



# Commissioners' Agenda Action Sheet

**Meeting Date:** February 25, 2025  
**Subject:** Agreement for Shoreline Reconveyance Legal Services With Tri-City Development Council and Other Local Governments  
**Presenter:**  
**Prepared By:** Adam Fyall  
**Reviewed By:** AJF  
**PA Review:** **Approved:** Yes      **Denied:** No      **N/A:** No  
*(If denied, include reasoning)*

**Type of Agenda Item:** Consent Agenda

**Summary / Background Information**

This item takes us back to the long-running “reconveyance” topic, which has been moving along for several years. In summary, reconveyance is the effort of a coalition of local cities and counties to have certain properties owned by the federal government through the Army Corps of Engineers transferred to the ownership of local governments. These are properties along the Columbia River shorelines that were in public and private ownership that were expropriated by the federal government as part of the McNary Project.

Benton County has been a party to this effort. If reconveyance goes forward as planned, the County would received an undeveloped 25-acre parcel east of Kennewick, Two Rivers Park (which the County already manages), and several scattered undeveloped parcels in Wallula Gap that we would incorporate into our Wallula Gap Preserve (park). Other notable reconveyance holdings in the cities include Columbia Park (Kennewick) and Amon Park (Richland).

A major part of bringing reconveyance to fruition is getting tribal nations on board, specifically the Yakama Nation and the Confederated Tribes of the Umatilla Indian Reservation. Our local working group has been working with both tribes for the past few years, and in fact the tribes may have asks of their own as a part of the reconveyance process.

Our local working group, led by TRIDEC, decided it would be in our collective benefit to consult with legal counsel that has specific expertise in tribal issues and relationships. Schwabe (Seattle office) was recommended, and after meeting with Sarah Lawson on their staff it was decided by our working group that would like to get counsel from Schwabe. More information on the specific research and advice to be provided by Schwabe is in the attached engagement letter and the agreement.

Before commissioners for consideration is signing onto a multi-party agreement among and between local cities, counties, and ports with TRIDEC. TRIDEC will then contract directly with Schwabe for legal services. The not-to-exceed amount for TRIDEC’s contract with Schwabe is \$16,500. This will be split equally among the six government partners at \$2,750 apiece: Port of Pasco; Cities of Kennewick, Pasco, and Richland; and Benton and Franklin Counties. Benton County’s share will be paid from Sustainable Development.

The agreement was prepared with Adam Fyall’s name as the signatory. We would not normally do that, but the final document was already going around for signatures by the time we caught it. Not a big deal so long as commissioners give such signature authority, which the attached resolution does.

While there is no approval for form signature block(s), Benton County’s Chief Civil Deputy Prosecutor did review agreement and has approved for form (February 6, 2025 email attached).

Since it has been a while since the Board has had a briefing, staff will schedule and update for sometime this spring.

# Commissioners' Agenda Action Sheet



## **Fiscal Impact**

\$2,750.00, to be paid from Sustainable Development Fund.

## **Recommendation**

Staff recommends signing the Agreement.

## **Suggested Motion**

Consent Agenda

## **Signatures Required on Agreements/Contracts**

Resolution directs Adam Fyall to sign.

# RESOLUTION 2025-144

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON

IN THE MATTER OF AN  
“AGREEMENT FOR SHORELINE RECONVEYANCE LEGAL SERVICES”  
WITH THE TRI-CITY DEVELOPMENT COUNCIL AND OTHER LOCAL GOVERNMENTS

**WHEREAS**, Benton County, joined by Franklin County, the City of Kennewick, the City of Pasco, the City of Richland, and the Port of Pasco are and have been working collaboratively on a project generally referred to as the “shoreline reconveyance,” the goal of which is to have the ownership of certain properties along the Columbia River shoreline transferred from federal government to the six local government partners; and,

**WHEREAS**, the shoreline reconveyance project is being coordinated and facilitated by the Tri-City Development Council (TRIDEC); and,

**WHEREAS**, the shoreline reconveyance project is complex, and one important aspect of the project is the effects upon, roles of, and interactions with Native American tribal nations; and,

**WHEREAS**, the local partners determined that it would be useful to have legal consultation with qualified counsel with specific expertise in tribal issues with attention to topics that might affect the shoreline reconveyance project; and,

