPE INFORMATION:**

**Document Title(s)**(or transactions contained therein):

1. *Interlocal Agreement - Co-Location of Equipment*
- 2.
- 3.
- 4.

**Grantor(s)**(Last name first, first name, middle initials):

1. *Benton County*
- 2.
- 3.
- 4.

Additional names on page \_\_\_\_\_ of document.

**Grantee(s)**(Last name first, first name, middle initials):

1. *Benton County Public Utility District*
- 2.
- 3.
- 4.

Additional names on page \_\_\_\_\_ of document.

**Legal description** (abbreviated: i.e., lot, block, plat or section, township, range, qtr./qtr.)

Additional legal is on page \_\_\_\_\_ of document.

**Reference Number(s)** of documents assigned or released:

Additional numbers on page \_\_\_\_\_ of document.

**Assessor's Property Tax Parcel/Account Number:**

Property Tax Parcel ID is not yet assigned.

Additional parcel numbers on page \_\_\_\_\_ of document.

**The Auditor/Recorder will rely on the information provided on the form. The staff will not read the document to verify the accuracy or completeness of the indexing information.**

INTERLOCAL AGREEMENT FOR COLOCATION OF EQUIPMENT  
BETWEEN  
BENTON COUNTY  
AND  
PUBLIC UTILITY DISTRICT NO. 1 OF BENTON COUNTY

1. Parties.

This Agreement is made and entered into pursuant to RCW 39.34, by and between Benton County, a political subdivision of the State of Washington, 620 Market Street, Prosser, Washington 99350, herein referred to as "COUNTY", and Public Utility District No. 1 of Benton County, a municipal corporation under the laws of the State of Washington, 2721 West 10<sup>th</sup> Avenue, P.O. Box 6270, Kennewick, Washington 99336, herein referred to as "PUD". No separate legal or administrative entity is created by this Agreement.

2. Purpose.

The PUD provides fiber optic infrastructure for broadband internet and network connectivity that is available through retail service providers to customers within Benton County. This infrastructure is being extended by the PUD to the area of Prosser, Washington, the county seat and the location of the Benton County Courthouse. The PUD requires a facility in which to locate its fiber node terminal in Prosser. The COUNTY plans to use the PUD fiber services and has agreed to allow the PUD to locate its terminal at the Benton County Courthouse. Both parties agree that this arrangement is beneficial to themselves and to furthering their service to the citizens of Benton County.

3. Colocation of Equipment.

The COUNTY shall provide the physical space in the Benton County Courthouse as depicted in the attached Exhibit A for an enclosed equipment rack that occupies approximately sixteen square feet of floor area. The location shall be an area not accessible by the general public or COUNTY employees. The location shall not be moved without the consent of the PUD.

4. Coordination of Activities and Access to Equipment.

Both parties agree to keep one another informed of any activities on the part of either party that may have an affect on the facility or the equipment colocated therein. The primary contact for the COUNTY will be the Manager of the Central Services Department or a designated member of the Central Services staff. The secondary contact for the COUNTY will be the Facilities Department. The primary contact for the PUD will be Gary McCollum or a designated member of the PUD broadband staff.

During the term of the Agreement, the PUD will be provided the means to access its equipment at any time without exception. This access will be limited to the area in which the equipment is physically located. The PUD will also be provided with after-hours contact information for the Central Services Department should the need arise to access other parts of the COUNTY facility.

5. Costs.

The PUD shall be responsible for the costs associated with installing the fiber node in the COUNTY facility and for any maintenance and repair associated with the fiber node equipment. The COUNTY shall be responsible for the operational expenses associated with electrical power, heating and cooling of the room in which the equipment is located.

6. Ownership of Facilities and Equipment.

Nothing in this Agreement shall in any way affect either party's ownership of its facilities or equipment.

7. Liability.

Nothing in this Agreement shall create or impose liability on the COUNTY or PUD for the acts of the other or for the facilities or equipment of the other or for damage to the facilities or equipment of the other.

8. Term of Agreement.

This Agreement shall be effective upon the execution by both parties and its filing as required by RCW 39.34.040. It shall continue in full force and effect for a minimum of five (5) years from the date of execution by both parties and shall have a term of twenty (20) years. After five (5) years, either party may terminate this Agreement for any reason by giving the other party sixty (60) days written notice prior to termination.

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

9. Venue.

This Agreement has been and shall be construed as having been made and delivered within the State of Washington, and it is agreed by each party hereto that this Agreement shall be governed by the laws of the State of Washington, both as to its interpretation and performance. Any action at law, suit in equity, or judicial proceeding arising out of this Agreement shall be instituted and maintained only in any of the courts of competent jurisdiction in Benton County, Washington.

10. Assignment.

This Agreement, and any claim arising thereunder, is not assignable or delegable by either party in whole or in part, without the express prior written consent of the other party, which consent shall not be unreasonably withheld.

11. Severability.

If a court of competent jurisdiction holds any part, term or provisions of this Agreement to be illegal, or invalid in whole or in part, the validity of the remaining provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid. If it should appear that any provision of this Agreement is in conflict with any statutory provision of the State of Washington, said provision which may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform to such statutory provision.

12. Entire Agreement.

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

13. Notices.

All notices under this Agreement shall be in writing and delivered: (i) by facsimile; (ii) by private courier service which provides a receipt; or (iii) by registered or certified mail, postage prepaid, return receipt requested. All notices shall be deemed to have been given upon the earlier of: (i) receipt, as evidenced by courier's receipt, certified mail receipt, or written evidence of completion of facsimile transmission; or (ii) if mailed, as provided above, the third day following due deposit in the United States mail. Notices shall be addressed to the other party at:

If to PUD:

2721 W. 10th Avenue  
P. O. Box 6270  
Kennewick, WA 99336  
Attention: Gary McCollum

If to COUNTY:

P. O. Box 608  
Prosser, WA 99350  
Attention: Randy Reid

Benton County, Washington

Public Utility District No. 1  
of Benton County

Dated this 11 day of  
July, 2005.


Dated this 27<sup>th</sup> day of  
July, 2005.



Chairman, Benton County Board  
Of County Commissioners



Authorized Signature

Attest:   
Clerk of the Board

James W. Sanders  
Printed Name

General Manager  
Title

APPROVED AS TO FORM

  
Benton County Deputy Prosecutor

Date: 7-6-05

# Exhibit A