**WHEREAS**, the local partners have decided to pool resources so that TRIDEC may hire outside third-party counsel for this purpose, having selected the firm of Schwabe Williamson & Wyatt P.C. (“Schwabe”); and,

**WHEREAS**, TRIDEC will contract with Schwabe for these consultation services at a not-to-exceed amount of \$16,500.00; and this aggregate cost will be shared equally by the six local government partners – including Benton County – at an amount of \$2,750.00 apiece; **NOW THEREFORE**,

**BE IT RESOLVED**, that the Board of Benton County Commissioners hereby directs Adam Fyall, Sustainable Development Manager, to sign the *Agreement for Shoreline Reconveyance Legal Services* by and between Benton County, Franklin County, the City of Kennewick, the City of Pasco, the City of Richland, the Port of Pasco, and the Tri-City Development Council on behalf of the County. Benton County shall be obliged to pay up to but no more than \$2,750.00 per terms of the Agreement, and said funds shall be paid from the Sustainable Development Fund.

Dated this 25th day of February, 2025.

DocuSigned by:  
*Jerome Selvin*  
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Chairman of the Board

DocuSigned by:  
*Michael Alvarez*  
D6C6E57E34874E4...  
Chairman Pro-Tem

DocuSigned by:  
*Will McKay*  
135987D784E74CF...  
Commissioner

DocuSigned by:  
*Amanda Pearson*  
Attest..... 84826A975E034GE.....  
Clerk of the Board

Constituting the Board of Commissioners  
of Benton County, Washington.

## Adam Fyall

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**From:** Jeffrey Aultman  
**Sent:** Thursday, February 6, 2025 9:30 AM  
**To:** Jerome Delvin; Michael Alvarez; Will McKay  
**Cc:** Jerrod MacPherson; Matt Rasmussen; Adam Fyall  
**Subject:** Shoreline Reconveyance

Commissioners,

I met with Adam Fyall this morning about the Agreement for Shoreline Reconveyance Legal Services (Agreement). This agreement would use Schwabe Williamson & Wyatt, P.C. to facilitate the reconveyance process with local Native American tribes. I'm familiar with this law firm, know it can expertly handle this task, and agree with the terms and conditions contained in its November 23, 2024, Engagement Letter. I approve entering into the Agreement.

Please let me know if you need any other information from me.

Kind regards,

Jeff Aultman  
Chief Civil Deputy Prosecutor  
Benton County Prosecuting Attorney's office  
7122 W. Okanogan Pl.  
Suite A230  
Kennewick, WA 99336  
Tel: (509) 735-3591  
Fax: (509) 222-3705

# AGREEMENT FOR SHORELINE RECONVEYANCE LEGAL SERVICES

BY THIS AGREEMENT entered into this Tenth day of February, 2025, between the Tri-City Development Council, a Washington non-profit corporation (“**TRIDEC**”); the City of Pasco, Washington, a Washington Municipal Corporation (“**Pasco**”); the City of Kennewick, Washington, a Washington Municipal Corporation (“**Kennewick**”); the City of Richland, Washington, a Washington Municipal Corporation (“**Richland**”); the Port of Pasco, a Washington Municipal Corporation (“**Port of Pasco**”); Benton County, Washington, a Washington Political Subdivision (“**Benton County**”); and Franklin County, a Washington Political Subdivision (“**Franklin County**”) (collectively referred to as “**Parties**”) do hereby enter into the following **Agreement**. In consideration of the mutual benefits and covenants described herein, the Parties agree as set forth below.

## Section I – Project Description

### I.I Purpose

The purpose of this **Agreement** is to engage and contract with legal counsel to support discussions with regional Native American tribes regarding the Shoreline Reconveyance process. The **Parties** recognize the importance of navigating the complex legal and cultural dynamics involved in shoreline management and reconveyance, particularly in relation to tribal rights and interests.

### I.II Background

1. The Fiscal Year 1996 Water Resources Development Act (WRDA) authorized **Shoreline Reconveyance** throughout the Tri-City area, but includes requirements that limit local governments’ ability to transfer the land in a timely and cost-effective manner.
2. Efforts began in 2015 to develop new legislation that would remove existing barriers to **Shoreline Reconveyance** following the Tri-Cities Rivershore Enhancement Council (TREC) adoptions of the Rivershore Master plan in 2012, which included reconveyance and enhancements.
3. The **Shoreline Reconveyance** Working Group was formed in June 2021 as a means of regular discussion between the **Parties** and representatives from the Confederated Tribes of the Umatilla Indian Reservation (CTUIR), and the Confederated Tribes and Bands of the Yakama Nation.
4. The **Parties** are acting pursuant to their authorities to support **Shoreline Reconveyance** efforts.

### I.III Project Scope

The scope of this Agreement shall encompass the following:

1. **Engage Expertise:** Hire a qualified attorney with specialized knowledge in real estate and tribal law to provide legal guidance and representation.

2. **Facilitate Communication:** Foster effective communication and collaboration between the **Parties** and tribal entities to ensure that all perspectives are considered in the reconveyance process.
3. **Ensure Compliance:** Navigate legal requirements and ensure compliance with applicable laws and regulations governing tribal lands and shoreline management.
4. **Outline Responsibilities:** Clearly define the roles and responsibilities of the **Parties** and the hired attorney to ensure accountability and effective progress towards the goals of shoreline reconveyance.

## **I.IV Funding and Billing Arrangement**

The **Parties** acknowledge the importance of retaining adequate legal counsel for this Project, and they are committed to its success. In furtherance of this commitment, each Party agrees to provide an initial retainer contribution. The details of each Party's initial contribution shall be as follows:

- **Pasco:** \$2,750
- **Kennewick:** \$2,750
- **Richland:** \$2,750
- **Port of Pasco:** \$2,750
- **Benton County:** \$2,750
- **Franklin County:** \$2,750

The **Parties** agree that the initial funding of the retainer amount shall be allocated to hire the designated attorney to provide legal services related to the **Shoreline Reconveyance**. All billings from the attorney will be evenly distributed among the **Parties**. However, in the event that one of the **Parties** requires a significant amount of the attorney's time, the billing will be adjusted accordingly to reflect a higher amount due from that **Party**, ensuring that costs are fairly allocated based on usage of legal services.

Additionally, the **Parties** acknowledge that once the retainer is exhausted, future bills will be issued for ongoing legal services, which will also be distributed among the **Parties** in accordance with the aforementioned billing structure.

If the Project is abandoned, then this Agreement shall be of no further force or effect.

## **SECTION II: PROJECT IMPLEMENTATION**

### **II.I Administrative/Lead Agency**

**TRIDEC** shall serve as the administrative/lead agency responsible for this **Agreement**. As such, **TRIDEC** will be responsible for billing and invoices the other **Parties** for their respective shares of the legal fees incurred. Additionally, **TRIDEC** will issue payments directly to the designated attorney for services rendered. This arrangement ensures streamlined financial management and accountability among the **Parties** involved in the shoreline reconveyance process.

## II.II Project Timeline

The target date for the completion of the Project under this **Agreement** shall be March 1, 2026. However, under no circumstances shall the Project extend beyond the deadline of March 1, 2027 without the mutual consent of the **Parties**.

## SECTION III: TERM OF AGREEMENT

The term of this **Agreement** shall commence on the date of its execution by all **Parties**. Any Party may terminate their participation in this Agreement by giving thirty (30) days' written notice to all Parties at the addresses set forth below.

## SECTION IV: MODIFICATIONS AND AMENDMENTS

This **Agreement** may only be modified, altered, or amended through written agreement executed by the then-current **Parties** to this **Agreement except as set forth in Section III**.

## SECTION V: INTERLOCAL COOPERATION ACT PROVISIONS

This Agreement is made and entered into for the sole protection and benefit of the Parties hereto and their successors and assigns. No other person shall have any right or cause of action based upon any provisions of this Agreement.

This Agreement has been reviewed and revised by legal counsels for each Party, and no presumption or rule construing ambiguity against the drafter of the document shall apply to the interpretation or enforcement of this Agreement.

No employees or agents of any Party shall be deemed, or represent themselves to be, employees of any of the other Party.

A copy of this Agreement shall be recorded with the Auditor of each County within which any Party is located or shall be posted to each Parties' website as provided by law,

Except as provided herein, each Party shall finance its own conduct of responsibilities under this Agreement. No ownership of property will transfer as a result of this Agreement.

## SECTION VI: SEVERABILITY

If any term or condition of this **Agreement**, or its application to any person or circumstance, is found to be invalid, such invalidity shall not affect the validity of the other terms, conditions, or applications of this **Agreement** that can be given effect without the invalid provision. Consequently, the terms and conditions of this **Agreement** are considered severable.

## SECTION VII: INDEMNIFICATION

Each Party shall undertake the defense, indemnification, and hold harmless of the others from any claims, damages, causes of action, or judgments arising due to the negligent or intentional actions of their agents, employees, or officers.

Each Party specifically assumes liability for actions brought by its own employees against the other Party and for that purpose each Party specifically waives, as respects the other parties only, any immunity under the Worker's Compensation Act, Revised Code of Washington (RCW) Title 51.

The Parties recognize that this waiver was the subject of mutual negotiation. In the event any Party incurs attorney's fees, costs or other legal expenses to enforce the provisions of this Agreement against the other Party, all such fees, costs and expenses shall be recoverable by the prevailing Party.

No liability shall attach to any of the Parties by reason of entering into this Agreement except as expressly provided herein.

The provisions of this Section VII shall survive any termination or expiration of this Agreement.

### **SECTION VIII: ENTIRE AGREEMENT**

This **Agreement** comprises the entirety of the terms and conditions agreed upon by the Parties. All documents referred to by incorporation are attached as exhibits. No other understandings, whether oral or otherwise, relating to the subject matter of this **Agreement**, shall be deemed to exist or bind any of the **Parties**.

This **Agreement** shall be construed and enforced in accordance with the laws of the State of Washington, and its validity and performance shall be governed by these laws. In the event of any legal action arising from this **Agreement**, the venue shall be the Superior Court in the County of Benton, State of Washington.

### **SECTION IX: NOTICE ADDRESSES**

All notices given pursuant to this Agreement shall be deemed delivered to the respective Party on the date that it is personally delivered to the address(es) set forth below, or on the date that it is successfully sent by email transmission to the email addresses set forth below:

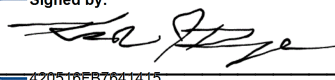
ENTITY: TRIDEC  
Attention: David Reeploeg  
Email: dreeploeg@tridec.org  
Address: 7130 W. Grandridge Blvd, Suite A, Kennewick, WA 99336

### **XI. RECORDS AND AUDIT**

During the term of this Agreement, and for a period not less than six (6) years from the date of termination, records and accounts pertaining to the work of this Agreement and accounting therefore shall be kept by each Party and shall be available for inspection and audit by representatives of either Party and any other entity with legal entitlement to review said records. If any litigation, claim, or audit is commenced, the records and accounts along with supporting documentation shall be retained until all litigation, claims, or audit finding has been resolved, even though such litigation, claim, or audit continues past the six (6) -year retention period. This provision is in addition to and is not intended to supplant, alter or amend records retention requirements established by applicable state and federal laws.

**[SIGNATURES APPEAR ON NEXT PAGE]**

**TRIDEC**

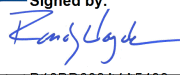
Signed by:  
  
420516FB7641415...  
Karl Dye, President & CEO

2/10/2025  
Date

**CITY OF KENNEWICK**

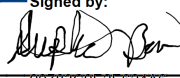
Erin Erdman, City Manager  
Date

**PORT OF PASCO**

Signed by:  
  
D18BD603A4A5493...  
Randy Hayden, Port Director

2/11/2025  
Date

**FRANKLIN COUNTY**

Signed by:  
  
90783C9E2E624A6...  
Stephen Bauman, Commissioner

2/10/2025  
Date

**CITY OF PASCO**

Dave Zabell, Interim City Manager  
Date

**CITY OF RICHLAND**

Jon Amundson, City Manager  
Date

**BENTON COUNTY**

Adam Fyall, Sustainable Development Manager  
Date



November 23, 2024

**Sarah Roubidoux Lawson**

Admitted in Washington, Oregon,  
Arizona, Wisconsin and the Navajo  
Nation

D: 206-407-1507

C: 206-658-5155

slawson@schwabe.com

**VIA EMAIL (DREEPLOEG@TRIDEC.ORG)**

David Reeploeg  
Vice President for Federal Programs  
Tri-City Development Council  
7130 W. Grandridge Blvd. Ste. A  
Kennewick, WA 99336

RE: Engagement of Schwabe  
Our File No.: pending

Dear David:

On behalf of Schwabe Williamson & Wyatt, P. C. (“Schwabe”), we appreciate the opportunity to be of service to Tri-City Development Council (“Tridec”). This letter, together with the attached Standard Terms of Engagement, constitutes our contract of engagement to provide legal services and legal advice to Tridec.

We have been engaged to provide legal advice and counsel to Tridec on matters of federal Indian law and tribal law related to a shoreline reconveyance, including initial review and analysis of reconveyance documents and ongoing negotiations with adverse parties and cooperating agencies to the reconveyance. We are not being engaged for litigation at this time. We may agree to expand the scope of this representation from time to time, by mutual consent, confirmed in writing.

We normally compute our fees on an hourly basis. Hourly rates for attorneys in the firm vary according to experience and expertise, and our rates are generally reviewed and adjusted annually in January. For this matter, we have agreed to a total not-to-exceed of \$16,500. The work to be performed under this not-to-exceed is comprised of the following two not-to-exceed phases:

1. Phase 1. Initial review, analysis, and edits to shoreline reconveyance documents: \$5,500.
2. Phase 2. Ongoing negotiation of shoreline reconveyance documents with adverse parties and cooperating agencies: \$11,000.

We will notify Tridec as we draw close to each not-to-exceed amount and discuss any additional work that may need to be performed. The parties may agree to amend the not-to-exceed amounts for either phase of this engagement from time to time, by mutual consent, confirmed in writing.

David Reeploeg  
November 23, 2024

We know that Tridec values and expects timely legal work from us. Likewise, Schwabe values and expects timely payment within thirty days of the date of our invoices. No advance fee deposit is required at this time.

I should point out that when you bring a new question to our attention for legal advice, or request us to review documents on Tridec's behalf, if there are additional parties involved, we will need to run a conflicts check. In some instances, we will not be able to proceed without a waiver of conflict of interest if our representation of Tridec would result in a conflict of interest to a current client of the firm. We may expedite conflicts checks if we know in advance the entities that are adverse to Tridec's interest in its contractual relationships.

Please be advised that the Corporate Transparency Act ("CTA"), effective as of January 1, 2024, requires that certain companies report beneficial ownership and other information to the U.S. Treasury Department's Financial Crimes Enforcement Network ("FinCEN"). At this time, our representation DOES NOT include any legal advice or other assistance related to the CTA. You and Tridec have sole responsibility for compliance with the CTA including reporting requirements and Schwabe assumes no liability resulting from any failure to comply with the CTA. If Tridec requires legal advice regarding any reporting obligations or application of the CTA, a separate engagement will be required.

We want Tridec to be satisfied with the services Schwabe provides. If there are concerns, please contact me directly, or our Chief Executive Officer, Graciela Cowger, at 360.905.1100. For payment questions, please call our Director of Accounting, Liz Russell, at 503.796.2846.

To acknowledge Tridec's understanding of this agreement with the terms of our engagement as outlined above and in the attached Standard Terms of Engagement, we kindly ask that an authorized representative of Tridec sign as indicated below then return the same to my attention.

Sincerely,



Sarah Roubidoux Lawson

SELA  
Enclosure

**WIRE FRAUD WARNING: If you need to wire funds to Schwabe, Williamson & Wyatt, P.C., and you receive wire transfer instructions or changes to prior wire transfer instructions, please verbally confirm the instructions with Schwabe's Director of**

David Reeploeg  
November 23, 2024

**Accounting or Chief Financial Officer. Call Schwabe's offices using previously known or independently derived contact information.**

**Please be extra careful with instructions delivered by electronic mail. Do not respond to or solely rely on the information provided, including the wire instructions and contact information.**

David Reeploeg  
November 23, 2024

The foregoing terms and conditions, including those in the attached Standard Terms of Engagement, are acknowledged and agreed.

TRI-CITY DEVELOPMENT COUNCIL

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David Reeploeg  
Vice President for Federal Programs

Date: \_\_\_\_\_